

RECEIVED
MAR 09 2009
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
MAR - 6 2009
By _____
Clark
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) SPECIAL MASTER'S REPORT
Case No. 39576)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHTS 78-12322
) and 78-12323

I. FINDINGS OF FACT

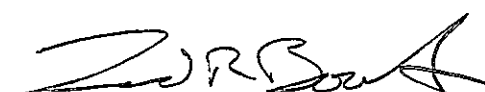
A notice of claim was filed for water right 78-12174 pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of water right 78-12174.

On May 9, 2007, the State of Idaho, Department of Lands, through Deputy Attorney General David J. Barber, filed an objection to the *Director's Report* for water right 78-12174. On September 25, 2008, IDWR filed *Amended Director's Reports*, which split water right 78-12174 into right number 78-12322 and 78-12323, with 78-12174 being recommended disallowed. On October 22, 2008, the State of Idaho filed an objection to the *Amended Director's Report* for water right 78-12323. A hearing on the objection was held on March 3, 2009, at which the parties resolved the objection on the record.

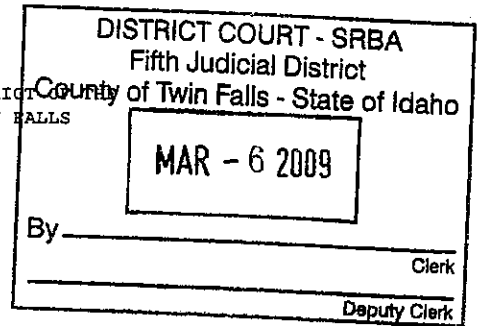
II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water rights 78-12322 and 78-12323 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated March 6, 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



In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 78-12322

NAME AND ADDRESS: EARL A BAUMGARTEN
JANET A BAUMGARTEN
5497 HWY 95
NEW MEADOWS, ID 83654

SOURCE: UNNAMED STREAM TRIBUTARY: LITTLE SALMON RIVER

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

QUANTITY: 0.16 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	04-15 TO 10-15	0.16 CFS

PLACE OF USE:	Irrigation	Within Adams County
	T22N R01E S15	SWSW 1.2
	S21	NENE 0.8
	S22	NWNW 2.0
	4.0 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(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.

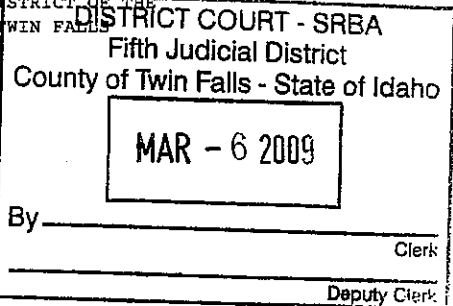
John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

MAR - 6 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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 78-12323

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF LANDS
300 N 6TH ST
PO BOX 83720
BOISE, ID 83720-0050

EARL A BAUMGARTEN
JANET A BAUMGARTEN
5497 HWY 95
NEW MEADOWS, ID 83654

SOURCE: UNNAMED STREAM TRIBUTARY: LITTLE SALMON RIVER

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

QUANTITY: 0.04 CFS

PRIORITY DATE: 05/01/1904

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

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.04 CFS

PLACE OF USE: Irrigation T22N R01E S16 SESE 1.0 Within Adams County
1.0 Acres Total

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

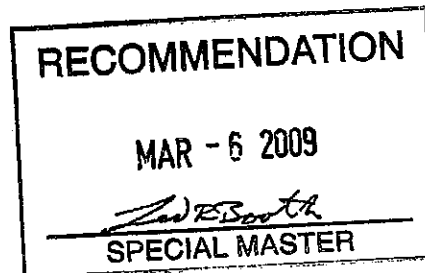
The ownership of water right 78-12323 is governed by a private
agreement executed by the Idaho Department of Lands and Earl A.
and Janet Baumgarten.

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).

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



DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAR - 6 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)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

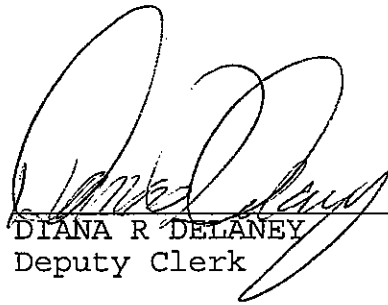
Water Right(s): 78-12322
78-12323

On March 06, 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.

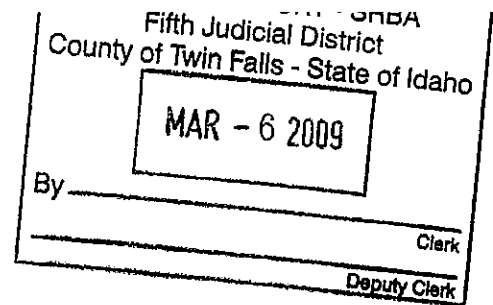
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 March 06, 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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 78-12322
78-12323

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 March 06, 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

EARL A BAUMGARTEN
JANET A BAUMGARTEN
5497 HWY 95
NEW MEADOWS, ID 83654

CERTIFICATE OF MAILING

DIANA R DELANEY
Deputy Clerk

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03/06/09