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MAR 25 2009

Department of Water Resources
Adjudication Branch

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

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

MAR 24 2009

By _____

Clerk

Deputy Clerk

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: See Attached Exhibit A
(Fox Creek Canal Co.)

FINDINGS AND CONCLUSIONS

1. On December 22, 2006, the Idaho Department of Water Resources (IDWR) filed its *Director's Report, Basin 22, Part II, Reporting Area 17, for Irrigation and Other Uses*, which included recommendation(s) for the above-captioned water right(s). The recommendation(s) included descriptions for the place of use element using a "digital boundary" as defined by I.C. § 42-202(B)(2)(2003). On August 14, 2008, the Idaho Department of Water Resources filed a *Notice of Completed Administrative Proceeding and Amended Director's Report* notifying the Court of a change in remarks. No objections to the amended recommendation(s) was/were filed and the time period for filing objections 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 right(s) is/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

SCANNED

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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 the above-captioned water right(s) is/are hereby **decreed** as set forth in the attached *Partial Decree(s) 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(s)* and IDWR will retain the other original. The map depicting the place of use attached to the *Partial Decree(s)* 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

March 24, 2009.

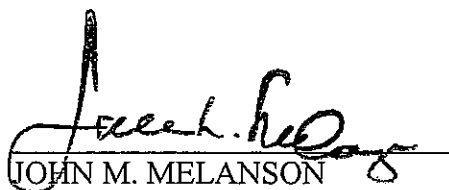

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

EXHIBIT A (FOX CREEK CANAL CO)

Subcase Nos:

22-00107
22-00188
22-00202
22-00432
22-02027
22-02037
22-12156
22-12159
22-12161
22-12164



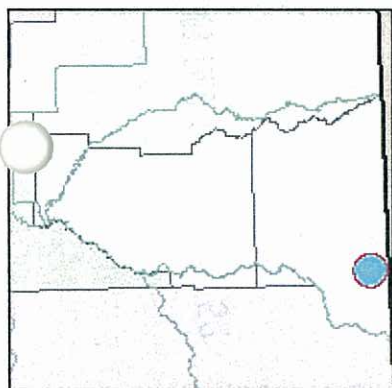
Fox Creek Canal Co

SRBA Recommendations: 22-107, 22-188, 22-202, 22-432, 22-2027, 22-2037, 22-12156, 22-12159, 22-12161, 22-12164, 22-12165, 22-12166

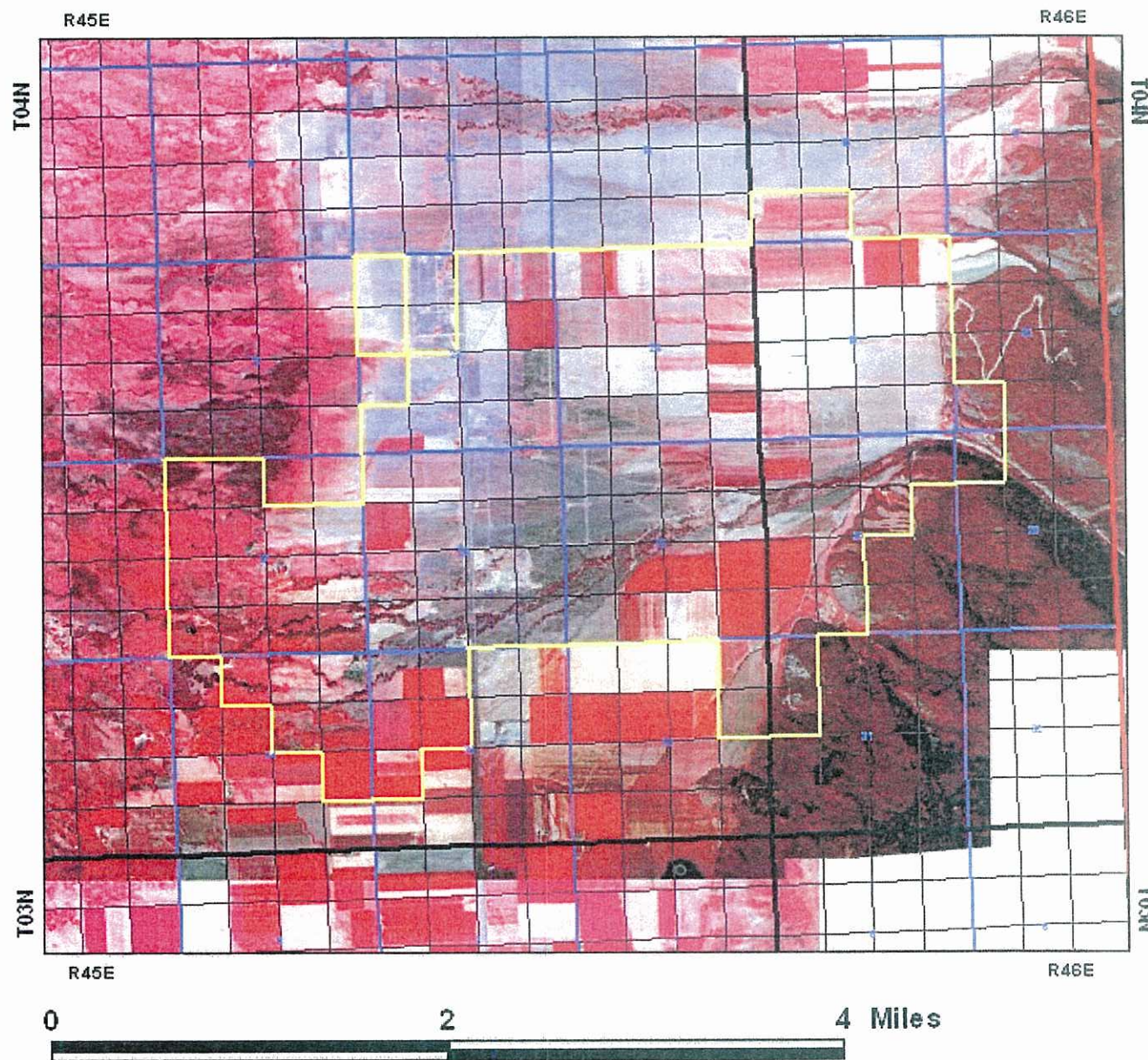
Service Area Boundary
GIS Place of Use Illustration

Legend

- Service Area
- Townships
- PLS Sections
- Quarter Quarters



Teton County
IDWR Basin 22



MAR 25 2009

Prepared by T. Galbraith
On Saturday, December 16, 2006
1987/88 Aerial Photography

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREES FOR IRRIGATION DELIVERY ENTITY USING DIGITAL BOUNDARY DESCRIPTION was mailed on March 24, 2009, with sufficient first-class postage to the following:

FOX CREEK CANAL CO
C/O DAWN STONE SEC
494 S 50 W
VICTOR, ID 83455
Phone: 208-787-2759

FOX CREEK CANAL CO
C/O RANDALL FOSTER PRES
402 S 200 E
DRIGGS, ID 83422
Phone: 208-354-8463

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

ORDER

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FILE COPY FOR 00231

Deputy Clerk

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MAR 25 2009

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 22-00202

NAME AND ADDRESS:

FOX CREEK CANAL CO
C/O DAWN STONE SEC
494 S 50 W
VICTOR, ID 83455

FOX CREEK CANAL CO
C/O RANDALL FOSTER PRES
402 S 200 E
DRIGGS, ID 83422

SOURCE: FOX CREEK TRIBUTARY: TETON RIVER

QUANTITY: 3.20 CFS

PRIORITY DATE: 06/01/1894

POINT OF DIVERSION: T04N R45E S25 SESWNE Within Teton County
R46E S29 LOT 4 (SWSWNE)
S30 LOT 6 (NENWNE)
NWSENW

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
04-15 TO 10-31

QUANTITY
3.20 CFS

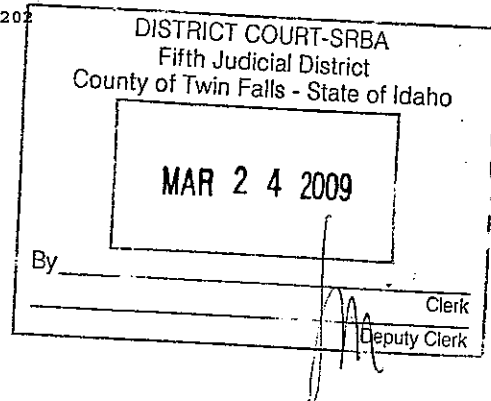
PLACE OF USE:

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 3377.7 acres in a single irrigation season. Combined Right Nos.: 22-107, 22-188, 22-202, 22-432, 22-2027, 22-2037, 22-12156, 22-12159, 22-12161, 22-12164, 22-13872, 22-13874. This right is limited to the irrigation of 160 acres within the place of use described above in a single irrigation season. Place of use is within the area served by Fox Creek Canal Company.

3377.7 ACRES TOTAL

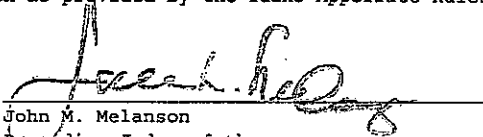
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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).



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