

FEB - 9 2005

DEPARTMENT OF
WATER RESOURCES

FEB 9 AM 11:46

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

) SPECIAL MASTER'S REPORT

Case No. 39576

) FOR WATER RIGHT: 72-11765

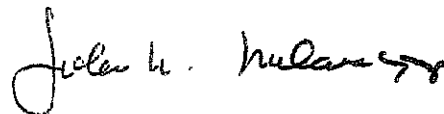
The above-captioned water right was claimed by the United States, Department of Interior, Bureau of Land Management (United States) as a dual based water right, meaning the right was claimed both as a federal-reserved water right and a state-based beneficial use water right. The right was contained in a Idaho Department of Water Resources *Director's Report*.

An Objection was filed by United States, stating that the Place of Use for the water right was incorrect. On December 2, 1999, a *Standard Form 5/Amended Claim* was filed. The *SF5* abandoned the federal basis for the claim. On March 31, 2000 Special Master Thomas Cushman issued an *Order Setting Hearing on Standard Form 5/Amended Claims*. The *Order* stated the Special Master was concerned about the priority date contained in the *SF5*. On June 8, 2004, a *Standard Form 5/Amended Claim* signed by the Claimant and Respondent with IDWR's concurrence was filed. On June 24, 2004 an *Order Rescinding Order of Reference To Special Master Thomas R. Cushman* was filed. The *Order* stated the Court would proceed in the matter specified by *Administrative Order 1* for Special Masters, with Judge John Melanson presiding. No objections were received to the *Amended Claim and Director's Report*.

RECOMMENDATION

Therefore, based on the file and record herein and the *Standard Form 5*, IT IS RECOMMENDED that the above-captioned water right be decreed as a state-based water right with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED: February 8 2005.



JOHN M. MELANSON
Presiding Judge
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

2005 FEB -8 AM 11:46

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 72-11765

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: LAKE CREEK

QUANTITY: 0.02 CFS

PRIORITY DATE: 10/12/1938

POINT OF DIVERSION: T09N R19E S17 SENESE Within Custer 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 Custer County
T09N R19E S17 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
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

Feb. 8, 2005

John M. Melanson

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

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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): 72-11765

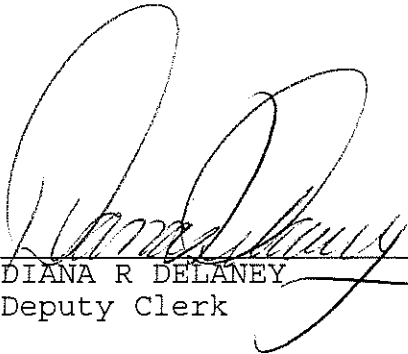
CERTIFICATE OF MAILING

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 February 08, 2005, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
USDI BLM

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


DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

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02/08/05

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TWIN FALLS CO., IDAHO
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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

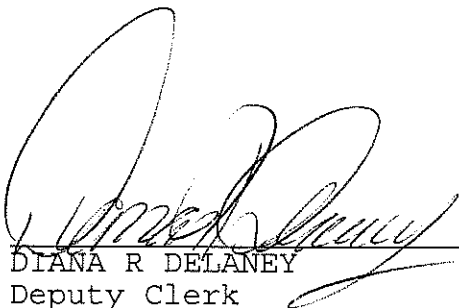
Water Right(s): 72-11765

On February 08, 2005, Special Master JOHN M MELANSON 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 February 08, 2005.


DIANA R DELANEY
Deputy Clerk