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RECEIVED

JAN 22 2009

Department of Water Resources
Adjudication Bureau

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

Subcase No. 63-27475

**AFFIDAVIT OF MICHAEL C.
CREAMER IN SUPPORT OF
JANICEK'S RESPONSE TO NAMPA &
MERIDIAN IRRIGATION
DISTRICT'S MOTION TO ALTER OR
AMEND**

State of Idaho)
) ss.
County of Ada)

MICHAEL C. CREAMER, being first duly sworn upon oath, deposes and states:

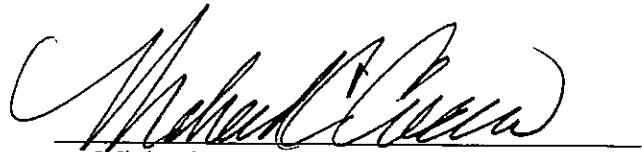
1. I am the attorney of record for Janicek Properties LLC, and have knowledge of the facts in this matter.
2. Attached hereto as *Exhibit A* are true and correct copies of pages 17 and 18 of NMID's Answers to Janicek Properties, LLC's First Set of Interrogatories, Requests for Admission, and Requests for Production.

**AFFIDAVIT OF MICHAEL C. CREAMER IN SUPPORT OF JANICEK'S RESPONSE TO NAMPA &
MERIDIAN IRRIGATION DISTRICT'S MOTION TO ALTER OR AMEND**

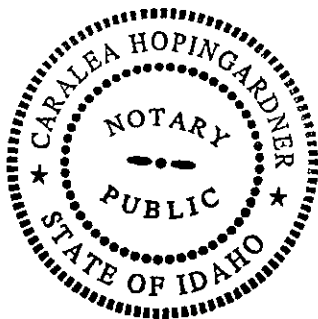
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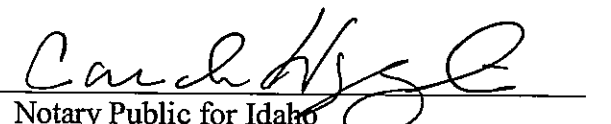
S:\CLIENTS\95471\Affidavit of MCC in support of Motion to Alter or Amend\DOE

3. Attached hereto as *Exhibit B* are true and correct copies of all documents produced by NMID in Response to Janicek's Request for Production No. 16.


Michael C. Creamer

Subscribed and sworn to before me this 21st day of January, 2009.




Notary Public for Idaho
Residing at Boise, ID
My Commission expires: 5/8/2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st of January, 2009, the foregoing was filed, served, or copied as follows:

ORIGINAL FILED

Clerk of Fifth Judicial District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707
Fax: 208-736-2121

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

SERVICE

Nampa and Meridian
Ringert Clark
c/o Daniel V. Steenson & S. Bryce Farris
P.O. Box 2773
Boise, ID 83701-2773
Fax: 208-342-4657

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098
Fax: 208-287-6700

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

Chief of Natural Resource Division
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449
Fax: 208-334-2690

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

David W. Gehlert
US Department of Justice, Natural Resources
Environment & Natural Resources
1961 Stout Street – 8th Floor
Denver, CO 80294
Fax: 303-844-1350

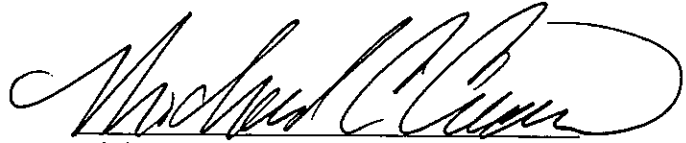
☒ U. S. Mail
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☐ E-mail

USDI Bureau of Reclamation
c/o US Department of Justice
Environment & Natural Resources
550 West Fort Street, MSC 033
Boise, ID 83724
Fax: 208-334-1414

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

Pioneer Irrigation District
c/o Scott L. Campbell
Moffatt Thomas Barrett Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
P.O. Box 829
Boise, ID 83701-0829
Fax: 208-385-5384

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☐ Facsimile
☐ E-mail



Michael C. Creamer

EXHIBIT A

15 and Interrogatory Number 15.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15: N/A

REQUEST FOR ADMISSION NO. 16: Please admit that Nampa & Meridian Irrigation District's claim of title, if any, to Purdam Gulch Creek at Janicek's point of diversion is limited to a prescriptive easement.

RESPONSE TO REQUEST FOR ADMISSION NO. 16: Denied.

INTERROGATORY NO. 16.1: If your response to Request for Admission Number 16 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 16.

ANSWER TO INTERROGATORY NO. 16.1: Objection to the extent this Interrogatory requests a legal conclusion as to NMID's rights and ownership of the Purdam Drain, which was constructed by and/or for NMID, including the water in the Purdam Drain. Notwithstanding said objection and without waiving the same: please see the attached documents.

INTERROGATORY NO. 16.2: Please describe any legal interest or right claimed by Nampa & Meridian Irrigation District to Purdam Gulch Creek at Janicek's point of diversion, and set forth each and every fact your are aware of that supports or tends to support that claim, and further describe the scope of any such legal interest or right, including but not limited to its nature, duration, physical extent, dimensions, and degree of exclusivity.

ANSWER TO INTERROGATORY NO. 16.2: Objection to the extent this Interrogatory requests a legal conclusion as to NMID's rights and ownership of the Purdam Drain, which was

constructed by and/or for NMID, including the water in the Purdam Drain. NMID also objects to the extent it seeks information that is not calculated to lead to the discovery of admissible evidence. Notwithstanding said objection and without waiving the same: please see the attached documents.

REQUEST FOR PRODUCTION NO. 16: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 16 and Interrogatory Numbers 16.1 and 16 .2.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16: Please see the attached documents.

REQUEST FOR ADMISSION NO. 17: Please admit that Nampa & Meridian Irrigation District's makes no irrigation water deliveries from Purdam Gulch Creek.

RESPONSE TO REQUEST FOR ADMISSION NO. 17: Deny.

INTERROGATORY NO. 17: If your response to Request for Admission Number 17 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 17, including but not limited to the location of any points of diversion and places of use for such deliveries.

ANSWER TO INTERROGATORY NO. 17: Please see Answer to Interrogatory No. 8.1

REQUEST FOR PRODUCTION NO. 17: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 17 and Interrogatory Number 17, including measurements and records of water deliveries.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17: Please see the attached

EXHIBIT B

Summary of Purdam Drain Hydrologic Investigations
RD Schmidt
2/11/08

Purdam Model Development and Calibration

A calibrated subsurface flow model (referred to as the Purdam model) was used to determine the effects of irrigation activity within the Boise Project (canal seepage and on-farm infiltration) on aquifer head conditions and subsurface flow into the constructed portion of the Purdam drain, up-gradient from the 63-27475 claimed point of diversion (referred to as the POD).

The Purdam model represents unconfined subsurface flow in a portion of the Boise Valley that includes the Amity Terrace, the Sunrise Terrace and the Whitney Terrace gravel deposits, and the underlying Ten Mile Gravels (Othberg, 1994), (Squires and Wood, 2001). The portion of the Boise Valley represented in the Purdam model is shown in figure 1. The boundaries of the model are aligned with surface water flow features. On the east and west sides, the model boundaries are Ten Mile Creek and Mason Creek. On the north and south sides, the boundaries are the Boise River and the New York canal.

As a result of stratigraphic layers which dip to the northwest, and northwest-southeast trending fault structures which parallel the creek boundaries of the model, subsurface flow in the Purdam model area is generally to the northwest, toward the Boise River (IWRRI, 2004). Consequently almost all of the hydrologic influences affecting Purdam drain return flow originate within the model area.

The Purdam model was developed using the analytic element method (Strack, 1989, Haitjema, 1995) and a groundwater modeling software package developed for the USEPA called GFLOW (GFLOW, 2007). Surficial hydrologic features in the model area including canals, drains, creeks and rivers are all represented in GFLOW as head-specified line source-sink elements. Head conditions for most canals and drains are derived from a digital elevation map (DEM) based on highly accurate LIDAR (Light Detection and Ranging) data (LIDAR, 2007). Figure 2 shows the extent of LIDAR elevation data in the model area. LIDAR data is available for the most important part of the model area including the Purdam drain, the Ridenbaugh Canal, the Kennedy Lateral, and Ten Mile Creek. (A USGS 10 meter DEM is used in areas where LIDAR data is not available.)

On-farm infiltration and precipitation in the model area are represented in GFLOW by spatially-distributed aquifer recharge. Aquifer recharge rates are derived from Boise Valley agricultural water budget data (USBR and IDWR, 2007).

Figure 3 shows the distribution of rivers, canals, creeks, drains, and wasteways represented in GFLOW by line source-sink elements. Figure 3 also shows the boundaries of the terrace gravel deposits which are represented in GFLOW by inhomogeneities in base elevation and aquifer transmissivity, and the locations of observation wells used to

calibrate the model. Observed head conditions within the model area range from 2648 feet near the New York canal to 2430 feet near the Boise River.

The Purdam drain model is calibrated (with respect to hydraulic conductivity and canal bed conductance) using both head and flow data. Fifty-five USGS observation wells located within the model area are used for head calibration. Seepage measurements from two canals near the Purdam Drain, the Ridenbaugh and the Kennedy lateral, are used for flow calibration.

The Purdam model simulates water table elevations and the subsurface component of drain return during the peak of the irrigation season. The observations of groundwater levels used in calibration are from different years, but are all representative of head conditions in shallow gravel layers during July and August.

Model calibration results are shown in figure 4. The absolute difference between modeled and observed water table elevations within the model area is about 10.8 feet, or about 5 percent of the total 218 foot range in head conditions. While the absolute difference between modeled and observed heads gives some indication of the uncertainty in model predictions, a large part of the difference can be traced to uncertainty in the calibration targets themselves (which are from different years). Uncertainty in model predictions of actual head conditions is estimated to be less than half that shown in figure 4.

Uncertainty exists in model predictions of subsurface drain return because of the uncertainty associated with canal and drain conductance properties and canal seepage rates. Uncertainty in drain return is estimated to be about 20 percent of the predicted rate.

Purdam Model Application and Results

The calibrated Purdam model is used initially to simulate water table elevations and drain returns that accompany the present level of Boise Project irrigation activity, specifically canal seepage and on-farm infiltration. Figure 5 is a head contour map generated by the calibrated model, showing irrigation season water table elevations in the vicinity of the Purdam drain. (Portions of the Ridenbaugh Canal, Kennedy Lateral and Ten Mile Creek are also shown.) Arrows indicate the direction of subsurface flow on the Sunrise Terrace.

As noted on figure 5, the surface elevation of the drain at the POD location is 2562 feet. The modeled water table elevation in the underlying terrace gravels at this same location is slightly higher, 2564.9 feet. The upward hydraulic gradient indicates that water in the subsurface is being discharged to the drain at this location. The model indicates that an upward hydraulic gradient exists at almost all locations along the Purdam drain upstream from the POD. The model prediction of total subsurface discharge to the Purdam drain upstream of the POD location is 5.1 cfs.

In the second application, the calibrated Purdam model is used to simulate Purdam drain water table elevations and drain returns in the absence of Boise Project irrigation activity (canal seepage and on-farm infiltration). The second application is intended to simulate pre-development conditions, in which aquifer recharge comes only from (average annual) precipitation.

Figure 6 is a head contour map generated by the pre-development model showing water table elevations in the vicinity of the Purdam drain. As noted, the pre-development head condition at the POD location is 2548.4 feet, which is 13.6 feet below the bottom elevation of the drain. Everywhere upstream of the POD the water table surface is also below the bottom of the drain. The model clearly indicates that under pre-development conditions, subsurface return flow at the POD location in the Purdam drain (if the drain had existed at that time) would have been zero.

Two additional model runs with varying canal seepage and on-farm infiltration conditions in the Nampa-Meridian Irrigation District (NMID) were also made. The first of these simulates lining the Ridenbaugh canal with an impermeable liner. The second simulates the elimination of irrigation activity on just the NMID portion of the Boise Project. Lining the Ridenbaugh canal reduced canal seepage by 42 cfs, which in turn reduced the head at the Purdam drain POD by 0.5 feet (from 2565 feet to 2564.5 feet), drain flow declined by 1.5 cfs (from 5.1 cfs to 3.6 cfs). Eliminating all canal seepage and on-farm infiltration in the NMID portion of the Boise Project reduced the head at the POD by 2.2 feet (from 2564.9 feet to 2562.7 feet), drain flow declined by 4.8 cfs (from 5.1 cfs to 0.3 cfs).

Model Results in relation to Purdam Drain Flow Measurements and Observation Well Hydrographs

A weir and a flume were installed by Reclamation in the Purdam drain in early October 2007. The weir was located about 400 feet upstream of the POD pump and the flume was located about 50 feet downstream. Reclamation monitoring of flow in the Purdam drain began on October 11, 2007 and continued until January 31, 2008 (Table 1).

Even though the irrigation season was over before monitoring began, the calibrated model estimates of flow in the Purdam drain at the POD are comparable to flow measurements made in early October. Early October flow measurements ranged from 3.0 to 3.8 cfs, (see Table 1) as compared to the calibrated model estimate of 5.1 cfs. While the October measurements are slightly lower than model predictions, it is likely that subsurface return flow to the drain would have been somewhat higher in July and August during the irrigation season.

Table 1 also shows a generally declining flow rate in the Purdam drain between October and January. (The decline is punctuated by short term increases due to precipitation events.) Although flow in the drain is not expected to drop to zero over the course of a single winter, it is expected that it would drop to zero eventually. Were it not for the start

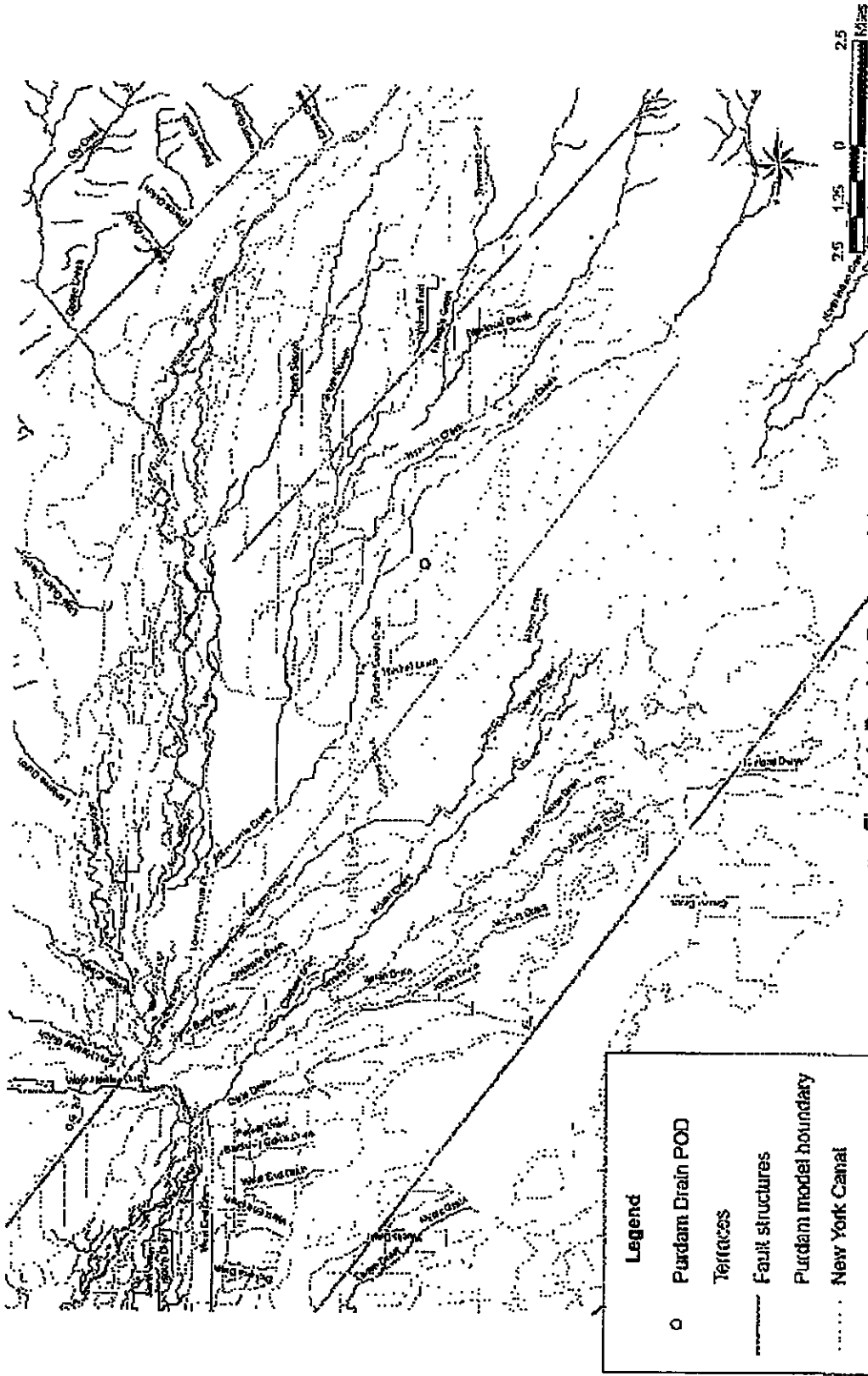
of irrigation activity each April, it is expected that the water table beneath the Purdam drain would eventually return to the level indicated by the pre-development model.

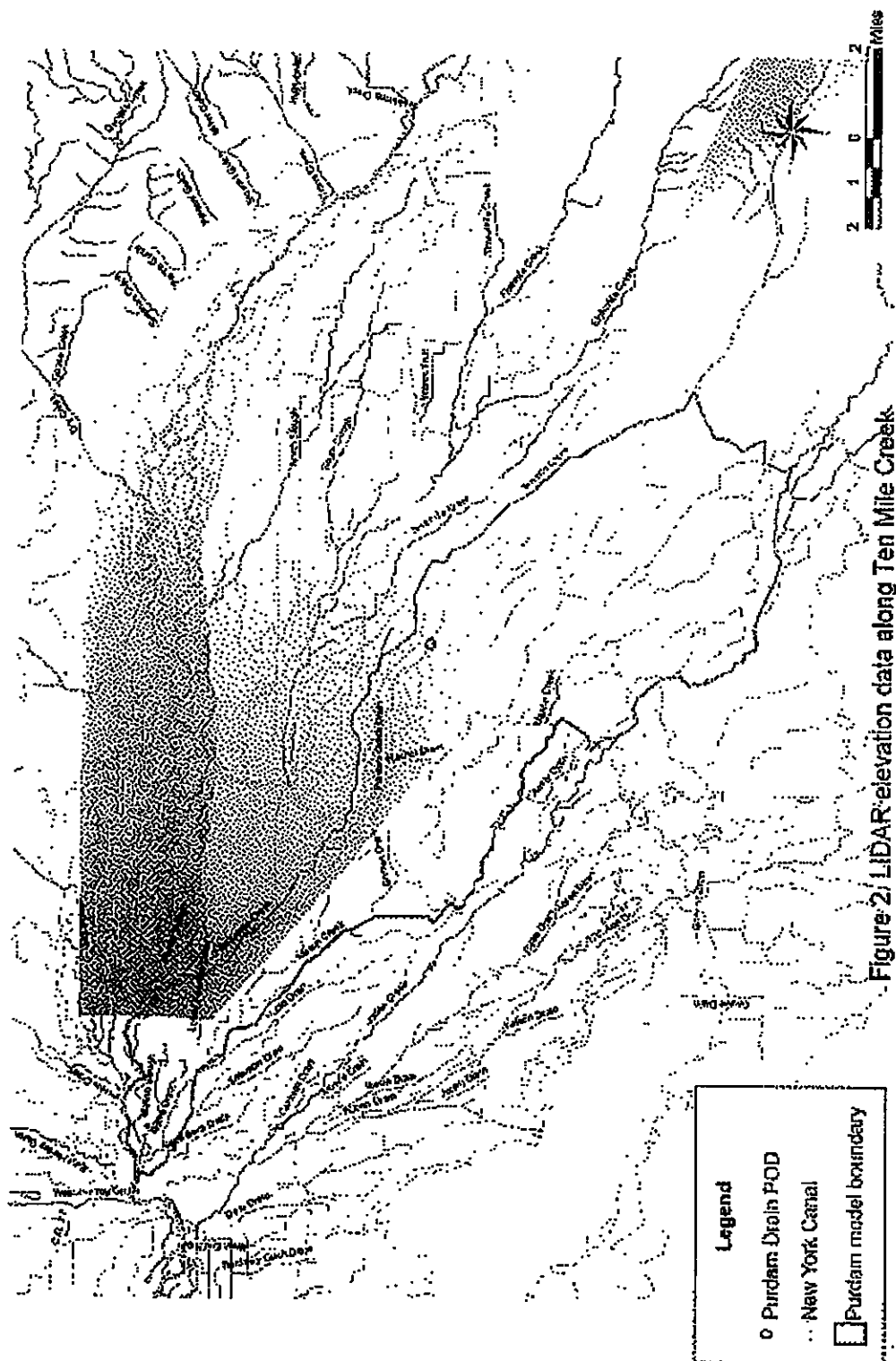
Figures 7, 8 and 9 are hydrographs showing seasonal variations in depth to water in three USGS observation wells located in T03N R1W Sec 14, 15 and 16; on the Whitney, Sunrise and Amity Terraces, respectively. The section 14 observation well is located about a mile east of the Purdam drain POD. The section 15 well is about a half mile south, close to the Ridenbaugh canal; and the section 16 well is about a mile to the northwest of the POD. The hydrographs all show similar seasonal trends in depth to water. Water levels rise throughout the irrigation season and decline during winter months. Between the end of one irrigation season and the start of another, the water table surface typically declines four to six feet, but the decline can be as much as nine feet.

The pre-development model, which predicts that in the permanent absence of all irrigation activity in the Boise Project, the water table beneath the Purdam drain would decline by approximately 16.5 feet (or about 13.7 feet below the bottom of the current Purdam drain) is entirely consistent with the water table response observed in these wells during a six month absence of irrigation activity. It is estimated that in the absence of all irrigation activity it would take three to five years for the water table on the Sunrise Terrace to return to its pre-development level.

Conclusions based on Purdam Model results

The Purdam drain model results demonstrate that canal seepage and on-farm infiltration from Boise Project lands are responsible for essentially all of the subsurface return flow occurring in the Purdam drain at the location of the POD, and that the vast majority of the subsurface return at this location comes from canal seepage and on-farm infiltration on the surrounding NMJD irrigated lands.





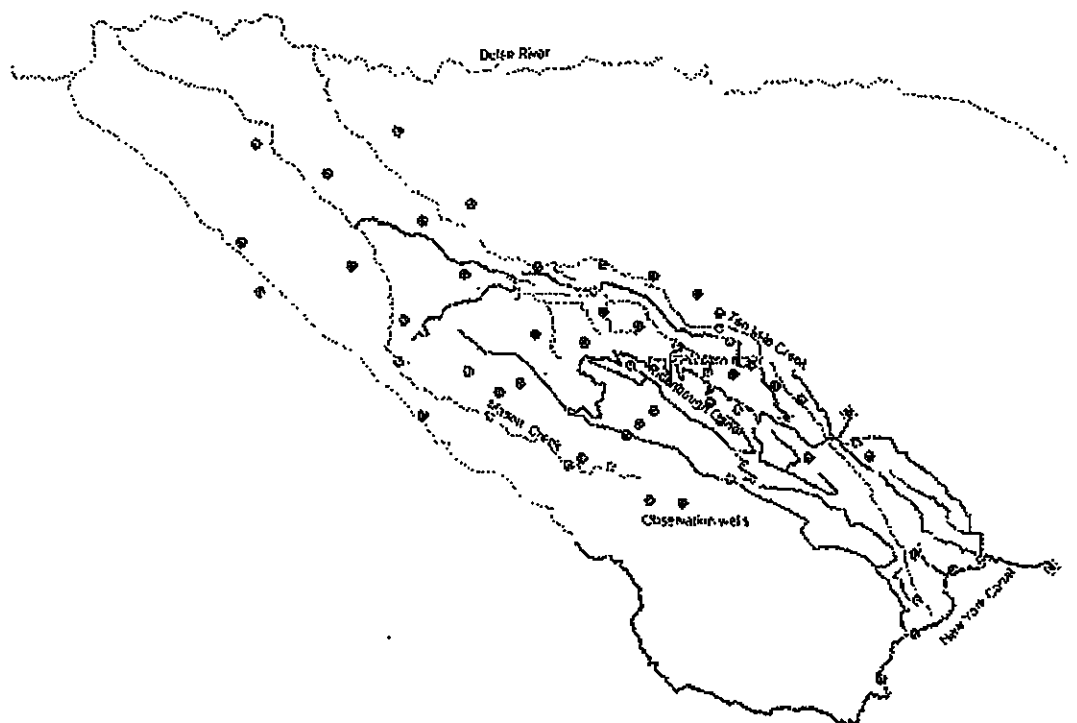


Figure 3. GFlow model representation of canals, rivers, creeks and drains as boundary conditions in the Purdam model

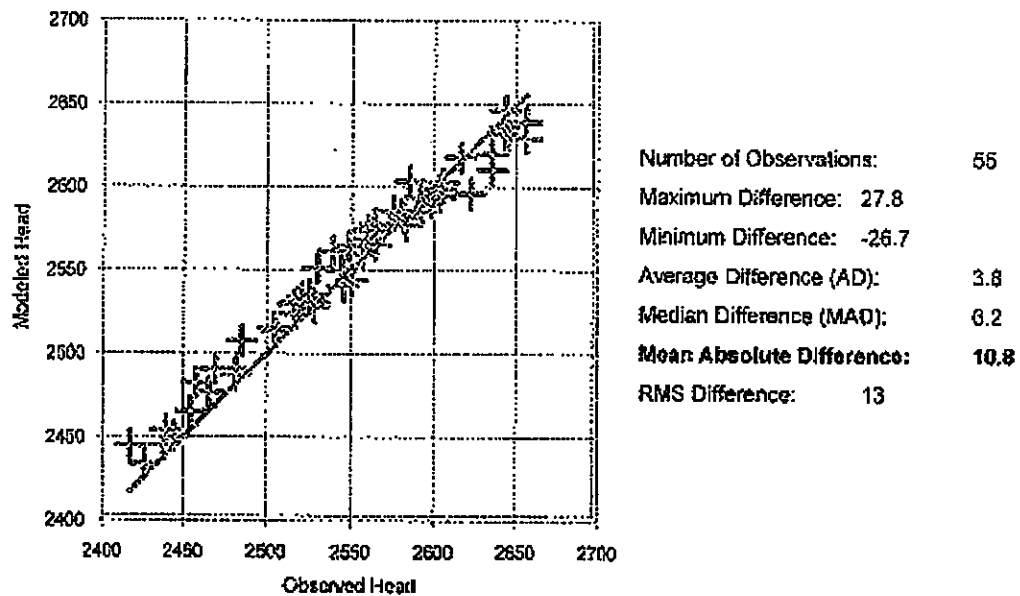


Figure 4. Observed and modeled water table elevations in the calibrated model

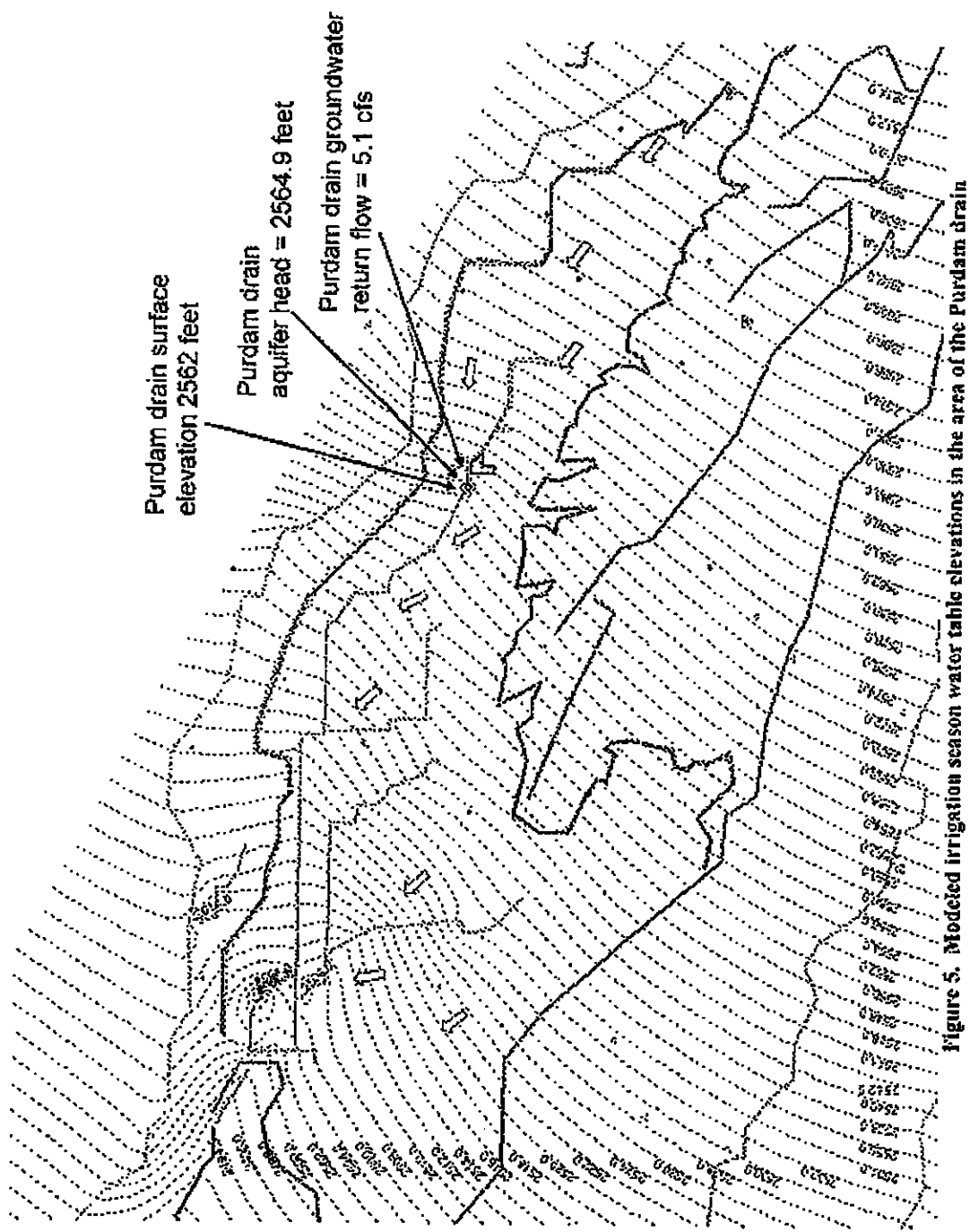


Figure 5. Modeled irrigation season water table elevations in the area of the Purdam drain

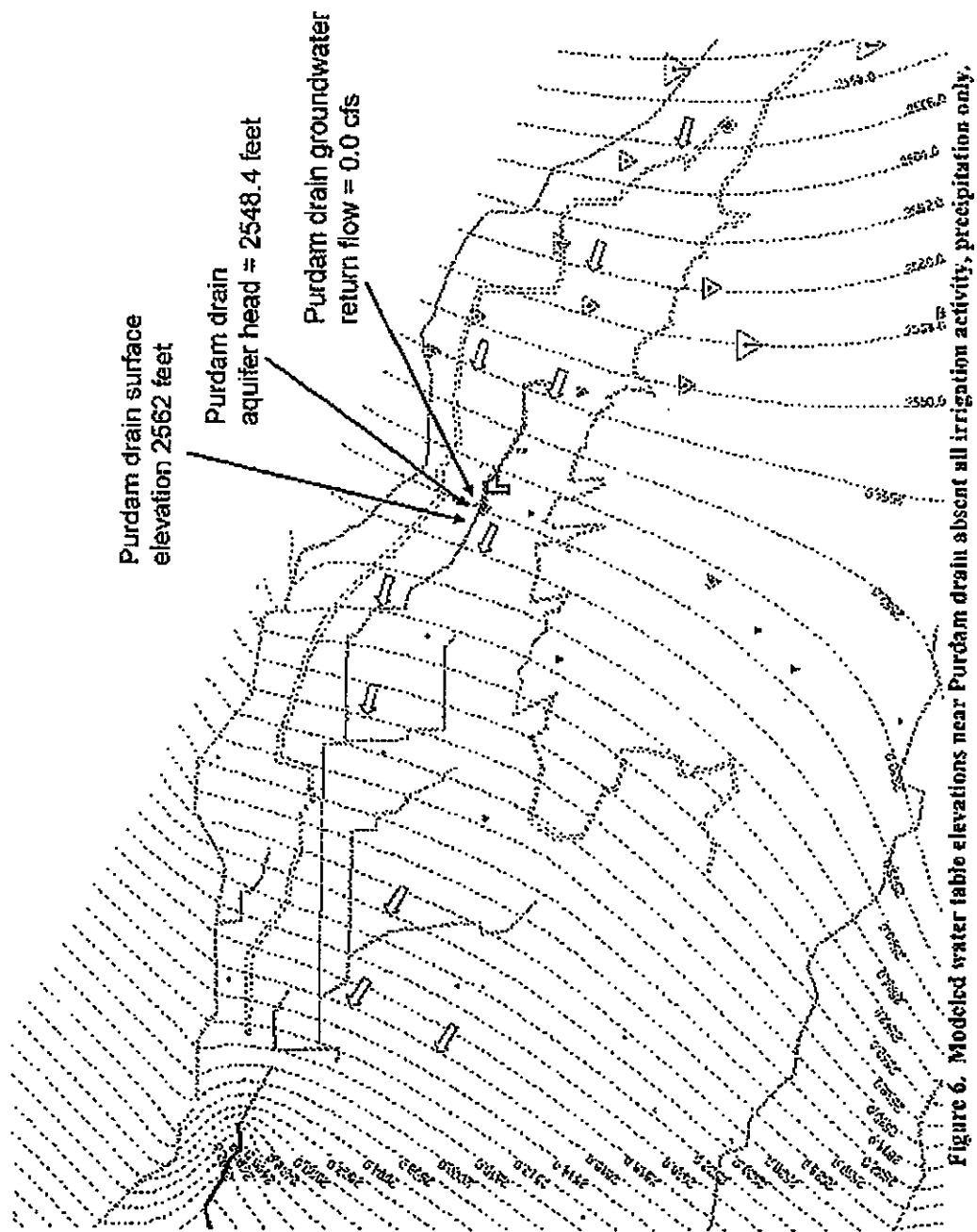


Table 1 Purdam Drain - Weir & Flume Flow Measurements

Date	U/S Weir Readings			D/S Flume Readings		
	Raw Field (Vertical)	Flow (gpm)	Flow (cfs)	Raw Field (Slope)	Flow (gpm)	Flow (cfs)
10/11/2007	0.24	1,443.7	3.2	1.300	1,444.7	3.2
10/12/2007	0.24	1,443.7	3.2	1.325	1,509.2	3.4
10/15/2007	0.27	1,684.0	3.8	1.400	1,713.0	3.8
10/19/2007	0.23	1,386.8	3.0	1.275	1,381.9	3.1
10/22/2007	0.25	1,386.8	3.0	1.300	1,444.7	3.2
10/25/2007	0.24	1,443.7	3.2	1.300	1,444.7	3.2
10/26/2007	0.235	1,405.0	3.1	1.300	1,444.7	3.2
10/29/2007	0.16	877.0	2.0	1.175	1,147.4	2.6
10/30/2007	0.19	1,078.0	2.4	1.150	1,092.9	2.4
11/2/2007	0.18	1,007.8	2.2	1.150	1,092.9	2.4
11/5/2007	0.18	1,037.8	2.2	1.150	1,092.9	2.4
11/7/2007	0.15	814.5	1.8	1.030	853.2	1.9
11/9/2007	0.14	754.1	1.7	1.050	890.7	2.0
11/9/2007	0.14	754.1	1.7	1.050	890.7	2.0
11/13/2007	0.145	784.0	1.7	1.025	844.0	1.9
11/14/2007	0.145	784.0	1.7	1.030	853.2	1.9
11/16/2007	0.175	974.4	2.2	1.035	862.5	1.9
11/19/2007	0.14	754.1	1.7	1.040	871.8	1.9
11/21/2007	0.17	841.4	2.1	1.130	1,050.4	2.3
11/23/2007	0.14	754.1	1.7	1.050	890.7	2.0
11/26/2007	0.14	754.1	1.7	1.050	890.7	2.0
11/27/2007	0.15	814.5	1.8	1.075	938.9	2.1
11/29/2007	0.145	784.0	1.7	1.075	938.9	2.1
12/3/2007	0.14	754.1	1.7	1.050	890.7	2.0
12/5/2007	0.14	754.1	1.7	1.055	900.2	2.0
12/7/2007	0.14	754.1	1.7	1.075	938.9	2.1
12/10/2007	0.135	724.7	1.6	1.042	875.6	2.0
12/13/2007	0.13	695.8	1.6	1.040	871.8	1.9
12/14/2007	0.13	695.8	1.6	1.040	871.8	1.9
12/17/2007	0.13	695.8	1.6	1.045	881.2	2.0
12/18/2007	0.14	754.1	1.7	1.050	890.7	2.0
12/21/2007	0.13	695.8	1.6	1.050	890.7	2.0
1/2/2008	0.13	695.8	1.6	1.050	890.7	2.0
1/3/2008	0.125	667.5	1.5	1.060	909.7	2.0
1/7/2008	0.125	667.5	1.5	1.030	853.2	1.9
1/10/2008	0.12	639.7	1.4	1.030	853.2	1.9
1/14/2008	0.12	639.7	1.4	1.030	853.2	1.9
1/18/2008	0.12	639.7	1.4	1.040	871.8	1.9
1/22/2008	0.11	585.9	1.3	1.030	853.2	1.9
1/25/2008	0.12	639.7	1.4	1.030	853.2	1.9
1/28/2008	0.11	585.9	1.3	1.025	844.0	1.9
1/31/2008	0.11	585.9	1.3	1.030	853.2	1.9

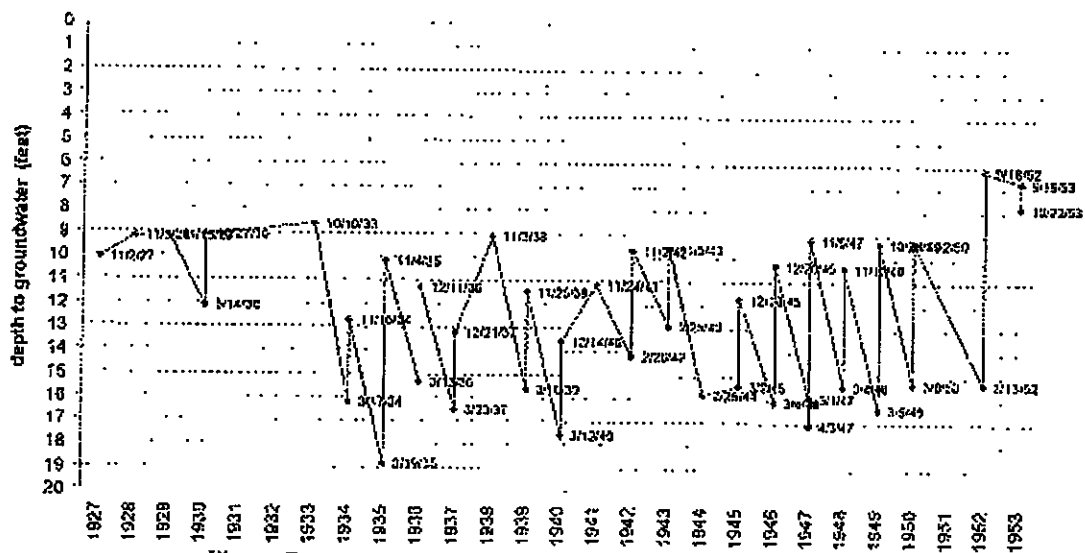


Figure 7. USGS observation well hydrograph, 03N 1W Sec 14.

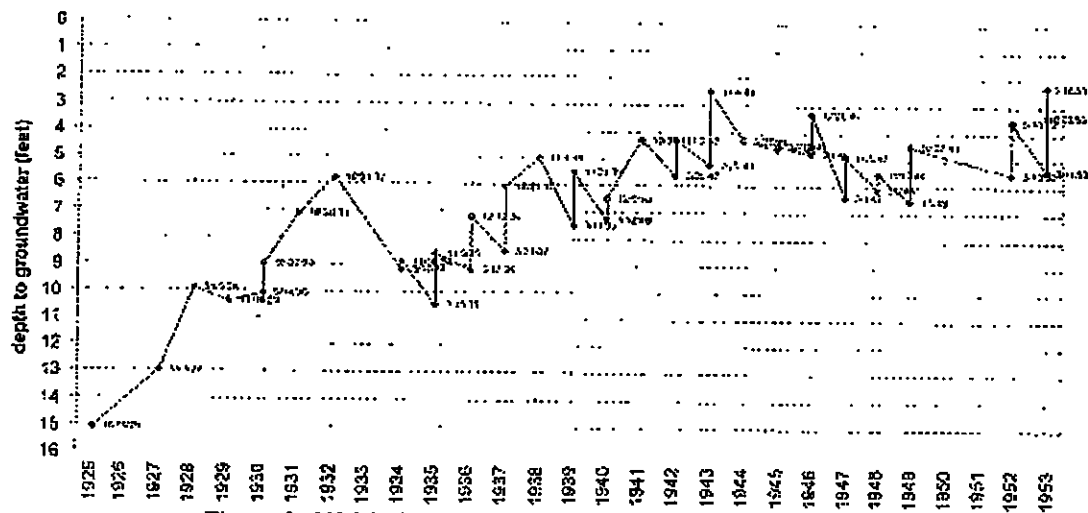


Figure 8. USGS observation well hydrograph, 03N 01W Sec 15.

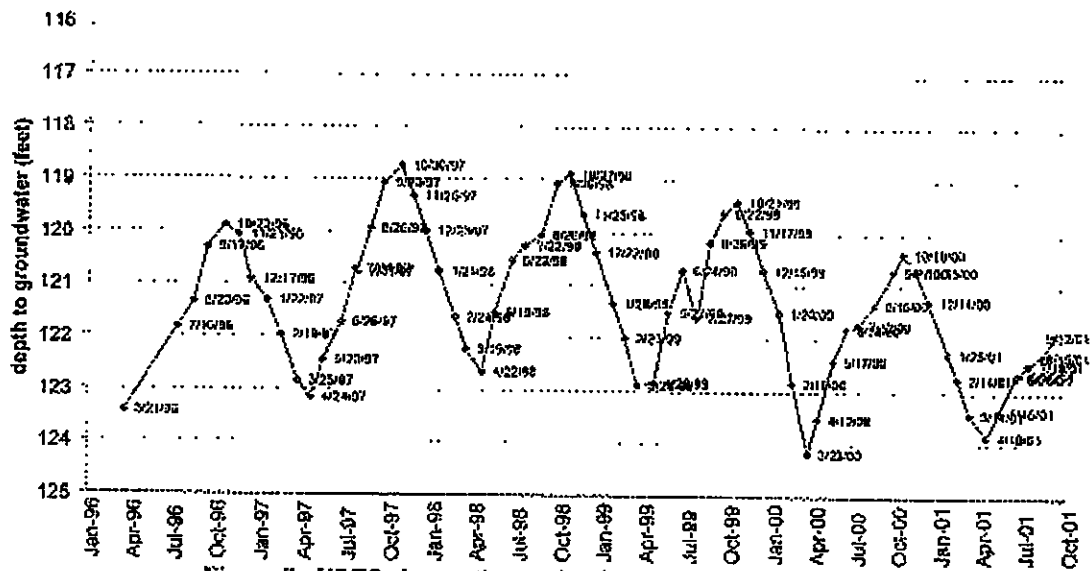


Figure 9. USGS observation well hydrograph, 03N 01W Sec 16.

References

- GFLOW, 2007. http://ftp.epa.gov/sandyrun/WhAEM_Development/Solver/
- Haitjema, 1995. Analytic Element Modeling of Groundwater Flow, published by Academic Press.
- IWRRI, 2004. Simulation of Ground Water Flow in the Lower Boise River Basin, Research Report 2004-02.
- LIDAR, 2007. <http://inside.uidaho.edu/geodata/gco.htm>
- Othberg, 1994. Geology and Geomorphology of the Boise Valley and Adjoining Areas, Western Snake River Plain, Idaho, Idaho Geological Survey, Bulletin 29.
- Squires and Wood, 2001. Stratigraphic Studies of the Boise Aquifer System using Borehole Geophysical Logs, with Emphasis on Facies Identification of Sand Aquifers, Idaho Department of Water Resources report.
- Strack, 1989. Groundwater Mechanics, published by Prentice Hall.
- USBR and IDWR, 2007. A Distributed Parameter Water Budget Data Base for the Lower Boise Valley, Bureau of Reclamation report.

Draft of July 24, 1914

THIS AGREEMENT made this 1st day of June, 1915,
between the UNITED STATES OF AMERICA, acting for this purpose
by the Secretary of the Interior, under the provisions of the
Act of Congress of June 17, 1902 (32 Stat. 382) known as the
Reclamation Act, and acts amendatory thereto or supplementary
thereto, and the Act of Congress of February 21, 1911, (35 Stat. 5.
925), the party of the First Part, hereinafter called the United
States, and the NAMPA & MENICIAN IRRIGATION DISTRICT, an Irrigation
District organized under the laws of the State of Idaho, and
located in Canyon and Ada Counties, Idaho, acting for the purposes
of this contract under authority of Title 14 of the Idaho Revised
Codes, including Sections 2396, 2397, and 2398, the party of the
second part, hereinafter called the District-

WITNESSETH - That,

WHEREAS, the District includes within its boundaries
about Twenty-four Thousand Five Hundred Fifty-seven (24,557)
acres of irrigated land, Twenty-two thousand six hundred twelve
(22,612) acres of which are entitled to receive water from the
District; the remainder being irrigated with water from the
Bottlers' and New York Canals; and whereas, the District owns
and controls that certain canal known as the Hidenbaugh Canal
through which water is supplied from Boise River to the lands

of the District for irrigation and domestic purposes, and whereas, the natural flow of Boise River which the District is entitled to divert under its priorities and appropriations, is insufficient during the latter part of said irrigation season to furnish a complete water supply for the lands of the District, and the District desires to secure a certain amount of stored water in order to furnish its land owners and water users a more complete water supply during the low water periods of the irrigation season, and

WHEREAS, the ground water table is rising in the District and in places is already close to the surface, so that a large part of the lands of the District are likely to become permanently ruined and incapable of producing crops, or bearing any share of the expense of the District, unless a drainage system is promptly provided; and whereas, it is believed that such a drainage system will reclaim considerable areas which cannot now be cultivated successfully on account of such seepage conditions, and will check the spread of such seepage conditions, and save other large areas which are now threatened with destruction from the same cause; and

WHEREAS, the United States is now constructing, under the provisions of the Reclamation Act, that certain irrigation project known as the "Boise Project," including the Arrowrock and Bear Flat storage reservoirs, and a portion of the lands of the

District have been subscribed to said project by the individual owners of such lands; and

WHEREAS, it is believed that under existing conditions the only way in which the additional water supply and drainage system required by the District can be secured promptly and at a cost which the land owners of the District can afford to pay, is by means of a contract between the District and the United States, under the provisions of the Acts of Congress of June 17, 1902 (32 Stat. 366) and February 21, 1911 (36 Stat. L., 925) and Title 14 of the Idaho Revised Codes.

NOW, THEREFORE, it is hereby agreed-

1. That as a part of the general drainage system of the Boise Project, the United States will construct for theampa & Meridian Irrigation District, a drainage system to a total cost of Five Hundred Fifty-seven Thousand Dollars, (\$57,000). The location of the drains, to be constructed, is shown on the map attached hereto and marked Exhibit "A", it being understood that in general drains numbered "one" on the said map will be constructed first, drains numbered "two" will be constructed next, drains numbered "three" will be constructed last, so far as said limit of expenditure will allow such work to go, such drainage system to have sufficient capacity in its main drains to carry the seepage water flowing into the District from the lands lying above the

District and drainage into it, as well as that originating in the District itself, the Supervising Engineer in charge of such construction shall have the right to make changes in the alignment of the drains shown on the attached map, and in grades and cross-sections, where such changes shall be found in his judgment to be necessary or desirable to increase the efficiency or economy of the system. It is understood that in case any part of the work shown on the said map shall prove unnecessary for the benefit of District lands, such part may be omitted by mutual consent of the parties hereto. It is fully understood that the United States is to expend only Five Hundred Fifty-seven Thousand Dollars (\$557,000), including cost of preliminary work in drainage construction for the District, under this contract, and to stop when such limit of expenditure has been reached. It is not expected that the lands of the District can be completely drained at this cost nor a drainage system extended to each farm unit, but that only a number of principal drains will be constructed with which individual and community farm drains can be connected.

2. That for the purposes of this contract, irrigable lands in the District which are now entitled to $5/8$ of a miner's inch of water or more per acre, out of the present water rights of the District, or of the Settlers' District or through ownership of stock in the New York Canal Company,

are considered as old water right lands and referred to herein under that name; irrigable lands in the District which have no water right from the District or the Settlers' District, and have not been irrigated through ownership of stock in the New York Canal Company, are considered as project lands and referred to herein under that name, and irrigable tracts of land in the District which are entitled to some water from the present water rights of the District, or of the Settlers' District or through ownership of stock in the New York Canal Company, but less than $\frac{3}{8}$ of an inch per acre, shall be considered as old water right lands to the extent of the number of acres for which the water right of such tract will provide $\frac{3}{8}$ of an inch per acre, and project lands as to the remainder thereof.

3. That the District will pay to the United States for that portion of the above described drainage work in the District, equitably chargeable to the old water right lands in the District, the sum of Two Hundred Sixty-six Thousand Dollars (\$266,000), in the same number of annual installments not less than ten (10) and same percentage of the total in each annual installment as is fixed by the Secretary of the Interior for the lands of the Boise Project in his Public Notice announcing the construction charge for the Boise Project, the first installment to be due and payable one (1) year after the day on which said Public Notice for the Boise

Project is issued by the Secretary of the Interior, and one installment on the same day of each year thereafter until all installments are paid, and will use the taxing power of the District and all the powers and resources of the District to collect said sums of money and pay the same to the United States when due. The benefits of the expenditures of said sum of Two Hundred Sixty-six Thousand Dollars (\$266,000) for drainage shall be apportioned among the old water right lands of the District. No portion of said sum of Two Hundred Sixty-six Thousand Dollars (\$266,000) shall be apportioned to the project lands in the District but the balance of the said sum to be expended on drainage works in the District as provided in paragraph 1 hereof shall be charged to the general expense of the Boise Project and the project lands in the District shall pay the construction, operation and maintenance charges provided in paragraphs 11 and 12 hereof.

4. That after the construction thereof, the District will maintain said drainage system in good serviceable condition, at its own expense, and shall charge the cost thereof to the old water right lands in the District in the proportion which the amount of construction cost chargeable to the old water right lands in the District, to-wit, Two Hundred Sixty-six Thousand Dollars (\$266,000), bears to the total construction cost, to-wit, Five Hundred Fifty-seven Thousand

Dollars (\$557,000), and will charge the balance to the United States. In case the District shall fail or neglect to maintain said drainage system in good serviceable condition, the United States may maintain or repair the same and charge the cost thereof to the District, which cost the District will promptly pay.

5. The right to water developed in the drainage system herein provided for shall belong to the Boise Project and the old water right lands of the District, and be divided between said Boise Project and said old water right lands of the District in the same proportion as the cost of the drainage system herein provided, and the drains to be constructed under this contract shall be subject to use by the lands of the Boise Project whether outside or inside the District, as well as the old water right lands of the District.

6. That the District will pay to the United States the sum of Twenty-four Thousand Eight Hundred Forty Dollars for storage capacity in Arrowrock Reservoir- a reservoir to be constructed by the United States on Boise River in Boise and Blaine Counties, Idaho, and to have a capacity of between 200,000 and 250,000 acre feet and the United States will provide for the District that portion of the total storage capacity of Arrowrock Reservoir which Twenty-four Thousand Eight Hundred Forty Dollars

is of the total cost of said reservoir, and will deliver at the downstream end of the outlets of the Arrowrock Reservoir, for the District each year after the completion of said reservoir, the same proportion of the stored water available from said reservoir at such times after three (3) days notice from the District to the United States officer in charge, and in such quantities as the District may direct not in excess of the District's proportionate part of the available outlet capacity. The total cost of said reservoir will be determined and stated by the Secretary of the Interior in his Public Notice of the charges to be made for the Boise Project, and to include all cost and expenses of whatsoever nature or kind for the purpose of, growing out of, in connection with, or resulting from the construction of said reservoir including engineering expenses and overhead charges, and such interest, if any, as may be payable on account of advances under the provisions of the Act of Congress of June 25, 1910 (36 Stat. L. 835), or other legislation by Congress.

7. The said sum of Twenty-Four Thousand Eight Hundred Forty Dollars shall be paid by the District to the United States in the same number of annual installments not less than ten (10) and same percentage of the total in each annual installment as is fixed by the Secretary of the Interior for the lands of the Boise Project in his Public Notice announcing the construction

charge for the Boise Project, the first installment to be due and payable one (1) year after the day on which said Public Notice for the Boise Project is issued by the Secretary of the Interior and one installment on the same day of each year thereafter until all installments are paid; and the District will use the taxing power of the District, and all the powers and resources of the District to collect said sums of money, and pay the same to the United States when due, and will also pay each year its proportionate share of the cost of operation and maintenance of said reservoir and delivery of water therefrom, as announced by the Secretary of the Interior.

8. No interest will be charged on any of the said installments for drainage work, or stored water, or money to be paid to the United States for operation and maintenance, on account of the drainage works or stored water, until due; but any part thereof which may remain unpaid after the same is due shall bear interest from maturity until paid at ten per cent (10%) per annum, and the United States shall not be obliged to deliver or turn out for the District any stored water while the District is in default on any of the payments herein provided to be made by the District to the United States.

9. The District agrees to distribute the amount of

water delivered to it by the United States under this act in full compliance with the provisions of said Reclamation Act of June 17, 1902, and the rules and regulations thereunder, and to use and distribute the same only upon the lands within the District, and in compliance with the provisions of Section 2 of the Act of Congress of February 21, 1911 (36 Stat. L. 925) known as the Warren Act.

10. The stored water from Arrowrock Reservoir hereinabove agreed to be purchased by the District, shall be diverted from Boise River through the canal system of the District and delivered to old water right lands in the District to supplement the water supply of such lands at times when the natural flow of Boise River is insufficient, and the benefits and cost of such stored water shall be apportioned to such lands; Provided, however, that no portion of said stored water is to be delivered, and no part of the cost thereof apportioned to those old water right lands of the District to which the first priority right of the District has been allotted under the classification of lands as to priority, which has been made by the District, it being considered that the lands having the first priority right need no stored water.

11. For the project lands in the District, the United States will provide both storage capacity in the reservoirs

of the United States and carrying capacity in the United States Canal System of the Boise Project, and each year after the completion of the Arrowrock Reservoir, will deliver to the District for distribution to the project lands in the District lying under the canal system of the District, as nearly as practical, the same proportionate share per acre of the water actually available from said works of the United States, both flood water and stored water, as is provided for similar lands in the United States Boise Project, outside of the District except as otherwise provided in paragraph 12 hereof, but not more, however, than is needed for beneficial use on said land, and for the project lands in the District lying above the canal system of the District a similar water supply will be furnished directly by the United States through the laterals and canals of the United States. The water supply for the project lands in the District shall be carried through the main Canal of the United States Boise Project, and that portion for the project lands lying under the canal of the District delivered to the District at convenient points in the District where laterals or distributing canals from the canal system of the United States reach or cross the canal of the District, and will there be received by the District and distributed by the District to the project lands in the District entitled to the use thereof; under the provisions of a certain contract for the distribution

of water, between the parties hereto, dated April 1, 1909, it being understood that the said certain contract shall remain in effect until such time as a new contract shall be mutually agreed upon by the parties hereto, providing for a different method of distribution of water and division of the cost of distribution.

12. The District will promptly apportion to the project lands in the District a total of Three Million Three Hundred four thousand five hundred (\$3,304,500) Dollars, being a charge of Seventy-five (\$75.00) Dollars per acre as the benefits under this contract to said lands; provided, however, that if the building charge per acre announced by the Secretary of the Interior in his Public Notice for similar lands of the Boise Project, is less than Seventy-five (\$75.00) Dollars per acre, then the assessment of benefits against the project lands in the District shall be reduced to the same amount per acre as is announced by the Secretary of the Interior for the similar lands of the Boise Project, and the District will collect the sums so apportioned to such project lands in the District and pay the same to the United States in the same number of annual installments not less than Ten (10) and same schedule of graduated payments as is fixed by the Secretary of the Interior in his Public Notices for similar lands of the Boise Project outside of the District. Provided, that should the construction charge per acre announced by the Secretary of the Interior, for the Boise

Project for a full water right, be in excess of Seventy-five Dollars (\$75.00) per acre of irrigable land, the benefits to be assessed to the project lands in the District under this contract and collected by the District under this contract for the said project lands for the payment to the United States of the construction charge, shall nevertheless be only Seventy-five Dollars (\$75.00) per acre, and the number of installments and the percentage of the total payable in each annual installment shall be the same number and percentage as for the lands of the Boise Project outside the District, but in that event, the amount of both stored water and flood water furnished for such project lands in the District by the United States shall be the same proportion of the amount furnished per acre to the lands of the Boise Project outside of the District as Seventy-five Dollars (\$75.00) per acre is to the charge announced for the Boise Project lands outside of the District; Provided, that in that event, the owners of project lands in the District, individually or the District on behalf of all the project land owners in the District, may, or they, or it so elect, by supplemental contract with the United States, secure from the United States works additional water sufficient to make their water rights equal in amount per acre to the rights furnished by the United States to similar project lands

outside of the District, by payment of the difference between Seventy-Five (\$75.00) Dollars per acre and the charge announced by the Secretary of the Interior in his Public Notice for the lands of the Boise Project outside the District, but the amount to be apportioned to the project lands in the District under this present contract shall not be in excess of Seventy-Five (\$75.00) Dollars per acre. The installments of the charges apportioned to the project lands in the District shall be due and payable from the District to the United States on the same dates as fixed by the Secretary of the Interior in his Public Notice for the payment of the charges for the lands of the Boise Project outside of the District. The District will be reimbursed by the United States for the cost of distributing the water to said project lands in the District by the payment to the District of the pro-rata share of the cost of operation and maintenance provided in the contract of April 1, 1909, between the District and the United States, until the expiration of said contract as provided in paragraph 11 hereof and thereafter under the new contract provided to be made in paragraph 11 hereof. The project lands in the District shall pay the same operation and maintenance charge per acre as announced by the Secretary of the Interior for similar lands of the Boise Project and the same shall be collected by the District for the United States and paid over by the District

to the United States, and upon notice from the officer of the United States in charge of the Boise Project, the District will withhold the delivery of water from such project lands in the District as are in default in the payment of said operation and maintenance charge.

13. It is fully understood that the old water right lands of the District shall not in any event be liable for any part of the charges herein agreed to be apportioned to and collected from the project lands, nor the project lands for any portion of the charges herein agreed to be apportioned to or collected from the old water right lands in the District, and the United States agrees to waive the right to hold either of said two classes of land for any part of the charges herein agreed to be apportioned to and paid by the other, but will look to the old water right lands for the old water right land charges and the project lands for the project land charges.

14. No interest will be charged on any of said installments for water to be supplied to said project lands in the District until due, but any part thereof which may remain unpaid after the same is due, shall bear interest from maturity until paid at ten (10%) per cent per annum, and the United States shall not be obliged to deliver or turn out for the District any water for such project lands in the District as

are in default on any of the payments herein provided to be made, Provided, the project lands in the District shall be subject to the same provisions as to residence, cultivation and limit of area as the lands of the Boise Project outside of the District.

15. The United States will assent to the release by the Payette-Boise Water Users' Association of such lands in the District as have been subscribed under stock subscription and contract to the said association, and have therefore become subject to the lien provided in such subscription and contract for the repayment of a proportionate part of the cost of the Payette-Boise Project from the lien and obligation of such stock subscription, and also release and cancel the contract under date of October 12, 1936, between the Nampa & Meridian Irrigation District and the Payette-Boise Water Users' Association, providing for a credit to the subscribed lands of the District for existing works, as regards both the old water right lands and the project lands.

16. The Payette-Boise Water Users' Association agrees to join in the release of said stock subscription contracts and liens upon conditions above stated, and its name is subscribed hereto in evidence thereof.

17. Where any appropriations of water have been made and water rights acquired by parties other than the District

out of any of the draws, sloughs or natural channels of the Nampa & Meridian Irrigation District, and such rights are interfered with by the deepening of such channels and the construction of the said drainage system in the District, it is understood that the money herein provided for the construction of drainage works shall be available for the satisfaction of any just claims for damages and of judgments, liabilities or obligations on account of, growing out of, or resulting from the interference with any such rights by the deepening of such channels and construction of such drainage system, and that the United States may pay such claims, judgments liabilities and obligations out of said money. Any lateral construction which may be agreed upon between the District and the United States as being necessary to replace the rights of flow through natural drainage lines, may be built by the United States as a part of the drainage system herein contemplated.

IN WITNESS WHEREOF, the parties hereto have caused their names and seals to be attached the day and year first above written, the Nampa & Meridian Irrigation District, and the Payette-Boise Water Users' Association, acting in pursuance of resolutions of their Board of Directors, of which

Nampa-Meridian Drainage System

Est. of Mar. 24, 1914

ESTIMATE OF COST

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The drainage ditches proposed for construction are listed below, together with their cost, size, yardage, and other information. All the ditches in the Nampa-Meridian District will discharge into drainage ditches now under construction in the Pioneer Irrigation District below the Phyllis Canal, with the exception of the Five Mile Creek Drainage System, and the Ten Mile Drainage System.

The proposed ditches will follow the natural drainage courses as closely as feasible, and these channels will be straightened and deepened.

Five Mile Creek	Wilson Slough
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Furjam Gulch	Elifah Slough
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These drains together with their branches:

Ten Mile Creek	Orr Slough
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Nine Mile Creek	Joseph Slough
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Sky Pilot Slough	Aaron Slough
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compose the entire drainage system.

~~SECRET~~ NY 100-443881A 200X

WORK OUTSIDE KAMPA-MERIDIAN DISTRICT

Five and Ten Mile Drainage System

Name	Det. Dis- Charge	Base Width	Water Depth in ft.	Area Drained Acres	Cubic Yds.
Five Mile Cr.	75-133	14-10	120.6-16.6	31,300	217,995
Ten Mile "	29-34	6	10.2-10.4	10,115	125,025
Total					343,020
			Add 20%		38,604
Total for System					381,624

ESTIMATED COST OF DRAINAGE SYSTEM

Work Within Kampa-Meridian District.

Five Mile Creek Drainage System.....	663,578	cu. yds.
Ten Mile Creek Drainage System	167,940	"
Furman Gulch Drainage System	144,221	"
	1,275,642	cu. yds.
		cu. y
Wilson Slough Drainage System	249,270	cu. yds
Blanch Slough Drainage System	357,451	"
	606,738	
Changes in Canal and Lateral System	22,317	
Total to be excavated within Kampa-Meridian Dist.	1,910,697	cu. yds
1,275,642 cu. yds. at 20¢	\$255,128.40	
606,738 " " " 16¢	109,212.80	
22,317 " " " 30¢	6,695.10	
Right of Way	25,595.00	
Canal crossings & Misch. Struct.	30,882.00	
Bridges	45,611.00	
Total	449,926.70	
Add 15% for Engineering & Incidentals	70,488.95	
Total cost work within District	\$540,415.25	

ESTIMATED COST OF WORK OUTSIDE OF HANPA-MERIDIAN DISTRICT
 Required to furnish an outlet for District drainage water and
 to serve as local drains for lands in Pioneer Irrigation Dist.)

Five Mile & Ten Mile Drainage System

Total Excavation.....	411,624 Cu. yd.
411,624 Cu. yds. at 20¢.....	\$82,324.80
Right of Way.....	580.00
Canal Crossings & M'nal. Structures....	3,160.00
Bridges.....	2,150.00
Total.....	\$91,814.80
15% for Engineering & Incidentals.....	13,772.20
Estimated Total Cost.....	\$105,587.00

These drains if made deep as contemplated in above estimate will drain certain lands in the Pioneer District and for that reason it is assumed that arrangements can be perfected to have the Pioneer District pay for one-half the cost of these drains but not to exceed \$50,000.00 leaving a balance estimated at \$55,587.00 to be paid jointly by the United States and the Hampa-Meridian District, which amount is figured to be ample for the construction of shallow drains in the event the Pioneer District prefers not to make such arrangements.

SUMMARY OF ESTIMATES

Total Cost Work Within Hampa-	
Meridian District	\$543,415.21
Total Cost Work Outside Hampa-	
Meridian District	105,587.00
Total Cost of Proposed Work	\$646,002.25
Estimated Share Assumed by Pioneer District	50,000.00
" " " " Hampa-Meridian	
District and United States	\$596,002.25

ESTIMATE OF COST GROUPED ON IMPORTANCE OF WORK

No. 1 DRAINAGE DITCHES

Name	Stations	Length in Miles	Earthwork	Cost
Five Mile Creek	74 to 356	5.34	261,594	86,595.15
Five Mile Creek	356 to 720	6.89	335,616	110,946.41
Ten Mile Creek	00 to 215	4.07	150,030	38,991.90
Ten Mile Creek	215 to 760	10.33	467,943	134,248.70
Nine Mile Creek	00 to 192	3.64	161,670	48,799.10
Wilson Slough	350 to 550	3.79	185,203	43,618.90
Blajuh Slough	300 to 494	3.68	148,385	41,015.60
Orr Slough	00 to 80	<u>1.51</u>	<u>64,068</u>	<u>15,752.9</u>
Total No. 1 Drains		39.25	1,774,506	499,968.90

No. 2 DRAINAGE DITCHES

Furman Gulch	230 to 422	3.64	144,024	42,495.00
Joseph Slough	00 to 153	2.00	114,192	27,933.00
Five Mile Creek	720 to 830	<u>2.08</u>	<u>85,068</u>	<u>36,572.00</u>
Total No. 2 Drains		7.62	353,304	107,001.00

No. 3 DRAINAGE DITCHES

Adron Slough	00 to 80	1.51	74,397	20,984.00
Sky Pilot Slough	00 to 120	<u>2.27</u>	<u>71,204</u>	<u>18,351.00</u>
Total No. 3 Drains		3.78	156,201	39,035.00

Summary of Groups According to Importance

Total Cost of No. 1 Drainage System.....	\$499,968.91
Total Cost of No. 2 Drainage System.....	<u>107,001.48</u>
Total Cost No. and No. 2 Drains.....	606,970.39
Total Cost No. 3 Drainage System.....	<u>39,035.32</u> <u>39,035.32</u>
Total Estimate	646,005.71

DISTRIBUTION OF COST

	Paid by Nampa-Meridian District and United States	Assumed Amt to be paid by Pioneer District	Total Cost
Estimated cost within Nampa-Meridian District - No. 1 & No. 2 Drains	201,383.00		201,383
Estimated cost outside of Nampa-Meridian District	55,587.00	50,000.00	105,587
	556,970.00	50,000.00	606,970
	or say 557,000.00		
to be paid by Government:	<u>201,000.00</u>		
To be paid by Nampa-Meridian District	266,000.00		