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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR - 8 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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
_____	)	FOR WATER RIGHT 63-09212

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 June 18, 2007, The Wilder Irrigation District, through its attorney Albert P. Barker, filed an objection to the *Director's Report*, asserting that the source should be described as wastewater. On October 9, 2009, the parties filed a *Standard Form 5 – Stipulated Elements of a Water Right* which resolved the objection.¹ 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 63-09212 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated April 8, 2010



Theodore R. Booth
Special Master
Snake River Basin Adjudication

¹ The United States of America, Department of Interior, Bureau of Reclamation, had filed a response to the objection. On January 28, 2010, the United States withdrew its response.

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 63-09212

NAME AND ADDRESS: ALFRED KANDLER
BERTA KANDLER
24005 BOISE RIVER RD
CALDWELL, ID 83605

SOURCE: CHRISTIAN GULCH WASTEWAY TRIBUTARY: DIXIE DRAIN

QUANTITY: 0.72 CFS
162.00 AFY

PRIORITY DATE: 04/15/1979

POINT OF DIVERSION: T04N R05W S01 SESE Within Canyon County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.72 CFS 162.00 AFY

The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: Irrigation Within Canyon County
T04N R05W S01 LOT 2 (NWNE) 36.0
36.0 Acres Total

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

While the Christian Gulch Wasteway is a natural water way, it is also a federal facility and has been utilized as part of the Boise Project as invoked by the United States through its reservation authority provided by the Act of August 30, 1890 (43 U.S.C. 945). As a federal facility, the Christian Gulch Wasteway, to the extent allowed by law, may be rerouted, piped, or its flow of water interrupted if determined appropriate to better serve Boise Project purposes.

An easement or right of way agreement providing for access to the drain by its owner and those responsible for maintaining it - and/or for access to the drain by the appropriator to divert water pursuant to this right - must be executed among the appropriator, the owner of the drain, and if appropriate, those responsible for maintaining the drain. Failure to execute such an agreement will constitute grounds for legal action prevent water from being diverted under this right.

The source of this water right includes waste water. The right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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 42-1812(6).

RECOMMENDATION

APR - 8 2010

SPECIAL MASTER

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

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.

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

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
APR - 8 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)
)
Case No. 39576)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 63-09212

On April 08, 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 April 08, 2010.



DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
APR - 8 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

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 63-09212

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 April 08, 2010, with sufficient first-class postage prepaid to the following:

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

ALFRED KANDLER
BERTA KANDLER
DEEON J HARPER
V JAY HARPER

Represented by:
JOHNSON, MATTHEW A
WHITE PETERSON GIGRAY ROSSMAN
5700 E FRANKLIN RD STE 200
NAMPA, ID 83687-7901
Phone: 208-466-9272

CERTIFICATE OF MAILING

PAGE 1
04/08/10

WILDER IRRIGATION DISTRICT

Represented by:

PAUL L. ARRINGTON

113 MAIN AVE W, STE 303

PO BOX 485

TWIN FALLS, ID 83303-0485

Phone: 208-733-0700

USDI BUREAU OF RECLAMATION

Represented by:

US DEPARTMENT OF JUSTICE

ENVIRONMENT & NATL' RESOURCES

550 WEST FORT STREET, MSC 033

BOISE, ID 83724



DIANA R. DELANEY

Deputy Clerk