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DEC 18 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
DEC 17 2009	
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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHTS: 25-00092,
_____	)	25-13388, and 25-14104

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.

Objections were filed by the United States Bureau of Land Management and the United States Bureau of Reclamation. The *Objections* were resolved on February 12, 2007 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

Subsequently, a *Motion to File Late Objection* was filed by Enterprise Canal Co. Ltd. on March 24, 2008 prior to the issuance of a *Special Master's Report and Recommendation*. Hearings were held on the *Motion* on May 14, 2008 and July 30, 2008. Enterprise Canal Co Ltd. failed to attend the July 30, 2008 hearing. The Court denied the *Motion*. ***Order Denying Motion to file Late Objection***. (August 7, 2008) The ***Order Denying Motion*** was based on the apparent willfulness of the late objection, the lack of showing of a "meritorious position," and the fact that the existing parties had executed and filed a *Standard Form 5* 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.

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 and with the following additional language as set forth in the attached *Recommendation for Partial Decree*:

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).

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 Filed February 15, 2007.

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 February 15, 2007.

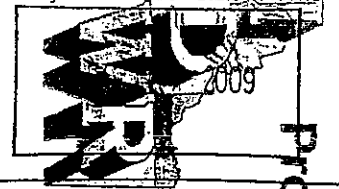
III. CONCLUSIONS OF LAW

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 Recommendation for Partial Decrees*.

DATED: Dec. 17, 2009.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication



Clerk
Deputy Clerk

Progressive Irrigation Dist

SRBA Recommendations: 1-64, 1-65, 1-66, 1-156, 1-202, 1-241, 1-322, 1-4006, 25-92, 25-96, 25-110, 25-223, 25-13383, 25-13384, 25-13385, 25-13388, 25-13389, 25-13390, 25-14104

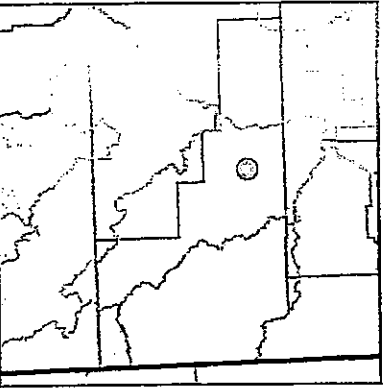
Service Area Boundary
GIS Place of Use Illustration

Legend

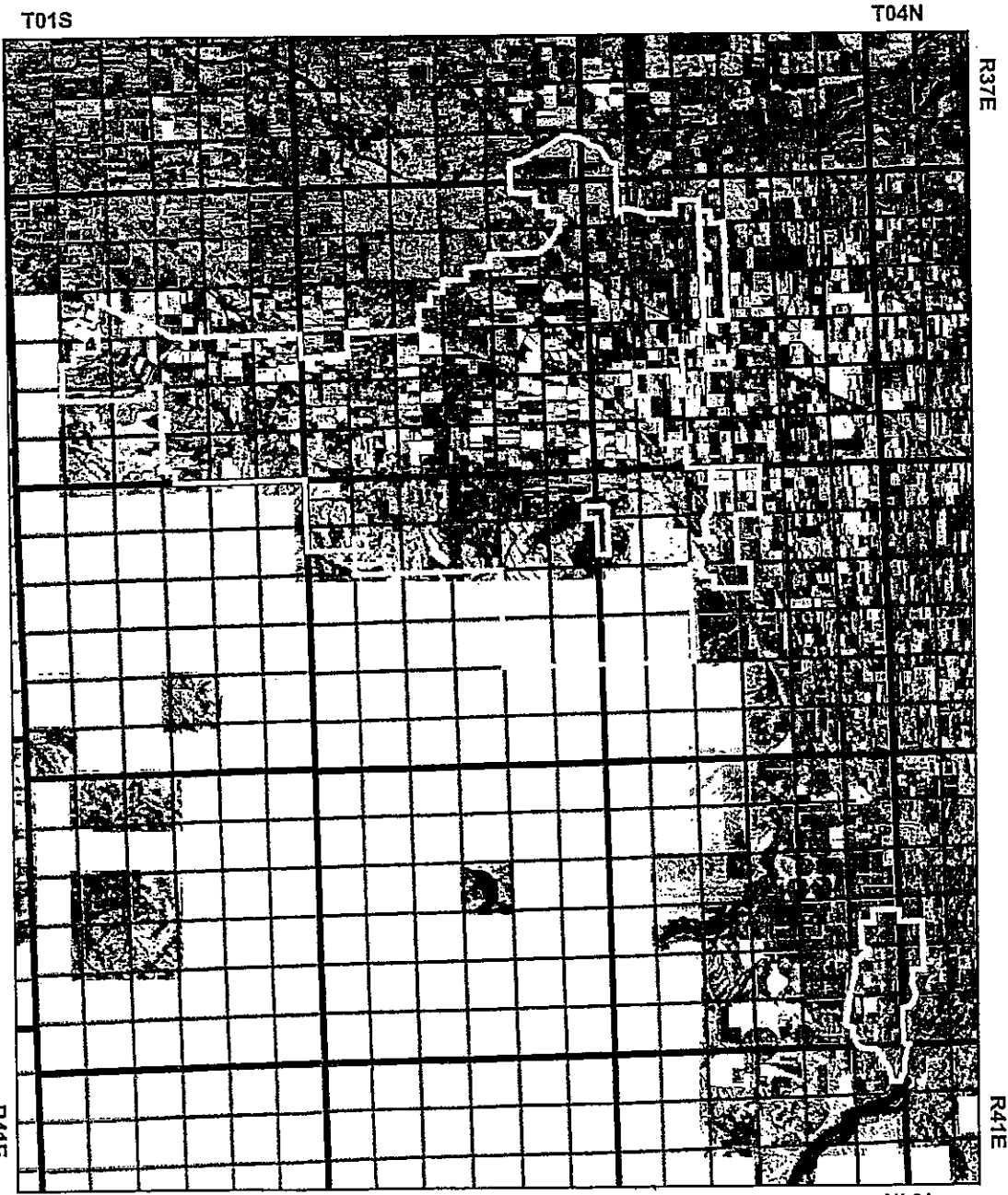
Service Area

Townships

PLS Sections



Bonneville County
IDWR Basin 25



Prepared by D. Favreau
On Wednesday, January 24, 2007
1987/88 Aerial Photography

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 25-00092

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

DEC 17 2009

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: PROGRESSIVE IRRIGATION DIST
2585 N AMMON RD
IDAHO FALLS, ID 83401-1949

SOURCE: WILLOW CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 2.00 CFS

PRIORITY DATE: 04/01/1884

POINT OF DIVERSION: T03N R39E S19 SWSWNE Within Bonneville County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-01 TO 10-31 2.00 CFS

PLACE OF USE:

Place of use does not include federal public lands.
Place of use is within the boundary of Progressive Irrigation
District pursuant to Section 43-323, Idaho Code.
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 100 acres within
the place of use described above in a single irrigation season.
29532 ACRES TOTAL

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.

RECOMMENDATION

DEC 17 2009

Brigette Silvey
SPECIAL MASTER

John M. Melanson
Presiding Judge of the
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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 25-13388

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

DEC 17 2009

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: PROGRESSIVE IRRIGATION DIST
2585 N AMMON RD
IDAHO FALLS, ID 83401-1949

SOURCE: WILLOW CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 5.20 CFS

PRIORITY DATE: 04/01/1880

POINT OF DIVERSION: T03N R39E S19 SWSWNE Within Bonneville County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	5.20 CFS

PLACE OF USE:

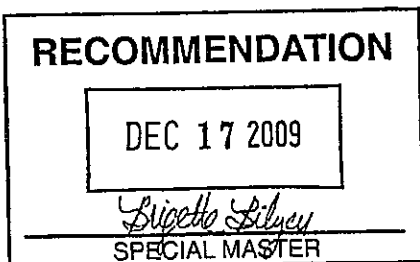
This right is limited to the irrigation of 260 acres within the place of use described above in a single irrigation season. Place of use is within the boundary of Progressive Irrigation District pursuant to Section 43-323, Idaho Code. The boundary encompassing the place of use for this water right is 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. PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LANDS.
29532 ACRES TOTAL

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

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 25-14104

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

DEC 17 2009

Clerk
Deputy Clerk

NAME AND ADDRESS: PROGRESSIVE IRRIGATION DIST
2585 N AMMON RD
IDAHO FALLS, ID 83401-1949

SOURCE: WILLOW CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 34.86 CFS

PRIORITY DATE: 05/01/1888

POINT OF DIVERSION: T03N R39E S19 SWSWNE Within Bonneville County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	34.86 CFS

PLACE OF USE:

This right is limited to the irrigation of 2324 acres within the place of use described above in a single irrigation season. Place of use is within the boundary of Progressive Irrigation District pursuant to Section 43-323, Idaho Code. 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.
PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LANDS.
29532 ACRES TOTAL

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.

RECOMMENDATION

DEC 17 2009

Brigitte Silvey
SPECIAL MASTER

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

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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
DEC 17 2009	
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)

Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 25-00092
25-13388 25-14104

On December 17, 2009, 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 December 17, 2009.



JANET CONNELL
Deputy Clerk

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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
DEC 17 2009
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

)

CERTIFICATE OF MAILING

Case No. 39576

)

)

Water Right(s): 25-00092
25-13388 25-14104

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 December 17, 2009, with sufficient first-class postage prepaid to the following:

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

PROGRESSIVE IRRIGATION DIST

Represented by:

KENT W FOSTER
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

PROGRESSIVE IRRIGATION DIST

Represented by:

ROBERT L HARRIS
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

CERTIFICATE OF MAILING

PAGE 1
12/17/09

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

ENTERPRISE CANAL CO LTD
PO BOX 583
RIRIE, ID 83443
Phone: 208-522-8881



JANET CONNELL
Deputy Clerk