

RECEIVED
JUL 31 2012
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUL 30 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 01-9 (01-9A and 01-9B), 01-17 and
	)	01-2050 (Milner Irrigation District)
Case No. 39576	)	
	)	SPECIAL MASTER REPORT
_____	)	AND RECOMMENDATION

FINDINGS OF FACT

The Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, IDWR Lower Basin 01 (Part 1)*, on May 15, 2006. The Director recommended claims 01-9, 01-17 and 01-2050 to the Milner Irrigation District, 5294 East, 3610 North, Murtaugh, Idaho, 83344, for 121 cfs, 135 cfs and 37 cfs from the Snake River to irrigate 13,335 acres within the Milner Irrigation District from March 15 to November 15 with priority dates of April 1, 1939, November 14, 1916, and July 11, 1968, based on a decree or beneficial use.

Between October 3 and 6, 2006, *Objections* were filed by the Milner Irrigation District, Idaho Ground Water Appropriators, Inc., Producers Irrigation Company, Independent Water Users of Mud Lake, Mud Lake Water Users, Inc., Jefferson Irrigation District, Montevue Canal Company, Fremont-Madison Irrigation District, Blackfoot Canal Company and United Canal Company objecting to source and "other provisions." The City of Pocatello was granted leave to participate on March 26, 2008.

On December 11, 2009, the Special Master entered an *Order on Motions for Summary Judgment* in the multiple subcases, including the above three subcases, holding in relevant parts: the source of all rights listed in the *Supplemental Eagle Decree* is the Snake River not limited by classification as flood of high flow; the priority dates decreed in the *Eagle Decree* are valid; flood water rights are not subordinated to junior hydraulically connected water rights; and the season of use for flood water rights should be IDWR's standard season of use. On June 21, 2011, SRBA Presiding Judge Eric J. Wildman entered a *Memorandum Decision and Order on*

Permissive Review affirming the Special Master's "except for the *Special Master's* determination to deny the *GWD's Priority Date Motion* with respect to water right claim 01-14."

IDWR filed a *Supplemental Director's Report Regarding Subcase Nos. 01-09, 01-17 & 01-2050* on February 29, 2012. The *Report* concluded:

Consistent with the Idaho Supreme Court's decision in *Bradshaw*, the Department's recommendations for 01-17, 01-2050, and 01-09 in no way limit Milner from applying water to any lands within the district, be they original or annexed lands. The Department's recommendations do, however, recognize the priority dates and number of acres that were irrigated when water was put to beneficial use under each of the rights.

Report, at 12.

IDWR filed an *Amended Director's Report, Subcase No. 01-9* on March 30, 2012, recommending the claim for 113 cfs with a priority date of July 12, 1967. On April 30, 2012, Milner Irrigation District filed an *Objection* to quantity and priority date. On May 25, 2012, the Special Master entered an ***Order Denying Motion to Strike and Motion in Limine*** denying Milner Irrigation District's *Motions*.

On July 19, 2012, the parties filed a *Stipulation to Resolve Objections* in all three of the above subcases plus *Standard Forms 5* agreeing to disallow 01-9 and split the right into 01-9A and 01-9B. The parties also filed *SF-5s* in subcases 01-17 and 01-2050 the same date.

CONCLUSIONS OF LAW

1. Milner Irrigation District is **not** entitled to a partial decree adjudicating a water right for claim 01-9 because of the split; and
2. Milner Irrigation District is entitled to partial decrees adjudicating water rights as described in the *SF-5s* and the attached ***Special Master Recommendations for Partial Decrees for Water Rights 01-9A, 01-9B, 01-17 and 01-2050.***

RECOMMENDATION

THEREFORE, IT IS RECOMMENDED that claim 01-9 be **disallowed**.

DATED July 30, 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 01-00009A

NAME AND ADDRESS: MILNER IRRIGATION DISTRICT
5294 E 3610 N
MURTAUGH, ID 83344

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 83.00 CFS

PRIORITY DATE: 07/08/1954

For purposes of surface water to surface water administration,
the watermaster for Water District 1 shall administer this right
to a priority date of 4/1/1939.
For purposes of conjunctive administration, this water right
shall be administered to a priority date of 7/8/1954.

POINT OF DIVERSION: T10S R21E S29 SESE Within Twin Falls County

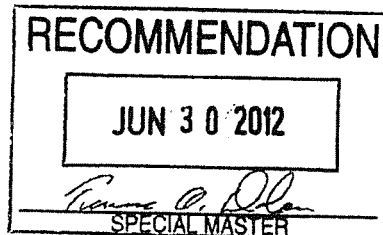
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	83.00 CFS

PLACE OF USE:

13335 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 the boundary of Milner Irrigation
District pursuant to Section 43-323, Idaho Code.
Use of the rights listed below is limited to the irrigation of a
combined total of 13,335 acres in a single irrigation season.
Combined Right Nos.: 45-463, 1-9A, 1-9B, 1-17, and 1-2050.
Use of the rights listed below is limited to the irrigation of a
combined total of 11,827 acres in a single irrigation season.
Combined Right Nos.: 45-463, 1-9A, 1-17, and 1-2050.

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).



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 01-00009B

NAME AND ADDRESS: MILNER IRRIGATION DISTRICT
5294 E 3610 N
MURTAUGH, ID 83344

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 30.00 CFS

PRIORITY DATE: 07/12/1967

For purposes of surface water to surface water administration,
the watermaster for Water District 1 shall administer this right
to a priority date of 4/1/1939.
For purposes of conjunctive administration, this water right
shall be administered to a priority date of 7/12/1967.

POINT OF DIVERSION: T10S R21E S29 SESE Within Twin Falls County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	30.00 CFS

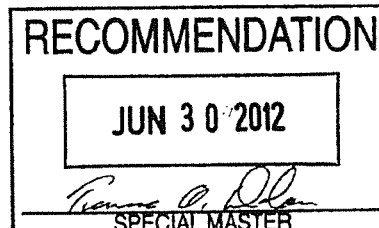
PLACE OF USE:

13335 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 the boundary of Milner Irrigation
District pursuant to Section 43-323, Idaho Code.
Use of the rights listed below is limited to the irrigation of a
combined total of 13,335 acres in a single irrigation season.
Combined Right Nos.: 45-463, 1-9A, 1-9B, 1-17, and 1-2050.

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).



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 01-00017

NAME AND ADDRESS: MILNER IRRIGATION DISTRICT
5294 E 3610 N
MURTAUGH, ID 83344

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 135.00 CFS

PRIORITY DATE: 11/14/1916

POINT OF DIVERSION: T10S R21E S29 SESE Within Twin Falls County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	135.00 CFS

PLACE OF USE:

13335 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 the boundary of Milner Irrigation District pursuant to Section 43-323, Idaho Code. This right is limited to the irrigation of 8114.4 acres within the place of use described above in a single irrigation season.

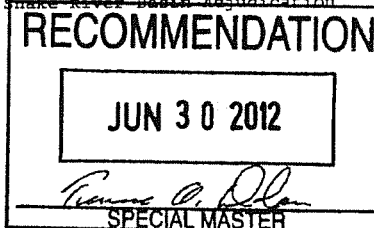
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

Eric J. Wildman
Presiding Judge of the
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 01-02050

NAME AND ADDRESS: MILNER IRRIGATION DISTRICT
5294 E 3610 N
MURTAUGH, ID 83344

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 37.00 CFS

PRIORITY DATE: 10/25/1939

POINT OF DIVERSION: T10S R21E S29 SESE Within Twin Falls County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	37.00 CFS

PLACE OF USE:

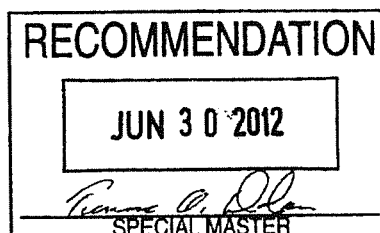
13335 ACRES TOTAL

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 the boundary of Milner Irrigation District pursuant to Section 43-323, Idaho Code. Use of the rights listed below is limited to the irrigation of a combined total of 13,335 acres in a single irrigation season. Combined Right Nos.: 45-463, 1-9A, 1-9B, 1-17, and 1-2050. Right Nos. 1-17 and 1-2050 are limited to the irrigation of a combined total of 9033 acres in a single irrigation season.

13335 ACRES TOTAL

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).



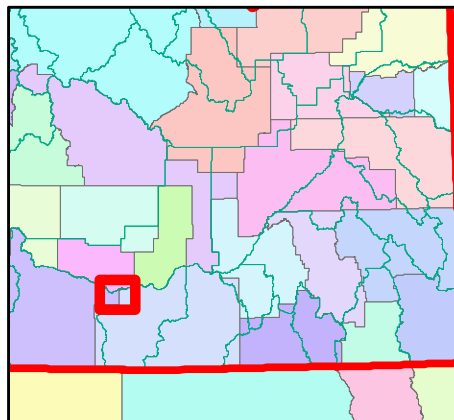


Milner Irrigation Dist

Adjudication Recommendations: 1-17, 1-2050, 1-9A, 1-9B, 45-463

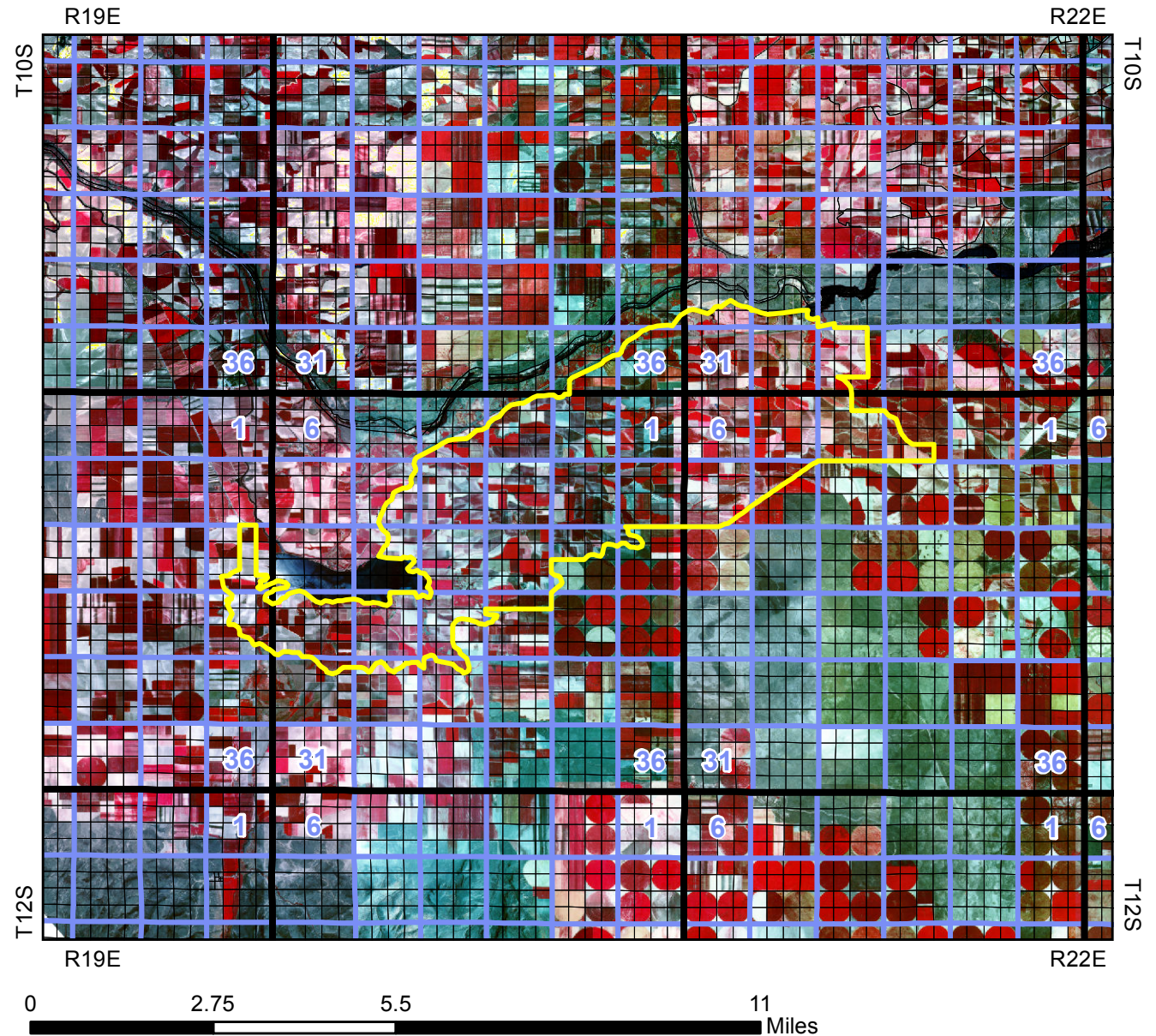
Irrigation Service Area Boundary
GIS Place of Use Illustration

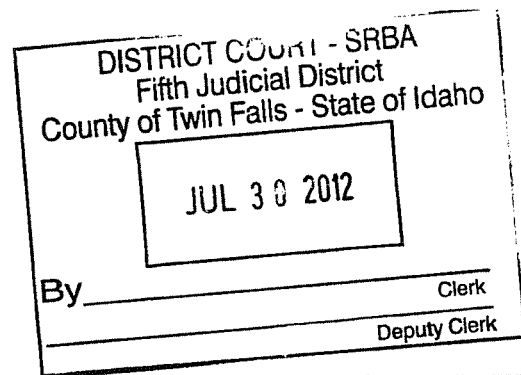
-  Service Area
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters



**Cassia, Twin Falls Counties
IDWR Basin 1**

Prepared by Favreau, Danielle
On July 20, 2012





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

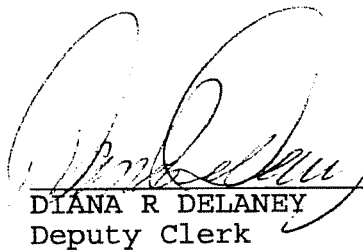
Water Right(s): 01-00009
01-00009A 01-00009B 01-00017
01-02050

On July 30, 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 July 30, 2012.


DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUL 30 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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 01-00009
01-00009A 01-00009B 01-00017
01-02050

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 July 30, 2012, with sufficient first-class postage prepaid to the following:

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

ABERDEEN AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE-JEFFERSON GROUND
JEFFERSON CLARK GROUND WATER
JEFFERSON-CLARK GROUND WATER
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER
NORTH SNAKE GROUND WATER

Represented by:
CANDICE M MC HUGH
101 S CAPITOL BLVD, STE 300
BOISE, ID 83702
Phone: 208-395-0011

CERTIFICATE OF MAILING

PAGE 1
07/30/12

BLACKFOOT IRRIGATION COMPANY
FREMONT MADISON IRRIGATION
FREMONT-MADISON IRRIGATION
UNITED CANAL COMPANY

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

ABERDEEN AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE-JEFFERSON GROUND
JEFFERSON-CLARK GROUND WATER
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER
NORTH SNAKE GROUND WATER

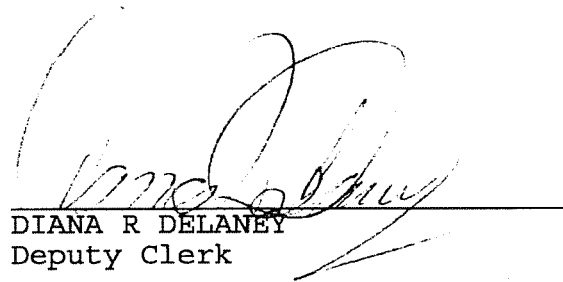
Represented by:
RANDALL C BUDGE
201 E CENTER ST STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

CITY OF POCATELLO
Represented by:
SARAH A KLAHN
WHITE & JANKOWSKI LLP
KITREDGE BUILDING
511 16TH ST STE 500
DENVER, CO 80202
Phone: 303-595-9441

MILNER IRRIGATION DISTRICT
Represented by:
TRAVIS L THOMPSON
195 RIVER VISTA PL STE 204
TWIN FALLS, ID 83301-3029
Phone: 208-733-0700

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

STATE OF IDAHO
JRW BUILDING, SECOND FLOOR
700 W STATE ST, PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400



DIANA R DELANEY
Deputy Clerk