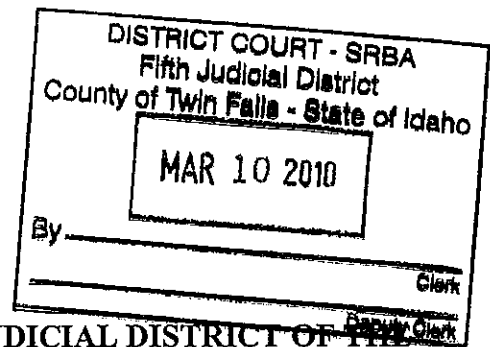


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MAR 12 2010
DEPARTMENT OF
WATER RESOURCES



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 75-14235
Case No. 39576) (Pilkerton)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

On November 13, 2009, former SRBA Presiding Judge John M. Melanson entered a *Final Order Disallowing Water Right Claims*, including 75-14235 filed by A.C. Pilkerton, P.O. Box 23, Carmen, Idaho, 83462, for .14 cfs from Carmen Creek to irrigate 3.5 acres in Lemhi County from April 1 to November 1 with a priority date of April 1, 1915, based on beneficial use. Mr. Pilkerton wrote a letter to the Court on December 11, 2009, asking that the *Final Order* be set aside because he "was assured by the IDWR that this [overlapping] claim would not move forward in the adjudication process until the litigation for the other claims had been resolved." The same date, the matter was referred to the Special Master.

A hearing on the motion to set aside was held by telephone on January 14, 2010. Mr. Pilkerton appeared *pro se*, along with Luella Pilkerton and Albert Fols, and Garrick L. Baxter appeared for IDWR, along with Suzy Cooley-Denney. IDWR agreed with Mr. Pilkerton that he is entitled to .02 cfs to irrigate 2.3 acres from April 1 to October 31 and later provided a draft partial decree on February 19, 2010, in case the Presiding Judge agreed to set aside the *Final Order*.

Conclusions of Law

Mr. Pilkerton has shown good cause to have the *Final Order* set aside and is entitled to a partial decree adjudicating a water right for claim 75-14235 as described in IDWR's draft partial decree.

Recommendation

THEREFORE, IT IS RECOMMENDED that:

1. The *Final Order Disallowing Water Right Claims* be set aside regarding claim 75-14235; and
2. An amended partial decree be entered in subcase 75-14235 awarding to Mr. Pilkerton a water right as described in IDWR's draft partial decree.

DATED March 10, 2010.


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 75-14235

NAME AND ADDRESS: A C PILKERTON
PO BOX 23
CARMEN, ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.02 CFS

PRIORITY DATE: 04/01/1915

POINT OF DIVERSION: T23N R22E S35 NENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.02 CFS

PLACE OF USE: Irrigation Within Lemhi County
T22N R22E S03 LOT 2 (NWNE) 2.3
2.3 Acres Total

The rights listed below are limited to the irrigation of a
combined total of 2.3 acres in a single irrigation season.
Combined Right Nos.: 75-2025D, 75-10061N, 75-10062L and
75-14235.

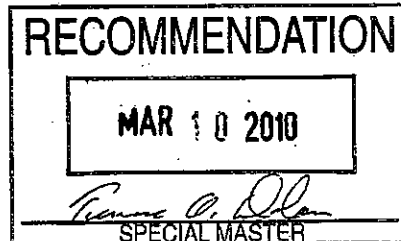
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication



DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAR 10 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)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

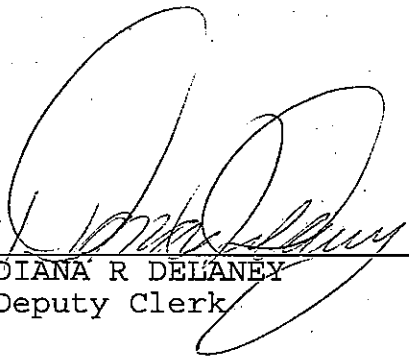
Water Right(s): 75-14235

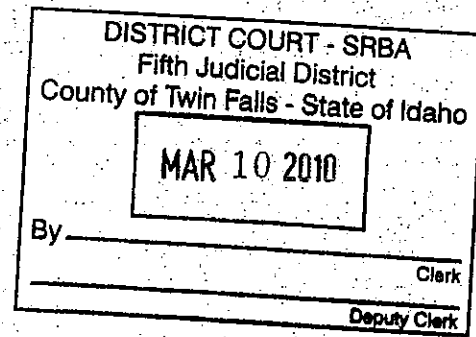
On March 10, 2010, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 March 10, 2010.


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)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 75-14235

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 March 10, 2010, with sufficient first-class postage prepaid to the following:

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

A C PILKERTON
PO BOX 23
CARMEN, ID 83462



DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

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03/10/10