

DEPARTMENT OF
WATER RESOURCES

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

OCT 23 2009

By _____ Clerk
DISTRICT OF THE _____ 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.: 27-12039,
27-12196, and 27-12197**

I. FINDINGS OF FACT

A notice of claim was filed for water right 27-12039 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 this water right.

An *Objection* was filed to 27-12039 by the Shoshone-Bannock Tribes on March 10, 2006. A *Notice of Completed Administrative Proceeding* was filed on April 24, 2009 which resulted in splitting the former parent right 27-12039 into assigned split right numbers 27-12196 and 27-12197.

The *Objection* was resolved with the filing of a *Standard Form 5/Amended Claim* on August 7, 2009. All parties to the subcase and IDWR are signatories to the *Standard Form 5/Amended Claim*. The *Standard Form 5/Amended Claim* was placed on the Docket Sheet. No objections were filed, and the time for filing such objections has now expired.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that water right 27-12039 **not be confirmed** in any partial or final decree. IT IS FURTHER RECOMMENDED that water rights 27-12196 and 27-12197 be **decreed** with the elements as set forth in the attached *Special Master's Recommendations for Partial Decrees*.

DATED: October 23, 2009.

Brigette Bilyeu
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)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 27-12196

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
OCT 23 2009
By _____ Clerk Deputy Clerk

RECEIVED
OCT 26 2009
DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: P4 PRODUCTION LLC
MONSANTO CO
C/O MINE SUPERINTENDENT
PO BOX 816
SODA SPRINGS, ID 83276

SOURCE: BLACKFOOT RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.01 CFS
3.00 APY

Right Nos. 27-12196 and 27-12197 are limited to a total combined
annual diversion volume of 5.1 AF.
The total combined quantity of water diverted under Right Nos.
27-12196 and 27-12197 shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/01/1939

POINT OF DIVERSION: T07S R43E S30 NENWSE Within Caribou County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	06-01 TO 10-31	0.01 CFS 3.00 APY

PLACE OF USE: Stockwater Within Caribou County
T07S R43E S30 SWNE 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
OCT 23 2009
<i>Brietta Lilley</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

In Re SRBA)
Case No. 39576)

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

Water Right 27-12197

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

OCT 23 2009

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: P4 PRODUCTION LLC
MONSANTO CO
C/O MINE SUPERINTENDENT
PO BOX 816
SODA SPRINGS, ID 83276

SOURCE: BLACKFOOT RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.01 CFS
3.00 APY

The total combined quantity of water diverted under Right Nos.
27-12196 and 27-12197 shall not exceed 13,000 gallons per day.
Right Nos. 27-12196 and 27-12197 are limited to a total combined
annual diversion volume of 5.1 AF.

PRIORITY DATE: 04/01/1939

POINT OF DIVERSION: T07S R43E S29 NWNWS Within Caribou County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	06-01 TO 10-31	0.01 CFS 3.00 APY

PLACE OF USE: Stockwater Within Caribou County
T07S R43E S29 NWSW

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

OCT 23 2009

Dianna D. Dwyer
SPECIAL MASTER

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

RECEIVED

OCT 26 2009

DEPARTMENT OF
WATER RESOURCES

RECEIVED

OCT 26 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
OCT 23 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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s) : 27-12039
27-12196 27-12197

On October 23, 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 October 23, 2009.



JANET CONNELL
Deputy Clerk

RECEIVED

OCT 26 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
OCT 23 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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 27-12039
27-12196 27-12197

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 October 23, 2009, with sufficient first-class postage prepaid to the following:

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

SHOSHONE-BANNOCK TRIBES
Represented by:
JEANETTE WOLFLEY
SPECIAL COUNSEL
SHOSHONE-BANNOCK TRIBE
202 N ARTHUR
POCATELLO, ID 83202
Phone: 208-232-1922

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

CERTIFICATE OF MAILING

PAGE 1
10/23/09