

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)
)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-15713

2007 AUG 22 PM 1:16
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: JOHN L HARRIS
25 SHAMROCK LN
SALMON, ID 83467

SOURCE: KENNEY CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.22 CFS

PRIORITY DATE: 11/01/1877

POINT OF DIVERSION: T20N R24E S29 NESW Within Lemhi County
S30 NWNE

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 03-15 TO 11-15 0.22 CFS

PLACE OF USE: Irrigation Within Lemhi County
T20N R24E S30 LOT 2 (SWNW) 0.9 SENW 7.9
8.8 Acres Total

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.

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

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DEPARTMENT OF
WATER RESOURCES

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 74-666, 74-671, 74-15639, 74-
	)	15712, 74-15713, 74-15773 and 74-15774
Case No. 39576	)	(Kenney Creek Ranch & Land LLC,
	)	Ias Macieski LLC and Harris)
	)	
	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

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 74-666, 74-671 and 74-15639 to Kenney Creek Ranch & Land LLC, P.O. Box 101, Tendoy, Idaho, 83468-0101, for 2.08 cfs, .83 cfs and .81 cfs from Kenney Creek and the Lemhi River to irrigate 76.9 acres, 27.6 acres and 40.5 acres in Lemhi County from March 15 to November 15 with priority dates of September 2, 1922, April 1, 1949, and July 19, 1893, based on a decree.

The United States of America, Department of Interior, Bureau of Land Management filed *Objections* in subcases 74-666, 74-671 and 74-15639 on June 29, 2006, objecting to place of use. On May 2, 2007, the parties, with IDWR's concurrence, filed *Standard Forms 5* agreeing to add a remark under place of use.

IDWR identified subcases 74-15712 and 74-15713 as uncontested overlapping claims. On June 6, 2006, IDWR filed a *Notice of Completed Administrative Proceeding* for a change in ownership and split of water right: 74-15712 split into 74-15773 (Ias Macieski LLC, 3282 E. 65th Street, Idaho Falls, Idaho, 83406) and 74-15774 (Kenney Creek Ranch & Land LLC).

IDWR filed another *NCAP* on August 17, 2006, in subcase 74-15713 for a change in ownership: John L. Harris, 25 Shamrock Lane, Salmon, Idaho, 83467.

Conclusions of Law

1. Kenney Creek Ranch & Land LLC is entitled to partial decrees adjudicating water rights for claims 74-666, 74-671, 74-15639 and 74-15774 as recommended by IDWR and as described in the *SF-5's*, the *NCAP* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 74-666, 74-671, 74-15639 and 74-15774*;
2. Ias Macieski LLC is entitled to a partial decree adjudicating a water right for claim 74-15773 as described in the *NCAP* and the attached *Special Master Recommendation for Partial Decree for Water Right 74-15773*;
3. The parties are **not** entitled to a partial decree for 74-15712, the claim having been split; and
4. Mr. Harris is entitled to a partial decree adjudicating a water right for claim 74-15713 as described in the *NCAP* and the attached *Special Master Recommendation for Partial Decree for Water Right 74-15713*;

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 74-15712 be **disallowed**.

DATED August 22, 2007


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 74-00666

74-00671 74-15639 74-15712
74-15713 74-15773 74-15774

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 August 22, 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

KENNEY CREEK RANCH & LAND LLC
PO BOX 101
TENDON, ID 83468-0101
Phone: 801-430-0154

CERTIFICATE OF MAILING

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08/22/07

JOHN L HARRIS
25 SHAMROCK LN
SALMON, ID 83467

IAS MACIESKI LLC
3282 E 65TH ST
IDAHO FALLS, ID 83406



ROBBIN HALL
Deputy Clerk

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

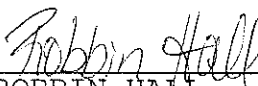
Water Right(s): 74-00666
74-00671 74-15639 74-15712
74-15713 74-15773 74-15774

On August 22, 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 August 22, 2007.



ROBBIN HALL
Deputy Clerk