

2007 NOV 14 PM 2: 27

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; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT: 21-4172
_____	)	

I. FINDINGS OF FACT

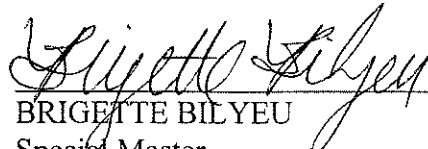
A notice of claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of this water right.

An *Objection* was filed by James F. Hagenbarth on April 21, 2006. The *Objection* was resolved on May 22, 2007 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: November 14, 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 21-04172

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: DAVID J HAGENBARTH
JAMES F HAGENBARTH
PO BOX 1128
DILLON, MT 59725-1128

SOURCE: MUD CREEK TRIBUTARY: SINKS

QUANTITY: 3.00 CFS

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE: 05/01/1894

POINT OF DIVERSION: T13N R40E S10 SENWSE Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-31	3.00 CFS
	Stockwater	04-01 TO 12-31	0.23 CFS

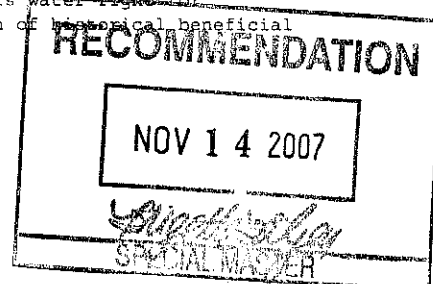
PLACE OF USE:	Irrigation	Within Clark County
	T13N R40E S10	SESW 25.0 NESE 28.0 NWSE 12.0 SWSE 36.0 SESE 40.0
	S11	NESW 40.0 NWSW 27.0 SESW 40.0 SESE 40.0 NWSE 40.0 SWSE 40.0 SESE 39.0
	S12	NESW 7.4 NWSW 40.0 SWSW 16.0
	S14	NENE 9.7 NWNE 19.0 NENW 21.0 NWNW 9.8
	S15	NENE 40.0 NWNE 40.0
	R41E S07 LOT 2	(SWNW)19.0
	668.9 Acres Total	

Stockwater	Within Clark County
T13N R40E S10	NESE NWSE SESE SWSW
S11	SESW NESE SESE
S12	NWSW

This right is limited to the irrigation of 306 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 668.9 acres in a single irrigation season.
Combined Right Nos.: 21-2054B, 21-4170, 21-4171, 21-4172,
21-4173, 21-4174, 21-4175, 21-12854, 21-12939, 31-2274, 31-2275,
31-10245, 31-10740

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.



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

OTHER PROVISIONS (continued)

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

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

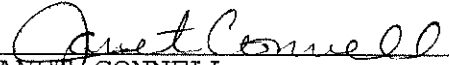
Water Right(s): 21-04172

On November 14, 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 November 14, 2007.


JANET CONNELL
Deputy Clerk

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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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 21-04172

CERTIFICATE OF MAILING

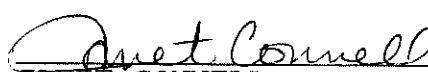
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on November 14, 2007, with sufficient first-class postage prepaid to the following:

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

JAMES F HAGENBARTH
Represented by:
JOHN M MARSHALL
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

DAVID J HAGENBARTH
JAMES F HAGENBARTH
PO BOX 1128
DILLON, MT 59725-1128
Phone: 406-683-2163

CERTIFICATE OF MAILING

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 11/14/07
JANET CONNELL
Deputy Clerk