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APR 26 2011
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR 25 2011	
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 75-14049, 75-14059 and 75-14060
Case No. 39576) (Mascia & Fols)
)
) 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 claim 75-14049, filed by Zoel R. Martinson, be disallowed; recommended as other water rights. The Director recommended claim 75-14059, also filed by Mr. Martinson, for .032 cfs from Carmen Creek to irrigate 1.6 acres in Lemhi County from April 1 to October 31 with a priority date of April 1, 1915, based on beneficial use. Finally, the Director recommended 75-14060 to Albert and Alvera Fols, P.O. Box 56, Carmen, Idaho, for .19 cfs from Carmen Creek to irrigate 9.5 acres in Lemhi County from April 1 to October 31 with a priority date of April 1, 1915, based on beneficial use. On April 19, 2007, IDWR filed a *Notice of Completed Administrative Proceeding* naming Tracy Marcia, P.O. Box 80, Carmen, Idaho, 83462, as the new claimant of 75-14049 and 75-14059.

On October 12, 2007, Tracy Marcia filed an *Objection* in subcase 75-14049 objecting to the claim not being recommended as filed, but on January 26, 2010, the Carmen Creek Users, including Tracy Marcia, were granted leave to withdraw the *Objection*. No one objected to the *Director's Report* in subcase 75-14060 or the *NCAP* for claims 75-14049 and 75-14059.

Conclusions of Law

1. The claimants are entitled to partial decrees for water rights 75-14059 (Mascia) and 75-14060 (Fols) as recommended by IDWR; and

2. Tracy Mascia is **not** entitled to a partial decree for claim 75-14049.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 75-14049 be **disallowed**.

DATED April 25, 2011.



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 75-14059

NAME AND ADDRESS: TRACY MASCIA
PO BOX 80
CARMEN, ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.032 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	0.032 CFS

PLACE OF USE: Irrigation Within Lemhi County
T22N R22E S03 LOT 2 (NWNE) 1.6
1.6 Acres Total

Right Nos. 75-14059 and 75-14053 are limited to the irrigation
of a combined total of 1.6 acres in a single irrigation season.

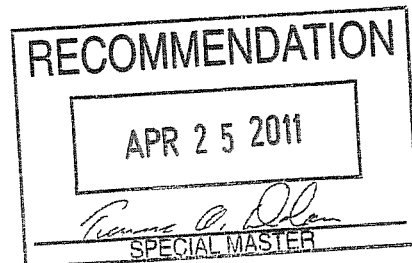
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

Eric J. Wildman
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 75-14060

NAME AND ADDRESS: ALBERT C FOLS
ALVERA C FOLS
PO BOX 56
CARMEN, ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.19 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	0.19 CFS

PLACE OF USE: Irrigation Within Lemhi County
T22N R22E S03 LOT 1 (NENE) 1.4 LOT 2 (NWNE) 8.1
9.5 Acres Total

Right Nos. 75-14060 and 75-14054 are limited to the irrigation
of a combined total of 9.5 acres in a single irrigation season.

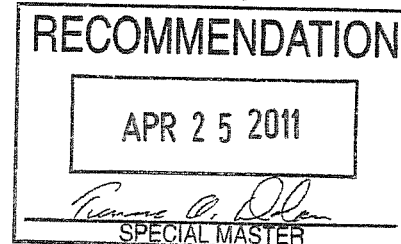
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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
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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

APR 25 2011

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

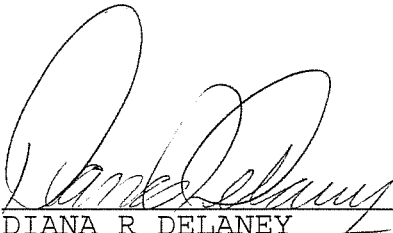
In Re SRBA)) Case No. 39576)) _____)	NOTICE OF ISSUANCE OF SPECIAL MASTER'S RECOMMENDATION Water Right(s): 75-14049 75-14059 75-14060
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On April 25, 2011, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

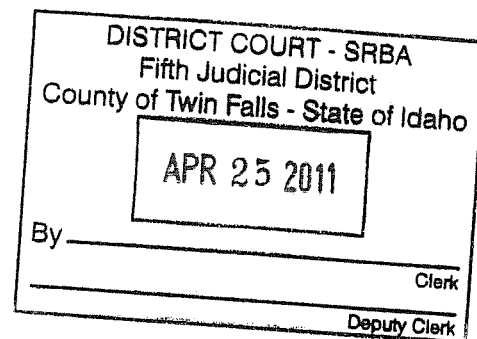
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 April 25, 2011.



 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): 75-14049
75-14059 75-14060

CERTIFICATE OF MAILING

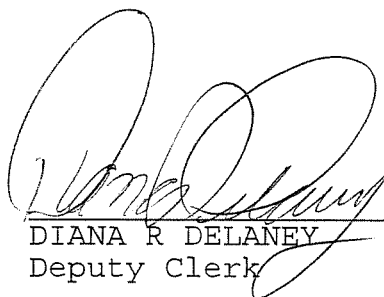
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on April 25, 2011, with sufficient first-class postage prepaid to the following:

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

ALBERT C FOLS
ALVERA C FOLS
TRACY MASCIA
Represented by:
TRAVIS L THOMPSON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

TRACY MASCIA
PO BOX 80
CARMEN, ID 83462

CERTIFICATE OF MAILING


DIANA R DELANEY
Deputy Clerk

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