

2003 JUN -5 PM 1: 27

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     | ) | SPECIAL MASTER'S REPORT AND |
|                | ) | RECOMMENDATION; FINDINGS OF |
| Case No. 39576 | ) | FACT AND CONCLUSIONS OF LAW |
|                | ) |                             |
|                | ) |                             |
|                | ) | FOR WATER RIGHT: 31-10740   |
| _____          | ) |                             |

I. FINDINGS OF FACT

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

*Objections* were filed by the Idaho Department of Lands and Margaret, James and David Hagenbarth on September 7, 2001. Responses were filed by the USDA Forest Service and Mud Lake Water Users, Inc. An *Amended Director's Report* was filed on April 23, 2002. A *Corrected Amended Director's Report* was filed on May 9, 2002.

*Objections* were filed to the *Corrected Amended Director's Report* by Mud Lake Water Users, Inc., Margaret, James, and David Hagenbarth and Larry Singleton. A *Response* was filed by the US Agricultural Research Service on June 6, 2002. A *Second Corrected Amended Director's Report* was filed on September 26, 2002.

*Objections* were filed to the *Second Corrected Amended Director's Report* by Mud Lake Water Users, Inc., Margaret, James and David Hagenbarth and Larry Singleton. A *Response* was

filed by the USDA Forest Service on December 17, 2002. A *Standard Form 5* was filed on May 27, 2003. All parties to the subcase and IDWR are signatories to the *Standard Form 5*. There are no unresolved objections remaining.

## II. CONCLUSIONS OF LAW

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

DATED: June 5, 2003.

  
\_\_\_\_\_  
BRIGETTE BILYEU  
Special Master  
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

2003 JUN -5 PM 1:27

In Re SRBA )  
 )  
Case No. 39576 )  
\_\_\_\_\_ )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 31-10740

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

NAME AND ADDRESS: DAVID J HAGENBARTH  
JAMES F HAGENBARTH  
MARGARET HAGENBARTH  
PO BOX 1128  
DILLON, MT 59725-1128

SOURCE: DRY CREEK TRIBUTARY: CAMAS CREEK

QUANTITY: 8.68 CFS

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

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF 21.79 CFS. COMBINED RIGHT NOS.:  
31-02274, 31-02275, 31-10245, 31-10740.

PRIORITY DATE: 11/10/1893

PURSUANT TO A CALL IN TIMES OF SCARCITY THE PRIORITY DATE  
OF THIS WATER RIGHT IS NOVEMBER 2, 1930. IN ADDITION, THE PRIORITY  
FOR THIS WATER RIGHT IS SUBORDINATED TO THE POINT OF DIVERSION  
LOCATED IN THE SWSE OF SECTION 5 OF T13N R40E OF WATER RIGHT  
NUMBERS 31-80 AND 31-326, AS DESCRIBED BY THE STIPULATION AND  
SUBORDINATION AGREEMENT RECORDED ON MARCH 17, 2003, AS INSTRUMENT  
NO. 050002 IN THE OFFICES OF THE CLARK COUNTY RECORDER.

POINT OF DIVERSION: T13N R40E S09 NWNWSW Within Clark County

PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------|----------------|----------------|----------|
|                | Irrigation     | 05-01 TO 10-31 | 8.68 CFS |
|                | Stockwater     | 05-01 TO 10-31 | 0.23 CFS |

| PLACE OF USE: | Irrigation    |             | Within Clark County |
|---------------|---------------|-------------|---------------------|
|               | T13N R40E S10 | SESW 25.0   | NESE 27.0           |
|               |               | NWSE 12.0   | SWSE 37.0           |
|               |               | SESE 40.0   |                     |
|               | S11           | NWSW 3.5    | SWSW 37.0           |
|               |               | SESW 28.0   | NESE 9.4            |
|               |               | SWSE 31.0   | SESE 34.0           |
|               | S12           | NESW 5.0    | NWSW 35.0           |
|               |               | SWSW 6.2    |                     |
|               | S14           | NENE 2.7    | NWNE 11.0           |
|               |               | NENW 14.0   | NWNW 5.0            |
|               | S15           | NENE 40.0   | NWNE 40.0           |
|               | S21 LOT 4     | (NWNW) 25.0 | LOT 5 (SWNW) 6.6    |
|               |               | SESW 5.0    | SWSE 11.0           |
|               | S23           | SWSW 40.0   | SESW 19.0           |
|               | S26           | NENW 32.0   | NWNW 40.0           |
|               |               | SWNW 29.0   |                     |
|               | S27           | NENE 40.0   | NWNE 18.0           |
|               |               | SENE 40.0   | NENW 18.0           |
|               |               | NWNW 10.0   | SWNW 18.0           |
|               |               | SENW 14.0   |                     |
|               | S28           | NENE 27.0   | NWNE 18.0           |
|               |               | SWNE 40.0   | SENE 40.0           |
|               |               | NENW 32.0   | NWNW 4.1            |
|               |               | SWNW 8.1    | SENW 27.0           |

PLACE OF USE (continued)

S29 LOT 2 (NWNE)13.0 SWNE 21.0  
SENE 11.0  
1089.6 Acres Total

Stockwater Within Clark County  
Same as Irrigation

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1089.6 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-02274, 31-02275, 31-10245, 31-10740.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 434 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. PLACE OF USE IN T13N R40E S11 NWSW DOES NOT INCLUDE ANY STATE PUBLIC SCHOOL ENDOWMENT LAND.

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

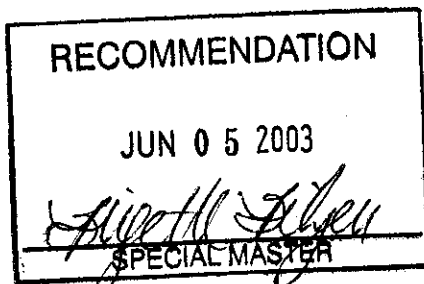
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

RIGHTS HAVE ALSO BEEN CLAIMED TO WATER FROM BASIN 21 FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE, WHICH WILL BE INCLUDED IN A DIRECTOR'S REPORT TO BE FILED AT A LATER DATE. ANY WATER RIGHTS RECOMMENDED IN THE BASIN 21 REPORT FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE WILL CONTAIN COMBINED USE LIMITATIONS FOR THIS RIGHT AND THE BASIN 21 RIGHTS.

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.



Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

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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 SRBA )  
Case No. 39576 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

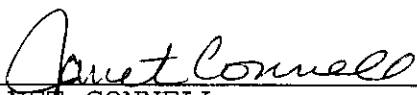
Water Right(s): 31-10740

On June 05, 2003, Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, 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 June 05, 2003.

  
\_\_\_\_\_  
JANET CONNELL  
Deputy Clerk

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Case No. 39576 )  
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CERTIFICATE OF MAILING

Water Right(s): 31-10740

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 June 05, 2003, with sufficient first-class postage prepaid to the following:

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

MARGARET, DAVID HAGENBARTH  
Represented by:  
BLOOMQUIST, JOHN E.  
DONEY, CROWLEY, BLOOMQUIST  
108 S WASHINGTON  
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Phone: 406-683-8795

MUD LAKE WATER USERS, INC  
MUD LAKE WATER USERS, INC.  
Represented by:  
KENT W FOSTER  
PO BOX 50130  
IDAHO FALLS, ID 83405  
Phone: 208-523-0620

CERTIFICATE OF MAILING

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HAGENBARTH, MARGARET DAVID  
MARGARET HAGENBARTH  
MARGARET, DAVID HAGENBARTH

Represented by:  
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PO BOX 2720  
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LARRY SINGLETON  
Represented by:  
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PO BOX 250  
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UNITED STATES - USDA  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
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\_\_\_\_\_  
JANET CONNELL  
Deputy Clerk