

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 31 2009	
By _____	Clerk
Deputy Clerk	

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 73-00087

NAME AND ADDRESS: JIMMIE L DOWTON
MARIA ELENA DOWTON
HC 62 BOX 2320
MAY, ID 83253

SOURCE: MUD SPRING CREEK TRIBUTARY: PAHSIMEROI RIVER
PAHSIMEROI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 7.19 CFS
0.70 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.
THIS RIGHT AUTHORIZES THE DIVERSION OF AN ANNUAL TOTAL OF 0.7 ACRE-FOOT TO BE USED FOR THE INITIAL FILLING OF THE POND, FOR THE REPLACEMENT OF LOSSES CAUSED BY SEEPAGE AND EVAPORATION FROM THE POND.
THE POND ESTABLISHED BY THE STORAGE OF WATER UNDER THIS RIGHT SHALL NOT EXCEED A TOTAL CAPACITY OF 0.3 ACRE-FOOT OR A TOTAL SURFACE AREA OF 0.2 ACRES.

PRIORITY DATE: 05/01/1900

POINT OF DIVERSION: T15N R21E S17 NESESE Within Custer County
S21 SENW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	7.19 CFS
	Wildlife Storage	01-01 TO 12-31	0.70 AFY
	Aesthetic Storage	01-01 TO 12-31	0.70 AFY

PLACE OF USE:	Irrigation	Within Custer County
	T15N R21E S17	NESW 27.0 NWSE 11.0 SESE 19.0 S20 NENE 29.0 SWNE 24.0 NENW 26.0 S21 NWNW 2.0 SENW 18.0 SWSW 36.0
		SESW 36.0 SWSE 39.0 NWNE 38.0 SENE 38.0 NESE 13.5 S21 S21 40.0 NWSW 34.0
	430.5 Acres Total	

Wildlife Storage	Within Custer County
T15N R21E S17	SESE
Aesthetic Storage	Within Custer County
T15N R21E S17	SESE

RIGHTS 73-86C, 73-86D, 73-87, 73-96A, 73-96B, 73-97A AND 73-10058 WHEN COMBINED SHALL NOT EXCEED THE IRRIGATION OF 430.5 ACRES.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 175.1 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

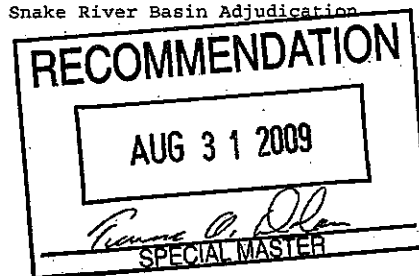
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



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SEP 01 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 31 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 73-86C, 73-86D, 73-87, 73-96A,
	) 73-96B, 73-97A, 73-4007B and 73-10058
Case No. 39576	) (Dowton)
	)
	) SPECIAL MASTER REPORT
	)

Findings of Fact

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. The Director recommended claim 73-4007B, filed by Maria and Jimmie Dowton, HC 62, Box 2320, May, Idaho, 83253, be disallowed: "Recommended as right no. 73-87." IDWR identified claims 73-86C, 73-86D, 73-87, 73-96A, 73-96B, 73-97A and 73-10058 as uncontested overlapping subcases.

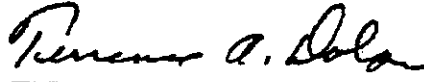
The Dowtons filed an *Objection* in subcase 73-4007B on December 17, 2007, objecting to claim not being recommended as filed. IDWR filed a *Notice of Completed Administrative Proceeding* on January 20, 2009, in the overlapping subcases for changes in point of diversion and place of use.

On August 11, 2009, the Dowtons, with IDWR's concurrence, filed a *Standard Form 5* in subcase 73-4007B agreeing to .94 cfs from Mud Creek to irrigate 47 acres in Custer County from April 1 to October 31 with a priority date of February 18, 1926, based on beneficial use.

Conclusions of Law

The Dowtons are entitled to partial decrees adjudicating water rights as described in the *NCAP*, the *SF-5* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 73-86C, 73-86D, 73-87, 73-96A, 73-96B, 73-97A, 73-4007B and 73-10058*.

DATED August 31, 2009.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
AUG 31 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): 73-00086C

73-00086D 73-00087 73-00096A

73-00096B 73-00097A 73-04007B

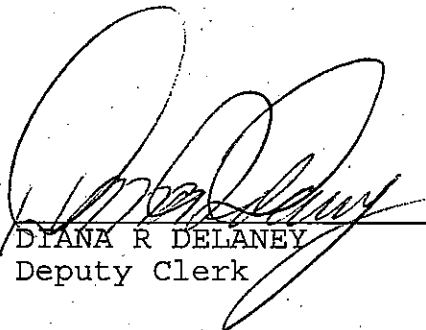
73-10058

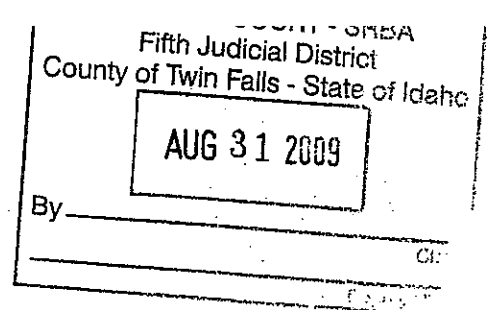
On August 31, 2009, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 31, 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): 73-00086C

73-00086D 73-00087 73-00096A

73-00096B 73-00097A 73-04007B

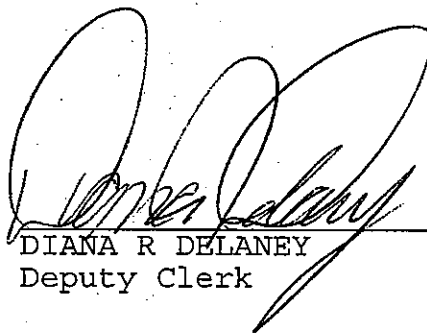
73-10058

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 31, 2009, with sufficient first-class postage prepaid to the following:

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

JIMMIE L DOWTON
MARIA ELENA DOWTON
HC 62 BOX 2320
MAY, ID 83253
Phone: 208-876-4264



DIANA R DELANEY
Deputy Clerk