

2002 MAY 29 PM 3:46
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	)	Subcase 35-02158B
	)	(Nickell)
Case No. 39576	)	
		SPECIAL MASTER REPORT

Findings of Fact

Kaye and Kenneth Nickell, 658 North, 150 West, Blackfoot, Idaho 83221, filed a *Notice of Claim to a Water Right* on May 30, 1989, claiming 4.56 cfs from groundwater to irrigate 310 acres in Bingham County from April 1 to November 1 with a priority date of November 30, 1949, based on a license. The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation & Other Uses, Reporting Area 5, Part 2, Volume One (IDWR Basin 35)* on September 15, 1998. The Director recommended the claim as filed, but for irrigation from April 1 to October 31.

The Twin Falls and North Side Canal Companies filed *Objections* on November 20, 1998, objecting to source, quantity, other provisions and alleging the water right should not exist. 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* on May 28, 2002, stating the licensing of overlapping right is complete.

Conclusions of Law

The Nickells are entitled to a partial decree adjudicating a water right under claim 35-02158B as recommended by IDWR and as described in the attached ***Special Master Recommendation for Partial Decree for Water Right 35-02158B***.

DATED May 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 35-02158B

MAY 29 PM 3:46
DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

NAME AND ADDRESS: KAYE C NICKELL
KENNETH G NICKELL
658 N 150 W
BLACKFOOT, ID 83221

SOURCE: GROUNDWATER

QUANTITY: 4.56 CFS
1240.00 AFY

USE OF THIS RIGHT WITH RIGHT NO. 35-08961 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 5.56 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 1240 AF.

PRIORITY DATE: 11/30/1949

POINT OF DIVERSION: T01S R35E S27 NWSWNE Within Bingham County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	4.56 CFS 1240.00 AFY

PLACE OF USE:	Irrigation	Within Bingham County
	T01S R35E S27	
	NENE 36.0	NWNE 40.0
	SWNE 38.0	SENE 40.0
	NENW 39.0	NWNW 40.0
	SWNW 39.0	SENE 38.0
	310.0 Acres Total	

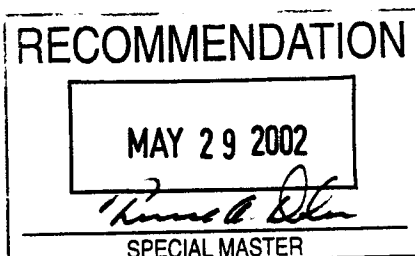
USE OF THIS RIGHT WITH RIGHT NO. 35-08961 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 310 ACRES IN A SINGLE
IRRIGATION SEASON.

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

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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)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

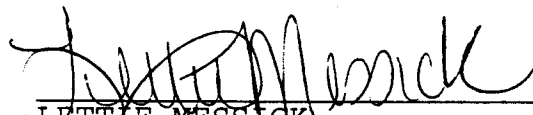
Water Right(s): 35-02158B

On May 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 May 29, 2002.



LETTIE MESSICK
Deputy Clerk

MAY 29 PM 3:46
DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED *OK*

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): 35-02158B

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 29, 2002, with sufficient first-class postage prepaid to the following:

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

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HOLM BROS. PARTNERSHIP, HOLM
R & M FARMS PARTNERSHIP
THEODORE L DEFFINGER

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CERTIFICATE OF MAILING

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ABERDEEN-AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
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KENNETH G NICKELL
UPPER VALLEY IRRIGATORS ASSOC.

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KENT B CORNELISON
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STATE OF IDAHO

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STATE OF IDAHO
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CERTIFICATE OF MAILING

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LETTIE MESSICK
Deputy Clerk