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JUN 10 2010

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JUN - 9 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

) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION RE: MOTION
) TO SET ASIDE PARTIAL DECREE
)
) FOR WATER RIGHT 63-04938
)

A *Partial Decree* was issued for the above-captioned water right on March 24, 2009. On July 10, 2009, the current owners of the water right, Jon and Mary Weilmunster, filed correspondence with the court seeking to set aside the previously issued *Partial Decree*. A continued hearing on the *Motion* was held on June 1, 2010. Based upon the comments of the participants at the hearing, and upon the file and record herein, this Special Master finds that the claimant has satisfied the criteria set forth in I.R.C.P. 60(b), and that the SRBA District Court should set aside the previously issued *Partial Decrees* and issue an amended partial decree as recommended herein. In anticipation of the issuance of an amended partial decree, an *Amended Director's Report* was filed by IDWR on March 31, 2010. Notice of the issuance of the *Amended Director's Report* was published on the Court's docket sheet in April 2010, with an objection period ending April 28, 2010. No objections were filed to the *Amended Director's Report*, and the time for objecting has expired.

Therefore based on the file and record herein, IT IS RECOMMENDED that the SRBA District Court issue an amended partial decree for water right 63-04938 with the elements as set forth in the attached *Recommendations for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated

June 9, 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 63-04938

NAME AND ADDRESS: JON WEILMUNSTER
MARY WEILMUNSTER
27207 BOISE RIVER RD
PARMA, ID 83660

SOURCE: UNNAMED DRAIN TRIBUTARY: BOISE RIVER

QUANTITY: 0.23 CFS

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

PRIORITY DATE: 03/30/1948

POINT OF DIVERSION: T05N R05W S11 NWSW Within Canyon County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.03 CFS
	Irrigation	03-01 TO 11-15	0.20 CFS

PLACE OF USE: Irrigation Within Canyon County
T05N R05W S11 NWSW 10.0
10.0 Acres Total
Stockwater Within Canyon County
T05N R05W S11 NWSW

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

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

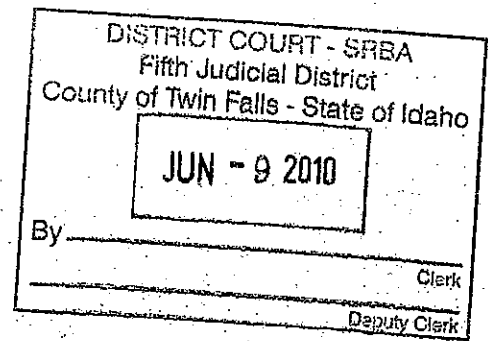
The source of this water right includes waste water. This right
remains subject to the right of the original appropriator, in
good faith and in compliance with state law governing changes in
use and/or expansion of water rights, to cease wasting water, to
change the place or manner of wasting it, or 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 42-1412(6).

RECOMMENDATION

JUN - 9 2010

Lee R. Booth
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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s) : 63-04938

On June 09, 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 June 09, 2010.



DIANA R. DELANEY
Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JUN - 9 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

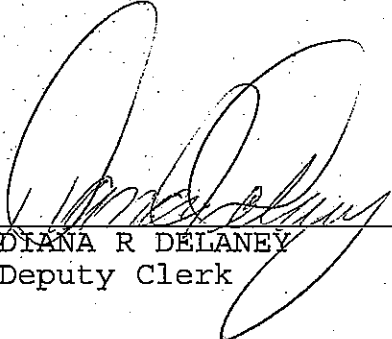
Water Right(s) : 63-04938

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 June 09, 2010, with sufficient first-class postage prepaid to the following:

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

JON WEILMUNSTER
MARY WEILMUNSTER
27207 BOISE RIVER RD
PARMA, ID 83660



DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

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06/09/10