

RECEIVED  
MAR 21 2007  
DEPARTMENT OF  
WATER RESOURCES

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

2007 MAR 28 PM 1 45

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 RIGHTS 63-31835,  
 ) 63-32613, and 63-32614

I. FINDINGS OF FACT

A notice of claim was filed for water right 63-31835 pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) 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 April 19, 2006, the Howell-Kiser Development Corp. filed an objection to the *Director's Report*, asserting that it had purchased a portion of the water right and therefore said portion should be decreed in the name of the purchaser. On March 26, 2007, the parties to the subcase filed two *Standard Forms 5 – Stipulated Elements of a Water Right*, which resolved the objection by splitting water right number 63-31835 into 63-32613 and 63-32614 so as to accurately reflect the current ownership. The Idaho Department of Water Resources concurred with the stipulation.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water rights 63-32613 and 63-32614 be **decreed** with the elements as set forth in the attached *Recommendations for Partial Decree Pursuant to I.R.C.P. 54(b)*. It is further recommended that water right number 63-31835 be decreed as **disallowed**.

Dated March 28, 2007



Theodore R. Booth  
Special Master  
Snake River Basin Adjudication

DISTRICT COURT - SRBA  
CT OF THE  
FALLS  
TWIN FALLS CO., IDAHO  
FILED

2007 MAR 28 PM 1 46

PAGE 1  
Mar-28-2007

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

|                   |             |       |             |
|-------------------|-------------|-------|-------------|
| LOT 2             | (SENE) 5.0  |       |             |
| S22 LOT 3         | (NENW) 27.0 | LOT 4 | (NWNW) 38.0 |
| LOT 5             | (SWNW) 5.0  | LOT 6 | (SENW) 15.0 |
| 210.0 Acres Total |             |       |             |

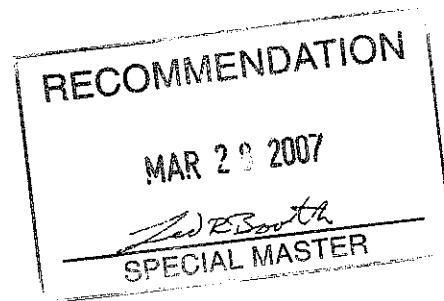
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



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 CO., IDAHO  
FILED

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 63-32614

2007 MAR 28 PM 1 46

NAME AND ADDRESS: HOWELL KISER DEVELOPMENT CORP  
619 QUEENS GUARD WAY  
BOISE, ID 83709

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.58 CFS  
355.50 AFY

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 03/01/1865

POINT OF DIVERSION: T04N R01E S22 LOT 6 (SWNE ) Within Ada County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY               |
|-------------------------------|----------------|----------------|------------------------|
|                               | Irrigation     | 03-01 TO 11-15 | 1.58 CFS<br>355.50 AFY |

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

| PLACE OF USE: | Irrigation                     | Within Ada County  |
|---------------|--------------------------------|--------------------|
|               | T04N R01E S16 LOT 8 (NESE) 9.0 | LOT 7 (NWSE) 4.0   |
|               | LOT 7 (SWSE) 29.0              | LOT 8 (SESE) 14.5  |
|               | S21 LOT 1 (NENE) 12.5          | LOT 2 (NWNNE) 10.0 |
|               | 79.0 Acres Total               |                    |

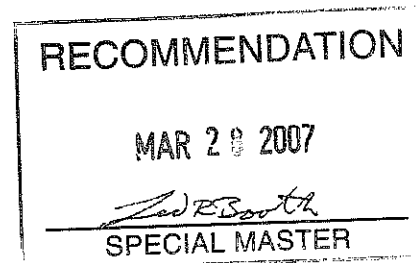
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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  
FILED \_\_\_\_\_

2007 MAR 28 PM 1 46

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 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

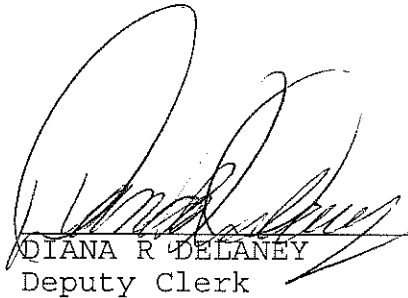
Water Right(s): 63-31835  
63-32613 63-32614

On March 28, 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 March 28, 2007.

  
\_\_\_\_\_  
DIANA R. DELANEY  
Deputy Clerk

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2007 MAR 28 PM 1 46

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): 63-31835  
63-32613 63-32614

CERTIFICATE OF MAILING

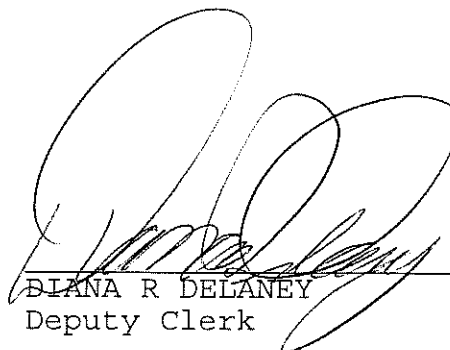
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on March 28, 2007, with sufficient first-class postage prepaid to the following:

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

HOWELL KISER DEVELOPMENT CORP  
HOWELL-KISER DEVELOPMENT CORP  
619 QUEENS GUARD WAY  
BOISE, ID 83709  
Phone: 208-376-3100

BARBARA A WILLIAMSON  
SYLVAN D WILLIAMSON  
850 WILLIAMSON LN  
EAGLE, ID 83616  
Phone: 208-939-6287

CERTIFICATE OF MAILING



DIANA R DELANEY  
Deputy Clerk

PAGE 1  
03/28/07