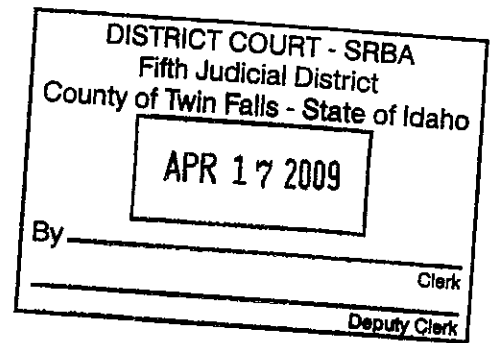


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APR 20 2009

DEPARTMENT OF
WATER RESOURCES



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 74-341
Case No. 39576) (Whittaker)
)
) ORDER GRANTING MOTION TO
) WITHDRAW OBJECTION AND
) DISMISSING RESPONSE and
) SPECIAL MASTER REPORT

Findings of Fact

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 recommended the claim to F. James and Paula Whittaker, P.O. Box 240, Leadore, Idaho, 83464, for 6.98 cfs from Big Eightmile Creek to irrigate 314 acres in Lemhi County from March 15 to November 15 with a priority date of December 6, 1909, based on a decree.

The Whittakers filed an *Objection* on May 4, 2006, objecting to point of diversion and place of use. The United States of America, Department of Interior, Bureau of Land Management filed a *Response* on September 1, 2006, on the issue of place of use.

Mr. Whittaker wrote to the Court on April 1, 2009, saying they decided not to amend the claim. A status conference was held by telephone on April 16, 2009. Mr. Whittaker appeared *pro se*; Fredric W. Price joined in for the United States; and Chris M. Bromley appeared for IDWR. Mr. Whittaker moved to dismiss his *Objection* and agreed to the claim as recommended by IDWR.

Order

THEREFORE, IT IS ORDERED that:

1. The Whittakers' motion to withdraw their *Objection* is **granted**; and
2. The United States' *Response* is **dismissed**.

Conclusions of Law

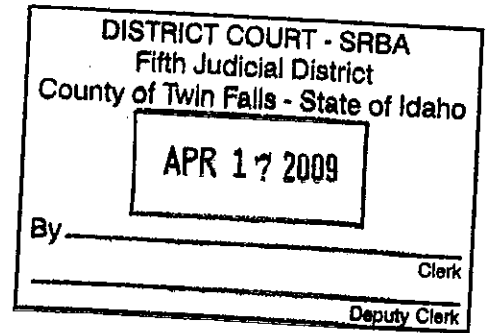
The Whittakers are entitled to a partial decree adjudicating a water right for claim 74-341 as recommended by IDWR and as described in the attached *Special Master Recommendation for Partial Decree for Water Right 74-341*.

DATED April 17, 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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00341



NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
PO BOX 240
LEADORE, ID 83464

SOURCE: BIG EIGHTMILE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 6.98 CFS
1101.50 AFY

This right when combined with all other rights shall provide no
more than 3.5 afa per acre at the field headgate for irrigation
of the lands above.

PRIORITY DATE: 12/06/1909

POINT OF DIVERSION: T15N R25E S05 SENE Within Lemhi County
T16N R25E S28 SWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	6.98 CFS
			1101.50 AFY

PLACE OF USE:	Irrigation	Within Lemhi County
	T16N R25E S26	NWSW 40.0 SWSW 38.0
	S27	SWNE 36.0 SENE 40.0
		NESE 40.0 NWSE 40.0
		SWSE 40.0 SESE 40.0
	314.0 Acres Total	

Right 74-341 authorizes the irrigation of 314.7 acres in a
single irrigation season.

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

Use of water under this water right will be regulated by the
watermaster of State Water District No. 74-Z, Big Eightmile and
Lee Creeks.

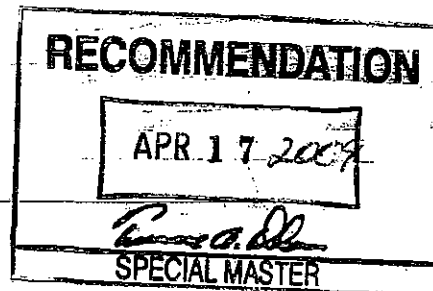
The right holder shall install and maintain measuring devices
and lockable controlling works of a type approved by the
Department at each point of diversion in a manner that will
provide the watermaster suitable control of the diversions.

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



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DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
APR 17 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

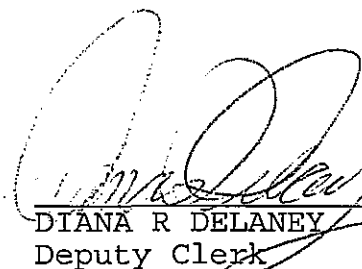
Water Right(s): 74-00341

On April 17, 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 17, 2009.


DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
APR 17 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): 74-00341

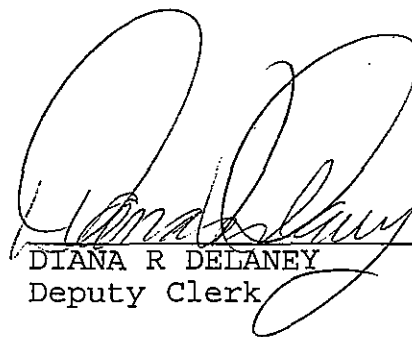
CERTIFICATE OF MAILING

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 17, 2009, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

F JAMES WHITTAKER
PAULA J WHITTAKER
PO BOX 240
LEADORE, ID 83464


DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

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04/17/09