

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 - 7 2009                          |       |
| By _____                              | Clerk |
| Deputy Clerk                          |       |

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 45-13926

NAME AND ADDRESS: OAK VALLEY LAND CO LLC  
4109 HIDDEN LAKES DR  
KIMBERLY, ID 83341

SOURCE: GROUND WATER

QUANTITY: 6.16 CFS  
2478.90 AFY

The right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

The total instantaneous diversion of water from all points of diversion under Rights 45-13924, 45-13926, 45-13928, 45-13930, 45-13932, 45-13934, 45-13936, 45-13938, 45-13940, 45-13942 and 45-13944 shall not exceed 44.17 cfs, nor a total combined annual volume of 12754.8 af.

Rights 45-13924 and 45-13926 when combined shall not exceed a total diversion rate of 10.49 cfs, a total annual maximum diversion volume of 4308.0 af at the field headgate.

PRIORITY DATE: 09/30/1971

|                     |               |                             |
|---------------------|---------------|-----------------------------|
| POINT OF DIVERSION: | T11S R21E S14 | SENENE Within Cassia County |
|                     | S23           | NENENW                      |
|                     |               | NENESW                      |
|                     |               | SESESW                      |
|                     | R22E S17      | NWNWSW                      |
|                     |               | NWNWSW                      |
|                     | S19           | NENENE                      |
|                     |               | NENENW                      |

This right does not grant any right-of-way or easement across the land of another.

PURPOSE AND

PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE  | QUANTITY                |
|----------------|----------------|-------------------------|
| Irrigation     | 04-11 TO 10-31 | 6.16 CFS<br>2478.90 AFY |

The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 7/13/2004.

PLACE OF USE:

|               |           |                      |
|---------------|-----------|----------------------|
| Irrigation    |           | Within Cassia County |
| T11S R21E S13 | NWNE 40.3 | SWNE 36.9            |
|               | SENE 21.5 | NENW 32.9            |
|               | NWNW 32.1 | SWNW 31.6            |
|               | SENE 37.9 | NESW 37.0            |
|               | NWSW 28.4 | SWSW 30.5            |

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

|          |  |             |             |
|----------|--|-------------|-------------|
|          |  | SESW 33.7   | NESE 23.6   |
|          |  | NWSE 38.9   | SWSE 32.6   |
|          |  | SESE 29.6   |             |
| S14      |  | NENE 29.8   | NWNE 34.4   |
|          |  | SWNE 33.8   | SENE 28.3   |
|          |  | NENW 32.6   | NWNW 33.8   |
|          |  | SWNW 34.2   | SENE 32.7   |
|          |  | NESW 32.4   | NWSW 31.6   |
|          |  | SWSW 31.8   | SESW 32.5   |
|          |  | NESE 8.9    | NWSE 18.4   |
|          |  | SWSE 34.8   | SESE 18.8   |
| S15      |  | NENE 33.4   | NWNE 33.1   |
|          |  | SWNE 33.7   | SENE 33.5   |
|          |  | NESE 33.7   | NWSE 33.2   |
|          |  | SWSE 33.0   | SESE 33.0   |
| S22      |  | NENE 33.8   | NWNE 32.5   |
|          |  | SWNE 31.8   | SENE 32.6   |
|          |  | NESE 34.5   | NWSE 33.7   |
|          |  | SWSE 32.4   | SESE 31.3   |
| S23      |  | NENE 33.2   | NWNE 32.9   |
|          |  | SWNE 33.7   | SENE 33.3   |
|          |  | NENW 34.3   | NWNW 33.3   |
|          |  | SWNW 33.5   | SENE 33.4   |
|          |  | NESW 33.6   | NWSW 33.1   |
|          |  | SWSW 33.0   | SESW 32.7   |
|          |  | NESE 33.3   | NWSE 33.1   |
|          |  | SWSE 33.3   | SESE 32.8   |
| S24      |  | NENE 29.2   | NWNE 33.3   |
|          |  | SWNE 3.7    | SWNW 0.3    |
|          |  | SENE 0.1    | NESW 24.7   |
|          |  | NWSW 10.1   | SWSW 34.0   |
|          |  | SESW 27.7   | NESE 4.5    |
|          |  | NWSE 36.8   | SWSE 36.1   |
|          |  | SESE 4.6    |             |
| R22E S17 |  | NESW 33.7   | NWSW 33.3   |
|          |  | SWSW 33.0   | SESW 33.3   |
|          |  | NESE 33.2   | NWSE 33.3   |
|          |  | SWSE 33.6   | SESE 33.3   |
| S18      |  | NESE 33.4   | NWSE 33.7   |
|          |  | SWSE 33.7   | SESE 33.4   |
| S19      |  | NENE 39.7   | NWNE 40.4   |
|          |  | SWNE 40.7   | SENE 39.8   |
|          |  | NENW 40.5   | (NWNW) 32.5 |
| LOT 2    |  | (SWNW) 33.3 | SENE 40.7   |
|          |  | NESW 40.6   | (NWSW) 34.8 |
| LOT 4    |  | (SWSW) 40.4 | SESW 40.4   |
|          |  | NESE 38.9   | NWSE 40.6   |
|          |  | SWSE 40.4   | SESE 40.0   |
| S20      |  | NENE 32.5   | NWNE 32.6   |
|          |  | SWNE 32.6   | SENE 32.5   |
|          |  | NENW 33.2   | NWNW 33.0   |
|          |  | SWNW 33.1   | SENE 33.3   |
|          |  | NESW 40.4   | NWSW 39.8   |
|          |  | SWSW 39.8   | SESW 40.6   |
|          |  | NESE 33.2   | NWSE 33.7   |
|          |  | SWSE 33.4   | SESE 33.0   |

3844.4 Acres Total

Right Nos. 45-13924 and 45-13926 are limited to the irrigation of a combined total of 1338.2 acres in a single irrigation season. This right is limited to the irrigation of 781.5 acres within the place-of use described above in a single irrigation season. Right Nos. 45-13924, 45-13926, 45-13928, 45-13930, 45-13932, 45-13934, 34-13936, 45-13938, 45-13940, 45-13942 and 45-13944

PLACE OF USE (continued)

are limited to the irrigation of a combined total of 3822.9 acres in a single irrigation season.

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

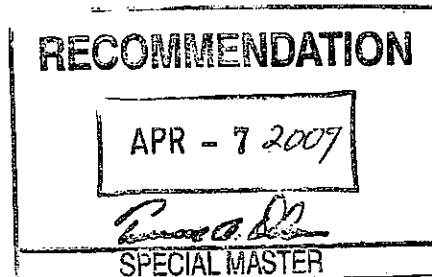
The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

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



RECEIVED

APR 08 2009

DEPARTMENT OF  
WATER RESOURCES

|                                                                                           |       |
|-------------------------------------------------------------------------------------------|-------|
| DISTRICT COURT - SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |       |
| APR - 7 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 45-4123, et al. (Attachment A, 27 subcases) |
|                | ) | and                                                  |
|                | ) | Subcases 45-2683, et al. (Attachment B, 11 subcases) |
|                | ) | (Oak Valley Land Co. LLC)                            |
| Case No. 39576 | ) |                                                      |
|                | ) | SPECIAL MASTER REPORT                                |
|                | ) | AND RECOMMENDATION                                   |

Findings of Fact

Disallowed Claims

The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation and Other, Reporting Area 10, IDWR Basin 45* on September 7, 2004. The Director recommended claims 45-4123 and 45-4124 be disallowed: "No lawful appropriation shown." Robert J. Kunau filed *Objections* on January 7, 2005, objecting to the two claims being recommended disallowed.

IDWR filed *Notices of Completed Administrative Proceedings* in subcases 45-4123 and 45-4124 on July 10, 2006, for substitution of party with the new claimant as Oak Valley Land Co. LLC, 4109 Hidden Lakes Drive, Kimberly, Idaho, 83341. On February 11, 2008, the claimant, with IDWR's concurrence, filed *Standard Forms 5* in the two subcases agreeing to .8 cfs and .96 cfs from groundwater to irrigate 4,268.5 acres in Cassia County from March 15 to November 15 with priority dates of March 23, 1957, and August 20, 1959.

Split Claims

On July 10, 2006, IDWR filed *NCAP's* in the 11 subcases listed on Attachment B for changes in ownership, point of diversion and place of use and splitting the claims into the last 25

of the 27 claims listed on Attachment A. No one opposed the recommendations described in those *NCAP's*.

#### **Conclusions of Law**

1. Oak Valley Land Co. LLC is entitled to partial decrees adjudicating water rights as described in the two *SF-5's* (45-4123 and 45-4124), as recommended by IDWR in the July 10, 2006 *NCAP's* (remaining 25 claims listed on Attachment A) and as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights*.
2. Oak Valley Land Co. LLC is **not** entitled to partial decrees for the 11 claims listed on Attachment B because the claims have been split.

#### **Recommendation**

THEREFORE, IT IS RECOMMENDED that the 11 claims described on Attachment B be **disallowed**.

DATED April 7, 2009.

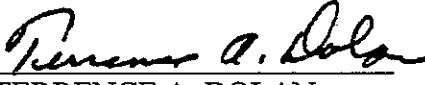
  
TERRENCE A. DOLAN  
Special Master  
Snake River Basin Adjudication

**Exhibit A**

45-4123  
45-4124  
45-13919  
45-13921  
45-13923  
45-13924  
45-13925  
45-13926  
45-13927  
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45-13944  
45-13945

**Exhibit B**

45-2683  
45-7013  
45-7073  
45-7085  
45-7380  
45-7481  
45-11965  
45-11966  
45-12769B  
45-12770B  
45-13570

|                                                                                           |       |
|-------------------------------------------------------------------------------------------|-------|
| DISTRICT COURT - SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |       |
| APR - 7 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) : 45-04123  
(SEE ATTACHED EXHIBIT A)

On April 07, 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 07, 2009.

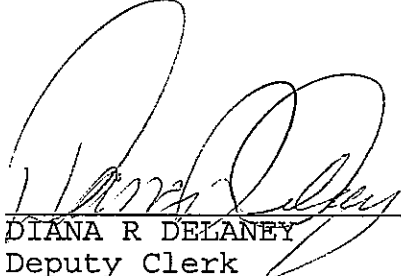
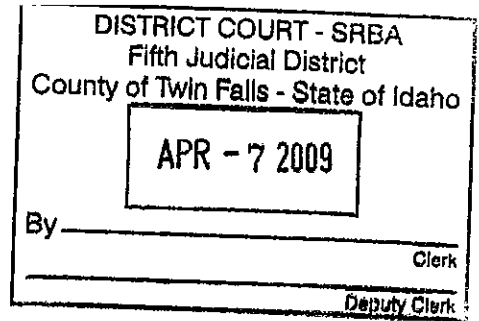
  
\_\_\_\_\_  
DIANA R DELANEY  
Deputy Clerk

Exhibit A

Subcase Nos:

45-04123  
45-04124  
45-13919  
45-13921  
45-13923  
45-13924  
45-13925  
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45-13945



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): 45-04123  
(SEE ATTACHED EXHIBIT A)

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 07, 2009, with sufficient first-class postage prepaid to the following:

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

CERTIFICATE OF MAILING

PAGE 1  
04/07/09

OAK VALLEY LAND CO LLC

Represented by:

TRAVIS L THOMPSON

113 MAIN AVE W, STE 303

PO BOX 485

TWIN FALLS, ID 83303-0485

Phone: 208-733-0700

OAK VALLEY LAND CO LLC

4109 HIDDEN LAKE DR

KIMBERLY, ID 83341

OAK VALLEY LAND CO LLC

4109 HIDDEN LAKES DR

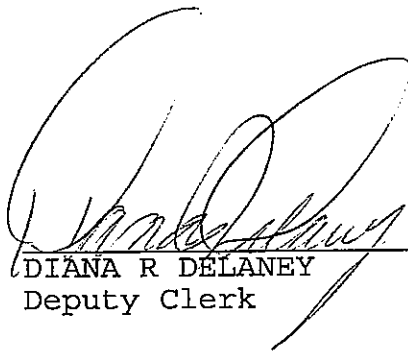
KIMBERLY, ID 83341

ROBERT J KUNAU

468 S 800 W

BURLEY, ID 83318

Phone: 208-678-1104



DIANA R DELANEY  
Deputy Clerk

Exhibit A

Subcase Nos:

45-04123  
45-04124  
45-13919  
45-13921  
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