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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - IDAHO	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
NOV - 6 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 75-27D (Capps) and 75-27F (Rice)
	)	
Case No. 39576	)	SPECIAL MASTER REPORT AND
_____	)	RECOMMENDATION

Findings of Fact

On November 17, 2008, SRBA Presiding Judge John M. Melanson entered *Partial Decrees* in the two subcases: 75-27D to Randy M. Capps, 87 Corbett Lane, Salmon, Idaho, 83467, and 75-27F to Kevin A. Rice, 127 Corbett Lane, Salmon, Idaho, 83467.

On October 8 and 10, 2008, Messrs Capps and Rice lodged nearly identical *Objections* in subcase 75-4062 objecting to name and address, source, priority date, point of diversion, purpose of use and period of year stating: "The need of another diversion out of Williams Creek to SEC 12 SE NE SE – point of diversion Williams Creek intersects Rainbow Ditch."

On October 8, 2008, 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 *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."

A hearing on the motions to set aside the *Partial Decree* in subcase 75-4062 was held on September 24, 2009. The parties and IDWR agreed the best solution to resolve the motions would be for Messrs Capps and Rice to orally withdraw their motions to set aside the *Partial Decree* in subcase 75-4062; request IDWR to lodge draft partial decrees of how it would recommend partial decrees in subcases 75-27D and 75-27F if they are set aside; and then request

the Special Master to enter a report and recommendation that those *Partial Decrees* be set aside and amended.

On September 28, 2009, the Special Master entered an *Order Dismissing Motions and Requesting Draft Partial Decrees*. On November 2, 2009, IDWR filed proposed or draft partial decrees in subcases 75-27D and 75-27F "recommending the addition of a second point of diversion for these two water rights."

Conclusions of Law

Messrs Capps and Rice have shown good cause to have the *Partial Decrees* in subcases 75-27D and 75-27F set aside and amended as now recommended by IDWR.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decrees* in subcases 75-27D and 75-27F be set aside and amended as recommended by IDWR and as described in the attached "*Draft*" *Partial Decrees for Water Rights 75-27D and 75-27F*.

DATED November 6, 2009.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

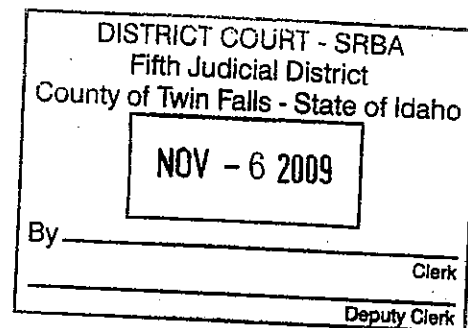
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

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

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

Water Right 75-00027F



NAME AND ADDRESS: KEVIN A RICE
TAMARA RICE
127 CORBETT LN
SALMON, ID 83467-5073

SOURCE: WILLIAMS CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 2.56 CFS

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE: 05/01/1886

POINT OF DIVERSION: T20N R21E S11 LOT 1 (NENE) Within Lemhi County
S12 NESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	2.56 CFS
	Stockwater	04-01 TO 12-15	0.07 CFS

PLACE OF USE: Irrigation Within Lemhi County
T20N R21E S12 NENE 37.0 NWNE 25.0
R22E S07 LOT 5 (NENW)39.0 LOT 1 (NWNW)27.0
128.0 Acres Total

Stockwater Within Lemhi County
Same as Irrigation

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

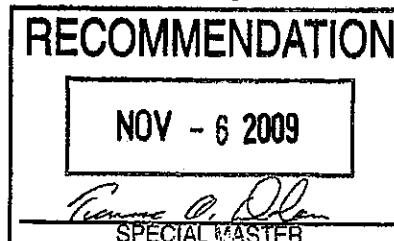
The quantity of water decreed for this water right for
stockwater use is not a determination of historical beneficial
use.

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
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

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

Water Right 75-00027D

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

NOV - 6 2009

By _____ Clerk
Deputy Clerk

In Re SRBA)
Case No. 39576)

NAME AND ADDRESS: RANDY M CAPPS
87 CORBETT LN
SALMON, ID 83467

SOURCE: WILLIAMS CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 2.34 CFS

PRIORITY DATE: 05/01/1886

POINT OF DIVERSION: T20N R21E S11 LOT 1 (NENE) Within Lemhi County
S12 NESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	2.34 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T20N R21E S01 SWSE 13.0	SESE 37.0
	R22E S06 LOT 8 (SWSW) 29.0	SESW 38.0
	117.0 Acres Total	

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

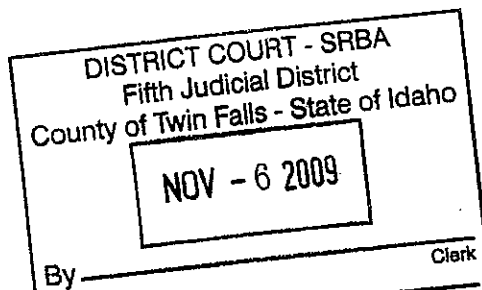
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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

RECOMMENDATION
NOV - 6 2009
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)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 75-00027D
75-00027F

On November 06, 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 November 06, 2009.


DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
NOV - 6 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): 75-00027D
75-00027F

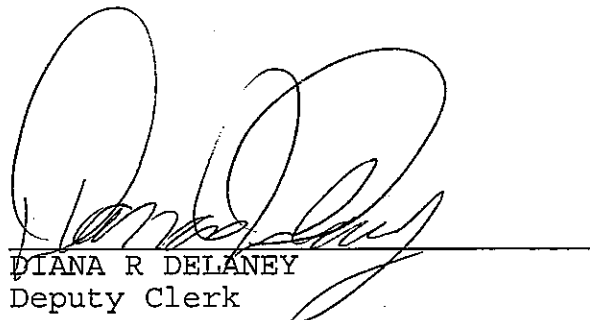
CERTIFICATE OF MAILING

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 November 06, 2009, with sufficient first-class postage prepaid to the following:

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

KEVIN A RICE
TAMARA RICE
127 CORBETT LN
SALMON, ID 83467-5073
Phone: 208-756-2669

RANDY M CAPPS
87 CORBETT LN
SALMON, ID 83467
Phone: 208-756-2997


DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

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11/06/09