

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

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

FOR WATER RIGHT: 37-4138

I. FINDINGS OF FACT

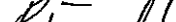
A notice of claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of this water right.

An *Objection* was filed by Spring Canyon Ranch LLC on July 16, 2007. 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.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

MAR - 3 2011

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)

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

Water Right 37-04138

By _____

Clerk
Deputy Clerk

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

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MAR 04 2011

DEPARTMENT OF
WATER RESOURCES

SOURCE: HAILEY HOT SPRINGS TRIBUTARY: DEMOCRAT GULCH

QUANTITY: 0.15 CFS

Right Nos. 37-4138 and 37-4139 are limited to a total combined
diversion rate of 0.15 cfs.

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: 12/31/1948

POINT OF DIVERSION: T02N R18E S18 NWNWE (Injection) Within Blaine County
NWNWE
LOT 5 (NWESE) (Rediversion)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.15 CFS

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	

This right is limited to the irrigation of 65.4 acres within the
place of use described above in a single irrigation season.
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 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).

RECOMMENDATION

MAR 03 2011

Bridgette Silbey
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

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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

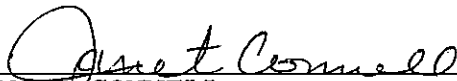
Water Right(s) : 37-04138

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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MAR 04 2011

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)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 37-04138

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

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

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

CERTIFICATE OF MAILING


JANET CONNELL
Deputy Clerk

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