Identification No. 35 7744

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT APPROVED

To Appropriate the Public Waters of the State of Idaho

(TYPE OR PRINT IN INK)

1. Name of applicant Rollo Dutson Phone: 228-4351

   post office address P.O. Box 275, Roberts, Idaho 83444

2. Source of water supply ground water which is a tributary of _____

3. a. Location of point of diversion is NW ¼ of SE ¼ of Section 4 Township 4N Range 37E B.M. Jefferson County; additional points of diversion if any: _____

   b. If water is not consumed, it will be discharged into _____ at a point in _____ ¼ of _____ ¼ of Section _____ Township _____ Range _____ B.M. _____

4. Water will be used for the following purposes:

   Amount 7.80 (cfs or acre-feet per annum) for Irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated:

   a. 7.80 cubic feet per second and/or

   b. _____ acre feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. well, pump, open ditches and sprinkler system

   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 _____ (Mo. Day) to _____ (Mo. Day) inclusive.

   c. Proposed well diameter is 16 inches; proposed depth of well is 200 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 $ 90,000.00

8. Description of proposed uses:

   a. If water is **not** for irrigation:

   (1) Give the place of use of water: _____ ¼ of _____ ¼ 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 _____

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

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	37E	4	40	40	40	40					40			30	40	40	40	40	390

Total number of acres to be irrigated 390

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

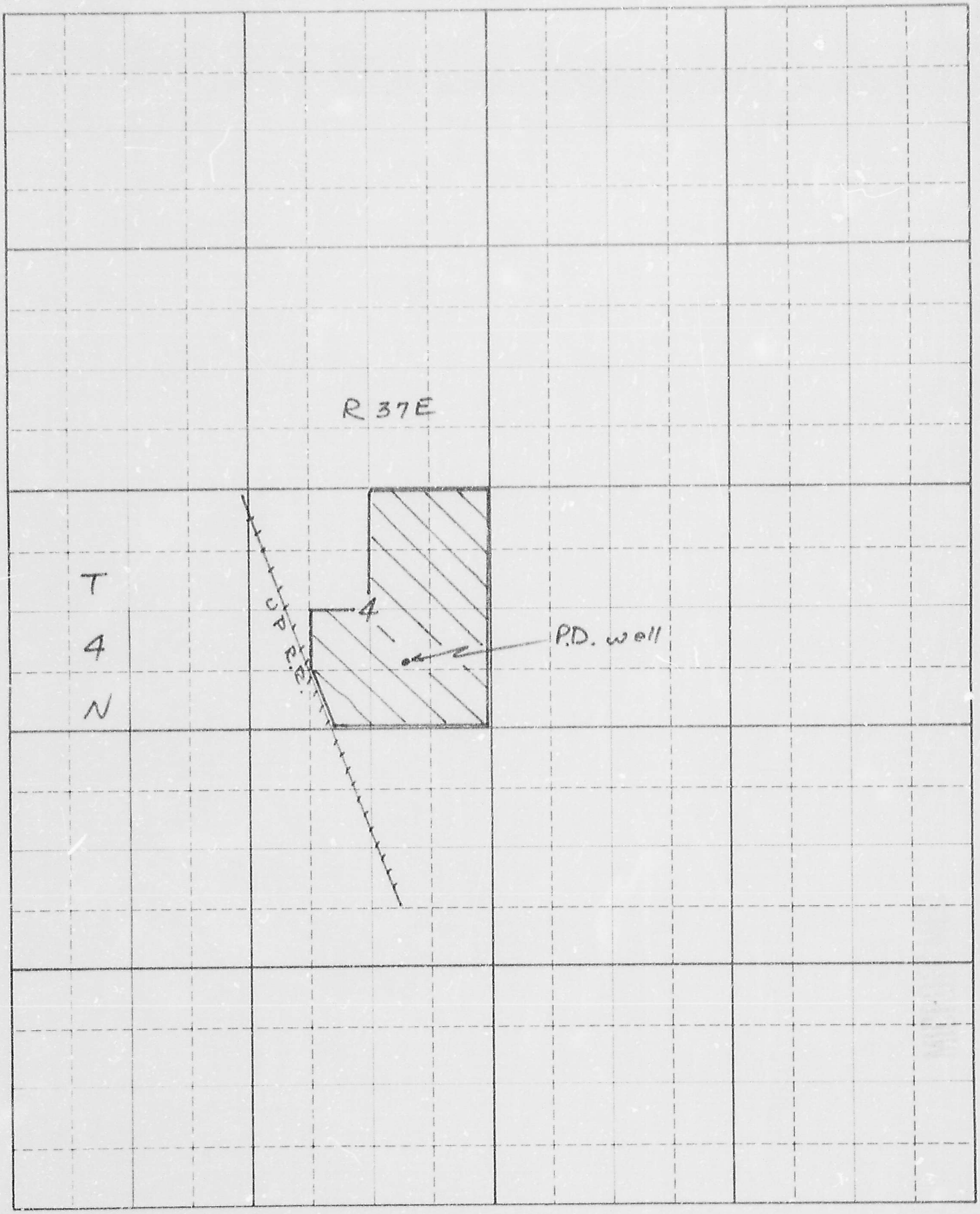
License No. 35-2147, 2.00 c.f.s.; 35-2149 1.54 c.f.s from Roberts slough

9. 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

10. Remarks



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.

(Applicant)

Proposed Priority 8/19/77

Received by CW Date 8-19-77 Time 1:20p

Preliminary check by ~~JMJ~~ Fee $ 95.00

Receipted by CW Date 8-19-77 #25,

Publication prepared by CW Date 8-22-77

Published in Lighty Star

Publication dates Sept. 1 & 8-1977

Publication approved CW Date Sept. 14, 1977

Pricrity reduced to _____ Reason _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by RDC

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. 35-7744, 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 October 1, 1982.

c. Other: For licensing purposes a scientific measurement of the diversion rate of the system as it is normally operated shall be provided by either properly installing an approved measuring device or by having a professional ebgineer certify the rate of diversion to the Department prior to submitting proof of beneficial use of water. (2) The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

Witness my hand this 7 day of November 1977.

D. Kenneth Dunn
Deputy Director

RECEIVED
SEP 20 1977
Department of Water Resources
Eastern District Office

Affidavit of Publication

I, L. Ellis Commerford 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 9-1-77

and ending with the issue dated 9-8-77

Subscribed and sworn to before me this

8th day of Sept, 1977

R C Schenin

Notary Public

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

PUBLIC NOTICE
NOTICE OF APPLICATION
FOR WATER PERMIT

Notice is hereby given that James C. Anderson, Arco, Idaho, has on 8-23-77 submitted Application No. 34-7206 for a permit to appropriate 1.60 cubic feet per second of water from a ground-water source by means of well and pump within the NW¼SW¼, Sec. 5, T. 3N, R. 27E, B.M., Butte County; to be used from Apr. 1 to Nov. 1 for the irrigation of 80 acres within the W½SW¼, Sec. 5, T. 3N, R. 27E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before September 19, 1977.

C. STEPHEN ALLRED
Director

Published in the Arco Advertiser, Arco, Idaho, on September 1 and September 8, 1977.

RECEIVED
SEP 29 1977
Department of Water Resources
Eastern District Office

Affidavit of Publication

THE RIGBY STAR

STATE OF IDAHO, } ss
County of Jefferson }

I, Russell Jones, Editor of THE RIGBY STAR, a weekly newspaper as defined by Idaho Codes Annotated Section 58-106 as amended, and that said newspaper is a weekly newspaper, printed and published at Rigby, Jefferson County, Idaho, having a general circulation in said county, and that said newspaper has been printed and published as a weekly newspaper, in said county for more than 78 consecutive weeks prior to the first publication of the attached notice.

And affiant further says that at the times herein mentioned said publication as per clipping attached, was published in said newspaper in the regular and entire issue thereof, and not in any supplement issue thereof, for 2 consecutive issues thereof; first publication having been made on the

First day of September, 19 77

and the last publication on the

Eighth day of September, 1977

And affiant further says that at the times herein mentioned said newspaper was made up of at least four pages of at least five columns each printed from type matter of at least seventeen and three-fourths inches depth; and that there are at least two hundred bonafide subscribers in Jefferson County.

Russell Jones
Editor

Subscribed in my presence and sworn to before me this Eighth day of September, 1977.
[SEAL]

Evelyn M. Hughes
Notary Public for the State of Idaho
Residence and P. O. Address, Rigby, Idaho.

My commission expires Non-Exper, 19____

Publication Fee: $ 10.14

NOTICE OF APPLICATION FOR WATER PERMIT

NOTICE IS HEREBY GIVEN that Rollo Dutson, Roberts, Idaho has on August 19, 1977 submitted Application No. 35-7744 for a permit to appropriate 7.80 cubic feet per second of water from a ground-water source by means of well and pump within the NW¼SE¼, Sec. 4, T. 4N, R. 37E, B.M., Jefferson County; to be used from April 1 to November 1 for the irrigation of 390 acres with the E½, E½SW¼, Sec. 4, T. 4N, R. 37E, B.M.

IF ISSUED, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before September 19, 1977.

C. Stephen Allred
Director

Publish: September 1, and 8, 1977.

RECEIVED

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Item	Initial	Date
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		
(8)		
(9)		
(10)		
(11)	CW	9-29-77
(12)	CW	9-29-77
(13)	RDC	9/29/77
(14)	"	"

Application No. Dutard

_____ Source
_____ Point of Diversion
_____ County
_____ Quantity of Water and Period of Use
_____ Description of Diverting Works
_____ Time required for B/U of water
_____ Place of Use or Acres Irrigated
_____ Map
_____ Signature
_____ Fee

In form to receipt

Send Copies to:
_____ Idaho State Health Department
_____ Idaho Fish and Game Department
_____ Bureau of Land Management
_____
_____ Request Special Use Permit from U.S.F.S.
_____ Request Easement from B.L.M.
_____ Request Information from Applicant
_____ Request Dam Safety Information

In form for advertising

Platted on Map No._____

Located within Water District No. 01

Critical groundwater area: yes_____ no_____

Groundwater levels:

_____ Declining, _____ Stable, _____ Increasing

(comment)_____

Other rights on the same place of use

Comments:_____

Affidavit of Publication received (date) Sept. 29 1977

Final date for protests Sept. 19 1977
Protests received: yes____ no ✓

All requested information received from agencies or applicant: yes_____ no_____

Action recommended:

✓ Approve _____ Deny

~~8/29/77~~ Proposed Priority

_____ Reason for Reduction_____

✓ Measuring device required

_____ See attached sheet for other conditions of approval

Supplemental

RECEIVED

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Rollo Dutson, Roberts, Idaho

has on 8-19-77 submitted Application No. 35-7744

for a permit to appropriate 7.80 cubic feet per second ~~acre feet per annum~~

of water from a ground-water source

by means of well and pump

within the NW¼SE¼, Sec. 4, T. 4N, R. 37E, B.M., Jefferson County;

to be used from Apr. 1 to Nov. 1

for the irrigation of 390 acres

within the E½, E½SW¼, Sec. 4, T. 4N, R. 37E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before September 19, 1977.

C. STEPHEN ALLRED
~~R. KEITH HIGGINSON~~

Director

Published in the Rigby Star, Rigby, Idaho

on September 1 and September 8, 1977

UNCONTROLLED
Doc. 2

August 26, 1977

RE: Application for Permit No. 25-7132 ROKER
35-7744 DUTSON
31-7266 MITCHELL

Rigby Star
P.O. Box 37
Rigby, Idaho 83442

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

Bill submitted 9-29-77 by CW

RDC:CW

Enc: Legal Notice (3)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

John V. Evans
Governor

C. Stephen Allred
Director

September 20, 1977

RE: Application for Permit No. 25-7132 ROKER
35-7744 DUTSON
31-7266 MITCHELL

Rigby Star
P.O. Box 37
Rigby, ID 83442

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application. The legal notice was to have been published in your paper on September 1 and September 8, 1977.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:CD

November 9, 1977

Re: Permit No. 35-7744

Rollo Dutson
P. O. Box 275
Roberts, ID 83444

Dear Mr. Dutson:

Enclosed is a copy of your approved Application for Permit No.35-7744 . We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to either install and maintain a measuring device at your point of diversion or to provide the Department a certified measurement of the systems diversion capacity prior to submitting proof of beneficial use of water. We have enclosed a letter describing the different types of measuring devices accepted by this office.

Sincerely,

BOBBY D. FLEENOR
Chief, Operations Bureau

BDF/cah

Enclosure

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF CHANGING THE MEASURING)
) ORDER
DEVICE REQUIREMENT FOR PERMIT NO. 35-7744)

WHEREAS, the above numbered permit was approved with the condition that a measuring device of a type approved by the Department be permanently installed and maintained as part of the diverting works; and,

WHEREAS, on July 1, 1978, the Department adopted a new water measurement condition which states: "An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department"; and,

WHEREAS, the former condition required the permit holder to purchase and install a measuring device or hire a professional engineer to certify the rate of diversion; and,

WHEREAS, the measuring device condition effective July 1, 1978, requires less capital expenditure by the permit holder; and,

WHEREAS, to be equitable to holders of permits issued prior to July 1, 1978, the new condition should be retroactive;

NOW THEREFORE, it is hereby ordered that the condition of approval of this permit related to water measurement is hereby changed as follows: "The permit holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department".

Dated this 1st day of June 1981.

L. Glen Saxton

GLEN SAXTON
Chief, Operations Bureau

RE

State of Idaho
Department of Water Resources

OK to process 3-2-83 RE

RECEIVED
FEB 28 1983
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMIT

I, Rollo Dutson, hereby assign to Deer Park Farms
of Route 1 Box 125 Menan Idaho 83434
Address

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 35-7744 to appropriate the public waters of the State of Idaho.

☐ The following described portion of my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

Made this 24 day of Feb, 1983.

X Thelma (Dutson) Redford
Permit Holder Thelma Dutson Redford, as Personal Representative of the Estate of Rollo Dutson, Deceased

X Thelma (Dutson) Redford
Spouse of Permit Holder

State of Idaho)
ss.
County of Bonn.)

On this 24 day of Feb, 1983, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that ~~he~~ (she) ~~(they)~~ executed the same.

Thomas R. Lucken

seal

Notary Public residing at
Idaho Falls, Idaho

My commission expires:
1-1-86

Terry L. Crapo
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. Box 129
Idaho Falls, Idaho 83401
Telephone: (208) 523-0620

RECEIVED
JUL - 7 1980
TES
DIVISION

ok to process as assignment RC 3-2-83

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF JEFFERSON

IN THE MATTER OF THE ESTATE OF ROLLO DUTSON, Deceased.	Case No. 7-76 LETTERS TESTAMENTARY

1. Thelma F. Dutson was duly appointed and qualified as general personal representative of the estate of the above named decedent on the 7th day of July, 1980, by the Magistrate acting as Registrar with all authority pertaining thereto.

2. Administration of the estate is unsupervised.

These letters are issued to evidence the appointment, qualification, and authority of the said personal representative.

WITNESS, my signature and the Seal of this Court, this 7th day of July, 1980.

Magistrate

RECEIVED
JUL - 7 1980
TES
DIVISION

AUTHENTICATION OF PAPERS

STATE OF IDAHO)
) ss.
County of Jefferson)

I, Robert J. Barnes, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Jefferson, having a seal, hereby certify that by law I have the custody of said seal and all the records, books, documents and papers of or pertaining to said District Court.

That the papers hereto annexed are true copies of papers appertaining to said court, and on file and of record in the office of the Clerk of said Court.

That I have compared the foregoing copies with the original papers on file in the office of the Clerk of said Court; that the same contain a full, true and correct transcript therefrom and the whole thereof.

WITNESS my hand and the seal of said District Court this 7 day of July, 1980.

(seal)

Robert J. Barnes
Clerk of the District Court

I, Grant L. Young, Magistrate of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Jefferson, hereby certify that Robert J. Barnes, whose signature is affixed to the above certificate, is the Clerk of the County of Jefferson, State of Idaho, and is the proper certifying officer of said Court and has by law the custody of the seal, and all the records, books, documents and papers of or appertaining in said Court, and said certificate is in due form as used in this state.

IN WITNESS WHEREOF, I have hereunto set my hand this 7 day of July, 1980.

Grant L. Young, Magistrate
District Court of the Seventh
Judicial District, Jefferson
County, Idaho

STATE OF IDAHO)
) ss.
County of Jefferson)

I, Robert J. Barnes, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Jefferson, which is a court of record, having a seal, hereby certify that the Honorable Magistrate whose name is subscribed to the foregoing certificate of qualification, was, on the date hereof, a Magistrate of the District Court of the Seventh Judicial District of the State of Idaho, in and for said county, duly appointed; that he is authorized to make such certificate; that full faith and credit are due to his official acts as such Magistrate.

I further certify that I verily believe that the signature attached to said certificate is genuine, and that said certificate is executed according to the laws of the State of Idaho.

WITNESS my hand and the official seal of said District Court hereto affixed this 7 day of July, 1980.

(seal)

Robert J. Barnes
Clerk of the District Court



Deer Park
Rt 1 Box 125
Tyrone Id.
83454

FEB
8
PM
1983
83434

USA
20

State of Idaho
Department of Water Resources
State House
Boise, Id. 83720

Form 204
3/81

RECEIVED
FEB 9 1983
Department of Water Resources

For Office Use Only
Fee Received $15.00
Date 9/29/1982
Receipt # 24728

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use on a water right permit

Deer Park Farms (Name) of c/o Steven Blount, Route #1, Box 125, Menan (Address)

State of Idaho 83434, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Water of the State of Idaho No. 35-7744.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before October 1, 19 82.

X That he has heretofore performed the following work described under said permit:
(This must be filled out! If no work has been completed put none.)
Started a sandpit covering 10 acres at a cost of Approximately $20. Thousand. Installed 9 wheellines Sprinklers at a cost of approximately $250. Thousand.
Costing $

X That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit:
Need time to complete removal of sand to get required depth for flow of water. Need funds to add at least 4 more wheelline sprinklers.

X Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to Oct., 19 87.
(1 yr. minimum, 5 yrs. maximum)

NOTE
AS OF JULY 1, 1980, THERE IS A $15.00 CHARGE FOR REQUESTS FOR EXTENSION OF TIME.

X Steve Blount
(Signature)*
*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit the statement of beneficial use is extended to October 1, 1987.

Signed this 17th day of March, 19 83.

L. Glen Saxton
Chief, Operations Bureau

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

March 19, 1982

Dear Wateruser:

The enclosed Order changes the measuring device condition of approval on your water right permit.

The changed condition is less restrictive and provides you the option to install an access port or have your system measured and certified by a professional engineer. Instructions for access port installation are also enclosed.

If you have questions regarding this matter, please contact the regional office nearest to you.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocations Section

DRT:jg

Enclosures

NORTHERN REGION OFFICE
Route #5, Box 203, Government Way
Coeur d'Alene, Idaho 83814
Telephone 667-6484

EASTERN REGION OFFICE
150 Shoup Avenue
Idaho Falls, Idaho 83401
Telephone 525-7161

SOUTHERN REGION OFFICE
1041 Blue Lake Boulevard North
Twin Falls, Idaho 83301
Telephone 734-3578

WESTERN REGION OFFICE
92 South Cole Road
Boise, Idaho 83709
Telephone 334-2190

S T A T E O F I D A H O

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
138441

DUTSON, ROLLO
P.O. BOX 275
ROBERTS, ID 83444

JULY 31, 1982

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 35-7744 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE OCTOBER 01, 1982. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF OF BENEFICIAL USE.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU HAVE NOT PREVIOUSLY RECEIVED AN EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME PROVIDED THE DELAY IS FOR REASONABLE CAUSE AS INDICATED IN SECTION 42-204, IDAHO CODE, AMENDED. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED.

EITHER THE BENEFICIAL USE POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECIEVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

RITA FLECK
SR. SECRETARY

ENC: 1

BCM → Rda (Respond to Proof of Use Status)

Aug. 9, 1982.

Dept. of Water Resources

I am mrs. Rollo Dutson. we sold our farm three years ago to northern Trust Co. of Chicago. I cant seem to locate their address at the moment but I am sending the information you sent to me to their foreman who is in charge of our farm His name is Steven Blount - Menan, Idaho. R.1 - Box 125. 83434

My husband Rollo Dutson died two years ago. I have re-married. my name and address now is

mrs. Thelma Redford
934 E. St.
Idaho Falls, Ida.
83402

Thanks Kindly
mrs. Rollo Dutson (Redford)

35-7144

RECEIVED
AUG 10 1982
Department of Water Resources

RECEIVED

SEP 24 1982

Department of Water Resources

Enclosed please find a check for $15.00 for a request of extension of permit #35-7744. Please sign the enclosed receipt & return it in the enclosed envelope.

Thank you.

Jeannie Blount
Deer Park Farms

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

EXTENSION OF TIME

September 29, 1982

Deer Park Farms
Route 1, Box 125
Menan, ID 83434

PERMIT NO. 35-7744

We are in receipt of the $15 extension fee for Extension(s) of Time to provide additional time in which to submit proof of beneficial use on a water right permit.

Your request for extension(s) of time is being reviewed by staff. You will be informed of our decision when review has been completed.

Enclosed is our receipt No. 24728.

Roberta Garrett
Records Supervisor

Enclosure

November 4, 1982

RE: Permit No. 35-7744

Deer Park Farms
Attn: Steven Blount
Route #1, Box 125
Menan, ID 83434

Dear Mr. Blount:

We are in receipt of your request for extension of time in which to submit proof to beneficial use of water under Permit No. 35-7744. You mentioned on the request form that you would like more time to do more developing on the site. Before we can process your request we must have more information on the amount of work that has already been completed. Also include an estimate of cost incurred.

Please return the above requested information on or before November 30, 1982. If yourhave any questions on this please let me know.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw

Cato,

- File shows that an ext was submitted & receipted.
- I can not find where ext request has been returned by Dept.
- Where is ext request.

FLS
1-26-83

PETTY CASH

DATE 9-22-82	FOR Request extension of permit #35-7744
AMOUNT $15.00	
APPROVAL	
ACCOUNT	
NUMBER CK# 562	RECEIVED BY

TOPS NO. 4109

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

February 3, 1983

RE: Permit No. 35-7744

Mrs. Thelma Redford
934 I. St.
Idaho Falls, ID 83402

Dear Mrs. Redford:

This letter is in response to a letter you sent us back in August of 1982 in regards to the above referenced permit in the name of Rollo Dutson. You informed us that the ranch had been sold to Northern Trust Co. of Chicago and you provided us with the address of the foreman who is in charge of the farm.

Mr. Blount has since submitted a request for extension of time in which to submit proof to beneficial use of water under said water permit. Before we can process this request the permit must be assigned to the present owners of the ranch as the permit is still in the name of Rollo Dutson. I have enclosed an assignment of permit form for you convenience.

Also, in Idaho a permit is considered personnal property and since the permit was in Rollo Dutson's name only, please submit a copy of the document showing that you are the executrix. Please return the assignment form and copy of the executrix document as soon as possible so that we can process the request for extension of time submitted by Deer Park Farms.

If you have any questions, please let me know.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosure

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

February 3, 1983

RE: Permit No. 35-7744

Deer Park Farms
Attn: Steven Blount
Route #1, Box 125
Menan, ID 83434

Dear Mr. Blount:

On November 4, 1982, we returned to you a request for extension of time in which to submit proof to beneficial use of water under Permit No. 35-7744. We requested more information concerning the amount of work already accomplished toward developing the water under this permit and asked that you return the form with information before November 30, 1982.

To date we have not heard from you and we must request that you provide this information on or before March 1, 1983. Enclosed is a new request for extension of time form in case you misplaced the first one. We have already received the filing fee, therefore you do not need to submit another $15.00.

If you have any questions on this matter, please let me know.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosure

ability or require compensation to Idaho Power Company for uses developed later in time than Idaho Power Company's water right at Swan Falls.

Sincerely,

RITA I. FLECK
Sr. Secretary

Enc: Ext. of Time
Permit
Blue postcard

March 21, 1983

Deer Park Farms
c/o Steven Blount
Rt. 1 Box 125
Menan, ID 83434

Dear Mr. Blount:

Re: Permit No. 34-7744

This office acknowledges receipt of the assignment conveying the above-referenced permit to you. The assignment has been entered into the department's records. A copy of the permit is enclosed for your records.

Also enclosed is a copy of the approveddrequest for extension of time. The time within which to submit the statement of beneficial use is extended to October 1, 1987.

The 1982 Idaho Legislature added a requirement that as a permit holder you must commence the excavation or construction of diverting works within one year of the date a permit is issued. In the case of this extension, you must commence works within a year from the day the extension was signed and proceed diligently until the project is completed. The enclosed blue card must be completed and returned to this office as soon as you commence construction. If you are still prevented from commencing works eleven months from now, note the reason on the blue card and return it then.

In connection with the development of a water right under this permit, the department wishes to call to your attention an Idaho Supreme Court decision issued in November 1982 which likely could affect your future use of water.

The decision in the case of Idaho Power Company vs the State of Idaho, et al stated in part that Idaho Power Company's use of water for power generation purposes at the Swan Falls dam on the Snake River is not subordinated to upstream depletion by later in time uses. The question of whether Idaho Power's 8,400 cfs water right at Swan Falls dam has been diminished by subsequent development, however, was remanded back to district court for determination. The findings of the district court could restrict water avail-

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

> 42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT.
> (2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. Glen Saxton

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

138807
CERTIFIED MAIL
July 31, 1987

DEER PARK FARMS
RT. 1 BOX 125
MENAN, ID 83434

PROOF DUE NOTICE

RE: Permit No. 35-7744

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before October 1, 1987. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this Department on or before the above described proof due date, or the permit will no longer be of any force nor effect.

Sincerely,

RITA FLECK
Secretary/Records Manager

Enclosures



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
e, Idaho 83720

deceased

Unclaimed
Refused
Insufficient
No such street
No such office in
Do not remail in this envelope

POCATELLO ID 832
PM
2 AUG
1981

AUG 17 1981
Department of Water Resources

c/o Nathan Hunt
Conventional Homes Inc.
Olive Oak Branch Manor Apts
Gaithersburg, Md 20878

D MAIL
NO. 138807

Steve Blount
Star Rt. Box 40
Hale Center, Texas
79041

Steve Blount
Star Rt. Box 40
Hale Center, Texas 79041

INTER-DEPARTMENT MEMO — 1

FROM Rita Fleck

DATE 9-22-1987

TO File 35-7744

SUBJECT Returned Proof Due Notice

The Jefferson County Assessor has an address of C/o Northern Trust, Agricultural Services, One Oakbrook Terrace, Suite 208, Oakbrook, IL 60181.

I'm forwarding the notice to this address.

RF SIGNATURE

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
Boise, Idaho 83720

Return To Sender

Deer Park Farms
c/o Northern Trust
Agricultural Services
One Oakbrook Terrace, Suite 208
Oakbrook, IL 60181

SUBURBAN, IL 601
PM
28 SEP
1987

RECEIVED
OCT 05 1987
Department of Water Resources

Celebrate IDAHO
1890 • CENTENNIAL • 1990

October 6, 1987

DEER PARK FARMS
RT. 1 BOX 125
MENAN, ID 83434

LAPSE NOTICE

RE: Permit No. 35-7744

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218a, Idaho Code, the above referenced water permit has lapsed. This office did not receive either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time. You were provided the proper forms in our proof due notice to you dated July 31, 1987.

Your permit cannot be reinstated unless you submit proof of beneficial use or submit an extension of time request showing reasonable cause for delay. Either the completed proof of beneficial use submittal (including the examination fee or a completed field examination report) or the extension request form together with the $15 fee must be received by this Department within sixty days of the date of mailing of this lapse notice.

A proof of beneficial use form and a request for extension of time form are again enclosed for your use. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a governmental agency or by litigation which might bring title to the water in question.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

Enclosures

CERTIFICATION OF MAILING
I hereby certify that on 10-14-87 a copy/an original of this document was deposited in the United States mail, postage prepaid addressed to the individual(s) named above.

S te of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

RECEIVED
OCT 05 1987
Department of Water Resources

CERTIFIED MAIL
July 31, 1987

DEER PARK FARMS
RT. 1 BOX 125
MENAN, ID 83434

PROOF DUE NOTICE

RE: Permit No. 35-7744

Dear Permit Holder:

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Sincerely,

Rita Fleck

RITA FLECK
Secretary/Records Manager

Enclosures

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor
R. KEITH HIGGINSON
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 6, 1987

DEER PARK FARMS
RT. 1 BOX 125
MENAN, ID 83434

LAPSE NOTICE

RE: Permit No. 35-7744

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218a, Idaho Code, the above referenced water permit has lapsed. This office did not receive either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time. You were provided the proper forms in our proof due notice to you dated July 31, 1987.

Your permit cannot be reinstated unless you submit proof of beneficial use or submit an extension of time request showing reasonable cause for delay. Either the completed proof of beneficial use submittal (including the examination fee or a completed field examination report) or the extension request form together with the $15 fee must be received by this Department within sixty days of the date of mailing of this lapse notice.

A proof of beneficial use form and a request for extension of time form are again enclosed for your use. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a governmental agency or by litigation which might bring title to the water in question.

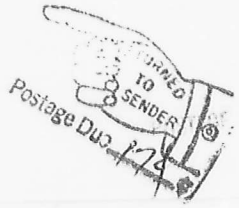
Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

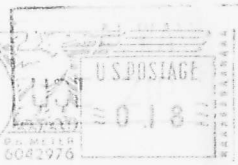
Enclosures

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
Boise, Idaho 83720









Refused

17¢ AGE DUE ....¢

3006 - Navasota Dr.
Glasgow TX. 79072-1432

Form 204-p
6/82

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

COMMENCEMENT OF WORKS

Permit No. 35-7240

Name(s) of Permit Holder(s): Dean Park Jones

Post Office Address: Rt. 1 Box 125

McNAN, Idaho 83434 Tel. No. 208-754-4711

☒ I hereby certify that construction of diversion works for the above referenced permit began on Spring 1978 (date). I understand that I must continue to develop the water system with due diligence to maintain a valid permit.

☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

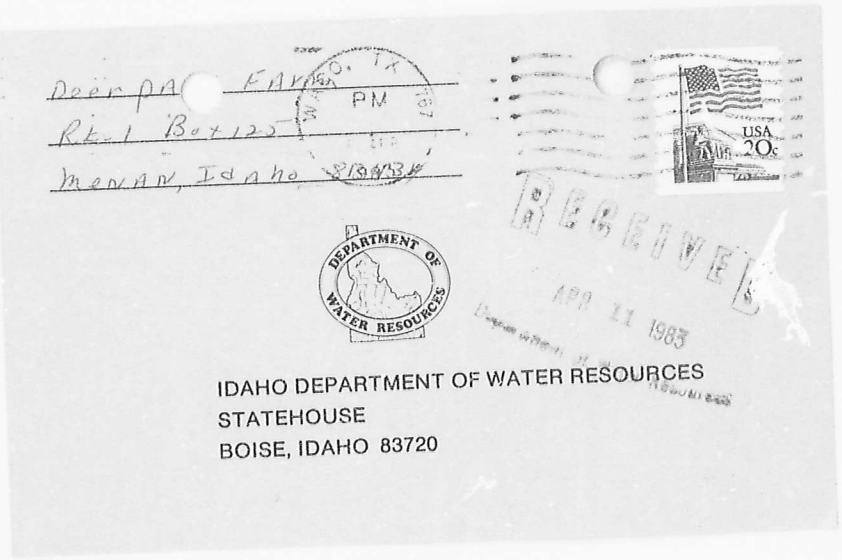
_____

_____

*Note: A financing difficulty is not an acceptable reason.

April 8, 1983
Date

Ronald L Rogers
Signature of Permit Holder


Deer pm Farmer, Tx
PM
Rt. 1 Box 125
Menan, Idaho 83434
USA 20c
RECEIVED
APR 11 1983
DEPARTMENT OF WATER RESOURCES
IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

I certify that file No. 35-7744 has been reviewed and is ready to be MICROFILMED and DESTROYED.

Roxanne McCarthy
Signature

10/26/88
Date

State of Idaho

Department of Water Resources

ASSIGNMENT OF PERMIT

I, Deer Park Farms, hereby assign to Brazos River Farms

of % Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls, ID 83405
Address

CHECK ONE

[X] All my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

[ ] The following described portion of my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

_____

_____

_____

_____

Made this 27th day of DECEMBER, 19 89.

GENERAL ACKNOWLEDGMENT NO. 201

State of CALIFORNIA
} SS.
County of LOS ANGELES

On this the 27TH day of DECEMBER 19 89, before me,

C. M. MCCUSKER

the undersigned Notary Public, personally appeared

H. ANDREW THORNBURG

OFFICIAL SEAL
C. M. MC CUSKER
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires SEP 4, 1993

[X] personally known to me

[ ] proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) _____ subscribed to the within instrument, and acknowledged that HE executed it

WITNESS my hand and official seal.

C. M. McCusker

Notary's Signature

ATTENTION NOTARY: Although the information requested below is **OPTIONAL**, it could prevent fraudulent attachment of this certificate to another document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

Title or Type of Document STATE OF IDAHO DEPT. OF WATER RESOURCES ASSIGNMENT OF PERMIT

Number of Pages 1 Date of Document 12/27/89

Signer(s) Other Than Named Above _____

7120 019

NATIONAL NOTARY ASSOCIATION • 8236 Remmet Ave. • P.O. Box 7184 • Canoga Park, CA 91304-7184

State of Idaho

Department of Water Resources

ASSIGNMENT OF PERMIT

I, Deer Park Farms, hereby assign to Brazos River Farms

of % Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls, ID 83405
Address

CHECK ONE

[X] All my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

[ ] The following described portion of my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

_____

_____

_____

_____

Made this 27th day of DECEMBER, 19 89.

Deer Park Farms
Permit Holder

By: _____, its
~~Owner of Permit Holder~~
H. ANDREW THORNBURG

State of Idaho)
ss.
County of _____)

On this _____ day of _____, 19_____, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

_____
Notary Public residing at

seal

_____

My commission expires:

_____

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, Ulrich W. Zollikofer, 9701 Wilshire Boulevard, Suite #1200, City of Los Angeles, County of Los Angeles, State of California, do hereby nominate, constitute, and appoint H. Andrew Thornburg, residing at 1316 Carroll Avenue, City of Los Angeles, County of Los Angeles, State of California, my true an lawful attorney in fact, for me and in my name, place, and stead, and for my use and benefit,

To ask, demand, sue for, recover, collect, and receive all such sums of money, debts, dues, accounts, legacies, bequests, interest, dividends, annuities, and demands whatsoever as are now or shall hereafter become due, owing, payable, or belonging to me and have, use, and take all lawful ways and means in my name or otherwise for the recovery thereof, by attachments, arrests, distress, or otherwise, and to compromise and agree for the same and acquittances or other sufficient discharges for the same;

For me and in my name, to make, seal, and deliver, to bargain, contract, agree for, purchase, receive, and take lands, tenements, hereditaments, and accept the possession of all lands, and all deeds and other assurances, in the law therefor, and to lease, let, demise, bargain, sell, remise, release, convey, mortgage, and hypothecate lands, tenements, and hereditaments upon such terms and conditions and under such covenants as he shall think fit;

Also to bargain and agree for, buy, sell, mortgage, hypothecate, and in any and every way and manner deal in and with goods, wares, and merchandise, choses in action, and other property in possession or in action, and to make, do, and transact all and every kind of business of whatsoever nature and kind;

And also for me and in my name, and as my act and deed, to sign, seal, execute, deliver, and acknowledge such deeds, leases, mortgages, hypothecations, bottomries, charter parties, bills of lading, bills, bonds, notes, receipts, evidence of debt, releases and satisfaction of mortgage, judgments and other debts, and such other instruments in writing of whatsoever kind and nature as may be necessary or proper in the premises;

GIVING AND GRANTING unto my said attorney in fact full power and authority to do and perform every act necessary, requisite, and proper to be done in and about the premises as fully as I might or could do if I personally present, with full power of substitution and revocation, hereby ratifying and confirming all that my said attorney shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, I have hereunto signed my name this 26th day of October, 1989.

Ulrich W. Zollikofer

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 35-7744 IN THE NAME OF BRAZOS RIVER FARMS	ORDER OF REINSTATEMENT

This matter having come before the Idaho Department of Water Resources (Department) the Department finds as follows:

FINDINGS OF FACT

1. On November 7, 1977 the Director of the Department of Water Resources issued Permit No. 35-7744 with a condition of approval that proof of construction of works and application of water to beneficial use be submitted on or before October 1, 1982. The Department later extended the proof due date to October 1, 1987.

2. On July 31, 1987 the Department sent a proof due notice to the permit holders.

3. On October 6, 1987 the Department sent a lapse notice to the permit holders since neither proof of beneficial use nor a request for extension of time had been received from the permit holders.

4. On September 15, 1989 Proof of Beneficial Use was received by the Department from the permit holders.

5. Section 42-218a, Idaho Code, authorizes the Department to reinstate a lapsed permit, with the priority date

advanced to the date that proof of beneficial use was received, upon submittal of evidence clearly establishing the extent of beneficial use prior to the proof due date and a showing of reasonable cause why the proof was submitted late.

6. The permit holders submitted evidence to confirm that water has been put to beneficial use. Evidence includes federal government crop reports and aerial photographs from 1985 through 1987; and an affidavit from the farm operator attesting to beneficial use of the source of water authorized by the permit prior to the proof due date.

7. The permit holders have stated that proof was submitted late because ownership of the permit had changed several times and one of the former owners had overlooked the proof requiremnt.

CONCLUSIONS OF LAW

1. The permit holders have submitted proof of beneficial use along with supporting evidence which establishes that water was in fact beneficially used as identified on the permit.

2. The permit holders have shown sufficient cause why the proof of beneficial use was not submitted in a timely manner.

3. The permit can be reinstated with the date of priority advanced to the date proof of beneficial use was received by the Department.

ORDER

IT IS HEREBY ORDERED that Permit No. 35-7744 is

reinstated.

IT IS FURTHER ORDERED that the date of priority of this permit is advanced to September 15, 1989.

Dated this 14th day of August, 1990.

L. Glen Saxton

L. GLEN SAXTON
Chief, Water Allocation Bureau

Form 03/86

RECEIVED

SEP 15 1989

Department of Water Resources
Eastern District Office

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

For Office Use Only
Fee Received $275.00
Date 9-15-1989
Receipt # E010617
Receipt by KCW
Reviewed by _____
Sent to region ___

PROOF OF BENEFICIAL USE

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

Permit No. ~~34-7744~~ KCW 35-7744

Name(s) of Permit Holder: Brazos River Farms (Successor of Northern Trust Co., successor to Deer Park Farms)

Post Office Address: % Holden, Kidwell, Hahn & Crapo

P.O. Box 50130, Idaho Falls, Idaho 83405 Telephone No. (208) 523-0620

Source of Water: _____

Extent of Use:

Domestic _____ (number of households) Stockwater _____ (number and type of stock)

Irrigation 390 (acres) Other/Remark _____

Total rate and/or volume for which proof is submitted 7.8 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: June 1, 1978

Measuring Device: Required? ___ Yes x No Fee enclosed $275.00
Installed? ___ Yes x No (See License Examination Fee Schedule)

Flow Measurement Port: Required? ___ Yes ___ No
Installed? ___ Yes ___ No

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

Burleigh Tomchak (208) 228-6871
(Name) (Telephone Number)

458 North Bassett Road, Roberts, Idaho 83444
(Address)

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

9/15/89
Date

Signature of Permit Holder (and title, if appropriate)

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEILER
MARIE T. FEELEY
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

September 15, 1989

RECEIVED
SEP 15 1989
Department of Water Resources
Eastern District Office

Idaho Department of
Water Resources
ATTENTION: Keith Wilson
150 Shoup Avenue
Idaho Falls, Idaho 83402

Gentlemen:

Apparently in 1977, Mr. Rollo Dutson applied for and received a permit to drill a well south of the Robert's slough to irrigate some 390 acres of land that had formerly been rather poorly irrigated with surface water supplies.

Subsequently, Mr. Dutson conveyed this property to an entity called Deer Park Farms. As we understand it, Deer Park Farms requested and received an extension of time for filing Proof of Beneficial Use. Deer Park Farms ultimately conveyed the property to Northern Trust Company which then conveyed the property to Brazos River Farms.

Recently, we were contacted by the principals of Brazos River Farms who just discovered that Proof of Beneficial Use was not submitted when it should have been.

If a notice of lapsing has been issued by the Department, the present owner, Brazos River Farms, is unaware of that action. In any event, we have prepared and are enclosing Proof of Beneficial Use with this letter together with a check for the examination fee in the amount of $275.00.

If additional information is required under §42-218a, we will be happy to try to respond. We would request that the Department proceed with the further processing of this permit so that a license may be issued, even if that requires the advancing of the priority date as provided by law.

Thank you for your kind assistance.

Yours very truly,

Kent Foster

Kent W. Foster

35-7744
KCW
9-15-89

Enclosure

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

September 26, 1989

RE: Permit No. 35-7744

Brazos River Farms
c/o Holden, Kidwell, Hahn & Crapo
Box 50130
Idaho Falls, ID 83405

Dear Sir(s):

The Department received your proof of beneficial use statement for the above referenced permit on September 15, 1989. The permit lapsed on October 1, 1987, so the 60-day late period during which the permit can be readily reinstated has passed.

Pursuant to Section 42-218a, Idaho Code, (copy enclosed) the permit can now be reinstated only if you submit the following:

a) Evidence to show that beneficial use of the water did commence and to show the extent of the use of water during the authorized permit period from the time the permit was issued until the proof due date.

b) Reasonable cause why the proof of beneficial use was filed late.

In regard to item b. above, Mr. Kent Foster's letter of September 15, 1989 provides a resonable explanation for why proof was submitted late. This requirement, therefore, has been met. You should attempt to have the permit holder of record, Deer Park Farms, assign the permit to the current land owner, Brazos River Farms.

Your proof of beneficial use statement along with any information which may have been submitted with it will remain on file in this office for 60 days to allow you an opportunity to assemble and submit the additional required information.

Please feel free to contact this office if you have additional questions.

Sincerely,

TIM LUKE
Sr. Water Resource Agent

TL:sc

Enclosure

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-0518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEILER
MARIE T. FEELEY
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

RECEIVED
DEC 12 1989
Department of Water Resources

December 11, 1989

Tim Luke, Senior Water Resource Agent
IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

RE: Permit No. 35-7744

Dear Mr. Luke:

You wrote to us on this matter on September 26, 1989. We received the letter on September 28th and prepared an assignment for Deer Park Farms to assign the permit to the current landowner, Brazos River Farms.

We had to send that assignment through a rather circuitous route to the principal officer of Deer Park Farms who was out of the United States at the time. The document we sent has just now been returned to us but was completed incorrectly and it appears we will have to go through the process again to get the appropriate assignment. It is still our desire to get this matter properly completed and we appreciate your patience but wanted to let you know what was happening.

Yours very truly,

Kent W. Foster

Kent W. Foster

#7669.00/srr

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 29, 1989

Kent W. Foster
Holden, Kidwell, Hahn & Crapo
West One Bank Bldg.
P.O. Box 50130
Idaho Falls, ID 83405

RE: Permit No. 35-7744

Dear Mr. Foster:

I have received your letter dated December 11, 1989 concerning the above referenced permit.

As you know, this permit remains lapsed until such time as the Department receives the assignment which you discussed in your latest correspondence. I wish to further remind you that I have not yet received evidence showing commencement and extent of beneficial use prior to the proof due date of October 1, 1987. As I pointed out in my correspondence of September 26, 1989, this evidence is required by Section 42-218A, Idaho Code, and must be submitted before the permit can be reinstated.

Sincerely,

Tim Luke
Sr. Water Resource Agent

TL:sc

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

FRED J. HAHN
KENT W. FOSTER
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WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
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ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

February 6, 1990

RECEIVED
FEB 7 1990
Department of Water Resources

Tim Luke, Sr. Water Resource Agent
IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

RE: Permit No. 35-7744

Dear Mr. Luke:

We have, of course, corresponded with you previously on this matter. We have now received and are enclosing with this letter a properly executed Assignment of Permit form for a transfer of the permit from Deer Park Farms to Brazos River Farms.

You have previously pointed out that you need evidence showing commencement and extent of beneficial use prior to the proof date of October 1, 1987. We must apologize that we do not know specifically what it is you need. We suppose that the signed Proof of Beneficial Use form is some evidence. Would you please give us some specific idea of what constitutes acceptable "evidence". As we attempted to make clear in the Proof of Beneficial Use form filed last September, the person most familiar with the present operation of the property is Mr. Burleigh Tomchak, 458 North Basset Road, Roberts, Idaho 83444 and his telephone number is 228-6871.

If you will advise us of any additional assistance we might render, we will be happy to try to comply.

Yours very truly,

Kent W. Foster

Kent W. Foster

#7669.00/srr

Enclosure

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

February 23, 1990

Kent Foster
Holden, Kidwell, Hahn & Crapo
West One Bank Bldg.
P.O. Box 50130
Idaho Falls, ID 83405

RE: Permit No. 35-7744

Dear Mr. Foster:

I have received your letter of February 6, 1990 and accompanying assignment of permit for the above referenced permit. I appreciate your effort in complying with the assignment request.

I now wish to turn to your question raised in the second paragraph of your letter concerning the type of evidence required for reinstating a lapsed permit. This permit lapsed on October 1, 1987. The department, therefore, will need evidence confirming commencement and extent of beneficial use prior to this date.

Acceptable evidence includes but is not limited to aerial photographs, power records, receipts for irrigation equipment and/or well and pump installation, well logs, and affidavits from individuals who are knowledgeable of the system or project described under the permit. Aerial photographs are generally the best forms of evidence since they easily confirm both commencement and extent of use at or prior to a particular date. Aerial photos may be acquired through a local ASCS office and must pre-date the final proof due date. An agent from the ASCS office should sign and date the photos.
Please be reminded that the permit holder must also submit a written statement explaining why proof of beneficial use was not filed timely.

I apologize for not previously detailing the type of information required for reinstating lapsed permits. I assumed that you were familiar with the type of evidence required for reinstating lapsed permits. If you have additional questions, please feel free to contact me again.

Sincerely,

Tim Luke

TIM LUKE
Sr. Water Resource Agent

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

July 11, 1990

Kent Foster
Holden, Kidwell, Hahn & Crapo
West One Bank Bldg.
Box 50130
Idaho Falls, ID 83405

RE: Permit No. 35-7744

Dear Mr. Foster:

Enclosed is a copy of Department correspondence dated February 23, 1990 concerning the above referenced permit. Department records show that neither you or your client have responded to this correspondence.

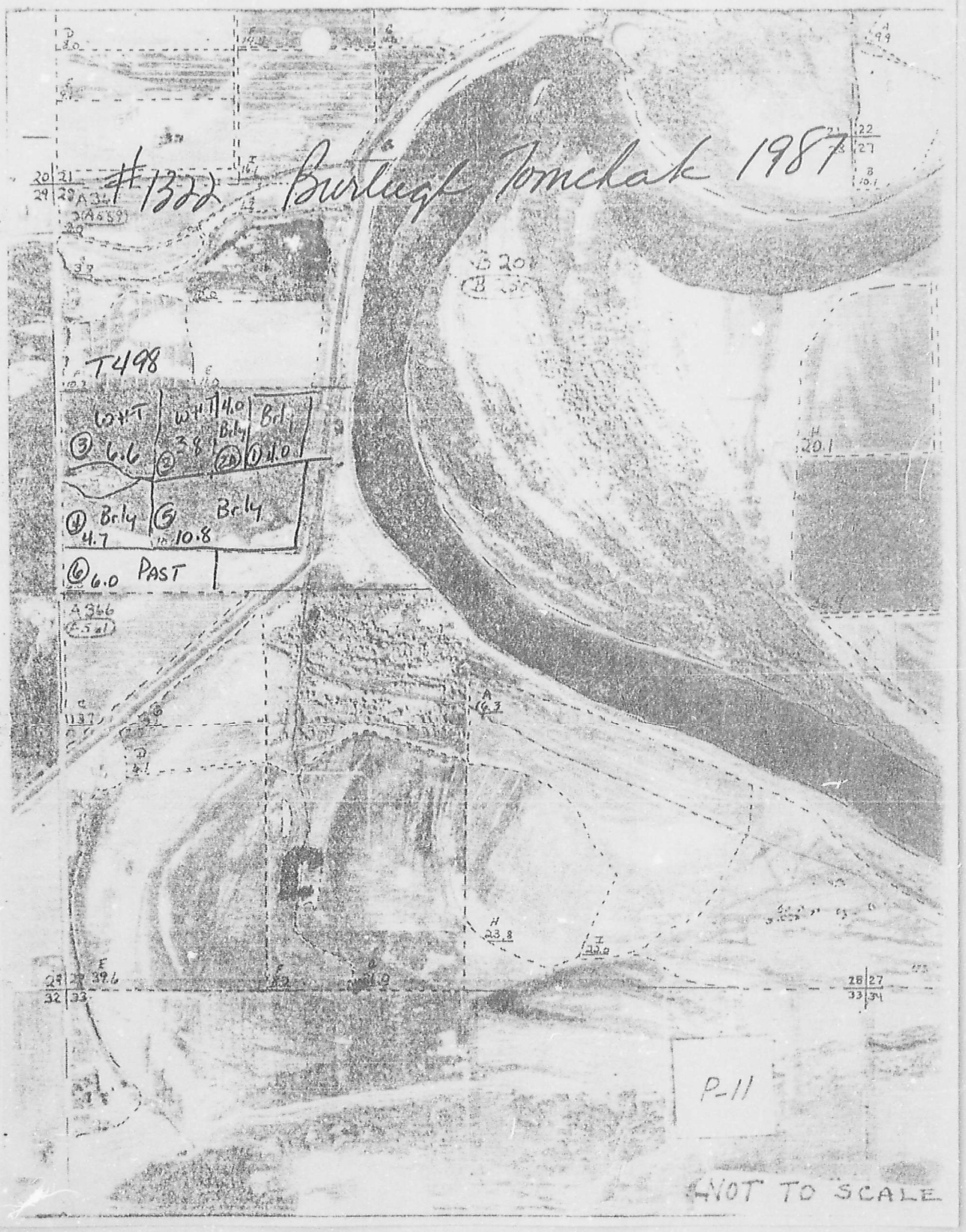
This is a final reminder that the permit remains lapsed and that no further action by the Department will be taken to reinstate the permit until you provide the additional information requested by the earlier correspondence.

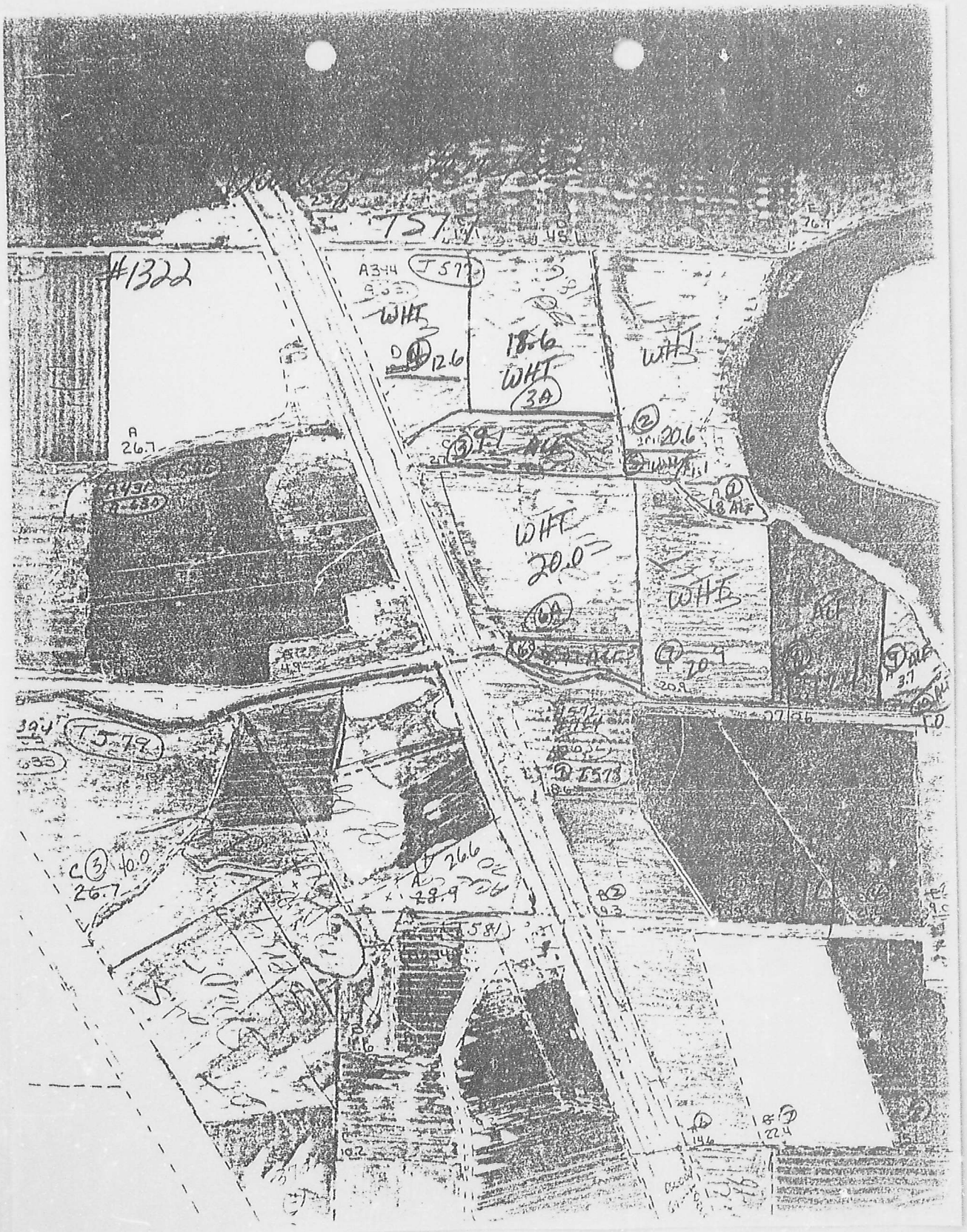
Please feel free to contact me directly at 327-7864 if you have questions concerning this matter.

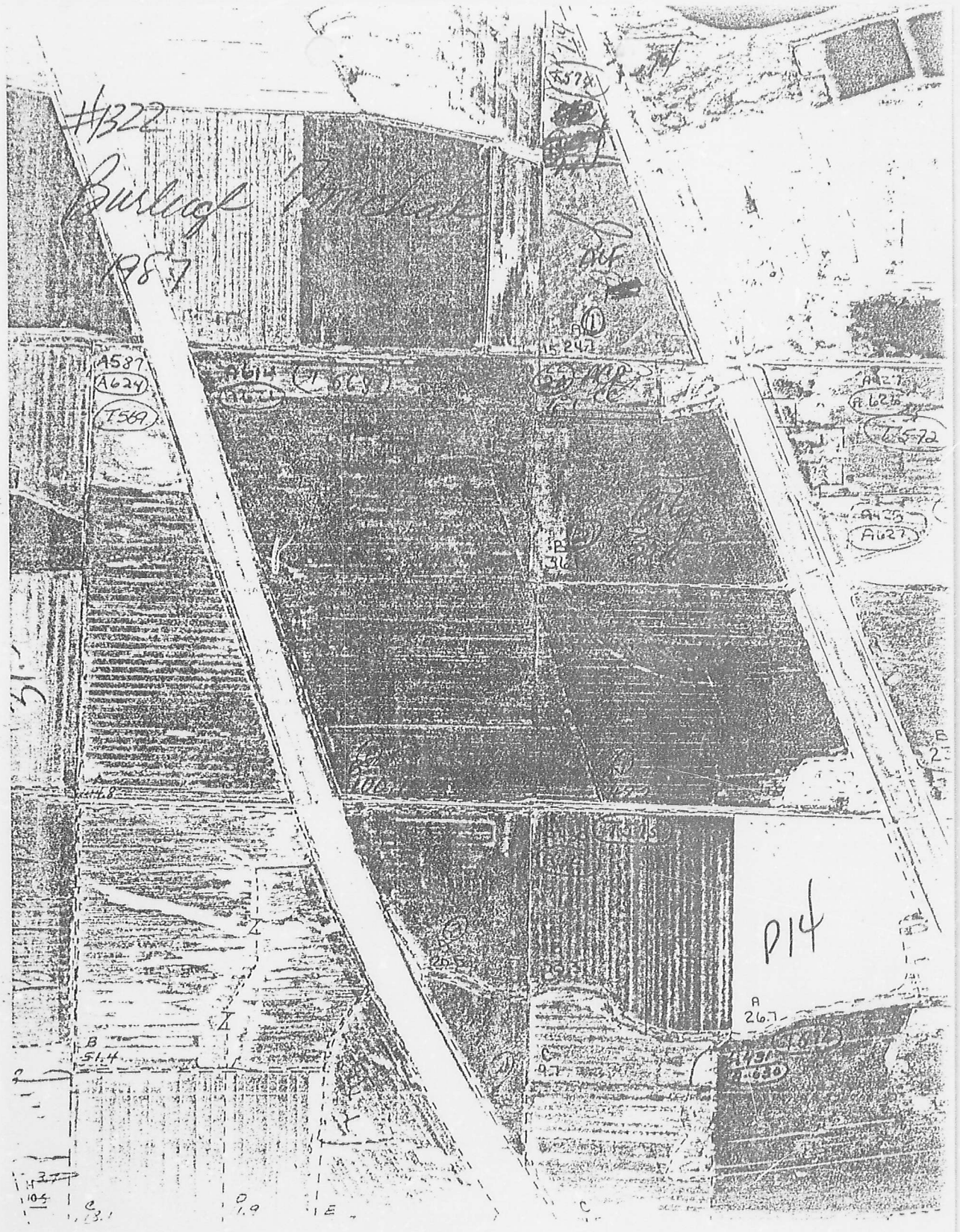
Sincerely,

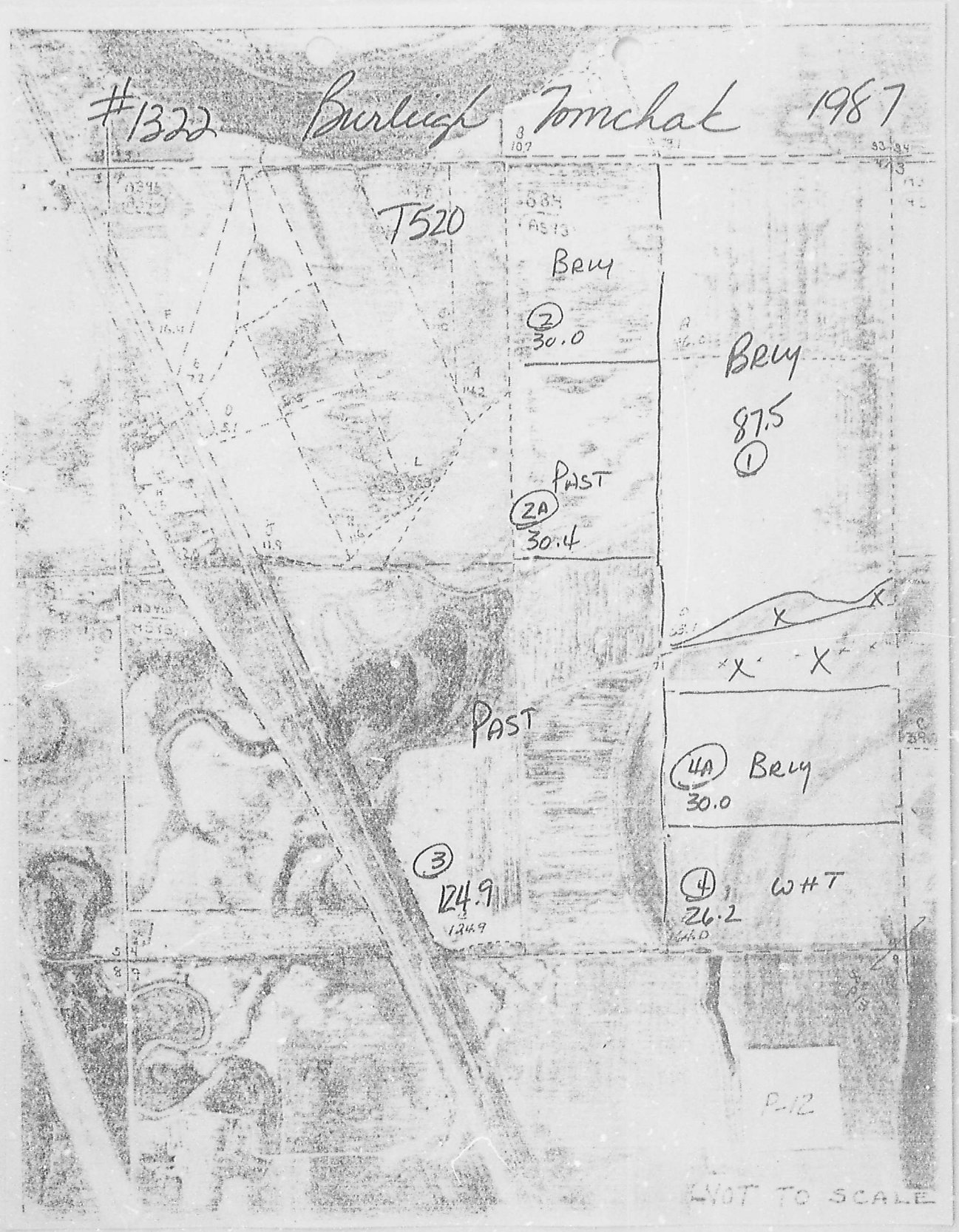
Timothy J. Luke

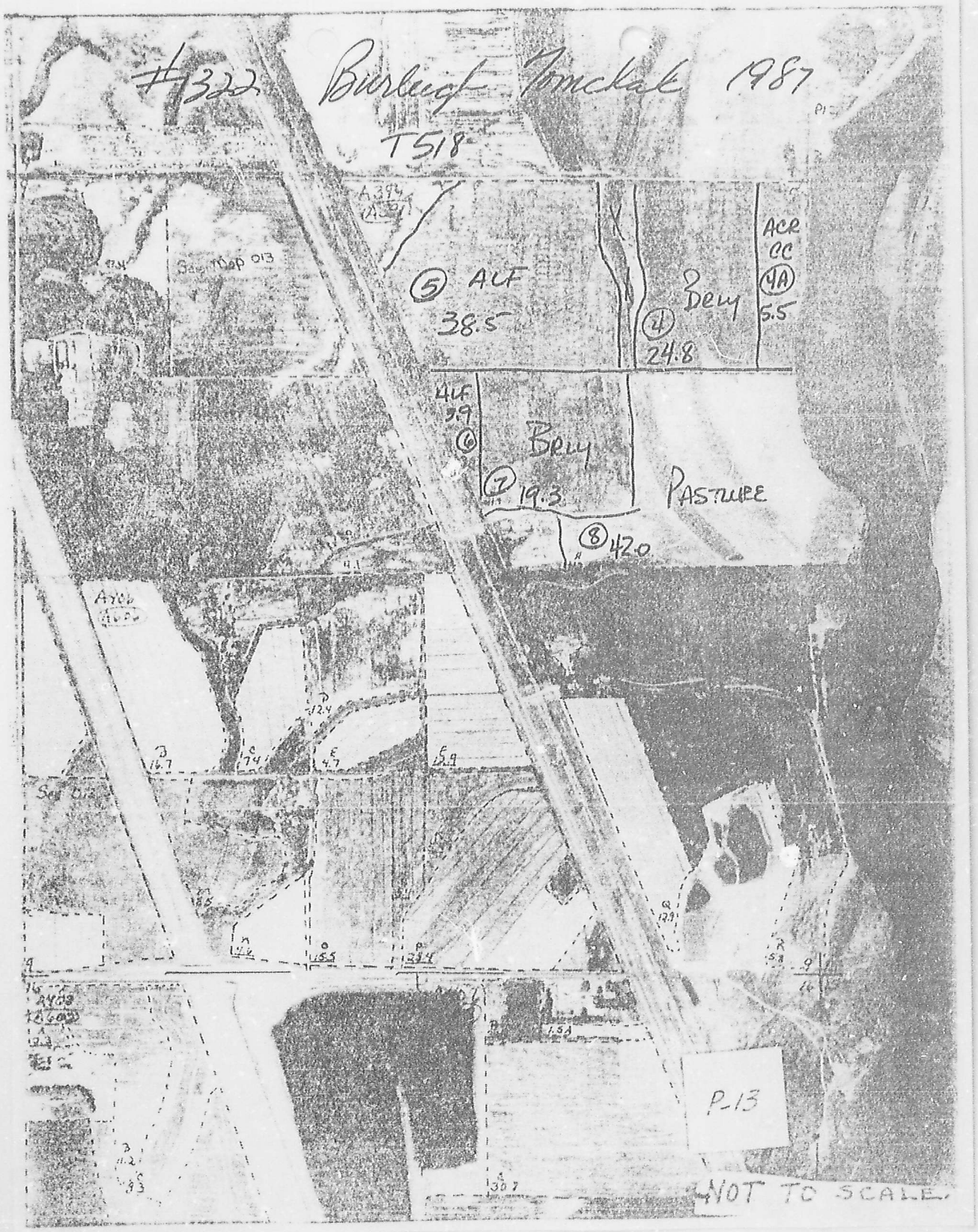
Tim Luke
Sr. Water Resource Agent


#1322 Burleigh Tomclak 1987
T498
Wall
6.6
Wall
3.8
4.0
Brick
10.0
Brick
4.7
Brick
10.8
6.0
PAST
P-11
NOT TO SCALE

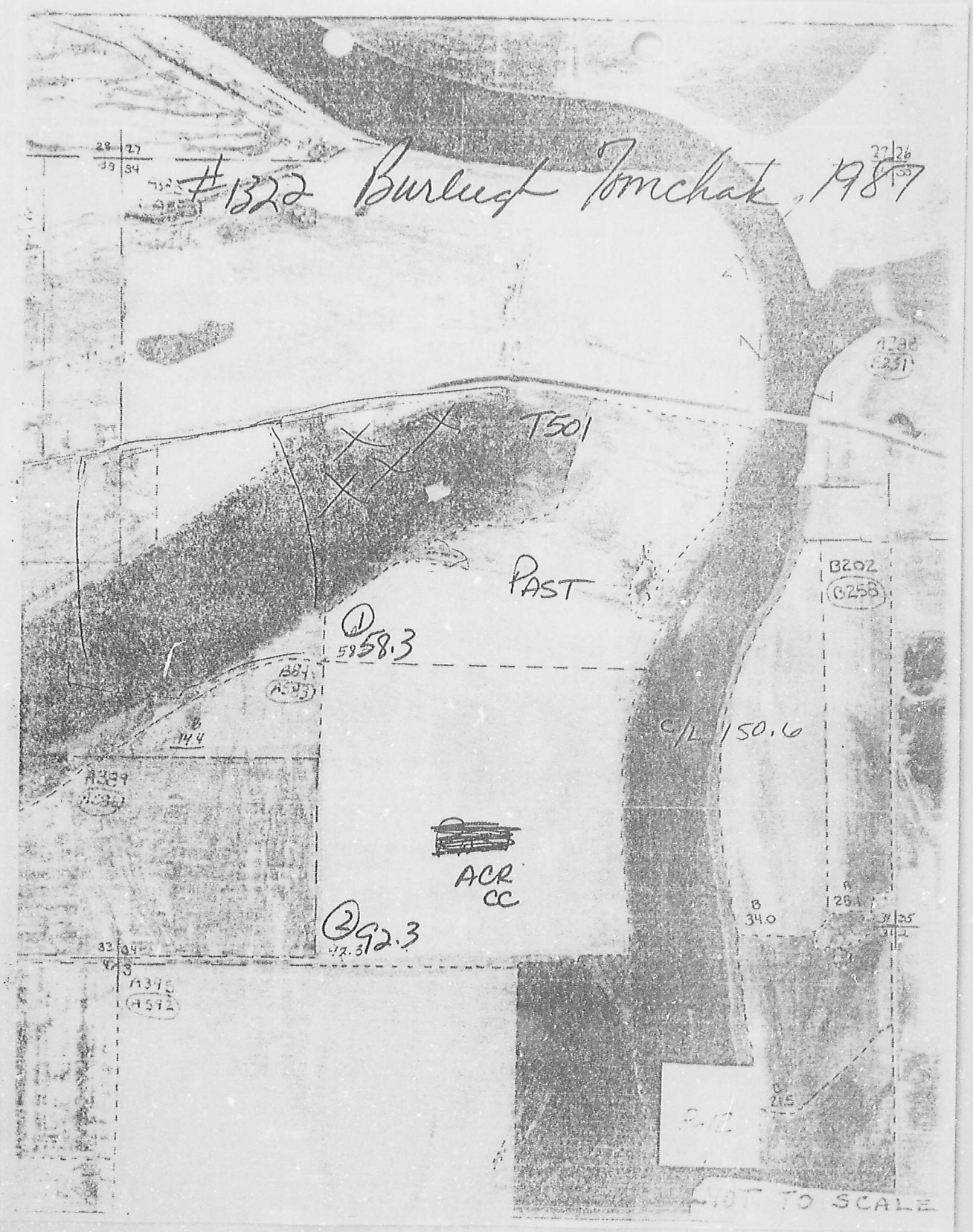

#1322
T577
A344
WHT
12.6
18.6
WHT
3A
20.6
WHT
20.0
WHT
T579
T581
40.0
26.7
26.6
28.9

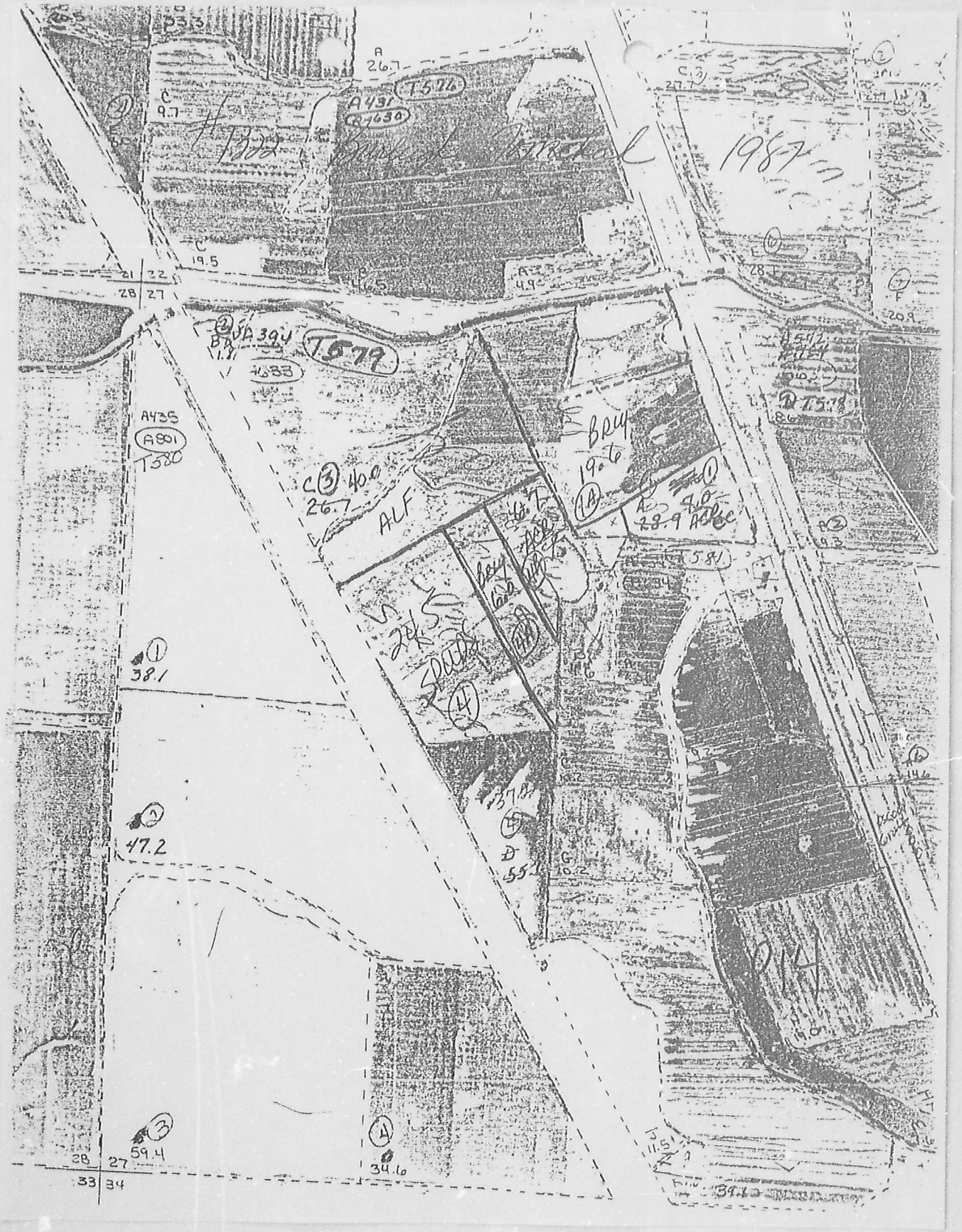

#322
Bridge
1987
P14


#1322 Burleigh Tomchak 1987
T520
BRUY
2
30.0
BRUY
87.5
1
PAST
2A
30.4
PAST
4A
30.0
BRUY
3
124.9
4
26.2
WHT
NOT TO SCALE


#322 Burleigh Tomkak 1987
T518
ACR
CC
4A
5.5
5 ALF
38.5
4 Dely
24.8
ALF
3.9
6
Dely
7
19.3
PASTURE
8 42.0
P-13
NOT TO SCALE


#1322 Burleigh Tomchak 1987
T518
Past
Barn
Fi
Acc
CC
10.0
33.5
30.0
57
Bi W Acc
CC
97
NOT TO SCALE
P-12


#1322 Burlect Tomchak, 1987
T501
PAST
58.3
C/L 150.6
ACR
CC
92.3
NOT TO SCALE


T576
T579
T580
T581
A435
A801
A431
B1630
4633
BRW
ALF
1987
38.1
47.2
59.4
34.6
37.8
39.2
11.5
19.6
28.9
26.7
40.0
19.5
9.7
9.3
10.2
55.1
28
27
33
34
21
22

Form Approved - OMB No. 0560-0004

ASCS-578 (10-02-86) USDA - ASCS

REPORT OF ACREAGE

NOTE: *Section 374 of the Agricultural Adjustment Act of 1938, as amended, authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing the data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the provisions of the Act.*

PAGE ___ OF ___

1. FARM NO.	2. TRACT NO.	3. FARMLAND	CROPLAND	4. PROGRAM YR
1322		1279	1074.0 ~~1193.9~~	87

KEY	5. OPERATOR NAME AND ADDRESS	6. Other Farms
1	BURLEIGH TOMCHAK ROUTE 1 BOX 389 ROBERTS, ID 83444	4581

KEY	NAMES OF OTHER PRODUCERS	ID NUMBER	OTHER FARMS
2	NORTHERN TRUST CO	4440	
3	CHARLES J TRUBL	8631	

10. PHOTO NO. - LEGAL DESCRIPTION

49

TRACT NO.	FIELD NO.	CROP OR LAND USE	Practice 1/	CROP STATUS 2/	16. CROP OR LAND USE SUMMARY										KEY	SHARE
11	12	13	14	15	WHEAT	BARLY	ACR	CU	ONPC						17	18
[illegible]	4	POTATO	IR	I					24.5						1	1.0000
	1A	BARLY GRAIN	IR	I		19.6									1	1.0000
	4A	BARLY GRAIN	IR	I		6.0									1	1.0000
	4B	ACR CLEAN TILL	IR	I			6.7								1	1.0000
19. TOTAL OPERATOR REPORT					160.4	306.1	137.3	445.7	24.5							
20. TOTAL DETERMINED ACREAGE																

LB 6/11/87

1/ IR=Irrigated NI=Nonirriga.e

2/ I=Initial Crop DC=Double Crop SC=Subsequent Crop

F=Failed Acreage
PP=Prevented Planted
A=Abandoned Acreage
INT=Intended Acreage
APPF=After PP or F

21. OPERATOR'S CERTIFICATION - *I certify to the best of my knowledge and belief that the acreage of crops and land uses listed herein are true and correct. I understand that an inaccurate acreage report could result in a payment reduction or loss of program benefits and/or reduction in future allotments and quotas when applicable.*

OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE
		K Mabel Tomchak	6/11/87		

Form Approved - OMB No. 0560-0004

ASCS-578 (10-02-86) USDA - ASCS

REPORT OF ACREAGE

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PAGE OF

1. FARM NO.	2. TRACT NO.	3. FARMLAND	CROPLAND	4. PROGRAM YR
1322		1279	1193.9	87

KEY	5. OPERATOR NAME AND ADDRESS	6. Other Farms
1	BURLEIGH TONCHAK ROUTE 1 BOX 389 ROBERTS, ID 83444	4581

KEY	7. NAMES OF OTHER PRODUCERS	8. ID NUMBER	9. OTHER FARMS
2	NORTHERN TRUST CO	4440	
3	CHARLES J TRUBL	8631	

10. PHOTO NO. - LEGAL DESCRIPTION

TRACT NO. 11	FIELD NO. 12	CROP OR LAND USE 13	Practice 1/ 14	CROP STATUS 2/ 15	16. CROP OR LAND USE SUMMARY										KEY 17	SHARE 18
					WHEAT	BARLY	ACR	CU	ONPC							
499	1	BARLY GRAIN	IR	I		4.0									1	1.0000
	2	WHEAT GRAIN	IR	I	3.8										1	1.0000
	3	WHEAT GRAIN	IR	I	6.6										1	1.0000
	4	BARLY GRAIN	IR	I		4.7									1	1.0000
	5	BARLY GRAIN	IR	I		10.8									1	1.0000
	6	GRASS FORAGE	IR	I				6.0							1	1.0000
	2A	BARLY GRAIN	IR	I		4.0									1	1.0000
501	1	GRASS FORAGE	IR	I				58.3							1	1.0000
	2	ACR CLEAN TILL	IR	I			92.3								1	1.0000
19. TOTAL OPERATOR REPORT →																
20. TOTAL DETERMINED ACREAGE →																

1/ IR=Irrigated NI=Nonirrigated

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OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE

F=Failed Acreage
PP=Prevented Planted
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Form Approved - OMB No. 0560-0004

ASCS-578 (10-02-96) USDA - ASCS

REPORT OF ACREAGE

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1. FARM NO.	2. TRACT NO.	3. FARMLAND	CROPLAND	4. PROGRAM YR
1322		1279	1193.9	87

KEY 1

5. OPERATOR NAME AND ADDRESS
BURLEIGH TOMCHAK
ROUTE 1 BOX 389
ROBERTS, ID 83444

4581

6. Other Farms

10. PHOTO NO. - LEGAL DESCRIPTION

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2	NORTHERN TRUST CO	4440	
3	CHARLES J TRUBL	8631	

TRACT NO. 11	FIELD NO. 12	CROP OR LAND USE 13	Practice 1/ 14	CROP STATUS 2/ 15	16. CROP OR LAND USE SUMMARY WHEAT	BARLY	ACR	CU	ONFC						KEY 17	SHARE 18
518	1	WHEAT GRAIN	IR	I	30.0										1	1.0000
	2	GRASS FORAGE	IR	I				33.5							1	1.0000
	3	BARLY GRAIN	IR	I		29.7									1	1.0000
	4	BARLY GRAIN	IR	I		24.8									1	1.0000
	5	LEGUM HAY	IR	I				38.5							1	1.0000
	6	LEGUM HAY	IR	I				3.9							1	1.0000
	7	BARLY GRAIN	IR	I		19.3									1	1.0000
	8	GRASS FORAGE	IR	I				42.0							1	1.0000
	1A	BARLY GRAIN	IR	I		5.7									1	1.0000
19. TOTAL OPERATOR REPORT →																
20. TOTAL DETERMINED ACREAGE →																

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ASCS-578 (10-02-86) — USDA - ASCS

REPORT OF ACREAGE

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KEY 1

5. OPERATOR NAME AND ADDRESS
BURLEIGH TOMCHAK
ROUTE 1 BOX 389
ROBERTS, ID 83444

4591

6. Other Farms

KEY	7. NAMES OF OTHER PRODUCERS	8. ID NUMBER	9. OTHER FARMS
2	NORTHERN TRUST CO	4440	
3	CHARLES J TRUBL	8631	

10. PHOTO NO. - LEGAL DESCRIPTION

11. TRACT NO.	12. FIELD NO.	13. CROP OR LAND USE	14. Practice 1/	15. CROP STATUS 2/	16. CROP OR LAND USE SUMMARY: WHEAT	BARLY	ACR	CU	ONPC						17. KEY	18. SHARE
520	1B	ACR	IR	I			9.7								1	1.0000
		CLEAN TILL														
	3A	ACR	IR	I			10.0								1	1.0000
		CLEAN TILL														
	4A	ACR	IR	I			5.5								1	1.0000
		CLEAN TILL														
520	1	BARLY GRAIN	IR	I		87.5									1	1.0000
	2	BARLY GRAIN	IR	I		30.0									1	1.0000
	3	GRASS FORAGE	IR	I				124.9							1	1.0000
	4	WHEAT GRAIN	IR	I	26.2										1	1.0000
	2A	GRASS FORAGE	IR	I				30.4							1	1.0000
	4A	BARLY GRAIN	IR	I		30.0									1	1.0000
19. TOTAL OPERATOR REPORT																
20. TOTAL DETERMINED ACREAGE																

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OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE

Form Approved - OMB No. 0560-0004

ASCS-578 (10-02-86) USDA - ASCS

REPORT OF ACREAGE

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10. PHOTO NO. - LEGAL DESCRIPTION

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					WHEAT	BARLY	ACR	CU	ONPC							
	1	LEGUM HAY	IR	I				24.7							1	1.0000
	2	BARLY GRAIN	IR	I		30.0									1	1.0000
	2A	ACR CLEAN TILL	IR	I			6.1								1	1.0000
577	1	LEGUM HAY	IR	I				1.8							1	1.0000
	2	WHEAT GRAIN	IR	I	20.6										1	1.0000
	3	LEGUM HAY	IR	I				9.1							1	1.0000
	4	WHEAT GRAIN	IR	I	12.6										1	1.0000
	5	WHEAT GRAIN	IR	I	1.1										1	1.0000
	6	LEGUM HAY	IR	I				8.7							1	1.0000
19. TOTAL OPERATOR REPORT →																
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21. OPERATOR'S CERTIFICATION - *I certify to the best of my knowledge and belief that the acreage of crops and land uses listed herein are true and correct. I understand that an inaccurate acreage report could result in a payment reduction or loss of program benefits and/or reduction in future allotments and quotas when applicable.*

OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE

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INT=Intended Acreage
APPF=After PP or F

Form Approved - OMB No. 0560-0004

ASCS-578 (10-02-86) USDA - ASCS

REPORT OF ACREAGE

NOTE: *Section 374 of the Agricultural Adjustment Act of 1938, as amended, authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing the data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the provisions of the Act.*

PAGE ___ OF ___

1. FARM NO.	2. TRACT NO.	3. FARMLAND	CROPLAND	4. PROGRAM YR
1022		1279	1193.9	87

KEY	5. OPERATOR NAME AND ADDRESS	6. Other Farms
1	BURLEIGH TOMCHAK ROUTE 1 BOX 389 ROBERTS, ID 83444	4581

KEY	NAMES OF OTHER PRODUCERS (7)	ID NUMBER (8)	OTHER FARMS (9)
2	NORTHERN TRUST CO	4440	
3	CHARLES J TRUBL	8631	

10. PHOTO NO. - LEGAL DESCRIPTION

TRACT NO. (11)	FIELD NO. (12)	CROP OR LAND USE (13)	Practice 1/ (14)	CROP STATUS 2/ (15)	16. CROP OR LAND USE SUMMARY: WHEAT	BARLY	ACR	CU	ONPC						KEY (17)	SHARE (18)
1022	7	WHEAT GRAIN	IR	I	20.9										1	1.0000
	8	LEGUM HAY	IR	I				17.4							1	1.0000
	9	LEGUM HAY	IR	I				3.7							1	1.0000
	10	LEGUM HAY	IR	I				1.0							1	1.0000
	3A	WHEAT GRAIN	IR	I	18.6										1	1.0000
	6A	WHEAT GRAIN	IR	I	20.0										1	1.0000
	1	ACR CLEAN TILL	IR	I			7.0								1	1.0000
	2	LEGUM HAY	IR	I				1.8							1	1.0000
	3	LEGUM HAY	IR	I				40.0							1	1.0000
19. TOTAL OPERATOR REPORT																
20. TOTAL DETERMINED ACREAGE																

1/ IR=Irrigated NI=Nonirrigated

2/ I=Initial Crop DC=Double Crop SC=Subsequent Crop

21. OPERATOR'S CERTIFICATION - *I certify to the best of my knowledge and belief that the acreage of crops and land uses listed herein are true and correct. I understand that an inaccurate acreage report could result in a payment reduction or loss of program benefits and/or reduction in future allotments and quotas when applicable.*

OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE

F=Failed Acreage
PP=Prevented Planted
A=Abandoned Acreage
INT=Intended Acreage
APPF=After PP or F

Form Approved - OMB No. 0560-0004

ASCS-578 (10-02-86) USDA - ASCS

REPORT OF ACREAGE

Section 374 of the Agricultural Adjustment Act of 1938, as amended, authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing the data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the provisions of the Act.

NOTE:

PAGE ___ OF ___

1. FARM NO.	2. TRACT NO.	3. FARMLAND	CROPLAND	4. PROGRAM YR
1322				87

KEY 1

5. OPERATOR NAME AND ADDRESS
BURLEIGH TOMCHAK
ROUTE 1 BOX 389
ROBERTS, ID 83444

4581

6. Other Farms

KEY	NAMES OF OTHER PRODUCERS (7)	ID NUMBER (8)	OTHER FARMS (9)

10. PHOTO NO. - LEGAL DESCRIPTION

SUMMARY PAGE

16. CROP OR LAND USE SUMMARY

TRACT NO. (11)	FIELD NO. (12)	CROP OR LAND USE (13)	Practice 1/ (14)	CROP STATUS 2/ (15)	WHEAT	BARLY	ACR	CU	ONPC	KEY (17)	SHARE (18)
498			IR		10.4	23.5	.0	6.0	.0		
			NI		.0	.0	.0	.0	.0		
501			IR		.0	.0	92.3	58.3	.0		
			NI		.0	.0	.0	.0	.0		
518			IR		30.0	79.5	25.2	117.9	.0		
			NI		.0	.0	.0	.0	.0		
520			IR		26.2	147.5	.0	155.3	.0		
			NI		.0	.0	.0	.0	.0		
574			IR		.0	30.0	6.1	24.7	.0		
			NI		.0	.0	.0	.0	.0		
577			IR		93.8	.0	.0	41.7	.0		
			NI		.0	.0	.0	.0	.0		
9			IR		.0	25.6	13.7	41.8	.0		
			NI		.0	.0	.0	.0	24.5		
FARM			IR		160.4	306.1	137.3	445.7	.0		
			NI		.0	.0	.0	.0	24.5		
BURLEIGH TOMCHAK		4581		KEY 1	1.0000	1.0000					
19. TOTAL OPERATOR REPORT →											
20. TOTAL DETERMINED ACREAGE →											

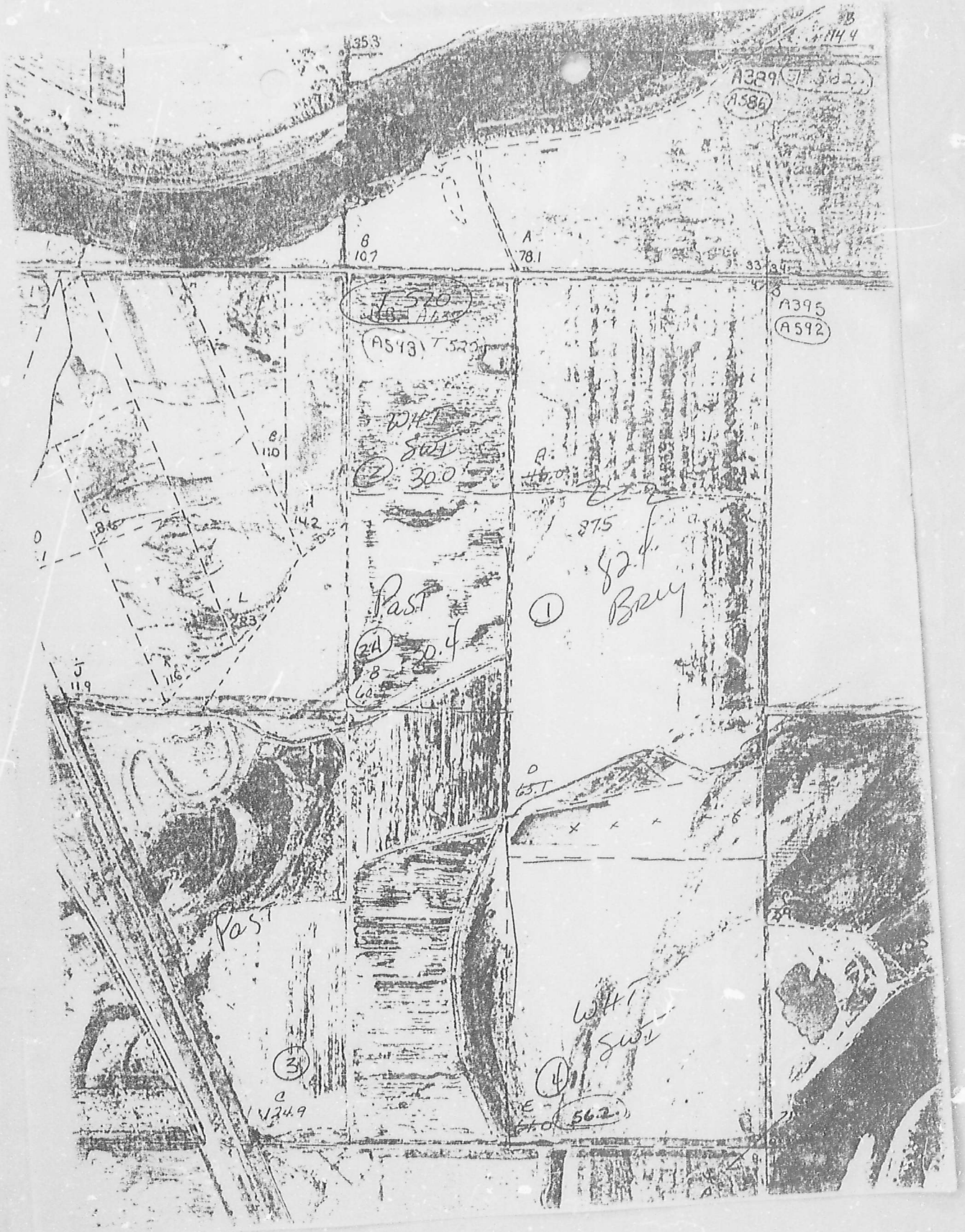
1/ IR=Irrigated NI=Nonirrigated

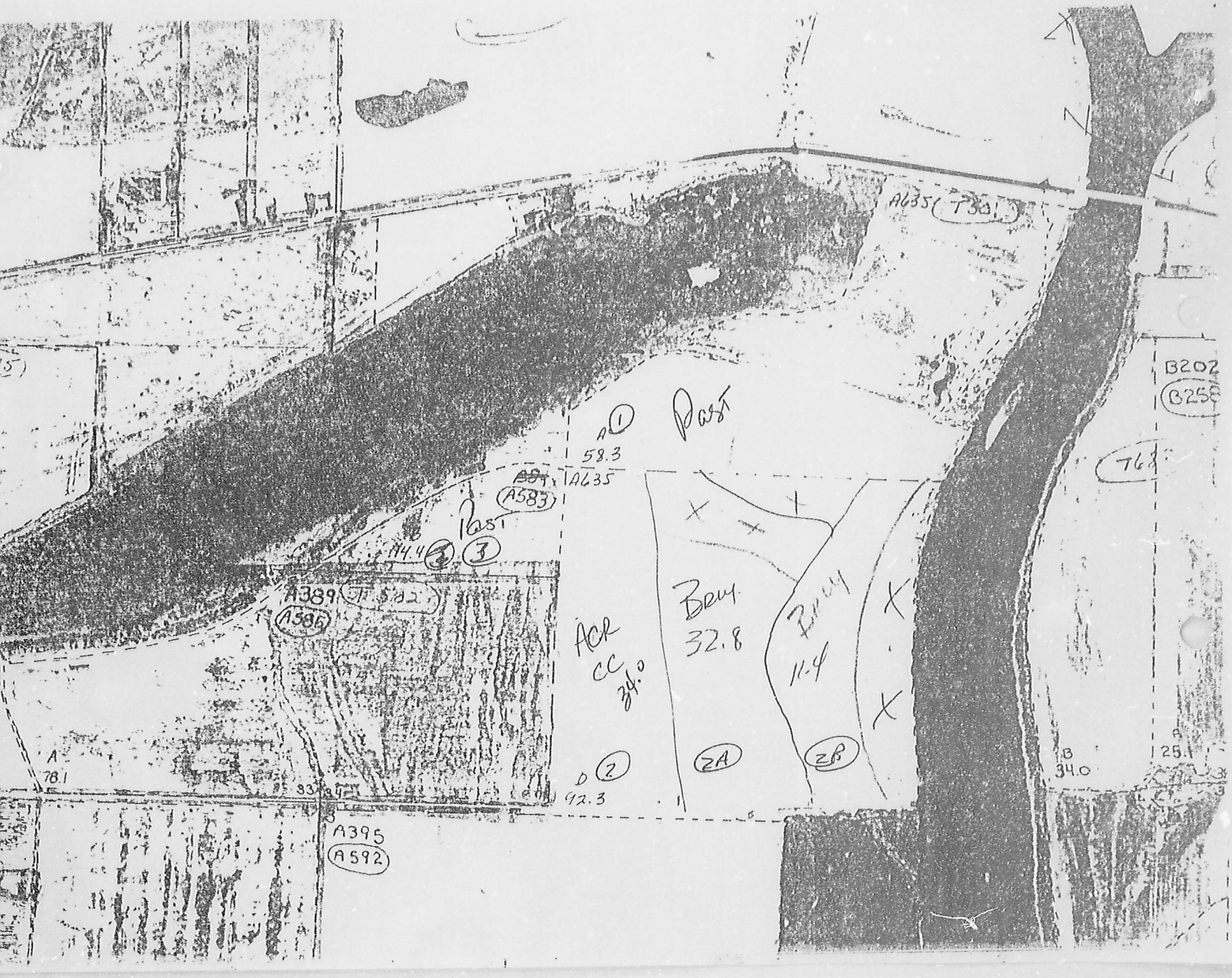
2/ I=Initial Crop DC=Double Crop SC=Subsequent Crop

21. OPERATOR'S CERTIFICATION - *I certify to the best of my knowledge and belief that the acreage of crops and land uses listed herein are true and correct. I understand that an inaccurate acreage report could result in a payment reduction or loss of program benefits and/or reduction in future allotments and quotas when applicable.*

OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE

F=Failed Acreage
PP=Prevented Planted
A=Abandoned Acreage
INT=Intended Acreage
APPF=After PP or F


A389
A586
A395
A592
A543
T 520
W+T
Sod
30.0
Past
Bldg
82.4
87.5
78.1
10.7
65.T
562
W+T
Sod
Past
0.4


A635 (736)
B202
B255
764
58.3
A635
(A583)
Part
A389 (A582)
(A586)
ACR
CC
34.0
Bdy
32.8
Bdy
11.4
2A
2B
92.3
A395
(A592)
78.1
34.0
25.1

Form Approved - OMB No. 0560-0004

ASCS-578 (02-84) — USDA-ASCS

REPORT OF ACREAGE

NOTE: *Section 374 of the Agricultural Adjustment Act of 1938, as amended, authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.*

PAGE 1 OF 1

KEY		FARM NO.	NAME AND ADDRESS	FARM LAND	CROP LAND
1	OPERATOR	635	Burleigh Tomchak	535	~~494~~ 474.9
		A	RR 1 Box 389		
		OP	Roberts, Idaho 83444		
2	OWNER	635	The Northern Trust Co.		
		A	50 LaSalle St.		
		OW	Chicago, Illinois 60675		

OTHER FARMS: A394

OWNER: none

PROGRAM YEAR: 1986

OTHER: 12

KEY	OTHER INTERESTED PRODUCERS NAME AND ADDRESS A	OTHER FARMS B	ASSIGNMENT CROP C	ASSIGNMENT JOB D
3				
4				
5				
6				
7				

SECTION I - FARM FIELD REPORT *(Note: Grey Shaded Area For County Office Use Only) (Section I Continued on Reverse)*

TRACT	FIELD NO.	CROP OR LAND USE	CROP OR LAND USE SUMMARY: WHT	BRLY	OATS	CORN	ACR	CU	ONPC	KEY	SHARE	DISPOSITION	GROSS ACRES	DEDUCTIONS IDENT./MEAS.	DEDUCTIONS ACRES	NET ACRES	INIT. & DATE
7								58.3									
501	1	Pasture								1	all						
							34.0										
	2	ACR - CC		32.8													
	2A	Brly-Grain		11.4													
	2B	Brly-Grain		82.1													
7																	
520	1	Brly-Grain SWI	30.0														
	2	Wht-Grain						30.4									
	2A	Pasture						124.9									
	3	Pasture SWI	56.2														
	4	Wht-Grain															
13. TOTAL OPERATOR REPORT			86.2	126.6	0	0	34.0	228.0	0								
14. TOTAL DETERMINED ACREAGE																	

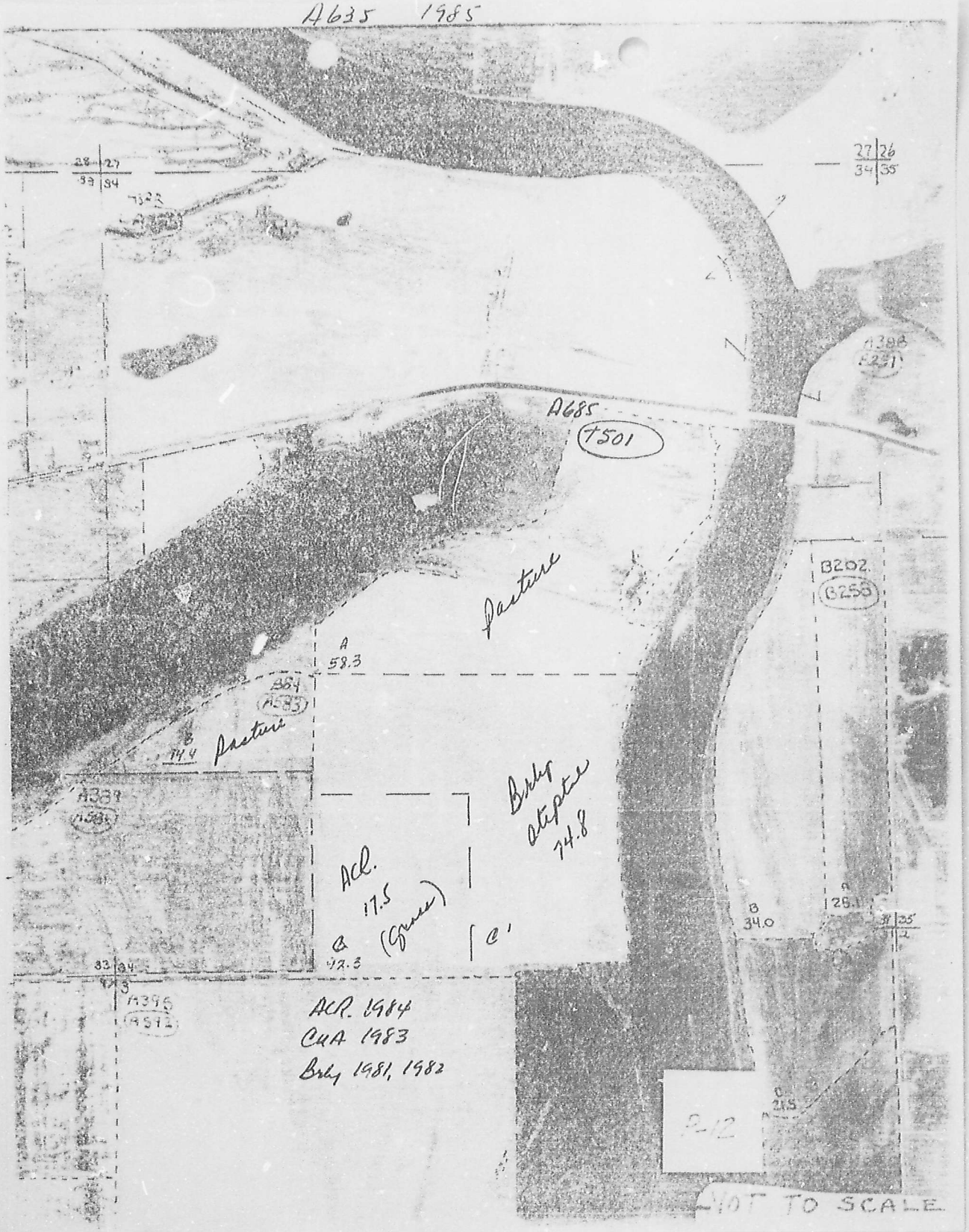
A. OPERATOR'S SIGNATURE — DATE — B. OPERATOR'S SIGNATURE — DATE

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. I understand that an inaccurate acreage report could result in a payment reduction or loss of program benefits and/or reduction in future allotments and quotas when applicable.

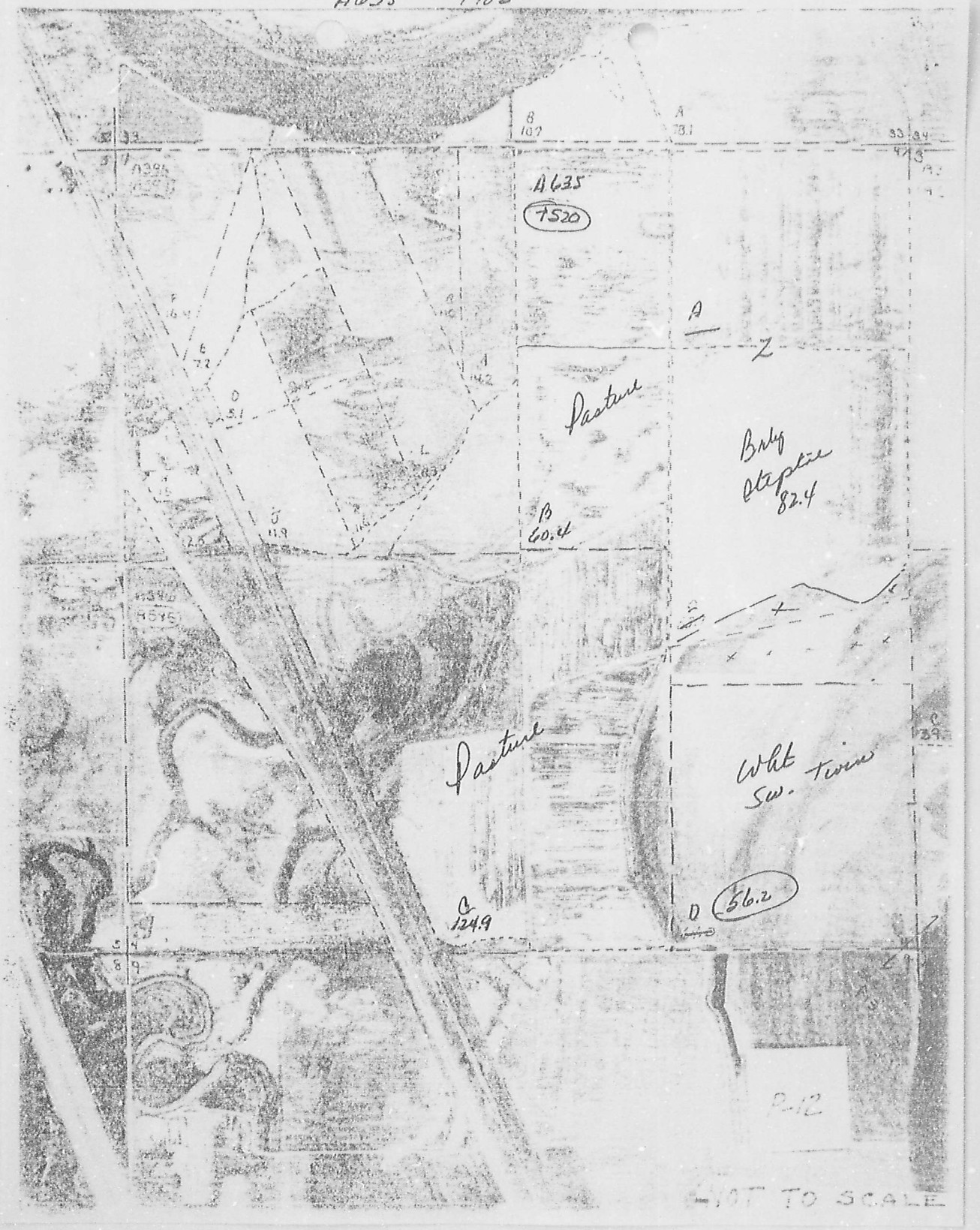
C. OPERATOR'S SIGNATURE: Burleigh Tomchak — DATE: 6-30-86

A635 1985



ACR. 1984
CUA 1983
Bldg 1981, 1982

A635 1985


A635
7520
A
Pasture
Bldg
Staples
82.4
B
60.4
Pasture
Wht
Sw. Twins
C
124.9
D
56.2
R-12
NOT TO SCALE

Form Approved - OMB No. 0560-0004

ASCS-578 (6-7-78) — **REPORT OF ACREAGE** — USDA-ASCS

NOTE: Sec. 1374a, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.

PAGE 1 OF 1

KEY		FARM NO.	NAME AND ADDRESS	FARM-LAND	CROP-LAND
1	OPERATOR	635 A OP	Burleigh Tomchak Roberts, Idaho 83444		
2	OWNER	635 A OW	Northtrust Farm Management Inc. 1900 Spring Rd, Suite 102 Oak Brook, Illinois 60521		

OTHER FARMS: OPERATOR: A-394; OWNER: ? ? ?

PROGRAM YEAR: 1985

OTHER: 8-0

KEY	OTHER INTERESTED PRODUCERS NAME AND ADDRESS	OTHER FARMS	ASSIGNMENT CROP	ASSIGNMENT JOB
3				
4				
5				
6				
7				

SECTION I - FARM FIELD REPORT (NOTE: Grey Shaded Area to be Filled In by Reporter ONLY.)

TRACT	FIELD NO.	CROP OR LAND USE	CROP OR LAND USE SUMMARY: Wht	Brly	Past				FR.	KEY	SHARE	DISPOSITION	METHOD	GROSS ACRES	DEDUCTIONS: IDENT./MEAS.	DEDUCTIONS: ACRES	NET ACRES	INITIAL & DATE
	1				58.3					1	All							
7501	A	pasture								2	Bkd							
	2				14.4													
✓	B	Pasture																
	3								17.5									
✓	C	ACR.																
	3A			74.8														
✓	C'	Brly - Stiptec Grain																
	1			82.4														
A635	A	Brly - Stiptec Grain																
	2				60.4													
✓	B	Pasture																
	3				124.9													
✓	C	Pasture																
	4		56.2															
✓	D	Wht - Trico Grain																
6-25-85 kf																		
TOTAL OPERATOR REPORT			56.2	157.2	258.0				17.5									
TOTAL REPORTER'S REPORT																		

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS personnel to enter my farm for making any program determinations.

OPERATOR'S SIGNATURE	DATE	OPERATOR'S SIGNATURE	DATE
Burleigh Tomchak	6-26-85		

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO
P.O. Box 50130
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620

BEFORE THE DEPARTMENT OF WATER RESOURCES
FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 35-7744.	AFFIDAVIT OF BURLEIGH TOMCHAK

STATE OF IDAHO)
)ss.
County of Bonneville)

BURLEIGH TOMCHAK, being first duly sworn on his oath, deposes and says:

I.

Affiant is a resident of Jefferson County, Idaho, where he has been engaged in the occupation of farming for many years. Affiant resides, and owns and operates other farmland near the 390 acres described as the proposed place of use in Permit No. 35-7744.

II.

2. Affiant has personally operated the land described as the proposed place of use under the above-referenced permit

every year for the last 5-1/2 years, commencing with the crop season of 1985. For two years prior to that, affiant recalls said land was in a federal set-aside program and was not farmed. For at least three years prior to that time (approximately 1980 through 1982), said property was operated by the manager of Deer Park Farms, one Steve Blount, who is now deceased.

III.

Affiant knows, of his own personal knowledge, that all of said land has been farmed at one time or another over the years, originally with water diverted primarily from Roberts Slough, which lies north of this property. About 1980, or before, under the direction of said Steve Blount, a pump was installed on the west side of a sand pit in the Northeast quarter of the Southeast quarter of Section 4, Township 4 North, Range 37 East, and mainline was buried in a north-south line from said point from which said land has been irrigated ever since, except for the two years when the land was in the set-aside program. It is affiant's understanding that originally a well was contemplated, but that because of very deep sand deposits in this area, the effort to drill the well was eventually abandoned and the pump installed to divert subterranean water from the sand pit instead.

IV.

To the best of affiant's knowledge and belief, there are approximately 385 to 390 farmable acres, and acres that have in fact been farmed, within the area described in said permit as the place of use. Affiant has personally diverted water from the described sand pit by means of the described pump and applied the same for the irrigation of lands within the proposed place of use every year from 1985 until present. In recent years, affiant has begun to experience water shortages from the sand pit and has begun preparations to recommence use of water from the Roberts Slough in order to have sufficient water to adequately irrigate the land.

Burleigh Tomchak

Burleigh Tomchak

SUBSCRIBED and sworn to before me this 3rd day of August, 1990.

Kent D. Foster

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 11/10/92

(seal)

#8149.00
0402i/srr

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAH
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
MARIE T. FEELEY
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

August 3, 1990

RECEIVED
AUG 6 1990
Department of Water Resources

Tim Luke, Senior Water Resource Agent
IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

RE: Permit No. 35-7744

Dear Mr. Luke:

Mrs. Tomchak, whose husband, Burleigh Tomchak, has been the operator for a number of years of the approximately 390 acres described in Permit No. 35-7744, recently brought to us some documents she obtained from the ASCS office in Jefferson County. We are enclosing those documents just as she brought them.

After reviewing them, it appears that these are crop acreage records from 1985 through 1989. As I have looked carefully at the aerial photos, I think there is a photo of the relevant land in each package from which you can get a pretty good idea of the crops that were located on this approximate 390 acres each year.

In addition, we have prepared, and are enclosing, the affidavit of Mr. Burleigh Tomchak who has been the operator of the property since 1985.

We will look forward to hearing further from you when it is convenient.

Yours very truly,

Kent W. Foster

Kent W. Foster

#7669.00/srr

Enclosure

PLACE OF USE 1/4 1/4 T-R-S REPORT

WR-NUMBER	NAME	STG	SOURCE	T	R	S	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	SUM
0100302	BUTTE & MARKET LAKE CA	D	SNAKE RIVER	04N	37E	4														30	30		220
3502147	DUTSON	L	ROBERTS SLOUGH	04N	37E	4	40	40	40	40										30	30		140
3502149	DUTSON	L	ROBERTS SLOUGH	04N	37E	4		40	40											35	21	36	34	364
	1986 MAPPING DATA ---	-	COUNTY 51 QUAD X	42	04N	37E	4		33	34			37	26	21	26	34	27					

PLACE OF USE LOTS T-R-S REPORT

08/15/90

WR-NUMBER	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	LOT	+	SUM
		NE				NW				SW				SE					
04N 37E 4																			
51 MAPPING: 1L35 2L37 3L37 4L37																			146

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

August 16, 1990

Brazos River Farms
% Holden, Kidwell, Hahn & Crapo
PO Box 50130
Idaho Falls, ID 83405

RE: Permit No. 35-7744

Dear Permit Holders:

We acknowledge receipt of the statement of beneficial use and the supporting documentation for reinstating the above referenced permit.

Before a license can be issued, a field examination will be made by a representative of this Department. Enclosed is an Order of Reinstatement. Please note that the priority date has been advanced to September 15, 1989.

If you have any questions regarding this matter, please contact this office or our Eastern Regional Office at 525-7161.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:js

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAR 08 1991
Department of Water Resources

ASSIGNMENT OF APPLICATION FOR PERMIT

I, H. Andrew Thornburg, hereby assign to ~~Burleigh~~ Tom chak

of, 458 Bassett Road, Roberts, Idaho
(Full Address)

All my right, title, and interest in and to Application for Permit No. 35-07744 to appropriate the public waters of the State of Idaho.

Or (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Application for Permit No. _____ to appropriate the public waters of the State of Idaho.

Describe portion of the application assigned listing the number of acres in each 40 acre subdivision, point of diversion location, and the amount of water in cubic feet per second.

_____

_____

_____

Made this sixth day of March, 1991, _____

CAT. NO. NN00737
TO 1945 CA (8-84)
(Corporation)

TICOR TITLE INSURANCE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } ss.

On March 1, 1991 before me, the undersigned, a Notary Public in and for said State, personally appeared H. ANDREW THORNBURG

personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the XXXXXXXXXXXXX President [illegible] of the Corporation that executed the within instrument and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature Ann E. Shulman

OFFICIAL SEAL
ANN E. SHULMAN
NOTARY PUBLIC-CALIFORNIA
PRINCIPAL OFFICE IN
LOS ANGELES COUNTY
My Commission Expires Jan. 27 1993

(This area for official notarial seal)

STAPLE HERE

I, Lori J. Poulos, Corporate Secretary for Brazos River Farms, hereby certify that H. Andrew Thornburg serves as the Chairman and President of Brazos River Farms, Inc. and I also certify that he is authorized to sign the attached document and act on behalf of Brazos River Farms, Inc.

Lori J. Poulos

10 April 1991
Date

RECEIVED
JUN - 4 1999
Department of Water Resources

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 35-07744

Date of Priority: September 15, 1989 Maximum Diversion Rate: 6.58 CFS

Comes now BURLEIGH TOMCHAK
458 BASSETT RD
ROBERTS ID 83444 and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 35-07744, and requests that the permit be changed as follows:

Source: GROUNDWATER

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 10/31	6.58 CFS	See remarks

LOCATION OF POINT(S) OF DIVERSION: Lot 5(SWSW), Sec. 3, Township 04N, Range 37E
JEFFERSON County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
04N	37E	4	Lot 1(NENE)	39	Lot 2(NWNE)	39	SWNE	36	
			SENE	36	NESW	24	NWSW	5	
			SESW	25	NESE	20	NWSE	32	
			SWSE	36	SESE	37			329

Total number of acres irrigated: 329

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed at 458 Bassett Rd Roberts ID., this 24 day of May, 1999.

Burleigh Tomchak
(Signature)

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 35-07744

****

FOR DEPARTMENT USE ONLY

Preliminary check by SLK Fee = $30 Receipted by RF # C045646 E015762 Date 6-7-99 3-6-91

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, Karl J. Dreher, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 35-07744 with the following;

CONDITIONS OF APPROVAL AND REMARKS

1. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
2. This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.
3. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 1316.0 af at the field headgate for the lands above.

Witness my hand this 11TH day of June, 1999.

Acting for KARL J. DREHER, Director

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 35-07744

Priority: September 15, 1989 Maximum Diversion Rate: 6.58 CFS

This is to certify, that BURLEIGH TOMCHAK
458 BASSETT RD
ROBERTS ID 83444 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated August 19, 1977; and has submitted Proof of Beneficial Use on September 15, 1989. An examination indicates that the works have a diversion capacity of 12.320 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION
IRRIGATION	04/01 to 10/31	6.58 CFS

LOCATION OF POINT(S) OF DIVERSION: Lot 5(SWSW), Sec. 3, Township 04N, Range 37E
JEFFERSON County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
04N	37E	4	Lot 1(NENE)	39	Lot 2(NWNE)	39	SWNE	36	
			SENE	36	NESW	24	NWSW	5	
			SESW	25	NESE	20	NWSE	32	
			SWSE	36	SESE	37			329

Total number of acres irrigated: 329

CONDITIONS OF APPROVAL AND REMARKS

1. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
2. This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.
3. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 1316.0 af at the field headgate for the lands above.

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 35-07744

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Signed and sealed this 11TH day of JUNE, 1999.

Acting for KARL J. DREHER, Director

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 19, 1991

RE: Permit No. 35-7744

Burleigh Tomchak
458 Bassett Rd.
Roberts, ID 83444

Dear Mr. Tomchak:

We have received an assignment form transferring ownership of the above referenced permit to you. The assignment was made by H. Andrew Thornburg, however, Mr. Thornburg is no longer associated with the permit. We cannot, therefore, accept the assignment.

In Idaho, a permit is considered personal property and only the owner of record can take action on the permit such as assigning it to another individual. This right was originally filed by Rollo Dutson and was later assigned to Deer Park Farms. According to our records, Mr. Thornburg was the attorney for Deer Park Farms. On December 27, 1989, Mr. Thornburg assigned the permit to Brazos River Farms. The right is currently in their name and only a representative of Brazos River Farms can now assign the permit to you. We have nothing in our file to indicate that Mr. Thornburg is associated with Brazos River Farms or is authorized to act in their behalf.

I am enclosing a partially completed assignment form for your use. Note that the form needs to be signed by a representative of Brazos River Farms and the person signing the form needs to indicate their relationship to the organization.

If I can be of further assistance, please feel free to contact me.

Sincerely,

Sharla Curtis

SHARLA CURTIS
Technical Records Specialist

Enclosure

BRIDGEWATER RESOURCES CORP.

March 1, 1991

Ms. Mabel Tomschak
458 N. Bassett Road
Roberts, Idaho 83448

Dear Ms. Tomschak:

As per our conversation on Thursday, February 28 enclosed is a notarized Assignment of Application for Permit for the State of Idaho, Department of Water Resources.

Best Regards,

Faye L. Clerk for
Lori J. Poulos

LJP:flc

Enclosure

c/o BRC MANAGEMENT CORP.
9701 WILSHIRE BOULEVARD, SUITE 1200, BEVERLY HILLS, CA 90212 TELEPHONE 213-859-7400 FAX 213-859-7445

BRC BRIDGEWATER RESOURCES CORP.

RECEIVED
APR 15 1991
Department of Water Resources

April 10, 1991

Ms. Sharla Curtis
State of Idaho
Department of Water Resources
1301 N. Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

RE: Permit No. 35-7744

Dear Ms. Curtis:

As per our telephone conversation on Wednesday, April 10, 1991 enclosed is the notarized Assignment of Application For Permit signed by H. Andrew Thornburg. Attached is a certification by our Corporate Secretary, Lori J. Poulos, stating that H. Andrew Thornburg is the Chairman and President of Brazos River Farms, Inc.

If you have any further comments or questions, please feel free to contact me.

Best Regards,

Faye Clerk

Faye L. Clerk for
Lori J. Poulos

LJP:flc

Enclosures

c/o BRC MANAGEMENT CORP.
9701 WILSHIRE BOULEVARD, SUITE 1200, BEVERLY HILLS, CA 90212 TELEPHONE 213-859-7400 FAX 213-859-7445

MEMORANDUM

TO: File 35-7744

FROM: Sharla

DATE: April 16, 1991

RE: Assignments

The assignment to Burleigh Tomchak was returned because it appeared that Mr. Thornburg was not authorized to act for Brazos River Farms. This confusion occurred because Mr. Thornburg signed the assignment form from Deer Park Farms to Brazos River Farms. Along with that assignment form, a general power of attorney was submitted showing Mr. Thornburg as the attorney for a Mr. Ulrich W. Zollikofer. Since this was submitted with the assignment, it was presumed that Mr. Zollikofer was president of Deer Park Farms and Mr. Thornburg was authorized to act in their behalf.

Then comes the assignment from Brazos River Farms for which Mr. Thornburg is again the signor. Mr. Thornburg in actuality is the representative from Brazos River Farms. The previous assignment from Deer Park Farms should not have been accepted with his signature, however, this is a moot point now. The assignment to Mr. Tomchak can be accepted and processed.

MEMORANDUM

TO: JIM

FROM: TIM LUKE

RE: PERMIT NO. 35-7744

DATE: 4-26-91

Jim,

I again checked the ASCS crop reports and aerial photos that the permit holders had sent in requesting a reinstatement. I found that a maximum of 329 acres had been classified as irrigated by the ASCS. This acreage was reported for 1987, prior to the October 1, 1987 proof due date.

EQUITABLE AGRI-BUSINESS, INC.

3203 West March Lane, Suite 110
Stockton, CA 95219
(209) 951-4980
(209) 951-3038 (Fax)

Steven A. Parker
Vice President - Western Region

J.L. Rasmussen
Assistant Regional Vice President

Charles T. McElligott
Assistant Regional Vice President

Todd D. Hansen
Regional Manager

April 8, 1997

Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1781

Re: Permit No. 35-07744
Our Loan No. F-199299
Burleigh Tomchak

To Whom It May Concern:

Please be advised that The Equitable Life Assurance Society of the United States holds a first lien on real estate security which also encumbers the above captioned water licenses.

We would appreciate you so noting our lien in your records. We will also notify your agency upon the payment in full of the above captioned loan which will release our security interest in these licenses.

If you have any questions, please contact this office.

Sincerely,

Todd Hansen
Regional Manager

TH:ab

Accepted By:
Idaho Department of Water Resources

By: Harold W. Jones

Burleigh Tomchak

Mabel Tomchak

EQUITABLE AGRI-BUSINESS, INC.

3203 West March Lane, Suite 110
Stockton, CA 95219
(209) 951-4980
(209) 951-3038 (Fax)

Steven A. Parker
Vice President - Western Region

J.L. Rasmussen
Assistant Regional Vice President

Charles T. McElligott
Assistant Regional Vice President

Todd D. Hansen
Regional Manager

April 15, 1997

Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1781

RECEIVED
APR 17 1997
Department of Water Resources
Eastern Region

Re: Permit No. 35-07744
Our Loan No. F-199299
Burleigh Tomchak

To whom it may concern:

Attached you will find a letter signed by our borrower concerning the above referenced water permit. Please execute the letter and return the original to this office. We are enclosing a copy for your convenience.

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

Sincerely,

Todd Hansen
Regional Manager

TH:ab

cc: Robb Steinke
Area Investment Manager
P. O. Box 2362
Twin Falls, ID 83303-2362
Telephone # (208) 733-0044

Form 219
6/86

RECEIVED
OCT 31 1997
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 35-7744

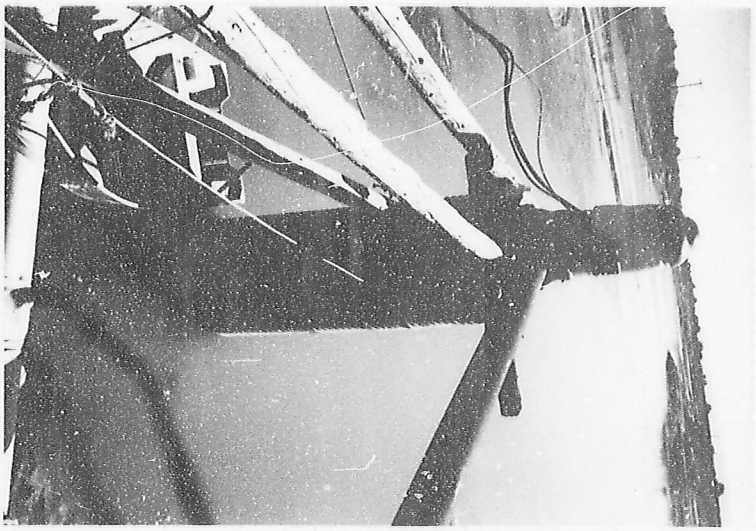
1. Owner: Burleigh Tomchak Phone No. 208-228-6871
   Current Address: 458 Bassett Road Rokerts Id
2. Accompanied by: Burleigh Tomchak EXAM. DATE: 07/18/91
   Address: Same Phone No. Same
   Relationship to Permit Holder: Holder
3. Source: POND tributary to SNAKE RIVER

B. OVERLAP REVIEW

1. Other water rights with same place of use: (A)01-02077, (A)01-02078
   ☐ Copies Attached
2. Other water rights with same point of diversion: (A) 35-07720
   ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☑ Alternative diagram attached



Scale: 1" = _____.

2. ☑ Copy of U.S.G.S. Quadrangle Attached
   Showing location(s) of point(s) of diversion and place(s) of use (required).
   ☑ Aerial Photo Attached
   (required for irrigation of 10 acres or more).
   ☑ Photo of Diversion and System Attached
   (required for all but single household domestic groundwater, and stockwater.

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

HOLDING POND & LIFT. pond pit, pump 12" mainline, 397 joints of wheelline with 7/32" nozzles, 275 joints handlines with 5/32" nozzles

POND (TRIB TO SNAKE RIVER) WITH OPEN DISCHARGE PUMP TO OPEN DITCH TO HOLDING POND. LIFT PUMP IN POND HOLDING POND & SYSTEM DESCRIBED ABOVE. HOLDING POND CAN BE FILLED & DRAINED IN ONE DAY.

☐ See Remarks on page 4 for continuation

4.

	Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
LIFT PUMP →	#3	US MOTOR	125	678611	Peerless	12" discharge
P/D →		GEN. ELEC.	40	5729430	JOHNSTON	14" DISCHARGE

**Code to correspond with No. on map and aerial photo*

5. **Point(s) of Diversion:**

	Ident. No.	Gov't. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
OMIT →	~~3~~			~~NW~~	~~SE~~	~~4~~	~~4N~~	~~37E~~	Jefferson	USGS QUAD and onsite inspection.
P/D →		5	NW	SW	SW	3	4N	37E	JEFFERSON	USGS/NAPP/ONSITE EXAM

6. **Place(s) of Use:** Indicate Method of Determination _____

Twp.	Rge.	Sec.	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	37E	4	~~38~~ 39	39	40	40					36	3		24	29	36	40	40	366
																			366

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Theoretical						

2. Measurements:

LIFT → { static water level - 11'
operating pressure - 40psig (per holder)

P/D → STATIC H_2O @ 5'6", OPEN DISCHARGE

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

THEORETICAL Q: $Q = \frac{HP(8.814)(EFF)}{LIFT + (2.308 \times PSI)}$

(OPEN DISCHARGE)

HP = 40.0
EFF = 0.70
LIFT = ~~8~~ 17.5
PSI = ~~8~~ 2.0

2. Alternate Method for Checking Purposes:

$Q = \frac{11.16}{\cancel{19.86}}$ cfs

Q LIMITED BY 0.02 CFS/AC TO 7.32

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)
Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)
Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)
Meter Input HP: (6) x 1.34 = _____ (7)
Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)
Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

V_{IR} = (Acres Irrigated) x (Irrigation Requirement) = 366 AC × 4.0 AFA = 1464 AFA

V_{DR} = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = 7.32 cfs (214 DAYS) × K = 3107.1131

V = Smaller of V_{IR} and V_{DR} = 1464 AFA

2. Volume Calculations for Other Uses:

H. REMARKS AND OVERLAP REVIEW ANALYSIS

** RECOMMEND AMENDMENT OF SOURCE TO "POND TRIBUTARY TO SNAKE RIVER." POND LEVEL GOVERNED BY LEVEL OF SNAKE RIVER. RECOMMEND THIS RIGHT BE ADMINISTERED BY WATER DISTRICT 01. RECOMMEND WATER USER RENT STORAGE WATER IN ORDER TO DIVERT FROM THIS POND.
RECOMMEND THIS RIGHT RENUMBERED TO BASIN 01

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
IRRIGATION	4-1	10-31	7.32 CFS	1464 AFA
Totals:			7.32	1464 AFA

2. Recommended Amendments

☒ Change P.D. as reflected abcve ☐ Add P.D. as reflected above ☐ None

☒ Change P.U. as reflected above ☐ Add P.U. as reflected above ☒ Other 1. CHANGE SOURCE

2. RENUMBER TO 01-

J. AUTHENTICATION

Field Examiner's Name: ALAN W PARIS

Signature: Alan W Paris

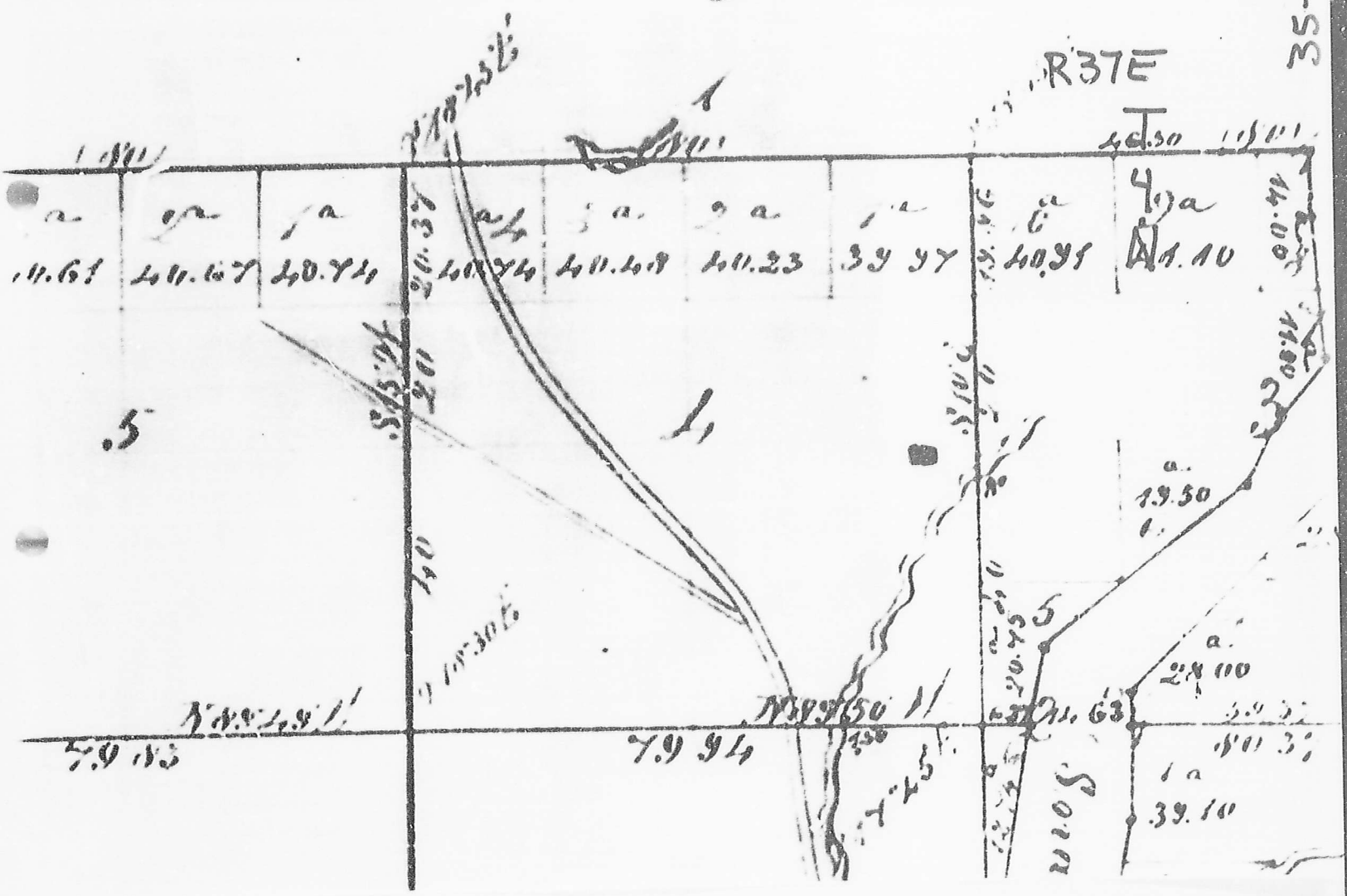
Certification Date:

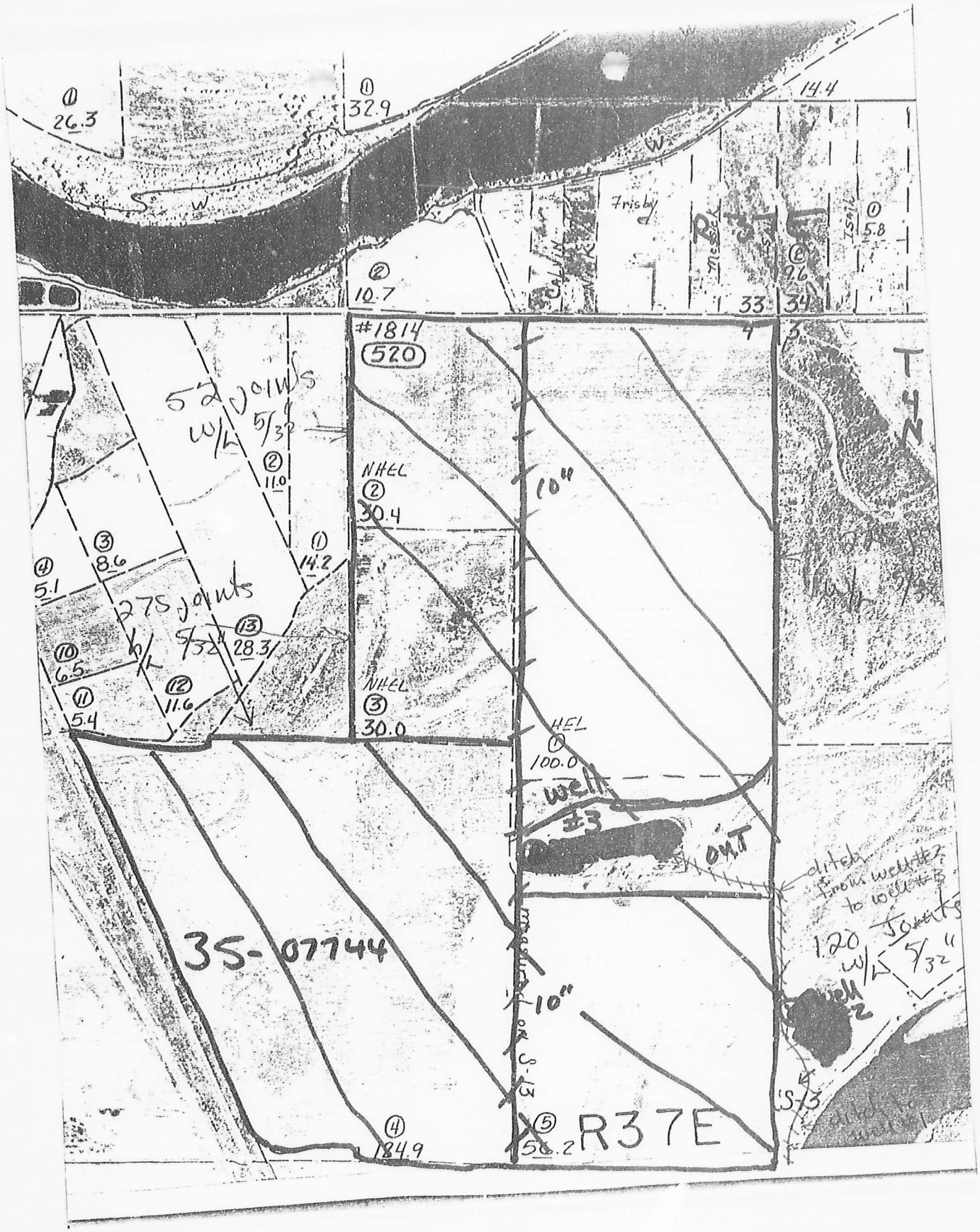
Field Report Preparation Date: 3-26-92

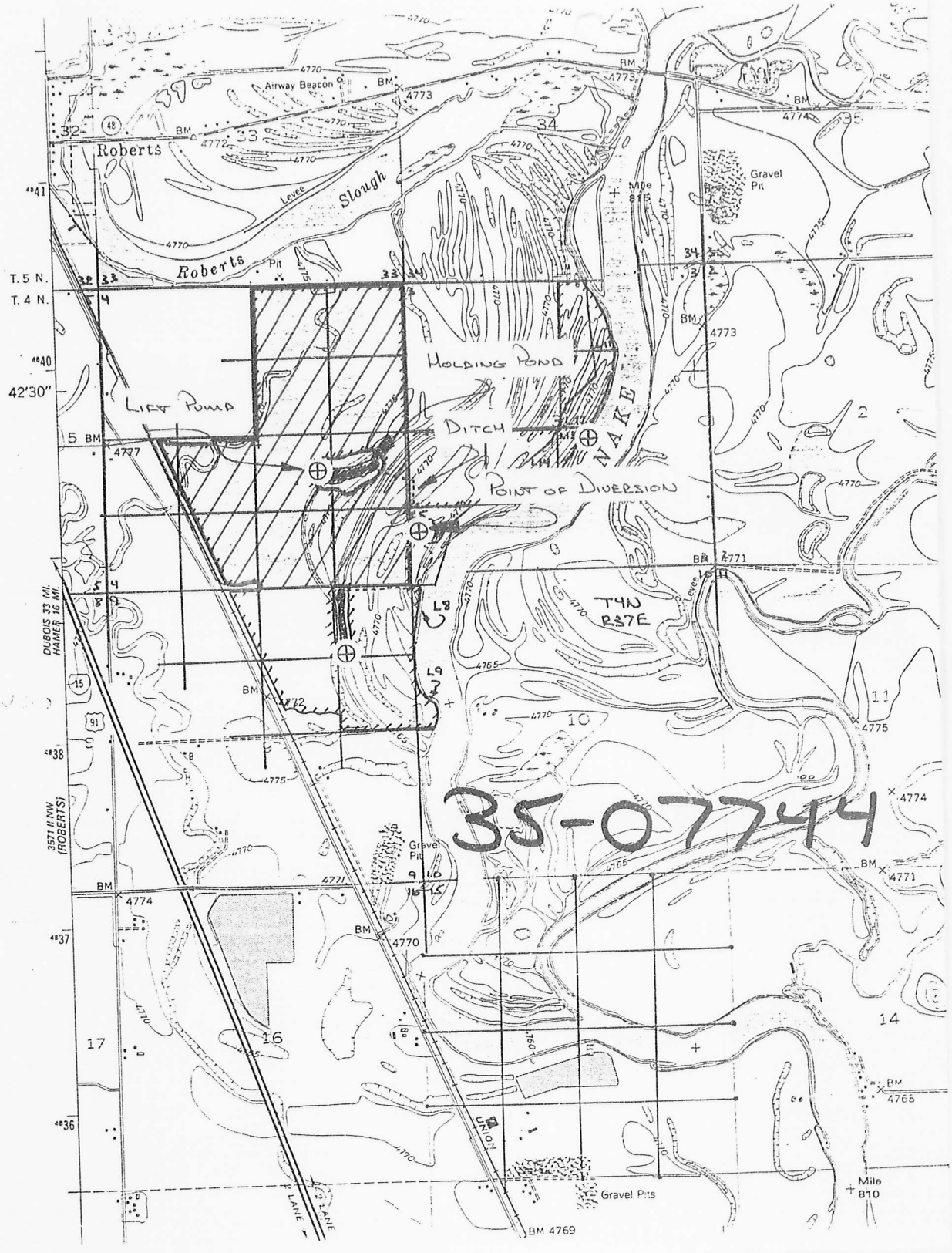
CONSULTANT SEAL

K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

North Range. N°. 37




① 26.3
① 32.9
14.4
S
W
Trisby
Collin Creek
R 37 E
33
34
3
4
T 4 N
② 10.7
② 9.6
① 5.8
#1814
520
52 joints
W/L
5/32"
② 11.0
NHEL
② 30.4
10"
③ 8.6
① 14.2
④ 5.1
275 joints
5/32"
⑬ 28.3
⑩ 6.5
⑫ 11.6
⑪ 5.4
NHEL
③ 30.0
HEL
① 100.0
well #3
OUT
ditch from well #2 to well #3
120 joints
W/L
5/32"
well #2
35-07744
10"
④ 184.9
⑤ 58.2
R37E
S-13

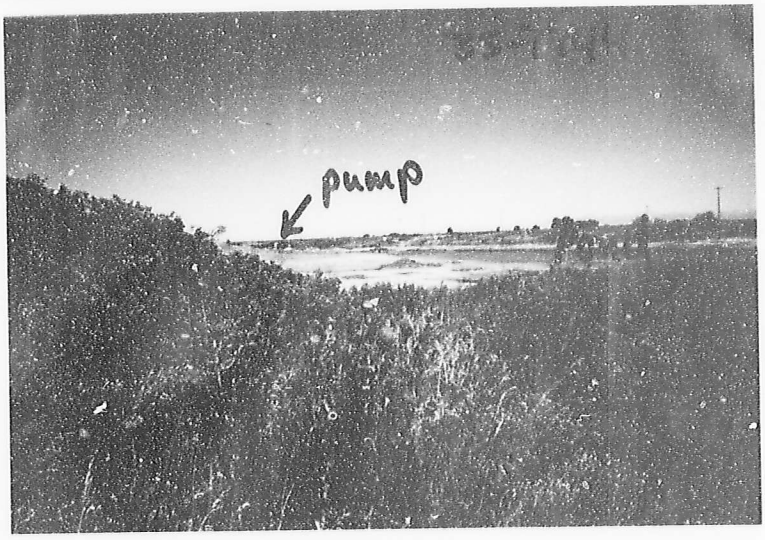

Roberts
Slough
Levee
Roberts Pit
Airway Beacon
Gravel Pit
Gravel Pits
Mile 815
Mile 810
T. 5 N.
T. 4 N.
42'30"
LIFT PUMP
HOLDING POND
DITCH
SNAKE
POINT OF DIVERSION
T4N R37E
DUBOIS 33 MI.
HAMER 16 MI.
3571 II NW (ROBERTS)
LANE
UNION
BM 4769
35-07744



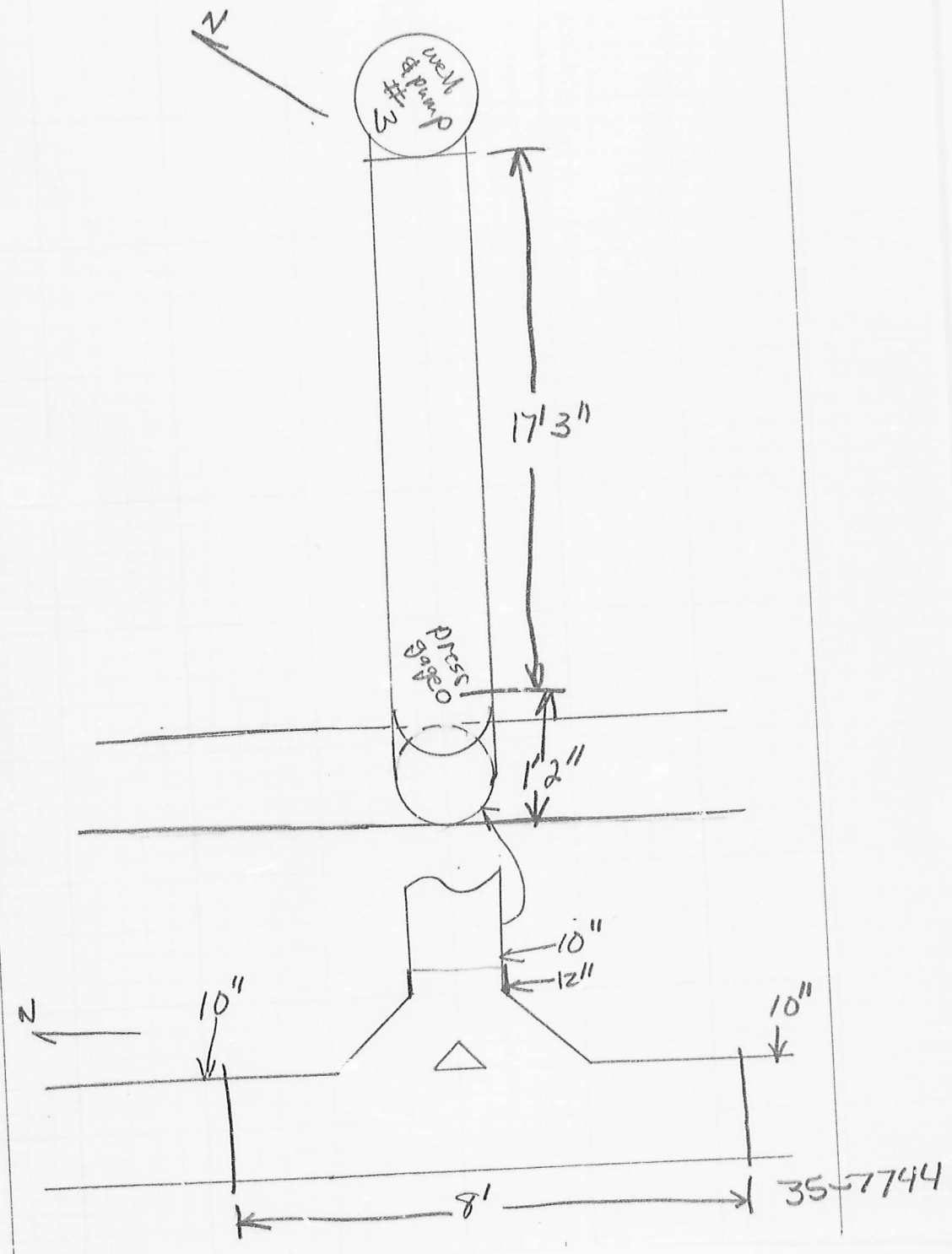


35-7744

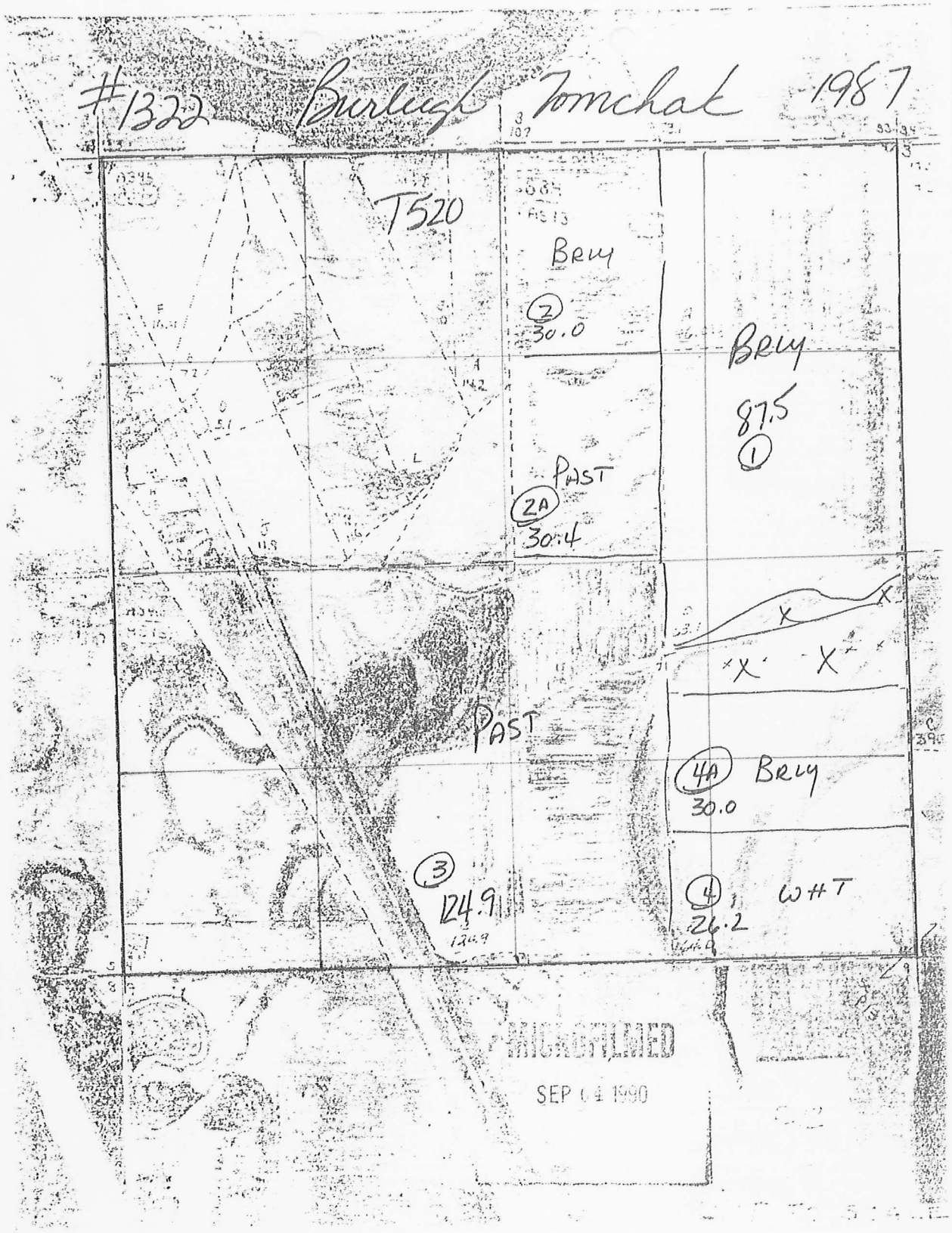




35-7744


N
well & pump #3
17'3"
press gage
1'2"
10"
12"
N
10"
10"
8'
35-7744

For Clarity of any Photographs Microfilmed, See File.


#1322 Burleigh Tomchak 1987
T520
BRUY
2
30.0
BRUY
87.5
1
PAST
2A
30.4
X
X
X
X
PAST
4A
BRUY
30.0
3
124.9
4
26.2
WHT
RECEIVED
SEP 04 1990

MEMORANDUM

TO: File 35-07744

FROM: Sharla

DATE: May 4, 1999

RE: Recommendation Adjustment(s)

The adjustments to licensing recommendations for Permit 35-07744 are as follows:

A. GENERAL INFORMATION
3. Source: groundwater

C. SYSTEM DESCRIPTION
6. Place(s) of Use: T4N, R37E, S4 – NENE (38 acres), NWNE (38 acres), SWNE (38 acres), SENE (39 acres), NESW (10 acres), SESW (25 acres), NESE (30 acres), NWSE (37 acres), SWSE (37 acres), SESE (37 acres)
TOTAL = 329 acres

While this source doesn't fit into the typical "well" category, it is very close in proximity to the river and the pond is considered to be fed by groundwater. The source shall remain groundwater on the license.

At the time of proof submittal, Tim Luke reviewed aerial photos and crop reports from the ASCS office and confirmed irrigation of a total of 329 acres developed within the permit period (see Tim's memo of 4/26/91). The number of acres per ¼¼ were determined using those aerial photos.

Exam Date: January 18, 1991
Examiner: Alan Paris

MEMORANDUM

TO: File 35-07744

FROM: Sharla

DATE: May 4, 1999

RE: Recommendation Adjustment(s)

The adjustments to licensing recommendations for Permit 35-07744 are as follows:

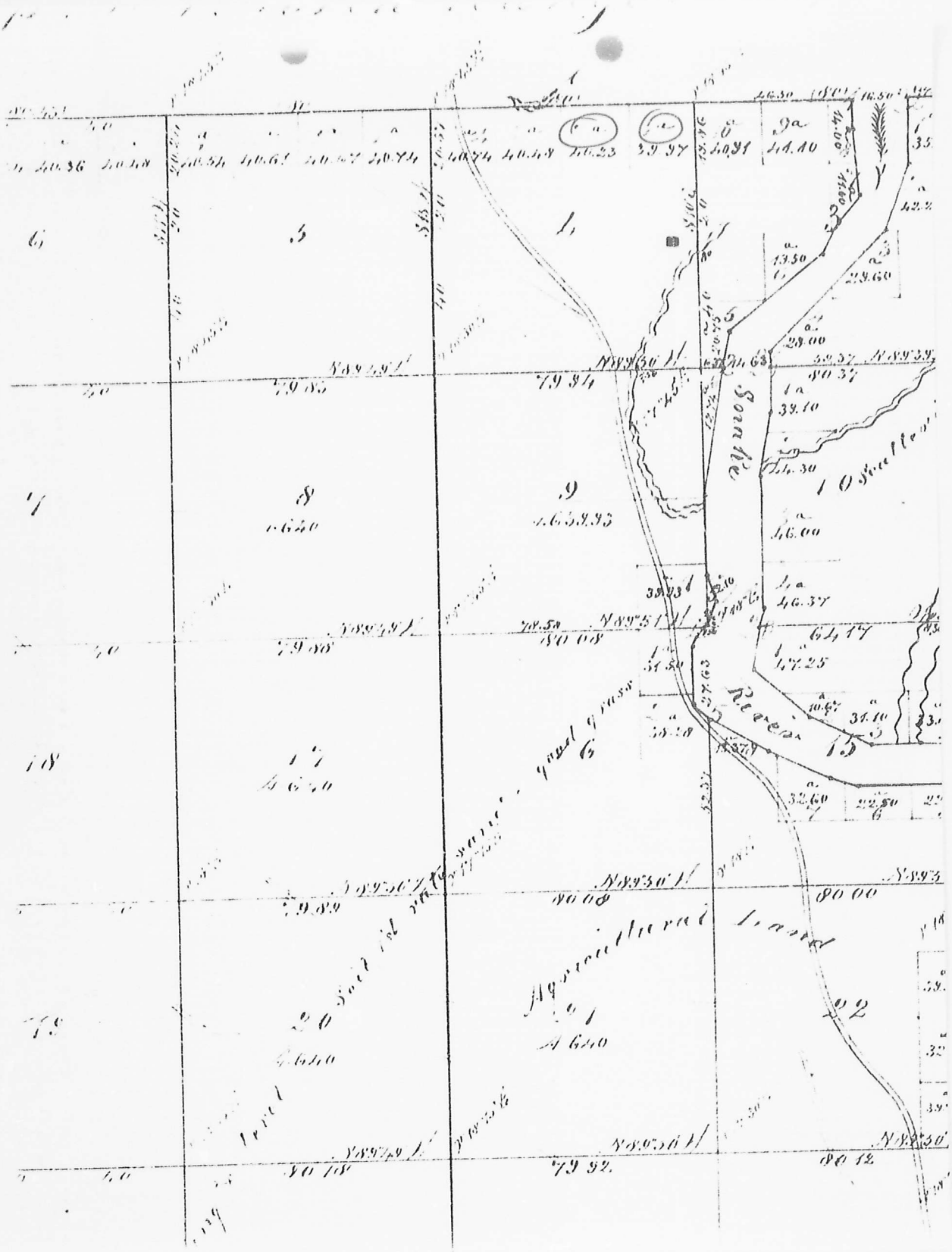
A. GENERAL INFORMATION
3. Source: groundwater

C. SYSTEM DESCRIPTION
6. Place(s) of Use: T4N, R37E, S4 – NENE (39 acres), NWNE (39 acres), SWNE (36 acres), SENE (36 acres), NESW (24 acres), NWSW (5 acres) SESW (25 acres), NESE (20 acres), NWSE (32 acres), SWSE (36 acres), SESE (37 acres)
TOTAL = 329 acres

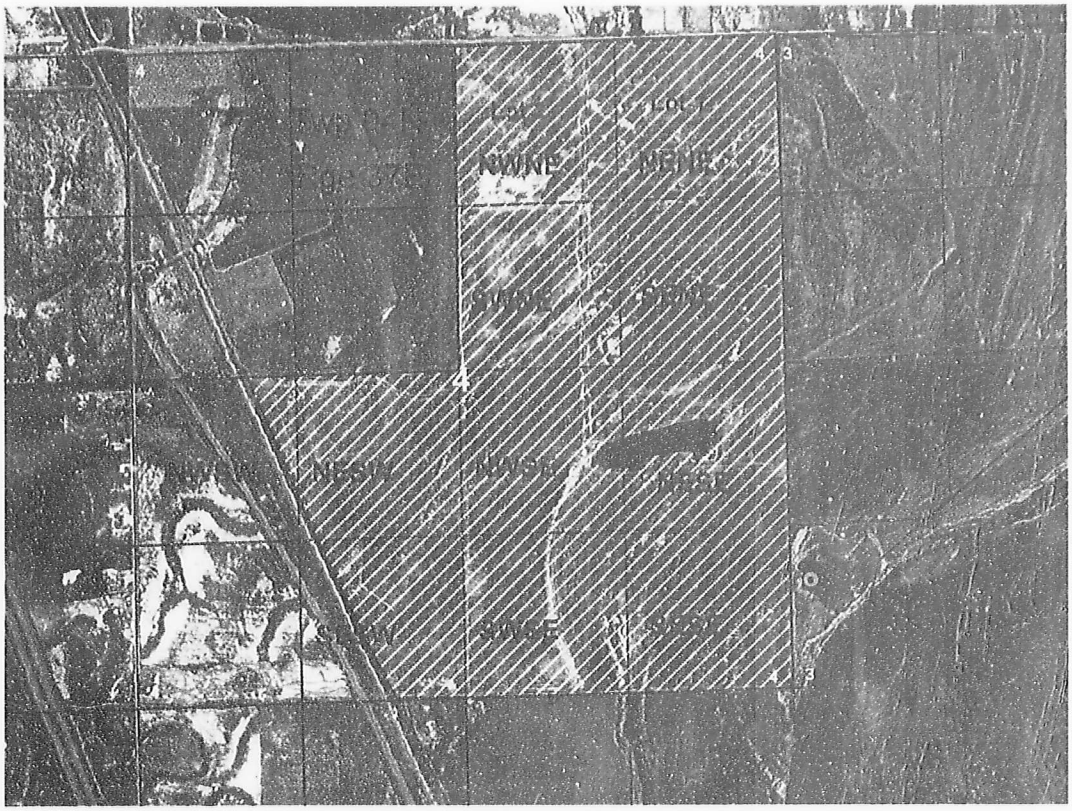
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Exam Date: January 18, 1991
Examiner: Alan Paris


Sonde
Rivers
Agricultural Land
10 Section
20 Section
Parcel
N89°30'W
N89°25'W
N89°27'W
79.84
80.00
80.08
79.92
80.12
80.37
80.08
79.89
80.18
79.83
79.86
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79.88
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80.96
80.97
80.98
80.99
81.00

Water Right Holder: Burleigh Tomchak
Right 35-07744



Point of Diversion (pond - 7.32 cfs)
SWSW, S3, T4N, R37E

Place of Use (overlaps with water rights from Snake River) 01-02077 & 01-02078)
329 acres within E1/2, E1/2SW1/4, NWSW, S4, T4N, R37E

Prepared by Sharla Curtis
IDWR - April, 1999
1987 NAPP photography

State of Ida...
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

May 11, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

BURLEIGH TOMCHAK
458 BASSETT RD
ROBERTS ID 83444

RE: WATER RIGHT NO. 35-07744

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms that a water right has been established in compliance with the terms of the permit. The examiner who verified your water use reported that your place(s) of use is in a location other than what was described on your permit. Therefore, before a license can be issued, the permit must be amended to depict your water right as it was actually developed.

In 1991, you filed an application for amendment of permit, but the department preferred not to take action on it until the required field examination was conducted. The examiner's findings are slightly different than the information identified on your previous amendment application. Therefore, I am suggesting that you withdraw the 1991 application by signing the enclosed withdrawal form and replace it with the enclosed Application for Amendment form, which depicts the place(s) of use and other information as it will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it within 14 days.

In 1994, the filing fee for amendment applications was increased to $50.00. The $20.00 fee you paid when the amendment was filed in 1991 can be applied to the licensing amendment, leaving $30.00 to be submitted with the enclosed licensing amendment form.

Also, please note that some of the proposed conditions of approval and remarks may be modified upon further administrative review.

If you do not concur, or if you have any questions about this information, please contact me as soon as possible. My telephone number is (208)327-7946.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

Enclosure

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

May 25, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

BURLEIGH TOMCHAK
458 BASSETT RD
ROBERTS ID 83444

RE: WATER RIGHT NO. 35-07744

Dear Permit Holder(s):

I previously forwarded to you an Application for Amendment so that you could amend your permit to depict your water right as it has actually been developed.

As of this date, I have not received this amendment. If I do not receive the amendment within 14 days, a Water Right License will be issued for less than could have been allowed. In case the amendment form I sent you has been misplaced, a new one is enclosed. Please note that the filing fee for this amendment is $50.00.

If you have any questions, please call me at (208) 327-7946.

Sincerely,

Shelley Watte Keen

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

2/80

STATE OF IDAHO

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

Comes now Burleigh Tomchak Phone 228-6871

of (address) 458 Bassett Rd. Roberts Ia 83444, and represents to the Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 35-7744, and requests that the permit and permit map be changed as follows:

1. Point of diversion: NW ¼ SE ¼, Section 4, Township 4N, Range 37E B.M., County of Jefferson. Other points of diversion: (Lot 5) SWSW Sec 3, T4N, R37E, Jefferson

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 7.80 (cfs or acre feet per annum) for Irrigation purposes from 4/1 to 11/1 (both dates inclusive)

Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ (cfs or acre feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

3. Place of use or land to be irrigated: NO CHANGE

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	37E	4	41 40	42 40	40	40					40			30	40	40	40	40	390

Total number of acres to be irrigated = 390

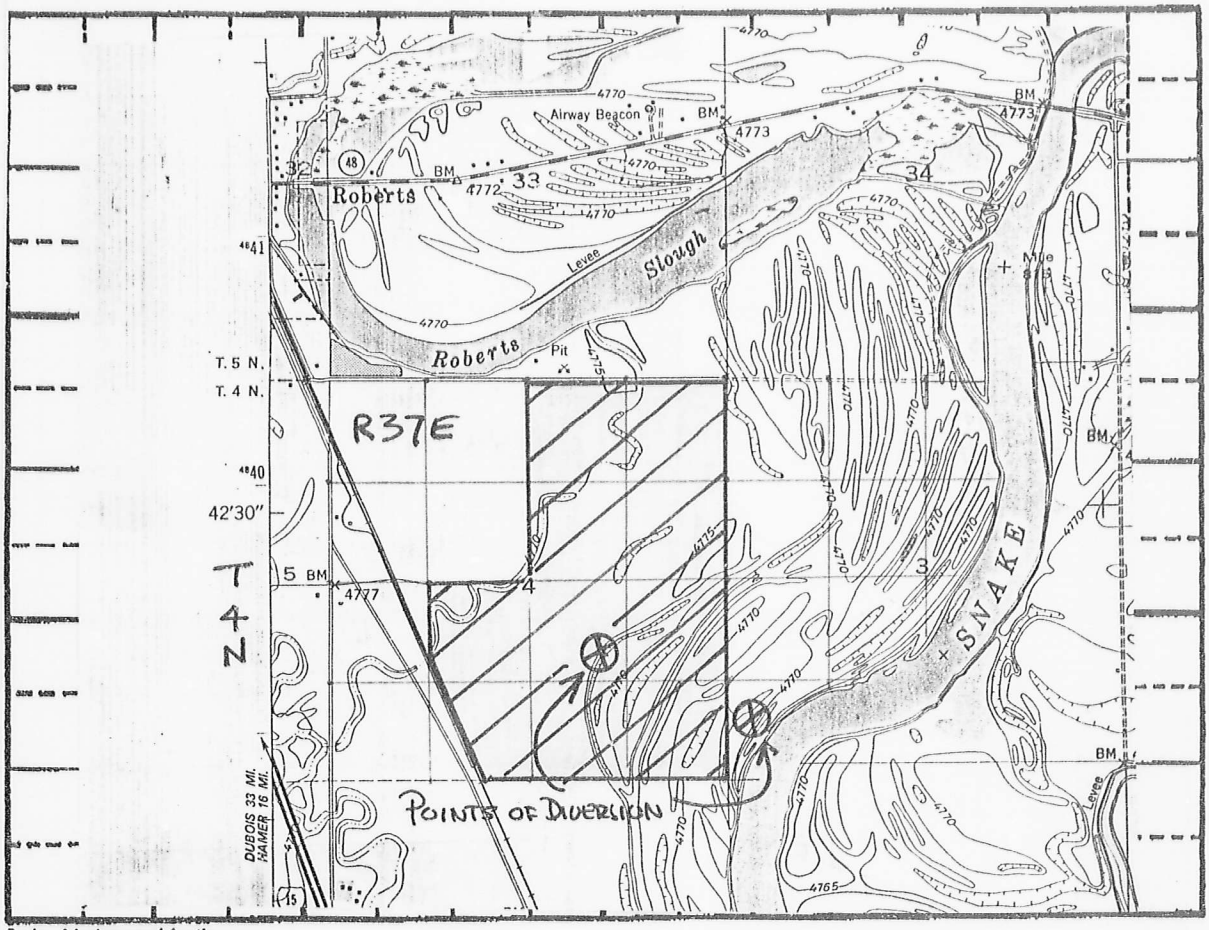
4. a. Who owns the property at the point of diversion? Applicant

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

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

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Idaho Falls, this 6 day of March, 19 91.

Barbara Jonchuk
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = $20.00 #E 015762 Receipted by HLT Date 3-6-91

Publication prepared by _____ Date _____ Published in _____

Publication dates _____

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, L. GLEN SAXTON, of the Department of Water Resources hereby approve the above referenced application for amendment provided the conditions as set forth in permit No. 35-07744 are met and the permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

Witness my hand this _____ day of _____, 19 91.

Chief, Water Allocation Bureau

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of the order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from a preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) the petition for reconsideration is disposed of; or
(b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

June 14, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

BURLEIGH TOMCHAK
458 BASSETT RD
ROBERTS ID 83444

RE: WATER RIGHT NO. 35-07744

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license is a **preliminary order** issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

For your records I have also enclosed a copy of your Application for Amendment of Permit, which was approved.

Also, please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the department or visit the department's homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at 208-327-7946.

Sincerely,

Shelley Watte Keen

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure