

2007 SEP 17 PM 2 48

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 78-04002B

I. FINDINGS OF FACT

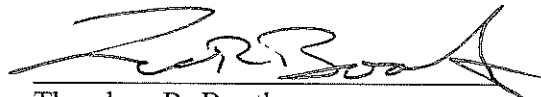
A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On May 7, 2007, the United States of America, Department of Interior, Bureau of Land Management, filed an objection to the *Director's Report*, asserting that the place of use should not include federal public land. On September 11, 2007, the parties to the subcase filed a *Standard Form 5 – Stipulated Elements of a Water Right*, which resolved the objection. 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 right 78-04002B be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated September 17, 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

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 78-04002B

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NAME AND ADDRESS: J W WHITMAN INC
2157 MT COVE RD
BOISE, ID 83702

SOURCE: ELK CREEK TRIBUTARY: LITTLE SALMON RIVER

QUANTITY: 2.83 CFS

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE: 12/19/1907

POINT OF DIVERSION: T22N R01E S23 SENESW Within Idaho County
S26 NENWNW

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	2.80 CFS
	Stockwater	01-01 TO 12-31	0.03 CFS

PLACE OF USE: Irrigation Within Idaho County

T22N R01E S22	NESE 26.0	SWSE 3.0
	SESE 40.0	
S23	NWSW 22.0	SWSW 22.0
S26	NWNW 2.0	
S27	NENE 21.0	
136.0 Acres Total		

Stockwater Within Idaho County

T22N R01E S22	NESE	SESE
S23	NWSW	SWSW
S26	NWNW	
S27	NENE	SENE

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

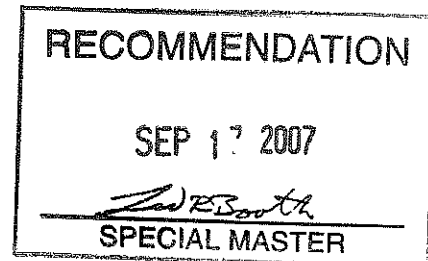
The quantity of water decreed for this water right for
stockwater use is not a determination of historical beneficial
use.

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



DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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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

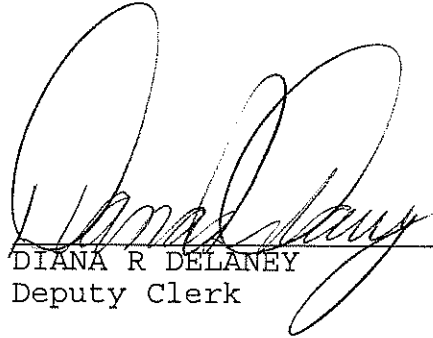
Water Right(s): 78-04002B

On September 17, 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 September 17, 2007.



DIANA R. DELANEY
Deputy Clerk

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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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): 78-04002B

CERTIFICATE OF MAILING

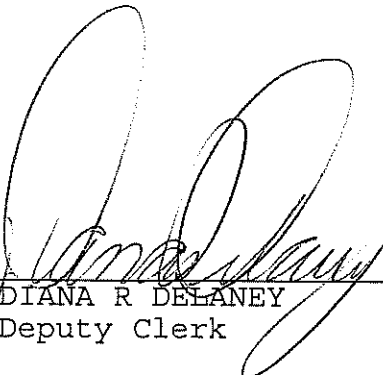
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on September 17, 2007, with sufficient first-class postage prepaid to the following:

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

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

J W WHITMAN INC
2157 MT COVE RD
BOISE, ID 83702
Phone: 208-345-5891

CERTIFICATE OF MAILING



DIANA R DELANEY
Deputy Clerk

PAGE 1
09/17/07