

10/03/2003

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

RIGHT NUMBER: 27-7451

NAME AND ADDRESS: STATE OF IDAHO - *Current*
DEPT OF LANDS
954 W JEFFERSON
PO BOX 83720
BOISE ID 83720-0050

P4 PRODUCTION LLC - *Lessee.*
PO BOX 816
SODA SPRINGS ID 83276

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.100 CFS
5.400 AFY

PRIORITY DATE: 01/06/1989

POINT OF DIVERSION:

T06S R43E S21 SWSE Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

INDUSTRIAL

1/01 12/31

0.080 CFS

4.8 AF.

DOMESTIC

1/01 12/31

0.020 CFS

1.6 AF.

PLACE OF USE: INDUSTRIAL Within CARIBOU County

T06S R43E S21 SWSE

DOMESTIC Within CARIBOU County

T06S R43E S21 SWSE

AFY ?

SCANNED

MAY 17 2006

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

Industrial use is for steam cleaning and washing mining equipment.
Domestic use is for an office.

EXP -

The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

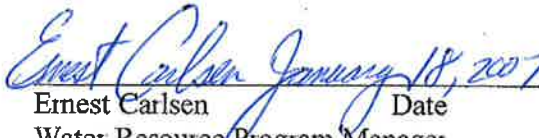
EXP -

The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

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: License

IDWR Concurrence:


Ernest Carlsen Date
Water Resource Program Manager

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on _____, 2007, I mailed the original and copies of this form, 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
IWIN FALLS, IDAHO 83303-2707

2. STATE OF IDAHO DEPT OF LANDS

Represented by:
DAVID J BARBER
PO BOX 44449
BOISE, ID 83711-4449

P4 PRODUCTION LLC
PO BOX 816
SODA SPRINGS, ID 83276

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form

10/03/2003

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:

Water right number: 27-7451

STATE OF IDAHO
DEPT OF LANDS
954 W JEFFERSON
PO BOX 83720
BOISE ID 83720-0050
Telephone Number: (208) 334-0200

P4 PRODUCTION LLC
PO BOX 816
SODA SPRINGS ID 83276
Telephone Number: (208) 547-4300

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: July 18, 2005

SIGNATURE: David W. Farnsworth for P4 Production LLC

Please print your name: David W. Farnsworth

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161



RECEIVED
JUL 25 2005
Department of Water Resources
Eastern Region

KMS
7/25

10/03/2003

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:

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STATE OF IDAHO
DEPT OF LANDS
954 W JEFFERSON
PO BOX 83720
BOISE ID 83720-0050
Telephone Number: (208) 334-0200

P4 PRODUCTION LLC
PO BOX 816
SODA SPRINGS ID 83276
Telephone Number: (208) 547-4300

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:

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

DATE: 6/1/05

SIGNATURE:

Robert M Brammer

Please print your name:

Robert M Brammer

Area Supervisor
Eastern Idaho Area
Idaho Dept of Lands

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

KW
6/9

State of Idaho
Department of Water Resources

RECEIVED

JAN 30 1997

Department of Water Resources
Eastern Region

WATER RIGHT LICENSE

WATER RIGHT NO. 27-07451

Priority: January 6, 1989

Maximum Diversion Rate:

0.10 CFS

Maximum Diversion Volume:

5.4 AF

This is to certify, that STATE OF IDAHO

DEPT OF LANDS

STATEHOUSE

BOISE ID 83720

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 5, 1989; and has submitted Proof of Beneficial Use on January 2, 1992. An examination indicates that the works have a diversion capacity of 0.230 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
INDUSTRIAL	01/01 to 12/31	0.08 CFS	4.8 AF
DOMESTIC	01/01 to 12/31	0.02 CFS	0.6 AF
Totals		0.10 CFS	5.4 AF

LOCATION OF POINT(S) OF DIVERSION:

SWSE, Sec. 21, Township 06S, Range 43E
CARIBOU County

PLACE OF USE: INDUSTRIAL

TWN RGE SEC

06S 43E 21 SWSE

PLACE OF USE:

DOMESTIC, same as INDUSTRIAL use

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

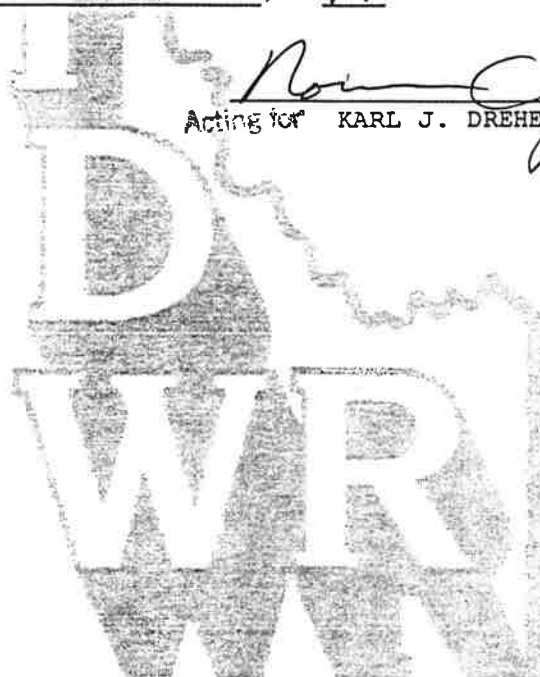
WATER RIGHT NO. 27-07451

CONDITIONS OF APPROVAL AND REMARKS

6. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
7. Industrial use is for steam cleaning and washing mine equipment.
8. Domestic use is for an office.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code, Witness the seal and signature of the Director, affixed at Boise, this 24TH day of JANUARY, 1997.


Acting for KARL J. DREHER, Director



OR SALE BY U.S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

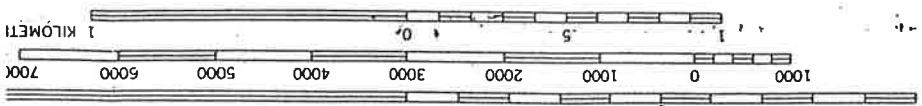
QUADRANGLE LOCATION



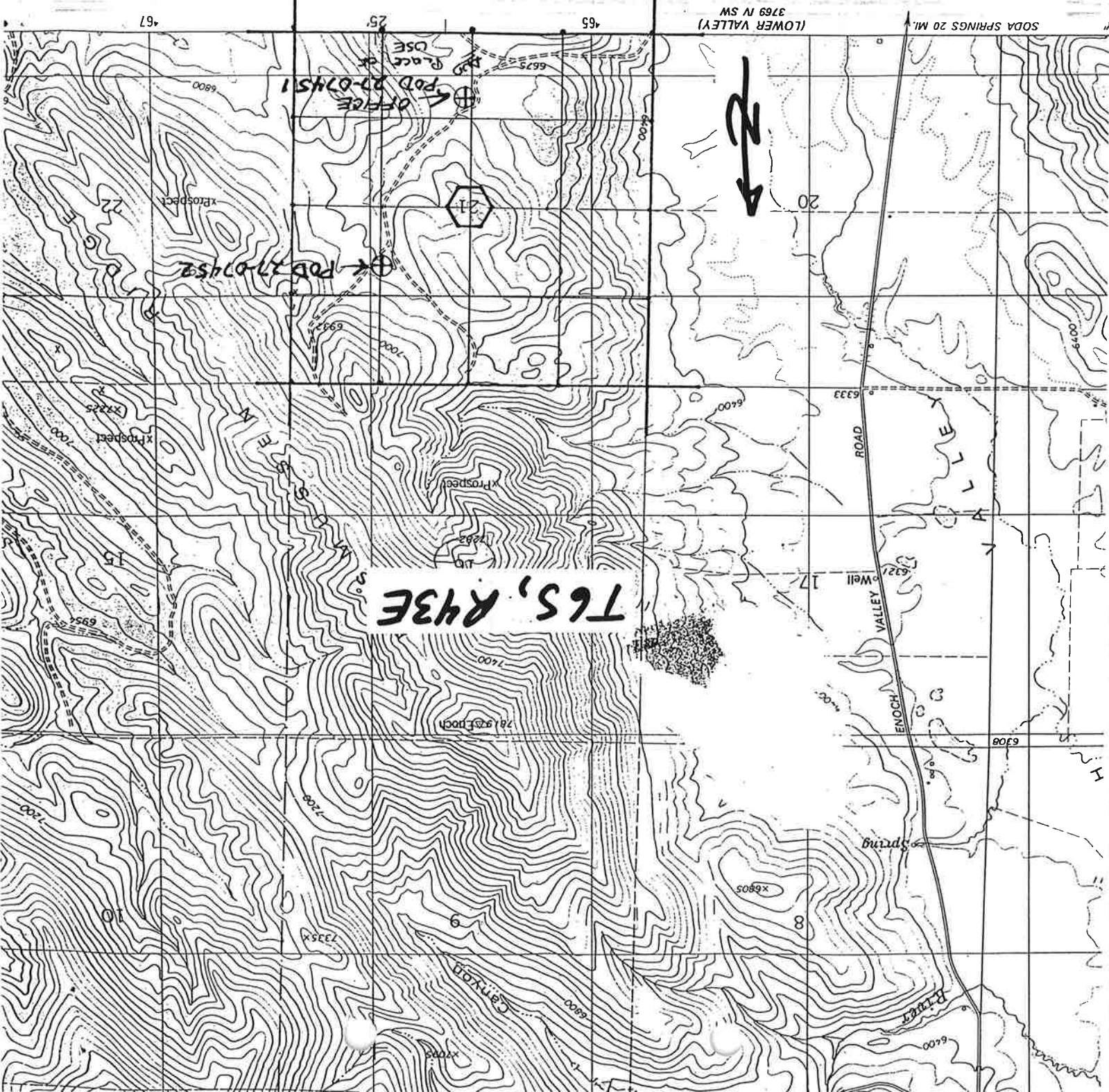
CONTOUR INTERVAL 40 FEET
DOTTED LINES REPRESENT 20-FOOT CONTOURS
NATIONAL GEODETIC VERTICAL DATUM OF 1929

Primary high
Secondary
hard surface
Inte

27-07451
27-07452



SCALE 1:24 000



F. FLOW CALCULATIONS

Measured Method:

$$Q = 0.23 \text{ CFS}$$

☒ Additional Computation Sheets Attached

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{\hspace{2cm}}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{\hspace{2cm}}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{\hspace{2cm}}$$

2. Volume Calculations for Other Uses:

DOMESTIC USE 0.02 CFS 0.6 AFA

INDUSTRIAL - ASSUME 0.08 CFS AT 2 HRS/DAY 365 DAYS/YR.

$$0.08 \times 448.8 = 35.904 \text{ GPH} \times 120 \text{ MIN} = 4,308.48 \text{ GPH} \times 365 = 1,572,595.20 \text{ GPY}$$
$$\underline{325,850 \text{ GLS/AF}}$$

H. RECOMMENDATIONS ^{*} PERMIT LIMITS TO 0.10 CFS = 4.8 AFA

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
INDUSTRIAL	1/1	12/31	0.08	4.8
DOMESTIC	1/1	12/31	0.02	0.6
Totals:			0.10 CFS	5.4 AFA

2. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

I. AUTHENTICATION

Field Examiner's Name SIMPkins Date 1/24/96

Reviewer [Signature] Date 2/16/96

SEAL

JUL 20 2001

STATE OF IDAHO

For Office Use Only

Amt. of Fee \$

Date

Receipt No.

Received by

DEPARTMENT OF WATER RESOURCES
PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 27-07451 Telephone No. 334-02002. Name(s) of Permit Holder(s): State of Idaho, Department of Lands3. Post Office Address: Statehouse Boise, ID 837204. Source of Water: Groundwatera. If ground water, well driller's name: Nelson Drilling Date drilled: 6/01/90b. Pump horsepower: 10 HP Pressure (psi): _____ Dynamic pumping level (ft.): 170 ft

5. Extent of Use:

Domestic _____ (No. of households) Irrigation _____ (No. of acres)

Stockwater _____ (No. and type of stock) Other Domestic use by commercialfirm at shop and office facilities (Monsanto Corp. Enoch Valley Mine)6. Total rate and/or volume for which proof is submitted 0.1 cfs _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? Yes ☒ No Installed? Yes ☐ No

OR

Flow Measurement Port: Required? Yes ☒ No Installed? Yes ☐ No8. Fee Enclosed: \$ 50.00 (See License Examination Fee Schedule)

9. Person to contact to accompany the Department representative during the field examination:

David W. Farnsworth, Monsanto Chemical Co.(208) 547-3391

Name

Telephone No.

P.O. Box 818 Soda Springs, ID 83276

Address

10. The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

Date

12/30/91Robert L. Brown Sr. Resource Mgr. -IDL
Signature (and title if on behalf of a company or organization)

NOV 20 1998

Department of Water Resources
Eastern Region

IDAHO DEPARTMENT OF LANDS

EASTERN IDAHO AREA
3563 Ririe Hwy., Idaho Falls, Idaho 83401
Phone (208) 525-7167 Fax (208) 525-7178
Text Phone (800) 377-3529STANLEY F. HAMILTON - DIRECTOR
November 18, 1998BOARD OF LAND
COMMISSIONERSPHILIP E. BATT
GovernorPETE T. CENARRUSA
Secretary of StateALAN G. LANCE
Attorney GeneralJ.D. WILLIAMS
State ControllerANNE C. FOX
Sup't of Public
InstructionHarold Jones
Idaho Department of Water Resources
900 North Skyline Drive
Idaho Falls ID 83402

RE: Water Right Draft Claims 27-07451 & 27-07452

Dear Harold:

This letter is concerning draft SRBA claims from Monsanto for water right No's 27-07451 and 27-07452. This department did not file claims for these wells under the adjudication process because it is our understanding we are not required to do so to maintain water rights to the wells.

If Monsanto believes it is in their interest to file claims for purposes of the adjudication this department would have no objections as long as the claims are filed in the name of the State of Idaho. If the claims are officially filed in the name of Monsanto, then this department would protest the filings. The protest would be based on 1) policy that requires water right filings on endowment lands to be in the name of Idaho Department of Lands and 2) a previous easement agreement between Monsanto and this agency regarding water right filings on these specific wells.

To briefly summarize, this department authorized Monsanto to drill the wells through Idaho Easement No 5353. Water right applications for the wells were originally filed in the name of Monsanto. On September 29, 1989 this department and Monsanto executed an agreement amending Easement 5353. The amendment provided that Monsanto Water Right Applications 27-07451 and 27-07452 would be transferred to the State of Idaho. Assignments to the state for these water right applications were completed on October 31, 1989. This department submitted Proof of Beneficial Use forms for the wells on December 31, 1991.

I have enclosed 1) a copy of the Amendment to Easement 5353, 2) a copy of the letter confirming completion of assignment of the water right applications to the state, and 3) copies of the "Proof of Beneficial Use" forms filed by this department for the wells.

If you need anything additional please call me at telephone 525-7167.

Sincerely,

James B. Wood
Resource Supervisor, RangeJBW/prs
Enclosures
c: Tracy Behrens
Don McNarie

AMENDMENT TO
STATE OF IDAHO
EASEMENT NO. 5353

THIS AMENDMENT is made this 29th day of September, 1989 by and between the STATE OF IDAHO, acting by and through the State Board of Land Commissioners (hereinafter State), and MONSANTO COMPANY, a Delaware Corporation (hereinafter Monsanto),

WITNESSETH

WHEREAS, State and Monsanto entered into that certain easement (State of Idaho Easement No. 5353) dated November 10, 1987 (hereinafter Easement) for the purpose of setting forth the terms and conditions under which Monsanto can mine phosphate deposits lying in and under a parcel of public school endowment land owned by the State, and

WHEREAS, the parties desire to amend the Easement to clarify the procedures for managing water rights on the property.

NOW, THEREFORE, State and Monsanto mutually agree to add the following terms to the Easement:

1. Water Right Application Permit No. 27-07451 and 27-07452 for appropriation of water from wells on the property included in the Easement have been filed in Monsanto's name and, upon execution of this Amendment, will be transferred to the State of Idaho.
2. In consideration of the mutual covenants herein contained, the State of Idaho grants to Monsanto the exclusive right to make use of all waters appropriated under said permits during the term of the Easement.
3. All necessary water right filing fees will be paid by Monsanto, and Monsanto will maintain the permits so long as it intends to make use of the same.
4. Upon completion of use of the wells by Monsanto, all pumping and associated equipment shall be removed and the well casings shall be left in place and shall be sealed with a welded cap. The State of Idaho will be solely responsible for such permits thereafter.
5. Upon relinquishment, abandonment, or cancellation of the Easement in accordance with the terms thereof, ownership of the wells will revert to the State.

Amendment to
State of Idaho Easement No. 5353
Page 2 of 3

IN WITNESS WHEREOF, the parties hereto have executed this Amendment
the day and year first above written.

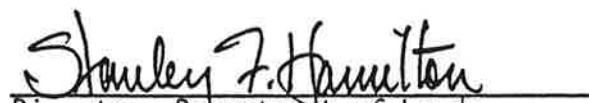
STATE BOARD OF LAND COMMISSIONERS

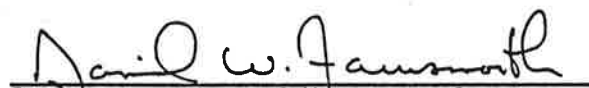

Governor of the State of Idaho
and President of the State Board
of Land Commissioners

Countersigned:


Secretary of State




Director, Department of Lands


Representative of Monsanto Company

Mining Superintendent
Title



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

1465
1427-7451

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

October 31, 1989

RE: Applications for Permits Nos. 27-7451 & 27-7452

David W. Farnsworth
Mining Superintendent
Monsanto Company
P.O. Box 816
Soda Springs, ID 83276

Dear Mr. Farnsworth:

This letter is to acknowledge receipt of the assignment forms assigning the above referenced applications to Idaho Department of Lands and to inform you that the protest submitted by the Idaho Department of Lands has been withdrawn. The Department has now resumed processing of the above referenced applications.

If you have any questions, please feel free to contact this office.

Very truly yours,

Harold W. Jones

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

Enclosure

cc: Patrick A. Brown
Resource Manager
Idaho Department of Lands

RECEIVED

NOV - 1 1989

Idaho Department of Lands
Idaho

SCANNED

Form No. 42-1409 (2) a 1/88 (Interne

JUL 20 2001

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A27-07451

Date Received

Receipt Number

E024732

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly State of Idaho
Department of Lands, by 208- 525-7167 (Dept. Lands
1. Name of Claimant (s) P4 Production, L.L.C. Phone (208) 547-4300 (P4)
Mailing Address Dept./Lands: Statehouse, Boise, Idaho 83720
P4: P.O. Box 816, Soda Springs, Idaho Zip 83276

2. Date of Priority (Only one (1) per claim) 01/06/1989

3. Source of water supply (a) Groundwater
which is tributary to (b)4. a. Location of existing point of diversion is: Township 06S Range 43E Section 21,
1/4 of SW 1/4 of SE 1/4, Govt. Lot, B.M., County of Caribou

Additional points of diversion if any:

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

Township Range Section, 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section, 1/4 of 1/4 of

1/4, Govt. Lot B.M., County of

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.

Well and pump.

A2707451



6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Industrial purposes from 01/01 to 12/31 amount 0.08 or _____

For Domestic purposes from 01/01 to 12/31 amount 0.02 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.10 (cfs) and/or (b) 5.40 (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

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

b. 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	
06S	43E	21															I, D		

Total number of acres irrigated _____

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

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

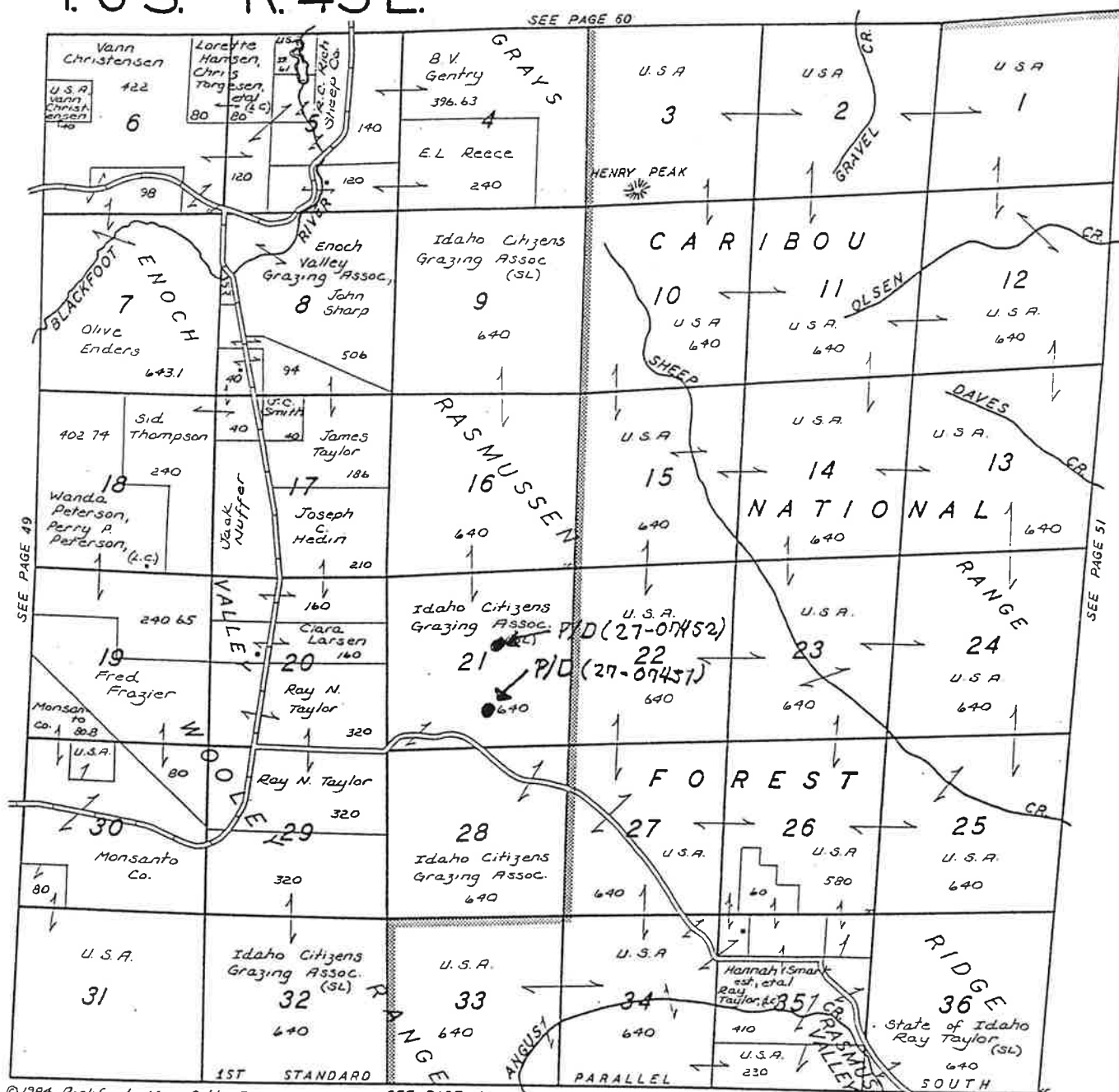
13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None ()

14. Remarks: Commonly known as Enoch Valley Well No. 1. State of Idaho Easement No. 5353 authorized Monsanto to drill wells in A27-07451 and A27-07452. On 9/29/8 Idaho Dept of Lands and Monsanto executed an agreement amending Easement 5353 and transferring those rights to the Idaho Dept of Lands which submitted Proc of Beneficial Use Forms on 12/31/1991. Pursuant to Id. Dept of Lands letter dated 11/18/98 (copy attached) this SRBA Claim is being submitted on behalf of Dept. of Lands by Monsanto's successor, P4 Production, LLC.

Last Name _____ Ident No. _____

T.6 S. - R. 43 E.

SEE PAGE 50



©1984 Rockford Map Pubs, Inc.

SEE PAGE 40

License Nos 27-07451, 27-07452

State of Idaho - Dept. of Lands

Scale: 2 inches equals 1 mile

[illegible]

Last Name _____ Ident No. _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____

Decree _____

If applicable provide IDWR Water Right Number 27-07451

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 _____

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

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am SUPERINTENDENT, MINERAL OPERATIONS

Title

of P4 Production, L.L.C., that I have signed the foregoing

Organization

document in the space below as Supt., Mineral Operations of P4 Production, L.L.C.

Title

Organization

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

Signature of Authorized Agent David W. Jansmith

Title and Organization _____ Date 12/10/98

State of Idaho/or Idaho)
County of Caribou) SS.

Subscribed and sworn (or affirmed) before me this 10th day of December 19 98

SEAL

Notary Public Mayrl. Bewley

Residing at Ada Springs

My Commission Expires 11/04/2002

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, Randall C. Budge 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 Randall C. Budge

Address P.O. Box 1391, Pocatello, Idaho 83204-1391

Date 1/6/99

Last Name _____ Ident. Number _____