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AUG 19 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
AUG 17 2009	
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	) Subcase 73-10520
	) (USDI / BLM)
Case No. 39576	)
	) SPECIAL MASTER REPORT
_____	)

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, Reporting Area 23, Basin 73* on January 25, 2007. The Director recommended claim 73-10520 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 Rock Spring for year-'round stockwater use in Custer County with a priority date of June 28, 1934, 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.

IDWR filed its *Amended Director's Report* on February 5, 2009,¹ adding the following language under priority date:

4/07/1917 Claimed under Federal Reserved Water Right.

This water right is also claimed based on federal law with an April 7, 1917, date of priority pursuant to an executive order signed the same date and known as Public Water Reserve 47.

¹ No one objected to the *Amended Director's Report*.

An I.C. §42-1411A hearing was held by telephone on July 31, 2008, and the United States submitted the *Affidavit of Fredric W. Price*, filed April 4, 2008, in support of its claim. In the *Affidavit*, Mr. Price stated: he is a Water Rights Specialist for the USDI/BLM and his statements are based on his personal knowledge; the subcase is a dual-based claim based upon state and two separate federal reservations pursuant to Executive Orders dated April 7, 1917, known as PWR 47, and April 17, 1926, known as PWR 107; the claim is located on unreserved federal public domain as of April 7, 1917; the lands currently remain under USDI administration; the claimed water source was confirmed by field investigation; there is sufficient 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; the quantity for stockwatering purposes is sufficient to satisfy the federal reservations based upon Public Water Reserve 47 or 107; and "BLM prefers a partial decree under the senior federal reserve basis made pursuant to PWR 47."

Conclusions of Law

The United States is entitled to a partial decree adjudicating a federal reserved water right with a priority date of April 7, 1917, as described in Mr. Price's *Affidavit* and the attached *Special Master Recommendation for Partial Decree for Federal Reserved Water Right 73-10520*.

DATED August 17, 2009.


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)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 73-10520

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho AUG 17 2009 By _____ Clerk _____ Deputy Clerk

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

SOURCE: ROCK SPRING TRIBUTARY: SINKS

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 06/28/1934

This water right is decreed based on federal law with an April 7,
1917, date of priority pursuant to an executive order signed
the same date and known as Public Water Reserve 47.

POINT OF DIVERSION: T12N R22E S24 SESWNE 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
T12N R22E S24 SWNE

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

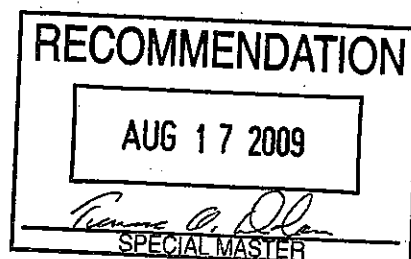
The quantity of water decreed for this water right is not a
determination of historical beneficial use.

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	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
AUG 17 2009	
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)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

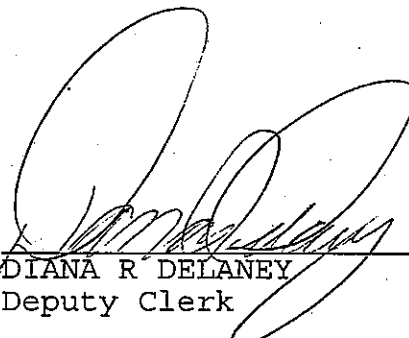
Water Right(s): 73-10520

On August 17, 2009, 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.

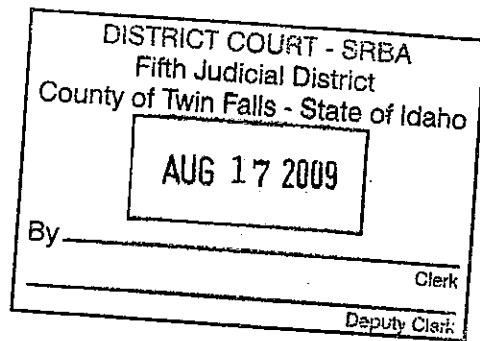
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 17, 2009.



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

In Re SRBA)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 73-10520

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 18, 2009, 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

DIANA R DELANEY
Deputy Clerk

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08/17/09