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Department of Water Resources

2002 JUL 11 PM 1:29

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     | ) | SPECIAL MASTER'S REPORT AND |
|                | ) | RECOMMENDATION; FINDINGS OF |
| Case No. 39576 | ) | FACT AND CONCLUSIONS OF LAW |
|                | ) |                             |
|                | ) | FOR WATER RIGHT 37-3017     |
| _____          | ) |                             |

**I. FINDINGS OF FACT**

A notice of claim was filed for this water right 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.

An *Objection* was filed by Joe Tugaw, Jared Bedke, Bruce Bedke, Joyce Livestock Company, Jerry Hoagland, Scott Bedke, Karl Bedke, Michael Poulton, Gary Poulton and Western Stockgrowers Association (hereafter "Objectors") on September 10, 1999.

A *Response* was filed by Flying Triangle, Inc. on January 10, 2000. The Objectors filed a *Notice of Withdrawal of Objections* on January 30, 2002. The Respondents filed a *Notice of Withdrawal of Responses* on June 17, 2002. There are no unresolved objections or responses remaining in this subcase.

**II. CONCLUSIONS OF LAW**

The United States claimed this right under state law. There is no assertion that this right is based on a federal reservation. Based on the file and record herein, 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: July 11, 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

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

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 37-03017

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

NAME AND ADDRESS: USDI BLM  
IDAHO STATE OFFICE  
1387 S VINNELL WAY  
BOISE, ID 83709-1657

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SOURCE: UNNAMED STREAM TRIBUTARY: MC KINNEY CREEK

QUANTITY: 1.00 AFY

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

PRIORITY DATE: 06/21/1963

POINT OF DIVERSION: T02S R14E S21 SWNE Within Camas County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE          | PERIOD OF USE  | QUANTITY |
|-------------------------------|-------------------------|----------------|----------|
|                               | Stockwater from Storage | 01-01 TO 12-31 | 1.00 AFY |
|                               | Stockwater Storage      | 01-01 TO 12-31 | 1.00 AFY |

|               |                         |                     |
|---------------|-------------------------|---------------------|
| PLACE OF USE: | Stockwater Storage      | Within Camas County |
|               | T02S R14E S21 NENE      |                     |
|               | Stockwater from Storage | Within Camas County |
|               | T02S R14E S21 NENE      |                     |

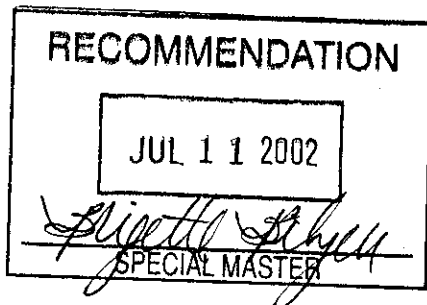
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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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

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

Water Right(s) : 37-03017

On July 11, 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 July 11, 2002.

  
JANET CONNELL  
Deputy Clerk

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TWIN FALLS CO., IDAHO  
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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): 37-03017

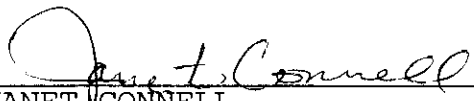
CERTIFICATE OF MAILING

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 July 11, 2002, with sufficient first-class postage prepaid to the following:

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

USDI BLM

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

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

CERTIFICATE OF MAILING

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07/11/02