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Department of Water Resources

COMPETING CLAIMS ANALYSIS

Subcase Nos. 57-1059, et al.

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
David R. Tuthill, Jr., Adjudication Bureau Chief

April 8, 2003

Discussion

The following is a report submitted by the Idaho Department of Water Resources (IDWR) pursuant to a request made from the bench by Special Master Cushman on March 31, 2003. Specifically, the special master asked IDWR to supply additional information both to the court and to the parties pertaining to the Director's Report recommendations of state-based water rights 57-1059, 57-2484, 57-7066 and 57-7230 and any associated rights or claims in the Snake River Basin Adjudication (SRBA), including a series of claims based on Federal law believed to be directly related to the previously listed state-based claims. The claims based on Federal law are as follows: 57-11201, 57-11246, 57-11260 and 57-11287.

IDWR's analysis of the claims information included review of IDWR's own water right records, claims filed in the SRBA, Standard Forms 5, Special Master's Reports and partial decrees, if any, along with applicable USGS topographic maps. Any conclusions in this report are based on that analysis.

Notices of Claim 57-1059 and 57-11201

The U.S. Department of the Interior, Bureau of Land Management (BLM) filed two claims for "Salex Spring" tributary to "Murphy Creek": 57-1059 based on state law, and 57-11201 based on Federal law. Both claims described the legal location of the spring to be T02S, R04W, S08, SESE.

A partial decree for 57-1059 was issued by the SRBA Court on July 2, 1997, describing the source as "Salex Spring", at the claimed location: T02S, R04W, S08, SESE.

A *Special Master's Report and Recommendation* issued December 9, 1996 for claim no. 57-11201 shows the source and point of diversion location to be an unnamed spring in T02S, R04W, S08, NWSE.

A review of current information available to IDWR indicates that these two claims, 57-1059 and 57-11201, are no longer related in any way.

Notices of Claim 57-2484 and 57-11246

BLM filed two claims for springs located in T01S, R04W, S23, NENW: 57-2484 based on state law, and 57-11246 based on Federal law. Claim 57-2484 was for water from "Red Bluff Spring" tributary to "Wilson Creek". The source shown on 57-11246 was "spring" tributary to "sinks".

The claim to 57-2484 represented a right, which had been previously licensed by IDWR and previously decreed in the Reynolds Creek Basin Adjudication (RCBA). The source decreed in the RCBA was "Red Bluff Spring", at the location claimed in the SRBA. A Standard Form 5 Stipulation (SF5) was filed July 28, 1997 in 57-2484, changing the location of the source to T01S, R04W, S23, NESW. A Partial Decree was issued for 57-2484 on November 26, 1997, describing the source as "Red Bluff Spring", at the location specified on the SF5.

An SF5 was submitted on January 22, 1996 in 57-11246, changing the location of the spring to T01S, R04W, S23, NESW.

Both 57-2484 and 57-11246 currently describe the location of a spring in T01S, R04W, S23, NESW. The source on the partial decree for the state-based right is "Red Bluff Spring"; the source on the Federal-based claim is "spring". IDWR generally defers to source names found on the USGS topographic maps. The USGS map for this area

does not show a named spring at this location. It is assumed that "Red Bluff Spring" is a name used locally to describe a spring in the location claimed.

A review of information currently available to IDWR indicates that an unnamed spring in T01S, R04W, S23, NESW is currently the subject of both decreed right 57-2482 and claim 57-11246.

Notices of Claim 57-7066 and 57-11260

BLM filed two claims to "Hyde Saddle Spring": 57-7066 based on state law and 57-11260 based on Federal law. Both claims described the location of the spring as T06S, R02W, S14, NENW. Claim No. 57-7066 was subsequently withdrawn and the SRBA Court issued a partial decree disallowing the claim December 3, 1997.

An SF5 was submitted in 57-11260 on February 14, 2003, changing the name of the source to "Henderson Spring South" tributary to "sinks". "Henderson Springs" is shown in the general location of the claimed spring on the USGS topographic map. No other claim was made in the SRBA to either "Henderson Springs" or "Henderson Spring South".

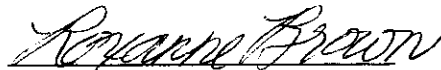
Notices of Claim 57-7230 and 57-11287

BLM filed four claims to "Driscoll Spring": 57-7230 and 57-11040 based on state law, and 57-11040A and 57-11287 based on Federal law. Partial decrees of 57-7230 and 57-11040 were issued February 9, 1998, describing the source of water as "Driscoll Spring" tributary to "Bates Creek", located in T05S, R03W, S13, SENESW. A Partial Decree of 57-11040A was issued March 4, 1998, disallowing this Federal law based claim.

A *Special Master's Report and Recommendation* issued November 7, 1996 shows the source name for 57-11287 was changed to an unnamed spring and describes the location of the spring as T05S, R03W, S13, NWSW.

"Driscoll Spring" is shown on the USGS topographic map in the SENESW, T05S, R03W, S13. This is consistent with the two State law based claims decreed for "Driscoll Spring": 57-7230 and 57-11040. On February 14, 2003, BLM filed a *Motion to Reopen Partial Decree* seeking to reopen the decree and change the source name and point of diversion description for 57-7230. Currently, 57-7230 and 57-11287 appear to be claims for different springs, at different locations.

Respectfully Submitted,



Roxanne Brown
Sr. Water Resource Agent
Adjudication Bureau
Idaho Dept. of Water Resources

4/8/2003
date

CERTIFICATE OF MAILING

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