

DISTRICT COURT-SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

FEB 10 2011

By \_\_\_\_\_ Clerk

**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. 63-2392B     |
|                | ) |                          |
| 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.

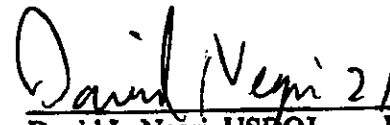
The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions 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/ OBJECTOR:**  
Nampa & Meridian Irrigation District

**OBJECTOR:**  
Bureau of Land Management

 1/24/11  
S. Bryce Farris                      Date  
Attorney for Claimant/Objector

 2/8/11  
David L. Negri, USDOJ              Date  
Attorney for Objector

**DWR Concurrence:**

|                                                                                   |                                                                                    |
|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
|  |  |
| <u>Jan Shurte</u>                                                                 | <u>Nicholas B. Spencer</u>                                                         |
| Adjudication Supervisor                                                           | Deputy Attorney General                                                            |
|                                                                                   | Attorney for IDWR                                                                  |
| <u>10-20-10</u>                                                                   | <u>10-20-10</u>                                                                    |
| Date                                                                              | Date                                                                               |

SF5 Right No. 63-2392B

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

RIGHT NUMBER: 63-2392B

NAME AND ADDRESS: NAMPA & MERIDIAN IRRIGATION DISTRICT  
C/O RINGERT ~~CLARK~~ LAW RINGERT-CLARK-CHFD  
ATTN DAN STEENSON  
PO BOX 2773  
BOISE ID 83701-2773

SZF

SOURCE: WASTE WATER

TRIBUTARY: BOISE RIVER

QUANTITY: 3.700 CFS

This wastewater right is 24 percent of the Drainage District No. 3 water right.

PRIORITY DATE: 09/13/1927

POINT OF DIVERSION:

T03N R03E S29 NWSW Lot 6 Within ADA County

PURPOSE AND  
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

3.700 CFS

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 Reservoirs 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:

69,495 ACRES TOTAL

This water is collected within the boundaries of Drainage District No. 3 and is limited to the irrigation of 69,495 acres within the digital boundary of Nampa Meridian Irrigation District.

~~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 42-141(3)(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.~~

This right when combined with Right Nos. 63-198AJ, 63-199B, 63-200B, 63-2968 and 63-30181 can be used to irrigate up to 69,495 acres within the digital boundary of the Nampa Meridian Irrigation District.

Don  
J  
NBS

SF5 Right No. 63-2392B

SF5 Right No. 63-2392B

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

The source of this right is wastewater collected by Drainage District No. 3 and returned to the Boise River. The quantity of water returned to the Boise River is exchanged for an equal quantity of water which is diverted upstream at the point of diversion by the Nampa & Meridian Irrigation District to be used within their digital boundary.

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 remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

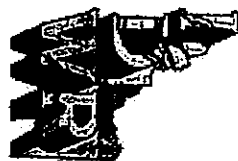
The source of this right is wastewater returned to the Boise River. The quantity of water returned to the Boise River is exchanged for an equal quantity of water which is diverted upstream at the points of diversion for the rightholder. Because the source of this water right is based upon the water returned to the Boise River, and the historic administration of this right, the quantity of water exchanged and diverted upstream at the points of diversion for the rightholder shall be curtailed only to the same extent that the amount of wastewater returned to the Boise River is reduced or less than the quantity provided in this right. This right is not subject to the Stewart Decree or the step down provisions and/or cuts provided in said Stewart Decree.

~~Right includes accomplished change in point of diversion pursuant to Section 42-1435, Idaho Code.~~

*[Handwritten initials]*  
NBS  
SBF  
PN

SF5 Right No. 63-2392B

DN



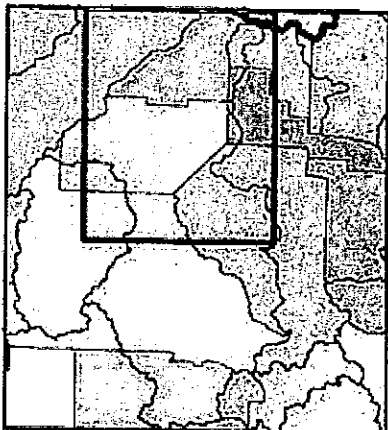
# Nampa & Meridian Irrigation District

Adjudication Recommendations: 63-198A, 63-198B, 63-200B, 63-2392B, 63-2368, 63-30161

Irrigation Service Area Boundary  
GIS Place of Use Illustration

## Legend

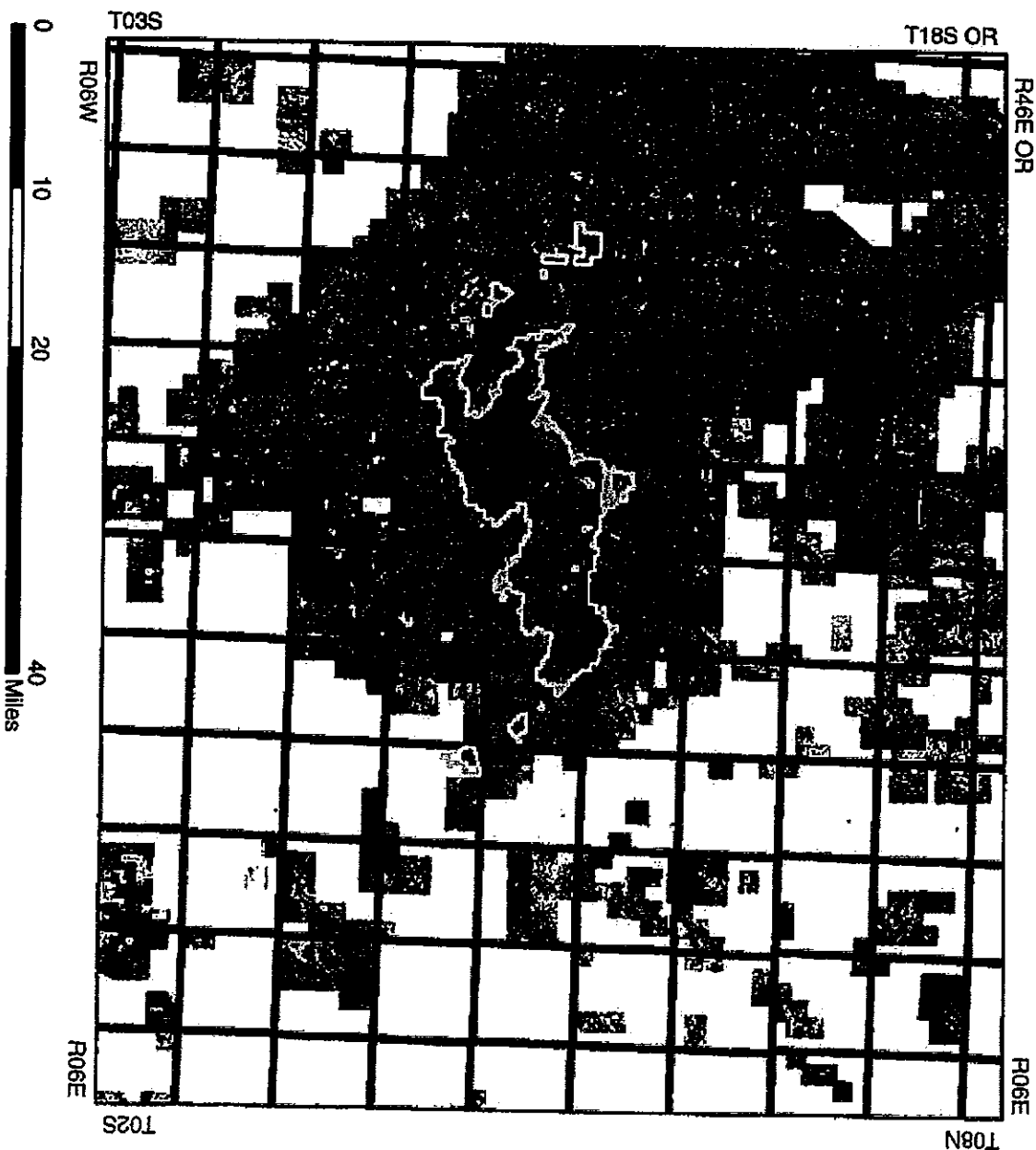
-  Service Area
-  State Outline
-  Townships



Ada, Boise, Canyon Counties

IDWR Basin 63

Prepared by Danielle Favreau  
On May 21, 2010  
1987/88 Aerial Photography



## CERTIFICATE OF MAILING

I certify that on February 9, <sup>2011</sup>2010, 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:

NAMPA & MERIDIAN IRRIGATION DISTRICT  
Represented by:  
S. BRYCE FARRIS  
RINGERT LAW CHARTERED  
455 S. THIRD ST.  
P.O. BOX 2773  
BOISE, ID 83701-2773

DIRECTOR OF IDWR  
P.O. 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