

2002 MAY 23 PM 1: 41

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

**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

**AMENDED SPECIAL MASTER'S  
REPORT AND RECOMMENDATION;  
FINDINGS OF 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, 1885.<sup>1</sup> 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, 1885. 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

<sup>1</sup> This *Amended Special Master's Report and Recommendation* corrects only the typographical error in the priority date.

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 23, 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 31-00271

2002 MAY 23 PM 1:41

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

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

RECEIVED

MAY 24 2002

SOURCE: CAMAS CREEK TRIBUTARY: MUD LAKE

QUANTITY: 7.00 CFS

PRIORITY DATE: 04/01/1885

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

Department of Water Resources

| 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     | SWSE                    |
|               | LOT 07 (SESE)          |                         |
|               | S12 LOT 01 (NENE)      | NWNE                    |
|               | SWNE                   | LOT 02 (SENE)           |
|               | NENW                   | SENW                    |
|               | 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                   | SENW                    |
|               | NESW                   | SESW                    |
|               | LOT 03 (NESE)          | NWSE                    |
|               | SWSE                   | LOT 04 (SESE)           |
|               | S25 LOT 01 (NENE)      | LOT 02 (SENE)           |
|               | LOT 03 (NESE)          |                         |
|               | R36E S05 LOT 04 (NWNW) | SNNW                    |
|               | SESW                   |                         |
|               | S06 LOT 01 (NENE)      | LOT 02 (NWNE)           |
|               | SWNE                   | SENE                    |
|               | NESW                   | LOT 06 (NWSW)           |
|               | LOT 07 (SWSW)          | SESW                    |
|               | NESE                   | NWSE                    |
|               | SWSE                   | SESE                    |
|               | S07                    | NWNE                    |
|               | SWNE                   | SENE                    |
|               | NENW                   | LOT 01 (NWNW)           |
|               | LOT 02 (SNNW)          | SENW                    |
|               | NESW                   | LOT 03 (NWSW)           |
|               | LOT 04 (SWSW)          | SESW                    |
|               | NESE                   | NWSE                    |
|               | SWSE                   | SESE                    |
|               | S08                    | NWNE                    |

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

PLACE OF USE (continued)

|               |      |               |
|---------------|------|---------------|
|               | SWNE | SENE          |
|               | NENW | NWNW          |
|               | SWNW | SENW          |
|               | NESW | NWSW          |
|               | SWSW | SESW          |
|               | NESE | NWSE          |
|               | SWSE | SESE          |
| S09           | NWNW | SWNW          |
|               | NWSW | SWSW          |
|               | SESW |               |
| S16           | NWNW | SWNW          |
|               | NESW | NWSW          |
|               | SWSW | SESW          |
|               | NWSE | SWSE          |
| S17           | NENE | NWNE          |
|               | SWNE | SENE          |
|               | NENW | NWNW          |
|               | SWNW | SENW          |
|               | NESW | NWSW          |
|               | SWSW | SESW          |
|               | NESE | NWSE          |
|               | SWSE | SESE          |
| S18           | NENE | NWNE          |
|               | SWNE | SENE          |
|               | NENW | LOT 01 (NWNW) |
| LOT 02 (SWNW) |      | SENW          |
|               | NESW | LOT 03 (NWSW) |
| LOT 04 (SWSW) |      | SESW          |
|               | NESE | NWSE          |
|               | SWSE | SESE          |
| S19           | NENE | NWNE          |
|               | SWNE | SENE          |
|               | NENW | LOT 01 (NWNW) |
| LOT 02 (SWNW) |      | SENW          |
|               | NESW | LOT 03 (NWSW) |
| LOT 04 (SWSW) |      | SESW          |
|               | NESE | NWSE          |
|               | SWSE | SESE          |
| S20           | NENE | NWNE          |
|               | SWNE | SENE          |
|               | NENW | NWNW          |
|               | SWNW | SENW          |
|               | NESW | NWSW          |
|               | SWSW | SESW          |
|               | NWSE |               |
| S21           | NENW | NWNW          |
|               | SWNW | SENW          |
| S29           | NENW | NWNW          |
|               | SWNW | SENW          |
|               | NWSW |               |
| S30           | NENE | NWNE          |
|               | SWNE | SENE          |
|               | NENW | LOT 01 (NWNW) |
| LOT 02 (SWNW) |      | SENW          |
|               | NESW | LOT 03 (NWSW) |
| LOT 04 (SWSW) |      | SESW          |
|               | NESE | NWSE          |
|               | SWSE | SESE          |
| T08N R36E S32 | NESW | NWSW          |
|               | SWSW | SESW          |

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS

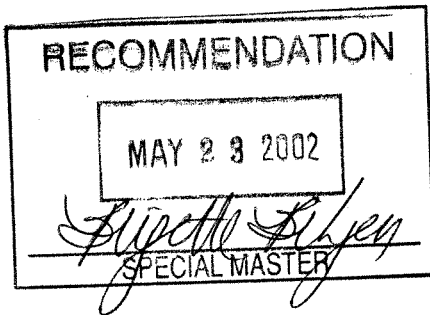
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

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

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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 )

Case No. 39576 )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

Water Right(s): 31-00271

On May 23, 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 May 23, 2002.

  
JANET CONNELL  
Deputy Clerk

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Department of Water Resources

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DISTRICT COURT-SRBA  
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 )

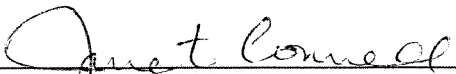
Water Right(s): 31-00271

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 23, 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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