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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO

FILED

2006 JUN 20 AM 8 57

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

SPECIAL MASTER'S REPORT

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

FOR WATER RIGHT 85-04445

I. FINDINGS OF FACT

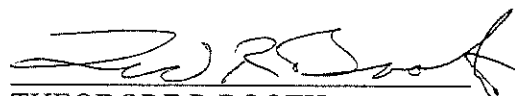
A notice of claim was filed for the above listed water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On November 1, 2005, the Claimant of the water right, Patrick Kerby, filed a motion to file a late objection to the *Director's Report*. A hearing on the motion was held on February 7, 2006, at which time the motion was granted. Thereafter, the parties to the subcase filed a *Standard Form 5 – Stipulated Elements of a Water Right*, which resolved the objection. The Idaho Department of Water Resources concurred in the stipulation. The filing of the *Standard Form 5* appeared on the docket sheet, no objections were filed thereto, and the time for filing of objections has expired.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right 85-04445 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 19, 2006.



THEODORE R BOOTH
Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE DISTRICT COURT - SRBA
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS TWIN FALLS CO., IDAHO

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 85-04445

FILED *df*
2006 JUN 20 AM 8 57

NAME AND ADDRESS: R PATRICK KERBY
31219 HIGHWAY 12
LENORE, ID 83541-6139

SOURCE: CLEARWATER RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.38 CFS
18.00 AFY

PRIORITY DATE: 05/01/1955

POINT OF DIVERSION: T37N R03W S26 LOT 6 (SWSE) Within Nez Perce County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	0.38 CFS
			18.00 AFY

PLACE OF USE: Irrigation Within Nez Perce County
T37N R03W S26 LOT 5 (SESW) 1.0 LOT 6 (SWSE) 3.5
4.5 Acres Total

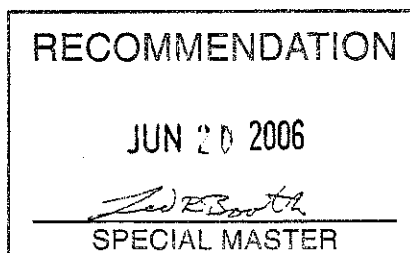
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
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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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 85-04445

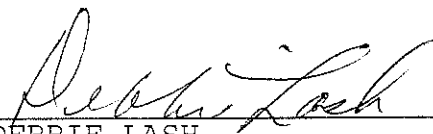
CERTIFICATE OF MAILING

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 June 20, 2006, with sufficient first-class postage prepaid to the following:

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

R PATRICK KERBY
31219 HIGHWAY 12
LENORE, ID 83541-6139
Phone: 208-276-3341

R PATRICK KERBY
31219 US HIGHWAY 12
LENORE, ID 83541
Phone: 208-861-4564



DEBBIE LASH
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
06/20/06

2006 JUN 20 AM 8 57

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

Water Right(s) : 85-04445

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.

Debbie Lash
DEBBIE LASH
Deputy Clerk