

2003 FEB 20 AM 11: 25

DEPT. OF AGRIC. & FOREST SERVICE
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) Subcases 82-04059, *et al.*
Case No. 39576) (See attached list of 127 claims in Basin 82)
) (USDA/FS)
)
) SPECIAL MASTER REPORT

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report for Domestic and Stockwater, Reporting Area 22, IDWR Basin 82* on March 19, 1999. The Director recommended each of the above 127 claims to the United States of America, Department of Agriculture, Forest Service, 550 W. Fort Street, MSC 033, Boise, Idaho 83724, for .02 cfs from various creeks, streams, springs and rivers for stockwater uses in Idaho County with a priority date of May 1, 1897, based on beneficial use.

On September 17, 2000, *Objections* alleging the water right should not exist were filed by: Joyce Livestock Company, Jerry Hoagland, Bruce Bedke, Scott Bedke, Jared Bedke, Karl Bedke, Gary Poulton, Michael Poulton, Joe Tugaw, Western Stockgrowers Association and Pickett Ranch & Sheep Company.

However, on August 29, 2002, the objectors filed a *Notice of Withdrawal of Objections and Responses* in multiple subcases, including the above 127 claims and on September 5, 2002, the Special Master entered an *Order Granting Withdrawal of Objections and Responses*. Finally, on October 1, 2002, the Special Master entered an *Order Setting Deadlines* requiring parties to file motions to correct any errors in the list of subcases covered by the previous *Order* no later than November 1, 2002. None of the parties moved to correct any errors.

Conclusions of Law

The United States of America, Department of Agriculture, Forest Service is entitled to partial decrees adjudicating water rights as recommended by IDWR and as described in the

attached *Special Master Recommendations for Partial Decrees for the Above Listed 127 Claims in Basin 82.*

DATED February 20, 2003.

A handwritten signature in black ink, appearing to read "Terrence A. Dolan", is written over a horizontal line.

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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FILED
TWIN FALLS CO., 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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 82-04059
(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 February 20, 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



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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02/20/03

Exhibit A

Subcase Nos:

82-04059	82-10383	82-10453
82-04065	82-10384	82-10454
82-04066	82-10385	82-10455
82-04069	82-10386	82-10456
82-04070	82-10387	82-10457
82-04071	82-10391	82-10459
82-04073	82-10392	82-10460
82-04075	82-10393	82-10461
82-10277	82-10395	82-10462
82-10287	82-10396	82-10468
82-10288	82-10397	82-10469
82-10289	82-10400	82-10470
82-10290	82-10401	82-10471
82-10292	82-10402	82-10472
82-10293	82-10403	82-10473
82-10294	82-10406	82-10474
82-10297	82-10410	82-10475
82-10299	82-10411	82-10476
82-10300	82-10412	82-10477
82-10301	82-10414	82-10478
82-10304	82-10415	82-10479
82-10305	82-10417	82-10480
82-10306	82-10419	82-10481
82-10307	82-10420	82-10482
82-10308	82-10421	82-11979
82-10309	82-10422	82-11980
82-10311	82-10423	82-12006
82-10312	82-10424	
82-10313	82-10425	
82-10314	82-10426	
82-10316	82-10428	
82-10317	82-10429	
82-10319	82-10430	
82-10326	82-10431	
82-10347	82-10432	
82-10355	82-10433	
82-10358	82-10434	
82-10359	82-10436	
82-10366	82-10437	
82-10369	82-10438	
82-10370	82-10439	
82-10371	82-10440	
82-10372	82-10441	
82-10373	82-10442	
82-10374	82-10443	
82-10375	82-10447	
82-10377	82-10448	
82-10378	82-10449	
82-10379	82-10450	
82-10381	82-10452	

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FILED
TWIN FALLS, IDAHO
SRBA

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): 82-04059
(SEE ATTACHED EXHIBIT A)

On February 20, 2003, 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 February 20, 2003.



ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

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82-10375	82-10447	
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82-10379	82-10450	
82-10381	82-10452	

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
Fifth Judicial District
County of Twin Falls - State of Idaho

FEB 20 2003

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 82-10395

By _____ Clerk
Deputy Clerk

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

SOURCE: MULE CREEK TRIBUTARY: NEWSOME CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 05/01/1897

POINT OF DIVERSION: T31N R07E S19 SENW (Instream Ending Point) Within Idaho County
S31 SESE (Instream Beginning Point)

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Stockwater 06-01 TO 10-31 0.02 CFS

PLACE OF USE: Stockwater Within Idaho County
T31N R07E S05 NWNW SWNW
S06 NESE SESE
S07 NENE SENE
S18 NESE SESE
SWNE NWNE
SESW NESW
SWSE NWSE
S19 NENW SENW
S31 SESE

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.

RECOMMENDATION

FEB 20 2003

Roger A. Burdick
SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication