

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 74-00133

NAME AND ADDRESS: F JAMES WHITTAKER  
PAULA J WHITTAKER  
83 BIG EIGHT MILE RD  
PO BOX 240  
LEADORE, ID 83464

SOURCE: TEXAS CREEK TRIBUTARY: LEMHI RIVER  
SPRINGS TRIBUTARY: TEXAS CREEK

QUANTITY: 0.60 CFS

PRIORITY DATE: 05/14/1920

POINT OF DIVERSION: T15N R26E S35 SWNW Within Lemhi County  
NWNW

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 03-15 TO 11-15 | 0.60 CFS |

| PLACE OF USE: | Irrigation    | Within Lemhi County                                                                                                         |
|---------------|---------------|-----------------------------------------------------------------------------------------------------------------------------|
|               | T15N R26E S27 | SWNE 40.0 SENE 35.9<br>SENW 36.0 NESW 8.0<br>NESE 39.0 NWSE 37.0<br>SWSE 9.0 SESE 39.6<br>S34 NENE 6.0<br>250.5 Acres Total |

USE OF THIS RIGHT WITH RIGHT NO. 74-89 IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 121.2 ACRES IN A SINGLE  
IRRIGATION SEASON.

This right authorizes the irrigation of 121.2 total acres.

USE OF THIS RIGHT WITH RIGHT NO. 74-89 AND 74-15003 IS LIMITED  
TO THE IRRIGATION OF A COMBINED TOTAL OF 136.2 ACRES IN A SINGLE  
IRRIGATION SEASON.

PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LAND.

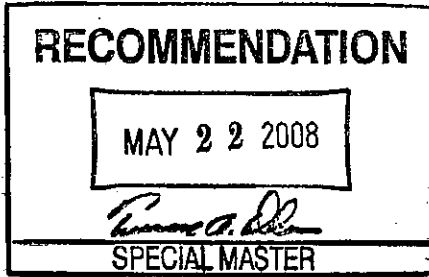
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 121.2 ACRES WITHIN THE  
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

RECEIVED

MAY 23 2008

DEPARTMENT OF  
WATER RESOURCES

2008 MAY 22 PM 4:11

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 74-88, 74-89, 74-90, 74-132, 74-  
Case No. 39576 ) 133, 74-378A, 74-1101, 74-1772, 74-2006,  
 ) 74-2091A, 74-2124 and 74-15061  
 ) (Whittaker)  
 )  
 ) SPECIAL MASTER REPORT

**Findings of Fact**

The Director of the Idaho Department of Water Resources filed his *Part I Director's Report, Reporting Area 23, IDWR Basin 74* on January 23, 2006. The Director recommended the above 12 claims to F. James and Paula Whittaker, P.O. Box 240, Leadore, Idaho, 83464, for between .18 cfs and 3.83 cfs from Texas Creek, springs and Eighteenmile Creek for stockwater use (74-15061) and to irrigate between 30 acres and 298 acres in Lemhi County from March 15 to November 15 with priority dates between April 1, 1887, and May 14, 1920, based on a decree.

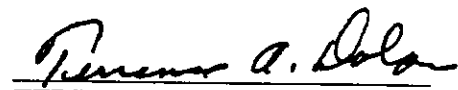
Mr. Whittaker filed *Objections* in all 12 subcases on May 4, 2006, objecting to point of diversion and place of use. The United States of America, Department of Interior, Bureau of Land Management filed *Objections* on June 30, 2006, in subcases 74-1101, 74-1772 and 74-15061 objecting to place of use and it filed *Responses* to most of Mr. Whittaker's *Objections* on September 1, 2006.

On April 21 and 23, 2008, the Whittakers and the United States, with IDWR's concurrence, filed *Standard Forms 5* in all 12 of the subcases agreeing to changes in claimants, mailing address, source, points of diversion and place of use and adding the remark: "Place of use does not include federal public lands."

**Conclusions of Law**

F. James and Paula Whittaker are entitled to partial decrees adjudicating water rights as described in the *SF-5's* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 74-88, 74-89, 74-90, 74-132, 74-133, 74-378A, 74-1101, 74-1772, 74-2006, 74-2091A, 74-2124 and 74-15061*.

DATED May 22, 2008.

A handwritten signature in black ink, reading "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

2008 MAY 22 PM 4:12

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

CERTIFICATE OF MAILING

Water Right(s): 74-00088  
(SEE ATTACHED EXHIBIT A)

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 May 22, 2008, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

CERTIFICATE OF MAILING

PAGE 1  
05/22/08

F JAMES WHITTAKER  
PO BOX 240  
LEADORE, ID 83464

F JAMES WHITTAKER  
PAULA J WHITTAKER  
83 BIG EIGHT MILE RD  
PO BOX 240  
LEADORE, ID 83464

  
ROBBIN HALL  
Deputy Clerk

Exhibit A

Subcase Nos:

74-00088  
74-00089  
74-00090  
74-00132  
74-00133  
74-00378A  
74-01101  
74-01772  
74-02006  
74-02091A  
74-02124  
74-15061

2008 MAY 22 PM 4:11

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): 74-00088  
(SEE ATTACHED EXHIBIT A)

On May 22, 2008, 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 May 22, 2008.

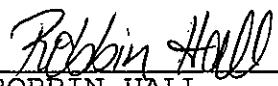
  
ROBBIN HALL  
Deputy Clerk

Exhibit A

Subcase Nos:

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