

772 MAY 29 PM 3: 01

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 35-07743
) (Bennett)
Case No. 39576)
)
) SPECIAL MASTER REPORT

Findings of fact

Von and Fay Tripp filed a *Notice of Claim to a Water Right* on March 22, 1989, claiming .32 cfs from groundwater to irrigate 18 acres from April 1 to November 1 with a priority date of August 19, 1977, 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 claim 35-07743 to Barrie and Inda Bennett, 38 South, 900 West, Blackfoot, Idaho 83221, as filed.

The Bennetts filed an *Objection* on November 13, 1998, objecting to quantity and purpose of use. On November 20, 1998, the Twin Falls and North Side Canal Companies filed *Objections* 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*. Finally, on May 28, 2002, the Bennetts and IDWR filed a *Standard Form 5 / Withdrawal of Objection* agreeing to the claim as recommended by IDWR.

Conclusions of Law

The Bennetts are entitled to a partial decree adjudicating a water right under claim 35-07743 as described in the *Standard Form 5* and the attached *Special Master Recommendation for Partial Decree for Water Right 35-07743*.

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 35-07743

2002 MAY 29 PM 3:01
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *[Signature]*

NAME AND ADDRESS: BARRIE V BENNETT
 INDA BENNETT
 38 S 900 W
 BLACKFOOT, ID 83221

SOURCE: GROUNDWATER

QUANTITY: 0.32 CFS
 72.00 AFY

PRIORITY DATE: 08/19/1977

POINT OF DIVERSION: T03S R34E S04 SESENE Within Bingham County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.32 CFS 72.00 AFY

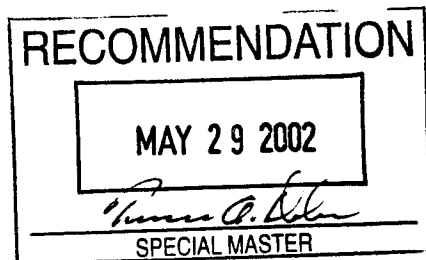
PLACE OF USE: Irrigation Within Bingham County
 T03S R34E S04 SENE 18.0
 18.0 Acres Total

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

MAY 22 PM 3:01

DISTRICT COURT-SRBA
STATE OF 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): 35-07743

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.

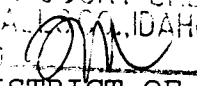
Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED May 29, 2002.



LETTIE MESSICK
Deputy Clerk

2002 MAY 29 PM 3:01

DISTRICT COURT-SRBA
TWIN FALLS, COO, 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): 35-07743

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

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

Represented by:
BLAIR J. GROVER
215 FARNSWORTH WAY
PO BOX 36
RIGBY, ID 83442-0036
Phone: 208-745-6653

CERTIFICATE OF MAILING

PAGE 1
05/29/02

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

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

FREMONT MADISON IRRIG. DIST.

Represented by:
JERRY R. RIGBY
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

ALBERT & CHRISTINE WADA
BRENT STOLWORTHY
CLYDE M WILSON
DARWIN BROWN
FRANK S & AGNES H WADA
GERALD J BUTIKOFER
JAY L & MERRI LYNN STOLWORTHY
KENT B CORNELISON
KENT SEARLE
LDS CHURCH
LINDEN J & LOIS J BUTIKOFER
MERLE & ULENE BUTIKOFER
MURDOCH-WILSON FARMS
PAUL & ALICE HEYREND
WAYNE HANSEN

Represented by:
KENT W FOSTER
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

STATE OF IDAHO

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

BARRIE V BENNETT
INDA BENNETT
Represented by:
SCOTT H. HANSEN
PO BOX 1047
BLACKFOOT, ID 83221
Phone: 208-785-4700

Lettie Messick

LETTIE MESSICK
Deputy Clerk