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DEC 26 2008

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 23 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

) Subcases 75-14036, 75-14516 and 75-14517

) (Smith)

Case No. 39576

)

) SPECIAL MASTER REPORT

) AND RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, Reporting Area 23, Basin 75* on January 11, 2007. The Director recommended the claim to Kord and Mary Ann Smith, 781 Cedar Ridge Drive, Idaho Falls, Idaho, 83404, for .44 cfs from Tower Creek to irrigate 21.9 acres in Lemhi County from April 1 to October 31 with a priority date of December 10, 1909, based on beneficial use.

The Smiths filed an *Objection* on October 10, 2007, objecting to priority date. The United States of America, Department of Interior, Bureau of Land Management filed an *Objection* on October 17, 2007, objecting to place of use. On October 27, 2008, the Smiths and the United States, with IDWR's concurrence, filed a *Standard Form 5* agreeing to dismiss the claim with prejudice indicating that the subcase had been split. On December 16, 2008, the Smiths and the United States, with IDWR's concurrence, filed Standard Forms 5 for split rights 75-14516 and 75-14517.

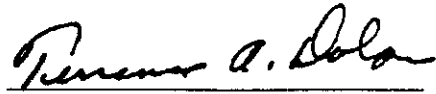
Conclusions of Law

The Smiths are entitled to partial decrees in subcases 75-14516 and 75-14517 as recommended in the Standard Forms 5. The Smiths are **not** entitled to a partial decree adjudicating a water right 75-14036 as agreed to in the *SF-5*.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 75-14036 be **disallowed** having been split into 75-14516 and 75-14517.

DATED December 23, 2008.

A handwritten signature in black ink, appearing to read "Terrence A. Dolan". The signature is written in a cursive style with a horizontal line underneath it.

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 75-14517

NAME AND ADDRESS: KORD S SMITH
MARY ANN H SMITH
781 CEDAR RIDGE DR
IDAHO FALLS, ID 83404

SOURCE: TOWER CREEK TRIBUTARY: SALMON CREEK

QUANTITY: 0.15 CFS

PRIORITY DATE: 12/10/1909

POINT OF DIVERSION: T23N R22E S04 NENW Within Lemhi County
T24N R22E S33 NENW
SWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.15 CFS

PLACE OF USE: Irrigation Within Lemhi County
T23N R22E S04 NENW 2.8
NESW 4.1
21.9 Acres Total

Place of use does not include federal public lands.
Right No. 75-14516 and 75-14517 are limited to the irrigation of
a combined total of 21.9 acres in a single irrigation season.

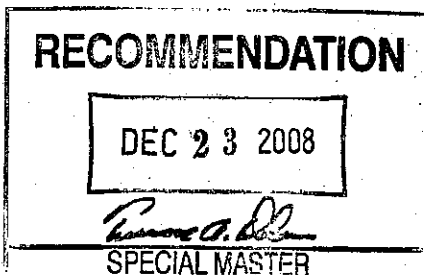
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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 Re SRBA

Case No. 39576

NAME AND ADDRESS: KORD S SMITH
MARY ANN H SMITH
781 CEDAR RIDGE DR
IDAHO FALLS, ID 83404

SOURCE: TOWER CREEK TRIBUTARY: SALMON CREEK

QUANTITY: 0.41 CFS

PRIORITY DATE: 06/29/1899

POINT OF DIVERSION: T23N R22E S04 NENW Within Lemhi County
T24N R22E S33 NENW
SWSE

PLACE OF USE:	Irrigation			Within Lemhi County
	T23N R22E S04	NENW	2.8	SENEW 15.0
		NESW	4.1	
	21.9 Acres Total			

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

RULE 54 (b) CERTIFICATE

RECOMMENDATION

DEC 23 2008

[Signature]

SPECIAL MASTER

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DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
DEC 23 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)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 75-14036
75-14516 75-14517

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 December 23, 2008, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

KORD S SMITH
MARY ANN H SMITH
781 CEDAR RIDGE DR
IDAHO FALLS, ID 83404
Phone: 208-522-1184

CERTIFICATE OF MAILING

Robbin Hall
ROBBIN HALL
Deputy Clerk

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12/23/08

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 23 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)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

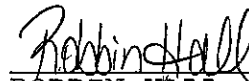
Water Right(s): 75-14036
75-14516 75-14517

On December 23, 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 December 23, 2008.


ROBBIN HALL
Deputy Clerk