

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2006 JUN 14 PM 3 48

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 84-10794
	)	

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* recommended that the water right claim be disallowed.

No objections were timely filed to the *Director's Report* for this water right claim. However, on April 28, 2005, the Court received correspondence seeking leave to file a late objection. After resolving some issues regarding a change in ownership of the real property, and a substitution of party in the SRBA, a *Standard Form 1 Objection* was lodged on February 27, 2006. A Hearing on the Motion was held on April 11, 2006. At the hearing, this Special Master was notified that the matter was settled and a *Standard Form 5* would be forthcoming. Through oversight at the hearing, the motion to file a late objection was not granted at that time. Accordingly, the motion to file a late objection is hereby **granted nunc pro tunc** to April 11, 2006. The clerk of the court is instructed to file the previously lodged objection. On April 20, 2006, the parties to the subcase filed a *Standard Form 5 – Stipulated Elements of a Water Right*. The Idaho Department of Water Resources concurred in the stipulation.

After receiving the *Standard Form 5*, this Special Master had some concerns regarding the parameters of the "recreation storage" purpose of use of the water right, and the matter was

set for hearing for clarification of these issues. The Idaho Department of Water Resources filed correspondence on June 7, 2006 addressing this Special Master's concerns. Based upon the contents of that correspondence, and based upon the comments of the claimants and of IDWR at the June 7, 2006 hearing, this Special Master finds that the recreation purpose of use is factually consistent with Idaho water law.

II. CONCLUSIONS OF LAW

One of the issues addressed at the June 7, 2006 hearing was whether there is a legal relationship between the irrigation storage component and the recreation storage component of the water right, such that the recreation storage use is dependant or incidental to the irrigation storage use. Based upon the contents of the above-referenced correspondence, and based upon the comments of the claimants and of IDWR at the June 7, 2006 hearing, this Special Master finds that in this particular case, the recreation storage component of the water right is independent from the irrigation storage component. Again, this finding is limited to the facts and circumstances of this particular subcase.

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right 84-10794 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated June 14, 2006.



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 80, IDAHO
FILED *[Signature]*

2006 JUN 14 PM 3 48

In Re SRBA)
Case No. 39576)
PARIIAL DECREE PURSUANT TO
I R.C.P. 54(b) FOR
Water Right 84-10794

NAME AND ADDRESS: BARBARA G BOWMAN
JAMES L BOWMAN
1364 BRICK CHURCH RD
ONTARIO, NY 14519-9739

SOURCE: SPRING IIRIBUIARY: JIM FORD CREEK

QUANIIIIY: 220 00 AFY

THE QUANIIIIY OF WAIER UNDER THIS RIGHI FOR STOCKWAIER USE SHALL
NOI EXCEED 13 000 GALLONS PER DAY

PRIORITY DATE: 01/01/1962

POINT OF DIVERSION: I36N R02E S23 NESW Within Clearwater County

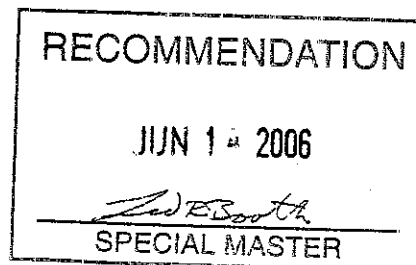
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANIIIIY
	Stockwater Storage	01-01 TO 12-31	1 00 AFY
	Recreation Storage	01-01 TO 12-31	220.00 AFY
	Stockwater from Storage	01-01 TO 12-31	1 00 AFY
	Irrigation Storage	01-01 TO 12-31	70 00 AFY
	Irrigation from Storage	03-15 TO 11-15	70 00 AFY

PLACE OF USE:	Irrigation Storage		Within Clearwater County
	I36N R02E S23	NESW SWSW	NWSW SESW
	Irrigation from Storage		Within Clearwater County
	I36N R02E S23	SWNW 6.0 NWSW 9.0	NESW 5.0
	20.0 Acres Total		
	Stockwater Storage		Within Clearwater County
	Same as Irrigation Storage		
	Stockwater from Storage		Within Clearwater County
	Same as Irrigation Storage		
	Recreation Storage		Within Clearwater County
	I36N R02E S23	NESW SWSW	NWSW SESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WAIER RIGHI:

THE QUANIIIIY OF WAIER DECREED FOR THIS WAIER RIGHI FOR
STOCKWAIER USE IS NOI A DETERMINATION OF HISTORICAL BENEFICIAL
USE

THIS PARIIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WAIER 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

2006 JUN 14 PM 3 48

In Re SRBA)
)
Case No. 39576)
)

Water Right(s): 84-10794

 PAGE 1
06/14/06
DEBBIE LASH
Deputy Clerk

2006 JUN 14 PM 3 48

In Re SRBA)
)
Case No. 39576)
)
)

Water Right(s): 84-10794


DEBBIE LASH
Deputy Clerk