

RECEIVED

2008 AUG 21 PM 1:29

AUG 25 2008

DEPARTMENT OF
WATER RESOURCES

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) Subcase 74-14981
Case No. 39576) (Seaberg)
)
) 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, filed by Kathy and Glenn Seaberg, P.O. Box 471, Salmon, Idaho, 83467, be disallowed: "Right not claimed in prior adjudication." The Seabergs filed an *Objection* on March 7, 2006, objecting to the Director's recommendation that their claim be disallowed.

The Seabergs filed a *Motion for Relief under I.R.C.P., Rule 60(a)* on January 2, 2008. At the request of the Special Master, IDWR filed a *Supplemental Director's Report Regarding Subcase No. 74-14981* on May 20, 2008, and attached a "Draft" of how it would recommend the Seabergs' claim if it is decreed as a water right by the SRBA Court.

A hearing on the Seabergs' *Motion for Relief under I.R.C.P., Rule 60(a)* was held on May 22, 2008, and on June 11, 2008, the Special Master entered an *Order Granting Motion for Relief Under I.R.C.P., Rule 60(a), Setting Deadline for Objections and Vacating Trial Schedule*. The Special Master concluded:

IDWR was legally correct in recommending the Seabergs' claim be disallowed because it was not **decreed** in the Lemhi Adjudication. But the fact is that the water right *was* claimed in the Lemhi Adjudication but was not decreed because of a clerical mistake or error – the exact circumstance warranting a correction by the Court under I.R.C.P Rule 60(a). The

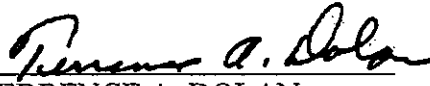
Seabergs are entitled to claim a water right in the SRBA for their land in subcase 74-14981.

No one responded to IDWR's *Supplemental Director's Report* or the *Order*.

Conclusions of Law

The Seabergs are entitled to a partial decree adjudicating a water right as described in IDWR's *Supplemental Director's Report* and the attached *Special Master Recommendation for Partial Decree for Water Right 74-14981*.

DATED August 21, 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
Case No. 39576) I.R.C.P. 54(b) FOR
) Water Right 74-14981

NAME AND ADDRESS: GLENN SEABERG
KATHY SEABERG
PO BOX 471
SALMON, ID 83467

SOURCE: LEMHI RIVER SALMON RIVER

QUANTITY: 0.24 CFS

PRIORITY DATE: 06/09/1875

POINT OF DIVERSION: T21N R22E S24 SESE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.24 CFS

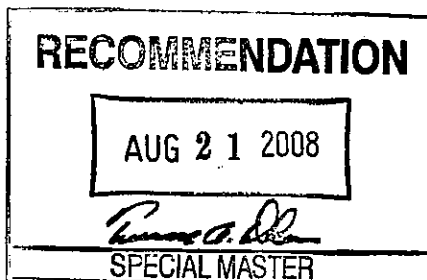
PLACE OF USE: Irrigation Within Lemhi County
T21N R22E S15 NENW 7.15
7.15 Acres Total

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

2008 AUG 21 PM 1:29

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)

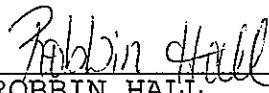
Water Right(s): 74-14981

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 August 21, 2008, with sufficient first-class postage prepaid to the following:

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

GLENN & CATHY SEABERG
GLENN SEABERG
KATHY SEABERG
Represented by:
KENT W FOSTER
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620


ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
08/21/08

DISTRICT CLERK-SRBA
TWIN FALLS CO., IDAHO
FILED
AL DISTRICT OFFICE

In Re SRBA)
)
Case No. 39576)
)
)

Water Right(s): 74-14981

ROBBIN HALL
Deputy Clerk