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DEPARTMENT OF
WATER RESOURCES

2007 NOV 28 PM 3: 53

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) Subcase 74-15514
Case No. 39576) (USDI / BLM)
)
) SPECIAL MASTER REPORT
)
_____)

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Reporting Area 23, IDWR Basin 74* on January 23, 2006. The Director recommended claim 74-15514 to the United States of America, Department of Interior, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, for .02 cfs from Sharkey Hot Spring for year-'round recreation use in Lemhi County with a priority date of September 19, 1926, based on beneficial use. The Director added the following language under priority date:

7 / 07 / 1930 Claimed under federal reserved water right.

This water right is also claimed based on federal law with a July 7, 1930, date of priority pursuant to an Executive Order 5389 signed the same date and known as Medicinal Springs Public Water Reserve.

On June 28, 2006, the United States filed an *Objection* to quantity. On October 15, 2007, the United States, with IDWR's concurrence, filed a *Standard Form 5* agreeing to delete a combined diversion rate remark.

On November 15, 2007, an I.C. § 42-1411A evidentiary hearing was held by telephone and the United States offered the *Affidavit of Fredric W. Price* lodged the day before. R. Lee Leininger appeared for the United States, along with Mr. Price, and Chris M. Bromley appeared for IDWR.

In his *Affidavit*, Mr. Price, a water rights specialist in the BLM state office, stated: the federal law basis of the claim is Executive Order 5389, dated July 7, 1930, and known as Medicinal Springs Public Water Reserve; the claim is located on unreserved federal public domain as of July 7, 1930; the land currently remains under U.S. Department of Interior administration; the claimed water source was confirmed by field investigation; there is sufficient surface water at the claimed site for use under the Medicinal Hot Springs reservation; and the source is a hot spring located at the claimed point of diversion and place of use described in the *SF-5*.

Conclusions of Law

The United States is entitled to a partial decree adjudicating a federal reserved water right with a priority date of July 7, 1930, as described in the *SF-5* and the attached *Special Master Recommendation for Partial Decree for Federal Reserved Water Right 74-15514*.

DATED November 28, 2007.



TERRENCE A. DOLAN

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 74-15514

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

SOURCE: SHARKEY HOT SPRING TRIBUTARY: WARM SPRINGS CREEK

QUANTITY: 0.02 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 07/07/1930

THIS WATER RIGHT IS DECREED BASED ON FEDERAL LAW WITH A
JULY 7, 1930, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER
5389 SIGNED THE SAME DATE AND KNOWN AS MEDICINAL SPRINGS PUBLIC
WATER RESERVE.

POINT OF DIVERSION: T20N R24E S34 LOT 4 (SWSWSW) Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Recreation	01-01 TO 12-31	0.02 CFS

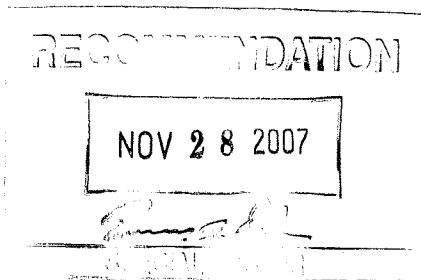
PLACE OF USE: Recreation Within Lemhi County
T20N R24E S34 LOT 4 (SWSW)

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
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

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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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 74-15514

CERTIFICATE OF MAILING

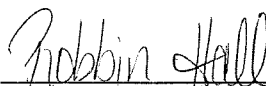
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on November 28, 2007, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657
Phone: 208-373-4000

CERTIFICATE OF MAILING


ROBBIN HALL
Deputy Clerk

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11/28/07

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Water Right(s): 74-15514

ROBBIN HALL
Deputy Clerk