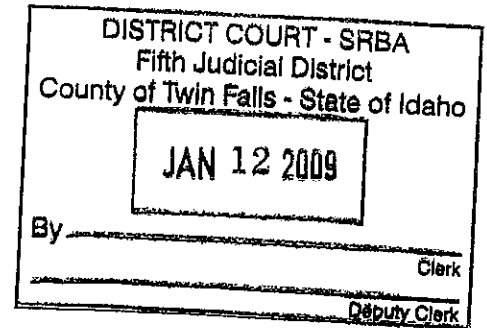


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JAN 14 2009

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) Subcase 63-33059
)
Case No. 39576) ORDER TO SHOW CAUSE
)
_____)

The above-captioned water right was split from water right 63-02650. On June 20, 2007, the State of Idaho, Department of Lands filed an objection to the *Director's Report* for water right 63-02650, asserting that the State of Idaho is the owner of a portion of the place of use as reported in the *Director's Report*, and that the claimants of the water right(s) are not authorized to irrigate any land owned by the State of Idaho.

Hearings in this matter have been held on July 29, 2008, October 28, 2008, and on January 6, 2009. The claimant of water right 63-33059, S S Steiner, Inc., was notified of these hearings via first class mail sent to its last known address. The Claimant failed to appear at the hearings.

It is **hereby ordered** that the Claimant shall appear before this Special Master on **February 3, 2009, at 3:30 P.M.** Mountain Time, at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho, to show cause why the objection filed by the State of Idaho should not be granted. Parties may participate by telephone by dialing 225-383-1099 and when prompted entering the code 675342.

Participation in the show cause hearing is **not mandatory** and failure to appear will not be considered contempt of court. **However, failure to appear will result in the Claimant being deemed to have consented to the water right being decreed with the**

elements as set forth in the attached draft partial decree.¹ If the Claimant participates in the hearing, it will be expected to notify this Special Master whether it intends to prosecute the case, and accordingly a trial date will be set. In such event, no additional evidence or argument need be presented as the subcase will be allowed to proceed to trial as a matter of course. Therefore the parties need not produce testimony or evidence in accordance with I.R.C.P. 6(c)(2)(B).

A copy of this *Order to Show Cause* shall be served upon the Claimant and the Objector not less than five (5) days prior to the date herein shown. Service of the *Order to Show Cause* shall be made in accordance with I.R.C.P. 5(b) and 6(c)(2).

IT IS SO ORDERED

Dated Jan. 12, 2009



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

¹ It should be noted that the attached draft partial decree has "fire protection" as the sole purpose of use for the water right. The claim filed for the root right, 63-02650 claimed irrigation as the purpose of use, and the *Director's Report* filed for water right 63-02650 listed irrigation as the purpose of use for the water right. It is the understanding of this Special Master that after the *Director's Report* was filed, IDWR obtained information that the subject parcel of ground owned by S S Steiner, Inc., is not irrigated, that a commercial building has been constructed thereon, and that the subject water right is only used for fire protection. Accordingly, the attached draft partial decree lists only fire protection as a purpose of use, with a year 'round period of use.

DRAFT

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 63-33059

NAME AND ADDRESS: S S STEINER INC
PO BOX 9174
BROOKS, OR 97305

SOURCE: SPRING TRIBUTARY: BOISE RIVER
UNNAMED DRAIN TRIBUTARY: BOISE RIVER

QUANTITY: 0.08 CFS

PRIORITY DATE: 11/18/1946

POINT OF DIVERSION: T04N R04W S23 NESESE Within Canyon County
SESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Fire Protection	01-01 TO 12-31	0.08 CFS

PLACE OF USE: Fire Protection Within Canyon County
T04N R04W S23 NESE 3.9
3.9 Acres Total

Except the 3.055 acres owned by the State of Idaho.

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

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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.

DRAFT

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

CERTIFICATE OF MAILING

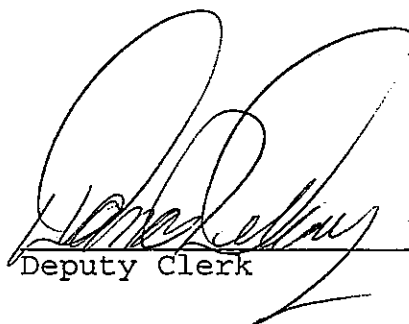
I certify that a true and correct copy of the ORDER TO SHOW CAUSE was mailed on January 12, 2009, with sufficient first-class postage to the following:

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

S S STEINER INC
PO BOX 9174
BROOKS, OR 97305

UNITED STATES CORPORATION CO
285 LIBERTY ST NE
SALEM, OR 97301

S S STEINER INC
655 MADISON AVENUE
NEW YORK, NY 10021

A large, stylized handwritten signature in black ink, likely belonging to the Deputy Clerk, is written over a horizontal line.