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Department of Water Resources

1996 AUG 20 PM 2:12
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 34-00582
	)	

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 a recommendation or abstract for the elements of this water right.

An objection to the *Director's Report* for this water right 34-00582 was filed on February 26, 1993, by the United States Bureau of Land Management. On May 26, 1993 a response was filed by David and Linda Horre. A response was filed on May 28, 1993, by the Idaho Department of Water Resources. A *Standard Form for Notice of Change in Address or Motion for Substitution of Party* was filed June 1, 1993 by David and Linda Horre. There was no opposition to the *Motion for Substitution of Party* and an *Order Granting Motions for Substitution of Party* was issued on August 24, 1993, substituting David and Linda Horre for the original claimants. Subsequently, a settlement was reached as to how the elements of this water right could be decreed, and a *Standard Form 5 - Proposed Elements of a Water Right* was filed reflecting the agreement that the water right is correctly described in the *Director's Report*. The

signatories to the *Standard Form 5* are the claimants/respondents, David and Linda Horre; the objector, the United States Bureau of Land Management; and IDWR. 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 for element one, the name of the claimants. **Element 1**, the name of the claimants has changed pursuant to the *Order Granting Motions for Substitution of Parties* and shall reflect the claimant names of David and Linda Horre. The court gives *prima facie* weight to the *Standard Form 5* to which IDWR is 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 decreed for each subcase.

A *Preliminary Special Master's Report and Recommendation; Findings of Fact and Conclusions of Law*, was issued for subcase 34-00582 on July 31, 1996. No Motions to Reconsider or Motions to Correct Clerical Errors were filed, and the time for such motions has now expired.

Where a *Standard Form 5* is signed by every party to the subcase and the Idaho Department of Water Resources, it may be treated as an *Amended Director's Report* and given *prima facie* weight. The record on file for this subcase, including the *Standard Form 5*, clearly establishes the intent of the parties that water right 34-00582 be decreed with the elements as set forth in the *Standard Form 5* based on the Findings of Fact listed above.

Therefore, based on the file and record herein, IT IS RECOMMENDED that water right 34-00582 be **decreed** with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED August 20, 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
PARTIAL DECREE FOR DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
Water Right 34-00582
FILED

NAME & ADDRESS: DAVID A HORRE
LINDA HORRE
GENERAL DELIVERY
MACKAY ID 83251

SOURCE: LOWER CEDAR CREEK TRIBUTARY: SINKS

QUANTITY: 6.4 CFS

PRIORITY DATE: 08/27/1919

POINT OF DIVERSION: T07N R24E S02 SWNWSW Within CUSTER County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	6.4 CFS

PLACE OF USE:	IRRIGATION	Within CUSTER County
	T07N R24E S14	NWSW 40.0 Lot 4 (SWSW) 40.0
	S15 Lot 1	(SESE) 40.0
	S22	NENE 40.0
	S23	NWNW 40.0
	200.0 ACRES TOTAL	

CONSUMPTIVE USE: 500.0 AFY

DATED: AUG 20 1996


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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. 34-00582

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 20, 1996, with sufficient first-class postage prepaid to the following:

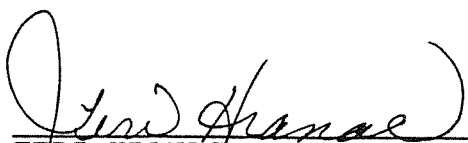
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OFFICE OF THE ATTORNEY GENERAL
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BOISE, ID 83711-4449

K. JACK HAUGRUD
U.S. DEPARTMENT OF JUSTICE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724-0663


TERI HRANAC
Deputy Clerk

CERTIFICATE OF MAILING

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08/20/96