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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2008 JAN 31 PM 3 40

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 77-13849

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.

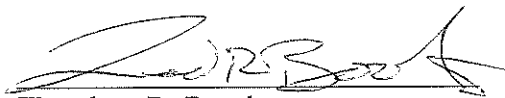
Objections to the *Director's Report* were timely filed by the United States of America, Department of Interior, Bureau of Land Management, and by the Department of Agriculture, Forest Service. On January 23, 2008, the parties to the subcase filed a *Standard Form 5 – Stipulated Elements of a Water Right*, which resolved the objections. 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 77-13849 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated

Jan. 31, 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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 77-13849

NAME AND ADDRESS: KIMBERLY MINES INC
PO BOX 2848
COEUR D ALENE, ID 83816

SOURCE: SPRING TRIBUTARY: SINKS

QUANTITY: 0.04 CFS

PRIORITY DATE: 09/09/1935

POINT OF DIVERSION: T22N R06E S12 SWNESW Within Idaho County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Mining 01-01 TO 12-31 0.04 CFS

PLACE OF USE: Mining Within Idaho County
T22N R06E S12 NESW

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

This water right is only for underground use at the Rescue Mine and use on the Old Rescue Mill Site Claim for mining purposes authorized under state and federal law. The point of diversion and place of use for this water right are on National Forest System Land, an unpatented mill site claim known as the Old Rescue Mill Site, IMC-20117, part of Mineral survey 3686 A&B.

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

RECOMMENDATION

JAN 31 2008

John M. Melanson
SPECIAL MASTER

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

2008 JAN 31 PM 3 40

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

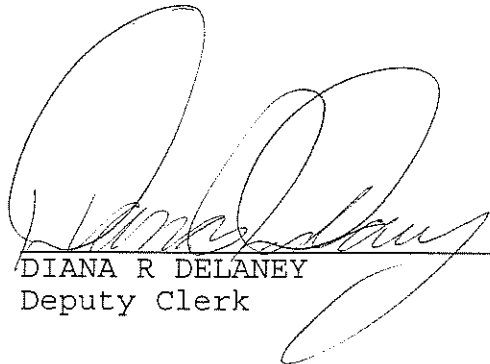
Water Right(s): 77-13849

On January 31, 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 31, 2008.



DIANA R DELANEY
Deputy Clerk

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

2008 JAN 31 PM 3 40

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): 77-13849

CERTIFICATE OF MAILING

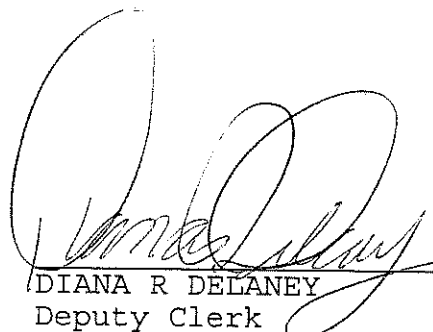
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on January 31, 2008, with sufficient first-class postage prepaid to the following:

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

KIMBERLY MINES INC
Represented by:
SCOTT, PETER G.
PO BOX 1715
HELENA, MT 89624-1715
Phone: 406-442-8783

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

CERTIFICATE OF MAILING


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01/31/08
DIANA R DELANEY
Deputy Clerk