

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

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

Water Right 31-11228

In Re SRBA)
Case No. 39576)

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

NOV 26 2014

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: K PAUL GUNDERSON
1555 E 1500 N
HAMER, ID 83425

SOURCE: GROUNDWATER

QUANTITY: 0.05 CFS
7.00 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 04/01/1954

POINT OF DIVERSION: T07N R35E S26 SENE Within Jefferson County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.05 CFS
	Irrigation	04-01 TO 10-31	0.05 CFS
			7.00 AFY

PLACE OF USE: Irrigation Within Jefferson County
T07N R35E S26 SENE 2.0
2.0 Acres Total

Stockwater Within Jefferson County
T07N R35E S26 SENE

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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

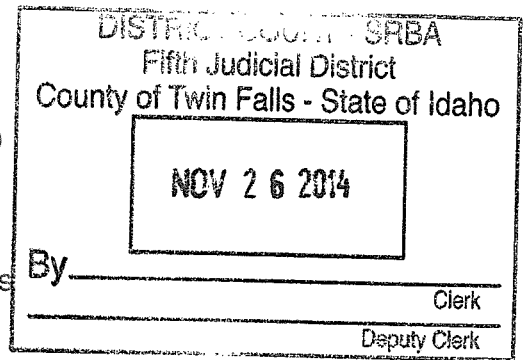
With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment 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

NOV 26 2014

Eric J. Wildman
SPECIAL MASTER

Eric J. Wildman
Presiding Judge of the
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

In Re SRBA

Case No. 39576

**SPECIAL MASTER’S REPORT AND
RECOMMENDATION ON MOTION
TO SET ASIDE PARTIAL DECREE**

WATER RIGHT NO.: 31-11228

I. PROCEDURAL BACKGROUND

The SRBA District Court issued a *Partial Decree* for this water right on June 25, 1998. A related water claim, 31-12314 was filed as a late claim in 2014. On August 5, 2014, claimant Paul Gunderson filed a *Motion to Vacate Partial Decree*, requesting that the *Partial Decree* issued for 31-11228 be set aside. The claimant also filed an amended claim. The *Motion to Vacate Partial Decree* indicated that the sole purpose of the *Motion* was to amend the claim to 31-11228 in order to settle the pending litigation for late claim 31-12314. Presiding Judge Eric Wildman issued an *Order of Reference Appointing Special Master Brigitte Bilyeu*. Hearings were held on the *Motion to Vacate Partial Decree and Motion to File Amended Claim* on August 5, 2014 and September 17, 2014.

II. FINDINGS OF FACT

In support of the *Motions*, the movant explained that the technical experts for Mr. Gunderson and the Idaho Department of Water Resources recommended that an irrigation component be added to this right, 31-11228. In addition, the movant explained that this water right, 31-11228 is used in combination with the late claim 31-12314. Rocky Mountain Environmental investigated the additional acres claimed under late claim 31-12314. Rocky

Mountain Environmental found evidence of irrigation of two (2) additional acres. The evidence supporting the additional two (2) acres includes testimony from people living near the irrigated acreage and aerial photographs.

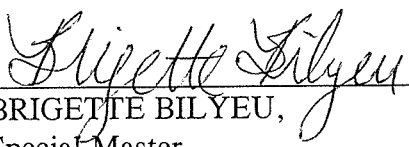
The amendment to the claim for this right, 31-11228 seeks to add the two (2) irrigated acres. The amendment also advances the priority date from 5/15/1940 to 4/01/1954. IDWR reported that a predecessor water right owner did have a separate irrigation right. However, that irrigation right was transferred between 1953 and 1954. Therefore, IDWR concluded that the earliest priority date available should be based on beneficial use starting no earlier than 1954. IDWR noted that aerial photographs are consistent with beneficial use beginning in 1954. The claimant has asserted a 1954 priority date. There was no opposition to the *Motion*.

An *Amended Director's Report* was filed on September 29, 2014. The *Amended Director's Report* was placed on the Docket Sheet. No objections were filed to the *Amended Director's Report*, and the time for filing such objections has now expired.

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**, 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 *Amended Director's Report* filed on September 29, 2014.

Dated: November 26, 2014.


BRIGETTE BILYEU,
Special Master
Snake River Basin Adjudication