

2008 SEP 24 PM 3:36

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 74-97
	) (Whittaker)
Case No. 39576	)
	) SPECIAL MASTER REPORT

Findings of Fact

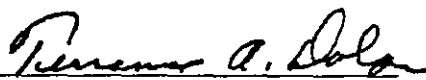
The Director of the Idaho Department of Water Resources filed his *Director's Report, Reporting Area 23, IDWR Basin 74* on January 23, 2006. The Director recommended the claim to F. James Whittaker, P.O. Box 240, Leadore, Idaho, 83464, for .96 cfs from Texas Creek to irrigate 69 acres in Lemhi County from March 15 to November 15 with a priority date of June 1, 1904, based on a decree.

The United States of America, Department of Interior, Bureau of Land Management filed a *Objection* on June 30, 2006, objecting to place of use. IDWR filed *Notices of Completed Administrative Proceeding* on April 15 and May 12, 2008, for change in place of use. On August 21, 2008, the Special Master entered an *Order Dismissing Objection* based on the United States' *Notice of Voluntary Dismissal of Objection*.

Conclusions of Law

F. James and Paula Whittaker are entitled to a partial decree adjudicating a water right as described in the *Amended NCAP* and the attached *Special Master Recommendation for Partial Decree for Water Right 74-97*.

DATED September 24, 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)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00097

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

QUANTITY: 0.96 CFS

THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO
MORE THAN 3.5 AFA PER ACRE AT THE FIELD HEADGATE FOR IRRIGATION
OF THE LANDS ABOVE.

PRIORITY DATE: 06/01/1904

POINT OF DIVERSION: T14N R26E S11 SESE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.96 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T14N R26E S11	NENE 34.0 SENE 22.0 NESE 12.0 SESE 1.0
	69.0 Acres Total	

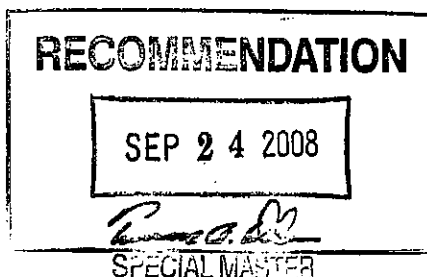
USE OF THIS RIGHT WITH RIGHT NO. 74-139 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 69.2 ACRES IN A SINGLE
IRRIGATION SEASON.
This right authorizes the irrigation of 69.2 total acres.

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

Case No. 39576

CERTIFICATE OF MAILING

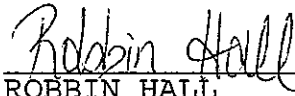
Water Right(s): 74-00097

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 September 24, 2008, with sufficient first-class postage prepaid to the following:

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

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


ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
09/24/08

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In Re SRBA)

Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

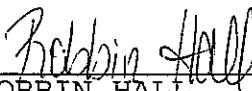
Water Right(s): 74-00097

On September 24, 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 September 24, 2008.



ROBBIN HALL
Deputy Clerk