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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAR - 6 2009	
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	)	SPECIAL MASTER'S REPORT
	)	AND RECOMMENDATION ON
Case No. 39576	)	MOTION TO SET ASIDE PARTIAL
	)	DECREE
_____	)	WATER RIGHT NO.: 21-7362

I. PROCEDURAL BACKGROUND

On February 2, 2007 a *Partial Decree* was issued for water right 21-7362 in the name of J. Stanley Horton. On June 16, 2008, a *Motion to Amend Notice of Claim* was filed by Gene R. Kantack. On September 2, 2008, the presiding Judge John M. Melanson issued an *Order of Reference Appointing Brigitte Bilyeu as Special Master*.

A hearing was held on the *Motion to Set Aside Partial Decree and Motion to Amend Claim* on March 4, 2009. The movant Gene Kantack did not attend the hearing.

II. DISCUSSION

The *Partial Decree* for this water right 21-7362 was issued in February 2007. This is a groundwater right for commercial purposes. There is no irrigation component. IDWR reported at the hearing that a related surface water claim was made under water right 21-110A. It appears, therefore, that the movant may be trying to set aside the wrong water right number.

In any event, there was no showing to justify setting aside this water right under I.R.C.P. 60(a) or I.R.C.P. 60(b).

III. FINDINGS AND CONCLUSIONS

Therefore, IT IS ORDERED that the *Motion to Set Aside Partial Decree* and *Motion to Amend Notice of Claim* are **denied**. THEREFORE, IT IS RECOMMENDED that there be no changes to the *Partial Decree* issued February 2, 2007 for water right 21-7362. No *Amended Partial Decree* should issue.

DATED: March 6, 2009.


BRIGETTE BILYEU, Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE was mailed on March 06, 2009, with sufficient first-class postage to the following:

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