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DEC 08 2009
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
DEC - 7 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	) Subcases:
	) <u>Fed. Res. / State Law</u>
Case No. 39576	) 75-11205 / 75-14613
	) 75-11212 / 75-14602
	) 75-13802 / 75-14603
	) 75-14379 / 75-14604
	) 75-14449 / 75-14605
	) (USDA / FS)
	)
	)
_____	) SPECIAL MASTER REPORT

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 reported claims 75-11205, 75-11212, 75-13802, 75-14379 and 75-14449, filed by the United States of America, Department of Agriculture, Forest Service, 550 W. Fort Street, MSC 033, Boise, Idaho, 83724, for .06 cfs, .03 cfs, .08 cfs, .05 cfs and .1 cfs from Upper Dummy Creek Spring, North Fork of the Salmon River, Panther Creek, Lower Dummy Creek Spring and Sheep Creek for year-'round administrative and irrigation uses or administrative use from March 1 or May 1 to November 30 in the Salmon-Challis National Forest all with a priority date of November 5, 1906, reserved under federal law. The State of Idaho filed *Objections* on October 15, 2007, objecting to all elements and alleging the water rights should not exist.

On May 7 and 12, 2009, the United States lodged *Affidavits* by Kimberly D. Nelson, District Ranger on the Salmon Cobalt Ranger District of the Salmon-Challis National Forest, Steven M. Spencer, water use specialist for the Forest Service in the SRBA and Russell M. Bacon, District Ranger on the North Fork Ranger District of the Salmon-Challis National Forest.

The affiants stated: 1) the lands upon which the reserved water rights are located, including both the points of diversion and places of use were first reserved as the Salmon River Forest Reserve by *Proclamation* signed November 5, 1906, by President Theodore Roosevelt; 2) the lands are within the federally reserved National Forest System, now part of the Salmon-Challis National Forest; 3) the locations of the sources, points of diversion and places of use described in the claims are true and correct; 4) the claims are necessary for the administration of the National Forest pursuant to the Organic Administrative Act of 1897, 16 U.S.C. § 475 *et seq.*, for the purposes of securing favorable conditions of water flow and to furnish a continuous supply of timber; and 5) the claimed water sources and amounts were confirmed by field investigation and historical records.

On November 25, 2009, the United States and the State filed a *Stipulation to Resolve Objections* in subcases 75-11205, 75-11212, 75-13802, 75-14379 and 75-14449 “to settle this dispute through the issuance of two separate decrees under state and federal law for each water use claimed at the administrative sites, with the use in conjunction under both decrees limited to the quantity necessary for the administrative site.” Attached to the *Stipulation* were proposed descriptions of the five federal law based claims along with the corresponding five state law based beneficial use claims (see list of subcases above).

On December 3, 2009, an I.C. § 42-1411A evidentiary hearing was held by telephone. David L. Negri appeared for the United States, along with Mr. Spencer; Shasta Kilminster-Hadley appeared for the State; and Garrick L. Baxter appeared for IDWR, along with Suzy Cooley-Denney.

Conclusions of Law

The United States is entitled to partial decrees adjudicating federal reserved water rights and state law based water rights as described in the *Stipulation* and the attached *Special Master Recommendations for Partial Decrees for Water Rights 75-11205, 75-11212, 75-13802, 75-14379, 75-14449, , 75-14602, 75-14603, 75-14604, 75-14605 and 75-14613.*

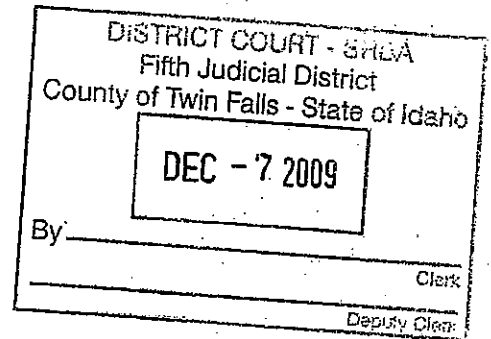
DATED December 7, 2009.


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

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 75-11205



NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

SOURCE: UPPER DUMMY CREEK SPRING TRIBUTARY: SINKS

QUANTITY: 0.06 CFS

This right is used in combination with Right No. 75-14613 and is
limited to a total combined diversion rate of 0.06 cfs.

PRIORITY DATE: 11/05/1906

* This is a federal reserved water right first reserved by *
* Presidential Proclamation November 5, 1906 as the Salmon *
* River Forest Reserve, now part of the Salmon-Challis *
* National Forest. *

LOCATION INSTREAM FLOW: T20N R19E S18 NENW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Administrative	01-01 TO 12-31	0.06 CFS

PLACE OF USE: Administrative Within Lemhi County
T20N R19E S18 NENW

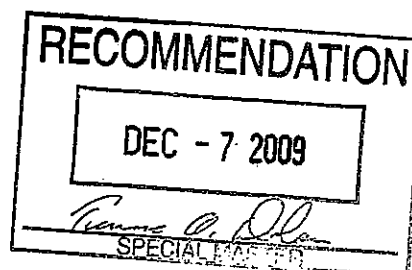
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



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

OF COUNTY - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC - 7 2009

By _____
Clerk

Deputy Clerk

In Re SRBA)
)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 75-14613

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

SOURCE: UPPER DUMMY SPRING TRIBUTARY: SINKS

QUANTITY: 0.06 CFS

This right is used in combination with Right No. 75-11205 and is
limited to a total combined diversion rate of 0.06 cfs.

PRIORITY DATE: 06/01/1919

LOCATION INSTREAM FLOW: T20N R19E S18 NENW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Fire Protection	01-01 TO 12-31	0.06' CFS

PLACE OF USE: Fire Protection Within Lemhi County
T20N R19E S18 NENW

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

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

RECOMMENDATION

DEC - 7 2009

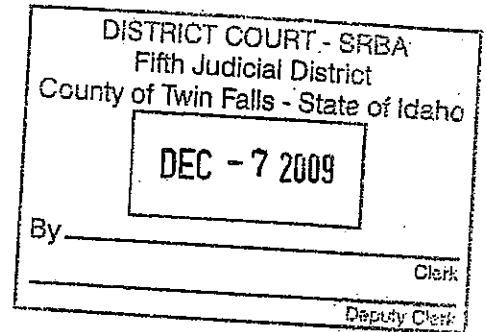
Thomas A. Olson
SPECIAL MASTER

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 75-11212



NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

SOURCE: NORTH FORK SALMON RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 0.025 CFS

This right is used in conjunction with Right No. 75-14602 and is
limited to a total combined diversion rate of .025 cfs.

PRIORITY DATE: 11/05/1906

* This is a federal reserved water right first reserved by *
* Presidential Proclamation November 5, 1906 as the Lemhi *
* Forest Reserve, now part of the Salmon-Challis National *
* Forest *

LOCATION INSTREAM FLOW: T25N R21E S15 SESW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Administrative	05-01 TO 10-31	0.025 CFS

PLACE OF USE: Administrative Within Lemhi County
T25N R21E S22 NENW

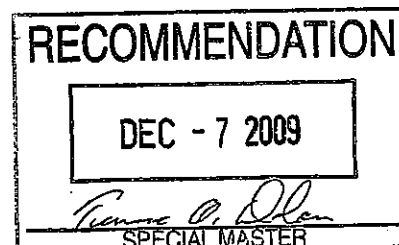
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
Fifth Judicial District
County of Twin Falls - State of Idaho

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 75-14602

By _____
Clerk
Deputy Clerk

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W PORT ST MSC 033
BOISE, ID 83724

SOURCE: NORTH FORK SALMON RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 0.025 CFS

This right is used in conjunction with Right No. 75-11212 and is limited to a total combined diversion rate of .025 cfs.

PRIORITY DATE: 06/01/1908

LOCATION INSTREAM FLOW: T25N R21E S15 SESW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-31	0.025 CFS

PLACE OF USE: Irrigation Within Lemhi County
T25N R21E S22 NENW 0.7
0.7 Acres Total

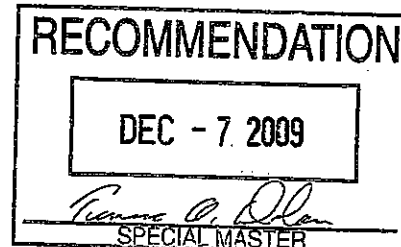
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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RULE 54(b) CERTIFICATE

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



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

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

In Re SRBA)
Case No. 39576)

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

Water Right 75-13802

DEC - 7 2009

By _____

Clerk

Deputy Clerk

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

SOURCE: PANTHER CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.08 CFS

This right is used in conjunction with Right No. 75-14603 and is
limited to a total combined diversion rate of .08 cfs.

PRIORITY DATE: 11/05/1906

* This is a federal reserved water right first reserved by *
* Presidential Proclamation November 5, 1906, as the Salmon *
* River Forest Reserve, now part of the Salmon-Challis *
* National Forest. *

LOCATION INSTREAM FLOW: T20N R19E S18 NENW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Administrative	05-01 TO 10-31	0.08 CFS

PLACE OF USE:	Administrative	Within Lemhi County
	T20N R19E S18	NWNE

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
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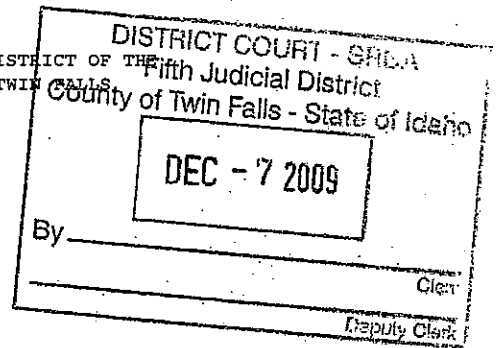
John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

DEC - 7 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 75-14603

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

SOURCE: PANTHER CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.08 CFS

This right is used in conjunction with Right No. 75-13802 and is limited to a total combined diversion rate of .08 cfs.

PRIORITY DATE: 06/01/1919

LOCATION INSTREAM FLOW: T20N R19E S18 NENW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-30	0.08 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T20N R19E S07 SWSE 0.5	
	S18 NWNE 3.6	
	S48 NENW 0.5	
	4.6 Acres Total	

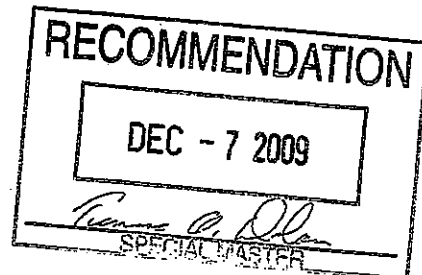
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Snake River Basin Adjudication

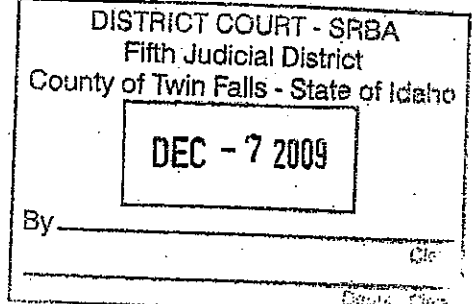


IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)

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

Water Right 75-14379



NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W PORT ST MSC 033
BOISE, ID 83724

SOURCE: LOWER DUMMY CREEK SPRING TRIBUTARY: SINKS

QUANTITY: 0.05 CFS

This right is used in conjunction with Right No. 75-14604 and is
limited to a total combined diversion rate of 0.05 cfs.

PRIORITY DATE: 11/05/1906

* This is a federal reserved water right first reserved by *
* Presidential Proclamation November 5, 1906, as the Salmon *
* River Forest Reserve, now part of the Salmon-Challis *
* National Forest. *

LOCATION INSTREAM FLOW: T20N R19E S18 NENW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Administrative	05-01 TO 11-30	0.05 CFS

PLACE OF USE: Administrative Within Lemhi County
T20N R19E S18 NENW

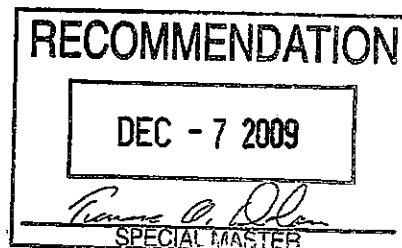
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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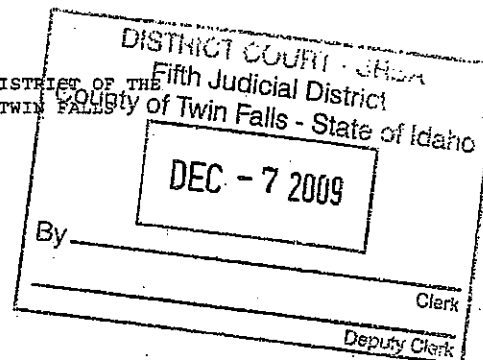
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Presiding Judge of the
Snake River Basin Adjudication



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)

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

Water Right 75-14604

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

SOURCE: LOWER DUMMY CREEK SPRING TRIBUTARY: SINKS

QUANTITY: 0.05 CFS

This right is used in conjunction with Right No. 75-14379 and is
limited to a total combined diversion rate of 0.05 cfs.

PRIORITY DATE: 06/01/1919

LOCATION INSTREAM FLOW: T20N R19E S07 NENW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 11-30	0.05 CFS

PLACE OF USE: Irrigation Within Lemhi County
T20N R19E S18 NENW 1.0
1.0 Acres Total

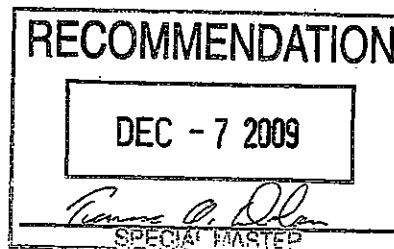
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 75-14449

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
DEC - '7 2009	
By _____	Clerk
Deputy Clerk	

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

SOURCE: SHEEP CREEK TRIBUTARY: NORTH FORK SALMON RIVER

QUANTITY: 0.10 CFS

This right is used in conjunction with Right No. 75-14605 and is
limited to a total combined diversion rate of .10 cfs.

PRIORITY DATE: 11/05/1906

* This is a federal reserved water right first reserved by *
* Presidential Proclamation November 5, 1906, as the Lemhi *
* Forest Reserve, now part of the Salmon-Challis National *
* Forest. *

LOCATION INSTREAM FLOW: T25N R21E S14 SENW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Administrative	05-01 TO 10-31	0.10 CFS

PLACE OF USE: Administrative Within Lemhi County
T25N R21E S15 SESW

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

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RECOMMENDATION
DEC - 7 2009
<i>Thomas A. Olson</i> SPECIAL MASTER

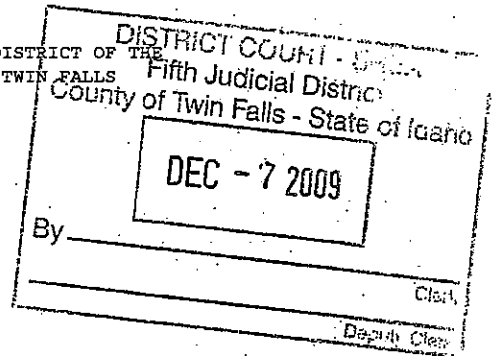
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

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

Water Right 75-14605



NAME AND ADDRESS: UNITED STATES OF AMERICA
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

SOURCE: SHEEP CREEK TRIBUTARY: NORTH FORK SALMON RIVER

QUANTITY: 0.10 CFS

This right is used in conjunction with Right No. 75-14449 and is
limited to a total combined diversion rate of .10 cfs.

PRIORITY DATE: 06/01/1908

LOCATION INSTREAM FLOW: T25N R21E S14 SENW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-31	0.10 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T25N R21E S15	SESW .6.1 NWSE 0.4 SWSE 1.3
	7.8 Acres Total	

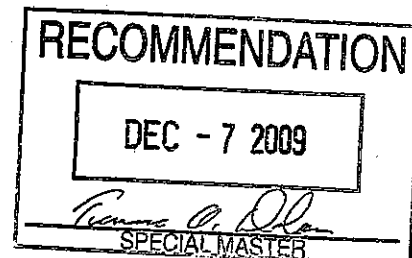
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



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

DEC - 7 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

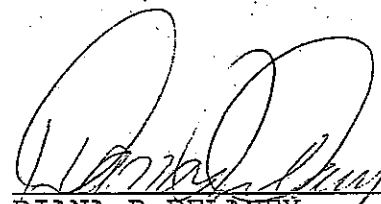
Water Right(s): 75-11205
75-11212 75-13802 75-14379
75-14449 75-14602 75-14603
75-14604 75-14605 75-14613

On December 07, 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.

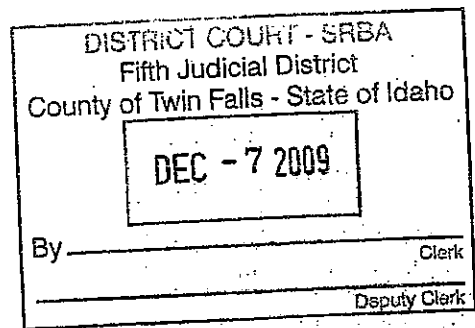
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 December 07, 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): 75-11205
75-11212 75-13802 75-14379
75-14449 75-14602 75-14603
75-14604 75-14605 75-14613

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 07, 2009, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449