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Department of Water Resources

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DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *Qm*

**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 43-10799**

) **(Lovingfoss)**

Case No. 39576

)

) **SPECIAL MASTER REPORT**

Findings of Fact

Loa and Lyle Nelson filed a *Notice of Claim to a Water Right* on June 6, 1989, claiming 3.84 cfs from the Raft River to irrigate 260 acres in Cassia County from March 15 to November 15 with a priority date of April 1, 1886, based on a decree. The Director of the Idaho Department of Water Resources filed his *Director's Reports for Irrigation and Other, Reporting Area 7, IDWR Basin 43, Part I* on September 28, 2001. The Director recommended the claim to Delia and Walter Lovingfoss, HC 61, Box 1020, Malta, Idaho 83342, for irrigation of 249 acres within a 259 acre place of use.

The United States of America, Department of Interior, Bureau of Land Management filed an *Objection* on February 8, 2002, objecting to place of use. On August 14, 2002, the claimants, the United States and IDWR filed a *Standard Form 5* agreeing to amend the place of use.

Conclusions of Law

Delia and Walter Lovingfoss are entitled to a partial decree adjudicating a water right under claim 43-10799 as described in the *Standard Form 5* and the attached *Special Master Recommendation for Partial Decree for Water Right 43-10799*.

DATED August 15, 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 43-10799

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DISTRICT COURT SRBA
TWIN FALLS CO. IDAHO
FILED *[Signature]*

NAME AND ADDRESS: DELIA L LOVINGFOSS
WALTER JEAN LOVINGFOSS
HC 61 BOX 1020
MALTA, ID 83342

SOURCE: RAFT RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 3.84 CFS

THIS RIGHT WHEN COMBINED WITH RIGHTS LISTED BELOW SHALL
PROVIDE NO MORE THAN .02 CFS PER ACRE. COMBINED RIGHT NOS.:
43-00307, 43-10363, 43-10799, 43-13237, 43-13239, & 43-13241.

PRIORITY DATE: 04/01/1886

POINT OF DIVERSION: T12S R27E S31 NWNESW Within Cassia County
NWNWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.84 CFS

PLACE OF USE:	Irrigation	Within Cassia County
	T12S R27E S31	SWNE 33.0 NENW 41.0
	LOT 1 (NWNW) 47.0	LOT 2 (SWNW) 49.0
	SENW 40.0	NWSE 39.0
	249.0 Acres Total	

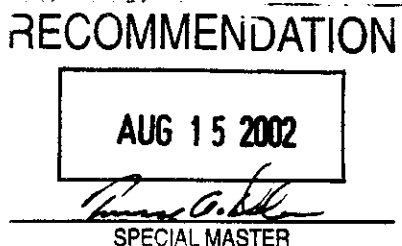
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 249 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 43-00307, 43-10363, 43-10799, 43-13237,
43-13239, & 43-13241.

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

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

In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 43-10799

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 15, 2002, with sufficient first-class postage prepaid to the following:

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

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

DELIA L LOVINGFOSS
WALTER JEAN LOVINGFOSS
HC 61 BOX 1020
MALTA, ID 83342
Phone: 208-645-2421

CERTIFICATE OF MAILING

Lettie Messick
LETITIE MESSICK
Deputy Clerk
PAGE 1
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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

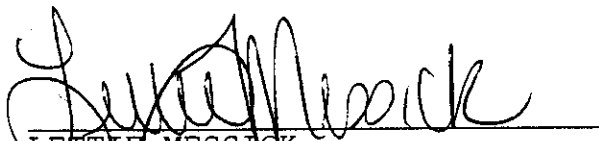
Water Right(s): 43-10799

On August 15, 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 August 15, 2002.


LETTIE MESSICK
Deputy Clerk