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Department of Water Resources

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
June 3 1996 MAY 30 1996	
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

Subcase: 36-00033F

Case No. 39576

PRELIMINARY SPECIAL MASTER'S
REPORT AND RECOMMENDATION

Finding of Fact

Gene L. Jones filed a *Notice of Claim to a Water Right* on August 2, 1989, claiming .5 cfs of water from Weatherby Springs for stock use and to irrigate 18 acres based on beneficial use. On November 2, 1992, the Director of the Idaho Department of Water Resources filed his *Director's Report for Reporting Area 2 (Basin 36)* recommending .39 cfs to irrigate 3 acres and listing Ivan Gustafson as the claimant. The Gustafson Family Trust filed its *Objection* on April 29, 1993, objecting to name and address, quantity, purpose of use, period of year, place of use, consumptive use, remarks and other. The Director's *Response to Objection*, filed September 10, 1993, proposed no changes to the recommendation.

On March 14, 1996, the claimant Gustafson Family Trust and IDWR filed a *Stipulation to Partially Resolve Objection*. The *Stipulation* recited that, with the exception of a "possible limitation" contained in a Gooding County *Memorandum Opinion* dated April 27, 1979, the Gustafson Family Trust, as claimant, and IDWR agree to all the elements defining the water right.

Conclusions of Law

The effect, if any, of the *Memorandum Opinion* was not raised by a party to the subcase and is not properly before the Court. Hence, the *Opinion* is not relevant to determination of the nature, extent and priority of this water right. The claimant is entitled to a partial decree adjudicating its water right as described in the *Stipulation*.

Recommendation

It is recommended that the Gustafson Family Trust be adjudicated the following water right under claim 36-00033F:

Name and address of claimant:
Gustafson Family Trust
Box 209
Hagerman, ID 83332

Source of water:
Weatherby Springs

Quantity of water used:
.75 cfs

Date of priority:
March 8, 1902

Point of diversion:
T 7S, R 14E, § 30, B.M., Gooding County, Idaho,
SE¼NE¼SW¼

Water is diverted through the Bar S Ditch, Curren Ditch and North Pipeline.

Purpose of use:
Irrigation

Period of use:
March 15 to November 15

Place of use:
T 7S, R 13E, § 27, B.M., Gooding County, Idaho,
NE¼SE¼- 11 acres

Annual volume of consumptive use:
33 afy

Conditions on exercise of water right:
None

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

DATED May 30, 1996.


TERRENCE A. DOLAN
Special Master, Reporting Area 3
Snake River Basin Adjudication