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MAY 03 2013

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAY 02 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 NOS.: 37-1244, 37-4389,
	)	and 37-7861
_____	)	

I. PROCEDURAL BACKGROUND

On September 29, 2006, the SRBA District Court issued a *Partial Decree* for water right 37-1244. On September 21, 2006 a *Partial Decree* was issued for water right 37-4389. On October 29, 2010, a *Partial Decree* was issued for 37-7861. A *Motion to Set Aside Partial Decrees* was filed for these three rights by James Mecham on August 9, 2012.

Presiding Judge Eric Wildman issued an *Order of Reference Appointing Special Master Brigitte Bilyeu* on August 9, 2012. Hearings on the *Motion to Set Aside Partial Decrees* were held on September 19, 2012, October 10, 2012, January 30, 2013, March 27, 2013 and May 1, 2013.

II. FINDINGS OF FACT

During the time that the *Motion to Set Aside Partial Decrees* was pending, the claimant and IDWR carefully reviewed the *Partial Decrees* and the licenses on which the *Director's Reports* were based. The claimant and IDWR determined that **no changes** were needed to 37-1244 and 37-4389. The claimant **withdrew** the *Motion to Set Aside Partial Decrees* for 37-1244 and 37-4389 on May 1, 2013. The claimant and IDWR agreed that 37-7861 needed to be set aside to remove the reference to 37-4389 in the combined use remark. The quantity also

needed to be corrected from .710 to .714. Prior to the final hearing on this motion, the license for 37-7861 was amended to make those changes. An *NCAP* was filed April 29, 2013.

No parties to the SRBA opposed the *Motion*. The *Motion* was granted for 37-7861. Since the *Motion to Set Aside Partial Decrees* was **withdrawn** for water rights 37-1244 and 37-4389, those *Partial Decrees* should **not be set aside**. There was no opposition to the withdrawal of the *Motion* for 37-1244 and 37-4389.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motion to Set Aside Partial Decree* be **granted** for water right 37-7861, and that an *Amended Partial Decree* be issued with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*. The recommended elements are consistent with the *NCAP*.

IT IS FURTHER RECOMMENDED that there be no changes to the *Partial Decrees* for water rights 37-1244 and 37-4389. No *Amended Partial Decrees* should issue for 37-1244 and 37-4389.

Dated: May 2, 2013.



BRIGETTE BILYEU,
Special Master
Snake River Basin Adjudication

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DEPARTMENT OF
WATER RESOURCES

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)
)
Case No. 39576)
_____)

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

Water Right 37-07861

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho MAY 02 2013 By _____ Clerk _____ Deputy Clerk

NAME AND ADDRESS: JAMES W MECHAM
PO BOX 3119
428 MAIN AVE N
TWIN FALLS, ID 83301-3119

SOURCE: STODDARD CREEK SPRING TRIBUTARY: STODDARD CREEK

QUANTITY: 0.714 CFS
285.00 AFY

Rights 37-1244 and 37-7861 when combined shall not
exceed a total diversion rate of 0.714 cfs.

PRIORITY DATE: 10/28/1980

The rights for the use of water confirmed in this license shall
be junior and subordinate to all rights for the use of water
other than hydropower, within the State of Idaho that are
initiated later in time than the priority of this right and
shall not give rise to any right or claim against any future
rights for the use of water, other than hydropower, within the
State of Idaho initiated later in time than the priority of this
right.

POINT OF DIVERSION: T06S R13E S27 SENWNW Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Power	03-15 TO 11-01	0.714 CFS
			285.00 AFY

PLACE OF USE: Power Within Gooding County
T06S R13E S27 LOT 1 (NWSW)

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

The diversion and use of water for hydropower purposes under this
license is subject to review by the Director on or after
October 5, 2019. Upon appropriate findings relative to the
interest of the public, the Director may cancel all or any part
of the use authorized herein and may revise, delete or add
conditions under which the right may be exercised.

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).

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Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAY 02 2013	
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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): 37-1244, 37-4389, and 37-7861

On May 2, 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: May 2, 2013.


Janet Connell
Deputy Clerk

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Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAY 02 2013	
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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)
)
)
_____)

CERTIFICATE OF MAILING

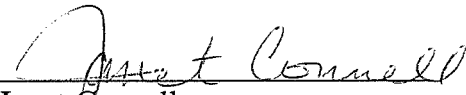
Water Right (s) : 37-1244, 37-4389
and 37-7861

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 May 2, 2013, with sufficient first-class postage prepaid to the following:

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

James W. Mecham
June Mecham
Represented by:
Paul L Arrington
195 River Vista PL STE 204
Twin Falls, Idaho 83301-3029


Janet Connell
Deputy Clerk