

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

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

Water Right 37-11940

200 SEP 29 AM 9:48

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: JEFFREY H & SUSAN T BROTHMAN
PERSONAL RESIDENCE TRUST
C/O JEFFREY H BROTHMAN
7917 OVERLAKE DR WEST
MEDINA, WA 98039

1984 BROTHMAN FAMILY TRUST
C/O JEFFREY H BROTHMAN
7917 OVERLAKE DR WEST
MEDINA, WA 98039

SOURCE: GROUNDWATER

QUANTITY: 0.07 CFS

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

PRIORITY DATE: 05/23/1979

POINT OF DIVERSION: T04N R17E S12 SWNE Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.07 CFS

PLACE OF USE: Domestic T04S R17E S12 SWNE Within Blaine County

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT 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

September 29 2000

Signature
SPECIAL MASTER

Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

MEMORANDUM

TO: File 37-11940, IDWR State Office

FROM: Douglas Jones

DATE: 2/5/01

RE: Error in Partial Decree

On 2/6/01 Southern Region received notice of the Special Master's Recommendation (Bilyeu) and SF-5 for the right. The stipulation (8/00) corrected the legal description for the place of use from T04S to T04N.

Unfortunately the SMR (issued 9/29/00) did not reflect the stipulation and the decree was issued incorrectly. I spoke with Teri Hranac about this and she acknowledged that there was a typographical error. Teri indicated that there would likely be a corrected decree issued. To date this has not occurred, at least according to IWATRS.

This memo is written to document what has transpired to date and to alert State Office staff of the situation. Contact with Brotman's attorney, James Speck, has not been made. Perhaps follow-up with court staff and/or James Speck could be made from the State Office level.

RECEIVED

FEB 06 2001

Department of Water Resources
Southern Region

RECEIVED

OCT 02 2000

Department of Water Resources

200 SEP 29 AM 9:47

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
Case No. 39576

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 37-11940

On September 29, 2000, Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S RECOMMENDATION 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 September 29, 2000.


TERI HRANAC
Deputy Clerk

200 SEP 29 AM 9:48

DISTRICT COURT-SRBA
TWIN FALLS LSC 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

Case No. 39576

) SPECIAL MASTER'S REPORT

) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW

) FOR WATER RIGHT 37-11940
)

I. FINDINGS OF FACT

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 examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

All objections to this water right were resolved with the filing of a *Standard Form 5* which was treated as a *Standard Form 5/Amended Claim*. All parties to the subcase and IDWR are signatories to the *Standard Form 5/Amended Claim*. The *Standard Form 5/Amended Claim* was treated as an *Amended Director's Report*. No objections were filed to the *Amended Director's Report* and the time for filing such objections has now expired.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that this water right be decreed with the elements as set forth in the *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 37-11940*.

DATED: September 29, 2000.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

200 SEP 29 AM 9:48

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

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): 37-11940

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on September 29, 2000, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

JEFFREY H & SUSAN T BROTMAN
1984 BROTMAN FAMILY TRUST

Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340
Phone: 208-726-4421


TERI HRANAC
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
09/29/00

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FEB 06 2001

Department of Water Resources
Southern RegionIN 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

Subcase 37-11940

STANDARD FORM 5

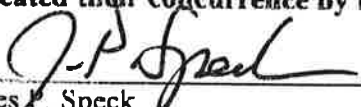
AMENDED CLAIM

For Domestic & Stockwater Rights

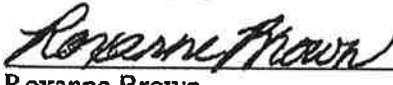
This form is used to report the stipulated elements of one "domestic and/or stockwater" right acquired under state law and/or one federal reserved water right and to amend the Notice of Claim. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached Amended Claim. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.


James P. Speck
Attorney for Claimant

Date


Roxanne Brown
Idaho Dept. of Water Resources

Date

08/24/2000

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-11940

NAME AND ADDRESS: THE 1984 BROTMAN FAMILY TRUST
JEFFREY H & SUSAN T BROTMAN PERSONAL RESIDENCE TRUST
C/O JEFFREY H BROTMAN
7917 OVERLAKE DR WEST
MEDINA, WA 98039

SOURCE: GROUND WATER

QUANTITY: 0.07 CFS

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

PRIORITY DATE: 05/23/1979

POINT OF DIVERSION: T04N R17E S12 SWNE Within BLAINE County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC, 1 HOME	1-01 12-31	0.07 CFS

PLACE OF USE:

DOMESTIC Within BLAINE County
T04N R17E S12 SWNE

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

RB
JPS

CERTIFICATE OF SERVICE

I hereby certify that on the 24 day of August, 2000, I served a true and correct copy of the foregoing document on the following persons in the manner designated below:

Chief, Natural Resources Division
Office of the Attorney General, State of
Idaho
P. O. Box 44449
Boise, ID 83711-4449

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

The United States Department of Justice
Environmental and Natural Resources
Division
550 West Fort Street
Box 33
Boise, ID 83724

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid



JAMES P. SPECK

RECEIVED

JUL 14 2000

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

In Re SRBA

Case No. 39576

A. Subcase 37-11940

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: The 1984 Brotman Family Trust and/or the Jeffrey H. Brotman and
Susan T. Brotman Qualified Personal Residence Trust

Address: c/o Jeffrey H. Brotman
7917 Overlake Drive West
Medina WA 98039

Daytime Phone: (425) 313-8159

Name & Address of Attorney, if any:

James P. Speck
SPECK & AANESTAD
A Professional Corporation
PO Box 987
Ketchum, ID 83340

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

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SEP 01 2000
Department of Water Resources
Southern Region

Name: The 1984 Brotman Family Trust and/or the Jeffrey H. Brotman and Susan T. Brotman Qualified Personal Residence Trust

Address: c/o Jeff Brotman
7917 Overlake Drive West
Medina WA 98039

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be:
2. ☐ **Source**
Should be:
3. ☐ **Quantity**
Should be:
4. ☐ **Priority Date**
Should be:
5. ☒ **Point(s) of Diversion**
Should be: SW1/4NE1/4, Section 12, T.4N., R.17E., B.M., Blaine County, Idaho.
6. ☐ **Instream Flow Description**
Should be:
7. ☐ **Purpose(s) of Use**
Should be:
8. ☐ **Period of Year**
Should be:
9. ☒ **Place of Use**
Should be: SW1/4NE1/4, Section 12, T.4S., R.17E., B.M., Blaine County, Idaho.

10. **I object because:**

- ☐ This water should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): See Affidavit of David R. Tuthill, Jr. filed with the Motion for Leave to File Late Objection.

F.

VERIFICATION (Must be completed)

State of Idaho)
) ss.
County of Blaine)

James P. Speck, being first duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I.C. § 42-1401A(1) and (6), or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

J. P. Speck
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: February 15, 2000



Jean A. Latham
Notary Public for Idaho
Residing at Blaine Co.
My Commission expires 1-13-2001

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all of the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on ^{July 13} ~~January~~ ___, 2000, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: The 1984 Brotman Family Trust and/or the Jeffrey H. Brotman and
Susan T. Brotman Qualified Personal Residence Trust

Address: c/o Jeffrey H. Brotman
7917 Overlake Drive West
Medina WA 98039

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource
Division
550 West Fort Street, Box 33
Boise, Idaho 83734

A handwritten signature in black ink, appearing to read "J. P. Seal", is written over a horizontal line.

Signature of Objector or attorney mailing on
Objector's behalf