

2003 DEC 5 PM 4 06

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

	)	Subcase: 65-03212
In Re SRBA	)	
	)	ORDER RESCINDING PARTIAL DECREE;
Case No. 39576	)	I.R.C.P. 60(a) and ORDER OF REFERENCE
_____	)	TO SPECIAL MASTER CUSHMAN

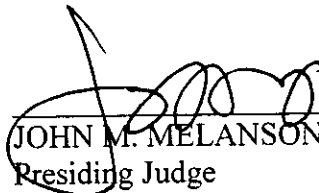
On March 13, 2001, Special Master Cushman entered a *Special Master's Report and Recommendation* for the above water right, and on May 1, 2001, a *Partial Decree* was entered.

This Court has determined that the *Special Master's Report and Recommendation* and the *Partial Decree* were entered in error.

On January 19, 2001, the parties to subcase 65-03212 filed a *Stipulation to Resolve Objection*. The *Stipulation*, however, did not resolve all of the objections to the subcase. As the *Stipulation* stated, the "separate streams general provision in Basin 65 is still outstanding." By the terms of a pending settlement, the general provision is to appear on the face of the *Partial Decree*. Therefore, neither the *Special Master's Report and Recommendation* nor the *Partial Decree* should have been issued until the separate streams general provision issue is settled.

NOW, THEREFORE, IT IS ORDERED that the *Partial Decree* issued for water right 65-03212 be rescinded. The subcase is remanded back to Special Master Cushman for further action on the separate streams general provision.

DATED December 3rd, 2003.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING
ASIDE PARTIAL DECREE AND ORDER FO REFERENCE TO SPECIAL MASTER
CUSHMA was mailed on December , 2003, with sufficient first-class
postage to the following:

STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
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USDI BUREAU OF RECLAMATION

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
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DIRECTOR OF IDWR

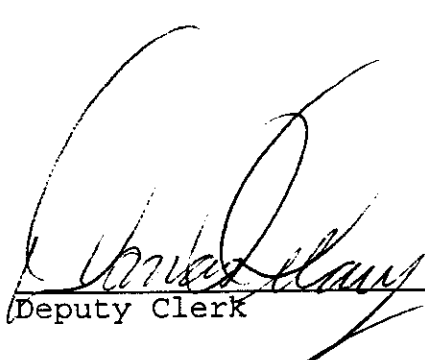
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ORDER

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Deputy Clerk