

DEPARTMENT OF
WATER RESOURCES

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

MAY 19 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 ON MOTION
TO SET ASIDE PARTIAL DECREE**

WATER RIGHT NO.: 22-10343 and 22-13600

I. PROCEDURAL BACKGROUND

The SRBA District Court issued ***Partial Decrees*** for these water rights on November 24, 2008. A *Motion to Set Aside Partial Decree and Allow the Filing of a Late Objection* was filed on November 22, 2010. Presiding Judge Eric J. Wildman issued an ***Order of Reference Appointing Special Master Brigitte Bilyeu*** on November 22, 2010. A hearing on the *Motion to Set Aside Partial Decree and Allow the Filing of a Late Objection* was held on December 15, 2010.

II. FINDINGS OF FACT

In support of the *Motion*, Rowlands Inc. explained that these two claims derived from water rights 22-473 and 22-474 which were decreed in the *Rexburg Decree*. The water rights were claimed by and decreed to A.L. Rice. However, the place of use decreed in 1910 was not owned by A.L. Rice at the time of the *Rexburg Decree*. In fact, the United States did not issue a patent for the decreed place of use until 1913, after the date of the *Rexburg Decree*. It appears that the *Rexburg Decree* contained a clerical error which mistakenly listed the SESW in section 31 instead of the SENW of Section 31. The error contained in the *Rexburg Decree*, and the prior decree of this court may be corrected under I.R.C.P. 60(a) as a clerical error.

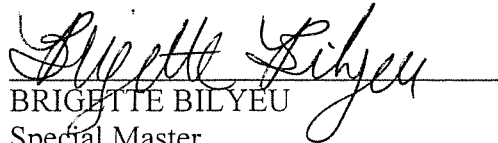
At the hearing on December 15, 2010, Rowlands Inc made an oral *Motion to Amend Claims*. No parties to the SRBA opposed the *Motions*. The *Motions* were granted.

An *Amended Director's Report* was filed on January 20, 2011. The *Amended Director's Report* was placed on the Docket Sheet. No objections were filed to the *Amended Director's Report*, and the time for filing such objections has now expired.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motion to Set Aside Partial Decree* be **granted**. IT IS FURTHER RECOMMENDED that the above-captioned water rights be **decreed** with the elements set forth in the attached *Special Master's Recommendations for Amended Partial Decrees*.

Dated: May 19, 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 22-10343

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho MAY 19 2011 By _____ Clerk _____ Deputy Clerk

NAME AND ADDRESS: TETON RAINBOW RANCHES INC
C/O JERRY KUNZ
6677 S 4500 W
VICTOR, ID 83455

SOURCE: PATTERSON CREEK TRIBUTARY: TETON RIVER

QUANTITY: 6.40 CFS

PRIORITY DATE: 06/01/1896

POINT OF DIVERSION: T04N R44E S36 SWSE Within Teton County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	6.40 CFS

PLACE OF USE:	Irrigation	Within Teton County	
	T04N R45E S31	SENE 37.0	NESW 39.0
		NESE 40.0	NWSE 34.0
		SWSE 40.0	SESE 40.0
	S32	NWSW 14.0	SWSW 17.0
	261.0 Acres Total		

The rights listed below are limited to the irrigation of a
combined total of 261 acres in a single irrigation season.
Combined Right Nos.: 22-10343, 22-13600 and 22-13980.

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 MAY 19 2011 <i>Bigelow</i> SPECIAL MASTER
--

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

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

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 22-13600

MAY 19 2011

By _____ Clerk
_____ Deputy Clerk

NAME AND ADDRESS: TETON RAINBOW RANCHES INC
C/O JERRY KUNZ
6677 S 4500 W
VICTOR, ID 83455

SOURCE: PATTERSON CREEK TRIBUTARY: TETON RIVER

QUANTITY: 3.20 CFS

PRIORITY DATE: 06/01/1891

POINT OF DIVERSION: T04N R44E S36 SWSE Within Teton County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	3.20 CFS

PLACE OF USE:	Irrigation	Within Teton County	
	T04N R45E S31	SENW 37.0 NESE 40.0 SWSE 40.0 S32 261.0 Acres Total	NESW 39.0 NWSE 34.0 SESE 40.0 SWSW 17.0

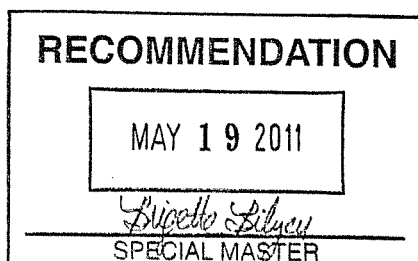
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Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAY 19 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

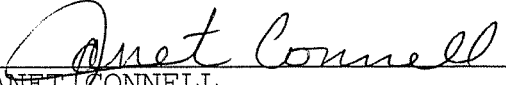
Water Right(s): 22-10343
22-13600

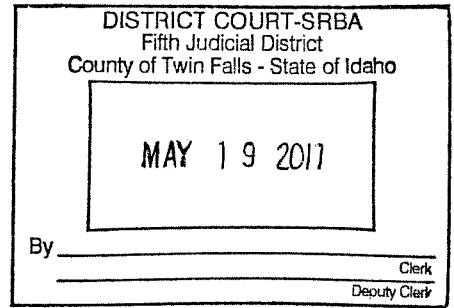
On May 19, 2011, Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 May 19, 2011.


JANET CONNELL
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) : 22-10343
22-13600

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 May 19, 2011, with sufficient first-class postage prepaid to the following:

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

TETON RAINBOW RANCHES INC
Represented by:
BUDGE, THOMAS J
201 E CENTER ST
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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05/19/11