

DEPARTMENT OF  
WATER RESOURCES

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

APR - 8 2010

DISTRICT OF THE  
By \_\_\_\_\_  
CLERK OF TWIN FALLS  
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

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

**WATER RIGHT NOS.: 37-115F, 37-501B,  
37-501C, 37-590B, AND 37-597B**

## I. FINDINGS OF FACT

A notice of claim was filed for each of these 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 recommendations for the elements of these water rights.

No objections were filed for these water rights. These water rights, however, are used in combination with water right 37-2502 which was the subject of an *Objection*.

*Objections* were filed by Sinclair Oil Corporation and Newfoundland Partners on July 2, 2008. A *Joint Stipulation and Motion for Order Approving Withdrawal of Objections and Responses* was filed on December 21, 2009. The Court **granted** the *Motion. Order Dismissing Objections and Responses*. (January 22, 2010) There are no unresolved objections remaining in these subcases.

Water rights 37-115F, 37-501B, 37-501C, 37-590B, and 37-597B will be recommended consistent with the *Director's Report*.

## II. CONCLUSIONS OF LAW

Therefore, based on the files and records herein, IT IS RECOMMENDED that these water rights be **decreed** with the elements set forth in the attached *Special Master's Recommendations for Partial Decree*.

DATED: April 8, 2010.

*Brigitte 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 37-00115F

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

APR - 8 2010

By \_\_\_\_\_ Clerk  
Deputy Clerk

NAME AND ADDRESS: THOMAS M O GARA FAMILY TRUST  
C/O BRIAN BARSOTTI  
PO BOX 370  
KETCHUM, ID 83340

RECEIVED

APR 09 2010

DEPARTMENT OF  
WATER RESOURCES

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 1.00 CFS

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION: T02N R18E S36 SWNW Within Blaine County

Water diverted from Headgate #45 delivered through District  
Canal.

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 04-15 TO 10-31 | 1.00 CFS |

| PLACE OF USE: | Irrigation                                      | Within Blaine County |
|---------------|-------------------------------------------------|----------------------|
|               | T01S R19E S05 LOT 2 (SWNE)19.0 LOT 1 (SENE)18.0 |                      |
|               | NESE 40.0 NWSE 41.0                             |                      |
|               | SWSE 41.0 SESE 40.0                             |                      |
|               | S08 NENE 30.0 NWNE 39.0                         |                      |
|               | 268.0 Acres Total                               |                      |

The rights listed below are limited to the irrigation of a  
combined total of 268 acres in a single irrigation season.  
Combined Right Nos.: 37-597B, 37-590B, 37-501C, 37-501B,  
37-115F, 37-2502.

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

APR 08 2010

*Diggett Dickey*  
SPECIAL MASTER

Eric J. Wildman  
Presiding Judge of the  
Snake River Basin Adjudication

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

APR - 8 2010

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 )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 37-00501B

NAME AND ADDRESS: THOMAS M O GARA FAMILY TRUST  
C/O BRIAN BARSOTTI  
PO BOX 370  
KETCHUM, ID 83340

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.40 CFS

PRIORITY DATE: 05/01/1886

POINT OF DIVERSION: T02N R18E S36 SWNW Within Blaine County

Water diverted from Headgate #45 delivered through District  
Canal.

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 04-15 TO 10-31 | 0.40 CFS |

| PLACE OF USE:       | Irrigation | Within Blaine County |
|---------------------|------------|----------------------|
| T01S R19E S05 LOT 2 | (SWNE)19.0 | LOT 1 (SENE)18.0     |
|                     | NESE 40.0  | NWSE 41.0            |
|                     | SWSE 41.0  | SESE 40.0            |
| S08                 | NENE 30.0  | NWNE 39.0            |
| 268.0 Acres Total   |            |                      |

The rights listed below are limited to the irrigation of a  
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Combined Right Nos.: 37-597B, 37-590B, 37-501C, 37-501B,  
37-115F, 37-2502.

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**RECOMMENDATION**

APR 08 2010

*Eric J. Wildman*  
SPECIAL MASTER

Eric J. Wildman  
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

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

APR - 8 2010

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 37-00501C

By \_\_\_\_\_ Clerk  
Deputy Clerk

NAME AND ADDRESS: THOMAS M O GARA FAMILY TRUST  
C/O BRIAN BARSOTTI  
PO BOX 370  
KETCHUM, ID 83340

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 2.00 CFS

PRIORITY DATE: 05/01/1886

POINT OF DIVERSION: T02N R18E S36 SWNW Within Blaine County

Water diverted from Headgate #45 delivered through District  
Canal.

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 04-15 TO 10-31 | 2.00 CFS |

| PLACE OF USE: | Irrigation                                        | Within Blaine County |
|---------------|---------------------------------------------------|----------------------|
|               | T01S R19E S05 LOT 2 (SWNE) 19.0 LOT 1 (SENE) 18.0 |                      |
|               | NESE 40.0                                         | NWSE 41.0            |
|               | SWSE 41.0                                         | SESE 40.0            |
|               | S08 NENE 30.0                                     | NWNE 39.0            |
|               | 268.0 Acres Total                                 |                      |

The rights listed below are limited to the irrigation of a  
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Combined Right Nos.: 37-597B, 37-590B, 37-501C, 37-501B,  
37-115F, 37-2502.

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RECOMMENDATION

APR 08 2010

*Bijette Lilley*  
SPECIAL MASTER

Eric J. Wildman  
Presiding Judge of the  
Snake River Basin Adjudication

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

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

APR - 8 2010

In Re SRBA )  
Case No. 39576 )

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

Water Right 37-00590B

By \_\_\_\_\_ Clerk  
Deputy Clerk

NAME AND ADDRESS: THOMAS M O GARA FAMILY TRUST  
C/O BRIAN BARSOTTI  
PO BOX 370  
KETCHUM, ID 83340

RECEIVED

APR 09 2010

DEPARTMENT OF  
WATER RESOURCES

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 1.00 CFS

PRIORITY DATE: 05/01/1886

POINT OF DIVERSION: T02N R18E S36 SWNW Within Blaine County

Water diverted from Headgate #45 delivered through District  
Canal.

PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------|----------------|----------------|----------|
|                | Irrigation     | 04-15 TO 10-31 | 1.00 CFS |

| PLACE OF USE: | Irrigation                     | Within Blaine County |
|---------------|--------------------------------|----------------------|
|               | T01S R19E S05 LOT 2 (SWNE)19.0 | LOT 1 (SENE)18.0     |
|               | NESE 40.0                      | NWSE 41.0            |
|               | SWSE 41.0                      | SESE 40.0            |
|               | S08 NENE 30.0                  | NWNE 39.0            |
|               | 268.0 Acres Total              |                      |

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37-115F, 37-2502.

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RECOMMENDATION

APR 08 2010

*Bridgette Silbey*  
SPECIAL MASTER

Eric J. Wildman  
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

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

APR - 8 2010

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

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 37-00597B

By \_\_\_\_\_ Clerk  
\_\_\_\_\_ Deputy Clerk

NAME AND ADDRESS:

THOMAS M O GARA FAMILY TRUST  
C/O BRIAN BARSOTTI  
PO BOX 370  
KETCHUM, ID 83340

SOURCE:

BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY:

0.70 CFS

PRIORITY DATE:

05/01/1886

POINT OF DIVERSION:

T02N R18E S36 SWNW Within Blaine County

Water diverted from Headgate #45 delivered through District  
Canal.

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE  
Irrigation

PERIOD OF USE  
04-15 TO 10-31

QUANTITY  
0.70 CFS

PLACE OF USE:

Irrigation

Within Blaine County

|                     |             |       |             |
|---------------------|-------------|-------|-------------|
| T01S R19E S05 LOT 2 | (SWNE) 19.0 | LOT 1 | (SENE) 18.0 |
|                     | NESE 40.0   |       | NWSE 41.0   |
|                     | SWSE 41.0   |       | SESE 40.0   |
| S08                 | NENE 30.0   |       | NWNE 39.0   |
| 268.0 Acres Total   |             |       |             |

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RECOMMENDATION

APR 08 2010

*Bridgette Silvey*  
SPECIAL MASTER

Eric J. Wildman  
Presiding Judge of the  
Snake River Basin Adjudication

RECEIVED  
APR 09 2010  
DEPARTMENT OF  
WATER RESOURCES

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |
| APR - 8 2010                                                                            |
| By _____<br>Clerk<br>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

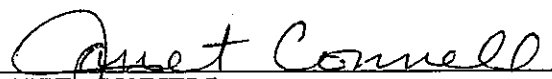
Water Right(s) : 37-00115F  
37-00501B 37-00501C 37-00590B  
37-00597B

On April 08, 2010, 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 April 08, 2010.

  
JANET CONNELL  
Deputy Clerk

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APR 09 2010

DEPARTMENT OF  
WATER RESOURCES

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |
| APR - 8 2010                                                                            |
| By _____ Clerk<br>_____ 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): 37-00115F  
37-00501B 37-00501C 37-00590B  
37-00597B

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 April 08, 2010, with sufficient first-class postage prepaid to the following:

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

THOMAS M O GARA FAMILY TRUST

Represented by:  
ALBERT P BARKER  
1010 W JEFFERSON, STE 102  
PO BOX 2139  
BOISE, ID 83701-2139  
Phone: 208-336-0700

  
JANET CONNELL  
Deputy Clerk

CERTIFICATE OF MAILING

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04/08/10