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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 31 2007	
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	) Subcase 47-14532
	) (Overturf)
Case No. 39576	)
	) SPECIAL MASTER REPORT
_____	) AND RECOMMENDATION

Findings of Fact

On July 2, 1999, former SRBA Presiding Judge Barry Wood entered a *Partial Decree* in subcase 47-14532 adjudicating to Constance and Glen Overturf, Route 3, Buhl, Idaho, 83316, .06 cfs from groundwater for year-'round domestic and stockwater uses in Twin Falls County with a priority date of July 1, 1908. The point of diversion and places of use were described as in the NWNW of T 9S, R 14E, § 20.

On October 27, 2006, the Overturfs wrote to the SRBA Court and reported that they received notification of a lien on their water rights. They then discovered that the *Partial Decree* bears the wrong legal descriptions – the point of diversion should be in the SEnw and the places of use should be in the SWNW and the SEnw.

On October 27, 2006, SRBA Presiding Judge John M. Melanson entered an *Order of Reference Appointing Special Master Terrence A. Dolan* to determine whether and how the *Partial Decree* should be set aside or amended.

IDWR has investigated the matter and determined that the water right was recommended and decreed as claimed when no one objected. But when IDWR received the notice of security interest in June, 2006, they discovered the *Partial Decree* contained errors – the land described in the *Partial Decree* is owned by Manuel and Elvira Bettencourt, not the Overturfs.

Following hearings in the matter on November 16 and December 21, 2006, IDWR wrote to the Court on January 25, 2007, explaining the errors and confirming the correct legal descriptions in what is essentially a 706 Report. It wrote:

It is unfortunate that the error in the legal description of the right was carried over from the claim into both the recommendation and partial decree of the right. But it appears to IDWR that the error is clerical in nature and therefore correctable under Rule 60(a), Idaho Rules of Civil Procedure. IDWR therefore requests that Court to take whatever action it deems appropriate to do so.

Conclusions of Law

The Overturfs have shown good cause to correct a clerical mistake in the *Partial Decree* which may be remedied by an order setting aside the *Partial Decree* and entry of an amended partial decree.

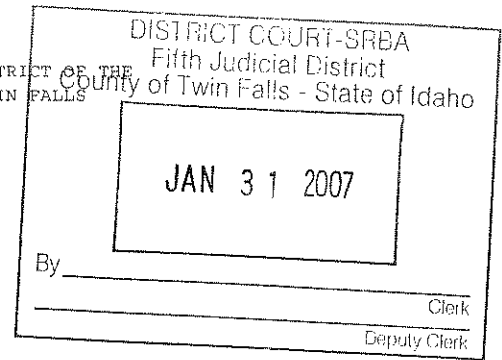
Recommendation

THEREFORE, IT IS RECOMMENDED that the July 2, 1999 *Partial Decree* be set aside and an amended partial decree be entered as described in IDWR's report and the attached *Special Master Recommendation of Amended Partial Decree for Water Right 47-14532*.

DATED January 31, 2007.


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 47-14532

NAME AND ADDRESS: CONSTANCE OVERTURF
GLEN OVERTURF
19526 HWY 30
BUHL, ID 83316

SOURCE: GROUNDWATER

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 07/01/1908

POINT OF DIVERSION: T09S R14E S20 SENW Within Twin Falls County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOUSE	01-01 TO 12-31	0.04 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE:	Stockwater	Within Twin Falls County
	T09S R14E S20	SWNW SENW
	Domestic	Within Twin Falls County
	T09S R14E S20	SWNW SENW

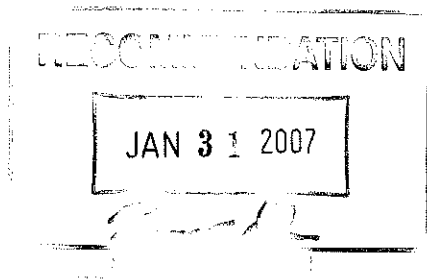
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT 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

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 31 2007	
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

Case No. 39576

CERTIFICATE OF MAILING

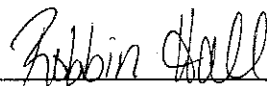
Water Right(s): 47-14532

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 January 31, 2007, with sufficient first-class postage prepaid to the following:

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

CONSTANCE OVERTURF
GLEN OVERTURF
19526 HWY 30
BUHL, ID 83316
Phone: 208-543-5702


ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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01/31/07

JAN 31 2007

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

By

Deputy Clerk

In Re SRBA
Case No. 39576

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

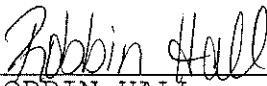
Water Right(s): 47-14532

On January 31, 2007, 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 January 31, 2007.


ROBBIN HALL
Deputy Clerk