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Department of Water Resources

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WATER RIGHTS DIVISION
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

Case No. 39576

)
) **SPECIAL MASTER S REPORT AND**
) **RECOMMENDATION; FINDINGS OF**
) **FACT AND CONCLUSIONS OF LAW**
)
) **FOR WATER RIGHTS 31-00289B,**
) **31-11772, 31-11773 AND 31-11774**

I. FINDINGS OF FACT

A notice of claim was filed for water right 31-00289B 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.

All *Objections* to the water right claim were resolved by stipulation of the parties with a *Standard Form 5* which resulted in splitting the former parent right 31-00289B into assigned split right numbers 31-11772, 31-11773 and 31-11774. In addition, *Standard Form 5/Amended Claims* were filed for two of the split rights, 31-11773 and 31-11774. All parties to the subcase and IDWR are signatories to the *Standard Form 5*. The elements of these water rights as stipulated to in the *Standard Form 5* differ from the original *Directors Report* for 31-00289B to accommodate the division of the right.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that water right 31-00289B **not be confirmed** in any partial or final decree. IT IS FURTHER RECOMMENDED that water rights 31-11772, 31-11773 and 31-11774 be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: August 12, 2002.


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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 31-11772

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: L & M CATTLE CO INC
440 N 4300 E
RIGBY, ID 83442

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Department of Water Resources

SOURCE: PATELZICK CREEK TRIBUTARY: BEAVER CREEK

QUANTITY: 2.00 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.00 CFS. COMBINED RIGHT NOS.:
31-11773 AND 31-11774.

PRIORITY DATE: 01/06/1900

POINT OF DIVERSION: T12N R35E S36 NESESW Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	2.00 CFS
	Stockwater	05-01 TO 12-31	0.20 CFS

PLACE OF USE:	Irrigation	Within Clark County
	T11N R35E S12	SWNE 12.0 SENE 19.0
		SENW 1.2 NESW 4.0
		NESE 3.1 NWSE 13.0
	R36E S07 LOT 1 (NWNW) 0.8 LOT 2 (SWNW) 20.0	
	73.1 Acres Total	

Stockwater Within Clark County
Same as Irrigation

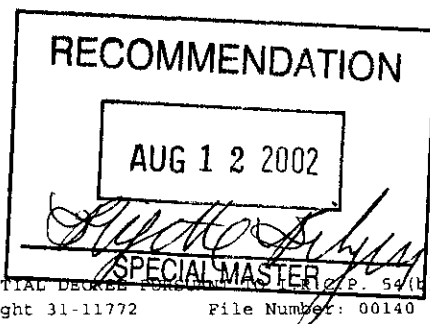
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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

In Re SRBA

Case No. 39576

Water Right 31-11773

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *[Signature]*

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 31-11774

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *4*

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WY
BOISE, ID 83709-1657

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SOURCE: PATELZICK CREEK TRIBUTARY: BEAVER CREEK
QUANTITY: 0.02 CFS

Department of Water Resources

USE OF THIS RIGHT WITH RIGHT NO. 31-11773 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 0.08 CFS.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 2.00 CFS. COMBINED RIGHT NOS.:
31-11772 AND 31-11773.

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

PRIORITY DATE: 04/01/1900

POINT OF DIVERSION: T12N R35E S13 SESESW Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-01 TO 12-31	0.20 CFS

PLACE OF USE:	Stockwater	Within Clark County
	T12N R35E S26	NWNE NESW

TWO STOCK TROUGHS ARE LOCATED IN T12N, R35E, S26, NWNE.

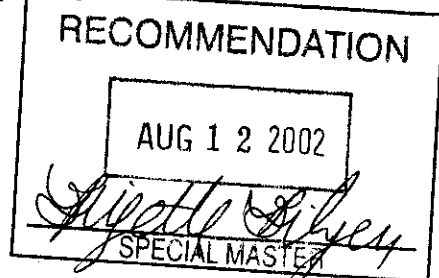
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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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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): 31-11772
31-11773 31-11774

31-00089B - DISALLOWED

On August 13, 2002, 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 August 13, 2002.


JANET CONNELL
Deputy Clerk

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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 31-11772
31-11773 31-11774

31-00289B - DISALLOWED

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 August 13, 2002, with sufficient first-class postage prepaid to the following:

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

L & M CATTLE CO INC
Represented by:
RAY W. RIGBY
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WY
BOISE, ID 83709-1657

CERTIFICATE OF MAILING

Janet Connell PAGE 1
JANET CONNELL 08/13/02
Deputy Clerk