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DEPARTMENT OF
WATER RESOURCES

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

MAR 26 2009

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) Subcase 74-800C
Case No. 39576) (Bigley)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

SRBA Presiding Judge John M. Melanson entered a *Partial Decree* on July 9, 2007, adjudicating an uncontested water right to Alexia and Michael Monroe for .05 cfs from Haynes Creek to irrigate 2.3 acres in Lemhi County from April 1 to November 1 with a priority date of February 23, 1923.

On October 20, 2008, new owners Denyce and Joyce Bigley, P.O. Box 17, Tendoy, Idaho, 83468, filed a *Motion to Set Aside the Partial Decree* "that we may continue to irrigate our 12.4 acres and maintain our original water right." On October 20, 2008, the Presiding Judge entered an *Order of Reference Appointing Special Master Terrence A. Dolan* to recommend as "to the underlying merits as to how the *Partial Decree* should be amended, if it is determined that said *Partial Decree* should be set aside or amended."

A hearing on the Bigleys' *Motion* was held by telephone on March 12, 2009. Denyce Bigley appeared *pro se* and Chris Bromley appeared for IDWR. The day before the hearing, IDWR submitted a "draft recommendation" of how IDWR would recommend the claim if the Court grants the *Motion*. Ms. Bigley agreed with IDWR's draft recommendation. She said they bought the property in 1990, 17 years before the *Partial Decree* was entered, and they only recently learned that all correspondence had been sent to the former owners' non-existent address.

Conclusions of Law

The Bigleys have shown good cause to have the *Partial Decree* set aside and modified in accordance with IDWR's draft recommendation correcting ownership, quantity and place of use, within the original claimed quantity and place of use.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decree* be set aside and amended in accordance with IDWR's draft recommendation.

DATED March 26, 2009



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 74-00800C

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)
_____)

CERTIFICATE OF MAILING

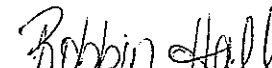
Water Right(s) : 74-00800C

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

DENYCE BIGLEY
JOSEPH & DENYCE BIGLEY
JOSEPH A BIGLEY
PO BOX 17
TENDON, ID 83468



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

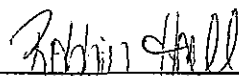
Water Right(s): 74-00800C

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