

2007 MAY 24 PM 12:06
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 74-1049A and 74-1051**
) **(Tonsmeire)**
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 claims 74-1049A and 74-1051 to Ray Christner and the Ray Christner Estate for 1.28 cfs from Hayden Creek and .46 from Rye Grass Creek for stockwater use and to irrigate 16 and 43 acres in Lemhi County between March 15 and November 15 with priority dates of April 1, 1931, and April 1, 1935, based on a decree.

The United States of America, Department of Interior, Bureau of Land Management filed an *Objection* in subcase 74-1049A on June 30, 2006, objecting to place of use. IDWR filed a *Notice of Completed Administrative Proceeding* in subcases 74-1049A and 74-1051 on July 26, 2006, for a substitution of party with the new owners being Elizabeth D. Tonsmeire and Tonsmeire Properties, LLC, 6 S. Summit Street, Fairhope, Alabama, 36532.

On April 27, 2007, Ms. Tonsmeire, Arthur Tonsmeire, III, and the United States, with IDWR's concurrence, filed a *Standard Form 5* in subcase 74-1049A agreeing to a water right with an additional remark under place of use. IDWR identified claim 74-1051 as an uncontested overlapping claim.

Conclusions of Law

Ms Tonsmeire and Tonsmeire Properties, LLC are 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 74-1049A and 74-1051*.

DATED May 24, 2007.



TERRENCE A. DOLAN

Special Master

Snake River Basin Adjudication

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In Re SRBA)
Case No 39576)
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PARTIAL DECREE PURSUANT TO
I R C P. 54(b) FOR
Water Right 74-01051

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NAME AND ADDRESS: ELIZABETH D TONSMIRE
TONSMIRE PROPERTIES LLC
710 S MOBILE ST #18
FAIRHOPE, AL 36532

SOURCE: RYE GRASS CREEK TRIBUTARY: HAYDEN CREEK

QUANTITY: 0.46 CFS

PRIORITY DATE: 04/01/1931

POINT OF DIVERSION: T17N R23E S14 SWNW Within Lemhi County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.46 CFS
	Stockwater	03-15 TO 11-15	0.02 CFS

PLACE OF USE: Irrigation Within Lemhi County
T17N R23E S14 SENW 16.0
16.0 Acres Total

Stockwater Within Lemhi County
Same as Irrigation

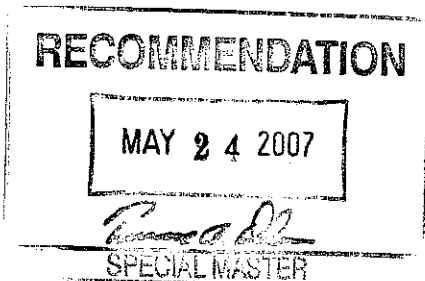
This right authorizes the irrigation of 15.5 total acres

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.R.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 Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 74-01049A
74-01051

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 May 24, 2007, with sufficient first-class postage prepaid to the following:

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

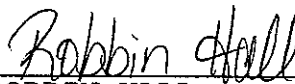
UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

ELIZABETH D TONSMEIRE
TONSMEIRE PROPERTIES LLC
6 S SUMMIT ST
FAIRHOPE, AL 36532

CERTIFICATE OF MAILING

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05/24/07

ELIZABETH D TONSMEIRE
TONSMEIRE PROPERTIES LLC
710 S MOBILE ST #18
FAIRHOPE, AL 36532



ROBBIN HALL
Deputy Clerk

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)
)
)
)
)
NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

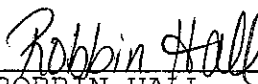
Water Right(s): 74-01049A
74-01051

On May 24, 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 May 24, 2007.



ROBBIN HALL
Deputy Clerk