

2004 OCT 15 PM 4 08

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 AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	WATER RIGHT NO.: 29-2239
	)	(Marsh Center Irrigation Co.)

I. FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of this water right.

An *Objection* was filed by the United States Bureau of Land Management on November 13, 2003. The *Objection* was resolved on May 25, 2004 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. ANALYSIS

A. Place of Use/Digital Boundary

The place of use element for this water right is described by a digital boundary rather than by legal description with legal subdivisions such as Township, Range, Section, and Quarter-Quarter designations. The place of use element was changed during the litigation process and differs from the digital boundary on file with IDWR at the time the *Director's Report* was filed.

B. Recommendation for Place of Use Description Using Digital Boundary.

On July 1, 2002, the Idaho Legislature approved the use of digital boundaries for describing the place of use for water rights meeting certain criteria. I.C. § 42-219(2) (licenses)

and I.C. § 42-1411 (2) (h) (*Director's Reports*) Digital boundary descriptions of the place of use rely on Geographic Information System (GIS) mapping technology. This technology provides a description of the place of use for a water right to be identified and visually displayed in a map overlay format through the aid of computer technology.

Digital boundary descriptions of the place of use are permitted for water rights that are for irrigation purposes of use and meet one of the following criteria: (1) used in conjunction with an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more; (2) the place of use for the water rights is located within an irrigation district organized pursuant to the laws of the State of Idaho; or (3) the water rights are for an irrigation project developed by an association, company, corporation or the United States to divert and deliver or distribute surface water under any annual charge or rental for beneficial use by more than five (5) water users in an area less than twenty-five thousand (25,000) acres. I.C. § 42-219(2)(5)(6); I.C. § 42-1411 (2) (h)

This water right meets the statutory criteria and may be described by a digital boundary.¹ Therefore, this water right is recommended using a digital boundary and with the following additional language as set forth in the attached ***Recommendation for Partial Decree***:

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. § 42-202B(2) and authorized pursuant to I.C. § 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

¹ In incorporating a digital boundary into a partial decree, the electronic or digital data is what is actually decreed as opposed to the map generated from the data. The map generated from the data is for illustrative purposes. The digital data is stored on a CD-ROM and is incorporated by reference into the *Special Master's Report and Recommendation* and recommendation for partial decree. Duplicate originals of the CD-ROM will be issued. The SRBA District Court retains one original together with the original partial decree, and the Idaho Department of Water Resources (IDWR) retains the other original. Upon request, the claimant can obtain a copy of the CD-ROM from IDWR at no cost, although GIS software will still be required to access the data. Subsequent administrative changes, if any, to the place of use will also be stored in a digital format and kept on file and maintained by IDWR. IDWR will maintain all computer software and/or hardware necessary for reducing the data to a usable format that is accessible to the general public, including access through the IDWR Internet website (www.idwr.state.id.us) or its successor Uniform Resource Locator (URL).

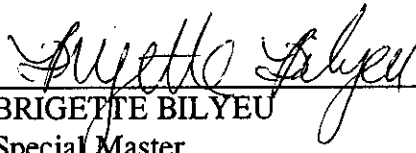
C. Digital Boundary on CD-Rom Filed July 9, 2004

The place of use agreed on by the parties and IDWR is illustrated by the map overlay attached to the *Recommendation for Partial Decree*. The digital boundary for the place of use is described on the CD-Rom filed June 9, 2004.

III. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that this water right be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: October 15, 2004.



BRIGETTE BILYEU
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
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 29-02239

FILED

2004 OCT 15 PM 4 08

NAME AND ADDRESS: MARSH CENTER IRRIGATION CO
C/O WM EGAN
1451 W HAWKINS RD
ARIMO, ID 83214

SOURCE: WIREGRASS SPRINGS TRIBUTARY: MARSH CREEK

QUANTITY: 5.80 CFS

PRIORITY DATE: 05/05/1925

POINT OF DIVERSION: T11S R36E S12 SWSNW Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	5.80 CFS

PLACE OF USE:

274 ACRES TOTAL

PLACE OF USE IS WITHIN THE AREA SERVED BY THE MARSH CENTER
IRRIGATION COMPANY.

THE BOUNDARY ENCOMPASSING THE PLACE OF USE FOR THIS WATER
RIGHT IS DESCRIBED WITH A DIGITAL BOUNDARY AS DEFINED BY I.C.
SECTION 42-202B(2) AND AUTHORIZED PURSUANT TO I.C. SECTION
42-1411 (2)(h). THE DATA COMPRISING THE DIGITAL BOUNDARY ARE
INCORPORATED HEREIN BY REFERENCE AND ARE STORED ON A CD-ROM DISK
ISSUED IN DUPLICATE ORIGINALS ON FILE WITH THE SRBA DISTRICT
COURT AND THE IDAHO DEPARTMENT OF WATER RESOURCES. A MAP
DEPICTING THE PLACE OF USE IS ATTACHED HERETO TO ILLUSTRATE THE
PLACE OF USE DESCRIBED BY THE DIGITAL BOUNDARY.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 239 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

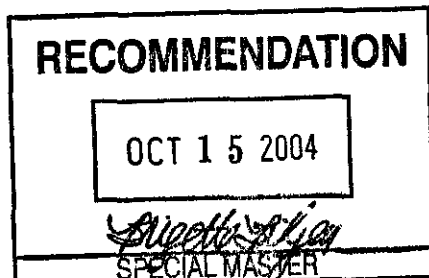
THE USE OF WATER UNDER THIS RIGHT DOES NOT INCLUDE A USE ON
FEDERAL PUBLIC LAND.

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.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

Claim No.:
29-2239
29-2560A

Marsh Center Irrigation Co Service Area Boundary

Boundary
Township/Range
Sections

Water Rights from the Water Resources
1985-86 HAPD Photography
Approved by: Ken C. Calver
Date Prepared: July 1984

0 0.5 1 1.5 Miles

T10S R36E



T11S R36E

2

1

11

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 OCT 15 PM 4 09

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

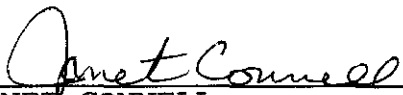
Water Right(s): 29-02239

On October 15, 2004, Special Master BRIGETTE BILYEU
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 October 15, 2004.



JANET CONNELL
Deputy Clerk

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

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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)
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CERTIFICATE OF MAILING

Water Right(s) : 29-02239

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 October 15, 2004, with sufficient first-class postage prepaid to the following:

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

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

MARSH CENTER IRRIGATION CO
C/O WM EGAN
1451 W HAWKINS RD
ARIMO, ID 83214
Phone: 208-254-3607

CERTIFICATE OF MAILING


JANET CONNELL
Deputy Clerk
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10/15/04