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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

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**STATE OF UTAH, by and through its  
DIVISION OF FORESTRY, FIRE AND  
STATE LANDS,**

**Plaintiff,**

**NATIONAL AUDUBON SOCIETY, et al.,**

**Intervenor-Plaintiffs,**

**vs.**

**UNITED STATES OF AMERICA;  
DEPARTMENT OF THE INTERIOR;  
BUREAU OF RECLAMATION; ELUID  
MARTINEZ, in his official capacity as  
Commissioner; BUREAU OF LAND  
MANAGEMENT; SALLY WISELY, in  
her capacity as Utah State Director, BLM;  
RICHARD W. DAVIS; JOHN DOE and  
MARY DOE; et al.,**

**Defendants.**

**ORDER AFFIRMING & ADOPTING  
SPECIAL MASTER'S  
REPORT & RECOMMENDATION**

Case No. 2:97CV927DAK

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After making several legal rulings in this matter, United States District Court Judge Dale A. Kimball referred the case to Special Master Michael Goldsmith pursuant to Rule 53(a) (1)(B) of the Federal Rules of Civil Procedure. The court's Order of Reference tasked the Special Master with taking evidence relevant to the boundary of each parcel of property in which the

boundary is still in dispute, making findings as to the historic usage, title, and possession of each parcel, and issuing a report recommending the proper boundary for each of the parcels.

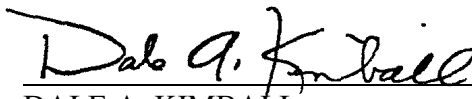
On December 16, 2008, the Special Master issued a Report and Recommendation finding that the Defendant Landowners have failed to produce evidence constituting prima facie proof of statehood title, use, and possession of their respective parcels. The Report and Recommendation then outlines the process for setting a boundary based on the evidence that the Plaintiff has presented.

The Defendant Landowners' did not file any objections to Special Master's Report and Recommendation, and the Simpson Defendants filed an Objection to Special Master's Report and Recommendation. The State and Plaintiff-Intervenors both filed responsive memoranda to the Defendants' objections.

The court has reviewed the Special Master's Report and Recommendation, the Defendant Landowners' Objections. The court has conducted its own review of the materials submitted. The court fully agrees with the analysis contained in the Special Master's Report and Recommendation. Therefore, the court approves and adopts the Special Master's December 16, 2008 Report and Recommendation in its entirety. Accordingly, the case should proceed before the Special Master as outlined in the Report and Recommendation.

DATED this 23<sup>rd</sup> day of January, 2009.

BY THE COURT:



DALE A. KIMBALL  
United States District Judge