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DEC 30 2011

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
DEC 29 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 NO.: 37-2103

I. FINDINGS OF FACT

A claim was filed for this water right 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 for Late Claims* contained a recommendation for the elements of this water right.

An *Objection* was filed by the United States Bureau of Land Management on January 16, 2009. An *Amended Director's Report* was filed on August 28, 2009. A *Notice of Withdrawal of Objection* was filed by the United States on September 29, 2009. There was no opposition to the withdrawal of the *Objection*. There are no unresolved objections remaining in this subcase.

This water right will be recommended consistent with the *Amended Director's Report*. This Court notes that this water right was not included in the Basin 37 Part 2 General Provision. IDWR informed the Court that this water right should be included in the Basin 37 Part 2 General Provision. Therefore, this Court added the separate stream language to the recommendation.

Subsequently, a *Notice of Completed Administrative Proceeding* was filed on June 29, 2011 changing ownership to Smokey Dome LLC.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that this water right be

decreed with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

The Special Master notes that Smokey Dome, LLC must file a separate motion to correct the General Provision Decree under Subcase No. 00-92037G2.

DATED: December 29, 2011.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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

DEC 29 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)
PARTIAL DECREE PURSUANT TO
Case No. 39576)
I.R.C.P. 54(b) FOR
Water Right 37-02103

NAME AND ADDRESS: SMOKEY DOME LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009

SOURCE: MC MAHAN CREEK TRIBUTARY: THREEMILE CREEK
SPRING TRIBUTARY: MC MAHAN CREEK
UNNAMED STREAM TRIBUTARY: MC MAHAN CREEK

QUANTITY: 4.70 CFS

PRIORITY DATE: 02/05/1908

POINT OF DIVERSION: T01N R13E S15 SESWNE Within Camas County
S21 NWNESE
S22 NENW

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PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-15 TO 10-31 4.70 CFS
Domestic 01-01 TO 12-31 0.02 CFS

PLACE OF USE: Irrigation Within Camas County
T01N R13E S22 NENW 22.0 NWNW 29.0
SWNW 36.0 SENW 39.0
NESW 39.0 NWSW 25.0
SESW 30.0
220.0 Acres Total

Domestic Within Camas County
Same as Irrigation

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

This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1.A or 1.B. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.

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

DEC 29 2011

Shirley L. Lyle
SPECIAL MASTER

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

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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

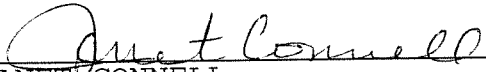
Water Right(s): 37-02103

On December 29, 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 December 29, 2011.


JANET CONNELL
Deputy Clerk

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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

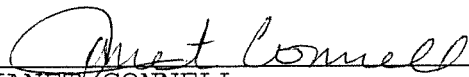
Water Right(s) : 37-02103

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 December 29, 2011, with sufficient first-class postage prepaid to the following:

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

SMOKEY DOME LLC
Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340
Phone: 208-726-4421


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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12/29/11