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Department of Water Resources

1996 SEP 26 PM 4:43

DISTRICT COURT -  
TWIN FALLS COUNTY  
FILED *[Signature]*

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        |
| Case No. 39576 | ) |                        |
|                | ) | FINDINGS OF FACT AND   |
|                | ) | CONCLUSIONS OF LAW FOR |
|                | ) |                        |
|                | ) | WATER RIGHT 57-07417   |

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FINDINGS OF FACT

A notice of claim was filed for this water right 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 2 and investigated and abstracted the notice of claim for Reporting Area 2 (Basin 57), which includes portions of Owyhee County, State of Idaho. The *Director's Report for Reporting Area 2 (Director's Report)* contained a recommendation or abstract for the elements of this water right.

An objection to the *Director's Report* for water right 57-07417 was filed on February 26, 1993, by the United States Bureau of Land Management. A response was filed on June 1, 1993, by the State of Idaho Department of Water Resources. Subcase 57-07417 involves a stock water and/or wildlife claim filed by the United States Bureau of Land Management (BLM). A *Standard Form 5 - Stipulated Elements of a Water Right* was filed on January 22, 1996. The only signatory to the *Standard Form 5* is the claimant/objector, the United States Bureau of Land Management. The Idaho Department of Water Resources did not concur in the *Standard Form 5* and filed its *IDWR Report Re: Review of Standard Form 5*.

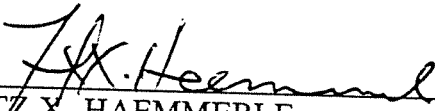
Because of the failure of IDWR to sign the *Standard Form 5* the United States filed a *Motion to Designate Basin Wide Issue 12* (BWI). The purpose of BWI 12 was to resolve all disputes the United States had with IDWR involving stock water rights. Subsequently, Special Master Haemmerle entered his opinion on BWI 12. The Special Master incorporates that decision by reference.

### 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 decreed.

Consistent with the recommendation of the *Second Amended Special Master's Recommendation Re: Basin Wide Issue 12* (Aug. 12, 1996) and with these findings and as a matter of law the Special Master recommends water right 57-07417 as listed on the attached *Preliminary Special Master's Recommendation* for Partial Decree.

DATED September 26, 1996.

  
FRITZ X. HAEMMERLE  
Special Master, Reporting Area 2  
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 )  
Case No. 39576 )  
\_\_\_\_\_ )

PRELIMINARY

SPECIAL MASTER'S RECOMMENDATION FOR #3

PARTIAL DECREE FOR

Water Right 57-07417  
DISTRICT COURT-SRBA  
TWIN FALLS COUNTY  
FILED       

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH  
USDI BUREAU OF LAND MANAGEMENT  
IDAHO STATE OFFICE  
3380 AMERICANA TERRACE  
BOISE ID 83706

SOURCE: LOWER BIRCH SPRING TRIBUTARY: CASTLE CREEK

QUANTITY: 0.04 CFS  
4.0 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
GALLONS PER DAY.

PRIORITY DATE: 08/10/1983

POINT OF DIVERSION: T06S R01E S32 NENWNW Within Owyhee County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|-------------------------------|----------------|---------------|----------|
|                               | STOCKWATER     | 01-01 12-31   | 0.03 CFS |
|                               |                |               | 2.0 AFY  |
|                               | WILDLIFE       | 01-01 12-31   | 0.04 CFS |
|                               |                |               | 2.0 AFY  |

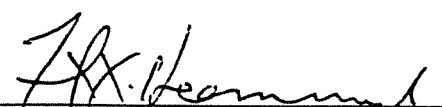
| PLACE OF USE: | STOCKWATER    | Within Owyhee County |
|---------------|---------------|----------------------|
|               | T06S R01E S08 | NWNW                 |
|               | S17           | NESW                 |
|               | S29           | NWSW                 |

Place of use for WILDLIFE is same as STOCKWATER

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
DETERMINATION OF HISTORICAL BENEFICIAL USE.

DATED: SEP 26 1996

  
FRITZ X. HAEMMERLE  
Special Master  
Snake River Basin Adjudication

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DISTRICT COURT-SRBA

TWIN FALLS CO., IDAHO

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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA )

Case No. 39576 )

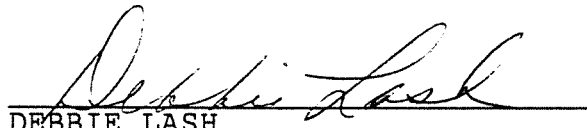
NOTICE OF ISSUANCE OF  
PRELIMINARY SPECIAL MASTER'S  
REPORT AND RECOMMENDATION

Water Right(s): 57-07417

On September 26, 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 October 10, 1996.

DATED September 26, 1996.

  
DEBBIE LASH  
Deputy Clerk

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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 )

Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 57-07417

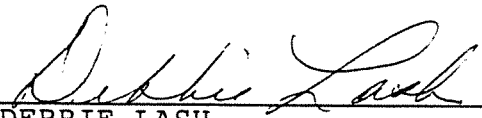
CERTIFICATE OF MAILING

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 26, 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

K. JACK HAUGRUD  
U.S. DEPARTMENT OF JUSTICE  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724-0663

  
DEBBIE LASH  
Deputy Clerk

CERTIFICATE OF MAILING

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09/26/96