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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
FEB - 8 2011
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
	)	
	)	WATER RIGHT NOS.: 27-2080B and
	)	27-12144

I. PROCEDURAL BACKGROUND

The SRBA District Court issued an *Order of Partial Decree* for water right 27-2080B on September 29, 2008. On November 18, 2008, IDWR sent a letter to the Court explaining that it had reviewed its recommendations in Basin 27 and identified subcases 27-2080B and 27-12144 as needing a correction to the *Director's Report*. The correction needed for 27-2080B was also carried over in the *Partial Decree*. The letter provided additional information about the necessary corrections. The letter was served on the parties to the subcases. Presiding Judge John Melanson issued an *Order of Reference Appointing Special Master Brigitte Bilyeu*.

A hearing was held on January 30, 2009. At the hearing, IDWR proposed that the Court allow it to either circulate a new settlement agreement (SF5) or file *Amended Director's Reports* with corrections.

II. FINDINGS OF FACT

Multiple hearings were held. At a hearing held on June 30, 2010, IDWR reported to the court that it sent a proposed settlement agreement to the claimant. The claimant Jouglard Sheep Co Inc was present at the hearing. Jouglard Sheep Co Inc reported that it had received the *Standard Forms 5* and that it would sign the *Standards Forms 5* and file with the Court.

The Court did not receive the *Standard Forms 5* and an *Order to Show Cause* was issued on August 6, 2010. The *Order* informed Jouglard Sheep Co. Inc. that it shall appear at a hearing to determine whether the Court should issued a *Special Master's Report and Recommendation* recommending the elements as set forth in the proposed *Standard Forms 5*. A hearing was held on January 12, 2011. Jouglard Sheep Co. Inc. failed to attend the hearing.

A *Partial Decree* should accurately describe a water right. Therefore, it is appropriate that the SRBA District Court set aside the *Partial Decree* for 27-2080B and enter an *Amended Partial Decree* consistent with the proposed *Standard Form 5*. The Court will also recommend 27-12144 consistent with the proposed *Standard Form 5*.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Partial Decree* be set aside for 27-2080B and that this water right be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*.

IT IS FURTHER RECOMMENDED that water right 27-12144 be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

Dated: February 8, 2011.


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

AMENDED

In Re SRBA)
Case No. 39576)

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

Water Right 27-02080B

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB - 8 2011	
By _____	Clerk Deputy Clerk

NAME AND ADDRESS: JOUGLARD SHEEP CO INC
PO BOX 245
RUPERT, ID 83350

SOURCE: UNNAMED STREAMS TRIBUTARY: TRAIL CREEK

QUANTITY: 0.02 CFS
4.50 AFY

The rights listed below are limited to a total combined annual diversion volume of 9.7 af for stockwater. Combined right nos.:
27-2080A, 27-2080B, 27-12018, 27-12019, 27-12020, 27-12021,
27-12022, 27-12023, 27-12024, 27-12025, 27-12026, 27-12144,
and 27-12191.
The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 09/12/1923

POINT OF DIVERSION: T08S R43E S07 NWSWE (Instream Ending Point) Within Caribou County
SESWE (Instream Beginning Point)
S18 NENWNE (Instream Beginning Point)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-15 TO 11-01	0.02 CFS
			4.50 AFY

PLACE OF USE: Stockwater Within Caribou County
T08S R43E S07 SWSE
S18 NWNE

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
FEB 08 2011
<i>Brigitte Silvey</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

FEB - 8 2011

In Re SRBA)
Case No. 39576)

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

Water Right 27-12144

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: JOUGLARD SHEEP CO INC
PO BOX 245
RUPERT, ID 83350

SOURCE: UNNAMED STREAMS TRIBUTARY: TRAIL CREEK

QUANTITY: 0.02 CFS
3.00 AFY

The rights listed below are limited to a total combined annual
diversion volume of 9.7 af for stockwater. Combined right nos.:
27-2080A, 27-2080B, 27-12018, 27-12019, 27-12020, 27-12021,
27-12022, 27-12023, 27-12024, 27-12025, 27-12026, 27-12144,
and 27-12191.
The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 09/12/1932

POINT OF DIVERSION: T08S R42E S13 SWSE (Instream Beginning Point) Within Caribou County
R43E S07 NWSE (Instream Ending Point)
S18 NWSE (Instream Beginning Point)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	05-15 TO 11-01	0.02 CFS 3.00 AFY

PLACE OF USE:	Stockwater	Within Caribou County
	T08S R42E S12	SESE
	S13	NWNE
		NWSE
	R43E S07 LOT 4	(SWSW) SESW
		NWSE
	S18	NWNE
		NWSE

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).

RECOMMENDATION

FEB 08 2011

Brigitte 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

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB - 8 2011	
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): 27-02080B
27-12144 (AMENDED)

On February 08, 2011, 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 February 08, 2011.


JANET CONNELL
Deputy Clerk

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB - 8 2011	
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): 27-02080B
27-12144 (AMENDED)

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 February 08, 2011, with sufficient first-class postage prepaid to the following:

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

COMMITTEE OF NINE

Represented by:
BARKER, ROSHOLT & SIMPSON LLP
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

CERTIFICATE OF MAILING

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02/08/11

SHOSHONE-BANNOCK TRIBES

Represented by:

JEANETTE WOLFLEY

SPECIAL COUNSEL

SHOSHONE-BANNOCK TRIBE

202 N ARTHUR

POCATELLO, ID 83202

Phone: 208-232-1922

STATE OF IDAHO

Represented by:

NATURAL RESOURCES DIV CHIEF

STATE OF IDAHO

ATTORNEY GENERAL'S OFFICE

PO BOX 44449

BOISE, ID 83711-4449

COMMITTEE OF NINE

Represented by:

RAY W. RIGBY

25 N 2ND E

PO BOX 250

REXBURG, ID 83440-0250

Phone: 208-356-3633

UNITED STATES OF AMERICA

Represented by:

US DEPARTMENT OF JUSTICE

ENVIRONMENT & NATL' RESOURCES

550 WEST FORT STREET, MSC 033

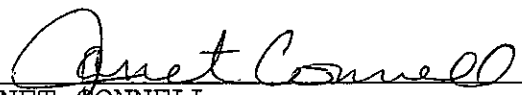
BOISE, ID 83724

JOUGLARD SHEEP CO INC

PO BOX 245

RUPERT, ID 83350

Phone: 208-436-4221


JANET CONNELL
Deputy Clerk