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OCT 26 2009

DEPARTMENT OF
WATER RESOURCES

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

OCT 23 2009

By _____ Clerk
Deputy Clerk

In Re SRBA

Case No. 39576

) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION; FINDINGS OF
) FACT AND CONCLUSIONS OF LAW

) WATER RIGHT NO.: 27-4020

I. FINDINGS OF FACT

A notice of claim was filed for this water right 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.

Objections were filed by the Shoshone-Bannock Tribes and Wm. Bart Conlin Inc. A *Motion for Summary Judgment* was filed by Wm. Bart Conlin on January 14, 2008. An *Amended Director's Report* was filed on February 25, 2008 in advance of the hearing on Summary Judgment so that all elements were before the court. The United States Bureau of Indian Affairs filed an *Objection*. A hearing on the *Motion for Summary Judgment* was held on February 27, 2008. The court granted the *Motion for Summary Judgment* as to volume limitation. *Order on Summary Judgment* (May 2, 2008)

A Status Conference was held on July 9, 2008. At the hearing, the United States Bureau of Indian Affairs made an oral *Motion to Withdraw Objection*. There was no opposition to the *Motion*. The *Motion* was granted.

A *Standard Form 5* was filed on May 5, 2009. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

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

DATED: October 23, 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)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 27-04020

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
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DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: WM. BART CONLIN INC
250 EAST THIRD NORTH
SODA SPRINGS, ID 83276

SOURCE: GARDINER SPRING TRIBUTARY: SINKS

QUANTITY: 0.16 CFS

The quantity of water under this right for domestic and
stockwater uses shall not exceed 13,000 gallons per day.

PRIORITY DATE: 05/01/1956

POINT OF DIVERSION: T07S R42E S23 SENENW Within Caribou County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS
	Domestic	05-01 TO 11-01	0.02 CFS
	Irrigation	06-01 TO 09-01	0.16 CFS

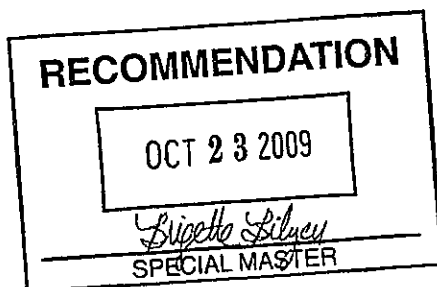
Domestic use is for 1 home.

PLACE OF USE:	Irrigation		Within Caribou County
	T07S R42E S22	NENE 10.0	
	10.0 Acres Total		
	Stockwater		Within Caribou County
	T07S R42E S22	NENE	
	Domestic		Within Caribou County
	T07S R42E S22	NENE	

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

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

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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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) : 27-04020

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

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WATER RESOURCES

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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): 27-04020

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

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10/23/09

WM. BART CONLIN INC
250 EAST THIRD NORTH
SODA SPRINGS, ID 83276
Phone: 208-547-4258



JANET CONNELL
Deputy Clerk