

Shurte, Jan

From: Shurte, Jan
Sent: Tuesday, January 08, 2008 10:23 AM
To: Ted Booth
Cc: Shurte, Jan
Subject: Boise Valley Irrigation Ditch Co. Recommendations
Attachments: 63-147B.RTF; 63-31198.RTF; 63-31832.RTF; 63-31833.RTF

Hi Ted,

Attached are the reworded recommendations for the BVID ones that we discussed. Following is an explanation of what I did on each one. Please let me know if I have left something out or made an error on one of these. Sorry for the delay.

63-147B – Removed the place of use remark concerning the 198.4 acres at the Simplot Sports Complex and replaced it with an explanatory remark.

Changed the two shoulder remarks concerning the periods of use and amounts of water by deleting “from this point of diversion” out of each.

63-2360 – All ok on this one.

63-31198 – Removed the place of use remark concerning the 5.5 acres at the Shakespeare Festival and replaced it with an explanatory remark. Did not make sense with the digital boundary remark also.

63-31832 – Deleted shoulder remark concerning season of use as it did not make sense with the period of use and was redundant to the Boise River period of use remark.

63-31833 – Removed the place of use remark concerning the 10 acres at the Shakespeare Festival and replaced it with an explanatory remark. Did not make sense with the digital boundary remark also.

If you have any questions, or I’m missing something, please let me know.

Thanks,
Jan

1/8/2008

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31198 V2

WATER RIGHT NUMBER: 63-31198 V2

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	RINGERT CLARK CHARTERED 455 S 3RD ST PO BOX 2773 BOISE, ID 83701-2773 (208)342-4591
Current Owner	BOISE VALLEY IRRIGATION DITCH CO 8750 N BOGART LN BOISE, ID 83714 (208)853-5288

Priority Date: 06/01/1865

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.110 CFS	24.70 AF
	<u>Total Diversion:</u>	0.110 CFS	24.70 AF

Location of Point(s) of Diversion

BOISE RIVER ADA County	L2 (SW1/4SW1/4SW1/4)	Sec. 28, Twp 03N, Rge 03E, B.M.
BOISE RIVER ADA County	L2 (SW1/4SW1/4SW1/4)	Sec. 28, Twp 03N, Rge 03E, B.M.
BOISE RIVER ADA County	L1 (SE1/4SE1/4)	Sec. 29, Twp 03N, Rge 03E, B.M.

Place of UseConditions of Approval:

1. 155 This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.
2. THIS RIGHT IS DESIGNATED AS NO 15 IN THE STEWERT DECREE AND THE BOISE RIVER WATER MASTERS RECORDS

IDAHO DEPARTMENT OF WATER RESOURCES

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3. S45 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
4. Transfer No. 67107 transferred 5.5 acres under this right to be used within a 30.5 acre permissible place of use at the Idaho Shakespeare Festival grounds in the SWSW, S28 and SESE, S29, T3N, R1E. These acres are within the digital boundary for this ditch company.
5. P21 THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-147.
6. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 2808.43 ACRES WITHIN THE BOUNDARY OF BOISE VALLEY IRRIGATION DITCH COMPANY
7. 135 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.
8. F05 Right No. 63-31833 is also diverted through points of diversion described above.
9. C18 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. Section 42-1412(6), Idaho Code.

Remarks:

Comments:

1. jshurte 10/12/2007 Objection Reivew

Comment: Resolved BLM objections on large place of use without a decrease in number of acres irrigated. See file.

2. jshurte 1/8/2008 Condition change

Comment: Prior to the issuance of a partial decree and after the SF5 was signed on this right, I was requested by Special Master Ted Booth to review the place of use condition originally recommended concerning the 5.5 acres. It did not match with the digital boundary condition. In order to explain the transfer, I deleted the 5.5 acre place of use condition in general remarks and replaced it with an explanatory condition. This was the only change made.

Water Supply Bank:

*COPY
SFS
Completed
Sent to S.O.
10-12-07*

**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

Subcase No. 63-31198

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached amended recommendation. The parties and IDWR further agree and stipulate that the attached is an accurate digital depiction of the boundary for the Boise Valley Irrigation Ditch Co produced by IDWR.

CLAIMANT(s):
Boise Valley Irrigation Ditch Co

OBJECTOR(s):
USDI-BLM

C Bryce Farris Date

Larry Brown Date
Attorney for the US Dept of Justice

IDWR Concurrence:

 10-12-07

Jan Shurte Date
Adjudication Supervisor

Nicholas B Spencer Date
Deputy Attorney General
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on _____, 2007, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

United States of America
US Dept of Justice
Environment and Natural Resources
550 West Fort Street, MSC 033
Boise, ID 83724

C Bryce Farris
455 S Third St
PO Box 2773
Boise, ID 83701-2773

Boise Valley Irrigation Ditch Co
8750 N Bogart Lane
Boise, ID 83714

IDWR Repository
P.O. Box 83720
Boise, ID 83720

Signature of person mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31198

NAME AND ADDRESS: BOISE VALLEY IRRIGATION DITCH CO
8750 N BOGART LN
BOISE ID 83714

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.110 CFS
24.700 AFY

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1865

POINT OF DIVERSION:

T03N R03E S28 SWSWSW Lot 2 Within ADA County

T03N R03E S28 SWSWSW Lot 2 Within ADA County

T03N R03E S29 SESE Lot 1 Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.110 CFS 24.70 AFY

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:

2808.43 ACRES TOTAL

SF5 Right No. 63-31198

This right is limited to the irrigation of 5.5 acres in a single irrigation season within the place of use described in approved transfer 67107.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 2808.43 ACRES WITHIN THE BOUNDARY OF BOISE VALLEY IRRIGATION DITCH COMPANY

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.



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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS DESIGNATED AS NO 15 IN THE STEWERT DECREE AND THE BOISE RIVER WATER MASTERS RECORDS

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-147.

Right No. 63-31833 is also diverted through points of diversion described above.

IDAHO DEPARTMENT OF WATER RESOURCES

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Status: Active

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Water Supply Bank: