

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 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

) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION; FINDINGS OF
) FACT AND CONCLUSIONS OF LAW) — FOR WATER RIGHT: 29-13406
)

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.

A *Motion to File Amended Notice of Claim* was filed by Brett Casperson on April 11, 2005. An *Amended Director's Report* was filed on May 4, 2005. An *Objection* was filed to the *Amended Director's Report* by Brett Casperson on June 15, 2005.

A *Motion to File Late Responses* was filed by Marsh Valley Development Company, Portneuf Marsh Valley Canal Company, and Portneuf Irrigating Company. The *Motion* was **granted**. *Order Granting Motion to File Late Responses* (July 22, 2005). A *Stipulated Settlement Agreement* was filed June 6, 2006. All the parties were signatories to the *Stipulation*. The *Stipulation* resolves the *Objections* and *Responses*. The parties agreed that this water right shall be recommended with the elements in the *Amended Director's Report*.

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: January 22, 2007.

 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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 29-13406

2007 JAN 22 PM 12:36

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: BRETT CASPERSON
NANCY CASPERSON
8893 E MAUGHAN RD
LAVA HOT SPRINGS, ID 83246

SOURCE: DEMPSEY CREEK TRIBUTARY: PORTNEUF RIVER

QUANTITY: 1.19 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 2.4 CFS. COMBINED RIGHT NOS.:
29-10831, 29-10833, 29-13406, AND 29-13407.

PRIORITY DATE: 04/01/1962

POINT OF DIVERSION: T09S R38E S33 SWNNW Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.19 CFS
	Stockwater	04-01 TO 10-31	0.04 CFS

PLACE OF USE:	Irrigation	Within Bannock County
	T09S R38E S30	
	NWNE 2.7	SWNE 37.0
	SENE 33.0	NESE 33.0
	NWSE 39.0	SWSE 18.0
	SESE 17.0	
	179.7 Acres Total	

Stockwater	Within Bannock County
T09S R38E S30	
SWNE	SENE
NESE	NWSE
SWSE	SESE

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 179.7 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-10831, 29-10833,
29-13406, 29-13407.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 59.7 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 29-10831
PURSUANT TO SECTION 42-1426, IDAHO CODE.

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).

RECOMMENDATION

JAN 22 2007

Mark Allen
SPECIAL MASTER

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

2007 JAN 22 PM 12:36

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

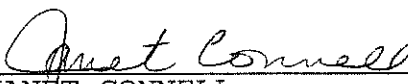
Water Right(s): 29-13406

On January 22, 2007, 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 January 22, 2007.



JANET CONNELL
Deputy Clerk

2007 JAN 22 PM 12:36

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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): 29-13406

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 January 22, 2007, with sufficient first-class postage prepaid to the following:

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

MARSH VALLEY DEVELOPEMENT CO
PORTNEUF MARSH VALLEY CANAL CO

Represented by:

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

PORTNEUF IRRIGATING COMPANY

Represented by:

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

CERTIFICATE OF MAILING

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01/22/07

BRETT CASPERSON
NANCY CASPERSON
8893 E MAUGHAN RD
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5428


JANET CONNELL
Deputy Clerk