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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
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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

) Subcase: 36-08649

Case No. 39576

)
) PRELIMINARY SPECIAL MASTER'S
) REPORT AND RECOMMENDATION
)
)
)

FINDINGS OF FACT

On August 9, 1988, Ray and Alice McCord filed their *Notice of Claim to a Water Right Acquired Under State Law* claiming 1.6 cfs of groundwater to irrigate 80 acres based on a permit. On November 2, 1992, the Director of the Idaho Department of Water Resources filed a *Director's Report for Reporting Area 3* (Basin 36) and recommended the claimants be awarded 1.47 cfs to irrigate 73.5 acres.

The claimants filed their *Objection* on April 29, 1993, objecting to quantity, place of use, consumptive use and water right recommendation. The Director filed his *Response to Objection* on September 10, 1993, proposing no changes to his recommendation. No other objections were filed.

The Special Master for Reporting Area 3 was appointed on November 4, 1993. Settlement and scheduling conferences were convened early in 1995, but the claimants failed to attend. A scheduling conference was reset for April 22, 1996, and claimant Ray McCord appeared *pro se*. During the conference, Mr. McCord stated that he did not want to proceed to trial thereby waiving his right to present evidence in opposition to the Director's Report.

CONCLUSIONS OF LAW

Under I.C. § 42-1411, the Director's Report constitutes *prima facie* evidence of the nature and extent of water rights acquired under state law. The claimant has the burden of going forward with evidence to establish any element inconsistent with the description in the Director's Report. The objector has the burden of going forward with evidence to rebut the Report as to all issues raised by the objection. Because the claimants waived their right to present evidence in opposition to the Director's Report, the claimants are entitled to the water right as described in the Director's Report.

RECOMMENDATION

It is recommended that Ray and Alice McCord be adjudicated the following water right under claim no. 36-08649:

Name and address of claimant:

**Ray and Alice McCord
Route 1
Wendell, ID 83355**

Source of water:

Groundwater

Quantity of water used:

1.47 cfs

Date of priority:

January 25, 1978

Point of diversion:

**T 7S, R 14E, § 34, B.M., Gooding County, Idaho,
NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$**

Purpose of use:

Irrigation

Period of use:

April 1 to October 31

Place of use:

T 7S, R 14E, § 34, B.M., Gooding County, Idaho,

NE¹/₄NE¹/₄- 35.5 acres

NW¹/₄NE¹/₄- 38 acres

Total- 73.5 acres

Annual volume of consumptive use:

221 afy

Conditions on exercise of water right:

Use of this right is combined with water from North Side Canal Co., Ltd.

Remarks or other matters necessary for definition of the right, for clarification of any element of the right, or for administration of the right by the Director:

None

No general provisions are included pending resolution of Basin-Wide Issue No. 5.

DATED April 24, 1996.



TERRENCE A. DOLAN

Special Master, Reporting Area 3
Snake River Basin Adjudication