

DEPARTMENT OF
WATER RESOURCES

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

2004 NOV 15 PM 3 33

**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

**SPECIAL MASTER'S REPORT AND
RECOMMENDATION; FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

**WATER RIGHT NOS.: 29-4215,
29-13692 and 29-13693**

I. FINDINGS OF FACT

A notice of claim was filed for water right 29-4215 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* contained a recommendation for the elements of this water right.

All *Objections* to the water right claim were resolved by stipulation of the parties with a *Standard Form 5* which resulted in splitting the former parent right 29-4215 into assigned split right numbers 29-13692 and 29-13693. All parties to the subcase and IDWR are signatories to the *Standard Form*. The legal description was changed to reflect the legal descriptions which accompany each of the new split rights.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that water right 29-4215 **not be confirmed** in any partial or final decree. IT IS FURTHER RECOMMENDED that water rights 29-13692 and 29-13693 be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: November 15, 2004.

Brigitte Bilyeu
BRIGITTE BILYEU
Special Master
Snake River Basin Adjudication

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 29-04215
29-13692 29-13693

On November 15, 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 November 15, 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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 29-04215
29-13692 29-13693

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 November 15, 2004, with sufficient first-class postage prepaid to
the following:

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

SHOSHONE-BANNOCK TRIBES

Represented by:
BRANDELLE WHITWORTH
TRIBAL COUNSEL OFFICE
PO BOX 306
FORT HALL, ID 83203
Phone: 208-478-3815

SHOSHONE-BANNOCK TRIBES

Represented by:
JEANETTE WOLFLEY
SPECIAL COUNSEL
SHOSHONE-BANNOCK TRIBE
202 N ARTHUR
POCATELLO, ID 83202
Phone: 208-232-1922

CERTIFICATE OF MAILING

PAGE 1
11/15/04

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

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

Water Right 29-13693

2004 NOV 15 PM 3 33

NAME AND ADDRESS: CARMA B SMITH
5137 W PORTNEUF RD
INKOM, ID 83245

SOURCE: PORTNEUF RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.194 CFS

PRIORITY DATE: 06/01/1944

POINT OF DIVERSION: T07S R35E S21 SESWNE Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.194 CFS

PLACE OF USE: Irrigation Within Bannock County
T07S R35E S21 SWNE 9.7
9.7 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.

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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DISTRICT COURT - SRBA
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)
Case No. 39576)
_____)

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

Water Right 29-13692

2004 NOV 15 PM 3 33

NAME AND ADDRESS:

CARMA B SMITH
5137 W PORTNEUF RD
INKOM, ID 83245

SOURCE:

PORTNEUF RIVER TRIBUTARY: SNAKE RIVER

QUANTITY:

0.206 CFS

PRIORITY DATE:

02/26/1869

POINT OF DIVERSION:

T07S R35E S21 SESWNE Within Bannock County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
04-01 TO 10-31

QUANTITY
0.206 CFS

PLACE OF USE:

Irrigation

T07S R35E S21

SESW 6.5
NWSE 1.9

Within Bannock County
NESW 1.9

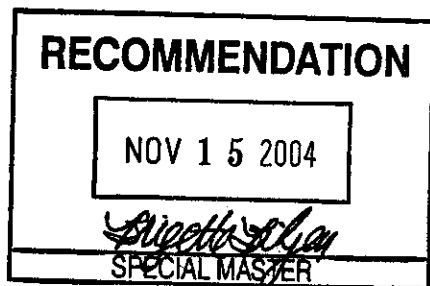
10.3 Acres Total

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
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John M. Melanson
Presiding Judge of the
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