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Department of Water Resources

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

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	)	AMENDED SPECIAL MASTER'S
	)	REPORT AND RECOMMENDATION;
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	
	)	FOR WATER RIGHT 31-07052N

I. FINDINGS OF FACT

A claim for this water right was filed in the Snake River Basin Adjudication. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system and investigated claims for Basin 31. The *Director's Report* contained a recommendation for the elements of this water right.

An *Objection* was filed to the *Director's Report*. The *Objection* was resolved with a *Notice of Completed Administrative Proceeding*. The *Notice of Completed Administrative Proceeding* contained language referring to an acre foot per year limitation over a rolling five year period. The *Notice of Completed Administrative Proceeding* also included language describing an early and late irrigation season:

The use of water for irrigation under this right may begin as early as April 1 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water before April 15 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

IDWR submitted a *Supplemental Director's Report* and a *Substituted Supplemental Director's Report* in subcases 31-7605, 31-7607, 31-7608, 31-7613 and 31-7616 that further explained both the rolling five-year volume limitation and the early and late season of use.

A. AVERAGE OVER A ROLLING FIVE -YEAR PERIOD

The *Substituted Supplemental Director's Report* states that the rolling five-year period limitation resulted from administrative action by IDWR following a complex series of applications for new water rights, transfers, and amendments to transfers. During IDWR's administrative proceedings, settlement negotiations between the claimant and administrative protestants resulted in a volume limitation that is further limited to a certain average over a rolling five year period. For example, the *Substituted Supplemental Director's Report* explains that this language means that the Department totals the pumped volumes for the previous four years and subtracts that quantity from 37,700 acre-feet, the maximum allowable pumpage over a five year period. The remaining quantity is the maximum annual amount that can be pumped in that year and not violate the constraint on the average pumpage over any five year period. *Substituted Supplemental Director's Report* p. 5. This Special Master concludes that the volume limitation should be included in the partial decree for this water right.

B. EARLY AND LATE SEASON IRRIGATION

This water right was previously licensed by IDWR. As with many licensed water rights, this right has an irrigation season of use that is shorter than the standard irrigation season IDWR recommended in the surrounding area. Therefore, the *Director's Report* recommends an additional early and late season of use consistent with the standard season of use in the area. The language regarding early and late season irrigation is included to describe the extended season and to provide protection to existing water rights. This Special Master concludes that the early and late season irrigation language should be included in the partial decree.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record for this subcase, 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 27, 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)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 31-07052N

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Department of Water Resources

NAME AND ADDRESS: BLAINE & CONNIE LARSEN
P O BOX 188
HAMER, ID 83425-0188

SOURCE: GROUND WATER

QUANTITY: 0.51 CFS
60.00 AFY

USE OF 31-07052C AND 31-07052N ARE LIMITED TO A FIVE YEAR
AVERAGE ANNUAL DIVERSION VOLUME OF 320 AF.

THE COMBINED USE OF RIGHTS LISTED BELOW SHALL NOT EXCEED
7301.3 AF PER YEAR WHEN AVERAGED OVER A ROLLING FIVE YEAR
PERIOD. COMBINED RIGHT NOS.: 31-07052C, 31-07052N, 31-07052P,
31-07214B, 31-07214D, 31-07368A, 31-07368C, 31-07369E,
31-07369C, 31-07369F, 31-07439B, 31-07605, 31-07606, 31-07607,
31-07608, 31-07609, 31-07610A, 31-07611, 31-07612A, 31-07613,
31-07614, 31-07615A, 31-07616, 31-07617, 31-07618A, 31-07619,
31-07620A, 31-07621A, 31-07622A, 31-07623, 31-07624, 31-07625,
31-07626, 31-07627A, 31-07628, 31-07629, 31-07630, 31-07631,
31-07632, 31-07633, 31-07634, 31-07635A, 31-07636, 31-07637, and
31-07638A.

PRIORITY DATE: 07/29/1971

POINT OF DIVERSION: T09N R36E S31 NENESW Within Clark County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.51 CFS 60.00 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31,
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE
OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 15 UNDER THIS REMARK
IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY
OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE
A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: Irrigation Within Clark County

T09N R36E S31	SWNE 32.0	LOT 2	(SNNW) 0.8
	SENE 33.6		NESW 36.0
	LOT 3	(NWSW) 1.2	NWSE 33.0
136.6 Acres Total			

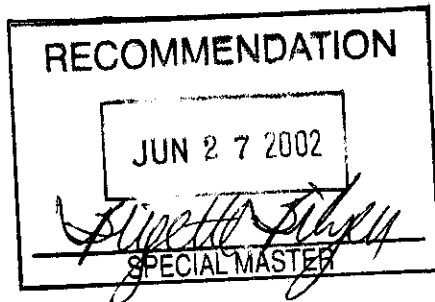
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 25.6 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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In Re SRBA)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

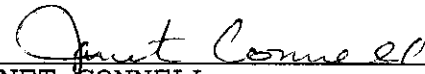
Water Right(s): 31-07052N

On June 27, 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 June 27, 2002.



JANET CONNELL
Deputy Clerk

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

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 31-07052N

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 27, 2002, with sufficient first-class postage prepaid to the following:

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

BLAINE & CONNIE LARSEN
P O BOX 188
HAMER, ID 83425-0188

Janet Connell

JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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06/27/02