

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUL - 9 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; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT: 37-20440
_____	)	

I. FINDINGS OF FACT

A notice of 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.

An *Objection* was filed by Tom O'Gara, John Stevenson, Bill Molyneux, Pete Van Der Muellen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris and Big Wood Canal Company (hereafter "Objectors") on November 14, 2010.

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 *Special Master's Recommendation for Partial Decree*.

DATED: July 9, 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

JUL - 9 2010

In Re SRBA)
Case No. 39576)

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

Water Right 37-20440

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: PRISCILLA A DRAPER
RANNEY DRAPER
567 SAN NICHOLAS DR STE 340
NEWPORT BEACH, CA 92660-6513

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DEPARTMENT OF
WATER RESOURCES

SOURCE: BIG WOOD RIVER, TRIBUTARY: MALAD RIVER

QUANTITY: 0.09 CFS

PRIORITY DATE: 03/24/1983

POINT OF DIVERSION: T03N R18E S20 SWNW Within Blaine County
T04N R18E S30 SENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Wildlife	04-15 TO 10-31	0.09 CFS
	Recreation	04-15 TO 10-31	0.09 CFS
	Aesthetic	04-15 TO 10-31	0.09 CFS

PLACE OF USE:			
	Wildlife		Within Blaine County
	T04N R18E S32	NWNW	
	Recreation		Within Blaine County
	T04N R18E S32	NWNW	
	Aesthetic		Within Blaine County
	T04N R18E S32	NWNW	

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

This right serves as mitigation for use of Big Wood River water diverted for Aesthetic, Recreation and Wildlife purposes under Permit 37-20441. The right holder shall retain ownership of Right 37-20440 and 0.02 cfs of that right shall be released by the watermaster of Water District 37 into the Hiawatha Canal and shall remain undiverted from the canal to prevent injury to canal users; the remainder of the right (0.07 cfs) shall be delivered with 37-20441 at the head of the Comstock ditch for losses associated with development of ponds under permit 37-20441.

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

JUL 09 2010

Bigelle Lilacy
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

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DEPARTMENT OF
WATER RESOURCES

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In Re SRBA)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 37-20440

On July 09, 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 July 09, 2010.


JANET CONNELL
Deputy Clerk

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JUL 12 2010

DEPARTMENT OF
WATER RESOURCES

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s) : 37-20440

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 July 09, 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

PRISCILLA A DRAPER
RANNEY DRAPER

Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340
Phone: 208-726-4421



JANET CONNELL
Deputy Clerk