

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 45-12802

NAME AND ADDRESS: USDI BLM  
IDAHO STATE OFFICE  
1387 S 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: 04/17/1926

THIS WATER RIGHT IS DECREED BASED ON FEDERAL LAW WITH AN  
APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER  
SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

POINT OF DIVERSION: T16S R22E S33 SWNE NE Within Cassia County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.02 CFS |

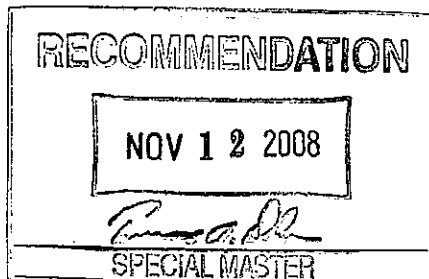
PLACE OF USE: Stockwater Within Cassia County  
T16S R22E S33 NENE

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

RECEIVED  
NOV 13 2008  
DEPARTMENT OF  
WATER RESOURCES

|                                                                                         |              |
|-----------------------------------------------------------------------------------------|--------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |              |
| NOV 12 2008                                                                             |              |
| By _____                                                                                | Clerk        |
| _____                                                                                   | Deputy Clerk |

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 45-12802, 45-12807, 45-12820, 45-  
Case No. 39576 ) 12821, 45-12822 and 45-12823  
 ) (USDI / BLM)  
 )  
 ) SPECIAL MASTER REPORT

**Findings of Fact**

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 the claims 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 springs and an unnamed stream for year-round stockwater use in Cassia County with a priority date of January 1, 1873, based on beneficial use. The Director added the following language under priority date:

4 / 17 / 1926 Claimed under federal reserved water right.  
This water right is also claimed based on federal law with an April 17, 1926, date of priority pursuant to an Executive Order signed the same date and known as Public Water Reserve 107.

On October 2, 2008, an I.C. § 42-1411A evidentiary hearing was held by telephone and the United States offered the *Affidavit of Fredric W. Price*. R. Lee Leininger appeared for the United States, along with Mr. Price, and Nicholas B. Spencer appeared for IDWR.

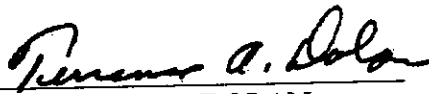
In his *Affidavit*, Mr. Price, a water rights specialist in the BLM state office, stated: the federal law basis of the claim is an Executive Order, dated April 17, 1926, and known as Public Water Reserve 107; the claim is located on unreserved federal public domain as of April 17, 1926; the land currently 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 consumptive use by livestock; and the source is a spring or waterhole located at the claimed point of diversion and place of use described in the *Director's Report*.

#### **Conclusions of Law**

The United States is entitled to partial decrees adjudicating federal reserved water rights with a priority date of April 17, 1926, as described in the *Director's Report*, Mr. Price's *Affidavit* and the attached *Special Master Recommendations for Partial Decrees for Federal Reserved Water Rights 45-12802, 45-12807, 45-12820, 45-12821, 45-12822 and 45-12823*.

DATED November 12, 2008

  
TERRENCE A. DOLAN  
Special Master  
Snake River Basin Adjudication

|                                                                                         |              |
|-----------------------------------------------------------------------------------------|--------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |              |
| NOV 12 2008                                                                             |              |
| By _____                                                                                | Clerk        |
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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): 45-12802  
45-12807    45-12820    45-12821  
45-12822    45-12823

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 12, 2008, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO  
Represented by:  
NATURAL RESOURCES DIV CHIEF  
STATE OF IDAHO  
ATTORNEY GENERAL'S OFFICE  
PO BOX 44449  
BOISE, ID 83711-4449

CERTIFICATE OF MAILING

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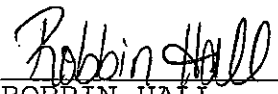
GARY RUSSELL POULTON  
MICHAEL A. POULTON

Represented by:  
NORMAN M SEMANKO  
IDAHO WATER USERS ASSOCIATION  
1010 W JEFFERSON ST, STE 101  
BOISE, ID 83702  
Phone: 208-344-6690

USDI BLM

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

JARED BEDKE  
42 EAST BASIN RD  
OAKLEY, ID 83346  
Phone: 208-862-3697

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk

|                                                                                         |              |
|-----------------------------------------------------------------------------------------|--------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |              |
| NOV 12 2008                                                                             |              |
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In Re SRBA )  
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Case No. 39576 )  
 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

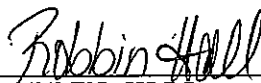
Water Right(s): 45-12802  
45-12807    45-12820    45-12821  
45-12822    45-12823

On November 12, 2008, 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 November 12, 2008.

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk