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JAN 19 2007

DEPARTMENT OF
WATER RESOURCES

2007 JAN 18 PM 12:44

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 ON MOTION TO
	)	SET ASIDE PARTIAL DECREE
Case No. 39576	)	
	)	WATER RIGHT NOS.: 31-00335A, 31-00372,
	)	AND 31-04009

I. PROCEDURAL BACKGROUND

Claims to 31-335A, 31-372 and 31-4009 were filed by Carl Lundholm. No objections were filed by the deadline set for Basin 31. The SRBA District Court issued *Partial Decrees* for water rights 31-00335A, 31-00372, and 31-04009 on February 22, 2002. On March 31, 2005, claimant Carl Lundholm filed a *Motion for Relief from Partial Decree* and a *Motion to File Late Objection*. Presiding Judge John Melanson issued an *Order of Reference to Special Master Brigitte Bilyeu* on March 31, 2005.

In support of the *Motion*, Mr. Lundholm submitted the *Affidavit of Carl W. Lundholm*. Mr. Lundholm asserted that he became seriously ill during the time objections were due in basin 31. Therefore, he did not file objections or appeal the *Partial Decrees*. He further asserts that he has a meritorious position relating to acreage. A hearing on the *Motions* was held on May 11, 2005. There was no opposition to the motions.

II. FURTHER PROCEEDINGS

A *Motion to File Amended Claim* was filed by Carl Lundholm on September 27, 2005. An *Amended Director's Report* was filed on May 25, 2006 and placed on the docket sheet. *Objections* were filed by Carl Lundholm on June 19, 2006. The *Objections* were resolved on October 4, 2006 with the filing of *Standard Forms 5*.

III. FINDINGS

The court has considered the facts alleged for "good cause" for the untimeliness of the objections. Mr. Lundholm states he had a very serious illness which lasted for a number of years. Here, there was no opposing party that raised a question of prejudice. Under the circumstances, the court finds that the untimeliness of the objections was not willful. This Special Master finds "good cause" under the lower Rule 55(c) standard.

A movant is not required to prevail on the merits during a motion for late objection, but must show evidence of a meritorious position. In reviewing the affidavit in support of the motion, the court concludes that sufficient evidence was presented to show a meritorious position. These water claims should be examined to see whether the elements contained in the *Director's Report* are accurate.

IV. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motion to Set Aside Partial Decree* be **granted** and that these water rights be **decreed** with the elements set forth in the attached *Special Master's Recommendations for Amended Partial Decrees*, consistent with the *Standard Forms 5* for these subcases.

Dated January 18, 2007.


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 31-00335A

2007 JAN 18 PM 12:44

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: CARL W LUNDHOLM
1806 N 2250 E
HAMER, ID 83425

SOURCE: GROUND WATER

QUANTITY: 2.60 CFS
472.50 AFY

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DEPARTMENT OF
WATER RESOURCES

THE RIGHTS LISTED BELOW ARE LIMITED TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 1047AF. COMBINED RIGHT NOS.: 31-335A,
31-372, AND 31-4009.

PRIORITY DATE: 07/31/1930

POINT OF DIVERSION: T07N R35E S26 SWNE Within Jefferson County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 11-01	2.60 CFS 472.50 AFY

PLACE OF USE:	Irrigation		Within Jefferson County
	T07N R35E S34	NENE 39.0	NWNE 39.0
		SWNE 36.0	SENE 29.0
	S35	NENW 39.0	NWNW 40.0
		SWNW 37.0	SENW 23.0
	282.0 Acres Total		

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 135 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

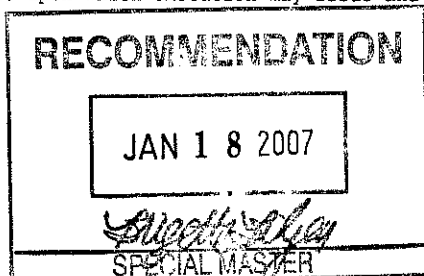
THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 282 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 31-335A, 31-372, AND 31-4009.

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.



John M. Melanson
Presiding Judge of the
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 31-00372

2007 JAN 18 PM 12:44

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: CARL W LUNDHOLM
1806 N 2000 E
HAMER, ID 83425

SOURCE: GROUND WATER

QUANTITY: 3.00 CFS
987.00 APY

THE RIGHTS LISTED BELOW ARE LIMITED TO A TOTAL COMBINED ANNUAL
DIVERSION VOLUME OF 1047 AF. COMBINED RIGHT NOS.: 31-335A,
31-372, AND 31-4009.

PRIORITY DATE: 08/19/1931

POINT OF DIVERSION: T07N R35E S26 SWNE Within Jefferson County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 11-01	3.00 CFS 987.00 APY

PLACE OF USE:	Irrigation	Within Jefferson County
	T07N R35E S34	NENE 39.0 NWNE 39.0 SWNE 36.0 SENE 29.0 NENW 39.0 NWNW 40.0 SWNW 37.0 SENW 23.0
	S35	
	282.0 Acres Total	

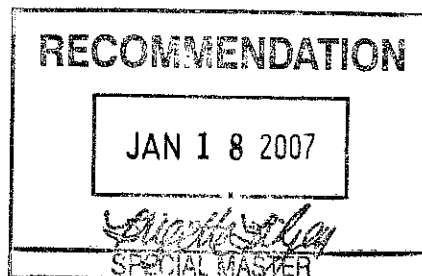
THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 282 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 31-335A, 31-372, AND 31-4009.

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.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

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.

John M. Melanson
Presiding Judge of the
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 31-04009

2007 JAN 18 PM 12:44

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: CARL W LUNDHOLM
1806 N 2250 E
HAMER, ID 83425

SOURCE: GROUND WATER

QUANTITY: 1.55 CFS
339.40 AFY

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DEPARTMENT OF
WATER RESOURCES

THE RIGHTS LISTED BELOW ARE LIMITED TO A TOTAL COMBINED ANNUAL
DIVERSION VOLUME OF 1047 AF. COMBINED RIGHT NOS.: 31-335A,
31-372, AND 31-4009.

PRIORITY DATE: 09/04/1947

POINT OF DIVERSION: T07N R35E S26 SWNE Within Jefferson County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 11-01	1.55 CFS 339.40 AFY
	Stockwater	01-01 TO 12-31	0.05 CFS

PLACE OF USE:	Irrigation	Within Jefferson County
	T07N R35E S34	NENE 39.0 NWNE 39.0 SENE 29.0 NWNW 40.0 SENE 23.0
	S35	NENW 39.0 SWNW 37.0
	282.0 Acres Total	

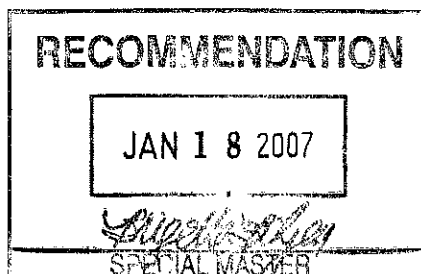
Stockwater Within Jefferson County
Same as Irrigation

THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 282 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 31-335A, 31-372, AND 31-4009.

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE 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).



2007 JAN 18 PM 2:17

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

RECEIVED

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION DEPARTMENT OF
WATER RESOURCES

Water Right(s): 31-00335A
31-00372 31-04009

On January 18, 2007, 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 January 18, 2007.


JANET CONNELL
Deputy Clerk

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DEPARTMENT OF
WATER RESOURCES 2:17

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 31-00335A
31-00372 31-04009

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 January 18, 2007, with sufficient first-class postage prepaid to the following:

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

CARL W LUNDHOLM
Represented by:
KENT W FOSTER
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620



JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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01/18/07

