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Department of Water Resources

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DISTRICT COURT-SRBA
JUL 29 2002
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

)

Subcase 43-02556

)

(Spencer Brothers)

Case No. 39576

)

)

SPECIAL MASTER REPORT

Findings of Fact

Harold and Lorryne Ward filed a *Notice of Claim to a Water Right* on May 25, 1989, claiming 2.5 cfs from groundwater to irrigate 365.5 acres in Cassia County from April 1 to November 1 with a priority date of November 2, 1962, 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 to the Spencer Brothers, HC 72, Box 2418, Malta, Idaho 83342, for irrigation of 185 acres within a 365.1 acre place of use from April 1 to October 31.

The United of America, Department of Interior, Bureau of Land Management filed an *Objection* on February 8, 2002, objecting to place of use. However, on July 18, 2002, Spencer Brothers, the United States and IDWR filed a *Standard Form 5* agreeing to irrigation of 318.2 acres.

Conclusions of Law

Spencer Brothers are entitled to a partial decree adjudicating a water right under claim 43-02556 as described in the *Standard Form 5* and the attached *Special Master Recommendation for Water Right 43-02556*.

DATED July 29, 2002.

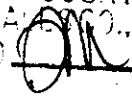


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 43-02556

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DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
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NAME AND ADDRESS: SPENCER BROTHERS
HC 72 BOX 2418
MALTA, ID 83342

SOURCE: GROUND WATER

QUANTITY: 2.50 CFS
367.50 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 6.36 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 1272 AF. COMBINED RIGHT
NOS.: 43-4089, 43-4090, 43-7130.

THIS RIGHT WHEN COMBINED WITH RIGHT NOS. 43-47A, 43-327,
43-4089, 43-4090, 43-4150 AND 43-7130 SHALL PROVIDE NO MORE THAN
.02 CFS PER ACRE.

USE OF THIS RIGHT WITH RIGHT NO. 43-4090 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.59 CFS.

PRIORITY DATE: 11/02/1962

POINT OF DIVERSION: T16S R24E S12 NENENE Within Cassia County
SWSWNE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	2.50 CFS 367.50 AFY

PLACE OF USE:	Irrigation	Within Cassia County
	T16S R24E S12	NENE 18.0 SENE 40.0 SWNE 32.0
	R25E S06 LOT 4	(SWSW) 1.2 LOT 3 (SESW) 29.0
	LOT 2	(SWSE) 29.0 LOT 1 (SESE) 13.0
	S07	NWNE 40.0 NENW 40.0
	LOT 1	(NWNW) 38.0 LOT 2 (SWNW) 38.0
	318.2 Acres Total	

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 185 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 318.2 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-47A, 43-327, 43-4089,
43-4090, 43-4150, 43-7130.

USE OF THIS RIGHT WITH RIGHT NO. 43-4090 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 185 ACRES IN A SINGLE
IRRIGATION SEASON.

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

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF
WATER DISTRICT 43B.

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

JUL 29 2002

Thomas A. Burdick
SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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TWIN FALLS CO, 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

)
)
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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 43-02556

On July 29, 2002, 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 July 29, 2002.


LETTIE MESSICK
Deputy Clerk

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TWIN FALLS, IDAHO
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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)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 43-02556

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 July 29, 2002, 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
Phone: 208-387-0835

SPENCER BROTHERS
HC 72 BOX 2418
MALTA, ID 83342
Phone: 435-827-5573

CERTIFICATE OF MAILING


LETTIE MESSICK
Deputy Clerk

PAGE 1
07/29/02