

2003 JUN 11 PM 2:06

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) Subcase 35-07717
Case No. 39576) (Morgan)
)
) ORDER GRANTING MOTION
) TO WITHDRAW RESPONSE
) and
) AMENDED 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 35-07717 to Julia and Neil Morgan, 762 W. Highway 39, Blackfoot, Idaho, 83221, for .34 cfs from groundwater to irrigate 17 acres within a 151 acre place of use in Bingham County from April 1 to October 31 with a priority date of May 18, 1977.

The Twin Falls and North Side Canal Companies filed *Objections* on June 2, 1999, objecting to source, quantity, other provisions and alleging the water right should not exist. The State of Idaho filed a *Response* to the Canal Company *Objections* on August 10, 1999.

On August 27, 2001, the Special Master entered an *Order Granting Respondents' Motions for Partial Summary Judgment* in consolidated subcases 35-07200 and 41-02016 dismissing the Canal Company *Objections*. Because there were no other matters pending in the subcase, on November 27, 2001, the Special Master entered a *Special Master Report and Recommendation* in 1,720 claims in Basin 35, including 35-12922.

IDWR filed a *Notice of Completed Administrative Proceeding* in subcases 35-07602B, 35-07717 and 35-12922 for changes in place of use on December 16, 2002. On June 2, 2003, the

State filed its *Notice by the State of Withdrawal of Responses to Objections* because the Canal Company *Objections* were dismissed.

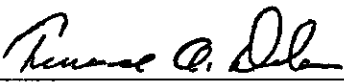
Conclusions of Law

1. The State has shown good cause to withdraw its *Response*, and
2. The Morgans are entitled to a partial decree adjudicating a water right under claim 35-07717 as described in the *NCAP* and the attached *Special Master Recommendation for Partial Decree for Water Right 35-07717*.

Order

THEREFORE, IT IS ORDERED that the State's motion to withdraw its *Response* is **granted**.

DATED June 11, 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

AMENDED

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 35-07717

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NAME AND ADDRESS: D NEIL MORGAN
JULIA A MORGAN
762 W HWY 39
BLACKFOOT, ID 83221

SOURCE: GROUNDWATER

THE RIGHT HOLDER SHALL USE THE FULL ALLOTMENT OF APPURTENANT
SURFACE WATER RIGHTS IN CONJUNCTION WITH GROUND WATER DIVERTED
UNDER THIS RIGHT AND SHALL ONLY DIVERT GROUND WATER UNDER THIS
RIGHT WHEN WATER FROM THE APPURTENANT SURFACE WATER RIGHTS
CANNOT BE DELIVERED TO THE RIGHT HOLDER.

QUANTITY: 0.34 CFS
68.00 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.95 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 604 AF. COMBINED RIGHT
NOS.: 35-07602B, 35-7717 AND 35-12922.

PRIORITY DATE: 05/18/1977

POINT OF DIVERSION: T02S R34E S35 LOT 4 (NESWSW) Within Bingham County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.34 CFS 68.00 AFY

PLACE OF USE:	Irrigation	Within Bingham County
	T02S R34E S35	SENW 5.0 NESW 35.0
		NWSW 37.0 LOT 4 (SWSW) 39.0
	LOT 3 (SESW) 35.0	
	151.0 Acres Total	

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 151 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-07602B, 35-7717 AND
35-12922.

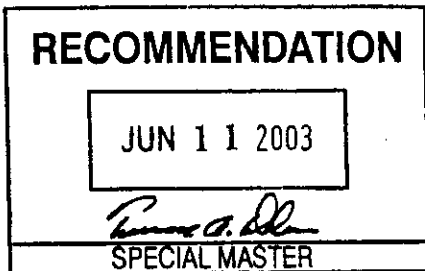
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 17 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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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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): 35-07717

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 June 11, 2003, with sufficient first-class postage prepaid to the following:

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

D NEIL MORGAN
Represented by:
JEFFREY C. FEREDAY
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

JULIA A MORGAN
Represented by:
JERRY R. RIGBY
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

CERTIFICATE OF MAILING

Robbin Hall
ROBBIN HALL
Deputy Clerk

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

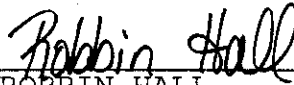
Water Right(s): 35-07717

On June 11, 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 June 11, 2003.



ROBBIN HALL
Deputy Clerk