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AUG 26 2005

Department of Water Resources

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

2005 AUG 25 PM 2 31

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	)	Subcase 45-12304
	)	(USDA/FS)
Case No. 39576	)	
	)	SPECIAL MASTER REPORT
_____	)	

Findings of Fact

The United States of America, Department of Agriculture, Forest Service, 550 W. Fort Street MSC033, Boise, Idaho, 83724, filed a claim to water right *Reserved Under Federal Law* on August 10, 2004. It claimed .04 cfs from a spring for year-'round administrative use at the Bostetter Guard Station in the Sawtooth National Forest, Cassia County, with a priority date of June 12, 1905. The Director of the Idaho Department of Water Resources filed his *Part II, Director's Report for Federal Reserved Rights, 45-12304, Reporting Area 10, IDWR Basin 45* on September 7, 2004.

On January 3, 2005, the State of Idaho filed the only *Objection* alleging the water right should not exist. However, on July 21, 2005, the State filed its *Notice of Voluntary Dismissal of Objection*.

The United States filed the *Affidavit of Steven M. Spencer* and the *Affidavit of Scott C. Nannenga* on August 10, 2005, and an I.C. § 42-1411A evidentiary hearing was held by telephone on August 25, 2005. David L. Negri appeared for the United States, along with Mr. Spencer, and Chris M. Bromley appeared for IDWR.

The United States offered the *Affidavit of Steven M. Spencer*. Mr. Spencer is a consumptive water use specialist with the Boise Adjudication Team employed by the Forest Service for 28 years. He stated that the claimed place of use was first reserved as the Cassia Forest Reserve by Proclamation signed by President Theodore Roosevelt on June 12, 1905, and is federally reserved National Forest land, now part of the Sawtooth National Forest.

The United States also offered the *Affidavit of Scott C. Nannenga*. Mr. Nannenga is the district ranger on the Minidoka Ranger District of the Sawtooth National Forest and has been employed by the Forest Service for 27 years. He verified that the claimed place of use, Bostetter Guard Station, is located on the Sawtooth National Forest and that the site is used for administration of Forest Service programs to protect timber and watershed thereby ensuring continuing viability of the resources on surrounding federally reserved National Forest system land. He also said that water, up to .04 cfs, has been historically used at the site year-'round, as described in the claim.

Conclusions of Law

The United States is entitled to a partial decree adjudicating a federal reserved water right under claim 45-12304 with a priority date of June 12, 1905, as described in the attached *Special Master Recommendation for Partial Decree for Federal Reserved Water Right 45-12304*.

DATED August 25, 2005.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 45-12304

CERTIFICATE OF MAILING

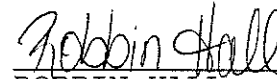
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on August 25, 2005, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA

Represented by:

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



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 45-12304

On August 25, 2005, 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 August 25, 2005.



ROBBIN HALL
Deputy Clerk