

2007 APR 12 AM 10: 50

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 74-2092 and 74-7101
) (Weiss)
Case No. 39576)
) SPECIAL MASTER REPORT
)
_____)

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Part I Director's Report, Reporting Area 23, IDWR Basin 74* on January 23, 2006. The Director recommended claim 74-7101 to James O. Weiss, P.O. Box 62, Wisdom, Montana, 59761, for .17 cfs from Baldy Creek to irrigate 47 acres in Lemhi County from April 1 to November 1 with a priority date of March 26, 1981, based on a decree.

The United States of America, Department of Interior, Bureau of Land Management filed an *Objection* on June 30, 2006, objecting to place of use. On April 6, 2007, Mr. Weiss and the United States, with IDWR's concurrence, filed a *Standard Form 5* agreeing to add a remark under place of use. IDWR also identified 74-2092 as an uncontested overlapping claim.

Conclusions of Law

Mr. Weiss is entitled to partial decrees adjudicating water rights as described in the *SF-5* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 74-2092 and 74-7101*.

DATED April 12, 2007.


TERRENCE A. DOLAN
Special Master
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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 74-07101

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NAME AND ADDRESS: JAMES O WEISS
PO BOX 62
WISDOM, MT 59761

SOURCE: BALDY CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.17 CFS
72.20 AFY

PRIORITY DATE: 03/26/1981

POINT OF DIVERSION: T19N R23E S13 SWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.17 CFS 72.20 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER NOVEMBER 1 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:	Irrigation	Within Lemhi County
	T19N R23E S13	SWNE 4.0 NESE 16.0
		SENE 3.0 NWSE 24.0
	47.0 Acres Total	

PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LAND.

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

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.

RECOMMENDATION

APR 12 2007

James O. Weiss

SPECIAL MASTER

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

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In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 74-02092
74-07101

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 April 12, 2007, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

JAMES O WEISS
PO BOX 62
WISDOM, MT 59761
Phone: 406-689-3133

CERTIFICATE OF MAILING

Robbin Hall
ROBBIN HALL
Deputy Clerk

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In Re SRBA)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

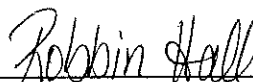
Water Right(s): 74-02092
74-07101

On April 12, 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 April 12, 2007.


ROBBIN HALL
Deputy Clerk