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)
)
)
)
_____)

A. **Subcase** 33-07159
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior, Bureau of Land Management, Idaho State Office
Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657
Daytime Phone: see below
Name & Address of Attorney, if any:

Larry A. Brown (202) 305-0435 phone, (202) 305-0274 fax
United States Department of Justice
Environment and Natural Resource Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Afton & Alan J. Amy
Address: P.O. Box 32; Howe, Idaho 83244
Name:
Address: ;
Name:
Address: ;
Name:
Address: ;

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
 Should be:

2. ☐ **Source**
 Should be:

3. ☐ **Quantity**
 Should be:

4. ☐ **Priority Date**
 Should be:

5. ☐ **Point(s) of Diversion**
 Should be:

6. ☐ **Instream Flow Description**
 Should be:

7. ☐ **Purpose(s) of Use**
 Should be:

8. ☐ **Period of Year**
 Should be:

9. ☒ **Place of Use**
 Should be: See attached.

11. **I object because:**

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):**
The United States of America, through the Bureau of Land Management, is the owner of the land upon which the place of use (POU) is recommended. The claimant's use of Federal land is unauthorized. Claimant's water right should not include this POU. Perhaps this is a typographical error and should be described as licensed?

F. **VERIFICATION** (Must be Completed)

State of Idaho)
) ss.
County of ADA)

Fredric W. Price, Water Rights Specialist , duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

David Nei for LAB
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 29, 2007

Jacqueline L. Simmons
Jacqueline L. Simmons

JACQUELINE L. SIMMONS NOTARY PUBLIC STATE OF IDAHO

Notary Public for State of Idaho
Residing at: Boise, ID.
My Commission Expires: 04-07-2011

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on June 29, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimant of the water right at the following address:

Name: Afton & Alan J. Amy
Address: P.O. Box 32; Howe, Idaho 83244
Name:
Address: ;
Name:
Address: ;
Name:
Address: ;

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Signature of Objector or attorney mailing on Objector's behalf

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 33-7159

Mixed POU:
-The Place of Use identified below is describes both private and public land.
-Perhaps this is a typographical error and should be T10N R27E S20 **NWSW** as described in the license.

NAME AND ADDRESS: ALAN J AMY
PO BOX 32
HOWE ID 83244

AFTON AMY
PO BOX 32
HOWE ID 83244

SOURCE: BLACK CREEK TRIBUTARY: LITTLE LOST RIVER

QUANTITY: 0.800 CFS
578.00 AFY

Rights 33-87, 33-2034, 33-7093, 33-7159, 33-7177, 33-7178, and 33-7179 when combined shall not exceed a total diversion rate of 14.0 cfs.

Rights 33-2034, 33-7159, 33-7178, and 33-7179 when combined shall not exceed a total diversion rate of 3.8 cfs.

PRIORITY DATE: 11/08/1983

The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION:

T10N R27E S10 NWSESW Within BUTTE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
POWER	01/01 12/31	0.800 CFS 578.00 AFY

Use of water under this right shall be non-consumptive.

PLACE OF USE: POWER in BUTTE County

Mixed T10N R27E S20 NWNW

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

The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after December 31, 2021. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

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 - License

Rights 33-2034, 33-7179, and 33-7178 are also diverted through the point of diversion described above.

The issuance of this right does not grant any right-of-way or easement across the land of another.

This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 33-07159

Priority: November 08, 1983

Maximum Diversion Rate: 0.80 CFS
Maximum Diversion Volume: 578.0 AF

It is hereby certified that NEW ENERGY INC
C/O DAVID SNEDIGAR
1026 E 1000 N
SHELLEY ID 83274
has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated November 08, 1983; and has submitted Proof of Beneficial Use on July 22, 1987. An examination indicates that the works have a diversion capacity of 19.51 cfs of water from:

SOURCE
BLACK CREEK **Tributary:** LITTLE LOST RIVER

and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL DIVERSION VOLUME
POWER	01/01. to 12/31	0.80 CFS	578.0 AF

LOCATION OF POINT(S) OF DIVERSION:
BLACK CREEK SE¼SW¼ Sec. 10, Twp 10N, Rge 27E, B.M. BUTTE County

PLACE OF USE: POWER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N 27E 20										X							

CONDITIONS OF APPROVAL

1. Use of water under this right shall be non-consumptive.
2. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.
5. The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after December 31, 2021. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 33-07159

CONDITIONS OF APPROVAL CONTINUED

6. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 33.

7. Rights 33-2034, 33-7179, and 33-7178 are also diverted through the point of diversion described above.

8. Rights 33-2034, 33-7159, 33-7178, and 33-7179 when combined shall not exceed a total diversion rate of 3.8 cfs.

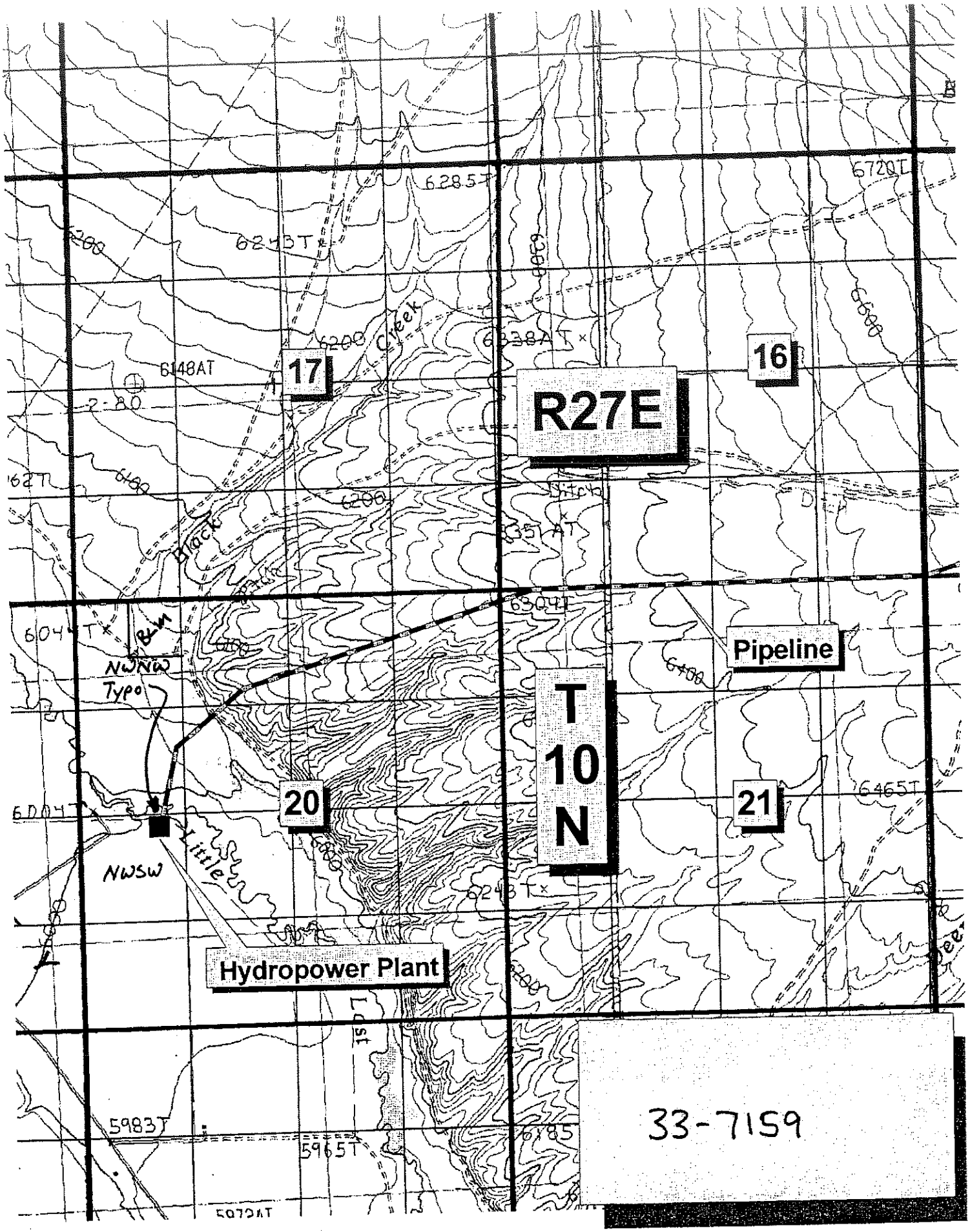
9. Rights 33-87, 33-2034, 33-7093, 33-7159, 33-7177, 33-7178, and 33-7179 when combined shall not exceed a total diversion rate of 14.0 cfs.

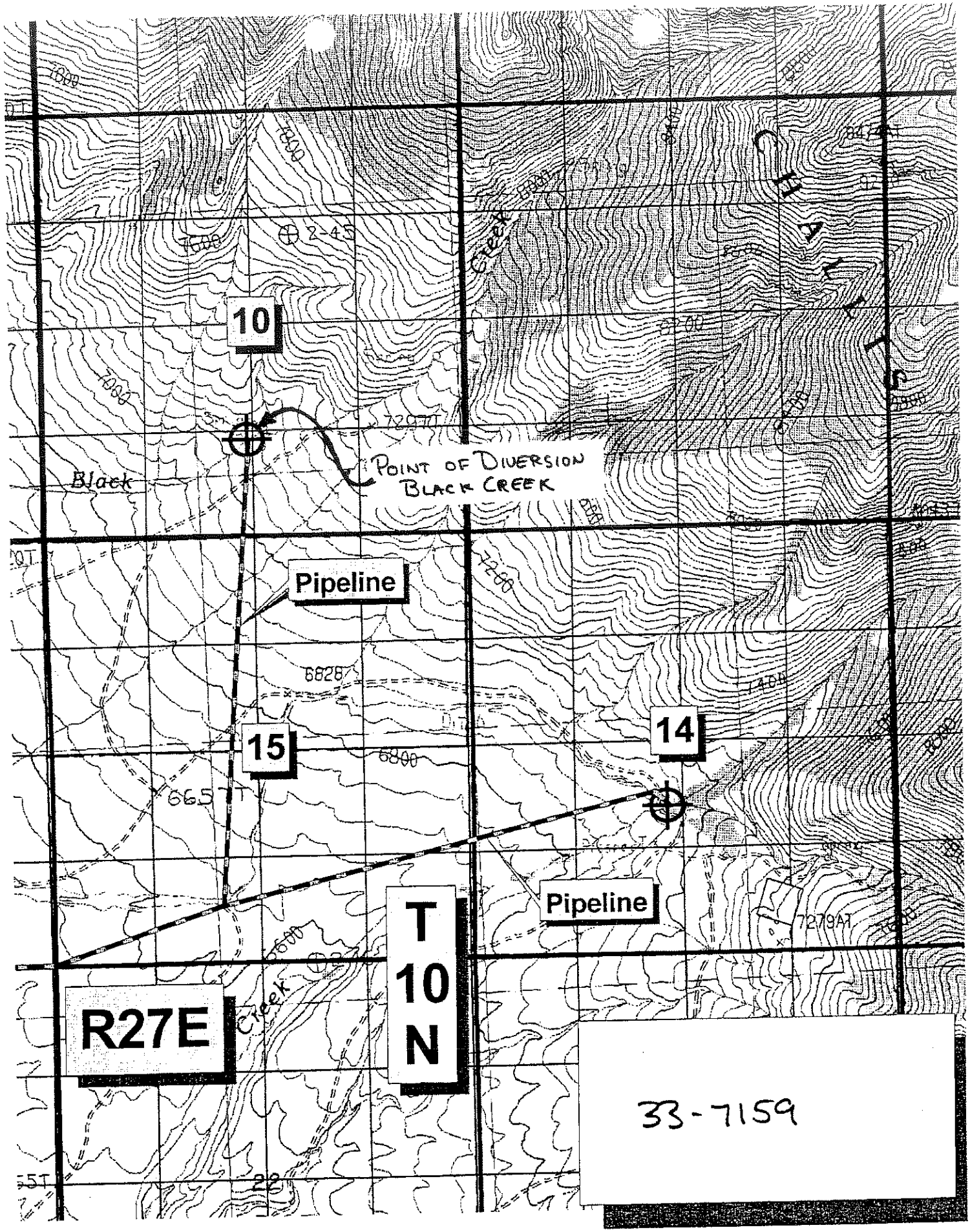
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 3rd day of August, 2005.

David R Tuthill

for KARL J. DREHER
Director

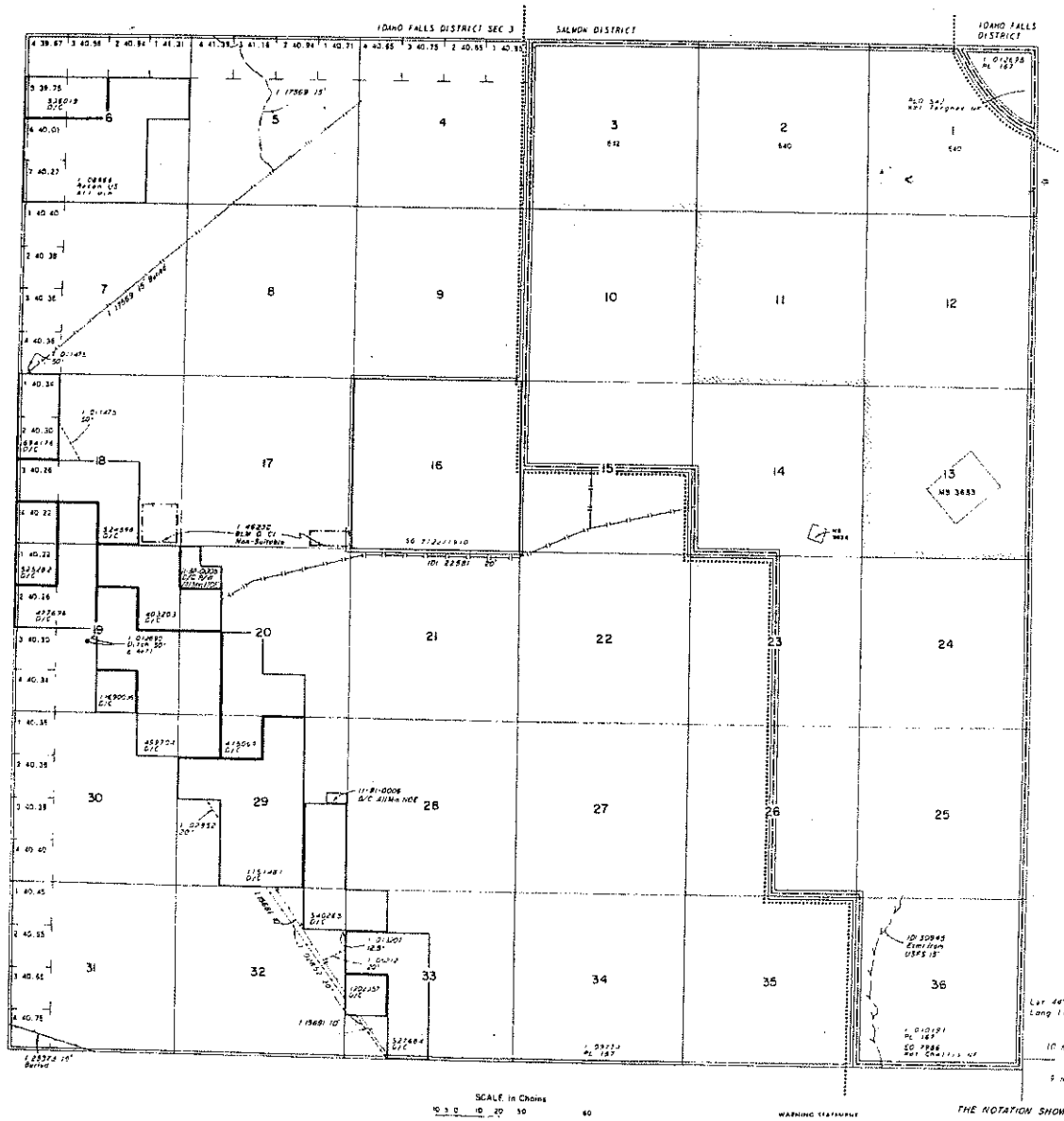

17
16
R27E
Pipeline
T
10
N
20
21
Hydropower Plant
NWNW
Typo
NWSW
Little
Black
Creek
6148AT
6285T
6243T
6338AT
6351AT
6304T
6465T
6243T
5983T
5965T
6185
33-7159


10
15
14
Pipeline
Pipeline
Point of Diversion
Black Creek
Black
Creek
T
10
N
R27E
33-7159

PARTIALLY SURVEYED TOWNSHIP 10 NORTH RANGE 27 EAST OF THE BOISE MERIDIAN, IDAHO

Protraction Diagram No 59 approved 1/22/1955

BUTTE COUNTY 023



STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

INDEX TO SEGREGATED TRACTS				
RESURVEY		ORIGINAL SURVEY		
TRACT NO	T	R	SEC	SUBDIVISION

I 09274 Det PL 167 (Act of Cong 7/23/1955) completed 12-22-1960. All PD surface mgmt by BLM

I 010191 Det PL 167 (Act of Cong 7/23/1955) completed 2/2af1961. All NF surface mgmt by USFS

I 012085 Det PL 167 (Act of Cong 7/23/1955) completed 4/3/1962. All NF surface mgmt by USFS

FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS REFER TO INDEX OF MISCELLANEOUS DOCUMENTS.

CURRENT TO	CURRENT TO

USE PLATS:

THE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST

Boise Mer