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APR 22 2002

Department of Water Resources

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 35-02179B               |
|                | ) | (Cornelison & Olsen)            |
| Case No. 39576 | ) |                                 |
|                | ) | ORDER GRANTING MOTION TO        |
|                | ) | DISMISS UNITED STATES OBJECTION |
|                | ) | and SPECIAL MASTER REPORT       |

**Findings of Fact**

Matsuura Brothers, Partnership, filed a *Notice of Claim to a Water Right* on April 21, 1989, claiming 3.44 cfs from groundwater to irrigate 284 acres from April 1 to November 1 with a priority date of July 8, 1950, based on a license. The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation & Other Uses, Reporting Area 5, Part 2, Volume One (IDWR Basin 35)* on September 15, 1998. The Director recommended claim 35-02179B as filed but to Cornelison & Olsen, P.O. Box 396, Rexburg, Idaho 83440, for irrigation from April 1 to October 31.

The Twin Falls and North Side Canal Companies filed *Objections* on November 20, 1998, objecting to source, quantity, other provisions and alleging the water right should not exist. The same date, the United States of America, Department of the Interior, Bureau of Land Management filed an *Objection* to place of use.

On March 31, 1999, the Special Master entered an *Order Granting Joint Motion to Dismiss United States as a Party* based on a *Stipulation* signed by Cornelison & Olsen and the United States. However, IDWR lodged a *Report Re: Basis for IDWR's Non-Concurrence with Stipulation* on April 13, 2000, because a reduction in acreage requires a reduced volume.

The Special Master entered an *Order Granting Motion to File Amended Notice of Claim* on September 8, 2000, allowing Cornelison & Olsen to increase the quantity from 3.44 cfs (284 acres) to 3.6 cfs (284 acres within a 315 acre place of use). IDWR filed its *Amended Director's Report, Subcase No. 35-02179B* on January 30, 2001, recommending 3.44 cfs to irrigate 284

acres within a 307.1 acre place of use. The United States filed another *Objection* on March 29, 2001, again objecting to place of use.

On August 27, 2001, the Special Master entered an *Order Granting Respondents' Motions for Partial Summary Judgment* in consolidated subcases 35-07200 and 41-02016 dismissing the Canal Company *Objections*. IDWR filed a *Notice of Completed Administrative Proceeding* on March 11, 2002, for changes in the place of use and on April 18, 2002, the United States filed a *Motion to Dismiss Objections* in 35-02179B and 35-13280. There are no other parties to the subcase nor pending objections.

#### **Order**

THEREFORE, IT IS ORDERED that the United States *Motion to Dismiss Objections* in subcase 35-02179B is **granted**.

#### **Conclusions of Law**

Cornelison & Olsen is entitled to a partial decree adjudicating a water right under claim 35-02179B as recommended by IDWR and as described in the attached *Special Master Recommendation for Partial Decree for Water Right 35-02179B*.

DATED April 19, 2002.



TERRENCE A. DOLAN  
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

In Re SRBA  
Case No. 39576

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

Water Right 35-02179B

2002 APR 19 PM 2:17

DISTRICT COURT-SRBA  
TWIN FALLS, IDAHO  
FILED

NAME AND ADDRESS: CORNELISON & OLSEN  
PO BOX 396  
REXBURG, ID 83440

SOURCE: GROUNDWATER

QUANTITY: 3.44 CFS  
1136.00 AFY

USE OF THIS RIGHT WITH RIGHT NO. 35-13280 IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF 3.44 CFS AND TO A TOTAL  
COMBINED ANNUAL DIVERISON VOLUME OF 1228.4 AF.

PRIORITY DATE: 07/08/1950

POINT OF DIVERSION: T01S R36E S07 NWNESW Within Bingham County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY                |
|-------------------------------|----------------|----------------|-------------------------|
|                               | Irrigation     | 04-01 TO 10-31 | 3.44 CFS<br>1136.00 AFY |

PLACE OF USE: Irrigation Within Bingham County

|                                  |                    |
|----------------------------------|--------------------|
| T01S R36E S06 LOT 07 (SWSW) 22.0 | LOT 01 (NWNW) 36.0 |
| S07 NENW 17.0                    | SENW 37.0          |
| LOT 02 (SWNW) 39.5               | NWSW 35.0          |
| NESW 34.0                        | SESW 37.0          |
| LOT 04 (SWSW) 35.0               | LOT 01 (NWNW) 6.2  |
| S18 NENW 8.4                     |                    |
| 307.1 Acres Total                |                    |

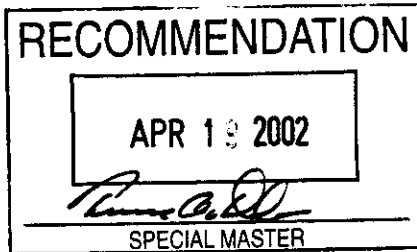
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 284 ACRES WITHIN  
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.  
USE OF THIS RIGHT WITH RIGHT NO. 35-13280 IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 307.1 ACRES IN A SINGLE  
IRRIGATION SEASON.

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.



Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

APR 22 2002

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DISTRICT COURT-SRBA  
TWIN FALLS, IDAHO  
ALF DISTRICT OF THE

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

Water Right(s): 35-02179B

  
 LETTIE MESSICK  
 Deputy Clerk

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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

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 35-02179B

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 April 19, 2002, with sufficient first-class postage prepaid to the following:

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

C & L FARMS  
DEL RAY HOLM  
HOLM BROS. PARTNERSHIP, HOLM  
R & M FARMS PARTNERSHIP  
THEODORE L DEFFINGER

Represented by:  
BLAIR J. GROVER  
215 FARNSWORTH WAY  
PO BOX 36  
RIGBY, ID 83442-0036  
Phone: 208-745-6653

CERTIFICATE OF MAILING

PAGE 1  
04/19/02

ABERDEEN-AMERICAN FALLS  
BINGHAM GROUND WATER DISTRICT  
CORNELISON & OLSEN  
UPPER VALLEY IRRIGATORS ASSOC.

Represented by:  
JEFFREY C. FEREDAY  
PO BOX 2720  
BOISE, ID 83701-2720  
Phone: 208-388-1200

FREMONT MADISON IRRIG. DIST.

Represented by:  
JERRY R. RIGBY  
PO BOX 250  
REXBURG, ID 83440-0250  
Phone: 208-356-3633

ALBERT & CHRISTINE WADA  
BRENT STOLWORTHY  
CLYDE M WILSON  
DARWIN BROWN  
FRANK S & AGNES H WADA  
GERALD J BUTIKOFER  
JAY L & MERRI LYNN STOLWORTHY  
KENT B CORNELISON  
KENT SEARLE  
LDS CHURCH  
LINDEN J & LOIS J BUTIKOFER  
MERLE & ULENE BUTIKOFER  
MURDOCH-WILSON FARMS  
PAUL & ALICE HEYREND  
WAYNE HANSEN

Represented by:  
KENT W FOSTER  
PO BOX 50130  
IDAHO FALLS, ID 83405  
Phone: 208-523-0620

STATE OF IDAHO

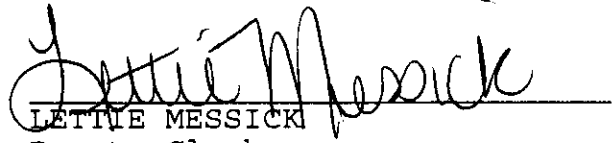
Represented by:  
NATURAL RESOURCES DIV CHIEF  
STATE OF IDAHO  
ATTORNEY GENERAL'S OFFICE  
PO BOX 44449  
BOISE, ID 83711-4449

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Department of Water Resources

UNITED STATES OF AMERICA  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724  
Phone: 208-387-0835

  
LETTIE MESSICK  
Deputy Clerk