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DEPARTMENT OF
WATER RESOURCES

2006 SEP 21 PM 4:16
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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 45-325
Case No. 39576) (Kelley)
_____) SPECIAL MASTER REPORT

Findings of Fact

Lee G. Dimond filed a *Notice of Claim to a Water Right* on May 25, 1989, in subcase 45-325 claiming 3.2 cfs from Howell Creek for stockwater use and to irrigate 160 acres in Cassia County from March 15 to November 15 with a priority date of July 1, 1879, 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 to George and Virginia Kelley for 1.8 cfs for stockwater use and to irrigate 89.8 acres from April 1 to October 31.

Earl L. Warthen filed an *Objection* on January 5, 2005, alleging the water right should not exist. On September 19, 2006, the Kelleys and Mr. Warthen filed a *Standard Form 5* agreeing to the claim as recommended by IDWR, but with a priority date of April 12, 1892.

Conclusions of Law

George and Virginia Kelley are entitled to a partial decree adjudicating a water right as described in the *SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 45-325*.

DATED September 21, 2006.


TERRENCE A. DOLAN
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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 45-00325

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NAME AND ADDRESS: GEORGE BILL KELLEY
VIRGINIA KELLEY
PO BOX 575
ALBION, ID 83311

SOURCE: HOWELL CREEK TRIBUTARY: MARSH CREEK

QUANTITY: 1.80 CFS

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE: 04/12/1892

POINT OF DIVERSION: T11S R25E S28 SESWSW Within Cassia County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.80 CFS
	Stockwater	04-01 TO 10-31	0.03 CFS

The use of water for irrigation under this right may begin as
early as March 15 provided other elements of the right are not
exceeded. The use of water before April 1 under this remark is
subordinate to all water rights having no subordinated early
irrigation use and a priority date earlier than the date a
partial decree is entered for this right.

PLACE OF USE:	Irrigation	Within Cassia County	
	T11S R25E S28	NESW 13.0	NWSW 5.8
		SWSW 33.0	SESW 38.0
	89.8 Acres Total		
	Stockwater	Within Cassia County	
	Same as Irrigation		

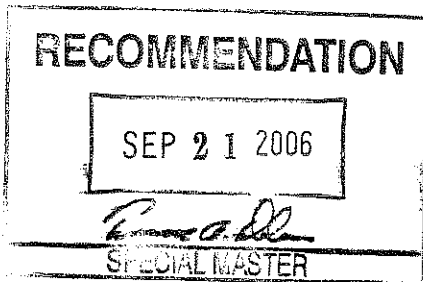
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER
USE 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

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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

CERTIFICATE OF MAILING

Water Right(s): 45-00325

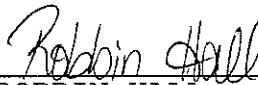
CERTIFICATE OF MAILING

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 September 21, 2006, with sufficient first-class postage prepaid to the following:

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

EARL L. WARTHEN
PO BOX 145
ALBION, ID 83311
Phone: 208-673-5385

GEORGE BILL KELLEY
VIRGINIA KELLEY
PO BOX 575
ALBION, ID 83311


ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

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

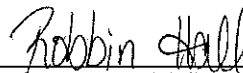
Water Right(s): 45-00325

On September 21, 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 September 21, 2006.



ROBBIN HALL
Deputy Clerk