

DEPARTMENT OF
WATER RESOURCES

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

OCT 28 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

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

WATER RIGHT NOS.: 37-1162 and 37-14273

I. FINDINGS OF FACT

A *Special Master's Report and Recommendation* was issued on August 20, 2010. The claimant later notified the Court of an error in the map attached to the *Special Master's Report and Recommendation*. The Court treated this as a *Motion to Alter or Amend*. A hearing was held on the *Motion* on September 15, 2010.

A *Corrected Amended Directors' Report* was filed on August 31, 2010. The *Corrected Amended Director's Report* was placed on the Docket Sheet. No objections were filed to the *Corrected Amended Director's Report*, and the time for filing such objections has now expired.

The only change made to this *Amended Special Master's Report and Recommendation* is the correction to the attached digital boundary map to include 200 acres to the place of use.

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 *Amended Special Master's Recommendation for Partial Decrees*.

DATED: October 28, 2010.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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

OCT 28 2010

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)
_____)

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

Water Right 37-01162

By _____ Clerk
Deputy Clerk

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OCT 29 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 SWNNW 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

OCT 28 2010

Shirley L. Lacey
SPECIAL MASTER

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

OCT 28 2010

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-14273

By _____ Clerk
Deputy Clerk

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

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DEPARTMENT OF
WATER RESOURCES

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:

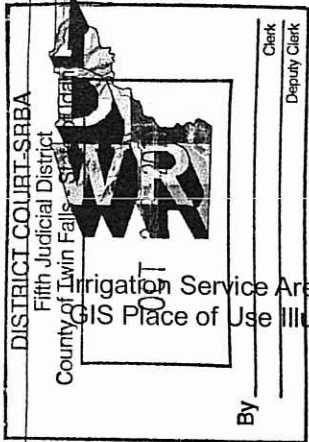
Some of the lands served by the company above the reservoir receive water in exchange with natural flow water. This exchange will be measured and distributed by the watermaster to assure no injury to users upstream or downstream of the reservoir.

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).

RECOMMENDATION

OCT 28 2010

Shirley L. Lacey
SPECIAL MASTER



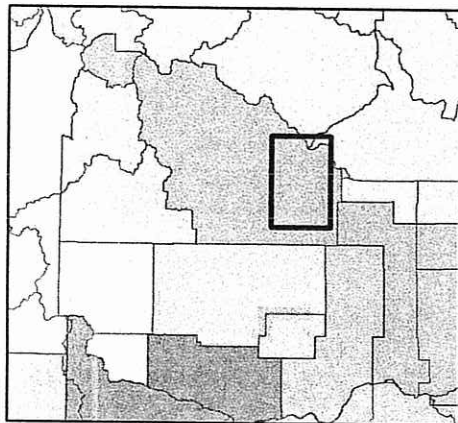
Fish Creek Reservoir Co Inc

Adjudication Recommendations: 37-1162, 37-14273

Irrigation Service Area Boundary
GIS Place of Use Illustration

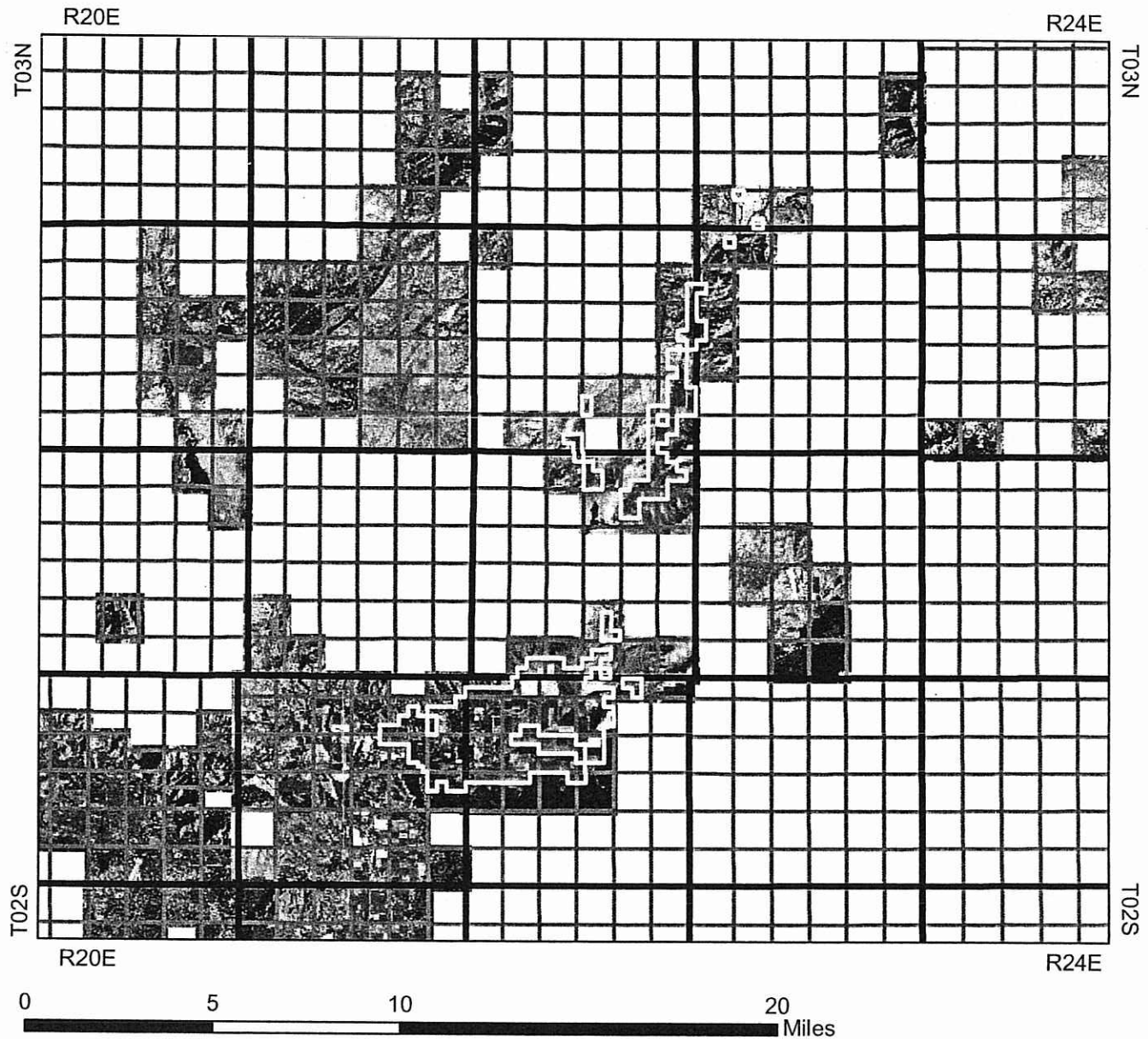
Legend

- Service Area
- State Outline
- Townships
- PLS Sections



**Blaine County
IDWR Basin 37**

Prepared by Ciscell, Michael
On August 25, 2010
1987/88 Aerial Photography



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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
OCT 28 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 October 28, 2010, Special Master BRIGETTE BILYEU
issued a ^{RECOMMENDED} SPECIAL MASTER'S RECOMMENDATION for the above subcase(s)
pursuant to SRBA Administrative Order 1 (A01), 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 October 28, 2010.


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
OCT 28 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)

CERTIFICATE OF MAILING

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

CERTIFICATE OF MAILING

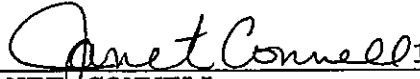
I certify that a true and correct copy of the ^{AMENDED} SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on October 28, 2010, with sufficient first-class postage prepaid to the following:

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


JANET CONNELL
Deputy Clerk

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10/28/10