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APR 15 2013

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR 12 2013	
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 ON MOTION
	)	TO SET ASIDE PARTIAL DECREE
Case No. 39576	)	
	)	WATER RIGHT NO.: 22-13457
_____	)	

I. PROCEDURAL BACKGROUND

The SRBA District Court issued a *Partial Decree* for this water right to John and Richard Smith on November 24, 2008. A *Motion to Set Aside Partial Decree* was filed by Richard Smith on December 31, 2012.

Presiding Judge Eric Wildman issued an *Order of Reference Appointing Special Master Brigitte Bilyeu* on December 31, 2012. Hearings on the *Motion to Set Aside Partial Decree* were held January 30, 2013 and April 3, 2013.

II. FINDINGS OF FACT

At the hearings, the claimants explained that the *Director's Report* and *Partial Decree* for 22-13457 are related to water rights 22-7071 and 22-13458. These rights involve irrigation with a center pivot. The parties previously entered into an exchange agreement so they could irrigate efficiently with the center pivot. The Smiths water right inadvertently omitted some of the acreage included in the exchange agreement. The other two rights were apparently claimed correctly. The Smiths asked that the *Partial Decree* for 22-13457 be corrected to accurately describe the water right in accordance with historic use and the exchange agreement.

An *Amended Director's Report* was filed on February 28, 2013. The *Amended Director's Report* was placed on the Docket Sheet. No objections or responses were filed to

the *Amended Director's Report*, and the time for filing such objections and responses has now expired. In addition, a *Notice of Completed Administrative Proceeding* was filed which reported corrections to the license for 22-13457. Accordingly, this water right is recommended consistent with the elements set forth in the *Amended Director's Report* and the *NCAP*.

III. CONCLUSIONS AND RECOMMENDATIONS

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

Dated: April 12, 2013.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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

APR 12 2013

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 22-13457

NAME AND ADDRESS: RICHARD F SMITH
 PO BOX 8
 REXBURG, ID 83440

JOHN H SMITH
 PO BOX 805
 REXBURG, ID 83440

SOURCE: GROUND WATER

QUANTITY: 5.87 CFS
 2074.00 AFY

This right when combined with all other rights shall provide no
 more than 0.02 cfs per acre nor more than 3.5 afa per acre at the
 field headgate for irrigation of the place of use.

PRIORITY DATE: 12/29/1982

POINT OF DIVERSION: T05N R41E S07 LOT 4 (SWSW) Within Madison County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	5.87 CFS 2074.00 AFY

PLACE OF USE:	Irrigation	Within Madison County
T05N R40E S12	NESE 36.0	NWSE 35.0
	SWSE 40.0	SESE 40.0
S13	NENE 7.7	
R41E S07	NESW 35.0	LOT 3 (NWSW) 33.0
	LOT 4 (SWSW) 39.0	SESW 40.0
	NESE 35.0	NWSE 31.0
	SWSE 30.0	SESE 38.0
S18	NENW 39.0	LOT 1 (NWNW) 39.0
	LOT 2 (SWNW) 37.0	SENW 38.0
	592.7 Acres Total	

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

APR 12 2013

Brigitte Silvey

 SPECIAL MASTER

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WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR 12 2013	
By _____	Clerk
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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

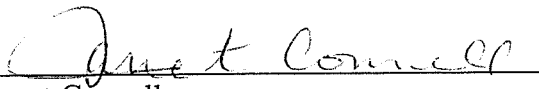
In Re SRBA	)	NOTICE OF ISSUANCE OF
	)	SPECIAL MASTER'S
	)	REPORT AND
	)	RECOMMENDATION
Case No. 39576	)	
_____	)	Water Right (s): 22-13457

On April 12, 2013 Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE 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: April 12, 2013.



Janet Connell
Deputy Clerk

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DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
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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	)	CERTIFICATE OF MAILING
Case No. 39576	)	
	)	
	)	Water Right (s) : 22-13457
_____	)	

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE was mailed on April 12, 2013, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO Box 83720
Boise, Idaho 83720-0098

John H. Smith
Richard F. Smith
Represented by:
Jerry R Rigby
PO Box 250
Rexburg, Idaho 83440-0250


Janet Connell
Deputy Clerk