

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

2005 JUL 28 PM 2 36

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 NOS.:
	)	29-00047A AND 29-00048
	)	(Digital Boundary - Lava Irrigation
	)	Company Inc.)

I. FINDINGS OF FACT

Claims were filed for these water rights 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 recommendations for the elements of these water rights.

No objections were filed for water rights 29-00047A and 29-48. However, these water rights are used in combination with water rights 29-4467 and 29-10816 which were the subject of *Objections*. The *Objections* were resolved on April 22, 2005 with the filing of the *Portneuf River Settlement Agreement*.

II. ANALYSIS

A. Place of Use/Digital Boundary

The place of use element for these water rights 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 elements were 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)

These water rights meet the statutory criteria and may be described by a digital boundary.¹ Therefore, these water rights are recommended using a digital boundary with the following additional language as set forth in the attached *Recommendations 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.

C. Digital Boundary on CD-Rom Dated July 8, 2003

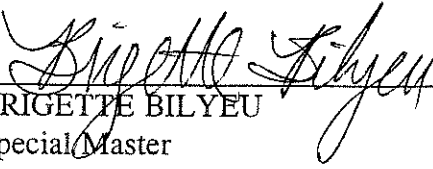
The place of use agreed on by the parties and IDWR is illustrated by the map overlay attached to the *Recommendations for Partial Decree*. The digital boundary for the place of use is described on the CD-Rom dated July 8, 2003.

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).

III. CONCLUSIONS OF LAW

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

DATED: July 28, 2005.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

U.S. DISTRICT COURT - SRBA
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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

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QUANTITY: 20.50 CFS

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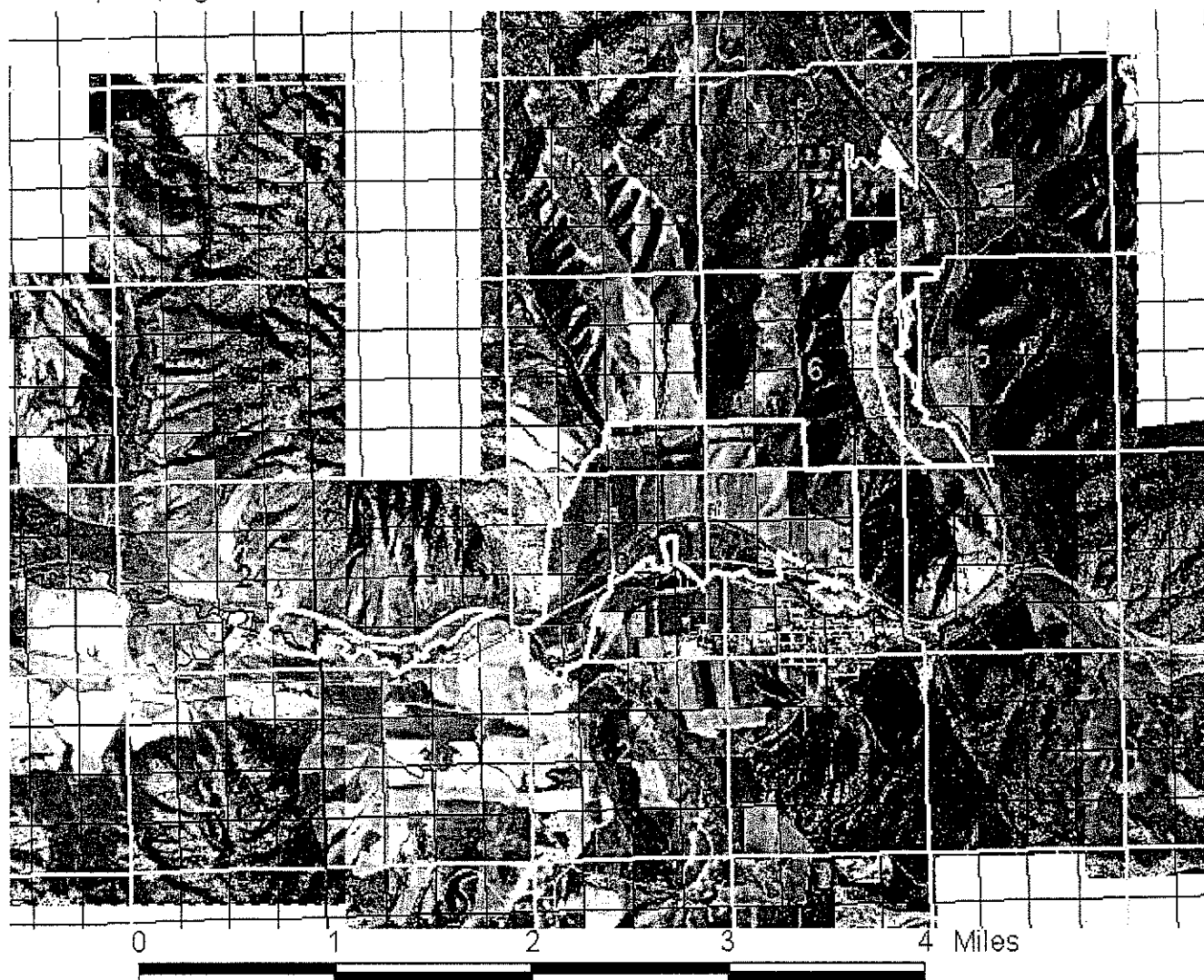


Department of Water Resources

Claim No.: 29-47A, 29-4467
29-48, 29-10816

Twp 9S, Rge 37E

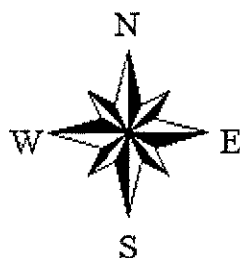
Twp 09S, Rge 38E



Irrigated Acres = 614.8

Place of Use Boundary

- Largepou-lava.shp
- ☐ Townships
- ☐ Sections
- ☐ QQ



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepare by: E. Carlsen
Date: January 2003

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

JUL 28 2005

By _____

Clerk

Deputy Clerk

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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): 29-00047A
29-00048

On July 28, 2005, 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 July 28, 2005.



JANET CONNELL
Deputy Clerk

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In Re SRBA)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 29-00047A
29-00048

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 July 28, 2005, with sufficient first-class postage prepaid to the following:

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

LAVA IRRIGATION CO INC
PO BOX 182
LAVA HOT SPRINGS, ID 83246


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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07/28/05