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Department of Water Resources

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DISTRICT COURT  
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 51-10207  
) (split claims 51-12978 and 51-12979)  
) (Tri-Vial, Inc.)  
)  
) AMENDED SPECIAL MASTER  
) REPORT AND RECOMMENDATION

Findings of Fact

Kohring Farms filed a *Notice of Claim to a Water Right* on January 17, 1989, claiming .18 cfs from groundwater to irrigate 1 acre from March 15 to November 15 and for year-'round domestic and stockwater uses in Owyhee County with a priority date of March 1, 1963, 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 to Tri Vial, Inc., for .13 cfs for year-'round domestic and stockwater uses.

Susan G. Robertson filed an *Objection* on January 15, 1999, objecting to quantity, 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 51-10207, 51-12978 and 51-12979 objecting to name and address.

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 Form 5, Stipulation to Disallow 51-12978, 51-12979 and Recommend 51-10207*. The parties agreed that 51-10207 would be decreed to 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 purpose of use – the word “domestic” was inadvertently followed by the phrase “4 homes.” The attached *Amended Special Master Recommendation* corrects the error.

#### **Conclusions of Law**

Kent and Virginia Kohring are entitled to a partial decree adjudicating a water right as described in the *SF-5* and the attached *Amended Special Master Recommendation for Partial Decree for Water Right 51-10207*.

#### **Recommendation**

THEREFORE, IT IS RECOMMENDED that split claims 51-12978 and 51-12979 **not** be decreed as water rights.

DATED July 25, 2003.



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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 51-10207

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DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED

NAME AND ADDRESS: TRI VIAL INC  
HC 85 BOX 139E  
BRUNEAU, ID 83604

SOURCE: GROUNDWATER

QUANTITY: 0.13 CFS

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

PRIORITY DATE: 03/01/1963

POINT OF DIVERSION: T06S R04E S25 SNNWSE Within Owyhee County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Domestic       | 01-01 TO 12-31 | 0.10 CFS |
|                               | Stockwater     | 01-01 TO 12-31 | 0.03 CFS |

|               |                    |                      |
|---------------|--------------------|----------------------|
| PLACE OF USE: | Stockwater         | Within Owyhee County |
|               | T06S R04E S25 NWSE |                      |
|               | Domestic           | Within Owyhee County |
|               | T06S R04E S25 NWSE |                      |

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

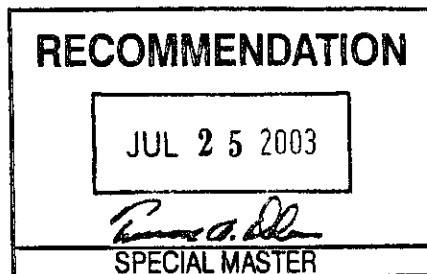
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA )

CERTIFICATE OF MAILING

Case No. 39576 )

Water Right(s): 51-10207

51-12978 51-12979

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

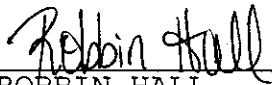
TRI VIAL INC  
Represented by:  
SUSAN WILDWOOD  
PO BOX 6502  
BOISE, ID 83707  
Phone: 208-383-0390

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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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

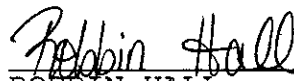
Water Right(s): 51-10207  
51-12978 51-12979

On July 25, 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 25, 2003.

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk