

2006 FEB 10 PM 2 45

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
	)	
	)	FOR WATER RIGHT: 29-11774
	)	(Digital Boundary -
_____	)	Fish Creek Irrigating 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. The *Director's Report* described this water right by digital boundaries.

An *Objection* was filed by Marsh Valley Development Inc. on November 13, 2003. The *Objection* was resolved with the filing of the *Portneuf River Settlement Agreement Basin 29: Portneuf River* (hereafter "*Portneuf River Agreement*").

II. ANALYSIS

A. Portneuf River Agreement

This *Special Master's Report and Recommendation* recommends this water right with the elements and administrative provisions set forth in the *Portneuf River Agreement*. (April 22, 2005) Specifically, the *Portneuf River Agreement* sets forth provisions for an extended season of use, administration of an upper and lower division, allocation of rights within each division, measurement at the Topaz Gauge, administration on East Bob Creek and West Bob Creek, and modification of the diversion structure.

B. Digital Boundary

The place of use element for this water right is described by a digital boundary rather than with legal subdivisions such as Township, Range, Section, and Quarter- Quarter designations. 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 July 8, 2003.

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: February 10, 2006.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

THE DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
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Water Right 29-11774

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Idaho Department of Water Resources

Service Area Boundary for FISH CREEK IRRIGATING CO

Adjudication Claim Number: **29-147, 29-11774**

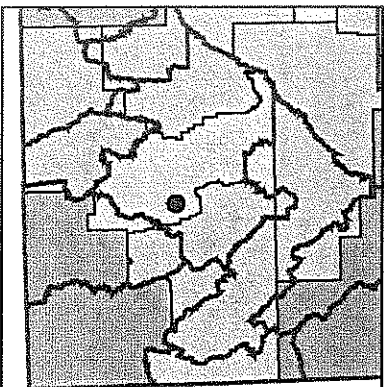
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TWIN FALLS CO., IDAHO
FILED

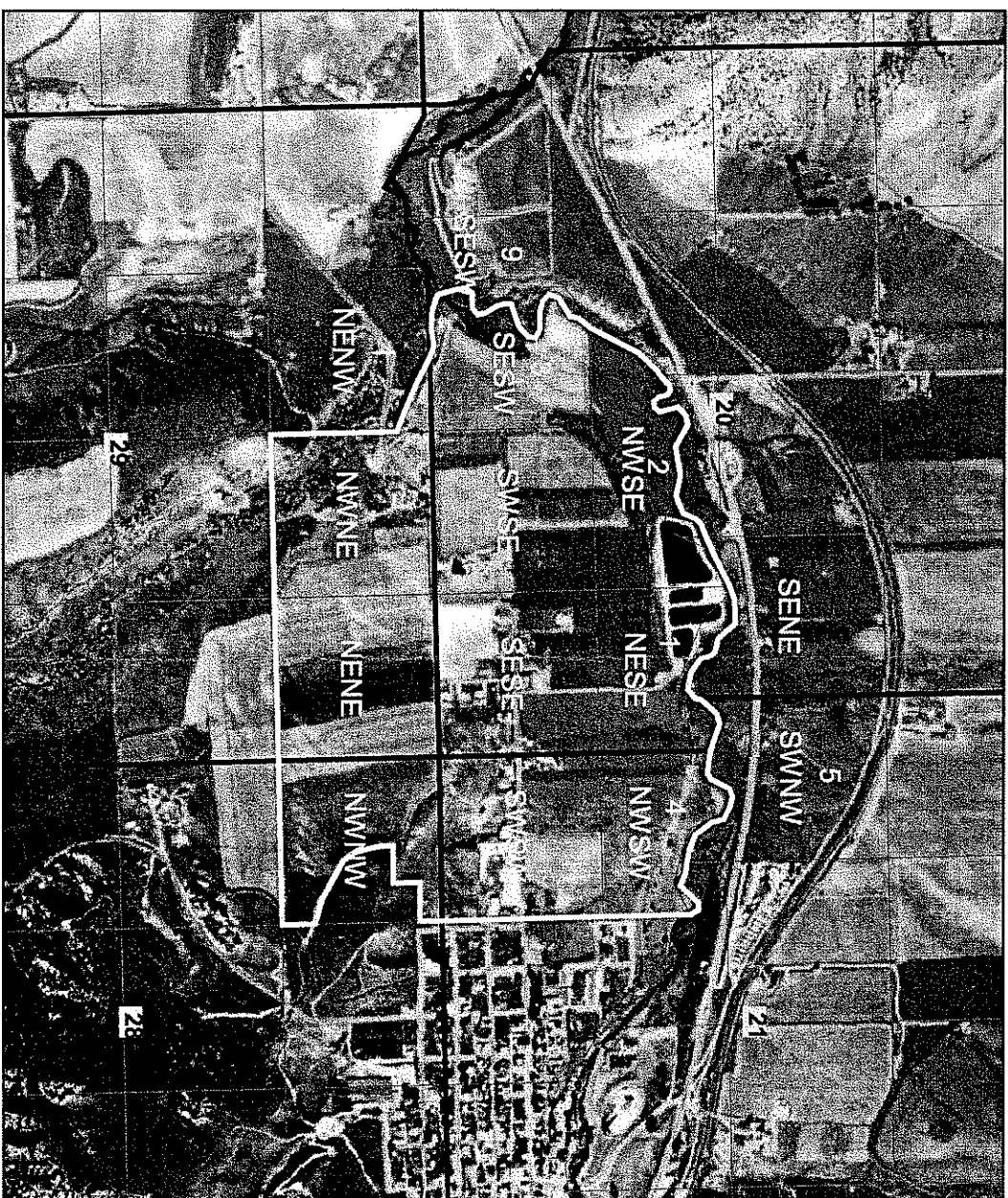
20 FEB 10 PM 2 45

Legend

- Service area.shp
- Sections
- QQ



BANNOCK County
IDWR Basin 29



Prepared by E. Carlsen
On Thursday, November 17, 2005
1987/88 Aerial Photography

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In Re SRBA)
Case No. 39576)
_____)

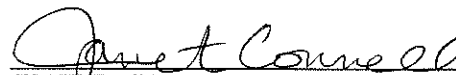
NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION
Water Right(s): 29-11774

On February 10, 2006, 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 February 10, 2006.


JANET CONNELL
Deputy Clerk

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

CERTIFICATE OF MAILING

Water Right(s): 29-11774

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 February 10, 2006, with sufficient first-class postage prepaid to the following:

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

MARSH VALLEY DEVELOPMENT INC

Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

FISH CREEK IRRIGATING CO
C/O WALLACE WHITEHEAD
PO BOX 152
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5253

CERTIFICATE OF MAILING


JANET CONNELL
Deputy Clerk

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02/10/06