

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

2007 NOV 14 PM 3 10

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 79-11821 and
	)	79-02047

I. FINDINGS OF FACT

A notice of claim was filed for the above-captioned water rights 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 these water rights.

On June 13, 2007, the United States of America, Department of Interior, Bureau of Land Management, filed an objection to the *Director's Report* in subcase 79-11821. Water right 79-02047 was identified by IDWR as an uncontested overlap. On November 8, 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 79-11821 and 79-02047 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Nov 14, 2007



Theodore R. Booth
Special Master
Snake River Basin Adjudication

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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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 79-11821

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE, ID 83707

SOURCE: SPRING TRIBUTARY: WAPSHILLA CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 12/31/1900

POINT OF DIVERSION: T30N R04W S13 NENE Within Nez Perce County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS
	Domestic	01-01 TO 12-31	0.02 CFS

PLACE OF USE:	Stockwater		Within Nez Perce County
	T30N R04W S13	NENE	
	Domestic		Within Nez Perce County
	T30N R04W S13	NENE	

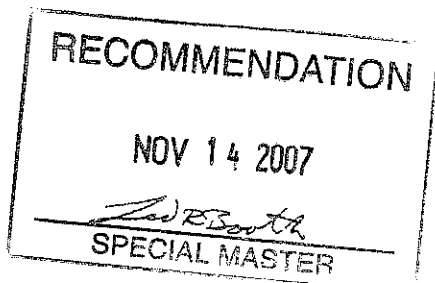
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS, IDAHO

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
 Case No. 39576)
)
) Water Right 79-02047

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NAME AND ADDRESS: STATE OF IDAHO
 DEPT OF FISH & GAME
 PO BOX 25
 BOISE, ID 83707

SOURCE: UNNAMED STREAM TRIBUTARY: WAPSHILLA CREEK
 WAPSHILLA CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.88 CFS

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

PRIORITY DATE: 03/17/1913

POINT OF DIVERSION: T30N R04W S12 NESW Within Nez Perce County
 S13 NWNE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 10-31	0.88 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS
	Domestic	01-01 TO 12-31	0.04 CFS

PLACE OF USE:	Irrigation	Stockwater	Domestic
T30N R04W S12	NESW 4.0	SESW 11.0	
S13	SWSE 9.0	SESE 1.0	
44.0 Acres Total	NENE 14.0	NWNE 5.0	
		Within Nez Perce County	
	Same as Irrigation	Within Nez Perce County	
	Same as Irrigation	Within Nez Perce County	

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

The quantity of water decreed for this water right for domestic use and 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).

RECOMMENDATION
 NOV 14 2007
 [Signature]
 SPECIAL MASTER

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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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

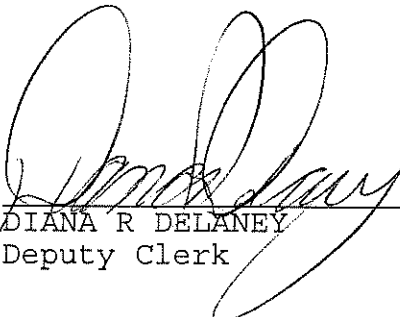
Water Right(s): 79-02047
79-11821

On November 14, 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 November 14, 2007.



DIANA R. DELANEY
Deputy Clerk

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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): 79-02047

79-11821

CERTIFICATE OF MAILING

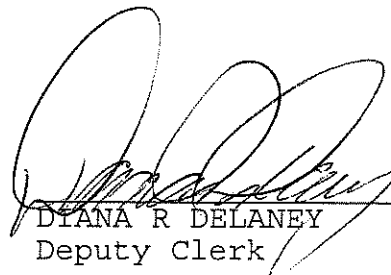
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on November 14, 2007, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE, ID 83707
Phone: 208-334-3700

CERTIFICATE OF MAILING



DIANA R DELANEY
Deputy Clerk

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11/14/07