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2002 MAY -1 PM 4: 01

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO

Department of Water Resources
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 35-07991, 35-07991A and 35-07991B
) (Cavaness)

) ORDER GRANTING UNITED STATES
) MOTION TO WITHDRAW OBJECTION
) and SPECIAL MASTER REPORT AND
) RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation and Other Uses, Reporting Area 5, Part III, Volume Two (IDWR Basin 35)* on January 29, 1999. The Director recommended claim 35-07991 to Ben Cavaness, 2761 Moonlight Lane, American Falls, Idaho 83211-5432, for 1.7 cfs from groundwater to irrigate 113 acres from April 1 to November 1 with a priority date of July 2, 1981, based on a license.

The Twin Falls and North Side Canal Companies filed *Objections* on June 2, 1999, objecting to source, quantity, other provisions and alleging the water right should not exist. The United States of America, Fish and Wildlife Service, filed an *Amended Objection* on June 18, 1999, objecting to place of use.

IDWR filed a *Notice of Completed Administrative Proceeding* on January 8, 2001, for changes in point of diversion and place of use and a split of 35-07991 into 35-07991A and 35-07991B (both claimed by Ben Cavaness).

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 April 30, 2002, the United States filed a *Motion to Withdraw Objection* stating it "has no further interest in this sub-case."

Order

THEREFORE, IT IS ORDERED that the United States *Motion to Withdraw Objection* is granted.

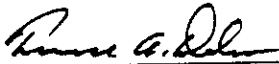
Conclusions of Law

Ben Cavaness is entitled to partial decrees adjudicating water rights under claims 35-07991A and 35-07991B as recommended by IDWR and as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights 35-07991A and 35-07991B*.

Recommendation

THEREFORE, IT IS RECOMMENDED that 35-07991 **not** be adjudicated as a water right the claim having been split into 35-07991A and 35-07991B.

DATED May 1, 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

2002 MAY -1 PM 4:01

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 35-07991A

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

NAME AND ADDRESS: BEN CAVANESS
2761 MOONLIGHT LN
AMERICAN FALLS, ID 83211-5432

SOURCE: GROUNDWATER

QUANTITY: 1.29 CFS
344.00 AFY

PRIORITY DATE: 07/02/1981

POINT OF DIVERSION: T09S R28E S15 NWSWSW Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	1.29 CFS 344.00 AFY

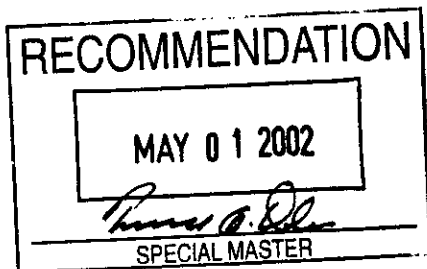
PLACE OF USE:	Irrigation	Within Power County	
	T09S R28E S16	NESE 14.0	NWSE 4.0
		SWSE 28.0	SESE 40.0
	86.0 Acres Total		

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 35-07991B

2002 MAY -1 PM 4:01
DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

NAME AND ADDRESS: BEN CAVANESS
2761 MOONLIGHT LN
AMERICAN FALLS, ID 83211-5432

SOURCE: GROUNDWATER

QUANTITY: 0.41 CFS
108.00 AFY

PRIORITY DATE: 07/02/1981

POINT OF DIVERSION: T09S R28E S15 SESW Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.41 CFS 108.00 AFY

PLACE OF USE:	Irrigation		Within Power County
	T09S R28E S15	NESW 16.0	NWSW 16.0
		SWSW 40.0	SESW 40.0
		SWSE 5.7	
	S22	NWNE 0.3	NENW 19.0
		NWNW 17.0	
	154.0 Acres Total		

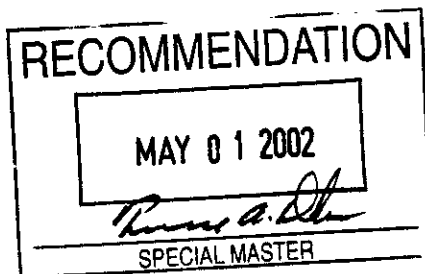
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Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



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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, IDAHO

In Re SRBA
Case No. 39576

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

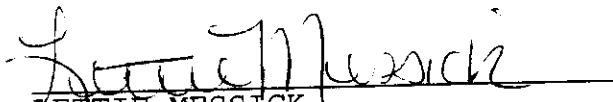
Water Right(s): 35-07991

On May 01, 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 May 01, 2002.


LETTIE MESSICK
Deputy Clerk

2002 MAY -1 PM 4:01

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

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): 35-07991

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 May 01, 2002, with sufficient first-class postage prepaid to the following:

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

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

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

CERTIFICATE OF MAILING

Lettie Messick PAGE 1
LETTIE MESSICK 05/01/02
Deputy Clerk

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

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Case No. 39576)
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NOTICE OF ISSUANCE OF
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RECOMMENDATION

Water Right(s): 35-07991A

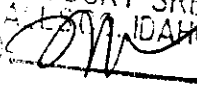
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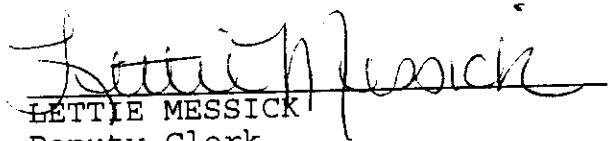
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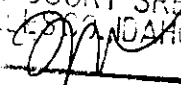
BEN CAVANESS
2761 MOONLIGHT LN
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LETTIE MESSICK
Deputy Clerk

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PAGE 1
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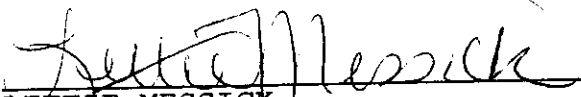
Water Right(s): 35-07991B

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[Signature]
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PAGE 1
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