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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAR 29 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	)	Subcases 45-2810A (USDI/BLM)
	)	and 45-10491 (Bedke)
Case No. 39576	)	
_____	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

Findings of Fact

45-2810 / 45-2810A

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 claim 45-2810, filed by 1) the United States of America, Department of Interior, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, 2) Bruce Bedke and 3) the State of Idaho be denied: "Claim incomplete."

The United States filed an *Objection* in subcase 45-2810 on July 2, 1998, objecting to the claim not being recommended as filed. The State filed the same *Objection* that date.

IDWR filed its *Supplemental Director's Report* on June 17, 1999, stating the claim described places of use not found on the original license. On October 8, 2004, it filed a *Notice of Completed Administrative Proceeding* for substitution of party and split of 45-2810 into 45-2810A (USDI/BLM, disallowed, claim incomplete) and 45-2810B (State of Idaho, disallowed, claim incomplete). On November 26, 2004, IDWR filed a similar *NCAP* with the same recommendations.¹

¹ On January 5, 2006, the Special Master entered a *Report and Recommendation* recommending claim 45-2810 be disallowed because of the split and the State be decreed a water right in subcases 45-2810B. On May 24, 2006, 45-2810 was disallowed and 45-2810B was partially decreed.

The United States filed an *Objection* in subcase 45-2810A on November 26, 2004, again objecting to the claim not being recommended as filed. The State filed the same *Objection* on November 29, 2004. Jared Bedke lodged a late *Objection* in subcase 45-2810A on January 7, 2005, alleging the water right should not exist. On November 1, 2005, an *Order* deemed Mr. Bedke's late *Objection* to be a timely response to the United States' November 26, 2004 *Objection*. On November 10, 2005, the United States filed its *Amended Claim* in subcase 45-2810A.

On May 24, 2006, the Special Master entered an *Order Denying United States' Motion for Summary Judgment* in subcase 45-2910A because certain elements had yet to be confirmed – “sort of like painting the barn before it's built.”

45-10491

The Director filed his *Director's Report for Irrigation and Other, Reporting Area 10, IDWR Basin 45* on September 7, 2004. He recommended claim 45-10491 filed by Bruce Bedke for .01 cfs from Worthington Spring for year-'round stockwater use in Cassia County with a priority date of August 16, 1963, based on beneficial use.

Supplemental Director's Report

IDWR filed its *Supplemental Director's Report Regarding Subcase Nos. 45-2810A and 45-10491* on April 28, 2008, recommending 45-2810A be decreed to the United States and 45-10491 be disallowed. Then, on February 23, 2009, IDWR filed an *NCAP* in subcase 45-2810A for a transfer of place of use. Bruce Bedke was granted leave to file late *Objections* in 45-2810A and 45-10491 on June 9, 2009, alleging the water right should not exist.

Stipulation

On March 26, 2010, the United States, the State and the Bedkes filed a *Stipulation to Resolve Subcases* in subcases 45-2810A and 45-10491 agreeing as follows:

45-2810A – the Bedkes withdrew their *Objections*, the State's *Responses* are resolved, the United States' *Objection* is resolved and claim 45-2810A should be decreed as recommended by IDWR in the February 23, 2009 *Amended Director's Report*.

45-10491 – the Bedkes withdrew their *Objections* and the claim should be disallowed.

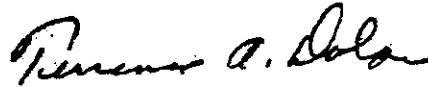
Conclusions of Law

1. The United States is entitled to a partial decree adjudicating a water right as recommended by IDWR in its February 23, 2009 *Amended Director's Report* and as described in the attached *Special Master Recommendation for Partial Decree for Water Right 45-2810A*; and
2. The Bedkes are **not** entitled to a partial decree for claim 45-10491.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 45-10491 be **disallowed**.

DATED March 29, 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
Case No. 39576) I.R.C.P. 54(b) FOR
) Water Right 45-02810A

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

SOURCE: WOTHINGTON SPRING TRIBUTARY: SINKS

QUANTITY: 0.01 CFS

THIS RIGHT, WHEN CONSIDERED WITH ALL OTHER RIGHTS COMMON TO THE
SAME GRAZING ALLOTMENT, IS LIMITED TO THE QUANTITY OF WATER
BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.
RIGHTS 45-2810A AND 45-2810B WHEN COMBINED SHALL NOT EXCEED A
TOTAL DIVERSION RATE OF 0.01 CFS.

PRIORITY DATE: 08/16/1963

POINT OF DIVERSION: T16S R22E S33 NWNENW Within Cassia County

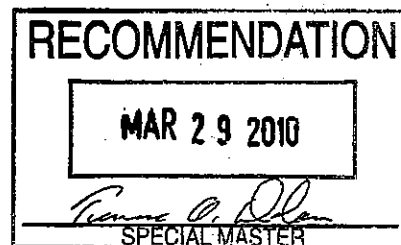
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.01 CFS

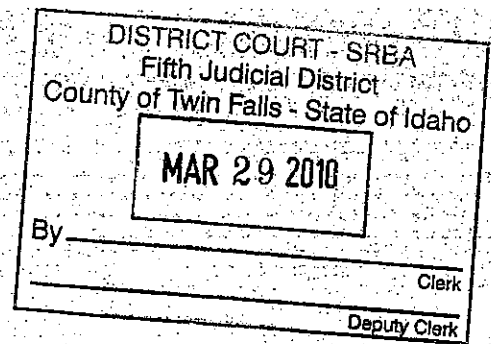
PLACE OF USE:	Stockwater	Within Cassia County
	T16S R21E S24	SESW
	R22E S19	SWNE
	LOT 4	(SWSW)
	S20	NENW
	S29	NWNE
		NWSW

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

THE RIGHT HOLDER SHALL ACCOMPLISH THE CHANGE AUTHORIZED BY THIS
TRANSFER WITHIN ONE YEAR OF THE DATE OF THIS APPROVAL.
FAILURE OF THE RIGHT HOLDER TO COMPLY WITH THE CONDITIONS OF THIS
TRANSFER IS CAUSE FOR THE DIRECTOR TO RESCIND APPROVAL OF THE
TRANSFER.

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).





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): 45-02810A

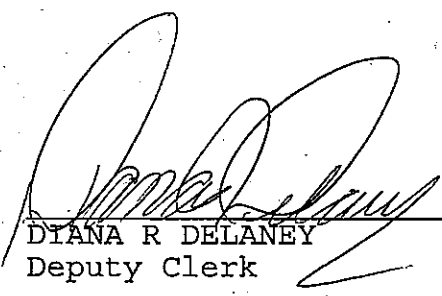
45-10491

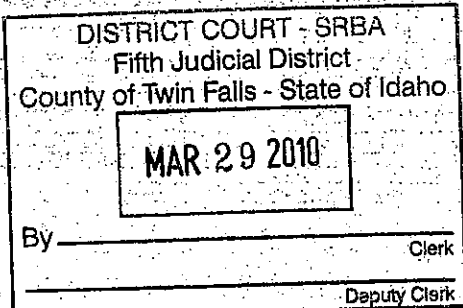
On March 29, 2010, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 March 29, 2010.


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): 45-02810A
45-10491

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 March 29, 2010, with sufficient first-class postage prepaid to the following:

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

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

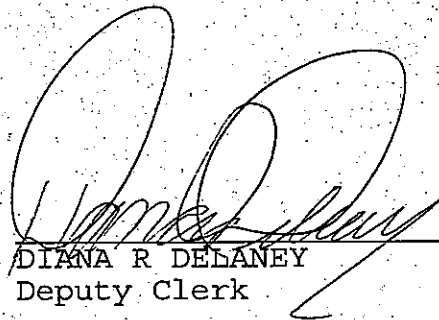
STATE OF IDAHO DEPT OF LANDS
Represented by:
STATE OF IDAHO
JRW BUILDING, SECOND FLOOR
700 W STATE ST, PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

CERTIFICATE OF MAILING

PAGE 1
03/29/10

UNITED STATES OF AMERICA
USDI BLM
USDI BUREAU OF LAND MANAGEMENT
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

BRUCE BEDKE
JARED K BEDKE
MARTHA J BEDKE
42 E BASIN RD
OAKLEY, ID 83346
Phone: 208-862-3697



DIANA R DELANEY
Deputy Clerk