

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED
2005 DEC 20 PM 1 46

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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 85-11073
	)	

I. FINDINGS OF FACT

A notice of claim was filed for the above listed water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

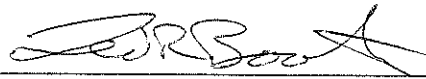
On May 27, 2005, the United States of America, Department of Interior, Bureau of Reclamation, filed an objection to the *Director's Report*, asserting that period of use should be March 15 to November 15 (3-15 to 11-15). An initial hearing was held on the objection on October 13, 2005, at which the claimant of the water right, the Estate of Neil Litchfield; Joan Hart; and Marie Geiger (hereinafter "Claimant") failed to appear.

On October 25, 2005, this Special Master issued an *Order to Show Cause*, the purpose of which was to provide the Claimant with a final opportunity to oppose the objection despite having failed to appear at the initial hearing. The *Order to Show Cause* was mailed to the claimant at his/her last known mailing address. The *Order to Show Cause* stated that failure to appear at the scheduled hearing would result in the Claimant being deemed to have consented to the 3-15 to 11-15 period of use. A hearing on the *Order to Show Cause* was held on December 13, 2005, at which the Claimant failed to appear, either in person or through counsel.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Order to Show Cause*, IT IS RECOMMENDED that water right 85-11073 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated December 19, 2005.

A handwritten signature in dark ink, appearing to read 'Theodore R. Booth', written over a horizontal line.

THEODORE R BOOTH
Special Master
Snake River Basin Adjudication

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

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED *PK*

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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 85-11073

NAME AND ADDRESS: ESTATE OF NEIL LITCHFIELD
MARIE L GEIGER REP
PO BOX 877
LEWISTON, ID 83501

JOAN HART
MARIE GEIGER
PO BOX 877
LEWISTON, ID 83501

SOURCE: LINDSAY CREEK TRIBUTARY: CLEARWATER RIVER

QUANTITY: 0.14 CFS

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

PRIORITY DATE: 01/31/1899

POINT OF DIVERSION: T35N R05W S10 SENE Within Nez Perce County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.12 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Irrigation Within Nez Perce County
T35N R05W S10 SWNE 4.4 SENE 5.6
10.0 Acres Total

Stockwater Within Nez Perce County
Same as Irrigation

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

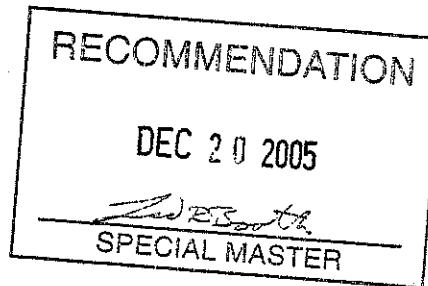
The quantity of water decreed for this water right for
stockwater use is not a determination of historical beneficial
use.

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.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



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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 SRBA)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 85-11073

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 December 20, 2005, with sufficient first-class postage prepaid to the following:

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

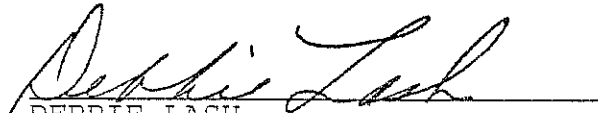
USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

ESTATE OF NEIL LITCHFIELD
MARIE L GEIGER REP
PO BOX 877
LEWISTON, ID 83501
Phone: 208-743-6630

CERTIFICATE OF MAILING

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12/20/05

JOAN HART
MARIE GEIGER
PO BOX 877
LEWISTON, ID 83501
Phone: 208-743-6630


DEBBIE LASH
Deputy Clerk

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED DK

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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

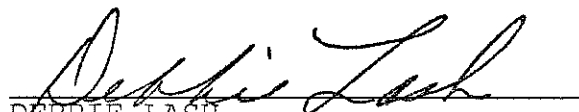
Water Right(s): 85-11073

On December 20, 2005, Special Master THEODORE R. BOOTH 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 December 20, 2005.


DEBBIE LASH
Deputy Clerk