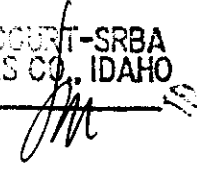


RECEIVED

JUL 28 2004

DEPARTMENT OF
WATER RESOURCES

2004 JUL 27 PM 3:06

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 

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 Nos.: 31-04053, 31-04054
	)	And 31-04055
Case No. 39576	)	
	)	ORDER OF REFERENCE TO SPECIAL
	)	MASTER BRIGETTE BILYEU
	)	

On July 27, 2004, this Court received correspondence regarding the above-captioned water right claims. 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 claims were previously uncontested, a subcase file was created for the correspondence. Where a *Final Order Disallowing Water Right Claim* was previously entered for the above captioned water right claims, the *Final Order Disallowing Water Right Claim* 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 claims 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 (AOI)* 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;

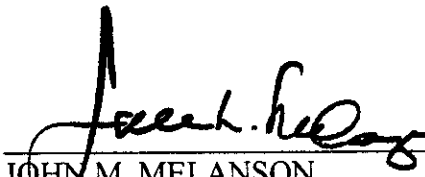
c. If the correspondence is ultimately deemed a sufficient motion, or in the event a new motion is filed in compliance with the applicable rule(s), the Special Master shall conduct all proceedings necessary to issue a recommendation as to the underlying merits. For example, if the Special Master concludes a ***Partial Decree(s)*** should be issued, the recommendation should not only include that the ***Partial Decree(s)*** be issued, 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 ***AOI***.

IT IS SO ORDERED.

DATED July 27, 2004.



JOHN M. MELANSON
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 July
27, 2004, with sufficient first-class postage to the following:

WALKER LAND & CATTLE CO
PO BOX 129
MENAN, ID 83434
Phone: 208-754-4696

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

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line.

LODGED

Walker Land & Cattle Company

PO Box 129
Menan, Idaho 83434
(208) 754-4696

JUL 27 AM 9:55
TWIN FALLS CO., IDAHO
FILED
M

July 26, 2004

Snake River Basin Adjudication Court
P O Box 2707
Twin Falls, ID 83303

Dear Gentlemen or Madam:

I am writing to you in hopes of filing a late protest in the matter of disallowed claims 31-04053, 31-04054 and 31-04055. It appears from the record that the claims were disallowed because evidence of priority had not been provided to the Idaho Dept. of Water Resources office in Idaho Falls.

These claims and properties involved had belonged to Wilma Wade and were acquired by our farm organization, Walker Land & Company, in 1999. We became aware on Feb. 9, 2001, via a letter from Bryce Contor of IDWR's Eastern Regional Office, that we needed to provide "Evidence of Priority" and a "Change of Ownership" form. We then filed the Change of Ownership form required by law on Feb. 20, 2001.

At that point we then tried to make contact with original owner, Wilma Wade to secure some evidence of priority. Mrs. Wade, who is an elderly widow, was contacted by phone by one of the members of our staff on Feb. 27, 2001. Mrs. Wade dictated some verbal testimony dealing with particulars involving claims 31-04053, 31-04054 and 31-04055 to that staff member. That dated memo is included for your review.

For some reason, which includes a change in personnel, this memo was never forwarded to the Eastern Regional Office and Mr. Contor. Had we been aware the memo was never sent we would have taken immediate action to correct this problem.

At this point we have again contacted Mrs. Wade who is in poor health and residing in an assisted living facility in Utah. We were recently advised by the Department of Water Resources and others to secure, if possible, notarized affidavits from Mrs. Wade, which we did. The notarized affidavits are attached.

We are also trying to secure affidavits from a former farm manager who worked Mrs. Wade's property attesting to historic irrigation use involving the three claims in question. These additional affidavits, if received, will be forwarded to you.

These properties under the three claims in question have a long history of ground water (well) irrigation and we had assumed all required paperwork had been submitted. This omission was caught in a recent appraisal of the properties. We own approximately 8,000 acres and farm approximately 15,000 acres. This was one of two areas about which we had questions.

We realize the SRBA Court is extremely busy with its heavy obligations but hopefully we can qualify for a late protest of these claims. The properties irrigated are essential to our farm operation and without these water rights we would suffer a great financial loss.

If there are any questions or needed documents, please contact us. I thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. Jensen". The signature is fluid and cursive, with the first name "David" and last name "Jensen" clearly distinguishable.

David R. Jensen
Chief Financial Officer
Walker and McNeil Companies

MRS. Wilma Wade

1240 E. Teupah St. Lot 202

Washington, Utah 84780

WILSON JONES COMPANY

G7504 ColumnWrite

Initials Date

Prepared By

Approved By

MADE IN U.S.A.

435-634-9242 - Utah

Notes from Conversation 2-27-01 with Wilma Wade

Tommy Thompson - Neighbor in Hamer

LYLE SAUDE - Nephew of Wades

Hubbard Brad 1987
Had Filed Water Right claims
Before in About 1985

1922 - Acquired Farm

Sec.

2.F.S.

3.0 A31-04055 21 1st well - east of Pivot
July 10, 1922 - Original well was east of current Pivot. Elec. Motor was used
to lift water into Ditch. Water was used to farm land where Pivot is now
and land west of current 2-15

1.0 A31-04053 2nd well - 1926
Mar. 22, 1926 well was drilled North of Home. Elec Motor used - This
well fed into Ditch that water North end of the farm including land
that was taken for J-15 as well as land in Sec 14 which is now the B. & B. way

1.0 A31-04054 3rd well 1947 Next to house Replaced older well
April 02, 1947
This well was drilled next to the house - It actually replaced
an older well that was in use when Wade acquired
the property in 1922

Affidavit

In support of Idaho water right claim number A 31-04053

I, Wilma Wade hereby declare that the well relating to this water right was drilled north of the house on March 22, 1926.

This well fed into ditches that watered the North end of the farm including land that was taken for Interstate 15 as well as land in Section 14, which is now the bird refuge.

This water right covers approximately 37 acres in:

N $\frac{1}{2}$, NE $\frac{1}{4}$, NW $\frac{1}{4}$, of Section 22, T7N, R36E
NE $\frac{1}{4}$, NW $\frac{1}{4}$, NW $\frac{1}{4}$, of Section 22, T7N, R36E
SE $\frac{1}{4}$, SW $\frac{1}{4}$, of Section 15, T7N, R36E
SE $\frac{1}{4}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$, of Section 15, T7N, R36E

The point of diversion is:

SESW, of Section 15, Township 07N, Range 36E, Jefferson County

I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of claimant

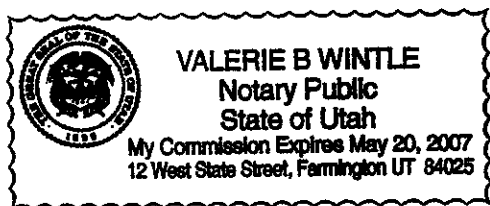
Wilma Wade Date 6/2/04

State of Utah

County of Davis

Subscribed and Sworn (or affirmed) before me this 21st day of
June 2004

Seal



Notary Public

Valerie B. Wintle

Residing at

Farmington, Utah

My commission expires

May 20, 2007

Affidavit

In support of Idaho water right claim number A 31-04054

I, Wilma Wade hereby declare that the well relating to this water right was drilled next to the house on April 2, 1947.

This well replaced an older well that was in use when Wade acquired the property in 1922.

This water right covers approximately 47 acres in:

N $\frac{1}{2}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$, of Section 15, T7N, R36E
SW $\frac{1}{4}$, NE $\frac{1}{4}$, SW $\frac{1}{4}$, of Section 15, T7N, R36E
NW $\frac{1}{4}$, NW $\frac{1}{4}$, of Section 15, T7N, R36E

The point of diversion is:

NWSW, of Section 15, Township 07N, Range 36E, Jefferson County

I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of claimant

Wilma Wade

Date

6/21/04

State of Utah

County of

Davis

Subscribed and Sworn (or affirmed) before me this 21st day of
June 2004

Seal

Notary Public

Valerie B. Wintle

Residing at

Farmington, Utah

My commission expires

May 20, 2007



VALERIE B WINTLE
Notary Public
State of Utah

My Commission Expires May 20, 2007
12 West State Street, Farmington UT 84025

Affidavit

In support of Idaho water right claim number A 31-04055

I, Wilma Wade hereby declare that the well relating to this water right was drilled July 10, 1922.

This well is east of the present day pivot and west of I-15. The original well used an electric motor to pump water into ditches that were used to water the crops.

This water right covers approximately 200 acres in:

NE ¼, of Section 21, T7N, R36E
NW ¼, NW ¼, of Section 22, T7N, R36E
SW ¼, SW ¼, SW ¼, of Section 15, T7N, R36E

The points of diversion are:

NENE, of Section 21, Township 07N, Range 36E, Jefferson County
SENE, of Section 21, Township 07N, Range 36E, Jefferson County

I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of claimant

Wilma Wade Date 6/21/06

State of Utah

County of Davis

Subscribed and Sworn (or affirmed) before me this 21st day of
June 2004

Seal

Notary Public

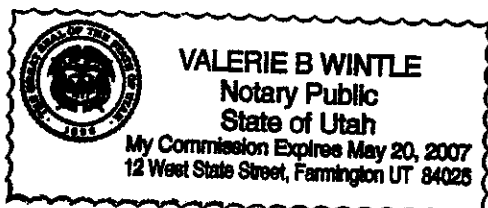
Valerie B. Wintle

Residing at

Farmington, Utah

My commission expires

May 20, 2007



DISTRICT COURT-SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
FEB 22 2002	
By _____	Clerk
_____	Deputy Clerk

**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: See Exhibit A
	)	
Case No. 39576	)	PARTIAL DECREE OF DISALLOWED
_____	)	WATER RIGHT CLAIMS

On May 10, 2001, the Director of the Idaho Department of Water Resources filed a *Director's Report for Irrigation and Other Water Rights (IDWR Basin 31)*, recommending that the water right claims listed on the attached Exhibit A be **disallowed**. The time period for objecting to this recommendation has passed.

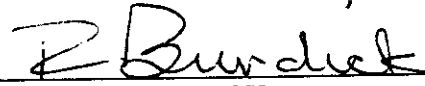
As this Court has previously determined, all claims reported to the Court by the Director of IDWR shall appear in a decree. This is required so that there is no confusion over action taken by the Court on all claims reported to it.

THEREFORE IT IS ORDERED AND ADJUDGED that the water right claims listed in Exhibit A are hereby **disallowed with prejudice** and shall not be confirmed in any partial decree or in any final decree entered in the SRBA, Case No. 39576, in whatever form that final decree may take or be styled.

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.

DATED February 22, 2002



 ROGER S. BURDICK
 Presiding Judge
 Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

31-00007A *Vadna-2*
31-00008A
31-00106L
31-00114L
31-00157A *Holmes*
31-00229 *Graves*
31-00247✓
31-00248✓
31-00258
31-00311
31-00312
31-00313
31-00314
31-00315
31-00316
31-00321A
31-00321B
31-02028B
31-02134
31-02243
31-02303
31-04053
31-04054
31-04055
31-07182B
31-07548
31-07549
31-07550
31-10260
31-10274
31-10419
31-10661
31-10694
31-10950
31-11654

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE OF DISALLOWED WATER RIGHT CLAIMS was mailed on February 25, 2002, with sufficient first-class postage to the following:

UNITED STATES OF AMERICA
ACTING THROUGH USDA ARS
US SHEEP EXPERIMENT STATION
HC 62 BOX 2010
DUBOIS, ID 83423

CLYSTEA VADNAIS
TED L VADNAIS
BOX 2170
HAMER, ID 83425

SHERIDAN GOLDEN EAGLE
BOX 519
REXBURG, ID 83440
Phone: 208-356-3716

RICHARD A EGBERT
C/O DR BRAD EGBERT
32 W 1ST S
REXBURG, ID 83440-1810

JEFFERSON IRRIGATION CO
C/O KRAIG BARE
PO BOX 125
TERRETON, ID 83450
Phone: 208-663-4608

WOODIE DITCH ASSOCIATION
C/O LARRY LEE
BOX 2480
HAMER, ID 83425
Phone: 208-663-4321

WEBSTER RANCH
HC 61 BOX 1010
DUBOIS, ID 83423
Phone: 208-374-5452

CHARLES VADNAIS
HC 62 BOX 2110
DUBOIS, ID 83423

DAVID J HAGENBARTH
JAMES F HAGENBARTH
MARGARET HAGENBARTH
PO BOX 1128
DILLON, MT 59725
Phone: 406-683-2163

WALKER LAND & CATTLE CO
PO BOX 129
MENAN, ID 83434
Phone: 208-754-4696

BLAINE L LARSEN
PO BOX 188
HAMER, ID 83425-0188

U L GROVER AND SONS
PO BOX 236
DUBOIS, ID 83423

MARTIN BROTHERS LAND & LIVESTOCK
PO BOX 50278
IDAHO FALLS, ID 83405
Phone: 208-523-5171

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

SHARON VADNAIS
STAR RT
DUBOIS, ID 83423

UNITED STATES OF AMERICA ACTIN
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657
Phone: 208-373-4000

TED AHLM
113 BROOK DR
BUHL, ID 83316
Phone: 208-543-5546

(Certificate of mailing continued)

DONALD L HOLMES
JOLENE R HOLMES
1876 E 400 N
ST ANTHONY, ID 83445

RICHARD SAVAGE
1898 N 2500 E
HAMER, ID 83425
Phone: 208-662-5416

LYLE R SHUPE
2296 E 1950 N
HAMER, ID 83425

ROBERT W ZWEIFEL
STEPHEN VERN ZWEIFEL
546 E 2500 N
MONTEVIEW, ID 83435
Phone: 208-657-2232