

MAR 05 2012

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

MAR - 2 2012

By \_\_\_\_\_  
CT OF THE \_\_\_\_\_ Clerk

TWIN FALLS \_\_\_\_\_ Deputy Clerk

By \_\_\_\_\_ Clerk  
CT OF THE \_\_\_\_\_  
\_\_\_\_\_ Deputy Clerk  
TWIN FALLS \_\_\_\_\_

|                |   |                       |
|----------------|---|-----------------------|
| In Re SRBA     | ) | Subcase 35-2172       |
|                | ) | (KBCP LLC)            |
| Case No. 39576 | ) |                       |
|                | ) | SPECIAL MASTER REPORT |

## Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation and Other Uses, Reporting Area 5, Part III (IDWR Basin 35)* on January 29, 1999. The Director recommended the claim to Bowler Ranches, Inc., for 2.16 cfs from groundwater to irrigate 145 acres in Power County from April 1 to October 31 with a priority date of April 7, 1950, based on a license.

The Twin Falls and North Side Canal Companies filed *Objections* on June 2, 1999, objecting to source, quantity and other provisions and alleging the water right should not exist. The Aberdeen-Springfield Canal Company was granted leave to file a late *Objection* on October 23, 2001.

IDWR filed a *Notice of Completed Administrative Proceeding* for a substitution of party with KBCP LLC, 3062 S. Frontage Road, American Falls, Idaho, 83211, the new owner. IDWR filed two more *NCAPs* on July 8, 2010, and January 23, 2012, for changes in point of diversion, place of use and conditions and remarks.

On April 15, 2011, the Canal Companies filed a *Notice of Withdrawal of Objection*. On January 17, 2012, Aberdeen-Springfield filed its *Notice of Withdrawal of Objections*.

## Conclusions of Law

KBCP LLC is entitled to a partial decree adjudicating a water right as described in the NCAPs and the attached *Special Master Recommendation for Partial Decree for Water Right 35-2172*.

DATED March 2, 2012.

  
TERRENCE A. DOLAN  
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 35-02172

NAME AND ADDRESS: KBCP LLC  
3062 S FRONTAGE RD  
AMERICAN FALLS, ID 83211

SOURCE: GROUNDWATER

QUANTITY: 2.16 CFS  
580.00 AFY

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate.  
Right Nos. 35-2172, 35-13897, 35-13898 and 35-13703 when combined shall not exceed a total diversion rate of 5.13 cfs, a total annual maximum diversion volume of 1677.2 af at the field headgate.  
Rights 35-7275, 35-7399, 35-13397, 35-13382, 35-13384, 35-13385, 35-13386, 35-13388, 35-13390, 35-13915, 35-13916, 35-13387, 35-13899, 35-13900, 35-7402, 35-13409, 35-13381, 35-13412, 35-13389, 35-7401, 35-13410, 35-13411, 35-13413, 35-13415, 35-13414, 35-2274, 35-7390, 35-7630, 35-2432C, 35-7391C, 35-7863, 35-13905, 35-13906, 35-2172, 35-13703, 35-13897, 35-13898 and 29-14007 when combined shall not exceed a total diversion rate of 52.34 cfs, a total annual maximum diversion volume of 13,708.7 af at the field headgate, and the irrigation of 3,434.0 acres.  
Diversion of water from the point(s) of diversion authorized by approved Transfer 77467 shall not exceed the total combined maximum diversion rates and total combined maximum diversion volumes as specified below:  
NWSESE, Sec. 21, T08S, R29E, B.M., Well no. 1 limited to 1.65 cfs and 488.0 af.  
NWNWSW, Sec. 22, T08S, R29E, B.M., Well no. 2 limited to 3.94 cfs and 750.6 af.  
SWSENW, Sec. 22, T08S, 29E, B.M., Well no. 3 and 4 limited to 9.10 cfs and 2182.0 af.  
NWNENW, Sec. 23, T08S, R29E, B.M., Well no. 5 limited to 7.68 cfs and 1558.4 af.  
SESESW, Sec. 13, T08S, R29E, B.M., Well no. 6 limited to 5.28 cfs and 1540.8 af.  
NWNENW, Sec. 19, T08S, R30E, B.M., Well no. 7 limited to 4.19 cfs and 1268.8 af.  
SWSWNE, NWSSENW Sec. 24, T08S, R29E, B.M., Well no. 8 and 9 limited to 14.04 cfs and 4067.2 af.  
NENWSW, Sec. 26, T08S, R29E, B.M., Well no. 10 limited to 5.88 cfs and 1852.9 af.

PRIORITY DATE: 04/07/1950

|                     |               |                            |
|---------------------|---------------|----------------------------|
| POINT OF DIVERSION: | T08S R29E S13 | SESESW Within Power County |
|                     | S21           | NWNESE                     |
|                     | S22           | SWSENW                     |
|                     |               | SWSENW                     |
|                     |               | NWNWSW                     |
|                     | S23           | NWNENW                     |
|                     | S24           | SWSWNE                     |
|                     |               | NWSSENW                    |
|                     | S26           | NENWSW                     |
|                     | R30E S19      | NWNENW                     |

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

POINT OF DIVERSION (continued)

|                               |                |                |            |
|-------------------------------|----------------|----------------|------------|
| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY   |
|                               | Irrigation     | 04-01 TO 10-31 | 2.16 CFS   |
|                               |                |                | 580.00 AFY |

|               |               |           |                     |
|---------------|---------------|-----------|---------------------|
| PLACE OF USE: | Irrigation    |           | Within Power County |
|               | T08S R29E S13 | NWNW 40.0 | SWNW 40.0           |
|               |               | NESW 40.0 | NWSW 40.0           |
|               |               | SWSW 40.0 | SESW 40.0           |
|               |               | NESE 40.0 | NWSE 40.0           |
|               |               | SWSE 40.0 | SESE 40.0           |
|               | S14           | NENE 40.0 | NWNE 40.0           |
|               |               | SWNE 40.0 | SENE 40.0           |
|               |               | NENW 40.0 | NWNW 40.0           |
|               |               | SWNW 40.0 | SENW 40.0           |
|               |               | NESW 40.0 | NWSW 40.0           |
|               |               | SWSW 40.0 | SESW 40.0           |
|               |               | NESE 40.0 | NWSE 40.0           |
|               |               | SWSE 40.0 | SESE 40.0           |
|               | S15           | NENE 40.0 | NWNE 40.0           |
|               |               | SWNE 40.0 | SENE 40.0           |
|               |               | NENW 40.0 | NWNW 40.0           |
|               |               | SWNW 40.0 | SENW 40.0           |
|               |               | NESW 40.0 | NWSW 40.0           |
|               |               | SWSW 40.0 | SESW 40.0           |
|               |               | NESE 40.0 | NWSE 40.0           |
|               |               | SWSE 40.0 | SESE 40.0           |
|               | S21           | SENE 40.0 | NESE 40.0           |
|               |               | NWSE 40.0 | SWSE 38.0           |
|               |               | SESE 40.0 |                     |
|               | S22           | NENE 40.0 | NWNE 40.0           |
|               |               | SWNE 40.0 | SENE 40.0           |
|               |               | NENW 40.0 | NWNW 40.0           |
|               |               | SWNW 40.0 | SENW 40.0           |
|               |               | NESW 40.0 | NWSW 40.0           |
|               |               | SWSW 40.0 | SESW 40.0           |
|               |               | NESE 40.0 | NWSE 40.0           |
|               |               | SWSE 40.0 | SESE 40.0           |
|               | S23           | NENE 40.0 | NWNE 40.0           |
|               |               | SWNE 40.0 | SENE 40.0           |
|               |               | NENW 40.0 | NWNW 36.0           |
|               |               | SWNW 40.0 | SENW 40.0           |
|               |               | NESW 40.0 | NWSW 40.0           |
|               |               | SWSW 40.0 | SESW 40.0           |
|               |               | NESE 40.0 | NWSE 40.0           |
|               |               | SWSE 40.0 | SESE 40.0           |
|               | S24           | NENE 40.0 | NWNE 40.0           |
|               |               | SWNE 40.0 | SENE 40.0           |
|               |               | NENW 40.0 | NWNW 40.0           |
|               |               | SWNW 40.0 | SENW 40.0           |
|               |               | NESW 40.0 | NWSW 40.0           |
|               |               | SWSW 40.0 | SESW 40.0           |
|               |               | NESE 40.0 | NWSE 40.0           |
|               |               | SWSE 40.0 | SESE 40.0           |
|               | S25           | NENE 40.0 | NWNE 40.0           |
|               |               | SWNE 40.0 | SENE 40.0           |
|               |               | NENW 40.0 | NWNW 40.0           |
|               |               | SWNW 40.0 | SENW 40.0           |
|               |               | NESW 40.0 | NWSW 40.0           |
|               |               | SWSW 40.0 | SESW 40.0           |
|               |               | NESE 40.0 | NWSE 40.0           |
|               |               | SWSE 40.0 | SESE 40.0           |
|               |               | SWSE 40.0 | SESE 40.0           |

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

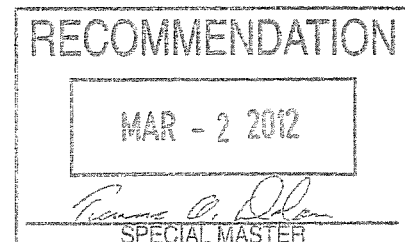
PLACE OF USE (continued)

|                    |           |           |
|--------------------|-----------|-----------|
| S26                | NENE 40.0 | NWNE 40.0 |
|                    | SWNE 40.0 | SENE 40.0 |
|                    | NENW 40.0 | NWNW 40.0 |
|                    | SWNW 40.0 | SENW 40.0 |
|                    | NESW 40.0 | NWSW 40.0 |
|                    | SWSW 40.0 | SESW 40.0 |
|                    | NESE 40.0 | NWSE 40.0 |
|                    | SWSE 40.0 | SESE 40.0 |
| S27                | NENE 40.0 | NWNE 40.0 |
|                    | SWNE 40.0 | SENE 40.0 |
|                    | NENW 40.0 | NWNW 40.0 |
|                    | SWNW 40.0 | SENW 40.0 |
|                    | NESE 40.0 |           |
| R30E S18           | NESW 40.0 | NWSW 40.0 |
|                    | SWSW 40.0 | SESW 40.0 |
| S19                | NENW 40.0 | NWNW 40.0 |
|                    | SWNW 40.0 | SENW 40.0 |
|                    | NESW 40.0 | NWSW 40.0 |
|                    | SWSW 40.0 | SESW 40.0 |
| S30                | NENW 40.0 | NWNW 40.0 |
|                    | SWNW 40.0 | SENW 40.0 |
|                    | NESW 40.0 | NWSW 40.0 |
| 6154.0 Acres Total |           |           |

This right is limited to the irrigation of 145 acres within the place of use described herein in a single irrigation season. Rights 35-7275, 35-7399, 35-13397, 35-13382, 35-13384, 35-13385, 35-13386, 35-13388, 35-13390, 35-13915, 35-13916, 35-13387, 35-13899, 35-13900, 35-7402, 35-13409, 35-13381, 35-13412, 35-13389, 35-7401, 35-13410, 35-13411, 35-13413, 35-13415, 35-13414, 35-2274, 35-7390, 35-7630, 35-2432C, 35-7391C, 35-7863, 35-13905, 35-13906, 35-2172, 35-13703, 35-13897, 35-13898 and 29-14007 are limited to the irrigation of a specific 3,434.0 acres within the 6,154.0 acre place of use authorized by this right in a single irrigation season. The specific 3,434.0 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the Department. Before changing the 3,434.0 acres to be irrigated within the 6,154.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.

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).

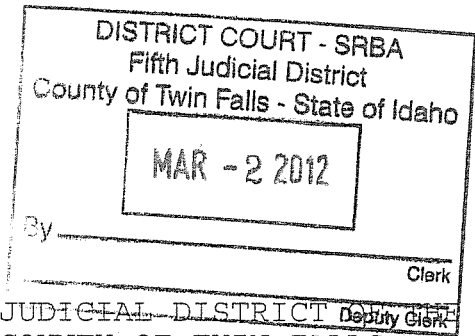


RULE 54(b) CERTIFICATE

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.

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



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
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

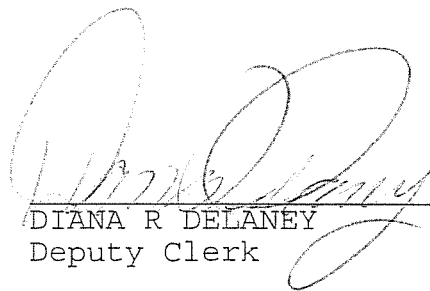
Water Right(s): 35-02172

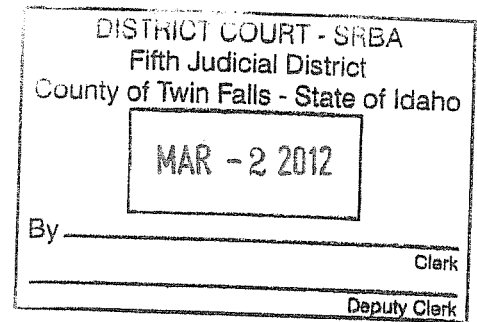
On March 02, 2012, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 March 02, 2012.

  
DIANA R DELANEY  
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

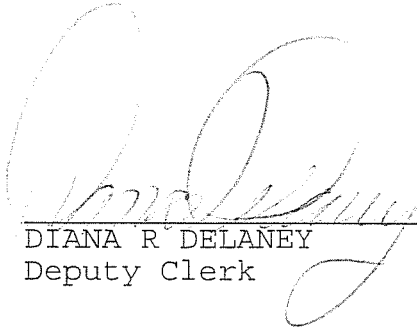
Water Right(s) : 35-02172

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 March 02, 2012, with sufficient first-class postage prepaid to the following:

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

KBCP LLC  
3062 S FRONTAGE RD  
AMERICAN FALLS, ID 83211

  
\_\_\_\_\_  
DIANA R DELANEY  
Deputy Clerk