

2005 NOV 29 PM 2 57

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: 29-13317
	)	(Digital Boundary-McCammon Ditch 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 Lava Irrigation Co., McCammon Ditch Co., and the United States Bureau of Land Management. A *Standard Form 5* was filed on May 25, 2005 to resolve the *Objection* filed by the United States Bureau of Land Management. The remaining *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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-13317

2005 NOV 29 PM 2 57

NAME AND ADDRESS: MC CAMMON DITCH CO LTD
10192 S HALL RD
MC CAMMON, ID 83250

SOURCE: PORTNEUF RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 18.95 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 68.95 CFS. COMBINED RIGHT NOS.: 29-57, 29-58,
29-13311 AND 29-13317.

PRIORITY DATE: 08/07/1932

POINT OF DIVERSION: T09S R37E S21 LOT 1 (SENE) Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	18.95 CFS

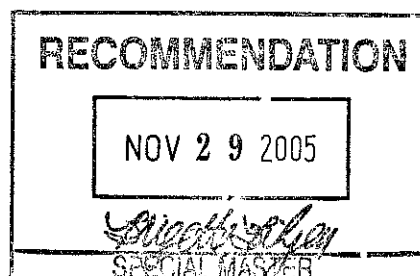
PLACE OF USE:

2794.5 ACRES TOTAL
PLACE OF USE IS WITHIN THE AREA SERVED BY THE MCCAMMON DITCH
COMPANY LTD.
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 ON 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 THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF
A COMBINED TOTAL OF 2794.5 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 29-57, 29-58, 29-13311, 29-13317.

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

Claim No.:

29-57

29-58

29-13311

29-13317

McCammon Ditch Co Service Area Boundary

Boundary

Township/Range

Sections

Utah Department of Water Resources

1987-88 NAIP Photography

Prepared by: Scott Carlson

Date Prepared: July 2004



0 0.5 1 1.5 Miles

T09S R36E

T09S R37E

22

23

24

19

20

27

26

25

35

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

NOV 17 2005

By _____

Clerk

Deputy Clerk

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

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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): 29-13317

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): 29-13317

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

MC CAMMON DITCH CO LTD
Represented by:
JAMES A. SPINNER
PO BOX 6009
POCATELLO, ID 83205
Phone: 208-232-4471

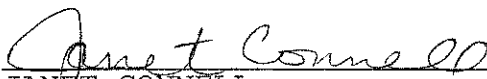
LAVA IRRIGATION CO INC
Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

CERTIFICATE OF MAILING

PAGE 1
11/29/05

USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724



JANET CONNELL
Deputy Clerk