

2005 NOV 29 PM 3 29

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: 29-11277                  |
|                | ) | (Digital Boundary-Portneuf Irrigating Co.) |
| _____          | ) |                                            |

**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. The *Director's Report* described this water right by digital boundaries.

*Objections* were filed by Portneuf Irrigation Co., Lava Irrigation Co., Inc., and Marsh Valley Development Inc. The *Objections* were resolved with the filing of the *Portneuf River Settlement Agreement Basin 29: Portneuf River* (hereafter "*Portneuf River Agreement*").

**II. ANALYSIS**

**A. 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.

## B. Digital Boundary

The place of use element for this water right is described by a digital boundary rather than by legal description with legal subdivisions such as Township, Range, Section, and Quarter-Quarter designations. The place of use agreed on by the parties and IDWR is illustrated by the map overlay attached to the *Recommendation for Partial Decree*. The digital boundary for the place of use is described on the CD-Rom filed July 9, 2004.

## III. 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: November 29, 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 NOV 29 PM 3 29

In Re SRBA )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 29-11277

NAME AND ADDRESS: PORTNEUF IRRIGATING COMPANY  
PO BOX 194  
ARIMO, ID 83214

SOURCE: PORTNEUF RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 55.00 CFS

USE OF THIS RIGHT WITH RIGHT NO. 29-51 IS LIMITED TO A TOTAL  
COMBINED DIVERSION RATE OF 55 CFS.

PRIORITY DATE: 08/07/1932

POINT OF DIVERSION: T09S R37E S22 LOT 3 (SENW ) Within Bannock County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY  |
|-------------------------------|----------------|----------------|-----------|
|                               | Irrigation     | 04-01 TO 10-31 | 55.00 CFS |
|                               | Stockwater     | 04-01 TO 12-31 | 10.00 CFS |

PLACE OF USE:

3117.6 ACRES TOTAL

THE BOUNDARY ENCOMPASSING THE PLACE OF USE FOR THIS WATER RIGHT IS DESCRIBED WITH A DIGITAL BOUNDARY AS DEFINED BY I.C. SECTION 42-202B(2) AND AUTHORIZED PURSUANT TO I.C. SECTION 42-1411(2)(h). THE DATA COMPRISING THE DIGITAL BOUNDARY ARE INCORPORATED HEREIN BY REFERENCE AND ARE STORED ON A CD-ROM DISK ISSUED IN DUPLICATE ORIGINALS IN FILE WITH THE SRBA DISTRICT COURT AND THE IDAHO DEPARTMENT OF WATER RESOURCES. A MAP DEPICTING THE PLACE OF USE IS ATTACHED HERETO TO ILLUSTRATE THE PLACE OF USE DESCRIBED BY THE DIGITAL BOUNDARY.

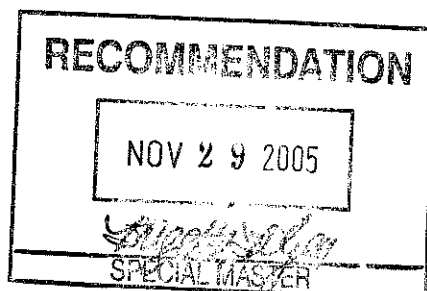
USE OF THIS RIGHT WITH RIGHT NO. 29-51 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 3117.6 ACRES IN A SINGLE IRRIGATION SEASON.

PLACE OF USE IS WITHIN THE AREA SERVED BY THE PORTNEUF IRRIGATION CO.

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

THE OPERATION AND ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT OF 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

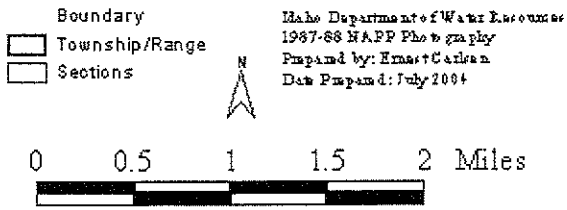
With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment 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.

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John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

Portneuf Irrigating Co  
Service Area Boundary

Claim No.:  
29-51  
29-11277



T09S R36E

T09S R37E

T10S R36E

T10S R37E

19

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DISTRICT COURT-SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

NOV 17 2005

By \_\_\_\_\_

Clerk

Deputy Clerk

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 )  
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Case No. 39576 )  
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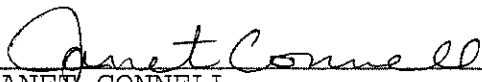
NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION  
  
Water Right(s): 29-11277

On November 29, 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 November 29, 2005.

  
JANET CONNELL  
Deputy Clerk

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 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 29-11277

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 November 29, 2005, with sufficient first-class postage prepaid to the following:

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

LAVA IRRIGATION CO INC  
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

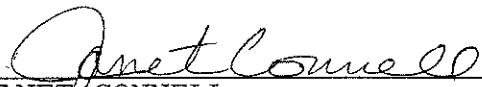
CERTIFICATE OF MAILING

PAGE 1  
11/29/05

PORTNEUF IRRIGATING CO  
PORTNEUF IRRIGATING COMPANY

Represented by:  
RANDOLPH CALVIN STONE  
PO BOX 910  
BURLEY, ID 83318  
Phone: 208-878-8382

PORTNEUF IRRIGATING CO  
PO BOX 194  
ARIMO, ID 83214  
Phone: 208-254-9022

  
\_\_\_\_\_  
JANET CONNELL  
Deputy Clerk