

RECEIVED

FEB 19 2010

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 18 2010	
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	) ORDER VACATING HEARING
	)
Case No. 39576	) SPECIAL MASTER'S REPORT
	)
	) FINDINGS OF FACT AND
	) CONCLUSIONS OF LAW
	)
	) FOR WATER RIGHT 63-21476

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.

No objections were filed to the *Director's Report* for this water right claim. However, in the Court's review of the uncontested claims in Basin 63, this Special Master questioned whether this water right claim had been correctly reported as a "domestic purposes" water right in accordance with the definition of such found in Idaho Code § 42-111. An *Order Setting Hearing* was issued on January 29, 2010, for the purpose of obtaining additional information about the claim. Prior to the issuance of the *Order Setting Hearing*, this Special Master had reviewed the notice of claim filed on March 13, 1990, and in particular noted that the notice of claim states that there are no other water rights used in connection with the use of the above-captioned water right claim. Subsequent to the issuance of the *Order Setting Hearing*, IDWR provided additional information to the Court, including information about permitted water right 63-12519 which apparently is used for the commercial dairy operation of the claimant. Upon receipt of this additional information, this Special Master is now satisfied that water right claim 63-21476 has been reported by IDWR in accordance with Idaho law. Accordingly, the previously set hearing is **vacated**.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 63-21476 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated February 18, 2010



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 63-21476

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

FEB 18 2010

NAME AND ADDRESS: P & L DOORNENBAL DAIRY LLP
13146 GALLOWAY RD
CALDWELL, ID 83607

SOURCE: GROUND WATER

QUANTITY: 0.24 CFS

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

PRIORITY DATE: 12/20/1980

POINT OF DIVERSION: T05N R03W S23 SESE Within Canyon County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.24 CFS
	Domestic	01-01 TO 12-31	0.04 CFS

Domestic use is for 1 home.

PLACE OF USE:	Stockwater	Within Canyon County
	T05N R03W S23	SESE
	Domestic	Within Canyon County
	T05N R03W S23	SESE

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.

RECOMMENDATION

FEB 18 2010

Eric J. Wildman
SPECIAL MASTER

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

FEB 18 2010

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

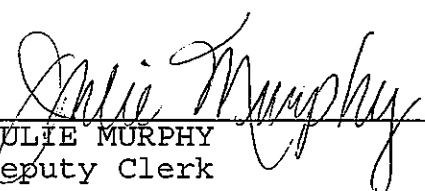
Water Right(s) : 63-21476

On February 18, 2010, 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 February 18, 2010.



JULIE MURPHY
Deputy Clerk

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

FEB 18 2010

By

- 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

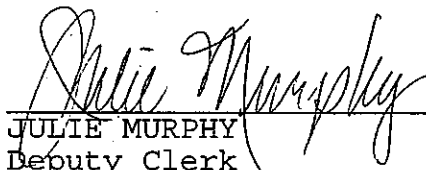
Water Right(s) : 63-21476

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 February 18, 2010, with sufficient first-class postage prepaid to the following:

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

P & L DOORNENBAL DAIRY LLP
13146 GALLOWAY RD
CALDWELL, ID 83607


JULIE MURPHY
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
02/18/10