

JUL 11 2012

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
FOR AMENDED PARTIAL
DECREE**

WATER RIGHT NO.: 22-13212

I. PROCEDURAL BACKGROUND

The claimant of this water right is Michael Reid. Mr. Reid lives in Victor, Idaho on land once owned by J.J. Miller. This subcase went to trial in 2010. A *Special Master's Report* issued after the trial, finding that this right was derived from J.J. Miller's water right 22-405 in *Rexburg Irrigation Co. v. Teton Irrigation Canal Co.* (6th Dist., Fremont Co., Dec. 16, 1910) (hereafter "*Rexburg Decree*"). The *Special Master's Report* also determined that the priority date for this right was 1904 as decreed in the *Rexburg Decree*. On October 18, 2010, a *Partial Decree* was issued for this water right. There was no appeal of the *Partial Decree*.

However, on May 4, 2011, Michael Reid filed a *Motion to Set Aside Verdict* for this water right. The presiding Judge Eric J. Wildman issued an *Order of Reference Appointing Special Master Brigitte Bilyeu* on May 6, 2011. After hearings in July 2011, September 2011, and October 2011, Michael Reid made an oral *Motion to Withdraw Motion to Set Aside Partial Decree with Prejudice*.

A *Special Master's Report* issued, recommending that the *Partial Decree* not be set aside. (November 10, 2011). On December 29, 2011 an *Order Denying Motion to Set Aside Verdict* was issued by presiding Judge Eric J. Wildman. An *Amended Order Denying Motion to Set Aside Verdict* was issued January 11, 2012.

Subsequently, the parties to subcase 22-13509 reported on June 21, 2012 that they had reached and signed a settlement agreement. The parties to this subcase reported that they had completed a written settlement agreement resolving this subcase and the remaining subcases of Paradise Springs. The *Paradise Springs Settlement* included an agreement by all the parties to this

subcase to revise the *Partial Decree* despite the fact that the court's findings were previously with prejudice. Because all of the parties consented to the changes, and since the *Paradise Springs Settlement* agreement achieved resolution of all related subcases in Paradise Springs, the Special Master concurs that an *Amended Partial Decree* should issue.

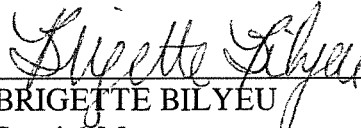
II. FINDINGS AND FACT

THEREFORE, IT IS RECOMMENDED that the *Partial Decree* for this water right be amended to accommodate the settlement of the remaining subcases on Paradise Springs. The parties have previously represented that the settlement agreement is consistent with historical practices. In addition, the Idaho Department of Water Resources concurred with the *Paradise Springs Settlement* agreement.

III. CONCLUSION AND RECOMMENDATION

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Partial Decree* be amended and that this water right be decreed with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*.

DATED: July 10, 2012.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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

JUL 10 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

AMENDED

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
_____) Water Right 22-13212

NAME AND ADDRESS: MICHAEL REID
PO BOX 801
VICTOR, ID 83455

SOURCE: PARADISE SPRING TRIBUTARY: TETON RIVER

QUANTITY: 0.52 CFS

PRIORITY DATE: 06/01/1904

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	0.52 CFS

PLACE OF USE: Irrigation Within Teton County
T04N R45E S30 SENW 35.6
35.6 Acres Total

Right Nos. 22-11639 and 22-13212 are limited to the irrigation of a combined total of 35.6 acres in a single irrigation season. This right is limited to the irrigation of 26 acres within the place of use described above in a single irrigation season.

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

For purposes of administration during times of scarcity, this water right shall not be permitted to make a delivery call in excess of 4.5 acres and/or 0.16 cfs against the following water rights 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681 and their progeny.

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

JUL 10 2012

Bigello Silveu
SPECIAL MASTER

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

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION FOR AMENDED PARTIAL DECREE was mailed on July 10, 2012, with sufficient first-class postage to the following:

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MAHOGANY RANCH HOLDINGS
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TREES INC
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