

DEPARTMENT OF
WATER RESOURCES

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

MAR - 3 2011

By _____
DISTRICT CLERK OF THE _____
Clerk
Deputy Clerk

In Re SRBA

Case No. 39576

**SPECIAL MASTER'S REPORT AND
RECOMMENDATION; FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

FOR WATER RIGHT: 37-4440

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 on July 16, 2007 by Spring Canyon Ranch LLC. An *Objection* was filed on November 14, 2007 by Tom O’Gara, John Stevenson, Bill Molyneux, Pete Van Der Muelen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris and Big Wood Canal Company. (hereafter “Objectors”) An *Amended Objection* was filed by the Objectors on November 21, 2008.

A *Notice of Substitution of Parties* was filed on August 17, 2010 by Wells Fargo Bank as the successor in interest to Spring Canyon Ranch, LLC, and the current owner of this water right. A *Notice of Completed Administrative Proceeding* was filed on October 21, 2010 changing ownership to Wells Fargo Bank. The *Objection* was resolved on February 10, 2011 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: March 3, 2011.

Brigitte Bilyeu
BRIGETTE BILYEU, Special Master
Snake River Basin Adjudication

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MAR 04 2011

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO FOR THE COUNTY OF TWIN FALLS

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

MAR - 3 2011

In Re SRBA)

PARTIAL DECREE PURSUANT TO

Case No. 39576)

I.R.C.P. 54(b) FOR

Water Right 37-04440

By

Clerk

Deputy Clerk

NAME AND ADDRESS:

WELLS FARGO BANK
1740 BROADWAY
7TH FLOOR MAC C7300-079
DENVER, CO 80274

SOURCE:

GROUND WATER

QUANTITY:

0.47 CFS
191.10 AFY

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
The rights listed below are limited to 3.50 af per acre for irrigation purposes in a single irrigation season. Combined Right Nos.: 37-548, 37-549, 37-1222, 37-2142, 37-4138, 37-4440 and 37-12396.

PRIORITY DATE:

12/31/1950

POINT OF DIVERSION:

T02N R18E S18 NWNWSE Within Blaine County
NWNWSE
NWNWSE (Injection)
NWNWSE
LOT 5 (NWSESE) (Rediversion)

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	04-15 TO 10-31	0.47 CFS 186.10 AFY
Stockwater	01-01 TO 12-31	0.03 CFS
Recreation Storage	01-01 TO 12-31	5.00 AFY

PLACE OF USE:

Irrigation		Within Blaine County	
T02N R18E S17 LOT 3	(SWNW) 2.9	LOT 4	(SENW) 23.0
	NESW 8.6		NWSW 27.0
LOT 1	(SWSW) 1.1		
S18	SWNE 15.0		NENW 1.2
	SENW 27.0		NESW 1.2
	NESE 21.0		NWSE 18.0
	SWSE 17.0	LOT 5	(SESE) 22.0
185.0 Acres Total			
Stockwater		Within Blaine County	
T02N R18E S17 LOT 3	(SWNW)	LOT 4	(SENW)
	NESW		NWSW
LOT 1	(SWSW)		
S18	SWNE		NENW
	SENW		NESW
	NESE		NWSE
	SWSE	LOT 5	(SESE)
Recreation Storage		Within Blaine County	
T02N R18E S18	NESE	LOT 5	(SESE)

The rights listed below are limited to the irrigation of a combined total of 185 acres in a single irrigation season.
Combined Right Nos.: 37-548, 37-549, 37-1222, 37-2142, 37-4138 and 37-4440.

PLACE OF USE (continued)

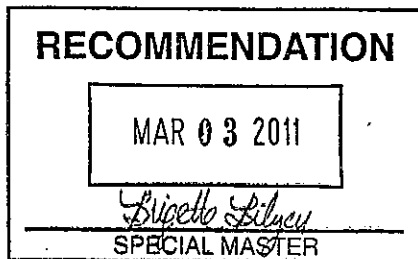
This right is limited to the irrigation of 65.4 acres within the place of use described above in a single irrigation season. Place of use does not include federal public lands.

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

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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DEPARTMENT OF
WATER RESOURCES

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

MAR - 3 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

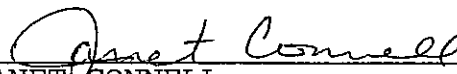
Water Right(s) : 37-04440

On March 03, 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 March 03, 2011.


JANET CONNELL
Deputy Clerk

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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
MAR - 3 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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 37-04440

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 March 03, 2011, 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:
BARKER ROSHOLT & SIMPSON LLP
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CERTIFICATE OF MAILING

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03/03/11

WELLS FARGO BANK

Represented by:

BRALEY, KEVIN C

HOLLAND & HART LLP

101 S CAPITOL BLVD STE 1400

PO BOX 2527

BOISE, ID 83701

Phone: 208-342-5000

BIG WOOD CANAL COMPANY

Represented by:

CRAIG D. HOBDEY

125 5TH AVE

PO BOX 176

GOODING, ID 83330

Phone: 208-934-4429

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