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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 30 2009	
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

Case No. 39576

) SPECIAL MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 63-33057, 63-33058,
) and 63-33059
)
) RECOMMENDATION OF
) DISALLOWANCE FOR 63-02650

I. FINDINGS OF FACT

A notice of claim was filed for water right 63-02650 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 water right 63-02650. On July 2, 2008, IDWR filed a *Notice of Completed Administrative Proceeding* which split water right 63-02650 into water rights 63-33057, 63-33058, and 63-33059.

On June 20, 2007, the State of Idaho, Department of Lands, through Deputy Attorney General David Barber, filed an objection to the *Director's Report*, asserting that the place of use should not include State of Idaho land. On October 24, 2008, Ronald and Gail Schneider filed a motion to file a late objection, which was denied at the hearing held on January 6, 2009. In each subcase the parties have filed a *Standard Form 5 – Stipulated Elements of a Water Right* which resolved the State's objection. The Idaho Department of Water Resources concurred with the stipulations.

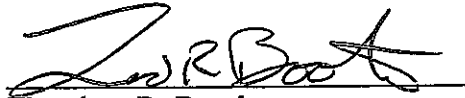
II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Forms 5*, IT IS RECOMMENDED that water right 63-33057, 63-33058, and 63-33059 be decreed with the

elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P.*
54(b). IT IS FURTHER RECOMMENDED that the SRBA District Court enter a final order
disallowing water right claim 63-02650 with prejudice.

Dated:

Jan 30, 2009



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

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

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-33057

JAN 30 2009

By

Clerk

Deputy Clerk

NAME AND ADDRESS: CAROL A SCHNEIDER
ESTATE OF GEORGE W SCHNEIDER
20806 SEQUOIA PL
GREENLEAF, ID 83626

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

QUANTITY: 0.12 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
	Irrigation	03-01 TO 11-15	0.08 CFS
	Domestic	01-01 TO 12-31	0.04 CFS

Domestic use is for 1 home.

PLACE OF USE: Irrigation Within Canyon County
T04N R04W S23 NESE 3.9
3.9 Acres Total
Domestic Within Canyon County
T04N R04W S23 NESE

Place of use for this right does not include land 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.

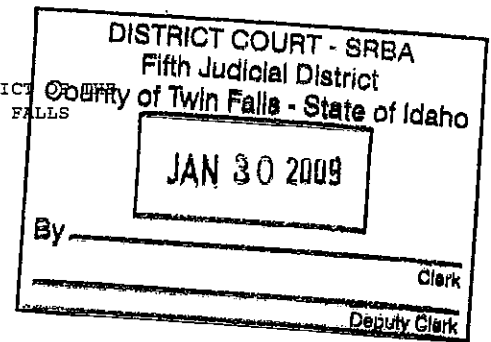
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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.

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
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 63-33058

NAME AND ADDRESS: SHANE GARBARINO
20334 PINTO RD
CALDWELL, ID 83607

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

QUANTITY: 0.58 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
	Irrigation	03-01 TO 11-15	0.58 CFS

PLACE OF USE: Irrigation Within Canyon County
T04N R04W S23 NESE 29.0
29.0 Acres Total

Place of use for this right does not include land 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
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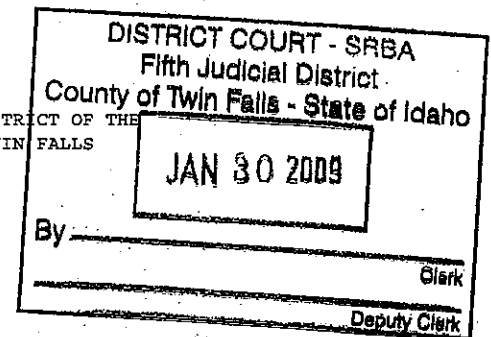
John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

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)
)
Case No. 39576)
_____)

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

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	03-01 TO 11-15	0.08 CFS

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

Except the 3.055 acres owned by the State of Idaho.

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

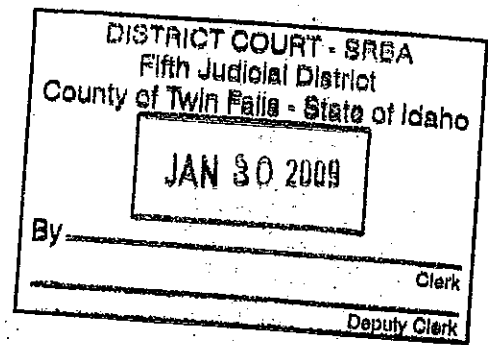
This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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.

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)
_____))

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

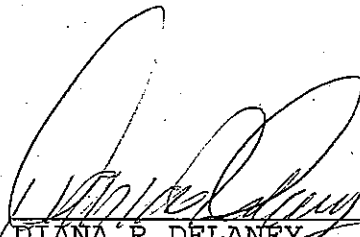
Water Right(s): 63-02650
63-33057 63-33058 63-33059

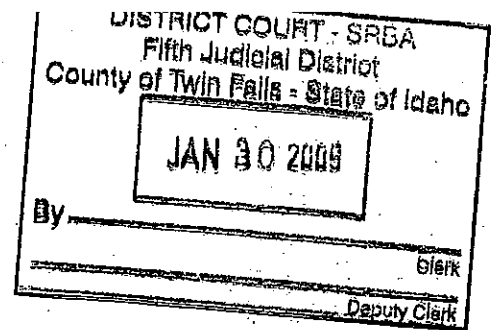
On January 30, 2009, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 30, 2009.


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): 63-02650
63-33057 63-33058 63-33059

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 30, 2009, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

S S STEINER INC
PO BOX 9174
BROOKS, OR 97305

RONALD & GAIL SCHNEIDER
20240 PINTO LANE
CALDWELL, ID 83607

CERTIFICATE OF MAILING

PAGE 1
01/30/09

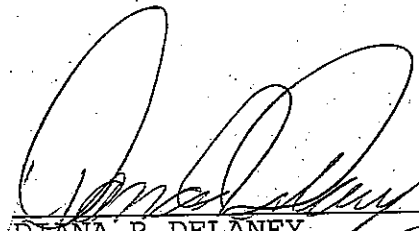
RONDAL G & GAIL A SCHNEIDER
20240 PINTO LN
CALDWELL, ID 83607
Phone: 208-459-1226

SHANE GARBARINO
SHANE GARBARNIO
20334 PINTO RD
CALDWELL, ID 83607

CAROL A SCHNEIDER
ESTATE OF GEORGE W SCHNEIDER
GEORGE W SCHNEIDER
20806 SEQUOIA PL
GREENLEAF, ID 83626

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

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



DIANA R DELANEY
Deputy Clerk