

RECEIVED
JUN 08 2011
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN - 7 2011	
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 TO SET ASIDE
	)	AND CORRECT PARTIAL DECREE
Case No. 39576	)	
	)	WATER RIGHT: 37-2783
_____	)	

I. PROCEDURAL BACKGROUND

The SRBA District Court issued a *Partial Decree* for water right 37-2783 on May 11, 2009. A hearing regarding the *Partial Decree* was held on April 13, 2011.

II. FINDINGS OF FACT

At the hearing, IDWR reported that the place of use for this right contained a clerical error. The place of use for this right was incorrectly described by quarter-quarter description instead of referring to an appropriate digital boundary. The *Partial Decree* apparently intended to utilize a digital boundary since the *Order of Partial Decree for Irrigation Delivery Entity Using Digital Boundary Description* specifically refers to the use of a digital boundary for this right. The *Order* also refers to the digital boundary and the CD-ROM to be used for storing the digital boundary.

In addition, the place of use for this right refers to the boundary of the Little Wood Irrigation District. However, the legal description included some land that is outside the Little Wood Irrigation District. This additional land is not included in the digital boundary utilized for other rights within the Little Wood Irrigation District. IDWR reported that it would be

difficult to administer water rights within the Little Wood Irrigation District if the legal descriptions are inconsistent.

The claimant of this right, the United States Bureau of Reclamation, did not move to set aside the *Partial Decree*. However, the United States indicated that it understood the problems associated with inconsistent legal descriptions. The United States did not oppose setting aside the *Partial Decree* for the sole purpose of correcting the legal description.

There is no time limitation on a court's ability to correct clerical mistakes under I.R.C.P. 60(a). Courts have latitude in correcting judgments that misrepresent the court's intention. For example, the federal version of this rule, F.R.P. 60(a) has allowed a court to resolve an ambiguity in its original order to more clearly reflect contemporaneous intent and ensure that the court's purpose is fully implemented. 12 Moore § 60.11[1][c], *See Burton v. Johnson*, 975 F.2d 690, 694 (10th Cir. 1992)

Here, the intent of the *Partial Decree* was to accurately describe the location of place of use. It appears that the *Partial Decree* intended to utilize the digital boundary. The intent of the SRBA District Court is to correctly identify the place of use for this right. Therefore, it is appropriate that the SRBA District Court set aside the *Partial Decree* and enter an *Amended Partial Decree* correctly referring to the digital boundary.

III. CONCLUSIONS AND RECOMMENDATIONS

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 Recommendation for Amended Partial Decree*.

Dated: June 7, 2011.


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

AMENDED

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-02783

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
JUN - 7 2011
By _____ Clerk Deputy Clerk

NAME AND ADDRESS: UNITED STATES OF AMERICA
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234

SOURCE: LITTLE WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 1000.00 AFY

PRIORITY DATE: 04/10/1959

POINT OF DIVERSION: T01N R20E S13 NWNW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	1000.00 AFY
	Irrigation from Storage	04-01 TO 11-01	1000.00 AFY

PLACE OF USE:

11084.7 ACRES TOTAL
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 Little Wood River Irrigation District.

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
JUN 07 2011
<i>Brian D. Lacey</i> SPECIAL MASTER

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

RECEIVED

JUN 08 2011



Irrigation From Storage Service Area Boundary
GIS Place of Use Illustration

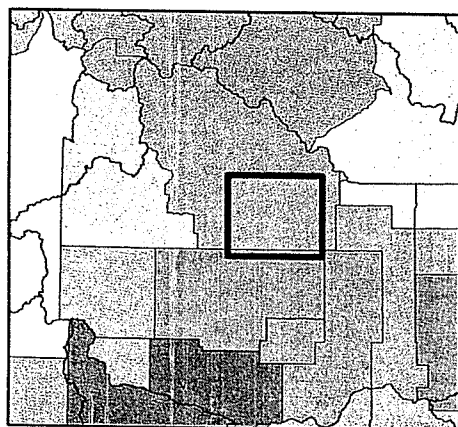
BLAINE COUNTY-SRBA
South Judicial District
Court/Twin Falls - State of Idaho

JUN - 7 2011

By _____
Clerk
Deputy Clerk

Legend

- Service Area
- State Outline
- Townships
- PLS Sections

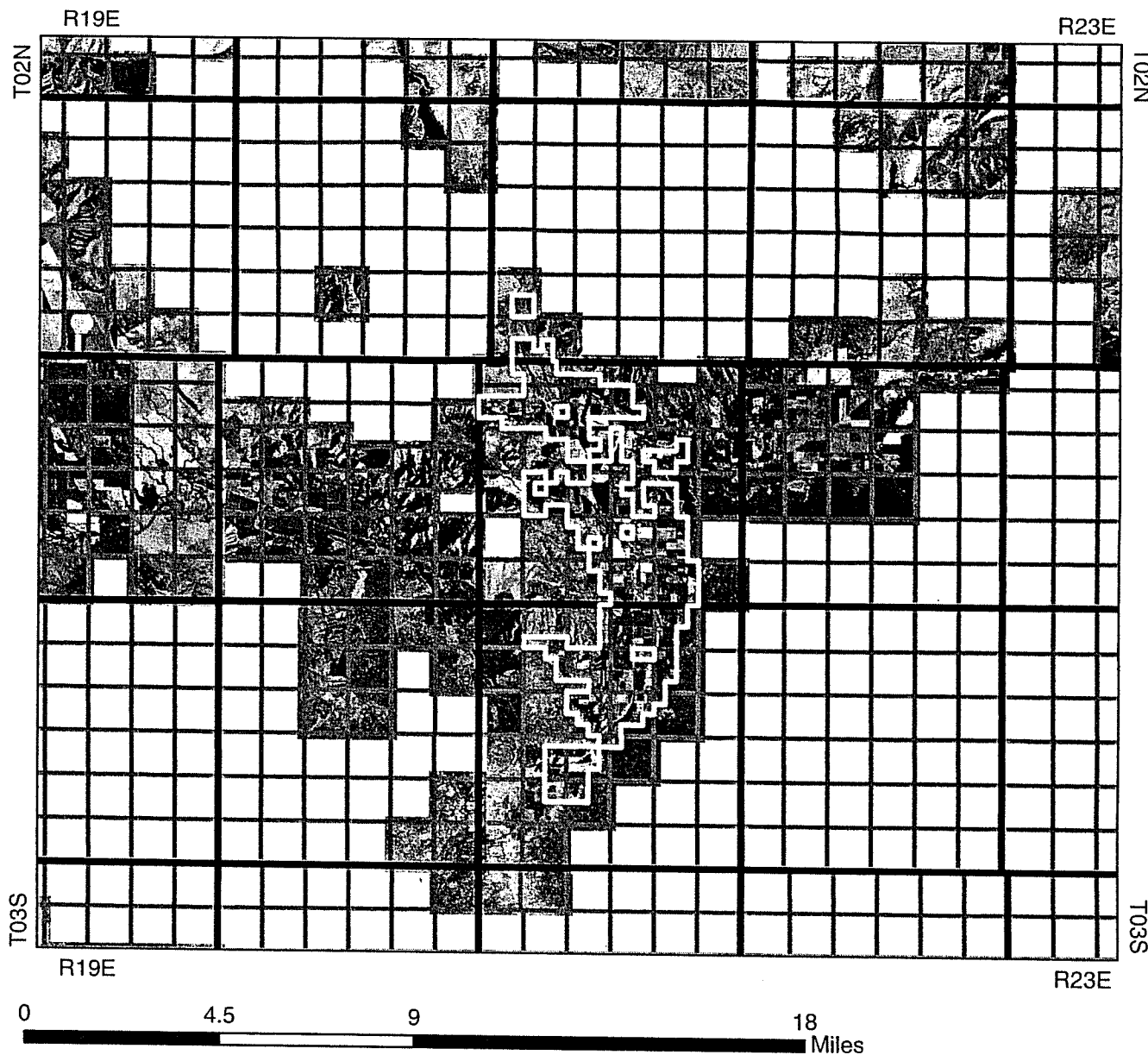


**Blaine County
IDWR Basin 37**

Prepared by Ciscell, Michael
On February 22, 2011
1987/88 Aerial Photography

Bureau of Reclamation

Adjudication Recommendations: 37-2783



RECEIVED
JUN 08 2011
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
JUN - 7 2011
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

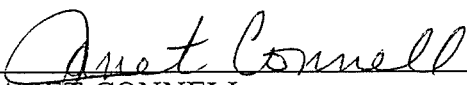
In Re SRBA	)	NOTICE OF ISSUANCE OF
	)	SPECIAL MASTER'S
	)	REPORT AND RECOMMENDATION
	)	
Case No. 39576	)	Water Right (s): 37-2783
_____	)	

On June 7, 2011 Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S REPORT AND RECOMMENDATION TO SET ASIDE AND CORRECT PARTIAL DECREE 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: June 7, 2011.


JANET CONNELL
Deputy Clerk

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

JUN - 7 2011

By _____ Clerk
_____ Deputy Clerk

In Re SRBA) CERTIFICATE OF MAILING
Case No. 39576)

Water Right (s) : 37-2783

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION TO SET ASIDE AND CORRECT PARTIAL DECREE was mailed on June 7, 2011, with sufficient first-class postage prepaid to the following:

United States of America
Regional Director PN Region
Bureau of Reclamation PN-3100
1150 N Curtis Rd Ste. 100
Boise, Idaho 83706-1234

Just Connell
Deputy Clerk