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JUL 30 2002

Department of Water Resources

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DISTRICT COURT-SRBA

TWIN FALLS, IDAHO

**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 43-00190

)

(Kincade)

Case No. 39576

)

)

SPECIAL MASTER REPORT

Findings of Fact

Larry and Darlene Kincade, 1781 E. Highway 77, Malta, Idaho 83342, filed a *Notice of Claim to a Water Right* on June 15, 1989, claiming 1 cfs from Cassia Creek for stockwater use from April 15 to November 15 and to irrigate 59.1 acres in Cassia County from March 15 to November 15 with a priority date of April 30, 1885, 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 1 cfs from Clyde Creek to irrigate from April 1 to October 31.

The United States of America, Department of Interior, Bureau of Land Management filed an *Objection* on February 8, 2002, objecting to place of use. However, on July 15, 2002, the Kincades, the United States and IDWR filed a *Standard Form 5* agreeing to add the phrase: "The use of water under this right is limited to Homestead Entry Survey No. 207."

Conclusions of Law

Larry and Darlene Kincade are entitled to a partial decree adjudicating a water right under claim 43-00190 as described in the *Standard Form 5* and the attached *Special Master Recommendation for Partial Decree for Water Right 43-00190*.

DATED July 29, 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 43-00190

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DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

NAME AND ADDRESS: DARLENE KINCADE
LARRY KINCADE
1781 E HWY 77
MALTA, ID 83342

SOURCE: CLYDE CREEK TRIBUTARY: CASSIA CREEK

QUANTITY: 1.00 CFS

PRIORITY DATE: 04/30/1885

POINT OF DIVERSION: T13S R24E S21 SWNESW Within Cassia County
S27 LOT 3 (NWSWNE)

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 Cassia County
	T13S R24E S26	SWSW 1.2
	S27	SWNE 3.2
		NESE 14.0
		NWSE 30.0
		SWSE 8.1
		SESE 2.1
	59.1 Acres Total	

THE USE OF WATER UNDER THIS RIGHT IS LIMITED TO HOMESTEAD ENTRY
SURVEY NO. 207.

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

RECOMMENDATION
JUL 25 2002
[Signature]
SPECIAL MASTER

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TWIN FALLS, IDAHO

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): 43-00190

On July 29, 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 29, 2002.

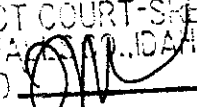

LETTIE MESSICK
Deputy Clerk

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 43-00190

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 29, 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

DARLENE KINCADE
LARRY KINCADE
1781 E HWY 77
MALTA, ID 83342
Phone: 208-645-2346

CERTIFICATE OF MAILING


LETTIE MESSICK
Deputy Clerk

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07/29/02