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JAN 10 2007

DEPARTMENT OF
WATER RESOURCES

2007 JAN 11 AM 7:36

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 85-11742

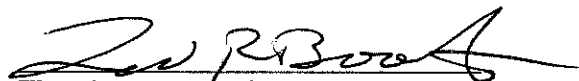
I. FINDINGS OF FACT

A *Partial Decree* was issued for the above-captioned water right on December 27, 2000. On November 20, 2006, the SRBA Court received correspondence from Gary McIntire, stating that he was the new owner of the water right, and that the *Partial Decree* was in error as to the legal description of the point of diversion and place of use. A hearing on the matter was held on January 9, 2007. Participating by telephone were Deputy Attorney General Chris Bromley, IDWR Water Rights Supervisor Ken Knoblock, and Gary McIntire. Based upon the contents of Mr. McIntire's correspondence, and based upon the participants at the January 9, 2007 hearing, this Special Master finds that the previously issued *Partial Decree* is in error, that the nature of the error is clerical, and that points of diversion and place of use should be described as set forth in the attached recommendation. It is further found that Gary McIntire is the current owner of the subject water right.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that an *Amended Partial Decree* be issued for water right 85-11742 with the elements as set forth in the attached *Recommendations for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated January 10, 2007



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)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Case No. 19576)

Water Right 85-11742

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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NAME AND ADDRESS: GARY D MC INTIRE
28872 GOLDNER RD
LAPWAI, ID 83540

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

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

PRIORITY DATE: 01/01/1960

POINT OF DIVERSION: T35N R04W S14 NESESE Within Nez Perce County

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

PLACE OF USE: Domestic Within Nez Perce County
T35N R04W S14 SESE

PARCEL NO. RP03130001014B

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

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DEPARTMENT OF
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

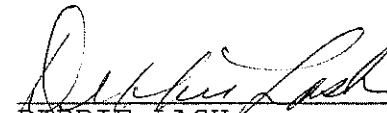
Water Right(s): 85-11742

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 January 11, 2007, with sufficient first-class postage prepaid to the following:

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

GARY D MC INTIRE
28872 GOLDNER RD
LAPWAI, ID 83540
Phone: 208-843-2451


DEBBIE LASH
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
01/11/07

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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

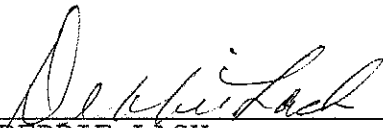
Water Right(s): 85-11742

On January 11, 2007, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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.

DATED January 11, 2007.


DEBBIE LASH
Deputy Clerk