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DEPARTMENT OF
WATER RESOURCES

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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) Subcase 24-10752
Case No. 39576) (Porter)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

A *Partial Decree* was entered in uncontested subcase 24-10752 on May 31, 2007, adjudicating to Joel Porter, 130 N. Court, Memphis, Tennessee, 38103, .17 cfs from Sage Creek to irrigate 6.5 acres in Caribou County from April 15 to October 31 with a priority date of May 1, 1968. On August 13, 2007, Mr. Porter filed a *Motion to File Amended Notice of Claim* because an IDWR field examination "disclosed that information contained in former claims is inaccurate and needs to be corrected."

The SRBA Presiding Judge entered an *Order of Reference Appointing Special Master Terrence A. Dolan* on August 13, 2007, to issue a recommendation "as to the *Motion* and to the underlying merits as to how the *Partial Decree* should be amended, if it is determined that said *Partial Decree* should be set aside or amended." On August 15, 2007, Mr. Porter filed a *Motion to Set Aside Partial Decree* because of mistakes as to priority date and acreage.

A hearing on the *Motions* was held on August 30, 2007. Kent W. Foster appeared for Mr. Porter and Nicholoas B. Spencer and Chris M. Bromley appeared for IDWR. IDWR said that its agent in Soda Springs, Cindy Bird, visited the site and helped prepare the necessary changes to the *Partial Decree*. It is prepared to recommend the amended claim in short order if the *Partial Decree* is set aside and the *Motion to File Amended Notice of Claim* is granted.

Conclusions of Law

Mr. Porter has shown good cause to have the *Partial Decree* set aside and amend his claim.¹

Recommendation

THEREFORE, IT IS RECOMMENDED that:

1. The *Partial Decree* entered in subcase 24-10752 be **set aside**; and
2. Mr. Porter's *Motion to File Amended Notice of Claim* be **granted** as to claimed priority date and irrigated acreage and dates be set for IDWR to file its recommendation concerning the amended claim and for objections to be filed.

DATED September 11, 2007.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

¹ Mr. Porter seeks to amend the priority date from May 1, 1968, to May 1, 1932, and increase the irrigated acreage from 6.5 acres to 8.7 acres with no increase in quantity. During the hearing, counsel for Mr. Porter agreed his client does **not** seek to enlarge the period of use as stated in the *Motion to File Amended Notice of Claim*.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER REPORT AND RECOMMENDATION was mailed on September 11, 2007, with sufficient first-class postage to the following:

JOEL PORTER

Represented by:

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