



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 FAX: (208) 287-6700 www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

May 31, 2006

MYRON A HUETTIG
1369 S 2000 E
HAZELTON ID 83335

RE: Application for Permit 36-16390

Dear Mr. Huettig:

IDWR is processing your application for permit to appropriate waste water from the North Side Canal Company (NSCC) system, to be used as supplemental irrigation water for 1041 acres in T10S R20E, Sections 20, 28 and 29. The application was advertised without protest and appears to be approvable. However, the recorded location of the canal shares is not consistent with your application map, and the resulting water right overlaps will limit the total acres able to be included on the waste water permit.

On the above application, you noted that you held 211 shares of NSCC water, used in N1/2NW and NE1/4 Section 29. The NSCC confirmed 211.3 shares, although the location of those shares is not entirely within the above area described on your application for permit as being irrigated only with canal water. NSCC records indicate 76 shares in W1/2NW Section 28, 18 shares in SENW Section 29, and the remaining 117.3 shares within the above described application area.

Under the terms of the Snake River Basin Moratorium, new applications for permit may only be approved if the new use of water may be mitigated. In the case of application 36-16390, the mitigation occurs in the form of non-use either of the ground water rights, or of the NSCC shares. Ninety-four (94) shares of NSCC water are recorded to lands which also have appurtenant ground water rights. The overlap leaves a total of 938.31 acres with appurtenant water rights within the place of use for the application for permit. For irrigation, moratorium mitigation is considered on an acre-for-acre basis. Therefore, the limit of the waste water permit is 938.3 acres, unless you can provide additional mitigation for the extra acres.

Please call and advise me how you wish to proceed.....

Sincerely,

Jeanie Robertson
Sr. Water Resource Agent

Handwritten note:
Total = 932 Ac.

Yenter, Cindy (Hodges)

From: Peppersack, Jeff
Sent: Thursday, May 11, 2006 9:05 AM
To: Yenter, Cindy (Hodges)
Subject: RE: Application for permit 36-16390

Cindy,
I see the problem. Your suggestion to replace one SW source with another on the GW acres would be ok for the GW condition; however, moving the freed up shares to new (unauthorized) lands only displaces the real problem. The real problem is, he doesn't have enough water rights for the land he is currently irrigating. Adding wastewater to the mix is fine as long as it wouldn't increase the total acres. He is currently authorized to irrigate $511 + 310 + 117.31 = 938.31$ acres. We could only authorize a new appropriation (wastewater) for 938.31 acres without requiring mitigation due to the moratorium.

Jeff

-----Original Message-----

From: Yenter, Cindy (Hodges)
Sent: Wednesday, May 10, 2006 4:04 PM
To: Peppersack, Jeff
Cc: Robertson, Jean
Subject: Application for permit 36-16390

Jeff - this is the map from the waste water application I spoke about this morning. Unfortunately I've found a glitch (I seem to be getting proficient at that) but I have an idea for resolving it. nothing is straightfoward anymore!!

The concept is that the applicant (Heuttig) will use waste water as supplemental supply to 821 acres under gw rights, plus 211 acres under canal shares, in a common system, and using the underlying rights to mitigate the new permit.

Heuttig does in fact have 211 NSCC shares on this farm, but it's not all within the area he shows. On the map Jeannie has the gw rights outlined and the area said to have only canal shares. I've marked in blue pen, the number of NSCC shares, in the QQ they are appurtenant (got this info from the canal co). In particular, 76 shares are within W1/2 NW section 28 and 18 shares are in SENW Sec 29. These areas are a part of the ppu of gw transfer 70383. Right no. 36-7639, a part of that transfer, has the combined surface water conditions on it, including the one which says the shares may not be transfered or sold. This is the only right with this condition.

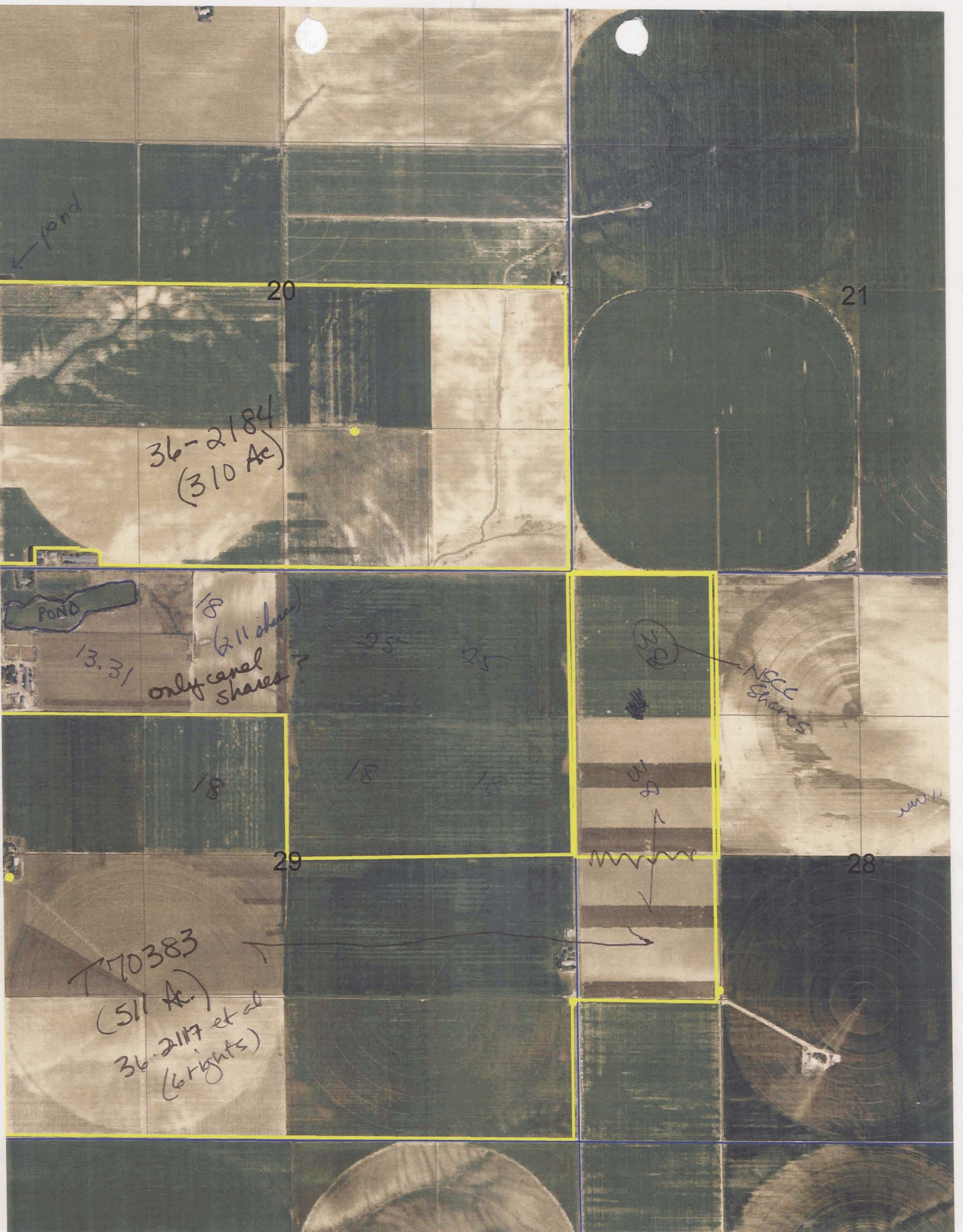
Next, look within NE section 29 where virtually all 160 acres are irrigated. There are only 86 shares appurtenant in that Q. do you see where I'm going yet?

If Heuttig says he's moved shares into NE S29, he's violated the condition of the gw right. If he says the shares have stayed put, he's probably guilty of water spreading. And, we're limited to permitting only 86 inches to NE S29 because that's all the mitigating shares we can acknowledge.

The wording on the condition in 36-7639 includes some language I don't often see which says that in the event the surface water is removed, gw can't be diverted under the right without transfer, or "the approval of the Dept if a transfer is not required". Could that approval somehow be a part of the conditioning of this permit, which could allow an alternate source of surface water to replace shares which have been moved? Then we could follow up with a condition that specifies that all 211 sw shares must stay with the farm (1041 acres), along with all the gw rights. Or, we could just decline to include the 211 non-gw acres on the waste permit, and say that either the surface shares or the entire alternate surface source must be used up prior to gw diversion. That would give Heuttig a gateway to move the shares over and avoid water spreading.

Let me know what you think.

<< File: 36-16390.pdf >>



← pond

20

21

36-2184
(310 Ac)

POND
13.31

1/8
(211 shares)
only canal shares?

25

25

1/8

NGCC shares

1/8

1/8

1/8

29

T70383
(511 Ac.)
36-2117 et al
(6 rights)

28

W D
↓
↓
↓

W D