

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

2004 JUN 1 PM 1 38

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
	)	
	)	WATER RIGHT NO.: 29-4109
	)	

I. FINDINGS OF FACT

A notice of claim was 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 a recommendation for the elements of this water right.

A *Motion to File Amended Notice of Claim* was filed by John Hart on September 5, 2003. An *Amended Director's Report* was filed on March 18, 2004. The *Amended Director's Report* was placed on the Docket Sheet. No objections were filed to the *Amended Director's Report*, and the time for filing such objections has now expired.

II. CONCLUSIONS OF LAW

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

DATED: June 1, 2004.



BRIGETTE BILYEU
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 FIDELITY
DISTRICT COURT - SRBA
FIDELITY FALLS CO., IDAHO
FILED

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-04109

2004 JUN 1 PM 1 38

NAME AND ADDRESS: MARILYN MIKKELSON
2433 E HAWKINS
DOWNEY, ID 83234

JOHN WILLIAM HART
2435 E HAWKINS
DOWNEY, ID 83234

SOURCE: PECK CREEK TRIBUTARY: MARSH CREEK

QUANTITY: 0.92 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 1.42 CFS. COMBINED RIGHT NOS.:
29-04109, 29-04111

PRIORITY DATE: 06/30/1970

POINT OF DIVERSION: T11S R37E S06 LOT 2 (NWNWNE) Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.92 CFS

PLACE OF USE: Irrigation Within Bannock County
T10S R37E S31 LOT 7 (SWSW) 6.9 LOT 8 (SWSW) 21.0
T11S R37E S06 LOT 3 (NENW) 18.0
45.9 Acres Total

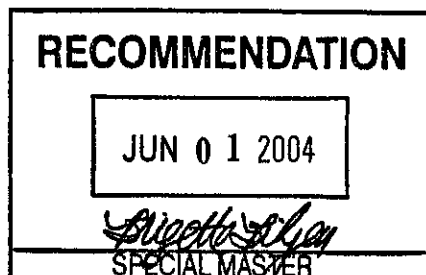
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 45.9 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 29-04109, 29-04111

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).

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

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In Re SRBA)
)
Case No. 39576)
)
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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 29-04109

On June 01, 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 June 01, 2004.



JANET CONNELL
Deputy Clerk

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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)
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CERTIFICATE OF MAILING

Water Right(s): 29-04109

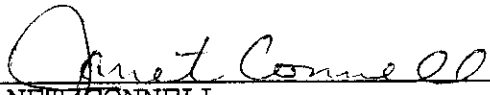
CERTIFICATE OF MAILING

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 June 01, 2004, with sufficient first-class postage prepaid to the following:

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

MARILYN MIKKELSON
2433 E HAWKINS
DOWNEY, ID 83234
Phone: 208-897-5743

JOHN WILLIAM HART
2435 E HAWKINS
DOWNEY, ID 83234
Phone: 208-897-5743



JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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06/01/04