

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. 57-04104, 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 57-04104 should be decreed.

CONCLUSIONS OF LAW

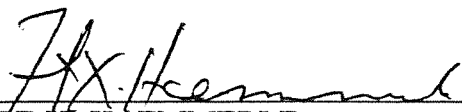
Under *SRBA Administrative Order 1*, a Special Master is required to make a recommendation to the Presiding Judge as to whether and how a water right should be recommended for each subcase.

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 57-04104 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

RECEIVED

SEP 09 1996

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIn Re SRBA)
Case No. 39576)
_____)

SPECIAL MASTER'S RECOMMENDATION FOR

PARTIAL DECREE FOR

Water Right 57-04104

Department of Water Resources

39A SEP -5 AM 11:27

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

PRELIMINARY

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

SOURCE: SAGE CREEK

TRIBUTARY: SUCCOR CREEK

QUANTITY: 20.00 CFS

USE OF THIS RIGHT WITH RIGHT NO. 57-10913 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 20 CFS.

PRIORITY DATE: 06/13/1906

POINT OF DIVERSION: T03N R05W S17

SWNNW

Within Owyhee County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USE
IRRIGATIONPERIOD OF USE
Irrigation SeasonQUANTITY
20.00 CFS

PLACE OF USE:

IRRIGATION

Within Owyhee County

T03N R05W S04	Lot 3	(NWNW) 26.0	SWNW 16.0	NWSW 11.9	SWSW 33.8
S05	Lot 1	(NENE) 8.7	Lot 2 (NWNE) 32.5	SWNE 13.5	SENE 29.2
	Lot 3	(NENW) 8.1	NESE 27.1	NWSE 1.8	SWSE 2.6
		SESE 24.7			
S07		NESE 3.7	SESE 8.2		
S08		NENE 27.4	NWNE 9.5	SWNE 23.0	SENE 31.8
		SENW 13.4	NESW 18.6	NWSW 21.6	SWSW 4.8
		NESE 39.5	NWSE 23.6	SWSE 20.5	SESE 38.2
S09		SWNE 31.8	NENW 20.3	NWNW 25.0	SWNW 38.9
		SENW 40.2	NESW 39.7	NWSW 38.6	SWSW 32.0
		SESW 31.5	NESE 37.5	NWSE 39.4	SWSE 36.6
		SESE 37.4			
S10		NWSW 18.1	SWSW 16.5		
S16		NENE 4.0	NWNE 7.8		
T04N R05W S19		NESW 33.4	Lot 9 (NWSW) 31.5	Lot 10 (SWSW) 35.6	SESW 35.4
		SWSE 37.4	SESE 32.4		
S29	Lot 8	(NWNW) 3.4	Lot 7 (SWNW) 8.1	Lot 6 (NWSW) 24.6	Lot 5 (SWSW) 33.4
S30		NENE 15.2	NWNE 37.2	SWNE 40.0	SENE 11.3
		NENW 36.9	Lot 1 (NWNW) 34.1	Lot 2 (SWNW) 28.3	SENW 30.1
		NESW 21.1	Lot 3 (NWSW) 2.6	SESW 1.4	NESE 21.6
		NWSE 33.9	SWSE 31.2	SESE 32.1	
S31		NENE 17.0	NWNE 8.5	SENE 7.1	
S32		NESW 12.9	NWSW 13.2	SESW 32.6	SWSE 9.4
R06W S23		SENE 27.8	NESE 21.1		
S24	Lot 6	(SWNE) 13.4	Lot 4 (SWNW) 34.4	Lot 5 (SENW) 23.4	NESW 35.6
		NWSW 31.7	SWSW 24.7	SESW 35.7	NESE 8.1
		NWSE 7.2	SWSE 38.2	SESE 28.1	
S25		NENE 35.5	NWNE 14.4	SENE 3.9	NENW 1.8
2152.9 ACRES TOTAL					

USE OF THIS RIGHT WITH RIGHT NOS. 57-02118, 57-02177 &
57-10854 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF
2794.1 ACRES IN A SINGLE IRRIGATION SEASON.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHT NOS. 57-02118, 57-02177 &
57-10854 IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE
VOLUME OF 9779.4 AF.

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

SPECIAL MASTER'S RECOMMENDATION

PAGE 1
AUG-29-1996

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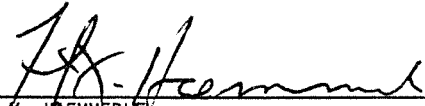
SEP 09 1996

Department of Water Resources

OTHER PROVISIONS: (CONT)

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 COMBINED USE LIMITATIONS FOR THIS RIGHT AND THE BASIN 02 RIGHTS.

DATED:


FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

RECEIVED
SEP 09 1996
Department of Water Resources

201 SEP - 1 PM 1:21
DISTRICT COURT - SRBA
TWIN FALLS, IDAHO
FILED *DL*

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: 57-04104

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

PAGE 1
09/06/96

SEP 09 1996

Department of Water Resources

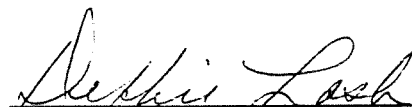
MAILED - 10:01
SEP 11 1996
FBI - TWIN FALLSIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIn Re SRBA)
Case No. 39576)
_____)NOTICE OF ISSUANCE OF
PRELIMINARY SPECIAL MASTER'S
REPORT AND RECOMMENDATION

Water Right No: 57-04104

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