

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

OCT 29 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.**

FOR WATER RIGHT: 37-189

I. FINDINGS OF FACT

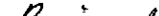
A notice of claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of this water right.

Objections were filed by the State of Idaho Department of Lands, United States Bureau of Land Management, and Picabo Livestock Co., Inc. on November 14, 2007. The *Objections* were resolved on September 24, 2010 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, 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: October 29, 2010.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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

OCT 29 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 37-00189

NAME AND ADDRESS: PICABO LIVESTOCK CO INC
PO BOX 748
PICABO, ID 83348

SOURCE: LOVING CREEK TRIBUTARY: SILVER CREEK
SILVER CREEK TRIBUTARY: LITTLE WOOD RIVER

QUANTITY: 1.80 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
Rights 37-21, 37-22, 37-186, 37-187, 37-189, 37-213, 37-215D, 37-333, 37-351A, 37-352A, 37-377, 37-378, 37-695, 37-942, 37-2405, 37-11892, 37-11898, 37-11900, 37-11903, and 37-20609 when combined shall not exceed a total diversion rate of 72.78 cfs, nor a total combined annual volume measured at the points of diversion of 17,096.6 af. These rights shall not exceed an annual diversion volume of 17,081 af at the points of diversion for irrigation purposes, nor a diversion rate of 0.17 cfs and an annual diversion volume 15.6 af for stockwater purposes.

The total instantaneous diversion of water from all points of diversion for all surface rights identified under Transfer No. 69626 and the ground water rights identified under Transfer No. 69624 shall not exceed 72.78 cfs, nor a total combined annual volume measured at the points of diversion of 17,081 af for irrigation purposes.

PRIORITY DATE: 04/01/1899

POINT OF DIVERSION: T01S R19E S24 NESENW Within Blaine County
R20E S20 SWSWE
S30 SWNENW
LOT 1 (NENWNW)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	1.80 CFS
	Stockwater	01-01 TO 12-31	0.04 CFS

PLACE OF USE:	Irrigation	Within Blaine County
T01S R20E S19	NENE 40.0	SENE 39.0
LOT 4	(SWSW) 38.0	SESW 39.0
	NESE 26.0	NWSE 32.0
	SWSE 35.0	SESE 37.0
S20	NWNW 40.0	SWNW 40.0
	NESW 30.0	NWSW 38.0
	SWSW 19.0	SESW 19.0
	NESE 40.0	NWSE 36.0
	SWSE 11.0	SESE 36.0
S21	SWNE 40.0	SENE 27.0
	NESW 40.0	NWSW 40.0
	SWSW 40.0	SESW 36.0
	NESE 40.0	NWSE 40.0
	SWSE 37.0	SESE 28.0
S22	SWNW 23.0	SENW 19.0
	NESW 6.8	NWSW 36.0
	SWSW 37.0	SESW 27.0
S26	NWSW 14.0	SWSW 36.0

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

PLACE OF USE (continued)

	SESW 3.0	
S27	NWNE 20.0	SWNE 29.0
	NENW 36.0	NWNW 18.0
	SWNW 32.0	SENE 22.0
	NESW 15.0	NWSW 24.0
	SWSW 0.6	SESW 12.0
	NESE 30.0	NWSE 16.0
	SWSE 32.0	SESE 36.0
S28	NENE 20.0	NWNE 24.0
	SWNE 34.0	SENE 29.0
	NENW 17.0	NWNW 22.0
	SWNW 40.0	SENE 38.0
	NESW 40.0	NWSW 40.0
	SWSW 32.0	SESW 38.0
	NESE 40.0	NWSE 40.0
	SWSE 36.0	SESE 6.4
S29	NENE 29.0	NWNE 38.0
	SWNE 40.0	SENE 40.0
	NENW 33.0	NWNW 27.0
	SWNW 33.0	SENE 40.0
	NESW 36.0	NESE 40.0
	NWSE 39.0	SWSE 2.8
	SESE 29.0	
S30	NENE 30.0	NWNE 35.0
	SWNE 40.0	SENE 31.0
	NENW 18.0	(NWNW) 2.0
	SENE 15.0	NESE 37.0
	NWSE 40.0	SWSE 35.0
	SESE 40.0	
S31	NENE 40.0	NWNE 15.0
	SENE 40.0	
S33	NENE 4.9	NWNE 19.0
	NENW 4.4	
S34	NENE 40.0	NWNE 40.0
	NENW 34.0	NWNW 0.5
S35	NWNW 41.0	SWNW 25.0
3037.4	Acres Total	

Stockwater		Within Blaine County
T01S R20E S19	NENE	SENE
LOT 4	(SWSW)	SESW
	NESE	NWSE
	SWSE	SESE
S20	NWNW	SWNW
	NESW	NWSW
	SWSW	SESW
	NESE	NWSE
	SWSE	SESE
S21	SWNE	SENE
	NESW	NWSW
	SWSW	SESW
	NESE	NWSE
	SWSE	SESE
S22	SWNW	SENE
	NESW	NWSW
	SWSW	SESW
S26	NWSW	SWSW
	SESW	
S27	NWNE	SWNE
	NENW	NWNW
	SWNW	SENE
	NESW	NWSW
	SWSW	SESW
	NESE	NWSE

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

PLACE OF USE (continued)

	SWSE	SESE
S28	NENE	NWNE
	SWNE	SENE
	NENW	NWNW
	SWNW	SENW
	NESW	NWSW
	SWSW	SESW
	NESE	NWSE
	SWSE	SESE
S29	NENE	NWNE
	SWNE	SENE
	NENW	NWNW
	SWNW	SENW
	NESW	SESW
	NESE	NWSE
	SWSE	SESE
S30	NENE	NWNE
	SWNE	SENE
	NENW	LOT 1 (NWNW)
	SENW	NESE
	NWSE	SWSE
	SESE	
S31	NENE	NWNE
	SENE	
S33	NENE	NWNE
	NENW	
S34	NENE	NWNE
	NENW	NWNW
S35	NWNW	SWNW

Right Nos. 37-21, 37-22, 37-186, 37-187, 37-189, 37-213, 37-215D, 37-333, 37-351A, 37-352A, 37-377, 37-378, 37-695, 37-942, 37-2405, 37-11892, 37-11898, 37-11900, 37-11903, and 37-20609 are limited to the irrigation of a combined total of 2711.3 acres in a single irrigation season. This right is limited to the irrigation of 90 acres within the place of use described above in a single irrigation season.

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.

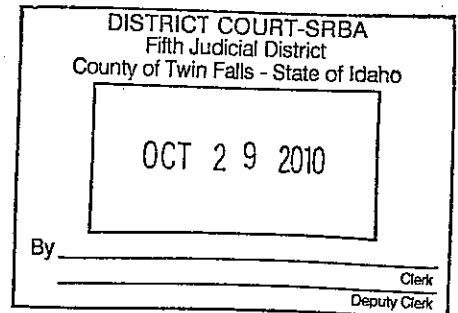
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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 OCT 29 2010 <i>Eric J. Wildman</i> SPECIAL MASTER
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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

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

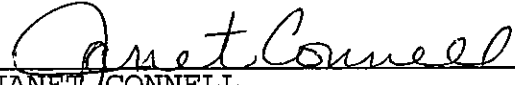
Water Right(s): 37-00189

On October 29, 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 October 29, 2010.


JANET CONNELL
Deputy Clerk

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
OCT 29 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): 37-00189

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 October 29, 2010, with sufficient first-class postage prepaid to the following:

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

PICABO LIVESTOCK CO INC

Represented by:
GARY D. SLETTE
PO BOX 1906
TWIN FALLS, ID 83303
Phone: 208-734-0700

STATE OF IDAHO DEPT OF LANDS

Represented by:
STATE OF IDAHO
JRW BUILDING, SECOND FLOOR
700 W STATE ST, PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

CERTIFICATE OF MAILING

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10/29/10

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