

T5076 FINICLE

5/1/02
MCC

Eastern

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT

RECEIVED
DEC 08 1997

TRANSFER NO. 5076 *No Adj.* Department of Water Resources
WATER RIGHT NO(S). 35-02474A/35-02476B/35-08834B/35-08840B Eastern Region *No Adj.*
PDH PDH

This is to certify that: DOUGLAS P FINICLE
121 N 1900 W
PINGREE ID 83262

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 35-02474A :			
IRRIGATION	04/01 to 10/31	1.40 CFS	480.0 AF
Priority: 09/18/1956			
Right No. 35-08834B : <i>No Adj.</i>			
IRRIGATION	04/01 to 10/31	0.76 CFS	321.1 AF
Priority: 07/03/1989			
SUBTOTAL:		2.16 CFS	* 480.0 AF
Right No. 35-02476B :			
IRRIGATION	04/01 to 10/31	0.55 CFS	160.0 AF
Priority: 09/18/1956			
Right No. 35-08840B : <i>No Adj.</i>			
IRRIGATION	04/01 to 10/31	0.19 CFS	80.3 AF
Priority: 07/03/1989			
SUBTOTAL:		0.74 CFS	** 160.0 AF
TOTAL:		*** 2.90 CFS	*** 640.0 AF

SOURCE

GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NWNE , Sec. 10, Township 03S, Range 32E
SWSE , Sec. 10, Township 03S, Range 32E
BINGHAM County

TRANSFER NO. 5076
WATER RIGHT NO(S). 35-02474A/35-02476B/35-08834B/35-08840B

PLACE OF USE: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
03S	32E	10	NENE 40	NWNE 40	SWNE 40	160
			SENE 40			
Total number of acres irrigated:						* 160
						**

CONDITIONS OF APPROVAL AND REMARKS

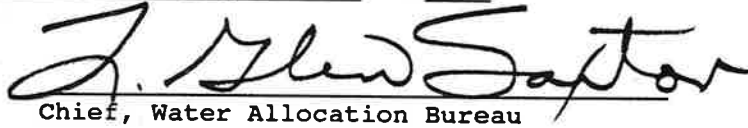
1. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- *** 6. The total instantaneous diversion of water from all points of diversion under Transfer 5076 shall not exceed 2.90 cfs, nor total combined annual volume of 640.0 af.
7. Approval of Transfer 5076 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
- **** 8. Right 35-02474A is limited to the irrigation of 120.0 acres in the place of use described above in a single irrigation season.
- **** 9. Right 35-08834B is limited to the irrigation of 120.0 acres in the place of use described above in a single irrigation season.
- * 10. Rights 35-02474A and 35-08834B when combined shall not exceed a total annual diversion volume of 480.0 af, and the irrigation of 120 acres.
- **** 11. Right 35-02476B is limited to the irrigation of 40.0 acres in the place of use described above in a single irrigation season.
- **** 12. Right 35-08840B is limited to the irrigation of 40.0 acres in the place of use described above in a single irrigation season.
- ** 13. Rights 35-02476B and 35-08840B when combined shall not exceed a total annual diversion volume of 160.0 af, and the irrigation of 40 acres.

TRANSFER NO. 5076
WATER RIGHT NO(S). 35-02474A/35-02476B/35-08834B/35-08840B

CONDITIONS OF APPROVAL AND REMARKS

14. The use of water under Rights 35-08834B and 35-08840 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.
15. The Director retains jurisdiction of Rights 35-08834B and 35-08840 to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

Dated this 2nd day of December, 1997


Chief, Water Allocation Bureau

MEMORANDUM

TO: FILES 35-02474A, 35-02476A, 35-08834B & 35-08840

FROM: PAM SKAGGS/STATE OFFICE

RE: TRANSFER 5076

DATE: NOVEMBER 25, 1997

Transfer 5076 adds and changes the point of diversion under Rights 35-02474A and 35-08834A, and a portion of Rights 35-02476 and 35-08840, splitting these rights into parts A and B.

The applicant is adding the use of his father's well in the SE quarter to his pivot system in the NE quarter of Section 10, T03S, R32E. Bingham County assessor's office identified the applicant as the owner of the NE quarter and his father Charles Finicle as owner of the SE quarter. A notarized release was provided by Mr. Charles Finicle agreeing to the transfer and use of his well by the applicant. The change of the original point of diversion is a correction of the legal description identifying the actual location of the well near the center of the quarter-quarter.

The application is confusing, representing three rights, two points of diversion and both systems in the NE and SE quarters as separate places of use. Overlap review found a portion of Right 35-02476 also part of these systems. I called Mr. Finicle on 10-09-97 to discuss the questions raised by the application (See telecon memo.)

After clarifying that the purpose of the transfer is to add the SE well to the NE pivot, I discussed the overlapping rights in the S1/2 of the NE quarter. Mr. Finicle agreed that all four water rights in the NE quarter should be part of the transfer approval. He did not want the entire system shown with the use of two wells since the SE well is the primary well and the NE well will not be used on the SE pivot. The entire place of use was advertised and the portion of Right 35-02476 overlapping in the SE quarter has been included on the approval.

Season of use and diversion volume were adjusted to current standards and the priority dates under Rights 35-08834B and 35-08840 remain 1989 as licensed. Recommended conditions include measuring & reporting, irrigation overlap, multiple points of diversion, right-of-way, permissible place of use, combined limits, trust conditions (35-08834B & 35-08840), and standard transfer conditions.

5/7/02 PD's issued to: 35-2474A, 1/31/02; 35-2476B, 1/31/02.
NO SRBA claims: 35-8834B & 8840.
SRBA V1 Recomm: CONFORM TO TX:

50 9-30-97

\$ 100 Fee

Page 1 of 7

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 5076

APPLICATION FOR TRANSFER OF WATER RIGHT RECEIVED
PART 1

Name of applicant DOUGLAS P FINICLE Phone 208-684-4895
Post Office address 121 N 1900 W, Pingree ID 83262

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 We want the option to use my dad's well in the SE 1/4 as a matter of economy.

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 |
|-----------------|-----------|--------------------|---------------|---------------|
| 35-02474A | 9/18/1956 | 1.40 cfs | Irrigation | 4-1 to 10-31 |
| 35-08834B | 7/3/1986 | 0.76 cfs | " " | " to " |
| 35-08840 | 7/3/1986 | 0.91 | " " | " to " |
2. Total amount of water being transferred 3.07 cubic feet per second and/or acre-feet per annum.
3. Source of water Groundwater tributary to
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NE	10	3S	32E	Bingham	Original
		SW	SE					New

5. Lands irrigated or place of use:

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	
3S	32E	10	40	40	20	20													120
3S	32E	10			20	20									40	39	37	38	194

Total acres 314

PART 1

6. General Information:

- a. Description of diversion system 2 Wells and pumps to a pivot
- 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:
N/A
- d. Remarks:
This new point of diversion serves License #35-02476 also.

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 .

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 35-02474A

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	to	1.40 CFS

SOURCE

GROUNDWATER

Priority: 09/18/1956

LOCATION OF POINT(S) OF DIVERSION:

NENE , Sec. 10, Township 03S, Range 32E
NWNE , Sec. 10, Township 03S, Range 32E
SWNE , Sec. 10, Township 03S, Range 32E
SENE , Sec. 10, Township 03S, Range 32E
BINGHAM County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03S	32E	10	NENE 40	NWNE 40	SWNE 20	120
			SENE 20			120
Total number of acres irrigated:						120

CONDITIONS/REMARKS:

1. P/D CENTER OF NE1/4, S10, T3S, R32E.

PART 2

TRANS NO. 5076

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 35-08834B

STAGE: LICENSE

BENEFICIAL USE	PERIOD OF USE	DIVERSION
		RATE
IRRIGATION	04/01 to 10/31	0.76 CFS

SOURCE

GROUNDWATER

Priority: 07/03/1989

LOCATION OF POINT(S) OF DIVERSION: SENE , Sec. 10, Township 03S, Range 32E
BINGHAM County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC	ACRES		ACRES	ACRES	TOTAL
03S	32E	10	NENE	40	NWNE	40	120
			SENE	20	SWNE	20	120
Total number of acres irrigated:							120

CONDITIONS/REMARKS:

1. 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.
2. 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.
3. This right when combined with all other rights shall provide no more than 4.0 afa per acre for the lands above.
4. Right 35-02474A is also diverted through the point(s) of diversion described above.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor exceed a combined annual diversion volume of 480.0 af for the lands above.

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 35-08840

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 10/31	0.91 CFS

SOURCE

GROUNDWATER

Priority: 07/03/1989

LOCATION OF POINT(S) OF DIVERSION: NESE , Sec. 10, Township 03S, Range 32E
BINGHAM County

PLACE OF USE: IRRIGATION

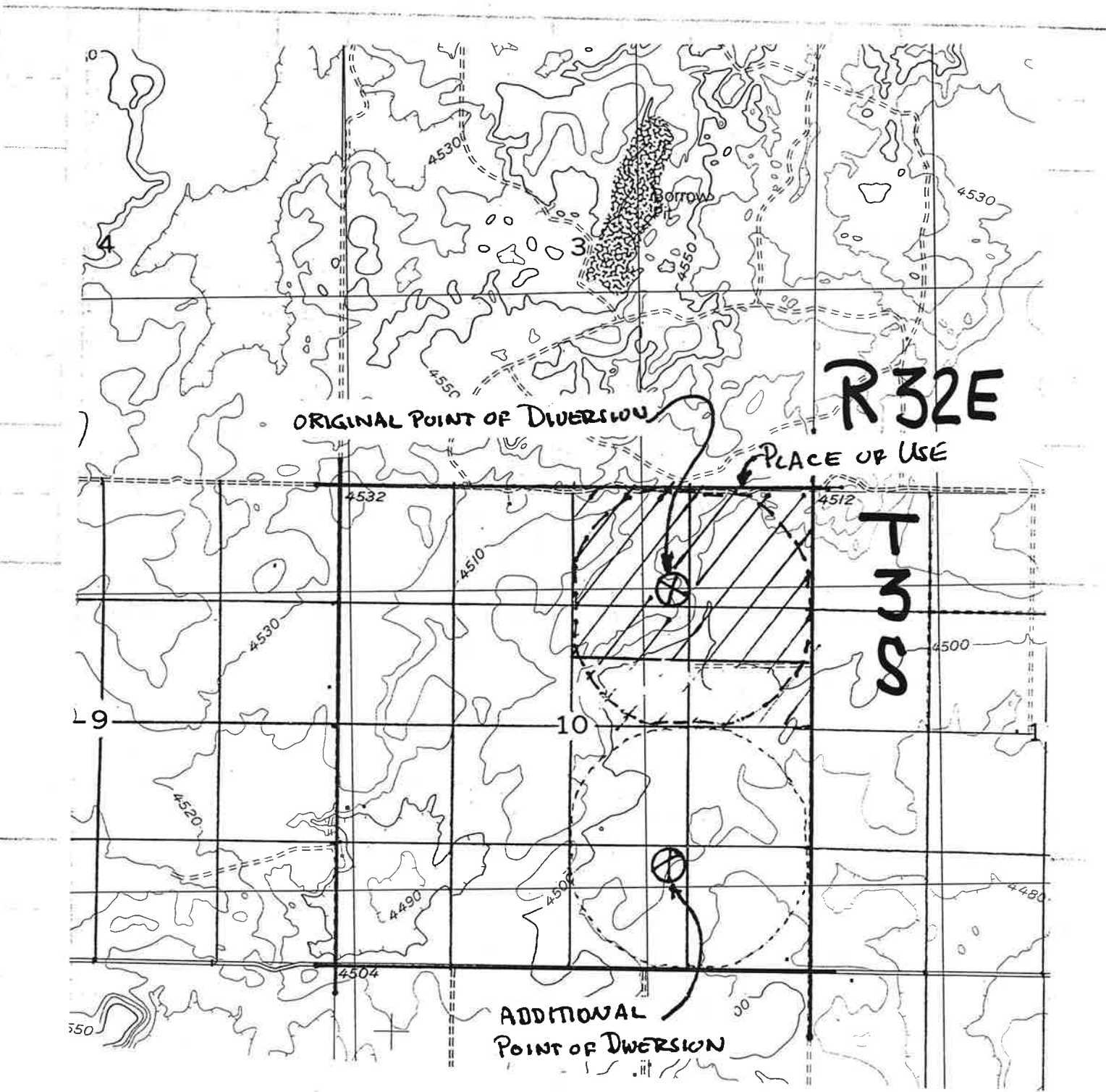
<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03S 32E 10	SWNE 20	SENE 20	NESE 40	
	NWSE 39	SWSE 37	SESE 38	194
Total number of acres irrigated:				194

CONDITIONS/REMARKS:

1. 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.
2. 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.
3. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
4. Rights 35-02476 and 35-08840 when combined shall not exceed a total annual diversion volume of 776.0 af for irrigation of the 194 acres listed above.
5. Right 35-02476 is also diverted through the point(s) of diversion described above.

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.



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

PART 3

B. 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:

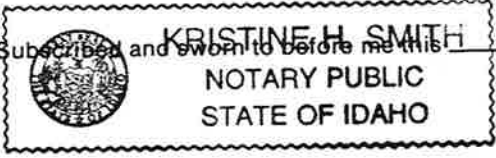
3. Describe effects on other water uses resulting from the proposed change:

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.

Douglas P. Smith
Madeline K. Smith
18th day of April, 1997
(Signature of Applicant)

Kristine H. Smith
(Notary Public)

Subscribed and sworn to before me this _____ day of _____, 19____.

Blackfoot, Idaho
Commission Expires 10-31-2002
My commission expires _____

FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and 3 attachments

Received by HWS Date 4-21-97 Protest filed by _____

Prelim. check by _____ Fee \$100.00

Receipted by HWS #E023140 Date 4-21-97

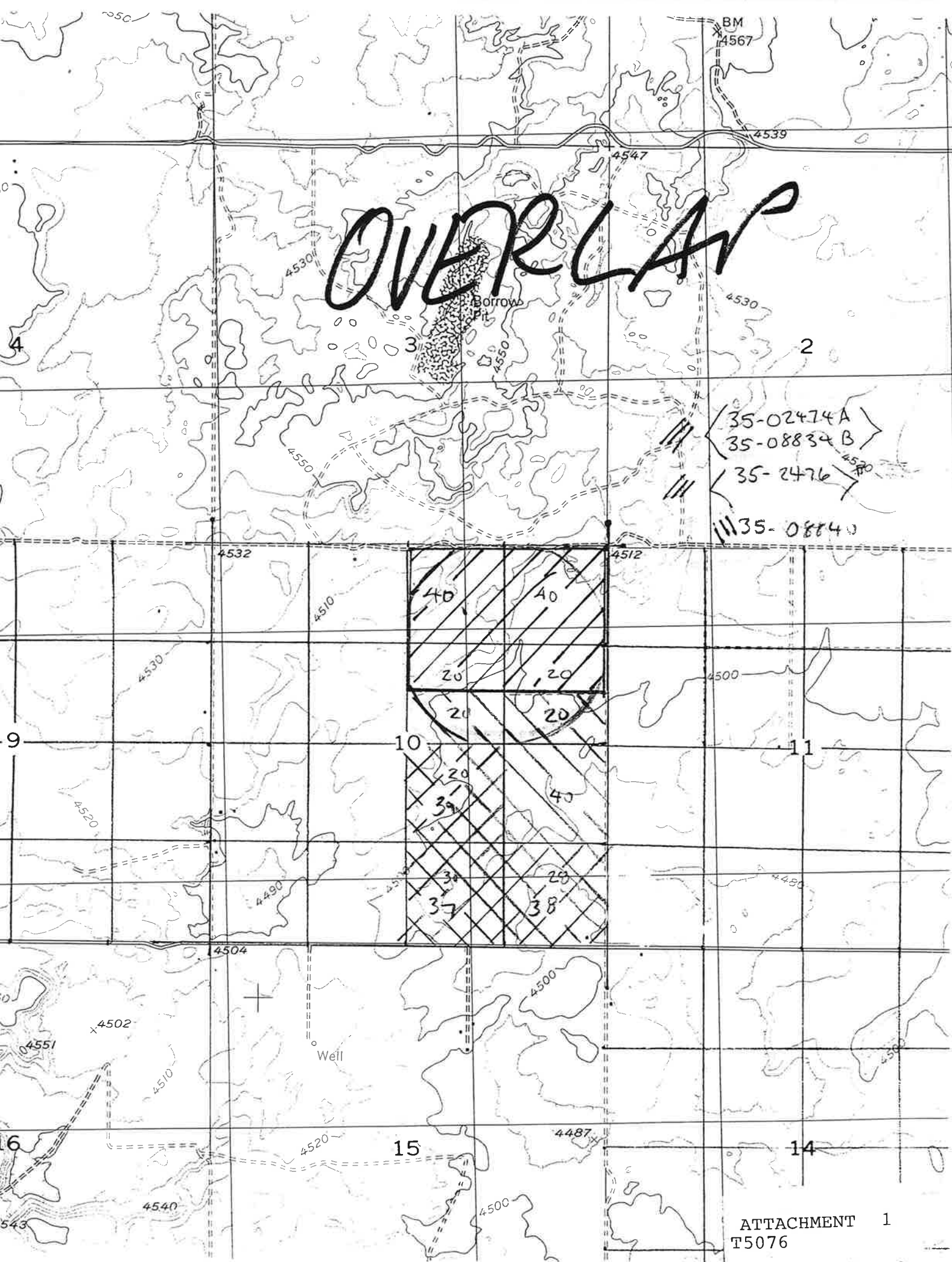
Published in Morning News Copies of protest forwarded by _____

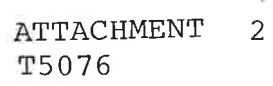
Pub. dates May 15 and 22, 1997 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

* Copy of transfer sent to lien holder _____





State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

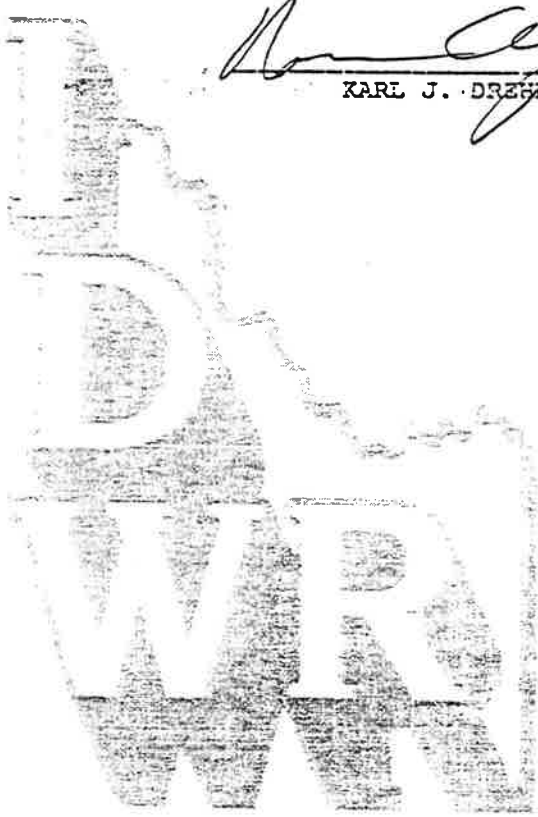
WATER RIGHT NO. 35-08834B

CONDITIONS OF APPROVAL AND REMARKS

8. Right 35-02474A is also diverted through the point(s) of diversion described above.

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 21st
day of MARCH, 1997.


KARL J. DREHER, Director



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 35-08834B

Priority: July 3, 1989

Maximum Diversion Rate: 0.76 CFS

This is to certify, that DOUGLAS FINICLE
MARLENE FINICLE

121 N 1900 W
PINGREZ ID 83262

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 3, 1989; and has submitted Proof of Beneficial Use on July 17, 1990. An examination indicates that the works have a diversion capacity of 3.240 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>
IRRIGATION	04/01 to 10/31	0.76 CFS	

LOCATION OF POINT(S) OF DIVERSION: SENE, Sec. 10, Township 03S, Range 32E
BINGHAM County

<u>PLACE OF USE:</u>	<u>IRRIGATION</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
<u>TWN</u>	<u>RGE</u>	<u>SEC</u>			
03S	32E	10	NENE 40	NWNE 40	SWNE 20
			SENE 20		

Total number of acres irrigated: 120

CONDITIONS OF APPROVAL AND REMARKS

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. 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.
5. 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.
6. This right when combined with all other rights shall provide no more than 4.0 afa per acre for the lands above.
7. This right when combined with all other rights shall provide no more than .02 cfs per acre nor exceed a combined annual diversion volume of 480.0 af for the lands above.

WARRANTY DEED

446234

STELLA L. WEBB, a widow

for good and valuable considerations, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto DOUGLAS P. FINICLE and MARLENE K. FINICLE, husband and wife

121 No. 1900 West Pingree, Id. 83262 as GRANTEE, and Grantee's successors and assigns, all of the following described real estate situated in the State of Idaho, to-wit:

Township 3 South, Range 32 East, Boise Meridian, Bingham County, Idaho

Section 10: NE1/4

SUBJECT TO the 1997 and subsequent years general taxes and assessments, all existing patent reservations, easements, right of ways, protective and restrictive covenants, zoning ordinances and applicable building codes, laws and regulations.

TOGETHER WITH any and all improvements, water and ditch rights, easements, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversion, remainder, rents, issues, and profits thereof. Grantor, for himself and his successors and assigns, does hereby warrant and agree to forever defend the Grantee, and Grantee's successors and assigns, in the quiet and peaceful possession of said premises against the lawful claims of any and all persons. In construing this Deed and where the context so requires, the singular includes the plural, and the masculine, the feminine and neuter. IN WITNESS WHEREOF, the Grantor hereunto has set his hand and seal hereto on June 10, 1996

Stella L. Webb

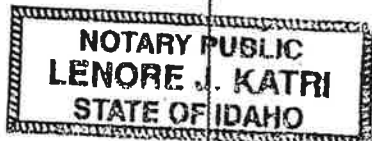
STATE OF IDAHO

COUNTY OF Bonneville ss
On June 10, 1996 before me, the undersigned, a Notary Public in and for said State, personally appeared Stella L. Webb

known to me 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.

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

Notary Public for the State of Idaho
Commission Expiration Date: 1/28/97



Residing at Idaho Falls, Idaho
My Commission Expires Jan. 28, 1997

Bonneville Land & Title Co.

497 N. Capital Ave * P.O. Box 51690 * Idaho Falls, ID 83405-1690 * (208) 524-6600

RECORDING DATA

Alliance Title and Escrow Co.

RECORDED AT THE REQUEST OF

96 JUL 30 AM 11:52

FILE 300

BLACKFOOT, IDAHO

446234

ATTACHMENT
T5076

