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JAN 22 2003

Department of Water Resources

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1-SRBA
TWIN FALLS CO., IDAHO
FILED *RDA*

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 43-00091

) (Hall)

Case No. 39576

)

) SPECIAL MASTER REPORT

) AND RECOMMENDATION

Findings of Fact

On June 28, 2002, former-Presiding Judge Roger Burdick entered a *Partial Decree* in subcase 43-00091 adjudicating to Leonard and Pearl Hall a water right for .4 cfs from Cassia Creek to irrigate 36 acres in Cassia County from March 15 to November 15 with a priority date of April 1, 1894. On November 21, 2002, Bud Tracy, the Halls' son-in-law, wrote to the SRBA Court asking to amend 43-00091 "so that the point of use can be changed from 36 acres to 40 acres." The same date, Mr. Tracy filed a *Motion to File Amended Notice of Claim* stating the amendment was required because the water right "was not fully claimed" and the *Motion* was filed based on a settlement conference with IDWR held on November 14, 2002.

On November 22, 2002, Presiding Judge Roger S. Burdick entered an *Order of Reference to Special Master Terrence A. Dolan* "to determine the intended purpose of the correspondence and the legal significance of the correspondence."

A hearing on the matter was held by telephone on January 16, 2003. Bud Tracy spoke by telephone for his mother-in-law, Pearl A.Z. Hall (Leonard E. Hall is deceased) and Candice M. McHugh appeared for IDWR. Mr. Tracy said that he did not know why his parents-in-law failed to claim the entire 40 acres they irrigate under 43-00091 and 43-00092, but an IDWR agent recommended the entire 40 acres be claimed now to accurately reflect actual and historical use of

the water. Mr. Tracy personally knew the 40 acres have been irrigated as far back as 1968 when he first viewed the property.¹

Conclusions of Law

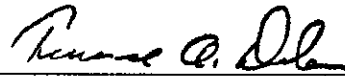
Mr. Tracy's letter to the Court asking to amend 43-00091, along with the *Motion to File Amended Notice of Claim*, were clearly intended to constitute a motion to alter or amend the *Partial Decree* and Pearl A.Z. Hall has stated good and sufficient reason for relief from the *Partial Decree*.

Recommendation

THEREFORE, IT IS RECOMMENDED that:

1. The *Partial Decree* in subcase 43-00091 be **set aside**, and
2. Subcase 43-00091 be referred back to the Special Master for further proceedings on Ms. Hall's pending *Motions to File Amended Notices of Claims* in subcases 43-00091 and 43-00092.

DATED January 17, 2003.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

¹ Mr. Tracy also said he filed a *Motion to File Amended Notice of Claim* in 43-00092 on behalf of Ms. Hall for irrigation of 40 acres instead of the recommended 36 acres. That *Motion* was heard the same date as the pending matter and the Special Master expects to deal with both subcases together if the *Partial Decree* in 43-00091 is set aside and the subcase is referred back.

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FILED
CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO

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): 43-00091

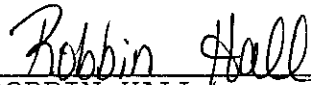
CERTIFICATE OF MAILING

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

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

(POA) FOR PEARL BUD TRACY
HALL
PO BOX 654
MALTA, ID 83342
Phone: 208-645-2211

LEONARD E HALL
PEARL HALL
PO BOX 652
MALTA, ID 83342
Phone: 208-645-2531


ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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FILED
CLERK OF DISTRICT COURT
FIFTH JUDICIAL DISTRICT
STATE OF IDAHO

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): 43-00091

On January 17, 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 January 17, 2003.



ROBBIN HALL
Deputy Clerk