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APR 02 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR - 1 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	)	Subcase 74-10108
	)	(Henry)
Case No. 39576	)	
_____	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

Findings of Fact

Former SRBA Presiding Judge Barry Wood entered a *Partial Decree* in uncontested subcase 74-10108 on September 1, 2000. Chester and Judy McCullough were decreed .04 cfs from groundwater for year-'round domestic use in Lemhi County with a priority date of April 1, 1935.

On January 5, 2009, new owners Roger and Jane Henry, 5665 S. 5th West, Idaho Falls, Idaho, 83404, wrote to the Court stating that in recent transfer proceedings with IDWR, they first learned that both the point of diversion and place of use were wrong: the SW¼NW¼ should be the SW¼SW¼. IDWR agent Nate Arave brought this error to the Henrys' attention on December 24, 2008.

A hearing on the Henrys' motion to set aside the *Partial Decree* was held by telephone on March 5, 2009. Mr. Henry appeared *pro se* and Chris M. Bromley appeared for IDWR.

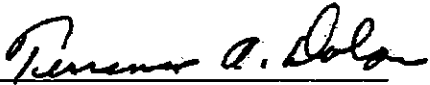
Conclusions of Law

The Henrys has shown good cause to have the *Partial Decree* set aside and amended to correct errors in the legal descriptions.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decree* in subcase 74-10108 be set aside and amended to describe the current owners and the correct legal descriptions of point of diversion and place of use.

DATED April 1, 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

AMENDED

In Re SRBA)
)
Case No. 39576)
)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 74-10108

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

APR - 1 2009

By _____
Clerk
Deputy Clerk

NAME AND ADDRESS: JANE HENRY
ROGER HENRY
5665 S 5TH W
IDAHO FALLS, ID 83404

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 04/01/1935

POINT OF DIVERSION: T18N R24E S09 SWSW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS

PLACE OF USE: Domestic Within Lemhi County
T18N R24E S09 SWSW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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

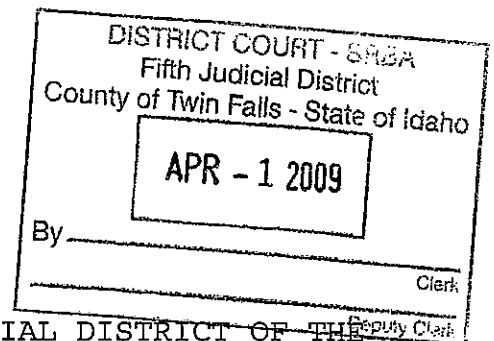
With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment 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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

APR - 1 2009

[Signature]
SPECIAL MASTER



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

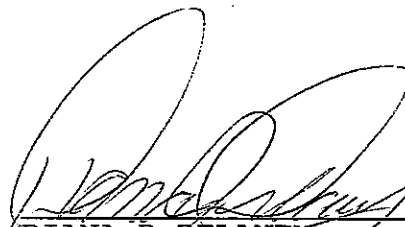
Water Right(s): 74-10108

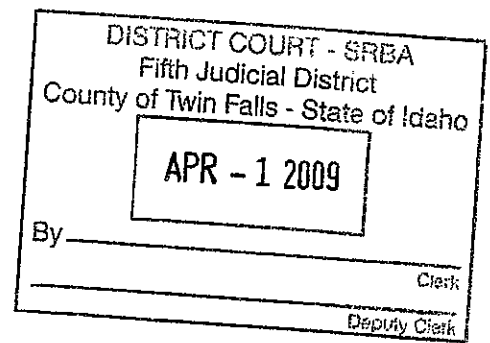
On April 01, 2009, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 April 01, 2009.


DIANA R DELANEY
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

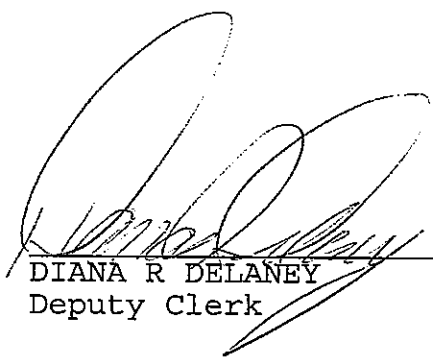
Water Right(s): 74-10108

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 April 01, 2009, with sufficient first-class postage prepaid to the following:

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

JANE HENRY
ROGER HENRY
ROGER N HENRY
5665 S 5TH W
IDAHO FALLS, ID 83404



DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

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04/01/09