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AUG 30 2011

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 29 2011	
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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	WATER RIGHT NO.: 37-8248
_____	)	

I. FINDINGS OF FACT

A 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 *Amended Objection* was filed by Tom O'Gara, John Stevenson, Bill Molyneux, Pete Van Der Muelen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris and Big Wood Canal Company on November 21, 2008. The *Objection* was resolved on August 10, 2011 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*. The *Standard Form 5* includes a description of the channel which flows through the property.

Water under this right is diverted into a channel flowing across Lot 1, Block 1, Beaver Springs Subdivision. The channel cannot be enlarged to carry or retain more water than it did on July 10, 1986, as described in the licensing field examination conducted by Idaho Department of Water Resources on that date.

The language was explained at a hearing on August 24, 2011. IDWR explained that the language is not meant as a zoning ordinance, but serves to define the water right. This water right includes a flowing channel with a widened area. Water flows through the widened area, continuing through the channel. The descriptive language provides an estimate of and limitation on the volume of the widened area consistent with its configuration on July 10, 1986. The purpose

of this water right is to maintain flow in the channel without an impoundment of water.

II. CONCLUSIONS OF LAW

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: August 29, 2011.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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WATER RESOURCESDEPARTMENT OF
WATER RESOURCESIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 29 2011	
By _____	Clerk Deputy Clerk

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 37-08248

NAME AND ADDRESS: ANN S MCCAWE REVOCABLE TRUST
ANN HOLDEN SCOTT TRUSTEE
3701 SACRAMENTO ST #174
SAN FRANCISCO, CA 94118

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 10.00 CFS

A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting and return flow works. Water under this right is diverted into a channel flowing across Lot 1, Block 1, Beaver Springs Subdivision. The channel cannot be enlarged to carry or retain more water than it did on July 10, 1986, as described in the licensing field examination conducted by Idaho Department of Water Resources on that date.

PRIORITY DATE: 09/20/1985

POINT OF DIVERSION: T04N R17E S12 SWNE Within Blaine County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Recreation	01-01 TO 12-31	10.00 CFS

Recreation use is for aesthetic purposes.
Use of water under this right shall be non-consumptive.

PLACE OF USE: Recreation Within Blaine County
T04N R17E S12 SWNE

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

Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

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.

RECOMMENDATION
AUG 29 2011
<i>Eric J. Wildman</i>
SPECIAL MASTER

Eric J. Wildman
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)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 37-08248

On August 29, 2011, 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 August 29, 2011.

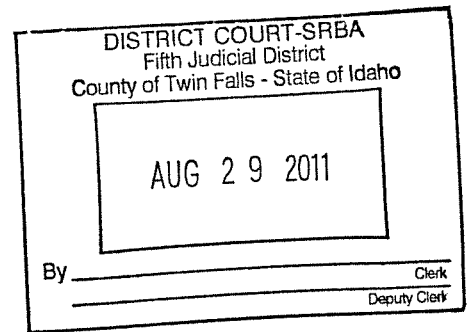

JANET CONNELL
Deputy Clerk

2011

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DEPARTMENT OF
WATER RESOURCES



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): 37-08248

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 August 29, 2011, with sufficient first-class postage prepaid to the following:

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

BILL MOLYNEUX
GERALD BASHAW
GRACE EAKIN
JOHN F STEVENSON
PEPIN CORSO-HARRIS
PETE VAN DER MEULEN
ROCKY SHERBINE
TOM O GARA

Represented by:
BARKER ROSHOLT & SIMPSON LLP
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CERTIFICATE OF MAILING

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08/29/11

BIG WOOD CANAL COMPANY

Represented by:

CRAIG D. HOBDEY

125 5TH AVE

PO BOX 176

GOODING, ID 83330

Phone: 208-934-4429

ANN HOLDEN SCOTT

ANN S MCCAOW REVOCABLE TRUST

Represented by:

JAMES P. SPECK

SPECK & AANESTAD

120 EAST AVENUE

PO BOX 987

KETCHUM, ID 83340

Phone: 208-726-4421


JANET CONNELL
Deputy Clerk