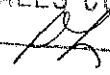


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DEPARTMENT OF
WATER RESOURCES SRBA
TWIN FALLS CO., IDAHO
FILED 

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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	) Subcase: 84-10794
	)
Case No. 39576	) NOTICE OF HEARING FOR
	) CLARIFICATION ON SF-5 PRIOR TO
	) ISSUANCE OF A SPECIAL MASTER'S
	) REPORT
	)
	)

On April 20, 2006, the claimants in the above-captioned subcase, James and Barbara Bowman, filed a *Standard Form 5 – Stipulated Elements of a Water Right (SF-5)*. The Idaho Department of Water Resources concurred in the stipulation, agreeing to the following elements regarding the purpose of use.

Stockwater Storage	01-01 to 12-31	1.00 AFY
Recreation Storage	01-01 to 12-31	220.00 AFY
Stockwater from Storage	01-01 to 12-31	1.00 AFY
Irrigation Storage	01-01 to 12-31	70.00 AFY
Irrigation from Storage	03-15 to 11-15	70.00 AFY

The quantity element of the water right on the SF-5 is 0.04 cubic feet per second (CFS), with an annual limitation of 220.00 acre-feet per year (AFY). The number of irrigated acres in the place of use is 20.0. Additionally, the Stockwater component is limited to 13,000 gallons per day.

This Special Master requires clarification and/or explanation of the SF-5 regarding the “recreation storage” purpose of use, and the AFY limitations on the water right. The recreation portion of the subject water right claim has an independent storage component implying that the recreation purpose would exist independently in the absence

of the other purposes of use. Accordingly, this Special Master has questions regarding the scope and limitations, if any, placed on a "recreation" water right.

As to the AFY limitation, a flow of water of 1.0 CFS running continuously for one year yields 723.94 acre feet of water. Accordingly, a flow of water of 0.04 CFS running continuously for one year yields 28.96 acre feet of water.

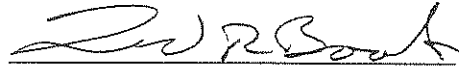
At the hearing, the parties and IDWR should be prepared to address the following issues:

- 1) What is the purpose of the 220.00 AFY limitation, where continuous flow of the 0.04 water right would provide only a fraction of that amount?
- 2) Given the typical irrigation duty of water of 0.02 CFS per acre, is it possible to irrigate 20 acres from a 0.04 CFS water right?
- 3) Is the recreation purpose of use intended to be incidental to the other purposes of use? Put differently, if irrigation ceased to be a purpose of use (e.g. transfer, abandonment, or forfeiture of the irrigation right), would the recreation purpose survive independently? If not, should some limiting language be included in the face of the decree that changes to the irrigation right would result in the recreation right being subject to review by IDWR?
- 4) What objective guidelines and criteria does IDWR employ when recommending a recreation right?
- 5) Is there a particular measurable duty of water with respect to a recreation purpose of use?
- 6) Is there a means for measuring the extent of beneficial use of a recreation right to distinguish between beneficial use and waste, including turnover rates for ponds, size of ponds, streams etc. Are there any parameters or limitations on the size of a recreation right?

It is not the intent of the Special Master to set aside the agreement but rather to confirm that there is a sufficient factual and legal basis for the agreement prior to issuing a special master's report and recommendation.

Therefore, IT IS ORDERED AND NOTICE IS HEREBY GIVEN that a hearing to address these issues will be held at 10:30 a.m. mountain time, on June 13, 2006, at the Snake River Basin Adjudication Courthouse, 253 3rd Ave North, Twin Falls, Idaho. Telephone participation will be available by calling 1-225-383-1099 and entering 675342 when prompted.

Dated May 3, 2006.



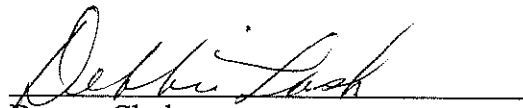
Theodore R. Booth
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the NOTICE OF HEARING FOR CLARIFICATION ON SF-5 PRIOR TO ISSUANCE OF A SPECIAL MASTER'S REPORT was mailed May 3, 2006, with sufficient first-class postage to the following:

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

James and Barbara Bowman
1364 Brick Church Road
Ontario, NY 14519


Deputy Clerk