

RECEIVED
SEP 08 2009
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - 5th	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
SEP - 4 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	) Subcase 63-20931
	)
Case No. 39576	) SPECIAL MASTER'S REPORT AND
	) RECOMMENDATION RE: MOTION
	) TO SET ASIDE FINAL ORDER
_____	) DISALLOWING WATER RIGHT
	CLAIM

I. FINDINGS OF FACT

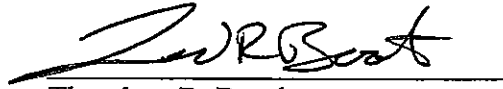
A *Final Order Disallowing Water Right Claims* was issued for water right 63-20931 on March 19, 2009. On March 25, 2009, the claimants of the right, Howard and Shirley Easter, filed correspondence with the Court seeking to have the disallowance of their water right claim set aside. Hearings on the Easter's motion were held on June 2, 2009, and again on July 28, 2009. Based upon the comments of the participants at the hearing this Special Master finds that the claimants have satisfied the criteria set forth in I.R.C.P. 60(b), for the reasons of mistake and excusable neglect and that the SRBA District Court should set aside the previously issued *Partial Decree* and issue an amended partial decree as recommended herein. In anticipation of the issuance of an amended partial decree, an *Amended Director's Report* was filed by IDWR on July 30, 2009. Notice of the issuance of the *Amended Director's Report* was published on the Court's docket sheet in August, 2009, with an objection period ending August 28, 2009. No objections were filed to the *Amended Director's Report*, and the time for objecting has expired.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that the SRBA District Court set aside the previously issued *Final Order Disallowing Water Right Claims* as to

this water right claim, and issue a partial decree for water right 63-20931 with the elements as set forth in the attached *Recommendations for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Sept. 4, 2009

A handwritten signature in black ink, appearing to read 'T.R. Booth', written over a horizontal line.

Theodore R. Booth
Special Master
Snake River Basin Adjudication

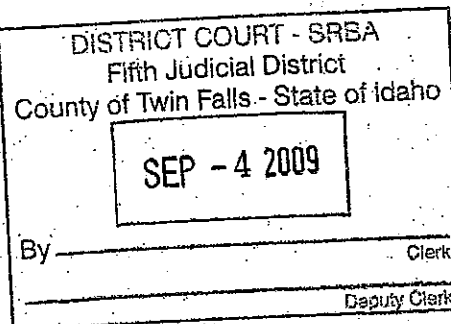
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-20931



NAME AND ADDRESS:

HOWARD EASTER
SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA, ID 83686

SOURCE:

UNNAMED DRAIN TRIBUTARY: INDIAN CREEK

QUANTITY:

0.04 CFS

PRIORITY DATE:

03/15/1967

POINT OF DIVERSION:

T02N R02W S12 SENE Within Canyon County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
03-15 TO 11-15

QUANTITY
0.04 CFS

PLACE OF USE:

Irrigation
T02N R02W S12 SENE 2.0
2.0 Acres Total Within Canyon County

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

The source of this water right includes waste water. The 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

SEP - 4 2009

Law B. Booth
SPECIAL MASTER

County of Twin Falls - State of Idaho

SEP - 4 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

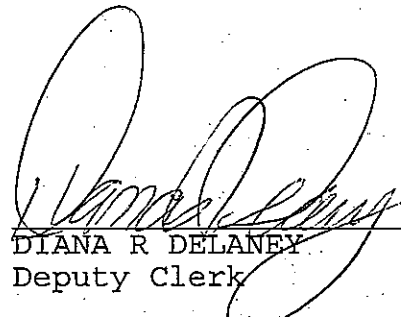
Water Right(s): 63-20931

On September 04, 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.

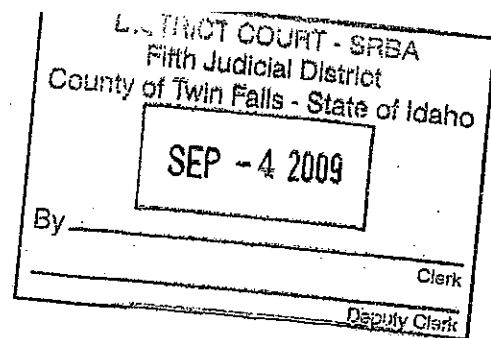
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 September 04, 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

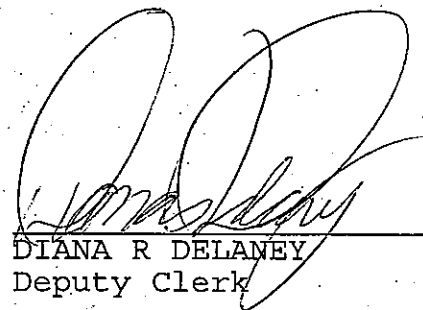
Water Right(s): 63-20931

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 September 04, 2009, with sufficient first-class postage prepaid to the following:

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

HOWARD EASTER
SHIRLEY EASTER
4309 HAPPY VALLEY RD
NAMPA, ID 83686
Phone: 208-466-8430



DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
09/04/09