

# History of the Mill Ditch and the South Boise Water Company

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## Introduction

Roots of the South Boise Water Company (SBWC) date to the initial construction of a ditch in southeast Boise. Like most roots, those of the SBWC are tangled and confusing. The settling and selling of land, the digging and reconstruction of the ditch, sales of the ditch, and multiple uses of the water intertwined to provide the basis for struggles that were not resolved until 1951, when SBWC purchased the ditch. Over time the water was used for irrigation and power for a flour mill and then for a distillery, a saw mill, to convey logs, and for an electrical power plant. Later, esthetic and wildlife uses were documented, but for some people these uses started as soon as the water flowed. The Mill ditch extended over 2 miles from its source at Loggers Creek just east of ParkCenter Boulevard, northwesterly to beyond Protest Road. The ditch was constructed immediately with homesteading in southeast Boise. The land was arid so agricultural water was needed. Homesteading in the area that later became SBWC service area commenced in 1862 though most patents were granted in the 30 years following 1868. Courthouse records indicate that much of the land changed hands before, during and immediately subsequent to the issue of patents. Changes in land tenure brought with it numerous disputes over the ownership of ditches and water rights. These battles waged on over the decades in the court system and likely at head gates as well. The South Boise Water Company formed in 1917 to fight one of the more important battles in the Company history. This discussion is divided into sections—The Early Years (1850-1875), The Morris, Ridenbaugh and Rossi Era (1875-1917), The Formative Years (1917-1950), The Transformation Years (1951-1990), and Reorganization (1990-present). We discuss ownership of the Mill Ditch in a way that covers several time periods.

## The Early Years, 1850-1875

Little is known about the earliest history of the ditch, which had several names over time. One early name was the Drake-Miner and Porter Ditch, after some of the original homesteaders. In 1865 it became the Isaacs Ditch. In the 1880's it was known as the Ridenbaugh-Rossi Ditch, but was also called Loggers Creek. In about 1912, when power production was abandoned and the flour mill was no longer in use, water was allowed to return to the river via an old slough course and the portion that followed this old meander became Loggers Creek; the dug portion, lined with timber was then called the Rossi Mill Ditch. A conveyance of deed from Martha Johns to Boise Water Corp calls the lowest part of the ditch, west of Protest Road the Johns Ditch, presumably after its owner, Martha (Porter) Johns (Fig. 1; Johns to Boise Water Corp, 1932). For the purposes of this paper current terminology is used. The Mill Ditch refers to the portion that travels west from the diversion in Loggers Creek to Protest Road where it enters the Ada County Drainage District No. 3 "A"

Drain Ditch; Loggers Creek refers to the ancient meander channel, modified by man and flood, including an extension 1/2 mile upstream to a point near Bown Crossing (Fig. 1).

There is a great deal of confusion in published literature on the history regarding the Mill Ditch and the Ridenbaugh Canal; the two are commonly confused, both because for a time the Mill Ditch was called the Ridenbaugh-Rossi Ditch and because at times William Ridenbaugh owned both. The Mill Ditch and the Ridenbaugh Canal are not and have never been physically connected. They divert water from the Boise River in different places and have entirely different paths. Caution is justified when reading elsewhere about the intertwined history of these two ditches. We use "Ridenbaugh Canal" for the canal that comes out of the river first and carries water for the Nampa & Meridian Irrigation District. We use Mill Ditch for the ditch that comes out of Loggers Creek near Pennsylvania St. and carries water for the South Boise Water Co.

Testimony by Alexander Rossi during the Stewart Decree proceedings, a major water rights court case of the early 1900's, states that a shallow ditch already existed in 1864 along the same right of way that the Mill ditch follows (Stewart testimony, 1906 line 3812). We have found no documentation of how or when the original ditch was constructed. The brothers Henry and Joshua Isaacs and other partners including water users and patent holders of land which the ditch crossed, enlarged the 1864 ditch in 1865. The Mill ditch modification, completed in November of 1865, established a constant gradient of 92 inches per mile. According to Rossi some of the original partners were William Porter and William Drake; other potential partners who owned land that the ditch crossed or who used water that it carried include Marcus Miner, Morgan Payne, David Bliss, Nelson Armstrong, and Isaac Alverson. Detailed topographic analysis of the Boise River floodplain shows that construction of the Mill Ditch took advantage of subtle changes in topography, probably to minimize the amount of digging, by following natural breaks in elevation where possible. The ditch arose from the South Boise Slough, a meander channel of the Boise River (Figs. 1 and 2). The following section discusses where the natural breaks occur and how they formed from a geologic perspective.

### **A Brief Geologic History of the Boise River Valley**

River systems with low to modest gradients tend to meander horizontally across their flood plane with a minimum of down-cutting. Sideways meandering will continue uninterrupted while at a stable base level, eroding away earlier-formed features that lay in its path, until an increase in gradient occurs. Stream gradients can change by any number of events; faulting, elevated downstream erosion due to the river encountering a more easily erodible substrate, etc. Once a new steeper gradient develops, down-cutting becomes dominant over meandering and the result is an incised floodplain. When a new stable base level is established, horizontal meandering again dominates, and will continue until the next change in gradient. As the incised river meanders horizontally, it removes those parts of the older, elevated floodplain that lie in its path, forming bluffs along either margin of its course, beyond which lie elevated benches (aka terraces). A prominent example of this feature in the Boise Valley is the bench atop which Federal Way and Vista Avenue run, the Vista Bench. Because meandering rivers erode away anything in their path, the youngest benches are

always closest to the river and they become progressively older as one moves away from the river.

The Boise River has migrated numerous times across its floodplain leaving sets of stream-cut benches that define the outer margins of its meander path. At least three low benches occur within the service area of the South Boise Water company (Fig. 2). These benches drop in elevation from crest to toe a vertical distance of approximately four to ten feet over relatively short horizontal distances. The benches nearest the river are the last formed; those further from the river are progressively older, and as such, show a greater amount of dissection and modification by erosion. This can be seen by the relative flatness of top surfaces and straight crest profiles of the inner benches compared to the older ones.

#### SOUTH BOISE BENCH

The innermost, youngest, and most extensive bench occupies the central part of the SBWC service area. The Boise River incises this terrace, and its active meander channels generally form its northeastern edge. In the area between Broadway Ave. and the Spring Meadow subdivision the northeastern margin of the bench leaves the main river channel and follows the south side of Loggers Creek, an ancient meander channel. The original point of diversion of the Mill ditch from the river lies immediately downstream of where the “South Boise Bench” intersects the river (Figs. 1 and 2). Southeast of this point, in Spring Meadows subdivision, erosion from the river and human development greatly modified the bench and it is difficult to interpret using topography. The South Boise Bench is highly visible along the north side of Pennsylvania Drive east of ParkCenter Boulevard. Without the aid of abundant flood-controlling devices such as levees and upstream dams, the area between this bench margin and the river would define part of the active flood plain of the Boise River, at least geologically speaking.

#### *Loggers Creek*

The names “Loggers Creek” and “Mill Ditch” derive from their use to float logs from the Boise River to a saw mill near Protest Road. Loggers Creek has changed its course a few times in the recent history of Boise Valley, particularly prior to construction of Lucky Peak Dam and levees along the river (Eschen and Otto, 2013). A document filed in 1893 (Water Notice, 1893) provides a surveyed location of the original point of diversion of the Mill Ditch (Fig. 1), and states that this location was “the point of diversion on the main channel of the Boise River.” We do not know if this location was actually part of the main channel as the document states, or an ephemeral high-water channel marginal to the main course of the river. A 1945 air photo in combination with the Government Land Office Survey of 1867 indicates that Loggers Creek was a unique channel separate from the main river at the time of the survey. Its course upstream of where the Mill Ditch sourced in 1945 did not change significantly until purposely rerouted in the 1980’s (see “loggers Creek Agreement” below). Downstream of the Mill Ditch diversion, flood events significantly changed the course Loggers Creek in the years subsequent to construction of the Mill Ditch (Eschen and Otto, 2013).

### BOISE AVENUE BENCH

Boise Avenue lies atop the crest of the next bench outboard of the South Boise Bench from near the intersection of Boise Avenue with Apple Street to near its intersection with Protest Road (Fig. 2). Boise Avenue lies along its base from just west of Protest Road to Capital Boulevard. Traveling northwest on Boise Avenue from its intersection with Protest Road a subtle drop in elevation of about 5 feet is visible in the few hundred feet before the intersection with Joyce Street. This drop in elevation marks the location where Boise Avenue drops from the top of the “Boise Avenue Bench” to its base. Erosion has slightly modified the crest profile of this terrace and parts of its upper surface. The southeast part of the bench is strongly influenced by erosion, but can be seen topographically through the Pier Point subdivision, passing in front of Riverside School, to where it terminates against the next higher bench, the “Ridenbaugh Bench”, between the school and Bown Crossing. Ditches of the South Boise Mutual company provide water to much of the Boise Avenue Bench.

### RIDENBAUGH BENCH

Boise Avenue southeast of Apple Street lies atop the farthest outboard of all terraces in the South Boise Water Company service area (Fig. 2). The “Ridenbaugh Bench” and Canal emerge from higher and older benches of the upper Boise River canyon in the area just south of Bown Crossing. The Ridenbaugh Canal then flows easterly across its top surface. The Ridenbaugh Bench is the oldest known within the service area; the slope defining its northern edge, degraded by erosion is consequently less steep and occurs over a greater distance than do its younger counterparts. Traveling southeast on Boise Avenue one can see a very subtle increase in elevation of the roadbed of about 5 feet over approximately 500 feet as Apple street is approached, marking where the street climbs to the top of the Ridenbaugh Bench. Further to the southeast, just past the intersection with South Bown Way, the elevation of Boise Avenue increases by several feet, marking the terraces boundary with those older and higher. South Boise Water Company does not provide water to the upper and older benches.

### **Construction of the Mill Ditch**

The original ditch, built by a consortium of ranchers in or before 1864 was “approximately 2 feet in width upon the bottom, 4 feet in width at the top, and 2 feet in depth” (SBWC v McDonald, 1929). The Isaacs brothers in 1865 made the ditch 20 feet wide at water level, 10 feet wide at the bottom and 4 feet deep (Stewart testimony, 1906 line 3808). Over the years the ditch became smaller, probably by siltation and encroachment by vegetation. The ditch, according to Alexander Rossi, was enlarged in 1894 to its original size and lined with wooden planks to prevent erosion by fast-moving water (Stewart testimony, 1906 below line 3809). After 1915 the encroachment process started again with waste disposal added to the process.

The original point of diversion from the Boise River was located at the intersection of the river with the South Boise Bench (Figs. 1 and 2; Water Notice, 1893). The upper 0.48 mile stretch of the ditch stayed in the geologically active floodplain of the river by following the base of the terrace and using the lower elevation to its advantage. The ditch from near where it crosses ParkCenter Boulevard cut across the top of the South Boise Bench for a distance of 0.50 miles until it encountered the Boise Avenue Bench just north of the intersection of

Pennsylvania Street and Boise Avenue. The ditch then followed the edge of the Boise Avenue Bench a distance of 0.98 miles to near the intersection of Boise and Manitou avenues, where it turned to a more westerly-flowing direction and cut across the top surface of the bench to the base of older terraces. It then followed the older terraces to midway between Protest Road and Capital Boulevard, a distance of 0.72 miles, for a total of 2.7 miles.

### **Early uses of the Mill Ditch**

Testimony by Alexander Rossi states that the original 1864 ditch was “taken from the river before the construction of this large (Isaacs) ditch on the right of way” and that the “land has been under cultivation from waste water of this ditch since 1864” (Stewart testimony, 1906 line 3812). Rossi’s testimony makes clear that the Mill Ditch followed the same right of way as the precursor ditch. Figure 3 shows the distribution of land ownership of the initial patents and the location of the original 1864 ditch. Henry Isaacs patented 80 acres in 1870, located mostly on the bench above Protest Road (Fig. 3). The northeast corner of Isaacs land was the only part located below the bench, along the path of the Mill Ditch. William Porter patented 200 adjacent acres in 1869, located mostly below the hill. Conveyance-of-deed records show that Isaacs acquired land from Porter below and adjacent to Protest hill in April of 1868, prior to the granting of patents (Porter to Isaacs, 1868). The Mill Ditch flows across the land which Isaacs purchased from Porter.

Testimony provided by Ridenbaugh and Rossi during the Stewart Decree proceedings (Stewart testimony, 1906, Line 151) says that the “ditch was constructed for the purpose of furnishing and supplying the lands thereunder with water for irrigation, also for the purpose of furnishing power for flour and saw mills and for the operations of a distillery, for the floatation of logs and lumber and for general power purposes”. The SBWC found steel railings in the bottom of the Mill Ditch during replacement of the measuring weir near its diversion from Loggers Creek. We do not know the history of the rails; perhaps they were used as an aid to foster log movement through a choke point. Perhaps they were left from ditch construction. Articles in the Idaho Statesman show that Henry and Joshua Isaacs built the sawmill, flour mill, and the distillery; Figure 4 shows our best estimate of where they were located.

#### **THE FLOUR MILL**

The Isaacs brothers built a three-story flour mill (Plate xx) powered by water from the Mill Ditch. According to Elliot (1884) the water had a “fifteen foot fall into two turbine wheels, which furnish the power for the mill, sufficient to drive two sets of burs and two sets of rollers for wheat, and one set of burs for crushing barley for feeding purposes, The mill has a capacity of 100 sacks of flour per day of fourteen hours, when running under full head”. Water to run the mill sourced from the Mill Ditch, which ran atop the Boise Avenue Bench, and then dropped through the mill to the South Boise Bench, a vertical distance of approximately 15 feet. The Sanborn Maps show a half-acre pond just upstream of the flour mill. Today a pond is located behind one of the residences along Boise Avenue in the same area as shown on the Sanborn Maps, and may be a remnant of the flour-mill pond.

A Conveyance-of-Deed filed with Ada County Recorder documents the presence of the flour mill as a landmark in 1870 (Porter to Drake, 1870). Testimony by Alexander Rossi (Stewart testimony, 1906 below line 3807) indicates that the Isaacs brothers built the mill in about 1865 and that when they completed the Mill Ditch in November of 1865, its water ran the flour mill. Figure 4 shows the location of the mill based on the 1893 Sanborn map, and a bearing to the mill from a known point stated in the Porter to Drake conveyance document. The Isaacs initially called their business the War Eagle Mills; later, when owned by William Morris, it was called the Morris Mills (Idaho Statesman articles; A and H, 2013). The 1912 edition of the Sanborn map series shows that the flour mill buildings were vacant at that point in time (Sanborn Maps).

#### THE DISTILLERY

The Isaacs brothers built a distillery and ran it in connection with their flour mill. The Isaacs commissioned the distillery on October 23, 1868 (Idaho Statesman article, October 24, 1868). Ada County records dated October 15, 1868 grants permission from Henry to Joshua to own and operate the distillery. Ada County records indicate that William Porter sold the land upon which the mills and distillery were situated to Henry Isaacs in two separate transactions, one recorded on April 18, and the other on April 27, 1868 (Porter to Isaacs, 1868).

#### THE SAW MILL

The Isaacs Brothers built their saw mill east of the intersection of present-day Boise Avenue and Protest Road. The mills ±8-acre log pond, located south of the sawmill extended from near the intersection of Boise Avenue and Rossi Street west to beyond Protest Road, and was centered where the Eagle Point apartment complex is today (Fig. 4). One of the primary purposes of the Mill Ditch according to Alexander Rossi (Stewart testimony, 1906 below line 3807) was for the “floatation of logs and lumber”; he indicates that the saw mill was under construction in 1865. We were not able to determine when the Isaacs sold the saw mill; William Morris owned it in the mid 1870’s and after his death in 1878 it was owned and operated by William Ridenbaugh and Alexander Rossi. Until recent years, a portion of the log pond was present (US Army Air Photo, 1945; ISHS Ref Series, 1981b).

According to the Sanborn Maps, the Boise Ice Company had an Ice house located at the northwest corner of the log pond. The company cut ice from the pond in the winter and stored it to sell during the following warm season. Figure 4 shows the approximate locations of the saw mill, log pond, the Boise Ice Company’s ice house, and other commercial facilities in the area.

#### THE ELECTRIC POWER COMPANY

A group of investors including Henry D. Pope, H.O. Pope, M.D. Dodson, W.O. Roberts, and S.R. Righenour, formed the Electric Power Company to produce electrical power from the Mill Ditch. The company secured the water delivered through the Mill Ditch from its owner, William Ridenbaugh. The investors filed articles of incorporation with the Secretary of State in December of 1901 (Idaho Statesman article, December 15, 1901).

The power plant was located just west of Protest Road near the western end of the log pond, just west of where Big Judd's Restaurant is today (Fig 4; Statesman, May 13, 1902). Water to run the plant sourced from the Mill Ditch which lay atop the Boise Avenue Bench and then dropped through the plant to the South Boise Bench; a tailrace was dug into the South Boise Bench to a total fall distance of about 20 feet. Today the Ada County Drainage District "A" drain flows in this deepened tailrace. The electrical plant provided power for an on-site cold storage facility, and sold electricity for lighting and heating.

In Summary, water from the Mill Ditch was key to the commercial development of what later became the community of South Boise. In addition to agricultural use, the ditch was directly responsible for the construction and successful operation of five separate businesses over a period of over four decades. Another power company, Capitol Electric Light, Motor and Gas Company, generated power from a plant located a short distance to the west, in present-day Ann Morrison Park using water from the Ridenbaugh canal.

### **Land Rush and Consolidation**

Some of the earliest legal records of land ownership in the Boise Valley are patents that resulted from the Homestead Act signed into law by Abraham Lincoln on May 20, 1862. Sales of parcels that occurred prior to homesteading in the SBWC service area show that immigrants owned and farmed much of the land for years prior to the Homestead Act. The first land patents in the present South Boise Water Corporation service area were granted on October 5, 1869 to William Porter, David Bliss, Marcus Miner, William Evans, and Joseph Bown. Patenting of land continued for about 25 years, and covered the entire service area by 1892. Figure 3 shows the ownership and distribution of the original patents within the SBWC service area. We do not know when irrigation laterals were constructed, but most likely concurrent with settlement and construction of the early versions of the Mill Ditch.

#### HOMESTEADS AND RANCHES IN THE SBWC DISTRIBUTION AREA

The Mill Ditch encounters the Boise Avenue Bench near the west side of the Armstrong Ranch (Fig. 5). Northwest from this point the ditch flows mostly along the slope that defines the ancient river-cut terrace. Land to the south was above and therefore could not be irrigated by gravity, so the ditch serviced lands primarily to the north on the South Boise Bench, which sloped away from the ditch. Much of the land in this area was sold and traded before, during, and subsequent to the formal issue of patents. By the late 1880's much land consolidation had taken place, leaving approximately 6 ranches (Fig. 6). We discuss the following details of individual homesteads and ranches in the order of their position along the Mill Ditch.

#### Alverson homestead, 1871

The Mill Ditch originally diverted water from the Boise River (Loggers Creek) in the SE ¼ of the NW ¼ of Section 24, T3N R2E (Fig. 5), on land patented by Isaac Alverson in July of 1871. Alverson sold his property to Sarah Walling in January of 1870, nineteen months prior to the formal issue of patent. The ownership of this land prior to 1870, during the time that the ditch was built is unknown. Detailed topography (Fig. 2) shows that the Mill ditch crossed the Alverson homestead within an ancient channel of the Boise River, and as such was lower in elevation than the surface of all surrounding agricultural land. It is therefore unlikely that Mill

Ditch water irrigated this parcel. The air photo dated 1945 shows the distribution of cultivated land and the active Boise River floodplain. Additionally, it shows that the Mill Ditch could not have watered the Alverson/Walling land by gravity flow.

#### *Armstrong Homestead, 1871*

The Alverson ranch shares its western border with the Armstrong (later Meeves) ranch. The shared border, near the intersection of present-day Pennsylvania Street and ParkCenter Boulevard, was located approximately where the Mill Ditch leaves the geologically active flood plain and starts its flow across the top surface of the South Boise Bench in an incised channel. Hence it would have been impossible for Armstrong to water most of his land by gravity from the Mill Ditch (Fig. 5). Armstrong constructed his own ditch (Eschen and Otto, 2013), which diverted water from the Boise River 3700 feet upstream of the original Mill Ditch Diversion (Fig. 1). The ditch ran on top of the South Boise Terrace and was approximately 8 feet higher in elevation than the Mill Ditch; just enough to have gravity irrigated his land.

#### *Drake and Smith Ranches*

The Mill Ditch did not cross lands occupied by the Drake and Smith ranches (Fig. 6), though they are important to the story because a court filing dated 1893 (Water Notice, 1893) states that all lands in the William Drake, Daniel Drake and Smith ranches had been continuously irrigated from the Mill Ditch for over 26 years, or prior to 1867 (Fig. 6). The Drake and Smith ranches included land that Alexander Rossi stated was originally irrigated in 1864 (Stewart testimony, 1906, line 3811). The water notice (1893) states that the Smith and the two Drake ranches combined claimed the rights to two thirds interest of 1000 inches (13.32 cfs); the remaining one third interest (6.66 cfs) was claimed by the heirs of the Porter ranch.

#### *Payne Homestead*

The Morgan Payne homestead was situated between Broadway Avenue and the Porter ranch, near Protest Road, and extended North to present day Beacon Street. Payne increased his land holdings by purchasing 40 acres from William Drake in 1879 (NE ¼ SE ¼ Sec. 15), and 40 acres from Marcus Miner in 1880 (SE ¼ SE ¼ Sec. 15; Figs. 3 and 6). The Mill Ditch incises the top of the Boise Avenue terrace as it flows across much of the Payne homestead; the only portion of the ranch that he could irrigate by gravity was the area below the Boise Avenue terrace, northeast of the Mill Ditch (Fig. 6). The 1945 air photo shows a residual part of Alexander Rossi's mill pond on the western edge of Payne's land.

#### *The Denver and Idaho Land Company*

Morgan Payne sold his ranch to the Denver and Idaho Land Company in November of 1891. The sale included: "all water rights belonging to said land as described in said agreement in proportion that the land herein described bears to the land described in said agreement" (From Payne to Denver and Idaho Land Co, 1891). The document does not specify a specific amount of water.

The Denver and Idaho Land Company subdivided their land into the Dundee First, Second, and Third subdivisions and started selling off parcels as early as October 1892. Water rights were not included for parcels sold that were not located along the Mill Ditch. Water rights were



included with one parcel of 8.2 acres that lay along the ditch. This parcel, sold to George Crane on December of 1892, was located immediately east of the Ridenbaugh and Rossi mill pond and bounded on the north by Boise Avenue and the south by the north bank of the Mill Ditch (Denver and Idaho Land Co to Crane, 1892).

#### Porter Homestead

William Porter patented in 1869 most of the bottom land from where the BSU Tennis domes now sit, around the base of the Vista Bench to Capitol Boulevard. The Payne Ranch formed Porters eastern boundary, the Isaacs patent sat immediately to the west and the Boise River to the north (Fig. 3). Conveyance deeds record that Porter sold large parcels to the Isaacs in 1868, prior to receipt of the patents (Porter to Isaacs, 1868). William Porter died on August 18, 1871; his widow Martha J. and his 3 daughters, Amelia, Ellen, and Mary inherited the estate. Mike Fitzpatrick married the daughter Amelia, becoming Porters son-in-law. An 1888 conveyance deed transferred ½ interest of the homestead to E.E. Johns, whose wife Martha J. was likely the former wife of William Porter. Porters widow Martha started selling her real estate in the 1920's; she sold a power-line right of way to Idaho Power Corp in 1925, parcels to Horace Myers and Sherwood Williams in 1926, and to Harry Hopffgarten in 1927 (Jones to Idaho Power Corp, 1925; Jones to Myers, 1926; Jones to Williams, 1926; Jones to Hopffgarten, 1927). She also sold a small parcel to Boise Water Corporation in 1932 (Jones to Boise Water Corp, 1932). Boise Water Corporation still owns the parcel, upon which they operate a well; it is located near the intersection of Martha Street and Boise Avenue. The Porter's (Johns) maintained ownership of the property until the 1930's, when they lost it to foreclosure (see James McDonald to George Reese below).

#### Isaacs Homestead

Henry Isaacs patented 80 acres of land located immediately west of the Porter homestead, mostly on the top of the Vista Bench (Fig. 3). The northeast corner of his patent extended over the bluff and down to the bottom land where the Mill Ditch was located. Henry Isaacs appears to have been (at least initially) the primary owner of the real estate and other assets. His brother Joshua in and subsequent to about 1868 became more involved and may have eventually become the primary owner. The Isaacs purchased land from William Porter upon which the Mill Ditch ran and upon which they built the flour mill, distillery, and saw mill (Porter to Isaacs, 1868). The Isaacs also owned a toll bridge across the Boise River located near the present-day intersection of Boise Avenue and Capitol Boulevard.

Henry Isaacs moved to Walla Walla, Washington, in about 1874 or 1875, and it is unclear if he maintained part ownership of these assets after his move. A conveyance deed records the sale by Henry to Joshua of a 3 acre parcel of land near to the flour mill (Isaacs to Isaacs, 1875).

#### THE FIRST WATER RIGHTS

Once the Mill Ditch was completed the Isaacs Brothers applied for and received water rights for the amount of water that it was able to carry. Testimony in the Stewart Decree (1906) states two capacities; Line 153 states that the ditch when construction was completed "carried 385 second feet". Testimony by Alexander Rossi (Stewart testimony, 1906 near Line 3808) states "its capacity as 275 second feet". We do not know from where the testifiers

derived the 385 second foot number; perhaps the defendants were simply couching their bet. It is unclear if the Isaacs were the exclusive owners of the water right or if Drake, Miner, Porter or others were also part owners. Other than this testimony the only other source of information about 19<sup>th</sup> century water rights is a document that we obtained from the archives of Idaho Department of Water Resources titled “Water Notice”. It is dated 1893 and declares use of 1000 inches (20 cfs) by the Drake, Smith and Porter ranches. Two thirds of this right was allocated to the Drake and Smith ranches, the remaining one third to the Porter ranch.

### **The Morris, Ridenbaugh and Rossi Era, 1875-1917**

William Morris, a stage and freight businessman arrived in the Boise Valley in 1871 (ISHS Ref Series, 1981a). Morris grew wheat on his 3000 acre ranch, which he had ground at the Isaacs War Eagle flour mill (A and H, 2013). Sometime in the early 1870's Morris purchased the flour mill and Mill Ditch, and in 1877 began construction of the first seven miles of what later became the Ridenbaugh Canal (ISHS Ref Series, 1974). Morris completed the first seven miles in time for the irrigation season of 1878 (ISHS Ref Series, 1974), before he died on August 23.

William Ridenbaugh, the nephew of Morris followed Morris to the Boise Valley from Chicago in 1872 (ISHS Ref Series, 1981b). Subsequent to the death of Morris, Ridenbaugh continued to oversee the ditches and mills. Probate proceedings filed with the Ada County Recorder (Morris to Morris, 1880) say that Morris willed his land, the flour mill, distillery building, the irrigation canals and the Boise River toll bridge to his wife and to Ridenbaugh, 50/50. Ridenbaugh married Mary Elizabeth Black, daughter of Boise pioneers Charles and Anna Black in 1878, and later built a Queen Ann-style house on Boise Avenue near the flour mill (Fig 4; ISHS Ref Series, 1981a). The house was on the property that is now 2305 Boise Ave. Shortly after Ridenbaugh acquired the land and the Mill Ditch from Morris he sold Alexander Rossi half interest in the Mill Ditch and saw mill (Morris and Ridenbaugh to Rossi, 1879). William Ridenbaugh died on August 17, 1922 at the age of 68.

Alexander Rossi came to the Boise Valley in about 1865. He was a civil engineer, a lumberman, and was the first superintendent of the U.S. Assay office in Boise. He also served as an Ada County Commissioner. For the Mill Ditch Rossi's testimony was a very important part of the Stewart Decree; he was the only person who testified about the Mill Ditch who had actually visited the ditch system in 1865, during its construction, and remained familiar with it throughout the remainder of the 19<sup>th</sup> century. Rossi maintained an interest in the saw mill until his death on February 22, 1906 at the age of 78 (Stewart testimony, 1906 line 3807; ISHS Ref Series, 1981b).

### **The Stewart Decree, 1906**

Records of water rights and usage through the late 1800's are sparse and not particularly detailed. According to Murphy (1974) water rights throughout the Boise River Basin were extensively over committed. There had been “forty years of conflicting, overlapping water rights and claims and hundreds of legal decisions granting first this farmer or ditch and then that, rights of water priority”. This created a serious shortfall of water, particularly during

drier years; to the point that holders of some of the most senior rights were struggling in the 1890's to receive adequate water.

In the SBWC service area, the Water Notice filed in 1893 claimed that as land ownership changed water from the Mill Ditch continued to irrigate the same ground, and had since prior to 1867. Other than the Payne to Denver and Idaho Land Co. conveyance deed and the 1893 Water Notice we found no other legal documents demonstrating that the original users had made any attempt to legally establish water rights.

The Farmers' Cooperative Ditch Association in Canyon County owned a senior right to divert 240 cfs of Boise River water. The cooperative did not receive their legal allotment of water through the 1890's due to severe over allocation, particularly in low-water years, so in 1902 they sued all other users who diverted water from the Boise River. The suit, filed in the District Court of the Seventh Judicial District, Canyon County, Idaho, became known as the Stewart Decree after the presiding judge, George H. Stewart. His decision, issued in 1906, established the legal priority for water rights of the entire Boise River Basin.

The decree essentially established the framework of all legal proceedings involving water rights in the Boise River Basin for the ensuing eight decades, until the Snake River Adjudication which started in 1988.

#### DECISIONS

Effectively the applicable portion of the Stewart Decree meant that Ridenbaugh owned the Mill Ditch and the water rights, but that he was required to acknowledge the prior users and allow them to divert water as long as appropriate fees were paid. The court awarded William Ridenbaugh Right Number 16 with 9.2 cfs, probably for irrigation, and Right Number 17 with 265.8 cfs for industrial use, totaling 275 cfs, the entire capacity of the Mill Ditch. Separately, the court awarded the Denver and Idaho Land Company Right Number 18 with 0.8 cfs. There is no record of the other early users of the Mill Ditch or their heirs testifying during the trial and as such they were not and could not have been awarded individual water rights. It is not clear why the court awarded the Denver and Idaho Land Company a right for Mill Ditch Water and the other users not, unless the Payne to Denver and Idaho (1891) Deed of Conveyance that specifically mentioned water rights had material value.

The Nampa and Meridian Irrigation District appealed to the Idaho Supreme Court specifically challenging the awarding of rights to diverters, rather than to the people who actually applied the water to the land. The Supreme Court upheld the lower court's decision (14 ID 50, Farmers Irrigation. Dist. vs Riverside Irrigation. Dist. et al, 3-5, 1908). The Supreme Court ruled that:

“The appropriation of waters carried in the ditch operated for sale, rental, and distribution of waters does not belong to the water users, but rather to the ditch company. The right to the use of such water, after having “once been sold, rented, or distributed to any person who has settled upon or improved land for agricultural purposes,” becomes a perpetual right, subject to defeat only by failure to pay annual water rents and comply with the lawful requirements as to the conditions of the use.”

## END OF AN ERA

During the Morris, Ridenbaugh and Rossi era water from the Mill Ditch conveyed logs and generated power for the saw mill owned by William Ridenbaugh and Alexander Rossi, and generated electric power. In about 1915 milling was moved to the Barber Mill. In 1908 the Electric Power Company and the Capital Electric Light, Motor and Gas Company were sold to the Idaho Oregon Light and Power Co. The Idaho and Oregon Light and Power company initially continued to use power generated from the Mill ditch, but soon replaced it using power from other hydro sources including plants at Barber Dam, Horseshoe Bend, and eventually Oxbow Dam.

The Idaho Oregon Light and Power was consolidated in 1915 with four other companies to form Idaho Power. In 1916 the new Idaho Power Corporation connected its Shoshone Falls power source to the Swan Falls power station, which served Boise. This connection enabled Idaho Power to supply Boise from Shoshone Falls so power plants, such as the one on the Mill Ditch, were decommissioned (Legacy, pp. 26 & 45). Use of Mill-Ditch water low-head water power had ceased and water use for irrigation, esthetics and wildlife evolved.

## Ownership of the Mill Ditch through the years

A precursor to the Mill Ditch constructed by an association of water users that included William Drake, Marcus Miner, William Porter, and perhaps others (Morgan Payne?) existed in 1864. According to Rossi “This land has been under cultivation from waste water of this ditch since 1864” (Stewart testimony, 1906 above line 3812); this testimony demonstrates its presence prior to the Isaacs 1865 Mill Ditch. According to testimony in the 1929 trial (SBWC vs McDonald, 1929) the ditch was known as the Drake-Miner and Porter Ditch. We do not know specifically who owned this ditch, but presumably the owners were those who constructed it and for whom it was named.

## Sales of the Ditch

The 1864 ditch, and its successor, the Mill Ditch has changed ownership at least six times since its original construction. The laws at the time required a diversion right holder to own the ditch from the point of diversion to the land where the water was applied. The historic irrigators who used the water had a right to the water, but did not own a right to divert the water from the river—this belonged to the ditch owner who was obligated to deliver the water if the users paid the appropriate fees. (14 ID 50, Farmers Irr. Dist. vs Riverside Irr. Dist. et al, 3-5, 1908)

## ORIGINAL OWNERS TO THE ISAACS BROTHERS

Henry and Joshua Isaacs deepened and widened the ditch in 1865 so they could run logs from the river to their saw mill, power their saw and flour mills, and use water in their distillery. We have found no record of how the ditch ownership may have changed as a consequence of the work by the Isaacs, but the Water Notice filed in 1893 states that the properties owned by Drake, Miner and Porter were continuously irrigated from the ditch from a point prior to 1867, and testimony by Rossi states that the land was under irrigation in 1864 (Stewart testimony,

1906, line 3811). Presumably therefore, the builders of the 1864 ditch had an agreement with the Isaacs to continue use of water from the ditch subsequent to its enlargement in 1865. Testimony by Ridenbaugh and Rossi during the Stewart Decree (Stewart testimony, 1906, below Line 152) states:

“that immediately after the construction of said ditch to-wit in the year 1865, H.P. and J.C. Isaacs diverted therein from the Boise River and applied for the beneficial uses aforesaid the entire capacity of said canal, which as cross-complainants are informed and believe, and therefore upon information and belief allege, was of the entire quantity and capacity of 385 cfs and that said diversion and appropriation was necessarily applied to said purpose; that the cross- complainant W. Ridenbaugh and his predecessors in title and interest have had and enjoyed continued possession of said water ditch and the water rights connected therewith ever since the year 1865”.

This clearly indicates that the Isaacs Brothers took ownership of the ditch and water rights to the full capacity of the ditch from a point in time immediately subsequent to its completion in November of 1865. We have found no documentation of any agreement that Drake, Miner and Porter may have had with the Isaacs Brothers.

#### ISAACS BROTHERS TO WILLIAM MORRIS

According to Alexander Rossi (Stewart testimony, 1906, below Line 3810), the Isaacs sold the ditch to a group of people associated with the local Grange. According to an Idaho Statesman article dated June 10, 1875, the buyers included E.J. Smith, Geo. Goodrich, R. Schooler, R. Short, D Heron, L.F. Cartee, D. Markham, and William Drake. The sale included “the distillery, water ditch, dwelling house and all out buildings around the mill”. The “Grangers” subsequently sold it to William Morris. We were unable to find this transaction in the Ada County records and we do not know exactly when they took place; presumably in the mid 1870’s.

#### WILLIAM MORRIS TO WILLIAM RIDENBAUGH AND LAVINIA MORRIS

William Ridenbaugh and William Morris’s wife Lavinia inherited the entire estate of William Morris in equal proportions upon his death in 1878 (Morris to Morris, 1880). The Isaacs ranch, distillery, saw mill, flour mill, the Mill Ditch, and the Boise River bridge were included in the inheritance; water rights were not specifically mentioned in the probate proceedings.

#### RIDENBAUGH TO ROSSI

Shortly after inheriting the Mill Ditch Ridenbaugh sold Alexander Rossi one half interest in the saw mill and the ditch. Ridenbaugh and Rossi co-owned the ditch for the remainder of the 19<sup>th</sup> and into the early 20<sup>th</sup> century. Through this time he and Alexander Rossi continued to use the water to float logs, run the mills and to irrigate. Per the Water Notice of 1893, the lands originally owned by William Drake, Marcus Miner and William Porter also continued to receive water from the Mill Ditch.

#### RIDENBAUGH TO BIRD CALLAWAY

William Ridenbaugh sold the Mill Ditch and water right to Birdenia Callaway on March 20, 1917 (Ridenbaugh to Callaway, 1917). Bird Callaway was the son of Alexander Rossi's wife Adeline, from a prior marriage. The Quitclaim deed states:

"to wit: All of that certain ditch and water right known as the Ridenbaugh Mill Ditch and Water right diverting the waters of the Boise River and conveying the same to the saw mill and pond known as the Ridenbaugh and Rossi saw mill and pond and thence to the Ridenbaugh flour mill, which ditch and water right are more particularly described in Book 3 of Contracts and Agreements at page 373, Records of said Ada County, in the office of the recorder thereof to which reference is hereby made."

#### BIRD CALLOWAY TO JAMES McDONALD

James McDonald purchased the Mill Ditch from Bird Callaway sometime between July, 1920 and September, 1926. We were unable to find records of this transaction but derived the dates from a 1920 court proceeding without McDonald's name, and a tract map with his name dated 1926. McDonald, apparently working with Martha (Porter) Johns, subdivided the Porter homestead in 1926, creating the McDonald tract, likely in anticipation of further developing the property into residential use, but apparently failed, perhaps due to the ensuing depression.

#### JAMES McDONALD TO GEORGE REESE

McDonald fell upon hard times in the 1930's. We are not sure of what financial agreements he had with George Reese, but by 1937 McDonald had died and Reese foreclosed on McDonald's assets. The court ruled in favor of Reese and he acquired the McDonald estate including the Mill Ditch and water rights at a sheriff's sale for \$6929.24 (Sheriff to Reese, 1937). Martha J. Johns, (William Porters Widow) listed as one of the defendants in the court action, shows that the Porters maintained at least part ownership of the homestead until taken away by this court action. The failure of McDonald's business dealings and subsequent foreclosure may have fostered the claimed lack of maintenance on the Mill Ditch during the 1930's and 40's.

#### REESE TO SBWC

Irrigation water users grew increasingly discontent because of the requirement to pay for water which they believed they owned and for a grave lack in ditch maintenance. This prompted the SBWC to negotiate with the owner of the ditch, George Reese, to sell the ditch and water right to the company. South Boise Water bought the Mill Ditch from Reese's widow in 1951 for a sum of \$2750. In the transaction SBWC agreed to provide water to the McDonald tract for 30 years

### **The Formative Years 1917 - 1951**

The Supreme Court agreed with the Stewart Decree that William Ridenbaugh was the sole owner of the Mill Ditch and had the right to divert from the Boise River the water therein, except for the separate right allocated to the Denver and Idaho Land Company. The original

users would be able to continue diverting water from the Mill Ditch as long as they paid the appropriate annual fees to the ditch owner. The year 1917 was a major turning point.

### **The South Boise Water Company, founded 1917**

Ridenbaugh, owner of the Mill Ditch for nearly 40 years sold it to Birdenia Callaway for \$25,000 on March 20, 1917 (Ridenbaugh to Callaway, 1917). The irrigators realized that they needed a legal entity that they could support as the alternative owner of Right 16. Later that year, on August 17<sup>th</sup>, five irrigators incorporated the South Boise Water Company. Initially the corporation was set up to last 50 years. As a condition for joining the Company owners were required to turn over to the company the rights to their laterals and the Mill Ditch. The stated purpose of the new corporation was:

- 1: To buy, own, hold, maintain, distribute and operate water rights and irrigation ditches from the Boise River for the purpose of irrigating the land owned and held by the stockholders of this corporation
- 2: To take over, own, operate, control, repair and maintain those certain laterals which take irrigation water from the Ridenbaugh-Rossi Mill Ditch, as well as to take over, own, operate, control, repair and maintain that portion of the main canal of the Ridenbaugh-Rossi Mill Ditch which is owned and held in common by the users of irrigation water therefrom.
- 3: To issue the capital stock of this corporation to the owners of the above described ditch, laterals and water rights in exchange for a proper conveyance to this corporation by said owners of all water rights, ditch rights and laterals owned by each of them and appurtenant to the lands irrigated from said Ridenbaugh-Rossi Mill Ditch by said owners.

### **The Suit of 1920, SBWC and Fitzpatrick v Calloway and Ridenbaugh**

The corporation grew rapidly. In 1920, with approximately 126 members the Company sued Callaway, the current ditch owner. The suit alleged that the original users were:

“The owners of a water right consisting of approximately 400 inches of water measured under a 4-inch pressure taken from the south side of the Boise River through what is known as the Ridenbaugh-Rossi Mill Ditch, and also the owners of sufficient interest in said Ditch to carry said 400 inches of water”.

The court held:

“That the defendant Bird Callaway was the owner of said Ridenbaugh-Rossi Mill Ditch, and that neither of the plaintiffs owned any interest therein, nor any right to convey water through said ditch, or to have water delivered through said ditch, except upon payment of a reasonable rental therefor;”

And “that the plaintiff, M. Fitzpatrick was the owner of the right to the use of one-ninth of one cubic foot of water of the Boise River to be delivered through said ditch or canal”

And “that the plaintiff, the South Boise Water Company, was the owner of the right to the use of seven and one-tenth cubic second feet of water, to be delivered from the Boise River and delivered through said canal”

SBWC did not appeal the ruling; transcripts from the 1929 suit state “that the testimony and proceedings of said (1920) action are not on file in the office of the Clerk of said court” and that they may have been lost, mislaid or stolen.

### **The suit of 1929, SBWC v McDonald**

South Boise Water sued ditch owner James McDonald in 1929 over the same issues as in the 1920 suit, but approached the case differently. The plaintiff, SBWC, alleged that its shareholders were members of the original Drake-Minor and Porter ditch which they maintained was later followed by the Mill Ditch along the exact right of way; in other words a ditch in a ditch, and that they were therefore not liable for the annual fees assessed by the Mill Ditch owner.

SBWC tried to make the case that the Drake-Minor and Porter ditch was different than but traveled the same exact path as the Mill Ditch. The court disagreed, ruling that the two were one in the same physically and legally. The court awarded exclusive right to the Mill Ditch to McDonald; SBWC had to continue paying rent to use the ditch. SBWC appealed the decision to the Supreme Court, which upheld the decision of the lower court. SBWC had to continue paying McDonald, and later, Reese for use of the Mill Ditch even though they had irrigation water rights.

### **1951 - 1990, Transformation Years**

By 1950 the Company’s use of water was shrinking due primarily to the conversion of agricultural land to residential use and residential land to commercial use. New potential water users began developing in the area and society began to see running water as a valuable amenity. Dr. Ace Chatburn was heavily involved with Company decisions during this time of change and adaptation. Ace Chatburn, who was Principal of Garfield School and later a Professor at Boise Junior College, is an icon the annals of South Boise Water Company history, and arguably did more to improve the organization than any other person. Ace joined the SBWC board in March of 1951 and remained as a board member or president until 2001. He was President for the first time between 1951 and 1955, and again between 1977 and 2001, for a total of 30 years. Ace remained involved with the Company until his death in 2007 at age 94. During his tenure he resolved many of the most troubling problems and led the Company in new directions. He gave willingly of his personal time, looked after every detail of company operations and even would teach new shareholders the basics of irrigation. He carried company policy and rules in his head and would elaborate them whenever the need



arose. He was in his words “stamped with the indelible mark of the depression” and led the company to save money whenever possible.

### **The Reese Deal, 1951**

When Ace joined the Board in 1951 the Mill Ditch downstream of Broadway Avenue was in great disrepair and in his words, “was a stagnant health hazard, a dead body of water”. At that time the ditch was owned by George Reese. The SBWC members were outraged that they had to pay for use of the Mill Ditch, particularly because Reese refused to maintain it adequately. But the past law suits had decided in favor of the ditch’s owners, allowing them to charge an annual fee for use of the ditch. Ace was instrumental in putting a deal together that allowed the Company to buy the Mill Ditch. He negotiated an agreement with Reese to purchase it for \$2750, and shareholders loaned the corporation the money to complete the deal. George Reese had died by the time the deal was consummated, and his wife Martha signed the agreement on May 10<sup>th</sup>, 1951 (Reese to SBWC, 1951). Since then, the SBWC has owned the Mill Ditch, its right of way, the water rights, headworks, headgates and all laterals.

### **Boise Junior College, 1951**

Ace was a professor at Boise Junior College and a personal friend of its president, Gene Chaffee. Concurrent with the Reese negotiations Ace learned from Chaffee that the college was having a difficult time in getting enough water to irrigate the rapidly growing campus. Ace suggested that SBWC could provide the water. The college accepted the deal, which resulted in it becoming a shareholder. At that point in time the Mill Ditch effectively stopped at Broadway and the parts downstream had fallen into serious disrepair. The company quickly repaired the ditch and found a culvert underneath Boise Avenue and a lateral that led directly to the college. Water started flowing soon thereafter. The lateral caused some local flooding so Boise Junior College piped it. The Company used proceeds from the sale of shares to the college to help pay off the loan to its shareholders. The successor to the junior college, Boise State University, remains the company’s largest and most important shareholder.

### **Lucky Peak Storage, 1967**

In 1967 the Bureau of Reclamation offered contracts for storage space for 40 years in the new Lucky Peak Reservoir. As set by the Bryan Decree, the Company had the right to divert diminishing amounts of water as the irrigation season progressed. The use of storage water would enable the Company to supplement its natural flows when they were reduced. The company could also lease storage water to others and make money. The Company would only be charged its share of construction and administrative costs for the water it used or leased. The Board decided to seize the opportunity and signed up for 720 acre feet.

### **Modification of the corporation in 1968**

The original founders of the South Boise Water Company filed papers that allowed the corporation to exist for 50 years, and that expired in 1967. Ace rewrote and filed new articles of incorporation in 1968 for the company to exist in perpetuity.

### **The Whistle Tubes, 1974 and Larkey Dam, 1975**

In the 1960's and 1970's some wet years produced high river flows and threatened the houses that had been built along Loggers Creek. In 1974 Ada County, the Company and individual homeowners contributed monies to install three 3-foot metal pipes 20 feet long (whistle tubes) at the head of Loggers Creek. Water flow into Loggers Creek was controlled by sliding sheets of plywood over the openings of the pipes.

The Mill Ditch sources its water from Loggers Creek just east of where the ditch and creek cross ParkCenter Boulevard. In the early 1970's the diversion dam in Loggers Creek for the Mill Ditch was a rickety wooden structure. Ace led the effort to build a fund to replace it, and in 1975 the Company built a new structure. The structure was later named after Amos Larkey a longtime and skillful water master, who also helped build it.

### **River Run and Chronic Dam, 1981**

The agricultural and rural landscape of southeast Boise developed apace in the latter half of the twentieth century to the suburban setting of today. The SBWC felt the pressure of less agricultural demand on the system and the need to attract new uses and users. Ace had an arduous negotiation with the developers of River Run. The developers offered to replace the whistle tubes with a better control structure and to provide the company with a reliable stream of water controlled by the developer. Ace realized the developers needed the water more than the company needed the development, so the company ended up controlling the water flow and owning the new Chronic Dam, a concrete weir with three gates, which replaced the old whistle tubes. It is an integral part of the levee and flood-control system built to protect the ParkCenter, River Run, and a portion of the Spring Meadow developments. The Berm Gate allows Loggers Creek to pass through the levee at a maximum flow of 100 cfs. During flooding the gate is adjusted to back up water to protect the levee between upper Loggers Creek and the Boise River. During this situation, the Berm Gate, rather than Chatburn Weir, becomes the control point for water entering Loggers Creek, River Run was the first of several developments upstream of the original service area which now use company water.

### **The Basalt Repair**

The pile and plank wing dam in the Boise River served very well to create a head at the opening of Loggers Creek. Then during the 1960's the City of Boise started cleaning up the river. As part of the effort volunteers with chain saws cut a hole in the structure. After that each year the Company had to pay for a dozer to go into the river in mid-summer and fill the hole with river cobble. Ace spent a lot of effort seeking a cost-effective repair. In 1987 he decided on basalt rock over the old dam. This worked very well. However, the dam was at an angle to the current, as it always had been and therefore caused the water to turn toward the north bank and erode land owned by Ward Parkinson. Ward organized a major protest about the safety of the repair and a secondary channel through the dam for tubers was added and a sign stating "Float here" was added. The sign was later stolen. Because of all the controversy over the repair, for a period members of the Board referred to it as the "Damn Dam". Now Chronic Dam applies both to the wing dam and the bank weir.

### **Spring Meadow, The Loggers Creek Agreement and the Chatburn weir, 1989**

Ace negotiated an agreement with River Run Development Company and the Idaho Department of Fish and Game in 1989 that provided for use of Fish and Game water to assure a year-round flow in Loggers Creek and the specially designed RiverRun fish habitat. Loggers Creek was extended over a half a mile upstream to run through the new Spring Meadow development and a bank weir provided the new intake control. In recognition of his years of service and imaginative leadership the Company decided to name the new weir after Ace. The weir takes advantage of a natural riffle in the river to provide the head of water needed for the diversion. The agreement called for the removal of the basalt rock diversion portion of Chronic Dam, but this has not occurred and the Chronic provides a valuable secondary diversion point when the Chatburn Weir needs to be closed for maintenance or construction in upper Loggers Creek.

### **ParkCenter Pond. 1990**

In the early 1980's the City of Boise decided to encourage growth in the southeast portion of the City. The City and Ada County Highway District made a major investment by building ParkCenter Boulevard as a new arterial serving commercial sites. ParkCenter Pond, a reclaimed gravel pit, was included as an amenity. The City needed water for the medians in the Boulevard and fresh water to flush through the Pond to prevent stagnation. Boise City Parks joined the Company in 1990. It added irrigation of Bagly Park in 2000.

### **Reorganization, 1990-Present**

By 1990 the SBWC system only served a few farms of 3 acres or less. The company served mainly homes, subdivisions, Boise State College, and Boise City Parks. The last 25 years have seen as many challenges for the SBWC as the decades prior. The old days of informal arrangements, an unchallenged water right, getting an aging system to last a few more years, and records consisting of a few hand-written notes had slipped by. The Company needed to fight for its water, to continue to improve the distribution system and to streamline, document, and computerize its business practices.

### **Transfers, 1993 and 1999**

At the end of the twentieth century there was a cumbersome process for moving water use from one land parcel to another. The right holder had to identify a piece of ground no longer irrigated, but irrigated within the previous 5 years, and then could move the use to a new piece of ground, no larger than the one abandoned. In 1993 and 1999 the Company moved water to the Idaho City area to provide water for a cabin and for the high-school football field. Then the Springs development asked for water and in 1993 the Company submitted transfer number 4259 to accomplish this. As part of the transfer application the Company was required to document lands currently irrigated. Nampa Meridian irrigation district protested the transfer. When the dust had settled the State decided that right 63-148C should be reduced from 9.18 cfs to 3.18 cfs. In April, 1997, the Company petitioned for reconsideration of the transfer and this was granted. However, no further action on the issue took place over the next five years.

## **Service Area**

In 1998 Idaho passed legislation that allowed small ditch companies to transfer water within their service areas without filing transfer applications. In March, 2000, the Company filed a preliminary service area map. In September, 2001, the Company filed a revised service area map that covered a larger area, which would give more flexibility for future transfers.

## **The Snake River Basin Adjudication**

Perhaps the most important event in recent Company history has been the Snake River Basin Adjudication. The Snake River Basin Adjudication (SRBA) started in 1988 and is similar in many ways to its 1906 predecessor, the Stewart Decree in that it specified the priority and amounts of all surface water rights in the basin. The process continues today and is anticipated to complete in September of 2014, after nearly 26 years.

The SRBA covers, as the name implies, the entire Snake River Basin or effectively all of southern Idaho. Adjudication of water rights on the Boise River Basin are part of the process and SBWC was required to submit documentation as to its water rights and uses of the water. The adjudication used 1987 as a base year and forfeiture of rights for non-use stopped for the duration of the process. This meant that any land irrigated in the 5 years prior to 1987 could be claimed to justify a right.

In early 2001 Ace decided that the problems confronting the company were beyond his capacity and resigned as President. The recently elected Vice President, Barry Eschen, accepted the presidency and led a period of intense change and development for the Company. Major issues on the table included the adjudication, the potential major water loss as a result of the transfer in reconsideration, the deteriorating system of laterals, the complex system of shares and assessments that only Ace claimed to understand, incomplete records of shareholders and shares, and lack of an accurate itemization of lands irrigated.

As Barry delved into the multiple intertwining problems it became obvious that the Company needed competent legal advice. Since they had gotten shellacked when Ringert Clark represented the opposition he decided to start there. Dan Steenson, a bright, aggressive water attorney was available, except in matters involving Nampa Meridian Irrigation District. The Board accepted Dan and began an extensive effort to identify former water users. Dan counseled that the Peiper case decision set the precedent that a ditch company's obligation was to deliver the water to shareholders (Aberdeen-Springfield Canal Company v Peiper, 1999). Whether the shareholder used it or not was out of the company's control. Since the Company had not taken back shares, the land could still be irrigated. The Treasurer, Frank Nicholson, and Secretary, Barbara Garrett developed Excel spreadsheets of all parcels historically irrigated by company water. Since at least one book of receipts for shares issued was missing, the record was incomplete. Steve Sweet provided aerial photos from 1938-1939 that were used to document water use at that time. The photos showed that land had green vegetation and that all ditches serving the area were part of the SBWC system. This documented water use, but did not solve the problem of Transfer 4259, still up for reconsideration. In September, 2002, the Company asked to withdraw transfer 4259. The Department reasoned that under the on-going SRBA a change of place of use within the

Company service area would not require a transfer and that all water use would be examined in the SRBA. In April, 2003, the State considered Transfer 4259 withdrawn. In September, 2003, the Company submitted its claims for the SRBA. This was followed by a period of negotiation and further data submission to the staff person assigned to review our claims.

Barry served the Company well during his tenure as President until 2004, and continues to do so as a dedicated board member. Under his administration the company continued its evolution to an efficiently run organization in sound financial condition. The tenacious battles he fought during the SRBA resulted in preserving the 16<sup>th</sup> right on the Boise River, and the company's lifblood infrastructure improved greatly.

### **Water Rights**

To date South Boise Water Company has successfully negotiated the intricate and elaborate proceedings of the SRBA. On Oct. 13, 2003, and March 24, 2009, the Court issued partial decrees affecting the Company water rights. Only a basin-wide issue could change these determinations. Table 1 summarizes the rights now held by the Company.

Table 1, Water rights of the South Boise Water Company

Right number	Amount (CFS)	Description
<b>IRRIGATION RIGHTS</b>		
63-148B	0.05	ID City football field right
63-148C	9.13	South Boise Irrigation Right
63-148D	0.02	ID City cabin
63-150	0.80	South Boise Water Right (Denver and Idaho Land)
63-185	1.80	Meeves Water Right
63-2392	1.50	10% of 15 cfs for Drainage District #3
63-2392	0.30	Meeves - 2% of 15 cfs for Drainage District #3
Total	13.60	
<b>ESTHETIC AND WILDLIFE WATER RIGHT</b>		
63-149A	40.00	SBWC for Loggers Creek and Mill Ditch

### **Simplifying Share Structure**

The shares structure as mentioned earlier had evolved as the company evolved. The Board established a policy that there would be four different types of shares; each would be assessed the same and have one vote. Over a period of two years of buying back, selling and re-issuing of shares, essentially all shares were converted to the new system. A legal notice in the Idaho Daily Statesman gave shareholders notice that they had to pay assessments or lose

shares for which assessments had not been paid. This took the old shares with unpaid assessments off the books. The Board also wanted to change the price per share which had been fixed at \$10 per share since 1917. To accomplish these changes the Company needed to amend both the Bylaws and the Articles of Incorporation, procedures accomplished in 2003.

#### IRRIGATION SHARES

Irrigation shares allow shareholders to apply water to the shareholders parcel of land. The shares are issued at the rate of one share per ½ acre of land as determined by the Ada County Assessor and one share for each ½ acre or fraction thereof of contiguous land. No shareholders irrigated their entire parcels. Some irrigated a large part, others a small one. The Company did not want to get involved in surveying each parcel to determine the portion irrigated. Some shareholders, such as churches with large parking lots, complained, but the Board responded that they still got water at a much cheaper rate than they could have gotten from the municipal supply.

#### AMENITY SHARES

Amenity shares provide use of company water for ponds or running water throughout the year without the use of the water for irrigation. They are issued at the rate of one share per 1/6 acre (7260 square feet) of open water or sub-irrigation.

#### CONVEYANCE SHARES

Conveyance shares are for diverting water from the river that is under the shareholders personal right and delivering it to the shareholder. The company conveys water to River Run and Spring Meadows.

#### MEEVES SHARES

The Meeves Water Users Association agreed in 2012 to turn over the Meeves water right to SBWC in exchange for the Company providing water to lands covered by the Meeves right. The Company issued the Meeves land owners SBWC shares paid in perpetuity. As a result, the SBWC now owns the 1.8 cfs Meeves right allocated by the SRBA.

### **Lucky Peak Storage and water leasing**

In 2007 the Luck Peak contract would expire. Ahead of this SBWC joined other contractors in seeking an extension of the contract. The companies together pursued the right to purchase their space in Lucky Peak. By paying their portion of construction costs the companies could guarantee their storage for the future. SBWC decided to do so and now makes a yearly payment on construction costs whether it uses water or not. Most years now it uses some water and rents water. The rules for how much water one gets the next year if the reservoir does not fill are complicated, but the Company gets significant benefit from using and leasing storage water.

In 2004 the Company realized that it could both make income and protect its water rights by leasing some of its natural flow water through the State Water Bank. United Water was opening a new water treatment plant and needed more water. In 2005 the Company leased 4

cfs for a year and then 1 cfs less each year for the next 3 years. Since then SBWC has not found lessors for natural flow.

## **Improvements**

The company has made a number of significant additions and improvements over the last decade to the ditch system and to the way it does business.

### **DITCH SYSTEM IMPROVEMENTS**

Significant progress has been made to Loggers Creek and the Mill Ditch over the last decade. In addition to comprehensive annual maintenance, the infrastructure continues to improve thanks to a competent and proactive administrative and technical staff.

#### *Upgraded Maintenance*

Beginning with a major clean out of the Mill Ditch from Myers Street to the grate just north of the intersection of Pennsylvania and Boise Avenue in 1999, the Company has moved to better maintain the system, restoring ditches to functional sizes, replacing aging pipes and control structures, placing grates, putting metal lids on boxes and identifying potential problems earlier and taking action proactively. A steel walkway replaced the deteriorating wooden walkway on Larkey Dam in 2005

#### *The University Weir*

As described earlier, in 1951 Ace found a culvert under Boise Avenue near what is now Protest Rd. The culvert fed an old irrigation lateral that the company used to carry water to Boise State. Flooding required the college to install a pipe in lieu of the open ditch. The newly installed pipe had a head gate, but no diversion dam. A pile of roots, rocks and sticks worked pretty well, but was subject to modification by passersby. In 2002 the University installed a weir, whose boards could be set to maintain relatively uniform head of water for the University during the irrigation season and removed for the winter. Drainage District 2 and the Company contributed as well.

#### *The Sand Trap*

The Loggers Creek configuration established in 1989 had one problem—sediment. There were three sand traps included in the design, but no access to clean them out. By 2007 they were full and sediment was collecting wherever the water slowed. In 2008 with much volunteer time from Board-Member, Dave O'Day the Company installed a sand trap in Loggers Creek immediately below the Chatburn Weir. The trap, which collects heavier sediment before it enters the waterway, provides a suitable location to periodically remove the sediment in order to keep the company's ditches running clean and to reduce future ditch maintenance. It was designed by Quadrant Engineering with the cooperation of Boise City Public Works, the US Army Corps of Engineers and the Idaho Department of Water Resources. See the SBWC website for photographs of the trap.

### *The Measuring Weir*

In 2007 the Boise River Watermaster notified the Company that the measuring weir was no longer performing accurately. The Company replaced the old wooden structure with a concrete one with a fixed orifice and steel blade edge.

### *Automated Headgate*

In 2010 Water District 63 of the Idaho Department of Water Resources and the Bureau of Reclamation offered to provide an automated system for the head gate at Chatburn Weir. The Company accepted the offer and installation was completed in 2011. Now, as the river flow fluctuates, a gate automatically rises and falls to maintain a steady water level below the gate. This helps maintain a steady water flow into our system and helps avoid any excessive diversion of water thus conserving the river water.

### DIGITAL RECORDS

One of Ace Chatburn's dreams was a map of the system. In 2004 Bruce Otto produced his first map of the system. Over the ensuing years he has produced valuable data both on shares and the waterways of the Company, and has provided a very useful series of maps. The company archives all business records, historic and recent, in an Access database which includes a GIS map of the ditch system. This provides searchable access to the system and shareholders should problems in any segment arise unexpectedly.

## **Summary**

Over time the use of water in what is now southeast Boise changed. What was an informal system of ditches and conflicting water rights in a bucolic setting has transformed. Housing has replaced farms and businesses, apartments, and institutions replaced many of the early residences. Low-head water power is no longer used for manufacturing. Rather than shrivel up, the Company found new shareholders in the original area and to the east. The company has evolved to an organization that still includes a couple of small farms and many households but also includes Boise State University, Boise City Parks, River Run, Spring Meadow, The Springs, and Bown Crossing. The Company has maintained its water rights and has developed a sound financial and legal base. It has been able to steadily improve its water distribution system and now has good control over the flows in Loggers Creek and the Mill Ditch. Water is used on farms, gardens, and lawns, and also in ponds, parks, water amenities and fish and wildlife habitat.

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## Figures

Figure 1: Map showing points of diversion from the Boise River to Loggers Creek past and present, the Chatburn Weir, and the sand trap.

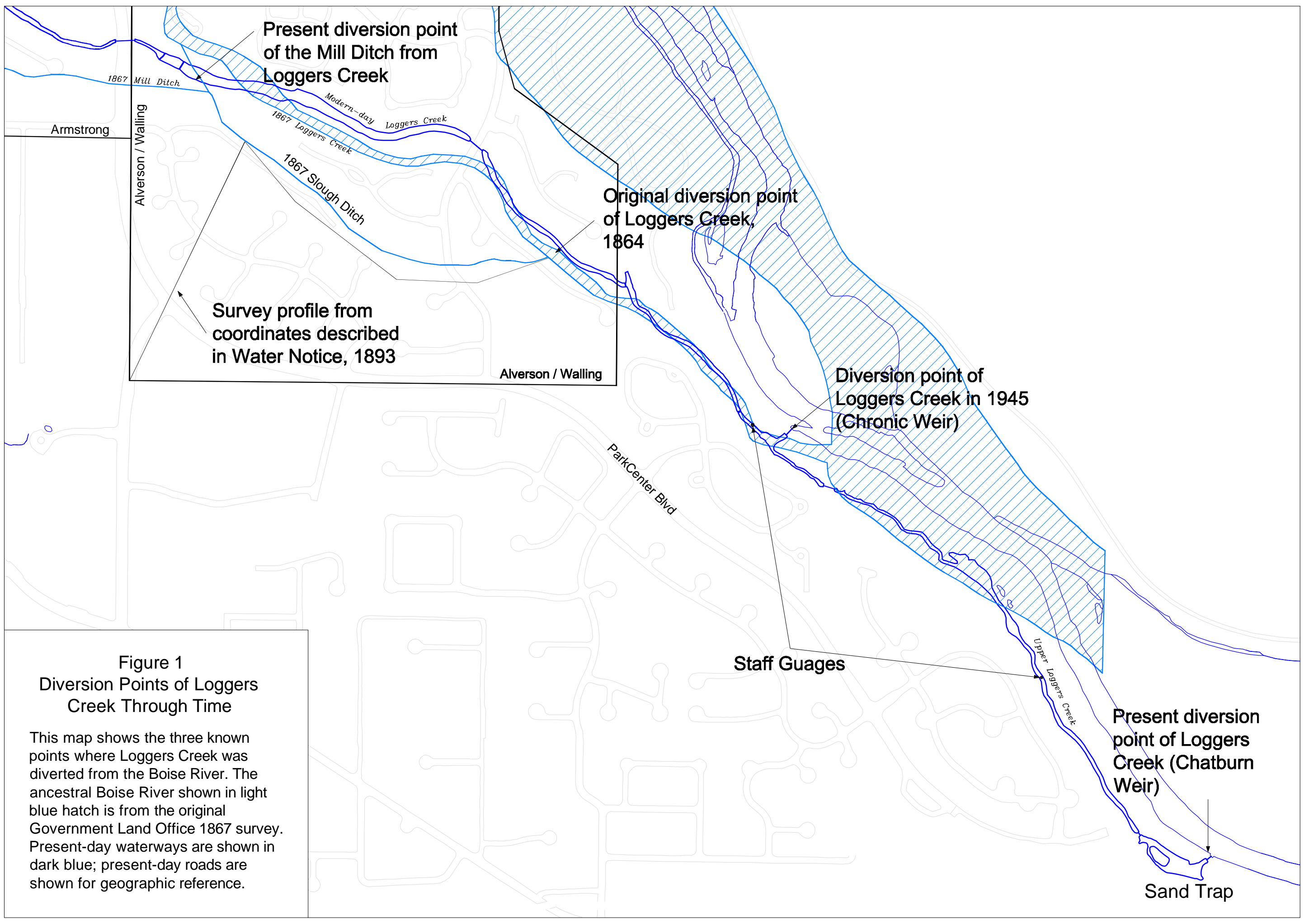
Figure 2: Map showing the distribution of stream-cut benches in the Boise River floodplain.

Figure 3: Map showing the locations of the original Mill Ditch and patents.

Figure 4: Map showing the approximate locations of Isaacs distillery, a saw mill, the flour mill, and the Boise River Toll Bridge.

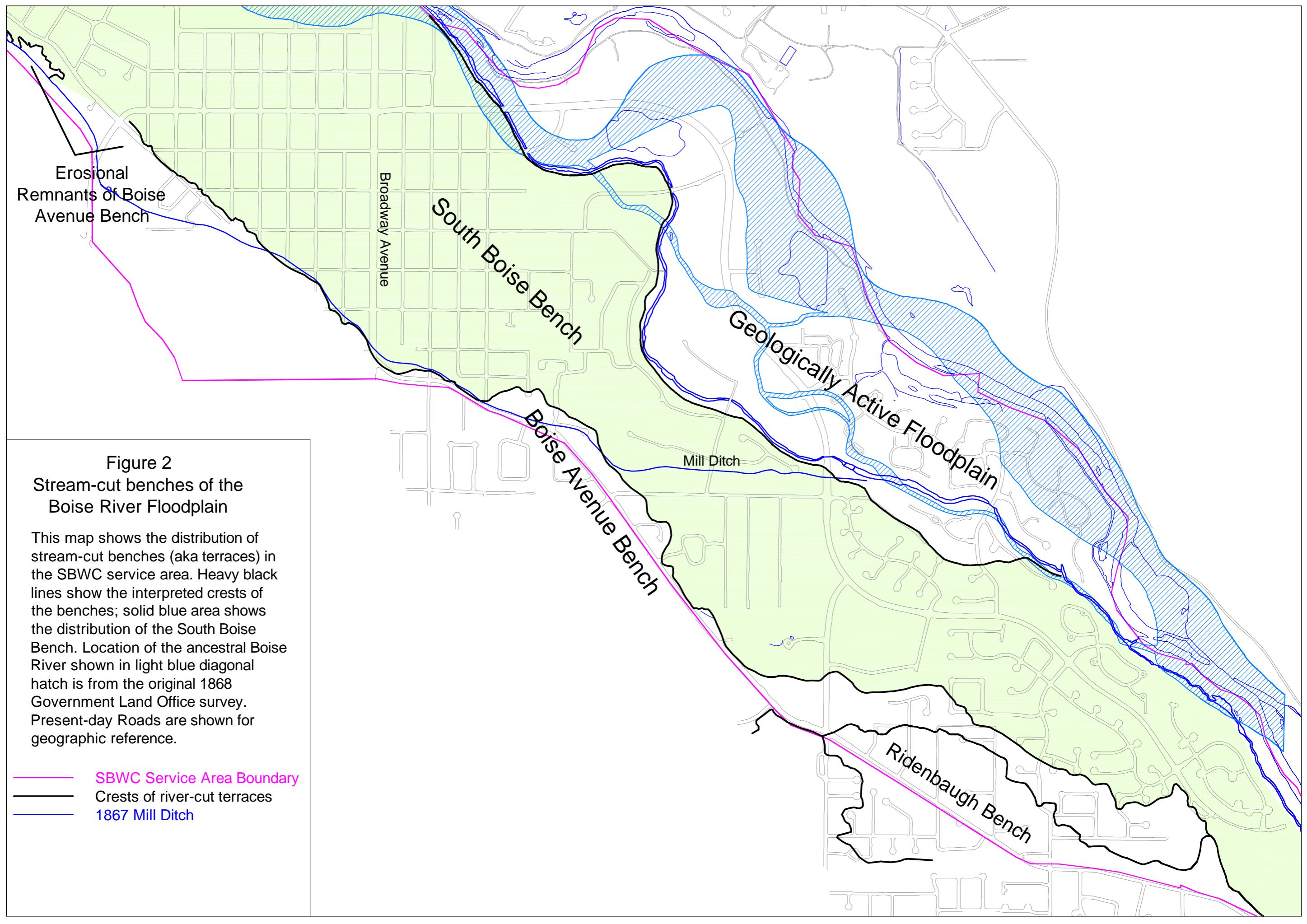
Figure 5: The upper Mill Ditch; the Armstrong and Alverson ranches.

Figure 6: Map showing the ownership of land circa 1890. It also shows the Mill Ditch and irrigation laterals.



**Figure 1**  
**Diversion Points of Loggers**  
**Creek Through Time**

This map shows the three known points where Loggers Creek was diverted from the Boise River. The ancestral Boise River shown in light blue hatch is from the original Government Land Office 1867 survey. Present-day waterways are shown in dark blue; present-day roads are shown for geographic reference.

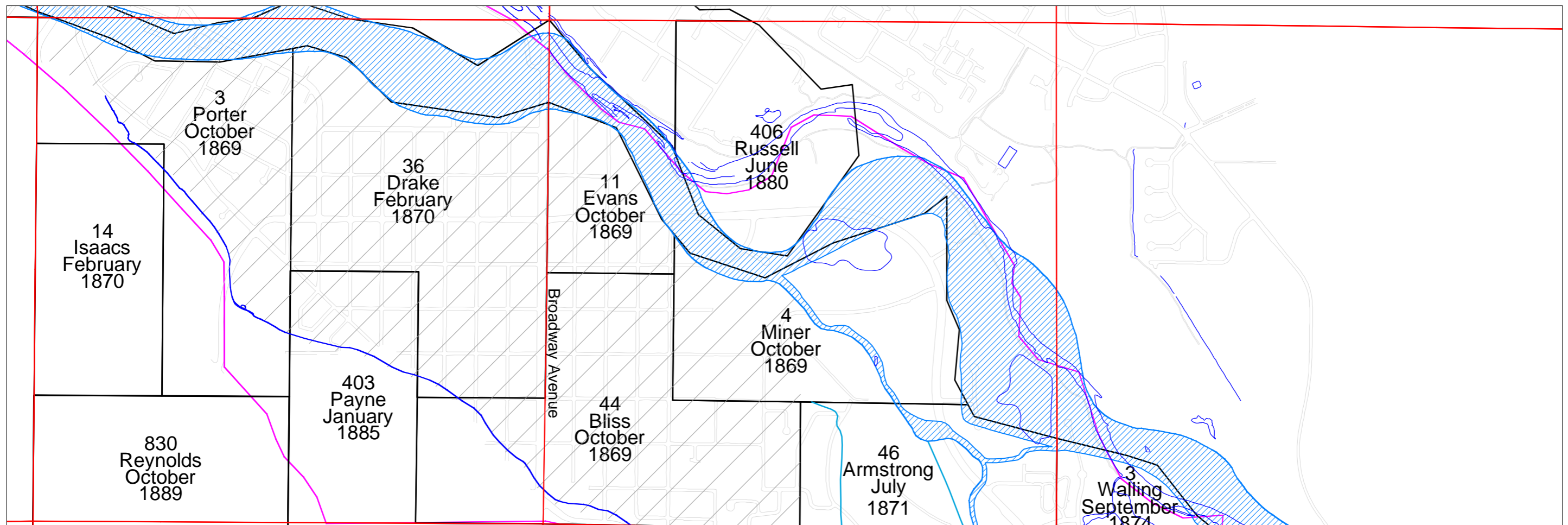


**Figure 2**  
**Stream-cut benches of the**  
**Boise River Floodplain**

This map shows the distribution of stream-cut benches (aka terraces) in the SBWC service area. Heavy black lines show the interpreted crests of the benches; solid blue area shows the distribution of the South Boise Bench. Location of the ancestral Boise River shown in light blue diagonal hatch is from the original 1868 Government Land Office survey. Present-day Roads are shown for geographic reference.

- SBWC Service Area Boundary
- Crests of river-cut terraces
- 1867 Mill Ditch





**Figure 3**  
**Patented Land and the Mill Ditch System Circa 1870**

This map portrays what the Mill ditch system probably looked like immediately subsequent to the patenting of all lands in the current distribution system. Heavy black lines are the patent boundaries, diagonal hatch pattern represents land that is either known or thought to have been irrigated from the Mill Ditch. Location of the Boise River is from the 1868 Government Land Office survey; modern roads are shown in light gray for geographic reference.

- Mill Ditch
- Meeves Ditch and Tributaries
- SBWC Service Area Boundary

14	Patent Certificate number
Isaacs	Patent recipient
February	Month of patent
1870	Year of patent

Broadway Avenue

3  
Porter  
October  
1869

14  
Isaacs  
February  
1870

36  
Drake  
February  
1870

403  
Payne  
January  
1885

830  
Reynolds  
October  
1889

11  
Evans  
October  
1869

406  
Russell  
June  
1880

4  
Miner  
October  
1869

44  
Bliss  
October  
1869

46  
Armstrong  
July  
1871

3  
Walling  
September  
1874

15  
Race  
May  
1887

108  
Alverson  
July  
1871

557  
Crane  
June  
1889

312  
Kenny  
December  
1881

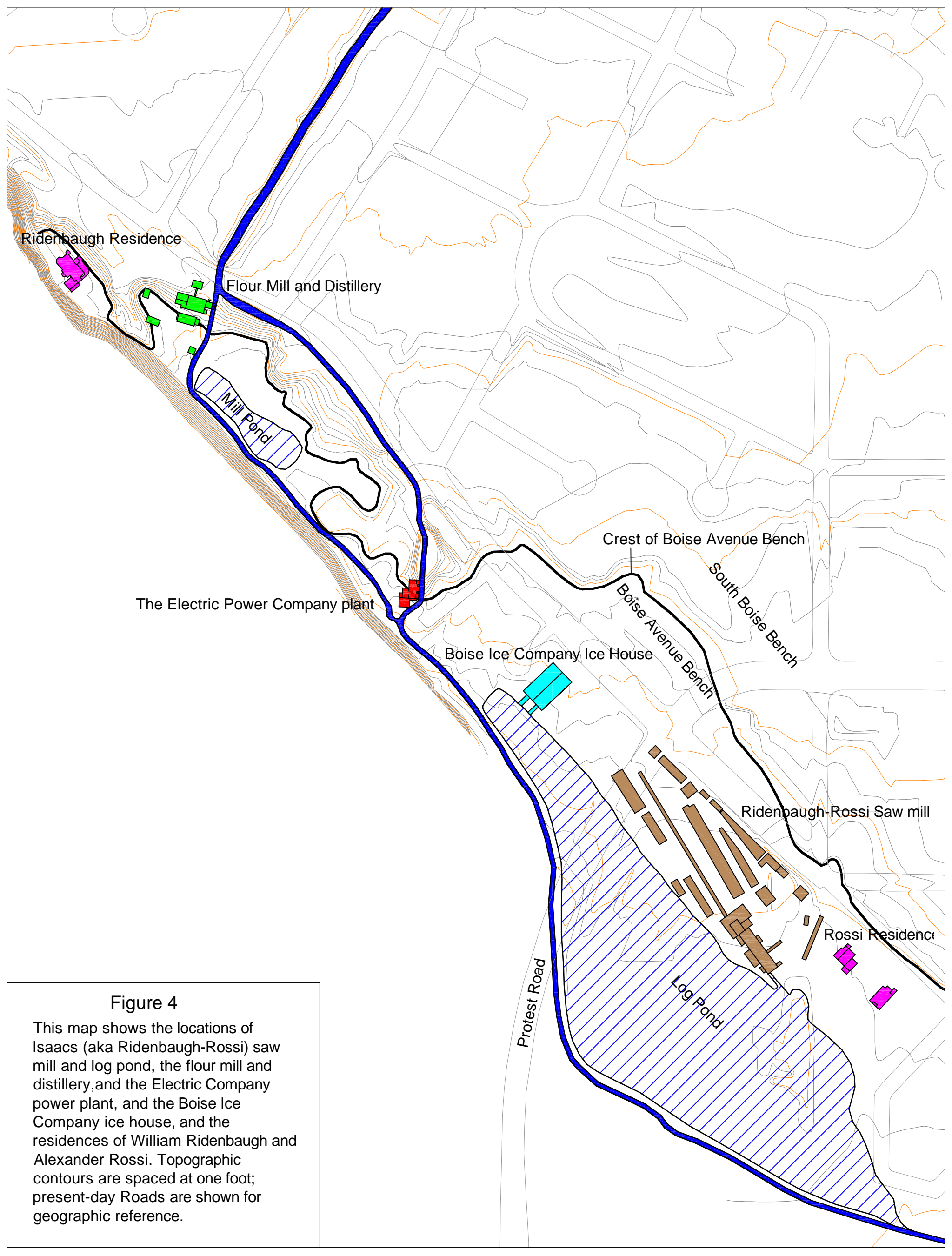
27  
Turner  
September  
1874

632  
Bown  
August  
1886

38  
Bown  
October  
1869

759  
Pratt  
August  
1887

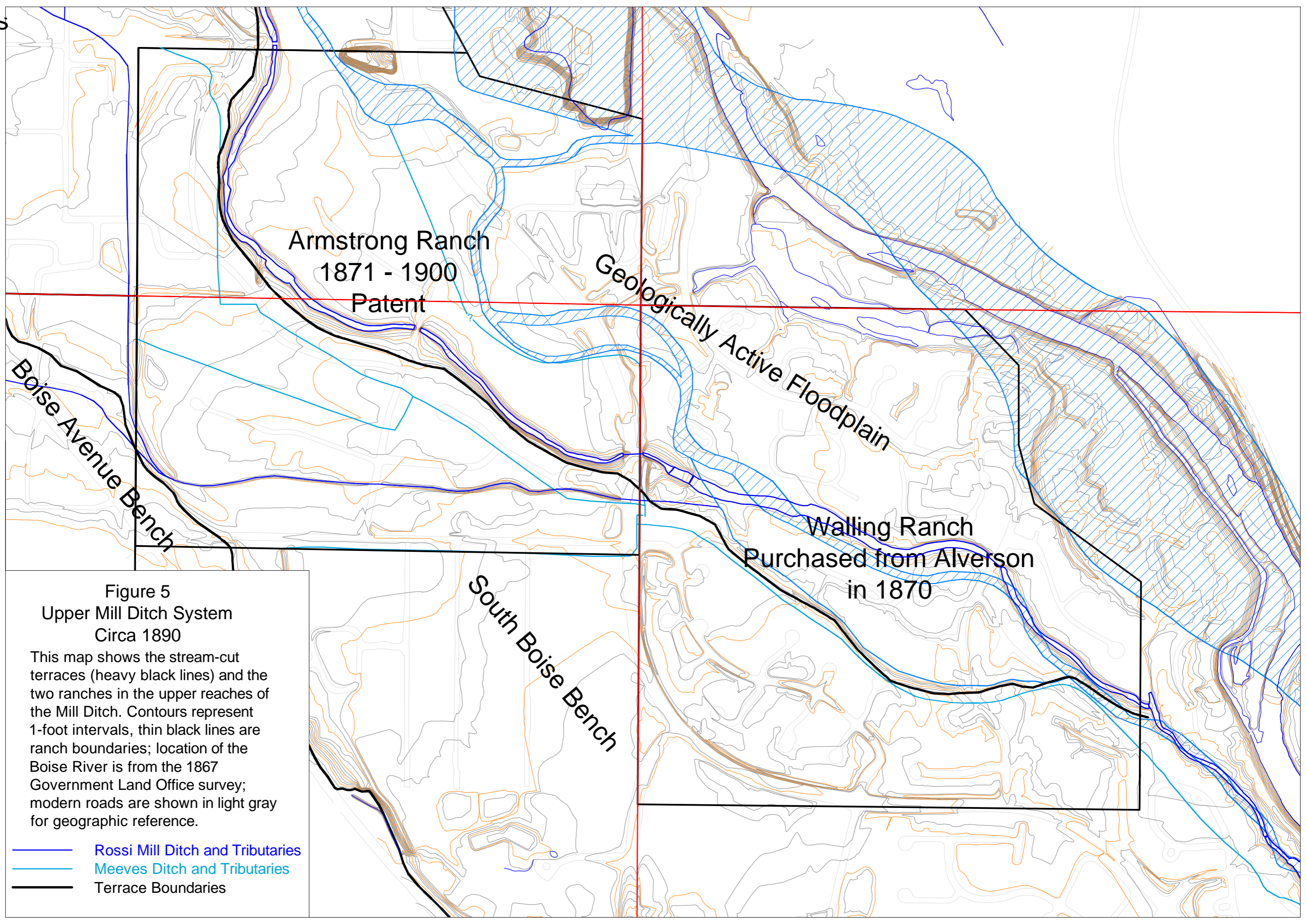
1210



**Figure 4**

This map shows the locations of Isaacs (aka Ridenbaugh-Rossi) saw mill and log pond, the flour mill and distillery, and the Electric Company power plant, and the Boise Ice Company ice house, and the residences of William Ridenbaugh and Alexander Rossi. Topographic contours are spaced at one foot; present-day Roads are shown for geographic reference.





Armstrong Ranch  
1871 - 1900  
Patent

Geologically Active Floodplain

Walling Ranch  
Purchased from Alverson  
in 1870

Boise Avenue Bench

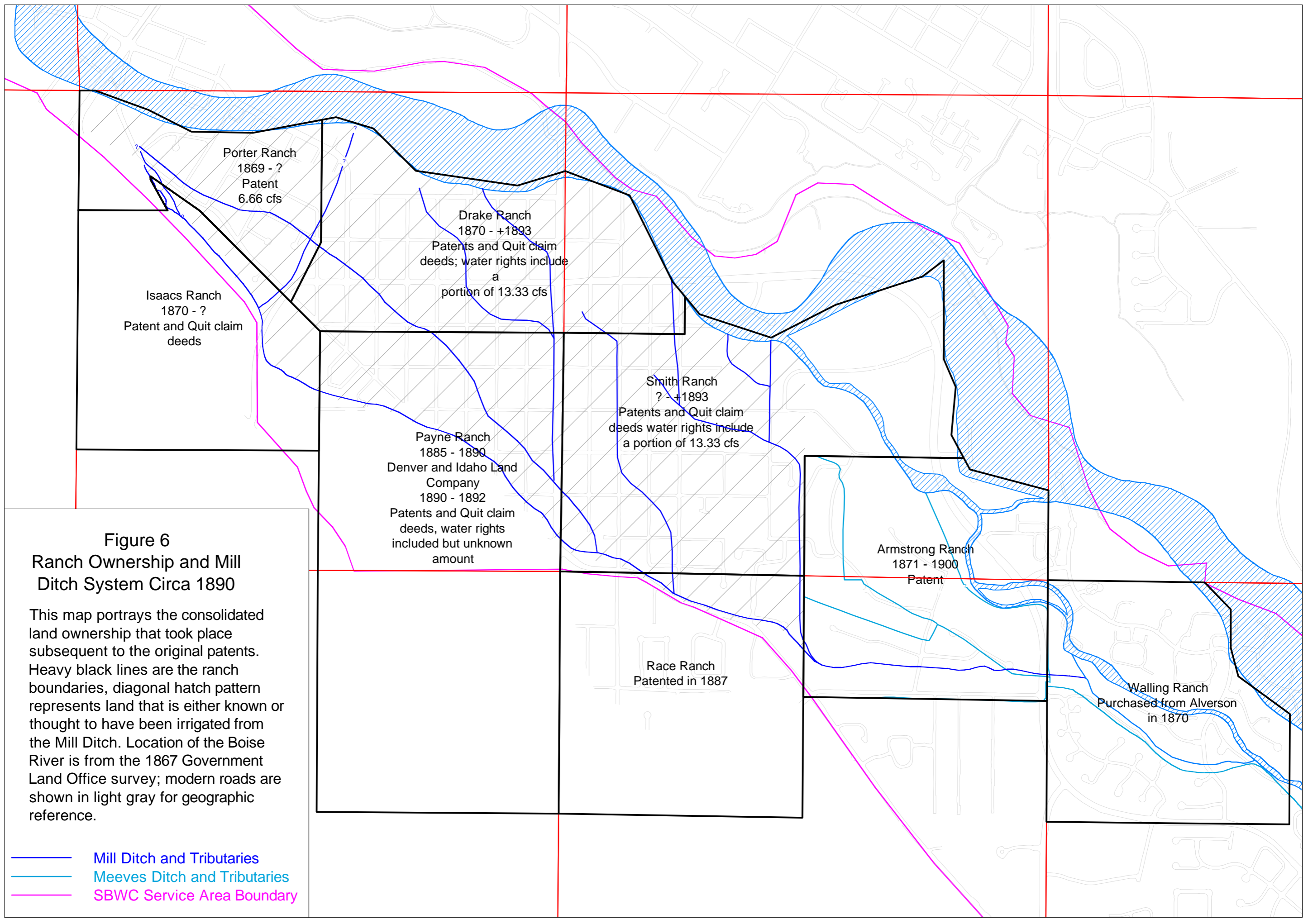
South Boise Bench

**Figure 5**  
Upper Mill Ditch System  
Circa 1890

This map shows the stream-cut terraces (heavy black lines) and the two ranches in the upper reaches of the Mill Ditch. Contours represent 1-foot intervals, thin black lines are ranch boundaries; location of the Boise River is from the 1867 Government Land Office survey; modern roads are shown in light gray for geographic reference.

- Rossi Mill Ditch and Tributaries
- Meeves Ditch and Tributaries
- Terrace Boundaries





Porter Ranch  
1869 - ?  
Patent  
6.66 cfs

Drake Ranch  
1870 - +1893  
Patents and Quit claim  
deeds; water rights include  
a  
portion of 13.33 cfs

Isaacs Ranch  
1870 - ?  
Patent and Quit claim  
deeds

Smith Ranch  
? - +1893  
Patents and Quit claim  
deeds water rights include  
a portion of 13.33 cfs

Payne Ranch  
1885 - 1890  
Denver and Idaho Land  
Company  
1890 - 1892  
Patents and Quit claim  
deeds, water rights  
included but unknown  
amount

Armstrong Ranch  
1871 - 1900  
Patent

Race Ranch  
Patented in 1887

Walling Ranch  
Purchased from Alverson  
in 1870

**Figure 6**  
**Ranch Ownership and Mill**  
**Ditch System Circa 1890**

This map portrays the consolidated land ownership that took place subsequent to the original patents. Heavy black lines are the ranch boundaries, diagonal hatch pattern represents land that is either known or thought to have been irrigated from the Mill Ditch. Location of the Boise River is from the 1867 Government Land Office survey; modern roads are shown in light gray for geographic reference.

- Mill Ditch and Tributaries
- Meeves Ditch and Tributaries
- SBWC Service Area Boundary