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DEPARTMENT OF
WATER RESOURCES

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

Sub Case No.: 37-22256
(Formerly No. 37-862, which was split
into 37-22255 and 37-22256)

MOTION FOR ENTRY OF SPECIAL
MASTER'S REPORT AND
RECOMMENDATION

Claimant Oliver Family Trust (the "Oliver Family") hereby moves for entry of Special Master's Report and Recommendation with respect to the claim for Water Right No. 37-22256.

In support of this motion, the Oliver Family states as follows:

1. Water Right No. 37-22256 is based on a proportionate split of Water Right No. 37-862 (the "Parent Right") into Water Right Nos. 37-22255 and 37-22256 (the "Children Rights") (action collectively referred to as the "Split").

2. The Split was effected by way of an *Amended Notice of Change in Water Right Ownership* ("Amended Notice") filed by the Oliver Family with the Idaho Department of Water Resources ("IDWR" or the "Department"). The Amended Notice is dated November 12, 2007 and was filed on November 13, 2007. The Amended Notice superseded the Oliver Family's earlier *Notice of Change in Water Right Ownership* ("Notice") dated August 8, 2007.

3. No objection was filed either to the Amended Notice or to the earlier Notice.
4. On January 22, 2008, the Department filed with the SRBA Court a *Notice of Completed Administrative Proceeding* ("NCAP") listing the Parent Right (No. 37-862) and the Children Rights (Nos. 37-22255 and 37-22256).
5. On February 6, 2008, consistent with the NCAP, the Department issued a new Director's Report which recommended the Parent Right (No. 37-862) to be disallowed and recommended the two Children Rights (Nos. 37-22255 and 37-22256) to be decreed.
6. An objection to the Parent Right (No. 37-862) was filed on November 14, 2007 by Tom O'Gara et al. (collectively "Concerned Water Users") and the Big Wood Canal Company, sometimes referred to informally as the Bellevue Nine. Responses to the Bellevue Nine objection were filed by Sinclair Oil Company dba Sun Valley Company and by the claimant, Peter M. Thomas Trust. An objection was also filed by the Oliver Family, but that objection has been mooted by the subsequent split and creation of the Children Rights.
7. Although objections and responses were filed to the Parent Right, no objection has been filed to either of the Children Rights.
8. It is unknown whether the objectors (Bellevue Nine) or the respondents (Sun Valley or Thomas Trust) have any continuing objection to the Children Rights. In order to provide them an opportunity to oppose this motion, if they have a basis for doing so, they have been served with a copy of this motion and with a copy of the notice of hearing on the matter, which has been set for February 26, 2009.
9. Claims for Water Right Nos. 37-862A (by Dan S. Fairman) and 37-4312 (by Patricia A. Weaver) geographically overlap the Parent Right (No. 37-862). However, both of those rights have been recommended to be disallowed, and no objection has been filed to either recommendation.

10. Prior to obtaining the Split described above, the Oliver Family filed an overlapping claim assigned Water Right No. 37-22120. This right was also recommended to be disallowed. The only objector is the Oliver Family (which was filed solely to preserve the Oliver Family's position pending approval of the Split). The purpose of this claim and the objection has been mooted by the Split.

11. If this motion is granted, the Oliver Family intends to withdraw its claim for Water Right No. 37-22120 and its objection to Water Right No. 37-862.

12. There are no other overlapping claims.

13. For these reasons, it appears that there are no outstanding issues with respect to Water Right No. 37-22256 and that a Special Master's Report and Recommendation for that right should issue forthwith reflecting the Amended Director's Report for that right.

DATED this February 11, 2009

Respectfully submitted,

GIVENS PURSLEY LLP

By


Christopher H. Meyer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 11, 2009, the foregoing was filed, served, or copied as follows:

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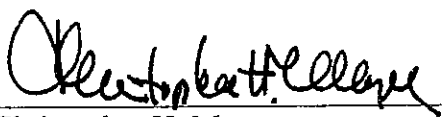
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