

2003 JUL -1 PM 2:34

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

)
) Subcase 36-00133
) (Big Bend Irrigation & Mining Co.)
)
) SPECIAL MASTER REPORT

Findings of Fact

The Big Bend Irrigation & Mining Company, c/o Pam Wascher, P.O. Box 334, Hagerman, Idaho, 83332-0334, filed a *Notice of Claim to a Water Right* on August 31, 1988, claiming 20 cfs from Upper Tupper Springs for year-'round domestic and stockwater uses and for year-'round irrigation of 879 acres in Gooding County with a priority date of December 17, 1903, based on a decree. The Director of the Idaho Department of Water Resources filed a *Director's Report, Part I, for Reporting Area 3 (Basin 36)* on November 2, 1992. The Director recommended 36-00133 as filed, but for domestic, stockwater and wildlife uses and for irrigation of 393.5 acres from March 15 to November 15, for year-'round wildlife storage and for higher quantities for stockwater, domestic and wildlife uses from November 16 to March 14.

Big Bend filed an *Objection* on April 29, 1993, objecting to name and address, quantity, period of year, place of use, consumptive use, remarks and "other." The United States of America filed an *Objection* on April 30, 1993, objecting to quantity, purposes of use, remarks and "other." On December 5, 1995, the Idaho Department of Fish and Game was granted leave to file late responses in subcases 36-00133 and 36-00192. On March 10, 1997, the United States was granted leave to withdraw its *Objection*. Big Bend was granted leave to amend its claim on September 12, 1997, to include year-'round wildlife use.

IDWR filed its *Amended Director's Report, Subcase Nos. 36-00133 and 36-00192* on March 9, 1999. The Idaho Department of Fish and Game filed its *Objection* on April 29, 1999, objecting to purposes of use and period of year; its *Objection* was later amended on May 17,

1999. The North Snake Ground Water District filed an *Objection* the same date objecting to quantity, priority date and period of year. Big Bend also filed an *Objection* that date objecting to place of use. Finally, on June 19, 2003, Big Bend, the Idaho Department of Fish and Game and the North Snake Ground Water District, with IDWR's concurrence, filed a *Standard Form 5*.

Conclusions of Law

The Big Bend Irrigation & Mining Company is entitled to a partial decree adjudicating a water right under claim 36-00133 as described in the *SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 36-00133*.

DATED July 1, 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)
Case No. 39576)
_____)

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

Water Right 36-00133

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NAME AND ADDRESS: BIG BEND IRRIGATION & MINING
C/O PAM WASCHER
PO BOX 334
HAGERMAN,, ID 83332-0334

SOURCE: UPPER TUCKER SPRINGS TRIBUTARY: RILEY CREEK

QUANTITY: 20.00 CFS

USE OF THIS RIGHT WITH RIGHT NO. 36-192 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 34.5 CFS INCLUDING CONVEYANCE LOSSES
DURING THE IRRIGATION SEASON.
USE OF THIS RIGHT WITH RIGHT NO. 36-192 IS LIMITED TO 26.4 CFS
FOR IRRIGATION USE, 1.03 CFS FOR STOCKWATER USE, 0.28 CFS FOR
DOMESTIC USE AND 6.34 CFS FOR WILDLIFE USE.
USE OF THIS RIGHT WITH RIGHT NO. 36-192 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 1.31 CFS INCLUDING CONVEYANCE LOSSES
DURING THE NON-IRRIGATION SEASON.
USE OF THIS RIGHT TOGETHER WITH ALL RIGHTS DELIVERED THROUGH
THE BIG BEND DITCH SHALL NOT EXCEED 35 CFS.

PRIORITY DATE: 12/17/1903

THE PORTION OF COMBINED WATER RIGHT NOS. 36-133 AND 36-192 IN
EXCESS OF A TOTAL COMBINED DIVERSION RATE OF 19 CFS IS
SUBORDINATED TO ALL GROUND WATER RIGHTS WITH PRIORITY DATES OF
DECEMBER 31, 1999 OR EARLIER.

POINT OF DIVERSION: T07S R13E S36 NWSESE Within Gooding County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Stockwater	01-01 TO 12-31	1.03 CFS
Domestic	01-01 TO 12-31	0.28 CFS
Wildlife	02-15 TO 11-30	6.34 CFS
Wildlife Storage	01-01 TO 12-31	2.50 CFS
Irrigation	02-15 TO 11-30	20.00 CFS

PLACE OF USE:

Stockwater	Within Gooding County
T07S R13E S15	SESE
S16 LOT 6 (SWSE)	LOT 6 (SESE)
S21 LOT 1 (NENE)	LOT 1 (NWNE)
LOT 5 (SENE)	
S22	NENE
	NWNE
	SWNE
	SENE
	NENW
	NWNW
	SENE
	SESE
S23	SWNW
	SENE
	NESW
	NWSW
	NWSE
S25	SWSW
S26	NWNE
	SWNE
	SWNW
	NWSW
	NWSE
	SESE
S27	NENE
	NWNE

PLACE OF USE (continued)

	SWNE	SENE
	NESE	NWSE
S35	NENE	NWNE
	SENE	
S36	NENW	NWNW
	SWNW	SENW
	NESW	NWSW
	SWSW	SESW
	NWSE	SWSE
	SESE	
Wildlife		Within Gooding County
T07S R13E S21 LOT 1	(NENE)	
S22	NENW	NWNW
S36	NWNW	NESW
	SESW	NWSE
	SWSE	
Wildlife Storage		Within Gooding County
T07S R13E S22	NENW	
Domestic		Within Gooding County
T07S R13E S21 LOT 5	(SENE)	
S22	NENE	

PLACE OF USE IS WITHIN THE BOUNDARY OF THE BIG BEND IRRIGATION AND MINING CO.
USE OF THIS RIGHT WITH RIGHT NO. 36-00192 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 361 ACRES IN A SINGLE IRRIGATION SEASON.

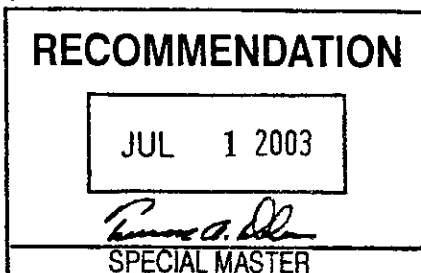
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE SUBORDINATED PORTIONS OF THIS WATER RIGHT AND WATER RIGHT NO. 36-192 SHALL NOT BE ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE, OR OTHERWISE RECOGNIZED IF IT WOULD CAUSE OR REQUIRE EITHER DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION FROM ANY GROUND WATER RIGHTS WITH PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER. THE SUBORDINATIONS SHALL RUN WITH AND BE A PERPETUAL SERVITUDE UPON THIS WATER RIGHT AND WATER RIGHT NO. 36-192 INCLUDING ANY TRANSFERS OF THESE WATER RIGHTS.

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 Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 36-00133

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 July 01, 2003, with sufficient first-class postage prepaid to the following:

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

BIG BEND IRRIGATION & MINING

Represented by:

JOHN K. SIMPSON
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

N SNAKE GROUND WATER DIST, MAY
NORTH SNAKE GROUND WATER DIST

Represented by:

JOSEPHINE P. BEEMAN
409 WEST JEFFERSON STREET
BOISE, ID 83702
Phone: 208-331-0950

CERTIFICATE OF MAILING

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IDAHO DEPT OF FISH & GAME
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449



ROBBIN HALL
Deputy Clerk

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 36-00133

On July 01, 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 July 01, 2003.

Robbin Hall
ROBBIN HALL
Deputy Clerk