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Department of Water Resources

1996 AUG 29 AM 8:40

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

Case No. 39576

) PRELIMINARY SPECIAL
) MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) For Water Right 34-00312B

I. FINDINGS OF FACT

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

An objection to the *Director's Report* for water right 34-00312B was filed on February 26, 1993 by the United States Bureau of Land Management. A response was filed on March 15, 1996 by the Estate of Chester Harper. A response was filed on July 9, 1993, by the State of Idaho Department of Water Resources. Subsequently, the United States filed a *Stipulation of Withdrawal of Objection* (Feb. 22, 1994) withdrawing its objection.

A *Standard Form 3 - Consent to Substitution of Party* was filed in this subcase, substituting Timothy S. and Karen I. Olson for the Estate of Chester Harper as claimants. Finally, 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* and an *Amended Standard Form 5* were filed

reflecting the settlement agreement of the parties. The signatories to the *Standard Form 5* and the *Amended Standard Form 5* are the new claimants, Timothy S. and Karen I. Olson; the objector, the United States Bureau of Land Management; 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*. The court gives prima facie weight to the *Standard Form 5* to which IDWR is a signatory.

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 claimant will be changed to reflect the purchase of the property by Timothy S. and Karen I. Olson as set forth in the *Standard Form 3*.

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.

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 *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 Findings of Fact.

Therefore, based on the file and record herein, IT IS RECOMMENDED that water right 34-00312B be decreed with the elements as set forth in the attached *Preliminary Special Master's Recommendation for Partial Decree*.

DATED August 27, 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 TWIN FALLS - SRBA
TWIN FALLS, IDAHO
Water Right 34-00312B

NAME & ADDRESS: TIMOTHY S OLSON
KAREN I OLSON
RT 1 BOX 23
MOORE ID 83255

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

QUANTITY: 0.06 CFS

PRIORITY DATE: 05/31/1894

POINT OF DIVERSION: T05N R26E S04

NWSESE

Within BUTTE County

PURPOSE AND

PERIOD OF USE: PURPOSE OF USE
IRRIGATION

PERIOD OF USE
Irrigation Season

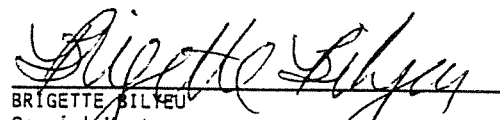
QUANTITY
0.06 CFS

PLACE OF USE: IRRIGATION
T05N R26E S33
1.5 ACRES TOTAL

Within BUTTE County
NESW 1.5

CONSUMPTIVE USE: 3.7 AFY

DATED August 29, 1996


BRIGETTE SYLVE
Special Master
Snake River Basin Adjudication

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In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right No. 34-00312B

CERTIFICATE OF MAILING

I certify that a true and correct copy of PRELIMINARY SPECIAL MASTER'S REPORT, PRELIMINARY SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF PRELIMINARY SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on August 29, 1996, with sufficient first-class postage prepaid to the following:

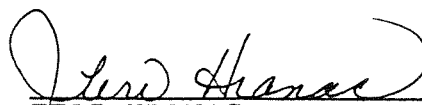
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

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

TIMOTHY S. OLSON
KAREN J. OLSON
ROUTE 1, BOX 23
MOORE, ID 83255

CHIEF, NTRL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
PO BOX 44449
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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08/29/96