

DEPARTMENT OF
WATER RESOURCES

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

NOV - 2 2009

By _____ Clerk
Deputy Clerk

DISTRICT OF THE

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
RECOMMENDATIONS; FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

**FOR WATER RIGHTS: 37-00038 and
37-00404A**

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.

An *Objection* to each right was filed by Smokey Dome LLC on May 8, 2007. The *Objections* were resolved on August 15, 2008, 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*.

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 *Special Master's Recommendations for Partial Decree*.

DATED: November 2, 2009.

Brigitte Bilyeu
BRIGITTE BILYEU
Special Master
Snake River Basin Adjudication

NOV - 2 2009

By

Clerk
Deputy Clerk

NOV 02 2009

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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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-00404A

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

NOV - 2 2009

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: SMOKEY DOME LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009

SOURCE: OWENS CREEK TRIBUTARY: SOLDIER CREEK
SOLDIER CREEK TRIBUTARY: CAMAS CREEK

QUANTITY: 0.12 CFS

PRIORITY DATE: 06/01/1898

POINT OF DIVERSION: T02N R14E S29 NESWSE Within Camas County
SWSWSE
NESWSE

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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 0.12 CFS

PLACE OF USE: Irrigation Within Camas County
T02N R14E S29 SWSE 15.0
S32 NENE 9.1 NWNE 20.0
SWNE 7.8 SENE 27.0
78.9 Acres Total

The rights listed below are limited to the irrigation of a
combined total of 78.9 acres in a single irrigation season.
Combined Right Nos.: 37-00038 and 37-0404A.

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

THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A
SEPERATE SOURCE PURSUANT TO BASIN 37 PART 2 GENERAL PROVISION NO.
1A. 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

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Lipelle L. Lacey
SPECIAL MASTER

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WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
NOV - 2 2009
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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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 37-00038
37-00404A

On November 02, 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 November 02, 2009.


JANET CONNELL
Deputy Clerk

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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
NOV - 2 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) : 37-00038
37-00404A

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 November 02, 2009, with sufficient first-class postage prepaid to the following:

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

SMOKEY DOME LLC
Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340
Phone: 208-726-4421

SMOKEY DOME LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009
Phone: 425-688-9304

CERTIFICATE OF MAILING


JANET CONNELL
Deputy Clerk

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11/02/09