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Department of Water Resources

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DISTRICT COURT-SEDA
TWIN FALLS CO, IDAHO
FILED

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	)	AMENDED PRELIMINARY
	)	SPECIAL MASTER'S REPORT
Case No. 39576	)	AND RECOMMENDATION
	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW FOR
	)	
_____	)	WATER RIGHT NO: 57-02118

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 57-02118 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 GEM Irrigation District, Subcase No. 57-02118, should be decreed as recommended." *Order Dismissing 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 57-02118 should be decreed.

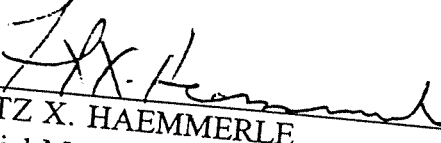
CONCLUSIONS OF LAW

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 57-02118 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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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

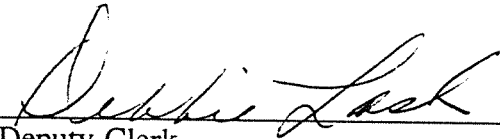
) NOTICE OF ISSUANCE OF
) AMENDED PRELIMINARY
) SPECIAL MASTER'S REPORT
) AND RECOMMENDATION
)

Water Right No.57-02118

On September 26, 1996, Special Master Fritz X. Haemmerle issued a *Amended Preliminary Special Master's Report and Recommendation* for subcase 57-02118 pursuant to *SRBA Administrative Order 1*, sections 11 (e) and (f).

The *Amended Preliminary Special Master's Report and Recommendation* is served only on parties to the subcase and is not served on the Presiding Judge. Parties to this subcase may file a *Motion to Reconsider* or a *Motion to Correct Clerical Errors* with the Special Master, but must do so within 10 days after receipt of the *Amended Preliminary Special Master's Report and Recommendation*.

DATED: September 26, 1996.


Deputy Clerk

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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	)	CERTIFICATE OF MAILING
	)	
Case No. 39576	)	Water Right No. 57-02118
_____	)	

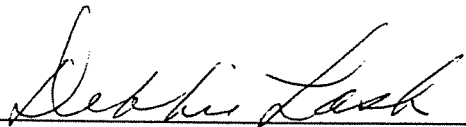
I certify that a true and correct copy of the *Amended Preliminary Special Master's Report and Recommendation; Findings of Fact and Conclusions of Law for Water Right No. 57-02118* and *Notice of Issuance of Amended Preliminary Special Master's Report and Recommendation* were mailed on February 9, 1996, with sufficient first-class postage prepaid to the following:

Chief, Natural Resources Division
Office Of The Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

Director of IDWR
P O Box 83720
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The United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, Box 33
Boise, ID 83724

Brad A Flinders
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Deputy Clerk

DATED: September 26, 1996