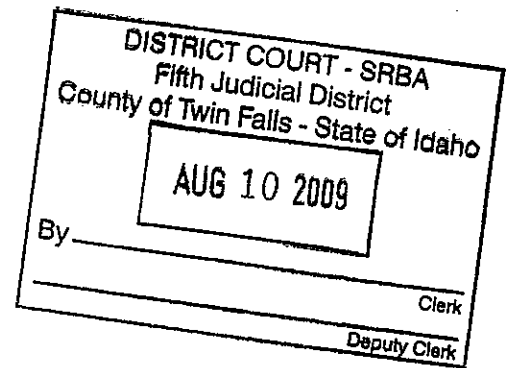


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AUG 11 2009

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 47-04288
)

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 14, 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. An *Order to Show Cause* (OTSC) was issued on June 18, 2009, based upon the claimants failure to appear at the June 15, 2009, initial hearing. A hearing on the OTSC was held on July 28, 2009, and again the claimant failed to appear. Pursuant to the terms of the OTSC, the objection is **granted**, resulting in the inclusion of a wastewater remark.

II. CONCLUSIONS OF LAW

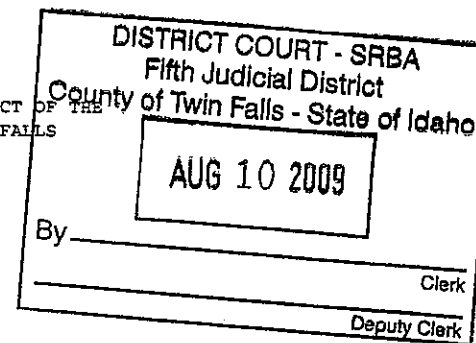
Therefore based on the file and record herein, IT IS RECOMMENDED that water right 47-04288 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

Dated Aug 10, 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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 47-04288



NAME AND ADDRESS: AVELARS DAIRY
3835 N 1300 E
BUHL, ID 83316

SOURCE: UNNAMED STREAM TRIBUTARY: CEDAR DRAW CREEK

The source of this right is waste water originally diverted
by Twin Falls Canal Company. The wasting of water may be
discontinued at any time.

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 01/01/1920

POINT OF DIVERSION: T10S R15E S01 SWSWNW (Instream Ending Point) Within Twin Falls County
SWNWSW (Instream Beginning Point)

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE:	Stockwater		Within Twin Falls County
	T10S R15E S01	SWNW	NWSW

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

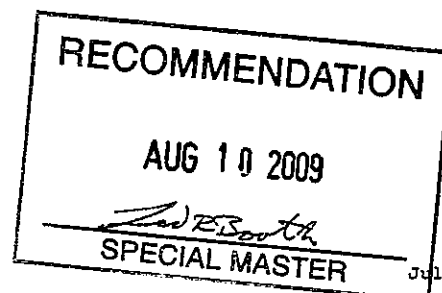
The quantity of water decreed for this water right is not a
determination of historical beneficial use.

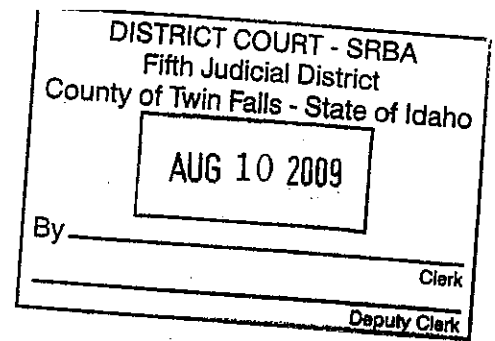
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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

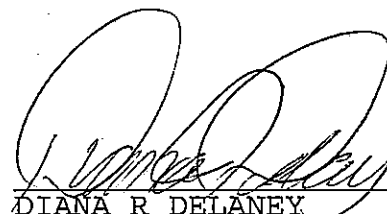
Water Right(s): 47-04288

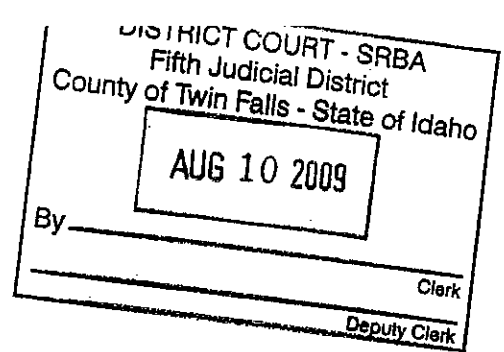
On August 10, 2009, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 August 10, 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)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 47-04288

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 August 10, 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

AVELARS DAIRY
3835 N 1300 E
BUHL, ID 83316
Phone: 208-543-4441

CERTIFICATE OF MAILING

A handwritten signature in black ink, appearing to read "Diana R. Delaney".

DIANA R DELANEY
Deputy Clerk

PAGE 1
08/10/09