

DISPATCHED-182A
TWIN FALLS CO. IDAHO
FILED
2008 FEB 20 09 11 05

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 74-15535
Case No. 39576) (Mahaffey)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

On July 9, 2007, SRBA Presiding Judge John M. Melanson entered a ***Partial Decree*** in the above uncontested subcase awarding Velma Mahaffey, P.O. Box 14, Lemhi, Idaho, 83465, 14 cfs from the Lemhi River to irrigate 4.5 acres in Lemhi County from March 15 to November 15 with a priority date of February 12, 1875.

On January 22, 2008, Ms. Mahaffey, with technical help from IDWR agent Nathaniel Arave, filed a *Motion to File Amended Notice of Claim* alleging: "Cannot get water to place of use from the Lemhi River. Has been historically irrigated from Indian Springs Creek." At the same time, Ms. Mahaffey lodged a proposed description of the water right amending the source to "Indian Springs Creek, tributary to Lemhi River" and the legal description of the point of diversion, adding year-'round stockwater use and reducing the irrigated acreage to 4 acres.

On January 23, 2008, the Presiding Judge entered an ***Order of Reference Appointing Special Master Terrence A. Dolan*** to recommend "as to the *Motion* and to the underlying merits as to how the ***Partial Decree*** should be amended, if it is determined that said ***Partial Decree*** should be set aside or amended."

A hearing on the *Motion*, deemed to be a motion to set aside and modify the ***Partial Decree***, was held by telephone on February 14, 2008. Ms. Mahaffey appeared *pro se* and Chris M. Bromley appeared for IDWR. Ms. Mahaffey confirmed that the proposed description of the water right accurately describes the historic beneficial use of

the water at least since she acquired the ranch in 1956. Mr. Bromley agreed and suggested the appropriate remedy is for the *Partial Decree* to be set aside and modified to correct what were essentially clerical errors.

Conclusions of Law

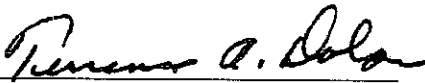
Ms. Mahaffey has shown good cause to have the *Partial Decree* set aside and modified in accordance with the proposed description of the water right.

Recommendation

THEREFORE, IT IS RECOMMENDED that:

1. Ms. Mahaffey's motion be **granted** setting aside the *Partial Decree*;
2. Because of the amended source, the matter be referred to the IDWR Director for his recommendation concerning the proposed changes;
3. Notice of the Director's recommendation be provided via the SRBA docket sheet; and
4. With no objections, an amended *Partial Decree* be entered in accordance with the Director's recommendation.

DATED February 20, 2008.


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 February 20, 2008, with sufficient first-class postage to the following:

VELMA MAHAFFEY
PO BOX 14
LEMHI, ID 83465
Phone: 208-768-2413

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