

RECEIVED

JAN 30 2008

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 29 2008	
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	)	Subcases: 63-00147B, 63-002360, 63-31198,
	)	63-31832, and 63-31833
Case No. 39576	)	
_____	)	ORDER SETTING STATUS CONFERENCE

In November 2007, the parties to the above-captioned subcases filed *Standard Forms 5* resolving all objections. In reviewing the *SF-5s*, this Special Master had several concerns regarding some of the language on each right except 63-2360. This Special Master contacted Idaho Department of Water Resources Agent Jan Shurte for the purpose of discussing these concerns, and the culmination of that discussion is set forth in the attached e-mail correspondence and attachments thereto from Jan Shurte.

In addition, this Special Master has one more concern regarding the place of use for water right 63-31832. Specifically, the place of use for "Irrigation from Storage" is described as "Same as Irrigation Storage" which, in turn, is described as a 40-acre parcel. The description of the POU then states an acreage limitation of 2808.43 acres total, and this goes on to include the "digital boundary" language. On the attachment regarding water right 63-31832, this Special Master has handwritten a suggestion for correcting this problem.

For the purpose of discussing these issues, a **status conference will be held on Tuesday, February 12, 2008, at 2:30 pm (MT) at the SRBA Courthouse, 253 – 3rd Avenue North, Twin Falls.** Parties may participate by telephone by dialing the number 1-225-383-1099 and when

prompted entering code 675342. If you have any difficulty connecting to this call, call the SRBA Court immediately at 208-736-3011.

DATED January 29, 2008.

A handwritten signature in black ink, appearing to read 'T. R. Booth', is written over a horizontal line.

THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING STATUS CONFERENCE was mailed on January 29, 2008, with sufficient first-class postage to the following:

BOISE PROJECT BOARD OF CONTROL

Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

BOISE VALLEY IRRIGATION

Represented by:
CHARLES L. HONSINGER
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

STATE OF IDAHO

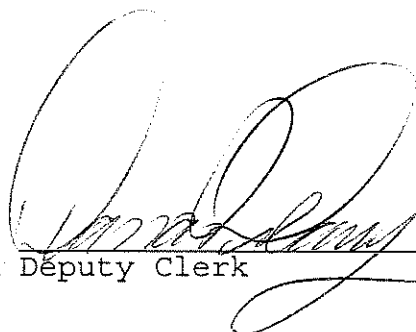
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION

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

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098



Ted Booth

From: Shurte, Jan [Jan.Shurte@idwr.idaho.gov]
Sent: Tuesday, January 08, 2008 10:23 AM
To: Ted Booth
Cc: Shurte, Jan
Subject: Boise Valley Irrigation Ditch Co. Recommendations
Attachments: 63-147B.RTF; 63-31198.RTF; 63-31832.RTF; 63-31833.RTF

Hi Ted,

Attached are the reworded recommendations for the BVID ones that we discussed. Following is an explanation of what I did on each one. Please let me know if I have left something out or made an error on one of these. Sorry for the delay.

63-147B – Removed the place of use remark concerning the 198.4 acres at the Simplot Sports Complex and replaced it with an explanatory remark.

Changed the two shoulder remarks concerning the periods of use and amounts of water by deleting "from this point of diversion" out of each.

63-2360 – All ok on this one.

63-31198 – Removed the place of use remark concerning the 5.5 acres at the Shakespeare Festival and replaced it with an explanatory remark. Did not make sense with the digital boundary remark also.

63-31832 – Deleted shoulder remark concerning season of use as it did not make sense with the period of use and was redundant to the Boise River period of use remark.

63-31833 – Removed the place of use remark concerning the 10 acres at the Shakespeare Festival and replaced it with an explanatory remark. Did not make sense with the digital boundary remark also.

If you have any questions, or I'm missing something, please let me know.

Thanks,
Jan

1/29/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-147B

NAME AND ADDRESS: BOISE VALLEY IRRIGATION DITCH CO
8750 N BOGART LN
BOISE ID 83714

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 3.970 CFS
892.80 AFY

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1865

POINT OF
DIVERSION:

T02N R03E S4 NWNE Lot 7 Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	3.970 CFS 892.80 AFY

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

DURING THE PERIOD BEGINNING OCTOBER 16 AND ENDING NOVEMBER 15 IN ANY IRRIGATION SEASON, THERE WILL BE NO WATER DIVERTED FOR THIS RIGHT IF THE AMOUNT OF WATER RELEASED FROM LUCKY PEAK DAM INTO THE BOISE RIVER IS EQUAL TO OR LESS THAN 240.0 CUBIC FEET PER SECOND.

DURING THE PERIOD BEGINNING MARCH 16 AND ENDING APRIL 15 IN ANY IRRIGATION SEASON, THERE WILL BE NO WATER DIVERTED FOR THIS RIGHT IF THE AMOUNT OF WATER RELEASED FROM LUCKY PEAK DAM INTO THE BOISE RIVER IS EQUAL TO OR LESS THAN 1,100 CUBIC FEET PER SECOND.

PLACE OF USE:

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 2808.43 ACRES WITHIN THE BOUNDARY OF THE BOISE VALLEY IRRIGATION DITCH COMPANY

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS DESIGNATED AS NO 15 IN THE STEWART DECREE AND THE BOISE RIVER WATER MASTERS RECORDS

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-161BN, 63-198AJ, 63-199B, 63-200B, 63-30181.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-147.

Transfer No. 5119 transferred 198.4 acres under this right to be used within the Simplot Sports Complex located in portions of Sec. 1, T2N, R2E; Sec. 5 & 6, T.2N, R3E; Sec. 36, T3N, R2E and Sec. 32, T.3N, R3E. These acres are within the digital boundary for the Boise Valley Irrigation Ditch Co.

01/08/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31198

NAME AND ADDRESS: BOISE VALLEY IRRIGATION DITCH CO
8750 N BOGART LN
BOISE ID 83714

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.110 CFS
24.70 AFY

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1865

POINT OF
DIVERSION:

T03N R03E S28 SWSWSW Lot 2 Within ADA County
T03N R03E S28 SWSWSW Lot 2 Within ADA County
T03N R03E S29 SESE Lot 1 Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.110 CFS 24.70 AFY

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:

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 2808.43 ACRES WITHIN THE BOUNDARY OF BOISE VALLEY IRRIGATION DITCH COMPANY

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS DESIGNATED AS NO 15 IN THE STEWERT DECREE AND THE BOISE RIVER WATER MASTERS RECORDS

Transfer No. 67107 transferred 5.5 acres under this right to be used within a 30.5 acre permissible place of use at the Idaho Shakespeare Festival grounds in the SWSW, S28 and SESE, S29, T3N, R1E. These acres are within the digital boundary for this ditch company.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-147.

Right No. 63-31833 is also diverted through points of diversion described above.

01/08/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31832

NAME AND ADDRESS: BOISE VALLEY IRRIGATION DITCH CO
8750 N BOGART LN
BOISE ID 83714

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 49.510 CFS
10,266.00 AFY

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1865

POINT OF
DIVERSION:

T03N R02E S5 NESENE Within ADA County
Rights 63-120G, 63-123C, 63-123D, 63-123E, 63-123F, 63-123G, 63-124Q,
53-125J, 63-126F, 63-165M, 63-198AG, 63-248, 63-297, 63-2360,
63-18700, 63-21729, 63-31937 are also diverted through the point of
diversion described above.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
AESTHETIC	03/01 11/15	0.170 CFS
AESTHETIC STORAGE	01/01 12/31	14.50 AFY
IRRIGATION STORAGE	01/01 12/31	14.50 AFY
IRRIGATION FROM STORAGE	03/01 11/15	14.50 AFY
IRRIGATION	03/01 11/15	49.340 CFS 10,251.50 AFY

Diversion for irrigation and aesthetic under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576. This period of use condition does not apply to Irrigation Storage and Aesthetic Storage.

PLACE OF USE: IRRIGATION STORAGE in ADA County

T04N R01E S14 NENW

AESTHETIC in ADA County

T04N R01E S14 NENW

AESTHETIC STORAGE in ADA County

T04N R01E S14 NENW

IRRIGATION FROM STORAGE same as IRRIGATION STORAGE

- Suggest Delete, TRB

irrigation from storage - Suggest Add, TRB

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 2808.43 ACRES WITHIN THE BOUNDARY OF BOISE VALLEY IRRIGATION DITCH COMPANY.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS DESIGNATED AS NO 15 IN THE BOISE RIVER WATER
MASTER RECORDS AND THE STEWART DECREE.

Use of water under this right will be regulated by a watermaster with
responsibility for the distribution of water among appropriators within a
water district. At the time of this approval, this water right is within State
Water District No. 63.

Water is delivered through the Farmers Union and Boise Valley canals.

This right is a split from former right 63-147.

The right holder shall maintain a measuring device and lockable controlling
works of a type approved by the Department in a manner that will provide
the watermaster suitable control of the diversion.

The portion of Right 63-31832 used for conveyance losses is 5.94 cfs.

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31833

NAME AND ADDRESS: BOISE VALLEY IRRIGATION DITCH CO
8750 N BOGART LN
BOISE ID 83714

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.200 CFS
45.00 AFY

The total instantaneous diversion of water from all points of diversion under Right 63-31833 shall not exceed 0.20 cfs, nor a total combined annual volume of 45.0 af.

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1865

POINT OF
DIVERSION:

T03N R03E S28 SWSWSW Within ADA County

T03N R03E S28 SWSWSW Within ADA County

T03N R03E S29 SESE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

0.200 CFS

45.00 AFY

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE

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.

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. Section 42-1412(6), Idaho Code.

The right holder shall accomplish the change authorized by transfer 71032 within one (1) year of the date of approval.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-31197.

Transfer No. 71032 transferred 10 acres under this right to be used within a 30.5 acre permissable place of use at the Idaho Shakespeare Festival grounds in the SWSW, Sec. 28 and SESE, Sec. 29, T3N. R1E. These acres are within the digital boundaries for this ditch company.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.

Failure of the right holder to comply with the conditions of transfer 71032 is cause for the Director to rescind approval of the transfer.

Right No. 63-31198 is also diverted through points of diversion described above.