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DEPARTMENT OF
WATER RESOURCES

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

2004 AUG 18 PM 4 19

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 NOS.: 29-376, 29-377,
	)	29-389, AND 29-390

I. FINDINGS OF FACT

Claims were filed for these water rights 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.

No objections were filed for water rights 29-376, 29-377, 29-389, and 29-390. Water rights 29-376, 29-377, 29-389, and 29-390 however, are used in combination with water rights 29-4079 and 29-4080 which were the subject of *Objections*. Those *Objections* were resolved on July 28, 2004 with the filing of *Standard Forms 5*. All parties and IDWR are signatories to the *Standard Forms 5*.

II. CONCLUSIONS OF LAW

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 Recommendations for Partial Decrees*.

DATED: August 18, 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 TWIN FALLS

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-00376

2004 AUG 18 PM 4 19

NAME AND ADDRESS: HELEN TOLER
MAURICE A TOLER
231 E GLOVER RD
ARIMO, ID 83214

SOURCE: GARDEN CREEK TRIBUTARY: MARSH CREEK

QUANTITY: 0.75 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 3.50 CFS. COMBINED RIGHT NOS.:
29-376, 29-377, 29-389, 29-390, 29-4079, AND 29-4080.

PRIORITY DATE: 05/01/1887

POINT OF DIVERSION: T10S R36E S07 SWNWNE Within Bannock County
S11 SENWNW
SWSNW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.75 CFS

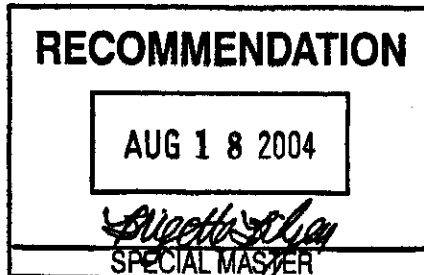
PLACE OF USE:	Irrigation	Within Bannock County
T10S R36E S02	SWNE 7.3	SENE 1.4
	NESW 23.0	SWSW 5.4
	SESW 19.0	NWSE 3.8
S11	NENW 4.4	NWNW 15.0
	SWNW 26.0	SENE 1.9
	NWSW 10.0	
	117.2 Acres Total	

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 117.2 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 29-376, 29-377, 29-389, 29-390, 29-4079,
AND 29-4080.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 37.5 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).



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
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PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 29-00377

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DEPARTMENT OF
WATER RESOURCES

QUANTITY: 1.00 CFS

PRIORITY DATE: 05/01/1904

PLACE OF USE:	Irrigation		Within Bannock County
	T10S R36E S02	SWNE 7.3	SENW 1.4
		NESW 23.0	SWSW 5.4
		SESW 19.0	NWSE 3.8
	S11	NENW 4.4	NWNW 15.0
		SWNW 26.0	SENW 1.9
		NWSW 10.0	
	117.2 Acres Total		

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

RECOMMENDATION

AUG 18 2004

Biggie Small
SPECIAL MASTER

RULE 54(b) CERTIFICATE

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John M. Melanson
Presiding Judge of the
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In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 29-00389

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DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: HELEN TOLER
MAURICE A TOLER
231 E GLOVER RD
ARIMO, ID 83214

SOURCE: GARDEN CREEK TRIBUTARY: MARSH CREEK

QUANTITY: 0.75 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 3.50 CFS. COMBINED RIGHT NOS.: 29-376, 29-377,
29-389, 29-390, 29-4079 AND 29-4080.

PRIORITY DATE: 05/01/1896

POINT OF DIVERSION: T10S R36E S07 SWNNNE Within Bannock County
S11 SENWNW
SWSNW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.75 CFS

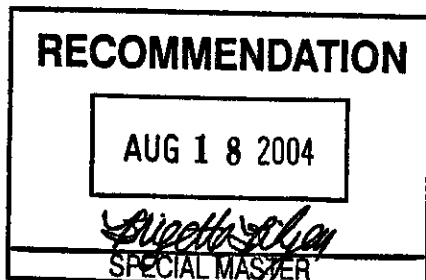
PLACE OF USE:	Irrigation	Within Bannock County	
	T10S R36E S02	SWNE 7.3 NESW 23.0 SESW 19.0 NENW 4.4 SWNW 26.0 NWSW 10.0	SENE 1.4 SWSW 5.4 NWSE 3.8 NWNW 15.0 SENE 1.9
	S11		
	117.2 Acres Total		

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 117.2 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 29-376, 29-377, 29-389, 29-390, 29-4079,
AND 29-4080.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 37.5 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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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).



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John M. Melanson
Presiding Judge of the
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PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-00390

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WATER RESOURCES

NAME AND ADDRESS: HELEN TOLER
MAURICE A TOLER
231 E GLOVER RD
ARIMO, ID 83214

SOURCE: GARDEN CREEK TRIBUTARY: MARSH CREEK

QUANTITY: 1.00 CFS

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DIVERSION RATE OF 3.50 CFS. COMBINED RIGHT NOS.: 29-376, 29-377,
29-389, 29-390, 29-4079, AND 29-4080.

PRIORITY DATE: 05/01/1904

POINT OF DIVERSION: T10S R36E S07 SENWNE Within Bannock County
S11 SENWNW
SWSENW

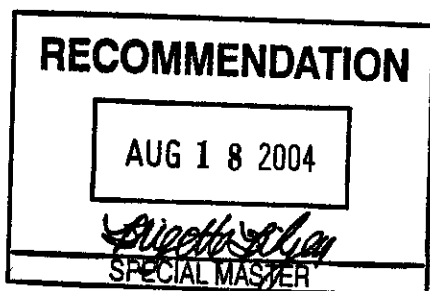
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.00 CFS

PLACE OF USE:	Irrigation	Within Bannock County
T10S R36E S02	SWNE 7.3	SENE 1.4
	NESW 23.0	SWSW 5.4
	SESW 19.0	NWSE 3.8
S11	NENW 4.4	NWNW 15.0
	SWNW 26.0	SENE 1.9
	NWSW 10.0	
	117.2 Acres Total	

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John M. Melanson
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In Re SRBA)

Case No. 39576)
_____))

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 29-00376
29-00377 29-00389 29-00390

On August 18, 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 August 18, 2004.



JANET CONNELL
Deputy Clerk

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In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 29-00376
29-00377 29-00389 29-00390

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 August 18, 2004, with sufficient first-class postage prepaid to the following:

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

HELEN TOLER
MAURICE A TOLER
231 E GLOVER RD
ARIMO, ID 83214
Phone: 208-254-3361



JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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08/18/04