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DEPARTMENT OF  
WATER RESOURCES

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

FEB 28 2011

By \_\_\_\_\_

Clerk

Deputy 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

Case No. 39576

) SPECIAL MASTER'S REPORT  
)  
) FINDINGS OF FACT AND  
) CONCLUSIONS OF LAW  
)  
) FOR WATER RIGHT 63-00199B

I. FINDINGS OF FACT

A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On June 14, 2007, the United States of America, Department of Interior, Bureau of Land Management filed an objection to the *Director's Report*, objecting to the recommended place of use. On June 15, 2007, the claimant of the water right, the Nampa & Meridian Irrigation District, through its attorney S. Bryce Farris, filed an objection to the *Director's Report*, objecting to the recommended place of use. On February 10, 2011, the parties filed a *Standard Form 5 -- Stipulated Elements of a Water Right* which resolved the objection. The Idaho Department of Water Resources concurred with the stipulation.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right 63-00199B be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated

Feb 28, 2011



Theodore R. Booth  
Special Master  
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 )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 63-00199B

NAME AND ADDRESS: NAMPA & MERIDIAN IRRIGATION  
DISTRICT  
C/O RINGERT LAW  
PO BOX 2773  
BOISE, ID 83701-2773

SOURCE: BOISE RIVER TRIBUTARY SNAKE RIVER  
MORES CREEK TRIBUTARY BOISE RIVER

QUANTITY: 169.60 CFS

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 proceeding 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 proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.

The rate of flow diverted under right nos. 63-30181, 63-198AJ, 63-199B and 63-200B at the Surprise Valley Diversion shall not exceed a combined total of 20.34 cfs.

When the authorized diversion of water under right nos. 63-30181, 63-198AJ, 63-199B and 63-200B is reduced at the Ridenbaugh Canal excluding reductions for canal maintenance, the diversion of water under those rights at the Surprise Valley diversion and the Green Ranch diversion must also be reduced by an equivalent proportion.

The amount of water diverted under right nos. 63-30181, 63-198AJ, 63-199B and 63-200B from the Green Ranch diversion for irrigation purposes shall be calculated at a diversion rate of 0.0156 cfs per acre to be irrigated, and when combined with any other rights those rights shall provide no more than 0.02 cfs per acre nor more volume than can be beneficially used for irrigation purposes. This condition shall not be construed as a requirement for the right holder to regulate water on a volumetric basis.

Each year the amount of water available for irrigation at the Surprise Valley diversion shall be reduced by the amount of water to be diverted for industrial and ground water recharge purposes under right nos. 63-199B and 63-200B.

The amount of water diverted under right nos. 63-30181, 63-198AJ, 63-199B and 63-200B from the Surprise Valley diversion for irrigation purposes shall be calculated at a diversion rate of 0.0156 cfs per acre to be irrigated, and when combined with any other rights those rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation purposes. This condition shall not be construed as a requirement for the right holder to regulate water on a volumetric basis.

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

QUANTITY (continued)

The rate of flow diverted under right nos. 63-30181, 63-198AJ, 63-199B and 63-200B at the Green Ranch Diversion shall not exceed a combined total of .72 cfs.

PRIORITY DATE: 05/01/1878

Water shall not be diverted under this right at the Green Ranch diversion if such diversion would cause injury to rights senior in priority to November 20, 2001 that are authorized to divert from Mores Creek and its tributaries.

POINT OF DIVERSION: T02N R03E S04 LOT 6 (NWNE ) Within Ada County  
T03N R03E S29 LOT 6 (NWSW )  
T05N R04E S35 SWNE Within Boise County

PURPOSE AND PERIOD OF USE:

| PURPOSE OF USE       | PERIOD OF USE  | QUANTITY   |
|----------------------|----------------|------------|
| Irrigation           | 03-01 TO 11-15 | 169.60 CFS |
| Industrial           | 03-15 TO 11-15 | 0.64 CFS   |
| Groundwater Recharge | 03-01 TO 11-15 | 2.56 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.

Diversion and use of water for industrial purposes under right nos. 63-199B and 63-200B shall not be more consumptive nor more depletive of water flowing in the Boise River than an equivalent diversion and use of water for irrigation purposes under those rights.

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.

The place of use for industrial and ground water recharge purposes under right nos. 63-199B and 63-200B is limited to the lands served by the Surprise Valley diversion.

The number of acres available for irrigation under right nos. 63-30181, 63-198AJ, 63-199B and 63-200B from the Surprise Valley diversion each year shall be reduced from a maximum of 1300 by at least the number resulting from the total rate of flow to be diverted for industrial and ground water recharge purposes divided by 0.0156 cfs/acre.

This right when combined with Right Nos. 63-198AJ, 63-200B, 63-2392B, 63-2968, 63-30181 and 63-32695 can be used to

PLACE OF USE (continued)

irrigate up to 69,495 acres within the boundary of the Nampa Meridian Irrigation District.

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

Prior to March 15 of each year the right holder shall report to the department the number and location of acres to be irrigated by right nos. 63-30181, 63-198AJ, 63-199B and 63-200B from the Surprise Valley diversion and shall also report the maximum rate of flow to be diverted for industrial and ground water recharge purposes at the Surprise Valley diversion. Use of water under those rights each year shall not exceed the reported amounts. The Right holder shall be responsible for measuring and recording the rate of flow diverted from the Green Ranch diversion on a weekly basis during the authorized irrigation season and shall provide the diversion records upon request to the watermaster or the department. The annual volume of water used for industrial and ground water recharge purposes under right nos. 63-199B and 63-200B shall be measured using separate totalizing measuring devices and the right holder shall report the totals to the department by Dec. 31 of each year.

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).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman  
Presiding Judge of the  
Snake River Basin Adjudication

RECOMMENDATION

FEB 28 2011

*Red Booth*  
SPECIAL MASTER



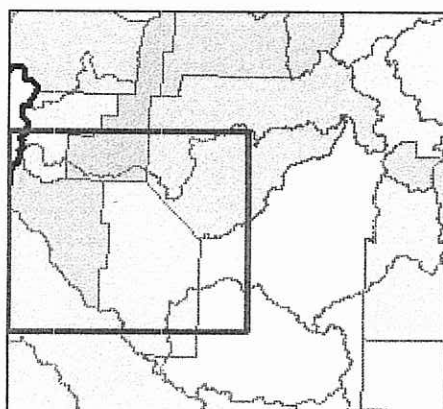
# Nampa & Meridian Irrigation District

Adjudication Recommendations: 63-198AJ, 63-199B, 63-200B, 63-2392B, 63-2968, 63-30181

Irrigation Service Area Boundary  
GIS Place of Use Illustration

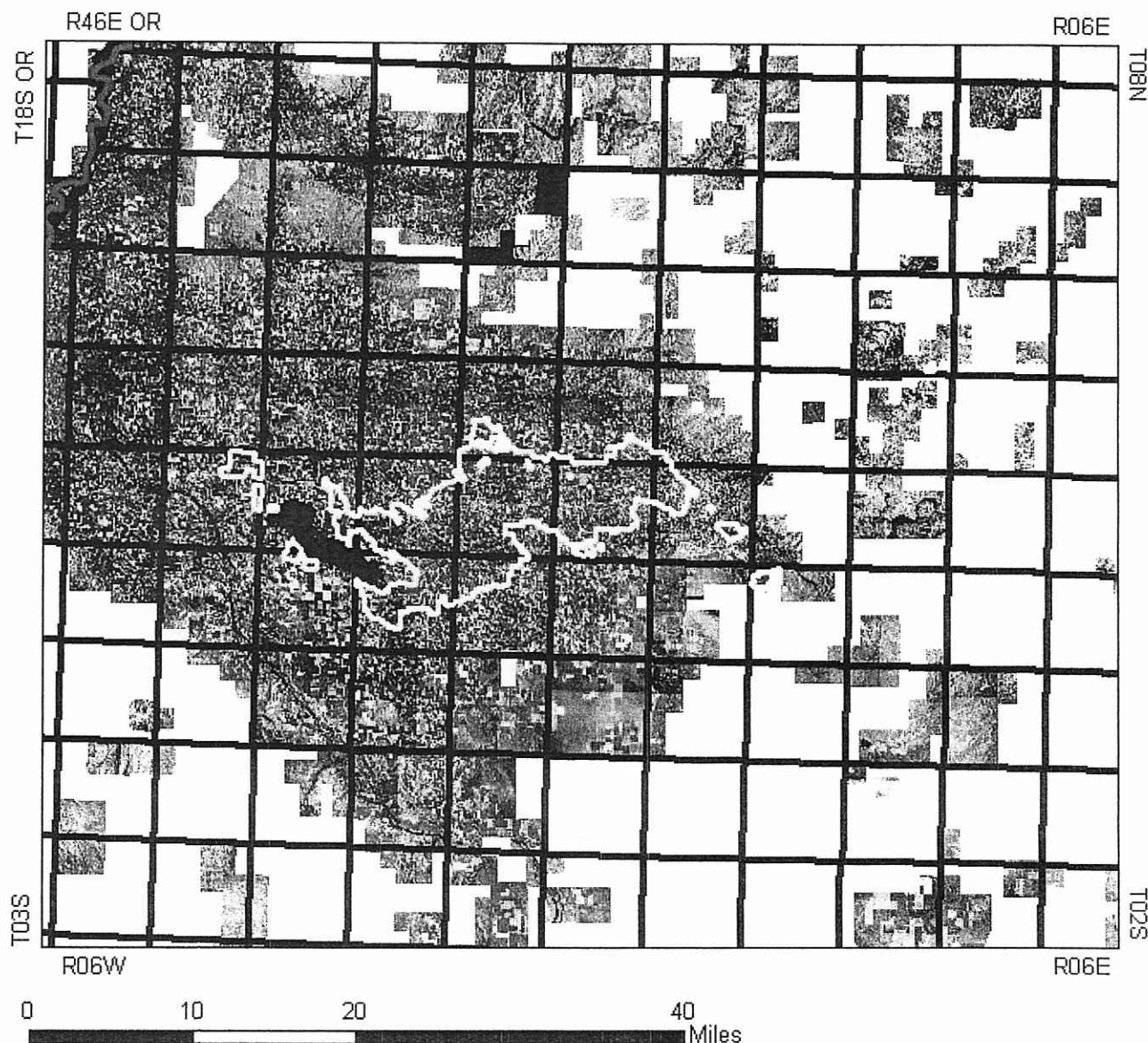
## Legend

- Service Area
- State Outline
- Townships

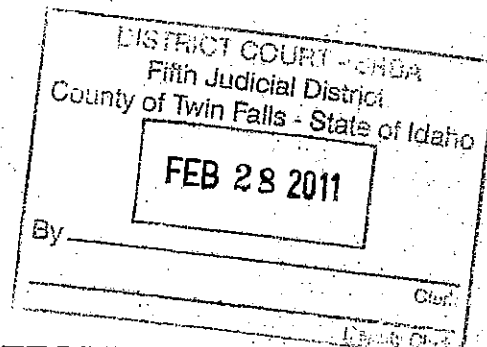


Ada, Boise, Canyon Counties  
IDWR Basin 63

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



|                                                                                         |                    |
|-----------------------------------------------------------------------------------------|--------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |                    |
| FEB - 8 2011                                                                            |                    |
| By _____                                                                                | Clerk _____        |
|                                                                                         | Deputy 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 )

Case No. 39576 )  
\_\_\_\_\_)

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

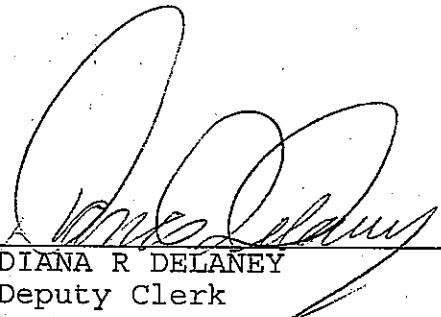
Water Right(s) : 63-00199B

On February 28, 2011, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED February 28, 2011.

  
\_\_\_\_\_  
DIANA R DELANEY  
Deputy Clerk

|                                       |             |
|---------------------------------------|-------------|
| DISTRICT COURT - SRBA                 |             |
| Fifth Judicial District               |             |
| County of Twin Falls - State of Idaho |             |
| FEB 28 2011                           |             |
| By _____                              | Clerk _____ |
| Deputy 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 )  
Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 63-00199B

### CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on February 28, 2011, with sufficient first-class postage prepaid to the following:

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

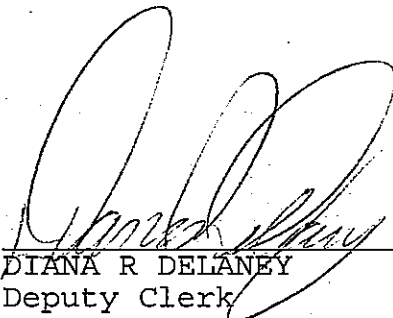
NAMPA & MERIDIAN IRRIGATION

Represented by:  
S. BRYCE FARRIS  
RINGERT LAW CHARTERED  
455 S THIRD ST  
PO BOX 2773  
BOISE, ID 83701-2773  
Phone: 208-342-4591

UNITED STATES OF AMERICA

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

CERTIFICATE OF MAILING

  
DIANA R DELANEY  
Deputy Clerk

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02/28/11