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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB - 5 2010	
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 01-139 and 01-140
	)	(Bannock Jim Slough Canal Co.)
Case No. 39576	)	
	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

Findings of Fact

On November 19, 2009, former-SRBA Presiding Judge John M. Melanson entered a *Final Order Disallowing Water Right Claims* in a large batch, including 01-139 and 01-140. On November 29, 2009, Bannock Jim Slough, then an unorganized group of water users, filed a *Motion to Set Aside Final Order Disallowing Water Right Claims* in both subcases based on the grounds of mistake, inadvertence and excusable neglect and the matter was referred to the Special Master.

A hearing on the *Motion* was held on February 4, 2010. Jerry R. Rigby appeared for Bannock Jim Slough and Garrick L. Baxter appeared for IDWR, along with Michael Holliday. Mr. Rigby explained the water users only recently incorporated into Bannock Jim Slough Canal Company. Before, they were merely a large number of families who struggled mightily toward incorporation for years with the goal of becoming a canal company. They were not aware of the imminent *Order* disallowing their claim and attempted to conclude structuring their business agreement before proceeding with other business. Once they became aware of the *Order*, they soon filed their *Motion* to protect their early priority water rights to continue irrigating.

Mr. Holliday reported water has been historically delivered under the rights, but he will need time to sort out the two claims in relation to individual water rights. With that in mind, IDWR supported the *Motion*.

Conclusions of Law

The claimant has shown good cause to set aside the *Final Order Disallowing* to allow a full investigation by IDWR of the claims.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Final Order Disallowing* be set aside as to subcases 01-139 and 01-140 after which IDWR will commence its investigation and file its recommendation. Since there is some uncertainty of how long the investigation will take, IDWR has not submitted its proposed recommendations with this *Report and Recommendation*.

DATED February 5, 2010.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER REPORT AND RECOMMENDATION - SET ASIDE FINAL ORDER DISALLOWING WATER RIGHT was mailed on February 05, 2010, with sufficient first-class postage to the following:

BANNOCK JIM SLOUGH

Represented by:

JERRY R. RIGBY

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