

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2009 JUL 8 AM 11^V29

**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: 27-12150

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
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

SNAKE RIVER BASIN - SRBA
TWIN FALLS CO., IDAHO

In Re SRBA

PARTIAL DECREE PURSUANT TO

I.R.C.P. 54(b) FOR

Case No. 39576

Water Right 27-12150

FILED
2009 JUL 8 AM 11 29

NAME AND ADDRESS: MARK B PRATT
279 N 400 E
BLACKFOOT, ID 83221

GARY L PRATT
486 E WEEDING LN
BLACKFOOT, ID 83221

SOURCE: BRUSH CREEK TRIBUTARY: BLACKFOOT RIVER

QUANTITY: 0.02 CFS
5.16 AFY

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

PRIORITY DATE: 03/25/1880

POINT OF DIVERSION: T03S R39E S26 NESEW (Instream Beginning Point) Within Bingham County
S34 SWNEW (Instream Ending Point)

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-01 TO 12-20	0.02 CFS
			5.16 AFY

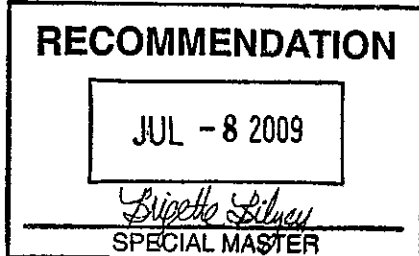
PLACE OF USE:	Stockwater	Within Bingham County
	T03S R39E S26	SWSW
	S27	SESE
	S34	NENE
		SWNE
		NWSE
		NWNE
		NESW

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.



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

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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

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NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

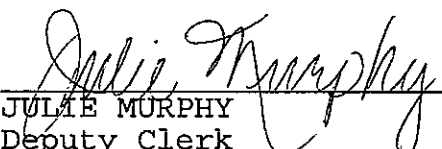
Water Right(s): 27-12150

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

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Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 27-12150

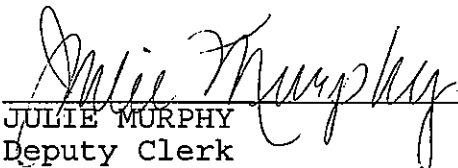
CERTIFICATE OF MAILING

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

MARK B PRATT
279 N 400 E
BLACKFOOT, ID 83221
Phone: 208-785-6597

GARY L PRATT
486 E WEEDING LN
BLACKFOOT, ID 83221
Phone: 208-785-4245



JULIE MURPHY
Deputy Clerk

CERTIFICATE OF MAILING

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