

DEPARTMENT OF
WATER RESOURCES

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

JUN 22 2012

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; FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

**FOR WATER RIGHTS:
22-2131 and 22-11070**

I. FINDINGS OF FACT

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.

Objections and Responses were filed by various parties. A *Motion to File Amended Notice of Claim* was filed on August 19, 2010 by multiple claimants to assert a recovered water/recharge theory (hereafter “rec/rec”). That theory and the related *Amended Claims* were later withdrawn by the claimants in consolidated subcase 00-92020.

Subsequently, IDWR reviewed its *Director's Reports* for the rec/rec subcases to insure that it had included the elements from prior decrees, licenses and transfers. These subcases were identified by IDWR as some of the 60 subcases in Round Two which needed changes due to omission of elements from prior decrees, licenses, or transfers. ***Joint Order Setting Deadlines and Status Conference.*** (Subcase 00-92020, January 6, 2012, Exhibit 4)

A Status Conference was held on December 7, 2011 in subcase 00-92020. At the hearing,

the parties agreed to resolve all *Objections* and *Responses* to 55 of the 60 subcases by oral *Stipulation* on the record.¹

The parties agreed that these subcases be recommended and decreed with the elements of the *Amended Director's Reports* previously sent to the parties by IDWR.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that these water rights be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Partial Decrees*.

DATED: ^{June}~~May~~ 22, 2012.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

¹ The *Amended Director's Reports* for water right numbers 21-34, 21-60B, 22-673, 22-13165, and 22-13412 in Round 2 were held back due to an overlap issue. IDWR shared the proposed *Amended Directors' Reports* for these five subcases in Round 4 after the overlap issues were resolved.

DISTRICT COURT - SRBA
 Fifth Judicial District
 County of Twin Falls - State of Idaho
 JUN 22 2012
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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)
) PARTIAL DECREE PURSUANT TO
 Case No. 39576)
) I.R.C.P. 54(b) FOR
)
) Water Right 22-02131

NAME AND ADDRESS: DONALD STAKER
 PO BOX 111
 NEWDALE, ID 83436

MELVIN SCHWENDIMAN
 PO BOX 74
 NEWDALE, ID 83436

SOURCE: GROUND WATER

QUANTITY: 2.60 CFS
 455.00 AFY

Right Nos. 22-2131 and 22-11070 are limited to a total combined diversion rate of 2.6 cfs.

PRIORITY DATE: 02/14/1949

POINT OF DIVERSION: T07N R41E S35 SESW Within Fremont County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	2.60 CFS
			455.00 AFY

PLACE OF USE:	Irrigation	Within Fremont County
	T07N R41E S34	NESE 25.0 SESE 5.7
	S35	NESW 40.0 NWSW 40.0
		SWSW 38.0 SESW 38.0
	186.7 Acres Total	

Right Nos. 22-2131 and 22-11070 are limited to the irrigation of a combined total of 186.7 acres in a single irrigation season. This right is limited to the irrigation of 130 acres within the place of use described above 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).

RECOMMENDATION
 JUN 22 2012

 SPECIAL MASTER

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

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

JUN 22 2012

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

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

Water Right 22-11070

By _____

Clerk

Deputy Clerk

NAME AND ADDRESS: DONALD STAKER
PO BOX 111
NEWDALE, ID 83436

MELVIN SCHWENDIMAN
PO BOX 74
NEWDALE, ID 83436

SOURCE: GROUND WATER

QUANTITY: 1.13 CFS
198.00 AFY

Right Nos. 22-2131 and 22-11070 are limited to a total combined
diversion rate of 2.60 cfs.

PRIORITY DATE: 06/01/1978

This water right is subordinate to all water rights with a
priority date earlier than April 12, 1994, that are not decreed
as enlargements pursuant to Section 42-1426, Idaho Code. As
between water rights decreed as enlargements pursuant to Section
42-1426, Idaho Code, the earlier priority right is the superior
right.

POINT OF DIVERSION: T07N R41E S35 SESW Within Fremont County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.13 CFS 198.00 AFY

PLACE OF USE:	Irrigation	Within Fremont County
	T07N R41E S34	NESE 25.0 SESE 5.7
	S35	NESW 40.0 NWSW 40.0
		SWSW 38.0 SESW 38.0
	186.7 Acres Total	

Right Nos. 22-2131 and 22-11070 are limited to the irrigation of
a combined total of 186.7 acres in a single irrigation season.

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

This right is based upon an enlargement of Right No. 22-2131
pursuant to Section 42-1426, Idaho Code.

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

JUN 22 2012

Bipetto Lilley
SPECIAL MASTER

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

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.

RECEIVED
JUN 11 2012

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

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JUN 25 2012
DEPARTMENT OF
WATER RESOURCES

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

JUN 22 2012

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): 22-02131
22-11070

On June 22, 2012, 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 June 22, 2012.


JANET CONNELL
Deputy Clerk

RECEIVED

JUN 25 2012

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JUN 22 2012	
By _____	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): 22-02131
22-11070

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 June 22, 2012, with sufficient first-class postage prepaid to the following:

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

MILNER IRRIGATION DISTRICT
Represented by:
BARKER, ROSHOLT & SIMPSON LLP
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

CERTIFICATE OF MAILING

PAGE 1
06/22/12

AMERICAN FALLS RESERVOIR

Represented by:
C THOMAS ARKOOSH
CAPITOL LAW GROUP, PLLC
301 MAIN ST
PO BOX 32
GOODING, ID 83330
Phone: 208-934-8872

CANYON CREEK CANAL CO
DONALD STAKER
FREMONT MADISON IRRIGATION

Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

IGWA INC
Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

A & B IRRIGATION DISTRICT
BURLEY IRRIGATION DISTRICT

Represented by:
ROGER D LING
615 H ST
PO BOX 396
RUPERT, ID 83350-0396
Phone: 208-436-4717

NORTH SIDE CANAL CO LTD
TWIN FALLS CANAL COMPANY

Represented by:
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113 MAIN AVE W, STE 303
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TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

MINIDOKA IRRIGATION DISTRICT
Represented by:
W KENT FLETCHER
1200 OVERLAND AVE
PO BOX 248
BURLEY, ID 83318
Phone: 208-678-3250

MELVIN SCHWENDIMAN
PO BOX 74
NEWDALE, ID 83436
Phone: 208-458-4376



JANET CONNELL
Deputy Clerk