

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 SEP 13 PM 12 20

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	)	Subcase 45-12638
	)	
Case No. 39576	)	SPECIAL MASTER REPORT
_____	)	

Findings of Fact

On March 2, 1998, the Director of the Idaho Department of Water Resources filed his *Director's Report, Domestic and Stock, Reporting Area 10 (IDWR Basin 45)*. The Director recommended this dual-based claim to the United States of America, Department of Interior, Bureau of Land Management, 1387 S. Vinnell Way, Boise, Idaho 83709-1657, for .02 cfs from a spring for year-'round stockwater use in Cassia County with a priority date of January 1, 1873, based on beneficial use. The Director also noted under priority date:

4/17/1926 Claimed under federal reserved water law.

This water right is also claimed based on federal law with an April 17, 1926, date of priority pursuant to an Executive Order signed the same date and known as Public Water Reserve 107.

On July 2, 1998, the State of Idaho filed an *Objection* alleging the water right should not exist. The same date, the United States filed an *Objection* to place of use. On July 23, 2004, the United States and the State, with IDWR's concurrence, filed an *Amended Claim Standard Form 5* with an amended place of use and agreeing to a June 28, 1934 priority date.

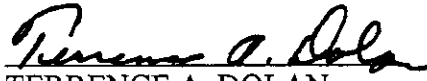
An I.C. § 42-1411A evidentiary hearing was held by telephone on September 10, 2004. R. Lee Leininger appeared for the United States, along with Frederic W. Price, and David J. Barber appeared for the State. The United States submitted the *Affidavit of Frederic W. Price*, filed July 16, 2004. Mr. Price, a water rights specialist in the BLM state office, stated that: the federal law basis of the claim is an Executive Order, dated April 17, 1926, and known as Public Water Reserve 107; the claim is located on unreserved federal public domain as of April 17,

1926; the land currently remains under Department of Interior administration; the claimed water source was confirmed by field investigation; there is sufficient surface water at the claimed site for consumptive use by livestock; the source is a spring located at the claimed point of diversion; and the place of use is correctly described in the *Amended Claim SF-5*.

Conclusions of Law

The United States is entitled to a partial decree adjudicating a federal reserved water right under claim 45-12638 with a priority date of April 17, 1926, as described in the *Amended Claim SF-5* and the attached *Special Master Recommendation for Partial Decree for Federal Reserved Water Right 45-12638*.

DATED September 13, 2004.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

2004 SEP 13 PM 12 20

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 45-12638

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: DRY CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 04/17/1926

THIS WATER RIGHT IS DECREED BASED ON FEDERAL LAW WITH AN
APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER
SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

POINT OF DIVERSION: T12S R19E S35 SENWNW Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Cassia County
T12S R19E S35 NWNW

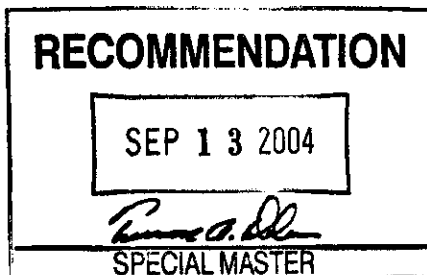
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 SEP 13 PM 12 20

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 45-12638

CERTIFICATE OF MAILING

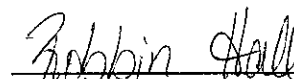
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on September 13, 2004, with sufficient first-class postage prepaid to the following:

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


ROBBIN HALL
Deputy Clerk

PAGE 1
09/13/04

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 SEP 13 PM 12 20

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

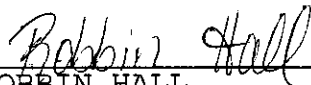
Water Right(s): 45-12638

On September 13, 2004, Special Master TERRENCE A. DOLAN 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 September 13, 2004.



ROBBIN HALL
Deputy Clerk