

2007 DEC 13 PM 3 11

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 78-12215 |

I. FINDINGS OF FACT

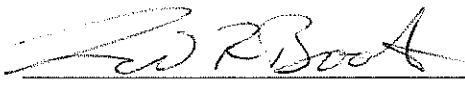
A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this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

On April 19, 2007, an objection was filed to the *Director's Report* by the claimant of the water right, Ben Aitken. Thereafter, pursuant to a bench order granting a motion to file an amended notice of claim made at the initial hearing, Mr. Aitken filed an amended notice of claim. On October 1, 2007, IDWR filed an *Amended Director's Report*. No objections were filed to the *Amended Director's Report*, and the time for doing so has expired.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 78-12215 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Dec 13, 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

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 78-12215

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NAME AND ADDRESS: BEN AITKEN  
920 SAGE CREEK RD  
NAMPA, ID 83686

SOURCE: SQUAW CREEK TRIBUTARY: LITTLE SALMON RIVER

QUANTITY: 0.56 CFS

PRIORITY DATE: 04/01/1890

POINT OF DIVERSION: T24N R01E S21 SENE Within Idaho County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
Irrigation 03-01 TO 11-15 0.56 CFS

PLACE OF USE: Irrigation Within Idaho County  
T24N R01E S22 NWNW 4.5 SWNW 2.5  
7.0 Acres Total

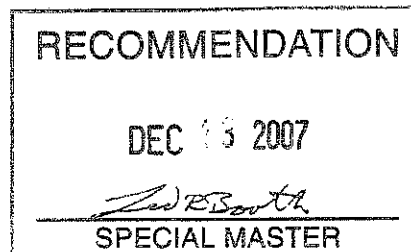
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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 \_\_\_\_\_

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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

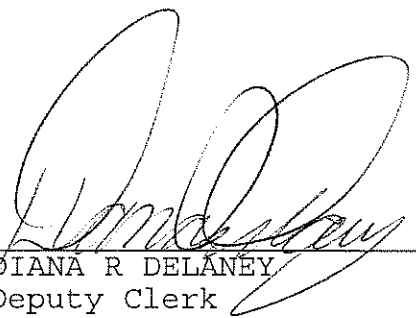
Water Right(s): 78-12215

On December 13, 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 December 13, 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 )  
Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

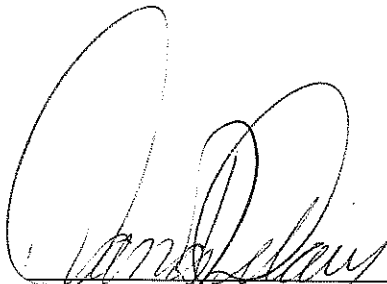
Water Right(s): 78-12215

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 December 13, 2007, with sufficient first-class postage prepaid to the following:

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

BEN AITKEN  
920 SAGE CREEK RD  
NAMPA, ID 83686  
Phone: 208-463-1937

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