

DEPARTMENT OF
WATER RESOURCES

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

MAY - 7 2010

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**

**FOR WATER RIGHTS: 37-155,
37-22248 AND 37-22249**

I. FINDINGS OF FACT

A notice of claim was filed for water right 37-155 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 for water right 37-155 by Bill Molyneux, Gerald Bashaw, Grace Eakin, John F. Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and Tom O’Gara (hereafter Concerned Water Users) and the Big Wood Canal Company on November 14, 2007. A *Notice of Completed Administrative Proceeding* was filed on February 6, 2008 which split the former parent right 37-155 into assigned split right numbers 37-22248 and 37-22249.

An Initial Hearing was held on April 27, 2010. At the hearing, the Concerned Water Users and the Big Wood Canal Company made an oral *Motion to Withdraw Objection*. There was no opposition to the *Motion*. There are no unresolved objections remaining. These subcases will be recommended consistent with the *NCAP* filed on February 6, 2008.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that water right 37-155 **not be confirmed** in any partial or final decree. IT IS FURTHER RECOMMENDED that water rights 37-22248 and 37-22249 be **decreed** with the elements as set forth in the attached *Special Master's Recommendations for Partial Decrees*.

DATED: May 7, 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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-22248

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

MAY - 7 2010

By _____ Clerk
_____ Deputy Clerk

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MAY 10 2010

DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: SHERI EAGLE STEVENS
W GRANT STEVENS
4644 LINCOLN BLVD STE 552
MARINA DEL REY, CA 90292

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.32 CFS

The appropriator is entitled to the quantity of water decreed for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described, so long as the quantity diverted at the point of diversion does not constitute unreasonable waste.

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

To mitigate for the depletion of water resulting from the diversion and use of water under this right and to prevent injury to other water right holders, the right holder shall cease diverting and using 0.03 cfs of this right, which shall remain undiverted in the Big Wood River.

The total combined diversion rate for irrigation and stockwater purposes under this right shall not exceed .29 cfs.

PRIORITY DATE: 04/12/1883

POINT OF DIVERSION: T02N R18E S16 SWNESE Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.29 CFS
	Stockwater	04-15 TO 10-31	0.02 CFS
	Mitigation	04-15 TO 10-31	0.03 CFS

PLACE OF USE:	Irrigation	Within Blaine County
	T02N R18E S15 17.0 Acres Total	NWSW 17.0
	Stockwater	Within Blaine County
	T02N R18E S15	NWSW
	Mitigation	Within Blaine County
	Same as Irrigation	

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

The quantity of water decreed for this water right for 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).

RECOMMENDATION

MAY 07 2010

Bridgette Delaney
SPECIAL MASTER

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.

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

MAY - 7 2010

By _____ Clerk
Deputy Clerk

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 37-22249

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DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: EAGLES NEST INVESTMENT
GROUP LLC
C/O RANDALL C BUDGE
PO BOX 1391
POCATELLO, ID 83204-1391

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 1.28 CFS

PRIORITY DATE: 04/12/1883

POINT OF DIVERSION: T02N R18E S16 SWNESE Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	1.28 CFS

PLACE OF USE:	Irrigation	Within Blaine County
	T02N R18E S16	NESE 33.0 SESE 6.0
		NWSE 0.8
	39.8 Acres Total	

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

MAY 07 2010

Bucetta Silvey
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	
MAY - 7 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): 37-00155
37-22248 37-22249

On May 07, 2010, Special Master BRIGETTE BILYEU
issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s)
pursuant to SRBA Administrative Order 1 (AOL); 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 May 07, 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	
MAY - 7 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): 37-00155
37-22248 37-22249

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 May 07, 2010, with sufficient first-class postage prepaid to the following:

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

BILL MOLYNEUX
GERALD BASHAW
GRACE EAKIN
JOHN F STEVENSON
PEPIN CORSO-HARRIS
PETE VAN DER MEULEN
ROCKY SHERBINE
TOM O GARA

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

CERTIFICATE OF MAILING

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BIG WOOD CANAL COMPANY

Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330
Phone: 208-934-4429

EAGLES NEST INVESTMENT
SHERI & GRANT STEVENS
SHERI EAGLE STEVENS
W GRANT STEVENS

Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101


JANET CONNELL
Deputy Clerk