

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 15 2008	
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
	)	
	)	WATER RIGHT NO.: 37-4407
_____	)	

I. FINDINGS OF FACT

A claim was filed for the above listed 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.

No objection was filed for water right 37-4407. Water right 37-4407, however, is used in combination with water rights 37-238A, 37-239A, and 37-240A which were the subject of *Objections*. The *Objections* were 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 these subcases.

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

FEB 15 2008

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 37-04407

By

Clerk

Deputy Clerk

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

SOURCE: WASTE WATER TRIBUTARY: MALAD RIVER

QUANTITY: 4.28 CFS

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.
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: 05/01/1971

POINT OF DIVERSION: T06S R14E S15 SENW Within Gooding County
NWSW

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	4.28 CFS
	Stockwater	03-15 TO 11-15	0.09 CFS

PLACE OF USE: Irrigation Within Gooding County

T06S R14E S16	SWSE 20.0	SESE 38.0
S21	NENE 38.0	NWNE 4.0
	SWNE 5.0	SENE 38.0
	NESE 40.0	NWSE 31.0
214.0 Acres Total		

Stockwater Within Gooding County

T06S R14E S16	SWSE	SESE
S21	NENE	NWNE
	SWNE	SENE
	NESE	NWSE

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).

RECOMMENDATION

FEB 15 2008

Special Master
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 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): 37-04407

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.

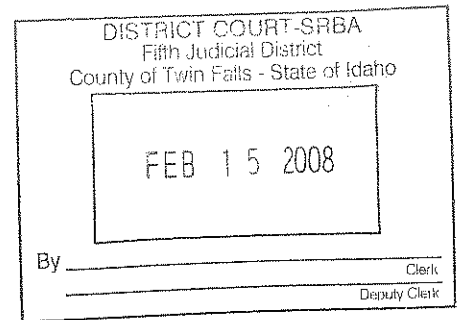
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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



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): 37-04407

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



JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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02/15/08