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Department of Water Resources

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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 NUMBER 61-00293B
	)
Case No. 39576	) MOTION TO ALTER OR AMEND SPECIAL
	) MASTER'S RECOMMENDATION
_____	)

Paul Batruel, Mary Batruel, and Batruel Dairy ("Batruels"), claimants of the water right in the above captioned subcase, hereby move this Court, pursuant to SRBA Administrative Order No. 1 § 13.a., to alter or amend its Special Master's Recommendation issued in the above captioned subcase on June 17, 2003. The grounds for this Motion are that the Special Master's Recommendation contains errors regarding the names of the claimants as well as the Place of Use description for water right number 61-00293B.

As to the first error, the Special Master's Recommendation lists the following claimants: "Mary Batruel, Paul Batruel, Peter Batruel." However, Peter Batruel can no longer be a claimant to the above captioned water right since he is deceased. The correct list of claimants to this water right was listed in claimants' Amended Notice of Claim filed with IDWR March 16, 2000.

Although IDWR's original Director's Report for this water right, issued February 12, 1999, still listed "Peter Batruel" as a claimant while omitting to list "Batruel Dairy" as a claimant, IDWR's Supplemental Director's Report for Subcase No. 61-00293B¹, issued September 14, 2001, corrected the error by listing the claimants to the Batruels' water rights as "Mary and Paul Batruel and Batruel Dairy (the Batruels)" (p. 1). And finally, the Standard Form 5 signed by the Batruels on September 19, 2002, correctly indicates the claimants' names as "Batruel Dairy, Mary Batruel, Paul Batruel."

As to the second error, the Special Master's Recommendation incorrectly lists the Place of Use for Irrigation in Township 4 South, rather than in Township 5 South, as claimed by the Batruels in their original Notice of Claim for 61-00293B, filed with IDWR on November 21, 1989, and in their Amended Notice of Claim, filed with IDWR on March 16, 2000. Although IDWR's Director's Report for 61-00293B, issued February 12, 1999, contains a typographical error which incorrectly lists the Place of Use for Irrigation in Township 4 South, IDWR rectified the error in its Supplemental Director's Report² issued in September of 2001 when, in its discussion of the Place of Use for water right no. 61-00293B, it stated: "A typographical error occurred at the time the Director's Report was completed for claim number 61-00293B: each place of use lies in T05S not T04S as recommended" (p. 10). And finally, the Standard Form 5 signed by the Batruels on September 19, 2002, correctly indicates the correct Place of Use for Irrigation in "T 05S."

¹ This Report included related subcase nos. 61-00293D, 61-00299, 61-00303A, 61-00303B, 61-00304A, 61-00304B, 61-00308, 61-00370, 61-02000B, 61-04038, 61-04113, 61-04132, 61-10834, 61-11877, and 61-11921.

² *Ibid.*

Due to these errors in the Special Master's Recommendation, the Batruels hereby request that a new Special Master's Recommendation be issued for water right no. 61-00293B, reflecting the correct names of the claimants as "Mary Batruel, Paul Batruel, Batruel Dairy," and the correct township for Irrigation Place of Use as "T05S".

DATED this 15 day of July, 2003.



PAUL BATRUEL

CERTIFICATE OF SERVICE

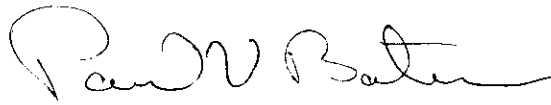
I certify that on this 15 day of July, 2003, I served copies of this document, including all attachments, by U.S. Mail to the following:

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A handwritten signature in black ink, appearing to read "Paul V. Butler", written over a horizontal line.

Person serving documents