

DEPARTMENT OF
WATER RESOURCES

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

JAN 29 2014

DISTRICT OF THE
By _____ Clerk
TWIN FALLS _____ 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**

WATER RIGHTS: 21-2039 and 21-2170

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 for Late Claims* contained a recommendation for the elements of these water rights.

An *Objection* was filed for each water right by the Idaho Department of Fish and Game on August 23, 2013. The *Objections* were resolved on January 3, 2014 with the filing of *Standard Forms 5*. All parties to the subcase and IDWR are signatories to the *Standard Forms 5*.

It is notable that the purpose of use for these water rights is Water Quality Improvement. The purpose of use was not contested. IDWR Adjudication Manager Carter Fritschle explained that these water rights were originally used for irrigation. Many years ago, the use was changed through an accomplished transfer. Since that change, water accumulates in a reservoir, is diverted onto a lava bed and sinks. The water then re-emerges downstream into Blue Creek. This journey over lava rocks and then underground, reduces larger aquatic growth and cools the water. In essence, the water goes through a natural filtration and cooling process before it is redirected downstream into fish ponds. Mr. Fritschle explained that these Water Quality Improvement rights are consistent with similar SRBA rights. Therefore, IDWR recommended the purpose of use for these rights as Water Quality Improvement.

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: January 29, 2014.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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

JAN 29 2014

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
 Case No. 39576)
 _____)
 Water Right 21-02039

NAME AND ADDRESS: STATE OF IDAHO
 DEPT OF FISH & GAME
 PO BOX 25
 BOISE, ID 83707

SOURCE: BLUE CREEK TRIBUTARY: SINKS
 Point of injection into and points of redirection from Blue
 Creek.

QUANTITY: 8.00 CFS

PRIORITY DATE: 07/30/1910

POINT OF DIVERSION: T10N R41E S03 NWSW Within Fremont County
 NWSW (Injection)
 S09 NESE (Rediversion)
 S10 NWNW (Rediversion)
 NWNW (Rediversion)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Water Quality Improvement	04-15 TO 10-31	8.00 CFS

PLACE OF USE:	Water Quality Improvement	Within Fremont County
T10N R41E S09	NENE	SENE
	NESE	NWSE
	SWSE	SESE
S10	NWNW	SWNW
	SENW	NWSW
	SWSW	

Water Quality Improvement is in Blue Creek Pond No. 1, Blue
 Creek Pond No. 2, Blue Creek Pond No. 3 and Blue Creek Pond No.
 4 within the Sand Creek Wildlife Management Area.

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

JAN 29 2014

Bridgette 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.

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

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

JAN 29 2014

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
 Case No. 39576)
 _____)
 Water Right 21-02170

NAME AND ADDRESS: STATE OF IDAHO
 DEPT OF FISH & GAME
 PO BOX 25
 BOISE, ID 83707

SOURCE: BLUE CREEK TRIBUTARY: SINKS
 Point of injection into and points of redirection from Blue Creek.

QUANTITY: 5.80 CFS

PRIORITY DATE: 10/16/1919

POINT OF DIVERSION: T10N R41E S03 NWSW Within Fremont County
 NWSW (Injection)
 S09 NESE (Rediversion)
 S10 NWNW (Rediversion)
 NWNW (Rediversion)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Water Quality Improvement	05-01 TO 10-31	5.80 CFS

PLACE OF USE:	Water Quality Improvement	Within Fremont County
T10N R41E S09	NENE	SENE
	NESE	NWSE
	SWSE	SESE
S10	NWNW	SWNW
	SENW	NWSW
	SWSW	

Water Quality Improvement is in Blue Creek Pond No. 1, Blue Creek Pond No. 2, Blue Creek Pond No. 3 and Blue Creek Pond No. 4 within the Sand Creek Wildlife Management Area.

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

JAN 29 2014

Bridgette Silbey

 SPECIAL MASTER

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