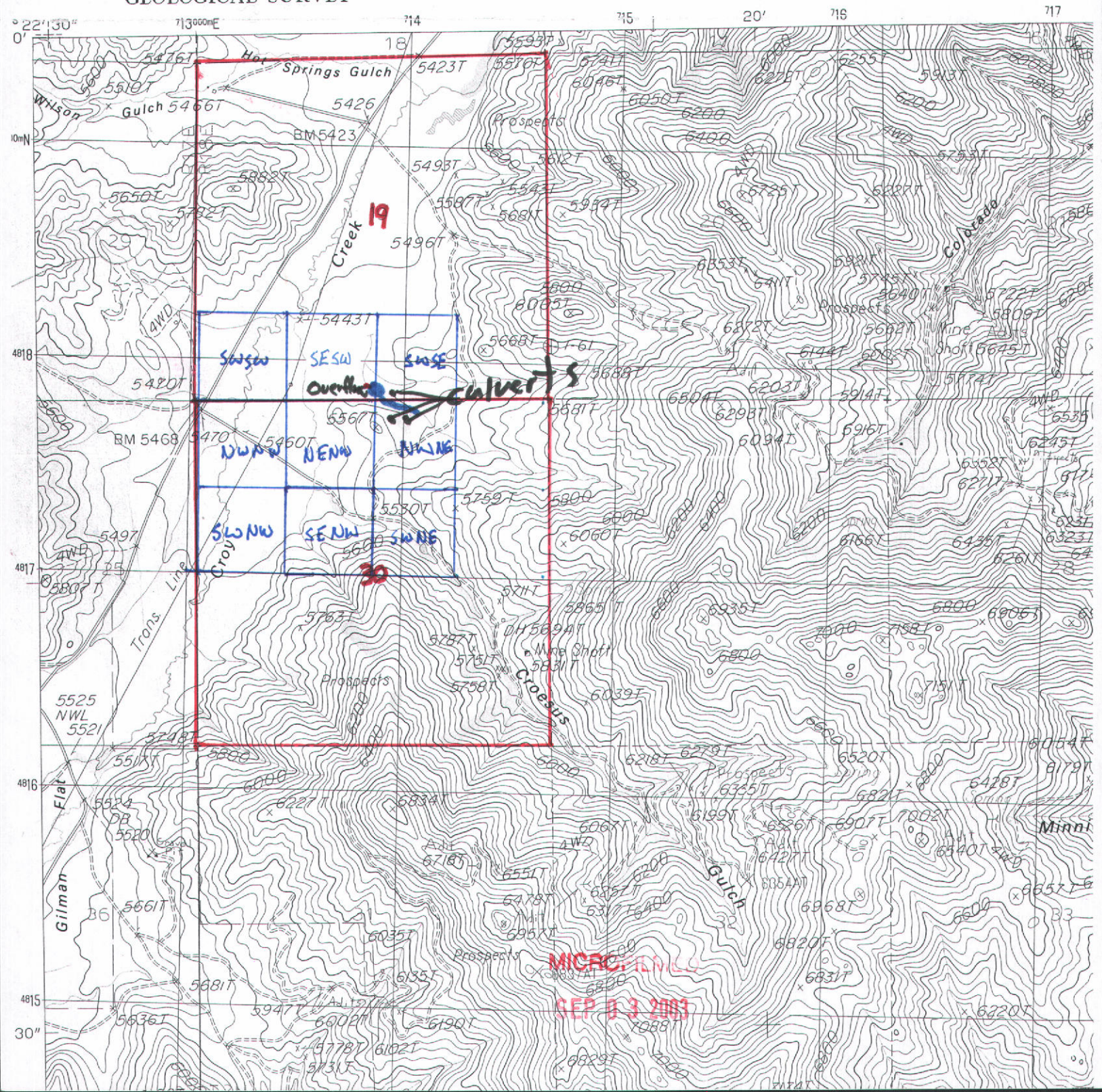


T2N, R18E



Application for permit 37-20930
Township 02N, Range 18E

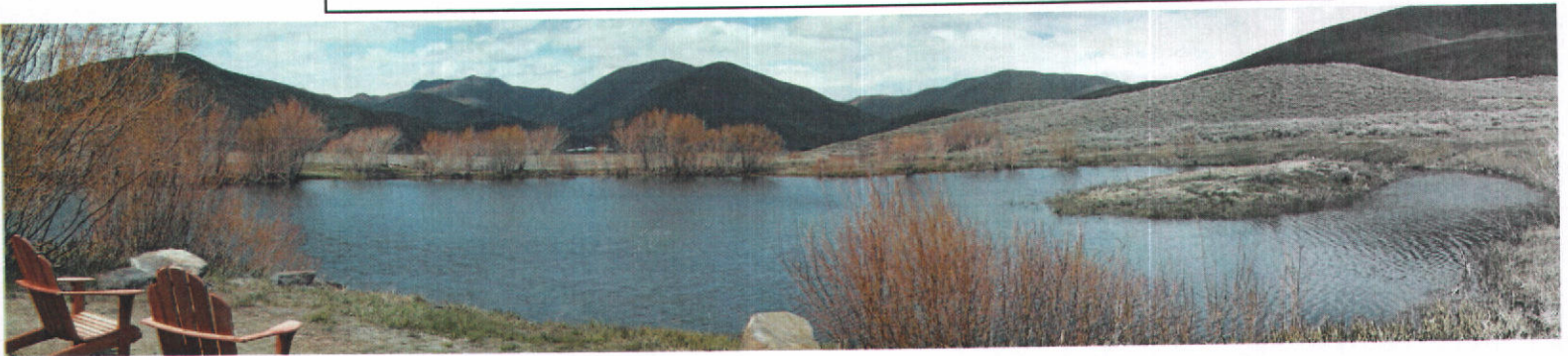


- Section lines
- Quarter Quarter lines

MICROFILMED
SEP 03 2003



Pre-exam for 37-20930 – Mark and Patricia Nickum
T02N, R18E
Done on 4-30-03 by John Freitag, accompanied by Patricia Nickum



View of pond looking northeasterly.
Located in parts of the SESW and SWSE of S19
Pond size is about $\frac{3}{4}$ of an acre



Stream to pond



Point where the stream enters the pond
SWSE of S19



Diversion 1
SWSWSE S19



Diversion 2
NWNWNE S30



Diversion 3
NWNWNE



Pond outlet, SESW of S19

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SEP 03 2003

37-20930

RECEIVED

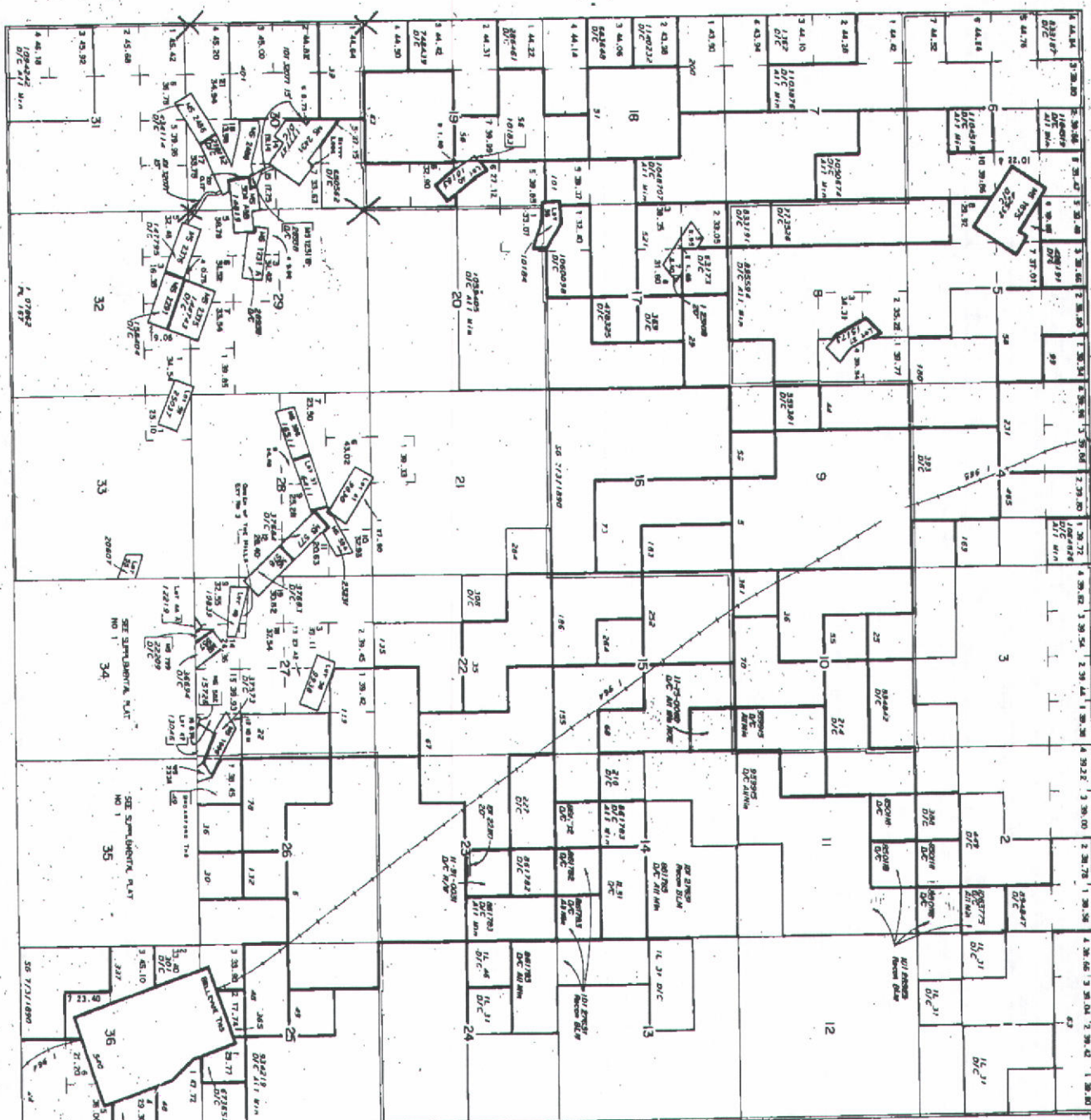
JUN 12 2003

Department of Water Resources
Southern Region

TOWNSHIP 2 NORTH RANGE 18 EAST OF THE BOISE MERIDIAN, IDAHO

BLAINE COUNTY 013

SPOKANE DISTRICT SEC 3



3 N-19 E

2 N-19 E

MT PLAT

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES
AND ACQUIRED LANDS

INDEX TO SEGREGATED TRACTS

TRACT NO.	SEC.	ORIGINAL SURVEY	ACQUISITION
1	18	18	18
2	18	18	18
3	18	18	18
4	18	18	18
5	18	18	18
6	18	18	18
7	18	18	18
8	18	18	18
9	18	18	18
10	18	18	18
11	18	18	18
12	18	18	18
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28	18	18	18
29	18	18	18
30	18	18	18
31	18	18	18
32	18	18	18
33	18	18	18
34	18	18	18
35	18	18	18
36	18	18	18

MICROFILMED
SEP 03 2003

Acq 10/20/1936 WD to USFS

Sec 3: 1/10 20 to 24 incl. Bld 23

City of Hovley

Rd 100

1 07862 04 Pl 167 (act of Cong 7/23/1935)

including 6/22/1960, All PO and face Agent by BLM

1 07862 0-1 Sec 31 St. McCoy

1 4119 Exam 10 US (Law for SD)

Sec 4: 1/10 Bld 8

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Sec 4: 1/10 Bld 8

1 07862 04 Pl 167 (act of Cong 7/23/1935)

including 6/22/1960, All PO and face Agent by BLM

1 07862 0-1 Sec 31 St. McCoy

THE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST
REVISION THEREIN BUT MAY NOT BE THE EFFECTIVE DATE. SEE
THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITH-

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT - 1 2003

Department of Water Resources

PROOF OF BENEFICIAL USE

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

1. Permit No. 37-20930 Telephone No. (208) 788-3851
2. Name of Permit Holder(s): Mark T. Nickum & Patricia A. Nickum
3. Mailing Address: P.O. Box 1565
City Hailey State ID Zip 83333
4. Source of Water: unnamed spring & stream ☒ GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____
Well Driller: _____ Drilling Permit Number: _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): _____ Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other (recreation, wildlife, aesthetic storage) diversion to storage
6. Total rate of diversion and/or volume for which proof is submitted: 1.5 cfs ~~or~~ 5.3 acre-feet
and
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)
Measuring Device: Is a measuring device required? Yes _____ or No X
Has the measuring device been installed? Yes _____ or No X
8. Fee Enclosed: \$ 125.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
Name: Patsy Nickum Telephone Number: (208) 788-3851
Address: P.O. Box 1565 Hailey, ID 83333
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: Patricia A. Nickum
(include your title, if on behalf of company or organization)

Date: 9/23/03

RECEIVED

SEP 25 2003

Department of Water Resources
Southern Region

MICROFILMED

JAN 15 2004

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 37-20930

Priority: April 30, 2003

Maximum Diversion Rate: 1.50 CFS
Maximum Diversion Volume: 5.3 AF

This is to certify, that MARK T NICKUM And/Or PATRICIA A NICKUM
PO BOX 1565
HAILEY ID 83333

have applied for a permit to appropriate water from:

Source: SPRING **Tributary:** SINKS
 UNNAMED STREAM SINKS

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DIVERSION TO STORAGE	01/01 to 12/31	1.50 CFS	
RECREATION STORAGE	01/01 to 12/31		5.3 AF
WILDLIFE STORAGE	01/01 to 12/31		5.3 AF
AESTHETIC STORAGE	01/01 to 12/31		5.3 AF

LOCATION OF POINTS OF DIVERSION:

SPRING	SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	Sec. 19, Twp 02N, Rge 18E, B.M., BLAINE County
UNNAMED STREAM	SE $\frac{1}{4}$ SW $\frac{1}{4}$	Sec. 19, Twp 02N, Rge 18E, B.M., BLAINE County
SPRING	L5 (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$)	Sec. 30, Twp 02N, Rge 18E, B.M., BLAINE County
SPRING	L5 (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$)	Sec. 30, Twp 02N, Rge 18E, B.M., BLAINE County
SPRING	SW $\frac{1}{4}$ SE $\frac{1}{4}$	Sec. 19, Twp 02N, Rge 18E, B.M., BLAINE County (Injection)
SPRING	L5 (NW $\frac{1}{4}$ NE $\frac{1}{4}$)	Sec. 30, Twp 02N, Rge 18E, B.M., BLAINE County (Injection)
SPRING	L5 (NW $\frac{1}{4}$ NE $\frac{1}{4}$)	Sec. 30, Twp 02N, Rge 18E, B.M., BLAINE County (Injection)
SPRING	SE $\frac{1}{4}$ SW $\frac{1}{4}$	Sec. 19, Twp 02N, Rge 18E, B.M., BLAINE County (Rediversion)

PLACE OF USE: RECREATION STORAGE, WILDLIFE STORAGE, AESTHETIC STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02N 18E 19												X				X	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2003**.
2. Subject to all prior water rights.
3. Recreation storage use is for fishing and swimming.
4. Water diverted under this right is injected into the unnamed stream and is rediverted from the stream into a pond.
5. Wildlife, Recreation and Aesthetic uses are associated with an existing 5.3 acre foot pond.

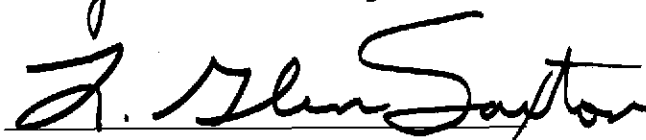
MICROFILMED

SEP 03 2003

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 37-20930

6. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
7. Although the source of water is not currently regulated by a watermaster, use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
8. Use of water under this right shall be non-consumptive. At such time in the future as the Director determines necessary to protect the prior rights of other users, the Director may require determination of the rate of loss within the system using a procedure approved by the Director, and may require mitigation for all system losses.
9. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 13th day of August, 2003.


for
KARL J DREHER, Director

MICROFILMED

SEP 03 2003

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JUL 24 2003

Department of Water Resources

Ident. No. 37-20930

Page 1

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

1. Name: PATRICIA A NICKUM
PO BOX 1565
HAILEY ID 83333
(208)788-3851

AND/OR

MARK T NICKUM
PO BOX 1565
HAILEY ID 83333
(208)788-3851

2. Source: SPRING Tributary to: SINKS
UNNAMED STREAM Tributary to: SINKS

3. Location of Point of Diversion:

#1 SPRING	SW1/4SW1/4SE1/4	Sec. 19, Twp 02N, Rge 18E, B.M.
BLAINE County		
#2 SPRING	645 NW1/4NW1/4NE1/4	Sec. 30, Twp 02N, Rge 18E, B.M.
BLAINE County		
#3 SPRING	645 NW1/4NW1/4NE1/4	Sec. 30, Twp 02N, Rge 18E, B.M.
BLAINE County		
#4 SPRING	SW1/4SE1/4	Sec. 19, Twp 02N, Rge 18E, B.M.
BLAINE County	(Injection)	
#5 SPRING	645 NW1/4NE1/4	Sec. 30, Twp 02N, Rge 18E, B.M.
BLAINE County	(Injection)	
#6 SPRING	645 NW1/4NE1/4	Sec. 30, Twp 02N, Rge 18E, B.M.
BLAINE County	(Injection)	
#7 SPRING	SE1/4SW1/4	Sec. 19, Twp 02N, Rge 18E, B.M.
BLAINE County	(Rediversion)	
#8 UNNAMED STREAM	SE1/4SW1/4	Sec. 19, Twp 02N, Rge 18E, B.M.
BLAINE County		

MICROFILMED
SEP 03 2003

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

4. Water will be used for the following purposes:

<u>Purpose</u>	<u>From</u>	<u>To</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
AESTHETIC	01/01	to 12/31	1.50 CFS	
WILDLIFE	01/01	to 12/31	1.50 CFS	
RECREATION	01/01	to 12/31	1.50 CFS	
RECREATION STORAGE	01/01	to 12/31		5.3 AF
WILDLIFE STORAGE	01/01	to 12/31		5.3 AF
AESTHETIC STORAGE	01/01	to 12/31		5.3 AF

5. Total quantity to be appropriated is: 1.50 CFS 5.3 AF

6. Proposed diverting works:

POINT OF DIVERSION #1

a. Type and size of devices used to divert water from the source: 3 FOOT DIA. CULVERT SET AT 5 FEET DEEP WITH BURIED PIPE TO STREAM.

POINT OF DIVERSION #2

a. Type and size of devices used to divert water from the source: 3 FOOT DIA. CULVERT SET AT 5 FEET DEEP WITH BURIED PIPE TO STREAM.

POINT OF DIVERSION #3

a. Type and size of devices used to divert water from the source: 3 FOOT DIA. CULVERT SET AT 5 FEET DEEP WITH BURIED PIPE TO STREAM.

POINT OF DIVERSION #4

a. Point of injection in stream.

POINT OF DIVERSION #5

a. Point of injection in stream.

POINT OF DIVERSION #6

a. Point of injection in stream.

POINT OF DIVERSION #7

a. Re-diversion for springs – pond overflow

POINT OF DIVERSION #8

a. Point of diversion for unnamed stream – Pond overflow

MICROFILMED

SEP 03 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 year(s).

8.

PLACE OF USE: AESTHETIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	19												X				X	

PLACE OF USE: WILDLIFE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	19												X				X	

PLACE OF USE: RECREATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	19												X				X	

PLACE OF USE: RECREATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	19												X				X	

PLACE OF USE: WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	19												X				X	

PLACE OF USE: AESTHETIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	19												X				X	

MICROFILMED

SEP 03 2003

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

9a. Who owns the property at the point of diversion? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

9b. Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

10. Remarks:

Pond was developed in September of 1987. Affidavit included confirming pre-adjudication development. Pond is approximately 32,670 square feet in surface area with a maximum storage volume of approximately 5.3 acre feet.

11. Map of proposed point of diversion and place of use attached? [Y]

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SEP 03 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

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



Applicant

Received by J. F. Date 4-30-03 Time 3:00 Preliminary check by J. F.
Publication prepared by MB Date 5/29/03 Published in Wood River Journal
Publication approved MB Date 6/17/03

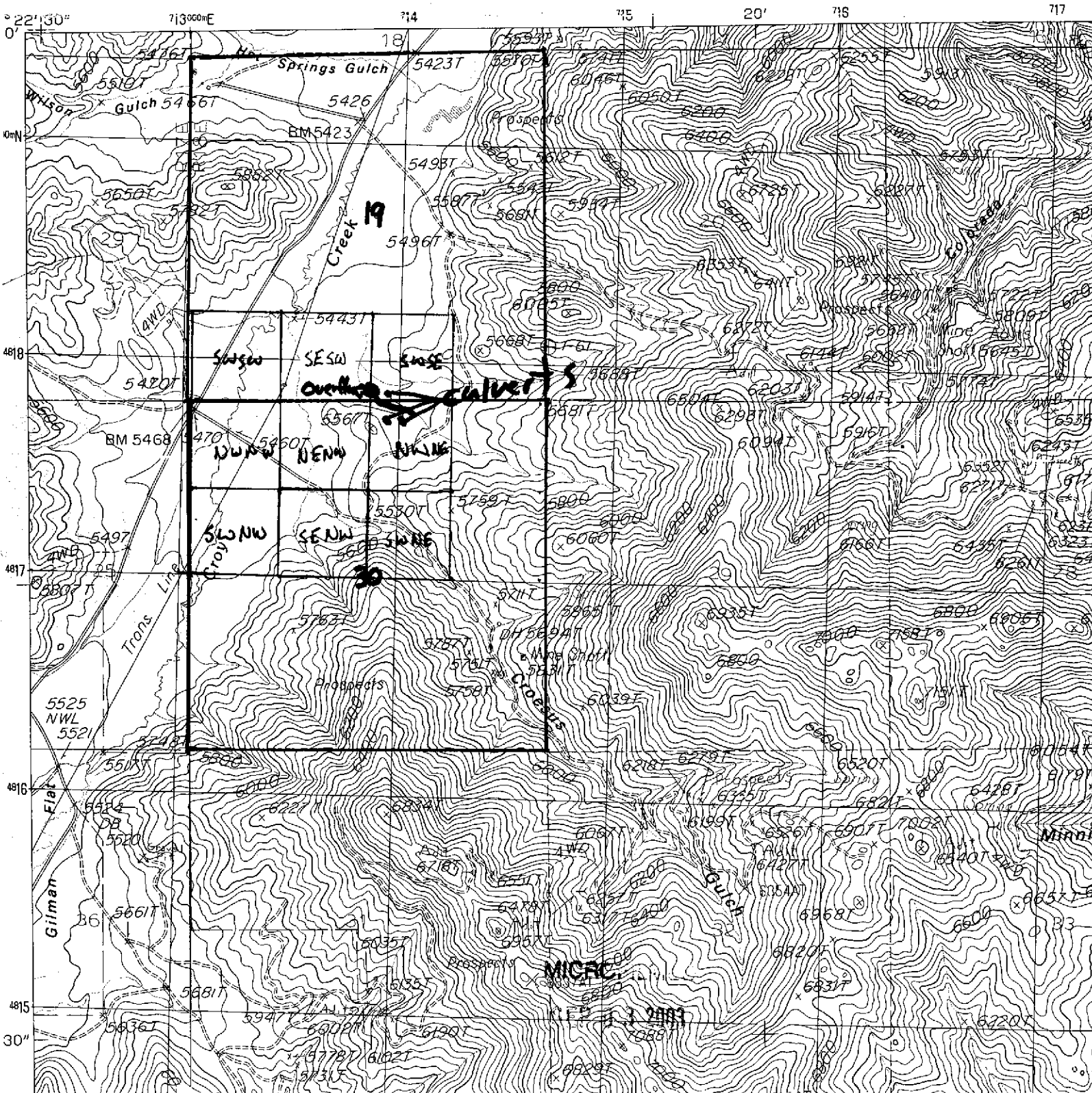
Receipt No. 5025803Date: 4-2-03Receipted by: J. F.

MICROFILMED

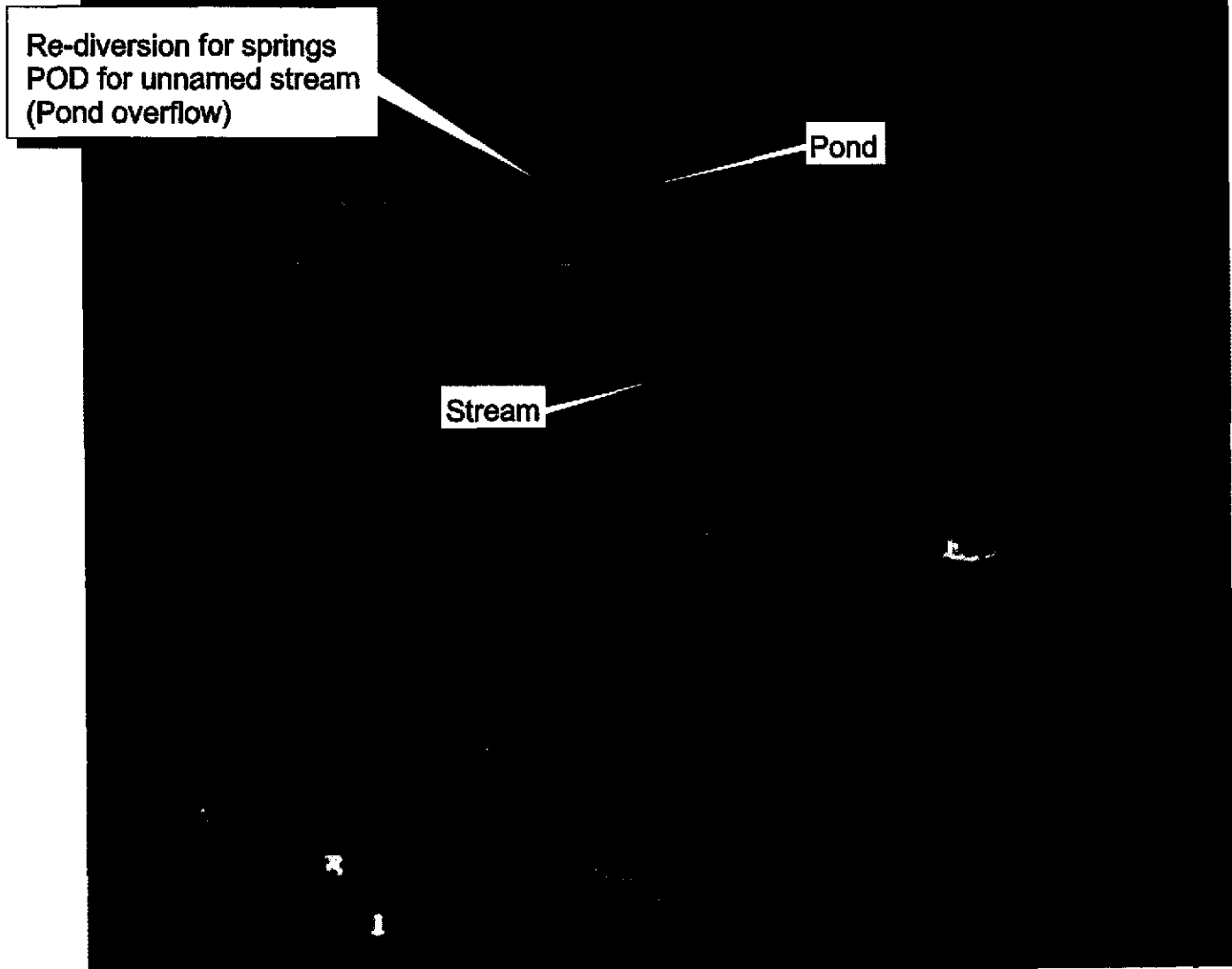
SEP 03 2003

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

T2N, R18E



Application for permit 37-20930
Township 02N, Range 18E



Section lines



Quarter Quarter lines

MICROFILMED

SEP 03 2003



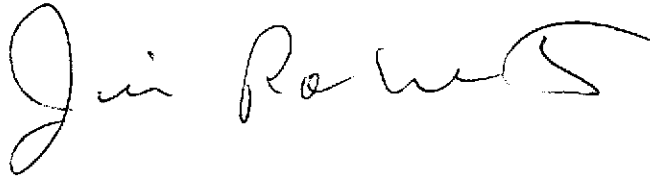
Jfreitag 5-16-03

April 29, 2003

To whom it may concern,

To the best of my recollection, the pond at 41 Croesus Creek Road, Township 2N, Range 18E, Section 17 was dug in September of 1987. It was dug approximately 14 feet deep, 150 feet wide by 150 feet long.

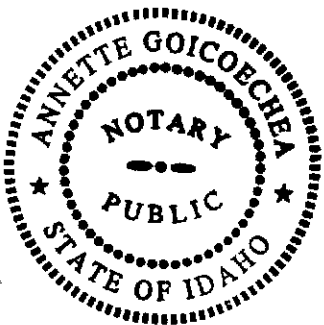
Jim Robertson
Excavator
P.O. Box 803
Hailey, Idaho 83333
(208)788-4964



STATE OF IDAHO)
)ss.
County of Blaine)

On this 29th day of APRIL, 2003, before me, a Notary Public in and for said State, personally appeared Jim Robertson, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that they executed the same.

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




NOTARY PUBLIC in and for
The State of Idaho,
residing at Bellevue, Idaho
Commission expires 10-08-05

MICROFILMED

SEP 03 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 19, 2004

MARK T NICKUM
PO BOX 1565
HAILEY, ID 83333

Re: Order Requiring Watermaster Regulation Headgate, and Measuring Devices

Dear Mr. Nickum,

In discussions with John Freitag of Idaho Department of Water Resources (IDWR) in Twin Falls, it is apparent that the source of your diversion for permit 37-20930 emanates and terminates on your property, and historically has never reached Croy Creek or any tributary. Because of this situation, IDWR will not require your compliance with the preliminary Order dated November 16, 2004, requiring installation of headgates and measuring devices, and payment of assessments to the water district.

Please note that conditions 6 and 7 on water permit 37-20930 still remain valid. These conditions require, at IDWR's discretion, installation of a measuring device and watermaster regulation.

Please call me at the above number if you have any further questions.

Respectfully

Steve Burrell

Water Distribution Section Engineer

c: Kevin Lakey, Water District 37 watermaster
John Freitag, IDWR Twin Falls
Permit 37-20930 file

OGFY



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 8, 2004

MARK T NICKUM
PATRICIA A NICKUM
PO BOX 1565
HAILEY ID 83333

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-20930

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office, or at the department's website at: www.idwr.state.id.us.

If you have questions, please contact the **Southern** Regional Office of the department in Twin Falls (208) 736-3033.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office (w/encl.)

RECEIVED
JAN 14 2004
TWIN FALLS

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 37-20930

Reviewed By: dgibson

Date: January 7, 2004

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?	X		Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:		SO26151	Well driller's report filed?		
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?	X		Measuring device installed?		
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received		09/30/2003
Date proof due	-	12/01/2003
Lapse notice sent	-	
No. of days late	=	0
Holiday allowance	+	
Priority date	+	04/30/2003
New priority date	=	04/30/2003

Deficiencies of Actions Items

Acknowledge proof.

September 30, 2003

MARK T NICKUM
PATRICIA A NICKUM
PO BOX 1565
HAILEY, ID 83333

PROOF DUE NOTICE

RE: PERMIT NO. 37-20930

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before December 01, 2003. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

Sincerely,

Deborah J. Gibson, Administrative Assistant
Water Allocation Bureau
Enclosures

7000 1670 0011
3314 2031



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 14, 2003

MARK T NICKUM
PATRICIA A NICKUM
PO BOX 1565
HAILEY ID 83333

RE: Permit No. 37-20930

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed a least sixty days prior to the commencement of work in the stream.

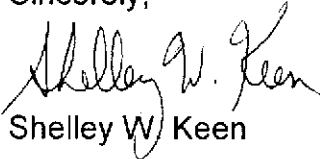
Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's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

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SEP 11 2003

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

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W Keen

Water Rights Supervisor

SWK:kit

Enclosure(s)

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SEP 24 2007

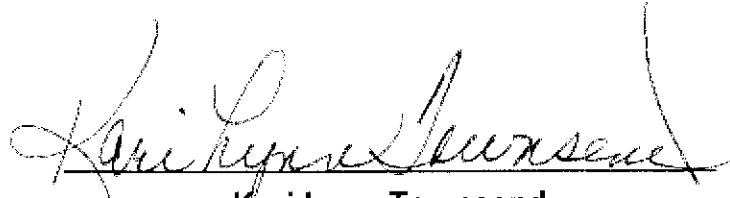
CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

37-20930

MARK T NICKUM
PATRICIA A NICKUM
PO BOX 1565
HAILEY ID 83333

A handwritten signature in cursive script, reading "Kari Lynn Townsend", written over a horizontal line.

Kari Lynn Townsend
Secretary

MICROFILMED

SEP 3 3 2004

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Comment Report

37-20930

1. jfreitag 5/20/2003 11:01:43 AM Special Administration Area Notes

Comment: Special Administration Areas : Eastern Snake River Plain Area
(Moratorium Area)

Exempt: Y

Reason:

Doc Attached:

Explanation:

Special Administration Areas : Big Wood River (Groundwater Management Area)

Exempt: Y

Reason:

Doc Attached:

Explanation:

2. jfreitag 5/20/2003 Legal Notice Remarks

Comment: Application is based on pre-adjudication developement for a pond 3/4 acre in surface area, with springs and an unnamed stream as the source of water. The springs and unnamed stream sink on the applicants property.

Location is 2.5 miles south and 2 miles west of Hailey, Idaho.

3. jfreitag 5/20/2003 Comment/Analysis

Comment: System consists of three culverts about three feet dia. burried to a depth of approx. 5 feet. The culverts intercept spring water, which is then piped via six inch PVC pipe to an unnamed stream. The stream channel is approx. 2 ft. wide and 1 ft. deep max. The stream then flows to the pond which is approx. 3/4 acre in surface area. There is an overflow structure at the west end of the pond. A pipe runs from the overflow out to the center of the pond.

There is an affidavit from the excavator who dug the pond indicating it was installed in September of 1987.

4. ameritt 7/14/2003 recommendation

Comment: The application lists flows rates for Aesthetic, Wildlife and Recreation but analysis finds that the flows are truely diversion of the springs directed to the storage pond where the use occurs. Otherwise the application would be viewed as an instream flow which cannot be filed by an individual. The application has been processed without protest. The source is unregulated by any watermaster but is in the general basin which could potentially be administered by the watermaster of WD 37. The approval is recommended without flows direct flows for Aesthetic, Wildlife and Recreation but only storage amounts in the pond for these uses.

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Recreation but only storage amounts in the pond for these uses.

Recommend approval with drafted conditions.

5. amerritt 7/14/2003 review by administration

Comment: Since the requested used involve uses that have no meaningful criteria for evaluation they may need to be looked at by the administration to add conditions of subordination.

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SEP 6 3 2003

APPLICANT:

FILE PROGRESS SUMMARY
Patricia & Marshall Nickerson WATER RIGHT NO. 37-20930

[illegible]

FORM NO.202A
REVISED 4/8/03

APPLICATION NO. 37-20930

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY John Freeston

DATE 5-20-03

REQUIRED INFORMATION

☒ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.

☒ Address

☒ Source (see USGS quad for names of water sources)

☒ Point of diversion (10 Acres for spring, lot & block descriptions for subdivisions, local name, flow &/or volume.

☒ County

☒ Quantity (flow &/or volume)

☒ Period of use

☒ Nature of proposed use (include description of use)

☒ Description of diverting works.

☒ Time required for beneficial use of water.

☒ Place of use or acres irrigated.

☒ Map

☒ Signature (If applicant is corp., partnership, or municipality, title of signator is required)

☒ Fee

☒ Yes ☐ No* In form to receipt

++++PROPOSED PRIORITY DATE 4-30 15 2003

ADDITIONAL INFORMATION

☐ Overlapping place of use(Describe source & relationship to present application on the back.

☐ Overlapping point of diversion.

☒ Yes ☐ No Field check required

Field check by John Freeston

Date 4-30-03

☒ Yes ☐ No Field report attached

☒ Yes ☐ No Critical Ground water area

☒ Yes ☐ No Groundwater management area

☒ Yes ☐ No Send Dam safety Information

☒ Yes ☐ No Send power requirement letter

☒ Yes ☐ No Send fish farm requirement letter

☒ Yes ☐ No Power residency affidavit.

☒ Yes ☐ No Power efficiency form

☒ Yes ☐ No Within trustwater boundary

☒ Yes ☐ No Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.)

Comment Letters:

	Date Requested	Date Received
Watermaster: District _____	_____	_____
Fish & Game _____	_____	_____
Canal Company _____	_____	_____
Stream Channel _____	_____	_____
City _____	_____	_____
DEQ _____	_____	_____
County _____	_____	_____
Department of Ag _____	_____	_____
Other _____	_____	_____

* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

Date Requested _____, 20____

FINAL REGIONAL PROCESSING REVIEW

Date of priority recommended 4/30, 1920 03

By [Signature] Title Southern Region Date 7/14, 2003
MANAGER

ADDITIONAL INFORMATION:

STATE OFFICE REVIEW

Date [Signature] 2003

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Blaine } SS.

RECEIVED

JUN 17 2003

Department of Water Resources

On this 11 day of June, in the year 2003, before me a Notary Public of said State, personally appeared _____, known or identified to me to be the person whose name is subscribed to be the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same. As the publisher of the Wood River Journal, he/she attests that said newspaper has been continuously and and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 4 day of June, 2003, and the date of the last publication was on the 11 day of June, 2003

Mark T. Nickum
Subscribed and sworn to before me this 11 day of June, 2003.
(SEAL)
Christina A. Garceau
NOTARY PUBLIC
STATE OF IDAHO
NOTARY PUBLIC

#11970
WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 6.5
Number of Insertions 2
____ Lines tabular at _____ 7¢ / Pica
6.5 Lines straight at 1.43 6¢ / Pica
____ Subsequent lines at _____ 5¢ / Pica
TOTAL COST 97.95

COPY OF NOTICE (Paste Here)

Water right

TITLE OF NOTICE

Application
PLAINTIFF ATTORNEY

DEFENDANT

Idaho Dept.
9790

Water right application

The following application has been filed to appropriate the public waters of the State of Idaho, within Blaine County: 37-20930

MARK T. &/or PATRICIA A. NICKUM
PO BOX 1565
HAILEY ID 83333

Source: SPRING, T02N, R18E
Point(s) of Diversion: SWSWSE, S19; (2 points within NWNWNE, S30)
Point(s) of Diversion: SWSE, S19; (2 points within NWNWNE, S30)-Injection
Point(s) of Diversion: SESW, S19-Rediversion
Point(s) of Diversion: SESW, S19, T02N, R18E with Source of UNNAMED STREAM Tributary to SINKS
Use: 01/01 to 12/31
WILDLIFE, RECREATION, AESTHETIC (1.5 CFS)
WILDLIFE STORAGE, RECREATION STORAGE, AESTHETIC STORAGE (5.3 AFA)
Total Diversion: (1.5 CFS) (5.3 AFA)
Date Filed: 04/30/2003
Place of Use: SESW & SWSE, S19, T02N, R18E

Remark: Application is based on pre-adjudication development for a pond 3/4 acre in surface area, with springs and an unnamed stream as the source of water. The springs and unnamed stream sink on the applicants property. Location is 2.5 miles south and 2 miles west of Hailey, Idaho. Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Southern Region, 1341 Fillmore St, Suite 200, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before 06/23/2003. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Publish: Wood River Journal—June 4 & 11, 2003.

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SEP 03 2003

11970

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET-STE# 200
TWIN FALLS ID 83301

Phone: 736-3033

Fax# : 736-3037

May 29, 2003

ATTN: Scott Kraus-LEGALS
WOOD RIVER JOURNAL
PO BOX 988
HAILEY ID 83333

Dear Scott:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues).

If you cannot publish the notice on the proposed dates, please contact us immediately at 736-3033. An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Sincerely



Mary A. Baldwin
Administrative Assistant

MICROFILMED
SEP 8 3 2003

The following application has been filed to appropriate the public waters of the State of Idaho, within Blaine County:

37-20930

MARK T. &/or PATRICIA A. NICKUM
PO BOX 1565
HAILEY ID 83333

Source: SPRING, T02N, R18E
Point(s) of Diversion: SWSWSE, S19; (2 points within NWNWNE, S30)
Point(s) of Diversion: SWSE, S19; (2 points within NWNE, S30)-Injection
Point(s) of Diversion: SESW, S19-Rediversion
Point(s) of Diversion: SESW, S19, T02N, R18E with Source of UNNAMED STREAM
Tributary To SINKS
Use: 01/01 To 12/31
WILDLIFE, RECREATION, AESTHETIC (1.5 CFS)
WILDLIFE STORAGE, RECREATION STORAGE, AESTHETIC STORAGE (5.3 AFA)
Total Diversion: (1.5 CFS) (5.3 AFA)
Date Filed: 04/30/2003
Place Of Use: SESW & SWSE, S19, T02N, R18E

Remark: Application is based on pre-adjudication development for a pond 3/4 acre in surface area, with springs and an unnamed stream as the source of water. The springs and unnamed stream sink on the applicants property. Location is 2.5 miles south and 2 miles west of Hailey, Idaho.

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KARL J. DREHER, Director

Published in the Wood River Journal on 6/4 & 6/11/03

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SEP 03 2003

OK
JF
5/29/03



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

May 29, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

MARK T. &/OR PATRICIA A. NICKUM
PO BOX 1565
HAILEY ID 83333

RE: Application for Permit No. 37-20930

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared for publication in the **Wood River Journal** on 6/4 & 6/11/03. Submittal of protests to the application will be allowed for a period ending ten days after the second publication. (June 23, 2003)

If an application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If an application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight weeks.

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

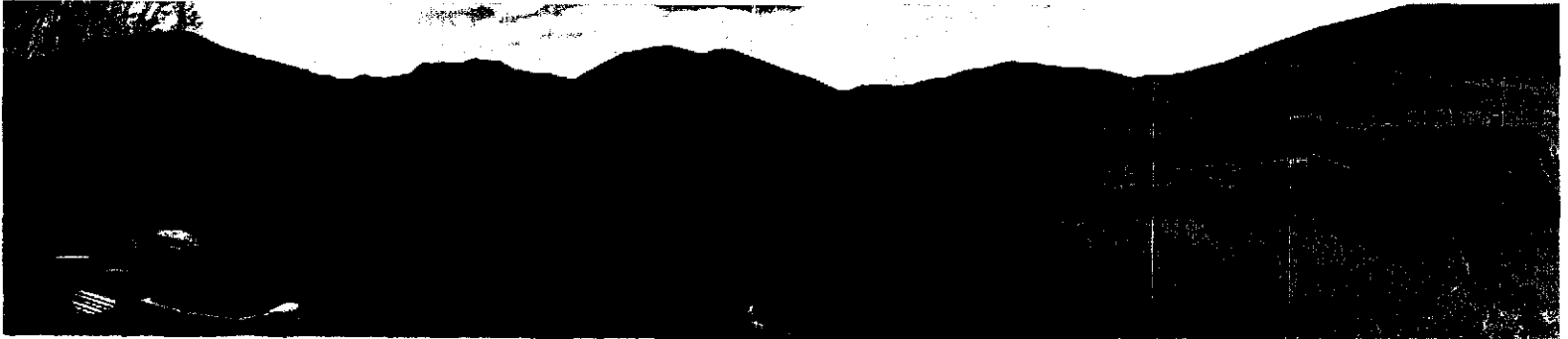
Sincerely,

Mary A. Baldwin
Administrative Assistant I

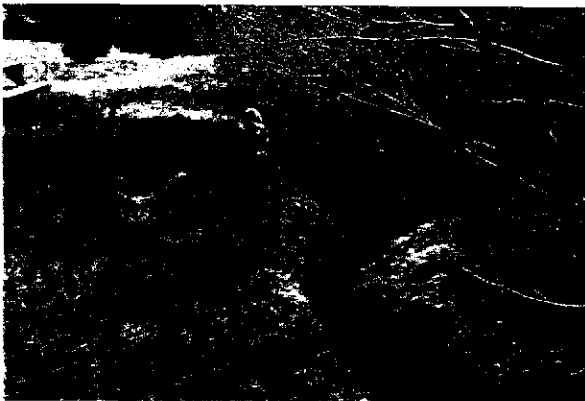
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SEP 8 3 2003

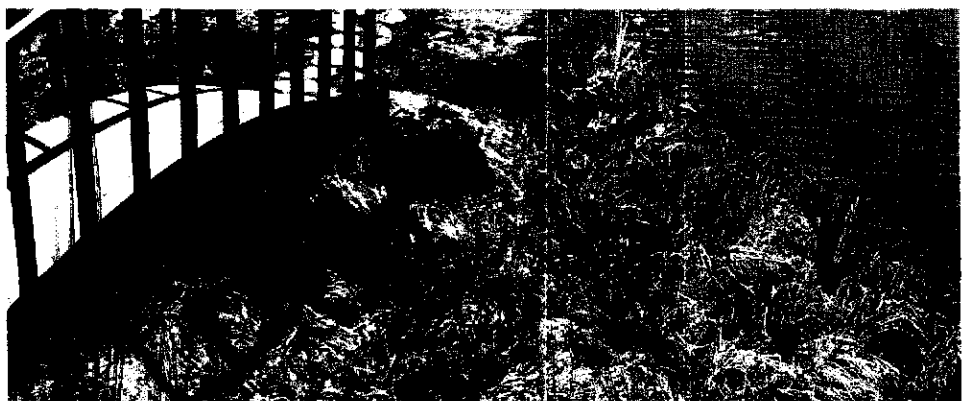
Pre-exam for 37-20930 – Mark and Patricia Nickum
T02N, R18E
Done on 4-30-03 by John Freitag, accompanied by Patricia Nickum



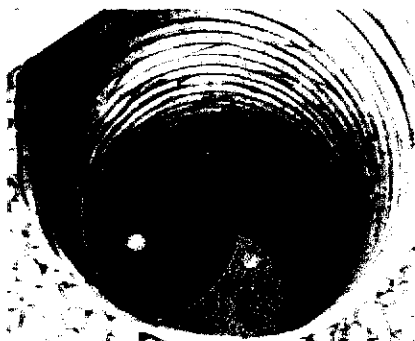
View of pond looking northeasterly.
Located in parts of the SESW and SWSE of S19
Pond size is about $\frac{3}{4}$ of an acre



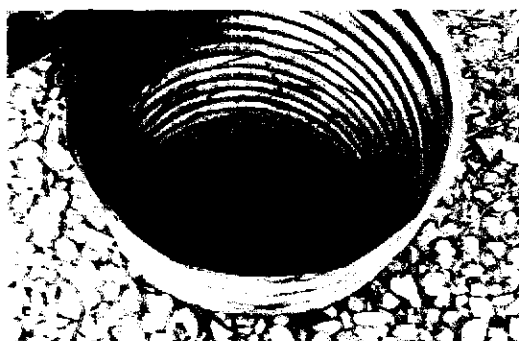
Stream to pond



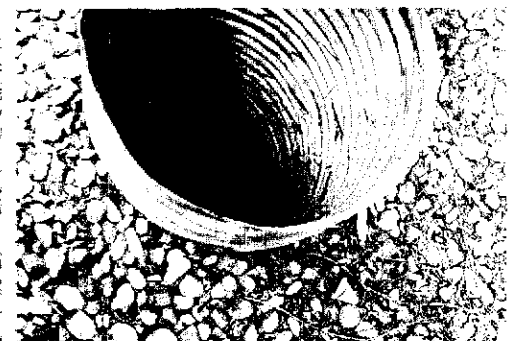
Point where the stream enters the pond
SWSE of S19



Diversion 1
SWSWSE S19



Diversion 2
NWNWNE S30



Diversion 3
NWNWNE



Pond outlet, SESW of S19

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SEP 8 3 2003

37-20930

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JUN 12 2003

FAX

Department of Water Resources
Southern Region

June 11, 2003

To: Mary Baldwin - IDWR - Southern Regional Office - Fax # (208) 736-3037

From: Lin Buck - BLM - Idaho State Office - Fax # (208) 373-3839

Re: Application for Permit No. 37-20930, Patricia A. Nickum and Mark T. Nickum

Hi Mary:

Our office reviewed the above water right application from the IDWR New Water Rights filing report dated June 4, 2003 (copy attached).

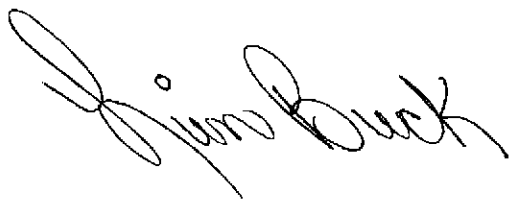
Our MTP (copy attached) shows that some of the PODs as described in the above referred to water right application may be missing a lot number:

T02N R18E S30 NWNE NWNWNE NWNWNE

BLM does not have a problem with this claim; we are just providing this for your information.

Thank you.

Have a nice day!!

Pages 4 (includes cover sheet)

cc: cc: Lisa Jaro - Shoshone FO
FAX # (208) 732-7317



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SEP 03 2003

IDaho DEPARTMENT OF WATER RESOURCES
NEW WATER RIGHT FILINGS

DATE: 06/4/03

Application for Permit No. 37-20930

Name: PATRICIA A NICKUM

MARK T NICKUM

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JUN 12 2003

Department of Water Resources
Bozeman, Montana

Diversion Pt SWSWSE	Sec 19 T 02N R 18E	BLAINE County	Source SPRING
Diversion Pt SESW	Sec 19 T 02N R 18E	BLAINE County	Source UNNAMED STREAM
Diversion Pt SWSE	Sec 19 T 02N R 18E	BLAINE County	Source SPRING
Diversion Pt NWNE	Sec 30 T 02N R 18E	BLAINE County	Source SPRING
Diversion Pt SESW	Sec 19 T 02N R 18E	BLAINE County	Source SPRING
Diversion Pt NWNE	Sec 30 T 02N R 18E	BLAINE County	Source SPRING
Diversion Pt NWNWNE	Sec 30 T 02N R 18E	BLAINE County	Source SPRING
Diversion Pt NWNWNE	Sec 30 T 02N R 18E	BLAINE County	Source SPRING
Use: AESTHETIC	01/01 To 12/31	1.5 CFS	
Use: WILDLIFE	01/01 To 12/31	1.5 CFS	
Use: RECREATION	01/01 To 12/31	1.5 CFS	
Use: RECREATION STORAGE	01/01 To 12/31	5.3 AFA	
Use: WILDLIFE STORAGE	01/01 To 12/31	5.3 AFA	
Use: AESTHETIC STORAGE	01/01 To 12/31	5.3 AFA	

Total Diversion: 1.5 CFS 5.3 AFA

Date Filed: 04/30/2003

Place Of Use: WILDLIFE

T02N R18E S19 SESW SWSE

Place Of Use: AESTHETIC, same as Wildlife
Place Of Use: RECREATION, same as Wildlife
Place Of Use: RECREATION STORAGE, same as Wildlife
Place Of Use: WILDLIFE STORAGE, same as Wildlife
Place Of Use: AESTHETIC STORAGE, same as Wildlife

Remarks: Application is based on pre-adjudication development for a pond 3/4 acre in surface area, with springs and an unnamed stream as the source of water. The springs and unnamed stream sink on the applicants property. Location is 2.5 miles south and 2 miles west of Hailey, Idaho.

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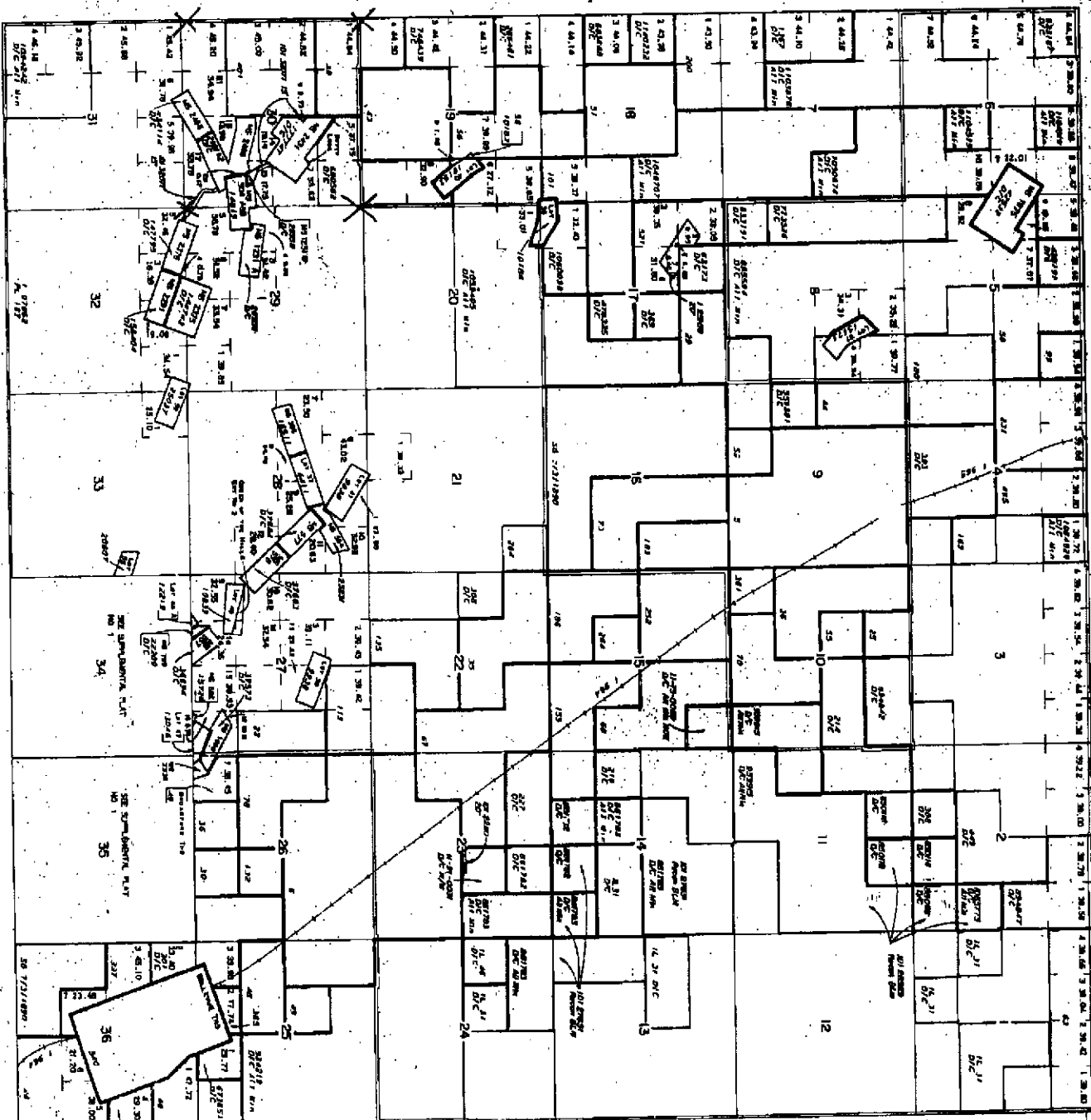
SEP 03 2003

RECEIVED

JUN 12 2003

Department of Water Resources
Southern Region

TOWNSHIP 2 NORTH RANGE 18 EAST OF THE BOISE MERIDIAN, IDAHO

BLAINE COUNTY DIS
SPOKANE DISTRICT SEC 33 N-18 E
2 N-19 ESTATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES
AND ACQUIRED LANDS

MT PLAT

INDEX TO SEGREGATED TRACTS

TRACT NO. T. N. SEC. SURVEY

TRACT NO.	T.	N.	SEC.	SURVEY
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28	2	18	9	18
29	2	18	8	18
30	2	18	7	18
31	2	18	6	18
32	2	18	5	18
33	2	18	4	18
34	2	18	3	18
35	2	18	2	18
36	2	18	1	18

MICROFILMED
JUN 12 2003Aug 10/20/1998 WD to USFS
Sec 31, 32, 33, 34, 35, 36, 25
City of Boise1 07862 D4 PL 187 (Acid Cont 7/22/1993)
Completed 8/23/1990. All PD and fees waived by BLM
including 1 07862-D-1 SEC 31-36 MCOW1 419 Exam 10 US (Lm No 20)
Sec 41, 42, 431 4195 X Land Area USFS
Sec 31, 32, 33, 34, 35, 36, 25
Township 2 North1 4195 X Land Area USFS
Sec 31, 32, 33, 34, 35, 36, 25
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Township 2 NorthTHE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST
ACTION TAKEN BUT ARE NOT BE THE EFFECTIVE DATE. SEE
THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITH-

