

RECEIVED

JUN 16 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 15 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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION RE: MOTION
Case No. 39576	)	TO SET ASIDE PARTIAL DECREES
	)	
	)	FOR WATER RIGHTS 34-00230,
_____	)	34-00231, and 34-00232

I. FINDINGS OF FACT

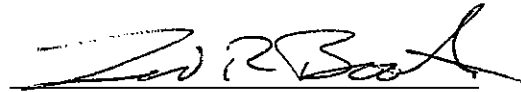
Partial Decrees were issued for the above-captioned water rights on December 29, 1997. On November 25, 2008, the current owner of these water rights, the John Lezamiz Family Limited Partnership, by and through its attorney Fritz X. Haemmerle, filed a *Motion to Set Aside Partial Decrees* pursuant to I.R.C.P. 60(a) and (b). A hearing on the *Motion* was held on February 10, 2009. Based upon the comments of the participants at the hearing, and upon the matters set forth in the *Affidavit of Fritz X. Haemmerle in Support of Motion to Set Aside Partial Decrees and to File Amended Claims*, this Special Master finds that the claimant has satisfied the criteria set forth in I.R.C.P. 60(b), and that the SRBA District Court should set aside the previously issued *Partial Decrees* and issue amended partial decrees as recommended herein. In anticipation of the issuance of amended partial decrees, *Amended Director's Reports* were filed by IDWR on April 1, 2009. Notice of the issuance of the *Amended Director's Reports* was published on the Court's docket sheet in May, 2009, with an objection period ending May 29, 2009. No objections were filed to the *Amended Director's Reports*, and the time for objecting has expired.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that the SRBA District Court issue amended partial decrees for water rights 34-00230, 34-00231, and 34-00232

with the elements as set forth in the attached *Recommendations for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated June 15, 2009



Theodore R. Booth
Special Master
Snake River Basin Adjudication

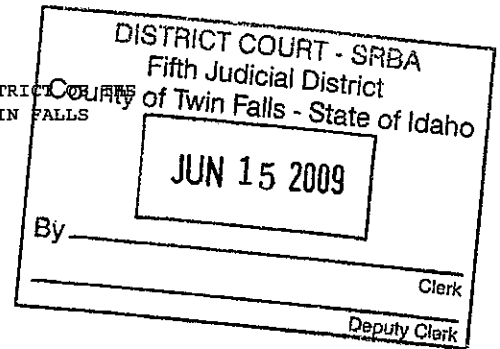
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

In Re SRBA)
Case No. 39576)
_____)

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

Water Right 34-00231



NAME AND ADDRESS: JOHN LEZAMIZ FAMILY
LTD PARTNERSHIP
PO BOX 389
TWIN FALLS, ID 83303-0389

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 2.70 CFS

THE RIGHTS LISTED BELOW ARE LIMITED TO A TOTAL COMBINED DIVERSION
RATE OF 5.90 CFS.
COMBINED RIGHT NOS.: 34-00230, 34-00231, 34-00232, 34-02275,
34-02350 AND 34-02418.

PRIORITY DATE: 06/01/1889

POINT OF DIVERSION: T07N R24E S34 NWNW Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-15	2.70 CFS

THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED
IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF
04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE
DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

PLACE OF USE:	Irrigation		Within Custer County
	T07N R25E S31	NENE 24.0	SWNE 40.0
		SENE 24.0	SENE 30.0
		NESE 37.0	
	155.0 Acres Total		

THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 155 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00230, 34-00231, 34-00232, 34-02275,
34-02350 AND 34-2418.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 135 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

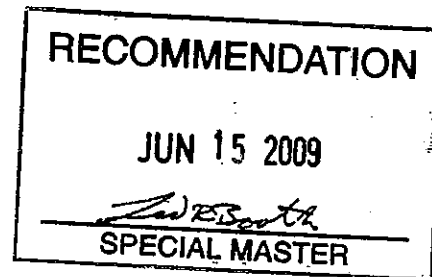
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

AMENDED

In Re SRBA)
Case No. 39576)

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

Water Right 34-00230

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

JUN 15 2009

By _____ Clerk

Deputy Clerk

NAME AND ADDRESS: JOHN LEZAMIZ FAMILY
LTD PARTNERSHIP
PO BOX 389
TWIN FALLS, ID 83303-0389

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 2.40 CFS

THE RIGHTS LISTED BELOW ARE LIMITED TO A TOTAL COMBINED DIVERSION
RATE OF 5.90 CFS.
COMBINED RIGHT NOS.: 34-00230, 34-00231, 34-00232, 34-02275,
34-02350 AND 34-02418.

PRIORITY DATE: 06/01/1895

POINT OF DIVERSION: T07N R24E S34 NWNW Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-15	2.40 CFS

THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED
IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF
04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE
DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

PLACE OF USE:	Irrigation	Within Custer County
	T07N R25E S31	
	NENE 24.0	SWNE 40.0
	SENE 24.0	SENE 30.0
	NESE 37.0	
	155.0 Acres Total	

THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 155 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00230, 34-00231, 34-00232, 34-02275,
34-02350 AND 34-2418.

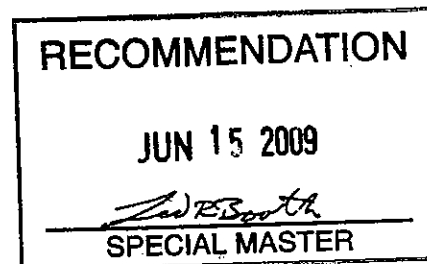
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
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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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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

AMENDED

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

JUN 15 2009

In Re SRBA)
)
Case No. 39576)
_____)

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

Water Right 34-00232

By _____ Clerk

Deputy Clerk

NAME AND ADDRESS: JOHN LEZAMIZ FAMILY
LTD PARTNERSHIP
PO BOX 389
TWIN FALLS, ID 83303-0389

SOURCE: CONGDON SPRINGS TRIBUTARY: CONGDON SPRINGS CREEK

QUANTITY: 0.80 CFS

THE RIGHTS LISTED BELOW ARE LIMITED TO A TOTAL COMBINED DIVERSION
RATE OF 5.90 CFS.
COMBINED RIGHT NOS.: 34-00230, 34-00231, 34-00232, 34-02275,
34-02350 AND 34-02418.

PRIORITY DATE: 06/01/1886

POINT OF DIVERSION: T07N R25E S31 NWNE Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-15	0.80 CFS

THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED
IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF
04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE
DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

PLACE OF USE:	Irrigation	Within Custer County
	T07N R25E S31	NENE 24.0 SWNE 40.0
		SENE 24.0 SENW 30.0
		NESE 37.0

155.0 Acres Total

THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 155 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00230, 34-00231, 34-00232, 34-02275,
34-02350 AND 34-2418.

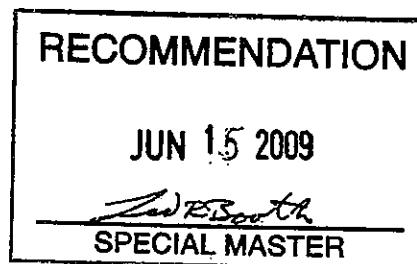
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 15 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

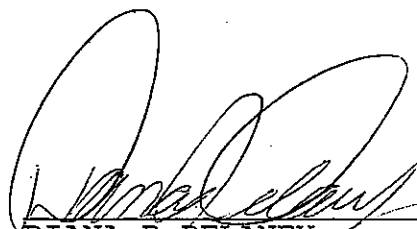
Water Right(s): 34-00230
34-00231 34-00232

On June 15, 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.

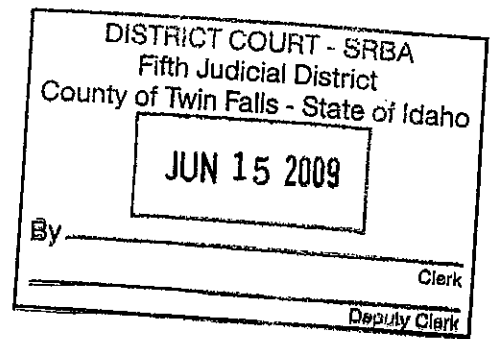
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 June 15, 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

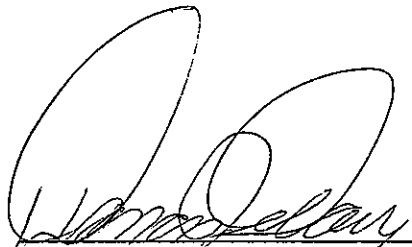
Water Right(s): 34-00230
34-00231 34-00232

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 June 15, 2009, with sufficient first-class postage prepaid to the following:

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

JOHN LEZAMIZ FAMILY
JOHN LEZAMIZ FAMILY LIMITED
Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333
Phone: 208-578-0520



DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
06/15/09

Idaho Department of Water Resources Receipt

Receipt ID: C088827

Payment Amount \$228.00 Date Received 6/16/09 12:50 Region STATE
Payment Type Check Check Number 6406
Payer HAEMMERLE & HAEMMERLE, P.L.L.C.

Comments Water Right #'s 34-00230, 34-00231, & 34-00232 for the John Lezamiz Family

Fee Details

Amount	Description	Fund	Fund Detail	PCA	Subobject
\$228.00	ADJUDICATION FILING FEE	0337		41503	1155

SR7

Signature Line (Department Representative)