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JUN 28 2006

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO, IDAHO
FILED 

2006 JUN 27 PM 2 47

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
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 85-04231
	)	

I. FINDINGS OF FACT

A notice of claim was filed for the above listed 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 or abstract for the elements of this water right.

On May 27, 2005, the United States of America, Department of Interior, Bureau of Reclamation, filed an objection to the *Director's Report*. On October 13, 2005, a *Standard Form 5 – Stipulated Elements of a Water Right* was filed, which resolved the United States' objection. The Idaho Department of Water Resources concurred in the stipulation.

The *Standard Form 5* was signed by claimant Maxine McMurray. During the course of proceedings, it came to the attention of this Special Master that the other claimant, Stanley J. McMurray, is deceased. After unsuccessful attempts by IDWR to ascertain a change of ownership of the portion of the water right owned by the decedent, this Special Master held a hearing on June 27, 2006 for the purpose of determining proper ownership of the water right. Maxine McMurray and her son, Vince McMurray, participated in the hearing by telephone. Candice McHugh from the Idaho Department of Water Resources also participated by telephone. Based upon the comments of Maxine McMurray at the hearing, this Special Master finds that Stanley McMurray passed away in 1995, and his spouse, Maxine McMurray, is the sole recipient

of the property of the estate of Stanley McMurray. Accordingly, the recommendation herein is that the water right be decreed in the name of Maxine F. McMurray.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right 85-04231 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated June 27, 2006.



THEODORE R BOOTH
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 *[Signature]*

2005 JUN 27 PM 2 47

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 85-04231

NAME AND ADDRESS: MAXINE F MC MURRAY
510 LAPWAI RD
LEWISTON, ID 83501

SOURCE: LINDSAY CREEK TRIBUTARY: CLEARWATER RIVER

QUANTITY: 0.07 CFS

PRIORITY DATE: 01/01/1998

POINT OF DIVERSION: T36N R05W S32 SESE Within Nez Perce County
SESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.07 CFS

PLACE OF USE: Irrigation Within Nez Perce County
T36N R05W S32 SESE 2.2
2.2 Acres Total

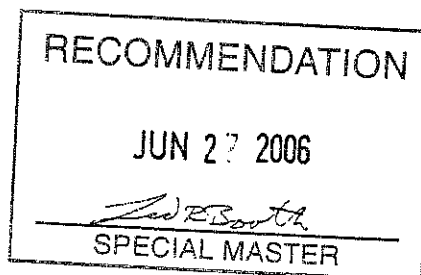
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



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

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 85-04231

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 June 27, 2006, with sufficient first-class postage prepaid to the following:

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

USDI BUREAU OF RECLAMATION

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

MAXINE F MC MURRAY
510 LAPWAI RD
LEWISTON, ID 83501
Phone: 208-743-1940

CERTIFICATE OF MAILING


DEBBIE LASH
Deputy Clerk

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06/27/06

2006 JUN 27 PM 2 47

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

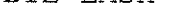
Water Right(s) : 85-04231

On June 27, 2006, Special Master THEODORE R. BOOTH 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 June 27, 2006.


DEBBIE LASH
Deputy Clerk