

|                                                                                         |                       |
|-----------------------------------------------------------------------------------------|-----------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |                       |
| FEB 15 2008                                                                             |                       |
| By _____                                                                                | Clerk<br>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 |
|                | ) |                             |
|                | ) | WATER RIGHT NO.: 37-239A    |
| _____          | ) |                             |

**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 Gary and Helen DeMoss on March 10, 2006. The *Objection* was resolved with the filing of a *Stipulation to Resolve Objection*. All parties to the subcase and IDWR are signatories to the *Stipulation to Resolve Objection*. There are no unresolved objections remaining in this subcase.

**II. CONCLUSIONS OF LAW**

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: February 15, 2008.

  
 \_\_\_\_\_  
 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 37-00239A

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |
| FEB 15 2008                                                                             |
| By _____ Clerk<br>Deputy Clerk                                                          |

NAME AND ADDRESS: OPPIO FAMILY LIMITED  
PARTNERSHIP  
PO BOX 381  
GOODING, ID 83330

SOURCE: MALAD RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.72 CFS

Right nos. 37-238A, 37-239A, 37-240A and 37-4407 are limited to  
a total combined diversion rate of 6.00 cfs.

PRIORITY DATE: 08/29/1884

POINT OF DIVERSION: T06S R14E S16 NWSE Within Gooding County

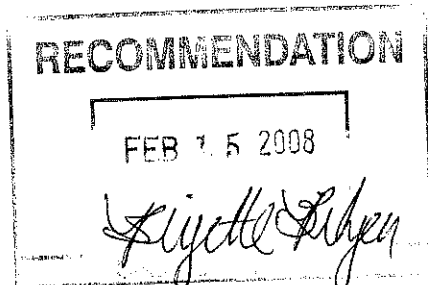
| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 03-15 TO 11-15 | 1.72 CFS |

| PLACE OF USE: | Irrigation        | Within Gooding County |
|---------------|-------------------|-----------------------|
|               | T06S R14E S16     | SESW 6.0 SWSE 28.0    |
|               | S21               | NENE 7.0 NWNE 34.0    |
|               |                   | SWNE 30.0 SENE 12.0   |
|               |                   | NENW 2.5 NESE 4.0     |
|               |                   | NWSE 4.0              |
|               | 127.5 Acres Total |                       |

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).

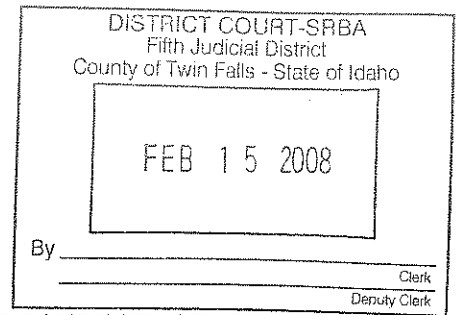


RULE 54(b) CERTIFICATE

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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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 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

Water Right(s): 37-00239A

On February 15, 2008, 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 February 15, 2008.

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

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

CERTIFICATE OF MAILING

Water Right(s) : 37-00239A

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 February 15, 2008, with sufficient first-class postage prepaid to the following:

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

OPPIO FAMILY LIMITED  
PARTNERSHIP  
PO BOX 381  
GOODING, ID 83330  
Phone: 208-934-9474

GARY & HELEN DEMOSS  
Represented by:  
JOSEPHINE P BEEMAN  
409 W JEFFERSON ST  
BOISE, ID 83702  
Phone: 208-331-0950

CERTIFICATE OF MAILING

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02/15/08

*Janey Connell*  
JANEY CONNELL  
Deputy Clerk