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AUG 05 1996

Department of Water Resources

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW FOR
	)	
	)	WATER RIGHT 34-00163
	)	

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 and abstracted 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 water right 34-00163 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 *Notice of Withdrawal of Objection* 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 establishing 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. An *Amended 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 *Amended 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 *Amended Standard Form 5*.

All elements of the water right as stipulated to in the *Amended 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 *Amended Standard Form 5* to which IDWR is a signatory.

CONCLUSIONS OF LAW

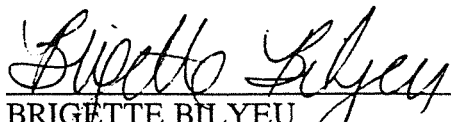
Under *SRBA Administrative Order 1*, a Special Master is required to make a recommendation to the Presiding Judge as to whether and how a water right should be recommended for each subcase.

A Preliminary Special Master's Report and Recommendation; Findings of Fact and Conclusions of Law, was issued for subcase 34-00163 on July 18, 1996. No Motions to Reconsider or Motions to Correct Clerical Errors were filed, and the time for such motions has now expired.

The *Amended Standard Form 5* is *prima facie* evidence of this water right. The record on file for this subcase, including the *Amended 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 *Amended Standard Form 5* as described in the Findings of Fact above.

Therefore, based on the file and record herein, IT IS RECOMMENDED that water right 34-00163 be decreed with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED August 2, 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)

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SPECIAL MASTER'S RECOMMENDATION FOR 3:33

PARTIAL DECREE FOR DISTRICT COURT-SRBA

Water Right 34-001631 TWIN FALLS CO., IDAHO

FILED 17

Department of Water Resources

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

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

QUANTITY: 1.9 CFS

USE OF THIS RIGHT WITH RIGHTS NO. 34-10219 AND 34-02379A,
IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.90 CFS.

PRIORITY DATE: 06/01/1894

POINT OF DIVERSION: T06N R25E S14

SENWSE

Within CUSTER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
Irrigation Season

QUANTITY
1.9 CFS

PLACE OF USE:

IRRIGATION
T06N R26E S31
89.0 ACRES TOTAL

Within BUTTE County
NENW 39.0

NWNW 10.0

SENW 31.0

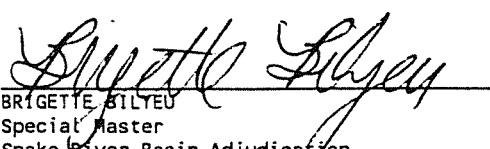
NESW 9.0

USE OF THIS RIGHT WITH RIGHTS NO. 34-10219 AND 34-02379A,
IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 89 ACRES IN A
SINGLE IRRIGATION SEASON.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHTS NO. 34-10219 AND 34-02379A,
IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF
222.5 AF.

DATED August 2, 1996.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication