

2003 JUN -5 PM 1:26
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 31-02275
	)	

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.

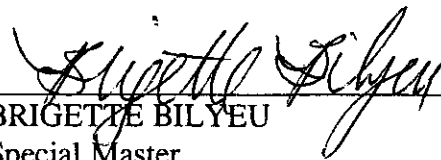
An *Objection* was filed by Idaho Department of Lands on September 7, 2001. USDA Forest Service filed a *Response* on November 9, 2001. An *Amended Director's Report* was filed on April 23, 2002.

Mud Lake Water Users, Inc. filed an *Objection* to the *Amended Director's Report* on May 14, 2002. A *Motion for Leave to Withdraw Objection* was filed by Mud Lake Water Users, Inc. on May 15, 2003. There are no 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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 31-02275

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TWIN FALLS CO., IDAHO
FILED

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

SOURCE: DRY CREEK TRIBUTARY: SPRING CREEK

QUANTITY: 12.80 CFS

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: 03/31/1944

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	12.80 CFS
	Stockwater	05-01 TO 11-30	0.24 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 38.0
		SENE 40.0	NENW 18.0
		NWNW 10.0	SWNW 18.0
		SENW 14.0	
	S28	NENE 27.0	NWNE 38.0
		SWNE 40.0	SENE 40.0
		NENW 32.0	NWNW 4.1
		SWNW 8.1	SENW 27.0
	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.

PLACE OF USE (continued)

31-10245, 31-10740.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 706 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:

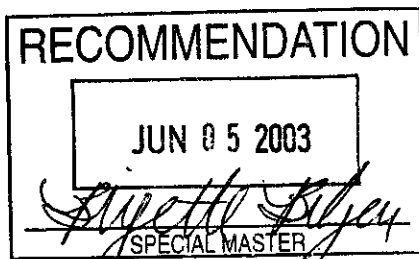
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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
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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

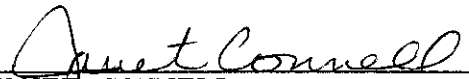
Water Right(s): 31-02275

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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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 31-02275

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

DAVID J HAGENBARTH
Represented by:
MICHAEL C. CREAMER
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

JAMES F HAGENBARTH
MARGARET HAGENBARTH
PO BOX 1128
DILLON, MT 59725
Phone: 406-683-2163

CERTIFICATE OF MAILING


JANET CONNELL
Deputy Clerk

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