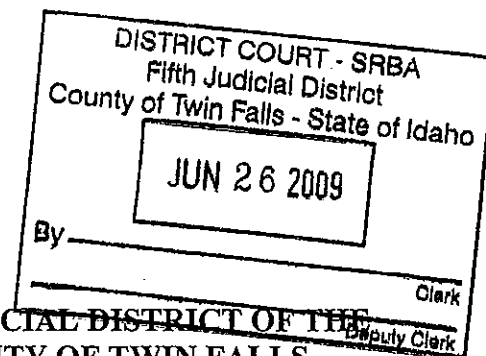


RECEIVED

JUN 29 2009

DEPARTMENT OF  
WATER RESOURCES



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 RIGHT 47-07660

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 June 19, 2009, the parties filed a *Standard Form 5 - Stipulated Elements of a Water Right* which resolved the objection. The Idaho Department of Water Resources concurred with the stipulation.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right 47-07660 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

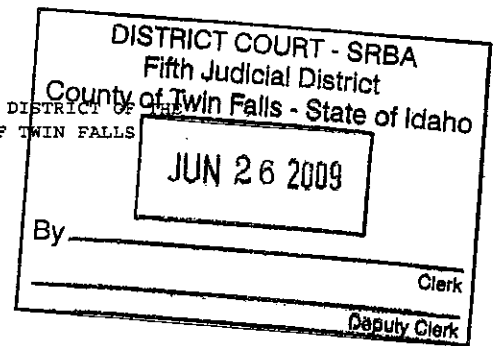
Dated

*June 26, 2009*

A handwritten signature in black ink, appearing to read "Theodore R. Booth".

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 47-07660

NAME AND ADDRESS: PIGEON COVE POWER CO LLC  
C/O DALE TUNIPSEED  
2231 SETTLERS LN  
TWIN FALLS, ID 83301

SOURCE: LQ COULEE TRIBUTARY: SNAKE RIVER  
LS COULEE TRIBUTARY: SNAKE RIVER

QUANTITY: 65.00 CFS

PRIORITY DATE: 01/07/1981

The water right confirmed in this partial decree for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority date set forth herein and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than such priority date.

POINT OF DIVERSION: T09S R16E S21 LOT 2 (NWNE ) Within Twin Falls County  
NWNW

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY  |
|----------------------------|----------------|----------------|-----------|
|                            | Power          | 01-01 TO 12-31 | 65.00 CFS |

Power generation is at the Pigeon Cove Power Plant.

PLACE OF USE: Power Within Twin Falls County  
T09S R16E S16 LOT 5 (SWSW)

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

Use of water under this right shall be non-consumptive. This right shall be subject to future operation so that use of water under this right will not conflict or interfere with the future upstream diversion of water for irrigation or other beneficial consumption.

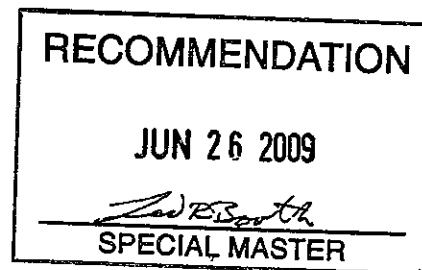
The source of this water right is waste water. The wasting of water may be discontinued at any time.

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



|                                                                                           |       |
|-------------------------------------------------------------------------------------------|-------|
| DISTRICT COURT - SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |       |
| JUN 26 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

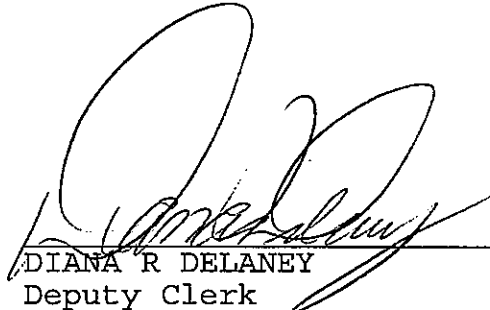
Water Right(s): 47-07660

On June 26, 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 26, 2009.

  
\_\_\_\_\_  
DIANA R DELANEY  
Deputy Clerk

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

JUN 26 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 )  
 )

CERTIFICATE OF MAILING

Water Right(s) : 47-07660

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 26, 2009, with sufficient first-class postage prepaid to the following:

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

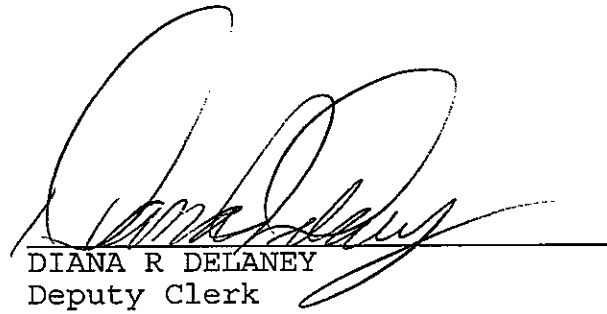
TWIN FALLS CANAL COMPANY  
Represented by:  
BARKER, ROSHOLT & SIMPSON LLP  
113 MAIN AVE W, STE 303  
PO BOX 485  
TWIN FALLS, ID 83303-0485  
Phone: 208-733-0700

PIGEON COVE POWER CO LLC  
C/O DALE TUNIPSEED  
2231 SETTLERS LN  
TWIN FALLS, ID 83301

CERTIFICATE OF MAILING

PAGE 1  
06/26/09

PIGEON COVER POWER CO LLC  
C/O DALE TURNIPSEED  
2231 SETTLERS LN  
TWIN FALLS, ID 83301  
Phone: 208-944-4253



DIANA R DELANEY  
Deputy Clerk