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Department of Water Resources
Adjudication Bureau

SEP 27 PM 2:13
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	)	PRELIMINARY SPECIAL MASTER'S
	)	REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 34-02552

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 34-02552 was filed on March 16, 1993, by the P.U. Ranch. A response was filed on July 19, 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 July 27, 1995. The signatories to the *Standard Form 5* are the claimant, the United States Bureau of Land Management; the objector, the P.U. Ranch; 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 34-02552 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 34-02552 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 2:13
SPECIAL MASTER'S RECOMMENDATION FOR

PARTIAL DECREE FOR

Water Right 34-02552
TWIN FALLS CO., IDAHO

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

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SOURCE: SPRING

TRIBUTARY: SINKS

Department of Water Resources
Adjudication Bureau

QUANTITY: 0.01 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 06/20/1947

POINT OF DIVERSION: T04N R25E S32

SENW

Within BUTTE County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
STOCKWATER

PERIOD OF USE
01-01 12-31

QUANTITY
0.01 CFS

PLACE OF USE:

STOCKWATER
T04N R25E S32

Within BUTTE County
SENW

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.

DATED: SEP 27 1996


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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In Re SRBA)
Case No. 39576)
_____)

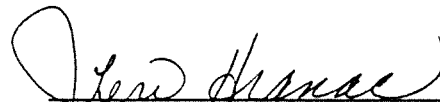
NOTICE OF ISSUANCE OF
PRELIMINARY SPECIAL MASTER'S
REPORT AND RECOMMENDATION

Water Right(s): 34-02552

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

SEP 27 PM 2:13

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(s): 34-02552

CERTIFICATE OF MAILING

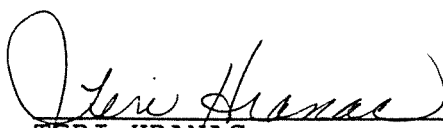
I certify that a true and correct copy of PRELIMINARY SPECIAL MASTER'S REPORT, PRELIMINARY SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF PRELIMINARY SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on September 27, 1996, with sufficient first-class postage prepaid 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~~

KENT W FOSTER
PO BOX 50130
IDAHO FALLS, ID 83405

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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09/27/96