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DEPARTMENT OF
WATER RESOURCES

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Michael P. Tribe, ISB No. 6816
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Attorneys for Objector/Claimant,
Ben D. Jernberg and Idaho Properties, LLC

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

In Re SRBA

Subcase No. 31-11845

Case No. 39576

AFFIDAVIT OF MICHAEL P. TRIBE
IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT

STATE OF IDAHO)

) ss.

County of Minidoka)

Michael P. Tribe, being first duly sworn on oath, deposes and states:

1. That I am one of the attorneys representing Ben D. Jernberg and Idaho Properties, LLC in the above-entitled subcase, and make the following affidavit upon my personal knowledge of the facts and circumstances set forth below.

2. Attached hereto as Exhibit A is a true and correct copy of the Department of Water Resources Beneficial use Field Report for Water Right No. 31-7311.

AFFIDAVIT MICHAEL P. TRIBE

3. Attached hereto as Exhibit B is a true and correct copy of the Water Right License for 31-7311

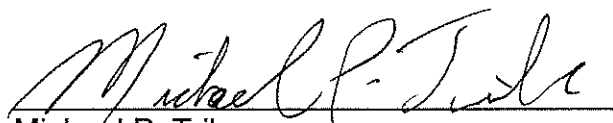
4. Attached hereto as Exhibit C is a true and correct copy of the letter from Jim Johnson, Water Rights Supervisor, to Ben D. Jernberg.

5. Attached hereto as Exhibit D is a true and correct copy of the August 11, 1997 Memorandum to Water Right File 31-07311 from Shelly W. Keen

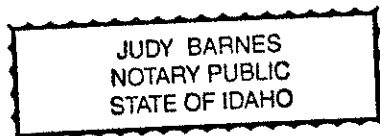
6. Attached hereto as Exhibit E is a true and correct copy of the July 23, 1997, Memorandum to Water Right File 31-07311 from Shelly W. Keen

7. Attached hereto as Exhibit F is a true and correct copy of the March 3, 1989, letter from Gary Spackman to Ben D. Jernberg.

FURTHER THIS AFFIANT SAITH NAUGHT.


Michael P. Tribe

SUBSCRIBED AND SWORN to before me this 28th day of April, 2006.



(SEAL)


Notary Public for Idaho
Residing at: Rupert, Idaho
My Commission expires: 02/12/2011

EXHIBIT A

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

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Department of Water Resources

A. GENERAL INFORMATION

1. Owner: Ben & David Ternberg Permit No. 31-7311
Current Address: P.O. Box 1442 Billings, MT 59103 Phone No. 406-252-6092
2. Accompanied by: Joe Llamas EXAM. DATE: 8-21-86
Address: HC 63 Box 1710 Terreton Phone No. 663-4496
Relationship to Permit Holder: Operator
3. Source: groundwater tributary to N/A

B. OVERLAP REVIEW

1. Other water rights with same place of use: 31-2357, 31-2395,
_____ ☒ Copies Attached
2. Other water rights with same point of diversion: 31-2357, 31-2395 Both from
East Well ☒ Copies Attached ☒ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☒ Alternative diagram attached

Scale: 1" = _____

2. ☒ Copy of U.S.G.S. Quadrangle Attached
Showing location(s) of point(s) of diversion and
place(s) of use (required).
☒ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater).

☒ Aerial Photo Attached
(required for irrigation of 10 acres or more).

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System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Narrative: Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

West Well: pump driven by tractor (3:1, rpm: pto)
open discharges into ditch used for flood irrigation.

East Well: pump open discharges downstream
from west well.

* Note ditch flow can be reversed depending
upon use.

☐ See Remarks on page 4 for continuation

- 4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
West	N/A	?	N/A	Amarillo	580
East	U.S. Motors	60	990653	Wintroath	9767

*Code to correspond with No. on map and aerial photo

- 5. Point(s) of Diversion:**

[illegible]

- 6. Place(s) of Use:**

Indicate Method of Determination

Place(s) of Use.			Indicate Method of Use																Totals
Twp.	Rge.	Sec.	NE¼				NW¼				SW¼				SE¼				
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
7N	34E	9													33	-	27	26	86
		10										4	28						32
		15						39	39	38	40	39	40	40					275
		16	39	40	40	40	40	39	38	34	-	20	-	-	39	39	33	40	481
		21	40	27	23	40													130
		22	~~-~~	~~40~~	~~40~~	~~40~~	~~-~~	40	40	40									120
																		Σ	1124

Do not use this space

D. FLOW MEASUREMENTS

☒ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Pygmy Meter		Scientific		090187	2 1/2'	

2. Measurements:

West well = 13.45 cfs

East well = 5.83 cfs

Total = 19.28 cfs

R.P.M.: 3000 rpm @ tractor = 1000 rpm @ pump
(3:1 reducing ratio)

E. FLOW CALCULATIONS

☒ Additional Computation Sheets Attached

1. Measured Method: See Discharge Notes

2. Alternate Method for Checking Purposes: None Available

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: 0 psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)
Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 1124 \times 3.5 = 3934.0$

$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 16.00 \times 214 \times 1.9835 = 67915.0$

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 3934.0$

2. Volume Calculations for Other Uses: None

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H. REMARKS AND OVERLAP REVIEW ANALYSIS

R 17 (31-2357/31-2395) 19.28 cfs

R 05

16.00 cfs recommended by permit

0.02 cfs/ac x 1124 ac = 22.48 cfs > 16.00 cfs

Capacity = 19.28 cfs > 16.00 cfs

*See Memo on place of use (Aug 22, 1986) *

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use From	To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Irrigation	4-1	11-1	16.00	3934.0
Totals:			16.00 cfs	3934.0 afa

2. Recommended Amendments

☒ Change P.D. as reflected above

☐ Add P.D. as reflected above

☐ None

☒ Change P.U. as reflected above

☒ Add P.U. as reflected above

☐ Other

J. AUTHENTICATION

Field Examiner's Name

John Arambarri

Signature

John W. Arambarri

Certification Date

9-8-86

Field Report Preparation Date

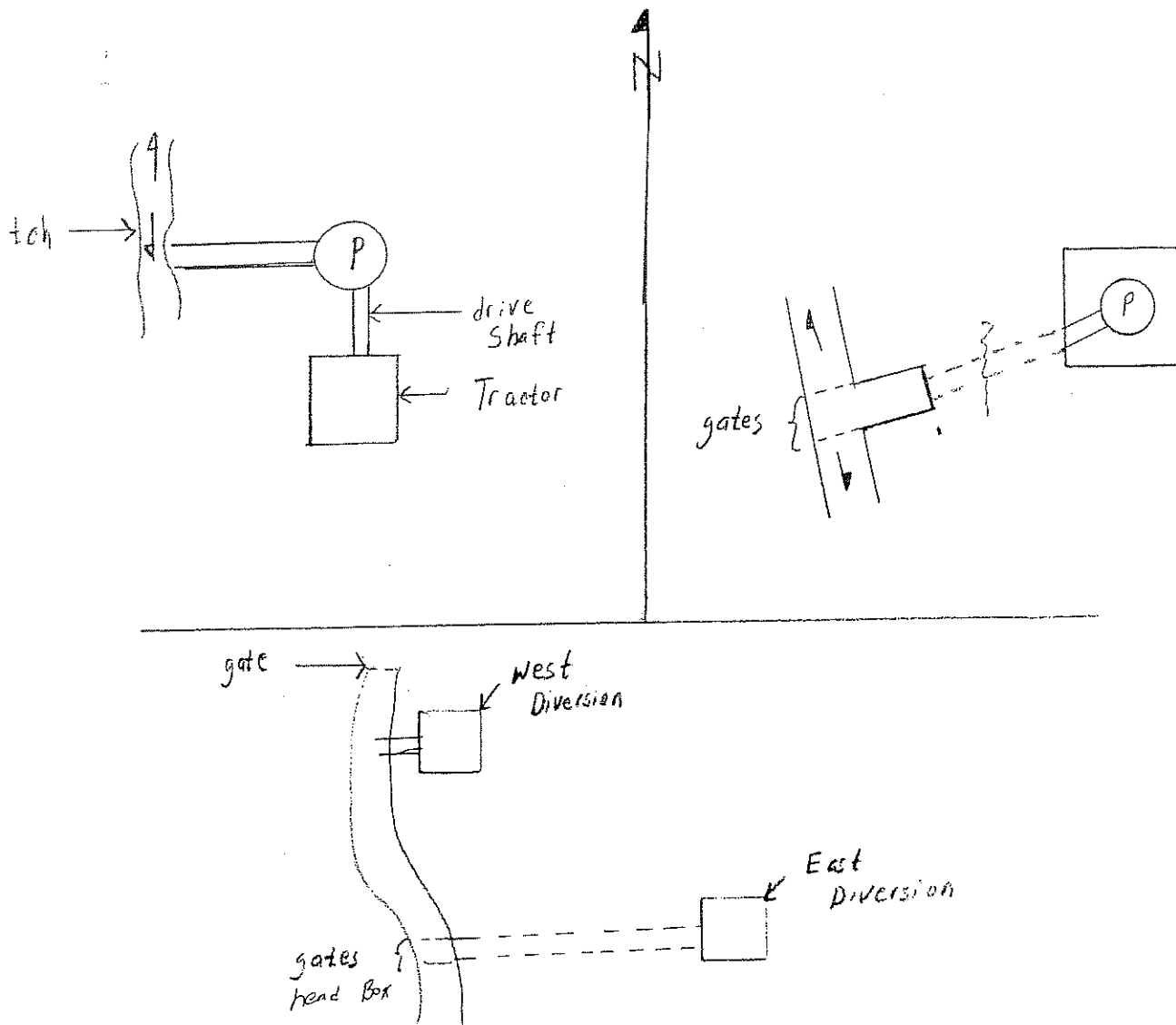
8-21-86

CONSULTANT SEAL

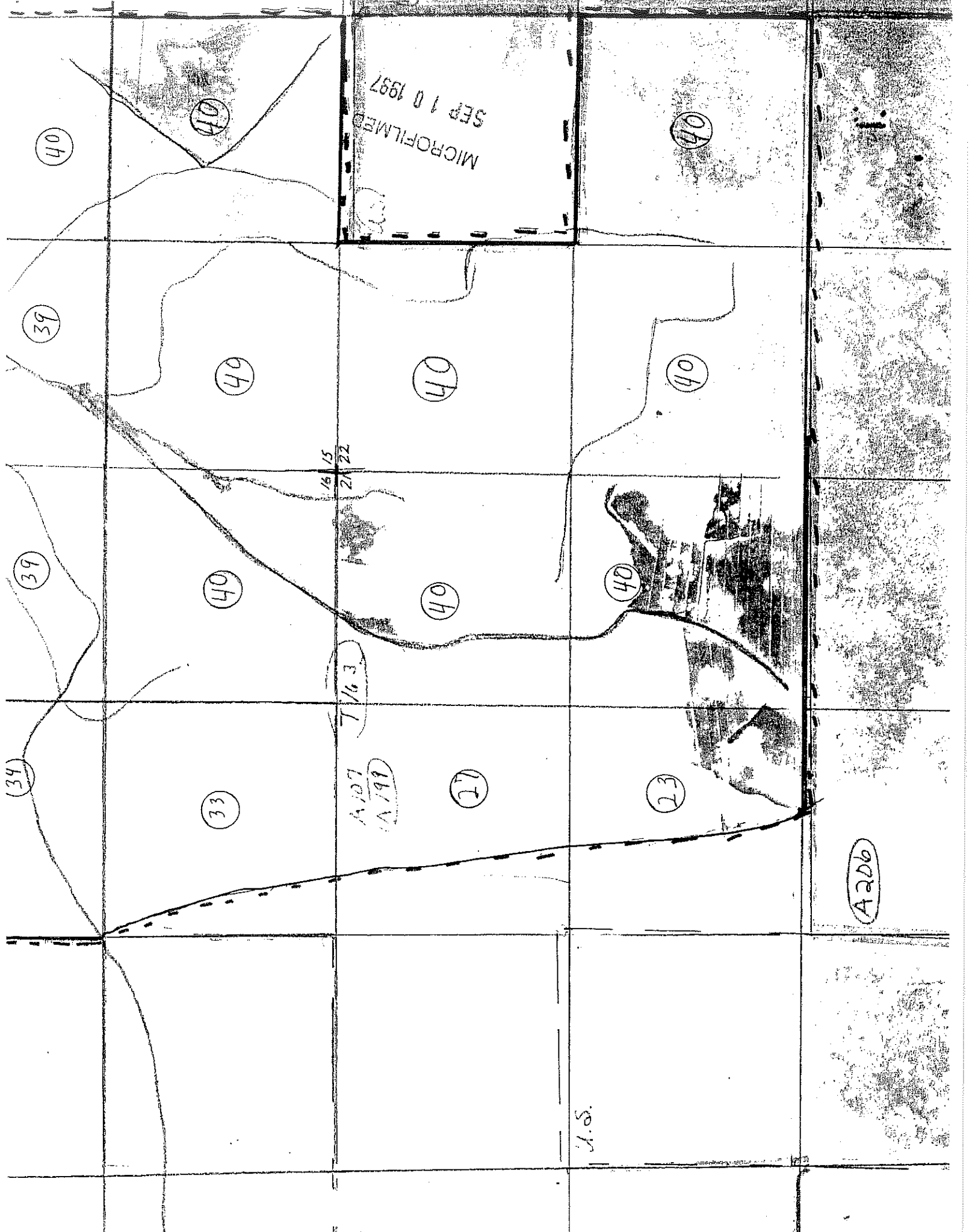
K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

31-7311

Diversion Diagram



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(40)

(40)

(39)

(40)

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(33)

(27)

(23)

A 107
A 199

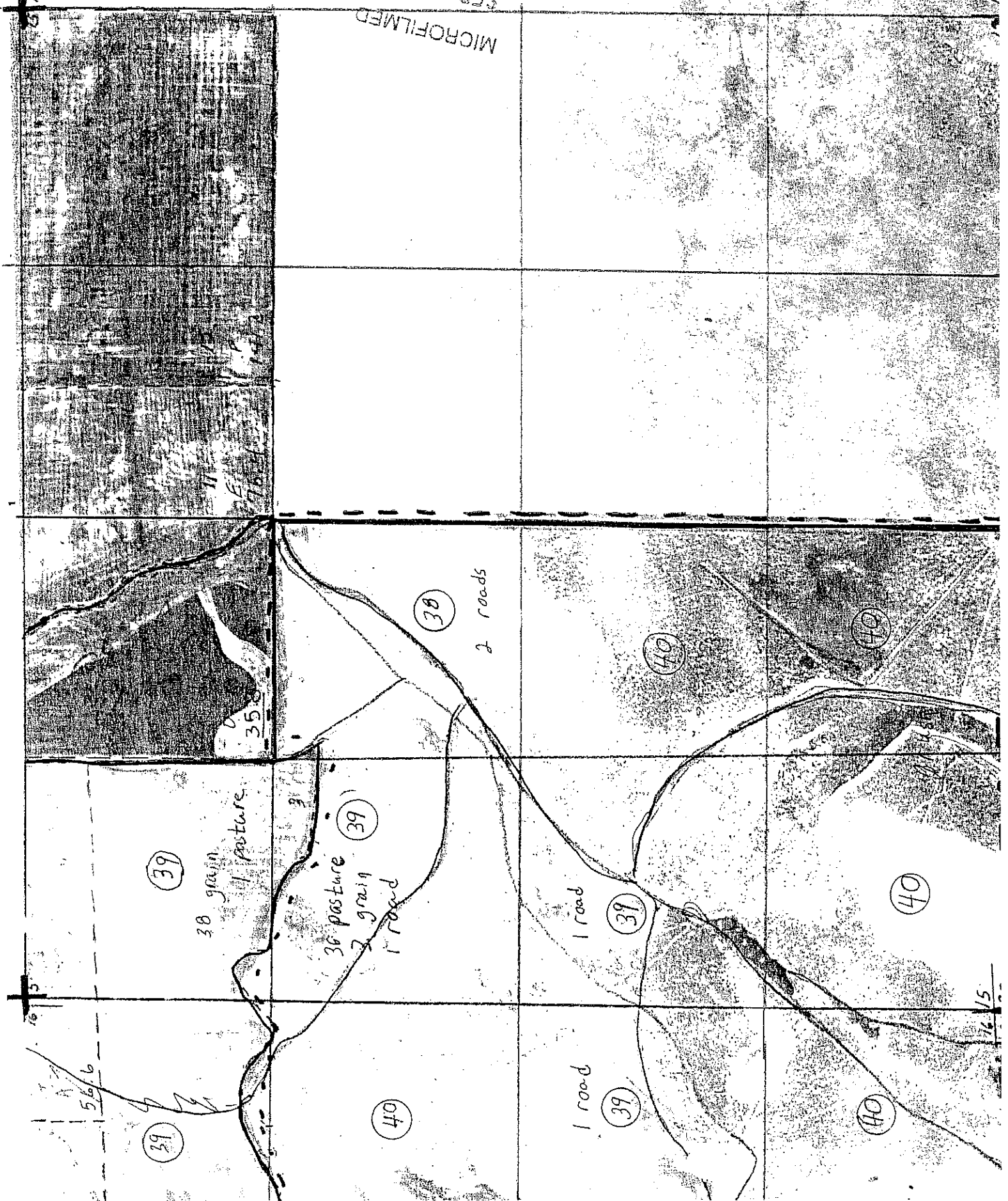
T 1/6 3

1/6 15
21 22

A 206

U.S.

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3
10

A
00-5

3
2
01

3
C
81.3

ALLS (7/14/2)
6199

A
83.8

(4)

(28)

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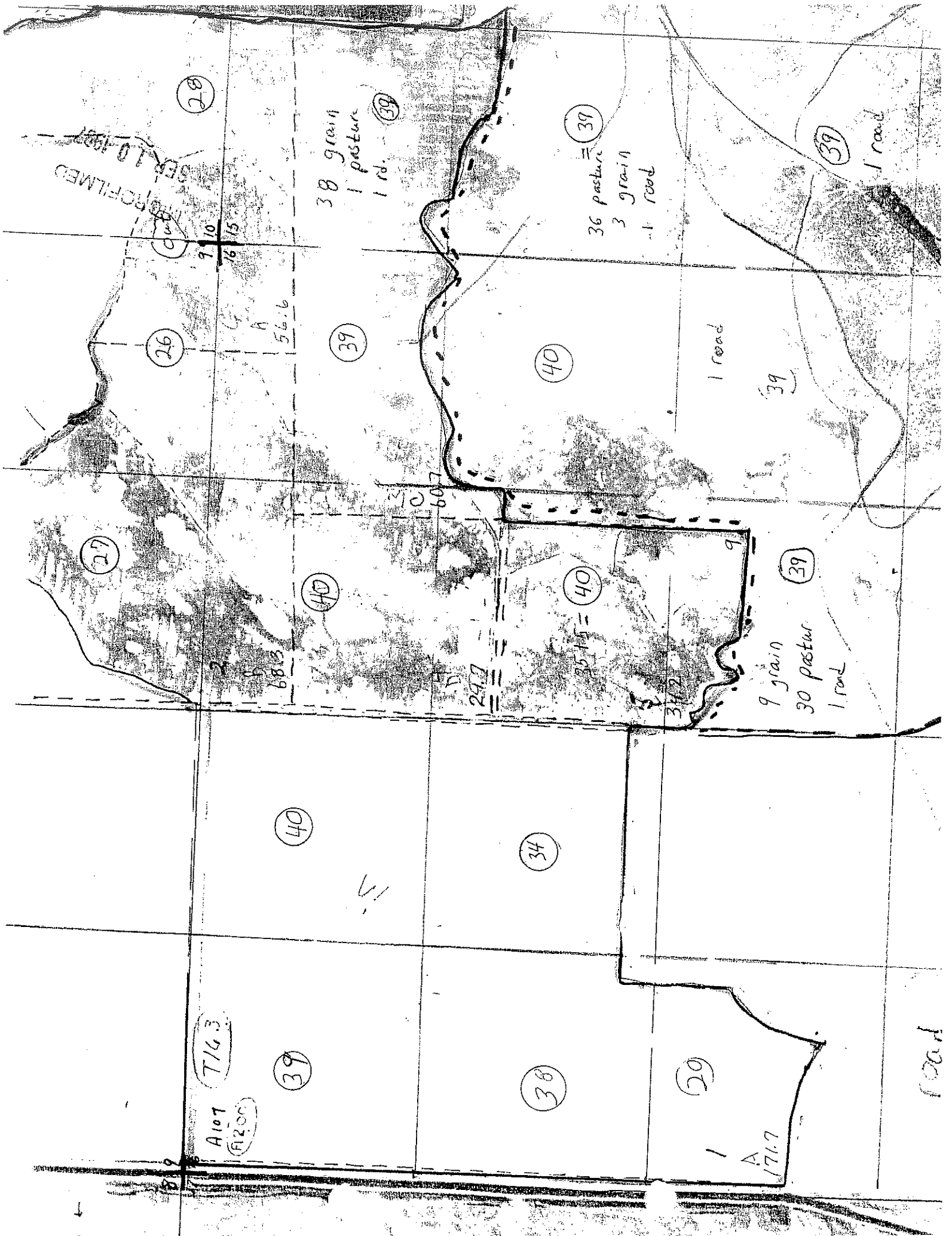
P/D's

11
14

1 road
30 grain
1 pasture

(39)

35.8



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T143

A 107
(1200)

38 grain
1 pasture
1 rd. - 39

36 pasture
3 grain
1 road

9 grain
30 pasture
1 road

1 road

1 road

607

1 road

39

1

A
171.7

40

34

38

20

39

40

39

26

28

27

39

40

68.3

2

9.10

16.15

56.6

24.7

35.15 = 40

34.2

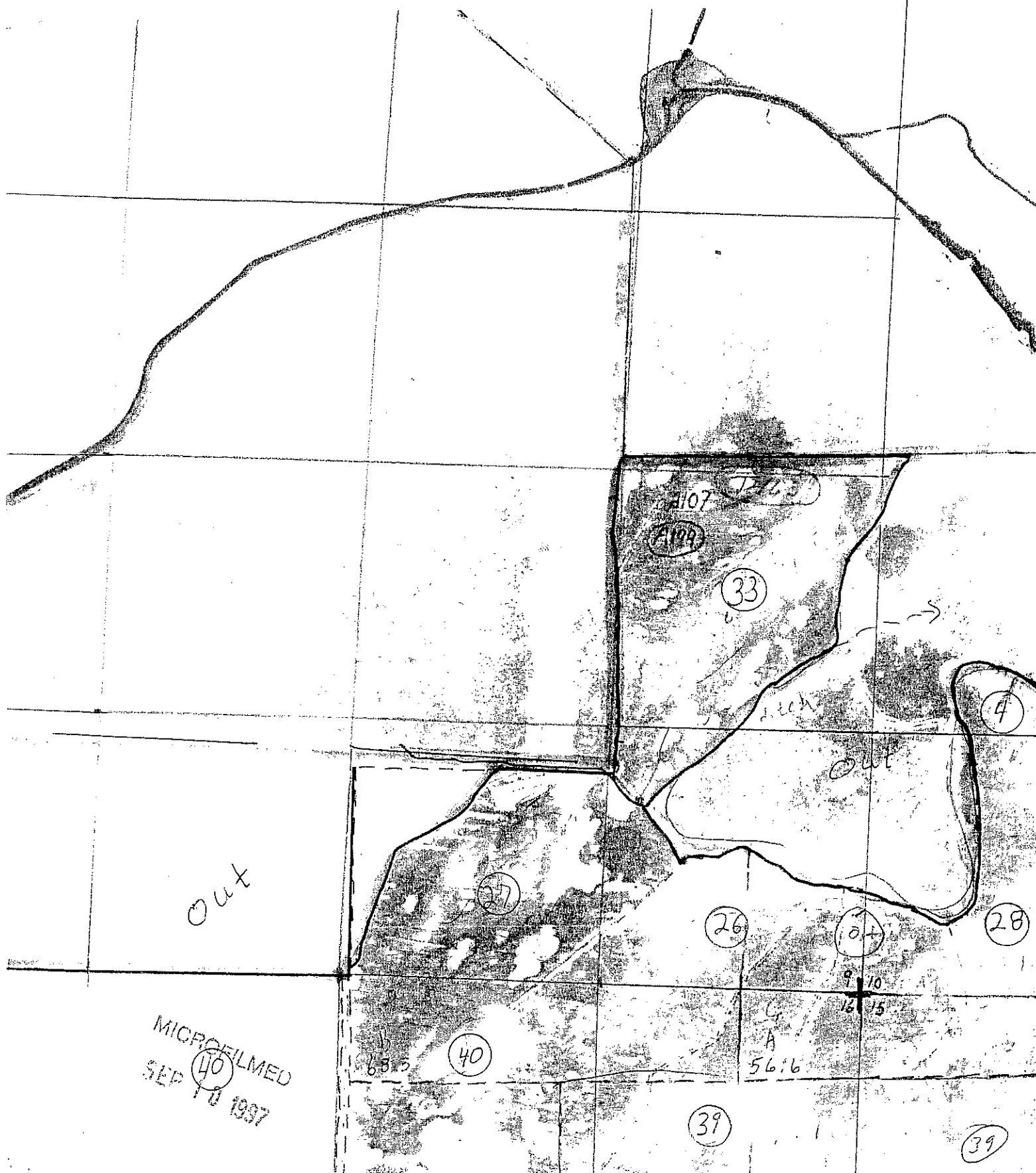
9

Red Solid Line = Major Ditches

Brown Solid Line = Road

Green/Yellow Line = Grain Boundary

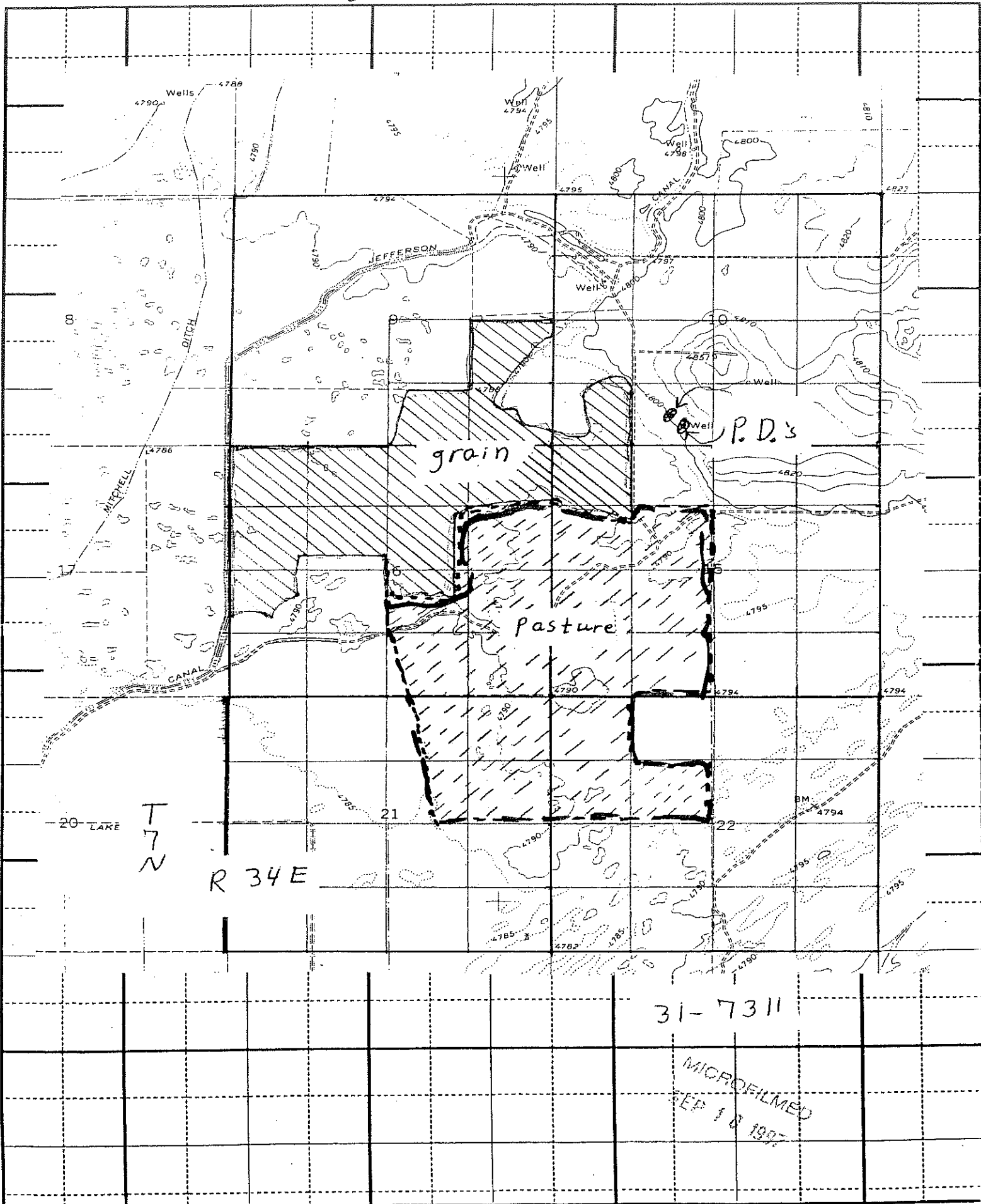
Red Dashed Line = Pasture Boundary



NAME OF APPLICANT

Jeberg

Form No. 0



SCALE: 2 Inches Equal 1 Mile. Draw Plan In Ink.

State of Idaho

License and Certificate of Water Right

Water License No. 0-26615

Amount 4.6 c.f.s.

Water District No. _____

Priority November 13, 1956

THIS IS TO CERTIFY that DAVID R. JERNBERG
of Terreton, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated November 13, 1956; that Permit No. 0-26615
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
4.6 second feet, was issued thereunder on June 13, 1962, showing that said works
were completed on the 27th day of November, 1961; and that on the 27th
day of November, 1961,

DAVID R. JERNBERG

of Terreton, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of a well
, a tributary of subterranean flow, for the purpose of irrigation
, under Use Permit No. G-26615 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
12 of Licenses at page 7295, on the 13 day of June, 1962;
The right hereby confirmed dates from November 13, 1956;

The Point of Diversion is located

in the SE 1/4 SW 1/4, Sec. 10, Tp. 7 N., R. 34 E., B. M. County Jefferson

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 4.6 cubic feet per second.

Description and location of use:

Description and location of tract.							
Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated		
7 N.	34 E.	9	NE 1/4 SE 1/4	33	25		
			SW 1/4 SE 1/4	38	35		
			SE 1/4 SE 1/4	35	35		
			SE 1/4 SW 1/4	29	23		
		10	SW 1/4 SW 1/4	35	28		
			NW 1/4 SW 1/4	17	15		
			SW 1/4 SW 1/4	37	35		
			NW 1/4 NW 1/4	39	40		
		15	NE 1/4 NE 1/4	40	40		
			NW 1/4 NE 1/4	40	40		
			16	SW 1/4 NE 1/4	40	40	
				SW 1/4 NE 1/4	40	40	
		Total number of acres to be irrigated:				356	

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this

13th day of June, 1962.

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RALPH W. THOMAS
Deputy State Reclamation Engineer.

(SEAL)

31 2357

LICENSE AND CERTIFICATE OF WATER RIGHT

31-2395

Water License No. G-30241 Priority October 9, 1961 Amount 3.65 c.f.s.

THIS IS TO CERTIFY that DAVID R. JERNBERG

of Terreton, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated October 9, 1961; that Permit No. G-30241 was issued under said application; that Certificate of Completion of Works, with a carrying capacity of 3.65 second feet, was issued thereunder on March 14, 1968, showing that said works were completed on the 3 day of October, 1966; and that on the 3 day of October, 1966, DAVID R. JERNBERG

of Terreton, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of a right to the use of the waters of a well

a tributary of subterranean flow for the purpose of irrigation & stock watering under Use Permit No. G-30241 of the Department of Reclamation, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record as Volume x of Licenses at Boise, on the 14 day of March, 1968.

The right hereby confirmed dates from October 9, 1961.

The Point of Diversion is located

in the SE 1/4 SW 1/4, Sec. 10, Twp. 7 N, R. 34 E, B.M. Jefferson County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 3.65 cubic feet per second.

Description and location of use:

Twp.	Range	Section	Forty-Acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
7 N	34 E	15	SW $\frac{1}{4}$	6	6
			SE $\frac{1}{4}$	16	16
			NW $\frac{1}{4}$	5	5
			SW $\frac{1}{4}$	15	15
		16	SE $\frac{1}{4}$	15	15
			NE $\frac{1}{4}$	20	20
			NW $\frac{1}{4}$	25	25
			SW $\frac{1}{4}$	35	35
		21	SE $\frac{1}{4}$	15	15
			NE $\frac{1}{4}$	15	15
			NW $\frac{1}{4}$	40	40
			SW $\frac{1}{4}$	32	32
			SE $\frac{1}{4}$	28	28
			NE $\frac{1}{4}$	35	35
			SE $\frac{1}{4}$	22	22
			Total number of acres irrigated:		

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 14 day of March, 1968.

State Reclamation Engineer.

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31 2395 30241

	SHSE	01	01	31-7216	COPE & JERNBERG	L	11-22-1976	GROUNDWATER
	SESE	01	01	31-2376	JERNBERG	L	03-23-1959	GROUNDWATER
	SESE	01	01	31-2428	JERNBERG	L	10-09-1964	GROUNDWATER
	SESE	01	01	31-7216	COPE & JERNBERG	L	11-22-1976	GROUNDWATER
05	SESH	40	01,43	31-2381	HARTWELL	C	07-14-1960	GROUNDWATER
	SESH	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
	NESE	20	01,43	31-2381	HARTWELL	C	07-14-1960	GROUNDWATER
	NESE	04	04	31-4085	HARTWELL	C	08-01-1957	GROUNDWATER
	NESE	20	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
	SHSE	40	01,43	31-2381	HARTWELL	C	07-14-1960	GROUNDWATER
	SHSE	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
	SESE	28	01,43	31-2381	HARTWELL	C	07-14-1960	GROUNDWATER
	SESE	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
06	NENH	40	01,43	31-2338	NEILSON	C	12-01-1954	GROUNDWATER
	NHNN	35	01,43	31-2338	NEILSON	C	12-01-1954	GROUNDWATER
	SHNN	40	01,43	31-2338	NEILSON	C	12-01-1954	GROUNDWATER
	SENN	40	01,43	31-2338	NEILSON	C	12-01-1954	GROUNDWATER
	NESH	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
	NHSH	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
	SHSH	40	01,43	31-2381	HARTWELL	C	07-14-1960	GROUNDWATER
	SHSH	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
	SESH	04	04	31-4082	HARTWELL	C	06-09-1927	GROUNDWATER
07	NENH	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
	NHNN	20	01,43	31-2381	HARTWELL	C	07-14-1960	GROUNDWATER
	SHNN	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
	SENN	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER
	NESH	40	01	31-7384	H. THELL	C	03-15-1983	GROUNDWATER
	NHSH	40	01	31-7384	HARTWELL	C	03-15-1983	GROUNDWATER

DIB

#31-7311

HRR156

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS BY PLACE OF USE

PAGE 2680
06/24/1986

TOWNSHIP	RNG	SEC	TRACT	LOT	ACRES	USES	WATER RIGHT NUMBER	LAST NAME	OWNER CODE	STAGE	PRIORITY DATE	SOURCE OF WATER
07N	34E	07	SHSH	40	01		31-7384	HARTWELL	C	A	03-15-1983	GROUNDWATER
			SESH	40	01		31-7384	HARTWELL	C	A	03-15-1983	GROUNDWATER
		08	NHNE	40	01,43		31-2381	HARTWELL	C	L	07-14-1960	GROUNDWATER
			NHNE	40	01		31-7384	HARTWELL	C	A	03-15-1983	GROUNDWATER
			SHNE	40	01,43		31-2381	HARTWELL	C	L	07-14-1960	GROUNDWATER
			SHNE	40	01		31-7384	HARTWELL	C	A	03-15-1983	GROUNDWATER
			NENH	40	01,43		31-2381	HARTWELL	C	L	07-14-1960	GROUNDWATER
			NENH	40	01		31-7384	HARTWELL	C	A	03-15-1983	GROUNDWATER
			SENN	40	01,43		31-2381	HARTWELL	C	L	07-14-1960	GROUNDWATER
			SENN	40	01		31-7384	HARTWELL	C	A	03-15-1983	GROUNDWATER
		09	SHSH	28	01		31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			SESH	23	01		31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			NESE	25	01		31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			SHSE	25	01		31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			SESE	35	01		31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
		10			01		31-2376	JERNBERG	C	L	03-23-1959	GROUNDWATER
								JERNBERG	C	L		GROUNDWATER
								JERNBERG	C	L		GROUNDWATER
								JERNBERG	C	L		GROUNDWATER
								JERNBERG	C	L		GROUNDWATER
			NENE	40	01		31-2376	JERNBERG	C	L	03-23-1959	GROUNDWATER
								JERNBERG	C	L		GROUNDWATER
			NENE	40	01		31-2428	JERNBERG	C	L	10-09-1964	GROUNDWATER
			NHNE	30	01		31-2376	JERNBERG	C	L	03-23-1959	GROUNDWATER
			NHNE	30	01		31-2428	JERNBERG	C	L	10-09-1964	GROUNDWATER
			NHNE	10	01		31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			SHNE	40	01		31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			SHNE	40	01		31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			SENE	39	01		31-2449	COPE & JERNBERG	C	L	03-17-1973	GROUNDWATER
			SENN	40	01		31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			SENN	39	01		31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			NESH	38	01		31-2449	COPE & JERNBERG	C	L	03-17-1973	GROUNDWATER
			NHSH	15	01		31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			SHSH	35	01		31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			SESH	40	01		31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			SESH	29	01		31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			NESE	40	01		31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			NESE	40	01		31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			NHSE	38	01		31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			NHSE	37	01		31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			SHSE	40	01		31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			SHSE	40	01		31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			SESE	40	01		31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			SESE	39	01		31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
		11	NENH	15	01		31-2376	JERNBERG	C	L	03-23-1959	GROUNDWATER
			NENH	40	01		31-2428	JERNBERG	C	L	10-09-1964	GROUNDWATER
			NENH	38	01		31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			NHNN	18	01		31-2376	JERNBERG	C	L	03-23-1959	GROUNDWATER
			NHNN	30	01		31-2428	JERNBERG	C	L	10-09-1964	GROUNDWATER
		13	SENE	40	01		31-7360	ZHEIFEL	C	P	03-12-1981	GROUNDWATER
			NESE	40	01		31-7360	ZHEIFEL	C	P	03-12-1981	GROUNDWATER

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E18

13	NENH	39	01	31-7216	COPE & JERNBERG	L	11-22-1976	GROUNDWATER
	NHNN	40	01	31-2376	JERNBERG	L	03-23-1959	GROUNDWATER
	NHNN	40	01	31-2428	JERNBERG	L	10-09-1964	GROUNDWATER
	SENE	40	01	31-7360	ZWEIFEL	P	03-12-1981	GROUNDWATER
	NESE	40	01	31-7360	ZWEIFEL	P	03-12-1981	GROUNDWATER

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IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS BY PLACE OF USE

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TWNSHP	RNG	SEC	TRACT	LOT	ACRES	USES	WATER RIGHT NUMBER	LAST NAME	OWNER CODE	STAGE	PRIORITY DATE	SOURCE OF WATER
07N	34E	15	NENE		40	01	31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			NENE		40	01	31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			NHNE		40	01	31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			NHNE		40	01	31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			SHNE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SENE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NENH		40	01	31-2346	COPE	C	L	07-22-1955	GROUNDWATER
			NENH		39	01	31-7216	COPE & JERNBERG	C	L	11-22-1976	GROUNDWATER
			NHNN		40	01	31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			SHNN		06	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
			SHNN		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SENN		16	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
			SENN		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NESH		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NHSH		05	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
			NHSH		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SHSH		15	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
			SHSH		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SESH		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NESE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NHSE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SHSE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SESE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
		16	NENE		40	01	31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			NHNE		40	01	31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			SHNE		40	01	31-2357	JERNBERG	C	L	11-13-1956	GROUNDWATER
			SENE		15	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
			SENE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NENH		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NHNN		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SHNN		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SENN		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NESH		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
								JERNBERG	C			

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IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS BY PLACE OF USE

PAGE 2682
06/24/1986

TWNSHP	RNG	SEC	TRACT	LOT	ACRES	USES	WATER RIGHT NUMBER	LAST NAME	OWNER CODE	STAGE	PRIORITY DATE	SOURCE OF WATER
07N	34E	16	NHSH		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SHSH		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SESH		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NESE		20	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
			NESE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			NHSE		25	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
			NHSE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SHSE		35	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
			SHSE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
			SESE		15	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
			SESE		40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER

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SESH	40	01	31-2311	JEFFERSON	IRRIGATI	C	L	09-02-1960	GROUNDWATER
SESH	40	01	31-2311	JEFFERSON	IRRIGATI	C	L	02-06-1960	GROUNDWATER
SESH	40	01	31-2311	JEFFERSON	IRRIGATI	C	L	07-17-1930	GROUNDWATER
NESE	40	01.43	31-2311	NORDSTROM		C	L	09-24-1952	GROUNDWATER
NESE	40	01.43	31-2312	STEWART	IRRIGATI	C	L	09-24-1952	GROUNDWATER
NESE	40	01.43	31-2313	JEFFERSON	IRRIGATI	C	L	09-24-1952	GROUNDWATER
NESE	40	01	31-2420	JEFFERSON	IRRIGATI	C	L	04-02-1965	WASTE WATER
NESE	40	01	31-2451	JEFFERSON	IRRIGATI	C	L	05-02-1960	GROUNDWATER

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IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS BY PLACE OF USE

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TWNSHP	RNG	SEC	TRACT	LOT	ACRES	USES	WATER RIGHT NUMBER	LAST NAME	OWNER CODE	STAGE	PRIORITY DATE	SOURCE OF WATER			
07N	34E	20	SHSE		40	01.43	31-20628	NORDSTROM	C	L	12-10-1917	MUD LAKE			
					40	01	31-2243	JEFFERSON	IRRIGATI	C	L	07-17-1930	GROUNDWATER		
					40	01.43	31-2311	NORDSTROM	C	L	09-24-1952	GROUNDWATER			
								JEFFERSON	IRRIGATI	C					
					40	01.43	31-2312	STEWART	C	L	09-24-1952	GROUNDWATER			
								JEFFERSON	IRRIGATI	C					
					40	01.43	31-2312	JEFFERSON	IRRIGATI	C	L	09-24-1952	GROUNDWATER		
					40	01	31-2420	JEFFERSON	IRRIGATI	C	L	04-02-1965	WASTE WATER		
					40	01	31-2451	JEFFERSON	IRRIGATI	C	L	05-02-1960	GROUNDWATER		
					40	01	31-7327	JEFFERSON	IRRIGATI	C	P	02-06-1980	GROUNDWATER		
					40	01	31-2243	JEFFERSON	IRRIGATI	C	L	07-17-1930	GROUNDWATER		
					40	01.43	31-2311	NORDSTROM	C	L	09-24-1952	GROUNDWATER			
								JEFFERSON	IRRIGATI	C					
					40	01.43	31-2312	STEWART	C	L	09-24-1952	GROUNDWATER			
								JEFFERSON	IRRIGATI	C					
					40	01.43	31-2313	JEFFERSON	IRRIGATI	C	L	09-24-1952	GROUNDWATER		
					40	01	31-2420	JEFFERSON	IRRIGATI	C	L	04-02-1965	WASTE WATER		
					40	01	31-2451	JEFFERSON	IRRIGATI	C	L	05-02-1960	GROUNDWATER		
					40	01	31-7327	JEFFERSON	IRRIGATI	C	P	02-06-1980	GROUNDWATER		
								31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER		
					21		SENE	15	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
							NHNE	40	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
							SHNE	32	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
							SENE	26	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
							SENE	35	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
							SENE	22	01.04	31-2395	JERNBERG	C	L	10-09-1961	GROUNDWATER
					22		SENE	40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
							NHNE	40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
							SHNE	40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
							SENE	40	01	31-7311	JERNBERG	C	P	04-23-1979	GROUNDWATER
							SENE				STATE OF IDAHO	C	L	02-18-1953	GROUNDWATER
					25		SENE	01	01.16	31-0021	BECKNER	C	D	04-01-1920	MUD LAKE
							SENE	10	01.16	31-2316	STATE OF IDAHO	C	L	02-18-1953	GROUNDWATER
							SENE	30	01.16	31-2316	STATE OF IDAHO	C	L	02-18-1953	GROUNDWATER
							SENE			31-0021	BECKNER	C	D	04-01-1920	MUD LAKE
							SENE			31-0021	BECKNER	C	D	04-01-1920	MUD LAKE
							SENE	05	01.16	31-2316	STATE OF IDAHO	C	L	02-18-1953	GROUNDWATER
					27		SENE	20	01.04	31-2448	JERNBERG	C	L	01-03-1949	GROUNDWATER
							SENE	10	01.04	31-2448	STATE OF IDAHO	C	L	01-03-1949	GROUNDWATER
							SENE	10	01.04	31-2448	STATE OF IDAHO	C	L	01-03-1949	GROUNDWATER
			SENE	40	01.04	31-2448	JERNBERG	C	L	01-03-1949	GROUNDWATER				
			SENE	20	01.04	31-2448	STATE OF IDAHO	C	L	01-03-1949	GROUNDWATER				
			SENE	20	01.04	31-2448	JERNBERG	C	L	01-03-1949	GROUNDWATER				
			SENE	40	01.04	31-2448	STATE OF IDAHO	C	L	01-03-1949	GROUNDWATER				

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IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS BY PLACE OF USE

PAGE 2689
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TWNSHP	RNG	SEC	TRACT	LOT	ACRES	USES	WATER RIGHT NUMBER	LAST NAME	OWNER CODE	STAGE	PRIORITY DATE	SOURCE OF WATER

(POU CONTINUED FROM PREVIOUS PAGE)												
07N	34E	27	SESH	40	01.04		31-2448	STATE OF IDAHO	C			
			NHSE	40	01.04		31-2448	JERNBERG	C	L	01-03-1949	GROUNDWATER
			SESH	40	01.04		31-2448	STATE OF IDAHO	C			
			NHSE	40	01.04		31-2448	JERNBERG	C	L	01-03-1949	GROUNDWATER
			SESH	40	01.04		31-2448	STATE OF IDAHO	C			
		28	SESH	40	01.04		31-2061	HANSON	C	L	10-03-1910	MUD LAKE
			NHSE	40	01.04		31-2061	HANSON	C	L	10-03-1910	MUD LAKE
			SESH	40	01.04		31-2270	JERNBERG	C	L	10-17-1943	GROUNDWATER
			NHSE	40	01.04		31-2272	JEFFERSON	C			
			SESH	40	01.43		31-2272	NORDSTROM	C	L	10-17-1943	GROUNDWATER
			NHSE	40	01.43		31-2272	JEFFERSON	C			

	NESE	01	31-7320	12-18-1984 GROUNDWATER	HUNTER SAUER ENTERPRISES	C
06	SENE	01,04,43	31-0182	11-21-1916 SPRING LAKE	OLDHOUSE OLDHOUSE	C D
	NENH	01,43	31-2336	12-01-1954 GROUNDWATER	NEILSON	C
08	NHNE	01,43	31-2235	02-12-1925 GROUNDWATER	WAGONER	C
	SENE	01,43	31-2136	12-08-1913 SPRINGS	MITCHELL	C
09	NEI	01,43	31-2272	10-17-1943 GROUNDWATER	NORDSTROM JEFFERSON IRRIGATION CO.	D C
	NENH	01	31-7384	03-15-1983 GROUNDWATER	HARTMELL	C
	SHNH	01,04,43	31-0160	12-08-1913 SPRING LAKE	MITCHELL	C
	SHNH	01,04,43	31-0161	09-08-1913 SPRING LAKE	MITCHELL	C
	SENH	01,04,43	31-0183	11-13-1914 SPRING LAKE	OLDHOUSE OLDHOUSE	C D
10	NHNE	01	31-7216	11-22-1976 GROUNDWATER	COPE & JERNBERG	C
	NENH	01	31-2243	07-17-1930 GROUNDWATER	JEFFERSON IRRIGATION CO. LTD.	C
	NHNH	01	31-2243	07-17-1930 GROUNDWATER	JEFFERSON IRRIGATION CO. LTD.	C
	SHNH	01	31-2243	07-17-1930 GROUNDWATER	JEFFERSON IRRIGATION CO. LTD.	C
	SENH	01	31-2243	07-17-1930 GROUNDWATER	JEFFERSON IRRIGATION CO. LTD.	C
	NESH	01	31-7311	04-23-1979 GROUNDWATER	JERNBERG JERNBERG	C C
	NHSH	01	31-7311	04-23-1979 GROUNDWATER	JERNBERG JERNBERG	C C

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IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS BY POINT OF DIVERSION

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01/04/1986

TRN	RNG	SEC	TRACT	LOT	USES	WATER RIGHT NUMBER	STAGE PRIORITY	RFLG	SOURCE OF WATER	LAST NAME	OWNER CODE
07N	34E	10	SESH	01		31-2357	L		11-13-1956 GROUNDWATER	JERNBERG	C
			SESH	01,04		31-2395	L		10-09-1961 GROUNDWATER	JERNBERG	C
			NHSE	01		31-2346	L		07-22-1955 GROUNDWATER	COPE	C
			NHSE	01		31-2449	L		03-17-1973 GROUNDWATER	COPE & JERNBERG	C
			SHSE	01		31-2346	L		07-22-1955 GROUNDWATER	COPE	C
			SHSE	01		31-2449	L		03-17-1973 GROUNDWATER	COPE & JERNBERG	C
		11	NHNH	01		31-2376	L		03-23-1959 GROUNDWATER	JERNBERG	C
			NHNH	01		31-2428	L		10-09-1964 GROUNDWATER	JERNBERG	C
		13	SHNE	01		31-2265	L		05-22-1940 GROUNDWATER	OWSELY CANAL CO.	C
			SENE	01		31-7360	P		03-12-1981 GROUNDWATER	ZWEIFEL	C
			NHSE	01		31-2265	L		05-22-1940 GROUNDWATER	OWSELY CANAL CO.	C
			SHSE	01		31-2265	L		05-22-1940 GROUNDWATER	OWSELY CANAL CO.	C
		16	SHSH	01		31-2134	L		02-01-1914 JEFFERSON LAKE	PALMGREN HARHOOD JEFFERSON IRRIGATION CANAL CO.	D D C
		18	NHSH	01		31-7320	P		12-18-1984 GROUNDWATER	HUNTER SAUER ENTERPRISES	D C
		19	SHNH	01,43		31-2283	L		08-22-1945 GROUNDWATER	HAYES	C
			SENH	01,43		31-2283	L		08-22-1945 GROUNDWATER	HAYES	C
		20	NENH	01		31-7266	L		08-22-1977 GROUNDWATER	MITCHELL	C
		22	SHSE	01,04,43		31-0236	D		01-30-1917 MUD LAKE	PALMGREN SPALDING	C C
			SHSE	01,43		31-2061	L		10-03-1910 MUD LAKE	HANSON	C
			SHSE	01,43		31-2062A	L		10-03-1910 MUD LAKE	NORDSTROM	C
			SHSE	01,43		31-2062B	L		12-10-1917 MUD LAKE	NORDSTROM	C
			NHSH	01,04		31-2448	L		01-03-1945 GROUNDWATER	JERNBERG	C

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EXHIBIT B

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 31-07311

Priority: April 23, 1979

Maximum Diversion Rate: 4.62 CFS
Maximum Diversion Volume: 367.5 AF

This is to certify, that DAVID R JERNBERG
BEN D JERNBERG

3170 SYCAMORE LN
BILLINGS MT 59102

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 20, 1979; and has submitted Proof of Beneficial Use on August 2, 1984. An examination indicates that the works have a diversion capacity of 19.280 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	4.62 CFS	367.5 AF

LOCATION OF POINT(S) OF DIVERSION:

SESW, Sec. 10, Township 07N, Range 34E
JEFFERSON County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
07N	34E	9	NESE 33	SWSE 27	SESE 26	86
		10	NWSW 4	SWSW 28		32
		15	NWNW 39	SWNW 5		44
		16	NENE 39	NWNE 40	SWNE 34	
			NENW 40	NWNW 39	SWNW 38	
			SENW 34	NWSW 20	NWSE 15	299

Total number of acres irrigated: 461

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.

The foregoing is a true and certified copy of the document on file at the department of Water Resources.

Signed this 21 day of August 20 03

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SEP 10 1997

State of Idaho
Department of Water Resources**WATER RIGHT LICENSE**

WATER RIGHT NO. 31-07311

CONDITIONS OF APPROVAL AND REMARKS

6. Water diverted under this right, and an additional 4.99 cfs of ground water diverted from the points of diversion described above, may also be diverted onto 663 acres of uncultivated pasture located in Sections 15, 16, 21, and 22 of Township 7 North, Range 34 East, B.M., but this additional use is not an appurtenance of the land upon which it occurs.
7. Two points of diversion are located in the SESW, S10, T7N, R34E.
8. Rights 31-02357 and 31-02395 are also diverted from the points of diversion described above.
9. Any application for transfer proposing to change the point of diversion, place of use, nature of use, or period of use of this right or any portion of this right shall include for consideration by the director the entire use of water on the uncultivated pasture land referenced above. Action taken by the director on any such transfer application may include modification or curtailment of all or any part of the use of water on the uncultivated pasture land.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 5TH
day of SEPTEMBER, 1997.


KARL J. DREHER, Director
Acting for

MICROFILMED

SEP 10 1997

EXHIBIT C



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

June 15, 1987

RE: Permit No. 31-7311

Ben D. &/or David R. Jernberg
Box 1442
Billings, MT 59103

Gentlemen:

Enclosed is a draft copy of the license proposed to be issued on the above referenced water right.

Note that two changes have been made from the information found on the Application for Amendment form which you returned to us in February. The rate of diversion was changed from 16.0 to 13.45 cfs, and one additional condition (#4) was added.

We ask that you review the proposed license and if you do not concur with the information, please let us know within 10 days.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

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SEP 10 1987

EXHIBIT D

MEMORANDUM

DATE: August 11, 1997

TO: Water Right File 31-07311

FROM: Shelley W. Keen *SWK*

RE: Licensing recommendations

The field examiner for right 31-07311 reported that the permit holder is diverting from two wells with a combined capacity of 19.28 cfs to irrigate 461 acres of cropland and 663 acres of uncultivated pasture land.

Licensed right 31-02357 supplies 4.6 cfs to the to 356 acres of the cropland. The licensed place of use for 31-02357 does not correspond exactly to the place of use found by the examiner for 31-07311, but it will be brought into conformance through the SRBA process. Right 31-07311 should be licensed for 4.62 cfs to bring the 461-acre place of use up to .02 cfs per acre when combined with 31-02357. Right 31-02357 contributes 1246 acre feet of volume (3.5 af per acre * 356 acres). Right 31-07311 should be licensed for 367.5 af to bring the total for the 461 acres up to 3.5 af per acre.

Licensed right 31-02395 is for 3.65 cfs appurtenant to 324 acres that mostly overlap the 663 acres of uncultivated pasture land. Again, the SRBA process will adjust the place of use for 31-02395. To bring the 663-acre area up to 0.02 cfs per acre, license 31-07311 should authorize a diversion of 9.61 cfs, comprised of the 4.62 cfs licensed rate plus 4.99 cfs more.

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SEP 10 1997

EXHIBIT E

MEMORANDUM

DATE: July 23, 1997

TO: Water Right File 31-07311

FROM: Shelley W. Keen ^{SWK}

RE: Conditions of Approval

When licensing right 31-07311, please include the following conditions of approval, which are intended to:

1. Authorize Mr. Jernberg's historical practice of diverting water onto uncultivated pasture in order to foster growth of native forage plants.
2. Guard against water use expansion via the conversion of the pasture use to the irrigation of a more consumptive cultivated crop.

Water diverted under this right, and an additional ^{4.99}~~7.93~~ cfs of ground water diverted from the points of diversion described above, may also be diverted onto 663 acres of uncultivated pasture located in Sections 15, 16, 21, and 22 of Township 7 North, Range 34 East, B. M., but the right to this additional use is not an appurtenance of the land upon which it occurs.

Any transfer of this right changing the place of use or nature of use of the right shall require that a proportional share of the irrigation occurring on the land described as the place of use under this right shall be discontinued. In addition, the entire additional use of water upon uncultivated pasture shall be permanently discontinued.

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EXHIBIT F

State of Idaho

DEPARTMENT OF WATER RESOURCES

(208) 327-7900

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

March 3, 1989

MAR 9 1989

Department of Water Resources
Eastern District Office

Ben D. Jernberg and
David R. Jernberg
P.O. Box 1442
Billings, MT 59103

RE: Permit to appropriate water no. 31-7311

Gentlemen:

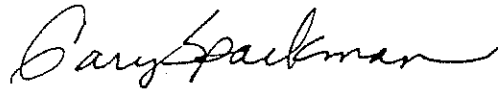
Permit to appropriate water no. 31-7311 was examined by an Idaho Department of Water Resources Examiner in 1986. The examiner found approximately 1124 acres irrigated in Section 9, 10, 15, 16, 21, and 22 of T7N, R34E, B.M., Jefferson County. Of the acreage irrigated approximately two-thirds of the land was, for the most part, uncultivated pasture with mixed sage brush and native growth.

The Department has struggled to determine how much water to license for the native growth. It is not logical that it should receive the same amount of water as cultivated cropland.

This letter is a request for any information which you may have regarding total annual volume of water which you may have pumped from the two wells located in SE1/4SW1/4, Section 10, T7N, R34E. The volumes should probably reflect volume pumped prior to August 2, 1984, but any volume after the measurement would be helpful.

If you fail to submit the above requested information within thirty (30) days the department will reduce the flow rate and annual volume under permit 31-7311 to an amount that is commensurate with a presumed diversion for uncultivated lands.

Sincerely,



Gary Spackman, Manager
Water Right Permits Section

cc: Eastern Region

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