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Department of Water Resources

1996 JUL 11 AM 10:47
DISTRICT COURT - SRBA
TWIN FALLS, IDAHO
FILED *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 34-00129B

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* contained recommendations or abstracts for the elements of this water right.

An objection to the director's report for water right 34-00129B 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 *United States' Notice of Withdrawal of Objection* was filed withdrawing 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; Vacating Settlement Conference; and Requiring Submission of Standard Form 5*. Subsequently, a settlement was reached as to how the elements of this water right could be decreed, and a *Standard Form 5 - Stipulated Elements of a Water Right* was filed on March 14, 1995 and an *Amended Standard Form 5* was filed June 5, 1995, reflecting the settlement 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 claimants, Catherine E. and Cartee Wood; 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. The *Standard Form 5* may have indicated the parties intended to include additional text under the heading "other matters necessary for definition or administration of this water right." There is nothing in the record, however, to support a finding that the text proposed under this heading is "necessary" for definition or administration of this right. Thus the court finds the text "A measuring device of a type approved by IDWR shall be maintained as part of the diverting works" is not necessary to define or administer this right.

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* clearly establishes the intent of the parties that this water right be decreed with the elements as set forth in *Standard Form 5* based on the Findings of Fact listed above. The information proposed to be included as "other matters necessary for definition or administration of this water right" should not be included in any decree because neither the parties nor IDWR provided any record to support a finding that this additional information was needed, despite a court order which specifically asked for this information. *Order Requiring Amended Standard Form 5 (March, 20, 1995)*.

Therefore, based on the file and record herein, and good cause appearing, IT IS RECOMMENDED that water right 34-00129B be decreed with the elements as set forth in the *Special Master's Recommendation for Partial Decree* attached hereto.

DATED July 11, 1996.


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

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Department of Water Resources

In Re SRBA)
Case No. 39576)
)
)
)
)

PRELIMINARY
SPECIAL MASTER'S RECOMMENDATION FOR DISTRICT COURT - SRBA
PARTIAL DECREE FOR
TWIN FALLS CO., IDAHO
Water Right 34-00129B

NAME & ADDRESS: CATHERINE E WOOD
CARTEE J WOOD
RT 1 BOX 49
DARLINGTON ID 83231

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 0.1 CFS

PRIORITY DATE: 01/01/1899

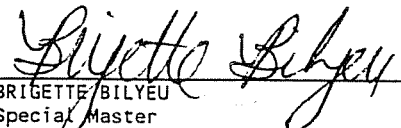
POINT OF DIVERSION: T06N R25E S14 SENWSE Within BUTTE County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	0.1 CFS

PLACE OF USE:	IRRIGATION	Within BUTTE County
	T06N R25E S26	SESE 5.0
	5.0 ACRES TOTAL	

CONSUMPTIVE USE: 12.5 AFY

DATED July 11, 1996.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication