

2007 NOV 14 PM 2: 56

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: 22-7205    |
|                | ) |                             |

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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.

*Objections* were filed by the United States Bureau of Land Management and the United States Bureau of Reclamation on May 5, 2006. The *Objections* were resolved on August 17, 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: 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 )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 22-07205

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NAME AND ADDRESS: M & B ENTERPRISES LTD  
PARTNERSHIP  
PO BOX 326  
ST ANTONY, ID 83445

SOURCE: GROUND WATER

QUANTITY: 11.00 CFS  
4014.60 AFY

Use of this right with Right Nos. 22-7205, 22-7265A, 22-7265B,  
22-7270, and 22-7314 is limited to a total combined  
(re)diversion capacity of 24.5 cfs and to a total combined  
annual diversion volume of 9,590.7 AF.

The rights listed below are limited to a total combined  
diversion rate of 56.36 cfs. Combined Right Nos.: 22-7205,  
22-7210, 22-7265A, 22-7265B, 22-7313A, 22-7313B, and 22-7314.

PRIORITY DATE: 01/18/1977

POINT OF DIVERSION: T07N R41E S29 SESWNE Within Fremont County  
NWNESE (Injection)  
R42E S23 SENWSE (Rediversion)

Water diverted under this right is exchanged by injecting water  
diverted under this right into Teton River at the point of  
injection described above, and diverting an equal amount from  
Teton River at the point of rediversion described above.

Three exchange wells are located at or near the point of  
diversion described above.

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY                 |
|-------------------------------|----------------|----------------|--------------------------|
|                               | Irrigation     | 04-15 TO 10-15 | 11.00 CFS<br>4014.60 AFY |

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.

| PLACE OF USE: | Irrigation    | Within Fremont County                                                      |
|---------------|---------------|----------------------------------------------------------------------------|
|               | T07N R42E S02 | SWSW 4.0                                                                   |
|               | S03           | SESE 24.0                                                                  |
|               | S10           | NENE 20.0<br>SWNE 30.0<br>NENW 20.0<br>NESW 33.0<br>NESE 38.0<br>SWSE 25.0 |
|               | S11           | NWNW 34.0<br>SENW 0.2<br>NWSW 30.0<br>SESW 40.0<br>SESE 30.0               |

PLACE OF USE (continued)

|                |             |                   |
|----------------|-------------|-------------------|
| S12            | SWSW 5.5    | SESW 0.6          |
|                | SWSE 2.4    | SESE 1.6          |
| S13            | NENE 37.0   | NWNE 39.0         |
|                | SWNE 33.0   | SENE 36.0         |
|                | NENW 34.0   | NWNW 38.0         |
|                | SWNW 34.0   | SENW 29.0         |
|                | NESW 40.0   | NWSW 39.0         |
|                | SWSW 38.0   | SESW 39.0         |
|                | NESE 35.0   | NWSE 40.0         |
|                | SWSE 39.0   | SESE 39.0         |
| S14            | NENE 35.0   | NWNE 40.0         |
|                | SWNE 30.0   | SENE 28.0         |
|                | NENW 34.0   | NWNW 35.0         |
|                | SWNW 40.0   | SENW 37.0         |
|                | NESW 40.0   | NWSW 37.0         |
|                | SWSW 2.7    | SESW 29.0         |
|                | NESE 26.0   | NWSE 39.0         |
|                | SWSE 40.0   | SESE 40.0         |
| S15            | NENE 23.0   | SWNE 19.0         |
|                | SENE 39.0   | NESE 19.0         |
|                | NWSE 18.0   |                   |
| S23            | NENE 40.0   | NWNE 26.0         |
|                | SWNE 1.1    | SENE 25.0         |
|                | NENW 3.4    |                   |
| S24            | NENE 40.0   | NWNE 40.0         |
|                | SWNE 39.0   | SENE 40.0         |
|                | NENW 40.0   | NWNW 39.0         |
|                | SWNW 36.0   | SENW 37.0         |
|                | NESE 20.0   | NWSE 8.2          |
| R43E S18 LOT 4 | (SWSW) 0.7  | SESW 0.4          |
| S19            | NENE 40.0   | NWNE 40.0         |
|                | SWNE 40.0   | SENE 40.0         |
|                | NENW 40.0   | LOT 1 (NWNW) 41.0 |
| LOT 2          | (SWNW) 41.0 | SENW 35.0         |
|                | NESW 2.2    | LOT 3 (NWSW) 21.0 |
|                | NESE 27.0   | NWSE 27.0         |
|                | SWSE 3.3    |                   |

2740.2 Acres Total

Right Nos. 22-7205, 22-7265A, 22-7265B, 22-7270, and 22-7314 are limited to the irrigation of a combined total of 2740.2 acres in a single irrigation season.

This right is limited to the irrigation of 2200 acres within the place of use described above in a single irrigation season.

Place of use does not include federal public lands unless authorized in writing by the United States Bureau of Reclamation.

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

Totalizing measuring devices shall be maintained at the exchange wells and redirection pumps from the Teton River.

No demand on upstream prior rights or existing prior exchanges can be made and no interference with prior rights located between the redirection pump and the exchange wells will be allowed even if the exchange wells are pumping water into the Teton River. The rate of redirection from the Teton River shall not exceed the rate of injection into the Teton River from the exchange wells. The exchange wells must inject water under this license, and the injection must continue after the diversion from the Teton River ceases until the water not diverted reaches the point of injection.

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

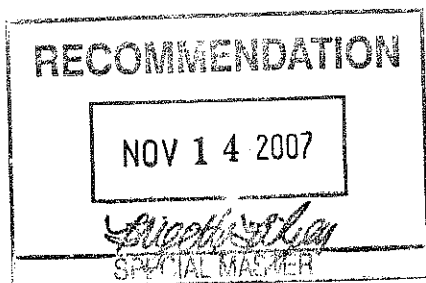
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

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

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

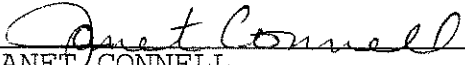
Water Right(s): 22-07205

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

CERTIFICATE OF MAILING

Water Right(s): 22-07205

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

M & B ENTERPRISES LTD  
PARTNERSHIP  
PO BOX 326  
ST ANTONY, ID 83445  
Phone: 208-652-7340

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

CERTIFICATE OF MAILING

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JANET CONNELL 11/14/07  
Deputy Clerk