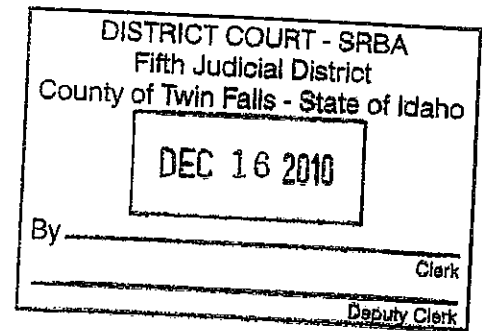


RECEIVED
DEC 17 2010
DEPARTMENT OF
WATER RESOURCES



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

Subcase Nos. 47-17540; 47-17541

SPECIAL MASTER'S
RECOMMENDATION ON ORDER
OF REFERENCE RE: MOTION TO
FILE LATE NOTICE OF CLAIM

On September 27, 2010, the presiding judge of the Snake River Basin Adjudication issued an *Order of Reference Appointing Theodore R. Booth as Special Master* in the above subcases. The *Order of Reference* involved late claimed filed by Magic Water Company, Inc. (47-17540) and Magic Irrigators, Inc. (47-17541) (collectively referred to as "Magic"). In previous proceedings, Judge Wildman concluded that Magic had "demonstrated an excuse for the untimely filing of the subject late claim and a meritorious position." *Order of Reference* at 1. However, he referred to water rights to this Special Master to determine "the question of prejudice to other parties, if any, that may arise by the late claim." *Id.* Judge Wildman described the Court's concerns as follows:

In addition to the above-captioned late notice of claim, [Magic] has various other water right claims presently pending unresolved in the SRBA. These

claims are presently set or will soon be set for trial. ... [T]he granting of the late claim may affect the trial schedule set for [Magic's] other claims. The Court is concerned about the potential prejudice to other parties involved in the other claims that may result from the granting of this late claim.

Id. at 1-2. In addition, the Court asked this Special Master to “determine whether the Idaho Department of Water resources can prepare an expedited Director’s Report” for the late claims. *Id.* at 2.

On December 7, 2010, a hearing was held before this Special Master to address the Court’s concerns. At that hearing, counsel for Magic indicated that the only party involved in the other water rights claims is the Bureau of Land Management (“BLM”).¹ In those proceedings, Magic filed an objection to the Director’s recommendation – asserting that, among other elements, the place of use should have been recommended as claimed. Since the claimed place of use included lands owned by the BLM, the BLM filed a response to Magic’s objections. Counsel for Magic assured the Special Master that the place of use objections would be resolved. Furthermore, the place of use for these late claims does not include any BLM land. As such, even though the granting of this late claim may delay a trial setting on the other subcases, there would be no prejudice to the BLM as a result of that delay. Counsel for the BLM, who was present at the hearing, agreed with this conclusion.

In addition, counsel for the Idaho Department of Water Resources (“IDWR”) indicated that these water rights could not be prepared on an expedited schedule due to the interrelationship between these late claims, the other water rights and additional permits pending before IDWR.

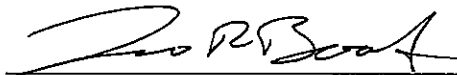
NOW THEREFORE, the Special Master makes the following recommendations:

¹ The other water rights claims are 47-2269, 47-2384, 47-2415 and 47-10261.

1. That Magic's late claim be granted since there will be no prejudice to the parties involved in the other water rights as a result in a delayed trial setting in the proceedings involving the other water rights.

2. That the Court not order the Director's Reports on the late claims be completed on an expedited schedule.

DATED this 16 day of Dec, 2010.

A handwritten signature in dark ink, appearing to read 'Theodore R. Booth', written over a horizontal line.

Theodore R. Booth
Special Master
Snake River Basin Adjudication

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
DEC 16 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): 47-17540
47-17541

On December 16, 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.

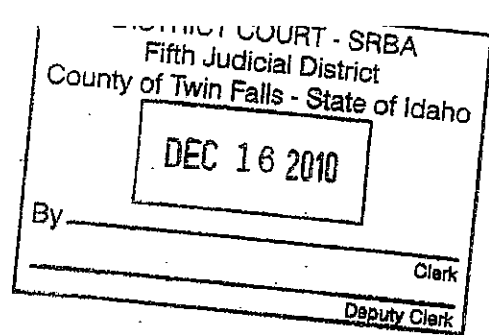
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 December 16, 2010.



DIANA R. DELANEY
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): 47-17540
47-17541

CERTIFICATE OF MAILING

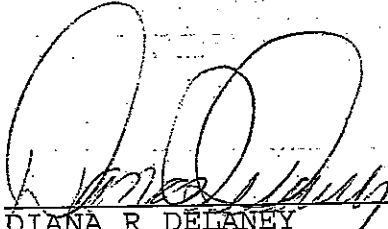
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on December 16, 2010, with sufficient first-class postage prepaid to the following:

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

MAGIC IRRIGATORS INC
MAGIC WATER CO INC
Represented by:
PAUL L ARRINGTON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

MAGIC IRRIGATORS INC
MAGIC WATER CO INC

Represented by:
TRAVIS L THOMPSON
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DIANA R DELANEY
Deputy Clerk