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Department of Water Resources

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TWIN FALLS, IDAHO

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

SRBA Assigned Case 94-00012

Case No. 39576

NORMAN RILEY and ROBIN
RILEY, husband and wife,

Plaintiffs,

v.

CATHERINE ROWAN,

Defendant.

ORDER ADOPTING SPECIAL
MASTER'S REPORT AND
RECOMMENDATION

On July 20, 1999, Special Master Bilyeu issued a *Special Master's Report and Recommendation* in the above-captioned case, pertaining to water right license numbers 22-07280A and 22-07280B. No party filed a Motion to Alter or Amend the Special Master's findings.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report*, finds them to be consistent with the Supreme Court's decision in *Riley v. Rowan*, 131 Idaho 831, 965 P.2d 191 (1998) and wholly adopts them as its own.

THEREFORE IT IS ORDERED that the ownership and elements of the subject water rights, as found by the Special Master, are hereby binding on the parties to the above-captioned case.¹

Recommendations for water right license numbers 22-07280A and 22-07280B will be included in the Director's Report for Irrigation and Other Water Rights for Basin 22 when it is filed with the Court. At that time, the objection period for 22-07280A and 22-07280B will commence. Although the parties to the above-captioned case (and their successors) are bound by the *Special Master's Report and Recommendation*, other parties to the SRBA will be afforded the opportunity to file objections at that time.

IT IS SO ORDERED:

DATED: MARCH 29 2000.



BARRY WOOD

Administrative District Judge and
Presiding Judge of the
Snake River Basin Adjudication

¹ The Idaho Supreme Court's decision in *Riley* holds that the Rileys and Rowan were each entitled to a one-half interest in water license no. 22-07280. IDWR, in attempting to comply with the directive, was unable to affect an exact one-half division of all the elements of the license. The result is that a portion of the place of use for the license issued to Rowan is on the Rileys' property, and a portion of the place of use for the license issued to the Rileys is on Rowan's property. Although the Rileys and Rowan are bound by the Supreme Court's decision, other parties to the SRBA, as well as the SRBA Court, are not. At issue in *Riley* was the interpretation of a private agreement between the Rileys' predecessor in title and Rowan. Because other parties to the adjudication are not bound by the private agreement, then neither IDWR or the SRBA Court are bound by the private agreement as it relates to other claimants. Claimants cannot circumvent the application of Idaho's permit and adjudication statutes simply by entering into a private agreement.

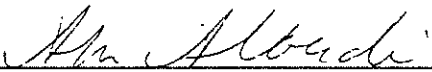
CERTIFICATE OF MAILING

I hereby certify that true and correct copies of **ORDER ADOPTING SPECIAL MASTER'S REPORT AND RECOMMENDATION** were mailed on March 29, 2000, with sufficient first-class postage to the following:

IDWR Document Depository
PO Box 83720
Boise, ID 83270-0098

Gregory Moeller
Rigby Thatcher Andrus Rigby
Kam & Moeller
PO Box 250
Rexburg, ID 83440-0250

Steven Parry
Anderson Nelson Hall & Smith
PO Box 51630
Idaho Falls, ID 83405-1620


Deputy Clerk of the Court

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Department of Water Resources

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1999 APR -6 PM 3:42

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

Rowan Riley

In Re SRBA

Companion Case: 94-00012

Case No. 39576

ORDER SETTING MANDATORY
SETTLEMENT CONFERENCE,
EXHIBIT AND WITNESS
DISCLOSURE, AND HEARING

A status conference was held April 6, 1999. The parties agreed to attend a mandatory settlement conference, and to disclose exhibit and witness lists. The Court orders a **Mandatory Settlement Conference** for water rights 22-07280A and 22-07280B. The Settlement Conference shall proceed before a Settlement Moderator for the purpose of helping the parties work on settling their differences before hearing.

IT IS ORDERED that this case shall proceed with a Settlement Conference before Settlement Moderator Fritz X. Haemmerle. Parties and their attorney of record must be personally present at the settlement conference. No one may attend by proxy or by telephone. Each party is required to be present with the individual(s) possessing full settlement authority on every aspect of this case. **Failure to attend or attendance without settlement authority may result in sanctions by the court.**

The following deadlines shall apply to this case:

5/12/99	9:00 am	Settlement Conference
		Location: Madison County Courthouse
		134 East Main
		Rexburg, Idaho

5/12/99	9:00 am	Disclosure of Intent to Call Witnesses
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5/14/99 5:00 pm Deadline to: Exchange Exhibit and Witness Lists, File with the Court, and provide copies to IDWR.

5/21/99 10:00 am **Hearing**
Location: Madison County Courthouse
 134 East Main
 Rexburg, Idaho

DATED April 6, 1999.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

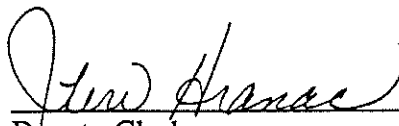
CERTIFICATE OF MAILING

I certify that a true and correct copy of ORDER SETTING MANDATORY SETTLEMENT CONFERENCE, EXHIBIT AND WITNESS DISCLOSURE, AND HEARING was mailed on April 6, 1999, with sufficient first-class postage prepaid to the following:

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

Gregory Moeller
Rigby Thatcher Andrus Rigby
Kam & Moeller
Po Box 250
Rexburg, ID 83440-0250

Steven Parry
Anderson Nelson Hall Smith
PO Box 51630
Idaho Falls, ID 83405-1630



Deputy Clerk



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

Eastern Region - FYE
Marcie Page has adj;
file

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 12, 1997

NORMAN AND ROBIN RILEY (First Class Mail)
1623 W 3400 S
REXBURG ID 83440

CATHERINE ROWAN (First Class Mail)
843 THREE FOUNTAINS DR
SALT LAKE CITY, UT 84107

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DEC 22 1997

Department of Water Resources
Eastern Region

RE: Water Right Nos. 22-07280A & 22-07280B -- CERTIFICATE OF SERVICE

Dear Interested Parties:

Pursuant to the SRBA District Court's *Order Denying Stay and Amendment to Court's Order to IDWR Re: Issuance of License* dated September 30, 1997, I have enclosed Director's Reports pursuant to Idaho Code §42-1411 recommending the elements of right nos. 22-07280A & 22-07280B in the SRBA. I have also enclosed for your review color copies of IDWR's Geographic Information System analysis of the irrigated acreage for the rights in question.

Pursuant to the Court's *Order* you have 30 days in which to file objections to either or both of the water rights recommended in these reports. Therefore, objections must be filed by **January 14, 1998**. You have 14 days from the end of the objection period to file responses to any objections to the Director's Reports. Therefore, responses must be filed by **January 28, 1998**.

If you have any questions about these recommendations, please feel free to contact me at (208) 327-7929.

Sincerely,

David R. Tuthill, Jr., P.E.
Chief, Adjudication Bureau

Enclosures: SRBA Director's Reports for Water Rights Nos. 22-07280A and 22-07280B
Color Copies of GIS Shape Files of Irrigated Parcels for Rowan and Riley

c: Gregory W. Moeller, Steven R. Parry
Honorable Daniel C. Hurlbutt

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: DEC-12-1997

PAGE: A-2

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 22-07280B

NAME & ADDRESS: NORMAN RILEY
ROBIN RILEY
1623 W 3400S
REXBURG ID 83440

SOURCE: GROUNDWATER

QUANTITY: 4.59 CFS

USE OF THIS RIGHT WITH RIGHT NO. 22-02223 IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1540 AF.

PRIORITY DATE: 06/27/1978

POINT OF DIVERSION: T05N R40E S11 SWSW Within MADISON County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	4.59 CFS

PLACE OF USE:	IRRIGATION	Within MADISON County			
	T05N R40E S02	Lot 4 (SWNW)27	NESW 9	NWSW 39	SWSW 40
		SESW 26			
	S03	Lot 1 (SENE)21	NESE 24	SESE 24	
	S10	NENE 25	SENE 24	NESE 12	
	S11	NENW 32	NWNW 40	SWNW 40	SENE 26
		NESW 12	NWSW 19		
	440 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHT NO. 22-02223 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 440 ACRES IN A SINGLE
IRRIGATION SEASON.

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE