

DEPARTMENT OF
WATER RESOURCES

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

NOV 10 2011

DISTRICT OF THE _____
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.: 22-11537

I. PROCEDURAL BACKGROUND

The SRBA District Court issued a *Partial Decree* for this water right on November 24, 2008. A *Motion to Set Aside Partial Decree* was filed by Don L. Miller on January 31, 2011. Presiding Judge Eric Wildman issued an *Order of Reference Appointing Special Master Brigitte Bilyeu* on January 31, 2011. Hearings were held on the *Motion* on February 2, 2011 and July 6, 2011.

II. FINDINGS OF FACT

At the hearing, the Movants explained that this right needed to be amended to reflect historic practices and to reflect a settlement agreement which impacts other subcases. The amendment reduced quantity to .07 cfs.

There was no opposition to the *Motion*. A *Standard Form 5* was filed on August 22, 2011. 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 *Motion to Set Aside Partial Decree* be **granted** and that water right 22-11537 be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*.

Dated: November / 0 , 2011.

Brigitte Bilyeu
BRIGITTE 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 22-11537

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
NOV 10 2011
By _____ Clerk Deputy Clerk

NAME AND ADDRESS: DON LEROY MILLER
1835 TETON VIEW DR
REXBURG, ID 83440

SOURCE: PARADISE SPRING TRIBUTARY: TETON RIVER

QUANTITY: 0.07 CFS

PRIORITY DATE: 07/21/1969

POINT OF DIVERSION: T04N R45E S30 NENW Within Teton County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.07 CFS

PLACE OF USE: Irrigation Within Teton County
T04N R45E S30 NENW 9.7 LOT 1 (NWNW) 2.1
11.8 Acres Total

This right is limited to the irrigation of 3.3 acres within the
place of use described above in a single irrigation season.
Right Nos. 22-13211 and 22-11537 are limited to the irrigation
of a combined total of 11.8 acres 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

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
NOV 10 2011
<i>Bugetto Lilley</i> SPECIAL MASTER

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