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JUN 19 2009
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
JUN 18 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**
	)	
Case No. 39576	)	**FINDINGS OF FACT AND**
	)	**CONCLUSIONS OF LAW**
	)	
	)	**FOR WATER RIGHT 47-04358**
	)	

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 September 17, 2007, the Twin Falls Canal Company, through its attorney Paul L. Arrington, filed an objection to the *Director's Report*, asserting that a remark should be added clarifying that the source is wastewater. On May 28, 2009, the Twin Falls Canal Company withdrew its objection. Therefore there are no unresolved issues and this water right may be decreed as recommended in the *Director's Report*.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 47-04358 be **decreed** with the elements as set forth in the attached ***Recommendation for Partial Decrees Pursuant to I.R.C.P. 54(b).***

Dated June 18, 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
JUN 18 2009
By _____ Clerk
_____ Deputy Clerk

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
Case No. 39576) I.R.C.P. 54(b) FOR
) Water Right 47-04358

NAME AND ADDRESS: G W WARNER
2634 E 4000 N
TWIN FALLS, ID 83301

SOURCE: P COULEE TRIBUTARY: ROCK CREEK

QUANTITY: 0.13 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 03/15/1932

POINT OF DIVERSION: T10S R16E S01 SWSWSW Within Twin Falls County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-15 TO 11-15	0.11 CFS
Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Irrigation Within Twin Falls County
T10S R16E S01 SESW 3.5
3.5 Acres Total

Stockwater Within Twin Falls County
Same as Irrigation

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

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
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

RECOMMENDATION
JUN 18 2009
SPECIAL MASTER

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
JUN 18 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	NOTICE OF ISSUANCE OF SPECIAL MASTER'S RECOMMENDATION
Case No. 39576	
	Water Right(s): 47-04358

On June 18, 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 18, 2009.

DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
JUN 18 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)	CERTIFICATE OF MAILING
)	
Case No. 39576)	
)	Water Right(s): 47-04358

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 18, 2009, with sufficient first-class postage prepaid to the following:

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

TWIN FALLS CANAL COMPANY
Represented by:
BARKER, ROSHOLT & SIMPSON LLP
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

G W WARNER
2634 E 4000 N
TWIN FALLS, ID 83301
Phone: 208-736-0910

DIANA R DELANEY
Deputy Clerk