

RECEIVED
AUG 17 2009
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 14 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	)	AMENDED SPECIAL MASTER'S
	)	REPORT AND RECOMMENDATIONS;
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS: 37-00368A,
	)	37-02076A & 37-02455

I. FINDINGS OF FACT

A notice of claim was filed for each of the above-captioned 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 a recommendation for the elements of each of these water rights.

Objections to each right were filed by Diamond/Soldier Properties LLC, by and through counsel, James P. Speck, on May 10, 2007. The *Objections* were resolved on March 16, 2009, with the filing of a *Standard Form 5* for each right. All parties to the subcases and IDWR are signatories to each *Standard Form 5*.

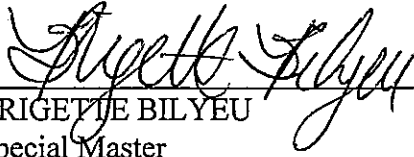
A *Special Master's Report and Recommendation* was issued July 31, 2009. The *Standard Form 5* and the *Special Master's Report and Recommendation* inadvertently omitted a paragraph in the "Other Provisions Necessary" section which was incorporated in the General Provision for Basin 37 Part II. *Order of Partial Decree for General Provision in Basin 37 Part 2*. (April 20, 2009)

This *Special Master's Report and Recommendation* adds that language "[t]his water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision 1.A . . . in the event of injury." No other changes were made.

II. CONCLUSIONS OF LAW

Therefore, based on the files and records herein, IT IS RECOMMENDED that the above-captioned water rights be decreed with the elements set forth in the attached *Amended Special Master's Recommendation for Partial Decrees*.

DATED: August 14, 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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-00368A

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

AUG 14 2009

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: DIAMOND/SOLDIER PROPERTIES LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009

SOURCE: WEST FORK THREEMILE CREEK

QUANTITY: 2.70 CFS

PRIORITY DATE: 06/15/1884

POINT OF DIVERSION: T01N R13E S14 SESESW Within Camas County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	2.70 CFS

PLACE OF USE:	Irrigation	Within Camas County
T01N R13E S22	NENE 14.0 SWNE 22.0 NESE 40.0 SESE 37.0	NWNE 9.4 SENE 40.0 NWSE 12.0
S23	NENW 22.0 SWNW 40.0 NESW 20.0 SWSW 40.0	NWNW 10.0 SENE 20.0 NWSW 40.0 SESE 28.0
S26	NENW 4.2 SWNW 17.0	NWNW 33.0
S27	NENE 37.0	SENE 30.0
515.6 Acres Total		

This right is limited to the irrigation of 112 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 515.6 acres in a single irrigation season. Combined Right Nos.: 37-368A, 37-409A, 37-2076A, 37-2455 & 37-2157.

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

This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1.A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.

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).

RECOMMENDATION

AUG 14 2009

Bridgette Lilley
SPECIAL MASTER

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

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

AUG 14 2009

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-02076A

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: DIAMOND/SOLDIER PROPERTIES LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009

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SOURCE: MC MAHAN CREEK TRIBUTARY: THREEMILE CREEK
WEST FORK THREEMILE CREEK TRIBUTARY: THREEMILE CREEK

DEPARTMENT OF
WATER RESOURCES

QUANTITY: 6.10 CFS

PRIORITY DATE: 05/17/1907

POINT OF DIVERSION: T01N R13E S22 NESWNE Within Camas County
S23 NENENW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation		04-15 TO 10-31	6.10 CFS
Stockwater		01-01 TO 12-31	0.12 CFS

PLACE OF USE:	Irrigation	Within Camas County
T01N R13E S22	NENE 14.0	NWNE 9.4
	SWNE 22.0	SENE 40.0
	NESE 40.0	NWSE 12.0
	SESE 37.0	
S23	NENW 22.0	NWNW 10.0
	SWNW 40.0	SENE 20.0
	NESW 20.0	NWSW 40.0
	SWSW 40.0	SESE 28.0
S26	NENW 4.2	NWNW 33.0
	SWNW 17.0	
S27	NENE 37.0	SENE 30.0
515.6 Acres Total		

Stockwater	Within Camas County
T01N R13E S22	NWNE
	SENE
	NWSE
S23	NWNW
	SENE
	NWSW
	SESE
S26	NWNW
S27	SENE

This right is limited to the irrigation of 224 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 515.6 acres in a single irrigation season.
Combined Right Nos.: 37-368A, 37-409A, 37-2076A, 37-2455 & 37-2157.

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

This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1.

RECOMMENDATION

AUG 14 2009

Lizette Silvey
SPECIAL MASTER

OTHER PROVISIONS (continued)

If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.

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

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

AUG 14 2009

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-02455

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: DIAMOND/SOLDIER PROPERTIES LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009

SOURCE: MC MAHAN CREEK TRIBUTARY: THREEMILE CREEK

QUANTITY: 3.00 CFS

PRIORITY DATE: 03/12/1940

POINT OF DIVERSION: T01N R13E S22 NENWNE Within Camas County

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DEPARTMENT OF
WATER RESOURCES

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-15 TO 10-31 3.00 CFS
Stockwater 01-01 TO 12-31 0.12 CFS

PLACE OF USE: Irrigation Within Camas County

Section	Acres	Section	Acres
T01N R13E S22	NENE 14.0	NWNE 9.4	
	SWNE 22.0	SENE 40.0	
	NESE 40.0	NWSE 12.0	
	SESE 37.0		
S23	NENW 22.0	NWNW 10.0	
	SWNW 40.0	SENW 20.0	
	NESW 20.0	NWSW 40.0	
	SWSW 40.0	SESW 28.0	
S26	NENW 4.2	NWNW 33.0	
	SWNW 17.0		
S27	NENE 37.0	SENE 30.0	
515.6 Acres Total			

Stockwater Within Camas County

Section	Acres	Section	Acres
T01N R13E S22	NENE	NWNE	
	SWNE	SENE	
	NESE	NWSE	
	SESE		
S23	NENW	NWNW	
	SWNW	SENW	
	NESW	NWSW	
	SWSW	SESW	
S26	NENW	NWNW	
	SWNW		
S27	NENE	SENE	

This right is limited to the irrigation of 45.3 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 515.6 acres in a single irrigation season. Combined Right Nos.: 37-368A, 37-409A, 37-2076A, 37-2455 & 37-2157.

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

This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1.A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this

RECOMMENDATION

AUG 14 2009

Bigelow
SPECIAL MASTER

OTHER PROVISIONS (continued)

general provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.

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

DEPARTMENT OF
WATER RESOURCES

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

AUG 14 2009

By _____ Clerk
_____ Deputy Clerk

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

Water Right (s) : 37-368A, 37-2076A, AND
37-2455

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: August 14, 2009.


JANET CONNELL
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

In Re SRBA)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right (s) : 37-368A, 37-2076A,
and 37-2455

CERTIFICATE OF MAILING

I certify that a true and correct copy of the AMENDED SPECIAL MASTER'S REPORT
AND RECOMMENDATION was mailed on August 14, 2009, with sufficient first-class postage
prepaid to the following:

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

Diamond/Soldier Properties LLC
Represented by:
James P. Speck
Speck & Aanestad
120 East Avenue
PO Box 987
Ketchum, Id 83340


Deputy Clerk