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MAY 29 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
MAY 28 2009
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

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

) WATER RIGHT NOS.: 37-28J and
) 37-297M

I. FINDINGS OF FACT

Claims were filed for these water rights 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 recommendations for the elements of these water rights.

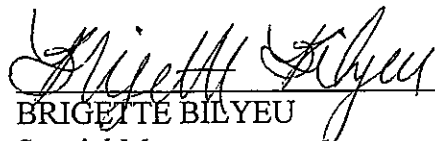
Objections were filed by Thomas Kennedy and Deborah Kirby on November 14, 2007. An Initial Hearing was held on September 18, 2008. At the hearing, Thomas Kennedy and Deborah Kirby made an oral *Motion to File Amended Notice of Claims*. There was no opposition to the *Motion*.

An *Amended Director's Report* was filed on December 26, 2008. The *Amended Director's Report* was placed on the Docket Sheet. No objections were filed to the *Amended Director's Report*, and the time for filing such objections has now expired.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that these water rights be decreed with the elements set forth in the attached *Special Master's Recommendation for Partial Decrees*.

DATED: May 28, 2009.


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

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho MAY 28 2009 By _____ Clerk Deputy Clerk
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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-00028J

NAME AND ADDRESS: DEBORAH M KIRBY
THOMAS A KENNEDY
PO BOX 2773
KETCHUM, ID 83340

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DEPARTMENT OF
WATER RESOURCES

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.04 CFS

Right Nos. 37-28J and 37-297M are diverted into a pond with a storage capacity of 0.87 AF, and are limited to a total combined annual volume of 1.34 AF for aesthetic storage.

PRIORITY DATE: 03/24/1883

POINT OF DIVERSION: T03N R18E S20 SWNW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.03 CFS
	Aesthetic Storage	01-01 TO 12-31	1.34 AFY
	Diversion to Storage	04-15 TO 10-31	0.01 CFS

PLACE OF USE: Irrigation Within Blaine County
T03N R18E S33 SESW 1.2
1.2 Acres Total

Aesthetic Storage Within Blaine County
T03N R18E S33 SESW

Right Nos. 37-28J and 37-297M are limited to the irrigation of a combined total of 1.2 acres in a single irrigation season.

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.

RECOMMENDATION MAY 28 2009 <i>Dianna L. Liden</i> SPECIAL MASTER

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

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

MAY 28 2009

By _____ Clerk
Deputy Clerk

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 37-00297M

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MAY 29 2009

DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: DEBORAH M KIRBY
THOMAS A KENNEDY
PO BOX 2773
KETCHUM, ID 83340

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.08 CFS

Right Nos. 37-28J and 37-297M are diverted into a pond with a
storage capacity of 0.87 AF, and are limited to a total combined
annual volume of 1.34 AF for aesthetic storage.

PRIORITY DATE: 11/26/1886

POINT OF DIVERSION: T03N R18E S20 SWNW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.05 CFS
	Diversion to Storage	04-15 TO 10-31	0.03 CFS
	Aesthetic Storage	01-01 TO 12-31	1.34 AFY

PLACE OF USE: Irrigation Within Blaine County
T03N R18E S33 SESW 1.2
1.2 Acres Total

Aesthetic Storage Within Blaine County
T03N R18E S33 SESW

Right Nos. 37-28J and 37-297M are limited to the irrigation of a
combined total of 1.2 acres in a single irrigation season.

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.

RECOMMENDATION

MAY 28 2009

Shirley L. Lacey
SPECIAL MASTER

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

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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): 37-00028J
37-00297M

On May 28, 2009, 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 May 28, 2009.


JANET CONNELL
Deputy Clerk

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In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 37-00028J
37-00297M

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 May 28, 2009, with sufficient first-class postage prepaid to the following:

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

DEBORAH M KIRBY
THOMAS A KENNEDY
Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340
Phone: 208-726-4421


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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05/28/09