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AUG 27 2012

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
AUG 24 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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION ON MOTION
	)	TO SET ASIDE PARTIAL DECREE
Case No. 39576	)	
	)	WATER RIGHT NOS.: 22-13739
_____	)	

I. PROCEDURAL BACKGROUND

The SRBA District Court issued a *Partial Decree* for this water right on January 22, 2009. On Feb. 6, 2012, the claimant Canyon Creek Lateral Ditch Association filed a *Motion to Set Aside Partial Decree* pursuant to Idaho Rule of Civil Procedure 60(b)(6). The Presiding Judge issued an *Order of Reference Appointing Special Master Brigitte Bilyeu*.

No parties to the subcase objected to the *Motion*. A hearing on the *Motion to Set Aside Partial Decree* was held March 21, 2012.

II. FINDINGS OF FACT

At the hearing on March 21, 2012, Canyon Creek Lateral Ditch explained that this right was filed as a late claim for enlargement of acres derived from subcase 22-7276. The late claim was filed because one of the members of the Canyon Creek Lateral Ditch Association had historically used water pumped through the Canyon Creek Lateral System and diverted it onto his land. The land was not included in the originally described place of use for the Canyon Creek Lateral Ditch Association. After Canyon Creek Lateral Ditch Association realized that it had missed the 17 acres utilized by one of its members, it filed a late claim. After the late claim was filed, IDWR generated an *Amended Director's Report* internally which increased the place of use by the 17 acres and additional quantity of water.

However, the *Amended Director's Report* was not filed with the court. Rather, the previous *Director's Report* which omitted the 17 acres was inadvertently utilized. In addition, this right was not identified as an overlap with the related contested rights. Thus, this right went through the SRBA court as an uncontested right. Consequently, the related overlapping rights correctly identify the total acreage as 3667.9 acres and include the 17 acres and additional .22 cfs.

The claimant explained that it did not willfully delay the filing of this *Motion* nor did it willfully fail to file a timely *Objection*. The claimant requests that this *Partial Decree* be set aside and corrected to be consistent with the related overlaps. IDWR concurs that this subcase should be corrected to include the 17 acres and additional .22 cfs on which this late claim was based.

An *Amended Director's Report* was filed on March 29, 2012. The *Amended Director's Report* was placed on the Docket Sheet. No objections were filed to the *Amended Director's Report*, and the time for filing such objections has now expired.

A. Digital Boundary

The place of use for each of these rights is a digital boundary and is illustrated by the map overlay attached to the *Recommendations for Partial Decree*. The digital boundary for the place of use is described on a CD-Rom filed with the court.

III. CONCLUSIONS AND RECOMMENDATIONS

Therefore, based on the file and record herein, IT IS RECOMMENDED that the *Motion to Set Aside Partial Decree* be **granted** and that this water right be **decreed** with the elements set forth in the attached *Special Master's Recommendation for Amended Partial Decree*.

Dated: August 24, 2012.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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

AUG 24 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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 22-13739

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DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: CANYON CREEK LATERAL
DITCH ASSN
12241 E 3749 NNDIMAN
NEWDALE, ID 83436

SOURCE: TETON RIVER TRIBUTARY: HENRYS FORK

QUANTITY: 8.02 CFS

The rights listed below are limited to a total combined diversion rate of 29.04 cfs. Combined Right Nos.: 22-163A, 22-7253, 22-7276, 22-13738, and 22-13739. Right Nos. 22-163A, 22-7276, and 22-13739 are limited to a total combined diversion rate of 24.03 cfs.

PRIORITY DATE: 05/03/1978

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION: T07N R42E S30 SENE Within Madison County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	8.02 CFS

PLACE OF USE:

3667.9 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. The rights listed below are limited to the irrigation of a combined total of 3667.9 acres in a single irrigation season. Combined Right Nos.: 22-163A, 22-7253, 22-7276, 22-13738, and 22-13739. Place of use is within the area served by Canyon Creek Lateral Ditch Association

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

This right is based upon an enlargement of Right No. 22-7276 pursuant to Section 42-1426, Idaho Code.

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 42-202B(2)

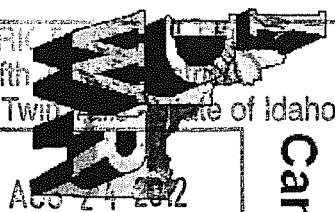
RECOMMENDATION

AUG 24 2012

Bigotto Silvey
SPECIAL MASTER

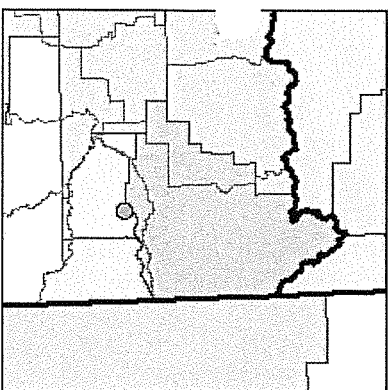
Canyon Creek Lateral Ditch Assn

SREA Recommendations: 22-163A, 22-7276, 22-13739



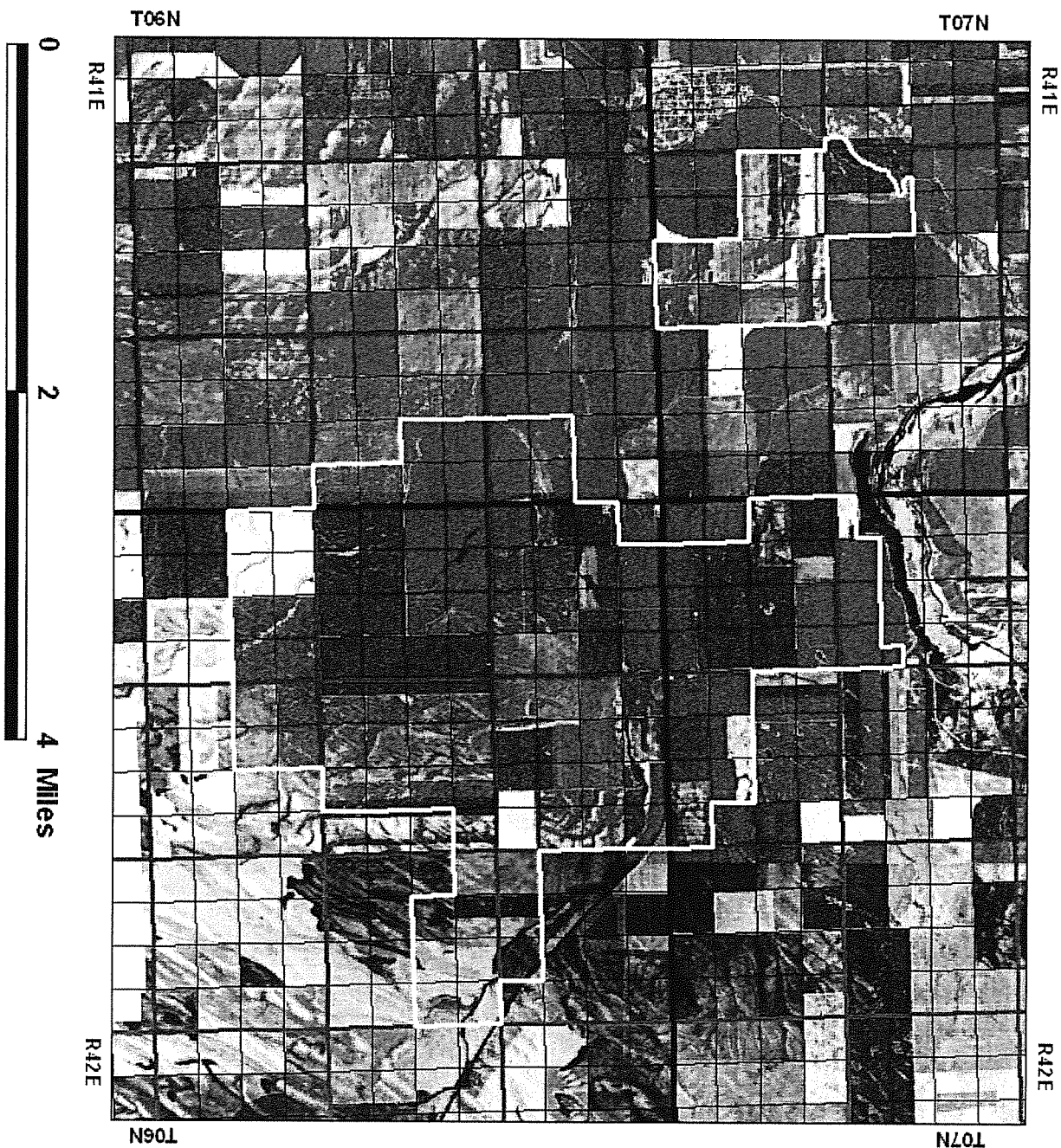
Service Area Boundary
GIS Place of Use Illustration
Legend

- Service Area
- Townships
- PLS Sections
- Quarter Quarters



Fremont, Madison Counties
IDWR Basin 22

Prepared by D. Favreau
On Thursday, March 20, 2008
1987/88 Aerial Photography



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Fifth Judicial District
County of Twin Falls - State of Idaho

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Deputy Clerk

Water Right(s) : 22-13739

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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): 22-13739

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 August 24, 2012, with sufficient first-class postage prepaid to the following:

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

CANYON CREEK LATERAL

Represented by:

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


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

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08/24/12