

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)	
FOR TRANSFER NO. 83160)	
IN THE NAME OF JEFFREY)	REQUEST FOR BRIEFS
<u>AND CHANA DUFFIN)</u>	

On April 2, 2019, Jeffrey and Chana Duffin filed Application for Transfer 83160 with the Idaho Department of Water Resources (“Department”). A joint protest was filed by A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, Twin Falls Canal Company, American Falls Reservoir District #2 and Minidoka Irrigation District.

The Department conducted a pre-hearing conference on August 6, 2019 and a status conference on November 13, 2019. The parties determined that the contested case could proceed without an administrative hearing. On May 22, 2020, the parties filed a *Stipulated Statement of Facts* containing thirty-three enumerated paragraphs.

Rule 557 of the Department’s Rules of Procedure (IDAPA 37.01.01) states:

Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The agency may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The agency is not bound to adopt a stipulation of the parties, but may do so. If the agency rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation.

The hearing officer has reviewed the *Stipulated Statement of Facts* filed by the parties and finds that the facts are consistent with the documents contained in the Department’s water right records. In many instances, the *Stipulated Statement of Facts* includes a copied image of the underlying document. Therefore, the hearing officer adopts the *Stipulated Statement of Facts* into the evidentiary record for the pending contested case. The parties may rely on and refer to the stipulated facts as they prepare briefs.

Pursuant to Rule 602 of the Department’s Rules of Procedure, the hearing officer will take official notice of other documents and information in the Department’s water right records that may be relevant to the issues raised in the pending contested case. These documents are taken from the Department’s files for Application for Permit 35-9000, water right 37-2801 (and

its progeny rights) and water right 37-7295. Copies of the official notice documents have been provided to the parties in conjunction with this order.

Pursuant to Rule 564 of the Department's Rules of Procedure, a hearing officer may request briefs from the parties setting forth arguments and positions on any questions of law in a contested case. The hearing officer has determined that briefs would be helpful in deciding the pending contested case. Therefore, the parties may file briefs addressing the following question:

Given the *Stipulated Statement of Facts*, the documents from the Department's water right records identified by the hearing officer, and any relevant previous decisions of the Department and/or the Idaho courts, does Application 83160 satisfy the transfer review criteria set forth in Idaho Code § 42-222(1)?

Briefs shall be filed on or before July 17, 2020. Response briefs are not requested and will not be considered by the hearing officer.

Dated this 26th day of May 2020.

A handwritten signature in black ink, appearing to read 'J. Cefalo', written over a horizontal line.

James Cefalo
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of May 2020, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

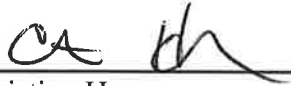
REQUEST FOR BRIEFS

JEFFREY AND CHANA DUFFIN
PO BOX 525
ABERDEEN, ID 83210

ROBERT HARRIS
HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS, ID 83405-0130

JONAS REAGAN
BARKER ROSHOLT & SIMPSON LLP
163 SECOND AVENUE WEST
PO BOX 63
TWIN FALLS, ID 83303-0063

KENT FLETCHER
FLETCHER LAW OFFICE
PO BOX 248
BURLEY, ID 83318



Christina Henman
Administrative Assistant

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 35 9000

To appropriate the public waters of the State of Idaho

1. Name of applicant Vern Duffin Phone 397-4100
Post office address 2142 S. 2800 W. Aberdeen Id. 83210
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot _____
Sec. 20 Township 6S Range 31E B.M. BONG HAM County; additional
points of diversion if any: NONE
4. Water will be used for the following purposes:
Amount .90 for IRR purposes from 4-1 to 10-31 (both dates inclusive)
(cfs or ~~acre-feet~~ per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) .90 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. 50HP tied into a bin.
brief mainline rises every 60 ft for 3 wheel lines
 - b. Height of storage dam N/A feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
 - c. ~~Proposed~~ well diameter is 16 inches; proposed depth of well is 120 feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? No
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
1 years (minimum 1 year).

Dr

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

9. 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 the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6S	31E	20			19	15				11									45

Total number of acres to be irrigated 45

10. Describe any other water rights used for the same purposes as described above. ~~At~~ ABERDEEN SPRING CANAL Co.

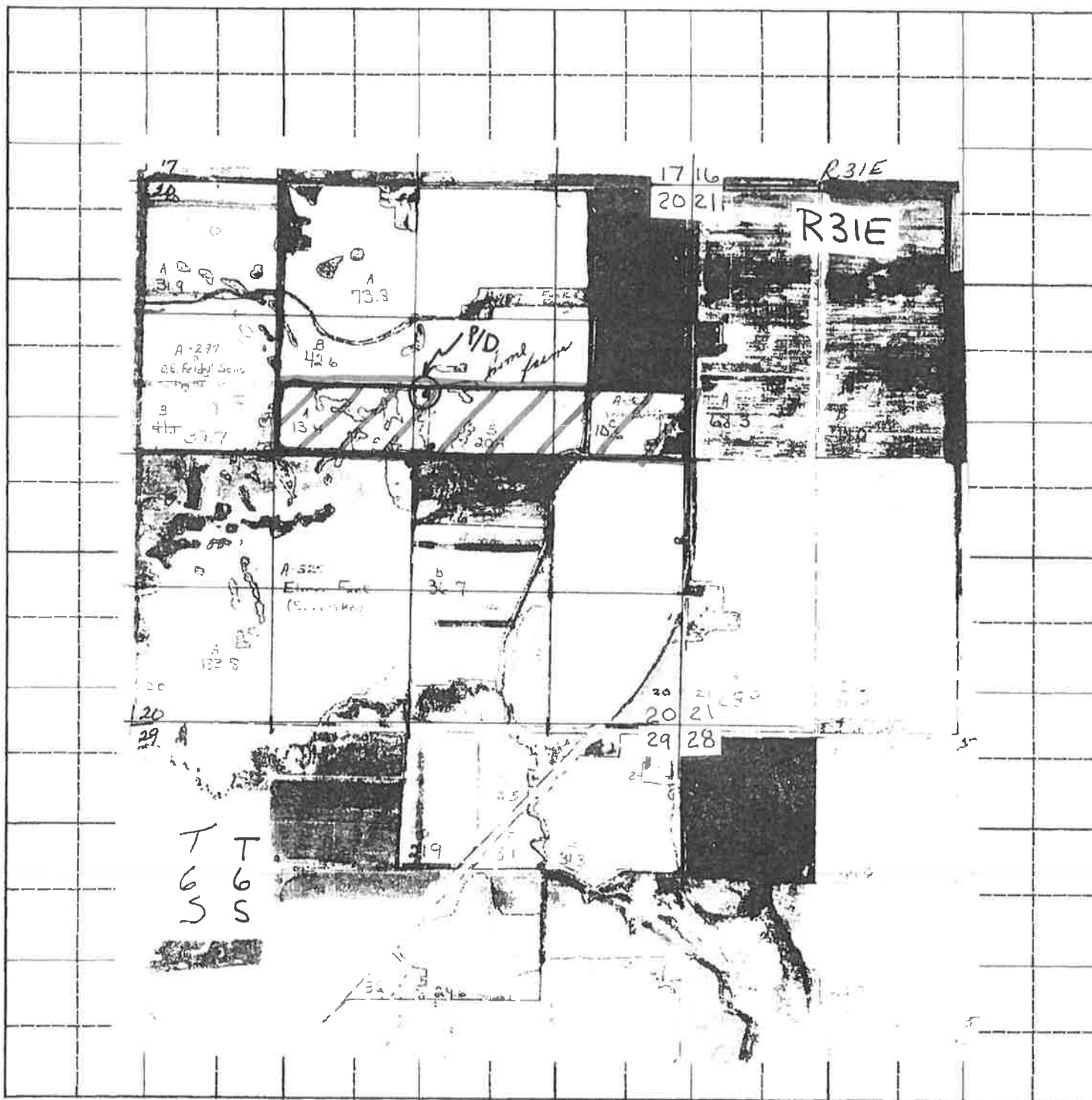
11. a. Who owns the property at the point of diversion? APPLICANT

b. Who owns the land to be irrigated or place of use? APPLICANT

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: This application is for an existing system

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



Scale: 2 inches equal 1 mile.

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

[Signature]
(Applicant)

Received by ADM Date 4-30-92 Time 1330 Preliminary check by Kaw
Fee \$ 55 \$ 45.00 Received by ADM # ED17221 Date 4-30-92
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other:

Page 1 of 7STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5116

APPLICATION FOR TRANSFER OF WATER RIGHT

JUN 16 1997

PART 1

RECEIVED

OCT 03 1997

Department of Water Resources

Name of Applicant

BARRON, CHARLES L.

Department of Water Resources

Phone

(208) 764-2443

Post Office address

P.O. Box 322, Fairfield, Idaho 83327

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes Want to use water on different land
Transfer all of water right to two separate parcels of land.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>37-02501(C)</u>	<u>8/9/1905</u>	<u>1.2 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>10/15</u>
<u>37-02501(D)</u>	<u>" " "</u>	<u>4.8 cfs</u>	<u>IRR</u>	<u>4/1</u> to <u>10/31</u>
				to _____
				to _____

2. Total amount of water being transferred 6.0 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Camas Creek tributary to Big Wood River

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
<u>(C)</u>	<u>NE</u>	<u>SW</u>	<u>SW</u>	<u>26</u>	<u>1N</u>	<u>12E</u>	<u>Camas</u>	<u>Chimney Creek</u>
<u>(D)</u>	<u>NE</u>	<u>SE</u>	<u>SW</u>	<u>9</u>	<u>6S</u>	<u>14E</u>	<u>Gooding</u>	<u>Mead</u>

5. Lands irrigated or place of use: *C Limited to 62.2 Acres within 320 described.

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	
<u>(C)</u>	<u>1N</u>	<u>12E</u>										<u>40</u>	<u>40</u>						<u>80</u>
		<u>35</u>			<u>40</u>		<u>40</u>	<u>40</u>	<u>40</u>	<u>40</u>					<u>40</u>				<u>240</u>
																			<u>320*</u>
<u>(D)</u>	<u>6S</u>	<u>14E</u>			<u>40</u>	<u>40</u>									<u>40</u>	<u>40</u>			<u>160</u>
		<u>9</u>						<u>40</u>			<u>40</u>		<u>8.8</u>						<u>88.8</u>
																			<u>248.8</u>

Total acres 311

PART 1

6. General Information:

a. Description of diversion system Coffer dam in Camas creek with centrifugal pump station

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

This land will be farmed as dry land

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____

Aug 23 1988

T# 5116

③ 87

WR0749NP
No. 37-02801BIDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORTDATE: 06/11/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ROCCO D. PERRY	08/09/1905	IRRIGATION	00/00 00/00	6.000 CFS	
TOTAL DIVERSION:					6.000 CFS	

Water Source: CAMAS CREEK

Tributary to: BIG WOOD RIVER

Stage: LICENSE

Point(s) of Diversion:	T01S R14E S30 S31	SWSE NWNE	CAMAS County CAMAS County
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Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE					
NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE		
T	R	S	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	: SUM	
01S	14E	30	:			38	40	:				:	40	36	40	37	: 231.0
01S	14E	31	:	40	40			:				:					: 80.0
															TOTAL ACRES	311.0	

Pou County: CAMAS

Remarks: PREVIOUS TRANSFER NOS. 232 & 302 CHANGED THE POINT OF DIVERSION
FOR THIS PORTION OF RIGHT 37-2801.

Dates:	App. Received:	Priority Date:	08/09/1905
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:	07/20/1909	

Misc:	Water District Number:	37	Field Exam Fee:
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Audit:	05/07/90 CURTIS
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Entire Rt. Transferred to 2 new parcels of land.

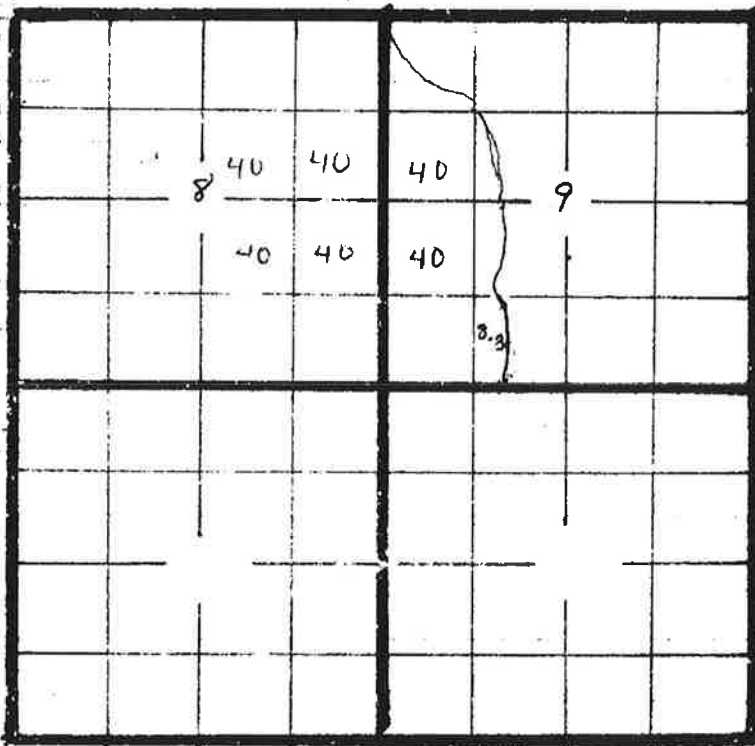
AUG 08 1997

7#5116- (4) of 7

Molad

P.D. NWSESW Sec. 9

R 14E T 6S



08005-

AUG 3 1908

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3**

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

(See Attached Maps)

T129

30 29

31 32

T18

8
40.6

9
43.7

11
51

12
38.7

AUG 03 1982

OX CANY

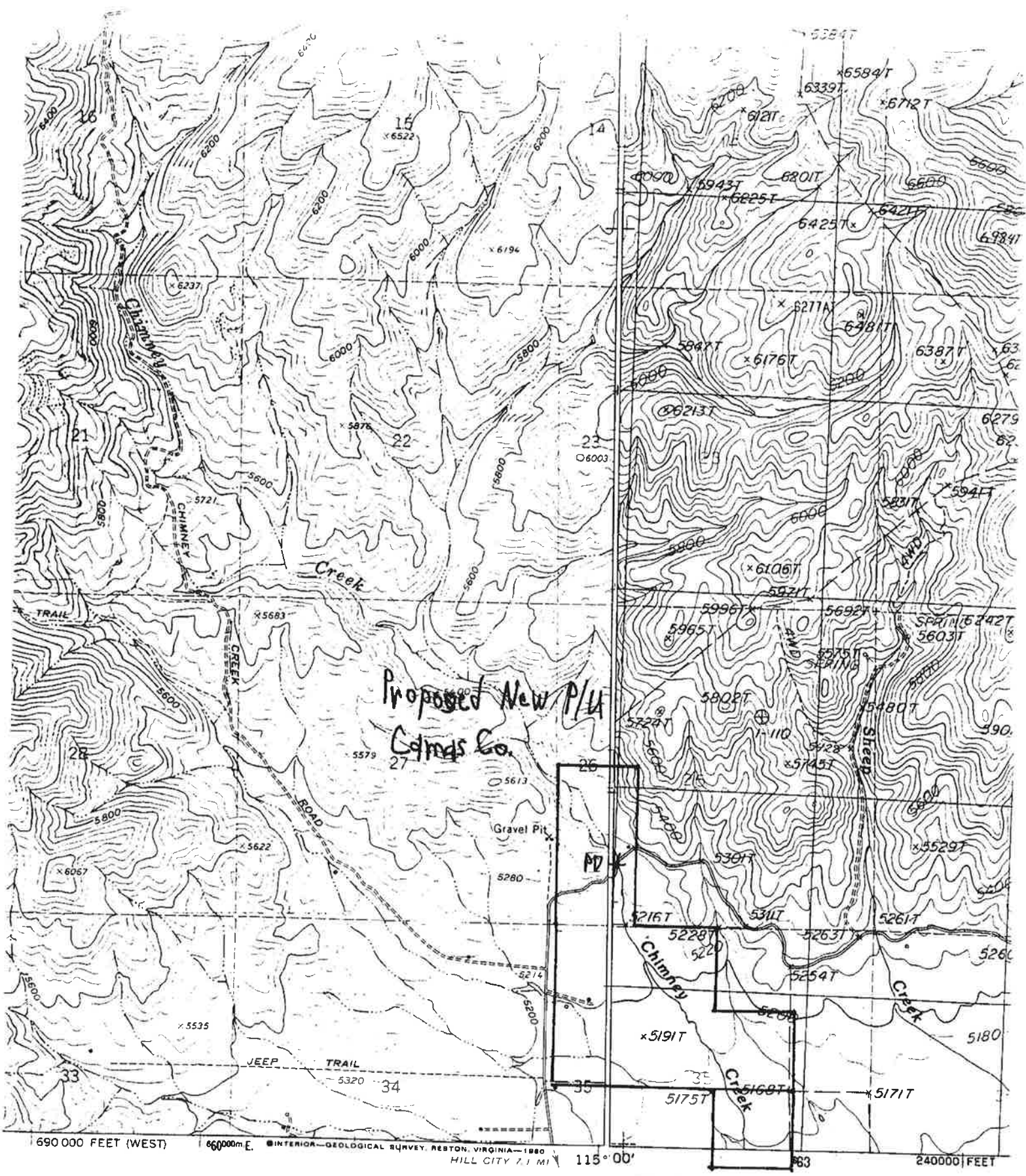
12.8

98

157

214

T# 5116

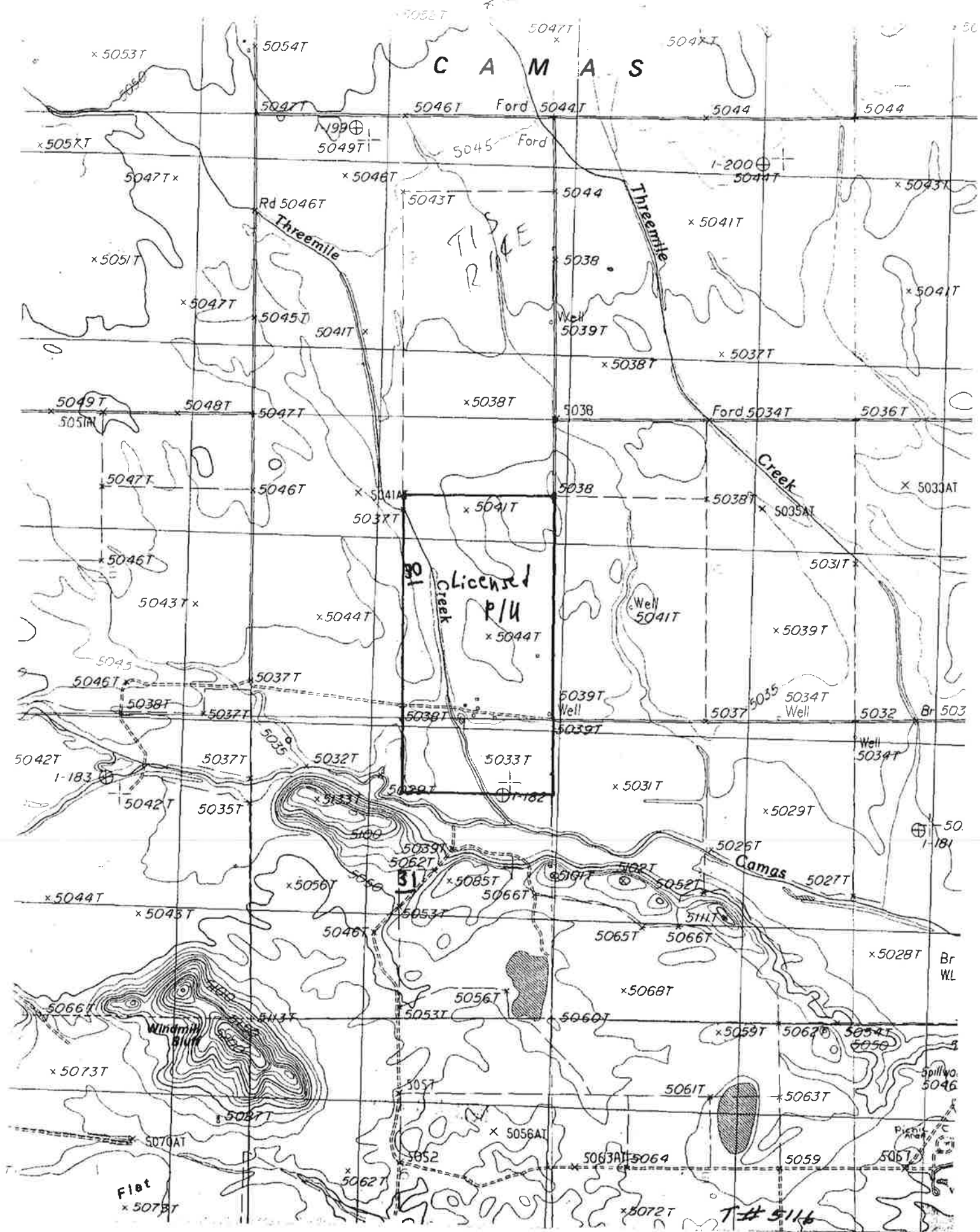


Proposed New P/U
Camps Co.

ROAD CLASSIFICATION
Light-duty ————— Unimproved dirt - - - - -

T#5116

PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY
CONTROL BY USGS, NOS.
COMPILED FROM AERIAL PHOTOGRAPHS TAKEN
FIELD CHECKED 1981 MAP EDITED
PROJECTION TRANSVERSE MERCATOR
GRID: 1000-METER UNIVERSAL TRANSVERSE MERCATOR
10,000-FOOT STATE GRID TICKS IDAHO, CENTRAL
UTM GRID DECLINATION 1°25'
1986 MAGNETIC NORTH DECLINATION 16°30'
VERTICAL DATUM NATIONAL GEODETIC VERTICAL DATUM
HORIZONTAL DATUM 1927 NORTH AMERICAN



PART 3**8. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Charles Lee Benson

(Signature of Applicant)

Subscribed and sworn to before me this 11th day of June, 19 97.

Danni M. Smith

(Notary Public)

My commission expires 12/5/2002

FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and 9 attachments

Received by MB Date 6-16-97 Protest filed by None

Prelim. check by JS Fee \$110.02 1039191

Receipted by DS Date 6-11-97

Published in The Canyon Courier & Gooding Co. Leader Copies of protest forwarded by _____

Pub. dates 8/20 & 8/27/97 Hearing held by _____ Date _____

Watermaster recommendation requested on 8/6/97 Recommended for ☐ approval ☒ denial

_____ rec'd. 8/13/97 by AD

Copy of transfer sent to lien holder _____

RECEIVED

JUN 16 1997

Department of Water Resource
Southern Region

QUITCLAIM DEED

For Value Received, Raymond Sabala
of 980 1st View Dr. Twin Falls ID.
does hereby convey, release, remise, and forever quitclaim all right
title and interest now owned or hereafter acquired by Lynn Stevenson,
PO Box 100, Fairfield, Idaho 83327, in that water right located in
Camas County, more particularly described as follows:
That portion of water right 37-2801, with a priority of August 9,
1905 for 6.0 cubic feet per second issued to Relf Bledsoe and Lucy
Nelson under water license # 1485 for use from April 1 to October 15
for land presently farmed by Stevenson.
Subject to any reservations or exceptions, if any.

Signed:

Date:

Raymond Sabala

May 7, 1997

3001 (6/92) (Individual) First American Title Company

STATE OF IDAHO
COUNTY OF TWIN FALLS

On MAY 7, 1997

in and for said State, personally appeared
RAYMOND SABALA

personally known to me (or proved to me on the basis
of satisfactory evidence) to be the person(s) whose
name(s) is/are subscribed to the within instrument
and acknowledged to me that he/she/they executed
the same.

WITNESS my hand and official seal.

Signature Shelly L. Jansson
Residing at: TWIN FALLS
Commission Expires: 5-20-00



QUITCLAIM DEED

For Value Received, Lynn Stevenson, PO Box 100, Fairfield, Idaho 83327, does hereby convey, release, remise, and forever quitclaim all right title and interest now owned or hereafter acquired unto Charles Lee Barron, PO Box 322, Fairfield, Idaho 83327, in that water right located in Camas County, Idaho more particularly described as follows:

That portion of water right 37-2801 , with a priority of August 9, 1905 for 6.0 cubic feet per second issued to Relf Bledsoe and Lucy Nelson under water license # 1485 for use from April 1 to October 15 for land presently farmed by Stevenson. Subject to any reservations or exceptions, if any.

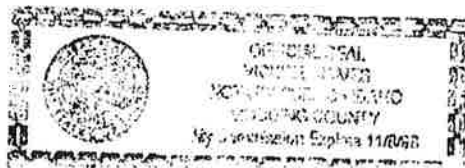
Signed:

Date:

Lynn E. Stevenson

5-7-97

SUBSCRIBED AND SWORN TO before me this 7th day of May, 1997.



Lillian Jones
Notary Public for Idaho

Recorded at the Request of

Lee Barron

at 8:55 A.M.

5-8, 1997

In Book 30

of Deeds Page 406

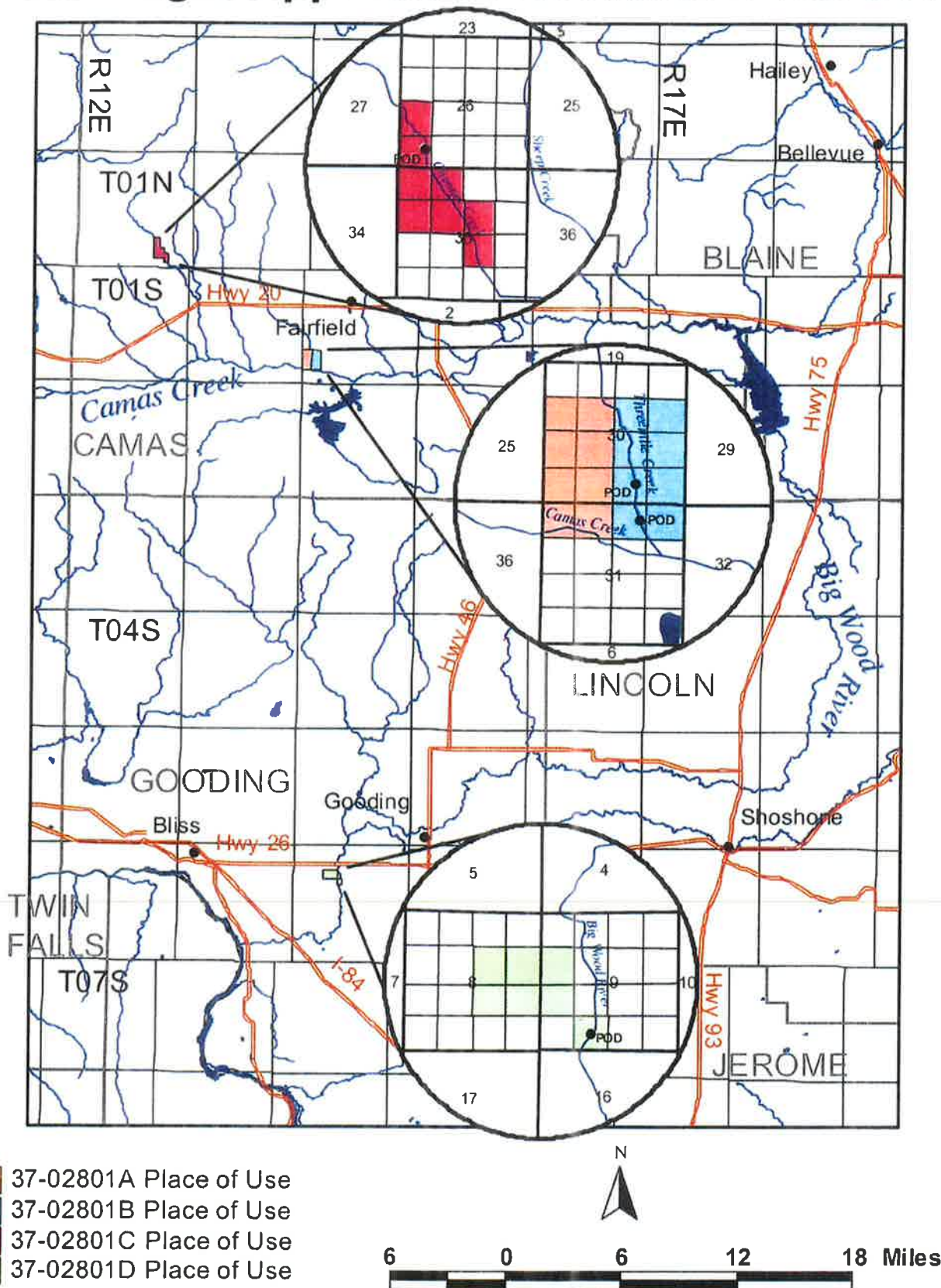
ROLLIE BENNETT
CAMAS COUNTY RECORDER

By Korei Bledgett

Fees \$ 3.00

70901

Water Right Application for Transfer No. 5116



AFFIDAVIT of PUBLICATION

RECEIVED

State of Idaho }
County of Gooding } ss.

AUG 28 1997

Department of Water Resources
Southern Region

Patty Nance, being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the

28 day of Aug, 1997.

and the date of the last publication was on the 27 day of

Aug, 1997.

Patty Nance

Subscribed and sworn to before me this 27th day of

August, 1997.

(SEAL)

Dorine De Voe

NOTARY PUBLIC

6587/15718
GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 28

Lines tabular at 41.24 7¢/Pica

Lines straight at 41.24 6¢/Pica

Subsequent lines at 44.34 5¢/Pica

TOTAL COST 77.80

COPY OF NOTICE

(Paste Here)

Chg. Barron
TITLE OF NOTICE 37-02801B

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. Water Res.
BILL TO

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

No. T# 5116

Notice is hereby given that CHARLES L. BARRON, PO BOX 322; FAIRFIELD ID 83327 has applied to the Department of Water Resources for changes to a licensed water right.

The purpose of Transfer No. 5116 is to transfer all of the water right to two separate parcels of land.

PRESENTLY, Licensed Water Right No. 37-02801B (6.0 cfs) with a priority date of 08/09/1905 is diverted from Camas Creek tributary to Big Wood River within SW1/4SE1/4, S30, T01S, R14E; NW1/4NE1/4, S31, T01S, R14E; Camas County for irrigation of 311 acres within parts of Sections 30 & 31, T01S, R14E; Camas County.

PROPOSED CHANGES

Transfer No. 5116 proposes to divert 1.2 cfs of water from Chimney Creek within SW1/4SW1/4, S26, T01N, R12E; Camas County to irrigate 62.2 acres within a 320 acre permissible place of use within parts of Sections 26 & 35, T01N, R12E; Camas County.

This portion of the right will be designated as 37-02801C with a priority date of 08/09/1905. Transfer No. 5116 also proposes to divert 4.8 cfs of water from the Malad River within SE1/4SW1/4, S09, T06S, R14E; Gooding County to irrigate 248.8 acres within parts of Sections 8 & 9, T06S, R14E; Gooding County. This portion of the right will be designated as 37-02801D with a priority date of 08/09/1905. Any protest against the proposed changes must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before September 8, 1997 to be considered by the Department in its decision to grant or deny any part of the proposed change. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director
Published in The Camas Courier & Gooding County Leader on 8/20 & 8/27/97.

AUG 03 1998

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 5116 IN THE NAME OF)
CHARLES L. BARRON)
_____)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department), the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On July 20, 1905, a predecessor agency of the department issued license no. 37-02801 to Relf J. Bledsoe and Lucy M. Nelson as follows:

Source:	Camas or Malad Creek
Priority:	August 9, 1909
Rate of div:	12 cubic feet per second
Point of div:	SE1/4NE1/4 Section 34, T1S, R13E, B.M.
Use:	Irrigation
Place of use:	S1/2N1/2, SW1/4, SE1/4 Section 30, N1/2N1/2 Section 31, all in T1S, R14E, B.M.

2. On October 3, 1956, the department issued transfer no. 232 as follows:

Ident. No:	37-02801B
Source:	Camas or Malad Creek
Priority:	August 9, 1905
Rate of div:	6.0 cfs
Point of div:	SW1/4SE1/4 Section 30, T1S, R14E, B.M.
Use:	Irrigation
Place of use:	S1/2NE1/4, SE1/4 Section 30, N1/2NE1/4 Section 31, T1S, R14E, B.M.

3. On March 5, 1968, the department issued transfer no. 302 as follows:

Ident. No:	37-02801B
Source:	Camas or Malad Creek
Priority:	August 9, 1905

Rate of div: 6.0 cfs
Point of div: SW1/4SE1/4 Section 30 and NW1/4NE1/4 Section 31, T1S, R14E, B.M.
Use: Irrigation
Place of use: S1/2NE1/4, SE1/4 Section 30, N1/2NE1/4 Section 31, T1S, R14E, B.M.

4. On June 16, 1997, Charles L. Barron ("applicant" or "Barron") filed Application for Transfer no. 5116 ("application") with the department proposing to change the point of diversion and place of use of the license as follows:

Ident. No: 37-02801C
Source: Chimney Creek
Priority: August 9, 1905
Rate of div: 1.2 cfs
Point of div: SW1/4SW1/4 Section 26, T1N, R12E, B.M., Camas County
Use: Irrigation of 62.2 acres within a 320 acre permissible place of use.
Place of use: W1/2SW1/4 Section 26, SW1/4NE1/4, NW1/4, NW1/4SE1/4 Section 35, T1N, R12E, B.M.

Ident. No: 37-02801D
Source: Malad River
Priority: August 9, 1905
Rate of div: 4.8 cfs
Point of div: SE1/4SW1/4 Section 9, T6S, R14E, B.M., Gooding County
Use: Irrigation of 248.8 acres
Place of use: S1/2NE1/4, N1/2SE1/4 Section 8, SW1/4NW1/4, NW1/4SW1/4 and SE1/4SW1/4 Section 9, T6S, R14E, B.M.

5. License no. 37-07295 authorizes the diversion of groundwater and is appurtenant to the same place of use as water right no. 37-02801B.

6. The proposed transfer of part C of license no. 37-02801 to Chimney Creek would change the place of use of 1.2 cfs of the right upgradient about 15 stream miles from the licensed place of use. The proposed transfer of part D of license no. 37-02801 would change the place of use of the remainder of the license (4.8 cfs) to a location downstream from Magic Reservoir approximately 80 river miles from the licensed place of use.

7. On December 18, 1997, January 9, 1998, April 1, 1998 and on May 12, 1998, the department corresponded with the applicant or his attorney seeking input relative to deficiencies on the application, ownership of the right sought to be transferred, enlargement of use and injury to other water users.

8. The watermaster of Water District No. 37 states that the right sought for transfer is a flood water right and without stringent regulation would be damaging to decreed water rights downstream.

9. The quitclaim deeds from Ray Sabala and from Lynn E. Stevenson to the applicant do not establish that the applicant owns the water right sought for transfer.

10. The applicant has not provided information which shows the actual extent of beneficial use historically made of the water right. In addition, the applicant has not provided a thorough description of past use of the water right.

11. The applicant has not provided information to show that the proposed changes would not injure other water rights.

12. The applicant has not provided information relative to availability of water at the proposed new points of diversion.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, provides in pertinent part as follows:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code; ...

2. The applicant has not shown that Camas Creek provides enough water during the mid-summer months to provide a reliable source of water for the proposed place of use of right no. 37-02801C on Chimney Creek or for the proposed place of use for right no. 37-02801D which is downstream from Magic Reservoir approximately 80 miles from the licensed place of use.

3. The applicant has not provided suitable information relative to past use of right no. 37-02801, non-injury to other water rights or to non-enlargement in use to allow the department to approve the application.

4. The proposed changes will injure other water rights.

5. The proposed changes will constitute an enlargement in use of the original right.

6. The application is not in the local public interest.
7. The department should not approve the application.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Application for Transfer no. 5116 in the name of Charles E. Barron is **DENIED**.

Dated this 28th day of October, 1998.



L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF MAILING

I DO HEREBY CERTIFY that on the 30th day of October, 1998, a true and correct copy of the foregoing **PRELIMINARY ORDER** was forwarded, by regular U.S. Mail, to the parties listed below:

Charles L Barron
PO Box 512
Fairfield ID 83327

C Tom Arkoosh
ARKOOSH LAW OFFICES
PO Box 32
301 Main St
Gooding ID 83330


JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 5116 IN THE NAME OF)
CHARLES L. BARRON)
_____)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department), the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On July 20, 1905, a predecessor agency of the department issued license no. 37-02801 to Relf J. Bledsoe and Lucy M. Nelson as follows:

Source: Camas or Malad Creek
Priority: August 9, 1909
Rate of div: 12 cubic feet per second
Point of div: SE1/4NE1/4 Section 34, T1S, R13E, B.M.
Use: Irrigation
Place of use: S1/2N1/2, SW1/4, SE1/4 Section 30,
N1/2N1/2 Section 31, all in T1S, R14E, B.M.

2. On October 3, 1956, the department issued transfer no. 232 as follows:

Ident. No: 37-02801B
Source: Camas or Malad Creek
Priority: August 9, 1905
Rate of div: 6.0 cfs
Point of div: SW1/4SE1/4 Section 30, T1S, R14E, B.M.
Use: Irrigation
Place of use: S1/2NE1/4, SE1/4 Section 30,
N1/2NE1/4 Section 31, T1S, R14E, B.M.

3. On March 5, 1968, the department issued transfer no. 302 as follows:

Ident. No: 37-02801B
Source: Camas or Malad Creek
Priority: August 9, 1905
Rate of div: 6.0 cfs
Point of div: SW1/4SE1/4 Section 30 and NW1/4NE1/4 Section 31, T1S, R14E, B.M.
Use: Irrigation
Place of use: S1/2NE1/4, SE1/4 Section 30,
N1/2NE1/4 Section 31, T1S, R14E, B.M.

4. On June 16, 1997, Charles L. Barron ("applicant" or "Barron") filed Application for Transfer no. 5116 ("application") with the department proposing to change the point of diversion and place of use of the license as follows:

Ident. No: 37-02801C
Source: Chimney Creek
Priority: August 9, 1905
Rate of div: 1.2 cfs
Point of div: SW1/4SW1/4 Section 26, T1N, R12E, B.M., Camas County
Use: Irrigation of 62.2 acres within a 320 acre permissible place of use.
Place of use: W1/2SW1/4 Section 26, SW1/4NE1/4, NW1/4, NW1/4SE1/4 Section 35, T1N, R12E, B.M.

Ident. No: 37-02801D
Source: Malad River
Priority: August 9, 1905
Rate of div: 4.8 cfs
Point of div: SE1/4SW1/4 Section 9, T6S, R14E, B.M., Gooding County
Use: Irrigation of 248.8 acres
Place of use: S1/2NE1/4, N1/2SE1/4 Section 8,
SW1/4NW1/4, NW1/4SW1/4 and SE1/4SW1/4 Section 9, T6S, R14E, B.M.

5. License no. 37-07295 authorizes the diversion of groundwater and is appurtenant to the same place of use as water right no. 37-02801B.

6. The proposed transfer of part C of license no. 37-02801 to Chimney Creek would change the place of use of 1.2 cfs of the right upgradient about 15 stream miles from the licensed place of use. The proposed transfer of part D of license no. 37-02801 would change the place of use of the remainder of the license (4.8 cfs) to a location downstream from Magic Reservoir approximately 80 river miles from the licensed place of use.

7. On December 18, 1997, January 9, 1998, April 1, 1998 and on May 12, 1998, the department corresponded with the applicant or his attorney seeking input relative to deficiencies on the application, ownership of the right sought to be transferred, enlargement of use and injury to other water users.

8. The watermaster of Water District No. 37 states that the right sought for transfer is a flood water right and without stringent regulation would be damaging to decreed water rights downstream.

9. The quitclaim deeds from Ray Sabala and from Lynn E. Stevenson to the applicant do not establish that the applicant owns the water right sought for transfer.

10. The applicant has not provided information which shows the actual extent of beneficial use historically made of the water right. In addition, the applicant has not provided a thorough description of past use of the water right.

11. The applicant has not provided information to show that the proposed changes would not injure other water rights.

12. The applicant has not provided information relative to availability of water at the proposed new points of diversion.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, provides in pertinent part as follows:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in

use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code; ...

2. The applicant has not shown that Camas Creek provides enough water during the mid-summer months to provide a reliable source of water for the proposed place of use of right no. 37-02801C on Chimney Creek or for the proposed place of use for right no. 37-02801D which is downstream from Magic Reservoir approximately 80 miles from the licensed place of use.

3. The applicant has not provided suitable information relative to past use of right no. 37-02801, non-injury to other water rights or to non-enlargement in use to allow the department to approve the application.

4. The proposed changes will injure other water rights.

5. The proposed changes will constitute an enlargement in use of the original right.

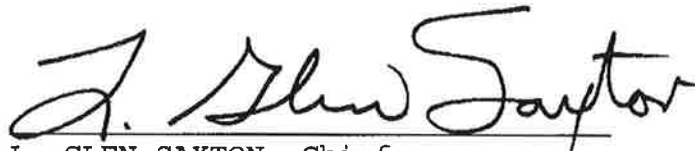
6. The application is not in the local public interest.

7. The department should not approve the application.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Application for Transfer no. 5116 in the name of Charles E. Barron is **DENIED**.

Dated this 15th day of June, 1998.



L. GLEN SAXTON, Chief
Water Allocation Bureau

Identification No. _____

Application No. 37-7295

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant Lynn E. Stevenson
post office address Box 54, Fairfield, Idaho 83327
2. Source of water supply Groundwater which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 30 Township 1S
Range 14E B.M. Camas County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 6 cfs for Irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 6 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Deep well pump and motor

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is 20 inches; proposed depth of well is 300 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
b. Estimated construction cost is \$ 12,000
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

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

37 7295

37 7295

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

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
1S	14E	30			40	40									40	40	40	40	240
		31	40	40															80

Total number of acres to be irrigated 320

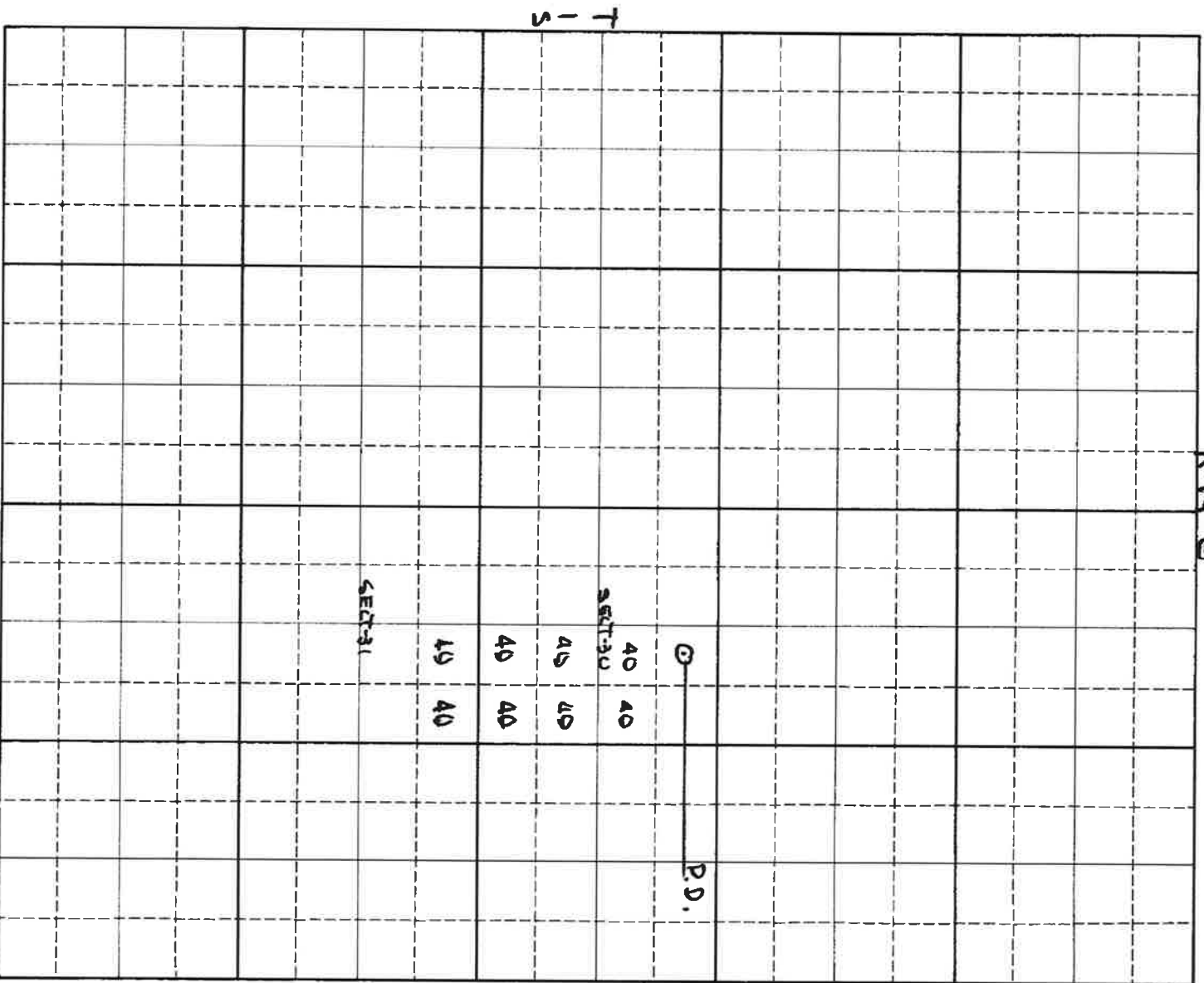
c. Describe any other water rights used for the same purposes as described above.

9. a. Who owns the property at the point of diversion Applicantb. Who owns the land to be irrigated or place of use Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

10. Remarks

R-19-5



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

Byron J. Steinhilber

37 7295

Proposed Priority 10-10-1973

Received by ms Date 10-10-73 Time 2:30

Preliminary check by ms Fee \$ 75.00

Received by jmm Date 10-10-73 # 11667

Publication prepared by jmm Date 10-11-73

Published in Mountain Home News

Publication dates 10-18 & 10-25-73

Publication approved jmm Date 10-29-73

Priority reduced to _____ Reason _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by ms

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 37-7295, and said application is hereby APPROVED.

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 19 78.
- c. Other: A measuring device of a type approved by this department shall be permanently installed and maintained as part of the diverting works.

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

Witness my hand this 9th day of November 19 73.


Director

८

TOTAL ACREAGE 320

Permit No. 37-2295
Examination for 6/2

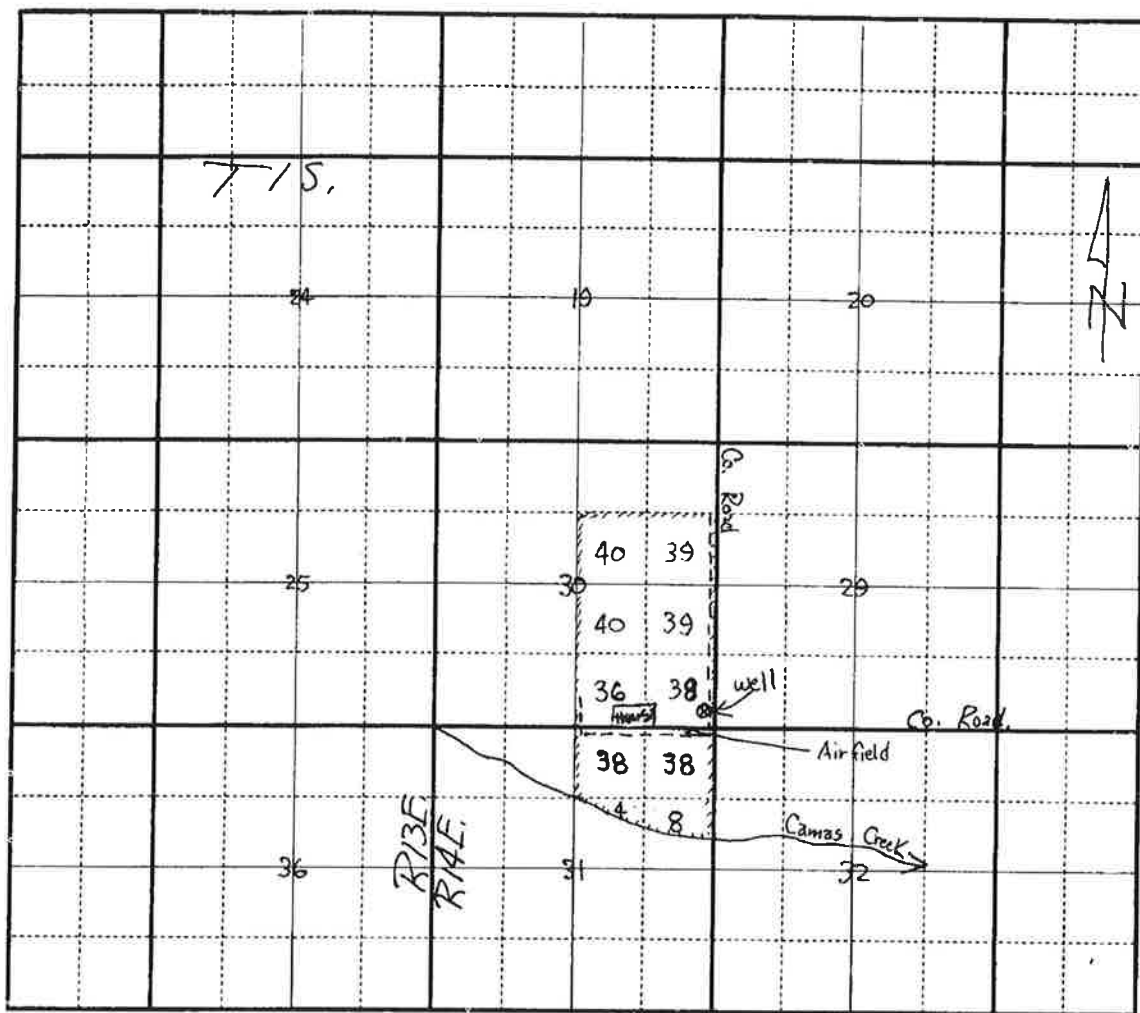


Diagram of System

DATE OF EXAM

7/19/79

ACREAGE

Found

320

Recommended

320

Irrigation Requirement

3.0

Ac Ft/Ac

USE

Irrigation Q = 3.78 c.f.s.

V = 960.0

AF/Ann. from

4-1

to

11-1

Domestic Q = c.f.s.

V =

AF/Ann. from

to

Livestock Q = c.f.s.

V =

AF/Ann. from

to

Is water co-mingled? yes

no ☒

Name source:

Twp. N/S, Rge

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Exchange? yes

no ☒

Name source exchanged with:

Twp. N/S, Rge

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Point of injection:

Twp. N/S, Rge

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Point of exchange:

Twp. N/S, Rge

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Total Q measured

3.78 cfs

Method of measurement

in-line meter

Total Q recommended

3.78 cfs

Meter No. 75-10-110

Type McGonmeter

Condition

Fair

Total V recommended

960 A.F./Ann.

Recommended Amendments:

P.D.

Place of Use

Add small increase in S/2NE 1/4 of Sec 31 T.15., R.14 E.

Other

None

MEASUREMENT CALCULATION:

$$Q_{meas.} = (0.015 \text{ A.F./173 sec.}) = 3.78 \text{ cfs} = Q_{rec.}$$

$$V_{rec.} = (320 \times 3.0) = 960 \text{ A.F./Ann.}$$

SYSTEM DESCRIPTION:

150 H.P. Westinghouse serial 7303 with Peerless Pump, no plate delivers to an alum. main line system. Three 1/2 mile wheel lines and three 1/4 mile hand lines and one 1/4 plus mile wheel line deliver water from the main line to the above described lands.

REMARKS:

Mr. Lynn Stevenson was present during the exam.

Examiner's Signature

John D. Merritt
J. E. Stanton

Date

8/1/79

Checked by

Date

8-2-79

Approved by

Date

Department of Water Resources

License of Water Right No. 37-7295 Priority November 7, 1973 Amount 3.78 cfs

of Bliss, Idaho, has complied with the terms and conditions of Permit No. 37-7295 issued pursuant to Application for Permit dated October 10, 1973, and has submitted proof to the Department of Water Resources on November 29, 1978, 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 3.78 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:

Subject, however, to the condition that no more than 3.78 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 960 acre feet per year, said waters to be diverted within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, Twp. 1S, Rge. 14E, B.M. in the County of Camas

[illegible]

Total number of acres irrigated 320

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 29 day of February, 19 80.

Director

MICROFILMED