

2004 AUG 25 PM 4 29

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 43-02434
	) (split rights 43-13349 and 43-13350)
Case No. 39576	) (Woodbury)
	)
	) ORDER DISMISSING OBJECTION
	) and AMENDED SPECIAL MASTER
	) REPORT AND RECOMMENDATION

Findings of Fact

Lyle and Carol Woodbury, 152 N. Yale Road, Declo, Idaho, 83323, filed a *Notice of Claim to a Water Right* under claim 43-02434 on June 8, 1989, claiming 5.36 cfs from groundwater to irrigate 306 acres in Cassia County from March 15 to November 15 with a priority date of December 13, 1955, based on a license. The Director of the Idaho Department of Water Resources filed his *Director's Reports for Irrigation and Other, Reporting Area 7, IDWR Basin 43, Part I* on September 28, 2001. The Director recommended the claim as filed, but for irrigation of 303.68 acres within a 397.8 acre place of use from April 1 to October 31. The United States of America, Department of Interior, Bureau of Land Management filed an *Objection* on February 8, 2002, objecting to place of use.

IDWR filed a *Notice of Completed Administrative Proceeding* on June 30, 2004, for changes in point of diversion and place of use plus a split of 43-02434 into 43-13349 and 43-13350. The United States filed a *Notice of Voluntary Dismissal of Objection* on July 6, 2004.

On August 9, 2004, the Special Master entered an *Order Dismissing Objection and Special Master Report and Recommendation*. However, on August 25, 2004, counsel for the United States contacted the SRBA Court to point out a clerical error in the recommended partial decree for 43-13349: under place of use, T 10S, R 27E should be T 10S, R 28E. The attached

Amended Special Master Recommendation for Partial Decree for Water Right 43-13349 corrects the error.

Conclusions of Law

1. Lyle and Carol Woodbury are entitled to partial decrees adjudicating water rights as described in the *NCAP*, the attached *Amended Special Master Recommendation for Partial Decree for Water Right 43-13349* and the attached *Special Master Recommendation for Partial Decree for Water Right 43-13350*; and
2. The Woodburys are **not** entitled to a partial decree for claim 43-02434 the claim having been split into 43-13349 and 43-13350.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 43-02434 **not** be decreed as a water right.

Order

THEREFORE, IT IS ORDERED that the United States *Objection* is **dismissed**.

DATED August 25, 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

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2004 AUG 25 PM 4 29

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 43-13349

NAME AND ADDRESS: CAROL J WOODBURY
LYLE D WOODBURY
152 N YALE RD
DECLO, ID 83323

SOURCE: GROUND WATER

QUANTITY: 2.17 CFS
492.80 AFY

USE OF THIS RIGHT WITH RIGHT NO. 43-07122B IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 869.2 AF.

PRIORITY DATE: 12/13/1955

POINT OF DIVERSION: T10S R28E S07 SESWNE Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	2.17 CFS 492.80 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
	T10S R28E S07	NENE 12.5 NWNE 23.4 SWNE 40.0 SENE 37.7 NENW 4.1 SENW 22.7 NESW 12.2 NESE 26.3 NWSE 38.4
	217.3 Acres Total	

USE OF THIS RIGHT WITH RIGHT NO. 43-07122B IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 217.3 ACRES IN A SINGLE
IRRIGATION SEASON.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 758.1 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS.: 43-02335, 43-13349, 43-13350,
43-07122A, 43-07122B, 43-10421, 43-10422 & 43-10423.

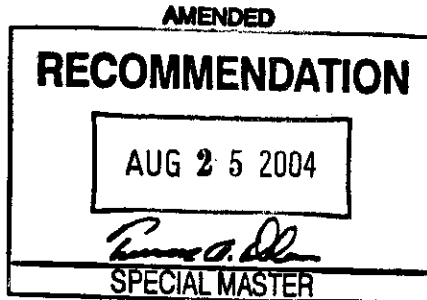
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 123.2 ACRES
WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION
SEASON.

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

2004 AUG 25 PM 4 30

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 43-13350

NAME AND ADDRESS: CAROL J WOODBURY
LYLE D WOODBURY
152 N YALE RD
DECLO, ID 83323

SOURCE: GROUND WATER

THE RIGHT HOLDER SHALL MAKE FULL BENEFICIAL USE OF ALL SURFACE WATER RIGHTS AVAILABLE TO THE RIGHT HOLDER FOR IRRIGATION OF THE LANDS AUTHORIZED TO BE IRRIGATED UNDER THIS RIGHT. THE RIGHT HOLDER SHALL LIMIT THE DIVERSION OF GROUND WATER UNDER THIS RIGHT TO THOSE TIMES WHEN THE SURFACE WATER SUPPLY IS NOT AVAILABLE OR THE SURFACE WATER SUPPLY IS NOT REASONABLY SUFFICIENT TO IRRIGATE THE PLACE OF USE AUTHORIZED UNDER THIS RIGHT. IF THE SURFACE WATER RIGHTS APPURTENANT TO THE PLACE OF USE IS SOLD, TRANSFERRED, LEASED OR USED ON ANY OTHER PLACE OF USE, RIGHT TO DIVERT GROUNDWATER SHALL NOT BE USED WITHOUT AN APPROVED TRANSFER PURSUANT TO SECTION 42-222, IDAHO CODE, OR APPROVAL OF THE DEPARTMENT IF A TRANSFER IS NOT REQUIRED.

QUANTITY: 3.19 CFS
722.00 AFY

AFTER SPECIFIC NOTIFICATION BY THE DEPARTMENT, THE RIGHT HOLDER SHALL MEASURE THE DIVERSION OR SHALL ENTER INTO AN AGREEMENT WITH THE DEPARTMENT TO DETERMINE THE AMOUNT OF WATER DIVERTED FROM POWER RECORDS AND SHALL ANNUALLY REPORT THE INFORMATION TO THE DEPARTMENT. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN 0.02 CFS PER ACRE NOR MORE THAN 4.0 AFA PER ACRE AT THE FIELD HEADGATE FOR IRRIGATION OF THE LANDS ABOVE. PRIOR TO DIVERSION OF WATER UNDER THIS APPROVAL, THE RIGHT HOLDER SHALL PROVIDE A MEANS OF MEASUREMENT ACCEPTABLE TO THE DEPARTMENT FROM ALL AUTHORIZED POINTS OF DIVERSION WHICH WILL ALLOW DETERMINATION OF THE TOTAL RATE OF DIVERSION. THE TOTAL INSTANTANEOUS DIVERSION OF WATER FROM ALL POINTS OF DIVERSION UNDER RIGHTS 43-2335, 43-7122A AND 43-13350 SHALL NOT EXCEED 10.40 CFS, NOR A TOTAL COMBINED ANNUAL VOLUME OF 2163.2 AF AT THE FIELD HEADGATE. RIGHTS 43-2335, 43-13349, 43-13350, 43-7122A, 43-7122B, 43-10421, 43-10422 AND 43-10423 WHEN COMBINED SHALL NOT EXCEED A TOTAL ANNUAL MAXIMUM DIVERSION VOLUME OF 3032.4 AT THE FIELD HEADGATE.

PRIORITY DATE: 12/13/1955

POINT OF DIVERSION: T10S R28E S07 SWSESW Within Cassia County
S18 SENESW
S19 LOT 1 (SWNNWN)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	3.19 CFS 722.00 AFY

THE PERIOD OF USE FOR THE IRRIGATION DESCRIBED IN THIS APPROVAL MAY BE EXTENDED TO A BEGINNING DATE OF 3/15 AND AN ENDING DATE OF 11/15 PROVIDED THAT BENEFICIAL USE OF THE WATER CAN BE SHOWN AND OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF

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

PURPOSE AND PERIOD OF USE (continued)

WATER BEFORE 4/1 AND AFTER 10/31 IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE SRBA PARTIAL DECREE DATE.

PLACE OF USE:

Irrigation		Within Cassia County
T10S R27E S13	SWSE 11.0	SESE 39.0
S24	NENE 38.0	NWNE 24.0
	NENW 17.0	
R28E S07	NESW 16.0	LOT 3 (NWSW) 46.0
LOT 4	(SWSW) 29.0	SESW 33.0
	NWSE 2.0	SWSE 26.0
S18	NWNE 24.0	SWNE 9.0
	NENW 35.0	LOT 1 (NWNW) 38.0
LOT 2	(SWNW) 11.0	SESW 39.0
	NESW 23.0	LOT 3 (NWSW) 44.0
LOT 4	(SWSW) 36.0	SESW 3.0
S19 LOT 1	(NWNW) 18.0	
561.0 Acres Total		

USE OF RIGHT NOS. 43-2335, 43-7122A AND 43-13350 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 540.8 ACRES IN A SINGLE IRRIGATION SEASON.

USE OF RIGHT NOS. 43-2335, 43-13349, 43-13350, 43-7122A, 43-7122B, 43-10421, 43-10422 AND 43-10423 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 758.1 ACRES IN A SINGLE IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 125.5 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

THE RIGHT HOLDER SHALL ACCOMPLISH THE CHANGE AUTHORIZED BY TRANSFER 70599 BY MAY 1, 2006.

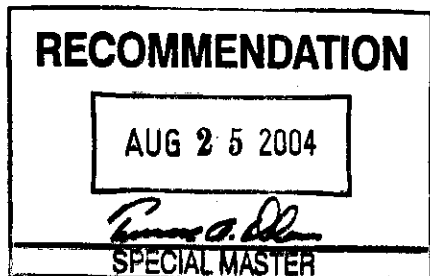
FAILURE OF THE RIGHT HOLDER TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO RESCIND APPROVAL OF THE TRANSFER.

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



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

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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): 43-02434
43-13349 43-13350

CERTIFICATE OF MAILING

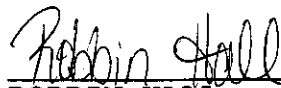
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on August 25, 2004, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CAROL J WOODBURY
CAROL WOODBURY
LYLE D WOODBURY
152 N YALE RD
DECLO, ID 83323
Phone: 208-349-5591

CERTIFICATE OF MAILING


ROBBIN HALL
Deputy Clerk

PAGE 1
08/25/04

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

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 43-02434
43-13349 43-13350

On August 25, 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 August 25, 2004.



ROBBIN HALL
Deputy Clerk