

DEC 15 2008

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 11 2008

By _____ Clerk
_____ Deputy Clerk

DISTRICT OF THE

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

Case No. 39576

**SPECIAL MASTER'S REPORT AND
RECOMMENDATION; FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

**FOR WATER RIGHTS: 37-20488,
37-22295 AND 37-22296**

I. FINDINGS OF FACT

A notice of claim was filed for water right 37-20488 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.

All *Objections* to the water right claim were resolved by stipulation of the parties with a *Standard Form 5 Amended Claim* which resulted in splitting the former parent right 37-20488 into assigned split right numbers 37-22295 and 37-22296. All parties to the subcase and IDWR are signatories to the *Standard Form 5 Amended Claim*. The *Standard Form 5/Amended Claim* was placed on the Docket Sheet.

The elements of this water right as stipulated to in the *Standard Form 5* differ from the original *Directors Report* for 37-20488 to accommodate the division of the right. The legal description was changed to reflect the legal descriptions which accompany each of the new split rights.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that water right 37-20488 **not be confirmed** in any partial or final decree. IT IS FURTHER RECOMMENDED that water rights 37-22295 and 37-22296 be **decreed** with the elements as set forth in the attached *Special Master's Recommendations for Partial Decrees*.

DATED: December 11, 2008.

Brigette Bilyeu
BRIGETTE BILYEU, Special Master
Snake River Basin Adjudication

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DEC 11 2008

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-22295

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: FLYING TRIANGLE INC
C/O WILLIAM N BRAILSFORD
PO BOX 108
HAGERMAN, ID 83332

SOURCE: UNNAMED STREAM TRIBUTARY: FLAT CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THE FOLLOWING RIGHTS SHALL NOT EXCEED
A COMBINED TOTAL DIVERSION RATE OF 0.02 CFS AND A COMBINED TOTAL
QUANTITY OF 13,000 GALLONS PER DAY. COMBINED RIGHT NOS: 37-22295
& 37-22296.

PRIORITY DATE: 12/31/1881

POINT OF DIVERSION: T01N R16E S10 NESESE (Instream Beginning Point) Within Blaine County
SESESE (Instream Ending Point)
S14 NWNWNW (Instream Beginning Point)
S23 NWNWNE (Instream Ending Point)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE:	Stockwater	Within Blaine County
	T01N R16E S10	SESE
	S14	NWNW
		SENW
		SESW
	S23	NWNE
		NENW

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

The quantity of water decreed for this water right 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).

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.

RECOMMENDATION

DEC 11 2008

Elizabeth J. Olson
SPECIAL MASTER

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DEC 11 2008

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-22296

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: FLYING TRIANGLE INC
C/O WILLIAM N BRAILSFORD
PO BOX 180
HAGERMAN, ID 83332

SOURCE: UNNAMED STREAM TRIBUTARY: FLAT CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THE FOLLOWING RIGHTS SHALL NOT EXCEED
A COMBINED TOTAL DIVERSION RATE OF 0.02 CFS AND A COMBINED TOTAL
QUANTITY OF 13,000 GALLONS PER DAY. COMBINED RIGHT NOS: 37-22295
& 37-22296.

PRIORITY DATE: 03/27/1894

POINT OF DIVERSION: T01N R16E S11 LOT 3 (SWSWSW) (Instream Beginning Point) Within Blaine County
LOT 3 (SWSWSW) (Instream Ending Point)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Blaine County
T01N R16E S11 LOT 3 (SWSW)

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

The quantity of water decreed for this water right 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).

RULE 54(b) CERTIFICATE

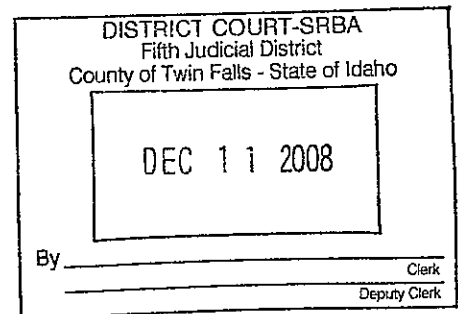
With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment 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

RECOMMENDATION

DEC 11 2008

Supantha D. L...
SPECIAL MASTER



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): 37-20488
37-22295 37-22296

On December 11, 2008, Special Master 07001
issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s)
pursuant to SRBA Administrative Order 1 (A01), 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 December 11, 2008.


JANET CONNELL
Deputy Clerk

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
DEC 11 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)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 37-20488
37-22295 37-22296

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 December 11, 2008, with sufficient first-class postage prepaid to the following:

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

FLYING TRIANGLE INC
Represented by:
PAUL L ARRINGTON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

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

CERTIFICATE OF MAILING

PAGE 1
12/11/08

Janet Connell
JANET CONNELL
Deputy Clerk