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NOV 25 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
NOV 24 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 74-1025B, 74-1025E, 74-1025F
	)	and 74-15888
	)	(Daskalos)
Case No. 39576	)	
	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION
_____	)	

Findings of Fact

Director's Recommendations

The Director of the Idaho Department of Water Resources filed his *Director's Report, Reporting Area 23, IDWR Basin 74* on January 23, 2006:

74-1025B – the Director recommended claim 74-1025B to Spiro and Annette Daskalos, 1560 Foothills Village Drive, Henderson, Nevada, 89012, for .75 cfs from the Lemhi River to irrigate 25.1 acres in Lemhi County from March 15 to November 15 with a priority date of April 1, 1880, based on a decree.

74-1025E – the Director recommended claim 74-1025E to Henry and Melyanda Boswell and Mark and Bonnie Trail for .4 cfs from the Lemhi River to irrigate 13.2 acres in Lemhi County from March 15 to November 15 with a priority date of April 1, 1880, based on a decree.

Objection, Withdrawal & SF-5 – 74-1025B & 74-1025F

The Daskaloses filed an *Objection* in subcase 74-1025B on May 22, 2006, objecting to quantity. On October 21, 2008, the Daskaloses and IDWR filed a *Stipulation to Withdraw Objection* in the subcase based on their plan to file a late claim “for enlargement acres that have been identified by the Department as irrigated prior to 1987.”

On November 12, 2009, the Daskaloses and IDWR filed a *Standard Form 5* agreeing to disallow 74-1025B: "Recommended as right no. 74-1025F." IDWR recommended claim 74-1025F to the Daskaloses for 1.15 cfs from the Lemhi River to irrigate 62.5 acres in Lemhi County from March 15 to November 15 with a priority date of April 1, 1880, based on a decree.

Late Enlargement Claim, Objection & SF-5 – 74-15888

On January 21, 2009, SRBA Presiding Judge John M. Melanson entered an *Order Granting Motion to File Late Notice of Claim* in subcase 74-15888 and IDWR filed its *Director's Report for Late Claims* on June 10, 2009. The Director recommended the claim for .31 cfs from the Lemhi River to irrigate 62.5 acres in Lemhi County from March 15 to November 15 with a priority date of March 15, 1983, based on beneficial use.

On July 31, 2009, the Daskaloses wrote to IDWR and the SRBA Court to say they did not accept IDWR's recommendation of 74-15888. On November 12, 2009, the Daskaloses, with IDWR's concurrence, filed an *SF-5* in subcase 74-15888 agreeing to amend certain remarks.

Partial Decree, NCAP & SF-5 – 74-1025E & 74-1025F

When no one objected to the Director's recommendation of 74-1025E, a *Partial Decree* was entered on July 9, 2007. On November 12, 2009, IDWR filed a *Notice of Completed Administrative Proceeding* in the water right for substitution of party with the new owners the Daskaloses.

On November 12, 2009, the Daskaloses and IDWR filed an *SF-5* agreeing to disallow 74-1025E, assuming the *Partial Decree* would be set aside: "Recommended as right no. 74-1025F."

Conclusions of Law

1. The Daskaloses have shown good cause to have the *Partial Decree* in subcase 74-1025E set aside;
2. The Daskaloses are **not** entitled to partial decrees for claims 74-1025B and 74-1025E having agreed to them being disallowed; and
3. The Daskaloses **are** entitled to water rights as described in the November 12, 2009 *SF-5s* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 74-1025F and 74-15888*.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decree* in subcase 74-1025E be **set aside** and claims 74-1025B and 74-1025E **disallowed**.

DATED November 24, 2009.

A handwritten signature in black ink, appearing to read "Terrence A. Dolan".

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 74-01025F

NAME AND ADDRESS: ANNETTE DASKALOS
SPIRO DASKALOS
1560 FOOTHILLS VILLAGE DR
HENDERSON, NV 89012

SOURCE: LEMHI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 1.15 CFS

The rights listed below are limited to a total combined diversion
rate of 1.15 cfs. Combined Right Nos.: 74-1025F & 74-15888.

PRIORITY DATE: 04/01/1880

POINT OF DIVERSION: T18N R24E S09 SWSW Within Lemhi County

The following rights are diverted through point(s) of diversion
described above: 74-1025F & 75-15888.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.15 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T18N R24E S09	NWNW 27.5 SNNW 19.0
	62.5 Acres Total	

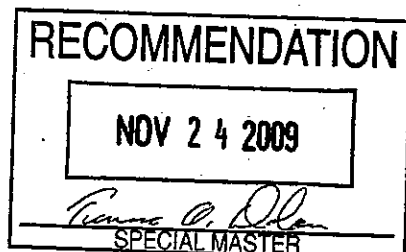
The rights listed below are limited to the irrigation of a
combined total of 62.5 acres in a single irrigation season.
Combined Right Nos.: 74-1025F & 74-15888.
This right is limited to the irrigation of 38.3 acres within the
place of use described above in a single irrigation season.

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

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 74-15888

NAME AND ADDRESS: ANNETTE DASKALOS
SPIRO DASKALOS
1560 FOOTHILLS VILLAGE DR
HENDERSON, NV 89012

SOURCE: LEMHI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 0.31 CFS

The rights listed below are limited to a total combined
diversion rate of 1.15 cfs. Combined Right Nos.: 74-1025F &
74-15888.

PRIORITY DATE: 03/15/1983

This water right is subordinate to all water rights with a
priority date earlier than April 12, 1994, that are not decreed
as enlargements pursuant to Section 42-1426, Idaho Code. As
between water rights decreed as enlargements pursuant to Section
42-1426, Idaho Code, the earlier priority right is the superior
right.

POINT OF DIVERSION: T18N R24E S09 SWSW Within Lemhi County

The following rights are diverted through point(s) of diversion
described above: 74-1025F & 74-15888.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.31 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T18N R24E S09	NWNW 27.5 SWNW 19.0 62.5 Acres Total

The rights listed below are limited to the irrigation of a
combined total of 62.5 acres in a single irrigation season.
Combined Right Nos.: 74-1025F & 74-15888.

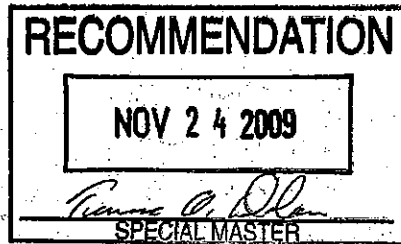
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This right is based upon an enlargement of Right No. 74-1025F
pursuant to Section 42-1426, Idaho Code.

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): 74-01025B
74-01025E 74-01025F 74-15888

On November 24, 2009, Special Master JOHN M MELANSON 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 24, 2009.


JULIE MURPHY
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): 74-01025B
74-01025E 74-01025F 74-15888

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 24, 2009, with sufficient first-class postage prepaid to the following:

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

ANNETTE DASKALOS
SPIRO DASKALOS
Represented by:
MILTON A. SLAVIN
ATTORNEY AT LAW
116 N CENTER ST.
SALMON, ID 83467
Phone: 208-756-2030

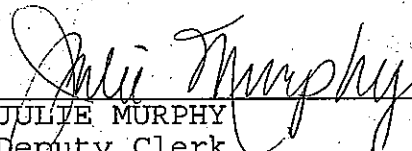
~~ANNETTE DASKALOS
1560 FOOTHILL VILLAGE DR
HENDERSON, NV 89012~~

CERTIFICATE OF MAILING

PAGE 1
11/24/09

~~ANNETTE DASKALOS
1560 FOOTHILLS VILLAGE DR
HENDERSON, NV 83012~~

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SPIRO DASKALOS
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HENDERSON, NV 89012


JULIE MURPHY
Deputy Clerk