

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

NOV 12 2010

By _____ Clerk

Clerk

JUDICIAL DISTRICT OF THE
COUNTY OF TWIN FALLS

~~Deputy Clerk~~

In Re SRBA) SPECIAL MASTER'S REPORT
)
 Case No. 39576) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 63-31054

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.

Objections to the *Director's Report* were filed by the claimant, The Terteling Co., Inc., and by the Edwards Family LLC. On September 27, 2010, the parties filed a *Standard Form 5 – Stipulated Elements of a Water Right* which resolved the objection. 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 63-31054 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated November 12, 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-31054

NAME AND ADDRESS: T-7 LLC
3859 GARDEN CENTER WY, STE 300
BOISE, ID 83703

SOURCE: GROUND WATER

QUANTITY: 0.055 CFS
9.00 AFY

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
The rights listed below are limited to a total combined diversion rate of 0.16 cfs. Combined Right Nos.: 63-27649, 63-27671, 63-31054, 63-31055.
The annual diversion volume refers to the irrigation use only.
The rights listed below are limited to a total combined diversion rate of 0.055 cfs and to a total combined annual diversion volume of 28.36 AF. Combined Right Nos.: 63-27671 and 63-31054.
This right when combined with all other rights shall provide no more than .02 cfs per acre.

PRIORITY DATE: 11/01/1940

POINT OF DIVERSION: T04N R02E S22 NENW Within Ada County

Water temperature in this well has been measured at 97 degrees F and at 70 degrees F. No determination has been made whether the source is low temperature geothermal water.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.055 CFS
			9.00 AFY
	Stockwater	01-01 TO 12-31	0.055 CFS
	Recreation	01-01 TO 12-31	0.055 CFS
	Fire Protection	01-01 TO 12-31	0.055 CFS
	Aesthetic	01-01 TO 12-31	0.055 CFS

The cold water sources covering the place of use will be used for the irrigation use to the extent possible before the low temperature geothermal water authorized under this right is used for irrigation.

PLACE OF USE:			
	Irrigation		Within Ada County
	T04N R02E S22	SWNW 2.0	
	2.0 Acres Total		
	Stockwater		Within Ada County
	T04N R02E S22	NENW	SENW
	Recreation		Within Ada County
	T04N R02E S22	NENW	SENW
	Fire Protection		Within Ada County
	T04N R02E S22	NENW	SENW
	Aesthetic		Within Ada County

PLACE OF USE (continued)

T04N R02E S22

NENW

SENE

The rights listed below are limited to the irrigation of a combined total of 17 acres in a single irrigation season. Combined Right Nos.: 63-27649, 63-27671, 63-31054, 63-31055. The rights listed below are limited to the irrigation of a combined total of 178 acres in a single irrigation season. Combined Right Nos.: 63-12, 63-13, 63-15, 63-308, 63-3603, 63-7595, 63-27649, 63-27671, 63-31050, 63-31052, 63-31053, 63-31054, 63-31055 and 63-31056.

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

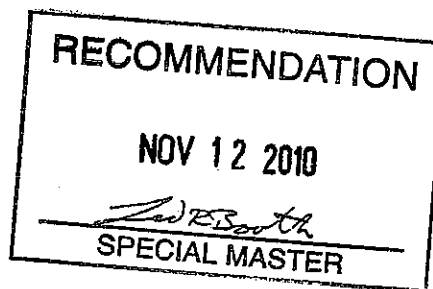
The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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



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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): 63-31054

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 November 12, 2010, with sufficient first-class postage prepaid to the following:

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

T-7 LLC
THE TERTELING CO INC
Represented by:
CHARLES L. HONSINGER
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

EDWARDS FAMILY LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

CERTIFICATE OF MAILING

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11/12/10

EDWARDS' FAMILY LLC
Represented by:
DEBRA K. ELLERS
PO BOX 1030
MCCALL, ID 83638
Phone: 208-315-2827



JULIE MURPHY
Deputy Clerk

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
NOV 12 2010	
By _____	Clerk _____ Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
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): 63-31054

On November 12, 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 November 12, 2010.


JULIE MURPHY
Deputy Clerk