

RECEIVED

JUN 26 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 24 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 73-182, 73-12085 and 73-12087
	)	(Posada) and 73-192, 73-2018, 73-7041,
Case No. 39576	)	73-10055, 73-12086 and 73-12088 (Robins)
	)	
	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

Findings of Fact

Director's Report:

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, Reporting Area 23, Basin 73* on January 25, 2007.

Posada

The Director recommended claim 73-12087 to James and Karen Posada, 35 Meadow Creek, May, Idaho, 83253, for .28 cfs from the Pahsimeroi River to irrigate 40 acres in Custer County from April 1 to October 31 with a priority date of August 25, 1884, based on a decree.

Robins

The Director recommended claims 73-12086 and 73-12088 to Douglas and Pamela Robins, HC 62, Box 2215, May, Idaho, 83253, for 3.06 cfs and 6.12 cfs from the Pahsimeroi River to irrigate 413.7 acres in Custer and Lemhi Counties from April 1 to October 31 with priority dates of January 2, 1905, and August 25, 1884, based on a decree.¹ He also recommended claim 73-7041 to the Robinses for 1.64 cfs from groundwater to irrigate 160 acres

¹ The Robinses, with IDWR's concurrence, filed *Standard Forms 5* in subcases 73-12086 and 73-12088 on June 3, 2009, agreeing the claims should be disallowed: "Recommended as right no. 73-192."

in Custer County from April 1 to October 31 with a priority date of April 17, 1979, based on a license.

Objections:

Douglas Robins filed *Objections* in subcases 73-12086, 73-12087 and 73-12088 on December 17, 2007, objecting to quantity and place of use.

On December 18, 2007, the State of Idaho, Department of Lands filed an *Objection* in subcase 73-7041 objecting to place of use.²

NCAPs:

Posada

On June 4, 2009, IDWR filed a *Notice of Completed Administrative Proceeding* in subcases 73-182, 73-12085 and 73-12087 recommending 73-182 to the Posadas for 3.2 cfs from the Pahsimeroi River to irrigate 157.5 acres in Lemhi County from April 1 to October 31 with a priority date of January 2, 1905, based on a decree.³

Robins

On June 4, 2009, IDWR filed an *NCAP* in subcases 73-192, 73-2018, 73-7041, 73-10055, 73-12086 and 73-12088 recommending as follows:

- 73-192 – 6.4 cfs from the Pahsimeroi River to irrigate 305.9 acres with a priority date of August 25, 1884.
- 73-2018 – “disallowed, recommended as right no. 73-182.”
- 73-7041 – 1.64 cfs from groundwater to irrigate 160 acres with a priority date of April 17, 1979.
- 73-10055 – 3.2 cfs from the Pahsimeroi River to irrigate 305.9 acres with a priority date of February 18, 1926.⁴

² The Robinses and the State, with IDWR’s concurrence, filed an *SF-5* on June 3, 2009, in subcase 73-7041 agreeing to amend the place of use.

³ The day before the *NCAP* was filed, the Posadas, with IDWR’s concurrence, filed an *SF-5* in subcase 73-182 with a change of mailing address. The Posadas also agreed that claims 73-12085 and 73-12087 should be disallowed: “Recommended as right no. 73-182.”

⁴ The Robinses, with IDWR’s concurrence, filed an *SF-5* in subcase 73-10055 on June 3, 2009.

- 73-12086 – “disallowed, recommended as right no. 73-192.”
- 73-12088 – “disallowed, recommended as right no. 73-192.”

No one objected to the two *NCAPs*.

Conclusions of Law

1. The Posadas are entitled to a water right as described in the June 4, 2009 *NCAP* and the attached *Special Master Recommendation for Partial Decree for Water Right 73-182*;
2. The Posadas are **not** entitled to partial decrees for claims 73-12085 and 73-12087;
3. The Robinses are entitled to partial decrees as described in the other June 4, 2009 *NCAP* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 73-192, 73-7041 and 73-10055*; and
4. The Robinses are **not** entitled to partial decrees for claims 73-2018, 73-12086 and 73-12088.

Recommendation

THEREFORE, IT IS RECOMMENDED that claims 73-2018, 73-12085, 73-12086, 73-12087 and 73-12088 be disallowed.

DATED June 24, 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 73-10055

DISTRICT COURT - 54DA Fifth Judicial District County of Twin Falls - State of Idaho JUN 24 2009 By _____ _____ Deputy Clerk

NAME AND ADDRESS: DOUGLAS ROBINS
PAMELA L ROBINS
HC 62 BOX 2215
MAY, ID 83253

SOURCE: PAHSIMEROI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 3.20 CFS

PRIORITY DATE: 02/18/1926

POINT OF DIVERSION: T13N R22E S02 NWSE Within Custer County
T14N R22E S35 NESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	3.20 CFS

PLACE OF USE:	Irrigation	Within Custer County
T14N R22E S27	NWNW 40.0 SENW 36.0 SESW 5.8	SWNW 40.0 NESW 40.0
	NESE 5.0	Within Lemhi County
	NWSE 30.0	Within Custer County
	SESE 32.0	Within Lemhi County
		Within Custer County
S28	NENE 37.0	
S34	NWNE 6.1	
305.9 Acres Total		

The rights listed below are limited to the irrigation of a combined total of 305.9 acres in a single irrigation season. Combined Right Nos.: 73-192, 73-7041 & 73-10055.

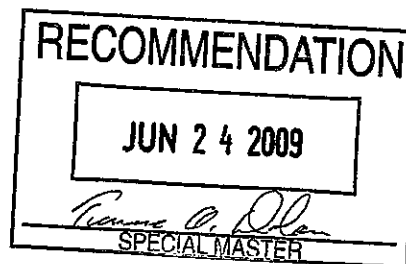
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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
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 73-00192

JUN 24 2009

By _____ Clerk

Deputy Clerk

NAME AND ADDRESS: DOUGLAS ROBINS
PAMELA L ROBINS
HC 62 BOX 2215
MAY, ID 83253

SOURCE: PAHSIMEROI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 6.40 CFS

PRIORITY DATE: 08/25/1884

POINT OF DIVERSION: T14N R22E S35 NESW Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	6.40 CFS

PLACE OF USE:	Irrigation		
	T14N R22E S27	NWNW 40.0	Within Custer County
		SENW 36.0	SWNW 40.0
		SESW 5.8	NESW 40.0
		NESE 5.0	Within Lemhi County
		NWSE 30.0	Within Custer County
		SESE 32.0	SWSE 34.0
			Within Lemhi County
			Within Custer County
	S28	NENE 37.0	
	S34	NWNE 6.1	
	305.9 Acres Total		

The rights listed below are limited to the irrigation of a
combined total of 305.9 acres in a single irrigation season.
Combined Right Nos.: 73-192, 73-7041 & 73-10055

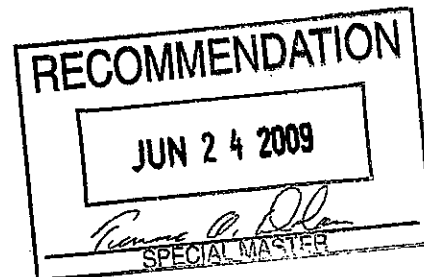
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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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).

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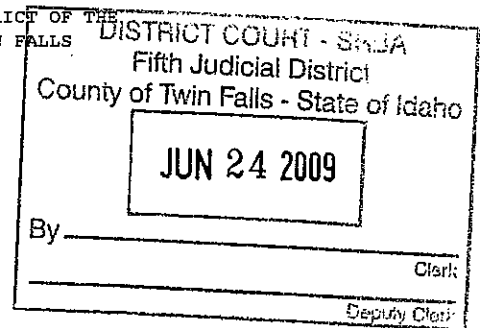
John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



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 73-07041



NAME AND ADDRESS: DOUGLAS ROBINS
PAMELA L ROBINS
HC 62 BOX 2215
MAY, ID 83253

SOURCE: GROUND WATER

QUANTITY: 1.64 CFS
480.00 AFY

This right when combined with all other rights shall provide no
more than .02 cfs per acre nor more than 3.0 afa per acre for
irrigation of the lands above.

PRIORITY DATE: 04/17/1979

POINT OF DIVERSION: T14N R22E S27 SENW Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.64 CFS 480.00 AFY

PLACE OF USE:	Irrigation	Within Custer County
	T14N R22E S27	NWNW 40.0 SENW 36.0 NWSE 5.0
	160.0 Acres Total	

The rights listed below are limited to the irrigation of a
combined total of 305.9 acres in a single irrigation season.
Combined Right Nos.: 73-192, 73-7041 & 73-10055

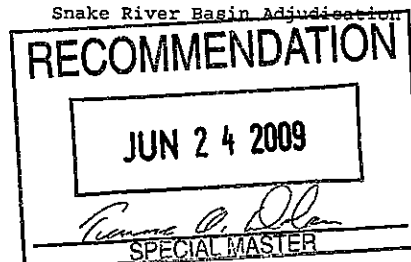
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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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 73-00182

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 24 2009	
By _____	Clark
_____	Deputy Clerk

NAME AND ADDRESS: JAMES POSADA
KAREN POSADA
35 MEADOW CREEK
MAY, ID 83253

SOURCE: PAHSIMEROI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 3.20 CFS

PRIORITY DATE: 01/02/1905

POINT OF DIVERSION: T14N R22E S35 NESW Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	3.20 CFS

PLACE OF USE:	Irrigation	Within Custer County
	T14N R22E S21 SWSE 40.0 SESE 37.5	
	S28 NENE 40.0 NWNE 40.0	
	157.5 Acres Total	

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

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

RECOMMENDATION
JUN 24 2009
<i>Thomas A. Olson</i> SPECIAL MASTER

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JUN 24 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

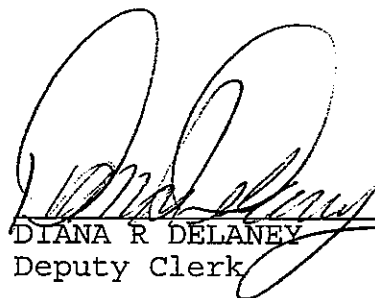
Water Right(s): 73-00182
73-00192 73-02018 73-07041
73-10055 73-12085 73-12086
73-12087 73-12088

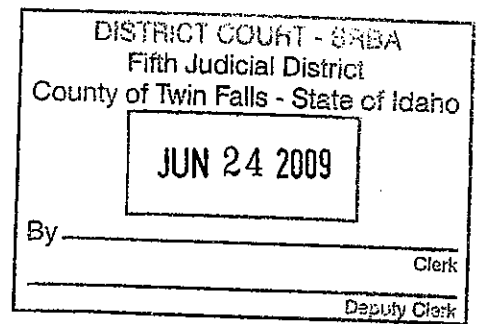
On June 24, 2009, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 June 24, 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): 73-00182
73-00192 73-02018 73-07041
73-10055 73-12085 73-12086
73-12087 73-12088

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 June 24, 2009, with sufficient first-class postage prepaid to the following:

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

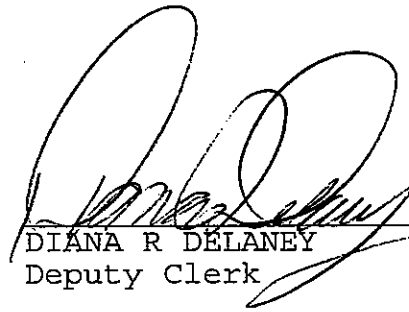
STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

DOUGLAS ROBINS
PAMELA L ROBINS
HC 62 BOX 2215
MAY, ID 83253

CERTIFICATE OF MAILING

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06/24/09

JAMES POSADA
KAREN POSADA
35 MEADOW CREEK
MAY, ID 83253



DIANA R DELANEY
Deputy Clerk