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Department of Water Resources

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DISTRICT COURT-SRDA
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

) Subcase: 36-08649

Case No. 39576

)
) SPECIAL MASTER'S REPORT
)
)
)
)

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/294 afy 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.

An *Amended Preliminary Special Master's Report and Recommendation* was issued on May 13, 1996, with the quantity element described only as a diversion rate of 1.47 cfs. The

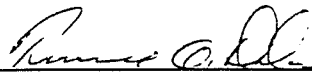
recommended diversion volume was deleted. In response, IDWR lodged with the Court its *Report Re: Review of Standard Form 5* stating that the quantity element should include both a diversion rate of 1.47 cfs and a diversion volume of 294 afy. Then, the Court entered its *Order Requiring Report on Annual Diversion Volume*. On August 1, 1996, IDWR lodged two reports: *Report Regarding Annual Diversion Volume for Irrigation* and *Report Regarding Development of Standards for Annual Volume of Irrigation Requirements at the Field Headgate*. IDWR urged that, except for certain *de minimis* domestic and stock watering use claims, groundwater is best quantified by both diversion rate (cfs) and annual diversion volume (afy). There were no other responses to the *Amended Preliminary 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.

Recent amendments to I.C. § 42-1411(2)(c), permit the Director to describe the quantity element of a water right claim by rate of diversion in cfs or annual volume of diversion in afy "as necessary for the proper administration of the water right." Having considered IDWR's diversion volume reports, the Court is convinced that it is appropriate and necessary for the proper administration of this right to define such rights to irrigate land with ground water by quantification of both the diversion rate and diversion volume.

DATED August 16, 1996.



TERRENCE A. DOLAN
Special Master, Reporting Area 3
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
PARTIAL DECREE FOR
Water Right 36-08649

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Department of Water Resources

NAME & ADDRESS: RAY MC CORD
ALICE MC CORD
RT 1
WENDELL ID 83355

SOURCE: GROUNDWATER

QUANTITY: 1.47 CFS
294.0 AFY

PRIORITY DATE: 01/25/1978

POINT OF DIVERSION: T07S R14E S34 NWNENE Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	1.47 CFS 294.0 AFY

PLACE OF USE:	IRRIGATION	Within GOODING County
	T07S R14E S34	NENE 35.5 NWNE 38.0
	73.5 ACRES TOTAL	

CONSUMPTIVE USE: 221.0 AFY

DATED:


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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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

Case No. 39576

CERTIFICATE OF MAILING

Water Right No. 36-08649

CERTIFICATE OF MAILING

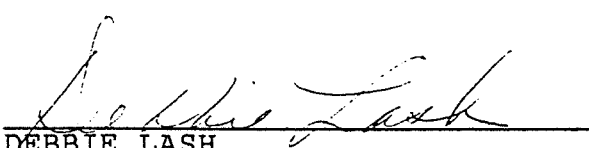
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF PRELIMINARY SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on August 16, 1996, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

CLIVE STRONG
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720

RAY MCCORD
MCCORD, ALICE
ROUTE 1
WENDELL, ID 83355

CHIEF, NTRL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
PO BOX 44449
BOISE, ID 83711-4449


DEBBIE LASH
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
08/16/96