

RECEIVED
JUN 21 2010
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 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) **Subcase Nos: 63-2500, 63-2874, 63-7067,**
) **and 63-19456**
Case No. 39576)
) **SPECIAL MASTER'S REPORT AND**
) **RECOMMENDATION**

I. FACTS AND PROCEDURAL BACKGROUND

1. United Water Idaho, Inc. (hereinafter "United Water") is a municipal water provider that operates an interconnected water supply network in Ada County, Idaho.

2. United Water claimed 83 ground water rights in the Snake River Basin Adjudication ("SRBA") pertaining to its interconnected water supply network, four of which are at issue here.

3. On June 19, 1989, United Water's predecessor in interest, Boise Water Corp., filed notices of claim in the SRBA for the subject four water rights. The notices of claim listed one point of diversion for each right, with water rights 63-02500 and 63-19456 listing the same point of diversion (i.e. there were three existing wells for the four rights).

4. On April 12, 1994, the Idaho legislature passed Idaho Code § 42-1425, which allows judicial confirmation in the SRBA for changes to water rights that were made without the authorization required under Idaho Code §§ 42-108 and 42-222, provided that such change occurred prior to November 19, 1987 (the SRBA commencement date), and provided further that no other water rights existing on the date of the change were injured and the change did not result in an enlargement of the original right.

5. On December 13, 1996, United Water filed an application with IDWR for transfer no. 4998, seeking approval of a transfer in the points of diversion so that all four

of these water rights could be diverted from the existing three wells plus two additional wells that were to be drilled in T03N R02E S09 NENW.¹

6. On January 9, 1998, IDWR approved the requested transfer, thereby allowing each of these four water rights to be diverted from the three existing wells plus the two wells that were to be drilled.²

7. On November 14, 2003, United Water filed amended notices of claim in the SRBA for its water rights, including the subject four rights. In the amended notices of claim United Water asserted 43 alternate points of diversion – one point of diversion for each well existing in its interconnected water supply network as of November 19, 1987. The multiple points of diversions are claimed on the basis of an accomplished transfer pursuant to I.C. § 42-1425.

8. On December 19, 2006, the Idaho Department of Water Resources (“IDWR”) filed the *Director’s Report for Basin 63 Part 3, Reporting Area 13*, wherein it made recommendations with respect to United Water’s 83 claimed ground water rights.

9. With respect to the four claims at issue here, the *Director’s Report* recommended they be decreed as follows:

Water Right Claim	Recommendation
63-2500	0.80 cfs of ground water for year round municipal use with a priority date of August 30, 1934.
63-2874	4.00 cfs of ground water for year round municipal use with a priority date of August 18, 1951.
63-7067	2.84 cfs of ground water for year round municipal use with a priority date of February 28, 1968.
63-19456	1.60 cfs of ground water for year round municipal use with a priority date of March 31, 1953.

¹ As explained by United Water in their *Memorandum in Support of Objections*, fn 1, one of these wells was never drilled. The corrected recommendations filed by IDWR recommends two points of diversion in T03N R02E S09 NENW consistent with the approved transfer. However, the transfer approval also requires the right holder to accomplish the changes authorized therein within one year of the date of the approval (transfer approved January 9, 1998). For the reason that the one-year time limit has elapsed, this Special Master will not recommend an additional POD in T03N R02E S09 NENW for a well that was never drilled.

² The transfer approval also changed the place of use to “the City of Boise and surrounding service area.”

10. The *Director's Report* further recommended that each be decreed with the requested 43 alternate points of diversion. No timely objections to the recommendations for the above-captioned water right claims were filed by any party.

11. However on August 28, 2009, the SRBA Court received correspondence from IDWR stating that it had discovered various errors and/or omissions in the *Director's Reports* for several of the ground water rights claimed by United Water, including the four at issue here. Attached to the correspondence were *Corrected Director's Reports* containing revised recommendations.

12. With respect to the subject four water rights, the *Corrected Director's Reports* reduced the recommended number of alternate points of diversion from 43 to 5. The reason for the reduction was that IDWR, upon further review of the histories of the claims, considered transfer no. 4998. IDWR concluded that United Water was foreclosed from claiming the 43 points of diversion that would have otherwise been available, for the reason that the administrative transfer occurred after the November 19, 1987 cutoff date for accomplished transfers under I.C. § 42-1425.

13. The five points of diversion approved in transfer no. 4998 (and recommended in the *Corrected Director's Reports*) are summarized as follows:

(a) T03N R02E S10 NWNW. This well is known as the "13th Street Well" and was the point of diversion for water rights 63-02500 and 63-19456 prior to transfer no. 4998.

(b) T03N R02E S04 SWSW. This well is known as the "Idaho Street Well" and was the point of diversion for water right 63-07067 prior to transfer no. 4998.

(c) T03N R02E S09 SENW. This well is known as the "16th Street Well" and was the point of diversion for water right 63-2874 prior to transfer no. 4998.

(d) T03N R02E S09 NENW. This is the location of the two proposed new wells that were sought to be drilled under transfer no. 4998. One well was drilled at this location, and the other was not.

14. Transfer no. 4998 authorized each of the subject four water rights to be diverted from any of the existing three wells and/or the two wells that were to be drilled.

15. A hearing was held on September 11, 2009, for the purpose of determining how to proceed on the *Corrected Director's Reports*.

16. On October 8, 2009, this Special Master issued a *Notice of Intent to Issue Special Master's Report Upon Corrected Recommendations From IDWR; Notice of Hearing*.

17. On November 13, 2009, United Water filed a *Standard Form 1 Objection* for each of the above-captioned water right claims, objecting to the *Corrected Director's Reports'* recommendations. Specifically, United Water's *Objections* asserted that 42 alternate points of diversion should be listed for the above-captioned water right claims. On March 23, 2010, United Water filed *United Water Idaho Inc.'s Memorandum in Support of Objections*.

18. On April 14, 2010, IDWR filed correspondence with the SRBA Court stating that United Water's *Memorandum* accurately characterized its position in this matter, and that this matter should be deemed fully submitted for consideration and issuance of the Special Master's Reports and Recommendations.

II. DISCUSSION

IDWR's decision to issue *Corrected Director's Reports* reducing the recommended number of alternate points of diversion from 43 to 5 stems from its interpretation of the law of the case pertaining to the finality of administrative actions. In particular, IDWR relies upon what will be referred to herein as the *River Grove Farms* case and the *Facility Volume* case, wherein the SRBA Court determined that certain attempts to alter aspects of a previously issued license in the SRBA constituted an impermissible collateral attack on an administrative agency's action. A review of these cases is worthwhile.

In the *River Grove Farms* case the claimant, River Grove Farms, Inc., claimed a water right in the SRBA predicated on a license issued to its predecessor-in-interest in 1991 for 1.92 cfs for hydropower purposes. *Memorandum Decision and Order on Challenge; Order on State of Idaho's Motion to Dismiss Claimant's Notice of Challenge*, Subcase No. 36-08099 (January 11, 2000). The license contained a remark subordinating it to all rights to the use of water, other than hydropower, initiated later in time than the

priority of the license. *Id.* at p.12. Neither the claimant nor its predecessor-in-interest sought judicial review of IDWR's inclusion of the remark in the license. *Id.* However, when the claimant subsequently filed its Amended Notice of Claim in the SRBA it objected to, and sought the removal of, the remark from its water right. *Id.* at p.13. The special master denied the claimant's objection, holding that its attempt to remove the remark constituted an impermissible collateral attack on an administrative agency's action. *Id.* at pp.15-16.

On challenge before the SRBA Court the claimant argued that the special master erred in denying its objection. The SRBA Court disagreed:

River Grove's claim in the SRBA . . . is predicated on the license issued April 3, 1991. The license, in turn, is predicated on the permit issued October 18, 1983. River Grove's objection to the subordination remark contained in the Director's Report is a very belated attempt to seek judicial review of an administrative agency's decision (IDWR). River Grove and/or its predecessors-in-interest failed to timely request a hearing pursuant to I.C. § 42-1701A, which allows for administrative review of IDWR's decisions in accordance with the Idaho Administrative Procedures Act, I.C. §§ 67-5201 to 67-5292 ("APA"). An opportunity for such a hearing presented itself when the application for permit was approved . . . and when the license was issued The license on which River Grove's claim is predicated became final after the time for seeking review expired. Accordingly, this Court does not have jurisdiction to go back and review IDWR's decision at this point in time.

Id. at pp.16-17. Thus, the SRBA Court affirmed the decision of the special master with respect to the claimant's objection to the subordination remark on the grounds that it was an improper collateral attack on an administrative agency's action.

Similarly, in the *Facility Volume* case, the SRBA Court addressed the issue of what finality a previously issued license had between certain claimants and IDWR in the context of the SRBA. *Order on Challenge (Consolidated Issues) of "Facility Volume" and "Additional Evidence" Issue*, Subcase No. 36-02708, et al, (December 29, 1999). In that case, several of the claimants claimed water rights in the SRBA predicated on previously issued licenses which contained a limiting facility volume remark. In the SRBA proceeding, an issue arose pertaining to the legitimacy of the facility volume remarks. The special master held that if a party is aggrieved by any aspect of a license, that party's remedy is to seek an administrative review and then, if necessary, a judicial

review of the license. Further, the special master determined that “if the license is not appealed when issued, any attempt to appeal the license in a subsequent judicial proceeding, like the SRBA, would constitute a collateral attack on the license.” *Id.* at 16. On Challenge, the SRBA Court agreed, holding that the volume remark must remain in the licenses which were originally issued with the remark. *Id.* at 17.

The *Corrected Director's Reports* issued for the subject four water rights have been limited by IDWR to the five points of diversion authorized pursuant to transfer no. 4998 upon the premise that the administrative transfer procedure here, like the permitting and licensing procedures involved in the *River Grove Farms* and *Facility Volume* cases, is an administrative proceeding resulting in a final agency action. Accordingly, IDWR has not recommended United Water's claim to the pre-1987 accomplished transfer because the administrative transfer, resulting in a final administrative agency action, occurred after the cutoff date for the recognition of accomplished transfers in the SRBA. United Water argues that the instant matter is distinguishable from the above-mentioned cases in several respects. For the following reasons, this Special Master agrees with United Water that for the subject four water rights, the approval of a post-1987 administrative transfer does not preclude recognition of the pre-1987 accomplished transfer in the SRBA.

As a general rule the process for effectuating a change to the place of use, point of diversion, nature or purpose of use, or period of use of a water right under Idaho law is an administrative one, mandatory in nature, to be accomplished via application to IDWR. Specifically, Idaho Code § 42-222(1) directs that a water user desiring to make such a change to his water right “make application to the department of water resources for approval of such change.”³ The Director then examines the available information and evidence, holds a hearing and investigates the application if necessary, and then makes a determination as to whether the requested change should be approved or denied after weighing certain statutorily prescribed considerations. *Id.* Water users aggrieved by the Director's decision may seek judicial review of the decision pursuant to Idaho Code § 42-

³ Likewise, Idaho Code § 42-108 provides that “no person shall be authorized to change the period of use or nature of use, point of diversion or place of use of water unless he has first applied for and received approval of the department of water resources under the provisions of section 42-222, Idaho Code.”

1701A, which requires that judicial review be had in accordance with Idaho's Administrative Procedure Act. I.C. § 42-222(5); I.C. § 42-1701A.

However, an exception to mandatory administrative process set forth in I.C. § 42-222 exists in certain limited instances. With respect to changes in place of use, point of diversion, nature or purpose of use, or period of use occurring prior to November 19, 1987, Idaho's accomplished transfer statute permits a water user to assert such changes in the SRBA notwithstanding the requirements of I.C. § 42-222:

Any change of place of use, point of diversion, nature or purpose of use or period of use of a water right by any person entitled to use of water or owning any land to which water has been made appurtenant either by decree of the court or under the provisions of the constitution and statutes of this state, prior to November 19, 1987, the date of commencement of the Snake River basin adjudication . . . may be claimed in the applicable general adjudication even though the person has not complied with sections 42-108 and 42-222, Idaho Code, provided no other water rights existing on the date of the change were injured and the change did not result in an enlargement of the original right. Except for the consent requirements of section 42-108, Idaho Code, all requirements of sections 42-108 and 42-222, Idaho Code, are hereby waived in accordance with the following procedures

I.C. § 42-1425(2) (emphasis added).

In effect, the plain language of the accomplished transfer statute permits a water user to seek judicial confirmation of certain specified changes to his water right, including changes to the point of diversion, that occurred prior to the cutoff date. This statute allows the right holder to bypass the otherwise mandatory administrative process by filing directly in the SRBA. Indeed, the Legislature in drafting the accomplished transfer statute declared that "examination of these changes by the director through the procedures of section 42-222, Idaho Code, would be impractical and unduly burdensome." I.C. § 42-1425(1)(c).

With respect to the four rights at issue, it should be noted that there are parallels between the changes that were approved pursuant to transfer no. 4998, and the changes that are sought by United Water to be recognized as accomplished transfers pursuant to I.C. § 42-1425. Recall that the four water rights at issue here were diverted from three wells that existed prior to November 19, 1987, and that water diverted from those wells was pumped into United Water's interconnected municipal water conveyance system.

Accordingly, if there had been no transfer no. 4998, each of the four water rights would have been recommended by IDWR as having the same 42 points of diversion that were recommended for all of the other water rights that were connected to that system prior to November 19, 1987. In other words, a portion of the result of administrative transfer no. 4998 was to authorize each of these four rights to be diverted out of the three existing wells contemplated therein. That same result would have been obtained under an SRBA Court recognition of an accomplished transfer. It also should be noted that all of the other water rights that were diverted into this interconnected system prior to the cutoff date have already been decreed in the SRBA; and those decrees recognize that each of those other rights may be diverted out of the three existing wells that were the subject of administrative transfer 4998. At the heart of the matter, the only change regarding points of diversion that was authorized in transfer no. 4998 that could not have been effectuated pursuant to the accomplished transfer statute, was the diversion of water from the new “27th Street” well that was drilled pursuant to the approved transfer.

It should also be noted that United Water is not attempting to eliminate or modify any of the terms or conditions set forth in the approval of transfer no. 4998. In that regard, this situation is not analogous to the situations in *River Grove Farms* (claimant seeking elimination of subordination provision of license) or in the *Facility Volume* case (claimants seeking elimination of facility volume condition of license). As explained by United Water:

By seeking the benefits of the Accomplished Transfer Statute, United Water is not seeking to collaterally attack the existing administrative transfer approval for its rights, but rather to use the amnesty provided by the statute to recognize that it accomplished a different, larger transfer prior to the commencement of the adjudication. There is no dispute that this larger transfer occurred. It is that same transfer that the Court has recognized in decreeing the 42 alternate points of diversion for over 60 other United Water ground water rights.

Memo in Support, p. 4. The legislature passed Idaho Code § 42-1425 in 1994. At that time, any accomplished transfers made by United Water prior to November 19, 1987, became recognizable and confirmable through the adjudication process. However, United Water had no choice but to wait for judicial confirmation of such accomplished transfers until such time as the claims were put before the SRBA Court via the filing of

the *Director's Report* for its water right claims. The *Director's Report* was not filed until December 19, 2006, or approximately 12 years after such changes in United Water's water rights became recognizable pursuant to Idaho Code § 42-1425.

Essentially what occurred here is that there were two parallel proceedings concerning the points of diversion for the subject water rights – one an administrative proceeding that was filed on December 13, 1996, and approved on January 9, 1998. The other parallel proceeding is the much longer adjudication process for confirming the nature and extent of United Water's water rights, including recognition of any accomplished transfers in points of diversion. Such accomplished transfers became legally cognizable upon the passage of the statute on April 12, 1994, but it was not until the filing of the *Director's Report* on December 19, 2006, that any issues regarding accomplished transfers of the subject four water rights could begin to be resolved in the SRBA. Each of these parallel proceedings has a statutorily defined role. United Water could not have requested recognition of its pre-1987 accomplished transfers in an administrative transfer proceeding conducted pursuant to I.C. § 42-222. Likewise, United Water could not seek through the SRBA court authorization to drill a new well and have such well be an authorized point of diversion for the subject four water rights.

During the pendency of processing United Water's claims in the SRBA, and particularly between the 1994 passage of I.C. § 42-1425 and the filing of the *Director's Report* in 2006, it is not surprising that United Water found itself in the position of seeking an administrative transfer that would allow the opening of a new well and transfer of existing water rights to that well. In the particular situation involved with these four water rights, where what is sought through the accomplished transfer and what was effectuated through the administrative transfer overlap, but do not conflict, it cannot be said that recognition of the accomplished transfer sought by United Water constitutes an impermissible collateral attack on the previous administrative transfer proceeding. It should also be noted that it would have taken an almost clairvoyant prescience on the part of United Water to have sought a condition or remark in the approval of transfer no. 4998 stating, in effect, that such transfer was not intended to foreclose judicial recognition of an accomplished transfer in the SRBA.

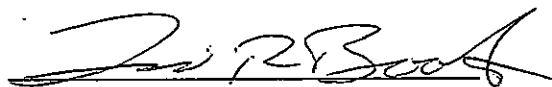
In this case United Water made changes, via accomplished transfer, to the points of diversion of the subject four water rights prior to November 19, 1987 by adding 42 alternate points of diversion for each right. Unlike the changes asserted in the SRBA by the *River Grove Farms* and *Facility Volume* claimants, United Water's claimed changes do not seek to eliminate or modify any terms or conditions set forth in the approval of transfer no. 4998; rather United Water is simply seeking to supplement that administrative transfer proceeding through judicial recognition of the pre-1987 changes made to the points of diversion for its water rights. Such supplementation does not amount to an impermissible collateral attack on that administrative proceeding. Furthermore, judicial recognitions of the changes made to the points of diversion is supported by the plain language of Idaho's accomplished transfer statute. The fact that United Water was allowed to drill a new well and add said well as a point of diversion for these four water rights in an I.C. § 42-222 administrative transfer proceeding does not abrogate or preclude its ability under the plain language of the accomplished transfer statute to claim additional points of diversion in the SRBA based on an accomplished transfer.

III. RECOMMENDATION

Therefore based on the file and record herein and in accordance with the foregoing, IT IS RECOMMENDED that water rights 63-02500, 63-02874, 63-07067, and 63-19456 be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED

June 18, 2000



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

In Re SRBA) PARTIAL DECREE PURSUANT TO
)
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-02500

PAGE 1
Jun-17-2010

PLACE OF USE:

Place of use is within the service area of United Water Idaho as provided for under Idaho law. The place of use is generally described as within the city limits of Boise and the surrounding service area.

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

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the 13th Street Well located in T03N R02E S10 NWNW.

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.

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

RECOMMENDATION

JUN 18 2010

Leo 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-19456

NAME AND ADDRESS: UNITED WATER IDAHO INC
8248 W VICTORY RD
PO BOX 190420
BOISE, ID 83719-0420

SOURCE: GROUND WATER

QUANTITY: 1.60 CFS

The total instantaneous diversion of water from all points of
diversion under Transfer No. 4998 shall not exceed 9.24 cfs.

PRIORITY DATE: 03/31/1953

POINT OF DIVERSION: T03N R01E S03 SENE Within Ada County
S14 NENE
S24 NESE
S36 NWNE
NESE
R02E S02 NENW
S04 SWSW
S07 SWSW
S08 NENE
S09 SENW
NENW
S10 NWNW
S13 SWNW
S14 SENW
S15 NWNW
S16 NWNW
NWNW
S17 NESW
S18 NWNE
NESW
S19 NENE
NENW
S20 SENE
S21 NENE
S22 NWNE
NWNE
SESE
S24 SWNW
S25 NWSE
S27 NWSE
S28 NENE
NWNW
S33 NENW
S36 SWNE
T04N R01E S27 NWSW
S34 NESW
S35 NENW
S36 NENW
R02E S30 SWSE
S31 NWSW
S32 NWNW
SWNW
SWNW

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

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
Municipal

PERIOD OF USE
01-01 TO 12-31

QUANTITY
1.60 CPS

PLACE OF USE:

Place of use is within the service area of United Water Idaho as provided for under Idaho law. The place of use is generally described as within the city limits of Boise and the surrounding service area.

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

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the 13th Street Well located in T03N R02E S10 NWNW.

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.

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

RECOMMENDATION

JUN 18 2010

David B. Smith
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 63-02874

NAME AND ADDRESS: UNITED WATER IDAHO INC
8248 W VICTORY RD
PO BOX 190420
BOISE, ID 83719-0420

SOURCE: GROUND WATER

QUANTITY: 4.00 CFS

The total instantaneous diversion of water from all points of
diversion under Transfer No. 4998 shall not exceed 9.24 cfs.

PRIORITY DATE: 08/18/1951

POINT OF DIVERSION: T03N R01E S03 SENE Within Ada County
S14 NENE
S24 NESE
S36 NWN
NESE
R02E S02 NENW
S04 SWSW
S07 SWSW
S08 NENE
S09 SENW
NENW
S10 NWNW
S13 SWNW
S14 SENW
S15 NWNW
S16 NWNW
NWNW
S17 NESW
S18 NWN
NESW
S19 NENE
NENW
S20 SENE
S21 NENE
S22 NWN
NWN
SESE
S24 SWNW
S25 NWSE
S27 NWSE
S28 NENE
NWNW
S33 NENW
S36 SWNE
T04N R01E S27 NWSW
S34 NESW
S35 NENW
S36 NENW
R02E S30 SWSE
S31 NWSW
S32 NWNW
SWNW
SWNW

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

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
Municipal

PERIOD OF USE
01-01 TO 12-31

QUANTITY
4.00 CFS

PLACE OF USE:

Place of use is within the service area of United Water Idaho as provided for under Idaho law. The place of use is generally described as within the city limits of Boise and the surrounding service area.

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

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the 16th Street Well located at T03N R02E S09 SENW.

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.

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

RECOMMENDATION

JUN 18 2010

David 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)
) PARTIAL DECREE PURSUANT TO
Case No. 39576) I.R.C.P. 54(b) FOR
) Water Right 63-07067

NAME AND ADDRESS: UNITED WATER IDAHO INC
8248 W VICTORY RD
PO BOX 190420
BOISE, ID 83719-0420

SOURCE: GROUND WATER

QUANTITY: 2.84 CFS

The total instantaneous diversion of water from all points of
diversion under Transfer No. 4998 shall not exceed 9.24 cfs.

PRIORITY DATE: 02/28/1968

POINT OF DIVERSION: T03N R01E S03 SENE Within Ada County
 S14 NENE
 S24 NESE
 S36 NENE
 NESE
 R02E S02 NENW
 S04 SWSW
 S07 SWSW
 S08 NENE
 S09 SENW
 NENW
 S10 NWNW
 S13 SWNW
 S14 SENW
 S15 NWNW
 S16 NWNW
 NWNW
 S17 NESW
 S18 NENE
 NESW
 S19 NENE
 NENW
 S20 SENE
 S21 NENE
 S22 NENE
 NENE
 SESE
 S24 SWNW
 S25 NWSE
 S27 NWSE
 S28 NENE
 NWNW
 S33 NENW
 S36 SWNE
 T04N R01E S27 NWSW
 S34 NESW
 S35 NENW
 S36 NENW
 R02E S30 SWSE
 S31 NWSW
 S32 NWNW
 SWNW
 SWNW

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

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Municipal	01-01 TO 12-31	2.84 CFS

PLACE OF USE: Place of use is within the service area of United Water Idaho as provided for under Idaho law. The place of use is generally described as within the city limits of Boise and the surrounding service area.

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

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the Idaho Street Well located in T03N R02E S04 SWSW.

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.

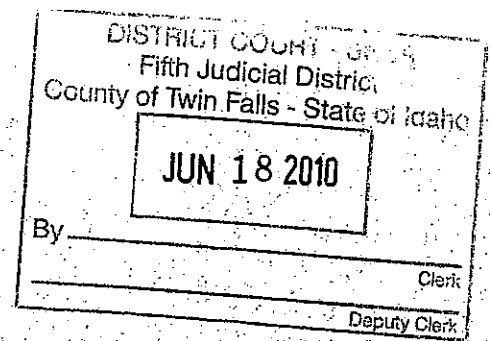
Eric J. Wildman
Presiding Judge of the

Snake River Basin Adjudication

RECOMMENDATION

JUN 18 2010

David R. South
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

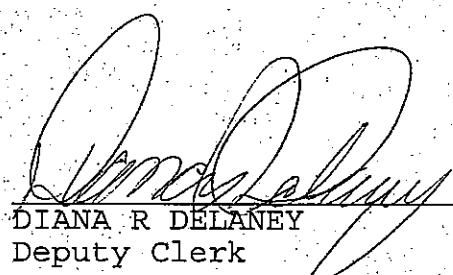
Water Right(s): 63-02500
63-02874 63-07067 63-19456

On June 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 June 18, 2010.


DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - 5th JUDICIAL DISTRICT County of Twin Falls - State of Idaho	
JUN 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)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s) : 63-02500
63-02874 63-07067 63-19456

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

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

UNITED WATER IDAHO INC
Represented by:
CHRISTOPHER H MEYER
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

CERTIFICATE OF MAILING

PAGE 1
06/18/10

UNITED WATER IDAHO INC

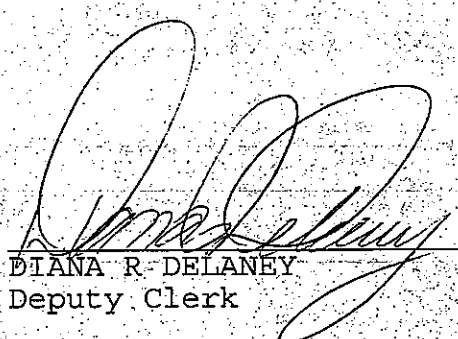
Represented by:

JOHN M MARSHALL

575 W BANNOCK ST, SUITE B

BOISE, ID 83702

Phone: 208-991-2701



DIANA R. DELANEY
Deputy Clerk