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SEP 11 2012

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
SEP 10 2012	
	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 01-211A and 01-214A
	) (USDI/BOR)
	) and
	) 01-10187, 01-10188, 01-10189, 01-10192
	) and 01-10194
Case No. 39576	) (Minidoka Irrigation District)
	)
	) SPECIAL MASTER REPORT AND
	) RECOMMENDATION

FINDINGS OF FACT

Director's Report

On May 15, 2006, the Director of the Idaho Department of Water Resources filed his *Director's Report, Irrigation & Other Uses, IDWR Lower Basin 01 (Part 1)*. The Director filed his *Director's Report, Reporting Area Basin 01, IDWR Part 2* on December 19, 2006. The Director recommended the above 7 claims to divert water from the Snake River as follows:

Allow

01-211A – United States of America, Department of Interior, Bureau of Reclamation (USDI/BOR), 1,726 cfs, 3/26/1903

01-214A – USDI/BOR, 1,000 cfs, 8/6/1908

Disallow

01-10187 – Minidoka Irrigation District (MID), disallow: "Recommended as right no. 01-211A."

01-10188 – MID, disallow: "Recommended as right no. 01-214A."

01-10189 – MID, disallow: "Recommended as right no. 01-10034."

01-10192 – MID, disallow: "No beneficial use found."

01-10194 – MID, disallow: "Recommended as right no. 01-214A."

Amended Director's Report

On December 19, 2006, IDWR wrote to the SRBA Court stating that “a remark relating to the Minidoka Credit is needed in the above listed water rights in order to further define and administer the water rights in accordance with the prior decree.” It recommended the following remark:

The Director of the Idaho Department of Water Resources shall determine what part of the water flowing in the Snake River at the Minidoka and Milner Dams is storage waters and what part is natural flow. The amount of natural flow shall be determined as such natural flow would be, if unaffected by the diversions or acts of the parties to *Twin Falls Canal Co v Foster*, Decree (4th Jud. Dist., Twin Falls Co., June 20, 1913). The natural flow to which the Twin Falls Canal Company and the Northside Canal Company are entitled shall be measured at the Milner Dam.

2006 Settlement Agreement

On February 14, 2006, the Minidoka Irrigation District (MID), Burley Irrigation District (“BID”), Twin Falls Canal Company (TFCC), North Side Canal Company (NSCC) and American Falls Reservoir District #2 (AFRD#2) signed a “Settlement Agreement for Determining Natural Flows Pursuant to Foster Decree.” The parties included a number of premises (paraphrased in part here) to explain the context of their Agreement:

1. MID and BID are part of the Minidoka Project and are entitled to all irrigation water **stored** in Lake Walcott behind Minidoka Dam.
2. TFCC and NSCC are entitled to certain storage water and **natural flows** from the Snake River downstream from Minidoka Dam which pre-date storage rights in Lake Walcott.
3. The *Foster Decree* entitles MID and BID to a credit to their storage uses for return flows from the Minidoka Project below Minidoka Dam “so long as the return flow . . . exceed[s] losses to the Snake River as the result of storage of water behind Minidoka Dam in Lake Walcott . . . which [credit] shall be provided from the storage of TFCC and NSCC.”
4. While the return flow may benefit natural flows to TFCC and NSCC, evaporation losses from Lake Walcott could injure AFRD#2’s natural flow rights.
5. The parties want to avoid further disputes “as to the method by which net return flow credits shall be computed to meet the intent of the Foster Decree.”

Based on those premises, the parties then agreed that TFCC and NSCC would provide 14,500 acre-feet of storage water annually to MID, BID and AFRD#2. The parties then agreed:

The evaporation and water supply accounting provisions contemplated by the *Foster Decree* and set forth herein, are required for the administration of the water rights of the respective parties and shall be incorporated into and become a part of any final decree entered by the court in the Snake River Basin Adjudication. . . .

Report and Partial Recommendation

On February 12, 2010, the Special Master entered a *Report and Partial Recommendation* in multiple subcases, including the above 7 subcases plus 01-10189, recommending that "if the SRBA Presiding Judge determines some or all of the . . . claims are valid, the amended Minidoka Credit Remark recommended by the Director be included under the element 'Other provisions necessary for definition or administration of this water right.'"

Settlement

On August 27, 2012, the Minidoka Irrigation District filed *Notices of Withdrawal of Claims* in subcases 01-10187, 01-10188, 01-10189, 01-10192 and 01-10194. On August 29, 2012, the parties, with IDWR's concurrence, filed *Standard Forms 5* agreeing that claims 01-211A and 01-214A be decreed to the USDI/BOR.

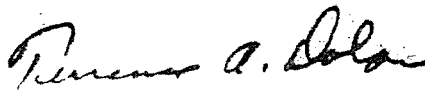
CONCLUSIONS OF LAW

1. The USDI/BOR 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 01-211A and 01-214A*; and
2. The Minidoka Irrigation District is **not** entitled to partial decrees for claims 01-10187, 01-10188, 01-10189, 01-10192 and 01-10194.

RECOMMENDATION

THEREFORE, IS IS RECOMMENDED that claims 01-10187, 01-10188, 01-10189, 01-10192 and 01-10194 be **disallowed**.

DATED September 10, 2012.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 01-00211A

QUANTITY: 1726.00 CFS

PAGE 1
Aug-29-2012

OTHER PROVISIONS (continued)

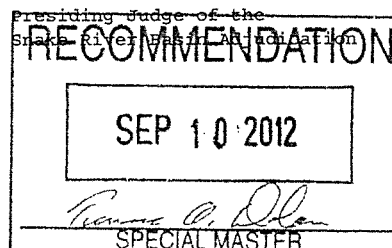
Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between 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. The operation, use and administration of this water right is subject to the terms and conditions of the Settlement Agreement signed on February 14, 2006 with Minidoka Irrigation District, Burley Irrigation District, Twin Falls Canal Company, North Side Canal Company and American Falls Reservoir District #2.

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



In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 01-00214A

QUANTITY: 1000.00 CFS

PAGE 1
Aug-29-2012

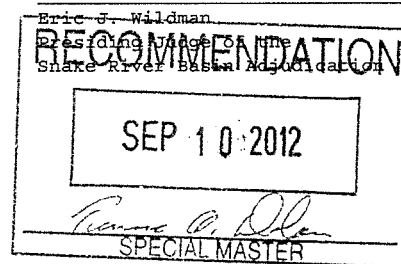
OTHER PROVISIONS (continued)

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. The operation, use and administration of this water right is subject to the terms and conditions of the Settlement Agreement signed on February 14, 2006 with Minidoka Irrigation District, Burley Irrigation District, Twin Falls Canal Company, North Side Canal Company and American Falls Reservoir District #2.

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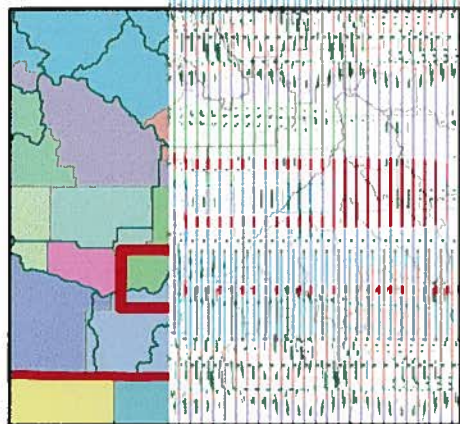


United States Of America Acting Through BOR

Adjudication Recommendations: 1-211A, 1-214A

Irrigation Service Area Boundary
GIS Place of Use Illustration

-  Service Area
-  State Outline
-  Townships
-  PLS Sections



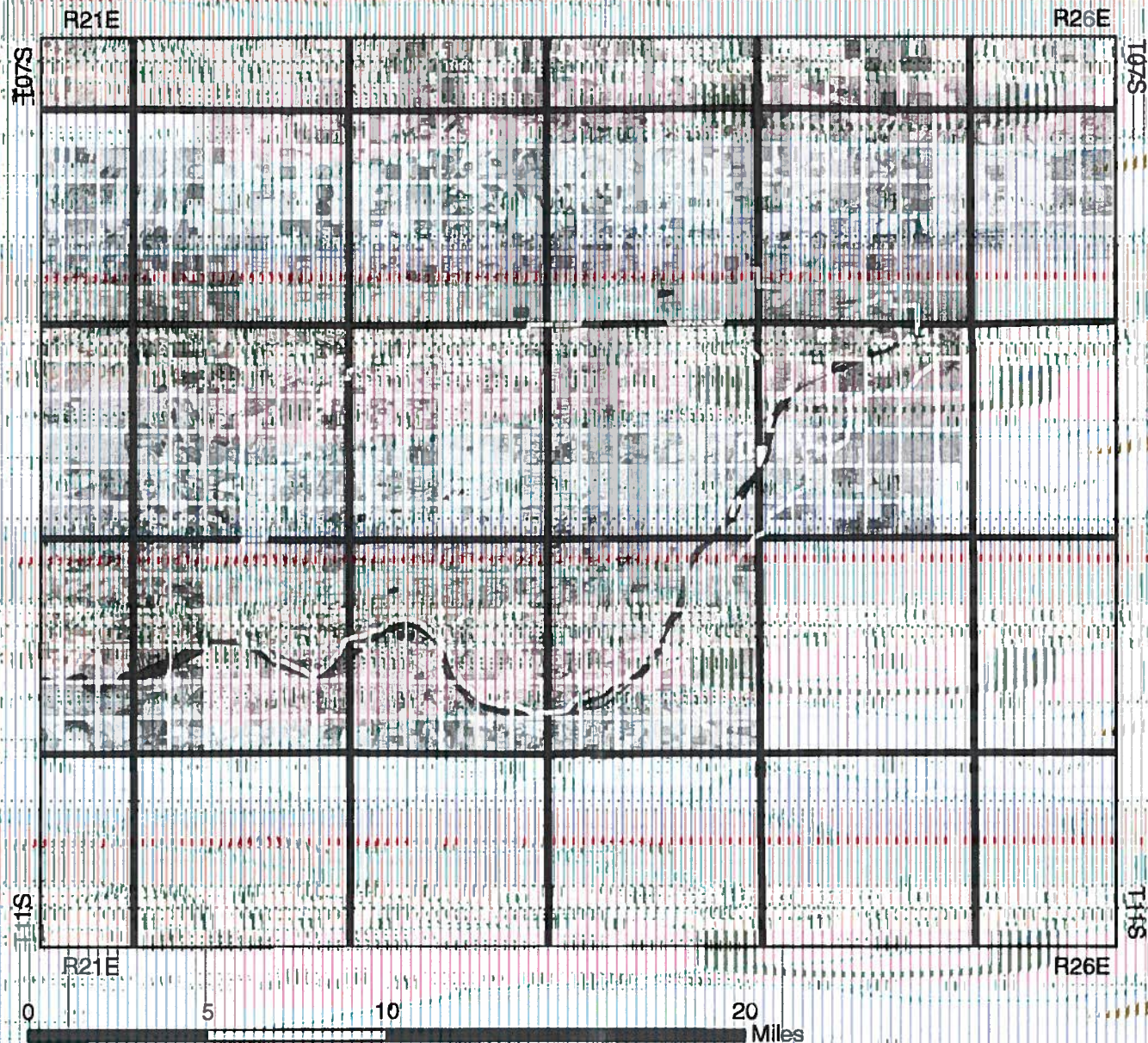
Cassia, Minidoka Counties

IDWR Basin 1

Prepared by Favreau, Danielle

On June 29, 2012

1987/88 Aerial Photography



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

AUG 29 2012

By _____

Clerk

Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
SEP 10 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

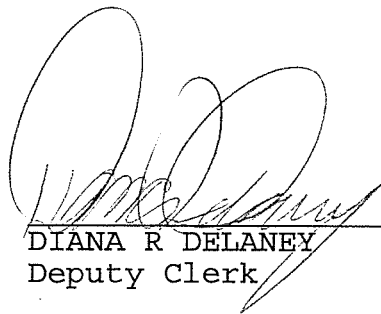
Water Right(s): 01-00211A
01-00214A 01-10187 01-10188
01-10189 01-10192 01-10194

On September 10, 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.

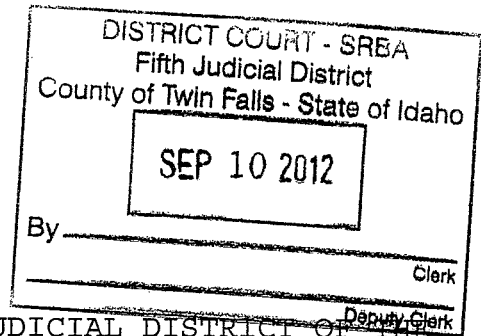
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

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 September 10, 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): 01-00211A
01-00214A 01-10187 01-10188
01-10189 01-10192 01-10194

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 September 10, 2012, with sufficient first-class postage prepaid to the following:

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

CITY OF POCA TELLO
Represented by:
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CERTIFICATE OF MAILING

PAGE 1
09/10/12

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UNITED CANAL CO

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CITY OF POCATELLO

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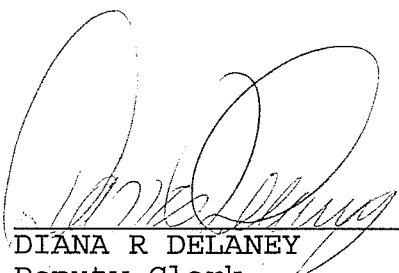
NORTH SIDE CANAL CO LTD
TWIN FALLS CANAL COMPANY

Represented by:

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Phone: 208-678-3250



DIANA R. DELANEY
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