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Department of Water Resources

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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

Case No. 39576

) Subcase 51-10207
) (split claims 51-12978 and 51-12979)
) (Kohring)
)
) ORDER PARTIALLY GRANTING
) MOTION TO ALTER OR AMEND
) and
) 2nd 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.” An *Amended Special Master Report and Recommendation* was entered on July 25, 2003, deleting the phrase “4 homes.”

On August 1, 2003, Kent and Virginia Kohring filed a *Motion to Alter or Amend Amended Special Master Report and Recommendation* stating the phrase “domestic 4 homes” was correct and the owner should be: Kent and Virginia Kohring, 28924 Davis Road, Bruneau, Idaho, 83604. During a status conference held on October 23, 2003, the parties agreed that the only change needed to the *Amended Recommendation* is to list the Kohrings as the owners.¹

Order

THEREFORE, IT IS ORDERED that the Kohrings' *Motion to Alter or Amend* is **granted** as to the change of ownership of water right 51-10207 from Tri Vial, Inc., to Kent and Virginia Kohring.

Conclusions of Law

Kent and Virginia Kohring are entitled to a partial decree adjudicating a water right as described in the attached *2nd Amended Special Master Recommendation for Partial Decree for Water Right 51-10207*.

¹ Eugene and Susan Robertson filed a *Motion to File Late Notice of Claim* for a domestic use water right in subcases 51-02214, *et al.*, on June 4, 2003. On October 28, 2003, the Presiding Judge entered an *Order Granting Motion to File Late Notice of Claim* granting the Robertsons' *Motion* under subcase 51-12986. Therefore, the Robertsons' *Motion* filed in subcase 51-02214, *et al.*, is deemed to be withdrawn and their late claim will proceed under subcase 51-12986.

Kent and Virginia Kohring filed their *Motion to File Late Notice of Claim* for a domestic use water right in subcase 51-12977 on August 1, 2003. However, the Kohrings had already filed a *Motion to File Late Notice of Claim* for domestic and stockwater uses on July 22, 2003, in subcase 51-12987. The *Motion* filed in subcase 51-12987 will be heard by the Presiding Judge on November 18, 2003. Therefore, the Kohrings' *Motion* filed in subcase 51-12977 is deemed to be withdrawn and their late claim will proceed under subcase 51-12987.

Recommendation

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

DATED October 30, 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

Second Amended

In Re SRBA)
)
Case No. 39576)
_____)

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

Water Right 51-10207

2003 OCT 30 PM 5:21
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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NAME AND ADDRESS: KENT G. KOHRING
VIRGINIA KOHRING
28924 DAVIS ROAD
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 SWNWSE Within Owyhee County

PURPOSE AND 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:

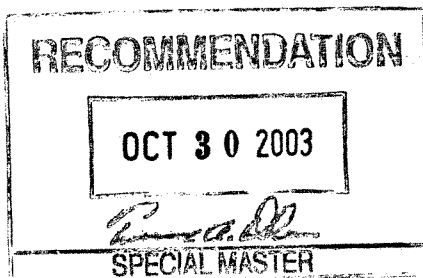
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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.

Second Amended



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)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

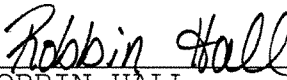
Water Right(s): 51-10207
51-12978 51-12979

On October 30, 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 October 30, 2003.



ROBBIN HALL
Deputy Clerk

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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 October 30, 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

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

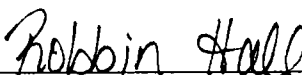
CERTIFICATE OF MAILING

PAGE 1
10/30/03

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

VIRGINIA KOHRING
HC 85 BOX 140
BRUNEAU, ID 83604

VIRGINIA KOHRING
28924 DAVIS ROAD
BRUNEAU, ID 83604



ROBBIN HALL
Deputy Clerk