

2006 MAY 1 PM 4 03

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 45-10754
Case No. 39576) (Mitton)
)
) PARTIALLY AMENDED 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 claim 45-10754 to Sidnee and Delroy Mitton, Box 31, Oakley, Idaho, 83346 (members of the Birch Creek Water Users Association) for .01 cfs from Birch Creek for domestic use from March 15 to November 15 with a priority date of December 5, 1882, based on a decree.

Tim Payton, president of the Birch Creek Water Users Association, filed an *Objection* on December 30, 2004, objecting to point of diversion and period of year. On March 17, 2006, Tim Payton, with IDWR's concurrence, filed a *Standard Form 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.

On March 22, 2006, the Special Master entered a *Special Master Report*, with *Recommendations* attached, in 83 subcases, including 45-10754, for members of the Birch Creek Water Users Association. On May 1, 2006, counsel for IDWR contacted the court to advise of an error in the place of use for 45-10754 and counsel for the Birch

Creek Water Users Association agreed with an amendment. The attached *Amended Special Master Recommendation for Partial Decree for Water Right 45-10754* corrects the error.

Conclusions of Law

Delroy and Sidnee Mitton are entitled to a partial decree adjudicating a water right as described in the attached *Amended Special Master Recommendation for Partial Decree for Water Right 45-10754*.

DATED May 1, 2006.



TERRENCE A. DOLAN

Special Master

Snake River Basin Adjudication

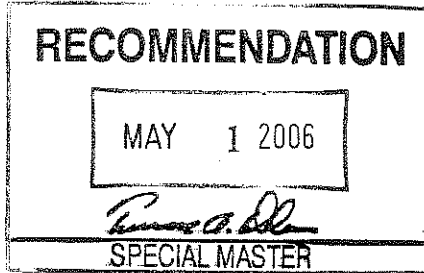
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RULE 54(b) CERTIFICATE

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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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): 45-10754

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 May 01, 2006, with sufficient first-class postage prepaid to the following:

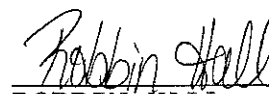
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

TIM PAYTON, PRESIDENT

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

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

CERTIFICATE OF MAILING



ROBBIN HALL
Deputy Clerk

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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

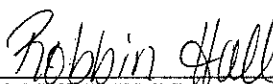
Water Right(s): 45-10754

On May 01, 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 May 01, 2006.



ROBBIN HALL
Deputy Clerk