

RECEIVED
MAR 16 2012
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAR 14 2012	
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	)	Subcases 01-6 and 01-2040
	)	(USDI/BOR)
Case No. 39576	)	
	)	SPECIAL MASTER REPORT
_____	)	AND RECOMMENDATION

Findings of Fact

The Director of the Idaho Department of Water Resources filed his *Part I, Director's Report, Irrigation & Other Uses, IDWR Lower Basin 01 (Part 1)* on May 15, 2006. The Director recommended claim 01-6 to American Falls Reservoir District #2 for 1,700 cfs from the Snake River to irrigate 101,903 acres from March 15 to November 15 with a priority date of March 30, 1921, based on a decree. The Director recommended claim 01-2040, filed by the United States of America, Department of Interior, Bureau of Reclamation, Regional Director, PN Region, 1150 N. Curtiss Road, Suite 100, Boise, Idaho, 83706-1234, be disallowed: "Recommended as right no. 1-00006."

On December 11, 2009, the Special Master entered an *Order on Motions for Summary Judgment* in 37 subcases, including 01-6 and 01-2040, concerning the 1968 *Supplemental Eagle Decree* and flood water rights and on February 16, 2011, the Special Master entered a *Recommendation to Grant Motion for Permissive Review of Interlocutory Determinations*. SRBA Presiding Judge Eric J. Wildman entered his *Memorandum Decision and Order on Permissive Review* on June 21, 2011, affirming in part and recommitting certain issues to the Special Master.

On March 13, 2012, the parties, with IDWR's concurrence, filed *Standard Forms 5* agreeing to a partial decree of water right 01-6 in the name of the USDI/BOR and to disallow claim 01-2040.

Conclusions of Law

1. The United States is entitled to a partial decree adjudicating a water right as described in the *SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 01-6*; and
2. The United States is **not** entitled to a partial decree for claim 01-2040.

Recommendation

THEREFORE, IT IS RECOMMENDED that claim 01-2040 be **disallowed**.

DATED March 14, 2012.



TERRENCE A. DOLAN
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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 01-00006

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

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1700.00 CFS

The right to divert as natural flow during each irrigation season under this water right, having a March 30, 1921, priority, as follows: From May 1 of each irrigation season continuing during that season so long as there is natural flow available for that priority, the first 1,700 cubic feet per second of flow to be available one-half (1/2) to American Falls Reservoir District No. 2 and one-half (1/2) to American Falls Reservoir, except that in any year in which American Falls Reservoir is full to capacity on April 30 or fills after that date, taking into account any water that may be temporarily stored to its credit in upstream reservoirs, all water diverted by American Falls Reservoir District No. 2 within the maximum of 1,700 cubic feet per second during the year prior to the initial storage draft on American Falls Reservoir after the reservoir finally fills in that year shall be considered as natural flow under water right No. 1-6. Nothing herein shall prevent American Falls Reservoir District No. 2 from diverting water under said license prior to May 1 of a given irrigation season but all such diversions shall be charged as storage in the event the reservoir is not full on April 30 of that season or does not fill after April 30 of that season.

PRIORITY DATE: 03/30/1921

POINT OF DIVERSION: T10S R21E S28 LOT 5 (SWNW) Within Jerome County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1700.00 CFS

PLACE OF USE:

101903 ACRES TOTAL
Place of use is within the boundary of American Falls Reservoir District No. 2 pursuant to Section 43-323, Idaho Code. This right is limited to the irrigation of 62,361 acres within the place of use described above in a single irrigation season. 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.

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

OTHER PROVISIONS (continued)

Rights have also been claimed to water from Basin 37 for the same purpose of use at the same place of use described above, which will be included in a Directors Report to be filed at a later date. Any water rights recommended in the Basin 37 report for the same purpose of use at the same place of use described above will contain combined use limitations for this right and the Basin 37 rights.

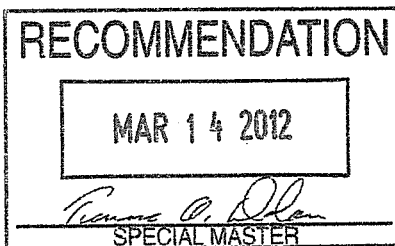
The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

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.

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



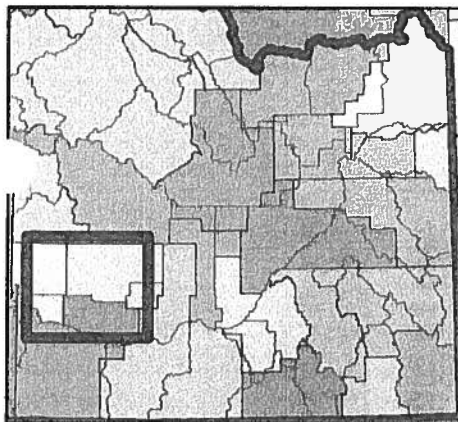


American Falls Reservoir Dist #2

Adjudication Recommendations: 1-6

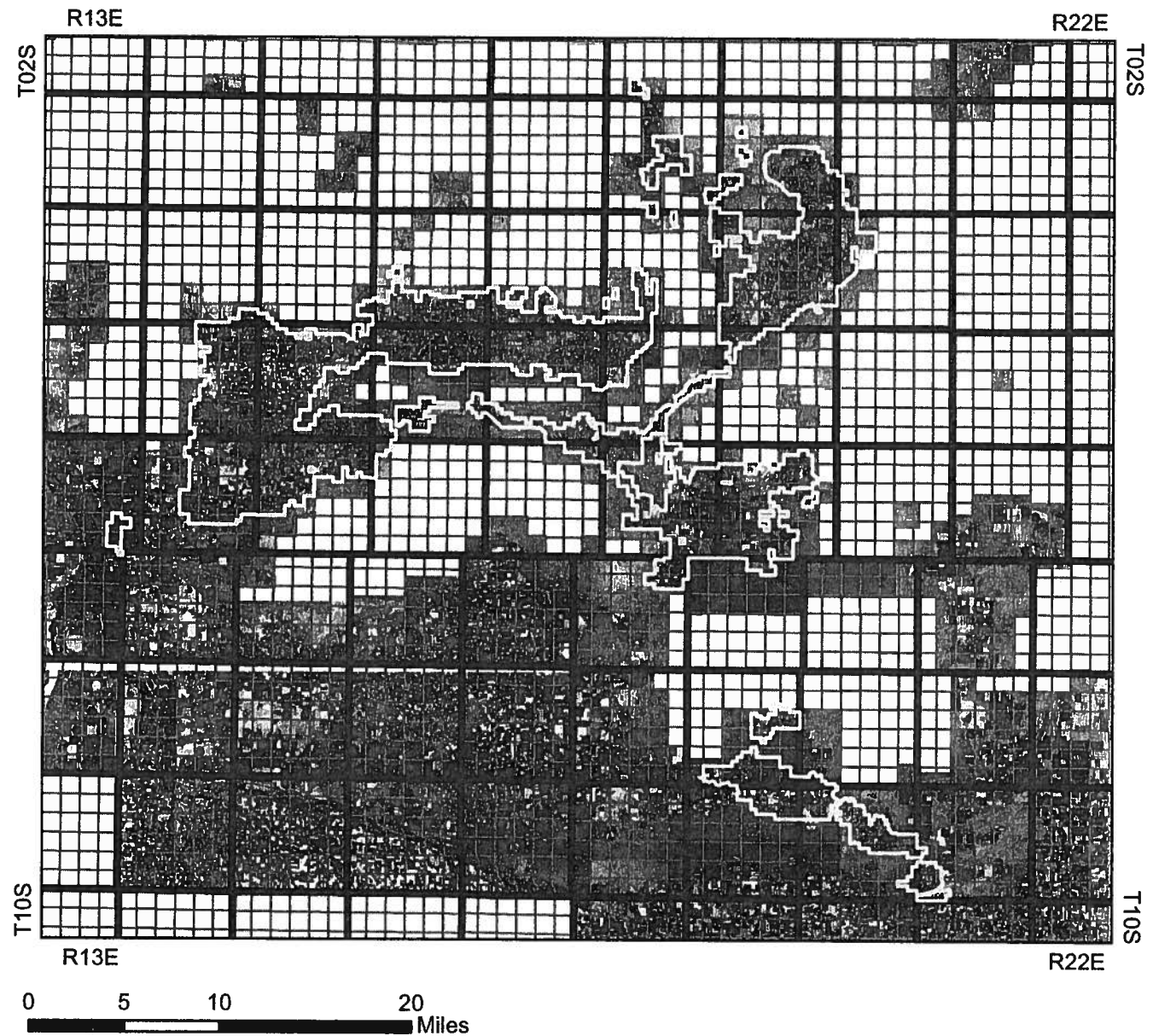
Irrigation Service Area Boundary
GIS Place of Use Illustration

- Service Area
- State Outline
 - Townships
 - PLS Sections



Gooding, Lincoln, Jerome, Blaine Counties
IDWR Basin 1

Prepared by Favreau, Danielle
On March 06, 2012



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

MAR 13 2012

By _____

Clerk

Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
MAR 14 2012	
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

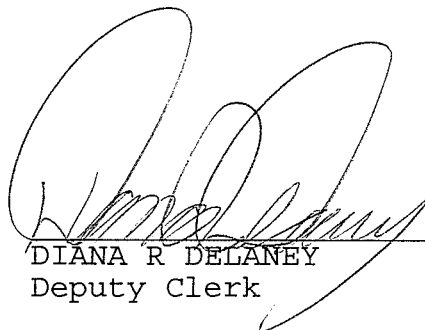
Water Right(s): 01-00006
01-02040

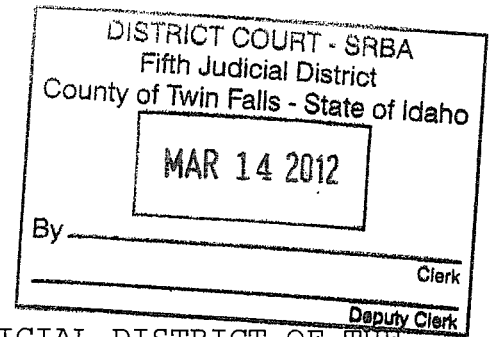
On March 14, 2012, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 March 14, 2012.


DIANA R DELANEY
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) : 01-00006
01-02040

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 March 14, 2012, with sufficient first-class postage prepaid to the following:

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

AMERICAN FALLS RESERVOIR
Represented by:
C THOMAS ARKOOSH
CAPITOL LAW GROUP, PLLC
301 MAIN ST
PO BOX 32
GOODING, ID 83330
Phone: 208-934-8872

CERTIFICATE OF MAILING

PAGE 1
03/14/12

BLACKFOOT IRRIGATION CO
FREMONT MADISON IRRIGATION
UNITED CANAL CO

Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

INDEPENDENT WATER USERS OF
JEFFERSON IRRIGATION DISTRICT
MONTEVIEW CANAL CO
MUD LAKE WATER USERS INC
PALISADES WATER USERS INC
PRODUCERS IRRIGATION CO

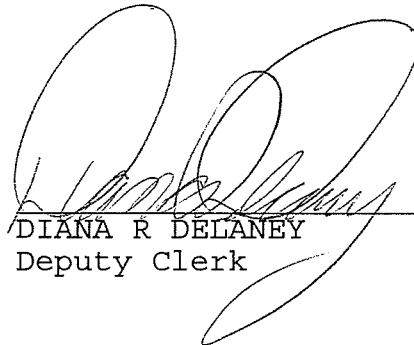
Represented by:
ROBERT L HARRIS
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

STATE OF IDAHO DEPARTMENT OF
Represented by:
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

UNITED STATES OF AMERICA
Represented by:
UNITED STATES DEPT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION
Represented by:
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550 WEST FORT STREET, MSC 033
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1150 N CURTIS RD STE 100
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DIANA R DELANEY
Deputy Clerk