

2-11

**SUPPLEMENTAL REPORT BY IDWR
SETTING FORTH ITS PRACTICE FOR LICENSING OR RECOMMENDING
DOMESTIC RIGHTS FOR WHICH THE DELIVERY SYSTEM IS IN PLACE**

In Re SRBA
Twin Falls County Civil Case No. 39576
Subcase No. 63-07035C

Supplemental Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
David R. Tuthill Jr., Adjudication Bureau Chief

February 10, 2000

BACKGROUND

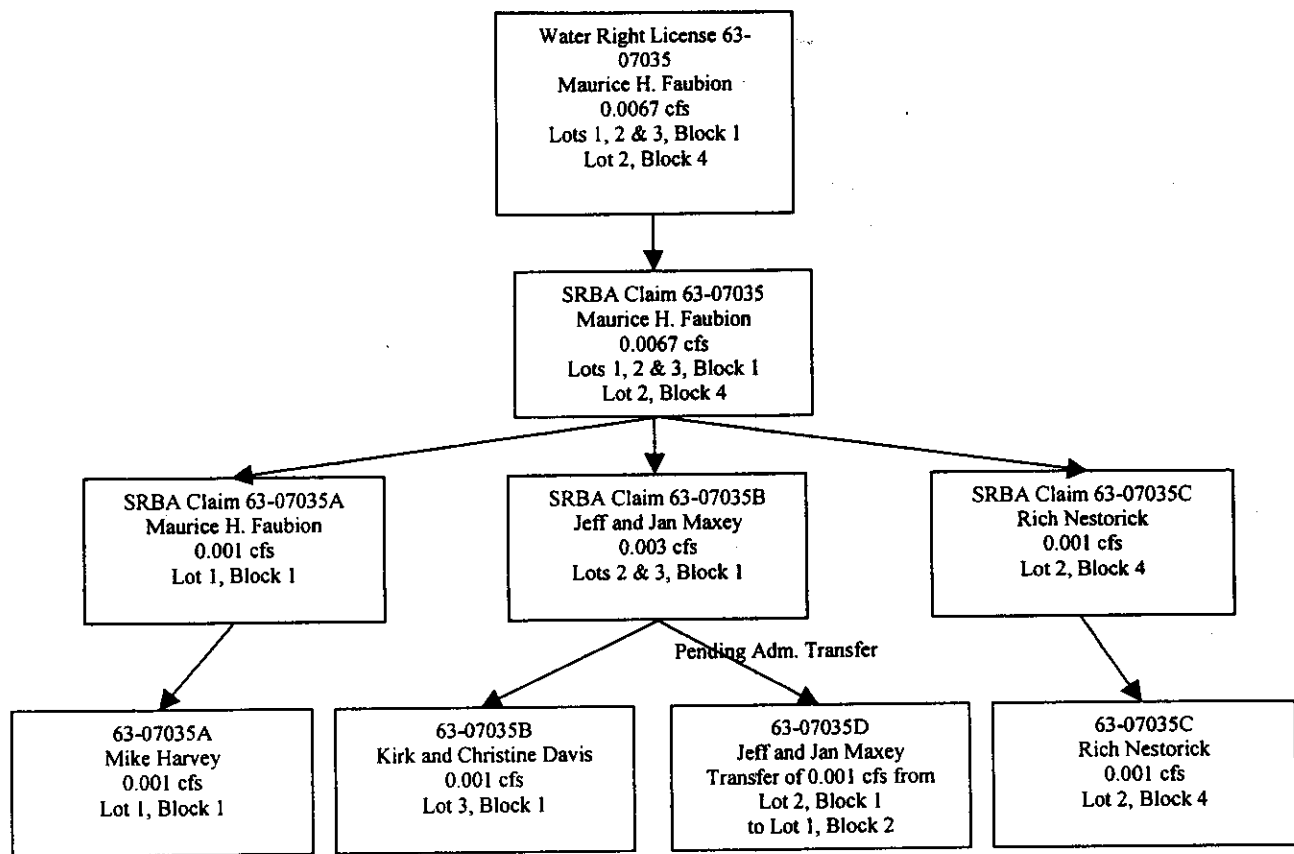
In 1967, Maurice Faubion applied for a permit to appropriate the water of an unnamed spring in the Robie Creek area near Boise. Mr. Faubion sought to develop the spring for domestic use on four cabin sites. The application was approved, and assigned the number 63-07035. A copy of the approved permit is attached as Exhibit 1.

IDWR received Mr. Faubion's *Proof of Application of Water to Beneficial Use* on November 17, 1969. A copy of the form is attached as Exhibit 2. Mr. Faubion indicated that a quantity of 3 gallons per minute was being diverted from the unnamed spring into a storage tank and subsequently being delivered via pipeline to four cabin sites in The Pines Subdivision.

IDWR staff conducted a field examination of Permit 63-07035 on November 25, 1969. A copy of the *Report of Examiner* is attached as Exhibit 3. The examiner found the diversion works to be as described by Mr. Faubion on the *Proof*. The spring flow was collected at the source, piped to a storage tank, then piped underground to four cabin sites. The examiner's report further states, "One hydrant is now located and *in use* on each lot." (emphasis added). IDWR understands a hydrant to be a discharge valve from a water mainline, most commonly a faucet. IDWR also refers to this type of development as "stubbed-in".

A license for water right 63-07035 was issued on November 25, 1969. The license reflected the domestic use of water from the unnamed spring on four lots in The Pines Subdivision.

Mr. Faubion filed an SRBA claim on his water right in 1989. The claim represented the right as licensed. Subsequent to that filing, all four lots have changed ownership as represented by the following diagram:



The Director's recommendations for the resulting water rights divided the "parent" right into four separate rights, one for each original, stubbed-in lot. IDWR has previously discussed with the court the need to add additional language to these recommendations to overcome the limitations of our current database and associated printing equipment.¹

The bottom tier of this chart represents the current ownership of the water rights resulting from the sale of lots originally shown on license 63-07035.

GENERAL LICENSING CONSIDERATIONS

IDWR has a longstanding practice of licensing domestic water use for stubbed-in lots in subdivisions. This practice recognizes that the development and sale of subdivision lots may take longer than the period IDWR can authorize for the development of the water delivery

¹ IDWR's current database cannot store quantity values with greater precision than 0.001 cfs. The four water rights arising from 63-07035 would each have a quantity of 0.001675 cfs.

system to those lots. A developer may go to considerable expense and effort to construct a water distribution system to lots that may not sell for a number of years. By issuing a water right license for domestic uses that have been stubbed-in, IDWR avoids large numbers of individual filings as the lots are sold. This allows the developer to obtain necessary funding for development by assuring financial institutions that a water right is available for each parcel being sold.

Another important reason for this practice is to circumvent problems with water delivery in times of shortage. It would be nearly impossible to administer delivery if each neighbor in a subdivision had a different priority date from the same delivery system.

RECOMMENDATION OF 63-07035

At the time of licensing 63-07035, IDWR followed its historical guidelines concerning stubbed-in developments. In addition, it would not have been unusual for "cabin site" owners in that area to use domestic water other than in permanent dwellings. For instance: a travel trailer might be "hooked-up" during the summer months but removed in the winter, water might be used for irrigation of trees or other landscaping. Water might even be used by the lot owners for camping trips to their own property. The United States Forest Service holds many licensed rights for domestic use that amount to a single faucet or hand-pump providing water to campers. In such circumstances, where the water was physically available to the stubbed-in lots, IDWR assumed the beneficial use of water might be intermittent. (The field exam notes that the faucets were not only stubbed-in but *used*.) The possibility of intermittent use would have been considered both at the time of licensing and recommendation in the SRBA.

Respectfully Submitted,



Roxanne Brown, Sr. Water Resource Agent
Idaho Dept. of Water Resources

February 11, 2000

Identification No. 63-7035
 Application No. 4213

STATE OF IDAHO
 DEPARTMENT OF RECLAMATION
 APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho

1. Name of applicant Maurice H. Faubion
 post office address 7233 Sunnybrook--Boise, Idaho 83705
2. Source of water supply ~~unnamed m.f. unnamed spring~~ (2) which is a tributary of Robie Creek, Boise Rvr.
3. a. Location of point of diversion is SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 24 Township 4N
 Range 3E B.M. Boise County; additional points of diversion if any:
(2) Spring NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of section 24, Township 4 N,
Range 3E B.M. Boise County - M.F.
- b. If water is not consumed, it will be discharged into same creek at a point in SE $\frac{1}{4}$
 of NW $\frac{1}{4}$ of Section 24 Township 4N Range 3E B.M.
4. Quantity to be appropriated:
 a. 104 m.f. cubic feet per second and/or
 b. _____ acre feet per annum will be stored.
5. Water will be used for the following purposes:
Domestic water supply purpose from January 1 to Dec. 31 (both dates inclusive)
for cabin sites purpose from (weather permitting) (both dates inclusive)
 _____ purpose from _____ to _____ (both dates inclusive)
6. Proposed diverting works:
 a. Description of ditches, flumes, pumps, headgates, etc. will develop spring on adjacent
USFS land which feeds above small creek, and pipe to cabin sites.

 b. Height of storage dam _____ feet; active reservoir capacity 200 gal. acre feet; total reservoir
 capacity _____ acre feet; materials used in storage dam: wood and concrete

 c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
 is 2 years.
 b. Estimated construction cost is \$ \$400.
8. Description of proposed uses:
 a. If water is not for irrigation:
 (1) Give the place of use of water: SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 24 Township 4N
 Range 3E B.M.
 (2) Amount of power to be generated: _____ hp under _____ feet of head.
 (3) List number of each kind of livestock to be watered _____

 (4) Name of municipality to be served _____, or number of families to be
 supplied with domestic water 4 m.f.
 (5) If water is to be used for other purposes describe: domestic water supply, cabin sites. 4 m.f.

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

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	

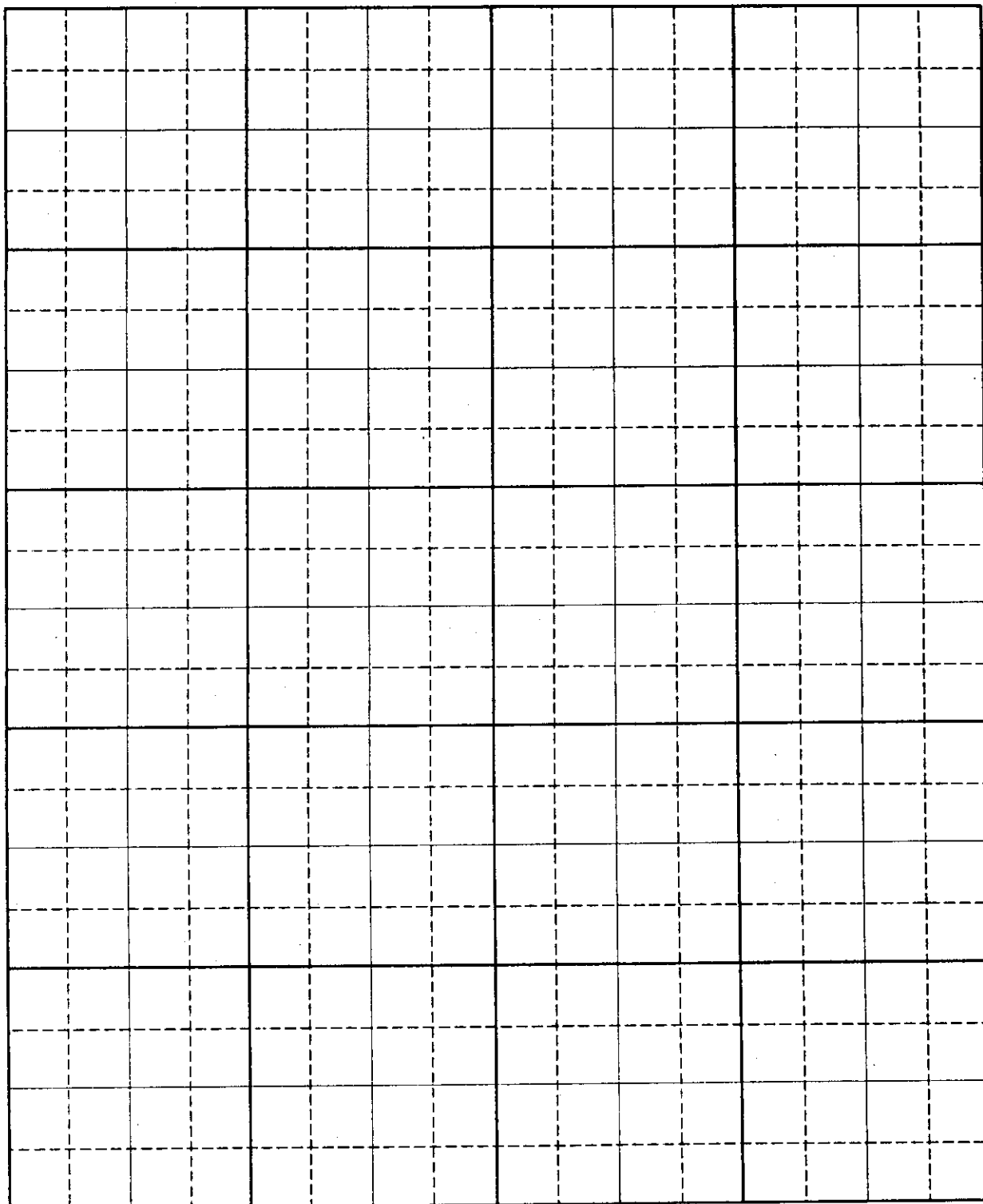
Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes _____

9. a. Who owns the property at the point of diversion applicant, Maurice H. Paubion
 b. Who owns the land to be irrigated or place of use same and Forest Service MF
 c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Special Use Permit application for spring being made this date with U.S.F.S. /MF

10. Remarks Water to be used on 2 cabin sites of applicant and possibly on 2 adjacent sites.

11. Map of proposed project: ATTACHED



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Maurice H. Paulson
(Applicant)

Received by Duke Date 10-30-67 Time 1:15 PM
Preliminary check by Duke Fee \$ 10.00
Receipted by ef Date 10-30-67
Publication prepared by KS Date 11-7-67
Published in Idaho World
Publication dates 11-16, 23-67
Publication approved ks Date Galley Proof
Priority reduced to _____ Reason _____

Protests filed by: none

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by CSA PM

ACTION OF STATE RECLAMATION ENGINEER

APPROVED

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 63-7035, and said application is hereby APPROVED.

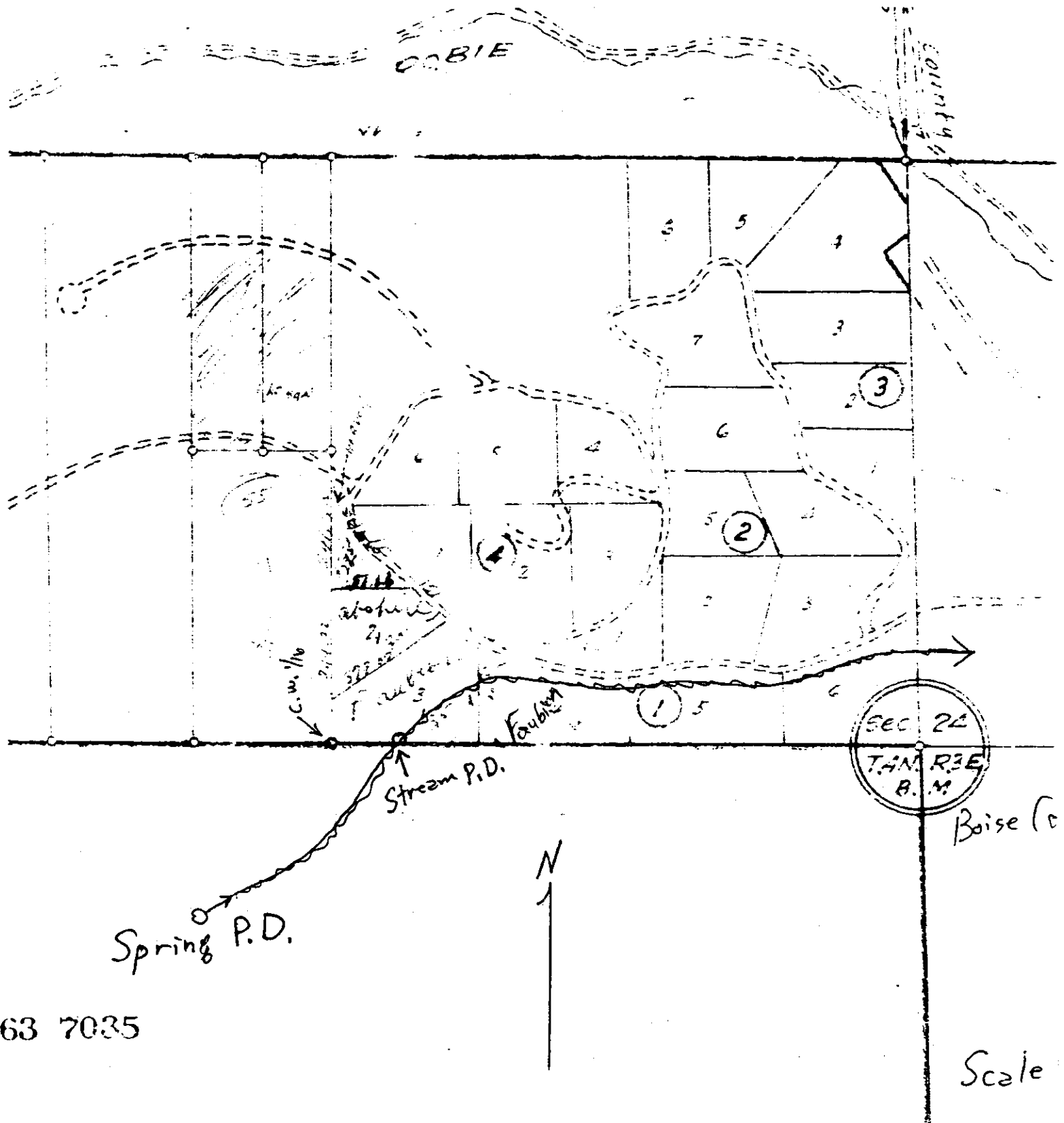
1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before January 1, 19 70.
- c. Other: _____

2. Denial of said application is for the following reasons: _____

Witness my hand this 26th day of December, 19 67.

R. Keith Higgins
State Reclamation Engineer



63 7035

Identification No. _____

Permit No. 63-7035

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

REC'D

193 L

1. a) Name of Permit Holder Maurice H. Faubion **Department of Reclamation**
 b) Post Office Address 7233 Sunnybrook, -Boise, Idaho 83705
 2. Permit Number 63-7035
 3. Date of Priority that you are prepared to establish December 26, 1967
 4. a) Source from which water was appropriated Spring
 b) Location of the point of diversion: NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 24
4N Township, Range 3E Boise Meridian, Other points of diversion: None
Location verified by the District Ranger at USFS Idaho City using
their small scale map of the area.
 5. a) The amount of water and use to which the water has been applied:
 amount 3 gals./min. for Domestic water purposes from January 1 to Dec. 31 incl.
 (cfs and/or acre feet per annum) supply for cabin sites (Month-Day) (Month-Day)
(weather permitting)
 amount _____ for _____ purposes from _____ to _____ incl.
 (cfs and/or acre feet per annum) (Month-Day) (Month-Day)
 amount _____ for _____ purposes from _____ to _____ incl.
 (cfs and/or acre feet per annum) (Month-Day) (Month-Day)
 b) Total amount appropriated 3 gals./min. cfs and/or acre feet per annum
 c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: flow into system measured as 1 gal/min.
using bucket and watch 7/28/69 by applicant and C.E. Abshire. Flow
was observed to be stronger earlier in the year, estimated 3 gal./min.
 6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
 a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: _____

 b) Describe the agreement or understanding by which you take water from the works: _____
USFS special use permit: Record no. 70, Region 4, Boise Nat'l Forest,
Idaho City District, Use no. D-3, Dated Oct 7, 1968
 7. a) Briefly describe the works for diverting and conveying the water to the place of use, (If from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) Using buried perforated pipe to
collect spring flow, then piped to 200 gallon concrete and wood
reservoir, then piped underground to 4 cabin sites. Entire system is
gravity fed. Main line 1 inch in diameter, laterals 3/4 inch diameter.
 b) Describe the type and size of measuring device which you have installed at your point of diversion: _____

 c) Give well drillers name and address and date the well was completed None

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use Domestic water supply for cabin sites (4) in the Pines Subdivision, Boise County Idaho, adjacent to above described spring location.

Cabin sites are lots 1,2, and 3 Block 1 and lot 2 Block 4. One hydrant is now located and in use on each lot.

9. Irrigation uses: Describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision: None

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	

Total number of acres irrigated _____

10. Remarks: Map of location and system is attached.

The above information is a true statement of the extent to which the above numbered permit has been developed.

11/17/69 (Date) Maurice H. Paulsen (Signature)

State of IDAHO ss.
County of BOISE

On this 17th day of November, 1969, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

[Signature]
Notary Public residing at BOISE, IDAHO

My commission expires May 1, 1972



Form 23
2M-4-65

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF EXAMINER

PERMIT NO. 63-7035

REPORT ON PROOF OF Maurice H. Faubion

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF EXAMINER

Permit No. 63-7035

This proof is for 3 gals/min. In Water District No.

1. Name of applicant Maurice H. Faubion, 7233 Sunnybrook, Boise, Idaho 83705

2. Source of water supply: spring

3. Location of point of diversion: Is in the NW 1/4 of Section 24
T. 4 N. R. 3 E. County of Boise

4. Describe works as they exist, giving dimensions and capacities of same:
Using buried perforated pipe to collect spring flow, then piped to 200 gal. concrete
and wood reservoir, then piped underground to 4 cabin sites. Entire system is gravity
fed. Mainline 1" in diameter, laterals 3/4 " diameter.

5. Water is used for: domestic water supply for cabin sites (4)

6. State whether or not water has been turned into works of diversion: Yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number
of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other
than irrigation):

Lots 1, 2, and 3, Block 1, and Lot 2, Block 4. One hydrant is now located and in use
on each lot.

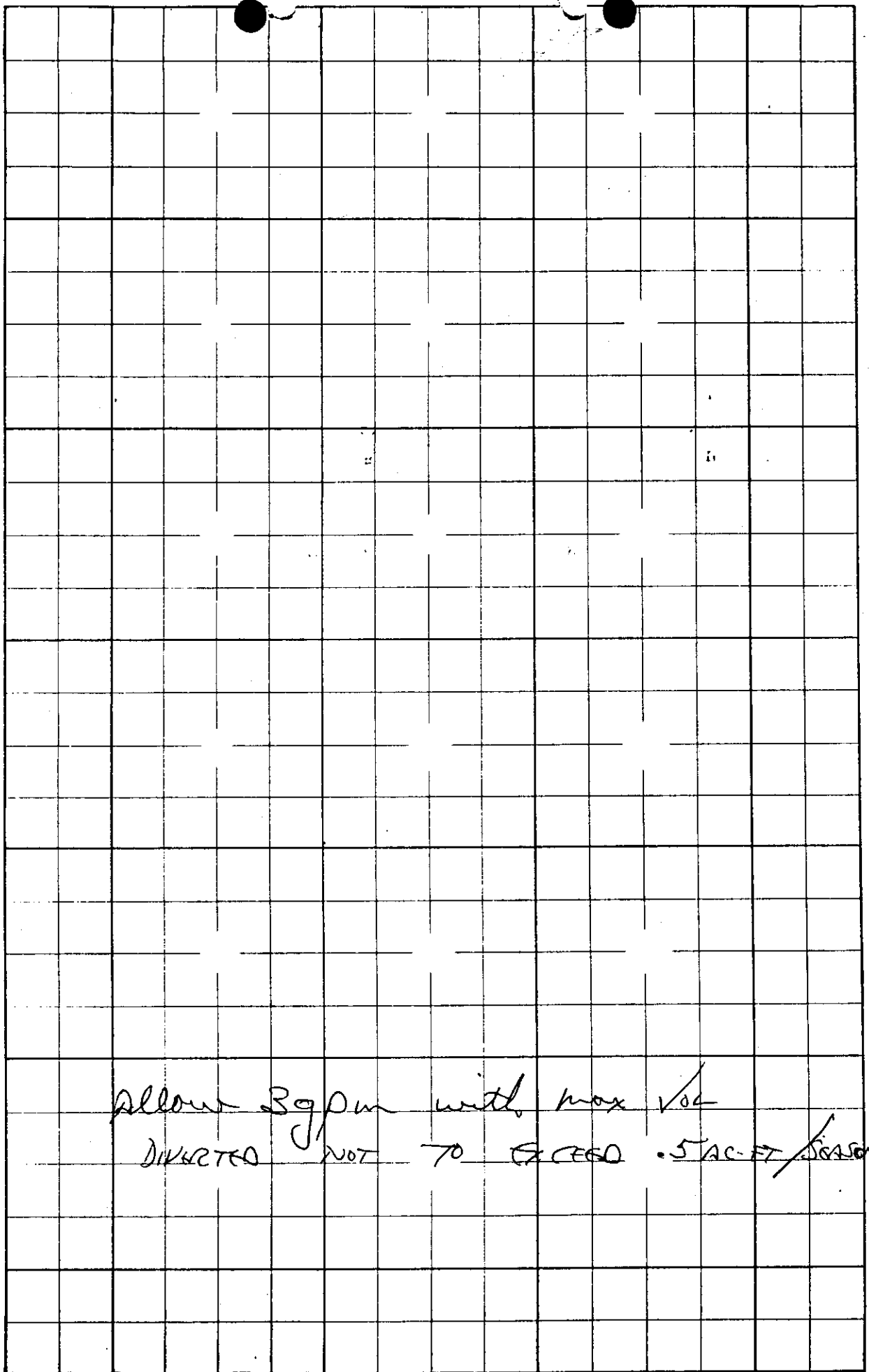
(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks:

This examination was made on the 25th day of Nov. 1969

(Signed) [Signature] Examiner.



Allow 3gpm with max vol
DIRECTED NOT TO EXCEED .5 AC-FT / SEASON

Permit No. 63-7035

Examination for b/u - Maurice H. Faubion

County Boise

Sec. 24 T 4N R 3E

Quantity: 3gpm

Source: spring

P.D.: NW 1/4 Sec 24

Use: domestic for cabins (4)

~~Remarks~~

~~Remarks~~

~~Remarks~~

~~Remarks~~

Filed: 10-30-67 Made: 11-17-69
Due: 1-1-70 Priority: 10-30-67

~~Remarks~~

INSTRUCTIONS TO EXAMINERS

1. Always carefully note the location of the point of diversion and accurately plat same.
2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
4. If any unusual conditions are discovered, make plain statement of them under remarks.
5. Always see the holder, if possible, and go over the whole ground with him and make your report only upon actual existing facts and conditions.
6. Give general characteristics of soils, topography, and crops raised.

CERTIFICATE OF MAILING

I certify that on February 11, 2000, I mailed the original and copies of the *Supplemental Report by IDWR Setting Forth Its Practice For Licensing or Recommending Domestic Rights For Which The Delivery System Is In Place*, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

Via facsimile
(original by US Mail)

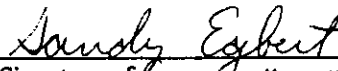
2. Copies to:

Charlie Honsinger
Ringert Clark
P.O. Box 2773
Boise, ID 83701

Via US Mail

Jeff Maxey
HC 33 48 Spring Canyon Road
Boise, ID 83716

Vial US Mail



Signature of person or attorney mailing the form