

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
SEP 28 2007	
By _____	Clerk Deputy Clerk

**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: 37-461
_____	)	

I. FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of this water right.

An *Objection* was filed by the United States Bureau of Land Management on March 10, 2006. The *Objection* was resolved on August 8, 2006 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, 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: September 28, 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

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

SEP 28 2007

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
Case No. 39576)
) I.R.C.P. 54(b) FOR
) Water Right 37-00461

By _____ Clerk
 Deputy Clerk

NAME AND ADDRESS: ELIZABETH J BURNETT
MONTIE S DAY
PO BOX 1045
SHOSHONE, ID 83352-1045

SOURCE: LITTLE WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 1.40 CFS

PRIORITY DATE: 07/17/1884

POINT OF DIVERSION: T05S R16E S25 SENE Within Lincoln County
SENE

TWO POINTS OF DIVERSION LOCATED IN T05S, R16E, S25, SENE.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.40 CFS

PLACE OF USE:	Irrigation	Within Lincoln County
T05S R16E S24	NESW 6.9	SWSW 3.5
	SESW 23.0	NWSE 3.6
	SWSE 16.0	
S25	NENE 37.0	NWNE 24.0
	SWNE 22.0	SENE 12.0
	NENW 31.0	NWNW 17.0
	SENE 2.3	NWSE 0.8
199.1 Acres Total		

PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LANDS
RIGHT NOS. 37-460, 37-461 AND 37-10343 ARE LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 199.1 ACRES IN A SINGLE
IRRIGATION SEASON.

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

Delivery of this right is subject to the water exchange provisions contained in Bureau of Reclamation contract no. 14-06-W-73, executed October 14, 1954, between the United States of America and American Falls Reservoir District No. 2, as supplemented by Bureau of Reclamation contract no. 14-06-100-6031, executed June 1, 1962, between and among the United States of America, American Falls Reservoir District No. 2, and the Big Wood Canal Company.

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).

RECOMMENDATION

SEP 28 2007

Elizabeth J. Burnett
SPECIAL MASTER

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

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In Re SRBA)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 37-00461

On September 28, 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 September 28, 2007.



JANET CONNELL
Deputy Clerk

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In Re SRBA)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s) : 37-00461

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 September 28, 2007, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

MONTIE S DAY
PO BOX 1045
SHOSHONE, ID 83352
Phone: 208-280-3766

ELIZABETH J BURNETT
MONTIE S DAY
PO BOX 1045
SHOSHONE, ID 83352-1045
Phone: 208-886-9953



JANET CONNELL
Deputy Clerk