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Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____
2005 OCT 4 PM 4 04

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 45-293
) (Smyer)
Case No. 39576)
) SPECIAL MASTER REPORT

Findings of Fact

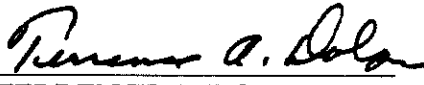
Bennie Smyer, P.O. Box 128, Albion, Idaho, 83311, filed a *Notice of Claim to a Water Right* on May 10, 1989, claiming .5 cfs from Howell Creek to irrigate 43 acres in Cassia County from March 15 to November 15 with a priority date of March 1, 1882, based on a decree. The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation and Other, Reporting Area 10, IDWR Basin 45* on September 7, 2004. The Director recommended the claim as filed, but for irrigation from April 1 to October 31.

Earl Warthen filed an *Objection* on January 3, 2005, alleging the water right should not exist. On September 27, 2005, Mr. Warthen, the claimant and IDWR filed a *Stipulation to Dismiss Objection*.

Conclusions of Law

Bennie Smyer is entitled to a partial decree adjudicating a water right under claim 45-293 as recommended by IDWR and as described in the attached *Special Master Recommendation for Partial Decree for Water Right 45-293*.

DATED October 4, 2005


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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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): 45-00293

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 October 04, 2005, with sufficient first-class postage prepaid to the following:

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

BENNIE SMYER

Represented by:

MICHAEL P TRIBE

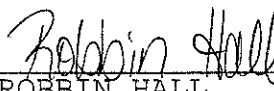
MICHAEL P. TRIBE

615 H STREET

PO BOX 396

RUPERT, ID 83350-0396

Phone: 208-436-4717



ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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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

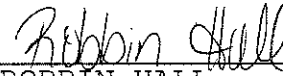
Water Right(s): 45-00293

On October 04, 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 October 04, 2005.



ROBBIN HALL
Deputy Clerk