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Department of Water Resources

2003 NOV 14 PM 4:05
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

) Subcase 43-04028A

) (Harris Ag)

Case No. 39576

)

) SPECIAL MASTER REPORT

)

Findings of Fact

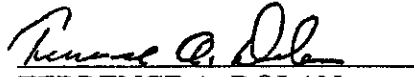
C. McGee Harris & Sons filed a *Notice of Claim to a Water Right* on June 14, 1989, claiming 5.4 cfs from groundwater to irrigate 1,149 acres in Cassia County from April 1 to October 31 with a priority date of April 1, 1960, based on beneficial use. The Director of the Idaho Department of Water Resources filed his *Director's Reports for Irrigation and Other, Reporting Area 7, IDWR Basin 43* on September 28, 2001. The Director recommended the claim as filed, but to Harris Ag, Box 1024, 2655 East, 1400 South, Malta, Idaho, 83342 to irrigate 3,160 acres.

Hal T. Anderson filed an *Objection* on February 8, 2002, alleging the water right should not exist. On October 23, 2003, the parties and IDWR filed a *Standard Form 5*.

Conclusions of Law

Harris Ag is entitled to a partial decree adjudicating a water right under claim 43-04028A as described in *SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 43-04028A*.

DATED November 14, 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 43-04028A

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NAME AND ADDRESS: HARRIS AG
BOX 1024
2655 E 1400 S
MALTA, ID 83342

SOURCE: GROUND WATER

QUANTITY: 5.40 CFS
2288.00 AFY

USE OF THIS RIGHT WITH RIGHT NOS 43-11218, 43-10811,
43-10812, 43-2368, 43-10490 IS LIMITED TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 10,964 AF.

PRIORITY DATE: 04/01/1960

POINT OF DIVERSION: T13S R27E S02 SESWSE Within Cassia County
S03 NESENW
S04 SWNWNE
SESESE
S09 SESENW
SESESE
S10 SESENE
S11 SESWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	5.40 CFS 2288.00 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15,
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE
OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 31 UNDER THIS REMARK
IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY
OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE
A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:	Irrigation	Within Cassia County
	T13S R27E S02	SWNE 40.0 LOT 3 (NENW) 40.0
	LOT 4 (NWNW) 40.0	SWNW 40.0
	SENE 40.0	NESW 40.0
	NWSW 40.0	SWSW 40.0
	SESW 40.0	NWSE 40.0
	SWSE 40.0	
	S03 LOT 1 (NENE) 40.0	LOT 2 (NWNE) 40.0
	SWNE 40.0	SENE 40.0
	LOT 3 (NENW) 40.0	LOT 4 (NWNW) 40.0
	SWNW 40.0	SENE 40.0
	NESW 40.0	NWSW 40.0
	SWSW 40.0	SESW 40.0
	NESE 40.0	NWSE 40.0
	SWSE 40.0	SESE 40.0
	S04 LOT 1 (NENE) 40.0	LOT 2 (NWNE) 40.0
	SWNE 40.0	SENE 40.0
	NESE 40.0	NWSE 40.0
	SWSE 40.0	SESE 40.0
	S09	NENE 40.0

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

	SWNE 40.0	SENE 40.0
	NENW 40.0	NWNW 40.0
	SWNW 40.0	SENW 40.0
	NESW 40.0	NWSW 40.0
	SWSW 40.0	SESW 40.0
	NESE 40.0	NWSE 40.0
	SWSE 40.0	SESE 40.0
S10	NENE 40.0	NWNE 40.0
	SWNE 40.0	SENE 40.0
	NENW 40.0	NWNW 40.0
	SWNW 40.0	SENW 40.0
	NESW 40.0	NWSW 40.0
	SWSW 40.0	SESW 40.0
	NESE 40.0	NWSE 40.0
	SWSE 40.0	SESE 40.0
S11	NWNE 40.0	SWNE 40.0
	NENW 40.0	NWNW 40.0
	SWNW 40.0	SENW 40.0
	NESW 40.0	NWSW 40.0
	SWSW 40.0	SESW 40.0
	NWSE 40.0	SWSE 40.0

3160.0 Acres Total

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 1145 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2741 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS 43-11218, 43-10811, 43-10812, 43-2368, 43-4028A

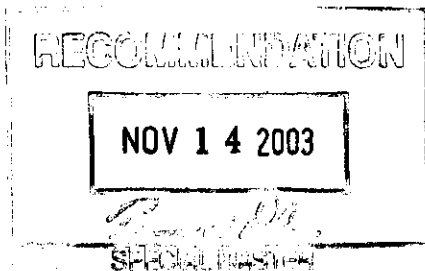
THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 3160 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS 43-11218, 43-10811, 43-10812, 43-2368, 43-4028A, 43-10490

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION 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.



Presiding Judge of the
Snake River Basin Adjudication

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In Re SRBA)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 43-04028A

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 November 14, 2003, with sufficient first-class postage prepaid to the following:

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

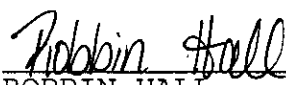
AMERICAN WEST ENTERPRISES INC

Represented by:
CHARLES L. HONSINGER
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

HARRIS AG

Represented by:
RANDALL C BUDGE
PO BOX 1391
201 E CENTER, STE A2
POCATELLO, ID 83204-1391
Phone: 208-232-6101

CERTIFICATE OF MAILING


ROBBIN HALL
Deputy Clerk

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11/14/03

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

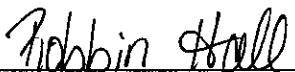
Water Right(s): 43-04028A

On November 14, 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 November 14, 2003.



ROBBIN HALL
Deputy Clerk