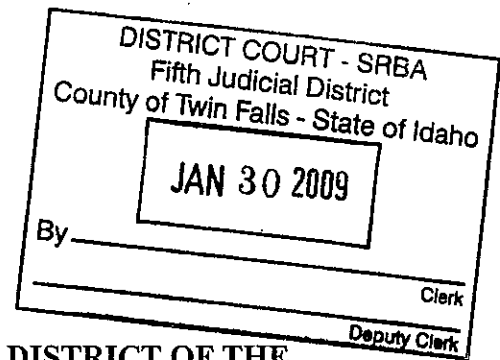


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FEB 02 2009

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) SPECIAL MASTER'S REPORT
Case No. 39576)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 78-12173

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 May 9, 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 point of diversion is not authorized to be located on State owned land. On September 25, 2008, IDWR filed an *Amended Director's Report*. No objections have been filed to the *Amended Director's Report*, and the time for objecting has expired.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 78-12173 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Jan 30, 2009

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

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

JAN 30 2009

By

Clerk

Deputy Clerk

In Re SRBA)
)
Case No. 39576)
)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 78-12173

NAME AND ADDRESS: FALL CREEK MOUNTAIN RANCH INC
C/O MERLE ABBOTT
5493 HWY 95
NEW MEADOWS, ID 83654-5056

SOURCE: UNNAMED STREAM TRIBUTARY: LITTLE SALMON RIVER

Point of injection into and point of redirection from unnamed
stream.

QUANTITY: 0.06 CFS

PRIORITY DATE: 05/01/1904

POINT OF DIVERSION: T22N R01E S16 NWSESE Within Adams County
SESESE
SESESE (Injection)
SESESE (Rediversion)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.06 CFS

PLACE OF USE: Irrigation Within Adams County
T22N R01E S22 NWNW 1.58
1.58 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(6).

RULE 54(b) CERTIFICATE

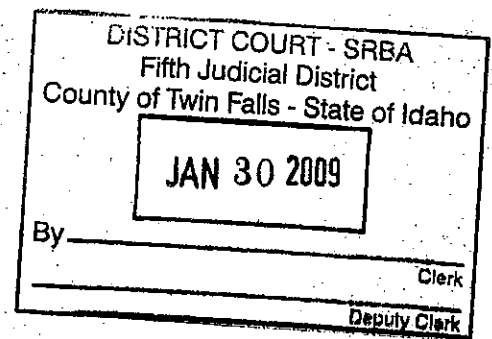
With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment 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

JAN 30 2009

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

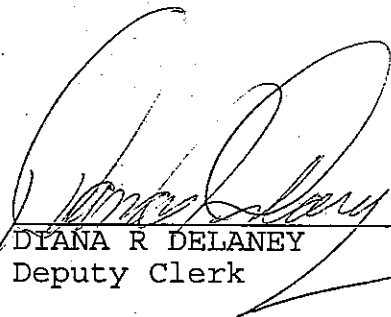
Water Right(s): 78-12173

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.

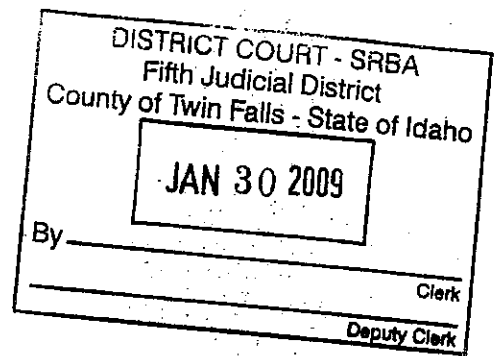
Pursuant to SRBA Administrative Order 1, Section 13a, any party
to the adjudication including parties to the subcase, may file a Motion
to Alter or Amend on or before the 28th day of the next month.

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) : 78-12173

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 DEPT OF LANDS

Represented by:
STATE OF IDAHO
JRW BUILDING, SECOND FLOOR
700 W STATE ST, PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

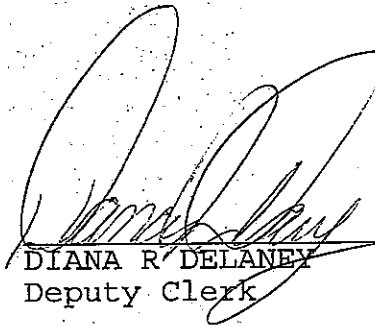
FALL CREEK MOUNTAIN RANCH INC
C/O MERLE ABBOTT
5493 HWY 95
NEW MEADOWS, ID 83654-5056
Phone: 702-849-9794

CERTIFICATE OF MAILING

PAGE 1
01/30/09

FALL CREEK MOUNTAIN RANCH
ROBERT JOYNER, PRESIDENT
MERLE ABBOTT, VICE-PRESIDENT
5493 HWY 95
NEW MEADOWS, ID 83654

EARL A BAUMGARTEN
5497 HWY 95
NEW MEADOWS, ID 83654



DIANA R DELANEY
Deputy Clerk