

RECEIVED
JUN 28 2010
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 25 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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION ON MOTION TO
	)	SET ASIDE PARTIAL DECREE
Case No. 39576	)	
	)	WATER RIGHT NOS.: 22-13732, 22-13733,
	)	and 22-13734

I. PROCEDURAL BACKGROUND

The SRBA District Court issued *Partial Decrees* for these water rights on December 2, 2008. On April 23, 2009, Ryan Kunz and Neil Kunz filed a *Motion to File Amended Notice of Claim*. The *Motion* was considered by this court as a *Motion to Set Aside Partial Decrees*. Presiding Judge John Melanson issued an *Order of Reference Appointing Special Master Brigitte Bilyeu* on April 23, 2009.

Hearings on the *Motion to Set Aside Partial Decree* were held June 17, 2009, December 23, 2009 and June 23, 2010.

II. FINDINGS OF FACT

At the hearing on June 17, 2009, IDWR explained that the agent assigned to Basin 22 concurs that these subcases should be examined more closely. Based on the information, IDWR requested time to review these claims to further determine if these claims need to be amended to more accurately describe these rights. There was no opposition to the *Motion*. The *Motion to File Amended Notice of Claim* was **granted**.

An *Amended Director's Report* was filed on February 11, 2010. The *Amended Director's Report* was placed on the Docket Sheet. No objections were filed to the *Amended Director's Report*, and the time for filing such objections has now expired.

Water Right 22-13732 was recommended disallowed in the *Amended Directors' Report* and the water use from that right was recommended as Water Right No. 22-13733.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motion to Set Aside Partial Decrees* be **granted**.

IT IS RECOMMENDED that water right 22-13732 **not be confirmed** in any partial or final decree. Thus, the SRBA District Court should now issue a *Final Order Disallowing Water Right Claim* for 22-13732.

IT IS FURTHER RECOMMENDED that water rights 22-13733 and 22-13734 be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decrees*.

Dated June 25, 2010.


BRIGETTE BLEYEU
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

JUN 25 2010

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 22-13733

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: RYAN M KUNZ
6076 S 1000 W
VICTOR, ID 83455

SOURCE: UNNAMED STREAM TRIBUTARY: FOX CREEK

QUANTITY: 0.81 CFS

PRIORITY DATE: 06/01/1891

POINT OF DIVERSION: T04N R45E S33 SESWNW Within Teton County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.81 CFS

PLACE OF USE: Irrigation Within Teton County
T04N R45E S32 SENE 18.0
S33 SWNW 11.0
29.0 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

JUN 25 2010

Bridgette Lilley
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

JUN 25 2010

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 22-13734

By _____

Clerk
Deputy Clerk

NAME AND ADDRESS: LANA KUNZ
NEIL KUNZ
625 E 2ND N
ST ANTHONY, ID 83445

SOURCE: UNNAMED STREAM TRIBUTARY: FOX CREEK

QUANTITY: 0.77 CFS

PRIORITY DATE: 06/01/1889

POINT OF DIVERSION: T04N R45E S33 SESWNW Within Teton County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.77 CFS

PLACE OF USE: Irrigation Within Teton County
T04N R45E S32 NENE 36.0
36.0 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

JUN 25 2010

Brietta 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	
JUN 25 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	)	NOTICE OF ISSUANCE OF
	)	SPECIAL MASTER'S
	)	REPORT AND RECOMMENDATION
	)	
Case No. 39576	)	Water Right (s) : 22-13732, 22-13733,
	)	and 22-13734
_____	)	

On June 25, 2010 Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE 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: June 25, 2010.


 JANET CONNELL
 Deputy Clerk

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

JUN 25 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	)	CERTIFICATE OF MAILING
	)	
Case No. 39576	)	
	)	Water Right (s) : 21-10015

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE was mailed on June 25, 2010, with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, Idaho 83720-0098

Merle G. Kunz
C/O Larry Kunz
721 S 450 W
Victor, Idaho 83455

Ryan Kunz
6076 S 1000 W
Victor, Idaho 83455

Neil and Lana Kunz
625 E 2nd N
St. Anthony, Idaho 83455

Deputy Clerk