

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)
_____)

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

Water Right 45-00077S

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

MAR 22 2006

By _____
Clerk
Deputy Clerk

NAME AND ADDRESS: JOSEPH R WHITELEY
MARY J WHITELEY
240 N CENTER
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 SWSE 1.0
1.0 Acres Total

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 1 ACRE IN A SINGLE IRRIGATION SEASON. COMBINED
RIGHT NOS.: 45-77S, 45-78K, & 45-79L.

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

[Signature]
SPECIAL MASTER

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

SCANNED
MAR 24 2006

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).

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

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

Represented by:
TRAVIS L THOMPSON
113 MAIN AVE W, STE 303
TWIN FALLS, ID 83301-6167
Phone: 208-733-0700

OAKLEY CANAL COMPANY

Represented by:
WILLIAM A. PARSONS
137 W 13TH ST
PO BOX 910
BURLEY, ID 83318
Phone: 208-678-8382

GOLDEN R BURCH

BOX 202
OAKLEY, ID 83346
Phone: 208-862-3249

DELROY MITTON

SIDNEE MITTON
BOX 231
OAKLEY, ID 83346
Phone: 208-862-3645

GLORIA BROWN

LAVERDA V GEE
P O BOX 74
OAKLEY, ID 83346
Phone: 208-862-3312

CAMILLE MUHLESTEIN

CLINT MUHLESTEIN
PO BOX 12
OAKLEY, ID 83346
Phone: 208-862-3670

CHAD W HUNTER

UTAUNA K HALE
PO BOX 129
OAKLEY, ID 83346

MERIEL B PETERSON

PO BOX 181
OAKLEY, ID 83346
Phone: 208-862-3303

SPECIAL MASTER REPORT AND RECOMMENDATION

JAMES C MC BRIDE

PO BOX 203
OAKLEY, ID 83346
Phone: 208-862-3835

KAREN G MYERS

TERRANCE R MYERS
PO BOX 216
OAKLEY, ID 83346
Phone: 208-862-3218

WINSLOW B WHITELEY

PO BOX 218
OAKLEY, ID 83346
Phone: 208-862-3229

ALETA STRINGHAM

LONNIE STRINGHAM
PO BOX 235
OAKLEY, ID 83346
Phone: 208-862-9202

GARY MULLARD

PO BOX 249
OAKLEY, ID 83346
Phone: 208-862-3353

DEANN F FEHLMAN

ROBERT G FEHLMAN
PO BOX 251
OAKLEY, ID 83346
Phone: 208-826-2693

JON ROUNDY

SANDRA O ROUNDY
PO BOX 272
OAKLEY, ID 83346
Phone: 208-862-3372

TIM MC KNIGHT

PO BOX 276
OAKLEY, ID 83346
Phone: 208-862-3463

(Certificate of mailing continued)

RAY C BEDKE
PO BOX 283
OAKLEY, ID 83346
Phone: 208-862-3252

MAX COOPER
PO BOX 47
OAKLEY, ID 83346
Phone: 208-862-3272

CHERIE JAN PETERSON
HUGH NELS PETERSON
PO BOX 57
OAKLEY, ID 83346
Phone: 208-862-3421

ILIA C RANDELL
PO BOX 59
OAKLEY, ID 83346
Phone: 208-862-3452

ROBERT L ANDERSON
PO BOX 61
OAKLEY, ID 83346
Phone: 208-862-3837

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

GLENN ROSE
MARCA ROSE
RT 1 BOX 1-1
OAKLEY, ID 83346
Phone: 208-862-3416

ERNEST ADAMS
RT 1 BOX 172
OAKLEY, ID 83346
Phone: 208-862-3621

SHARON PAPP-OKELBERRY
106 W MAIN
OAKLEY, ID 83346
Phone: 208-862-3304

DAVID JUDD
1752 S HWY 27
OAKLEY, ID 83346
Phone: 208-862-9255

JACOBSEN FAMILY TRUST
2009 N 1450 E
PROVO, UT 84604
Phone: 801-373-8567

LORRAINE GORRINGE
201 N BLAINE AVE
PO BOX 125
OAKLEY, ID 83346-0125
Phone: 208-862-3441

ARNOLD HARPER
DARLENE HARPER
206 N LINCOLN
OAKLEY, ID 83346
Phone: 208-862-3659

CLIFFORD BELL
215 N LINCOLN
OAKLEY, ID 83346
Phone: 208-862-3291

HOWARD ROBINSON
KAREN ROBINSON
2288 WILLIAMSBURG CIRCLE
WEST JORDAN, UT 84084
Phone: 801-450-0126

JOSEPH R WHITELEY
MARY J WHITELEY
240 N CENTER
OAKLEY, ID 83346
Phone: 208-862-3246

CLYDINE FONNESBECK
2441 WEST 16TH ST
BURLEY, ID 83318
Phone: 208-678-5016

(Certificate of mailing continued)

NORMAN MC MURRAY
SALLY MC MURRAY
270 S WILSON
OAKLEY, ID 83346
Phone: 208-862-9216

QUARTER CIRCLE FIVE
3805 SANDPIPER
POCATELLO, ID 83201
Phone: 208-237-1440

GENE LEWIS
LEANN LEWIS
395 N CENTER ST
OAKLEY, ID 83346

UTAUNA A HALE
395 W POPULAR
OAKLEY, ID 83346
Phone: 208-862-9242

BLANCHE W SHEFFIELD
410 E 1980 N
PROVO, UT 84604
Phone: 801-373-4886

KATHY PAYTON
TIM PAYTON
478 W 1900 S
OAKLEY, ID 83346
Phone: 208-862-3224

CHARLES M PAYTON
ELIZABETH PAYTON
495 N LINCOLN
OAKLEY, ID 83346
Phone: 208-862-3460

JONAE B CHRISTENSEN
8250 VIA PASAO DEL NOTRE
SCOTTSDALE, AZ 85285

Robbin Hall
Deputy Clerk

SCANNED
MAR / 4 2006



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): 45-00077AA
(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
Deputy Clerk

NOTICE OF ISSUANCE

SCANNED PAGE 1
03/22/06
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