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Department of Water Resources

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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	)	PRELIMINARY SPECIAL
	)	MASTER'S REPORT AND
Case No. 39576	)	RECOMMENDATION
	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW FOR
	)	
_____	)	WATER RIGHT NO: 57-02177

FINDINGS OF FACT

A notice of claim was filed for this water right to pursuant to I.C. § 42-1409(1990). The director of the State of Idaho Department of Water Resources (IDWR) examined the water system for Reporting Area 1 and investigated and abstracted the notices of claim for Reporting Area 2 (Basin 57), which includes portions of Owyhee County. The Director of the Idaho Department of Water Resources then filed a *Director's Report for Reporting Area 57 (Director's Report)* which asserted how the elements of this water right should be decreed by the court.

An objection to the *Director's Report* for water right 57-02177 was filed on February 26, 1993, by the United States Bureau of Reclamation. A response to the objection was filed on July 1, 1993 by the State of Idaho Department of Water Resources.

On February 16, 1996, the United States and GEM Irrigation District filed *Parties' Stipulation to Consolidate Subcases*. An *Order Consolidating Subcases (Order)* was issued February 21, 1996, the *Order* consolidated subcases 57-02118, 57-02177, 57-04104, 57-10854, 57-10912, 57-10913 and 57-10807.

On April 3, 1996, the parties, the United States Bureau of Reclamation, and GEM Irrigation District filed a *Stipulation to Dismiss Objection and Dismiss the United States as a Party (Stipulation)*, which stated in part: "[t]he parties further agree that the water right filed by the United States on behalf of the Bureau of Reclamation, Subcase No. 57-02177, should be decreed as recommended." *Stipulation*, ¶ 7. Subsequently, the United States' objection was dismissed. *Order Dismissing Objections*, Apr. 8, 1996. On April 10, 1996, the United States' and GEM Irrigation filed *Parties' Stipulation to Amend Prior Stipulation to Dismiss Objection and Dismiss the United States as a Party*, which further clarified the parties' intent that water right 57-02177 should be decreed.

CONCLUSIONS OF LAW

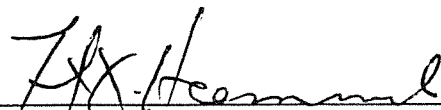
Under *SRBA Administrative Order 1*, a Special Master is required to make a recommendation to the Presiding Judge as to whether and how a water right should be recommended for each subcase.

Under I.R.C.P. 41, an action may be dismissed with prejudice by stipulation or court order. The record on file for this subcase, particularly the *Stipulation to Dismiss Objection and Dismiss United States as a Party*, clearly establishes the intent of the parties that this subcase be decreed as recommended.

Therefore, based on the file and record herein, IT IS RECOMMENDED that subcase 57-02177 be decreed as recommended in the *Preliminary Special Master's Report*.

IT IS SO RECOMMENDED.

DATED February 9, 1996.



FRITZ X. HAEMMERLE
Special Master, Reporting Area 2
Snake River Basin Adjudication

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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)
_____)

SPECIAL MASTER'S RECOMMENDATION FOR
PARTIAL DECREE FOR
Water Right 57-02177

PRELIMINARY

NAME & ADDRESS: GEM IRRIGATION DISTRICT
PO BOX 67
HOMEDALE ID 83628

SOURCE: JUMP CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 6.25 CFS

PRIORITY DATE: 11/24/1942

POINT OF DIVERSION: T03N R05W S22 NESWSE Within Owyhee County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION Irrigation Season 6.25 CFS

PLACE OF USE: IRRIGATION Within Owyhee County
T03N R05W S03 Lot 8 (SWSW) 30.0
S04 SWNW 8.0 Lot 4 (SENW) 46.0 NESW 25.0 NWSW 29.0
SWSW 35.0 SESW 25.0 Lot 6 (NESE) 15.0 Lot 5 (NWSE) 28.0
SWSE 22.0 SESE 22.0
S09 NENE 24.0 NWNE 26.0 SWNE 8.0 SENE 32.0
S10 Lot 5 (SWNE) 22.0 Lot 6 (NENW) 27.0 NWNW 35.0 SWNW 40.0
SENE 40.0 NESW 40.0 NWSW 25.0 SWSW 35.0
SESW 40.0 SWSE 17.6 Lot 3 (SESE) 16.0
712.6 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NOS. 57-02118, 57-04104,
57-10854, 57-10912 & 57-10913 IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 3761.8 ACRES IN A SINGLE IRRIGATION SEASON.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHT NOS. 57-02118, 57-04104,
57-10854, 57-10912 & 57-10913 IS LIMITED TO A TOTAL COMBINED
ANNUAL CONSUMPTIVE USE VOLUME OF 13166.3 AF.

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

RIGHTS HAVE ALSO BEEN CLAIMED TO WATER FROM BASIN 02 FOR THE
SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE,
WHICH WILL BE INCLUDED IN A DIRECTOR'S REPORT TO BE FILED AT A
LATER DATE. ANY WATER RIGHTS RECOMMENDED IN THE BASIN 02 REPORT
FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED
ABOVE WILL CONTAIN REMARKS LIMITING THE COMBINED USE OF THIS
RIGHT AND THE BASIN 02 RIGHTS.

DATED:


FRITZ X. MAEMMERLE
Special Master
Snake River Basin Adjudication

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Department of Water Resources

201-272-3 TH 1:21

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED *JK*

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 No: 57-02177

CERTIFICATE OF MAILING

I certify that a true and correct copy of PRELIMINARY SPECIAL MASTER'S REPORT, PRELIMINARY SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF PRELIMINARY SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on September 06, 1996, with sufficient first-class postage prepaid to the following:

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

CLIVE STRONG
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720

CHIEF, NTRL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
PO BOX 44449
BOISE, ID 83711-4449

BRAD A. FLINDERS
PO BOX 1565
NYSSA, OR 97913

CERTIFICATE OF MAILING

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Department of Water Resources

MAILED - 3 PM 1:21

SEP 06 1996

SRBA

STATE OF IDAHO

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)
_____)

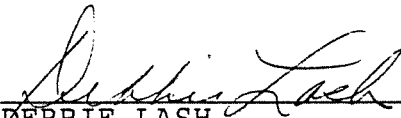
NOTICE OF ISSUANCE OF
PRELIMINARY SPECIAL MASTER'S
REPORT AND RECOMMENDATION

Water Right No: 57-02177

On September 06, 1996, Special Master FRITZ X HAEMMERLE issued a PRELIMINARY SPECIAL MASTER'S REPORT and a PRELIMINARY SPECIAL MASTER'S RECOMMENDATION pursuant to SRBA Administrative Order 1 sections 11 (e) and (f).

These documents are served only on parties to the subcase. They are not served on the Presiding Judge. Parties to this subcase may file a Motion for Reconsideration or a Motion to Correct Clerical Errors with the Special Master, but must do so before September 20, 1996.

DATED September 06, 1996.


DEBBIE LASH
Deputy Clerk