

RECEIVED

NOV 20 2009

DEPARTMENT OF  
WATER RESOURCES

|                                                                                           |              |
|-------------------------------------------------------------------------------------------|--------------|
| DISTRICT COURT - SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |              |
| NOV 17 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

) Subcase 75-4026  
) (Salmon River Properties, Inc.)  
)  
) ORDER GRANTING MOTION TO SET  
) ASIDE and AMENDED 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 the claim filed by Salmon River Properties, Inc., Box 4495, Chatsworth, California, 91313, be disallowed: "No lawful appropriation shown."

Ward M. Whitmore filed an *Objection* on July 16, 2007, objecting to quantity and place of use. Erik F. Storlie and Tamara L. Kaiser filed an *Objection* on October 1, 2007, alleging the water right should not exist. Fred Crabtree lodged a late *Objection* on October 18, 2007, alleging the water right should not exist, but on March 12, 2009, his late *Objection* was dismissed.

On July 13, 2009, Salmon River Properties, Mr. Storlie and Ms. Kaiser filed a *Stipulation to Withdraw Objections* stating the claim "should receive a partial decree as it is currently recommended to the court . . . [t]he parties have resolved their objections by agreement . . . ."

The Special Master entered a *Report and Recommendation* on July 15, 2009, recommending the claim be disallowed. On October 14, 2009, Salmon River Properties filed a *Motion to Set Aside Special Master Report and Recommendation* because the parties have agreed Salmon River Properties should receive a water right. Attached to the *Motion* was a *Standard Form 5* signed by counsel for Salmon River Properties and counsel for Mr. Whitmore, plus Mr. Storlie and Ms. Kaiser, *pro se*, with IDWR's concurrence.

### Order

THEREFORE, IT IS ORDERED that the *Motion to Set Aside Special Master Report and Recommendation* is **granted**.

### Conclusions of Law

Salmon River Properties is entitled to a partial decree adjudicating a water right for claim 75-4026 as described in the *SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 75-4026*.

DATED November 19, 2009.



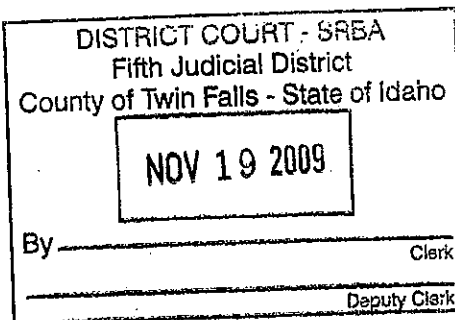
---

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 )  
\_\_\_\_\_ )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 75-04026



NAME AND ADDRESS: SALMON RIVER PROPERTIES INC  
BOX 4495  
CHATSWORTH, CA 91313

SOURCE: HAT CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 2.11 CFS

PRIORITY DATE: 07/18/1932

POINT OF DIVERSION: T17N R21E S20 SWSWNW Within Lemhi County  
SWNW

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------------------|----------------|----------------|----------|
|                            | Irrigation     | 04-01 TO 10-31 | 2.11 CFS |

PLACE OF USE: Irrigation Within Lemhi County

|                     |             |       |             |
|---------------------|-------------|-------|-------------|
| T17N R21E S17 LOT 7 | (NWSW) 17.0 | LOT 8 | (SWSW) 30.0 |
| S18 LOT 3           | (SENE) 3.3  | LOT 5 | (NESE) 22.0 |
| S20 LOT 2           | (NENW) 4.1  | LOT 3 | (SENW) 0.8  |
| 77.2 Acres Total    |             |       |             |

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

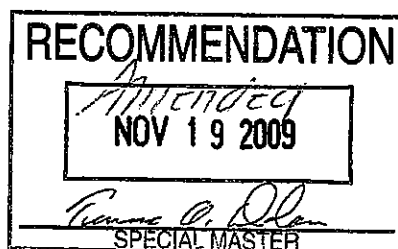
The operation, use and administration of this water right is subject to a private water right agreement effective June 20, 2009, between Salmon River Properties, Inc., and Erik F. Storlie and Tamara L. Kaiser and recorded in the Lemhi County Recorder's Office as Instrument No. 280073.

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

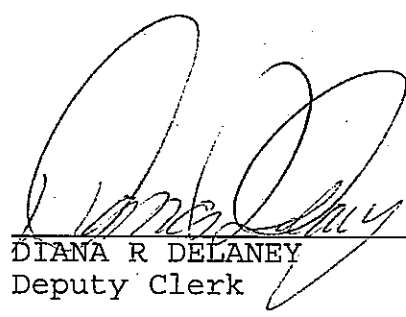
Water Right(s): 75-04026

On November 19, 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 19, 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 )

CERTIFICATE OF MAILING

Case No. 39576 )  
\_\_\_\_\_ )

Water Right(s): 75-04026

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 19, 2009, with sufficient first-class postage prepaid to the following:

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

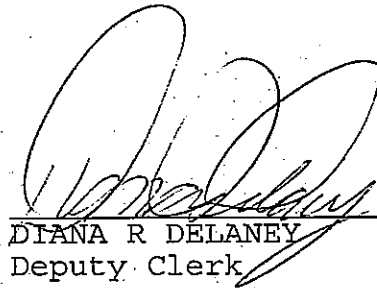
WARD M WHITMORE  
Represented by:  
JORDAN P. SMITH  
807 MAIN ST  
SALMON, ID 83467  
Phone: 208-756-2257

SALMON RIVER PROPERTIES INC  
Represented by:  
ROBERT L HARRIS  
1000 RIVERWALK DR, STE 200  
PO BOX 50130  
IDAHO FALLS, ID 83405  
Phone: 208-523-0620

CERTIFICATE OF MAILING

PAGE 1  
11/19/09

ERIK F STORLIE  
KAISER, TAMARA L  
3217 HUMBOLDT AVE S  
MINNEAPOLIS, MN 55408  
Phone: 612-822-8555



DIANA R DELANEY  
Deputy Clerk