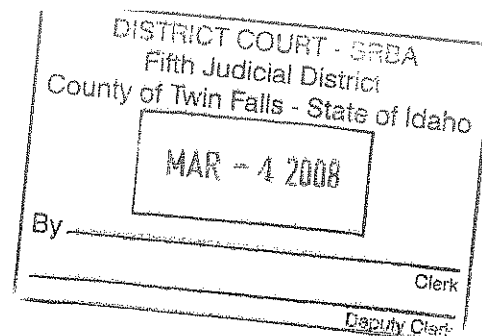


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MAR 6 5 2008

DEPARTMENT OF  
WATER RESOURCES



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 63-17246B

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 21, 2006, the New York Irrigation District filed an objection to the *Director's Report*, asserting that the source of the water right is waste water. On February 5, 2008, a pretrial conference was held at which the claimants, Marilyn and Stephen Grace, failed to appear. An **Order to Show Cause** was issued on February 8, 2008, and a hearing thereon was held on February 20, 2008. Based upon the comments of the Claimants at the hearing, this Special Master finds that the Claimants have not demonstrated good cause for their failure to prosecute the water right claim. Accordingly, the objection filed by the NYID is **granted**, resulting in the recommendation that the SRBA District Court include a waste water remark in the partial decree for the water right.

II. CONCLUSIONS OF LAW

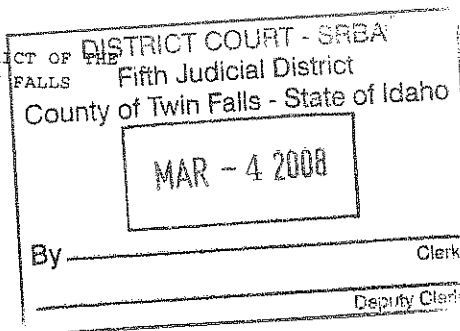
Therefore based on the file and record herein and pursuant to the terms of the **Order to Show Cause**, IT IS RECOMMENDED that water right 63-17246B be **decreed** with the elements as set forth in the attached **Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)**.

Dated March 4, 2008

A handwritten signature in black ink, appearing to read 'Theodore R. Booth'.

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 63-17246B

NAME AND ADDRESS: MARILYN A GRACE  
STEPHEN J GRACE  
8440 W VICTORY RD  
BOISE, ID 83709

SOURCE: FIVEMILE CREEK TRIBUTARY: FIFTEENMILE CREEK

THE SOURCE OF THIS WATER RIGHT IS WASTE WATER. THE WASTING OF  
WATER MAY BE DISCONTINUED AT ANY TIME.

QUANTITY: 0.07 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL  
NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 03/15/1922

POINT OF DIVERSION: T03N R01E S24 SESW Within Ada County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 03-01 TO 11-15 | 0.05 CFS |
|                               | Stockwater     | 03-01 TO 11-15 | 0.02 CFS |

PLACE OF USE: Irrigation Within Ada County  
T03N R01E S24 SESW 2.5  
2.5 Acres Total  
  
Stockwater Within Ada County  
T03N R01E S24 SESW

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

STOCKWATER USE IS FOR 7 HORSES OR RANGE CATTLE.  
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. SECTION 42-1412(6), IDAHO  
CODE.

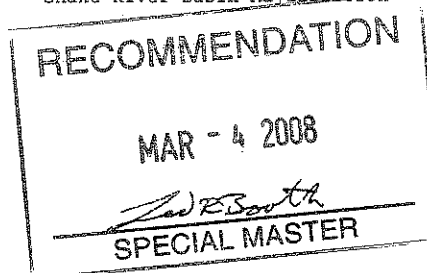
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR  
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL  
USE.

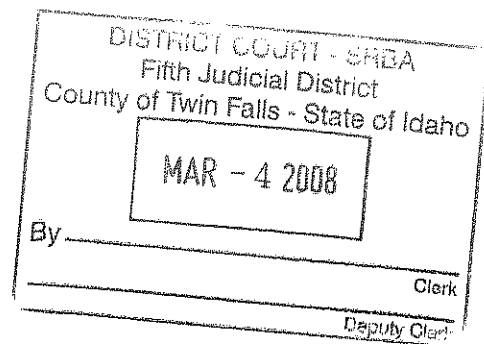
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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





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): 63-17246B

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 March 04, 2008, with sufficient first-class postage prepaid to the following:

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

NEW YORK IRRIGATION DISTRICT

Represented by:  
CHARLES F MC DEVITT  
420 W BANNOCK ST  
PO BOX 2564  
BOISE, ID 83701  
Phone: 208-343-7500

NEW YORK IRRIGATION DISTRICT

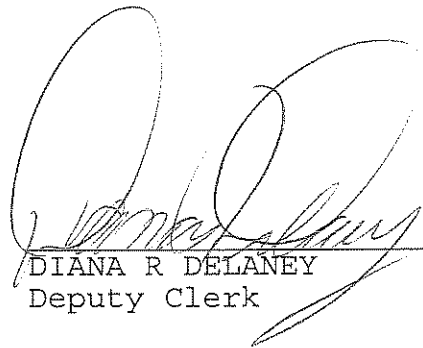
Represented by:  
KENDAL A. MC DEVITT  
405 S 8TH ST, STE 202  
BOISE, ID 83702  
Phone: 208-246-8650

CERTIFICATE OF MAILING

PAGE 1  
03/04/08

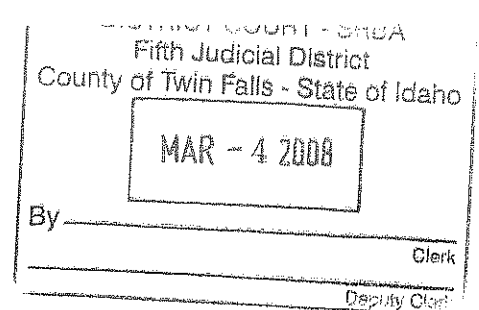
USDI BUREAU OF RECLAMATION  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

MARILYN A & STEPHEN J GRACE  
MARILYN A GRACE  
STEPHEN J GRACE  
8440 W VICTORY RD  
BOISE, ID 83709  
Phone: 208-362-6726



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DIANA R DELANEY  
Deputy Clerk



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

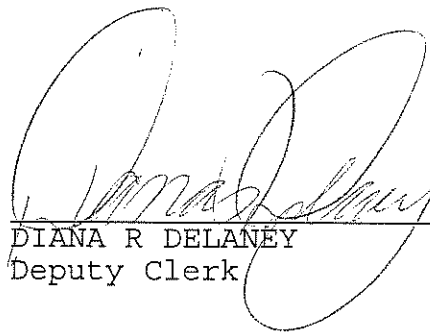
Water Right(s): 63-17246B

On March 04, 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 March 04, 2008.

  
DIANA R DELANEY  
Deputy Clerk