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AUG 28 2008

DEPARTMENT OF
WATER RESOURCES

2008 AUG 26 AM 10:11
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 74-40 and 74-54
Case No. 39576) (Leadore Land Partners Ltd Partnership)
)
) 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 claims to Leadore Land Partners Ltd Partnership, c/o Karl Tyler, 3663 N. Reserve, Missoula, Montana, 59808, for 4.2 cfs and 3.2 cfs from Big Timber Creek and Little Timber Creek to irrigate 429 acres and 160 acres in Lemhi County from March 15 to November 15 with priority dates of June 1, 1979, and November 12, 1909, based on a decree.

On July 18, 2007, F. James Whittaker, Richard E. Foster, Purcell Ranch Partnership and Kurt Bird were granted leave to file late *Objections* in four subcases, including the above two subcases. Leadore Land Partners filed its *Motion for Partial Summary Judgment* in subcases 74-40 and 74-54 on March 17, 2008, and the same date, the Whittakers filed their *Motions for Summary Judgment*. But on April 23, 2008, Leadore Land Partners and the Whittakers filed a *Joint Notice of Settlement* settling the issues between them leaving *pro se* objectors Mr. Foster, Purcell Ranch Partnership (Allan, Betty and Kerry Purcell) and Mr. Bird to speak for themselves.

On June 24, 2008, Leadore Land Partners, the Whittakers and Purcell Ranch Partnership, with IDWR's concurrence, filed a *Standard Form 5* in subcase 74-40. The same date, Leadore Land Partners, the Whittakers, Purcell Ranch Partnership, Mr. Foster and Mr. Bird, with IDWR's concurrence, filed an *SF-5* in subcase 74-54. However, on

June 30, 2008, Allan Purcell wrote a letter to the SRBA Court stating that while he signed both SF-5's, he believed that "water right 74-54 was allowed to be reinstated in the Lemhi River Adjudication by the Department of Water Resources in violation of the water law of the state of Idaho."

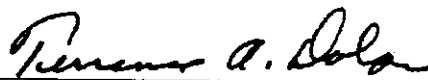
A telephone status conference concerning Mr. Purcell's letter was held on August 21, 2008. Josephine P. Beeman and Milton A. (Jock) Slavin appeared for Leadore Land Partners; Robert L. Harris appeared for the Whittakers, along with Mr. Whittaker; Kurt Bird appeared *pro se*; and Chris M. Bromley appeared for IDWR. Mr. Purcell did not appear or contact the Court.

The Special Master provided Mr. Purcell ample opportunity to pursue his concerns in subcase 74-54, but in light of his signature on both SF-5's and his failure to appear at the August 21, 2008 telephone hearing, there is no reason why the claims should not proceed to partial decree. None of the parties at the hearing opposed such resolution.

Conclusions of Law

Leadore Land Partners Ltd Partnership is 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 74-40 and 74-54*.

DATED August 26, 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 74-00040

NAME AND ADDRESS: LEADORE LAND PARTNERS LTD
PARTNERSHIP
C/O KARL TYLER
3663 N RESERVE
MISSOULA, MT 59808

SOURCE: LITTLE TIMBER CREEK TRIBUTARY: BIG TIMBER CREEK

QUANTITY: 4.20 CFS

PRIORITY DATE: 06/01/1879

POINT OF DIVERSION: T15N R25E S24 SWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	4.20 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T16N R25E S24	NENE 40.0 NWNE 40.0
		SWNE 40.0 SENE 36.0
		NESE 30.0 NWSE 36.0
		SWSE 36.0 SESE 20.0
	R26E S19	NESW 37.0 LOT 3 (NWSW)38.0
	LOT 4	(SWSW)36.0 SESW 40.0
	429.0 Acres Total	

USE OF THIS RIGHT WITH RIGHT NO. 74-41 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 429.6 ACRES IN A SINGLE
IRRIGATION SEASON.

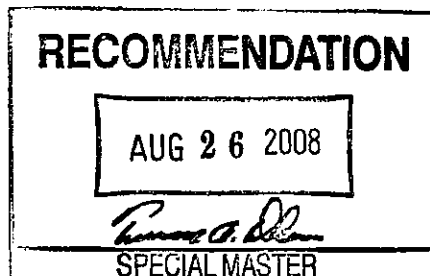
This right authorizes the irrigation of 429.6 total acres.
USE OF THIS RIGHT WITH RIGHT NO. 74-41 AND 74-61 IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 612.7 ACRES IN A
SINGLE IRRIGATION SEASON

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

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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00054

NAME AND ADDRESS: LEADORE LAND PARTNERS LTD
PARTNERSHIP
C/O KARL TYLER
3663 N RESERVE
MISSOULA, MT 59808

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 3.20 CFS

PRIORITY DATE: 11/12/1909

PURSUANT TO A CALL IN TIMES OF SCARCITY, THE DIVERSION OF WATER
UNDER THE FOLLOWING WATER RIGHTS LISTED BELOW SHALL NOT BE
SUBJECT TO CURTAILMENT BY WATER RIGHT 74-54: WATER RIGHTS:
74-56, 74-59A, 74-63, 74-398, 74-399, 74-1103, 74-1801, 74-1834,
74-7165 AND 74-15003.

POINT OF DIVERSION: T15N R26E S08 NWNE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.20 CFS

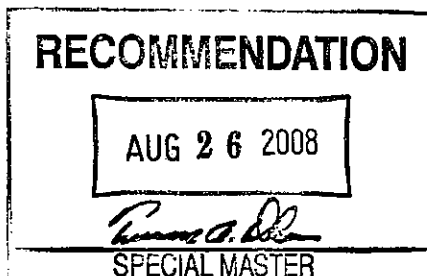
PLACE OF USE:	Irrigation	Within Lemhi County
	T15N R26E S03	SWNW 40.0 NWSW 40.0
	S04	SENE 40.0 NESE 40.0
	160.0 Acres Total	

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

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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 74-00040

74-00054

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

LEADORE LAND PARTNERS LTD

Represented by:
JOSEPHINE P BEEMAN
409 W JEFFERSON ST
BOISE, ID 83702
Phone: 208-331-0950

JAMES WHITTAKER

Represented by:
ROBERT L HARRIS
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

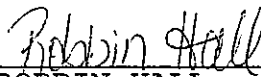
CERTIFICATE OF MAILING

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PURCELL PARTNERSHIP
PURCELL RANCH PARTNERSHIP
C/O ALLAN/BETTY/KERRY PURCELL
98 PURCELL RD
LEADORE, ID 83464
Phone: 208-768-2735

RICHARD E FOSTER
PO BOX 55
LEADORE, ID 83464
Phone: 208-768-2406

KURT BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464
Phone: 208-768-2425



ROBBIN HALL
Deputy Clerk

AUG 28 2008

DEPARTMENT OF
WATER RESOURCES

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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) : 74-00040

74-00054

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