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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG - 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	) Subcase 75-4089
	) (Edwards)
Case No. 39576	)
	) SPECIAL MASTER REPORT
	) AND RECOMMENDATION

Findings of Fact

On November 17, 2008, SRBA Presiding Judge John M. Melanson entered a *Partial Decree* awarding to Eugene and Viola Edwards 14.42 cfs from the Salmon River to irrigate 360.4 acres in Lemhi County from April 1 to October 31 with a priority date of July 25, 1888.

On December 10, 2008, Paul Edwards, son of Eugene (deceased) and Viola Edwards lodged an *Objection* stating: "Recommended amount is not adequate with current irrigation practices due to gravelly soils." Judge Melanson entered an *Order of Reference Appointing Special Master Terrence A. Dolan* on December 10, 2008, "to issue a recommendation . . . as to the *Motion* and to the underlying merits as to how the *Partial Decree* should be amended, if it is determined that said *Partial Decree* should be set aside or amended."

Hearings on the *Motion* were held on March 19 and August 6, 2009. Paul and Sally Edwards appeared *pro se* and Garrick L. Baxter and Nicholas B. Spencer appeared for IDWR, along with Monica Van Bussum and Suzy CooleyDenney. Mr. Edwards submitted a *Limited Power of Attorney* from his 86 year old mother "to deal with all water issues on behalf of the Trust and myself." Viola Edwards is the trustee of the Eugene F. and Viola M. Edwards Revocable Trust u/i/d March 11, 1986, the current owner of the land.

Mr. Edwards also submitted two well driller's reports for a domestic well (September 11, 1973) and a stockwater well (November 28, 2006), plus a USDA-NRCS "EQIP 2004 Soils Map" and a seven page "Soils Inventory Report", dated October 11, 2007. Mr. Edwards termed the Report a "Hubble Analysis" which IDWR said it will need to recommend any change in

quantity.¹ The Edwardses agreed to forward copies of all documents to IDWR for their evaluation.

While the Special Master is unable to evaluate the technical information submitted by the Edwardses, it is apparent that the land and its irrigation requirements warrant a "second look." The land is located immediately adjacent to the Salmon River and US Highway 93. The decreed point of diversion from the Salmon River is a significant concrete structure shared with other water users and IDWR's agent Bob Foster found the conveyance ditch capable of carrying up to the claimed higher amount.

Conclusions of Law

Paul and Sally Edwards have shown good cause to have the *Partial Decree* set aside so that IDWR can evaluate the "Hubble Analysis" to determine whether a higher quantity is warranted.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decree* in subcase 75-4089 be set aside.²

DATED August 7, 2009.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

¹ It is worth noting that IDWR said it no longer has technical staff able to prepare a Hubble Analysis. The Edwardses' Hubble Analysis was prepared by their own "expert."

² If the Presiding Judge sets aside the *Partial Decree*, the Special Master has set a status conference for December 3, 2009, 2:30 p.m.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER REPORT AND RECOMMENDATION was mailed on August 07, 2009, with sufficient first-class postage to the following:

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