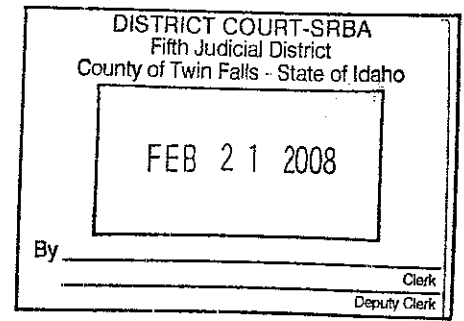




**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

) **SPECIAL MASTER'S REPORT AND**
) **RECOMMENDATION; FINDINGS OF**
) **FACT AND CONCLUSIONS OF LAW**

) **WATER RIGHT NO.: 37-4241**
) **(Digital Boundary - Northside Canal 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.

An *Objection* was filed by Gary and Helen DeMoss on March 10, 2006. Gary and Helen DeMoss filed *DeMoss Withdrawal of Objection* on January 22, 2008. There was no opposition to withdrawal of the *Objection*. The court **granted** the withdrawal of the *Objection* **Order Dismissing Objection** (January 25, 2008). There are no objections remaining.

II. ANALYSIS

A. Place of Use/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.

B. Recommendation for Place of Use Description Using Digital Boundary.

On July 1, 2002, the Idaho Legislature approved the use of digital boundaries for describing the place of use for water rights meeting certain criteria. I.C. § 42-219(2) (licenses) and I.C. § 42-

1411 (2) (h) (*Director's Reports*) Digital boundary descriptions of the place of use rely on Geographic Information System (GIS) mapping technology. This technology provides a description of the place of use for a water right to be identified and visually displayed in a map overlay format through the aid of computer technology.¹

C. Digital Boundary on CD-Rom

The place of use for this right is the digital boundary for water right 37-507 (A related irrigation water right) and 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 for 37-507.

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: February 21, 2008.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

¹ In incorporating a digital boundary into a partial decree, the electronic or digital data is what is actually decreed as opposed to the map generated from the data. The map generated from the data is for illustrative purposes. The digital data is stored on a CD-ROM and is incorporated by reference into the *Special Master's Report and Recommendation* and recommendation for partial decree. Duplicate originals of the CD-ROM will be issued. The SRBA District Court retains one original together with the original partial decree, and the Idaho Department of Water Resources (IDWR) retains the other original. Upon request, the claimant can obtain a copy of the CD-ROM from IDWR at no cost, although GIS software will still be required to access the data. Subsequent administrative changes, if any, to the place of use will also be stored in a digital format and kept on file and maintained by IDWR. IDWR will maintain all computer software and/or hardware necessary for reducing the data to a usable format that is accessible to the general public, including access through the IDWR Internet website (www.idwr.state.id.us) or its successor Uniform Resource Locator (URL).

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 37-04241

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

FEB 21 2008

By

Clerk

Deputy Clerk

NAME AND ADDRESS: NORTH SIDE CANAL CO LID
921 N LINCOLN AVE
JEROME, ID 83338

SOURCE: MALAD RIVER IRRIGATOR: SNAKE RIVER

QUANTITY: 10.00 CFS

PRIORITY DATE: 10/01/1910

POINT OF DIVERSION: 106S R14E S16 SESW Within Gooding County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	10-01 TO 03-31	10.00 CFS

PLACE OF USE:

Place of use is within the area served by North Side Canal Company as described in water right no. 37-507.

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.

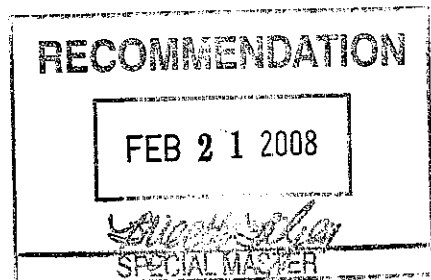
A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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).

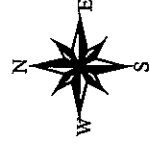
RULE 54(b) CERTIFICATION

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

North Side Canal Company Service Area



Map prepared by: Carter Fritschle
Date prepared: 02/01/05 - revised 11/29/07
2004 NAIP photography
Idaho Department of Water Resources

30 Miles



DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 21 2008	
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)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

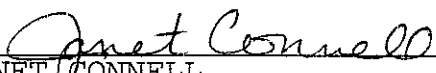
Water Right(s): 37-04241

On February 21, 2008, 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 February 21, 2008.



JANET CONNELL
Deputy Clerk

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 21 2008	
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)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 37-04241

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 February 21, 2008, with sufficient first-class postage prepaid to the following:

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

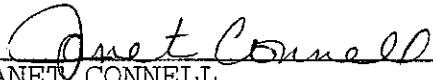
GARY & HELEN DEMOSS
Represented by:
JOSEPHINE P BEEMAN
409 W JEFFERSON ST
BOISE, ID 83702
Phone: 208-331-0950

NORTH SIDE CANAL CO LTD
Represented by:
TRAVIS L THOMPSON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

CERTIFICATE OF MAILING

PAGE 1
02/21/08

NORTH SIDE CANAL CO LTD
921 N LINCOLN AVE
JEROME, ID 83338
Phone: 208-324-2319



JANET CONNELL
Deputy Clerk