

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

In Re SRBA)
Case No. 39576)
_____)

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

Water Right 45-13932

By _____ Clerk

Deputy Clerk

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

SOURCE: GROUND WATER

QUANTITY: 9.61 CFS
2264.00 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.

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 45-13932 and 45-13934 when combined shall not exceed a total diversion rate of 9.61 cfs, a total annual maximum diversion volume of 2264.0 af at the field headgate.

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.

PRIORITY DATE: 09/29/1961

POINT OF DIVERSION: T11S R21E S14 SENENE Within Cassia County
NENENW
S23 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	04-01 TO 10-31	9.61 CFS 2264.00 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 SENE 21.5 NWNW 32.1 SENW 37.9 NWSW 28.4
		SWNE 36.9 NENW 32.9 SWNW 31.6 NESW 37.0 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	SENW 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	SENW 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
		SENW 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	SENW 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	SENW 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, 45-13926, 45-13928, 45-13930, 45-13932, 45-13934, 45-13936, 45-13938, 45-13940, 45-13942 and 45-13944 are limited to the irrigation of a combined total of 3822.9 acres in a single irrigation season.

This right is limited to the irrigation of 566 acres within the place of use described above in a single irrigation season.

PLACE OF USE (continued)

Right nos. 45-13932 and 45-13934 are limited to the irrigation of a combined total of 744.1 acres in a single irrigation season.

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

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

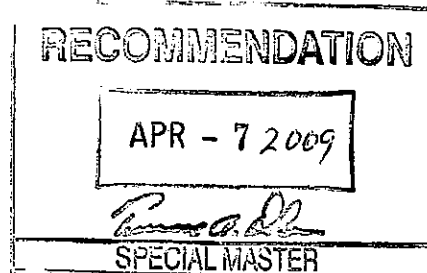
The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

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 Fifth Judicial District 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.

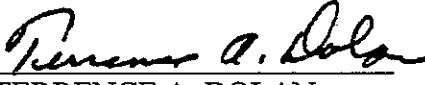

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

Exhibit A

45-4123
45-4124
45-13919
45-13921
45-13923
45-13924
45-13925
45-13926
45-13927
45-13928
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45-13943
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	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
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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

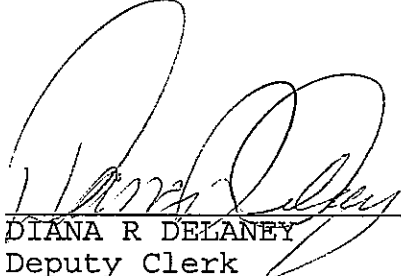
Water Right(s) : 45-04123
(SEE ATTACHED EXHIBIT A)

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.

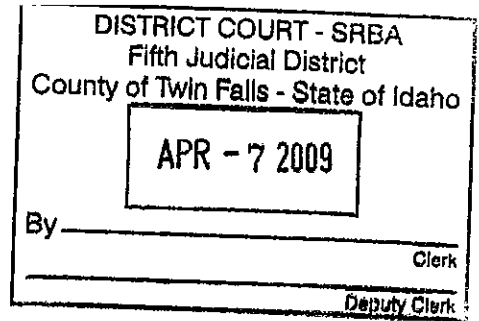


DIANA R DELANEY
Deputy Clerk

Exhibit A

Subcase Nos:

45-04123
45-04124
45-13919
45-13921
45-13923
45-13924
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45-13944
45-13945



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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

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
45-13923
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