

2005 MAR 25 PM 12 18

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     | ) | SPECIAL MASTER'S REPORT                |
|                | ) |                                        |
|                | ) | FINDINGS OF FACT AND                   |
| Case No. 39576 | ) | CONCLUSIONS OF LAW;                    |
|                | ) | REGARDING MOTION TO SET ASIDE          |
|                | ) | PARTIAL DECREE                         |
|                | ) |                                        |
| _____          | ) | FOR WATER RIGHTS 65-10581 and 65-10582 |

I. FINDINGS OF FACT

A notice of claim was filed for these water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of these water rights. *Partial Decrees* were issued for these water rights on October 30, 1998.

On February 02, 2005, the SRBA District Court received correspondence from Mr. James Opdahl, regarding an incorrect legal description for the place of use and point of diversion in the *Partial Decrees*. The correspondence also states that James and Linda Opdahl are the current owners of the real property and water right. A copy of the *Notice of Change of Ownership of a Water Right*, together with a copy of the deed transferring ownership, which were submitted by the Opdahls to IDWR was provided to the Court from IDWR. A telephonic hearing was held on March 22, 2005. James Opdahl appeared *pro se* and Susan Hamlin participated on behalf of the Idaho Department of Water Resources.

Based upon the correspondence from Mr. Opdahl, and the comments of the participants on the record at the hearing, this Special Master finds that the place of use and point of diversion listed in each of the *Partial Decrees* is in error, that this error resulted from a clerical error made in the claims filing process, and that the correct legal description of the place of use and point of

diversion is T09N, R05W, S22, SWNE. This Special Master further finds that James and Linda Opdahl are the current owners of the water rights, and pursuant to I.R.C.P. 25, they are hereby substituted as parties.

## II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, and pursuant to Idaho Rule of Civil Procedure 60(a), IT IS RECOMMENDED that the partial decrees for water rights 65-10581 and 65-10582 be amended as set forth in the attached *Recommendation for Amended Partial Decree*.

DATED: March 25, 2005.

  
\_\_\_\_\_  
THEODORE R. BOOTH  
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

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

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In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 65-10581

NAME AND ADDRESS: JAMES AND LINDA OPDAHL  
P O BOX 744  
PAYETTE, ID 83661-0744

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS  
1.20 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
GALLONS PER DAY.

PRIORITY DATE: 06/01/1969

POINT OF DIVERSION: T09N R05W S22 SWNE Within Payette County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE  | PERIOD OF USE  | QUANTITY |
|-------------------------------|-----------------|----------------|----------|
|                               | Domestic 1 HOME | 01-01 TO 12-31 | 0.04 CFS |
|                               |                 |                | 1.20 AFY |

PLACE OF USE: Domestic Within Payette County  
T09N R05W S22 SWNE

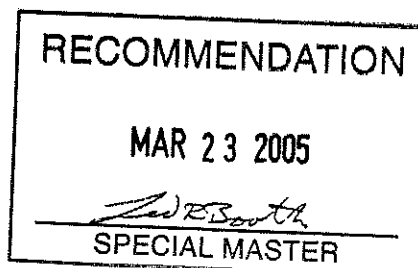
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
DETERMINATION OF HISTORICAL BENEFICIAL USE.  
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



DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

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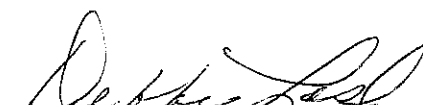
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CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT FINDINGS OF FACT AND CONCLUSIONS OF LAW; REGARDING MOTION TO SET ASIDE PARTIAL was mailed on March 25, 2005, with sufficient first-class postage to the following:

JAMES AND LINDA OPDAHL  
JAMES H OPDAHL  
P O BOX 744  
PAYETTE, ID 83661-0744

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

  
Deputy Clerk