

RECEIVED

JUN 18 2000

Department of Water Resources

2002 JUN 17 AM 10:38

DISTRICT COURT-SRBA
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) Subcase 43-10813
) (Holmgren Land & Livestock)
Case No. 39576)
) AMENDED
) SPECIAL MASTER REPORT

Findings of Fact

Holmgren Land & Livestock, P.O. Box 78, Bear River, Utah 84301, filed a *Notice of Claim to a Water Right* on June 19, 1989, claiming 11.1 cfs from Clear Creek for irrigation of 602 acres in Cassia County from April 1 to October 31 with a priority date of June 1, 1881, based on a decree. The Director of the Idaho Department of Water Resources filed his *Preliminary Director's Report for Water Rights Diverted from Clear Creek, IDWR Basin 43 - Cassia County* on February 27, 1998. The Director recommended claim 43-10813 as filed.

Steven Holmgren filed an *Objection* on April 13, 1998, objecting to point of diversion. Harold, Beth and Ray Jones were granted leave to file a *Late Objection* on June 18, 1999, objecting to point of diversion. The same date, the United States of America, Department of Interior, Bureau of Land Management was granted leave to file a *Late Objection* to place of use. Also on the same date, Holmgren Land & Livestock was granted leave to file an *Amended Notice of Claim* changing the legal description of the point of diversion.

The Director filed his *Amended Preliminary Director's Report* for subcase 43-10813, *et al.*, on July 19, 1999, recommending the claim as filed, but with the amended point of diversion. The Jones' did not renew their earlier objection to point of diversion. On April 10, 2000, the United States and Holmgren Land & Livestock filed a *Stipulation to Resolve Objection and Joint Motion to Dismiss the United States as a Party* agreeing to eliminate 1 acre of federal land from the place of use. On May 11, 2000, the Special Master entered an *Order Granting Motion to Dismiss United States as a Party* based on the *Stipulation*.

The Director 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 originally filed without regard to the earlier *Stipulation*. So, the United States filed another *Objection* on February 8, 2002, objecting to place of use (the same 1 acre of federal land).

A *Special Master Report and Recommendation* was entered on June 10, 2002. However, the *Recommendation* omitted two points of diversion.

Conclusions of Law

Holmgren Land & Livestock and the United States are bound by the terms of the *Stipulation*, dated April 10, 2000. Therefore, Holmgren Land & Livestock is entitled to a partial decree adjudicating a water right under claim 43-10813 as described in the *Stipulation* and the attached *Amended Special Master Recommendation for Partial Decree for Water Right 43-10813*.

DATED June 17, 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 43-10813

2002 JUN 17 AM 10:38

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED 

NAME AND ADDRESS: HOLMGREN LAND & LIVESTOCK
PO BOX 78
BEAR RIVER, UT 84301

SOURCE: CLEAR CREEK TRIBUTARY: SINKS

AMENDED

QUANTITY: 11.10 CFS

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED ABOVE AT THE POINT OF MEASUREMENT IN T16S, R27E, S27.

PRIORITY DATE: 06/01/1981

POINT OF DIVERSION: T16S R27E S03 NWSWSW (Rediversion) Within Cassia County
S10 NWNENW (Rediversion)
S15 NWSESE (Rediversion)
S27 SESENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	11.10 CFS

PLACE OF USE:	Irrigation		Within Cassia County
	T15S R27E S29	NESE 29.0	NWSE 8.0
		SESE 32.0	
	S33	NENW 28.0	NWNW 40.0
		SWNW 34.0	SENE 34.0
		NESW 36.0	SESW 39.0
		SWSE 3.0	
	T16S R27E S04 LOT 2	(NWNE) 21.0	LOT 2 (SWNE) 39.0
		(SENE) 19.0	LOT 2 (NESE) 35.0
		(NWSE) 33.0	
	S10	SESW 5.0	SWSE 5.0
	S15	NENE 38.0	NWNE 40.0
		SWNE 40.0	SENE 40.0
		NENW 3.0	
	601.0 Acres Total		

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

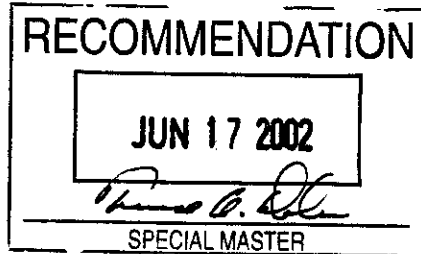
THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER
DISTRICT 43-B.

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.

AMENDED



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

JUN 18 2002

Department of Water Resources

2002 JUN 17 AM 10:38

DISTRICT COURT-SRBA
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)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

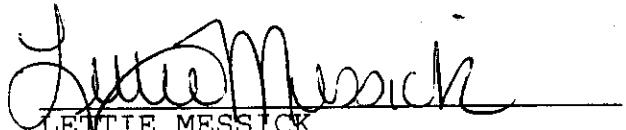
Water Right(s): 43-10813

On June 17, 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 June 17, 2002.


LETTIE MESSICK
Deputy Clerk

RECEIVED

JUN 18 2002

Department of Water Resources

2002 JUN 17 AM 10:38

DISTRICT COURT-SRBA
TWIN FALLS, 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)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 43-10813

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 17, 2002, with sufficient first-class postage prepaid to the following:

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

HAROLD AND BETH JONES

Represented by:
PATRICK D. BROWN
HUTCHINSON & BROWN, LLP
P. O. BOX 207
TWIN FALLS, ID 83303-0207
Phone: 208-733-9300

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

CERTIFICATE OF MAILING

PAGE 1
06/17/02

HOLMGREN LAND & LIVESTOCK
PO BOX 78
BEAR RIVER, UT 84301

STEVEN HOLMGREN
PO BOX 78
BEAR RIVER, UT 84321
Phone: 435-279-8267


LETTIE MESSICK
Deputy Clerk