

A37-18320

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

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER
FROM THE SNAKE RIVER BASIN WATER SYSTEM

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE AND FEDERAL LAW

U.S. DEPT. OF INTERIOR
BUREAU OF LAND MGMT.
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706
TELEPHONE: 208-334-1401

PRIORITY DATE: 1879-01-01
(RESERVED..... 1926-04-17)
AGENCY NUMBER: 3705681002
BLM NUMBER: 3705681002
BASIS OF CLAIM: BENEFICIAL USE
(SUBSEQUENT FEDERAL RESERVE)
BASIN NUMBER: 37

SOURCE	TRIBUTARY TO
-----	-----
SPRING	SINKS

DESCRIPTION OF DIVERSION WORKS

NONE

PURPOSE OF USE	DIVERSION RATE	DIVERSION VOLUME	PERIOD OF USE FROM	TO
STOCKWATER	0.340	0.00	0101	1231
WILDLIFE	0.340	0.00	0101	1231
TOTAL:	0.340 CFS	0.00 AF		

NON-IRRIGATION USES

STOCKWATER, 1100 RANGE CATTLE, 2000 RANGE SHEEP. WILDLIFE VAR AMT

POINT OF DIVERSION							
TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
04S	14E	06		SW	SE	00	GOODING

PLACE OF USE

TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY	IRRIGATED OWNED	ACRES
04S	14E	06	SW	SE	00	GOODING	YES	0.0
04S	14E	06	SW	SE	00	GOODING	YES	0.0

TOTAL ACRES IRRIGATED: 0.0

MICROFILMED
OCT 26 1984

BLM NUMBER: 3705681002

PAGE: 2

TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM

OTHER WATER RIGHTS

WATER FEDERALLY RESERVED, SEE REMARKS

REMARKS

1926 RESERVED - EXECUTIVE ORDER DATED APR 17

PWR NO. 107

RECEIVED
OCT 18 1964

AJ5809NP
No. R37-18320

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 08/28/98
PAGE: 59

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	UNITED STATES OF AMERICA ACTING THROUGH	01/01/1879	STOCKWATER	01-01 12-31	0.02 CFS	

TOTAL DIVERSION: 0.02 CFS

Water Source: SPRING

Tributary to: SINKS

Stage: BENEFICIAL USE

Point(s) of Diversion: T04S R14E S06 SESWSE GOODING County

Place of use Legal Description for: STOCKWATER

NE				NW				SW				SE			
NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
04S	14E	6	:	:	:	:	:	:	:	:	:	:	:	S	:

POU County: GOODING

Other Rights: WATER FEDERALLY RESERVED, SEE REMARKS

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):

A37-18314 A37-18319 A37-18320 A37-18321 R37-18319

Conditions of Approval:

- D01 - *****
- * 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
- *
- * THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW *
- * WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
- * EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
- * WATER RESERVE 107. *
- *****
- N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
- DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.

Remarks: EXP BLM RECORD ID = 3705681002
STOCKWATER, 1100 RANGE CATTLE, 2000 RANGE SHEEP. WILDLIFE VAR AMT

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

D
10-6-98

AJ5809NP
No. R37-18320

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 08/28/98
PAGE: 60

=====
Comments: Date: 08/26/1998 User-ID: AJU5-DJO Subject: AJU5 STOCK ONLY UPDATE
USE-NOT-IRRIGATION FIELD TEXT DELETED AND MADE EXP REMARK.
CONDITION CODES N11 AND N13 ADDED IF NOT ALREADY PART OF RECORD.
ANY GEN REMARK CHANGED TO EXP REMARK. IF BLM/USFS, DELETED L12.

Audit: 08/13/98 AJCTR 08/25/98 AJU5-DJO

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

In Re SRBA

Case No. 3957

AMENDED NOTICE of CLAIM for
Water Right number:

3718320 (IDWR number)

United States of America acting through
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, ID 83709 - 1657

BLMIDENT: Stg: StFed:

3705681002 J X

NAME and
ADDRESS:

WATER FEDERALLY
RESERVED, SEE
REMARKS 4/17/1926

Other Right and date:

SOURCE:

Source	Tributary
SPRING	SINKS

QUANTITY:

0.02 CFS or VOLUME: 0 Acre Feet

The quantity of water under this right for stockwater shall not exceed 13,000 gallons per day.

PRIORITY DATE:

1/1/1879 Diversion Means: UNDEVELOPED SPRING

REMARKS:

Also reserved pursuant to Federal law

POINT of
DIVERSION:

Twtnship	Range	Section	T1	T2	T3	LOT	B/E	within the	County of
04S	14E	6	SE	SW	SE	0		47	GOODING

PURPOSE
and
PERIOD
OF USE:

Purpose of Use	Period of Use (from - to):	Rate in CFS	or	Volume in AcF
04	0101	1231	0.02	0

CONSUMPTIVE
USE:

de minimis stockwater use DATE: 30-Jul-98 2:12 PM

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.

PLACE
of USE:

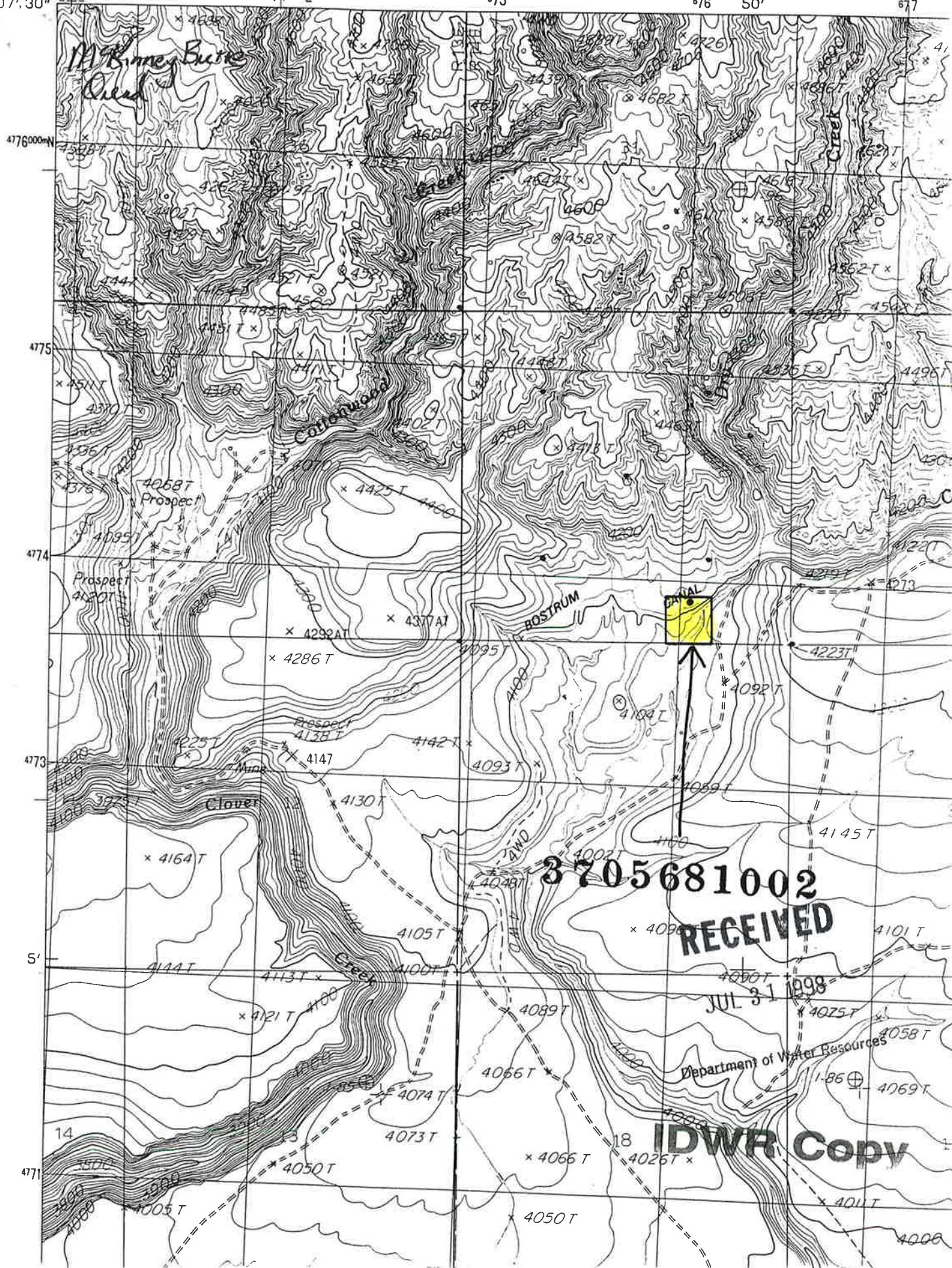
Water Use	Twtn	Rge	Sec	T1	T2	LOT	within the	County of
04	04S	14E	6	SW	SE	0	47	GOODING

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JUL 31 1998

Department of Water Resources

677



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-18320 V1

WATER RIGHT NUMBER: 37-18320 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	UNITED STATES OF AMERICA ACTING THROUGH USDI BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 1387 S VINNELL WAY BOISE, ID 83709-1657 (208)373-4000

Priority Date: 04/17/1926

Basis: Reserved

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	1/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.020 CFS	

Location of Point(s) of Diversion

SPRING	SE1/4SW1/4SE1/4	Sec. 6, Twp 04S, Rge 14E, B.M.
GOODING County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	14E	6															X		

Conditions of Approval:

1. C18 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. Section 42-1412(6), Idaho Code.
2. D01 *****
4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT.
THIS WATER RIGHT IS CLAIMED BASED ON FEDERAL LAW WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

3. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
4. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 37-18320 V1

Remarks:

1. Explanatory BLM RECORD ID = 3705681002

Comments:

1. AJU5-DJO 8/26/1998 AJU5 STOCK ONLY UPDATE

Comment: USE-NOT-IRRIGATION FIELD TEXT DELETED AND MADE EXP REMARK. CONDITION CODES N11 AND N13 ADDED IF NOT ALREADY PART OF RECORD. ANY GEN REMARK CHANGED TO EXP REMARK. IF BLM/USFS, DELETED L12.

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag: NONE RECEIVED
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
----------------	------------------------	-----------------	-----------------

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 37-18320 V1

SubCase:

SubCase Number: 37-18320

Class: 1

SF5 Filed Date: 7/31/2001

Special Master Recom Signed Date: 8/31/2001

Attorney Assigned: NICHOLAS B SPENCER

Adjudication Agent:

Basis of Claim:

Date Filed: 6/2/1999 Objection Status: Active

Date Filed: 6/2/1999 Objection Status: Active

Date Filed: 6/2/1999 Objection Status: Active

Date Filed: 6/2/1999 Objection Status: Active

Date Filed: 6/2/1999 Objection Status: Active

Date Filed: 6/2/1999 Objection Status: Active

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Date Filed: 6/2/1999 Objection Status: Active

Date Filed: 6/2/1999 Objection Status: Active

Date Filed: 6/2/1999 Objection Status: Active

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SEP 23 2004

Department of Water Resources
Southern Region

To: Doug
From: Vicki

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

2004 AUG 31 AM 8:47
DISTRICT COURT-SRBA
FILED [Signature]

In Re SRBA

Case No. 39576

) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION; FINDINGS OF
) FACT AND CONCLUSIONS OF LAW

37-18360 +

) For Water Rights: See attached Exhibit A

I. PROCEDURAL BACKGROUND

The United States Bureau of Land Management filed claims for these water rights, asserting two bases for the claims. Claims were asserted under Idaho state law, and claims were asserted under federal law based on Public Water Reserve 107 (PWR 107). The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system and investigated the state-based claims. The federal-reserve basis was not investigated by IDWR. The *Director's Report* contained a recommendation for the state-law basis and an abstract for the federal-law basis.

The State of Idaho objected to these claims by the United States, asserting that the United States was not entitled to these water rights, or that if these water rights existed, the priority date should be later then claimed.

Several individuals and entities represented by Norm Semanko, objected to the claims asserting that the United States was not entitled to these water rights because it had not put the water to beneficial use.

The individuals and entities represented by Mr. Semanko filed *Notices of Withdrawal of Objections*. The remaining parties, including the State of Idaho and the United States resolved all objections to this water right with a *Standard Form 5*

SPECIAL MASTER'S REPORT
FILE NO. 37-180
08/31/01

for 20245
- May apply to all rights
on Ex. A, if decreed
that way

A hearing on the *Standard Form 5* was held August 16, 2001. At the hearing, the United States agreed to advance the priority date in the subcases listed on Exhibit A to 4/17/1926. In addition, the United States elected not to proceed with its state-based theory for these claims, but instead elected the federal-reserved basis.

II. CONCLUSIONS OF LAW

These water rights were claimed as so-called "cual based" claims, where the United States asserted two theories that could entitle it to a water right. One theory was based on state law and the other theory was based on federal law. After extensive settlement efforts, the parties agreed that the United States would elect the federal basis over the state basis for the claims listed on Exhibit A.

Therefore, based on the file and record for these water rights, IT IS RECOMMENDED that the court confirm these water rights under the federal basis (PWR 107) only. IT IS FURTHER RECOMMENDED that the court confirm these water rights with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree*.

Dated August 31, 2001


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos: (89 Subcases in File No: 37-180)

2001 AUG 31 AM 8:47

DISTRICT COURT-SREA
TWINFALLS CO., IDAHO
FILED J.C.

37-18320 ✓	37-20125 ✓
37-18804 ✓	37-20126 ✓
37-18815 ✓	37-20127 ✓
37-18918 ✓	37-20128 ✓
37-19244 ✓	37-20129 ✓
37-19248 ✓	37-20130 ✓
37-19250 ✓	37-20132 ✓
37-19254 ✓	37-20135 ✓
37-19261 ✓	37-20136 ✓
37-19263 ✓	37-20137 ✓
37-19265 ✓	37-20139 ✓
37-19586 ✓	37-20175 ✓
37-19588 ✓	37-20180 ✓
37-19592 ✓	37-20181 ✓
37-20054 ✓	37-20184 ✓
37-20056 ✓	37-20185 ✓
37-20057 ✓	37-20187 ✓
37-20060 ✓	37-20190 ✓
37-20062 ✓	37-20194 ✓
37-20065 ✓	37-20200 ✓
37-20067 ✓	37-20201 ✓
37-20068 ✓	37-20202 ✓
37-20069 ✓	37-20210 ✓
37-20070 ✓	37-20213 ✓
37-20071 ✓	37-20214 ✓
37-20075 ✓	37-20216 ✓
37-20077 ✓	37-20217 ✓
37-20080 ✓	37-20219 ✓
37-20082 ✓	37-20225 ✓
37-20083 ✓	37-20226 ✓
37-20084 ✓	37-20229 ✓
37-20089 ✓	37-20232 ✓
37-20091 ✓	37-20238 ✓
37-20092 ✓	37-20239 ✓
37-20093 ✓	37-20240 ✓
37-20094 ✓	37-20244 ✓
37-20095 ✓	37-20245 ✓
37-20096 ✓	37-20246 ✓
37-20099 ✓	37-20248 ✓
37-20102 ✓	
37-20103 ✓	
37-20106 ✓	
37-20107 ✓	
37-20108 ✓	
37-20109 ✓	
37-20114 ✓	
37-20117 ✓	
37-20118 ✓	
37-20121 ✓	
37-20124 ✓	

89

Active
decreed(Subcase list: 37PWR/4)
8/29/01

MASTER'S REPORT AND RECOMMENDATION

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 37-20245

2001 AUG 31 AM 8:52

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 95

NAME AND ADDRESS:

USDI BLN
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE:

DEAD HORSE SPRING

TRIBUTARY: SINKS

QUANTITY:

0.02 CFS

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

PRIORITY DATE:

04/17/1926

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
* *
* THIS WATER RIGHT IS CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND OWNED AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION:

T04S R12E S28

NENWNE

Within Gooding County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USE
StockwaterPERIOD OF USE
01-01 TO 12-31QUANTITY
0.02 CFS

PLACE OF USE:

Stockwater
T04S R12E S28

NWNE

Within Gooding 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

AUG 31 2001

SPECIAL MASTER

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

SRBA PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 37-20245

PAGE 1
Aug-09-2001

Walcrona
Collaborative
Advisors

2001 AUG 31 AM 8:52

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *Jc*IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIn Re SRBA)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 37-18320
(SEE ATTACHED EXHIBIT A)

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 August 31, 2001, with sufficient first-class postage prepaid to the following:

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

BRUCE BEDKE
FLYING TRIANGLE INC
GARY POULTON
JARED BEDKE
JERRY HOAGLAND
JOE TUGAW
JOYCE LIVESTOCK COMPANY
KARL U (BUD) BEDKE
MICHAEL POULTON
PICKETT RANCH & SHEEP CO
SCOTT BEDKE
WESTERN STOCKGROWERS ASSN

Represented by:
NORMAN M. SEMANKO
ATTORNEY AT LAW
410 S ORCHARD, STE 144
BOISE, ID 83705
Phone: 208-344-6690

CERTIFICATE OF MAILING

PAGE 1
08/31/01

2001 AUG 31 AM 8:52

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHOIN 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)

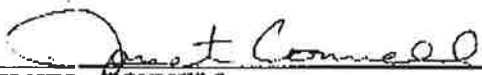
NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATIONWater Right(s): 37-18320
(SEE ATTACHED EXHIBIT A)

On August 31, 2001, 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 August 31, 2001.


JANET CONNELL
Deputy Clerk

NOTICE OF ISSUANCE

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08/31/01