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DEPARTMENT OF
WATER RESOURCES

2007 DEC 18 AM 11: 27

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 74-32, 74-148, 74-1801 and
Case No. 39576) 74-15657
) (Bird)
)
_____) AMENDED SPECIAL MASTER REPORT

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 74-32, 74-148 and 74-1801 to Guardian Limited Partnership No. 1 for 3.24 cfs, 27.8 cfs and .16 cfs from Big Timber Creek to irrigate 695 acres and 8 acres in Lemhi County between March 15 and November 15 with priority dates of June 1, 1895, April 10, 1909, and April 1, 1920, based on a decree. The Director recommended claim 74-15657 be disallowed: "No lawful appropriation shown."

On June 30, 2006, the Guardian Limited Partnership filed an *Objection* to place of use in subcase 74-148. The same date, Kurt Bird filed the same *Objection*.

IDWR filed a *Notice of Completed Administrative Proceeding* on April 16, 2007, in subcases 74-32, 74-148 and 74-1801 for a substitution of party from Guardian Limited Partnership to Kurt and Janet Bird, 56 Lower Texas Creek Road, Leadore, Idaho, 83464. On May 17, 2007, the Guardian Limited Partnership was granted leave to withdraw its *Objection*.

On May 17, 2007, the Birds were granted leave to file a late *Objection* in subcase 74-15657. IDWR filed an *NCAP* in subcase 74-15657 on May 30, 2007, for a substitution of party from Guardian Limited Partnership to the Birds. It filed another *NCAP* on October 15, 2007, for a change in place of use in the same subcase. Finally, IDWR filed a *Corrected Amended Director's Report, Subcase No. 74-15657*

recommending the claim to the Birds for 7.78 cfs from Big Timber Creek to irrigate 963.5 acres in Lemhi County from March 15 to November 15 with a priority date of December 31, 1982, based on beneficial use. No one objected to the *Corrected Amended Director's Report*.

The Birds, with IDWR's concurrence, filed *Standard Forms 5* in subcases 74-32 and 74-148 on November 8, 2007. Subcase 74-1801 was uncontested.

The Special Master entered a *Report and Recommendations* on November 28, 2007, but on December 7, 2007, IDWR reported a "simple clerical error" in the place of use for subcase 74-148. The attached amended *Special Master Recommendation for Partial Decree for Water Right 74-148* is attached.

Conclusions of Law

The Birds are entitled to partial decrees adjudicating water rights as recommended by IDWR and as described in the *SF-5's* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 74-32, 74-148 (amended), 74-1801 and 74-15657*.

DATED December 18, 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 74-00032

NAME AND ADDRESS: JANET E BIRD
KURT W BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 3.24 CFS

PRIORITY DATE: 06/01/1895

POINT OF DIVERSION: T15N R26E S17 SWSW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.24 CFS

PLACE OF USE:	Irrigation		Within Lemhi County
	T15N R26E S03	SESW 25.1	SWSE 31.5
	S10	NENE 40.0	NWNE 40.0
	136.6 Acres Total		

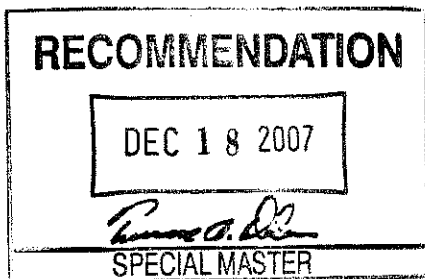
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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 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 74-00148

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

NAME AND ADDRESS: JANET E BIRD
 KURT W BIRD
 56 LOWER TEXAS CREEK RD
 LEADORE, ID 83464

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 27.80 CFS

Right Nos. 74-148 and 74-15657 are limited to a total combined
diversion rate of 27.8 cfs.

PRIORITY DATE: 04/10/1909

POINT OF DIVERSION: T15N R26E S20 SWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	27.80 CFS

PLACE OF USE:	Irrigation		Within Lemhi County
	T15N R26E S03	SWSW 4.0	SESW 36.9
		SWSE 40.5	
	S08	SESW 5.0	NWSE 1.0
		SWSE 25.0	SESE 16.0
	S09	SWNE 4.0	SENE 9.0
		SESW 10.0	NESE 40.0
		NWSE 32.0	SWSE 39.0
		SESE 40.0	
	S10	NENE 40.0	NWNE 40.0
		SWNE 40.0	SENE 40.0
		NENW 40.0	NWNW 32.6
		SWNW 38.0	SENW 40.0
		NESW 18.0	NWSW 37.0
		SWSW 40.0	SESW 4.0
		NESE 20.0	NWSE 20.0
	S17	NENE 40.0	NWNE 38.0
		SWNE 34.0	SENE 19.0
		NENW 5.0	SENW 12.0
		NESW 15.0	SESW 8.0
		NESE 14.0	NWSE 15.5
		SWSE 5.5	SESE 5.5
	963.5 Acres Total		

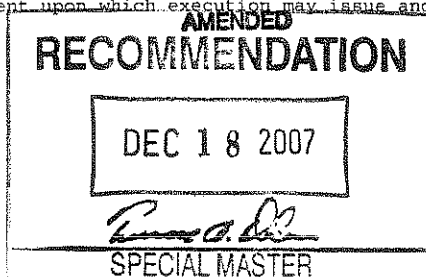
This right is limited to the irrigation of 693.3 acres within
the place of use described above in a single irrigation season.

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 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 74-01801

NAME AND ADDRESS: JANET E BIRD
KURT W BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.16 CFS

PRIORITY DATE: 04/01/1920

POINT OF DIVERSION: T15N R26E S08 NWSE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.16 CFS

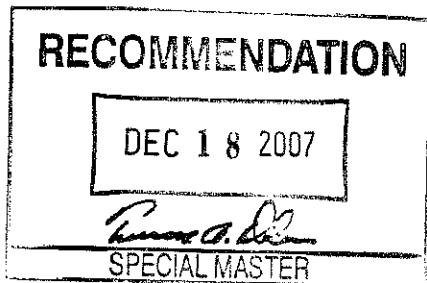
PLACE OF USE: Irrigation Within Lemhi County
T15N R26E S08 NWSE 8.0
8.0 Acres Total

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
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John M. Melanson
Presiding Judge of the
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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 74-15657

NAME AND ADDRESS: JANET BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

KURT W BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 7.78 CFS

RIGHT NOS. 74-148 AND 74-15657 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 27.8 CFS.

PRIORITY DATE: 12/31/1982

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED
AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS
BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO
SECTION 42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE
SUPERIOR RIGHT.

POINT OF DIVERSION: T15N R26E S20 SWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	7.78 CFS

PLACE OF USE:	Irrigation		Within Lemhi County
	T15N R26E S03	SWSW 4.0	SESW 36.9
		SWSE 40.5	
	S08	SESW 5.0	NWSE 1.0
		SWSE 25.0	SESE 16.0
	S09	SWNE 4.0	SENE 9.0
		SESW 10.0	NESE 40.0
		NWSE 32.0	SWSE 39.0
		SESE 40.0	
	S10	NENE 40.0	NWNE 40.0
		SWNE 40.0	SENE 40.0
		NENW 40.0	NWNW 32.6
		SWNW 38.0	SENE 40.0
		NESW 18.0	NWSW 37.0
		SWSW 40.0	SESW 4.0
		NESE 20.0	NWSE 20.0
	S17	NENE 40.0	NWNE 38.0
		SWNE 34.0	SENE 19.0
		NENW 5.0	SENE 12.0
		NESW 15.0	SESW 8.0
		NESE 14.0	NWSE 15.5
		SWSE 5.5	SESE 5.5
	963.5 Acres Total		

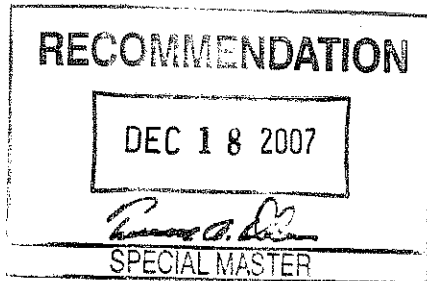
THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 74-148
PURSUANT TO SECTION 42-1426, IDAHO CODE.

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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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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 74-00032
74-00148 74-01801 74-15657

CERTIFICATE OF MAILING

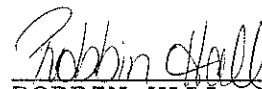
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on December 18, 2007, with sufficient first-class postage prepaid to the following:

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

JANET BIRD
JANET E BIRD
KURT & JANET BIRD
KURT BIRD
KURT W BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

KURT W BIRD
56 LOWER TEXAS CREEK RD
LEADORE, IE 83464

CERTIFICATE OF MAILING


ROBBIN HALL
Deputy Clerk

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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)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

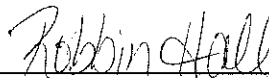
Water Right(s): 74-00032
74-00148 74-01801 74-15657

On December 18, 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 18, 2007.



ROBBIN HALL
Deputy Clerk