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NOV 17 2009

DEPARTMENT OF
WATER RESOURCES

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

NOV 16 2009

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

By

Clerk

Deputy Clerk

In Re SRBA

) SPECIAL MASTER'S REPORT

Case No. 39576

) FINDINGS OF FACT AND

) CONCLUSIONS OF LAW

) FOR WATER RIGHT 47-04136

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 the source should be described as wastewater. On October 16, 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 47-04136 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated November 16, 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)
Case No. 39576)

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

Water Right 47-04136

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

NOV 16 2009

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: PEGGY A ARMSTRONG
4297 N 1325 E
BUHL, ID 83316-5263

SOURCE: UNNAMED STREAM TRIBUTARY: CLEAR CREEK

QUANTITY: 0.11 CFS

PRIORITY DATE: 05/12/1929

POINT OF DIVERSION: T09S R14E S27 NENESE Within Twin Falls County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.11 CFS

PLACE OF USE:	Irrigation	Within Twin Falls County
	T09S R14E S27 NENE 0.6	SENE 3.1
	3.7 Acres Total	

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

The operation, use and administration of this water right is subject to the terms and conditions of the agreement with Twin Falls Canal Company recorded in the Twin Falls County Recorders Office as Instrument No. 759604.

The source of this water right includes 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.

RECOMMENDATION

NOV 16 2009

David R. Booth
SPECIAL MASTER

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

NOV 16 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): 47-04136

On November 16, 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 November 16, 2009.


JULIE MURPHY
Deputy Clerk

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
NOV 16 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): 47-04136

CERTIFICATE OF MAILING

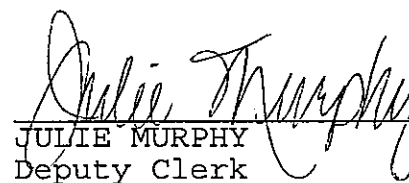
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on November 16, 2009, with sufficient first-class postage prepaid to the following:

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

TWIN FALLS CANAL COMPANY
Represented by:
PAUL L ARRINGTON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

PEGGY A ARMSTRONG
4297 N 1325 E
BUHL, ID 83316-5263
Phone: 208-543-4283

CERTIFICATE OF MAILING


JULIE MURPHY
Deputy Clerk

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11/16/09