

2002 MAY 23 PM 1: 49

Department of Water Resources

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

**AMENDED SPECIAL MASTER'S
REPORT AND RECOMMENDATION;
FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

FOR WATER RIGHT 31-00275

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, 1887.¹ 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, 1887. 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

¹ 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)
) PARTIAL DECREE PURSUANT TO
Case No. 39576) I.R.C.P. 54(b) FOR
)
) Water Right 31-00275

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

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: 3.00 CFS
PRIORITY DATE: 04/01/1987

Department of Water Resources

PURSUANT TO A CALL IN TIMES OF SCARCITY, THIS RIGHT HAS THE
PRIORITY DATE OF NOVEMBER 11, 1924.

POINT OF DIVERSION: T07N R35E S01 NESWSE 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	3.00 CFS

PLACE OF USE:	Wildlife	Within Jefferson County
	T07N R35E S01	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)	SWNW
	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 (SWNW)	SENW
	NESW	LOT 03 (NWSW)
	LOT 04 (SWSW)	SESW

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

PLACE OF USE (continued)

	NESE	NWSE
	SWSE	SESE
S08	NENE	NWNE
	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

PLACE OF USE (continued)

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO 3045 ACRES WITHIN THE BOUNDARY OF THE PLACE OF USE DESCRIBED ABOVE. COMBINED RIGHT NOS.: 31-00269, 31-00270, 31-00271, 31-00272, 31-00273, 31-00274, 31-00275, 31-00276, 31-00277, 31-00278, 31-00279, 31-00280, 31-00281, 31-00282, 31-00283 AND 31-00284.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO 5231 ACRES WITHIN THE BOUNDARY OF THE CAMAS NATIONAL WILDLIFE REFUGE. COMBINED RIGHT NOS.: 31-00269, 31-00270, 31-00271, 31-00272, 31-00273, 31-00274, 31-00275, 31-00276, 31-00277, 31-00278, 31-00279, 31-00280, 31-00281, 31-00282, 31-00283, 31-00284, 31-02251, 31-02350, 31-02362, 31-02363, 31-07301, 31-11230, 31-11231 AND 31-11232.

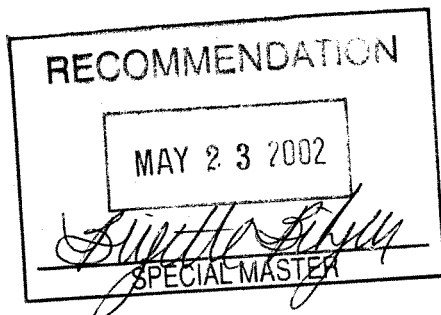
THIS RIGHT IS LIMITED TO 150 ACRES WITHIN THE BOUNDARY OF THE PLACE OF USE DESCRIBED ABOVE.

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

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)
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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

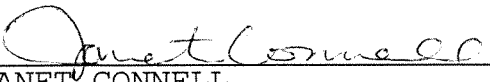
Water Right(s): 31-00275

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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Case No. 39576

CERTIFICATE OF MAILING

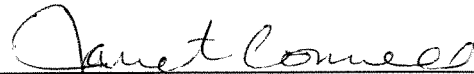
Water Right(s): 31-00275

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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05/23/02