

REFILL STIPULATION/SETTLEMENT

(Status as of February 2019)

After several years of lawsuits before the Snake River Basin Adjudication (SRBA) Court and the Idaho Department of Water Resources (IDWR) concerning what has been characterized as the “Refill Issue”, a Stipulation/Settlement was reached between Nampa & Meridian Irrigation District (hereinafter “District”), other irrigation entities in the Treasure Valley, the State of Idaho, IDWR, Suez Water and the Bureau of Reclamation in June of 2018 (the Stipulation’s effective date is September 13, 2018 due the additional time it took for the Bureau of Reclamation to approve). The Stipulation was a compromise between the District and the other parties to preserve IDWR’s accounting for the Boise River Reservoirs (Lucky Peak, Arrowrock and Anderson Ranch Reservoirs) during and following flood control releases and to also preserve the historic practices of physically filling the Boise River Reservoirs following flood control releases with decreed water rights. The District has storage rights in Arrowrock and Anderson Ranch Reservoirs, relies on the water stored in the reservoirs for the delivery of water to its landowners, and thus maintaining the historic practices with secure, decreed water rights was critical aspect of the Stipulation for the District.

The Stipulation includes several parts or components, including the following three components which needed to take place in the following order in order to complete the Stipulation and resolve the “Refill Issue”: 1) the stay of the appeals pending before the Idaho Supreme Court to allow additional time for the other aspects of the Stipulation to be completed; 2) the passage of new Legislation concerning the subordination of new storage projects to the refill of the Boise River Reservoirs following flood control releases in order for such subordination to be specifically included in the decreed water rights; and 3) the issuance of two decreed water rights by the SRBA Court to provide water rights consistent with IDWR’s accounting of flood control releases and to provide water rights for the historic, physically filling of the Boise River Reservoirs during and following flood control releases.

The first component of the Stipulation referenced above was completed at the time of signing the Stipulation by filing a motion with the Idaho Supreme Court staying the pending appeals until November of 2019 in order to get the other components of the Stipulation completed. The second component referenced above was recently completed by passage of House Bill 1 which was approved by the Idaho Legislature and was signed by Governor Little on February 13, 2019. The final component, which is the decree of the water rights by the SRBA Court, has now been set in motion by the passage of House Bill 1. Motions have been prepared consistent with the Stipulation and will be filed not later than February 20, 2019 with the SRBA Court to approve of the Stipulation and for the SRBA Court to issue decreed water rights providing for the fill and refill of the Boise River Reservoirs during and following flood control releases. Given the procedural notice requirements of the SRBA Court, it is anticipated that the motions to decree the refill water rights will be heard by the SRBA Court in May of 2019. If the SRBA Court approves of the Stipulation and issues the decreed water rights as provided for in the Stipulation, then the appeals before the Idaho Supreme Court will be dismissed.