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
Fifth Judicial District
County of Twin Falls - State of Idaho
MAR 22 2006
By _____ Clerk
_____ Deputy Clerk

In Re SRBA)
)
Case No. 39576)
_____)

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

Water Right 45-00077N

NAME AND ADDRESS: DEANN F FEHLMAN
ROBERT G FEHLMAN
PO BOX 251
OAKLEY, ID 83346

SOURCE: BIRCH CREEK TRIBUTARY: GOOSE CREEK

QUANTITY: 0.016 CFS

PRIORITY DATE: 03/01/1875

POINT OF DIVERSION: T14S R22E S14 SESESE Within Cassia County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	02-28 TO 11-15	0.016 CFS

PLACE OF USE: Irrigation Within Cassia County
T13S R22E S33 SESW 2.0
2.0 Acres Total

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 45-77N, 45-78A, & 45-79A.

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

THE OPERATION AND USE OF THIS WATER RIGHT IS ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE WATER ROTATION AGREEMENT ("AGREEMENT") ENTERED INTO BY CERTAIN USERS ON 10 SEPTEMBER 1992. THE AGREEMENT WAS FILED AND RECORDED IN THE OFFICE OF THE CASSIA COUNTY RECORDER ON 27 MAY, 1993 AS INSTRUMENT NO.: 224804; THE PROVISIONS OF SUCH AGREEMENT TO APPLY FULLY TO 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
MAR 22 2006
SPECIAL MASTER

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

SCANNED
MAR 24 2006

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 22 2006

By _____ Clerk
_____ Deputy Clerk

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 45-77AA, *et al.***
	)	**[see list of 83 subcases attached]**
Case No. 39576	)	**(Birch Creek Water Users Association)**
	)	
_____	)	**SPECIAL MASTER REPORT**

Findings of Fact

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 above 83 claims to members of the Birch Creek Water Users Association for various amounts of water from Birch Creek for irrigation and domestic uses from March 15 to November 15 with priority dates of March 1, 1875, April 1, 1881, May 4, 1881, April 15, 1882, December 5, 1882, October 11, 1903, and February 21, 1925, based on decrees.

Tim Payton, president of the Birch Creek Water Users Association, filed *Objections* on December 30, 2004, objecting to point of diversion and period of year.[1] On March 15 and 17, 2006, Tim Payton, with IDWR's concurrence, filed *Standard Forms 5* with the following language added:

> The operation and use of this water right is also subject to the terms and conditions of the Water Rotation Agreement ("Agreement") entered into by certain users on 10 September, 1992. The Agreement was filed and recorded in the office of the Cassia County Recorder on 27 May, 1993 as Instrument No.: 224804; the provisions of such Agreement to apply fully to this water right.

[1] Two of the above 83 subcases were identified by IDWR as uncontested overlapping claims (45-79P and 45-79Q).

SCANNED
MAR 24 2006

Conclusions of Law

The named members of the Birch Creek Water Users Association are entitled to partial decrees adjudicating water rights as described in the *SF-5s* and the attached ***Special Master Recommendations for Partial Decrees for Water Rights***.

DATED March 22, 2006.

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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MAR 24 2006

EXHIBIT A

Subcase Nos:

45-00077AA	45-00082K
45-00077L	45-00086D
45-00077M	45-00086E
45-00077N	45-00086F
45-00077P	45-00087E
45-00077Q	45-00088
45-00077R	45-00092A
45-00077S	45-00156
45-00077T	45-10006
45-00077U	45-10007
45-00077X	45-10008
45-00077Y	45-10249
45-00077Z	45-10410
45-00078A	45-10598
45-00078G	45-10630
45-00078H	45-10688
45-00078J	45-10689
45-00078K	45-10690
45-00078L	45-10754
45-00078M	45-10765
45-00078Q	45-10766
45-00078R	45-10767
45-00078T	45-10788
45-00078U	45-10891
45-00079A	45-11004
45-00079J	45-11104
45-00079K	45-11149
45-00079L	45-11152
45-00079M	45-11495
45-00079N	45-13639
45-00079P	45-13754
45-00079Q	45-13755
45-00079R	45-13756
45-00079S	
45-00079T	
45-00079U	
45-00080A	
45-00080G	
45-00080H	
45-00080J	
45-00080K	
45-00081A	
45-00081G	
45-00081H	
45-00081J	
45-00081K	
45-00082A	
45-00082G	
45-00082H	
45-00082J	

(Subcase list: BIRCHCREEK)
3/21/06

SCANNED
MAR 24 2006

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION AND NOTICE OF ISSUANCE was mailed on March 22, 2006, with sufficient first-class postage to the following:

TIM PAYTON, PRESIDENT
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Represented by:
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SCANNED
MAR 14 2006

Robbin Hall
Deputy Clerk

SRBA
District Court
County of Twin Falls - State of Idaho
MAR 22 2006
Clerk
Deputy Clerk

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	NOTICE OF ISSUANCE OF SPECIAL MASTER'S RECOMMENDATION
Case No. 39576	Water Right(s): 45-00077AA (SEE ATTACHED EXHIBIT A)

On March 22, 2006, 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 22, 2006.

Robbin Hall
ROBBIN HALL
Deputy Clerk

SCANNED MAR 24 2006

Exhibit A

Subcase Nos:

45-00077AA	45-00082K
45-00077L	45-00086D
45-00077M	45-00086E
45-00077N	45-00086F
45-00077P	45-00087E
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45-00078Q	45-10766
45-00078R	45-10767
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