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APR 03 2014
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR - 2 2014	
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 41-42, 41-47 and 41-10285
	)	(Roper)
	)	
Case No. 39576	)	2nd SPECIAL MASTER REPORT
	)	AND RECOMMENDATION
	)	
	)	

Findings of Fact

On April 2, 2012, SRBA Presiding Judge Eric J. Wildman entered an *Order of Partial Decree* adjudicating the above three water rights to Katrina and Lance Roper, 3822 Rock Creek Road, American Falls, Idaho, 83211, to divert water from Rock Creek to irrigate 195.4 acres in Power County all with a priority date of September 15, 1882, based on a decree. Beginning on August 12, 2013, Nelson 7UD Ranches and the Bench Ditch Irrigation Company, among others¹, moved to set aside the *Partial Decree* for water right 41-10285 generally alleging the water right should not exist.

The hearing on the motion to set aside the *Partial Decree* was held on October 25, 2013 at the SRBA Courthouse in Twin Falls, Idaho. Travis L. Thompson appeared for the Ropers; Peter M. Wells and Gregory C. May appeared for the Movants; and Nicholas B. Spencer and Meghan M. Carter appeared for IDWR. Following the hearing, the parties filed a *Joint Request to Delay Decision on Amended Motion to Set Aside Partial Decree* seeking a delay in the matter of 45 days to resolve the dispute.

¹ By the date of the hearing on the Movants' filings, the movants numbered approximately seventeen listed on the parties' *Stipulated Motion to Set Aside Partial Decrees and Stipulated Elements of Water Rights* filed December 5, 2013.

On December 5, 2013, the parties filed a *Stipulated Motion to Set Aside Partial Decrees and Stipulated Elements of Water Rights* agreeing that the Court should set aside then disallow *Partial Decree* 41-10285. Further, the parties agreed the Court should set aside and amend *Partial Decrees* 41-42 and 41-47 as described in Exhibit A to their *Stipulated Motion*.

On January 16, 2014, the Special Master entered an *Order Granting Motion to Amend Claims* allowing the Ropers to amend their claims 41-42 and 41-47 and on February 14, 2014, the Ropers lodged their *Notice of Filing Amended Claims*. IDWR filed its *Amended Director's Report* on February 26, 2014, recommending amended claims 41-42 and 41-47 as filed and recommending 41-10285 be disallowed, "Recommended as Right No. 41-47." No one objected to the *Report*.

Conclusions of Law

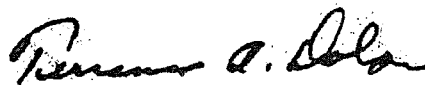
The parties have shown good cause to have the *Partial Decree* for water rights 41-42, 41-47 and 41-10285 set aside; to have claim 41-10285 disallowed; and to have water rights 41-42 and 41-47 partially decreed as recommended in the *Amended Director's Report*.

Recommendation

THEREFORE, IT IS RECOMMENDED that:

1. The *Partial Decree* for water rights 41-42, 41-47 and 41-10285 be **set aside**;
2. Claim 41-10285 be **disallowed**; and
3. Amended claims 41-42 and 41-47 be **partially decreed** as recommended by IDWR.

DATED April 2, 2014.



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)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 41-00047

NAME AND ADDRESS: KATRINA ROPER
LANCE ROPER
3823 ROCK CREEK RD
AMERICAN FALLS, ID 83211

SOURCE: ROCK CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 1.00 CFS

In addition to the quantity of water listed above, the right holder is entitled to divert and use any flow of water from said Rock Creek up to 7.00 cfs that may find its way to the head of the Prodsham-Kelly Ditch in T09S, R30E, S15, NESE by reason of seepage or percolation or non use by the right holders, and/or their successors in interest: 1) identified In Re Houtz et al (Oneida County, Sixth Judicial District Court, June 6, 1903), whose water rights were partially decreed in the Snake River Basin Adjudication; and 2) any other right holders whose water rights were also partially decreed in the Snake River Basin Adjudication.

The quantity listed above shall be measured at the point of diversion listed for this right by means of a measuring box of the type and dimensions decreed by In Re Houtz et al (Oneida County, Sixth Judicial District Court, June 6, 1903). Any change in the method of measurement shall constitute a change in the point of diversion requiring approval by the Idaho Department of Water Resources as a transfer pursuant to I.C. Section 42-222.

PRIORITY DATE: 09/15/1882

POINT OF DIVERSION: T09S R30E S15 NESE Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	06-01 TO 08-31	1.00 CFS

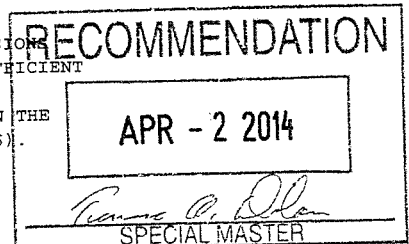
plus additional water listed in remark above.

PLACE OF USE:	Irrigation	Within Power County
	T09S R30E S10	SWSW 20.0
	S15	SESW 8.0
		NENE 3.7
		NWNE 31.0
		SWNE 33.0
		SENE 29.0
		NENW 36.4
		NWNW 29.1
		SENE 5.2
	195.4 Acres Total	

The rights listed below are limited to the irrigation of a combined total of 195.4 acres in a single irrigation season. Combined Right Nos.: 41-41A, 41-42, 41-47, 41-2024 & 41-10264.

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).



SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

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 41-00042

NAME AND ADDRESS: KATRINA ROPER
LANCE ROPER
3823 ROCK CREEK RD
AMERICAN FALLS, ID 83211

SOURCE: ROCK CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 8.00 CFS

The quantity listed above shall be measured at the point of diversion listed for this right by means of a measuring box of the type and dimensions decreed by In Re Houtz et al (Oneida County, Sixth Judicial District Court, June 6, 1903). Any change in the method of measurement shall constitute a change in the point of diversion requiring approval by the Idaho Department of Water Resources as a transfer pursuant to I.C. Section 42-222.

PRIORITY DATE: 09/15/1882

POINT OF DIVERSION: T09S R30E S15 NESE Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 05-31	8.00 CFS
	Irrigation	09-01 TO 10-31	8.00 CFS

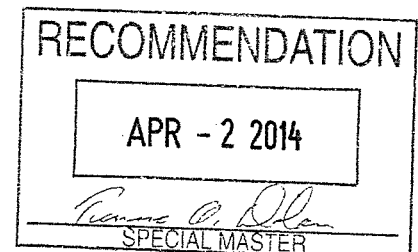
PLACE OF USE:	Irrigation	Within Power County
	T09S R30E S10	SWSW 20.0
	S15	SESW 8.0
		NENE 3.7
		NWNE 31.0
		SWNE 33.0
		SENE 29.0
		NENW 36.4
		NWNW 29.1
		SENE 5.2
	195.4 Acres Total	

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Eric J. Wildman
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Snake River Basin Adjudication