

RECEIVED

JUL 25 2007

DEPARTMENT OF
2007 JUL 25 11:20 AM

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	)	Subcases 45-12127 (45-12127A, 45-12127B
	)	and
Case No. 39576	)	45-12127C), 45-12218, 45-12243 and 45-
	)	12280
	)	(USDA / FS)
	)	
	)	DRAFT ORDER GRANTING MOTION
	)	TO WITHDRAW MOTION TO FILE
	)	LATE OBJECTIONS and
	)	AMENDED SPECIAL MASTER
	)	REPORT AND RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Domestic & Stock, Reporting Area 10 (IDWR Basin 45)* on March 2, 1998. The Director recommended stockwater claims 45-12127, 45-12218, 45-12243 and 45-12280 be disallowed: "Claim incomplete" or "No lawful appropriation shown."

The United States of America, Department of Agriculture, Forest Service, 550 West Fort Street, MSC 033, Boise, Idaho, 83724, filed *Objections* in 29 subcases, including the above subcases, on July 6, 1998, objecting to the claims not being recommended. The United States, with IDWR's concurrence, filed *Standard Forms 5* on April 2, 1999 (45-12243), on April 27, 1999 (45-12218 and 45-12280) and April 28, 1999 (45-12127 split into 45-12127A, 45-12127B and 45-12127C).

The Special Master entered a *Special Master's Reports* in the above subcases on May, 20, 1999. On July 12, 1999, Joe Tugaw filed a *Motion to File Late Objections* in 122 subcases in Basins 45 and 47, including the above subcases and on August 12, 1999, the Presiding Judge entered an *Order of Reference* concerning Mr. Tugaw's *Motion*.

On August 29, 2002, the United States and numerous private parties, including Mr. Tugaw, lodged a *Stipulation and Joint Motion for Order Approving Stipulation* in multiple subcases, including the above subcases, describing the operation, use and administration of the water rights. On April 27, 2007, Joe Tugaw filed a *Notice of Withdrawal of Motions to File Late Objections* in the above subcases. No one responded to his *Notice*.

Order

THEREFORE IT IS ORDERED that Mr. Tugaw's motion to withdraw his *Motion to File Late Objections (Notice of Withdrawal of Motions to File Late Objections)* is **granted**.

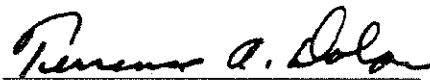
Conclusions of Law

The United States is entitled to partial decrees adjudicating water rights as described in the *SF-5's* and the attached *Amended Special Master Recommendations for Partial Decrees for Water Rights 45-12127A, 45-12127B, 45-12127C, 45-12218, 45-12243 and 45-12280*.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 45-12127 be **disallowed** having been split into claims 45-12127A, 45-12127B and 45-12127C.

DATED July 25, 2007.



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 45-12127A

2007 JUL 25 AM 11:20

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

SOURCE: UNNAMED STREAM TRIBUTARY: FLATIRON CREEK
DRY FORK TRIBUTARY: FLATIRON CREEK
FLATIRON CREEK TRIBUTARY: TRAPPER CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.
THIS RIGHT SHALL BE USED IN CONJUNCTION WITH 45-13655 AND IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .02 CFS AND A TOTAL
COMBINED QUANTITY OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 05/01/1879

POINT OF DIVERSION: T15S R19E S11 SWNE (Instream Beginning Point) Within Cassia County
S12 NENE (Instream Ending Point)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mitigation	06-01 TO 11-30	0.02 CFS

PLACE OF USE:	Mitigation		Within Cassia County
	T15S R19E S02	SWSE	
	S11	NENE	NWNE
		SWNE	
	S12	NENE	NWNE
		SWNE	SENE
		NENW	NWNW
	R20E S02	SESE	

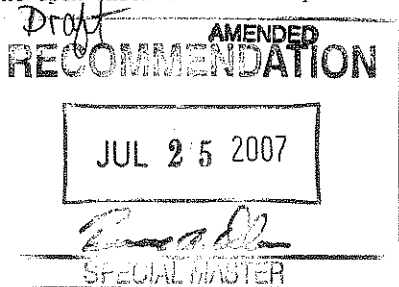
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.
THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS
ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND
JOINT MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON
AUGUST 29, 2002 BETWEEN THE UNITED STATES OF AMERICA AND PICKETT
RANCH AND SHEEP COMPANY FILED IN THE OFFICE OF THE CASSIA COUNTY
RECORDER AND RECORDED ON JUNE 6, 2003 AS INSTRUMENT NO 289179.

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 45-12127B

2007 JUL 25 AM 11:20
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

SOURCE: BUCK CORRAL CREEK TRIBUTARY: TRAPPER CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.
THIS RIGHT SHALL BE USED IN CONJUNCTION WITH 45-13655 AND IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .02 CFS AND A TOTAL
COMBINED QUANTITY OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 05/01/1879

POINT OF DIVERSION: T15S R20E S08 SWNW (Instream Beginning Point) Within Cassia County
S09 NENW (Instream Ending Point)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mitigation	06-01 TO 11-30	0.02 CFS

PLACE OF USE:	Mitigation	Within Cassia County
	T15S R20E S08	SWNW
		SESE
	S09	NWNW
		SWNW

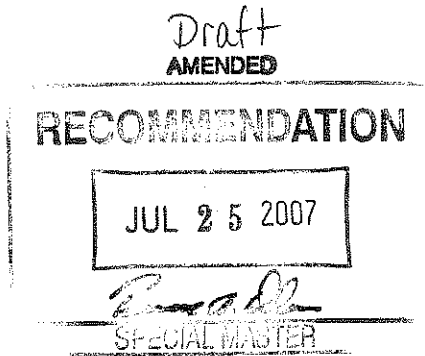
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.
THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS
ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND
JOINT MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON
AUGUST 29, 2002 BETWEEN THE UNITED STATES OF AMERICA AND PICKETT
RANCH AND SHEEP COMPANY FILED IN THE OFFICE OF THE CASSIA COUNTY
RECORDER AND RECORDED ON JUNE 6, 2003 AS INSTRUMENT NO 289179.

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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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 45-12127C

2007 JUL 25 AM 11:20
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

SOURCE: TRAPPER CREEK TRIBUTARY: GOOSE CREEK
UNNAMED STREAMS TRIBUTARY: TRAPPER CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.
THIS RIGHT SHALL BE USED IN CONJUNCTION WITH 45-13655 AND IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .02 CFS AND A TOTAL
COMBINED QUANTITY OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 05/01/1879

POINT OF DIVERSION:	T14S R21E S33	SWSE	(Instream Ending Point)	Within Cassia County
	S34	SENE	(Instream Beginning Point)	
		SENE	(Instream Ending Point)	
	T15S R19E S02	NENW	(Instream Beginning Point)	
	R20E S09	NESE	(Instream Ending Point)	
	S11	NWNE	(Instream Beginning Point)	
		NWNE	(Instream Ending Point)	
	R21E S06	SWNE	(Instream Beginning Point)	

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mitigation	06-01 TO 11-30	0.02 CFS

PLACE OF USE:	Mitigation		Within Cassia County
	T14S R21E S33	SWSE	
	S34	SENE	
	T15S R19E S01	NESW	NWSW
		SESW	SWSE
		SESE	
	S02	SWNE	SENE
		NENW	SENE
	S12	NENE	
	R20E S04	SWSW	
	S05	SWNE	SENE
		NENW	SWSW
		SENE	NESW
		NWSW	NESE
		NWSE	
	S06	SENE	NESW
		SWSW	SESW
		NESE	NWSE
	S07	NENW	
	S09	SWNE	NENW
		SENE	NESE
		NWSE	
	S11	NWNE	
	R21E S01	NWSE	
	S04	NWNE	NENW
		NWNW	SWSW
	S05	SWNE	SENE

PLACE OF USE (continued)

	SENW	NESW
	NWSW	NWSE
S06	NESE	NWSE
	SWSE	

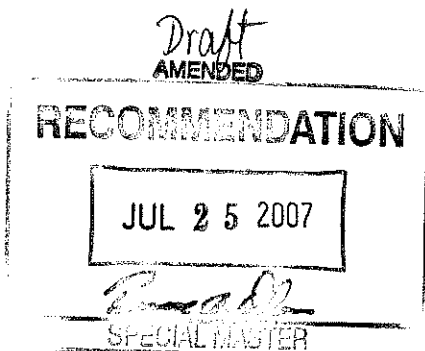
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE. THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND JOINT MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON AUGUST 29, 2002 BETWEEN THE UNITED STATES OF AMERICA AND PICKETT RANCH AND SHEEP COMPANY FILED IN THE OFFICE OF THE CASSIA COUNTY RECORDER AND RECORDED ON JUNE 6, 2003 AS INSTRUMENT NO 289179.

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

In Re SRBA)
PARTIAL DECREE PURSUANT TO
Case No. 39576)
I.R.C.P. 54(b) FOR
Water Right 45-12218

2007 JUL 25 AM 11:20

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: USDA FOREST SERVICE
550 W FORT ST, MSC 033
BOISE, ID 83724

SOURCE: CABIN SPRING TRIBUTARY: CABIN SPRING CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY
THIS RIGHT SHALL BE USED IN CONJUNCTION WITH 45-12903 AND IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .02 CFS AND A TOTAL
COMBINED QUANTITY OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 05/01/1875

POINT OF DIVERSION: T14S R19E S24 NWSE Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mitigation	05-01 TO 10-31	0.02 CFS

PLACE OF USE: Mitigation Within Cassia County
T14S R19E S24 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
THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS
ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND
JOINT MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON
AUGUST 29, 2002 BETWEEN THE UNITED STATES OF AMERICA AND JOE
TUGAW FILED IN THE OFFICE OF THE CASSIA COUNTY RECORDER AND
RECORDED ON JUNE 6, 2003 AS INSTRUMENT NO 289179.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
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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.

Draft
AMENDED

RECOMMENDATION

JUL 25 2007

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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 45-12243

2007 JUL 25 AM 11:20
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: USDA FOREST SERVICE
550 W FORT ST, MSC 033
BOISE, ID 83724

SOURCE: CHICKEN SPRING TRIBUTARY: SINKS

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY
THIS RIGHT SHALL BE USED IN CONJUNCTION WITH 45-12904 AND IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .02 CFS AND A TOTAL
COMBINED QUANTITY OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 05/01/1875

POINT OF DIVERSION: T14S R19E S36 NENW Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mitigation	05-01 TO 10-31	0.02 CFS

PLACE OF USE: Mitigation Within Cassia County
T14S R19E S36 NENW

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
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RECORDED ON JUNE 6, 2003 AS INSTRUMENT NO. 289179.

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Draft
AMENDED
RECOMMENDATION

JUL 25 2007

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 45-12280

2007 JUL 25 AM 11:20

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: USDA FOREST SERVICE
550 W FORT ST, MSC 033
BOISE, ID 83724

SOURCE: INDIAN SRPING TRIBUTARY: SINKS

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY
THIS RIGHT SHALL BE USED IN CONJUNCTION WITH 45-12899 AND IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .02 CFS AND A TOTAL
COMBINED QUANTITY OF 13,000 GALLONS PER DAY.

PRIORITY DATE: 09/29/1960

POINT OF DIVERSION: T13S R19E S26 NWNE Within Cassia County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mitigation	05-01 TO 10-31	0.02 CFS

PLACE OF USE:	Mitigation	Within Cassia County
	T13S R19E S10	NWSE
	S14	SWSW
	S23	SESW
	S26	NWNE

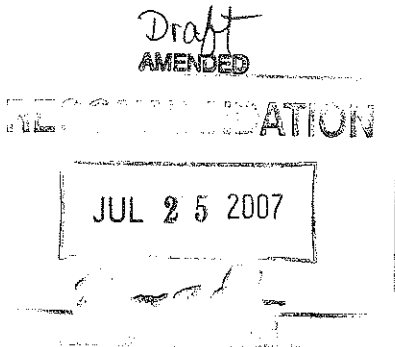
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THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS
ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION AND
JOINT MOTION FOR ORDER APPROVING STIPULATION ENTERED INTO ON
AUGUST 29, 2002 BETWEEN THE UNITED STATES OF AMERICA AND JOE
TUGAW FILED IN THE OFFICE OF THE CASSIA COUNTY RECORDER AND
RECORDED ON JUNE 6, 2003 AS INSTRUMENT NO. 289179.

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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the DRAFT ORDER GRANTING MOTION TO WITHDRAW MOTION TO FILE LATE OBJECTIONS AND AMENDED SPECIAL MASTER REPORT was mailed on July 25, 2007, with sufficient first-class postage to the following:

JOE TUGAW

Represented by:
NORMAN M SEMANKO
IDAHO WATER USERS ASSOCIATION
1010 W JEFFERSON ST, STE 101- --
BOISE, ID 83702
Phone: 208-344-6690

UNITED STATES OF AMERICA
USDA FOREST SERVICE

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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

Travis Thompson
PO Box 485
Twin Falls, ID 83303-0485