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DEPARTMENT OF
WATER RESOURCES

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

2006 JUL 21 AM 10 41

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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
_____	)	WATER RIGHT NO.: 34-13677

I. PROCEDURAL BACKGROUND

This water right was claimed in the SRBA as a federal reserved water right pursuant to Public Water Reserve 66 by the United States Department of the Interior, Bureau of Land Management. The elements of this claim were reported by the Idaho Department of Water Resources. *Director's Report for Late Claims* (April 22, 2005). No objections were filed.

A hearing was held on this uncontested claim on June 14, 2006 in compliance with Idaho Code § 42-1411A. Pursuant to that statute, the United States is required to demonstrate a *prima facie* showing of the elements of a claimed federal reserve water right. In conjunction with that hearing, the United States filed the *Affidavit of Fredric W. Price*. Mr. Price was also called as a witness at the hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the file and record in this subcase, and the *Affidavit of Fredric W. Price*, this Special Master makes the following findings of fact and conclusions of law:

1. On August 15, 1919, President Woodrow Wilson signed an Executive Order that expressly reserved land and impliedly reserved water for public use. That Executive Order was entitled *Order of Withdrawal, Public Water Reserve No. 66* (hereafter "PWR 66").
2. That the purpose of the reservation was to prevent monopolization of lands surrounding water sources necessary for public use.
3. That PWR 66 included a list of legal descriptions within Idaho.

4. That the source and place of use elements contained in this claim are located within the legal boundaries described.
5. That contemporaneous with the withdrawal of land, President Wilson impliedly reserved sufficient water to fulfill the primary purpose of the reservation for each claim.
6. The water source for this claim consists of a spring which comes within the legal description reserved by PWR 66.
7. Prior to August 15, 1919 the subject water source for this claim (an unnamed spring) was located on unreserved federal public domain land.
8. Prior to August 15, 1919, no water rights had been established pursuant to state law for the use of the water from the water source for this claim.
9. The minimum amount of water necessary to fulfill the primary purpose of the land reservation is the amount set forth in the "quantity" element on the attached *Special Master's Recommendation* for this claim.
10. That the United States has satisfied its burden under Idaho Code section 42-1411A as to the nature and existence of the claimed federal reserve water right for each claim.
11. The elements of the federal water right for this claim are set forth on each of the attached *Special Master's Recommendation*.

III. RECOMMENDATION

Therefore, based on the file and record herein, IT IS RECOMMENDED that the this water right be decreed as a federal water right with the elements set forth in the attached *Special Master's Recommendation for Partial Decree Pursuant to I.R.C.P. 54 (b)*. It is further recommended that to the extent any concomitant state-law water right was claimed in the alternative for this right, that said right not be confirmed in any partial or final decree.

DATED: July 21, 2006.


BRIGETTE BILYEU
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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 34-13677

FILED

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NAME AND ADDRESS: UNITED STATES OF AMERICA
USDI - BLM
1387 SOUTH VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: SINKS

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 08/15/1919

* THIS WATER RIGHT IS ISSUED BASED ON FEDERAL LAW WITH *
* AN AUGUST 15, 1919, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS *
* PUBLIC WATER RESERVE 66. *

POINT OF DIVERSION: T10N R22E S17 NENWNW 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
T10N R22E S17 NWNW

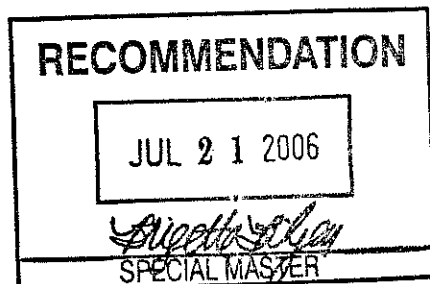
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 34-13677

On July 21, 2006, Special Master BRIGETTE BILYEU 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 July 21, 2006.


JANET CONNELL
Deputy Clerk

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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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

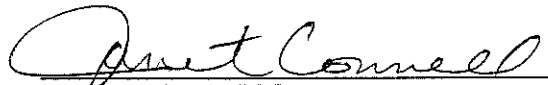
Water Right(s): 34-13677

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 July 21, 2006, 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


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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