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NUMBER OF PAGES SENT (INCLUDING COVER PAGE): 6

SPECIAL INSTRUCTIONS: Enclosed for filing is please find the United States' **Motion for Special Master's Report** in Subcase No. 45-12511.

Names of Parties Filing Document:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

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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

Case No. 39576

Subcase No.: 45-12511

**MOTION FOR SPECIAL MASTER'S
REPORT**

The United States moves for a Special Master's Report (SMR) for subcase 45-12511 that includes explanatory material as shown on the attached Exhibit 1; proposed partial decree. As grounds for this motion the United States states the following:

This claim was filed on behalf of the U.S. Bureau of Land Management for the purpose of stockwatering at a spring source on federal land. The State of Idaho objected to this claim on

July 2, 1998. A stipulation resolving the State's objection was filed on March 11, 2003. The State was subsequently dismissed as a party on April 21, 2003.

This claim is also subject to a pending motion to file a late objection submitted by Joseph Tugaw, by and through his attorney, Travis Thompson. Prior to a ruling on the motion to file late objection, the United States, Mr. Tugaw and various other parties entered into a Stipulation on August 29, 2002, in which the United States agreed to certain provisions regarding the use and administration of this and other rights to stockwater on the federal lands.

At a hearing and a status conference for this claim held on December 9, 2004 and January 13, 2005, respectively, Mr. Thompson requested that the decreed water right for subcase no. 45-12511 include reference to the August 29, 2002 Stipulation. Specifically, Mr. Thompson requested that the decree include 1) language on the conjunctive use of the BLM's water right and the water right to the same source made by Mr. Tugaw in subcase no. 45-13502, and 2) a statement that the operation, use, and administration of this water right is subject to the terms and conditions of the Stipulation.

The United States has reviewed the Stipulation and determined that the agreement does not require that a partial decree contain the additional language. Paragraph 6 of the Stipulation states:

CONFORMING DOCUMENTS: The Parties agree that they will execute and file any necessary documents with the SRBA Court and IDWR to conform the elements of the claims listed on Exhibits A, D, E, and F, and the water right claims to be filed pursuant to Section 4 above, to the provisions described in this Stipulation.

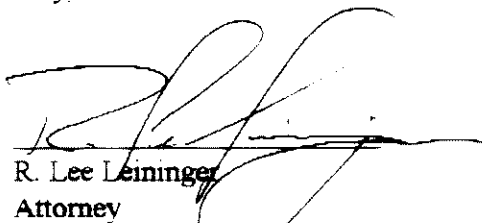
Since the elements of the United States' claim for 45-12511 do conform with the Stipulation, there is no requirement under the settlement to file additional documents. Nonetheless, the

Stipulation contains provisions on use and administration of the water right. Therefore, reference to the Stipulation in the decree is appropriate because it will place other water users on notice of the existence of the agreement and of the use of the water source under two rights, 45-12511 and 45-13502.

The United States understands that the Standard Form No. 5 *Amended Claim for Domestic & Stockwater Rights* is the procedural mechanism for amending claims where objections have been lodged. In this case, however, the State of Idaho has withdrawn and Mr. Tugaw is not an objector. Furthermore, the United States is not amending its claim because the requested change does not go to the requisite elements of the water right. Therefore, the United States believes a motion for a SMR containing the proposed explanatory material is the proper means of effecting this change.

Mr. Thompson was contacted and does not oppose this motion. For the reasons stated above, the United States respectfully asks that the Court enter a Special Master's Report containing the explanatory material. A copy of the amended claim is attached as Exhibit 1.

Respectfully submitted this 9th day of February, 2005.



R. Lee Leininger
Attorney
U.S. Department of Justice

CERTIFICATE OF SERVICE

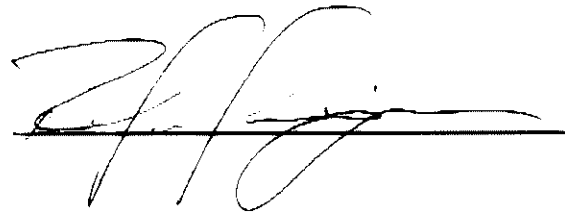
I certify that on Feb 9, 2005, a true and correct copy of the United States **MOTION FOR SPECIAL MASTER'S REPORT** was served via facsimile transmission to the following persons:

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Travis Lee Thompson
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113 Main Avenue West, Ste. 303
Twin Falls, ID 83301
Fax: (208) 735-2444

A handwritten signature in black ink, appearing to read 'Travis Lee Thompson', is written over a horizontal line.

Right Number: 45-12511

Name and Address: UNITED STATES OF AMERICA ACTIN
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

Source: MOUNTAIN MEADOW SPRING Tributary: MOUNTAIN MEADOW CREEK

Quantity: .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. 45-13502 AND IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF .02 CFS AND A TOTAL QUANTITY OF
13,000 GALLONS PER DAY.

Priority Date: 06-28-1934

Diversion Point: T12S R20E S21 NWNESE Within Cassia County

Purpose and

Period of Use:	Purpose of Use	Period of Use	Quantity
	Stockwater	01-01 TO 12-31	.02 CFS

Place of Use: Stockwater Within Cassia County
T12S R20E S21 NESE

Other Provisions Necessary for Definition / Administration of this
Water Right:

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 JOSEPH TUGRAW 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.
SECTION 42-1412(6), IDAHO CODE.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS
NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Explanatory Material: Basis of Claim - Beneficial Use

BLM RECORD ID = 4502480076
CATTLE/110