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MAY 05 1995

WATER RESOURCES
WESTERN REGION

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: **A63-30224**
Date Received: 4/13/1995
Receipt No: C032454
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: WATERFOWL IMPROVEMENT ASSOC. INC. 208-342-4591
Address: PO BOX 2773
BOISE ID 83701

2. Date of Priority: MAY 10, 1926

3. Source: UNNAMED DRAIN Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04N	04W	2	SE	NE			CANYON
			NW	NW			CANYON
05N	04W	35	SW	NE			CANYON

Beginning Point of Instream Flow						
04N	04W	2	NW	NW		CANYON

Ending Point of Instream Flow						
05N	04W	35	SW	SW	2	CANYON

5. Description of diverting works:
DITCH, POND

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
STOCKWATER	01/01	12/31	0.030		
IRRIGATION	03/15	11/15	2.000		
WILDLIFE	01/01	12/31	2.000		
WILDLIFE STORAGE	01/01	12/31			6.00
WILDLIFE FROM STORAGE	01/01	12/31			6.00

7. Total Quantity Appropriated is:
2.000 C.F.S. (and/or) 6.00 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER, 50 LIVESTOCK

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	04W	2	NW	NW		IRR	20.0
			NW	NW		WILDLF	
						Section Acres	20.0
05N	04W	35	SW	SW		WILDLF	
						Total Acres	20.0

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
63-10608 (OURS), 63-04530 (NEIGHBORS)

14. Remarks:

SEE FILE IN 63-10608; CONTAINS MUCH CORRESPONDENCE AND PHOTOS OF SYSTEM. AERIAL PHOTOS IN THAT FILE GO BACK TO 1971; TITLE DOCUMENTS SHOW DITCH AND POND EXISTED IN 1926. TITLE DOCUMENTS ALSO SHOW DITCH USED PRIOR TO 1967. PRIOR OWNERS EVERETT JONES, BRYAN RAMBO, IDA MANSELL. ATTACHMENTS INCLUDE AERIAL PHOTO-COPY SHOWS OUR PROPERTY WEST OF "IPCO CULVERT"

ITEM 5: (CONT.) POND APPROX. 2 ACRES IN SIZE - DITCH 3-4' WIDE, 1-3' DEEP. SMALLER DITCHES RUN OFF MAIN DITCH. POND RESTORED 1988-89. 63-10608 (LICENSE). DIKES RESTORED, HEADGATES INSTALLED TO MAINTAIN WATER FOR WATER FOWL HABITAT. PRIOR USES WERE IRRIGATION AND STOCKWATER.

15. Basis of Claim: BENEFICIAL USE

RECEIVED

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

Department of Water Resources

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number A63-30224Date Received 4-11-95Receipt Number C032454

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant (s) WATERFOWL IMPROVEMENT ASSOCIATION, INC. Phone (208) 342-4591
Mailing Address Box 2773, BOISE, IDAHO Zip 83701

2. Date of Priority (Only one (1) per claim) MAY 10, 1926

3. Source of water supply (a) UNNAMED DRAIN
which is tributary to (b) BOISE RIVER

4. a. Location of existing point of diversion is: Township 4N Range 4W Section 2,
NW 1/4 of NW 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of CANYON

Additional points of diversion if any: SE 1/4 NE 1/4 SEC. 2, SW 1/4 NE 1/4 SEC. 35,
4T4N, R4W 7T5N, R4W

b. If instream flow, beginning point of claimed instream flow is:

Township 4N Range 4W Section 2, NW 1/4 of NW 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of CANYON

ending point is: Township 5N Range 4W Section 35, SW 1/4 of SW 1/4 of
_____ 1/4, Govt. Lot 2 B.M., County of CANYON

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. DITCH AND POND -
POND APPX. 2 ACRES IN SIZE - DITCH 3-4' WIDE, 1-3' deep
SMALLER DITCHES RUN OFF MAIN DITCH.
POND RESTORED 1988-89, 63-10608 [LICENSE]. DIKES
RESTORED. HEADGATES INSTALLED TO MAINTAIN WATER
FOR WATERFOWL HABITAT. PRIOR USES WERE
IRRIGATION & STOCK WATER.

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For STOCKWATER purposes from 1-1 to 12-31 amount .03 CFS or _____

For IRRIGATION purposes from 3-15 to 11-15 amount 2.0 or _____

For WILDLIFE purposes from 1-1 to 12-31 amount 2.0 or _____

For WILDLIFE purposes from 1-1 to 12-31 amount 2.0 or 6
WILDLIFE FROM STORAGE 1-1 12-31

7. Total quantity claimed (a) 2.0 (cfs) and/or (b) 6 (acre feet)

8. Total consumptive use claimed is 0 acre feet per annum.

CONTINUOUS FLOW

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) STOCKWATER - 50 HEAD. WILDLIFE IS NONCONSUMPTIVE

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				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	
<u>4N</u>	<u>4W</u>	<u>2</u>						<u>20</u>											<u>20</u>
<u>4N</u>	<u>4W</u>	<u>2</u>						<u>W</u>											
<u>5N</u>	<u>4W</u>	<u>35</u>											<u>W</u>						

Total number of acres irrigated 20

11. In which county (ies) are lands listed above as place of use located? CANYON

12. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
LICENSE 63-10608 [OURS] A63-4530 [NEIGHBOR] or None ()

14. Remarks: SEE FILE IN 63-10608; CONTAINS MUCH CORRESPONDENCE AND PHOTOS OF SYSTEM. AERIAL PHOTOS IN THAT FILE GO BACK TO 1971; TITLE DOCUMENTS SHOW DITCH + POND EXISTED IN 1926. TITLE DOCUMENTS ALSO SHOW DITCH USED PRIOR TO 1967. PRIOR OWNERS EVERETT JONES, BRYAN RAMBO, IDA MANSELL. ATTACHMENTS INCLUDE AERIAL PHOTO - COPY SHOWS OUR PROPERTY WEST OF "1PCO CULVERT"

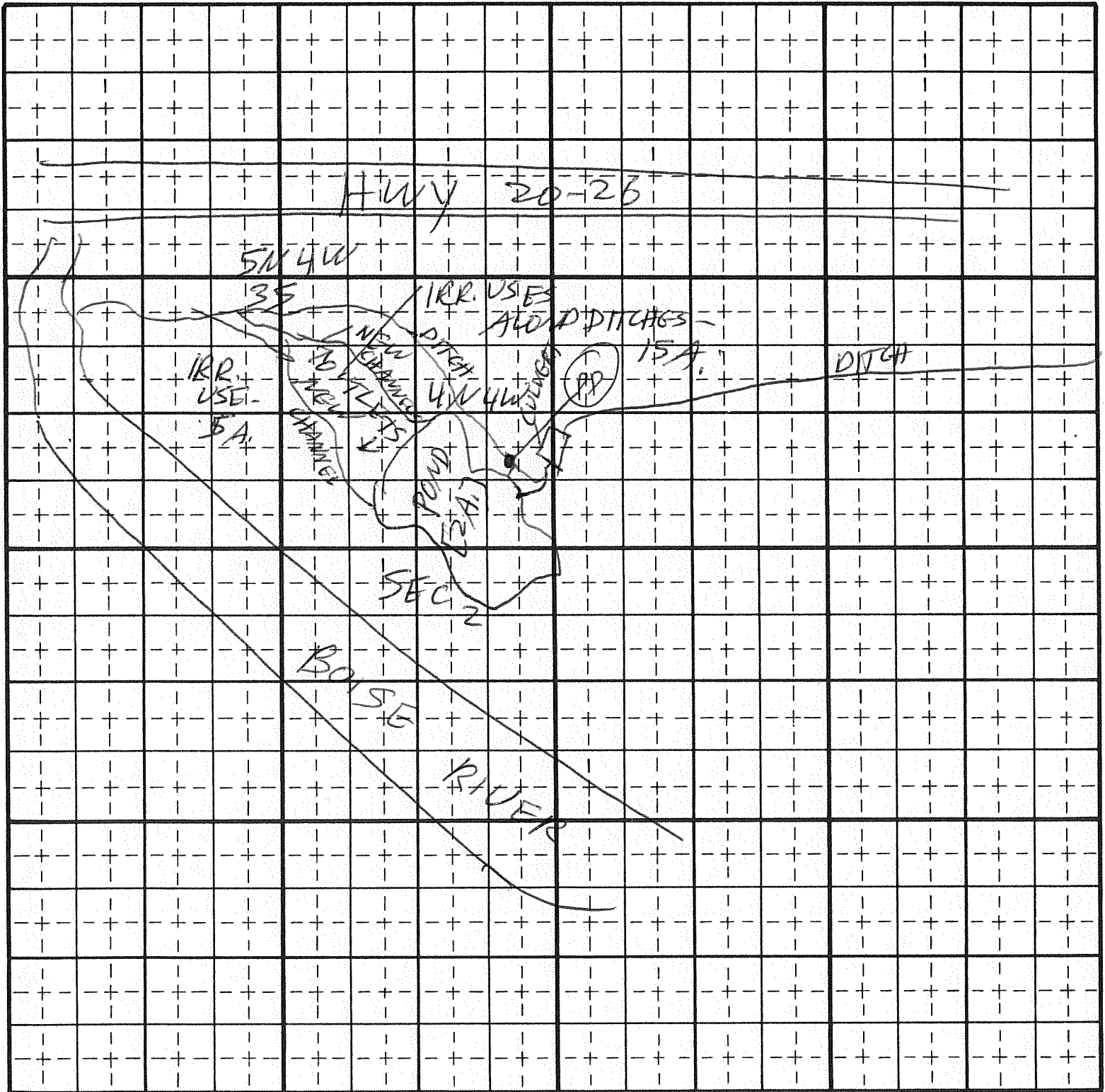
Last Name W. I. A. INC. Ident No. A63-30224

Copies: White, Slide, Yellow, Stamen

OCT 17 1995

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name _____ Ident No. A63-30224

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Copies: White-State, Yellow-Claimant
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15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____

Decree _____

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 1

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) [Signature] Date 4-5-95

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am President

Title

of Waterford Improvement Association, that I have signed the foregoing

Organization

document in the space below as President of said corporation

Title

Organization

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

Signature of Authorized Agent [Signature]

Title and Organization President Waterford Date 4-5-95

Improvement Association

State of Idaho/or _____)

County of Ada)

SS.

Subscribed and sworn (or affirmed) before me this 5th day of April 19 95

SEAL

Notary Public [Signature]

Residing at Boise, Idaho

My Commission Expires 12/11/99

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number 463-30224

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Copies White-State, Yellow-Claimant

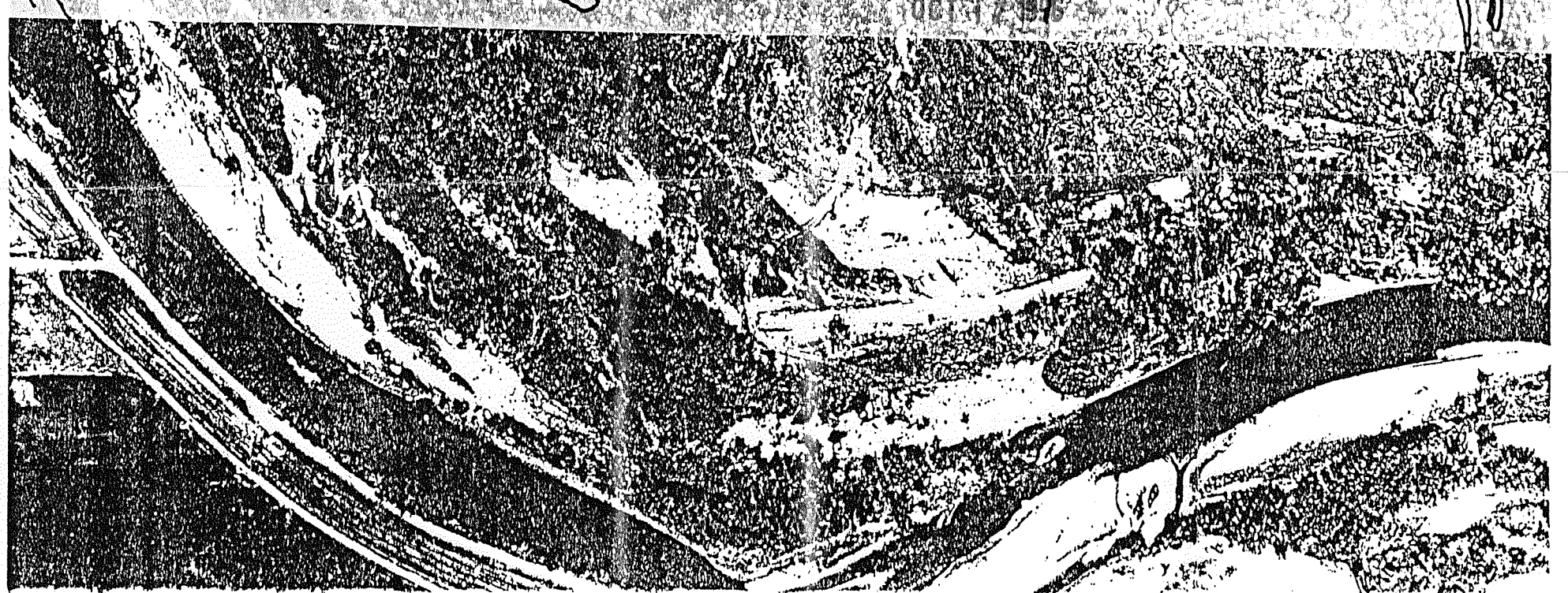
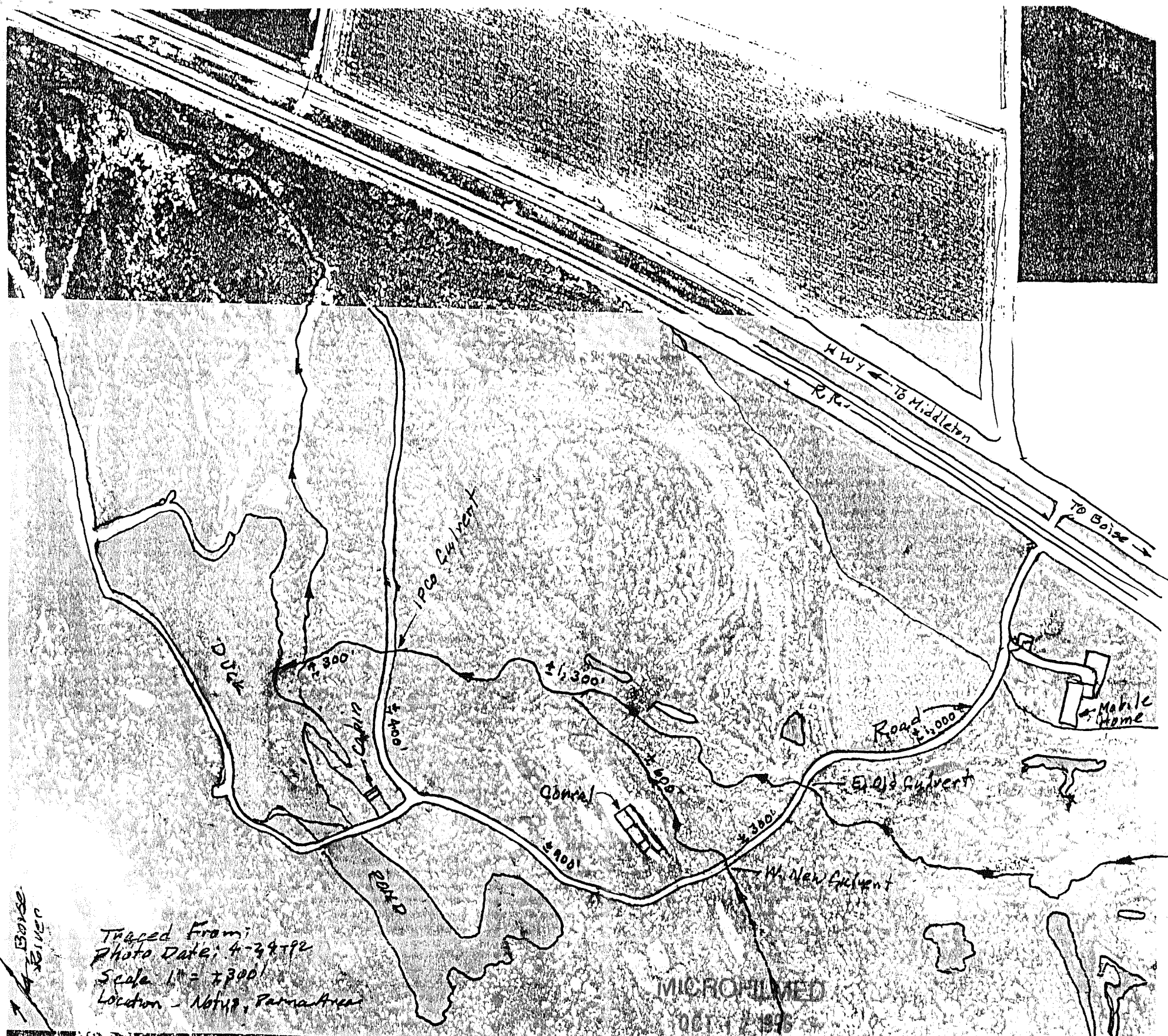


Photo Date 4/24/92
 Scale 1" = 300'
 Location Notus (Parma)

WWS 3-19-95 sur.

10/26/1994

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME Water fowl Improvement CLAIM IDENT. NO. A63-30224DATE RECEIVED 4-11-95 RECEIPT # 0032454 AMOUNT \$ 270.00

- | | YES | NO | COMMENT |
|--|-------------------------------------|-------------------------------------|----------------------|
| 1. Is the name and address complete with zip code? | ☒ | ☐ | |
| 2. Is a priority date entered? | ☒ | ☐ | |
| Is the priority date acceptable in view of mandatory filing dates? | ☒ | ☐ | |
| See Adjudication Memos #1 and #4 to determine if a Permit is required. | ☒ | ☐ | |
| 3. (a) Is a source entered? | ☒ | ☐ | |
| (b) Is a tributary to entered? (if required) | ☒ | ☐ | N/A |
| 4. Is the legal description of the p.d. sufficient? | ☒ | ☐ | |
| 5. Is there a description of the diverting works? | ☒ | ☐ | |
| 6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. | ☒ | ☐ | |
| Is the period of use included? | ☒ | ☐ | |
| Is a quantity claimed for each use? | ☒ | ☐ | |
| 7. Is a total quantity claimed entered? | ☒ | ☐ | |
| 8. If required is a consumptive use entered? | ☒ | ☐ | N/A |
| Is the consumptive use correct? | ☐ | ☒ | irrigation of 20 ac. |
| 9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. | ☒ | ☐ | N/A |
| 10. Is (are) the place(s) of use and purpose(s) indicated? | ☒ | ☐ | |
| 11. Is (are) the county(ies) entered? | ☒ | ☐ | |
| 12. Is the ownership of p.u. checked? | ☒ | ☐ | |
| 13. Are other water rights listed or "none" indicated? | ☒ | ☐ | |
| 14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) | ☒ | ☐ | N/A |
| 15. Is the basis of the claim indicated? | ☒ | ☐ | |
| 16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) | ☒ | ☐ | N/A |
| 17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. | ☒ | ☐ | |
| 18. Has the claim been signed, sealed, and dated by a notary? | ☒ | ☐ | |
| 19. Was this claim filed on time, or was an extension granted? | ☐ | ☒ | |
| 20. Is the fee enclosed correct? | ☒ | ☐ | Exempt |
| 21. If this claim is based on an existing water right, has the identification number been entered? | ☒ | ☐ | N/A |
| 22. Should this claim be data entered? | ☒ | ☐ | |

Claim checked by: CA Date: 4-14-95Claim must be returned to claimant: ☐ (Yes) ☒ (No)Claimant must be notified of modifications: ☐ (Yes) ☒ (No)Receipt Prepared by: JWDate: 4-11-95Claim data entered by: ENDate: 4-14-95Checked by: CA Date: 4-18-95

Sent to claimant by: _____

Date: _____

Comments: Letter requests a waiver of late fees

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OCT 17 1996

12/10/2006

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

RIGHT NUMBER: 63-30224
NAME AND ADDRESS: WATERFOWL IMPROVEMENT ASSN INC
PO BOX 2773
BOISE ID 83701

SOURCE: UNNAMED DRAINS
QUANTITY: 2.000 CFS
PRIORITY DATE: 05/10/1926

TRIBUTARY: BOISE RIVER

POINT OF
DIVERSION: T04N R04W S2 NWNW Within CANYON County
T05N R04W S35 SWSE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
WILDLIFE	01/01 12/31	2.000 CFS
STOCKWATER	01/01 12/31	0.030 CFS

PLACE OF USE: STOCKWATER in CANYON County

T04N R04W S02	NWNW	T05N R04W S35	SWSW
T05N R04W S35	SESW		

WILDLIFE in CANYON County

T04N R04W S02	NWNW	T05N R04W S35	SWSW
T05N R04W S35	SESW		

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

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Right Nos. 63-4530B and 63-28289 are also diverted through point of diversion located within the SWSE, S35, T5N, R4W.

Wildlife use is for diverting water through pond under Rt. 63-10608 to prevent stagnation in the summer and freezing in the winter, thus providing clean, open wildlife habitat area.

Stockwater use is for 50 range animals.

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

WA

10/12/2006

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NOV 15 2006

WATER RESOURCES
WESTERN REGION

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: October 31, 2006

Water right number: 63-30224

WATERFOWL IMPROVEMENT ASSN INC
PO BOX 2773
BOISE ID 83701
Telephone Number: (208)342-4591

RECEIVED
NOV 17 2006
DEPARTMENT OF
WATER RESOURCES

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 11-6-06 SIGNATURE: [Signature]
Please print your name: D. BLAIR CLARK, PRES.

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

10/11/2006

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

RIGHT NUMBER: 63-30224

NAME AND ADDRESS: WATERFOWL IMPROVEMENT ASSN INC
PO BOX 2773
BOISE ID 83701

SOURCE: UNNAMED DRAINS

TRIBUTARY: BOISE RIVER

QUANTITY: 2.000 CFS

PRIORITY DATE: 05/10/1926

POINT OF DIVERSION:

T04N R04W S2 NWNW Within CANYON County

T05N R04W S35 SWSE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
WILDLIFE	01/01 12/31	2.000 CFS
STOCKWATER	01/01 12/31	0.030 CFS

PLACE OF USE: STOCKWATER Within CANYON County

T04N R04W S02	NWNW	T05N R04W S35	SWSW
T05N R04W S35	SESW		

WILDLIFE Within CANYON County

T04N R04W S02	NWNW	T05N R04W S35	SWSW
T05N R04W S35	SESW		

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Right Nos. 63-4530B and 63-28289 are also diverted through point of diversion located within the SWSE, S35, T5N, R4W.

Wildlife use is for diverting water through pond under Rt. 63-10608 to prevent stagnation in the summer and freezing in the winter, thus providing clean, open wildlife habitat area.

Stockwater use is for 50 range animals.

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

MEMORANDUM

TO: File 63-30224

FROM: KAY WALKER



RE: Claim Review and Recommendation

Date: October 11, 2006

.....

No irrigation on property occurring in August 1991 during field exam of Rt. 63-10608. Irrigation was included as proposed use on permit 63-10608 (filed in April of 1988) but not developed pursuant to field examiner. Proof of beneficial use submitted in July, 1989, did not include any mention of irrigation use. Correspondence between D. Blair Clark and IDWR (located in file 63-10608) in March and April of 1995 did not include any mention of irrigation water.

Claim 63-30224 filed on April 13, 1995, purported irrigation water in use from May 10, 1926. Claim states under item 5: ***Prior uses were irrigation & stockwater.***

Wildlife storage use is covered under Rt. 63-10608 for 6.0 af and should not be included on claim unless conditioned not to exceed 6.0 af when combined.

Year-round flow for wildlife purposes should be recommended for diverting water to run through the pond to prevent stagnation in the summer and freezing in the winter, thus providing clean, open wildlife habitat.

Claim should be recommended for live flow through wildlife pond at 2.0 cfs as claimed. Also recommend some stockwater use, however, instream flow need not be included because the place of use will cover entire parcel owned by claimants and stock/wildlife can drink anywhere within parcel.

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM POU REVIEW REPORT
ADJUDICATION CLAIM NUMBER: 63-30224

02/03/2006

1

Right #	Type	Twp	Rge	Sec	QQ	Q	Lot	Purpose of Use	Acres/Total	Name
-171	Claim	04N	04W	2	NW	NW		IRRIGATION	6/1083	LOWER CENTERPOINT DITCH CO
-177	Claim	04N	04W	2	NW	NW		IRRIGATION	6/1083	LOWER CENTERPOINT DITCH CO
-208	Claim	04N	04W	2	NW	NW		IRRIGATION	6/1083	LOWER CENTERPOINT DITCH CO
5022	Claim	04N	04W	2	NW	NW		IRRIGATION	6/1083	LOWER CENTERPOINT DITCH CO
20563	Claim	04N	04W	2	NW	NW		IRRIGATION	6/1083	LOWER CENTERPOINT DITCH CO
20566	Claim	04N	04W	2	NW	NW		IRRIGATION	6/1083	LOWER CENTERPOINT DITCH CO
30224	Claim	04N	04W	2	NW	NW		IRRIGATION	20/20	WATERFOWL IMPROVEMENT ASSN IN
1530A	Water Right	04N	04W	2	NW	NW		IRRIGATION	15/100	BETH TRUMBULL
5022	Water Right	04N	04W	2	NW	NW		IRRIGATION	6/1083	LOWER CENTER POINT DITCH CO
30224	Claim	04N	04W	2	NW	NW		WILDLIFE		WATERFOWL IMPROVEMENT ASSN IN
10608	Water Right	04N	04W	2	NW	NW		WILDLIFE STORAGE		WATERFOWL IMPROVEMENT ASSN IN
138C	Claim	05N	04W	35	SW	SW		IRRIGATION	24/16111	FARMERS COOPERATIVE DITCH CO
-188	Claim	05N	04W	35	SW	SW		IRRIGATION	24/16111	FARMERS COOPERATIVE DITCH CO
-189	Claim	05N	04W	35	SW	SW		IRRIGATION	24/16111	FARMERS COOPERATIVE DITCH CO
-190	Claim	05N	04W	35	SW	SW		IRRIGATION	24/16111	FARMERS COOPERATIVE DITCH CO
-191	Claim	05N	04W	35	SW	SW		IRRIGATION	24/16111	FARMERS COOPERATIVE DITCH CO
-296	Claim	05N	04W	35	SW	SW		IRRIGATION	24/16111	FARMERS COOPERATIVE DITCH CO
4851	Claim	05N	04W	35	SW	SW		IRRIGATION	24/16111	FARMERS COOPERATIVE DITCH CO
4852	Claim	05N	04W	35	SW	SW		IRRIGATION	24/16111	FARMERS COOPERATIVE DITCH CO
303A	Claim	05N	04W	35	SW	SW		IRRIGATION FROM STORAGE	24/16031	FARMERS COOPERATIVE DITCH CO
30224	Claim	05N	04W	35	SW	SW		WILDLIFE		WATERFOWL IMPROVEMENT ASSN IN
8362	Claim	05N	04W	35	SW	SW	2	IRRIGATION	2/2	DOROTHY I TODD
8362	Water Right	05N	04W	35	SW	SW	2	IRRIGATION	2/2	EDITH M LANG
24031	Water Right	05N	04W	35	SW	SW	2	~~STOCKWATER~~		DOROTHY I TODD
24031	Water Right	05N	04W	35	SW	SW	2	~~DOMESTIC~~		DOROTHY I TODD

* per contractor's exam -

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT

RECEIVED

MAR 23 2006

WATER RESOURCES
WESTERN REGION

Prior to Field Exam

- ☒ Copy of Claim, claim has been signed, sealed, and dated by notary?
☒ Check fees paid
☐ Well logs (if needed) NA
☒ Copy of topo or NAPP
☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
☒ Check POD & POU overlap, see below – include overlapping right for exam
☒ Evidence of Priority – if none, talk with claimant

*Rec'd time
2ND time
9/27/06
KCW*

CLAIMANT INFORMATION – verify contact information is complete

Claim No(s) A63-30224Owner: Waterfowl Improvement Assn. Inc. Phone No. (208) 342-4591Current Address: PO Box 2773 Boise, Id. 83701

- ☒ No change NAME IS THE SAME
☐ NEW OWNER
☒ No change Address
☐ NEW ADDRESS
☒ How long owned property? purchased from previous owner in 1987

Accompanied by: Blair Clark/contact person 342-4591 Ext. 116PRIORITY DATE Bob Farris/contact person 322-7792

- ☒ No change – Complete evidence submitted or not necessary *Title documents in file 63-10608
☐ Incomplete – Claimant should be asked when water was first used and submit proof of date. *show proof the ditch & pond existed in 1926.*
☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: 5-10-1926 *^{per} (Title documents) in beneficial file

(If priority date, based on your exam, seems questionable, explain below.)

Source: Unnamed Drain Tributary to Boise River

- ☒ No Change – SAME SOURCE
☐ Source found is different than claimed:

POINT OF DIVERSION

- ☐ No change
☐ POD found is different than claimed:
☒ If different, when did POD change?

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Re GPS ID

Not sure what beginning & ending point of instream flow mean

Description of diverting works

36" culvert at the railroad tracks diverts by means of an overgrown ditch to the pond

OVERLAP REVIEW

Other water rights with the same point of diversion: 63-10608, 63-04530 (neighbors)

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

there are several other rights in the same QQ, however they provide the waste water for this pond

WATER USES

☒ No change

☐ Different Uses

Use wildlife storage From 1/01 To 12/31 Amount _____ CFS 6.00 AFA

Use irrigation From 3/15 To 11/15 Amount 2.000 CFS _____ AFA

Use wildlife from storage From 1/01 To 12/31 Amount _____ CFS 6.00 AFA

wildlife 1/01 12/31 2.000 cfs

stockwater 1/01 12/31 0.030 cfs

TOTAL VOLUME - Groundwater only N/A Total 2.000 cfs 6.00 Afa

☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA

☐ Changes found, the new total is, Amount _____ CFS _____ AFA

☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)

NON-IRRIGATION USES:

☒ No change

☐ Changes Exam found: Domestic # of homes _____ Stock # _____

Types _____ Additional comments: _____

PLACE OF USE:

☒ No Change

☒ Changes shown below:

Place of Use			NE				NW			SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	NE	NW	SW	SE	
4N	4W	2							X					
4N	4W	2						X						
4N	4W	2						20						

100%
 Total dir. acres.
 may be less than
 20.0. use the
 POU boundary on the
 2004 NAPP to
 calculate in ArcView

* Only change Overlap with other water rights: 63-10608

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:

Water right was only for wildlife storage 1/1-12/31 6.0 afa,
 + wildlife from storage 1/1-12/31 6.0 afa (6.0 afa total)

Delivery System Narrative: Run-off from irrigation + springs feed into
 the unnamed drain that delivers water under Hwy 20/26 by
 means of a 36" culvert. A ditch delivers water to the 2 acre pond
 from the SWNW + NWNW ends of the pond. There are 4 outlets
 that control the level of the pond to prevent flooding from
 the Boise River, to maintain a level at 3-4' + to
 allow for flood irrigation for the pasture for grazing.
 The entire length of the system allows water for wildlife
 + stockwater starting in Section 2 + ending in Section 35.

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size
POD A0002081	-	-	-	-	36"
outlet #1 A0002082	-	-	-	-	unkn
outlet #2 A0002083	-	-	-	-	unkn
outlet #3 A0002084	-	-	-	-	unkn
outlet #4 A0002085	-	-	-	-	unkn

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

Title documents in file 63-10608 show ditch + pond existed in 1926.

The different outlets allow boards to be inserted or removed
 to control the level of water in the pond. Outlets can be
 shut off to allow the 20 acres to be flood irrigated for
 pasture. The road was built up around the pond to allow
 the ability to increase durability, + end or prevent washing
 out from the Boise River, + assist in preventing the pond
 from silting in again. - The ditch from the POD was re dug
 + no longer comes in by means of the old inlet (problems with
 neighbor not maintaining the ditch + it become overgrown).
 "Pond restored 1988-1989," means silt removed from pond making
 it larger (back to the original 2 acres) + reinforced the banks
 around the pond to prevent washing out again.

2-3 nests woodhead ducks
4 horses, wildlife (1 pr. red heads, up to 200 mallards,
4-5 pr. whitetail, cougar, pheasant, 2 flocks geese)
Nonirrigation uses 30-50 stock, sometimes up to 30 sheep
Outlets control flooding, level of pond, + irrigation for 20 acres.
Filed water right + adjudication to make sure all bases were covered.

Both Blair Clark + Bob Farris are the owners of Waterfowl
Improvement Assn. Inc. This is a cooperative waterfowl
habitat project with Id. Fish + Game.

Directions: I84 N, Ext. 26, NW on Hwy 20/26, between
milepost 17+18 turn south + cross railroad tracks on dirt
road (by log-type home). Follow dirt road down the hill to
another cabin

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☐ Completed claim checklist
- ☐ Photographs of POD's and POU
- ☐ GPS readings
- ☐ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED:

3-6-06

FIELD EXAMINER:

Sandy Hernerway

FLOW CALCULATIONS

____ Additional Computation Sheets Attached

Measured Method:

Storage pond size = 2 acres x 3 ft. deep = 6 af

Bucket measurement (next page)

VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 20 \times 2.5 = 50$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = (.02)(246)(1.9835) = 9.76$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 9.76$$

2. Volume Calculations for Other Uses:

Irrigation component was requested to be removed from Beneficial use permit, but should be added on to adjudication permit due to exam. Blair Clarke showed 20 acre parcel used for grazing livestock (irrigation for grassland).
Regulating flow through the different outlets allows the entire 20 acres to be flood irrigated.

36" Culvert, full at high flow:

Marsh - McBirney Full Pipe Flow Calculator shows

Maximum Capacity of $9000 \text{ gpm} \times .00223 = 20.07 = 20.1 \text{ cfs}$

Table 1, Recommended Diversion Rates for Stockwater:

30 sheep = 0.02 cfs

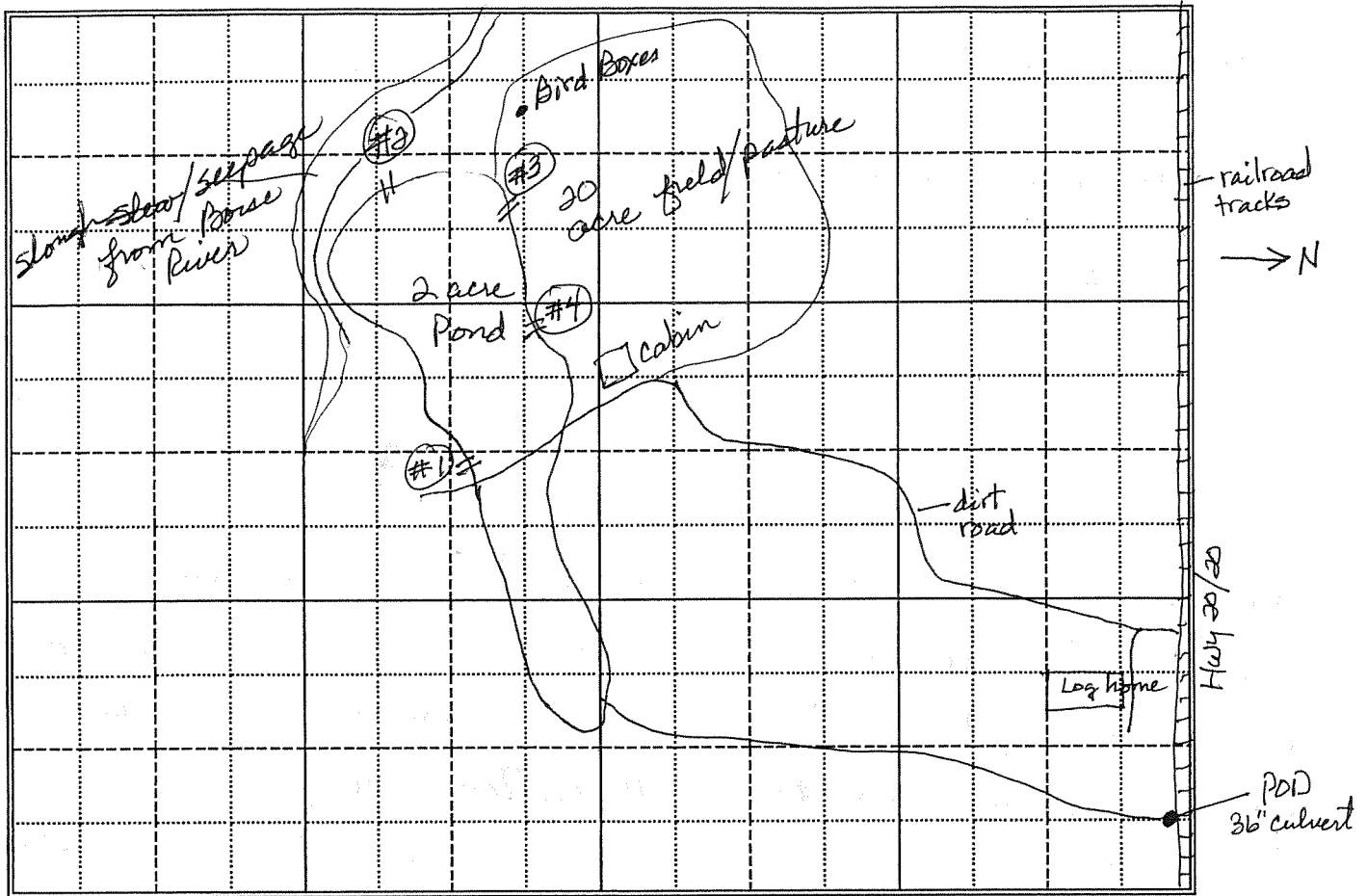
30-50 cattle = 0.02 cfs

4 horses = 0.02 cfs

} have not had all present on the property at the same time, but have had a combination, so recommend staying with 0.03 cfs on per

Wildlife: 1 pr. red heads, up to 200 mallards, 4-5 pr. white tail, 1 cougar, pheasant, 2 flocks geese, 2-3 nests woodhead ducks

Delivery System Diagram: Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable.



Scale: 1" = _____

☒ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

☒ Aerial Photo Attached (required for irrigation of 10+ acres)

☒ Photo of Diversion and System Attached

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

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

FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: Storage pond size = 2 acres x 3' deep = 6 a.f.

low flow 5 gal/sec. $\text{gpm} = 5 \times 60/\text{sec}$; chart shows
1 sec = 300 gpm = 0.67 cfs

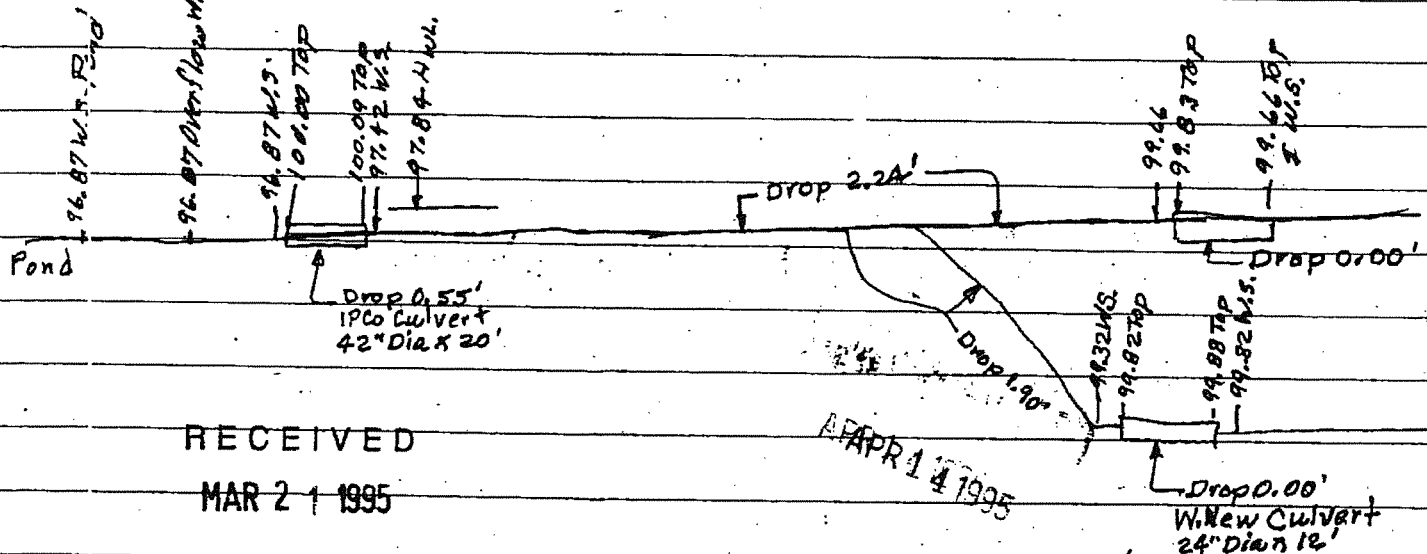
* More accurate measurements, see attachment from Carlyle Briggs,
 D1=1/4 2-12-66 ... unable to estimate conveyance loss (overgrowth)

D. Blair Clark Duck Pond - Elevations - Inlet Ditch

Carlyle W. Briggs, PE/LS

3-18-95 Sat.

Sta.	BS	HI	FS	Elev.	Location
1.	5.86	105.86		100.00'	Top IPCo Culvert, W. End.
2.			8.99	96.87'	W.S. W. of IPCo Culvert
3.			8.99	96.87'	W.S. E. edge of large pond
4.			8.99	96.87'	W.S. at pond overflow, NE Cor.
5.			8.44	97.42'	W.S. E. of IPCo Culvert
6.			8.02	97.84'	HWL, Mud-Tallies Line E. of IPCo.
7.	5.42	104.17	7.11	98.75	T.P. at first Tee Rd bend.
8.	5.29	104.28	5.18	98.99	T.P. #2 - to E. along road.
9.			5.03	99.25 ³²	W.S. New W. Culvert - Up end.
10.	4.74	104.62	4.40	99.88'	T.P. #3 - Top Culvert, Up end - New W. Culvert
11.			4.80	99.82'	Top W. Culvert - Down end, S
12.			4.96	99.66'	Top E. Culvert - Up end & W.S.
13.			4.79	99.83'	Top E. Culvert - Down end
14.			4.96	99.66	E. Culvert - Down End, W.S.



RECEIVED

MAR 21 1995

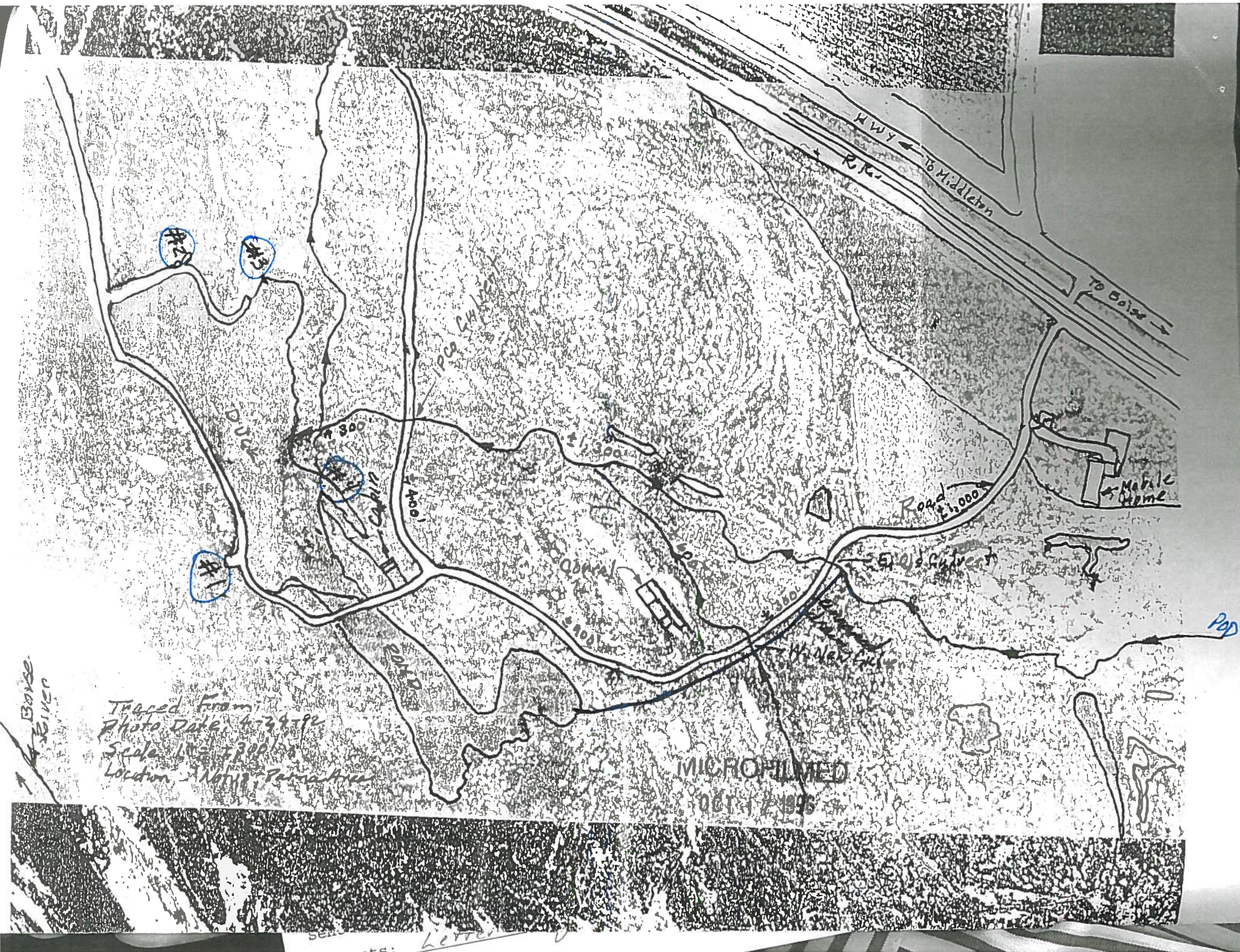
Department of Water Resources

APR 14 1995

Note: W. Culvert W.S. 0.34' lower than E. Culvert W.S.



63-30224





POD Id tag #
A0002081

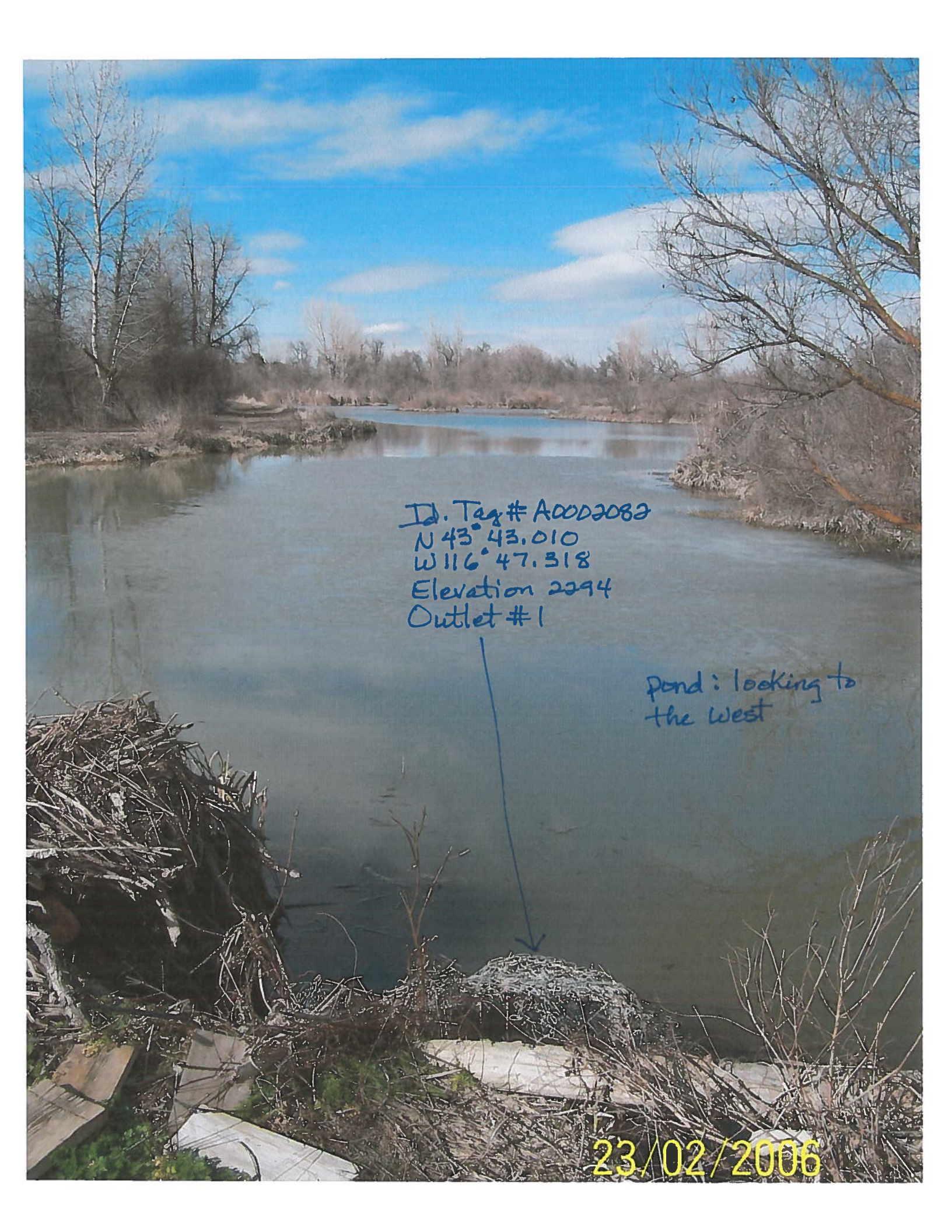
N 43° 48.046

W 116° 46.806

elevation 2307

5 gallons/second, 36" culvert

23/02/2006

A photograph of a pond with handwritten text and a blue arrow pointing to a log pile. The pond is surrounded by bare trees and shrubs. The sky is blue with some clouds. The text is written in blue ink. A blue arrow points from the text 'Outlet #1' to a pile of logs in the foreground.

Id. Tag # A0002082
N 43° 43.010
W 116° 47.318
Elevation 2294
Outlet #1

pond: looking to
the west

23/02/2006



pond: looking to the
east + southeast

culvert interconnecting the
ponds, where the road crosses
over

23/02/2006

Id. Tag # A0002083
N 43° 43.115
W 116° 47.393
Elevation 2297
Outlet #2

23/02/2006

ID Tag # A0002084
N43° 43.124
W116° 47.327
Elevation 2305
Outlet #3

23/02/2006

ID Tag # A0003085

N43° 43.076

W116° 47.296

elevation 2202

utilized if Boise River floods them out

Outlet #4
overflow →

23/02/2006



Bird Boxes

23/02/2006



Inspection date: 2/23/06 A63-30224 Waterfowl
Improvement. Aerial photo from Bob Farris.

FDF Inc.
A63-4530B

→ piped
flow for
irrigating
pasture
at log
house

→ drain
going to
A63-3022
Waterfowl
Improvement



June 13, 2006 SH

← log
house
north
of
Waterfowl
Improvement
at entrance

→ Pasture



June 13, 2006



POD
 same as
 Bill Luna
 A 63-28289
 N 43° 43.388'
 W 116° 46.719'

June 13, 2006 SH



June 13, 2006 SH

Sandy

A63-30224 Field Exam Request:
Waterfowl Improvement Assn. Inc.

Contact:

02/08/2006

Call #342-4591 to set up a field exam.

RECEIVED

Property Address:

Highway 20-26

MAR 23 2006

WATER RESOURCES
WESTERN REGION

Rec'd 9/27/06
KW

Requests:

*Please verify all the elements of this right.

In addition, please verify/obtain:

- GPS the locations of the various **drain's** diversion points.
- Is any **Irrigation District** water used to supplement this right? ^{NO} Is it Farmers Cooperative Ditch Company? **NO**
- How many **stock** were watered in 1987? Number of wildlife? **1 pr. red heads, mallards & 20 4-5 white tail**
30 cows → 50 cows **cougar, pheasant**
- What does the Remark on #5 of the Notice of Claim: "prior uses were irrigation and stockwater" mean? **2 flocks geese, woodhead ducks**
previous owner irrigated 2 fields & watered 30 cows → 50 (still utilized) 2-3 nests
- **1987 Aerial Photos:** Draw the **diversion works** on the 1987 aerial photo; along with the **points of diversion and place of use (20 acres).**
- **Capacity of System:** Verify that the **2.0 cfs** is possible/applicable. Calculate **capacity of the ditch and pond (2 acres ?).** **Yes**
- Was the **pond** used in 1987? What does the Remark on #5 of the Notice of Claim: **enlarged by "pond restored 1988-1989" mean?** **enlarged due to silting in** **removing silt**
Yes (not as big ~ 1 1/2 acre) silted in & had to be

Please talk
to claimant about How does
Kimberly Brown
Sr. Water Resource Agent
IDWR - Western Region

licensed water right #63-10608
(documents attached) correspond with
this claim? (copy of 63-10608
B/u Field Report enclosed).

purchased in 1987 from previous owner

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A GENERAL INFORMATION

Permit No. 63-10608

1. Owner: Waterfowl Improvement Assoc., Inc. Phone No. 342-4591

Current Address: P.O. Box 2773, Boise, Idaho 83701

2. Accompanied by: D. Blair Clark EXAM. DATE: 8/7/91

Address: 599 W. Bannock, Boise, Id. 83701 Phone No. 342-4591

Relationship to Permit Holder: Secretary

3. Source: unnamed drain tributary to Boise River

B. OVERLAP REVIEW

1. Other water rights with same place of use: there are several other rights in the same
QQ, however they provide the waste water for this pond. ☐ Copies Attached

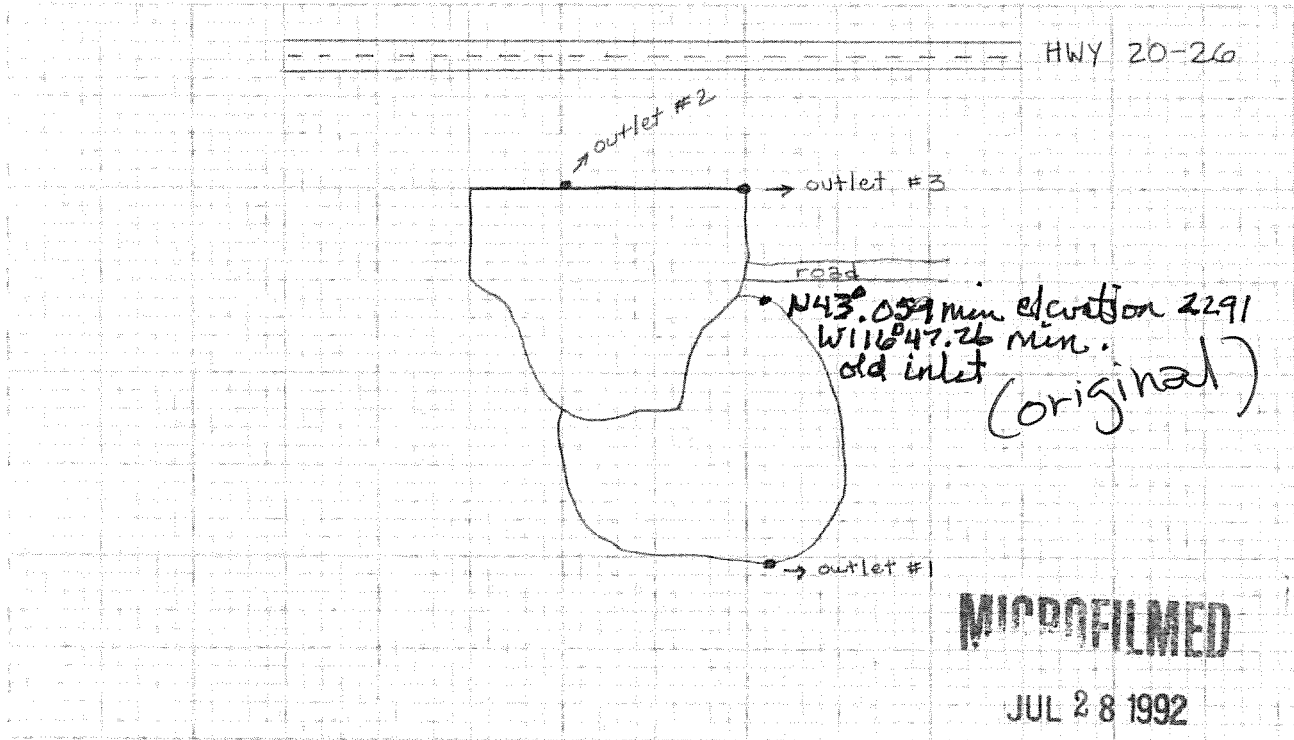
2. Other water rights with same point of diversion: NONE

☐ 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).

System Description (continued)

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

System consists of an unnamed drain as a source of water for a storage pond with approx. 2 surface acres. The current pond is the result of increasing the previous seepage pond by building a 4' high dam. A headgate system at the inlet source controls the inflow of water into the pond. The level of the pond is likewise controlled by three culvert-type

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

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

5. Point(s) of Diversion:

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
	5	NW	NW		2	4N	4W	Canyon	7.5' or the photo quad

6. Place(s) of Use:

Indicate Method of Determination exam

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	4W	2						W											
								4.5											

RECORDED

JUL 28 1992

Do not use this space

Do not use this space

D FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements:

Storage pond size = 2 acres x 3 ft. deep
= 6 a.f.

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ 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 Ampsx .001732 = _____ (6)

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

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

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

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

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

2. Volume Calculations for Other Uses:

MICROFILMED

JUL 28 1992

H. REMARKS AND OVERLAP REVIEW ANALYSIS

outlets that allow dam boards to be inserted to control the level of water. The pond can be completely drained by closing the headgate valve and opening all outlets. Owner indicated they drained the pond once to twice a year for weed + moss control. Water released from pond flows into Boise River.

Note: irrigation component should be deleted from permit based on owner's confirmation. Surface acreage was determined during exam at the Canyon County ASCS office using a 1991 aerial slide and a digitized planimeter.

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
wildlife storage	1/1	12/31	—	6.0 afa
wildlife from storage	1/1	12/31	—	6.0 afa
Totals:				6.0 afa

2. Recommended Amendments

- ☐ Change P.D. as reflected above ☐ Add P.D. as reflected above
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above

☒ None

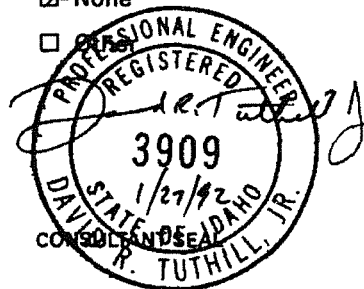
J. AUTHENTICATION

Field Examiner's Name SARA West

Signature S-Y-West

Certification Date 8/7/91

Field Report Preparation Date 8/7/91



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

MICROFILMED

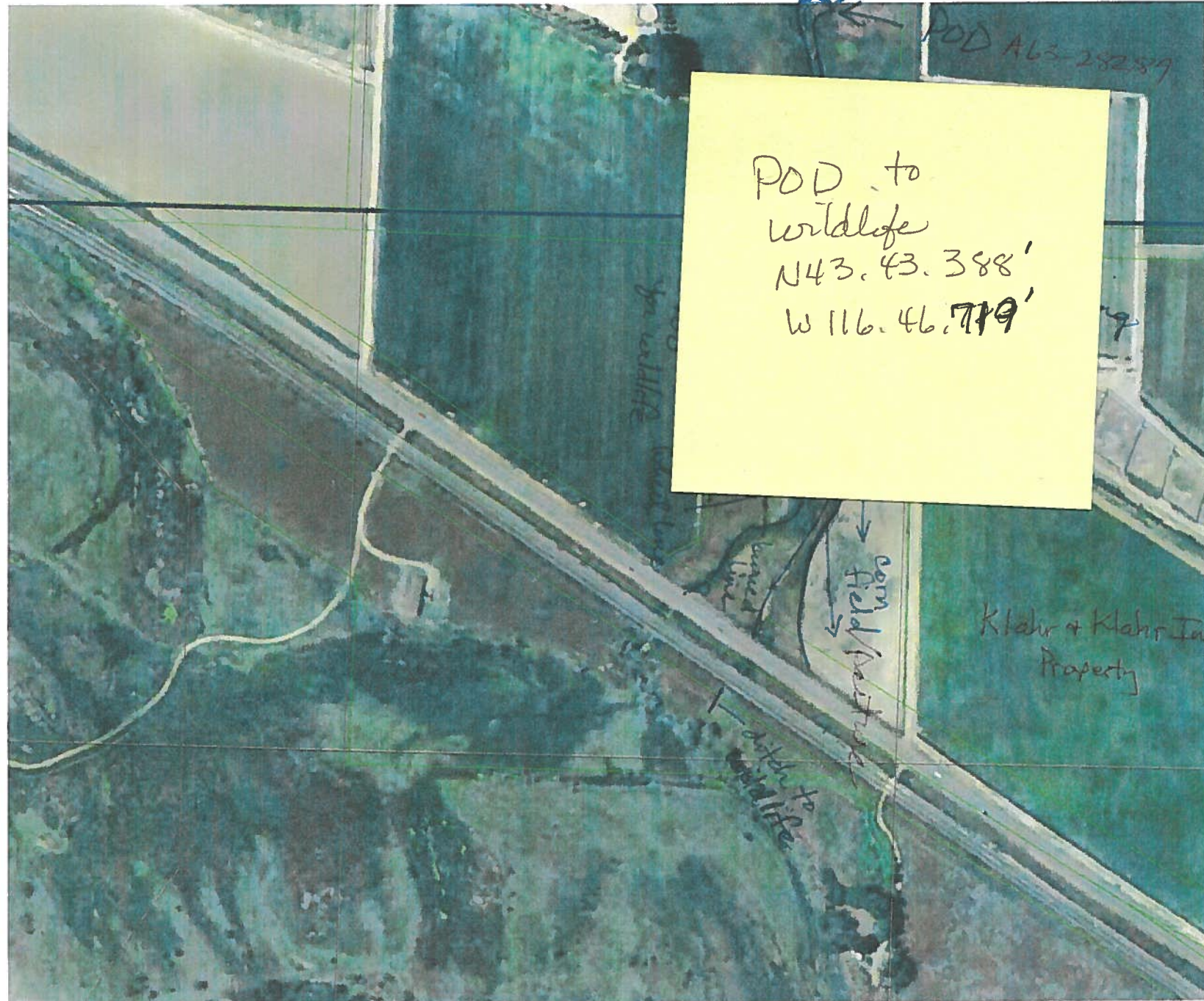
JUL 28 1992

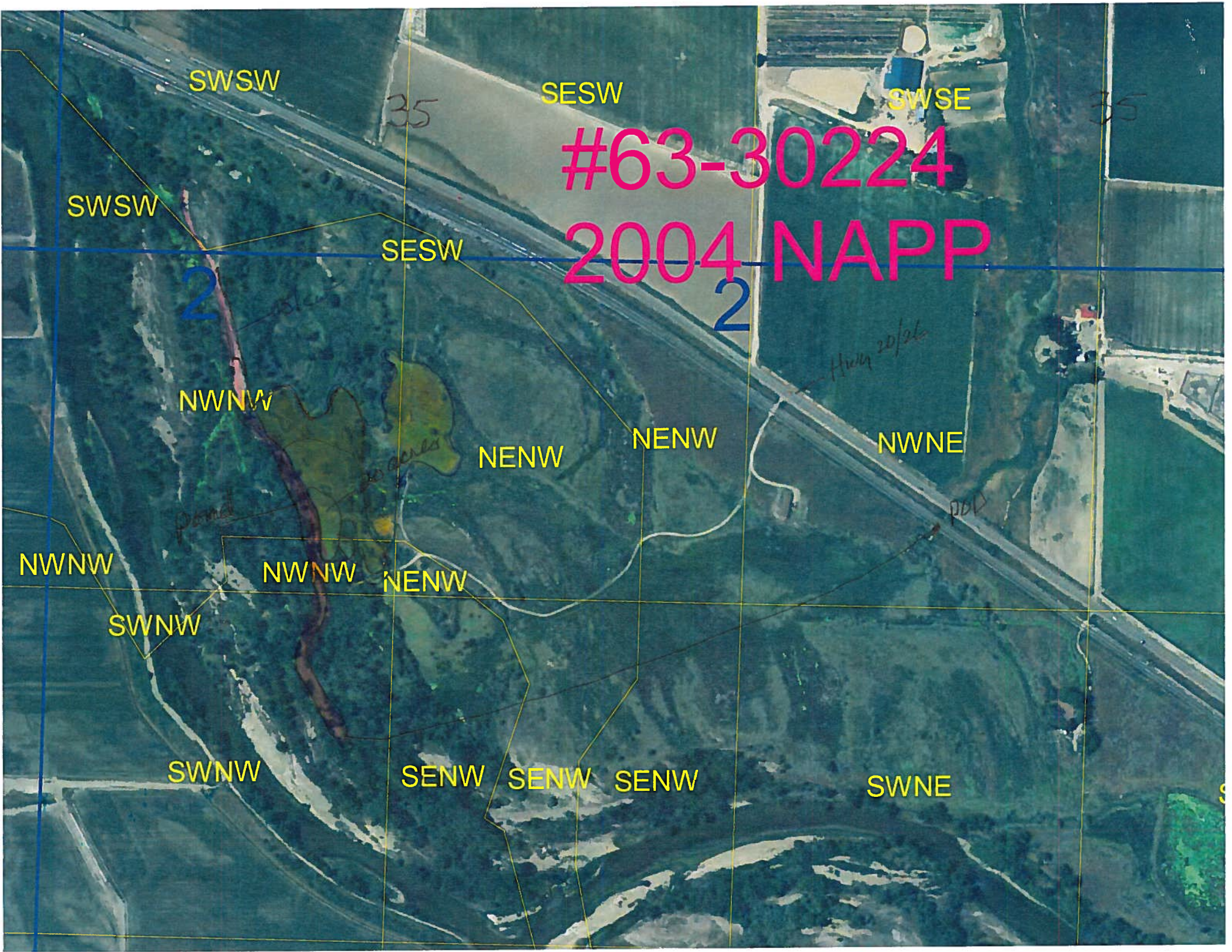


2004 Naip

*diverse
dam*

Sections
Canyon taxlots
GCDB05N04W GCDB
GCDB04N04W GCDB





#63-30224
2004 NAPP

2

2

NWNW

NENW

NENW

NWNE

NWNW

NWNW

NENW

SWNW

SWNW

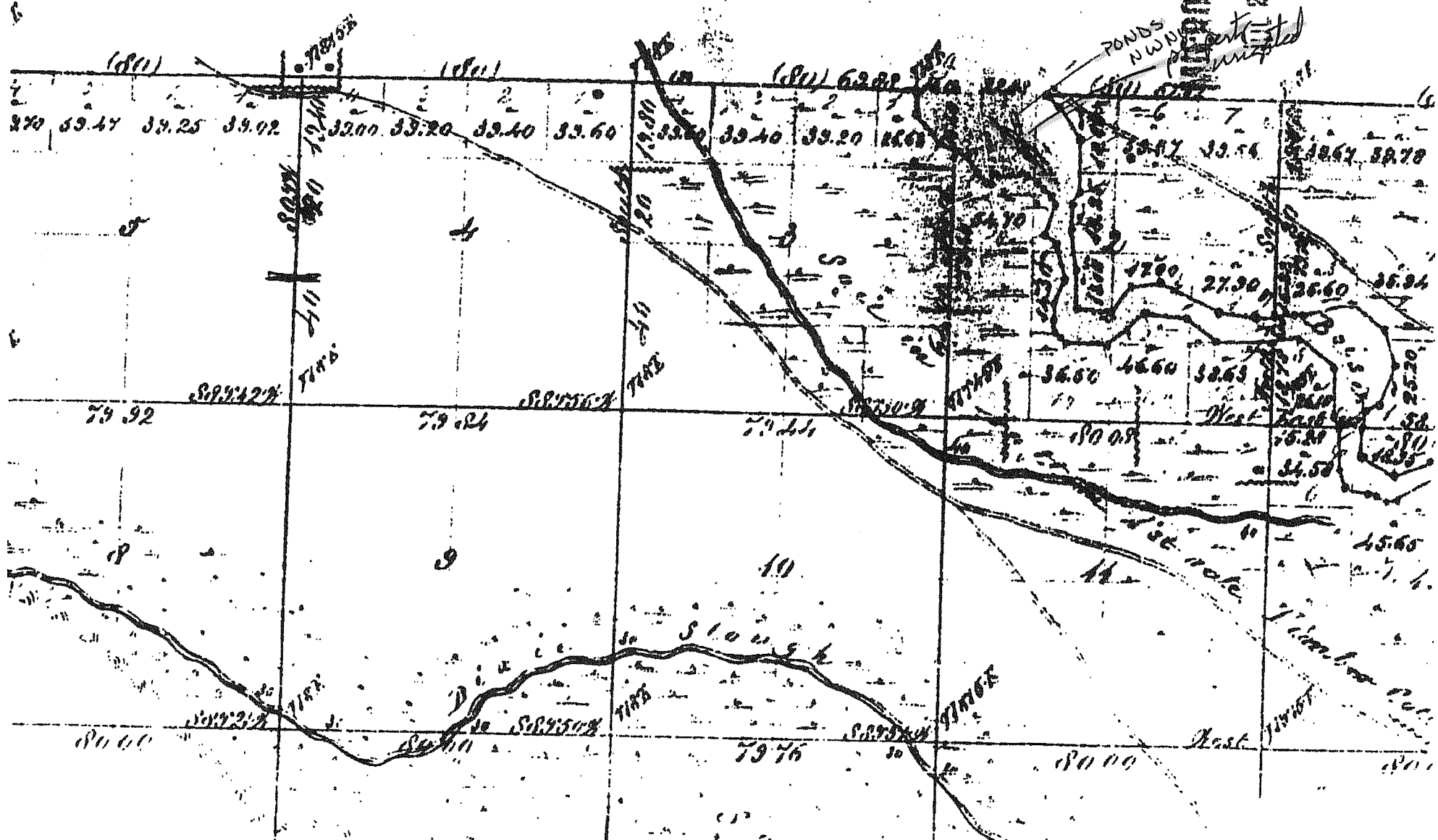
SENW

SENW

SENW

SWNE

28-1992



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that BETH TRUMBULL (name of claimant)
of Route 5, Box 5048 Caldwell, ID, claims a right to the diversion and beneficial use of
(mailing address)
the public water of the State of Idaho

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) unnamed drains, tributary to, Boise River
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
- | | | | | | | | |
|--------|----------------------|-----|-------------------------------|---------------------|-------------|----|------------------------|
| Amount | <u>3.2 cfs</u> | Use | <u>irrigation</u> | Period of Use: From | <u>3-15</u> | To | <u>11-15</u> |
| Amount | _____ | Use | _____ | Period of Use: From | _____ | To | _____ |
| Amount | _____ | Use | _____ | Period of Use: From | _____ | To | _____ |
| | (cfs, gpm
or a/f) | | (dom., irri.,
stock, etc.) | | | | (both dates inclusive) |

- (3) Total quantity of water claimed: 3.2 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.

- (4) Priority claimed: (the date water was first applied to beneficial use) June 1, 1885

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
SE ¼ NE ¼, Sec. 2 Twp. 4N Rge. 4W B. M. County of Canyon
Additional points of diversion: NW ¼ NE ¼ Sec 2 T4N-R4W

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. headgate and open ditches

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

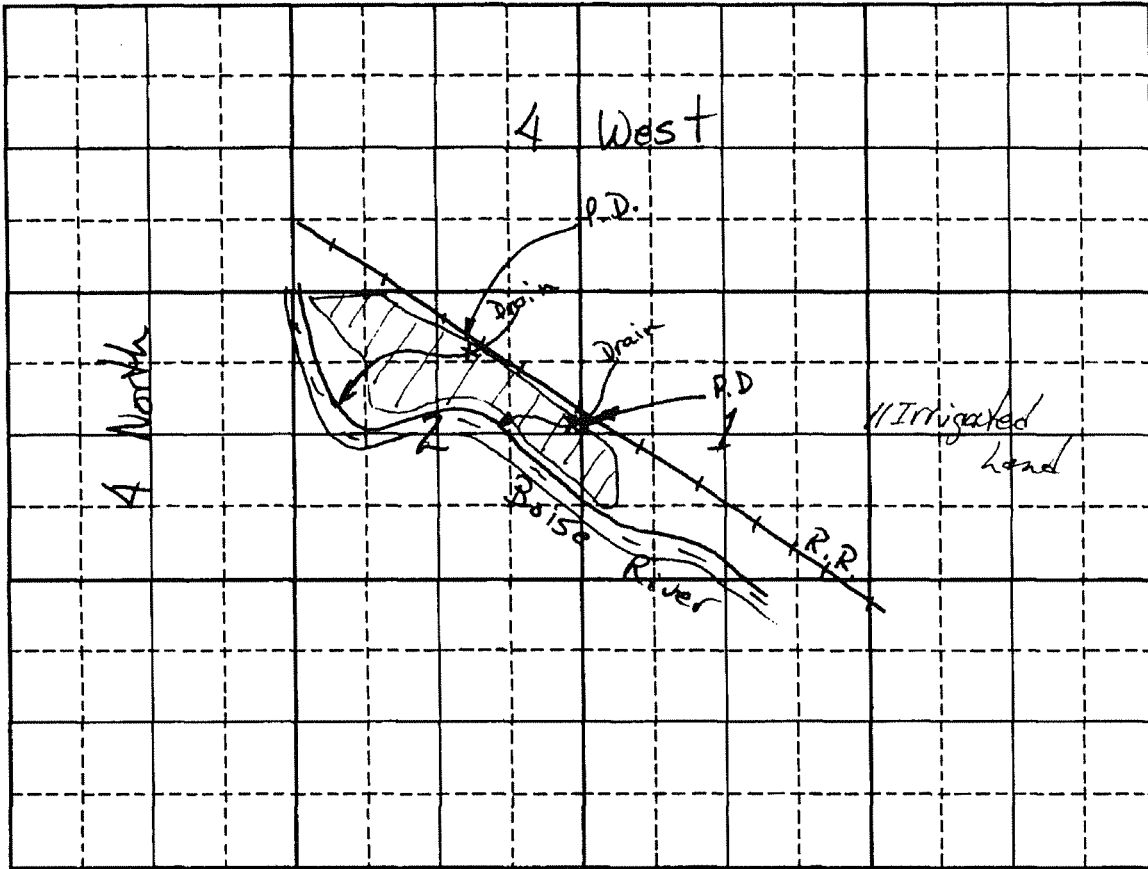
[illegible]

Total No. of acres 160

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: _____

- (7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
) ss.
County of Ada)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 12th day of July, 1977.

X. Beth Krumholz
(Claimant)

Gita Bendula
Notary Public
Residing at Boise, Idaho

My commission expires March 8, 1980

For Department Use Only

Received by <u>W.H.M.</u>	Date <u>7-12-77</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>6LS</u>	Date <u>7/13/77</u>		claimant by:	
\$10.00 fee received by <u>if</u>	Date <u>7-12-77</u>	# <u>8133</u>		
Approved for publication by <u>[Signature]</u>				
Published in <u>Boise Tribune</u>				
Dates <u>July 21 & 28, 1977</u>				

Receipt Details for ID C032454

Status	Adjustment Type	Version
	Water Right Receipt	1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
4/11/1995 11:43:14 AM	4/11/1995	State	\$270.00	Check
Payer		RINGERT CLARK CHARTERED		

Account Information:

Check #	Account #	Credit Card Name	Authorization #
16533			
Card Expiration Date	Credit Card Transaction #		

Comment ADJ FILING FEE/WATERFOWL IMPROVEMENT

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$270.00	ADJ FILING FEE/WATERFOWL IMPROVEMENT	41503	337	0	0	1155

Refund(s):

Amount	Payee	Date	Document Number
--------	-------	------	-----------------

Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
63	30224		\$270.00	Claim

OP

Print Report

50.
20.
200.
270.

M E M O R A N D U M

DATE: April 3, 1995

TO: File 63-10608

FROM: Shelley W. Keen (SWK)

RE: Request for Amended License for 63-10608

=====

On March 7, 1995, I received from Blair Clark a written request for a re-examination and amendment of licensed right 63-10608. Mr. Clark is Secretary/Treasurer of the Waterfowl Improvement Association, Inc., the license holder. I am writing this memo to summarize the facts surrounding this request. In my opinion, an amendment not called for in this case. Instead, the Waterfowl Improvement Association, Inc., should file a new application for permit.

Background

License 63-10608 resulted from an application for permit filed on April 4, 1988. The application requested an appropriation from an unnamed drain of 6.0 AFA for wildlife and irrigation storage and wildlife and irrigation from storage. The original application on file includes no reference to diversion to storage, indicating that the plan was for an on-stream storage facility. After a field examination conducted on August 7, 1991, the license was issued in July of 1992 for 6.0 AFA for wildlife storage purposes. The field report did not address diversion to or from storage. The irrigation use was never developed.

Current Issue

When Mr. Clark requested the re-examination, he said that he had expected the license to contain a flow rate as a component of this right. Mr. Clark's expectation was apparently based on two facts. First, he has a copy of the May 12, 1988, New Water Right Filings report, which lists the total appropriation in his application as 6.00 CFS, not 6.00 AFA. Second, Mr. Clark says he was present when the field examination was conducted, and he saw the examiner measure flow into the reservoir from "the ditch".

The flow rate issue was not important, apparently, until a disagreement with the neighbors erupted. The neighbors, located
Memo to File 63-10608

APR 14 1995

Re: Request for Amended License
April 3, 1995
Page 2

upstream on the source drain, are represented by attorney Patrick Madigan, whose correspondence related to this issue is in the file. The disagreement appears to be a right-of-way or easement issue, not a water right issue, and so is not discussed in detail in this memo.

Analysis

Mr. Clark's request brought to mind a number of questions which I will address one at a time.

First, why did the New Water Rights Listing Report show 6.00 CFS rather than 6.00 AFA? The answer appears to be that it was an unfortunate typographical error. The total diversion rate or volume in a water right listing should summarize the rate or volume appropriated for all the uses. In this case, all the uses were for 6.00 AFA, and none were for a flow rate.

Second, Mr. Clark's reference to the source as a ditch led me to wonder if the source is a ditch or a natural stream. This issue is important not only because it relates to the source of the right, but also because a right for a minimum stream flow into and from a reservoir on a natural stream can only be established through the Water Resources Board. After reviewing the topographic quadrangle, viewing aerial photographs obtained by Mr. Clark, and discussing the question with Mr. Clark and Mr. Madigan, I have concluded that the source is a natural channel which flows all year but which is also maintained as a drain within Drainage District No. 4. The source is not a ditch which allows controlled delivery of water to the reservoir from a canal system.

Third, is the reservoir on-stream or off-stream? The application, exam, and license all appear to indicate an on-stream storage facility. Off-stream facilities require a diversion to storage, but none of the paperwork references a diversion to storage. Mr. Clark even supplied a photocopy of an early draft of the application which has diversion to storage marked in, then crossed out. However, Mr. Clark has also provided copies of aerial photographs and his own 35mm photographs which clearly indicate that the reservoir is off-stream. The regular drain channel completely bypasses the reservoir. The application for permit should have requested a rate for diversion to storage, and the field report should have reported a diversion to storage.

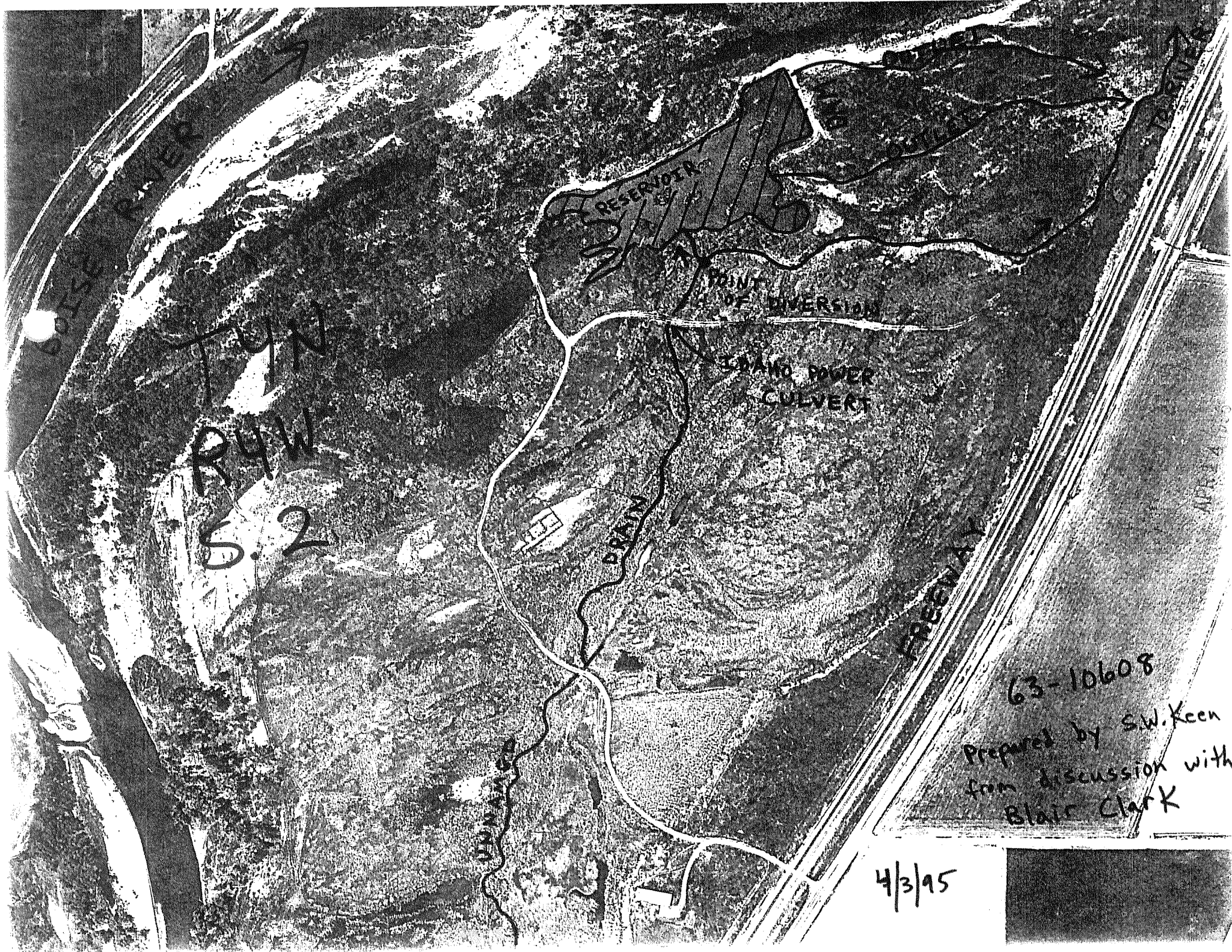
APR 14 1995

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Re: Request for Amended License
April 3, 1995
Page 3

Merely recognizing a diversion to storage for this appropriation would not, however, reflect Mr. Clark's intentions. A diversion to storage would only allow the reservoir to be filled. Mr. Clark has expressed to me that the real need for flow is to run it through the reservoir all year to prevent stagnation in the summer and freezing in the winter, thus providing clean, open wildlife habitat.

A year-round flow for wildlife purposes cannot be appended to an existing license when the original application did not request one. However, a new application could be filed for the year-round diversion of a flow through the reservoir for wildlife purposes. The use would be non-consumptive and, therefore, excepted from the Boise River Basin moratorium. Moreover, there are no appropriations from the drain with priorities between April 4, 1988, and now. Therefore, priority date should not be an issue for Mr. Clark.

APR 14 1995



RESERVOIR

POINT OF DIVERSION

SAND POWER CULVERT

DRAIN

FREEWAY

T4N
R4W
S.2

63-10608
Prepared by S.W. Keen
from discussion with
Blair Clark

4/3/95

D. BLAIR CLARK
455 South Third, Box 2773
Boise, Idaho 83702
208-342-4591

March 21, 1995

Shelly Keen
Idaho Department of Water Resources
HAND DELIVERED

Re: Waterfowl Improvement Association
63-10608

Dear Shelly:

I enclose several further exhibits for your reference.

First of all, I enclose a drawing from Carlyle Briggs, PE/LS, which is a tracing of our aerial photograph of 1992. This shows the elevations and drops of the ditch, and should show once and for all that our pond has nothing to do with our neighbors' "flooding" allegation. Furthermore, the aerial photos show no flooding occurring in 1992. Having walked the entire ditch Saturday and Sunday, I can inform you that the only impediments in the ditch that cause the water to escape and run out is the severe vegetation growth in and around it.

Next are several photos which I took Saturday and Sunday last, while Carlyle Briggs, Kevin Carlson and I were on site. The construction works have not changed whatever since we completed our project, which was before the field inspection.

1. Water exiting Idaho Power culvert into ditch that leads to pond--i.e., from top of IPCO culvert, looking West.
2. Water entering IPCO culvert, looking East.

3. Taking elevation of highest water line east of Idaho Power culvert, adjacent to 2.
4. Taking elevation next to the main diversion, where water is diverted from ditch into pond.
5. Same area as 3, showing water line in summer high water runoff.
6. Water exiting Idaho Power culvert.
7. Panorama of diversion area. Water flows through Idaho Power culvert (immediately to left in photo), down channel, and into pond to left where orange canvas dam is seen. Pond can be seen just over the left-hand tree branch, and diversion structure on far right.
8. Closeup of diversion structure showing channel totally blocked. We can board it totally closed and force entire channel flow through pond.
9. Closeup of diversion structure from opposite angle, closer to diversion ditch into pond.
10. Full flow of channel running through structure.
11. Full flow of channel being diverted into pond.
12. Backside of channel into pond. All water formerly ran through headgate, but as you can see it washed out. If we want to drain the pond, we lower the wheel and use canvas dams on either side, letting all water run through the diversion structure.
13. Diversion structure from front. There is still a slight flow down the channel, which we allow as it feeds the area to the Northwest, which ducks are using as nesting habitat.
14. Northwest outlet, nearest slough and at far end of pond.
15. Exit from 14, showing course of water into ditch, through tree line. This makes a wonderful habitat area for ducks and pheasants. Hold with photo number toward top.

16. Northeast culvert, nearest channel line. Feeds back into channel.
17. South culvert. Nearest access road into our property.
18. Another angle of Northwest culvert, taken from road going around pond.
19. These two photos show water coming into the pond; photos taken from
20. slightly different angles.
21. Back side of pond, showing pairing birds. We probably saw 15-20 geese in the area, and twice that many ducks. Northeast culvert is to right, Northwest culvert to left. We have about ten goose nesting platforms plus the islands you can see, plus about a dozen wood duck boxes. Ducks nest on the islands and in the channels running out of the culverts.

The running water is necessary for several reasons:

- a. We do not want a stagnant pond. The photos you saw in your field exam show algae growth which impedes the growth of the sago pondweed which we planted and which is a great duck food. Also, it keeps the pond from freezing totally solid in the winter and keeps the water fresh for the birds. This applies at all times of the year. We hunt it, of course, in the fall and winter, but the birds use it year round.
- b. The water flow out of the pond keeps the channels wet, which ducks use as nesting and hiding cover, and pheasants use for cover and moisture.
- c. The original application showed a water flow right application as well as a storage right. This was evidently changed because the department employee who prepared it didn't think it was necessary. However, you can see that the design, configuration and description of the works clearly showed a flow through the pond.
- d. The computer printout which I received from IDWR showed not only a level of 6 af but also a 6 cfs flow. **Again, it was always the plan and design to maintain a flow through the pond and keep the level up, for the reasons we have outlined.**

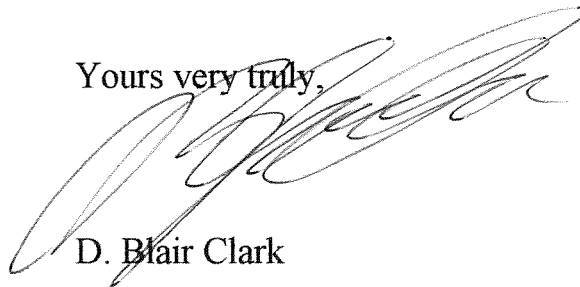
e. The field exam report is totally incomplete. The personnel examined the flow into the pond, and each outlet from it. The only change they recommended to me was to delete the irrigation claim, as the weed growth from the neighboring property eliminated our food plots as I explained previously. However, there was never anything mentioned at any time by those personnel or any others with IDWR that we would not have a flow right. I never received a copy of that field report until I ordered one this month.

For the reasons cited here, as well as our prior discussions, I think it is appropriate to consider the pond as including a flow through it, which of course is a nonconsumptive use. In fact, as I stated earlier, it was always considered essential to keep the water flowing out of the pond, as the return flow was required to be sent back through the river. As you can see on the maps, the water flow all does go back to the river (the two culverts on the North back into the main channel, and the South culvert back into the slough).

Incidentally, Mr. Madigan's letter argues that our right did not include a flow right because we asked for a waiver of the Measuring Device requirement. That is simply not true. As my letter indicates, and as the evidence clearly shows, there was simply no need for the measuring device **because all the water in the channel was being put through the pond, and we were the last property on the channel before the river!** Since this was a nonconsumptive use, a measuring device was unnecessary. Having helped a friend obtain his water license for another habitat project, I am aware that a measuring device was not required on his project as it was nonconsumptive.

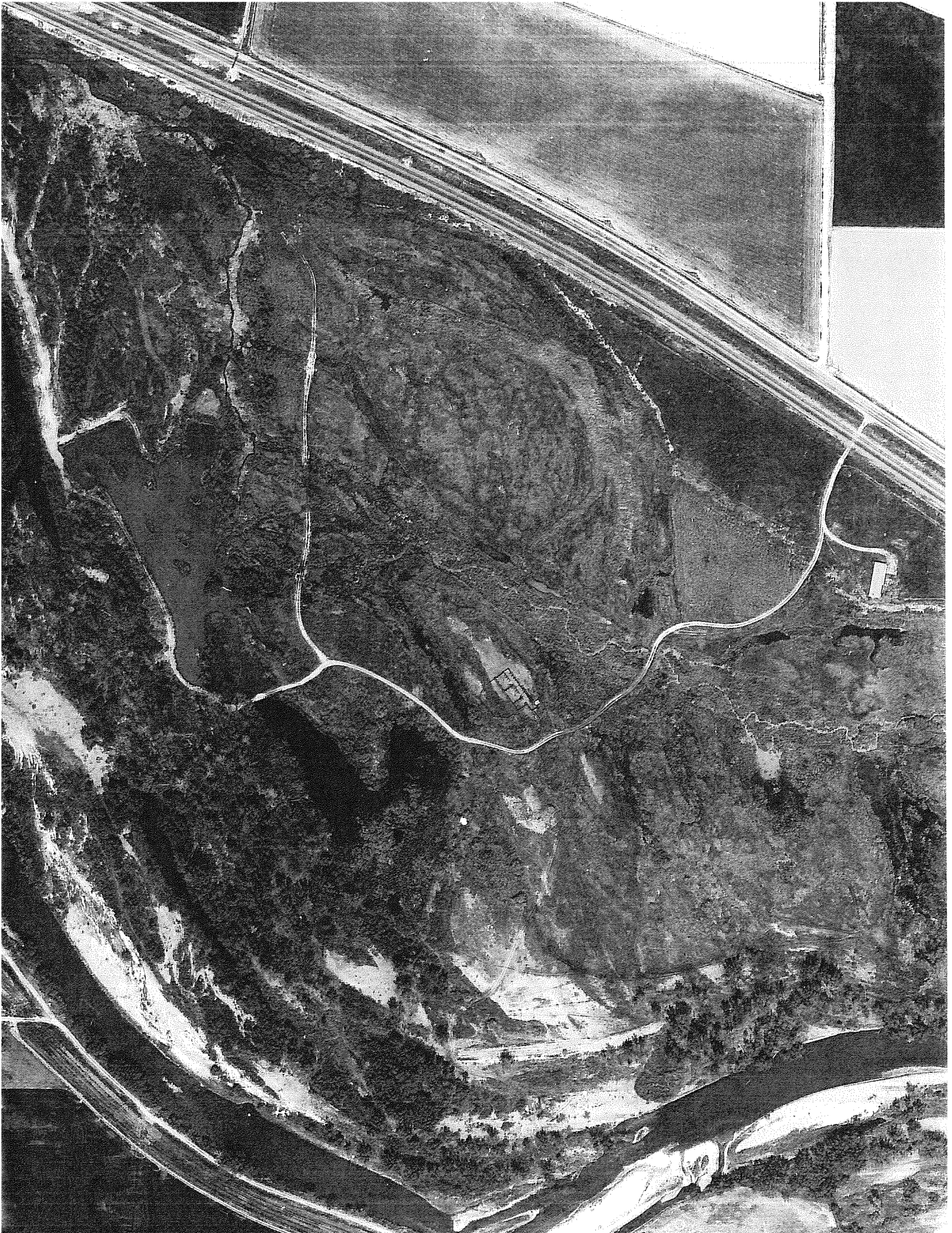
We do not think that a new application is necessary under the circumstances.

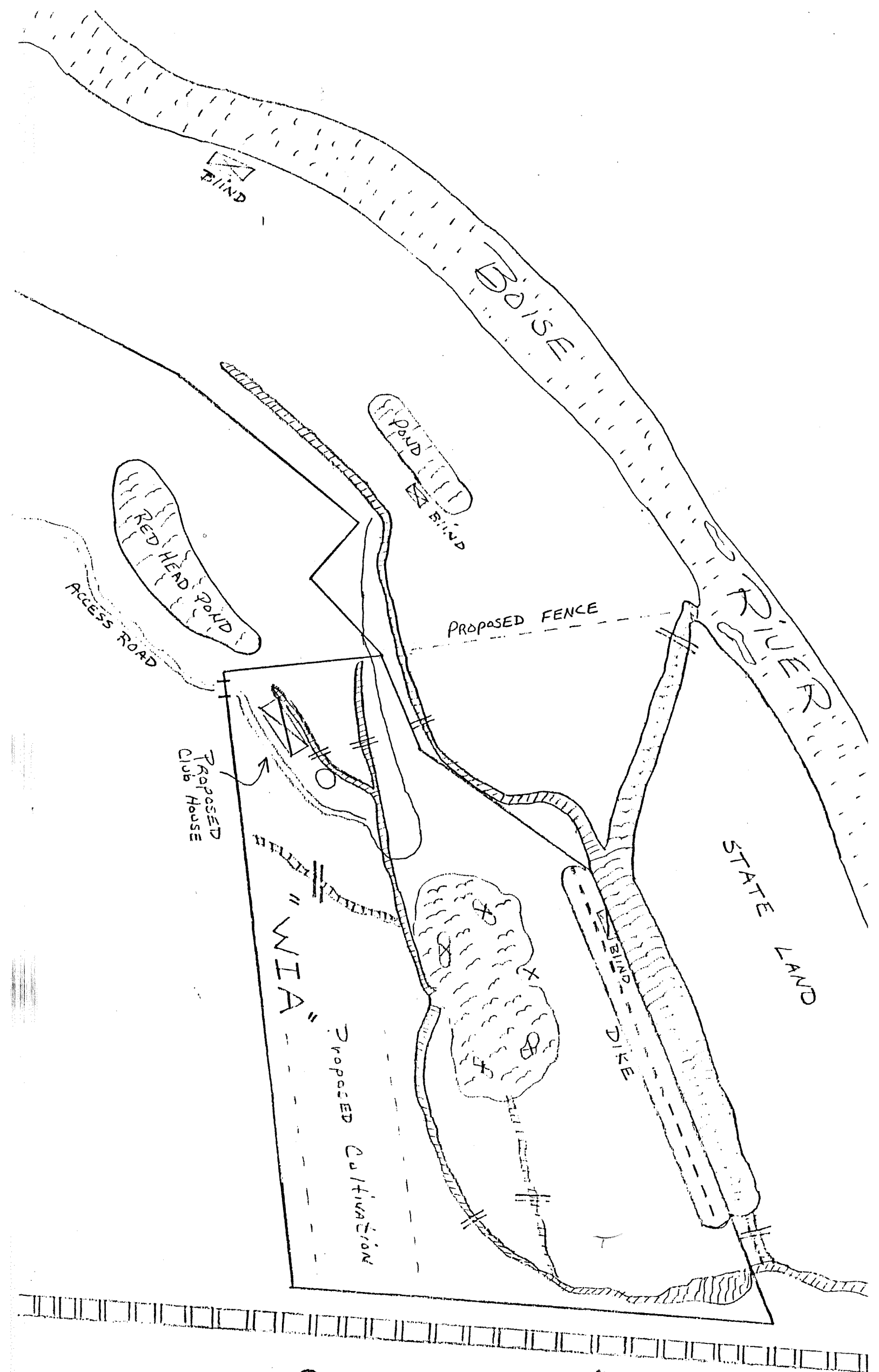
Yours very truly,

A handwritten signature in black ink, appearing to read "D. Blair Clark", written over the typed name.

D. Blair Clark







Post-it® Fax Note

7671

Date	# of pages ▶
To: <i>Don Stockton</i>	From: <i>Blair Clark</i>
Co./Dept.	Co.
Phone #	Phone #
Fax #	Fax #

INSTRUMENT NO. 988477

015439

ALAN J. COFFEL
 Attorney at Law
 6 West Owyhee
 P.O. Box 2030
 Homedale, Idaho 83628
 Phone: (208) 337-4661

FILED

Oct 13 9 23 AM '83

Attorney for Plaintiff
 BETH TRUMBULL

BILL A. STARK
 CLERK OF DISTRICT COURT

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

BETH E. TRUMBULL, a single person,
 COLIVAS FAMILY TRUST, an Idaho
 trust, TOMMY T. COLIVAS and
 SUSANN O. COLIVAS, Trustees,

Plaintiffs,

Case No. L-33988

DECREE QUIETING TITLE TO
 REAL PROPERTY

-vs-

E. DEAN DISHMAN, SIDNEY J. GARBER,
 and A. BOYD HARRIS, a co-partner-
 ship dba SKYLINE RANCHES, THE
 UNITED STATES OF AMERICA, UNITED
 STATES OF AMERICA ARMY CORPS OF
 ENGINEERS, THE STATE OF IDAHO
 and EVERETT E. JONES and ANNA
 PEARL JONES, Husband and Wife;
 ALL OTHER PERSONS UNKNOWN CLAIMING
 ANY RIGHT, TITLE, ESTATE, LIEN OR
 INTEREST IN ALL OR ANY PART OF THE
 FOLLOWING DESCRIBED REAL PROPERTY
 SITUATED IN CANYON COUNTY, STATE
 OF IDAHO, TO-WIT:

A part of Government Lot 4, 5 and
 a portion of accretion land above
 the Mean High Water Line in
 Section 2, Township 4 North, Range
 4 West, Boise Meridian; more par-
 ticularly described as follows:
 Commencing at the NE Corner of said
 Lot 5 (North ¼ Corner), monumented
 with a rebar, 30 ins. long, 5/8
 ins. diam., with a plastic cap mkd.
 LS 832; thence S. 0 degrees 22' 58"
 W. 866.80 ft. along the E. boundary
 of said Lot 5 to the POINT OF
 BEGINNING; thence continuing S.
 0 degrees 22' 58" W. 1191.60 ft.
 along the East boundary of said

DECREE QUIETING TITLE TO REAL PROPERTY - Page 1

15.64 Acres

from 3 and 4 to point on a meander)
 line of the approximate MeanHigh)
 Water line of the right limit of)
 the Boise River; thence traversing)
 said meander line as follows: S.)
 58 degrees 50' 16" W. 275.49 ft.;)
 thence N. 64 degrees 40' 35" W.)
 265.05 ft.; thence S. 86 degrees)
 11' 12" W. 429.24 ft.; thence N. 39)
 degrees 10' 17" W. 210.41 ft.;)
 thence N. 55 degrees 04' 12" W.)
 266.64 ft.; thence N. 41 degrees)
 16' 55" W. 470.84 ft.; thence N. 45)
 degrees 00' 00" E. 150.00 ft.; thence)
 N. 36 degrees 38' 15" W. 190.83 ft.;)
 thence N. 14 degrees 19' 37" W.)
 225.17 ft.; thence N. 44 degrees)
 12' 20" W. 415.74 ft.; thence N. 14)
 degrees 35' 30" W. 695.26 ft.;)
 thence S. 89 degrees 57' 09" E.)
 and leaving said meander line,)
 1079.65 ft. along the North)
 boundary of said Government Lot 5)
 to a point on the right-of-way)
 of the Union Pacific Railroad;)
 thence 551.51 ft. along the arc of)
 5108.79 ft. radius curve right on)
 said right-of-way; said curve)
 having a chord bearing S. 62)
 degrees 35' 09" E. 551.24 ft.;)
 thence 22.52 ft. along the arc)
 of a Union Pacific 85 MPH spiral)
 curve right; said spiral having)
 a chord bearing S. 59 degrees)
 22' 51" E. 22.52 ft.; thence S.)
 25 degrees 49' 07" E. 408.28 ft.;)
 thence S. 55 degrees 03' 32" E.)
 410.00 ft. to the POINT OF BE-)
 GINNING. This parcel contains)
 70.499 acres calculated on the)
 aforementioned meander line,)

Defendants.

This action having been brought in this Court by BETH TRUMBULL and the COLIVAS FAMILY TRUST, an Idaho Trust, TOMMY T. COLIVAS and SUSANN O. COLIVAS, Trustees, Plaintiffs, against the above-named Defendant for an Order or Decree of Quiet Title to certain real property described above.

It appearing to the Court that an Order was entered by the Clerk of this Court allowing service by publication in this matter on March 28, 1979 and it appearing to the Court that the Sum-
 DECREE QUIETING TITLE TO REAL PROPERTY - Page 2

mons issued in this matter was duly and regularly served for the time and in the manner provided by law; it further appearing to the Court that the State of Idaho, the Colivas Family Trust; Everett E. Jones and Anna Pearl Jones, husband and wife have appeared and filed responsive pleadings; and it further appearing that E. Dean Dishman, Sidney J. Garber, and A. Boyd Harris, a co-partnership doing business as Skyline Ranches have signed a waiver and consent to judgment and decree, and that the United States of America Army Corps of Engineers by Order dated August 6, 1979 was dismissed from the case as not being a proper party and that the United States of America has failed to appear and plead and is not a proper party to this action; and that all other persons unknowing claiming any right, title, estate, lien or interest in all or any part of the above described real property, situated in Canyon County, having failed to appear, contest or plead, and it appearing that the time allowed for all other defendants to appear and plead has elapsed, therefore;

THIS COURT FINDS AS FOLLOWS:

1. That the United States Army Corps of Engineers is not a proper party to this suit and has been previously dismissed by order of this Court on August 6, 1979; that the United States of America has not appeared or plead and is not a proper party to this action.
2. That E. Dean Dishman, Sidney J. Garber, and A. Boyd Harris, a co-partnership, doing business as Skyline Ranches, has consented to entry of Judgment in this case.
3. That all other unknown persons claiming any interest in the property have failed to appear and plead.
4. That service of summons by publication was duly and regularly served upon such unknown persons as required by law.

5. That a stipulation has been entered into by the State of Idaho, Skyline Ranches, Beth Trumbull, the Colivas Family Trust, and Everett E. Jones and Anna Pearl Jones, continuing title to the present channel and bed of the Boise River subject to certain covenants in the stipulation.

6. That the State has issued a disclaimer of interest as to the real property described in Exhibit "A" and "B" attached hereto and incorporated by reference.

7. That pursuant to stipulation between the following persons, Bradley B. Poole, attorney for the Colivas Family Trust and Tommy Colivas and Susann O. Colivas; Alan J. Coffel, attorney for Beth Trumbull; and David L. Whitney, attorney for Everett E. Jones and Anna Pearl Jones, husband and wife; Beth Trumbull will receive that portion of land as shown in Exhibit "A" attached, and that Everett E. Jones and Anna Pearl Jones, husband and wife, will receive that portion of land described in Exhibit "B" attached.

8. That title to the real property which is described in Exhibit "A" is hereby quieted in Beth Trumbull; that title to the real property which is described in Exhibit "B" is hereby quieted in Everett E. Jones and Anna Pearl Jones, husband and wife.

NOW THEREFORE, based upon the above findings by this Court, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. That title to that real property described in attached Exhibit "A" is hereby quieted in Beth Trumbull and all other defendants are forever enjoined and debarred from asserting any claim whatever in or to said land or premises adverse to the plaintiff.

2. That title to that real property described in attached Exhibit "B" is hereby quieted in Everett E. Jones and Anna Pearl Jones, husband and wife, and all other defendants and any parties, persons or entities claiming by, through or under them, or having any other or further claim against the property, whether known or unknown or contingent or whatever, are forever enjoined and debarred from asserting any claim whatever in or to said land or premises adverse to Everett E. Jones and Anna Pearl Jones, husband and wife,

3. That the State of Idaho is the owner in fee simple of the present channel and bed of the Boise River between the natural and ordinary high watermarks thereof as defined in Heckman Ranches, Inc., vs. State of Idaho, 99 Id. 793, 589 P.2d 540, which traverses the real property described in Exhibits "A" and "B".

4. That plaintiffs shall grant to defendants, Everett E. Jones and Anna Pearl Jones, husband and wife, an easement for ingress and egress with the description of the easement being set forth in Exhibit "C" attached hereto and incorporated herein by reference.

5. That plaintiffs will issue and execute to defendants, Everett E. Jones and Anna Pearl Jones, husband and wife, a Quitclaim Deed covering the property described in Exhibit "B" attached hereto.

6. That defendants, Everett E. Jones and Anna Pearl Jones, husband and wife, will issue and execute to plaintiff, Beth Trumbull, a Quitclaim Deed covering the property described in Exhibit "A" attached hereto.

A part of Government Lots 4, 5 and a portion of accretion land above the Mean High Water Line in Section 2, Township 4 North, Range 4 West, Boise Meridian; more particularly described as follows:

Commencing at the NE Corner of said Lot 5 (North 1 corner), monumented with a rebar, 30 ins. long, 5/8 ins. diam., with a plastic cap mkd. LS 832;

thence S. 0° 22' 58" W. 866.90 ft. along the East boundary of said Lot 5 to the POINT OF BEGINNING;

thence continuing S. 0° 22' 58" W. 1,191.60 ft. along the East boundary of said Lots 5 and 4 to point on a meander line of the approximate Mean High Water Line of the right limit of the Boise River;

thence traversing said meander line as follows:

S. 58° 50' 16" W. 275.49 ft.;
thence N. 64° 40' 35" W. 265.05 ft.;
thence S. 86° 11' 12" W. 429.24 ft.;
thence N. 39° 10' 17" W. 210.41 ft.;
thence N. 55° 04' 12" W. 266.64 ft.;
thence N. 41° 16' 55" W. 470.84 ft.;
thence N. 45° 00' 00" E. 150.00 ft.;
thence N. 36° 38' 15" W. 190.83 ft.;
thence N. 14° 19' 37" W. 225.17 ft.;
thence N. 44° 12' 20" W. 415.74 ft.;
thence N. 14° 35' 30" W. 695.26 ft.;

thence S. 89° 57' 09" E. and leaving said meander line, 1,079.65 ft. along the North boundary of said Government Lot 5 to a point on the right-of-way of the Union Pacific Railroad;

thence 551.51 ft. along the arc of a 5,108.79 ft. radius curve right on said right-of-way; said curve having a chord bearing S. 62° 35' 09" E. 551.24 ft.;

thence 22.52 ft. along the arc of a Union Pacific 85 MPH spiral curve right; said spiral having a chord bearing S. 59° 22' 51" E. 22.52 ft.;

thence S. 25° 49' 07" E. 408.28 ft.;

thence S. 55° 03' 32" E. 410.00 ft. to the POINT OF BEGINNING.

LESS THE FOLLOWING DESCRIBED REAL PROPERTY

A part of Government Lot 5 and a portion of accretion land above the Mean High Water Line in Section 2, Township 4 North, Range 4 West, Boise Meridian; more particularly described as follows:

Commencing at the NE Corner of said Lot 5 (North 1 corner), monumented with a rebar, 30 ins. long, 5/8 ins. diam., with a plastic cap mkd. LS 832;

Thence N. 89° 57' 09" W., 1309.95 ft. along the North boundary of said Lot 5 to the West 1/16 cor., the POINT OF BEGINNING;

Thence continuing N. 89° 57' 09" W., 798.12 ft. along the North boundary of said Lot 5 to point on a meander line of the approximate Mean High Water Line of the right limit of the Boise River;

Thence traversing said meander line as follows:

S. 14° 35' 30" E., 695.26 ft.;
Thence S. 44° 12' 20" E., 415.74 ft.;
Thence S. 14° 19' 37" E., 225.17 ft.;
Thence S. 89° 39' 29" E. 267.76 feet;
Thence N. 0° 27' 48" E., 1190.00 ft. to the POINT OF BEGINNING.

EXHIBIT "A"

EXHIBIT "B"

A part of Government Lot 5 and a portion of accretion land above the Mean High Water Line in Section 2, Township 4 North, Range 4 West, Boise Meridian; more particularly described as follows:

Commencing at the NE Corner of said Lot 5 (North 1/4 corner), monumented with a rebar, 30 ins. long, 5/8 ins. diam., with a plastic cap mkd. LS 832;

Thence N. 89° 57' 09" W., 1309.95 ft. along the North boundary of said Lot 5 to the West 1/16 cor., the POINT OF BEGINNING,

Thence continuing N. 89° 57' 09" W., 798.12 ft. along the North boundary of said Lot 5 to point on a meander line of the approximate Mean High Water Line of the right limit of the Boise River;

Thence traversing said meander line as follows:

S. 14° 35' 30" E., 695.26 ft.;

Thence S. 44° 12' 20" E., 415.74 ft.;

Thence S. 14° 19' 37" E., 225.17 ft.;

Thence ~~E 117° 12' 13" N 117° 12' 13" E 117° 12' 13" N 117° 12' 13" E~~ S 89° 39' 29" E 267.76 feet;

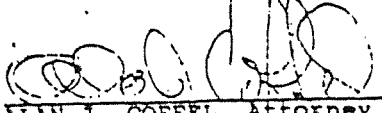
~~117° 12' 13" N 117° 12' 13" E 117° 12' 13" N 117° 12' 13" E~~;

Thence N. 0° 27' 48" E., ~~1190.00~~ ft. to the POINT OF BEGINNING.
1190.00

EXHIBIT "B"

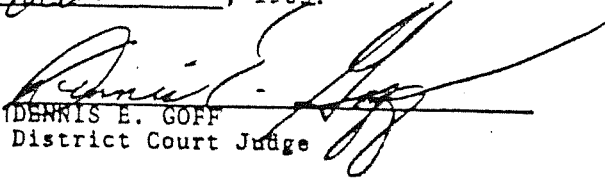

DAVID L. WHITNEY, Attorney for
EVERETT E. JONES and ANNA PEARL JONES


BRADLEY B. POOLE, Attorney for
TOMMY COLIVAS and the COLIVAS
FAMILY TRUST


ALAN J. COFFEL, Attorney for
BETH E. TRUMBULL

7. Provisions set forth in Stipulation for Settlement previously entered into the record on July 15, 1983, and copy of which is attached hereto marked Exhibit "D", be incorporated herein by reference as though set forth herein in full.

DATED this 13th day of October, 1983.


DENNIS E. GOFF
District Court Judge

State of Idaho
County of Canyon | ss.

I hereby certify that the foregoing instrument is a true and correct copy of the original as the same appears in this office.

DATED

October 13, 1983

BILL A. STAKER, Clerk of the District Court,
and Ex. Office Recorder

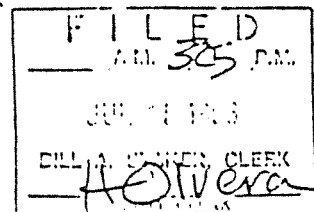
By

M. Vaughan

Deputy

DAVID L. WHITNEY
ALEXANDERSON, DAVIS, RAINEY, WHITNEY & KERRICK
110 North Ninth
P. O. Box 26
Caldwell, ID 83605
Telephone: (208) 459-3659

Attorneys for Defendants Jones



IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

BETH E. TRUMBELL, a single person, COLIVAS
FAMILY TRUST, an Idaho trust, TOMMY T.
COLIVAS and SUSANN O. COLIVAS, Trustees,

Plaintiffs,

vs.

E. DEAN DISHMAN, SIDNEY J. GARBER, and A.
BOYD HARRIS, a co-partnership dba SKYLANE
RANCHES, et al,

Defendants.

CASE NO. L-33968

STIPULATION FOR
SETTLEMENT

COMES NOW, Bradley B. Poole, Attorney for Tommy Colivas
and the Colivas Family Trust; Alan J. Coffel, Attorney for Beth
Trumbull and David L. Whitney, Attorney for Everett E. Jones and
Anna Pearl Jones, husband and wife, and stipulate and agree as
follows:

1. That Everett E. Jones and Anna Pearl Jones will
quitclaim that portion of land colored "black" on the attached



PORTER'S LAND SURVEYING

921 S. Curtis Road
Boise, Idaho 83709

(208) 344-3650

Legal Description of the centerline of a 40 foot wide ingress/egress easement

Located in the Northwest 1/4 of Section 2; Township 4 North; Range 4 West;
Boise Meridian; Canyon County, Idaho; more particularly described as follows:
Beginning at the North 1/4 Corner of said Section 2;
thence, S 0° 22' 58" W 866.80 feet along the center 1/4 line to an Iron Pin;
thence, N 55° 03' 32" W 10.39 feet to a Point being the Real Point of Beginning
of the Centerline of a 40 foot wide easement;
thence, S 34° 27' 48" W 108.88 feet to a point;
thence, S 60° 32' 34" W 116.05 feet to a point;
thence, S 88° 28' 26" W 184.07 feet to a point;
thence, S 31° 18' 24" W 188.13 feet to a point;
thence, S 58° 27' 22" W 248.90 feet to a point;
thence, S 83° 14' 36" W 204.96 feet to a point;
thence, N 48° 15' 28" W 149.93 feet to a point;
thence, N 73° 04' 02" W 156.00 feet to a point;
thence, N 68° 54' 50" W 117.71 feet to a point;
thence, S 79° 00' 59" W 75.35 feet to a point on the west 1/16 line of said
Section 2, also being the end point of the said centerline of a 40 foot wide
easement.

EXHIBIT C

survey to Beth Trumbull to be placed in Escrow Contract between Beth Trumbull and the Colivas Family Trust.

2. That all Plaintiffs, Beth Trumbull, Tommy T. Colivas, Susann O. Colivas and Colivas Family Trust, will quitclaim that portion of land colored "red" on the attached survey to Everett E. Jones and Anna Pearl Jones.

3. That any expenses for additional survey by Alpha Engineers shall be divided 50/50 Between Beth Trumbull and Everett E. Jones and Anna Pearl Jones to obtain these legal descriptions.

4. That all sides shall pay their own attorney's fees, except that Beth Trumbull shall pay to Tommy Colivas the sum of ONE THOUSAND TWO HUNDRED FIFTY DOLLARS (\$1,250.00) as follows:

Six Hundred Twenty-Five Dollars (\$625.00) on or before the 1st day of August, 1983, and Six Hundred Twenty-Five Dollars (\$625.00) on or before the 1st day of August, 1984.

5. That Beth Trumbull will furnish a valid title insurance policy to the Colivas Family Trust in compliance with here covenant under the original Contract of Sale with the Colivas Family Trust, subject to the provisions of this settlement agreement.

6. That defendants Everett E. Jones and Anna Pearl Jones shall have a right of egress and ingress to the land they are being quitclaimed, through the lands of plaintiffs Colivas along the existing roadway extended around northerly tip of existing pond to Joneses' property described above. That this right shall be personal to Everett E. Jones and Anna Pearl Jones and their immediate family members, their successors and assigns in owner-

ship interest, with the right of the successors and assigns being limited by ownership and immediate family membership. Provided, that in connection with a farming or ranching operation employees and persons, e.g. veterinarians, will have access for agricultural related purposes.

7. That all parties shall agree to any additional documents needed to effectuate the terms of this agreement.

8. Neither Joneses nor Colivases or their relatives, friends, heirs, successors or assigns will have any right to hunt on the property of the other without having first requested and obtained the consent of the property owner and this document will not be construed as giving consent.

9. This Stipulation is subject to the acquisition from the State of a disclaimer to the lands described herein.

10. The parties recognize that the State holds title to the mean high water mark determined by applicable state law; and this includes recognition of title in the State in the bed of the current stream channel.

11. Plaintiffs will conclude the proceedings by decree in the present action extinguishing any claims of parties named as defendants and not specifically named in this Stipulation to have an interest or claim.

12. This settlement agreement shall inure to and bind the parties hereto, their respective heirs, successors and assigns.

DATED this ____ day of July, 1983.

ISLAND

WAS GLO MEANDEL LINE

Barbed Wire Fence

Man-made
Dike - 70' to
90' wide

N 14° 35' 30" W
695.23
(42' o/s
survey
line)

EAST
42.00

N 44° 12' 20" W
415.74

N 14° 19' 37" W
225.17

N 36° 38' 15" W
190.83

N 45° 00' 00" E
150.00

Wood Post
Fence Corner

S 69° 39' 29" E
267.76

N 41° 16' 55" W
47.84

N 55° 04' 12" W
266.64

LOT

POND

LOWLANDS
RIVER

N 0° 37' 40"

1315.40

(1315.40 - 1315.40)

988477

Oct 13 9 37 AM '83

Chart 44

Alfred J. Coffel

Surveyor

EXHIBIT D

Section 35

TN 5 RW 4

Lot 2 S of RR in SW

10/22/53

TOGETHER, with all and singular tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity of the said party of the first part.

UNION PACIFIC RAILROAD COMPANY
CONTRACTS & REAL ESTATE DEPARTMENT

R.D. UHRICH
ASSISTANT VICE PRESIDENT

ROOM 1100, 1416 DODGE STREET
OMAHA, NEBRASKA 68179
(402) 271-3753
FAX (402) 271-5493



J. A. ANTHONY
DIRECTOR-CONTRACTS &
JOINT FACILITIES
D. D. BROWN
DIRECTOR-REAL ESTATE
J. L. HAWKINS
DIRECTOR-OPERATIONS SUPPORT
D. H. LIGHTWINE
DIRECTOR-REAL ESTATE
W. R. ULRICH
DIRECTOR-BUILDING SERVICES

July 13, 1995

Folder: 433-84

D. Blair Clark
RINGERT & CLARK
455 South Third Street
Boise, ID 83701

Dear Blair:

**RE: Adoption of Irrigation Ditch Crossing by Waterfowl Improvement Association,
Inc.**

Enclosed are your original copies of the Adoption Agreement, fully executed on behalf of the Railroad Company.

The Railroad Company has authorized the installation of fiber optic cable facilities on its property in certain areas. Prior to using the Railroad Company's property covered herein, you should thoroughly review the terms and conditions of this document and contact the Railroad Company at 1-800-336-9193 to determine if a fiber optic cable is buried on the subject property.

Yours truly,

A handwritten signature in dark ink, appearing to read "Jack L. Nelson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

JACK L. NELSON
CONTRACT REPRESENTATIVE

To Recorder 08/11/95

DISTASMT.LTR

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By Jack D. Nelson
for DIRECTOR - CONTRACTS

WITNESS:

WATERFOWL IMPROVEMENT
ASSOCIATION, INC.

X _____

By: [Signature]
Title: President

STATE OF IDAHO

COUNTY OF ADA

On this 18th day of June, 1995, before me, the undersigned, a Notary Public in and for said State, personally appeared Dr. Blair Clark, known to me to be the President of Waterfowl Improvement Association, Inc., and the person who subscribed said corporation's name to the foregoing instrument and acknowledged to me that he executed the same in said corporation's name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year in this certificate first above written.

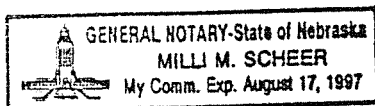
Tammy Mierke
Notary Public for Idaho
Residing at Boise, Idaho
My commission expires: 12/11/99

STATE OF NEBRASKA

COUNTY OF

On this 13th day of July, 1995, before me, the undersigned, a Notary Public in and for said State, personally appeared JACK L. NELSON, known to me to be a Director of Union Pacific Railroad, and the person who subscribed said corporation's name to the foregoing instrument and acknowledged to me that (s)he executed the same in said corporation's name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year in this certificate first above written.



Milli M. Scheer
Notary Public for Nebraska
Residing at: Omaha
My commission expires: 8-17-97

* Contracts Represent

RINGERT
CLARK
CHARTERED
LAWYERS

William F. Ringert
D. Blair Clark
James G. Reid
Jeffrey R. Christenson
James P. Kaufman
Laura E. Burri
Allyn L. Sweeney
Patrick D. Furey
Michael J. Doolittle
David Hammerquist
Daniel V. Steenson
Steven C. Mahaffy

Samuel Kaufman (1921-1985)

August 1, 1995

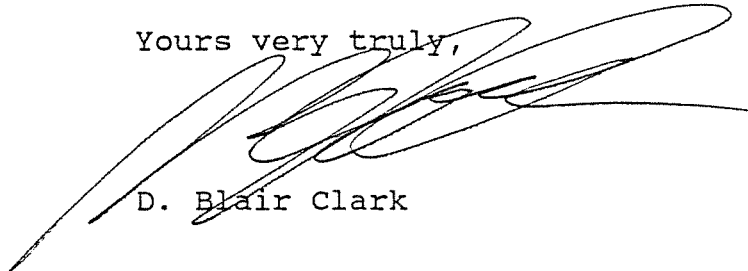
Jack Nelson
Union Pacific Railroad
1416 Dodge Street, room 1100
Omaha, Nebraska 68179

Re: Waterfowl Improvement Association

Dear Mr. Nelson:

I have not received the transfer document back, and would like to get it as soon as possible. Could you please check and send forthwith?

Yours very truly,



D. Blair Clark

DBC/t

June 28, 1995

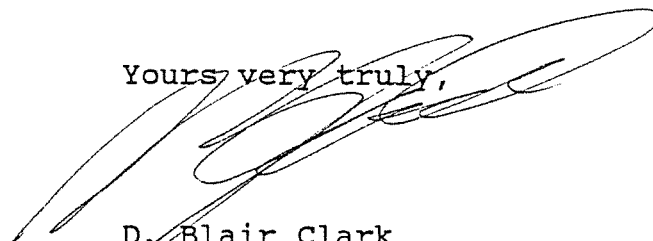
Jack L. Nelson
Contract Representative
Union Pacific Railroad Company
Room 1100 1416 Dodge Street
Omaha, NE 68179-1100

Dear Mr. Nelson:

I write as President of the Waterfowl Improvement Association, Inc., and with reference to your letter of June 19, 1995.

Enclosed is a check in the amount of \$500.00 along with two original Adoption Agreements which have been signed. I took the liberty of attaching an acknowledgment page to the Agreements. It is our desire that since the original agreement was recorded, that this agreement be recorded as well. Please return an original, signed and notarized agreement to me. Thank you for all of your courtesies regarding this matter.

Yours very truly,



D. Blair Clark

DBC/t
Encl.

UNION PACIFIC RAILROAD COMPANY

CONTRACTS & REAL ESTATE DEPARTMENT

R.D. UHRICH
ASSISTANT VICE PRESIDENT

ROOM 1100, 1416 DODGE STREET
OMAHA, NEBRASKA 68179
(402) 271-3753
FAX (402) 271-5493



June 19, 1995

Folder: 433-84

J. A. ANTHONY
DIRECTOR-CONTRACTS &
JOINT FACILITIES
D. D. BROWN
DIRECTOR-REAL ESTATE
J. L. HAWKINS
DIRECTOR-OPERATIONS SUPPORT
D. H. LIGHTWINE
DIRECTOR-REAL ESTATE
W. R. ULRICH
DIRECTOR-BUILDING SERVICES

D. Blair Clark
RINGERT & CLARK
455 South Third Street
Boise, ID 83701

Dear Blair:

RE: Adoption of Irrigation Ditch Crossing by Waterfowl Improvement Association, Inc.

Enclosed are duplicate originals of an Adoption Agreement.

In the spaces marked by an "x", please execute or arrange for execution of the enclosed documents and have the signatures witnessed or attested, as indicated. Then, **RETURN BOTH COPIES** of the agreement for execution on behalf of the Railroad Company. Your copy of the fully executed agreement will be returned to you, if approved by the Railroad Company. Also, please provide a resolution or other authorization for the party executing the documents.

Payment in the amount of **\$500.00** is due and payable upon execution of this agreement. Please submit a check made payable to the Union Pacific Railroad with the return of these documents. This agreement will not be accepted by the Railroad Company until the initial payment is received. If you require formal billing, you may consider this letter as a formal bill.

In compliance with the Internal Revenue Services' new policy regarding their Form 1099, I certify that 13-6400825 is the Railroad Company's correct Federal Taxpayer Identification Number and that Union Pacific Railroad Company is doing business as a corporation.

If you have any questions concerning this adaption or the basic agreement, please feel free to call me at (402) 271-5153.

Yours truly,

A handwritten signature in dark ink, appearing to read "Jack L. Nelson". The signature is fluid and cursive, with a large, sweeping initial "J".

JACK L. NELSON
CONTRACT REPRESENTATIVE

ADOPTION AGREEMENT

THIS AGREEMENT is made and entered as of the _____ day of _____, 19____, by and between **UNION PACIFIC RAILROAD COMPANY**, a Utah corporation (hereinafter the "Railroad"), and **WATERFOWL IMPROVEMENT ASSOCIATION, INC.**, to be addressed at P.O. Box 2773, Boise, Idaho 83701 (hereinafter the "Applicant").

RECITALS:

By instrument dated May 10, 1926, the Railroad and **MRS. IDA B. MANSELL** entered into an agreement (hereinafter the "Basic Agreement") identified in the records of the Railroad as its Audit No. 13594 covering an irrigation ditch crossing.

Applicant represents and warrants to Railroad that Applicant has heretofore acquired (but without the consent of the Railroad) all right, title and interest, as Licensee in and to Basic Agreement.

The Railroad and Applicant now desire to adopt the Basic Agreement as their agreement.

AGREEMENT:

NOW THEREFORE, it is mutually agreed by and between the parties hereto as follows:

SECTION 1. ADOPTION OF BASIC AGREEMENT

Effective as of the date first herein written, the Basic Agreement including all supplements or amendments thereto (if any), which by reference is made a part hereto, is hereby adopted by the parties hereto as their Agreement. Applicant specifically agrees:

- a. to comply with, perform and observe all of the covenants, obligations, conditions and stipulations contained in Basic Agreement to be complied with, performed or observed by Licensee thereunder;
- b. to assume and discharge any and all of the obligations, duties and liabilities imposed by Basic Agreement upon the Licensee thereunder; and
- c. to succeed to and take the place of said Licensee therein.

Where in the Basic Agreement reference is made to the Licensee, such reference shall be deemed to refer to the Applicant and all the terms and conditions of the Basic Agreement including any supplements or amendments thereto (if any) shall have the same force and effect and be as binding upon the Railroad and the Applicant as Licensee, as if the same were repeated herein.

SECTION 2. AGREEMENT SUPPLEMENTAL

This Agreement is supplemental to the Basic Agreement and nothing herein contained shall be construed as amending or modifying the same except as herein specifically provided.

SECTION 3. ADMINISTRATIVE FEE

Applicant shall pay to the Railroad **FIVE HUNDRED DOLLARS (\$500.00)** as reimbursement for clerical, administrative and handling expense in connection with the processing of this Adoption Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date first herein written.

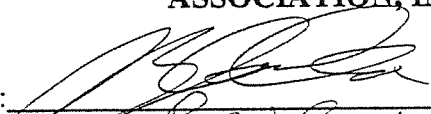
UNION PACIFIC RAILROAD COMPANY

By _____
DIRECTOR - CONTRACTS

WITNESS:

**WATERFOWL IMPROVEMENT
ASSOCIATION, INC.**

X _____

By: 
Title: President

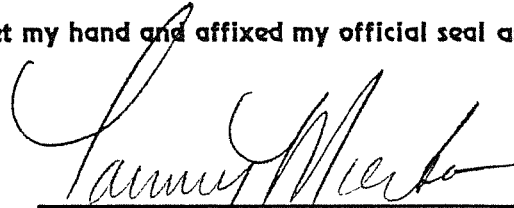
STATE OF IDAHO

)
) .ss

COUNTY OF ADA

On this 26th day of June, 1995, before me, the undersigned, a Notary Public in and for said State, personally appeared Dr. Blair Clark, known to me to be the President of Waterfowl Improvement Association, Inc., and the person who subscribed said corporation's name to the foregoing instrument and acknowledged to me that he executed the same in said corporation's name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year in this certificate first above written.



Notary Public for Idaho
Residing at Boise, Idaho
My commission expires: 12/11/99

STATE OF NEBRASKA

)
) .ss
)

COUNTY OF

On this _____ day of _____, 1995, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to me to be a Director of Union Pacific Railroad, and the person who subscribed said corporation's name to the foregoing instrument and acknowledged to me that (s)he executed the same in said corporation's name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year in this certificate first above written.

Notary Public for Nebraska
Residing at:
My commission expires:

**RINGERT
CLARK**
CHARTERED
LAWYERS

RECEIVED

AUG 02 1995

July 28, 1995

William F. Ringert
D. Blair Clark
James G. Reid
Jeffrey R. Christenson
James P. Kaufman
Laura E. Burri
Alynn L. Sweeney
Patrick D. Furey
Michael J. Doolittle
David Hammerquist
Daniel V. Steenson
Steven C. Mahaffy
Samuel Kaufman (1921-1986)

Idaho Department of Water Resources
SRBA Claims
1301 N. Orchard
Boise, ID 83706

RECEIVED

AUG 03 1995

WATER RESOURCES
WESTERN REGION

Gentlemen:

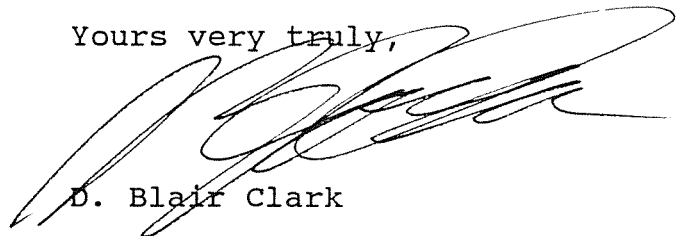
I write for Waterfowl Improvement Association, Inc., holder of license 63-10608 and SRBA claim A63-30224.

We enclose a copy of the agreement with Ida Mansell and Oregon Short Line Railroad, showing that the ditch in question as per our Claim was in fact created on or about May 10, 1926. This is the date where the crossing was established that allows water to flow into the ditch in question, and therefore establishes a priority date. As also stated, we have submitted many photos and other evidence in the license file above, and requested that such items be considered as part of the record for this SRBA claim.

We are also writing in particular concerning claim A63-04530 for FDF, Inc. We are concerned that they are claiming a priority date of June 1, 1885. This date is incorrect. This claim, according to the map submitted with it, must be founded on the same ditch as is our claim. We have no objection to their claiming the same priority date, but must object to their claiming an earlier date. The ditch, in fact, did not exist prior to the 1926 date.

Please also consider this letter part of the record in that claim as well, in order that the priority dates of such claims may be identical. We certainly do not believe their claim was knowingly false; we simply believe they did not have this document.

Yours very truly,



D. Blair Clark

DBC/t
Encl.
cc: Robert Farris

MICROFILMED

OCT 17 1996

**RINGERT
CLARK**
CHARTERED
LAWYERS

RECEIVED

JUN 05 1995

Department of Water Resources

May 31, 1995

William F. Ringert
D. Blair Clark
James G. Reid
Jeffrey R. Christenson
James P. Kauffman
Laura E. Burn
Allyn L. Sweeney
Patrick D. Furey
Michael J. Doolittle
David Hammerquist
Daniel V. Steenson
Steven C. Mahaffy

Samuel Kaufman 1921-1986

RECEIVED

JUN 08 1995

WATER RESOURCES
WESTERN REGION

Patrick D. Madigan
Attorney at Law
P.O. Box 2139
Boise, ID 83701-2139

Re: WIA-FDF

Dear Pat:

A63-04530
6/01/1995

*file in
A63-30224
(per Shaw.)*
5-10-1926

Before your clients decide to get embroiled in some litigation which will cost everybody more time and money, I thought I should share with you some documents which I finally received. I am also sending a copy of them to IDWR to put in our claim file for the claim which we filed in the SRBA. If your clients would like to amend their SRBA claim accordingly, we will not have to protest it.

First of all, please review the document from Oregon Short Line Railroad, which is the agreement with Ida Mansell for the construction of the ditch in question. Obviously, this ditch was constructed in 1926. Please recall that this is the **same** ditch which furnishes both your clients and us our water. Therefore, your claim for an earlier date for that ditch cannot be sustained. More importantly, it gives your clients exactly the same priority date as we have claimed for the ditch rights.

Secondly, please review the deed from Ida Mansell and her husband to Ralph and Grace Grimmer. That deed shows where the Mansells sold the property which is now the WIA tract. **Please note specifically that the deed conveys water and ditch rights and rights of way for water and ditch rights.** The deed also specifically is subject to the Oregon Short Line agreement, which is how we found that document. In discussing the agreement with UPRR, we confirmed that this is indeed the ditch in question and so shows on their maps.

Therefore, your clients' claims that we have no rights to the ditch, no easements, and no rights to keep and maintain the ditch are without merit. The ditch is for **both** properties, provides water for **both** of our uses with the same priority date, and has been so for almost 70 years. As we have specific ditch rights and rights of way, we have the right to maintain and clean the ditch.

Copied from Claim file # A63-04530

Patrick D. Madigan
May 31, 1995
page 2

We told you we will fix the area which was damaged with the tractor when you tell us what you want us to do, provided that is reasonable. If your clients are insistent on our putting back up the fence corner, we will do that. The gate was never used at all and appears to be surplus.

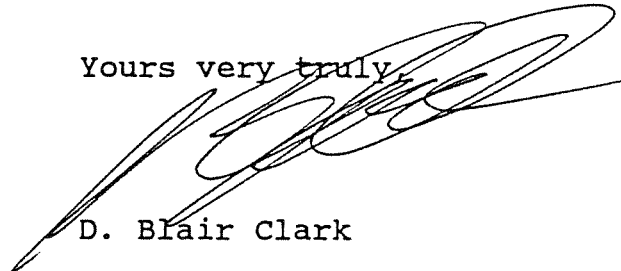
We have no intention of moving the road. Likewise, since the flooding is caused by your clients' inactions in maintaining the ditch or a rerouting of the ditch, the solution to the flooding is, as I stated, digging a small ditch from their lower pond back to the upper culvert. They lose no water rights that way, and have a nice set of ponds to hunt.

We will also seek to avoid confrontations with your clients, because it is apparent that we will both own our properties indefinitely. We would like to discuss with them the alleviation of the weed problem so we could all put in some cover more conducive to bird habitat. However, the last few times we tried to discuss things, it was, shall we say, futile.

We have no intention of signing any agreements which will eliminate any of our rights whatsoever. We will, however, try and be cooperative with your clients, provided that they meet us halfway.

I would like to consider the matters concerning the water and ditch rights closed. To that end, would you please amend your SRBA claim and furnish a copy to me. A copy of our claim is enclosed for your reference.

Yours very truly,



D. Blair Clark

cc: Bob Farris

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OCT 17 1996

CONTRACT DEPT. NO. 011706

POOR ORIGINAL

WATERWAY AGREEMENT

A.C.E. No. 1289

Audit No. 13594

Between

OREGON SHORT LINE RAILROAD COMPANY

and

MRS. IDA B. MANSELL

Irrigation waterway

near

Notus, Idaho.
(M.P. 471.44)

MICROFILM

OCT 17 1996

Deposit of \$275.00
received by 10/16 Audit

H. T. M.
AUG 2 1926

THIS AGREEMENT, made and entered into this 10 day of May, 1926, by and between OREGON SHORT LINE RAILROAD COMPANY, a corporation of the State of Utah, (hereinafter called "Railroad Company"), party of the first part, and MRS. IDA B. MANSSELL, of Notus, County of Canyon, State of Idaho, (hereinafter called "Licensee"), party of the second part, WITNESSETH:

WHEREAS, the Licensee desires to construct and thereafter maintain and operate an irrigation canal (hereinafter called "ditch") extending across the right of way and underneath the roadbed and track of the Railroad Company near Notus, County of Canyon, State of Idaho, in the location described as follows, to-wit:

Beginning at a point in the Northeasterly right of way boundary 50.0 feet perpendicularly distant from the center line of the present operated main track of the Oregon Short Line Railroad, at Engineer's Station 3890+32.0; thence 100.0 feet Southwesterly to a point in the Southwesterly right of way boundary 50.0 feet perpendicularly distant from center line of said main track at Engineer's Station 3890+32.0. Said ditch will cross said center line at right angles thereto at Engineer's Station 3890+32.0 which is 2038.4 feet Southeasterly measured along said center line from its intersection with the North line of Section 2, Township 4 North, Range 4 West, Boise Meridian. The location of said ditch is substantially as indicated in yellow on the attached print which is hereby made a part hereof.

IT IS THEREFORE AGREED, by and between the parties hereto as follows, to-wit:

1. RAILROAD COMPANY GRANTS RIGHT TO LICENSEE:
The Railroad Company does hereby grant unto the Licensee the right to construct and thereafter, during the term hereof, to maintain and operate the said ditch in the location hereinbefore described, which grant is made expressly subject to the observance and performance by the Licensee of all and singular the conditions, covenants and agreements hereinafter contained to be by the Licensee kept, observed and performed; it being hereby stipulated that a waiver by the Railroad Company of any breach of any such conditions, covenants and agreements shall in no way impair the right of the Railroad Company to avail itself of any subsequent breach thereof.

MICROFILMED

W. W. M.
AUG 23 1926
W. S. U.
AUG 23 1926

2. DIMENSIONS OF DITCH:

The dimensions of said ditch within the limits of the right of way of the Railroad Company shall not exceed one (1) foot in width at the bottom and one (1) foot in depth, with side slopes of one (1) to one (1). The said ditch, where it crosses underneath the roadbed and track of the Railroad Company, shall be provided for with a cast iron pipe syphon thirty-six (36) feet long, with concrete end wells and having an internal diameter of ten (10) inches, and the same shall be constructed and maintained at such an elevation that the top thereof shall be not less than 2.7 feet below the base of the rails of said track.

3. LICENSEE TO BEAR ENTIRE EXPENSE:

The Licensee shall bear the entire cost and expense incurred in connection with the construction, maintenance, repair, renewal and operation of said ditch and of all bridges, culverts or other structures and their appurtenances necessitated thereby, including any and all expense which may be incurred by the Railroad Company in connection therewith for supervision, inspection or otherwise; but all the work upon the same within the limits of the right of way of the Railroad Company shall be done by or under the direction of and according to plans and specifications approved by the Railroad Company, it being understood that the Railroad Company shall do all the work in connection with the construction, maintenance, repair and renewal of said ditch and said bridges, culverts or other structures and their appurtenances, when such work requires any alteration of said roadbed or may in any manner involve the safety of said track.

4. LICENSEE TO DEPOSIT COST:

Before any work is done in connection with the construction of said ditch or said bridges, culverts or other structures and their appurtenances within the limits of the right of way of the Railroad Company, the Licensee shall deposit with the Railroad Company a sum of money equal to the estimated amount of the total expenditures which will be required to be made by the Railroad Company for the complete construction of said ditch underneath said roadbed and track which estimated amount shall be determined by the Railroad Company. After the completion of the construction of said ditch, the Railroad Company shall present to the Licensee an itemized bill showing the actual amount of all expenditures made by it in connection with such construction; and in the event the actual amount of such expenditures is in excess of

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OCT 17 1996

the amount deposited by the Licensee as hereinbefore provided, the Licensee shall pay to the Railroad Company an additional amount sufficient to fully reimburse the Railroad Company for all such expenditures; or in the event the actual amount of such expenditures is less than the amount deposited by the Licensee as hereinbefore provided, the Railroad Company shall refund to the Licensee the difference thereof.

Whenever, after the original construction of said ditch, any further material is furnished or labor is performed by the Railroad Company in connection with the maintenance, repair and renewal of said ditch, bridges, culverts or other structures and their appurtenances, the cost and expense of which is to be borne by the Licensee as provided in this agreement, the Licensee shall reimburse the Railroad Company for all expenditures made by it in connection therewith within thirty (30) days after the rendition of a bill therefor by the Railroad Company.

5. PERMIT SUBJECT TO NEEDS OF RAILROAD COMPANY:

The Railroad Company notwithstanding the aforesaid grant, shall have the right to retain its existing track at and in the vicinity of said ditch in its present location, and nothing shall be done or suffered to be done by the Licensee at any time that shall in any manner impair the usefulness or safety of such track, or of any other tracks that may hereafter be constructed within the limits of the right of way of the Railroad Company; and the Railroad Company reserves and shall have the right at any and all times to make such changes in its existing track and structures, or in the present standard thereof, and to construct, maintain and operate such additional tracks and structures in the vicinity of said ditch and across the same as from time to time it may elect; and the Licensee shall bear the expense of moving, removing, or making such changes in said ditch and of moving, removing or making such changes in or such additions to said bridges, culverts or other structures and their appurtenances as may be required by the Railroad Company in connection with such changes in said track and structures, or in the present standard thereof, and such additional tracks and structures. The obligations of the Licensee in this agreement prescribed, with reference to the maintenance, repair, renewal and operation of said ditch, bridges, culverts or other structures and their appurtenances as originally constructed, shall apply to said ditch, bridges, culverts or other structures and their appurtenances as relocated, changed, modified, or added to within the contemplation of this section.

6. CONTROL OF WATER IN DITCH:

The Licensee shall construct and maintain waste weirs at points outside the right of way of the Railroad Company in such locations and of such capacities that the surface level of the water in said ditch shall at all times remain at an elevation at least one (1) foot below the base of the rails of said track; and the Licensee shall not at any time permit any water to overflow from said ditch onto the right of way or premises of the Railroad Company. The surface level of the water in said ditch during the winter shall be kept sufficiently low to prevent the accumulation of ice at a level higher than the maximum surface level of water herein specified; and in the event ice shall accumulate at a higher level than that hereinbefore specified the Railroad Company may remove the same, and the Licensee shall pay to the Railroad Company, on demand, the entire actual cost of removing such ice accumulation.

7. DITCH NOT TO INTERFERE WITH OPERATION OF RAILROAD:

The said ditch and all parts thereof within and outside of the limits of the right of way and premises of the Railroad Company, including said bridges, culverts, or other structures and their appurtenances shall be constructed and at all times maintained, repaired, renewed and operated by the Licensee in such a manner as to cause no interference whatsoever with the constant, continuous and uninterrupted use of the tracks, property and premises of the Railroad Company, both as regards operation, maintenance, repairs and renewals, or possible new construction by the Railroad Company.

8. LICENSEE TO PROVIDE FENCES:

In case the right of way or property of the Railroad Company is fenced either at the date hereof or in the future and the Railroad Company shall request the Licensee so to do, the Licensee shall erect, maintain, repair and renew to the satisfaction of the Railroad Company and at the expense of the Licensee, a good and lawful fence with all necessary gates and openings therein across and/or adjacent to said ditch.

9. SALE OF RIGHT OF WAY:

In the event the Railroad Company shall dispose of any portion of its property on which the ditch is located as herein provided, the right or license herein granted, with respect to such portion of the ditch as may be located on the property of the Railroad Company so disposed of, shall forthwith cease and determine.

10. LIABILITY:

The Licensee shall indemnify and hold harmless the Railroad Company from and against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which may result from any injury to or the death of any person whomsoever, or from the loss of or damage to property of any kind or nature, including damage to the roadbed, tracks, equipment or other property of the Railroad Company, when such injury, death, loss or damage is due to the existence of said ditch, bridges, culverts or other structures and their appurtenances, or to the use and operation of said ditch, or to the water therein or therefrom, or to the construction, maintenance, repair and renewal of said ditch and said bridges, culverts, or other structures and their appurtenances, PROVIDED, however, that the Licensee shall not be held liable under the provisions of this section, for any injury, death, loss or damage which is directly due to the performance of any of the work contemplated hereunder when such work is performed by the Railroad Company.

11. DISUSE OF DITCH:

Disuse of said ditch for the purpose for which it was originally constructed, continuing at any time for a period of one year, shall constitute an abandonment thereof by the Licensee and of the grant herein made, and in case of such an abandonment or of the breach by the Licensee of any of the conditions, covenants and agreements herein contained, the Railroad Company shall have the right to terminate this agreement at any time by giving thirty (30) days notice in writing to the Licensee of its intention to terminate the same, and at the expiration of said thirty (30) days notice the license herein granted shall terminate and be at an end, and the Licensee shall be without recourse or redress of any character against the Railroad Company by reason thereof.

12. REMOVAL OF PROPERTY OF LICENSEE:

Within fifteen (15) days after the termination of this agreement howsoever, the Licensee shall remove all property of the Licensee herein provided for, from that portion of the right of way and premises of the Railroad Company not occupied by said roadbed and track, and shall restore the same to their original condition to the satisfaction of the Railroad Company; and if the Licensee fails so to do the Railroad Company may do such work of removal and restoration at the cost and expense of the Licensee. The Railroad Company

may, at its option, upon such termination, at the entire cost and expense of the Licensee, remove that portion of said ditch, bridges, culverts or other structures and their appurtenances, located underneath said roadbed and track, from the premises of the Railroad Company and restore said roadbed to its original condition.

In the event of the removal by the Railroad Company of the property of the Licensee as herein provided, and of the restoration of the premises of the Railroad Company to their former condition, the Railroad Company shall in no manner be liable to the Licensee for any damage sustained by the Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any right of action for damages or otherwise, that the Railroad Company may have against the Licensee.

13. AGREEMENT NOT TO BE ASSIGNED:

The Licensee shall not assign this agreement or any of the rights hereunder without the consent, in writing, of the Railroad Company endorsed hereon.

14. EFFECTIVE DATE:

This agreement shall be effective from and after the day and date first herein written and shall continue in full force and effect until terminated as provided; and all of the conditions, covenants and agreements herein contained on the part of the Licensee to be kept, observed and performed, shall attach to and run with the system of which said ditch is a part.

15. SUCCESSORS AND ASSIGNS:

This agreement shall be binding upon and inure to the benefit of the Railroad Company, its successors and assigns, the Licensee and the heirs, executors, administrators, successors and assigns of the Licensee.

POOR ORIGINAL

IN WITNESS WHEREOF, the parties hereto have caused
this agreement to be executed on the day and year first herein
written.

Witness:

R. Smith

OREGON SHORT LINE RAILROAD COMPANY,

By

Its Vice President

Attest:

C. B. Mankai
ASSISTANT Secretary.

Witness:

Edward Luningta Mrs. Ida B. Innessell
Licensee.

APPROVED:	<u>W. S. Smith</u>
BY	<u>B. H. Porter</u>
ASST. CHIEF ENGINEER	<u>W. S. Smith</u>

A.C.E.O.
3-31-26.

-7-

MICROFILM
OCT 17 1996

STATE OF Nebraska
County of Douglas } ss.

On the 18th day of May, 1926, before me, a Notary Public in and for said County, personally appeared E. E. Calvin, to me personally known to be the Vice President of the OREGON SHORT LINE RAILROAD COMPANY, who being duly sworn did say that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed, sealed and executed in behalf of said corporation by authority duly conferred according to law, and acknowledged to me said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate written.

[Signature]
Notary Public.

My commission expires:

Residing at Omaha, Neb

September 7, 1926

STATE OF Idaho
County of Canyon } ss.

I, [Signature], a Notary Public, do hereby certify that MRS. IDA B. MANSELL, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and seal this 26 day of April, 1926.

[Signature]
Notary Public.

My commission expires:

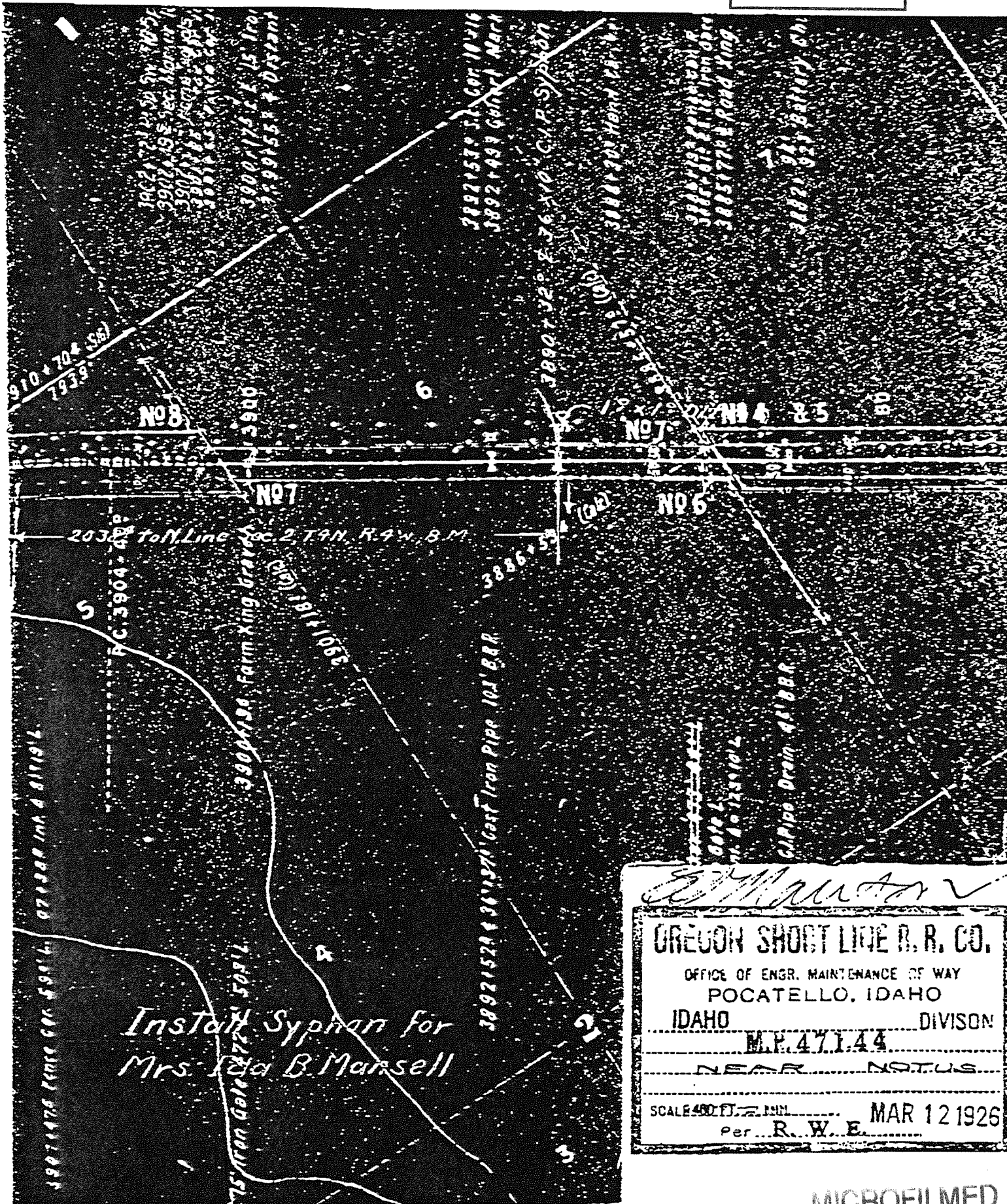
Residing at Notas Falls

Sept 29-1927

MICROFILMED

OCT 17 1996

POOR ORIGINAL



MICROFILMED
OCT 17 1996

POOR ORIGINAL

of Notus, , County of Canyon , State of Idaho the parties of the second part.

TWELVE HUNDRED AND NO/100 ----- (\$1200.00)----- DOLLARS.

lawful money of the United States of America, to second part, the receipt whereof is hereby acknowledged, has 9 granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all of the following described real estate, situated in the County of Canyon, State of Idaho, to-wit:

All that part of Lot Five (5) of Section Two (2) lying south and west of the right-of-way of the Oregon Short Line Railroad Company, Lot Four (4) of said Section Two (2) and the Southwest Quarter (SW¹/₄) of the Northeast Quarter (NE¹/₄) of said Section Two (2), all in Township Four (4) North, Range Four (4) West of the Boise Meridian together with all and singular the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, including all water and ditch rights and rights of way for water and ditches; subject to 1940 taxes and the covenants and agreements in that certain written agreement by and between Ida B. Mansell, one of the parties of the first part hereto, and Oregon Short Line Railroad Company, a corporation, dated May 10th, 1928, and existing charges of taxing units for which assessments may be levied subsequent to December 31, 1939.

1.50

THE FIRST PART, With all and singular the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said part of the said of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the interest in the part of _____ of the second part, and to _____ heirs and assigns forever, and the heirs of the first part, and _____ heirs, the said premises, in the quiet and reasonable possession of the _____ heirs and assigns forever, the said _____ heirs and assigns and _____ heirs of the first part, and _____ heirs and assigns, person and persons whom _____ heirs and assigns shall think good, to have and to hold unto _____ heirs and assigns forever.

MICROFILME

OCT 7 1996

the following described real estate, situated in
the State of Idaho, to-wit:

All that part of Lot Five (5) or Section Two (2) lying south and west of the
right-of-way of the Oregon Short Line Railroad Company, Lot Four (4) of said
Section Two (2) and the Southwest Quarter (SW¹/₄) of the Northeast Quarter (NE¹/₄)
of said Section Two (2), all in Township Four (4) North, Range Four (4) West
of the Boise Meridian together with all and singular the tenements, heredita-
ments and appurtenances thereunto belonging or in anywise appertaining, including
all water and ditch rights and rights of way for water and ditches; subject to
1940 taxes and the covenants and agreements in that certain written agreement by
and between Ida B. Mansell, one of the parties of the first part hereto, and
Oregon Short Line Railroad Company, a corporation, dated May 10th, 1920, and
existing charges of taxing units for which assessments may be levied sub-
sequent to December 31, 1939.

U.S. REVENUE

1.50

POOR ORIGINAL

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining,
the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and
interest in and to the said property, as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances,
unto the parties of the second part, and to their heirs and assigns forever and the said parties
of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said parties
of the second part, their heirs and assigns, against the said parties of the first part, and their heirs,
and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and
by these presents forever DEFEND.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals
the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF
Witnesses to Mark of Ida B. Mansell:

Howard Pennington
C. L. Haines.

J. B. Mansell (Seal)
J.B. Mansell.
Her { X } Mansell (Seal)
Ida B. Mark. (Seal)
(Seal)

STATE OF IDAHO, }
County of Canyon }

On this 26th
me H. C. Sleeper
personally appeared

day of February in the year 1940, before
a Notary Public in and for said State

J.B. MANSELL and IDA B. MANSELL, his wife

known to me to be the persons
and acknowledged to me that they executed the same. whose names are subscribed to the within instrument

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first
above written.

(SEAL)

H. C. Sleeper
Notary Public for the State of Idaho
Residing at Boise, Idaho

STATE OF IDAHO, }
County of Canyon }

MICROFILMED

OCT 17 1996

ROSHOLT, ROBERTSON & TUCKER

Chartered
ATTORNEYS AT LAW

KEN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
GARY L. QUIGLEY
KEN E. SIMPSON
PATRICK D. MADIGAN
PAUL W. SAMUELSON
TIMOTHY J. STOVER
NORMAN M. SEMANKO
ERIC P. SMITH

Boise Office
1221 W. IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

Twin Falls Office
142 3rd AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 734-0041

March 14, 1995

RECEIVED

MAR 14 1995

Department of Water Resources

Mr. Shelley Keen
Water Rights Supervisor
Idaho Department of Water Resources
1301 N. Orchard
Boise, ID 83706

Re: Water Right License No. 63-10608

Dear Shelley:

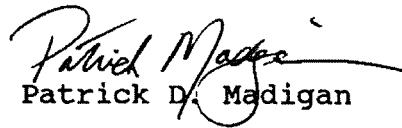
I represent holders of water right no. 63-04530, who divert water from the same ditch upon which license no. 63-10608 is located. It has come to our attention that the holder of license no. 63-10608 now claims that IDWR mistakenly failed to include a diversion rate or flow rate as part of the original license. Now the holder requests that the department amend the license to include such a measurement and the right to divert a specific amount of water in addition to the storage of 6 AFA. We submit this letter to you to provide notice of our concern for, and protest of such a request.

As you are aware, this license presently is limited to, and authorizes only the storage of 6 AFA for wildlife purposes. No where in the water right file, which includes this license holder's original permit application, field examination and correspondence, is there any evidence that the holder desired that any diversion rate or flow measurement be associated with the use and the license. In fact, IDWR originally attached to this license the condition that the applicant install and maintain a flow gauge or meter to measure flow. Such a condition would have provided the only evidence of an associated or authorized rate of diversion. The holder, however, successfully plead with and convinced IDWR to remove this condition. Contrary to the license holder's present assertion that IDWR mistakenly failed to include some flow or diversion rate with this license, he clearly intended that this license be limited to the storage of 6 AFA without any reference to a diversion rate or flow.

APR 14 1995

Consequently, the addition of a flow or diversion rate for wildlife purposes at this time constitutes a new use. Such new use requires proper application to the department pursuant to the provisions of the Idaho Code and the department's administrative rules. The license holder's request should not otherwise be allowed to undermine or end-run these requirements. We may not protest the license holder's application for the new use if he submits one. However, as holders of a water right on the same ditch, we believe our right to notice and comment, as provided by the code, may not be denied by such a request. We therefore ask the department to deny the license holder's request that his license now be amended to include a flow rate or the right to divert a specific rate of flow.

Very truly yours,


Patrick D. Madigan

4 1995

RINGERT CLARK CHARTERED

Attorneys at Law

455 South Third Street

Boise, Idaho 83702

(208) 342-4591

FAX COVER LETTER

Time: 1:45 PM

Date: March 8, 1995

PLEASE DELIVER THE FOLLOWING PAGES TO:**NAME:** Shelley Keen**FIRM:** Idaho Department of Water Resources**CITY & STATE:** Boise, ID**TELEPHONE NO.:** 327-7946**FAX NO.:** 327-7866**SENDER:** D. Blair Clark**WE ARE TRANSMITTING 1 PAGES (INCLUDING THIS COVER LETTER)****OUR FAX NO. (208) 342-4657**

ADDITIONAL INFORMATION: Re: 63-10608 Dear Shelley: As a followup to my fax transmission letter of yesterday, I spent quite a while this morning going through the Aerial Mapping Company files, and found several photos of interest. The first is 1971, which shows the ditch clearly. The second, in 1980, shows the same (with a few changes in the surroundings), while the third, 1992, clearly shows our pond and water course, and verifies that we have an offstream diversion. I should have copies of them Monday of next week. I also found the printout from your computer system for our permit, dated 5-12-88, showing 6 a/f and also 6 cfs. Ms. Skaggs indicated to me the other day when I was in that the computer still shows this. Further, when Ms. West did the examination, I showed her all four outlets. I was advised at the time that the deletion of the irrigation would show that we had a right to keep and maintain 6 a/f, plus allow runoff for the other habitat projects we have. At any rate, thank you for agreeing to do a re-examination of this project. I have been informed that about 2 cfs are running into the pond now, but you probably want to have some device to check that. I am available March 14, 15 or 16 if any of those dates work for you. Please call me so we can confirm a time.

APR 14 1995

M E M O R A N D U M

DATE: March 7, 1995

TO: File 63-10608

FROM: Shelley W. Keen *swk*

RE: Request for Re-Examination from Blair Clark

=====

Yesterday we received a letter from Blair Clark in which he asks about the appropriation of flows associated with licensed right no. 63-10608. This right was issued to The Waterfowl Improvement Assn Inc, of which Mr. Clark is the Sec./Treas. Right 63-10608 was licensed for 6.0 AF for Wildlife Storage purposes. In response to Mr. Clark's letter, I called him today at 342-4591.

Mr. Clark explained to me that he was under the impression that right 63-10608 would include a flow component. He believes the flow is necessary to maintain water quality in the reservoir. I inspected the file and expressed the following two concerns to Mr. Clark.

- 1) The Application for Permit in our file shows no request for an appropriation of a natural flow component. The application requests 6.0 AF only for Wildlife/Irrigation Storage and Irrigation/Wildlife from storage. Because all off-stream storage rights must include a flow rate for diversion to storage, this application would have been considered on-stream storage.
- 2) The appropriation of a flow through an on-stream reservoir for wildlife purposes would create a de facto minimum stream flow appropriation. A minimum stream flow appropriation can only be made by the Water Resource Board.

Mr. Clark responded that he thought his application included a request for a flow right. Moreover, he said that another examination of the diversion works may show that the water is actually stored off-stream.

I told Mr. Clark that we would consider a written request for a re-examination, which he faxed to me this afternoon.

APR 14 1995

RINGERT CLARK CHARTERED

Attorneys at Law

455 South Third Street

Boise, Idaho 83702

(208) 342-4591

FAX COVER LETTER

Time: 12:05 PM

Date: March 7, 1995

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Shelley Keen

FIRM: Idaho Department of Water Resources

CITY & STATE: Boise, ID

TELEPHONE NO.: 327-7946

FAX NO.: 327-7866

SENDER: D. Blair Clark

WE ARE TRANSMITTING 1 PAGES (INCLUDING THIS COVER LETTER)

OUR FAX NO. (208) 342-4657

ADDITIONAL INFORMATION: Re: 63-10608 Dear Shelley: Thanks for taking the time to discuss this matter with me today. As we were and still are under the impression that we have not only a storage right but a flow right as well, this letter would request that there be a re-inspection made of our property as soon as possible. There evidently is some confusion as to our system and the prior inspection, and we wish to assure that our right is perfected in full. Please call me when you want to go down (the sooner the better) and I will personally accompany you. Thanks again.

APR 14 1995

RINGERT CLARK CHARTERED

Attorneys at Law

455 South Third Street

Boise, Idaho 83702

(208) 342-4591

FAX COVER LETTER

Time: 6:00 PM

Date: March 6, 1995

PLEASE DELIVER THE FOLLOWING PAGES TO: Licensing Section

NAME: Pamela Skaggs
Water Resource Agent

FIRM: Idaho Department of Water Resources

CITY & STATE: Boise, ID

TELEPHONE NO.: 327-7900

FAX NO.: 327-7866

SENDER: D. Blair Clark

WE ARE TRANSMITTING 1 PAGES (INCLUDING THIS COVER LETTER)

OUR FAX NO. (208) 342-4657

ADDITIONAL INFORMATION: Dear Ms. Skaggs: This letter concerns license 63-10608 which you sent me under your letter of July 20, 1992. Your file on this matter should reflect a field exam which was taken. I don't know who the agent was; the card I was given was for Sarah West, who I believe was an intern. At any rate, the license was for 6 acre feet. We were informed that this allowed us to maintain a level of that amount, since the pond in question is constructed on a drainage ditch. We simply want to insure that we have enough water flow to maintain the pond, since the ditch is an old drain ditch which runs to the Boise River. However, I have been informed that there are no measurements of the water flow in the field exam file; this surprises me because there were some taken at each of our outflows. The outflows are necessary to assure a return flow to the river, to insure a fresh water supply and alleviation of a stagnant situation, and to keep the pond open in the winter for waterfowl. Please advise me as to the Department's position if this license needs to be amended. Also, Gary Spackman told me the other day that he would send me a copy of the field exam report. If he has not done so, would you please send or fax it to me? Thanks.

APR 14 1995

WARRANTY DEED

FOR VALUE RECEIVED Everett E. Jones for the use and benefit of Tanya L. Jones, a minor,

the Grantor , do hereby grant, bargain, sell and convey unto Waterfowl Improvement Association, Inc.

the Grantee , whose address is P.O. Box 2773, Boise, ID 83701

the following described premises, to-wit: See Attached

RECORDED
BY *Clara L. Lint*
CANYON COUNTY RECORDER
87 NOV 13 PM 4 14

RECORDED

8723781

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee , heirs and assigns forever. And the said Grantor do es hereby covenant to and with the said Grantee , that it he is the owner in fee simple of said premises; that said premises are free from all encumbrances reserving unto Grantor half of all mineral rights thereto. Grantees reserve the right to consent or not to consent to mineral exploration or development

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: November 13 , 1987

Clara L. Lint
Everett E. Jones for Tanya L. Jones

ACKNOWLEDGMENT - Individual

STATE OF Idaho , County of CANYON , ss.

On this _____ day of November , in the year of 1987 , before me Clara Lint , a notary public, personally appeared Everett E. Jones for the use of Tanya L. Jones known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Notary Public: Clara Lint
Residing at: Thompson Id 83702

STATE OF IDAHO, COUNTY OF Canyon

I hereby certify that this instrument was filed for record at the request of

at _____ minutes past _____ o'clock m., this _____ day of _____ 19 _____ , in my office, and duly recorded in Book _____ of Deeds at page _____

Ex-Officio Recorder

By _____ Deputy.

Fees \$ _____
Mail to: _____

PIONEER TITLE COMPANY
OF ADA COUNTY
821 W. State Street
Boise, Idaho 83702 — 208 336-6700

POOR ORIGINAL

PARCEL 1

A PART OF GOVERNMENT LOT 5 AND A PORTION OF ACCRETION
LAND ABOVE THE MEAN HIGH WATER LINE IN SECTION 2,
TOWNSHIP 4 NORTH, RANGE 4 WEST, BOISE MERIDIAN, MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER OF SAID LOT 5 (NORTH 1/4
CORNER), MONUMENTED WITH A REBAR, 30 INCHES LONG, 5/8
INCHES DIAMETER, WITH A PLASTIC CAP MARKED LS 832; THENCE
NORTH 89 DEGREES 57'09" WEST 1309.95 FEET ALONG THE NORTH
BOUNDARY OF SAID LOT 5 TO THE WEST 1/16 CORNER,

THE POINT OF BEGINNING; THENCE CONTINUING
NORTH 89 DEGREES 57'09" WEST 798.12 FEET ALONG THE NORTH
BOUNDARY OF SAID LOT 5 TO A POINT ON A MEANDER
LINE OF THE APPROXIMATE MEAN HIGH WATER LINE OF THE
RIGHT LIMIT OF THE BOISE RIVER; THENCE TRAVERSING
SAID MEANDER LINE AS FOLLOWS:

SOUTH 14 DEGREES 35'30" EAST 695.26 FEET; THENCE
SOUTH 44 DEGREES 12'20" EAST 415.74 FEET; THENCE
SOUTH 14 DEGREES 19'37" EAST 225.17 FEET; THENCE
SOUTH 89 DEGREES 39'29" EAST 267.76 FEET; THENCE
NORTH 0 DEGREES 27'48" EAST 1190.00 FEET TO THE
POINT OF BEGINNING.

Continued on next page

-1-

STEWART TIT
GUARANTY COMPANY

EXHIBIT A

MICROFILMED
OCT 17 1996

Lot Book Report Continued

ST-87001879 WN

TOGETHER WITH AN EASEMENT AND RIGHT OF WAY FOR ROAD PURPOSES OVER AND ACROSS CERTAIN PROPERTY DESCRIBED AS FOLLOWS:

LOCATED IN THE NORTHWEST 1/4 OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 4 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTE 1/4 CORNER OF SAID SECTION 2;

THENCE
SOUTH 0 DEGREES 22'58" WEST 866.80 FEET ALONG THE
CENTER 1/4 LINE TO AN IRON PIN; THENCE
NORTH 55 DEGREES 03'32" WEST 10.39 FEET TO A POINT
BEING THE REAL POINT OF BEGINNING OF THE
CENTERLINE OF A 40 FOOT WIDE EASEMENT; THENCE
SOUTH 34 DEGREES 27'48" WEST 108.88 FEET TO A POINT;
THENCE
SOUTH 60 DEGREES 32'34" WEST 116.05 FEET TO A POINT;
THENCE
SOUTH 88 DEGREES 28'26" WEST 184.07 FEET TO A POINT;
THENCE
SOUTH 31 DEGREES 18'24" WEST 188.13 FEET TO A POINT;
THENCE
SOUTH 58 DEGREES 27'22" WEST 248.90 FEET TO A POINT;
THENCE
SOUTH 83 DEGREES 14'36" WEST 204.96 FEET TO A POINT;
THENCE
NORTH 48 DEGREES 15'28" WEST 149.93 FEET TO A POINT;
THENCE
NORTH 73 DEGREES 04'02" WEST 156.00 FEET TO A POINT;
THENCE
NORTH 68 DEGREES 54'50" WEST 117.71 FEET TO A POINT;
THENCE
SOUTH 79 DEGREES 00'59" WEST 75.35 FEET TO A POINT ON
THE WEST 1/16 LINE OF SAID SECTION 2, ALSO
BEING THE END POINT OF THE SAID CENTERLINE OF
A 40 FOOT WIDE EASEMENT.

PARCEL II

ALL THAT PART OF GOVERNMENT LOT 2 IN SECTION 25, TOWNSHIP 5 NORTH, RANGE 4 WEST OF THE BOISE MERIDIAN, CANYON COUNTY, IDAHO, LYING SOUTH AND WEST OF THE RIGHT OF WAY OF THE OREGON SHORTLINE RAILROAD COMPANY.

MICROFILMED

OCT 17 1996



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 19, 1995

WATERFOWL IMPROVEMENT ASSOC INC
PO BOX 2773
BOISE ID 83701

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim #A63-30224

Dear Claimant:

Enclosed is a computer-generated copy of Notice of Claim #A63-30224 which you filed for your property in Canyon County. Also enclosed is Receipt #C032454, your copy of the granted extension request and your yellow hand-written copy of your water right. You may retain these copies for your records. Please contact us if you have any questions.

Sincerely,

Idaho Department of Water Resources
Adjudication Bureau

SO:ss:region

Enclosure:

Computer-generated Copy of A63-30224
Yellow Claimant Copy of Hand-written Claim A63-30224
Copy of Receipt #C032454
Claimant Copy of Granted Extension Request

MICROFILMED

OCT 17 1996

Date Received 4-11-95

State of Idaho
Department of Water Resources
**REQUEST FOR EXTENSION OF TIME
TO FILE ADJUDICATION CLAIM(S)**

The Idaho Department of Water Resources will consider this form as a request by the claimant for an additional period of time in which to file claim(s) beyond the 90 days allowed by Section 42-1409(10), Idaho Code.

Water Fowl Improvement Association (208) 342-4591
Name of Claimant Inc. Phone Number

P.O. Box 2773 Boise ID 83701
Mailing Address City State Zip

Canyon 12-12-89
County(s) where place of use is located Date claim originally due

A63-30224
Identify water right(s) for which extension is requested

State why an extension of time is requested explaining how a diligent effort has been made to meet the deadline:

See attached letter

Claimant requests an extension to 4-11, 19 95

See attached letter 4-11, 19 95
Signature Date of request

Title

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

The above request for extension of time is hereby [☒ granted] [☐ denied] for the following reasons:

and if granted the filing deadline is extended to April 11, 19 95

Signed this 19 day of April, 19 95

Director or his designated agent

DAVID B. SHAW

Mail to: Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

MICROFILMED

OCT 17 1996

RECEIVED

APR 11 1995

**RINGERT
CLARK**
CHARTERED
LAWYERS

Department of Water Resources

William F. Ringert
D. Blair Clark
James G. Reid
Jeffrey R. Christenson
James P. Kaufman
Laura E. Burri
Allyn L. Sweeney
Patrick D. Furey
Michael J. Doolittle
David Hammerquist
Daniel V. Steenson
Steven C. Mahaffy

Samuel Kaufman (1921-1986)

April 10, 1995

Idaho Department of Water Resources
SRBA Claims
1301 N. Orchard
Boise, ID 83706

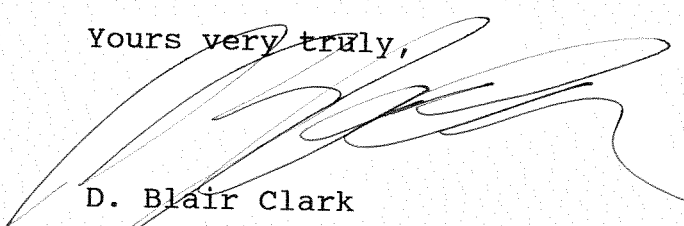
Gentlemen:

I enclose our proof of claim which we are filing for the Waterfowl Improvement Association, Inc., together with our filing fee which we computed at \$270.00

We would respectfully request a waiver of any late charge and the acceptance of this Claim form. As you may note in the claim, we also have a license 63-10608. Recently, I have had significant correspondence and communications with Shelly Keene of your department concerning the effect of that license, and learned that your official position is that the license does not cover the flowage through the pond. Since we have historical data back to 1926, we are filing the SRBA claim as well. A claim was not filed previously because the Department informed me that since we had a license, one was not required. The file will show that we believed at all times that the license not only covered a storage right but a flow right as well; the original application was made up that way, but evidently was changed. Copies of all these documents, aerial photos, etc., are in the file in the above license for your purposes.

If you determine we owe a late fee, please let me know. However, I certainly think that one should not be required under these circumstances.

Yours very truly,


D. Blair Clark

A63 30224

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April 6, 1995

John Westra
Water Right Agent
Idaho Department of Water Resources

Boise, ID

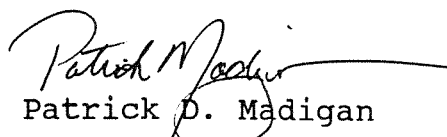
Re: Transfer Application for WR# 63-04530

Dear John:

Pursuant to our phone conversation this morning, applicant FDF, Inc. is filing the attached transfer application. The changes in the nature of use and places of diversion were accomplished several years ago. The applicant believes it filed its SRBA claim for # 63-04530 consistent with the changes. The applicant is now filing this transfer application in response to a downstream users indication that he may protest the applicant's SRBA claim alleging forfeiture. According to the downstream user, a technical forfeiture is warranted because the applicant did not previously file a transfer application even though the applicant's SRBA claim and actual use evidence the contrary. The same downstream user has also stated that he may file an application to appropriate the same water he claims has been forfeited. Therefore, as a matter of procedure, the applicant is filing the attached transfer application at this time pursuant to I.C. § 42-222 in order to protect the 1885 priority date of the transferred right.

I have also enclosed a copy of both the SRBA notice of claim, the previous property owner's notice of statutory claim, a tax statement for the FDF, Inc. property proving ownership, as well as a check for the transfer application fee. Please let me know what, if any, additional information is necessary to further process this application. Thank you for your assistance.

Very truly yours,


Patrick D. Madigan

MICROFILME
OCT 17 1996