DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
JAN 30 2003
By _____ Clerk
Deputy Clerk

**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 RIGHTS (SEE ATTACHED EXHIBIT A BASIN 78)** |
| _____ | ) | |

## I. FINDINGS OF FACT

A notice of claim was filed for the above listed water rights 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 these water rights.

On September 17, 1999, an objection was filed to the above listed water rights by Pickett Ranch & Sheep Co, Western Stockgrowers Assoc., Joe Tugaw, Michael Poulton, Gary Poulton, Karl Bedke, Jared Bedke, Scott Bedke, Bruce Bedke, Jerry Hoagland and Joyce Livestock Company. On August 29, 2001, the parties filed a *Stipulation and Joint Motion for Order Approving Stipulation, Notice of Withdrawal of Objections and Responses* filed by Semanko for Bruce Bedke et al, *Notice of Withdrawal of Objections and Responses* filed by Semanko for Western Stockgrowers et al. On September 18, 2002, an ***Order Dismissing Objections and Responses with Prejudice; and Order Dimsissing Parties*** was issued. On October 2, 2002, Special Master Cushman issued an ***Order Setting Deadline for Motions and Standard Form 5's.*** The ***Order*** stated "If no Standard Forms 5 are filed, the rights listed on Exhibit A will be recommended as in the Director's Report."

## II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that the water rights listed on Exhibit A Basin 78 be **decreed** with the elements as set forth in the attached ***Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b).*** IT IS FURTHER RECOMMENDED that water right 78-10576 be **decreed** as **disallowed.**

DATED January 30, 2002.

THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

EXHIBIT A BASIN 78

Subcase Nos:

| | | | |
|---|---|---|---|
| 78-04145 | 78-10409 | 78-10477 | 78-10538 |
| 78-04146 | 78-10412 | 78-10478 | 78-10539 |
| 78-04147 | 78-10414 | 78-10479 | 78-10540 |
| 78-04150 | 78-10415 | 78-10481 | 78-10541 |
| 78-04153 | 78-10416 | 78-10482 | 78-10542 |
| 78-04155 | 78-10417 | 78-10483 | 78-10543 |
| 78-04156 | 78-10418 | 78-10484 | 78-10569 |
| 78-04178 | 78-10419 | 78-10485 | 78-10619 |
| 78-04179 | 78-10420 | 78-10487 | 78-10620 |
| 78-04180 | 78-10421 | 78-10489 | 78-10621 |
| 78-04182 | 78-10422 | 78-10490 | 78-10622 |
| 78-04183 | 78-10423 | 78-10492 | 78-10661 |
| 78-04189 | 78-10424 | 78-10494 | 78-11977 |
| 78-04192 | 78-10425 | 78-10495 | 78-11978 |
| 78-04227 | 78-10426 | 78-10496 | 78-11979 |
| 78-04230 | 78-10427 | 78-10497 | 78-11981 |
| 78-04231 | 78-10428 | 78-10499 | 78-11982 |
| 78-04240 | 78-10429 | 78-10500 | 78-11983 |
| 78-04242 | 78-10430 | 78-10501 | 78-11985 |
| 78-04245 | 78-10431 | 78-10502 | 78-11988 |
| 78-04273 | 78-10432 | 78-10503 | 78-11990 |
| 78-04274 | 78-10437 | 78-10504 | 78-11992 |
| 78-04326 | 78-10438 | 78-10505 | 78-11998 |
| 78-04368 | 78-10439 | 78-10506 | 78-11999 |
| 78-04370 | 78-10440 | 78-10510 | 78-12017 |
| 78-04371 | 78-10441 | 78-10511 | 78-12019 |
| 78-10381 | 78-10442 | 78-10512 | 78-12103 |
| 78-10383 | 78-10443 | 78-10514 | |
| 78-10385 | 78-10444 | 78-10515 | |
| 78-10386 | 78-10446 | 78-10516 | |
| 78-10387 | 78-10447 | 78-10517 | |
| 78-10388 | 78-10448 | 78-10518 | |
| 78-10390 | 78-10449 | 78-10520 | |
| 78-10391 | 78-10452 | 78-10521 | |
| 78-10392 | 78-10453 | 78-10522 | |
| 78-10393 | 78-10454 | 78-10523 | |
| 78-10394 | 78-10455 | 78-10524 | |
| 78-10395 | 78-10456 | 78-10525 | |
| 78-10396 | 78-10457 | 78-10526 | |
| 78-10397 | 78-10458 | 78-10527 | |
| 78-10398 | 78-10459 | 78-10528 | |
| 78-10399 | 78-10461 | 78-10529 | |
| 78-10400 | 78-10462 | 78-10530 | |
| 78-10401 | 78-10463 | 78-10531 | |
| 78-10402 | 78-10464 | 78-10532 | |
| 78-10404 | 78-10466 | 78-10533 | |
| 78-10405 | 78-10467 | 78-10534 | |
| 78-10406 | 78-10469 | 78-10535 | |
| 78-10407 | 78-10472 | 78-10536 | |
| 78-10408 | 78-10476 | 78-10537 | |

(Subcase list: TCB78UNCON)
1/29/03

2003 JAN 30 AM 9:27

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 | ) | CERTIFICATE OF MAILING |
| | ) | |
| Case No. 39576 | ) | |
| | ) | Water Right(s): 78-04145 (SEE ATTACHED EXHIBIT A) |

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 January 30, 2003, with sufficient first-class postage prepaid to the following:

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

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

Debbie Lash
DEBBIE LASH
Deputy Clerk

2003 JAN 30 AM 9:27

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<br><br>Case No. 39576 | )<br>)<br>)<br>)<br>) | NOTICE OF ISSUANCE OF SPECIAL MASTER'S RECOMMENDATION<br><br>Water Right(s): 78-04145<br>(SEE ATTACHED EXHIBIT A) |

On January 30, 2003, 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 January 30, 2003.

Debbie Lash

DEBBIE LASH
Deputy Clerk

2003 JAN 30 PM 02:00
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 | ) | PARTIAL DECREE PURSUANT TO |
| | ) | I.R.C.P. 54(b) FOR |
| Case No. 39576 | ) | |
| | ) | Water Right 78-04368 |

NAME AND ADDRESS: USDA FOREST SERVICE
550 W FORT ST, MSC 033
BOISE, ID 83724

SOURCE: UNNAMED STREAM TRIBUTARY: SINKS

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 05/01/1895

POINT OF DIVERSION: T24N R01W S29 NWNE Within Idaho 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 Idaho County
T24N R01W S29 NWNE

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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.

_____
Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION
JAN 30 2003
SPECIAL MASTER