

DEPARTMENT OF
WATER RESOURCES

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

NOV - 1 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.: 29-11278

I. PROCEDURAL BACKGROUND

The SRBA District Court issued a ***Partial Decree*** for this water right on March 22, 2004. A *Motion to Set Aside Partial Decree, File Late Objection, and Amend Claim* was filed by Rowlands, Inc. on August 18, 2010. Presiding Judge Eric Wildman issued an ***Order of Reference Appointing Special Master Brigitte Bilyeu*** on August 30, 2010. A hearing on the *Motion to Set Aside Partial Decree, File Late Objection and Amend Claim* was held on September 8, 2010. There was no opposition to the *Motions*.

II. FINDINGS OF FACT

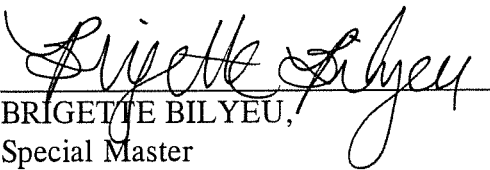
In support of the *Motions*, Rowlands Inc. explained that it has operated a dairy since the early 1900s. Water has been utilized in the dairy. However, the water rights were not licensed or decreed. The rights were perfected by the constitution method. Consequently, it took time and research to uncover evidence such as effluent records from the City of Pocatello. This evidence provided corroboration of Bob Rowland's information on priority. Finally a *Standard Form 5* was filed. No parties to the SRBA opposed the *Motions*. The *Motions* were granted. ***Order Granting Motion to Amend Claim and Setting Subcase Deadlines***. (September 10, 2010)

An *Amended Director's Report* was filed on May 31, 2011. Rowlands Inc. filed an *Objection* on June 7, 2011 to the *Amended Director's Report*. The *Objection* was resolved on September 15, 2011 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motions to Set Aside Partial Decree* be **granted**, and that an *Amended Partial Decree* be issued with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*. The recommended elements are consistent with the *Standard Form 5*.

Dated: November 1, 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
NOV - 1 2011
By _____ Clerk Deputy Clerk

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 29-11278

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DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: ROWLANDS INC
1141 ROWLAND RD
POCATELLO, ID 83204-7416

SOURCE: GROUND WATER

QUANTITY: 0.11 CFS
7.20 AFY

The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.
The rights listed below are limited to a total combined diversion rate of 0.11 cfs. Combined Right Nos.: 29-11278, 29-13956, and 29-14000.

PRIORITY DATE: 12/31/1937

POINT OF DIVERSION: T06S R34E S07 LOT 2 (NWNE) Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.06 AFY
	Industrial	01-01 TO 12-31	0.11 CFS
			7.20 AFY

Domestic use is for a duplex.
Industrial use is in a milk processing plant.

PLACE OF USE:	Industrial	Within Power County
	T06S R34E S07 LOT 2 (NWNE)	
	Domestic	Within Power County
	T06S R34E S07 LOT 2 (NWNE)	

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

The quantity of water decreed for this water right for domestic use 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).

RECOMMENDATION
NOV 01 2011
<i>Dianna Silvers</i> SPECIAL MASTER