

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: 37-2627A**

## 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 Picabo Livestock Co., Inc. on November 14, 2007. The *Objection* was 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.

*Brigitte Bilyeu*  
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<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |                       |
| OCT 29 2010                                                                             |                       |
| By _____                                                                                | Clerk<br>Deputy Clerk |

In Re SRBA )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 37-02627A

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

SOURCE: GROUND WATER

QUANTITY: 10.65 CFS  
3865.70 AFY

Right Nos. 37-2627A, 37-11911, and 37-11914 are limited to a total combined diversion rate of 16.83 cfs and to a total combined annual diversion volume of 5312.7 AF. The total instantaneous diversion of water from all points of diversion for all ground water rights identified under Transfer No. 69624 and the surface water rights identified under Transfer No. 69626 shall not exceed 72.78 cfs, nor a total combined annual volume measured at the points of diversion of 17,081 af.

PRIORITY DATE: 12/09/1959

POINT OF DIVERSION: T01S R20E S20 SESWSE Within Blaine County  
S30 NWSWNE  
SENENW

|                               |                |                |                          |
|-------------------------------|----------------|----------------|--------------------------|
| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY                 |
|                               | Irrigation     | 04-15 TO 10-31 | 10.65 CFS<br>3865.70 AFY |

|               |                   |                      |
|---------------|-------------------|----------------------|
| PLACE OF USE: | Irrigation        | Within Blaine County |
|               | T01S R20E S19     | 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            |
|               | SESW 3.0          |                      |
|               | S27 NWNE 20.0     | SWNE 29.0            |
|               | NENW 36.0         | NWNW 18.0            |
|               | SWNW 32.0         | SENW 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            |

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

PLACE OF USE (continued)

|                    |           |       |            |
|--------------------|-----------|-------|------------|
|                    | 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 | LOT 1 | (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 |           |       |            |

Rights identified under Transfer No. 69624 and the surface water rights identified under Transfer No. 69626 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 2496.3 acres within the place of use described above in a single irrigation season. Right Nos. 37-2627A, 37-11911, and 37-11914 are limited to the irrigation of a combined total of 2711.3 acres in a single irrigation season.

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

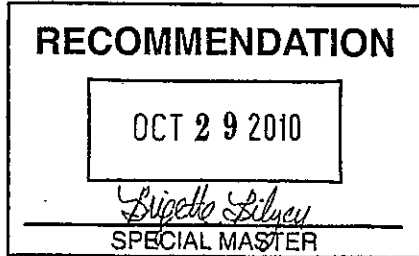
The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of 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.



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

|                                                                                         |                       |
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In Re SRBA )  
 )  
Case No. 39576 )  
 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

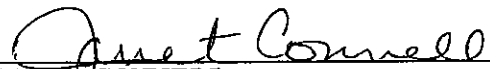
Water Right(s): 37-02627A

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

|                                                                                         |                       |
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\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 37-02627A

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

  
\_\_\_\_\_  
JANET CONNELL  
Deputy Clerk

CERTIFICATE OF MAILING

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10/29/10