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AUG 16 2002

Department of Water Resources

2002 AUG 15 PM 4:25
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	)	Subcases 43-02487B, 43-13237 and 43-13238
	)	(Lovingfoss and USDI/BLM)
Case No. 39576	)	
	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

Findings of Fact

Loa and Lyle Nelson filed a *Notice of Claim to a Water Right* under 43-02487B on May 24, 1989, claiming 3.3 cfs from groundwater to irrigate 191 acres in Cassia County from March 15 to November 15 with a priority date of January 28, 1960, based on a license. 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 as filed, but to Delia and Walter Lovingfoss, HC 61, Box 1020, Malta, Idaho 83342.

The United States of America, Department of Interior, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709-1657, filed an *Objection* on February 8, 2002, objecting to place of use. On August 14, 2002, the claimants, the USDI/BLM and IDWR filed *Standard Forms 5* agreeing to split 43-02487B into 43-13237 (Lovingfoss) and 43-13238 (USDI/BLM).

Conclusions of Law

Delia and Walter Lovingfoss and the USDI/BLM are entitled to partial decrees adjudicating water rights under claims 43-13237 (Lovingfoss) and 43-13238 (USDI/BLM) as described in the *Standard Forms 5* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 43-13237 and 43-13238*.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 43-02487B **not** be adjudicated as a water right, the claim having been split into 43-13237 and 43-13238.

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

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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 43-13237

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

SOURCE: GROUND WATER

QUANTITY: 3.21 CFS
743.10 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 3.67 CFS AND TO A TOTAL COMBINED ANNUAL
DIVERSION VOLUME OF 743.1 AF. COMBINED RIGHT NOS.: 43-13237,
43-13239, & 43-13241.

THIS RIGHT WHEN COMBINED WITH RIGHTS LISTED BELOW SHALL
PROVIDE NO MORE THAN .02 CFS PER ACRE. COMBINED RIGHT NOS.:
43-307, 43-10363, 43-10799, 43-13237, 43-13239 & 43-13241.

PRIORITY DATE: 01/28/1960

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

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.21 CFS 743.10 AFY

PLACE OF USE: Irrigation Within Cassia County

T12S R27E S31	SWNE 33.0	NENW 41.0
LOT 2	(SWNW) 49.0	SENE 40.0
	NWSE 39.0	LOT 1 (NWWW) 47.0
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.

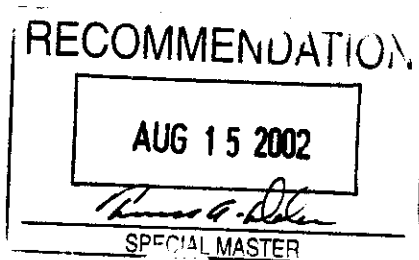
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 185.8 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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.



Roger Burdick
Presiding Judge of the
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 43-13238

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DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WY
BOISE, ID 83709-1657

SOURCE: GROUND WATER

QUANTITY: 0.09 CFS
20.90 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF .1 CFS AND TO A TOTAL COMBINED ANNUAL DIVISION
VOLUME OF 20.9 AF. COMBINED RIGHT NOS.: 43-13238, 43-13240, &
43-13242.

PRIORITY DATE: 01/28/1960

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

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.09 CFS 20.90 AFY

PLACE OF USE: Irrigation Within Cassia County
T12S R27E S31 NWNE 7.0
7.0 Acres Total

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A COMBINED TOTAL
OF 7 ACRE IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NO.:
43-13238, 43-13240, & 43-13242.

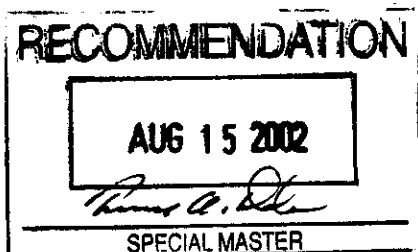
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 5.2 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
AL 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

In Re SRBA
Case No. 39576

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 43-02487B

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

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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 43-02487B

CERTIFICATE OF MAILING

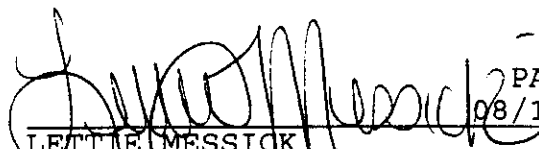
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on August 15, 2002, with sufficient first-class postage prepaid to the following:

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


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LETTIE MESSICK
Deputy Clerk

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In Re SRBA)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 43-13237

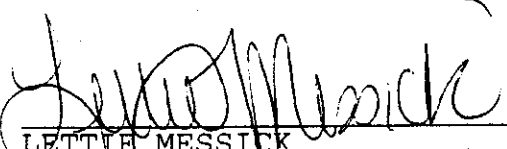
43-13238

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.

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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): 43-13237

43-13238

CERTIFICATE OF MAILING

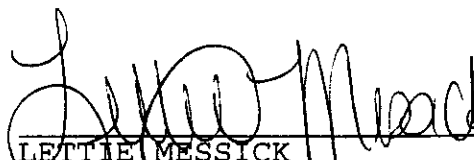
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LETITIE MESSICK
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