

2008 MAR 31 PM 3: 25

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
	)	
	)	WATER RIGHT NO.: 27-2116
	)	

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 Basic American Foods on March 17, 2006. A *Motion to File Amended Notice of Claim* was filed by Basic American Foods on July 18, 2007. An *Amended Director's Report* was filed on September 28, 2007. The *Amended Director's Report* was placed on the Docket Sheet.

An *Objection* to the *Amended Director's Report* was filed on October 19, 2007 by Basic American Foods. The *Objection* was resolved with the filing of a *Standard Form 5* on December 19, 2008. 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: March 31, 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
Case No. 39576) I.R.C.P. 54(b) FOR
)
) Water Right 27-02116

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NAME AND ADDRESS: BASIC AMERICAN FOODS
434 S EMERSON MS CP 91
SHELLEY, ID 83274

SOURCE: GROUND WATER

QUANTITY: 2.66 CFS
1925.80 AFY

RIGHT NOS. 27-4019 AND 27-2116 ARE LIMITED TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 2975.6 AF.

PRIORITY DATE: 04/15/1958

POINT OF DIVERSION: T01N R37E S32 SWSENE Within Bingham County
NWNESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Industrial	01-01 TO 12-31	2.66 CFS 1925.80 AFY

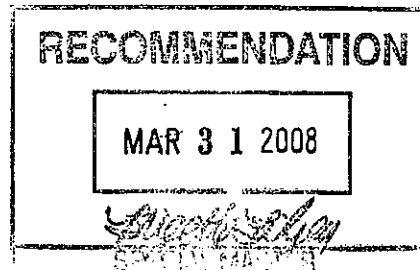
INDUSTRIAL USE IS FOR POTATO PROCESSING. THE WATER DIVERTED UNDER
THIS RIGHT FOR INDUSTRIAL PURPOSES MUST FIRST BE USED IN
ASSOCIATION WITH POTATO PROCESSING. USE IN ASSOCIATION WITH
POTATO PROCESSING MAY INCLUDE THE TREATMENT OF PROCESS WATER WITH
FRESH WATER. AFTER WATER IS USED FOR THESE INDUSTRIAL PURPOSES
IT MAY BE APPLIED TO LAND TO SATISFY FEDERAL OR STATE WATER
QUALITY REQUIREMENTS. WATER DIVERTED SHALL NOT BE USED FOR LAND
APPLICATION UNLESS THE WATER IS APPLIED TO LAND THAT HAS AN
APPURTENANT WATER RIGHT, WHICH NORMALLY PROVIDES A FULL SUPPLY OF
WATER FOR IRRIGATION.

PLACE OF USE: Industrial Within Bingham County
T01N R37E S32 SENE NESE

PLACE OF USE MAY ALSO INCLUDE OTHER LANDS UPON WHICH THE PROCESS
WATER MAY BE APPLIED FOR LAND APPLICATION PURPOSES TO SATISFY
FEDERAL OR STATE WATER QUALITY REQUIREMENTS. WATER DIVERTED SHALL
NOT BE USED FOR LAND APPLICATION UNLESS THE WATER IS APPLIED TO
LAND THAT HAS AN APPURTENANT WATER RIGHT, WHICH NORMALLY PROVIDES
A FULL SUPPLY OF WATER FOR IRRIGATION. WATER DIVERTED
SHALL NOT BE USED FOR LAND APPLICATION UNLESS THE WATER IS FIRST
USED IN ASSOCIATION WITH POTATO PROCESSING AS AUTHORIZED BY THE
WATER RIGHT. THE INDUSTRIAL USE OF WATER UNDER THIS RIGHT
INCLUDES TREATMENT OF PROCESS WATER WITH FRESH WATER.

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

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
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): 27-02116

On March 31, 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 March 31, 2008.


JANET CONNELL
Deputy Clerk

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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)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 27-02116

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 March 31, 2008, with sufficient first-class postage prepaid to the following:

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

BASIC AMERICAN FOODS

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

BASIC AMERICAN FOODS
434 S EMERSON MS CP 91
SHELLEY, ID 83274
Phone: 208-357-3402

CERTIFICATE OF MAILING

 PAGE 1
JANET CONNELL 03/31/08
Deputy Clerk