

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

C089681

Ident. Number 63-33253
Date Received: 8/21/2009
Receipt No: C089636,

Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

BOISE PROJECT BOARD OF CONTROL Phone: (208)336-0700

ATTN ALBERT BARKER
BARKER ROSHOLT
PO BOX 2139
BOISE ID USA 83702-2139

2. Date of Priority: 12/14/1903

3. Source: BLACKS CREEK Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
02N	01E	15	SW NE	ADA	

5. Description of diverting works:

Water is diverted by a structure into the New York Canal where it intersects Blacks Creek/10-Mile Drain.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	01/01	12/31	7.5	

7. Total Quantity Appropriated is:
7.5 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
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11. Place of use in counties:

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

The name and address of the Boise Project Board of Control appears in the Name and Address section of this partial decree. The Boise Project Board of Control is the operating agent of the Nampa-Meridian Irrigation District, Boise Kuna Irrigation District, New York Irrigation District, Wilder Irrigation District and Big Bend Irrigation District. Pursuant to Idaho law, this right is appurtenant to the lands within the boundaries of or served by these irrigation districts.

15. Basis of Claim: Beneficial Use

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice 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 Organizations:

I do solemnly swear or affirm that I am _____ of
Title

_____, that I have signed the foregoing
Organization
document in the space below as _____ of
Title

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

Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

RECEIVED

NOV 08 2010

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

WATER RESOURCES
WESTERN REGION

**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 63-33253

Date Received: _____

Receipt No: _____

Received By: _____

AMENDED

**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 83705
Street or Box City State ZIP

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) Blacks Creek
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.

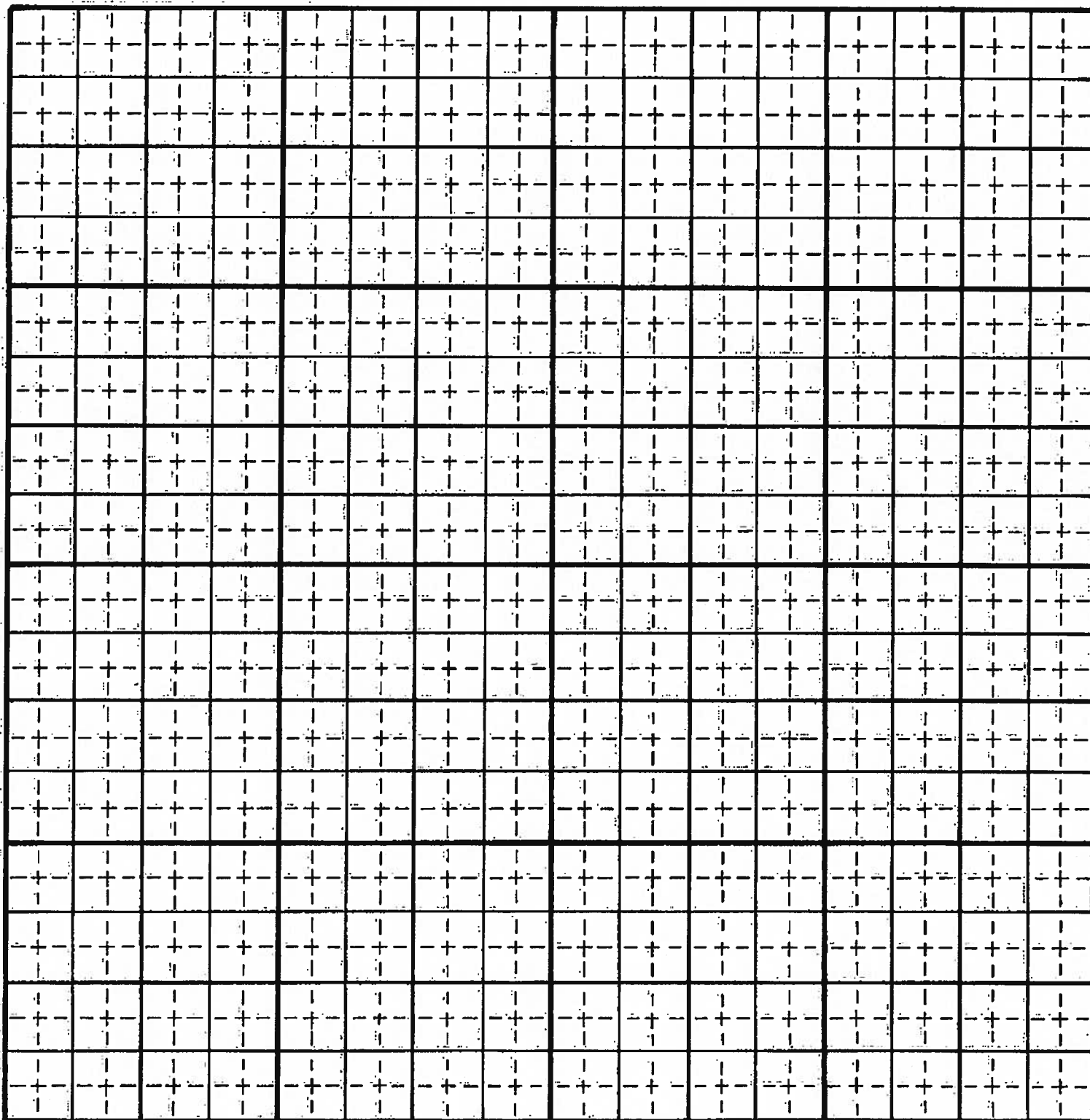
All water rights in the same POU. or None ()

13. Remarks: The name and address of the Boise Project Board of Control appears in the Name and Address section of this partial decree. The Boise Project Board of Control is the operating agent of the Nampa-Meridian Irrigation District, Boise-Kuna Irrigation District, New York Irrigation District, Wilder Irrigation District and Big Bend Irrigation District. Pursuant to Idaho law, this right is appurtenant to the lands within the boundaries of or served by these irrigation districts.

Last Name Boise Project Board of Control Identification No. 63-33253

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 _____,
Manager Title Boise Project Board of Control Organization

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

_____ of _____,
Manager Title Boise Project Board of Control Organization

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

Signature of Authorized Agent Paul J. Barker Date 11-4-10

Title and Organization Project Manager

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. 63-33253

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-141l(2) (h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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

The name and address of the Boise Project Board of Control appears in the Name and Address section of this partial decree. The Boise Project Board of Control is the operating agent of the Nampa-Meridian Irrigation District, Boise Kuna Irrigation District, New York Irrigation District, Wilder Irrigation District and Big Bend Irrigation District. Pursuant to Idaho law, this right is appurtenant to the lands within the boundaries of or served by these irrigation districts.

The source of this water right may include waste water. Any waste water remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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 - Beneficial Use

Shurte, Jan

From: Shurte, Jan
Sent: Friday, December 20, 2013 11:41 AM
To: Barker, Albert (IWRB Member)
Subject: RE: Water Right Claim Nos. 63-33251 and 63-33253

Hi Al,

I have no problem with the cfs amount based on the measurement submitted. However, we do have a question concerning the priority date of 1909. There is a thought that until the Kuna-Mora Canal was built in 1911 increasing the amount of wastewater into Indian Creek and the New York Canal that the 104 cfs from Indian Creek would not have been available until the spring of 1912. I am attaching page 9 of a report Carter gave to me on risk assessment of canals which shows the timeline of the Kuna-Mora Canal.

The proposal is to recommend the 104 cfs with a 3/1/1912 priority date for Indian Creek on 63-33251 and 7.75 cfs with a 3/1/1909 priority date for Ten Mile Creek on 63-33253.

Please let me know if you have any problems with the above assessment. We will be putting the report together next week and still have time for changes up to Christmas.

Thanks,
Jan

From: Albert Barker [<mailto:apb@idahowaters.com>]
Sent: Thursday, December 19, 2013 9:36 AM
To: Shurte, Jan
Cc: tpage@boiseproject.org; Fritschle, Carter
Subject: FW: Water Right Claim Nos. 63-33251 and 63-33253

Jan-

Attached is a letter with some information on these two late claims.

Albert P. Barker
Barker Rosholt & Simpson LLP
1010 W Jefferson, Suite 102
Boise, Idaho 83702
(208) 336-0700

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RISK ASSESSMENT: DAM/LEVEE/CANAL FAILURE

CHAPTER 3

Twin Falls County Dam – 1984: Salmon Falls Creek release caused flooding

Kirby Dam Failure – 1991: During the summer of 1990, it became apparent that the old log crib structure of the Kirby Dam near Atlanta had become unsound and was in jeopardy of failing. The possibility of failure was of special concern due to the large quantity of mine runoff and tailings that had collected behind the dam over the years. A strategy to stabilize the dam was developed by the Idaho Department of Water Resources and the U.S. Forest Service but was unsuccessful. On May 26, 1991, Kirby Dam collapsed, cutting off electrical power and blocking the primary access bridge to Atlanta. Contaminated sediments (containing arsenic, mercury, and cadmium) were released into the Middle Fork of the Boise River.

Brown's Pond Dam – 2010: Browns Pond Dam overtop and breach during rain on snow event - federal declaration (DR1927)

Levee Failure

Kootenai County Levee Failure – 2011: Hayden Lake imminent threat from wave erosion on dike

Canal Failure

New York Canal Failure – 1917, 1955, 1959: Built from 1906-1908 and enlarged in 1912, the canal runs through Boise, ID west for 40 miles to Lake Lowell. The structure's capacity is 2,800 cfs.

Ridenbaugh Canal Failure – 1973

Gem County Canal Failure – 2005: Occurred in Emmett, breach necessitated assistance from Gem County Road and Bridge Dept.

Mora Canal Failure – 2006: Constructed from 1909-1911 in Kuna, ID with a 1,300 cfs capacity, the canal breached due to unknown causes.

Logan Northern Canal Failure (Utah) – 2009: Southeast neighboring community Logan, Utah suffered a 2009 failure of the Logan Northern Canal resulting in 3 deaths and extensive residential damages. Just three years prior a Utah State University thesis warned the community of this danger as did multiple landslide studies.

Canyon County Canal Failure – 2010: Occurred in Wilder, Washed out road

Canyon County Canal Failure – 2011: Occurred in Caldwell, Flooded street, no apparent damage to homes, caused by gophers

Canyon County Canal Failure – 2011: Occurred in Caldwell, Washed out roads and flooded several homes

Elmore County Canal Failure – 2011: Occurred in Glenns Ferry, Flooded homes, basements, and streets, damaged a section of main railroad tracks

DRAFT

12/12/2013

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33253

NAME AND ADDRESS: BOISE PROJECT BOARD OF CONTROL
ATTN ALBERT BARKER
BARKER ROSHOLT
PO BOX 2139
1010 W JEFFERSON ST STE 102
BOISE ID 83702-2139

SOURCE: TENMILE CREEK

TRIBUTARY: BOISE RIVER

QUANTITY: 7.500 CFS

PRIORITY DATE: 03/01/1909

Pursuant to a call in times of scarcity, this right is junior to Water Right Nos. 63-329B, 63-330B, 63-331B, 63-332 and 63-379 in the name of the Pleasant Valley Irrigation Co Ltd.

POINT OF DIVERSION:

T02N R01E S15 SWNE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	7.500 CFS

PLACE OF USE:

167000 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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

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 - Beneficial Use

The name and address of the Boise Project Board of Control appears in the Name and Address section of this partial decree. The Boise Project Board of Control is the operating agent of the Nampa-Meridian Irrigation District, Boise Kuna Irrigation District, New York Irrigation District, Wilder Irrigation District and Big Bend Irrigation District. Pursuant to Idaho law, this right is appurtenant to the lands within the boundaries of or served by these irrigation districts.

BPBC Meeting with Al Barker and Tim on – 12-11-13

Blacks/Ten Mile Creek - 63-33253

Per the meeting and comments by Tim, project mgr, and Attorney Al Barker, Blacks Creek – actually shown as Ten Mile Creek on Topo map and will be referred to as Ten Mile Creek from this point on, does not flow through the NYC. It dead ends at the NYC and the flow that is seen on the other side is actually seepage from the canal and groundwater caused by irrigation from the canal and seepage. So, all the flow of Ten Mile Creek is captured at that point and the only flow going down after that is wastewater – per their description.

7.5 cfs is based on a theoretical calculation – see file.

They are willing to subordinate this right to the Pleasant Valley Id rights which were in a decree upstream for the Blacks Creek Reservoir dating back to 1907. I will need to include the subordination clause in this right subordinating this right to all of the Pleasant Valley ID rights.

They are willing to use 1909 as the priority date because that is when there was 1500 cfs flowing down the NYC to Indian Creek and the Blacks Creek rights for storage date back to 1907. With the subordination that priority will be ok. *STORAGE RT 1912*

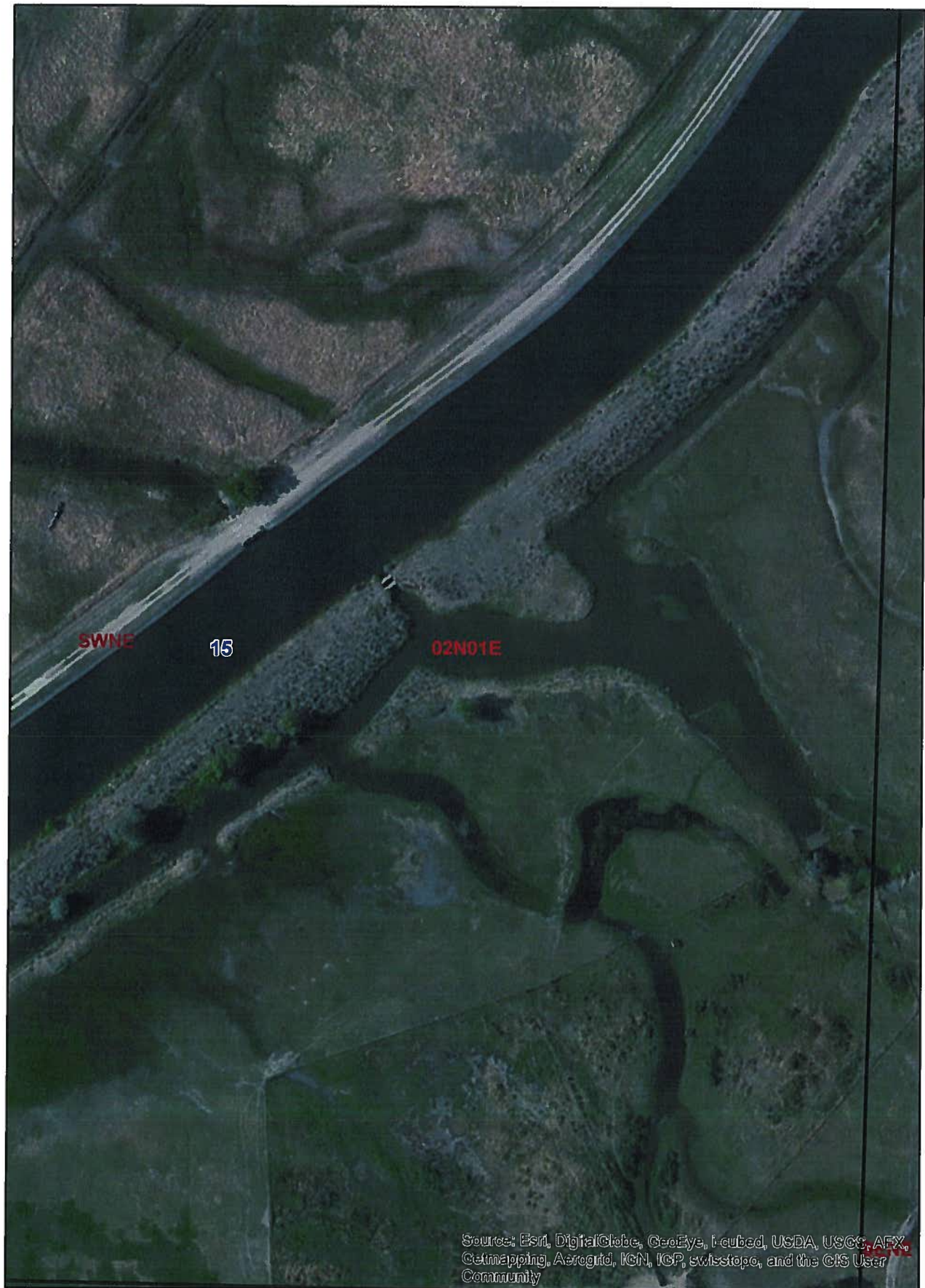
→ WHEN CANAL WAS ENLARGED IN 1909 FROM 200 cfs TO 1500 cfs.

Need the wastewater remark on this one. Janicek remark.

PLEASANT VALLEY ID RTS.

63- 329B, 330B, 331B, 332 & 379

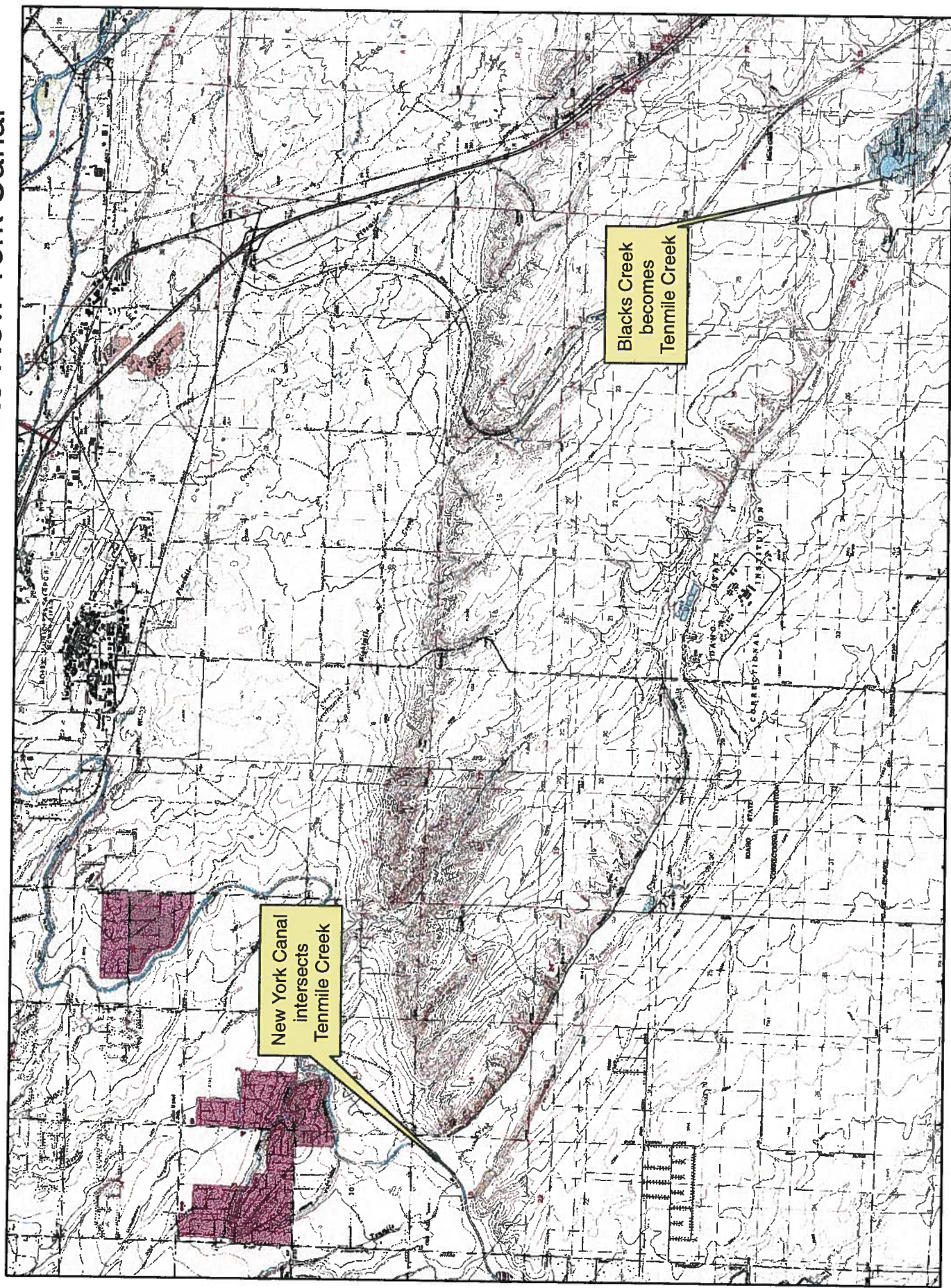
Point where n Mile Creek intersects N York Canal



0 70 140 280 Feet



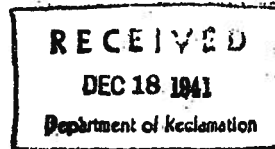
Tenmile Creek from Blacks Creek Reservoir to New York Canal



Blacks Creek Decree

PLEASANT VALLEY
1908 PRIORITY
TEN MIKE
DECREE RTS.

630



THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO FOR THE COUNTY OF ADA.

Entered and filed
Dec 21, 1939

Stephen Little
Plaintiff, *By B. Clyde Eagleton, Deputy*

vs.

THOMAS LORD, DONALD LORD,
and OLIVER LORD,

Defendants.

DECREE.

This cause came regularly on for trial in open court before the court without a jury at the Ada County Court-house, Boise, Idaho, on the 25th day of April, 1939, plaintiff appearing by its attorneys, Davison & Davison and Edwin Snow, and defendants appearing by their attorneys, Elmer A. Burke and T. L. Martin.

Witnesses were sworn and examined and their testimony received, documentary evidence was introduced, and the cause argued and submitted, and the court having considered the matter, thereafter filed herein its findings of fact and conclusions of law; and in accordance therewith, it is now

advised, adjourned, and decreed as follows:

I.

That plaintiff is and has been since the year 1914 a corporation duly organized and existing under the laws of the State of Idaho, and continuously engaged in the business of operating an irrigation system belonging to it, known as the "Pleasant Valley Irrigation Project", in Ada County, Idaho, and distributing to its stockholders therefrom for ir-

irrigation, domestic, and stock use upon their lands herein-
after described, the waters of Ten-Mile Creek and its trib-
utaries in said county; that the lands of its stockholders
to which it is and has been during all of said period dis-
tributing said waters for irrigation are described as follows:

Lots Three (3) and Four (4) and the Southeast
quarter of the Northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of
Section 3;

All of Section Four (4);

Southeast quarter (SE $\frac{1}{4}$), West half of the South-
west quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$), Northeast quarter of the
Southwest quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 5;

Southeast quarter (SE $\frac{1}{4}$), West half of the South-
west quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$), Southeast quarter of the
Northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$), Southwest quarter of
the Northeast quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$), and Lots One (1),
Two (2), and Three (3) of Section 6;

Northeast quarter (NE $\frac{1}{4}$), North half of the South-
east quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$), and Lot One (1) of Section 7;

Northwest quarter (NW $\frac{1}{4}$) of Section 8;

Southwest quarter of the Southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$),
Northeast quarter of the Southeast quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$)
of Section 31,

all in Township 1 North, Range 3 East Boise Meridian.

Lots Three (3) and Four (4), Southwest quarter of
the Southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$), Southeast quarter
of the Northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 2;

Lot One (1), Northwest quarter of the Southwest
quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 3;

Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$)
and Lot Four (4) of Section 10;

Southeast quarter of the Northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$),
Northwest quarter of the Northwest quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$)
of Section 29;

West half of the Southwest quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$), South-
east quarter of the Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of
Section 31;

Southeast quarter of the Southeast quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$),
South half of the Southwest quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of
Section 34;

all in Township 2 North, Range 2 East Boise Meridian.

That prior to the year 1914, plaintiff's said irrigation project was successively owned and operated by certain persons in interest which, like itself, were mutual co-irrigation companies distributing water for the irrigation of the lands of their respective stockholders which were the same lands as above described.

22.

63 0329 (a) 200 miner's inches with priority of ~~March 2, 1933~~;
63 0330 (b) 200 miner's inches with priority of ~~March 2, 1933~~;
63 0331 (c) 250 miner's inches with priority of ~~March 2, 1933~~;
63 0332 (d) 650 miner's inches with priority of ~~March 2, 1933~~.

2-3

At the head of plaintiff's ditch in the South-west quarter (S.W. 1/4) of Section 31, Township 2 North, Range 3 East Boise Meridian;

III.

630379 → That in addition to the rights herein decreed to plaintiff in the natural flow waters of Ten-Mile Creek and its tributaries during the irrigation season, [REDACTED] HAS the further right to store in its reservoir (located on [REDACTED] [REDACTED] Creek in Sections 31 and 32, Township 2 North, Range 3 East Boise Meridian, and Sections 1 and 6, Township 1 North, Range 3 East Boise Meridian) all the waters flowing in said stream and its tributaries during the non-irrigation season in that term is hereinafter defined, up to the capacity of the said reservoir, which capacity is 7,500 acre feet; and the said right of plaintiff to store in its reservoir and thereafter use the waters of said stream and its tributaries during the non-irrigation season in no manner interferes with or infringes upon any rights of defendants. Plaintiff is also hereby decreed the right, with priority of [REDACTED] to store said waters in said reservoir at any other time than during said non-irrigation season when by so doing it will not interfere with the prior rights of defendants herein decreed; and plaintiff may release said stored water at its pleasure through the gates of its said reservoir and divert the same at the point of diversion described in the preceding paragraph hereof and use the same for the irrigation of and domestic and stock use upon its lands aforesaid.

IV.

That defendants, Donald Lord and Oliver Lord, are entitled to divert and use the following amounts of the natural flow waters, during the irrigation season, of [REDACTED] Creek and its tributaries, with the respective priorities specified:

63 0333 (a) 5 miner's inches with priority of [REDACTED]

63 0334 35 miner's inches with priority of [REDACTED]

63 0335 10 miner's inches with priority of [REDACTED]

The foregoing rights are allotted for the irrigation of and domestic and stock use upon the following described lands:

Lots One (1) and Two (2) and the South half of the Northeast quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 1, Township 1 North, Range 3 East Boise Meridian, referred to in the findings of fact herein as the "Hoffman Tract";

Lot Four (4), the Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), and the Southwest quarter of the Southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 31, Township 2 North, Range 4 East Boise Meridian, referred to in the findings of fact herein as the "Corbus desert entry".

The point of diversion of said water is described as follows:

A point in the Southwest quarter of the Southeast quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 31, Township 2 North, Range 4 East Boise Meridian.

63 0336 (b) 45 miner's inches with priority of [REDACTED]

The immediate foregoing right is allotted for the irrigation of and domestic and livestock use upon the following described lands:

East half of the Southwest quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$), Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), and the Southwest quarter of the Southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 32, Township 2 North, Range 4 East Boise Meridian, said lands being referred to in the findings of fact herein as the "Gray Tract";

Northeast quarter of the Southwest quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 32, Township 2 North, Range 4 East Boise Meridian, said tract being referred to in the findings of fact herein as the "Packus Forty".

The point of diversion of said last mentioned water is described as follows:

At the head of defendants' ditches in or near the Northwest quarter of the Northeast quarter (NW1/4) of Section 32, Township 2 North, Range 4 East Boise Meridian.

V.

The term "miner's inch" of water as used in this decree means one-fiftieth of a cubic foot per second; the term "irrigation season" as used in this decree means the period from ~~March 1st~~ ^{March 20th} to November 1st of each year; the term "non-irrigation season" as used in this decree means the period beginning November 1st of each year and continuing to ~~March 1st~~ ^{March 20th} of the succeeding year.

VI.

The parties hereto shall, before beginning the diversion of water at the commencement of the ensuing irrigation season hereafter, install at the head of each of their respective ditches where water is permitted to be diverted from the stream in accordance with the terms of this decree a suitable head gate equipped with a measuring device whereby the amount of water at any time diverted through said ditch can be regulated and the amount so diverted may be determined and all water herein allotted and decreed shall be measured at said points of diversion.

VII.

The defendants, and each of them, are hereby ordered forthwith to remove and keep removed that certain dam or obstruction heretofore constructed and maintained by them in the channel of Big Creek, a tributary of Ten-Mile Creek, which obstruction is located in the Southwest quarter (SW1/4) of Section 32, Township 2 North, Range 4 East Boise Meridian; and the said defendants, and each of them, their servants, agents, and

successors in interest, are hereby perpetually enjoined and restrained from constructing or maintaining in the channel of Ten-Mile Creek (or ~~any of its tributaries~~), or any of its tributaries, any dam or obstruction (except dams equipped with measuring devices and reasonably required for the diversion of water at the points of diversion herein specified for defendants) whereby the waters of Ten-Mile Creek or any of its tributaries is prevented or hindered from flowing freely down the channel of the water course to plaintiff's reservoir; and the several parties hereto, and the agents, servants, employees, and successors in interest of each of them, respectively, are hereby, and each of them is hereby, enjoined and restrained from any and all interference with or diversion or use of the waters of Ten-Mile Creek or its tributaries except in the manner and to the extent and for the purposes specified in this decree.

VIII.

The court reserves jurisdiction of this cause for the following purposes:

- (a) To enforce the provisions of this decree.
- (b) In case during any subsequent irrigation season, by reason of natural conditions, and not by ^{improper} diversions of water by defendants upstream, there should at any time be water available for diversion at defendants' points of diversion which even though not diverted or interfered with would not reach plaintiff's reservoir on account of the character of the creek bed or other natural cause, but would instead be wholly lost and wasted, then under such conditions (if not caused by any act of defendants) defendants may upon not less than 5 days' notice to plaintiff make application to the court to be

permitted to use said water during the period while such condition obtains; and the court hereby reserves jurisdiction to permit by its subsequent order upon such application of defendants the use of such water by defendants when it shall clearly appear to the court that such use by defendants will in no manner deprive plaintiff of the use of any of the water allotted to it by the terms of this decree.

It.

That plaintiff have an recovery against defendants its costs herein, taxed at \$120.75.

Dated this 21st day of December, 1939.

Charles E. Winstead

District Judge.

STATE OF IDAHO, }
County of Ada } ss.

CERTIFICATE

I, OTTO F. PETERSON, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the foregoing is a true and correct copy of the original Decree in the case of the Pleasant Valley Irrigation Company, Limited, vs. Thomas Lord et al

filed in the above entitled action and remaining now on file in my office at Boise City, Ada County, Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 17th day of December 1941.

By _____ Deputy.

Otto Peterson

Clerk.

10/30/2013

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33253

NAME AND ADDRESS: BOISE PROJECT BOARD OF CONTROL
ATTN ALBERT BARKER
BARKER ROSHOLT
PO BOX 2139
1010 W JEFFERSON ST STE 102
BOISE ID 83702-2139

SOURCE: TENMILE CREEK TRIBUTARY: BOISE RIVER

QUANTITY: 7.500 CFS

PRIORITY DATE: 12/14/1903

POINT OF DIVERSION:

T02N R01E S15 SWNE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	7.500 CFS

PLACE OF USE:

167000 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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

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 - Beneficial Use

The name and address of the Boise Project Board of Control appears in the Name and Address section of this partial decree. The Boise Project Board of Control is the operating agent of the Nampa-Meridian Irrigation District, Boise Kuna Irrigation District, New York Irrigation District, Wilder Irrigation District

and Big Bend Irrigation District. Pursuant to Idaho law, this right is appurtenant to the lands within the boundaries of or served by these irrigation districts.



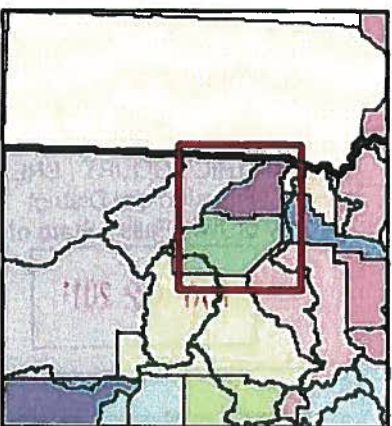
Boise Project Board Of Control

Adjudication Recommendations: 63-136, 63-137B, 63-200A, 63-233K

Irrigation Service Area Boundary
GIS Place of Use Illustration

Legend

-  Service Area
-  State Outline
-  Townships



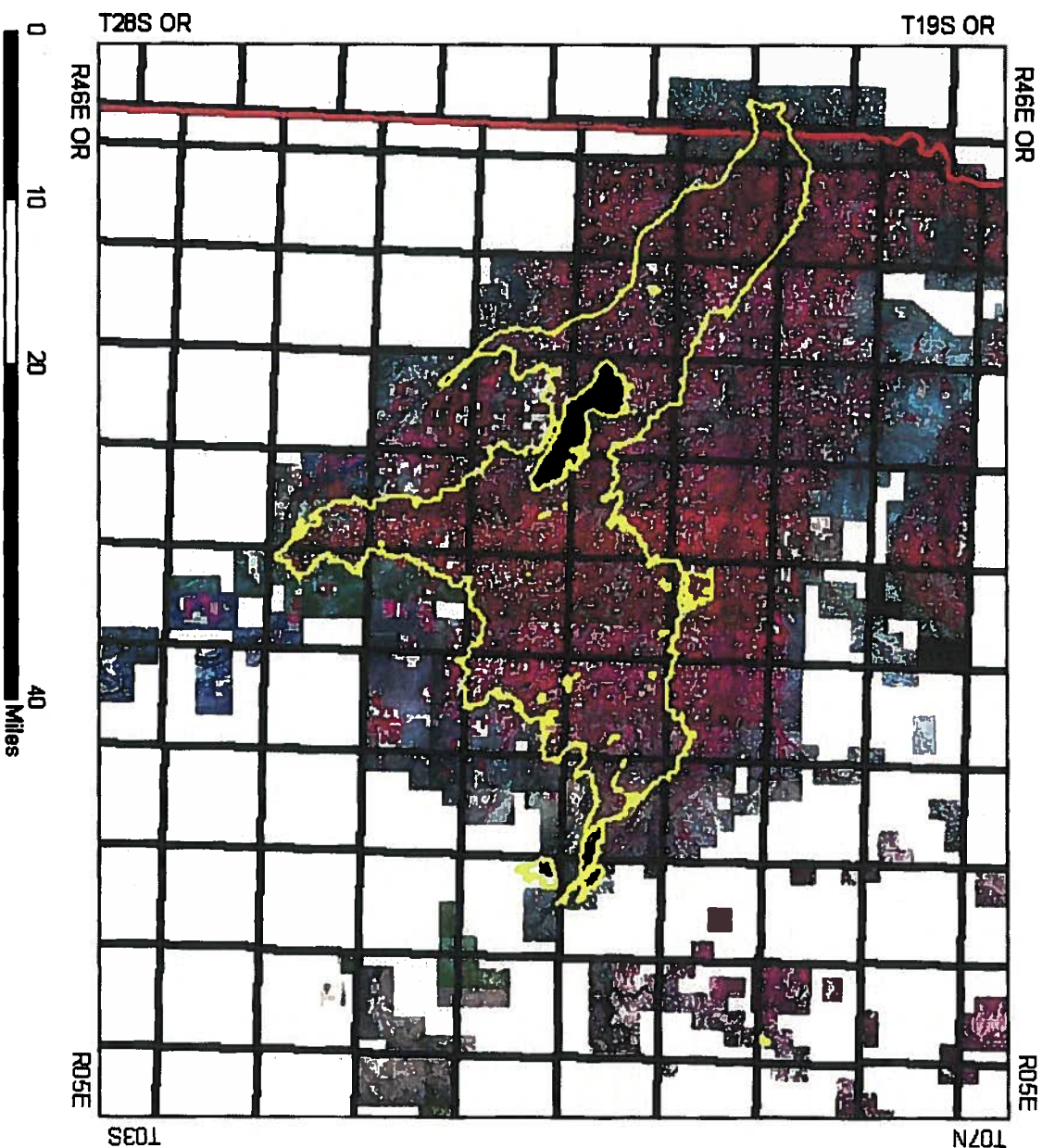
Boise, Canyon, Ada, Malheur Or Counties

IDWR Basin 63

Prepared by Favreau, Danielle

On April 28, 2011

1987/88 Aerial Photography



Shurte, Jan

From: Shurte, Jan
Sent: Wednesday, October 30, 2013 1:34 PM
To: Al Barker
Cc: Fritschle, Carter
Subject: Boise Project Board of Control Claim Nos. 63-33251 and 63-33253
Attachments: BPBC Ten Mile NY Canal.pdf

Al,

The above claims are the two remaining late claims to be reviewed for the Boise Project and Riverside Irrigation District late claims you have submitted over the years. We have a few questions concerning the above two claims as follows:

63-33251

This claim is for diversion of water from Indian Creek. We have questions concerning the amount of water diverted from Indian Creek. It appears that the point of diversion on this claim is actually the point of injection of the BPBC water from the New York Canal into North Indian Creek which then joins with Indian Creek approximately 1 ½ miles downstream. Indian Creek then flows approximately 5 ¼ miles to the point where the New York Canal is again formed and Indian Creek flows northwest with the New York Canal flowing west. We need to determine how much Indian Creek water is actually entering the district to know the amount of Indian Creek water involved at the point where the New York Canal begins again and Indian Creek continues to the west in the NENW, S9, T2N, R1W.

We also need some type of evidence of priority for the 1903 priority date claimed.

63-33253

This claim is for diversion of water from Blacks Creek. We do plan on recommending the source as Ten Mile Creek per the topographic map for this area. However, it is difficult to tell from the attached aerial photo what exactly we are seeing as the diversion into the New York Canal with an outlet from the New York on the opposite side? If this is the diversion into the New York, then it seems that it would be the best place to determine the amount of water flowing into the canal. We just need further details.

We also need some type of evidence of priority for the 1903 priority date claimed.

Please submit information concerning the above matters, or call me if you have any questions. It could be that a meeting or field exam is needed for these rights. I do plan on having them recommended in the late claim report this December.

Thanks,

Jan Shurte
Adjudication Technical Analyst
Idaho Dept of Water Resources
322 E Front St., Boise, ID 83720
(208)287-4992
jan.shurte@idwr.idaho.gov