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JUN 28 2006

DEPARTMENT OF
WATER RESOURCES

2006 JUN 27 PM 1:20

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	)	Subcases 45-411 and 45-13795
	)	
	)	SPECIAL MASTER REPORT AND
Case No. 39576	)	RECOMMENDATION
_____	)	

Findings of Fact

45-4114

The Director of the Idaho Department of Water Resources filed his *Director's Report, Domestic & Stock, Reporting Area 10 (IDWR Basin 45)* on March 2, 1998. The Director recommended that claim 45-4114 be disallowed: "Claim incomplete." The United States filed an *Objection* in multiple subcases, including subcase 45-4114, on July 6, 1998, objecting to the claim not being recommended as claimed.

The Director filed his *Part I Director's Report for Late Claims* on April 22, 2005, and recommended claim 45-4114 to the United States of America, Department of Agriculture, Forest Service, 550 W. Fort Street, MSC 033, Boise, Idaho, 83724, for .06 cfs from springs for commercial use from November 1 to April 30 with a priority date of May 1, 1965, based on beneficial use. Earl Warthen filed an *Objection* on June 10, 2005, objecting to nearly all elements and alleging the water right should not exist

45-13795

The Director filed his *Director's Report for Irrigation and Other, Reporting Area 10, IDWR Basin 45* on September 7, 2004. The Director recommended claim 45-13795 to the United States of America, Department of Agriculture, Forest Service for .06 cfs from springs for year-round diversion to storage, domestic, domestic storage and domestic from storage uses in

Cassia County with a priority date of June 1, 1962, based on beneficial use. On January 3, 2005, Earl Warthen filed an *Objection* in subcase 45-13795 objecting to source, quantity, priority date, point of diversion, purpose of use, period of year and place of use and alleging the water right should not exist.

Stipulation

On June 19, 2006, the United States and Mr. Warthen filed a *Stipulation to Resolve Objections* in both subcases agreeing that the water rights should be decreed as recommended by IDWR.

Conclusions of Law

The United States is entitled to partial decrees for claims 45-4114 and 45-13795 as recommended by IDWR and as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights 45-4114 and 45-13795*.

DATED June 27, 2006.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

2006 JUN 27 PM 1:20

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

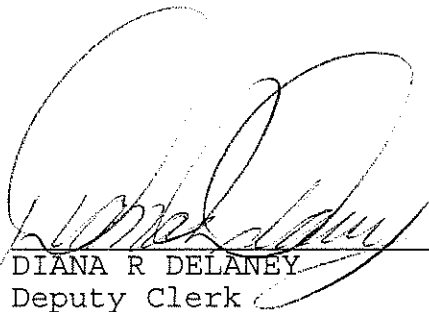
Water Right(s): 45-04114
45-13795

On June 27, 2006, 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 June 27, 2006.


DIANA R DELANEY
Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

2006 JUN 27 PM 1:20

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 45-13795

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

SOURCE: SPRINGS TRIBUTARY: HOWELL CREEK

QUANTITY: 0.06 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.06 CFS . COMBINED RIGHT NOS. 45-4114 and
45-13795

PRIORITY DATE: 06/01/1962

POINT OF DIVERSION: T13S R24E S01 LOT 3 (NWNENW) Within Cassia County
S11 NWNENE

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Domestic	01-01 TO 12-31	0.06 CFS
Domestic Storage	01-01 TO 12-31	0.18 AFY
Domestic from Storage	01-01 TO 12-31	0.18 AFY
Diversion to Storage	01-01 TO 12-31	0.06 CFS

PLACE OF USE: Domestic Within Cassia County
T13S R24E S01 NWSW
Domestic Storage Within Cassia County
T13S R24E S02 SESE
Domestic from Storage Within Cassia County
Same as Domestic

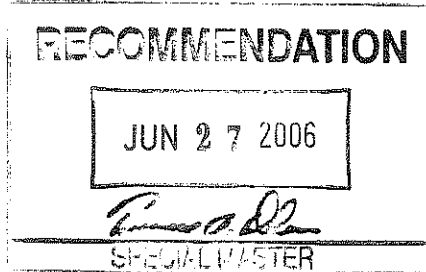
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.



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 45-04114

2006 JUN 27 PM 1:20
DISTRICT COURT, SRBA
TWIN FALLS CO., IDAHO
FILED

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

SOURCE: SPRINGS TRIBUTARY: HOWELL CREEK

RIGHT INCLUDES ACCOMPLISHED CHANGE IN SOURCE PURSUANT TO SECTION
42-1425, IDAHO CODE.

QUANTITY: 0.06 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.06 CFS. COMBINED RIGHT NOS. 45-4114 AND
43-13795.

PRIORITY DATE: 05/01/1965

POINT OF DIVERSION: T13S R24E S01 LOT 3 (NWNENW) Within Cassia County
S11 NWNENE

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Commercial	11-01 TO 04-30	0.06 CFS

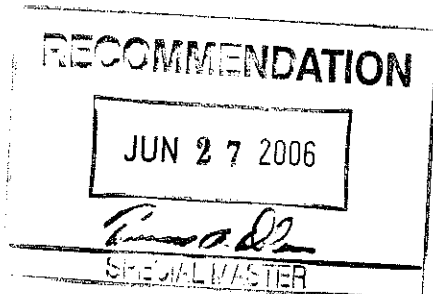
PLACE OF USE: Commercial Within Cassia County
T13S R24E S01 NWSW

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
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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)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 45-04114

45-13795

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 June 27, 2006, with sufficient first-class postage prepaid to the following:

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

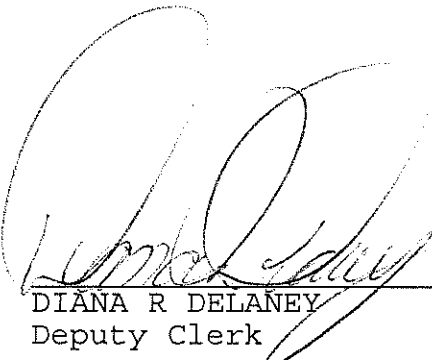
EARL WARTHEN

Represented by:
SHELLEY M. DAVIS
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

UNITED STATES OF AMERICA

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

CERTIFICATE OF MAILING


DIANA R DELANEY
Deputy Clerk

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06/27/06