

RECEIVED
JAN 27 2014
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
JAN 22 2014
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:
	)	02-2044, 02-2055, 02-2097B, 02-2128,
	)	02-4015, 02-7133, 02-10008, 02-10010
Case No. 39576	)	(West Indian Cove Water Co., Inc.)
	)	
	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION

Findings of Fact

On May 20, 2009, former SRBA Presiding Judge John M. Melanson entered an *Order of Partial Decrees for Irrigation Delivery Entity Using Digital Boundary Description; I.C. §§ 42-202B(2), 42-219(2), 42-1411(2)(h)*. The *Order* awarded to West Indian Cove Water Co., Inc., 27097 Indian Cove Lane, Hammett, Idaho, 83227, the above eight water rights from the Snake River to irrigate a total of 714 acres within the service area of the West Indian Cove Water Company in Owyhee County with priority dates between June 22, 1938, and December 28, 1973, based on licenses and beneficial use.

On March 20, 2013, West Indian Cove Canal Company filed its *Motion to Set Aside Partial Decrees* because the *Partial Decrees* inaccurately described the place of use description in the digital boundary.¹ On March 20, 2013, SRBA Presiding Judge Eric J. Wildman entered an *Order of Reference Appointing Special Master Terrence A. Dolan* to report on the underlying merits of the *Motion* and if and how the *Partial Decrees* should be set aside or amended.

A hearing on the *Motion* was held at the SRBA Courthouse in Twin Falls, Idaho, on June 20, 2013. Shelley M. Davis appeared for West Indian Cove and Nicholas B. Spencer

¹ On April 16, 2013, West Indian Cove filed a *Notice* correcting the claimant's name to West Indian Cove Water Co., Inc.

appeared for IDWR, along with Carter Fritschle. IDWR did not oppose the *Motion* in part because no additional acres were added, only the digital boundary was to be amended.

On August 29, 2013, IDWR filed its *Amended Director's Report* concerning the eight water rights with an amended digital boundary. No one objected to the *Report*.

Conclusions of Law

West Indian Cove Water Co., Inc., has shown good cause to have the eight *Partial Decrees* set aside and amended as described in the *Amended Director's Report*.

Recommendation

THEREFORE, IT IS RECOMMENDED that the eight *Partial Decrees* be set aside and amended as described in the *Amended Director's Report*.

DATED January 22, 2014.



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 02-02044

NAME AND ADDRESS: WEST INDIAN COVE WATER CO INC
27097 INDIAN COVE LN
HAMMETT, ID 83627

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 3.74 CFS

PRIORITY DATE: 02/07/1944

POINT OF DIVERSION: T05S R07E S34 LOT 2 (SWNW) Within Owyhee County

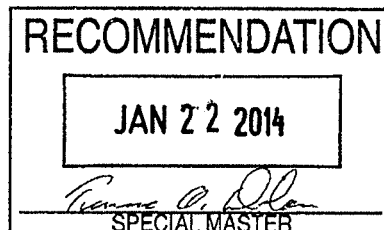
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.74 CFS

PLACE OF USE:

714 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. Right Nos. 2-2044 and 2-2055 are limited to the irrigation of a combined total of 458 acres in a single irrigation season. The place of use is within the service area of the West Indian Cove Water Co. The rights listed below are limited to the irrigation of a combined total of 714 acres in a single irrigation season. Combined Right Nos.: 2-2044, 2-2055, 2-2097B, 2-2128, 2-4015, 2-7133, 2-10008 and 2-10010.

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 02-02055

NAME AND ADDRESS: WEST INDIAN COVE WATER CO INC
27097 INDIAN COVE LN
HAMMETT, ID 83627

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 10.00 CFS

PRIORITY DATE: 06/22/1938

POINT OF DIVERSION: T05S R07E S34 LOT 2 (SWNW) Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	10.00 CFS

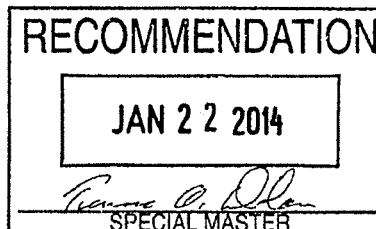
PLACE OF USE:

714 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 place of use for this water right is within the service area of West Indian Cove Water Co. The rights listed below are limited to the irrigation of a combined total of 714 acres in a single irrigation season. Combined Right Nos.: 2-2044, 2-2055, 2-2097B, 2-2128, 2-4015, 2-7133, 2-10008, 2-10010. Right Nos. 2-2044 and 2-2055 are limited to the irrigation of a combined total of 458 acres 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).



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 02-02097B

NAME AND ADDRESS: WEST INDIAN COVE WATER CO INC
27097 INDIAN COVE LN
HAMMETT, ID 83627

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 0.12 CFS

PRIORITY DATE: 06/04/1952

POINT OF DIVERSION: T05S R07E S34 LOT 2 (SWNW) Within Owyhee County

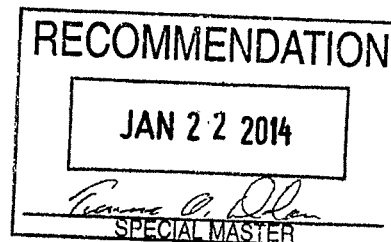
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.12 CFS

PLACE OF USE:

714 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 714 acres in a single irrigation season.
Combined Right Nos.: 2-2044, 2-2055, 2-2097B, 2-2128, 2-4015, 2-7133, 2-10008, 2-10010.
This right is limited to the irrigation of 6 acres within the place of use described above in a single irrigation season.
The place of use for this water right is within the service area of West Indian Cove Water Co.

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 02-02128

NAME AND ADDRESS: WEST INDIAN COVE WATER CO INC
27097 INDIAN COVE LN
HAMMETT, ID 83627

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 0.96 CFS
4361.00 AFY

The rights listed below are limited to a total combined annual
diversion volume of 4,361 af. Combined Right Nos.: 2-2044,
2-2055, and 2-2128.

PRIORITY DATE: 04/30/1956

POINT OF DIVERSION: T05S R07E S34 LOT 2 (SWNW) Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.96 CFS 4361.00 AFY

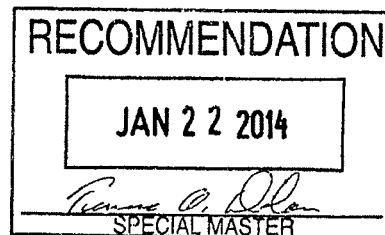
PLACE OF USE:

714 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 714 acres in a single irrigation season.
Combined Right Nos.: 2-2044, 2-2055, 2-2097B, 2-2128, 2-4015,
2-7133, 2-10008, 2-10010.
The place of use for this water right is within the service area
of West Indian Cove Water Co.
This right is limited to the irrigation of 490 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).



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 02-04015

NAME AND ADDRESS: WEST INDIAN COVE WATER CO INC
27097 INDIAN COVE LN
HAMMETT, ID 83627

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1.71 CFS

PRIORITY DATE: 08/30/1969

POINT OF DIVERSION: T05S R07E S34 LOT 2 (SWNW) Within Owyhee County

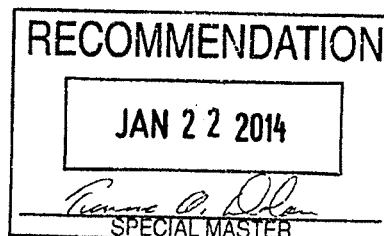
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.71 CFS

PLACE OF USE:

714 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. This right is limited to the irrigation of 57 acres within the place of use described above in a single irrigation season. The place of use for this water right is within the service area of West Indian Cove Water Co. The rights listed below are limited to the irrigation of a combined total of 714 acres in a single irrigation season. Combined Right Nos.: 2-2044, 2-2055, 2-2097B, 2-2128, 2-4015, 2-7133, 2-10008, 2-10010.

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 02-07133

NAME AND ADDRESS: WEST INDIAN COVE WATER CO INC
27097 INDIAN COVE LN
HAMMETT, ID 83627

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1.30 CFS
325.00 AFY

This right when combined with all other rights shall provide no
more than .02 cfs per acre nor more than 5.0 afa per acre for
the lands above.

PRIORITY DATE: 12/28/1973

POINT OF DIVERSION: T05S R07E S34 LOT 2 (SWNW) Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.30 CFS 325.00 AFY

PLACE OF USE:

714 ACRES TOTAL

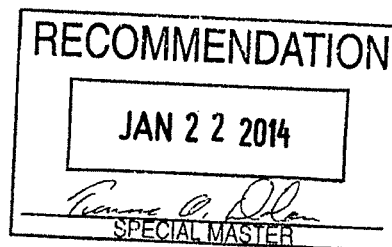
The boundary encompassing the place of use for this water right
is described with a digital boundary as defined by I.C. Section
42-202B(2) and authorized pursuant to I.C. Section
42-1411(2)(h). The data comprising the digital boundary are
incorporated herein by reference and are stored on a CD-ROM disk
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 place of use for this water right is within the service area
of West Indian Cove Water Co.

The rights listed below are limited to the irrigation of a
combined total of 714 acres in a single irrigation season.
Combined Right Nos.: 2-2044, 2-2055, 2-2097B, 2-2128, 2-4015,
2-7133, 2-10008, 2-10010.

This right is limited to the irrigation of 65 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).



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 02-10008

NAME AND ADDRESS: WEST INDIAN COVE WATER CO INC
27097 INDIAN COVE LN
HAMMETT, ID 83627

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 2.37 CFS

PRIORITY DATE: 04/13/1971

POINT OF DIVERSION: T05S R07E S34 LOT 2 (SNNW) Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	2.37 CFS

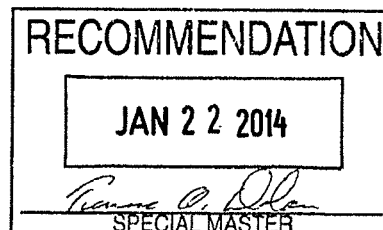
PLACE OF USE:

714 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 714 acres in a single irrigation season. Combined Right Nos.: 2-2044, 2-2055, 2-2097B, 2-2128, 2-4015, 2-7133, 2-10008, 2-10010. The place of use for this water right is within the service area of West Indian Cove Water Co. This right is limited to the irrigation of 79 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).



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 02-10010

NAME AND ADDRESS: WEST INDIAN COVE WATER CO INC
27097 INDIAN COVE LN
HAMMETT, ID 83627

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1.24 CFS

PRIORITY DATE: 04/13/1971

POINT OF DIVERSION: T05S R07E S34 LOT 2 (SWNW) Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.24 CFS

PLACE OF USE:

714 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 place of use for this water right is within the service area of West Indian Cove Water Co. The rights listed below are limited to the irrigation of a combined total of 714 acres in a single irrigation season. Combined Right Nos.: 2-2044, 2-2055, 2-2097B, 2-2128, 2-4015, 2-7133, 2-10008, 2-10010.

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 District Court

RECOMMENDATION

JAN 22 2014

SPECIAL MASTER

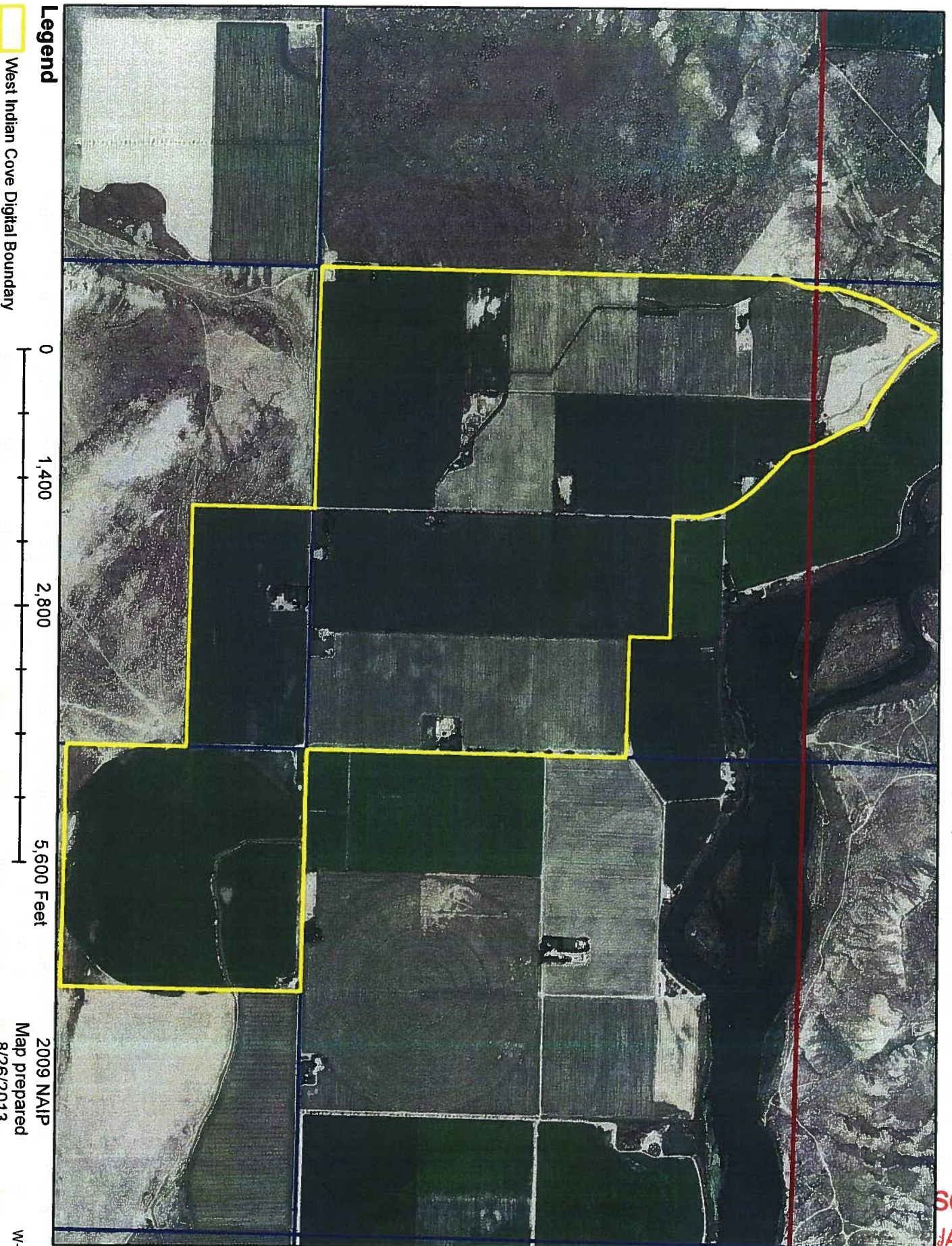
SRBA PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 02-10010 File Number: 00055

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Jan-21-2014

SCANNED
JAN 27 2014

West Indian Cove Water Co. Digital Boundary
2-2044, 2-2055, 2-2097B, 2-2128, 2-4015, 2-7133, 2-10008 and 2-10010

SCANNED
JAN 27 2014



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

AUG 29 2013

By _____
Clerk
Deputy Clerk