

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

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

**WATER RIGHT NO.: 37-12873**

## I. FINDINGS OF FACT

A 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 Tom O’Gara, John Stevenson, Bill Molyneux, Pete Van Der Muelen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris and the Big Wood Canal Company (hereafter “Objectors”) on November 14, 2007. An Initial hearing was held on April 29, 2010. At the hearing, the Objectors made an oral *Motion to Withdraw Objection*. There was no opposition to the *Motion*. The Court **granted** the *Motion*. There are no unresolved objections remaining in this subcase.

## II. CONCLUSIONS OF LAW

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: 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 37-12873

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |
| MAY - 7 2010                                                                            |
| By _____ Clerk<br>Deputy Clerk                                                          |

RECEIVED

MAY 10 2010

DEPARTMENT OF  
WATER RESOURCES

NAME AND ADDRESS: BARKER LIVING TRUST  
FOUR SEASONS RESIDENCES  
765 MARKET ST PH2G  
SAN FRANCISCO, CA 94103

SOURCE: SPRINGS TRIBUTARY: SINKS

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 06/15/1962

POINT OF DIVERSION: T02N R18E S35 NWSE Within Blaine County  
NWSE (Instream Beginning Point)  
NWSE (Instream Ending Point)

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.02 CFS |
|                               | Recreation     | 01-01 TO 12-31 | 6.00 APY |
|                               | Aesthetic      | 01-01 TO 12-31 | 6.00 APY |

|               |               |      |                      |
|---------------|---------------|------|----------------------|
| PLACE OF USE: | Stockwater    |      | Within Blaine County |
|               | T02N R18E S35 | NWSE |                      |
|               | Recreation    |      | Within Blaine County |
|               | T02N R18E S35 | NWSE |                      |
|               | Aesthetic     |      | Within Blaine County |
|               | T02N R18E S35 | NWSE |                      |

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                                 |
| <i>Stephanie L. Lacey</i><br>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

RECEIVED

MAY 10 2010

DEPARTMENT OF  
WATER RESOURCES

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |
| MAY - 7 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 )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

Water Right(s): 37-12873

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 (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 May 07, 2010.

  
JANET CONNELL  
Deputy Clerk

RECEIVED

MAY 10 2010

DEPARTMENT OF  
WATER RESOURCES

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |
| MAY - 7 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 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s) : 37-12873

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

PAGE 1  
05/07/10

BIG WOOD CANAL COMPANY

Represented by:

CRAIG D. HOBDEY

125 5TH AVE

PO BOX 176

GOODING, ID 83330

Phone: 208-934-4429

BARKER LIVING TRUST

CHANAY CREEK RANCH LLC

CHARLES L MATTHIESEN

CHARLES T FOLEY

EAGLE CREEK IRRIGATION CO

ECD INC

ELISE G LUFKIN

GIMLET PROPERTY OWNERS ASSN

GREGORY RANCH LLC

LAKE CREEK MEADOWS HOMEOWNERS

MICHAEL E WILLARD

MICHAEL ENGL

MYER BERLOW

RALPH W & KANDI L GIRTON

RIVER ROCK RANCH LP

RIVERS EDGE ASSOCIATES LLC

ROY R WOODS

STEVEN D HOLZMAN TRUST

THE GULCH TRUST

THE R DANIEL OLMSTEAD

WILLIAM B GORDON

Represented by:

JAMES P. SPECK

SPECK & AANESTAD

120 EAST AVENUE

PO BOX 987

KETCHUM, ID 83340

Phone: 208-726-4421

  
JANET CONNELL  
Deputy Clerk