

DEPARTMENT OF
WATER RESOURCES

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

JUN 12 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 ON MOTION TO
SET ASIDE PARTIAL DECREE**

WATER RIGHT: 27-12018 and 27-12024

I. PROCEDURAL BACKGROUND

After the *Director's Reports* for Basin 27 were filed, the Idaho Department of Water Resources conducted a review of its recommendations. During that review, IDWR discovered that some corrections were needed and notified the Court.

On November 18, 2008, IDWR sent a letter providing the Court with additional information about the necessary corrections. The letter was served on the parties to the subcases. The IDWR letter identified these two subcases as having errors in the *Director's Report* recommendation which were carried over in a *Partial Decree*. The errors involve mistaken combinations of both instream stockwater with irrigation/diverted stockwater rights or an incorrect instream point of diversion.

IDWR proposed that the Court hold a hearing to determine whether the *Partial Decree* should be set aside. Hearings were held on January 30, 2009 and June 5, 2009

At the January hearing, Jouglaard Sheep Co. Inc. made an oral *Motion to Set Aside Partial Decree*. There was no opposition to the *Motion*. The court allowed the *Motion* to go forward, and set deadlines for *Amended Director's Reports and Objections and Responses*.

II. FINDINGS OF FACT

IDWR filed *Amended Director's Reports* which corrected the elements of these two rights. The *Amended Director's Reports* were filed on March 26, 2009. The *Amended Director's Reports*

were placed on the Docket Sheet. No objections were filed to the *Amended Director's Reports*, and the time for filing such objections has now expired.

CONCLUSIONS AND RECOMMENDATIONS

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

Dated: June 12, 2009.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

DEPARTMENT OF
WATER RESOURCES

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

DISTRICT OF THE
TWIN FALLS

JUN 12 2009

By _____ Clerk
_____ Deputy Clerk

RECOMMENDATION

JUN 12 2009

Bijette Lilbey
SPECIAL MASTER

PAGE 1
Jun-08-2009

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

JUN 12 2009

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 27-12024

By _____ Clerk
Deputy Clerk

RECEIVED

JUN 16 2009

DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: JOUGLARD SHEEP CO INC
PO BOX 245
RUPERT, ID 83350

SOURCE: UNNAMED STREAMS TRIBUTARY: SINKS

QUANTITY: 0.02 CFS
1.00 AFY

The quantity of water under this right shall not exceed 13,000
gallons per day.

The rights listed below are limited to a total combined annual
diversion volume of 9.7 af for stockwater. Combined Right Nos.:
27-2080A, 27-2080B, 27-12018, 27-12019, 27-12020, 27-12021,
27-12022, 27-12023, 27-12024, 27-12025, 27-12026, 27-12144, and
27-12191.

PRIORITY DATE: 04/01/1946

POINT OF DIVERSION: T08S R43E S34 SENENE (Instream Ending Point) Within Caribou County
SENENE (Instream Ending Point)
SWNWNE (Instream Beginning Point)
NWNWSE (Instream Beginning Point)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-15 TO 10-31	0.02 CFS 1.00 AFY

PLACE OF USE:	Stockwater	Within Caribou County
	T08S R43E S34	NENE NWNE SENE NWSE

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

JUN 12 2009

Bigelle Silvey
SPECIAL MASTER

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

RECEIVED

JUN 16 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 12 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

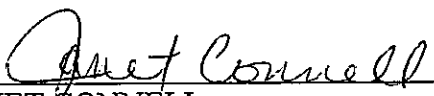
In Re SRBA	)	NOTICE OF ISSUANCE OF
	)	SPECIAL MASTER'S
Case No. 39576	)	RECOMMENDATION
	)	
_____	)	Water Right (s) : 27-12018 and 27-12024

On June 12, 2009, Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE 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: June 12, 2009.



JANET CONNELL
Deputy Clerk

RECEIVED

JUN 16 2009

DEPARTMENT OF
WATER RESOURCES

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

JUN 12 2009

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

Clerk
Deputy Clerk

In Re SRBA

CERTIFICATE OF MAILING

Case No. 39576

Water Right (s) : 27-12018 and 27-12024

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE was mailed on June 12, 2009, with sufficient first-class postage prepaid to the following:

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

Shoshone-Bannock Tribes
Represented by:
Jeannette Wolfley
Special Counsel
202 N. Arthur
Pocatello, Idaho 83202

State of Idaho
Represented by:
Natural Resources Div Chief
Attorney General's Office
PO Box 44449
Boise, Idaho 83711-4449

Jouglaard Sheep Co Inc
PO Box 245
Rupert, Idaho 83350


Deputy Clerk