

LATE CLAIM DIRECTOR'S REPORT

Subcase Nos. 01-10545

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Gary Spackman, Interim Director
Carter Fritschle, Manager, Adjudication Section

October 12, 2010

DESCRIPTIVE SUMMARY

This is a Late Claim Director's Report submitted by the Interim Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to the *Order Granting Late Notice of Claim Director's Report and Setting Forth Procedures and Deadlines for Expedited Process* issued by Judge Wildman on August 19, 2010, the Interim Director submits the attached Late Claim Director's Report for filing with the Court.


Carter Fritschle
Manager, Adjudication Section

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

RIGHT NUMBER: 1-10545

NAME AND ADDRESS: BANNOCK JIM SLOUGH CANAL CO
C/O TIM MC GARRY
6505 W 3800 S
REXBURG ID 83440

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 4.000 CFS

PRIORITY DATE: 06/01/1898

POINT OF
DIVERSION:

T05N R39E S35 SENW Within MADISON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	4.000 CFS

PLACE OF USE:

494 ACRES TOTAL

Place of use is within the area served by Bannock Jim Slough Canal Company.

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.

This right is limited to the irrigation of 160 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 494 acres in a single irrigation season. Combined Right Nos.: 1-139, 1-140, and 1-10545.

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

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

This right is old Right No. 22-650.

Water is delivered through Bannock Jim Canal.



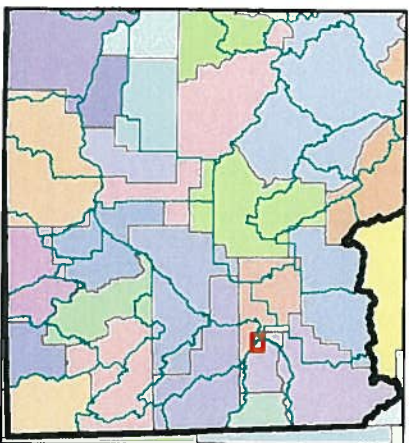
Bannock Jim Slough Canal Co

Adjudication Recommendations: 1-139, 1-140, 1-10545

Irrigation Service Area Boundary
GIS Place of Use Illustration

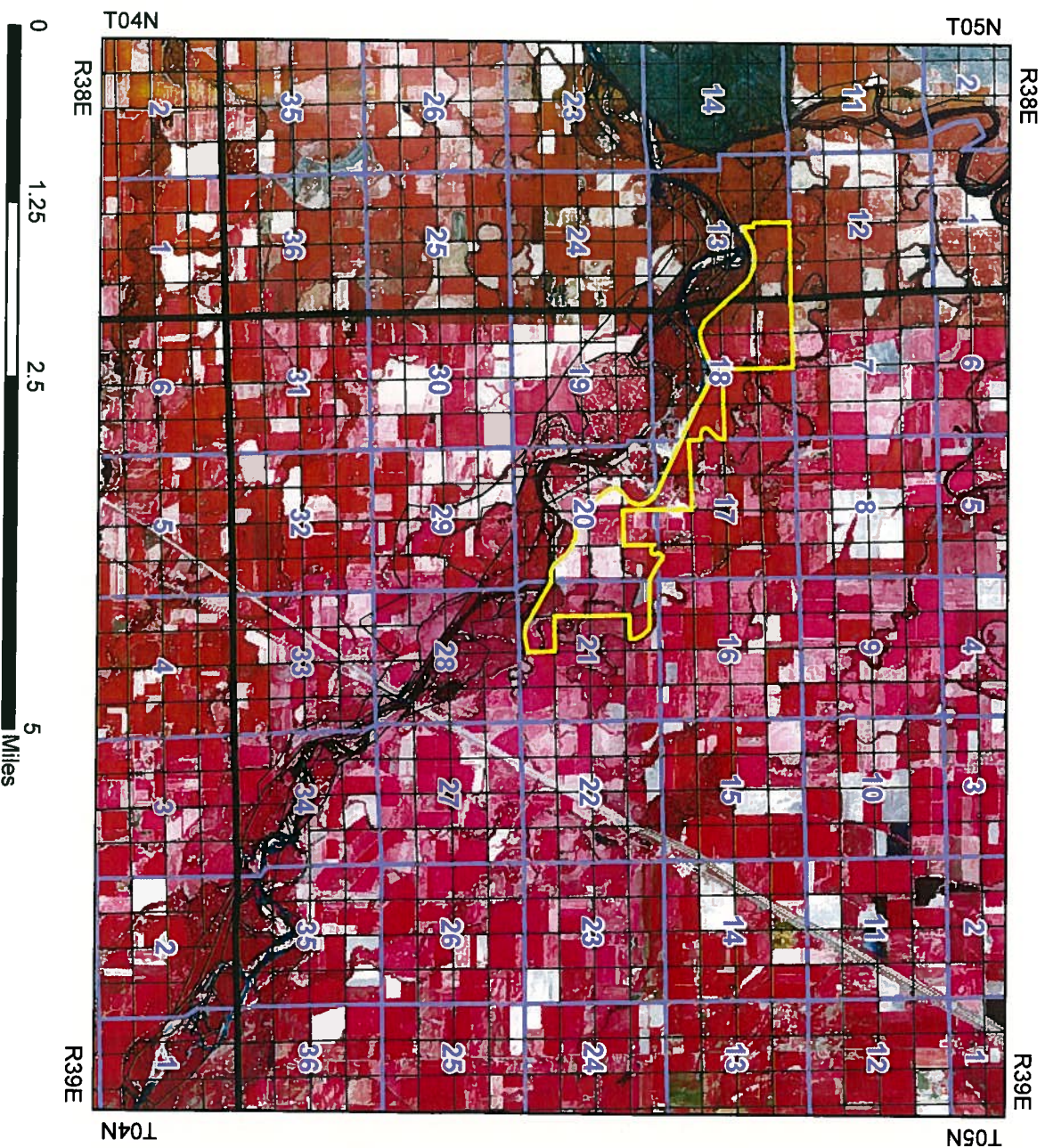
Legend

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



Madison County
IDWR Basin 1

Prepared by Favreau, Danielle
On October 06, 2010
1987/88 Aerial Photography



CERTIFICATE OF SERVICE

I certify that on October 13, 2010, I served the original and/or copies of this form, including all attachments, to the following persons by delivering the original and/or copies, as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

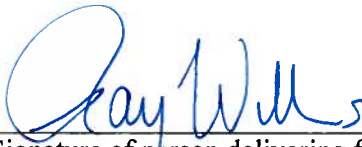
UNITED STATES OF AMERICA
Represented by:
U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIVISION CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4449

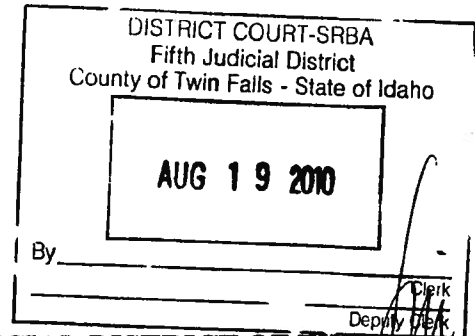
DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

BANNOCK JIM SLOUGH CANAL CO.
Represented by:
RAY W. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250

MADISON COUNTY COURTHOUSE
P.O. BOX 389
REXBURG ID 83440-0389



Signature of person delivering form



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

) Subcase: 01-10545
)
) ORDER GRANTING LATE NOTICE OF
) CLAIM
)
) ORDER FOR EXPEDITED LATE
) CLAIM DIRECTOR'S REPORT AND
) SETTING FORTH PROCEDURES AND
) DEADLINES FOR EXPEDITED
) PROCESS
)

On May 19, 2010, Claimant Bannock Jim Slough Canal Company filed a *Motion to File Late Notice of Claim* for the above-captioned water right. A hearing on the *Motion* was held on August 17, 2010. No party appeared in opposition to the *Motion*. In addition to the above-captioned late notice of claim, Claimant has various other water right claims presently pending unresolved in the SRBA, specifically water right claims 01-139 and 01-140. At the hearing, it was represented to the Court that the late claim is associated with the resolution of Claimant's other claims. Therefore, in the event the late notice of claim is granted and a *Partial Decree* entered, Claimant's other claims presently pending unresolved in the SRBA will be resolved.

Accordingly, following a review of the file and after hearing the comments made in open court, the Court makes the following findings:

1. This *Motion* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to this Late Notice of Claim. Good cause exists for granting the instant *Motion*.

2. The next regularly scheduled *Late and Miscellaneous Claims Director's Report* may not be issued prior to any trial set for Claimant's other water right claims. The issuance of a partial decree for the late claim will settle the Claimant's other water right claims.

3. The scheduling or continuation of trials in Claimant's other water right claims beyond the issuance of the next regularly scheduled *Late and Miscellaneous Claims Director's Report* is not feasible due to limited available trial dates and the need to have said dates available to schedule and process other SRBA matters.

4. In furtherance of the winding down process for the SRBA it is imperative that subcases 01-139 and 01-140 be timely set for trial. Therefore in limited circumstances such as this it is preferable to have a *Late Claims Director's Report* for certain late claims individually prepared and filed in advance of the next regularly scheduled *Late and Miscellaneous Claims Director's Report*. This is on a case-by-case basis and provided the Idaho Department of Water Resources (IDWR) is in a position to prepare the recommendation in advance and does not oppose preparing and filing a *Director's Report* in advance.

5. In this case IDWR does not oppose filing a *Director's Report* for the late claim and represented that it would be able to prepare a *Director's Report* and recommendation in a short time period.

6. This Court therefore finds that under the circumstances the issuance of an expedited *Late Claim Director's Report* for the above-captioned claim is appropriate.

THEREFORE, IT IS HEREBY ORDERED that the *Motion to File a Late Notice of Claim* for water right **01-10545** is **granted**. The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action.

IT IS HEREBY FURTHER ORDERED that the Director issue an expedited *Late Claim Director's Report* for the above-captioned water right claim, and that the parties abide by the following schedule with respect to the late claim:

1. Deadline for filing *Late Claim Director's Report*: The Director shall file an original of the *Late Claim Director's Report* for the above-captioned water right claim

with this Court on or before **October 29, 2010** and shall distribute for display and review at least one (1) copy of the *Late Claim Director's Report* to the office of the clerk of the district court for each county in which any part of the water system is located, together with a copy of this **Order**. The Director shall also serve on each claimant or the claimant's attorney a notice of filing of the *Late Claim Director's Report*. Last, the Director shall file with the Court an affidavit demonstrating compliance with the notice requirements of Idaho Code § 42-1411(6).

2. Deadline for the filing of objections to *Late Claim Director's Report*: Any party wishing to file an objection to the *Late Claim Director's Report* may do so within 21 days following the notice of filing of the *Late Claim Director's Report* in the Docket Sheet, or on or before **November 19, 2010**.

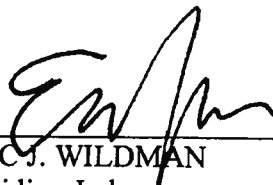
3. Deadline for the filing of responses to objections to *Late Claim Director's Report*: Responses to objections to the *Late Claim Director's Report* must be filed within 14 days following the close of the objection period, or on or before **December 3, 2010**.

4. Hearing on uncontested claim: In the event no objections are filed, the Court will hold a hearing on the entry of the ***Partial Decree*** as required by I.C. § 42-1412(7). **NOTICE IS HEREBY GIVEN** that the hearing will be held on **Tuesday, December 21, 2010, at 2:30 p.m. (Mountain Time), at the Snake River Basin Adjudication District Court, 253 - 3rd Avenue North, Twin Falls, Idaho**. Parties may participate by telephone by dialing the number 1-215-446-0193 and when prompted entering code 406128.

5. Publication of Notice: The clerk of the court is instructed to publish a notice of the issuance of this order, together with the applicable objection, response and hearing date, on the November 2010 docket sheet.

IT IS SO ORDERED

Dated August 19, 2010


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING LATE NOTICE OF CLAIM AND ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S REPORT was mailed on August 19, 2010, with sufficient first-class postage to the following:

BANNOCK JIM SLOUGH CANAL

Represented by:

RAY W. RIGBY

25 N 2ND E

PO BOX 250

REXBURG, ID 83440-0250

Phone: 208-356-3633

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

ORDER

Page 1 8/18/10

FILE COPY FOR 00475

Deputy Clerk

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".