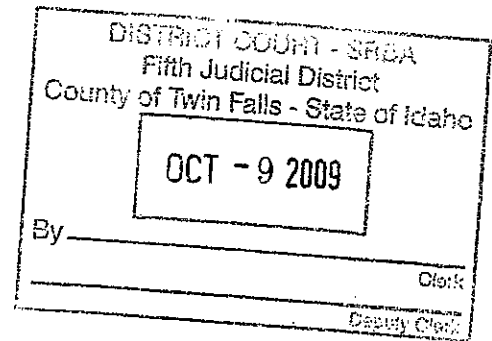


RECEIVED
OCT 15 2009
DEPARTMENT OF
WATER RESOURCES



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) Subcases 75-13718, 75-14620, 75-14621, 75-
Case No. 39576) 14622 and 75-14623
) (Sopatyk)
)
) 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 75* on January 11, 2007. The Director recommended claim 75-13718 to Brian Sopatyk, 913 S. Latah, Boise, Idaho, 83705, for 1.72 cfs from Anderson Creek and Dahlonga Creek for year-'round stockwater use in Lemhi County with a priority date of April 24, 1897, based on beneficial use.

Between September 6 and October 17, 2007, Kim E. Hammitt, Wayne and Julia Randolph, Ira D. Taylor, Maurice Usher, Jordan J. Stover, Toby A. Friedman, Wanda S. Usher, Bob Rowe and Janet Bloemeke filed *Objections* objecting to source, priority date, quantity, point of diversion, purpose of use and period of year and alleging the water right should not exist. Doug and Brenda Gupton lodged a late *Objection* on November 19, 2007, and Lorna L. Anderson lodged her late *Objection* on September 26, 2008.

Mr. Sopatyk was granted leave to amend his claim 75-13718 on February 11, 2009, adding .13 cfs for year-'round domestic use, "15 residences." The Guptons filed an *Objection* the same date objecting to quantity and purpose of use. On September 26, 2008, Ms. Anderson lodged a late *Objection* objecting to quantity and period of year.

IDWR filed an *Amended Director's Report, Subcase No. 75-13718* on February 26, 2009, recommending the claim be disallowed: "Recommended as right no. 75-4041." Mr. Sopatyk filed his *Objection* to the *Amended Director's Report* on March 31, 2009. On September 29,

2009, Mr. Sopatyk and the objectors, with IDWR's concurrence, filed *Standard Forms 5* agreeing to split 75-13718 into 75-14620, 75-14621, 75-14622 and 75-14623.

Conclusions of Law

1. Mr. Sopatyk is entitled to partial decrees adjudicating water rights as described in the *SF-5s* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 75-14620, 75-14621, 75-14622 and 75-14623*; and
2. Mr. Sopatyk is **not** entitled to a water right for claim 75-13718 because the claim has been split.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 75-13718 be **disallowed**.

DATED October 9, 2009



TERRENCE A. DOLAN
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

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

OCT - 9 2009

By _____
Clerk
Deputy Clerk

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 75-14620

NAME AND ADDRESS: BRIAN SOPATYK
913 S LATAH
BOISE, ID 83705

SOURCE: ANDERSON CREEK TRIBUTARY: DAHLONEGA CREEK

QUANTITY: 0.03 CFS

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

PRIORITY DATE: 05/04/1927

POINT OF DIVERSION: T26N R21E S25 SENW Within Lemhi County
NESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.03 CFS

Domestic use is for 1 home and up to one-half (1/2) acre of lawn
and garden irrigation.

PLACE OF USE: Domestic Within Lemhi County
T26N R21E S25 NESW

Place of use does not include federal public lands.

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

RECOMMENDATION

OCT - 9 2009

Thomas A. Olson
SPECIAL MASTER

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 75-14621

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

OCT - 8 2009

By _____ Clerk

Deputy Clerk

NAME AND ADDRESS: BRIAN SOPATYK
913 S LATAH
BOISE, ID 83705

SOURCE: ANDERSON CREEK TRIBUTARY: DAHLONEGA CREEK

QUANTITY: 0.03 CFS

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

PRIORITY DATE: 05/04/1927

POINT OF DIVERSION: T26N R21E S13 SENW Within Lemhi County
NESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.03 CFS

Domestic use is for 1 home and up to one-half (1/2) acre of lawn and garden irrigation.

PLACE OF USE: Domestic T26N R21E S25 Within Lemhi County
NESW

Place of use does not include federal public lands.

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.

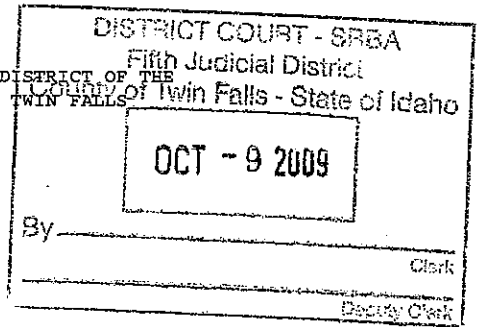
John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

OCT - 9 2009

Thomas A. Olson
SPECIAL MASTER

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 75-14622

NAME AND ADDRESS: BRIAN SOPATYK
913 S LATAH
BOISE, ID 83705

SOURCE: ANDERSON CREEK TRIBUTARY: DAHLONEGA CREEK

QUANTITY: 0.03 CFS

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

PRIORITY DATE: 05/04/1927

POINT OF DIVERSION: T26N R21E S13 SENW Within Lemhi County
NESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.03 CFS

Domestic use is for 1 home and up to one-half (1/2) acre of lawn
and garden irrigation.

PLACE OF USE: Domestic T26N R21E S25 Within Lemhi County
NESW

Place of use does not include federal public lands.

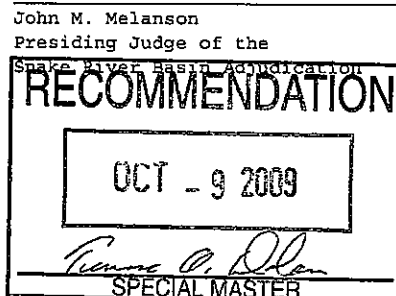
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ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

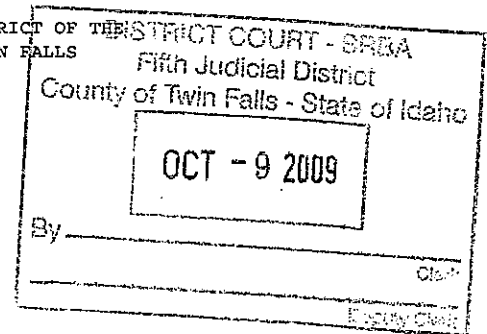
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 75-14623



NAME AND ADDRESS: BRIAN SOPATYK
913 S LATAH
BOISE, ID 83705

SOURCE: ANDERSON CREEK TRIBUTARY: DAHLONEGA CREEK

QUANTITY: 0.03 CFS

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

PRIORITY DATE: 05/04/1927

POINT OF DIVERSION: T26N R21E S13 SENW Within Lemhi County
NESW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.03 CFS

Domestic use is for 1 home and up to one-half (1/2) acre of lawn
and garden irrigation.

PLACE OF USE: Domestic Within Lemhi County
T26N R21E S25 NESW

Place of use does not include federal public lands.

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

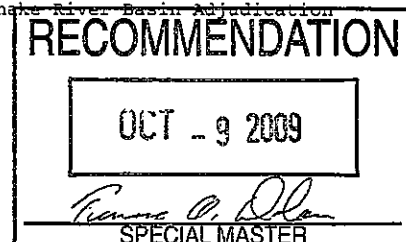
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determination of historical beneficial use.

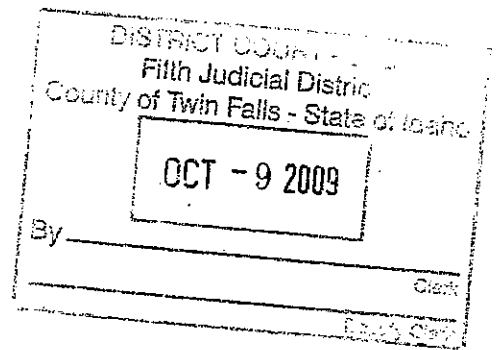
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judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

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

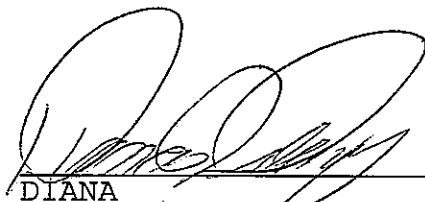
Water Right(s) : 75-13718
75-14620 75-14621 75-14623
75-14623

On October 09, 2009, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

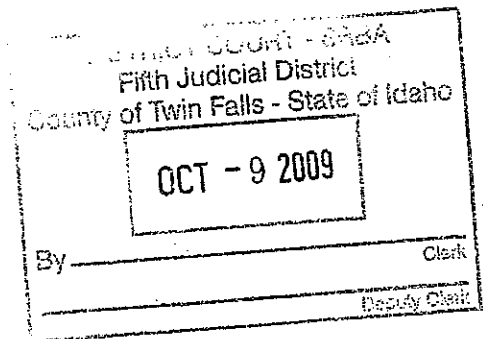
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 October 09, 2009.



DIANA
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): 75-13718
75-14620 75-14621 75-14622
75-14623

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 October 09, 2009, with sufficient first-class postage prepaid to the following:

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

BRIAN SOPATYK
Represented by:
BRUCE M. SMITH
950 W BANNOCK STE 520
BOISE, ID 83702
Phone: 208-331-1800

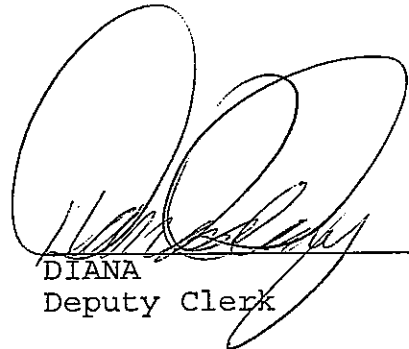
CERTIFICATE OF MAILING

PAGE 1
10/09/09

BOB ROWE
DOUG & BRENDA GUPTON
GIBBONSVILLE IMPROVEMENT ASSN
IRA D TAYLOR
JANET BLOEMEKE
JORDAN J STOVER
JORDAN STOVER
JULIA RANDOPH
KIM E HAMMITT
LORNA L ANDERSON
MAURICE USHER
TOBY A FRIEDMAN
WANDA SUE USHER

Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

BRIAN SOPATYK
913 S LATAH
BOISE, ID 83705



DIANA
Deputy Clerk