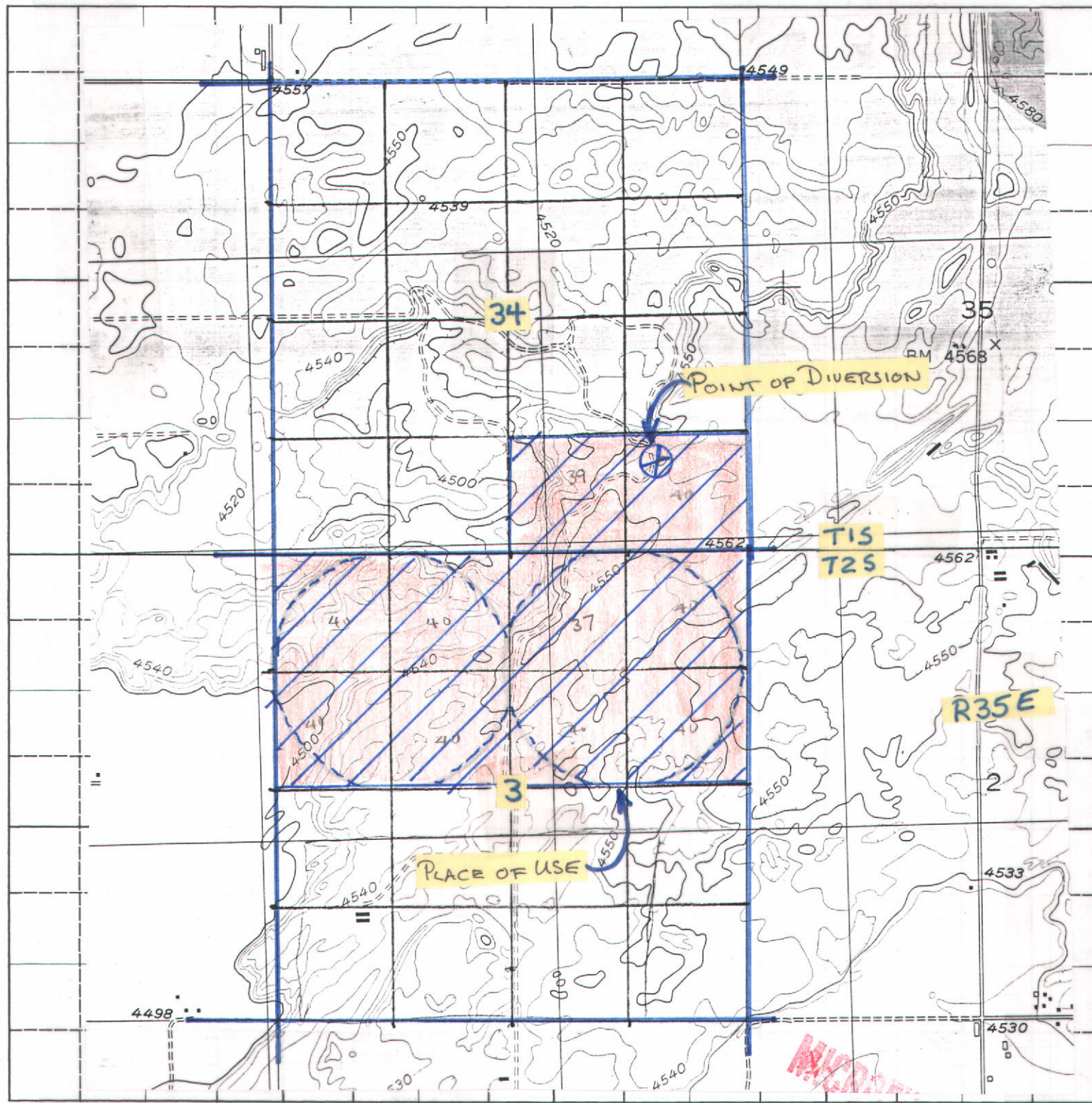


13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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

Lance D. Gardner
(Applicant)

RECEIVED
SEP 27 1991

Idaho Dept. of Water Resources
Place of Use Comparison Report

Type	WR #	Owner	Source	TRS	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	Total
Claim	35 13277	KENNETH G NICKELL, KAYE NICKELL,	GROUND WATER	01S35E34										38	31	40	40				149
Claim	35 2222	KENNETH G NICKELL, KAYE NICKELL,	GROUND WATER	01S35E34										38	31	40	40				149
Claim	35 2422	KEN J WIXOM, PAULINE W WIXOM,	GROUND WATER	01S35E34					40	40	40	32									152
Claim	35 2791	KAYE C NICKELL, GREG NICKELL,	GROUND WATER	01S35E34				25													122
Claim	35 2851	KURT L NEFF, AMY L NEFF,	GROUND WATER	01S35E34															22	40	62
Claim	35 7861A	PAULINE W WIXOM, KEN J WIXOM,	GROUND WATER	01S35E34					39	39	40	31									149
Claim	35 7861C	KAYE NICKELL, KENNETH G NICKELL,	GROUND WATER	01S35E34										38	31	40	40				149
Permit	35 7829	KAYE NICKELL, KENNETH G NICKELL,	GROUND WATER	01S35E34													40	40			80
Permit	35 8953	KURT L NEFF,	GROUND WATER	01S35E34															39	40	79
Rec	35 2422	KEN J WIXOM, PAULINE W WIXOM,	GROUND WATER	01S35E34					39	39	40	31									149
Rec	35 2791	GREG NICKELL, KAYE C NICKELL,	GROUND WATER	01S35E34					39	39	40	31									149
Rec	35 2851	KURT L NEFF, AMY L NEFF,	GROUND WATER	01S35E34				28													146
Right	35 2222	MARJORIE W FULLMER,	GROUND WATER	01S35E34															13	22	35
Right	35 2422	THAYNE GNEITING,	GROUND WATER	01S35E34					40	40	40	32									60
Right	35 2791	JOHN B HAWKES,	GROUND WATER	01S35E34				25													152
Right	35 2851	TUGI NAKAMURA,	GROUND WATER	01S35E34																	122
Right	35 7861	CAROLYN S WINBERG, ROLAND WINBERG,	GROUND WATER	01S35E34															22	40	62
Right	35 8953	KURT L NEFF,	GROUND WATER	01S35E34										26	2		15				43
Right	1 320	NEW SWEDEN IRRIGATION DISTRICT,	SNAKE RIVER	01S35E34															31	25	56
																					0

OL w/55-88-2nd

Idaho Dept. of Water Resources
Place of Use Comparison Report

Type	WR #	Owner	Source	TRS	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESW	NWSE	SWSE	SESE	Total
Right	27 29B	E M KENNEDY	BLACKFOOT RIVER	02S35E3											X						0
Claim	35 2668	DOREEN BURKMAN, JAMES DOUGLAS BURKMAN,	GROUND WATER	02S35E3										40	39	3	36	40	40		198
Claim	35 2851	KURT L NEFF, AMY L NEFF,	GROUND WATER	02S35E3	35		32	38	35	2	28	38									208
Claim	35 2865	LOVELL J CALLISTER,	GROUND WATER	02S35E3												8					8
Claim	35 7084	JAMES DOUGLAS BURKMAN,	GROUND WATER	02S35E3										40	39	3	36	40	40		198
Claim	35 7253	MARY ANN PLANT, MERLIN PLANT,	GROUND WATER	02S35E3																	64
Permit	35 8953	KURT L NEFF,	GROUND WATER	02S35E3	40	37	40	40	40	40	40	40									317
Rec	35 2668	DOREEN BURKMAN, JAMES DOUGLAS BURKMAN,	GROUND WATER	02S35E3										40	16	4	36	40	40		176
Rec	35 2851	KURT L NEFF, AMY L NEFF,	GROUND WATER	02S35E3	35	28	36	34	1		29	39									202
Rec	35 2865	LOVELL J CALLISTER,	GROUND WATER	02S35E3												8					8
Rec	35 2865	LOVELL J CALLISTER,	GROUND WATER	02S35E3												8					8
Rec	35 7084	JAMES DOUGLAS BURKMAN,	GROUND WATER	02S35E3										40	16	4	36	40	40		176
Rec	35 7253	MARY ANN PLANT, MERLIN PLANT,	GROUND WATER	02S35E3													25				64
Right	35 2668	JAMES W BURKMAN,	GROUND WATER	02S35E3									19	39	35						93
Right	35 2851	TUGI NAKAMURA,	GROUND WATER	02S35E3	35	32	38	35	2		28	38									208
Right	35 2865	ELDON J CALLISTER,	GROUND WATER	02S35E3												8					8
Right	35 7084	JAMES W BURKMAN,	GROUND WATER	02S35E3									30			3	40	40	40		153
Right	35 7253	MERLIN PLANT,	GROUND WATER	02S35E3														2			41
Right	35 8953	KURT L NEFF,	GROUND WATER	02S35E3	35	39	34	34	39	34	34	40									289
Right	1 47E	CORBETT SLOUGH DITCH CO,	SNAKE RIVER	02S35E3																	0
Right	1 48	CORBETT SLOUGH DITCH CO,	SNAKE RIVER	02S35E3																	0

OL w/35-2851
only

MICROFILMED
DEC 12 2001

Point of Diversion

34 35
3 2

35-08953

HEL 7 23.8

HEL 4 23.3

HEL 3 16.6

HEL 8 34.6

HEL 6 7.9

HEL 9 18.5 23.6

33 34
4 3

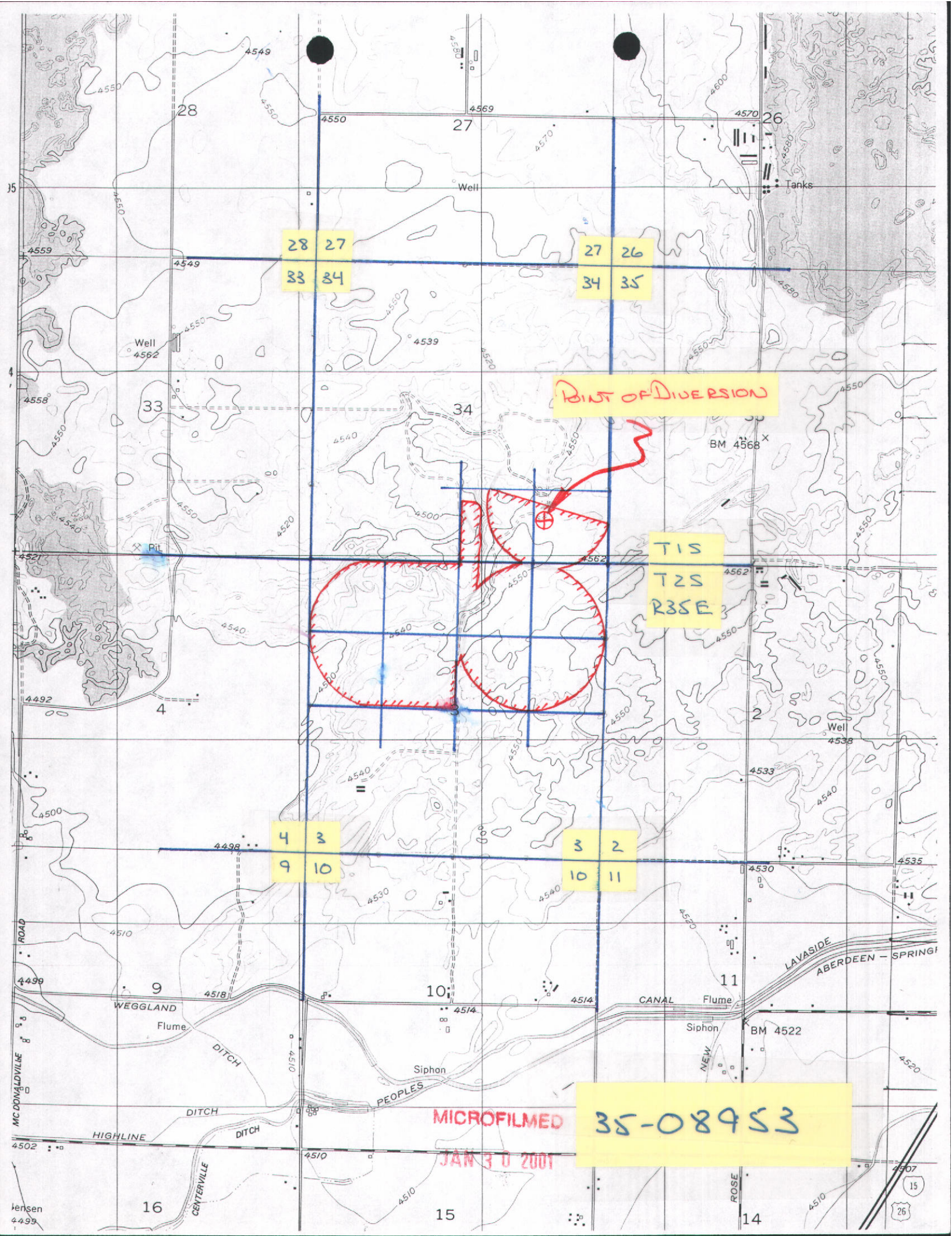
TIS
T2S
R3SE

4 18.6
9.85

HEL

HEL

MICROFILMED
JAN 30 2001



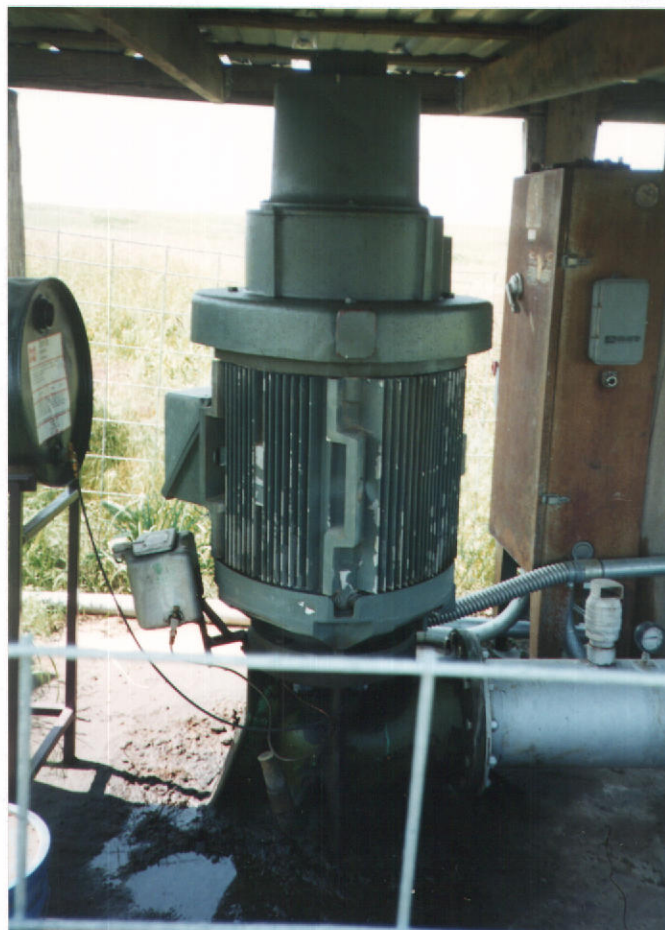


Plate 1 - Motor and pump assembly at point of diversion.

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JAN 30 2001

35-08953



Plate 4 - Location of measurement 1 looking towards
point of diversion.

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JAN 30 2001

35-08953



Plate 5 - Location of measurement 2 looking towards point of diversion.

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JAN 30 2001

35-08953



Plate 2 - Booster assembly from motor and pump.



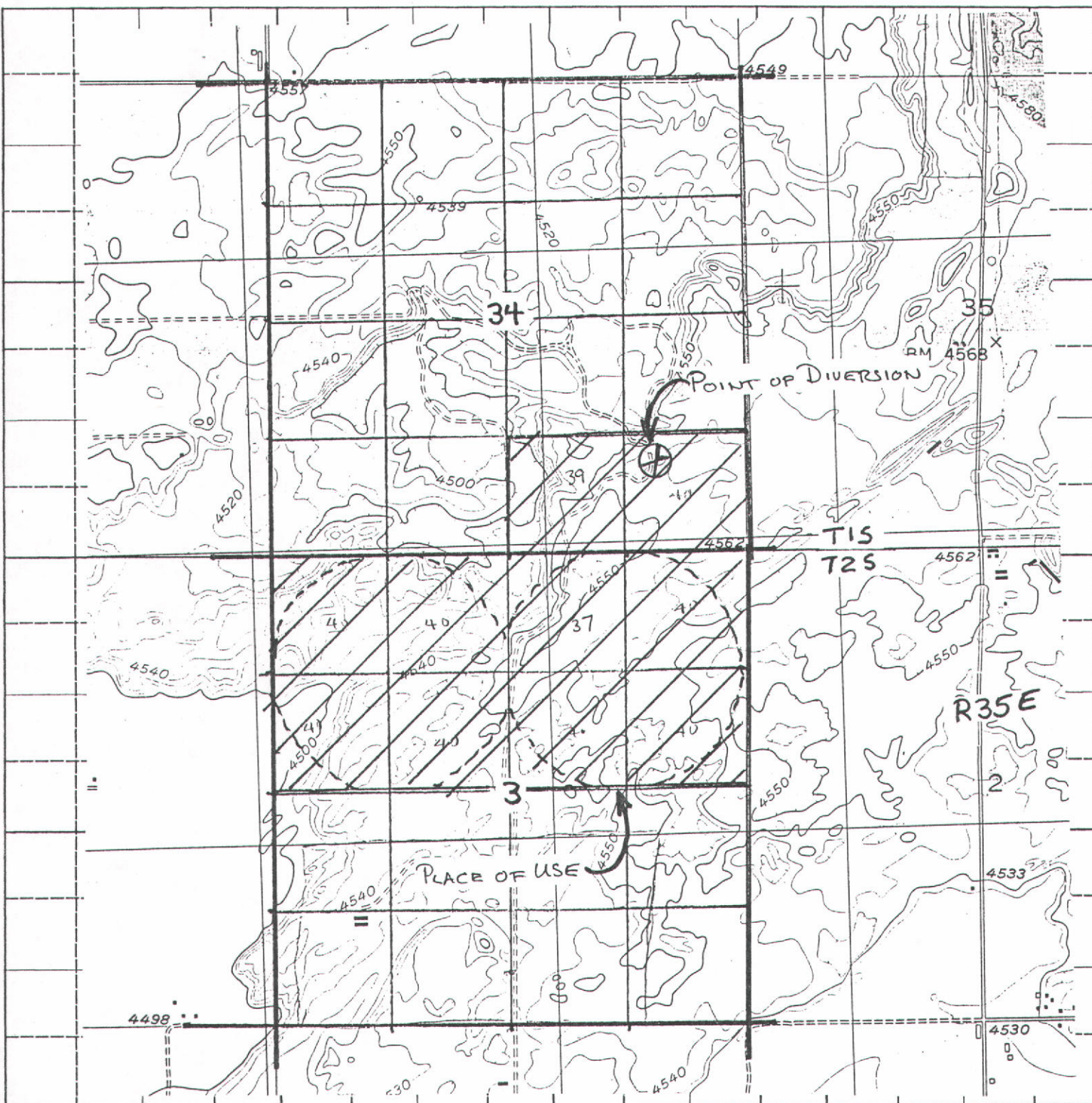
Plate 3 - Closeup of booster pump and motor.

MICROFILMED

JAN 30 2001

35-08953

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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

MICROFILMED

JAN 30 2001

Lance D. Gudner
(Applicant)

State of Idaho
Department of Water Administration

LICENSE OF WATER RIGHT

License of Water Right No. 33387/35-2851 Priority Dec. 30, 1966 Amount 2.84 cfs

THIS IS TO CERTIFY, that TUGI NAKAMURA
of Blackfoot, Idaho, has complied with the terms and conditions of Permit
No. 33387/35-2851 issued pursuant to Application for Permit dated December 30, 1966
and has submitted proof to the Department of Water Administration on November 12, 1971
that he has applied water to a beneficial use, an examination by the Department indicates that the
works have a capacity of 2.84 cfs and that the water has in fact been applied to a
beneficial use; a right to the use of water from a ground water source
tributary of _____ is hereby confirmed in the following amounts:

Amount 2.84 cfs for Irrigation from April 1 to Nov. 1 (both dates inclusive)

Amount _____ for _____ from _____ to _____ (both dates inclusive)

Amount _____ for _____ from _____ to _____ (both dates inclusive)

Subject, however, to the condition that no more than 2.84 cfs of water be diverted at
any one time, said waters to be diverted within the _____

SE 1/4 Sec. 34, Twp. 1 S, Rge. 35 E, B.M.

in the county of Bingham and that the amount of water so diverted and to which such
right is entitled and confirmed is for the purposes aforesaid and is limited to the amount which can
actually be beneficially used and shall not exceed 945 acre feet per year or
3.0 acre feet per acre.

Description and location of place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
18	35 E	34														22	40		62
2S	35 E	3	35	32	38	35	2		28	38									208

Total number of acres irrigated 270

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands
or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 8 day of

November, 19 72.

[Signature]
Director

MICROFILMED

JAN 30 2001

35 2851

DEPARTMENT OF WATER ADMINISTRATION
FIELD REPORT

Name of person holder TUGI NAKAMURA

Post office address Blackfoot, Idaho Phone

Fax 011 44 1323 062 Phone

1. ☒ Groundwater ☐ Surface water (name spring, stream, etc.)

Tributary to _____

Users will be used for the following purposes:

Agriculture C.I.A. for agricultural
AFAnnum (nature of use)

Period of Use from April 6 to September 25
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
 _____ AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
 _____ AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses: _____

Permit No. 35-2851
Examination for Beneficial Use

4. Total amount to be appropriated:

Max. Rate of Diversion 4.0 cubic feet per second and annual volume _____ AF/Annum.

5. Location of Point(s) of Diversion:

Near cntr S₄ of the SE₄

Township 8S N/S, Range 35E E/W, B.M., Section 34, Subdivision 1/4 1/4 Bingham
County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4 _____
County _____

Township _____ N/S. Range _____ E/W, B.M., Section _____, Subdivision _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ _____ County _____

Other Points of Diversions: _____

Description of diverting works: 125 HP pump, 125 HP motor, 190' well depth, 90' lift, 20" well casing

Measuring device required: yes ☐ no ☒

6. Lands to be irrigated or place of use.

[illegible]

TOTAL ACREAGE _____ **400**

DEPARTMENT OF WATER ADMINISTRATION
FIELD REPORT

Name of permit holder TUGI NAKAMURA
Post office address Blackfoot, Idaho Phone _____
Person to contact _____ Phone _____

2. Source of water supply: Groundwater ☒ Surface water ☐ _____ (name spring, stream, etc.)
Tributary to _____

3. Water will be used for the following purposes:

Amount 4.0 c.f.s. for agricultural
AF Annum (nature of use)

Period of Use: from April 6 to September 25
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____ (nature of use)
 _____ AF/Annum

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Amount _____ c.t.s. for _____ (nature of use)
 _____ AF/Annum

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses:

4. Total amount to be appropriated:

Max Rate of Diversion 4.0 cubic feet per second and annual volume _____ AF/Annum.

5. Location of Point(s) of Diversion:

Location of Point(s) of Diversion: Near cntr S $\frac{1}{2}$ of the SE $\frac{1}{4}$
 Township 35 N/S, Range 35E E/W, B.M., Section 34, Subdivision $\frac{1}{4}$ $\frac{1}{4}$ Bingham County

Township _____ N/S, Range _____ E/W, B.M., Section _____ Subdivision $\frac{1}{4}$ $\frac{1}{4}$ County _____

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ _____ County _____

Other Points of Diversions:

Description of diverting works: 125 HP pump, 125 HP motor, 190' well depth, 90' lift, 20" well casing

Measuring device required: yes ☐ no ☒

6. Lands to be irrigated or place of use.

[illegible]

R	E	C	E	I	V	E	
U							

JAN 10 1972

35 2851

Department of Water Administration
— Eastern District Office —

TOTAL ACREAGE

400

MICROFILMED

JAN 30 2001



THE CLARK COUNTY BOARD OF SUPERVISORS

DATE OF EXAM 7/27/72

ACREAGE
Found 270
Recommended 270

Irrigation Requirement 3.5 Ac Ft/Ac

USE
Irrigation Q = 2.84 c.f.s. V = 675.5 AF/Ann. from Apr 6 to Sept 25
Domestic Q = c.f.s. V = AF/Ann. from to
Livestock Q = c.f.s. V = AF/Ann. from to

Is water co-mingled? yes no

Name source: N/S, Rge E/W, B.M., Sec Sub 1/4 1/4 County

Exchange? yes no

Name source exchanged with: N/S, Rge E/W, B.M., Sec Sub 1/4 1/4 County

Point of injection: N/S, Rge E/W, B.M., Sec Sub 1/4 1/4 County

Point of exchange: N/S, Rge E/W, B.M., Sec Sub 1/4 1/4 County

Total Q measured 2.84 c.f.s. Method of measurement Pitot Tube & Nozzle

Total Q recommended 2.84 c.f.s. Meter No. Type Condition

Total V recommended 945 AF/Ann

Recommended Amendments:
→ ? This office questions the acceptance of legal discs without permit.

P.D.
Place of Use
Other
None

MEASUREMENT CALCULATION:
5/32 30W Noz @ 57.45psi → 5.3278 gpm (72.70) = 1209.4 gpm
1/4 30W Noz @ 60psi → 6.56 gpm (60W) 65.6 = 2.84 cfs

SYSTEM DESCRIPTION:
Motor - 125 HP U.S. Hall shaft, Serial # 1374655
Pump - Johnston, Serial # - Not stamped

REMARKS: System shown by owners son - (Tugi Nakamura)

Examiner's Signature William R. Rhoad Date 8/2/72
Checked by Norman C. Young Date 10-11-72
Approved by Date

MICROFILMED

JAN 30 2001

25 2251

Duane Not in Trg; Nakamura's Name
7/27/72 GMP & BR 30-W Nozzles

Arg psi	5/32	No 5/32 Nozzles =
64	1	18
60	2	15
56	3	24
50	4	25
54	5	17
62	6	33
58	7	30
53	8	25
61	9	25
58	10	15
55	11	227
50	12	
49	13	
52	14	
56	15	
52	16	
52	17	
70	18	
69	19	
58	20	
1179		

5/32 30W Nozzle @ 57.45 psi → 5.3278 gpm

(5.3278 gpm) (227 Nozzles) = 1209.41 gpm

1209.41

5/32 @ 55 < 60 → 0.44 gpm

$\frac{1179}{20} = 57.45$

5/32 @ 55 psi → 5.22 gpm

5/32 @ 2.45 psi → 0.1078 gpm

5/32 @ 57.45 psi → 5.3278 gpm

Arg psi $\frac{11}{64}$

$\frac{11}{64}$ 30W nozzle @ 60 psi → 6.56 gpm

$\frac{62}{58} \frac{120}{2} = 60$, (10 Nozzles) (6.56 gpm) = 65.6 gpm
~~64.0 gpm~~

No. Nozzles = 10, Σ gpm = $\frac{1209.41}{65.6}$
1275.01

$\frac{1275.01 \text{ gpm}}{448.8 \text{ gpm cfs}} = \boxed{2.84} \text{ c.f.s.}$

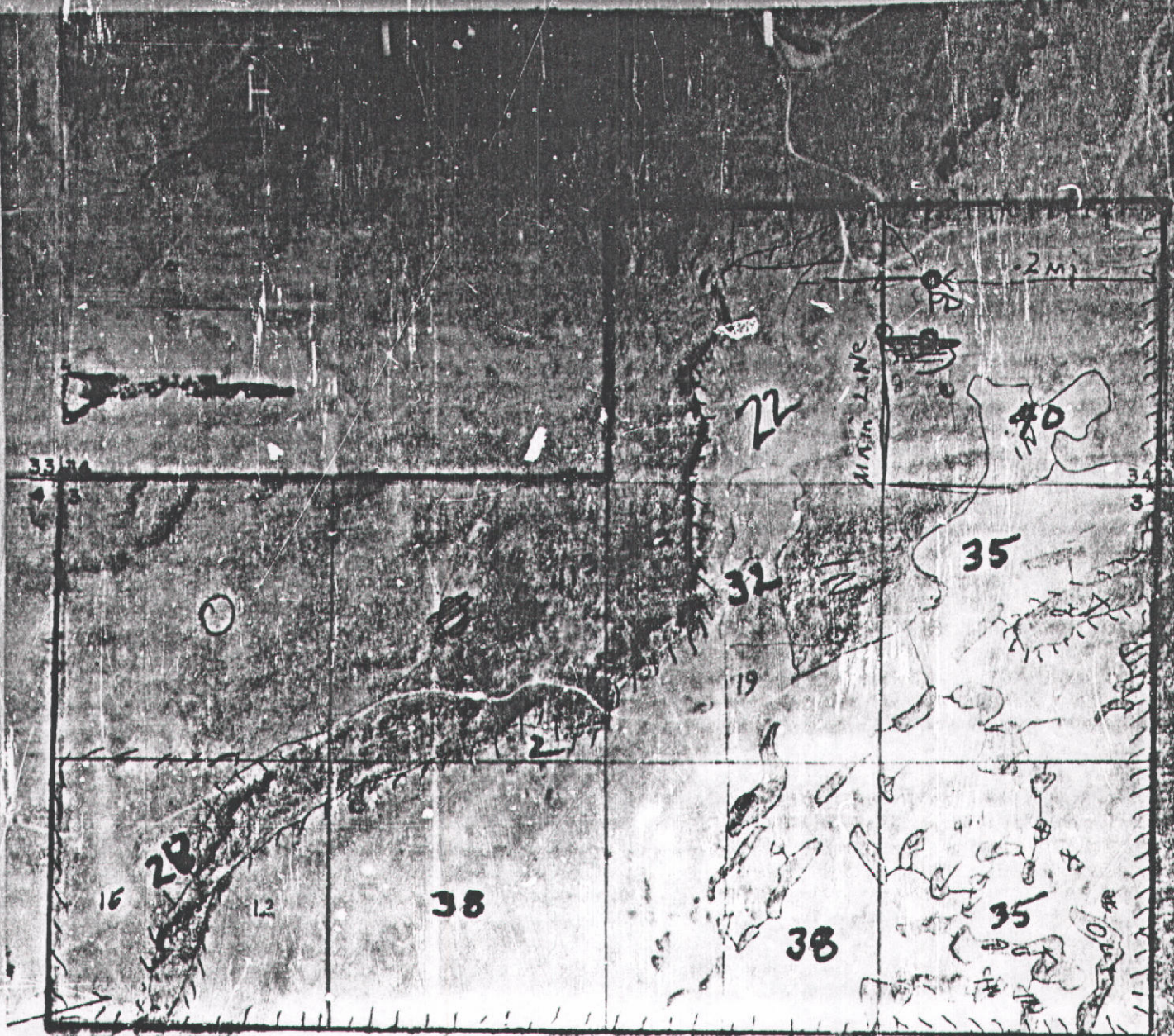
(10) (6.40 gpm)

35 2851

MICROFILMED

JAN 30 2001

Q-18



MICROFILMED

JAN 30 2001

Q-18

18-11-72

18-11-72

35 2851

- [illegible]

Lance D. Gardner
(Applicant)

RECEIVED

JUN 21 2004

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDepartment of Water Resources
Eastern Region**Notice of Security Interest in a Water Right**And Request for Notification of a Change in Ownership or Any Proposed
Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right

RECEIVED

JUN 25 2004

DEPARTMENT OF
WATER RESOURCESPlease print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned

1. Water Right No(s): 35-8953
Adjudication Claim No(s): _____
2. The following **REQUIRED** information must be submitted with this form:
 - A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water right or claim in question, **WITH ATTACHED LEGAL DESCRIPTION.**
 - B) A **FEE** of \$25.00 per water right or adjudication claim.
3. Name and Mailing Address of Person or Company holding Security Interest
ZIONS FIRST NATIONAL BANK
ATTN: GRANT BOEHME
219 EAST MAIN
PO BOX 54
RIGBY, ID 83442
(208) 745-1423 TELEPHONE
(208) 745-0241 FAX
4. Name of Water Right Owner/Claimant(s)
KURT L. NEFF OR AMY L. NEFF
5. Expiration Date of Notification Period 12/31/2030
6. Is this a Renewal of Request for Notification? YES ☐ NO ☒
7. Signature(s) (and title if applicable) ZIONS FIRST NATIONAL BANK
 BY: *Grant W Boehme*
GRANT W BOEHME, VP & LOAN OFFICER

For Office Use Only

Received by <u>QC</u>	Date <u>6-21-04</u>	Fee <u>\$25-</u>
Receipted by <u>QC</u>	Date <u>6-21-04</u>	Receipt No. <u>EO 29979</u>
Processed by _____	AJ Date _____	WR _____ Date _____

MICROFILMED

JUL 15 2004

RECORDATION REQUESTED BY:

ZIONS FIRST NATIONAL BANK
RIGBY BRANCH
219 EAST MAIN, P.O. BOX 54
RIGBY, ID 83442

COPY

WHEN RECORDED MAIL TO:

Zions First National Bank
Loan Servicing Group - UT RDWG 0187
2460 South 3270 West
West Valley City, UT 84119

Recorded 6/17/04
#541759 @ 4:52

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY



000000000000009003074505212004

MORTGAGE AND FIXTURE FILING

THIS MORTGAGE dated May 21, 2004, is made and executed between Kurt Neff and Amy Neff, whose names also appear of record as Kurt L. Neff and Amy L. Neff, husband and wife (referred to below as "Grantor") and ZIONS FIRST NATIONAL BANK, whose address is 219 EAST MAIN, P.O. BOX 54, RIGBY, ID 83442 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages, grants, bargains, sells and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in BINGHAM County, State of Idaho:

Township 1 South, Range 35 E.B.M., Bingham County, Idaho

Section 34: S1/2SE1/4

Section 35: S 25 feet of the S1/2SW1/4, EXCEPTING AND RESERVING TO the United States all the oil and gas, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same upon compliance with the conditions and subject to the provisions and limitations of the Act of July 17, 1914 (38 Stat. 509).

Township 2 South, Range 35 E.B.M., Bingham County, Idaho

Section 3: Lots 1, 2, 3, 4; S1/2N1/2; E1/2SE1/4, EXCEPT Beginning at a point that is North 860 feet and West 600 feet from the SE corner of Section 3, and running thence North 300 feet; thence West 300 feet; thence South 300 feet; thence East 300 feet to the point of beginning, ALSO EXCEPT a 20 foot roadway easement with a centerline described as follows: Beginning at a point 10 feet West of the SE corner of Section 3, and running thence North parallel with the East section line 860 feet, thence West 590 feet to the East line of the first described exception.

Together with any and all water rights now owned or hereafter acquired which are appurtenant attached to

Well # 1

Decree # 35-2851, priority dated 12/30/1966

License # 35-8953, priority dated 7/1/1991

Well #2

Decree # 35-7253, priority dated 10/10/1972

The Real Property or its address is commonly known as 3 MILES NORTH OF ROSE EXIT OFF OF INTERSTATE 15, BLACKFOOT, ID 83221. The Real Property tax identification number is RP0278600, RP0278800, RP0281900 & RP0282000

CROSS-COLLATERALIZATION. In addition to the Note, this Mortgage secures all obligations, debts and liabilities, plus interest thereon, of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated whether Borrower or Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

MICROFILMED

JUN 15 2004

GRANTOR'S WAIVERS. Grantor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Lender from bringing any action against Grantor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

GRANTOR'S REPRESENTATIONS AND WARRANTIES. Grantor warrants that: (a) this Mortgage is executed at Borrower's request and not at the request of Lender; (b) Grantor has the full power, right, and authority to enter into this Mortgage and to hypothecate the Property; (c) the provisions of this Mortgage do not conflict with, or result in a default under any agreement or other instrument binding upon Grantor and do not result in a violation of any law, regulation, court decree or order applicable to Grantor; (d) Grantor has established adequate means of obtaining from Borrower on a continuing basis information about Borrower's financial condition; and (e) Lender has made no representation to Grantor about Borrower (including without limitation the creditworthiness of Borrower).

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Mortgage, Borrower shall pay to Lender all Indebtedness secured by this Mortgage as it becomes due, and Borrower and Grantor shall strictly perform all Borrower's and Grantor's obligations under this Mortgage.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Borrower and Grantor agree that Borrower's and Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property.

Duty to Maintain. Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Idaho law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

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Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and reasonable attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage:

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Mortgage:

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws.

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ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Borrower's Indebtedness shall be paid in full.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Mortgage:

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Borrower which Borrower is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Borrower.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Borrower's and Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Borrower pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

EVENTS OF DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

Payment Default. Borrower fails to make any payment when due under the Indebtedness.

Default on Other Payments. Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or

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any other payment necessary to prevent filing of or to effect discharge of any lien.

Other Defaults. Borrower or Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower or Grantor.

Default in Favor of Third Parties. Should Borrower or any Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's or any Grantor's property or Borrower's ability to repay the Indebtedness or Borrower's or Grantor's ability to perform their respective obligations under this Mortgage or any related document.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or Grantor or on Borrower's or Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Borrower's or Grantor's existence as a going business or the death of any member, the insolvency of Borrower or Grantor, the appointment of a receiver for any part of Borrower's or Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower or Grantor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or Grantor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Borrower's or Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower or Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower or Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Breach of Other Agreement. Any breach by Borrower or Grantor under the terms of any other agreement between Borrower or Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Borrower or Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the Indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. In the event of a death, Lender, at its option, may, but shall not be required to, permit the guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure any Event of Default.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

Insecurity. Lender in good faith believes itself insecure.

Right to Cure. If such a failure is curable and if Borrower or Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Borrower or Grantor, after Lender sends written notice demanding cure of such failure: (a) cures the failure within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. Lender shall have the right, without notice to Borrower or Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Judicial Foreclosure. Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

Nonjudicial Sale. If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by non-judicial sale.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

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Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

Other Remedies. Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

Sale of the Property. To the extent permitted by applicable law, Borrower and Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

Election of Remedies. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or Borrower and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the Indebtedness.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

NOTICES. Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION. A. This commitment is conditional upon loan proceeds not being used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

B. All guaranteed lenders will be required to monitor compliance of these requirements as part of their servicing responsibilities. During loan servicing contacts the Borrower's compliance is to be reviewed and analyzed. If the Borrower violates 7 C.F.R. Part 1940, Subpart G, Exhibit M requirements, the loan will be in default.

C. If loan applicants' farm properties contain any highly erodible land, wetland, or converted wetland; the lender will include the following provisions in its debt and security loan instruments:

Default shall also exist if any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetland to produce or to make possible the production of an agricultural commodity, further explained in 7 CFR Part 1940, Subpart G, Exhibit "M".

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Mortgage:

Amendments. This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Arbitration Disclosures.

1. ARBITRATION IS FINAL AND BINDING ON THE PARTIES AND SUBJECT TO ONLY VERY LIMITED REVIEW BY A COURT.
2. IN ARBITRATION THE PARTIES ARE WAIVING THEIR RIGHT TO LITIGATE IN COURT, INCLUDING THEIR RIGHT TO A JURY TRIAL.
3. DISCOVERY IN ARBITRATION IS MORE LIMITED THAN DISCOVERY IN COURT.
4. ARBITRATORS ARE NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING IN THEIR AWARDS. THE RIGHT TO APPEAL OR SEEK MODIFICATION OF ARBITRATORS' RULINGS IS VERY LIMITED.
5. A PANEL OF ARBITRATORS MIGHT INCLUDE AN ARBITRATOR WHO IS OR WAS AFFILIATED WITH THE BANKING INDUSTRY.
6. ARBITRATION WILL APPLY TO ALL DISPUTES BETWEEN THE PARTIES, NOT JUST THOSE CONCERNING THE AGREEMENT.
7. IF YOU HAVE QUESTIONS ABOUT ARBITRATION, CONSULT YOUR ATTORNEY OR THE AMERICAN ARBITRATION ASSOCIATION.
(a) Any claim or controversy ("Dispute") between or among the parties and their employees, agents, affiliates, and assigns, including, but not limited to, Disputes arising out of or relating to this agreement, this arbitration provision ("arbitration clause"), or any related agreements or instruments relating hereto or delivered in connection herewith ("Related Agreements"), and including, but not limited to, a

RECORDED
15 2016

Dispute based on or arising from an alleged tort, shall at the request of any party be resolved by binding arbitration in accordance with the applicable arbitration rules of the American Arbitration Association (the "Administrator"). The provisions of this arbitration clause shall survive any termination, amendment, or expiration of this agreement or Related Agreements. The provisions of this arbitration clause shall supersede any prior arbitration agreement between or among the parties.

(b) The arbitration proceedings shall be conducted in a city mutually agreed by the parties. Absent such an agreement, arbitration will be conducted in Boise, Idaho or such other place as may be determined by the Administrator. The Administrator and the arbitrator(s) shall have the authority to the extent practicable to take any action to require the arbitration proceeding to be completed and the arbitrator(s)' award issued within 150 days of the filing of the Dispute with the Administrator. The arbitrator(s) shall have the authority to impose sanctions on any party that fails to comply with time periods imposed by the Administrator or the arbitrator(s), including the sanction of summarily dismissing any Dispute or defense with prejudice. The arbitrator(s) shall have the authority to resolve any Dispute regarding the terms of this agreement, this arbitration clause, or Related Agreements, including any claim or controversy regarding the arbitrability of any Dispute. All limitations periods applicable to any Dispute or defense, whether by statute or agreement, shall apply to any arbitration proceeding hereunder and the arbitrator(s) shall have the authority to decide whether any Dispute or defense is barred by a limitations period and, if so, to summarily enter an award dismissing any Dispute or defense on that basis. The doctrines of compulsory counterclaim, res judicata, and collateral estoppel shall apply to any arbitration proceeding hereunder so that a party must state as a counterclaim in the arbitration proceeding any claim or controversy which arises out of the transaction or occurrence that is the subject matter of the Dispute. The arbitrator(s) may in the arbitrator(s)' discretion and at the request of any party: (1) consolidate in a single arbitration proceeding any other claim arising out of the same transaction involving another party to that transaction that is bound by an arbitration clause with Lender, such as borrowers, guarantors, sureties, and owners of collateral; and (2) consolidate or administer multiple arbitration claims or controversies as a class action in accordance with Rule 23 of the Federal Rules of Civil Procedure.

(c) The arbitrator(s) shall be selected in accordance with the rules of the Administrator from panels maintained by the Administrator. A single arbitrator shall have expertise in the subject matter of the Dispute. Where three arbitrators conduct an arbitration proceeding, the Dispute shall be decided by a majority vote of the three arbitrators, at least one of whom must have expertise in the subject matter of the Dispute and at least one of whom must be a practicing attorney. The arbitrator(s) shall award to the prevailing party recovery of all costs and fees (including attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees). The arbitrator(s), either during the pendency of the arbitration proceeding or as part of the arbitration award, also may grant provisional or ancillary remedies including but not limited to an award of injunctive relief, foreclosure, sequestration, attachment, replevin, garnishment, or the appointment of a receiver.

(d) Judgement upon an arbitration award may be entered in any court having jurisdiction, subject to the following limitation: the arbitration award is binding upon the parties only if the amount does not exceed Four Million Dollars (\$4,000,000.00); if the award exceeds that limit, either party may demand the right to a court trial. Such a demand must be filed with the Administrator within thirty (30) days following the date of the arbitration award; if such a demand is not made with that time period, the amount of the arbitration award shall be binding. The computation of the total amount of an arbitration award shall include amounts awarded for attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees.

(e) No provision of this arbitration clause, nor the exercise of any rights hereunder, shall limit the right of any party to: (1) judicially or non-judicially foreclose against any real or personal property collateral or other security; (2) exercise self-help remedies, including but not limited to repossession and setoff rights; or (3) obtain from a court having jurisdiction thereover any provisional or ancillary remedies including but not limited to injunctive relief, foreclosure, sequestration, attachment, replevin, garnishment, or the appointment of a receiver. Such rights can be exercised at any time, before or after initiation of an arbitration proceeding, except to the extent such action is contrary to the arbitration award. The exercise of such rights shall not constitute a waiver of the right to submit any Dispute to arbitration, and any claim or controversy related to the exercise of such rights shall be a Dispute to be resolved under the provisions of this arbitration clause. Any party may initiate arbitration with the Administrator. If any party desires to arbitrate a Dispute asserted against such party in a complaint, counterclaim, cross-claim, or third-party complaint thereto, or in an answer or other reply to any such pleading, such party must make an appropriate motion to the trial court seeking to compel arbitration, which motion must be filed with the court within 45 days of service of the pleading, or amendment thereto, setting forth such Dispute. If arbitration is compelled after commencement of litigation of a Dispute, the party obtaining an order compelling arbitration shall commence arbitration and pay the Administrator's filing fees and costs within 45 days of entry of such order. Failure to do so shall constitute an agreement to proceed with litigation and waiver of the right to arbitrate. In any arbitration commenced by a consumer regarding a consumer Dispute, Lender shall pay one half of the Administrator's filing fee, up to \$250.

(f) Notwithstanding the applicability of any other law to this agreement, the arbitration clause, or Related Agreements between or among the parties, the Federal Arbitration Act, 9 U.S.C. Section 1 et seq., shall apply to the construction and interpretation of this arbitration clause. If any provision of this arbitration clause should be determined to be unenforceable, all other provisions of this arbitration clause shall remain in full force and effect.

Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

Governing Law. This Mortgage will be governed by, construed and enforced in accordance with federal law and the laws of the State of Idaho. This Mortgage has been accepted by Lender in the State of Idaho.

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of ADA County, State of Idaho.

Joint and Several Liability. All obligations of Borrower and Grantor under this Mortgage shall be joint and several, and all references to Grantor shall mean each and every Grantor, and all references to Borrower shall mean each and every Borrower. This means that each Borrower and Grantor signing below is responsible for all obligations in this Mortgage.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Mortgage shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be

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JUL 15 2004

granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any person or circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other person or circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Successors and Assigns. Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the Indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Mortgage.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Idaho as to all Indebtedness secured by this Mortgage.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

Borrower. The word "Borrower" means KURT L NEFF; AMY L NEFF; and NEFF LIVESTOCK, L.L.C. and includes all co-signers and co-makers signing the Note.

Default. The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

Grantor. The word "Grantor" means KURT L NEFF, AMY L NEFF, KURT NEFF and AMY NEFF.

Guaranty. The word "Guaranty" means the guaranty from guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Improvements. The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

Indebtedness. The word "Indebtedness" means and includes without limitation all Loans, together with all other obligations, debts and liabilities of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower, or any one or more of them; whether now or hereafter existing, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated; whether Borrower may be liable individually or jointly with others; whether Borrower may be obligated as a guarantor, surety, or otherwise; whether recovery upon such indebtedness may be or hereafter may become barred by any statute of limitations; and whether such indebtedness may be or hereafter may become otherwise unenforceable.

Lender. The word "Lender" means ZIONS FIRST NATIONAL BANK, its successors and assigns.

Mortgage. The word "Mortgage" means this Mortgage between Grantor and Lender.

Note. The word "Note" means the promissory note dated May 21, 2004, in the original principal amount of \$392,000.00 from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from

the Property.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND EACH GRANTOR AGREES TO ITS TERMS.

GRANTOR:

X Kurt L. Neff
KURT L NEFFX Kurt Neff
KURT NEFFX Amy L Neff
AMY L NEFFX Amy Neff
AMY NEFF

INDIVIDUAL ACKNOWLEDGMENT

STATE OF IdahoCOUNTY OF Jefferson)
SS
)

On this 4th day of June, in the year 2004, before me Grant W Boehme, a notary public in and for the State of Idaho, personally appeared KURT L NEFF; AMY L NEFF; KURT NEFF; and AMY NEFF, known or identified to me (or proved to me on the oath of _____), to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Grant W Boehme
Notary Public for Idaho

My commission expires _____

Residing at _____

GRANT W. BOEHME,
NOTARY PUBLIC
RESIDING AT: REXBURG, IDAHO
MY COMMISSION EXPIRES: AUGUST 28, 2009GRANT W. BOEHME
NOTARY PUBLIC
STATE OF IDAHO

MICROFILM

JUL 15 2004

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 35-08953

Priority: July 01, 1991

Maximum Diversion Rate: 2.82 CFS

It is hereby certified that KURT L NEFF
36 E RIVER RD
BLACKFOOT ID 83221 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated July 01, 1991; and has
submitted Proof of Beneficial Use on July 07, 1993. An examination indicates that the works have a
diversion capacity of 5.66 cfs of water from:

SOURCE

GROUND WATER

and a water right has been established as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

04/01 to 10/31

DIVERSION RATE

2.82 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 34, Twp 01S, Rge 35E, B.M., BINGHAM 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	
01S 35E 34															31.0	25.0	56.0
02S 35E 3	35.0	39.0	34.0	34.0	39.0	34.0	34.0	40.0									289.0
	L 1	L 2			L 3	L 4											

Total Acres: 345

CONDITIONS OF APPROVAL

1. Right 35-02851 is also diverted through the point of diversion described above.
2. Rights 35-02851 and 35-08953 when combined shall not exceed a total annual maximum diversion volume of 1404.0 af at the field headgate, and the irrigation of 345 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands not covered under Rt. 35-02851 and 4.1 afa per acre at the field headgate for irrigation of the lands described under Rt. 35-02851.
4. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

MICROFILMED

DEC 12 2001

State of Idaho
Department of Water Resources
Water Right License

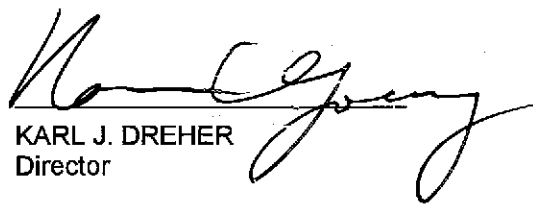
WATER RIGHT NO. 35-08953

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

Signed and sealed this 30TH day of NOVEMBER, 2001.

Acting for

KARL J. DREHER
Director



MICROFILMED
DEC 12 2001

11/99

For Office Use Only

\$25 filing fee ☒Receipt # E026425Date 1-9-01

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 12 2001

ASSIGNMENT OF PERMIT

DEC 28 2000

To change the ownership of a permit

Department of Water Resources

Department of Water Resources
Eastern RegionI, Mark W. Gardner, hereby assign to Kurt L. Neffof, 36 East River Road, Blackfoot Idaho 83221 208-785-7706

(Full Address)

(Phone)

All my right, title, and interest in and to Permit No. 35-08953 to appropriate the public waters of the State of Idaho.

RECEIVED

JAN 09 2001

Department of Water Resources
Eastern Region

OR (for partial assignments)

The following described portion of my right, title, and interest in and to for Permit No. _____ to appropriate the public waters of the State of Idaho.
(Describe portion of the application for permit assigned, listing the number of acres in each 40 acre subdivision, point of diversion location, and amount of the water in cubic feet per second.)

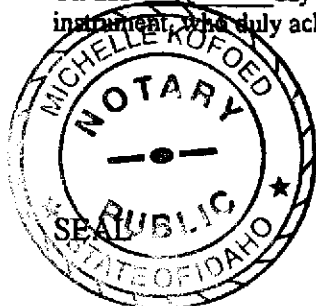
Made this 11th day of December, 2000.

Rance Gardner Mark W Gardner by Rance Gardner
Permit Holder(s) POA

State of Idaho)

County of Bingham)ss

On this 11th day of December, 2000, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.



Michelle Koford
Notary Public residing at Blackfoot ID

My commission expires: 4-14-06

MICROFILMED

JAN 30 2001

WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Original Application	35-08953	Lance Gardner Mark Gardner	4.0
Full Assignment	35-08953	Lance Gardner Mark Gardner Northwest Farm Credit Services ACA	4.0

JAN 11 1994

RECEIVED

DEC 23 1993

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF APPLICATION FOR PERMIT

Mark Gardner
Lance Gardner
Northwest Farm Credit Services, ACA
I, Lance Gardner, hereby assign to Mark Gardner
589 N. 150 W., Blackfoot, ID 83221
of, 10 W. Judicial, Blackfoot, ID 83221
(Full Address)

All my right, title, and interest in and to Application for Permit
No. 35-08953 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

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

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

Made this 20th day of December, 1993

Lance Gardner
Applicant

Mark Gardner
Applicant

State of Idaho)
County of Bingham) ss

On this 20th day of December, 93, personally appeared before me the signer of the
above instrument, duly acknowledged to me that he (she) (they) executed the same.

W. Gordon Blum
Notary Public

seal

My commission expires: 11-3-98

RECORDED
JAN 11 1994

RECEIVED

JUL 12 1993

Department of Water Resources

OFFICE USE ONLY

Amt. of Fee \$ 175.00

Date 7-7-93

Receipt No. E018820

Receipt by RB

STATE OF IDAHO
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 a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 35-08953 Telephone No. 785-5156 LANCE
785-5087 MARK
2. Name(s) of Permit Holder(s): LANCE GARDNER MARK GARDNER
3. Mailing Address: 589 N. 150 W. BLACKFOOT, ID 83201
4. Source of Water: Groundwater.

If GROUNDWATER, Well Driller's Name: Existing well Permit. Date Drilled: prior to 7/1/87
33387/35-2851 - Licensed 8/7/79

OPTIONAL:

Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use (as authorized by the permit):

Domestic _____ (No. of households) Stockwater _____ (No. and type of stock)

Irrigation 396 (No. of acres) Other _____

6. Total rate and/or volume for which proof is submitted 4.00 cfs OR _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? _____ Yes NO Installed? _____ Yes _____ No

OR

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

8. Fee Enclosed: \$ 175.00 (See License Fee Schedule on back of Instruction Sheet)

9. Person to contact to accompany the Department representative during field examination of the water system.

LANCE GARDNER 785-5156
Name Telephone No.

589 N. 150 W. Blackfoot, Id. 83201
Address

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

RECEIVED

7/6/93
Date

Lance Gardner
Signature (and title, if on behalf of a company or organization)

JUL 22 1993

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 35-08953

Proposed Priority: July 1, 1991 Maximum Diversion Rate: 4.00 CFS

This is to certify, that **LANCE GARDNER**
MARK GARDNER
589 N 150 W
BLACKFOOT ID 83221

has applied for a permit to appropriate water from: **GROUNDWATER**
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>
-----------------------	----------------------	--------------------------

IRRIGATION	04/01 to 11/01	4.00 CFS
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LOCATION OF POINT(S) OF DIVERSION: SESE Sec. 34, Township 01S, Range 35E
BINGHAM County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
01S	35E	34	SWSE 39	SESE 40		79
02S	35E	3	NENE 40	NWNE 37	SWNE 40	
			SENE 40	NENW 40	NWNW 40	
			SWNW 40	SENW 40		317

Total number of acres irrigated: 396

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **September 1, 1993**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Prior to the diversion of water under this permit a flow measurement port or other device as specified by the Department shall be installed to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
5. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. The right to the use of water acquired under this permit shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

SEP 27 1991

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 35-08953

7. The Director retains jurisdiction of the permit and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
8. The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this

17 day of September, 1991.

for R. Keith Higginson
R. Keith Higginson, Director

SEP 27 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Lance or Mark Gardner Phone 785-5156
Post office address 589 N. 150W., Blackfoot Id, 83221
2. Source of water supply GROUNDWATER which is a tributary of _____
3. Location of point of diversion is _____ 1/4 of SE 1/4 of SE 1/4, Govt. Lot _____
Sec. 34 Township 1S Range 3SE B.M. Bingham County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 4.0 for Irrigation purposes from 4/1 to 11/1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 4.0 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. well pump mainline to
two center pivots and laterals with sprinklers.
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
Existing well
 - c. Proposed well diameter is 20 inches; proposed depth of well is 250 feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
2 years (minimum 1 year).

SEP 27 1991

50

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

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

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

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

35-2851 for 270 acres described above

Total number of acres to be irrigated 213

[illegible]

ponding place of use below. See instructions for standard symbols.

b. If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding column.

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

9. Description of place of use:

e. Other; describe fully.

d. Domestic; show number of households.

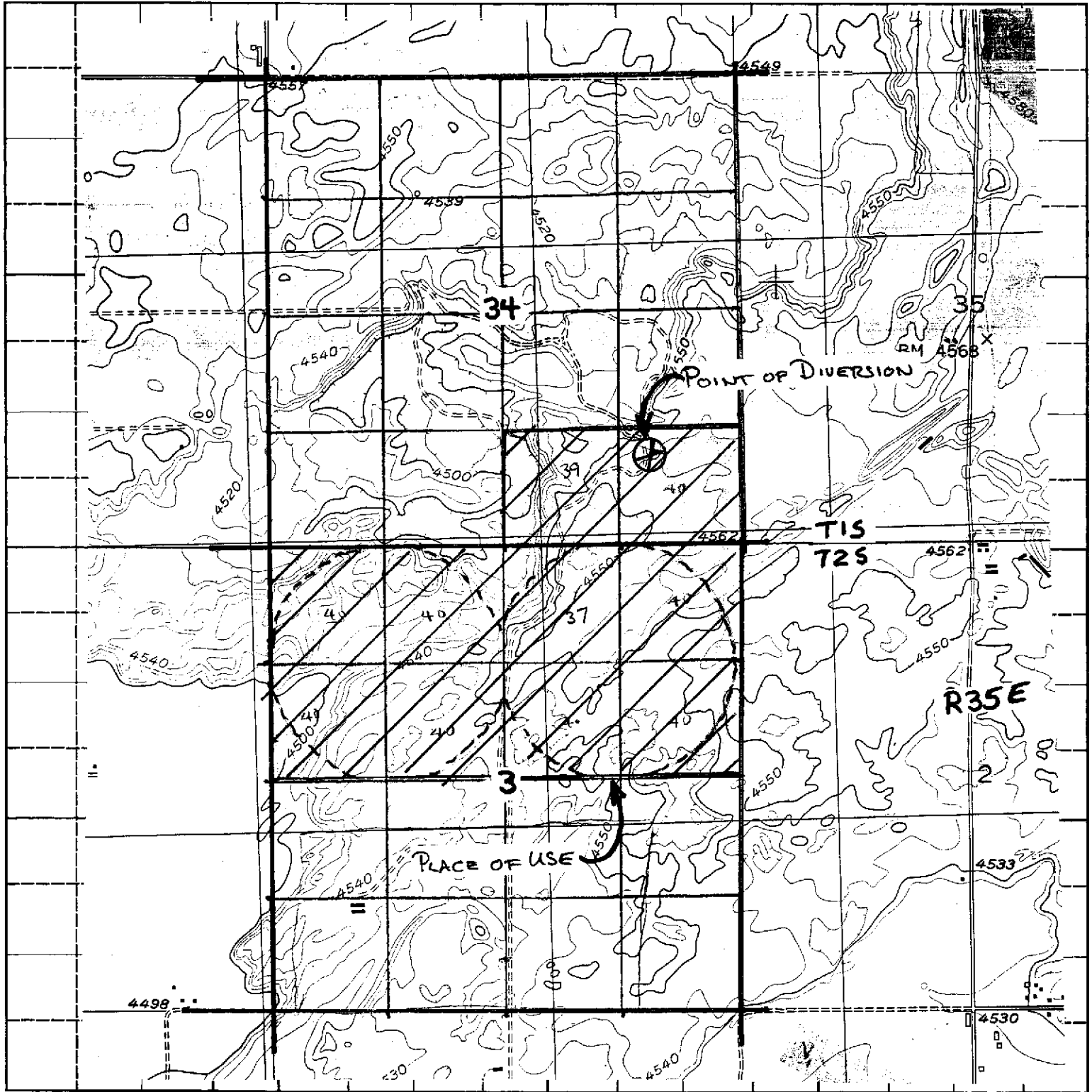
c. Municipal; show name of municipality.

b. Stockwatering; list number and kind of livestock.

a. Hydropower, show total feet of head and proposed capacity in KW.

8. Description of proposed uses (if irrigation only, go to item 9):

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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

Lance D. Gardner
(Applicant)

SEP 27 1991

SEP 27 1991

e. Other:

- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

19

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

1. Approval of said application is subject to the following limitations and conditions:

Idaho No. _____, and said application is hereby _____

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Publication approved by _____

Date 8-6-91

Publication prepared by RB

Date 7-18-91

Published in Morning News

Fee \$ 105⁰⁰

Received by KAD

E016284

Date July 1991

Received by KAD Date July 91 Time 1430hrs Preliminary check by

DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

27-07543

GARDNER, Lance
GARDNER, Mark
589 N. 150 W.
Blackfoot, Idaho 83221
Source: GROUNDWATER
Diversion Pt: SESE, Sec. 34, T. 01S, R.
35E.
Use: IRRIGATION (4.000 CFS).
Total Diversion: (4.000 CFS).
Date Filed: 7/1/1991.
In: T01S, R35E, S34, SWSE, SESE; T02S,
R35E, S03, NENE, NWNE, SWNE, SENE,
NENW, NWNW, SWNW, SENW.
396.0 ACRES TOTAL.

NOTICE OF APPLICATION
FOR TRUST WATER RIGHT

35-08950

WRIDE FARMS
P.O. Box 626
Aberdeen, Idaho 83210
Source: GROUNDWATER
Diversion Pt: NWSE, Sec. 3, T. 05S, R.
30E.
Use: IRRIGATION (2.400 CFS).
Total Diversion: (2.400 CFS).
Date Filed: 7/1/1991.
In: T05S, R30E, S03, NESW, NWSW,
SESW.
120.0 ACRES TOTAL.

NOTICE OF APPLICATION
FOR TRUST WATER PERMIT

35-08949

WRIDE FARMS
P.O. Box 626
Aberdeen, Idaho 83210
Source: GROUNDWATER
Diversion Pt: NENE, Sec. 4, T. 05S, R. 30E.
Use: IRRIGATION (3.000 CFS).
Total Diversion: (3.000 CFS).
Date Filed: 7/1/1991.
In: T05S, R30E, S04, NENE, NWNE,
SWNE, SENE.
150.0 ACRES TOTAL.

The permit(s) will be subject to all prior
water rights. Protests may be submitted bas-
ed on the criteria of Sec. 42-203A, Idaho Code
and/or the new public interest criteria of Sec.
42-203C, Idaho Code. Protests must be filed
with the Director, Dept. of Water Resources,
150 Shoup Ave., Suite 15, Idaho Falls, Idaho,

83402, on or before AUGUST 5, 1991.
R. KEITH HIGGINSON
Director

(1219)
Pub.: 7/18, 25

AUG 1 1991

Department of Water Resources
Eastern District Office

AFFIDAVIT of PUBLICATION

County of Bingham)

State of Idaho)ss

I, Jacqueline Graham do
solemnly

swear that I am the legal coordinator of
The Morning News which is a daily newspaper of
general circulation published each day except Sunday
at Blackfoot, Bingham County, Idaho, said newspaper
having been so published at Blackfoot, aforesaid for
more than one year past; that said newspaper
heretofore complied with all the provisions of Chapter
154 of the Sessions Laws of Idaho of 1933, approved
March 11, 1933, and duly designated, pursuant to law,
a particular day of the week as the day on which legal
notices required by law or by the order of any Court of
competent jurisdiction within the State of
Idaho shall be published to-wit: of each week; that the
notice attached hereto and which is a part of this af-
fidavit and part of the proof of publication was
published in said issue or said

newspaper two consecutive weeks

the first publication having been made on the

18th day of July, 1991;

and the last publication having been made on the
25th day of July, 1991;

that said notice was published in the regular and entire
issue of every number of the paper as aforesaid during
the period and time of publication, and that notice was
published in the newspaper and not in a supplement.

On this 31st day of July, 1991, in
the year 1991, before me a Notary Public of said State,
personally appeared

Jacqueline Graham
known or identified to me to be the person whose
name is subscribed to the within instrument, and being
by me first duly sworn, declared that the statements
therein are true, and acknowledged to me that he ex-
ecuted the same.

Raye Wrayton
Notary Public for the State of Idaho,
Residing at Blackfoot, Idaho
My commission expires
November 10, 1994

Affidavit Processing fee..... \$5.00



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

July 12, 2004

KURT L NEFF
36 E RIVER RD
BLACKFOOT ID 83221

RE: Change of Ownership for Water Right 35-8953

Dear Water Right Holder(s):

The department acknowledges receipt of correspondence adding a Security Interest to the ownership of the above referenced water right to Zions First National Bank. The department has modified its records to reflect the change in ownership and has enclosed a computer-generated report for your records.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

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

Sincerely,

for 

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

cc: ZIONS FIRST NATIONAL BANK
ATTN: GRANT BOEHME
PO BOX 54
RIGBY ID 83442

MICROFILMED

JUL 15 2004



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

December 3, 2001

KURT L NEFF
36 E RIVER RD
BLACKFOOT ID 83221

RE: License No. 35-8953 - Issuance of License

Dear Water Right Holder(s):

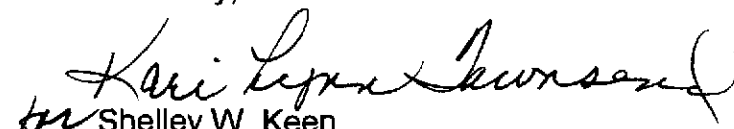
The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action 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.

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.

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

Sincerely,


for Shelley W. Keen
Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED
DEC 12 2001

CERTIFICATE OF MAILING

I hereby certify that on December 3, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 35-8953

**KURT L NEFF
36 E RIVER RD
BLACKFOOT ID 83221**


Kari Lynn Townsend
Secretary

MICROFILMED

DEC 12 2001

**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

35-8953

1. S. Keen 11/30/2001 Volume per acre

Comment: A right like this one normally carries a condition limiting it to 4.0 acre-feet per acre when combined with all other rights. In this case, however, the overlapping right, 35-2851, is recommended in the SRBA Directors Report for 4.1 acre-feet per acre. Therefore, the license for this right is being drafted with a condition authorizing 4.1 acre-feet per acre for lands covered by 35-2851 and 4.0 acre-feet per acre on the new lands.

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DEC 12 2001

SRBA

DIRECTORS REPORT 35-02851

Return to SRBA Home Page

IWT072

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

Right Number: 35-02851

*
* THIS DIRECTORS REPORT HAS BEEN AMENDED SINCE *
* IT WAS 1ST FILED. *
*

SUBST OF PARTY - NEFF FOR GARDNER

Name and Address: KURT L NEFF
AMY L NEFF
36 E RIVER RD
BLACKFOOT, ID 83221

Source: GROUNDWATER

Quantity: 2.84 CFS
972.00 AFY

Priority Date: 12-30-1966

Diversion Point: T01S R35E S34 NWSESE Within Bingham County

Purpose and	Purpose of Use	Period of Use	Quantity
Period of Use:	Irrigation	04-01 TO 11-01	2.84 CFS 972.00 AFY

Place of Use:	Irrigation	Within Bingham County
T01S R35E S34	SWSE 13	SESE 22
T02S R35E S03 LOT 1	(NENE) 35	LOT 2 (NWNE) 28
	SWNE 36	SENE 34
LOT 3	(NENW) 1	SWNW 29
	SENW 39	
237 Acres Total		

Other Provisions Necessary for Definition / Administration of this Water Right:

Explanatory Material: Basis of Claim - License

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
SECTION 42-1425, IDAHO CODE.

MICROFILMED

DEC 12 2001

LICENSE REVIEW CHECKLIST

Permit No. 35-8953

Date: 11-30-2001 Reviewer: Kay Walker

Change/OK

Name/Address ☒

Source ☒

Point of Diversion: ☒

Does change clarify original intended source? If no, void permit.

Change (P39/P49) Add (P45/P44) Feds (P40)

W32 (multiple in 1/4/1/4)

W36 (overlap)

W59 (subdivision description)

Place of Use ☒

Change (P41/P49) Add (P41/P44) Feds (P43)

W60 (subdivision description)

W27 (ppu acre limit)

Overlaps: Right(s): 35-2851

File reviewed ☒ Profile reports printed ☒

P/D & P/U amend (P37) Feds (P48)

Rate of Diversion:

Permitted rate 4.0 cfs
Fee Limit 4.0 cfs
Measured 5.66 cfs
Theoretical cfs

Recommended Total Diversion Rate 2.82

Water Uses ☒

Change (P46)

Season of Use per new Standards

4-1 10-31

Irrigation 2.82 cfs ☒ af
Stockwater cfs af
Domestic cfs af
 cfs af
 cfs af
Total 2.82 cfs ☒ af

Irrigation - overlap(R58-R61, R62-R65, R66-R69)
supp. Gw (WB7/065/104)
overlap spec combined rts (W35)
<1 acre (W31)
Domestic (W01/wb5/070/071/075)
Power (W42 or W43/025/027/R22 or R23)
Fish (042)
Fire (077)
Water Quality (081/R07)
Payette - (W22/047/27A)
Stockwater for US (R37)

Volume Determination

 cfs x 1.9835 x days = af (vs) 345 acres x 4.0 (FHR) = 1380 af
3.0 (con)

Remarks:

W35 (*) 1380. AF + 345 AC

Additional Conditions

Watermaster Control
GW Measurement/Measuring Device
Other

Trust R55 - remove 051

Non-trust (048/049) ☒

GW Dist?

Water Msmt. Dist?

Crit. GWMA?

GWMA?

Government Lots? yes

Advance Priority? yes

no

If yes, explain why below.

SRBA Claim?

NO - not req'd

Adjust memo

Amend Letters

P87, S06

Second Amendment Notice

S06

$$\text{Volume needed} = 1380. \text{ AF} - 972. (35-02851) - 408. \text{ allowable} -$$

$$\begin{aligned} \text{Capacity of well} &= 5.66 \text{ cfs} \\ \text{for } 35-02851 &= 2.84 \text{ cfs/237ac} \\ &\quad \underline{2.82 \text{ remaining}} \end{aligned}$$

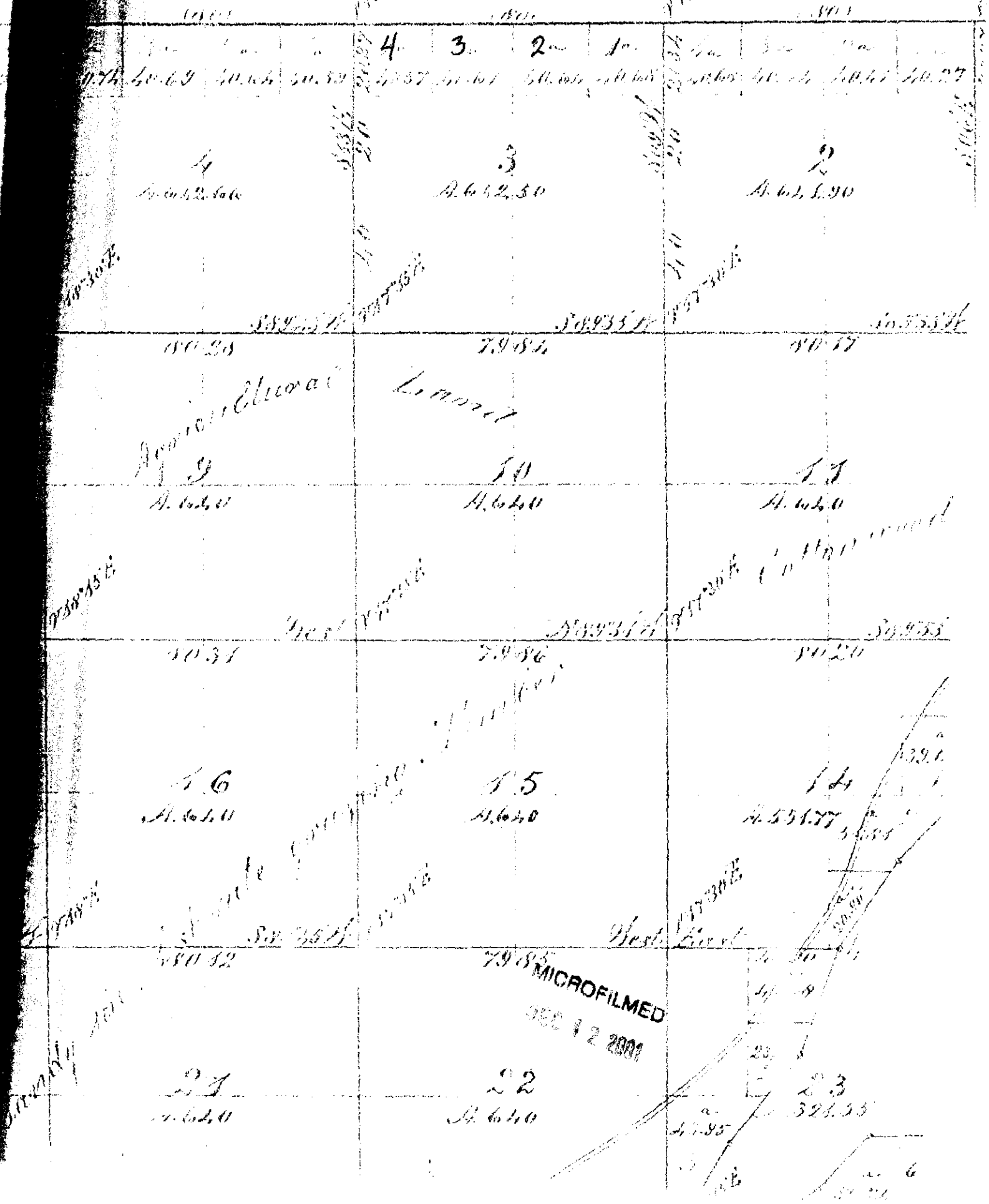
[illegible]

Idaho Dept. of Water Resources
Place of Use Comparison Report

Type	WR #	Owner	Source	TRS	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SESW	NESE	NWSE	SWSE	SESE Total
Right	27 235	E M KENNEDY,	BLACKFOOT RIVER	02S35E3															0
Claim	35 2668	DOREEN BURKMAN, JAMES DOUGLAS BURKMAN,	GROUND WATER	02S35E3									40	39	3	36	40	40	188
Claim	35 2851	KURT L NEFF, AMY L NEFF,	GROUND WATER	02S35E3								28	38						208
Claim	35 2865	LOVELL J CALLISTER,	GROUND WATER	02S35E3															8
Claim	35 7084	JAMES DOUGLAS BURKMAN,	GROUND WATER	02S35E3									40	39	3	36	40	40	188
Claim	35 7253	MARY ANN PLANT, MERLIN PLANT,	GROUND WATER	02S35E3												25		39	64
					40	37	40	40					40	16	4	36			317
					35	28	36	34											176
																			202
																			8
																			8
													40	16	4	36			176
																			64
Right	35 2668	JAMES W BURKMAN,	GROUND WATER	02S35E3									19	39	35				93
Right	35 2851	TUGI NAKAMURA,	GROUND WATER	02S35E3								28	38						208
Right	35 2865	ELDON J CALLISTER,	GROUND WATER	02S35E3															8
Right	35 7084	JAMES W BURKMAN,	GROUND WATER	02S35E3									30		3	40	40	40	153
Right	35 7253	MERLIN PLANT,	GROUND WATER	02S35E3												2		39	41
Right	35 8853	KURT L NEFF,	GROUND WATER	02S35E3															283
Right	1 47E	CORBETT SLOUGH DITCH CO.	SNAKE RIVER	02S35E3															0
Right	1 48	CORBETT SLOUGH DITCH CO.	SNAKE RIVER	02S35E3															0

OL w/35-2851
only

2S 35E





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 16, 2001

KURT L NEFF
36 E RIVER RD
BLACKFOOT ID 83221

RE: Change of Ownership for Water Right Permit 35-8953

Dear Permit Holder(s):

The department acknowledges receipt of correspondence changing ownership of the above referenced permit to you. The department has modified its records to reflect the change in ownership and has enclosed a computer-generated report for your records.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Peppersack'.

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

MICROFILMED

JAN 30 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

AUG 12 1998

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 35-08953

1. Owner: LANCE GARDNER, MARK GARDNER Phone No. (208)

Current Address: 589 N 150 W BLACKFOOT ID 83221

2. Accompanied by: LANCE GARDNER EXAM DATE: 6-30-75

Address: _____ Phone No. _____

Relationship to Permit Holder: HOLDER

3. Source: GROUNDWATER tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use: 35-02851

2. Other water rights with the same point of diversion: 35-02851

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		NW	SE	SE	34	1 S	35E	BINGHAM	USGS, ON-SITE

2. Place(s) of Use:

Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1S	35E	34															31	25	56
2S	35E	3	L1 35	L2 38	34	34	L3 40	L4 34	34	40									289
			Total =>																345

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JAN 30 2001

MICHOFTIME

$$53799.5 = \text{mid } 0.1452 = 989 + 5551 = 7440$$

2. Measurements:

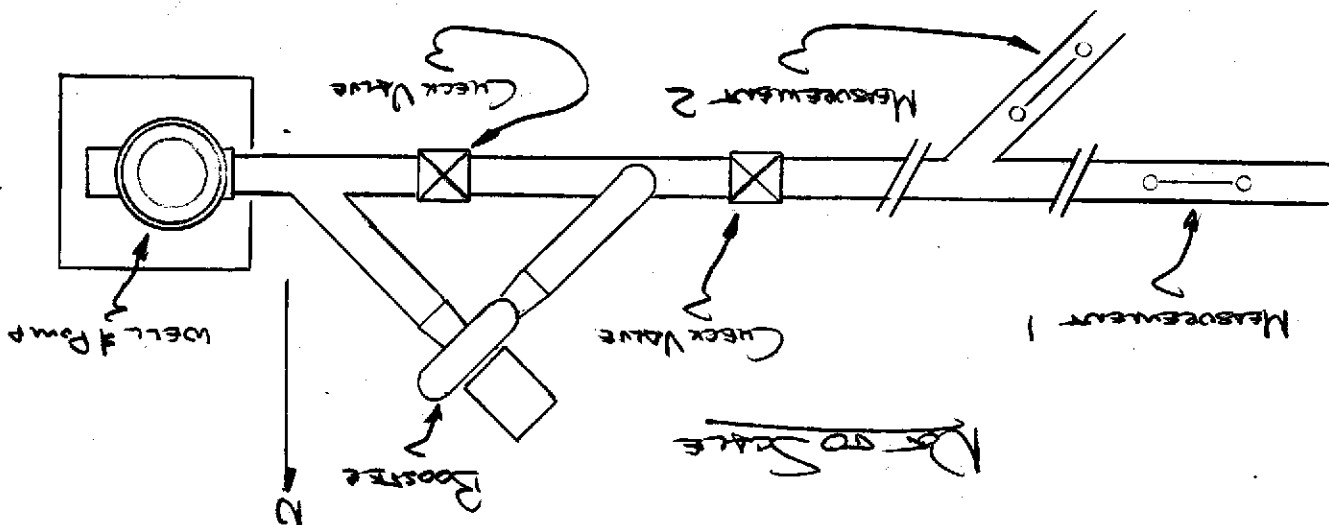
Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Johnson Forward						

D. FLOW MEASUREMENTS

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

Well or Diversion Identification No. *	Well A Pump	Gen. Elec.	150	5K444D6005A / N66045030	Jounston	#15713 10" square
Motor Make	HP	Motor Serial No.	HP	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
Booster	Measurement	125	19-03116-3/20-06	Security	606191 / 36E884	

_____ Copy of USGS Quadrangle Attached Showing location(s) of
point(s) of diversion and place(s) of use (required).
_____ Aerial Photo Attached
(required for irrigation of 10 + acres)
_____ Photo of Diversion and System Attached



3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate well size/ditch size/pipe i.d. as applicable.

E. NARRATIVE/REMARKS/COMMENTS

WELL WITH PUMP AND BOOSTER TO CENTER PIVOTS (2), WIPER
PIVOT (1) AND VARIOUS HANDLINES FOR IRRIGATION OF
CROPLAND

DIRECT OVERLAP WITH 35-02851. SAME P/O. LAND PREVIOUSLY
COVERED BY 35-02851 IS NOW SUPPLEMENTED WITH WATER FROM
35-08953

OVERLAP CALCULATIONS:

$$35-02851 = 270 \text{ AC} \times 2.84 \text{ CFS}$$

$$Q_{\text{MEAS}} = 5.66 \text{ CFS}$$

$$A_{\text{CROPLAND}} = 345 \text{ AC}$$

$$5.66 \text{ CFS} / 345 \text{ AC} = 0.0164 \text{ CFS/AC}$$

$$\text{OVERLAP} = 270 \text{ AC} \times 0.0164 \text{ CFS/AC} = 4.43 \text{ CFS}$$

$$- 4.43 - 2.84 = 1.59 \text{ CFS OVER 270 (35-02851)}$$

$$\text{NEWLAND} = 345 - 270 = 75 \text{ AC}$$

$$75 \text{ AC} \times 0.0164 = 1.23 \text{ CFS}$$

$$\text{TOTAL CFS} = 1.59 \text{ CFS} + 1.23 \text{ CFS} = 2.82 \text{ CFS}$$

Have conditions of permit approval been met? ☐ yes ☐ no

MICROFILMED

1988 0 0 9000

Measured Method:

Additional Computation Sheets Attached

SEE REMARKS

Recomendados $G = 2.82$ cfs

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{LR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \frac{345 \times 41.0}{1380} = 10.17 \text{ cfs}$$

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use From To	Rate of Division Q (cfs)	Annual Volume V (afa)
<u>Total Above</u>	4-1 10-31	2.82 cfs	1197
Totals:		2.82 cfs	1197*

*NOT TO EXCEED 180 AFA WOULD COMBINATION WITH 35-02851

2. Recommended Amendments

I. AUTHENTICATION

Change P.D. as reflected above	Change P.U. as reflected above
_____	_____
Add P.D. as reflected above	Add P.U. as reflected above
_____	_____
X None	Other _____

Field Examiner's Name Raul R. Mendez Date 11-28-98

Reviewer _____ **Date** _____

SEAL

1800 4 6 2005
MICROFILMED

POINT OF DIVERSION

34 35
3 2

35-08953

HEL 7 23.8

HEL 5 16.6

HEL 8 37

HEL 16

33 34 35
4 3

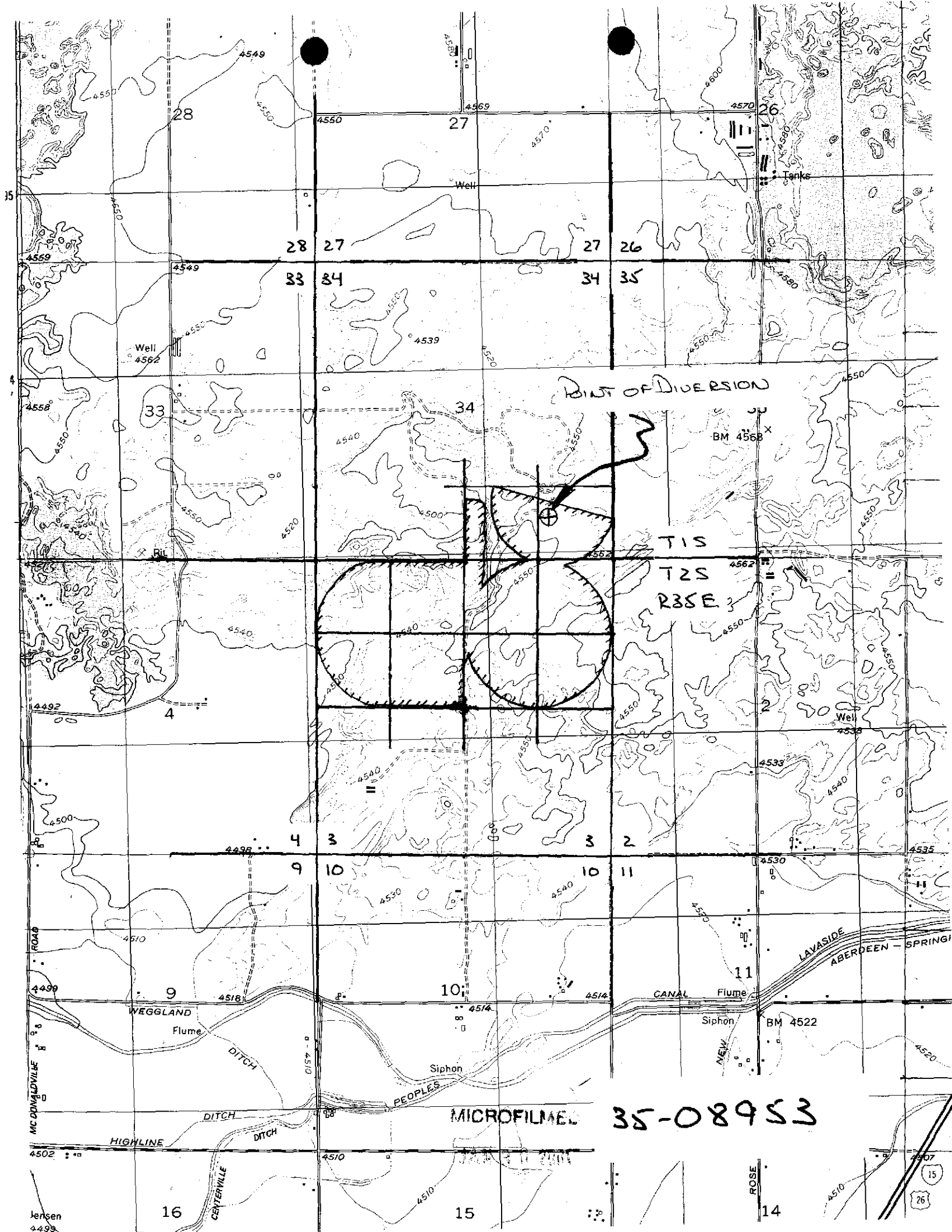
T1S
T2S
R3SE

HEL 6 7.9

2 5.3

HEL 7 5.0

MICROFILMED
JAN 30 2001



MICROFILMED

35-08953

00-00 00:2000
+002.80 % AI2

00-00 00:2000 *R
+ 1.832E 36PM

00-00 00:2000 *R
+ 1.855E 36PM

00-00 00:2000 *R
+ 1.855E 36PM

0373.3 MMSEC
099.82 % T0

OUTER DIAMETER
10.0000 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.1071 IN

INNER LINING
? NO LING.

SOUND VELOCITY
1440 M/S-

SPACING
7.250 IN U

1100 PLS
6-8-9

#

NEARBY WITH

00-00 00:2000
+002.80 % AI2

00-00 00:2000 *R
+ 1.832E 36PM

00-00 00:2000 *R
+ 1.855E 36PM

00-00 00:2000 *R
+ 1.855E 36PM

0373.3 MMSEC
099.82 % T0

OUTER DIAMETER
10.0000 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.1071 IN

INNER LINING
? NO LING.

SOUND VELOCITY
1440 M/S-

SPACING
7.250 IN U

1100 PLS
6-8-9

#

NEARBY WITH

00-00 00:4100 *H
+002.50 % AI2

0474.4 MMSEC
099.72 % T0

00-00 00:4400 *R
+644.315E 06PM

00-00 00:4500 *R
+668.355E 06PM

00-00 00:4600 *R
+645.636E 06PM

00-00 00:4600 *R
+650.655E 06PM

00-00 00:4700 *R
+686.054E 06PM

00-00 00:4700 *R
+711.151E 06PM

00-00 00:4800 *R
+678.393E 06PM

OUTER DIAMETER
12.7299 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.1051 IN

SOUND VELOCITY
1450 M/S-

SPACING
9.607 IN U

#

35-08953

00-00 00:4100 *H
+002.50 % AI2

0474.4 MMSEC
099.72 % T0

00-00 00:4400 *R
+644.315E 06PM

00-00 00:4500 *R
+668.355E 06PM

00-00 00:4600 *R
+645.636E 06PM

00-00 00:4600 *R
+650.655E 06PM

00-00 00:4700 *R
+686.054E 06PM

00-00 00:4700 *R
+711.151E 06PM

00-00 00:4800 *R
+678.393E 06PM

OUTER DIAMETER
12.7299 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.1051 IN

SOUND VELOCITY
1450 M/S-

SPACING
9.607 IN U

#

35-08953



Plate 1 - Motor and pump assembly at point of diversion.

MICROFILMED

JAN 30 2004

35-08953

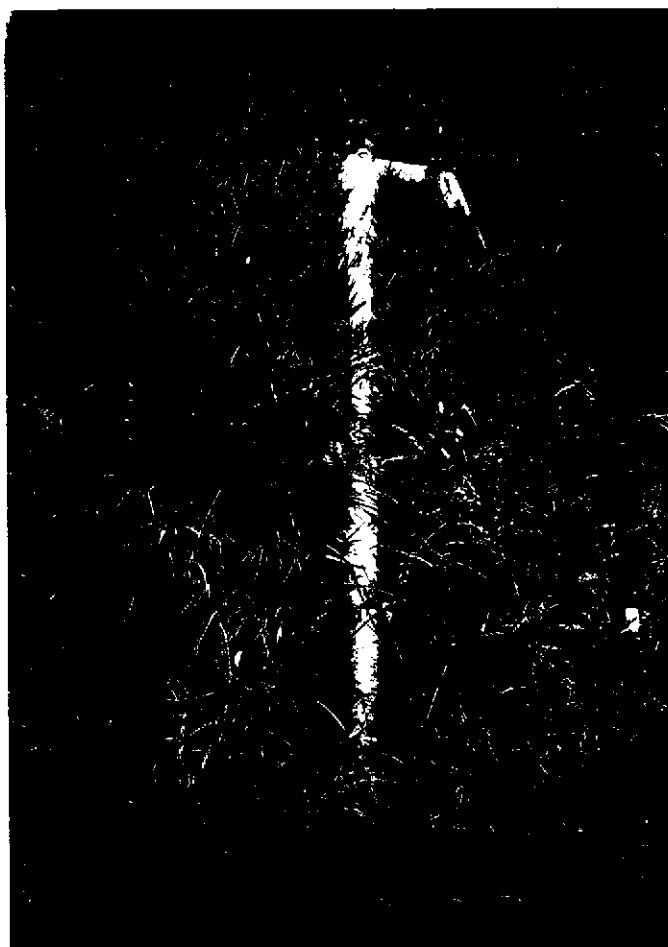


Plate 4 - Location of measurement 1 looking towards
point of diversion.

MICROFILMED

JAN 30 2001

35-08953



Plate 5 - Location of measurement 2 looking towards
point of diversion.

MICROFILMED

JAN 30 2001

35-08953



Plate 2 - Booster assembly from motor and pump.



Plate 3 - Closeup of booster pump and motor.

MICROFILMED

JAN 10 2001

35-08953

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 35-08953

Resources
Land and Water Office

Proposed Priority: July 1, 1991 Maximum Diversion Rate: 4.00 CFS
This is to certify, that LANCE GARDNER

MARK GARDNER
589 N 150 W
BLACKFOOT ID 83221

has applied for a permit to appropriate water from: GROUNDWATER
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>
-----------------------	----------------------	--------------------------

IRRIGATION	04/01 to 11/01	4.00 CFS
------------	----------------	----------

<u>LOCATION OF POINT(S) OF DIVERSION:</u>	SESE Sec. 34, Township 01S, Range 35E BINGHAM County
---	---

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
01S	35E	34	SWSE 39	SESE 40		79
02S	35E	3	NENE 40	NWNE 37	SWNE 40	
			SENE 40	NENW 40	NWNW 40	
			SWNW 40	SENW 40		317

Total number of acres irrigated: 396

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before September 1, 1993.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Prior to the diversion of water under this permit a flow measurement port or other device as specified by the Department shall be installed to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
5. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. The right to the use of water acquired under this permit shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

MICROFILMED

State of Idaho
Department of Water Resources**Permit To Appropriate Water**

NO. 35-08953

7. The Director retains jurisdiction of the permit and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
8. The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this

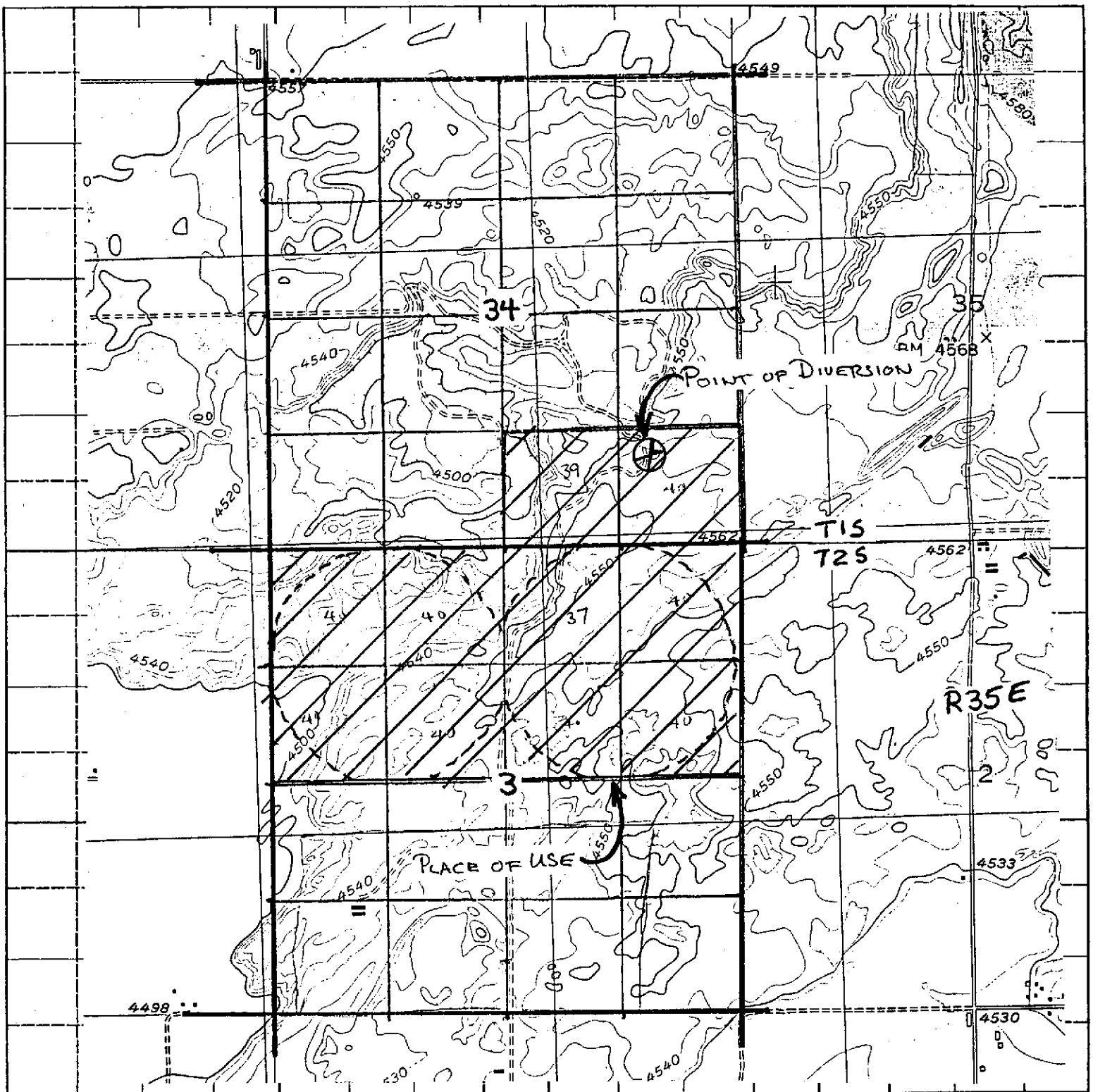
17th day of September, 1991.

for R. Keith Higginson
R. Keith Higginson, Director

MICROFILMED

JAN 30 2002

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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

MICROFILMED

JAN 30 2001

Lance D. Gardner
(Applicant)

STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES
 DIVISION OF WATER RIGHTS

License No. 33387/35-2851, expires Dec. 30, 1968, amount 2.84 cfs.

THE STATE OF IDAHO, TUGU NAKAMURA

Blackfoot, Idaho, has applied for the terms and conditions of Permit
 No. 33387/35-2851 issued pursuant to Application for Permit dated December 30, 1968
 and has submitted proof to the Department of Water Resources on November 12, 1971

that he has applied water to a beneficial use. The Department indicates that the
 works have a capacity of 2.84 cfs and that the water has in fact been applied to a
 beneficial use; a right to the use of water from a ground water source

tributary of _____ is hereby confirmed in the following amounts:

Amount 2.84 cfs for Irrigation from April 1 to Nov. 1 (both dates inclusive)

Amount _____ from _____ to _____ (both dates inclusive)

Amount _____ from _____ to _____ (both dates inclusive)

Subject, however, to the condition that no more than 2.84 cfs of water be diverted at
 any one time, said waters to be diverted within the _____

SE 1/4 Sec. 34, Twp. 1 S, Rgs. 35 E, B.M.

in the county of Bingham and that the amount of water so diverted and to which such
 right is entitled and confirmed is for the purposes aforesaid and is limited to the amount which can
 actually be beneficially used and shall not exceed 945 acre feet per year or
 3.0 acre feet per acre.

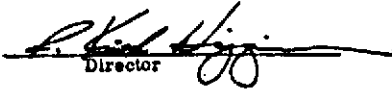
Description and location of place of use:

TWP.	RANGE	SEC.	NW 1/4				SW 1/4				SE 1/4				NE 1/4				TOTALS
			NW 1/4	NW 1/4	SW 1/4	SE 1/4	NW 1/4	NW 1/4	SW 1/4	SE 1/4	NW 1/4	NW 1/4	SW 1/4	SE 1/4	NW 1/4	NW 1/4	SW 1/4	SE 1/4	
18	35 E	34															22	40	62
28	35 E	3	35	32	38	35	2	28	38										206

Total number of acres irrigated 270

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands
 or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 8 day of
 November, 19 72.


 Director

MICROFILMED

JAN 30 2001

35 2851

Introduction

Orange Springs, Fla. 32063

agricultura

April 6 - September 25

(mo.-day) inclusive (mo.-day)

6442

Nature of use

(mo-day) inclusive (mo-day)

• AFI Awards

(nature of use)

(me-day) inclusive (me-day)

Total amount to be appropriated:

Max Rate of Diversion 4.0 cubic feet per second and annual volume Af/Annum

Location of Point(s) of Diversion

Near cntr Sx of the SE4

Township 35 N3, Range 35E EW, B.M., Section 34, Subdivision V₂ V₄ Bingham

Township N5 Range EW B.M. Section 27 Subdivision 1/4 1/4

Township NS Range EW B.M. Section Subdivision V₄ V₄

Other Points of Divergence:

125 HP pump, 125 HP motor, 190' well depth, 90' lift, 20" well casing

Measuring device required: yes ☐ no ☒

6. Lands to be irrigated or place of use.

[illegible]

TOTAL ACREAGE 400

MICROFILMED

JAN 30 2001

Jackboot Aidano

...from the trend lines show the

These can be used for the following purposes:

- 1. **For agricultural**

Period of the year from April 6 to September 25 (no-day) inclusive (no-day)

Amount	c.f.s. for AF/Annum	(nature of use)

Period of _____ from _____ to _____
(mo.-day) inclusive (mo.-day)

Amount	Rate	Payable for	(nature of use)
100	10%	AF/Annum	

Period of Use from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses:

Total amount to be appropriated _____
Rate of Diversion 4.0 cubic feet per second and annual volume _____ AF/Annum.

Location of Point(s) of Diversion:

Township 8S, Range 35E, S.M., Section 34, Subdivision _____ County Bingham

Township N5 Range E/W B.M. Section 3 Subdivision 1/4 1/4 County 1/4 1/4

Township _____ N/S. Range _____ E/W, B.M., Section _____ Subdivision _____ V₁ _____ V₂ _____ County _____

Other Points of Diversion:

Description of diverging work: 125 HP pump, 125 HP motor, 190' well depth, 90' lift, 20" well casing

Measuring device required: yes ☐ no ☒

6. Lands to be irrigated or place of use.

[illegible]

RECEIVED

JAN 10 1972

35 2851

Department of War Adm. Gen.
Eastern District of Va.

TOTAL ACREAGE

Exemption for Beneficial Use

MICROFILMED

JAN 30 2001

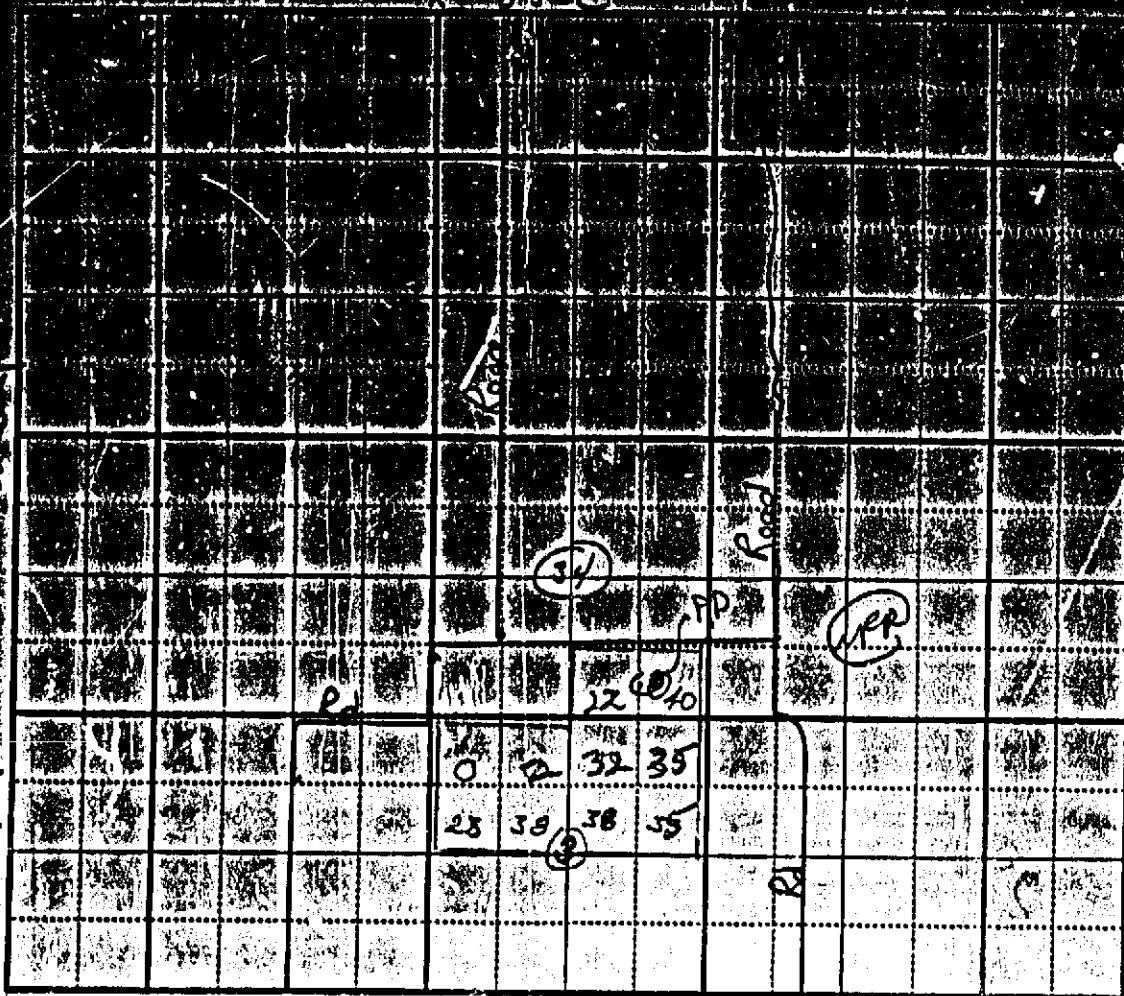
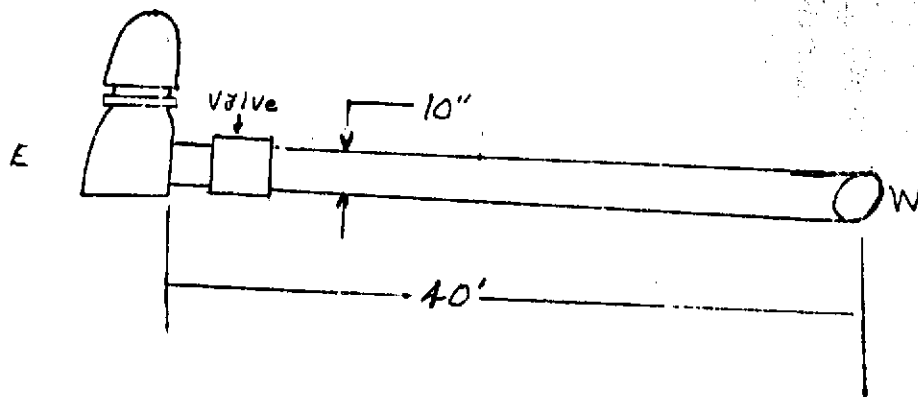


Diagram of System



MICROFILMED

JAN 30 2001

Section Q
Domestic Q
Foreign Q

AF/Am from
AF/Am from
AF/Am from

Water sampled

Name source
N/S, Rge
EW, B.M., Sec
Sub

Exchanges? Yes No

Name source exchanged with
N/S, Rge
EW, B.M., Sec
Sub

Point of injection
N/S, Rge
EW, B.M., Sec
Sub

Point of exchange
N/S, Rge
EW, B.M., Sec
Sub

Point of exchange
N/S, Rge
EW, B.M., Sec
Sub

Point of exchange
N/S, Rge
EW, B.M., Sec
Sub

Total Q measured 2.84 cfs Method of measurement Pitot Tube @ Nozzle

Total Q recommended 2.84 cfs Meter No. Type Condition

Total V recommended 945 AF/Am

Recommended Amendments

P.D. → This office questions the acceptance of legal docu

Place of Use

Other

None

MEASUREMENT CALCULATION:
5/25 3000 No. 2 @ 57.45 psi → 5.3278 gpm (72.70) = 1209.4 gpm

1/18 3000 No. 2 @ 46 psi → 6.56 gpm (60.00) 65.6 = 1.84 cfs

SYSTEM DESCRIPTION:

Water - 125 HP U.S. Holtzclott, Serial # 1374655

Pump Schuster, Serial # - Not stamped

REMARKS: System shown by owners son → (Tagi, NAKAMURA)

Examiner's Signature William R. Choudhury + B.R. Date 8/2/72

Checked by Norman C. Young Date 10-11-72

Approved by Date

MICROFILMED

30 2001

75-2951

15
227

$$5/32 \text{ 30W Nozzle @ } 57.45 \text{ psi} \rightarrow 5.3278 \text{ gpm}$$

$$(5.3278 \text{ gpm} \times 227 \text{ Nozzles}) = 1209.41 \text{ gpm}$$

$$1209.41$$

$$5/32 @ 55 \text{ psi} < 60 \rightarrow 0.44 \text{ gpm}$$

$$1179$$

$$57.45$$

$$5/32 @ 55 \text{ psi} \rightarrow 5.22 \text{ gpm}$$

$$5/32 @ 2.45 \text{ psi} \rightarrow 0.1078 \text{ gpm}$$

$$5/32 @ 57.45 \text{ psi} \rightarrow 5.3278 \text{ gpm}$$

$$119 \text{ psi } 11/64$$

$$11/64 \text{ 30W nozzle @ } 60 \text{ psi} \rightarrow 6.56 \text{ gpm}$$

$$\frac{62}{58} \times \frac{120}{2} = 60, (10 \text{ Nozzles}) (6.56 \text{ gpm}) = 65.6 \text{ gpm}$$

$$120$$

$$64.0 \text{ gpm}$$

$$\text{No. Nozzles} = 10, \Sigma \text{ gpm} = \frac{1209.41}{65.6} = 1275.01$$

$$\frac{1275.01 \text{ gpm}}{448.8 \text{ gpm cfs}} = 2.84 \text{ c.f.s.}$$

$$(10)(6.40 \text{ gpm})$$

MICROFILMED

35 2851

SEP 30 2001

Q.12



MICROFILMED

JAN 30 2001

Q.12

2851



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

December 28, 1993

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

LANCE GARDNER
MARK GARDNER AND
NORTHWEST FARM CREDIT SERVICES
10 W JUDICIAL
PO BOX 10
BLACKFOOT ID 83221-0010

Re: Permit No. 35-08953

Dear Water Right Holders:

We acknowledge receipt of the correspondence assigning the ownership of the above referenced water right to you. We have modified our computer records to reflect this change in ownership.

If you have any questions regarding this matter, please feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to be 'Jim Johnson', with a long horizontal line extending to the right.

JIM JOHNSON
Water Rights Supervisor

JJ:dc

RECEIVED

JAN 11 1994

July 16, 1993

LANCE GARDNER
MARK GARDNER
589 N 150 W
BLACKFOOT ID 83221

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 35-08953

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 conduct a field examination to determine and confirm the use being made of the water.

I note that the permit issued to you by the department requires the installation of a flow measurement port to allow the department to determine the rate of diversion. The proof which you submitted does not show that you have installed this equipment.

The installation of the flow measurement port must be complete by the time the department representative conducts the examination of your system unless the department has rescinded the requirement prior to the field examination. In some cases, the equipment requirement can be rescinded because the equipment cannot be physically installed, is not appropriate or can be accommodated with other measuring methods.

If you have questions concerning this matter, please feel free to contact the EASTERN Regional Office in Idaho Falls at (208)525-7161.

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

c: IDWR - Region

RECEIVED

JUL 22 1993

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 35-08953 Reviewed by Ulg Date 7/13/93

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?
yes Address same as permit?
NA Proof timely received? Correct Uses? yes
If not, complete calculation below.

SOURCE OF WATER

 Surface water source
✓ Ground water source

NA Drilling permit required?
 Copy in the file? Drilling Permit No.
 Amount paid for permit Correct?
 Well log in the file?

LICENSE EXAMINATION FEE

MEASURING DEVICE

yes Required?
175 Amount Submitted
yes Correct?

yes Required?
yes Installed?
NA Waiver requested?

PRIORITY CALCULATION

Date proof received NA
Date proof due -
No. of days late =
Priority Date +
New Priority Date

DEFICIENCIES OR ACTION ITEMS

proof acceptable

needs a flow

DATA ENTRY

New Address

Proof Made 7/7/93

7/16/93 Klg

June 30, 1993

LANCE GARDNER
MARK GARDNER
589 N 150 W
BLACKFOOT ID 83221

PROOF DUE NOTICE

RE: PERMIT NO. 35-08953

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 September 1, 1993. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete 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,

Karen L. Gustafson
Secretary/Records Manager

Enclosures

JUL 22 1993

CERTIFIED MAIL

NO. 140323



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

September 19, 1991

LANCE GARDNER
MARK GARDNER
589 N 150 W
BLACKFOOT ID 83221

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 35-08953

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed. You will receive a "Proof Due Notice" from this Department approximately 60 days prior to the completion date requiring you to file either a Proof of Beneficial Use form stating that the project has been completed or file a Request for an Extension of Time in which to file the proof statement.

Be sure to note the special condition requiring you to install a measuring device. Enclosed, for your reference, is a list of measuring device options.

Section 42-235, Idaho Code, requires that a "drilling permit" must be obtained from the department for all wells constructed after July 1, 1987. A drilling permit is a separate permit that must be issued in addition to your permit to appropriate water. Commencement of well construction or diversion of water under your permit to appropriate water is prohibited unless a drilling permit is obtained.

You should be aware that you are located within a drainage basin where surface water diversions are regulated by a watermaster. It is possible that diversion of groundwater under your permit may cause a reduction of surface water flow. Siting your well as

SEP 27 1991

far as possible from surface water channels and casing your well so that groundwater tributary to surface water flows are not diverted will reduce the potential for the watermaster to regulate your water use.

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

PS:blm

Enclosures

SEP 27 1991

MEMORANDUM

TO: FILE/PAM SKAGGS

FROM: TIM LUKE

RE: APP. NO. 27-7543/RULE 4,5,3. INFORMATION

DATE: 9-11-91

The place of use under this application partially overlaps license no. 35-2851. The point of diversion also appears to be common to license 35-2851. License 35-2851 is for irrigation of 270 acres. Application 27-7543 is for irrigation of 396 acres, including the 270 acres already licensed. The application merely represents an expansion of 126 acres. Since the new portion of the proposed development is less than 200 acres and a total of only 4.0 cfs is requested, I do not believe the rule 4,5,3. information is required. I recommend waiving the additional information requirement for this application.

Note: The point of diversion under the application is located in basin 35, not basin 27. We will need to change the water right number on the application.

Any Information ALREADY submitted is acceptable.
TJL
9-11-91

SEP 27 1991

APPLICATION FOR PERMIT REVIEW

Application #: 27-7543

Reviewer: Pam Skaggs *PS*

Date: 9-11-91

Existing:

☒ No - (26A-P17)
Complete in 1 year - P16

Yes

Proof not submitted - P16

Proof submitted - N/A

Groundwater:

☒ GT. 0.2 cfs - (01G-P03), 01C-P03 (existing well)

LT. 0.2 cfs - N/A

Drilling Permit:

☒ Approved w/permit - P99

☒ Not included - (046-P23) All GW, even existing wells

Location:

☒ Water Districts - WD No. 01
Surface water - 005, 005-01H-P01 (LT.2 w/pump)
005-01J-P08 (GT.2)

☒ Groundwater - (P05)

Irrigation Districts - 023

Canal Co. Areas - 023

Drainage Districts - 024

Boise Front (63) - 058 (Groundwater)

☒ Swan Falls Flag - / (1, Blank or Other)

Trust - 051-052-053-P74 (Consumptive Uses)

☒ Non Trust - (048-049)

River Basins:

(Surface Water) Water District Control Condition &....

Boise (63) - 05A & 11E

Payette (65) - 047-P04, 059-P71

Snake (01, 02 & 03) - 11A-P04 (01), 061-P07 (02/03 No W.D.Cond.)

Use:

Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One),
042 (req.), 002-P06 (MD), 07A (Spec.),
044 (Policy 5G)

Power - Use Power Review

Mining - 06A or 010, 09E-P10 & 054 (req.)

Storage - 18A-for multiple measuring devices (In WD),
18B-P09 (Size)

Rec. & Aesthetic - 027 (Non-Consumptive)

Domestic - 021 (restricted areas)

Ownership:

Non land owner - 004

Protested:

Agreement - 020

SEP 27 1991

☒ Beneficial Use Due Date: - 09-01-1993

Other Conditions Recommended Review Rule 4.5.3 Data
☒ Note WR # Change in Permit letter

RECEIVED

AUG 29 1991

Lance I. Gardner
589 North 150 West
Blackfoot, Idaho 83221
Department of Water Resources
Eastern District Office

August 28, 1991

Department of Water Resources
150 Shoup Ave. Suite 15
Idaho Falls, Idaho 83402
Attn: Harold W. Jones

Dear Mr. Jones,

In response to your request of August 7, 1991 for further information concerning application 27-07543 for a water right, I submit the following information.

1. Attached map will show that there is one irrigation well within a half mile radius. It is marked on the map in blue.

2. Type of irrigation system that I intend to install is pivots and laterals for the four corners. The water will be supplied to the pivot and laterals by pvc mainline. The pivots are a low pressure design.

I do not feel that this will affect other users because I will be pumping from the Snake River Aquifer and in this area there are several wells and they do not seem to have a significant effect on each other.

3. The peak water usage demand that I would have in my best estimated calculations would be 6.68 cfs or 1104 acre feet for the growing season.

4. The ground water source that I would be wanting to use is the Snake River Aquifer. The depth to water level in this areas is 85 to 110 feet.

5. The basic estimate that I have for construction and the cost of equipment is \$200,000.00.

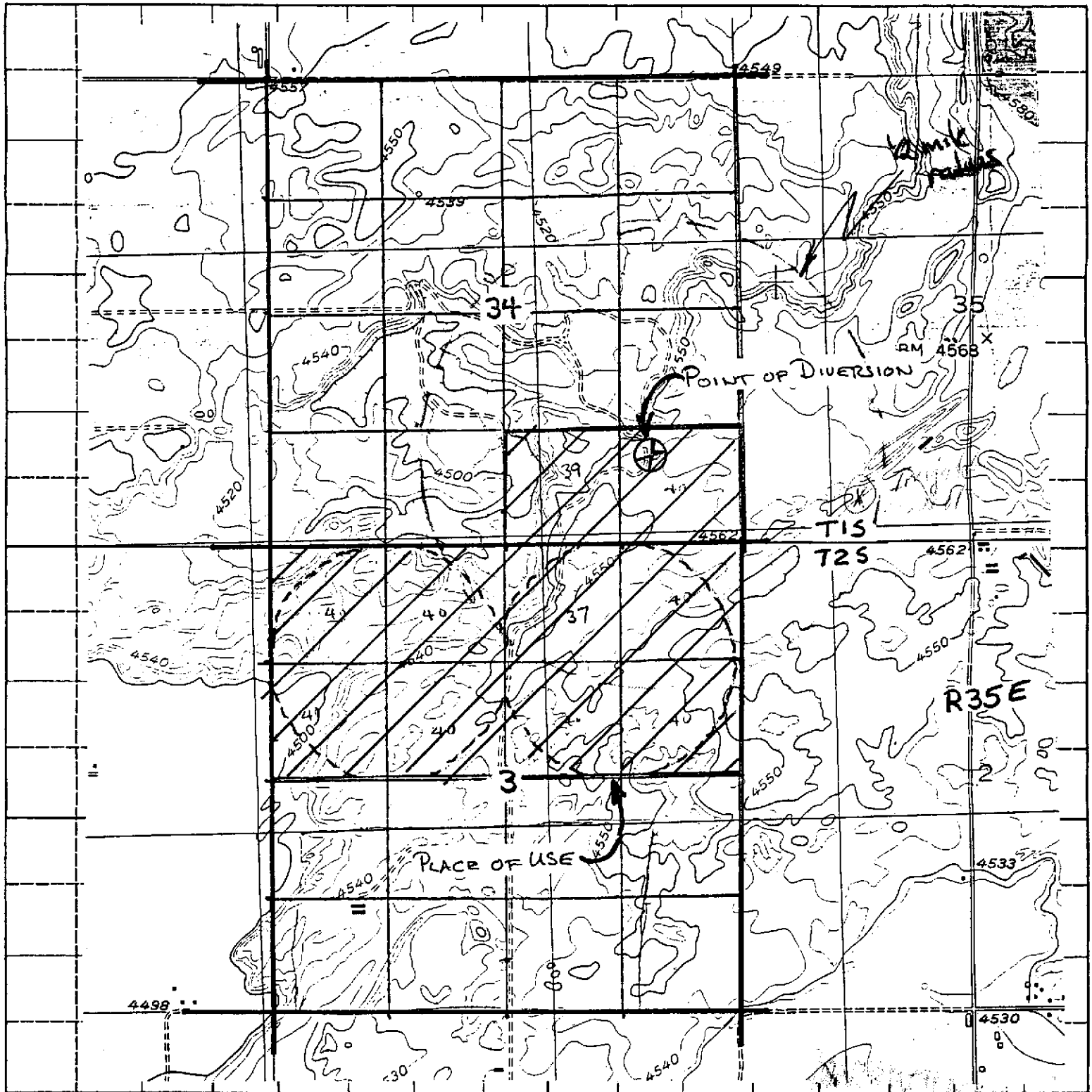
I hope that this information will be sufficient that you will be able to complete that application. If I can be of any further assistance please let me know.

Sincerely,

Lance I. Gardner
Lance I. Gardner

SEP 27 1991

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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

Lance D. Gardner
(Applicant)



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

AUGUST 7, 1991

LANCE GARDNER
589 N. 150 W.
BLACKFOOT, ID 83221

DEAR MR. GARDNER:

WE ARE CURRENTLY PROCESSING YOUR APPLICATION 27-07543 FOR A WATER RIGHT. FOR ANY APPLICATION OR PERMIT WHICH EXCEEDS 200 ACRES OR 5.00 CFS THE INFORMATION ON THE ATTACHED SHEETS ARE REQUIRED BEFORE ANY FURTHER PROCESSING CAN TAKE PLACE. PLEASE TRY TO ANSWER THE HIGHLIGHTED QUESTIONS TO THE BEST OF YOUR ABILITY. IF YOU NEED ADDITIONAL CLARIFICATION PLEASE GIVE ME A CALL AT 525-7161. IF YOU ARE NO LONGER INTERESTED IN DEVELOPING THIS PERMIT PLEASE ADVISE ME.

I WILL NEED YOU TO RESPOND WITHIN 30 DAYS WITH THE INFORMATION REQUIRED.

SINCERELY,

HAROLD W. JONES
WATER RESOURCE SUPERVISOR

RECEIVED

SEP 27 1991

Dist. for staffing: 02-Jul-1991
Submitted for advertising: 7-5-91

Form No. 202a
4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATIONS FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY HWJ DATE 7-5-91 APPLICATION NO. 277543
APPLICANT NAME: LANCE OR MARK GARDNER

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 and/or volume)
- ☒ County
- ☒ Quantity (flow and/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

ADDITIONAL INFORMATION

- ☒ Overlapping place of use (Describe source & relationship to present application on the back.)
- ☐ Overlapping point of diversion
 - ☐ Yes ☐ No Field check required
 - ☐ Yes ☐ No Field check by _____
 - ☐ Yes ☐ No Field report attached
 - ☐ Yes ☐ No Critical groundwater 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 (If yes, attach trust water supplementary analysis sheet.)
 - ☐ Yes ☐ No Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.)

See reverse side for additional information

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT _____

Rule 4, 5, 3 data

Date Requested _____

RECEIVED
SEP 09 1991

Department of Water Resources

PROCESSING ☒ Yes ☐ No In form for advertising
☐ Yes ☒ No Statewide advertising
☒ Yes ☐ No Fee amount, receipt date & No. recorded on application

SEND COPIES TO NONE ☐ Idaho Dept. of Health & Welfare ☐ U.S. BLM
☐ Idaho Dept. of Fish & Game ☐ U.S. Forest Service
☐ Idaho Dept. of Lands ☐ Water District
☐ Adjudication Bureau Unit ☐ Other _____

FINAL REGIONAL PROCESSING REVIEW

☒ Yes ☐ No Affidavit of publication received
☒ Yes ☐ No Application published correctly. If not, record action taken.

☒ Yes ☐ No Publication dates & paper, recorded on application
☐ Yes ☒ No Protests received
Final date for protest 8-5-91
☐ Yes ☐ No Protests, dates, resolution of protest, recorded on application
☐ Yes ☒ No Recommendations, attached
☐ Yes ☒ No Measuring device required
☒ Yes ☐ No Access port required
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what Dist. _____
☒ Yes ☐ No Special conditions of approval or cover letter below. _____

See below for additional information
Date of priority recommended 7-01-91
By HWT Date 8-30-91

STATE OFFICE REVIEW

See below for additional information
By _____ Date _____

ADDITIONAL INFORMATION

Overlap with 35-2851
Condition: OIG

LOCAL PUBLIC INTEREST

Comments received from

_____ City	_____ Idaho Fish & Game	_____ Irrigation District
_____ County	_____ Idaho Health & Welfare	_____ Canal Company
_____ Reservations	_____ Division of Environment	_____ Other _____

Project impacts/implications report

COMMENTS



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

12-Jul-1991

LANCE OR MARK GARDNER
589 N 150 W
BLACKFOOT ID 83221

RE: Application No. 27-7543

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in Morning News on July 18 & 25, 1991. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our state office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

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

Sincerely,

Harold Jones
HAROLD W. JONES *rb*
Water Rights Supervisor

HWJ/rb

RECEIVED

SEP 27 1991

27-07543

GARDNER, LANCE
GARDNER, MARK
589 N. 150 W.
BLACKFOOT, ID 83221

Source: GROUNDWATER

Diversion Pt: SESE Sec 34 T 01S R 35E

Use: IRRIGATION (4.000 CFS)
Total Diversion: (4.000 CFS)

Date Filed: 7/ 1/ 1991

In: T01S R35E S34	SWSE	SESE		
T02S R35E S03	NENE	NWNE	SWNE	SENE
	NENW	NWNW	SWNW	SENW

396.0 ACRES TOTAL

SEP 27 1991

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before AUGUST 5, 1991.

R. Keith Higginson, Director

Published 7/18/1991 & 7/25/1991

RECEIVED
SEP 27 1991