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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAY 10 2012	
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

) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION RE: MOTION
) TO SET ASIDE PARTIAL DECREES
)
) FOR WATER RIGHTS 37-02676
) and 37-07620
)
) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION OF
) DISALLOWANCE FOR 37-00743A

On May 9, 2003, *Partial Decrees* were issued for water right nos. 37-02676 and 37-07620. On September 26, 2009, a *Partial Decree* was issued for water right number 37-00743A. On May 9, 2011, Milford D. Sweat, Bonnie C. Kevicki, Barbara L. Murphy, Michael L. Olsen, Dean E. Olsen, and Joel E. Olsen, through their attorney Fritz X. Haemmerle, filed a *Motion to Set Aside Partial Decrees and to Amend Claims*, together with the *Affidavit of Fritz X. Haemmerle* in support of the motion. The motion was heard on May 24, 2011.

Based upon the contents of the *Affidavit*, and upon the comments of the participants at the hearing, this Special Master finds that the requirements of I.R.C.P. 60(b) have been met, and that the SRBA District Court should set aside the previously issued *Partial Decrees* and issue amended partial decrees as recommended herein.

In anticipation of the issuance of amended partial decrees, IDWR filed *Amended Director's Reports* on June 27, 2011. (The Amended Director's Report for 37-00743A recommended the claim be disallowed.) Notice of the issuance of the *Amended Director's Reports* was published on the Court's docket sheet in July 2011. No objections were filed to the *Amended Director's Report*, and the time for objecting has expired.

Therefore based on the file and record herein, IT IS RECOMMENDED amended partial decrees be issued for water rights 37-02676 and 37-07620 with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

IT IS FURTHER RECOMMENDED that the SRBA District Court enter a final order **disallowing** water right claim 37-00743A with prejudice.

Dated May 10, 2012



Theodore R. Booth
Special Master
Snake River Basin Adjudication

AMENDED

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May-07-2012

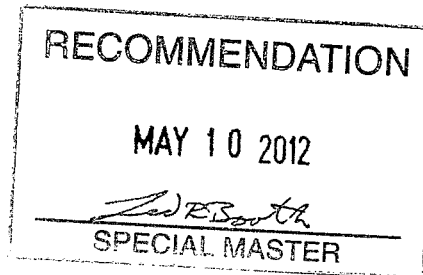
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



PLACE OF USE (continued)

450.4 Acres Total		
Irrigation Storage		Within Blaine County
T01S R22E S10	SENE	SESW
Irrigation from Storage		
T01S R22E S03	SWSE 26.0	SESE 19.0
S10	NWNE 33.0	SENE 15.0
	NENW 36.0	SESW 19.0
	NESE 32.0	NWSE 9.4
	SWSE 34.0	
S15	NWNE 31.0	SWNE 24.0
	NENW 34.0	NWNW 39.0
	SENE 40.0	NESW 40.0
	NWSE 19.0	
450.4 Acres Total		

Use of this right with Right No. 37-2676 is limited to the irrigation of a combined total of 450.4 acres in a single irrigation season.
The rights listed below are limited to the irrigation of a combined total of 475.9 acres in a single irrigation season.
Combined Right Nos. 37-732, 37-743B, 37-2676, 37-2777, 37-7620 & 37-22598.

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

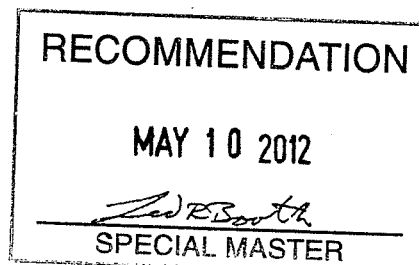
This water right enjoys the benefit of subordination of hydropower water right nos. 02-00100, 02-4000A, 02-4001A, 02-02032A, 02-4000B, 02-4001B, 02-02032B, 02-02036, 02-02056, 02-02065, 02-02064, 02-10135, 02-02060, 02-02059, 02-02001B, 02-02001A, 02-02057, 37-02128, 37-02472, 37-02471, 37-20710, 37-20709, 36-02013, 36-02018 and 36-02026 only so long as the average daily flows as measured at the Murphy Gaging station meet or exceed the minimum stream flows established by state action.

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



AMENDED

PAGE 1
Mar-19-2012

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAY 10 2012	
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

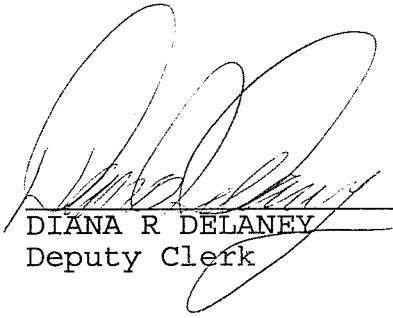
Water Right(s): 37-00743A
37-02676 37-07620

On May 10, 2012, 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.

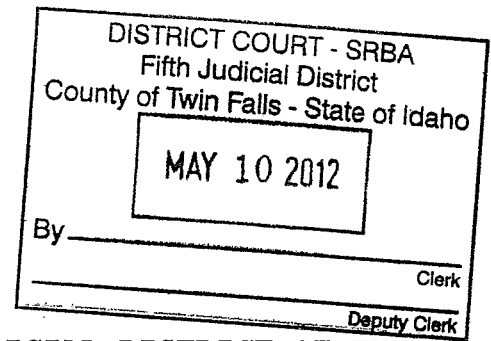
Pursuant to SRBA Administrative Order 1, Section 13a, any party
to the adjudication including parties to the subcase, may file a Motion
to Alter or Amend on or before the 28th day of the next month.

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 May 10, 2012.



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): 37-00743A
37-02676 37-07620

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 May 10, 2012, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO
Represented by: _____

DEPUTY ATTORNEY GENERAL
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

CERTIFICATE OF MAILING

PAGE 1
05/09/12

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DEAN E OLSEN
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MICHAEL L OLSEN
MILFORD D SWEAT

Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333
Phone: 208-578-0520

USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

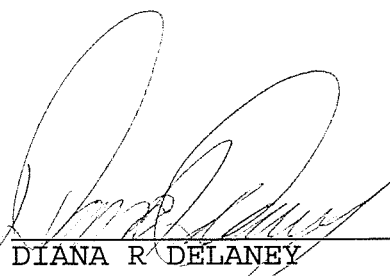
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DIANA R DELANEY
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