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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 RIGHTS (SEE   |
|                | ) | ATTACHED EXHIBIT A)     |

I. FINDINGS OF FACT

A notice of claim was filed for these 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, objections were filed by Norman Semanko on behalf of multiple parties. On September 18, 2002, Jared Bedke, Bruce Bedke, Jerry Hoagland and Joyce Livestock were dismissed as a party. Subsequently, a *Standard Form 5/Amended Claim* was filed on November 13, 2002. Objections to the Amended Claim were due December 31, 2002. No objections were filed. Signatures on the *Standard Form's 5* included, David Negri on behalf of the USDA Forest Service, Willis and Betty Deveny, and Norman Semanko on behalf of Karl Bedke, Scott Bedke, Pickett Ranch & Sheep Co., Gary Poulton, Michael Poulton, Joe Tugaw and Western Stockgrowers Association et al.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to the *Standard Form's 5*, IT IS RECOMMENDED that these water rights 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)*.

DATED: January 15, 2003.



THOMAS R. CUSHMAN  
Special Master  
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

78-04197  
78-04203  
78-04205  
78-04206  
78-04208  
78-04209  
78-04210  
78-04211  
78-04214  
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78-04234  
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CLERK OF DISTRICT COURT  
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

CERTIFICATE OF MAILING

Water Right(s): 78-04197  
(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 15, 2003, with sufficient first-class postage prepaid to the following:

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

CERTIFICATE OF MAILING

PAGE 1  
01/15/03

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

BRUCE BEDKE  
GARY POULTON  
JARED BEDKE  
JERRY HOAGLAND  
JOE TUGAW  
KARL U (BUD) BEDKE  
MICHAEL POULTON  
PICKETT RANCH & SHEEP CO  
SCOTT BEDKE  
WESTERN STOCKGROWERS ASSOC

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

WILLIS D & BETTY G DEVENY  
BOX 1160  
RIGGINS, ID 83549  
Phone: 208-628-3462

SHINGLE CREEK LLC  
P O BOX 1160  
RIGGINS, ID 83549

  
DEBBIE LASH  
Deputy Clerk

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CLERK OF DISTRICT COURT, IDAHO  
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 )  
 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

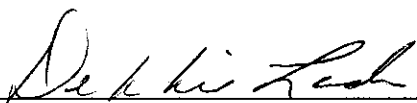
Water Right(s): 78-04197  
(SEE ATTACHED EXHIBIT A)

On January 15, 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 15, 2003.

  
DEBBIE LASH  
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 )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 78-04206

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Department of Water Resources

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

SOURCE: MORRISON RIDGE 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 S04 NESW Within Idaho County

| PURPOSE AND<br>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 S04 NESW

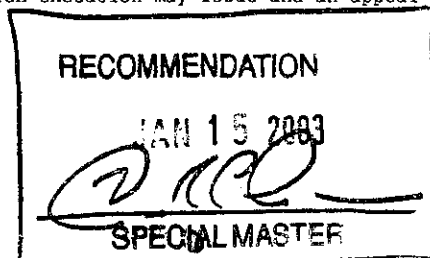
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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