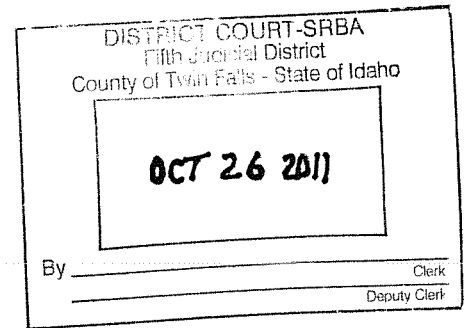


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OCT 27 2011

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

In Re SRBA

Case No. 39576

) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION ON MOTION
) TO SET ASIDE PARTIAL DECREE

) WATER RIGHT NOS.: 37-2545A,
) 37-2545B, 37-2688, 37-7072, 37-7600,
) and 37-11950
)

I. PROCEDURAL BACKGROUND

The SRBA District Court issued *Partial Decrees* for 37-7072 and 37-7600 on December 11, 2002. The SRBA District Court issued *Partial Decrees* for 37-2545A, 37-2545B, 37-2688, and 37-11950 on September 29, 2006.

On September 11, 2008, a *Motion to Reopen Subcases* was filed by Lava Lake Land & Livestock, LLC. Presiding Judge John Melanson issued an *Order of Reference Appointing Special Master Brigitte Bilyeu* on September 11, 2008. Multiple hearings were held. There was no opposition to the *Motion*.

II. FINDINGS OF FACT

In support of the *Motion*, Lava Lake Land & Livestock, LLC explained that the *Director's Reports* for these rights and subsequent *Partial Decrees* contained errors because key information about these water rights was not conveyed to the water agents investigating these rights for IDWR. Consequently the manner in which these rights are interconnected with other rights was not reflected. These water rights are complex because the land related to the rights has historically been irrigated from four sources including Copper Creek and tributary springs, Payne Creek, water stored in Lava Lake, and groundwater. The water distribution

system was reconstructed in 1986 to allow water from any of the four sources to be used on portions of the ranch. The interconnection of those sources and the water distribution system was not accurately reflected in the *Director's Reports* or the *Partial Decrees*.

IDWR concurred that the *Partial Decrees* do not reflect the way the water rights are currently used, and do not reflect the way these water rights were historically used. Therefore, IDWR and the parties had no opposition to reopening these subcases. The *Motion* was granted. *Order on Motion to Reopen Subcases and Setting Status Conference*. (March 17, 2009)

Amended Director's Reports were filed for 37-2454A, 37-7072, and 37-7600 on July 28, 2010. *Amended Director's Reports* were filed for 37-2688 and 37-11950 on November 29, 2010. The *Amended Director's Reports* were placed on the Docket Sheet. No objections were filed to the *Amended Director's Reports*, and the time for filing such objections has now expired.

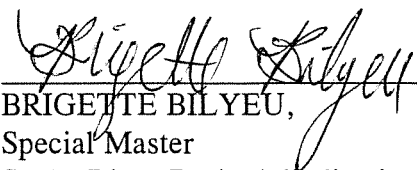
A *Standard Form 5* was filed for 37-2545B on July 20, 2011. The parties stipulated that this water right should be disallowed and not be included in any partial decree. Water right 37-2545B was disallowed and recommended under water right 37-2545A.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motion to Set Aside Partial Decrees* be **granted**, and that *Amended Partial Decrees* be issued for 37-2545A, 37-2688, 37-7072, 37-7600, and 37-11950 with the elements set forth in the attached *Special Master's Recommendations for Amended Partial Decrees*. The recommended elements are consistent with the *Amended Director's Report*.

IT IS FURTHER RECOMMENDED that water right 37-2545B **not be confirmed** in any partial or final decree.

Dated: October 26, 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

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

OCT 26 2011

In Re SRBA)
PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 37-02545A

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: LAVA LAKE LAND & LIVESTOCK LLC
PO BOX 2249
HAILEY, ID 83333

SOURCE: BARN CANYON CREEK TRIBUTARY: COPPER CREEK
COPPER CREEK TRIBUTARY: LAVA LAKE
PAYNE CREEK TRIBUTARY: COPPER CREEK

QUANTITY: 9.30 CFS

The rights listed below are limited to a total combined diversion
rate of 9.3 cfs. Combined Right Nos.: 37-2545A and 37-22467.
The rights listed below are limited to a total combined diversion
rate of 11.79 cfs. Combined Right Nos.: 37-2545A, 37-22467,
37-2688, 37-11950, 37-22468, 37-1156, 37-22466, 37-2715,
37-11936, 37-7072, 37-7600, 37-22469.

PRIORITY DATE: 05/29/1953

POINT OF DIVERSION: T01N R23E S16 NWNWNE Within Blaine County
S21 NWNWNE
S22 NWNWNE
SENESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	9.30 CFS

PLACE OF USE:	Irrigation	Within Blaine County
T01N R23E S16	SWSE 14.0	
S21	NENE 15.0	NWNE 31.0
	SWNE 22.0	SENE 40.0
	NESE 40.0	NWSE 18.0
	SWSE 28.0	SESE 40.0
S22	SWNW 33.0	NWSW 40.0
	SWSW 40.0	SESW 11.0
S27	NENW 28.0	NWNW 37.0
	SWNW 30.0	
S28	NENE 41.0	NWNE 21.0
	SWNE 6.8	SENE 40.0
	NESE 12.0	NWSE 1.9
589.7 Acres Total		

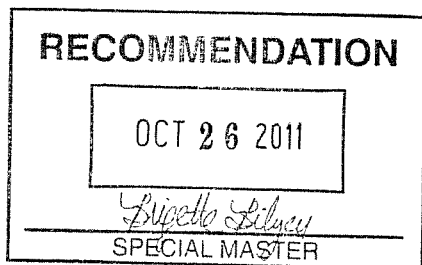
This right is limited to the irrigation of 465 acres within the
place of use described above in a single irrigation season.
The rights listed below are limited to the irrigation of a
combined total of 589.7 acres in a single irrigation season.
Combined Right Nos.: 37-2545A, 37-22467, 37-2688, 37-11950,
37-22468, 37-1156, 37-22466, 37-2715, 37-11936, 37-7072, 37-7600,
37-22469.

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

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

RICT OF THE
N FALLS

OCT 26 2011

By _____ Clerk
Deputy Clerk

OCT 26 2011

By _____ Clerk

Deputy Clerk

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DEPARTMENT OF
WATER RESOURCES

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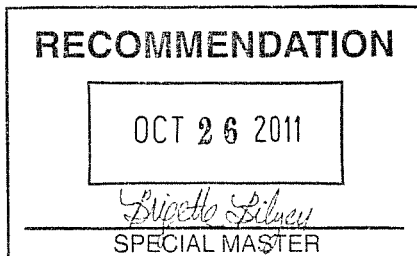
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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

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
OCT 26 2011
By _____ Clerk Deputy Clerk

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 37-07072

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OCT 27 2011

DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: LAVA LAKE LAND & LIVESTOCK LLC
PO BOX 2249
HAILEY, ID 83333

SOURCE: GROUND WATER

QUANTITY: 1.34 CFS
450.00 AFY

The rights listed below are limited to a total combined diversion
rate of 11.79 cfs. Combined Right Nos.: 37-2545A, 37-22467,
37-2688, 37-11950, 37-22468, 37-1156, 37-22466, 37-2715,
37-11936, 37-7072, 37-7600, 37-22469.

The rights listed below are limited to a total combined diversion
rate of 3.99 cfs and to a total combined annual diversion volume
of 1778.1 AF. Combined Right Nos.: 37-7072, 37-7600 and
37-22469.

PRIORITY DATE: 06/23/1970

POINT OF DIVERSION: T01N R23E S21 NWNWNE Within Blaine County
SWNESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-30	1.34 CFS 450.00 AFY

PLACE OF USE:	Irrigation	Within Blaine County
	T01N R23E S16	SWSE 14.0
	S21	NENE 15.0 NWNE 31.0 SWNE 22.0 SENE 40.0 NESE 40.0 NWSE 18.0 SWSE 28.0 SESE 40.0
	S22	SWNW 33.0 NWSW 40.0 SWSW 40.0 SESW 11.0
	S27	NENW 28.0 NWNW 37.0 SWNW 30.0
	S28	NENE 41.0 NWNE 21.0 SWNE 6.8 SENE 40.0 NESE 12.0 NWSE 1.9
	589.7 Acres Total	

The rights listed below are limited to the irrigation of a
combined total of 240 acres in a single irrigation season.
Combined Right Nos.: 37-7072 and 37-7600.

The rights listed below are limited to the irrigation of a
combined total of 589.7 acres in a single irrigation season.
Combined Right Nos.: 37-2545A, 37-22467, 37-2688, 37-11950,
37-22468, 37-1156, 37-22466, 37-2715, 37-11936, 37-7072, 37-7600,
37-22469.

This right is limited to the irrigation of 150 acres within the
place of use described above in a single irrigation season.

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

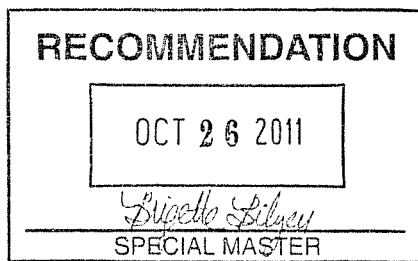
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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

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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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-07600

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
OCT 26 2011
By _____ Clerk Deputy Clerk

NAME AND ADDRESS: LAVA LAKE LAND & LIVESTOCK LLC
PO BOX 2249
HAILEY, ID 83333

SOURCE: GROUND WATER

QUANTITY: 2.65 CFS
720.00 AFY

The rights listed below are limited to a total combined diversion rate of 3.99 cfs and to a total combined annual diversion volume of 1778.1 AF. Combined Right Nos.: 37-7072, 37-7600 and 37-22469.

The rights listed below are limited to a total combined diversion rate of 11.79 cfs. Combined Right Nos.: 37-2545A, 37-22467, 37-2688, 37-11950, 37-22468, 37-1156, 37-22466, 37-2715, 37-11936, 37-7072, 37-7600, 37-22469.

PRIORITY DATE: 05/31/1977

POINT OF DIVERSION: T01N R23E S21 NWNWNE Within Blaine County
SWNESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	2.65 CFS 720.00 AFY

PLACE OF USE:	Irrigation	Within Blaine County
	T01N R23E S16	SWSE 14.0
	S21	NENE 15.0 SWNE 22.0 NESE 40.0 SWSE 28.0
	S22	SWNW 33.0 SWSW 40.0
	S27	NENW 28.0 SWNW 30.0
	S28	NENE 41.0 SWNE 6.8 NESE 12.0
		NWNE 31.0 SENE 40.0 NWSE 18.0 SESE 40.0 NWSW 40.0 SESW 11.0 NWNW 37.0 NWNE 21.0 SENE 40.0 NWSE 1.9
	589.7 Acres Total	

The rights listed below are limited to the irrigation of a combined total of 240 acres in a single irrigation season. Combined Right Nos.: 37-7072 and 37-7600.

The rights listed below are limited to the irrigation of a combined total of 589.7 acres in a single irrigation season. Combined Right Nos.: 37-2545A, 37-22467, 37-2688, 37-11950, 37-22468, 37-1156, 37-22466, 37-2715, 37-11936, 37-7072, 37-7600, 37-22469.

This right is limited to the irrigation of 240 acres within the place of use described above in a single irrigation season.

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

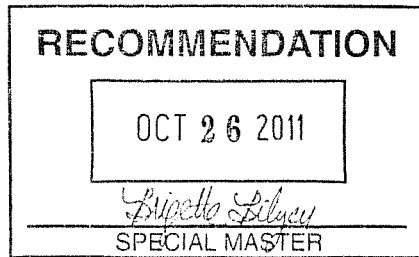
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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).

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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	
OCT 26 2011	
By _____	Clerk Deputy Clerk

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
_____) Water Right 37-11950

NAME AND ADDRESS: LAVA LAKE LAND & LIVESTOCK LLC
PO BOX 2249
HAILEY, ID 83333

SOURCE: LAVA LAKE TRIBUTARY: SINKS

QUANTITY: 0.92 CFS

The rights listed below are limited to a total combined diversion rate of 3.30 cfs. Combined Right Nos.: 37-2688, 37-11950, and 37-22468.

The rights listed below are limited to a total combined diversion rate of 11.79 cfs. Combined Right Nos.: 37-2545A, 37-22467, 37-2688, 37-11950, 37-22468, 37-1156, 37-22466, 37-2715, 37-11936, 37-7072, 37-7600, 37-22469.

PRIORITY DATE: 05/01/1964

POINT OF DIVERSION: T01N R23E S28 NENESE Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.92 CFS

PLACE OF USE:	Irrigation	Within Blaine County
	T01N R23E S16	SWSE 14.0
	S21	NENE 15.0
		SWNE 22.0
		NESE 40.0
		SWSE 28.0
	S22	SWNW 33.0
		SWSW 40.0
	S27	NENW 28.0
		SWNW 30.0
	S28	NENE 41.0
		SWNE 6.8
		NESE 12.0
		NWNE 31.0
		SENE 40.0
		NWSE 18.0
		SESE 40.0
		NWSW 40.0
		SESW 11.0
		NWNW 37.0
		NWNE 21.0
		SENE 40.0
		NWSE 1.9
	589.7 Acres Total	

The rights listed below are limited to the irrigation of a combined total of 336.7 acres in a single irrigation season. Combined right Nos.: 37-2688 and 37-11950.

The rights listed below are limited to the irrigation of a combined total of 589.7 acres in a single irrigation season. Combined right Nos.: 37-2545A, 37-22467, 37-2688, 37-11950, 37-22468, 37-1156, 37-22466, 37-2715, 37-11936, 37-7072, 37-7600, 37-22469.

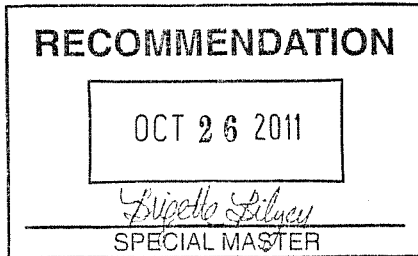
This right is limited to the irrigation of 94 acres within the place of use described above in a single irrigation season.

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

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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
OCT 26 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): 37-02545A
37-02545B 37-02688 37-07072
37-07600 37-11950

On October 26, 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 October 26, 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
OCT 26 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) : 37-02545A
37-02545B 37-02688 37-07072
37-07600 37-11950

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 26, 2011, with sufficient first-class postage prepaid to the following:

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

LAVA LAKE LAND & LIVESTOCK LLC
Represented by:
CHARLES L. HONSINGER
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

STATE OF IDAHO
Represented by:
DAVID J. BARBER
DEPUTY ATTORNEY GENERAL
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

CERTIFICATE OF MAILING


JANET CONNELL
Deputy Clerk

PAGE 1

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