

2003 JUL -1 PM 2:35

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 36-16126**
) **(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 *Notices of Claims to Water Rights* under 36-00133 and 36-00192 on August 31, 1988, claiming a total of 35 cfs from Upper Tupper Springs and Lower Tucker Spring for year-'round irrigation, domestic and stockwater uses in Gooding County with priority dates of December 17, 1903, and April 1, 1906, respectively, based on a decree.

On June 19, 2003, Big Bend and objectors the Idaho Department of Fish and Game and the North Snake Ground Water District, with IDWR's concurrence, filed a *Standard Form 5* in subcase 36-16126. The parties stated the following:

The water use described herein was originally claimed under water right claims 36-133 and 36-192. This use, however, has been determined not to be part of water right nos. 36-133 and 36-192. Rather, it is a beneficial use right with a priority date junior to those rights. Accordingly, it is being described under a separate water right number.

The parties then agreed that 36-16126 would be decreed to Big Bend for 11.6 cfs from Lower Tucker Springs and Upper Tucker Springs for wildlife use in Gooding County from December 1 to February 14 with a priority date of December 1, 1946, based on beneficial use.

Conclusions of Law

The Big Bend Irrigation & Mining Company is entitled to a partial decree adjudicating a water right under claim 36-16126 as described in the *SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 36-16126*.

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 36-16126

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

SOURCE: LOWER TUCKER SPRINGS TRIBUTARY: RILEY CREEK
UPPER TUCKER SPRINGS RILEY CREEK

QUANTITY: 11.60 CFS

USE OF THIS RIGHT TOGETHER WITH ALL RIGHTS DELIVERED THROUGH THE
BIG BEND DITCH SHALL NOT EXCEED 35 CFS.

PRIORITY DATE: 12/01/1946

POINT OF DIVERSION: T07S R13E S36 SENWSE Within Gooding County
NWSESE

PURPOSE AND	PURPOSE OF USE	PERIOD OF USE	QUANTITY
PERIOD OF USE:	Wildlife	12-01 TO 02-14	11.60 CFS

PLACE OF USE:	Wildlife	Within Gooding County
	T07S R13E S21 LOT 1 (NENE)	
	S22 NENW	NWNW
	S36 NESW	SESW
	NWSE	SWSE

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

WATER RIGHT NO. 36-16126 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
SUBORDINATION SHALL RUN WITH AND BE A PERPETUAL SERVITUDE UPON
WATER RIGHT 36-16126 INCLUDING ANY TRANSFERS 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.

RECOMMENDATION

JUL 1 2003

Roger A. Burdick
SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 36-16126

CERTIFICATE OF MAILING

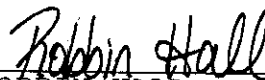
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on July 01, 2003, with sufficient first-class postage prepaid to the following:

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



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

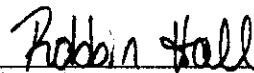
Water Right(s): 36-16126

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
Deputy Clerk