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AUG 19 2004
DEPARTMENT OF
WATER RESOURCES

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

2004 AUG 18 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	)	AMENDED SPECIAL MASTER'S
	)	REPORT AND RECOMMENDATION;
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT: 29-4079
_____	)	

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.

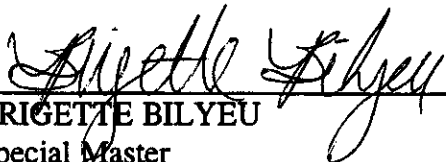
An *Objection* was filed by Maurice A. and Helen Toler on September 15, 2003. The *Objection* was resolved on May 19, 2004 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*. A *Special Master's Report and Recommendation* was issued for 29-4079 on June 1, 2004.

Subsequently, an *Amended Standard Form 5* was filed and a *Motion to alter or Amend the Special Master's Report and Recommendation*. The court granted the *Motion. Order on Motion to Alter or Amend Special Master's Report and Recommendation*. (August 11, 2004) This *Amended Special Master's Report and Recommendation* reflects the global agreement for all subcases including 29-4079.

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

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

Water Right 29-04079

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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: 1.00 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: 04/01/1921

POINT OF DIVERSION: T10S R36E S11 SWSNW Within Bannock County

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 NESW 7.7
		SESW 12.0 NWSE 3.8
	S11	NENW 4.4 SENW 1.9
	37.1 Acres Total	

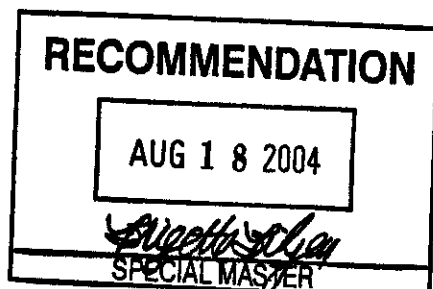
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 117.2 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 29-376, 29-377, 29-389, 29-390, 29-4079
AND 29-4080.

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 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): 29-04079

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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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 29-04079

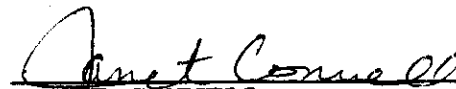
CERTIFICATE OF MAILING

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

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


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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08/18/04