

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2004 SEP 9 PM 3 40

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      |
|                | ) |                                  |
|                | ) | WATER RIGHT NOS.: 29-320, 29-321 |
|                | ) | AND 29-322                       |

I. FINDINGS OF FACT

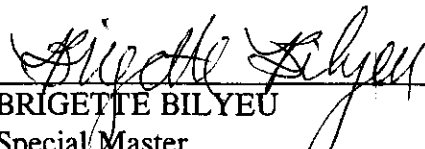
Claims were filed for these water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained recommendations for the elements of these water rights.

A *Motion to File Amended Notice of Claim* was filed by Bonnie Jenkins, Debbie Treasure, David Mark Treasure, and Elizabeth Vaughan on May 13, 2004. An *Amended Director's Report* was filed on June 25, 2004. The *Amended Director's Report* was placed on the Docket Sheet. No objections were filed to the *Amended Director's Report*, and the time for filing such objections has now expired.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that these water rights be decreed with the elements set forth in the attached *Special Master's Recommendations for Partial Decrees*.

DATED: September 9, 2004.

  
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

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO

In Re SRBA )  
 )  
Case No. 39576 )  
 )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 29-00322

FILED  
2004 SEP 9 PM 3 40

NAME AND ADDRESS: ELIZABETH VAUGHAN  
100 E 12TH ST  
MC CAMMON, ID 83250

DEBBIE TREASURE  
218 S 100 W  
LOGAN, UT 84321

DAVID MARK TREASURE  
2615 N 800 E  
LOGAN, UT 84321

BONNIE JENKINS  
368 S MAIN  
MALAD, ID 83252

SOURCE: BIRCH CREEK TRIBUTARY: MARSH CREEK

QUANTITY: 4.78 CFS

THE AMOUNT OF WATER DIVERTED UNDER THIS WATER RIGHT MAY NOT  
EXCEED 4/24 OF THE STREAM FLOW OF BIRCH CREEK AT THE POINT OF  
DIVERSION DESCRIBED BELOW AT ANY GIVEN TIME. THIS WATER RIGHT  
SHALL NOT PROVIDE MORE THAN .02 CUBIC FEET PER SECOND PER ACRE  
AT ANY TIME.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF 4.78 CFS. COMBINED RIGHT NOS.:  
29-320, 29-321, 29-322.

PRIORITY DATE: 10/10/1878

|                     |               |        |               |                       |
|---------------------|---------------|--------|---------------|-----------------------|
| POINT OF DIVERSION: | T11S R36E S36 | NENWNW | (Rediversion) | Within Bannock County |
|                     | T12S R36E S23 | SESENE | (Rediversion) |                       |
|                     | S27           | SENWSW |               |                       |
|                     |               | SENWSW | (Injection)   |                       |
|                     |               | SWNWSW | (Injection)   |                       |
|                     |               | SWNWSW |               |                       |

|                               |                |                |          |
|-------------------------------|----------------|----------------|----------|
| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|                               | Irrigation     | 04-01 TO 10-31 | 4.78 CFS |

|               |                   |                              |
|---------------|-------------------|------------------------------|
| PLACE OF USE: | Irrigation        | Within Bannock County        |
|               | T11S R36E S25     | NESW 10.0 NWSW 17.0          |
|               |                   | SWSW 14.0 SESW 28.0          |
|               |                   | SWSE 30.0 SESE 9.9           |
|               | S26               | NESE 11.0 NWSE 2.2           |
|               |                   | SWSE 18.0 SESE 34.0          |
|               | S35               | NENE 1.1                     |
|               | S36               | NENE 12.0 NWNE 8.1           |
|               | R37E S30 LOT 3    | (NWSW) 8.5 LOT 4 (SWSW) 35.0 |
|               | 238.8 Acres Total |                              |

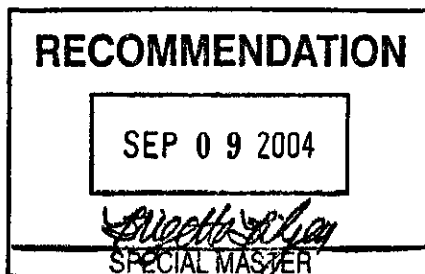
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO  
THE IRRIGATION OF A COMBINED TOTAL OF 238.8 ACRES IN A SINGLE  
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-320, 29-321, 29-322.

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

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.



\_\_\_\_\_  
John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

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

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

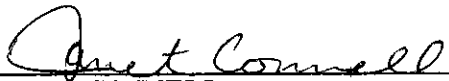
Water Right(s): 29-00320  
29-00321 29-00322

On September 09, 2004, 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 September 09, 2004.

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

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In Re SRBA )

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

CERTIFICATE OF MAILING

Water Right(s): 29-00320  
29-00321 29-00322

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 September 09, 2004, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA  
Represented by:  
DAVID NEGRI  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATURAL RESOURCE  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

CERTIFICATE OF MAILING

PAGE 1  
09/09/04

BONNIE JENKINS  
DAVID MARK TREASURE  
DEBBIE TREASURE  
ELIZABETH VAUGHAN

Represented by:  
RANDALL C BUDGE  
PO BOX 1391  
201 E CENTER, STE A2  
POCATELLO, ID 83204-1391  
Phone: 208-232-6101

UNITED STATES OF AMERICA  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
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\_\_\_\_\_  
JANET CONNELL  
Deputy Clerk