

2002 MAY -3 PM 4: 47

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

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 31-00271

I. FINDINGS OF FACT

A notice of claim was filed for this water right by the United States, USDI Fish and Wildlife Service. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. This claim was based only on state law, and asserted a priority date of April 1, 1916. The *Director's Report* contained a recommendation for the elements of this water right.

An *Objection* was filed by the United States Fish and Wildlife Service on February 26, 2001. The *Objection* was resolved on March 19, 2002 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form*. There are no unresolved objections remaining.

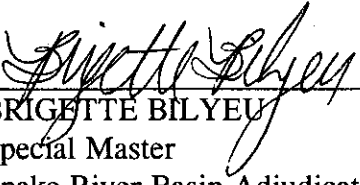
II. CONCLUSIONS OF LAW

The United States claimed this right under state law. There is no assertion that this right is based on a federal reservation. The United States claimed the priority date as April 1, 1916. That priority claim was investigated by IDWR and recommended in the *Director's Report*. Recommendations in *Director's Reports* have *prima facie* weight as set forth in I.C. § 42-1411(4)-(5). Where the *Director's Report* draws a conclusion as to priority date, the *prima facie* weight afforded the *Director's Report* confers a presumption that sufficient proof has been made to prevail on the issue, absent competent evidence to the contrary. If rebutted, the presumption

disappears, and the party with the benefit of the presumption retains the burden of persuasion on the issue. *State v. Hagerman Water Right Owners*, 130 Idaho 736, 947 P.2d 409, 418 (1997). The *Director's Report* conclusion on priority was not challenged.

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: May 3, 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 31-00271

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

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTIN
USDI FISH AND WILDLIFE SERVICE
DIVISION OF ENGINEERING
911 N E 11TH AVE
PORTLAND, OR 97232-4181

SOURCE: CAMAS CREEK TRIBUTARY: MUD LAKE

QUANTITY: 7.00 CFS

PRIORITY DATE: 04/01/1985

POINT OF DIVERSION: T07N R35E S01 NENWSE Within Jefferson County
T08N R36E S32 NESENW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Wildlife	04-01 TO 10-31	7.00 CFS

PLACE OF USE:	Wildlife	Within Jefferson County
	T07N R35E S01	SESW
	LOT 07 (SESE)	SWSE
	S12 LOT 01 (NENE)	NWNE
	SWNE	LOT 02 (SENE)
	NENW	SESW
	NESW	NWSW
	LOT 03 (NESE)	NWSE
	SWSE	LOT 04 (SESE)
	S13 LOT 01 (NENE)	NWNE
	SWNE	LOT 02 (SENE)
	NESW	SESW
	LOT 03 (NESE)	NWSE
	SWSE	LOT 04 (SESE)
	S24 LOT 01 (NENE)	NWNE
	SWNE	LOT 02 (SENE)
	NENW	SESW
	NESW	NWSE
	LOT 03 (NESE)	LOT 04 (SESE)
	SWSE	LOT 02 (SENE)
	S25 LOT 01 (NENE)	NWNE
	LOT 03 (NESE)	SESW
	R36E S05 LOT 04 (NWNW)	NWSE
	SESW	SWNW
	S06 LOT 01 (NENE)	LOT 02 (NWNW)
	SWNE	SENE
	NESW	LOT 06 (NWSW)
	LOT 07 (SWSW)	SESW
	NESE	NWSE
	SWSE	SESE
	S07	NWNE
	NENE	SENE
	SWNE	LOT 01 (NWNW)
	NENW	SESW
	LOT 02 (SWNW)	LOT 03 (NWSW)
	NESW	SESW
	LOT 04 (SWSW)	NWSE
	NESE	SESE
	SWSE	NWNE
	S08	
	NENE	

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

[illegible]

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

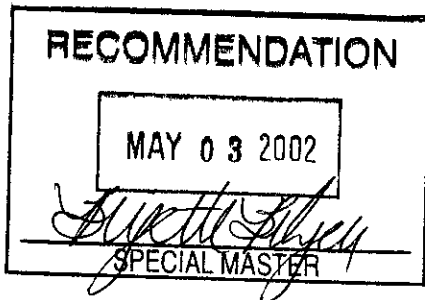
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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

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

DISTRICT OF THE

Case No. 39576

Water Right(s) : 31-00271


JANET CONNELL
Deputy Clerk

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

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)
_____)

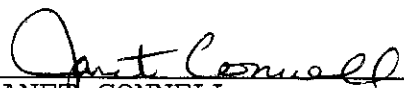
Water Right(s): 31-00271

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 May 03, 2002, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
UNITED STATES OF AMERICA ACTIN
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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05/03/02