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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) SPECIAL MASTER'S REPORT
Case No. 39576)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 81-10222

I. FINDINGS OF FACT

A *Partial Decree* was issued for the above-captioned water right on April 24, 2001. On September 20, 2006, the SRBA Court received correspondence from Carmen Morris Howard, which stated that she was the new owner of the water right and the real property to which it is appurtenant, and that the *Partial Decree* was in error as to the legal description of the place of use and point of diversion. Specifically, Ms. Howard asserted that the subject water right is used on the same real property as water right number 81-07055, and the place of use and point of diversion are located in Township 32 North, Range 4 East, Section 25, NWSE, and not in the SESE as decreed. A hearing on the matter was held on November 28, 2006. Participating by telephone were Ms. Howard and Deputy Attorney General Chris Bromley. At the hearing, Mr. Bromley stated that IDWR agrees that the *Partial Decree* is in error as to the place of use and point of diversion, that the nature of the error is clerical, and that the proper quarter-quarter is the NWSE. Mr. Bromley also stated that IDWR is satisfied with the documentation provided by Ms. Morris that she is the current owner of the subject real property. In accordance with the foregoing, this Special Master finds that the *Partial Decree* is in error regarding the legal descriptions of the place of use and point of diversion, and that the error is a result of a clerical error, and that Ms. Morris is the current owner of the subject water right.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to Idaho Rules of Civil Procedure 60(a) and 25(c), IT IS RECOMMENDED that the SRBA Court enter an order setting

aside the April 24, 2001 *Partial Decree*, and that an amended partial decree be issued with the elements as set forth in the attached *Recommendation for Amended Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated November 29, 2006.

A handwritten signature in black 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

AMENDED

In Re SRBA)
)
Case No. 39576)
_____) Water Right 81-10222

NAME AND ADDRESS: CARMEN MORRIS HOWARD
 RR 1 BOX 48-B
 KOOSKIA, ID 83539-9707

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
 GALLONS PER DAY.

PRIORITY DATE: 12/31/1979

POINT OF DIVERSION: T12N R04E S25 NWSE Within Idaho County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOUSE	01-01 TO 12-31	0.04 CFS

PLACE OF USE:	Domestic	Within Idaho County
	T12N R04E S25 NWSE	

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

 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT 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

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT FINDINGS OF FACT AND CONCLUSIONS OF LAW was mailed on November 29, 2006, with sufficient first-class postage to the following:

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

CARMEN MORRIS HOWARD
RR 1 BOX 48-B
KOOSKIA, ID 83539-9707
Phone: 208-926-4934