

JUN 24 2005
DEPARTMENT OF
WATER RESOURCES

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

**SPECIAL MASTER'S REPORT AND
RECOMMENDATION ON MOTION
TO SET ASIDE PARTIAL DECREE**

WATER RIGHT: 29-11596

The SRBA District Court issued a *Partial Decree* for water right 29-11596 on June 18, 1998. A letter from Karl E. and Ardys L. Holte was received by the court on February 14, 2005. The letter asked the court to set aside the *Partial Decree*. The court treated the letter as a *Motion to Set Aside Partial Decree*. Presiding Judge John Melanson issued an *Order of Reference Appointing Special Master Brigitte Bilyeu* on February 14, 2005. A hearing on the *Motion to Set Aside Partial Decree* was held on April 13, 2005.

At the hearing, Mr. and Mrs. Holte explained that a clerical error had been made in the legal description in the *Partial Decree*. Mr. & Mrs. Holte requested that the error in the legal description (NENE) be corrected to the correct quarter quarter (NESE) and a new partial decree be entered. There was no opposition to the *Motion to Set Aside Partial Decree*.

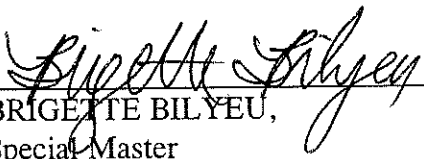
A *Standard Form 5/Amended Claim* was filed on April 8, 2005. All parties to the subcase and IDWR are signatories to the *Standard Form 5/Amended Claim*. The *Standard Form 5/Amended*

Claim was placed on the Docket Sheet. No objections were filed and the time for filing such objections has now expired.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motion to Set Aside Partial Decree* be **granted**, and that this water right be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*. The recommended elements are consistent with the *Standard Form 5/Amended Claim* signed by the claimants and IDWR.

Dated: June 23, 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 CO., IDAHO

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-11596

2005 JUN 23 PM 3 18

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JUN 24 2005

DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: ARDYS L HOLTE
KARL E HOLTE
1506 N MINK CREEK RD
POCATELLO, ID 83204

SOURCE: GROUNDWATER

QUANTITY: 0.07 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 02/28/1951

POINT OF DIVERSION: T07S R35E S30 NENESE Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.03 CFS
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS

PLACE OF USE:	Stockwater		Within Bannock County
	T07S R35E S30	NESE	
	Domestic		Within Bannock County
	T07S R35E S30	NESE	

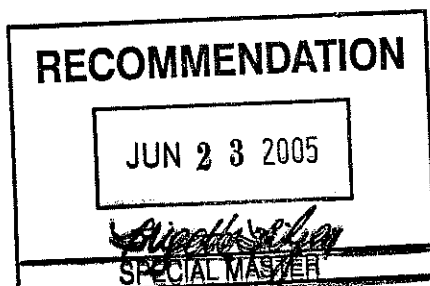
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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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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	)	NOTICE OF ISSUANCE OF
	)	SPECIAL MASTER'S
Case No. 39576	)	RECOMMENDATION
	)	
_____	)	Water Right (s) : 29-11596

On June 23, 2005, Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE 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 June 23, 2005.



JANET CONNELL
Deputy Clerk

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WATER RESOURCES

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

2005 JUN 23 PM 3 18

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) : 29-11596

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT
AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE was
mailed on June 23, 2005, with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, Idaho 83720-0098

Ardys L Holte
Karl E Holte
1506 N Mink Creek Rd
Pocatello, Idaho 83204


Deputy Clerk