

STATE OF IDAHO }
COUNTY OF KOOTENAI } ss

FILED: 1989 April 20
AT 11:29 O'CLOCK a.m.

CLERK, DISTRICT COURT
JANICE P CURRIE

DEPUTY

RECEIVED

APR 28 1989

Department of Water Resources

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

IN THE MATTER OF THE GENERAL
DETERMINATION OF THE RIGHTS TO
THE USE OF THE SURFACE WATERS
OF TWIN LAKES, INCLUDING
TRIBUTARIES AND OUTLETS.

Civil No. 32572

THE STATE OF IDAHO,
Department of Water Resources,

Plaintiff,

FINAL
DECREE

v.

ABBOTT, Knox and Spouse; et al.,

Defendants.

This action is a general adjudication of rights to the use of surface waters of Twin Lakes, including tributaries and outlets. This action was commenced by order of the district court on January 10, 1975, pursuant to Idaho Code §42-1407 (1977).

The director of the Idaho Department of Water Resources (IDWR) filed a Proposed Finding of Water Rights in the Twin Lakes

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SCANNED
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- Rathdrum Creek Drainage Basin (Proposed Finding) on January 14, 1985, pursuant to Idaho Code §42-1410 (Supp. 1984). The Proposed Finding contains a list of defendants; an introduction including a list of definitions; general findings of fact and conclusions of law, including matters necessary for the efficient administration of water rights from the source to be adjudicated; a listing of water rights, including instructions for interpreting the listing of water rights; a list of claims submitted and recommended to be disallowed; a name index and a water right number index; and maps of the Twin Lakes - Rathdrum Creek Basin. (Note that there is a numbering error in the Proposed Finding; there is no page 92.) The Proposed Finding is incorporated herein by reference.

The Proposed Finding was twice amended. The first amendment was an Order to Amend Proposed Finding of Water Rights in the Twin Lakes Rathdrum Creek Drainage Basin (Order), filed October 22, 1986, which amended pages 95 and 149 of the Proposed Finding by deleting one water right from the Proposed Finding which was not properly included in the adjudication. An amended page 95 and an amended page 149 are attached hereto and incorporated herein by this reference. The second amendment was a Supplement to Report (Supplement), filed May 21, 1987, which added to the Proposed Finding Page 100A, entitled Claims Not Submitted. Page 100A is attached hereto and incorporated herein by reference.

Four objections were filed to the Proposed Finding, and responses were filed to the objections by IDWR. Trial on the objections was held May 12 - 14, 1988. A Memorandum Decision was entered February 22, 1989. The Memorandum Decision is adopted as

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findings of fact and conclusions of law as permitted by IRCP 52(a), and is incorporated herein by reference. The Memorandum Decision directed IDWR to amend the general findings and conclusions in the Proposed Finding in accordance with the Memorandum Decision. The amended proposed findings and conclusions, consisting of pages xiii and xv to xx, are attached hereto and incorporated herein by reference.

Idaho Code §42-1411(1)&(4) (Supp. 1988) describes a three-part director's report and a notice of filing the report which includes notice of a hearing on a partial decree of the uncontested portions of the report. Idaho Code §42-1412(8)&(9) (Supp. 1988) describes a partial decree of uncontested portions of the report and additional partial decrees after trial on objections. The Proposed Finding is not a three part director's report, and the procedures for obtaining a partial decree of uncontested matters was not followed in this adjudication because these provisions were not adopted until after the filing of the report and expiration of the period for filing objections and responses. This decree therefore decrees all matters, including uncontested matters pursuant to Idaho Code §42-1411(8) (Supp. 1988) and contested matters pursuant to Idaho Code §42-1411(9) (Supp. 1988), in this adjudication, and constitutes a final decree pursuant to Idaho Code §42-1412(10) (Supp. 1988).

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the rights to the use of surface water from the Twin Lakes - Rathdrum Creek Drainage Basin are as described in the Proposed Finding, amended

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as set forth in pages xiii, xv to xx, 95, 100A and 149 attached hereto.

IT IS FURTHER ORDERED that IDWR shall provide to the Clerk of the District Court a service list, stamped addressed envelopes, and sufficient copies of this judgment together with all attachments, for service of conformed copies of this judgment upon the parties to the trial on objections. IDWR shall prepare a notice of entry of decree, and provide to the Clerk of the District Court a service list, stamped addressed envelopes, and sufficient copies of the notice of entry of decree for service of conformed copies of the notice of entry of decree upon all other claimants in this adjudication. Upon receipt of these materials from IDWR, the Clerk of the District Court shall serve the conformed copies of the judgment and the conformed copies of the notice of entry of the decree on the persons listed in the service lists by mailing in the U.S. Mail. This further order is made pursuant to Idaho Code §42-1412(8) and (9), and IRCP 77(d).

DATED this 19th day of April, 1989.

RICHARD G. MAGNUSON

Richard G. Magnuson
District Judge

STATE OF IDAHO } ss
County of Kootenai }

I, Shirley A. Deitz, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that the foregoing instrument is a true and correct copy of the original thereof now on file in this office. Witness my hand and the seal of said Court on this, the 21 day of April 1989.

SHIRLEY A. DEITZ, CLERK OF THE DISTRICT COURT
By Shirley A. Deitz Deputy

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NUMBER INDEX

NUMBER	NAME	PRIORITY		SOURCE OF WATER	TRIBUTARY TO
		DATE			
95-0962	KERN, ALBERT W. KERN, RUTH J.	04-01-1947	TWIN LAKES	RATHDRUM CREEK	
95-0963	JONES, ROBERT O.	05-15-1961	TWIN LAKES	RATHDRUM CREEK	
95-0964	GALBRAITH, LARRY E.	05-01-1942	SPRING BRANCH CREEK	RATHDRUM CREEK	
95-0965	SCHRAMM, ROGER H. SCHRAMM, JUNE G.	05-01-1949	TWIN LAKES	RATHDRUM CREEK	
95-0966	CITY OF RATHDRUM	01-01-1880	SPRING BRANCH CREEK	RATHDRUM CREEK	
95-0967	STATE OF IDAHO	06-01-1971	SPRING BRANCH CREEK, S. FORK SPRING BRANCH CREEK, N. FORK	SPRING BRANCH CREEK SPRING BRANCH CREEK	
95-0968	MUNRO, HERBERT B. MUNRO, MARYAN E.	01-06-1958	TWIN LAKES	RATHDRUM CREEK	
95-0969	FARMERS WATER INC.	05-01-1902	SPRINGS	SPRING BRANCH CREEK	
95-0970	MESTERMAN, ALFRED MESTERMAN, RUBY	DISALLOWED			
95-0971	MC INTOSH, LAWRENCE W. MC INTOSH, JUDY	05-01-1958	TWIN LAKES	RATHDRUM CREEK	
95-0972	KIEFER, TERRY	05-01-1957	TWIN LAKES	RATHDRUM CREEK	
95-0973	U.S. DEPT. OF INTERIOR	03-23-1906	TWIN LAKES	RATHDRUM CREEK	
95-0974	TWIN LAKES IMPROVEMENT ASSN.	03-23-1906	TWIN LAKES	RATHDRUM CREEK	
95-0975	REED, RUSSELL DEL REED, SUSAN MAY	DISALLOWED			
95-0976	BISHOP, ROBERT G.	DISALLOWED			
95-0977	SIMON, ROBERT L. SIMON, MARGARET M.	06-01-1965	TWIN LAKES	RATHDRUM CREEK	
95-2002	UNCLAHMED-	DISALLOWED			
95-2005	HEITMAN, CHARLES L.	DISALLOWED			
95-2024	CHICAGO MILWAUKEE RAILROAD	DISALLOWED			
95-2032A	SPRING WATER ASSOCIATION, INC.	03-13-1917	SPRINGS	TWIN LAKES	
95-2032B	EXCELSIOR BEACH ASSN., INC.	03-13-1917	SPRING	TWIN LAKES	
95-2055	CRANER, FRED W. CRANER, SALLY A.	06-22-1914	UNNAMED STREAM	TWIN LAKES	
95-2059	U. S. DEPARTMENT OF INTERIOR	DISALLOWED			
95-2071	FRANKLIN, CLARA	DISALLOWED			
95-2096	PARK, CHESTER R. PARK, NAOMI	06-28-1952	RATHDRUM CREEK	SINKS	

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