

2002 MAY -1 PM 3: 35

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	)	Subcases 35-07616, 35-07616A
	)	and 35-07616B (Duffin)
Case No. 39576	)	
	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

Findings of Fact

Mark R. Duffin, 2893 S. Swallowtail, Boise, Idaho 83706, filed a *Notice of Claim to a Water Right* on March 7, 1990, claiming 1.76 cfs from groundwater to irrigate 95 acres from April 1 to October 31 with a priority date of June 7, 1976, based on a license. The Director of IDWR filed his *Director's Report for Irrigation and Other Uses, Reporting Area 5, Part III, Volume Two (IDWR Basin 35)* on January 29, 1999. The Director recommended the claim as filed but for irrigation of 92 acres.

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. The same date, the United States of America, Department of Interior, Bureau of Land Management, filed an *Objection* to priority date, point of diversion and place of use.

On November 8, 1999, the Special Master entered an ***Order Dismissing United States Objection and Granting Joint Motion to Dismiss United States as a Party*** based on a *Stipulation* signed by Mr. Duffin and the United States splitting 35-07616 into 35-07616A (Duffin) and 35-07616B (United States). IDWR filed its *Notice of Concurrence* on January 13, 2000, agreeing with the *Stipulation*.

IDWR filed a *Notice of Completed Administrative Proceeding* on June 18, 2001, in 35-07616B for changes in the point of diversion, place of use and ownership (from the United States to Duffin). Finally, 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*.

Conclusions of Law

Mark R. Duffin is entitled to partial decrees adjudicating water rights under claims 35-07616A and 35-07616B as recommended by IDWR and as described in the attached ***Special Master Recommendations for Partial Decrees for Water Rights 35-07616A and 35-07616B***.

Recommendation

THEREFORE, IT IS RECOMMENDED that 35-07616 **not** be adjudicated as a water right the claim having been split into 35-07616A and 35-07616B.

DATED May 1, 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)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 35-07616A

2002 MAY -1 PM 3:35

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

NAME AND ADDRESS: MARK R DUFFIN
2893 SOUTH SWALLOWTAIL
BOISE, ID 83706

SOURCE: GROUNDWATER

QUANTITY: 1.57 CFS
328.00 AFY

PRIORITY DATE: 06/07/1976

POINT OF DIVERSION: T09S R28E S14 NESWSW Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.57 CFS 328.00 AFY

PLACE OF USE:	Irrigation		Within Power County
	T09S R28E S14	NESW 15.0 SWSW 25.0	NWSW 16.0 SESW 26.0
	82.0 Acres Total		

THE USE OF WATER WITHIN T.09S., R.28E., S14, NESW AND NWSW IS
LIMITED TO THE S 1/2 OF THOSE PLACES OF USE

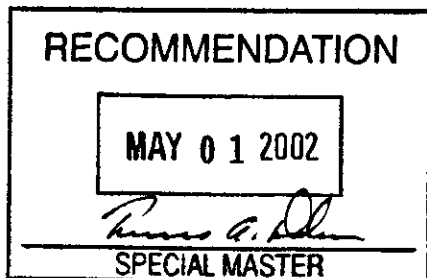
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



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 35-07616B

2002 MAY -1 PM 3:35

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

NAME AND ADDRESS: MARK R DUFFIN
PO BOX 128
AMERICAN FALLS, ID 83211

SOURCE: GROUNDWATER

QUANTITY: 0.19 CFS
39.20 AFY

PRIORITY DATE: 06/07/1976

POINT OF DIVERSION: T09S R28E S15 SWSESE Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.19 CFS
			39.20 AFY

PLACE OF USE: Irrigation Within Power County
T09S R28E S14 SWSW 9.8
9.8 Acres Total

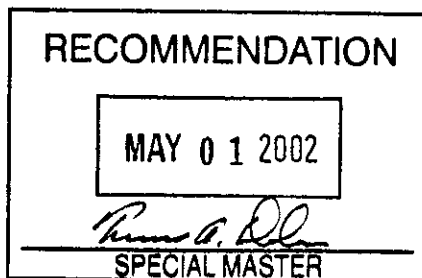
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
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ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
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Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



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DISTRICT COURT-SRBA
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)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 35-07616

On May 01, 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 May 01, 2002.


LETTIE MESSICK
Deputy Clerk

2002 MAY -1 PM 3:35

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *[Signature]*

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): 35-07616

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 May 01, 2002, with sufficient first-class postage prepaid to the following:

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

MARK R DUFFIN
Represented by:
JEFFREY C. FEREDAY
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

CERTIFICATE OF MAILING

[Signature: Lettie Messick] PAGE 1
LETTIE MESSICK 05/01/02
Deputy Clerk

2002 MAY -1 PM 3: 35

DISTRICT COURT-SRBA
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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 35-07616A

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DATED May 01, 2002.


LETTIE MESSICK
Deputy Clerk

2002 MAY -1 PM 3:35

DISTRICT COURT-SRBA
TWIN FALLS CO IDAHO
FILED *[Signature]*

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): 35-07616A

CERTIFICATE OF MAILING

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

MARK R DUFFIN
2893 SOUTH SWALLOWTAIL
BOISE, ID 83706

[Signature: Lettie Messick]
LETTIE MESSICK
Deputy Clerk

CERTIFICATE OF MAILING

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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

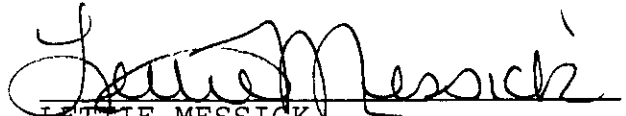
Water Right(s): 35-07616B

On May 01, 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.

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DATED May 01, 2002.


LETTIE MESSICK
Deputy Clerk

2002 MAY -1 PM 3:36

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *DM*

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): 35-07616B

CERTIFICATE OF MAILING

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STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

MARK R DUFFIN
PO BOX 128
AMERICAN FALLS, ID 83211

Lettie Messick
LETTIE MESSICK
Deputy Clerk

CERTIFICATE OF MAILING

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05/01/02