

RECEIVED

FEB 26 2010

**DEPARTMENT OF
WATER RESOURCES**

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 25 2010	
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**

	)	Subcases:
	)	01-2017 01-2032
	)	01-2046 01-10382
In Re SRBA	)	01-10383 01-10384
	)	01-10531 01-10532
	)	(Idaho Power Co. - American Falls
Case No. 39576	)	Hydropower Natural Flow)
	)	
	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

Findings of Fact

Director's Report

The Director of the Idaho Department of Water Resources filed his *Director's Report, Reporting Area Basin 01, IDWR Part 2* on December 19, 2006. The Director recommended the following eight claims to Idaho Power Company, P.O. Box 70, Boise, Idaho, 83707, for Snake River water for power use at American Falls Power Plant, Power County:

01-2017 – 1,400 cfs, 09/03/1908, April 1 to October 31, license

01-2032 – 236 cfs, 03/08/1919, April 1 to October 31, license

01-2046 – 2,000 cfs, 10/15/1926, year-'round, license

01-10382 – 253 cfs, 07/15/1901, April 1 to October 31, beneficial use

01-10383 – 611 cfs, 08/01/1901, April 1 to October 31, beneficial use

01-10384 – disallowed: "Recommended as right nos. 1-10531 and 1-10532"

01-10531 – 6,000 cfs, 04/13/1926, beneficial use:
September 16 to May 30 - 6,000 cfs
May 1 to September 15 - 3,500 cfs

01-10532 – 1,000 cfs, 05/08/1936, year-'round, beneficial use

Objections and Responses

Between April 17 and 20, 2007, objections were filed by the Idaho Ground Water Appropriators, Inc., United States of America, Department of Interior, Bureau of Reclamation, State of Idaho and Idaho Power Company. Responses were filed by the State and Idaho Power on June 11 and 20, 2007.

Supplemental Director's Report

IDWR filed its *Supplemental Director's Report* in the above eight subcases on October 21, 2008. It made a few changes to its earlier recommendations and concluded:

The 1923 Contract and 1926 Deed had a significant impact on Idaho Power's pre- and post-1923 water rights. The Department's recommendations appropriately reflect the effect of the contract and the deed on the water rights. The Department's recommendations also appropriately reflect the importance of hydropower water rights. The Department recommends that the Special Master adopt IDWR's recommendation for water right nos. [all eight] except where the Department has suggested modifications in this report.

Report at 15-16.

State's Amended Objection

On November 18, 2009, the State was granted leave to amend its *Objections* in the seven natural flow subcases recommended for decree by IDWR.

Motions for Summary Judgment

On December 9, 2009, the State filed its *Motion for Partial Summary Judgment* in all eight of the above natural flow subcases, plus four storage subcases (01-2064, 01-10485, 01-10486 and 01-10487). The same date, the Upper Valley American Falls Spaceholders filed their *Motion for Summary Judgment* in the same subcases; they were granted leave to participate and file a late objection on December 15, 2009.

Standard Forms 5

On February 19, 2010, the parties, with IDWR's concurrence, filed *Standard Forms 5* in all eight natural flow subcases agreeing to amend, add or delete certain remarks in seven of the subcases, change the period of use in 01-10531 and disallow 01-10384.

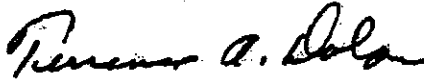
Conclusions of Law

1. Idaho Power is entitled to partial decrees adjudicating water rights in subcases 01-2017, 01-2032, 01-2046, 01-10382, 01-10383, 01-10531 and 01-10532 as described in the *SF-5s* and the attached *Special Master Recommendations for Partial Decrees for Water Rights*; and
2. Idaho Power is **not** entitled to a partial decree for claim 01-10384.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 01-10384 be **disallowed**.

DATED February 25, 2010.



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 01-02017

NAME AND ADDRESS: IDAHO POWER CO
PO BOX 70
BOISE, ID 83707

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1400.00 CFS

PRIORITY DATE: 09/03/1908

The right for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water within the State of Idaho with a priority date later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T07S R31E S30 LOT 12 (SWSE) Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Power	04-01 TO 10-31	1400.00 CFS

Power generation is at the American Falls Power Plant.

PLACE OF USE: Power Within Power County
T07S R31E S30 LOT 12 (SWSE)

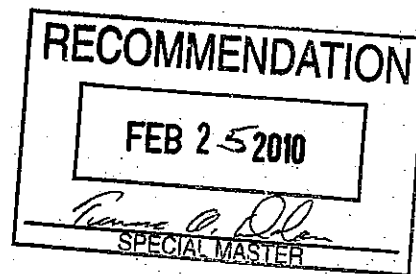
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

Eric J. Wildman
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 01-02032

NAME AND ADDRESS: IDAHO POWER CO
PO BOX 70
BOISE, ID 83707

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 236.00 CFS

PRIORITY DATE: 03/08/1919

The right for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water within the State of Idaho with a priority date later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T07S R31E S30 LOT 12 (SWSE) Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Power	04-01 TO 10-31	236.00 CFS

Power generation is at the American Falls Power Plant.

PLACE OF USE: Power Within Power County
T07S R31E S30 LOT 12 (SWSE)

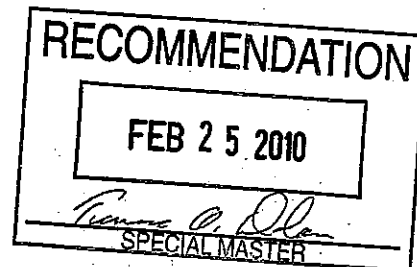
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication



In Re SRBA:) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54 (b) FOR
Case No. 39576)
) Water Right 01-02046

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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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 01-10382

NAME AND ADDRESS: IDAHO POWER CO
PO BOX 70
BOISE, ID 83707

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 253.00 CFS

PRIORITY DATE: 07/15/1901

The right for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water within the State of Idaho with a priority date later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T07S R31E S30 LOT 12 (SWSE) Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Power	04-01 TO 10-31	253.00 CFS

Power generation is at the American Falls Power Plant.

PLACE OF USE: Power Within Power County
T07S R31E S30 LOT 12 (SWSE)

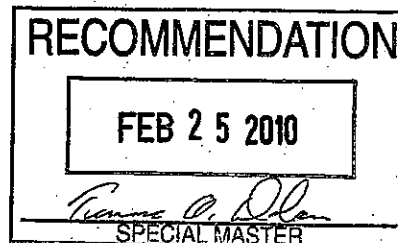
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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Eric J. Wildman
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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 01-10383

NAME AND ADDRESS: IDAHO POWER CO
PO BOX 70
BOISE, ID 83707

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 611.00 CFS

PRIORITY DATE: 08/01/1901

The right for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water within the State of Idaho with a priority date later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T07S R31E S30 LOT 12 (SWSE) Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Power	04-01 TO 10-31	611.00 CFS

Power generation is at the American Falls Power Plant.

PLACE OF USE: Power Within Power County
T07S R31E S30 LOT 12 (SWSE)

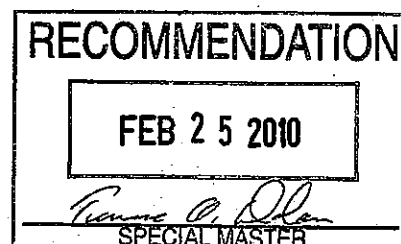
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Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication



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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 01-10531

NAME AND ADDRESS: IDAHO POWER CO
PO BOX 70
BOISE, ID 83707

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 6000.00 CFS

PRIORITY DATE: 04/13/1926

The right for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water within the State of Idaho with a priority date later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T07S R31E S30 LOT 12 (SWSE) Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Power	04-01 TO 10-31	3500.00 CFS
	Power	11-01 TO 03-31	6000.00 CFS

Power generation is at the American Falls Power Plant.

PLACE OF USE: Power Within Power County
T07S R31E S30 LOT 12 (SWSE)

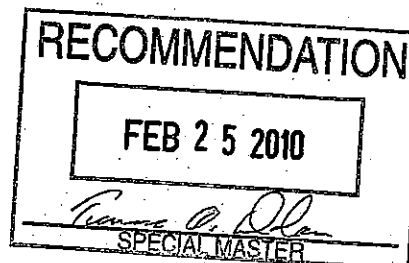
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 01-10532

NAME AND ADDRESS: IDAHO POWER CO
PO BOX 70
BOISE, ID 83707

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1000.00 CFS

PRIORITY DATE: 05/08/1936

The right for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water within the State of Idaho with a priority date later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T07S R31E S30 LOT 12 (SWSE) Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Power	01-01 TO 12-31	1000.00 CFS

Power generation is at the American Falls Power Plant.

PLACE OF USE: Power Within Power County
T07S R31E S30 LOT 12 (SWSE)

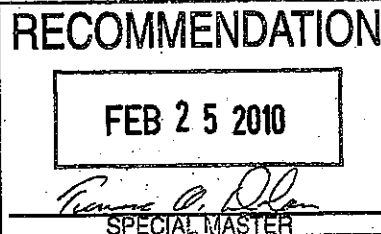
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Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication



DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 25 2010	
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

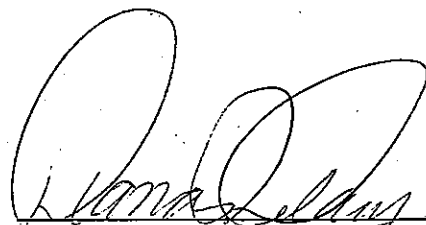
Water Right(s): 01-02017
01-02032 01-02046 01-10382
01-10383 01-10384 01-10531
01-10532

On February 25, 2010, 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 February 25, 2010.



DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
FEB 25 2010	
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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 01-02017
01-02032 01-02046 01-10382
01-10383 01-10384 01-10531
01-10532

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 February 25, 2010, with sufficient first-class postage prepaid to the following:

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

IDAHO POWER COMPANY
Represented by:
ADAM T DEVOE
BROWNSTEIN HYATT & FARBER PC
410 17TH STREET, 22ND FL
DENVER, CO 80202
Phone: 303-223-1100

CERTIFICATE OF MAILING

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IDAHO POWER COMPANY

Represented by:
JAMES S LOCHHEAD
BROWNSTEIN HYATT ET AL
410 17TH STREET, SUITE 2200
DENVER, CO 80202
Phone: 303-223-1100

AMERICAN FALLS SPACEHOLDERS

Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

IDAHO POWER COMPANY

Represented by:
MICHAEL A GHELETA
BROWNSTEIN HYATT ET AL
410 17TH STREET, SUITE 2200
DENVER, CO 80202
Phone: 303-223-1100

STATE OF IDAHO

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

ABERDEEN AMERICAN FALLS
AMERICAN FALLS SPACEHOLDERS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE JEFFERSON GROUND
CAREY VALLEY GROUND WATER DIST
JEFFERSON CLARK GROUND WATER
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER DIST
NORTH SNAKE GROUND WATER DIST

Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

CERTIFICATE OF MAILING

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02/25/10

STATE OF IDAHO

Represented by:

STATE OF IDAHO

PO BOX 44449

BOISE, ID 83711-4449

Phone: 208-334-2400

USDI BUREAU OF RECLAMATION

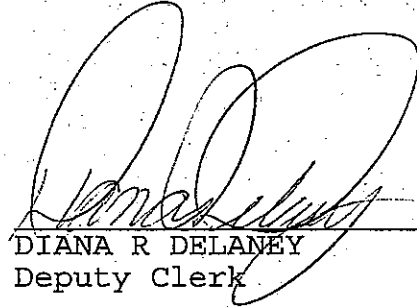
Represented by:

US DEPARTMENT OF JUSTICE

ENVIRONMENT & NATL' RESOURCES

550 WEST FORT STREET, MSC 033

BOISE, ID 83724



DIANA R DELANEY
Deputy Clerk