

RECEIVED

AUG 23 2010

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
AUG 20 2010
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
	)	
	)	WATER RIGHT NOS.: 37-1162 and 37-
	)	14273

I. FINDINGS OF FACT

A notice of claim was filed for each of 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 Fish Creek Reservoir Co., Inc. An Initial Hearing was held on September 19, 2008. Fish Creek Reservoir failed to attend. At the Hearing, the United States BLM requested an Order to Show Cause as to why its *Objection* should not be granted in its entirety and the claimants *Objection* be denied. An *Order To Show Cause* hearing was held on March 11, 2009. Fish Creek Reservoir failed to attend. The Court granted the *Order to Show Cause* and granted BLM's *Objection* to remove Federal land from this water right. *Order on Show Cause Hearing* (March 17, 2009)

Subsequently, Fish Creek filed a *Motion to File Amended Notice of Claim* for each right on March 23, 2010. A hearing was held on May 5, 2010. There was no opposition to the *Motion*.

An *Amended Director's Report* was filed for each right on May 28, 2010. The *Amended Director's Reports* were placed on the Docket Sheet. No objections were filed to the *Amended Director's Reports*, and the time for filing such objections has now expired.

A. Digital Boundary

The place of use for these rights is a digital boundary and is illustrated by the map overlay attached to the Recommendation for Partial Decrees. The digital boundary for the place of use for each right is described on a CD-Rom filed with this court.

II. 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: August 20, 2010.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

DISTRICT COURT-SRBA

Fifth Judicial District
County of Twin Falls - State of Idaho



Irrigation From Storage Service Area Boundary
GIS Place of Use Illustration

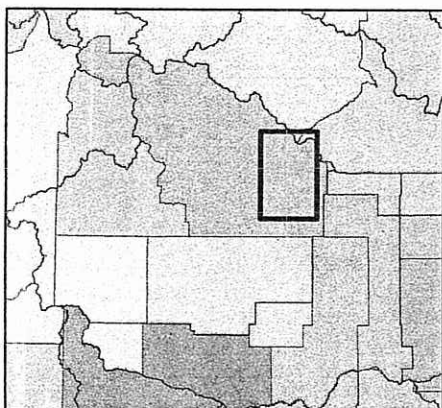
Clerk
Deputy Clerk
By _____

Fish Creek Reservoir Co Inc

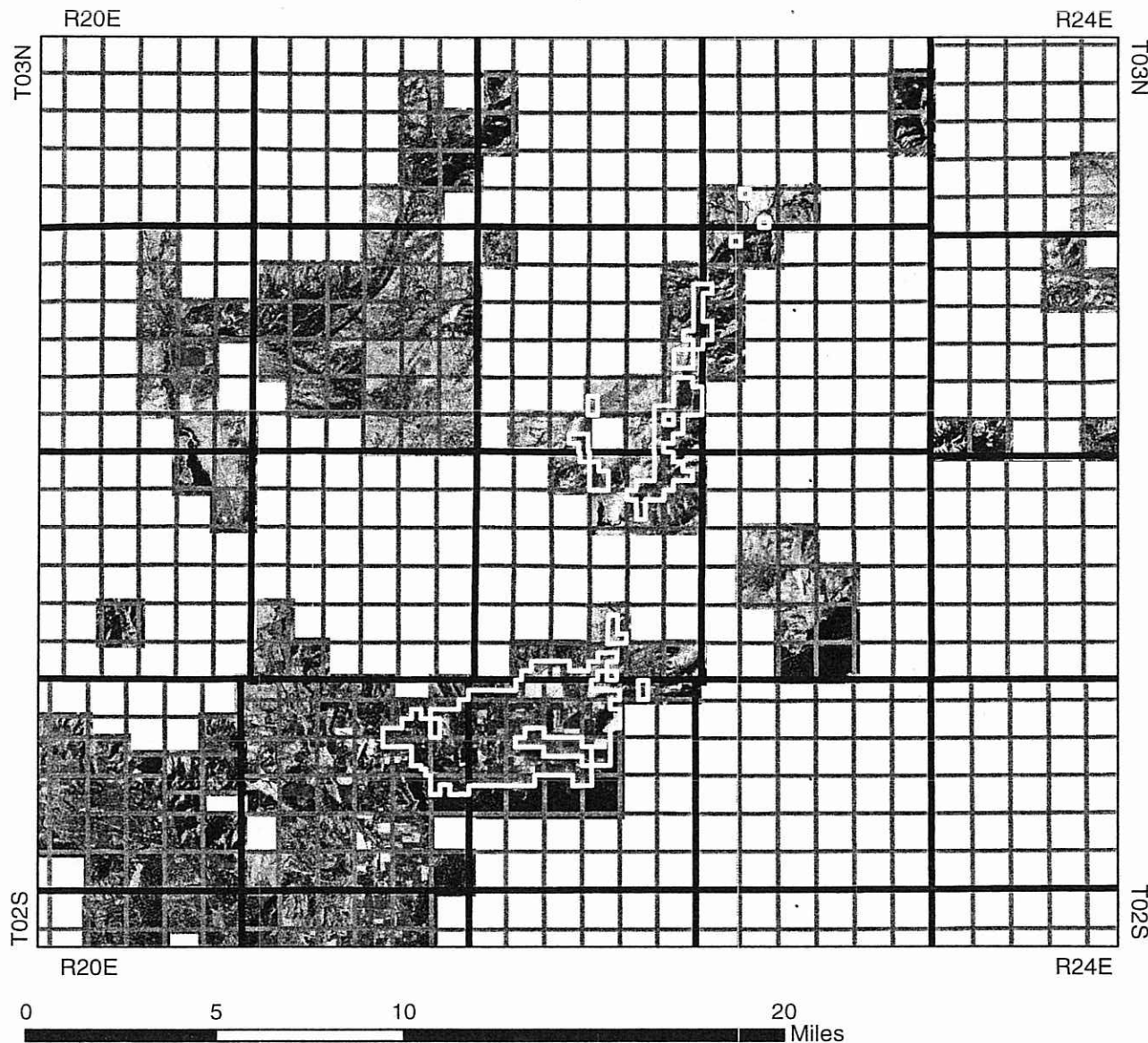
Adjudication Recommendations: 37-1162, 37-14273

Legend

- Service Area
- State Outline
- Townships
- PLS Sections



Blaine County
IDWR Basin 37



Prepared by Danielle Favreau
On May 26, 2010
1987/88 Aerial Photography

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 37-01162

By _____	Clerk
_____	Deputy Clerk

RECEIVED

AUG 23 2010

DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: FISH CREEK RESERVOIR CO INC
C/O DOUG SURERUS
PO BOX 282
CAREY, ID 83320

SOURCE: FISH CREEK TRIBUTARY: LITTLE WOOD RIVER

QUANTITY: 14411.00 AFY

Right Nos. 37-1162 and 37-14273 are limited to a total combined
annual diversion volume of 14411 AF.

PRIORITY DATE: 11/02/1922

POINT OF DIVERSION: T01N R22E S15 SWNNWN Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	14411.00 AFY
	Irrigation from Storage	04-15 TO 10-31	14411.00 AFY

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 Blaine County, and is on land irrigated by shareholders of the Fish Creek Reservoir Co Inc.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Some of the lands served by the company above the reservoir receive water in exchange with natural flow water. This exchange will be measured and distributed by the watermaster to assure no injury to users upstream or downstream of the reservoir.

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).

RECOMMENDATION

AUG 20 2010

Bridgette Silbey
SPECIAL MASTER

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 37-14273

AUG 20 2010

By _____

Clerk

Deputy Clerk

NAME AND ADDRESS: FISH CREEK RESERVOIR CO INC
C/O DOUG SURERUS
PO BOX 282
CAREY, ID 83320

SOURCE: GROUND WATER

QUANTITY: 2.40 CFS
1738.00 AFY

Right Nos. 37-1162 and 37-14273 are limited to a total combined
annual diversion volume of 14411 AF.

PRIORITY DATE: 05/23/1961

POINT OF DIVERSION: T01N R22E S11 SWNW Within Blaine County
NESW
NWSE

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation Storage	01-01 TO 12-31	1738.00 AFY
Irrigation from Storage	04-15 TO 10-15	1738.00 AFY
Diversion to Storage	01-01 TO 12-31	2.40 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 Blaine County, and is on land irrigated by shareholders of the Fish Creek Reservoir Co Inc.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Some of the lands served by the company above the reservoir receive water in exchange with natural flow water. This exchange will be measured and distributed by the watermaster to assure no injury to users upstream or downstream of the reservoir.

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).

RECEIVED

AUG 23 2010

DEPARTMENT OF
WATER RESOURCES

RECOMMENDATION

AUG 20 2010

RECEIVED

AUG 23 2010

DEPARTMENT

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
AUG 20 2010
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

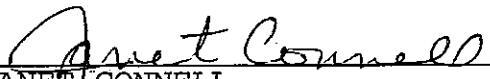
Water Right(s): 37-01162
37-14273

On August 20, 2010, 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 August 20, 2010.


JANET CONNELL
Deputy Clerk

RECEIVED

AUG 23 2010

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
AUG 20 2010
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) : 37-01162
37-14273

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 August 20, 2010, with sufficient first-class postage prepaid to the following:

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

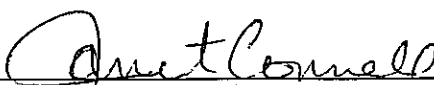
FISH CREEK RESERVOIR CO INC

Represented by:
ROBERT E WILLIAMS
FREDERICKSEN WILLIAMS ET AL
PO BOX 168
JEROME, ID 83338
Phone: 208-324-2303

UNITED STATES OF AMERICA

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

CERTIFICATE OF MAILING

 PAGE 1
JANET CONNELL 08/20/10
Deputy Clerk