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DEC 31 2009

DEPARTMENT OF
WATER RESOURCES

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

2009 DEC 30 PM 2 56

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

) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION; FINDINGS OF
) FACT AND CONCLUSIONS OF LAW

) WATER RIGHT NO.: 22-4140
) (Digital Boundary -
) Grand Teton Canal Co Ltd)

I. FINDINGS OF FACT

A 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.

An *Objection* was filed by Grand Teton Canal Co. Ltd. on February 5, 2006. The *Objection* was resolved with the filing of *Standard Forms 5* on January 13, 2009. All parties to the subcase and IDWR are signatories to the *Standard Forms 5*.

II. ANALYSIS

A. Place of Use/Digital Boundary

The place of use element for this water right 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 element was 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)

This water right meets the statutory criteria and may be described by a digital boundary.¹ Therefore, this water right is recommended using a digital boundary and with the following additional language as set forth in the attached *Recommendation 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 Filed January 13, 2009

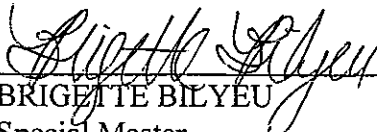
The place of use agreed on by the parties and IDWR is illustrated by the map overlay attached to the *Recommendation for Partial Decree*. The digital boundary for the place of use is described on the CD-Rom filed January 13, 2009.

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 this water right be decreed with the elements set forth in the attached *Special Master's Recommendations for Partial Decree*.

DATED: Dec. 30, 2009.



BRIGETTE BILYEU
Special Master
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
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

In Re: SRBA)
)
Case No. 39576)
)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 22-04140

FILED

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NAME AND ADDRESS: GRAND TETON CANAL CO LTD
PO BOX 1099
DRIGGS, ID 83422

SOURCE: DRY CREEK TRIBUTARY: TETON CREEK

QUANTITY: 26.90 CFS

PRIORITY DATE: 01/22/1916

POINT OF DIVERSION: T05N R46E S07 SWSNW Within Teton County

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PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	26.90 CFS

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. Place of use is within the area served by Grand Teton Canal Co. This right is limited to the irrigation of 1346 acres within the place of use described above in a single irrigation season.
6911.1 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 30 2009

Lucretia Silvey
SPECIAL MASTER

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

DISTRICT COURT
TWIN FALLS CO
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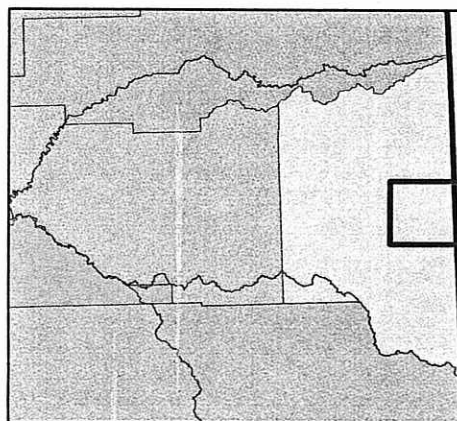
Grand Teton Canal Co Ltd

SRBA Recommendations: 22-4140

Service Area Boundary
GIS Place of Use Illustration

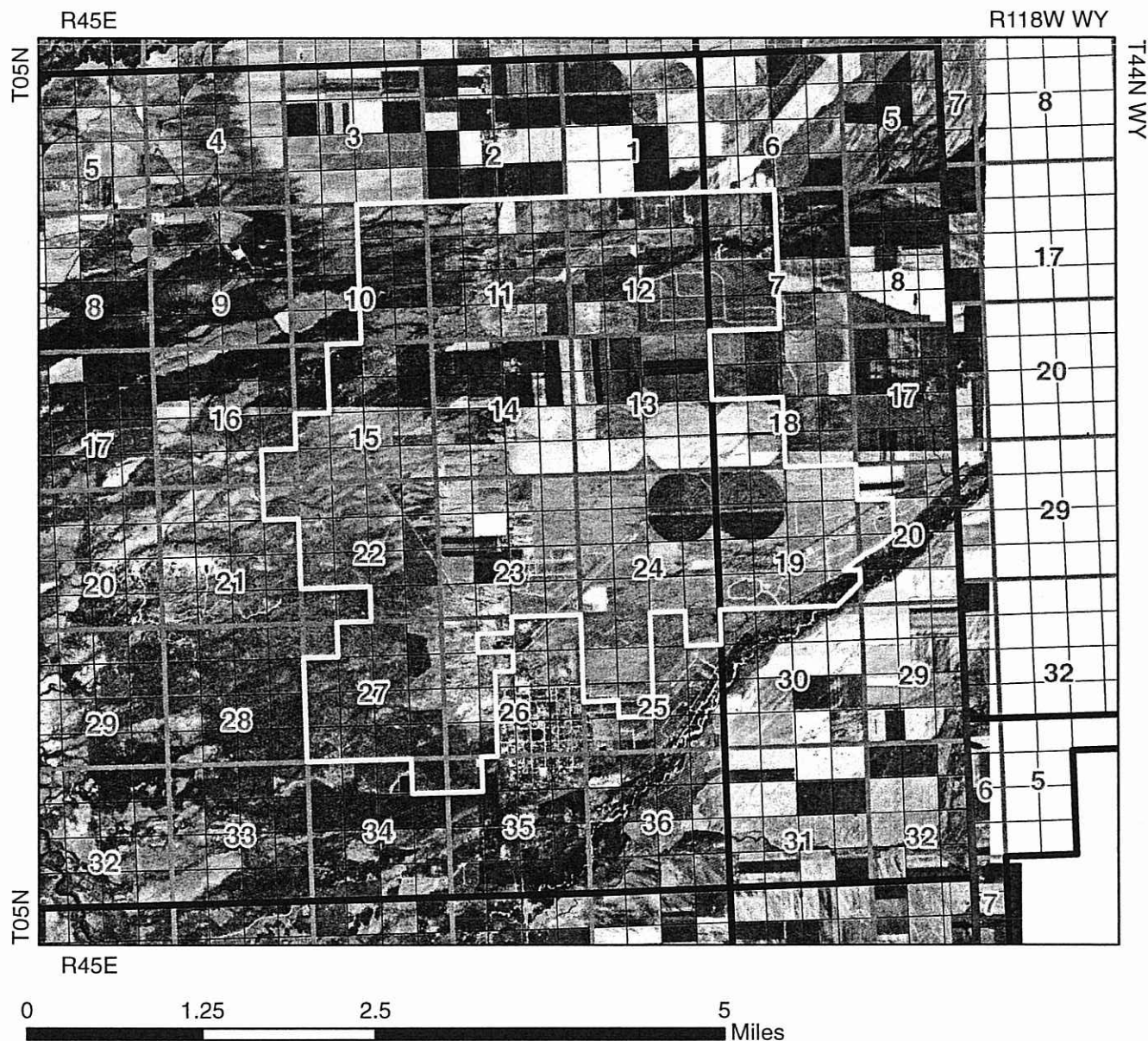
Legend

-  Service Area
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters



Teton County
IDWR Basin 22

Prepared by Danielle Favreau
On January 09, 2009
1987/88 Aerial Photography



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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

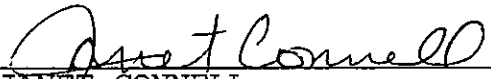
Water Right(s): 22-04140

On December 30, 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 30, 2009.



JANET CONNELL
Deputy Clerk

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In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 22-04140

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 30, 2009, with sufficient first-class postage prepaid to the following:

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

GRAND TETON CANAL CO LTD
Represented by:
ROBERT L HARRIS
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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12/30/09