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DEPARTMENT OF
WATER RESOURCES

2007 DEC -5 AM 11:13
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 24-4018, 24-4022, 24-10753 and 24-
Case No. 39576) 10764
) (Toner and Thonden)
)
) SPECIAL MASTER REPORT
_____) AND RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, Reporting Area 14, IDWR Basin 24* on November 21, 2006. The Director recommended claims 24-4022 and 24-10753 to Kevin Toner and Yodon Thonden, 136 Madison Avenue, 3rd Floor, New York, New York, 10016, for .38 cfs from Crow Creek and .28 cfs from Sage Creek to irrigate 19 acres and 9.4 acres in Caribou County from April 15 to October 31 both with a priority date of May 1, 1968, based on beneficial use. The Director recommended claims 24-4018 and 24-10764 be disallowed: "No beneficial use found."

The claimants filed *Objections* on January 23, 2007, objecting to nearly all the elements. On September 11, 2007, the claimants were granted leave to withdraw claim 24-4022 and to amend claims 24-4018, 24-10753 and 24-10764.

IDWR filed its *Amended Director's Reports, Subcase Nos. 24-4018, 24-10753 and 24-10764* on October 25, 2007, recommending the claims for .06 cfs, .13 cfs and .75 cfs from Crow Creek and Sage Creek to irrigate 3.2 acres, 6.3 acres and 37.3 acres in Caribou County from April 15 to October 31 with priority dates of May 1, 1919, May 1, 1932, and May 1, 1914, based on beneficial use. No one objected to the *Amended Director's Reports*.

Conclusions of Law

1. The claimants are **not** entitled to a partial decree for claim 24-4022 having withdrawn their claim; and
2. They **are** entitled to partial decrees adjudicating water rights as described in the *Amended Director's Reports* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 24-4018, 24-10753 and 24-10764*.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 24-4022 **not** be decreed a water right.

DATED December 5, 2007



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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 24-04018

NAME AND ADDRESS: KEVIN TONER
YODON THONDEN
136 MADISON AVE 3RD FLOOR
NEW YORK, NY 10016

SOURCE: CROW CREEK TRIBUTARY: SALT RIVER

QUANTITY: 0.06 CFS

PRIORITY DATE: 05/01/1919

POINT OF DIVERSION: T09S R46E S29 SWNE Within Caribou County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.06 CFS

PLACE OF USE: Irrigation Within Caribou County
T09S R46E S21 SWSW 3.2
3.2 Acres Total

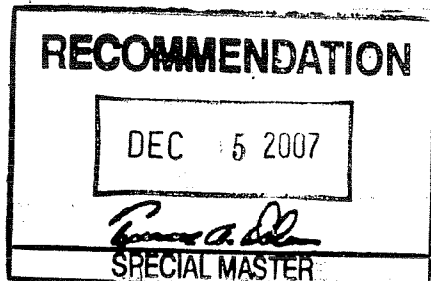
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 24-10753

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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 24-10764

NAME AND ADDRESS: KEVIN TONER
YODON THONDEN
136 MADISON AVE 3RD FLOOR
NEW YORK, NY 10016

SOURCE: CROW CREEK TRIBUTARY: SALT RIVER

QUANTITY: 0.75 CFS

PRIORITY DATE: 05/01/1914

POINT OF DIVERSION: T09S R46E S29 NWSWNE Within Caribou County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.75 CFS

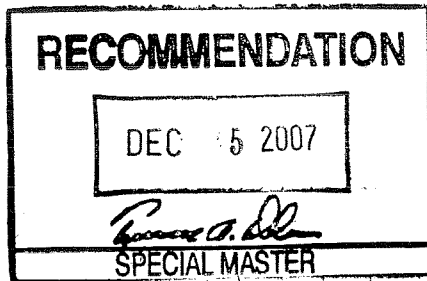
PLACE OF USE:	Irrigation	Within Caribou County
	T09S R46E S20	SESE 3.3
	S21	SWSW 15.7
	S28	NWNW 2.7
	S29	NENE 15.6
	37.3 Acres Total	

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

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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): 24-04018
24-04022 24-10753 24-10764

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 December 05, 2007, with sufficient first-class postage prepaid to the following:

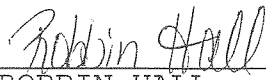
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

KEVIN TONER
YODON THONDEN
Represented by:
KENT W FOSTER
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

CERTIFICATE OF MAILING

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12/05/07

KEVIN TONER
YODON THONDEN
136 MADISON AVE 3RD FLOOR
NEW YORK, NY 10016
Phone: 212-842-8903



ROBBIN HALL
Deputy Clerk

DISTRICT COURT, SRBA
TWIN FALLS CO., IDAHO
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In Re SRBA)
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Case No. 39576)
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Water Right(s): 24-04018
24-04022 24-10753 24-10764

ROBBIN HALL
Deputy Clerk