

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)	SPECIAL MASTER'S REPORT AND
)	RECOMMENDATION; FINDINGS OF
Case No. 49576)	FACT AND CONCLUSIONS OF LAW
)	
)	WATER RIGHT NOS.: <u>Group 4:</u>
)	(Ground Water – National Forest
)	Administration)
)	(91-8007 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 4 (Ground Water - National Forest Administration) were not reconfigured or split after the amended claims in 2018. All parties to the subcases and IDWR are signatories to the *Stipulation*.

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 BIL YEU
Special Master
Coeur d'Alene-Spokane River Basin Adjudication

EXHIBIT 1 (GROUP 4)

Subcase Nos:

91-08007
91-08008
91-08009
91-08010
91-08011
91-08012
91-08013
91-08014
91-08015
91-08016
91-08017
91-08018
92-11077
94-09596
94-09597
94-09598
94-09599
94-09600
94-09601
94-09602
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95-17430
95-17431
95-17432
95-17433
95-17434

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 _____ 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): 91-8007 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:

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