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Department of Water Resources

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 APR 19 AM 11 11

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 35-13305
Case No. 39576) (Stolworthy)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

Brenda K. Stolworthy, 1320 N., 375 E., Shelley, Idaho, 83274, filed a *Motion to File Late Notice of Claim* on March 30, 2001, in subcase 35-13305 claiming 10.25 cfs from groundwater to irrigate 527.1 acres in Bingham County from April 1 to October 31 with a priority date September 8, 1960, based on beneficial use. On May 17, 2001, former-Presiding Judge Roger S. Burdick entered an *Order Granting Motion to File Late Notice of Claim*.

The Director of the Idaho Department of Water Resources filed his *Director's Report for Late Claims, Domestic and Stockwater and Irrigation and Other Water Rights, Reporting Areas 1, 2, 3, 5, 6, 7, 8, & 15, IDWR Basins 31, 34, 35, 36, 41, 43, 57, 61, 65* on February 18, 2003. The Director recommended that claim 35-13305 be disallowed: "Recommended as right no. 35-7493."¹

Ms. Stolworthy filed an *Objection* on March 28, 2003, objecting to name and address, priority date and the claim not being recommended as claimed. A series of hearings on the *Objection* have been held with the expected resolution that the claimant would file motions to set aside and modify partial decrees in three related water rights (35-07000B, 35-07368B and 35-07493).

On February 26, 2004, the claimant filed a *Motion for an Order to Amend Partial Decree and Confirming the Parameters of Water Right No. 35-13305*. When the claimant learned that no partial decree has been entered in subcase 35-13305, the *Motion* was withdrawn by *Notice*

¹ Water right 35-07493 was partially decreed to David Stolworthy on February 19, 2002.

filed on February 27, 2004. The *Notice* also stated that the claimant would "refile an appropriate motion in the above-captioned matter on or before March 12, 2004." To date, no such motion has been filed.

On March 30, 2004, the Special Master entered a *Draft Special Master Report and Recommendation* for the purpose of receiving suggestions from counsel for the claimant and IDWR. The *Draft* stated that if no suggestions were received by April 16, 2004, the Special Master would enter a report and recommendation that claim 35-13305 **not** be adjudicated as a water right. To date, no suggestions were filed with the SRBA Court.

Conclusions of Law

Brenda K. Stolworthy is **not** entitled to a partial decree adjudicating a water right under late claim 35-13305 as recommended by IDWR.

Recommendation

THEREFORE, IT IS RECOMMENDED that late claim 35-13305 **not** be adjudicated as a water right.

DATED April 19, 2004.


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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 35-13305

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 April 19, 2004, with sufficient first-class postage prepaid to the following:

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

BRENDA K STOLWORTHY
BRENDA STOLWORTHY
Represented by:
TERESA L. STURM
PO BOX 51219
428 PARK AVENUE
IDAHO FALLS, ID 83405-1219
Phone: 208-523-4445



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
04/19/04

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

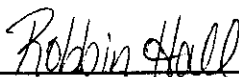
Water Right(s) : 35-13305

On April 19, 2004, 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 April 19, 2004.



ROBBIN HALL
Deputy Clerk