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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2007 FEB 28 AM 10 21

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) SPECIAL MASTER'S REPORT
Case No. 39576)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 57-10163

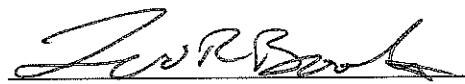
I. FINDINGS OF FACT

A *Partial Decree* was issued for the above-captioned water right on December 15, 1997. On December 12, 2005, the SRBA Court received correspondence from the Cunningham Limited Partnership that the *Partial Decree* was in error regarding the legal descriptions of the place of use (POU) and point of diversion (POD). The Court asked IDWR to conduct further investigation into the matter, and on March 29, 2006, IDWR filed correspondence stating that the legal descriptions of the POU and POD were decreed in error, and advising as to the correct POU and POD. On March 30, 2006, the Cunningham Limited Partnership filed a Standard Form 1 Objection¹. The Objection asserted an irrigation place of use that is the same as the corrected irrigation place of use set forth in March 29, 2006 correspondence from IDWR. In other words, it appears that both IDWR and the Cunningham Limited Partnership are in agreement as to all of the elements of the subject water right.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that the SRBA District Court issue an Amended Partial Decree for water right 57-10163 with the elements as set forth in the attached *Recommendations for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated February 27, 2007



Theodore R. Booth
Special Master
Snake River Basin Adjudication

¹ By Order dated February 10, 2006, the owner of the water right was to notify the Court as to whether they were in agreement with the correspondence from IDWR. Although no motion to file a late objection was filed or granted, the Cunningham Limited Partnership apparently used the objection form as a means to provide this notification.

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)
)

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

Water Right 57-10163

TWIN FALLS CO., IDAHO
FILED

2007 FEB 23 AM 10 21

NAME AND ADDRESS: CUNNINGHAM FAMILY LIMITED
PARTNERSHIP
909 HEARTLAND DR
NAMPA, ID 83686

SOURCE: GROUNDWATER

QUANTITY: 0.07 CFS
6.70 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC AND
STOCKWATER USES SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 01/01/1910

POINT OF DIVERSION: T04S R02E S27 LOT 3 (SENW) Within Owyhee County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Domestic	01-01 TO 12-31	0.02 CFS
Stockwater	01-01 TO 12-31	0.05 CFS
Irrigation	03-15 TO 11-15	0.03 CFS
		6.70 AFY

PLACE OF USE: Irrigation Within Owyhee County
T04S R02E S27 LOT 2 (NENW) 0.4 LOT 3 (SENW) 1.1
1.5 Acres Total

Stockwater Within Owyhee County
T04S R02E S27 LOT 3 (SENW)

Domestic Within Owyhee County
T04S R02E S27 LOT 3 (SENW)

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC
USE AND 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).

RECOMMENDATION

FEB 23 2007

Lee B. Booth
SPECIAL MASTER

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

2007 FEB 28 AM 10 21

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

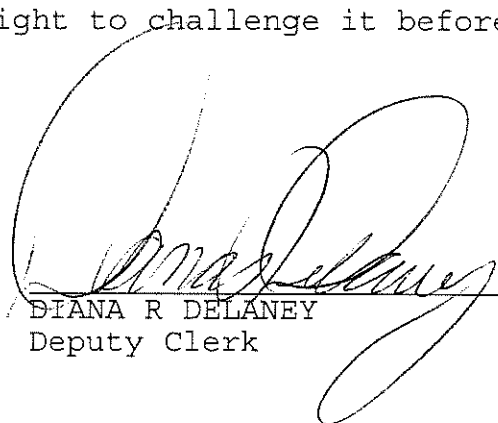
Water Right(s): 57-10163

On February 28, 2007, Special Master THEODORE R. BOOTH 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 February 28, 2007.


DIANA R DELANEY
Deputy Clerk

VICTORY COUNTY-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2007 FEB 28 AM 10 21

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): 57-10163

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 February 28, 2007, with sufficient first-class postage prepaid to the following:

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

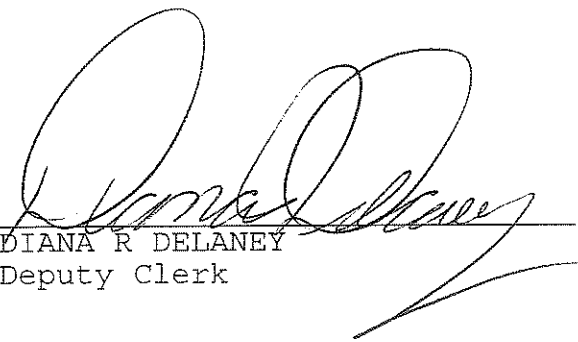
CUNNINGHAM FAMILY LIMITED
PARTNERSHIP
C/O P GARY CUNNINGHAM
909 HEARTLAND DR
NAMPA, ID 83686
Phone: 208-375-2714

CUNNINGHAM FAMILY LIMITED
PARTNERSHIP
909 HEARTLAND DR
NAMPA, ID 83686

CERTIFICATE OF MAILING

PAGE 1
02/27/07

SHARON D SMITH
6211 BRANSTETTER ST
BOISE, ID 83714
Phone: 208-375-2714



DIANA R DELANEY
Deputy Clerk