

In Re CSRBA	) SPECIAL MASTER'S REPORT
Case No. 49576	) ) FOR WATER RIGHT 95-16925 )

A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of this water right.

No objections were filed to the *Director's Report* for this claim. However, during the process of proof-reading the uncontested partial decrees for Basin 95 Part 1, Court staff noticed that the period of use for the Domestic purpose of this right was recommended as "01-01 TO 01-01" (i.e. a one day per year period of use of January 1 to January 1). Further inquiry revealed that the Notice of Claim for the water right submitted to IDWR on September 26, 2014, by Diane Nybo and Tod Nybo listed the claimed period of use for Domestic purpose as: "From 01/01 To 01/01." (Note that the Stockwater portion of the right was claimed as "From 01/01 To 12/31".) Suspecting that the claimed Domestic period of use may be an error or typo, Court staff spoke with Tod Nybo via telephone on August 20, 2019. A notation in the Court file indicates that Mr. Nybo stated he intended to file an amended claim with the department to claim a year 'round domestic period of use. To date, an amended claim has not been filed. A telephonic status conference was held on November 5, 2019. Neither Tod nor Diane Nybo, nor anyone on their behalf, appeared at the telephonic status conference. The Certificate of Mailing in the Court file shows that notice of the status conference was sent to Diane Nybo and Tod Nybo at 10555 E Parks Rd, Athol, ID 83801. Absent the filing of an amended claim by the claimants, neither the Court nor IDWR can take any action to remedy what appears to be an error in the Notice of Claim.

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 95-16925 be decreed as with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated November 6, 2019

Theodore R. Booth 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

Water Right 95-16925

NAME AND ADDRESS:

DIANE L NYBO TOD C NYBO 10555 E PARKS RD ATHOL, ID 83801

SOURCE:

GROUND WATER

OUANTITY:

0.04 CFS

The quantity of water under this right shall not exceed 13,000

gallons per day.

PRIORITY DATE:

04/18/1995

POINT OF DIVERSION:

T53N R03W S24

SWNE

Within Kootenai County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

Stockwater Domestic 01-01 TO 12-31

0.02 CFS

Domestic

01-01 TO 01-01

0.04 CFS

Domestic use is for 1 home.

PLACE OF USE:

Stockwater

Within Kootenai County

T53N R03W S24

SWNE

Within Kootenai County

Domestic

T53N R03W S24

SWNE

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
Presiding Judge of the

Coeur d'Alene-Spokane River Adjudication

NOV - 6 2019

SPECIAL MASTER

CSRBA -PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) Water Right 95-16925 File Number: 00692