

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

**APR 04 2022**

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 CSRBA )  
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 Case No. 49576 )  
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**SPECIAL MASTER’S REPORT AND RECOMMENDATION; FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
  
**WATER RIGHT NOS.: (Group 2: (Surface Water - National Forest Administration) (91-7963A et.al., See Exhibit I)**

**I. FINDINGS OF FACT**

Claims were filed for these water rights by the United States Department of Agriculture Forest Service (“Forest Service”) for federal reserved water rights in the Idaho Panhandle National Forests and the Nez Perce Clearwater National Forest. The elements of these rights were reported by the Idaho Department of Water Resources in abstracts of the notices of claim.

**II. PROCEDURAL BACKGROUND**

Originally, the Forest Service filed a total of six claims (91-7729, 92-10890, 92-10891, 93-7433, 94-9133, and 95-16527) for these forests. The State of Idaho filed a *Motion for Summary Judgment* asserting the claims did not adequately identify the elements of each water right. Additional parties joined the motion. The Special Master ruled that these federal reserved water rights were required, under I.C. §42-1409, to further describe each element. *Order on Summary Judgment* at 22. (Aug. 1, 2016) (Subcase 91-7729 et. al.) The exception is for federal reserved rights with a firefighting purpose. Those rights are not constrained by I.C. §42-1409. *Id.* at 21.

The Presiding Judge upheld the summary judgment decision on permissive review, holding that the United States is not excused from the requirements of I.C. §42-1409. *Memorandum Decision and Order* (June 1, 2017) (Subcases 91-7729, et.al.) at 7, 12.

In 2018, the United States filed Amended Claims for its federal reserved water rights to comply with the *Order on Summary Judgment* and *Memorandum Decision and Order*. The 2018 Amended Claims expanded the Forest Service claims from six subcases to 259 subcases,

including 91 Surface Water Fire Suppression claims, 91 Surface Water National Forest Administration claims, 36 Ground Water Fire Suppression claims, 36 Ground Water National Forest Administration claims, and 5 Ground Water National Forest Future Administrative claims.

The Court designated five lead subcases, which included one subcase from each of the five groups. ***Order Designating Lead Subcases, Setting Deadlines, and Trial Date*** (Mar 5, 2019) (Subcases 91-07931, 91-07963, 91-07995, 91-08007, and 91-08019). Subsequently, the parties filed *Objections* and *Responses* in 2019. The parties filed requests for discovery and various motions. The Court held multiple status conferences and ordered settlement conferences throughout 2019, 2020, and 2021. The parties reached an agreement at the end of 2021.

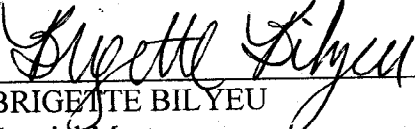
The agreement of the parties involved reconfiguration of the 259 water rights. The agreement sanctioned splitting the Forest Service rights into 510 subcases for Surface Water Fire Suppression, 510 subcases for Surface Water National Forest Administration, 36 subcases for Ground Water Fire Suppression, 36 subcases for Ground Water National Forest Administration, and 5 subcases for Future Administrative sites. Thus, the parties agreed on a final list of 1097 subcases. A *Stipulation and Joint Motion for Order Approving Stipulation* was filed by the parties on February 1, 2022. The parties also filed the elements for each of the 1097 subcases on February 1, 2022. All parties to the subcases and IDWR are signatories to the *Stipulation*.

It should be noted that some elements of these subcases and attached maps include some elements which are outside the state of Idaho. Those elements outside of Idaho are included for identification and clarification. Nothing in this ***Special Master's Report and Recommendation*** alters the jurisdiction of the courts of other states.

### III. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that these water rights be **decreed** with the elements set forth in the ***Special Master's Recommendation*** posted on the Court's web site at [www.srba.idaho.gov/CSRBA25.HTM](http://www.srba.idaho.gov/CSRBA25.HTM), as stipulated to by all parties.

DATED: April 4, 2022.

  
\_\_\_\_\_  
BRIGETTE BILYEU  
Special Master  
Coeur d'Alene-Spokane River Basin Adjudication

GROUP #2

Subcase Nos:

91-07963A	91-07981D	91-07985K	91-07993E	92-11071D	94-09551C
91-07963B	91-07981E	91-07985L	91-07993F	92-11071E	94-09551D
91-07964	91-07981F	91-07985M	91-07993G	92-11071F	94-09551E
91-07965A	91-07981G	91-07986A	91-07994A	92-11072A	94-09551F
91-07965B	91-07981H	91-07986B	91-07994B	92-11072B	94-09551G
91-07966	91-07981I	91-07986C	91-07994C	92-11072C	94-09551H
91-07967A	91-07981J	91-07986D	91-07994D	92-11072D	94-09551I
91-07967B	91-07981K	91-07986E	92-11067A	92-11072E	94-09552A
91-07967C	91-07981L	91-07986F	92-11067B	92-11072F	94-09552B
91-07968A	91-07981M	91-07986G	92-11067C	92-11072G	94-09552C
91-07968B	91-07981N	91-07987A	92-11067D	92-11072H	94-09552D
91-07968C	91-07981O	91-07987B	92-11067E	92-11072I	94-09552E
91-07968D	91-07981P	91-07987C	92-11067F	92-11072J	94-09552F
91-07969A	91-07981Q	91-07987D	92-11067G	92-11072K	94-09552G
91-07969B	91-07982A	91-07987E	92-11067H	92-11072L	94-09552H
91-07969C	91-07982B	91-07987F	92-11067I	92-11073A	94-09552I
91-07969D	91-07982C	91-07987G	92-11067J	92-11073B	94-09552J
91-07969E	91-07982D	91-07987H	92-11067K	92-11073C	94-09553A
91-07970A	91-07982E	91-07987I	92-11067L	92-11073D	94-09553B
91-07970B	91-07982F	91-07987J	92-11067M	92-11073E	94-09553C
91-07970C	91-07982G	91-07987K	92-11067N	92-11074	94-09553D
91-07970D	91-07982H	91-07987L	92-11067O	92-11075	94-09553E
91-07971	91-07982I	91-07987M	92-11067P	92-11080A	94-09553F
91-07972	91-07982J	91-07987N	92-11068A	92-11080B	94-09553G
91-07973	91-07983A	91-07987O	92-11068B	92-11080C	94-09553H
91-07974A	91-07983B	91-07987P	92-11068C	92-11080D	94-09553I
91-07974B	91-07983C	91-07987Q	92-11068D	92-11080E	94-09554A
91-07975A	91-07983D	91-07987R	92-11068E	92-11080F	94-09554B
91-07975B	91-07983E	91-07987S	92-11068F	92-11080G	94-09554C
91-07976	91-07983F	91-07987T	92-11068G	92-11080H	94-09554D
91-07977A	91-07983G	91-07988A	92-11068H	92-11080I	94-09555A
91-07977B	91-07983H	91-07988B	92-11068I	92-11080J	94-09555B
91-07978A	91-07983I	91-07988C	92-11068J	92-11081A	94-09555C
91-07978B	91-07983J	91-07988D	92-11068K	92-11081B	94-09556A
91-07978C	91-07983K	91-07988E	92-11068L	92-11081C	94-09556B
91-07978D	91-07983L	91-07988F	92-11068M	92-11081D	94-09556C
91-07979A	91-07983M	91-07988G	92-11068N	93-07672A	94-09557A
91-07979B	91-07984A	91-07989	92-11068O	93-07672B	94-09557B
91-07979C	91-07984B	91-07990A	92-11069A	93-07672C	94-09558A
91-07979D	91-07984C	91-07990B	92-11069B	93-07672D	94-09558B
91-07979E	91-07985A	91-07990C	92-11069C	93-07672E	94-09559A
91-07980A	91-07985B	91-07991A	92-11069D	94-09547A	94-09559B
91-07980B	91-07985C	91-07991B	92-11069E	94-09547B	94-09559C
91-07980C	91-07985D	91-07991C	92-11069F	94-09548A	94-09559D
91-07980D	91-07985E	91-07992A	92-11069G	94-09548B	94-09559E
91-07980E	91-07985F	91-07992B	92-11070A	94-09549	94-09559F
91-07980F	91-07985G	91-07993A	92-11070B	94-09550A	94-09559G
91-07981A	91-07985H	91-07993B	92-11071A	94-09550B	94-09559H
91-07981B	91-07985I	91-07993C	92-11071B	94-09551A	94-09560A
91-07981C	91-07985J	91-07993D	92-11071C	94-09551B	94-09560B

(Subcase list: FSGP2 )

GROUP #2

Subcase Nos:

94-09561A	94-09565P	94-09570E	94-09580I	95-17412E
94-09561B	94-09565Q	94-09570F	94-09580J	95-17412F
94-09561C	94-09565R	94-09570G	94-09580K	95-17412G
94-09562A	94-09565S	94-09571A	94-09580L	95-17413
94-09562B	94-09565T	94-09571B	94-09581A	95-17414A
94-09562C	94-09565U	94-09571C	94-09581B	95-17414B
94-09563A	94-09565V	94-09572	94-09581C	95-17414C
94-09563B	94-09565W	94-09573A	94-09581D	95-17414D
94-09563C	94-09565X	94-09573B	94-09582A	95-17414E
94-09563D	94-09565Y	94-09574	94-09582B	95-17414F
94-09563E	94-09566A	94-09575A	94-09582C	
94-09563F	94-09566B	94-09575B	94-09582D	
94-09563G	94-09566C	94-09576	94-09582E	
94-09563H	94-09567A	94-09577A	95-17404A	
94-09563I	94-09567B	94-09577B	95-17404B	
94-09563J	94-09567C	94-09578A	95-17405A	
94-09563K	94-09567D	94-09578B	95-17405B	
94-09563L	94-09567E	94-09578C	95-17405C	
94-09563M	94-09567F	94-09578D	95-17406A	
94-09563N	94-09567G	94-09578E	95-17406B	
94-09563O	94-09567H	94-09578F	95-17406C	
94-09564A	94-09567I	94-09578G	95-17407A	
94-09564B	94-09567J	94-09578H	95-17407B	
94-09564C	94-09567K	94-09578I	95-17407C	
94-09564D	94-09567L	94-09578J	95-17408A	
94-09564E	94-09567M	94-09578K	95-17408B	
94-09564F	94-09567N	94-09578L	95-17408C	
94-09564G	94-09567O	94-09578M	95-17409A	
94-09564H	94-09567P	94-09578N	95-17409B	
94-09564I	94-09568A	94-09579A	95-17409C	
94-09564J	94-09568B	94-09579B	95-17409D	
94-09564K	94-09568C	94-09579C	95-17409E	
94-09564L	94-09568D	94-09579D	95-17409F	
94-09564M	94-09568E	94-09579E	95-17409G	
94-09564N	94-09568F	94-09579F	95-17409H	
94-09565A	94-09568G	94-09579G	95-17409I	
94-09565B	94-09568H	94-09579H	95-17410A	
94-09565C	94-09569A	94-09579I	95-17410B	
94-09565D	94-09569B	94-09579J	95-17410C	
94-09565E	94-09569C	94-09579K	95-17410D	
94-09565F	94-09569D	94-09579L	95-17410E	
94-09565G	94-09569E	94-09579M	95-17410F	
94-09565H	94-09569F	94-09580A	95-17410G	
94-09565I	94-09569G	94-09580B	95-17411A	
94-09565J	94-09569H	94-09580C	95-17411B	
94-09565K	94-09569I	94-09580D	95-17411C	
94-09565L	94-09570A	94-09580E	95-17412A	
94-09565M	94-09570B	94-09580F	95-17412B	
94-09565N	94-09570C	94-09580G	95-17412C	
94-09565O	94-09570D	94-09580H	95-17412D	

(Subcase list: FSGP2 )

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

**APR 04 2022**

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 CSRBA ) ) ) ) Case No. 49576 ) ) _____ )	NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION  Water Right (s): 91-7963A et.al, <i>See</i> Exhibit 1
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On April 4, 2022 Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S REPORT AND RECOMMENDATION for the above subcase (s) pursuant to CSRBA Administrative Order 1 (AO1), Section 18a.

Pursuant to CSRBA Administrative Order 1, Section 18a, any party to the adjudication including parties to the subcase, may file a *Motion to Alter or Amend* on or before the 28<sup>th</sup> 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: April 4, 2022.

  
 Janet Connell  
 Assistant to Special Master

**CERTIFICATE OF MAILING**

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION: FINDINGS OF FACT AND CONCLUSIONS OF LAW was mailed on April 04, 2022, with sufficient first-class postage to the following:

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