

2004 OCT 20 PM 3 04

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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	WATER RIGHT NO.: 29-13296
	)	

I. PROCEDURAL HISTORY

A notice of claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* recommended this right for disallowance.

An *Objection* was filed by the claimant Robin C. Sexton on November 7, 2003. An Initial Hearing was held April 20, 2004. At that time, Mr. Sexton and IDWR discussed settlement options. IDWR reported that a field examination of the place of use was needed. A status conference was set June 29, 2004. Mr. Sexton failed to appear at the status conference. A scheduling conference was held July 21, 2004. Mr. Sexton appeared at the scheduling conference and the court set a pretrial conference and a trial. A pretrial conference was held September 1, 2004. At the pretrial conference, IDWR reported that it had mailed a proposed settlement document called a *Standard Form 5* to Mr. Sexton. Mr. Sexton appeared at the pretrial conference, and stated that he still had questions about the proposed settlement. The court set a *Standard Form 5* deadline of September 22, 2004, and an additional status conference for September 23, 2004. Mr. Sexton failed to appear at the status conference on September 23, 2004. No *Standard Form 5* was filed with the court. A trial was held on September 29, 2004. Mr. Sexton did not appear at the trial. IDWR appeared at the trial. The court called IDWR to present the *Director's Report* and to report on the basis of the recommendation.

II. FINDINGS

At trial, IDWR reported that during the settlement negotiations with Mr. Sexton it conducted a field examination of the irrigation system relating to the claim. Additionally, IDWR reported that it received new information from Mr. Sexton. IDWR's original *Director's Report* had recommended this claim for disallowance. Based on the new information, however, IDWR supported an *Amended Director's Report* consistent with the settlement offer it had conveyed to Mr. Sexton.

The *Amended Director's Report* was marked as Exhibit 1 and admitted as evidence. Mr. Sexton was not present, and no other evidence was offered.

III. CONCLUSIONS OF LAW

The *Amended Director's Report* recommended elements for this claim within the elements claimed. The *Amended Director's Report* is afforded *prima facie* weight. I.C. § 1411(4). In addition, each claimant of a water right acquired under state law has the ultimate burden of persuasion for each element of a water right. I.C. § 42-1411(5). Considering the facts on which the *Amended Director's Report* was based and the evidence at trial, the elements contained in the *Amended Director's Report* are confirmed.

Therefore, based on the file and record herein, IT IS RECOMMENDED that this water right be decreed with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: October 20, 2004.



BRIGETTE BILYEU
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

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-13296

FILED _____
2004 OCT 20 PM 3 05

NAME AND ADDRESS: ROBIN C SEXTON
325 MAIN ST
INKOM, ID 83245

SOURCE: SORREL CREEK TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.13 CFS

PRIORITY DATE: 06/05/1950

POINT OF DIVERSION: T07S R36E S09 NWSWSE Within Bannock County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	06-01 TO 09-30	110.00 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Irrigation Within Bannock County
T07S R36E S09 SWSE 1.6
S16 NWNE 2.4
4.0 Acres Total

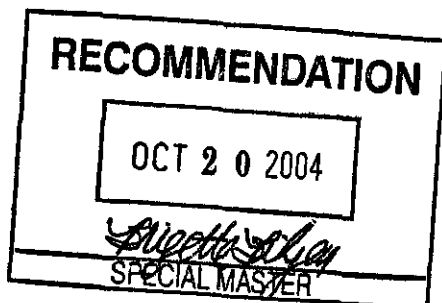
Stockwater Within Bannock County
T07S R36E S09 SWSE
S16 NWNE

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.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 OCT 20 PM 3 05

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

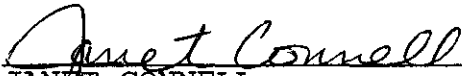
Water Right(s): 29-13296

On October 20, 2004, Special Master BRIGETTE BILYEU
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 October 20, 2004.


JANET CONNELL
Deputy Clerk

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

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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): 29-13296

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 October 20, 2004, with sufficient first-class postage prepaid to the following:

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

ROBIN C SEXTON
325 MAIN ST
INKOM, ID 83245
Phone: 208-775-3196


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
10/20/04