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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
DEC 9 2008
By _____ Clerk Deputy Clerk

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 35-11343
	) (Houghland)
Case No. 39576	)
	) SPECIAL MASTER REPORT
_____	) AND RECOMMENDATION

Findings of Fact

On November 17, 2000, former SRBA Presiding Judge Barry Wood enter a *Partial Decree* in water right 35-11343 awarding to Bonnie and Porter Houghland, 2186 S. Pala [Palo?] Verde, Lake Havasu City, Arizona, 86403, .07 cfs from groundwater for year-'round domestic and stockwater uses in Bingham County with a priority date of May 1, 1910. John Houghland, son of deceased Porter Houghland, filed a *Motion to File Late Objection* on August 27, 2008, objecting to place of use – an error in the legal description.

SRBA Presiding Judge John M. Melanson entered an *Order of Reference Appointing Special Master Terrence A. Dolan* “to issue a recommendation ... as to the *Motion* and to the underlying merits as to how the *Partial Decree* should be amended, if it is determined that said *Partial Decree* should be set aside or amended.”

A hearing on the *Motion*, deemed to be a motion to set aside partial decree, was held by telephone on December 4, 2008. Jared M. Harris appeared for John Houghland and Andrea L. Courtney appeared for IDWR. Mr. Harris pointed out there was an error on the legal description of the place of use when the original SRBA claim was filed and the error on the *Partial Decree* was not discovered until Porter Houghland’s estate was settled last year. The *Deed of Distribution by Personal Representative* was recorded

April 8, 2008, transferring Porter Houghland's interest in the real property to John Houghland.

Conclusions of Law

John Houghland has shown good cause to have the *Partial Decree* set aside and modified to correct the legal description error.

Recommendation

THEREFORE, IT IS RECOMMENDED that:

1. The *Partial Decree* in subcase 35-11343 be set aside;
2. John Houghland be required to file with IDWR no later than **Friday, January 30, 2009**, evidence of current ownership of the water right (whether in his name and Bonnie Houghland or his name alone); and
3. IDWR be required to file with the SRBA Court no later than **Friday, February 27, 2009**, a proposed partial decree correctly describing the owner(s) and place of use.

DATED December 9, 2008.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER REPORT AND RECOMMENDATION was mailed on December 09, 2008, with sufficient first-class postage to the following:

JOHN HOUGHLAND

Represented by:

DWIGHT E. BAKER

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DIRECTOR OF IDWR

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BONNIE HOUGHLAND

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