

RECEIVED

OCT 27 2011

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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	WATER RIGHT NOS.: 37-22098,
	)	37-22099, 37-22101, and 37-22102
_____	)	

I. PROCEDURAL BACKGROUND

A notice of claim was filed for each of these water rights 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 recommendations for the elements of these water rights.

No objections were filed for these water rights. These water rights, however, are used in combination with water rights 37-2545A, 37-2545B, 37-2688, 37-7072, 37-7600, and 37-11950 which were the subject of *Objections*.

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.

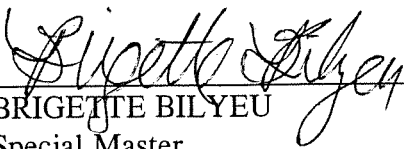
The *Amended Director's Reports* were placed on the Docket Sheet. No objections were filed to the *Amended Director's Reports*, and the time for filing such objections has now expired.

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. There are no unresolved objections remaining in these subcases.

III. CONCLUSIONS OF LAW

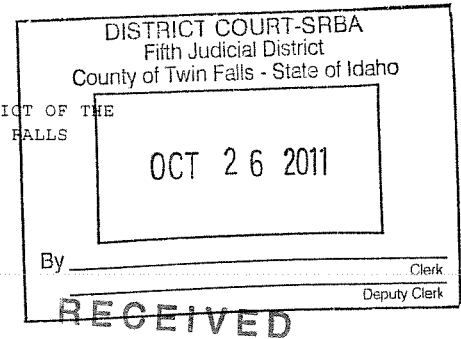
Therefore, based on the files and records herein, IT IS RECOMMENDED that water rights 37-22098, 37-22099, 37-22101, AND 37-22102 be decreed with the elements set forth in the attached *Special Master's Recommendations for Partial Decree*.

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-22098



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

SOURCE: BARN CANYON RESERVOIR TRIBUTARY: BARN CANYON CREEK

QUANTITY: 14.60 AFY

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 07/01/1885

POINT OF DIVERSION: T01N R23E S22 SENESW Within Blaine County
SENESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater Storage	01-01 TO 12-31	14.60 AFY
	Stockwater from Storage	01-01 TO 12-31	14.60 AFY

PLACE OF USE:	Stockwater Storage	Within Blaine County
	T01N R23E S22	NESW
	Stockwater from Storage	Within Blaine County
	T01N R23E S22	NESW

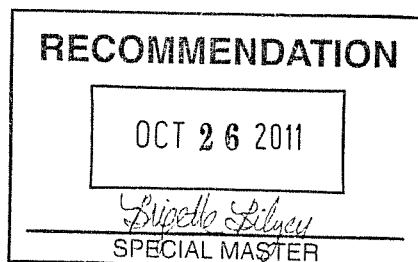
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a
determination of historical beneficial use.

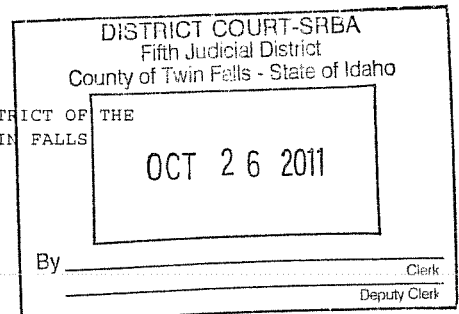
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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



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)
)
Water Right 37-22099

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

RECEIVED

OCT 27 2011

DEPARTMENT OF
WATER RESOURCES

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

SOURCE: BARN CANYON CREEK TRIBUTARY: COPPER CREEK
UNNAMED STREAM TRIBUTARY: BARN CANYON CREEK

QUANTITY: 0.02 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 07/01/1885

POINT OF DIVERSION: T01N R23E S01 NWNESW (Instream Beginning Point) Within Blaine County
SWNWSW (Instream Ending Point)
S02 NESESE (Instream Beginning Point)
S11 NENWSW (Instream Beginning Point)
SWSESW (Instream Ending Point)
NENESE (Instream Beginning Point)
S12 SESWNW (Instream Beginning Point)
S14 NENWNW (Instream Beginning Point)
SWNWNW (Instream Ending Point)
SENWNW (Instream Beginning Point)
S15 NWNWNE (Instream Beginning Point)
NESENE (Instream Ending Point)
NWNESE (Instream Beginning Point)
SENESE (Instream Beginning Point)
NESESE (Instream Beginning Point)
S22 NESENE (Instream Beginning Point)
NESENE (Instream Beginning Point)
NENESW (Instream Beginning Point)
SESESW (Instream Beginning Point)
NWNWSE (Instream Beginning Point)
S28 SENENE (Instream Ending Point)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE:	Stockwater	Within Blaine County
	T01N R23E S01	NESW
	S02	SESE
	S11	NENE
		SWNE
		NESW
		SESW
		NWSE
	S12	SWNW
	S14	NWNW
	S15	NENE
		SENE
		SWSE
	S22	NENE
		SWNE
		SENW
		SWSW
		NWSE

PLACE OF USE (continued)

S27	NWNW
S28	NENE

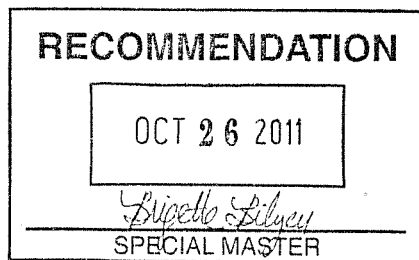
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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

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 37-22101

By

Clerk

Deputy Clerk

RECEIVED

OCT 27 2011

DEPARTMENT OF
WATER RESOURCES

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

SOURCE: COPPER CREEK TRIBUTARY: LAVA LAKE
UNNAMED STREAM TRIBUTARY: COPPER CREEK

QUANTITY: 0.02 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 07/01/1885

POINT OF DIVERSION: T01N R23E S01 LOT 4 (NWNWNW) (Instream Beginning Point) Within Blaine County
S02 LOT 3 (NWNENW) (Instream Beginning Point)
LOT 3 (SWNENW) (Instream Ending Point)
NWSWNW (Instream Beginning Point)
NENESW (Instream Beginning Point)
SESESW (Instream Beginning Point)
S03 NESWNE (Instream Beginning Point)
SENESW (Instream Ending Point)
NWSWSW (Instream Beginning Point)
SWSESE (Instream Beginning Point)
S04 NESESE (Instream Beginning Point)
S09 SWNENE (Instream Beginning Point)
NWSWNE (Instream Beginning Point)
SWSESW (Instream Beginning Point)
S10 SENWNE (Instream Beginning Point)
SWSWNW (Instream Beginning Point)
S16 SWNWNE (Instream Beginning Point)
SWNWNW (Instream Beginning Point)
S21 NWSWNE (Instream Beginning Point)
SWSENE (Instream Beginning Point)
SESENE (Instream Beginning Point)
SENENW (Instream Ending Point)
SENWSE (Instream Ending Point)
S22 SWSWNW (Instream Beginning Point)
SWSWSW (Instream Beginning Point)
S26 NWSESW (Instream Beginning Point)
S27 SWSWNW (Instream Ending Point)
S28 NENESE (Instream Beginning Point)
NENESE (Instream Ending Point)
NENESE (Instream Beginning Point)
T02N R23E S26 SWSESW (Instream Ending Point)

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Stockwater 01-01 TO 12-31 0.02 CFS

PLACE OF USE: Stockwater Within Blaine County
T01N R23E S01 LOT 4 (NWNW)
S02 LOT 1 (NENE) LOT 2 (NWNE)
LOT 3 (NENW) SWNW
SENW NESW
SESW
S03 SWNE SENE
NESW SWSW

PLACE OF USE (continued)

	SESW	NWSE
	SWSE	SESE
S04	SESE	
S09	NENE	SWNE
	SENE	SESW
	NWSE	SWSE
S10	NWNE	NENW
	NWNW	SWNW
	SENW	
S16	NWNE	SWNE
	NENW	NWNW
	SWNW	SENW
	NESW	SESW
	NWSE	SWSE
S21	NWNE	SWNE
	SENE	NENW
	NESE	NWSE
	SESE	
S22	SWNW	SWSW
S27	SWNW	
S28	NENE	SENE
	NESE	
T02N R23E S26	SESW	

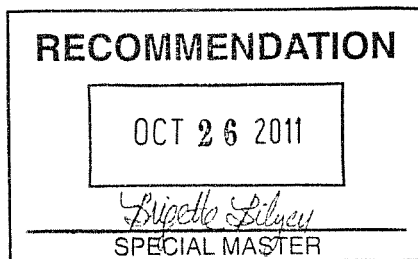
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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

RECEIVED

OCT 27 2011

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): 37-22098
37-22099 37-22101 37-22102

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

RECEIVED
OCT 27 2011
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

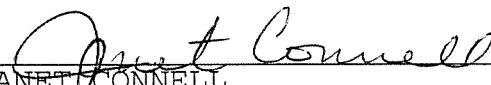
Water Right(s): 37-22098
37-22099 37-22101 37-22102

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 - Rep by:
PO BOX 2249 Charles L. Honsinger
HAILEY, ID 83333 P.O. BOX 2773
Phone: 208-788-1710 Boise, Id. 83701-2773


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING