

DEPARTMENT OF
WATER RESOURCES

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), LETTER WITH DESCRIPTION OF CLAIM, AND PHOTOGRAPHS.

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:

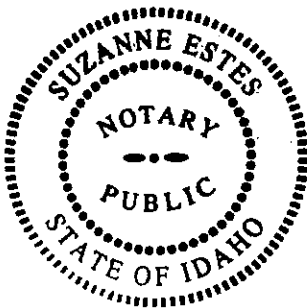
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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

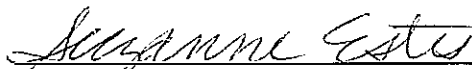
Signature of person filing motion



Attorney signing in representative capacity

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





Notary Public for the State of Idaho

Residing at: Boise, 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:

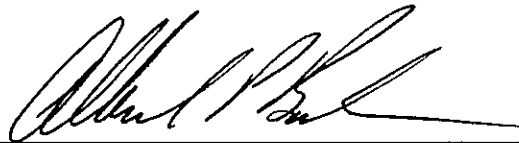
IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

23 April 2009

Paul J. Deveau, Project Manager, BPBC
2465 Overland Road
Boise, Idaho 83705-3155

RE: Blacks Creek
S. Cole Rd.
SE1/4, Sec. 24, T2N, R1E, BM.
SW1/4, Sec. 19, T2N, R1E, BM.

Paul:

The pictures associated with this letter will show and hopefully explain what we would assume is the flow headed toward the New York Canal at this location.

Exhibit A is looking upstream from the bridge crossing.
Exhibit B is looking downstream from the bridge crossing.
Exhibit C, D & E is looking at the bridge from the west side.

The bridge opening is 8' wide and 38' long.

The elevation of the high water mark shown on Exhibit C, D & E is 7.44 and the highest ground elevation west of the bridge shown in Exhibit B is 8.02, which would make a difference of .58. Assuming this would be considered the average depth of the water under the bridge at .10 of fall for 38' with an n factor of .030 would give it a longitude slope of .00263, which would result in a flow of 7.5 CFS at this location.

Sincerely,

Tim Page
Assistant Project Manager, BPBC

tmp

cc: Phil Comegys Watermaster, Div; 2 BPBC
File

23 April 2009

Paul J. Deveau, Project Manager, BPBC

Phil Comegys, Watermaster, Div; 2 BPBC

File

Exhibit A



Black's Creek

Looking East of
Cale Road

Highwater	9.04
Bottom	<u>8.02</u>
	1.02

Bridge 8' wide
Length 33'

Exhibit B



Looking west of Cole R.

Exhibit C



West side looking under
Bridge.

Exhibit D



West side

Exhibit E



West side.

RECEIVED

AUG 28 2009

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

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 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) 12/14/1903
Month Day Year (YYYY)

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

4. a. Location of Point of Diversion is: Township 2N, Range 1E, Section 15,
SW, 1/4 of NE, 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. Water is diverted by a structure into the New York Canal where it intersects Blacks Creek/10 Mile Drain.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For irrigation purposes from 1/01 to 12/31 amount 7.5 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 7.5 (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.

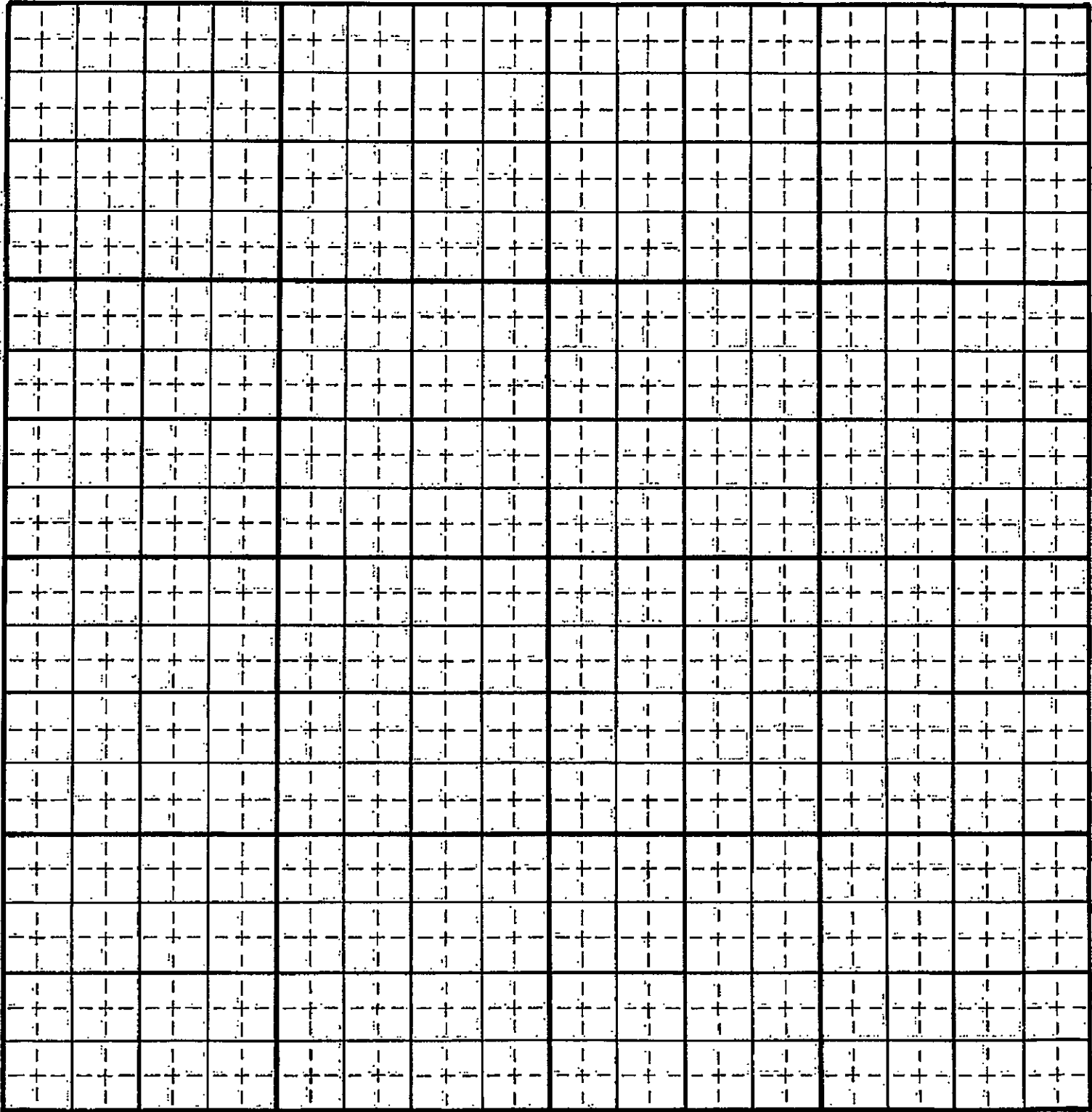
All water rights in the same POU. or None ()

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. Large POU, see attached map

Scale: 2 Inches equals 1 mile



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 _____

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. _____



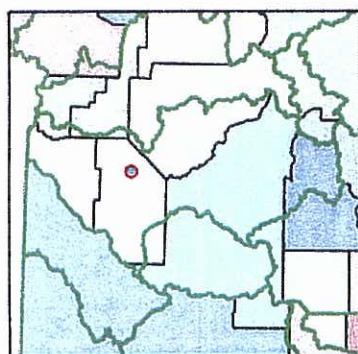
Idaho Department of Water Resources

Adjudication Claim:

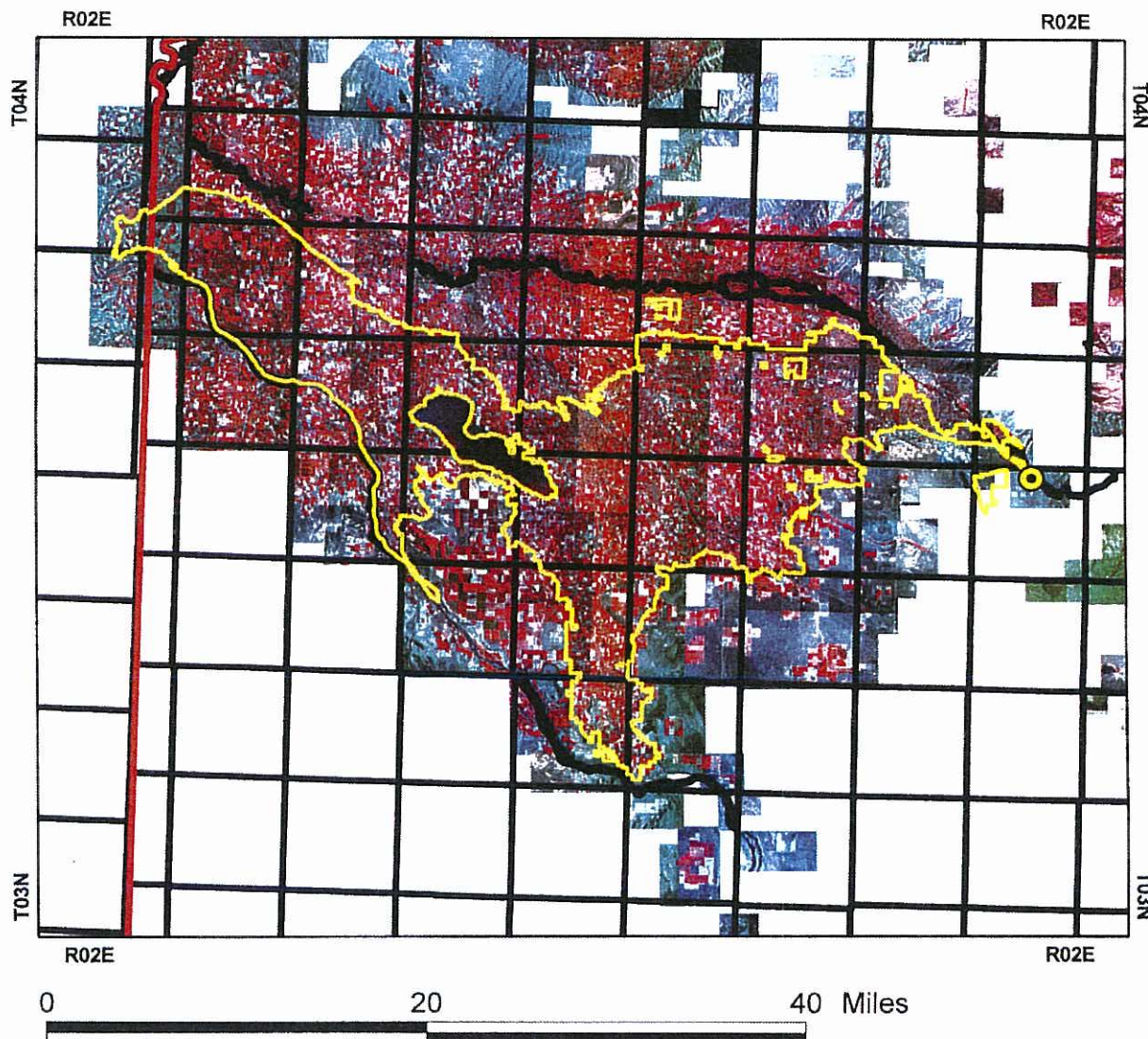
63-301

Legend

-  Point of Diversion
-  Place of Use
-  Townships



Ada County
IDWR Basin 63



Prepared by A. Warntjes
On Thursday, April 6, 2006
1987/88 Aerial Photography