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JUN 26 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 25 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

) SPECIAL MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHTS 47-07090
) 47-07126, and 47-07127

I. FINDINGS OF FACT

Notices of claim were filed for the above-captioned water rights 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 these water rights.

On September 17, 2007, the Twin Falls Canal Company, through its attorney Paul L. Arrington, filed objections to the *Director's Report*, asserting that a remark should be added clarifying that the source is wastewater. On June 19, 2009 the parties filed a *Standard Form 5 – Stipulated Elements of a Water Right* in each of the subcases, which resolved the objections. The Idaho Department of Water Resources concurred with the stipulations.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Forms 5*, IT IS RECOMMENDED that water rights 47-07090, 47-07126, and 47-07127 be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P.*

54(b).

Dated

June 25, 2009

Theodore R. Booth

Theodore R. Booth
Special Master
Snake River Basin Adjudication

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

DISTRICT OF THE
TWIN FALLS

JUN 25 2009

By _____ Clerk

Deputy Clerk

By _____ Clerk

Deputy Clerk

John W. Melanson
Presiding Judge of the
Snake River District Court

RECOMMENDATION

JUN 25 2009

Lawrence Booth

SPECIAL MASTER

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 25 2009	
By _____	Clerk
Deputy Clerk	

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 47-07126

NAME AND ADDRESS: BARBARA BRUBAKER
JOHN BRUBAKER
JOHN M BRUBAKER
1113 E 3900 N
BUHL, ID 83316

SOURCE: GROUND WATER

QUANTITY: 16.02 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 16.02 CFS. COMBINED RIGHT NOS.: 47-7090,
47-7126 & 47-7127

PRIORITY DATE: 01/25/1972

POINT OF DIVERSION: T10S R14E S16 SESW Within Twin Falls County
SESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Fish Propagation	01-01 TO 12-31	16.02 CFS

PLACE OF USE: Fish Propagation Within Twin Falls County
T10S R14E S16 NWSW

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

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.

The operation, use and administration of this water right is subject to the terms and conditions of the agreement with Twin Falls Canal Company recorded in the Twin Falls County Recorders Office as Instrument No. 231297.

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. Melander Presiding Judge of the Snake River Basin Adjudication
RECOMMENDATION
JUN 25 2009
<i>Lawrence Booth</i>
SPECIAL MASTER

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

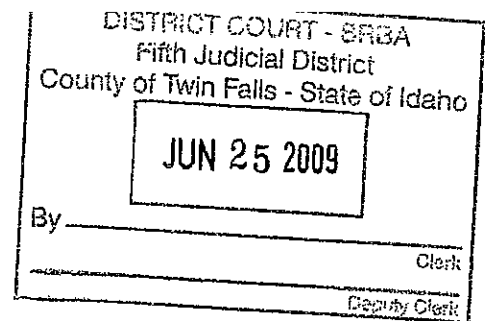
JUN 25 2009

By _____ Clerk

Deputy Clerk

Water Right 47-07127

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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): 47-07090
47-07126 47-07127

On June 25, 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.

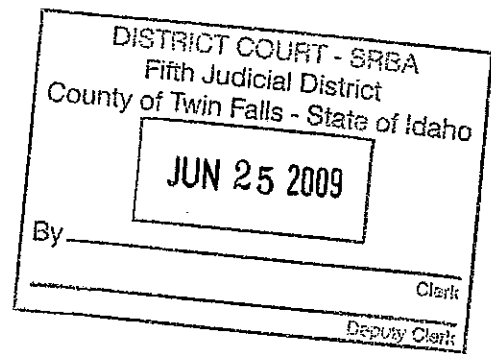
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 25, 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): 47-07090
47-07126 47-07127

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 25, 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

CERTIFICATE OF MAILING

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BARBARA BRUBAKER
JOHN BRUBAKER
JOHN M BRUBAKER
1113 E 3900 N
BUHL, ID 83316
Phone: 208-543-6917



DIANA B. DELANEY
Deputy Clerk