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Department of Water Resources
Adjudication Bureau

2002 JUN 10 PM 4:17

DISTRICT COURT-SRBA
TWIN FALLS CO. 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

) Subcases 35-04275, 35-04275A
) (Aden Gunderson) and 35-04275B
) (Brent Gunderson)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION
)

Findings of Fact

Aden Gunderson filed a *Notice of Claim to a Water Right* under 35-04275 on August 9, 1988, claiming 5 cfs from groundwater to irrigate 130 acres in Madison County from April 1 to November 1 with a priority date of June 1, 1938, based on beneficial use. The Director of the Idaho Department of Water Resources filed his *Corrected Director's Report for Irrigation & Other Uses, Reporting Area 5, Part I, Volume One (IDWR Basin 35)* on July 10, 1998. The Director recommended the claim for 2.22 cfs to irrigate 126 acres within a 207 acre place of use from April 1 to October 31.

On August 24, 1998, the United States of America, Department of Interior, Bureau of Land Management filed an *Objection* to place of use. The Twin Falls and North Side Canal Companies filed *Objections* on August 24, 1998, and June 2, 1999, objecting to source, quantity, other provisions and alleging the water right should not exist.

IDWR filed a *Notice of Completed Administrative Proceeding* on April 26, 2000, for changes in the point of diversion, place of use and a split of 35-04275 into 35-04275A (Aden Gunderson, c/o Nyle Raymond, 3310 East, 750 North, Menan, Idaho 83434) and 35-04275B (Brent Gunderson, 905 North, 3600 East, Menan, Idaho 83434). 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. Finally, on June 6, 2002, Aden Gunderson, Brent Gunderson, the United States and IDWR filed *Standard Forms 5*.

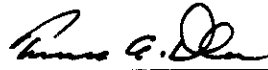
Conclusions of Law

Aden Gunderson and Brent Gunderson are entitled to partial decrees adjudicating water rights as described in the *SF-5's* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 35-04275A and 35-04275B*.

Recommendation

THEREFORE, IT IS RECOMMENDED that 35-04275 **not** be adjudicated as a water right the claim having been split into 35-04275A and 35-04275B.

DATED June 10, 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 35-04275A

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DISTRICT COURT-SRBA
TWIN FALLS CO IDAHO
FILED *OW*

NAME AND ADDRESS: ADEN GUNDERSON
C/O NYLE RAMOND
3310 E 750 N
MENAN, ID 83434

SOURCE: GROUNDWATER

QUANTITY: 2.10 CFS
476.00 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.67 CFS, A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 792 AF.
COMBINED RIGHT NOS.: 35-08657A, 35-04274.

PRIORITY DATE: 12/31/1940

POINT OF DIVERSION: T05N R38E S15 SWSWSW Within Madison County
S22 NWNENW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation		04-01 TO 10-31	2.10 CFS 476.00 AFY

PLACE OF USE:	Irrigation		
T05N R38E S15	NWSW 31.0	Within Madison County	SWSW 31.0
	SESW 13.0		
		Within Jefferson County	
S16	NESW 3.0	NESE 38.0	
	NWSE 29.0	SWSE 8.0	
	SESE 8.0		
S21 LOT 01 (NENE)	15.0		
		Within Madison County	
S22	NENW 20.0	LOT 04 (NWNW)	2.0
198.0 Acres Total			

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 119 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 198 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-04274, 35-08657A.

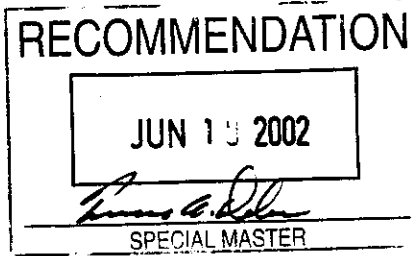
THE PLACE OF USE DESCRIBED ABOVE IN T05N R38E S16 NESW SWSE
AND SESE DOES NOT INCLUDE ANY LAND OWNED BY THE UNITED STATES.

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 35-04275B

2002 JUN 10 PM 4:17

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

NAME AND ADDRESS: BRENT GUNDERSON
905 N 3600 E
MENAN, ID 83434

SOURCE: GROUNDWATER

QUANTITY: 0.12 CFS
28.00 AFY

USE OF THIS RIGHT WITH RIGHT NO 35-08657B IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.16 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 36 AF.

PRIORITY DATE: 06/01/1938

POINT OF DIVERSION: T05N R38E S22 LOT 04 (NWNW) Within Madison County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.12 CFS 28.00 AFY

PLACE OF USE: Irrigation Within Madison County
T05N R38E S22 LOT 04 (NWNW) 9.0
9.0 Acres Total

USE OF THIS RIGHT WITH RIGHT NO. 35-08657B IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 9 ACRES IN A SINGLE IRRIGATION
SEASON.

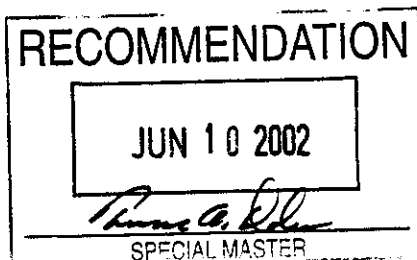
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 7 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE.

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
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Presiding Judge of the
Snake River Basin Adjudication

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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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 35-04275

On June 10, 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.

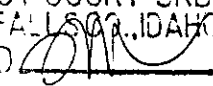
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 June 10, 2002.


LETTIE MESSICK
Deputy Clerk

2002 JUN 10 PM 4:17

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

)

CERTIFICATE OF MAILING

)

Case No. 39576

)

Water Right(s): 35-04275

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 June 10, 2002, with sufficient first-class postage prepaid to the following:

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

ABERDEEN-AMERICAN FALL GROUND
ABERDEEN-AMERICAN FALLS GROUND
BINGHAM GROUND WATER DIST.
BINGHAM GROUND WATER DISTRICT
UPPER VALLEY IRRIGATORS ASSOC.

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

CERTIFICATE OF MAILING

PAGE 1
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FREMONT-MADISON IRR DIST

Represented by:

JERRY R. RIGBY

PO BOX 250

REXBURG, ID 83440-0250

Phone: 208-356-3633

STATE OF IDAHO

Represented by:

NATURAL RESOURCES DIV CHIEF

STATE OF IDAHO

ATTORNEY GENERAL'S OFFICE

PO BOX 44449

BOISE, ID 83711-4449

USDI BLM

Represented by:

US DEPARTMENT OF JUSTICE

ENVIRONMENT & NATL' RESOURCES

550 WEST FORT STREET, MSC 033

BOISE, ID 83724

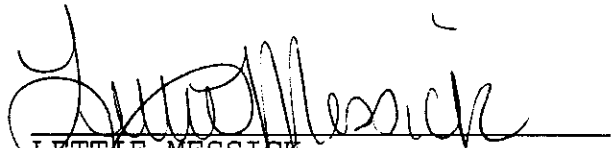
Phone: 208-387-0835

NYLE RAYMOND

3310 EAST 750 NORTH

MENAN, ID 83434

Phone: 208-754-8751


LETTIE MESSICK
Deputy Clerk

2002 JUN 10 PM 4: 17

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
~~DISTRICT OF THE~~

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In Re SRBA)
Case No. 39576)
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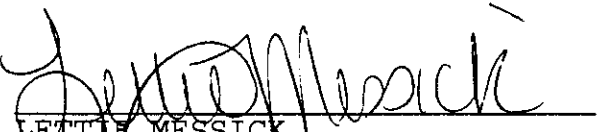
Water Right(s): 35-04275A

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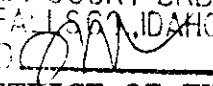
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Deputy Clerk

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TWIN FALLS, IDAHO
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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

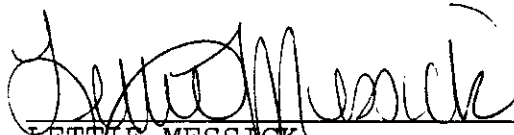
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BOISE, ID 83720-0098

ADEN GUNDERSON
C/O NYLE RAMOND
3310 E 750 N
MENAN, ID 83434


LETTIE MESSICK
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
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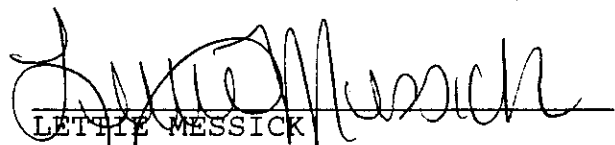
Water Right(s): 35-04275B

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LETTIE MESSICK
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PO BOX 83720
BOISE, ID 83720-0098

BRENT GUNDERSON
905 N 3600 E
MENAN, ID 83434

[Signature]
LETTIE MESSICK
Deputy Clerk

CERTIFICATE OF MAILING

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06/10/02