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Department of Water Resources

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DISTRICT COURT-3RD
TWIN FALLS COUNTY
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

Case No. 39576

) AMENDED PRELIMINARY
) SPECIAL MASTER'S REPORT
) AND RECOMMENDATION
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW FOR
)
) WATER RIGHT NO: 57-10912

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 57-10912 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. 57-10912, 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 57-10912 should be decreed.

CONCLUSIONS OF LAW

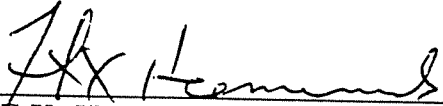
Under *SRBA Administrative Order 1*, a Special Master is required to make a recommendation to the Presiding Judge as to whether and how a water right should be recommended for each subcase.

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 57-10912 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 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)
_____)

1996 SEP 26 PM 5:05
SPECIAL MASTER'S RECOMMENDATION FOR

PARTIAL DECREE FOR
Water Right 57-10912

DISTRICT COURT-5th JUDICIAL
TWIN FALLS, IDAHO
FILED *[Signature]*

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

SOURCE: SUCCOR CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 19.72 CFS

USE OF THIS RIGHT WITH RIGHT NO. 57-10854 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 30 CFS.

PRIORITY DATE: 03/15/1937

POINT OF DIVERSION: T03N R05W S07 LOT 3 (SENWSW) Within Owyhee County

TWO POINTS OF DIVERSION LOCATED IN NWSW, LOT 3, S07, T03N,
R05W.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	Irrigation Season	19.72 CFS

PLACE OF USE:

IRRIGATION		Within Owyhee County	
T03N R05W S04		NWSW 16.6	SWSW 1.8
S05 Lot 3	(NENW) 0.9	NESE 1.0	
S07	NESE 23.0	NWSE 20.9	SWSE 31.9 SESE 28.2
S08	SWNE 2.0	NESW 3.0	SWSW 19.2 NWSE 5.3
	SWSE 16.5		
S09	SWSW 3.1	SESW 4.2	
T04N R05W S19 Lot 8	(SWNW) 20.0	Lot 7 (SENW) 20.0	NESW 1.4 Lot 9 (NWSW) 2.2
	SESW 3.5	NESE 41.6	NWSE 40.6 SWSE 2.8
	SESE 8.8		
S20 Lot 4	(NWSW) 17.9	Lot 3 (SWSW) 14.6	
S29 Lot 8	(NWNW) 33.1	Lot 7 (SWNW) 27.2	Lot 6 (NWSW) 15.6 Lot 5 (SWSW) 15.2
S30	NENE 22.8	SENE 27.3	NENW 0.4 SENW 9.9
	NESW 11.1	Lot 3 (NWSW) 29.4	SESW 34.1 NESE 10.8
	NWSE 3.3	SWSE 1.8	SESE 6.2
S31	NENE 8.4	NWNE 25.4	SENE 20.7
S32 Lot 7	(NENW) 28.6	NWNW 35.3	SWNW 5.0 Lot 6 (SENW) 34.5
	NESW 2.8	Lot 5 (NWSE) 19.0	
R06W S23 Lot 1	(NENE) 11.0	Lot 2 (NWNE) 17.0	SWNE 13.8 SENE 0.2
	NENW 5.0		
S24 Lot 6	(SWNE) 8.1	Lot 7 (SENE) 23.0	Lot 5 (SENW) 11.0 NWSW 0.6
	SWSW 11.3	SESW 0.2	NESE 23.5 NWSE 23.5
	SESE 8.7		
S25	NENE 1.2	NWNE 20.6	SENE 28.3
985.9	ACRES TOTAL		

USE OF THIS RIGHT WITH RIGHT NOS. 57-02118, 57-02177 &
57-10913 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF
1680.7 ACRES IN A SINGLE IRRIGATION SEASON.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHT NOS. 57-02118, 57-02177 &
57-10913 IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE
VOLUME OF 5882.5 AF.

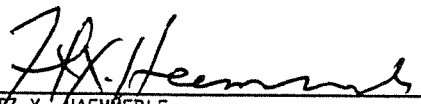
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

SPECIAL MASTER'S RECOMMENDATION

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

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TWIN FALLS COUNTY IDAHO
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA

Case No. 39576

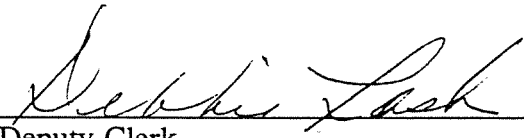
) NOTICE OF ISSUANCE OF
) AMENDED PRELIMINARY
) SPECIAL MASTER'S REPORT
) AND RECOMMENDATION

Water Right No. 57-10912

On September 26, 1996, Special Master Fritz X. Haemmerle issued a *Amended Preliminary Special Master's Report and Recommendation* for subcase 57-10912 pursuant to *SRBA Administrative Order I*, 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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Department of Water Resources

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DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
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	)	CERTIFICATE OF MAILING
	)	
Case No. 39576	)	Water Right No. 57-10912
	)	

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. 57-10912* 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

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

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

Brad A Flinders
P O Box 1565
Nyssa, Oregon 97913

[Signature]

Deputy Clerk

DATED: September 26, 1996.