

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

MAR 03 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)

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

**WATER RIGHT NOS.: (Group 1: Fire
Suppression Surface Water) (91-7931A
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 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, as stipulated to by all parties.

DATED: March 3, 2022.



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

EXHIBIT 1 (GROUP 1)

Subcase Nos:

91-07931A	91-07949D	91-07953K	91-07961E	92-11062D	94-09515C
91-07931B	91-07949E	91-07953L	91-07961F	92-11062E	94-09515D
91-07932	91-07949F	91-07953M	91-07961G	92-11062F	94-09515E
91-07933A	91-07949G	91-07954A	91-07962A	92-11063A	94-09515F
91-07933B	91-07949H	91-07954B	91-07962B	92-11063B	94-09515G
91-07934	91-07949I	91-07954C	91-07962C	92-11063C	94-09515H
91-07935A	91-07949J	91-07954D	91-07962D	92-11063D	94-09515I
91-07935B	91-07949K	91-07954E	92-11058A	92-11063E	94-09516A
91-07935C	91-07949L	91-07954F	92-11058B	92-11063F	94-09516B
91-07936A	91-07949M	91-07954G	92-11058C	92-11063G	94-09516C
91-07936B	91-07949N	91-07955A	92-11058D	92-11063H	94-09516D
91-07936C	91-07949O	91-07955B	92-11058E	92-11063I	94-09516E
91-07936D	91-07949P	91-07955C	92-11058F	92-11063J	94-09516F
91-07937A	91-07949Q	91-07955D	92-11058G	92-11063K	94-09516G
91-07937B	91-07950A	91-07955E	92-11058H	92-11063L	94-09516H
91-07937C	91-07950B	91-07955F	92-11058I	92-11064A	94-09516I
91-07937D	91-07950C	91-07955G	92-11058J	92-11064B	94-09516J
91-07937E	91-07950D	91-07955H	92-11058K	92-11064C	94-09517A
91-07938A	91-07950E	91-07955I	92-11058L	92-11064D	94-09517B
91-07938B	91-07950F	91-07955J	92-11058M	92-11064E	94-09517C
91-07938C	91-07950G	91-07955K	92-11058N	92-11065	94-09517D
91-07938D	91-07950H	91-07955L	92-11058O	92-11066	94-09517E
91-07939	91-07950I	91-07955M	92-11058P	92-11078A	94-09517F
91-07940	91-07950J	91-07955N	92-11059A	92-11078B	94-09517G
91-07941	91-07951A	91-07955O	92-11059B	92-11078C	94-09517H
91-07942A	91-07951B	91-07955P	92-11059C	92-11078D	94-09517I
91-07942B	91-07951C	91-07955Q	92-11059D	92-11078E	94-09518A
91-07943A	91-07951D	91-07955R	92-11059E	92-11078F	94-09518B
91-07943B	91-07951E	91-07955S	92-11059F	92-11078G	94-09518C
91-07944	91-07951F	91-07955T	92-11059G	92-11078H	94-09518D
91-07945A	91-07951G	91-07956A	92-11059H	92-11078I	94-09519A
91-07945B	91-07951H	91-07956B	92-11059I	92-11078J	94-09519B
91-07946A	91-07951I	91-07956C	92-11059J	92-11079A	94-09519C
91-07946B	91-07951J	91-07956D	92-11059K	92-11079B	94-09520A
91-07946C	91-07951K	91-07956E	92-11059L	92-11079C	94-09520B
91-07946D	91-07951L	91-07956F	92-11059M	92-11079D	94-09520C
91-07947A	91-07951M	91-07956G	92-11059N	93-07671A	94-09521A
91-07947B	91-07952A	91-07957	92-11059O	93-07671B	94-09521B
91-07947C	91-07952B	91-07958A	92-11060A	93-07671C	94-09522A
91-07947D	91-07952C	91-07958B	92-11060B	93-07671D	94-09522B
91-07947E	91-07953A	91-07958C	92-11060C	93-07671E	94-09523A
91-07948A	91-07953B	91-07959A	92-11060D	94-09511A	94-09523B
91-07948B	91-07953C	91-07959B	92-11060E	94-09511B	94-09523C
91-07948C	91-07953D	91-07959C	92-11060F	94-09512A	94-09523D
91-07948D	91-07953E	91-07960A	92-11060G	94-09512B	94-09523E
91-07948E	91-07953F	91-07960B	92-11061A	94-09513	94-09523F
91-07948F	91-07953G	91-07961A	92-11061B	94-09514A	94-09523G
91-07949A	91-07953H	91-07961B	92-11062A	94-09514B	94-09523H
91-07949B	91-07953I	91-07961C	92-11062B	94-09515A	94-09524A
91-07949C	91-07953J	91-07961D	92-11062C	94-09515B	94-09524B

(Subcase list: FSGP1)

EXHIBIT 1 (GROUP 1)

Subcase Nos:

94-09525A	94-09529P	94-09534E	94-09544I	95-17401E
94-09525B	94-09529Q	94-09534F	94-09544J	95-17401F
94-09525C	94-09529R	94-09534G	94-09544K	95-17401G
94-09526A	94-09529S	94-09535A	94-09544L	95-17402
94-09526B	94-09529T	94-09535B	94-09545A	95-17403A
94-09526C	94-09529U	94-09535C	94-09545B	95-17403B
94-09527A	94-09529V	94-09536	94-09545C	95-17403C
94-09527B	94-09529W	94-09537A	94-09545D	95-17403D
94-09527C	94-09529X	94-09537B	94-09546A	95-17403E
94-09527D	94-09529Y	94-09538	94-09546B	95-17403F
94-09527E	94-09530A	94-09539A	94-09546C	
94-09527F	94-09530B	94-09539B	94-09546D	
94-09527G	94-09530C	94-09540	94-09546E	
94-09527H	94-09531A	94-09541A	95-17393A	
94-09527I	94-09531B	94-09541B	95-17393B	
94-09527J	94-09531C	94-09542A	95-17394A	
94-09527K	94-09531D	94-09542B	95-17394B	
94-09527L	94-09531E	94-09542C	95-17394C	
94-09527M	94-09531F	94-09542D	95-17395A	
94-09527N	94-09531G	94-09542E	95-17395B	
94-09527O	94-09531H	94-09542F	95-17395C	
94-09528A	94-09531I	94-09542G	95-17396A	
94-09528B	94-09531J	94-09542H	95-17396B	
94-09528C	94-09531K	94-09542I	95-17396C	
94-09528D	94-09531L	94-09542J	95-17397A	
94-09528E	94-09531M	94-09542K	95-17397B	
94-09528F	94-09531N	94-09542L	95-17397C	
94-09528G	94-09531O	94-09542M	95-17398A	
94-09528H	94-09531P	94-09542N	95-17398B	
94-09528I	94-09532A	94-09543A	95-17398C	
94-09528J	94-09532B	94-09543B	95-17398D	
94-09528K	94-09532C	94-09543C	95-17398E	
94-09528L	94-09532D	94-09543D	95-17398F	
94-09528M	94-09532E	94-09543E	95-17398G	
94-09528N	94-09532F	94-09543F	95-17398H	
94-09529A	94-09532G	94-09543G	95-17398I	
94-09529B	94-09532H	94-09543H	95-17399A	
94-09529C	94-09533A	94-09543I	95-17399B	
94-09529D	94-09533B	94-09543J	95-17399C	
94-09529E	94-09533C	94-09543K	95-17399D	
94-09529F	94-09533D	94-09543L	95-17399E	
94-09529G	94-09533E	94-09543M	95-17399F	
94-09529H	94-09533F	94-09544A	95-17399G	
94-09529I	94-09533G	94-09544B	95-17400A	
94-09529J	94-09533H	94-09544C	95-17400B	
94-09529K	94-09533I	94-09544D	95-17400C	
94-09529L	94-09534A	94-09544E	95-17401A	
94-09529M	94-09534B	94-09544F	95-17401B	
94-09529N	94-09534C	94-09544G	95-17401C	
94-09529O	94-09534D	94-09544H	95-17401D	

(Subcase list: FSGP1)

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MAR 03 2022

By _____
Clerk
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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): 91-7931A et.al, See Exhibit 1
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On March 3, 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: March 3, 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 March 03, 2022, with sufficient first-class postage to the following:

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