

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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- 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 19<sup>th</sup> day of April, 1989.

**RICHARD G. MAGNUSON**

Richard G. Magnuson  
District Judge

STATE OF IDAHO  
County of Kootenai }

ss

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.                | 04-01-1947 | TWIN LAKES                   | RATHDRUM CREEK      |              |
|          | KERN, RUTH J.                  |            |                              |                     |              |
| 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.              | 05-01-1949 | TWIN LAKES                   | RATHDRUM CREEK      |              |
|          | SCHRAMM, JUNE G.               |            |                              |                     |              |
| 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 |              |
|          |                                |            | SPRING BRANCH CREEK, N. FORK | SPRING BRANCH CREEK |              |
| 95-0968  | MUNRO, HERBERT B.              | 01-06-1958 | TWIN LAKES                   | RATHDRUM CREEK      |              |
|          | MUNRO, MARYAN E.               |            |                              |                     |              |
| 95-0969  | FARMERS WATER INC.             | 05-01-1902 | SPRINGS                      | SPRING BRANCH CREEK |              |
| 95-0970  | MESTERMAN, ALFRED              | DISALLOWED |                              |                     |              |
|          | MESTERMAN, RUBY                |            |                              |                     |              |
| 95-0971  | MC INTOSH, LAWRENCE W.         | 05-01-1958 | TWIN LAKES                   | RATHDRUM CREEK      |              |
|          | MC INTOSH, JUDY                |            |                              |                     |              |
| 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              | DISALLOWED |                              |                     |              |
|          | REED, SUSAN MAY                |            |                              |                     |              |
| 95-0976  | BISHOP, ROBERT G.              | DISALLOWED |                              |                     |              |
| 95-0977  | SIMON, ROBERT L.               | 06-01-1965 | TWIN LAKES                   | RATHDRUM CREEK      |              |
|          | SIMON, MARGARET M.             |            |                              |                     |              |
| 95-2002  | UNCLAIMED                      | 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.                | 06-22-1914 | UNNAMED STREAM               | TWIN LAKES          |              |
|          | CRANER, SALLY A.               |            |                              |                     |              |
| 95-2059  | U.S. DEPARTMENT OF INTERIOR    | DISALLOWED |                              |                     |              |
| 95-2071  | FRANKLIN, CLARA                | DISALLOWED |                              |                     |              |
| 95-2096  | PARK, CHESTER R.               | 06-28-1952 | RATHDRUM CREEK               | SINKS               |              |
|          | PARK, NAOMI                    |            |                              |                     |              |

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