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DEPARTMENT OF
WATER RESOURCES

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

MAR 26 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

Case No. 39576

) Subcases:
) 74-179C (Stokes)
) 74-179D (Eagle Valley Ranch)
) 74-180B (Stokes)
) 74-4006 (Stokes)
) 74-15520 (Stokes)
) 74-15521 (Eagle Valley Ranch)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

On June 20 and 25, 2007, SRBA Presiding Judge John M. Melanson entered *Partial Decrees* in the above six uncontested subcases. The claimants are Betty and Earl Stokes, 19 N. Barracks Lane, Salmon, Idaho, 83467, and Eagle Valley Ranch LLC, 6 Stewart Road, Short Hills, New Jersey, 07078.

On July 22, 2008, Boyd Stokes, Chairman of Water District 74-C, wrote to the SRBA Court seeking to set aside *Partial Decrees* in subcases 74-179C, 74-180B and 74-4006 because "This acreage has not been irrigated since 1976. . . . [T]he only water rights transferred with the . . . real estate will be waste water only." The same date, the Presiding Judge entered an *Order of Reference Appointing Special Master Terrence A. Dolan* "as to the *Motion* and to the underlying merits as to how the *Partial Decrees* should be amended, if it is determined that said *Partial Decrees* should be set aside or amended."

On August 18 and 26, 2008, Melvin Domko and Malinda Tracy lodged *Responses to Objection* in subcases 74-179C and 74-180B stating: "The water rights should remain on the Barracks Ln. sub-division." and "Lot 5 Barracks Lane Subdivision has always had

active decreed water rights. Should be maintain [sic] as is.” Soon thereafter, John Tracy and Cal Anderson wrote letters to the Court in the same vain.

Hearings on Mr. Stokes’ motion to set aside the *Partial Decrees* were held by telephone on August 28 and September 25, 2008. At the second hearing, IDWR suggested the best solution is to ask the Presiding Judge to set aside and amend the three *Partial Decrees* (74-179C, 74-180B and 74-4006), plus three overlapping *Partial Decrees* (74-179D, 74- 15520 and 74-15521), to correct errors because of significant confusion surrounding transfer proceedings and the terms of a warranty deed. IDWR then offered to submit proposed partial decrees describing how it would recommend the water rights to correct the errors.

IDWR submitted its *Supplemental Director’s Report Regarding Subcase No. 74-179C, -179D, -180B, -4006, 15520, and -15521* on October 27, 2008. On November 17, 2008, Malvin and Jean Domko wrote to the Court stating Mr. Stokes’ water right to Lot #1 should be forfeited and the original water rights should stay with the land. Vincent and Melinda Tracy, Sidney and Marlene Cook and Daniel and Deidre Hyde wrote matching letters to the Court on November 18, 20 and 21, 2008.

A third hearing on Mr. Stokes’ motion to set aside the *Partial Decrees* was held by telephone on March 12, 2009. Boyd and Dean Stokes, Melvin Domko and Melinda Tracy appeared *pro se*; counsel for Eagle Valley Ranch, Robert L. Harris, was unable to appear, but Mike Seler and Mikos Manayas listened in; and Chris M. Bromley appeared for IDWR, along with Nathaniel Arave. IDWR again recommended the above six *Partial Decrees* be set aside to correct errors in transfer proceedings, including a split of 74-180B into new water rights 74-15890 (Stokes) and 74-15891 (Eagle Valley Ranch).

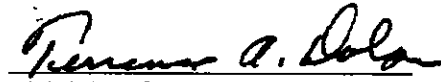
Conclusions of Law

Mr. Stokes has shown good cause to have *Partial Decrees* entered in subcases 74-179C, 74-179D, 74-180B, 74-4006, 74-15520, and 74-15521 set aside with further proceedings before the Special Master to determine whether the water rights should be modified in accordance with IDWR’s October 27, 2008 *Supplemental Director’s Report*.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decrees* in subcases 74-179C, 74-179D, 74-180B, 74-4006, 74-15520, and 74-15521 be **set aside** and the matter referred back to the Special Master to determine how the water rights should be amended.

DATED March 26, 2009



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

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