

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE 3 36
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 RIGHTS: 29-13320 AND
		29-13321

I. FINDINGS OF FACT

Claims were filed for these water rights 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 recommendations for the elements of these water rights.

Objections were filed by Marsh Valley Development Inc. on November 13, 2003. The *Objections* were resolved with the filing of the *Portneuf River Settlement Agreement Basin 29: Portneuf River* (hereafter "*Portneuf River Agreement*").

This *Special Master's Report and Recommendation* recommends these water rights with the elements and administrative provisions set forth in the *Portneuf River Agreement*. (April 22, 2005) Specifically, the *Portneuf River Agreement* sets forth provisions for an extended season of use, administration of an upper and lower division, allocation of rights within each division, measurement at the Topaz Gauge, administration on East Bob Creek and West Bob Creek, and modification of the diversion structure.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that these water rights be decreed with the elements set forth in the attached *Special Master's Recommendations for Partial Decrees*.

DATED: October 31, 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
FILED

2005 OCT 31 PM 3 37

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-13320

NAME AND ADDRESS: CARL L PHILLIPS
NOLA RAE PHILLIPS
2884 W 1400 S
ABERDEEN, ID 83210

SOURCE: PORTNEUF RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 3.84 CFS

USE OF THIS RIGHT WITH RIGHT NO. 29-30 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 3.84 CFS.

PRIORITY DATE: 08/07/1932

POINT OF DIVERSION: T07S R39E S18 NENESE Within Caribou County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	3.84 CFS

PLACE OF USE:	Irrigation	Within Caribou County
	T07S R38E S24 LOT 1 (NENE) 1.6	LOT 2 (SENE) 2.8
	R39E S17 NWSW 38.0	SWSW 40.0
	S18 NESE 5.6	SESE 4.8
	S19 NENE 16.0	SWNE 28.0
		SENE 40.0
	LOT 3 (NESW) 13.0	LOT 2 (SENW) 4.5
	NESE 37.0	LOT 4 (SESW) 3.3
	SWSE 7.2	NWSE 21.0
	S20 NWNW 40.0	SESE 1.4
	NWSW 38.0	SWNW 40.0
	382.2 Acres Total	

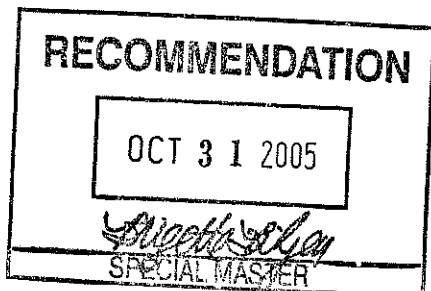
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS RIGHT AND RIGHT 29-30 IS LIMITED TO THE IRRIGATION OF 192
ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE
IRRIGATION SEASON.

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER
DISTRICT 29.

THE OPERATION AND ADMINISTRATION OF THIS WATER RIGHT IS
SUBJECT TO THE TERMS AND CONDITIONS OF THE PORTNEUF RIVER
SETTLEMENT AGREEMENT, BASIN 29: PORTNEUF RIVER FILED WITH THE
SRBA DISTRICT COURT APRIL 22, 2005.

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
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 29-13321

2005 OCT 31 PM 3 37

NAME AND ADDRESS: CARL L PHILLIPS
NOLA RAE PHILLIPS
2884 W 1400 S
ABERDEEN, ID 83210

SOURCE: PORTNEUF RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 3.43 CFS

USE OF THIS RIGHT WITH RIGHT NO. 29-31 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 3.43 CFS.

PRIORITY DATE: 08/07/1932

POINT OF DIVERSION: T07S R39E S18 NENESE Within Caribou County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	3.43 CFS
	Stockwater	04-01 TO 10-31	0.09 CFS

PLACE OF USE: Irrigation Within Caribou County

T07S R38E S24 LOT 1	(NENE) 1.6	LOT 2	(SENE) 2.8
R39E S17	NWSW 38.0		SWSW 40.0
S18	NESE 5.6		SESE 4.8
S19	NENE 16.0		SWNE 28.0
	SENE 40.0	LOT 2	(SENW) 4.5
LOT 3	(NESW) 13.0	LOT 4	(SESW) 3.3
	NESE 37.0		NWSE 21.0
	SWSE 7.2		SESE 1.4
S20	NWNW 40.0		SWNW 40.0
	NWSW 38.0		
382.2 Acres Total			

Stockwater Within Caribou County
Same as Irrigation

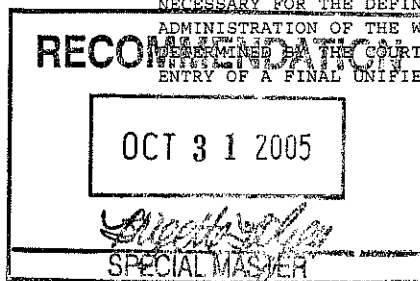
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS RIGHT AND RIGHT 29-31 IS LIMITED TO THE IRRIGATION OF 172
ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE
IRRIGATION SEASON.

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER
DISTRICT 29.

THE OPERATION AND ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT
TO THE TERMS AND CONDITIONS OF THE PORTNEUF RIVER SETTLEMENT
AGREEMENT, BASIN 29: PORTNEUF RIVER FILED WITH THE SRBA DISTRICT
COURT APRIL 22, 2005.

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

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

2005 OCT 31 PM 3 37

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)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

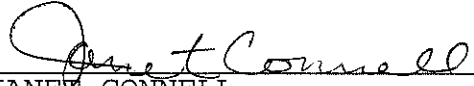
Water Right(s): 29-13320
29-13321

On October 31, 2005, Special Master BRIGETTE BILYEU
issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s)
pursuant to SRBA Administrative Order 1 (A01), 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 October 31, 2005.



JANET CONNELL
Deputy Clerk

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

2005 OCT 31 PM 3 37

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): 29-13320
29-13321

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 October 31, 2005, with sufficient first-class postage prepaid to the following:

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

MARSH VALLEY DEVELOPMENT INC

Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

CARL L PHILLIPS
NOLA RAE PHILLIPS
2884 W 1400 S
ABERDEEN, ID 83210
Phone: 208-397-4690

CERTIFICATE OF MAILING


JANET CONNELL
Deputy Clerk

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10/31/05