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MAR 27 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
MAR 26 2009
By _____ Clerk Legally 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 36-2312A, 36-7387A and 36-7641
	) (Durfee)
Case No. 39576	)
	) SPECIAL MASTER REPORT
	) AND RECOMMENDATION

Findings of Fact

Former SRBA Presiding Judge Daniel C. Hurlbutt, Jr., entered a *Partial Decree* in subcase 36-7641 on December 30, 1997, decreeing to Dewey D. Durfee, 3443 South, 1700 East, Wendell, Idaho, 83355, 1.28 cfs of groundwater to irrigate 66 acres in Gooding County during the "irrigation season" with a priority date of May 19, 1983. Later, former SRBA Presiding Judge Roger Burdick entered an *Order Amending Irrigation Period of Use Element in Partial Decree* on August 27, 2001, amending the period of use to be March 15 to November 15.

Mr. Durfee wrote to the Court on August 21, 2008, stating there were clerical errors in the combined acreage limit in 36-7641, as well as 36-2312A and 36-7387A. The latter two water rights were partially decreed on December 13, 2000 and February 7, 2001.

On February 25, 2009, IDWR technical engineer Douglas Jones wrote to the Court with the following information:

My review of the water right [36-7641] and associated rights indicate that IDWR caused a clerical error that impermissibly limited all the rights to a total of 66 acres during an ownership change processing. Two of the rights would appropriately be limited to 66 acres (36-2312A and 36-7387), but 36-7641 stands alone with 64 acres. Mr. Durfee should be able to irrigate 130 acres under all the rights. I respectfully request that the court rule favorably for Mr. Durfee; however, associated rights 36-2312A and

36-7387A also need corrections to make all rights consistent with each other.

Mr. Jones then attached descriptions of how the three water rights should appear, including ownership in the names of Ynes and Dewey Durfee.

Hearings on Mr. Durfee's motion to set aside the *Partial Decrees* was held on December 18, 2008, and March 5, 2009. Mr. Durfee appeared *pro se*, along with his son, Jerry Durfee, and Nicholas B. Spencer appeared for IDWR, along with Mr. Jones.

Conclusions of Law

Mr. Durfee has shown good cause to have the *Partial Decrees* in subcases 36-2312A, 36-7387A and 36-7641 set aside and modified in accordance with Mr. Jones' recommendations. The proposed amendments place no additional burdens on the resource nor encumber other water users' water rights.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decrees* in subcases 36-2312A, 36-7387A and 36-7641 set aside and modified in accordance with IDWR's recommendations. Attached are proposed amended partial decrees as recommended by IDWR.

DATED March 26, 2009


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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 36-02312A

NAME AND ADDRESS: DEWEY D DURFEE
YNES V DURFEE
3443 S 1700 E
WENDELL, ID 83355

SOURCE: GROUNDWATER

QUANTITY: 0.75 CFS
264.00 AFY

USE OF THIS RIGHT WITH RIGHT NOS. 36-7387A AND 36-7641 IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.19 CFS AND A
TOTAL ANNUAL DIVERSION VOLUME OF 520 AF.
USE OF RIGHT NOS. 36-2312A AND 36-7387A IS LIMITED TO A TOTAL
COMBINED DIVERSION VOLUME OF 264 AF.

PRIORITY DATE: 11/26/1956

POINT OF DIVERSION: T08S R14E S25 SESENE Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.75 CFS

PLACE OF USE:	Irrigation	Within Gooding County
	T08S R14E S25	SWNE 33.0
	66.0 Acres Total	SENE 33.0

USE OF THIS RIGHT WITH RIGHT NOS. 36-7387A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 66 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.

RECOMMENDATION

MAR 26 REC'D

James A. Melanson
SPECIAL MASTER

John M. Melanson
Presiding Judge of the
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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 36-07387A

NAME AND ADDRESS: DEWEY D DURFEE
YNES V DURFEE
3443 S 1700 E
WENDELL, ID 83355

SOURCE: GROUNDWATER

QUANTITY: 0.44 CFS
264.00 AFY

USE OF THIS RIGHT WITH RIGHT NOS. 36-2312A AND 36-7641 IS LIMITED
TO A TOTAL COMBINED DIVERSION RATE OF 1.19 CFS AND A TOTAL
ANNUAL DIVERSION VOLUME OF 520 AF.
USE OF RIGHT NOS. 36-2312A AND 36-7387A IS LIMITED TO A TOTAL
COMBINED DIVERSION VOLUME OF 264 AF.

PRIORITY DATE: 10/27/1973

POINT OF DIVERSION: T08S R14E S25 SESENE Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.44 CFS

PLACE OF USE: Irrigation Within Gooding County
T08S R14E S25 SWNE 33.0 SENE 33.0
66.0 Acres Total

USE OF THIS RIGHT WITH RIGHT NOS. 36-2312A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 66 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

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RECOMMENDATION

MAR 26 REC'D

John M. Melanson
Presiding Judge of the
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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 36-07641

NAME AND ADDRESS: DEWEY D DURFEE
YNES V DURFEE
3443 S 1700 E
WENDELL, ID 83355

SOURCE: GROUNDWATER

QUANTITY: 1.19 CFS
256.00 AFY

USE OF THIS RIGHT WITH RIGHT NOS. 36-7387A AND 36-2312A IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.19 CFS AND A
TOTAL ANNUAL DIVERSION VOLUME OF 520 AF.

PRIORITY DATE: 05/19/1983

POINT OF DIVERSION: T08S R14E S25 SESENE Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.19 CFS 256.00 AFY

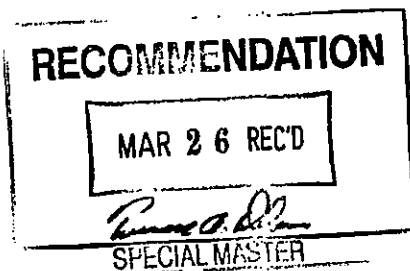
PLACE OF USE:	Irrigation	Within Gooding County
	T08S R14E S25	NESE 32.0
	64.0 Acres Total	NWSE 32.0

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

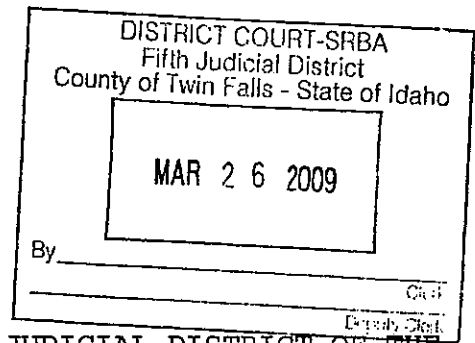
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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John M. Melanson
Presiding Judge of the
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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 36-02312A
36-07387A 36-07641

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 March 26, 2009, with sufficient first-class postage prepaid to the following:

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

DEWEY D DURFEE
YNES V DURFEE
3443 S 1700 E
WENDELL, ID 83355
Phone: 208-536-5643


ROBBIN HALL
Deputy Clerk

CERTIFICATE OF MAILING

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

MAR 26 2009

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

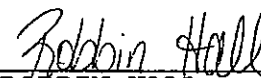
Water Right(s): 36-02312A
36-07387A 36-07641

On March 26, 2009, 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 March 26, 2009.


ROBBIN HALL
Deputy Clerk