

2003 FEB 26 AM 11:33

FILED
TWIN FALLS CO., IDAHO

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

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Subcase 35-07994

(Heath)

SPECIAL MASTER REPORT

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation and Other Uses, Reporting Area 5, Part III (IDWR Basin 35)* on January 29, 1999. The Director recommended claim 35-07994 to Clem and Afton Heath, 731 South, 1500 West, Pingree, Idaho 83262, for .4 cfs from groundwater to irrigate 24 acres within a 267 acre place of use in Bingham County from April 1 to October 31 with a priority date of August 3, 1981, based on a license.

No one objected to 35-07994, but IDWR identified the claim as overlapping with another claim (35-02730) which was objected to by the Twin Falls and North Side Canal Companies. The matter was finally resolved on January 31, 2002, when Presiding Judge Roger S. Burdick entered an *Order of Partial Decree for Water Right 35-02730*.

Conclusions of Law

Clem and Afton Heath are entitled to a partial decree adjudicating a water right as recommended by IDWR and as described in the attached *Special Master Recommendation for Partial Decree for Water Right 35-07994*.

DATED February 26, 2003.



TERRENCE A. DOLAN

Special Master

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 35-07994

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TWIN FALLS CO., IDAHO

NAME AND ADDRESS: AFTON M HEATH
CLEM J HEATH
731 S 1500 W
PINGREE, ID 83262

SOURCE: GROUNDWATER

QUANTITY: 0.40 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.44 CFS, A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 1068 AF.
COMBINED RIGHT NOS.: 35-02730, 35-11038, 35-13228

PRIORITY DATE: 08/03/1981

POINT OF DIVERSION: T04S R33E S10 SESWNW Within Bingham County
SWSNW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.40 CFS

PLACE OF USE:	Irrigation	Within Bingham County
T04S R33E S10	NENW 39.0	SWNW 34.0
	SENW 38.0	NESW 40.0
	NWSW 39.0	SWSW 38.0
	SESW 39.0	
	267.0 Acres Total	

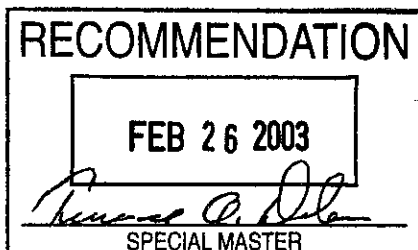
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 24 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 267 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-02730, 35-11038
35-13228

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 35-07994

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on February 26, 2003, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

AFTON M HEATH
CLEM J HEATH
731 S 1500 W
PINGREE, ID 83262
Phone: 208-684-4730

Robbin Hall
ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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TWIN FALLS, IDAHO
CLERK

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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
SPECIAL MASTER'S
RECOMMENDATION

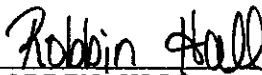
Water Right(s): 35-07994

On February 26, 2003, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S 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 on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED February 26, 2003.



ROBBIN HALL
Deputy Clerk