

RECEIVED

JAN 31 2008

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 30 2008	
By _____	Clerk
_____	Deputy Clerk

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 74-1030
	) (Capps)
Case No. 39576	)
	) 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 the claim to Mina and Royden Capps, Box 45, Lemhi, Idaho, 83465, for .74 cfs from Basin Creek to irrigate 24.6 acres in Lemhi County from March 15 to November 15 with a priority date of April 1, 1935, based on a decree.

The United States of America, Department of Interior, Bureau of Land Management filed an *Objection* on June 29, 2006, objecting to place of use. IDWR filed a *Notice of Completed Administrative Proceeding* on January 22, 2008, for a transfer in place of use. On January 28, 2008, the United States filed a *Notice of Voluntary Dismissal of Objection* and on January 30, 2008, the Special Master entered an *Order Dismissing Response*.

Conclusions of Law

Mina and Royden Capps are entitled to a partial decree adjudicating a water right as described in the *NCAP* and the attached *Special Master Recommendation for Partial Decree for Water Right 74-1030*.

DATED January 30, 2008.


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 74-01030

NAME AND ADDRESS: MINA R CAPPS
ROYDEN O CAPPS
BOX 45
LEMHI, ID 83465

SOURCE: BASIN CREEK TRIBUTARY: HAYDEN CREEK

Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

QUANTITY: 0.74 CFS

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands below.

PRIORITY DATE: 04/01/1935

POINT OF DIVERSION: T17N R23E S04 SENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.74 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T17N R23E S02 LOT 2 (NWNE) 11.0	SWNE 6.0
	LOT 3 (NENW) 7.1	SENW 0.5
	24.6 Acres Total	

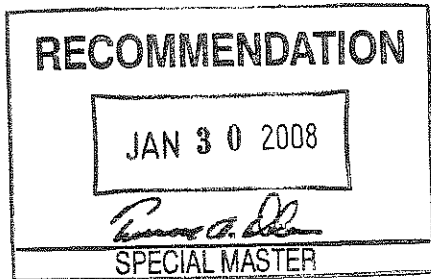
The irrigation place of use described above within the SWNE and SENW, Section 2, T17 N, R23E is limited to privately owned lands located in the north half of each quarter-quarter.

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

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 30 2008	
By _____	Clerk
_____	Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

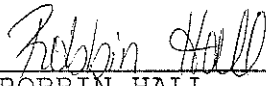
In Re SRBA	)	CERTIFICATE OF MAILING
	)	
Case No. 39576	)	
_____	)	Water Right(s): 74-01030

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 January 30, 2008, with sufficient first-class postage prepaid to the following:

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

MINA R CAPPS
ROYDEN O CAPPS
BOX 45
LEMHI, ID 83465
Phone: 208-756-6195



ROBBIN HALL
Deputy Clerk

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho JAN 30 2008 By _____
--

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

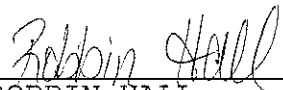
Water Right(s): 74-01030

On January 30, 2008, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (A01), 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 January 30, 2008.



ROBBIN HALL
Deputy Clerk