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JUL 23 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUL 22 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

) Subcases 73-4 (73-12124 & 73-12125)
) (Five E Group LLLP & Stennett)
)
) SPECIAL MASTER REPORT
) AND RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, Reporting Area 23, Basin 73* on January 25, 2007. The Director recommended claim 73-4 to Berend and Carla Friehe for 2.4 cfs to irrigate 120 acres in Custer County from April 1 to October 31 with a priority date of April 18, 1905, based on a decree.

On October 9, 2007, IDWR filed a *Notice of Completed Administrative Proceeding* splitting 73-4 into 73-12124 (Five E Group LLLP, 3094 S. Abigail Way, Boise, Idaho, 83706) and 73-12125 (W. Clinton Stennett, P.O. Box 475, Ketchum, Idaho, 83340). IDWR filed a second *NCAP* on April 8, 2009, in 73-12124 for a transfer in place of use

The United States of America, Department of Interior, Bureau of Land Management filed an *Objection* on May 28, 2009, in 73-12124 objecting to place of use. On July 6, 2009, the Five E Group and the United States, with IDWR's concurrence, filed a *Standard Form 5* in 73-12124 agreeing to delete a quantity remark, amend remarks under other provisions and include the remark: "Place of use does not include federal public lands." No one objected to IDWR's recommendation of 73-12125 in the October 9, 2007 *NCAP*.

Conclusions of Law

1. The Five E Group is entitled to a partial decree adjudicating a water right as described in the *SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 73-12124*;
2. Mr. Stennett is entitled to a partial decree adjudicating a water right as described in the October 9, 2007 *NCAP* and the attached *Special Master Recommendation for Partial Decree for Water Right 73-12125*; and
3. The parties are **not** entitled to a partial decree for claim 73-4 because of the split.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 73-4 be **disallowed**.

DATED July 22, 2009.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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

JUL 22 2009

By _____

Clerk
Deputy Clerk

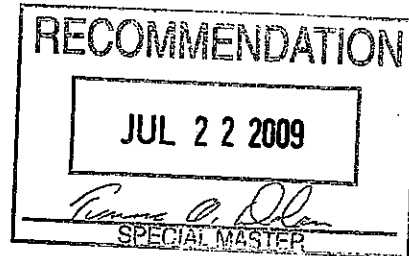
Water Right 73-12124

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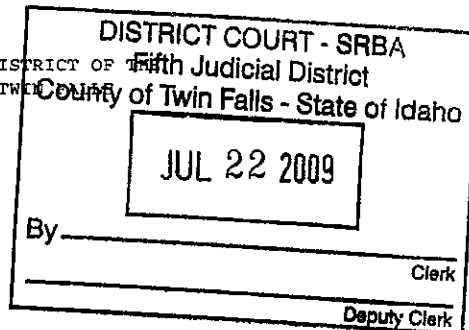
RULE 54(b) CERTIFICATE

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 73-12125

NAME AND ADDRESS: W CLINTON STENNETT
PO BOX 475
KETCHUM, ID 83340

SOURCE: GOLDBURG CREEK TRIBUTARY: PAHSIMEROI RIVER

QUANTITY: 0.80 CFS

PRIORITY DATE: 04/18/1905

POINT OF DIVERSION: T12N R24E S05 LOT 7 (SWSW) Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation		04-01 TO 10-31	0.80 CFS

PLACE OF USE:	Irrigation	Within Custer County
	T13N R23E S34	NWSW 20.0
	40.0 Acres Total	SWSW 20.0

Right Nos. 73-12125, 73-12130, and 73-12138 are limited to the
irrigation of a combined total of 82.4 acres in a single
irrigation season.

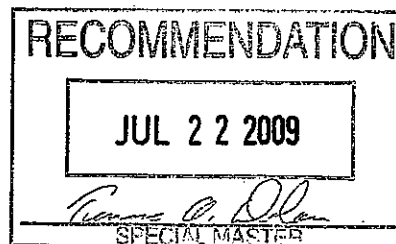
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

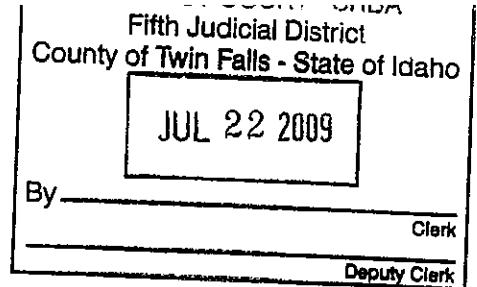
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

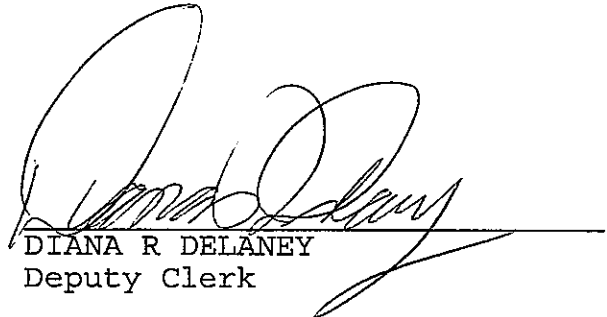
Water Right(s): 73-00004
73-12124 73-12125

On July 22, 2009, Special Master 00000
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 July 22, 2009.


DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JUL 22 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): 73-00004

73-12124 73-12125

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 July 22, 2009, with sufficient first-class postage prepaid to the following:

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

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

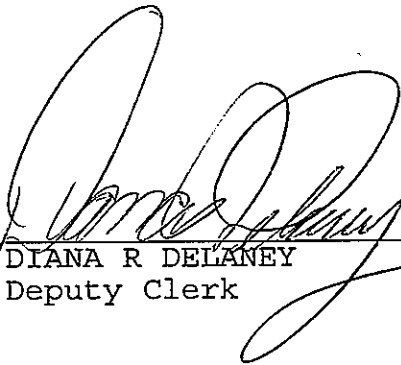
W CLINTON STENNETT
PO BOX 475
KETCHUM, ID 83340

CERTIFICATE OF MAILING

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BEREND FRIEHE
CARLA FRIEHE
2498 RD S NE
MOSES LAKE, WA 98837
Phone: 208-756-4584

FIVE E GROUP LLLP
3094 S ABIGAIL WAY
BOISE, ID 83706



DIANA R DELANEY
Deputy Clerk