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SEP 12 2002

Department of Water Resources

2002 SEP 11 AM 10:28

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

) **Subcase 35-07605**
) **(S&S Partnership)**
)
) **AMENDED SPECIAL MASTER REPORT**
) **AND RECOMMENDATION**

Findings of Fact

On November 29, 2001, the Special Master entered a *Special Master Report and Recommendation* in subcase 35-00054, *et al.*, recommending adjudication of 1,720 claims objected to by the Twin Falls and North Side Canal Companies. The above claim was among those claims.

Based on that *Report and Recommendation*, on February 4, 2002, Presiding Judge Roger S. Burdick entered an *Order of Partial Decree* adjudicating the claim to S&S Partnership for 4 cfs from groundwater to irrigate 200 acres within a 591 acre place of use in Jefferson County from April 1 to November 1 with a priority date of April 28, 1976.

On August 9, 2002, IDWR contacted the Court to advise that the *Partial Decree* contains errors in the place of use. The *Special Master Report and Recommendation* and the *Partial Decree* failed to incorporate numerous changes in the place of use contained in a *Stipulation to Resolve Objection* filed by S&S Partnership and objector the United States / BLM.

On August 16, 2002, the Special Master wrote to S&S Partnership and the United States about the errors and proposed that the Special Master file an amended report and recommendation that the Presiding Judge enter an amended partial decree *nunc pro tunc* to correct the clerical errors under I.R.C.P. Rule 60(a). The parties were given a deadline of September 6, 2002, to respond if they disagreed with the proposed solution. No one responded.

Conclusions of Law

S&S Partnership has shown good cause to have the *Partial Decree* set aside and an amended partial decree entered *nunc pro tunc* to correct clerical errors in the place of use.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decree* be set aside and an amended partial decree be entered *nunc pro tunc* as described in the attached *Amended Special Master Recommendation for Partial Decree for Water Right 35-07605*.

DATED September 11, 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

AMENDED

In Re SRBA

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Case No. 39576

Water Right 35-07605

2002 SEP 11 AM 10:28
DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

NAME AND ADDRESS: S & S PARTNERSHIP
1603 E 1500 N
TERRETON, ID 83450

SOURCE: GROUNDWATER

QUANTITY: 4.00 CFS

USE OF THIS RIGHT WITH RIGHT NO. 35-07586 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 6.41 CFS AND IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2364 AF.

PRIORITY DATE: 04/28/1976

POINT OF DIVERSION: T04N R35E S19 NESW Within Jefferson County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	4.00 CFS

PLACE OF USE:	Irrigation	Within Jefferson County
T04N R34E S24	SENE 40.0	NESE 40.0
	SESE 40.0	
R35E S19	SWNE 40.0	LOT 2 (SWNW) 40.0
	SENE 40.0	NESW 40.0
	NWSW 40.0	SWSW 40.0
	SESW 38.0	NWSE 34.0
S30	NENW 39.0	NWNW 40.0
	SWNW 40.0	SENE 40.0
	591.0 Acres Total	

USE OF THIS RIGHT WITH RIGHT NO. 35-07586 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 591 ACRES IN A SINGLE
IRRIGATION SEASON.

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

SEP 11 2002

[Signature]

SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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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

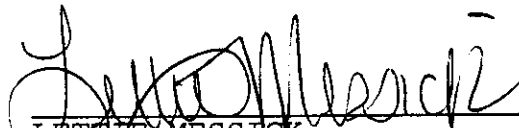
Water Right(s): 35-07605

On September 11, 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 September 11, 2002.


LEPTIE MESSICK
Deputy Clerk

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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 35-07605

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 September 11, 2002, with sufficient first-class postage prepaid to the following:

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

ABERDEEN-AMERICAN FALL GROUND
BINGHAM GROUND WATER DISTRICT
UPPER VALLEY IRRIGATORS ASSOC.

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

S & S PARTNERSHIP
1603 E 1500 N
TERRETON, ID 83450
Phone: 208-663-4545

CERTIFICATE OF MAILING


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09/11/02
LETTIE MESSICK
Deputy Clerk