

2004 NOV 16 PM 2 27

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 NOS.: 29-4272,
	)	29-13694 and 29-13695
_____	)	

I. FINDINGS OF FACT

A notice of claim was filed for water right 29-4272 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 29-4272 into assigned split right numbers 29-13694 and 29-13695. 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 29-4272 **not be confirmed** in any partial or final decree. IT IS FURTHER RECOMMENDED that water rights 29-13694 and 29-13695 be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: November 16, 2004.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CT OF THE DISTRICT COURT - GRBA
FALLS
TWIN FALLS CO., IDAHO
FILED _____

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

Water Right 29-13694

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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
TWIN FALLS CO., IDAHO
FILED

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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 29-13695

NAME AND ADDRESS: RAY D BENHAM
5312 W TUCANNON
KENNEWICK, WA 99336

SOURCE: SPRING TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.47 CFS

PRIORITY DATE: 04/01/1960

POINT OF DIVERSION: T09S R38E S10 NWSWE Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.47 CFS

PLACE OF USE:	Irrigation	Within Bannock County
	T09S R38E S10 NESW 22.0	SESW 1.5
	23.5 Acres Total	

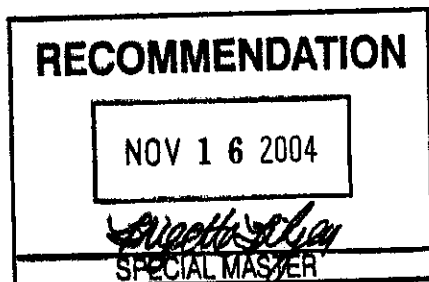
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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(5).

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
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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): 29-04272
29-13694 29-13695

On November 16, 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 16, 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): 29-04272
29-13694 29-13695

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 16, 2004, with sufficient first-class postage prepaid to the following:

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

RAY D BENHAM
5312 W TUCANNON AVENUE
KENNEWICK, WA 99336
Phone: 509-783-3829


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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