RECEIVED
APR 10 2008
DEPARTMENT OF
WATER RESOURCES
2008 APR -9 PM 3:45
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<br><br>Case No. 39576 | ) | **AMENDED SPECIAL MASTER'S REPORT AND RECOMMENDATION; FINDINGS OF 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, 2007. 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.*** The ***Amended Special Master's Report*** only corrected the year the *Standard Form 5* was filed. There were no changes made to the elements.

DATED: April 9, 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 27-02116 |

2008 APR -9 PM 3:45
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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<br>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).

RECOMMENDATION
APR 09 2008
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

2008 APR -9 PM 3:45
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 ) | NOTICE OF ISSUANCE OF |
| ) | SPECIAL MASTER'S |
| Case No. 39576 ) | RECOMMENDATION |
| ) | |
| ) | Water Right (s) : 27-2116 |

On April 9, 2008, Special Master BRIGETTE BILYEU issued an AMENDED SPECIAL MASTER'S REPORT AND RECOMMENDATION; FINDINGS OF FACT AND CONCLUSIONS OF LAW 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: April 9, 2008.

Janet Connell
JANET CONNELL
Deputy Clerk

2008 APR -9 PM 3:45
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) : 27-2116 |

CERTIFICATE OF MAILING

I certify that a true and correct copy of the AMENDED SPECIAL MASTER'S REPORT AND RECOMMENDATION; FINDINGS OF FACT AND CONCLUSIONS OF LAW was mailed on April 9, 2008, with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, Idaho 83720-0098

Basic American Foods
Represented by:
Josephine P. Beeman
409 W Jefferson St.
Boise, Idaho 83702

Basic American Foods
434 S Emerson MS CP 91
Shelley, Idaho 83274

Janet Connell
Deputy Clerk