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Department of Water Resources

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SUBSTITUTED AT 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 51-04000A
) (split claims 51-12976 and 51-12977)
) (Robertson and Kohring)
)
) AMENDED SPECIAL MASTER
) REPORT AND RECOMMENDATION

Findings of Fact

Tri Vial, Inc., filed a *Notice of Claim to a Water Right* on January 17, 1989, claiming 6.38 cfs from groundwater to irrigate 319 acres from March 15 to November 15 and for year-'round domestic and stockwater uses in Owyhee County with a priority date of June 12, 1950, based on beneficial use. 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 the claim for 6.47 cfs to irrigate 312 acres within a 624 acre place of use and for year-'round stockwater use.

Susan G. Robertson filed an *Objection* on January 15, 1999, objecting to quantity, priority date, point of diversion and place of use. On July 24, 2000, Kent G. Kohring was granted leave to intervene in subcases 51-02214, 51-04000A and 51-10207. Later, on January 15, 2003, Mr. Kohring filed an *Objection* in 51-04000A, 51-12976 and 51-12977 objecting to quantity, point of diversion and purpose of use.

IDWR filed a *Notice of Completed Administrative Proceeding* on November 18, 2002, in subcases 51-02214, 51-04000A and 51-10207 for a substitution of party from Tri-Vial, Inc., to Kohring or Robertson and for the re-numbering of 51-04000A (to 51-12976 and 51-12977) and 51-10207 (to 51-12978 and 51-12979). On April 28, 2003, IDWR filed a *Supplemental*

Director's Report Regarding Subcase Nos. 51-2214, 51-4000A (split into 51-12976 & 51-12977), and 51-10207 (split into 51-12978 & 51-12979).

On June 25, 2003, Tri-Vial, Inc., and Kent and Virginia Kohring, with IDWR's concurrence, filed a *Standard Forms 5* in subcases 51-12976 (Susan and Eugene Robertson, HC 85, Box 139E, Bruneau, Idaho, 83604) and 51-12977 (Kent and Virginia Kohring, HC 85, Box 140, Bruneau, Idaho, 83604).

The *Special Master Report and Recommendation* was entered on July 3, 2003. However, on July 17, 2003, Eugene Robertson wrote to the Court to say there was an error in the stockwater place of use for water right 51-12976 – the words “within ERROR county” should have read “within Owyhee County.” The attached *Amended Special Master Recommendations* correct the error.

Conclusions of Law

Susan and Eugene Robertson and Kent and Virginia Kohring are entitled to partial decrees adjudicating water rights as described in the *SF-5's* and the attached *Amended Special Master Recommendations for Partial Decrees for Water Rights 51-12976 (Robertson) and 51-12977 (Kohring)*.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 51-04000A **not** be decreed as a water right because the claim was split into 51-12976 and 51-12977.

DATED July 25, 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 51-12976

2003 JUL 25 PM 4:08

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: EUGENE F ROBERTSON
SUSAN G ROBERTSON
HC 85 BOX 139E
BRUNEAU, ID 83604

SOURCE: GROUNDWATER

QUANTITY: 3.175 CFS
612.00 AFY

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

PRIORITY DATE: 03/15/1956

POINT OF DIVERSION: T06S R04E S25 SWSNW Within Owyhee County
S36 SWSWSW

TWO POINTS OF DIVERSION LOCATED IN T06S, R04E, S36, SWSW.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	3.06 CFS
			612.00 AFY
	Stockwater	01-01 TO 12-31	0.115 CFS

PLACE OF USE: Irrigation Within Owyhee County
T06S R04E S25 SWNE 40.0 SENE 40.0
NESE 39.0 NWSE 34.0
153.0 Acres Total

Stockwater Within Owyhee County
Same as Irrigation

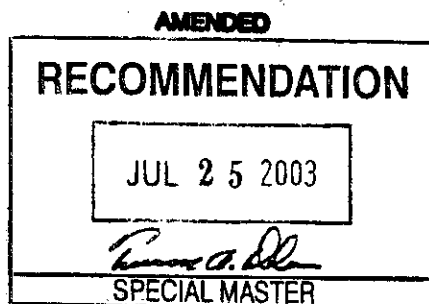
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER
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.



Roger Burdick
Presiding Judge of the
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 51-12977

2003 JUL 25 PM 4:08
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: KENT KOHRING
VIRGINIA KOHRING
HC 85 BOX 140
BRUNEAU, ID 83604

SOURCE: GROUNDWATER

QUANTITY: 3.295 CFS
636.00 AFY

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

PRIORITY DATE: 03/15/1956

POINT OF DIVERSION: T06S R04E S25 SWSWN Within Owyhee County
S36 SWSWSW

TWO POINTS OF DIVERSION LOCATED IN T06S, R04E, S36, SWSW.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	3.18 CFS
	Stockwater	01-01 TO 12-31	0.115 CFS

PLACE OF USE:	Irrigation	SESE 38.0	Within Owyhee County
	T06S R04E S24	NENE 38.0	NWNE 36.0
	S25	NENW 38.0	NWNW 39.0
		SWNW 40.0	SENW 40.0
		NESW 40.0	
	R05E S30	NENW 40.0	LOT 1 (NWNW) 40.0
	LOT 2	(SWNW) 40.0	SENW 42.0
	471.0 Acres Total		
	Stockwater		Within Owyhee County
	Same as Irrigation		

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 159 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 471 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 51-02214.

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

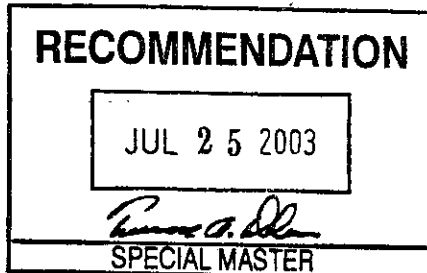
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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.

AMENDED



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 51-04000A
51-12976 51-12977

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 25, 2003, with sufficient first-class postage prepaid to the following:

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

KENT KOHRING
Represented by:
JIM JONES
1275 SHORELINE LN
BOISE, ID 83702
Phone: 208-385-9200

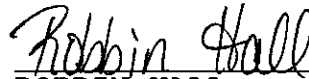
TRI VIAL INC
Represented by:
SUSAN WILDWOOD
PO BOX 6502
BOISE, ID 83707
Phone: 208-383-0390

CERTIFICATE OF MAILING

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07/25/03

EUGENE F ROBERTSON
SUSAN G ROBERTSON
HC 85 BOX 139E
BRUNEAU, ID 83604

VIRGINIA KOHRING
HC 85 BOX 140
BRUNEAU, ID 83604



ROBBIN HALL
Deputy Clerk

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TWIN FALLS CO., IDAHO
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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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 51-04000A
51-12976 51-12977

On July 25, 2003, Special Master HON. ROGER S. BURDICK 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 25, 2003.



ROBBIN HALL
Deputy Clerk