

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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IDAHO FALLS, IDAHO 83405

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Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

RECEIVED
AUG 16 2004
Department of Water Resources
Of Counsel
Fred J. Hahn

*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

August 12, 2004

Steve Clelland
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

Re: Gini Ditch Company - Order of Partial Decree

Dear Steve:

Pursuant to our telephone conversation, we are enclosing a copy of the Order of Partial Decree for Irrigation Delivery Entity Using Digital Boundary Description which came to us from the SRBA Court. As you can see, it dealt only with two (2) of the company's water rights, 72-10480 and 72-10482 and I think in fact it should have included 72-10481 as well. The major problem however is that it attaches the wrong map.

We have also enclosed a copy of the most recent map that you and Dr. Boge worked on to correct these errors which appears to be dated March 26, 2001.

When you have had an opportunity to review this and to discuss it with Nick Spencer or someone please let us know how you think we ought to proceed to get the Partial Decree corrected to include all three water rights and to get the right map attached.

Thank you for your kind assistance.

Yours very truly,



Kent W. Foster

Enclosures

RECEIVED

AUG 4 6 2004

Department of Water Resources

2004 AUG -5 PM 1:12

FILED
TWIN FALLS CO. IDAHO

COPY

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

-) ORDER OF PARTIAL DECREE FOR
-) IRRIGATION DELIVERY ENTITY
-) USING DIGITAL BOUNDARY
-) DESCRIPTION; I.C. §§ 42-202B(2), 42-
-) 219(2), 42-1411(2)(h)
-)
-) For Water Right(s): 72-10480 &
-) 72-10482 (Gini Ditch Company)
-)
-)

I.
FINDINGS AND CONCLUSIONS

1. On June 11, 2004, a *Special Master's Report and Recommendation* was filed for the above water right(s). No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.
2. The above-captioned water right(s) is/are for an irrigation purpose of use and satisfy one of the following statutory criteria: (1) used in conjunction with an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more; (2) the place of use for the water rights is located within an irrigation district organized pursuant to the laws of the state of Idaho; or (3) the water rights are for an irrigation project developed by an association, company, corporation or the United States to divert and deliver or distribute surface water under any annual charge or rental for beneficial use by more than five (5) water users in an area less than twenty-five thousand (25,000) acres.
3. Effective July 1, 2002, the Idaho Legislature approved the use of a Geographic Information System (GIS) for describing the place of use (digital boundary) for water rights meeting the above-stated criteria. See I.C. §§ 42-219(2)(2003) and 42-1411(2)(h)(2003). The GIS mapping technology allows the geographic area encompassing the place of use for a

water right to be particularly identified and visually displayed in a map overlay format through the aid of computer technology. In incorporating a digital boundary into a partial decree, the electronic or digital data is what is actually decreed as opposed to the visually displayed map ultimately generated from the data. The data is stored on a CD-ROM. The Court finds that the GIS mapping technology maintained by IDWR complies with the standards for spatial accuracy set forth in I.C. § 42-202B (2)(2003). *See Notice of Filing Affidavit Of Michael Ciscell Re: Digital Boundary, filed October 17, 2003.*

II. ORDER

1. Therefore, IT IS ORDERED that water right(s) 72-10480 & 72-10482 is/are hereby **decreed** as set forth in the attached ***Partial Decree Pursuant to I.R.C.P. 54(b)***.
2. IT IS FURTHER HEREBY ORDERED that the data comprising the digital boundary shall be stored on a CD-ROM medium, which shall be issued in duplicate original. The SRBA District Court will retain one original together with the original ***Partial Decree***, and IDWR will retain the other original. The map depicting the place of use attached to the ***Partial Decree*** is intended for illustrative purposes only.
3. IT IS FURTHER HEREBY ORDERED that upon request, the claimant can obtain a copy of the CD-ROM from IDWR at no cost, although GIS software will still be required to access the data. Subsequent administrative changes to the place of use shall also be stored in a digital format and kept on file and maintained by IDWR. IDWR shall maintain all computer software and/or hardware necessary for reducing the data to a usable format that is accessible to the general public, including access through the IDWR Internet website (www.idwr.state.id.us) or its successor Uniform Resource Locator (URL).

DATED August 5, 2004.


JOHN M. MELANSON
Presiding Judge
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 72-10480

2004 AUG -5 PM 1:12
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *[Signature]*

NAME AND ADDRESS: GINI DITCH COMPANY INC
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS, ID 83405

SOURCE: SALMON RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 120.00 CFS

PRIORITY DATE: 07/27/1901

POINT OF DIVERSION: T13N R19E S16 LOT 6 (SWSWSE) Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	120.00 CFS

PLACE OF USE:

PLACE OF USE WITHIN THE BOUNDARY OF THE SERVICE AREA OF
THE GINI DITCH COMPANY. THIS BOUNDARY IS DELINEATED IN THE
AFFIDAVIT IDENTIFYING LOCATION OF REAL PROPERTY, INSTRUMENT NO.
0223257, FILED WITH CUSTER COUNTY RECORDER ON AUGUST 8, 2001.
THE SERVICE AREA IS WITHIN T13N AND T14N, R19E, CUSTER COUNTY,
IDAHO. TOTAL IRRIGATED ACRES: 2440 ACRES.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 1379 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)(2003) and authorized pursuant to I.C. Section 42-1411
(2)(h)(2003). 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

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.

[Signature]
John M. Melanson
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)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 72-10482

AUG -5 PM 1:12
TWIN FALLS CO. IDAHO
FILED
SRBA

NAME AND ADDRESS: GINI DITCH COMPANY INC
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS, ID 83405

SOURCE: SALMON RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 25.30 CFS

PRIORITY DATE: 04/01/1950

POINT OF DIVERSION: T13N R19E S16 LOT 6 (SWSWSE) Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	25.30 CFS

PLACE OF USE:

PLACE OF USE IS WITHIN THE BOUNDARY OF THE SERVICE AREA OF THE GINI DITCH COMPANY. THIS BOUNDARY IS DELINEATED IN THE AFFIDAVIT IDENTIFYING LOCATION OF REAL PROPERTY, INSTRUMENT NO. 0223257, FILED WITH CUSTER COUNTY RECORDER ON AUGUST 8, 2001. THE SERVICE AREA IS WITHIN T13N AND T14N, R19E, CUSTER COUNTY, IDAHO. TOTAL IRRIGATED ACRES: 2440 ACRES

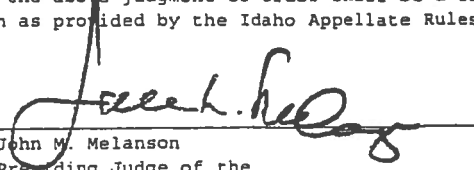
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 291 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) (2003) and authorized pursuant to I.C. Section 42-1411 (2) (h) (2003). 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

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.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE was mailed on August 05, 2004, with sufficient first-class postage to the following:

GINI DITCH COMPANY INC

Represented by:

KENT W FOSTER

PO BOX 50130

IDAHO FALLS, ID 83405

Phone: 208-523-0620

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

ORDER

Page 1, 8/05/04

FILE COPY FOR 00481

Deputy Clerk

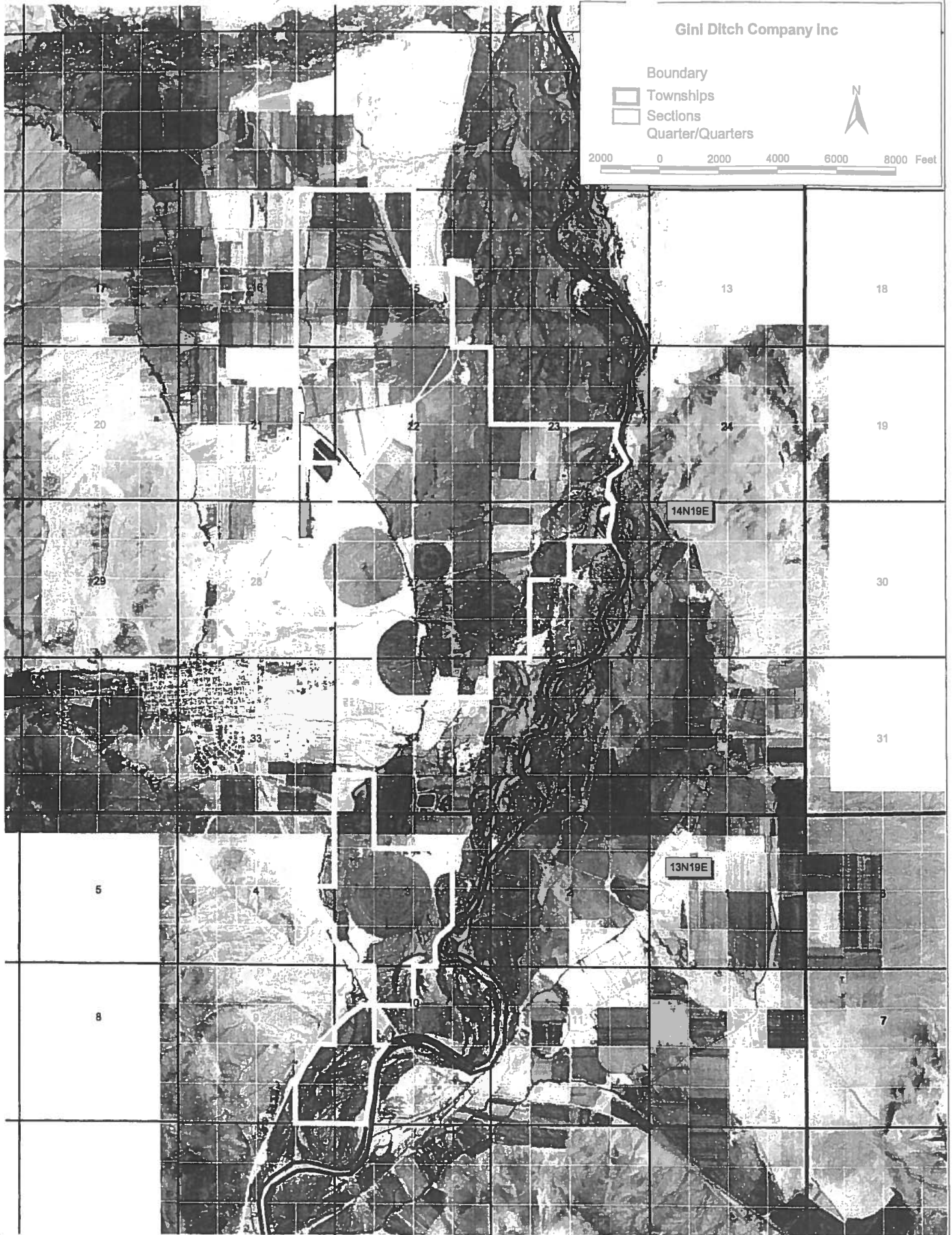
A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".

Gini Ditch Company Inc

Boundary
Townships
Sections
Quarter/Quarters



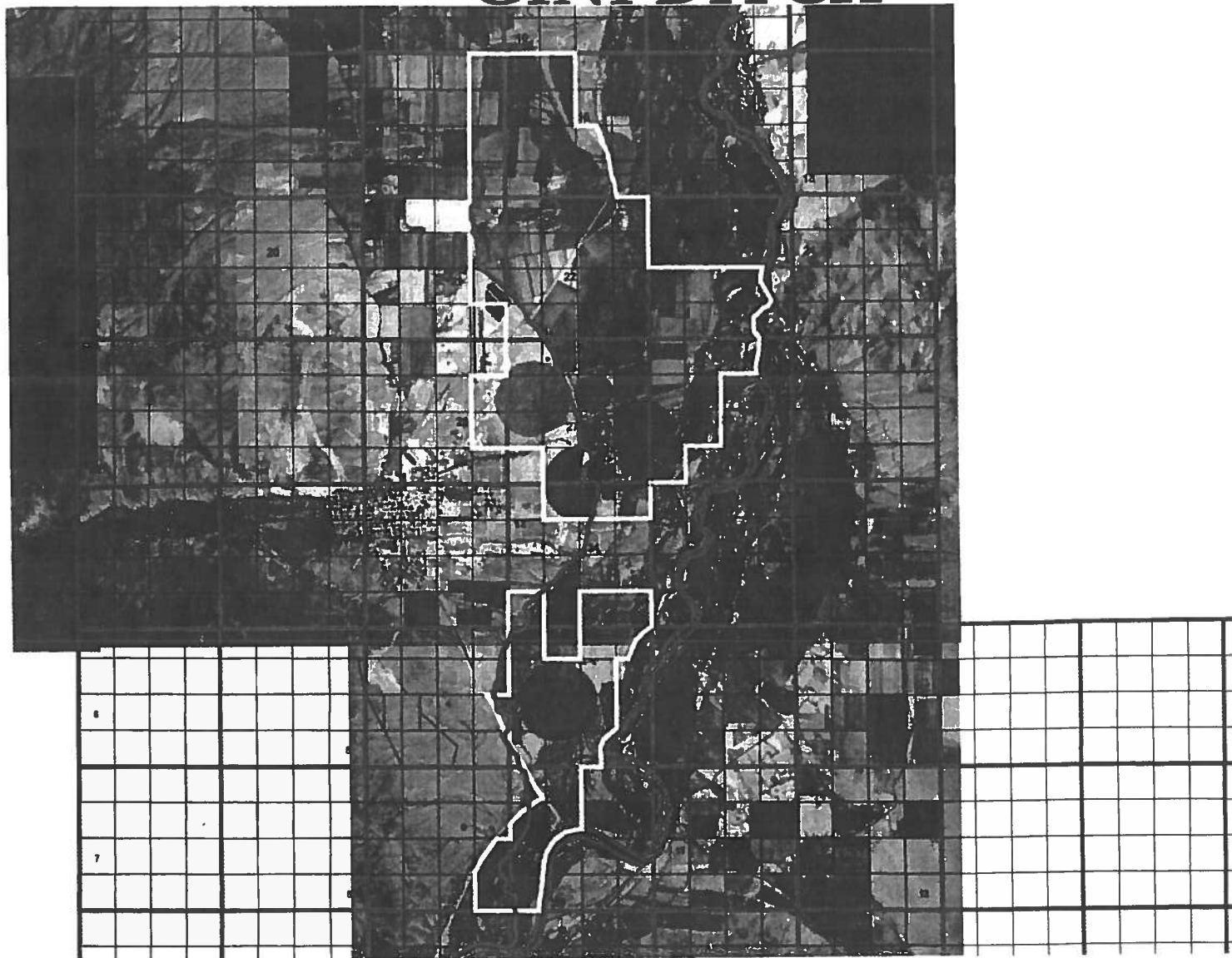
2000 0 2000 4000 6000 8000 Feet



IDAHO DEPARTMENT OF WATER RESOURCES

72-10480 72-10481 72-10482

GINI DITCH



5280 0 5280 10560 15840 Feet

- RECOMMENDED PLACE OF USE**
- ⊙ **RECOMMENDED POINT OF DIVERSION**
 - ▭ **SECTION LINES**
 - ▭ **QUARTER-QUARTER LINES**
 - ∧ **STREAMS & DITCH CHANNELS**

TWN: 13N & 14N
RNG: 19E



GIS PLACE OF USE PRESENTATION
USFS AERIAL PHOTOGRAPHY
BY STEVE CLELLAND

DATE: MARCH 26, 2001

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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RECEIVED

APR 28 2005

DEPARTMENT OF
WATER RESOURCES

(1877-1967)
Robert B. Holden
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Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

April 27, 2005

Steve Clelland
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

Re: Gini Ditch Company

Dear Steve:

I note that we wrote to you on August 12, 2004, regarding water right number 72-10480, 72-10482 and 72-10481 and the map which was attached. I wonder if you have had an opportunity to review this matter yet and if you would contact us so that we might know how to proceed. We are enclosing a copy of our letter of August 12, with this letter for your reference.

Yours very truly,



Kent W. Foster

Enclosures

G:\WPDATA\KWF\6298 GINI DITCH ASSOCIATION\Correspondence\Steve Clelland ltr 042705.wpd cdv

SCANNED

MAY 02 2005

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPCO, L.L.C.

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Of Counsel
Fred J. Hahn

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**Also Licensed in Missouri & Kansas

August 12, 2004

Steve Clelland
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

Re: Gini Ditch Company - Order of Partial Decree

Dear Steve:

Pursuant to our telephone conversation, we are enclosing a copy of the Order of Partial Decree for Irrigation Delivery Entity Using Digital Boundary Description which came to us from the SRBA Court. As you can see, it dealt only with two (2) of the company's water rights, 72-10480 and 72-10482 and I think in fact it should have included 72-10481 as well. The major problem however is that it attaches the wrong map.

We have also enclosed a copy of the most recent map that you and Dr. Boge worked on to correct these errors which appears to be dated March 26, 2001.

When you have had an opportunity to review this and to discuss it with Nick Spencer or someone please let us know how you think we ought to proceed to get the Partial Decree corrected to include all three water rights and to get the right map attached.

Thank you for your kind assistance.

Yours very truly,



Kent W. Foster

Enclosures



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

April 20, 2006

Hon. John Melanson
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: Subcase Nos. 72-10480, 72-10481 & 72-10482 (*Gini Ditch Company*)

Dear Judge Melanson:

An *Order of Partial Decree* was entered for water right 72-10481 on February 12, 2002. An *Order of Partial Decree for Irrigation Delivery Entity Using Digital Boundary Description; I.C. §§ 42-202B(2), 42-219(2), 42-1411(2)(h)* for water rights 72-10480 and 72-10482 was issued on August 5, 2004.

I do not remember why these rights were not partially decreed together, but an error concerning the place of use has been discovered. The map attached to the partial decrees for water right numbers 72-10480 and 72-10482 was incorrect. The error is clerical in nature. I have attached a memorandum prepared by Steve Clelland, the IDWR agent responsible for the recommendations of these water rights, which describes how the error occurred. I have also attached a copy of the correct digital boundary map that should be attached to the partial decrees.

The partial decree for water right 72-10481 was issued on February 12, 2002. Effective July 1, 2002, the Idaho Legislature approved the use of a Geographic Information System (GIS) for describing the place of use (digital boundary) for water rights meeting certain criteria. See I.C. §§ 42-219(2)(2003) and 42-1411(2)(h)(2003). Accordingly, water right 72-14081 was issued without a digital boundary map, but rather with reference made to the boundary as delineated in the affidavit identifying location of real property filed with the Custer County Recorder on August 8, 2001. The place of use is correct, but it would be more accurately described, and more consistent with water right numbers 72-10480 and 72-10482, by using the digital boundary map that I have attached.

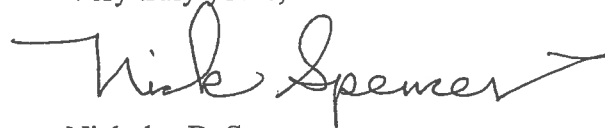
Accordingly, it seems appropriate for the Court to issue amended partial decrees pursuant to Rule 60(a) of the Idaho Rules of Civil Procedure, correcting the error in the

digital boundary for water right number 72-10480 and 72-10482. The Court may also wish to consider whether there is a procedural mechanism available to it for updating the place of use description for water right number 72-10481 by substituting the digital boundary for the existing reference to the recorded affidavit in order to harmonize the place of use descriptions for all three rights.

I am sending a copy of this letter to Kent Foster, the attorney for the claimants. Mr. Foster is aware of the error and has been in contact with IDWR.

If you should have any questions or comments, please feel free to contact me at (208) 287-4813.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nick Spencer", with a long horizontal flourish extending to the right.

Nicholas B. Spencer
Deputy Attorney General, IDWR

Enclosures

cc: Kent W. Foster, Esq.
Steve Clelland

SCANNED

MEMORANDUM

TO: FILE 37-10480, 37-10481 & 37-10482
FROM: STEVE CLELLAND
SUBJECT: CORRECTION OF GIS MAPPING OF POU
DATE: 4/19/2006
CC: NICK SPENCER

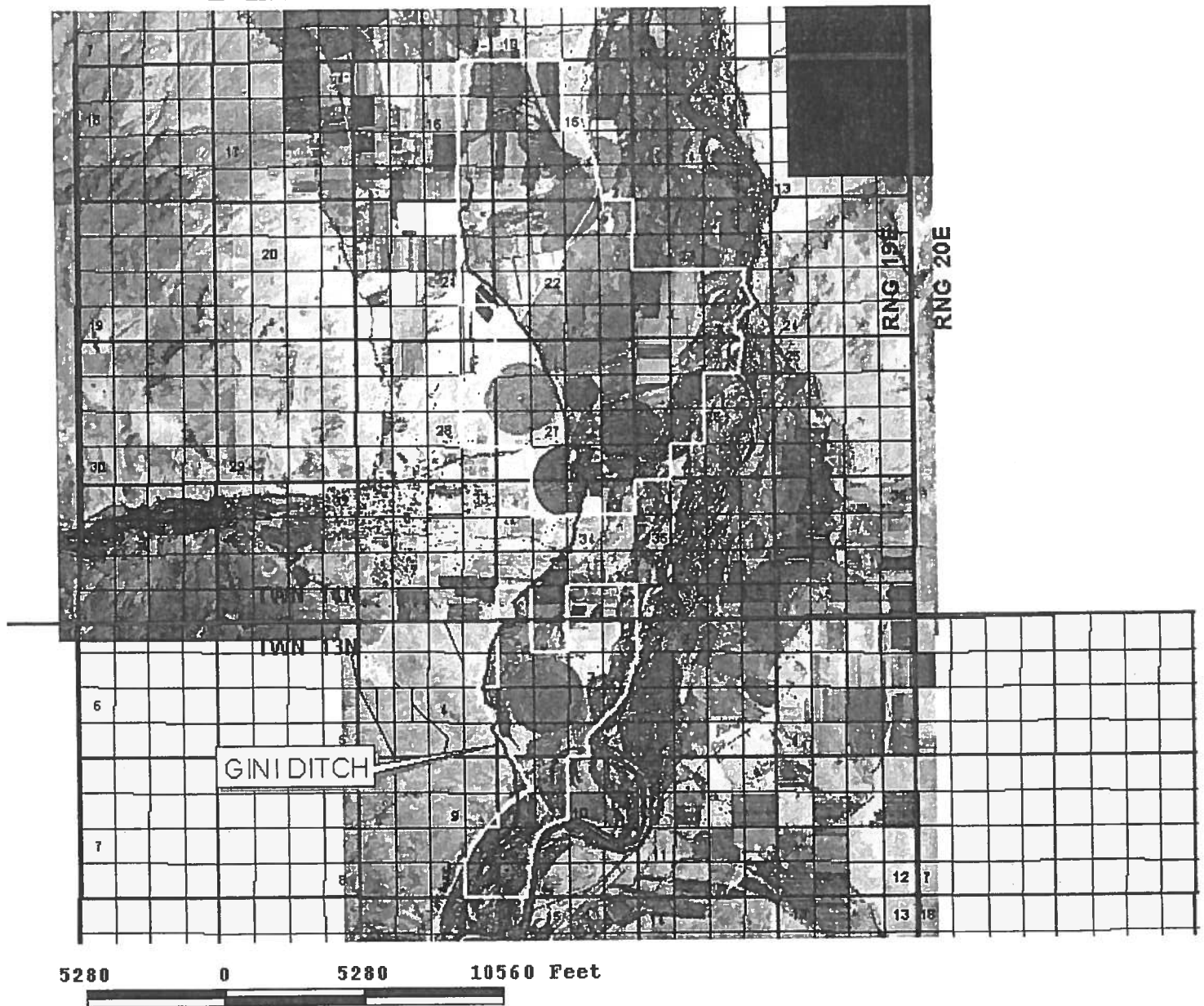
On several occasions in 2004, 2005 and now in 2006 I was contacted by Mr. Kent Foster on behalf of the Gini Ditch Co. to correct the map showing the place of use of the irrigation company. It was clear to me from the beginning that the maps submitted to the court were in error but there was not a clear resolution to the problem. The map attached to the court records did not match the SF5 copy I have on my computer, that is the correct version of the map. It appears that since the first contact from Mr. Foster, IDWR has resolved similar errors and was able to guide me in obtaining a fix for this problem now in 2006. I have submitted a correct map to the appropriate staff here in Boise and steps are being taken to forward the correction to the SRBA court.

SCANNED

IDAHO DEPARTMENT OF WATER RESOURCES

72-10480, 72-10481, 72-10482

GINI DITCH BOUNDARY



- RECOMMENDED PLACE OF USE BOUNDARY
- ⊙ RECOMMENDED POINT OF DIVERSION
- SECTION LINES
- QUARTER-QUARTER LINES
- ∕ STREAMS & DITCH CHANNELS
- ∕ TOWNSHIP-RANGE LINES

TWN: 13N & 14N
RNG: 19E



GIS PLACE OF USE PRESENTATION
USFS AERIAL PHOTOGRAPHY
BY STEVE CLELLAND

DATE: JULY 17, 2004
REVISED

APR 24 2006