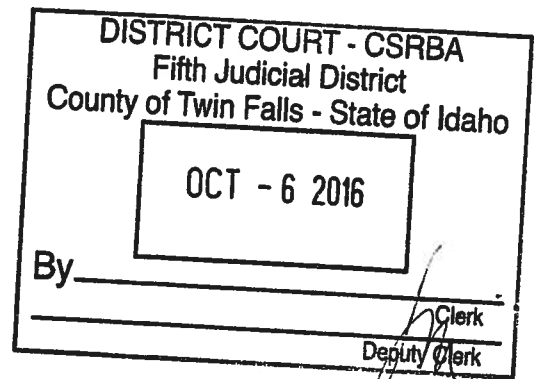


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OCT 07 2016

DEPARTMENT OF
WATER RESOURCES



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	)	Water Right 91-7094
	)	
Case No. 49576	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF FACT
	)	AND CONCLUSIONS OF LAW

I. PROCEDURAL BACKGROUND

The Claimants of this water right are Douglas and Darcy McInturff and Jeffery Shippy. The water claims are based on license no. 91-7094. The original claimants of this water right were Doug and Darcy McInturff. After the *Director's Report* was filed recommending the McInturffs as owners, Jeffery Shippy filed an *Objection*, and a competing late claim which was numbered 91-7894. After IDWR investigated both claims, it was unable to determine which Claimant had exclusive ownership of the right. Therefore, IDWR disallowed 91-7894 and recommended both Claimants as co-owners in the *Amended Director's Report* for 91-7094. The McInturffs filed an *Objection* to the *Amended Director's Report*, and Mr. Shippy filed a *Response*. The McInturffs and Mr. Shippy each claim exclusive ownership of this water right.

The McInturffs grow wild rice in northern Idaho. They base their claim to the license on a contract they entered into in 2001 to purchase a wild rice business. The 2001 contract was to buy a wild rice business from Alexander and Judith Bruner. The terms of the contract were to include equipment, leases, water rights, and other items owned by the Bruners. This contract and a Change of Ownership processed by IDWR are the basis of the McInturffs' claim to the water right.

The land on which this water right is used is not owned by the McInturffs. The land is owned by Cedar Creek, LLC. The principal of Cedar Creek, Jeffery Shippy, filed a competing

claim to this water right. Mr. Shippy asserted his ownership interest by filing an *Objection*, a late claim and a *Response* to the *Amended Director's Report*.

The original *Director's Report* recommended Doug and Darcy McInturff as the owners of this right. However, after Mr. Shippy's late claim was filed, IDWR filed an *Amended Director's Report* which recommended Doug and Darcy McInturff and Jeffery Shippy as co-owners of this water right.

A trial on this water right was held in Coeur d'Alene on August 3, 2016. The only element which was disputed was the ownership element. Both the McInturffs and Mr. Shippy attended the trial, called witnesses, and offered exhibits.

II. STANDARD OF REVIEW

A. Director's Reports

Director's Reports of water claims are *prima facie* evidence of the nature and extent of a water right. I.C. § 42-1411(4); *Clear Springs Foods, Inc. v. Clear Lakes Trout Co.*, 136 Idaho 761, 764, 40 P.3d 119, 122 (2002). The objecting party has the "burden of going forward" with evidence to establish any element which is in addition to or inconsistent with the description in the *Director's Report*.

"Any party filing an objection to any portion of the director's report shall have the burden of going forward with the evidence to rebut the director's report as to all issues raised by the objection." *State v. Hagerman Water Right Owners*, 130 Idaho 736, 742 (1997)

Therefore, the *Director's Report* is *prima facie* evidence of the nature and extent of this water right until the presumption afforded the *Director's Report* is rebutted. The burden of going forward with evidence to rebut the *Director's Report* is placed on the Objectors to provide evidence as to why the elements of the water right are not accurate.

B. Collateral Attack on Licenses

The District Court has long held that licenses duly issued by the Idaho Department of Water Resources cannot be collaterally attacked. "If a party is aggrieved by any aspect of a license, that party's remedy is to seek an administrative review and then, if necessary, a judicial review of the license. I.C. §§ 42-1701(A) and 76-5270; *Hardy v. Higginson*, 123 Idaho 485, 849 P.2d 946. If the license is not appealed when issued, any attempt to appeal the license in a subsequent judicial proceeding, like the SRBA, would constitute a collateral attack on the

license. See e.g., *Mosman v. Mathison*, 90 Idaho 76, 408 P.2d 450 (1965); *Bone v. City of Lewiston*, 107 Idaho 844, 693 P.2d 1046 (1984).” ***Supplemental Findings of Fact and Conclusions of Law*** (Facility Volume) (Subcases 36-2048 *et.al.*) (July 31, 1998) at 11 – 12.

In the Facility Volume case, the Special Master held that the Claimant was bound by the licenses for the rights at issue because Claimant did not appeal the remarks during the licensing proceedings. The Court said that once a license is issued by IDWR, “any attempt to redefine a license would be ‘tantamount’ to altering a real property right.” *Id.* At 11. Idaho Code § 42-220. In other words, if a licensee fails to appeal the condition of a license when the license is issued, the licensee has no judicial remedy. ***Order Granting Motion to Alter or Amend; Amended Findings of Fact and Conclusions of Law and Recommendation*** (Subcase 36-8099)(Aug. 20, 1999) at 3.

Based on long-standing case law, if an Objector disputes an element of a water right that was decided in a license, he would ordinarily have no remedy. The reason is that disputes about the elements of a water right are required to be brought during the licensing proceedings.

C. Dissolution of a Corporation

In Idaho, a corporation may be dissolved. When a dissolution of a corporation occurs, the dissolved entity continues to exist, and may take steps to wind up and liquidate its affairs. I.C. § 30-1-1405 (1997) established that a dissolved corporation may, among other things, a) collect its assets; b) dispose of its properties that will not be distributed to its shareholders, c) discharge its liabilities, and d) distribute its remaining property among its shareholders according to their interests.

III. ISSUES

IDWR recommended this right to both the McInturffs and Mr. Shippy. The parties dispute the co-ownership recommended in the *Amended Director’s Report*. None of the other elements of this water right is in dispute. The basis of the claims is License 91-7094. The question brought at trial was whether the McInturffs own this water right, whether Mr. Shippy owns this water right, or whether there is a basis for co-ownership of this right as recommended. To answer the ownership question, the primary issues are:

- 1) Is there evidence that the claimants shared ownership of this license or water right?
- 2) Does ownership of the place of use determine ownership of the license?

- 3) Since this right is based on license 91-7094, who owned the license?
- 4) When Al and Judith Bruner entered into the 2001 contract, did the Bruners own license 91-7094?
- 5) Did the 2001 contract transfer license 91-7094?
- 6) Was the Change of Ownership from the Bruners to the McInturffs valid?

IV. ANALYSIS

A. Duplicate Claims

IDWR received two separate claims for the water use based on license 91- 7094. The water right was originally claimed by Darcy and Douglas McInturff. (IDWR Ex. 17). The original *Director's Report* for this right recommended it as claimed by the McInturffs. (*See, Director's Report*) Mr. Shippy filed an *Objection* to the original *Director's Report* for 91-7094. In addition, Mr. Shippy filed a late claim for the same water use. The late claim was numbered 91-7893. IDWR recommended 91-7893 disallowed, and considered Mr. Shippy's claim as a competing claim to 91-7094. The *Amended Director's Report* recommended both the McInturffs and Mr. Shippy as co-owners of the water right.

The McInturffs' claim is based on the license and a contract entered into in 2001. The McInturffs do not own the place of use described in the license.

The land described in the place of use is owned by Cedar Creek, LLC, of which Mr. Shippy is a principal. Mr. Shippy's claim is based primarily on the ownership of the place of use.

B. The *Amended Director's Report*

The Idaho Department of Water Resources issued a *Director's Report*, an *Amended Director's Report* including all Claimants as co-owners, and a *Supplemental Director's Report*. (IDWR Ex. 1, Ex.2, Ex.3). Prior to filing the *Amended Directors Report*, IDWR reviewed documents provided by the Claimants showing their connection to this water right. (Testimony of Chad Goodwin). Throughout the process, the Claimants provided documents to IDWR in support of their theory of ownership. However, IDWR had difficulty determining which owners had the better legal basis. Ultimately IDWR could not determine which of the claims was valid. (IDWR Ex. 3);(Testimony of Chad Goodwin). Therefore, "[b]ased on the information presented . . . IDWR determined there was a conflict concerning ownership. Both parties, the McInturffs, and Shippy may have an interest in water right 91-7094. Because IDWR was not able to

determine which, if either, of the claimants had exclusive ownership of the water right, both Claimants were listed as owners in the Amended Director's Report." (IDWR Ex. 3 at 4). The *Amended Director's Report* is unusual because it added all of the competing claimants as owners of a single water right. The *Amended Director's Report* determination of ownership is afforded *prima facie* weight until rebutted.

C. Business Status

This water right began with an Application for Permit initiated by an unincorporated business known as St. Maries Wild Rice Growers. (IDWR Ex. 4);(Testimony of Chad Goodwin). The business was later incorporated with the State of Idaho. (IDWR Ex.6); (Testimony of Chad Goodwin). On February 13, 1984, Jeffrey P. Baker and Steven W. Bruner incorporated St. Maries Wild Rice, Inc. (Testimony of Chad Goodwin); (IDWR Ex. 6).

In 1987, the annual report for St. Maries Wild Rice Inc. listed Al W. Bruner as the registered agent in place of Steven W. Bruner. (IDWR Ex 6); (IDWR Ex. 12). The 1987 annual report also listed Jeffrey P. Baker as President and Al W. Bruner as Secretary. (IDWR Ex. 12).

IDWR did not have documents in the licensing file for 91-7094 to show that St. Maries Wild Rice Growers became St. Maries Wild Rice, Inc. or to show that St. Maries Wild Rice, Inc. assumed the assets of St. Maries Wild Rice Growers. In addition, there was no assignment to St. Maries Wild Rice, Inc. of permit 91-7094, nor was there a Change of Ownership filed for 91-7094 to change the name on the license from St. Maries Wild Rice Growers to St. Maries Wild Rice, Inc. (IDWR Ex. 3 at 3).

However, IDWR knew of the corporate changes from its familiarity with related water right 92-7090. IDWR considered the Assignment of Permit for the related Water Right 92-7090. In addition, IDWR considered that the address listed for St. Maries Wild Rice in the field exam for 91-7094 (IDWR Ex. 11) was identical to the address for St. Maries Wild Rice, Inc. in the annual report. (IDWR Ex. 12). IDWR also considered records from the Idaho Secretary of State's website showing that St. Maries Wild Rice, Inc. was administratively dissolved February 6, 1998.

D. Effect of License

The licensing process began with an *Application for Permit* for 91-7094, filed by St. Maries Wild Rice Growers and received by IDWR on Oct. 4, 1983. (IDWR Ex. 4)(Testimony of Chad Goodwin). The *Application* listed St. Maries Wild Rice Growers as the owners. The

application showed the owner of the place of use as Aaron Robinson. The basis for the water use is listed as a long term lease with the landowner. Although there was disagreement about whether IDWR should have required a written lease, there was no dispute that there was a lease agreement. The *Application for Permit* was advertised for two weeks as required. (IDWR Ex. 19); (Testimony of Chad Goodwin).

IDWR approved the permit for 91-7094 on Nov. 22, 1983. (IDWR Ex. 4) (Testimony of Chad Goodwin). The permit was in the name of St. Maries Wild Rice Growers. Saint Maries Wild Rice Growers was incorporated in February of 1984 after the Application for Permit was filed. (Testimony of Chad Goodwin) (IDWR Ex. 6, Ex.7).

In August of 1984, IDWR received a *Proof of Beneficial Use* signed by Al Bruner for St. Maries Wild Rice Growers. (IDWR Ex. 5). IDWR received an Examination Fee Information sheet from St. Maries Wild Rice on Sept. 5, 1986. (IDWR Ex. 9). A field examination was conducted by IDWR on July 8, 1987. (IDWR Ex. 11). Al Bruner accompanied the field examiner. (IDWR Ex. 3, Ex. 11). The license for 91-7094 was issued in the name of St. Maries Wild Rice Growers on Nov. 21, 1991. (IDWR Ex. 13).

Although IDWR did not have information about the incorporation of St. Maries Wild Rice Growers in its license file for this right, 91-7094, IDWR was aware of the corporate changes from its file for 92-7090. In February 1984, Jeffery Baker and Steven Bruner incorporated St. Maries Wild Rice, Inc. (IDWR Ex.6, Ex. 7). In 1987, the annual report for St. Maries Wild Rice, Inc. was filed with the Secretary of State of Idaho. (IDWR Ex. 12). The annual report showed that Al Bruner replaced Steven Bruner as the registered agent for the company. Jeffrey Baker was listed as President, and Al Bruner as the Secretary. The Secretary of State's records showed St. Maries Wild Rice, Inc. was administratively dissolved in February 1998. (IDWR Ex. 3 at 4).

Permit 91-7094 was not assigned to St. Maries Wild Rice Inc., and there was no Change of Ownership filed to change the name on the license to St. Maries Wild Rice, Inc. (IDWR Ex. 3); (Testimony of Chad Goodwin). However, IDWR knew of the Assignment of Permit from St. Maries Wild Rice Growers to St. Maries Wild Rice, Inc. for related water right 92-7090. (IDWR Ex. 10). Furthermore, IDWR compared the address listed for St. Maries Wild Rice in the Field Exam (Ex. 11) and noted that the same address for St. Maries Wild Rice, Inc. was listed for St. Maries Wild Rice. (IDWR Ex. 3).

In 1986, an Assignment of Permit was filed with IDWR for related right, 92-7090, changing ownership from St. Maries Wild Rice Growers to St. Maries Wild Rice, Inc. (IDWR Ex. 10). This Assignment of Permit changed the ownership from St. Maries Wild Rice Growers to St. Maries Wild Rice, Inc. (IDWR Ex.10);(Testimony of Chad Goodwin). There was no corresponding Assignment of Permit for this right, 91-7094. IDWR understood, however, that the changes for 92-7090 could likely have been intended for 91-7094 as well. (IDWR Ex. 3).

Nevertheless, the License remained in the name of St. Maries Wild Rice Growers from the time it was issued in 1991 until a Change of Ownership was filed August 17, 2005. (IDWR Ex. 13); (IDWR Ex. 15). The Change of Ownership form lists the name of the former owner as Alexander Bruner, and the name of the new owner as Douglas McInturff. (IDWR Ex. 15). The Department sent a letter to the McInturffs on Dec. 5, 2006 indicating that IDWR had processed the change of ownership in favor of the McInturffs. Neither the recorded prior owner, St. Maries Wild Rice Growers, nor the prior owner listed on the Change of Ownership, Mr. Bruner, challenged the change.

E. Sales Agreement

The McInturffs' claim to this license is based primarily on a contract. In 2001, Alexander and Judith Bruner sold their wild rice harvesting and equipment, incidental equipment, harvesting agreements and other items. These items were sold to Douglas and Darcy McInturff and documented by a contract. (IDWR Ex. 22)(Testimony of Chad Goodwin). The contract entitled *Sale of Wild Rice Harvesting Business* specifically addressed water rights. The contract said, "This sale and transfer will include all equipment, leases, water rights, harvest agreements, good will and other items, owned by the Bruners, associated with the wild rice industry in St. Maries." *Id.* The contract was intended to transfer and could only transfer those water rights which were owned by the Bruners. This is consistent with the notion that a seller may not legally transfer a thing which he does not own.

The 2001 contract indicates that it intended to transfer water rights. It is unclear what water rights were to be sold. The contract language states, "[t]he existing water rights included are registered with the Idaho Department of Water Administration as No. 92-07090 and No. 91-07094. These are valuable and absolutely essential to the operation. They are legal licenses which permit pumping water from the rivers into the fields at the specified rate. The licenses pertaining to Jeff Bakers (sic) fields were given to him earlier." (IDWR Ex.14).

The contract describes licenses 92-7090 and 91-7094 as registered with IDWR. The contract also indicates that Jeffrey Baker had previously obtained licenses. It is unclear whether 92-7090 and 91-7094 were listed because they were licenses which Jeffrey Baker had previously obtained, or these were licenses which were intended to be sold by Alexander and Judith Bruner. However, it is clear from the License for 91-7094 (IDWR Ex. 13) that at the time the license was issued, it was owned by St. Maries Wild Rice Growers. There is no evidence showing a transfer from St. Maries Wild Rice Growers to Al Bruner. IDWR understood from the related subcase 92-7090, that St. Maries Wild Rice Growers had become St. Maries Wild Rice, Inc. IDWR learned that St. Maries Wild Rice, Inc. was administratively dissolved in 1998. (IDWR Ex. 3). IDWR also knew that Al Bruner was listed as an officer of St. Maries Wild Rice, Inc., and had a connection to the assets of that business.

At the time the contract between the McInturffs and the Bruners was entered into in 2001, Alexander and Judith Bruner were not listed in IDWR's records as owners of license 91-7094. Nevertheless, it was reasonable for IDWR to connect the Bruners with the license for 91-7094 and to process the Change of Ownership in favor of the McInturffs. That Change of Ownership is not challenged by St. Maries Wild Rice Growers, St. Maries Wild Rice Inc., or the Bruners.

The 2001 contract price for the wild rice business was \$15,000. (IDWR Ex. 22). The contract was signed by Alexander and Judith Bruner, and Douglas and Darcy McInturff. The contract states it was entered into on July 15th 2001. (IDWR Ex. 22 at 1). The signature page identifies the date of the signatures as June of 2006, and October 2006. The signature page indicates that it was documenting an agreement which had taken place on July 15, 2001. (IDWR Ex. 22 at 3) .

G. Change of Ownership

In August of 2005, a Change of Ownership form was submitted to IDWR for water right 91-7094. (IDWR Ex. 15). The Change of Ownership form was submitted to IDWR along with the 2001 contract between the McInturffs and the Bruners. (IDWR Ex. 14). The Notice of Change in Water Right Ownership requested a change in ownership from Alexander Bruner to Douglas McInturff. (IDWR Ex. 15).

IDWR acknowledged the change of ownership for water rights 91-7094 in a letter to the McInturffs dated December 5, 2006. (IDWR Ex. 16). The letter has a reference line which indicates "Change of Ownership for Water Right Nos. 91-7094 & 92-7090" *Id.* The letter

indicates that the Change of Ownership was processed by IDWR. “The department acknowledges receipt of correspondence changing ownership of the above referenced water rights to you.” *Id.*

The Change of Ownership process is set forth in I.C. § 42-248. That statute establishes a process for notification of changes in ownership or changes of address of a water right owner. The statute requires notice to IDWR of any change in ownership. The notice is required to be provided to IDWR within 120 days of a change. It appears that the primary focus of the statute is to allow IDWR to maintain accurate records. Accordingly, the statute states that IDWR will provide notice of the proposed change to the prior owners. “[A] notice of the action is mailed to the address and owner of the water right shown in the records of the department of water resources at the time of mailing the notice.” I.C. § 42-248(3).

There is no evidence that notice of the Change of Ownership was mailed to the owner of record, St. Maries Wild Rice Growers, or St. Maries Wild Rice, Inc. In addition, there is no evidence that notice of the Change of Ownership was mailed to Alexander Bruner. However, IDWR approved the change, and there is no challenge to that process from any of the prior owners.

V. FINDINGS

The *Amended Director’s Report* included both the McInturffs and Mr. Shippy as co-owners of this water right. It appears that this conclusion was based on confusion as to which Claimant should be the owner. In reviewing the testimony at trial, the exhibits admitted, and the file of record, there is no evidence that shows a basis for co-ownership of this water right. The McInturffs and Mr. Shippy did not enter into any contracts. The McInturffs and Mr. Shippy did not have any common land ownership. The McInturffs and Mr. Shippy did not enter into any common leases. There are no records such as licenses or transfers which show a common interest in this right shared by the McInturffs and Mr. Shippy. Competing claims, unless unobjected to, are not evidence of co-ownership. Therefore the Court concludes that the McInturffs and Mr. Shippy are not co-owners of this water right.

Mr. Shippy’s claim relies primarily on his legal theory that the ownership of the place of use determines the owner of the license and thus the water right. Mr. Shippy gave a cogent and well-reasoned argument relating to ownership of land and water rights which are appurtenant to

the place of use. However, this Court thinks the better reasoned argument is that land ownership does not always determine the ownership of a water right used on the place of use. The notion that a place of use and a water right may have different owners is well established. *First Security Bank of Blackfoot v. State*, 49 Idaho 740 (1930). Therefore, the Court concludes that Mr. Shippy's ownership of the place of use does not control the question of who owns the water right. That is particularly important where, as here, ownership originated in a license. Therefore, the Court concludes that Mr. Shippy or Cedar Creek, LLC's ownership of the place of use, does not determine ownership of the water right.

This right is based on license 91-7094. The license was duly issued by IDWR after an Application for Permit, publication notice, Proof of Beneficial Use, and a field exam. The license was issued to St. Maries Wild Rice Growers. Although IDWR did not have an Assignment of Permit for this license to St. Maries Wild Rice, Inc., it was reasonable to conclude from the facts including the Assignment of Permit for related 92-7090, that the permit and license for 91-7094 were intended to transfer to St. Maries Wild Rice, Inc. There was no evidence at trial showing St. Maries Wild Rice Growers did not intend to transfer the permit and license to the corporation. Therefore, it is reasonable to conclude that St. Maries Wild Rice, Inc. owned the license for 91-7094.

The next question is whether Al Bruner acquired the license for 91-7094. The connections between Al Bruner and St. Maries Wild Rice, Inc. are numerous. Al Bruner signed the Application for Permit filed by St. Maries Wild Rice Growers. Al Bruner filed the 1987 annual report for St. Maries Wild Rice, Inc. Mr. Bruner was listed in the 1987 annual report as the Secretary and agent of the corporation. The corporation was administratively dissolved February 6, 1998. In 2001, Mr. Bruner entered into a contract with the McInturffs which identified license 91-7094. There were no intervening events such as a Transfer which transferred ownership of the license to another person or entity.

It would have been helpful to have direct evidence of what happened to the assets of St. Maries Wild Rice, Inc. at the dissolution of the corporation. However, it is reasonable to assume that Mr. Bruner acquired some of the assets of the business which had not been transferred or sold prior to the dissolution. It is known that Mr. Bruner acquired some assets of the dissolved corporation as shown by the Statement of Jeffrey P. Baker and Mary Lou Baker in related subcase 92-10502 (IDWR Ex. 28 from trial in 92-10502) Therefore, the Court concludes that it

is more likely than not that Mr. Bruner acquired license 91-7094 when the corporation was dissolved. Accordingly, the sale of 91-7094 is consistent with Idaho Code provisions which allow a corporation to distribute its remaining property to shareholders. I.C. § 30-1-1405 (1997). Accordingly, nothing in the record disputes Mr. Bruner's right to sell license 91-7094.

As a result, the 2001 contract between the Bruners and the McInturffs can be read to convey license 91-7094. (It should be noted that the 2001 contract should not be read to convey related license 92-7090 because Transfer 4547 changed ownership prior to the 2001 contract.)

The Change of Ownership which was filed in 2005 and approved by IDWR in 2006 was therefore valid for 91-7094.

The Court is mindful of the reasonable argument regarding appurtenance of water rights made by Mr. Shippy. His argument was made clearly and contained good reasoning. Nevertheless, the Court ultimately finds that the facts of record, the License and Change in Ownership determine ownership in this subcase. Therefore, the owners of this water right are Douglas and Darcy McInturff.

VI. Recommendation

After considering the pleadings, evidence, testimony and legal arguments of the parties this Special Master concludes that the McInturffs are the owners of water right 91-7094.

Based on the file and record herein, IT IS RECOMMENDED that water right 91-7094 is **decreed** with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: October 6, 2016.


BRIGETTE BILYEU
Special Master
Coeur d'Alene-Spokane River 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 CSRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 49576)
)
) Water Right 91-07094

NAME AND ADDRESS: DARCY MCINTURFF
DOUGLAS MCINTURFF
17786 E CANARY CREEK RD
CATALDO, ID 83810

SOURCE: ST JOE RIVER TRIBUTARY: COEUR D ALENE LAKE
UNNAMED STREAM TRIBUTARY: ST JOE RIVER

QUANTITY: 1.40 CFS
210.00 AFY

PRIORITY DATE: 11/23/1983

POINT OF DIVERSION: T46N R01W S18 LOT 2 (NENW) Within Benewah County
LOT 2 (NENW)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.40 CFS 210.00 AFY

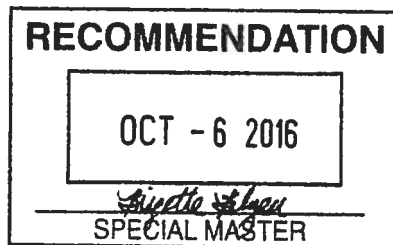
PLACE OF USE:	Irrigation	Within Benewah County
	T46N R01W S07 LOT 4 (SWSW) 1.5	SESW 22.0
	S18 LOT 1 (NENE) 1.5	NWNE 23.0
	LOT 7 (SWNE) 5.0	LOT 2 (NENW) 17.0
	70.0 Acres Total	

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

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.



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

DISTRICT COURT - CSRBA Fifth Judicial District County of Twin Falls - State of Idaho OCT - 6 2016 By _____ Clerk Deputy Clerk
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re CSRBA)
)
Case No. 49576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

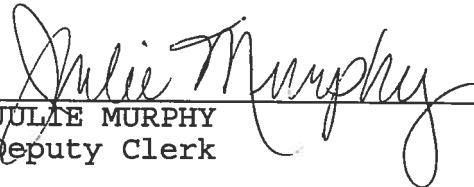
Water Right(s): 91-07094

On October 06, 2016, Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to CSRBA Administrative Order 1 (A01), Section 18a.

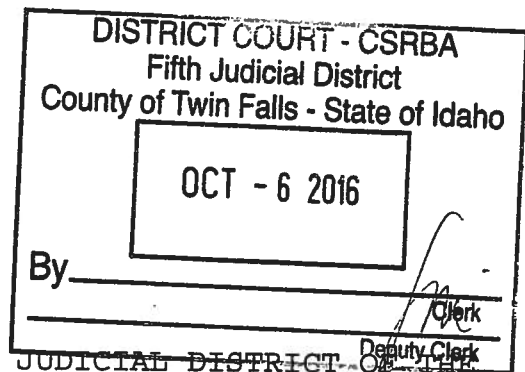
Pursuant to CSRBA Administrative Order 1 (A01), Section 18a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED October 06, 2016.



JULIE MURPHY
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)
Case No. 49576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 91-07094

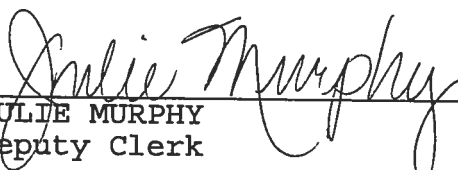
CERTIFICATE OF MAILING

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 SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on October 06, 2016, with sufficient first-class postage prepaid to the following:

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

DARCY MCINTURFF
DOUGLAS MCINTURFF
17786 E CANARY CREEK RD
CATALDO, ID 83810
Phone: 208-689-9308

JEFFREY C SHIPPY
95 FERGUSON ST
ST MARIES, ID 83861
Phone: 208-582-0582


JULIE MURPHY
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
10/06/16