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DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE PETITION FOR DELIVERY CALL BY JAMES C. AND TRUDIE G. SCHEFF	**PETITION FOR DELIVERY CALL, REQUEST FOR EXPEDITED PROCEEDINGS, AND REQUEST FOR EMERGENCY ORDER**

James C. and Trudie G. Scheff (the "Scheffs"), by and through their attorneys, hereby file this Petition[1] with the Director of the Idaho Department of Water Resources ("IDWR" or "Department") pursuant to Rule 30 of the Rules for Conjunctive Management of Surface and Ground Water Resources, IDAPA 37.03.11.030 ("CM Rules"), Idaho Code Sections 42-237a.g and 67-5247, and as otherwise provided for by the laws of the State of Idaho applicable to the administration of water rights that are not included in organized water districts.[2] The Scheffs petition the Director as follows:

[1] By filing this Petition, the Scheffs do not waive their rights to pursue other available administrative or judicial remedies including, without limitation, an original action in district court for injunctive and/or declaratory relief.
[2] The area of Basin 61 relevant to this Petition has not been incorporated into a water district and this Petition does not request formation of a water district under CM Rule 30.05 or administration within a water district under Title 42, Chapter 6, Idaho Code, or CM Rule 40.

I. ALLEGATIONS

A. The Scheffs

1. The Scheffs reside at 10435 W. Martha Ave., Mountain Home, ID 83647 ("Scheff Residence"). *Affidavit of James C. Scheff* ¶ 1, attached to this Petition as Exhibit A. The Scheff Residence is located in the NWNE of Section 11, T02S, R05E, B.M. The Scheffs purchased and have lived at the Scheff Residence since 1996. *Id.* ¶ 1.

2. The Scheffs hold a legal right to divert and use domestic ground water right no. 61-11833 (the "Scheff Right"). The Snake River Basin Adjudication ("SRBA") Court issued a partial decree for the Scheff Right on January 30, 1998. A copy of the partial decree for the Scheff Right is attached to this Petition as Exhibit C.

3. As shown in Exhibit C, the Scheff Right has a May 22, 1976 priority date. Under Idaho law, the Scheffs are entitled to protection of their pre-1978 domestic ground water right's historic pumping level. *See Parker v. Wallentine*, 103 Idaho 506, 650 P.2d 648 (1982). *See also In the Matter of Applications to Appropriate Water Nos. 63-32089 and 63-32090 in the Name of the City of Eagle,* Final Order at 33-34 (IDWR, Feb. 26, 2008) (citing *Parker* in determining that the holders of the senior pre-1978 domestic water rights are entitled to compensation for the increased costs of diverting ground water caused by the declines in ground water levels due to pumping of ground water by junior appropriators).

4. The authorized point of diversion for the Scheff Right is a private well ("Scheff Well") located on the same lot as the Scheff Residence in the NWNE of Section 11, T02S, R05E, B.M. Exhibit A ¶ 2. A copy of the Well Driller's Report for the Scheff Well obtained from the Department's records is attached to this Petition as Exhibit D.

5. In 1998, the Scheffs had the Scheff Well's pump replaced and set at 369 feet below ground level ("bgl"), where it remains today. Exhibit A ¶ 3.

6. Except as described herein, the Scheffs have pumped domestic water from the Scheff Well without interruption or interference since they purchased their property in 1996. Exhibit A ¶ 7.

7. As set forth herein, the Scheffs have suffered and will suffer material injury to their senior priority, pre-1978 domestic ground water right and their historic pumping level as a result of declining ground water levels caused by nearby ground water pumping under the junior priority irrigation water right held by Respondents (defined below).

B. The Respondents

8. According to deeds in the Departments' records, Cardon Hiatt Investments, L.L.C., SMT Investors Limited Partnership, Viel Gluck Limited Partnership, Ben Fatto Limited Partnership, and Far Marel, L.L.C. (collectively, "Respondents") own approximately 318 acres of land in the E1/2 of Section 11, T02S, R05E, B.M. ("Respondents' Land"), which is adjacent to the Scheff Residence.

9. According to the Departments' records, Respondents hold ground water irrigation right no. 61-12112 ("Respondents' Right"). A copy of the partial decree issued by the SRBA Court for the parent of Respondents' Right (right no. 61-7384A[3]) is attached to this Petition as Exhibit E, and a copy from the Department's records of transfer approval no. 73835 that resulted in re-numbered right no. 61-12112 is attached as Exhibit F. Respondents' Right currently is authorized to irrigate 248 acres within a 318 acre permissible place of use with up to 2.78 cfs and

[3] Right no. 61-7384A was split in 2008 pursuant to Transfer 73835, which transferred 5 acres to another location under right no. 61-12113, and re-numbered the remaining portion right no. 61-12112.

992 acre-feet per year. The Respondents' Right has an April 20, 1979 priority date, which is junior to the Scheff Right.

10. Respondents' Right has two authorized points of diversion—one located in the NESE of Section 11, T02, R05E, B.M. ("Respondents' South Well"), and one located in the NENE of Section 11, T02, R05E, B.M. ("Respondents' North Well") (collectively, "Respondents' Wells").

11. Respondents' South Well is located approximately 0.5 miles from the Scheff Well. A copy of the Well Driller's Report from the Department's records for what is presumed to be Respondents' South Well is attached to this Petition as Exhibit G.

12. Respondents' North Well is located approximately 0.4 miles from the Scheff Well. The Scheffs have been unable to locate a Well Driller's Report for Respondents' North Well.

C. Respondents' use, non-use, and unauthorized use of water

13. During the 1996 through 2009 irrigation seasons, Respondents' Land was not irrigated to the full extent authorized under Respondents' Right. During this time, Mr. Scheff observed irrigation of a maximum of approximately 40 acres irrigated on Respondents' Land. Exhibit A ¶ 4.

14. According the Department's records, in 2007 Respondents' Land and Respondents' Right participated in the Conservation Reserve Enhancement Program ("CREP"), a federal cropland set-aside program. A copy of the March 29, 2007 *Agreement Not to Divert Water from the Eastern Snake Plain Aquifer* concerning Respondents' Right obtained from the Department's records is attached hereto as Exhibit H ("CREP Agreement"). Participation in CREP required Respondents to agree not to divert water or apply water to lands. *Id.* According

to the Department's records, the CREP Agreement terminated in 2008. Exhibit M p. 4. The Scheffs have found no record indicating that Respondents' Right or Respondents' Land participated in CREP prior to 2007.

15. The Scheffs have found no record indicating that Respondents' Right was ever leased into the State's Water Supply Bank.

16. Compared to the 1996 through 2009 irrigation seasons, pumping from Respondents' Wells and irrigation of Respondents' Land increased during the 2010, 2011, and 2012 irrigation seasons. Exhibit A ¶ 5. In 2010, Mr. Scheff observed approximately 100 acres irrigated on Respondents' Land. In 2011, Mr. Scheff observed approximately 225 acres irrigated on Respondents' Land. And in 2012, Mr. Scheff observed approximately 240 acres irrigated on Respondents' Land. *Id.* Mr. Scheff has observed field work, irrigation system maintenance, and actual irrigation in 2013 similar to the farming and irrigation practices he observed in 2012. *Id.* ¶ 8.

17. Since 2010, ground water pumped from Respondents' Wells has been diverted into ponds located on Respondents' Land. *Id.* ¶ 6; *see also* Exhibit O. Respondents' Right does not authorize storage.

18. Mr. Scheff observed and kept a log of dates, approximate times, and the extent of ground water pumping from Respondents' Wells and the irrigation of Respondents' Lands between March 16, 2013 and April 8, 2013. These observations are set forth in Mr. Scheffs' affidavit, Exhibit A ¶ 8.

D. Ground Water Level Measurements

19. The Scheff Well and Respondents' Wells are located within the Cinder Cone Butte Critical Ground Water Area ("CGWA").

20. The Department has a network of monitoring wells in the CGWA, including the Scheff Well and Respondents' North Well. The Scheff Well is IDWR Monitoring Well 02S05E-11BAA1. A copy of the water level measurement data record and accompanying hydrograph from the Department's hydro.online database for the Scheff Well is attached to this Petition as Exhibit I. Respondents' North Well is IDWR Monitoring Well 02S05E-11AAB1. A copy of the water level measurement data record and accompanying hydrograph from the Department's hydro.online database for Respondents' North Well is attached to this Petition as Exhibit J.

21. Ground water levels in Respondents' North Well increased by over 22 feet between March 2001 (344.7 feet bgl) and March 2010 (315.5 feet bgl). Exhibit J p. 4-5.

22. In a May 31, 2012 memorandum ("IDWR Staff Memo"),[4] Department staff determined that ground water levels increased in the area of the Scheff Well and Respondents' Wells between 2001 and 2011. A copy of Figure 5 from the IDWR Staff Memo showing the increased water levels between 2001 and 2011 (Figure 5(c)) is attached hereto as Exhibit K p. 2.

23. Despite the area's increasing ground water levels between 2001 and 2011, the ground water levels measured in the Scheff Well and in Respondents' North Well declined between 2010 and 2012. *See* Exhibits I and J p. 5, respectively. *See also* Exhibit B Fig. 8.

24. On October 25, 2012, the lowest ground water level measurement was recorded in the Scheff Well (362.2 feet bgl), Exhibit I, and in Respondents' North Well (369.5 feet bgl), Exhibit J p. 5.

25. On March 20, 2013, the Scheffs retained Hydro Logic, Inc. ("HLI"), to conduct hydrogeological investigations pertaining to the Scheffs' water supply and, specifically, to

[4] The IDWR Staff Memo was prepared in connection with a group of consolidated transfer and permit applications, including Applications for Transfer Nos. 73811 and 73834, and Applications for Permit Nos. 63-32499, 61-12095, 61-12096, 63-32703, 61-12256, and 63-33344.

evaluate a claim by the Scheffs that Respondents' Wells are causing water level drawdown effects (well interference) in the Scheff Well. The affidavit of Edward Squires, president of HLI, is attached to this Petition as Exhibit B, and the affidavit of Robert Kurtis W. Newbry, one of HLI's hydrogeologists, is attached as Exhibit Q.

26. On March 20, 2013, HLI hand-measured the ground water level in the Scheff Well at 359.38 feet bgl and 360.88 feet below the top of the well casing ("btc"). Exhibit B ¶ 7; Exhibit Q ¶ 3. This water level measurement was lower than all of the March ground water level measurements in Exhibit I.

27. On March 20, 2013, HLI installed a digital pressure-transducer/data-logger ("Data Logger") in the Scheff Well for the purpose of continuously monitoring and recording water levels. Exhibit B ¶ 6; Exhibit Q ¶ 3.

28. On April 8, 2013, HLI hand-measured the ground water level in the Scheff Well at 359.82 feet bgl and 361.32 feet btc, and retrieved the data from the Data Logger ("April 8 Data"). Exhibit B ¶¶ 9-11; Exhibit Q ¶¶ 5-6.

29. Mr. Squires analyzed the April 8 Data and other information pertaining to Respondents' Well and the Scheff Well, including Mr. Scheff's pumping and irrigation observations. Mr. Squires' analysis is set forth in Exhibit B ¶¶ 12-19. In connection with this analysis, Mr. Squires plotted a hydrograph ("HLI Hydrograph"), which is attached as Figure 3 to Exhibit B. Among other things, Mr. Squires concluded:

a. The Scheff Well and Respondents' Wells are hydraulically interconnected and divert water from the same ground water source in which the diversion and use of water from Respondents' Wells affects the ground water supply available to the Scheff Well. Exhibit B ¶¶ 12, 17.

b. The HLI Hydrograph "show[s] a steady decline in water levels from pumping the SMT[5] irrigation wells and periods of partial recovery when the SMT wells were not pumping. The leveling off of the declining water level trend corresponds with and follows times when the SMT irrigation was observed to be off by Jim Scheff during March 23-to-March 26 and March 31-to-April 1." Exhibit B, Fig. 3.

c. The Scheff Well is efficient. Exhibit B ¶ 16.

d. The ground water levels in the Scheff Well are not declining in response to collective pumping within the Cinder Cone Butte Critical Ground Water Management Area, but rather are in response to near-well interference effects from pumping from the SMT Wells. Exhibit B ¶ 18.

e. Pumping of Respondents' Wells causes significant ground water level declines in the Scheff Well that are attributable to direct well interference effects caused by pumping of the Respondents' Wells. Exhibit B ¶¶ 12, 19.

E. The Scheffs' material injury

30. Beginning in October 2012 (the same month that the lowest ground water level measurement was recorded from the Scheff Well), the Scheff Well started pumping air into and through the Scheffs' domestic water system. Exhibit A ¶ 7. The Scheff Well continued pumping air into and through the Scheffs' domestic water system until mid-January 2013. *Id.*

31. The air in the Scheffs' domestic water system was caused by the Scheff Well pump "breaking suction" because the pump was no longer always submerged as the result of declining water levels attributable to pumping from Respondents' Wells. Exhibit B ¶ 14. This

[5] Mr. Squires' affidavit refers to the Respondents as "SMT," Respondents' Wells as the "SMT Wells," Respondents' North Well as "SMT North Well," and Respondents' South Well as "SMT South Well."

problem lessened and was eventually resolved as the water level in the Scheff Well slowly recovered (increased) during the non-irrigation season. *Id.*

32. The air in the Scheffs' domestic water system between October 2012 and mid-January 2013 was a hindrance to and impact upon the exercise of the Scheff Right caused by the use of Respondents' Right, and therefore constituted material injury. CM Rule 30.010.14.

33. The Scheffs will suffer material injury to the Scheff Right due to additional water level declines in the Scheff Well caused by further pumping of ground water in 2013 from Respondents' Wells under Respondents' Right. As of April 12, 2013, the Scheffs were able to divert water under the Scheff Right from the Scheff Well without pumping air into their domestic water system. Exhibit A ¶ 7. However, ground water pumping from Respondents' Wells during the 2013 irrigation seasons will cause additional water level declines that will result in the Scheff Well again "breaking suction" and pumping air in 2013. Exhibit B ¶ 14.

34. The Scheffs' material injury is imminent because the water level in the Scheff Well at the beginning of the 2013 irrigation season (359.38 feet bgl; 360.88 feet btc) was lower than the water level at the beginning of the 2012 irrigation season (354.82 feet bgl). *Compare* Exhibit B ¶ 7 *with* Exhibit I. The water level measurement taken in the Scheff Well on April 8, 2013 (359.82 feet bgl; 361.32 feet btc) showed that the water level already had declined by 0.44 feet since March 20.

F. The Department's investigations

35. Exhibit L attached to this Petition is a copy from the Department's records of a letter Mr. Scheff sent to the Department on April 4, 2012 ("Complaint Letter"). Mr. Scheff sent copies of the Complaint Letter to Respondents on the same date. Exhibit A ¶ 12. In the letter,

among other things, Mr. Scheff expressed his concerns over pumping from Respondents' Wells and the ground water level declines in the Scheff Well since 2010.

36. In response to the Complaint Letter, Department staff conducted a field investigation at Respondents' Land on April 13, 2012. A copy from the Department's records of the memorandum prepared by the Department staff who conducted the investigation is attached to this Petition as Exhibit M ("Investigation Memo #1"). Investigation Memo #1 confirmed the existence of ponds on Respondents' Land and concluded that "[t]here are no recorded water rights authorizing storage into ponds." Exhibit M p. 3-4. Investigation Memo #1 also reported there were "no functional flow meters found on the wells."

37. On May 14, 2012, the Department sent Respondents a letter that, among other things, notified Respondents that a water right might be required for storage of water in ponds, and required Respondents to "[i]nstall operable instantaneous flow rate and total volume meters on both wells on or before July 1, 2012. The Department shall be notified by written notice the meters have been installed." A copy from the Department's records of the Department's May 14, 2012 letter to Respondents is attached as Exhibit N. To the Scheffs' knowledge, Respondents have not provided the Department with written notice that meters have been installed.

38. On June 6, 2012, Department staff conducted another field investigation at Respondents' Land. A copy from the Department's records of the memorandum prepared by the Department staff who conducted the investigation is attached to this Petition as Exhibit O ("Investigation Memo #2"). Investigation Memo #2 reported that ponds continued to be filled with water diverted by Respondents' Wells. Exhibit O, p. 1.

G. Respondents' response to the Scheffs' demand letters

39. Exhibit P attached to this Petition is a copy from the Department's records of a letter Mr. Scheff sent to Respondents on November 29, 2012 ("First Demand Letter"). Mr. Scheff sent a copy of the First Demand Letter to the Department on the same date. Exhibit A ¶ 13. In the letter, among other things, Mr. Scheff expressed his concerns over pumping from Respondents' Wells and the ground water level declines in the Scheff Well since 2010. Mr. Scheff specifically asked Respondents to cease pumping ground water so as to avoid injuring the Scheff Right and Scheff Well, and asked Respondents to respond by March 1, 2013. Mr. Scheff did not receive a response from Respondents. Exhibit A ¶ 13.

40. On March 5, 2013, the Scheffs' attorney sent a letter to Respondents demanding that they cease diversions of water from Respondents' Wells or compensate the Scheffs for the increased costs of diverting their senior domestic water right pursuant to *Parker* ("Second Demand Letter"). A copy of the March 5, 2013 letter is attached as Attachment A to Exhibit A.

41. On March 15, 2013, Respondents' attorney sent a letter to the Scheffs' attorney rejecting the demands set forth in the Demand Letter. A copy of Respondents' attorney's March 15, 2013 letter is attached as Attachment B to Exhibit A.

42. The Scheffs' reserve the right to supplement this Petition with additional information and claims.

II. RELIEF REQUESTED

43. Pursuant to the Director's authority under Rule 30.07 of the CM Rules and Idaho Code Sections 42-237a.g and 67-5247, or as otherwise provided for by the laws of the State of Idaho applicable to the administration of water rights that are not included in water districts, the Scheffs respectfully request that the Director:

a. Determine that the Scheff Right - a 1976 domestic ground water right - is entitled to historic pumping level protection under *Parker v. Wallentine*, 103 Idaho 506, 650 P.2d 648 (1982);

b. Determine that the Scheff Right and Respondents' Right divert water from the same ground water source in which the diversion and use of water from Respondents' Wells affects the ground water supply available to the Scheff Well;

c. Determine that the Scheffs have suffered and will suffer material injury to the Scheff Right as a result of ground water declines caused by pumping Respondents' Right from Respondents' Wells;

d. Determine that Respondents' water use is not in compliance with the elements and/or conditions of Respondents' Right;

e. Determine that Respondents' Right was wholly or partially forfeited for non-use during a five-year period that occurred after the issuance of Respondents' Rights' partial decree in 2000;

f. Order Respondents to cease the withdrawal of ground water from Respondents' Wells;

g. Order Respondents to compensate the Scheffs for the increased costs of diverting the Scheffs' senior domestic water right, including, without limitation, the cost to deepen or replace the Scheff Well;

h. Make such determinations and orders by summary or emergency order before any hearing is held, pursuant to the Director's authority under I.C. § 67-5247, I.C. § 42-237a.g, and/or CM Rule 30.07.g, because the exercise of Respondents' Right presents imminent material injury to the Scheffs' sole source of domestic water supply and an

immediate danger to the public health, safety, and welfare requiring immediate agency action;

i. Expedite processing of this Petition and, if necessary, convene a timely hearing in this matter; and,

j. Order any other and further relief that is necessary or appropriate.

DATED this 17th day of April, 2013.

GIVENS PURSLEY LLP

By _____
Michael P. Lawrence
Attorneys for James C. and Trudie G. Scheff

Index of Exhibits

Exhibit A:	First Affidavit of James C. Scheff
Exhibit B:	First Affidavit of Edward Squires
Exhibit C:	Partial Decree for Right No. 61-11833 (Scheff Right)
Exhibit D:	Well Driller's Report (Scheff Well)
Exhibit E:	Partial Decree for Right No. 61-7384A (parent of Respondents' Right)
Exhibit F:	Approved Transfer 73835 for Right No. 61-12112
Exhibit G:	Well Driller's Report (Respondents' South Well)
Exhibit H:	March 29, 2007 CREP Agreement
Exhibit I:	hydro.online report for IDWR Monitoring Well 02S05E-11BAA1 (Scheff Well)
Exhibit J:	hydro.online report for IDWR Monitoring Well 02S05E-11BAA1 (Respondents' North Well)
Exhibit K:	IDWR Staff Memo (May, 31, 2012), Figure 5
Exhibit L:	J. Scheff's April 4, 2012 letter to IDWR
Exhibit M:	IDWR Investigation Memo #1 (April 19, 2012)
Exhibit N:	IDWR's May 14, 2012 letter to Respondents
Exhibit O:	IDWR Investigation Memo #2 (June 6, 2012)
Exhibit P:	J. Scheff's November 29, 2012 letter to Respondents
Exhibit Q:	First Affidavit of Robert Kurtis W. Newbry

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17TH day of April, 2013, the above and foregoing was served as follows:

ORIGINAL FILED

Idaho Department of Water Resources	_____ U. S. Mail
322 East Front Street	__x__ Hand Delivered
P.O. Box 83720	_____ Overnight Mail
Boise, ID 83720-0098	_____ Facsimile
	_____ E-mail

SERVICE

Candice McHugh	_____ U. S. Mail
Racine Olson Nye Budge & Bailey, Chtd.	__x__ Hand Delivered
U.S. Bank Plaza	_____ Overnight Mail
101 South Capitol Blvd., Suite 300	_____ Facsimile
Boise ID 83702	_____ E-mail
Cardon Hiatt Investments, L.L.C.	__x__ U. S. Mail
SMT Investors Limited Partnership	_____ Hand Delivered
Viel Gluck Limited Partnership	_____ Overnight Mail
Ben Fatto Limited Partnership	_____ Facsimile
Far Marel, L.L.C.	_____ E-mail
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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE PETITION FOR DELIVERY CALL BY JAMES C. AND TRUDIE G. SCHEFF	**FIRST AFFIDAVIT OF JAMES C. SCHEFF**

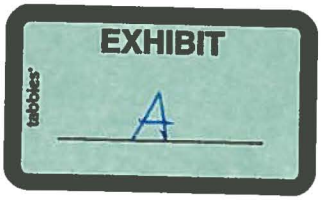
State of Idaho)
) ss.
County of Ada)

James C. Scheff, being first duly sworn upon oath and upon his personal knowledge, deposes and states:

1. My wife Trudie G. Scheff and I reside at 10435 W. Martha Ave., Mountain Home, ID 83647. Our home is located in the NWNE of Section 11, T02S, R05E, BM. We have lived in this home since February of 1996.

2. A well on our property supplies domestic water to my home. It is the authorized point of diversion for water right no. 61-11833, which was decreed to us in 1998 by the SRBA Court.

3. The pump in our well was replaced in 1998 and set to a depth of 369 feet below ground level.



4. From 1996 through the 2009 irrigation season, I saw very little irrigation or pumping of irrigation water on the adjacent land owned by Cardon Hiatt Investments, L.L.C., SMT Investors Limited Partnership, Viel Gluck Limited Partnership, Ben Fatto Limited Partnership, and Far Marel, L.L.C. (the "Respondents"). During those years, I saw no more than approximately 40 acres irrigated on that land.

5. Since 2010, I have seen more irrigation and ground water pumping on Respondents' land. I observed a total of approximately 100 acres irrigated during the 2010 irrigation season, a total of approximately 225 acres irrigated during the 2011 irrigation season, and a total of approximately 240 acres irrigated during the 2012 irrigation season.

6. Since 2010, ground water pumped from Respondents' Wells has been diverted and/or has collected into ponds located on their land.

7. Our well began pumping air into my domestic water system starting in October 2012. This was noticeable when we would turn on our faucets, etc., and air would "spit" out. This continued through mid-January 2013. Other than replacing the pump in 1998, pumping air into our domestic water system from October 2012 through January 2013 has been the only issue we've had with our well or water system since the purchase of our property in 1996. As of the date of this affidavit, my well is fully operational and is pumping water, without air, into my domestic water system.

8. I have seen irrigation on Respondents' land already during the 2013 irrigation season. I easily can see all of the sprinkler lines from my house, and I use binoculars to check what lines are operating. It appears that approximately 240 acres will be irrigated again. I have been keeping track of the irrigation practices and well pumping on Respondents' land that I have

observed so far in 2013. Between March 16 and April 8, 2013, I observed and made note of the following:

Date of Observation	Approximate Time of Observation	Approximate Duration of Observation	Irrigation Equipment In Use
16 March	7:00 am	All day	North Pivot + South Hand-lines
17 March	7:00 am	All day	North Pivot + South Hand-lines
18 March	7:00 am	All day	None
19 March	5:30-8:30 pm	5:30-8:30 pm	North Pivot + South Hand-Lines
20 March	5:30-8:30 pm	5:30-8:30 pm	South Hand-Lines
21 March	5:30-8:30 pm	5:30-8:30 pm	South Hand-Lines
22 March	5:30-8:30 pm	5:30-8:30 pm	South Hand-Lines
23 March	7:00 am	All day	None
24 March	7:00 am	All day	None
25 March	7:00 am	All day	None
26 March	5:30-8:30 pm	5:30-8:30 pm	South Pivot + South Hand -Lines
27 March	5:30-8:30 pm	5:30-8:30 pm	North Pivot + South Hand- Lines
28 March	5:30-8:30 pm	5:30-8:30 pm	South Pivot + Center Hand-lines
29 March	5:30-8:30 pm	5:30-8:30 pm	South Pivot + Center Hand-lines
30 March	7:00 am	All day	South Pivot + Center Hand-lines
31 March	7:00 am	All day	None
1 April	7:00 am	All day	North Pivot + Center Hand- Lines
2 April	5:30-8:30 pm	5:30-8:30 pm	South Pivot + Center Hand-Lines
3 April	5:30-8:30 pm	5:30-8:30 pm	South Pivot + Center Hand-Lines
4 April	5:30-8:30 pm	5:30-8:30 pm	Center Hand-lines
5 April	5:30-8:30 pm	5:30-8:30 pm	Center Hand-lines
6 April	7:00 am	All day	Center Hand-lines
7 April	7 am; 5 pm	7-10 am; 5-10 pm	Center Hand-lines
8 April	7:00 am	All day	Center Hand-lines

9. I work on Tuesday through Friday each week, and am off from work on Saturday, Sunday, and Monday. On the days I went to work listed above, I left home around 5:30 am when it was dark, arrived home around 5 or 5:30 pm, and stayed at home until I go to bed around 8:30 pm, all of which is my typical schedule. For these reasons, my observations noted above for Tuesdays through Fridays note "5:30-8:30 pm." On the Saturdays, Sundays, and Mondays listed above, I generally stayed home except for short trips to run errands for maybe an hour or

two. This is what "All day" means in the table above. The exception was Sunday, April 7, on which day I was not at home between 10 am and 5 pm.

10. I obtained the ground water level measurement data records and accompanying hydrographs for IDWR Monitoring Well 02S05E-11BAA1 (which is our well) and IDWR Monitoring Well 02S05E-11AAB1 (which is one of Respondents' wells) from the Department's hydro.online database. Copies of those records and hydrographs are attached as Exhibits B and C, respectively.

11. Based on the ground water level measurements and hydrographs and my observations of pumping from Respondents' wells since 1996, I am convinced that the increased pumping from Respondents' wells since 2010 has resulted in water level declines in our well that caused our well to pump air from October 2012 through January 2013.

12. I sent a letter to the Department on April 4, 2012 in which I expressed my concerns over pumping from Respondents' wells and the ground water level declines in our well since 2010. I sent copies of the letter to Respondents on the same date.

13. I sent a letter to Respondents in November 2012, and requested that they stop pumping ground water from the wells on their property. I sent a copy of the letter to the Department on the same date. I requested a response by March 1, 2013, but I did not receive a response.

14. I instructed my attorney to send Respondents the letter attached to this affidavit as Attachment A. On March 15, 2013, my attorney forwarded me the letter attached to this affidavit as Attachment B, which is the response sent by Respondents' attorney.

DATED this 12 day of April, 2013.

James C. Scheff

Subscribed and sworn to before me this 12 day of April, 2013.



Notary Public for Idaho
Residing at Boise
My Commission expires 7-12-18

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17TH day of April, 2013, the above and foregoing was served as follows:

ORIGINAL FILED

Idaho Department of Water Resources	_____ U. S. Mail
322 East Front Street	__x__ Hand Delivered
P.O. Box 83720	_____ Overnight Mail
Boise, ID 83720-0098	_____ Facsimile
	_____ E-mail

SERVICE

Candice McHugh	_____ U. S. Mail
Racine Olson Nye Budge & Bailey, Chtd.	__x__ Hand Delivered
U.S. Bank Plaza	_____ Overnight Mail
101 South Capitol Blvd., Suite 300	_____ Facsimile
Boise ID 83702	_____ E-mail
Cardon Hiatt Investments, L.L.C.	__x__ U. S. Mail
SMT Investors Limited Partnership	_____ Hand Delivered
Viel Gluck Limited Partnership	_____ Overnight Mail
Ben Fatto Limited Partnership	_____ Facsimile
Far Marel, L.L.C.	_____ E-mail
1223 S. Clearview Ave, Ste. 103	
Mesa, AZ 85209	



Michael P. Lawrence

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Elizabeth M. Donick
Thomas E. Dvorak
Jeffrey C. Fereday
Martin C. Hendrickson
Steven J. Hippler
Donald E. Knickrehm
Debora K. Kristensen
Anne C. Kunkel
Michael P. Lawrence
Franklin G. Lee
David R. Lombardi
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Kelly Greene McConnell
Alex P. McLaughlin
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Deborah E. Nelson
W. Hugh O'Riordan, LL.M.
Angela M. Reed
Mark Scoville
Robert B. White

Retired
Kenneth L. Pursley
James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

March 5, 2013

Sent Via FedEx Overnight

Cardon Hiatt Investments, L.L.C.
SMT Investors Limited Partnership
Viel Gluck Limited Partnership
Ben Fatto Limited Partnership
Far Marel, L.L.C.
1223 S. Clearview Ave, Ste. 103
Mesa, AZ 85209

Re: DEMAND TO CEASE GROUND WATER DIVERSIONS OR COMPENSATE SENIOR DOMESTIC WATER RIGHT HOLDER

Dear Sir or Madam:

This firm represents James and Trudie Scheff (the "Scheffs"), the owners of a residence located at 10435 W. Martha Ave, Mountain Home, ID 83647 (the "Scheff Place"). The Scheff Place is adjacent to the property owned by the entities located in the E1/2 of Section 11, Township 2S, Range 5 East, B.M., in Elmore County, Idaho ("Your Property"). Both properties are generally depicted on the map enclosed with this letter as Attachment A.

The diversion of ground water from wells on Your Property ("Your Wells") is causing ground water levels to decline, and those declines adversely affect the Scheffs' use of their well and senior priority domestic water right. By this letter, the Scheffs demand that you cease diversions of water from Your Wells or compensate the Scheffs for the increased costs of diverting their senior domestic water right, including, without limitation, the cost to deepen or replace their well, so they can divert water without interference or injury caused by pumping water from Your Wells.

ATTACHMENT A

This letter follows up on Mr. Scheffs' November 29, 2012, correspondence to you, and his April 4, 2012, and February 22, 2013, correspondence to the Idaho Department of Water Resources ("IDWR"), copies of which were sent to you. You did not respond to Mr. Scheffs' November 29, 2012, letter as he requested. If you do not respond to this letter by agreeing to the Scheffs' demand by Friday, March 15, 2013, the Scheffs will explore all legal options available including, without limitation, immediately instituting administrative or judicial actions to immediately stop diversions from Your Wells.

1. **The diversion of ground water from your junior irrigation wells is lowering the water levels in the Scheffs' senior domestic well, and adversely affects their senior water right.**

The Scheff Place and Your Property are located within the Cinder Cone Butte Critical Ground Water Management Area ("CGWMA").[1] IDWR has conducted regular water level monitoring in the CGWMA for many years.

Water level measurements in the Scheffs' well (IDWR Monitoring Well 02S05E-11BAA1) between October 2010 and October 2012 show that ground water levels declined nearly 9 feet during that period. This rate of decline over two years far outpaces the rate of decline that occurred during the prior 35 years.[2] Water level measurement data for the Scheffs' well and an accompanying graph obtained from the IDWR website are enclosed with this letter as Attachment B.

Water level measurements from one of your wells (IDWR Monitoring Well 02S05E-11AAB1, "Your Measured Well") show that water levels declined even more dramatically between 2010 and 2012. Between October 2010 and October 2012, IDWR measured a water level decline of 30.5 feet in Your Measured Well. The water level in Your Measured Well declined a total of 54 feet between March 2010 and October 2012. IDWR's water level measurement data for Your Measured Well and an accompanying graph obtained from the IDWR website is enclosed with this letter as Attachment C.

---

[1] The Cinder Cone Butte CGWMA was designated in 1981. A CGWMA is defined as "any ground water basin, or designated part thereof, not having sufficient ground water to provide a reasonably safe supply for irrigation of cultivated lands, or other uses in the basin at the then current rates of withdrawal, or rates of withdrawal projected by consideration of valid and outstanding applications and permits, as may be determined and designated, from time to time, by the director of the department of water resources." Idaho Code § 42-233a. The Director of IDWR, "upon determination that the ground water supply is insufficient to meet the demands of water rights within all or portions of a critical ground water area, shall order those water right holders on a time priority basis, within the area determined by the director, to cease or reduce withdrawal of water until such time as the director determines there is sufficient ground water." *Id.*

[2] The static water level in the Scheffs' well measured 340 feet below ground level ("bgl") when it was drilled in 1975. In October 2010, the water level was measured at 353.4 feet bgl—a difference of 13.4 feet in 35 years.

The increased rate of water level decline in the Scheffs' well and Your Measured Well since 2010 coincides with the timing of increases in diversions of water from Your Wells. Compared to prior years, during the 2010, 2011, and 2012 irrigation seasons the Scheffs observed a far greater number of acres irrigated on Your Property and greater amounts of water diverted for irrigation from Your Wells. It is apparent that the increased diversions from Your Wells since 2010 have caused the increased water level declines in the Scheffs' wells.

In fall 2012, these declining water levels began to interfere with the Scheffs' use of their well and senior water right. Starting in October 2012, the Scheffs experienced air in their domestic water system for the first time, which appears to have been caused by their well pumping air due to lower ground water levels. Their well pump is set at 369 feet bgl, which is only slightly below their well's October 2012 water level measurement (and is at the same level as the October 2012 water level measurement in Your Measured Well). The air in their water system continued until mid-January 2013, when water levels presumably recovered from the 2012 pumping of Your Wells. The Scheffs' neighbors, who also divert domestic water from the Scheffs' well, told the Scheffs that they too experienced air in their domestic water system during this period.

The Scheffs are very concerned that continued ground water pumping from Your Wells will result in further water level declines, and that such declines will render their well unable to supply domestic water as early as this summer.

2. Idaho law protects the historic pumping level of the Scheffs' senior priority, pre-1978 domestic water right against water level declines caused by your junior priority irrigation water right.

The Scheffs own decreed water right no. 61-11833, which authorizes the diversion of ground water for domestic purposes. It has a priority date of May 22, 1976, which makes it senior to your irrigation water right no. 61-12112, which has an April 20, 1979 priority date.

Under Idaho law, the Scheffs are entitled to protection of their senior priority, pre-1978 domestic ground water right's historic pumping level. In *Parker v. Wallentine*, 103 Idaho 506, 650 P.2d 648 (1982), the Idaho Supreme Court held that junior ground water appropriators will be curtailed or compelled to compensate for any decline in water levels that adversely affect senior domestic ground water rights with pre-1978 priority dates.[3] The Court stated:

> Under the doctrine of prior appropriation, because Parker's domestic well was drilled prior to Wallentine's irrigation well, Parker has a vested right to use the water for his domestic well. That right includes the right to have the water available at the historic pumping level or to be compensated for expenses incurred

[3] The protection of historic pumping levels is limited to pre-1978 domestic ground water rights because the Idaho Legislature modified the Ground Water Act in 1978 to make domestic wells subject to a reasonable pumping level standard. *See Parker v. Wallentine*, 103 Idaho 506, 511, 650 P.2d 648, 653 (1982).

> if a subsequent appropriator is allowed to lower the water table and Parker is required to change his method or means of diversion in order to maintain his right to use the water.

The *Parker* Court further held that:

> Parker will not be deprived of any right to his use if water can be obtained for Parker by changing the method or means of diversion. The expense of changing the method or means of diversion, however, must be paid by the subsequent appropriator, Wallentine, so that Parker will not suffer any monetary loss.

The Idaho Department of Water Resources confirmed the continuing applicability of *Parker's* rule in *In the Matter of Applications to Appropriate Water Nos. 63-32089 and 63-32090 in the Name of the City of Eagle*, Final Order at 33-34 (IDWR, Feb. 26, 2008). In that case, the Department's Director concluded:

> Under *Parker*, if (1) pumping of ground water by junior ground water appropriators causes declines in pumping water levels in wells of holders of senior-priority domestic water rights because of local well interference, and (2) the water rights held by the senior domestic water right holders bear priority dates earlier than 1978, the holders of the senior domestic water rights are entitled to compensation for the increased costs of diverting ground water caused by the declines in ground water levels.

In short, the Scheffs hold a senior priority, pre-1978 domestic water right—including the right to have the water available at the historic pumping level or to be compensated for the increased costs of diverting ground water if a subsequent appropriator, like you, is allowed to lower the water table. Accordingly, you must either cease pumping your junior priority irrigation right or compensate the Scheffs for the increased cost of diverting their right. Compensation could include, without limitation, the cost to deepen or replace the Scheffs' well so they can divert water without being adversely affected by pumping water from Your Wells.

The Scheffs' well supplies domestic water to two households. Both households experienced air in their water systems for several months after Your Wells stopped pumping for the 2012 irrigation season. The Scheffs are very concerned that their well will be unable to supply any domestic water to these families due to water level declines that will result from pumping from Your Wells during the upcoming 2013 irrigation season.

Please respond to this letter by Friday, March 15, 2013, by confirming that you will either cease diversions from Your Wells or compensate the Scheffs for the increased cost of diverting their senior water right. If you do not timely respond by agreeing to this demand, the Scheffs will explore all legal options available including, but not limited to, immediately instituting administrative or judicial actions to immediately stop diversions from Your Wells. Should it be necessary to institute such actions, the Scheffs will seek an award of attorney fees and costs pursuant to any applicable provision of law.

Your attention to this matter is greatly appreciated. Please feel free to contact this office if you have any questions. The Scheffs look forward to working with you to constructively resolve this matter.

Sincerely,

Michael P. Lawrence

cc: James and Trudie Scheff
Eric Orr
MPL/lkb
Enclosures
1706524_3

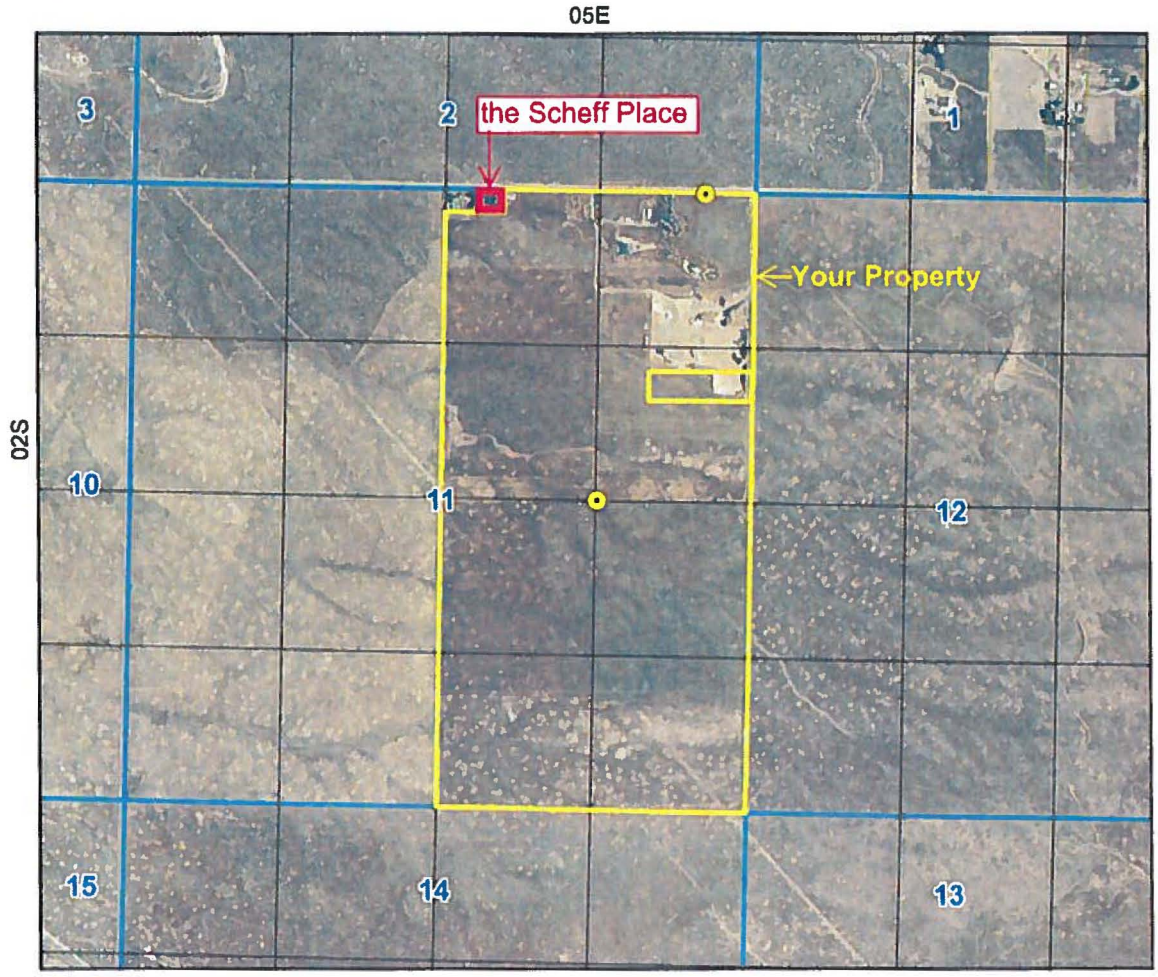
State of Idaho
Department of Water Resources

Water Right

61-12112

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the pemanent document file will be resolved in favor of the actual water right documents in the water right file.

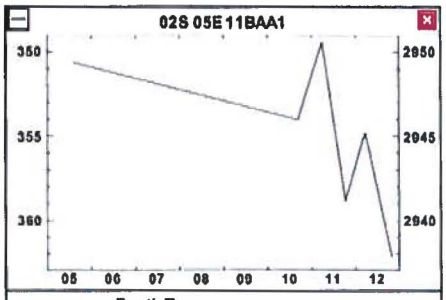


ATTACHMENT A

Map produced on February 25, 2013

Idaho Department of Water Resources **hydro.online** - for Ground Water Level Data

Index | Wells | Graph | Help



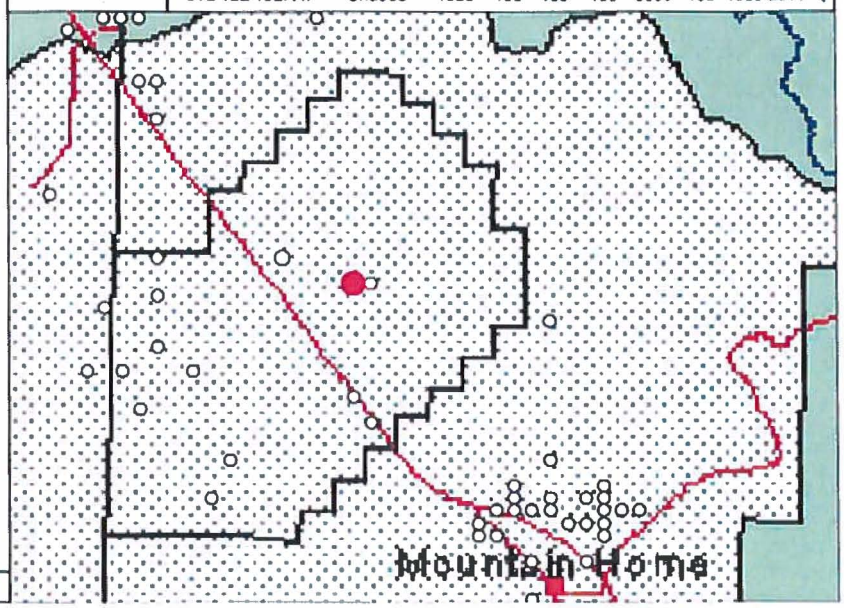
Recording Date	Depth To Water (feet)	Site Status	Recording Agency
07/28/2005	350.6		USGS
09/14/2010	354.01		USGS
10/06/2010	353.4		IDWR
03/28/2011	349.4		IDWR
10/06/2011	358.8		IDWR
03/19/2012	354.82		IDWR
10/25/2012	362.2		IDWR

Click on a table row to create hydrograph

Mountain Home 100k Quad



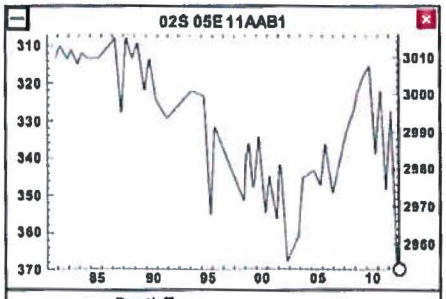
Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11BAA1	Domestic	1975			388	3300	7	2005	2012
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
02S 04E 02BBD1	Unused	1970	370	535	535	3175	21	1981	1993
01S 11E 35CCC1					15	5081	29	1980	1983
02S 05E 03BAB1	Domestic					3300	75	1981	2012
01S 04E 30AAC1	Industrial	1910	550	750	750	3151	1061	1980	2012
01S 12E 22BBB1		1942			30	5103	35	1980	1991
01S 12E 13BAA1	Unused	1925	135	435	435	5090	160	1980	2011



ATTACHMENT B

Water Resources **hydro.online** - for Ground Water Level Data

Index | Wells | Graph | Help



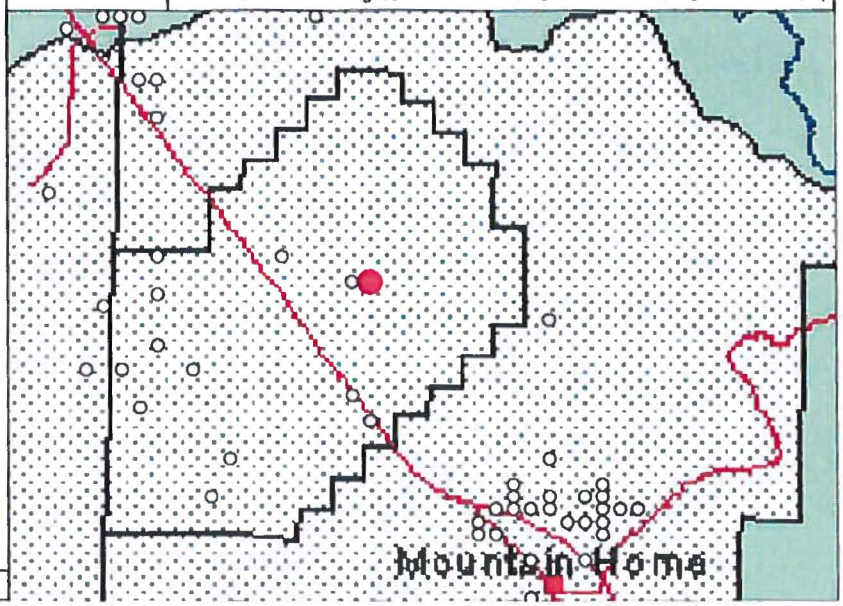
Recording Date	Depth To Water (feet)	Site Status	Recording Agency
11/04/2005	347.2		IDWR
04/07/2006	336.4		IDWR
12/06/2006	349.4		IDWR
03/27/2008	333		IDWR
11/24/2008	327.2		IDWR
03/19/2009	322.7		IDWR
09/24/2009	318.3		IDWR
03/30/2010	315.5		IDWR
10/06/2010	339		IDWR
03/28/2011	322		IDWR
10/06/2011	348.4		IDWR
03/19/2012	327.41		IDWR
10/25/2012	369.5		IDWR

Click on a table row to create hydrograph



Mountain Home 100k Quad

Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
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01S 11E 35CCC1					15	5081	29	1980	1983
02S 05E 03BAB1	Domestic					3300	75	1981	2012
01S 04E 30AAC1	Industrial	1910	550	750	750	3151	1061	1980	2012
01S 12E 22BBB1		1942			30	5103	35	1980	1991
01S 12E 13BAA1	Unused	1925	135	435	435	5090	160	1980	2011
01S 04E 10DAD1	Irrigation	1959	496	525	525	3307	67	1980	2013



ATTACHMENT C

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LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON, OF COUNSEL
JONATHON S. BYINGTON, OF COUNSEL

March 15, 2013
Sent Via Hand-Delivery and Email

RECEIVED
MAR 15 2013
Givens Pursley, LLP

Givens Pursley LLP
601 W Bannock Street
PO Box 2720
Boise, ID 83701
ATTN: MICHAEL P. LAWRENCE

Re: Demand to Cease Ground Water Diversions or Compensate Senior Domestic Water Right Holder

Dear Michael:

As we discussed, I have been retained by Mr. Bowden to respond to your letter dated March 5, 2013. I have reviewed your letter and your client's request that my client cease pumping or compensate your client for reductions in water supplies.

Because administrative remedies would first need to be exhausted and because my client is not the only other potential source of drawdown in the aquifer from which your client's well depends my client will not cease pumping nor will he compensate the Scheffs.

Based upon my review and research, although the matter involves a Critical Ground Water Management Area, any well interference claim by your client is governed by the Rules for Conjunctive Management Rules of Surface and Ground Water Resources (IDAPA 37.03.11) ("CM Rules") of the Idaho Department of Water Resources ("IDWR"). I have confirmed with IDWR that there is no Water District that covers the groundwater rights in question. As such, your client must follow the procedure set forth in CM Rule 30[1]. To that end, your client must

[1] CM Rule 41 applies to such requests in Ground Water Management Areas which by statute are different than Critical Ground Water Management Areas and as such, I believe CM Rule 30 is your client's only option.

ATTACHMENT B

initiate a delivery call and contested case under CM Rule 30 to enable the Director to act and respond to your client's concern.

Pursuant to the CM Rules the petition to initiate a contested case should also include a petition to create a water district since one has not been formed in Basin 61 (Rule 30.05) at present. An order for interim administration is likely required in order for the Director to examine the water rights in the area based on the partial decrees obtained in the SRBA. In your client's case, because their water right was not previously licensed and a partial decree was issued on January 30, 1998 in the SRBA, IDWR will need an order from the SRBA court to distribute in accordance with the partial decrees in Basin 61, including your client's water right.

Because substantial administrative actions must be exhausted as a prerequisite to the relief your client is requesting, my client will continue to use his water right as decreed.

Please feel free to call me at any time to discuss this matter further.

Sincerely,

CANDICE M. MCHUGH

cc Brent Bowden

/bh

RECEIVED
APR 17 2013
DEPARTMENT OF
WATER RESOURCES

Michael P. Lawrence [ISB No. 7288]
GIVENS PURSLEY LLP
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Fax: (208) 388-1300
www.givenspursley.com
Attorneys for James C. and Trudie G. Scheff

BEFORE THE DEPARTMENT OF WATER RESOURCES

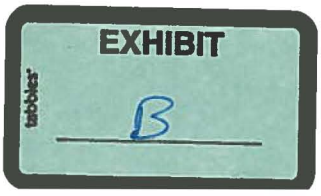
OF THE STATE OF IDAHO

IN THE MATTER OF THE PETITION FOR DELIVERY CALL BY JAMES C. AND TRUDIE G. SCHEFF	**FIRST AFFIDAVIT OF EDWARD SQUIRES**

State of Idaho)
) ss.
County of Ada)

Edward Squires, being first duly sworn upon oath and upon his personal knowledge, deposes and states:

1. I am the President and Managing Hydrogeologist for Hydro Logic, Inc. ("HLI"), a hydrogeological consulting firm in Boise, Idaho. I am a Registered Professional Geologist in the State of Idaho, a Professional Well Log Analyst, and a Certified Water Right Examiner in the State of Idaho. I have twenty-five years of experience in hydrogeology dealing with ground water and wells in Idaho including substantial practice in the Mountain Home Plateau area. HLI has been retained by James C. and Trudie G. Scheff (the "Scheffs") to conduct hydrogeological investigations pertaining to the Scheffs' water supply and, specifically, to evaluate a claim by the Scheffs that nearby irrigation wells owned by SMT Investors Limited Partnership, Cardon Hiatt



Investments, L.L.C., Viel Gluck Limited Partnership, Ben Fatto Limited Partnership, and Far Marel, L.L.C. (collectively, "SMT") are causing water level drawdown effects (well interference) in the Scheffs' domestic water supply well (the "Scheff Well").

2. All figures and documents attached as exhibits to this affidavit are true and correct copies. I have personally directed, supervised, and reviewed all work performed by HLI scientists in reference to this matter

3. In connection with the work HLI has performed for the Scheffs, I have reviewed the following documents obtained from the records of the Idaho Department of Water Resources ("IDWR" or Department"), copies of which are attached to this affidavit:

a. Exhibit A: The ground water level measurement data records and accompanying hydrograph for IDWR Monitoring Well 02S05E-11BAA1 (the Scheff well) obtained from the Department's hydro.online database.

b. Exhibit B: The ground water level measurement data records and accompanying hydrograph for IDWR Monitoring Well 02S05E-11AAB1 (the SMT North Well, defined below) obtained from the Department's hydro.online database.

c. Exhibit C: State of Idaho Well Driller's Reports for the "Reulen Hansen" well (the Scheff Well) and the "Fred R. Hickey" Well (the SMT South Well, defined below).

4. I understand that IDWR Monitoring Well 02S05E-11BAA1 is the same well as the Scheff Well located on the Scheff's property at 10435 W. Martha Ave., Mountain Home, ID 83647.

5. I understand that IDWR Monitoring Well 02S05E-11AAB1 is one of the authorized points of diversion for water right no. 61-12112 ("SMT North Well"), and the other authorized point of diversion for water right no. 61-12112 ("SMT South Well") is a well located approximately one-half mile southwest of the SMT North Well. The SMT North Well and SMT South Well (collectively, "SMT Wells") both are located within approximately one-half mile or less from the Scheff Well (Figure 1).

6. On March 20, 2013, I instructed HLI hydrogeologist Kurt Newbry to hand measure the ground water level and install a digital pressure-transducer/data-logger, an instrument for continuously monitoring and recording water levels, in the Scheff Well (Figure 2).

7. Mr. Newbry reported to me that he measured the ground water level in the Scheff Well on March 20, 2013 at 359.38 feet below ground level ("bgl") and 360.88 feet below the top of the well casing ("btoc"). Mr. Newbry also reported to me that the SMT fields watered by "handline sprinklers" were actively being irrigated but that the larger irrigation pivots were not operating while he was on site at the Scheff Well on March 20, 2013.

8. I understand from Jim Scheff's April 12, 2013 affidavit that he observed pumping from the SMT Wells and irrigation of the SMT land between March 20 and April 8, 2013, except: (a) he saw no irrigation occurring on March 23 at 7 am, and he did not see irrigation start again until 5:30 pm on March 26; and (b) he saw no irrigation occurring on March 31 at 7 am, and he did not see that irrigation had been started again until 7 am on April 1.

9. On April 8, 2013, I instructed Mr. Newbry to again hand-measure the ground water level in the Scheff Well ("April 8 Water Level Measurement"), and also to retrieve the data from the data-logger he installed in the Scheff Well ("April 8 Data").

10. The April 8 Water Level Measurement that Mr. Newbry reported to me was at 359.82 feet bgl and 361.32 feet btoc.

11. I reviewed and analyzed the April 8 data Mr. Newbry provided to me and instructed Mr. Newbry to correct the data for barometric pressure fluctuations using barometric data obtained from the automated MKU76 weather station in Mountain Home, Idaho. I plotted a hydrograph of the data, a copy of which is attached to this affidavit as Figure 3.

12. Given the relative close proximity of the SMT Wells to the Scheff Well (approximately ½-mile or less) and the overlapping depth intervals open to the aquifer in both wells, and the similar lithologic logs from the drilled geologic section (Figure 4), I believe it is highly probable and reasonably certain that the Scheff Well and the SMT Wells are hydraulically interconnected through the layered volcanic rocks (basalt lava flows) and inter-bedded gravel aquifers the wells are both completed into and drawing from, and I would certainly expect that the high-yield pumping and associated drawdown for irrigation from the SMT Wells *would* cause drawdown in the Scheff well. The SMT Wells are located within about ½-mile or less from the Scheff Well (Figure 5). The next nearest water supply wells with associated large-diversion-rate water rights are more than 3 miles distant (Figure 6) according to IDWR records. Therefore, the SMT Wells would be expected to show more pronounced well-to-well interference effects to the Scheff Well compared to drawdown from more distant wells and/or from nearer wells that do not produce large quantities of ground water (Figure 6). Water levels

in the SMT North Well have been monitored sporadically by IDWR since October 28, 1981 (Figure 7) but there is not a well-construction record for this well on the IDWR's web-based Well Driller's Report data base. We did find a Well Driller's Report for the nearby SMT South Well (Exhibit C) and the lithologic record corresponds well with the Well Driller's Report for the Scheff Well (Figure 4).

13. In reviewing the USGS/IDWR hydrograph for the SMT North Well (USGS No. 02S 05E 11AAB1) it appears that measured water levels in the well generally increased from about 2002-to-2010 before commencing a steady annual decline from 2010-to-2012 (Figure 7). The magnitude of the annual declines would suggest that pumping, and/or non-pumping, of the SMT North Well (and perhaps the nearby SMT South Well) is/are responsible for the water level fluctuations and that the water level increase from 2002-to-2010 is likely due to the SMT wells being pumped at a lesser rate or duration (and perhaps not pumped at all for some years) for a period of about seven years when the non-pumping water levels in the SMT North Well were steadily rising. An apparent resumption of pumping of the SMT Wells, beginning in 2010, resulted in a steep decline in water levels in both wells (Scheff and SMT North wells) with successive irrigation season drawdown declines of approximately 22-to-42 feet per year and a successive decline in "recovered" springtime water levels of about six feet per year in the SMT North Well, and successive irrigation drawdown declines of six-to-nine feet per year and a successive decline in "recovered" spring water levels of about six-to-four feet per year in the Scheff Well (Figures 8 and 9).

14. According to Jim Scheff's April 12, 2013 affidavit, his domestic well was "pumping air" beginning in October of 2012 and continuing up until about mid January of 2013. I interpret these observations as the water level declining in the Scheff domestic well to the top

of the pump intake screen when the pump would "break suction" and suck air into the system. In other words, the pump intake was no longer always submerged. This problem appeared in October because it was the end of the irrigation season (maximum annual drawdown of the aquifer pressures in the vicinity of the Scheff Well) before the water level in the Scheff Well slowly recovered (increased) during the non-irrigation season such that the intake of the Scheff well pump was fully submerged by January and ceased to "suck air". Therefore, the Scheffs were apparently not able to obtain their full water supply during the late fall and winter of 2012-2013 and Jim Scheff's observations suggest to me that the Scheff Well was very close to not being able to produce water at all. According to Jim Scheff's affidavit, the Scheff Well's pump was replaced in 1998 and set to a depth of 369 feet below ground level. Given the documented rate of water level decline, and the fact that the Scheffs were experiencing air in their water system last year, it is likely that their pump will break suction earlier in the year than in 2013 (before October) and may be unable to provide the Scheffs' water supply during the mid-to-late 2013 irrigation season. At the current rates of withdrawal from the SMT Wells, the Scheffs may not be able to produce water for much of 2014 and it could be expected that the water level in the Scheff Well will be drawn below the bottom of the well within two-to-three years.

15. As mentioned, HLI installed a water-level recording instrument (pressure-transducer/data-logger) in the Scheff Well on March 20, 2013 and recorded water levels for 19 days (Figure 3). During the recorded period, I understand from Jim Scheff's April 12, 2013 affidavit that, to the best of his at-home availability, he visually noted when the SMT Wells were pumping water for irrigating the SMT fields, as mentioned above. The hydrograph of the HLI digital data (Figure 3) shows the continuously-recorded water level data with respect to Mr. Scheff's observations of when he observed the SMT's irrigation (pumping) to be off. These data

show that when the SMT Wells were not pumping for irrigation that the water level in the Scheff Well ceased drawing down as rapidly as when the SMT Wells were pumping (i.e. the water level began to recover). Upon resumption of the SMT irrigation, the water levels in the Scheff Well began to draw down more rapidly again suggesting a direct hydraulic interconnection between the Scheff and SMT wells.

16. The HLI hydrograph (Figure 3) also clearly shows the small amount (approximately 0.2 feet in the Scheff Well) of drawdown from Scheff's own domestic water supply pumping that is unrelated to the interference drawdown effects from the high capacity SMT Wells. This very small amount of drawdown in the Scheff Well, due to pumping the Scheff Well itself, shows that the well is efficient, requiring almost no available drawdown to obtain the Scheffs' water supply. This is consistent with the pump test data recorded on the Well Driller's Report for the well (Exhibit C).

17. By comparison, pumping of the SMT Wells appears to be lowering the water level in the Scheff Well successively by about six-to-nine feet per year during the irrigation season and by six-to-seven feet per year as measured by recovered spring water levels (Figure 9). Closely comparing the IDWR-measured water levels in the Scheff Well and the SMT North Well (Figure 9) suggests a common fluctuation and local hydraulic interconnection (interference drawdown) between these two wells. But comparison of these water levels with other IDWR-measured monitoring wells some distance from the Scheff Well (Figure 10) shows water level responses that are not correlative or related to the SMT North Well hydrograph. Indeed, these hydrographs show extended periods (years) of drawdown when the SMT North Well water levels were rising (Figure 10).

18. The almost complete water level recovery in the SMT North Well after reduction of pumping from those wells from 2002 to 2010 shows that ground water levels in the vicinity of the Scheff Well are not declining in response to collective pumping within the Cinder Cone Butte Critical Ground Water Management Area. Rather, it is highly probable that water level declines in the Scheff Well and the SMT Wells are occurring in response to near-well interference effects from pumping from the SMT Wells.

19. Based on my review of the information in Exhibits A, B, C, and D, Mr. Scheff's pumping observations, conversations with Mr. Scheff, review of GoogleEarth aerial photographic maps, and previous experience measuring and interpreting hydrogeologic data from wells in the Mountain Home Plateau area of Idaho, it is my professional opinion that pumping of the SMT Wells causes ground water level declines in the Scheff Well that are attributable to direct well interference effects caused by pumping of the SMT Wells.

DATED this 16 day of April, 2013.

Edward Squires

Subscribed and sworn to before me this 16th day of April, 2013.

LISA K. BUSH
NOTARY
STATE OF IDAHO

Notary Public for Idaho
Residing at Boise
My Commission expires 7-12-18

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17TH day of April, 2013, the above and foregoing was served as follows:

ORIGINAL FILED

Idaho Department of Water Resources	_____ U. S. Mail
322 East Front Street	__x__ Hand Delivered
P.O. Box 83720	_____ Overnight Mail
Boise, ID 83720-0098	_____ Facsimile
	_____ E-mail

SERVICE

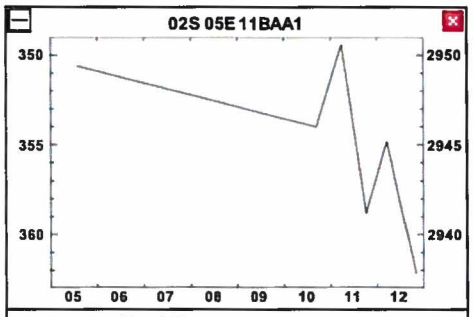
Candice McHugh	_____ U. S. Mail
Racine Olson Nye Budge & Bailey, Chtd.	__x__ Hand Delivered
U.S. Bank Plaza	_____ Overnight Mail
101 South Capitol Blvd., Suite 300	_____ Facsimile
Boise ID 83702	_____ E-mail
Cardon Hiatt Investments, L.L.C.	__x__ U. S. Mail
SMT Investors Limited Partnership	_____ Hand Delivered
Viel Gluck Limited Partnership	_____ Overnight Mail
Ben Fatto Limited Partnership	_____ Facsimile
Far Marel, L.L.C.	_____ E-mail
1223 S. Clearview Ave, Ste. 103	
Mesa, AZ 85209	

Michael P. Lawrence

Idaho Department of Water Resources

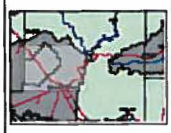
hydro.online - for Ground Water Level Data

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Recording Date	Depth To Water (feet)	Site Status	Recording Agency
07/28/2005	350.6		USGS
09/14/2010	354.01		USGS
10/06/2010	353.4		IDWR
03/28/2011	349.4		IDWR
10/06/2011	358.8		IDWR
03/19/2012	354.82		IDWR
10/25/2012	362.2		IDWR

Click on a table row to create hydrograph



Mountain Home 100k Quad

Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11BAA1	Domestic	1975			388	3300	7	2005	2012
03S 06E 02AAD1	Domestic	1976	39	200	300	3295	7	1989	2005
04S 05E 31ABA1	Irrigation					2985	63	1990	1992
02S 04E 20DDD1	Irrigation					3077	37	1981	1998
01N 04E 14DDAD1	Domestic	1988	117	200	200	3530	11	1988	2013
04S 05E 26CAA1	Domestic	1974	18	480	480	3040	69	1989	1992
03S 07E 07CDDD1		2004	50	362	362	3283	5	2005	2005
02S 04E 14CDD1	Irrigation					3123	70	1981	2012

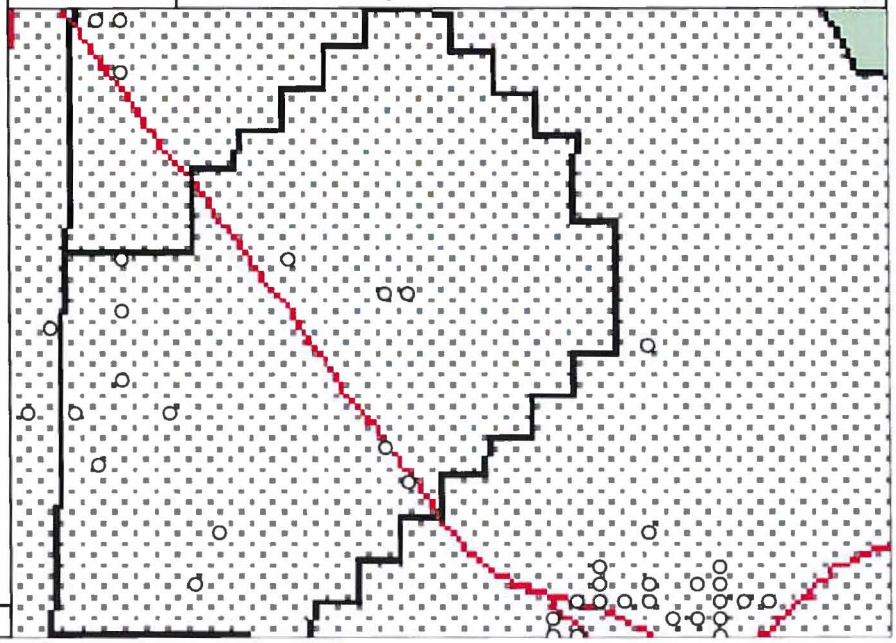
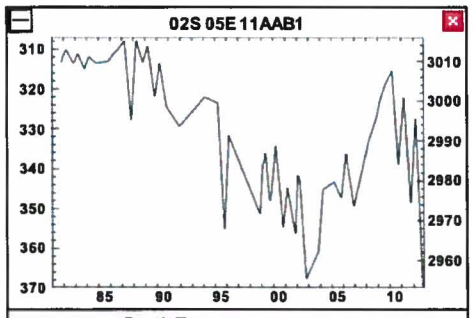


EXHIBIT
A

Idaho Department of Water Resources **hydro.online** - for Ground Water Level Data

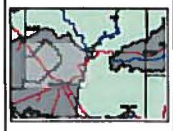
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Recording Date	Depth To Water (feet)	Site Status	Recording Agency
10/28/1981	313.3		IDWR
12/13/1981	311.9		IDWR
03/25/1982	310.1		IDWR
11/17/1982	313.6		IDWR
03/28/1983	311.1		IDWR
10/31/1983	314.9		IDWR
03/23/1984	311.9		IDWR
10/24/1984	313.5		IDWR
04/02/1985	313.3		IDWR
10/30/1985	313.1		IDWR
03/19/1986	311.5		IDWR
10/28/1986	309.5		IDWR
03/25/1987	307.9		IDWR

Click on a table row to create hydrograph

Mountain Home 100k Quad



Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
05S 05E 03AAAD2	Unused	2002				3009	86	2002	2013
04S 05E 29ADCA1	Other	2002				2985	7	2002	2005
03S 06E 11DDA2	Domestic	1987	22	225		3250	5	1987	1990
01N 04E 32ABB1	Fire	2005			884	3364	1228	2009	2012
04S 07E 09DCC1	Irrigation	1962	630	862	862	3152	39	1980	1991
05S 05E 05AAC1	Irrigation					2985	11	1989	1991
03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005

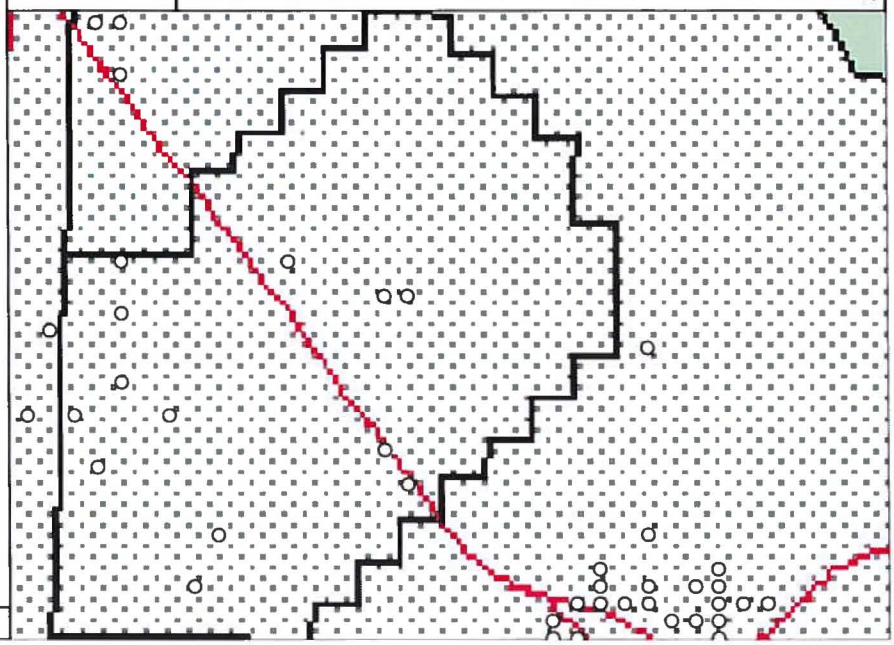


EXHIBIT tabbies B

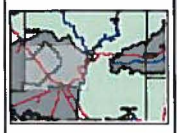
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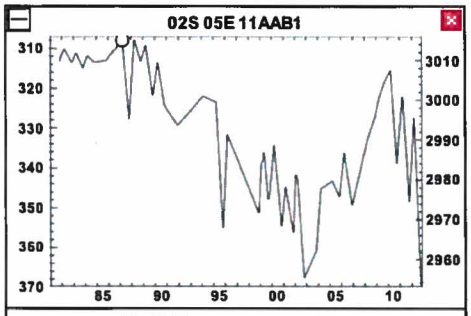


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Mountain Home 100k Quad

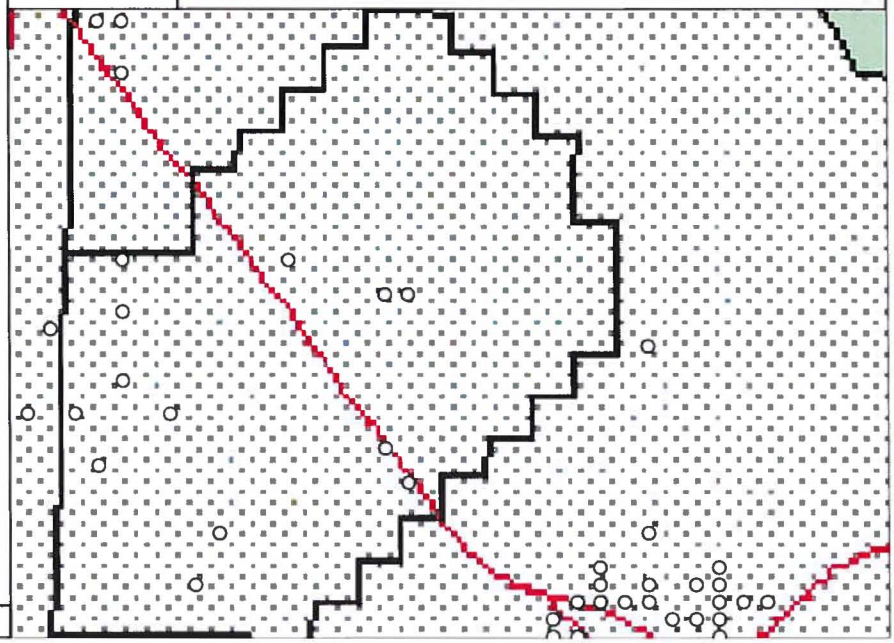


Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
05S 05E 03AAAD2	Unused	2002				3009	86	2002	2013
04S 05E 29ADCA1	Other	2002				2985	7	2002	2005
03S 06E 11DDA2	Domestic	1987	22	225		3250	5	1987	1990
01N 04E 32ABB1	Fire	2005			884	3364	1228	2009	2012
04S 07E 09DCC1	Irrigation	1962	630	862	862	3152	39	1980	1991
05S 05E 05AAC1	Irrigation					2985	11	1989	1991
03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005



Recording Date	Depth To Water (feet)	Site Status	Recording Agency
03/25/1987	307.9		IDWR
10/26/1987	327.8		IDWR
04/05/1988	307.7		IDWR
10/27/1988	313.4		IDWR
03/31/1989	309.1		IDWR
11/06/1989	321.9	Recent Pumped	IDWR
04/09/1990	313.5		IDWR
11/07/1990	324.4		IDWR
12/05/1991	329.4		IDWR
02/17/1994	322	Other	IDWR
03/30/1995	323.5		IDWR
10/27/1995	355.2		IDWR
03/20/1996	331.7		IDWR

Click on a table row to create hydrograph

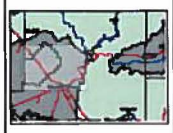


Idaho Department of Water Resources

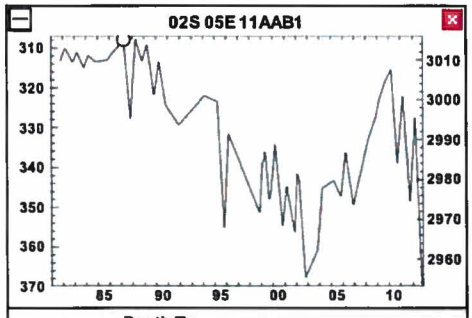
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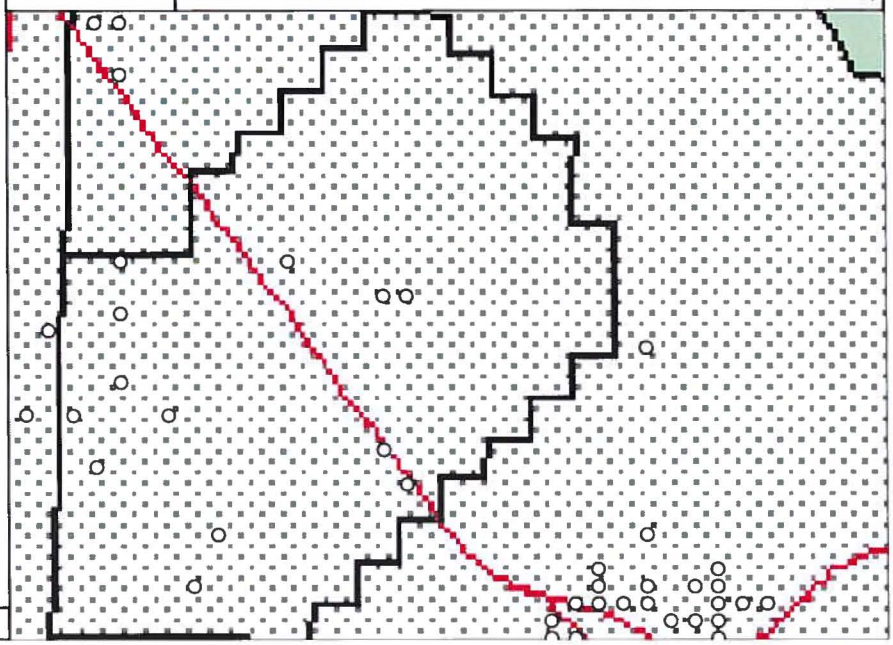
Mountain Home 100k Quad



Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
05S 05E 03AAAD2	Unused	2002				3009	86	2002	2013
04S 05E 29ADCA1	Other	2002				2985	7	2002	2005
03S 06E 11DDA2	Domestic	1987	22	225		3250	5	1987	1990
01N 04E 32ABB1	Fire	2005			884	3364	1228	2009	2012
04S 07E 09DCC1	Irrigation	1962	630	862	862	3152	39	1980	1991
05S 05E 05AAC1	Irrigation					2985	11	1989	1991
03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005



Recording Date	Depth To Water (feet)	Site Status	Recording Agency
03/20/1996	331.7		IDWR
11/20/1998	351.4		IDWR
12/15/1998	347.6		IDWR
01/21/1999	341.3		IDWR
02/19/1999	338.6		IDWR
03/24/1999	338.7		IDWR
04/20/1999	336.1		IDWR
05/26/1999	337		IDWR
09/10/1999	348		IDWR
10/21/1999	347.4		IDWR
03/22/2000	334.3		IDWR
11/02/2000	354.6		IDWR



Click on a table row to create hydrograph

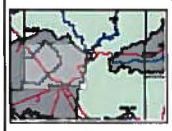
Idaho Department of Water Resources

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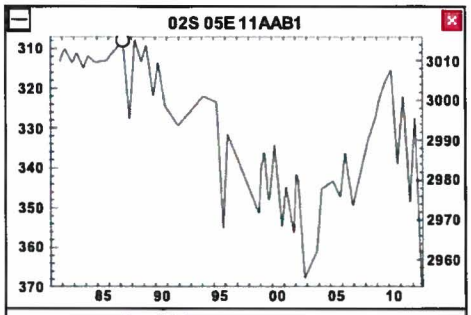


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Mountain Home 100k Quad

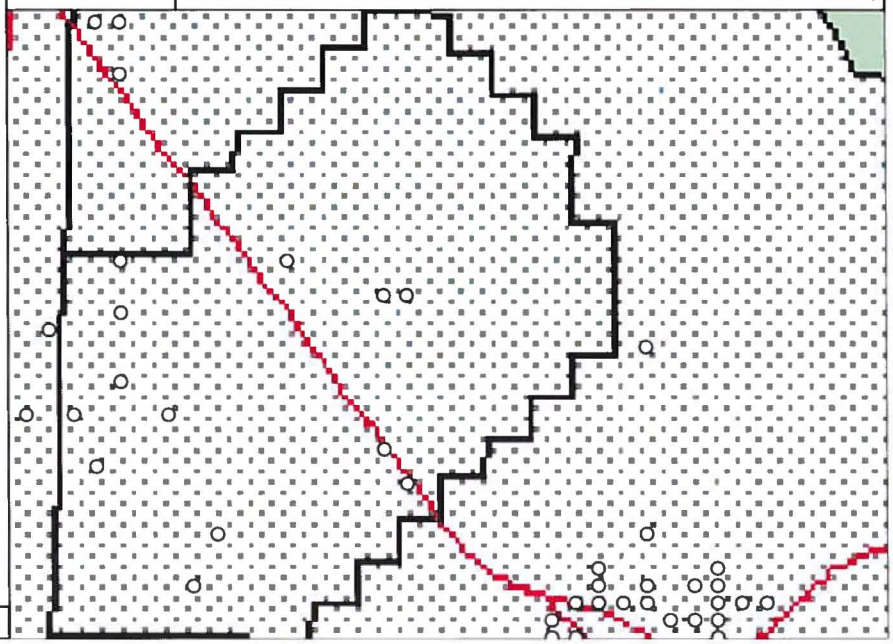


Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
05S 05E 03AAAD2	Unused	2002				3009	86	2002	2013
04S 05E 29ADCA1	Other	2002				2985	7	2002	2005
03S 06E 11DDA2	Domestic	1987	22	225		3250	5	1987	1990
01N 04E 32ABB1	Fire	2005			884	3364	1228	2009	2012
04S 07E 09DCC1	Irrigation	1962	630	862	862	3152	39	1980	1991
05S 05E 05AAC1	Irrigation					2985	11	1989	1991
03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005



Recording Date	Depth To Water (feet)	Site Status	Recording Agency
03/06/2001	344.7		IDWR
11/13/2001	356.3		IDWR
01/30/2002	341.6		IDWR
03/28/2002	342.8		IDWR
10/17/2002	367.7		IDWR
11/05/2003	360.8		IDWR
03/30/2004	345.2		IDWR
03/24/2005	343.3		IDWR
11/04/2005	347.2		IDWR
04/07/2006	336.4		IDWR
12/06/2006	349.4		IDWR
03/27/2008	333		IDWR
11/24/2008	327.2		IDWR

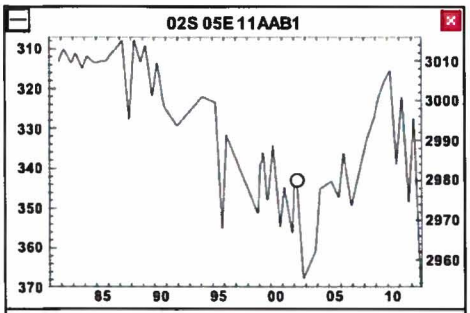
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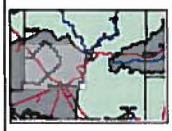
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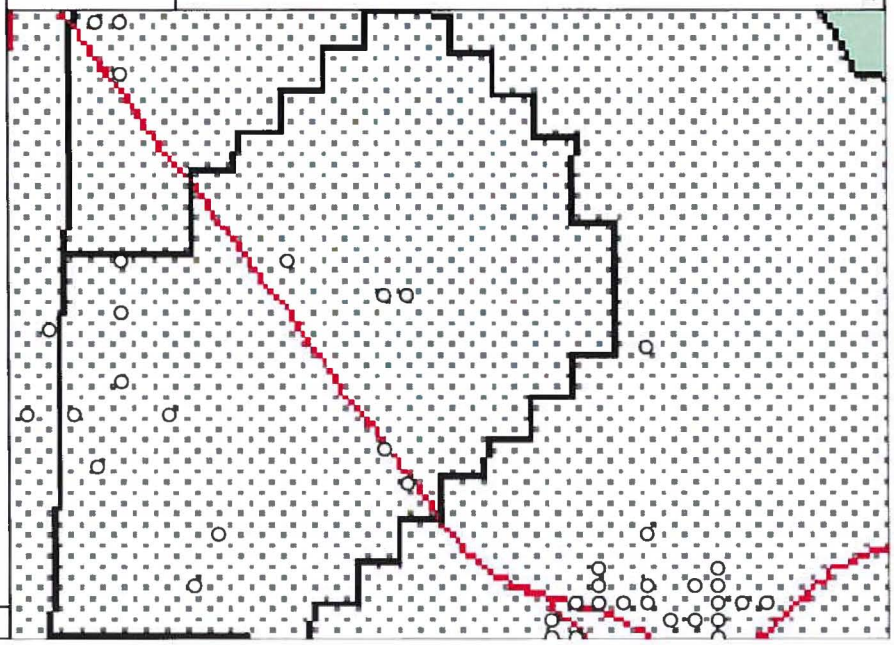
Recording Date	Depth To Water (feet)	Site Status	Recording Agency
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04/07/2006	336.4		IDWR
12/06/2006	349.4		IDWR
03/27/2008	333		IDWR
11/24/2008	327.2		IDWR
03/19/2009	322.7		IDWR
09/24/2009	318.3		IDWR
03/30/2010	315.5		IDWR
10/06/2010	339		IDWR
03/28/2011	322		IDWR
10/06/2011	348.4		IDWR
03/19/2012	327.41		IDWR
10/25/2012	369.5		IDWR

Click on a table row to create hydrograph

Mountain Home 100k Quad



Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
05S 05E 03AAAD2	Unused	2002				3009	86	2002	2013
04S 05E 29ADCA1	Other	2002				2985	7	2002	2005
03S 06E 11DDA2	Domestic	1987	22	225		3250	5	1987	1990
01N 04E 32ABB1	Fire	2005			884	3364	1228	2009	2012
04S 07E 09DCC1	Irrigation	1962	630	862	862	3152	39	1980	1991
05S 05E 05AAC1	Irrigation					2985	11	1989	1991
03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005



USE TYPEWRITER OR BALL POINT PEN

State of Idaho
Department of Water Resources

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

RECEIVED JUN 10 1975
Department of Water Resources

1. WELL OWNER

Name Ralph Hansen

Address N. of city Mt. Home

Owner's Permit No.

2. NATURE OF WORK

☒ New well ☐ Deepened ☐ Replacement

☐ Abandoned (describe method of abandoning)

3. PROPOSED USE

☒ Domestic ☐ Irrigation ☐ Test ☐ Other (specify type)

☐ Municipal ☐ Industrial ☐ Stock ☐ Waste Disposal or Injection

4. METHOD DRILLED

☐ Cable ☒ Rotary ☐ Dug ☐ Other

5. WELL CONSTRUCTION

Diameter of hole 8 inches Total depth 388 feet

Casing schedule: ☒ Steel ☐ Concrete

Thickness	Diameter	From	To
.250 inches	8 inches	+ 1 feet	19 feet
.250 inches	6 inches	1 feet	388 feet
inches	inches	feet	feet
inches	inches	feet	feet
inches	inches	feet	feet

Was casing drive shoe used? ☐ Yes ☒ No

Was a packer or seal used? ☐ Yes ☒ No

Perforated? ☐ Yes ☒ No

How perforated? ☐ Factory ☐ Knife ☐ Torch

Size of perforation ____ inches by ____ inches

Number	From	To
____ perforations	____ feet	____ feet
____ perforations	____ feet	____ feet
____ perforations	____ feet	____ feet

Well screen installed? ☐ Yes ☒ No

Manufacturer's name

Type Model No.

Diameter ___ Slot size ___ Set from ___ feet to ___ feet

Diameter ___ Slot size ___ Set from ___ feet to ___ feet

Gravel packed? ☐ Yes ☒ No Size of gravel

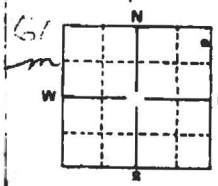
Placed from feet to feet

Surface seal depth 19' Material used in seal ☐ Cement grout ☒ Puddling clay ☐ Well cuttings

Sealing procedure used ☐ Slurry pit ☐ Temporary surface casing ☒ Overbore to seal depth

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name

Lot No. Block No.

County Elmore

NE ¼ NE ¼ Sec. 11 T. 2 N/S, R. 5 E/W

7. WATER LEVEL

Static water level 340' feet below land surface

Flowing? ☐ Yes ☒ No G.P.M. flow

Temperature ° F. Quality

Artesian closed-in pressure p.s.i.

Controlled by ☐ Valve ☐ Cap ☐ Plug

8. WELL TEST DATA

☐ Pump ☐ Bailer ☐ Other

Discharge G.P.M.	Draw Down	Hours Pumped
30	0	1

31016

9. LITHOLOGIC LOG

Hole Diam.	Depth From	Depth To	Material	Water Yes	Water No
10"	0	4	Soil		
10	4	13	Sand & Lmagm gravel		
10-8	13	53	Gray lava Silt.		
8	53	60	Red lava		
8	60	66	Red cinders & clay		
8	66	87	Gray lava		
8	87	104	Red lava.		
8	104	122	Gray Lava.		
8	122	163	Red Lava.		
8	163	218	Gray Lava.		
8	218	233	Red lava & cinders		
8	233	253	Green Olivine Basalt		
8	253	264	Gray Lava.		
8	264	286	Sand & Gravel		
8	286	291	Gravel Mud.		
8	291	323	Gray Lava & Gravel		
8	323	333	Gray Lava cinder	X	
8	333	370	Gray Lava.		
8	370	388	Sand Gravel & cinders	X	

10.

Work started 6-8-75 finished 6-19-75

11. DRILLERS CERTIFICATION

USGS

Firm Name Hiddleston Firm No. 55

Address Mt. Home Date 6-22-75

Signed by (Firm Official) Ron Hiddleston

and

(Operator)

USE ADDITIONAL SHEETS IF NECESSARY FORWARD THE WHITE COPY TO THE DEPARTMENT

EXHIBIT C

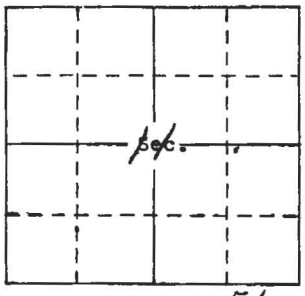
Location Corrected by IDWR To:
T02S R05E Sec. 11 SENE
By: segbert 2010-10-15

REPORT OF WELL DRILLER
State of Idaho

State law requires that this report shall be filed with the State Reclamation Engineer within 30 days after completion or abandonment of the well.

WELL OWNER:
Name Fred R. Hickey
Address 5116 th St. So. 83651
Nampa Idaho
Owner's Permit No. 61-7030
NATURE OF WORK (check): Replacement well ☐
New well ☒ Deepened ☐ Abandoned ☐
Water is to be used for: Irrigation
METHOD OF CONSTRUCTION: Rotary ☐ Cable ☒
Dug ☐ Other ☐ (explain)
CASING SCHEDULE: Threaded ☐ Welded ☐
26 "Diam. from 0 ft. to 24 ft.
____ "Diam. from ____ ft. to ____ ft.
____ "Diam. from ____ ft. to ____ ft.
____ "Diam. from ____ ft. to ____ ft.
Thickness of casing: 3/8 Material:
Steel ☒ concrete ☐ wood ☐ other ☐
(explain)
PERFORATED? Yes ☐ No ☐ Type of perforator used:
Size of perforations: ____ " by ____ "
____ perforations from ____ ft. to ____ ft.
____ perforations from ____ ft. to ____ ft.
____ perforations from ____ ft. to ____ ft.
____ perforations from ____ ft. to ____ ft.
WAS SCREEN INSTALLED? Yes ☐ No ☐
Manufacturer's name
Type Model No.
Diam. ____ Slot size ____ Set from ____ ft. to ____ ft.
Diam. ____ Slot size ____ Set from ____ ft. to ____ ft.
CONSTRUCTION: Well gravel packed? Yes ☐ No. ☐ size of gravel ____ Gravel placed from ____ ft. to ____ ft. Surface seal provided? Yes ☐ No ☐ To what depth? ____ ft. Material used in seal:
Did any strata contain unusable water? Yes ☐ No. ☐ Type of water:
Depth of strata ____ ft. Method of sealing strata off:
Surface casing used? Yes ☒ No. ☐
Cemented in place? Yes ☐ No ☐

Locate well in section



61

LOCATION OF WELL: County Elmore
NE¼ SE¼ Sec. 11 T. 2 N/S R. 5E E/W

Size of drilled hole: 20 " Total depth of well: 600 Standing water level below ground: 328 Temp. Fahr. 72 ° Test delivery: 1705 gpm or ____ cfs Pump? ☐ Bail ☐
Size of pump and motor used to make test: 10 " X 440 ' 400 hp. diesel engine
Length of time of test: 3 Hrs. ____ Min.
Drawdown: 440 ft. Artesian pressure: ft. above land surface ____ Give flow ____ cfs or ____ gpm. Shutoff pressure:
Controlled by: Valve ☐ Cap ☐ Plug ☐ No control ☐ Does well leak around casing? Yes ☐ No ☐

104255

DEPTH FROM FEET	DEPTH TO FEET	MATERIAL	WATER YES OR NO
0	12	Topsoil	
12	21	hard pan gravel	
21	66	Grey lava	
66	74	Black lava	
74	114	Grey lava hard	
114	161	Grey lava hard	
161	162	honey comb lava	
162	183	Black lava hard	
183	208	Black lava soft	
208	225	Red soft lava	
225	267	Black lava hard	
267	301	Cinders gravel	
301	345	honey comb lava	X
345	352	Black Cinders	X
352	370	Red lava soft	
370	385	gravel clay	
385	402	River rock sand and clay	
402	424	Soft grey lava	
424	430	Black cinders with clay	X
430	451	clay and Rock	
451	484	Honey comb lava	
		Water Tight	X
484	502	clay Tight and gravel	
502	545	Brown lava soft	
545	600	Brown Cinders with small pea gravel	X

Work started: Feb. 7-1969
Work finished: Feb 15-1970
Well Driller's Statement: This well was drilled under my supervision and this report is true to the best of my knowledge.
Name: Carl Hickey 83902
Address: 300 Thatcher Boise Id 83
Signed by: Carl Hickey
License No. 160 Date: 4-3-70

Use other side for additional remarks

Well tested by Layne Pumps
Twin Falls Ida. Mar. 5-1970

Scheff Domestic Well and SMT Irrigation Wells Location Map
Township 2 South, Range 5 East, Section 11
April 15th, 2013

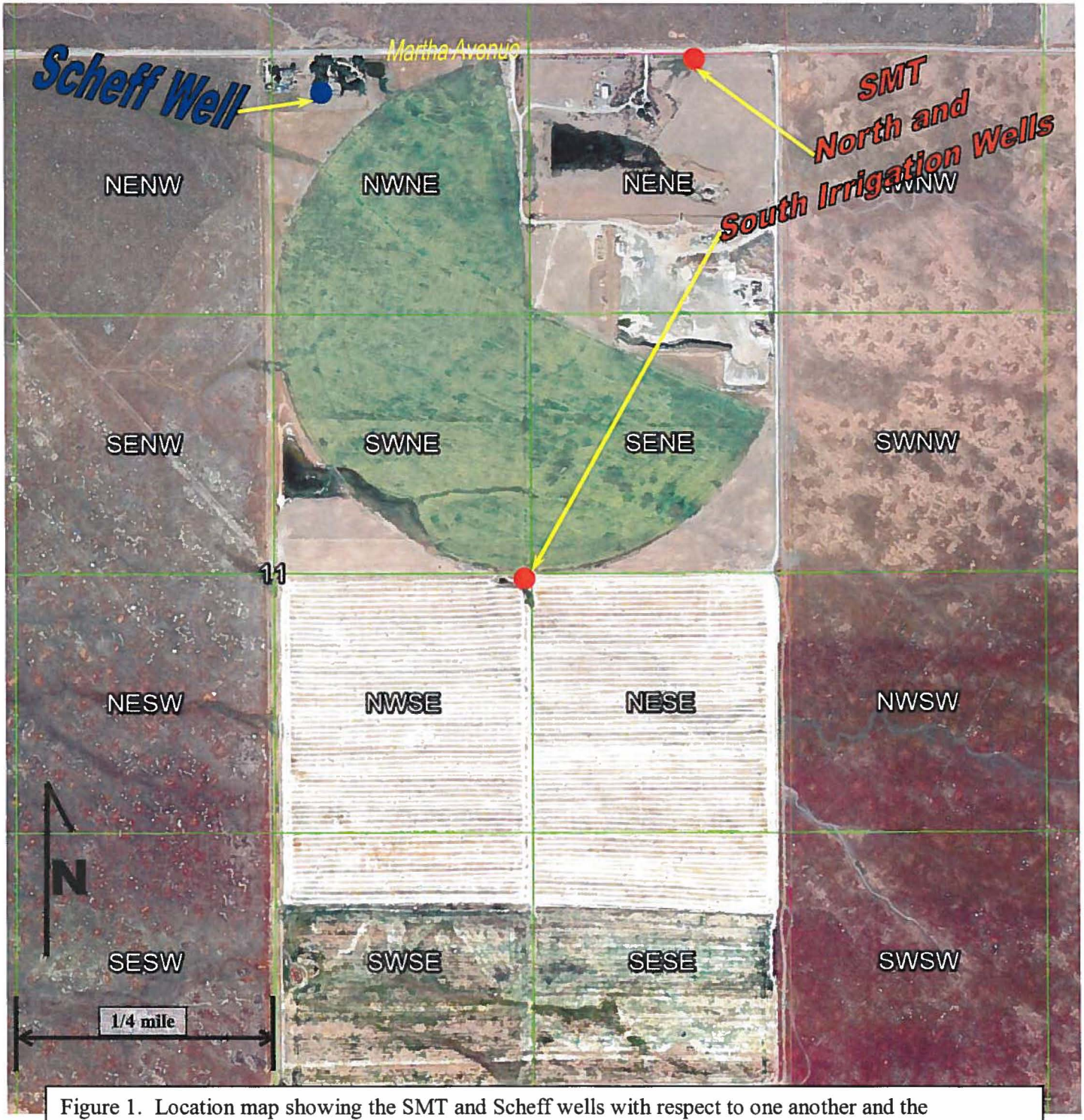


Figure 1. Location map showing the SMT and Scheff wells with respect to one another and the approximately 240-acres of land irrigated by the SMT "North" and "South" wells. Aerial photo base, dated August 29, 2011, acquired from Google Earth Pro.

Hydro Logic, Inc.
Boise, ID

Figure 1.

Hydro Logic, Inc.
Boise, ID



Figure 2. The Scheff domestic well outside of the pump control house at the Scheff residence on Martha Avenue. The adjoining SMT irrigated farm fields are visible in the background.

Figure 2.

Hydro Logic, Inc
Boise, ID

Scheff Domestic Well Pumping and Non-Pumping Water Levels

March 20th - April 8th, 2013

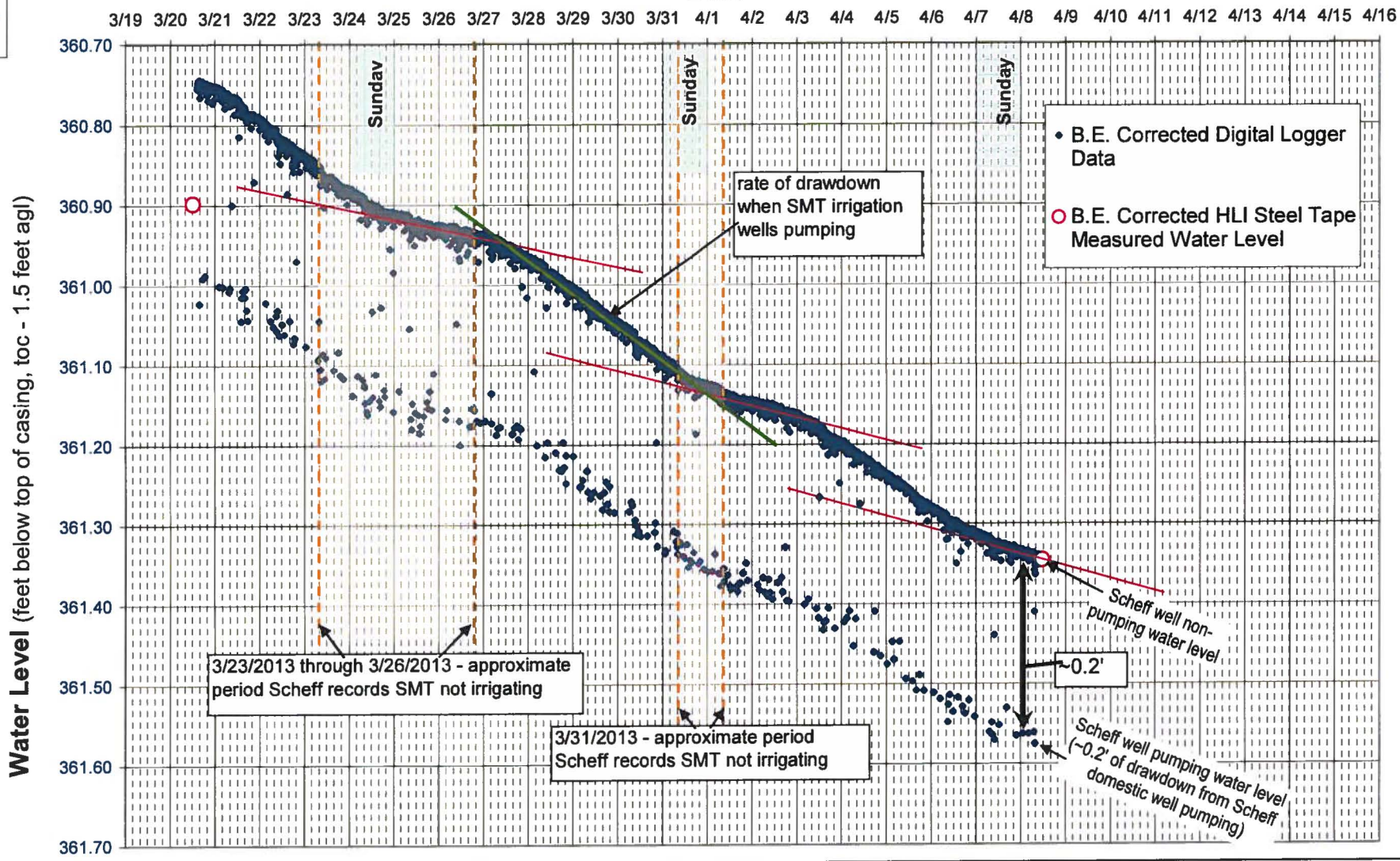


Figure 3. Plotted pumping and non-pumping water levels in the Scheff domestic well during the period March 23-to-April 8, 2013. Hydrograph appears to show a steady decline in water levels from pumping the SMT irrigation wells and periods of partial recovery when the SMT wells were not pumping. The leveling off of the declining water level trend corresponds with and follows times when the SMT irrigation was observed to be off by Jim Scheff during March 23-to-March 26 and March 31-to-April 1. Pumping of the Scheff well causes about 0.2 feet of drawdown in the Scheff well. The digitally acquired data were confirmed and calibrated by hand-measured levels using a chalked steel tape at beginning and end of period.

Figure 3.

CALCULATIONS AND DESIGN DATA

PREPARED BY L. Pearson

SUBJECT Comparison of Driller's Lithologies from the Scheff Domestic Well and the SMT South Irrigation Well

DATE 4-10-2013

SHEET 1 OF 1

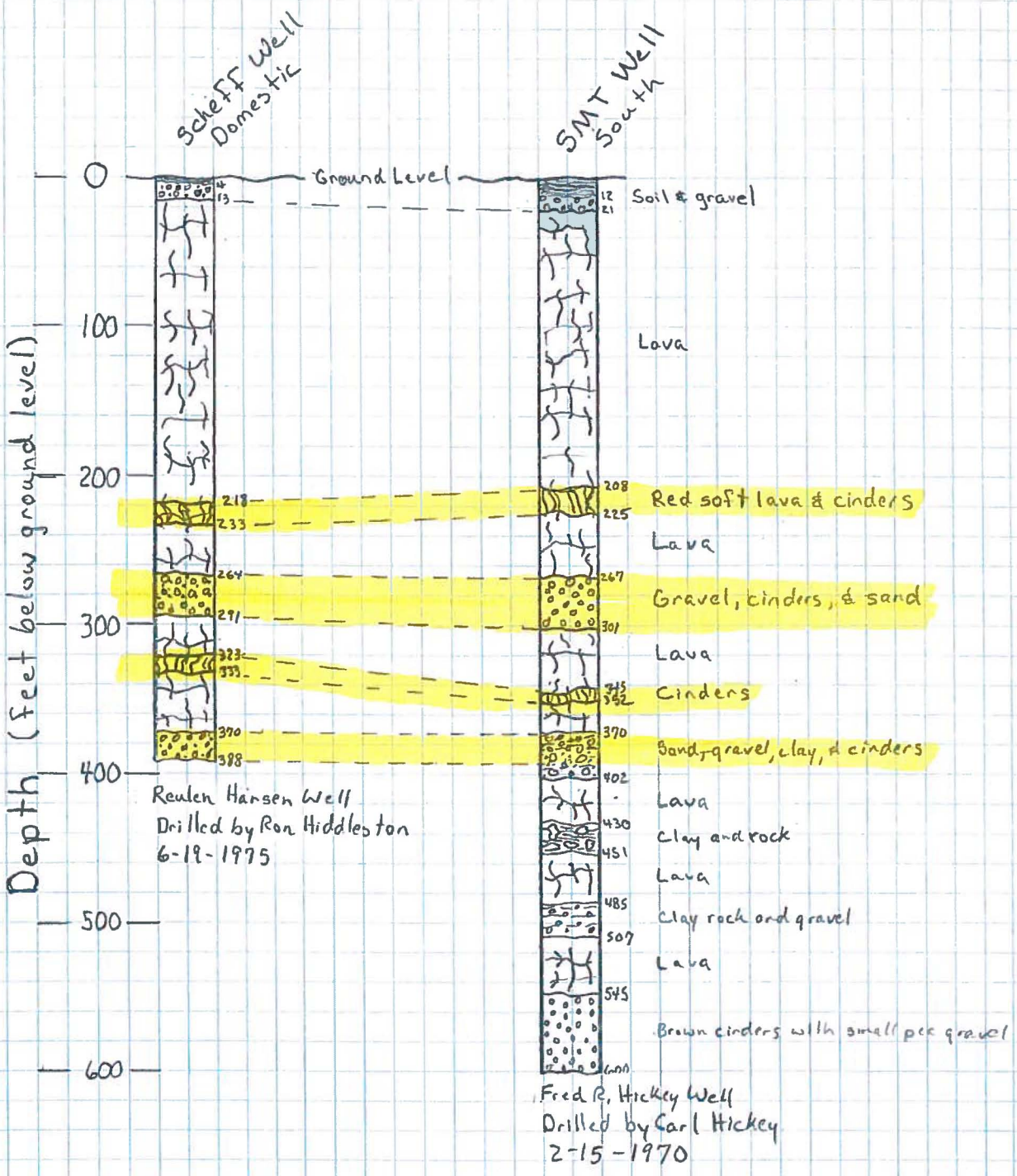


Figure 4. Hand-drawn sketch of the lithologic logs (drilled geologic section) from the Well Driller's Reports associated with the Scheff domestic and SMT South irrigation wells. The cross-section depicts a relatively good correlation between the two wells located only ½ mile apart. The Scheff well is open to the aquifer to a depth of 388 feet and the SMT well is an open 20-inch diameter borehole from 19 feet to 600 feet below ground level

Hydro Logic, Inc.
Boise, ID

Figure 4.

Hydro Logic, Inc.
Boise, ID

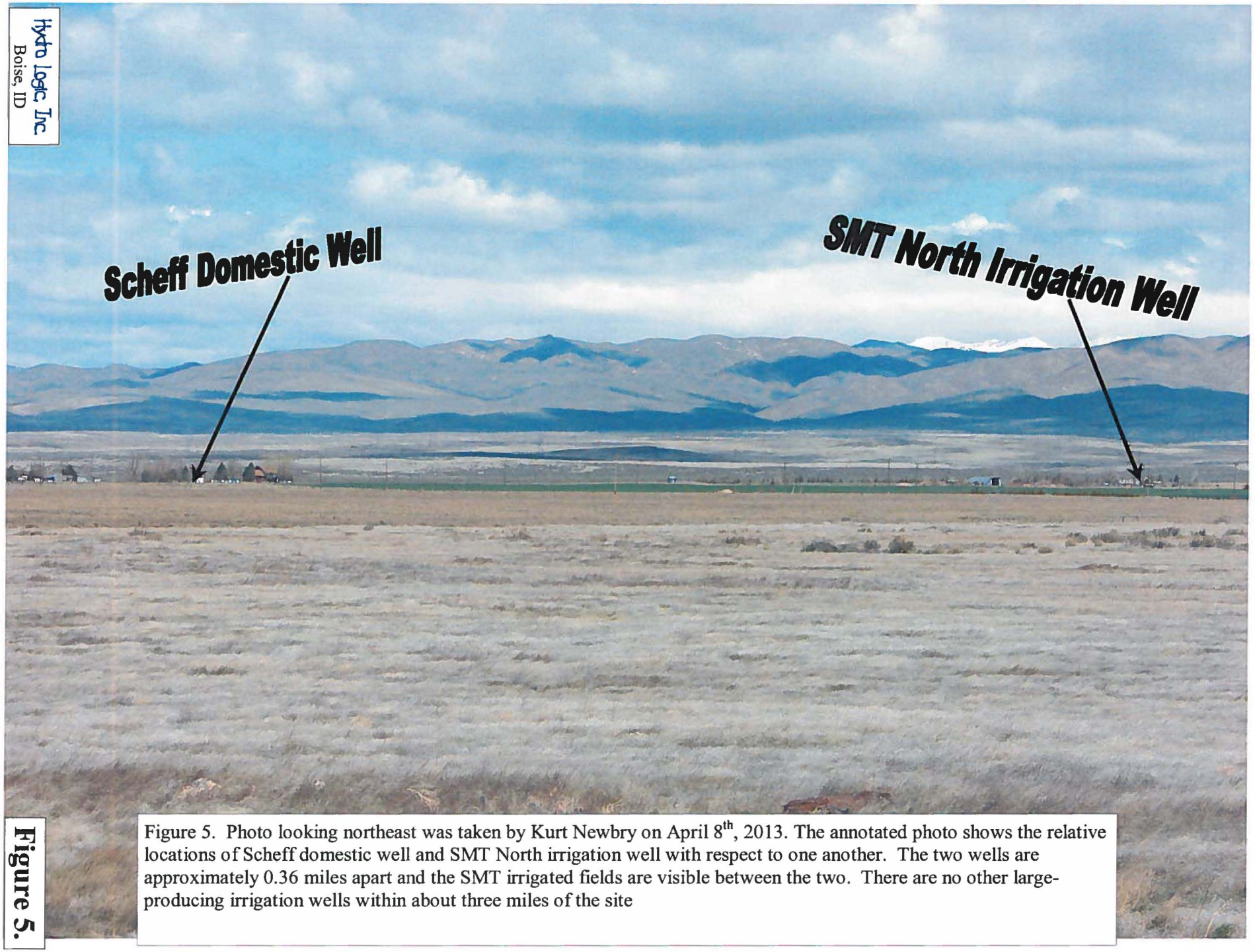


Figure 5. Photo looking northeast was taken by Kurt Newbry on April 8th, 2013. The annotated photo shows the relative locations of Scheff domestic well and SMT North irrigation well with respect to one another. The two wells are approximately 0.36 miles apart and the SMT irrigated fields are visible between the two. There are no other large-producing irrigation wells within about three miles of the site

Figure 5.

Scheff Domestic Well and SMT Irrigation Wells Locations with Respect to the Next Nearest Large Diversion Rate Water Right Locations April 10th, 2013

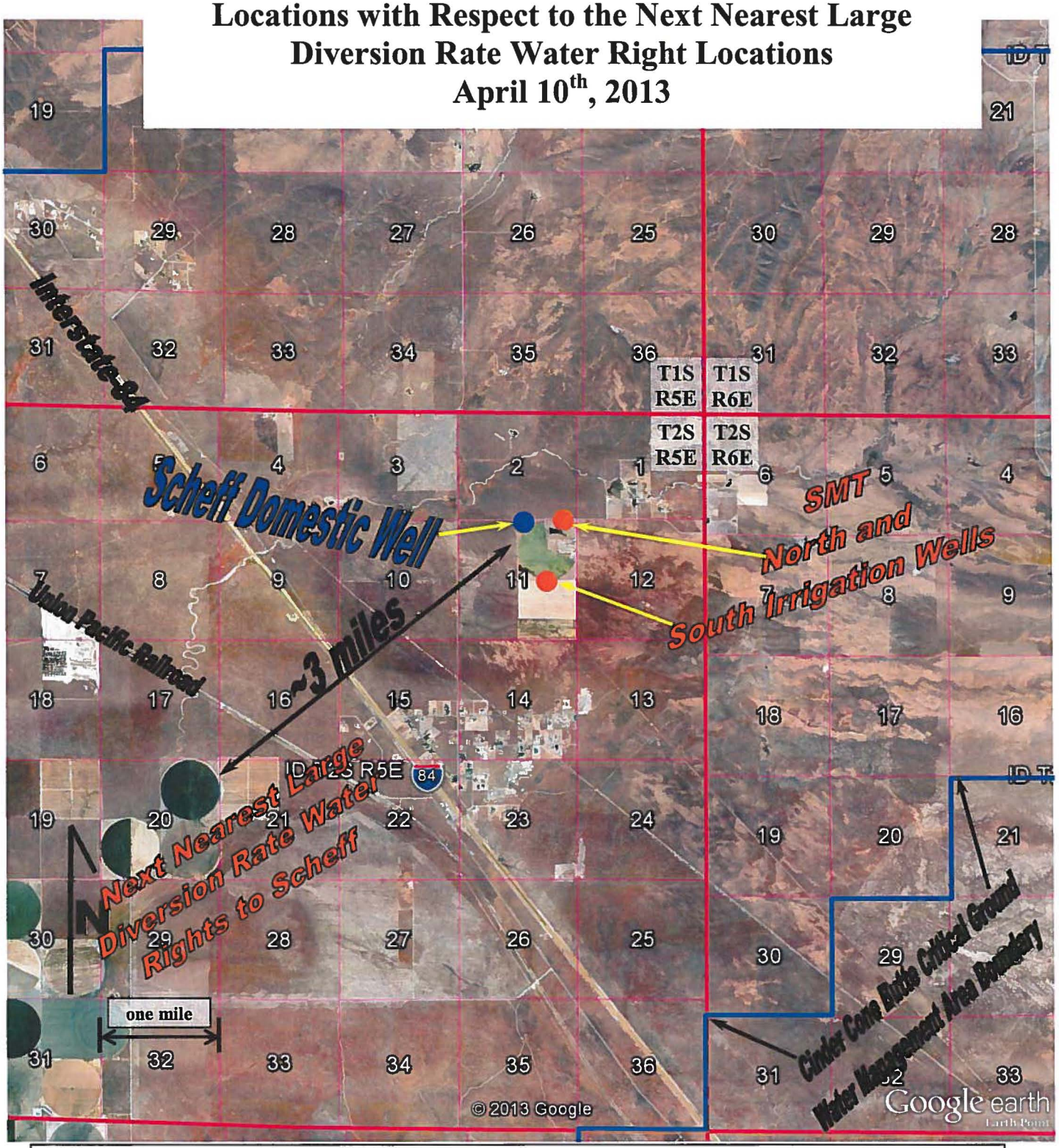
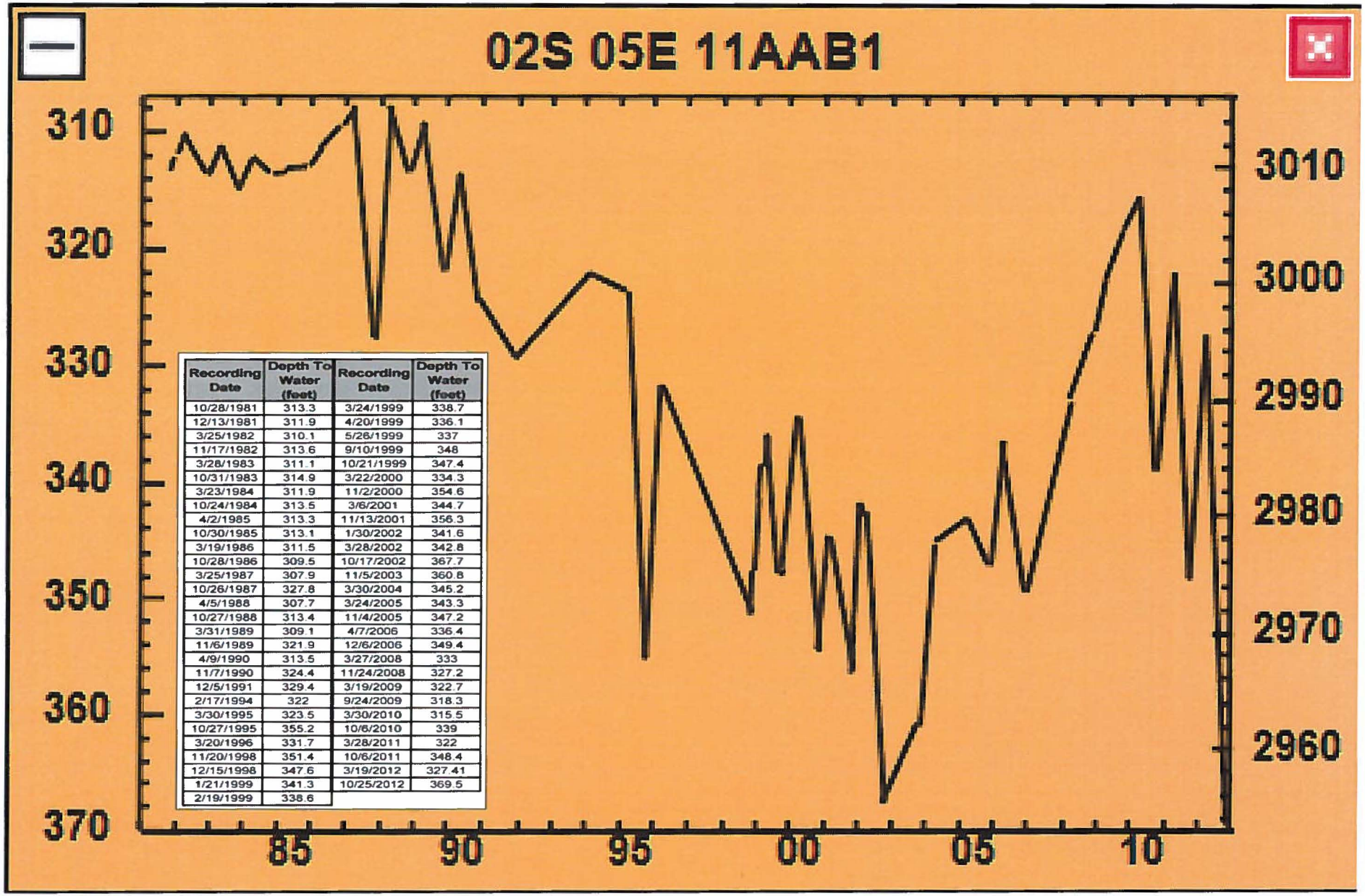


Figure 6.

Hydro Logic, Inc.
Boise, ID

Figure 6.



Recording Date	Depth To Water (feet)	Recording Date	Depth To Water (feet)
10/28/1981	313.3	3/24/1999	338.7
12/13/1981	311.9	4/20/1999	336.1
3/25/1982	310.1	5/26/1999	337
11/17/1982	313.6	9/10/1999	348
3/28/1983	311.1	10/21/1999	347.4
10/31/1983	314.9	3/22/2000	334.3
3/23/1984	311.9	11/2/2000	354.6
10/24/1984	313.5	3/6/2001	344.7
4/2/1985	313.3	11/13/2001	356.3
10/30/1985	313.1	1/30/2002	341.6
3/19/1986	311.5	3/28/2002	342.8
10/28/1986	309.5	10/17/2002	367.7
3/25/1987	307.9	11/5/2003	360.8
10/26/1987	327.8	3/30/2004	345.2
4/5/1988	307.7	3/24/2005	343.3
10/27/1988	313.4	11/4/2005	347.2
3/31/1989	309.1	4/7/2006	336.4
11/6/1989	321.9	12/6/2006	349.4
4/9/1990	313.5	3/27/2008	333
11/7/1990	324.4	11/24/2008	327.2
12/5/1991	329.4	3/19/2009	322.7
2/17/1994	322	9/24/2009	318.3
3/30/1995	323.5	3/30/2010	315.5
10/27/1995	355.2	10/6/2010	339
3/20/1996	331.7	3/28/2011	322
11/20/1998	351.4	10/6/2011	348.4
12/15/1998	347.6	3/19/2012	327.41
1/21/1999	341.3	10/25/2012	369.5
2/19/1999	338.6		

Figure 7.

Figure 7. Idaho Department of Water Resources plot of water level data acquired by IDWR field personnel for the SMT North Irrigation Well.

Hydro Logic Inc
Boise, ID

Comparison of Water Levels in Scheff Domestic Well and SMT North Irrigation Well

April 15th, 2013

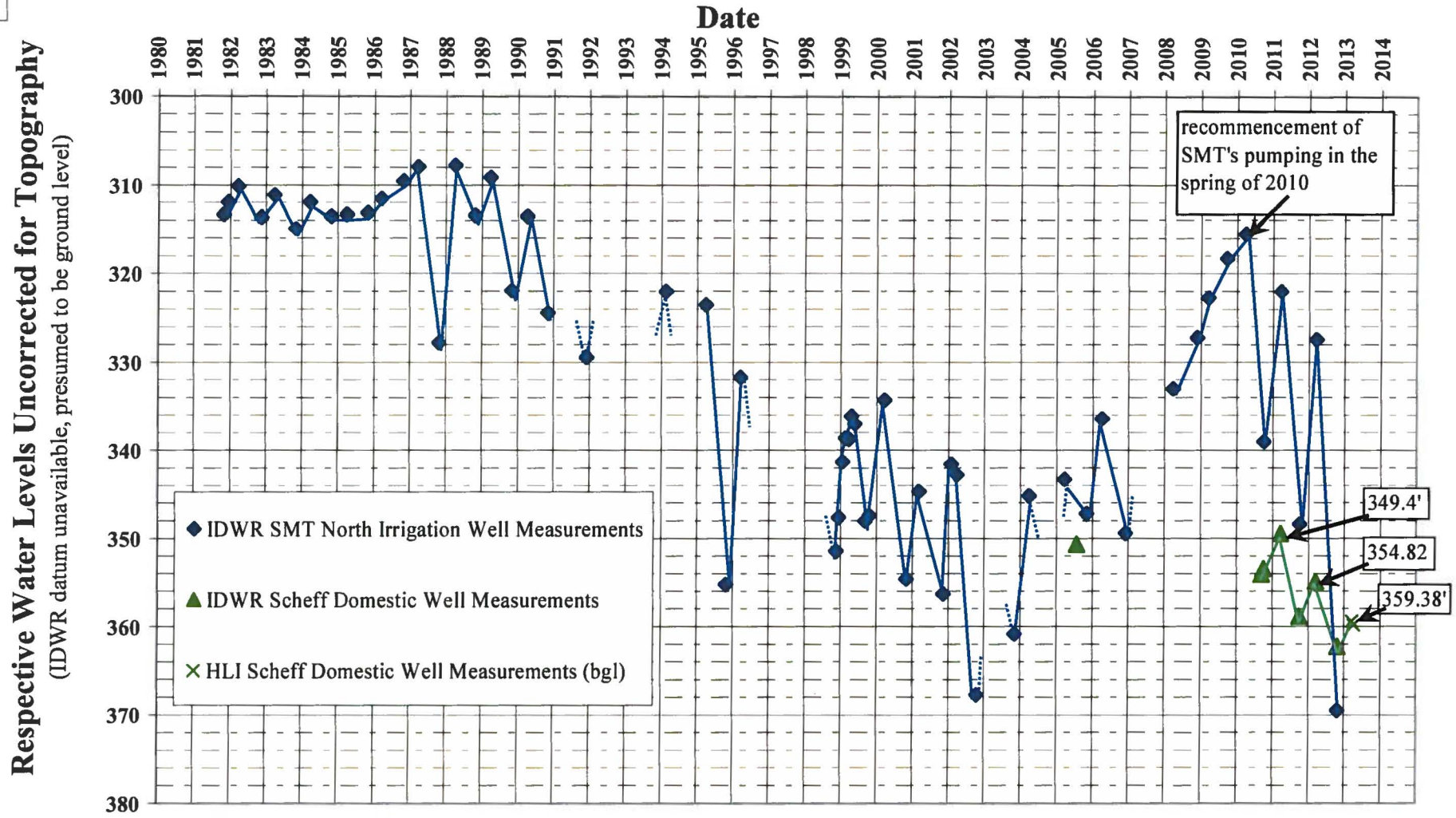


Figure 8. Plotted water levels in the SMT North and the Scheff domestic wells for comparison. The water levels in the two wells track in unison with each other in response to SMT pumping. The Scheff well is declining approximately 5-to-6 feet per year under current withdrawals by the SMT wells. The SMT North well water levels recovered almost fully to 1980 levels in 2010 showing the drawdown in the vicinity is due almost completely to local pumping from the SMT wells and not regional scale pumping. The declining water levels in both wells since about 2010 is most likely a result of pumping of the SMT wells for irrigation.

Figure 8.

Hydro Logic Inc
Boise, ID

Comparison of Water Levels in Scheff Domestic Well and SMT North Irrigation Well

April 10th, 2013

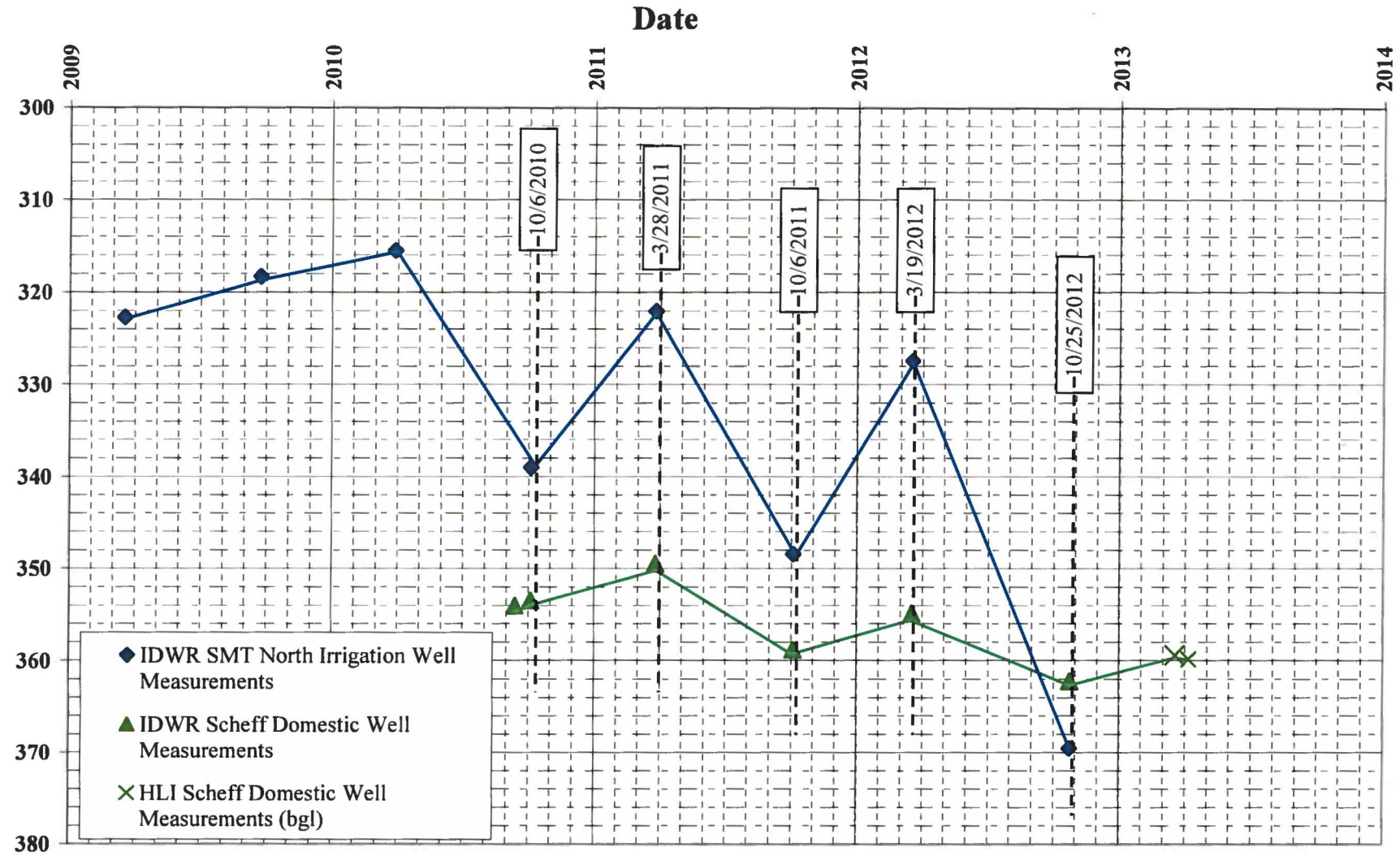


Figure 9.

Figure 9. Comparison of measured water levels in the Scheff domestic and SMT North irrigation wells. Spot measurements do not always show the full recovery or full drawdown of a water level in a given year and because these water levels were all taken during the irrigation season when wells would be assumed to be pumping, recovered water levels may have been higher and drawndown water levels may have been deeper.

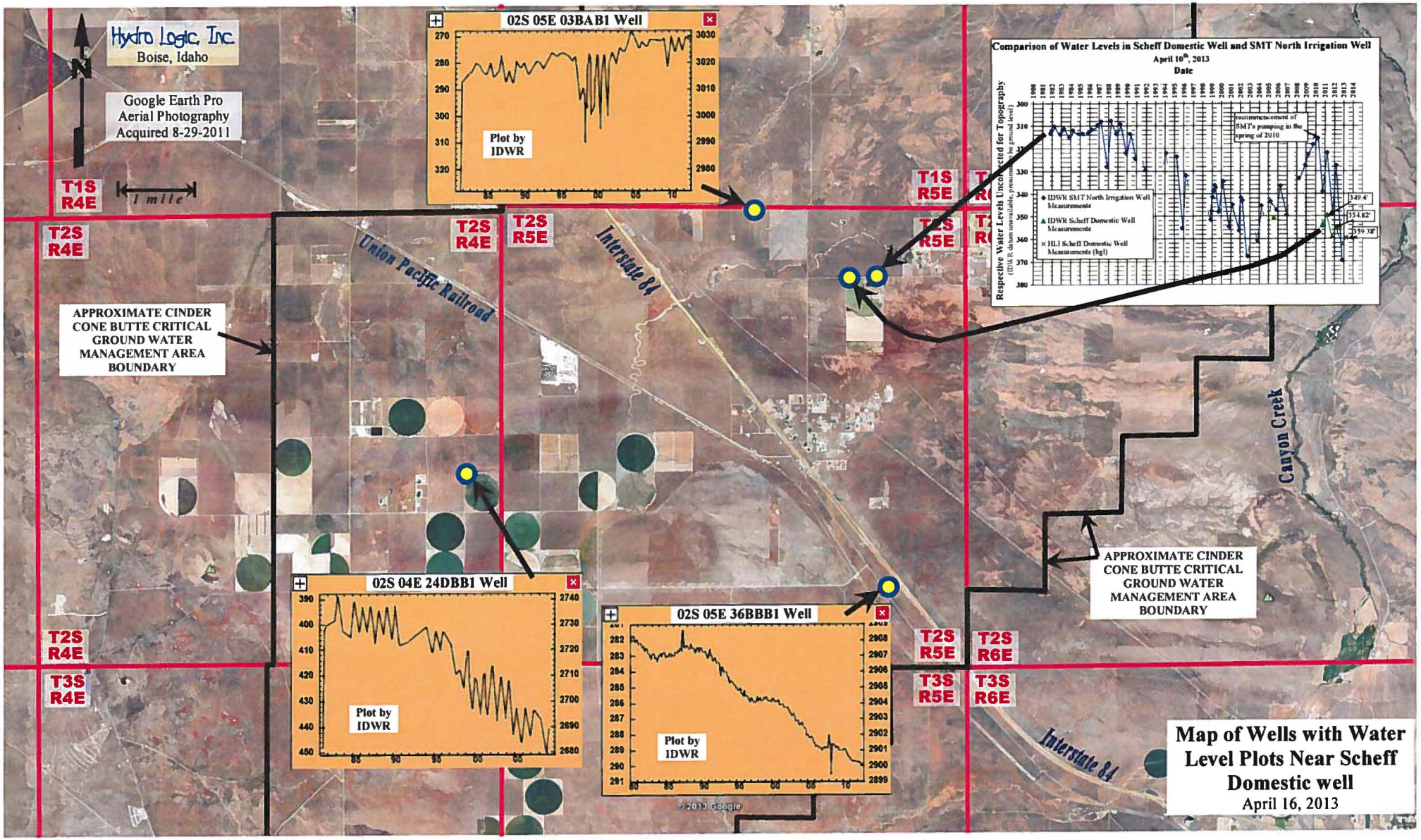

Hydro Logic, Inc.
Boise, Idaho
Google Earth Pro
Aerial Photography
Acquired 8-29-2011
1 mile
T1S R4E
T2S R4E
T2S R5E
T1S R5E
T2S R6E
T3S R4E
T3S R5E
T3S R6E
Union Pacific Railroad
Interstate 84
Canyon Creek
APPROXIMATE CINDER CONE BUTTE CRITICAL GROUND WATER MANAGEMENT AREA BOUNDARY
02S 05E 03BAB1 Well
Plot by IDWR
Comparison of Water Levels in Scheff Domestic Well and SMT North Irrigation Well
April 10th, 2013
Date
Respective Water Levels Uncorrected for Topography
Recommencement of SMT's pumping in the spring of 2010
IDWR SMT North Irrigation Well Measurements
IDWR Scheff Domestic Well Measurements
HLI Scheff Domestic Well Measurements (bgl)
02S 04E 24DBB1 Well
Plot by IDWR
02S 05E 36BBB1 Well
Plot by IDWR
© 2013 Google
Map of Wells with Water Level Plots Near Scheff Domestic well
April 16, 2013

Figure 10.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

1998 JAN 30 PM 4:15
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 61-11833

NAME & ADDRESS: JAMES C SCHEFF
TRUDIE G SCHEFF
354 MARTHA AVE
MOUNTAIN HOME ID 83647

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 05/22/1976

POINT OF DIVERSION: T02S R05E S11 NWNE Within ELMORE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC 1 HOME	01-01 12-31	0.04 CFS

PLACE OF USE:

DOMESTIC	Within ELMORE County	
T02S R05E S11	NWNE	

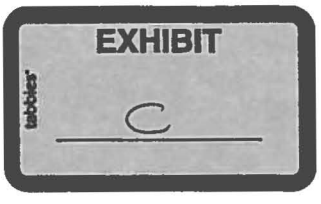
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication



USE TYPEWRITER OR BALL POINT PEN

State of Idaho
Department of Water Resources

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

RECEIVED JUN 10 1975
Department of Water Resources

1. WELL OWNER

Name Ruben Hansen

Address N. of city Mt. Home.

Owner's Permit No. _____

2. NATURE OF WORK

☒ New well ☐ Deepened ☐ Replacement

☐ Abandoned (describe method of abandoning)

_____

3. PROPOSED USE

☒ Domestic ☐ Irrigation ☐ Test ☐ Other (specify type)

☐ Municipal ☐ Industrial ☐ Stock ☐ Waste Disposal or Injection

4. METHOD DRILLED

☐ Cable ☒ Rotary ☐ Dug ☐ Other

5. WELL CONSTRUCTION

Diameter of hole 8 inches Total depth 388' feet

Casing schedule: ☒ Steel ☐ Concrete

Thickness	Diameter	From	To
.250 inches	8 inches	+ 1 feet	19' feet
.250 inches	6 inches	1 feet	388 feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet

Was casing drive shoe used? ☐ Yes ☒ No

Was a packer or seal used? ☐ Yes ☒ No

Perforated? ☐ Yes ☒ No

How perforated? ☐ Factory ☐ Knife ☐ Torch

Size of perforation _____ inches by _____ inches

Number	From	To
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet

Well screen installed? ☐ Yes ☒ No

Manufacturer's name _____

Type _____ Model No. _____

Diameter ___ Slot size ___ Set from _____ feet to _____ feet

Diameter ___ Slot size ___ Set from _____ feet to _____ feet

Gravel packed? ☐ Yes ☒ No Size of gravel _____

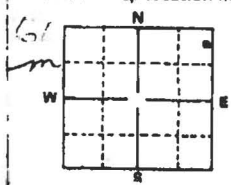
Placed from _____ feet to _____ feet

Surface seal depth 19' Material used in seal ☐ Cement grout ☒ Puddling clay ☐ Well cuttings

Sealing procedure used ☐ Slurry pit ☐ Temporary surface casing ☒ Overbore to seal depth

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name _____

Lot No. _____ Block No. _____

County Elmore

NE ¼ NE ¼ Sec. 11, T. 2 N/S, R. 5 E/W

7. WATER LEVEL

Static water level 340' feet below land surface

Flowing? ☐ Yes ☒ No G.P.M. flow _____

Temperature _____ ° F. Quality _____

Artesian closed-in pressure _____ p.s.i.

Controlled by ☐ Valve ☐ Cap ☐ Plug

8. WELL TEST DATA

☐ Pump ☐ Bailer ☐ Other

Discharge G.P.M.	Draw Down	Hours Pumped
30	0	1

31016

9. LITHOLOGIC LOG

Hole Diam.	Depth From	Depth To	Material	Water Yes	Water No
10"	0	4	Soil		
10	4	13	Sand & Lmagin gravel		
10-8	13	53	Gray lava Sdst.		
8	53	60	Red lava		
8	60	66	Red Cinders & clay		
8	66	87	Gray lava		
8	87	104	Red lava.		
8	104	122	Gray Lava.		
8	122	163	Red Lava.		
8	163	218	Gray Lava.		
8	218	233	Red lava & cinders		
8	233	253	Green Olivine Basalt		
8	253	264	Gray Lava.		
8	264	286	Sand & Gravel		
8	286	291	Gravel Mud.		
8	291	323	Gray Lava & Gravel		
8	323	333	Gray Lava cinder	X	
8	333	370	Gray Lava.		
8	370	388	Sand & gravel & cinders	X	

10.

Work started 6-8-75 finished 6-19-75

11. DRILLERS CERTIFICATION

USGS

Firm Name Haddleston Firm No. 55

Address Mt. Home Date 6-22-75

Signed by (Firm Official) Ron Haddleston

and

(Operator) _____

USE ADDITIONAL SHEETS IF NECESSARY FORWARD THE WHITE COPY TO THE DEPARTMENT

EXHIBIT D

2000 OCT 26 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 61-07384A

NAME AND ADDRESS: H P HONEYCUTT JR
PO BOX 451
MOUNTAIN HOME, ID 83647

SOURCE: GROUNDWATER

QUANTITY: 2.84 CFS

THE TOTAL INSTANTANEOUS DIVERSION OF WATER FROM ALL POINTS OF DIVERSION UNDER RT. NO. 61-07384A SHALL NOT EXCEED 2.84 CFS, NOR TOTAL COMBINED ANNUAL VOLUME OF 1012.0 AF.

PRIORITY DATE: 04/20/1979

POINT OF DIVERSION: T02S R05E S11 NENE NESE Within Elmore County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	04-01 TO 10-31	2.84 CFS

PLACE OF USE: Irrigation

		Within Elmore County
T02S R05E S11	NENE 40.0	NWNE 38.0
	SWNE 40.0	SENE 40.0
	NESE 40.0	NWSE 40.0
	SWSE 40.0	SESE 40.0

318.0 Acres Total

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 253 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

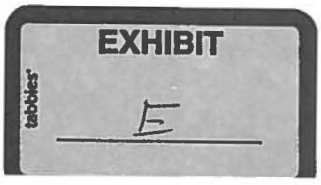
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

B Wood

Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 73835

This is to certify that: PACIFIC HIDE & FUR DEPOT INC
1401 3RD ST NW
GREAT FALLS MT 59404
(406)791-8507

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acre Limit	Total Acres	Source
61-7384A	WR/Decreed	04/20/1979	2.84 cfs	N/A	253.0	318.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
61-7384A	YES	YES	YES	NO	YES	YES

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
61-7384A	**61-12113**	0.06 cfs	15.6 af	N/A	N/A	**61-12112**	2.78 cfs	N/A	248.0	318.0
COMBINED TOTALS		**0.06 cfs**	**15.6 af**	**N/A**	**N/A**		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 30th day of July, 2008

Chief, Water Allocation Bureau

SUPPORT DATA
IN FILE # 61-7384A

EXHIBIT
F

WATER RIGHT NO. 61-12112
As Modified by Transfer No. 73835

In accordance with the approval of Transfer No. 73835, Water Right No. 61-12112 is now described as follows.

Right Holder: BEN FATTO LIMITED PARTNERSHIP
1223 S CLEARVIEW AVE, STE 103
MESA AZ 85209

CARDON HIATT INVESTMENTS, LLC
1223 S. CLEARVIEW AVE.
STE. 103
MESA AZ 85209

SMT INVESTORS LIMITED PARTNERSHIP
1223 S. CLEARVIEW AVE.
STE. 103
MESA AZ 85209

EMERSON INVESTMENTS, LLC
1223 S. CLEARVIEW AVE.
STE. 103
MESA AZ 85209

Priority Date: April 20, 1979

Source: GROUND WATER

BENEFICIAL USE	From	To	Diversion Rate
IRRIGATION	04/01	10/31	2.78 CFS
			2.78 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NENE	Sec. 11 Twp 02S	Rge 05E	ELMORE County
GROUND WATER	NESE	Sec. 11 Twp 02S	Rge 05E	ELMORE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02S	05E	11	40.0	38.0	40.0	40.0									40.0	40.0	40.0	40.0	318.0

Total Acres: 318

WATER RIGHT NO. 61-12112
As Modified by Transfer No. 73835

CONDITIONS OF APPROVAL

1. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

2. Prior to diversion of water under this right, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

3. The total instantaneous diversion of water from all points of diversion under this right shall not exceed 2.78 cfs, nor total combined annual volume of 992.0 af.

4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.

5. This right is limited to the irrigation of 248 acres within the place of use described above in a single irrigation season.

This water right 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.

Dated this 30th day of July, 2008

Chief, Water Allocation Bureau

WATER RIGHT NO. 61-12113
As Modified by Transfer No. 73835

In accordance with the approval of Transfer No. 73835, Water Right No. 61-12113 is now described as follows.

Right Holder: PACIFIC HIDE AND FUR DEPOT
1401 THIRD STREET NW
GREAT FALLS MT 59404

Priority Date: April 20, 1979

Source: GROUND WATER

BENEFICIAL USE	From	To	Diversion Rate	Volume
COMMERCIAL	01/01	12/31	0.06 CFS	15.6 AF
			0.06 CFS	15.6 AF

LOCATION OF POINT(S) OF DIVERSION:
GROUND WATER SWSW Sec. 1 Twp 02S Rge 04E ELMORE County

PLACE OF USE: COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02S	04E	1											X						

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. All water rights within Basin 61 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality.

WATER RIGHT NO. 61-12113
As Modified by Transfer No. 73835

CONDITIONS OF APPROVAL

6. Commercial use is for dust suppression and cooling in a metal shredder facility.

7. Pacific Hide and Fur Depot is also known as Pacific Hide & Fur Depot, Pacific Hide & Fur Depot, Inc., Pacific Hide and Fur, and Pacific Hide and Fur Depot Inc.

This water right 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.

Dated this 30th day of July, 20 08

Chief, Water Allocation Bureau

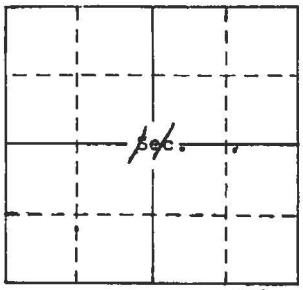
Location Corrected by IDWR To:
T02S R05E Sec. 11 SENE
By: segbert 2010-10-15

REPORT OF WELL DRILLER
State of Idaho

State law requires that this report shall be filed with the State Reclamation Engineer within 30 days after completion or abandonment of the well.

WELL OWNER:
Name Fred R. Hickey
Address 511 6th St. So. 83651
Nampa Idaho
Owner's Permit No. 61-7030
NATURE OF WORK (check): Replacement well ☐
New well ☒ Deepened ☐ Abandoned ☐
Water is to be used for: Irrigation
METHOD OF CONSTRUCTION: Rotary ☐ Cable ☒
Dug ☐ Other ____ (explain)
CASING SCHEDULE: Threaded ___ Welded ___
26 "Diam. from 0 ft. to 24 ft.
___ "Diam. from ___ ft. to ___ ft.
___ "Diam. from ___ ft. to ___ ft.
___ "Diam. from ___ ft. to ___ ft.
Thickness of casing: 3/16 Material:
Steel ☒ concrete ☐ wood ☐ other ☐ (explain)
PERFORATED? Yes ☐ No ☐ Type of perforator used: ____
Size of perforations: ___ " by ___ "
___ perforations from ___ ft. to ___ ft.
___ perforations from ___ ft. to ___ ft.
___ perforations from ___ ft. to ___ ft.
___ perforations from ___ ft. to ___ ft.
WAS SCREEN INSTALLED? Yes ☐ No ☐
Manufacturer's name ____
Type ____ Model No. ____
Diam. ___ Slot size ___ Set from ___ ft. to ___ ft.
Diam. ___ Slot size ___ Set from ___ ft. to ___ ft.
CONSTRUCTION: Well gravel packed? Yes ☐ No. ☐ size of gravel ____ Gravel placed from ___ ft. to ___ ft. Surface seal provided? Yes ☐ No ☐ To what depth? ___ ft. Material used in seal: ____
Did any strata contain unusable water? Yes ☐ No. ☐ Type of water: ____
Depth of strata ___ ft. Method of sealing strata off: ____
Surface casing used? Yes ☒ No. ☐
Cemented in place? Yes ☐ No ☐

Locate well in section



61

LOCATION OF WELL: County Elmore
NE¼ SE¼ Sec. 11 T. 2 N/S R. 5E E/W

Size of drilled hole: 20" Total depth of well: 600 Standing water level below ground: 328 Temp. Fahr. 72 ° Test delivery: 1705 gpm or ____ cfs Pump? ☐ Bail ☐
Size of pump and motor used to make test: 10" x 440' 400 hp diesel engines
Length of time of test: 3 Hrs. ___ Min.
Drawdown: 440 ft. Artesian pressure: ft. above land surface ___ Give flow ___ cfs or ___ gpm. Shutoff pressure: ____
Controlled by: Valve ☐ Cap ☐ Plug ☐
No control ☐ Does well leak around casing? Yes ☐ No ☐

MATERIAL 104255

DEPTH FROM FEET	DEPTH TO FEET	MATERIAL	WATER YES OR NO
0	12	Topsoil	
12	21	hard pan gravel	
21	66	Grey lava	
66	74	Black lava	
74	114	Grey lava hard	
114	161	Grey lava hard	
161	162	honey comb lava	
162	183	Black lava hard	
183	208	Black lava soft	
208	225	Red soft lava	
225	267	Black lava hard	
267	301	Cinders gravel	
301	345	honey comb lava	X
345	352	Black cinders	X
352	370	Red lava soft	
370	385	gravel clay	
[illegible]	[illegible]	[illegible]	
385	402	River rock Sand and clay	
402	424	Soft grey lava	
424	430	Black cinders with clay	X
430	451	clay and Rock	
451	485	Honey comb lava Water lack	X
485	502	clay rock and gravel	
502	545	Brown lava soft	
545	600	Brown cinders with small pea gravel	X

Work started: Feb. 7. 1969
Work finished: Feb 15. 1970
Well Driller's Statement: This well was drilled under my supervision and this report is true to the best of my knowledge.
Name: Carl Hickey 83702
Address: 300 Thatcher Boise Ida
Signed by: Carl Hickey
License No. 160 Date: 4-3-70

Use other side for additional remarks

Well tested by Layne Pumps
Twin Falls Ida. Mar. 5-1970

EXHIBIT
G

Time Date of Receipt:
Initials of SCC Employee:

AGREEMENT NOT TO DIVERT WATER FROM THE EASTERN SNAKE PLAIN AQUIFER

Idaho Soil Conservation Commission

Water Use Contract

1 PURPOSE

The State of Idaho has developed this form for purposes of enabling eligible landowners to apply to participate in the Eastern Snake Plain Aquifer Conservation Reserve Enhancement Program (CREP or "the Program") which has been implemented pursuant to an agreement by and between the State of Idaho (Idaho) and the U.S. Department of Agriculture, Commodity Credit Corporation (USDA). The State of Idaho is seeking to use the Program to encourage a reduction in the use of surface water and ground water for irrigation. Idaho seeks to accomplish this goal by assisting in the process of signing up eligible land to the Program. The Program will require participant landowners to agree to forego their use of water on the eligible land for the Contract Period. The unused water will remain in the Eastern Snake Plain Aquifer and increase spring flows into the Snake River. This Agreement is to be used to obtain a binding commitment from landowners who apply for CREP participation to discontinue the use of, and help conserve irrigation water that had been applied to the irrigated cropland, which is offered and accepted for enrollment into the Program. The CREP is part of the Conservation Reserve Program (CRP) operated by the Farm Service Agency (FSA) for the USDA.

The general authority for Idaho to enter into this Agreement is set forth at Idaho Code § 22-2715 et seq. Specific authorization and appropriation was provided for certain aspects of this Agreement by the Fifty-Eighth Idaho Legislature, in its 1st Regular Session for the year 2005 pursuant to House Bill 373, which was signed into law on April 12, 2005 (effective April 12, 2005) and House Bill 392, which was signed into law on April 7, 2005 (a portion of which was effective April 7, 2005 and the balance of which was effective July 1, 2005).

Note: Entering into this Agreement will not void or otherwise terminate any of the Participant's existing contractual agreements or obligations established under another state or federal program.

2 DEFINITIONS

A Conservation Plan of Operations

A written agreement between CREP Participants and the USDA, which describes the conservation practices to be implemented, the timing of Participants' implementation, practice location, operation and maintenance of the practice during the Contract Period, and related natural resource management provisions.

B Contract Period

The Contract Period shall be the duration, as provided in Article III.C of this Agreement, of the USDA Form CRP-1 (CRP Contract) entered into by and between the Participant and the USDA for the Eligible Irrigated Land.

C Eligible Irrigated Land

The tract(s) of land offered for inclusion in the CREP must have appurtenant thereto either (a), valid water right(s) to divert water from ground water sources within the CREP area or (b), valid water right(s) to divert from surface water sources other than the Snake River. If a tract(s) of land offered for the CREP is served by an irrigation district or canal company where the irrigation district or



canal company owns the water right(s) used on the tract(s) of land offered for the CREP, the irrigation district or canal company must agree to reduce its water use proportionately. Determinations of Eligible Irrigated Land based on these eligible water rights are within the sole discretion of the State of Idaho.

D Participant

The individual, partnership, limited liability company, corporation, association, or other entity that has applied to or entered into a CRP contract with USDA, which owns the Eligible Irrigated Land and appurtenant water rights and has the authority to agree that the amount of ground water or surface water conserved due the enrollment of irrigated cropland into the CRP will not be put to any use on any other land under their control, or otherwise transferred, sold or exchanged.

3 PARTIES AND ELIGIBLE IRRIGATED LAND

This Agreement is entered into by and between Philip Tait (hereinafter "Participant") and State of Idaho by and through the Idaho Soil Conservation Commission (hereinafter "SCC"), 2270 Old Penitentiary Road, Boise, Idaho 83712. The parties base this Agreement on the following representations:

A Participant submits the land described in this paragraph (the "Eligible Irrigated Land") for inclusion in the CREP. Participant owns or leases water right(s) that allow for diversion of water from the Eastern Snake River Aquifer for irrigation use solely on the Eligible Irrigated Land. Those water rights are designated as no(s):

Water Right Number(s)	Acre Feet of Diversion
61-7384A	1012

The Eligible Irrigated Land comprises 213.1 +/- acres and is described as follows:

FSA Tract S16 C039 T489

B Idaho desires to reduce water use from the Eastern Snake Plain Aquifer by coordinating the implementation and administration of the CREP with the FSA through the SCC.

C The Program is a Federal cropland set-aside program. Under Idaho law, water rights appurtenant to lands placed in a Federal cropland set aside program are protected from forfeiture.

D Participant has agreed to enroll the Eligible Irrigated Land in the CREP upon the USDA's acceptance of a CRP Contract covering the Eligible Irrigated Land.

E The Program also requires that the Participant enter into an Agreement Not To Divert From The Eastern Snake Plain Aquifer to reduce ground water and surface water withdrawals from the aquifer.

F Participant and SCC desire to formally acknowledge and document the conditions and understandings between the parties.

NOW THEREFORE, in consideration of the following promises and commitments, the Participant and SCC agree as follows:

2 AGREEMENT

A Statement of Purpose

The purpose of this Agreement is to reduce water use from the Eastern Snake Plain Aquifer by establishing conditions to restrict the use of water on those lands placed in the CREP by the Participant during the term of this Agreement. This Agreement shall also serve to fulfill the

conditions required by the FSA for eligibility to participate in the Program.

B Scope of Work

1 Participant shall:

a Restrict diversions from the Eastern Snake Plain Aquifer to no more than that for each water right listed below except as may be specified below for cover establishment:

Water Right Number(s)	Allowable Acre Feet of Diversion
61-7384A	159.6

The Watermaster of water district WD TBD , acting under the authority of the Director of the Idaho Department of Water Resources (IDWR), shall verify said non-diversion through water measurement protocols. The IDWR may assist the Watermaster through additional field inspections and utilization of satellite imagery/aerial photography to ensure the lands enrolled in the CREP are not being irrigated. Participant shall cooperate fully with the Watermaster, the IDWR and SCC staff in accomplishing the provisions of this Agreement. Participant shall not apply water to the lands enrolled in the CREP, except as specified below for cover establishment.

b Demonstrate to the satisfaction of the Watermaster that Participant's irrigation system has been sufficiently disabled to prevent irrigation of lands enrolled in the CREP. If lands not enrolled in the CREP will still be irrigated from the irrigation system, Participant shall install a method of water measurement, satisfactory to the Watermaster, within one year from the date of this Agreement to verify that enrolled lands are not irrigated.

c Participant agrees not to apply water from any other surface water or ground water source to the Eligible Irrigated Land during the Contract Period, except as specified in Article II.B.1.d.

d Participant agrees that neither the Participant nor any other individual or entity will make any use of, affect, transfer, sell, exchange, or otherwise apply surface water or ground water from the Eastern Snake River Plain Aquifer during the Contract Period on the Eligible Irrigated Land enrolled, except, if determined necessary by the USDA, during the first 12 months after the effective date of the CRP Contract not more than 1/3rd of an acre-foot, for each acre enrolled in the CREP, may be applied for the purpose of establishing a long-term vegetative conservation cover on the Eligible Irrigated Land, as outlined in an approved Conservation Plan of Operations.

2 SCC shall have full access to the data and conclusions developed by the Watermaster and the IDWR, as outlined above in Section 4B(1.), and may apply that data and conclusions at its discretion, to perform the following tasks:

a Monitor irrigation use on those lands enrolled in the CREP to determine if use is in conformance with the conditions of this Agreement.

b Provide an annual report to FSA documenting the water usage on those lands enrolled in the CREP.

c Notify FSA if water diversions are not in compliance with the terms of this Agreement.

C Term

This Agreement shall take effect upon signature by the parties and upon execution of a CRP Contract covering the Eligible Irrigated Land and shall extend through the term of said CRP Contract. Upon early termination of said CRP Contract by either Participant or FSA this Agreement shall also terminate. In the event FSA temporarily releases Participant from the contractual requirements of said CRP Contract in order to address a national emergency, this Agreement shall be temporarily suspended for the same duration of time as the temporary release granted by FSA. The water right(s), or portions thereof, appurtenant to the lands enrolled in the CREP are not eligible for transfer, lease, exchange, enrollment in the State Water Supply Bank, or any other mechanism that would result in their use on other lands.

D Compensation

1 Subject to the Limitation of Program Funds provision set forth herein at Section 4(L), Idaho shall make one-time incentive payments (referred to herein as an Idaho Incentive Payment or IIP), on a priority basis, to those Participants that submit Eligible Irrigated Land that meets the qualifications set forth in this paragraph, at the rate of $30 per acre for each qualifying acre, until the three million dollar ($3,000,000) fund established by Idaho to pay IIP for qualifying acreage is exhausted. To qualify to receive an IIP payment, each of the following qualifications must be met: a) the submitted acreage must have been irrigated by the diversion of ground water from that portion of the ESPA CREP project area identified in Appendix 1 (which is attached hereto and incorporated herein) as the "ESPA CREP Incentive Area" prior to inclusion in the Program, b) the Participant's signed offer to enter into this Agreement must be received and accepted by the SCC (where "accepted by the SCC" means the execution of this Agreement by the SCC Administrator), and c) the Participant's offer to enter into the CRP Contract must be accepted by the FSA (where "accepted by the FSA" means the execution of the Participant's offered CRP Contract by the FSA). The priority to receive IIP shall be established on a first submitted, first in priority basis, for acreage that is found to be qualifying, based on the time and date a Participant submits a signed copy of this Agreement to the SCC in a form that is ultimately accepted by the SCC (where "accepted by the SCC" means the execution of this Agreement by the SCC Administrator). Final determination of the order of priority shall be at the sole discretion of the SCC Administrator.

2 Federal CRP Payments due to the Participant in accordance with the CREP shall be paid to the Participant(s) according to applicable Federal statutes, regulations, and the National CRP Directives issued by USDA. The State of Idaho is not responsible for any Federal monetary obligations as a result of the CREP, except as may be agreed to in the CREP agreement between Idaho and the USDA.

E Rights to FSA Data

Participant hereby grants SCC and the IDWR the right to obtain copies of FSA records pertaining to Participant's lands.

F Successors and Assigns Obligated

This Agreement and all of its provisions shall jointly and severally apply to and bind the respective heirs, personal representatives, successors, and assigns of the parties hereto.

G Duplicate Originals

This Agreement may be executed in duplicate. Each of the copies of this Agreement bearing an original signature of a party shall be an original.

H Right of Entry

Participant(s) hereby grant the SCC or its designee a right of entry onto the Eligible Irrigated Land for purposes of verifying Participant(s)' compliance with the terms of this Agreement. Such entry shall not require prior notice to be provided to Participant(s), and shall not be deemed trespass.

I Enforcement of Water Rights

The USDA and the FSA, are not responsible for and will not administer, enforce, oversee, or otherwise manage water rights, water usage or State, local or Federal water use contracts and laws in any manner.

J Nondiscrimination

The SCC prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status.

K Attorneys' Fees

In the event of a legal proceeding of any kind instituted under this Agreement or to obtain performance of any kind under this Agreement, the prevailing party shall be awarded such additional sums as the court may adjudge for reasonable attorneys' fees and to pay all costs and disbursements incurred in such proceeding.

L Limitation of Program Funds

1 Participant acknowledges that the SCC cannot obligate funds prior to obtaining funding approval.

2 The SCC certifies that state or federal funds are presently available and authorized for expenditure to pay the portion of costs which will accrue during the current state or federal fiscal year or applicable grant period.

3 Participant agrees that all obligations of the SCC, including the continuance of payments under this Agreement, are contingent upon the availability and continued appropriation of funds. In the event state or federal funds become unavailable as determined by the SCC, the SCC may immediately terminate this Agreement or amend it accordingly. In no event shall the SCC be liable for any payments in excess of approved or appropriated funds available for this Program.

M No Personal Liability

Participant specifically understands and agrees that in no event shall any official, officer, employee or agent of the SCC or the State of Idaho be personally liable for any representation, statement, covenant, warranty or obligation contained in, or made in connection with, this Agreement, express or implied.

N Severability

If any part of this Agreement is declared invalid or becomes inoperative for any reason, such invalidity or failure shall not affect the validity and enforceability of any other provision.

O No Waiver

The waiver of any breach or default of this Agreement shall not be construed as or deemed to be a waiver of any subsequent breach or default.

P Effect of Section Headings

The section headings appearing in this Agreement are not to be construed as interpretations of the text but are inserted for convenience and reference only.

Q Governing Law

This Agreement shall be governed as to validity, construction and performance by the laws of the State of Idaho. The venue of any action brought by any parties to this Agreement shall be in a State of Idaho District Court.

R Waiver, Modification or Amendment

No waiver, modification, or amendment of this Contract or of any covenants, conditions or limitations herein contained shall be valid unless in writing duly executed by both parties and the parties further agree that the provisions of this section may not be waived, modified, or amended except as herein set forth.

S Entire Agreement

This Agreement sets forth all the covenants, provisions, agreements, conditions and understandings between the parties, and there are no covenants, provisions, agreements, conditions or understandings, oral or written, between them other than are herein set forth.

By signing this agreement the Participant acknowledges that they have control over the water rights listed in the agreement for the term of their CREP contract. If the curtailed water rights listed in this agreement are transferred, placed in the waterbank, sold, or otherwise used for irrigation or other purposes during the term of this agreement the Participant will be deemed in violation of this agreement. Any violations of this agreement will be reported by the Watermaster to the Farm Services Agency.

IN WITNESS WHEREOF the parties executed this Agreement on the date following their respective signatures.

Idaho State CREP Coordinator Date: _____

Jerry Nicolescu, Administrator
Soil Conservation Commission

Participant Signature Date: 3-29-07

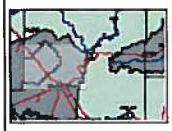
Idaho Department of Water Resources

hydro.online - for Ground Water Level Data



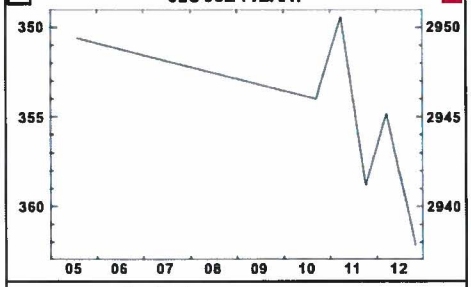
Index | Wells | Graph | Help

Mountain Home 100k Quad



Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11BAA1	Domestic	1975			388	3300	7	2005	2012
03S 06E 02AAD1	Domestic	1976	39	200	300	3295	7	1989	2005
04S 05E 31ABA1	Irrigation					2985	63	1990	1992
02S 04E 20DDD1	Irrigation					3077	37	1981	1998
01N 04E 14DDAD1	Domestic	1988	117	200	200	3530	11	1988	2013
04S 05E 26CAA1	Domestic	1974	18	480	480	3040	69	1989	1992
03S 07E 07CDDD1		2004	50	362	362	3283	5	2005	2005
02S 04E 14CDD1	Irrigation					3123	70	1981	2012

02S 05E 11BAA1



Recording Date	Depth To Water (feet)	Site Status	Recording Agency
07/28/2005	350.6		USGS
09/14/2010	354.01		USGS
10/06/2010	353.4		IDWR
03/28/2011	349.4		IDWR
10/06/2011	358.8		IDWR
03/19/2012	354.82		IDWR
10/25/2012	362.2		IDWR

Click on a table row to create hydrograph

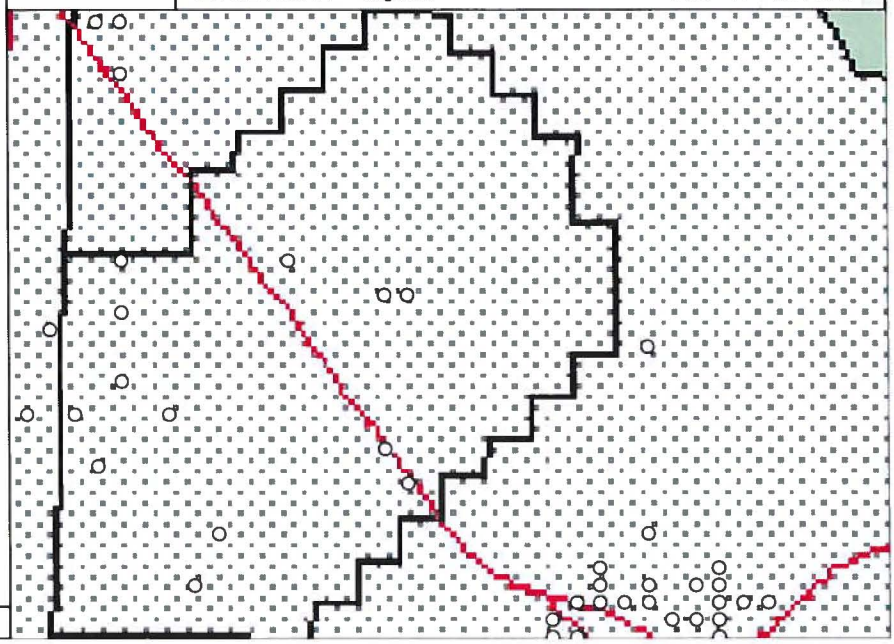
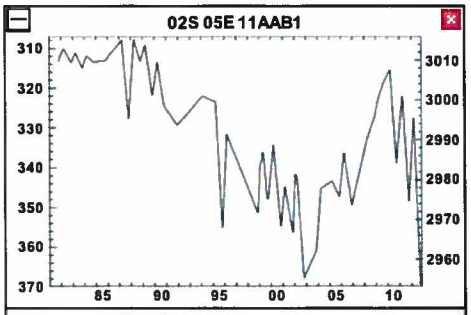


EXHIBIT I

Idaho Department of Water Resources

hydro.online - for Ground Water Level Data

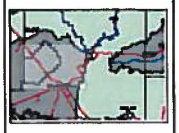
Index | Wells | Graph | Help



Recording Date	Depth To Water (feet)	Site Status	Recording Agency
10/28/1981	313.3		IDWR
12/13/1981	311.9		IDWR
03/25/1982	310.1		IDWR
11/17/1982	313.6		IDWR
03/28/1983	311.1		IDWR
10/31/1983	314.9		IDWR
03/23/1984	311.9		IDWR
10/24/1984	313.5		IDWR
04/02/1985	313.3		IDWR
10/30/1985	313.1		IDWR
03/19/1986	311.5		IDWR
10/28/1986	309.5		IDWR
03/25/1987	307.9		IDWR

Click on a table row to create hydrograph

Mountain Home 100k Quad



Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
05S 05E 03AAAD2	Unused	2002				3009	86	2002	2013
04S 05E 29ADCA1	Other	2002				2985	7	2002	2005
03S 06E 11DDA2	Domestic	1987	22	225		3250	5	1987	1990
01N 04E 32ABB1	Fire	2005			884	3364	1228	2009	2012
04S 07E 09DCC1	Irrigation	1962	630	862	862	3152	39	1980	1991
05S 05E 05AAC1	Irrigation					2985	11	1989	1991
03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005

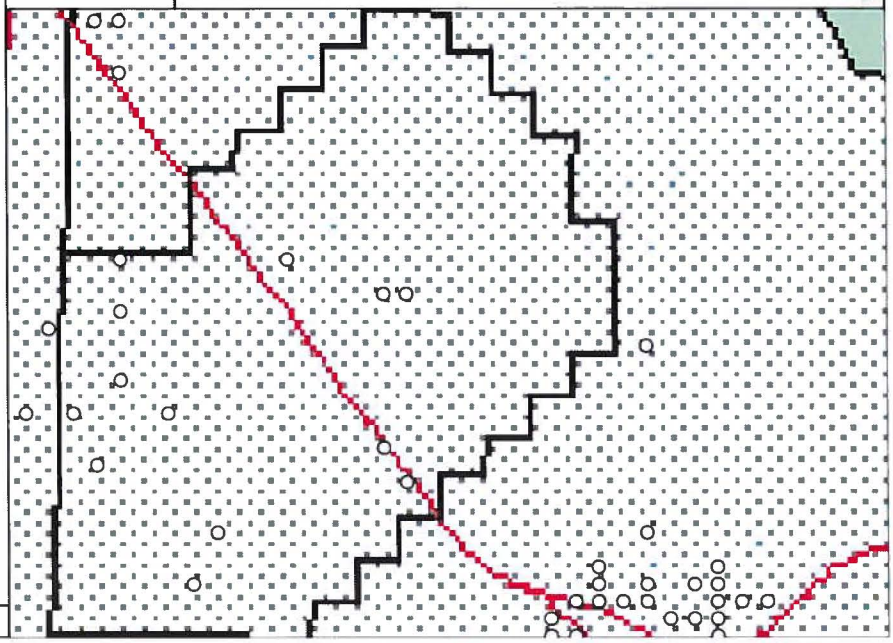


EXHIBIT J

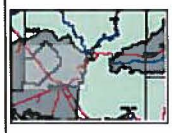
Idaho Department of Water Resources

hydro.online - for Ground Water Level Data

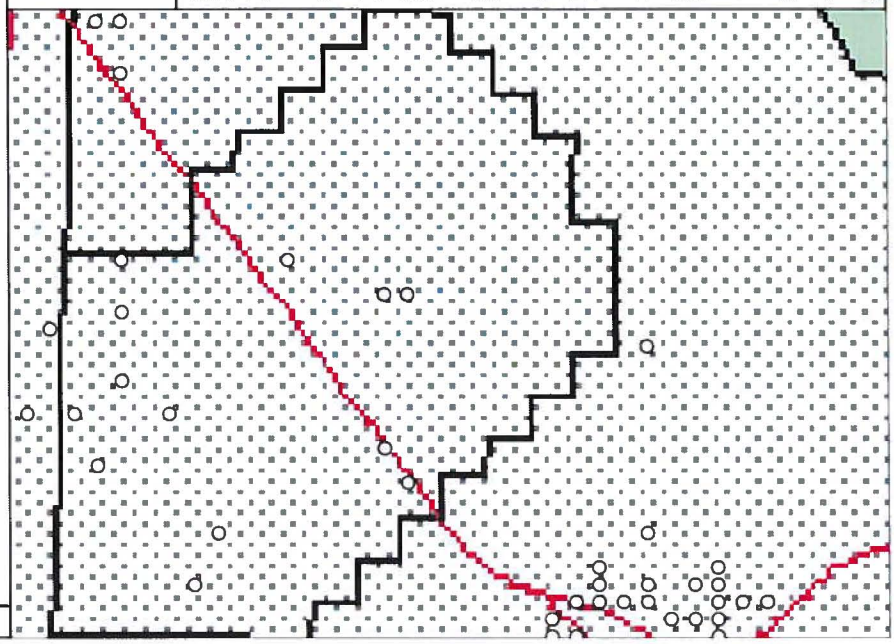


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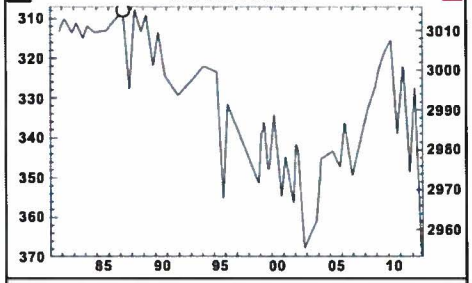
Mountain Home 100k Quad



Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
05S 05E 03AAAD2	Unused	2002				3009	86	2002	2013
04S 05E 29ADCA1	Other	2002				2985	7	2002	2005
03S 06E 11DDA2	Domestic	1987	22	225		3250	5	1987	1990
01N 04E 32ABB1	Fire	2005			884	3364	1228	2009	2012
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05S 05E 05AAC1	Irrigation					2985	11	1989	1991
03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005



02S 05E 11AAB1



Recording Date	Depth To Water (feet)	Site Status	Recording Agency
03/25/1987	307.9		IDWR
10/26/1987	327.8		IDWR
04/05/1988	307.7		IDWR
10/27/1988	313.4		IDWR
03/31/1989	309.1		IDWR
11/06/1989	321.9	Recent Pumped	IDWR
04/09/1990	313.5		IDWR
11/07/1990	324.4		IDWR
12/05/1991	329.4		IDWR
02/17/1994	322	Other	IDWR
03/30/1995	323.5		IDWR
10/27/1995	355.2		IDWR
03/20/1996	331.7		IDWR

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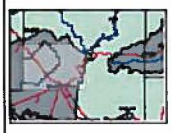
Idaho Department of Water Resources

hydro.online - for Ground Water Level Data

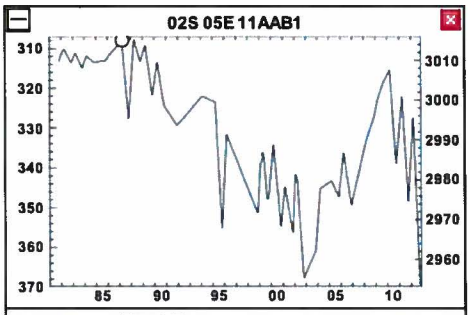


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Mountain Home 100k Quad

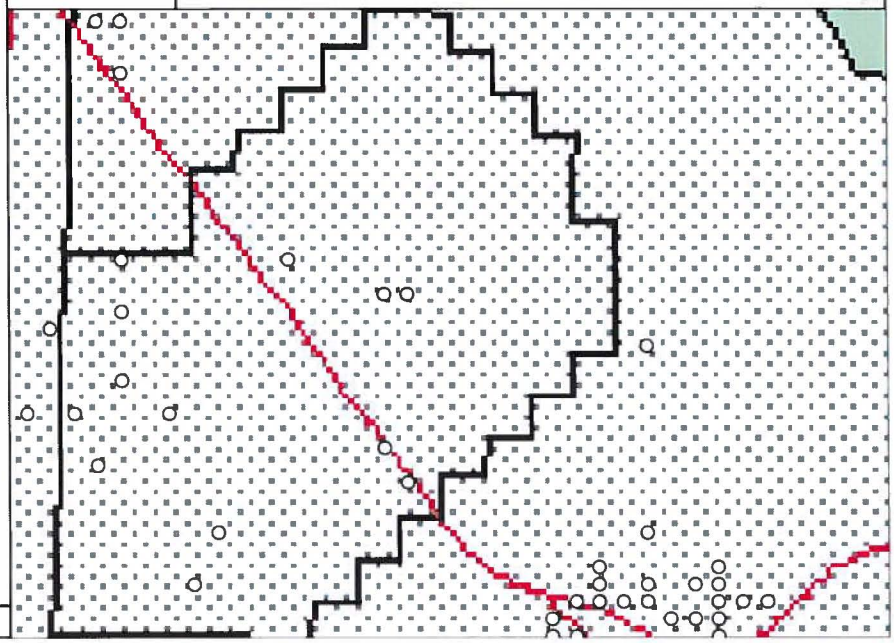


Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
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03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005



Recording Date	Depth To Water (feet)	Site Status	Recording Agency
03/20/1996	331.7		IDWR
11/20/1998	351.4		IDWR
12/15/1998	347.6		IDWR
01/21/1999	341.3		IDWR
02/19/1999	338.6		IDWR
03/24/1999	338.7		IDWR
04/20/1999	336.1		IDWR
05/26/1999	337		IDWR
09/10/1999	348		IDWR
10/21/1999	347.4		IDWR
03/22/2000	334.3		IDWR
11/02/2000	354.6		IDWR

Click on a table row to create hydrograph



Idaho Department of Water Resources

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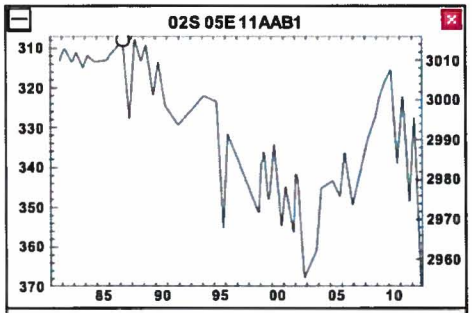


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Mountain Home 100k Quad

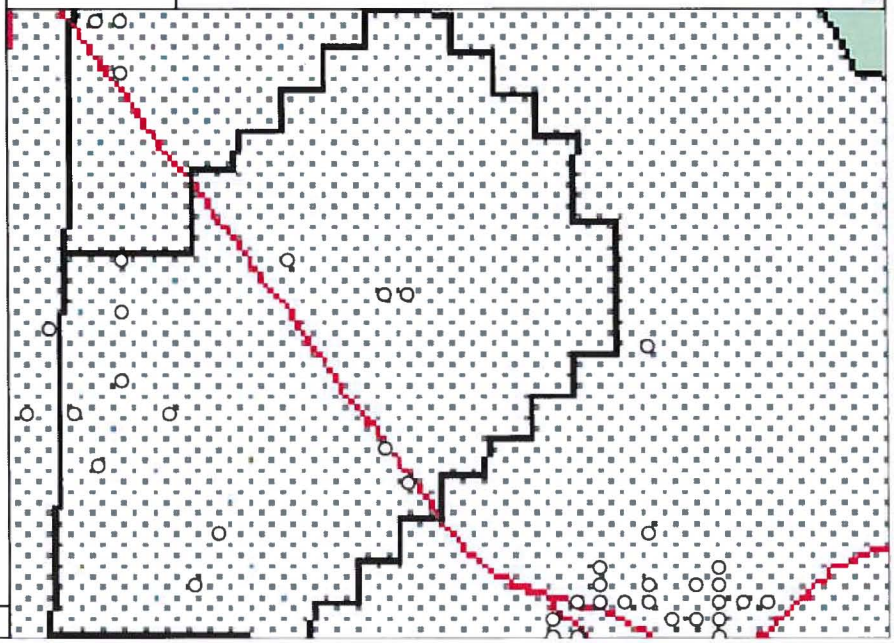


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03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005



Recording Date	Depth To Water (feet)	Site Status	Recording Agency
03/06/2001	344.7		IDWR
11/13/2001	356.3		IDWR
01/30/2002	341.6		IDWR
03/28/2002	342.8		IDWR
10/17/2002	367.7		IDWR
11/05/2003	360.8		IDWR
03/30/2004	345.2		IDWR
03/24/2005	343.3		IDWR
11/04/2005	347.2		IDWR
04/07/2006	336.4		IDWR
12/06/2006	349.4		IDWR
03/27/2008	333		IDWR
11/24/2008	327.2		IDWR

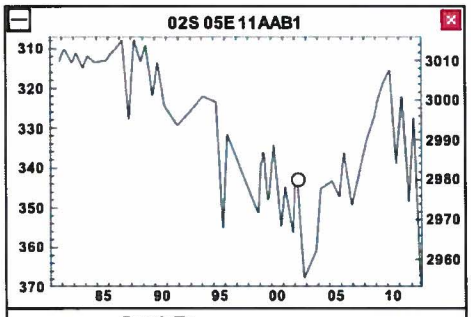
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Idaho Department of Water Resources

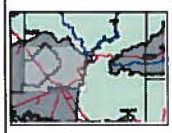
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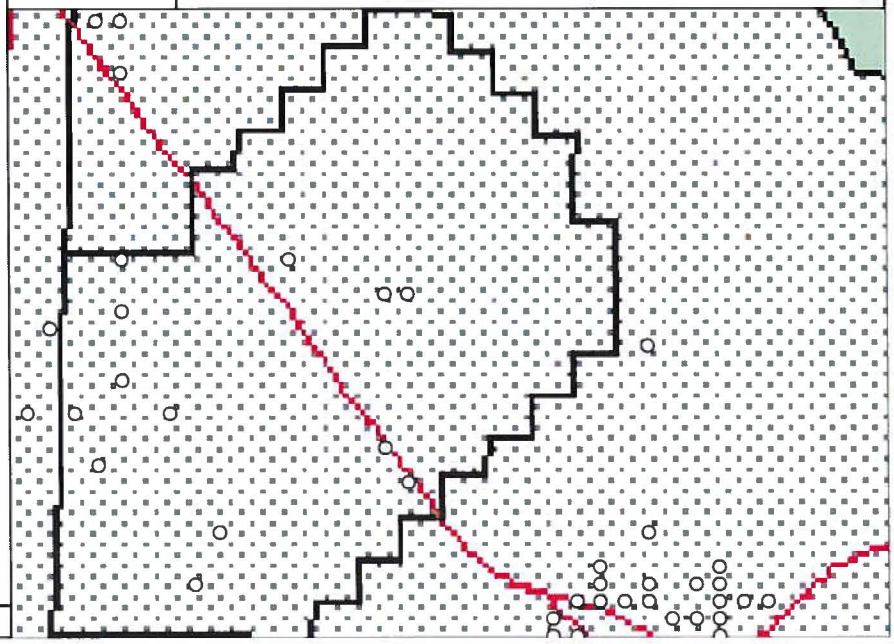
Recording Date	Depth To Water (feet)	Site Status	Recording Agency
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04/07/2006	336.4		IDWR
12/06/2006	349.4		IDWR
03/27/2008	333		IDWR
11/24/2008	327.2		IDWR
03/19/2009	322.7		IDWR
09/24/2009	318.3		IDWR
03/30/2010	315.5		IDWR
10/06/2010	339		IDWR
03/28/2011	322		IDWR
10/06/2011	348.4		IDWR
03/19/2012	327.41		IDWR
10/25/2012	369.5		IDWR

Click on a table row to create hydrograph



Mountain Home 100k Quad

Well Number	Water Use	Year Drilled	Min WO	Max WO	Total Depth	LSD Elev	# of WLs	WL Start	WL End
02S 05E 11AAB1	Irrigation					3323	57	1981	2012
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05S 05E 05AAC1	Irrigation					2985	11	1989	1991
03S 07E 07DADA1	Domestic	1996	19	200	200	3310	6	2005	2005



MEMO

State of Idaho
Department of Water Resources
322 E Front Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700

Date: May 31, 2012

To: Gary Spackman, Hearing Officer

From: Craig Tesch, Hydrology Section, State Office

cc: Dennis Owsley
Rick Raymondi
Jennifer Sukow
Sean Vincent
John Westra

Subject: Sufficiency of Water Supply for Water Right Applications and Transfers along the I-84 Corridor

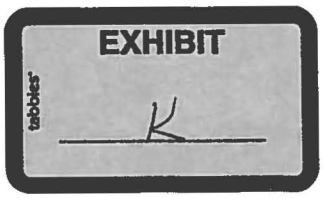
Overview

This memorandum has been prepared in response to the request for staff memorandum dated January 24, 2012 in the matter of applications for transfer/new water rights No. 73811, 73834, 63-32499, 61-12095, 61-12096, 63-32703, 61-12256, and 63-33344. The following information was requested:

1) Suggest and justify a study boundary.
2) Present data and information within the boundary.
3) Conclude the sufficiency of the water supply within the boundary for existing and new uses.

Introduction

There are six pending water right applications and two transfers for planned communities and irrigation projects along the I-84 corridor near the Ada County/Elmore County line (Figure 1). Groundwater is the water source. The anticipated depths of the production zones for the proposed wells are 800 to 1,200 feet below ground level (ft-bgl). The total combined maximum appropriation rate is 84.76 ft^3/sec (cfs), 67.84 cfs in applications and



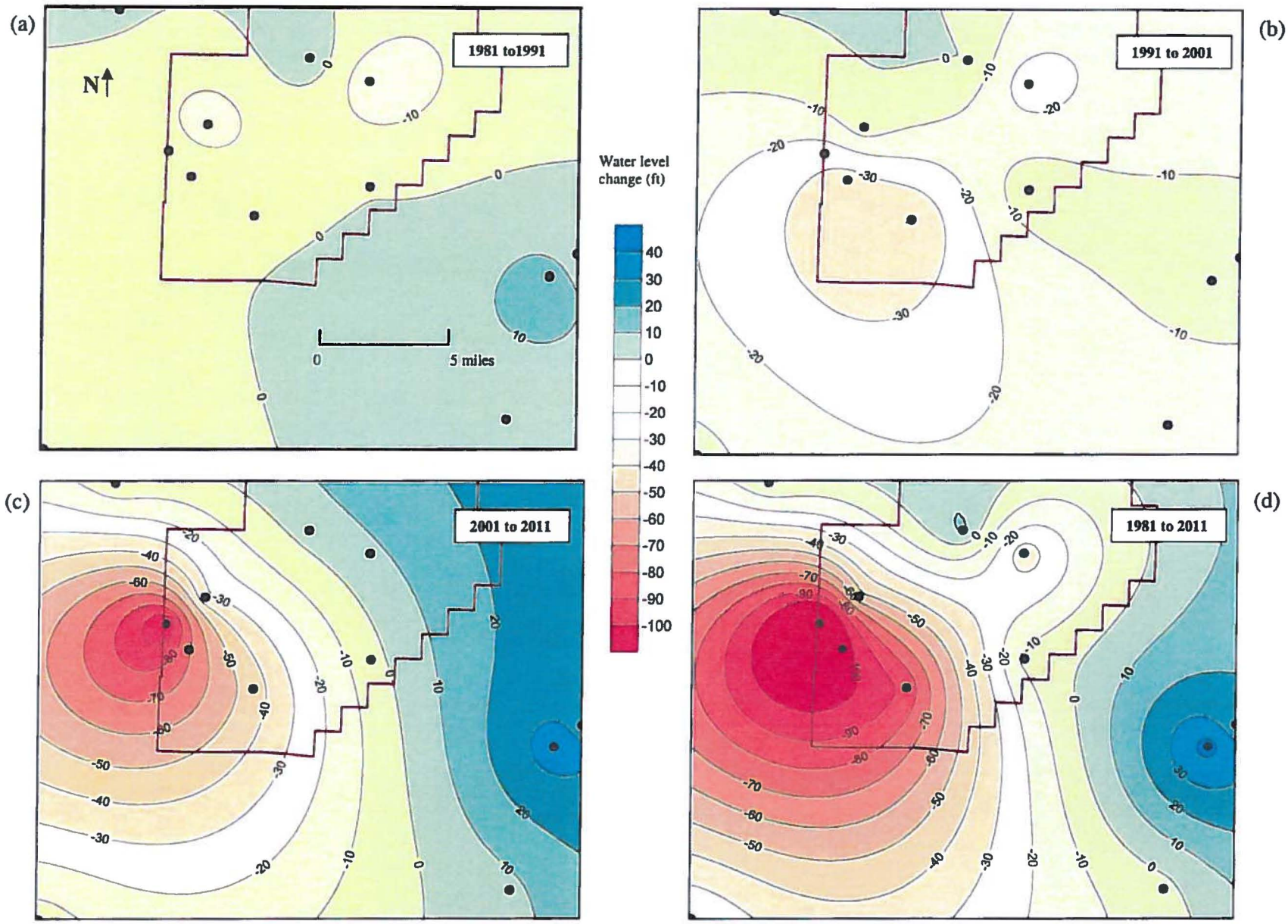


Figure 5. Groundwater level change maps for the Cinder Cone CGWA for the fall season between the years (a) 1981 and 1991, (b) 1991 and 2001, (c) 2001 and 2011, and (d) 1981 and 2011.

April 4, 2012

Idaho Department of Water Resources
Western Regional Office
Attn: Steve Lester, Water Rights Supervisor
2735 Airport Way
Boise, ID 83705-5082

RECEIVED
APR 06 2012
WATER RESOURCES
WESTERN REGION

To Steve Lester:

I am submitting this letter in concern for the steady degradation of my well's static water level since the start-up and excessive consumptive use by an adjacent irrigation well owned by a number of Arizona corporations[i].

As senior water rights holder for my area, I am requesting that your office investigate the water level degradation and stop the use of the irrigation well as soon as possible. I ask that the investigation include, but not be limited to, the proper use of this irrigation well, ensuring that the water right provisions for water measuring devices are installed and a means of retrieving the data on a regular basis is established.

I also request your oversight of the wanton waste of the water I have witnessed over the last two years.

I request urgency for your investigation as I have substantial documentation showing the dramatic degradation of my well's static water level since the adjacent irrigation well was activated. Consequently, I am concerned that my well's static water level will drop below my well pump intake thus rendering my home inhabitable without water.

Since 1975, my domestic well water static levels have been routinely monitored and documented by state and federal agencies. In 2010, the Idaho Department of Water Resources noted the degradation of static water levels and has subsequently increased its measurement frequencies. Consequently, there is ample official documentation of the historical water levels and the subsequent adverse impact of the Corporation's irrigation water consumption[ii].

Scheff Personal Domestic Well Specifics

- Address: 10435 West Martha Ave., Mountain Home, ID 83647
- Point of diversion: NWNE/Sec.11/Township 02S/Range 05E/Elmore County
- Well Number: USGS 431620115493801 02S 05E 11BAA1
- Water Right Number: 61-11833
- Priority Date: 05/22/1976
- Basis: Decreed
- Status: Active

COMPLAINT

EXHIBIT
L

Corporations' Irrigation Well Specifics

- Address: 9975 W. Martha Ave. Mountain Home, ID 83647. The well location is approximately 2500 ft. south of Martha Ave. and centered east and west on the property.
- Point of Diversion: NESE/Sec.11/Township 02S/Range 05E/Elmore County
- Water Right Number: 61-12112
- Priority Date: 04/20/1979
- Basis: Decreed
- Status: Active

Historical Data

The historical data of static water levels for my domestic well, documented by US Geology Survey (USGS) and Idaho Department of Water Resources (IDWR) show a significant degradation of the static water level.

Data retrieved from the Western Regional Climate Center for Mountain Home[iii] and National Oceanic and Atmospheric Administration for Southwest Idaho shows average to above average precipitation for these areas over the last three years[iv].

The degradation of the static water level in my well coincides with the start-up and use of the irrigation well.

I purchased my property in 1996. At that time the Corporations' irrigation well was inactive.

In 2010, the Corporations' irrigation well was activated and operated in the following stages with the following results:

- **Spring 2010:** Irrigation began with hand lines on approximately 100 acres.
- **Fall 2010:** On September 14, 2010, IDWR performed a water measurement that verified a loss of **4 feet** from previously documented water levels.
- **Spring 2011:** An irrigation center pivot and hand lines were added, increasing the irrigated land size by approximately 125 acres.
- **Fall 2011:** On October 6, 2011, IDWR performed a water measurement that verified a loss of another **9 feet** from previously documented water levels.

Non-Beneficial Use of Irrigation Water

In consideration of the fact that this irrigation well is within the Critical Water Management Area, stewardship of this valuable resource is imperative.

During the irrigation season of 2010 and 2011, the irrigation well water has been carelessly managed. I have witnessed a disregard for the stewardship of this irrigation water as follows.

- On a daily basis, a hand line valve would be left open for hours, running water down a draw and into the desert west of the Corporations' property.
- A pipe from the irrigation well disposes excess irrigation well water into a pond on the northeast portion of the corporation's property.
- At numerous times throughout the irrigation season of 2011, the irrigation center pivot would stop moving. With no one on site to fix the problem, the pivot would flood these areas causing a river of water to run into the desert to the northwest through natural draws up to ¾ mile from the center pivot[v].

Summary:

I request urgency for your investigation as there is substantial documentation showing the dramatic degradation of my well's static water level since the adjacent irrigation well was activated. Consequently, I am concerned that my well's static water level will drop below my well pump intake thus rendering my home inhabitable without water.

I am requesting an investigation of the proper use of this irrigation well to ensure that the water right provision for measuring devices are installed and a means of retrieving the data on a regular basis is established. I also request your oversight of the wanton waste of the water we have witnessed over the last two years.

Given the historical static water level degradation, annual precipitation, recharge rates, and the Corporations' excessive irrigation consumption, I extrapolate that my well may possibly become non-functional by the end of this year. As senior water rights holder, this would be unacceptable for me to have to incur this hardship for no fault of my own.

Sincerely,

James C Scheff

James C. Scheff
10435 W. Martha Ave.
Mountain Home, ID 83647
208-869-5996

Cc: Ben Fatto Limited Partnership
1223 S. Clearwater Ave, Ste. 103
Mesa, AZ 85209

Cardon Hiatt Investments
1223 S. Clearwater Ave, Ste. 103
Mesa, AZ 85209

SMT Investors Limited Partnership
1223 S. Clearwater Ave, Ste. 103
Mesa, AZ 85209

Emerson Investments LLC
1223 S. Clearwater Ave, Ste. 103
Mesa, AZ 85209

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[i] Idaho Department of Water Resources; Water Right Report; http://www.idwr.idaho.gov/apps/ExtSearch/SearchWRAJ.asp

[ii] USGS Groundwater of Idaho; Ground Water Levels; http://waterdata.usgs.gov/nwis/uv/?referred_module=gw

[iii] Western Regional Climate Center; http://www.wrcc.dri.edu/

[iv] National Oceanic and atmospheric Administration; http://water.weather.gov/precip/

[v] Reference time- date - stamp photos by Jim Scheff, available upon request.

Cc: Ben Fatto Limited Partnership
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[ii] USGS Groundwater of Idaho; Ground Water Levels; http://waterdata.usgs.gov/nwis/uv/?referred_module=gw

[iii] Western Regional Climate Center; http://www.wrcc.dri.edu/

[iv] National Oceanic and atmospheric Administration; http://water.weather.gov/precip/

[v] Reference time- date - stamp photos by Jim Scheff, available upon request.

MEMORANDUM

TO: Steve Lester

FROM: Angie Grimm

DATE: April 19, 2012

RE: SMT Investors/Scheff Complaint Investigation

Rick Collingwood and I conducted a site investigation on 4/13/12. We meet with Eric Orr (farmer of property) on site. Mr. Orr showed us the two PODs (Well #1 and Well #2), the irrigation system, and the POU (irrigated acres) associated with water right 61-12112. We were able to determine the irrigation system in place, the extent of irrigation, the location of and details regarding ponds on the property, and the degree of compliance with water right conditions.

Summary of Complaint and Site Investigation

Timeline of Events:

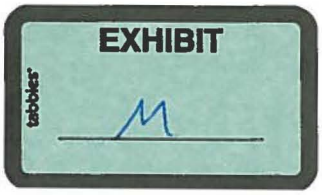
- Jim Scheff submitted complaint 4/6/2012. Mr. Scheff sent a copy to the property owners (various companies in Arizona, one of which is SMT Investors).

- Complaint stated Mr. Scheff's domestic well's static water level is declining due to excessive consumptive use by a neighboring properties' irrigation practices. He requested IDWR look into the irrigation practices associated with the neighboring property and determine if use is in accordance to the water right(s) and if water is being wasted.

- Rick Collingwood accompanied me for the site visit 4/13/2012. We met with Eric Orr on site. Visited the second well added to the system (Well #2) first then visited the original well (Well #1).

Site Investigation:

- **Well #2 Diversion Info:**
  - Location = NENE Sec 11 T2S R5E – N 43.27307° W116.81939°.
  - IDWR Tag No. A0004702 – IDWR Monitoring Well No. 02S 05E 11AAB1.
  - Well Pump & Motor = 60 hp GE motor Model No. 5K6257xH12A Serial No. DKJ417463.
  - Booster = 25 hp booster.
  - No flowmeter.
  - Well motor Idaho Power meter number = 36 454 086 (no other uses).



- Booster Idaho Power meter number = 36 454 087 (no other uses).
- 10" discharge pipe from the well to 8" buried mainline.
- Pressure down line of booster = 50 psi.
- Total well depth and depth of bowls for irrigation pump unknown.
- Static water level 327.41 ft (3/19/12).
- Piping to hoses off 10" discharge pipe historically irrigated pasture and supplemented large pond area directly south of Well #2. Valve to these hoses closed. Mr. Orr said he does not irrigate pasture or put water into ponds from either well.
- 4" PVC piping off 8" line into small shed adjacent to Well #2. Mr. Orr stated PVC line goes to 1,000 gallon storage tank used by house southwest of Well #2. This piping not in place at time of Adjudication staff site visit in 1994.

➢ **Well #1 Diversion Info:**
- Location = NESE Sec 11 T2S R5E – N 43.26584° W115.82299°.
- Well Pump & Motor = 200 hp US Electric motor serial no. cc1009917 w/ Singer ELine Pump no. 54862.
- 10" discharge pipe w/ inline flowmeter (does not appear operational). Could not read flow reading, totalizer read 175276 (units and multipler unknown). Maybe same flowmeter in place at time parent right (61-7384) licensed.
- Well motor Idaho Power meter number = 41 121 919 (no other uses).
- 10" discharge line to 12" manifold at 'Y' back down to 10" then 8" buried mainline.
- 4" line from manifold at 'Y' to trees on far west edge of property. Historically used for irrigation of trees and wild fire protection measure, but Mr. Orr says no water diverted now for those purposes.
- Pressure readings downline of 'Y' to the north (towards pivot) ~18 psi to the south (towards handlines) ~54 psi. Not clear why only ~18 psi to the north, when all pressure readings in system ~50 psi.
- Total well depth unknown. Bowls set at ~430 ft per Mr. Orr.

➢ **Irrigation System Info:**
- 8" buried mainline w/ 1 pivot + ~50 operational risers set 50 ft apart for handlines.
- Up to 10 handlines w/ 32 sprinklers set 40 ft apart on each line.
- 1/8" nozzles on ½ of handlines, 9/64" nozzles on other ½.
- Pivot runs on low (~660 gpm per Mr. Orr) most of time. Pivot can run on high (~950 gpm per Mr. Orr), but doesn't allow for concurrent use of handlines.

➢ **Typical Irrigation Practices:**
- Run pivot with 4 handlines (2 w/ 1/8" nozzles and 2 w/ 9/64" nozzles) for 3 days (cooler months) to 7 days (hotter months) 24 hrs a day.

- Turn pivot off run 10 handlines (5 w/ 1/8" nozzles and 5 w/ 9/64" nozzles) for 7 days 24 hrs a day.
- Repeat process for irrigation season. Usually begin irrigating first week of April and ends late September.
- Booster on when pivot running, operation of 10 handlines does not require use of booster.
- Sprinkler head pressure = 50 psi
- Diversion rate 1,160 gpm (2.58 cfs) 24 hrs/7days a week with both wells and booster running (maximum extent of typical use) per Mr. Orr.
- Irrigating 222 acres per Mr. Orr. Analysis of 2011 aerial photography indicates as much as 243 acres irrigated. Pivot irrigating winter wheat. Done by 15th of July. Rest of farm in barley now, chop end of May. Then plant beans.

➢ **Pond(s) Info:**
- Large pond area (3-4 connected excavations) south of Well #2 (NE NE Sec 11) filed with spring snowmelt runoff via natural channel(s). Evidence portion (~40 ft) of access road to gravel pit washed out recently likely by this year's runoff event in channel that drains to large pond area. Excavations forming this pond area occurred sometime between 1987 and 1992 (aerial photography).
- Pond (W ½ SW NE Sec 11) fills with snowmelt runoff, but also catches sprinkler runoff.
- Two smaller ponds (NW NW NW and W ½ SW SE Sec 11) are result of sprinkler runoff.
- No water is pumped from these ponds for any purpose. No water is deliberately pumped to these ponds from either well per Mr. Orr.
- Number of water fowl and other wildlife seen at large pond area south of Well #2.

➢ Map and photos attached for reference. Used information above to estimate diversion from the system. See attached notes for calculations.

Conclusions:

➢ **Total system capacity = 3.31 cfs** (theoretical calculation using HP equation).

➢ **Diversion rate = 2.58 cfs** (pivot w/ 4 handlines – Mr. Orr estimated) **or 2.67 cfs** (10 handlines - estimate based on irrigation system components).

➢ **Annual diversion volume typical irrigation season (April 1 to Sept 30) = 952.8 AFA** (assuming diversion rate of 2.58 cfs ½ of typical irrigation season and 2.67 cfs other ½). Water right is limited to 992.0 AFA. **Typical irrigation practices in place = 952.8 AFA < 992.0 AFA = use within water right.**

- **Annual diversion volume entire irrigation season (April 1 to Oct 31) = 1,114.3 AFA** (assuming same diversion rates above). **If irrigated entire irrigation season, may likely exceed water right volume limitations (1,114.3 AFA > 992.0 AFA).**

- **243 acres irrigation is less than water right limitation of 248 acres** inside 318 acre PPU. Irrigation within each 40-ac tract does not exceed limitations.

- Water right requires means of flow measurement in place for both PODs. **No functional flowmeters** found on the wells. Individual power meters offer possibility of PCC computations, but must have approval of this method from IDWR Water Distribution Section.

- There are **no recorded water rights authorizing storage (ponds)** on the property.

- Property formally enrolled in CREP set-aside program. Confirmed CREP agreement terminated in 2008.

Recommendations for Further Action:

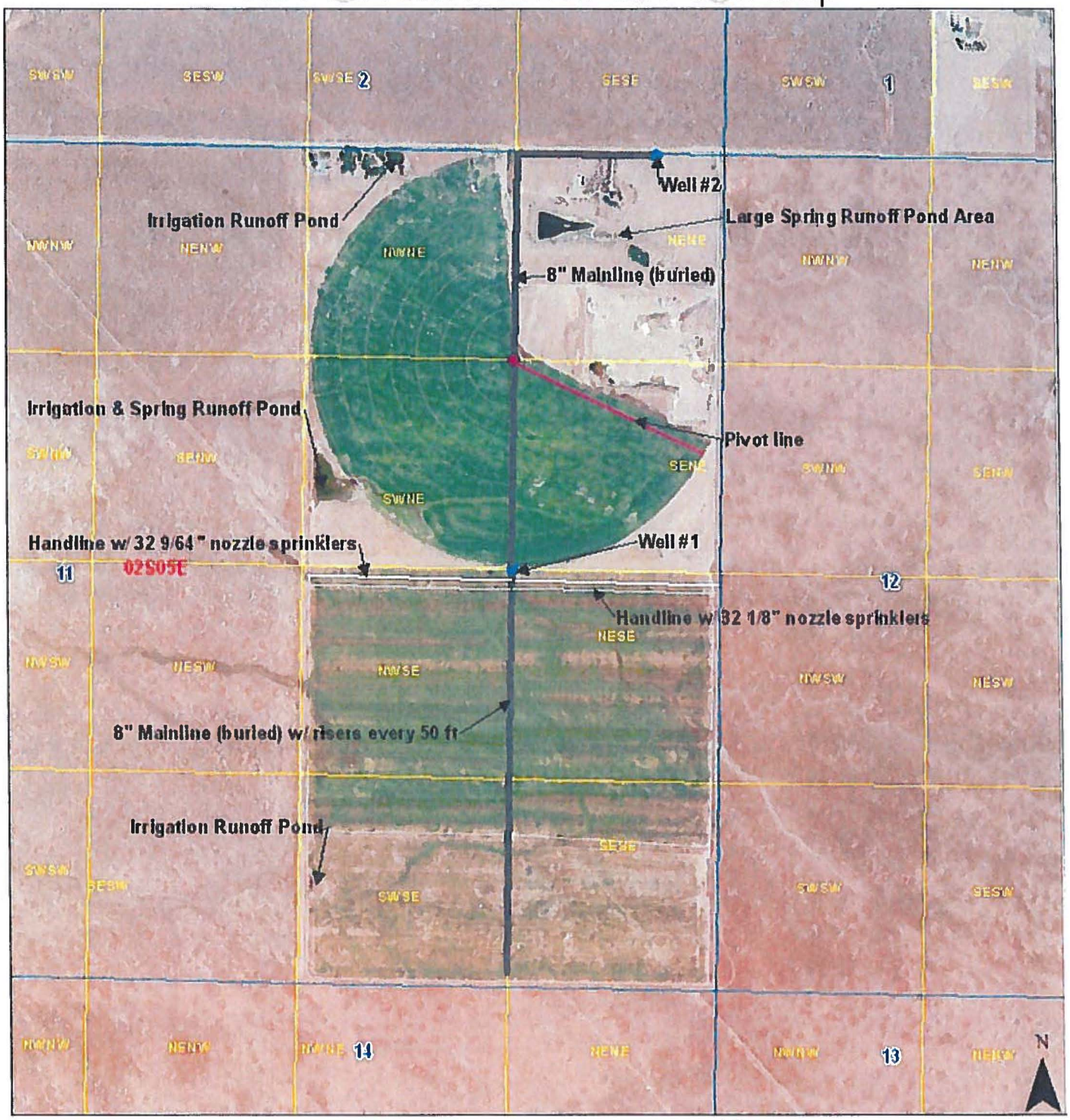
- IDWR should formally inform property owners, Mr. Eric Orr, and Mr. Jim Scheff findings of this site visit by sending a copy of this memo or other documentation.

- IDWR Western Regional staff may wish to seek the assistance of IDWR Water Distribution section to confirm current diversion volume for system and compliance options with regard to the measurement device condition.

- IDWR should inform property owners of flow measurement device/means condition of water right and discuss options for compliance with this condition with regard to both wells.

- IDWR should inform property owners of water right requirement for storage associated with ponds on property. Subsequent filling of a water right application, especially for large pond area, requesting use of surface water for wildlife and/or aesthetic storage may be required.

SMT Investors/Scheff Site Visit Map



Miles
0 0.05 0.1 0.2 0.3 0.4 0.5

2011 Bing Aerial Photo

Legend

- 61-12112 POD
- Township/Range
- Sections
- QQ

Angie Grimm, IDWR 4/19/2012



SMT Investors/Scheff Complaint 4/13/2012 Photo #1: Well #2 facing south.



SMT Investors/Scheff Complaint 4/13/2012 Photo #2: Well #2 booster pump facing southeast. 8" pipe to mainline on left side of photo.



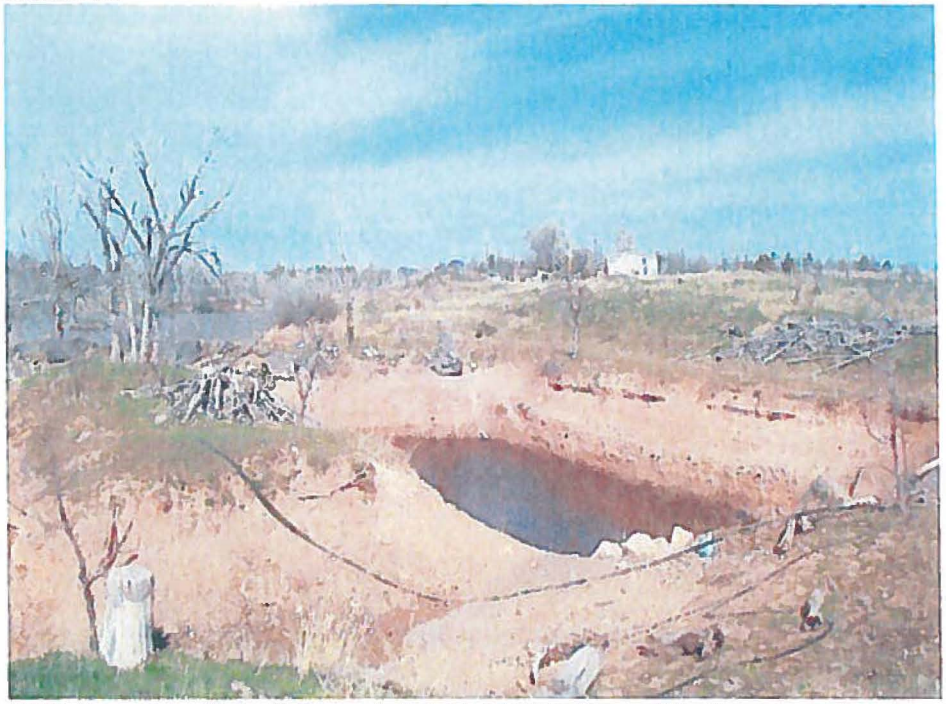
SMT Investors/Scheff Complaint 4/13/2012 Photo #3: Well #2 diversion system facing east. 8" pipe to mainline going into ground. Booster pump and well in background. PVC pipe in upper right of photo goes to buried 1,000 gallon storage tank for house.



SMT Investors/Scheff Complaint 4/13/2012 Photo #4: Well #1 facing north. Dysfunctional flowmeter on discharge pipe on left side of photo.



SMT Investors/Scheff Complaint 4/13/2012 Photo #5: Well #1 diversion system facing west. 10" discharge pipe from well in foreground of photo to 12" manifold that splits diverts water to mainline north (right) to pivot and mainline south (left) to risers for handlines.



SMT Investors/Scheff Complaint 4/13/2012 Photo #6: Large pond area south of Well #2 facing northwest. Pond area consists of several connected excavations.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way • Boise, Idaho 83705-5082
Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

May 14, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Far Marel LLC
Viel Gluck LLP
Ben Fatto Limited Partnership
Cardon Haitt Investments LLC
SMT Investors Limited Partnership
1223 S Clearview Ave Ste 103
Mesa AZ 85209

Eric J Orr
1355 S 10th E
Mountain Home ID 83647

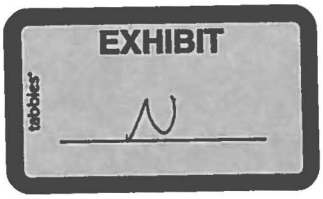
RE: Complaint—Aquifer Level Decrease/Use of Ground Water

Dear Parties:

Recently, the Idaho Department of Water Resources (Department) received a complaint regarding the use of ground water for irrigation on parcels located at Twp.02S, Rge 05E, Section 11, SE and NE quarters. Our records show that ground water right no. 61-12112 is applicable to the property, and your investment group is the property owner. The complaint alleges that aquifer levels continue to decline injuring a near-by domestic well and that ground water is being improperly utilized at your location.

Critical Ground Water Area
The irrigated lands and wells are located in the designated Cinder Cone Critical Ground Water Area (1981). A "*critical ground water area*" is defined as any ground water basin or designated part hereof, not having sufficient ground water to provide a reasonably safe supply of irrigation of cultivated lands, or other uses in the basin at the then current rates of withdrawal….. ref. Idaho Code §42-233a. Unfortunately after 30 years of restricted ground water development, aquifer levels generally continue to decline.

On-site Investigation
On April 13, 2012, Department staff met on-site with Mr. Orr. Pump and well data was compiled from the locations along with irrigation system, acreage, and management practices information. Utilizing the data/information, staff made theoretical calculations and estimated that your typical water use appeared to be within the flow and volume parameters of water right no. 61-12112. However, staff found that flow meters were either inoperable or missing on the wells as required on the water right conditions of approval, see attached.



Excavated Small Ponds
It was noted during the field investigation there were several small excavated ponds on the property. A water right is not required if the water stored is diffused surface water or field waste water for reuse. Diffused surface water is water on the land surface resulting from precipitation and snowmelt prior to entering a natural water course. However if the ponds are storing water from a natural water course, a water right is required. The ponds should be filled in if they are no longer of use.

Illegal Diversion/Use of Water
Idaho Code §42-351 in part states:

> (1) It is unlawful for any person to divert or use water from a natural watercourse or from a ground water source without having obtained a valid water right to do so, or to divert or use water not in conformance with a valid water right. (2) It is unlawful for any person to divert or use water in substantial violation of any provision of this title or any rule, permit, condition of approval or order issued or promulgated pursuant to this title that is related to the diversion or use of water. (3) Upon investigation of available information, the Director of the Department of Water Resources shall have the discretion to issue a written notice of violation to the person in accordance with the provisions of section 42-1701B.....

Given water right no. 61-12112 conditions of approval and the complaint, the following actions are required by the Department:

*-Install operable instantaneous flow rate and total volume meters on both wells on or before **July 1, 2012.** The Department shall be notified by written notice the meters have been installed. A listing of Department approved flow meters is attached.*

*-Monthly readings of both wells flow rates (cfs) and total volume (acre-feet) shall be recorded. The records/data will be made available to the Department upon request. Bear in mind the total instantaneous diversion rate from both wells should not exceed **2.78 cfs**, nor a total combined annual volume of **992.0 acre feet.***

Should you have further questions, please contact me at the Western Regional Office, phone 334-2190. I appreciate Mr. Orr's cooperation in working with my field staff.

Sincerely,

John Westra, Manager.

Enclosure: proof no. 61-12112, critical map, IC 42-233a, 42-351, 42-1701B, flow meter list.
Cc: J. Scheff

Idaho Department of Water Resources
List of approved full profile Electromagnetic Flow meters *
March 2012

Manufacturer	Model	Type	Manufacturer Installation recommendations*
Siemens	Mag 5100 W	Full profile Electro-Magnetic	5 upstream and 3 downstream diameters
Seametrics	AG 2000	Full profile Electro-Magnetic	2 upstream and 1 downstream diameters
McCrometer	Ultra Mag	Full profile Electro-Magnetic	5 upstream and 2 downstream diameters
Badger	M2000	Full profile Electro-Magnetic	5 upstream and 2 downstream diameters
Khrone	Enviromag 2000	Full profile Electro-Magnetic	5 upstream and 2 downstream diameters
Rosemount	8705	Full profile Electro-Magnetic	5 upstream and 2 downstream diameters
Burkert	8054/8055	Full profile Electro-Magnetic	3 upstream and 2 downstream diameters

The above list of flow meter manufacturers performed at or above IDWR minimum acceptable standards for accuracy when installed in piping distances that met or exceeded minimum straight run piping requirements specified by IDWR. These approved flow meters were subject to testing (http://www.idwr.idaho.gov/WaterManagement/WaterMeasurement/DOCs/Vendor%20Notice%20for%20USULabtesting_Final.docx) requirements outlined by IDWR and conducted by staff from Utah State's NIST traceable lab in Logan Utah during the spring of 2011. Water users looking for guidance on what meters to install should use this list as a reference and or starting point when researching which meter best fits your application.

*Installation requirements may vary from manufacturer to manufacturer, please be aware that IDWR staff and or consultants in the field conducting flow meter calibration work assume no responsibility for improperly installed flow meters. Check with the manufacture of the meter for specific information related to straight piping requirements.

The approved list may change as more and more manufacturers subject their meters for testing. Manufacturers may also have other meters in the future that will be required to be tested at USU for accuracy prior to inclusion on this approved list.

IDWR was not provided testing results from individual flow meters tested by USU. Only a pass/fail statement was issued to IDWR after testing was completed.

This list may change at future dates based on additional meters meeting IDWR testing requirements

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 61-12112

WATER RIGHT NUMBER: 61-12112

Owner Type	Name and Address
Original Owner	WESTERN IDAHO PRODUCTION CREDIT ASSN , ID
Original Owner	HAYWOOD P HONEYCUTT JR PO BOX 451 MOUNTAIN HOME, ID 83647 (208)587-3978
Previous Owner	EMERSON INVESTMENTS LLC 1223 S CLEARVIEW AVE STE 103 MESA, AZ 85209
Current Owner	FAR MAREL LLC 1223 S CLEARVIEW AVE STE 103 MESA, AZ 85209 480-222-5800
Current Owner	VIEL GLUCK LLP 1223 S CLEARVIEW AVE STE 103 MESA, AZ 85209 480-222-5800
Current Owner	BEN FATTO LIMITED PARTNERSHIP 1223 S CLEARVIEW AVE STE 103 MESA, AZ 85209
Current Owner	CARDON HIATT INVESTMENTS, LLC 1223 S CLEARVIEW AVE STE 103 MESA, AZ 85209
Current Owner	SMT INVESTORS LIMITED PARTNERSHIP 1223 S CLEARVIEW AVE STE 103 MESA, AZ 85209

Priority Date: 04/20/1979

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/01	10/31	2.780 CFS	
		Total Diversion:	2.780 CFS	

Location of Point(s) of Diversion

GROUND WATER NE1/4SE1/4 Sec. 11, Twp 02S, Rge 05E, B.M.
ELMORE County

GROUND WATER NE1/4NE1/4 Sec. 11, Twp 02S, Rge 05E, B.M.
ELMORE County

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 61-12112

Place of Use

IRRIGATION

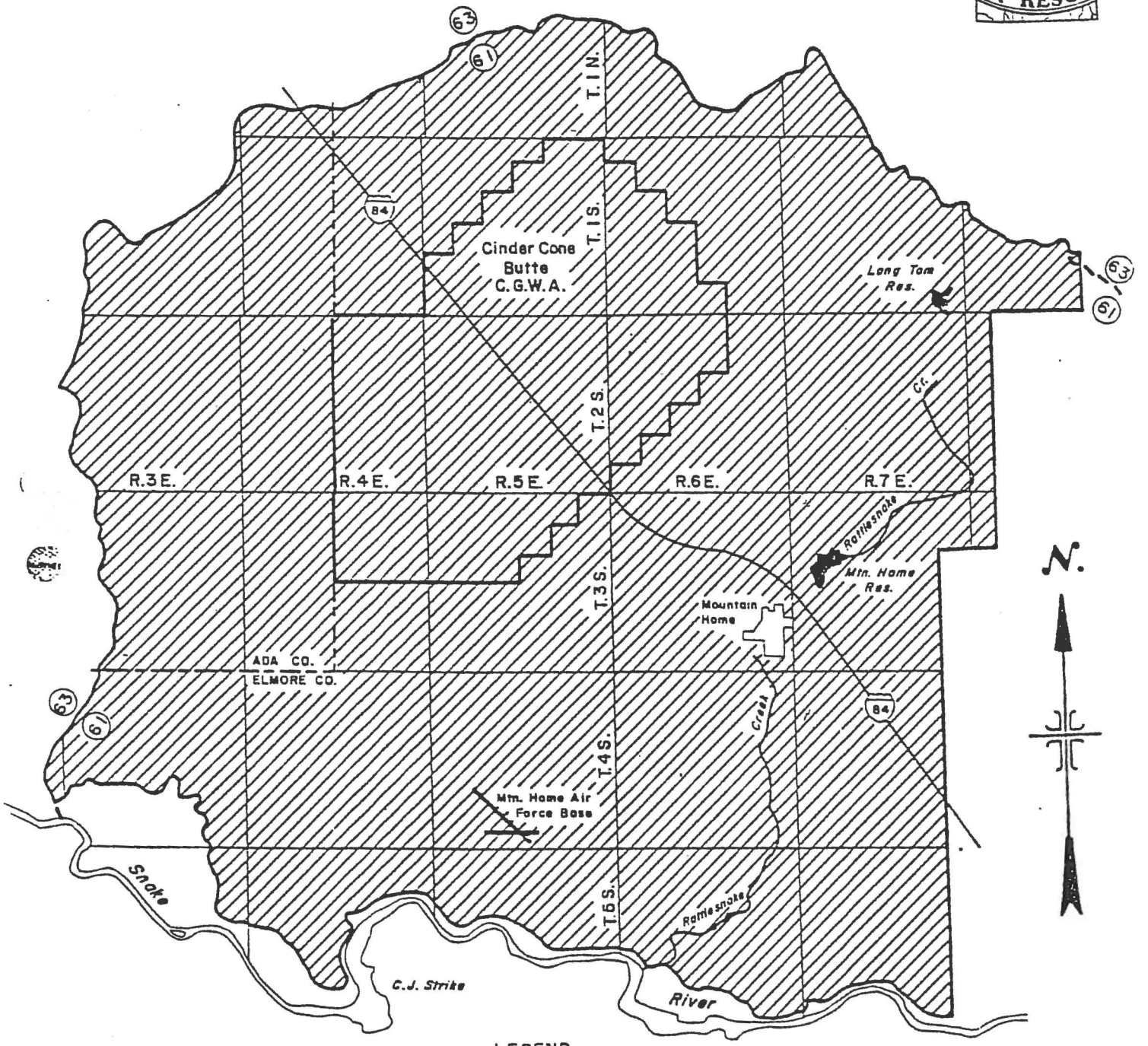
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02S	05E	11	40.0	38.0	40.0	40.0									40.0	40.0	40.0	40.0	318.0

Total Acres: 318

Conditions of Approval:

1. X27 This right is limited to the irrigation of 248 acres within the place of use described above in a single irrigation season.
2. X61 The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
3. Prior to diversion of water under this right, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
4. The total instantaneous diversion of water from all points of diversion under this right shall not exceed 2.78 cfs, nor total combined annual volume of 992.0 af.
5. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Remarks:



MOUNTAIN HOME GROUNDWATER MANAGEMENT AREA

(Designated Nov. 9, 1982)

Idaho Statutes

TITLE 42
IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 17
DEPARTMENT OF WATER RESOURCES -- WATER RESOURCE BOARD

42-1701B. ENFORCEMENT PROCEDURE -- NOTICE -- CONSENT ORDER -- CIVIL ACTION. (1) Authority to commence actions. The director of the department of water resources is authorized and may commence and pursue enforcement actions to remedy the designated violations set out in title 42, Idaho Code.

(2) Notice. When the director commences an administrative enforcement action the notice of violation shall be served upon the alleged violator in person or by certified mail. The notice of violation shall identify the alleged violation and shall specify each provision of the designated chapter, rule, permit, condition of approval or order which has been violated. The notice of violation shall state the remedy, including any demand to cease and desist, restoration and mitigation measures, and the amount of any civil penalty the director seeks for redress of the violation. Factors the director may consider in seeking the appropriate remedy include the impact of the violation and whether the violation was willful, a repeat violation for which the violator had been given a prior written warning, or the violator has otherwise refused to comply with the department's lawful directives. The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director's designee in a compliance conference concerning the alleged violation.

(3) Response. A written response may be required within fourteen (14) days of the receipt of the notice of violation by the person to whom it is directed. If a recipient of a notice of violation contacts the department within fourteen (14) days of the receipt of the notice, the recipient shall be entitled to a compliance conference. The conference shall be held within twenty-one (21) days of the receipt of the notice unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in this section.

(4) Compliance conference and consent order. The compliance conference shall provide an opportunity for the recipient of a notice of violation to explain the circumstance of the alleged violation and, where appropriate, to present a proposal for remedying the damage caused by the violation and assuring future compliance. If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision providing for payment of any agreed civil penalty. The consent order shall be effective immediately upon signing by both parties and shall preclude a civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek and obtain in any appropriate district court, specific performance of the consent order and other relief as authorized by law. If the parties cannot

agree to a consent order within fifty-six (56) days after the receipt of the notice of violation, or if the recipient does not request a compliance conference, the director may commence and prosecute a civil enforcement action in the district court in accordance with this section.

(5) Civil enforcement actions.

(a) The director may initiate a civil enforcement action through the attorney general as provided in this section. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person who is alleged to have substantially violated any provision of title 42, Idaho Code, or any rule promulgated pursuant to that title. The action may be brought to compel compliance with provisions of title 42, Idaho Code, or rules promulgated pursuant to that title. The director shall not be required to prosecute an administrative enforcement action before initiating a civil enforcement action.

(b) Nothing in this section shall preclude employees of the department designated by the director from issuing Idaho uniform citations or written administrative orders directing persons to cease and desist as authorized by law.

(c) If the person who is the subject of the notice of violation fails to cease and desist the activity or activities constituting the alleged violation within the time limits set in the notice of violation, the director may seek, by and through the attorney general, injunctive relief in the district court pending the outcome of the administrative enforcement action.

(d) In an action brought against a person for diverting water without having obtained a valid water right to do so, the director need not allege or prove that irreparable injury to the state or to other water users will occur should the preliminary injunction not be issued or that the remedy at law is inadequate, and the preliminary injunction or permanent injunction shall issue without those allegations and without that proof.

(6) Penalties.

(a) Any person determined in a judicial civil enforcement action to have substantially violated any designated provision of title 42, Idaho Code, or any rule promulgated pursuant to that title, shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) per violation or one hundred fifty dollars ($150) per day for a continuing violation, whichever is greater; except that persons determined to be in violation of section 42-351, Idaho Code, shall be liable for a civil penalty not to exceed:

(i) For nonirrigation uses, fifty dollars ($50.00) per one-tenth (0.1) cubic feet per second of water or part thereof diverted per calendar day, or fifty dollars ($50.00) per two tenths (0.2) of an acre foot of water or part thereof diverted to storage, up to a maximum penalty of fifty thousand dollars ($50,000) per year for water illegally used or diverted;

(ii) For irrigation uses, three hundred dollars ($300) annually for each acre irrigated, in whole or in part, by the illegal use or diversion.

(b) Civil penalties shall not be assessed for violations that have occurred more than twelve (12) months prior to the issuance of the notice of violation. The court shall determine the amount of the penalty based upon the willfulness of the violation, the economic value obtained by the violator and the damage to public resources and

other water right holders. A method of recovery of the penalty shall be a civil enforcement action in and for the county where the violation occurred.

(c) All civil penalties collected under this section shall be paid into the water right[s] enforcement account established pursuant to section 42-1778, Idaho Code.

(d) Parties to an administrative enforcement action may agree to a civil penalty as provided in this subsection.

(7) No action taken pursuant to this section shall relieve any person from any civil liability and damages that may exist for injury or damage resulting to others.

(8) Upon request of the director, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions pursuant to this section.

History:

[42-1701B, added 1998, ch. 173, sec. 8, p. 607; am. 2003, ch. 165, sec. 2, p. 468.]

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Idaho Statutes

TITLE 42
IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 2
APPROPRIATION OF WATER -- PERMITS, CERTIFICATES, AND LICENSES -- SURVEY

42-233a "CRITICAL GROUND WATER AREA" DEFINED -- PUBLIC HEARINGS -- PUBLICATION OF NOTICE -- GRANTING OR DENIAL OF APPLICATION -- APPEAL. "Critical ground water area" is defined as any ground water basin, or designated part thereof, not having sufficient ground water to provide a reasonably safe supply for irrigation of cultivated lands, or other uses in the basin at the then current rates of withdrawal, or rates of withdrawal projected by consideration of valid and outstanding applications and permits, as may be determined and designated, from time to time, by the director of the department of water resources.

Upon the designation of a "critical ground water area" it shall be the duty of the director of the department of water resources to conduct a public hearing in the area concerned to apprise the public of such designation and the reasons therefor. Notice of the hearing shall be published in two (2) consecutive weekly issues of a newspaper of general circulation in the area immediately prior to the date set for hearing.

In the event an area has been designated as a "critical ground water area" and the director of the department of water resources desires to remove such designation or modify the boundaries thereof, he shall likewise conduct a public hearing following similar publication of notice prior to taking such action.

When a "critical ground water area" is designated by the director of the department of water resources, or at any time thereafter during the existence of the designation, the director may approve a ground water management plan for the area. The ground water management plan shall provide for managing the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water.

In the event an application for permit is made with respect to an area that has not been designated as a critical ground water area the director of the department of water resources shall forthwith issue a permit in accordance with the provisions of section 42-203A and section 42-204, Idaho Code, provided said application otherwise meets the requirements of such sections; and further provided that if the applicant proposes to appropriate water from a ground water basin or basins in an amount which exceeds ten thousand (10,000) acre-feet per year either from a single or a combination of diversion points, and the director determines that the withdrawal of such amount will substantially and adversely affect existing pumping levels of appropriators pumping from such basin or basins, or will substantially and adversely affect the amount of water available for withdrawal from such basin or basins under existing water rights, the director may require that the applicant undertake such recharge of the ground water basin or basins as will offset that withdrawal adversely affecting existing pumping levels or water rights.

In the event an application for permit is made in an area which has

been designated as a critical ground water area, if the director of the department of water resources from the investigation made by him on said application as herein provided, or from the investigation made by him in determining the area to be critical, or from other information that has come officially to his attention, has reason to believe that there is insufficient water available subject to appropriation at the location of the proposed well described in the application, the director of the department of water resources may forthwith deny said application; provided, however, that if ground water at such location is available in a lesser amount than that applied for the director of the department of water resources may issue a permit for the use of such water to the extent that such water is available for such appropriation.

The director may require all water right holders within a critical ground water area to report withdrawals of ground water and other necessary information for the purpose of assisting him in determining available ground water supplies and their usage.

The director, upon determination that the ground water supply is insufficient to meet the demands of water rights within all or portions of a critical ground water area, shall order those water right holders on a time priority basis, within the area determined by the director, to cease or reduce withdrawal of water until such time as the director determines there is sufficient ground water. Such order shall be given only before September 1 and shall be effective for the growing season during the year following the date the order is given.

Any applicant dissatisfied with the decision of the director of the department of water resources may appeal to the district court in the manner provided for in section 42-237e, Idaho Code.

History:

[42-233a, added 1951, ch. 200, sec. 9, as added by 1953, ch. 182, sec. 5, p. 277; am. 1963, ch. 216, sec. 2, p. 623; am. 1967, ch. 187, sec. 1, p. 616; am. 1978, ch. 366, sec. 2, p. 956; am. 1995, ch. 286, sec. 1, p. 949; am. 2000, ch. 85, sec. 5, p. 185.]

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Idaho Statutes

TITLE 42
IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 3
APPROPRIATION OF WATER -- CANCELATION OF PERMITS

42-351. ILLEGAL DIVERSION OR USE OF WATER -- ENFORCEMENT PROCEDURE -- INJUNCTIVE RELIEF. (1) It is unlawful for any person to divert or use water from a natural watercourse or from a ground water source without having obtained a valid water right to do so, or to divert or use water not in conformance with a valid water right.

(2) It is unlawful for any person to divert or use water in substantial violation of any provision of this title, or any rule, permit, condition of approval or order issued or promulgated pursuant to this title that is related to the diversion or use of water.

(3) Upon investigation of available information, the director of the department of water resources shall have the discretion to issue a written notice of violation to the person in accordance with the provisions of section 42-1701B, Idaho Code, for the illegal diversion or use of water.

(4) Notwithstanding the issuance of a notice of violation, the director may also file an action seeking injunctive relief directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or any existing water right.

History:

[42-351, added 1986, ch. 313, sec. 8, p. 774; am. 1988, ch. 83, sec. 3, p. 145; am. 1994, ch. 450, sec. 5, p. 1438; am. 1998, ch. 173, sec. 4, p. 602; am. 2003, ch. 165, sec. 1, p. 467.]

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MEMORANDUM

TO: Steve Lester and John Westra

FROM: Angie Grimm

DATE: June 6, 2012

RE: SMT Investors/Scheff Complaint Investigation

I conducted a second site visit on 6/6/12 as a follow-up to the initial investigation on 4/13/12. The following is a summary of my findings. Attached are maps/diagrams and photos documenting what I found during the site visit.

Summary of Second Site Visit

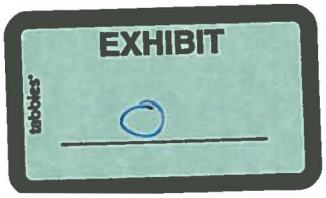
Site Investigation:

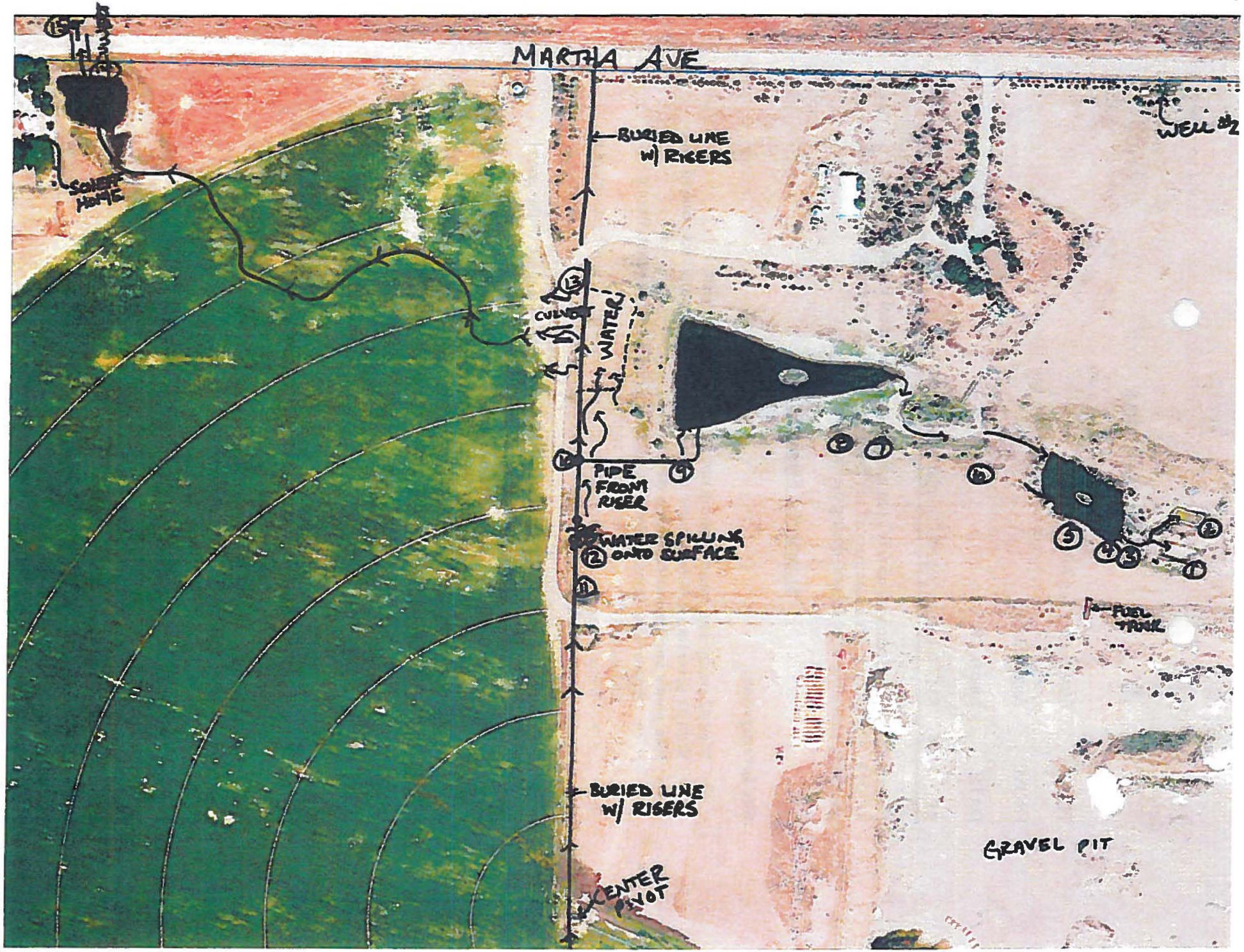
- **Well #2 pump and booster pump not on during the site visit.**
- **Well #1 diverting minimal water to pivot and water through mainline to pipe into ponds and onto surface into desert:**
  - Appeared minimal water flowing through pivot, only evident from a distance as the very end/outside edge of pivot arm.
  - Water being diverted through buried line from Well #1 north past pivot to far north edge of property at Martha Ave.
  - Riser off this line had section of pipe being used to divert water from mainline to surface, which drains into series of ponds north of the gravel pit. See maps/diagrams and photos for details.
  - Water assumingly coming from mainline just upstream of one riser was draining onto surface at far west edge of ponds also.
  - Water draining from surface across gravel road into northwestern portion of fields into pond adjacent to Scheff property. Water draining from this pond through culvert under Martha Ave into desert north of Martha Ave.
- **Map/diagrams and photos attached for reference.**

Conclusions & Recommendations for Further Action:

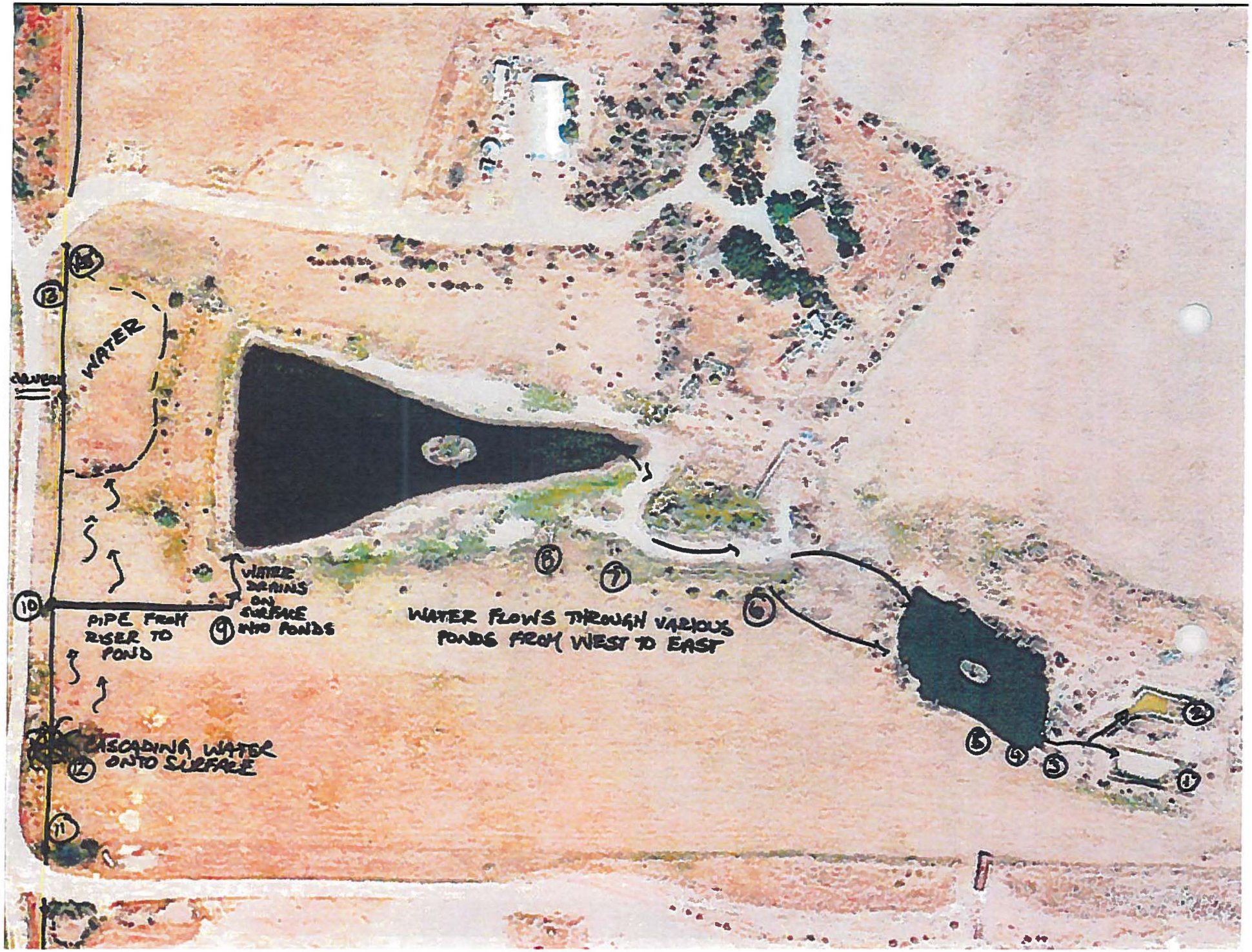
- There are **no recorded water rights authorizing storage (ponds)** on the property, either filled with surface runoff OR ground water.
- See previous memo dated 4/19/2012 for additional conclusions and recommendations for further action.






MARTHA AVE
BURIED LINE W/ RISERS
WELL #2
SOLID HOME
CULVERT
WATER
PIPE FROM RISER
WATER SPILLING ONTO SURFACE
FUEL TANK
BURIED LINE W/ RISERS
GRAVEL PIT
CENTER PIVOT


CULVERT
CROSSES UNDER RD
INTO DESERT
CURVED
LINE
OF
FILLERS
CULVERT
WATER
DRAINING
ALONG
SURFACE
PIPE TO
POND
WATER


WATER
WATER DRAINS ON SURFACE INTO PONDS
PIPE FROM RISER TO POND
WATER FLOWS THROUGH VARIOUS PONDS FROM WEST TO EAST
CASCADING WATER ONTO SURFACE



SMT Investors/Scheff Complaint 6/6/2012: Far SE pond in series of ponds north of gravel pit (facing west). Location **1** on map.



SMT Investors/Scheff Complaint 6/6/2012: Far NE pond in series of ponds (facing west). Location **2** on map.



SMT Investors/Scheff Complaint 6/6/2012: Water flowing out of central pond into far SE pond in series of ponds (facing north). Location **3** on map.



SMT Investors/Scheff Complaint 6/6/2012: Area water flowing out of central pond into far SE pond in series of ponds (facing north). Location **4** on map.



SMT Investors/Scheff Complaint 6/6/2012: Central pond in series of ponds (facing west). Location **5** on map.



SMT Investors/Scheff Complaint 6/6/2012: Area between far west pond in series of ponds (facing north/northeast). Water moving from far west pond to central pond in this area. Location **6** on map.



SMT Investors/Scheff Complaint 6/6/2012: Far west pond in series of ponds (facing north). Location **7** on map.



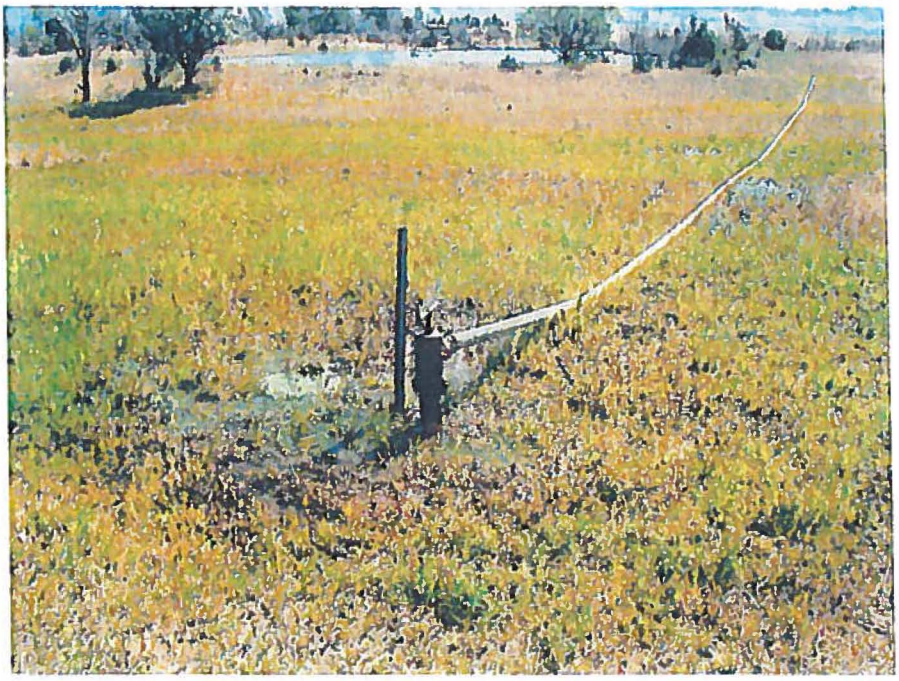
SMT Investors/Scheff Complaint 6/6/2012: Far west pond in series of ponds (facing west/northwest). Location **8** on map.



SMT Investors/Scheff Complaint 6/6/2012: Water draining from pipe into far west pond in series of ponds (facing north). Location **9** on map.



SMT Investors/Scheff Complaint 6/6/2012: Water draining from pipe into far west pond in series of ponds (facing west). Location **9** on map.



SMT Investors/Scheff Complaint 6/6/2012: Pipe connected to riser off mainline from well draining into far west pond in series of ponds (facing east). Location **10** on map.



SMT Investors/Scheff Complaint 6/6/2012: Water flowing onto surface draining to the north eventually across the road and into pond adjacent to Scheff property (facing north). Location **11** on map.



SMT Investors/Scheff Complaint 6/6/2012: Close up of water flowing onto surface pictured above. Location **12** on map.



SMT Investors/Scheff Complaint 6/6/2012: Water flowing across the road from far west pond in series of ponds (facing south). Water flows across road into field and eventually into pond adjacent to Scheff property. Location **13** on map.



SMT Investors/Scheff Complaint 6/6/2012: Pond adjacent to Scheff property (facing south). Location **14** on map.



SMT Investors/Scheff Complaint 6/6/2012: Water draining from pond adjacent to Scheff property into south end of culvert under Martha Ave. Location **14** on map.



SMT Investors/Scheff Complaint 6/6/2012: Water draining out into desert from north end of culvert under Martha Ave (facing north/northwest). Water draining through culvert from pond adjacent to Scheff property. Location **15** on map.

November 29, 2012

RECEIVED
NOV 30 2012
WATER RESOURCES
WESTERN REGION

Far Marel LLC
Viel Gluck LLP
Ben Fatto Limited Partnership
Cardon Haitt Investments LLC
SMT Investors Limited Partnership
1223 S Clearview Avenue Suite 103
Mesa, AZ 85209

Dear Parties:

I am submitting this letter in grave concern regarding the steady degradation of my personal domestic well's static water level since you began irrigation on your property in the spring of 2010. As senior water rights holder (No. 61-11833) to your water right (No. 61-12112), I request your investment company cease pumping operations to stop my well water level degradation.[i]

I identified this injury of my domestic well to the Idaho Department of Water Resources and cc'd to you in a letter dated April 4, 2012. It referenced your production wells and property located at 9975 W. Martha Ave., Mountain Home, ID.

In addition, the letter sent to you by the Idaho Department of Water Resources dated May 14, 2012, established directives and identified that your irrigated land and wells are located in the Cinder Cone Critical Ground Water Area.

Since 1975, my domestic water levels have been routinely monitored and documented by state and federal agencies. In 2010, the Idaho Department of Water Resources noted the degradation of the static water levels and has subsequently increased its measurement frequencies. Consequently, there is ample official documentation of historic water levels and subsequent adverse impact of your irrigation water consumption.[ii]

The historical data of static water levels for my domestic well, documented by US Geology Survey (USGS) and the Idaho Department of Water Resources (IDWR) shows the following summary of static water level loss:

- September 30, 1976, through July 28, 2005 (**28 years 10 months**)
  - Total loss was **1 foot**.
- September 14, 2010, through October 25, 2012 (**2 years 1 month**)
  - Total loss was **11.8 feet**



Data retrieved from the Western Regional Climate Center[iii] for Mountain Home and the National Oceanic and Atmospheric Administration for Southwest Idaho show average to above average precipitation for these areas over the last three years. As such, it would be assumed that the ground water recharge rates would also be average to above average for the last three years.[iv]

Given the historical static water level degradation, annual precipitation, recharge rates and your irrigation consumption, I extrapolate that my well's static water level will drop below my well pump intake during the beginning of the next irrigation season, thus rendering my home inhabitable.

I request your corporation stop the extraction of this critical water resource to avoid economic hardship upon my family. As senior water right holder for my area, I respectfully request a response no later than March 1, 2013, to determine what course of action will be taken.

Sincerely,

James C. Scheff

James C. Scheff
10435 W. Martha Ave.
Mountain Home, ID 83647
208-869-5996

Cc: Idaho Department of Water Resources
Western Regional Office
Attn: John Westra, Manager
2735 Airport Way
Boise, ID 83705-5082

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[i] Idaho Department of Water Resources, Water Right Report, http://www.idwr.idaho.gov/apps/ExtSearch/SearchWRAJ.asp

[ii] USGS Groundwater of Idaho, Ground Water Levels, http://waterdata.usgs.gov/nwis/uv/?referred_module=gw

[iii] Western Regional Climate Center, http://www.wrcc.dri.edu/

[iv] National Oceanic and Atmospheric Administration, http://water.weather.gov/precip/

Michael P. Lawrence [ISB No. 7288]
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601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
Fax: (208) 388-1300
www.givenspursley.com
Attorneys for James C. and Trudie G. Scheff

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE PETITION FOR DELIVERY CALL BY JAMES C. AND TRUDIE G. SCHEFF	**FIRST AFFIDAVIT OF ROBERT KURTIS W. NEWBRY**

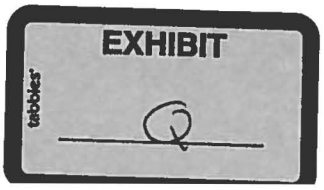
State of Idaho)
) ss.
County of Ada)

Robert Kurtis W. Newbry, being first duly sworn upon oath and upon his personal knowledge, deposes and states:

1. I am a hydrogeologist at Hydro Logic, Inc. ("HLI") of Boise, Idaho. I have a BS in Geology with an emphasis in hydrogeology and have worked as a hydrogeologist at HLI for the past six years. HLI has been retained by James C. and Trudie G. Scheff (the "Scheffs") to conduct hydrogeological investigations pertaining to the Scheffs' water supply.

2. All documents attached as exhibits to this affidavit are true and correct copies.

3. On March 20, 2013, I hand-measured the ground water level in the Scheffs' domestic well (the "Scheff Well") located on their property at 10435 W. Martha Ave., Mountain Home, ID 83647. On that date, at 1:13 p.m., I measured the ground water level in the Scheff



Well at 359.38 feet below ground level ("bgl") and 360.88 feet below the top of the well casing ("btoc") using a chalked steel measure tape. On that date at 3:19 p.m., I installed a digital pressure-transducer data-logger in the Scheff Well at 368.7 feet btoc.

4. I observed SMT was irrigating with the hand lines while I was there.

5. On April 8, 2013, I visited the Scheff Well again and retrieved the data from the instrument that I had installed in the Scheff Well ("April 8 Data"). The uncorrected, raw April 8 Data, presented in electronic format is available upon request. On April 8, 2013 I also took the picture attached as Figure 1 that shows the perspective locations of the Scheff Domestic Well relative to the SMT North Irrigation Well.

6. On April 8, 2013 at 12:37 p.m., I measured the water level in the Scheff Well at 359.82 feet bgl and 361.32 feet btoc using the same steel measure tape ("April 8 Water Level Measurement").

7. On April 9, 2013, I collected barometric pressure data from the Meso West (University of Utah Dept. of Atmospheric Sciences) web site for the MKU76 weather station located near Mountain Home, ID. I used this barometric pressure data and my hand measurements to change the instrument data from total pressure (water and barometric) above the instrument to water above the instrument and then to water level below the top of the well casing. I also removed the effect the barometric pressure has on the measured water levels using a barometric efficiency correction. I provided the raw and corrected instrument data and hand-measured water level data to Ed Squires, as described in his affidavit dated the same day as this affidavit, and worked with him to plot hydrographs of the data.

DATED this 16th day of April, 2013.

Robert Kurtis W. Newbry

Subscribed and sworn to before me this 16th day of April, 2013.



Notary Public for Idaho
Residing at Boise
My Commission expires 7-12-18

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17TH day of April, 2013, the above and foregoing was served as follows:

ORIGINAL FILED

Idaho Department of Water Resources	_____ U. S. Mail
322 East Front Street	__x___ Hand Delivered
P.O. Box 83720	_____ Overnight Mail
Boise, ID 83720-0098	_____ Facsimile
	_____ E-mail

SERVICE

Candice McHugh	_____ U. S. Mail
Racine Olson Nye Budge & Bailey, Chtd.	__x__ Hand Delivered
U.S. Bank Plaza	_____ Overnight Mail
101 South Capitol Blvd., Suite 300	_____ Facsimile
Boise ID 83702	_____ E-mail
Cardon Hiatt Investments, L.L.C.	___x__ U. S. Mail
SMT Investors Limited Partnership	_____ Hand Delivered
Viel Gluck Limited Partnership	_____ Overnight Mail
Ben Fatto Limited Partnership	_____ Facsimile
Far Marel, L.L.C.	_____ E-mail
1223 S. Clearview Ave, Ste. 103	
Mesa, AZ 85209	

Michael P. Lawrence

Hydro Logic, Inc
Boise, ID

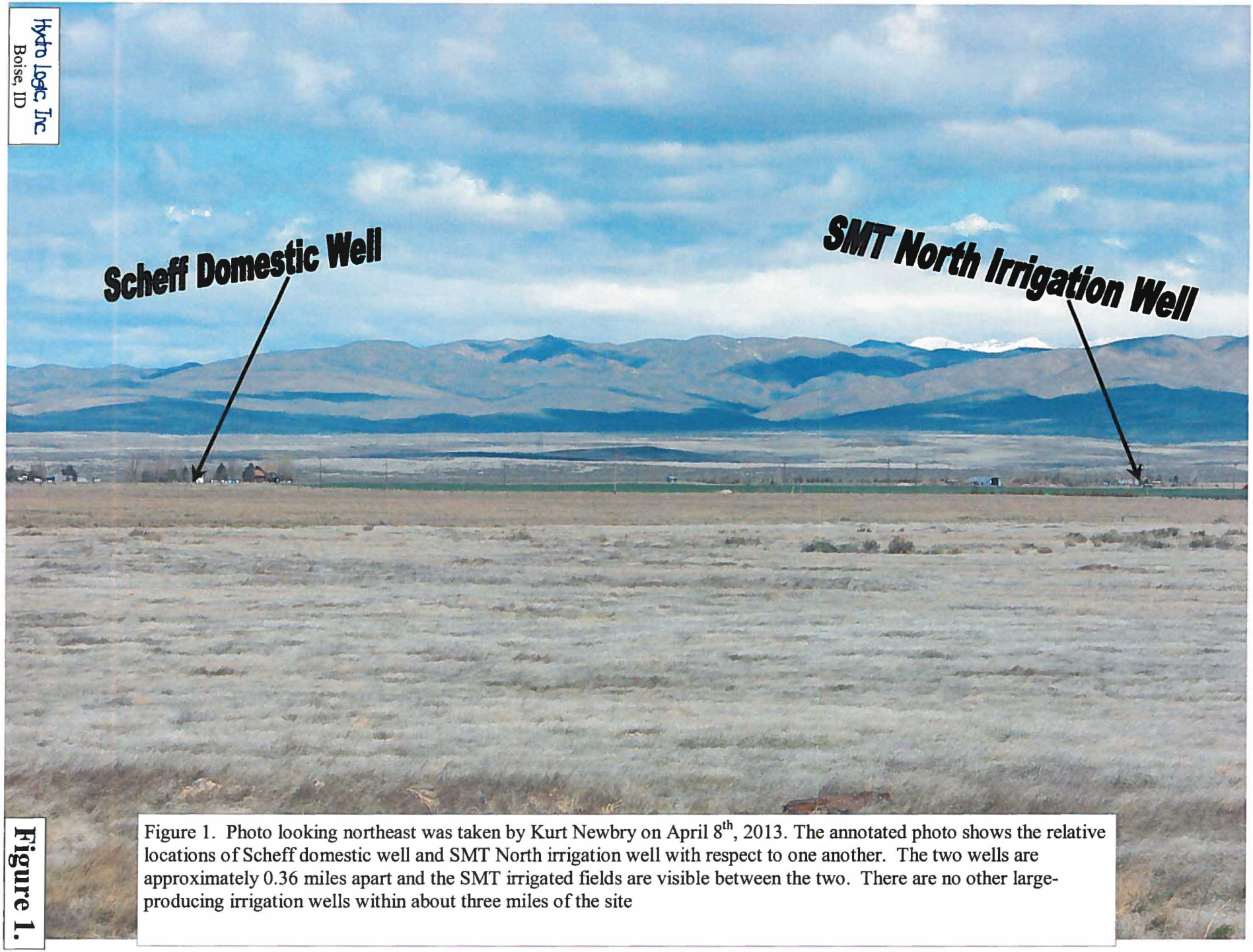


Figure 1. Photo looking northeast was taken by Kurt Newbry on April 8th, 2013. The annotated photo shows the relative locations of Scheff domestic well and SMT North irrigation well with respect to one another. The two wells are approximately 0.36 miles apart and the SMT irrigated fields are visible between the two. There are no other large-producing irrigation wells within about three miles of the site

Figure 1.