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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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	)	PRELIMINARY SPECIAL MASTER'S
	)	REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW FOR
	)	
	)	WATER RIGHT 34-12423

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The director of the State of Idaho Department of Water Resources (IDWR) examined the water system for Reporting Area 1 and investigated and abstracted the notices of claim for Reporting Area 1 (Basin 34), which includes portions of Custer, Butte, Bonneville and Jefferson counties, State of Idaho. The *Director's Report for Reporting Area 34 (Director's Report)* contained a recommendation or abstract for the elements of this water right.

An objection to the *Director's Report* for water right 34-12423 was filed on February 26, 1993, by the United States Bureau of Land Management. A response was filed on June 18, 1993 by the State of Idaho Department of Water Resources. Subsequently, a settlement was reached as to how the elements of this water right could be decreed. On March 8, 1995, a *Standard Form 5* was filed reflecting the agreement of the parties. The signatories to the *Standard Form 5* are the claimant, P.U. Ranch; the objector, the United States Bureau of Land Management; and the Idaho Department of Water Resources. Thus it appears that all parties to this subcase, and IDWR, are signatories to the *Standard Form 5*.

UNCHANGED ELEMENTS

Most elements of the new water rights remain unchanged from the original director's report. **Element 1**, name and address; **element 2**, source; **element 3**, quantity; and **element 4**, priority date remain unchanged from the original *Director's Report*. **Element 6**, purpose of use "stock water" remains unchanged. This water right, however, is used for **instream** watering of livestock. Therefore the term "stock water" used here indicates the purpose of use is for watering of livestock. The term "stock water" used here does not refer to the statutory definition of "stock watering" contained in I.C. §§ 42-1401A(12) which requires a diversion. **Element 7**, period of year remains unchanged from the original *Director's Report* for 34-12423.

CHANGED ELEMENTS

The remaining elements of this water right as stipulated to in the *Standard Form 5* differ from the original Director's Report for 34-12423.

Element 4, legal description of the beginning and ending points of the instream livestock use, was changed to accurately reflect the beginning and ending points of the claimed instream stock water right.

Element 8, legal description of place of use was changed to accurately reflect the legal description of the place of use.

Element 9, annual volume of consumptive use is listed in the *Standard Form 5* as *de minimis*. However, since the *Standard Form 5* was executed, the legislature amended I.C. §§ 42-1401A and 42-1411 removing the requirement that annual volume of consumptive use be decreed for non-irrigation rights, unless a quantified amount is reported in the Director's Report. No such quantified amount was reported for this right. Therefore the annual volume of consumptive use should not be decreed.

CONCLUSIONS OF LAW

Under *SRBA Administrative Order 1*, a Special Master is required to make a recommendation to the presiding Judge as to whether and how a water right should be decreed.

Where a *Standard Form 5* is signed by every party to the subcase and IDWR, it may be treated as an *Amended Director's Report* and given *prima facie* weight. The court gives *prima facie* weight to the *Standard Form 5* to which IDWR is a signatory.

The record on file for this subcase, including the *Standard Form 5* clearly establishes the intent of the parties that this water right be decreed with the elements as set forth in the *Standard Form 5* as described in the Findings of Fact above.

Therefore, based on the file and record herein, IT IS RECOMMENDED that water right 34-12423 be decreed with the elements as set forth in the attached *Preliminary Special Master's Recommendation for Partial Decree*.

IT IS SO RECOMMENDED.

DATED August 8, 1996.



BRIGETTE BILYEU
Special Master, Reporting Area 1
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

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

PRELIMINARY
SPECIAL MASTER'S RECOMMENDATION FOR
PARTIAL DECREE FOR
Water Right 34-12423

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

NAME & ADDRESS: P U RANCH
4500 IMPERIAL AVE
SAN DIEGO CA 92113

SOURCE: TIMBERED DOME CREEK
UNNAMED STREAMS

TRIBUTARY: SINKS
TIMBERED DOME CREEK

QUANTITY: 0.04 CFS

PRIORITY DATE: 05/01/1914

POINT OF DIVERSION: T03N R25E S05

NESWNW	(INSTREAM BEGINNING POINT)	Within BUTTE County
SWSWNW	(INSTREAM BEGINNING POINT)	
NWNWSW	(INSTREAM BEGINNING POINT)	
NENESW	(INSTREAM BEGINNING POINT)	
SWNENW	(INSTREAM ENDING POINT)	
SESWNW	(INSTREAM ENDING POINT)	
NWNESW	(INSTREAM ENDING POINT)	
SENE	(INSTREAM ENDING POINT)	

T04N R25E S32
T03N R25E S05

S10

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
STOCKWATER

PERIOD OF USE
01-01 12-31

QUANTITY
0.04 CFS

PLACE OF USE:

STOCKWATER
T03N R25E S05

S08
S09

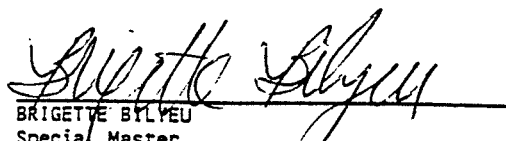
S10

T04N R25E S32

Within BUTTE County

NENW	SWNW	NESW	NWSW
SESW	SWSE		
NENE	NWNE	SENE	
SWNW	NESW	NWSW	SWSW
SESW	NESE	SWSE	SESE
SWNE	SENE	NESW	NWSW
NWSE			
NESW	SESW		

DATED August 8, 1996.
BB


BRIGETTE BLYEU
Special Master
Snake River Basin Adjudication