

2002 DEC 18 PM 3:47

FILED
DISTRICT COURT
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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 36-00003C

I. FINDINGS OF FACT

A Notice of Claim was filed 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 April 9, 1993, an *Objection* was filed by Lynn and Kathy Babington. On July 1, 1996, a *Supplemental Director's Report* was filed. On July 31, 1996, a *2nd Supplemental Director's Report* was filed. Trial was held on June 8, 1998. A *Special Master's Report and Recommendation* was issued February 8, 1999. On March 29, 1999, North Snake Ground Water District filed a *Motion to Alter or Amend (Motion)* the *Special Master's Report and Recommendation* the State of Idaho also filed a *Motion to Alter or Amend*. The *Motions* were denied. On July 30, 1999, North Snake Ground Water filed a *Challenge to the Master's Report & Recommendation*, the State of Idaho also filed a *Challenge*. A *Supplemental Director's Report* was filed on August 5, 1999, regarding season of use. On November 23, 1999, Judge Barry Wood, issued a *Memorandum Decision and Order on Challenge; Order Granting State of Idaho's Motion for the Court to Take Judicial Notice of Adjudicative Facts; Order of Recommitment with Instructions to Special Master Cushman (Hereafter "Memorandum Decision")*. The *Memorandum Decision* made rulings on certain legal issues with respect to this water right and other claims derivative of 36-00003C. In addition, the *Memorandum Decision* remanded this right back to the Special Master for additional findings and consideration in conjunction with late claims to claims derivative of 36-00005 and 36-00019. An *Amended Director's Report* was filed on May 18, 2001. North Snake Ground Water District filed an objection on June 28, 2001. Lynn Babington filed a response to that objection on July 27, 2001.

During the time this subcase was recommitted to this Special Master, the parties settled. Subsequently, on September 13, 2002, a *Standard Form 5/Stipulated Elements of a Water Right* was

filed settling the objections to water right 36-00003C. All parties and IDWR are signatures to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right claim 36-00003C be decreed with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree for Water Right 36-00003C*.

DATED: December 18, 2002.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

2702 DEC 18 PM 3: 47

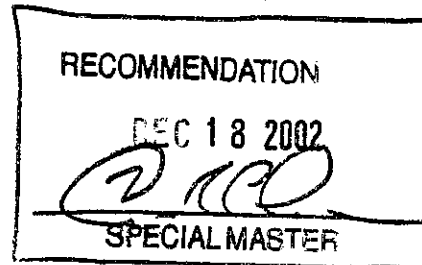
[Handwritten signature]

PAGE 1
Dec-11-2002

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



2002 DEC 18 PM 3:47

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

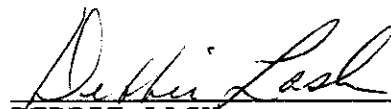
Water Right(s): 36-00003C

On December 18, 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 December 18, 2002.


DEBBIE LASH
Deputy Clerk

2002 DEC 18 PM 3:47

FILED
TWIN FALLS, IDAHO
CLERK OF DISTRICT COURT

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): 36-00003C

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 December 18, 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

PAGE 1
12/18/02

STATE OF IDAHO

Represented by:

NATURAL RESOURCES DIV CHIEF

STATE OF IDAHO

ATTORNEY GENERAL'S OFFICE

PO BOX 44449

BOISE, ID 83711-4449

KATHY L. BABINGTON

LYNN J BABINGTON

LYNN J. BABINGTON

Represented by:

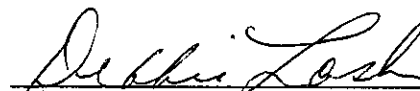
PATRICK D. BROWN

HUTCHINSON & BROWN, LLP

P O BOX 207

TWIN FALLS, ID 83303-0207

Phone: 208-733-9300



DEBBIE LASH
Deputy Clerk