

RECEIVED
JUN 27 2012
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 23 2012	
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	)	Subcase 02-10300 (02-10300A and 02-10300B)
	)	(Cottonwood Mutual Canal Co.)
Case No. 39576	)	
	)	AMENDED 2nd 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 Basin 02* on December 29, 2006. The Director recommended claim 02-10300, filed by the Cottonwood Mutual Canal Company, c/o Ringert Law Chartered, P.O. Box 2773, Boise, Idaho, 83701, be disallowed: "Recommended as right nos. 2-103 and 2-2209B." After no one objected to the Director's recommendation, on July 10, 2009, former SRBA Presiding Judge John M. Melanson entered a ***Final Order Disallowing Water Right Claims*** disallowing claim 02-10300.

On January 7, 2011, Cottonwood filed its *Motion to Participate* in subcase 02-103 and a *Motion for Relief* in subcase 02-10300 seeking to "reopen" the second subcase, essentially asking the Court to set aside or modify the ***Final Order*** disallowing claim 02-10300 under I.R.C.P. 60(b)(6). The reason for the *Motion* was because "IDWR has now determined that the water right license upon which both claims are based [02-2209] must be amended and issued in the name of Cottonwood."

SRBA Presiding Judge Eric J. Wildman referred Cottonwood's *Motion for Relief* to the Special Master on January 24, 2011, and on April 20, 2011, the Special Master recommended the ***Final Order*** disallowing claim 02-10300 be set aside and the matter be referred back to the

Special Master. On June 1, 2011, Judge Wildman entered an ***Order Setting Aside Final Order Disallowing Water Right Claim*** in subcase 02-10300.

On January 13, 2012, the Special Master entered an ***Order on Motions for Summary Judgment*** in subcases 02-103 and 02-10300 holding that Cottonwood is the lawful owner of the amended portion of license no. 02-2209 that irrigates 400 acres known as the "Section 14 Lands." The Special Master recommended permissive review of the ***Order***, but on April 23, 2012, the parties to subcases 02-103 and 02-10300 filed a *Stipulation* agreeing Cottonwood is the lawful owner of water right 02-10300 and entitled to a partial decree in its name.

On April 25, 2012, water right 02-103 was partially decreed and subcase 02-10300 was recommitted to the Special Master for further proceedings on the issue of IDWR's volumetric determination. IDWR filed its *Supplemental Director's Report Regarding Subcase No. 02-10300* recommending the claim be decreed with the same volume stated in its August 12, 2010 administrative *Final Order*.

Finally, on June 13, 2012, Cottonwood, with IDWR's concurrence, filed a *Standard Form 5* agreeing to split 02-10300 into 02-10300A and 02-10300B with 02-10300 to be disallowed and the two split rights to be partially decreed to Cottonwood. A hearing on the *SF-5* was held by telephone conference on June 14, 2012. Daniel V. Steenson appeared for Cottonwood; Michael C. Creamer appeared for Black Mesa Farms LLC; and Garrick L. Baxter appeared for IDWR, along with Suzy Cooley-Denney. The parties requested the following language be included in this ***Report and Recommendation***:

Cottonwood agrees that it will not use water diverted pursuant to water right nos. 02-10300A or 02-10300B on the Black Mesa's Section 14 lands without Black Mesa's consent, and that this agreement will bind successors/assigns. Cottonwood will incorporate this agreement in any agreement to transfer title, to lease, or to otherwise grant the right to use these water rights to third parties.

The Special Master entered a ***2nd Special Master Report and Recommendation*** on June 15, 2012, but with errors in the recommended place of use for both 02-10300A and 02-10300B. Cottonwood brought the errors to the Court's attention on June 26, 2012: the place of use description should be T06S, not T06N. The attached ***Amended Recommendations*** correct the errors.

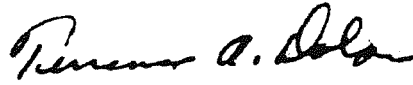
Conclusions of Law

1. Cottonwood is **not** entitled to a partial decree for claim 02-10300 because of the split;
2. Cottonwood **is** entitled to partial decrees adjudicating water rights as described in the SF-5 and the attached *Amended Special Master Recommendations for Partial Decrees for Water Rights 02-10300A and 02-10300B*.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 02-10300 **not** be partially decreed because of the split.

DATED June 26, 2012.



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 02-10300A

NAME AND ADDRESS: COTTONWOOD MUTUAL CANAL CO
C/O RINGERT LAW CHARTERED
PO BOX 2773
BOISE, ID 83701

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 8.00 CFS
1338.95 AFY

Right Nos. 2-10300A and 02-10300B are limited to a total combined
diversion rate of 8.00 cfs and a total combined annual diversion
volume of 1600.0 AF.

PRIORITY DATE: 02/25/1963

POINT OF DIVERSION: T06S R11E S09 LOT 6 (NWSW) Within Elmore County

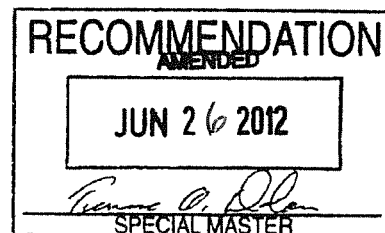
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	8.00 CFS 1338.95 AFY

PLACE OF USE:	Irrigation	Within Elmore County
T06S R10E S14	NENE 40.0 SWNE 40.0 NENW 40.0 SWNW 40.0 NESW 39.0 NWSE 30.0	NWNE 40.0 SENE 40.0 NWNW 40.0 SENW 40.0 NESE 39.0
	428.0 Acres Total	

Right Nos. 02-10300A and 02-10300B are limited to the irrigation
of 400 acres within the place of use described 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).



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 02-10300B

NAME AND ADDRESS: COTTONWOOD MUTUAL CANAL CO
C/O RINGERT LAW CHARTERED
PO BOX 2773
BOISE, ID 83701

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 8.00 CFS

Right Nos. 2-10300A and 02-10300B are limited to a total combined
diversion rate of 8.00 cfs and a total combined annual diversion
volume of 1600.0 AF.

PRIORITY DATE: 05/10/1965

POINT OF DIVERSION: T06S R11E S09 LOT 6 (NWSW) Within Elmore County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	8.00 CFS

PLACE OF USE:	Irrigation	Within Elmore County
T06S R10E S14	NENE 40.0 SWNE 40.0 NENW 40.0 SWNW 40.0 NESW 39.0 NWSE 30.0	NWNE 40.0 SENE 40.0 NWNW 40.0 SENW 40.0 NESE 39.0
428.0 Acres Total		

Right Nos. 02-10300A and 02-10300B are limited to the irrigation
of 400 acres within the place of use described in a single
irrigation season.

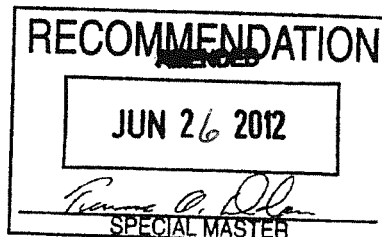
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JUN 26 2012	
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

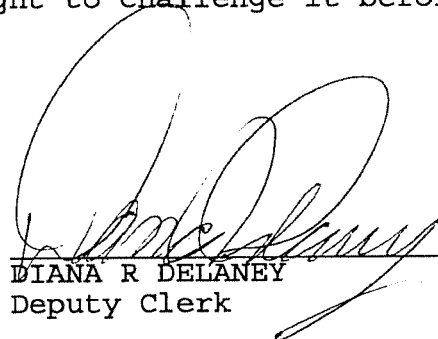
Water Right(s): 02-10300
02-10300A 02-10300B

On June 26, 2012, Special Master ERIC J WILDMAN
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 June 26, 2012.



DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JUN 26 2012	
By _____	Clk _____
Deputy Clk _____	

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): 02-10300
02-10300A 02-10300B

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 June 26, 2012, with sufficient first-class postage prepaid to the following:

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

COTTONWOOD MUTUAL CANAL CO
Represented by:
DANIEL V. STEENSON
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

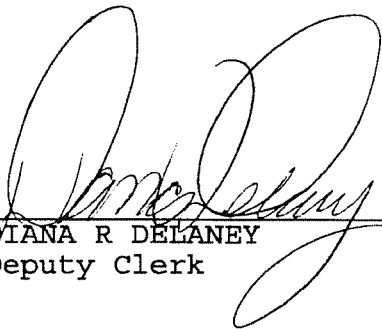
BLACK MESA FARMS LLC
Represented by:
MICHAEL C CREAMER
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

CERTIFICATE OF MAILING

PAGE 1
06/26/12

BRENDA BRYANT
DON J BRYANT
PO BOX 215
GLENN'S FERRY, ID 83623

CHRISTINE W WOOTAN
WESLEY R WOOTAN
PO BOX 636
GLENN'S FERRY, ID 83623



DIANA R DELANEY
Deputy Clerk