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APR 08 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
APR - 7 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	)	Subcases 74-56, 74-338B, 74-1103 and
	)	74-15658
Case No. 39576	)	(Whittaker)
	)	
_____	)	SPECIAL MASTER REPORT

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 claim 74-338B to F. James and Paula J. Whittaker, P.O. Box 240, Leadore, Idaho, 83464, for 3.2 cfs from Big Eightmile Creek to irrigate 398 acres in Lemhi County from March 15 to November 15 with priority dates of November 1, 1887, based on a decree. The Director recommended claim 74-15658, filed by the Whittakers, be disallowed: "No lawful appropriation shown."

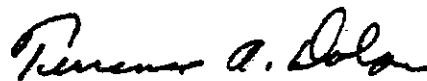
Mr. Whittaker filed *Objections* on May 4, 2006, objecting to point of diversion and place of use (74-56) and the claim not being recommended (74-15658). The United States of America, Department of Agriculture, Forest Service filed a *Response* in subcase 74-15658 on August 29, 2006.

IDWR filed a *Notice of Completed Administrative Proceeding* in 74-15658 on June 20, 2008, for an "enlargement advertisement – no protest filed." On January 15, 2009, the Whittakers and the United States (74-15658), with IDWR's concurrence, filed *Standard Forms 5*. The same date, the Whittakers, with IDWR's concurrence, filed an *SF-5* in subcase 74-56 which IDWR identified as an uncontested overlapping claim. On March 17, 2009, the Whittakers, with IDWR's concurrence, filed an *SF-5* in subcase 74-1103 IDWR identified as an uncontested overlapping claim.

Conclusions of Law

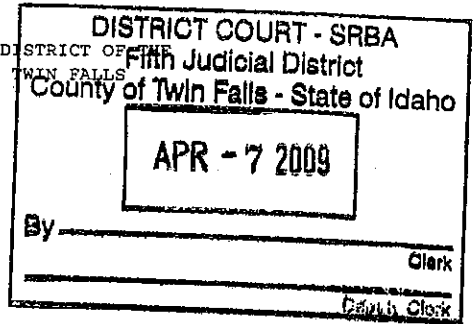
The Whittakers are entitled to partial decrees adjudicating water rights as described in *SF-5's* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 74-56, 74-338B, 74-1103 and 74-15658*.

DATED April 7, 2009.



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 74-00338B

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: 3.20 CFS

PRIORITY DATE: 11/01/1887

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	3.20 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
T16N R25E S28	SWNW 40.0	SENE 35.0
	NESW 32.0	NWSW 40.0
	SWSW 38.0	SESW 14.0
S29	SWNE 40.0	SENE 40.0
	SWNW 34.0	SENE 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 128.9 acres within the place of use described above in a single irrigation season.

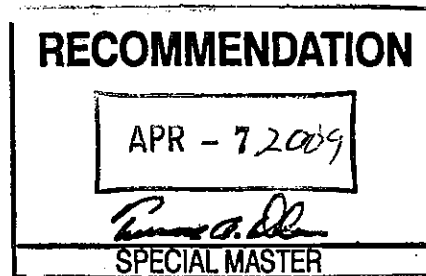
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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).

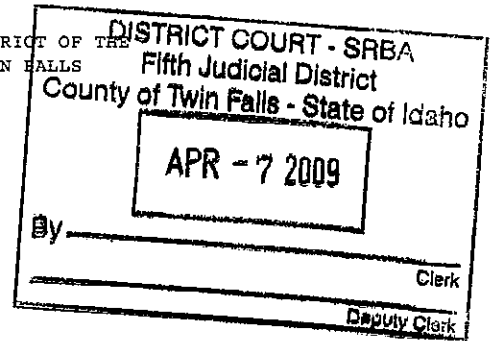
RULE 54(b) CERTIFICATE

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)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00056

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

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER
UNNAMED STREAM TRIBUTARY: BIG TIMBER CREEK

QUANTITY: 2.00 CFS

Right Nos. 74-56 and 74-15658 are limited to a total combined
diversion rate of 2.00 cfs.

PRIORITY DATE: 05/01/1910

POINT OF DIVERSION: T14N R26E S06 SWNE Within Lemhi County
NESW
S07 NESW
NWSE

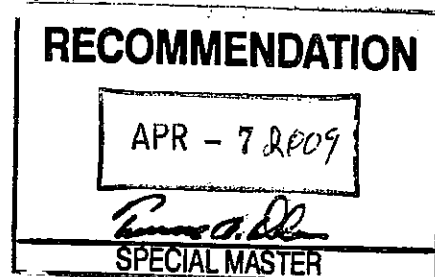
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	2.00 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
T14N R26E S05	SWNW 2.0	NWSW 5.0
	SWSW 1.4	
S06	SWNE 1.0	SENE 3.1
	NWSW 3.1	NESE 40.0
	NWSE 9.0	SWSE 7.0
	SESE 18.0	
89.6 Acres Total		

Place of use does not include federal public lands.
Right Nos. 74-56 and 74-15658 are limited to the irrigation of a
combined total of 89.6 in a single irrigation season.
This right is limited to the irrigation of 74 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

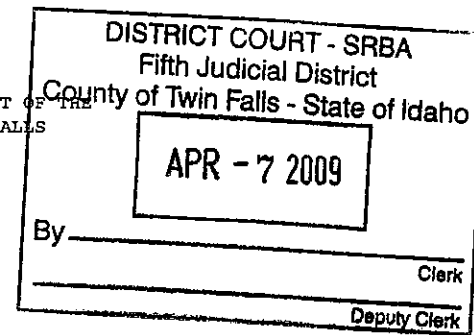
With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-01103



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

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.48 CFS

RIGHT NOS. 74-1103 AND 74-15660 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.48 CFS.

PRIORITY DATE: 11/19/1922

POINT OF DIVERSION: T14N R26E S05 SWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.48 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T14N R26E S05	NWNW 19.0
	S06	NENE 8.7
	T15N R26E S31	SESE 7.6
	S32	SWSW 2.6
	54.1 Acres Total	

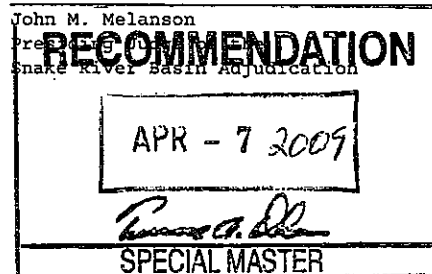
A PORTION OF THIS PROPERTY IS ALSO KNOWN AS HES 657.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 24 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LANDS.

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.



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

APR - 7 2009

By _____ Clerk
Deputy Clerk

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-15658

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

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER
UNNAMED STREAM TRIBUTARY: BIG TIMBER CREEK

QUANTITY: 0.45 CFS

RIGHT NOS. 74-56 AND 74-15658 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 2.00 CFS.

PRIORITY DATE: 12/31/1982

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED
AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS
BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION
42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR
RIGHT.

POINT OF DIVERSION: T14N R26E S06 SWNE Within Lemhi County
NESW
S07 NESW
NWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.45 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T14N R26E S05	SWNW 2.0 NWSW 5.0
	S06	SWSW 1.4 SWNE 1.0 NWSW 3.1 NWSE 9.0 SESE 18.0
		SENE 3.1 NESE 40.0 SWSE 7.0
	89.6 Acres Total	

PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LANDS AND IS
CONTAINED WITHIN HES 236.
RIGHT NOS. 74-15658 AND 74-56 ARE LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 89.6 ACRES IN A SINGLE IRRIGATION SEASON.

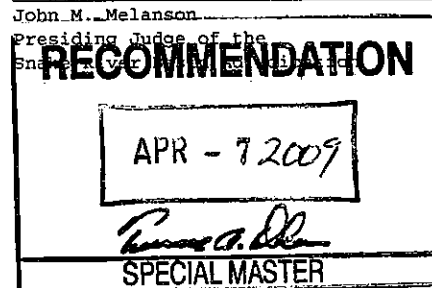
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 74-56
PURSUANT TO SECTION 42-1426, IDAHO CODE.

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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DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
APR - 7 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

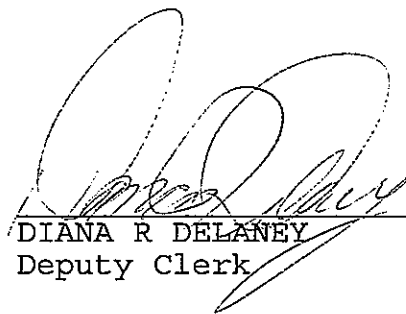
Water Right(s): 74-00056
74-00338B 74-01103 74-15658

On April 07, 2009, 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.

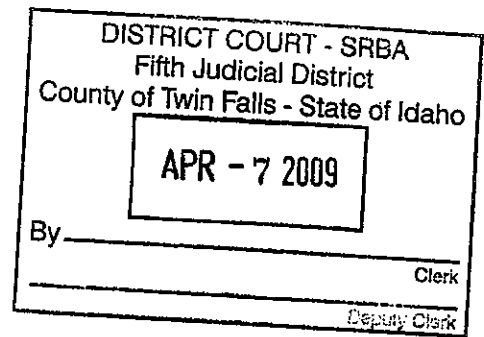
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 April 07, 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): 74-00056
74-00338B 74-01103 74-15658

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 April 07, 2009, 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

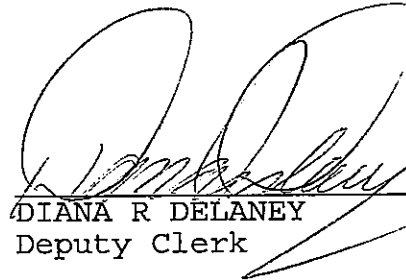
CERTIFICATE OF MAILING

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04/07/09

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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



DIANA R DELANEY
Deputy Clerk