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DEC 26 2008

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 24 2008

By _____ Clerk

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) Subcases 74-118, 74-138, 74-349, 74-369, 74-
Case No. 39576) 378B, 74-1105, 74-1136, 74-15003, 74-15004,
) 74-15006 and 74-15195 (Whittaker)
)
) SPECIAL MASTER REPORT AND
) RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Reporting Area 23, IDWR Basin 74* on January 23, 2006. The Director recommended claims 74-349, 74-369, 74-1105 and 74-1136 to F. James and Paula Whittaker, 83 Big Eight Mile Road, P.O. Box 240, Leadore, Idaho, 83464, for between 2 cfs and 4 cfs from Big Eightmile Creek, Left Fork Lee Creek and Stroud Creek to irrigate between 102 acres and 398 acres in Lemhi County from March 15 to November 15 with priority dates between May 12, 1883, and March 25, 1918, based on a decree.

The Whittakers filed *Objections* on May 4, 2006, objecting to points of diversion and places of use. On November 26, 2008, the Whittakers, with IDWR's consent, filed *Standard Form 5* agreeing to amend the source, points of diversion and places of use.

IDWR also identified subcases 74-118, 74-138, 74-378B, 74-15003, 74-15004, 74-15006 and 74-15195 as uncontested overlapping claims for which the related claims have already been reported by the Special Master. Only subcase 74-15195 was recommended disallowed.

Conclusions of Law

1. The Whittakers are entitled to partial decrees adjudicating water rights as recommended by IDWR and as described in the *SF-5's* and the attached *Special Master*

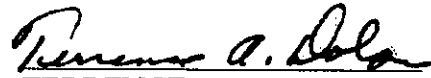
Recommendations for Partial Decrees for Water Rights 74-118, 74-138, 74-349, 74-369, 74-378B, 74-1105, 74-1136, 74-15003, 74-15004 and 74-15006; and

2. The Whittakers are **not** entitled to a partial decree for claim 74-15195.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 74-15195 be **disallowed**.

DATED December 24, 2008.



TERRENCE A. DOLAN

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 74-00118

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
PO BOX 240
LEADORE, ID 83464

SOURCE: COLD SPRING CREEK TRIBUTARY: TEXAS CREEK

QUANTITY: 0.11 CFS

PRIORITY DATE: 05/14/1920

POINT OF DIVERSION: T14N R26E S03 SESW Within Lemhi County
NESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.11 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T14N R26E S03	SWNE 40.0 SENW 32.0 NESW 20.0
	92.0 Acres Total	

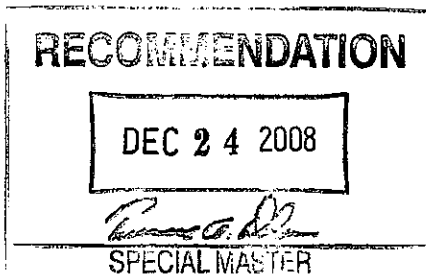
USE OF THIS RIGHT WITH RIGHT NO. 74-74 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 91.5 ACRES IN A SINGLE
IRRIGATION SEASON.
This right authorizes the irrigation of 91.5 total acres.

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

In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 74-00138

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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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00349

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
83 BIG EIGHT MILE RD
PO BOX 240
LEADORE, ID 83464

SOURCE: BIG EIGHTMILE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 2.00 CFS

PRIORITY DATE: 07/06/1916

POINT OF DIVERSION: T15N R25E S05 LOT 10 (NWSE) Within Lemhi County
T16N R25E S33 NWSW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	2.00 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
T16N R25E S28	SWNW 40.0	SENW 35.0
	NESW 32.0	NWSW 40.0
	SWSW 38.0	SESW 14.0
S29	SWNE 40.0	SENE 40.0
	SWNW 34.0	SENW 40.0
	NESW 40.0	NWSW 18.0
	SWSW 15.0	SESW 40.0
	NESE 40.0	NWSE 40.0
	SWSE 39.0	SESE 18.0
S32	NENE 16.0	NENW 38.0
	NWNW 36.0	
S33	NWNW 31.0	
724.0 Acres Total		

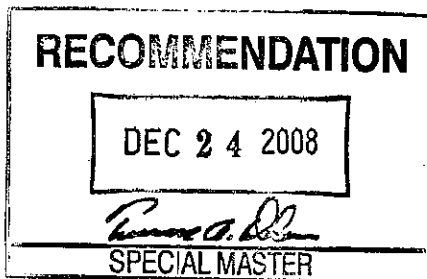
This right is limited to the irrigation of 72.7 acres within the
place of use described above in a single irrigation season.

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

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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 74-00369

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
83 BIG EIGHT MILE RD
PO BOX 240
LEADORE, ID 83464

SOURCE: LEFT FORK LEE CREEK LEE CREEK

QUANTITY: 2.40 CFS

When the flow of water in Lee Creek is insufficient to supply all rights under the 5-12-1883 date of priority, right 74-369 and right 74-370 shall not be pro-rated with any rights on Lee Creek with that priority date. When the flow in the Left Fork of Lee Creek falls below amounts decreed in rights 74-369 and 74-370, the two rights shall be pro-rated according to the respective amounts of water decreed.

PRIORITY DATE: 05/12/1883

POINT OF DIVERSION: T16N R25E S31 SENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	2.40 CFS

PLACE OF USE:	Irrigation		Within Lemhi County
	T16N R25E S28	SWNW 40.0	SENW 35.0
		NESW 32.0	NWSW 40.0
		SWSW 36.0	SESW 14.0
	S29	SWNE 40.0	SENE 40.0
		SWNW 34.0	SENW 40.0
		NESW 40.0	NWSW 18.0
		SWSW 15.0	SESW 40.0
		NESE 40.0	NWSE 40.0
		SWSE 39.0	SESE 17.0
	S32	NENW 38.0	NWNW 36.0
	S33	NWNW 12.0	
	686.0 Acres Total		

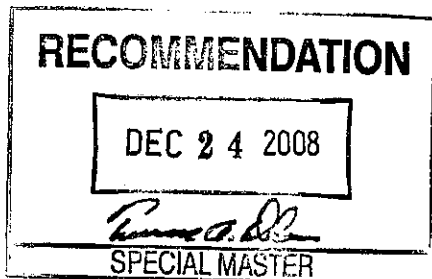
This right authorizes the irrigation of 275.4 total acres.
This right is limited to the irrigation of 275.4 acres within the place of use described above in a single irrigation season.

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

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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 74-00378B

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
PO BOX 240
LEADORE, ID 83464

SOURCE: UNNAMED STREAM TRIBUTARY: TEXAS CREEK

QUANTITY: 1.27 CFS
344.40 AFY

This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

Rights 74-378B and 74-15004 when combined shall not exceed a total annual maximum diversion volume of 344.4 af at the field headgate.

Rights 74-378B, 74-15004 and 74-15006 when combined shall not exceed a total annual maximum diversion volume of 481.3 af at the field headgate.

PRIORITY DATE: 06/01/1884

POINT OF DIVERSION: T15N R26E S21 SESE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.27 CFS
			344.40 APY

PLACE OF USE:	Irrigation	Within Lemhi County
	T15N R26E S21	SESE 13.0
	S22	NESW 0.9
		NWSW 7.0
		SWSW 40.0
		SESW 22.6
	S27	NENW 14.0
		NWNW 33.0
	S28	NENE 7.0
	137.5 Acres Total	

Rights 74-378B, 74-15004 and 74-15006 when combined shall not exceed the irrigation of 137.5 acres.

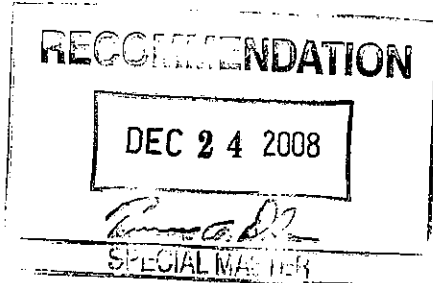
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Use of water under this water right will be regulated by the watermaster of State Water District No. 74-W. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

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

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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 74-01105

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
83 BIG EIGHT MILE RD
PO BOX 240
LEADORE, ID 83464

SOURCE: BIG EIGHTMILE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 4.00 CFS

This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

The right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

The total instantaneous diversion of water from all points of diversion shall not exceed 4.0 cfs under right 74-1105

PRIORITY DATE: 03/25/1918

POINT OF DIVERSION: T15N R25E S05 LOT 10 (NWSE) Within Lemhi County
T16N R25E S33 NWSW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	4.00 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
T16N R25E S28	SWNW 40.0	SENW 35.0
	NESW 32.0	NWSW 40.0
	SWSW 38.0	SESW 14.0
S29	SWNE 40.0	SENE 40.0
	SWNW 34.0	SENW 40.0
	NESW 40.0	NWSW 18.0
	SWSW 15.0	SESW 40.0
	NESE 40.0	NWSE 40.0
	SWSE 39.0	SESE 18.0
S32	NENE 16.0	NENW 38.0
	NWNW 36.0	
S33	NWNW 31.0	
724.0 Acres Total		

This right is limited to the irrigation of 197 acres within the place of use described above in a single irrigation season.

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

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74-Z.

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

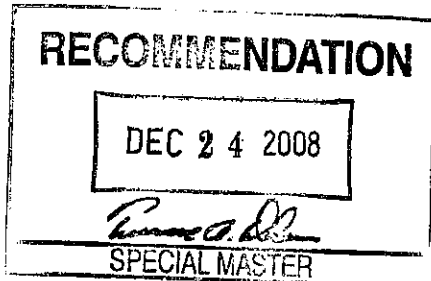
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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

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Presiding Judge of the
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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)
_____) Water Right 74-01136

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

NAME AND ADDRESS: F JAMES WHITTAKER
 PAULA J WHITTAKER
 83 BIG EIGHT MILE RD
 PO BOX 240
 LEADORE, ID 83464

SOURCE: LEFT FORK LEE CREEK TRIBUTARY: LEE CREEK

QUANTITY: 2.00 CFS

PRIORITY DATE: 06/28/1912

POINT OF DIVERSION: T16N R25E S31 SENE Within Lemhi County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
 Irrigation 03-15 TO 11-15 2.00 CFS

PLACE OF USE: Irrigation Within Lemhi County
 T16N R25E S28 SWNW 40.0 SENW 35.0
 NESW 32.0 NWSW 40.0
 SWSW 36.0 SESW 14.0
 S29 SWNE 40.0 SENE 40.0
 SWNW 34.0 SENW 40.0
 NESW 40.0 NWSW 18.0
 SWSW 15.0 SESW 40.0
 NESE 40.0 NWSE 40.0
 SWSE 39.0 SESE 17.0
 S32 NENW 38.0 NWNW 36.0
 S33 NWNW 12.0
 686.0 Acres Total

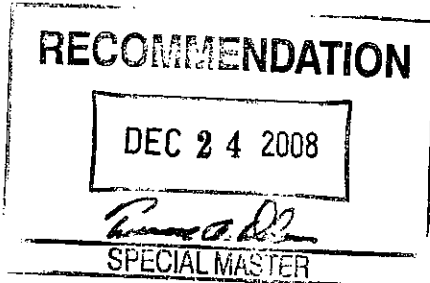
This right authorizes the irrigation of 102.6 total acres.
This right is limited to the irrigation of 102.6 acres within the
place of use described above in a single irrigation season.

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
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Presiding Judge of the
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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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 74-15003

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
PO BOX 240
LEADORE, ID 83464

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 3.72 CFS

PRIORITY DATE: 04/01/1947

POINT OF DIVERSION: T15N R26E S20 SWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.72 CFS

PLACE OF USE:	Irrigation		Within Lemhi County
	T15N R26E S27	SWNE 40.0	NENW 15.0
		SENW 36.0	NESW 8.0
		NWSE 37.0	
	136.0 Acres Total		

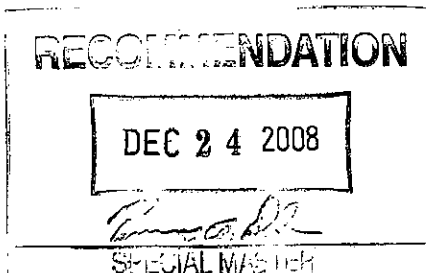
This right authorizes the irrigation of 136.2 total acres.
USE OF THIS RIGHT WITH RIGHT NO. 74-133 AND 74-89 IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 136.2 ACRES IN A SINGLE
IRRIGATION SEASON.

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
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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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
_____) Water Right 74-15004

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
PO BOX 240
LEADORE, ID 83464

SOURCE: UNNAMED STREAM TRIBUTARY: TEXAS CREEK

QUANTITY: 2.68 CPS
344.40 AFY

This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

Rights 74-378B and 74-15004 when combined shall not exceed a total annual maximum diversion volume of 344.4 af at the field headgate.

Rights 74-378B, 74-15004 and 74-15006 when combined shall not exceed a total annual maximum diversion volume of 481.3 af at the field headgate.

PRIORITY DATE: 04/01/1947

POINT OF DIVERSION: T15N R26E S21 SESE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	2.68 CFS
			344.40 AFY

PLACE OF USE:	Irrigation	Within Lemhi County
	T15N R26E S21	SESE 13.0
	S22	NESW 0.9
		NWSW 7.0
		SWSW 40.0
	S27	SESW 22.6
		NENW 14.0
	S28	NWNW 33.0
		NENE 7.0
	137.5 Acres Total	

Rights 74-378B, 74-15004 and 74-15006 when combined shall not exceed the irrigation of 137.5 acres.

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

Use of water under this water right will be regulated by the watermaster of State Water District No. 74-W.
The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Prior to diversion of water under Right 74-15004, the right holder shall provide and maintain a means of measurement acceptable to the watermaster for measuring the flow in Big Timber Creek at the original point of diversion in SWNW, S20, T15N, R26E.

Diversion of water under Right 74-15004 from the Unnamed Stream, also known as Warm Spring Creek, is limited to those times water is available for diversion under this right and priority from Big Timber Creek.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS

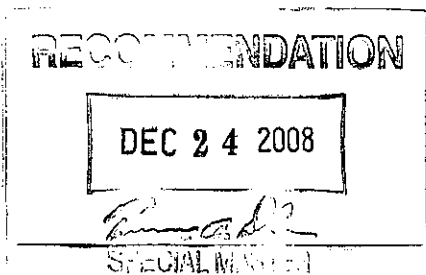
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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
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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
) 1.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 74-15006

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
PO BOX 240
LEADORE, ID 83464

SOURCE: UNNAMED STREAM TRIBUTARY: TEXAS CREEK

QUANTITY: 1.68 CFS
203.00 AFY

This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
Rights 74-378B, 74-15004 and 74-15006 when combined shall not exceed a total annual maximum diversion volume of 481.3 af at the field headgate.

PRIORITY DATE: 05/14/1920

POINT OF DIVERSION: T15N R26E S21 SESE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.68 CFS
			203.00 AFY

PLACE OF USE:	Irrigation		Within Lemhi County
	T15N R26E S21	SESE 13.0	
	S22	NESW 0.9	NWSW 7.0
		SWSW 40.0	SESW 22.6
	S27	NENW 14.0	NWNW 33.0
	S28	NENE 7.0	
	137.5 Acres Total		

This right is limited to the irrigation of 58.0 acres within the place of use described above in a single irrigation season.
Rights 74-378B, 74-15004 and 74-15006 when combined shall not exceed the irrigation of 137.5 acres.

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

Use of water under this water right will be regulated by the watermaster of State Water District No. 74-W.
The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Prior to diversion of water under Right 74-15006, the right holder shall provide and maintain a means of measurement acceptable to the watermaster for measuring the flow in Nez Perce Creek at the original points of diversion in NESW, S15 and S22, T14N, R26E.

Diversion of water under Right 74-15006 from the Unnamed Stream, also known as Warm Spring Creek, is limited to those times water is available for diversion under this right and priority from Nez Perce Creek, and shall not exceed the amount that remains undiverted in Nez Perce Creek that is ultimately allowed to reach Texas Creek.

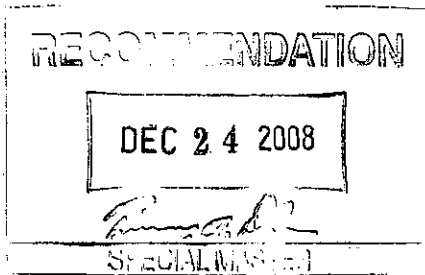
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

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
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 24 2008

By _____

Clerk

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)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 74-0011B

(SEE ATTACHED EXHIBIT A)

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 24, 2008, with sufficient first-class postage prepaid to the following:

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

F JAMES WHITTAKER
PAULA J WHITTAKER
Represented by:
SCOTT L CAMPBELL
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

CERTIFICATE OF MAILING

PAGE 1
12/24/08

F JAMES WHITTAKER
PO BOX 240
LEADORE, ID 83464

F JAMES WHITTAKER
PAULA J WHITTAKER
83 BIG EIGHT MILE RD
PO BOX 240
LEADORE, ID 83464



ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

74-00118
74-00138
74-00349
74-00369
74-00378B
74-01105
74-01136
74-15003
74-15004
74-15006
74-15195

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 24 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)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 74-00118
(SEE ATTACHED EXHIBIT A)

On December 24, 2008, Special Master TERRENCE A. DOLAN 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 24, 2008.

Robbin Hall
ROBBIN HALL
Deputy Clerk

Exhibit A

Subcase Nos:

74-00118
74-00138
74-00349
74-00369
74-00378B
74-01105
74-01136
74-15003
74-15004
74-15006
74-15195