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MAY 22 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) Subcases 35-02500B, 35-13295
Case No. 39576) (Mickelsen Properties LLC) and
35-13296 (Demott)
SPECIAL MASTER REPORT
AND RECOMMENDATION

Findings of Fact

Mickelsen Farms, Partnership, filed a *Notice of Claim to a Water Right* under 35-02500B claiming 5.48 cfs from groundwater to irrigate 480 acres from April 1 to November 1 with a priority date of April 12, 1957, based on a license. 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 as filed, but for irrigation of 480 acres within a 1,437 acre place of use from April 1 to October 31.

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. However, 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*.

IDWR filed a *Notice of Completed Administrative Proceeding (NCAP)* on March 20, 2001, for a split of 35-02500B into 35-13295 (Mickelsen Farms Partnership) and 35-13296 (Mary and William Demott, 3021 Westmoreland Circle, Idaho Falls, Idaho 83402). IDWR filed another *NCAP* on March 29, 2001, for a substitution of party from Mickelsen Farms Partnership to Mickelsen Properties LLC, 1050 W. Riverview Drive, Idaho Falls, Idaho 83401. On March 4, 2002, IDWR filed an *NCAP* in 35-13296 for a change in point of diversion. Finally, on March 25, 2002, IDWR filed an *NCAP* in 35-13295 for changes in point of diversion and place of use.

Conclusions of Law

Mickelsen Properties LLC and Mary and William Demott are entitled to partial decrees adjudicating water rights under claims 35-13295 (Mickelsen Properties LLC) and 35-13296 (Demott) as recommended by IDWR and as described in the attached *Special Master Recommendations for Partial Decrees for Water Rights 35-13295 and 35-13296*.

Recommendation

THEREFORE, IT IS RECOMMENDED that 35-02500B **not** be adjudicated as a water right the claim having been split into 35-13295 and 35-13296.

DATED May 20, 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 35-13295

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

NAME AND ADDRESS: MICKELSEN PROPERTIES LLC
1050 W RIVERVIEW DR
IDAHO FALLS, ID 83401

SOURCE: GROUNDWATER

QUANTITY: 4.57 CFS
5428.00 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 5428 AF.
COMBINED RIGHT NOS.: 35-02090A, 35-02661A, 35-02902, 35-07607
35-04198 & 35-13295.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION RATE OF 22.49 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 6001 AF. COMBINED RIGHT
NOS.: 35-02090A, 35-02661A, 35-02902, 35-04198, 35-07607,
35-13295, 35-13297.

PRIORITY DATE: 04/12/1957

POINT OF DIVERSION: T03N R36E S29 SENESW Within Bonneville County
S30 SESWSE
S31 SENWNE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	4.57 CFS 5428.00 AFY

PLACE OF USE:	Irrigation		Within Bonneville County
	T02N R36E S06	NENE 40.0	NWNE 40.0
		SWNE 40.0	SENE 40.0
		NESE 40.0	NWSE 36.0
		SESE 4.0	
	T03N R36E S28	NESW 40.0	NWSW 39.0
		SWSW 38.0	SESW 39.0
	S29	NESW 40.0	NWSW 40.0
		SWSW 39.0	SESW 38.0
		NESE 40.0	NWSE 40.0
		SWSE 33.0	SESE 39.0
	S30	NENE 40.0	NWNE 40.0
		SWNE 40.0	SENE 40.0
		NESE 40.0	NWSE 40.0
		SWSE 40.0	SESE 35.0
	S31	NENE 39.0	NWNE 40.0
		SWNE 40.0	SENE 40.0
		NESE 40.0	NWSE 40.0
		SWSE 40.0	SESE 39.0
	S32	NENW 40.0	NWNW 37.0
		SWNW 40.0	SENW 40.0
		NESW 9.0	NWSW 9.0
	1513.0 Acres Total		

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 1357 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-02090A, 35-02661A,
35-02902, 35-07607 35-04198 & 35-13295.

PLACE OF USE (continued)

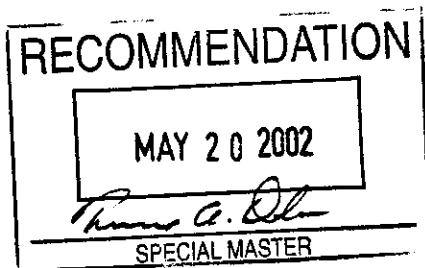
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 400 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1513 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-02090A, 35-02661A, 35-02902, 35-04198, 35-07607, 35-13295.

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 35-13296

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

NAME AND ADDRESS: MARY LOU DEMOTT
WILLIAM J DEMOTT
3021 WESTMORELAND CIR
IDAHO FALLS, ID 83402

SOURCE: GROUNDWATER

QUANTITY: 0.91 CFS
320.00 AFY

PRIORITY DATE: 04/12/1957

POINT OF DIVERSION: T03N R36E S32 S33 SWSSE Within Bonneville County
NWSESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.91 CFS 320.00 AFY

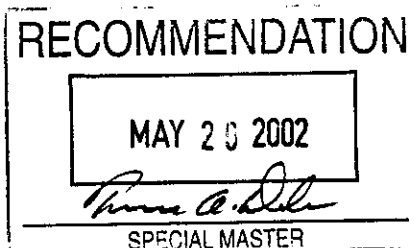
PLACE OF USE: Irrigation Within Bonneville County
T03N R36E S32 NENE 40.0
80.0 Acres Total NWNE 40.0

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).

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Roger Burdick
Presiding Judge of the
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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

)
)
)
)
)
NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 35-02500B

On May 20, 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 20, 2002.



LETTIE MESSICK
Deputy Clerk

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DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
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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

In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 35-02500B

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 20, 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
MICKELSEN FARMS PARTNERSHIP
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



LETTIE MESSICK
Deputy Clerk

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DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO

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In Re SRBA)

Case No. 39576)

NOTICE OF ISSUANCE OF
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RECOMMENDATION

Water Right(s): 35-13295

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Water Right(s): 35-13295

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PO BOX 83720
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MICKELSEN PROPERTIES LLC
1050 W RIVERVIEW DR
IDAHO FALLS, ID 83401

Lettie Messick

LETTIE MESSICK
Deputy Clerk

CERTIFICATE OF MAILING

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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Case No. 39576

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RECOMMENDATION

Water Right(s) : 35-13296

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Letter Mesorick

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WILLIAM J DEMOTT
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Deputy Clerk

CERTIFICATE OF MAILING

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