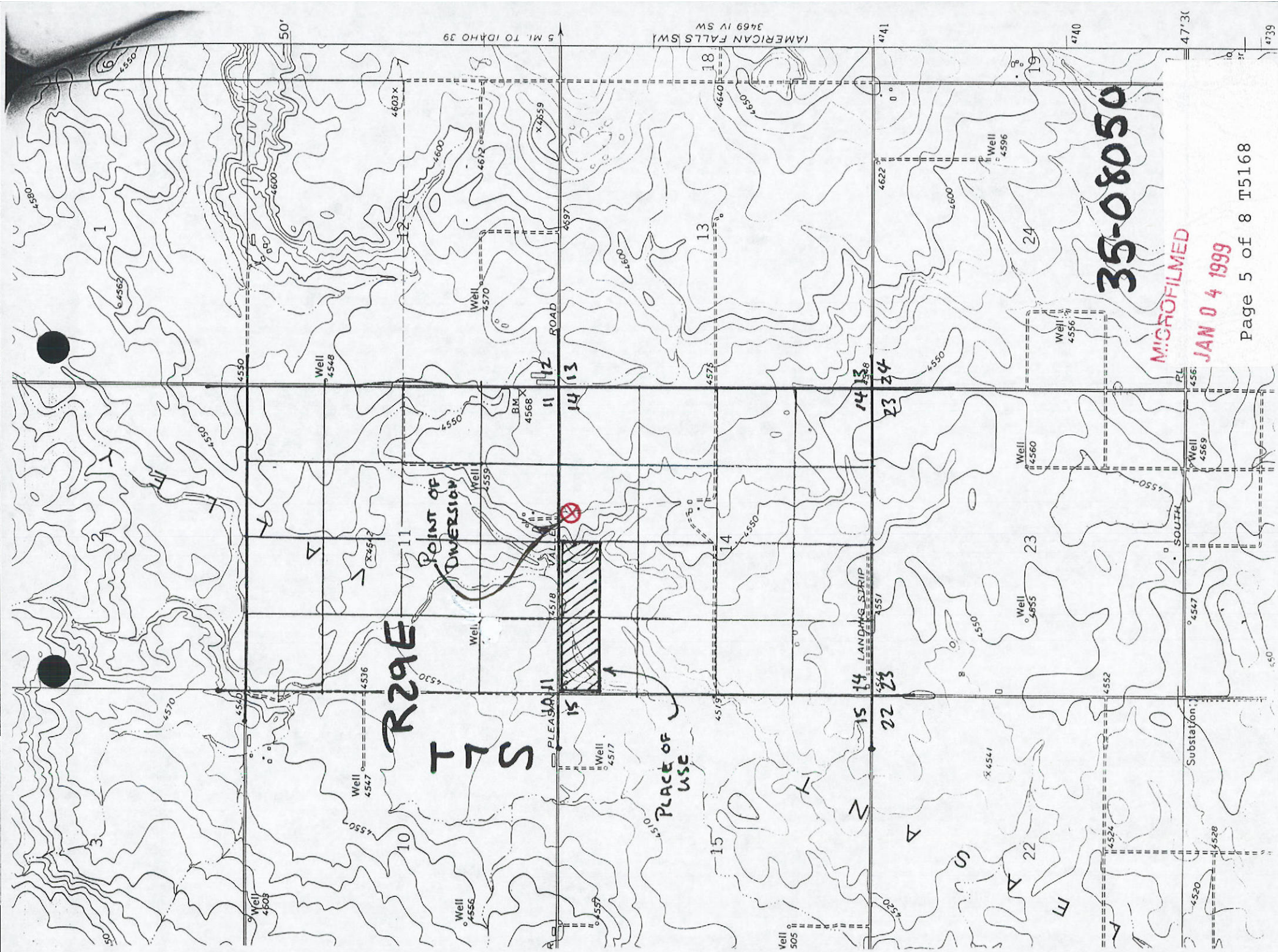
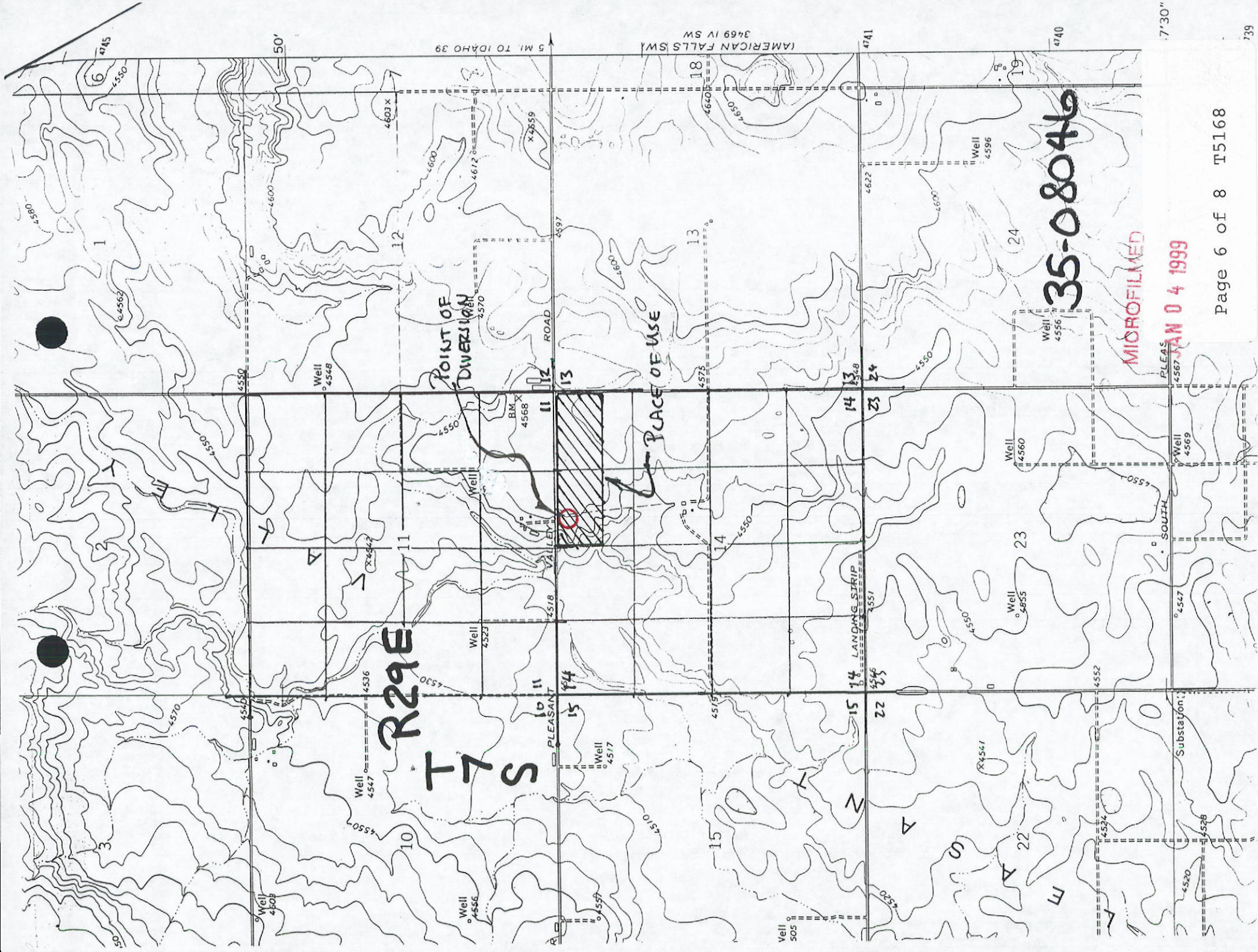




35-08050

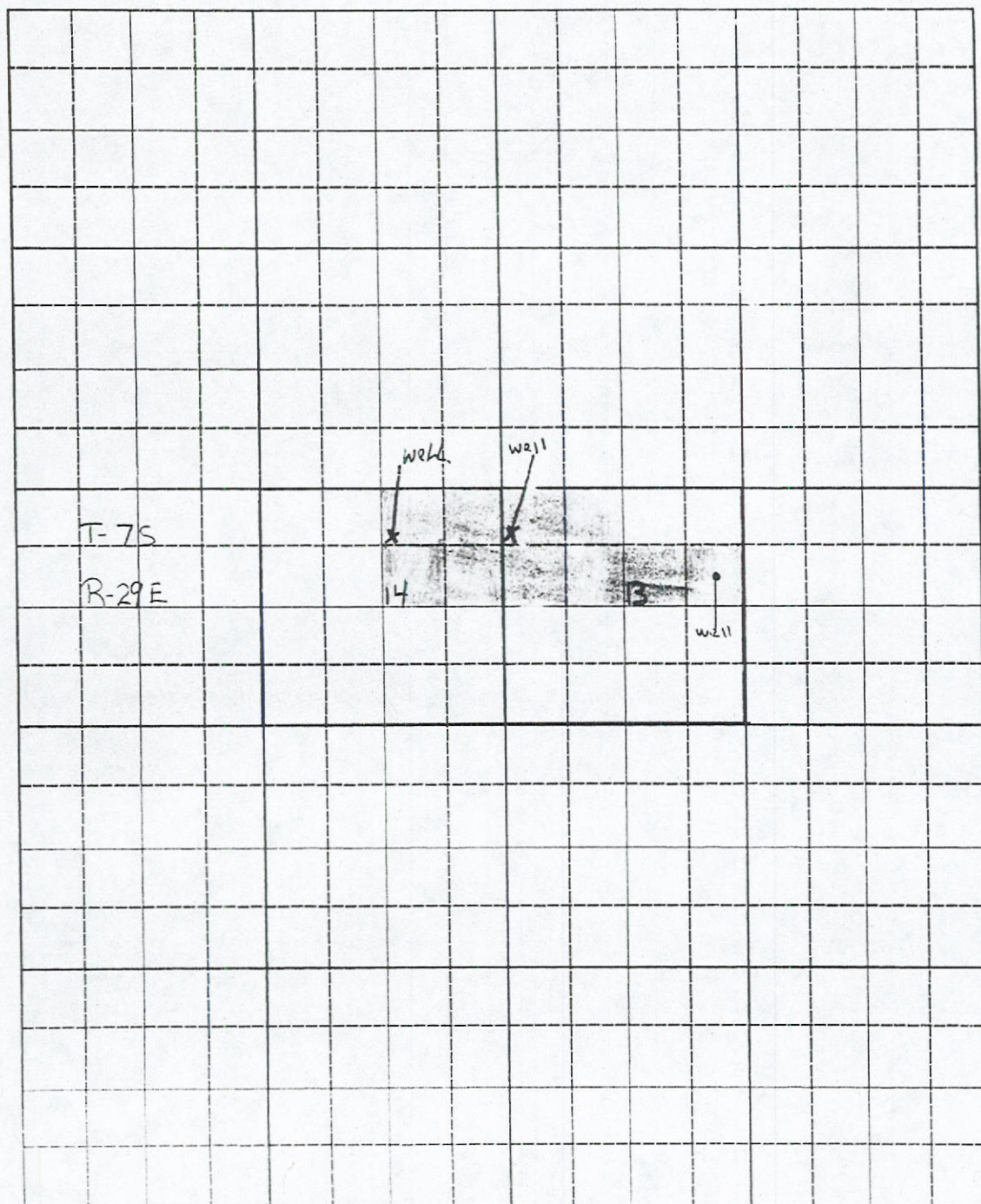
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JAN 0 4 1999



7'30"

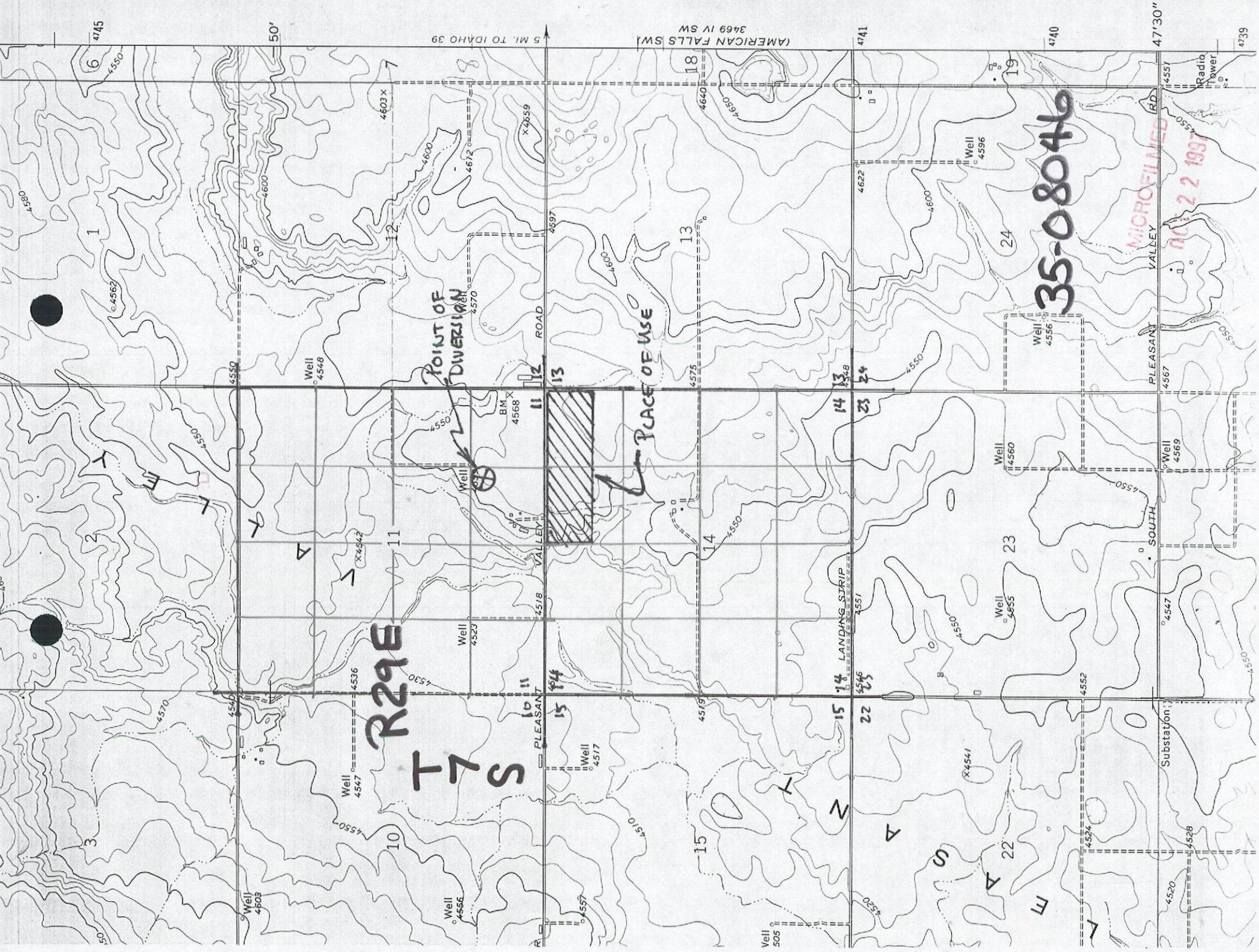
11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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.

Arthur Adair
(Applicant)
Elizabeth Adair



T 710
Smith
TR29E

NHEL
3-115.6

POINT OF DIVERSION

NHEL
4-40.4

NHEL
B5-69.1

25.4

25.4

PLACE OF USE

J. #1788
Larry Betke
CRP
88-3866 (9-30-97)
Adolf Ln.

OCT 22 1937

35-08046

NHEL
1-112.2

383.6

PHOTO FILMED

T2215

CRP

88-3866 (9-30-97)

Adolf Ln.

NHEL

1-112.2

383.6

CRP

88-3866 (9-30-97)

Adolf Ln.

CRP

13.6

5838.4

T-2852

T2215

0 11 14

11 14 13



POINT OF
DIVERSION

35-08046

MICROFILM

OCT 22 1997

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: KCW/ls

APPLICATION NUMBER: 35 8046

CHECK:

Change as per
tel. con.

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☐ Yes ☒ No In form to receipt.

Field check by: _____
Date: _____
Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department.
☐ Idaho Fish and Game Department.
☐ Idaho Department of Lands.
☐ U.S. Bureau of Land Management.
☐ U.S. Forest Service.
☐ Other _____

Copies sent by: _____ Date: _____

PROCESSING:

- ☐ Yes ☒ No
☐ Yes ☒ No
☒ Yes ☐ No
☐ Yes ☐ No

Plotted by: _____ Map No. _____
Other rights on same place of use: _____
In form for advertising: _____
Final date for protests: July 19, 1982
Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW

- ☒ Affidavit of publication received. Date: 7-20-82
☒ Application published correctly. If not, record action taken.
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☐ Yes ☒ No Measuring device required.
☐ Yes ☒ No Access port required.
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____
☒ Date of priority recommended.
☒ Special conditions of approval or cover letter.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
DATE: 7/21/82
RECEIVED
JUL 23 1982

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5369
WATER RIGHT NO(S). 35-07161A/35-07162A/35-07977B
35-08046/35-08050

This is to certify that: **LARRY BETHKE**
2745 S BREIDING RD
AMERICAN FALLS ID 83211

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 35-07161A :			
IRRIGATION	04/01 to 10/31	2.64 CFS	728.0 AF
Priority: 01/13/1971			
Right No. 35-07162A :			
IRRIGATION	04/01 to 10/31	2.64 CFS	732.0 AF
Priority: 01/13/1971			
Right No. 35-07977B :			
IRRIGATION	04/01 to 11/01	1.23 CFS	312.0 AF
Priority: 04/21/1981			
Right No. 35-08046 :			
IRRIGATION	04/01 to 10/31	1.00 CFS	203.2 AF
Priority: 06/11/1982			
Right No. 35-08050 :			
IRRIGATION	04/01 to 10/31	0.81 CFS	161.6 AF
Priority: 08/03/1982			
	TOTAL:	* 8.32 CFS	* 2136.8 AF

SOURCE

GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NENE , Sec. 13, Township 07S, Range 29E
SWNW , Sec. 13, Township 07S, Range 29E
NWNE , Sec. 14, Township 07S, Range 29E
POWER County

MICROFILMED
AUG 09 1999

TRANSFER NO. 5369
 WATER RIGHT NO(S). 35-07161A/35-07162A/35-07977B
 35-08046/35-08050

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>
07S	29E	13	NENW 33	NWNW 33	SWNW 33	
			SENE 33	NESW 33	NWSW 33	
			SWSW 33	SESW 33		264
		14	NENE 33.4	NWNE 33.4	SWNE 20	
			SENE 33	NENW 37.2	NWNW 37.2	
			SWNW 38	SENE 38		270.2
Total number of acres irrigated:						** 534.2

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
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 above.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. All water rights within Basin 35 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.
- * 7. The total instantaneous diversion of water from all points of diversion under Transfer 5369 shall not exceed 8.32 cfs, nor a total combined annual volume of 2136.8 af.
8. Rights 35-08046 and 35-08050 are for the use of trust water and are subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
9. Diversion and use of water under Rights 35-08046 and 35-08050 is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
- ** 10. Right 35-07161A is limited to the irrigation of 182.0 acres in the place of use described above in a single irrigation season.
- ** 11. Right 35-07162A is limited to the irrigation of 183.0 acres in the place of use described above in a single irrigation season.
- ** 12. Right 35-07977B is limited to the irrigation of 78.0 acres in the place of use described above in a single irrigation season.

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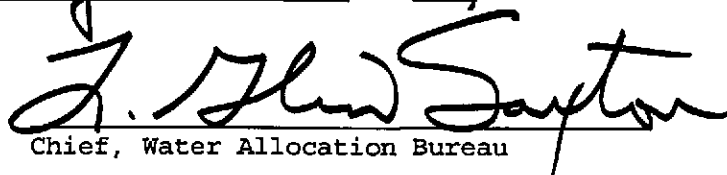
AUG 09 1999

TRANSFER NO. 5369
WATER RIGHT NO(S). 35-07161A/35-07162A/35-07977B
35-08046/35-08050

CONDITIONS OF APPROVAL AND REMARKS

- ** 13. Right 35-08046 is limited to the irrigation of 50.8 acres in the place of use described above in a single irrigation season.
- ** 14. Right 35-08050 is limited to the irrigation of 40.4 acres in the place of use described above in a single irrigation season.

Dated this 6th day of August, 1999.


Chief, Water Allocation Bureau

MICROFILMED
AUG 09 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5168
WATER RIGHT NO(S). 35-08046/35-08050

This is to certify that: **LARRY BETHKE**
2745 S BREIDING RD
AMERICAN FALLS ID 83211

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 35-08046 :			
IRRIGATION	04/01 to 10/31	1.00 CFS	203.2 AF
Priority: 06/11/1982			
Right No. 35-08050 :			
IRRIGATION	04/01 to 10/31	0.81 CFS	161.6 AF
Priority: 08/03/1982			
	TOTAL:	1.81 CFS	364.8 AF

SOURCE
GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION: NWNE , Sec. 14, Township 07S, Range 29E
POWER County

Right No. 35-08046 :
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>
07S	29E	14	NENE 25.4	NWNE 25.4		50.8
Total number of acres irrigated:						50.8

Right No. 35-08050 :
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>
07S	29E	14	NENW 20.2	NWNW 20.2		40.4
Total number of acres irrigated:						40.4

CONDITIONS OF APPROVAL AND REMARKS

1. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
2. 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 above.

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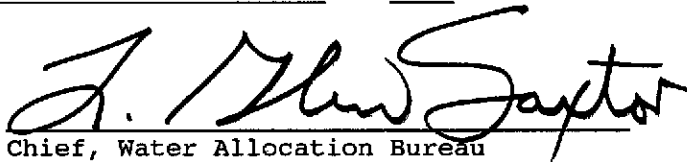
JAN 04 1993

TRANSFER NO. 5168
WATER RIGHT NO(S). 35-08046/35-08050

CONDITIONS OF APPROVAL AND REMARKS

3. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
4. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
5. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Dated this 3rd day of December, 1998.


Chief, Water Allocation Bureau

MICROFILMED

JAN 04 1999

\$100 Fee

Page 1 of 8STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No 5168

RECEIVED

OCT 30 1997

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

RECEIVED

FEB 13 1998

Department of Water Resources
Eastern Regionmobile Department of Water Resources
226-2201Name of applicant LARRY BETHKE Phone (208) 226-2201Post Office address 2745 S. Breeding Rd American Falls ID 83211

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes I'm am changing the point of diversion to a well site that I own.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1	Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
	<u>35-08050</u>	<u>8/03/1982</u>	<u>0.81cfs</u>	<u>Irrigation</u>	<u>4-01</u> to <u>10-31</u>
	<u>35-08046</u>	<u>6/11/1982</u>	<u>1.00cfs</u>	<u>Irrigation</u>	<u>4-01</u> to <u>10-31</u>
					to _____
					to _____

2. Total amount of water being transferred 1.81 cubic feet per second and/or 364.8 acre-feet per annum.

3. Source of water Groundwater tributary to _____

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NE	14	7S	29E	Power	

5. Lands irrigated or place of use:

Twp	Rge	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	
7S	29E	14	25.4	25.4							35-08046								50.8
7S	29E	14					20.2	20.2			35-08050								40.4

Total acres 91.2

PART 1

8016 General Information:

a. Description of diversion system well to pivots

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? N.A. Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer.

N.A.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____

MICROFILMED

JAN 04 1999

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 35-08050

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	0.81 CFS	161.6 AF

SOURCE

GROUNDWATER

Priority: 08/03/1982

LOCATION OF POINT(S) OF DIVERSION:SWSW , Sec. 11, Township 07S, Range 29E
POWER CountyPLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
07S	29E	14	NENW 20.2	NWNW 20.2		40.4
Total number of acres irrigated:						40.4

CONDITIONS/REMARKS:

1. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
2. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
3. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
4. Right 35-07153 is also diverted through the point(s) of diversion described above.

MICROFILMED

JAN 04 1999

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 35-08046

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	1.00 CFS	203.2 AF

SOURCE

GROUNDWATER

Priority: 06/11/1982

LOCATION OF POINT(S) OF DIVERSION:SWSE , Sec. 11, Township 07S, Range 29E
POWER CountyPLACE OF USE: IRRIGATION

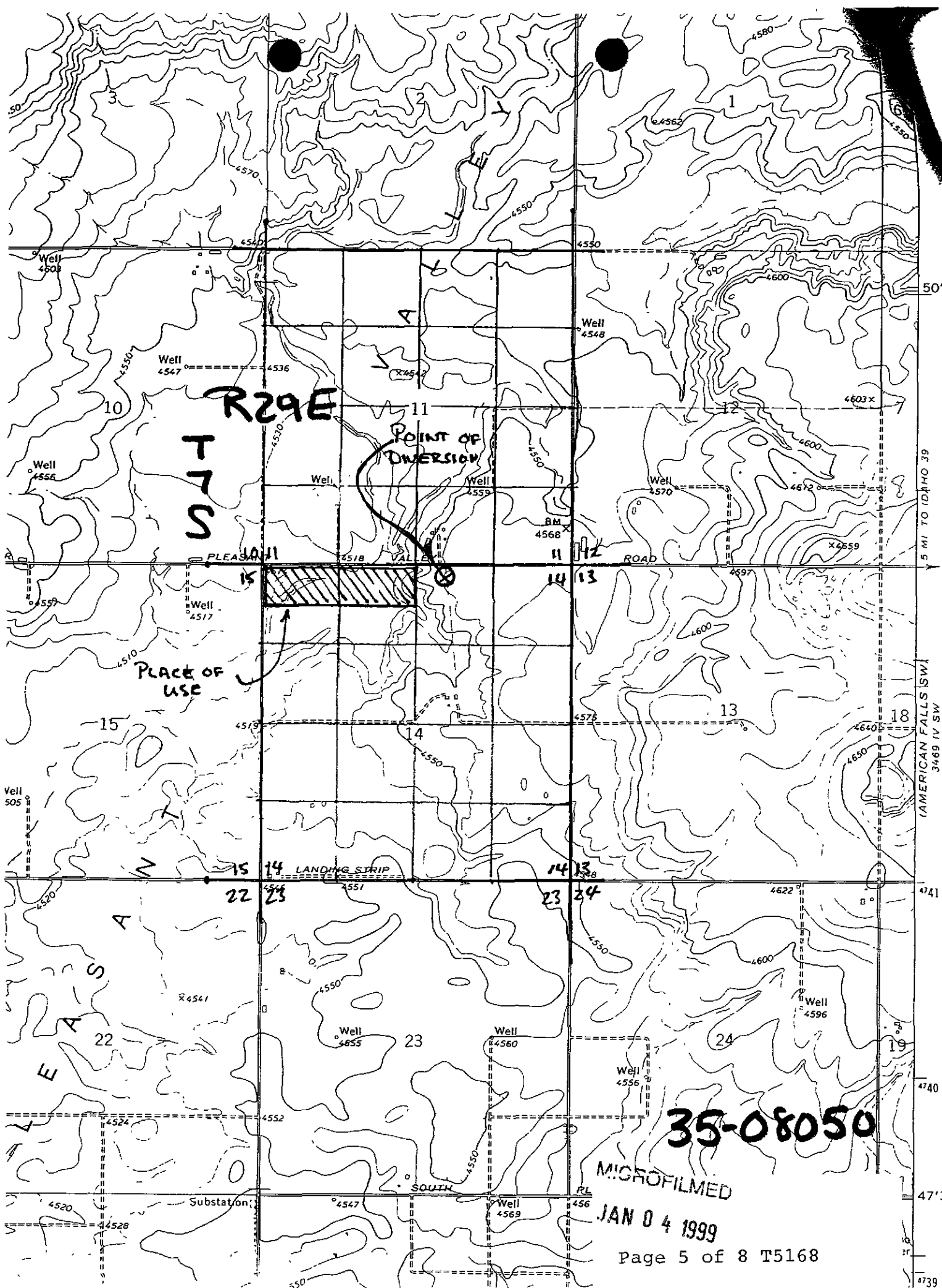
<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
07S	29E	14	NENE 25.4	NWNE 25.4		50.8
Total number of acres irrigated:						50.8

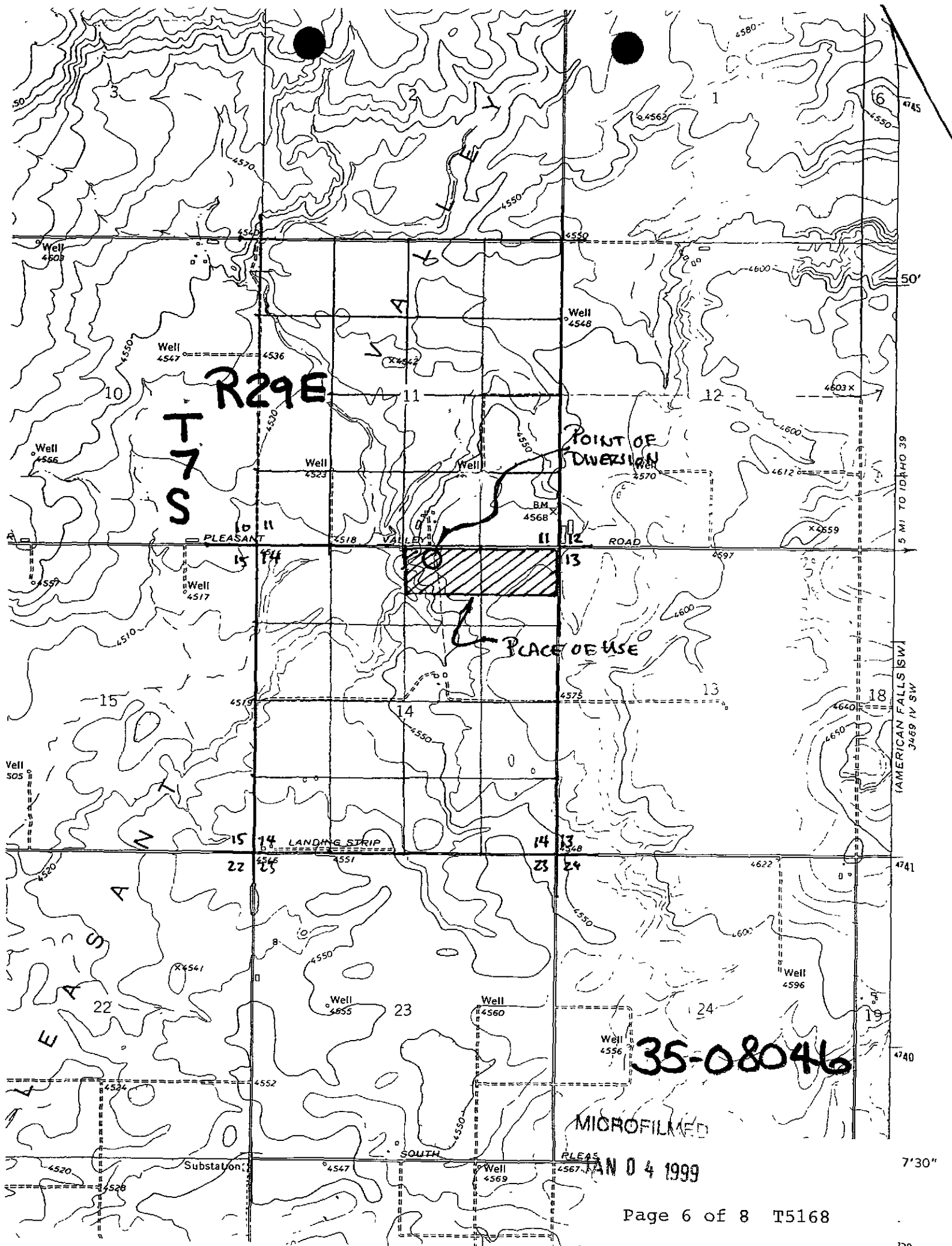
CONDITIONS/REMARKS:

1. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
2. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
3. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

MICROFILMED

JAN 04 1999





35-08046

MICROFILMED

AN 0 4 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

MICROFILMED
JAN 04 1993

PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 29th day of October, 1997

[Signature]
Notary Public

My commission expires 1-14-98

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and _____ attachments

Received by HWT Date 10-30-97

Prelim. check by KCW Fee \$100.00

Receipted by HWT #E023740 Date 10-30-97

Published in Power County Press

Pub. dates Nov 20 & 27, 1997

Watermaster recommendation requested on _____

Protest filed by _____

Copies of protest forwarded by _____

Hearing held by _____ Date _____

Recommended for ☒ approval ☐ denial

_____ rec'd _____

by KDC

Copy of transfer sent to lien holder _____

MICROFILMED

JAN 04 1999

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 35-08046

Priority: June 11, 1982

Maximum Diversion Rate: 1.00 CFS
Maximum Diversion Volume: 203.2 AF

This is to certify, that LARRY BETHKE
2745 BREDDING ROAD
AMERICAN FALLS ID 83211

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated June 11, 1982; and has submitted Proof of Beneficial Use on July 19, 1996. An examination indicates that the works have a diversion capacity of 4.830 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	1.00 CFS	203.2 AF

LOCATION OF POINT(S) OF DIVERSION: SWSE , Sec. 11, Township 07S, Range 29E
POWER 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>
07S	29E	14	NENE 25.4	NWNE 25.4		50.8

Total number of acres irrigated: 50.8

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.
6. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
7. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

REC'D
OCT 22 1987

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 35-08046

CONDITIONS OF APPROVAL AND REMARKS

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 17th
day of OCTOBER, 1977.


Acting for KARL J. DREHER, Director

MICROFILMED

OCT 22 1987

RECEIVED

SEP 26 1997

State of Idaho
Department of Water Resources

Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 35-08046

Date of Priority: June 11, 1982

Maximum Diversion Rate: 1.00 CFS

Maximum Diversion Volume: 203.2 AF

Comes now
C/O LARRY BETHKE
2745 BREDDING RD
AMERICAN FALLS ID 83211

ARTHUR ADOLPH

and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 35-08046, and requests that the permit be changed as follows:

Source: GROUNDWATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	1.00 CFS	203.2 AF

LOCATION OF POINT(S) OF DIVERSION: SWSE, Sec. 11, Township 07S, Range 29E
POWER County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
07S 29E 14	NENE 25.4	NWNE 25.4		50.8

Total number of acres irrigated: 50.8

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

Signed at American Falls, this 2nd day of September, 1997.

Arthur M. Adolf
06/22/97

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 35-08046

FOR DEPARTMENT USE ONLY

Preliminary check by SWK Fee = 50.00 Received by LB # 1044037 Date 9/26/97

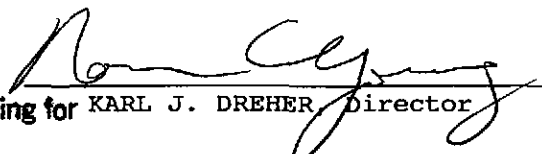
ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, Karl J. Dreher, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 35-08046 with the following;

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
6. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
7. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

Witness my hand this 17TH day of OCTOBER, 1997.


Acting for KARL J. DREHER, Director

110,30-111
OCT 22 1997

WATER RIGHT SUMMARY

<u>ACTION</u>	<u>RIGHT NO.</u>	<u>NAME</u>	<u>AMOUNT CFS</u>
~~ORIGINAL APPLICATION~~	~~35-08046~~	~~ADOLF, ARTHUR~~ ~~AND ELISABETH~~	~~8.0~~
~~FULL ASSIGNMENT~~	~~35-08046~~	~~ADOLF, ARTHUR~~	~~8.0~~
FULL ASSIGNMENT	35-08046	BETHKE, LARRY	8.0

OCTOBER 7, 1997

MICROFILM

OCT 22 1997

State of Idaho
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 26 1997

ASSIGNMENT OF PERMIT

To change the ownership of a permit

Department of Water Resources

I, ARTHUR ADOLPH, hereby assign to LARRY BETHKE

(Permit Holder)

of 2745 BREDDING ROAD, AMERICAN FALLS, ID 83211

(Full Address and Phone Number)

All my right, title, and interest in and to Permit No. 35-08046
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
Permit No. _____ to appropriate the public waters of the State of Idaho.

Describe portion of the permit 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 22nd day of September, 1997.

Arthur M Adolph
Permit Holder(s)

State of Idaho)

County of Power ss

On this 22nd day of September, 1997, personally appeared before me
the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

Betty Huse
Notary Public



My commission expires:

1-14-98

Signature

MICROFILMED

OCT 22 1997

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF CANCELLED PERMIT NO.)
35-08046 IN THE NAME OF ARTHUR ADOLF)
AND CANCELLED PERMIT NO. 35-08050 IN)
THE NAME OF AMANDA SHERMAN)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department), as a result of the submittal of proof of beneficial use of water for the above captioned cancelled permits, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On August 3, 1982, the department issued Permit No. 35-08046 to Arthur Adolf as follows:

Ident No: 35-08046
Permit holder: Arthur Adolf
Rate of div: 8.0 cfs
Source: Groundwater
Use: Irrigation
Pl use: 400 acres in S1/2NE, NW1/4 Sec 13 and
NE1/4 Section 14, all in T7S, R29E, B.M.
Pts of div: NWNW, SENE Section 13 and NWNE Sec 14,
T7S, R29E, B.M.

2. On September 16, 1982, the department issued Permit No. 35-08050 to Amanda Sherman as follows:

Ident No: 35-08050
Permit holder: Amanda Sherman
Rate of div: 3.2 cfs
Source: Groundwater
Use: Irrigation
Pl use: 160 acres in NW1/4 Section 14, T7S,
R29E, B.M.
Pt of div: NENW Sec 14, T7S, R29E, B.M.

3. On November 9, 1994, the department issued an Order for Temporary Stay of Development and Notice of Formal Proceedings (Temporary Stay Order) to the permit holders. The order was based on a moratorium which had been established, seven consecutive years of drought and delivery calls made by senior surface water and ground water right holders. The permit holders did not respond to the Temporary Stay Order.

MICRO FILMED

4. On February 14, 1995, the department issued a Final Order cancelling the permits.

5. On July 2, 1996, the Department's Eastern Regional Office advised Larry Bethke that the department had observed irrigation in the N1/2 Section 14, T7S, R29E, B.M. by Bethke from two (2) wells located in Section 11, T7S, R29E, B.M. The department also advised Bethke that the department did not have a record of a water right for the irrigation of the land.

6. On July 19, 1996, on behalf of Larry Bethke (Bethke) Kent Foster (Foster) filed proof of beneficial use for cancelled Permit Nos. 35-08046 and 35-08050 (permits) seeking reinstatement of the permits. Foster represents that approximately 90 acres in the North half of the North half of Section 14, T7S, R29E, B.M. (section 14) have been irrigated since 1974.

7. The wells which have been used for the alleged irrigation of land in Section 14 are located in Section 11 and are not the wells which were approved for construction and use under the cancelled permits.

8. Foster has filed claims in the Snake River Basin Adjudication claiming the use of groundwater for the irrigation of part of the land in the North half North half of section 14, T7S, R29E, B.M. with a priority of May 1, 1974.

9. On March 6, 1997, the department corresponded with Foster requesting the submittal to the department of any other information in support of the requested reinstatements within thirty (30) days. Foster did not respond to the department.

CONCLUSIONS OF LAW

1. Section 42-218a.2, Idaho Code, provides the following:

That upon receipt of proof of beneficial use after sixty (60) days after such notice of lapsing, the director shall require sufficient evidence to be submitted by the permit holder to clearly establish the extent of beneficial use made during the time authorized by the permit and any extensions of time previously approved. Upon finding that beneficial use had occurred during the authorized period and upon a showing of reasonable cause for filing a late proof of beneficial use, the director may reinstate the permit with the priority date advanced to the day that proof of beneficial use was received.

2. Neither Bethke nor his successors-in-interest diverted water and applied it to a beneficial use from wells authorized by the cancelled permits. The land was irrigated, however, from other wells within the authorized development period of the cancelled permits.

DEPT. OF LAND

JUL 18 1997

3. Bethke has shown sufficient cause why proof of beneficial use was not timely filed with the department.

4. The department should rescind its order cancelling the permits and should conditionally reinstate the permits.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the Final Order of the department dated February 14, 1995 is **RESCINDED**; and

IT IS FURTHER HEREBY ORDERED that the cancelled permits are partially **REINSTATED** to the extent described below:

1. The authorized place of use for Permit No. 35-08050 shall not exceed a total of 40.4 acres within the N1/2NW1/4 Section 14, T7S, R29E, B.M.

2. The authorized place of use for Permit No. 35-08046 shall not exceed a total of 50.8 acres within the N1/2NE1/4 Section 14, T7S, R29E, B.M.

3. This reinstatement does not authorize any additional development under the permits.

4. This reinstatement does not authorize the construction of new or additional wells.

Dated this 18TH day of APRIL, 1997.

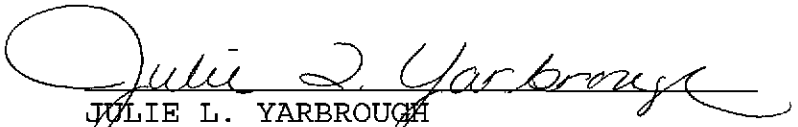

NORMAN C. YOUNG
Administrator

RECORDED
JUL 18 1997

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 21st day of April, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER DENYING PETITION FOR RECONSIDERATION** to the following:

Kent W. Foster
HOLDEN KIDWELL HAHN
& CRAPO PLLC
330 Shoup Ave, 3rd Floor
Idaho Falls, ID 83402


JULIE L. YARBROUGH
Senior Secretary

RECEIVED

JUL 19 1996

OFFICE USE ONLY

Amt. of Fee \$ 100.00
Date 7-22-96
Receipt No. E022399
Receipt by HLWDepartment of Water Resources
Eastern District OfficeSTATE 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. 35-08046 Telephone No. (208) 226-2201
2. Name(s) of Permit Holder(s): Arthur Adolf
3. Mailing Address: c/o Larry Bethke 2745 Breeding Road, American Falls, ID 83211
4. Source of Water: Groundwater

If **GROUNDWATER**, Well Driller's Name: Unknown Date Drilled: UnknownWater has been used from well and pump owned by Keith Phillips
OPTIONAL: Licensed under 35-07152

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 50.8 (No. of acres) Other _____6. Total rate and/or volume for which proof is submitted .73 cfs OR _____ acre/feet

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

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

OR

Flow Measurement Port: Required? _____ Yes X No Installed? _____ Yes X No8. Fee Enclosed: \$ 100.00 (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.

Larry S. Bethke (208) 226-2201
Name Telephone No.2745 Breeding Road, American Falls, ID 83211
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.

JUL 18 1997

7/12/96
DateLarry Bethke
Signature (and title, if on behalf of a company or organization)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPROVED PERMITS)
FOR THE APPROPRIATION OF GROUND)
WATER FROM THE EASTERN SNAKE RIVER)
PLAIN AQUIFER FOR WHICH PROOF OF)
BENEFICIAL USE HAS NOT BEEN)
SUBMITTED AND IS NOT PAST DUE)

FINAL ORDER

This matter having come before the Idaho Department of Water Resources (department), as a result of failure of the permit holder to respond to a prior order of the department, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On November 9, 1994, the department issued an Order for Temporary Stay of Development and Notice of Formal Proceedings (order) requiring certain permit holders to either file proof of beneficial use of water in connection with their permit or to otherwise respond to the department in connection with the order.

2. The holder of Permit No. 35-08046 (permit holder) has neither filed proof of beneficial use of water nor responded to the department in connection with the order.

CONCLUSIONS OF LAW

1. Section 42-1805, Idaho Code, provides in part as follows:

In addition to other duties prescribed by law, the director of the department of water resources shall have the following powers and duties:

...

(7) After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of minimum flow provisions of the state water plan.

2. IDAPA Rule 37.03.08055.02 (Water Appropriation Rule 55) of the Department of Water Resources, provides as follows:

a. To the extent a permit has not been developed, the director may cancel, or modify permits for which proof of

beneficial use has not been submitted in a designated geographical area as an extension of Rule 55.01.

b. Notice of the director's action to cancel or modify permits shall be by:

i. Summary Order served by certified mail upon the affected permit holders in the designated area.

ii. Publication of an order for three (3) consecutive weeks in a newspaper or newspapers of general circulation in the area.

c. Objections to the director's action shall be considered under the department's rules of procedure and applicable law.

3. IDAPA Rule 37.01.01104 (Rule of Procedure 104) of the Department of Water Resources provides in part as follows:

Formal proceedings may be initiated by a document from the agency informing the party(ies) that the agency has reached an informal determination that will become final in the absence of further action by the person to whom the correspondence is addressed, provided that the document complies with the requirements of Rules 210 through 280.

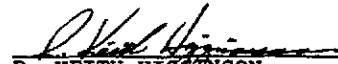
4. The department has properly notified the permit holder of requirements related to the department's order dated November 9, 1994 and the permit holder has failed to respond.

5. The department should cancel Permit No. 35-08046.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Permit No. 35-08046 in the name of Arthur Adolph is CANCELLED and is of no further force nor effect.

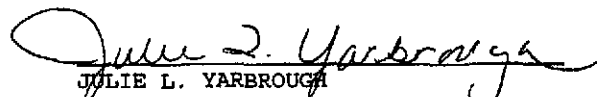
Dated this 14TH day of FEBRUARY, 1995.


R. KEITH HIGGINSON
Director

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14th day of February, 1995,
I mailed a true and correct copy, postage prepaid, of the foregoing
FINAL ORDER to the following:

Arthur Adolph
720 Stevens
American Falls, ID 83211


JULIE L. YARBROUGH
Senior Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPROVED PERMITS) FOR THE APPROPRIATION OF GROUND) WATER FROM THE EASTERN SNAKE RIVER) PLAIN AQUIFER FOR WHICH PROOF OF) BENEFICIAL USE HAS NOT BEEN) SUBMITTED AND IS NOT PAST DUE)	ORDER FOR TEMPORARY STAY OF DEVELOPMENT AND NOTICE OF FORMAL PROCEEDINGS
--	--

The Director of the Idaho Department of Water Resources (Director), having responsibility for the administration of the appropriation of the water of the state of Idaho, the protection of rights to the use of water within the state, the protection of the public interest in the waters of the state and the conservation of the water resources of the state enters the following Findings of Fact, Conclusions of Law and Order for temporary stay; and provides the following notice of formal proceedings:

FINDING OF FACTS

1. On May 15, 1992, the Director issued an order establishing a moratorium on the processing and approval of applications for permit to appropriate water from all surface and ground water sources upstream from the USGS Gauge on the Snake River near Weiser, Idaho. On April 30, 1993, the Director issued an Amended Moratorium Order covering the Eastern Snake River Plain Aquifer. The 1994 session of the Idaho Legislature enacted section 42-1806, Idaho Code, requiring that the moratorium relating to the the Eastern Snake River Plain area shall continue in effect until December 31, 1997.
2. The state of Idaho has experienced seven (7) recent years of drought conditions resulting in lowered ground water levels and decreased discharge from surface water sources. The Idaho Legislature has authorized a study to examine the implications of these changes and the relationships between surface and ground water resources. The study is expected to be completed in approximately two (2) years.
3. Delivery calls have been made by the holders of senior-priority surface and ground water rights against the holders of junior-priority ground water rights from the Eastern Snake Plain Aquifer which could result in the curtailment of diversion and use of water under junior-priority ground water rights including rights which might otherwise be developed under permits which are the subject of this order and notice.

CONCLUSIONS OF LAW

1. Section 42-1805, Idaho Code, provides in part as follows:

In addition to other duties prescribed by law, the director of the department of water resources shall have the following powers and duties:

...

(7) After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of minimum flow provisions of the state water plan.

2. Water Appropriation Rule 55.02. of the Department of Water Resources (IDAPA 37.03.08055.02) provides as follows:

02. PERMITS

a. To the extent a permit has not been developed, the director may cancel, or modify permits for which proof of beneficial use has not been submitted in a designated geographical area as an extension of Rule 55.01.

b. Notice of the director's action to cancel or modify permits shall be by:

i. Summary Order served by certified mail upon the affected permit holders in the designated area.

ii. Publication of the order for three (3) consecutive weeks in a newspaper or newspapers of general circulation in the area.

c. Objections to the director's action shall be considered under the department's adopted rules of procedure and applicable law.

3. Rule of Procedure 104 of the Department of Water Resources (IDAPA 37.01.01104) provides in part as follows:

Formal proceedings may be initiated by a document from the agency informing the party(ies) that the agency has reached an informal determination that will become final in the absence of further action by the person to whom the correspondence is addressed, provided that the document complies with the requirements of Rules 210 through 280.

4. Protection of prior rights to the diversion and use of surface and ground water of the Eastern Snake River Plain Aquifer

and the Snake River may require that the further development of water under existing undeveloped permits be suspended indefinitely to assure that the effects and conditions caused by drought, changes in irrigation practices and resulting aquifer recharge, and diversion and use of ground water from the aquifer under prior established water rights are properly evaluated.

5. Section 42-204, Idaho Code, provides in part as follows:

Every holder of a permit which shall be issued under the terms and conditions of an application filed hereafter appropriating twenty-five (25) cubic feet or less per second must, within one (1) year from the date upon which said permit issues from the office of the department of water resources, commence the excavation or construction of the works by which he intends to divert the water, and must prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted through no fault of the holder of such permit by circumstances, over which he has no control.

ORDER

IT IS THEREFORE, HEREBY ORDERED as follows:

1. The owners of all permits to appropriate ground water within the boundaries of the Eastern Snake Plain Aquifer, as that area is defined by Rule 50 of the rules for Conjunctive Management of Surface and Ground Water Resources (IDAPA 37.03.11), shall, effective immediately upon receipt of this order, temporarily stop further development under the permit until the Director authorizes further development.

2. The owners of all permits for appropriation of ground water within the boundaries of the Eastern Snake River Plain Aquifer shall on or before February 1, 1995, either:

A. File proof of beneficial use to cover the extent of diversion and beneficial use of water that has been accomplished prior to receipt of this order; or

B. File a response with the Director in this proceeding to satisfy the requirements of either subparagraph 1) or 2) below:

1) Document with supporting information that a "substantial investment" has been made, prior to receipt of this order, in facilities to divert and beneficially use water under the permit that merits the granting of additional time to complete all or part of the project. Substantial investment means an actual expenditure or written commitment for development of the project which meets the following requirements:

- a) The actual expenditure or written commitment for the diversion and related equipment must equal or exceed the amount of fifteen thousand dollars (\$15,000) or exceed twenty five (25) percent of the estimated cost of the system for diverting and beneficially using the water, whichever is less; and
b) The actual expenditure or written commitment must have been made before receipt of this order.

2) Request an indefinite stay in the development period for the project, or any part of the project for which a substantial investment has not been made, until the conditions that resulted in this order have been alleviated if such should ever occur. Upon approval of any such stay, no further development is to occur until such time as the department has issued an extension of time setting a date for completion of the project.

3. Failure to submit either proof of beneficial use or a satisfactory response shall result in cancellation of the permit without further notice.

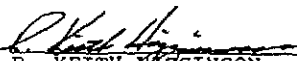
4. Before receiving approval for either additional time to complete a project under subparagraph 2.B.1) or a stay under subparagraph 2.B.2) above, the owner of the permit shall provide information to demonstrate compliance with the provisions of Sections 42-204, Idaho Code, with respect to commencing and diligently proceeding to develop the project authorized under the permit.

5. This order does not prevent the Director from reviewing continued development of a permit on a case-by-case basis if,

a. The Director determines that protection and furtherance of the public interest justifies continued development of a permit; or

b. The Director determines that continued development and use of water will have no effect on prior water rights because of its location, insignificant consumption of water or mitigation provided by the permit holder to offset injury to other rights.

Dated this 9TH day of NOVEMBER, 1994.


R. KEITH MCGINNISON
Director

State of Idaho
Department of Water Resources

RECEIVED
OCT 30 1987

ASSIGNMENT OF PERMIT

Department of Water Resources

I, Arthur & Elizabeth Adolf, hereby assign to Arthur Adolf
of 720 Stevens, American Falls, ID 83211
Address

CHECK ONE

- ☒ All my right, title, and interest in and to Permit No. 35-8046
to appropriate the public waters of the State of Idaho.
- ☐ The following described portion of my right, title, and interest in and to Permit
No. _____ to appropriate the public waters of the State of Idaho.
(Describe that portion of the permit being assigned by listing the acreage within
each 40 acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

Made this 27th day of October, 1987.

Arthur M. Adolf
Permit Holder

Elizabeth R. Adolf
Spouse of Permit Holder
Personal Rep.

State of Idaho)
County of Pomer) ss.

On this 27th day of October, 1987, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal

Ben Carmones
Notary Public Residing at
Am. Falls, Idaho

My commission expires:
11/5/89

Form 204 -
4/86

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

OCT 07 1987 REQUEST FOR EXTENSION OF TIME

For Office Use Only

\$15 FEE Received by _____
Date 10-7-87
Receipt # 45924

To provide additional time in which to submit proof
Department of Water Resources Beneficial use for a water right permit

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 35-8046

Name(s) of Permit Holder: ADOLF, Arthur & (Elisabeth, deceased)

Post Office Address: 720 Stevens, American Falls, ID 83211

Telephone No. 226-2043

Date Proof is Due: 10/6/87

Describe what work has been completed toward the development of this water right: Applicant checked with

(This must be filled out! If no work has been completed, show "none".)
Punk Irrigation in American Falls, Idaho, as to the likelihood of the developmnet
of an adequate water source and the cost fo the installation of a sprinkler
system. Applicant determined that the likelihood of an adequate water source
was great with a number of wells immediately surrounding the permit area with
pumping levels of 250' or less, and the cost of installation of a sprinkler
system of less than \$600 per acres. That applicant has not acutally expended
any out of pocket monies due to the uncertainty of his rights to fully develop
this permit.

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:
That permit holder has been unable to complete due to the uncertainty and the
moratorium of the Swan Falls litigation. Applicant has been unable and un-
willing to expend any monies toward the development of this permit until he
is certain that he would have a legally protected water right. Applicant
is further unwilling to rent water on a short year to year basis until his
rights are fully determined and reprocessed under I.C. 42-203 (d)

Permit holder(s) request an extension to October 1, 19 92.
(1 yr. minimum)

Arthur M. Adolf
(Signature)

FEE: \$15.00

*IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

Signed this _____ day of _____, 19 _____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant ARTHUR ADOLF and Elisabeth Adolf Phone 226-2043
Post office address Rt. #1, American Falls, Idaho
2. Source of water supply ground water which is a tributary of _____
3. Location of point of diversion is NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 13 Township 7 S
Range 29 E B.M. Power _____ County, additional points of diversion if any: _____
NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 14, T 7S, R 29 E.B.M. Power County
SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 13, T 7S, R 29 E.B.M., Power County
4. Water will be used for the following purposes
Amount 8.0 (as per telecon KCW) 4-1 to 11-1 (both dates inclusive)
(cfs or acre-feet per annum) for irrigation purposes from 3/15 to 11/15
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:
a. 8.0
7.6 cubic feet per second and/or b. _____ acre-feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. wells, pumps, electric motors,
panel; mainline w/wheel lines

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir
capacity _____ acre-feet, materials used in storage dam: _____
Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)
c. Proposed well diameter is 20 inches, proposed depth of well is 400 feet.
7. Time required for the completion of the works and application of the water to the proposed beneficial
use is five years (minimum 1 year - maximum 5 years)
8. Description of proposed uses:
a. If water is not for irrigation
(1) Give the place of use of water _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M.
(2) Amount of power to be generated: _____ horsepower under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

1. Name of municipality to be served _____, or number of families to be
served with domestic water _____
2. Uses to be used for other purposes describe _____

[illegible]

c. Describe any other water rights used for the same purposes as described above. None

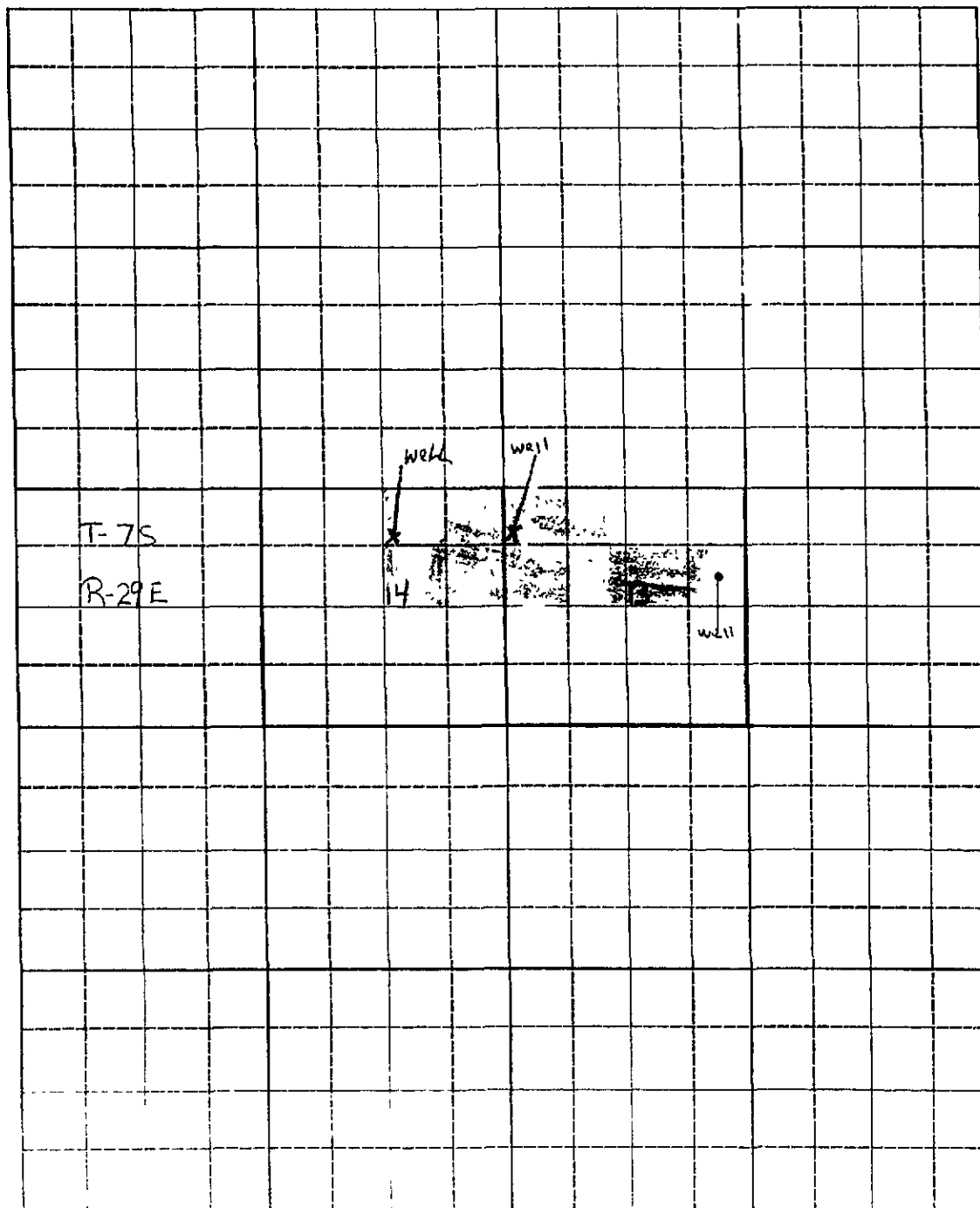
9. a. Who owns the property at the point of diversion applicant _____

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

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

10. Remarks _____

11. 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.

Arthur Adair
(Applicant)
Eisenhardt Adair

Proposed Priority 6/11/1982

Received by CW Date 6-17-82 Time 10 40 A

Preliminary check by KCW Fee \$ 185.09

Receipted by BP Date 6-22-82 # 22331

Publication prepared by BP Date 6-23-82

Published in Power County Press

Publication dates 7-1 & 7-8-1982

Publication approved CW Date 7-12-82

Protests filed by: None

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by RC

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 35-8046, and said application is hereby APPROVED.

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before August 1, 19 87.
- 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.
- d. Other: Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.
An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.

Witness my hand this 3rd day of August, 19 82.

L. Glen Saxton
Chief, Operations Bureau

MEMORANDUM

TO: Files 35-07161A, 35-07162A, 35-07977, 35-08046 & 35-08050

FROM: Pam Skaggs/State Office

SUBJECT: Transfer 5369

DATE: August 4, 1999

Transfer 5369 changes the place of use and adds points of diversion under all of Rights 35-007161A, 35-07162A, 35-08046 & 35-08050, and a under a portion of Right 35-07977, splitting the right into Parts A and B.

The applicant is combining these rights into a single integrated system to cover all 534.2 acres under the identified pivot system. This transfer also corrects an error in legal description of the place of use under previously approved Transfer 4885, changing 32.0 acres in the NWNW, S14 that should have been located in the SWNW, S14 as shown on the application map.

Recommended conditions include permissible place of use limits, Basin 35 conjunctive management, multiple points of diversion limits, measuring & annual reporting, trust water conditions for Rights 35-08046 & 35-08050, drilling permit requirements, irrigation overlap and standard transfer conditions.

MICROFILMED

AUG 09 1999

MEMORANDUM

TO: FILE 35-08046

FROM: PAM SKAGGS

RE: TRANSFER # 5369

DATE: 2-4-99

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
file # 35-07161.

MICROFILMED
JUG 09 1999



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

December 4, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

LARRY BETHKE
2745 S BREDING RD
AMERICAN FALLS ID 83211

RE: Water Rights 35-08046/35-08050 (Transfer 5168)

Dear Mr. Bethke:

Enclosed is the copy of your approved Transfer of Water Right for the above referenced water rights (Transfer 5168). Please be sure to thoroughly read the Conditions and Remarks listed on the transfer. Also, please be advised that the accompanying transfer approval should be considered and treated as a **preliminary order** of the department issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the approved transfer.

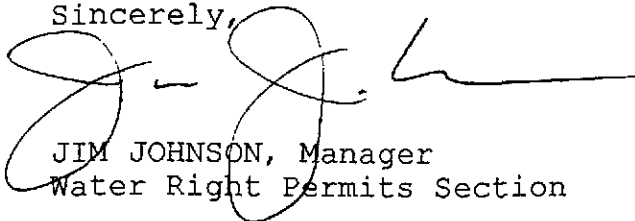
As of July 1, 1996, all water right owners are required to report any change in water right ownership and any change of mailing address to the department.

If you have acquired any other water right or have changed your mailing address **PRIOR TO** July 1, 1996, you have until July 30, 1998, to record the ownership and/or address change with the department.

If you acquired other water rights or changed your mailing address **AFTER** July 1, 1996, you must notify the department within 120 days of the change.

Failure to report these changes in a timely manner could result in a \$100 late filing fee. You can contact any office of the department for more information. If you have any questions concerning your water right listed above you can contact me at (208) 327-7947.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt
Enclosures

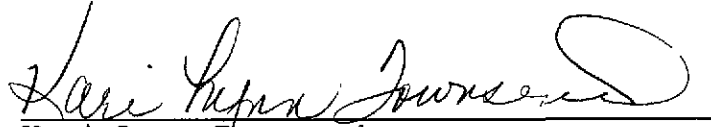
MICROFILMED
JAN 04 1999

CERTIFICATE OF MAILING

I hereby certify that on the 4th day of December, 1998, I mailed a true and correct copy, postage prepaid, of the foregoing **TRANSFER APPROVAL** to the person(s) listed below:

WATER RIGHTS 35-08046/35-08050 (Transfer 5168)

**LARRY BETHKE
2745 S BREDDING RD
AMERICAN FALLS ID 83211**


Kari Lynn Townsend
Secretary

MICROFILMED
JAN 04 1999

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

MICROFILMED

JAN 04 1999

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MICROFILMED

JAN 04 1999

MEMORANDUM

TO: Files 35-08046 & 35-08050

FROM: Pam Skaggs^{PS}/State Office

SUBJECT: Transfer 5168

DATE: December 3, 1998 

Transfer 5168 changes the point of diversion under Rights 35-08046 and 35-08050 to an existing well owned by the applicant. These two licensed rights share a common point of diversion and have separate places of use.

These rights were licensed in 1997 and are not subject to the SRBA. Recommended conditions include measuring & annual reporting, irrigation overlap, trust conditions and standard transfer conditions.

MICROFILMED

JAN 04 1999

TRANSFER REVIEW SHEET

(07-98)

Transfer # 5168

Date Reviewed 8-4-98
CB

Right(s) 35-08046 } WR Licenses (10-17-97)
35-08050 } Not subject to SRBA

☒ WRQ/Split Summary NA SRBA Status NA Run POU Comparison Report

☒ Change P/D C: Add P/D D: Change P/U E: Change Nature of Use
F: Change Period of Use G: Other H: Change P/D & Add P/D
I: Change P/D & P/U J: Add P/D & Change P/U

Proof of Ownership NA - P/D change only

Transfer ☒ All of Right ☐ Portion of Right
Resulting Split(s) None

Check Transfer Against Recorded Right Season/Vol. C/4.0

(1) ☒ Priority (2) ☒ Use (3) ☒ Season (4) ☒ Rate (5) ☒ Volume
(6) ☒ Source (7) ☒ P/D (8) ☒ P/U (9) NA Proof/Owner (10) ☒ Map
Aberdeen American Falls GW Dist. / East ESPA WMD District
(11) NA Water District (12) Yes Pertinent Conditions (13) No Expansion
Irr Overlap & Trust

Change P/D

Existing Well 35-97-E-0089-000 Larry Bethke

Transfer Remarks
Conditions 067, R64, R55, D52, T07, T08, T09
NA - Not subject to SRBA

Database/Processing Notes Standard ☒ Non-Standard ☐
T files

Special edit approval - Both DUs
"T" Files Update Complete ☒ Approval Form ☒ Transfer Memo ☒
Database Updated Following Approval ☒ Memo/Form Files Deleted ☒

12-04-98 CB

SPLIT RIGHT SUMMARY
08-03-98

SD-0611-2 Basin: 35 Starting Water Right: 08046

S	Water	Name	O	Priority	STG/	Use	S
E	Right No.	Last, First	W	Date	STS	Desc	Y
L			N		Source		S
-	35-08046	BETHKE, LARRY	C	06/11/1982	L/	GROUNDWATER	IRR
-	T35-08046			06/11/1982	L/	GROUNDWATER	IRR
-							
-							

SD-0611-2 Basin: 35 Starting Water Right: 08050

S	Water	Name	O	Priority	STG/	Use	S
E	Right No.	Last, First	W	Date	STS	Desc	Y
L			N		Source		S
-	35-08050	BETHKE, LARRY	C	08/03/1982	L/	GROUNDWATER	IRR
-	T35-08050			08/03/1982	L/	GROUNDWATER	IRR
-							
-							

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: KCW

1. Right number 35-08050
35-08046 Applicant LARRY BETHKE
2. Type of right: ☐ Decree ☒ License ☐ Claim
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Other _____
4. Check
 - a ☒ Source ☒ Priority ☐ Amount ☐ Purpose ☒ Period of use
 - b ☒ Description of original point of diversion
 - c ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☒ Part of right (NOTE: Part B should be filled in only if part of the right is owned by the applicant)
 - c. ☒ Check description of point(s) of diversion.
 - d. ☒ Check description of place of use.
 - e. ☒ Check map (shows p.d. and p.u. after transfer).
 - f. ☒ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred
 - h. ☒ Check for expansion in use of right. Comments No Expansion
 - i. ☒ Check for existing water rights from same source, on land water is being transferred to
Right number(s) 35-07162 NO OVERLAP*
(ERROR T4885 35-07161/07162) *over
j. ☒ Is use within a Watermaster District? ☐ Yes ☒ No
Pam - See back of PS. HW
If yes, what district? _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* _____
4. By BK Date 2/3/98

* All uses within Watermaster Districts require special conditions.

RECEIVED

FEB 13 1998

Department of Water Resources

T 4885 35-07161/35-07162

(A.5) Lists NWNW, Sec 14, T 7S, R 24E

MAP INDICATES SWNW, Sec 14, T 7S, R 24E

APPEARS ERROR MADE IN T 4885

KCW

INTER-DEPARTMENT MEMO

TO: BETHKE TRANSFERSUBJECT: Advert. LanguageFROM: HLWDATE: 10-31-87

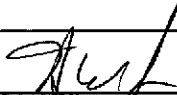
To be changed as follows: Applicant intends to change the point of diversion to a ^{new} site just south of Pleasant Valley Rd. in the NWNE Sec. 14 T7S R29E.

() For your information

MICROFILMED

() Response required

JAN 04 1999


signature

Affidavit of Publication

State of Idaho

County of Power

Brett Crompton being first duly sworn on oath, states:

That he is the editor and co-publisher of The Power County Press, a newspaper of general circulation in Power County, Idaho, published weekly at American Falls in said county, that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice or advertisement was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for 2 successive weekly issues thereof, the date of the first publication being the 19 day of November 1997 and the date of the last publication being the 26 day of November 1997.

Signed

Brett Crompton

State of Idaho

County of Power

On this 26 day of November in the year of 1997, before me, a Notary Public, personally appeared Brett Crompton, known or identified to me to be the person whose name 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 executed the same.

Willy Morris
Notary Public for Idaho
Residing at American Falls, Idaho
My commission expires: January 21, 2003

Bethke applies for water change

Published in The Power County Press
Nov. 19, 26, 1997.

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT NO. 5168

Notice is hereby given that Larry Bethke, 2745 S. Breeding Rd., American Falls, ID 83211, has applied to the Department of Water Resources to change point of diversion of the waters of a groundwater source. The rights sought to be changed are evidenced by licenses and recorded as follows:

License No.: 35-08050

Source: groundwater

Amount: 0.81 cfs

Priority: 08/03/1982

Point(s) of Diversion: SWSW SEC 11
T07S R29E, Power County

The water is used for irrigation from
04/01 to 10/31 within the NENW
NWNW SEC 14 T07S R29E, B.M.

License No.: 35-08046

Source: groundwater

Amount: 1.00 cfs

Priority: 06/11/1982

Point(s) of Diversion: SWSE SEC 11
T07S R29E, Power County

The water is used for irrigation from
04/01 to 10/31 within the NENE NWNE
SEC 14 T07S R29E, B.M.

TO BE CHANGED AS FOLLOWS:

Applicant intends to change the point of diversion to a well site just south of Pleasant Valley Rd. The water will be diverted from the NWNE SEC 14 T07S R29E, Power County.

Any protests against approval of the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skylone Dr., Idaho Falls, ID, 83402, together with a protest fee of \$25 on or before December 8, 1997. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

MICROFILMED

JAN 04 1999



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

November 17, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

POWER COUNTY PRESS
CLASSIFIED ADS
PO BOX 547
AMERICAN FALLS ID 83211

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before December 8, 1997.

Yours truly,

Rita Bodell
Rita Bodell
Secretary

Enc.

Faxed 11-17-97

MICROFILMED

JAN 04 1998

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT
NO. 5168

Notice is hereby given that Larry Bethke, 2745 S. Breeding Rd., American Falls, ID 83211, has applied to the Department of Water Resources to change point of diversion of the waters of a groundwater source. The rights sought to be changed are evidenced by licenses and recorded as follows:

License No.: 35-08050 Source: groundwater
Amount: 0.81 cfs Priority: 08/03/1982
Point(s) of Diversion: SWSW SEC 11 T07S R29E, Power County
The water is used for irrigation from 04/01 to 10/31 within the NENW NWNW SEC 14 T07S R29E, B.M.

License No.: 35-08046 Source: groundwater
Amount: 1.00 cfs Priority: 06/11/1982
Point(s) of Diversion: SWSE SEC 11 T07S R29E, Power County
The water is used for irrigation from 04/01 to 10/31 within the NENE NWNE SEC 14 T07S R29E, B.M.

TO BE CHANGED AS FOLLOWS:

Applicant intends to change the point of diversion to a well site just south of Pleasant Valley Rd. The water will be diverted from the NWNE SEC 14 T07S R29E, Power County

Any protests against approval of the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID, 83402, together with a protest fee of \$25 on or before December 8, 1997. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

Published in the Power County Press on November 20 & 27, 1997.

MICROFILMED

JAN 04 1993



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

October 20, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

LARRY BETHKE
2745 BREDDING ROAD
AMERICAN FALLS ID 83211

RE: WATER RIGHT NO. 35-08046

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license is a preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as 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 twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from 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. Otherwise, this preliminary order will become a final order of the Department.

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

MICROFILMED
OCT 22 1997

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

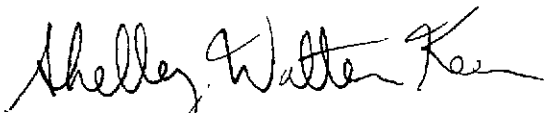
Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district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

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

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

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

Sincerely,

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

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

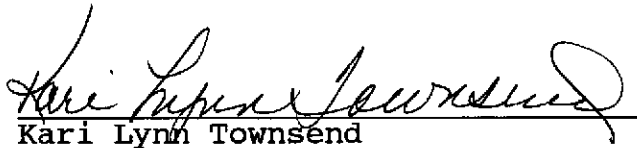
RECEIVED
OCT 22 1957

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of October, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 35-08046

LARRY BETHKE
2745 BREDING ROAD
AMERICAN FALLS ID 83211


Kari Lynn Townsend
Secretary

35-08046-1112
OCT 22 1997

M E M O R A N D U M

DATE: September 29, 1997

TO: File Nos. 35-08046 & 35-08050

FROM: Kari Lynn Townsend

RE: Assignment of Permit fees

=====

I telephoned Hank Boomer and advised him that we had received the fees for the application of amendment for each of the above right nos. but still need \$25 assignment of permit filing fee for each of the above rights. He apologized for overlooking those fees and will take steps to get them to us ASAP.



Henry R. Boomer
ATTORNEY-AT-LAW

RECEIVED

SEP 26 1997

Department of Water Resources

514 Tyhee Street
P.O. Box 70
American Falls, ID 83211-0070

Telephone
(208) 226-2562
Fax (208) 226-5419

September 24th, 1997

Idaho Department of Water Resources
Attn: Shelley Keen
1301 N. Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

Dear Mr. Keen:

Enclosed please find originals of Assignment of Permit and Application for Amendment in regards to permit numbers 35-08046 and 35-08050. These are in the names of Arthur Adolf and Amanda Sherman and are being transferred into Larry Bethke's name.

If you have any questions or comments, please give my office a call.

Sincerely,


Henry R. Boomer

:jlm

enc.

RECORDED
SEP 22 1997

MEMORANDUM

DATE: September 24, 1997

TO: Water Right Files 35-08046 and 35-08050

FROM: Shelley W. Keen 

RE: Phone call from Larry Bethke

This morning Larry Bethke called to let me know that he will be sending the signed licensing amendment forms right away. He also has some ownership information to send to Eastern Region to support a transfer application that he has submitted.

RECEIVED

OCT 22 1997



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

September 17, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ARTHUR ADOLPH
C/O LARRY BETHKE
2745 BREDDING RD
AMERICAN FALLS ID 83211

RE: WATER RIGHT NO. 35-08046

Dear Permit Holder(s):

I previously forwarded to you an Application for Amendment so that you could amend your permit to depict your water right as it has been actually developed. I have not yet received the amendment. If I do not receive it within fourteen days, I will assume you no longer have any interest in the permit and cancellation proceedings will begin.

Enclosed for your convenience is another amendment form. Please note that the filing fee for this amendment is \$50.00. If you have any questions, please call me at (208) 327-7946.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Shelley W. Keen'.

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

RECEIVED
SEP 21 1997
WATER RIGHTS DIVISION



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

August 27, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ARTHUR ADOLPH
C/O LARRY BETHKE
2745 BREDDING RD
AMERICAN FALLS ID 83211

RE: WATER RIGHT NO. 35-08046

Dear Permit Holder(s):

The above referenced water right is in the process of being licensed. However, before a license can be issued, your permit must be amended to depict your water right as it has actually been developed.

The enclosed Application for Amendment contains information that will be included on the license when it is issued. The amendment reflects a change in the location of the point(s) of diversion. Please review carefully and if you concur, sign the amendment and return with the \$50.00 filing fee within 14 days.

The last page of the Application for Amendment form contains a list of Conditions of Approval and Remarks proposed for the license when it is issued. These conditions of approval and remarks may be modified upon further administrative review.

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

Sincerely,

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

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

RECEIVED
OCT 1 1997

LICENSE REVIEW CHECKLIST

PERMIT NO. 35-08046

DATE 8/26/97

REVIEWER: SHARLA

NAME	Change <u>—</u>	OK <u>✓</u>	Address Change <u>NO</u>
SOURCE	—	<u>✓</u>	Is change clarification of originally intended source? <u>—</u>
POINT OF DIV	<u>✓</u>	—	If not, prepare Notice of Intent to Void <u>—</u>
PLACE OF USE	—	<u>✓</u>	Amendment required <u>yes</u>
			Amendment required <u>NO</u>

Does map agree with written description? — yes — no

OVERLAPS — P/D — P/U

RATE OF DIV

Permitted Rate	<u>8.0</u> cfs
Fee limit	<u>1.0</u> cfs <u>\$100⁰⁰</u>
Measured	<u>4.83</u> cfs
Theoretical	<u>2.8</u> cfs <u>@ 60 psi and 300' lift</u>
Recommended Total Div Rate <u>1.0</u> cfs	

ANNUAL VOLUME/ NATURE OF USES

Use	cfs	Volume Calc
<u>Dr.</u>	<u>1.0</u>	<u>50.8 x 4.0</u> af
SUBTOTAL	<u>1.0</u>	<u>203.2</u> af

Flow rate 1.0 cfs X 214 days X 1.98 = 423.7 af
 Total volume recommended 203.2 af
 (SUBTOTAL or Flow Rate, whichever is less)

REMARKS

CONDITIONS — Watermaster Control WD# —
— GW Measurement/Measuring Device
P31 Overlap

— Use-specific conditions
 Advancement of Priority Date Required — yes ✓ no

SRBA Claim Filed N/A
 Adjustment Memo note

1st Amend Letter P39 P38
 2nd Amend Letter P47

RECEIVED

AUG 25 1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

AUG 25 1997

Department of Water Resources

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 35-080461. Owner: ARTHUR or ELISABETH ADOLF % LARRY BETHKE Phone No. (208) 226-2201 HCurrent Address: 2745 BREDING RD, AMERICAN FALLS, ID 832112. Accompanied by: LARRY BETHKE EXAM DATE: 8-20-1997
7-24-1997Address: 2745 BREDING RD, AMERICAN FALLS ID 83211 Phone No. 208 226-2201 (H)
220-2211 (M)

Relationship to Permit Holder: _____

3. Source: GROUNDWATER tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NONE2. Other water rights with the same point of diversion: 35-07152

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
WEST			SW	SE	11	7S	29E	POWER	ON SITE / FSA AERIAL

2. Place(s) of Use:

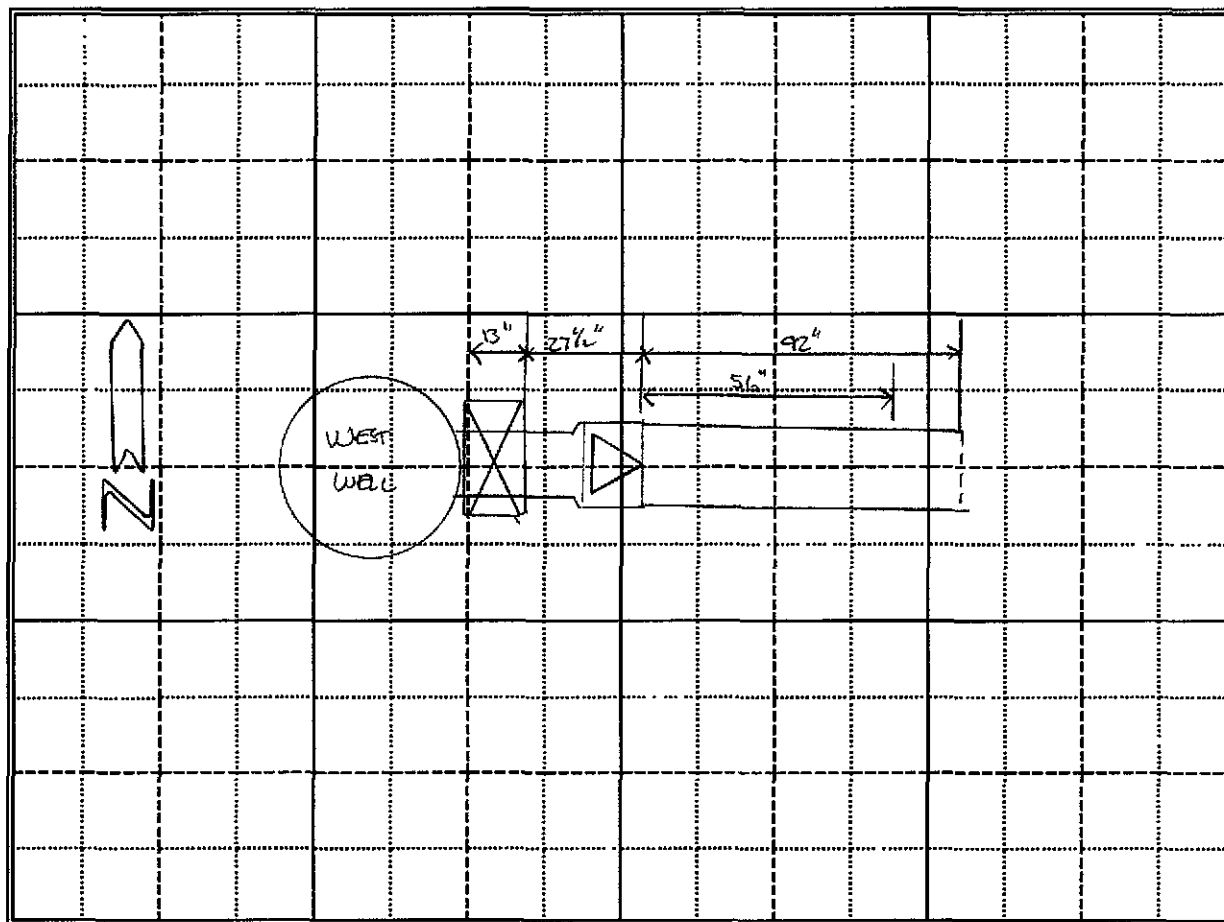
Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7S	29E	14	25.4	25.4															50.8

MICROFILMED

AUG 22 1997

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



Scale: 1" = _____

_____ 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

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
EAST WELL	U.S. ELECTRIC	200	B1403449	LAYNE & BOWLER	42443

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
ULTRASONIC METER	Time Flight	PEER	ISTP-P	196802		

2. Measurements: 7/24/97 OD = 12.76 THICKNESS 0.163" RE MEASUREMENT 8-20-1997 $Q_{TOTAL} = 2168 \text{ gpm}$
 $Q = 2067.68 \text{ gpm}$ MAINLINE SOUTH $Q = 1178 \text{ gpm}$
 MAINLINE NORTH $Q = 990 \text{ gpm}$

ENCLOSURE

11722197

E. NARRATIVE/REMARKS/COMMENTS

35-07152 $Q = 3.82 \text{ cfs}$ 191 ac

Total $Q = 2168 \text{ gpm} = 4.83 \text{ cfs}$

REMAINING PORTION 35-07152 NOT LICENSED = $Q = 1.01 \text{ cfs}$ ($4.83 \text{ cfs} - 3.82 \text{ cfs}$)

NOTE: ON 8-20-1997 PRINTER QUIT PRINTING ALL VALUES WERE
OBSERVED BY THIS EXAMINER

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

PROCESSED
DEC 22 1997

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method: $Q = 2168 \text{ gpm} = 4.83 \text{ cfs}$ $Q_{\text{LIMITED TO ADDITIONAL CFS FROM DIVERSION}} (4.83 - 3.82 \text{ cfs}) = 1.01 \text{ cfs}$ $@ 0.02 \text{ cfs/acre} \times 50.8 = 1.016 \text{ cfs} = 1.02 \text{ cfs}$ $Q_{\text{LIMITED TO}} = 1.01 \text{ cfs}$ **G. VOLUME CALCULATIONS**

1. Volume Calculations for Irrigation:

 $V_{\text{IR}} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 50.8 \times 4 = 203.2 \text{ afa}$ $V_{\text{DR}} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 1.01 (1.9835) (214) = 428.7$ $V = \text{Smaller of } V_{\text{IR}} \text{ and } V_{\text{DR}} = 203.2 \text{ afa}$

2. Volume Calculations for Other Uses:

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
IRRIGATION	4/1	11/1	1.01 cfs	203.2 afa
Totals:			1.01 cfs	203.2 afa

2. Recommended Amendments

☒ Change P.D. as reflected above ☐ Add P.D. as reflected above ☐ None
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

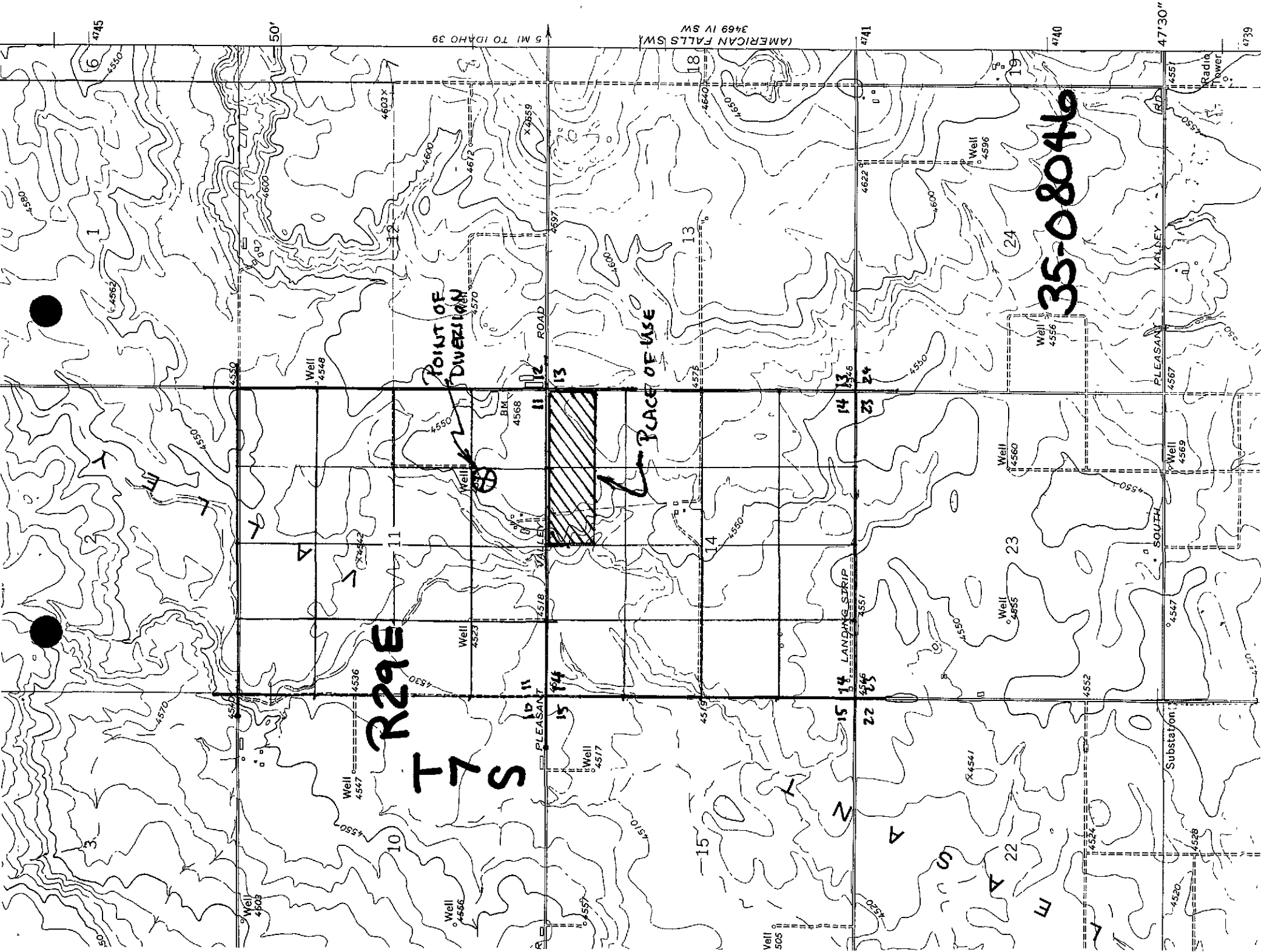
I. AUTHENTICATIONField Examiner's Name KETH C WILSON Date 8-20-1997

Reviewer _____ Date _____

SEAL

10/20/97

05/24/02



R29E
T7S

35-08046

POINT OF
DIVERSION

PLACE OF USE

LANDING STRIP

Substation

SOUTH

PLEASANT VALLEY

RADIO TOWER

5 MI TO IDAHO 39
(AMERICAN FALLS SW)
3469 IV SW

T 7.0
S.ith
TR29E
2- N.H.E.L.
133.4

POINT OF DIVERSION

PLACE OF USE

35-08046

ARRY BEILKE
112.2
ADD 14 LN.

3536

112.2
ADD 14 LN.

12215

N.H.E.L.
133.4

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An aerial photograph showing a residential development. A road runs vertically through the center. To the left of the road, there are several houses, including a large white house with a dark roof and a smaller house with a red roof. To the right of the road, there are more houses, including a large white house with a dark roof and a smaller house with a red roof. The houses are surrounded by trees and greenery.



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 21, 1997

RE: In the Matter of use of Cancelled Permit No. 35-08046 in the name of Arthur Adolf, and Cancelled Permit No. 35-08050 in the name of Amanda Sherman

Dear Interested Party:

The accompanying order is a "**preliminary order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from 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 to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The

6030-2112

10 18 97

Director retains the right to review the preliminary order on his own motion.

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 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.

Sincerely,



L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

C: IDWR - Region

APR 18 1977



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 6, 1997

Kent Foster
HOLDEN, KIDWELL, HAHN & CRAPO
330 Shoup Ave, 3rd Floor
Idaho Falls, ID 83402

RE: INQUIRY ON BEHALF OF LARRY S. BETHKE

Dear Mr. Foster:

I have reviewed your letter to Julie Yarbrough dated February 13, 1997 on behalf of Larry S. Bethke. Since your inquiry appears to involve a series of events triggered by Harold Jones' letter dated July 2, 1996 to Larry S. Bethke and also appears to be rather complex, perhaps a brief chronology of events would be useful to the understanding of the matter and its current status. Since this matter tangentially appears to involve two (2) cancelled permits, I will start the chronology with issuance of the permits.

- On August 3, 1982, the department issued Permit No. 35-08046 to Arthur Adolf as follows:

Ident No: 35-08046
Permit holder: Arthur Adolf
Rate of div: 8.0 cfs
Source: Groundwater
Use: Irrigation
Pl use: 400 acres in S1/2NE, NW1/4 Sec 13 and
NE1/4 Section 14, all in T7S, R29E, B.M.
Pts of div: NWNW, SENE Section 13 and NWNE Sec 14,
T7S, R29E, B.M.

- On September 16, 1982, the department issued Permit No. 35-08050 to Amanda Sherman as follows:

Ident No: 35-08050
Permit holder: Amanda Sherman
Rate of div: 3.2 cfs
Source: Groundwater
Use: Irrigation
Pl use: 160 acres in NW1/4 Section 14, T7S,
R29E, B.M.
Pt of div: NENW Sec 14, T7S, R29E, B.M.

Letter - Pg 1

APR 13 1997

- Both permits were subject to reprocessing review under Section 42-203D, Idaho Code, since development had not occurred prior to July 1, 1985.

- A request for extension of time in which to submit proof of beneficial use of water was filed for each permit. The requests were based on delays and uncertainties attributable to the Swan Falls water right controversy.

- In March 1990, the department learned that the permit holders had placed their lands into the CRP program. The permit holders also requested a year's delay in the reprocessing of their permits to which the department agreed. The department also advised that the permits would be reprocessed, but not necessarily approved, at the termination of the CRP contracts in 1996.

- On November 9, 1994, the department issued an Order for Temporary Stay of Development and Notice of Formal Proceedings (Temporary Stay Order) to the permit holders. The order was based on a moratorium which had been established, seven consecutive years of drought and delivery calls made by senior surface water and ground water right holders. The permit holders did not respond to the Temporary Stay Order.

- On February 14, 1995, the department issued a Final Order cancelling the permits.

- On July 2, 1996, Harold Jones of the Department's Eastern Regional Office sent a letter to Larry Bethke advising that the department had observed irrigation in the N1/2 Section 14, T7S, R29E, B.M. by Bethke from two (2) wells located in Section 11, T7S, R29E, B.M. The letter also advised that the department did not have a record of a water right for the irrigation of the land and requested a response within seven (7) days.

- On July 15, 1996, you responded to Harold Jones suggesting three (3) alternatives including the following:

1. Filing claims under the "amnesty statutes" for which you submitted two (2) SRBA claims and a total fee of \$292. The department issued receipt No. E022906 in the amount of \$292 for the claims identified as Nos. A35-13118 and A35-13134. The claims are pending in the department's Idaho Falls office.

2. Seek reinstatement of Permit Nos. 35-08046 and 35-08050 as provided in Section 42-218a.2., Idaho Code. On July 19, 1997, you filed proof of beneficial use affidavits in connection with the two cancelled permits. The department issued receipt No. E022399 in the amount of \$200 in connection with filing the late proofs. The

department needs to act on the request to reinstate the permits.

3. Request full reinstatement of cancelled Permit Nos. 35-08046 and 35-08050.

Your letter asked for thoughts or suggestions from the department. Harold Jones forwarded your correspondence to the state office of the department since, reinstatement requests pursuant to Section 42-218a.2. are reviewed and processed in the state office in Boise.

- On February 13, 1997, you corresponded with Julie Yarbrough of the department raising several questions. Responses to the questions are as follows:

- Alternative proposals described in July 15, 1996 letter: The SRBA claims under the amnesty statutes have been filed and will be considered in the SRBA process. It does not appear that a response to your filing of the claims is appropriate. The recommendation of the SRBA claims will occur when the department prepares a director's report for Basin 35.

- Reinstatement of Permit Nos. 35-08046 and 35-08050: The department needs to act to either reinstate or deny reinstatement of the cancelled permits.

- The department does not have before it a proposal which requests full reinstatement of the permits. I do not believe, however, that if such a proposal had been submitted that the department would fully reinstate the permits.

- With regard to record keeping, the department microfilms and destroys the paper copies of water right files which have lapsed, have been voided, or have been relinquished or cancelled. The department can recreate a file from microfilm if needed.

- With regard to fees, see the responses above.

It appears that the only pending matter which the department needs to is the requested reinstatement of cancelled Permit Nos. 35-08046 and 35-08050. Based on the information available so far, I do not plan to recommend approval of the requested reinstatements. The problem I have is that the parts of the N1/2 section 14 that allegedly have been irrigated use different points of diversion than anticipated in the approved permits. In addition, the affidavit of Arthur M. Adolph which you submitted states that Permit Nos. 35-8046 and 35-08050 were filed for the irrigation of land in excess of that being irrigated in 1974. Due to the delays which have occurred in this matter, I am willing to

wait thirty (30) days to give you the opportunity to provide any additional information you wish to have the department consider in support of the requested reinstatements.

The department apologizes for any misunderstanding you have apparently perceived in this matter. If you have questions, please feel free to contact me or the department.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Glen Saxton". The signature is fluid and cursive, with the first name "L." being small and the last name "Saxton" being larger and more prominent.

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: Ernie Carlsen
Harold Jones
Julie Yarbrough
Norman C. Young

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN III
SHAN B. PERRY

U.S. BANK OF IDAHO BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL: HOLDNLAW@SRV.NET

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

RECEIVED

FEB 18 1997

February 13, 1997

Department of Water Resources

Julie L. Yarbrough, Senior Secretary
IDAHO DEPARTMENT OF
WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

Dear Ms. Yarbrough:

In July of 1996, Mr. Larry S. Bethke sought our advice regarding a letter he had received from Mr. Harold W. Jones of the Idaho Falls office of IDWR, dated July 2, 1996. We advised Mr. Jones by telephone that we had been contacted by Mr. Bethke and then hurried to gather the information and prepare a response.

We did prepare a written response, dated July 15, 1996. A copy of our letter to Mr. Jones together with copies of all accompanying documents and checks is enclosed with this letter. We have never received any communication from IDWR, either in writing or otherwise, regarding any of our alternative proposals.

A few days ago, at the request of Mr. Bethke, we contacted Mr. Jones to inquire about the status of the matter. Mr. Jones advised that his computer showed some file had been destroyed in 1995 and again on August 23, 1996. He was unable to explain, so he advised he would check with Boise and get back to us. He now advises that he spoke with you and that you confirmed the file had been again destroyed on August 23, 1996, as he expressed it to us, because you didn't receive a communication from someone.

Julie L. Yarbrough, Senior Secretary
February 13, 1997
Page 2

We cannot even imagine what any of this means. But we wonder if it would be possible to receive some formal response to our July 15, 1996, letter and the enclosures. Did the Department merely cash our client's checks and then destroy the documents without even bothering to communicate with his attorney?

We would very much appreciate hearing from you at your earliest convenience.

Very truly yours,



Kent W. Foster

Enclosure

cc. Carl J. Deyer
Harold Jones
Larry S. Bethke

G:\WPDATA\KWF\6021\IDWR0213 LTR sjw

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FEB 19 1997

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J HAHN
KENT W FOSTER
ROBERT E FARNAM
WILLIAM D FALER
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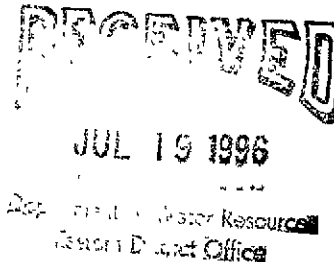
WEST ONE BANK BLDG
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TELEPHONE (208) 523-0620
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E-MAIL HOLDNLAW@SRV.NET

Arthur W Holden
(1877-1967)
Robert B Holden
(1911-1971)
Terry L Crapo
(1939-1982)
William S Holden
(1907-1988)

July 15, 1996

Mr. Harold Jones
IDAHO DEPARTMENT
OF WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718



Re: Larry Bethke

Dear Mr. Jones:

This letter is a formal response on behalf of Mr. Larry Bethke to your letter of July 2, 1996, regarding irrigation of land in the North half of Section 14, Township 7 South, Range 29 East, which Mr. Bethke recently purchased. We have of course spoken by telephone to let you know that we were working on a response and this letter is also a follow up to those conversations.

From our investigation into this matter, we have learned that approximately 89.4 acres in the North half of Section 14 has been irrigated each irrigation season since 1974, some 40.4 in the Northwest quarter and about 49 in the Northeast quarter. These figures come from ASCS maps. A copy of the 1987 map is enclosed. Unfortunately it is not a good copy. It has been faxed and photocopied too many times and we have not yet had time to secure a good copy. See also the enclosed affidavit of Mr. Arthur Adolf, the former owner of some of this land and the brother of the other former owner.

It appears that the 89.4 approximation may be short of the actual acreage irrigated by an additional 1.8 acres which would bring the total to 91.2, but we have not yet been able to confirm that measurement. Whatever the correct figure, Mr. Adolf's affidavit tells the history of how this land came to be irrigated, and that this is the 23rd consecutive season it has been sprinkler irrigated from the two wells of Mr. Keith Phillips, who owns the land to the North.

As we have tried to analyze what might be done now, three possibilities have occurred to us. We will discuss each, and have prepared supporting documentation which is enclosed.

100-100-100

JUL 18 1996

Mr. Harold Jones
July 15, 1996
Page 2

However, we may not view the matter in the same way as you or others in the department might, and if someone has a better idea, we are certainly open to recommendation.

1. First it occurs to us that if the so called "amnesty statutes" (Idaho Code Sections 42-1425 through 1427) are viable, one could argue in the SRBA context that there has been an enlargement of use of water rights, Nos. 35-07152 and 35-07153. We have prepared and are enclosing two SRBA claims which might address the matter from this standpoint. We have also enclosed a check for the filing fees. We computed the amount as follows: two claims - \$100 for the flat fees, plus \$100 for the two late fees, plus \$92 for the acreage fee, for a total of \$292.

2. Next, perhaps one could argue that under permits Nos. 35-08046 and 35-08050, some 89.4 or 91.2 acres was developed, although not specifically as contemplated under the permits. The points of diversion are different than as provided in the permits (they are the points listed under Rights Nos. 35-07152 and 35-07153 instead). We would need to rely upon the provisions of Idaho Code §42-218a.2. We have enclosed two completed Proof of Beneficial Use forms and Mr. Adolf's affidavit which might show reasonable cause for filing late Proof of Beneficial Use, as well as a check for filing fees of \$200.

3. The most preferable approach we have conceived is to request reinstatement of both permits, 35-08046 and 35-08050, in full, and reprocessing of them consistent with the understanding Mr. Adolf gained from the efforts of Mr. Cavaness and the letters from Norm Young and Tim Luke attached to Mr. Adolf's affidavit. The CRP contracts will expire after this irrigation season, and that would be the time Mr. Adolf had understood IDWR would commence reprocessing of the two permits. In any event, we hope this letter and the enclosures are satisfactorily responsive to your letter of July 2. We will appreciate your thoughts and suggestions as to the most acceptable approach, whether one of these we have discussed, or one the department may view as preferable.

Please let us hear from you as soon as it is convenient.

Very truly yours,



Kent W. Foster

Enclosure

pc. Larry Bethke

G:\WPDATA\KWF\BETHKE\DWRL710 LTR sjw

7/15/96



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KELTH HIGGINSON

DIRECTOR

March 19, 1991

Ben Cavaness, Esq.
Cavaness & Boomer
Box 70
American Falls, Idaho 83211

Re: Additional Development Time for Trust Water Permits on Land
Placed in CRP - Nos. 35-8046, 35-8050, 35-8051

Dear Ben:

In response to your letter of July 12, 1990, you and I discussed this matter following a protest hearing held in American Falls. I took the assignment to evaluate the matter and provide you with a suggested resolution acceptable to IDWR. I understand the problem to be that some holders of permits in the Swan Falls controversy area did not develop because of uncertainties raised by the Idaho Power Company lawsuits. The legislation implementing the Swan Falls agreement provided for these existing but undeveloped permits to be reprocessed prior to further development.

Because of the substantial backlog of trust water area filings, some of the permit holders placed their land in the 10-year Conservation Reserve Program and are unable to cultivate the land during the period of the contract. IDWR processing of the backlog has moved more quickly than projected, and some of these permits have been reprocessed and given a development period that expires prior to the expiration of the CRP contract. Some other permit holders have been advised that their permits can now be reprocessed and are asking for a delay in reprocessing or assurance that the approved development period with allowed extensions will extend beyond their CRP contract period.

The Swan Falls controversy did place those wanting to develop in a position of uncertainty. IDWR does take this into consideration as trust water filings are processed. Also, I do agree that there is some similarity between the situation of the holders of these undeveloped permits on CRP contract lands and the situation the legislature addressed for holders of vested water rights on CRP lands. The legislature provided immunity from statutory forfeiture for such vested water rights.

Accordingly, IDWR, will upon request of a holder of a permit covering lands under a presently existing CRP contract, delay reprocessing under Section 42-203D, Idaho Code, until the

MAR 28 1991

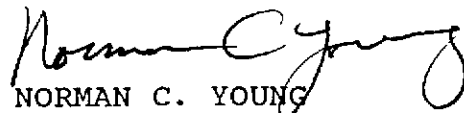
Ben Cavaness
Page 2
March 19, 1991

expiration of the CRP contract. If the continuation order has already been issued for such lands, IDWR will, upon request, withdraw the order and hold the permit for reprocessing at the termination of the existing CRP contract.

IDWR prefers this approach because we are not authorized to approve a permit for development at a distant future date. It is not my intent to guarantee issuance of a continuation order when the permit is reprocessed at the end of the CRP contract period, but I do view this as an acceptable way of keeping the permits valid for such future consideration. At the time the permits are reprocessed, the priority date may be advanced if necessary to avoid injury to intervening right holders.

If this approach is acceptable, IDWR will follow through upon receipt of copies of the CRP contracts and a request for delay.

Sincerely,



NORMAN C. YOUNG
Administrator
Water Management Division

RECEIVED
MAR 22 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 7, 1991

Arthur Adolf
720 Stevens St.
American Falls, ID 83211

RE: Permit No. 35-8046

Dear Mr Adolf:

The department acknowledges receipt of your letter requesting that reprocessing of the above permit be delayed pending the expiration of your CRP contract.

The department has not yet issued a continuation order for this permit. Pursuant to your request and Mr. Young's letter of March 19, 1991, the department will delay reprocessing of your permit for the duration of the CRP contract. Termination of the contract prior to the expiration date may result in immediate reprocessing of the permit. Please be advised that Mr. Young's March 19 letter did not provide any guarantee that continuance will be given when the permit is reprocessed at the end of the contract period. You should be further reminded that if continuance of the permit is given, the priority date may be advanced if necessary to avoid injury to intervening right holders.

In light of Mr. Young's letter, you may wish to consider terminating your contract at an earlier date since there are no absolute guarantees that the permit will be continued in 1996. Any decision concerning termination of your contract is entirely yours. Unless you request reprocessing at an earlier date, the department will not reprocess the permit until the expiration of the contract.

Sincerely,

Tim Luke

Sr. Water Resource Spec.

cc: Ben Caveness

MAILED

JUL 12 1991

AFFIDAVIT OF ARTHUR M. ADOLF

RECEIVED

JUL 19 1996

Department of Water Resources
Eastern District Office

State of Idaho)
) ss.
County of Power)

Arthur M. Adolf, being first duly sworn, on his oath deposes and says:

1. Affiant is a resident of Power County, Idaho, of the age of 78 years, and presently resides at 720 Stevens Street, American Falls, ID 83211. His telephone number is 208-326-2043.

2. Affiant is the former owner of the Northeast Quarter of Section 14 in Township 7 South, Range 29 East. Affiant's sister, Amanda Sherman, is the former owner of the Northwest Quarter of said section, township and range. On June 1, 1996, all of said real property was sold to Larry S. Bethke, also of American Falls, Idaho.

3. Affiant and his sister owned said property for many years prior to 1974, but prior to that year, said property had previously been dry-farmed only. Sometime before the irrigation season of 1974, Affiant was approached by a neighbor, Mr. Keith Phillips, who owned and farmed the land across the road to the north of the above described real property. Mr. Phillips indicated the pumps from his two wells in the South half of Section 11 in said township and range produced more water than was actually required through his sprinkler irrigation system to properly irrigate his own land north of the road separating his property in Section 11 from the property of Affiant and Affiant's sister in Section 14. Mr. Phillips proposed to extend mainline under the road in two places and sprinkle some of the land of Affiant and Affiant's sister in Section 14. Mr. Phillips proposed to lease the additional land and farm the same in connection with the operation of his own land north of the road.

NOT RECORDED

4. Pursuant to agreement, Mr. Phillips did in fact extend mainline under the road. Commencing with the irrigation season of 1974, and continuing each irrigation season thereafter through the present time, he has farmed approximately 40.4 acres in the North half of the Northwest Quarter and approximately 49 acres in the North half of the Northeast Quarter of said Section 14. pursuant to lease agreements, by means of sprinkler irrigation equipment.

5. In 1982 in contemplation of further developing the lands in the North half of Section 14, Affiant and his sister, Amanda Sherman, applied for and received permits Nos. 35-08046 and 35-08050, respectively. Before work under the permits could begin the Swan Falls controversy, including the lawsuit filed by Idaho Power Company, intervened, and Affiant was not able to commence the development contemplated by the permits. Before the delays occasioned by the proceedings related to the Swan Falls Controversy reached a point where Affiant felt able to proceed again, other difficulties arose. On February 4, 1987, Affiant's wife died. Then on February 18 of the same year, Affiant suffered a severe heart attack and was hospitalized for a period of time. Because of these circumstances, Affiant entered into conservation reserve program contracts for some of his land, and his sister did the same, in 1987. The contracts extend through 1996.

6. In about 1990, on behalf of Affiant and perhaps others, Mr. Ben Cavaness, a lawyer in American Falls, Idaho, had some conversations with IDWR officials about the reprocessing of the above referenced permits. Affiant may not be possessed of all the details of such conversations, but copies of two letters referencing the matter which came to be in

Affiant's possession are attached to this affidavit. Affiant gained the understanding that the permits would be reprocessed following the expiration of the pending CRP contracts. Affiant did not fully understand the notices that came from IDWR in late 1994 or the orders entered by IDWR in 1995; Affiant understood that with respect to permits nos. 35-08046 and 35-08050, IDWR was prepared to commence reprocessing after expiration of the CRP contracts in 1996 and that no further action needed to be taken until that time.

7. Affiant did try to continue farming for a couple of years after 1987, but his physical health, age and general condition have pretty well prevented him from being as active in either the actual farming or the business affairs related thereto, including the matters of the reprocessed permits.

DA to this 9 day of July, 1996.

Arthur M. Adolf
Arthur M. Adolf

STATE OF IDAHO
County of Power) ss.
~~Elmore~~)

SUBSCRIBED AND SWORN TO before me this 9 day of July, 1996.

Rose Ann Junk
Notary Public for Idaho
Residing at Amo Falls, Idaho
My Commission Expires: 12-10-2000

(seal)

G:\WPDATA\KWP\BETHKE\ADLF0701 AFF.g/w

MONMONT
JUL 18 1996

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 35-07152 (Enlargement)

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) Larry S. Bethke Phone (208) 226-2201

Mailing Address 2745 Breeding Road, American Falls, ID Zip 83211

2. Date of Priority (Only (1) per claim) May 1, 1974

3. Source of water supply (a) Groundwater

which is tributary to (b) _____

4.a. Location of existing

point of diversion is: Township 7 South Range 29 East Section 11,

SE 1/4 of SE 1/4 of __, Govt. Lot, __ B.M., County of Power

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township __ Range __ Section __, __ 1/4 of __ 1/4 of __ 1/4,

Govt. Lot __ B.M., County of _____

ending point is: Township __ Range __ Section __, __ 1/4 of

FILED
JUL 18 1997

__ 1/4 of __ 1/4 Govt. Lot __ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Well and pump with mainline to place
of use

6. Water is claimed for the following purposes:

(Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/01 to 11/01 amount .73cfs or ____

For _____ purposes from ____ to ____ amount ____ or ____

For _____ purposes from ____ to ____ amount ____ or ____

For _____ purposes from ____ to ____ amount ____ or ____

7. Total quantity claimed (a) .73 (cfs) and/or (b) ____ (acre feet)

8. Total consumptive use claimed is 177.8 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.)

10. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

Last Name Bethke Ident. Number 35-07152 JUL 18 1997

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication."

(b.) I/We do do not X

wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) [Signature] Date 7/12/96

For Organizations: I do solemnly swear or affirm that I am of , that I have signed the Title

 Organization
foregoing document in the space below as
Title

of and that the statements contained in the
Organization

foregoing document are true and correct.

Signature of Authorized Agent

Title and Organization Date

State of Idaho/or)
County of Bannock) SS.

County of Bannock)

Subscribed and sworn (or affirmed) before me this 12th day
of July 1996.

Notary Public [Signature]
Residing at Idaho Falls
My Commission Expires 1-27-2000

Last Name Bethke Ident. Number 35-07152

17. Notice of Appearance:

Notice is hereby given that I, Kent W. Foster will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature 

Address P.O. Box 50130, Idaho Falls, Idaho 83405

Date 7/15/96

G:\WPDATA\KWF\BETHKE\SRBA 001 sjw

Last Name Bethke Ident. Number 35-07152
JUL 18 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION
JULY 2, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

LARRY BETHKE
2745 BREDDING RD
AMERICAN FALLS ID 83211

Mr. Bethke:

Our office has become aware of irrigation taking place on the N 1/2, Section 14, T7S, R29E. I observed the irrigation taking place on this property on June 28, 1996. The Power County Assessor's office shows this as ground that you own.

I have searched the water rights and adjudication data base and find no water rights for these grounds. It appears the place of use is being irrigated from two wells located in Section 11, T7S, R29E. At this time there is a moratorium on development of new ground, and no new permits can be issued.

Please respond to our office within 7 days of the date of this letter as to the status of this project. Please also note that to divert water in Idaho without a valid water right is contrary to Section 42-351, Idaho Code and subject to civil penalties of up to \$100 per day.

Sincerely,

Harold W Jones
Water Resource Supervisor

HWJ:sc

Post-It™ brand fax transmittal memo 7671		# of pages	One
To	Glen Sexton	From	H. W. Jones
Co.	IDWR Boise	Co.	Eastern
Dept.		Phone #	525-7161
Fax #		Fax #	

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number 35-07153 (Enlargement)
Date Received _____
Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) Larry S. Bethke Phone (208) 226-2201
Mailing Address 2745 Breeding Road, American Falls, ID Zip 83211
2. Date of Priority (Only (1) per claim) May 1, 1974
3. Source of water supply (a) Groundwater
which is tributary to (b) _____
- 4.a. Location of existing
point of diversion is: Township 7 South Range 29 East Section 11,
SE 1/4 of SE 1/4 of __, Govt. Lot, __ B.M., County of Power
Additional points of diversion if any: _____
- b. If instream flow, beginning point of claimed instream flow is:
Township __ Range __ Section __, __ 1/4 of __ 1/4 of __ 1/4,
Govt. Lot __ B.M., County of _____
ending point is: Township __ Range __ Section __, __ 1/4 of

FILED
JUL 13 1974

__ 1/4 of __ 1/4 Govt. Lot __ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Well and pump with mainline to place
of use

6. Water is claimed for the following purposes:

(Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/01 to 11/01 amount .67cfs or ____

For _____ purposes from ____ to ____ amount ____ or ____

For _____ purposes from ____ to ____ amount ____ or ____

For _____ purposes from ____ to ____ amount ____ or ____

7. Total quantity claimed (a) .67 (cfs) and/or (b) ____ (acre feet)

8. Total consumptive use claimed is 40.4 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.)

10. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

Last Name Bethke Ident. Number 35-07153

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication."

(b.) I/We do do not X

wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) [Signature] Date 7/12/96

 Date

For Organizations: I do solemnly swear or affirm that I am of , that I have signed the Title

Organization

foregoing document in the space below as

Title

of and that the statements contained in the

Organization

foregoing document are true and correct.

Signature of Authorized Agent

Title and Organization Date

State of Idaho/or)

) SS.

County of Bonneville)

Subscribed and sworn (or affirmed) before me this 12th day
of July, 1996.

Notary Public [Signature]

Residing at [Signature]

My Commission Expires 4-27-2000

Last Name Bethke Ident. Number 35-07153

17. Notice of Appearance:

Notice is hereby given that I, Kent W. Foster will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature 
Address P.O. Box 50130, Idaho Falls, Idaho 83405
Date 7/15/96

G:\WPDATA\KWF\BETHKE\SRBA 002.sjw

192 10 102

Last Name Bethke Ident. Number 35-07153

I certify that file No. 35-08046

has been reviewed and is ready to be

MICROFILMED and DESTROYED.

The attached proof report is the water right as it appeared in the database prior to final status entry and deletion from the database.

S. Curtis

Reviewer

4-18-95

Date

WR5808NP
(00-26)

IDAH0 DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

04/18/95 10:59:47
Page 1

Water Right Number - 35-08046

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - - First Name - - + + - - - - Address - - - - - +

*** C - CURRENT OWNER ***
ADOLPH

ARTHUR

1 - 720 STEVENS

2 -

3 -

City- AMERICAN FALLS

State- ID Zip- 832110000

Phone -

*** O - ORIGINAL OWNER ***
ADOLPH

ARTHUR

1 -

2 -

3 -

City-

State- Zip-

Phone -

ADOLPH

ELISABETH

1 -

2 -

3 -

City-

State- Zip-

Phone -

+ - - Priority Date - - +
06/17/1982

+ - - Region - - - +
15 EASTERN

+ - - Stage - - - +
P - PERMIT

+ - - Status - - - +

+ - - Source - - - - +
GROUNDWATER

+ - - Tributary - - - - +

+ - - - - Point of Diversion - - - - - +
Turn Rng Sec Tract Lot RFig County Diversion Name Diversion Rate Diversion No.

07S 29E 13 SE NE (77) POWER
NW NW (77) POWER
14 NW NE (77) POWER

+ - - Code Description Period From Water Use Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 11/01 8.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
8.000

+ - - - - Place of Use - - - - - +
Turn Rng Sec Tract Lot Acres Code Description County
07S 29E 13 SW NE 40.0 01 IRRIGATION (77) POWER
07S 29E 13 SE NE 40.0 01 IRRIGATION (77) POWER
07S 29E 13 NE NW 40.0 01 IRRIGATION (77) POWER
07S 29E 13 NW NW 40.0 01 IRRIGATION (77) POWER
07S 29E 13 SW NW 40.0 01 IRRIGATION (77) POWER
07S 29E 13 SE NW 40.0 01 IRRIGATION (77) POWER
07S 29E 14 NE NE 40.0 01 IRRIGATION (77) POWER
07S 29E 14 NW NE 40.0 01 IRRIGATION (77) POWER

WR5808NP
(00-26)

INDIAN DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

04/18/95 10:59:47
Page 2

Water right number - 35-08040

Prefix Translation: WATER RIGHT

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
07S	29E	14	SW NE		40.0	01	IRRIGATION	(77) POWER
07S	29E	14	SE NE		40.0	01	IRRIGATION	(77) POWER
Total Acres:					400.0			

+ - - Diversion Means - WELLS, PUMPS, MOTORS, PANE, MAINLINE W/WHEEL LINES

+ - - Non-Irrigation Use -

+ - - Other Rights for same Use -

+ - - - - - Remarks - - - - -
No Remarks found.

+ - - - - - Old Water Right Numbers - - - - -
No Old Water Right Numbers found.

+ - - - - - Conditions of Approval - - - - -
01C - A flow measurement port or other device as specified by the
- Department shall be installed by the right holder to provide for
- the installation of measuring equipment and the determination of
- the rate of diversion by the Department.

+ - - - - Decree Plaintiff - - - - - + - - - - Decree Defendant - - - - + - - Decree Date - +
00/00/0000

+ - - - - - Comments - - - - -
Date: 09/10/1991 User id: SKAGGS Subject: TEMPORARY HOLD
SWAN FALLS HOLD PER TIM
Date: 12/26/1991 User id: GUSTAFSD Subject: place on hold
have put in the computer as proof due on 2 1 1996 however we will only begin the reprocessing at that time
memo in the file

+ - - Audit Fields - 12/03/87 05/21/88 09/10/91 12/26/91 08/26/92

+ - - - - - Water Rights Dates and Flags Area - - - - -

Proof Due Date - 10/01/1996	Field Exam Made - 00/00/0000	Field Exam Fee -
Approved/Denied - 00/00/0000	Protested Date - 00/00/0000	Swan Falls - 7
Proof Made Date - 00/00/0000	Hearing Date - 00/00/0000	Temporary Right - P
Exam to S.O. Date - 00/00/0000	Verified Date - 00/00/0000	DLE/Carey Act -
Order Show Cause - 00/00/0000	Receipt Number -	Water District -
Licensed Date - 00/00/0000	Appl Received - 00/00/0000	Transfer/Amended -
Decree Date - 00/00/0000	Name Connector -	POU Ownership Flag -
Presumption Flag -		



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

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 14, 1995

RE: In the Matter of Application for Permit No. 35-08046 in the
name of Arthur Adolph

Dear Interested Party:

The accompanying order is a "final order" issued by the
department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the
presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the
agency head shall issue a final order following review of that
recommended order.

(3) If the presiding officer issued a preliminary order, that
order becomes a final order unless it is reviewed as required in
section 67-5245, Idaho Code. If the preliminary order is reviewed,
the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party
may file a petition for reconsideration of any order issued by the
agency head within fourteen (14) days of the issuance of that
order. The agency head shall issue a written order disposing of
the petition. The petition is deemed denied if the agency head
does not dispose of it within twenty-one (21) days after the filing
of the petition.

(5) 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.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A nonparty shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order 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 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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 a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

November 9, 1994

ARTHUR ADOLPH
720 STEVENS
AMERICAN FALLS ID 83211-0000

RE: Water Right No. 35-08046 Certified Mail No. 141765

Dear Water Right Holder(s):

Enclosed is a copy of an Order for Temporary Stay of Development and Notice of Formal Proceedings in connection with the above referenced water right permit. Also enclosed is a form and instructions for filing proof of beneficial use of water.

If you have questions related to the order and its effect upon your permit, please feel free to contact the department.

Sincerely,

A handwritten signature in cursive script that reads 'L. Glen Saxton'.

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosures

MEMORANDUM

TO: File

FROM: Karen Gustafson

DATE: December 26, 1991

Re: Permit No's: 35-08046 35-08050 35-08051

The following three permits have been put into a federal CRP contract which prevents the permit holder from doing any development on the land until 1996.

The proof due dates have been changed to February 1996. However, we should not send a proof due on these. Instead, it will be necessary to contact the permit holder at that time and tell them we intend to start the reprocessing of the permit.

This information has been sent to Mr. Cavaness. (See the enclosed letter)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 26, 1991

Mr. Ben Cavaness
P.O. Box 70
American Falls, ID 83211

Re: Permit No.'s 35-8046 35-8050 35-8051

Dear Mr. Cavaness:

I apologize for the error made to your client when I mailed the proof due notice. A further review of the above mentioned files revealed that all the necessary information was in the files but had not been deleted from the computer data base. Thus, an automatic form letter was mailed.

I have taken the necessary steps to prevent any further correspondence from the department until February 1996. At that time we will start the reprocessing of the permits. We would ask, once again, however, that should your client choose to withdraw from the program before that date, that you notify the Department.

Once again, my apologies and I trust I have taken the appropriate steps the correct the situation.

If you have any questions or if I can be of any further assistance, please feel free to contact me.

Sincerely,

Karen Gustafson
Karen L. Gustafson
Secretary/Records Manager



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 7, 1991

Arthur Adolf
720 Stevens St.
American Falls, ID 83211

RE: Permit No. 35-8046

Dear Mr Adolf:

The department acknowledges receipt of your letter requesting that reprocessing of the above permit be delayed pending the expiration of your CRP contract.

The department has not yet issued a continuation order for this permit. Pursuant to your request and Mr. Young's letter of March 19, 1991, the department will delay reprocessing of your permit for the duration of the CRP contract. Termination of the contract prior to the expiration date may result in immediate reprocessing of the permit. Please be advised that Mr. Young's March 19 letter did not provide any guarantee that continuance will be given when the permit is reprocessed at the end of the contract period. You should be further reminded that if continuance of the permit is given, the priority date may be advanced if necessary to avoid injury to intervening right holders.

In light of Mr. Young's letter, you may wish to consider terminating your contract at an earlier date since there are no absolute guarantees that the permit will be continued in 1996. Any decision concerning termination of your contract is entirely yours. Unless you request reprocessing at an earlier date, the department will not reprocess the permit until the expiration of the contract.

Sincerely,

Tim Luke
Sr. Water Resource Spec.

cc: Ben Caveness

April 24, 1991

54X1111
RECEIVED

APR 29 1991

Department of Water Resources

Norman C. Young
Administrator
Water Management Division
1301 North Orchard St.
Statehouse Mail
Boise, ID 83720

Re: Adolf Permit 35-0846

Dear Mr. Young:

In response to your letter of March 19, 1991 addressed to Ben Cavaness, this is to formally request that reprocessing of the above numbered permit by your department be delayed pending expiration of an existing CRP contract on the subject property.

Attached to this letter is a copy of the CRP contract showing that all of the subject property is in the CRP contract until 1996.

If you have already issued a continuation order on the lands under this permit, I would appreciate it if you would withdraw the order and hold the permit for reprocessing as noted above.

If anything further is required, please advise.

Sincerely,

Arthur Adolf

Arthur M. Adolf

Arthur M Adolf
720 Stevens St
American Falls, ID 83211

CRP-1
(02-21-86)

U.S. DEPARTMENT OF AGRICULTURE
Agricultural Stabilization and Conservation Service
Commodity Credit Corporation

1987

CONSERVATION RESERVE PROGRAM CONTRACT

1. ST. & CODE 16-077-1

2. CONTRACT NO. 221

3. FARM NO. A240

Form Approved - THIS NO. 0540-0173

The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the information is to be provided on the basis of the Food Security Act of 1985, P.L. 99-198, and the regulations promulgated thereunder (17 CFR Part 704) and the Conservation Reserve Program Contract, to assist in determining eligibility, and to determine the correct parties to the contract. The information to be provided is for the purpose of determining eligibility, and to determine the correct parties to the contract. The information to be provided is for the purpose of determining eligibility, and to determine the correct parties to the contract. The information to be provided is for the purpose of determining eligibility, and to determine the correct parties to the contract.

NOTE: The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the information is to be provided on the basis of the Food Security Act of 1985, P.L. 99-198, and the regulations promulgated thereunder (17 CFR Part 704) and the Conservation Reserve Program Contract, to assist in determining eligibility, and to determine the correct parties to the contract. The information to be provided is for the purpose of determining eligibility, and to determine the correct parties to the contract. The information to be provided is for the purpose of determining eligibility, and to determine the correct parties to the contract. The information to be provided is for the purpose of determining eligibility, and to determine the correct parties to the contract.

THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners and operators (referred to as "Owner" and "Operator", respectively) on the farm identified above (referred to as "Farm") for the fields and acres (referred to as "designated acreage") identified in Items 5-17 below and on the CRP-1A Addendum, as applicable. The Owner and Operator agree to place the designated acreage into the Conservation Reserve Program ("CRP") for a period of 10 crop years from the date the Contract is executed by the CCC. The Owner and Operator also agree to implement on such designated acreage the Conservation Plan developed for such designated acreage and approved by the applicable local conservation district based upon the conservation practices identified in Items 10 and 15 below and in the CRP-1A Addendum or such other conservation practices as are identified in the Conservation Plan and agreed to by the Owner and Operator. The Owner and Operator and CCC agree to comply with the terms and conditions contained in this Contract and contained in the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, each Owner and Operator acknowledges that a copy of the Appendix has been provided to the Owner and Operator and that the Owner and Operator has signed the last page of such Appendix which will be kept on file in the County Agricultural Stabilization and Conservation Service (ASCS) Office. By signing below, the Owner and Operator also agree to allow CCC a period of 30 days from the close of the applicable signup period to accept this Contract and agree to pay liquidated damages if an amount specified in the Appendix if the Owner and Operator do not allow CCC such 30-day period in which to execute this Contract.

4. OWNERS AND OPERATORS

NAME AND ADDRESS

519-16-4455-7

SIGNATURE

DATE

2/12/87

5. OWNERS AND OPERATORS

NAME AND ADDRESS

518-36-8641-8

SIGNATURE

DATE

2-12-87

6. OWNERS AND OPERATORS

NAME AND ADDRESS

518-20-4615-0

SIGNATURE

DATE

2/15/87

7. RENTAL RATE PER ACRE

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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

March 19, 1991

Ben Cavaness, Esq.
Cavaness & Boomer
Box 70
American Falls, Idaho 83211

Re: Additional Development Time for Trust Water Permits on Land
Placed in CRP - Nos. 35-8046, 35-8050, 35-8051

Dear Ben:

In response to your letter of July 12, 1990, you and I discussed this matter following a protest hearing held in American Falls. I took the assignment to evaluate the matter and provide you with a suggested resolution acceptable to IDWR. I understand the problem to be that some holders of permits in the Swan Falls controversy area did not develop because of uncertainties raised by the Idaho Power Company lawsuits. The legislation implementing the Swan Falls agreement provided for these existing but undeveloped permits to be reprocessed prior to further development.

Because of the substantial backlog of trust water area filings, some of the permit holders placed their land in the 10-year Conservation Reserve Program and are unable to cultivate the land during the period of the contract. IDWR processing of the backlog has moved more quickly than projected, and some of these permits have been reprocessed and given a development period that expires prior to the expiration of the CRP contract. Some other permit holders have been advised that their permits can now be reprocessed and are asking for a delay in reprocessing or assurance that the approved development period with allowed extensions will extend beyond their CRP contract period.

The Swan Falls controversy did place those wanting to develop in a position of uncertainty. IDWR does take this into consideration as trust water filings are processed. Also, I do agree that there is some similarity between the situation of the holders of these undeveloped permits on CRP contract lands and the situation the legislature addressed for holders of vested water rights on CRP lands. The legislature provided immunity from statutory forfeiture for such vested water rights.

Accordingly, IDWR, will upon request of a holder of a permit covering lands under a presently existing CRP contract, delay reprocessing under Section 42-203D, Idaho Code, until the

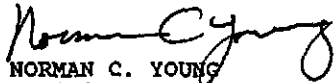
Ben Cavaness
Page 2
March 19, 1991

expiration of the CRP contract. If the continuation order has already been issued for such lands, IDWR will, upon request, withdraw the order and hold the permit for reprocessing at the termination of the existing CRP contract.

IDWR prefers this approach because we are not authorized to approve a permit for development at a distant future date. It is not my intent to guarantee issuance of a continuation order when the permit is reprocessed at the end of the CRP contract period, but I do view this as an acceptable way of keeping the permits valid for such future consideration. At the time the permits are reprocessed, the priority date may be advanced if necessary to avoid injury to intervening right holders.

If this approach is acceptable, IDWR will follow through upon receipt of copies of the CRP contracts and a request for delay.

Sincerely,



NORMAN C. YOUNG
Administrator
Water Management Division



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

March 21, 1990

RE: PERMIT 35-8046 ~ ARTHUR ADOLF

Ben Cavaness
P.O. Box 70 376 Roosevelt
American Falls, ID 83211

Dear Ben:

The department has received your letter dated March 16, 1990 in which you request that the department delay the reprocessing of the above referenced permit for one year.

The department is willing to withhold reprocessing of the permit as requested, since under the terms of the Swan Falls Agreement, the department can process only a limited number of filings each year and there are numerous other filings seeking to proceed. Also, as provided by Water Appropriation Rule 4,1,4., the department may grant a request to delay processing for a period of up to one year.

Please feel free to contact the department if you have questions.

Sincerely,

TIM LUKE

Sr. Water Resource Agent

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

PERMIT NO. 35-8046

IF YOU ARE NOT INTERESTED IN HAVING YOUR PERMIT PROCESSED,
PLEASE COMPLETE AND RETURN THE ENCLOSED RELINQUISHMENT FORM.

INSTRUCTIONS: Please answer the following questions as
thoroughly as possible and submit the \$20.00 readvertisement
fee if applicable.

1. Did irrigation occur on the lands identified under your
permit prior to July 1, 1985? Yes _____ No X

If yes, you are requested to submit clear evidence that shows the
number and location of acres irrigated.

Aerial photographs taken prior to July 1, 1985, located in area
ASCS offices, are best forms of evidence. Photos submitted to the
Department must be accompanied by a signed statement from an
ASCS representative which verifies the photo date and that the
lands were irrigated prior to July 1, 1985. If ASCS does not have
photos for the land and/or time in question, you must have the ASCS
provide the Department with a statement that photos are not avail-
able and then proceed to submit other forms of suitable evidence.

2. Please state the number of acres you have irrigated under this
permit since July 1, 1985. 0

3. If you have not irrigated lands under this permit, please
state the number of acres you plan to complete. 400

NOTE: You must submit the \$20.00 readvertisement fee if any or
all of the lands were not irrigated before July 1, 1985.

4. If the permit is a supplemental filing please identify other
water rights which are used on the same land.
N/A

Use the reverse side of this form if you wish to add any comments.

I hereby assert that the responses provided above are true to the
best of my knowledge. I understand that any willful misrepresentations
may result in voiding of the application.

Permit Holder

Arthur M. Adair

Date 3-14-90

PLEASE SEE COMMENTS ON REVERSE SIDE HEREOF

Pursuant to Rule 414 Applicant requests a one year delay in the processing of the application in order to allow Applicant time to see if he can get his property taken out of the QRP program which it was placed in while he was waiting for his application to be approved.

BEN CAVANESS
HENRY R. (Hank) BOOMER

Cavaness & Boomer

ATTORNEYS-AT-LAW
P.O. Box 70 - 378 Roosevelt
American Falls, Idaho 83211

Telephone
(208) 226-2562

March 16, 1990

Mr. Norman Young, Deputy Director
Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720

RECEIVED
MAR 19 1990

RE: Permit No. 38-8046

Department of Water Resources

Dear Norm:

Pursuant to our recent telephone conversation, I am enclosing the Trust Water Information Questionnaire on the above permit that was filed and approved June 17, 1982, published July 1, 1982, and July 8, 1982, but for which development has been delayed due to reprocessing problems associated with Swan Falls.

As I indicated to you on the phone, at the time Mr. Adolf filed this permit, he was approaching retirement age and was interested in converting his land to sprinkler irrigation from dry land. After 1987 arrived and he had not been given authority to proceed, and after he had been advised by officials from the Department that it would be likely another five years before he could be given authorization to proceed, and after his health had begun to fail, he retired from farming and put his land in the CRP program pending the approval of his application.

The reprocessing evidently has proceeded faster than anticipated, and he now has been given notification that the reprocessing as to his permit has begun. Mr. Adolf would like to request a one year delay in the reprocessing of his permit since he is unable to now get out of the CRP program without extensive penalties.

If you need any additional information, please let me know.

Very truly yours,

Ben
Ben Cavaness

HRB/s
c: Art Adolf



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

February 20, 1990

RE: PERMIT NO. 35-8046

Dear PERMIT HOLDER:

Due to the Swan Falls litigation, development proposed by the enclosed permit may have been delayed. The Department is presently reviewing the permit and may authorize completion of development proposed under the permit.

The purpose of this letter is to determine: (1) the extent of development under the permit, and (2) your continued interest in developing or completing development under the permit.

Enclosed are two forms which will help the Department expedite the reprocessing of the permit.

Please complete and return the enclosed questionnaire if you wish to continue with your plans of development or have completed all or a portion of your development before July 1, 1985.

Please complete the enclosed relinquishment form and return it to the Department if you have abandoned or have no interest in continuing with your plans for development of the project.

If the entire project was not completed prior to July 1, 1985, and you still wish to proceed with your plans of development, then you must submit a \$20.00 re-advertisement fee to the Department as required by Water Appropriation Rule 4,2,3. and Section 42-221F, Idaho Code.

Failure to return the questionnaire and pay any required re-advertisement fee within thirty (30) days of the date of this letter is cause for the Department to cancel the permit.

If the incomplete portion of your project is for irrigation of more than 200 acres, the Department will issue a notice requesting additional information as required by Water Appropriation Rule 4.5. (copy enclosed).

Page 2

If you have questions concerning the content of this letter or about completing the forms, please contact Tim Luke at the address below or by calling directly at 327-7864. The enclosed forms and all other relative information must be returned within thirty (30) days to:

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720
Attn: Tim Luke

Please note that a copy of your permit is enclosed. The permit number is shown on the enclosed questionnaire.

Sincerely,



TIM LUKE
Sr. Water Resource Agent

Enclosures

BEN CAVANESS
HENRY R. (Hank) BOOMER

Cavaness & Boomer

ATTORNEYS-AT-LAW
P.O. Box 70 — 376 Roosevelt
American Falls, Idaho 83211

Telephone
(208) 226-2562

October 28, 1987

RECEIVED
OCT 30 1987

L. Glen Saxton
Chief, Operations Bureau
Idaho Dept. of Water Resources
Statehouse
Boise, ID 83720

Department of Water Resources

Re: Permit No. 35-8046

Dear Mr. Saxton:

Enclosed is for filing with your office is the original of the Assignment Permit that you earlier forward to Mr. Art Adolf properly executed by Mr. Adolf individually, and as personal representative of the Estate of Elisabeth R. Adolf.

Should you require anything further, please let me know.

Very truly yours,


Ben Cavaness

BC:mh
Encl.

RECEIVED
OCT 07 1987

Department of Water Resources

720 Stevens
American Falls, ID
October 5, 1987

Ms. Rita Fleck
Secretary/Records Manager
Idaho Department of Water Resources
450 West State Street
Boise, ID 83720

Dear Ms. Fleck:

Enclosed is a request for extension of time regarding permit 35-8046, which has been prepared in order to provide me with the additional time that will be required in order to allow my permit to be reprocessed under the Swan Falls legislation. I do hope that you will consider this time extension since the sixty days has nearly expired, however, I am also enclosing the envelope in which I received these documents, which, if you will note, is post marked Sept. 22 and I did not receive it until October 1. Also, my wife, Elisabeth, passes away on February 4, 1987. I have enclosed a copy of the Letters Testamentary. Please let me know the procedure for having her name removed from this permit.

I filed this permit immediately following my inheritance of this property from my deceased father. I was advised by counsel that due to the pendency of the Swan Falls litigation that I could not prove upon my permit nor should I expend monies to develop my permit since my ability to proceed with development was held up by the Swan Falls litigation. It is my understanding that at this time I still cannot proceed with the development of my permit unless I agree to rent water out of the pool and take my chances on the reprocessing of my permit under Idaho Code 42-203D.

I am uncertain as to how quickly I will be able to have my permit reprocessed and I am requesting an extension of time for the entire five years due to my being held up during the previous five years due to the Swan Falls litigation.

If there is a problem with regards to this request, please let me know.

Very truly yours,
Art Adolf
Art Adolf



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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN R. Keith Higginson
Director

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

EXTENSION OF TIME

October 7, 1987

Arthur Adolf
720 Stevens
American Falls, ID 83211

PERMIT NO. 35-8046

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

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

Enclosed is our receipt No. 45324.

Roberta Garrett
Records Supervisor

Enclosure

RECEIVED

OCT 07 1987

Cavaness & Boomer
ATTORNEYS-AT-LAW
P.O. Box 70
376 Roosevelt
American Falls, Idaho 83211
(208) 226-2582

Department of Water Resources

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER
MAGISTRATE DIVISION

Estate of:

ELISABETH MARIE ADOLF,

Deceased.

Case No. 8245 E
LETTERS TESTAMENTARY

1. ARTHUR MARTIN ADOLF was duly appointed and qualified as General Personal Representative of the estate of the above-named decedent on the 22nd day of July, 1987, by the Court with all authority pertaining thereto.

2. Administration of the estate is unsupervised. These letters are issued to evidence the appointment, qualification, and authority of the said personal representative.

WITNESS, my signature and the Seal of this Court, this 22nd day of July, 1987.

STATE OF IDAHO }
COUNTY OF POWER } SS

I hereby certify that the foregoing instrument is a full, true and correct copy of the original on file in the office of the undersigned Clerk of the District Court Magistrate's Division of the Sixth Judicial District of Idaho for Power County.

MARJORIE GLASCOCK
By [Signature] DEPUTY CLERK
MAGISTRATE'S DIVISION

[Signature]
Magistrate Judge

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Spokane
Idaho 83720



Arthur & Elizabeth Adolf
720 Stevens
American Falls, ID 83211



Celebrate
IDAHO
1890 • CENTENNIAL • 1990

INTER-DEPARTMENT MEMO — 1

FROM Rita Fleck

TO File 35-8046

SUBJECT Returned Paper Notice

The Power County Assessor's Office
has an address of 720 Stevens, American
Falls, ID 83411.

I'm forwarding the notice to this
address.


SIGNATURE

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

Callahan
IDAHO
1987-1988
1987-1988

PERMIT
1987-1988



120 Hrs
RETURN TO
SENDING ORDER EXP

RECEIVED
AUG 10 1987

Department of Water Resources

August 6, 1987

ADOLF, ARTHUR & ELISABETH
RT. 1
AMERICAN FALLS, ID 83211

LAPSE NOTICE

RE: Permit No. 35-8046

Dear Permit Holder:

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

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

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

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

Enclosures

RECEIVED
8-7-1987
R. L. Luck

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4140
CERTIFIED MAIL
MAY 31, 1987

138532

ADOLF, ARTHUR & ELISABETH
WT. 1
AMERICAN FALLS. ID 83211

PROOF DUE NOTICE

RE: PERMIT NO. 35-8046

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 AUGUST 1, 1987. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH WHEN ACCOMPANIED BY THE LI-CENSE EXAMINATION FEE OR A COMPLETED FIELD EXAMINATION REPORT PREPARED BY A CERTIFIED WATER RIGHT EXAMINER MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THEN 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 SUBMITTED 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,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

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

SPECIFICALLY, PURSUANT TO SECTION 42-2030, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NOT COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-2030, WHICH READS AS FOLLOWS:

42-2030. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT. (2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

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

SINCERELY,

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

ADOLF, ARTHUR & ELISABETH
RT. 1
AMERICAN FALLS, ID 83211

AUGUST 17, 1982

RE: PERMIT NO. 35-8046

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

BE SURE TO NOTE THE SPECIAL CONDITION REQUIRING YOU TO INSTALL A MEASURING DEVICE, OR AN ACCESS PORT TO PROVIDE FOR THE INSTALLATION OF MEASURING EQUIPMENT BY THE DEPARTMENT. ENCLOSED PLEASE FIND A LIST OF MEASURING DEVICE OPTIONS, AND SPECIFICATIONS FOR THE INSTALLATION OF THE ACCESS PORT.

WE HAVE ENCLOSED A FORM ENTITLED "MAKING PROOF OF BENEFICIAL USE". PLEASE READ THE INSTRUCTIONS CAREFULLY SINCE YOU MUST TAKE FURTHER ACTION TO DEVELOP THIS PERMIT INTO A LICENSE.

SINCERELY,

DAVID R. TUTHILL, JR., P.E.
SUPERVISOR, WATER ALLOCATION SECTION

ENCLOSURE

35-8046

ROOLF, ARTHUR & or ELISABETH

RT. 1, AMERICAN FALLS, ID 83211

Source GROUNDWATER

Date Filed 06/17/1982

Amount. 8.00 CFS

Diversion Point: MUNN Sec 13 T 07S R 29E NINE Sec 14 T 07S R 29E SENE
Sec 13 T 07S R 29E. POWER Co.

Use: IRRIGATION (8.00 CFS) from 04/01 to 11/01

Place of Use: NENE NINE SENE Sec 14 T 07S R 29E NENM MUNN SENE SENE
SENE Sec 13 T 07S R 29E FOR 400 ACRES

Diversion Means: WELLS, PUMPS, MOTORS, PANE, MAINLINE W/HWHEEL LINES

BEN CAVANESS
MARK BEEBE

Cavaness and Beebe

ATTORNEYS-AT-LAW
P O Box 70
American Falls, Idaho 83211

Telephone
(208) 226 2562

June 7, 1982

RECEIVED

JUN 17 1982

Department of Natural Resources
Eastern District Office

Idaho Dept. of Water Administration
240 South Holmes
Idaho Falls, Idaho 83401

Re: Water Permit - Arthur Adolf

Dear Sirs:

Enclosed is the Application for Permit and our check in
the amount of \$185.00 to cover the necessary fee for
filing.

If you have any questions, please let me know.

Very truly yours,


Ben Cavaness

BC:mh

Encl.

Cavaness and Beebe
ATTORNEYS AT LAW
P. O. Box 70
American Falls, Idaho 83211

FORWARDING ORDER EXPIRED

Idaho Dept. of Water Administration
240 South Holmes
Idaho Falls, Idaho 83401

Idaho Dept. of Water Resources

JUN 11 1982

RECEIVED

Affidavit of Publication

STATE OF IDAHO }
COUNTY OF POWER } s.s.

.....Brett Crompton..... being first duly sworn
on oath, states:

That he..... is the editor.....
of the Power County Press, a newspaper of general circulation
in Power County, Idaho, published weekly at American Falls
in said County; that said newspaper has been published in said
County uninterruptedly and continuously for over seventy-
eight consecutive weeks, prior to the first publication of the
annexed notice or advertisement:

That the annexed notice or advertisement was published as
per clipping attached in the regular and entire edition of said

newspaper and not in any supplement thereof for 2.....
successive weekly issues thereof, the date of the first publica-
tion being the 30..... day of June....., 19..82

the date of last publication being the

.....7..... day of July....., 19..82...

(Signed) *Brett Crompton*

Subscribed and sworn to before me this

.....7..... day of July....., 19..82...

John J. Mott
Notary Public, residing at American Falls,
Idaho.

My Commission expires the

(SEAL) *September* day of 19.....

JUL 8 1982

Eastern District Office

35-8046
ADOLF, ARTHUR &/or
ELISARETH
RT 1, AMERICAN FALLS, ID
83211
Source: GROUNDWATER
Date Filed: 06/17/1982
Amount: 8.00 CFS
Diverion Point: NWNW Sec 13 T
07S R 29E NWNE Sec 14 T 07S R
29E SENE Sec 13 T 07S R 29E,
POWER Co.
Use: IRRIGATION (8.00 CFS)
from 04/01 to 11/01
Place of Use: NENE NWNE SWNE
SENE Sec 14 T 07S R 29E NENW
NWNW SWNW SENW SWNE
SENE Sec 13 T 07S R 29E FOR 400
ACRES
Diverion Means: WELLS,
PUMPS, MOTORS, PANE,
MAINLINE W/WHEEL LINES

RT 1, BOX 17, AMERICAN
FALLS, ID 83211
Source: GROUNDWATER
Date Filed: 06/16/1982
Amount: 0.18 CFS
Diversion Point: WSE Sec 11 T 07S
R 30E, POWER Co
Use: STOCKWATER (0.12 CFS)
from 01/01 to 12/31
DOMESTIC (0.06 CFS) from 01/01
to 12/31
Place of Use: SWSE Sec 11 T 07S R
30E
Diversion Means: PUMP LINES &
TANKS

35-8040
WHITNAH RANCHES INC
RT 1, BOX 17, AMERICAN
FALLS, ID 83211
Source: GROUNDWATER
Date Filed: 06/16/1982
Amount: 0.18 CFS
Diversion Point: NESW Sec 09 T
08S R 29E, POWER Co
Use: STOCKWATER (0.12 CFS)
from 01/01 to 12/31
DOMESTIC (0.06 CFS) from 01/01
to 12/31
Place of Use: NESW Sec 09 T 08S R
29E
Diversion Means: PUMP, LINES &
TANKS

35-8046
ADOLF, ARTHUR &/or
ELISABETH
RT 1, AMERICAN FALLS, ID
83211
Source: GROUNDWATER
Date Filed: 06/17/1982
Amount: 8.00 CFS
Diversion Point: NWNW Sec 13 T
07S R 29E, NWNW Sec 14 T 07S R
29E, SENE Sec 13 T 07S R 29E,
POWER Co
Use: IRRIGATION (8.00 CFS)
from 04/01 to 11/01
Place of Use: NENE NWNW SWNE
SENE Sec 14 T 07S R 29E NWNW
NWNW SWNW SENW SWNE
SENE Sec 13 T 07S R 29E FOR 400
ACRES
Diversion Means: WELLS,
PUMPS, MOTORS, PANEL,
MAINLINE W/WHEEL LINES

17-4040
U.S. DEPT OF INTERIOR,
BUREAU OF LAND MGMT
FEDERAL BLDG BOX 042, 550
W FORT ST, BOISE, ID 83724
Source: SPRING tributary to BULL
CANYON RESERVOIR
Priority Date: 10/09/1954
Amount: 0.01 CFS
Diversion Point: SESE Sec 09 T 12S
R 12E SWSW Sec 10 T 12S R 32E,
POWER Co
Use: STOCKWATER (0.01 CFS)
from 05/15 to 10/15
WILDLIFE (0.01 CFS) from 01/01
to 12/31
Place of Use: SWSW Sec 10 T 12S R
32E
Diversion Means: PONDS

If issued, the permit(s) will be sub-
ject to all prior water rights. Protests
against the granting of any permit
must be filed with the Director of the
Idaho Department of Water
Resources, 150 Shoup Ave., Idaho
Idaho 83402 on or before JU-
LY 19, 1982

A KENNETH DUNN
Director