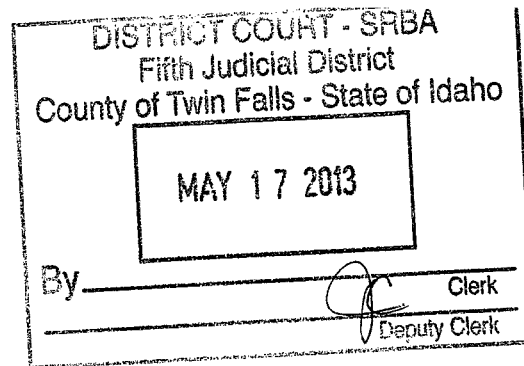


DEPARTMENT OF
WATER RESOURCES



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

**SPECIAL MASTER'S REPORT AND
RECOMMENDATION ON MOTION
TO SET ASIDE PARTIAL DECREE**

WATER RIGHT NO.: 37-12701

I. PROCEDURAL BACKGROUND

The SRBA District Court issued a *Partial Decree* for this water right on January 10, 2001. A *Motion to Set Aside Partial Decree* was filed by Drew and Ann Nosworthy on April 17, 2013. Presiding Judge Eric Wildman issued an *Order of Reference Appointing Special Master Brigitte Bilyeu* on April 17, 2013. A hearing on the *Motion to Set Aside Partial Decree* was held on May 15, 2013.

II. FINDINGS OF FACT

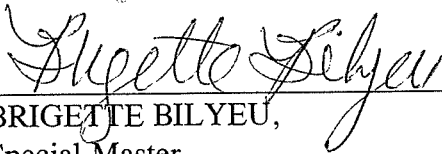
In support of the *Motion*, IDWR and Mr. Nosworthy explained that the point of diversion (POD) and the place of use (POU) were accurately claimed. However, the *Director's Report* and *Partial Decree* incorrectly described the POD and POU as SENE of Section 26 T05N R17E. During a recent review of IDWR's records, the agency discovered that the correct legal description for the POD and POU should be as claimed in SWNW of Section 25 T05N R17E. IDWR does not know why the incorrect legal description was placed in the *Director's Report*. Both IDWR and the claimants agree that the legal description should be changed to correctly describe the physical location of this water right. IDWR provided a

Proposed Corrected Partial Decree which corrected the legal description and added the standard language "domestic use is for 1 home." No parties to the SRBA opposed the *Motion*.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motion to Set Aside Partial Decree* is **granted**, and that an *Amended Partial Decree* be issued with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*.

Dated: May 17, 2013.



BRIGETTE BILYEU,
Special Master
Snake River Basin Adjudication

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

MAY 17 2013

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

AMENDED

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
 Case No. 39576)
 _____)
 Water Right 37-12701

NAME AND ADDRESS: ANN NOSWORTHY
 DREW NOSWORTHY
 PO BOX 61
 KETCHUM, ID 83340

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
 GALLONS PER DAY.

PRIORITY DATE: 07/15/1986

POINT OF DIVERSION: T05N R17E S25 SWNW Within Blaine County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.04 CFS

Domestic use is for 1 home.

PLACE OF USE: Domestic Within Blaine County
 T05N R17E S25 SWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
 DETERMINATION OF HISTORICAL BENEFICIAL USE.

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

MAY 17 2013

Eric J. Wildman

 SPECIAL MASTER

Eric J. Wildman
 Presiding Judge of the
 Snake River Basin Adjudication

RECEIVED

MAY 20 2013

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAY 17 2013	
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	)	NOTICE OF ISSUANCE OF
	)	SPECIAL MASTER'S
	)	REPORT AND
	)	RECOMMENDATION
Case No. 39576	)	
_____	)	Water Right (s): 37-12701

On May 17, 2013 Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE 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: May 17, 2013.


Janet Connell
Deputy Clerk

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE was mailed on May 17, 2013, with sufficient first-class postage to the following:

ANN NOSWORTHY
DREW NOSWORTHY
PO BOX 61
KETCHUM, ID 83340
Phone: 208-309-1031

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

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAY 17 2013	
By _____	Clerk
_____	Deputy Clerk

37-12701

RECEIVED

MAY 20 2013

DEPARTMENT OF
WATER RESOURCES


Deputy Clerk