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MAR 16 2005

Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2005 MAR 15 AM 10 52

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 47-10704
Case No. 39576) (Loomis)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

On May 21, 1999, former Presiding Judge Barry Wood entered an uncontested *Partial Decree* awarding a water right to Chester and Mary Noh for .04 cfs of groundwater for year-round domestic use in Twin Falls County with a priority date of March 1, 1977. Kirk and April Loomis, 3669 North, 1500 East, Buhl, Idaho, 83316, wrote to the SRBA Court on January 6, 2005, stating they wanted the Court to set aside the *Partial Decree* because, as the new owners of the property, they learned that the legal description of the place of use was wrong.

The matter was referred to the Special Master on January 6, 2005, with directions to determine the intended purpose and legal significance of the correspondence and to determine whether the correspondence complies with *SRBA Administrative Order 1* and the Idaho Rules of Civil Procedure.

A hearing on the Loomis' motion to set aside the *Partial Decree* was held by telephone on February 24, 2005. April Loomis appeared *pro se* and Roxanne Brown represented IDWR. Ms. Brown agreed there was an error in the legal description of the point of diversion and place of use. The Loomises and IDWR filed a *Standard Form 5* on March 8, 2005, correcting the errors.

Conclusions of Law

Kirk and April Loomis have shown good cause under Rule 60(a), Idaho Rules of Civil Procedure, to have the *Partial Decree* set aside and amended to correct clerical mistakes in the legal description of the point of diversion and place of use.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decree* be set aside and an amended partial decree be entered as described in the *SF-5* and the attached *Special Master Recommendation for Amended Partial Decree for Water Right 47-10704*.

DATED March 15, 2005.



TERRENCE A. DOLAN

Special Master

Snake River Basin Adjudication

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
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PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 47-10704

2005 MAR 15 AM 10 52

QUANTITY: 0.04 CFS

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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

SRBA PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 47-10704 File Number: 00757

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

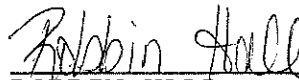
Water Right(s): 47-10704

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 March 15, 2005, with sufficient first-class postage prepaid to the following:

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

APRIL LOOMIS
KIRK LOOMIS
3669 N 1500 E
BUHL, ID 83316



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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In Re SRBA)
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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

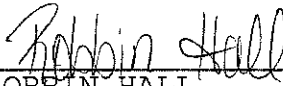
Water Right(s): 47-10704

On March 15, 2005, 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 March 15, 2005.



ROBBIN HALL
Deputy Clerk