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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

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

) SPECIAL MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 78-07243A

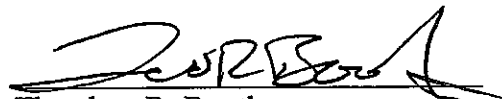
A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On May 7, 2007, an objection was filed by Douglas H. Boggan, asserting that the water right should not exist. On May 29, 2008, an *Amended Director's Report* was filed by IDWR. Pursuant to the *Order Requesting Amended Director's Report and Order Setting Objection Deadline*, any party to the subcase who disagreed with the *Amended Director's Report* was required to file new a objection thereto. On June 27, 2008, the claimants of the water right, Angel and Cheryl Montalbo, filed an objection to the *Amended Director's Report* objecting to the place of use. On September 18, 2009, IDWR filed a *Notice of Completed Administrative Proceeding* which resolved the objection.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 78-07243A 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



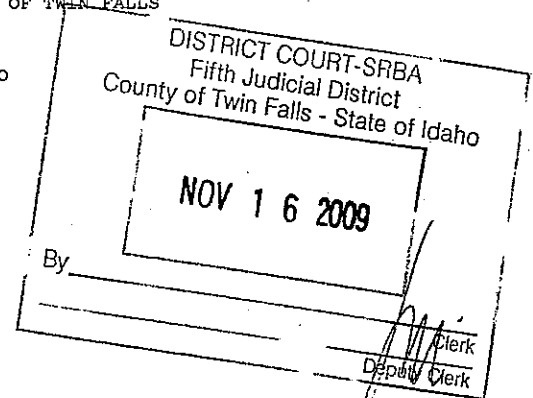
Theodore R. Booth
Special Master
Snake River Basin Adjudication

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 78-07243A



NAME AND ADDRESS: ANGEL M MONTALBO
CHERYL A MONTALBO
5930 HOLLILYNN DRIVE
BOISE, ID 83709

SOURCE: ALUM CREEK SPRING TRIBUTARY: ALUM CREEK

QUANTITY: 0.04 CFS
1.20 APY

RIGHTS 78-7243A, 78-7243B AND 78-7375 WHEN COMBINED SHALL NOT
EXCEED A TOTAL DIVERSION RATE OF 0.04 CFS.

PRIORITY DATE: 05/30/1983

POINT OF DIVERSION: T24N R01E S32 NENE Within Idaho County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.04 CFS 1.20 APY

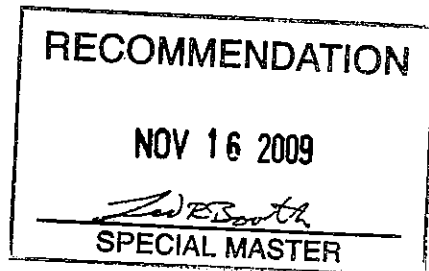
PLACE OF USE: Domestic Within Idaho County
T24N R01E S33 SWNW

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

NOV 16 2009

By

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

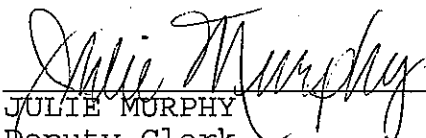
Water Right(s): 78-07243A

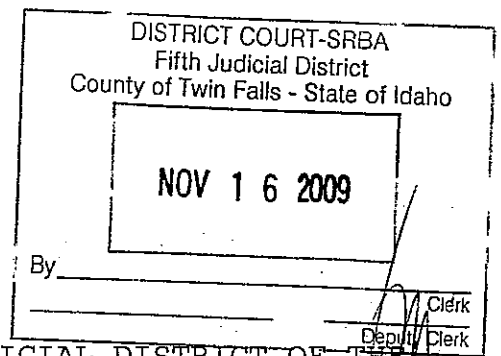
On November 16, 2009, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (A01), Section 13a.

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



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): 78-07243A

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:

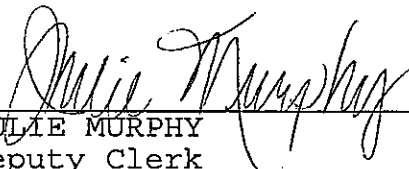
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

ANGEL M MONTALBO
2323 S PACIFIC ST
BOISE, ID 83705
Phone: 208-409-6064

ANGEL M MONTALBO
CHERYL A MONTALBO
5930 HOLLILYNN DRIVE
BOISE, ID 83709

DOUGLAS H BOGGAN
7261 HWY 95 S
RIGGINS, ID 83549
Phone: 208-628-3567

CERTIFICATE OF MAILING

 PAGE 1
JULIE MURPHY 11/16/09
Deputy Clerk