

RECEIVED

MAY - 9 2002

2002 MAY -6 PM 3: 38

Department of Water Resources

DISTRICT COURT-SRBA

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 35-07991, 35-07991A and 35-07991B
) (Cavaness)
Case No. 39576)
)
) AMENDED
) 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."

On May 1, 2002, the Special Master entered an *Order Granting United States Motion to Withdraw Objection and Special Master Report and Recommendation* in subcases 35-07991, 35-07991A and 35-07991B. However, the *Recommendation* for 35-07991B did not contain remarks under the quantity and place of use elements as indicated in the *Notice of Completed Administrative Proceeding* filed by IDWR on January 8, 2001.

Order

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

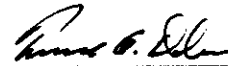
Conclusions of Law

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 *Amended 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 6, 2002.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

2002 MAY -6 PM 3:38
DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

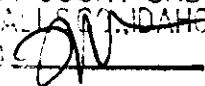
PAGE 1
May-01-2002

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)
)
Water Right 35-07991B

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

2002 MAY -6 PM 3:38

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED 

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

SOURCE: GROUNDWATER

QUANTITY: 0.41 CFS
108.00 AFY

USE OF THIS RIGHT WITH RIGHT NO. 35-7668 IS LIMITED TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 616.0 AF.

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		

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 27 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NO. 35-7668 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 154 ACRES IN A SINGLE
IRRIGATION SEASON.

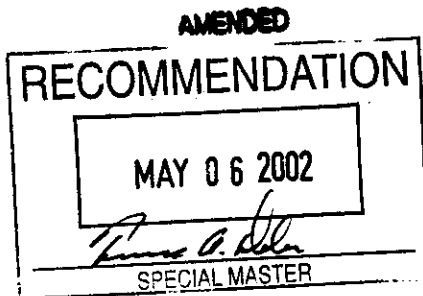
THE USE OF WATER WITHIN T09S, R28E, S15, NESW AND NWSW IS
LIMITED TO THE S1/2 OF THOSE PLACE OF USE.

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

2002

702 MAY -6 PM 3: 38

DISTRICT COURT-SRBA
TWIN FALLS ID, IDAHO

In Re SRBA
Case No. 39576

Water Right(s) : 35-07991

PAGE 1
05/06/02

RECEIVED

MAY - 9 2002

Department of Water Resources

2002 MAY -6 PM 3:38

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED *DM*

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 06, 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

Leticie Messick PAGE 1
LETICIE MESSICK 05/06/02
Deputy Clerk

RECEIVED

MAY - 9 2002

Department of Water Resources

2002 MAY -6 PM 3:38

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
Case No. 39576

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

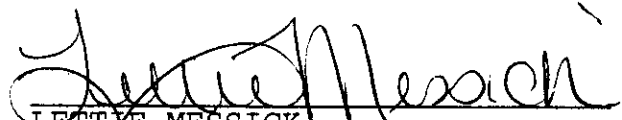
Water Right(s): 35-07991A

On May 06, 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 06, 2002.

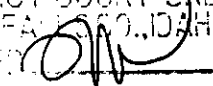

LETTIE MESSICK
Deputy Clerk

RECEIVED

MAY - 9 2002

Department of Water Resources

2002 MAY -6 PM 3:38

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

CERTIFICATE OF MAILING

Water Right(s): 35-07991A

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 06, 2002, with sufficient first-class postage prepaid to the following:

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

BEN CAVANESS
2761 MOONLIGHT LN
AMERICAN FALLS, ID 83211-5432


LETTIE MESSICK
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
05/06/02

RECEIVED

MAY - 9 2002

2002 MAY -6 PM 3:38

Department of Water Resources

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
Case No. 39576

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

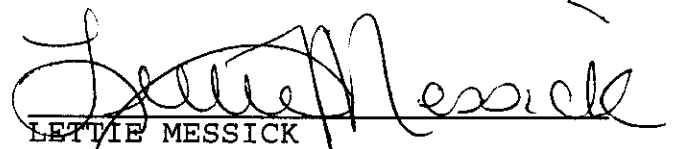
Water Right(s): 35-07991B

On May 06, 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 06, 2002.


LETTIE MESSICK
Deputy Clerk

RECEIVED

MAY - 9 2002

Department of Water Resources

2002 MAY -6 PM 3:33

DISTRICT COURT-SRBA
TWIN FALLS, 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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 35-07991B

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 06, 2002, with sufficient first-class postage prepaid to the following:

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

BEN CAVANESS
2761 MOONLIGHT LN
AMERICAN FALLS, ID 83211-5432


LETTIE MESSICK
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
05/06/02