

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

**WATER RIGHT NOS.: (Group 3:
(Ground Water – Fire Suppression)
(91-7995 et.al., See Exhibit 1)**

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.

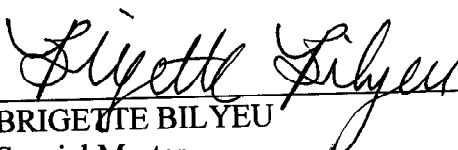
The agreement of the parties involved reconfiguration of the 259 water rights. The agreement sanctioned splitting the Forest Service rights into 510 subcases for Surface Water Fire Suppression, 510 subcases for Surface Water National Forest Administration, 36 subcases for Ground Water Fire Suppression, 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 36 subcases in this Group 3 (Ground Water - Fire Suppression) were not reconfigured or split after the amended claims in 2018. All parties to the subcases and IDWR are signatories to the *Stipulation*.

It should be noted that some 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, as stipulated to by all parties.

DATED: April 15, 2022.



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


EXHIBIT 1 (GROUP 3)

Subcase Nos:

91-07995
91-07996
91-07997
91-07998
91-07999
91-08000
91-08001
91-08002
91-08003
91-08004
91-08005
91-08006
92-11076
94-09583
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95-17423
95-17424

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

APR 15 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

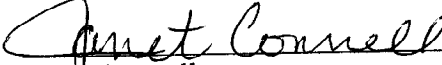
In Re CSRBA))))) Case No. 49576)) _____)	NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION Water Right (s): 91-7995 et.al, See Exhibit 1
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On April 15, 2022 Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S REPORT AND RECOMMENDATION 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 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: April 15, 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 15, 2022, with sufficient first-class postage to the following:

ALBERT P BARKER
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CANDICE M MCHUGH
380 S 4TH ST STE 103
BOISE, ID 83702
Phone: 208-287-0991

CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-2400

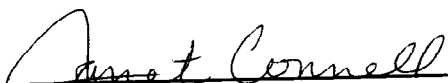
MARIAH R DUNHAM
722 MAIN AVE
ST MARIES, ID 83861
Phone: 208-245-2523

MICHAEL P LAWRENCE
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

NORMAN M SEMANKO
PARSONS BEHLE & LATIMER
800 W MAIN STREET STE 1300
BOISE, ID 83702
Phone: 208-562-4900

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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


Deputy Clerk