

RECEIVED

APR 18 2003

Department of Water Resources

2003 APR 17 AM 11:49

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 35-07246H, 35-07246M and
) 35-07246N
) (Stewart)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation and Other Uses, Reporting Area 5, Part III (IDWR Basin 35)* on January 29, 1999. The Director recommended claim 35-07246H to Reid G. Stewart, 3100 West, 1000 South, Aberdeen, Idaho 83210, for 2.42 cfs from groundwater to irrigate 240 acres in Bingham County from April 1 to October 31 with a priority date of September 5, 1972, based on a license. The Twin Falls and North Side Canal Companies filed *Objections* on June 2, 1999, objecting to source, quantity, other provisions and alleging the water right should not exist.

On February 11, 2000, IDWR filed a *Notice of Completed Administrative Proceeding* for changes in the point of diversion, place of use and a split of 35-07246H into 35-07246M and 35-07246N. On April 9, 2001, IDWR filed another *NCAP* in subcase 35-07246M for changes in point of diversion and place of use.

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 Company *Objections*. On April 14, 2003, the State of Idaho filed its *Notice by the State of Idaho of Withdrawal of Responses to Objections* and on April 15, 2003, in open court, it was dismissed as a party to the subcases.

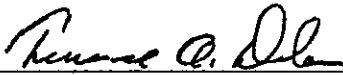
Conclusions of Law

Reid G. Stewart is entitled to partial decrees adjudicating water rights under claims 35-07246M and 35-07246N as described in the February 11, 2000 *NCAP* (35-07246N), the April 9, 2001 *NCAP* (35-07246M) and the attached *Special Master Recommendations for Partial Decrees for Water Rights 35-07246M and 35-07246N*.

Recommendation

THEREFORE, IT IS RECOMMENDED that 35-07246H **not** be adjudicated as a water right, the claim having been split into 35-07246M and 35-07246N.¹

DATED April 17, 2003.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

¹ The Presiding Judge entered an *Order of Partial Decree* on February 25, 2002, in subcase 35-07246H, but that *Order* was rescinded on August 14, 2002, because the split rights (35-07246M and 35-07246N) were still pending before the Special Master.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

2003 APR 17 AM 11:50

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 35-07246M

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

NAME AND ADDRESS: REID G STEWART
3100 W 1000 S
ABERDEEN, ID 83210

SOURCE: GROUNDWATER

QUANTITY: 2.07 CFS
820.00 AFY

PRIORITY DATE: 09/05/1972

POINT OF DIVERSION: T04S R31E S16 SENESW Within Bingham County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	2.07 CFS 820.00 AFY

PLACE OF USE:	Irrigation	Within Bingham County
	T04S R31E S16	
	NESW 25.7	NWSW 25.7
	SWSW 25.7	SESW 25.7
	NESE 25.6	NWSE 25.6
	SWSE 25.5	SESE 25.5
	205.0 Acres Total	

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.

RECOMMENDATION

APR 17 2003

Roger A. Burdick
SPECIAL MASTER

Roger Burdick
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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 35-07246N

2003 APR 17 AM 11:50

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: REID G STEWART
3100 W 1000 S
ABERDEEN, ID 83210

SOURCE: GROUNDWATER

QUANTITY: 0.35 CFS
140.00 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 4.86 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 1052 AF. COMBINED RIGHT NOS.:
35-02312B, 35-02540, 35-02821B, 35-07246L

PRIORITY DATE: 09/05/1972

POINT OF DIVERSION: T04S R31E S30 NWSW Within Bingham County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-01 TO 10-31 0.35 CFS
140.00 AFY

PLACE OF USE: Irrigation Within Bingham County
T04S R30E S25 SESE 30.0
R31E S30 NESW 32.0 NWSW 35.0
SWSW 35.0 SESW 34.0
NWSE 32.0 SWSE 32.0
S31 NWNE 30.0 SWNE 30.0
NENW 30.0 SENW 25.0
345.0 Acres Total

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 35 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

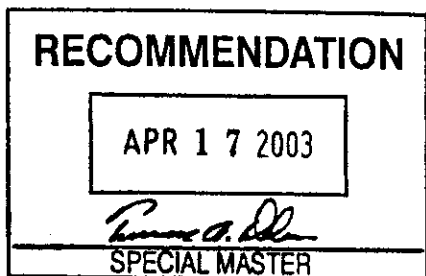
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 263 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-02312B, 35-02540,
35-02821B, 35-07246L

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.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2003 APR 17 AM 11: 50

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)
_____)

CERTIFICATE OF MAILING

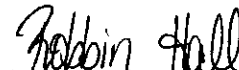
Water Right(s): 35-07246H
35-07246M 35-07246N

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 17, 2003, with sufficient first-class postage prepaid to the following:

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

REID G STEWART
3100 W 1000 S
ABERDEEN, ID 83210
Phone: 208-397-4572



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
04/17/03

2003 APR 17 AM 11: 50

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

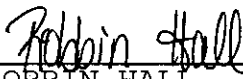
Water Right(s): 35-07246H
35-07246M 35-07246N

On April 17, 2003, Special Master HON. ROGER S. BURDICK 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 17, 2003.



ROBBIN HALL
Deputy Clerk