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Department of Water Resources

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
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2004 JUN 30 PM 2 59

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 35-02501
Case No. 39576) (Mickelsen Properties, LLC)
)
) ORDER GRANTING WITHDRAWAL
) OF OBJECTIONS and
) SPECIAL MASTER REPORT

Findings of Fact

F. & R. Associates or Otto A. Bessey filed a *Notice of Claim to a Water Right* on November 23, 1988, in subcase 35-02501 claiming 4.16 cfs from groundwater to irrigate 320 acres in Jefferson County from April 1 to November 1 with a priority date of April 24, 1957, based on a license. The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation & Other Uses, Reporting Area 5, Part I (IDWR Basin 35)* on June 19, 1998, and his *Corrected Director's Report* on July 10, 1998. In both *Reports*, the Director recommended claim 35-02501 as filed, but to Peter M. Cannon for irrigation from April 1 to October 31.

The Twin Falls and North Side Canal Companies filed *Objections* on August 24, 1998, and June 2, 1999, objecting to source, quantity, other provisions and alleging the water right should not exist. On August 27, 2001, the Special Master entered an *Order Granting Respondents' Motions for Partial Summary Judgment* in consolidated subcases 35-07200 and 41-02016 dismissing the Canal Companies' conjunctive management objections (Basin-Wide Issue 5).

On September 5, 2001, IDWR filed a *Notice of Completed Administrative Proceeding* in subcases 35-02501, 35-02575, 35-02595 and 35-07784 for a substitution of party from Peter M. Cannon to Cannon-Shelley Properties, Ltd. On June 22, 2004, IDWR filed another *NCAP* for a substitution of party from Cannon-Shelley Properties Ltd to Mickelsen Properties, LLC, 1050 W.

Riverview Drive, Idaho Falls, Idaho, 83401. Finally, on June 23, 2004, the Twin Falls and North Side Canal Companies filed a *Notice of Withdrawal of Objections* in subcases 35-02501, 35-02575, 35-02595 and 35-07784 requesting an order of dismissal.

Conclusions of Law

1. The Twin Falls and North Side Canal Companies have shown good cause to withdraw the remainder of their *Objections* in subcases 35-02501, 35-02575, 35-02595 and 35-07784; and
2. Mickelsen Properties, LLC, is entitled to a partial decree adjudicating a water right as described in the June 22, 2004 *NCAP* and the attached *Special Master Recommendation for Partial Decree for Water Right 35-02501*.

Order

THEREFORE, IT IS ORDERED that the Twin Falls and North Side Canal Company *Notice of Withdrawal of Objections* in subcases 35-02501, 35-02575, 35-02595 and 35-07784 is **granted** and the *Objections* are **dismissed**.

DATED June 30, 2004.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

~~THE~~ DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 35-02501

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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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 35-02501

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 June 30, 2004, with sufficient first-class postage prepaid to the following:

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

ABERDEEN-AMERICAN FALL GROUND
ABERDEEN-AMERICAN FALLS GROUND
BINGHAM GROUND WATER DIST.
BINGHAM GROUND WATER DISTRICT
MICKELSEN PROPERTIES LLC
UPPER VALLEY IRRIGATORS ASSOC
UPPER VALLEY IRRIGATORS ASSOC.

Represented by:
JEFFREY C. FEREDAY
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

CERTIFICATE OF MAILING

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_____)

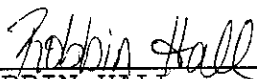
NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION
Water Right(s): 35-02501

On June 30, 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 June 30, 2004.



ROBBIN HALL
Deputy Clerk