

2004 MAY 21 PM 4 18

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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT: 29-172 and
	)	29-173

I. FINDINGS OF FACT

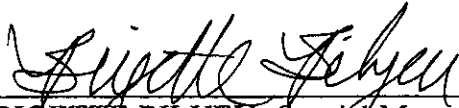
Claims were filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained recommendations for the elements of these water rights.

Objections were filed by Thomas J. Archibald on November 25, 2003. The *Objections* were resolved on May 10, 2004 with the filing of *Standard Forms 5*. All parties to the subcase and IDWR are signatories to the *Standard Forms 5*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that these water rights be decreed with the elements set forth in the attached *Special Master's Recommendation for Partial Decrees*.

DATED: May 21, 2004.



BRIGETTE BILYEU, Special Master
Snake River Basin Adjudication

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED

PAGE 1
May-18-2004

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.

John M. Melanson
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

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 29-00173

NAME AND ADDRESS: KATHY D ARCHIBALD
THOMAS J ARCHIBALD
10408 E THUNDER MTN RD
PO BOX 338
LAVA HOT SPRINGS, ID 83246

SOURCE: DEMPSEY CREEK TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.80 CFS

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER DESCRIBED
ABOVE AT THE POINT OF MEASUREMENT IN T10S, R38E, S04, NESWSW;
WEST DEMPSEY DITCH HEADING.

THIS RIGHT WHEN COMBINED WITH RIGHT NOS. 29-172 AND 29-13527
SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.

PRIORITY DATE: 06/01/1881

POINT OF DIVERSION: T10S R38E S04 NESWSW Within Bannock County

WATER DIVERTED FROM DEMPSEY CREEK DELIVERED THROUGH WEST
DEMPSEY CANAL.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 09-15	0.80 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31,
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE
OF WATER BEFORE APRIL 15 AND AFTER SEPTEMBER 15 UNDER THIS
REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED
EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN
THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:	Irrigation	Within Bannock County
	T09S R38E S33	SWNW 37.0 SENE 15.0 NESW 23.0 NWSW 37.0
	112.0 Acres Total	

USE OF THIS RIGHT WITH RIGHT NOS. 29-172 AND 29-13527 IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 112.0 ACRES IN
A SINGLE IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 40 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE 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).

RECOMMENDATION

MAY 21 2004

David A. Lee
SPECIAL MASTER

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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

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

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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)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 29-00172
29-00173

On May 21, 2004, Special Master BRIGETTE BILYEU
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 May 21, 2004.



JANET CONNELL
Deputy Clerk

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

2004 MAY 21 PM 4 18

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): 29-00172
29-00173

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 May 21, 2004, with sufficient first-class postage prepaid to the following:

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

KATHY D ARCHIBALD
THOMAS J ARCHIBALD
10408 E THUNDER MTN RD
PO BOX 338
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5339



JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
05/21/04