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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
OCT 29 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 35-2389
	)	(Albertson)
Case No. 39576	)	
	)	AMENDED SPECIAL MASTER
	)	REPORT AND RECOMMENDATION
_____	)	

Findings of Fact

The water right was licensed for 4.44 cfs to irrigate 360 acres on July 10, 1957, and a claim for that quantity and acreage was filed in the SRBA on October 29, 1992. IDWR filed a *Notice of Completed Administrative Proceeding* on September 19, 2000, for a substitution of party and recommended 4.44 cfs, but for 346 acres.

When no one objected to the lower recommended acreage, former SRBA Presiding Judge Roger Burdick entered a *Partial Decree* on January 31, 2002, awarding to Kortny Albertson 4.44 cfs from groundwater to irrigate 346 acres in Jefferson County from April 1 to October 31 with a priority date of December 2, 1954, based on a license. The *Partial Decree* was among a total of 1,720 subcases recommended by the Special Master on November 6, 2001.

Mr. Albertson filed a *Motion to Set Aside Partial Decree* on May 7, 2009, asking that his *Partial Decree* be set aside and the acreage corrected. A hearing on the *Motion* was held on June 25, 2009. Robert L. Harris appeared for Mr. Albertson; David J. Barber appeared for the State of Idaho; and Garrick L. Baxter appeared for IDWR.

Mr. Baxter said the smaller acreage was intentionally recommended by IDWR based on aerial photographs and was not a typographical error. Mr. Harris said the discrepancy was only recently discovered during an administrative proceeding before IDWR. Mr. Albertson thought

that since the quantity was unchanged from the license and SRBA claim, the acreage would remain the same. On August 28, 2009, IDWR lodged a draft amended partial decree describing the place of use as 358 acres. During a status conference held on October 15, 2009, Mr. Albertson agreed with the recommended acreage and his new mailing address: 579 North, 2850 East, Roberts, Idaho, 83444.

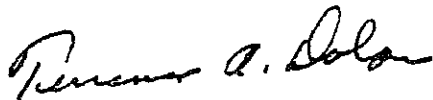
Conclusions of Law

Mr. Albertson has met the requirements of I.R.C.P. 60(b)(6) to have the *Partial Decree* set aside and modified as described in the draft amended partial decree.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decree* in subcase 35-2389 be set aside and modified as described in IDWR's draft amended partial decree.

DATED October 28, 2009.



TERRENCE A. DOLAN

Special Master

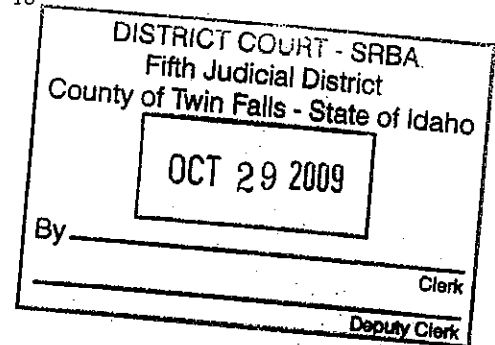
Snake River Basin Adjudication

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

AMENDED

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 35-02389



NAME AND ADDRESS: KORTNY L ALBERTSON
579 N 2850 E
ROBERTS, ID 83444

SOURCE: GROUNDWATER

QUANTITY: 4.44 CFS
1432.00 AFY

PRIORITY DATE: 12/02/1954

POINT OF DIVERSION: T05N R36E S33 NESW Within Jefferson County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY

PLACE OF USE:	Irrigation		Within Jefferson County
	T05N R36E S33	NWNE 2.9	SWNE 39.0
		NENW 3.0	NWNW 3.1
		SWNW 40.0	SENE 40.0
		NESW 40.0	NWSW 40.0
		SWSW 37.0	SESW 37.0
		NWSE 39.0	SWSE 37.0
	358.0 Acres Total		

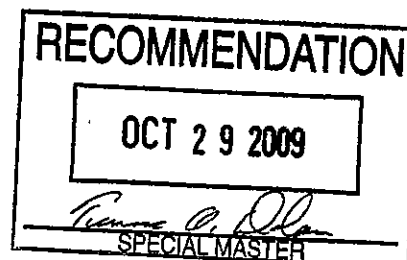
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

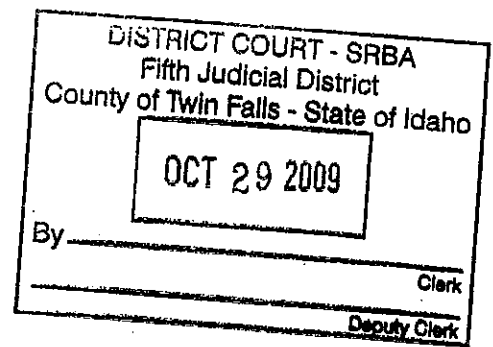
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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

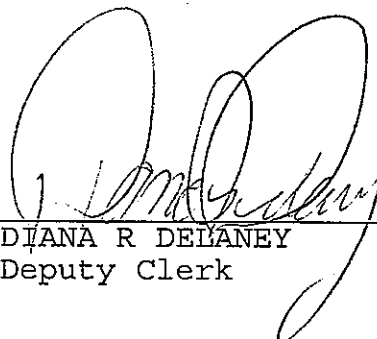
Water Right(s): 35-02389

On October 28, 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 October 28, 2009.



DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
OCT 29 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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 35-02389

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 October 28, 2009, with sufficient first-class postage prepaid to the following:

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

BINGHAM GROUND WATER DISTRICT
UPPER VALLEY IRRIGATORS ASSOC

Represented by:
JEFFREY C FEREDAY
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

FREMONT-MADISON IRR DIST

Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

CERTIFICATE OF MAILING

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NORTH SIDE CANAL COMPANY

Represented by:
JOHN K SIMPSON
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

STATE OF IDAHO

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

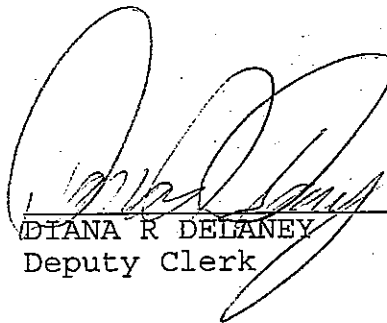
ABERDEEN AMERICAN FALLS GROUND

Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

TWIN FALLS CANAL COMPANY

Represented by:
TRAVIS L THOMPSON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

KORTNY L ALBERTSON
579 N 2850 E
ROBERTS, ID 83444



DIANA R DELANEY
Deputy Clerk