

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 the Rights to the Use of Water)
from the Snake River Basin)
Water System)
_____)

Case No. 36-07703 -0001

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

RESPONSE TO OBJECTION

Petitioner,)

vs.)

36-07703 -0001/
93-08-0397

The United States; the State)
of Idaho; and all Claimants to)
the use of water from the Snake)
River Basin Water System,)

Respondents.)
_____)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

2. Person who filed objection:

Name: US BUREAU OF RECLAMATION
Address: DEPT OF INTERIOR
1150 N CURTIS
BOISE ID 83706-1234

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
9. ☒ Place of Use: I respond to the objection concerning:
- 9a. ☒ The legal description of the place of use.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3, 3a., 9, 9a., and 10 and all allegations of the objection regarding these items, IDWR responds as follows:

IDWR lacks sufficient information to form a belief as to whether any or all of the lands upon which water is diverted, conveyed, or used pursuant to this right are owned by the United States. IDWR admits that if the place of use is reduced by the court, the quantity of water allocated to this water right should

likewise be reduced. IDWR denies the objection and all allegations of the objection not expressly admitted herein.

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

No. of
Pages

Notice of Claim No. A36-07703

4

(Over)

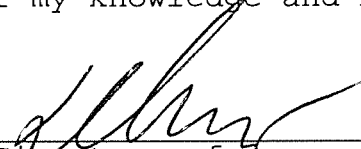
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

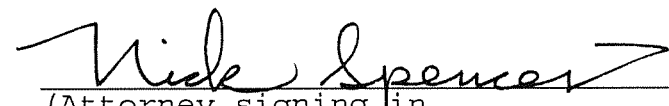
David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.



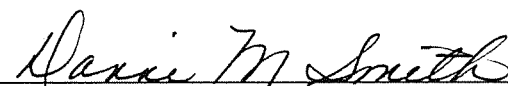
Signature of person filing response

By:



(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 23rd day of August,
1993.



Notary Public for Idaho

Residing at: _____

My Commission Expires _____

Danni Smith, Notary Public
Residing at Boise, Idaho
My Commission Expires December 5, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 24th day of AUGUST, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

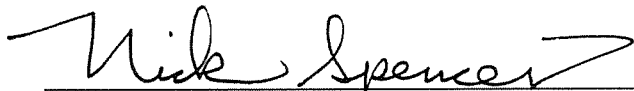
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the owner of the water right, and you must fill in the following information:

Name: DELBERT E & HARRIET WATERS
Address: 367 S 1900 E
JEROME ID 83338

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: US DEPT OF JUSTICE
Address: ENVT & NAT RESOURCES DIV
550 W FORT ST BOX 33
BOISE ID 83724



Signature of Respondent or attorney
mailing on Respondent's behalf

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: A36-07703
Date Received: 1/17/1990
Receipt No: S010982
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DELBERT E. WATERS 208-825-5274
Address: 367 S. 1900 E.
JEROME, ID 83338

OR
Name: HARRIET WATERS 208-825-5274
Address: 367 S. 1900 E.
JEROME, ID 83338

2. Date of Priority: MAY 10, 1977

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09S	20E	5	NW	NE	NW	3	JEROME

5. Description of diverting works:
WELL, PUMP, DITCHES & SPRINKLERS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.570		

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

8. Total consumptive use is 600.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
08S	20E	32	SW		SW		IRR	38.0
			SE		SW		IRR	19.0
			SW		SE		IRR	20.0
			SE		SE		IRR	2.0
						Section Acres		79.0
09S	20E	5	NE		NE	1	IRR	9.0
			NW		NE	2	IRR	38.0
			NE		NW	3	IRR	36.0
			NW		NW	4	IRR	38.0
						Section Acres		121.0
						Total Acres		200.0

11. Place of use in counties: JEROME

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: LICENSE

FEB 04 1993

16. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Helbert E. Walters Date: 1-17-1990

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 17th day
of January 19 90
Seal Steve C. [Signature]
Notary Public

Residing at Twin Falls
My Commission Expires Dec 7, 1994

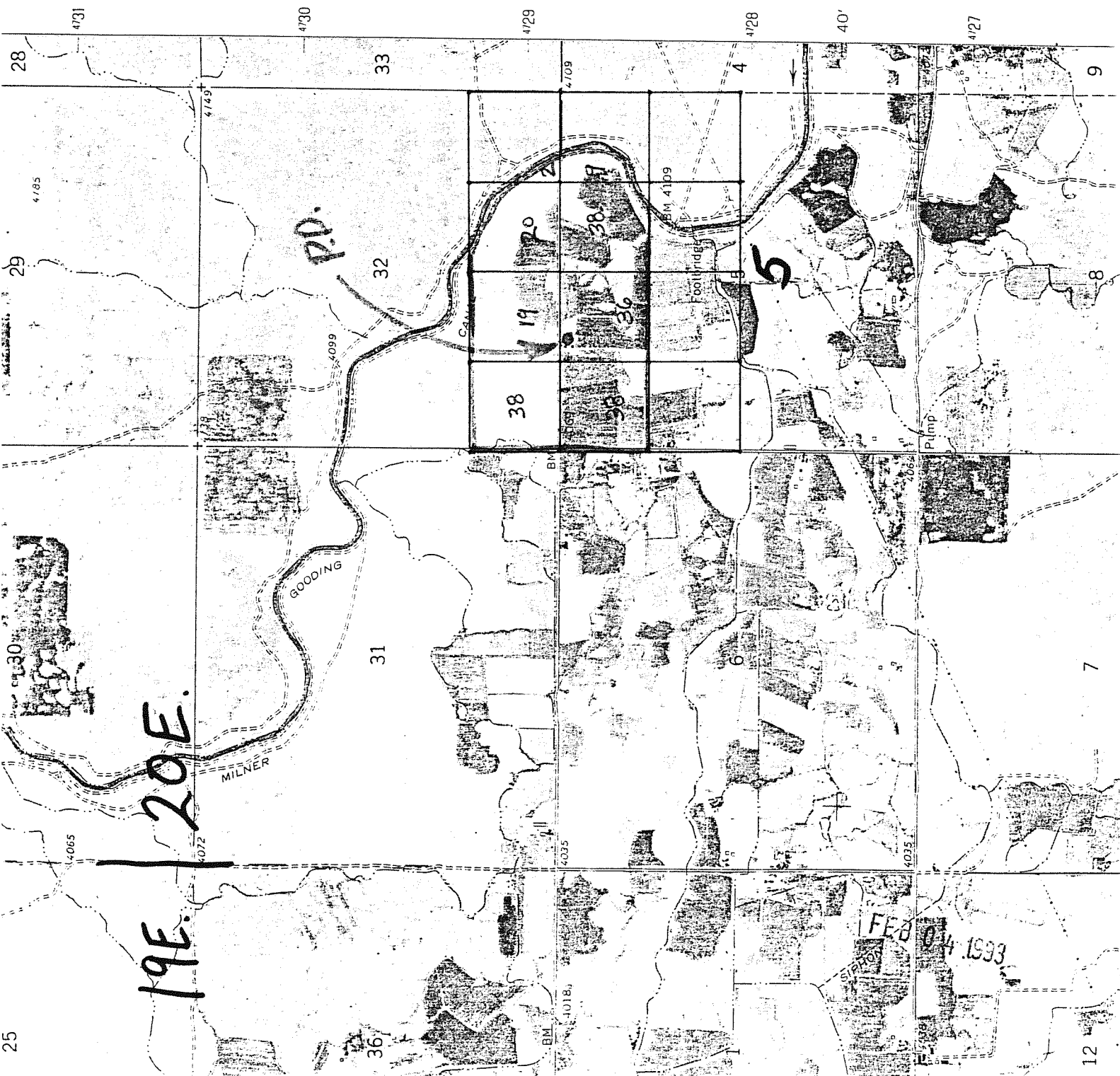
FEB 04 1993

19E. / 20E.

T8S

T9S

A36-07-703



1 John A. Rosholt
2 ROSHOLT ROBERTSON & TUCKER
3 P.O. Box 2139
4 Boise, Idaho 83701-2139
5 Telephone: (208) 336-0700

36-07703 -0001/
93-08-0398

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

12 In Re the General Adjudication)
13 of Rights to the Use of Water)
14 from the Snake River Basin)
15 Water System)

Case No. 36-07703-001

16 The State of Idaho, ex rel.)
17 R. Keith Higginson in his)
18 official capacity as Director)
19 of the Idaho Department of)
20 Water Resources,)

RESPONSE TO OBJECTION

Petitioner,

21 vs.)

22 The United States; the State)
23 of Idaho; and all Claimants to)
24 the use of water from the Snake)
25 River Basin Water System,)

Respondents.

26 INSTRUCTIONS

27 This form must be used to file a response to any objection filed against a
28 water right recommended in a Director's Report. You may respond to all objections filed

RESPONSE TO OBJECTION - 1

1 against one water right; using one response form. If you choose this option, your
2 response should cover every issue raised in the objections. To respond to objections filed
3 against more than one water right, you must file a separate response form for each water
4 right. Forms may be obtained from the Idaho Department of Water Resources (IDWR),
5 or you may copy or reproduce this blank form. If you do, the text must be on the front
6 and back of each page exactly as it appears here. The response must be received by the
7 court on or before the deadline specified in the Notice of Filing the Director's Report
8 that IDWR mailed to you. Follow the Instructions for Mailing this response (Page 5),
9 or the court will not accept it for filing.

10 This form has been adopted by the court in *SRBA Administrative Order 1*
11 (amended June 21, 1993), Section 4, which may be consulted for further information.

12 Any party filing 25 or more responses must make an appointment with the
13 Clerk of the SRBA Court.

14 By filing a response form, you are certifying that the response is well-
15 grounded in fact; is warranted by existing law or a good-faith argument for the extension,
16 modification or reversal of existing law; and is not filed for any improper purpose, such
17 as to harass, cause unnecessary delay or needlessly increase the cost of litigation.

18 I. GENERAL INFORMATION

19 Please fill in the following information:

20 1. *Party/Claimant responding to objection:*

21 Name: Delbert Waters

22 Address: 367 S. 1900 E.
Jerome, ID 83338

23 Phone: Home: 208-825-5274

24 Briefly describe your interest in this water right: _____

25 OWNER

26 If this response is *filed by an attorney*: _____

27 Attorney Name: John A. Rosholt

28 Attorney Address: Rosholt, Robertson & Tucker
P. O. Box 1906
Twin Falls, ID 83303

1 Attorney Phone No. 208-734-0700

2 If filed by an attorney, notice of pending court proceedings will be sent to the
3 attorney only.

4 2. *Party/Claimant who filed objection:*

5 Name: United States of America

6
7 Address: Bureau of Reclamation
8 U.S. Department of Interior
9 1150 North Curtis
Boise, Idaho 83706-1234

10 II. STATEMENT OF THE RESPONSE

11 Please check each "box" which identifies your response.

- 12 1. ☐ *Name and Address:* I respond to the objection concerning the name and/or
13 address of the owner of the water right.
- 14 2. ☐ *Source:* I respond to the objection concerning the source of water.
- 15 3. ☒ *Quantity:* I respond to the objection concerning:
16 a. ☒ the total quantity of water used in cubic feet per second; or
17 b. ☐ the total quantity of water stored in acre-feet per year; or
18 c. ☐ the total quantity of water reserved for each and every purpose, including
19 all present and future uses.
- 20 4. ☐ *Priority Date:* I respond to the objection concerning the priority date.
- 21 5. ☐ *Points of Diversion:* I respond to the objection concerning the legal description
22 of the point(s) of diversion.
- 23 6. ☐ *Instream Flow:* I respond to the objection concerning the legal description of
24 the beginning and ending points of the instream flow.
- 25 7. ☐ *Purpose(s) of Use:* I respond to the objection concerning the purpose(s) of use.
- 26 8. ☐ *Period of Year:* I respond to the objection concerning the period of year when
27 water is used or is necessary for the purpose stated.

- 1 9. ☒ *Place of Use*: I respond to the objection concerning:
2 a. ☒ the legal description of the place of use; or
3 b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
4
5 10. ☒ *Consumptive Use*: I respond to the objection concerning the annual volume of
6 consumptive use.
7
8 11. ☐ *Remarks*: I respond to the objection concerning the "remarks" listed with the
9 water right.
10
11 12. ☐ *Water Right Recommendation*: I respond to the objection concerning:
12 a. ☐ this water right being recommended at all; or
13 b. ☐ this water right not being recommended.
14
15 13. ☐ *Description of Reservation*: I respond to the objection concerning the legal
16 description of the reservation.
17
18 14. ☐ *Other*: I respond to the objection concerning:

14 REASONS SUPPORTING EACH BOX CHECKED

15 In the space following, you must state the reason(s), by number, for each box
16 checked. You may use additional pages if necessary.

17 Box 3: The quantity of water is not overstated.

18 Box 9: The legal description of the place of use should be changed to reflect the
19 deletion of 2 acres in the SESE Sec. 32, T.08S, R.20E.

20 Box 10: The annual volume of consumptive use is not overstated.

21 CHANGES TO THE DIRECTOR'S REPORT

22 Specifically describe how you want the Director's Report to be changed. You may use
23 additional pages if necessary.

24 The Director's Report should be changed by deleting from the place of use the
25 two (2) acres in SESE Sec. 32, T.08S, R.20E, but there should be no decrease
26 in water quantity, as Claimant currently operates with less than the standard
27 inch per acre of water.

Please note that you should attach copies of documents which support your response. Note on each document the "box number" it supports.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

Copy of Water Right License for Water Right No. 36-7703 (one page); supports Boxes 3, 9 and 10.

VERIFICATION (Must be Completed)

State of Idaho

County of Twin Falls

DELBERT WATERS, being first duly sworn, upon oath, deposes and says:
(Name of party/claimant filing response)

That I am the person or entity filing this response, (as listed on Page 2, Section 1, "Person responding to objection"), as defined by I.C. § 42-1401A(1) and (7), and I have read this response, know its contents and that the statements are true to the best of my knowledge and belief.

Delbert Waters
Signature of party/claimant filing response

By: _____
(Attorney signing in representative capacity)

Subscribed and sworn to before me on August 30, 1993
(Insert Date)

Sharon Lait Strickland
Notary Public for Idaho

Residing at: Boise

My commission expires: 12-17-97

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the Clerk of the Court.** You must also send a copy to all of the parties listed below in the Certificate of Mailing.

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of August, 1993, I mailed the original and copies of this response, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

Name: DELBERT WATERS
Address: 367 S. 1900 E.
JEROME, ID 83338

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: UNITED STATES OF AMERICA
Address: BUREAU OF RECLAMATION
U. S. DEPARTMENT OF INTERIOR
1150 NORTH CURTIS
BOISE, ID 83706-1234

4. One copy to:

Chief, Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

5. One copy to:

United States Department of Justice
Environmental and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

Delbert Waters
Signature of party/claimant or attorney

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 36-7703 Priority May 10, 1977 Amount 3.57 cfs

THIS IS TO CERTIFY, that Delbert Waters
of Jerome, Idaho, has complied with the terms and conditions of Permit
No. 36-7703 issued pursuant to Application for Permit dated May 10, 1977,
and has submitted proof to the Department of Water Resources on February 11, 1981,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 3.57 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>March 15</u> to <u>November 15</u>	at <u>3.57</u> cfs and	<u>800.0</u> acre feet
_____	from _____ to _____	at _____ cfs and	_____
_____	from _____ to _____	at _____ cfs and	_____

(both dates inclusive)

Subject, however, to the condition that no more than 3.57 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
800.0 acre feet per year, said waters to be diverted within the Government Lot 3(NE $\frac{1}{4}$ NW $\frac{1}{4}$),
Section 5, Twp. 9S, Rge. 20E in the County of Jerome

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
8S	20E	32											38	19			20	2	79
9S	20E	5	GL1	GL2			GL3	GL4											121
			9	38			36	38											

Total number of acres irrigated 200

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 9th day of March, 19 83.

Director