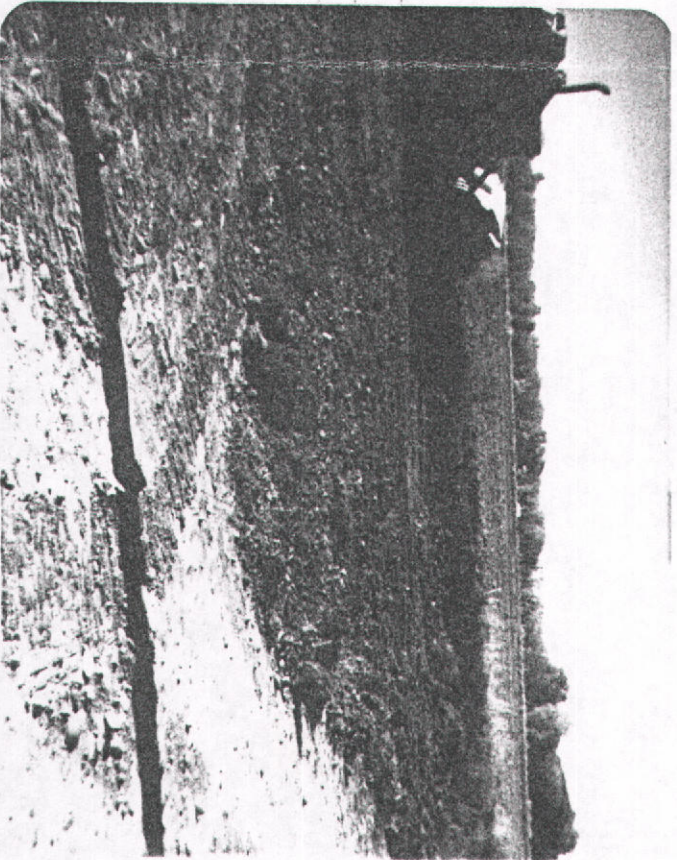
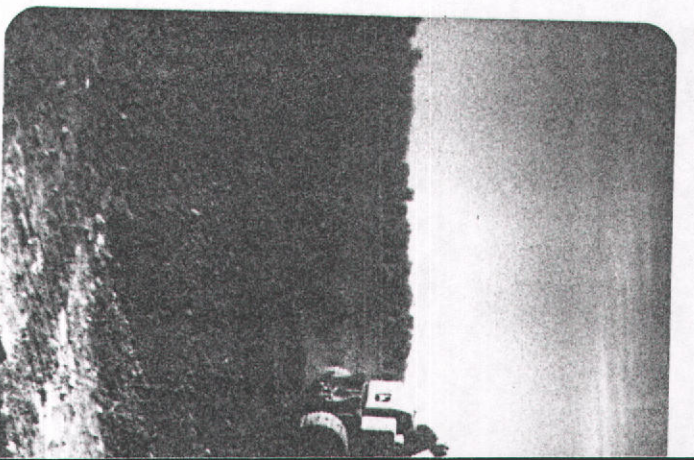
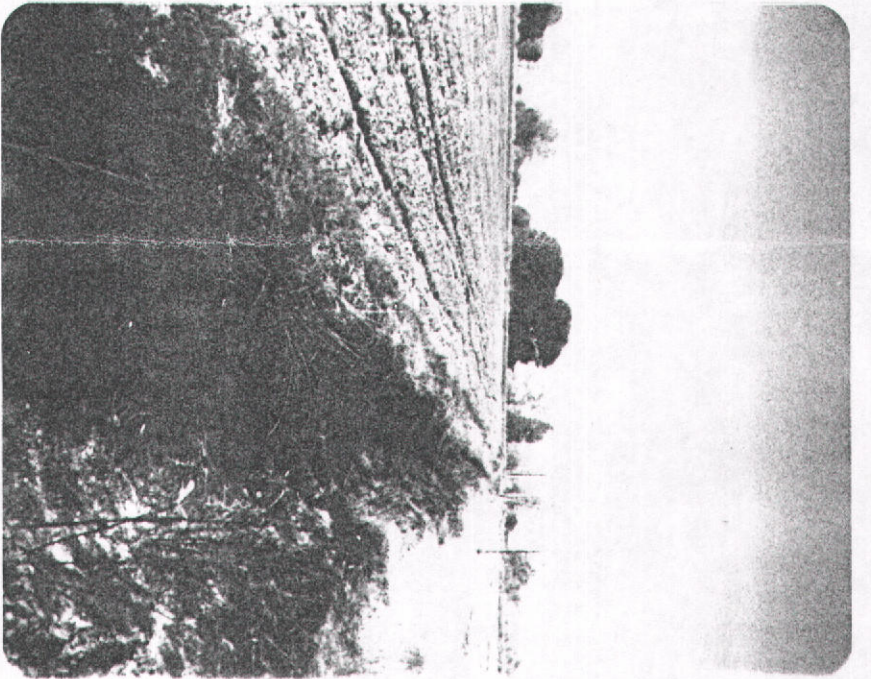




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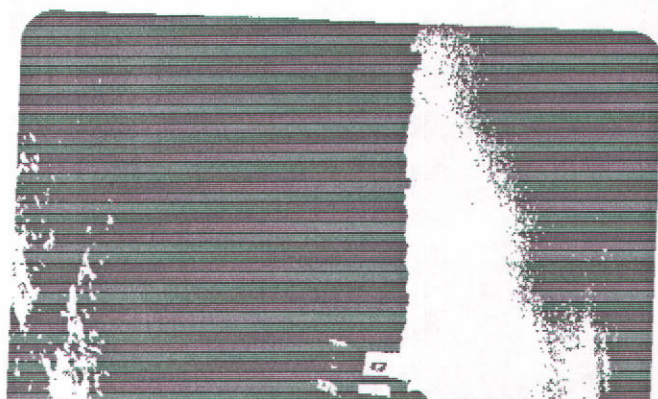
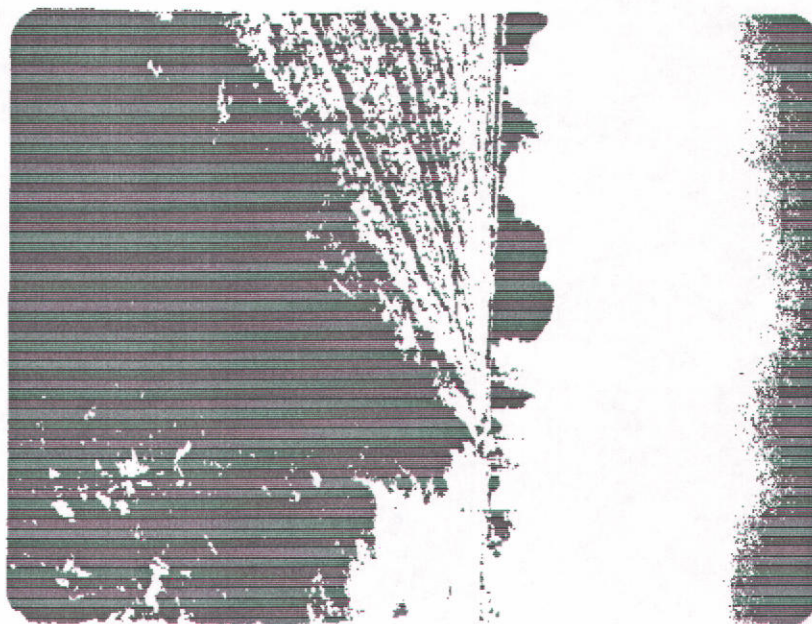
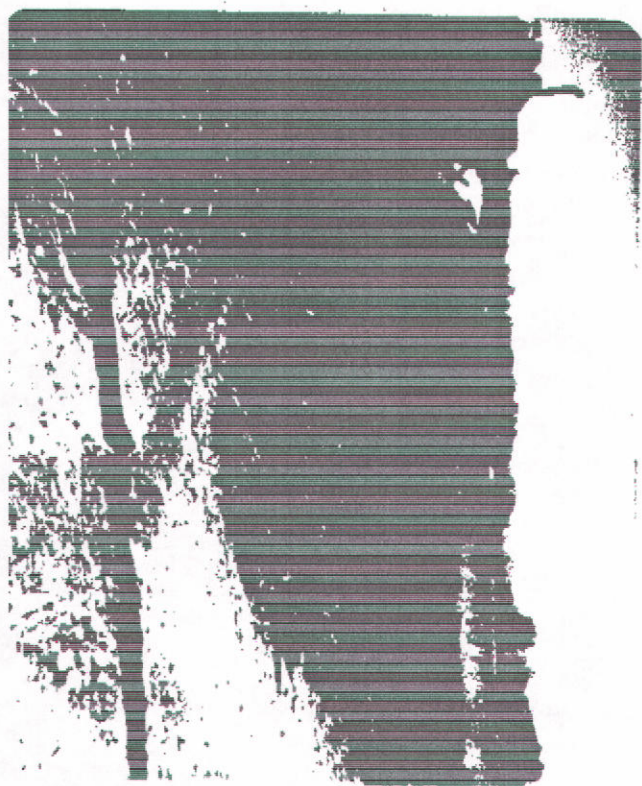
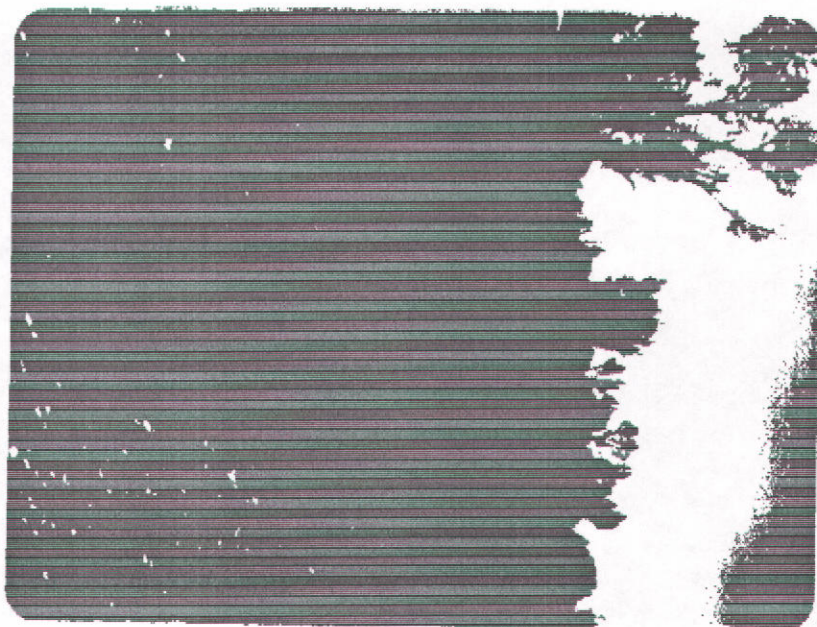


GROUND RENOVATION

Ditches taken out
to put SPRINKLER
system in.



- Enclosure 3 -



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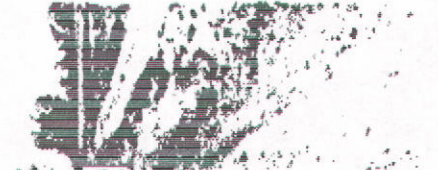
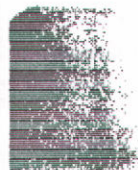
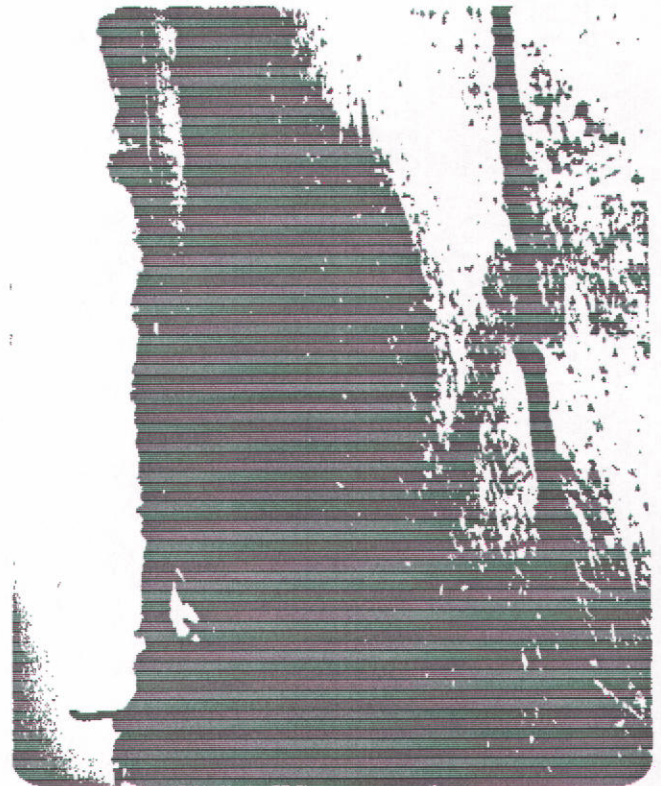
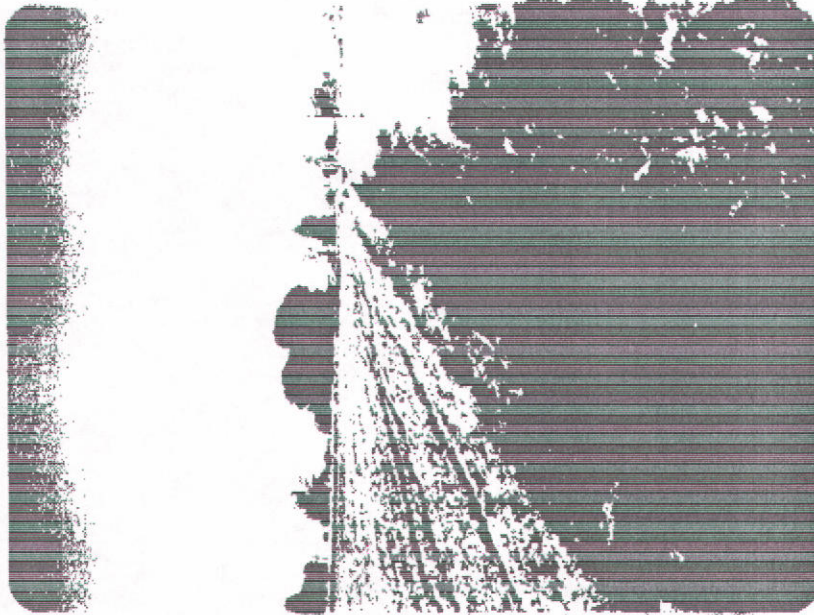
STEEL REINFORCED

CONCRETE BLOCKS

TO PUT SPALLS

IN

— Enlosure 3 —



55-7818

Enclosure #3
Aerial map time of
field exsion

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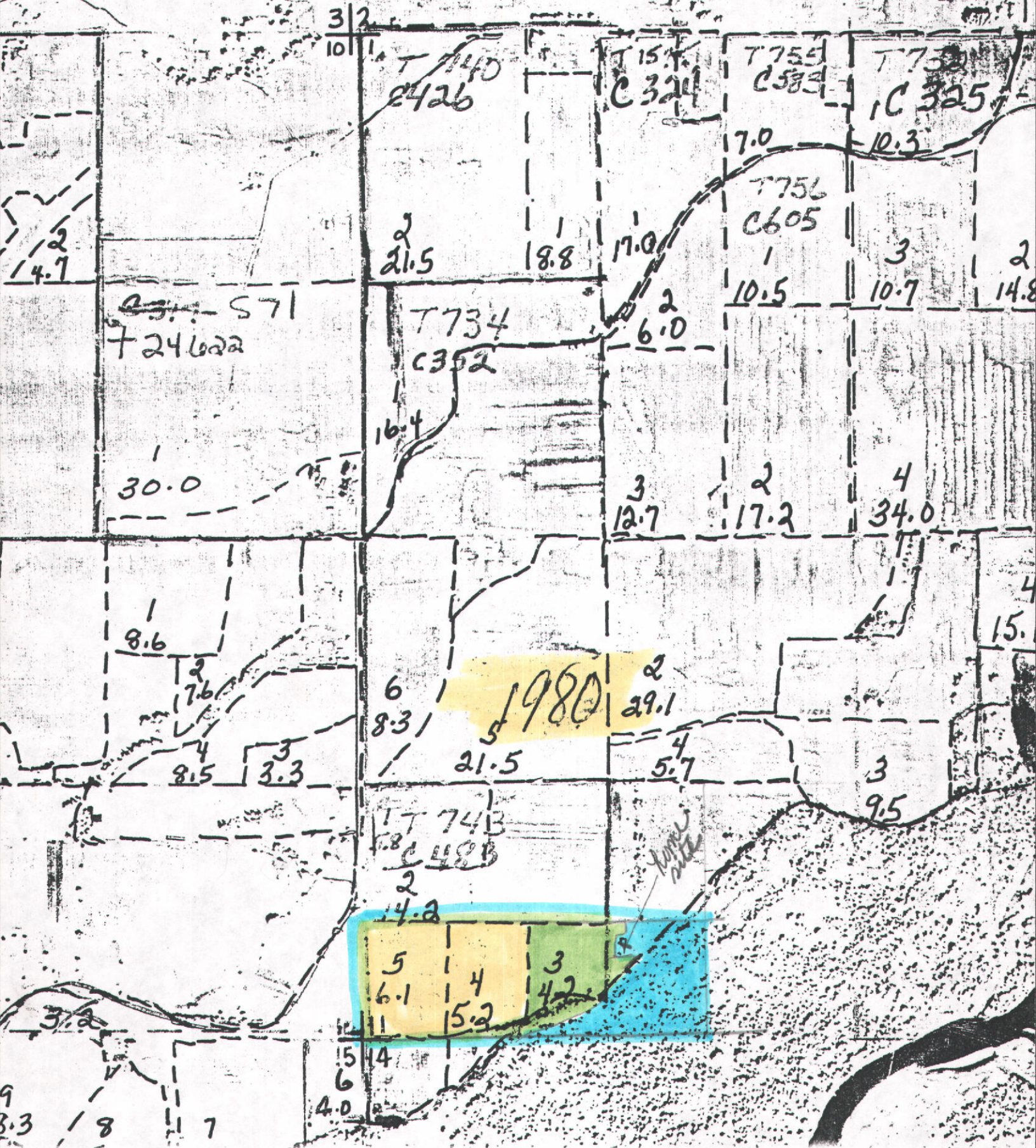
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Enclosure #5
(Aerial photo of
correct boundaries)



444 X
571 X

7.4 X
945

Enclosure #8
Aerial photo of
irrigated land 1979-1993

727
918

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Taylor Rd.
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R14

Actual photo correct
location of pump

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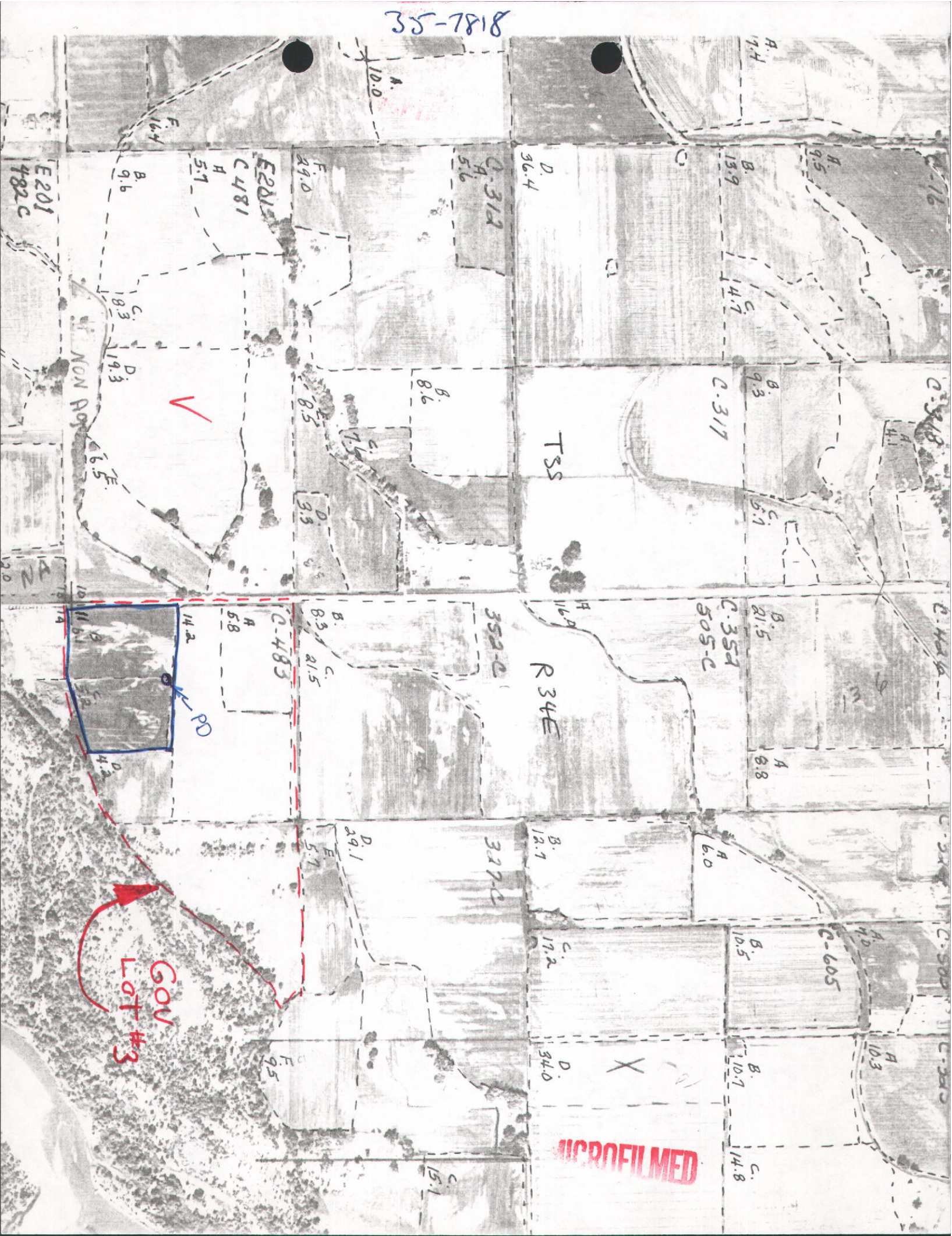
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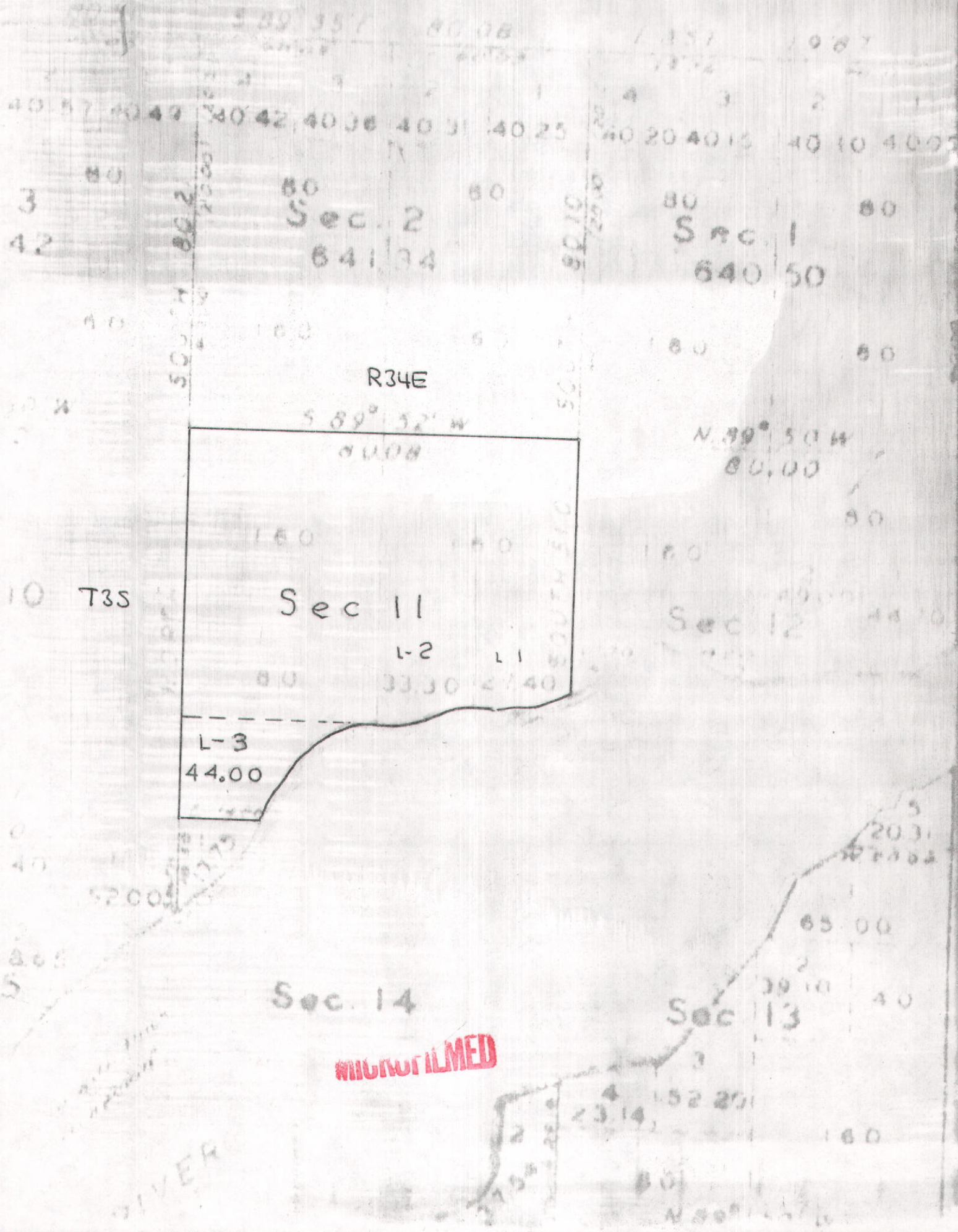
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P 16

35-7818



Gov Lot Plat for #35-7818



BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF LICENSE)
NO. 35-07818 IN THE NAME OF)
LONA M. SCOTT)
_____)

**ORDER GRANTING PETITION
FOR RECONSIDERATION**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the issuance of an amended water right license, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On October 20, 1978, the Department issued Permit 35-07818 (permit) authorizing Stephen H. Scott (permit holder) to develop a right to divert 0.54 cfs from groundwater in Govt. Lot 3, Section 11, Township 3 South, Range 34 East, B.M., Bingham County, to irrigate 27 acres.
2. On August 22, 1983, the Department received a proof of beneficial use statement for the permit.
3. On June 20, 1984, a Department field examiner (examiner) conducted an inspection to verify the beneficial use of water developed in accordance with the permit. The examiner reported that the permit holder had diverted groundwater and irrigated eleven acres in accordance with the permit.
4. On September 18, 1986, the Department issued Water Right License 35-07818 (license) confirming the right to divert up to 38.5 acre feet per year from groundwater in Govt. Lot 3, Section 11, Township 3 South, Range 34 East, B.M., Bingham County, to irrigate 11 acres.
5. On February 26, 1999, the Department received a request from Lona Scott-Nochebuena for an amended license to confirm the development of a right to divert 77 acre feet per year to irrigate 18.7 acres. As evidence of her possessory interest in the license, Lona Scott-Nochebuena submitted a quitclaim deed in which Steven H. Scott granted to Lona M. Scott (right holder) all interest in the land to which the license is appurtenant. The right holder also submitted documentation in support of her assertion that the examiner's report incorrectly depicts the irrigated place of use and the sprinkler system used to irrigate the place of use at the time of the field inspection.
6. The examiner who conducted the water right examination for the license reviewed the documentation submitted by the right holder and acknowledged an error in his reporting of the beneficial use developed in accordance with the permit. On February 26, 1999, the examiner submitted a memorandum in which he agrees that the "the orientation of the well and mainline is wrong on the field exam" and that "18+ acres is my estimation of irrigated acres in retrospect."

7. In accordance with Beneficial Use Examination Rule 35.01.h. (IDAPA 37.03.02.035.01.h.) the Department shows irrigated acreage to the nearest whole acre on water rights covering more than five acres.
8. On April 28, 1999, the Department issued a preliminary order amending the license (order) to confirm the right to divert 0.27 cfs and 76 acre feet per year from groundwater in Govt. Lot 3, Section 11, Township 3 South, Range 34 East, B.M., Bingham County, to irrigate 19 acres.
9. On April 29, 1999, the Department mailed the order to the right holder with a letter explaining the procedure for petitioning for reconsideration of the license pursuant to Rule 730.02.a. of the Rules of Procedure of the Department (IDAPA 37.01.01730.02.a.). The Department sent a copy of the order and the letter to Norman M. Semanko of the law firm Rosholt, Robertson & Tucker, Chtd., in accordance with Mr. Semanko's request.
10. On May 13, 1999, the Department received a petition for reconsideration (petition) of the order from Norman M. Semanko on behalf of the Twin Falls and North Side Canal Companies (petitioner). The petitioner asks the Department to rescind the order or to hold an evidentiary hearing to allow for the introduction of additional evidence. The petitioner did not submit additional documentation or evidence in connection with the petition.

CONCLUSIONS OF LAW

1. Section 67-5243(3), *Idaho Code*, provides in pertinent part as follows:

Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

2. Rule 730.02.a. of the Rules of Procedure of the Department provides in pertinent part that the Department will "dispose of the petition for reconsideration within twenty-one (21) days of its receipt or the petition will be considered denied by operation of law."
3. The Department should grant the petition for reconsideration of the order pursuant to Section 67-5243(3), *Idaho Code*.
4. Rule 730.02.d. of the Rules of Procedure of the Department provides in pertinent part as follows:

If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) 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.

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration of the order amending Water Right License 35-07818 is **GRANTED** pursuant to Section 67-5243(3), *Idaho Code*.

IT IS FURTHER ORDERED that all parties have twenty-one (21) days from the service date of this order to file documentation and briefs in support of or taking exception to the preliminary order amending Water Right License 35-07818 or to request an evidentiary hearing on the matter. All documents intended to be part of the agency record for decision must be served in accordance with Rules 302 and 303 of the Rules of Procedure of the Department.

Dated this 3RD day of JUNE, 1999.


NORMAN C. YOUNG
Administrator, Water Management Division

State of Idaho
Department of Water Resources

AMENDED

Water Right License

AMENDED

WATER RIGHT NO. 35-07818

Priority: September 12, 1978

Maximum Diversion Rate:

0.27 CFS

Maximum Diversion Volume:

76.0 AF

This is to certify, that LONA M SCOTT
187 S 800 W

BLACKFOOT ID 83221 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 12, 1978; and has submitted Proof of Beneficial Use on August 22, 1983. An examination indicates that the works have a diversion capacity of 0.270 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	0.27 CFS	76.0 AF

LOCATION OF POINT(S) OF DIVERSION: Lot 3 (SWSW), Sec. 11, Township 03S, Range 34E
BINGHAM County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03S 34E 11	Lot 3 (SWSW) 19			19

Total number of acres irrigated: 19

CONDITIONS OF APPROVAL AND REMARKS

1. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Signed and sealed this 28th day of

April, 1989.

Acting for

KARL J. DREHER, Director

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 35-7818 Priority September 12, 1978 Amount 0.22 cfs

THIS IS TO CERTIFY, that Stephen H. Scott
of Blackfoot, Idaho, has complied with the terms and conditions of Permit
No. 35-7818 issued pursuant to Application for Permit dated September 12, 1978,
and has submitted proof to the Department of Water Resources on August 22, 1983,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 0.27 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>November 1</u>	at <u>0.22</u> cfs and	<u>38.5</u> acre feet
_____	from _____ to _____	at _____ cfs and	_____
_____	from _____ to _____	at _____ cfs and	_____

(both dates inclusive)

Subject, however, to the condition that no more than 0.22 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
38.5 acre feet per year, said waters to be diverted within the Gov. Lot 3 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)
Section 11, Twp 3S, Rge 34E in the County of Bingham

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
3S	34E	11											GL 3 11						11

Total number of acres irrigated 11

MR

CONDITIONS OF APPROVAL

- a. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.
- b. The right to the use of the water hereby confirmed is restricted and appurtenant to lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.
- c. Any water right confirmed in this license for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this license and shall not give rise to any right or claim against any future rights to the use of water other than hydropower, within the State of Idaho initiated later in time than the priority of this license.
- This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 18th day of September, 19 86.

Acting for the Director

[Signature]

14/8
2/11

Identification No. _____
Application No. 35 7818

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant Stephen H. Scott Phone: 785-5750
post office address P. O. Box 809 Blackfoot, ID 83221
2. Source of water supply ground water which is a tributary of _____
3. a. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11 Township 3S
Range 34E B.M. Bingham County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount .54 for irrigation purpose from Apr 1 to Oct 15 (both dates inclusive)
(cfs or ~~acre-feet per annum~~)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. .54 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 8" x 60' well, 7½ H.P. pump, ½ mile
3" sprinkler pipe.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is 8 inches; proposed depth of well is 60 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.
b. Estimated construction cost is \$ 3500.
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: _____ hp 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: _____

RECORDED

[illegible]

Slough (flood irrigation)

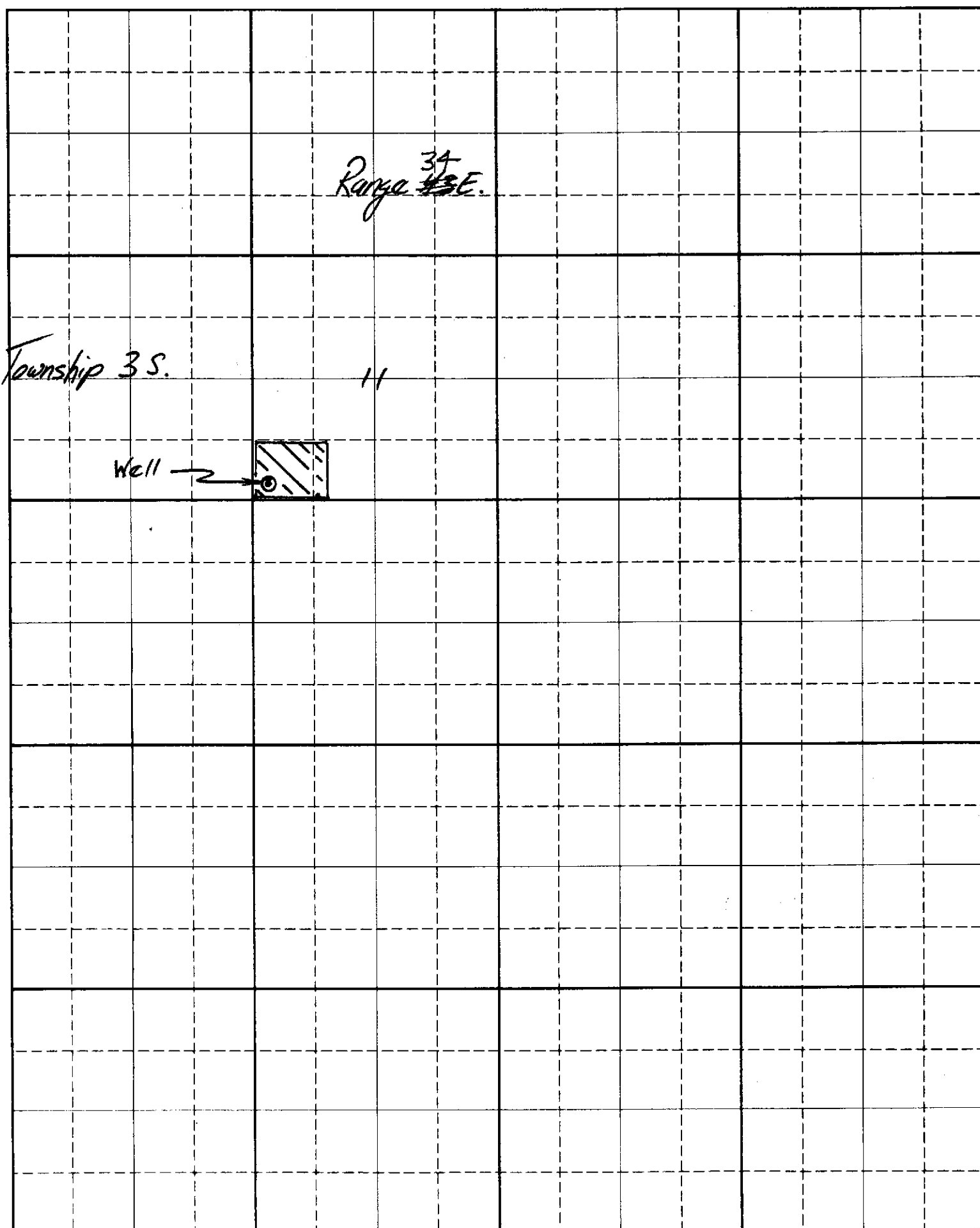
9. a. Who owns the property at the point of diversion
Applicant

Applicant

applicant to make this filing

10. Remarks

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



Scale: 2 inches equal 1 mile

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

X Stephen H. Scott
(Applicant)

RECEIVED

Received by AK Date 9.12.78 Time 11:53
Preliminary check by AK Fee \$ 35.00
Received by AK Date 9.13.78 # 11532
Publication prepared by AK Date 9.15.78
Published in Bearfoot News
Publication dates Sept 21 & 28, 1978
Publication approved IF Date 10-4-78
Priority reduced to _____ Reason _____
Protests filed by: _____
Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval/denial by AK AK

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 35-7818, and said application is hereby APPROVED.

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 1983.

c. Other: The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

2. Denial of said application is for the following reasons: _____

Witness my hand this 20 day of October, 1978

Chief, Operations Bureau

A. Allen Saylor

**NOTICE OF
APPLICATION FOR
WATER PERMIT**

Notice is hereby given that Stephen H. Scott, Blackfoot, Idaho, has on 9-12-78, submitted Application No. 35-7818, for a permit to appropriate 0.54 cubic feet per second of water from a ground-water source by means of well and pump within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11, T. 3S, R. 34E, B.M., Bingham County; to be used from Apr. 1 to Oct. 15 for the irrigation of 27 acres within the S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 11, T. 3S, R. 34E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before October 9, 1978.

C. STEPHEN ALLRED
Director

(5768)

Pub.: 9-21, 28

33

AFFIDAVIT of PUBLICATION

County of Bingham)

State of Idaho)
I, David Mark Brown) ss.

solemnly do

swear that I am the Publisher of The Blackfoot News which is a daily newspaper of general circulation published each day except Sunday at Blackfoot, Bingham County, Idaho, said newspaper having been so published at Blackfoot, aforesaid for more than one year past; that said newspaper heretofore complied with all the provisions of Chapter 134 of the Sessions Laws of Idaho of 1933, approved March 11, 1933, and duly designated, pursuant to law, a particular day of the week as the day on which legal notices required by law or by the order of any Court of competent jurisdiction within the State of Idaho shall be published to-wit: Thursday of each week; that the notice attached hereto and which is a part of this affidavit and part of the proof of

of publication was published in said issue or said newspaper two consecutive weeks

the first publication having been made on the 21st day of September, 19 78

and the last publication having been made on the 28th day of September, 19 78

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

David Mark Brown

Subscribed and sworn to before me this 28th

day of September, 19 78

Patricia A. Johnson

Notary Public for the State of Idaho,

Residing at Blackfoot, Idaho

My commission expires

Oct. 20, 1980

RECEIVED

AUG 16 1999

Department of Water Resources

**LONA SCOTT - NOCHEBUENA
187 S 800 W
Blackfoot, Idaho 83221**

August 12, 1999

Idaho Department of Water Resources
1301 N. Orchard St.
Boise, Id 83706

ATTENTION: Shelley Keen

RE: Amending licence #35-07818

Dear Gentlemen:

Concerning the condition suggested in the letter dated July 29, 1999, by Norman Semanko, I quote:

The right holder shall maintain control of the Watson Slough water appurtenant to the property for mitigation purposes and shall comply with the terms of mitigation as the terms may be determined in the future by the department.

And again I quote:

This condition would alleviate the Canal Companies' concerns about the potential injury ...

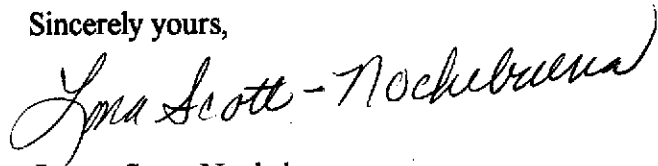
We are correcting an error made in 1984 and the precedent quoted was dated January 30, 1995, I believe the grandfather cause is in effect in this situation. Also, Gentlemen, if you were me and/or I was your client would you approve of giving up the freedom of your water rights to comply with the terms of migration as determined IN THE FUTURE by the department or whomever?

LONA SCOTT - NOCHEBUENA
187 S 800 W
Blackfoot, Idaho 83221

Page 2

I feel that if I approve of this condition that I would be putting myself in potential injury now and in the future. So, therefore, I do not approve.

Sincerely yours,

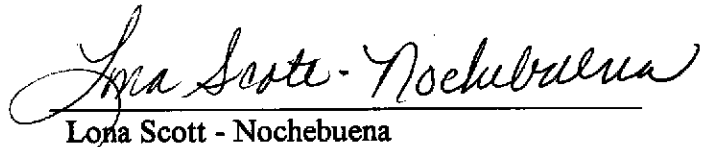


Lona Scott-Nochebuena

I hereby certify on this the 12 of August 1999, I faxed and VIA U.S. Mail copies of letter to:

Idaho Department of Water Resources
1301 N. Orchard St.,
Boise, Idaho 83706
ATTENTION: Shelley Keen

Norman M. Semanko
Rosholt, Robertson & Tucker
P. O. Box 1906
Twin Falls, Idaho 83303


Lona Scott - Nochebuena

From: Lona Scott - Nochebuena

To: Shelley Keen

RE: Amending water right license no. 35-07818

Number of pages 2

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P. O. Box 1906
Twin Falls, Idaho 83303

Lona Scott - Nochebuena
Lona Scott - Nochebuena

MEMORANDUM

DATE: August 11, 1999

TO: Water Right File 35-07818

FROM: Shelley W. Keen *SWK*

RE: Time to respond to Amended Exceptions

Today Lona Scott Nochebuena called to say that she wants to respond to the Amended Exceptions submitted by Norman Semanko. I could not find in the Rules of Procedure a reference to amended exceptions, so I told Mrs. Nochebuena that IDWR will allow 21 days, or until September 1, 1999, for her written response to be filed.

AUG 02 1999

Department of Water Resources

1 Norman M. Semanko
2 ROSHOLT, ROBERTSON & TUCKER
3 P. O. Box 1906
4 Twin Falls, Idaho 83303-1906
5 Telephone: (208) 734-0700
6 Facsimile: (208) 736-0041
7 ISB# 4761

8 Attorneys for Twin Falls Canal Company
9 and North Side Canal Company

10 BEFORE THE DEPARTMENT OF WATER RESOURCES

11 OF THE STATE OF IDAHO

12 IN THE MATTER OF)
13 LICENSE NO. 35-07818) AMENDED EXCEPTIONS TO
14 IN THE NAME OF) PRELIMINARY ORDER
15 LONA M. SCOTT)
16 _____)

17 * * * * *

18 Twin Falls Canal Company and North Side Canal Company, by and through their
19 attorneys, Rosholt, Robertson & Tucker, file the following amended exceptions to the
20 Department's preliminary order amending water right license no. 35-07818.

21 **AMENDED EXCEPTIONS**

22 The Canal Companies have previously filed exceptions to the Department's decision to
23 amend water right license no. 35-07818. The license was amended to increase the quantity of
24 ground water from .22 cfs and 38.5 acre feet per year to .27 cfs and 76 acre feet per year.
25 The authorized place of use was also increased from 11 acres to 19 acres. The Canal
26 Companies were concerned about the sufficiency of the evidence offered to date.

1 After the exceptions were filed, counsel for the Canal Companies received a copy of
2 correspondence and other information from the right holder to the Department, dated July 14,
3 1999, by fax and mail. This information tends to show that the acreage has been irrigated
4 exclusively by ground water since at least 1979. Evidence was also provided to show that the
5 Watson Slough ditches were removed on October 23, 1978.
6

7 With regard to the Watson Slough water, the right holder states: "I still own shares in
8 the Watson Slough and will continue to own them because they are the oldest water rights in
9 the valley." However, she irrigates exclusively with ground water at the present time.
10

11 Given this evidence, the Canal Companies would not object to approval of the amended
12 license if the following condition or similar language were included in the amended license:
13

14 **The right holder shall maintain control of the Watson Slough water**
15 **appurtenant to the property for mitigation purposes and shall comply**
16 **with the terms of mitigation as the terms may be determined in the**
17 **future by the department.**

18 There is precedent for this type of mitigation provision for conversions from surface
19 water to ground water irrigation. See e.g., Final Order in the Matter of Application for Transfer
20 No. 4115 (47-02315) in the Name of Hoogland and Hatch Partnership, Condition of Approval
21 No. 8 (January 30, 1995). This condition would alleviate the Canal Companies' concerns about
22 the potential injury resulting from amendment of the license and should be adopted.

23 DATED this 29th day of July, 1999.

24 ROSHOLT, ROBERTSON & TUCKER

25 By: 

26 NORMAN M. SEMANKO

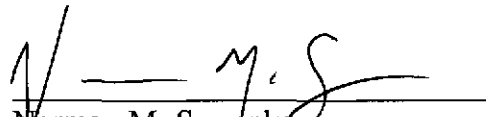
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CERTIFICATE OF MAILING

I hereby certify that on this 29th day of July, 1999, I caused a copy of the foregoing
AMENDED EXCEPTIONS TO PRELIMINARY ORDER to be served upon the following
persons in the following manner:

VIA U.S. MAIL

Lona M. Scott
187 S 800 W
Blackfoot, ID 83221



Norman M. Semanko

SCOTT2.BRF

**ROSHOLT ROBERTSON & TUCKER
ATTORNEYS AT LAW**

**142 THIRD AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
(208) 734-0700
FAX (208) 736-0041**

FACSIMILE TRANSMISSION

DATE: 7-29-99 327-7944
FAX TO: Shelly Keen - IDW State Office
FROM: Norman Semanko
RE: Lona M. Scott (35-07818)

NUMBER OF PAGES INCLUDING THIS ONE: 4

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL US BACK AS SOON AS POSSIBLE AT (208) 734-0700.

INFORMATION CONTAINED IN THIS FACSIMILE COMMUNICATION IS ATTORNEY/CLIENT PRIVILEGED AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS COVER PAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINED HEREIN IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY CALL AT (208) 734-0700, AND RETURN THIS FACSIMILE TO US BY MAIL AT THE ABOVE ADDRESS. WE APPRECIATE YOUR COOPERATION.

ADDITIONAL MESSAGE:

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3 P. O. Box 1906
4 Twin Falls, Idaho 83303-1906
5 Telephone: (208) 734-0700
6 Facsimile: (208) 736-0041
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By: 1/ - 4/5
NORMAN M. SEMANKO

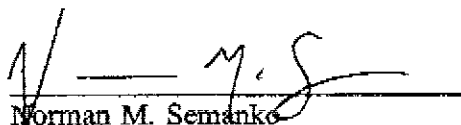
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Norman M. Semanko

SCOTT2.BRF

RECEIVED

JUL 19 1999

Department of Water Resources

LONA SCOTT - NOCHEBUENA
187 S 800 W
Blackfoot, Idaho 83221

July 14, 1999

Idaho Department of Water Resources
1301 N. Orchard St.,
Boise, Id 83706

ATTENTION: Shelley Keen

RE: Amending licence # 35-07818

Dear Shelley,

As per our telephone conversation of June 28, 1999, I am sending the following information which I hope will solve this situation once and for all.

1. Purchased ground October 1976 - acreage (20) in pasture watered by Watson Slough.
1977 - acreage (20) in pasture watered by Watson Slough.
1978 - acreage (20) in pasture and grain watered by Watson Slough until sprinkler system was installed. AT NO TIME WAS THE WATSON SLOUGH SURFACE WATER AND THE SPRINKLER GROUND WATER USED AT THE SAME TIME
1979thru1986- acreage(20) in grain or hay watered by sprinkler system.

Aerial photos previously sent shows the lay of the land before and after sprinkler system. Enclosed letter from Bill Adams, who did custom work on acreage, verifying acreage and crop usage.

2. Watson Slough - ditch removal
I still own shares in the Watson Slough and will continue to own them because they are the oldest water rights in the valley.

The ditches that watered the 20 acres was removed by Lark Shrader Excavating on October 23, 1978. Copy of invoice enclosed. (Enclosure #2)
Enclosure #3 Personal photos of ditches being removed.

Lona Scott - Nochebuena
187 S. 800 W.
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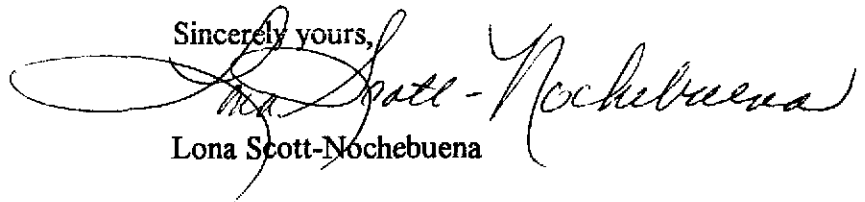
Page 2

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The capacity of the system at the time according to Harold Jones's field exam licensing report previously sent measurement calculations shows that with 32 sprinklers x 3.79 spm = 121.28 spm or 0.27 cfs. 32 rain birds or sprinklers is exactly the number used to irrigate the 20 acres. Aerial photos previously sent shows approximately a quarter mile being irrigated which requires 32 rain bird (sprinklers). A sprinkler system cannot product more than its capacity and when in use will product hopefully its capacity. Field examiner, Harold Jones, verifies capacity of system in licensing report previously sent.

Shelley, I hope this addition information will solve the problem and I appreciate you help in this matter. I am confused about one thing. My Watson Slough shares are going down stream to American Falls reservoir and beyond. Who has been using my water for the last eleven years? Again thank you for your help.

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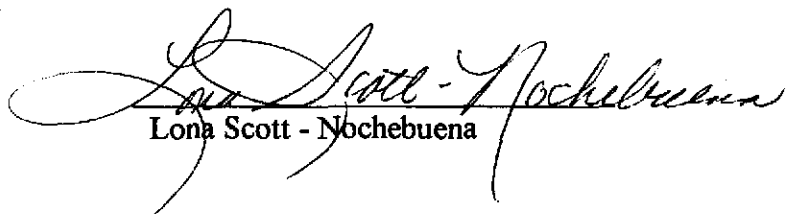
Lona Scott-Nochebuena

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Enclosure 2 - Lark Shrader Invoice
Enclosure 3 - Personal photos ditch removal

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P. O. Box 1906
Twin Falls, Idaho 83303



Lona Scott - Nochebuena

— Enclosure 1 —

July 6, 1999

Lona Nochebuena
187 South 800 West
Blackfoot, ID 83221

Dear Lona,

It was great visiting with you the other evening. I was interested in what you told me about your sprinkling system that you had installed in 1979 or 1980.

I baled hay on the place before you moved there and remembered that there were several ditches and small fields that made up the field you have now.

The first fall after your sprinklers had been installed, you asked me to come and bale your straw. I was excited because there was now one twenty-acre field instead of three or four smaller ones. I can recall asking about your sprinkler system because my own place was made up of cross ditches and small patches. It was exciting to see the improvements that you have made.

One of the things we talked about back then was the fact that you did not have to get up during the night to change the water. You could change the sprinkler lines in the day time and that was it.

We also discussed how much more efficient the sprinkler would be and being able to water the high spots.

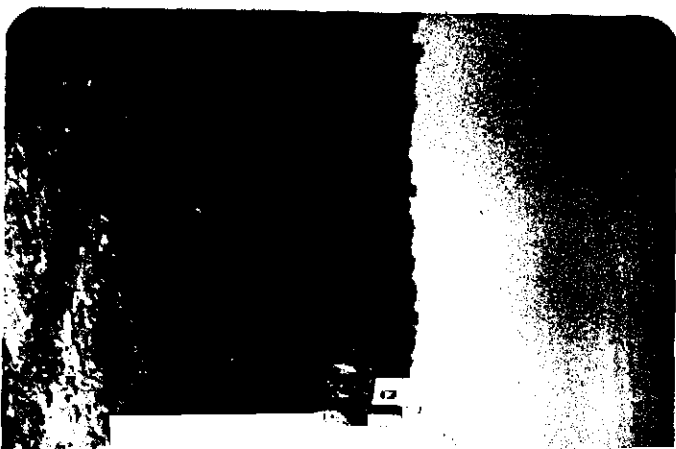
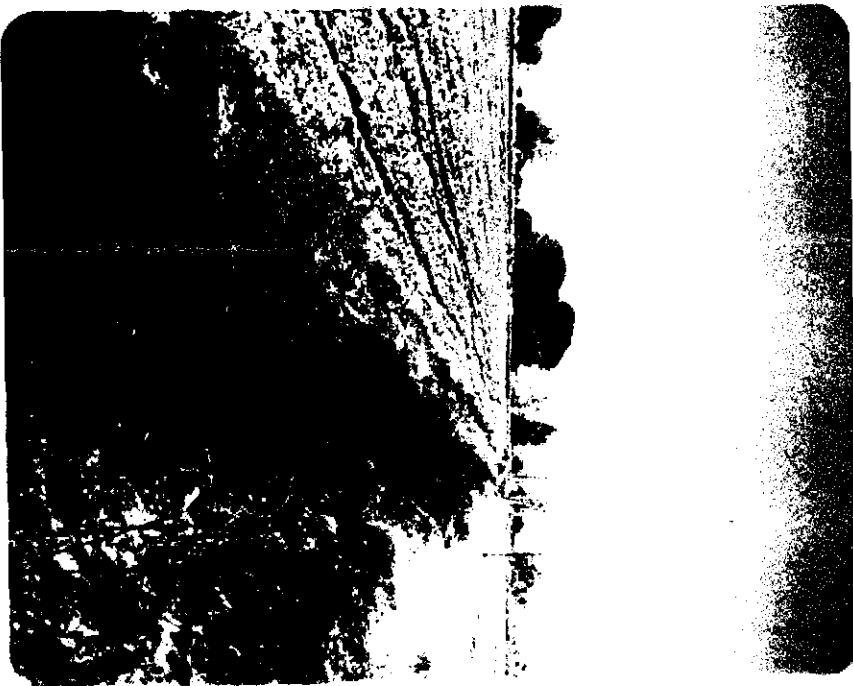
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Hope to visit with you again soon.

Sincerely,

Bill
Bill Adams

901 • WFO Form 106



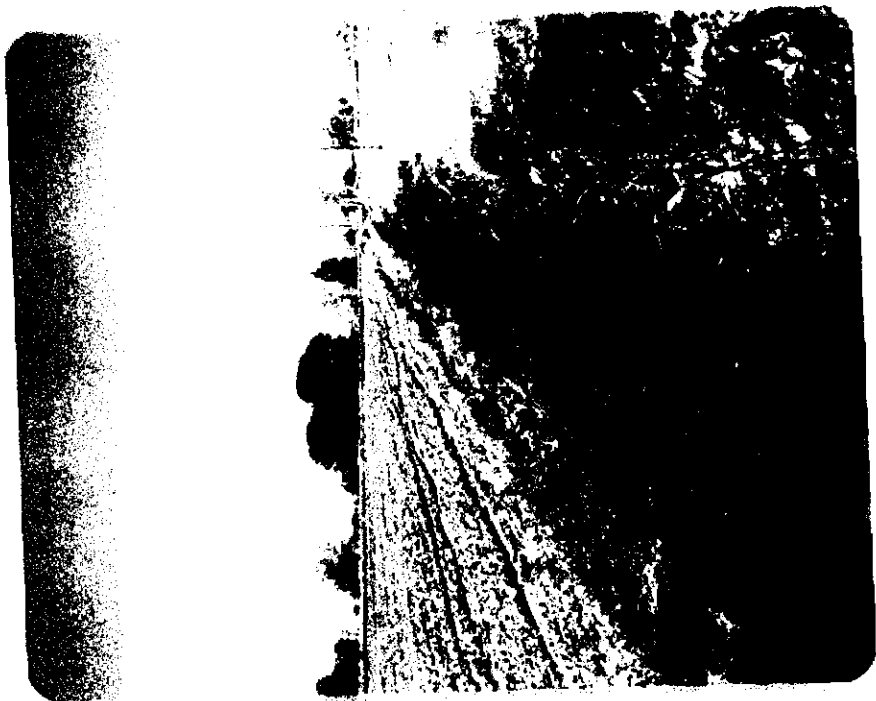
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—
Ere



GROUND RENOVATION

Ditches taken out
to put SPRINKLER
SYSTEM IN.



— Enclosure 3 —

LONA SCOTT - NOCHEBUENA
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July 14, 1999

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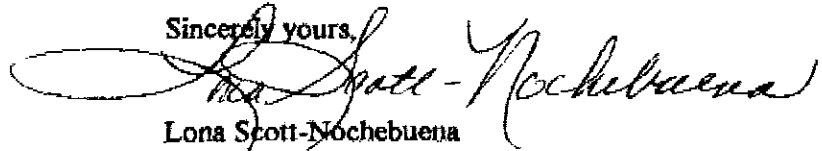
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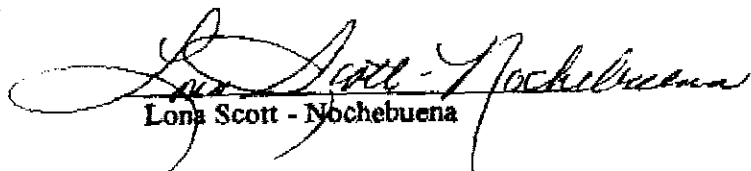

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Bill Adams

Envelope #2.

Lark Shrader Excavating

Rt. 2 Box 233
Blackfoot, Idaho 83221
(208) 684-4095

LARA SHRAVER EXCAVATING
RT. 2 BOX 233
BLACKFOOT, IDAHO 83221

No. 927-24 Date 10/23/28

Name Steve Wells
Address 173 Pleasant

SOLD BY	CASH	C. O. D.	CHARGE	ON ACCT.	MORE RETD.	PAID OUT
785-5750						
QUAN.	DESCRIPTION					A.MOUNT
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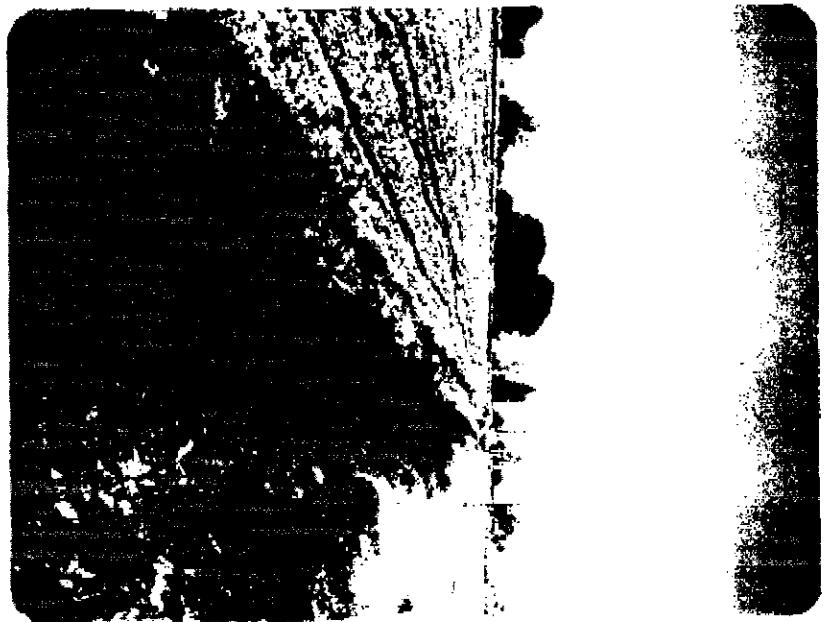
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KEEP THIS SLIP FOR REFERENCE
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PAID BY CHECK NO.

STATEMENT

Page 10 of 10



1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044-1045-1046-1047-1048-1049-1050-1051-1052-1053-1054-1055-1056-1057-1058-1059-1060-1061-1062-1063-1064-1065-1066-1067-1068-1069-1070-1071-1072-1073-1074-1075-1076-1077-1078-1079-1080-1081-1082-1083-1084-1085-1086-1087-1088-1089-1090-1091-1092-1093-1094-1095-1096-1097-1098-1099-1100-1101-1102-1103-1104-1105-1106-1107-1108-1109-1110-1111-1112-1113-1114-1115-1116-1117-1118-1119-1120-1121-1122-1123-1124-1125-1126-1127-1128-1129-1130-1131-1132-1133-1134-1135-1136-1137-1138-1139-1140-1141-1142-1143-1144-1145-1146-1147-1148-1149-1150-1151-1152-1153-1154-1155-1156-1157-1158-1159-1160-1161-1162-1163-1164-1165-1166-1167-1168-1169-1170-1171-1172-1173-1174-1175-1176-1177-1178-1179-1180-1181-1182-1183-1184-1185-1186-1187-1188-1189-1190-1191-1192-1193-1194-1195-1196-1197-1198-1199-1200-1201-1202-1203-1204-1205-1206-1207-1208-1209-1210-1211-1212-1213-1214-1215-1216-1217-1218-1219-1220-1221-12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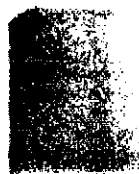
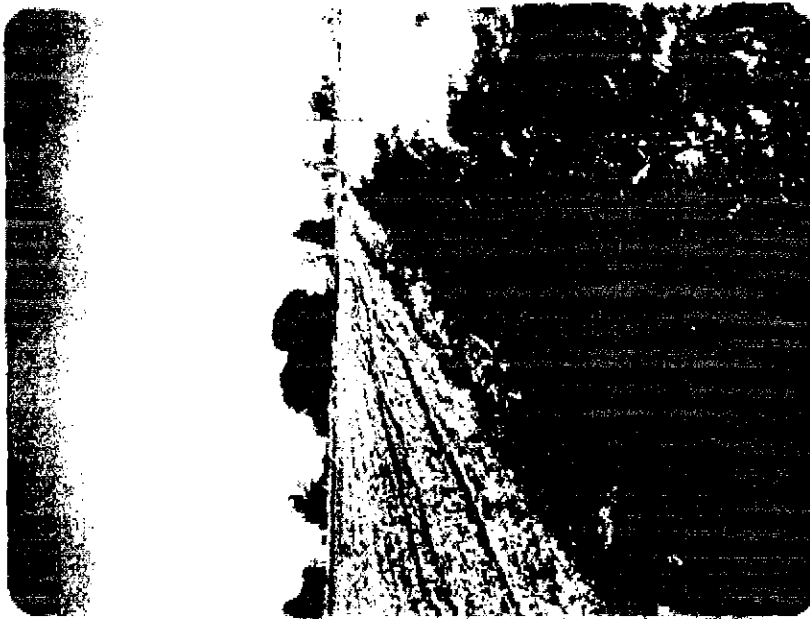
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Department of Water Resources

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7 Attorneys for Twin Falls Canal Company
8 and North Side Canal Company

9 BEFORE THE DEPARTMENT OF WATER RESOURCES
10 OF THE STATE OF IDAHO

11 IN THE MATTER OF)
12 LICENSE NO. 35-07818) EXCEPTIONS TO
13 IN THE NAME OF) PRELIMINARY ORDER
14 LONA M. SCOTT)

15 * * * * *

16 Twin Falls Canal Company and North Side Canal Company, by and through their
17 attorneys, Rosholt, Robertson & Tucker, file the following exceptions to the Department's
18 preliminary order amending water right license no. 35-07818.

19 EXCEPTIONS

20 On April 28, 1999, the Department amended water right license no. 35-07818 at the
21 request of the owner, Lona M. Scott. The license was amended to increase the quantity of
22 ground water from .22 cfs and 38.5 acre feet per year to .27 cfs and 76 acre feet per year.
23 The authorized place of use was also increased from 11 acres to 19 acres.
24
25
26

1 The right holder submitted documentation in support of her request, asserting that the
2
3 Department field examiner had incorrectly depicted the irrigated place of use and the sprinkler
4 system to irrigate the place of use at the time of the field exam in 1984. Upon review of the
5 matter, the field examiner agreed that "the orientation of the well and mainline is wrong on the
6 field exam" and that "18+ acres is my estimation of irrigated acres in retrospect."

7 The simple fact is that the license cannot be amended because of a lack of sufficient
8 evidence introduced by the right holder. No evidence of actual beneficial use of ground water
9 was submitted to verify the amount of ground water beneficially used during the authorized
10 development period from 1978-1983. No actual measurements of ground water used were
11 submitted, either for diversion rate or annual volume. The conclusions of the field examiner
12 about diversion rate are based on "the capacity of the system at the time" and not on
13 measurements or other verification of actual beneficial use. Memo from H. W. Jones to file
14 (Feb. 22, 1999). This is an insufficient basis upon which to amend the license.
15

16 The only relevant evidence submitted was unverifiable personal opinion about the
17 number of acres irrigated by ground water. The aerial photos and other evidence submitted
18 regarding the number of acres irrigated do not prove that all of the acres were irrigated with
19 ground water instead of water from the Watson Slough.¹
20

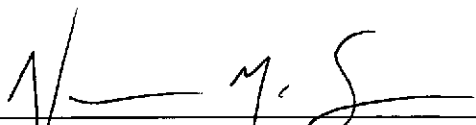
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23 ¹ See, Application for Permit (September 12, 1978), Beneficial
24 Use Field Report (October 16, 1984) and Licensing Report (November,
25 1984) (all noting that up to 24 inches of Watson Slough water was
26 used to irrigate the land in question); see also, Director's Report
for water right no. 35-07818 ("noting that "use of this right is
combined with water from Water Slough Ditch and Irrigation Co.)
(See Exhibit "A").

1 The burden of proof in this matter lies with the right holder -- not the Twin Falls and
2 North Side Canal Companies or anyone else -- and has not been met. In light of the insufficient
3 evidence, there is not an adequate record to amend the license to increase the quantity of water
4 and irrigated acres. See e.g., Final Order Issued in the Matter of License No. 61-07189 in the
5 name of Magic West, Inc. (January 22, 1999) (where an opportunity was provided to the right
6 holder to produce plant records or other similar evidence of the extent of beneficial use during
7 the permit development period and the Department concluded that the lack of complete, actual
8 measurements or other data did not establish the quantity of water requested).

9
10
11 There is not sufficient evidence in the record to confirm that the additional acres were
12 irrigated with ground water between 1978 and 1983. As a result, the preliminary order granting
13 the amended license should be rescinded and the right holder should be required to submit an
14 application for permit for the additional water.²

15 DATED this 24th day of June, 1999.

16
17 ROSHOLT, ROBERTSON & TUCKER

18
19 By: 
20 NORMAN M. SEMANKO

21
22
23

24 ² The May 28, 1999 Notice of Completed Administrative
25 Proceeding (NCAP) submitted to the SRBA Court by IDWR in Subcase
26 No. 35-07818 regarding the Amended License should also be
rescinded. It was premature for the Department to submit the NCAP
since the proceeding has not been "completed" but is only a
preliminary order (See Exhibit "B").

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CERTIFICATE OF MAILING

I hereby certify that on this 24th day of June, 1999, I caused a copy of the foregoing
EXCEPTIONS TO PRELIMINARY ORDER to be served upon the following persons in the
following manner:

VIA U.S. MAIL

Lona M. Scott
187 S 800 W
Blackfoot, ID 83221

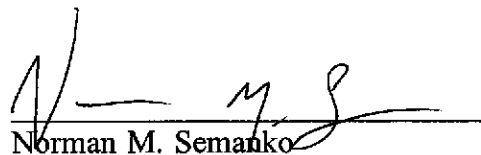

Norman M. Semanko

EXHIBIT A

AJ5856NP

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

DATE: SEP-11-1998

PAGE: A-703

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 35-07818

NAME & ADDRESS: LONA M SCOTT
187 S 800 W
BLACKFOOT ID 83221

SOURCE: GROUNDWATER

QUANTITY: 0.22 CFS
44.0 AFY

PRIORITY DATE: 09/12/1978

POINT OF DIVERSION: T03S R34E S11 LOT 3 (SWSWSW) Within BINGHAM County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	04-01 11-01	0.22 CFS
			44.0 AFY

PLACE OF USE: IRRIGATION Within BINGHAM County
T03S R34E S11 Lot 3 (SWSW)11
11 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER
IN BASIN 35 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER
RIGHTS IN BASIN 35:

WATER RIGHT NO.	SOURCE
NONE	NONE

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER
IN BASIN 35 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER
RIGHTS IN THE SNAKE RIVER BASIN:

WATER RIGHT NO.	SOURCE
NONE	NONE

ALL WATER RIGHTS WITHIN BASIN 35 ARE FROM CONNECTED SOURCES
OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED
CONJUNCTIVELY.

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE

USE OF THIS RIGHT IS COMBINED WITH WATER FROM
WATSON SLOUGH DITCH AND IRRIGATION CO.

RECEIVED JUN - 1 1999

EXHIBIT B

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

In Re SRBA	)	NOTICE OF COMPLETED
	)	ADMINISTRATIVE PROCEEDINGS
Case No. 39576	)	
	)	
_____	)	SUBCASE NO. 35-07818

IDWR has completed the following Administrative proceeding: AMENDED LICENSE

Name and Address of Claimant:

LONA M SCOTT
187 S 800 W
BLACKFOOT ID 83221

Phone:

The Claimant has filed Objections or Responses to the following water rights:

35-07818

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

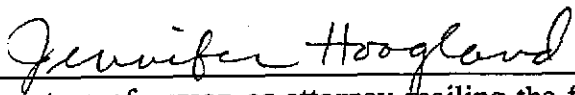
DATED: May 28, 1999

Ernest Carlson
Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 5/28, 1999, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One Copy to:
Claimant or attorney of record:
LONA M SCOTT
187 S 800 W
BLACKFOOT ID 83221
3. One Copy to:
Each party in the subcase or attorney of record:
NORMAN_SEMANKO
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906
4. One Copy to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
5. One Copy to:
United States Dept Of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

AJ5856NP

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

DATE: MAY-28-1999

PAGE: A-1

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 35-07818

NAME & ADDRESS: LONA M SCOTT
187 S 800 W
BLACKFOOT ID 83221

SOURCE: GROUNDWATER

QUANTITY: 0.27 CFS
76.0 AFY

PRIORITY DATE: 09/12/1978

POINT OF DIVERSION: T03S R34E S11 LOT 3 (SWSW)

Within BINGHAM County

PURPOSE AND

PERIOD OF USE: PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04-01 10-31

QUANTITY
0.27 CFS
76.0 AFY

PLACE OF USE: IRRIGATION Within BINGHAM County
T03S R34E S11 Lot 3 (SWSW)19
19 ACRES TOTAL

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 7, 1999

LONA M SCOTT
187 S 800 W
BLACKFOOT ID 83221

RE: Water Right License 35-07818

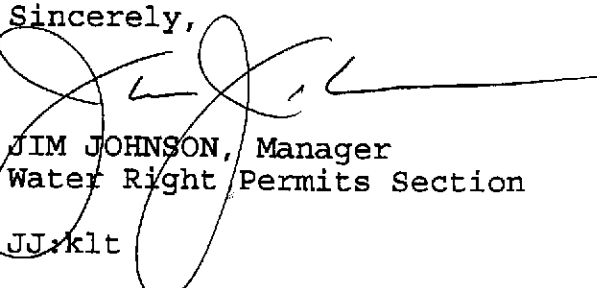
Dear Ms. Scott:

Enclosed please find an Order issued by the department
Granting Petition for Reconsideration.

Also enclosed is a copy of Rules 302 and 303 of the Rules of
Procedure of the Department as stated on page 3 of the
Order.

If you have any questions regarding this matter, please call
me at 327-7947.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt

cc: Harold Jones
Eastern Region office

Enclosures

302. SERVICE ON PARTIES AND OTHER PERSONS (Rule 302).

All documents intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing the original with the officer designated by the agency to receive filings in the case. (7-1-93)

303. PROOF OF SERVICE (Rule 303).

Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

I HEREBY CERTIFY (swear or affirm) that I have this day of, served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names)).
(Signature) (7-1-93)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 7, 1999

NORMAN M SEMANKO
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

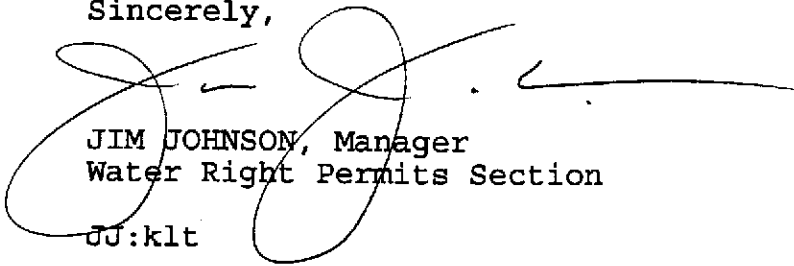
RE: Water Right License 35-07818

Dear Mr. Semanko:

Enclosed please find an Order issued by the department
Granting Petition for Reconsideration.

If you have any questions regarding this matter, please call
me at 327-7947.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt

cc: Harold Jones
Eastern Region office

Enclosure

ROSHOLT, ROBERTSON & TUCKER
Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
JOHN K. SIMPSON
NORMAN M. SEMANKO
PATRICK D. MADIGAN
TIMOTHY J. STOVER

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

RECEIVED
MAY 13 1999

May 12, 1999

Department of Water Resources

Karl Dreher, Director
c/o Norman C. Young
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83720

VIA FACSIMILE

Re: Amended License No. 35-07818 -- Petition for Reconsideration

Dear Karl and Norm:

Thank you for forwarding a copy of Amended License No. 35-07818, issued on April 28, 1999. Please consider this letter as a petition to reconsider your decision to amend the license.

As previously indicated, Twin Falls and North Side Canal Companies are concerned about the Department's practice of amending existing licenses for ground water by increasing the authorized quantity and/or number of acres without providing notice and an opportunity to participate in the process for those who may be impacted. Providing us with a copy of the final amended license is very late in the process, but at least allows us to ask for reconsideration within fourteen (14) days, as we are doing in this case. We ask, however, to be notified earlier in the process in the future -- preferably, from the beginning.

We have reviewed the request submitted by the owner of License No. 35-07818, along with the enclosures submitted as evidence and a file memorandum from Harold Jones. In short, we do not believe these materials provide justification to amend the license. The letter and supporting materials suggest that more than 11 acres were irrigated at the time of the field exam in 1984 and, presumably, during the authorized development period, 1978-1983. Whether this is true or not, there is no evidence that the additional acres were irrigated with ground water.

The September 12, 1978 application for permit (#8.c., other water rights used for the same purposes), October 16, 1984 beneficial use field report (#10, other water rights on these lands), and November, 1984 licensing report (#2, overlap review) all reveal that the land in question was irrigated with 24 inches of Watson Slough water. The Department's SRBA recommendation also notes that use of the ground water right is combined with water from Watson Slough Ditch and Irrigation Co. As a result, it appears to us that the license amendment is an attempt to sanction the subsequent use of ground water on acres that were previously irrigated only with Watson Slough water. Certainly, there is nothing in the evidence submitted to the Department which confirms that ground water was used on more than 11 acres during the 1978-1983 period.

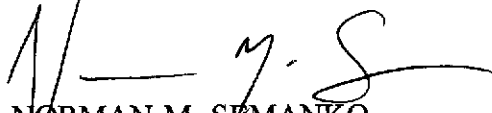
Karl Dreher, Director
c/o Norman C. Young
May 12, 1999
Page 2

We ask that the decision to issue the amended license be reconsidered and denied based upon a lack of evidence. Alternatively, consideration should be given to holding an evidentiary hearing to allow the introduction of additional evidence, with an opportunity for participation by other parties. If evidence exists to show that ground water was used on the additional acres between 1978 and 1983, we would certainly withdraw this request. Please let us know whether you or the water right owner are in possession of such evidence.

We do not undertake this request lightly. However, we want to make certain that only actual and verifiable licensing mistakes are corrected and that any requests to appropriate additional ground water do not circumvent the current moratorium on ground water permits or the mandatory statutory application and permit process.

Thank you for your attention to this matter.

Sincerely,



NORMAN M. SEMANKO

05129901.NMS

cc: Vince Alberdi, Twin Falls Canal Company
Ted Diehl, North Side Canal Company
Harold Jones, Idaho Department of Water Resources
Lona Scott-Nochebuena



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 29, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

LONA M SCOTT
187 S 800 W
BLACKFOOT ID 83221

RE: WATER RIGHT 35-07818

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed amended water right license. The amended license is a preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

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

Sincerely,

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

Shelley Walter Keen
Water Right Supervisor

SWK:klt

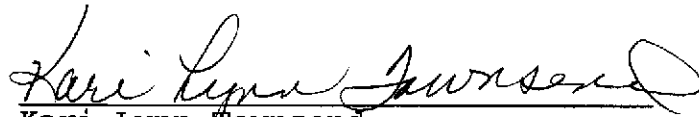
Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 29th day of April, 1999, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 35-07818

LONA M SCOTT
187 S 800 W
BLACKFOOT ID 83221


Kari Lynn Townsend
Secretary

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

358698

- 1 Recorded at Request of:
2 REGINALD R. REEVES, ESQ.
3 Return and Mail Tax Notices to:
4 Ms. Lona M. Scott
5 187 S. 800 W.
6 Blackfoot ID 83221

BINGHAM COUNTY RECORDER
BLACKFOOT, IDAHO
FEB 22 1991

1907 FEB 25 PM 12: 22

RECORDED AT THE REQUEST OF
Lona M. Scott

QUITCLAIM DEED

///

- 8 FOR VALUE RECEIVED, STEVEN H. SCOTT, Grantor, does hereby convey, release
9 remise, and forever quitclaim unto LONA M. SCOTT, grantee, all interest which
10 grantor might have, or hereafter might acquire (except by gift, inheritance, or
11 purchase) in the real property in Bingham County, Idaho, described as:

Beginning at the SW corner of
Section 11, T. 3 S., R. 34 EEM,
and running thence N.00° 14'00" W.,
along the section line, 650.73 feet;
thence S. 86° 18'51"E., 687.90 feet;
thence S. 89° 46'44"E., 611.29 feet;
thence E. 641.60 feet; thence S. 01°
49'27" E., 604.46 feet; thence W.
along the section line, 1955.97 feet
to the point of beginning

together with its appurtenances.

Steven H. Scott

STEVEN H. SCOTT
Grantor

- 21 On this February 11, 1987, at Idaho Falls, Idaho, before me personally
22 appeared STEVEN H. SCOTT, known to me to be the person whose name is subscribed on
23 the foregoing instrument, and acknowledged to me that he executed the same.

Reginald R. Reeves
REGINALD R. REEVES
Notary Public
Idaho Falls ID 83401
My Commission expires on
May 8, 1991

clb QUITCLAIM DEED

358698

DENMAN & REEVES
ATTORNEYS AND COUNSELLORS
CAMBERIDGE LAW CENTER - P.O. BOX 18-1
IDAHO FALLS, IDAHO 83401
TELEPHONE 832-2513

MEMORANDUM

TO: File 35-07818

FROM: Sharla

DATE: March 2, 1999

RE: Re-issue License

After reviewing the information sent by Mrs. Scott and Skip Jones' memo, a new license has been prepared for this right with the following parameters:

- Name has been changed using the QuitClaim Deed so that license can be re-issued in Mrs. Scott's name
- Rate of diversion has been changed to 0.27 cfs as recommended by Skip in line with capacity
- Number of acres has been changed and rounded to a total of 19
- The volume has been changed to reflect the increase in acres and the current volume/acre

RECEIVED

FEB 26 1999

Department of Water Resources

MEMO

FROM: H W JONES
TO: ~~SHELLEY KEEN~~ *File Boise*
RE: LICENSE EXAM FOR 35-07818

ATTACHED IS THE DOCUMENTATION FROM LONA SCOTT-NOCHEBUENA DESCRIBING THE PROBLEMS SHE FOUND WITH THE ORIGINAL FIELD EXAM. AS A RESULT OF HER EXPLANATION I AM VERY SYMPATHETIC TO HER ARGUMENT. AT THE TIME OF THE EXAM WHEN HER HUSBAND SHOWED ME THE PROPERTY THE SCOTTS WERE IN THE MIDDLE OF A DIVORCE. SINCE THE PROPERTY WENT TO MRS. SCOTT PERHAPS MR. SCOTT DID NOT GIVE THE EXAM OR THE LICENSING LETTER THAT FOLLOWED THE ATTENTION IT NEEDED.

I WOULD AGREE THAT THE ORIENTATION OF THE WELL AND MAINLINE IS WRONG ON THE FIELD EXAM, MUCH TO MY EMBARRASSMENT. I WOULD HOWEVER ONLY RECOMMEND THE 0.27 CFS INSTEAD OF THE 0.38 CFS LONA HAS REQUESTED AS MY FIGURE REPRESENTS THE CAPACITY OF THE SYSTEM AT THE TIME. THE 1980 MAP IS PROBABLY A POOR REPRESENTATION OF THE ACREAGE DEVELOPED BY 1984 AND 18 + ACRES IS MY ESTIMATION OF IRRIGATED ACRES IN RETROSPECT.

THE RECENT SURVEY INCLUDED HERE SHOWS 18.7 ACRES IN PARCEL 1. THIS IS THE IRRIGATED GROUND NOW AND IT HAS DIMINISHED A BIT IN SIZE ACCORDING TO LONA, SINCE 1987 AS HER YARD GREW.

H W JONES

HWJ

2-22-1999

**LONA SCOTT- NOCHEBUENA
187 South 800 West
Blackfoot, Idaho 83221**

February 19, 1999

Department of Water Resources
Idaho Falls, Idaho

ATTENTION: Harold W. Jones

RE: Amending licence # 35-07818

To Whom it May Concern:

I, Lona Scott-Nochebuena, would like to amend my licence #35-07818 from 11 acres, .22 CFS and 44.0 AFY to 18.7 acres, .38 CFS and 77.0 AFY for the following reasons:

1. There was an error when the property boundaries were drawn by my former husband, Stephen Scott, on June 20, 1984.

The application for permit that was applied for and approved showed the acreage in the tabulation to be 20 acres. When the field was drawn out only two of the irrigated lots was drawn and measured resulting in 11 acres. If the 3 lots had been measured and the pasture acreage had been added it would have been closer to the 20 acres. 1980 map shows how it should have been drawn. (Enclosure 5). The yellow shows the way it WAS drawn, the yellow and green shows the way it SHOULD HAVE BEEN, and the yellow, green and blue shows the total acreage that I own. It was like the blue was totally disregard and the green was considered the home site instead of the blue where the home site is.

2. The field exam shows that 32 sprinkler heads were in use. This is one line or 1/4 mile.

The sprinkler set-up is also wrong (enclosure 7). The correct way is the main line runs north and south and the hand lines run east and west. Since the spring of 1979 these acreages was irrigated only by sprinkler system.

3. The positioning of the well drawn on the aerial photo was in the wrong place. Enclosure 9 shows the correct placement.

4. I was not consulted when the licensing was sent on August 25, 1986, as I was divorced May 5, 1986, and would have caught the error.

Lona-Scott-Nochebuena
RE: amending licence #35-07818 (cont.)

5. I am enclosing my tax notice which shows the amount of irrigated acreage. I am also enclosing a copy of the survey that was done February 17, 1999, to verify the exact amount of acreage that is under irrigation. There was a tad bit more in 1984 than there is now because I enlarged my yard.

For these reasons I would like the licence amended.

Thank you,
Sincerely yours,


Lona Scott-Nochebuena

Enclosure list:

1. Date of exam and number of sprinkler heads
- 2a. Application for permit
- 2b. Tabulation of acreage (20)
3. Aerial map time of field exam
4. Government lots and tabulation of acreage
5. Aerial photo of corrected boundaries
6. Proof of sprinkler heads
7. Incorrect orientation of sprinkler set-up
8. Aerial photo of irrigated land 1979-1993
9. Aerial photo correct location of pump
10. Proof of divorce and quit claim deed
11. Tax notice
12. Survey layout and legal description

Enclosure - 2

Application for permit
and approval.

Identification

Application No.

35 7818

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant Stephen H. Scott Phone: 785-5750
post office address P. O. Box 809 Blackfoot, ID. 83221
2. Source of water supply ground water which is a tributary of _____
3. a. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11 Township 3S
Range 34E B.M. Bingham County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount .54 for irrigation purpose from Apr 1 to Oct 15 (both dates inclusive)
(cfs or ~~XXXXXXX~~)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. .54 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 8" x 60' well, 7½ H.P. pump, ½ mile
3" sprinkler pipe.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is 8 inches; proposed depth of well is 60 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.
b. Estimated construction cost is \$ 3500.
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: _____ hp 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: _____

RECORDED

Fabrication of acreage (20)

[illegible]

c. Describe any other water rights used for the same purposes as described above. 24 inches in Watson Slough(flood irrigation)

10. Remarks _____
- MICROFILMED**

MICROFILM

35-7818

Enclosure #3
Aerial map time of
field exam

E201

NON APP

6.5

✓

90

Gov
Lot #3

10.0

9.6

5.1

C 481

49.0

5.6

C-312

36.4

TSS

R 34E

352-C

327-C

12.7

17.2

34.0

WOODEN MEN

13.7

14.7

C-317

9.3

5.1

21.5

C-352

505-C

18.8

C-605

10.5

10.7

14.8

10.3

15.1

29.1

5.7

9.5

14.2

5.8

C-483

18.3

21.5

Enclosure #4
Government lots and
tabulation of acreage 4

- | 6. Beneficial Use | Period of Use
From To | Rate of Diversion
Q (cfs) | Annual Volume
V (afa) |
|-------------------|--------------------------|------------------------------|--------------------------|
| Irrigation ✓ | 4-1 ✓ ~~12-15~~ | 0.22 cfs ✓ | 38.5 AF ✓ |

7. Point(s) of Diversion: ✓

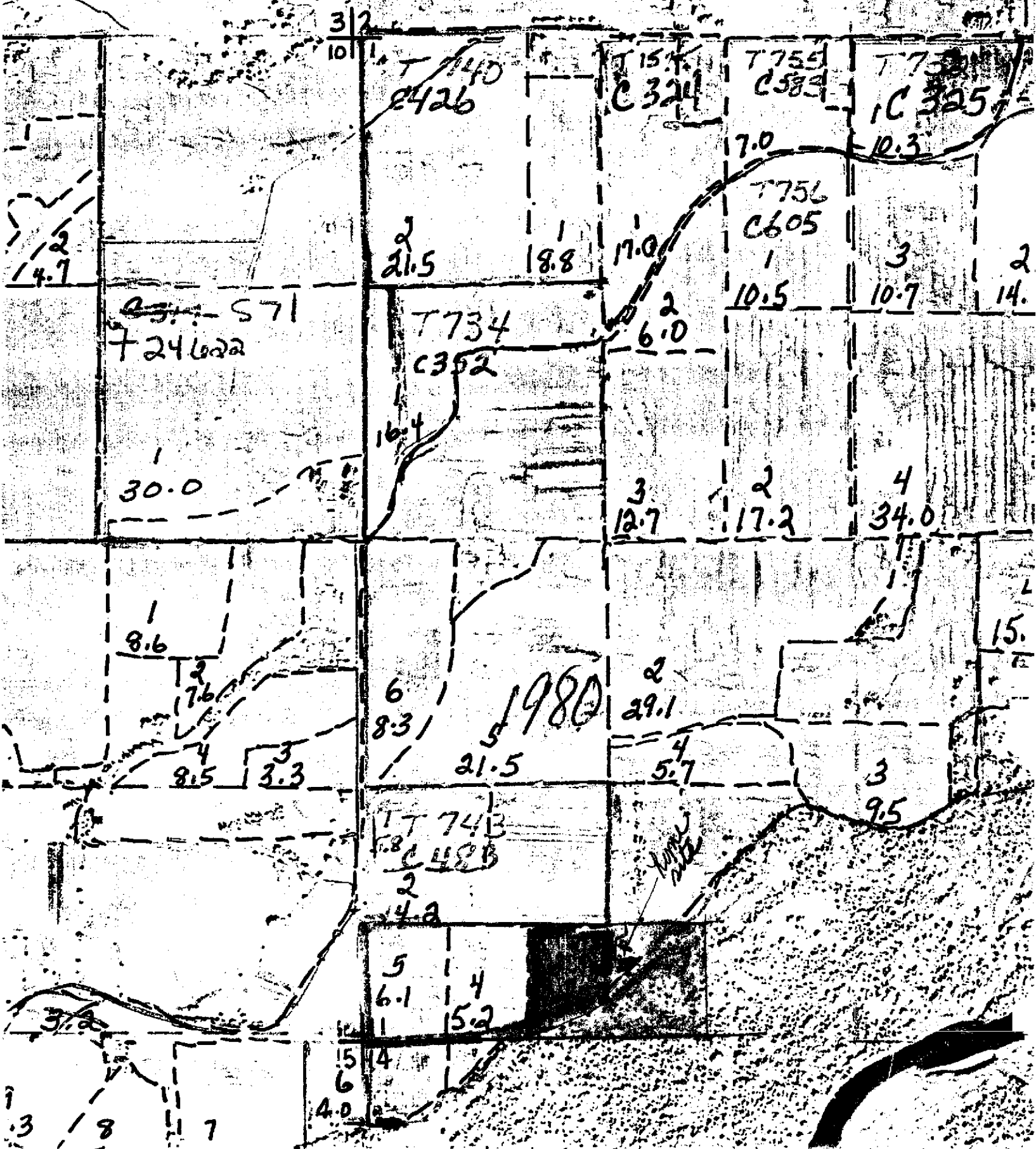
8. Place(s) of Use ☒

9. Recommended Conditions/Remarks: R30

- Date 8/15/86

WIPACEN MEN

enclosure #5
Aerial photo of
correct boundaries



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

REC

NOV 27 1984

Enclosure #6
roof of sprinkler heads

35-7818

Permit No.

Department of Water Resources

1. Measurement Calculations

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

41 psi @ 9/64" N.P., 32 sprinklers = $3.79 \text{ gpm} \times 32 \text{ sprinklers} = 121.28 \text{ gpm}$
or 0.27 cfs ✓

11 acres $\times 0.02 \text{ cfs} = 0.22 \text{ cfs}$

b) Volume Calculations for Irrigation:

$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 11 \text{ acres} \times 3.5 \text{ cfs} = 38.5 \text{ cfs} \checkmark$
 $V_{OR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 0.22 \text{ cfs} \times 197 \text{ d} \times 1.9835 = 85.9$
 $V = \text{Smaller of } V_{IR} \text{ and } V_{OR} = 38.5 \text{ cfs} \checkmark$

c) Volume Calculations for Other Uses:

$V_{OR} = 0.22 \times 1.9835 \times 214 \text{ days} = 93.4 \text{ AF}$

2. Overlap Review

a) Other water rights with same place of use: Water from Watson Slough

01-0232, 35-7811, 01-0146^{0146B}, 01-0191B, 01-0192F

b) Other water rights with same point of diversion: NA. 35-7818 - per

exam of that right, these systems
are separate - it is also being licensed.

c) Analysis:

R16 (3.5)

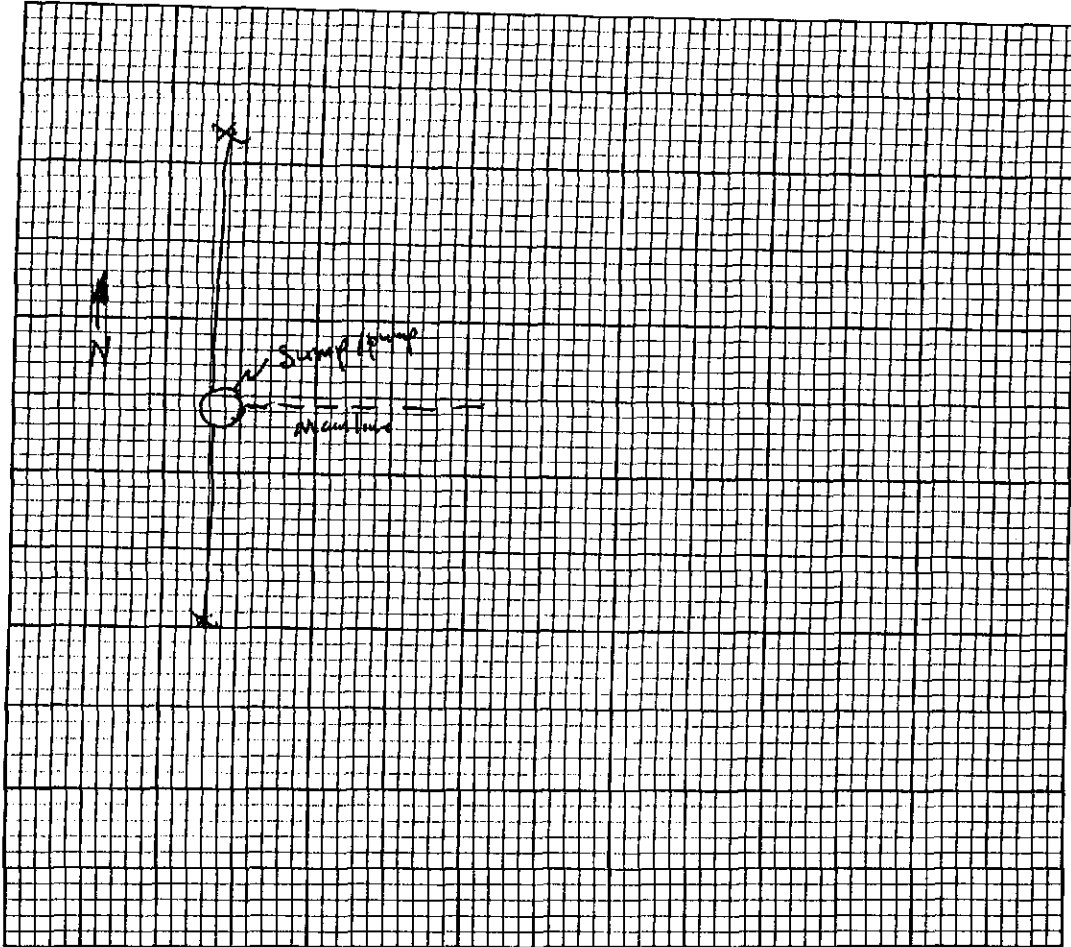
A30

Enclosure #7

Incorrect orientation
of sprinkler set-up.

10. Other water rights on these lands 24 inches of Watson
11. Other water right diverted from same p.d. N.A.

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



13. ☐ Photo of Diversion & System Attached

☒ Aerial Photo of Place of Use Attached
or Map of Irrigated Acreage Attached

14. Remarks The P.D. & Pou of 35-7811 are separate entities
from this point & are just north of this ground

15. Recommended Amendments

☐ Change P.D. as reflected above

☐ Add P.D. as reflected above

☒ None

☐ Change P.U. as reflected above

☐ Add P.U. as reflected above

☐ Other

16. Examiner's/Consultant's Signature Steve Jones Date 10-16-84

Consultant's License Number _____

IDWR Director's Authorization to Conduct

Beneficial Use Examination _____

Date

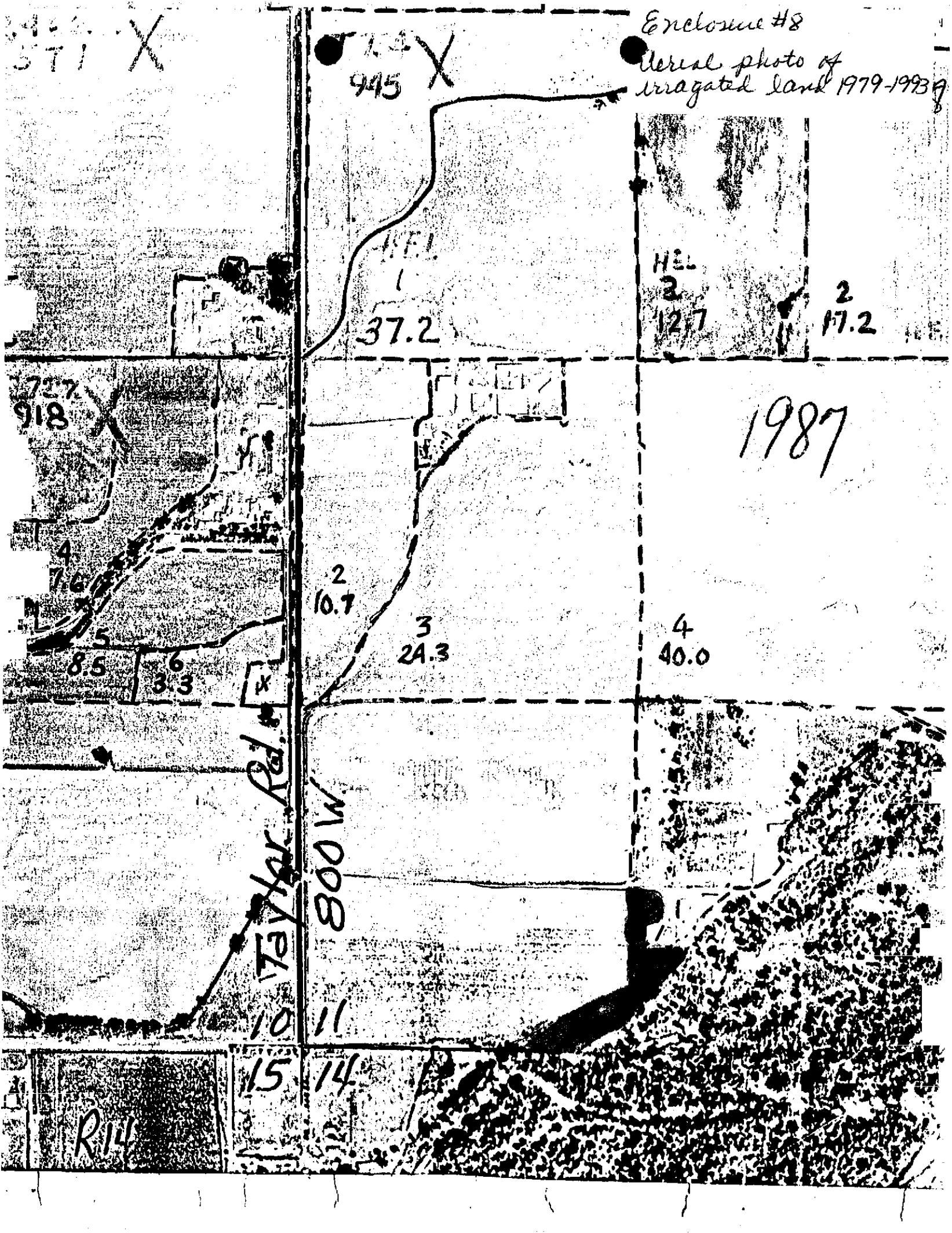
CONSULTANT SEAL

571 X

945 X

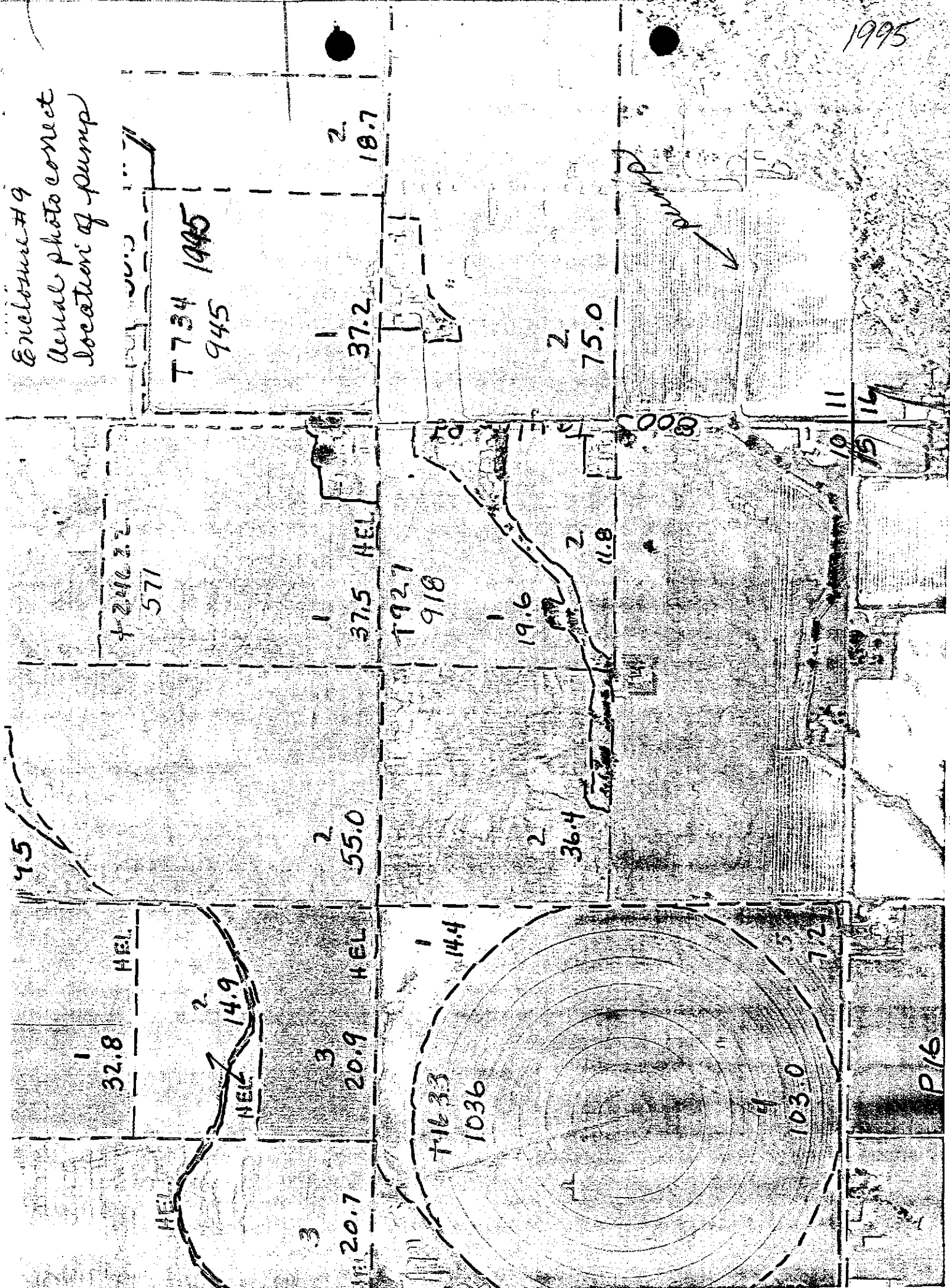
Enclosure #8

Aerial photo of irrigated land 1979-1989



Enclosure #9
Aerial photo correct
location of pump

1995



Enclosure #10
Proof of divorce and
quit claim deed.

355439

1 Recorded at Request of:
2 REGINALD R. REEVES, ESQ.
3 Return and Mail Tax Notices to:
4 Ms. Lona M. Scott
5 187 S. 800 W
6 Blackfoot ID 83221

RECORDED AT THE REQUEST OF
200 R
1986 NOV 14 PM 1:40
L M Scott

QUITCLAIM DEED

///

FOR VALUE RECEIVED, STEVEN H. SCOTT, Grantor, does hereby convey, re-
lease, remise, and forever quitclaim unto LONA M. SCOTT, grantee, all interest
which grantor might have, or hereafter might acquire (except by gift, inheritance,
or purchase) in the real property in Bingham County, Idaho, described as:

Beginning at the SW corner of
Section 11, T. 3 S., R. 34 EBM,
and running thence N.00° 14'00" W.,
along the section line, 650.73 feet;
thence S. 86° 18'51"E., 687.90 feet;
thence S. 89° 46'44"E., 611.25 feet;
thence N. 00° 00'00" E., 641.60 feet;
thence W., along the section line,
1955.97 feet. to the point of beginning

together with its appurtenances.

Stephen H. Scott

STEVEN H. SCOTT
Grantor

On this May 5, 1986, at Idaho Falls, Idaho, before me personally
appeared STEVEN H. SCOTT, known to me to be the person whose name is subscribed on
the foregoing instrument, and acknowledged to me that he executed the same.

Reginald R. Reeves

REGINALD R. REEVES
Notary Public
Idaho Falls ID 83401
My commission expires
on May 8, 1991

c1b QUITCLAIM DEED

HEBER HANSEN
BINGHAM COUNTY ASSESSOR
P. O. BOX 310
BLACKFOOT, ID 83221

FORWARD & ADDRESS CORRECTION

CATEGORY DESCRIPTION	
1	IRRGTD AG
2	IRRGTD PASTURE
5	DRY GRAZING
10	RURAL HOMESITE
32	RURAL IMP ON AG

IMPORTANT NOTICE - PLEASE READ

PARCEL NO. RP 0249805

TAX CODE

9-00

LOTS / ACRES

18.000	AC
2.000	AC
6.000	AC
1.000	AC

MARKET VALUE

10,936
750
216
6,000
15,984

27.000

33,886*

PRESORTED
FIRST CLASS MAIL
U. S. POSTAGE PAID
BLACKFOOT, ID 83221
PERMIT NO. 196

1993

TAXPAYERS

VALUATION

ASSESSMENT NOTICE

Taxes are based on the valuation
listed on this statement

IF THERE ARE ANY QUESTIONS
REGARDING THIS STATEMENT
NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 28, 1993

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS 187
PREVIOUS NUMBER
T3S R34E SEC 11
T-6220
MH9564300

S 800

Mail To:
SCOTT, LONA M
187 S 800 W
BLACKFOOT ID 83221

Enclosure # 11
Jay notice



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 22, 1986

RE: Permit No. 35-7818

Stephen H. Scott
Rt. 2, Box 286A
Blackfoot, ID 83221

Dear Mr. Scott:

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

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

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

August 25, 1986

RE: Permit No. 35-7818

Stephen H. Scott
Rt. 2, Box 286A
Blackfoot, ID 83221

Dear Permit Holder(s):

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

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

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

MAILED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

RECEIVED

NOV 26 1984

35-7818
Permit No.

Department of Water Resources

1. Measurement Calculations

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

$$41 \text{ psi @ } 9/64" \text{ N. } , 32 \text{ sprinklers} = 3.79 \text{ gpm} \times 32 \text{ sprinklers} = 121.28 \text{ gpm} \\ \text{or } \underline{0.27 \text{ cfs}} \checkmark$$

$$11 \text{ acres} \times 0.02 \text{ cfs} = \underline{0.22 \text{ cfs}}$$

- b) Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 11 \text{ acres} \times 3.5 \text{ af/a} = 38.5 \text{ af} \checkmark \\ V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 0.22 \text{ cfs} \times 197 \text{ d} \times 1.9835 = 85.9 \\ V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{38.5 \text{ af}} \checkmark$$

- c) Volume Calculations for Other Uses:

$$V_{OR} = 0.22 \times 1.9835 \times 214 \text{ days} = 93.4 \text{ AF}$$

2. Overlap Review

- a) Other water rights with same place of use: water from Watson Slough
01-0232, 35-7811, 01-0146B, 01-0191B, 01-0192F
- b) Other water rights with same point of diversion: NA. 35-7818 - per
exam of that right, these systems
are separate - it is also being licensed.
- c) Analysis:

R16 (3.5)

R30

ED

trap 01

357818	9-12-1978	0.227cfs	9-12-1978	8-22-1983	0.270cfs
Permit No.	Priority	Amount	App. Date	Date Proof Submitted	System Capacity

4. Permit Holder: Stephen H. Scott

Address: Rt. 2, Box 286A, Blackfoot, ID 83221

5. Source: g.w. tributary to

6. Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
	From To	(%)	(cfs)

Integration ✓ 4-1 ✓ 11/15 ✓ 0.22 g/L ✓ 38.5 AF

Allowable Maximums: 0.22 cfs 38.5 AF

7. Point(s) of Diversion: ✓

No.	Govt. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County
	3		5W	5W	11	03S	~~33E~~ 34E	Bingham

8. Place(s) of Use ☒

[illegible]

9. Recommended Conditions/Remarks: 430

10. Recommended Amendments

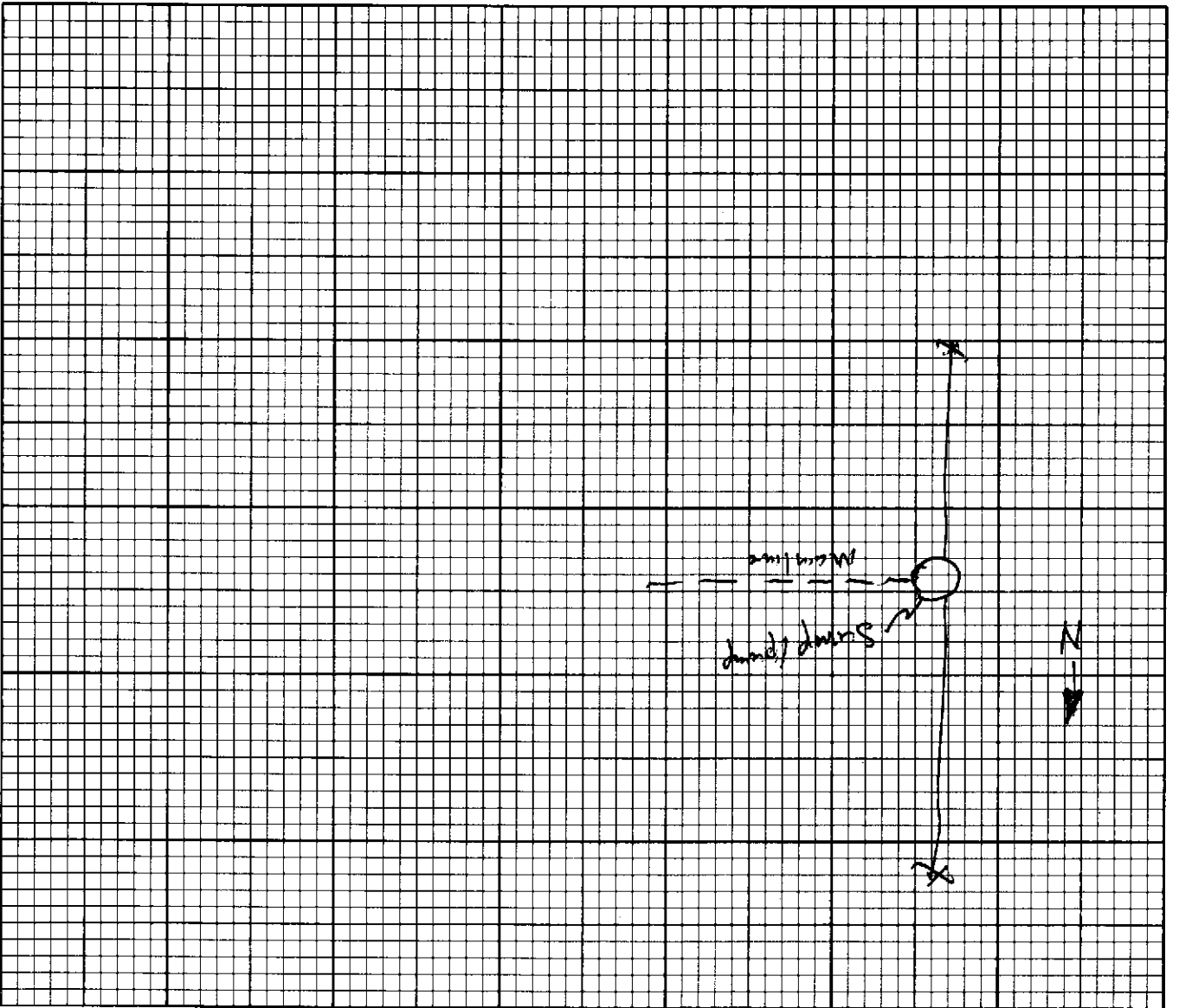
☐ Change P.D. as reflected above	☐ Add P.D. as reflected above	☒ None
☐ Change P.U. as reflected above	☐ Add P.U. as reflected above	☐ Other

11. Examiner's Signature _____ Date 10-16-84

Checked in Regional Office by John C. Wilson Date 16 Nov 1984

Approved in State Office by F. Walcott Date 8/15/86

10. Other water rights on these lands at inlets of Watson Slough N.A.
11. Other water right diverted from same p.d. _____
12. Diversion and Delivery System Diagram: Indicate all major components and distances between components. Indicate ditch size/pipe i.d. as applicable. Indicate on systems with measurement port the distance between the port and the nearest component/pipe bend/restriction both upstream and downstream, and the inside pipe diameter at the measurement port. On multiple diversion systems indicate how diversion systems are connected.



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

14. Remarks The P.D. of 35-7811 are separate rights from this point & are just north of this ground

15. Recommended Amendments
- ☐ Change P.D. as reflected above
- ☐ Change P.U. as reflected above
- ☐ Add P.D. as reflected above
- ☐ Add P.U. as reflected above
- ☒ None
- ☐ Other

16. Examiners/Consultant's Signature [Signature] Date 10-16-84
- Consultant's License Number _____
- IDWR Director's Authorization to Conduct _____
- Beneficial Use Examination _____

Date _____

CONSULTANT SEAL

Gov Lot Map for #35-7818

0.42 40 42 40 30 40 20 40 20 40 20 40 10 40 20

Sec 2
640.00

Sec 1
640.00

R34E

N 49° 50' W
60.00

T3S

Sec 11

L-2

L-1

L-3
44.00

Sec 14

Sec 13

NOT RECORDED

4 20 20



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

June 20, 1985

Stephen H. Scott
187 South 800 West
Blackfoot, ID 83221

Re: Water Right Identification No. 35-7818

Dear Wateruser:

The proof of beneficial use (Form A) which you recently submitted to the department is being returned to you for the following reason:

☒ Proof of beneficial use has already been submitted for the water right.

☐ Proof of beneficial use is not applicable for existing licensed rights.

☐ Proof of beneficial use is not applicable for existing decreed rights.

☐ Proof of beneficial use is not applicable for a right represented by a claim to a water right.

☐ Other:

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

cc: Region

MICROFILMED

Stephen Scott
Pte #2 Box 28
Blackfoot, Idaho 83227



MICROFILMED

JUL 26 1988

**IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720**



RECEIVED

JUL 16 1982

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 35-7818
Name(s) of Permit Holder(s): Stephen H. Scott
Post Office Address: Rte #2 Box 286a
Blackfoot, Idaho Tel. No. 684-3071

- ☒ I hereby certify that construction of diversion works on the above referenced permit began on 5-1979 (date) and I understand that I must continue to develop the water system with due diligence to maintain a valid permit.
- ☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control:

*Note: A financing difficulty is not an acceptable reason.

2-9-82
Date

Stephen H. Scott
Signature of Permit Holder

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 35-7818

Name(s) of Permit Holder: Stephen N. Scott

Post Office Address: Rte #2 Box 2860 Blackfoot

Idaho 83201 Tel. No. (208) 684-5430

Source of Water: well

Extent of Use:

☐ Domestic	(number of households)
☐ Stockwater	(number and type of stock)
☒ Irrigation <u>27.4</u>	(acres)
☐ Other	

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

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

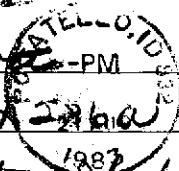
The above information is a true statement of the extent to which the above numbered permit has been developed.

8-12-83
Date

completed in 1978

Stephen Scott
Signature of Permit Holder

Fire Pumper
1860s
USA 21c



Steve
Rte #2 Box 2161A

Blackfoot, Idaho 83221

RECEIVED

RECEIVED



AUG 22 1983

Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

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

A. Kenneth Dunn
Director

October 7, 1983

Stephen H. Scott
Rt. 2, BOX 286A
Blackfoot, ID 83221

RE: Permit #35-7818

Dear Permit Holder:

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

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

_____ A field examination of your system has been scheduled for _____.

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

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

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

Sincerely,

HAROLD W. ONNES
Sr. Resource Agent

HWJ:JK

RECORDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

SCOTT, STEPHEN H.
P.O. BOX 809
BLACKFOOT, ID 83221

138810

PROOF DUE NOTICE

JULY 31, 1983

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 35-7818 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE OCTOBER 01, 1983. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A POSTCARD 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, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE POSTCARD 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



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

October 23, 1978

Re: Permit No. 35-7818

Stephen H. Scott
P.O. Box 809
Blackfoot, Idaho 83221

Dear Mr. Scott:

Your approved copy of your Application for Permit is enclosed and we direct your attention to the conditions of approval on the fourth page.

The exercise of this permit may also be affected by the court's determination of water rights in the case of Idaho Power Company v. State of Idaho, et al., Civil No. 62237, currently pending before the District Court of Ada County.

Idaho Power officials tell us that because of Case No. U-1006-124 filed before the Idaho Public Utilities Commission, Idaho Power Company is asking the District Court of Ada County to determine whether the Power Company's water rights on the Snake River are protected against subsequent upstream appropriations in the waters of the Snake River and surface and subterranean tributaries between Milner Dam and Hells Canyon.

Since the use of water under your permit may affect the flows in this reach of the Snake River, the final decision in Idaho Power Company v. State of Idaho, et al. (Ada County Civil No. 62237) may determine to what extent the exercise of your permit may be subject to the water rights of Idaho Power.

While the Ada County court is examining this question, Idaho Power Company has not filed a specific protest to your permit. However, the Department of Water Resources has been advised that the Power Company is not waiving any of its rights to contest or limit the exercise of your permit or a subsequent license or water right.

If you have any questions, please let us know.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:kw
Enclosure

MICROFILMED

35-7818

STAFF REVIEW - STATE OFFICE

1. ☒ Name vs. Signature
2. G.W. Source
3. ☒ Point of Diversion
4. ☒ Amnt. & Period of Use
5. ☒ Descrip. of Diverting Wrks.
6. 5 Time req. for Proof of B/U
7. N/A Place of Use for other than irrig.
8. ☒ Place of Use for irrigation (add acres)
9. App Property Owner at ☒ of Div. & ☒ Pl. of Use
10. ☒ Map
11. 35 Fee & Rec't. No.

27 x .02 = .54 k

Copies Sent To:

<u>No</u> Idaho Health Department	<u>No</u> U.S.F.S.
Idaho Fish & Game Dept.	Dept. of Lands
Bureau of Land Management	Other

Dam Safety Information N/A (Goes to Permit Section)

Check:

Critical G.W. Area ☐ yes ☒ no

Other rights on same land • 35-7811- located in same 40 acre tract however there is no overlap.

W Withdrawals of all protests received ☐ yes ☐ no

Conditions:

ID Power Co. Letter - Snake R. No

ID Power Co. Letter - G.W. & Tribs. Yes

Snake River Condition No

Payette River Letter No

Priority Date 9/12/78

Water Quality #16 N/A

Water Quality #10 N/A
intrastate ☐ interstate ☐

Meas. Dev. or Sc. Meas. No

Totalizing meter No

Supplemental No yes

Right-of-Way Cond. No

Watermaster Cond. No
Wtr. Dist No.

Meas. Dev. Cond. for apps within
a Water Dist. No

Jin
Reviewer

10/12/78
Date

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Item Initial Date

Application No. Stephen H. Staff

*assumes completion
of description correction*

☒ Source
☒ Point of Diversion
☒ County
☒ Quantity of Water and Period of Use
☒ Description of Diverting Works
☒ Time required for B/U of water
☒ Place of Use or Acres Irrigated
☒ Map
☒ Signature
☒ Fee

(1) ARK 9/12/78

In form to receipts yes

(2) ARK

Send Copies to:

☒ Idaho State Health Department
☒ Idaho Fish and Game Department
☒ Bureau of Land Management

(3) ARK

☒ Request Special Use Permit from U.S.F.S.
☒ Request Easement from B.L.M.
☒ Request Information from Applicant

(4) ARK

In form for advertising yes

(5) ARK

Platted on Map No. 38 346

(6) ARK

Located within Water District No. Basin 35

(7) ARK

Critical groundwater area: yes no X

(8) ARK

Groundwater levels:

Declining, X Stable, Increase

(comment) no obs wells in area

(9) ARK

Other rights on the same place of use

(10) ARK

Comments: new filing by

(11) dh no 10.4.78

Affidavit of Publication received (date) 10.02.78

(12) dh 10.10.78

Final date for protests Oct. 9, 1978

Protests received: yes no X

(13) EMC 10/10/78

All requested information received from agencies or applicant: yes no X

(14) EMC 10/10/78

Action recommended:

☒ Approve Deny

9/12/78 Proposed Priority

Reason for Reduction

☒ Measuring device required

See attached sheet for other conditions of approval

☒ No special conditions for approval

(15) District Eastern

By Ernest M. Carlson Date 10/10/78

RECEIVED
OCT 11 1978

Department of Water Resources

September 15, 1978

The Blackfoot News
P. O. Box 70
Blackfoot, Idaho 83221

RE: Application for Permit No. 35-7818 - SCOTT
" " " No. 35-7817 - CHRISTMAN & HOPKINS
Application for Transfer No. 35-2517/35-2806/35-2910

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. 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.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

Bill submitted 10.4.78 by ah

RDC:dh
Enclosures: 3 legal notices

RECEIVED

**NOTICE OF
APPLICATION FOR
WATER PERMIT**

Notice is hereby given that Stephen H. Scott, Blackfoot, Idaho, has on 9-12-78, submitted Application No. 35-7818, for a permit to appropriate 0.54 cubic feet per second of water from a ground-water source by means of well and pump within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11, T. 3S, R. 34E, B.M., Bingham County; to be used from Apr. 1 to Oct. 15 for the irrigation of 27 acres within the SW $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 11, T. 3S, R. 34E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before October 9, 1978.

C. STEPHEN ALLRED
Director

(5768)
Pub.: 9-21, 28

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Stephen H. Scott, Blackfoot, Idaho

has on 9-12-78 submitted Application No. 35-7818
for a permit to appropriate 0.54 cubic feet per second ~~acre feet per annum~~
of water from a ground-water source
by means of well and pump
within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11, T. 3S, R. 34E, B.M., Bingham County;

to be used from Apr 1 to Oct 15
for the irrigation of 27 acres

within the S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 11, T. 3S, R. 34E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before October 9, 1978

C. STEPHEN ALLRED

Director

Published in the Blackfoot News, Blackfoot, Idaho
on Sept. 21 and 28, 1978.

aw-h

RECORDED

September 13, 1978

Stephen H. Scott
P. O. Box 809
Blackfoot, Idaho 83221

Dear Mr. Scott:

RE: Application for Water Permit

Attached herewith is Departmental receipt No. 11532 in the amount of \$35.00 for the above referenced application.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh
Attachment

RECEIVED

September 7, 1978

Mr. Stephen H. Scott
P. O. Box 809
Blackfoot, Idaho 83221

Dear Mr. Scott:

Enclosed please find your original application and a typed application which was completed with information provided during our telephone conversation. Please review the typed application to insure its accuracy. Initial any change that you make and sign the form at the bottom of the third page.

When you resubmit the application, please include a check for \$35.00 to cover the statutory filing fee. Should you have any questions concerning this matter, please feel free to contact this office.

Very truly yours,

ERNEST M. CARLSEN
Water Resource Agent

EMC:dh
Enclosures

RECEIVED

August 28, 1978

Steve Scott
P.O. Box 809
Blackfoot, ID 83221

Dear Mr. Scott:

Pursuant to your telephone request of this day, enclosed please find an application for permit with instructions.

If we may be of further assistance, please feel free to contact this office.

Very truly yours,

JACKIE FRISBY
Senior Clerk

JF

Enclosures

MICROFILMED

IDENT. NO. 35-7818

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

WATER RIGHT
DATA ENTRY LOG

Initials

Date _____

Item

Original form entered

Edit Report Correct

Date Protested

Date of Hearing

Date Approved/Denied
(Proof due date, stage and/or status,
conditions of approval, water district)

Record Verified

Amendment Approved

Extension Approved

Partial Proof

Proof Complete

Field Exam Received

Field Exam Accepted
and changes entered

License Signed

Transfer Approved

Keypunched by State Office

G G

MAY 14 1984

VERIFIED

Please return to
Moro when finished.