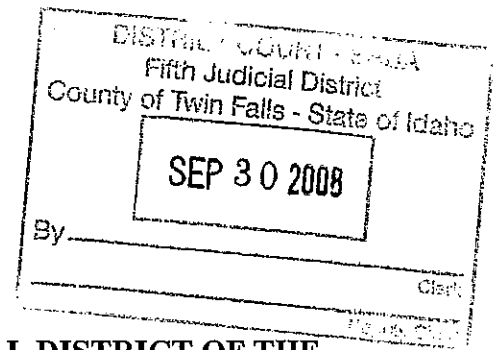


RECEIVED

OCT 02 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

Case No. 39576

) SPECIAL MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHTS 67-00383A,
) 67-00383B, 67-00384, 67-00398,
) and 67-04065

I. FINDINGS OF FACT

Notices of claim were 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 August 3, 2007, the claimant of water rights 67-00383B, 67-00384, and 67-04065, Larry D. Walling, through his attorney Julie K. Fischer, filed objections to the *Director's Report* for water rights 67-00383B and 67-00383A. Water rights 67-00383A and 67-00398 are claimed by Dora and Lee Cole. Water rights 67-00384, 67-00398, and 67-04065 were identified by IDWR as uncontested overlapping claims. On September 4, 2008, the parties filed a *Standard Form 5 – Stipulated Elements of a Water Right* in each of the contested subcases, which resolved the objections. The Idaho Department of Water Resources concurred with the stipulations.

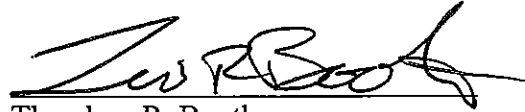
II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Forms 5*, IT IS RECOMMENDED that water rights 67-00383A, 67-00383B¹, 67-00384, 67-00398, and 67-

¹ The *Director's Report* for water right 67-00383B contained a remark which stated: "This right is limited to the irrigation of 57.6 acres within the place of use described above in a single irrigation season." The total place of use so described is 57.6 acres. In other words, the remark was redundant and unnecessary. Upon consultation with IDWR Agent Craig Saxton, this Special Master has deleted this remark.

04065 be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

Dated Sept 30 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)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 67-00383B

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
SEP 30 2008	
By _____	Clerk
Deputy Clerk	

NAME AND ADDRESS: LARRY D WALLING
PO BOX 356
COUNCIL, ID 83612

SOURCE: HORNET CREEK TRIBUTARY: WEISER RIVER

QUANTITY: 0.83 CFS

PRIORITY DATE: 06/30/1883

POINT OF DIVERSION: T17N R02W S15 SWNSW Within Adams County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15.	0.83 CFS

PLACE OF USE:	Irrigation	Within Adams County
	T17N R02W S15	SESW 1.6
	S22	NENE 13.0
	57.6 Acres Total	SWSE 23.0
		NWNE 20.0

The rights listed below are limited to the irrigation of a
combined total of 57.6 acres in a single irrigation season.
Combined Right Nos.: 67-383B and 67-4065

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.

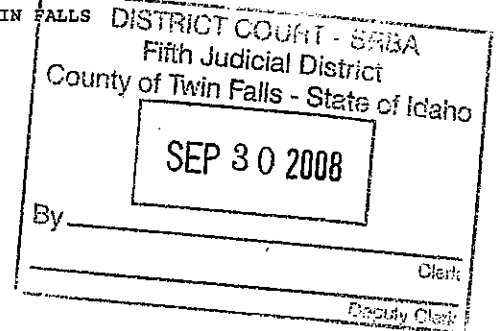
John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION
SEP 30 2008
<i>John M. Melanson</i>
SPECIAL MASTER

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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 67-00384



NAME AND ADDRESS: LARRY D WALLING
PO BOX 356
COUNCIL, ID 83612

SOURCE: HANSON CREEK TRIBUTARY: HORNET CREEK

QUANTITY: 0.32 CFS

PRIORITY DATE: 05/01/1885

POINT OF DIVERSION: T17N R02W S22 SESENW Within Adams County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.32 CFS

PLACE OF USE:	Irrigation	Within Adams County
	T17N R02W S22 NWNE 20.0	NENW 2.0
	22.0 Acres Total	

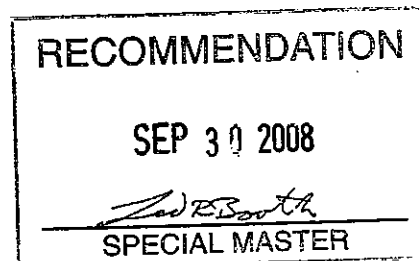
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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(5).

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.

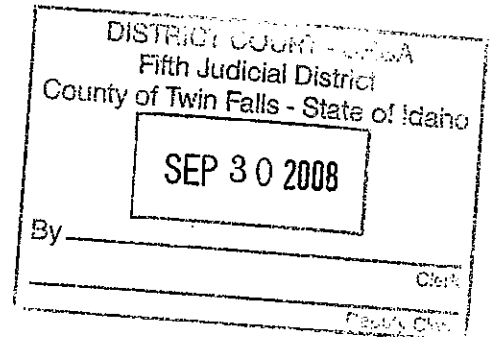
John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 67-04065



NAME AND ADDRESS: LARRY D WALLING
PO BOX 356
COUNCIL, ID 83612

SOURCE: HORNET CREEK TRIBUTARY: WEISER RIVER

QUANTITY: 0.43 CFS

PRIORITY DATE: 05/10/1918

POINT OF DIVERSION: T17N R02W S15 SWNSW Within Adams County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.43 CFS

PLACE OF USE:	Irrigation	Within Adams County
	T17N R02W S15	SESW 1.6 SWSE 23.0
	S22	NENE 13.0 NWNE 20.0
	57.6 Acres Total	

The rights listed below are limited to the irrigation of a
combined total of 57.6 acres in a single irrigation season.
Combined Right Nos.: 67-383B and 67-4065

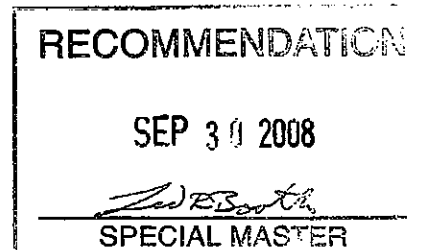
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

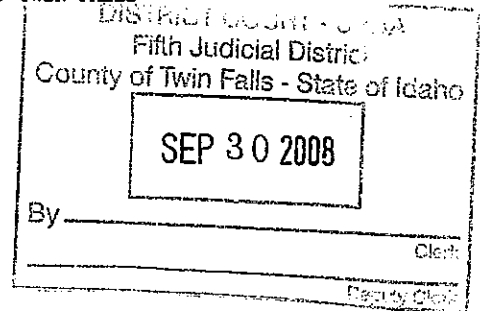


DISTRICT COURT - ORDA
 Fifth Judicial District
 County of Twin Falls - State of Idaho
 SEP 30 2008
 By _____ Clerk
 _____ Deputy Clerk

PAGE 1
Sep-26-2008

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 67-00398



NAME AND ADDRESS: DORA V COLE
LEE F COLE
2565 COUNCIL CUPRUM RD
COUNCIL, ID 83612-5009

SOURCE: HORNET CREEK TRIBUTARY: WEISER RIVER

QUANTITY: 0.32 CFS

PRIORITY DATE: 12/31/1891

POINT OF DIVERSION: T17N R02W S15 SWNWSW Within Adams County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.32 CFS

PLACE OF USE:	Irrigation	Within Adams County
	T17N R02W S15	NESW 1.3 NWSW 7.4 SWSW 6.3 SESW 24.0
	39.0 Acres Total	

The rights listed below are limited to the irrigation of a combined total of 39.0 acres in a single irrigation season. Combined Right Nos.: 67-383A & 67-398. This right is limited to the irrigation of 25.6 acres within the place of use described above in a single irrigation season.

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

RECOMMENDATION

SEP 30 2008

John M. Melanson
SPECIAL MASTER

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

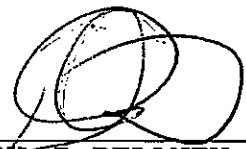
Water Right(s): 63-04065
67-00383A 67-00383B 67-00384
67-00398

On September 30, 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 September 30, 2008.



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

CERTIFICATE OF MAILING

Water Right(s): 63-04065
67-00383A 67-00383B 67-00384
67-00398

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 September 30, 2008, with sufficient first-class postage prepaid to the following:

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

OFFICEMAX INC
Represented by:
BRUCE M. SMITH
950 W BANNOCK STE 520
BOISE, ID 83702
Phone: 208-331-1800

LARRY D WALLING
LARRY WALLING
Represented by:
JULIE K. FISCHER
5680 E FRANKLIN RD, STE 220
NAMPA, ID 83687
Phone: 208-475-2200

CERTIFICATE OF MAILING

PAGE 1
09/30/08

LARRY D WALLING
PO BOX 356
COUNCIL, ID 83612
Phone: 208-253-4726

BOISE CASCADE CORP
REGION ENVIRONMENTAL ENGINEER
PO BOX 476
EMMETT, ID 83617
Phone: 208-365-4431

DORA V COLE
LEE F COLE
2565 COUNCIL CUPRUM RD
COUNCIL, ID 83612-5009
Phone: 208-253-4857



DIANA R DELANEY
Deputy Clerk