

2004 AUG -6 AM 10:46
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *Mc*

**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

) **SPECIAL MASTER'S REPORT**
) **And**
) **ORDER VACATING STATUS**
) **CONFERENCE**
)
)
) **FOR WATER RIGHTS: 65-20558**

I.

Procedural Background.

The above-captioned water right was claimed by the United States, Department of Interior, Bureau of Land Management as a state-based beneficial use claim 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 for the above water right.

Objections were filed to the *Report* by the State of Idaho, based on priority date, and United States, based on Point of Diversion and Place of Use. On June 11, 1999, a *Stipulation to Resolve Objections* was filed under Consolidated Subcase 23-10859, 24-10221, 25-13659, 27-11604, 65-19685 listing conditions to resolve the priority date objection. An *Order of Reference* appointing Thomas R. Cushman as Special Master was filed on September 13, 1999. On December 11, 2003, a trial was held before Special Master Cushman. In conjunction with that trial, the *Affidavit of Robert R. Mallis* was filed on February 12, 2004. The *Affidavit* stated that the above-captioned subcase was based only on State law and should have a June 28, 1934 priority date based on the *Stipulation to Resolve Objections*. A status conference was held on February 24, 2004, before Special Master Cushman.

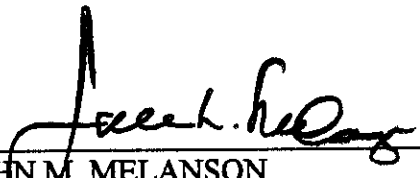
On July 7, 2004, the Court rescinded the *Order of Reference to Special Master Thomas*

Cushman and set a Status Conference for August 17, 2004. The Court ruled that Judge John M. Melanson would preside over the subcase in the same manner as specified in *Administrative Order 1* for proceedings by Special Masters. On July 23, 2004, a *Standard Form 5/Stipulated Elements of a Water Right* was filed, signed by the Claimant and the Objector with IDWR concurrence.

II. CONCLUSIONS OF LAW

It appears from the record that all objections have been resolved. Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that the above water right be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*. It is further ordered that the status conference set for August 17, 2004 at the Washington County Courthouse, 256 E. Court, Weiser, Idaho is vacated.

DATED: August 6, 2004



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

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In Re SRBA)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 65-20558

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 August 06, 2004, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

USDI BLM
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CERTIFICATE OF MAILING

Julie Murphy PAGE 1
JULIE MURPHY 08/06/04
Deputy Clerk

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)
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_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 65-20558

On August 06, 2004, Special Master JOHN M MELANSON
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 August 06, 2004.



JULIE MURPHY
Deputy Clerk