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APR 07 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
APR - 3 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) Subcases 74-605A (Barningham), 74-605C
Case No. 39576) (Olson), 74-605D (Mudd) and 74-7067
) (Barningham)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

Recommendations

The Director of the Idaho Department of Water Resources filed his *Director's Report, Reporting Area 23, IDWR Basin 74* on January 23, 2006. The Director made the following recommendations:

74-605A – Disallowed: “Right not claimed in prior adjudication.”

74-605C – Kathleen and V. Don Olson, 479 Lemhi Road, Salmon, Idaho, 83467, for 6.11 cfs from the Lemhi River to irrigate 203.7 acres in Lemhi County from March 15 to November 15 with a priority date of March 18, 1878, based on a decree.

74-605D – Disallowed: “Right not claimed in prior adjudication.”

74-7067 – Disallowed: “Permit cancelled.”

Objections

Robert and Nola Barningham, 10 Beehive Lane, Salmon, Idaho, 83467, filed an *Objection* in subcase 74-605A on May 26, 2006, objecting to the claim being recommended disallowed. Daniel J. Mudd was granted leave to file a late *Objection* in subcase 74-605C on August 2, 2007, objecting to quantity and place of use. Mr. Mudd also filed an *Objection* in subcase 74-605D on May 17, 2006, objecting to the claim

being recommended disallowed. No one objected to IDWR's recommendation of disallowal in claim 74-7067.

SF-5s

The Barninghams, with IDWR's concurrence, filed a *Standard Form 5* in subcase 74-605A agreeing to .04 cfs from the Lemhi River to irrigate 3.7 acres in Lemhi County from March 15 to November 15 with a priority date of March 18, 1878. The Olsons and Mr. Mudd, with IDWR's concurrence, filed an *SF-5* in subcase 74-605C agreeing to amend the quantity and place of use. Mr. Mudd, 48 Beehive Lane, Salmon, Idaho, 83467, with IDWR's concurrence, filed an *SF-5* in subcase 74-605D on November 7, 2008, agreeing to .05 cfs from the Lemhi River to irrigate 3.8 acres in Lemhi County from March 15 to November 15 with a priority date of March 18, 1878.

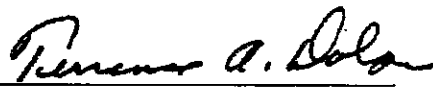
Conclusions of Law

1. The claimants are entitled to partial decrees adjudicating water rights as described in the *SF-5s* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 74-605A* (Barningham), *74-605C* (Olson) and *74-605D* (Mudd); and
2. The Barninghams are **not** entitled to a partial decree for claim 74-7067 because the permit was cancelled.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 74-7067 be **disallowed**.

DATED April 3, 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

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
APR - 3 2009
By _____ Clerk
Deputy Clerk

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00605A

NAME AND ADDRESS: NOLA BARNINGHAM
ROBERT G BARNINGHAM
10 BEEHIVE LN
SALMON, ID 83467

SOURCE: LEMHI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 0.04 CFS

RIGHT NOS. 74-605A AND 74-15794 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.04 CFS.

PRIORITY DATE: 03/18/1878

POINT OF DIVERSION: T21N R23E S33 NWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.04 CFS

PLACE OF USE: Irrigation Within Lemhi County
T21N R22E S24 SESE 3.7
3.7 Acres Total

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 1.5 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

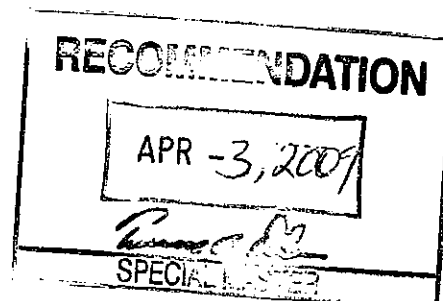
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00605C

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
APR - 3 2009	
By _____	Clerk
_____	Deputy Clerk

NAME AND ADDRESS: KATHLEEN OLSON
V DON OLSON
479 LEMHI RD
SALMON, ID 83467

SOURCE: LEMHI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 6.00 CFS

RIGHT NOS. 74-605C AND 74-15793 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 6.00 CFS.

PRIORITY DATE: 03/18/1878

POINT OF DIVERSION: T21N R23E S29 SESE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	6.00 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
T21N R22E S24	NWNE 3.3	SWNE 40.0
	SENE 38.0	NENW 4.8
	SENW 1.6	NESE 33.0
	NWSE 14.0	SESE 26.0
S25	NENE 3.7	
R23E S19 LOT 2	(SWNW) 4.5	LOT 3 (NWSW) 21.0
LOT 4	(SWSW) 34.0	SESW 1.8
S30	NENW 7.8	LOT 1 (NWNW) 24.0
	SENE 15.0	
272.5 Acres Total		

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 200.6 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE 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	
APR - 3 2009	John M. Melanson Judge of the Shane River Basin Adjudication
SPECIAL MASTER	

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

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

In Re SRBA)
)
Case No. 39576)
_____)

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

Water Right 74-00605D

APR - 3 2009

By _____ Clerk

Deputy Clerk

NAME AND ADDRESS: DANIEL J MUDD
45 BEEHIVE LN
SALMON, ID 83467

SOURCE: LEMHI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 0.05 CFS

RIGHT NOS. 74-605D AND 74-15798 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.05 CFS.

PRIORITY DATE: 03/18/1878

POINT OF DIVERSION: T21N R23E S33 NWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.05 CFS

PLACE OF USE: Irrigation Within Lemhi County
T21N R22E S24 NESE 3.8
3.8 Acres Total

RIGHT NOS. 74-605D AND 74-15798 ARE LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 3.8 ACRES IN A SINGLE IRRIGATION SEASON.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 1.6 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

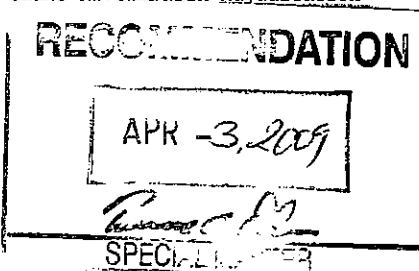
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

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



DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
APR - 3 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)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

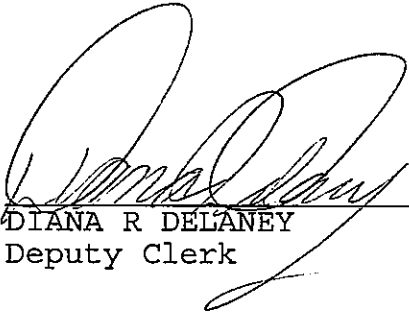
Water Right(s): 74-00605A
74-00605C 74-00605D 74-07067

On April 03, 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.

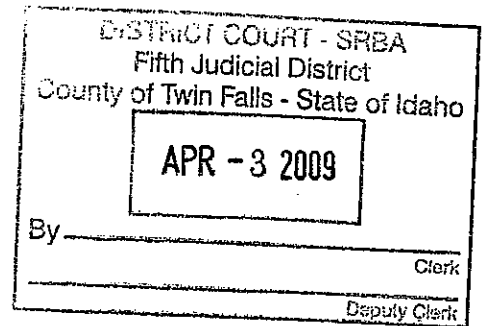
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 03, 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): 74-00605A
74-00605C 74-00605D 74-07067

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 03, 2009, with sufficient first-class postage prepaid to the following:

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

NOLA BARNINGHAM
ROBERT & NOLA BARNINGHAM
ROBERT G BARNINGHAM
10 BEEHIVE LN
SALMON, ID 83467
Phone: 208-756-4630

DANIEL J MUDD
45 BEEHIVE LN
SALMON, ID 83467
Phone: 208-756-2863

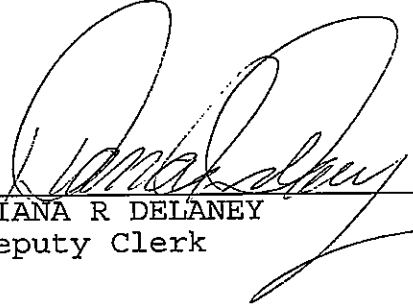
CERTIFICATE OF MAILING

PAGE 1
04/03/09

DON V. OLSON
KATHLEEN OLSON
V DON OLSON
479 LEMHI RD
SALMON, ID 83467
Phone: 208-756-3062

DANIEL J MUDD
48 BEEHIVE LN
SALMON, ID 83467
Phone: 208-756-2863

DANIEL J MUDD
48 BEEHIVE LN
SALMON, ID 83647
Phone: 208-756-2863



DIANA R DELANEY
Deputy Clerk