

JUL 12 2010

DEPARTMENT OF
WATER RESOURCESDISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JUL - 9 2010

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSBy _____ Clerk
Deputy Clerk

In Re SRBA

Case No. 39576

SPECIAL MASTER'S REPORT AND
RECOMMENDATION; FINDINGS OF
FACT AND CONCLUSIONS OF LAWWATER RIGHT NOS.: 37-212A,
37-2621, 37-4337, 37-11885, AND
37-20381

I. FINDINGS OF FACT

A notice of claim was filed for each of these water rights 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 recommendation for the elements of these water rights.

Objections were filed by Helios Development LLC and the USDA Forest Service on November 14, 2007. A *Motion to File Amended Notice of Claim* was filed by Helios Development LLC. The *Motion* was granted. An *Amended Director's Report* was filed on October 30, 2009. The *Amended Director's Report* was placed on the Docket Sheet.

Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Muelen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris, (hereafter "Concerned Water Users") and the Big Wood Canal Company filed a *Notice of Continued Objection* on November 30, 2010.

The *Objections* were resolved on June 18, 2010, with the filing of a *Standard Form 5* for each right. All parties to the subcases and IDWR are signatories to each *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that these water rights be decreed with the elements set forth in the attached *Special Master's Recommendations for Partial Decrees*.

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

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

JUL - 9 2010

In Re SRBA)
)
Case No. 39576)
_____)

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

Water Right 37-00212A

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: HELIOS DEVELOPMENT LLC
C/O EDWARD A LAWSON
PO BOX 3310
KETCHUM, ID 83340

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DEPARTMENT OF
WATER RESOURCES

SOURCE: WARM SPRINGS CREEK TRIBUTARY: BIG WOOD RIVER

QUANTITY: 1.12 CFS

The rights listed below are limited to a total combined diversion
rate of 1.12 cfs. Combined Right Nos.: 37-212A, 37-2621 and
37-20381.

A measuring device of a type acceptable to the Department shall
be installed to measure the amount of water discharged back into
Warm Springs Creek at TWP 4N, RNG 17E Sec 12 SESWSW.

PRIORITY DATE: 06/23/1888

POINT OF DIVERSION: T04N R17E S11 NWSESE Within Blaine County
S12 NWSWSW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	1.12 CFS

PLACE OF USE:	Irrigation	Within Blaine County
	T04N R17E S11 SWSE 4.3	SESE 16.0
	S12 SWSW 7.6	
	27.9 Acres Total	

Right Nos. 37-212A, 37-2621 and 37-20381 are limited to the
irrigation of a combined total of 27.9 acres in a single
irrigation season.

Place of use does not includes federal public lands.

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

Property is also known as Homestead Entry Survey No. 292.
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

Bigella Silvey
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

JUL - 9 2010

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-02621

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: HELIOS DEVELOPMENT LLC
C/O EDWARD A LAWSON
PO BOX 3310
KETCHUM, ID 83340

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DEPARTMENT OF
WATER RESOURCES

SOURCE: SPRING TRIBUTARY: WARM SPRINGS CREEK

QUANTITY: 0.48 CFS

The rights listed below are limited to a total combined diversion
rate of 1.12 cfs. Combined Right Nos.: 37-212A, 37-2621 and
37-20381.

PRIORITY DATE: 08/06/1959

POINT OF DIVERSION: T04N R17E S11 NWSESE (Rediversion) Within Blaine County
S12 SWSWSW
SESWSW (Injection)

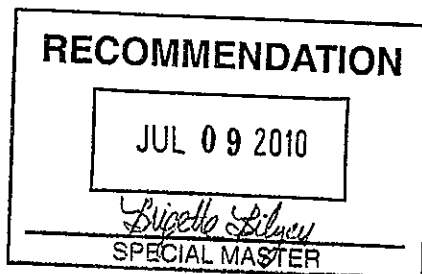
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.48 CFS

PLACE OF USE:	Irrigation	Within Blaine County
	T04N R17E S11 SWSE 4.3 SESE 16.0	
	S12 SWSW 4.4	
	24.7 Acres Total	

Right Nos. 37-212A, 37-2621 and 37-20381 are limited to the
irrigation of a combined total of 27.9 acres in a single
irrigation season.
Place of use does not include federal public lands.
This right is limited to the irrigation of 24 acres within the
place of use described above in a single irrigation season.

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

Property is also known as Homestead Entry Survey No. 292.
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.

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
JUL - 9 2010
By _____ Clerk Deputy Clerk

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-04337

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DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: HELIOS DEVELOPMENT LLC
C/O EDWARD A LAWSON
PO BOX 3310
KETCHUM, ID 83340

SOURCE: WARM SPRINGS CREEK TRIBUTARY: BIG WOOD RIVER

QUANTITY: 6.00 CFS

A measuring device of a type acceptable to the Department shall
be installed to measure the amount of water discharged back into
Warm Springs Creek at TWP 4N, RNG 17E Sec 12 SESWSW.

PRIORITY DATE: 01/01/1952

POINT OF DIVERSION: T04N R17E S12 NWSWSW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Aesthetic	01-01 TO 12-31	6.00 CFS
	Diversion to Storage	01-01 TO 12-31	6.00 CFS
	Aesthetic Storage	01-01 TO 12-31	1.36 AFY

PLACE OF USE:	Aesthetic	Within Blaine County
	T04N R17E S12	SWSW
	Aesthetic Storage	Within Blaine County
	T04N R17E S12	SWSW

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
JUL 09 2010
<i>Eric J. Wildman</i> 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
JUL - 9 2010
By _____ Clerk Deputy Clerk

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-11885

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JUL 12 2010

DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: HELIOS DEVELOPMENT LLC
C/O EDWARD A LAWSON
PO BOX 3310
KETCHUM, ID 83340

SOURCE: GROUND WATER

QUANTITY: 0.06 CFS
4.80 AFY

PRIORITY DATE: 10/01/1961

POINT OF DIVERSION: T04N R17E S12 NESWSW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Commercial	01-01 TO 12-31	0.04 CFS 3.00 AFY
	Irrigation	04-15 TO 10-31	0.02 CFS 1.80 AFY

PLACE OF USE: Irrigation T04N R17E S12 SWSW 0.5 Within Blaine County
0.5 Acres Total

Commercial T04N R17E S12 SWSW Within Blaine County

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
JUL 09 2010
<i>Eric J. Wildman</i> 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 JUL - 9 2010 By _____ Clerk Deputy Clerk

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-20381

NAME AND ADDRESS: HELIOS DEVELOPMENT LLC
C/O EDWARD A LAWSON
PO BOX 3310
KETCHUM, ID 83340

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JUL 12 2010

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

Water diverted under this right is exchanged with water saved by use of the Rockwell By-Pass.
Water may be diverted from Warm Springs Creek at the point of diversion described below only when: (1) all other rights diverted from Warm Springs Creek that are senior to November 18, 1987 have been curtailed; and (2) the saved water provisions of the Rockwell By-Pass, as established in Rockwell v. Coffin (Blaine County, August 29, 1949), are met.

QUANTITY: 0.50 CFS

Right Nos. 37-212A, 37-2621 and 37-20381 are limited to a total combined diversion rate of 1.12 cfs.
A measuring device of a type acceptable to the Department shall be installed to measure the amount of water discharged back into Warm Springs Creek at TWP 4N, RNG 17E Sec 12 SESWSW.

PRIORITY DATE: 11/12/1936

Pursuant to a call in times of scarcity, this right is senior to all other rights diverted from the Big Wood River that did not result from saved water in the Rockwell By-Pass, as established by and subject to the provisions in Rockwell v. Coffin (Blaine County, August 29, 1949).

POINT OF DIVERSION: T04N R17E S11 NWSESE Within Blaine County
S12 NWSWSW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.50 CFS

PLACE OF USE:	Irrigation	Within Blaine County
	T04N R17E S11 SWSE 4.3	SESE 16.0
	S12 SWSW 7.6	
	27.9 Acres Total	

Right Nos. 37-212A, 37-2621 and 37-20381 are limited to the irrigation of a combined total of 27.9 acres in a single irrigation season.
Place of use does not include federal public lands.

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

The saved water shall be made available to the Rockwell By-Pass saved water right holders any time the Rockwell By-Pass is being used to deliver water to Broadford Slough right holders. The Rockwell saved water rights shall be curtailed when calls for senior water rights from the Broadford Slough cannot be delivered.
Property is also known as Homestead Entry Survey No. 292.

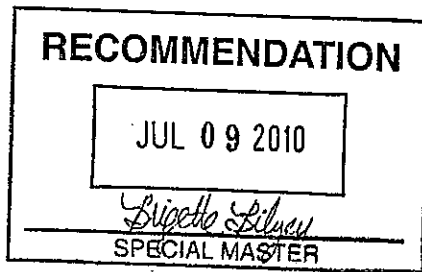
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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

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

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JUL 12 2010

DEPARTMENT OF
WATER RESOURCES

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)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s) : 37-00212A

37-02621 37-04337 37-11885
37-20381

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

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

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 37-00212A
37-02621 37-04337 37-11885
37-20381

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

CERTIFICATE OF MAILING

PAGE 1
07/09/10

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

Represented by:
BARKER RSHOLT & SIMPSON LLP
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

BIG WOOD CANAL COMPANY

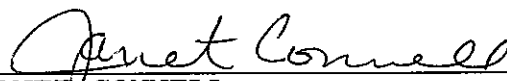
Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330
Phone: 208-934-4429

HELIOS DEVELOPMENT LLC

Represented by:
EDWARD A LAWSON
LAWSON LASKI CLARK POGUE PLLC
675 SUN VALLEY RD STE A
PO BOX 3310
KETCHUM, ID 83340
Phone: 208-725-0055

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724


JANET CONNELL
Deputy Clerk