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DEC 03 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
DEC - 2 2009
By _____ Clark
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) SPECIAL MASTER'S REPORT
Case No. 39576)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 36-16490
)
) RECOMMENDATION OF
) DISALLOWANCE FOR 36-16491

I. FINDINGS OF FACT

On May 29, 2009, the Idaho Department of Water Resources (IDWR) filed an *Amended Director's Report* for water right claim 36-16490. No objections were filed to the *Amended Director's Report* and the time for filing objections has expired. Accordingly there are no unresolved objections regarding water right 36-16490.

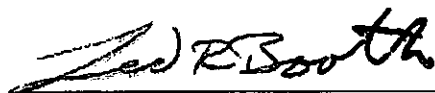
Regarding related subcase 36-16491, this water right claim was recommended disallowed in the *Late Claims Director's Report* filed November 18, 2008, for the reason that the water use was recommended under water right number 36-16490. On January 28, 2009, the claimant of both these water rights, Scott Earle, sought to file late objections to the recommendations contained in the *Late Claims Director's Report*. At the hearing on the motion to file late objections, it was determined by the parties and IDWR that an amendment to the claim for water right 36-16490 would resolve the claimants issues with both of these claims, and therefore the late objections were determined to be moot. As stated above, an *Amended Director's Report* was filed for water right 36-16490 pursuant to said amended claim.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 36-16490 be decreed with the elements as set forth in the attached *Recommendation for Partial*

Decree Pursuant to I.R.C.P. 54(b). IT IS FURTHER RECOMMENDED that the SRBA District Court enter a final order disallowing water right claim 36-16491, with prejudice.

Dated DEC. 2, 2009

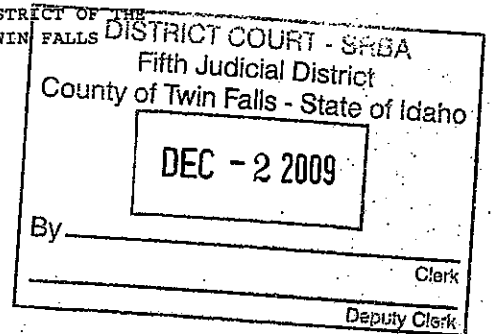
A handwritten signature in black ink, appearing to read "Theodore R. Booth", written over a horizontal line.

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 36-16490



NAME AND ADDRESS: PAMELA R SMITH
SCOTT A EARLE
1127 E 2900 S
HAGERMAN, ID 83332

SOURCE: SPRING TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.04 CFS

PRIORITY DATE: 04/01/1886

POINT OF DIVERSION: T07S R14E S31 NENENW Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation		02-15 TO 11-30	0.02 CFS
Domestic		01-01 TO 12-31	0.04 CFS

PLACE OF USE: Irrigation Within Gooding County
T07S R14E S31 LOT 1 (NWNW) 1.2
1.2 Acres Total

Domestic Within Gooding County
T07S R14E S31 LOT 1 (NWNW)

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

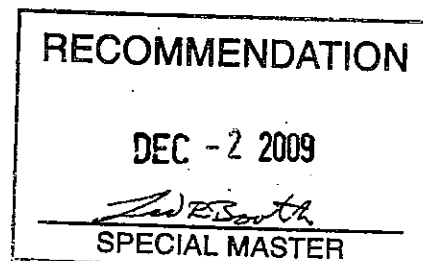
The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.

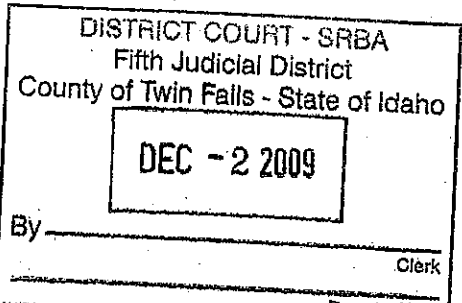
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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

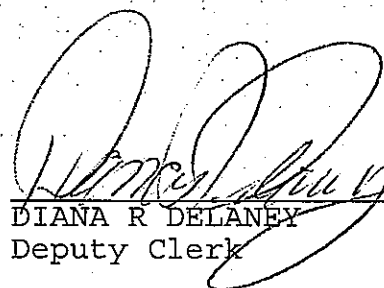
Water Right(s): 36-16490
36-16491

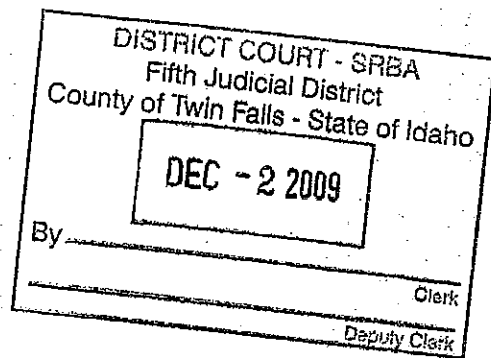
On December 02, 2009, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 December 02, 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

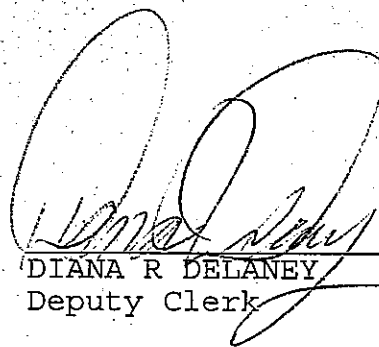
Water Right(s) : 36-16490
36-16491

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 December 02, 2009, with sufficient first-class postage prepaid to the following:

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

PAMELA R. SMITH
SCOTT A. EARLE
1127 E 2900 S
HAGERMAN, ID 83332



DIANA R. DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

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12/02/09