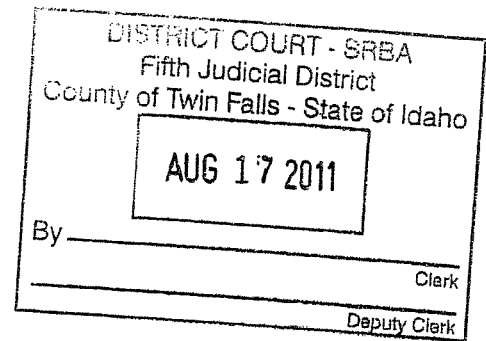


RECEIVED

AUG 18 2011

DEPARTMENT OF
WATER RESOURCES



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 02-201, 02-223 and 02-224
	)	("Murphy Minimum Flows")
Case No. 39576	)	(State of Idaho)
	)	
_____	)	SPECIAL MASTER REPORT

Findings of Fact

Director's Report

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, Reporting Area Basin 02* on December 29, 2006. The Director recommended the above three statutory-based claims for minimum stream flow rights on the Snake River to the State of Idaho, Idaho Water Resource Board, 322 E. Front Street, P.O. Box 83720, Boise, Idaho, 83720-0098:

- 02-201** 3,300 cfs year-'round within Owyhee County, the average daily flow measured by the Murphy gaging station with a priority date of December 29, 1976.
- 02-223** 600 cfs year-'round within Ada County, the average daily flow measured by the Murphy gaging station with a priority date of July 1, 1985.
- 02-224** 1,700 cfs from November 1 to March 31 within Ada County, the average daily flow measured by the Murphy gaging station with a priority date of July 1, 1985.

Idaho Power Company lodged late *Objections* on January 31, 2008, alleging the three water rights should not exist.

Subcases 00-92002GP, 02-200, 02-201, 02-223 and 02-224

The State filed its *Motion for Partial Summary Judgment Re: Milner Zero Minimum Flow* in subcases 00-92002GP, 02-200, 02-201, 02-223 and 02-224 on October 19, 2009; the United States filed its *Statement of Agreement* with the State on November 4, 2009; and the North Side and Twin Falls Canal Companies and Idaho Power lodged their *Memoranda in Opposition* to the State's *Motion* on November 5, 2009. On November 20, 2009, the Special Master entered an **Order** granting Fremont-Madison Irrigation District's *Petition to Appear as Amicus Curiae* and granting the State's *Motion* "to the extent that the language requested therein has been withdrawn and the settlement language should be substituted for Basin 02 General Provision #4 and included in the 'other provisions' element of subcase 02-200 if that claim is valid." **Order**, at 4.

On February 13, 2011, at the request of the Ground Water Districts, the Special Master entered a **Recommendation to Partially Amend Order of Reference** recommending the SRBA Presiding Judge amend the 2007 **Order of Reference** "by deletion there from [sic] referral of subcase 00-92002GP, but with subcases 02-200, 02-201, 02-223 and 02-224 to remain before Special Master Dolan." On February 23, 2011, SRBA Presiding Judge Eric J. Wildman entered his **Order Combining 00-92002GP Issue Relating to Swan Falls Settlement with 91-13 and Supplemental Order of Reference Appointing Terrance [sic] A. Dolan**.

SF-5s

On August 4, 2011, the State, Idaho Power and the respondents, with IDWR's concurrence, filed *Standard Forms 5* in subcases 02-201, 02-223 and 02-224 resolving the parties' concerns.

Hearing

On August 8, 2011, a hearing on the State of Idaho's *Motion to Set Aside and Amend Partial Decrees* in subcases 03-6, 03-7 and 03-8 was held by telephone conference. Clive Strong appeared for the State; James C. Tucker appeared for Idaho Power; Candice M. McHugh appeared for various groundwater entities; Josephine P. Beeman appeared for the Water Resource Coalition; Dana L. Hofstetter appeared for the Harpers; and Chris M. Bromley appeared for IDWR, along with Carter Fritschle.

In the State's *Motion*, it sought to amend the 2007 **Partial Decrees** in subcases 03-6, 03-7 and 03-8 to clarify those water rights for administration and to provide clarity and ensure

consistency between the descriptions of minimum stream flow water rights. The day of the hearing, the State filed its *Amended Motion to Set Aside and Amend Partial Decrees* in the same three subcases.

At the same time, the State filed a *Stipulation* in subcases 03-6, 03-7 and 03-8, as well as subcases 02-201, 02-223 and 02-224, signed by the State, Idaho Power Company and multiple groundwater entities generally agreeing all six subcases can proceed as requested by the State but without prejudice in other subcases. In advance of the hearing, the State invited counsel for interested non-parties to ensure their knowledge of the proceedings even though no one responded to the State's *Motion* or *Amended Motion*. There was some concern with insufficient time to review documents filed the day of the hearing, so it was agreed the Special Master would withhold for ten days entering reports and recommendations on the State's *Amended Motion* and the *SF-5s*.

The Special Master entered an *Order Re: Comment Deadline* on August 5, 2011, requiring interested non-parties to file written comments on the State's *Amended Motion* and the *SF-5s* no later than August 15, 2011. No one filed comments.

Conclusions of Law

The State is entitled to partial decrees adjudicating water rights as described in the *SF-5s* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 02-201, 02-223 and 02-224*.

DATED August 17, 2011.



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 02-00201

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 3300.00 CFS

Water rights 02-00201 and 02-00223 are limited to a combined minimum flow rate of 3,900 CFS average daily flow from April 1 to October 31 as measured at the "Murphy Gaging Station" described below. Water rights 02-00201, 02-00223 and 02-00224 are limited to a combined minimum flow rate of 5,600 CFS average daily flow from November 1 to March 31 as measured at the "Murphy Gaging Station" described below.

PRIORITY DATE: 12/29/1976

POINT OF DIVERSION: T01S R01W S35 LOT 5 (NWSE) Within Ada County

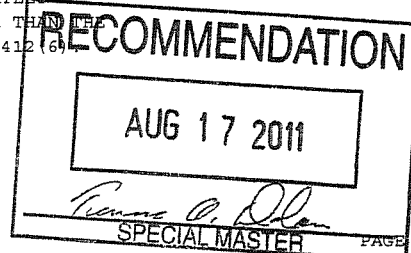
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Minimum Stream Flow	01-01 TO 12-31	3300.00 CFS

PLACE OF USE: Satisfaction of flow for this right is determined at the "Murphy Gaging Station" described below.

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

1. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operations of Idaho Power Company facilities.
2. The "Murphy Gaging Station" is located at T01S, R01W, S35, NWSE, Boise Meridian, on the right bank approximately 4.2 miles downstream from Swan Falls Powe Plant.
3. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 02-00223

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 600.00 CFS

Water rights 02-00201 and 02-00223 are limited to a combined minimum flow rate of 3,900 CFS average daily flow from April 1 to October 31 as measured at the "Murphy Gaging Station" described below. Water rights 02-00201, 02-00223 and 02-00224 are limited to a combined minimum flow rate of 5,600 CFS average daily flow from November 1 to March 31 as measured at the "Murphy Gaging Station" described below.

PRIORITY DATE: 07/01/1985

POINT OF DIVERSION: T01S R01W S35 LOT 5 (NWSE) Within Ada County

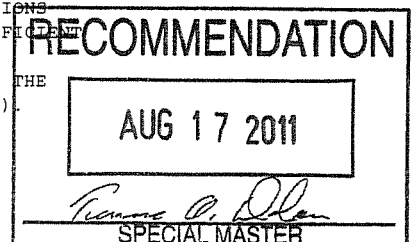
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Minimum Stream Flow	01-01 TO 12-31	600.00 CFS

PLACE OF USE: Satisfaction of flow for this right is determined at the "Murphy Gaging Station" described below.

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

1. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operations of Idaho Power Company facilities.
2. The "Murphy Gaging Station" is located at T01S, R01W, S35, NWSE, Boise Meridian, on the right bank approximately 4.2 miles downstream from Swan Falls Powe Plant.
3. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 02-00224

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1700.00 CFS

Water rights 02-00201, 02-00223 and 02-00224 are limited
to a combined minimum flow rate of 5,600 CFS average daily flow
from November 1 to March 31 as measured at the "Murphy Gaging
Station" described below.

PRIORITY DATE: 07/01/1985

POINT OF DIVERSION: T01S R01W S35 LOT 5 (NWSE) Within Ada County

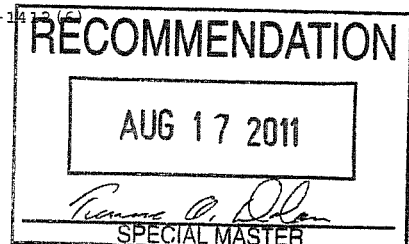
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Minimum Stream Flow	11-01 TO 03-31	1700.00 CFS

PLACE OF USE:
Satisfaction of flow for this right is determined at the
"Murphy Gaging Station" described below.

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

1. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operations of Idaho Power Company facilities.
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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 42-1413(c)



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

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
AUG 17 2011	
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

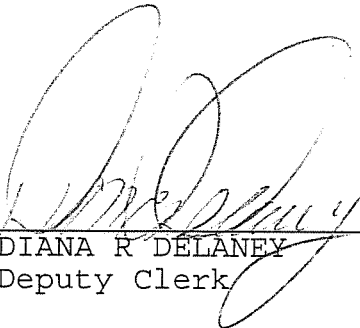
Water Right(s): 02-00201
02-00223 02-00224

On August 17, 2011, 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.

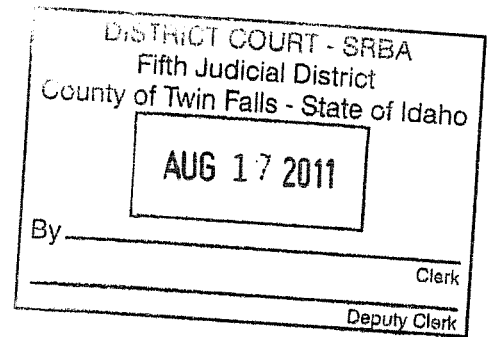
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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, 2011.



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): 02-00201
02-00223 02-00224

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 17, 2011, 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

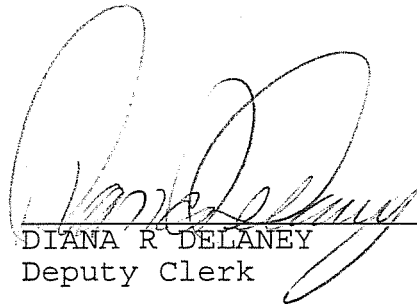
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ABERDEEN AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE-JEFFERSON GROUND
CLARK JEFFERSON GROUND WATER
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER
NORTH SNAKE GROUND WATER

Represented by:
CANDICE M MC HUGH
101 S CAPITOL BLVD, STE 300
BOISE, ID 83702
Phone: 208-395-0011

IDAHO POWER COMPANY
Represented by:
JAMES C TUCKER
IDAHO POWER CO
1221 WEST IDAHO STREET
BOISE, ID 83702-5627
Phone: 208-388-2112

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098
Phone: 208-287-4800



DIANA R DELANEY
Deputy Clerk