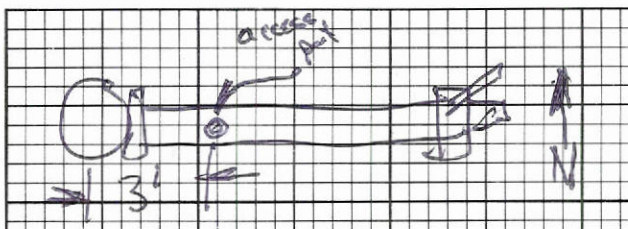
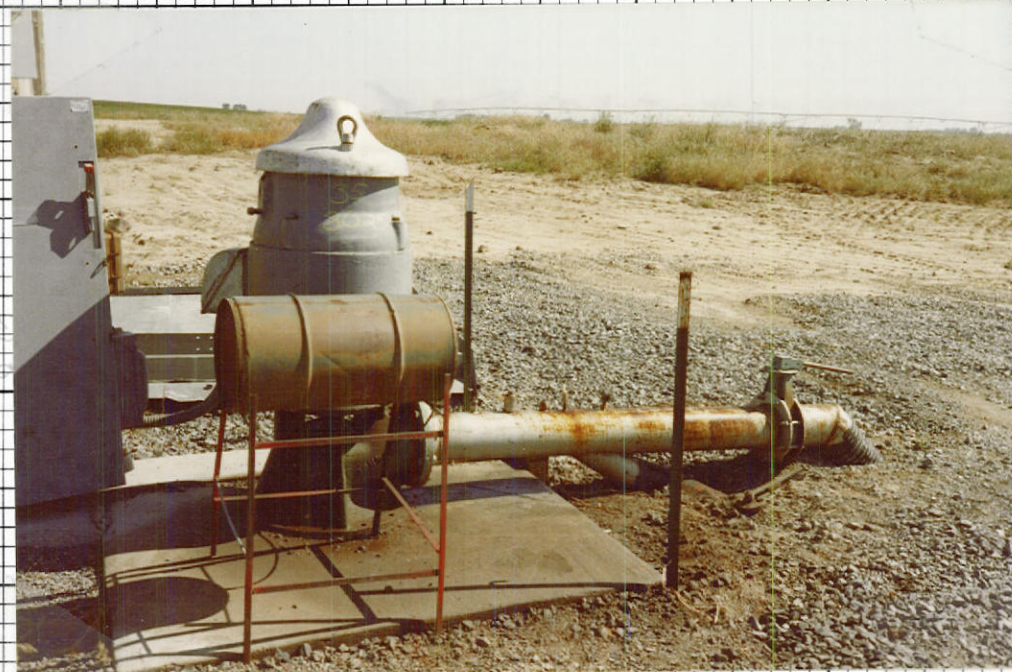


10. Other water rights on these lands Canal shares  
11. Other water right diverted from same p.d. NA

12. **Diversion and Delivery System Diagram:** Indicate all major components and distances between components. Indicate ditch size/pipe i.d. as applicable. Indicate on systems with measurement port the distance between the port and the nearest component/pipe bend/restriction both upstream and downstream, and the inside pipe diameter at the measurement port. On multiple diversion systems indicate how diversion systems are connected.





13. ☒ Photo of Diversion & System Attached ☒ Aerial Photo of Place of Use Attached or Map of Irrigated Acreage Attached

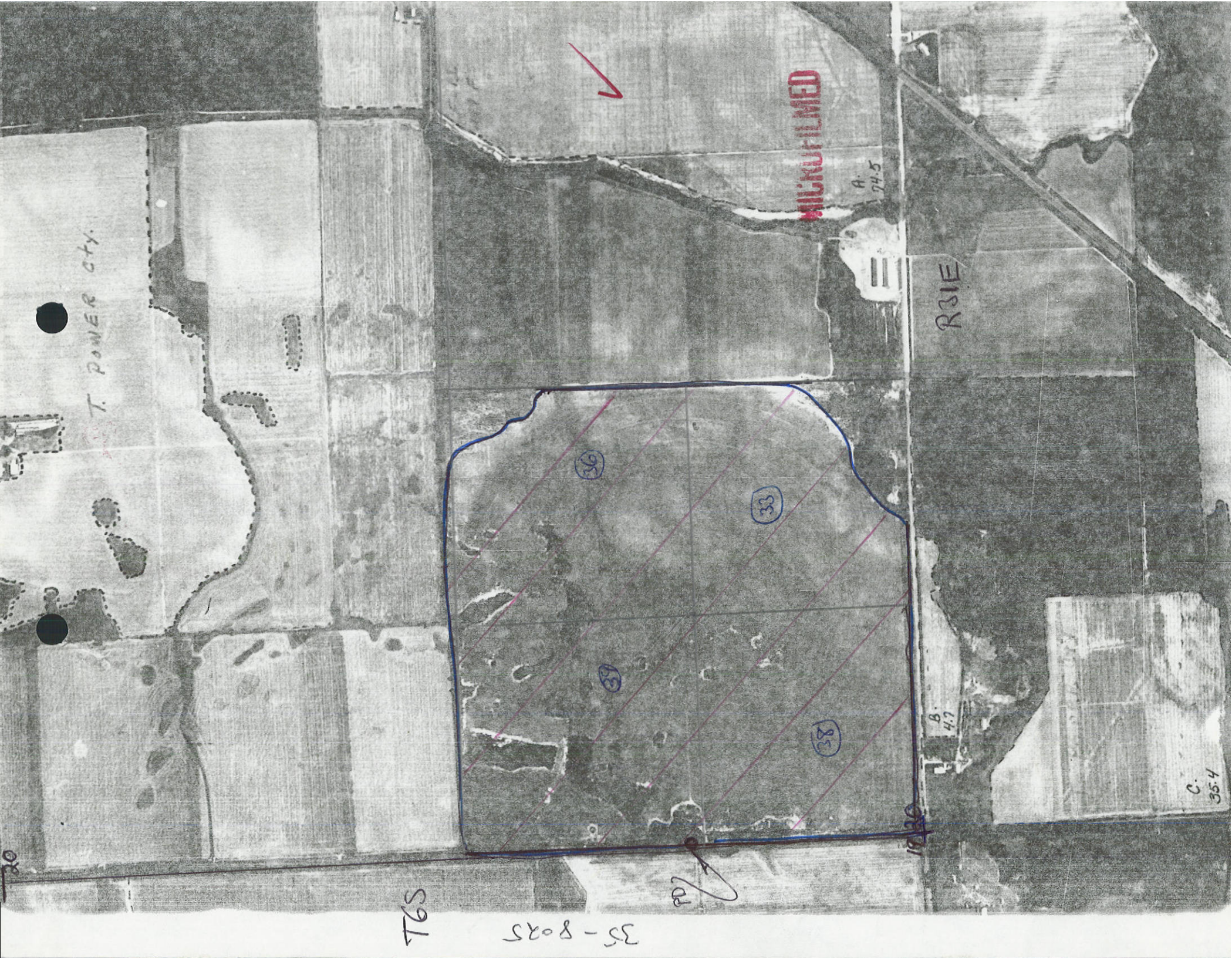
14. Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. 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

16. Examiner's/Consultant's Signature 2W Jones Date 9-27-84  
Consultant's License Number \_\_\_\_\_  
IDWR Director's Authorization to Conduct  
Beneficial Use Examination \_\_\_\_\_

Date \_\_\_\_\_ CONSULTANT SEAL

MICROFILMED



T. POWER Cty.

RECEIVED

A. 74.5

R31E

B. 41.7

C. 35.4

T6S

35-8025

107

# WATER RIGHT LICENSE

THIS IS TO CERTIFY, that

Robert A. Schelske

No. 35-8025 issued pursuant to Application for Permit dated March 4, 1982

that he has applied water to a beneficial use; an examination by the Department indicates that the works have a capacity for the diversion of 2.25 cfs of water from a groundwater source.

**established a right to use water as follows:**

from \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_ cfs and \_\_\_\_\_

from \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_ cfs and \_\_\_\_\_

*(both dates inclusive)*

511.0 \_\_\_\_\_ acre feet per year, said waters to be diverted within the \_\_\_\_\_ NW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 20,

Twps 6S, Rge 31E \_\_\_\_\_ in the County of \_\_\_\_\_ Bingham \_\_\_\_\_

[illegible]

Total number of acres irrigated 146

**DECLASSIFIED**

## CONDITIONS OF APPROVAL

a. Modifications to or variance from this license must be made within the limits of Section 42-222, **Idaho Code**, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

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

c. Any water right confirmed in this license for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this license and shall not give rise to any right or claim against any future rights to the use of water other than hydropower, within the State of Idaho initiated later in time than the priority of this license.

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 19<sup>th</sup> day of September, 19 86.

Acting for the Director Billy D. Fleener

RECEIVED

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 Robert A. Schelske Phone 226-5837

Post office address 321 Lincoln St., American Falls, Id. 83211

2. Source of water supply GROUNDWATER which is a tributary of \_\_\_\_\_

3. Location of point of diversion is NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 20 Township 6S

Range 31E B.M. Bingham County, additional points of diversion if any: \_\_\_\_\_

4. Water will be used for the following purposes:

Amount 3.2 cfs for Irrigation purposes from 4/1 to 11/1 (both dates inclusive)  
(cfs or acre-feet per annum)

Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 3.2 cfs cubic feet per second and/or b. \_\_\_\_\_ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 100HP pump, 8" mainline pivot irrigation system.

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 16 inches; proposed depth of well is 122 feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 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 \_\_\_\_\_

Name of municipality to be served \_\_\_\_\_, or number of families to be supplied with domestic water \_\_\_\_\_

(5) If water is to be used for other purposes describe: \_\_\_\_\_

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

| TWP | RANGE | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTALS |
|-----|-------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------|
|     |       |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |        |
| 6 S | 31E   | 20   |     |     |     |     |     |     |     |     | 40  | 40  | 40  | 40  |     |     |     |     | 160    |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |

Total number of acres to be irrigated 160

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

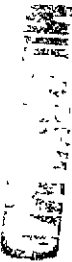
160 shares Aberdeen Springfield Canal Company

9. a. Who owns the property at the point of diversion ROBERT A. SCHELSKE

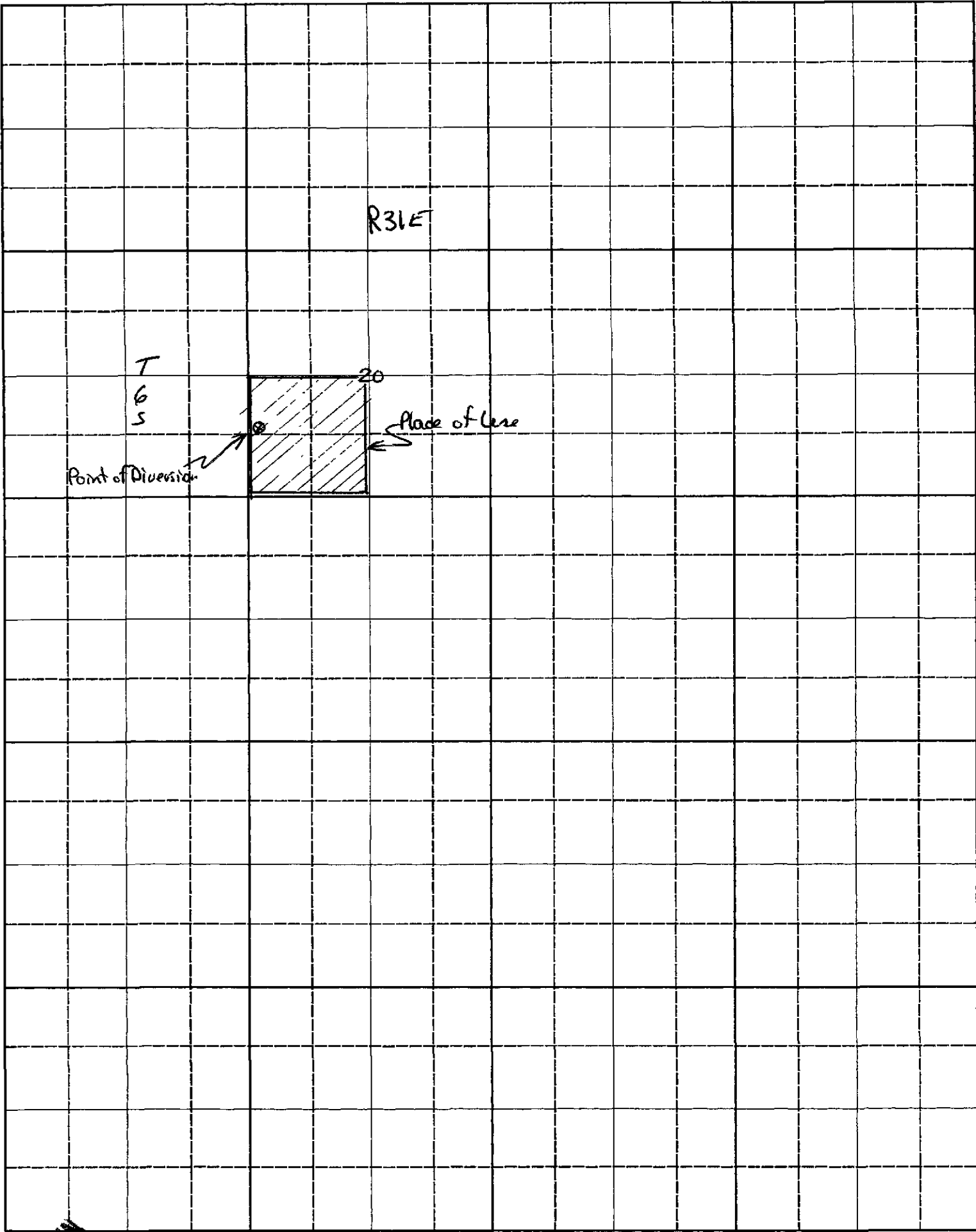
b. Who owns the land to be irrigated or place of use ROBERT A. SCHELSKE

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.



1 inch equals 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.

Robert A. Schelske  
(Applicant)

Proposed Priority 3/4/1982

Assisted By Kew

Received by CW Date 3-04-82 Time 10:30 A.

Preliminary check by EMC. Fee \$ 105<sup>00</sup>

Receipted by CW Date 3-04-82 #20128

Publication prepared by J Date 3-10-82

Published in Blackfoot News

Publication dates 3-18 and 3-25-82

Publication approved CW Date 4-02-82

Protests filed by: None

Copies of protests forwarded by \_\_\_\_\_

Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Recommended for approval denial by EMC 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. 35-8025 , 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 May 1 , 19 83 .
- 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: 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 29<sup>th</sup> day of April, 1982.

J. Glen Saxton  
Chief, Operations Bureau

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**NOTICE OF APPLICATION  
FOR WATER RIGHT**

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho

**35-8025**

SCHELSKE, Robert A  
321 Lincoln Street  
American Falls, Id. 83211  
Source: GROUNDWATER  
Date Filed 03/04/1982  
Amount 3.20 CFS

Diversion Point: NWSW, Sec. 20,  
T 06S, R 31E, Bingham Co  
Use: IRRIGATION (3.20 CFS) from  
04/01 to 11/01

Place of Use: NESW NWSW SWSW  
SESW, Sec 20, T 06S, R 31E, for  
160 ACRES

Diversion Means: PUMP &  
PIPELINE TO IRRIGATION

**35-8026**

HILL, MARK E. &/or  
Leonora A  
183 W Oak  
Shelley, Id 83274  
Source: GROUNDWATER  
Date Filed 03/05/1982  
Amount: 1.00 CFS

Diversion Point: SENE, Sec 31, T  
01N, R 36E, Bingham Co  
Use: IRRIGATION (1.00 CFS) from  
04/01 to 11/01

Place of Use: NWNW SWNW NESW  
NWSW SWSW, Sec 32, T 01N, R  
36E, Lot 01 (NENE) Lot 02 (NWNE)  
SWNE SENE NWSE, Sec 05, T 01S,  
R 36E for 63 ACRES

Diversion Means: WELL, PUMP &  
PIPELINE

**35-8027**

STECKLEIN, Elmer  
Pingree, Id 83262  
Source: GROUNDWATER  
Date Filed 02/22/1982  
Amount 0.85 CFS

Diversion Point: SESW, Sec 09, T  
04S, R 33E, Bingham Co  
Use: IRRIGATION (0.85 CFS) from  
04/01 to 11/01

Place of Use: SESW SWSE, Sec  
09, T 04S, R 33E, for 60 ACRES

Diversion Means: WELL, PUMP &  
SPRINKLER SYSTEM

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  
Falls, Idaho, 83402, on or before  
APRIL 5, 1982

A KENNETH DUNN  
Director

(7231)  
Pub 3-18, 25

APR 1 1982

Done at \_\_\_\_\_  
Easter, \_\_\_\_\_

**AFFIDAVIT of PUBLICATION**

County of Bingham )

State of Idaho David Mark Brown )  
I, \_\_\_\_\_ do

solemnly

Publisher

swear that I am the \_\_\_\_\_ of  
The Morning News which is a daily newspaper of general  
circulation published each day except Sunday at  
Blackfoot, Bingham County, Idaho, said newspaper hav-  
ing been so published at Blackfoot, aforesaid for more  
than one year past; that said newspaper heretofore com-  
plied with all the provisions of Chapter 154 of the Ses-  
sions Laws of Idaho of 1933, approved March 11, 1933,  
and duly designated, pursuant to law, a particular day of  
the week as the day on which legal notices required by  
law or by the order of any Court of competent jurisdiction  
within the State of Idaho shall be published to-wit: Thursday  
of each week; that the notice attached hereto and which  
is a part of this affidavit and part of the proof of  
publication was published in said issue or said  
newspaper two (2) consecutive weeks

the first publication having been made on the

18th day of March, 19 82

and the last publication having been made on the

25th day of March, 19 82

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

*David Mark Brown*

Subscribed and sworn to before me this 30th

day of March, 19 82

*Notary Public for the State of Idaho*

Notary Public for the State of Idaho,

Residing at Blackfoot, Idaho

My commission expires

Oct. 20, 1984

**NOTICE OF APPLICATION  
FOR WATER RIGHT**

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

**35-8025**

SCHLESKE, Robert A  
321 Lincoln Street  
American Falls, Id 83211  
Source GROUNDWATER  
Date Filed 03/04/1982  
Amount 3.20 CFS  
Diversion Point NWSW, Sec 20,  
10NS, R 31E, Bingham Co  
Use IRRIGATION (3.20 CFS) from  
04/01 to 11/01  
Place of Use NESW NWSW SWSW  
SESW Sec 20, T 06S, R 31E, for  
160 ACRES  
Diversion Means PUMP &  
PIPELINE TO IRRIGATION



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

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

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

December 20, 2002

JOHN S RITCHIE  
COLEMAN RITCHIE & ROBERTSON ATTORNEYS AT LAW  
P O BOX 525  
TWIN FALLS ID 83303-0525

Re: Water Right No. 35-8025

Dear Mr. Ritchie:

This letter is in response to your letter of December 12, 2002 regarding the ground water right referenced above. You asked for confirmation that you have correctly stated our discussion regarding use of the right. I believe your letter accurately represents my comments during our December 11, 2002 telephone conversation; however, there are a couple of items I would like to add that may help clarify the Department's management of water use where rights from both surface water and ground water exist for the same use.

The Department's draft water management rules (see rule 25) provide that "Water shall not be diverted and used for irrigation under a ground water right unless the amount of water available for use from a natural flow surface water right for the same irrigation use is physically or legally unavailable under the right." The draft rules do provide some direction regarding the meaning of "unavailable" and also provide that the rule "...shall not be applied to require water users, who prior to adoption of this rule have initiated a practice of using ground water in preference to surface water, to revert to the use of natural flow surface water unless otherwise required to comply with conditions of the ground water right." Since the rules are presently in draft form, they are subject to change before being adopted. I have enclosed a copy of the draft rules for your reference.

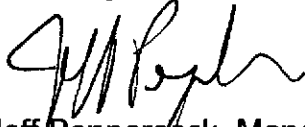
The second item is the Snake River Basin Adjudication (SRBA) settlement agreement between the State of Idaho, the Aberdeen-Springfield Canal Co. and the Department; this agreement, signed in 2002, affects the use of ground water under rights within the Aberdeen-Springfield service area. The agreement provides "Existing ground water rights used for irrigation within the service area of the Canal Company on lands paying assessments to the Canal Company and to which the Canal Company's surface water rights have remained appurtenant will be given mitigation credit for the amount of water recharged against ground water depletions arising from the authorized diversion and use of ground water." I have enclosed a copy of the agreement for your reference.

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Hopefully this information will provide you with some insight regarding use of the ground water rights. Let me know if you have additional questions related to this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Peppersack', written over the printed name.

Jeff Peppersack, Manager  
Water Right Permits Section

JP:klt

Enclosures: Draft water management rules  
SRBA settlement agreement

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**THE FOLLOWING IS WORKING DRAFT TEXT FOR  
NEGOTIATED RULEMAKING BY THE IDAHO DEPARTMENT OF WATER RESOURCES  
IDAPA DOCKET NO. 37-0313-9701**

(July 10, 2001)

**IDAPA 37  
TITLE 03  
Chapter 13**

**37.03.13 - STATEWIDE WATER MANAGEMENT RULES**

**000. LEGAL AUTHORITY (RULE 0).**

These rules are promulgated pursuant to the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code, and Section 42-1805, Idaho Code, which provides that the Director of the Idaho Department of Water Resources is authorized to adopt rules to implement the powers and duties of the Department. The powers and duties of the Department include acting on behalf of the State of Idaho to control the appropriation and use of all surface and ground waters within the state in accordance with statutory authority including but not limited to Sections 42-101, 42-220, 42-226, 42-237a.g., and 42-351, Idaho Code, and without regard to whether the waters are located within water districts created pursuant to Section 42-604, Idaho Code. Rules herein relating to water districts are also promulgated pursuant to Section 42-603, Idaho Code, which authorizes the Director to adopt rules for the distribution of water from the streams, rivers, lakes, ground water, and other natural water sources within water districts as necessary to carry out the Idaho law in accordance with the priorities of the rights of the water users

( )

**001. TITLE AND SCOPE (RULE 1).**

**01. Title.** These rules may be cited as IDAPA 37.03.13, "Statewide Water Management Rules "

( )

**02. Scope.** The rules are applicable statewide to the use of the waters of the state. The rules provide direction to the Idaho Department of Water Resources and its appointed watermasters in the enforcement of laws prohibiting unauthorized uses of water, administering diversions by priority, governing the use of supplemental water rights, providing standards and procedures for measuring and reporting water diversion and use, and addressing other water delivery issues. Additional rules may be promulgated for a particular administrative basin or water management activity as needed to specifically address unique conditions.

( )

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**002. WRITTEN INTERPRETATIONS (RULE 2).**

Written interpretations of these rules, if any, in the form of explanatory comments accompanying the notice of proposed rulemaking, the review of comments submitted in the adoption of these rules, and any declaratory rulings issued subsequent to adoption of these rules are available from the Idaho Department of Water Resources, P. O. Box 83720, Boise, Idaho 83720-0098. ( )

**003. ADMINISTRATIVE APPEALS (RULE 3).**

Challenges to these rules may be filed pursuant to Chapter 52, Title 67, Idaho Code, or actions taken under these rules may be appealed pursuant to Section 42-1701A, Idaho Code. ( )

**004. IDAHO LAW AND PRIOR APPROPRIATION DOCTRINE (RULE 4).**

These rules are intended to further implement and apply Idaho law. Nothing in these rules shall be construed to be inconsistent with or limit the application or requirements of Idaho law, including the prior appropriation doctrine as implemented in Idaho law. ( )

**005. OTHER AUTHORITIES REMAIN APPLICABLE (RULE 5).**

Nothing in these rules shall limit the Director's authority to take alternative or additional actions relating to the management of water resources as provided by Idaho law. ( )

**006. – 009. (RESERVED)**

**010. DEFINITIONS (RULE 10).**

For the purposes of these rules, the following terms are used as defined below. ( )

**01. Beneficial Use Claim.** A notice of claim to a water right established through diversion and beneficial use of public water filed in accordance with Section 42-243, Idaho Code, or Section 42-1409(2), Idaho Code, and not established by the permit and license procedure of Chapter 2, Title 42, Idaho Code, or previously decreed by a court of law. ( )

**02. Conjunctive Administration.** The combined administration of water rights from hydraulically connected surface and ground water sources under the prior appropriation doctrine as set forth in Idaho law recognizing the priorities of the rights, physical characteristics and significance of source connectedness, and the differences in impacts occurring from surface water diversions versus impacts from ground water diversions. ( )

**03. Critical Ground Water Area.** Any ground water basin, or designated part thereof, not having sufficient ground water to provide a reasonably safe supply for irrigation of cultivated lands, or other uses in the basin at the then current rates of withdrawal, or rates of withdrawal projected by consideration of valid and outstanding applications and permits, designated in accordance with Section 42-233a, Idaho Code. ( )

**04. Department.** The Idaho Department of Water Resources created by Section 42-1701, Idaho Code. ( )

**05. Director.** The Director of the Idaho Department of Water Resources appointed as

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provided by Section 42-1801, Idaho Code, or an employee of the Department who has been delegated authority to act for the Director as provided in Section 42-1701, Idaho Code. ( )

**06. Diversion Rate.** The volume of water moving past a point in a diversion system during a unit of time, most often stated in cubic feet per second (cfs). ( )

**07. Domestic.** A water right or water use that is within the limits of Section 42-111, Idaho Code. ( )

**08. Elements.** The elements of a water right include the source of water, date of priority, the maximum quantity of water that may be diverted, point of diversion, purpose of use, place of use, extent of use, period of use, and conditions on the exercise of the water right included in any decree, license, or approved transfer application. ( )

**09. Exchange.** A change in the use of water under a surface water right approved in accordance with Section 42-240, Idaho Code. ( )

**10. Expansion.** Any increase in one or more of the elements of a water right that increases the extent of beneficial use defined and authorized under a valid water right. ( )

**11. Ground Water.** Water under the surface of the ground, whatever may be the geological structure in which it is standing or moving, as provided in Section 42-230(a), Idaho Code. ( )

**12. Ground Water Management Area.** Any ground water basin or designated part thereof which the Director has determined may be approaching the conditions of a critical ground water area and designated in accordance with Section 42-233b, Idaho Code. ( )

**13. Hydraulically Connected Ground Water and Surface Water.** A ground water source and a surface water source physically interconnected such that a portion of the ground water can become surface water, or a portion of the surface water can become ground water, and changes in water levels within the ground water source affect the amount of water exchanged between the ground water source and the surface water source. The common ground water supply in an area designated in accordance with Section 42-237a.g., Idaho Code, is deemed to be, and shall be managed as, hydraulically connected ground water. ( )

**14. Idaho Law.** The Idaho constitution, statutes, case law, and administrative rules. ( )

**15. Injury.** Injury to a senior priority water right occurs when water diverted under a junior priority water right diminishes the amount of water that otherwise would have been: (1) physically and legally available under the senior water right; (2) diverted without waste; and (3) applied without waste to the beneficial use authorized under the senior water right. The extent of injury equals the amount of water diminished. ( )

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**16. In-Kind Mitigation.** Mitigation in the form of replacement water provided by or for the benefit of the holder of a junior priority water right to prevent injury to a senior priority water right. ( )

**17. Mitigation.** The result of an action taken by or for the benefit of the holder of a junior priority water right to prevent injury to a senior priority water right, or to provide compensation acceptable to the holder of a senior priority water right for injury caused by the diversion and use of water under the junior priority water right. ( )

**18. Mitigation Plan.** A document submitted by or for the benefit of the holder of a junior priority water right and approved by the Director, as provided in Rule 43 of the "Rules for Conjunctive Management of Surface and Ground Water Resources" (IDAPA 37, Title 03, Chapter 11), that identifies actions to provide mitigation. ( )

**19. Person.** Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. ( )

**20. Power Consumption Coefficient (PCC).** A parameter used to estimate the volume of water pumped during a period of time. It is the number of kilowatt hours of electricity required by a system to pump one (1) acre foot of water. ( )

**21. Presumptive Depletion.** The quantity of water depleted from a surface water source resulting from the diversion and use of water from a hydraulically connected ground water source or the quantity of water depleted from a ground water source resulting from the diversion and use of water from a hydraulically connected surface water source, as determined by the Director based on any available information which may include simulations from mathematical models. ( )

**22. Presumptive Injury.** Injury presumed by the Director to occur to a senior priority water right because of the diversion and use of water under a junior priority water right, as promulgated by rule, or adopted through issuance of an order by the Director as provided in Rule 20 of these rules. ( )

**23. Reasonable Pumping Lift.** A limiting ground water level established by the Director pursuant to Sections 42-226 and 42-237a.g., Idaho Code, either generally for an area or aquifer or for individual water rights on a case-by-case basis, for the purpose of protecting the holders of senior priority ground water rights against unreasonable lowering of ground water levels caused by diversion and use of surface or ground water by the holders of junior priority surface or ground water rights under Idaho law. ( )

**24. Response Zone.** An area within which unit depletions or unit recharge of ground water in the underlying aquifer causes similar responses in a hydraulically connected surface water source, or portions thereof, as determined by the Director based on any available information which may include simulations using mathematical models. ( )

**25. Rotation Agreement.** A voluntary agreement among water users in a delivery

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system to provide for a more efficient use of water among the users that allows the water delivered to be used for specific periods of time on different places of use while other places of use under the delivery system do not receive water. The agreement quantifies the amounts of water and times available for use under the water rights of participating water users and converts the amounts and times of use into equivalent quantities and times for exclusive use from the delivery system without regard to the legal place of use or the relative priorities of the rights.

( )

**26. Stockwater.** A water right or use that meets the requirements of Section 42-1401A, Idaho Code.

( )

**27. Surface Water.** Rivers, streams, lakes, and springs, when flowing above ground in their natural channels as provided in Sections 42-101 and 42-103, Idaho Code.

( )

**28. Unauthorized Use.** Diversion or use of water without a right or in a manner not in conformance with the elements, terms, or conditions of a valid water right, or Idaho law.

( )

**29. Waste.** That amount of water diverted in excess of the amount of water needed for, and put to beneficial use under, a water right. Water for conveyance and application losses included in the total diversion rate and annual diversion volume authorized under a valid water right is not waste unless the losses are not reasonable considering all applicable circumstances, including local or community customs or standards.

( )

**30. Water District.** An instrumentality of the State of Idaho established by the Director as provided in Section 42-604, Idaho Code, for the purpose of performing the essential governmental function of distribution of water among appropriators under Idaho law

( )

**31. Water Management.** The control and regulation of the rights to the use of the surface and ground water resources of the state under the constitution and laws of the state in a manner consistent with the prior appropriation doctrine and the full economic development of the water resources of the state. Water management includes provisions for the administration of rights to the use of surface water, provisions for the administration of rights to the use of ground water, and provisions for the conjunctive administration of rights to the use of hydraulically connected ground and surface waters, all in accordance with the prior appropriation doctrine as implemented under Idaho law.

( )

**32. Watermaster.** The person elected and appointed as provided in Sections 42-605 and 42-801, Idaho Code, to distribute water within a water district.

( )

**33. Water Measurement District.** A district created in accordance with Section 42-706, Idaho Code.

( )

**34. Water Measurement Guidelines** The current version of a document entitled "Guidelines for Measuring and Reporting Water Diversions and Ground Water Levels in Idaho," published by the Idaho Department of Water Resources.

( )

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**35. Water Right.** The legal right to divert and use or to protect in place the public waters of the State of Idaho where such right is evidenced by a decree, a license, or permit issued by the Department of Water Resources, a beneficial use claim, or a right based upon federal law.

( )

**36. Waters of the State or Public Water.** All surface and ground waters, as defined herein, located within the boundaries of Idaho or in boundary streams, rivers, and lakes.

( )

**011. -- 019. (RESERVED).**

**020. PRINCIPLES FOR WATER MANAGEMENT (RULE 20).**

**01. Authorized Uses.** All diversions or uses of public water in Idaho are to be made only in accordance with valid water rights, provisions of applicable laws, rules, orders of the Department, or orders of a court having competent jurisdiction.

( )

**02. Unauthorized Use.** Unauthorized uses are prohibited. The Department will take one or more appropriate actions to enforce the law by issuing instructions to a watermaster for curtailment, issuing a notice of violation pursuant to Section 42-1701B, Idaho Code, issuing a cease and desist order pursuant to Section 42-1701B, filing an action seeking injunctive relief pursuant to Section 42-351, Idaho Code, or by taking other lawful action. The action taken will seek appropriate remedy for the unauthorized use of water including restoration and mitigation measures and civil penalties, in accordance with these rules, Section 42-1701B, Idaho Code, and other applicable law.

( )

**03. Regulation of Diversions.** The diversion and use of water in Idaho will be regulated to protect and enforce water rights. Measurement and reporting of water diversion is required for all water rights, except those for domestic or stockwater uses, in accordance with these rules and other applicable law.

( )

**04. Ground Water Management.** Rights to use ground water will be managed and conjunctively administered to prevent injury to senior priority rights to the use of hydraulically connected surface water in accordance with Idaho law. Rights to use ground water will also be managed and administered to prevent injury to senior priority rights to the use of ground water from the same source, including the maintenance of reasonable pumping lifts, in accordance with Idaho law. Additionally, rights to use ground water will be managed and administered to prevent depletions in excess of the reasonably anticipated average rate of future natural recharge in accordance with Idaho law.

( )

a. When ground water diverted from a Common Ground Water Supply, as designated in accordance with Section 42-237a.g., Idaho Code, is determined by the Director to cause injury to senior priority water rights from hydraulically connected surface water or to senior priority water rights to ground water from the same source, such ground water diversion under a junior priority water right within a water district shall be curtailed by the watermaster, unless

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approved mitigation is provided in accordance with Rule 20.13 of these rules. ( )

b. When data gathered by the Department or otherwise submitted to the Department show to the satisfaction of the Director that the diversion of ground water under any water right, which is not included in a water district, causes injury to a senior priority surface water right or to a senior priority ground water right, such junior priority diversion shall be curtailed under the provisions of Section 42-237a.g., Idaho Code, unless approved mitigation is provided in accordance with Rule 20.13 of these rules. ( )

**05. Surface Water Management.** Rights to use surface water will be managed and administered to prevent injury to senior priority rights to the use of water from connected surface water sources in accordance with Idaho law. Rights to use surface water will also be managed and conjunctively administered to prevent injury to senior priority rights to the use of hydraulically connected ground water in accordance with Idaho law. ( )

a. When the diversion of surface water is determined by the Director to cause injury to senior priority water rights from connected surface water sources or to senior priority water rights from hydraulically connected ground water, such surface water diversion under a junior priority water right within a water district shall be curtailed by the watermaster, unless approved mitigation is provided in accordance with Rule 20.13 of these rules. ( )

b. When data gathered by the Department or otherwise submitted to the Department show to the satisfaction of the Director that the diversion of surface water under any water right, which is not included in a water district, causes injury to a senior priority surface water right or to a senior priority ground water right, such junior priority diversion shall be curtailed under the provisions of Section 42-351, Idaho Code, unless approved mitigation is provided in accordance with Rule 20.13 of these rules. ( )

**06. Use of Surface Water First.** To minimize depletions from a ground water source and to maintain incidental recharge to the ground water source, when water rights exist from both a natural flow surface water source and a ground water source for the same irrigation use, the water rights for surface water shall be used before water rights for ground water to the extent it is available, except as provided in Rule 25 of these rules. The combined rate of diversion and the annual volume diverted from the combined sources shall not exceed the amounts reasonably necessary for the beneficial use. ( )

**07. Reuse and Drainage of Water.** Water remaining after its use under a water right may be recaptured and reused, prior to such water becoming public water, for the same use authorized by the water right and the reuse shall not be considered to be an expansion of the water right associated with such use. Water may also be diverted for drainage purposes to improve or preserve the utility of land without a water right provided the water diverted is returned to a source of public water without application to beneficial use and provided the drilling of wells therefor shall be subject to the licensing provisions of of Section 42-238, Idaho Code.

**08. Establishment and Use of Response Zones.** The Director may establish

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response zones to assist in managing ground water depletions and recharge in any area of the state. The response zones shall encompass recharge sites and the points of diversion and places of use for rights to the use of hydraulically connected ground water. Response zones shall be established through rulemaking or adopted through issuance of an order by the Director. When response zones are adopted through issuance of an order, the Director shall provide notice as set forth in Rule 20.11 of these rules. ( )

**09. Establishment and Use of Presumptive Depletions.** The Director may establish presumptive depletions in a surface water source resulting from the diversion and use of hydraulically connected ground water, or in a ground water source resulting from the diversion and use of hydraulically connected surface water. Presumptive depletions are not presumptions of injury but may be used as part of the basis for establishing presumptive injury. Presumptive depletions shall be established through rulemaking or adopted through issuance of an order by the Director. When presumptive depletions are adopted through issuance of an order, the Director shall provide notice as set forth in Rule 20.11 of these rules. ( )

**10. Establishment and Use of Presumptive Injury.** The Director may establish a presumption of injury to one or more senior priority water rights resulting from the diversion and use of surface or ground water under a junior priority water right. The presumptive injury may be established based upon some or all of the following. streamflow measurements, measurements of ground water levels, measurements of water discharged from springs, the Department's determination of consumptive irrigation and field headgate requirements, the amount of water actually diverted and put to beneficial use under the senior priority water right, the amount of stored water controlled by the holder of the senior priority water right and available for the beneficial use under the senior priority water right, presumptive depletions, and other information determined by the Director to be pertinent. Presumptive injury shall be established through rulemaking or adopted through issuance of an order by the Director. When presumptions of injury are adopted through issuance of an order, the Director shall provide notice as set forth in Rule 20.11 of these rules. ( )

**11. Notice.** Upon adoption of response zones, presumptive depletions, or presumptions of injury through issuance of an order, the Director shall publish notice in two consecutive weekly issues of a newspaper of general circulation in the area of the affected water right holders. Any person holding affected water rights objecting to or contesting the order shall have twenty-eight days from the date of the second newspaper notice to file a petition with the Director initiating a contested case under IDAPA 37, Title 01, Chapter 01, seeking to challenge, modify, amend, or stay the order. ( )

**12. Challenge to Response Zones and Rebuttal of Presumptions.** At any time, a water right holder affected by the Director's adoption of a response zone, presumptive depletion, or presumptive injury, may initiate a contested case through the filing of a petition with the Director under IDAPA 37, Title 01, Chapter 01, seeking to change the response zone or rebut a presumptive depletion or presumptive injury. The petitioner must describe the factual or legal basis for the rebuttal or change sought and provide any representative data or other information that the petitioner believes supports the change or rebuttal. ( )

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**13. Use of Mitigation.** The Director will allow the out-of-priority diversion and use of surface or ground water that would otherwise cause injury to a senior priority water right when approved mitigation is provided. Approved mitigation must be in-kind mitigation, unless other compensation is agreed to by the holder of the senior priority water right. Approved mitigation is provided by implementation of an approved mitigation plan or by implementation of conditions on the exercise of the water right included in any decree, license, or approved transfer application ( )

**14. Primary Enforcement Through Water Districts.** The enforcement of limitations on water diversions and use in accordance with Idaho law will be primarily through the establishment and operation of water districts, including the appointment and supervision of watermasters by the Department. However, such administration shall not preclude an individual water right holder from seeking other enforcement measures provided under Idaho law. ( )

## **021. AUTHORIZED AND UNAUTHORIZED DIVERSION AND USE OF WATER (RULE 21).**

**01. Use in Accordance with a Water Right.** Water diversion and use may occur in accordance with a water right evidenced by a court decree, a license or permit issued by the Department, a beneficial use claim to a right filed in accordance with Section 42-243 or 42-1409, Idaho Code, an enlarged use in accordance with Section 42-1426, Idaho Code, an approved transfer pursuant to Section 42-222, Idaho Code, an accomplished transfer in accordance with Section 42-1425, Idaho Code, an approved exchange pursuant to Section 42-240, Idaho Code, a temporary permit issued in accordance with Section 42-202A, Idaho Code, or a temporary change approved in accordance with Section 42-222A, Idaho Code. ( )

**02. Other Authorized Uses.** Diversion and use of water may occur without a recorded water right or not in conformance with a recorded water right under the following circumstances, or as may otherwise be provided by Idaho law: ( )

a. Water may be diverted and used from a ground water source for domestic purposes in accordance with Section 42-227, Idaho Code; ( )

b. Livestock may be allowed to drink directly from a surface water source in accordance with Section 42-113, Idaho Code, and from water diverted for other authorized uses; ( )

c. Water may be diverted and used for firefighting purposes from any public water source in accordance with Section 42-201(3), Idaho Code; ( )

d. Impoundment of water in a tank, pond, or reservoir having a capacity less than or equal to the volume that can be diverted during a 24-hour period under the diversion rate authorized under one or more water rights may occur as part of the delivery and use of the water without a storage component being included in the description of the right or rights; ( )

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e. Water may be diverted and used in accordance with a rotation agreement as described in Rule 22 of these rules; ( )

f. Water may be recaptured for reuse as recognized in Rule 20.07 of these rules; ( )

g. Water may be diverted for water quality remediation and research projects in accordance with Rule 23 of these rules; and ( )

h. Water may be diverted to prevent potential loss of life or property damage during a flood emergency in accordance with Rule 24 of these rules. ( )

**03. Unauthorized Diversion and Use of Water.** The following constitute unauthorized diversions and uses of water: ( )

a. Diversion and use not in compliance with Rule 21.01 or Rule 21.02 of these rules; ( )

b. Diversion and use of water under a beneficial use claim in a water district when the watermaster is delivering water in accordance with priority of rights; ( )

c. Use of water in conflict with any order or designation by the Director of a Ground Water Management Area or a Critical Ground Water Area; ( )

d. Diversion and use of water resulting from tampering with or changing any headgate or diversion control structure setting by the watermaster, as determined by the Director; ( )

e. Out of priority diversion within a water district under the supervision of a watermaster, a critical ground water area, a ground water management area, or any other area for which the Director or a court of competent jurisdiction has ordered a reduction in diversion in accordance with applicable law, provided the diversion and use is not in accordance with approved mitigation; ( )

f. Diversion or use of water under an exchange that has not been approved by the Director; ( )

g. Water rotation that is not consistent with Rule 22 of these rules; ( )

h. Diversion or use of water that the Director has determined constitutes waste, as defined by Rule 10.25 of these rules, and as set forth in an order with opportunity for hearing under Section 1701A, Idaho Code; and ( )

i. Use of water under a ground water right when adequate water is available under a natural flow surface water right for the same beneficial use, except as provided in Rule 25 of these

rules. ( )

**022. ROTATION AGREEMENTS (RULE 22).** ( )

**01. Purpose and Form.** A rotation agreement is a voluntary agreement among the holders of water rights from a shared water delivery system entered into for the purpose of maximizing the beneficial use of a limited water supply by allowing one or more of the users on the system to divert the total available water supply for a scheduled period of time during which the other users on the system temporarily forego their right to divert water. Because a rotation agreement involves rights to the use of real property, the agreement should be in writing and identify the water rights subject to the agreement, the ownership of the water rights, the schedule of rotation, a procedure for enforcing compliance with the agreement, and a process for opting out of the agreement. ( )

**02. Basis for Use of Water in Excess of Recorded Right.** A rotation agreement allows the holder of a water right to use water in excess of the amount authorized under the right on a temporary basis in accordance with the rotation schedule. A copy of the rotation agreement shall be submitted to the Director or to a watermaster to confirm the basis for a water right holder to use water at a rate in excess of that authorized under the holder's water right. However, if the rotation occurs within an irrigation district or canal company a copy of the rotation agreement is not required, and the rotation of rights to the use of water shall be subject solely to the procedures or limitations applying within the water distribution entity. ( )

**023. WATER QUALITY REMEDIATION AND RESEARCH PROJECTS (RULE 23).**  
A water right shall not be required for the purpose of diverting surface or ground water for the sole purpose of removing contaminants or suspended sediments from the water or for the sole purpose of conducting water quality, hydrogeologic or geophysical research, and testing provided the following requirements are satisfied with respect to the remediation or research project. ( )

**01.** The remediation project is conducted pursuant to an order or plan approved by a court of law, the Idaho Department of Environmental Quality, or the U. S. Environmental Protection Agency; and ( )

**02.** The remediation or research project operator enters into a memorandum of understanding with the Department for a fixed period of time describing the remediation project and providing that certain conditions of approval be satisfied, which conditions shall include but not be limited to the following: ( )

a. The remediation or research project operator shall obtain any needed drilling permit(s) from the Department as required by Section 42-235, Idaho Code, prior to the construction of any wells; ( )

b. The remediation or research project operator shall curtail diversion activity or shall provide appropriate mitigation if the remediation activity injures existing water rights as determined by the Director; ( )

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c. The remediation or research project operator shall hold the Department harmless from any liability due to the operator's negligent discharge of water; and ( )

d. The remediation or research project operator shall submit periodic and final reports to the Director regarding the remediation or research activity upon request of the Department. ( )

**024. DIVERSION OF WATER DURING FLOODING (RULE 24).** A water right shall not be required for the purpose of diverting flood waters from a natural water course during periods of a flood emergency designated by the Director, the Board of County Commissioners, or the Governor, provided a primary reason for diverting the water is to reduce the potential risk to life or property located downstream. Any flood waters diverted in accordance with this provision may incidentally be applied to a recognized beneficial use provided other water rights are not injured thereby. ( )

**025. ENFORCEMENT OF THE USE OF WATER RIGHTS FROM SURFACE WATER SOURCES PRIOR TO USING WATER FROM GROUND WATER SOURCES (RULE 25).** ( )

**01. Surface Water First.** Water shall not be diverted and used for irrigation under a ground water right unless the amount of water available for use from a natural flow surface water right for the same irrigation use is physically or legally unavailable under the right. ( )

**02. Surface Water Unavailable.** For the purposes of this rule, water will be considered to be unavailable under a natural flow surface water right if one (1) or more of the following conditions exist: ( )

a. The surface water source does not have a sufficient supply or the supply is physically unavailable to the right holder. ( )

b. The natural flow surface water right becomes legally unavailable for use prior to the effective date of this rule. ( )

c. The facilities necessary for diversion, conveyance, and application of the natural flow surface water right were removed or made permanently inoperable, as determined by the Director, prior to the effective date of this rule and have not been replaced. ( )

**03. Existing Uses Exempted.** This rule shall not be applied to require water users, who prior to the adoption of this rule have initiated a practice of using ground water in preference to surface water, to revert to the use of natural flow surface water unless otherwise required to comply with conditions of the ground water right. ( )

**026. -- 029. (RESERVED).**

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**30. ENFORCEMENT MECHANISMS (RULE 30).**

The Department will implement the principles set forth in these rules, within the resources provided to the Department by the legislature, through the creation and operation of water districts, the creation and operation of water measurement districts, the adoption of management plans for designated critical ground water areas and ground water management areas, through additional rulemaking, or through other administrative actions in accordance with applicable law.

( )

**031. – 039, (RESERVED)**

**040. CREATION, MODIFICATION, AND OPERATION OF WATER DISTRICTS (RULE 40).**

Whenever a court of competent jurisdiction has adjudicated the rights to the use of water from any public stream or other public water supply, or entered an order for the interim administration of water rights pursuant to Section 42-1417, Idaho Code, the Director shall establish or modify a water district as appropriate, pursuant to Section 42-604, Idaho Code, for the purpose of supervising the distribution of water from the public water supply in accordance with the prior appropriation doctrine. Before entering an order creating or modifying a water district, the Director shall provide notice of the proposed action and conduct a hearing thereon in accordance with the notice and hearing requirements of Section 42-604, Idaho Code. Each water district created by the Director shall be considered an instrumentality of the state of Idaho for the purpose of performing the essential governmental function of distributing water among appropriators under Idaho law.

( )

**01. Separate Districts.** The Director shall divide the state into water districts in such a manner that each public stream and its tributaries, or other source of water supply, shall constitute a water district, provided:

( )

a. Any stream or water supply, when the distance between the extreme points of diversion thereon is more than forty (40) miles, may be divided into two (2) or more water districts;

( )

b. Any stream or water supply tributary to another stream or water supply may be constituted into a separate water district when the use of the water therefrom does not affect or conflict with the rights to the use of the water from the main stream or other water supply;

( )

c. Any stream or water supply may be divided into two (2) or more water districts, irrespective of the distance between the extreme points of diversion, where the use of the waters of such stream or water supply by appropriators in one district does not affect or conflict with the use of the waters of such stream or water supply by appropriators outside such district;

( )

d. The Director in creating or modifying a water district may organize the district into two (2) or more divisions or subdistricts based upon hydrologic, geographic, or other considerations, if the Director determines that such organization will result in a more efficient administration of the rights to the use of water from the stream or other source of water supply;

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( )

e. The Director may create, revise the boundaries of, or abolish a water district or combine two (2) or more water districts or subdistricts by entry of an order if such action is required in order to properly administer uses of the water resource; ( )

f. The Director shall cause copies of any order issued under this rule to be served by regular mail upon all holders of rights to the use of water affected by the order. ( )

**02. Operation of Water Districts.** ( )

a. The holders of water rights within a water district shall meet annually in accordance with law to elect a watermaster, set a budget adequate to carry out the responsibilities of the district, and provide for its collection. The Director will appoint a watermaster, set a budget, and provide for its collection if the holders of rights in the district fail or refuse to do so. ( )

b. The holders of water rights within each water district shall adopt and submit for approval of the Director bylaws providing for the operation of the district in accordance with law. The bylaws shall provide procedures for calling and conducting annual and special meetings, setting budgets, determining assessments, collecting the assessments, disbursing district funds, financial accounting procedures, duties and responsibilities of the watermaster, and other district officials including an advisory board, and procedures for filing budgets, reports, audits, and other information with the Department. ( )

**041. GENERAL DUTIES OF WATER DISTRICT WATERMASTERS (RULE 41).**

Under the supervision of the Director, a watermaster when duly elected and appointed shall perform the following duties: ( )

**01. Distribution of Water Supplies** Distribute water by priority of right, taking into account the provisions of approved mitigation, during times of scarcity as directed by the Department. ( )

**02. Monitoring of Water Diversion and Use.** Monitor diversion and use of water from public water sources throughout the year as directed by the Department. ( )

**03. Regulation of Diversions.** Adjust, lock, and post headgates and other diversions as necessary to prevent unauthorized diversion and use of water, including stored and commingled water. ( )

**04. Record Keeping.** Measure and record in daily record books the rate of flow diverted under each right at each point of diversion in the water district. ( )

**05. Natural Flow and Stored Water Diversions.** Determine and record in the district records in a form approved by the Department the amount of natural flow by water right and stored water taken by each water user at each point of diversion in the district. ( )

**06. Stored Water and Commingled Water.** Convey stored water or commingled water from the point it is injected into the natural stream to the diversion points of those entitled to its use, as directed by the Department. ( )

**07. Annual Report.** Prepare and submit an annual report in a form approved by the Department of the diversions of natural flow water or ground water under each right and the volume of stored water taken by each water user at each point of diversion. ( )

**08. Proposed Budget and Annual Work Plan.** Prepare and submit the proposed budget for the next year in accordance with Section 42-615, Idaho Code. The budget shall include a work plan for the upcoming year for approval by the Department. ( )

**09. Ownership Changes.** Advise the Department of changes of ownership of water rights and refuse delivery of water under the right until the change is properly recorded with the Department. ( )

**10. Documentation.** Monitor the availability of water in the public water sources within the Water District and maintain documentation that the available water supplies have been distributed by priority of right. ( )

**11. Ground Water Levels.** Monitor ground water levels in the water district as directed by the Department. ( )

**12. Inventory of Diversions.** Inventory all diversions from public water sources within the water district and notify the Department of any changes. ( )

**13. Other Duties.** Perform other duties, as instructed by the Director, that are necessary to monitor, inventory, and regulate public water supplies within the district and to document that public water supplies available within the district have been diverted and used under the rights thereto in accordance with applicable Idaho law and these rules. ( )

**042. ENFORCEMENT DUTIES OF WATER DISTRICT WATERMASTERS (RULE 42).** Under the supervision of the Director, a watermaster shall perform the following enforcement duties:( )

**01. Enforcement of Diversion Rate and Volume.**

a. Diversion and use of water shall not exceed the diversion rate and annual diversion volume authorized under the water right. ( )

b. The rate of diversion from surface water sources shall be based upon a twenty-four (24) hour average, provided that the instantaneous rate of diversion shall not exceed the authorized rate if the use of any other water right is injured. ( )

c. The rate of diversion from ground water sources shall be based upon a seven (7) day average, except as provided in Rule 43 of these rules, provided that the instantaneous rate of diversion shall not exceed the authorized rate if the use of any other water right is injured. ( )

d. The rate of diversion authorized by the water right shall be measured at the point of diversion from the public water source or as near as practicable to the diversion as determined by the Director, and not at the field headgate or other place of use unless otherwise provided by the terms of the water right. ( )

**02. Enforcement of Priority.** Junior priority water rights shall be curtailed in order of priority from the most recent priority date whenever such regulation is found necessary to fill a senior, unsubordinated water right, unless continued out-of-priority diversion is allowed under approved mitigation. ( )

**03. Enforcement of Point of Diversion.** Diversion of water shall occur only at the point or points authorized by the water right; provided however, diversion from a point other than the point or points authorized by the water right will not be prohibited if the following conditions are satisfied: (1) the point of diversion is claimed on an accomplished transfer made in accordance with Section 42-1425, Idaho Code; and (2) there is no information available to show that the claimed point of diversion is erroneous, that such use will cause injury to or has injured other water rights, or that it constitutes an expansion of the water right. ( )

**04. Enforcement of Place of Use.** Use of water shall occur only at the place of use authorized by a water right except as otherwise provided under this rule.

a. Use of water at a place other than the place of use authorized by a water right will not be regulated to prevent such use if: ( )

i. The new place of use is claimed as an accomplished transfer made in accordance with Section 42-1425, Idaho Code, and there is no information to show that the claimed place of use is erroneous, that the change will cause injury to or has injured other water rights, or is an expansion of the water right; ( )

ii. The water right is the subject of a valid rotation agreement; or ( )

iii. The water right is the subject of a valid exchange approved by the Director. ( )

b. **Measurement Accuracy.** In determining whether an expansion in place of use has occurred, the Department will consider the accuracy and precision of acreage measurements. Generally, an expansion in acreage under a right will not be considered as having occurred if the acreage found to be irrigated does not exceed the authorized amount by more than five percent (5

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percent) for any forty (40) acre subdivision or government lot, unless irrigation has been expanded to include parcels not previously irrigated under the right. ( )

**05. Enforcement of Period of Use.** The period of use for a water right is the period described by the water right within which water may be diverted for the authorized uses or the period ordered by the Director if the water right does not describe a period of use. Diversion and use of water under the right shall occur only during the authorized period of use. ( )

**06. Criteria for Enforcement of Nature of Use.** A wateruser shall not use a water right for a use that is not authorized by the right; provided however, water diverted for any authorized purpose may be incidentally used for stockwater purposes, and water under any water right may be used for firefighting purposes, as provided in Section 42-201(3), Idaho Code. ( )

**043. DIVERSION RATE FROM GROUND WATER SOURCES (RULE 43). ( )**

**01. When Totalizing Flow Meter Required.** The rate of diversion under a water right to the use of ground water shall be measured using a totalizing flow meter installed and maintained to measure flow rates within ten (10) percent of independent field measurements conducted periodically using calibrated test equipment. A request to use an alternate method of measurement, including use of the power consumption coefficient (or PCC) method, may be submitted by the holder of a ground water right or on behalf of the holder of such right as provided in Rule 90.03 of these rules. However, when ground water is diverted using a pump driven by means of internal combustion or as part of either a compound system or a complex system, the requirement to install and maintain a totalizing flow meter will not be waived unless the requirements set forth in Rule 43.03 are satisfied. A compound system, as the term is used in this rule, means a system where one or more electrical devices are operated from the same electrical power meter connected to the pump used to divert ground water under the right. A complex system, as the term is used in this rule, means any system where the total dynamic head at the pump used to divert ground water under the right varies due to multiple discharge locations in a pipeline, or where the method of delivery will vary between open discharge, gated pipe, or sprinkler system during a single irrigation season, or where multiple wells discharge into a common pipeline. ( )

**02. Monthly Average Diversion Rate Allowed.** Measurement, reporting, and enforcement of the diversion rate under a water right to divert and use ground water will be based on diversions averaged over a period of seven (7) days, unless the waiver condition set forth in Rule 43.03 is satisfied. When this waiver condition is satisfied, the measurement, reporting, and enforcement of the diversion rate under a water right to divert and use ground water may be based on diversions averaged over a period of thirty (30) days, provided that the instantaneous rate of diversion shall not exceed the authorized rate if the use of any other water right is injured. ( )

**03. Waiver Condition.** When use of the PCC method under the conditions of minimum discharge pressure (maximum yield) for any system configuration of ground water

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diversion, delivery, and application under a water right demonstrates that ground water can not physically be diverted using the system at a rate in excess of the diversion rate authorized under the water right, the requirements of these rules subject to this waiver condition will be modified as set forth in these rules. Continuance of this waiver condition is subject to confirmation annually by the holder of a ground water right or on behalf of the holder of such right that the inability to divert ground water at a rate in excess of the authorized diversion rate remains intact.

( )

**044. -- 079. (RESERVED).**

**080. MEASUREMENT AND ENFORCEMENT OF WATER RIGHTS NOT IN A WATER DISTRICT (RULE 80).**

( )

**01. Measurement and Reporting.** Measurement and reporting of the diversion and use of water under water rights not within a water district is required in accordance with Rule 90.02 of these rules.

( )

**02. Enforcement Outside of Water Districts.**

( )

a. If the Director finds, on the basis of available information, that a person is diverting water or has diverted water from a natural watercourse or from a ground water source without having obtained a water right to do so or is applying water or has applied water not in conformance with the elements of a water right, then the Director shall take appropriate action against such person to prevent continued unauthorized use.

( )

b. The Director will issue a Notice of Violation (NOV) to a person who is diverting public water without a water right, is applying water or has applied water not in conformance with the elements of a water right, or is otherwise making an unauthorized use of water as described in these rules.

( )

c. As appropriate, the Director will file an action seeking injunctive relief or commence an administrative enforcement action in accordance with Section 42-1701B, Idaho Code.

( )

d. As appropriate, the Director will seek criminal enforcement in accordance with the provisions of Chapter 43, Title 18, Idaho Code.

( )

**081. -- 089. (RESERVED).**

**090. MEASUREMENT AND REPORTING OF WATER DIVERSION AND USE (RULE 90).**

( )

**01. Measurement and Reporting Procedures.** Unless a written waiver is received from the Director, the holder of a right to divert water meeting one (1) of the circumstances described in Rule 90.02 below shall install, calibrate, and maintain a suitable measuring device in a

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JAN 09 2003

manner approved by the Director. The holder of the water right, or a water district or water measurement district on behalf of the holder of the water right, shall measure and report water diversion and use to the Department in a manner approved by the Director. The Department shall publish approved measurement procedures in the water measurement guidelines as defined in Rule 10.34 of these rules. ( )

**02. Diversions Subject to Measurement and Reporting.** Any diversion subject to one (1) of the following circumstances shall be measured and reported as required by Rule 90.01 of these rules. ( )

a. A diversion located within a water district or a water measurement district, unless the diversion is used solely for domestic or stockwater purposes. ( )

b. A diversion required to be measured by an order issued under Section 42-701, Idaho Code. ( )

c. A diversion required to be measured by a condition of a permit, license, transfer, exchange, or other approval or order of the Director. ( )

**03. Alternative Methods.** Where the installation and maintenance of a measuring device would be unnecessarily burdensome for the holder of a water right, except as required by Rule 43 of these rules, the Director may allow another method as requested in writing by the holder or on behalf of the holder of the water right and approved by the Director to estimate the amount of water diverted. For ground water diversions, the Director will allow use of the power consumption coefficient (or PCC) method, except as required in Rule 43 of these rules and subject to the following accuracy requirement. Use of any alternate method shall be in a manner approved by the Director, and the approval for the use of an alternate method may be revoked if the Director determines that the alternate method does not provide a sufficiently accurate estimate of the amount of water diverted. For the purpose of this rule, a sufficiently accurate estimate of the amount of water diverted shall be within ten (10) percent of an independent field measurement made using calibrated test equipment. ( )

## **091. MEASUREMENT AND REPORTING OF GROUND WATER LEVELS (RULE 91).** ( )

**01. Measurement and Reporting Procedures.** The depth to ground water shall be reported at each well from which water is authorized to be diverted in accordance with an order issued pursuant to Section 42-701, Idaho Code, or in accordance with a measurement plan submitted by a water district or water measurement district and approved by the Director. The Department shall publish approved measurement procedures in the water measurement guidelines as defined in Rule 10.34 of these rules. ( )

**02. Measurements by Right Holder.** The holder of a water right required to report pursuant to an order issued under Section 42-701, Idaho Code, or Rule 91.01 of these rules, shall measure and report in a manner approved by the Director. ( )

**03. Measurement by Districts.** A water district or water measurement district shall measure and report the depth to water in a network of wells in a measurement plan approved by the Director. ( )

**092. -- 099. (RESERVED).**

**100. MANAGEMENT OF WATER USES IN CRITICAL GROUND WATER AREAS AND GROUND WATER MANAGEMENT AREAS (RULE 100).** ( )

**01. Management Plan.** When information is available for the Director to determine that the use of water in a critical ground water area or a ground water management area exceeds the average rate of future natural recharge, that one or more holders of ground water rights are having to pump from a level that exceeds the reasonable pumping lift for the area, or that senior priority surface water rights are being deprived of water to which they are entitled, the director will enter an order providing a management plan to balance water use with supply and to protect senior priority rights. ( )

**02. Notice of Management Plan.** Notice of the management plan shall be given in the same manner as notice for the designation of a Critical Ground Water Area in Section 42-233a or for the designation of a Ground Water Management Area in Section 42-233b, Idaho Code. Any person objecting to the order adopting the plan is entitled to a hearing and judicial review in accordance with Section 42-1701A, Idaho Code. ( )

**101. -- 999. (RESERVED).**

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**SETTLEMENT AGREEMENT REGARDING  
ABERDEEN-SPRINGFIELD CANAL COMPANY'S BASIN 01 SURFACE  
WATER RIGHTS and CONSOLIDATED SRBA SUBCASE NO. 35-2315**

**DESCRIPTIVE SUMMARY**

This Settlement Agreement ("Agreement") is made by the State of Idaho, the Aberdeen-Springfield Canal Company, and the Idaho Department of Water Resources and is made in reference to the following facts.

**RECITALS OF FACT**

A. The Aberdeen-Springfield Canal Company objected to over one hundred recommendations for ground water rights in Basin 35 submitted to the Snake River Basin Adjudication ("SRBA") District Court by the Idaho Department of Water Resources (Consolidated Subcase No. 35-2315). The consolidated subcase is currently pending before the SRBA District Court and a trial is scheduled for April 22, 2002.

B. This Agreement addresses the future recommendations of the Idaho Department of Water Resources to the SRBA District Court regarding the surface water rights of the Aberdeen-Springfield Canal Company in Basin 01 and the issues in Consolidated Subcase No. 35-2315.

C. The issues in Consolidated Subcase No. 35-2315 relate to Aberdeen-Springfield Canal Company's surface water rights in Basin 01. In order to fully implement this Agreement and to resolve the issues in Consolidated Subcase No. 35-2315, the Idaho Department of Water Resources must file with the SRBA District Court its recommendations for the surface water rights in Basin 01. Since the Idaho Department of Water Resources is not scheduled to report its

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recommendations for the water rights in Basin 01 until late 2002, a stay of proceedings under Consolidated Subcase No. 35-02315 is needed.

In consideration of the promises stated in this Agreement, the parties agree as follows:

### **1. Definitions**

A. The term "Canal Company" means Aberdeen-Springfield Canal Company, P.O. Box Y, Aberdeen, Idaho, 83210.

B. The term "IDWR" means the Idaho Department of Water Resources, 1301 N. Orchard St, Boise, Idaho, 83706.

### **2. Recommendations of the Director**

A. In the Director's Report for Basin 01, IDWR will recommend the place of use for the Canal Company's surface water rights from the Snake River to include both lands that were irrigated with the Canal Company's surface water rights, as of 1987, as well as lands that were originally irrigated with the Canal Company's surface water rights but as of 1987 were irrigated solely by ground water, so long as the Canal Company's water rights remained appurtenant to lands irrigated by ground water and such lands continued to pay assessments to the Canal Company. IDWR will recommend all of the acreage for lands to which the Canal Company's surface water rights are appurtenant and irrigated by shareholders using either surface water or ground water, as of 1987, as being authorized to divert and use surface water under the Canal Company's water rights.

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JAN 09 2003

B. In the Director's Report for Basin 01, IDWR will recommend "irrigation" and "recharge for irrigation" as the purposes of use for the Canal Company's Basin 01 surface water rights. IDWR will recommend "recharge for irrigation" as a change in purpose of use under the accomplished transfer provision of Idaho Code § 42-1425. IDWR will consider use of stored water for "recharge for irrigation" as being a valid irrigation use under the existing licenses and subsequent decreed right of the U. S. Bureau of Reclamation.

C. In the Director's Report for Basin 01, IDWR will recommend that the place of use pursuant to (A) be subdivided into two parts as follows. (1) the acreage irrigated directly by surface water (including acreage with supplemental ground water irrigation) as of 1987; and (2) the acreage originally irrigated by surface water for which authorization to divert surface water for direct irrigation continues but for which the additional purpose of use "recharge for irrigation" has been added as an accomplished transfer. IDWR will recommend the acreage from (1) as the minimum place of use authorized for direct irrigation using surface water and the sum of (1) and (2) as the maximum place of use authorized for direct irrigation using surface water. The acreage from (2) will be recommended as the place of use eligible for the mitigation credits described in paragraph E below. IDWR will recommend the place of use for the accomplished change to "recharge for irrigation" as consisting of the entire service area of the Canal Company.

D. In the Director's Report for Basin 01, IDWR will recommend the maximum quantity of water (diversion rate) historically diverted and beneficially used for the combined use of "irrigation" and "recharge for irrigation," as of 1987. IDWR will recommend the diversion rate in three components: (1) the minimum diversion rate for direct surface water irrigation will be the diversion rate associated with acreage directly irrigated with surface water as of 1987

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(including acreage with supplemental ground water rights) and will be determined as the total recommended diversion rate multiplied by the acreage directly irrigated with surface water as of 1987 divided by the total acreage originally irrigated with surface water; (2) the maximum diversion rate for direct surface water irrigation will be equal to the total recommended diversion rate; and (3) the maximum diversion rate for "recharge for irrigation" will be equal to the diversion rate from (1) subtracted from the total recommended diversion rate. The intent of this calculation together with (C) is to maximize the acreage authorized for direct surface water irrigation while fixing the maximum quantity of surface water that can be used for "recharge for irrigation" as an accomplished transfer.

E. Existing ground water rights used for irrigation within the service area of the Canal Company on lands paying assessments to the Canal Company and to which the Canal Company's surface water rights have remained appurtenant will be given mitigation credit for the amount of water recharged against ground water depletions arising from the authorized diversion and use of ground water. The volume of water credited for mitigation in each year must be determined from measurements and accounting. Depletions resulting from ground water diversions eligible for mitigation credits, as described above, will be considered to have been mitigated in any year to the extent to which the recharge documented through measurements and accounting equals or exceeds ground water depletions in the same year. Mitigation credits will accrue only to the extent that surface water is diverted for recharge in a given year and will not carry over to future years. The amount credited for mitigation will be calculated as: (1) the amount of surface water diverted; (2) less the measured returns to the Snake River through wasteways or drains; (3) less 0.02 cfs multiplied by the number of acres irrigated with surface water (including those acres using supplemental ground water), multiplied by 1.98 acre

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feet/cfs/day, multiplied by 214 days (the irrigation season), and multiplied by an appropriate factor (less than 1) to account for the Canal Company not constantly diverting the maximum amount needed for surface water irrigation throughout the entire irrigation season.

### **3. Duties of the Canal Companies**

A. Upon execution of this Agreement, the Canal Company shall request a stay from the SRBA District Court in Consolidated Subcase No. 35-2315. The State of Idaho and IDWR will support this request and provide the SRBA District Court with the appropriate level of explanation, as needed.

B. Once IDWR has filed its recommendations for the Canal Company's Basin 01 water rights as set forth in section 2 above and the SRBA District Court has issued partial decrees consistent with this Agreement, the Canal Company will withdraw all objections associated with the Consolidated Subcase No. 35-2315.

### **4. Action by the District Court**

The parties acknowledge that the execution of this Agreement will not automatically result in approval by the SRBA District Court of IDWR's recommendation for the Canal Company's Basin 01 water rights and that a further hearing may be necessary.

### **5. Governing Law**

Both parties agree that this Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.

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JAN 09 2003

## **6. Entire Agreement**

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

B. This Agreement has been reached in the process of good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding.

## **7. Successors**

This Agreement shall bind and inure to the benefit of the respective successors of the parties.

## **8. Effect of Section Headings**

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

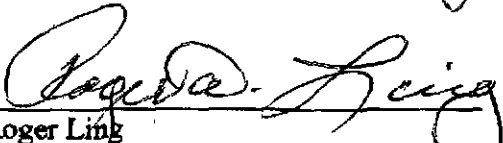
## **9. Duplicate Originals**

This Agreement is executed in duplicate. Each of the two Agreements with an original signature of each party shall be an original.

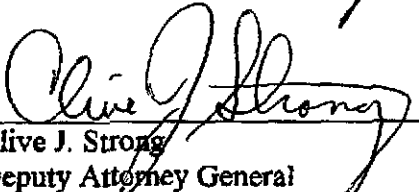
MICROFILMED  
JAN 09 2003

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

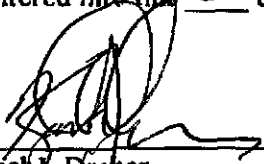
Entered into this 31<sup>st</sup> day of May, 2002

  
\_\_\_\_\_  
Roger Ling  
Attorney for Aberdeen-Springfield Canal Company

Entered into this 7<sup>th</sup> day of June, 2002.

  
\_\_\_\_\_  
Clive J. Strong  
Deputy Attorney General  
Chief, Natural Resource Division  
Attorney for the State of Idaho

Entered into this 5<sup>th</sup> day of June, 2002

  
\_\_\_\_\_  
Karl W. Dreher  
Director, Idaho Department of Water Resources

**COLEMAN, RITCHIE & ROBERTSON**

Attorneys at Law  
156 2nd Avenue West  
P. O. Box 525  
Twin Falls, Idaho 83303-0525

JOHN R. COLEMAN, CHTD  
JOHN S. RITCHIE  
THOMAS M. ROBERTSON  
DAVID A. COLEMAN, CHTD

RECEIVED  
DEC 16 2002  
Department of Water Resources  
TELEPHONE (208) 334-1224  
FAX (208) 334-3983  
E-MAIL crtlflaw@msn.com

December 12, 2002

Jeff Peppersack  
Idaho Department of Water Resources  
1301 North Orchard  
Boise ID 83706-2237

Re: Water Right No. 35-8025  
Current Owner: OTR, an Ohio General Partnership  
Prospective Buyer: William and JoAnne Toeves

Dear Jeff:

I am writing as a follow-up to our telephone conversation of December 11, 2002, wherein we discussed the above-referenced water right. The comments indicate that "use of this right is combined with water from Aberdeen Springfield Canal Co." In fact, the property has not received canal company water for many years and delivery canals have been taken out such that there is no way for canal company water to be delivered to the property. The 160 shares of canal company water appurtenant to the property were sold to Will and Ana Rowe on December 23, 1998.

As part of the sale from OTR to the Toeves, a question arose whether the canal company water or the groundwater was the primary right. In our discussion you indicated that there is no indication either way as to which right is primary and that in your opinion there are no restrictions on the groundwater right which would prohibit it from being fully used. In order to satisfy the buyers, I would appreciate your confirming that I have correctly stated our discussion with respect to the groundwater right.

I further understand that the Decree entered on February 15, 2002, should not have included reference to the Aberdeen Springfield Canal Co., water, however, in order to change the Decree it would be necessary to approach the court. While that could be done, I was left with the understanding that if it is not done the groundwater right could still be fully used on the property.

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JAN 9 9 2003

Jeff Peppersack  
Page 2  
December 12, 2002

I look forward to receiving written acknowledgment of my letter and the issues I have discussed either in a separate letter from you or by countersigning a copy of this letter.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "John S. Ritchie".

JOHN S. RITCHIE

JSR/sl

cc: Rodney Moore  
Elbert G. Davis

MICROFILMED

JAN 09 2003



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 24, 1986

RE: Permit No. 35-8025

Robert A. Schelske  
321 Lincoln St.  
American Falls, ID 83211

Dear Mr. Schelske:

Enclosed herewith is a copy of the Water Right License issued on the above referenced Permit.

Sincerely,

JIM JOHNSON  
Water Distribution Supervisor

JJ:sc

Enclosure

**WIDENED**



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

August 25, 1986

RE: Permit No. 35-8025

Robert A. Schelske  
321 Lincoln St.  
American Falls, ID 83211

Dear Permit Holder(s):

Enclosed is a draft copy of the license proposed to be issued on the above referenced water right.

If you do not concur with the information shown on the draft license, please advise the Department within ten (10) days. If you have any questions, please let us know; otherwise, the license will be issued as identified on the draft copy.

Sincerely,

JIM JOHNSON  
Water Rights Supervisor

JJ:sc

Enclosure

2430000000

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
LICENSING REPORT

RECEIVED

NOV 26 1984

35-8025  
Permit No

Department of Water Resources

1. Measurement Calculations

a) Field Measurement Calculations (Include theoretical capacities and system capacity)

$$0.932 \text{ correction factor} \times 18' \text{ Meter Reading} = 16.776$$

$$(8" \text{ ID})^2 \times 3.85 \times \sqrt{16.776} = 1009.2 \text{ gpm}$$

or 2.25 cfs Capacity ✓

$$146 \text{ acres} \times 0.02 \text{ cfs} = 2.92 \text{ cfs}$$

amt. limited by capacity

b) Volume Calculations for Irrigation:

$$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 146 \text{ acres} \times 3.5 \text{ af/a} = 511 \text{ af} \checkmark$$
$$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 2.25 \times 214 \times 1.9835 = 955 \checkmark$$
$$V = \text{Smaller of } V_{IR} \text{ and } V_{DR} = 511 \text{ af} \checkmark$$

c) Volume Calculations for Other Uses:

2. Overlap Review *per VAX:*

01-00230, 01-0297

a) Other water rights with same place of use: Shares in Aberdeen-Springfield canal

b) Other water rights with same point of diversion: NA. ✓

c) Analysis:

~~R16 (3.5 af/a)~~ R30

MICK



RECEIVED

NOV 26 1984

Department of Water Resources  
Permit No. 3580

Phone No. 226-5837

1. Owner: Robert Schelske Phone No. 226-5837  
Current Address: 321 Lincoln St Idaho Falls, ID
2. Accompanied by: Gary Funk EXAM. DATE: 6-26-84  
Address: \_\_\_\_\_ Phone No. 397-4870  
Relationship to Permit Holder: Renter
3. Source: Groundwater tributary to \_\_\_\_\_

| Well/Diversion*<br>No. | Motor<br>Make | HP  | Motor<br>Serial No. | Pump<br>Make | Pump Serial No. or<br>Discharge Size |
|------------------------|---------------|-----|---------------------|--------------|--------------------------------------|
| (Relevant Motor)       | NA            | 100 | NA                  | Johnson      | NA                                   |
|                        |               |     |                     |              |                                      |
|                        |               |     |                     |              |                                      |
|                        |               |     |                     |              |                                      |

\*Code with points of diversion, system diagram & photos on reverse side. Disregard if only one.

5. System Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

| Measurement Equipment | Type | Make | Model No. | Serial No. | Size  | Calib. Date |
|-----------------------|------|------|-----------|------------|-------|-------------|
| Annubar               |      |      |           | 191138     | 7.9   |             |
| Eagle Exometer        |      |      |           | 091471     | 10-80 | 5-30-84     |
|                       |      |      |           |            |       |             |
|                       |      |      |           |            |       |             |

7. Measurements 8" TD max. lim 18" MR ☐ Additional data/computation sheets attached

- | 8. Point(s) of Diversion: | Indicate Method of Determination |
|---------------------------|----------------------------------|
|---------------------------|----------------------------------|

[illegible]

- |    |                  |                                                           |
|----|------------------|-----------------------------------------------------------|
| 9. | Place(s) of Use: | Irrigation - give acres served by system at time of exam. |
|    |                  | Indicate Method of Determination                          |

[illegible]

Total Acres \_\_\_\_\_

10. Other water rights on these lands Canal shares  
11. Other water right diverted from same p.d. NA

12. **Diversion and Delivery System Diagram:** Indicate all major components and distances between components. Indicate ditch size/pipe i.d. as applicable. Indicate on systems with measurement port the distance between the port and the nearest component/pipe bend/restriction both upstream and downstream, and the inside pipe diameter at the measurement port. On multiple diversion systems indicate how diversion systems are connected.



13. ☒ Photo of Diversion & System Attached ☒ Aerial Photo of Place of Use Attached or Map of Irrigated Acreage Attached

14. Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. 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

16. Examiner's/Consultant's Signature ZW Jones Date 9-27-84  
Consultant's License Number \_\_\_\_\_  
IDWR Director's Authorization to Conduct  
Beneficial Use Examination \_\_\_\_\_

Date \_\_\_\_\_ CONSULTANT SEAL

RECEIVED

T. POWER Cty.

76

35-8025

\*

35-8025

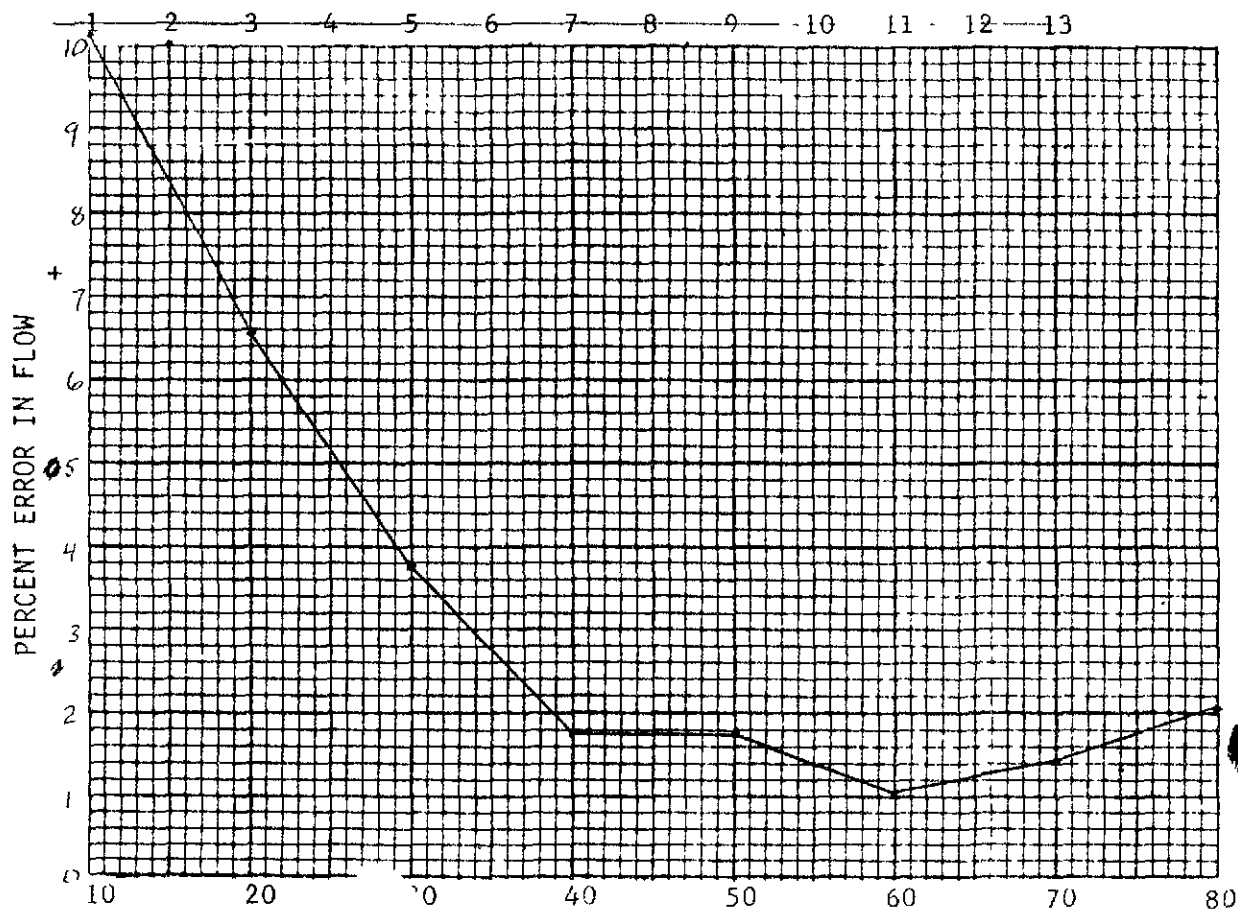
EASTERN

METER NO. 091471

RANGE 10-80

DATE TESTED 5/24/84

| APPLIED PRESSURE |           |         | METER<br>READING              | FLOW<br>ERROR (%) | FLOW CORRECTION<br>FACTOR |
|------------------|-----------|---------|-------------------------------|-------------------|---------------------------|
| UPSCALE          | DOWNSCALE | AVERAGE |                               |                   |                           |
| 8.59             | 7.89      | 8.24    | 10 <sup>2</sup> <sub>18</sub> | +10.16            | .908                      |
| 18.02            | 17.20     | 17.61   | 20                            | +6.57             | .938                      |
| 28.57            | 27.15     | 27.86   | 30                            | +3.77             | .964                      |
| 39.42            | 37.81     | 38.62   | 40                            | +1.78             | .983                      |
| 49.02            | 47.54     | 48.28   | 50                            | +1.77             | .983                      |
| 59.85            | 57.67     | 58.76   | 60                            | +1.05             | .990                      |
| 68.47            | 67.64     | 68.06   | 70                            | +1.42             | .986                      |
| 76.90            | 76.71     | 76.81   | 80                            | +2.06             | .980                      |
|                  |           |         |                               |                   |                           |
|                  |           |         |                               |                   |                           |
|                  |           |         |                               |                   |                           |
|                  |           |         |                               |                   |                           |
|                  |           |         |                               |                   |                           |



MICROFIL MFD



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
EASTERN REGION

John V. Evans  
Governor

150 Shoup  
Idaho Falls, Idaho 83401  
(208) 525-7161

A. Kenneth Dunn  
Director

December 27, 1982

Robert Schelske  
321 Lincoln Street  
American Falls, ID 83211

RE: Permit No. 35-3025

Dear Mr. Schelske:

We acknowledge receipt of your statement submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department.

\_\_\_\_\_ A field examination of your system has been scheduled for \_\_\_\_\_.

If this time and date is not convenient for you, please contact this office as soon as possible.

  X   A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office.

Sincerely,

COLLEEN WRAY  
Asst. Secretary

cc: Federal Land Bank - Blackfoot

Robert Schelske  
321 Lincoln St.  
American Falls, Idaho  
83211



IDAHO DEPARTMENT OF WATER RESOURCES  
STATEHOUSE  
BOISE, IDAHO 83720

# DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 35-8025.

Name(s) of Permit Holder: Robert Schelske

Post Office Address: 321 Lincoln St.

Falls, Idaho 83211 Tel. No. 226-5837

Source of Water: Deep well

Extent of Use: ☐ Domestic \_\_\_\_\_ (number of households)

☐ Stockwater \_\_\_\_\_ (number and type of stock)

☒ Irrigation 160 (acres)

☐ Other \_\_\_\_\_

Department of Water Resources

Eastern District Office

Measuring Device: Required? ☒ Yes ☐ No Installed? ☐ Yes ☒ No

Access Port: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

5-26-82

Date

Robert Schelske

Signature of Permit Holder

May 19, 1982

RF: Permit No. 35-8025

Robert A. Schelske  
321 Lincoln St.  
American Falls, ID 83211

Dear Mr. Schelske:

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

DRT:kw  
Enclosures

cc: Ed Spencer, Federal Land Bank  
10 W. Judicial  
Blackfoot, ID 83221

## Federal Land Bank Association of Blackfoot

10 West Judicial, P O Box 10  
Blackfoot, Idaho 83221  
Telephone (208) 785-0820

RICHARD E SPENCER *Manager*



RECEIVED

May 5, 1982

MAY 7 1982

Department of Water Resources

Department of Water Resources  
Statehouse  
Boise, Idaho 83720

Re: FLB 191460-0 Robert A. Schelske

Permit No. 35-8025

Gentlemen:

We have approved a loan to Robert A. Schelske of American Falls, Idaho for the purpose of installing a sprinkler system. On March 2, 1982 he applied with the Idaho Water Resources office in Idaho Falls for a Well Permit. They reported to us that this was forwarded to your office on 4-8-82 and that it would probably be two to three weeks before approval.

We would like to close this loan as soon as possible and would appreciate knowing when this Permit is approved. We would appreciate hearing from your office. Thank you.

Yours very truly,

*Brad Buttars*

Brad Buttars  
Loan Officer

*by Joan McNeil*

BB:jm

cc: Robert A. Schelske



State of Idaho  
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

35 8025

INITIAL REVIEW BY: Ernest

APPLICATION NUMBER:

35-1025

CHECK:

- ☒ 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 Platted by: \_\_\_\_\_ Map No. \_\_\_\_\_  
☒ Yes ☐ No Other rights on same place of use. 160 shares in the Alvord -  
Springfield Canal, No groundwater in SW 9.  
☒ Yes ☐ No\* In form for advertising. \_\_\_\_\_  
☐ Yes ☒ No Final date for protests: April 5, 1982 ✓  
☐ Yes ☒ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 4-01-82 ✓  
☒ 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? \_\_\_\_\_  
3-04-82 Date of priority recommended.  
✓ Special conditions of approval or cover letter. \_\_\_\_\_

By: Ernest Carlson

Date: April 6, 1982

STATE OFFICE REVIEW:

return receipt w/ cover letter  
SLW/LO3 OIC

- ☐ See attached sheet for more information.

By: Robyn

Date: 4-21-82

RECEIVED  
APR 23 1982

Department of Water Resources

POINT OF DIVERSION AND STREAM INDEX INFORMATION

TRACT SEC TWP RGE gov't rediv. REACH  
lot (R)

IDAHO STREAM CODE INDEX

TRACT SEC TWP RGE gov't rediv. REACH  
lot (R)

IDAHO STREAM CODE INDEX

TRACT SEC TWP RGE gov't rediv. REACH  
lot (R)

IDAHO STREAM CODE INDEX

TRACT SEC TWP RGE gov't rediv. REACH  
lot (R)

IDAHO STREAM CODE INDEX

TRACT SEC TWP RGE gov't rediv. REACH  
lot (R)

IDAHO STREAM CODE INDEX

35-9025-

SCHELSKE, ROBERT A.

321 LINCOLN ST., AMERICAN FALLS, ID 83211

Source: GROUNDWATER

Date Filed: 03/04/1982

Amount: 3.20 CFS

Diversion Point: NWSW Sec 20 T 06S R 31E, BINGHAM Co.

Use: IRRIGATION (3.20 CFS) from 04/01 to 11/01

Place of Use: NESW NWSW SWSW Sec 20 T 06S R 31E FOR 160 ACRES

Diversion Means: PUMP & PIPELINE TO IRRIGATION

MICROFILMED