

2005 OCT 31 PM 3 01

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: 29-13521

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.

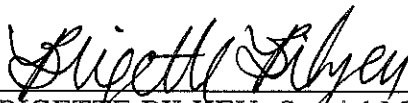
An *Objection* was filed by Marsh Valley Development Inc. on November 13, 2003. The *Objection* was resolved with the filing of the *Portneuf River Settlement Agreement Basin 29: Portneuf River* (hereafter "*Portneuf River Agreement*").

This *Special Master's Report and Recommendation* recommends this water right 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 this water right be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

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 _____

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 29-13521

2005 OCT 31 PM 3 01

NAME AND ADDRESS: EVELEE HILL RUSH
ROBERT E RUSH
PO BOX 129
LAVA HOT SPRINGS, ID 83246

SOURCE: WEST BOB SMITH CREEK TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.096 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.156 CFS. COMBINED RIGHT NOS.:
29-13511, 29-13513, 29-13515, 29-13517, 29-13519, 29-13521.

PRIORITY DATE: 08/07/1932

POINT OF DIVERSION: T09S R37E S15 SENENW Within Bannock County
SESENW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.096 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Irrigation Within Bannock County
T09S R37E S22 NENE 7.8
7.8 Acres Total

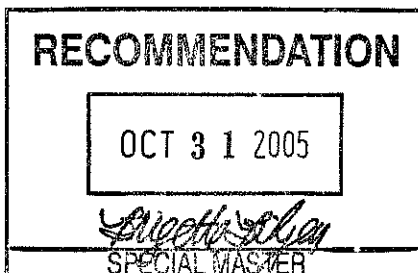
Stockwater Within Bannock County
Same as Irrigation

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 7.8 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-13511, 29-13513,
29-13515, 29-13517, 29-13519, 29-13521.

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

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 _____

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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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

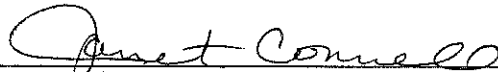
Water Right(s): 29-13521

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 (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 October 31, 2005.



JANET CONNELL
Deputy Clerk

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

2005 OCT 31 PM 3 02

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): 29-13521

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

EVELEE HILL RUSH
ROBERT E RUSH
Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

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

CERTIFICATE OF MAILING

 PAGE 1
JANET CONNELL 10/31/05
Deputy Clerk