

RECEIVED

SEP 02 2011

DEPARTMENT OF  
WATER RESOURCES

|                                                                                           |              |
|-------------------------------------------------------------------------------------------|--------------|
| DISTRICT COURT - SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |              |
| SEP - 1 2011                                                                              |              |
| 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 ) SPECIAL MASTER'S REPORT  
Case No. 39576 )  
 ) FINDINGS OF FACT AND  
 ) CONCLUSIONS OF LAW  
 )  
 ) FOR WATER RIGHT 63-00180

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.

On March 16, 2011, the claimant E. G. Johnson Farms, Inc., through its attorney John M. Marshall, filed an objection to the *Director's Report*. On August 25, 2011, 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 63-00180 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Sept. 1, 2011



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 63-00180

NAME AND ADDRESS: E G JOHNSON FARMS INC  
24007 HWY 20-26  
PARMA, ID 83660

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 3.50 CFS

Whenever it becomes necessary for the watermaster to deliver this right, the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities. This right remains in the Boise River to be used for mitigation of Right Nos. 63-4036A, 63-4036B, 63-28751 and 63-32394.

PRIORITY DATE: 06/01/1869

POINT OF DIVERSION: T05N R05W S25 LOT 2 (SWSE ) Within Canyon County

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------------------|----------------|----------------|----------|
|                            | Mitigation     | 03-01 TO 11-15 | 3.50 CFS |

Diversion for any water use under this water right prior to April 1 and after October 31 shall occur only when the natural flow in the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE 1/4 of the SE 1/4 of the SE 1/4, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

| PLACE OF USE: | Mitigation    |        | Within Canyon County |
|---------------|---------------|--------|----------------------|
|               | T05N R05W S25 | NENE   | NWNE                 |
|               |               | SWNE   | SENE                 |
|               |               | NENW   | LOT 6 (NWNW)         |
|               | LOT 5         | (SNNW) | LOT 5 (SENN)         |
|               | LOT 4         | (NESW) | LOT 4 (NNSW)         |
|               | LOT 3         | (SWSW) | LOT 3 (SESW)         |
|               | LOT 1         | (NESE) | NWSE                 |
|               | LOT 2         | (SWSE) | LOT 1 (SESE)         |

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

PLACE OF USE (continued)

S36 LOT 3 (NWNE)

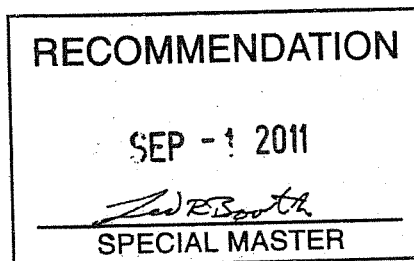
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



|                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DISTRICT COURT - SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho<br><div style="border: 1px solid black; padding: 5px; text-align: center;"> SEP - 1 2011 </div> By _____<br><div style="text-align: right;">Clerk</div> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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

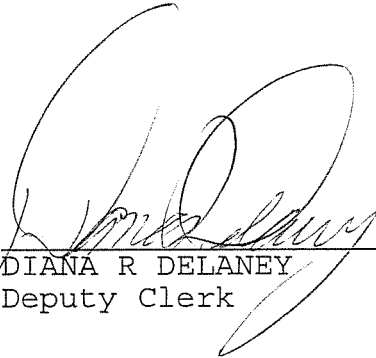
Water Right(s): 63-00180

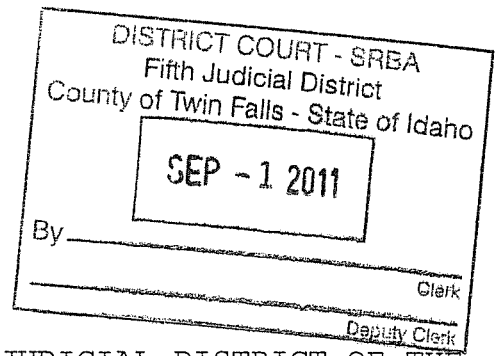
On September 01, 2011, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 September 01, 2011.

  
\_\_\_\_\_  
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

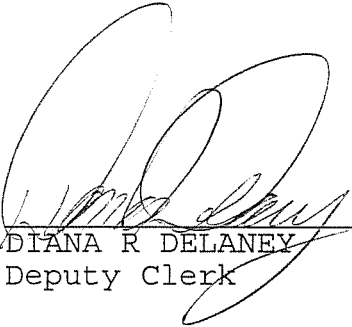
Water Right(s): 63-00180

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 September 01, 2011, with sufficient first-class postage prepaid to the following:

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

E G JOHNSON FARMS INC  
Represented by:  
JOHN M MARSHALL  
575 W BANNOCK ST, SUITE B  
BOISE, ID 83702  
Phone: 208-991-2701

  
\_\_\_\_\_  
DIANA R DELANEY  
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1  
09/01/11