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SEP 30 1996
Department of Water Resources
Adjudication Bureau

SEP 27 PM 2:14
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	)	PRELIMINARY SPECIAL MASTER'S
	)	REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 34-02266B

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 34-02266B was filed on March 1, 1996, by Young Harvey Walker. A response was filed on June 11, 1993, by the State of Idaho Department of Water Resources. Subsequently, a settlement was reached as to how the elements of this water right could be decreed, and a *Standard Form 5 - Stipulated Elements of a Water Right* was filed on March 14, 1995. The signatories to the *Standard Form 5* are the claimant, Young Harvey Walker; and the Idaho Department of Water Resources. Thus it appears that all parties to this subcase, and the IDWR, are signatories to the *Standard Form 5*. In addition, since IDWR is a signatory to the *Standard Form 5*, the court recognizes the *Standard Form 5* as an *Amended Director's Report*, and gives it *prima facie* weight.

As stipulated to in the *Standard Form 5*, all elements of the water right remain **unchanged** from the original *Director's Report*.

II. 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.

Where a *Standard Form 5* is signed by the only 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 34-02266B be decreed with the elements as agreed to in *Standard Form 5* and as set forth in the Findings of Fact.

Therefore, based on the file and record herein, IT IS RECOMMENDED that water right 34-02266B be **decreed** with the elements as set forth in the attached *Preliminary Special Master's Recommendation for Partial Decree*.

DATED September ²⁷~~24~~, 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

1996 SEP 27 PM 2:14

SPECIAL MASTER'S RECOMMENDATION FOR SRBA
DISTRICT COURT SRBA
PARTIAL DECREE FOR TWIN FALLS CO., IDAHO
Water Right 34-02266B _____

NAME & ADDRESS: YOUNG HARVEY WALKER
RT 1 BOX 200
ARCO ID 83213

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

QUANTITY: 1.4 CFS
245.0 AFY

PRIORITY DATE: 10/28/1942

POINT OF DIVERSION: T04N R26E S26

NWNWNW

Within BUTTE County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE
IRRIGATION

PERIOD OF USE
Irrigation Season

QUANTITY
1.4 CFS
245.0 AFY

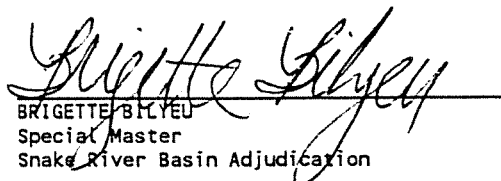
PLACE OF USE: IRRIGATION
T03N R26E S01
70.0 ACRES TOTAL

Within BUTTE County
NWSW 35.0

SWSW 35.0

CONSUMPTIVE USE: 175.0 AFY

DATED: SEP 27 1996


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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_____)

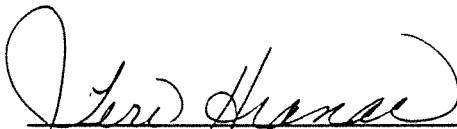
NOTICE OF ISSUANCE OF
PRELIMINARY SPECIAL MASTER'S
REPORT AND RECOMMENDATION

Water Right(s): 34-02266B

On September 27, 1996, Special Master BRIGETTE BILYEU issued a PRELIMINARY SPECIAL MASTER'S REPORT and a PRELIMINARY SPECIAL MASTER'S RECOMMENDATION pursuant to SRBA Administrative Order 1 sections 11 (e) and (f).

These documents are served only on parties to the subcase. They are not served on the Presiding Judge. Parties to this subcase may file a Motion for Reconsideration or a Motion to Correct Clerical Errors with the Special Master, but must do so before October 11, 1996.

DATED September 27, 1996.



TERI HRANAC
Deputy Clerk

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Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 34-02266B

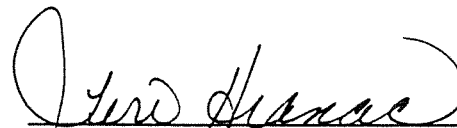
CERTIFICATE OF MAILING

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 September 27, 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

YOUNG HARVEY WALKER
ROUTE 1, BOX 200
ARCO, ID 83213


TERI HRANAC
Deputy Clerk

CERTIFICATE OF MAILING

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