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Department of Water Resources

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DIST. CLERK - SRBA
TWIN FALLS CO., IDAHO
FILED *g*

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 31-07608

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.

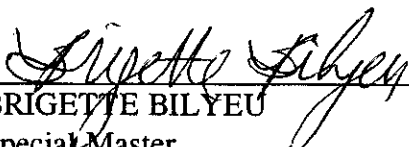
B. EARLY AND LATE SEASON IRRIGATION

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 31-07608

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

NAME AND ADDRESS: BLAINE L LARSEN
CONNIE LARSEN
PO BOX 188
HAMER, ID 83425-0188

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Department of Water Resources

SOURCE: GROUND WATER

QUANTITY: 0.38 CFS
105.00 AFY

USE OF 31-07616 AND 31-07608 ARE LIMITED TO A FIVE YEAR AVERAGE
ANNUAL DIVERSION VOLUME OF 105 AF.^^^ THE COMBINED DIVERSION
VOLUME OF RIGHTS LISTED BELOW IS LIMITED TO A FIVE YEAR AVERAGE
ANNUAL VOLUME OF 413 AF. COMBINED RIGHT
NOS.:31-07605,31-07607,31-07608,31-07613,31-07616.^^^ THE
COMBINED DIVERSION VOLUME OF RIGHTS LISTED BELOW SHALL NOT
EXCEED 7540 AF PER YEAR WHEN AVERAGED OVER A ROLLING FIVE YEAR
PERIOD. COMBINED RIGHTS: 31-07052C,31-31-07052P,31-07214,
31-07214D,31-07368A,31-07368B,31-07369B,31369C,31-07069D,
31-07439B,31-07605,31-07606,31-07607,31-07608,31-07609,31-07610,
31-07611,31-07612,31-07613,31-07614,31-07615,31-07616,31-07617,
31-07618,31-07619,31-07620,31-07621,31-07622,31-07623,31-07624,
31-07625,31-07626,31-07627,31-07628,31-07629,31-07630,31-07631,
31-07632,31-07633,31-07634,31-07635,31-07636,31-07637,31-07638.

PRIORITY DATE: 06/01/1987

POINT OF DIVERSION: T09N R36E S27 NESWNW Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.38 CFS 105.00 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 S27	NWNW 34.0 SENW 32.0 NWSW 18.0 SENE 18.0
	S28	NENE 8.2
	176.4 Acres Total	

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 44.7 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 176.4 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT
NOS.:31-07605,31-07607,31-07608 31-07613 AND 31-07616.^^^

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

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

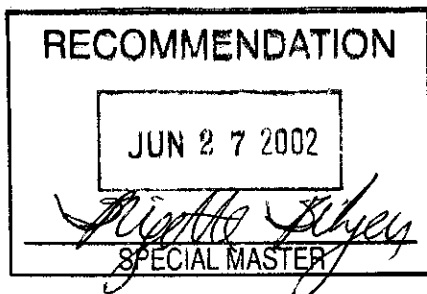
THE USE OF WATER WITHIN SENE, S28, T09N, R36E IS LIMITED
TO THE EAST HALF OF THAT PLACE OF USE.

THE RIGHT HOLDER SHALL PROVIDE AN ANNUAL SUMMARY OF PUMPING
VOLUMES TO THE DEPARTMENT AS PUBLIC RECORD.***

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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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)

Case No. 39576)

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 31-07608

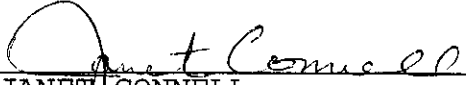
Department of Water Resources

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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DISTRICT COURT-SRBA
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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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 31-07608

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

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

BLAINE L LARSEN
CONNIE LARSEN
PO BOX 188
HAMER, ID 83425-0188
Phone: 208-662-5501

CERTIFICATE OF MAILING

Janet Connell PAGE 1
JANET CONNELL 06/27/02
Deputy Clerk