

RECEIVED

DEC 24 2003

Department of Water Resources

2003 DEC 23 AM 11:24

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) Subcases 43-00103B & 43-11263
Case No. 39576) (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 43-00103B to Betty Ann and Ted Higley, 2200 Rodocker Lane, Box 57, Malta, Idaho, 83342, for 3.06 cfs from Cassia Creek to irrigate 116 acres in Cassia County from March 15 to November 15 with a priority date of April 1, 1894, based on a decree. The Director recommended 43-11263 to Hank, Ted and Betty Ann Higley for 2.04 cfs from Cassia Creek to irrigate 71 acres in Cassia County from March 15 to November 15 with a priority date of April 1, 1894, based on a decree. When no one objected to the Director's recommendations, both water rights were partially decreed on June 28, 2002, as recommended.

On August 23, 2002, Ted and Betty Higley filed a *Motion to Set Aside Partial Decree* in subcase 43-00103B, and on December 12, 2003, J.R. Simplot Company (a party in multiple related subcases) and the Higleys filed a *Joint Motion to Set Aside Partially Decreed Subcases and Refer to the Special Master* in subcases 43-00103B and 43-11263. The same date, the Higleys, with IDWR's concurrence, filed *Standard Forms 5* agreeing that amended partial decrees be entered awarding to Betty Ann and Ted Higley 2.4 cfs from Cassia Creek to irrigate 116 acres (43-00103B) and to Hank, Ted and Betty Ann Higley 1.6 cfs from Cassia Creek to irrigate 71 acres (43-11263).

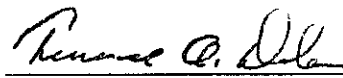
Conclusions of Law

The Higleys have shown good cause to have the partial decrees entered in subcases 43-00103B and 43-11263 set aside and amended partial decrees entered as described in the *SF-5's*.

Recommendation

THEREFORE, IT IS RECOMMENDED that the partial decrees entered in subcases 43-00103B and 43-11263 be set aside and amended partial decrees be entered as described in the *SF-5's* and the attached *Special Master Recommendations for Amended Partial Decrees for Water Rights 43-00103B and 43-11263*.

DATED December 23, 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)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 43-00103B

2003 DEC 23 AM 11:24

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: BETTY ANN HIGLEY
TED HIGLEY
2200 RODOCKER LANE BOX 57
MALTA, ID 83342

SOURCE: CASSIA CREEK TRIBUTARY: RAFT RIVER

QUANTITY: 2.40 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN
.02 CFS PER ACRE. COMBINED RIGHTS 43-103B AND 43-2310.

PRIORITY DATE: 04/01/1894

POINT OF DIVERSION: T13S R26E S14 SESENW Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	2.40 CFS

PLACE OF USE:	Irrigation	Within Cassia County
	T13S R26E S13	NENE 40.0 NENEW 36.0
	116.0 Acres Total	

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 116 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHTS 43-103B AND 43-2310.

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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

DEC 23 2003

James A. Hill
SPECIAL MASTER

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)
_____)

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

Water Right 43-11263

2003 DEC 23 AM 11:24

DIST. COURT AT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: BETTY ANN HIGLEY
HANK HIGLEY
TED HIGLEY
2200 RODOCKER LANE BOX 57
MALTA, ID 83342

SOURCE: CASSIA CREEK TRIBUTARY: RAFT RIVER

QUANTITY: 1.60 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN
.02 CFS PER ACRE. COMBINED RIGHTS 43-11263, AND 43-2355.

PRIORITY DATE: 04/01/1894

POINT OF DIVERSION: T13S R26E S14 NENENE Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.60 CFS

PLACE OF USE:	Irrigation	Within Cassia County
	T13S R26E S12 NESW 32.0	SESW 39.0
	71.0 Acres Total	

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 71 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHTS 43-11263, AND 43-2355.

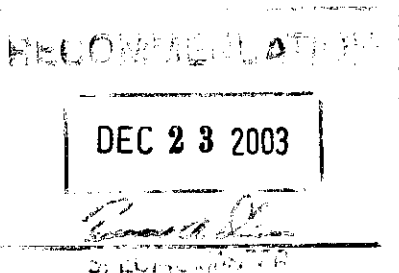
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



2003 DEC 23 AM 11: 24

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)
_____)

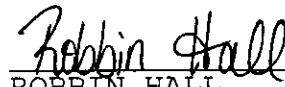
Water Right(s): 43-00103B
43-11263

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 23, 2003, with sufficient first-class postage prepaid to the following:

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

BETTY ANN HIGLEY
HANK HIGLEY
TED HIGLEY
2200 RODOCKER LANE BOX 57
MALTA, ID 83342
Phone: 208-645-2444



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
12/23/03

2003 DEC 23 AM 11: 25

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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

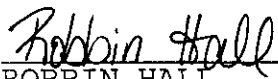
Water Right(s): 43-00103B
43-11263

On December 23, 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 23, 2003.



ROBBIN HALL
Deputy Clerk