

No Color
Documents
In File

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT NOS. 35-07962)	
AND 35-07963 IN THE NAME OF NORMAN E)	PRELIMINARY ORDER
NEF AND SONS, INC.)	GRANTING EXTENSION OF TIME
_____)	

This matter having come before the Idaho Department of Water Resources ("Department"), as a result of the filing of requests for extension of time in which to submit proof of beneficial use of water ("proof") for the above captioned permits, the Department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On November 9, 1994, the Department issued an Order for Temporary Stay of Development and Notice of Formal Proceedings in the above captioned matter.
2. On February 13, 1995, the Department issued an order granting a stay in the development period for the permits to December 31, 1997.
3. On February 2, 1998, the Department extended the proof due date to September 1, 2000 and on April 23, 1998, extended the proof due date to October 1, 2002. The extension was conditioned that the permit holder was not authorized to conduct additional development under terms of the permits until specifically authorized to do so by the Department.
4. On August 5, 2002 and on August 20, 2002, the permit holder again filed Requests for Extension of Time in which to submit proof for permits 35-7963 and 35-7962, respectively.

CONCLUSIONS OF LAW

1. Section 42-204(1), Idaho Code, provides as follows:

In cases where the applicant is prevented from proceeding with his work by his failure to obtain necessary consent or final approval or rejection from the federal government because of the pendency of an application for right of way or other matter within the jurisdiction of the United States, or by litigation of any nature which might bring his title to said water in question, the department of water resources upon proper showing of the existence of any such condition, and being convinced that said applicant is proceeding diligently and in good faith, shall extend the time so that the amount of time lost by such delays shall be added to the

time given in the original permit for each and every action required.

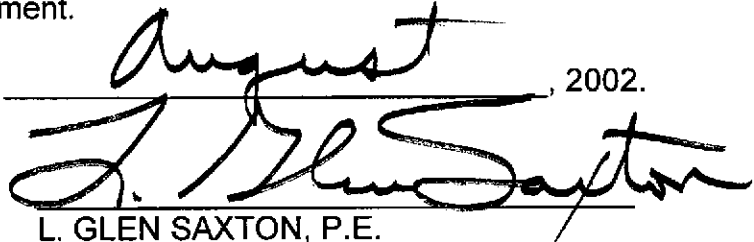
2. The Department should extend the proof due date for the permits due to delays over which the permit holder had no control.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the time within which to submit proof of beneficial use of water for the above captioned permit is extended to **October 1, 2007** as conditioned below:

1. The permit holder is not authorized to assign ownership of the permits to another party without prior approval of the Department.
2. The permit holder may not conduct additional work in development of water rights under terms of the permits until the work is specifically authorized by the Department.

Dated this 28th day of August, 2002.

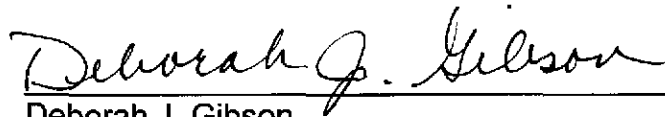


L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2002, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

NORMAN E NEFF & SONS INC
2029 S 3000 W
REXBURG ID 83440



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

RECEIVED

AUG 05 2002

REQUEST FOR EXTENSION OF TIME

AUG - 9 2002

TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

Department of Water Resources
Eastern Region

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

Permit No. 35-7963

Name(s) of Permit Holder: Norman & Net S Sons Inc

Address: 2029 S 3000W

City Rexburg

State Id Zip 83440

Telephone No. 208 356 6479

Date Proof is Due: Sept 1, 2002

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

NONE

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Project land has been in CRP program for 15 years. New CRP
program is being offered. Applicants are not sure if they will be
allowed into new program, but with farm prices + drought they plan to
enter into program. They will be notified in November as to program.

Permit holder(s) request an extension to Sept 1, 2012

David Norman for V.P. Norman & Net S Sons
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

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

SEE PRELIMINARY ORDER GRANTING EXTENSION OF TIME, dated August 28, 2002.

Signed this _____ day of _____, 20____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
INSTRUCTIONS FOR EXTENSION OF TIME REQUEST
TO SUBMIT PROOF OF BENEFICIAL USE

If the water right development authorized by your permit is not complete and you need more time to submit proof of beneficial use of water under your permit, please read the following:

Under the provisions of Section 42-204, Idaho Code, the department can extend the proof due date of your permit only once, and then only if you can demonstrate that you have been pursuing development of the permit with due diligence.

The Request for Extension of Time form requires that you indicate the extent of development that has occurred, the cost, and the reason(s) the work has not been completed. This information must be provided in enough detail to show due diligence. Examples of work performed are: well drilled, pump installed, 10 acres now irrigated, fish propagation ponds constructed, sprinkler system purchased, etc.

If no work has been accomplished, the statutes provide that the Request for Extension of Time must be denied. **Lack of financial resources, the state of the economy or personal illness usually cannot be considered adequate reasons to approve a Request for Extension of Time.**

EXCEPTIONS TO ONLY ONE EXTENSION

The proof due date for a permit that has not been developed for one of the following reasons may be granted one or more extensions of time even though no work has been accomplished:

- When there is a lack of a required consent or final approval from a federal government agency (evidence of delay must be submitted with the request), i.e. right-of-way easement or land classification such as Desert Land Entry or Carey Act.
- When litigation related to title of the water has prevented development of the permit (evidence must be submitted with the request).
- When the water project is of a large scale – storage of more than 10,000 acre-feet or diversion of more than 25,000 acre-feet in one irrigation season for an irrigation project of at least 5,000 acres.
- When the water right permit is held by the United States of America (reason for request must be submitted).

A non-refundable filing fee of \$50.00 must accompany the Request for Extension of Time form.

NOTE that in no case should a Proof of Beneficial Use form and a Request for Extension of Time form both be submitted. If your water development project is completed, then the proof of beneficial use form should be completed and returned. If the project is started but not completed, then the Request for Extension of Time form should be completed and returned in compliance with the guidelines above. If the project has not been initiated and does not fit into one of the exceptions listed above, then neither form should be returned and the permit will lapse and become of no further force nor effect.

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT NOS.)
35-07962 AND 35-07963 IN THE)
NAME OF NORMAN E. NEF AND)
SONS, INC.)
_____)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department), as a result of the filing of an application for extension of time in which to submit proof of beneficial use of water, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On October 22, 1992, the department approved a request for extension of time extending to October 1, 1997, the date for the submittal of proof of beneficial use of water (proof due date) for the permit Nos. 35-07962 and 35-07963 (permits) in the name of Norman E. Nef and Sons, Inc. (permit holder).

2. On November 9, 1994, the department issued an Order for Temporary Stay of Development and Notice of Formal Proceedings (Temporary Stay Order).

3. On February 13, 1995, the department issued an order granting a stay in the development period for the permits to December 31, 1997.

4. On September 12, 1997, the permit holder filed an application for extension of time with the department, again seeking to extend the proof due date. On February 2, 1998, the department approved the extension request, extending the proof due date to September 1, 2000, based on delay caused by the department's November 9, 1994 Temporary Stay Order.

5. The permit holder subsequently contacted the department advising that the land had been enrolled in the Conservation Reserve Program and sought a longer extension of time. The permit holder provided evidence to show that the land has been in the CRP program.

CONCLUSIONS OF LAW

1. Section 42-204, Idaho Code, authorizes the director to extend the time in which to submit the proof of beneficial use of water for delays in project development which are attributable to matters within the jurisdiction of the federal government.

2. The department should rescind its order dated February 2, 1998 which extended the proof due date to September 1, 2000 and should grant the maximum allowable time (5 years) after the last proof due date of October 1, 1997.


ORDER

IT IS THEREFORE, HEREBY ORDERED that the order of the department dated February 2, 1998 is **RESCINDED**.

IT IS FURTHER HEREBY ORDERED that the permit holder shall submit proof of beneficial use of water to the department on or before **October 1, 2002** subject to the following conditions and limitations:

1. The permit holder is not authorized to assign ownership of the permits to another party without prior approval of the department.
2. Additional work by the permit holder in development of water rights under terms of the permits is not authorized until specifically authorized by the department.

Dated this 23rd day of April, 1998.


L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF MAILING

I DO HEREBY CERTIFY that on the 23rd day of April, 1998,
a true and correct copy of the foregoing **PRELIMINARY ORDER** was
forwarded, by regular U.S. Mail, to the parties listed below:

Norman E Nef and Sons
Inc
2029 S 3000W
Rexburg ID 83440



JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT NOS.)	
35-07962 AND 35-07963 IN THE)	
NAME OF NORMAN E. NEF AND)	PRELIMINARY ORDER
SONS, INC.)	
_____)	

This matter having come before the Idaho Department of Water Resources (department), as a result of the filing of a request for extension of time in connection with each of the above captioned permits, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On May 20, 1981, the department issued Permit Nos. 35-07962 and 35-07963 (permits) in the name of Norman E. Nef and Sons, Inc. (permit holder) authorizing the diversion of groundwater for irrigation purposes in Bonneville County, Idaho. A condition of approval of the permits was that the permit holder submit proof of beneficial use of water (proof) to the department on or before May 1, 1986.
2. On October 22, 1992, the department issued an order extending the time in which to submit proof for the permits to October 1, 1997.
3. On November 9, 1994, the department issued an Order For Temporary Stay of Development and Notice of Formal Proceedings in connection with the permits.
4. On February 13, 1995, the department issued an order preventing additional development under the permits but granting an indefinite stay in the development period for the permits.
5. On July 31, 1997, the department advised the permit holder by certified mail that proof of beneficial use was due.
6. On September 12, 1997, the permit holder submitted proof of beneficial use to the department indicating that the land under the permits has been contracted in a set aside program.
7. On November 17, 1997, the department corresponded with the permit holder seeking supporting information to show that the land was in a set aside program. The permit holder did not respond and did not submit the requested information.

CONCLUSIONS OF LAW

1. Section 42-204(1), Idaho Code, provides in pertinent part as follows:

In cases where the applicant is prevented from proceeding with his work ... because of the pendency of an application for right of way or other matter within the jurisdiction of the United States, ... the department of water resources upon proper showing of the existence of any such condition, and being convinced that said applicant is proceeding diligently and in good faith, shall extend the time so that the amount of time lost by such delays shall be added to the time given in the original permit for each and every action required.

2. The permit holder has not provided the requested information to the department to show that the permit holder's land is enrolled in a federal land set aside program and hence qualifies for an additional extension of time for that reason.

3. The permit holder has, however, been prevent from developing the permits subsequent to the department's issuance of its November 9, 1994 Order For Temporary Stay of Development and Notice of Formal Proceedings.

4. The department should grant the requests for extension of time for the period of time the permit holder has been delayed by the department's orders beginning on November 9, 1994 to the proof due date of October 1, 1997.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the requests for extension of time in which to submit proof of beneficial use of water for Permit Nos. 35-07962 and 35-07962 are **APPROVED**.

IT IS FURTHER ORDERED that the permit holder shall submit proof of beneficial use of water to the department on or before **September 1, 2000**.

Dated this 2nd day of February, 1998.




L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF MAILING

I DO HEREBY CERTIFY that on the 2nd day of February, 1998, a true and correct copy of the foregoing **PRELIMINARY ORDER** was forwarded, by regular U.S. Mail, to the parties listed below:

Norman E Nef and Sons
Inc
2029 S 3000 W
Rexburg ID 83440



JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 12 1997

REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

Department of Water Resources

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

Permit No. 175-12963

Name(s) of Permit Holder: NORMAN E NEF & SONS INC

Mailing Address: 9029 S 3000 W Rexburg, ID 83440

Date Proof is Due: 1 OCT 1997 Telephone No. 208-856-6479

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

None

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Because of the Holding Order Dated 13 Feb. 1995 This land
has been in CRP. We have re-signed it and it has
been accepted for another 10 years - 2007

Permit holder(s) request an extension to June, 19 2008

FEE: \$50.00

Norman E Neff & Sons Inc
Norman E Neff Pres.
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to September 1, 2000.

MICROFILMED

FEB 11 1998

Signed this 2nd day of February, 19 98

A. Glen Saxton
Chief Water Allocation Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NOS.)
35-07962 AND 35-07963 IN THE)
NAME OF NORMAN E. NEF AND)
SONS, INC.)

ORDER

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

FINDINGS OF FACT

1. On November 9, 1994, the Director of the department issued an Order for Temporary Stay of Development and Notice of Formal Proceedings (order) in connection with certain permits within the Eastern Snake River Plain Aquifer for which proof of beneficial use of water has not been filed with the department.

2. On February 1, 1995, the holder of Permit Nos. 35-07962 and 35-07963 (permit holder) filed a response to the order with the Director in connection with Condition 2.B.2) of the order requesting an indefinite stay in the development period for the permits.

3. The permit holder has made some investment in diversion works but wishes to delay further development, since the land is enrolled in the CPR land set-aside program.

CONCLUSIONS OF LAW

1. The permit holder has provided sufficient justification for the Director to authorize an indefinite stay in the development period for the permits.

2. The Director should authorize an indefinite stay in the development period with certain conditions.

ORDER

IT IS THEREFORE, HEREBY ORDERED that an indefinite stay in the development period for the above captioned permits is GRANTED subject to the following conditions and limitations:

1. Additional work by the permit holder in developing a water right under terms of the permits is not authorized until the department specifically authorizes resumption of work.

MAR 22 1995

2. The permit holder is not authorized to assign ownership of the permits to another party without prior approval of the department.

3. The department may rescind or modify the indefinite stay hereby granted if the Eastern Snake River Plain moratorium is modified or rescinded.

4. This order does not grant a stay in development beyond December 31, 1997.

Dated this 13TH day of FEBRUARY, 1995.



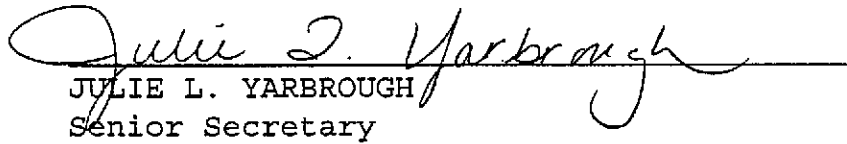
R. KEITH HIGGINSON
Director

RECEIVED
MAR 22 1995

CERTIFICATE OF MAILING

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

Norman E. Nef & Sons
2029 S 3000 W
Rexburg, ID 83440


JULIE L. YARBROUGH
Senior Secretary

RECEIVED
MAR 2 2 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

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

**ORDER FOR TEMPORARY
STAY OF DEVELOPMENT AND
NOTICE OF FORMAL PROCEEDINGS**

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

FINDING OF FACTS

1. On May 15, 1992, the Director issued an order establishing a moratorium on the processing and approval of applications for permit to appropriate water from all surface and ground water sources upstream from the USGS Gauge on the Snake River near Weiser, Idaho. On April 30, 1993, the Director issued an Amended Moratorium Order covering the Eastern Snake River Plain Aquifer. The 1994 session of the Idaho Legislature enacted section 42-1806, Idaho Code, requiring that the moratorium relating to the the Eastern Snake River Plain area shall continue in effect until December 31, 1997.

2. The state of Idaho has experienced seven (7) recent years of drought conditions resulting in lowered ground water levels and decreased discharge from surface water sources. The Idaho Legislature has authorized a study to examine the implications of these changes and the relationships between surface and ground water resources. The study is expected to be completed in approximately two (2) years.

3. Delivery calls have been made by the holders of senior-priority surface and ground water rights against the holders of junior-priority ground water rights from the Eastern Snake Plain Aquifer which could result in the curtailment of diversion and use of water under junior-priority ground water rights including rights which might otherwise be developed under permits which are the subject of this order and notice.

MAR 22 1995

CONCLUSIONS OF LAW

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

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

...

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

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

02. PERMITS

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

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

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

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

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

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

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

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

REC 2 2 1995

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

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

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

ORDER

IT IS THEREFORE, HEREBY ORDERED as follows:

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

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

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

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

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

MAR 22 1995

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

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

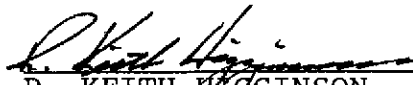
3. Failure to submit either proof of beneficial use or a satisfactory response shall result in cancellation of the permit without further notice.

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

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

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

Dated this 9TH day of NOVEMBER, 1994.


R. KEITH HIGGINSON
Director

MICROFILMED
MAR 22 1995

RECEIVED
SEP 30 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

REQUEST FOR EXTENSION OF TIME

**TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT**

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

Permit No. 35-07962

Name(s) of Permit Holder: Norman E Nef and Sons INC

Mailing Address: 2029 S 3000 W Rexburg, Id 83440

Date Proof is Due 1 October 1992 Telephone No. 208-356-6479

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

None as of now. We did have a 600 HP motor and pump, but when it became apparent
that we were not going to be able to utilize it at this time, we have since sold it.

Costing \$ 13,500.00

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

The land we had planned on developing was accepted into the CRP program for 10 years.

Due to the cost of developing, and being unable to use it at this time, we felt it

would be unwise to leave our money tied up in to a non-usable hole for the time being.

However we do not wish to lose our permit if possible to retain it.

Permit holder(s) request an extension to June 1999.

FEE: \$15.00

(Signature)

Norman E Nef President
*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED
and the time within which to submit proof of beneficial use is
extended to October 1, 1997.

IT IS FURTHER ORDERED that the permit holder shall not assign the
permit without prior approval of the Director.

Signed this 22 day October, 19 92

J. Glen Sayton
Chief, Water Allocation Bureau

OCT 23 1992

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF EVALUATING)	
WHETHER DEVELOPMENT OF 20,000 ACRES)	
OF IRRIGATED LAND WOULD)	MEMORANDUM DECISION
CAUSE A SIGNIFICANT REDUCTION)	& ORDER
IN TRUST WATER AVAILABLE FOR)	
POWER PRODUCTION)	

This matter having come before the Director of the Idaho Department of Water Resources (IDWR) as a result of the Swan Falls water right settlement, the Director finds, concludes and orders as follows:

FINDINGS OF FACT

1. "Trust water" is that portion of an unsubordinated water right used for hydropower generation purposes which is in excess of a minimum stream flow established by state action.

2. Section 42-203C(1), Idaho Code, provides as follows:

If an applicant intends to appropriate water which is held in trust by the state of Idaho pursuant to subsection (5) of Section 42-203B, Idaho Code, the director shall consider, prior to approving the application, the criteria established in Section 42-203A, Idaho Code, and whether the proposed use, individually or cumulatively with other existing uses, or uses reasonably likely to exist within twelve (12) months of the proposed use, would significantly reduce the amount of trust water available to the holder of the water right used for power production that is defined by agreement pursuant to subsection (5) of Section 42-203B, Idaho Code, and, if so, whether the proposed reduction is in the public interest. (emphasis added).

3. The IDWR conducted a study to estimate the reduction in hydropower generation which would result from the development of the first 20,000 acres of newly irrigated land (new development) authorized under the Swan Falls settlement. The study included several steps as follows:

- a) Identify the location of the potential new development and the related water sources;
- b) Estimate the net depletion resulting from new irrigation development of these lands;

INDEXED

FEB 14 1990

c) Route the reduced flows through the aquifer and surface flow systems to the affected power plants;

d) Compute the loss in potential generation at each plant resulting from the reduced flows.

4. Step a) in Finding of Fact No. 3. was accomplished by plotting land location as shown by the water right applications and permits being considered. The 20,000 acres are generally located as follows:

Acreage	General Location	Water Source
9,885	SNAKE RIVER PLAIN	SNAKE PLAIN AQUIFER
5,315	Valleys adjacent to the Plain	GW trib. to Snake Plain Modeled area
4,800	Scattered areas	GW and surface water from areas not trib. to Snake Plain Modeled area

20,000 acres

5. Step b) in Finding of Fact No. 3. was accomplished using simulation models which have previously established the "base" flows conditions.

6. Step c) in Finding of Fact No. 3. involved a groundwater component and a surface water component. Withdrawals from the Snake Plain aquifer and from the tributary valleys affect the water in storage in the aquifer. Storage changes alter the gradients which eventually reduce aquifer discharges. If a new withdrawal is continued long enough, the aquifer outflows will be reduced by an amount approaching the magnitude of the withdrawal and resulting depletion.

7. The IDWR digital model of the Snake Plain aquifer (groundwater model) was used to simulate this process and predict the outflow reductions after 15, 30, 45 and 60 years of annual withdrawals by new irrigation development at the assumed locations. The results of the groundwater model run indicate that aquifer outflows would be reduced by the following percentages of the annual depletion:

Year	Outflow Reduction (Acre Feet)	Percent of Annual depletion (%)
15	4,600	23
30	9,000	45
45	14,700	73
60	15,200	76

8. Significant reduction should be determined by evaluating the depletion when its effect on the river is fully felt. Incremental change in the percent of annual depletion is very small sixty (60) years after the first

FEB 14 1990

depletion. The percent of annual depletion in the 60th year adequately represents the long-term effect of aquifer depletions on Snake River flows.

9. The groundwater model predicts that approximately eighty percent (80%) of the reduction in river flow would occur in the Milner to King Hill reach with the remainder (20%) occurring between Blackfoot and Minidoka Dam.

10. The IDWR routed the reduced flows through the aquifer and river system using a digital model of the Snake River system (river model). This model and its computed base conditions are described in "Stream Flows in the Snake River Basin, 1985 Conditions of Use and Management" Open-File Report, September 1986. The groundwater depletion was input to the river model assuming uniform depletions each month.

11. The river model computes flows at numerous points in the Snake Plain Basin including sites at, or near to, the power plants. These computed flows were used to compute power generation and were compared to similarly computed generation for base flow conditions.

12. The annual reduction in hydropower generation 60 years after the development of 20,000 new acres is estimated to be approximately 2.8 million KWH in power facilities upstream from the Murphy gage on the Snake River.

13. In cooperation with staff of the Idaho Public Utilities Commission (IPUC), IDWR determined the rate impact of lost hydropower generation caused by the new development in the trust water area of the Snake River basin assuming that new thermal generation capacity is obtained to replace the lost hydropower generation.

14. The cost impact to the rate base of replacing the lost hydropower generation with thermal generation capacity must be considered in the evaluation of any significant reduction in hydropower generation, but the statutes and Water Appropriation rules do not require consideration of impacts to the rate base resulting from other aspects of the new development such as new pumping loads.

15. Step d) of Finding of Fact No. 3. was determined using an IPUC power supply model (power model) associated with the rate making process. Data from the 1966-1985 period was used to establish a base flow. The depletions were then input to the power model and the difference in ability to meet firm load requirements and to make economic spot market sales and purchases was determined. A comparison of the output of the power model run to base conditions produced increased total IPCO power supply costs due to Snake River depletions.

16. The power model shows that the impact of reduced hydropower generation at IPCO's facilities on the Snake River above the Hell's Canyon complex as a result of the development of 20,000 new acres will result in an average increase in IPCO's power costs of \$159,553 per year which is approximately five one hundredths of one percent (0.05%).

17. During certain periods of each year there generally is unappropriated water in the Snake River. During these periods, a new

RECEIVED
FEB 14 1990

appropriation of water has no effect upon IPCO's water rights or ability to generate hydropower.

CONCLUSIONS OF LAW

1. The development of 20,000 new acres which results in an average increase in power rates of five one hundredths of one percent (0.05%) will not cumulatively cause a significant reduction in IPCO's hydropower generation capability at hydropower generation facilities upstream from the Hells Canyon complex on the Snake River.

2. The hydropower generating facilities of IPCO which are affected by reductions in river flow represent approximately 25% of IPCO's hydropower generating capacity as compared to the Hells Canyon complex facilities which represent approximately 75% of IPCO's hydropower generating capacity. The Hells Canyon facilities are subordinated to later in time consumptive uses and are not properly included as a part of the evaluation of significant reduction. (Water Appropriation Rule 5,3,1,4.).

3. The reduction in IPCO's hydropower generation capability caused by new development is such that the timing of the reduction, either on an annual basis or a long term basis, need not be considered by IDWR. The computer model studies show that it would take approximately 15 years for aquifer outflow to the Snake River to be reduced 23% of net new withdrawal. By the 60th year outflow would be reduced by 76% of the new depletion. Other factors present in a dynamic system as large as the Snake Plain aquifer will have more effect on the discharge of the Snake River than decreases caused by this amount of new development.

4. Staff of the IPUC advises that the effect of reduced hydropower production on "unit cost" is not a proper factor to consider when analyzing the effect of reduced flows to hydropower generating facilities. IPUC generally considers hydropower facilities to have zero unit or production costs. Thermal facilities on the other hand do have associated unit costs such as the cost of fuel.

5. The IDWR is unaware of any contract or regulatory permits including FERC licenses which require IPCO to produce or to maintain capability to produce hydropower at specific levels.

6. Approval of applications for permit or permits which propose the development of the first 20,000 acres of newly irrigated land with water from the Snake Plain aquifer will not either individually or cumulatively cause a significant reduction in the water supply available to the holder of a water right used for power production purposes.

7. The development proposed by Permit No. 35-7963 will not either individually or cumulatively cause a significant reduction in the water supply available to the holder of a water right used for power production purposes.

8. Permit No. 35-7963 should be continued without special conditions related to Section 42-203C(2), Idaho Code.

Microfilmed
FEB 14 1980

ORDER

It is, therefore, hereby ORDERED that Permit No. 35-7963 is hereby continued subject to the following conditions:

1. Proof of construction of works and application of water to beneficial use shall be submitted to IDWR on or before October 1, 1992.
2. The use of trust water authorized by this right is subject to review 20 years after the date of this order to determine availability of trust water and to reevaluate the public interest.
3. The construction of diversion works must be commenced within one (1) year of the date of this order and shall proceed diligently and uninterruptedly to completion unless temporarily interrupted by circumstances over which the permit holder has no control.
4. Diversion and use of trust water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
5. The Director retains jurisdiction of this right to change, add or remove any requirement as determined to be appropriate.
6. All conditions of approval contained in Permit No. 35-7963 are incorporated into and made part of this order.

Dated this 5TH day of FEBRUARY, 1990.


R. KEITH HIGGINSON
Director

FEB 14 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof
of beneficial use for a water right permit

For Office Use Only
\$15 FEE Received by K. Young
Date 6/23/89
Receipt # C-00 7607

RECEIVED
JUN 15 1989

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

Permit No. 35-7963

Name(s) of Permit Holder: Norman E Nef

Post Office Address: 2029 S 3000 W

Rexburg, Id 83440

Telephone No. (208) 356-6479

Date Proof Is Due: 1 July 1989

Describe what work has been completed toward the development of this water right: None
(This must be filled out! If no work has been completed, show "none".)

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Due to the uncertainty of the Swan Falls litigation, we were unable to proceed as planned. We had frost two years in a row which froze part of our crop of potatoes in the ground and made many that we had dug unsaleable. Last years drought cut our production to a level where it was not possible to proceed with our drilling plans.

Permit holder(s) request an extension to 1 JULY 1994, 19____.
(1 yr. minimum)

Norman E Nef
(Signature)

FEE: \$15.00

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

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time in which to submit proof of beneficial use is extended to October 1, 1992.

FEB 14 1990

Signed this 30th day of January, 1990.

A. Glen Saxton
Chief, Water Allocation Bureau

Proof of Publication

The Post-Register

State of Idaho, }
County of Bonneville } ss

I, Ted Delezene, first being duly sworn, depose and say: That I am the
..... Foreman of The Post Company, a corporation of Idaho Falls, Bonneville
County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except
Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in
the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903,
such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been
published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and
said Post-Register having been published continuously and uninterruptedly from the date of such consolidation,
up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in
said Post-Register for two consecutive weeks, first publication having been made
on the 4th day of January , 19. 90 ., last publication
having been made on the 11th day of January , 19.90 ., and that the
said notice was published in the regular and entire issue of said paper on the respective dates of publication, and
that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this ... 17th. day of January , 19. 90 ..

Notary Public

My commission expires .. September 30, , 19.94 ..

NOTICE OF EXISTING WATER RIGHT PERMIT

Presently recorded as follows:

35-07962

NORMAN E. NEF & SONS INC.

2029 S. 3000 W.

REXBURG, ID 83440

Source: GROUNDWATER

Diversion Pt: SWNE Sec 33 T 03N R 34E

Use: IRRIGATION (12.200 CFS)

Total Diversion: (12.200 CFS)

Priority: 6/01/1981

In: T03N R34E S28 SESE

S33 NENE NWNE SWNE SENE NESW

NWSW SWSW SESW NESE NWSE SWSE

SESE

S34 NENW NWNW SWNW

610.0 ACRES TOTAL

35-07963

NORMAN E. NEF & SONS INC.

2029 S. 3000 W.

REXBURG, ID 83440

Source: GROUNDWATER

Diversion Pt: SWNE Sec 28 T 03N R 34E

Use: IRRIGATION (6.400 CFS)

Total Diversion: (6.400 CFS)

Priority: 6/01/1981

In: T03N R34E S28 NENE NWNE SWNE

SENE NESE NWSE SWSE SESE

S33 NWNE

320.0 ACRES TOTAL

Permits not developed by July 1, 1985,
are being reprocessed in compliance with
Section 42-203D, Idaho Code. Protests
against the continuance of permits must be
filled with the Director, Dept. of Water
Resources, Statehouse Mail, Boise, Idaho
83720 on or before JANUARY 22, 1990.
Protests must be based on the public interest
criteria of Section 42-203C, Idaho Code,
only.

R. KEITH HIGGINSON, Director
Published: January 4, 11, 1990

UNRECORDED

FEB 14 1990

For Office Use Only
Fee Received <u>\$25.00</u>
Date <u>5-28-86</u>
Receipt # <u>39653</u>

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit
proof of beneficial use on a water right permit

RECEIVED
MAY 28 1986
Department of Water Resources
Eastern District Office

RECEIVED
JUN 2 1986

Department of Water Resources

Norman E Nef and Sons Inc

#1, Rexburg, id 83440

(Name)

(Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Water of the State of Idaho No. 35-7963.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before May, 19 86.

That he has heretofore performed the following work described under said permit: None
(This must be filled out! If no work has been completed put none.)

Costing \$

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit:
This parcel of land was being sold for development to M. Bruce Spaulding. He was
unable to do the developping he had planned on, so therefore turned the land back to me.
Norman E Nef and Sons Inc has not had the time or money to get the development done
as planned as yet either, so therefore request an extension of time on this permit.

*See Attached Page

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to 30 May, 19 91.
(1 yr. minimum, 5 yrs. maximum)

NOTE
AS OF JULY 1, 1980,
THERE IS A \$15.00
CHARGE FOR REQUESTS
FOR EXTENSION OF
TIME.

Norman E Nef Pres.
(Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to July 1, 1989.

IT IS FURTHER ORDERED that the permit be REINSTATED and the priority advanced to June 1, 1981, pursuant to Sec. 42-218a, Idaho Code.

Signed this 21st day of July, 19 86.

MICROFILMED

J. Glen Sayton
Chief, Operations Bureau

Bruce Spalding and Associates tried to form a corporation to farm the land but several problems caused desolution of the corporation and land was returned to Mr. Nef. When Mr. Nef took possession of the land in the Spring of 1985 the Swan Falls situation and farm market prices made development impossible.

MICROFILMED

WATER RIGHT SUMMARY

<u>ACTION</u>	<u>RIGHT NO.</u>	<u>NAME</u>	<u>AMOUNT CFS</u>
Original Permit	35-7963	Spaulding, M. Bruce	6.4
Full Assignment	35-7963	Norman E. Nef & Sons Inc.	6.4

MICROFILMED

RECEIVED

MAY 28 1986

State of Idaho
Department of Water Resources

RECEIVED

JUN 6 1986

Department of Water Resources
Eastern District Office

ASSIGNMENT OF PERMIT

Department of Water Resources

I, M. Bruce Spaulding, hereby assign to Norman E Nef and Sons Inc

of R#1, Rexburg, Id 83440

Address

CHECK ONE



All my right, title, and interest in and to Permit No. 35-7962
to appropriate the public waters of the State of Idaho. 35-7963



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

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

Made this 27th day of May, 19 86.

M. Bruce Spaulding
Permit Holder

Jean A. Spaulding
Spouse of Permit Holder

State of Idaho IDAHO)
County of JEFFERSON) ss.

On this 27th day of May, 19 86, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

seal

Yprien R. Drift
Notary Public residing at
KIRBY, IDAHO 83442

My commission expires:
JULY 8, 1991

MICROFILMED

ok

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 M. Bruce Spaulding Phone 356-5345

Post office address Rt. #1, Box 366, Rexburg, Idaho 83440

2. Source of water supply ground water which is a tributary of _____

3. Location of point of diversion is SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 28 Township 3N

Range 34E B.M. Bonneville County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 6.40 for Irrigation purposes from Apr. 1 to Nov. 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. 6.40 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. well to center pivot

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 24 inches; proposed depth of well is 800 feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 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 _____

(4) 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: _____

RECEIVED

[illegible]

320

None

Norman E. Neft

Norman E. Neff

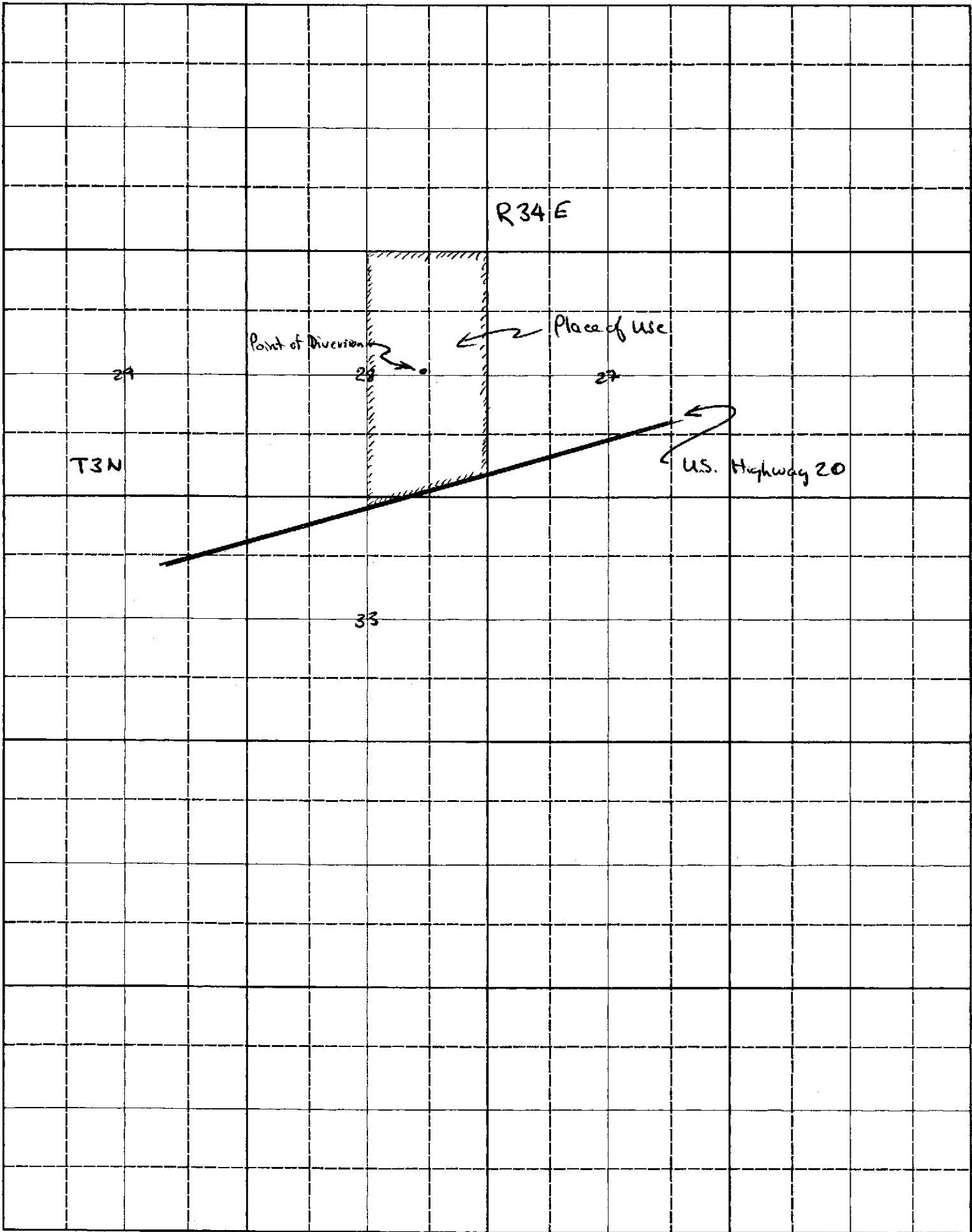
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the

applicant to make this filing Quad "S" Development, a partnership, has an earnest

money receipt and offer to purchase land from Mr. Neff

marks

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



Scale: 2 inches equal 1 mile.

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

M. Bruce Spaulding
(Applicant)
1/4 partner in Quad "S" Development

RECEIVED

A. Alan Saylor
Chief, Operations Bureau

Witness my hand this 30th day of May, 1981.

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. The issuance of this permit in no way grants any right-of-way or easement across the land of another.

d. Other:

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.

for May 1, 19 86.

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

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

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 35-7963, and said application is hereby approved.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Recommended for approval denial by me

Hearing held by _____ Date _____

Copies of protests forwarded by _____

Protests filed by: me

Publication approved me Date 4/30/81

Publication dates 4/02 & 4/09/81

Published in Post Register

Publication prepared by me Date 3/27/81

Received by KS Date 3-23-81 97-153-1243

Preliminary check by _____ Fee \$ 165.00

Received by KC/lor Date 5/5/81 Time 1545

Proposed Priority 5/5/81

#17117 and #17133

Augment funds rec'd.

Proof of Publication

The Post-Register

State of Idaho,
County of Bonneville } ss.

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers having been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eighty (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 2nd day of April, 1981, last publication having been made on the 9th day of April, 1981, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this 13th day of April, 1981.

Dean R. Nielsen
Notary Public

My commission expires September 30, 1984.

B10, 1M,

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following

applications have been submitted for permit to appropriate the public waters of the State of Idaho:

25-7248
HARRIS, ROBERT D.
RT. 2 BOX 120, RIGBY, ID 83442
Source: SPRING tributary to MUD SPRING CREEK
Date Filed: 03/25/1981
Amount: 2.70 CFS
Diversion Point: NWNE Sec 08 T 02N R 41E, BONNEVILLE Co.
Use: IRRIGATION (2.70 CFS) from 04/01 to 11/01
Place of Use: NENE NWNE SWNE SENE NESE sec 08 T 02N R 41E FOR 135 ACRES.
Diversion Means: PUMP & PIPELINE.

35-7962
SPAULDING, M. BRUCE
RT. 1 BOX 366, REXBURG, ID 83440
Source: GROUNDWATER
Date Filed: 03/23/1981
Amount: 12.20 CFS
Diversion Point: SWNE Sec 33 T 03N R 34E, BONNEVILLE Co.
Use: IRRIGATION (12.20 CFS) from 04/01 to 11/01
Place of Use: NENE NWNE SWNE SENE NESW NWSW SWSW SESE NWSE SWSE SESE Sec 33 T 03N R 34E NENW NWNW SWNW Sec 34 T 03N R 34E SESE Sec 28 T 03N R 34E FOR 610 ACRES.
Diversion Means: WELL & CENTER PIVOT.

35-7963
SPAULDING, M. BRUCE
RT. 1 BOX 366, REXBURG, ID 83440
Source: GROUNDWATER
Date Filed: 03/23/1981
Amount: 6.40 CFS
Diversion Point: SWNE Sec 28 T 03N R 34E, BONNEVILLE Co.
Use: IRRIGATION (6.40 CFS) from 04/01 to 11/01
Place of Use: NENE NWNE SWNE SENE NESE NWSE SWSE SESE Sec 28 T 03N R 34E NWNE Sec 33 T 03N R 34E FOR 320 ACRES.
Diversion Means: WELL & CENTER PIVOT.

If issued, the permit(s) will be subject 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 83401 on or before APRIL 20, 1981.

C. STEPHEN ALLRED
Director

Published: April 2, 9, 1981

RECEIVED

APR 15 1981

Department of Water Resources
Eastern District Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 28, 2002

NORMAN E NEFF & SONS INC
2029 S 3000 W
REXBURG ID 83440

RE: PERMIT NO. 35-7962 & 35-7963

Dear Permit Holder:

I have enclosed a copy of a Preliminary Order Granting Extension of Time (order) and copies of the approved requests for extension of time submitted in connection with the above referenced permits. The order extends the time within which to submit proof of beneficial use to **October 1, 2007**. Please note that the department granted the extensions based upon "delays over which the permit holder had no control" and that there is a stay of development for these permits.

The Department of Water Resources (the department) has issued the enclosed preliminary order, pursuant to Section 67-5243, Idaho Code. This Preliminary Order can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

Section 42-248, Idaho Code requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact this office or any regional office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

Please contact the department, if you have any questions regarding this matter.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR - Regional Office

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

June 30, 2002

NORMAN E NEF & SONS INC
2029 S 3000 W
REXBURG, ID 83440

PROOF DUE NOTICE

RE: PERMIT NO. 35-7963

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before September 01, 2002. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

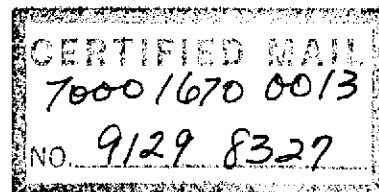
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental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

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

Sincerely,

Deborah J. Gibson, Admin. Asst.
Water Allocation Bureau

Enclosures





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

April 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RE: In the matter of Application for Permit Nos. 35-07962 and 35-07963 in the name of Norman E. Nef and Sons

Dear Interested Parties:

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Sincerely,



L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

c: IDWR - Region

CRP-1
(01-30-97)U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

CONSERVATION RESERVE PROGRAM CONTRACT

7. COUNTY OFFICE ADDRESS AND PHONE NO. (area code)

BONNEVILLE COUNTY FSA OFFICE
P O BOX 1893
IDAHO FALLS, IDAHO 83403-1893
(208) 522-62501. ST. & CO. CODE & C/D
16 0192. SIGN-UP NUMBER
153. CONTRACT NUMBER
3904. ACRES FOR ENROLLMENT
518.95. FARM NUMBER
5706. TRACT NUMBER(S)
791

8. OFFER (Select one)

STANDARD

9. CONTRACT PERIOD

FROM (M/D/Y)

TO (M/D/Y)

ENVIRONMENTAL PRIORITY

10-01-97

09-30-2007

THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, or tenants (who may be referred to as "Owner", "Operator", and "Tenant", respectively) on the farm identified above. The undersigned person or persons may hereafter collectively be referred to as "the Participant." The Participant agrees to place the designated acreage into the Conservation Reserve Program ("CRP") for the stipulated contract period from the date the Contract is executed by the CCC or other use set by CCC. The Participant also agrees to implement on such designated acreage the Conservation Plan developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant and CCC agree to comply with the terms and conditions contained in this Contract including the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, the Participant acknowledges that a copy of the Appendix for the applicable sign-up period has been provided to such person. Such person also agrees to pay such liquidated damages in an amount specified in the Appendix if the Participant withdraws prior to CCC acceptance or rejection. The terms and conditions of this contract are contained in this Form CRP-1 and in the CRP-1 Appendix and any addendum thereto. BY SIGNING THIS CONTRACT PRODUCERS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: CRP-1; CRP-1 Appendix and any addendum thereto; CRP-2; and if applicable, CRP-15 and CRP-1 Continuation.

10. OFFER FOR PERMISSION TO ALLEY CROPPING

In order to participate in CRP under CP19, Alley Cropping, I/we submit an offer of \$ 34.29 per acre reduction, from the amount specified in item 11A, in the annual rental payments for permission to produce agricultural commodities on eligible acres in accordance with the provisions for alley cropping set out in the applicable regulations. I/we understand that for each year of the CRP contract the annual rental payment will be reduced by the amount agreed to above, which reduction must be a reduction of at least 50 percent in the annual rental payment.

11A. Rental Rate Per Acre \$ 34.29B. Annual Contract Payment \$ 17,793.08C. First Year Payment \$
(Item 11C applicable only to continuous signup
when the first year payment is prorated.)

12. Identification of CRP Land

A. Tract No.	B. Field No.	C. Practice	D. Acres	E. Total C/S
791	all	CP-10	473.7	
791	all	CP-1	45.2	

13. OWNERS, OPERATORS, AND TENANTS

A. OPERATOR NAME AND ADDRESS

NORMAN NEF & SON INC.
2029 S 3000 W
REXBURG, IDAHO 83440-4038

SOCIAL SECURITY NUMBER

82 0315183

SIGNATURE NORMAN NEF & SON INC. DATE

100 %

BY:

Norman Nef & Son

MARCH 19, 1997

B. OWNER NAME AND ADDRESS

SOCIAL SECURITY NUMBER

SIGNATURE

DATE

%

C. NAME AND ADDRESS

SOCIAL SECURITY NUMBER

SIGNATURE

DATE

%

14. CCC USE ONLY - Payments
according to the shares are
approved.

SIGNATURE OF CCC REPRESENTATIVE

DATE

William H. Taylor

10 Sept 97

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985, (Pub. L. 99-198), as amended, and regulations promulgated at 7 CFR PART 1410 and the Internal Revenue Code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program Contract, to assist in determining eligibility, and to determine the correct parties to the contract. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in determination of ineligibility for certain program benefits and other financial assistance administered by USDA agency. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.

Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 4 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIA, OMB No. 0560-0125, STOP 7630, Washington, D.C. 20250-7630. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or disability.

MAY 08 1997

ORIGINAL - COUNTY OFFICE COPY

To: File Nos. 35-07962 & 35-07963 ✓
From: Julie L. Yarbrough
Subject: Proof Due Date / Extension of Time
Date: April 10, 1998

MEMORANDUM

I visited with the permit holder (Norman Nef) in my office yesterday to discuss the extensions of time granted February 2, 1998, for the above referenced permits. The permit holder was concerned that the department did not grant the extensions for the maximum length (5 years) since the property in question is in the CRP Program. I explained that the copies of the CRP Contract, which the department requested the permit holder provide, were never received, therefore the department granted the extensions based on the information on file. The permit holder stated that the CRP Contract was faxed and mailed to the department, however, we have no record of ever receiving the document. The permit holder said he would send another copy of the contract as soon as possible and inquired if the department would reconsider the length of time granted on the extensions and extend the dates. I informed him that I would need to speak to Glen Saxton regarding the issuance of an order extending the proof due dates once the CRP documentation is submitted.

MICROFILMED

MAY 0 8 1998

RECEIVED

FEB 12 1998

Department of Water Resources

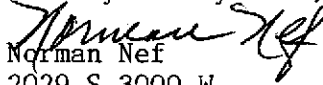
9 February 1998

Department of Water Resources
1301 North Orchard Street
P.O. Box 83720
Boise, Id 83720

Julie L Yarbrough

I received your letter dated 2 February 1998 with an extension concerning water permit Nos. 35-07962 and 35-07963. I appreciate your approval of extending the time in which we need to complete work on these permits. However I am confused that you state that I did not respond to your request for information to show this land was in a set aside program. It was mentioned twice that I had not responded. I am sending this information once again that was sent to you on the 21 November 1998. I wondered if this was the reason that extension was given to 1 September 2000 instead of to the end of the CRP contract in 2007. We are very desirous of not losing these permits but also cannot justify the expense of putting in this system and not being able to use it until the year 2008. With the cost of power going up and the cost of machinery, the uncertainty of markets, etc, it is not feasible to have a system such as we would have to have just setting there idle for that many years and not getting a return for our investment. But as I have stated we do not want to lose these permits. Therefore I would appreciate whatever help you can to enlighten us in this matter. I do appreciate your time and effort in this help.

Thank you very much,


Norman Nef
2029 S 3000 W
Rexburg, ID 83440

MICROFILMED

MAY 08 1998



United States
Department of
Agriculture

Farm
Service
Agency

Bonneville County FSA Office
1120 Lincoln, Box 1893
Idaho Falls, ID 83403
PHONE: (208) 622-6250
FAX: (208) 622-0280

November 21, 1997

Department of Water Resources
1301 North Orchard Street
PO Box 83720
Boise, Idaho 83720

Julie L Yarbrough:

Mr. Norman Nef brought the enclosed letters into our office asking that we respond to your letter dated November 17, 1997.

I have enclosed two documents showing the date the acreage in question was entered into the Conservation Reserve Program (CRP). One is a copy of the actual contract and the other is the printout after the contract is entered into the system. Hopefully this will be sufficient to complete your files.

Should you have any questions concerning this matter, please contact this office at: (208) 522-6250

Thank you.

Terri S. Wood
Program Assistant

CC: Norman Nef & Sons, Inc.

MICROFILMED
MAY 08 1998

FAX MESSAGE BONNEVILLE COUNTY FSA IDAHO FALLS, IDAHO	DATE: NOVEMBER 21, 1997
	MESSAGE NUMBER: Pages: 6

TO:	ADDRESSEE NAME: DEPARTMENT OF WATER RESOURCES ATTN: JULIE YARBROUGH
FROM:	SENDER NAME: TERRI S WOOD PHONE NUMBER: (208) 522-6250 FAX (208) 522-0280
SUBJECT:	NORMAN NEF & SONS INC CRP CONTRACT.

MICROFILMED
MAY 08 1998



United States
Department of
Agriculture

Farm
Service
Agency

Bonneville County FSA Office
1120 Lincoln, Box 1893
Idaho Falls, ID 83403
PHONE: (208) 522-6250
FAX: (208) 522-0280

CRP-23
(02-14-97)

May 23, 1997

NOTICE REGARDING ACCEPTED CRP OFFERS

Dear Mr. Nef:

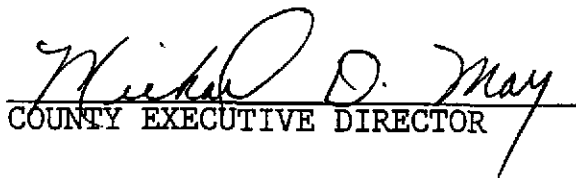
This notice is to inform you that your offer under 1998 Conservation Reserve Program (CRP) has been accepted for approval by the National Office.

The Natural Resources Conservation Service (NRCS) must develop a plan, approved by the Conservation District, and signed by all signatories on the contract to participate in the CRP. So that we may continue to process your offer, you should continue to work with NRCS to obtain the required plan on the acreage which is subject to the offer. Your offer cannot be approved by the Bonneville County Committee without an approved conservation plan.

Practices to be carried out under CRP may be started with the understanding that cost-share payments will not be made if the practice is not included in the approved conservation plan.

You have 30 days from the date of this letter to notify this office of whether you want your offer approved to participate in the CRP. Notification must be done in writing. If we do not hear from you within the 30-day period, we will reject your offer and assess liquidated damages. Liquidated damages will also be assessed if you decide not to participate. Damages will equal 25 percent of your offer rate times the number of acres offered for CRP.

Sincerely,


COUNTY EXECUTIVE DIRECTOR

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or disability.

RECEIVED
MAY 08 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NOS.)	
35-07962 AND 35-07963 IN THE)	
NAME OF NORMAN E. NEF AND)	PRELIMINARY ORDER
SONS, INC.)	
_____)	

This matter having come before the Idaho Department of Water Resources (department), as a result of the filing of a request for extension of time in connection with each of the above captioned permits, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On May 20, 1981, the department issued Permit Nos. 35-07962 and 35-07963 (permits) in the name of Norman E. Nef and Sons, Inc. (permit holder) authorizing the diversion of groundwater for irrigation purposes in Bonneville County, Idaho. A condition of approval of the permits was that the permit holder submit proof of beneficial use of water (proof) to the department on or before May 1, 1986.

2. On October 22, 1992, the department issued an order extending the time in which to submit proof for the permits to October 1, 1997.

3. On November 9, 1994, the department issued an Order For Temporary Stay of Development and Notice of Formal Proceedings in connection with the permits.

4. On February 13, 1995, the department issued an order preventing additional development under the permits but granting an indefinite stay in the development period for the permits.

5. On July 31, 1997, the department advised the permit holder by certified mail that proof of beneficial use was due.

6. On September 12, 1997, the permit holder submitted proof of beneficial use to the department indicating that the land under the permits has been contracted in a set aside program.

7. On November 17, 1997, the department corresponded with the permit holder seeking supporting information to show that the land was in a set aside program. The permit holder did not respond and did not submit the requested information.

CONCLUSIONS OF LAW

1. Section 42-204(1), Idaho Code, provides in pertinent part as follows:

In cases where the applicant is prevented from proceeding with his work ... because of the pendency of an application for right of way or other matter within the jurisdiction of the United States, ... the department of water resources upon proper showing of the existence of any such condition, and being convinced that said applicant is proceeding diligently and in good faith, shall extend the time so that the amount of time lost by such delays shall be added to the time given in the original permit for each and every action required.

2. The permit holder has not provided the requested information to the department to show that the permit holder's land is enrolled in a federal land set aside program and hence qualifies for an additional extension of time for that reason.

3. The permit holder has, however, been prevent from developing the permits subsequent to the department's issuance of its November 9, 1994 Order For Temporary Stay of Development and Notice of Formal Proceedings.

4. The department should grant the requests for extension of time for the period of time the permit holder has been delayed by the department's orders beginning on November 9, 1994 to the proof due date of October 1, 1997.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the requests for extension of time in which to submit proof of beneficial use of water for Permit Nos. 35-07962 and 35-07962 are APPROVED.

IT IS FURTHER ORDERED that the permit holder shall submit proof of beneficial use of water to the department on or before September 1, 2000.

Dated this 2nd day of February, 1998.


L. GLEN SAXTON, Chief
Water Allocation Bureau

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 35-07963 Reviewed by [Signature] Date 9-17-97

BASIC INFORMATION

9-12-97 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

_____ Has adequate work been completed to demonstrate due diligence?
_____ Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is delay by a government agency?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN

~~Request proof of crop filing.~~
Recommend approve to Sept. 1, 2000, based on Gov. agency delay

PRIORITY CALCULATION

Date extension received	_____	=	_____
Proof due date	_____	=	_____
Number of days late	_____	=	_____
Priority date	_____	=	_____
New Priority Date	_____	=	_____

DATA ENTRY

New Address X
Change Proof Due Date 9-1-2000
Change Priority Date X



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 2, 1998

RE: In the matter of Application for Permit Nos. 35-07962 and 35-07963 in the name of Norman E. Nef and Sons, Inc.

Dear Interested Parties:

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

MICROFILMED

FEB 11 1998

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

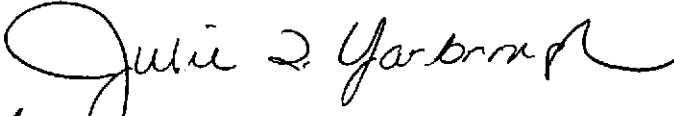
APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Sincerely,


for L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

C: IDWR - Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 17, 1997

Norman E. Nef and Sons, Inc.
2029 S 3000 W
Rexburg, ID 83440

RE: Permit Nos. 35-07962 and 35-07963

Dear Permit Holder(s):

On September 18, 1997, I corresponded with you concerning the Extension of Time requests you filed for the above referenced water right permits. On September 26, 1997, the department received a response from Terri S. Wood, stating that the water rights are in the CRP Program until the year 2007.

In my September letter (copy enclosed,) I requested that you submit clear evidence to show that the land in question was back in CRP. The information you submitted (statement signed by Terri S. Wood and acreage map) is not acceptable proof to consider granting an additional extension of time. A minimum acceptable response should consist of a letter written to the department or the permit holder on appropriate letterhead (presumably federal government letterhead,) which shows addresses, phone numbers, etc. of the person responding to the department. Documentation showing the dates of entry into the CRP and expiration of the contract needs to accompany the submittal to the department.

Please submit the requested information to the department within **15 days** of receipt of this letter. If the additional information is not received by the department within 15 days, we will review the extension requests based on the information previously submitted.

Please contact me at (208)327-7953, if you have any questions regarding this matter.

Sincerely,

JULIE L. YARBROUGH

Senior Secretary, Water Allocation Bureau

Enclosure

c: IDWR - Eastern Region

MICROFILMED

FEB 11 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 18, 1997

Norman E Nef and Sons Inc
2029 S 3000 W
Rexburg ID 83440

RE: Permit Nos. 35-07962 & 35-07963

Dear Permit Holder:

The Department acknowledges receipt of your requests for extension of time. The requests state that the delay in completion of this project is due to the fact that the land is in the CRP Program. Before the department takes final action on your requests, you will need to submit evidence which clearly shows the lands in question are in the CRP Program and that date the lands will be released from CRP.

Please return this documentation within **thirty (30) days** of the date of this mailing and address your correspondence to my attention.

If you have any question regarding this matter, please contact me at (208)327-7953.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

RECEIVED

SEP 26 1997

Department of Water Resources

C: IDWR - E. Regional Office

★ TO WHOM IT MAY CONCERN:

NORMAN NEF AND SONS INC. HAS RE-ENTERED THE ACREAGE SHOWN ON THE ENCLOSED MAP INTO THE 15th CRP SIGNUP WHICH EXPIRES IN THE YEAR 2007.

THANK YOU,

MICROFILMED
FEB 11 1998

PROGRAM ASSISTANT



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 18, 1997

Norman E Nef and Sons Inc
2029 S 3000 W
Rexburg ID 83440

RE: Permit Nos. 35-07962 & 35-07963

Dear Permit Holder:

The Department acknowledges receipt of your requests for extension of time. The requests state that the delay in completion of this project is due to the fact that the land is in the CRP Program. Before the department takes final action on your requests, you will need to submit evidence which clearly shows the lands in question are in the CRP Program and that date the lands will be released from CRP.

Please return this documentation within **thirty (30) days** of the date of this mailing and address your correspondence to my attention.

If you have any question regarding this matter, please contact me at (208)327-7953.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

C: IDWR - E. Regional Office

MICROFILMED

FEB 11 1998

NORMAN E. NEF & SONS INC.
2029 S. 3000 W.
REXBURG ID 83440

July 31, 1997

7598062100

PROOF DUE NOTICE

RE: PERMIT NO. 35-07963

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before October 1, 1997.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

FEB 11 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 14, 1995

RE: Permit Nos. 35-07962 & 35-07963 in the name of
Norman E. Nef & Sons, Inc.

Dear Interested Parties:

I have enclosed a copy of the **ORDER** which authorizes you to continue with development of the above referenced water right under the terms of the existing permit.

Please be advised that this order does not grant a stay in development beyond December 31, 1997.

If you have any questions regarding the enclosed order, please feel free to contact me at (208)327-7953.

Sincerely,

A handwritten signature in cursive script that reads "Julie L. Yarbrough".

JULIE L. YARBROUGH
Senior Secretary

Enclosure

RECEIVED

MAR 22 1995

State of Idaho
Dept. of Water Resources

RECEIVED

FEB 24 1995

Dear Mr. Higginson,

I'm writing in regards to the Fox
letter sent to you on Feb 1, 1995.

We would request an indefinite stay
of development period for our well permits,
which are -

35-07962

35-07963

Norman E. Huff & Son Inc.

2029 S 3000 West

Leppung, Idaho 83440

These permits are on ground that is
currently in the CRP program. So as
this ground comes out of the CRP, we
would be very interested in proceeding
as we had planned, as outlined in the
previous letter. We would greatly appreciate
your consideration.

Sincerely,

Norm E. Huff

RECEIVED

MAR 2 2 1995

State of Idaho
Dept of Water Resources

Dear Mr. Higginson,

I'm writing in regards to the letter
we received concerning our water rights.

We would request an indefinite stay of
development period for our well permits, as
stated on page # 2 of your letter.

Water Right No(s)

35-07942

35-07963

This Ltr will be followed by a formal
letter, as instructed by your office here
in Idaho Falls.

Sincerely,

Book Elf - ph. 522-8324

For: Norman E. Elf & Sons
2029 S 3000 W
Reynolds, Idaho 83440

RECEIVED

MAR 22 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

November 9, 1994

NORMAN E. NEF & SONS INC.
2029 S. 3000 W.
REXBURG ID 83440

RE: Water Right No. 35-07963

Certified Mail No. 141813

Dear Water Right Holder(s):

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

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

Sincerely,

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

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosures

RECEIVED

NOV 9 2 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 21, 1992

Norman E Nef and Sons Inc.
2029 S 3000 W
Rexburg, ID 83440

Re: Permit No. 35-07963 and 35-07962

Dear Permit Holder:

Enclosed is a copy of your approved Request for Extension of Time submitted in connection with the above referenced permit. The time within which to submit proof of beneficial use is extended to October 1, 1997. The extension also requires that you obtain prior approval from the Director before assigning these permits to another party.

Please note that the department has granted this extension based upon governmental agency delay. It is important that you work diligently toward the completion of this project during the construction period allowed. The department may not be able to grant additional requests.

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

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

Enclosure

c: IDWR-Regional Office

RECEIVED

OCT 23 1992

ANALYSIS SHEET
FOR
EXTENSION OF TIME

Permit No. 35-07963 Reviewed by Klg Date 10/21/92

BASIC INFORMATION

9/30/92 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

_____ Has adequate work been completed to demonstrate due diligence?
_____ Has the permit been involved in litigation?
yes Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is delay by a government agency?
_____ Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN

*Recommend approval Based on govt delay
Extend to 10/1/97*

PRIORITY CALCULATION

Date extension received	<u>NA</u>	=	_____
Proof due date	<u>/</u>	=	_____
Number of days late	<u>/</u>	=	_____
Priority date	<u>/</u>	=	_____
New Priority Date	<u>/</u>	=	_____

DATA ENTRY

New Address _____
Change Proof Due Date 10/22/92 Klg
Change Priority Date _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 2, 1992

RECEIVED

OCT 21 1992

Department of Water Resources

Norman E Nef and Sons Inc
2029 S 3000 W
Rexburg, ID 83440

Re: Permit No.'s 35-07962 and 35-07963

Dear Mr. Nef:

The Department is in receipt of the requests for extension of time filed in connection with the above referenced permits. Before the Department can take action on the requests, more information is required. Please supply the Department with copies of the Federal CRP Program paperwork. This paperwork should indicate the dates the land was placed into the program and the dates that the land will be released.

Please supply the requested information within 30 days of the date of this mailing. As soon as it is received, the Department will continue with the analysis of the requests.

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

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

Dear Karen Gustafson.

I hope this will help you in what you want to know. I so much appreciate any help you can give us at this matter. If you need any further information or I can be of any further assistance, please let me know.

Thank you very much,

Norman E Nef
2029 S 3000 W
Rexburg, Id 83440

Microfilm

OCT 23 1992

Norman Nef
2029 S 3000 W
Rexburg, ID 83440

Attached are your copies of the status reviews we conducted on 6/8/92, on your CRP contracts #98 and #196. These are the final status reviews that we will be conducting on these contracts. If you have any concerns about the condition of the stands on any of these fields between now and the time the contracts terminate (9/30/97 for # 98 and 9/30/2000 for # 196) please give us a call.

Sincerely,

Bob Minton

Bob Minton
Soil Conservation Service
1120 Lincoln Road
Idaho Falls, ID 83401
522-5137

RECEIVED

OCT 23 1992

CERTIFICATION OF AN EXISTING
PLAN, CONTRACT, OR SYSTEM
FOR
FOOD SECURITY ACT COMPLIANCE

Producer: NORMAN NEF & SONS

Location: T-2-N, R-34-E, S-6;

Date: 3-30-88

T-3N, R-34-E, S-32; T-3-N, R-34-E
S-28.

Kind of Document Certified and Attached:

Date Planned or Applied:

Existing Conservation Plan

☐

Existing Land Treatment Contract

☒

CRP# 98

9-9-87

Existing Conservation System

☐

Existing Alternative System

☐

This document satisfies the Conservation Compliance and/or Sodbuster provisions of the Food Security Act of 1985.

To be eligible for certain designated USDA program benefits on your farm, you must: (1) present this certification and a copy of your plan to the appropriate administering agency (FmHA, ASCS, or FCIC); and (2) be actively applying the planned systems on those fields which are highly erodible by January 1, 1990, and have them fully applied by January 1, 1995. These agencies will not maintain a copy of your plan, therefore maintenance of it by you is essential for future use by you or the agency.

Changes or revisions of the Plan require review and approval by your local soil conservation district and Soil Conservation Service.

Our objective is to be a service to you while meeting the requirements of the Food Security Act and protecting our nation's valuable soil resource.

SCS DISTRICT CONS:

Dennis Hally

DATE 4-6-88

SCD:

Louis Shiel

DATE _____

PRODUCER:

Norman Nef & Sons
Norman E Nef Pres.

DATE 4-19-89

OCT 19 1989

STATUS REVIEW

SCS-CPA-013
8-83

1992

This information is used in both the development and implementation of a Conservation, Reclamation or Water Quality plan as the basis for technical assistance and/or cost sharing. The authorities for such work are: 16 USC 590a-f (Soil Conservation); 16 USC 1301-1311 (Water Bank); 16 USC 590p(b) (Great Plains); 30 USC 1236 et seq (Rural Abandoned Mines); 33 USC 1288 et seq (Rural Clean Water). Furnishing information is voluntary and will be confidential; however, it is necessary in order to receive assistance.

County Bonneville Date 6-8-92 Contract or Agreement No. CRP-196
Name Norman Neft Address 2029 S 3000 W
Rexburg, ID 83440

Progress in applying plan:

- A. Contract items completed: CIN 2 operations maintenance
CIN 3 Livestock exclusion
CIN 4 Wildlife upland habitat mgmt } in compliance
- B. Contract items delayed: None
- C. Contract expires: 9-30-2000

- D. Plan meet O & M agreement: Yes, Noxious weeds are being controlled. Other weeds not posing a threat to stand.

At least 1 plant per square foot. (Visual estimate)

Species present:
Nordan crested wheatgrass
Hycroft crested wheatgrass

Revision of plan or modification of contract needed:

- A. Revised items: None
- B. Deleted items: None
- C. New items: None

Need for technical assistance: Continued control of noxious weeds and exclusion of livestock grazing required through end of contract.

Vegetative cover is adequately established and meets SCS specifications for CRP

Contract is in compliance

FINAL STATUS REVIEW

MICROFILMED

OCT 23 1992

Land is still under control of the participant:

Signed

Dennis H. Allen
District Conservationist or Administering Agency

Yes No

Norman E. Neft
Participant

1992

This information is used in both the development and implementation of a Conservation, Reclamation or Water Quality plan as the basis for technical assistance and/or cost sharing. The authorities for such work are: 16 USC 590a-1 (Soil Conservation); 16 USC 1301-1311 (Water Bank); 16 USC 590p(b) (Great Plains); 30 USC 1236 et seq (Rural Abandoned Mines); 33 USC 1288 et seq (Rural Clean Water). Furnishing information is voluntary and will be confidential; however, it is necessary in order to receive assistance.

County Bonneville Date 6-8-92 Contract or Agreement No. CRP-98
Name Norman Neff & Sons Pt Address 2029 S 3000 W
Rexburg ID 83440

Progress in applying plan:

A. Contract items completed: CIN 2 Livestock exclusion
CIN 3 Wildlife upland habitat mgt } in compliance

B. Contract items delayed: None

C. Contract expires: 9-30-97

D. Plan meet O & M agreement: Yes, Noxious weeds are being controlled. Other weeds not posing a threat to the land.
No signs of livestock grazing

At least one plant
per square foot.
(Visual estimate)

Species present:
siberian wheatgrass

Revision of plan or modification of contract needed:

A. Revised items: None

B. Deleted items: None

C. New items: None

no alfalfa or
orchardgrass

Need for technical assistance: Continued control of noxious weeds and exclusion
of livestock grazing required through end of the contract.
Vegetative cover is adequately established and meets SCS specifications
for CRP.

Contract is in compliance.

FINAL STATUS REVIEW

OCT 23 1992

Land is still under control of the participant:

Signed Dennis Kelly
District Conservationist or Administering Agency

☒ Yes ☐ No

Norman E. Neff
Participant

ASCS-468(05-09-91)

NOTICE OF DETERMINED ACREAGE

PROGRAM YEAR 1991

BONNEVILLE COUNTY ASCS OFFICE
 BOX 1893 1120 LINCOLN ROAD
 IDAHO FALLS ID 83403-1893
 PHONE NUMBER: (208)522-6250

FARM NUMBER: 570

DATE OF MAILING: 09-26-91

Operator Name and Address

Operator ID and Type

82-0315183 E

NORMAN NEF & SONS INC
 2029 S 3000 W
 REXBURG, ID

83440

IMPORTANT NOTICE:

1. This notice of determined acreage shall constitute notice to all persons who as landlord, tenant, or sharecropper are interested in the crops on this farm.
2. If you believe any acreage determined for this farm is not correct, you may have such acreage redetermined by filing a request for redetermination at the County ASCS Office within 15 days from the date of this notice, and making a cash deposit to cover the cost of redetermination. (Your deposit will be refunded if a significant error in the initial acreage determination is found.)

3. Only those crops that have been spotchecked will be printed.

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or handicap.

Crop	Reported Acreage	Determined Acreage	Difference	Footnote
WHEAT	26.0	19.9	6.1	7
BARLY	471.2	463.6	7.6	1
ACR	38.5	38.5	0.0	3
CRP	915.5	915.5	0.0	3
OFAY	201.5	215.2	13.7	11
PCP/FX	14.9	14.9	0.0	3

Footnotes:

1. The difference between the determined acreage and reported acreage is within the allowable tolerance. If the county committee determines the inaccurate report was made in good faith, program benefits will be maintained and the smaller of the determined acreage or the permitted acreage will be used for program purposes.
3. The determined acreage equals the reported acreage. The report for the crop is acceptable.
7. The difference between the determined acreage and reported acreage exceeds the allowable tolerance. If the producer requests and the county committee determines the inaccurate report was made in good faith, program benefits will be maintained and the farm may be subject to payment reduction because of inaccurate certification.
11. The report allows continued eligibility for use of zero report provisions. The determined acreage of fruits and vegetables will be used for history credit.

RECEIVED
 OCT 23 1992

This information is used in both the development and implementation of a Conservation, Reclamation or Water Quality plan as the basis for technical assistance and/or cost sharing. The authorities for such work are: 16 USC 590a-f (Soil Conservation); 16 USC 1301-1311 (Water Bank); 16 USC 590p(b) (Great Plains); 30 USC 1236 et seq (Rural Abandoned Mines); 33 USC 1288 et seq (Rural Clean Water). Furnishing information is voluntary and will be confidential; however, it is necessary in order to receive assistance.

County Bonnerville Date 7-11-89 Contract or Agreement No. 98
Name Norman Neff's Sons Address 2029 S, 3000 W,
Pexburg, Idaho 83440

Progress in applying plan:

Item #1 completed
Items #2+3 are in compliance

Revision of plan or modification of contract needed:

None at this time.

Need for technical assistance:

- * Check for stand establishment in Spring*
- * Control noxious weeds on all fields*
- * Possible need for weed (annual weeds) control next year.*

R. Spencer

OCT 23 1992

Signed _____
District Conservationist or Administering Agency

Norman E. Neff
Participant

1991

This information is used in order to determine and implement a Conservation, Reclamation or Water Quality plan as the basis for technical assistance and/or cost sharing. The authorities for such work are: 16 USC 1904 (Soil Conservation); 16 USC 1221, 1311 (Water Easement); 16 USC 1906(b) (Grass Payment); 16 USC 1226 et seq (Recess Abandoned Mine); 16 USC 1228 et seq (Rural Clean Water). Furnishing information is voluntary and will be confidential; however, it is necessary in order to receive assistance.

County Bonanza Date 6-25-91 Contract or Agreement No. CRP-196
 Name Norman Delaney Address 524-2649
2024 South 3000 West
Payson, Idaho 83440

Progress in applying plan:

- A. Contract items completed: CIN-1 - Est. of permanent grasses in compliance
 CIN-2 - O & M in compliance
 CIN-3 - Livestock exclusions in compliance
 CIN-4 - Wildlife Upland Habitat Mgt. in compliance.
- B. Contract items delayed: none

C. Contract expires: 9-30-2000

D. Plan meet O & M agreement: Operator will spray weeds later this summer
Small amt of Canadian thistle present

Revision of plan or modification of contract needed:

A. Revised items: none

B. Deleted items: none

C. New items: none

Need for technical assistance:

Spray Canadian Thistles
Monitor other weeds (Russian thistles, field pennycress)
Check next year for stand of Hyacinth and Russian crested wheat.

Contract is in compliance providing
farmer completes weed control

Land is still under control of the participant:

Yes

No

OCT 23 1992

Signed

District Conservationist or Administering Agency

Participant

Progress in achieving plan:

- Revision of plan or modification of contract needed:

- Beach #15

Thick grass is Siberian wheat
grass - no orchard grass and only
a few alfalfa plants. There are
few spotty areas, but Crested W.B. is
present. Some Junco grow in spots.

- Field # 10

Field # 10
Stand looks good. Some
halo-atom present.

- Quest. # 2

There are a few alfalfa plants present. No orchard grass - what grass looks good. Some bull thistle & a few Canadian thistle.

Need for technical assistance:

Printers need to be spot sprayed

Other weeds need to be monitored.

Check stand next year to make sure spotty June grass areas are filling in. Field #15. Fields 10 & 2 do not need to be checked next year. They are acceptable, but the weeds need to be controlled.

Contract is in compliance providing
farmer completes weed control

Land is still under control of the participant:

Signed

Division of Conservation or Administrative Agency

Yes No

237552an

2.3 1995

Albany, New York
Rt 11
Roxburg, TD

13-21-88
3. County
Bonnyville

4. Name of USDA Agency or Person Requesting Determination

5. Farm No. and Tract No.

6. Is soil survey now available for making a highly erodible land determination?	Yes	No	Field No.(s)	Total Acres
	X			
7. Are there highly erodible soil map units on this farm?				
	X			
8. List highly erodible fields that, according to ASCS records, were used to produce an agricultural commodity in any crop year during 1981-1985.			ALL FIELDS	1627.9
9. List highly erodible fields that have been or will be converted for the production of agricultural commodities and, according to ASCS records, were not used for this purpose in any crop year during 1981-1985; and were not enrolled in a USDA set-aside or diversion program.				
10. This Highly Erodible Land determination was completed in the: Office <input checked="" type="checkbox"/> Field <input type="checkbox"/>				

SECTION II – WETLAND

11. Are there hydric soils on this farm?	Yes	No	Field No.(s)	Total Wetland Acres
		X		
List field numbers and acres, where appropriate, for the following EXEMPTED WETLANDS:				
12. Wetlands (W), including abandoned wetlands, or Farmed Wetlands (FW). Wetlands may be farmed under natural conditions. Farmed Wetlands may be farmed and maintained in the same manner as they were prior to December 23, 1985, as long as they are not abandoned.				
13. Prior Converted Wetlands (PC) - The use, management, drainage, and alteration of prior converted wetlands (PC) are not subject to FSA unless the area reverts to wetland as a result of abandonment. You should inform SCS of any area to be used to produce an agricultural commodity that has not been cropped, managed, or maintained for 5 years or more.				
14. Artificial Wetlands (AW) - Artificial Wetlands includes irrigation induced wetlands. These Wetlands are not subject to FSA.				
15. Minimal Effect Wetlands (MW) - These wetlands are to be farmed according to the minimal effect agreement signed at the time the minimal effect determination was made.				

NON-EXEMPTED WETLANDS:

<p>16. Converted Wetlands (CW) - In any year that an agricultural commodity is planted on these Converted Wetlands, you will be ineligible for USDA benefits. If you believe that the conversion was commenced before December 23, 1985, or that the conversion was caused by a third party, contact the ASCS office to request a commenced or third party determination.</p>				
<hr/>				
<p>17. The planned alteration measures on wetlands in fields _____ are considered maintenance and are in compliance with FSA.</p>				
<hr/>				
<p>18. The planned alteration measures on wetlands in fields _____ are not considered to be maintenance and if installed will cause the area to become a Converted Wetland (CW). See Item 16 for information on CW.</p>				
<hr/>				
<p>19. This wetland determination was completed in the: Office <input checked="" type="checkbox"/> Field <input type="checkbox"/></p>				

20. This determination was: Delivered Mailed To the Person on Date: 12-1-67

NOTE: If you do not agree with this determination, you may request a reconsideration from the person that signed this form in Block 22 below. The reconsideration is a prerequisite for any further appeal. The request for the reconsideration must be in writing and must state your reasons for the request. The request must be mailed or delivered within 15 days after this determination is mailed to or otherwise made available to you. Please see reverse side of the producer's copy of this form for more information on appeals procedure.

NOTE: If you intend to convert additional land to cropland or alter any wetlands, you must initiate another Form AD-1026 at the local office of ASCS. Abandonment is where land has not been cropped, managed, or maintained for 5 years or more. If you intend to produce an agricultural commodity on abandoned wetlands, you must determine if the land is determined to be highly erodible. If

21. Remarks

22. Signature of SCS District Conservationist

23. Date

Assistance and programs of the Soil Conservation Service available without regard to race, religion, color, sex, age, handicap, etc.

Person Copy



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 2, 1992

Norman E Nef and Sons Inc
2029 S 3000 W
Rexburg, ID 83440

Re: Permit No.'s 35-07962 and 35-07963

Dear Mr. Nef:

The Department is in receipt of the requests for extension of time filed in connection with the above referenced permits. Before the Department can take action on the requests, more information is required. Please supply the Department with copies of the Federal CRP Program paperwork. This paperwork should indicate the dates the land was placed into the program and the dates that the land will be released.

Please supply the requested information within 30 days of the date of this mailing. As soon as it is received, the Department will continue with the analysis of the requests.

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

Sincerely,

A handwritten signature in cursive script that reads "Karen L. Gustafson".

Karen L. Gustafson
Secretary/Records Manager

RECEIVED

OCT 23 1992

July 31, 1992

NORMAN E. NEF & SONS INC.
2029 S. 3000 W.
REXBURG ID 83440

PROOF DUE NOTICE

RE: PERMIT NO. 35-07963

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before October 1, 1992. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

SINCERELY,

Karen L. Gustafson
Secretary/Records Manager

Enclosures

OCT 23 1992





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

February 8, 1990

RE: Permit No. 35-7963

Norman E. Nef
2029 S. 3000 W.
Rexburg, ID 83440

Dear Permit Holder(s):

Enclosed is an order that authorizes you to continue development under Permit to Appropriate Water No. 35-7963. Please note in condition #1., page five of the order that you must develop your system and beneficially use the water prior to October 1, 1992. Failure to beneficially use the water before October 1, 1992 could result in a loss of your water right permit.

Also enclosed is a copy of the approved extension of time request. Please be advised that the department has granted this extension of time based on due diligence. It is important that you work diligently toward the completion of this project during the construction period allowed. The department may not be able to grant additional requests.

Please note the conditions of approval contained in the continuation order. You must comply with the conditions to fully complete beneficial use.

Sincerely,

TIM LUKE
Sr. Water Resource Agent

TL:sc

Enclosures

RECEIVED

FEB 14 1990

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 55-7963

Reviewed by [Signature]

Date 1-23-90

BASIC INFORMATION

- y Date stamp received
y Extension received timely (not too early not too late)
y Fee received and receipted
y Name and signature same as permit
y Address change

BASIS FOR EXTENSION REQUEST

- Has adequate work been completed to demonstrate due diligence?
 Has the cost incurred been adequate to demonstrate an intent to complete the project?
 Has the permit been involved in litigation?
 a. Swan Falls yes Dismissed from Swan Falls
 Other Identify
 b. Is supporting documentation needed to complete the file? Requested
 c. Calculate the period of delay

Date litigation completed _____
 Date litigation began _____
 Total period of delay = _____
 Present proof due date + _____
 NEW PROOF DUE DATE = _____

- Is delay by a government agency?
 Is supporting documentation needed to complete the file? Requested?

ACTION TAKEN - Recommend approval based on Swan Falls litigation until Oct. 1, 1992

2/14 Reinstate Date extension received _____ = _____
 Proof due date _____ = _____
 No. of days late _____ = _____
 Priority date _____ = + _____
 ADJUSTED PRIORITY DATE _____ = _____

DATE ENTRY

- ✓ Change proof due date ✓ Address change
 Priority date change

S T A T E O F I D A H O
D E P A R T M E N T O F W A T E R R E S O U R C E S
State Office
1301 North Orchard St.

Statehouse Mail
Boise, Idaho 83720
(208) 327-7900

DECEMBER 26, 1989

Post Register
P.O. Box 1800
Idaho Falls, ID 83401

Dear Legal Dept.:

Enclosed you will find legal notices which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

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

Please send the affidavit of publication and publication billing to this office before JANUARY 22, 1990.

Yours truly,

SHARLA CURTIS
Secretary

Encl.

RECEIVED

FEB 14 1990

NOTICE OF EXISTING WATER RIGHT PERMIT

Presently recorded as follows:

35-07963

NORMAN E. NEF & SONS INC.

~~STRAULDING, M. BRUCE~~

2029 S. 3000 W.

REXBURG, ID 83440

Source: GROUNDWATER

Diversion Pt: SWNE Sec 28 T 03N R 34E

Use: IRRIGATION (6.400 CFS)
Total Diversion: (6.400 CFS)

Priority: 6/01/1981

In: T03N R34E S28

NENE
NESE
NWNE

NWNE
NWSE

SWNE
SWSE

SENE
SESE

S33

320.0 ACRES TOTAL

Permits not developed by July 1, 1985, are being reprocessed in compliance with Section 42-203D, Idaho Code. Protests against the continuance of permits must be filled with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before JANUARY 22, 1990. Protests must be based on the public interest criteria of Section 42-203C, Idaho Code, only.

R. KEITH HIGGINSON, Director

Published 1/04/1990 & 1/11/1990

MICROFILMED

FEB 14 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

RECEIVED
JUN 15 1989

Department of Water Resources

PERMIT NO. 35-7963

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

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

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

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

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

2. Please state the number of acres you have irrigated under this
permit since July 1, 1985. None

3. If you have not irrigated lands under this permit, please
state the number of acres you plan to complete. 320

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

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

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

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

Permit Holder

Norman E. Hef

Date 13 June 1989

Fee Paid

Receipt # C007607

IDAHO DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

5. REMARKS/COMMENTS:

Dear Mr. Luke,

We are still very much interested in proceeding with our plans to put water on
on this land and further develop these acres. I'm sure you are aware of the plight
of the farmers these past few years, but hopefully things will still turn around so
that we may continue progressing and develop this land. I would appreciate any help
you may be able to give us in this regard.

Sincerely,

Norman E Nef

*See File #
35-7962 for
Rule 4.5 INFO.*

RECORDED

FEB 14 1990

RECORDED

FEB 14 1990

Page 2

Department may grant an extension of time in which to submit the information upon request and a showing of good cause. Requests for extension of time must be in writing.

Please contact me at this office or call me directly at 327-7864 if you have any questions concerning the contents of this notice and/or the information requested under Rule 4,5.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim Luke".

TIM LUKE
Sr. Water Resource Agent

Enclosure

MICROFILMED

FEB 14 1990



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

June 27, 1989

RE: Permit No. 35-7962 & 35-7963

Norman E. Nef
2029 S. 3000 W.
Rexburg, ID 82440

NOTICE OF INFORMATION REQUIRED BY WATER APPROPRIATION RULE 4,5.

Dear Permit Holder:

The Department acknowledges receipt of the Trust Water Information Questionnaire and appropriate re-advertising fee for the above referenced permits. On behalf of the Department, I wish to thank you for your cooperation in providing the requested fee and information.

In the letter that accompanied the questionnaire, I informed you that you would need to submit additional information required by Water Appropriation Rule 4,5. if the undeveloped portion of the permits exceed 200 acres.

The returned questionnaire indicates that you wish to pursue completion of the irrigation project as proposed under your permits. The project includes more than 200 acres and is therefore subject to the additional information requirements of Rule 4,5.

I wish to call your attention to the specific requirements under Rule 4,5. (copy enclosed). In particular, you must submit the information outlined in Rules 4,5,3,6,1. through 4,5,3,6,7. Note that Rule 4,5,3,6,4. is not applicable to your permit.

The information must be submitted within 30 days of the date of this notice. Failure to submit the required information within the time period allowed will be cause for the Department to advance the priority of the permits by the number of days that the information submittal is late. The

MICROFILMED

FEB 14 1990



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 24, 1989

RE: PERMIT NO. 35-7963

Dear PERMIT HOLDER:

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

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

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

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

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

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

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

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

FEB 14 1990

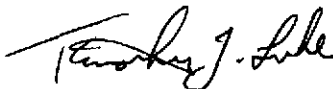
Page 2

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

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720
Attn: Tim Luke - Water Allocation/Trust Water

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

Sincerely,



TIM LUKE
Sr. Water Resource Agent

Enclosures

MICROFILMED

FEB 14 1980

NORMAN E. NEF & SONS INC.
RT. 1
REXBURG, ID 83440

April 30, 1989

138159

PROOF DUE NOTICE

RE: PERMIT NO. 35-07963

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before July 1, 1989. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

RECORDED

FEB 14 1990



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

July 23, 1986

Norman E. Nef & Sons, Inc.
Rt. 1
Rexburg, ID 83440

Gentlemen:

Re: Permit Nos. 35-7962 and 35-7963

This office acknowledges receipt of the assignment conveying the above referenced permits to you. The assignment has been entered into the department's records and a copy of the permits are enclosed for your records.

Enclosed is a copy of the approved requests for extension of time. The time within which to submit proof of beneficial use is extended to July 1, 1989. Note that the priority has been advanced since the permits have been reinstated.

The department would also like to call to your attention that the permits may be subject to the review requirements of Sec. 42-203D, Idaho Code.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosures

MICROFILMED

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 35-7963 + 35-7964 Reviewed by YDate 7-15-1986

BASIC INFORMATION

Y Date stamp received
N Extension received timely - Rein.
 (not prior to 6 month before proof due date or after reinstatement period)
Y Fee received and receipted
Y Name and signature same as permit
N Address change (indicate on coding sheet)

BASIS FOR EXTENSION REQUEST

N Has adequate work been completed to demonstrate due diligence?
N Has the cost incurred been adequate to demonstrate an intent to complete the project?
Y Has the permit been involved in litigation?
 a. Swan Falls Yes Dismissed from Swan Falls No
 Other Identify
 b. Is supporting documentation needed to complete the file? Requested
 c. Calculate the period of delay

Proof Due
 Date ~~litigation completed~~ 5-1-1986

Date litigation began -3-1-1983

Total period of delay = 2mo. 3yrs

Present proof due date +5-1-1986

NEW PROOF DUE DATE = 7-1-1989

Is delay by a government agency?

Is supporting documentation needed to complete the file? Requested

ACTION TAKEN

- Recommend approval based on litigation - Swan Falls

Special conditions or remarks:

Yes Reinstatement Date extension received May 28 = 148
 Proof due date May 1 = -121
 No. of days late = 27
 Priority date May 5, 1981 = +125
 ADJUSTED PRIORITY DATE June 1, 1981 = 152

Prepare coding sheet
Change rolodex card

RECEIVED

Permit No. 35-7963

ASSIGNMENT REVIEW CHECK LIST

1. Signature of Permit Holder? yes
2. Notary? yes
3. a. Full Assignment? yes
b. Partial Assignment?
4. "No assignment" condition on permit? NO
5. Commencement of Works received? NO
 - a. Commencement of works requested? Ext Reg. Rec'd
 - b. Show Cause Order drafted & sent? -
 - c. Cancellation necessary? -
6. Affidavit of residency required? NO
7. Extension granted due to litigation? NO
(If yes, commencement of works is not required.)

1. Type permit summary sheet. ✓
2. Coding sheet. ✓
3. Acknowledgement letter type.
4. Copy to region. ✓

Suorla
Suorla
Ruba
Ruba

Date 7-15-86

Employee Vim

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
MAY 13, 1986

SPAULDING, M. BRUCE
RT. 1 BOX 366
REXBURG, ID 83440

LAPSE NOTICE

RE: PERMIT NO. 35-7963

DEAR PERMIT HOLDER:

YOU ARE HEREBY NOTIFIED THAT UNDER THE PROVISIONS OF SECTION 42-218A, IDAHO CODE, THE ABOVE REFERENCED WATER PERMIT HAS LAPSED. THIS OFFICE DID NOT RECEIVE EITHER AN ACCEPTABLE PROOF OF BENEFICIAL USE SUBMITTAL OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME. YOU WERE PROVIDED THE PROPER FORMS IN OUR PROOF DUE NOTICE TO YOU DATED FEBRUARY 28, 1986.

YOUR PERMIT CANNOT BE REINSTATED UNLESS YOU SUBMIT PROOF OF BENEFICIAL USE OR SUBMIT AN EXTENSION OF TIME REQUEST SHOWING REASONABLE CAUSE FOR DELAY. EITHER THE COMPLETED PROOF OF BENEFICIAL USE SUBMITTAL (INCLUDING THE EXAMINATION FEE OR A COMPLETED FIELD EXAMINATION REPORT) OR THE EXTENSION REQUEST FORM TOGETHER WITH THE \$15 FEE MUST BE RECEIVED BY THIS DEPARTMENT WITHIN SIXTY DAYS OF THE DATE OF MAILING OF THIS LAPSE NOTICE OR THE PERMIT WILL NO LONGER BE OF ANY FORCE OR EFFECT.

A PROOF OF BENEFICIAL USE FORM AND A REQUEST FOR EXTENSION OF TIME FORM ARE AGAIN ENCLOSED FOR YOUR USE. PLEASE NOTE THAT ONLY ONE EXTENSION OF TIME CAN BE GRANTED UNLESS THE PROJECT HAS NOT BEEN COMPLETED BECAUSE OF LACK OF A NECESSARY APPROVAL BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION.

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

ENCLOSURES

LGS:RF

CERTIFICATION OF MAILING
I hereby certify that on 5-28-1986
a certain copy of the foregoing was
deposited in the United States mail,
postage prepaid and addressed to the
individual named above.
Rita Fleck

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

- - - - -

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
FEBRUARY 28, 1986

138857

SPAULDING, M. BRUCE
RT. 1 BOX 366
REXBURG, ID 83440

PROOF DUE NOTICE

RE: PERMIT NO. 35-7963

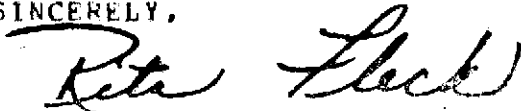
DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF THE ABOVE REFERENCED WATER PERMIT WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MAY 1, 1986. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

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

EITHER A COMPLETED PROOF OF BENEFICIAL USE FORM OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,



RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

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

SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT.
(2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

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

SINCERELY,

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

SPAULDING, M. BRUCE
RT. 1 BOX 366
REXBURG, ID 83440

JUNE 03, 1981

RE: PERMIT NO. 35-7963

DEAR PERMIT HOLDER:

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

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

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

SINCERELY,

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

ENCLOSURE

11 JUN 1981

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

35 7963

INITIAL REVIEW BY: Steve McCormick

APPLICATION NUMBER:

35-7963

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. _____
☒ Yes ☐ No* In form for advertising. _____
Final date for protests: April 20 ✓
☐ Yes ☒ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: April 15, 1981 ✓
☒ 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? _____
✓ 5/5/1981 Date of priority recommended.
Special conditions of approval or cover letter. _____

By: Ernest Carlson

Date: May 6, 1981

STATE OFFICE REVIEW:

SLW/LOS

OIC, 04

- ☐ See attached sheet for more information.

By: Randy

Date: 5/8/81

150 Shoup Ave. -----

525-7161

April 20, 1981

RE: Applications for Permit Nos. 35-7962 and 35-7963

M. Bruce Spaulding
Route #1, Box 366
Rexburg, ID 83440

Dear Mr. Spaulding:

The First Security Bank of Utah has returned your Check No. 1004 to this office stamped "Insufficient Funds". The Department is therefore forced to stop processing of your application pending receipt of cash or a money order in the amount of \$405.00.

Since the priority date of these applications will be the date the Department receives sufficient funds to cover the filing fee, it is hoped you can give this matter your immediate attention.

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:kw

*rec'd
sufficient
funds
5/5/81
KW*

35-7963_

SPAULDING, M. BRUCE

RT. 1 BOX 366, REXBURG, ID 83440

Source: GROUNDWATER

Date Filed: 03/23/1981

Amount: 6.40 CFS

Diversion Point: SWNE Sec 28 T 03N R 34E, BONNEVILLE Co.

Use: IRRIGATION (6.40 CFS) from 04/01 to 11/01

Place of Use: NENE NWNE SWNE SENE NESE NWSE SWSE SESE Sec 28 T 03N R 34E NWNE
Sec 33 T 03N R 34E FOR 320 ACRES

Diversion Means: WELL & CENTER PIVOT.

U.S. DEPARTMENT OF AGRICULTURE
NATIONAL AGRICULTURAL STATISTICS SERVICE