

RECEIVED

AUG 31 2007

DEPARTMENT OF
WATER RESOURCES

2007 AUG 29 AM 10:23

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 74-302, 74-303, 74-15677, 74-15678,
Case No. 39576) 74-15679, 74-15680, 74-15789, 74-15790,
) 74-15791 and 74-15792
) (Haake / Blackburn)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION and
) ORDER RESCHEDULING ORDER
) TO SHOW CAUSE

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Reporting Area 23, IDWR Basin 74* on January 23, 2006. The Director recommended claims 74-302 and 74-303 to Jerry G. Blackburn, P.O. Box 41, Leadore, Idaho, 83464, for 1.8 cfs and 1.81 cfs from Peterson Creek to irrigate 135.2 acres in Lemhi County from March 15 to November 15 with priority dates of September 1, 1909, and November 1, 1913, based on a decree.

On May 1, 2006, IDWR filed a *Notice of Completed Administrative Proceeding* for substitution of party, split of water right and change of ownership:

74-302 is split into 74-15677 (Blackburn) and 74-15678 (Haak).¹

74-303 is split into 74-15679 (Blackburn) and 74-15680 (Haak).²

On June 29, 2006, the United States of America, Department of Interior, Bureau of Land Management filed *Objections* in subcases 74-15677 and 74-15679 objecting to place of use. Initial hearings in subcases 74-15677 and 74-15679 were held on May 9,

¹ Timothy M. Haak, 1301 K NW, Suite 900, East Tower, Washington, DC, 20005.

² IDWR identified claims 74-15678 (Haak) and 74-15680 (Haak) as unobjected to and overlapping with claims 74-15677 and 74-15679.

2007, in Salmon, Idaho. David L. Negri appeared for the United States and Chris M. Bromley appeared for IDWR. Mr. Blackburn failed to appear or contact the Court.

The Special Master entered an *Order to Show Cause* on May 22, 2007, advising Mr. Blackburn that his failure to appear at a show cause hearing on August 2, 2007, at the SRBA Courthouse in Twin Falls, Idaho, “will result in the Claimant being deemed to have consented to the objections filed by the United States of America, BLM.” However, before the OSC hearing was held, on July 17, 2007, IDWR filed additional *NCAP*’s for substitution of party, split of water right and change of ownership:

74-15677 is split into 74-15789 (Haake)³ and 74-15790 (Blackburn).

74-15679 is split into 74-15791 (Haake) and 74-15792 (Blackburn).

A hearing on the *Order to Show Cause* was held by telephone on August 2, 2007. Larry A. Brown appeared for the United States and Mr. Bromley appeared for IDWR. Mr. Blackburn failed to appear or contact the Court. In light of the July 12, 2007 *NCAP*, the United States withdrew its *Objections* as to Mr. Haake’s claims (74-15789 and 74-15791) and requested that Mr. Blackburn’s claims (74-15790 and 74-15792) be rescheduled for hearing on the *Order to Show Cause*.

Order

THEREFORE, IT IS ORDERED that Mr. Blackburn shall appear before the Special Master on **September 27, 2007, 11:00 a.m.** and show cause, if any he may have, why the United States’ *Objections* to his claims 74-15790 and 74-15792 should not be granted. Mr. Blackburn’s failure to appear will result in his being deemed to have consented to the United States’ *Objections*. Parties may participate by telephone by dialing 1-225-383-1099 and entering participant code 654400.

Conclusions of Law

1. Mr. Blackburn and Mr. Haake are **not** entitled to partial decrees for claims 74-302, 74-303, 74-15677 and 74-15679, the claims having been split; and
2. Mr. Haake **is** entitled to partial decrees adjudicating water rights for claims 74-15678, 74-15680, 74-15789 and 74-15791 as described in the May 1, 2006, and July 17,

³ Timothy M. Haake, 1301 K St. NW, Suite 1100, East Tower, Washington, DC, 20005.

2007 NCAP's and the attached *Special Master Recommendations for Partial Decrees for Water Rights 74-15678, 74-15680, 74-15789 and 74-15791.*

Recommendation

THEREFORE, IT IS RECOMMENDED that claims 74-302, 74-303, 74-15677 and 74-15679 **not** be decreed as water rights.

DATED August 29, 2007.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

U.S. DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

PAGE 1
Aug-29-2007

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 74-15680

2007 AUG 29 AM 10:23

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: TIMOTHY M HAAK
1301 K NW
SUITE 900 EAST TOWER
WASHINGTON, DC 20005

SOURCE: PETERSON CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.41 CFS

PRIORITY DATE: 11/01/1913

POINT OF DIVERSION: T17N R25E S09 NWNE Within Lemhi County
SENE
NWSW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.41 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T17N R25E S09	SENE 3.2 NWSW 17.3 NESW 7.6 SWSW 2.2
	30.3 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

RECOMMENDATION

AUG 29 2007

[Signature]
SHERIFF

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 74-15789

2007 AUG 29 AM 10:23

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: TIMOTHY M HAAKE
1301 K ST NW STE 1100 E TOWER
WASHINGTON, DC 20005

SOURCE: PETERSON CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.27 CFS

PRIORITY DATE: 09/01/1909

POINT OF DIVERSION: T17N R25E S08 SESE Within Lemhi County
S09 NWSW

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 03-15 TO 11-15 0.27 CFS

PLACE OF USE: Irrigation Within Lemhi County
T17N R25E S08 SESE 18.8
S09 SWSW 1.2
20.0 Acres Total

THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 20 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 74-15789, 74-15791.

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

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NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

AUG 29 2007

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 74-15791

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TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: TIMOTHY M HAAKE
1301 K ST NW STE 1100 E TOWER
WASHINGTON, DC 20005

SOURCE: PETERSON CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.27 CFS

PRIORITY DATE: 11/01/1913

POINT OF DIVERSION: T17N R25E S08 SESE Within Lemhi County
S09 NWSW

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 03-15 TO 11-15 0.27 CFS

PLACE OF USE: Irrigation Within Lemhi County
T17N R25E S08 SESE 18.8
S09 SWSW 1.2
20.0 Acres Total

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

RECOMMENDATION

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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

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 74-00302

74-00303	74-15677	74-15678
74-15679	74-15680	74-15789
74-15790	74-15791	74-15792

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 29, 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

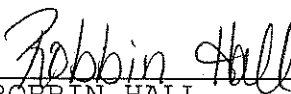
CERTIFICATE OF MAILING

PAGE 1
08/29/07

JERRY BLACKBURN
JERRY G BLACKBURN
PO BOX 41
LEADORE, ID 83464
Phone: 208-768-2444

TIMOTHY M HAAK
1301 K NW
SUITE 900 EAST TOWER
WASHINGTON, DC 20005

TIMOTHY M HAAKE
1301 K ST NW STE 1100 E TOWER
WASHINGTON, DC 20005



ROBBIN HALL
Deputy Clerk

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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)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 74-00302
74-00303 74-15677 74-15678
74-15679 74-15680 74-15789
74-15790 74-15791 74-15792

On August 29, 2007, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (A01), 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 29, 2007.



ROBBIN HALL
Deputy Clerk