



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

Ron Carlson
2460

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 26, 1991

RECEIVED

MAY - 1991

Mitchell D. Sorenson
Rt. 1 Box 63 C-1
Moore, Idaho 83255

Department of Water Resources
Eastern District Office

Dear Mitch:

Your letter of April 11, 1991 presents a series of questions to be answered either at the District 34 Water Resource Users Inc. meeting held that evening or by written response. There were not opportunities at the meeting to address these particular subjects so here's a written response. My paraphrase of your question proceeds each answer.

QUESTION 1. Why was the moratorium declared last August?

The moratorium formalized a de facto freeze on processing of applications seeking new consumptive uses in the basin that had existed since the early 1980's. The formal moratorium extended and clarified the processing freeze by including the entire basin and describing the types of uses that are exempt from the moratorium. The formal statement was needed to guide department staff as to which applications were to be held and to give assurance to water users that some pattern exists for department action.

You are aware from your own experience that applications for new development or transfers seeking to move water use from the thread of the valley are protested without fail. Available information has not been adequate to allow the department to issue approvals conditioned to protect existing surface and ground water users. The on-going studies are intended to provide this information to guide preparation of the director's report for recommending existing rights in the Snake River Basin Adjudication (SRBA) and for evaluating applications for new consumptive development. The moratorium allows pending applications to be held without loss of priority while the studies are being done.

Mitchell D. Sorenson
Page 2
April 26, 1991

QUESTION 2. When will the moratorium be lifted and will new permits be issued?

The lifting of the moratorium was referenced to the filing of the director's report because of the need to know how existing development will be treated before considering further development. The fate of future development depends upon the outcome of the studies and the policy directions taken by the department. It would be premature to speculate on what that policy might be. However, we have previously indicated that if potential ground water pumpers come forward with a scheme for expanded use of the resource while replacing water or mitigating effects on existing users, we would consider such proposals.

QUESTION 3. Will the director's report provide guidance for processing of new permits?

Not directly. The director's report is the department's recommendation to the court relative to the identification and quantification of existing rights. It will also include recommendations on the management of these existing rights. It will not include any decisions on applications for new water rights. However, because the department's policy toward new water rights will be consistent with that for existing rights, the director's report will help establish a basis for addressing new development. See previous response.

QUESTION 4. Are new appropriations considered to take "trust water?"

Yes. The legislation implementing the Swan Falls Agreement (Sections 42-203B,C,&D, Idaho Code) applied the trust water provisions to all pending applications and to approved but undeveloped permits unless the development was complete by June 30, 1985.

QUESTION 5. Will new development and existing development be given similar treatment in the director's report?

See the response to Question 3.

QUESTION 6. Will drought emergency wells be approved for Basin 34?

The news articles you are probably referring to were describing the expedited processing to allow replacement water supplies to be developed from ground water for those normally

Mitchell D. Sorenson
Page 3
April 26, 1991

having adequate surface supplies but deprived of those supplies by drought. IDWR was agreeing to expedite the issuance of a drilling permit while the water right application was being processed unless a protest was likely or the department has other information indicating that the water right permit would not be routinely processed and approved. The procedure was described as not being applicable to designated critical areas, ground water management areas, or moratorium areas. Because of the moratorium designation and the assurance that new filings cannot be routinely processed and approved without protest, the expedited processing is not applicable to Basin 34.

QUESTION 7. How will the on-going studies be used and when and how will the information be made available?

IDWR has used the \$50,000 legislative appropriation to enter into contracts with the US Geological Survey (USGS) and the Idaho Water Resources Research Institute (IWRRI). The USGS is doing a mass ground water level measurement survey, a pump test, and is preparing an estimate of current ground water pumpage. The information from these studies will be used to determine from which parts of the basin ground water withdrawals affect surface water flows and the aquifer properties necessary to estimate the extent and timing of pumping effects. The IWRRI is adapting the procedures available for quantifying depletions caused by pumping to provide a simplified procedure for use by those owning wells determined to affect surface flows and therefore included within the water district.

Each of these contracts provide for written reports to document the findings. These will be made available to the water users and general public. Information meetings will be held if needed. IDWR's response to this information will be integrated into the director's SRBA report for Basin 34. Water users will be provided an opportunity to review and comment on the report prior to IDWR filing it with the court.

QUESTIONS 8 and 9. How is IDWR going to bring all the available information together and translate it into a system of administration and what is the role of the local water users?

I understand your questions to relate to how IDWR will use the various studies to prepare a recommendation in the SRBA director's report and how the water users will participate in the process. IDWR has placed priority on the preparation of this report by expediting claims filing and review, entering into the

Mitchell D. Sorenson
Page 4
April 26, 1991

contracts described in the previous question, and devoting staff to technical and legal review of the issues to be addressed.

However, the report is only one part and IDWR only one participant in formulating and implementing a management system. It is extremely important that the decree of the court provide a sound basis for management of the water resources. A director's report that accurately identifies and quantifies all water rights and relates the use of these rights to the water resources of the basin will simplify the court's job. Obviously, the court will also receive input from water users and others concerned with management of the resource. Once a decree is issued, sound management will depend upon implementation by IDWR, Water District 34, Big Lost River Irrigation District, and the water users themselves, but management will be implemented. Another important part of the system of administration will be the policies and procedures for considering new water development.

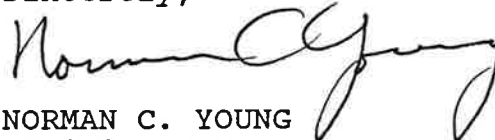
My point here is that the administrative system is made up of a continuing series of actions by the courts, IDWR, and the local entities. The support and commitment of the local water users will make implementation and maintenance of a system of water administration easier and less expensive and perhaps more effective.

QUESTION 10. When will IDWR say that it is not "immoral or illegal" to use water on the Era Flat?

IDWR has issued permits, licenses, and transfers authorizing the use of water on the Era Flats pursuant to state law. We have also issued cease and desist orders stopping uses that were not in compliance with the statutes. Thus, IDWR has been saying for many years that water can be used on the Era Flat in accordance with state law. Judgments on the morality of water use are not within the scope of duties of the department.

Thank you for inviting the department to your annual meeting. I enjoyed meeting with the group and felt that the program was informative.

Sincerely,



NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 3rd day of August, 1989 true and correct copies for the ORDER ISSUING PROPOSED DECISION and PROPOSED MEMORANDUM DECISION AND ORDER were mailed, postage prepaid to:

Michael Sorensen
Rt. 1 Box 63
Moore, ID 83255

Gerald Stewart
Box 59
Moore, ID 83255

Lewis Rothwell
Rt. 1 Box 405
Arco, ID 83213

Mrs. Jesse W. Jensen
Moore, ID 83255

Ned R. Walker
Arco, ID 83213

David Bleak, Lois Bleak
Chris Bleak
Rt. 1 Box 27
Moore, ID 83255

Larman D. Anderson
Moore, ID 83255

Jay F. Pearson
Rt. 1, Box 47
Moore, ID 83255

Virgil Hail
Box 454
Moore, ID 83255

Joe Smith
Rt. 1 Box 22
Moore, ID 83255

Ruben Babcock
Moore, ID 83255

Richard Taylor
Moore, ID 83255

Bill Haralson
Arco, ID 83213



RITA L. FLECK

Secretary/Records Manager

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

IN THE MATTER OF APPLICATION FOR	)	ORDER ISSUING
TRANSFER OF WATER RIGHT NO. 34-02428	)	PROPOSED MEMORANDUM
IN THE NAME OF MITCHELL SORENSEN	)	DECISION
	)	

R. Keith Higginson, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by this appointee, Bobby D. Fleenor, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 42-1701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,
2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and
3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

- A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.
- B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
TRANSFER OF WATER RIGHT NO. 34-02428

MITCHELL SORENSEN,

Applicant;

LARMAN D. ANDERSON, JAY F. PEARSON,
GERALD STEWART, VIRGIL HAIL, LEWIS
ROTHWELL, JOE SMITH, MRS. JESSE W.
JENSEN, NED R. WALKER & REUBEN BABCOCK,
BILL HARALSON, RICHARD TAYLOR, DAVID
BLEAK, LOIS M. BLEAK, AND CHRIS BLEAK;

Protestants.

Source: Groundwater

County: Butte

PROPOSED MEMORANDUM DECISION AND ORDER
DENYING APPLICATION FOR TRANSFER

BY HEARING OFFICER BOBBY D. FLEENOR

Mitchell Sorensen, (applicant) having filed with the Department of Water Resources (department) an application for transfer (application) of licensed water right No. 34-02428; protests having been raised and a hearing having been held, the department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On May 30, 1980, Mitchell Sorensen submitted an application for transfer to the department to change the place of use of 75.5 acres of the 192.5 acres licensed under right No. 34-02428. The application did not propose a change in the location of the point of diversion, however, the conveyance of the water to the proposed new place of use would be changed. Water diverted at the well in the SE1/4NE1/4, Section 5, Township 4 North, Range 26 East would be discharged into the Moore Canal, then into the old Utah Construction Canal, then pumped from the canal to sprinkle irrigate 75.5 acres in the W1/2SW1/4, Section 35, Township 4 North, Range 25 East.

2. Notice of the application was published in the Arco Advertiser on June 19 and 26, 1980.

3. Protests against approval of the application for transfer were received from Larman D. Anderson, Jay F. Pearson, Gerald Stewart, Virgil Hail, Lewis Rothwell, Joe Smith, Mrs. Jesse W. Jensen, Ned R. Walker, Reuben Babcock,

Richard Taylor, Bill Haralson, David Bleak, Lois Bleak, and Chris Bleak.

4. A conference/hearing on the proposed application for transfer was held in Arco on March 14, 1988. The applicant was present and represented himself. Protestants Ned Walker, David Bleak, Lois Bleak, Larman Anderson, Jay Pearson, Gerald Stewart, Virgil Hail, Lewis Rothwell, Joe Smith and Mrs. Jesse Jensen were present and represented themselves.

5. The protestants raised the following objections to the proposed transfer:

- (a) The change in place of use would constitute an enlargement of the supplemental groundwater right.
- (b) Groundwater pumping injures senior surface water rights by lowering the groundwater level.
- (c) The application conflict⁶ with the local public interest because water is being transferred to land outside of the boundaries of the Big Lost River Irrigation District.

6. License No. 34-02428 was issued for the diversion of 3.85 cubic feet per second from a well in the SE1/4NE1/4, Section 5, Township 4 North, Range 26 East for the irrigation of 192.5 acres located in the SE1/4NE1/4, E1/2SE1/4, Section 5, N1/2NW1/4, Section 9, Township 4 North, Range 26 East.

7. Department records for right No. 34-02428 show that the use of right No. 34-02428 has been to provide supplemental irrigation water to the 192.5 acres shown on the right.

8. The application proposes to change the place of use of 75.5 acres of right No. 34-02428 from the N1/2NW1/4, Section 9, Township 4 North, Range 26 East to the W1/2SW1/4, Section 35, Township 4 North, Range 25 East.

9. A portion of decreed water right No. 34-00692 is appurtenant to the N1/2NW1/4, Section 9, Township 4 North, Range 26 East. This right, numbered 446, in the case of Utah Construction Company vs. John F. Abbott et al, was decreed to a W. H. Sorensen for the diversion of water from the Big Lost River with a priority date of July 15, 1884.

10. There are no water rights appurtenant to the 75.5 acres in the W1/2SW1/4, Section 35, Township 4 North, Range 25 East which is proposed as the new place of use on the transfer.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, (para. 1) (1988 supplement) states in part:

. . . 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 in the local public interest as defined in Section 42-203A, Idaho Code.

2. The use of two water rights on the same property over an extended period of time establishes one as the primary right and the other as the supplemental or secondary right. An enlargement in use of the secondary right occurs when a supplemental right is transferred to land which does not have an existing (primary) right. Enlargement occurs since the secondary right becomes the primary right resulting in more water being diverted and consumptively used.

3. Under the proposed transfer, a portion of license No. 34-02428 would be changed from a supplemental or secondary right to a primary right. The total number of acres irrigated under rights 34-00692 and 34-02428 would be increased by 75.5 acres.

4. The increase in the number of acres irrigated and a change from secondary to a primary right constitutes an enlargement in use for a portion of right No. 34-02428.

5. The application for transfer should be denied.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Transfer of License No. 34-02428 is DENIED.

Dated this 1st day of AUGUST, 1989.


BOBBY D. FLEENOR
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 3rd day of August, 1989 true and correct copies for the ORDER ISSUING PROPOSED DECISION and PROPOSED MEMORANDUM DECISION AND ORDER were mailed, postage prepaid to:

Michael Sorensen
Rt. 1 Box 63
Moore, ID 83255

Gerald Stewart
Box 59
Moore, ID 83255

Lewis Rothwell
Rt. 1 Box 405
Arco, ID 83213

Mrs. Jesse W. Jensen
Moore, ID 83255

Ned R. Walker
Arco, ID 83213

David Bleak, Lois Bleak
Chris Bleak
Rt. 1 Box 27
Moore, ID 83255

Larman D. Anderson
Moore, ID 83255

Jay F. Pearson
Rt. 1, Box 47
Moore, ID 83255

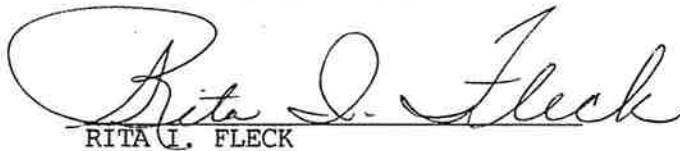
Virgil Hail
Box 454
Moore, ID 83255

Joe Smith
Rt. 1 Box 22
Moore, ID 83255

Ruben Babcock
Moore, ID 83255

Richard Taylor
Moore, ID 83255

Bill Haralson
Arco, ID 83213



RITA I. FLECK

Secretary/Records Manager

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED

DEC 21 1989

Department of Water Resources
Eastern District Office

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 34-2428 IN THE NAME)
ORDER TO OF MITCHELL SORENSEN)

CEASE AND DESIST

The Director of the Department of Water Resources (department), being charged with the duties of protecting vested water rights, enforcing specific statutes of the State of Idaho and the rules promulgated by the department, and being authorized to order the cessation of violations or attempted violations of the provisions of the law relating to all aspects of the appropriation and distribution of water, makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Mitchell Sorensen (applicant) has submitted the above captioned application for transfer proposing to change the place of use of the water right for the irrigation of land within the Big Lost River Drainage.

2. The Director of the department has not completed the processing of the application for transfer and has not authorized diversion and use of water as proposed in the application.

3. The applicant has used the water upon the land proposed as the new place of use on the application for transfer.

CONCLUSIONS OF LAW

1. Section 42-351, Idaho Code, provides as follows:

If the director of the department of water resources finds, on the basis of available information, that a person is diverting water from a natural watercourse or from a ground water source without having obtained a valid right to do so or is applying water not in conformance with the conditions of a valid water right, then the director of the department of water resources may file an action seeking injunctive relief or may issue an order directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or of any existing water right.

2. Section 42-108, Idaho Code, provides in part that:

... no person shall be authorized to change the period of use or nature of use, point of diversion or place of use of water unless he has first applied for and received approval of the department of water resources under the provisions of section 42-222, Idaho Code.

3. The unauthorized change in the place of use of the public waters of the state of Idaho must be stopped or mitigated to prevent injury to other water rights.

4. Section 42-352, Idaho Code, provides that:

Any person who wilfully violates any cease and desist order issued under chapter 3, title 42, Idaho Code, after the same has been served on that person shall be subject to a civil penalty to be imposed by the director of the department of water resources not to exceed one hundred dollars (\$100) per diversion for each calendar day or any part of a calendar day following service of the cease and desist order in which the illegal diversion or use of water occurs.

5. Illegal diversion from each well or illegal application of water constitutes a separate, individual diversion and if used without a valid water right constitutes a separate violation of Section 42-351, Idaho Code.

6. Issuance of a Cease and Desist Order by the Director is appropriate to assure that diversion and use of water does not occur as proposed in the above captioned application for transfer in violation of the provisions of Section 42-351, Idaho Code.

ORDER

IT IS HEREBY ORDERED, that the applicant CEASE AND DESIST the irrigation of all lands for which the right to irrigate does not exist until such approval is received from the Director for the irrigation of the lands.

DATED this 19th day of December, 1989.


R. KEITH HIGGINSON
Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

December 19, 1989

CERTIFIED MAIL

Mitchell Sorensen
Rt. 1 Box 63
Moore, ID 83255

RE: APPLICATION FOR TRANSFER NO. 34-2428

Mr. Sorensen,

Department files show that the above referenced application for transfer of water right have been protested and are pending in department files. The department has determined that a change in place of use has occurred even though the related application for transfer has not been approved. The department wants to advise you against using water under the application for transfer until either the application has been approved or a conditional approval has been issued by the department.

As you know, on October 3, 1989, the department conducted a conference with the owners of several water right applications and applications for transfer in the Big Lost River drainage who have proceeded with development even though their pending applications have not been approved. The purpose of the conference was to determine issues and to establish a schedule to conduct a hearing in connection with the contested matters. The hearing is tentatively scheduled in March 1990 in Arco, Idaho.

On October 12 and 19, 1989, the department published a legal notice in the Challis Messenger and in the Arco Advertiser to provide the opportunity to parties who wished to intervene in the matter of the protested applications and applications for transfer to petition the department in compliance with Practice and Procedure Rule 6. The department did not receive any requests for intervention.

Since completion of the administrative process in connection with the pending applications for transfer will be time consuming, the department is willing to consider granting a qualified approval for the use of water under the pending transfers as described below. Such qualified approvals are offered in the interest of allowing the applicants an opportunity to continue farming operations while the protested matters are being administratively considered.

Mr. Sorensen

-2-

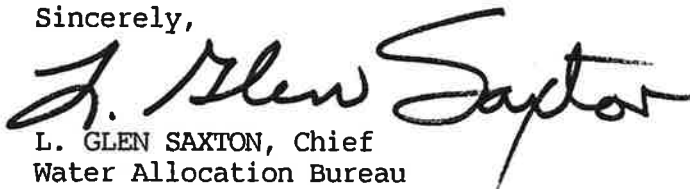
December 19, 1989

Applications for transfer deal with existing water rights as compared to applications for permit which seek to develop a new water right. The department can approve transfers provided among other considerations there is no enlargement in use.

The rights sought to be transferred have been used as "supplemental" or "secondary" rights and are now proposed as "primary" rights. Such a change in place of use can not be on an acre for acre basis, since the total amount of water diverted would be enlarged. If, however, the applicants can clearly show the volume of water originally pumped when the rights were used as supplemental sources, the department can consider granting a conditioned approval to allow the diversion of the same volume of water at the new place of use. Such an approval will require the installation of totalizing measuring devices by the applicants.

Please feel free to contact the department if you have questions.

Sincerely,

A handwritten signature in black ink, reading "L. Glen Saxton". The signature is fluid and cursive, with the first name "L." being small and the last name "Saxton" being larger and more prominent.

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: IDWR - E. Region
Kent Foster

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 34-2428 IN THE NAME)
ORDER TO OF MITCHELL SORENSEN)
_____)

CEASE AND DESIST

The Director of the Department of Water Resources (department), being charged with the duties of protecting vested water rights, enforcing specific statutes of the State of Idaho and the rules promulgated by the department, and being authorized to order the cessation of violations or attempted violations of the provisions of the law relating to all aspects of the appropriation and distribution of water, makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Mitchell Sorensen (applicant) has submitted the above captioned application for transfer proposing to change the place of use of the water right for the irrigation of land within the Big Lost River Drainage.
2. The Director of the department has not completed the processing of the application for transfer and has not authorized diversion and use of water as proposed in the application.
3. The applicant has used the water upon the land proposed as the new place of use on the application for transfer.

CONCLUSIONS OF LAW

1. Section 42-351, Idaho Code, provides as follows:

If the director of the department of water resources finds, on the basis of available information, that a person is diverting water from a natural watercourse or from a ground water source without having obtained a valid right to do so or is applying water not in conformance with the conditions of a valid water right, then the director of the department of water resources may file an action seeking injunctive relief or may issue an order directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or of any existing water right.

2. Section 42-108, Idaho Code, provides in part that:

... no person shall be authorized to change the period of use or nature of use, point of diversion or place of use of water unless he has first applied for and received approval of the department of water resources under the provisions of section 42-222, Idaho Code.

3. The unauthorized change in the place of use of the public waters of the state of Idaho must be stopped or mitigated to prevent injury to other water rights.

4. Section 42-352, Idaho Code, provides that:

Any person who wilfully violates any cease and desist order issued under chapter 3, title 42, Idaho Code, after the same has been served on that person shall be subject to a civil penalty to be imposed by the director of the department of water resources not to exceed one hundred dollars (\$100) per diversion for each calendar day or any part of a calendar day following service of the cease and desist order in which the illegal diversion or use of water occurs.

5. Illegal diversion from each well or illegal application of water constitutes a separate, individual diversion and if used without a valid water right constitutes a separate violation of Section 42-351, Idaho Code.

6. Issuance of a Cease and Desist Order by the Director is appropriate to assure that diversion and use of water does not occur as proposed in the above captioned application for transfer in violation of the provisions of Section 42-351, Idaho Code.

ORDER

IT IS HEREBY ORDERED, that the applicant CEASE AND DESIST the irrigation of all lands for which the right to irrigate does not exist until such approval is received from the Director for the irrigation of the lands.

DATED this 19th day of December, 1989.


R. KEITH HIGGINSON
Director

Transfer No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

Name of applicant Mitchell Sorensen Phone None
Post office address Rt. #1, Box 63 Moore, ID 83255

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
- a. Decree to _____
in case of _____ (Name) vs _____
dated _____ in _____ county of _____
(Name of court)
 - b. License No. 34-2428 issued by the Idaho Department of Water Resources
 - c. Claim No. _____ on file with the Idaho Department of Water Resources
2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____
3. Source of water Groundwater tributary to _____
4. Date of priority June 25, 1961
5. Water is used for the following purposes:
amount 3.85 for Irrigation purposes from April 1 to Nov. 1
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day – both dates inclusive)
6. Total amount of water under right: a. 3.85 cubic feet per second
b. _____ &/or acre feet per annum
7. Location of original point of diversion is SE ¼ of NE ¼ of Section 5
Township 4N Range 26E, B.M., in Butte County
Additional points of diversion, if any _____
8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	26E	5				39									39			39	117
		9						38											75.5

Total number of acres to be irrigated 192.5

9. Describe any other water rights used for the same purposes as described above groundwater permit
applied for

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County _____
Additional points _____

3. Place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Change in point of diversion
- a. Amount of water to be diverted 3.85 c.f.s. &/or _____ acre feet
- b. Point(s) of diversion SE ¼ NE ¼, Section 5 Township 4N
Range 26E, B.M., Butte County _____
Additional points _____
- c. Description of diverting works well and pump
- d. Describe the reasons for applying for a change in the point(s) of diversion property in
Sec. 9 was sold and water right withheld in sale (see copy of quit claim deed)

2. Change in place of use

- a. Describe the lands or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	26E	5				39									39			39	117
4N	25E	35									37.5	38							75.5

Total number of acres to be irrigated 192.5

4. Remarks _____

I hereby assert that no one will be injured by such change and 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.

William J. Brown
(Signature of applicant)

Subscribed and sworn to before me this 30 day of May, 19 80.

Kathleen A. Walker
(Notary public)

My commission expires 2/15/83

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 ____.

FOR DEPARTMENT USE ONLY

Received by EMC Date 5-30-80

Prelim. check by SM Fee 35.

Receipted by KW Date 5/30/80 # 14827

Published in Arco Advertiser

Pub. dates 6/19 & 6/26/80

Watermaster recommendation requested on _____

_____ rec'd. 6-27-80

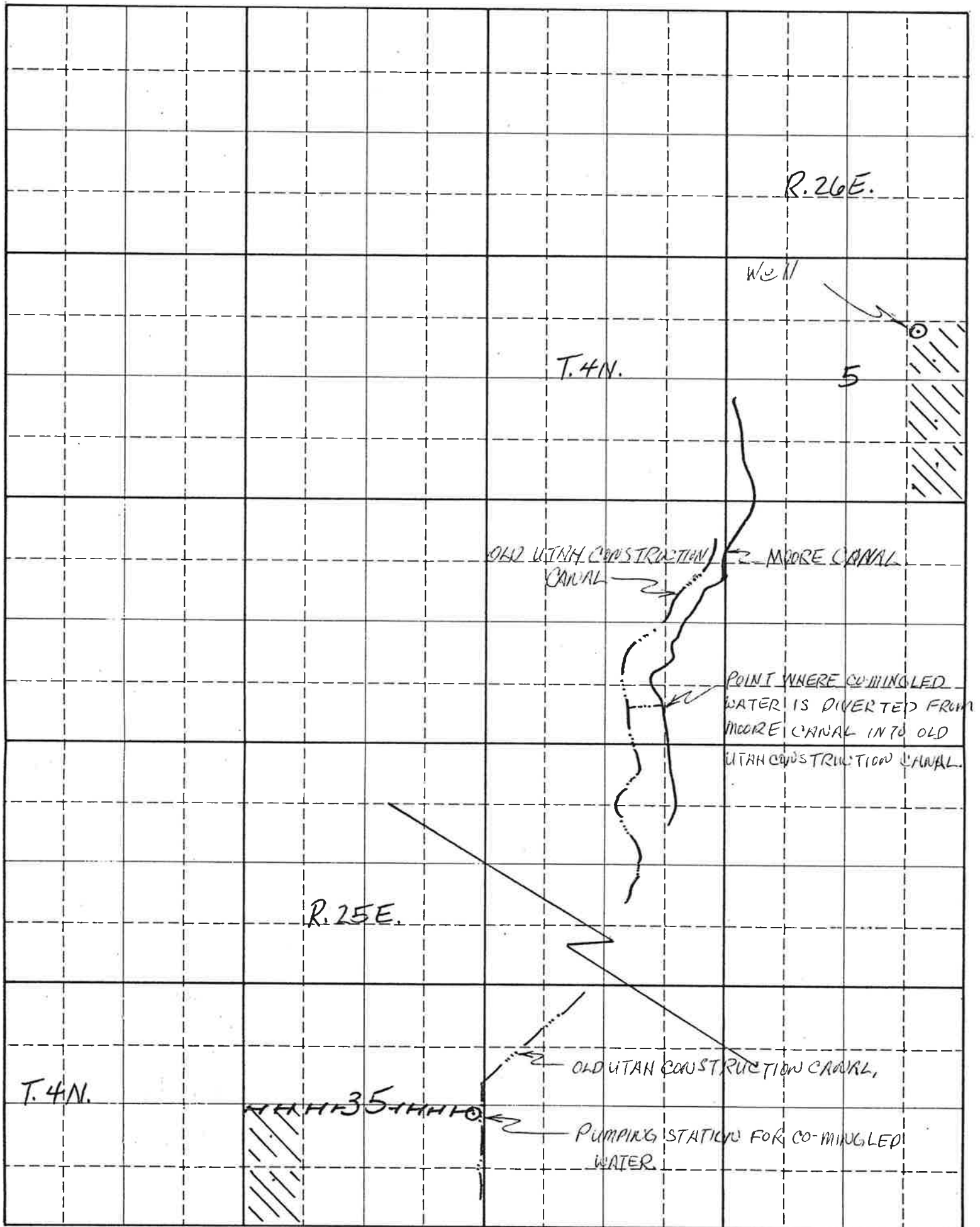
Protest filed by David B. Bleak
Harmon Anderson, Bill Anderson,
Richard Taylor, Crisp Pearson,
Richard Stevens, David Harris, Kenneth
James & Elizabeth Mason, Jim Gannon,
Michael Miller, Ken Berthelot, Bryant Lee
Copies of protest forwarded by ew

Hearing held by _____ Date _____

Recommended for _____ approval _____ denial

by _____

3. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

Affidavit of Publication

I, L. E. L. Cammack
of the Arco Advertiser, a weekly newspaper of
general circulation, published weekly at Arco,
Idaho, since March, 1909, do solemnly swear that
a copy of this notice, per clipping attached, was
published weekly in the regular and entire issue
of said newspaper, and not in any supplement
thereof,

for 2 consecutive weeks, commencing with
the issue dated 6-19-80
and ending with the issue dated 6-26-80

L. E. L. Cammack

Subscribed and sworn to before me this

1st day of July, 1980
G. C. Sa
Notary Public

Residence: Arco, Idaho.
My commission expires....., 19.....

PUBLIC NOTICE

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 34-2428

Notice is hereby given that
Mitchell Sorensen, Moore, Idaho,
has applied to the Department of
Water Resources for a change in
the place of use of the waters of
groundwater source. The right
sought to be changed is evidenced
by License No. 34-2428 and is
recorded as follows:

AMOUNT: 3.85 cfs
PRIORITY: June 25, 1961
POINT OF DIVERSION:
SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 5, T. 4N, R. 26E,
B.M., Butte Co.

The water is used to irrigate 192.5
acres from April 1 to Nov. 1 within
the SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 5;
N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 9; T. 4N, R. 26E,
B.M.

TO BE CHANGED AS FOLLOWS

The water will be used to irrigate
192.5 acres within the SE $\frac{1}{4}$ NE $\frac{1}{4}$,
E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 5, T. 4N, R. 26E;
W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 35, T. 4N, R. 25E,
B.M.

Any protest against approval of
the above proposed change of water
right must be filed with the Idaho
Department of Water Resources,
1515 Lincoln Road, Idaho Falls,
Idaho, 83401 on or before July 7,
1980.

C. STEPHEN ALLRED
Director

Published in the Arco Advertiser
6-19 & 6-26-80.

ok kw
7/21/80

RECEIVED

JUL 14 1980

Department of Water Resources
Eastern District Office

TL

THIS **INDENTURE** made this 11 day of June, 1979, between Ronald W. Sorensen, a single man,

of Moore, County of Butte, State of Idaho,
the party of the first part and Mitchell D. Sorensen and Elaine R. Sorensen,
husband and wife of Rte 1 Box 63, Moore,
County of Butte, State of Idaho, the party of the second part,

WITNESSETH, that the party of the first part, for and in consideration of the sum of Ten Dollars and No/100 Dollars

lawful money of the United States of America
to party of the first part in hand paid by the party of the second part, the receipt whereof is hereby acknowledged,
does by these presents remise, release and forever **QUITCLAIM**, unto the said party of the second part, and to
party of the second part's heirs and assigns, forever, all the following described ~~water right~~ **water right** situated in
County of Butte, State of Idaho, to-wit:

3.85 cfs of ground water under the State of Idaho
Water License No. 29837/34-2428 with a priority of
June 25, 1961. It is understood that the intent of
the conveyance is to convey all of Grantor's right,
title and interest in and to the water right under
said license and that the place of use of said water
will be transferred, but that the point of diversion
all rights to the use of said water right, including
access to the point of diversion presently owned by
Grantors.

TOGETHER, with all and singular the tenements, hereditaments and appurtenances thereunto belonging or
in anywise appertaining, and the reversion and reversions, remainder and remainders, and rents, issues and profits
thereof;

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances, unto the
said party of the second part, and to party of second part's heirs and assigns forever.

In construing this deed and where the context so requires, the singular includes the plural.
IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and
year first above written.

Ronald W. Sorensen
Ronald W. Sorensen

STATE OF IDAHO,

County of Butte
On this 11 day of June,
Ronald W. Sorensen, a Notary Public in and for said State, personally appeared
in the year 1979, before me



known to me to be the person whose name is
ment, and acknowledged to me that he executed the same.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.
Notary D. Meeker
Notary Public for the State of Idaho,
Residing at Butte, Idaho.

No. M 8090
QUITCLAIM DEED

(Form No. 301)

RONALD W. SORENSEN

TO

MITCHELL D. SORENSEN

ELAINE R. SORENSEN

Dated June 12, 1979.

STATE OF IDAHO,

County of Butte

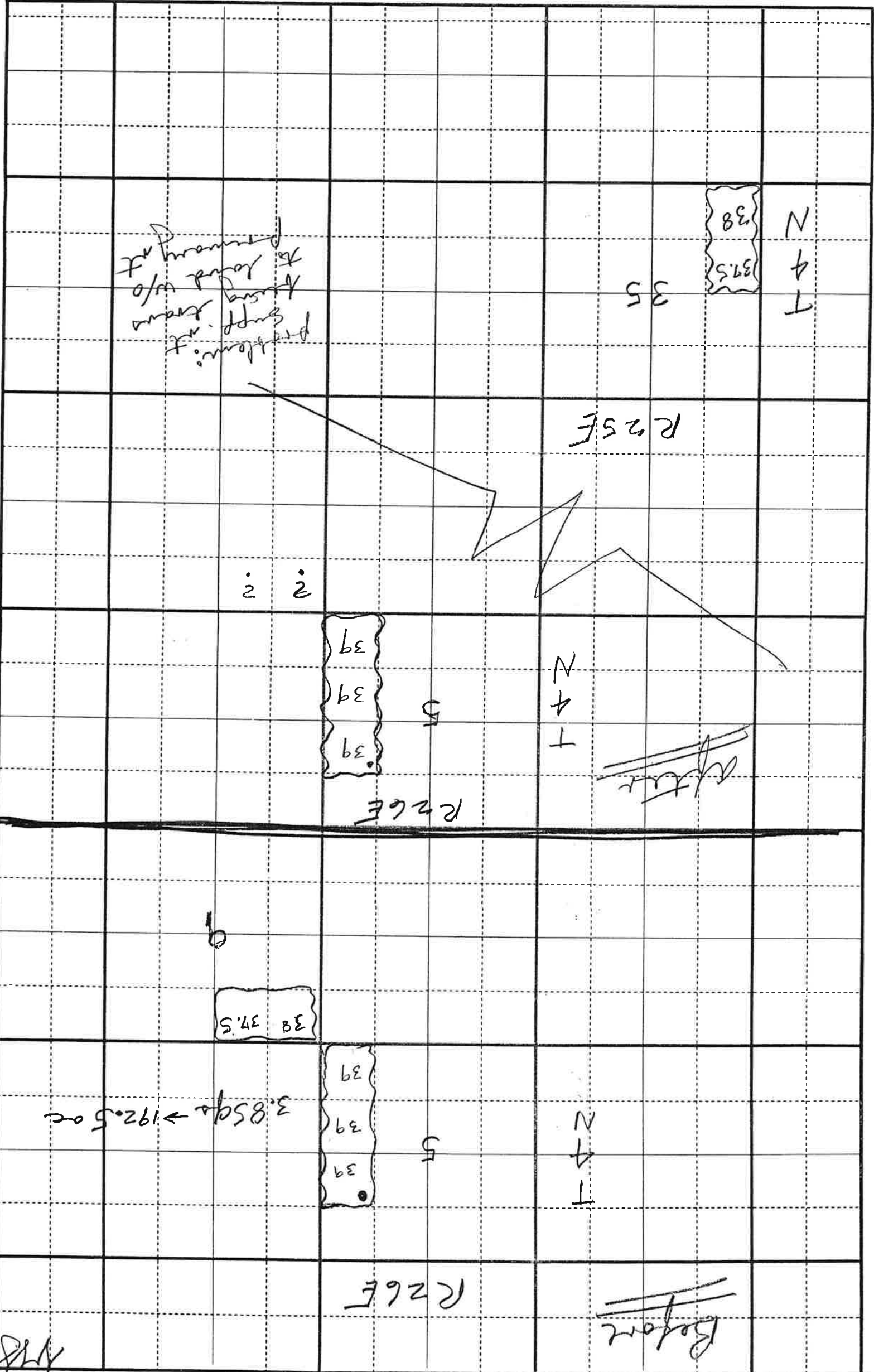
I hereby certify that this instrument
was filed for record at request of Ronald W. Sorensen
at 0 minutes past 9:00
o'clock A.M., this 12 day of
June, 1979, in my
office, and duly entered in Book
of Deed's
at page M 8090

By *Shirley R. McCaffrey* Ex-Officio Recorder, Deputy
Fees, \$ 1.00

Mail to

AFTER RECORDING RETURN TO

Entered . . .	☒
Compared . . .	☒
Indexed . . .	☒



problem: it
being known
to land w/o
permission at

Before

After

R26E

R26E

N
4
T

N
4
T

N
4
T

38
37.5

39
39
39

39
39
39

38 37.5

3.85 sq. → 192.5 ac

2 2

R25E

35