

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT / SRBA
TWIN FALLS CO. IDAHO
FILED _____
2009 JUL 8 AM 11 47

**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 REGARDING
CORRECTION TO PARTIAL DECREE**

WATER RIGHT: 27-4075

I. PROCEDURAL BACKGROUND

The SRBA District Court issued an *Order of Partial Decree* for the above listed water right. 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 this subcase as having an error in the *Director's Report* which was carried over to the *Partial Decree*. The error involved incorrect language regarding historic beneficial use for stockwater. Presiding Judge John Melanson issued an *Order of Reference Appointing Special Master Brigitte Bilyeu*. A hearing was held on January 30, 2009.

II. FINDINGS OF FACT

At the hearing held on January 30, 2009, IDWR reported that the *Partial Decree* should be set aside. IDWR explained that the *Partial Decree* incorrectly included the following language:

The quantity of water decreed for this water right is not a determination of historical beneficial use.

IDWR reported that this language should be deleted because IDWR does have information about historic beneficial use for this right. The Court set a deadline of March 27, 2009 for any party to the subcase to file an Objection to removal of the language from the *Partial Decree. Order Setting Deadline and Status Conference*. (February 6, 2009)

No objections were filed, and the time for filing such objections has now expired. Therefore, it is appropriate that the SRBA District Court set aside the *Partial Decree* and enter an *Amended Partial Decree* which merely deletes the above referenced language.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Partial Decree* be set aside and that this water right be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*.

Dated: July 8, 2009.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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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

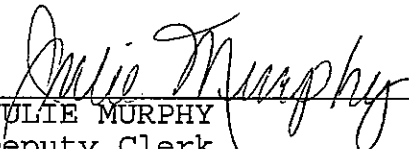
Water Right(s): 27-04075

On July 08, 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 July 08, 2009.



JULIE MURPHY
Deputy Clerk

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In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 27-04075

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 July 08, 2009, with sufficient first-class postage prepaid to the following:

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

P THOMAS BLOTTER FAMILY LTD
PARTNERSHIP
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SHOSHONE-BANNOCK TRIBES
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CERTIFICATE OF MAILING

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STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
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JULIE MURPHY
Deputy Clerk