

2002 APR 11 AM 10:40

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	AMENDED SPECIAL MASTER'S
	)	REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
_____	)	FOR WATER RIGHT 36-00086C

I. FINDINGS OF FACT

Keith and Jolene Fuell filed a notice of claim for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On October 21, 1997, then Special Master Fritz X. Haemmerle issued a *Special Master's Report and Recommendation* in subcase 36-00086C. The *Special Master's Report* was based on a *Standard Form 5/Stipulated Elements of a Water Right* changing quantity from .82 to 1.60 cfs.

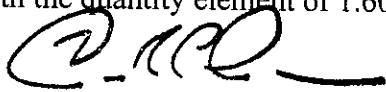
On November 28, 1997, North Snake Ground Water District filed a *Motion to Alter or Amend*. On March 17, 1998, an *Order on Motions to Alter or Amend* was issued. The Motion was denied. On March 31, 1998, a *Notice of Challenge* was filed by North Snake Ground Water District. Subsequently, on September 21, 1999, an *Amended Standard Form 5 (Amended SF5)* was filed listing the quantity as 1.60 cfs. All parties and IDWR are signatures to the *Amended SF5*.

On February 28, 2000, a Second *Master's Report and Recommendation* was issued. However, the Second *Master's Report and Recommendation* incorrectly listed the quantity as 1.56 cfs. Ultimately an *Order of Partial Decree* was issued on September 25, 2001, listing the quantity as 1.56 cfs.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to I.R.C.P. 60(a), IT IS RECOMMENDED that water right claim 36-00086C be decreed in accordance with the *Standard Form 5* with the elements as set forth in the *Amended Special Master's Recommendation for Partial Decree for Water Right 36-00086C*, with the quantity element of 1.60 cfs.

DATED: April 11, 2002.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

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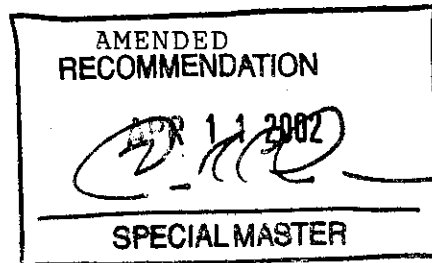
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RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA

)

CERTIFICATE OF MAILING

)

Case No. 39576

)

)

Water Right(s): 36-00086C

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on April 11, 2002, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

STATE OF IDAHO
Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

NORTH SNAKE GROUND WATER DIST
Represented by:
JOSEPHINE P. BEEMAN
409 WEST JEFFERSON STREET
BOISE, ID 83702
Phone: 208-331-0950

CERTIFICATE OF MAILING

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JOLENE FUELL
KEITH L. FUELL
2831 S 1050 E
HAGERMAN, ID 83332


DEBBIE LASH
Deputy Clerk

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CLERK OF SRBA
TWIN FALLS CO., IDAHO

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

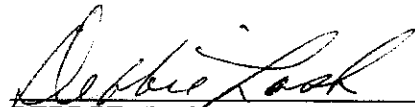
Water Right(s): 36-00086C

On April 11, 2002, Special Master THOMAS R CUSHMAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED April 11, 2002.



DEBBIE LASH
Deputy Clerk