

2005 JAN -5 PM 4:14

CLERK OF DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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): 29-00180
) (Topaz Irrigation District)
)
)

I.
FINDINGS AND CONCLUSIONS

1. On November 3, 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) 29-00180 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 January 5, 2005.


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 29-00180

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: TOPAZ IRRIGATION CO
C/O GENE FAGNANT
PO BOX 293
LAVA HOT SPRINGS, ID 83246

SOURCE: DEMPSEY CREEK TRIBUTARY: PORTNEUF RIVER

QUANTITY: 13.44 CFS

PRIORITY DATE: 04/01/1883

POINT OF DIVERSION: T09S R38E S33 SENWNW Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 09-15	13.44 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31,
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE
OF WATER BEFORE APRIL 15 AND AFTER SEPTEMBER 15 UNDER THIS
REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED
EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN
THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:

861.3 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.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 861.3 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-36, 29-37, 29-180,
29-11773.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 672 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

PLACE OF USE WITHIN THE AREA SERVED BY THE TOPAZ IRRIGATION
COMPANY.

THE USE OF WATER UNDER THIS RIGHT DOES NOT INCLUDE A USE ON
FEDERAL PUBLIC LAND.

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).

Boundary
Township/Range
Sections

Idaho Department of Water Resources
 1629-22 NAPP Photography
 Prepared by: Sierra Carlson
 Date Prepared: July 2004

0 0.5 1 1.5 2 Miles

T09S R37E

To

10S37E

10S38E

2005 JAN 05 / PM 02:00
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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 29-00180

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 29-00180 was mailed
on January 05, 2005, with sufficient first-class postage prepaid
to the following:

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

USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

TOPAZ IRRIGATION CO
C/O GENE FAGNANT
PO BOX 293
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5289

JULIE MURPHY
Chief Deputy Clerk