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DEPARTMENT OF
WATER RESOURCES

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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) Subcases 41-7030 and 41-07034
Case No. 39576) (Deeg)
)
) ORDER GRANTING MOTIONS
) TO ALTER OR AMEND and
) AMENDED SPECIAL MASTER
) REPORT

Findings of Fact

Farold J. Nelson filed a *Notice of Claim to a Water Right* on March 7, 1990, in subcase 41-7030 claiming 1.4 cfs from groundwater to irrigate 126 acres in Power County from March 15 to November 15 with a priority date of January 2, 1978, based on a license. Mr. Nelson filed a *Notice of Claim* in subcase 41-7034 the same date claiming 1.82 cfs from groundwater to irrigate 91 acres in Power County from March 15 to November 15 with a priority date of April 7, 1978, also based on a license.

The Director of the Idaho Department of Water Resources filed his *Director's Reports for Irrigation and Other, Reporting Area 7, IDWR Basin 41* on November 2, 1999. The Director recommended both claims as filed, but to Timothy P. Deeg, 2957 Deeg Road, Rockland, Idaho, 83211.

Mr. Deeg filed *Objections* in both subcases on December 22, 1999, objecting to quantity, points of diversion and period of year. The Twin Falls and North Side Canal Companies filed *Objections* on January 3, 2000, objecting to source and quantity and alleging the water rights should not exist. On August 27, 2001, the Special Master entered an *Order Granting Respondents' Motions for Partial Summary Judgment* in consolidated subcases 35-7200 and 41-2016 dismissing the Canal Company *Objections*.

On January 17, 2003, the Special Master entered *Special Master Reports* recommending both claims be decreed as recommended by IDWR. Mr. Deeg filed *Motions to Alter or Amend* on February 5, 2003.

On May 1, 2003, IDWR filed a *Notice of Administrative Proceeding* in both subcases for transfers of the point of diversion and place of use and on July 10, 2006, IDWR filed a *Notice of Completed Administrative Proceeding*. Finally, on September 18, 2006, Mr. Deeg, with IDWR's concurrence, filed *Standard Forms 5*.

Conclusions of Law

Mr. Deeg 1) has shown good cause to alter or amend the *Special Master Reports* and 2) is entitled to partial decrees adjudicating water rights as described in the *SF-5's* and the attached *Amended Special Master Recommendations for Partial Decrees for Water Rights 41-7030 and 41-7034*.

Order

THEREFORE, IT IS ORDERED that Mr. Deeg's *Motions to Alter or Amend* the January 17, 2003 *Special Master Reports* are **granted**.

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 41-07030

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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NAME AND ADDRESS: TIMOTHY P DEEG
2957 DEEG ROAD
AMERICAN FALLS, ID 83211

SOURCE: GROUNDWATER

QUANTITY: 1.40 CFS
441.00 AFY

RIGHTS 41-7030, 41-7034, 41-7071, 41-7076 AND 41-7081 WHEN
COMBINED FOR IRRIGATION SHALL NOT EXCEED A TOTAL DIVERSION RATE
OF 10.02 CFS.
THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO
MORE THAN .02 CFS PER ACRE NOR MORE THAN 4.0 AFA PER ACRE AT THE
FIELD HEADGATE FOR IRRIGATION OF THE LANDS ABOVE.

PRIORITY DATE: 01/02/1978

POINT OF DIVERSION: T09S R31E S06 SWSE Within Power County
SWSE
SWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.40 CFS 441.00 AFY

PLACE OF USE:	Irrigation	Within Power County
	T09S R30E S01	NENE 40.0 NWNE 40.0 SWNE 40.0 SENE 40.0 NESW 40.0 SESW 40.0 NESE 40.0 NWSE 40.0 SESE 31.0
	S12	NWNE 40.0 SWNE 40.0 NENW 40.0 SENW 40.0 NESW 40.0 SESW 40.0 NWSE 40.0 SWSE 40.0
	R31E S06	NWNW 21.0 SWNW 22.0 NESW 36.0 NWSW 22.0 SWSW 18.0 SESW 30.0 NESE 40.0 NWSE 38.0 SWSE 33.0 SESE 40.0
	1011.0 Acres Total	

RIGHT 41-7030 IS LIMITED TO THE IRRIGATION OF 126.0 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
RIGHTS 41-7030, 41-7034, 41-7071, 41-7076 AND 41-7081 ARE
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 814.3 ACRES IN
A SINGLE IRRIGATION SEASON.

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

AFTER SPECIFIC NOTIFICATION BY THE DEPARTMENT, THE RIGHT HOLDER
SHALL RECORD THE QUANTITY OF WATER DIVERTED OR SHALL ENTER INTO
AN AGREEMENT WITH THE DEPARTMENT TO DETERMINE THE AMOUNT OF WATER
DIVERTED FROM POWER RECORDS AND SHALL ANNUALLY REPORT THE
INFORMATION TO THE DEPARTMENT. THE RIGHT HOLDER SHALL PROVIDE A
MEANS OF MEASUREMENT ACCEPTABLE TO THE DEPARTMENT FROM ALL

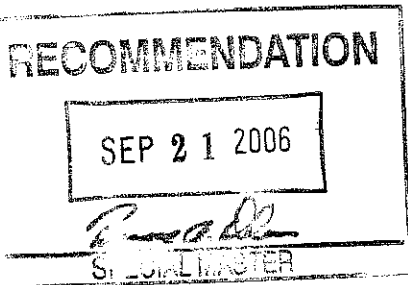
OTHER PROVISIONS (continued)

AUTHORIZED POINTS OF DIVERSION WHICH WILL ALLOW DETERMINATION OF THE TOTAL RATE OF DIVERSION.

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

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 41-07034

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NAME AND ADDRESS: TIMOTHY P DEEG
2597 DEEG ROAD
AMERICAN FALLS, ID 83211

SOURCE: GROUNDWATER

QUANTITY: 1.82 CFS
364.00 AFY

RIGHTS 41-7030, 41-7071, 41-7076 AND 41-7081 WHEN COMBINED FOR
IRRIGATION SHALL NOT EXCEED A TOTAL DIVERSION RATE OF 10.02 CFS.
THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO
MORE THAN .02 CFS PER ACRE NOR MORE THAN 4.0 AFA PER ACRE AT THE
FIELD HEADGATE FOR IRRIGATION OF THE LANDS ABOVE.

PRIORITY DATE: 04/07/1978

POINT OF DIVERSION: T09S R31E S06 SWSE Within Power County
SWSE
SWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.82 CFS 364.00 AFY

PLACE OF USE:	Irrigation	Within Power County
	T09S R30E S01	NENE 40.0 NWNE 40.0 SENE 40.0 SESW 40.0 NWSE 40.0 SESE 31.0
	S12	NWNE 40.0 SWNE 40.0 SENW 40.0 SESW 40.0 SWSE 40.0
	R31E S06	NWNW 21.0 SWNW 22.0 NWSW 22.0 SESW 30.0 NWSE 38.0 SESE 40.0
	1011.0 Acres Total	

RIGHT 41-7034 IS LIMITED TO THE IRRIGATION OF 91.0 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
RIGHTS 41-7030, 41-7034, 41-7071, 41-7076 AND 41-7081 ARE LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 814.3 ACRES IN A SINGLE
IRRIGATION SEASON.

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

AFTER SPECIFIC NOTIFICATION BY THE DEPARTMENT, THE RIGHT HOLDER
SHALL RECORD THE QUANTITY OF WATER DIVERTED OR SHALL ENTER INTO
AN AGREEMENT WITH THE DEPARTMENT TO DETERMINE THE AMOUNT OF WATER
DIVERTED FROM POWER RECORDS AND SHALL ANNUALLY REPORT THE
INFORMATION TO THE DEPARTMENT. THE RIGHT HOLDER SHALL PROVIDE A
MEANS OF MEASUREMENT ACCEPTABLE TO THE DEPARTMENT FROM ALL
AUTHORIZED POINTS OF DIVERSION WHICH WILL ALLOW DETERMINATION OF

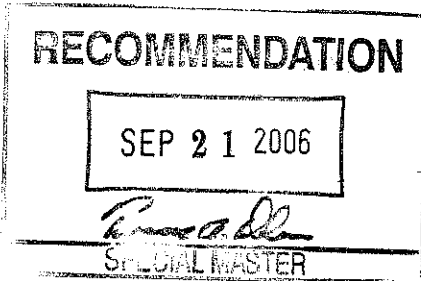
OTHER PROVISIONS (continued)

THE TOTAL RATE OF DIVERSION.

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

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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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

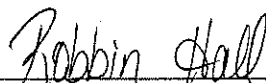
Water Right(s): 41-07030
41-07034

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

TIMOTHY P DEEG
Represented by:
KENT W FOSTER
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620



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

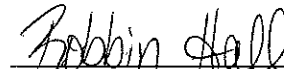
Water Right(s): 41-07030
41-07034

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