

DEPARTMENT OF
WATER RESOURCES

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

APR 23 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

Case No. 39576

**SPECIAL MASTER'S REPORT AND
RECOMMENDATION REGARDING
CORRECTION TO PARTIAL DECREE**

WATER RIGHT: 27-12060

I. PROCEDURAL BACKGROUND

The SRBA District Court issued an *Order of Partial Decree* for this water right on September 26, 2008. On November 18, 2008, IDWR sent a letter to the Court explaining that it had reviewed its recommendations in Basin 27 and discovered that a correction to this water right was needed. The letter provided additional information about the necessary correction and asked the Court to set aside the *Partial Decree*. The letter was served on the parties to the subcase. Presiding Judge John Melanson issued an *Order of Reference Appointing Special Master Brigitte Bilyeu*. Hearings were held on January 30, 2009, June 5, 2009, July 31, 2009, and January 27, 2010.

II. FINDINGS OF FACT

At the hearing on January 30, 2009, IDWR proposed that it be allowed to either circulate an *Amended Standard Form 5* or file an *Amended Director's Report* to correct the ***Partial Decree***. A *Standard Form 5 / Amended Claim* was filed on February 19, 2010. 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.

A *Partial Decree* should accurately describe a water right. Therefore, it is appropriate that the SRBA District Court set aside the *Partial Decree* and enter an *Amended Partial Decree*

consistent with the corrections set forth in the *Standard Form 5 / Amended Claim* approved by the parties.

III. CONCLUSIONS AND RECOMMENDATIONS

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

Dated: April 23, 2010.



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

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho APR 23 2010 By _____ Clerk Deputy Clerk
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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
_____) Water Right 27-12060

NAME AND ADDRESS: BEAR LAKE GRAZING CO
835 ALTON RD
MONTPELIER, ID 83254

SOURCE: UNNAMED STREAM TRIBUTARY: BACON CREEK

QUANTITY: 0.02 CFS
8.50 APY

The quantity of water under this right shall not exceed 13,000
gallons per day.
The rights listed below are limited to a total combined annual
diversion volume of 39.4 af.
Combined Right Nos.: 27-12043, 27-12052, 27-12053, 27-12054,
27-12055, 27-12056, 27-12057, 27-12058, 27-12059, 27-12060,
27-12061, 27-12194 and 27-12195.

PRIORITY DATE: 10/18/1886

POINT OF DIVERSION: T07S R44E S11 SWSESW (Instream Ending Point) Within Caribou County
S14 NENE (Instream Beginning Point)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-01 TO 11-30	0.02 CFS 8.50 APY

PLACE OF USE:	Stockwater	Within Caribou County
	T07S R44E S11	SWSE
	S14	NWNE

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 23 2010 <i>Eric J. Wildman</i> SPECIAL MASTER

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

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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
APR 23 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)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s) : 27-12060

On April 23, 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 23, 2010.


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
APR 23 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)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s) : 27-12060

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 23, 2010, 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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BEAR LAKE GRAZING CO
835 ALTON RD
MONTPELIER, ID 83254
Phone: 208-847-0636



JANET CONNELL
Deputy Clerk