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DEPARTMENT OF
WATER RESOURCES

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FILED
DISTRICT COURT-SRDA
TWIN FALLS CO., IDAHO

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 74-27 (74-15752 and 74-15753)
Case No. 39576) (McFarland Livestock Co., Inc.)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION
)
)
)

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 claim 74-27 to McFarland Livestock Company, Inc., c/o Tex J. Kauer, P.O. Box 50, Lemhi, Idaho, 83465, for .7 cfs from Hawley Creek to irrigate 191 acres in Lemhi County from March 15 to November 15 with a priority date of April 1, 1879, based on a decree.

The United States of America, Department of Interior, Bureau of Land Management filed an *Objection* on June 30, 2006, objecting to place of use. IDWR filed a *Notice of Completed Administrative Proceeding* splitting subcase 74-27 into subcases 74-15752 and 74-15753. The United States then filed its *Notice of Voluntary Dismissal of Objection* in subcase 74-27 on August 15, 2008, based on the *NCAP*.

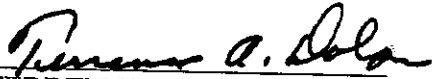
Conclusions of Law

1. McFarland Livestock Company, Inc., is entitled to partial decrees adjudicating water rights as described in the *NCAP* and the attached *Special Master Recommendations for Partial Decrees for Water Right 74-15752 and 74-15753*; and
2. McFarland Livestock Company, Inc., is **not** entitled to a partial decree for claim 74-27.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 74-27 be **disallowed**.

DATED August 26, 2008.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 74-15752

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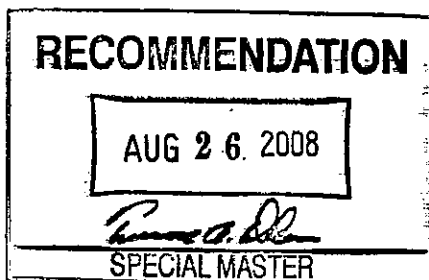
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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

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 74-15753

NAME AND ADDRESS: MC FARLAND LIVESTOCK CO INC
C/O TEX KAUER
PO BOX 50
LEMHI, ID 83465

SOURCE: HAWLEY CREEK TRIBUTARY: EIGHTEENMILE CREEK

PRIOR TO THE DIVERSION AND USE OF WATER UNDER TRANSFER 73531
APPROVAL, THE RIGHT HOLDER SHALL COMPLY WITH ALL FISH SCREENING
AND/OR FISH PASSAGE REQUIREMENTS OF THE IDAHO DEPARTMENT OF
FISH AND GAME.

QUANTITY: 0.02 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 APA PER ACRE AT THE FIELD HEADGATE FOR IRRIGATION
OF THE LANDS ABOVE.

PRIORITY DATE: 04/01/1879

POINT OF DIVERSION: T15N R27E S03 SENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.02 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T16N R27E S29	SWSW 31.0
	S30	SESW 25.0
		SESE 31.0
	S31	NENE 31.0
		NENW 18.2
		NWNW 31.0
	225.2 Acres Total	

USE OF THIS RIGHT WITH RIGHT NOS. 74-25, 74-28 AND 74-15752 IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 225.2 ACRES IN
A SINGLE IRRIGATION SEASON.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 3 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

USE OF WATER UNDER THIS RIGHT WILL BE REGULATED BY A WATERMASTER
WITH RESPONSIBILITY FOR THE DISTRIBUTION OF WATER AMONG
APPROPRIATORS WITHIN A WATER DISTRICT. AT THE TIME OF THIS
APPROVAL, THIS WATER RIGHT IS WITHIN STATE WATER DISTRICT NO.
74W.
THE RIGHT HOLDER SHALL ACCOMPLISH THE CHANGE AUTHORIZED BY
TRANSFER 73531 WITHIN ONE YEAR OF 02-02-2008.
FAILURE OF THE RIGHT HOLDER TO COMPLY WITH THE CONDITIONS OF
TRANSFER 73531 IS CAUSE FOR THE DIRECTOR TO RESCIND APPROVAL
OF THE TRANSFER.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT

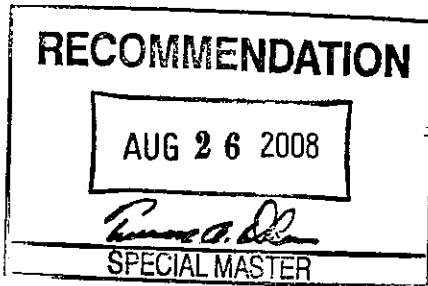
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

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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): 74-00027

74-15752 74-15753

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 26, 2008, with sufficient first-class postage prepaid to the following:

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

MC FARLAND LIVESTOCK
Represented by:
KENT W FOSTER
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

MC FARLAND LIVESTOCK CO INC
C/O TEX KAUER
PO BOX 50
LEMHI, ID 83465

CERTIFICATE OF MAILING

Robbin Hall
ROBBIN HALL
Deputy Clerk

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08/26/08

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In Re SRBA)

Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

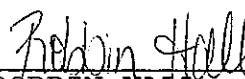
Water Right(s): 74-00027
74-15752 74-15753

On August 26, 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 August 26, 2008.



ROBBIN HALL
Deputy Clerk