

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

SEP - 3 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

ORDER TO SHOW CAUSE AND SUMMONS TO APPEAR

SUBCASE NO.: 37-4184

An Initial Hearing for these subcases was held on April 28, 2010. Notice of the hearing was sent to the claimants. The Objectors Bill Molyneux, Gerald Bashaw, Grace Eakin, John Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, Tom O’Gara, Big Wood Canal Company and the Idaho Department of Water Resources appeared at the hearing.

At the hearing, the Objectors reported that they have had no contact with the claimant. IDWR also reported that it has not been able to contact the claimant. The claimant failed to appear at the Initial Hearing. THEREFORE, an ***Order to Show Cause*** hearing is set as follows:

DATE: **September 29, 2010** Wednesday
TIME: **1:30 pm**
LOCATION: Snake River Basin Adjudication
253 3rd Ave. North
Twin Falls, Idaho 83301

Parties may participate by telephone for this Show Cause Hearing by dialing 1-215-446-0193 and when prompted enter participant code 926509. If you have any questions regarding participating by telephone, please contact the clerk's office at (208) 736-3011.

IT IS HEREBY ORDERED, pursuant to I.R.C.P. 6(c)(2) and I.R.C.P. 6(c)(4) that Warren S. Tenney shall appear at a Show Cause Hearing to determine whether the Court should issue a *Special Master's Report and Recommendation* recommending the elements as set forth in the proposed *Standard Form 5*. The elements of these water rights would then be as set forth in the

attached proposed *Standard Form 5*. (Attached hereto as Exhibit 1)

IT IS FURTHER ORDERED THAT, any affidavits from the parties pursuant to I.R.C.P. 6(c)(2) shall be due on or before September 24, 2010.

Warren S. Tenney is hereby informed that pursuant to Rule 6(c)(4) of the Idaho Rules of Civil Procedure, any party has the right to elect to produce testimony and evidence at the hearing upon the Order to Show Cause, or to cross-examine the adverse party or the adverse party's affiants, by first giving at least twenty four (24) hours notice to the Court and opposing counsel before the show cause hearing.

A copy of this *Order to Show Cause and Summons to Appear* shall be served upon Warren S. Tenney not less than five (5) days prior to the date set for hearing, upon which those parties are required to appear before this Court and show cause. Service of this *Order* shall be made in accordance with I.R.C.P. 5(b) and 6(c)(2).

APPEARANCE AT THIS HEARING IS MANDATORY. FAILURE TO APPEAR AT THIS HEARING MAY RESULT IN THIS WATER RIGHT BEING RECOMMENDED AS SET FORTH IN THE ATTACHED STANDARD FORM 5.

Dated: September 3, 2010.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

Exhibit 1

08/05/2010

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-4184 TENNEY

NAME AND ADDRESS: WARREN S TENNEY
598 MADISON AVE
NEW YORK NY 10022

SOURCE: UNNAMED STREAM TRIBUTARY: BIG WOOD RIVER

QUANTITY: 1.00 AFY

The pond established by the storage of water under this right shall not exceed a total capacity of 1.0 acre-foot.

PRIORITY DATE: 08/09/1969

POINT OF
DIVERSION: T02N R18E S22 SENW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
AESTHETIC STORAGE	01/01 12/31	1.00 AFY

PLACE OF USE: AESTHETIC STORAGE in BLAINE County
T02N R18E S22 SENW

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

Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Statutory Claim

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER TO SHOW CAUSE AND SUMMONS TO APPEAR was mailed on September 03, 2010, with sufficient first-class postage to the following:

BILL MOLYNEUX
GERALD BASHAW
GRACE EAKIN
JOHN F STEVENSON
PEPIN CORSO-HARRIS
PETE VAN DER MEULEN
ROCKY SHERBINE
TOM O GARA

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BIG WOOD CANAL COMPANY
Represented by:
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DIRECTOR OF IDWR
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WARREN S TENNEY
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