

RECEIVED

AUG 11 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
AUG 10 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 75-10253 (75-119, 75-120, 75-125)
	)	and 75-13963
Case No. 39576	)	(Bellamy)
	)	
	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, Reporting Area 23, Basin 75* on January 11, 2007. The Director recommended claims 75-10253 and 75-13963 to Don R. Bellamy, P.O. Box 1031, Salmon, Idaho, 83467, for 4.34 cfs and .88 cfs from Fourth of July Creek for year-'round stockwater use and to irrigate 109 acres and 22 acres in Lemhi County from April 1 to August 1 and August 2 to November 1 with priority dates of June 12, 1906, and April 1, 1896, based on a decree.

75-10253 (75-119, 75-120, 75-125)

Michael and Jane Dougherty filed an *Objection* in subcase 75-10253 on October 2, 2007, objecting to quantity and priority date. On August 11, 2008, IDWR filed an *Amended Director's Report, Subcase Nos. 75-10253, 75-00119, 75-00120, 75-00125* splitting 75-10253 into 75-119, 75-120 and 75-125. When no one objected to IDWR's *Report*, the Special Master entered a *Special Master Report and Recommendation* on October 29, 2008, in the four (4) subcases. The Doughertys filed a *Motion to Alter or Amend* on November 26, 2008, and on March 4, 2009, Mr. Bellamy and the Doughertys, with IDWR's concurrence, filed *Standard Forms 5* in subcases 75-119 and 75-120.¹

¹ The Doughertys' *Motion to Alter or Amend* did not request relief in subcase 75-125 even though that number was in the caption of their filing.

75-13963

SRBA Presiding Judge John M. Melanson entered a *Partial Decree* for water right 75-13963 on November 17, 2008, after no one contested IDWR's recommendation. The Doughertys filed a *Motion to File Late Objection* in subcase 75-13963 on November 26, 2008, and the same date, Judge Melanson entered an *Order of Reference Appointing Special Master Terrence A. Dolan* to "conduct all proceedings necessary to issue a recommendation . . . as 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."

On March 4, 2009, Mr. Bellamy and the Doughertys, with IDWR's concurrence, filed a *Standard Form 5* in subcase 75-13963 agreeing to amend certain remarks under place of use if the *Partial Decree* is set aside and amended.

Conclusions of Law

1. Mr. Bellamy is entitled to partial decrees adjudicating water rights as described in the *SF-5s* (75-119 and 75-120), IDWR's August 11, 2008 *Amended Director's Report* (75-125) and the attached *Special Master Recommendations for Partial Decrees for Water Rights 75-00119, 75-00120 and 75-00125*;
2. Mr. Bellamy is **not** entitled to a water right for 75-10253 because the claim has been split; and
3. Mr. Bellamy has shown good cause to have the *Partial Decree* in water right 75-13963 set aside and amended to clarify remarks consistent with his related water rights as described in the *SF-5* and the attached *Special Master Recommendation for Amended Partial Decree for Water Right 75-13963*.

Recommendations

THEREFORE, IT IS RECOMMENDED that:

1. Mr. Bellamy's claim 75-10253 be **disallowed**; and

2. The *Partial Decree* in subcase 75-13963 be set aside and amended as described in the SF-5 and the attached *Special Master Recommendation for Amended Partial Decree for Water Right 75-13963*.

DATED July 3, 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)
_____)

AMENDED
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 75-13963

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
AUG 10 2009	
By _____	Clerk
_____	Deputy Clerk

NAME AND ADDRESS: DON R BELLAMY
PO BOX 1031
SALMON, ID 83467

SOURCE: FOURTH OF JULY CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.88 CFS

PRIORITY DATE: 04/01/1896

POINT OF DIVERSION: T24N R22E S20 SENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 08-01	0.88 CFS
	Irrigation	08-02 TO 11-01	0.66 CFS

PLACE OF USE: Irrigation Within Lemhi County
T24N R22E S20 SESW 14.0 SWSE 2.0
S29 NENW 6.0
22.0 Acres Total

The rights listed below are limited to the irrigation of a combined total of 128 acres in a single irrigation season. Combined Right Nos. 75-119, 75-120 and 75-13963.

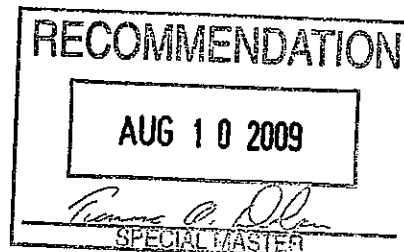
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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 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

AUG 10 2009

By _____ Clerk
Deputy Clerk

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 75-00119

NAME AND ADDRESS: DON R BELLAMY
PO BOX 1031
SALMON, ID 83467

SOURCE: FOURTH OF JULY CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 4.08 CFS

PRIORITY DATE: 06/12/1906

POINT OF DIVERSION: T24N R22E S16 NESWNE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 08-01	4.08 CFS
	Irrigation	08-02 TO 10-31	3.06 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T24N R22E S20	NENE 5.0 SWNE 11.0
		SENE 2.5 SENW 4.5
		NESW 20.0 SWSW 1.0
		SESW 32.0 NWSE 27.0
		SWSE 4.5
	S21	NWNW 14.0
	S29	NENW 6.0 NWNW 0.5
	128.0 Acres Total	

This right authorizes the irrigation of 102 total acres.
The rights listed below are limited to the irrigation of a
combined total of 128 acres in a single irrigation season.
Combined Right Nos.: 75-119, 75-120 and 75-13963.

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

AUG 10 2009

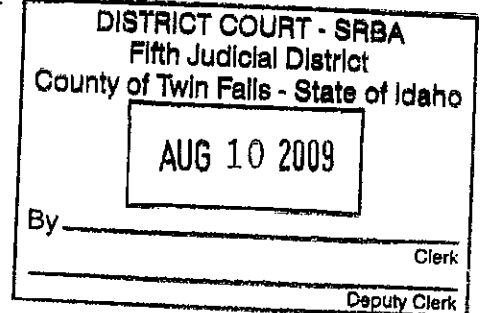
James A. Olson
SPECIAL MASTER

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 75-00120



NAME AND ADDRESS: DON R BELLAMY
PO BOX 1031
SALMON, ID 83467

SOURCE: FOURTH OF JULY CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.16 CFS

PRIORITY DATE: 06/12/1906

POINT OF DIVERSION: T24N R22E S21 SENWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 08-01	0.16 CFS
	Irrigation	08-02 TO 10-31	0.12 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T24N R22E S20	SESW 14.0
	S29	SWSE 2.0
		NENW 6.0
	22.0 Acres Total	

The rights listed below are limited to the irrigation of c
combined total of 128 acres in a single irrigation season.
Combined Right Nos.: 75-119, 75-120 and 75-13963.
This right authorizes the irrigation of 4 total acres.

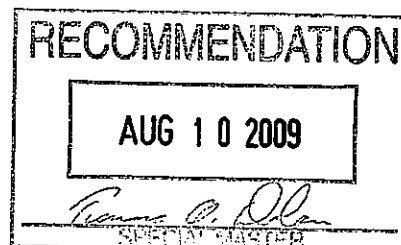
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



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
AUG 10 2009
By _____ Clerk
_____ Deputy Clerk

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 75-00125

NAME AND ADDRESS: DON R BELLAMY
PO BOX 1031
SALMON, ID 83467

SOURCE: FOURTH OF JULY CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.10 CFS

PRIORITY DATE: 07/12/1906

POINT OF DIVERSION: T24N R22E S21 SENWNW Within Lemhi County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Stockwater 01-01 TO 12-31 0.10 CFS

PLACE OF USE: Stockwater Within Lemhi County
T24N R22E S20 SWNE NESW
SESW NWSE
SWSE
S29 NENW

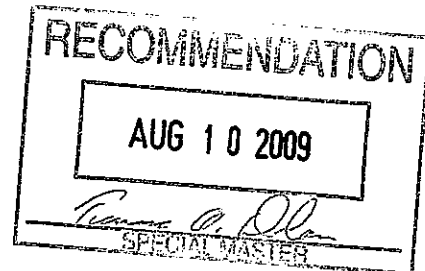
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

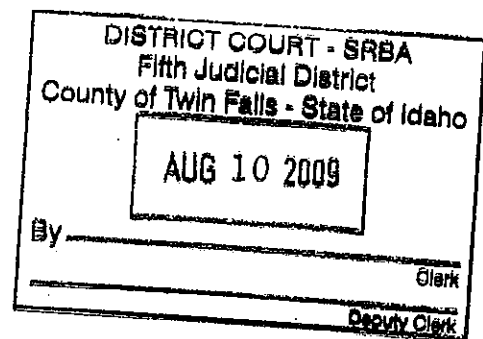
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

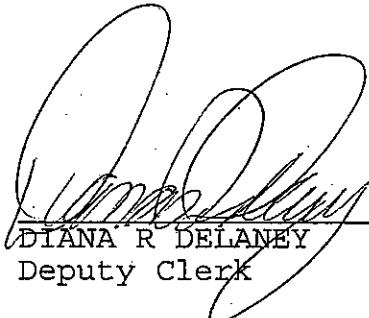
Water Right(s): 75-00119
75-00120 75-00125 75-10253
75-13963

On August 10, 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.

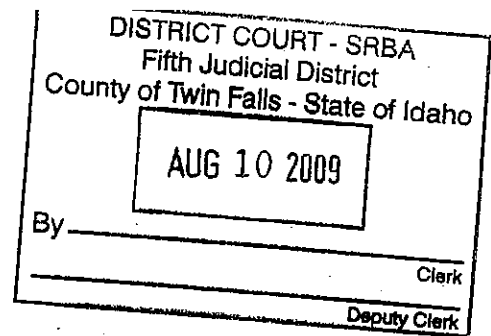
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 August 10, 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): 75-00119
75-00120 75-00125 75-10253
75-13963

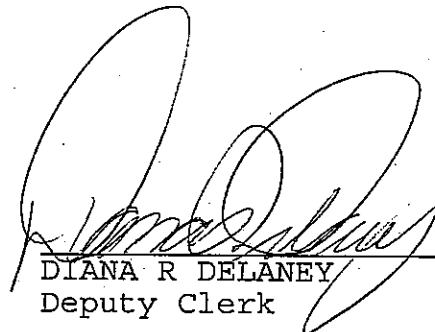
CERTIFICATE OF MAILING

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 August 10, 2009, with sufficient first-class postage prepaid to the following:

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

DON R BELLAMY
PO BOX 1031
SALMON, ID 83467

MICHAEL C DOUGHERTY
MICHAEL C DOUGHTERY
502 FOURTH OF JULY CREEK RD
NORTH FORK, ID 83466


DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

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08/10/09