

2002 MAY 29 AM 9:35

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

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 31-07052N   |
|                | ) |                             |

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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 the following language: "The combined use of rights listed below shall not exceed 7270.6 AF per year when averaged 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* 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 *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 the volume limitation that is now recommended by IDWR. "The combined use of rights listed below shall not exceed 7.540 AF per year when averaged over a rolling five year period." The *Supplemental Director's Report* explains that this language means that "the average over any five year period shall not exceed 7.540 acre-feet per year and thus the total gross pumpage period shall not exceed 7.540 acre-feet per year and thus the total gross pumpage shall not exceed 37,700 acre-feet of water over any five year period." *Supplemental Director's Report* p. 4-5. 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: May 29, 2002.

  
BRIGETTE BILYEU  
Special Master  
Snake River Basin Adjudication

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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.

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Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

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

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

Water Right(s): 31-07052N

On May 29, 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 29, 2002.

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

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In Re SRBA )

CERTIFICATE OF MAILING

Case No. 39576 )  
\_\_\_\_\_ )

Water Right(s): 31-07052N

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 29, 2002, with sufficient first-class postage prepaid to the following:

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

BLAINE & CONNIE LARSEN  
P O BOX 188  
HAMER, ID 83425-0188

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

CERTIFICATE OF MAILING

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