

2004 DEC 20 AM 11 21

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 45-12513, 45-12619,
Case No. 39576) 45-12640, 45-12644 and 45-12687
) (USDI/BLM)
)
_____) SPECIAL MASTER REPORT

Findings of Fact

On March 2, 1998, the Director of the Idaho Department of Water Resources filed his *Director's Report, Domestic and Stock, Reporting Area 10 (IDWR Basin 45)*. The Director recommended the above five (5) dual-based claims to the United States of America, Department of Interior, Bureau of Land Management, 1387 S. Vinnell Way, Boise, Idaho 83709-1657, for .02 cfs from various springs for year-'round stockwater use in Cassia County with a priority date of January 1, 1873, based on beneficial use. The Director also noted under priority date:

4/17/1926 Claimed under federal reserved water law.

This water right is also claimed based on federal law with an April 17, 1926, date of priority pursuant to an Executive Order signed the same date and known as Public Water Reserve 107.

On July 2, 1998, the State of Idaho filed *Objections* alleging the water rights should not exist. On October 15, 2004, the United States and the State, with IDWR's concurrence, filed *Standard Forms 5* in subcases 45-12513, 45-12619, 45-12644 and 45-12687 agreeing to a June 28, 1934 priority date, but preserving the United States' election to proceed on the federal basis of its claims. The same date, the Special Master entered an *Order Dismissing State of Idaho as a Party* in 25 subcases, including 45-12640, based on a *Stipulation* filed by the parties on October 13, 2004.

An I.C. § 42-1411A evidentiary hearing was held by telephone on December 9, 2004. R. Lee Leininger appeared for the United States, along with Frederic W. Price; David J. Barber

appeared for the State; Travis L. Thompson appeared for Joe Tugaw, *et al.*; and Roxanne Brown represented IDWR.

The United States submitted the *Affidavit of Fredric W. Price*, filed December 6, 2004. Mr. Price, a water rights specialist in the BLM state office, stated that: the federal law basis of the claims is an Executive Order, dated April 17, 1926, and known as Public Water Reserve 107; the claims are located on unreserved federal public domain as of April 17, 1926; the lands currently remain under Department of Interior administration; the claimed water sources were confirmed by field investigation; there is sufficient surface water at the claimed sites for consumptive use by livestock; the sources are springs located at the claimed points of diversion; and the places of use are correctly described in the claims.

Conclusions of Law

The United States is entitled to partial decrees adjudicating federal reserved water rights under claims 45-12513, 45-12619, 45-12640, 45-12644 and 45-12687, all with a priority date of April 17, 1926, as described in the *SF-5's* (except for the priority date) and the attached *Special Master Recommendations for Partial Decrees for Federal Reserved Water Rights 45-12513, 45-12619, 45-12640, 45-12644 and 45-12687*.

DATED December 20, 2004.



TERRENCE A. DOLAN

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

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED
2004 DEC 20 AM 11 21

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 45-12513

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: MEDLEY CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 04/17/1926

THIS WATER RIGHT IS DECREED BASED ON FEDERAL LAW
WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN
EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC
WATER RESERVE 107.

POINT OF DIVERSION: T12S R20E S31 SWNWSE Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

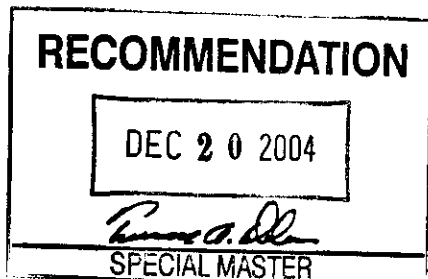
PLACE OF USE: Stockwater Within Cassia County
T12S R20E S31 NWSE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF 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.



John M. Melanson
Presiding Judge of the
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)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 45-12619

FILED

2004 DEC 20 AM 11 21

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: COW GULCH SPRING TRIBUTARY: COW CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 04/17/1926

THIS WATER RIGHT IS DECREED BASED ON FEDERAL LAW
WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN
EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC
WATER RESERVE 107.

POINT OF DIVERSION: T12S R25E S23 NESWNE Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Cassia County
T12S R25E S23 SWNE

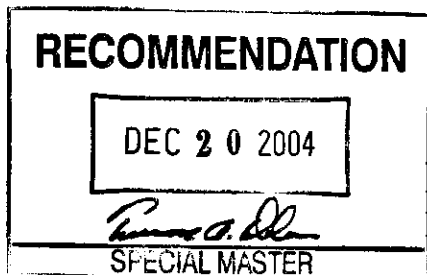
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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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
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



DISTRICT COURT - OKLA
OF THE
LUS
WIN FALLS CO., IDAHO
FILED

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 45-12640

2004 DEC 20 AM 11 21

QUANTITY: 0.02 CFS

PRIORITY DATE: 04/17/1926

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF 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).

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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

SRBA PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 45-12640 File Number: 00061

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
TWIN FALLS CO., IDAHO
FILED _____

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 45-12644

2004 DEC 20 AM 11 21

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: BUCKHORN SPRING TRIBUTARY: MEDLEY CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 04/17/1926

THIS WATER RIGHT IS DECREED BASED ON FEDERAL LAW
WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN
EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC
WATER RESERVE 107.

POINT OF DIVERSION: T12S R20E S31 NESWSE Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Cassia County
T12S R20E S31 SWSE

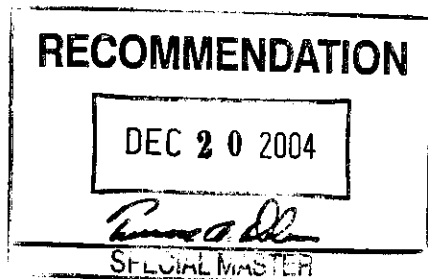
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 45-12687

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2004 DEC 20 AM 11 21

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: COW CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 04/17/1926

THIS WATER RIGHT IS DECREED BASED ON FEDERAL LAW WITH AN
APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER
SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

POINT OF DIVERSION: T12S R25E S24 SESWSW Within Cassia County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Cassia County
T12S R25E S24 SWSW

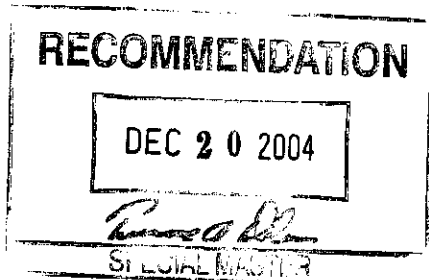
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



DISTRICT COURT-CRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 DEC 20 AM 11 21

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): 45-12513
45-12619 45-12640 45-12644
45-12687

CERTIFICATE OF MAILING

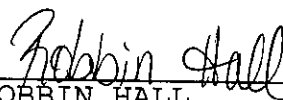
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on December 20, 2004, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

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
Deputy Clerk

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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2004 DEC 20 AM 11 21

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): 45-12513
45-12619 45-12640 45-12644
45-12687

On December 20, 2004, 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 December 20, 2004.



ROBBIN HALL
Deputy Clerk