

RECEIVED

JUL 15 1996

Department of Water Resources

RECE

JUL 15 1996

Department of Water Resources
Adjudication Bureau

SRBA
IDAHO
DL

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	)	PRELIMINARY SPECIAL MASTER'S
	)	REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW FOR
	)	
	)	WATER RIGHT 34-10219

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The director of the State of Idaho Department of Water Resources (IDWR) examined the water system for Reporting Area 1 and investigated the notices of claim for Reporting Area 1 (Basin 34), which includes portions of Custer, Butte, Bonneville and Jefferson Counties, State of Idaho. The *Director's Report for Reporting Area 34 (Director's Report)* contained recommendations or abstracts for the elements of this water right.

An objection to the *Director's Report* for this water right 34-10219 was filed on February 26, 1993, by the United States Bureau of Land Management. A response was filed on May 28, 1993, by the Idaho Department of Water Resources. On June 21, 1993, a *Stipulation of Withdrawal* was filed seeking to withdraw the objection filed by the United States. On February 7, 1995, this court issued its *Order Dismissing United States' Objection and Dismissing United States as a Party to Subcase; and Requiring Submission of Standard Form 5*. On June 15, 1995, a *Standard Form 3 - Consent to Substitution of Party* was filed reflecting that the claimant is now Jean H. McAfee. Subsequently, a settlement was reached as to how the elements of this water right could be decreed. A *Standard Form 5 - Stipulated Elements of a Water Right* was filed reflecting the agreement of the parties that the water right is correctly described in the

Director's Report. The signatories to the *Standard Form 5* are the claimant, Jean McAfee; and the Idaho Department of Water Resources. Thus it appears that all parties to this subcase, and IDWR, are signatories to the *Standard Form 5*.

All elements of the water right as stipulated to in the *Standard Form 5*, remain **unchanged** from the original *Director's Report* **except** that the name element has changed pursuant to the *Standard Form 3* and shall reflect the claimant name of Jean McAfee. The court gives *prima facie* weight to the *Standard Form 5* to which IDWR is a signatory.

CONCLUSIONS OF LAW

Under *SRBA Administrative Order 1*, a Special Master is required to make a recommendation to the Presiding Judge as to whether and how a water right should be recommended for each subcase.

The record on file for this subcase, including the *Standard Form 5* and the *Standard Form 3* clearly establishes the intent of the parties that this water right be decreed with the elements as set forth in the *Standard Form 5* as described in the Findings of Fact above.

Therefore, based on the file and record herein, and good cause appearing, IT IS RECOMMENDED that water right 34-10219 be **decreed** with the elements as set forth in the *Preliminary Special Master's Recommendation for Partial Decree* attached hereto.

DATED July 11, 1996.


BRIGETTE BILYEU
Special Master, Reporting Area 1
Snake River Basin Adjudication

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)
_____)

PRELIMINARY
SPECIAL MASTER'S RECOMMENDATION FOR
PARTIAL DECREE FOR
Water Right 34-10219

1996 JUN 12 PM
DISTRICT COURT - SE
TWIN FALLS CO, IDAHO
FILE

NAME & ADDRESS: JEAN H MC AFFEE
PO BOX 618
MOORE ID 83255

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 1.00 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 34-00163 AND 34-02379A
IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.90 CFS.

PRIORITY DATE: 05/31/1884

POINT OF DIVERSION: T06N R25E S14 SENWSE Within CUSTER County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	1.00 CFS

PLACE OF USE:	IRRIGATION	Within BUTTE County			
	T06N R26E S31	NENW 39.0	NWNW 10.0	SENW 31.0	NESW 9.0
	89.0 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHT NOS. 34-00163 AND 34-02379A
IS LIMITED TO TO THE IRRIGATION OF A COMBINED TOTAL OF 89 ACRES
IN A SINGLE IRRIGATION SEASON.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHT NOS. 34-00163 AND 34-02379A
IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF
222.5 AF.

BB
DATED July 12, 1996.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication