

2003 MAY 19 PM 4:03

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 708

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 51-04037
) (WaterOne Enterprises LLC)
)
) 2nd AMENDED SPECIAL MASTER
) REPORT
) and
) ORDER ON PENDING MOTIONS

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation and Other Uses, Reporting Area 6 (IDWR Basin 51)* on November 24, 1998. The Director recommended claim 51-04037 to Matthew Olivas for .06 cfs from Murphy Hot Springs for year-'round commercial, heating and domestic uses ("Use is for 1 home; commercial use, pool, baths, lodge; and heating.") in Owyhee County with a priority date of June 20, 1885, based on beneficial use. Under quantity, the recommendation included the note: "The quantity of water under this right shall not exceed 13,000 gallons per day."

On July 19, 1999, counsel for Matthew Olivas lodged a late *Objection* objecting to quantity stating:

The use of the water right granted is for .06 CFS. Under N13, the use is limited to 13,000 gallons a day, which is not nearly sufficient for commercial use. It is inconsistent with the .06 CFS granted, which is the correct amount. This application has been previously submitted, but no final decree has been entered.

On June 15, 2000, the Special Master entered an *Order Granting Motion to File Late Objection*.

An *Amended Special Master Report* was entered on November 14, 2000, after the claimant failed to attend hearings and comply with court orders, but later, on March 2, 2001, the

Special Master entered an ***Order Granting Motion to Set Aside Order and Motion to Alter or Amend.***

IDWR filed a *Notice of Completed Administrative Proceeding* on May 31, 2001, for a substitution of party from Matthew Olivas to WaterOne Enterprises LLC, 251 Versailles Court, Tracy, California, 95376. It then filed a *Supplemental Director's Report Regarding Subcase No. 51-04037* on August 1, 2001.

On October 24, 2001, the Special Master entered an ***Order Granting Motion to File Amended Notice of Claim*** allowing WaterOne Enterprises to claim .06 cfs for domestic and commercial uses only with no limit on the daily amount. IDWR filed an *Amended Director's Report* on November 2, 2001, recommending the amended claim as filed, but with a domestic use limit of 13,000 gallons per day and the remark: "Commercial use is for pool, baths, internal lodge use, and 1 trailer." WaterOne Enterprises filed an *Objection* on December 28, 2001, stating the remark should be stricken.

IDWR filed a second *Notice of Completed Administrative Proceeding* on March 20, 2002, for a substitution of party from WaterOne Enterprises to Purity Sweet. On June 7, 2002, the Special Master entered an ***Order Granting Motion to File Late Objection*** allowing WaterOne Enterprises to file an *Objection* alleging the claimant should be WaterOne Enterprises, not Purity Sweet.

On January 21, 2003, WaterOne Enterprises filed a *Motion for Summary Judgment*, a *Motion to Supplement Objection* and a *Motion for Issuance of Amended Director's Report* based on District Judge James C. Morfitt's ***Memorandum Decision and Order***, dated November 5, 2002 (Owyhee County District Court, Case No. CV 2001-03402), wherein the Court held that WaterOne Enterprises is the fee simple owner of Murphy Hot Springs.

IDWR filed a third *Notice of Completed Administrative Proceeding* on March 25, 2003, for a substitution of party from Purity Sweet to WaterOne Enterprises. Finally, on May 15, 2003, claimant WaterOne Enterprises, respondents the State of Idaho and Janet O'Crowley and IDWR filed a *Standard Form 5* agreeing to the claim as recommended by IDWR.

Conclusions of Law

WaterOne Enterprises LLC is entitled to a partial decree adjudicating a water right as described in the *Standard Form 5* and the attached ***2nd Amended Special Master Recommendation for Partial Decree for Water Right 51-04037.***

Order

THEREFORE, IT IS ORDERED that WaterOne Enterprises' pending *Motions* are **dismissed** as being moot.

DATED May 19, 2003.

A handwritten signature in black ink, appearing to read "Terrence A. Dolan", is written over a horizontal line.

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

AMENDED

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 51-04037

2003 MAY 19 PM 4:04

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *RD*

NAME AND ADDRESS: WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY, CA 95376

SOURCE: MURPHY HOT SPRINGS

TRIBUTARY: EAST FORK JARBIDGE RIVER

QUANTITY: 0.06 CFS

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

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION: T16S R09E S24 SWNNWN Within Owyhee County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Domestic	01-01 TO 12-31	0.02 CFS
Commercial	01-01 TO 12-31	0.04 CFS

COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE AND
1 TRAILER.

PLACE OF USE:	Commercial	Within Owyhee County
	T16S R09E S24	NWNW
	Domestic	Within Owyhee County
	T16S R09E S24	NWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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.

RECOMMENDATION

MAY 19 2003

Roger A. Burdick
SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2003 MAY 19 PM 4:04

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *7/18*

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 51-04037

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 May 19, 2003, with sufficient first-class postage prepaid to the following:

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

WATERONE ENTERPRISES, LLC
Represented by:
KEVIN J. BEATON
101 S CAPITOL BLVD STE 1900
BOISE, ID 83702-5958
Phone: 208-389-9000

WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY, CA 95376

WATERONE ENTERPRISES LLC
359 N 400 W
PAUL, ID 83347

CERTIFICATE OF MAILING

Robbin Hall

ROBBIN HALL
Deputy Clerk

PAGE 1
05/19/03

2003 MAY 19 PM 4:04

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)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

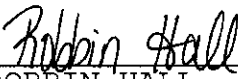
Water Right(s): 51-04037

On May 19, 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 May 19, 2003.



ROBBIN HALL
Deputy Clerk