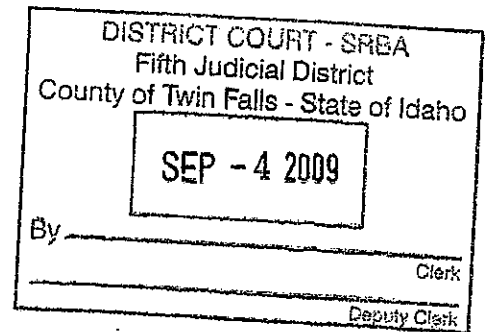


RECEIVED

SEP 08 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	)	Subcases 73-2157 (split)
	)	12154 (Elzinga) and 73-12155 (USDI/BLM)
	)	
Case No. 39576	)	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 73* on January 25, 2007. The Director recommended claim 73-2157 to The Nature Conservancy for .74 cfs from the Pahsimeroi River to irrigate 37 acres in Custer County from April 1 to October 31 with a priority date of March 10, 1966, based on a license.

On December 14, 2007, IDWR filed a *Notice of Completed Administrative Proceeding* in subcases 73-98, 73-99, 73-100, 73-2157, 73-12030, 73-12032 and 73-12107 for a substitution of party with the new claimants as Glen and Caryl Elzinga, 19 Moen Lane, May, Idaho, 83253-2000.

On December 18, 2007, the United States of America, Department of Interior, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho, 83709-1657, filed an *Objection* in subcase 73-2157 objecting to place of use.

IDWR filed *NCAPs* on June 19 and July 1, 2009, in subcase 73-2157 for a split of the claim into 73-12154 (Elzinga) and 73-12155 (USDI/BLM), disallowance of 73-2157 and "transfer complete." The Elzingas and the United States filed a *Stipulation to Resolve*

Objections in subcases 73-98, 73-2157 and 73-12032 on August 12, 2009, agreeing to “splits” of the claims and transfers.

Conclusions of Law

1. The Elzingas and the United States are entitled to partial decrees adjudicating water rights for claims 73-12154 (Elzinga) and 73-12155 (USDI/BLM) as described in the July 1, 2009 amended *NCAP* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 73-12154 and 73-12155*; and
2. The parties are **not** entitled to a water right for claim 73-2157 because the claim has been split.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 73-2157 be **disallowed**.

DATED September 4, 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

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
SEP - 4 2009
By _____ Clerk
Deputy Clerk

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 73-12154

NAME AND ADDRESS: CARYL L ELZINGA
GLENN A ELZINGA
19 MOEN LN
MAY, ID 83253-2000

SOURCE: PAHSIMEROI RIVER TRIBUTARY: SALMON RIVER

Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

QUANTITY: 0.73 CFS
129.80 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: 03/10/1966

POINT OF DIVERSION: T15N R21E S21 SWNE Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.73 CFS 129.80 AFY

PLACE OF USE:	Irrigation	Within Custer County
	T15N R21E S21	SWNE 12.9 SENE 1.4 NESW 31.0 SESW 31.0 NESE 33.0 NWSE 39.0 SWSE 35.0 SESE 40.0 S22 NWSW 11.0 SWSW 35.0 S27 NENW 11.0 NWNW 39.0 S28 NENE 31.0
	350.3 Acres Total	

This right is limited to the irrigation of 36.4 acres within the place of use described above in a single irrigation season. Rights 73-12150, 73-12152, 73-12154 and 73-12163 when combined shall not exceed the irrigation of 350.3 acres.

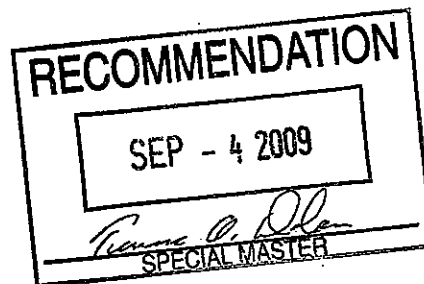
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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

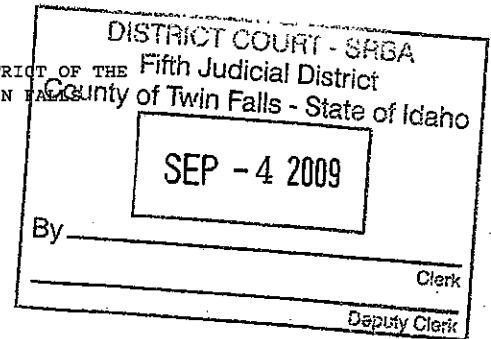


IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 73-12155



NAME AND ADDRESS: UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: PAHSIMEROI RIVER TRIBUTARY: SALMON RIVER

Prior to the diversion and use of water under this approval, the
right holder shall comply with all fish screening and/or fish
passage requirements of the Idaho Department of Fish and Game.

QUANTITY: 0.01 CFS
2.10 APY

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: 03/10/1966

POINT OF DIVERSION: T15N R21E S21 SWNE Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.01 CFS 2.10 APY

PLACE OF USE: Irrigation Within Custer County
T15N R21E S28 NWNE 4.5
4.5 Acres Total

This right is limited to the irrigation of 0.6 acres within
the place of use described above in a single irrigation season.
Rights 73-12151, 73-12153, 73-12155, and 73-12162 when combined
shall not exceed the irrigation of 4.5 acres.

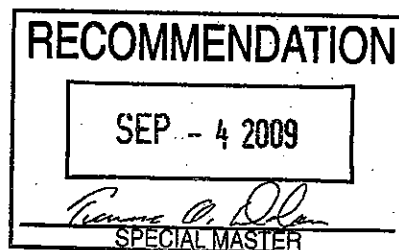
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

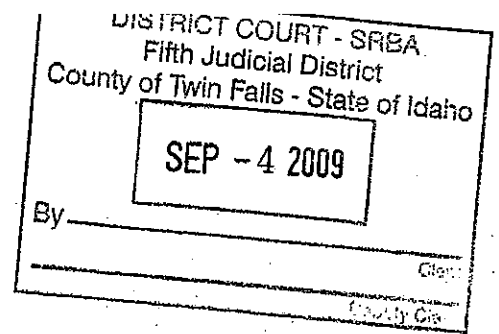
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

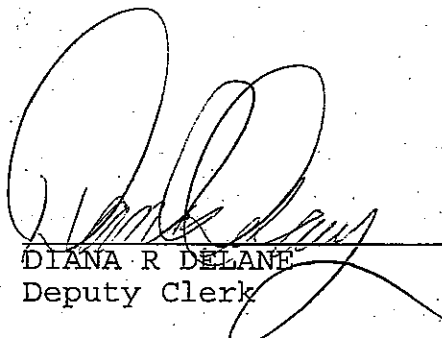
Water Right(s): 73-02157
73-12154 73-12155

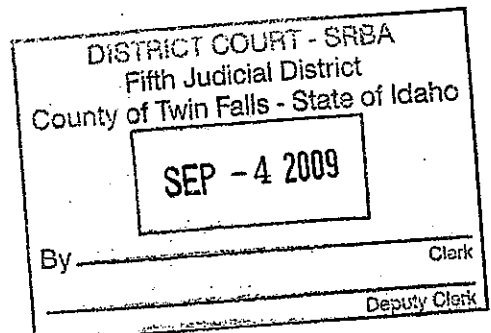
On September 04, 2009, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 September 04, 2009.


DIANA R. DELANE
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): 73-02157
73-12154 73-12155

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 September 04, 2009, with sufficient first-class postage prepaid to the following:

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

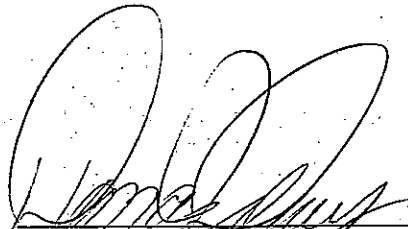
UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

CERTIFICATE OF MAILING

PAGE 1
09/04/09

CARYL L ELZINGA
GLENN A ELZINGA
19 MOEN LN
MAY, ID 83253-2000



DIANA R DELANE
Deputy Clerk