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JUN 20 2003

Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2003 JUN 19 AM 11 13

**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 29-10401**

Case No. 39576

)
) **ORDER OF REFERENCE TO SPECIAL**
) **MASTER BRIGETTE BILYEU**

On June 16, 2003, this Court received correspondence regarding the above-captioned water right claim. A copy of the correspondence is attached to this Order. The original of the correspondence was file stamped, docketed as received, and lodged in the subcase file. Where the water right claim was previously uncontested, a subcase file was created for the correspondence. Where a partial decree was previously entered for the water right claim, the partial decree was also included in the subcase file.

THE FOLLOWING ARE HEREBY ORDERED:

1. That Brigitte Bilyeu is appointed Special Master to preside over the above-captioned water right claim for the following purposes:

a. To determine the intended purpose of the correspondence and the legal significance of the correspondence, if any. For example, the Special Master may determine whether the correspondence constitutes a motion to correct a clerical error pursuant to I.R.C.P. 60(a), or a motion to set aside a partial decree pursuant to I.R.C.P. 60(b), etc.;

b. To determine whether the correspondence complies with SRBA Administrative Order 1 (AO1) and the Idaho Rules of Civil Procedure or whether additional time should be granted to allow the party to file an appropriate motion with the Special Master and/or to obtain counsel in the matter; whether the matter should be dismissed on its face; or to determine whether the matter would be more appropriately processed administratively through the Idaho Department of Water Resources;

c. If the correspondence is ultimately deemed a sufficient motion, or in the event a new motion is filed in compliance with the applicable rule(s), the Special Master shall conduct all proceedings necessary to issue a recommendation as to the underlying merits. For example, if the Special Master concludes a partial decree should be set aside or amended, the recommendation should not only include that the partial decree be amended or set aside, but should also include how the elements of the water right should be partially decreed.

2. The original of this Order shall be placed in the subcase file and the file transferred to the Special Master for proceedings consistent with this Order.

3. The Special Master shall issue a Special Master's Report and Recommendation on the matter consistent with AO1.

IT IS SO ORDERED.

DATED June 18, 2003



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

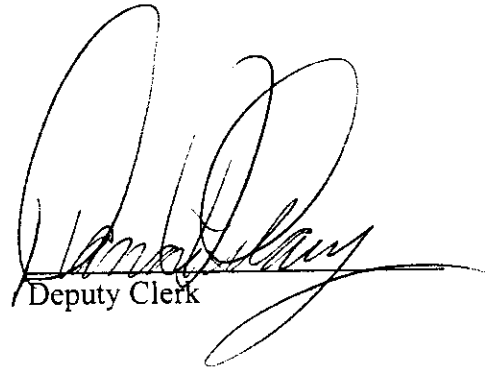
I certify that a true and correct copy of the **ORDER OF REFERENCE TO SPECIAL MASTER BRIGETTE BILYEU** was mailed on June 19, 2003, with sufficient first-class postage to the following:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

US Department of Justice
Environment & Natural Resources Div.
550 W Fort St, MSC 033
Boise, ID 83724

Chief, natural Resources Div.
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

Mrs. Nelda M. Williams
1554 W Bowen Ln
Arbon, ID 83212



Deputy Clerk



State of Idaho

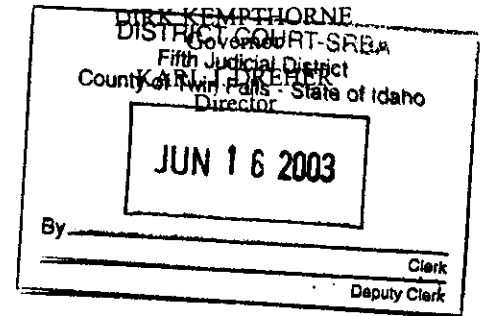
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

June 13, 2003

DIANE DELANEY
SNAKE RIVER BASIN ADJUDICATION
PO BOX 2707
TWIN FALLS ID 83303-2707



RE: Place of use error on partial decreed water right 29-10401

Dear Diane:

A few weeks ago I spoke with you concerning the mis-location of the place of use for the partial decree of the above referenced claim number. It is in this regard that I have enclosed a copy of a letter request from Mrs. Nelda M. Williams, widow of Donald T. Williams. In the letter, Mrs. Williams explains that the place of use for the above referenced water right was mislocated and that the locations shown on the partial decree instead should reflect the following:

T10S, R33E, Section 7, NWNW and
T10S, R33E, Section 7, NENW.

For your convenience, I have also included a copy of the water right as it is currently reflected in the department's database and also include a map showing the location of the mislocated quarter section and the correct location. From the maps, you can see that the location of the stockwater troughs are located along the road at the base of the canyon, not on top of the slopes.

I hope that you may be able to make the necessary changes without too much difficulty. If there is anything we can do to help facilitate this matter, I hope that you will not hesitate to call me at 525-7161.

Respectfully submitted,

W. Roger Warner
Adjudication Specialist

Cc: file
Mrs. Nelda M. Williams

Enclosure(s) Copy of letter from Nelda Williams dated April 28, 2003
Copy of Water right detail report for 29-10401.
Copy of USGS maps showing location of place of use for 29-10401.

RECEIVED
MAY 01 2003
Department of Water Resources
Eastern Region

St. of Id.; Dept. of Water Resources
attn. Roger Warner
900 N. Skyline Dr.
Suite A. Idaho Falls, Idaho 83402-1718

April 28, 2003
Nelda M Williams
1554 W Bowen Ln.
Arbon Id. 83212
ph 335-2295

Dear Sirs,

Just prior to 4-21-03, I called your office, bringing to your attention, a mistake in the original filing application, which concerns the partial decree of water right # 29-10401 in the name of Donald T. Williams.

Apparently a mistake was made on the original Notice of Claim to a Water Right, submitted by my husband, Donald T. Williams on 3/5/90. I lost my husband in Nov. 2001 and on 4/23/02 recd. the change of ownership to our grandsons: Travis T. and Justin E. Williams. We had gifted the land which these springs are on to our grandsons prior to this and had transferred the water right to them.

The permanent license will be issued to them as per your records. The corrections are noted on your ^(Notice of Error) form with the 4-21-03 deadline, which you told me to ignore as well as listed here.

Would you respond to this letter in the form of a letter from your office acknowledging the correction, (Some document that can be attached to the ~~permanent~~ permanent license when it arrives that acknowledges this correction.) I trust that I can take care of this for my grandsons?

Thanks Kindly, Nelda M Williams

Change description of land at Place of Use from:

T10 S R33E S07 SWNW ~~NE~~SW

to

T10 S R33E S07 NWNW NENW

NOTICE OF ERROR
REPLY

Please type or print clearly. fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: April 21, 2003

Water right number: 29-10401

DONALD T WILLIAMS
1554 W BOWEN LN
ARBON ID 83212
Telephone Number: (208)335-2295

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

place of Use

2. Describe the changes you wish to make in the proposed recommendation:

*Description of land: change description -
From T10S R33E S07 SWNW ~~NE~~ SW
To T10S R33E S07 NWNW NENW*

3. Give a brief explanation as to why you disagree with these portions:

The maps I have show the change to be the correct place of Use

I AGREE with this proposed recommendation: no changes need to be made.

DATE: 4-28-03 SIGNATURE: Donald T. Williams
by Nelda M Williams (wife)
Please print your name: NELDA M WILLIAMS

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

06/13/2003

WATER RIGHT NO. 29-10401

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JUSTIN E WILLIAMS
Current Owner	TRAVIS T WILLIAMS
	2499 E 1775 S
	GOODING, ID 83330
	(208)934-8817
Original Owner	DONALD T WILLIAMS
	1554 W BOWEN LN
	ARBON, ID 83212
	(208)335-2295

Priority Date: 06/01/1894

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	SHACK CREEK
WEST FORK SPRING	WEST FORK BANNOCK CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	1/01	12/31	0.03 CFS	
Total Diversion			0.03 CFS	

Location of Point(s) of Diversion:

SPRING		Sec.	Township	Range	County
WEST FORK SPRING	SESW	Sec. 05	Township 10S	Range 33E	POWER County

Place(s) of use:

Place of Use Legal Description: STOCKWATER POWER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
10S	33E	7		SWNW NESW										

Conditions of Approval:

1.	N13	THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2.	N11	THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Remarks:

1.	Explanatory	PARCEL NO. RP D2233-00 STOCKWATER, 100 RANGE CATTLE
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Dates:

Licensed Date:

Decreed Date: 06/22/1998

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

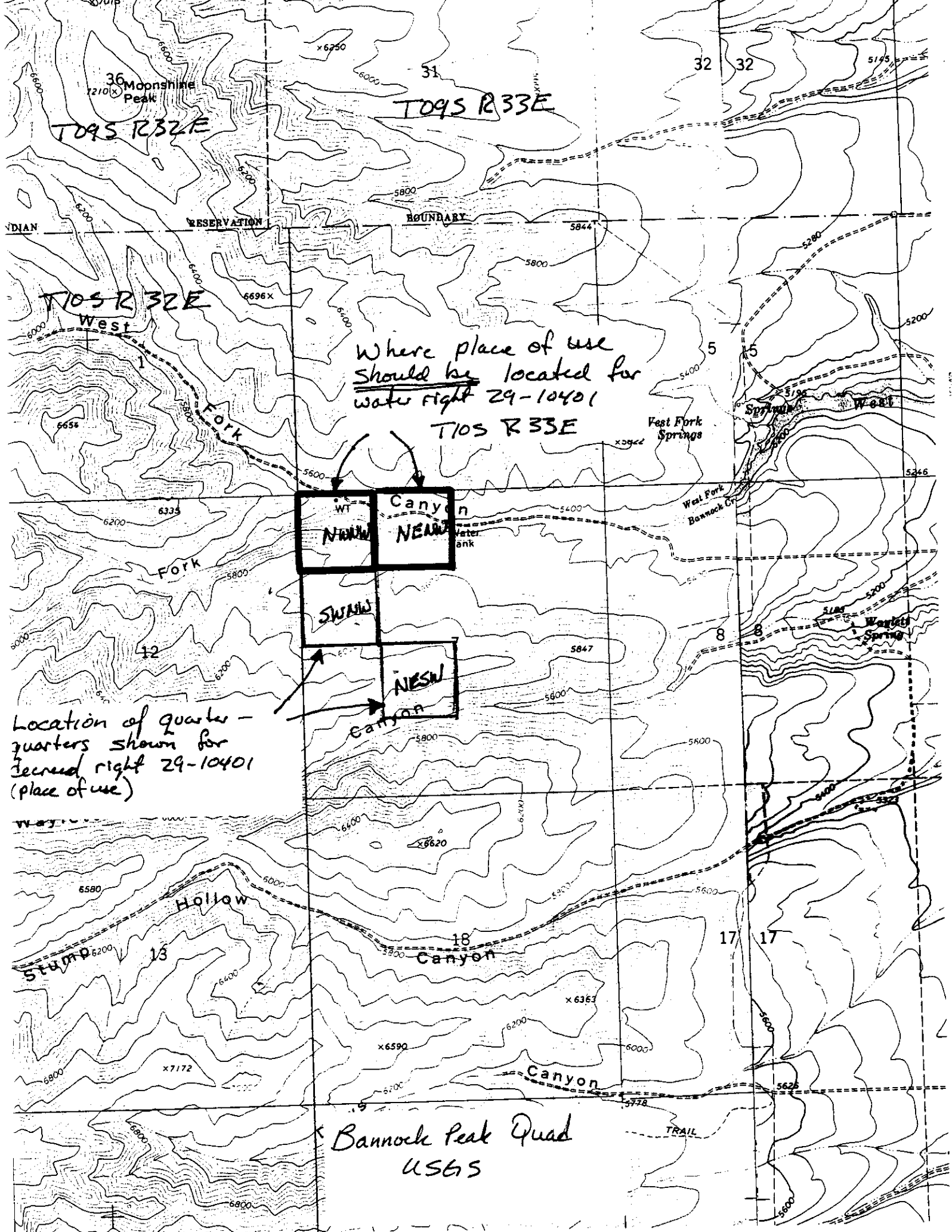
Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False





T09S R33E

T09S R32E

T10S R32E

T10S R33E

Where place of use
should be located for
water right 29-10401

Location of quarters -
quarters shown for
Secured right 29-10401
(place of use)

Bannock Peak Quad
USGS

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 29-10401

NAME AND ADDRESS: DONALD T WILLIAMS
1554 W BOWEN LN
ARBON, ID 83212

SOURCE: WEST FORK SPRING TRIBUTARY: WEST FORK BANNOCK CREEK
QUANTITY: 0.03 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 06/01/1894

POINT OF DIVERSION: T10S R33E S05 SESW Within Power County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.03 CFS

PLACE OF USE:	Stockwater		Within Power County
	T10S R33E S07	SWNW	NESW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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.


Daniel C. Hurlbutt, JR.
Presiding Judge
Snake River Basin Adjudication