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DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
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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	)	**AMENDED PRELIMINARY SPECIAL MASTER'S REPORT AND RECOMMENDATION**
Case No. 39576	)	
	)	**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 GEM Irrigation District, 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

In Re SRBA

Case No. 39576

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

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

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Adjudication Bureau

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

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, SWNW 8.0, SWSW 35.0, SWSE 22.0, NENE 24.0, (SWNE) 22.0, SENW 40.0, SESW 40.0; Lot 4 (SENW) 46.0, SESW 25.0, SESE 22.0, NWNE 26.0, (NENW) 27.0, NESW 40.0, SWSE 17.6; Lot 6 NESW 25.0, (NESE) 15.0; Lot 5 NWSW 29.0, (NWSE) 28.0

S04 Lot 5 SWNE 8.0, NWNW 35.0, NWSW 25.0, (SESE) 16.0; SENE 32.0, SWNW 40.0, SWSW 35.0

S09

S10

712.6 ACRES TOTAL

'SUMPTIVE USE: 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.

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.

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.

'ED:

RECOMMENDATION

FRITZ X. HAEMMERLE
Special Master
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	)	**NOTICE OF ISSUANCE OF AMENDED PRELIMINARY SPECIAL MASTER'S REPORT AND RECOMMENDATION** Water Right No. 57-02177

On September 26, 1996, Special Master Fritz X. Haemmerle issued a ***Amended Preliminary Special Master's Report and Recommendation*** for subcase 57-02177 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. 57-02177
	)	

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. 57-02177* and *Notice of Issuance of Amended Preliminary Special Master's Report and Recommendation* were mailed on September 26, 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

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

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Brad A Flinders
P O Box 1565
Nyssa, Oregon 97913

DATED: September 26, 1996.

Deputy Clerk