

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

2005 MAY 16 PM 3 52

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
	)	
	)	FOR WATER RIGHT: 29-2177

I. FINDINGS OF FACT

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* contained a recommendation for the elements of this water right.

Objections were filed by the Reed and Doris Hartvigsen Family Trust and Richard N. Hartvigsen on November 13, 2003. The *Objections* were resolved on April 29, 2005 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

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: May 16, 2005.



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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 29-02177

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NAME AND ADDRESS: GERALDINE B MC NEE
3214 E WOODLAND RD
DOWNEY, ID 83234

SOURCE: ASPEN CREEK TRIBUTARY: MARSH CREEK

QUANTITY: 0.50 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.60 CFS. COMBINED RIGHT NOS.:
29-02325A, 29-02177

PRIORITY DATE: 04/13/1914

POINT OF DIVERSION: T12S R37E S08 SESW Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.50 CFS

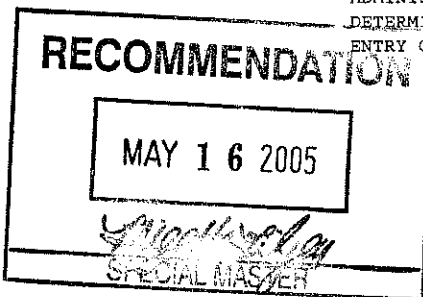
PLACE OF USE:	Irrigation	Within Bannock County
	T12S R37E S05	NESW 22.0
	30.0 Acres Total	SESW 8.0

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 30 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-02325A, 29-02177
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 25 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

THE OPERATION AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO
SUBJECT TO THE TERMS AND CONDITIONS OF THE FOLLOWING CONTRACTUAL
AGREEMENT: WATER RIGHTS SETTLEMENT AGREEMENT ENTERED INTO ON
JANUARY 26, 2005, BETWEEN KENT JENSEN, ATTORNEY-IN-FACT, ON
BEHALF OF IVA LOU JENSEN, LAUNA MAYNARD (A.K.A. LONNA MAYNARD),
ATTORNEY-IN-FACT ON BEHALF OF HELEN JENSEN, GERALDINE B. MCNEE,
DONNA RAE VAUGHAN, DAVID B. HARTVIGSEN, ATTORNEY-IN-FACT ON
BEHALF OF THE REED & DORIS HARTVIGSEN FAMILY TRUST, AND DAVID
HARTVIGSEN, ATTORNEY-IN-FACT ON BEHALF OF RICHARD N. HARTVIGSEN
FILED OF RECORD IN THE OFFICE OF THE BANNOCK COUNTY RECORDER ON
JANUARY 31, 2005, AS INSTRUMENT NO. 861; THE PROVISION OF SUCH
AGREEMENT TO APPLY FULLY TO THIS WATER RIGHT NOTWITHSTANDING THE
FACT THAT THE WATER RIGHT ELEMENTS IN THE AGREEMENT MAY DIFFER
FROM THOSE SPECIFIED HEREIN.

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

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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): 29-02177

On May 16, 2005, 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 May 16, 2005.



JANET CONNELL
Deputy Clerk

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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): 29-02177

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 16, 2005, with sufficient first-class postage prepaid to the following:

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

REED & DORIS HARTVIGSEN
RICHARD N HARTVIGSEN
Represented by:
D. SCOTT CROOK
SMITH HARTVIGSEN PLLC
215 S STATE STREET, STE 650
SALT LAKE CITY, UT 84111

GERALDINE B MC NEE
3214 E WOODLAND RD
DOWNEY, ID 83234
Phone: 208-897-5767

CERTIFICATE OF MAILING

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JANET CONNELL 05/16/05
Deputy Clerk

