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Department of Water Resources

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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 78-10339
	)	and 78-12179

I. FINDINGS OF FACT

A notice of claim was filed for water right 78-10339 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 78-10339. 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 78-10339 be split keeping the original water right number and adding an additional water right number 78-12179. 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 78-10339 and 78-12179 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 78-10339 and 78-12179*.

DATED: January 15, 2003.


THOMAS R. CUSHMAN
Special Master
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

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In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 78-12179

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

SOURCE: UNNAMED STREAM TRIBUTARY: 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 NO. 78-10339 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 S08 SWNWNW Within Idaho County

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

PLACE OF USE: Stockwater Within Idaho County
T23N R01W S08 NWNW

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

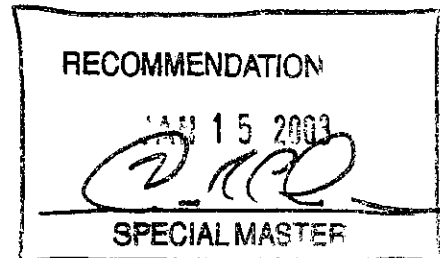
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE. THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND JOINT MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON AUGUST 29, 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

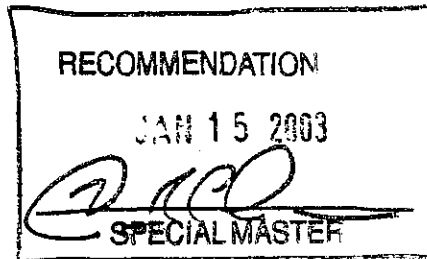
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THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF 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



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U.S. DISTRICT COURT OF THE

Water Right(s): 78-10339
2179

Debbie Lash
DEBBIE LASH
Deputy Clerk

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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): 78-10339

78-12179

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

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BRUCE BEDKE
GARY POULTON
JARED BEDKE
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MICHAEL POULTON
SCOTT BEDKE

Represented by:
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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