

2008 JAN 25 PM 9 18

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 85-15691 and
85-15692 (Spilt from 85-15496)

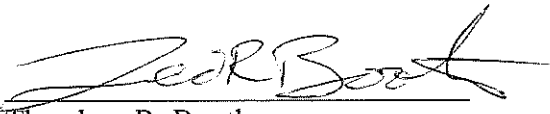
I. FINDINGS OF FACT

A *Partial Decree* was issued for water right 85-15496 on August 18, 2005. On October 30, 2006, the SRBA District Court received correspondence from Patricia B. Smyth, asserting that the *Partial Decree* was in error as to one of the points of diversion, that the ownership of the land had changed, and that there was pending court case in Lewis County, Idaho regarding a partition of the land. After a series of on-the-record status conferences with the parties and their respective attorneys, the parties and IDWR agreed to a resolution whereby IDWR would file a *Notice of Completed Administrative Proceeding* (NCAP) which would split the water right between the parties, and correct the errors regarding the points of diversion. The NCAP was filed by IDWR on August 6, 2007. No objections have been filed to the NCAP.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein IT IS RECOMMENDED that the *Partial Decree* previously issued for water right 85-15496 be set aside, and that the water rights split therefrom (85-15691 and 85-15692) be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*. It is further recommended that the Court issue a final order **disallowing** water right number 85-15496.

Dated Jan. 25, 2008



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

COURT-513A

TWIN FALLS CO., IDAHO

FILED

2008 JAN 25 AM 9 18

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 85-15691

NAME AND ADDRESS: DARLENE D LILLEHAUG
JOHN A LILLEHAUG
PO BOX 1250
MC CALL, ID 83638

SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

QUANTITY: 0.02 CFS

Right Nos. 85-15691 and 85-15692 are limited to a total combined
diversion rate of 0.04 cfs, and the quantity of water under both
rights shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/31/1918

POINT OF DIVERSION: T32N R02W S02 LOT 26 (SESE) Within Lewis County
S11 NWNE

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

PLACE OF USE: Stockwater Within Lewis County
T32N R02W S02 LOT 26 (SESE)
S11 NWNE

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

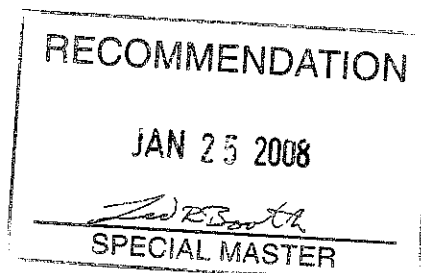
The quantity of water decreed for this water right is not a
determination of historical beneficial use.

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 85-15692

Snake River Basin Adjudication
Twin Falls County, Idaho
FILED
2008 JAN 25 PM 9 18

NAME AND ADDRESS: PATRICIA B SMYTH
1436 BRYDEN AVE
LEWISTON, ID 83501

SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

QUANTITY: 0.04 CFS

Right Nos. 85-15691 and 85-15692 are limited to a total combined
diversion rate of 0.04 cfs, and the quantity of water under
both rights shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/31/1918

POINT OF DIVERSION: T32N R02W S02 LOT 5 (SENEW) Within Lewis County
LOT 5 (SENEW)
LOT 18 (NESE)
LOT 19 (NWSE)

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	0.04 CFS

PLACE OF USE:	Stockwater	Within Lewis County
	T32N R02W S02 LOT 5 (NENW)	LOT 18 (NESE)
	LOT 19 (NWSE)	
Domestic	Within Lewis County	
	T32N R02W S02 LOT 5 (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.

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.

RECOMMENDATION

JAN 25 2008

John M. Melanson
SPECIAL MASTER

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

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

2008 JAN 25 AM 9 18

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

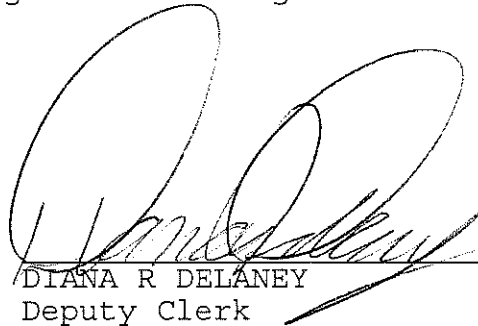
Water Right(s): 85-15496
85-15691 85-15692

On January 25, 2008, 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 January 25, 2008.



DIANA R DELANEY
Deputy Clerk

DISTRICT COURT SRBA
TWIN FALLS CO. IDAHO
FILED _____

2008 JAN 25 AM 9 18

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): 85-15496
85-15691 85-15692

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 January 25, 2008, with sufficient first-class postage prepaid to the following:

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

PATRICIA B SMYTH
Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

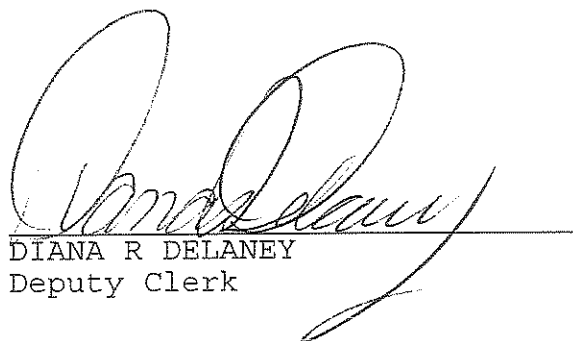
DARLENE D BRAUCHER LILLEHAUG
DARLENE D LILLEHAUG
Represented by:
MERRILY MUNTHER
PO BOX 199
BOISE, ID 83701
Phone: 208-344-4566

CERTIFICATE OF MAILING

PAGE 1
01/25/08

JOHN A LILLEHAUG
PO BOX 1250
MC CALL, ID 83638

M LOUISE BRAUCHER
WARREN E BRAUCHER
PO BOX 337
CRAIGMONT, ID 83523
Phone: 208-924-5639



DIANA R DELANEY
Deputy Clerk