

DEC 13 2:31  
DEPARTMENT OF  
WATER RESOURCES

2007 DEC 12 PM 2:31  
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 01-28F  
Case No. 39576 ) (Monsanto Co.)  
 )  
 ) SPECIAL MASTER REPORT  
 )  
\_\_\_\_\_ )

**Findings of Fact**

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, IDWR Lower Basin 01 (Part 1)* on May 15, 2006. The Director recommended claim 01-28F to Monsanto Company, c/o Mine Superintendent, P.O. Box 816, Soda Springs, Idaho, 83276, for .6 cfs from the Snake River for mining use in Caribou County from April 1 to October 15 with a priority date of February 21, 1890, based on a decree.

The claimant filed an *Objection* on July 10, 2006, objecting to source, point of diversion and place of use. The State of Idaho filed an *Objection* on October 3, 2006, objecting to place of use. Finally, on October 6, 2006, the United States of America, Department of Interior, Bureau of Land Management filed an *Objection* to purpose of use and place of use.

On December 3, 2007, the parties, with IDWR's concurrence, filed a *Standard Form 5* agreeing to amend the name and address, source and place of use.

**Conclusions of Law**

The Monsanto Company is entitled to a partial decree adjudicating a water right as described in the *SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 01-28F*.

DATED December 12, 2007.

A handwritten signature in black ink, appearing to read "Terrence A. Dolan". The signature is written in a cursive style with a horizontal line underneath it.

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                            )  
\_\_\_\_\_)                                         Water Right 01-00028F

NAME AND ADDRESS:       MONSANTO CO  
                              C/O MINE SUPERINTENDENT  
                              PO BOX 816  
                              SODA SPRINGS, ID 83276

SOURCE:                       SNAKE RIVER   TRIBUTARY: COLUMBIA RIVER

WATER UNDER THIS RIGHT IS DIVERTED FROM THE SNAKE RIVER INTO THE  
RESERVATION CANAL, WHICH DELIVERS THE WATER TO THE POINT OF  
INJECTION ON THE BLACKFOOT RIVER. THE POINT OF RE-DIVERSION IS  
ON THE LITTLE BLACKFOOT RIVER.

QUANTITY:                   0.60 CFS  
                              63.00 AFY

PRIORITY DATE:           02/21/1890

POINT OF DIVERSION:       T01N R37E S31 LOT 7   (SWNE ) Within Bingham County  
                              T02S R36E S24 LOT 2   (NESWSE) (Injection)  
                              T06S R42E S14       SENE   (Rediversion)               Within Caribou County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY  |
|-------------------------------|----------------|----------------|-----------|
|                               | Mining         | 04-01 TO 10-15 | 0.60 CFS  |
|                               |                |                | 63.00 AFY |

| PLACE OF USE: | Mining        |      | Within Caribou County |
|---------------|---------------|------|-----------------------|
|               | T06S R42E S13 | NWSW |                       |
|               | S14           | NWNE | SNNW                  |
|               |               | NESE |                       |

OWNER'S USE OF THE WATER AND ACCESS TO THE PLACE OF USE ARE  
SUBJECT TO SEPARATE LEASE AND/OR EASEMENT AGREEMENTS WITH THE  
STATE OF IDAHO AND UNITED STATES OF AMERICA. THESE AGREEMENTS  
DO NOT PRECLUDE THE OWNER FROM TRANSFERRING THE PLACE OF USE OFF  
OF ITS CURRENT LOCATION. OWNER MUST STILL COMPLY WITH IDAHO LAW  
IN FILING FOR SUCH A TRANSFER.

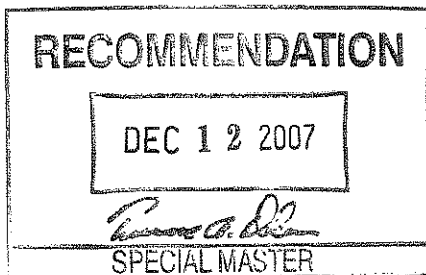
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Diversion of water under this right is subject to the Carrying  
Capacity Contract I-125-Ind. 127, dated June 7, 1929.

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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In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 01-00028F

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 12, 2007, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO  
Represented by:  
NATURAL RESOURCES DIV CHIEF  
STATE OF IDAHO  
ATTORNEY GENERAL'S OFFICE  
PO BOX 44449  
BOISE, ID 83711-4449

MONSANTO CO  
Represented by:  
RANDALL C BUDGE  
201 E CENTER, STE A2  
PO BOX 1391  
POCATELLO, ID 83204-1391  
Phone: 208-232-6101

CERTIFICATE OF MAILING

PAGE 1  
12/12/07

STATE OF IDAHO DEPT OF LANDS

Represented by:

STATE OF IDAHO

700 W JEFFERSON ROOM 210

P O BOX 44449

BOISE, ID 83711-4449

Phone: 208-334-2400

UNITED STATES OF AMERICA

Represented by:

US DEPARTMENT OF JUSTICE

ENVIRONMENT & NATL' RESOURCES

550 WEST FORT STREET, MSC 033

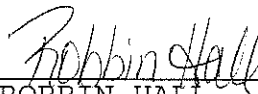
BOISE, ID 83724

MONSANTO CO

C/O MINE SUPERINTENDENT

PO BOX 816

SODA SPRINGS, ID 83276

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk

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In Re SRBA )  
Case No. 39576 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

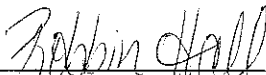
Water Right(s): 01-00028F

On December 12, 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 December 12, 2007.

  
\_\_\_\_\_  
ROBBIN HALL  
Deputy Clerk