

2003 FEB -5 PM 4: 13

FILED  
TWIN FALLS CO., IDAHO

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 NOS.: 37-13487,         |
|                | ) | 37-13488, 37-13493, 37-13554, 37-13577, |
|                | ) | 37-13584, 37-13666, 37-13684, 37-19921, |
|                | ) | 37-19980 and 37-19985                   |

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I. FINDINGS OF FACT

Claims were filed for the above listed 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. The claims were based only on state law, and asserted early priority dates.

*Objections* were filed by the USDA Forest Service on September 10, 1999. *Objections* were filed by Pickett Ranch & Sheep Co., Joe Tugaw, Jared Bedke, Bruce Bedke, Joyce Livestock Company, Jerry Hoagland, Scott Bedke, Karl Bedke, Michael Poulton, Gary Poulton and Western Stockgrowers Association (hereafter "Second Objectors") on September 10, 1999.

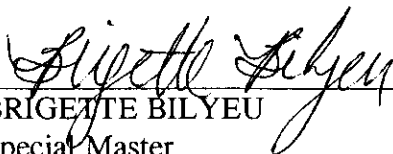
The "Second Objectors" filed a *Notice of Withdrawal of Objections and Responses* on August 29, 2002. The remaining *Objections* were resolved with the filing of *Standard Forms 5/Amended Claims* on December 2, 2002. All parties to the subcases and IDWR are signatories to the *Standard Forms 5/Amended Claims*. The *Standard Forms 5/Amended Claims* were placed on the Docket Sheet. No objections were filed and the time for filing such objections has now expired. There are no unresolved objections remaining in these subcases.

## II. CONCLUSIONS OF LAW

The United States claimed these rights under state law. There is no assertion that these rights are based on a federal reservation. The United States claimed early priority dates for these rights. The priority dates were investigated by IDWR and recommended in the *Director's Report*. The *Director's Report* has *prima facie* weight.

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

DATED: February 5, 2003.

  
\_\_\_\_\_  
BRIGETTE BILYEU  
Special Master  
Snake River Basin Adjudication

2003 FEB -5 PM 4:44

FILED IN SRBA  
TWIN FALLS CO., IDAHO

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): 37-13487  
(SEE ATTACHED EXHIBIT A)

On February 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 February 05, 2003.

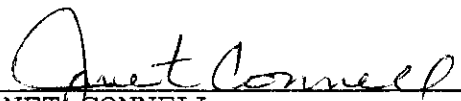
  
\_\_\_\_\_  
JANET CONNELL  
Deputy Clerk

Exhibit A

Subcase Nos:

37-13487  
37-13488  
37-13493  
37-13554  
37-13577  
37-13584  
37-13666  
37-13684  
37-19921  
37-19980  
37-19985

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In Re SRBA )

CERTIFICATE OF MAILING

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

Water Right(s): 37-13487  
(SEE ATTACHED EXHIBIT A)

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

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

USDA FOREST SERVICE

Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

  
JANET CONNELL  
Deputy Clerk

CERTIFICATE OF MAILING

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02/05/03

Exhibit A

Subcase Nos:

37-13487  
37-13488  
37-13493  
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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 )  
\_\_\_\_\_ )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 37-19980

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FILED  
TWIN FALLS CO., IDAHO

NAME AND ADDRESS: USDA FOREST SERVICE  
550 W FORT ST, MSC 033  
BOISE, ID 83724

SOURCE: WARM SPRINGS CREEK TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 06/01/1987

POINT OF DIVERSION: T04N R17E S16 SESE (Instream Ending Point) Within Blaine County  
S29 NENW (Instream Beginning Point)

PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------|----------------|----------------|----------|
|                | Stockwater     | 06-01 TO 09-30 | 0.02 CFS |

| PLACE OF USE: | Stockwater    |      | Within Blaine County |
|---------------|---------------|------|----------------------|
|               | T04N R17E S16 | SWSE | SESE                 |
|               | S20           | SENE | NESE                 |
|               |               | NWSE | SWSE                 |
|               | S21           | NENE | NWNE                 |
|               |               | SWNE | NENW                 |
|               |               | NWNW | SWNW                 |
|               |               | SENE |                      |
|               | S29           | NWNE | NENW                 |

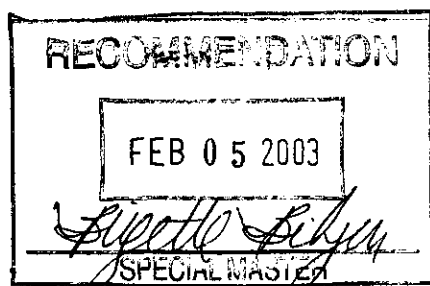
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.



Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication