

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)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 33-10523

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: UNNAMED STREAM

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 06/28/1934

POINT OF DIVERSION: T10N R27E S20 SWSWNE Within Butte County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE Stockwater	PERIOD OF USE 01-01 TO 12-31	QUANTITY 0.02 CFS
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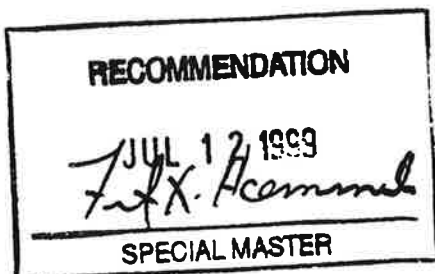
PLACE OF USE: Stockwater Within Butte County
T10N R27E S20 SWNE

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.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Barry Wood
Administrative District Judge
Presiding Judge of the
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

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER
FROM THE SNAKE RIVER BASIN WATER SYSTEM

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE AND FEDERAL LAW

U.S. DEPT. OF INTERIOR
BUREAU OF LAND MGMT.
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706
TELEPHONE: 208-334-1401

PRIORITY DATE: 1879-01-01
(RESERVED..... 1926-04-17)
AGENCY NUMBER: 3303480144
BLM NUMBER: 3303480144
BASIS OF CLAIM: BENEFICIAL USE
(SUBSEQUENT FEDERAL RESERVE)
BASIN NUMBER: 33 - 10523 x

A3310523



SOURCE

TRIBUTARY TO

SPRING

UNNAMED STREAM

DESCRIPTION OF DIVERSION WORKS

INSTREAM LIVESTOCK WATERING

PURPOSE OF USE	DIVERSION RATE	DIVERSION VOLUME	PERIOD OF USE FROM	TO
STOCKWATER	0.070	0.00	0101	1231
WILDLIFE	0.070	0.00	0101	1231
TOTAL:	0.070 CFS	0.00 AF		

NON-IRRIGATION USES

250 RANGE CATTLE

				POINT OF DIVERSION			
TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
10N	27E	20	SW	SW	NE	00	BUTTE

PLACE OF USE

							IRRIGATED	
TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY	OWNED	ACRES
10N	27E	20	SW	NE	00	BUTTE	YES	0.0
10N	27E	20	SW	NE	00	BUTTE	YES	0.0

TOTAL ACRES IRRIGATED: 0.0

MICROFILMED

APR 15 1994

IN THE DISTRICT 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 NOTICE of CLAIM for
Water Right number:

33-10523

NAME and
ADDRESS:

United States of America acting through
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, ID 83709 - 1657

BLMIDENT:

3303480144

Stg:

J

StFed:

X

SOURCE:

Source	Tributary
SPRING	UNNAMED STREAM

QUANTITY:

0.02 CFS or VOLUME: 0 Acre Feet

The quantity of water under this right for stockwater shall not exceed 13,000 gallons per day.

PRIORITY DATE:

1/1/1879

Diversion Means: UNDEVELOPED SPRING

REMARKS:

Also reserved pursuant to EO 4/17/26, PWR 107

POINT of
DIVERSION:

Twntship	Range	Section	T1	T2	T3	LOT	B/E	within the	County of
10N	27E	20	SW	SW	NE			23	BUTTE

PURPOSE
and
PERIOD
OF USE:

Purpose of Use	Period of Use (from - to):	Rate in CFS	or	Volume in AcFt
04	0101	1231	0.02	

CONSUMPTIVE
USE:

de minimis stockwater use

DATE: 19-Nov-97 9:30 AM

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

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

PLACE
of USE:

Water Use	Twn	Rge	Sec	T1	T2	LOT	within the	County of
04	10N	27E	20	SW	NE	0	23	BUTTE

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NOV 19 1997

Department of Water Resources

1999 JUL 12 PM 2:49

DISTRICT COURT-SRBA
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

) NOTICE OF ISSUANCE AND NOTICE
) OF SERVICE

Case No. 39576

) Water Rights: See Attached Exhibit A

On July 12, 1999, Special Master Fritz X. Haemmerle issued a *Special Master's Report and Recommendation* for the above subcase(s) pursuant to *SRBA Administrative Order 1 (AO1)*, Section 13a.

Pursuant to *SRBA Administrative Order 1*, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend by the 28th day of the month following the publication of the filing of the *Special Master's Report and Recommendation* in the Docket Sheet (*AO1*, Section 13a).

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the *Special Master's Report and Recommendation* shall constitute a waiver of the right to challenge it before the Presiding Judge.

I certify that a true and correct copy of the SPECIAL MASTER'S RECOMMENDATION was mailed with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

Peter Ampe
Deputy Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

U.S. Dept. of Justice
Environment & Natural Resources
550 West Fort Street, MSC 033
Boise, ID 83724

DATED: July 12, 1999


Teri Hranac, Deputy Clerk

1999 JUL 12 PM 2: 49
DISTRICT COURT-SRBA
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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS: See Attached List
	)	

I. FINDINGS OF FACT

A notice of claim was filed for these water rights pursuant to I.C. § 42-1409 (1990). The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of these water rights.

The only objections to these water rights were filed by the State of Idaho which were resolved with a *Stipulation to Resolve Objections* filed July 1, 1999. The State of Idaho, the United States, and IDWR are signatories to the *Stipulation to Resolve Objections*. Both parties agreed that the priority date for these rights shall be June 28, 1934.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that these water rights be decreed with the elements as set forth attached in the *Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED: July 12, 1999.



FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

33-10463
33-10464
33-10465
33-10466
33-10467
33-10468
33-10472
33-10473
33-10474
33-10475
33-10480
33-10481
33-10482
33-10483
33-10484
33-10485
33-10513
33-10515
33-10523
33-10531
33-10533
33-10641
33-10643
33-10644
33-10649
33-10894
33-10895
33-10896
33-10898
33-10899
33-10901
33-10904

RECEIVED
MAY 30 2000
Department of Water Resources
Eastern Region

Movant: State of Idaho

ALAN G. LANCE
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

PETER J. AMPE
Deputy Attorney General
Natural Resources Division
P.O. Box 44449
Boise, ID 83711-4449
Telephone: (208) 334-2400
Facsimile: (208) 334-2690
Idaho State Bar # 5209 (Ampe)

**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)
_____)

Subcase No. 33-10523

MOTION TO AMEND OBJECTION

COMES NOW the State of Idaho and respectfully requests the Special Master to allow the State of Idaho to amend its Objections filed in this Subcase and accept the Amended Objection attached hereto for filing.

AS GROUND IN SUPPORT: The State of Idaho states as follows.

1. The procedural and factual history of this Subcase is contained in the *Memorandum Decision and Order on Challenge*, Subcase Nos. 32-11171 (March 31, 2000) at 2-3.

2. As stipulated to as part of the *Challenge* and as Ordered by the Court, the Special Master is directed to grant leave to the State of Idaho to amend its objection to this water right. *Memorandum Decision and Order on Challenge*, Subcase Nos. 32-11171 (March 31, 2000) at 5.

3. The State of Idaho does **not** request hearing on this motion.

DATED this 15th day of May 2000.

ALAN G. LANCE
Attorney General



PETER J. AMPE
Deputy Attorney General
Natural Resources Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of May, 2000, I caused to be served a true and correct copy of the foregoing MOTION TO AMEND OBJECTION to the following addressees by the method indicated:

Larry A. Brown
United States Department of Justice
Environment & Natural Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☒ Statehouse Mail



PETER J. AMPE

Deputy Attorney General

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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)

A.

Subcase 33-10523

(Insert water right number)

(Amended)

**DOMESTIC AND
STOCK WATER RIGHT
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho

Address: 700 W. Jefferson, Room 210

P.O. Box 44449

Boise, Idaho 83711-4449

Phone: Work: (208) 334-2400 Home: N/A

Name and Address of Attorney, if any:

Attorney Name:

ALAN G. LANCE

Attorney General

CLIVE J. STRONG

Deputy Attorney General

Chief, Natural Resources Division

PETER J. AMPE

Deputy Attorney General

Attorney Address:

Office of the Attorney General

700 W. Jefferson, Room 210

P.O. Box 44449

Boise, ID 83711-4449

Attorney Phone No.

(208) 334-2400

E. **REASONS SUPPORTING OBJECTION(S):** The United States has failed to establish any legal and/or factual basis for any claimed priority date for stockwater purposes with a date prior to the enactment of the Taylor Grazing Act, June 28, 1934.

Even if PWR 107 created a federal reserved water right, the United States, or any subdivision thereof, has not complied with the requirements of PWR 107 and/or the United States' and/or its subdivisions' own rules and regulations in regards to this claim. Therefore, no water right can be granted based upon PWR 107.

The State further objects to this claim as to any part based on federal law as the claimed source is declared tributary to a flowing stream and so cannot be based upon the executive order known as Public Water Reserve 107 (April 17, 1926).

The State reserves the right to amend this objection as to any part of this claim based on federal law, based on the final decision reached in Basin-Wide Issue #9 (PWR 107) (Idaho Supreme Court No. 23587 and/or any subsequent proceedings).

F. **VERIFICATION (Must be Completed)**

State of Idaho)
) ss.
County of Ada)

Peter J. Ampe, Deputy Attorney General, being first duly sworn, upon oath, deposes and says:

That the State of Idaho, in both its sovereign and proprietary capacity, and pursuant to I.C. § 42-1411A(16) is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and that the statements are true to the best of my knowledge and belief.

ALAN G. LANCE
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
PETER J. AMPE
Deputy Attorney General



By Attorney signing in representative capacity