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2002 JUL 31

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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

) Subcase 85-11165
) (Clausen)
)
) 2ND SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

A *Partial Decree* was entered on August 18, 2000, awarding to Norma M. Clausen, 1612 Cedar Avenue, Lewiston, Idaho 83501, a water right for .02 cfs from an unnamed stream and Mission Creek for year-round stockwater use in Lewis and Nez Perce Counties with a priority date of June 1, 1895. The *Partial Decree* was based on an *Amended Claim Standard Form 5* the parties filed on March 15, 2000.

However, on May 3, 2001, Ms. Clausen, the United States and IDWR filed an *Amended Claim / Amended SF-5* changing the claimant's address and the source and substantially amending the points of diversion and places of use. The *Amended Claim / Amended SF-5* was deemed to be a motion to modify the *Partial Decree*.

Conclusions of Law

The parties have shown good cause to modify the *Partial Decree* to correct clerical errors in the March 15, 2000 *Amended Claim SF-5*.

Recommendation

THEREFORE, IT IS RECOMMENDED that the August 18, 2000 *Partial Decree* be set aside and an *Amended Partial Decree* be entered as described in the May 3, 2001 *Amended Claim / Amended Standard Form 5* and the attached *Special Master Recommendation for Amended Partial Decree for Water Right 85-11165*.

DATED July 31, 2002.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

07/31/2002

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 85-11165

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DISTRICT COURT
TWIN FALLS, IDAHO
FILED

NAME AND ADDRESS: NORMA M CLAUSEN
1612 CEDAR AVE
LEWISTON ID 83501

SOURCE: MISSION CREEK TRIBUTARY: LAPWAI CREEK

QUANTITY: 0.020 CFS
THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 06/01/1895

POINT OF DIVERSION: Within LEWIS and NEZ PERCE Counties

T34N R03W S22 NENWNW End of Stream Flow
T34N R03W S27 SESWNE Begin of Stream Flow
T34N R03W S27 NWNESE End of Stream Flow
T34N R03W S34 SENENE Begin of Stream Flow

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: Within LEWIS and NEZ PERCE Counties

T34N R03W S22	NWNE	T34N R03W S22	SWNE
T34N R03W S22	NENW	T34N R03W S22	NWNW
T34N R03W S22	SWNW	T34N R03W S22	SENE
T34N R03W S22	NESW	T34N R03W S22	NWSW
T34N R03W S22	SWSW	T34N R03W S22	SESW
T34N R03W S22	NWSE	T34N R03W S22	SWSE
T34N R03W S26	NWSW	T34N R03W S26	SWSW
T34N R03W S27	NENE	T34N R03W S27	NENE
T34N R03W S27	NWNE	T34N R03W S27	SWNE
T34N R03W S27	SWNE	T34N R03W S27	SENE
T34N R03W S27	NESE	T34N R03W S27	NWSE
T34N R03W S27	SESE	T34N R03W S34	NENE
T34N R03W S35	NWNW		

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. SECTION 42-1412(6), IDAHO CODE.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

RULE 54(b) CERTIFICATE

With respect to the issue 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 judgement 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.

2nd
RECOMMENDATION

JUL 31 2002

Thomas A. Baker
SPECIAL MASTER

ROGER BURDICK
Administrative District Judge
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

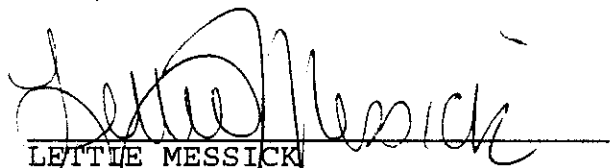
Water Right(s): 85-11165

On July 31, 2002, Special Master TERRENCE A. DOLAN 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 July 31, 2002.


LETTIE MESSICK
Deputy Clerk

2002 JUL 31 PM 3:16
DISTRICT CLERK
FILED *MM*

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): 85-11165

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 July 31, 2002, with sufficient first-class postage prepaid to the following:

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

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

NORMA M CLAUSEN
1612 CEDAR AVE
LEWISTON, ID 83501
Phone: 208-746-5206

CERTIFICATE OF MAILING

Lettie Messick
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07/31/02
LETTIE MESSICK
Deputy Clerk