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Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED RL 311

2003 JAN 3 PM 1 08

**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 51-12897A

) (Brackett Livestock, Inc.)

Case No. 39576

)
) **SPECIAL MASTER REPORT**

Findings of Fact

On November 24, 1998, the Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation and Other Uses, Reporting Area 6 (IDWR Basin 51)*. The Director recommended claim 51-12897A to Brackett Livestock, Inc., Flat Creek Ranch, Rogerson, Idaho 83302, for .23 cfs from Pence Spring for year-'round stockwater, stockwater storage and stockwater from storage in Owyhee County with a priority date of August 14, 1953, based on beneficial use.

The United States of America, Department of Interior, Bureau of Land Management, filed an *Objection* on March 31, 1999, objecting to priority date and place of use. However, on November 1, 2002, the Brackett Livestock, Inc., the United States and IDWR filed an *Amended Claim Standard Form 5* agreeing to year-'round stockwater use only with an amended point of diversion and place of use and a priority date of September 14, 1966.

Conclusions of Law

The C.E. Brackett Cattle Company is entitled to a partial decree adjudicating a water right under claim 51-12897A as described in the *Amended Claim Standard Form 5* and the attached *Special Master Recommendation for Partial Decree for Water Right 51-12897A*.

DATED January 3, 2003.



TERRENCE A. DOLAN

Special Master

Snake River Basin Adjudication

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TWIN FALLS CO., IDAHO

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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

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In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 51-12897A

NAME AND ADDRESS: BRACKETT LIVESTOCK INC
C/O BERT BRACKET
PO BOX 403
TWIN FALLS, ID 83301

SOURCE: PENCE SPRING TRIBUTARY: LITTLE SPRING CREEK

QUANTITY: 0.23 CFS

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

PRIORITY DATE: 09/14/1966

POINT OF DIVERSION: T15S R10E S26 SWNE Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.23 CFS

PLACE OF USE: Stockwater Within Owyhee County

T11S R08E S25	NWNE	
S26	NWNE	SWSW
S28	NESE	
S34	SESW	
R09E S31	NENW	
T12S R08E S01 LOT 2	(NWNE)	
S10	NWNE	
S11	SENW	
S12	NENE	
S13	SENW	
S26	NENE	
S35	SESE	
R09E S06	SENE	
S30	SENW	
S32	NESE	
T13S R09E S02 LOT 4	(NWNW)	
S08	NESW	
S09	SENE	NWSW
	NESE	
S17	NWNE	
S20	SENE	
S23	SENW	
S28	NESW	
S30	SESE	
S32	NENE	
S33	SWNE	
S34	NWSE	
S35	SWSW	
T14S R09E S09	NWNW	
S11	SENW	
S17	NENE	
S20	NESE	
S22	SENE	
S24	SESW	
S25	SENW	
R10E S31 LOT 3	(NWSW)	
T15S R09E S25	SENE	

PLACE OF USE (continued)

R10E S27	NENW	
S28	SENE	SWNW
S30	SENE	
S31 LOT 2	(SWNW)	
S34	SWNW	
T16S R10E S09	SWNW	SESW
S10	NWNE	
S14	NWSW	

TWO PLACES OF USE ARE LOCATED IN T12S, R08E, S11, SENW.

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

JAN - 3 2003

Roger Burdick

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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TWIN FALLS CO., IDAHO
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In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 51-12897A

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 03, 2003, with sufficient first-class postage prepaid to the following:

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

BRACKETT LIVESTOCK INC

Represented by:
ROGER D LING
PO BOX 396
RUPERT, ID 83350
Phone: 208-436-4717

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
ROBBIN HALL
Deputy Clerk

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01/03/03

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

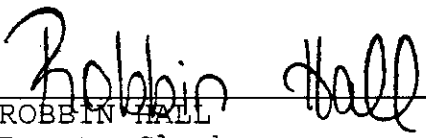
Water Right(s): 51-12897A

On January 03, 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 January 03, 2003.



ROBBIN HALL
Deputy Clerk