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AUG 28 2009

DEPARTMENT OF
WATER RESOURCES

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 39576

) Subcase No. 63-2392F
)
)
) STANDARD FORM 4
)
) MOTION TO FILE:
) ☒ LATE NOTICE OF CLAIM
) ☐ AMENDED NOTICE OF CLAIM
)

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing: BOISE PROJECT BOARD OF CONTROL

My name is: ALBERT P. BARKER

My address is: P.O. Box 2139

Boise, ID 83701-2139

My phone number is: (208) 336-0700

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

THIS POINT OF DIVERSION WAS INADVERTANTLY OVER LOOKED IN THE
ADJUDICATION PROCESS. THIS WAS DISCOVERED AFTER THE FINAL
REVIEW.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock
watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must
describe these documents and attach a readable copy. (You do not need to fill this out
if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must**
attach a copy of your Notice of Claim.)

SEE EXHIBIT A (ATTACHED), THE DECREE AND COURT ORDER GRANTING
THIS WATER RIGHT.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have also enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$_____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$50.00 for late fee; claim filing fee on acres previously paid with other rights.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on: NOVEMBER 17, 2009 AT 1:30 P.M.
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An Amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (must be completed)

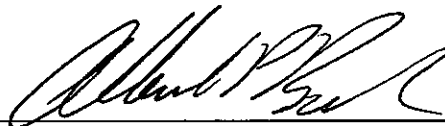
State of Idaho

County of Ada

ALBERT P. BARKER, being first duly sworn, upon oath, deposes and says:

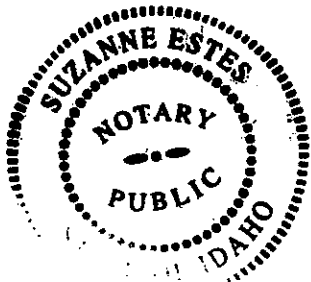
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion



Attorney signing in representative capacity

Subscribed and sworn to before me on August 27, 2009.



Notary Public for the State of Idaho

Residing at: Böise Idaho

My Commission expires: June 1, 2012

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I certify that on August 27, 2009, 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, ID 83303-2707

2. Copies to:

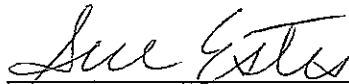
IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

3. If you are filing an amended Notice of Claim in a Subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that Subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form

IN THE DISTRICT COURT
OF THE
THIRD JUDICIAL DISTRICT
OF THE
STATE OF IDAHO
COUNTY OF ADA

For the State of Idaho
District No. 3, of
Ada County, State of
Idaho

DEFENDANT

August 13th 1925

By *John W. C.* *Att.*
By *Wm. E. C.* *Att.*
By *Wm. E. C.* *Att.*

P. E. CAVANEY
LAWYER
SUITE 401 IDAHO BUILDING
BOISE, IDAHO

35
33
30



#13 - *Handwritten*
Water District 12-A

WATER DISTRICT 12-A

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

IS THE MASTER OF DRAINAGE DISTRICT)
NO. 3, OF ADA COUNTY, STATE OF IDAHO.)

COPY
ORDER...

The petition of Lefe Boone, C.A. Groves and Matt Beglen, Commissioners of Drainage District No. 3 of Ada County, State of Idaho, having been presented and considered by the Court, and it appearing therefrom that said commissioners, as trustees, having heretofore filed upon the developed water made available by the construction of the drainage system herein before mentioned in the amount of about 1500 inches, for the benefit of the lands within the said drainage district, which filing has been approved by the Department of the Reclamation of the State of Idaho, and Permit No. 16, 237, having been duly issued by said Department to Commissioners of said drainage district, and it further appearing that there is now available for distribution to the respective drainage canals supplying water to the land within said drainage district, No. 3, about 1000 inches of water, developed as appears by the verified petition on file herein, without in any manner interfering with prior existing rights in the said Boise River.

NOW THEREFORE, IT IS ORDERED, That the WaterMaster of Boise River, be and he hereby is authorized to ratably distribute the water made available for irrigation purposes by reason of the construction of the said drainage system in Drainage District No. 3, of Ada County, State of Idaho, to the respective canals supplying irrigation water to the lands within said drainage district, not to exceed 1000 inches of said developed water or such portion of said 1000 inches as he shall determine, without interfering with prior existing

water rights in the said Boise River.

IT IS FURTHER ORDERED, that such diversion and distribution be by said Water Master continued when the water can be beneficially applied and the quantity of water distributed may be diminished or increased from time to time, such increase however, not to exceed 1500 inches, according to the data and information which is now available to said Water Master, or which may from time to time be furnished to him, until further order of this Court, and,

IT IS FURTHER ORDERED, that the Commissioners of Drainage District No. 3, of Ada County, State of Idaho, as soon as convenient, provide proper means for and supply the Water Master of Boise River with the necessary data and information upon which he may distribute said water in its rateable proportion to the respective irrigation canals, supplying irrigation water to the lands within said Drainage District.

Dated this 13th day of August, 1925.

Clinton H. Hartson
District Judge.

State of Idaho }
County of Ada } ss.

I, Stephen Utter, Clerk of the Third Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify the foregoing to be a full, true and correct copy of the original order in the above entitled matter with respect to the distribution of the devolved water made available by the construction of the drainage system in Drainage District No. 3, of Ada County, State of Idaho; that the same was filed in my office on the 13th day of August, 1925, and is still on file therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 13th day of August, 1925.

Stephen Utter
Clerk
W. E. Russell

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AUG 28 2009

DEPARTMENT OF
WATER RESOURCES

SRBA Form No.42-1409-1 (Internet 2/09)

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number _____

Date Received: _____

Receipt No: _____

Received By: _____

**NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant (s) Boise Project Board of Control Phone (208) 344-1141

Mailing Address 2465 Overland Rd. Boise ID ZIP 83705
Street or Box City State

2. Date of Priority (Only one (1) per claim) 8/13/1925
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Waste Water
which is tributary to (b) Boise River

4. a. Location of Point of Diversion is: Township 2N, Range 3E, Section 3,
NW, 1/4 of SW, 1/4 Govt. Lot _____, BM., County of Ada

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. New York Canal diversion structure at the Diversion Dam on the
Boise River.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For irrigation purposes from 3/01 to 11/15 amount 7.65 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 7.64 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)

9. Description of place of use: Large POU, See attached map

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Parcel (PIN) no(s).

Total number of acres irrigated 164,641

10. In which county (ies) are lands listed above as place of use located? Ada

11. Do you own the property listed above as place of use? Yes () No (✓)

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

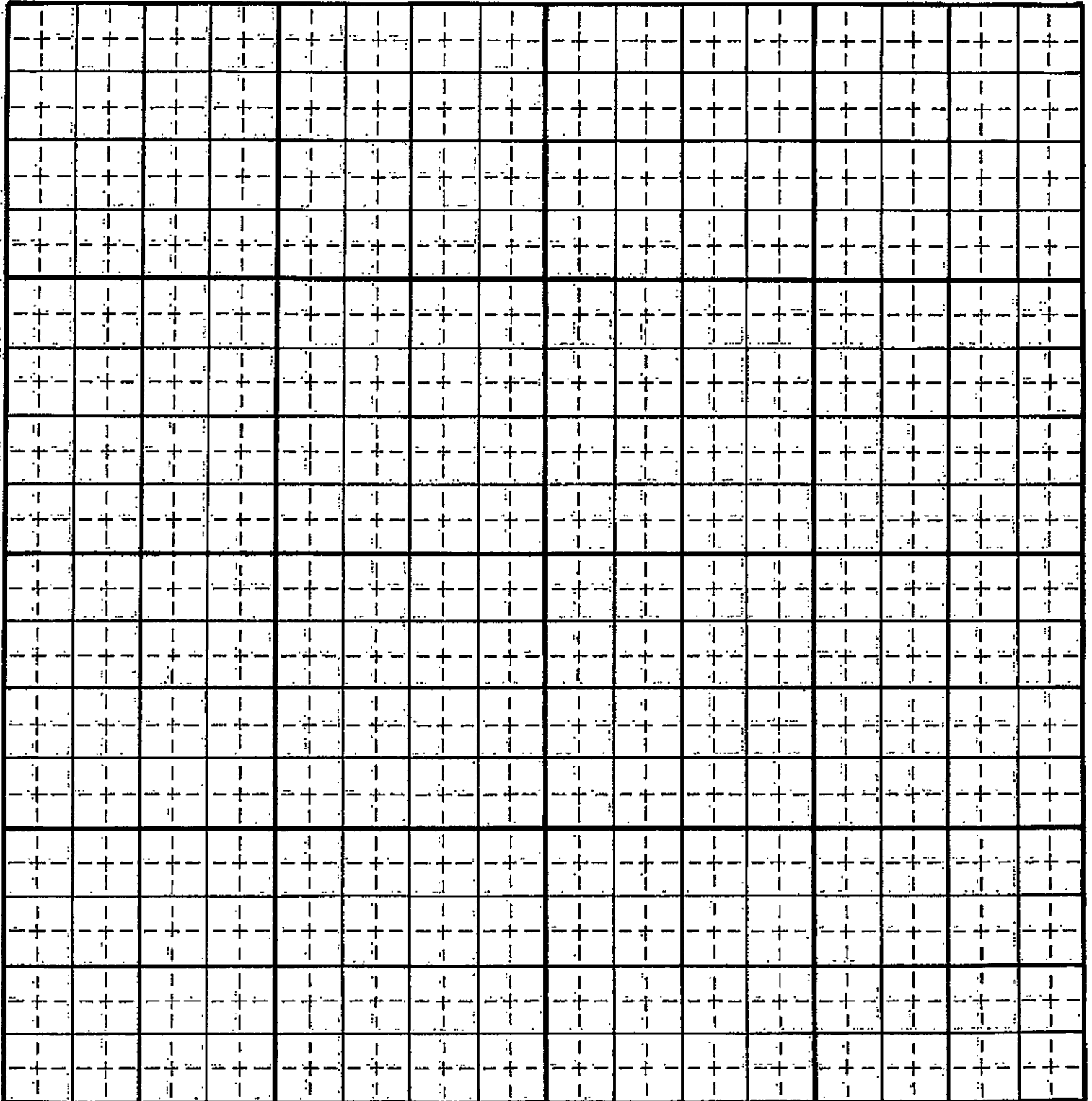
All water rights in the same POU. or None ()

13. Remarks: The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho constitutional and statutory law title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the boundaries of the districts listed in the place of use remark for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

Last Name Boise Project Board of Control Identification No.

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below. See Attached Map

Scale: 2 Inches equals 1 mile



Last Name Boise Project Board of Control Identification No. _____

14. Basis of Claim (Check One) Beneficial Use () Posted Notice () License (✓) Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 63-2392F

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do () do not (✓) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Albert P. Barker, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address Barker Rosholt & Simpson, LLP

P. O. Box 2139, Boise, ID 83701-2139

Last Name Boise Project Board of Control Identification No. _____

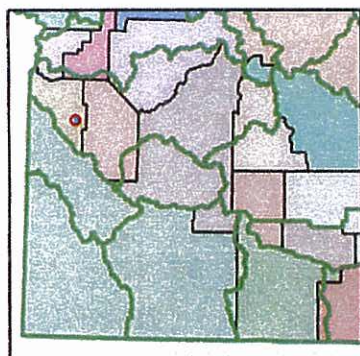


Idaho Department of Water Resources

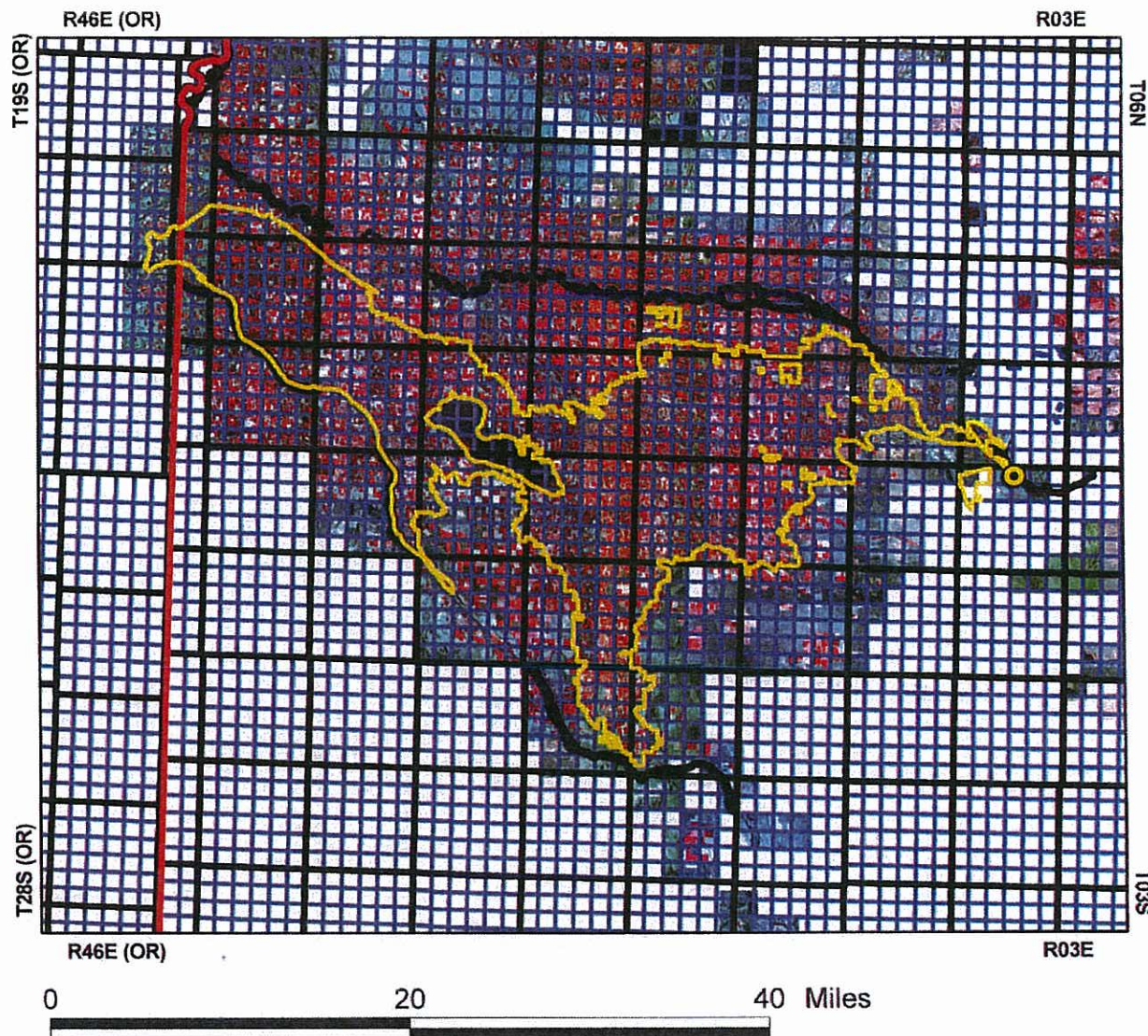
Adjudication Claim:
63-136

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections



Ada, Canyon, Owyhee Counties
IDWR Basin 63



Prepared by A. Warntjes
On Tuesday, April 4, 2006
1987/88 Aerial Photography