

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                      |

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**I. FINDINGS OF FACT**

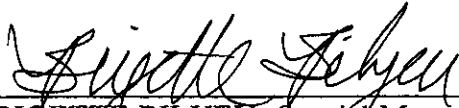
Claims were filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained recommendations for the elements of these water rights.

*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

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 29-00172

2004 MAY 21 PM 4 18

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.

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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

2004 MAY 21 PM 4 18

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<br>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<br>SENE 15.0<br>NESW 23.0<br>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. Chan*  
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.

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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

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05/21/04