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DEC 13 2007 DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
DEPARTMENT OF FILED
WATER RESOURCES

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) Subcases 01-71C (Scott) and 01-71E
(Table Rock Development LLC)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

Partial Decrees in water rights 01-71C and 01-71E were entered on September 14, 2007, after no one objected to IDWR's recommendations. On November 15, 2007, R. Wydell Johnson filed *Motions to Set Aside Partial Decrees* in subcases 01-71C and 01-71E "because a recent discovery of an unrecorded transfer suggests that the water right described under the partial decree for sub-case 1-71C [and 1-71E] actually belongs to the claimant, R. Wydell Johnson."

SRBA Presiding Judge John M. Melanson entered an *Order of Reference Appointing Special Master Terrence A. Dolan* on November 15, 2007, "to issue a recommendation . . . as to the *Motion[s]* and to the underlying merits as to how the *Partial Decree[s]* should be amended, if it is determined that said *Partial Decree[s]* should be set aside or amended."

A hearing on the *Motions* was held by telephone on December 6, 2007. Nathan M. Olsen appeared for Mr. Johnson; Robert L. Harris appeared for R. Gene Scott / Table Rock Homeowners Association; R. James Archibald appeared for Table Rock Development LLC; and Andrea L. Courtney appeared for IDWR.

Ms. Courtney noted that water rights 01-71C and 01-71E overlap with claims 01-71B and 01-71F which remain at issue and that the *Partial Decrees* should be set aside to accurately determine the proper allocation of available water. Further, IDWR's Eastern

Regional agent Michael Holliday will work with the parties to accomplish that end. That being said, no one opposed the *Motions* and the parties agreed to fully cooperate in resolving the matter.

Conclusions of Law

Mr. Johnson has shown good cause to set aside the *Partial Decrees* in subcases 01-71C and 01-71E.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Motions to Set Aside Partial Decrees* in subcases 01-71C and 01-71E be **granted**.

DATED December 12, 2007.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER REPORT AND RECOMMENDATION was mailed on December 12, 2007, with sufficient first-class postage to the following:

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