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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - CSRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JAN 04 2016

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

Clerk

Deputy Clerk

In Re CSRBA

Case No. 49576

) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION ON MOTION
) TO SET ASIDE PARTIAL DECREE

) WATER RIGHT NO.: 92-10311

I. PROCEDURAL BACKGROUND

The CSRBA District Court issued a *Partial Decree* for this water right on September 25, 2015. On October 5, 2015, H. Dale Dimico filed correspondence with the Court asserting an error in the place of use. The court treated the *correspondence* as a *Motion to Set Aside Partial Decree*. Presiding Judge Eric J. Wildman issued an *Order of Reference Appointing Special Master Brigitte Bilyeu* on October 6, 2015. A hearing on the *Motion to Set Aside Partial Decree* was held on December 3, 2015. The movant did not appear at the hearing, but there was no opposition to the *Motion*.

II. FINDINGS OF FACT

In support of the *Motion*, IDWR explained that the legal description for the place of use is correct. However the county description is in error. The place of use is located in Shoshone County rather than in Benewah County. Therefore the *Motion* should be granted to correct the error. The place of use should be listed in Shoshone County. No parties to the CSRBA opposed the *Motion*.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motion to Set Aside Partial Decree* be **granted**, and that an *Amended Partial Decree* be issued with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*.

Dated: January 4, 2016.



BRIGETTE BILYEU, Special Master
Coeur d'Alene-Spokane 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

AMENDED

In Re CSRBA)
)
Case No. 49576)
)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 92-10311

DISTRICT COURT - CSRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 04 2016	
By _____	Clerk
Deputy Clerk	

NAME AND ADDRESS: H DALE DIMICO
99 BUTLER DR
ST MARIES, ID 83861

SOURCE: UNNAMED STREAM TRIBUTARY: TWO BIT CREEK
TWO BIT CREEK TRIBUTARY: ST MARIES RIVER

QUANTITY: 0.02 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 05/14/1920

POINT OF DIVERSION: T42N R02E S02 SWSW (Instream Beginning Point) Within Shoshone County
SWSW (Instream Ending Point)
SWSW (Instream Beginning Point)
SWSW (Instream Ending Point)
SWSW (Instream Beginning Point)
SWSW (Instream Ending Point)

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

Stockwater use is for the in-stream watering of livestock.

PLACE OF USE: Stockwater Within Shoshone County
T42N R02E S02 SWSW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a
determination of historical beneficial use.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

RECOMMENDATION
JAN 04 2016
<i>[Signature]</i> SPECIAL MASTER

Eric J. Wildman
Presiding Judge of the
Coeur d'Alene-Spokane River Adjudication

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_____	Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re CSRBA	)	SUBCASE NO.: 92-10311
	)	
Case No. 49576	)	NOTICE OF ISSUANCE OF
	)	SPECIAL MASTER'S
_____	)	RECOMMENDATION

On January 4, 2016, Special Master BRIGETTE BILYEU issued a ***SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE*** for the above subcase(s) pursuant to ***CSRBA Administrative Order 1 (AO1)***, Section 19d.

Pursuant to ***CSRBA Administrative Order 1***, section 18a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the ***Special Master's Report and Recommendation*** shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED: January 4, 2016.



JANET CONNELL
Deputy Clerk

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WATER RESOURCES

DISTRICT COURT - CSRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

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By _____

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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 CSRBA

) SUBCASE: 92-10311

Case No. 49576

) CERTIFICATE OF MAILING

_____)
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND
RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE was mailed on
January 4, 2016, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
P O BOX 83720
BOISE, IDAHO 83720-0098

H DALE DIMICO
99 BUTLER DR
ST MARIES, ID 83861
Phone: 208-245-3209


JANET CONNELL
Deputy Clerk