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DEPARTMENT OF
WATER RESOURCES

U.S. Department of Justice

Environment and Natural Resources Division

DWG:DAJ
90-6-2-63c

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Denver, CO 80294

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E-Mail: David.Jarvis2@usdoj.gov

March 8, 2010

via first-class U.S. Mail

Ray Williams
IDWR
P.O. Box 83720
Boise, ID 83720-0098

Re: SRBA Case No. 39576
Subcase No. 01-00023A

Dear Mr. Williams:

I am returning the SF-5 in the above subcase unsigned by Dave Gehlert. I have made numerous attempts to obtain authorization from the BOR Regional Office for Mr. Gehlert to sign the form; however, even though the Regional Office has been made aware of the fact that this agreement resolves only the trespass portion of the issue, to which BOR neither raised an objection nor responded to the objection of another party, I have been unable to secure their authorization. The Regional Office staff has offered no explanation for their reluctance to authorize signing, but Mr. Gehlert will not sign without the approval of BOR. Rather than continue to hold up the process, I am returning the form to you.

Sincerely,

David A. Jarvis
Paralegal

Enclosure

**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	)	Subcase No. 01-23A
	)	
Case No. 39576	)	
	)	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, *which removes federal public land from the digital boundary*. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT(s)/RESPONDENT(s):
Southwest Irrigation District



William A. Parsons Date 10/30/09
Attorney for Claimants/Objectors

OBJECTOR(s):

Aberdeen-American Falls Ground Water District
Bingham Ground Water District
Bonneville-Jefferson Ground Water District
Carey-Valley Ground Water District
Jefferson Clark Ground Water District
Madison Ground Water District
Magic Valley Ground Water District
North Snake Ground Water District

Bureau of Land Management



Randall C. Budge Date
Attorney for Objector(s)

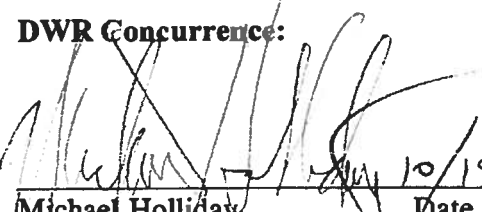
David L. Negri, USDOJ Date
Attorney for Objector

RESPONDENT:

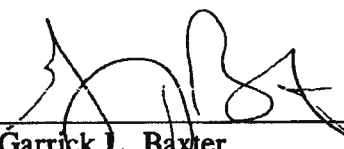
Bureau of Reclamation

David W Gehlert Date
Attorney for Respondent

DWR Concurrence:



Michael Holliday Date
Senior Water Resource Agent



Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 1-23A

NAME AND ADDRESS: SOUTHWEST IRRIGATION DIST
PO BOX 668
BURLEY ID 83318

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 77.900 CFS
6,725.00 AFY

The annual volume diverted under this right is limited to 6725 acre feet except that any water diverted during flood control operations that result in a release of water past Milner Dam shall not be charged against the seasonal volume limitation.

PRIORITY DATE: 02/06/1895

Use of this right shall be subordinate to all water rights having a priority date earlier than March 21, 1997 diverting from Snake River in the Neeley to Milner reach except to the extent that water available under this right at the Aberdeen Springfield Canal diversion is specifically identified and shown to be delivered in the Neeley-Milner reach.

POINT OF
DIVERSION:

T09S R25E S1 SWSESW Within CASSIA County
T10S R21E S29 SWNESE Lot 8 Within TWIN FALLS County
T10S R21E S29 NESESE Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	77.900 CFS 6,725.00 AFY

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.

Place of use is within the boundary of Southwest Irrigation District pursuant to Section 43-323, Idaho Code.

MW
JS
RUB

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

This water right is not entitled to call on ground water rights.

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.

This right was originally diverted above Blackfoot before it was acquired by Southwest Irrigation District and transferred downstream to the current points of diversion at Milner Dam and Minidoka Dam. Accordingly, the source of supply for this water right is water arising above Blackfoot.

MWA

JS
PB
WMM

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The Director of the Department of Water Resources retains jurisdiction to determine and assess a delivery loss to prevent injury to existing water rights in Water District 01.

This right does not grant any easement or right-of-way to use diversion and delivery facilities owned by persons other than the right owner.

Water is delivered through Minidoka South Side Canal, Twin Falls Canal, and Milner Irrigation Pumps.

Diversion and use of water under this right shall be regulated by the watermaster of State Water District 01 (Upper Snake River).



Southwest Irrigation Dist

Adjudication Recommendations: 1-23A

LB

Irrigation Service Area Boundary
GIS Place of Use Illustration

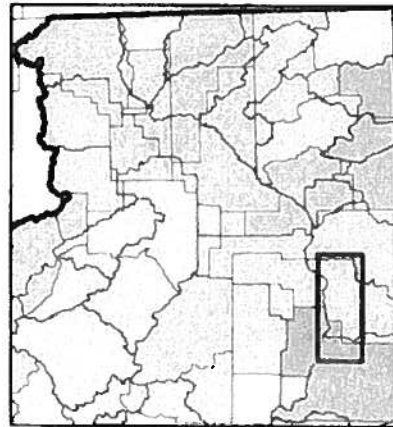
MW

PJB

WAF

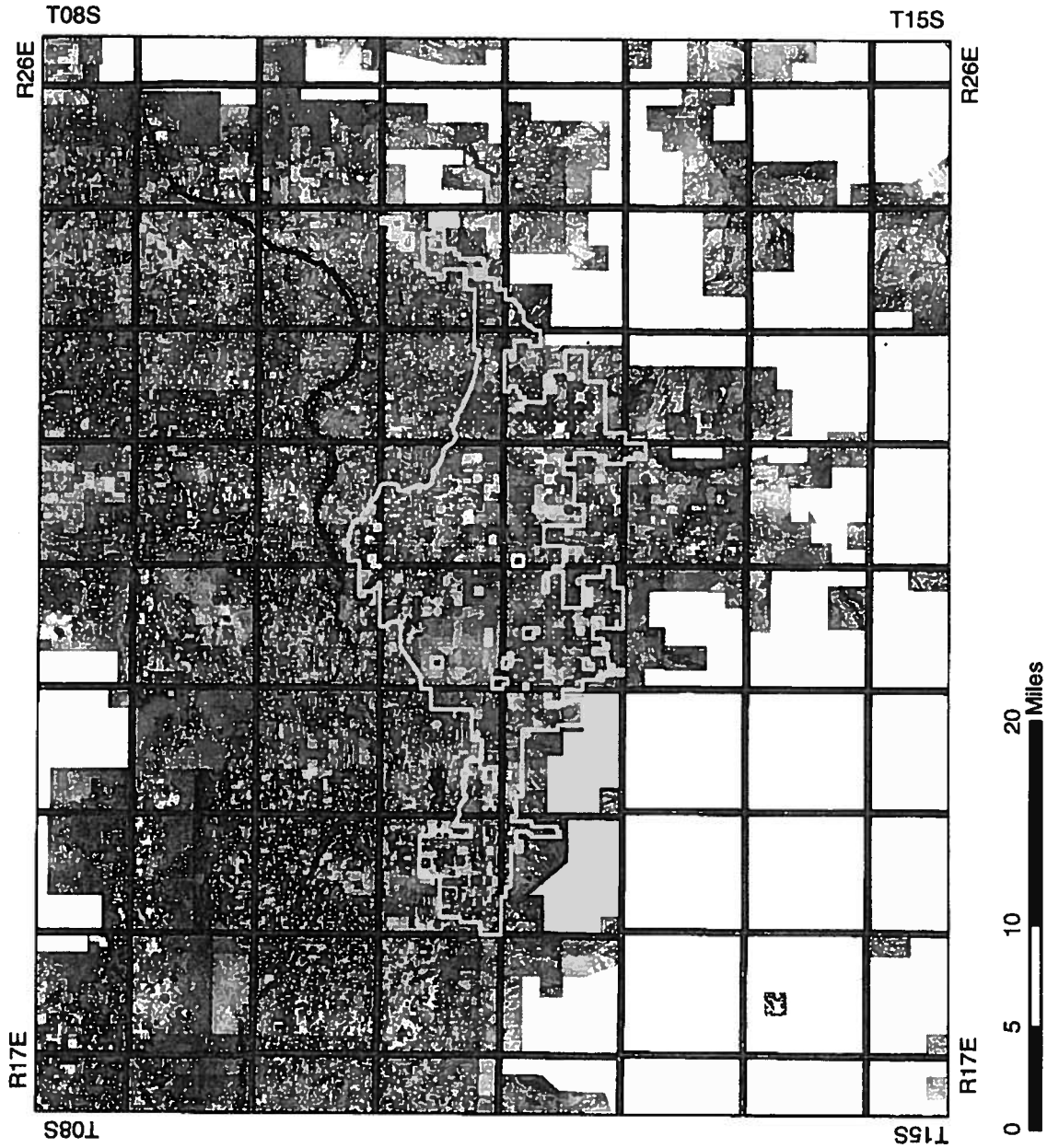
Legend

-  Service Area
-  State Outline
-  Townships



Cassia, Twin Falls Counties
IDWR Basin 1

Prepared by Danielle Favreau
On October 09, 2009
1987/88 Aerial Photography



CERTIFICATE OF MAILING

I certify that on _____, 2009, 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:

ABERDEEN AMERICAN FALLS GROUND
BINGHAM GROUND WATER DISTRICT
BONNEVILLE JEFFERSON GROUND
CAREY VALLEY GROUND WATER DIST
JEFFERSON CLARK GROUND WATER
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER DIST
NORTH SNAKE GROUND WATER DIST

Represented by:
RANDALL .C BUDGE
201 E. CENTER, STE. A2
P.O. BOX 1391
POCATELLO, ID 83204-1391

USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

SOUTHWEST IRRIGATION DIST.
Represented by:
WILLIAM A. PARSONS
137 W 13TH ST.
P.O. BOX 910
BURLEY, ID 83318

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

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

Signature of person or attorney