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Department of Water Resources

FILED
SRBA
JAN 15 2003
TWIN FALLS, 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

) SPECIAL MASTER'S REPORT

) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW

) FOR WATER RIGHT 78-10338
) and 78-12178

I. FINDINGS OF FACT

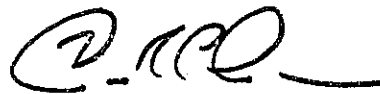
A notice of claim was filed for water right 78-10338 pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On September 17, 1999, United States Department of Justice filed an objection to subcase 78-10338. A response was filed by Norman Semanko on behalf of multiple parties. Subsequently, a *Standard Form 5/Amended Claim* was filed on November 13, 2002, recommending that water right 78-10338 be split keeping the original water right number and adding an additional water right number 78-12178. Objections to the Amended Claim were due December 31, 2002. No objections were filed.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water rights 78-10338 and 78-12178 be decreed with the elements as set forth in the attached *Special Master Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b) for Water Rights 78-10338 and 78-12178*.

DATED: January 15, 2003.



THOMAS R. CUSHMAN
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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 78-12178

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FILED
CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO
JAN 15 2003

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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Department of Water Resources

SOURCE: SPRING TRIBUTARY: SINKS
QUANTITY: 0.02 CFS

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

THIS RIGHT SHALL BE USED IN CONJUNCTION WITH RIGHT NO.
78-10338 AND IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF
.02 CFS AND A TOTAL QUANTITY OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 05/10/1906

POINT OF DIVERSION: T23N R01W S07 SWNESE Within Idaho County

PURPOSE AND	PURPOSE OF USE	PERIOD OF USE	QUANTITY
PERIOD OF USE:	Stockwater	05-15 TO 11-15	0.02 CFS

PLACE OF USE: Stockwater Within Idaho County
T23N R01W S07 NESE

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

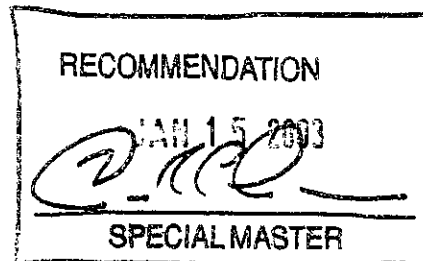
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.
THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS
ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND
JOINT MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON
AUGUST 29, 2002, BETWEEN THE UNITED STATES OF AMERICA AND WILLIS
DEVENY, BETTY DEVENY AND SHINGLE CREEK LLC, FILED IN THE OFFICE
OF THE IDAHO COUNTY RECORDER AND RECORDED ON OCTOBER 31, 2002,
AS INSTRUMENT NO: 425169; THE PROVISIONS OF SUCH STIPULATION TO
APPLY FULLY TO 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.

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



JAN 16 2003

Department of Water Resources

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)
 _____)

PARTIAL DECREE PURSUANT TO
 I.R.C.P. 54(b) FOR
 Water Right 78-10338

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TWIN FALLS CO. IDAHO
FILED

NAME AND ADDRESS: SHINGLE CREEK LLC
 P O BOX 1160
 RIGGINS, ID 83549

SOURCE:	HOWARD SPRING	TRIBUTARY: SINKS
	CANNON BALL SPRING	SINKS
	COTTONWOOD SPRING	COTTONWOOD CREEK
	LOG THROUGH SPRING	COCONUT GROVE CREEK
	AITKEN SPRING	SINKS
	BLUE GULCH SPRING	BLUE GULCH
	ALDER SPRING	SINKS
	SPRINGS	SINKS
	CLYDE SPRING	SINKS
	MORRISON RIDGE SPRING	SINKS
	CHAIN SPRING	SINKS

QUANTITY: 0.03 CFS

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

THIS RIGHT SHALL BE USED IN CONJUNCTION WITH RIGHT NOS.
 78-04197, 78-04203, 78-04205, 78-04206, 78-04208, 78-04209,
 78-04210, 78-04211, 78-04212, 78-04214, 78-04218, 78-04219,
 78-04225, 78-04234, 78-4238, 78-04247, 78-10631, 78-10632,
 78-12009, 78-12178 AND IS LIMITED TO A TOTAL COMBINED DIVERSION
 RATE OF .03 CFS AND A TOTAL QUANTITY OF 13,000 GALLONS PER DAY

PRIORITY DATE: 05/09/1906

POINT OF DIVERSION:	T23N R01W S01	SESW	Within Idaho County
	S02	NESWNW	
	S03	SWNWSW	
	S04	NWSE	
		NESW	
	S05	NWSWNE	
	S07	SWNESE	
	S11	SWNESW	
		SENWSW	
		NENESE	
		SENWSE	
	S12	SENWSW	
	S14	NESESW	
	S15	SENENW	
	S16	SESESW	
	S17	SWSENE	
	S21	NESENE	
		NESWSW	
	S22	SENW	
	S29	NWNWNE	

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-15 TO 11-15	0.03 CFS

PLACE OF USE:	Stockwater	Within Idaho County
	T22N R01W S03	NWSW
	T23N R01W S01	SESW
	S02	SWNW

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

S04	NENE	SWNE
S05	SWNE	
S07	NESE	
S11	NESW	NWSW
	NESE	NWSE
S12	NWSW	
S14	SESW	
S15	NENW	
S16	SESW	
S17	SENE	
S21	SENE	SWSW
S22	SENW	
S29	NWNE	

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

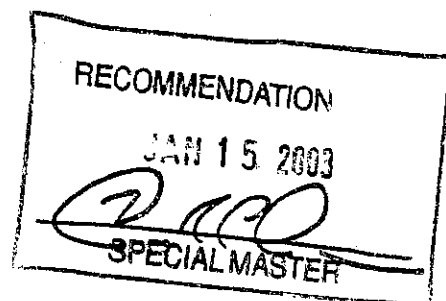
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE. THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND JOINT MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON AUGUST 29, 2002, BETWEEN THE UNITED STATES OF AMERICA AND WILLIS DEVENY, BETTY DEVENY AND SHINGLE CREEK LLC, FILED IN THE OFFICE OF THE IDAHO COUNTY RECORDER AND RECORDED ON OCTOBER 31, 2002, AS INSTRUMENT NO: 425169; THE PROVISIONS OF SUCH STIPULATION TO APPLY FULLY TO 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

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Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



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

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 78-10338

78-12178

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 15, 2003, with sufficient first-class postage prepaid to the following:

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

A L CATTLE INC
EUGENE MATHEWS
FLYING TRIANGLE INC
JOYCE LIVESTOCK
KARL (BUD) BEDKE
LUTHER GARDNER
PICKETT RANCH & SHEEP CO.
SHOULDERS 3 RANCHES INC
WESTERN STOCK GROWERS ASSOC
WILLIS D & BETTY G DEVENY

Represented by:
NORMAN M. SEMANKO
ATTORNEY AT LAW
205 N 10TH ST, STE 530
BOISE, ID 83702
Phone: 208-344-6690

CERTIFICATE OF MAILING

PAGE 1
01/15/03

BRUCE BEDKE
GARY POULTON
JARED BEDKE
JERRY HOAGLAND
JOE TUGAW
MICHAEL POULTON
SCOTT BEDKE

Represented by:
TRAVIS L THOMPSON
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

SHINGLE CREEK LLC
P O BOX 1160
RIGGINS, ID 83549


DEBBIE LASH
Deputy Clerk

JAN 16 2003

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RICT OF THE

Water Right(s): 78-10338
78-12178


DEBBIE LASH
Deputy Clerk