

RECEIVED

DEC 22 2003

CLERK OF DISTRICT COURT

2003 DEC 22 PM 4:01

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

) Subcases 43-00099A, et al.
) (see list of 22 claims attached)
) (J.R. Simplot Co. & Higley)
)
) **SPECIAL MASTER REPORT**
) **AND RECOMMENDATION**

Findings of Fact

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 a combination of 14 claims (43-00099C, 43-00100C, 43-00101C, 43-00102C, 43-00104B, 43-00105, 43-00106, 43-00107, 43-00275, 43-00276, 43-00277, 43-02536, 43-10591 and 43-10592) to J.R. Simplot Company, P.O. Box 27, Boise, Idaho, 83707, for various amounts between .4 cfs and 2.5 cfs from Cassia Creek, 3.22 cfs from groundwater (43-02536) and .62 cfs from unnamed drains (43-10591 and 43-10592) to irrigate 737.5 acres in Cassia County from March 15 to November 15 with priority dates between April 1, 1879, and September 11, 1961, based on a decree, beneficial use (43-10591 and 43-10592) or a license (43-02536).

The Director recommended 8 claims variously filed by Ted, Betty Ann and Hank Higley (43-00099A, 43-00099B, 43-00100A, 43-00100B, 43-00101A, 43-00101B, 43-00102A and 43-00102B) be disallowed: "No lawful appropriation shown."

On January 15, 2002, Ted Higley filed *Objections* stating: "We feel this is important for our property." On August 16, 2002, Ted and Betty Higley were granted leave to file *Corrected Amended Objections* in 12 of the above 22 subcases objecting to most of the reported elements. However, on September 2, 2003, Ted Higley filed a *Notice of Withdrawal of Objections* in 20 subcases, including the 12 subcases in which the Higleys filed *Corrected Amended Objections*.

Conclusions of Law

1. J.R. Simplot is entitled to partial decrees adjudicating water rights as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights 43-00099C, 43-00100C, 43-00101C, 43-00102C, 43-00104B, 43-00105, 43-00106, 43-00107, 43-00275, 43-00276, 43-00277, 43-02536, 43-10591 and 43-10592.*
2. Ted, Betty Ann and Hank Higley are **not** entitled to partial decrees for claims 43-00099A, 43-00099B, 43-00100A, 43-00100B, 43-00101A, 43-00101B, 43-00102A and 43-00102B.

Recommendation

THEREFORE, IS RECOMMENDED that claims 43-00099A, 43-00099B, 43-00100A, 43-00100B, 43-00101A, 43-00101B, 43-00102A and 43-00102B **not** be decreed as water rights as recommended by IDWR.

DATED December 22, 2003.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

43-00099A (disallow)
43-00099B (disallow)
43-00099C
43-00100A (disallow)
43-00100B (disallow)
43-00100C
43-00101A (disallow)
43-00101B (disallow)
43-00101C
43-00102A (disallow)
43-00102B (disallow)
43-00102C
43-00104B
43-00105
43-00106
43-00107
43-00275
43-00276
43-00277
43-02536
43-10591
43-10592

2003 DEC 22 PM 4:02

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): 43-00099A
(SEE ATTACHED EXHIBIT A)

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 December 22, 2003, with sufficient first-class postage prepaid to the following:

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

CERTIFICATE OF MAILING

PAGE 1
12/22/03

Exhibit A

Subcase Nos:

43-00099A
43-00099B
43-00099C
43-00100A
43-00100B
43-00100C
43-00101A
43-00101B
43-00101C
43-00102A
43-00102B
43-00102C
43-00104B
43-00105
43-00106
43-00107
43-00275
43-00276
43-00277
43-02536
43-10591
43-10592

2003 DEC 22 PM 4:02

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

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

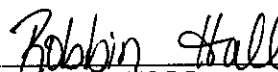
Water Right(s): 43-00099A
(SEE ATTACHED EXHIBIT A)

On December 22, 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 December 22, 2003.



ROBBIN HALL
Deputy Clerk

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 43-00106

2003 DEC 22 PM 4:02
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: J R SIMPLOT COMPANY
PO BOX 27
BOISE, ID 83707

SOURCE: CASSIA CREEK TRIBUTARY: RAFT RIVER

QUANTITY: 0.80 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 2.66 CFS. COMBINED RIGHT NOS. 43-105, 43-106,
AND 43-107.
WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN
.02 CFS PER ACRE. COMBINED RIGHT NOS. 43-2536, 43-99C, 43-100C,
43-101C, 43-102C, 43-104B, 43-105, 43-106, 43-107, 43-275,
43-276, 43-277, 43-10591, AND 43-10592

PRIORITY DATE: 04/30/1888

POINT OF DIVERSION: T13S R26E S14 NENENE Within Cassia County
SESENW
SWNWSW
S21 SWSENE
S22 NENENW

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 03-15 TO 11-15 0.80 CFS

PLACE OF USE: Irrigation Within Cassia County
T13S R26E S11 NESW 17.0 SESW 26.0
NESE 40.0 NWSE 40.0
SWSE 40.0 SESE 38.0
S12 NWSW 30.0 SWSW 30.0
S13 NWNW 39.0 SWNW 39.0
S14 NENE 40.0 NWNE 40.0
SWNE 40.0 SENE 40.0
NENW 35.0 SWNW 17.0
SENW 40.0 NWSW 36.0
SWSW 40.0
S15 NESE 8.5 SWSE 31.0
SESE 31.0
737.5 Acres Total

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 133 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS. 43-105, 43-106, AND 43-107.
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 737.5 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS. 43-2536, 43-99C, 43-100C, 43-101C, 43-102C,
43-104B, 43-105, 43-106, 43-107, 43-275, 43-276, 43-277,
43-10591, AND 43-10592
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED

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

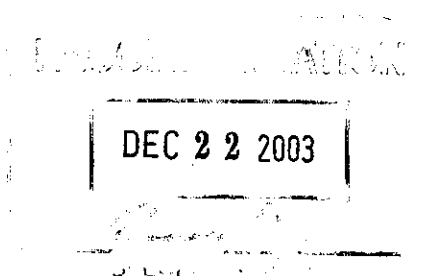
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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