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DEPARTMENT OF
WATER RESOURCES

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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 45-10502
	)	(Warthen)
	)	
Case No. 39576	)	SPECIAL MASTER REPORT
	)	

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation and Other, Reporting Area 10, IDWR Basin 45* on September 7, 2004. The Director recommended claim 45-10502 to Earl Warthen, Box 145, Albion, Idaho, 83311, for .4 cfs from Spring Creek to irrigate 86 acres in Cassia County from April 1 to October 31 with a priority date of May 26, 1964, based on beneficial use. Mr. Warthen filed an *Objection* on January 3, 2005, objecting to priority date.

Norman and Delores Smyer were granted leave to participate on July 12, 2005. IDWR filed a *Supplemental Director's Report Regarding Subcase Nos. 45-10480, 45-10481, 45-10502, 45-12906 and 45-13669* on February 8, 2006; the Director's recommendation for claim 45-10502 was not changed. The United States of America, Department of Agriculture, Forest Service was granted leave to participate on February 9, 2006.

Mr. Warthen was granted leave to amend claim 45-10502 on March 10, 2006, and IDWR filed its *Amended Director's Report, Subcase No. 45-10502* on March 22, 2006. The Director recommended the claim as before, but for irrigation of 68 acres from April 1 to October 31.

A status conference was held by telephone on August 3, 2006. Shelley M. Davis appeared for Mr. Warthen; Michael P. Tribe appeared for the Smyers; and Chris M. Bromley

appeared for IDWR. Counsel for Mr. Warthen moved to withdraw his objection and when no one opposed the motion, it was granted.

Conclusions of Law

Earl Warthen is entitled to a partial decree adjudicating a water right in subcase 45-10502 as described in the March 22, 2006 *Amended Director's Report* and the attached *Special Master Recommendation for Partial Decree for Water Right 45-10502*.

DATED August 3, 2006.



TERRENCE A. DOLAN
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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 45-10502

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AS ORDERED BY THE COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: EARL WARTHEN
BOX 145
ALBION, ID 83311

SOURCE: SPRING CREEK TRIBUTARY: HOWELL CREEK

QUANTITY: 0.40 CFS

This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

This right when combined with all other rights shall provide no more than 0.02 cfs per acre.

PRIORITY DATE: 05/26/1964

POINT OF DIVERSION: T12S R25E S16 SENESW Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.40 CFS

The use of water for irrigation under this right may begin as early as March 15 provided other elements of the right are not exceeded. The use of water before April 1 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:	Irrigation	Within Cassia County
	T12S R25E S16	NENW 37.0 SENEW 16.0
	68.0 Acres Total	NWNW 15.0

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 86 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS. 45-7366, 45-327E, and 45-10502.

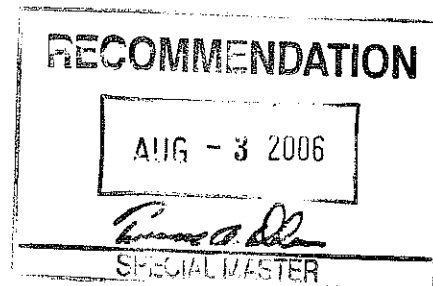
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



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IN RE SRBA
TWIN FALLS CO., IDAHO
FILED

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): 45-10502

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 August 03, 2006, with sufficient first-class postage prepaid to the following:

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

NORMAN L & DELORES J SMYER

Represented by:
MICHAEL P TRIBE
MICHAEL P. TRIBE
615 H STREET
PO BOX 396
RUPERT, ID 83350-0396
Phone: 208-436-4717

EARL WARTHEN

Represented by:
SHELLEY M. DAVIS
205 N 10TH ST, STE 520
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CERTIFICATE OF MAILING

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FALLS CO., IDAHO
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DISTRICT OF THE
SOUTHERN FALLS

Water Right(s) : 45-10502

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