

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 75-10027 (75-14520 & 75-14521)
Case No. 39576) (Bernt)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, Reporting Area 23, Basin 75* on January 11, 2007. The Director recommended claim 75-10027 to William and Peggy Bernt, P.O. Box 425, Salmon, Idaho, 83467, for .24 cfs from North Fork Tower Creek for year-'round stockwater use and to irrigate 11 acres in Lemhi County from April 1 to October 31 with a priority date of December 10, 1909, based on beneficial use.

The Bernts filed an *Objection* on June 20, 2007, objecting to priority date. The Bernts, with IDWR's concurrence, filed *Standard Forms 5* on July 8, 2008, agreeing to split the claim into 75-14520 (June 29, 1899 priority date) and 75-14521 (December 10, 1909 priority date) and to disallow 75-10027.

Conclusions of Law

1. The Bernts 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 75-14520 and 75-14521*; and
2. Claim 75-10027 should be disallowed having been split.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 75-10027 be **disallowed**.

DATED July 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 75-14520

NAME AND ADDRESS: PEGGY JO BERNT
WILLIAM C BERNT
PO BOX 425
SALMON, ID 83467

SOURCE: NORTH FORK TOWER CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.22 CFS

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE: 06/29/1899

POINT OF DIVERSION: T23N R22E S04 NESW Within Lemhi County
NESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.22 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Irrigation Within Lemhi County
T23N R22E S04 NESW 11.0
11.0 Acres Total

Stockwater Within Lemhi County
T23N R22E S04 NESW

Right Nos. 75-14520 and 75-14521 are limited to the irrigation of
a combined total of 11 acres in a single irrigation season.

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

The quantity of water decreed for this water right for
stockwater use is not a determination of historical beneficial
use.

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.

RECOMMENDATION

JUL 30 2008

John M. Melanson

SPECIAL MASTER

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 75-14521

NAME AND ADDRESS: PEGGY JO BERNT
WILLIAM C BERNT
PO BOX 425
SALMON, ID 83467

SOURCE: NORTH FORK TOWER CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.22 CFS

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE: 12/10/1909

POINT OF DIVERSION: T23N R22E S04 NESW Within Lemhi County
NESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.22 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Irrigation Within Lemhi County
T23N R22E S04 NESW 11.0
11.0 Acres Total

Stockwater Within Lemhi County
T23N R22E S04 NESW

Right Nos. 75-14520 and 75-14521 are limited to the irrigation of
a combined total of 11 acres in a single irrigation season.

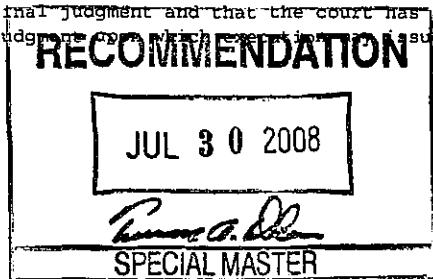
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right for
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NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

2008 JUL 30 AM 11: 57

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

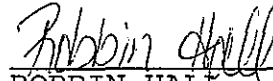
Water Right(s): 75-10027
75-14520 75-14521

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

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

PEGGY JO BERNT
WILLIAM C BERNT
PO BOX 425
SALMON, ID 83467
Phone: 208-756-4167


ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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07/30/08

2008 JUL 30 AM 11: 57

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

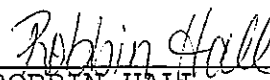
Water Right(s): 75-10027
75-14520 75-14521

On July 30, 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 July 30, 2008.



ROBBIN HALL
Deputy Clerk