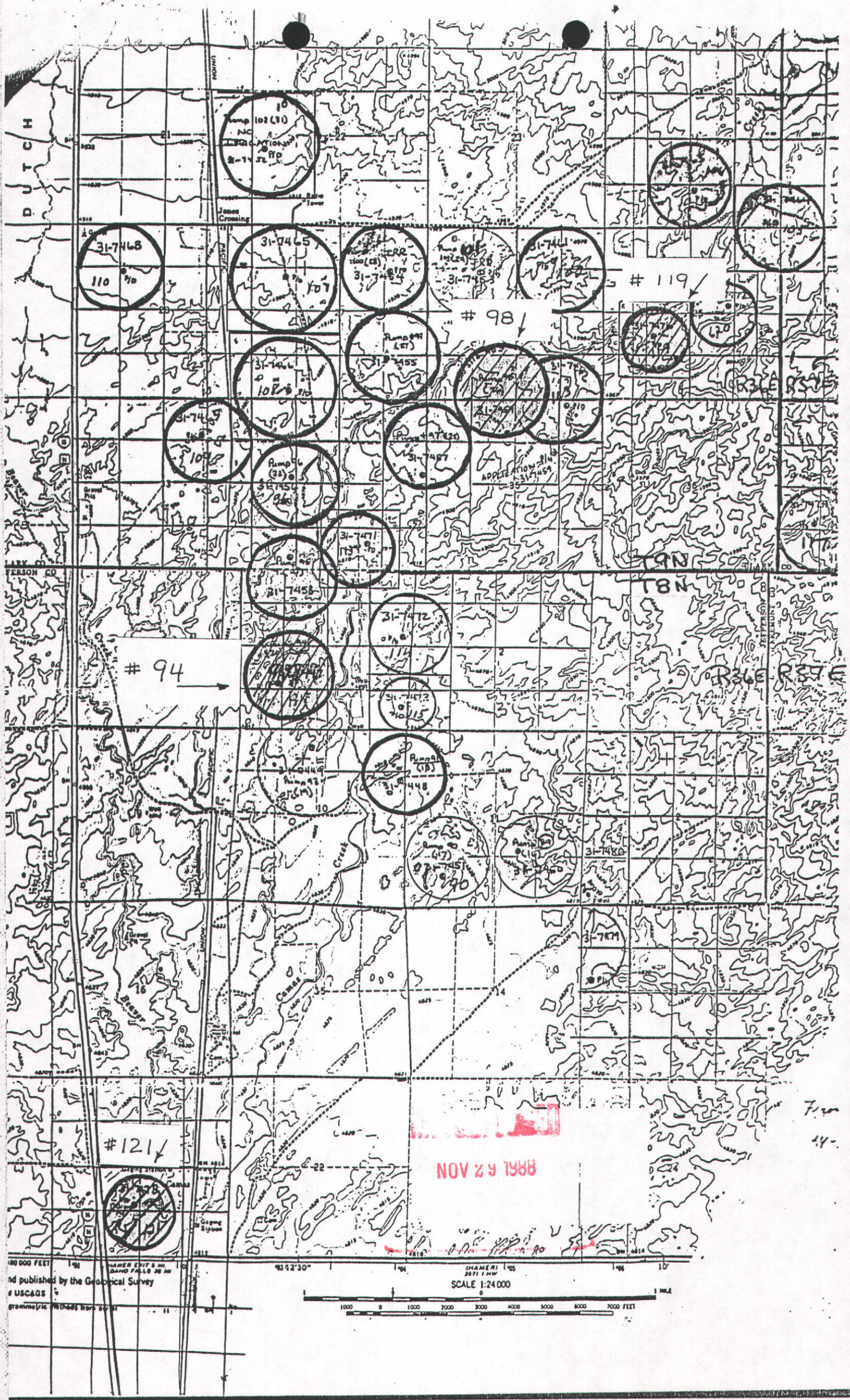




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USC&GS  
graphic methods from 1971

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FEB 14 1978

Department of Water Resources  
Eastern District Office

# AFFIDAVIT of PUBLICATION

County of Bingham )  
State of Idaho ) ss.  
I, David Mark Brown do  
solemnly

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  
154 of the Sessions Laws of Idaho of 1933, approved  
March 11, 1933, and duly designated, pursuant to law, a  
particular day of the week as the day on which legal  
notices required by law or by the order of any Court of  
competent jurisdiction within the State of Idaho shall  
be published to-wit: Thurs of each week; that the  
notice attached hereto and which is a part of this af-  
fidavit and part of the proof of publication was,  
published in said

Thurs issue of said newspaper two consecutive  
weeks, the first publication having been made on

the 2nd day of Feb., 19 78,

and the last publication having been made on the  
9th day of Feb., 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 9th  
day of Feb., 19 78

Patricia A. Johnson  
Notary Public for the State of Idaho,  
Residing at Blackfoot, Idaho  
My commission expires  
Oct. 20, 1976

## NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that  
Eastern Idaho Production  
Credit Assoc., Blackfoot, Idaho,  
has on 1-24-78, submitted  
Application No. 35-7773, for a  
permit to appropriate 3.84 cubic  
feet per second of water from a  
ground-water source by means  
of well and pump within the  
NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 22, T. 1S, R.  
33E, B.M., Bingham County; to  
be used from Apr. 1 to Nov. 1 for  
the irrigation of 394 acres  
within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ ,  
Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec. 26,  
NE $\frac{1}{4}$ , Sec. 27, T. 1S, R. 33E,  
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 February 20, 1978.

C. STEPHEN ALLRED  
Director

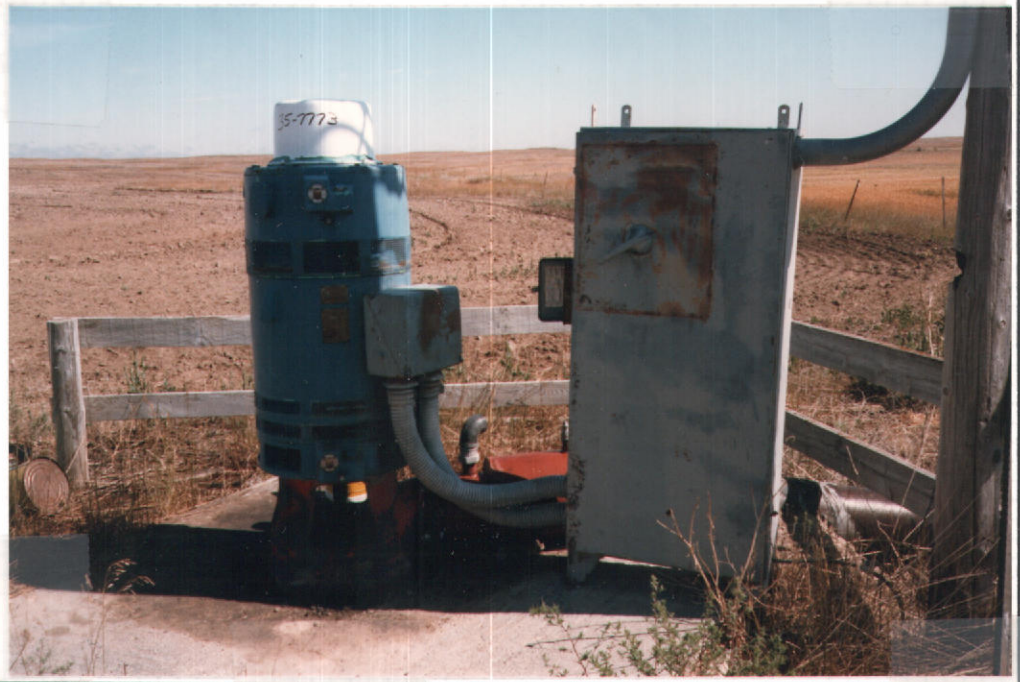
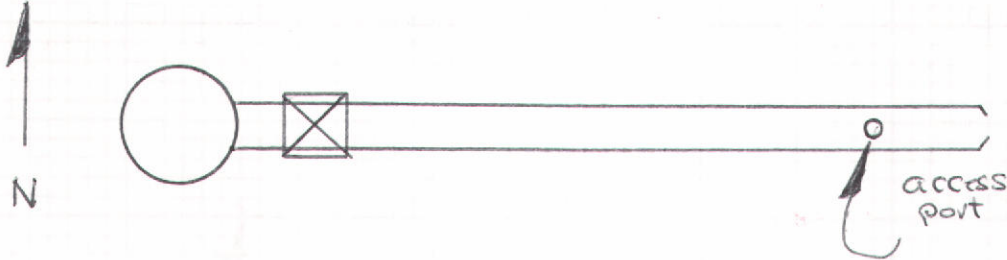
(5461)  
Pub.: 2-2, 9

32  
The

MICROFILMED

10. Other water rights on these lands TRANSF 2212 / 35-2493
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.

DIVERSION AND DELIVERY SYSTEM



13. ☒ Photo of Diversion & System Attached

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

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

15. Recommended Amendments

☐ Change P.D. as reflected above

☐ Add P.D. as reflected above

☐ None

☐ Change P.U. as reflected above

☐ Add P.U. as reflected above

☐ Other

16. Examiner's/Consultant's Signature W. Jones Date 11-29-85

Consultant's License Number \_\_\_\_\_

IDWR Director's Authorization to Conduct

Beneficial Use Examination \_\_\_\_\_

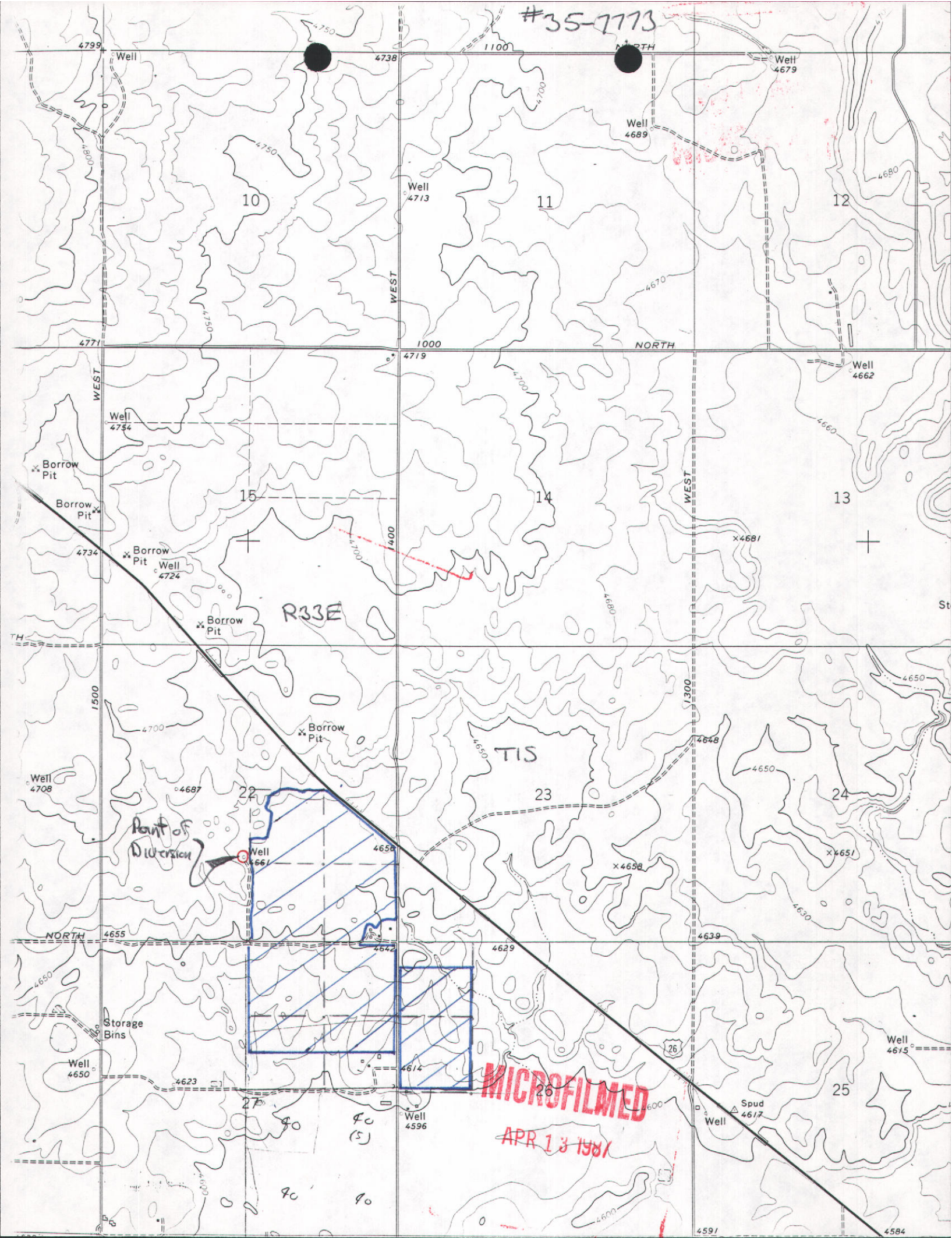
Date

CONSULTANT SEAL

**MICROFILMED**

APR 13 1987

#35-7773



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APR 13 1981

#35-7783

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2726

C-84

**MICROFILMED**

APR 13 1987

**NOTICE OF APPLICATION  
FOR WATER PERMIT**

Notice is hereby given that Eastern Idaho Production Credit Assoc., Blackfoot, Idaho, has on 1-24-78, submitted Application No. 35-7773, for a permit to appropriate 3.84 cubic feet per second of water from a ground-water source by means of well and pump within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 22, T. 1S, R. 33E, B.M., Bingham County; to be used from Apr. 1 to Nov. 1 for the irrigation of 394 acres within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ , Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec. 26, NE $\frac{1}{4}$ , Sec. 27, T. 1S, R. 33E, 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 February 20, 1978.

C. STEPHEN ALLRED  
Director

(5461)  
Pub.: 2-2, 9

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4752  
WATER RIGHT NO(S). 35-02493 ~~35-07773~~

This is to certify that: DELWYN V ELLIS  
SHAWN D ELLIS  
904 W 200 N  
BLACKFOOT ID 83221

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

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|-----------------------|----------------------|
| Right No. 35-02493 :  |                      |                       |                      |
| IRRIGATION            | 04/01 to 10/31       | 4.04 CFS              | 1180.0 AF            |
| Priority: 02/06/1957  |                      |                       |                      |
| Right No. 35-07773 :  |                      |                       |                      |
| IRRIGATION            | 04/01 to 10/31       | 1.56 CFS              | 662.2 AF             |
| Priority: 01/24/1978  |                      |                       |                      |
| <b>TOTAL:</b>         |                      | <b>* 5.60 CFS</b>     | <b>* 1272.0 AF</b>   |

SOURCE

GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NESW , Sec. 22, Township 01S, Range 33E  
SENE , Sec. 27, Township 01S, Range 33E  
BINGHAM County

PLACE OF USE: IRRIGATION

| <u>TWN</u> | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|------------|------------|------------|--------------|--------------|--------------|--------------|
| 01S        | 33E        | 22         | SWNE 1       | NESE 26      | NWSE 35      |              |
|            |            |            | SWSE 40      | SESE 34      |              | 136          |
|            | 26         |            | NWNW 26      | SWNW 39      |              | 65           |
|            | 27         |            | NENE 37      | NWNE 40      | SWNE 20      |              |
|            |            |            | SENE 20      |              |              | 117          |

Total number of acres irrigated: \*\* 318

RECORDED

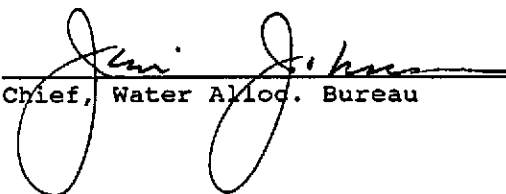
MAR 08 1996

TRANSFER NO. 4752  
WATER RIGHT NO(S). 35-02493/35-07773

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
3. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
4. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
5. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
6. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
7. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
- \*8. The total instantaneous diversion of water from all points of diversion under Transfer No. 4752 shall not exceed 5.60 cfs, nor total combined annual volume of 1,272.0 af.
9. Combined Right Nos. 35-02493 and 35-07773 shall not exceed total combined irrigation of 318.0 acres within a single irrigation season.
- \*\*10. Right No. 35-02493 is limited to the irrigation of 295.0 acres in the place of use described above in a single irrigation season.

Dated this 27<sup>TH</sup> day of FEBRUARY, 1986.

for   
Chief, Water Alloc. Bureau

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MAR 08 1986

Page \_\_\_\_\_ of \_\_\_\_\_

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

Transfer No. 3420

**APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1**

**APPROVED**

Name of applicant Eastern Idaho Production Credit Assn. Phone \_\_\_\_\_  
Post Office address 203 S. Garfield Pocatello, ID 83204

**A. PURPOSE OF TRANSFER**

1. ☒ Change point of diversion    ☐ Add diversion point(s)    ☒ Change place of use  
☐ Change nature of use    ☐ Change period of use    ☐ Other \_\_\_\_\_
2. Describe the reason for the proposed changes To provide irrigation water on a portion of cropland in 1988 only.

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

| 1. Right Number | Priority        | Amount<br>(cfs/ac-ft) | Nature<br>of Use  | Period of Use |             |
|-----------------|-----------------|-----------------------|-------------------|---------------|-------------|
| <u>35-7773</u>  | <u>01/24/78</u> | <u>1.56</u>           | <u>Irrigation</u> | <u>4/1</u>    | <u>11/1</u> |
| <u>35-2493</u>  | <u>02/06/57</u> | <u>4.04</u>           | <u>Irrigation</u> | <u>4/1</u>    | <u>11/1</u> |
| _____           | _____           | _____                 | _____             | _____         | _____       |
| _____           | _____           | _____                 | _____             | _____         | _____       |

2. Total amount of water being transferred 5.49 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.

3. Source of water groundwater tributary to \_\_\_\_\_

4. Point(s) of Diversion: The points of diversion after change consist of wells supplying irrigation pivots which are identified in Attachment #1.

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

5. Lands irrigated or place of use: See Attachment #1 for breakdown of acres irrigated by each pivot.

| Twp. | Rge. | Sec. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | Totals |
|------|------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |      |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

**NOV 29 1988**

Total acres \_\_\_\_\_

**PART 1****6. General Information:**

- a. Description of diversion system Wells and pumps with pivot irrigation system.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:  
Will receive only natural rain fall and snow fall and will not otherwise be irrigated in 1988. Some or all of the lands will be set-aside from production under federal programs.
- d. Remarks:  
This is one of 3 coordinated transfer applications submitted together for joint consideration. Therefore, the points of diversion and places of use described in B above are the same in all 3 transfer applications.

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined Application for Transfer of Water Rights No. 35-2493/7773

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

Pursuant to the Memorandum Decision and Order dated 9/7/88.

NOV 29 1988

Witness my hand this 7th day of September, 19 88.

[Signature]  
Director

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**APPLICATION FOR TRANSFER OF WATER RIGHT**

**PART 2**

(Attach one copy for each right)

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

- a. Decree No. \_\_\_\_\_ Decreed to \_\_\_\_\_  
 in case of \_\_\_\_\_ vs. \_\_\_\_\_  
 dated \_\_\_\_\_ in \_\_\_\_\_ county of \_\_\_\_\_
- b. License No. 35-7773 issued by the Idaho Department of Water Resources.
- c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources.
- d. Transfer No. \_\_\_\_\_ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☒ Other Lease

3. Source of water groundwater tributary to \_\_\_\_\_

4. Date or priority 1/24/78

5. Water is used for the following purpose:

amount 1.56 for Irrigation purposes from 4/1 to 11/1  
 (cfs/ac-ft)  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)

6. Total amount of water under right 1.56 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.

7. Point(s) of Diversion:

| Lot | ¼ | ¼  | ¼  | Sec. | Twp. | Rge. | County  | Local name for diversion |
|-----|---|----|----|------|------|------|---------|--------------------------|
|     |   | NE | SW | 22   | 1S   | 33E  | Bingham |                          |
|     |   |    |    |      |      |      |         |                          |
|     |   |    |    |      |      |      |         |                          |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ |      |      |      | NW ¼ |      |      |      | SW ¼ |      |      |      | SE ¼ |      |      |      | Totals |
|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|--------|
|      |      |      | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ |        |
| 1S   | 33E  | 22   |      |      | 1    |      |      |      |      |      |      |      |      |      | 26   | 35   | 40   | 34   | 136    |
|      |      | 26   |      |      |      |      |      | 26   | 39   |      |      |      |      |      |      |      |      |      | 65     |
|      |      | 27   | 37   | 40   | 20   | 20   |      |      |      |      |      |      |      |      |      |      |      |      | 117    |
|      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |        |
|      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |        |
|      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |        |

Total acres 318

9. Describe any other water rights used for the same purpose as described above \_\_\_\_\_

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**APPLICATION FOR TRANSFER OF WATER RIGHT**

**PART 2**

(Attach one copy for each right)

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

- a. Decree No. \_\_\_\_\_ Decreed to \_\_\_\_\_  
in case of \_\_\_\_\_ vs. \_\_\_\_\_  
dated \_\_\_\_\_ in \_\_\_\_\_ county of \_\_\_\_\_
- b. License No. 35-2493 issued by the Idaho Department of Water Resources.
- c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources.
- d. Transfer No. \_\_\_\_\_ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☒ Other Lease

3. Source of water groundwater tributary to \_\_\_\_\_

4. Date or priority 2/6/57

5. Water is used for the following purpose:

amount 4.04 for Irrigation purposes from 4/1 to 11/1  
(cfs/ac-ft)  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)

6. Total amount of water under right 4.04 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.

7. Point(s) of Diversion:

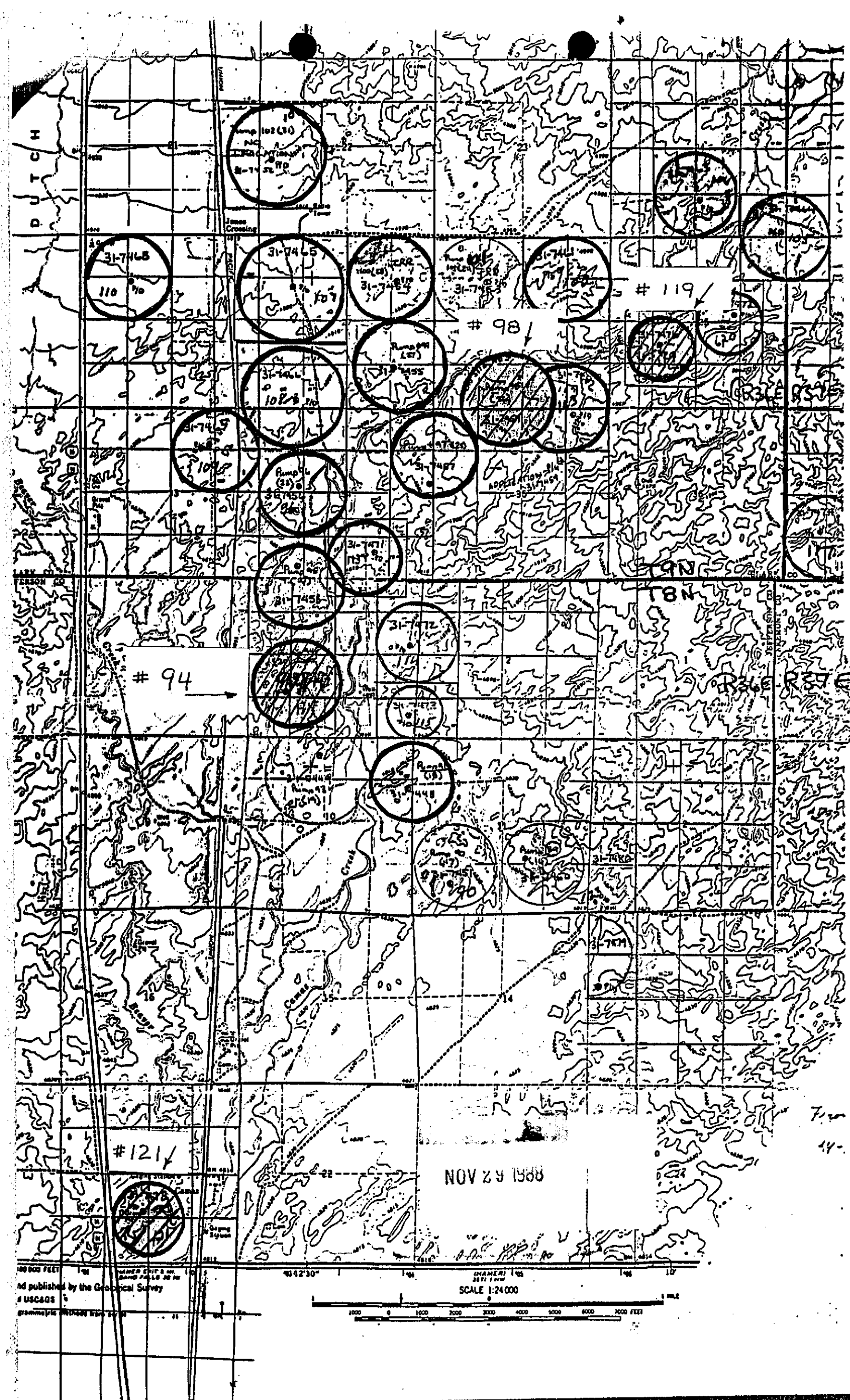
| Lot | ¼ | ¼  | ¼  | Sec. | Twp. | Rge. | County  | Local name for diversion |
|-----|---|----|----|------|------|------|---------|--------------------------|
|     |   | NE | SW | 22   | 1S   | 33E  | Bingham |                          |
|     |   |    |    |      |      |      |         |                          |
|     |   |    |    |      |      |      |         |                          |

8. Lands irrigated or place of use:

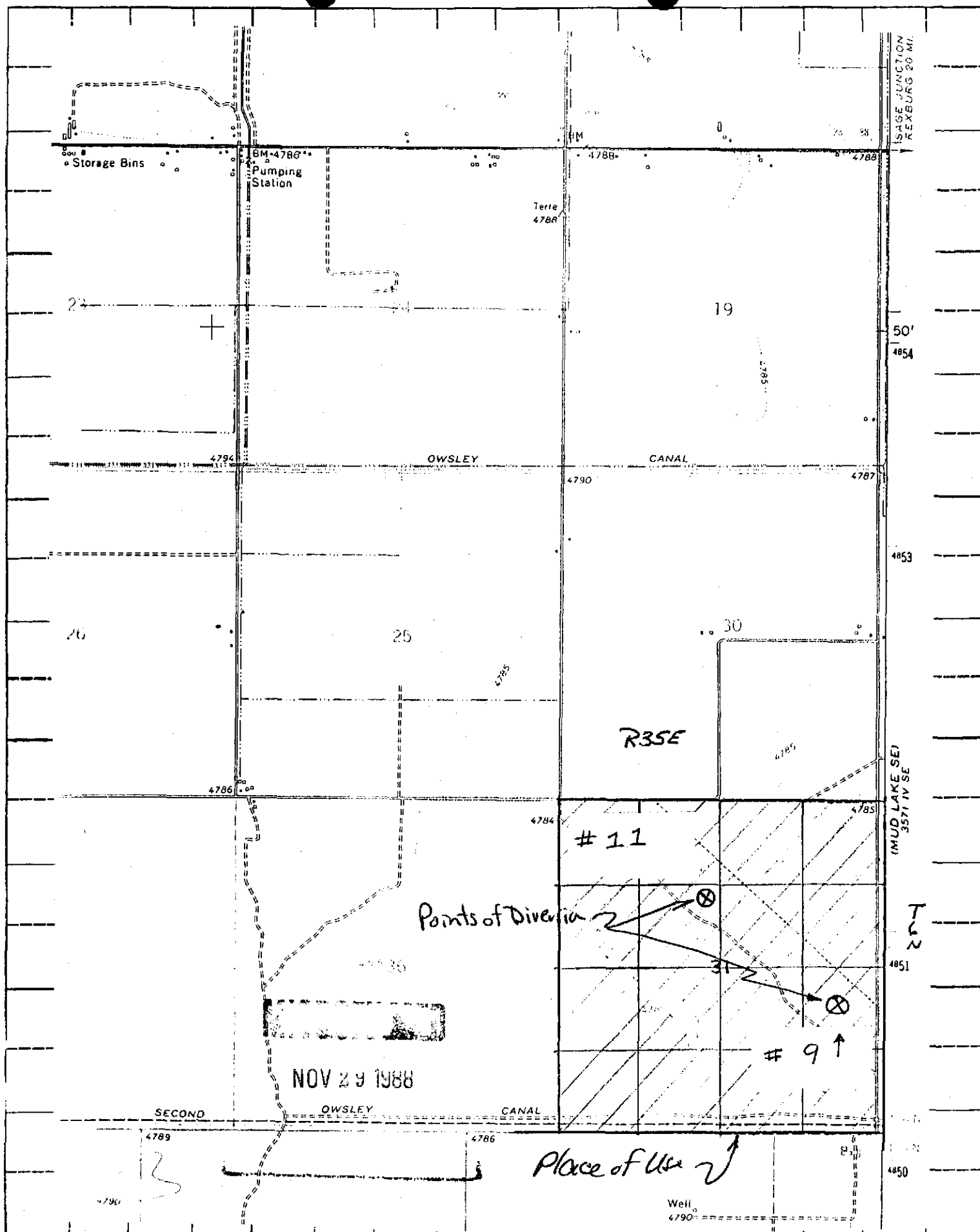
| Twp. | Rge. | Sec. | NE ¼ |      |      |      | NW ¼ |      |      |      | SW ¼ |      |      |      | SE ¼ |      |      |      | Totals |
|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|--------|
|      |      |      | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ |        |
| 1S   | 33E  | 22   |      |      |      |      |      |      |      |      |      |      |      |      | 20   | 20   | 30   | 20   | 90     |
|      |      | 26   |      |      |      |      |      | 40   | 40   |      |      |      |      |      |      |      |      |      | 80     |
|      |      | 27   | 30   | 30   | 20   | 30   | 15   |      |      |      |      |      |      |      |      |      |      |      | 125    |
|      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |        |
|      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |        |
|      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |        |

Total acres 295

9. Describe any other water rights used for the same purpose as described above 35-7773



township and range number.



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

| 1. | <u>New Nature of Use</u> | <u>Amount</u><br>(cfs/ac-ft) | <u>Hours/days/year</u> | <u>Period of Use</u> |
|----|--------------------------|------------------------------|------------------------|----------------------|
|    | _____                    | _____                        | _____                  | _____ to _____       |
|    | _____                    | _____                        | _____                  | _____ to _____       |

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

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

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

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

Eastern Idaho P.C.A.  
 by: Arnold Seely (Pres)  
 (Signature of Applicant)

Subscribed and sworn to before me this 8th day of April, 19 88.

Douglas C. Ridge  
 (Notary Public)

My commission expires 10/15/90

**FOR DEPARTMENT USE ONLY**

Transfer contains \_\_\_\_\_ pages and \_\_\_\_\_ attachments

Received by Jim OW Date 4-8-88 6-20-88 Protest filed by \_\_\_\_\_

Prelim. check by Jim Fee 50.00

Receipted by RG C001042 Date 5-31-88

Published in Jefferson Star, Post Register Blackfoot News Copies of protest forwarded by \_\_\_\_\_

Pub. dates 4-21-88, 4-28-88 Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Watermaster recommendation requested on \_\_\_\_\_ Recommended for ☒ approval ☐ denial

\_\_\_\_\_ rec'd. \_\_\_\_\_ by \_\_\_\_\_

Copy of transfer sent to lien holder \_\_\_\_\_

NOV 19 1988

## ATTACHMENT

Points of diversion and places of use after change applicable to the E.I.P.C.A. Transfer (a three part transfer application) as delineated by Larsen pump numbers

| Pump No. | Points of Diversion               | Place of Use                                | Acres to be Irrigated* |
|----------|-----------------------------------|---------------------------------------------|------------------------|
| 9        | NE1/4SE1/4, Sec. 31,<br>T6N, R35E | SW1/4, Sec. 31,<br>T6N, R35E                | 123.8                  |
| 11       | SE1/4NW1/4, Sec. 31,<br>T6N, R35E | SE1/4, Sec. 31,<br>T6N, R35E                | 123.8                  |
| 94       | NW1/4SW1/4, Sec. 3,<br>T8N, R36E  | S1/2NW1/4, N1/2SW1/4,<br>Sec. 3, T8N, R36E  | 201                    |
| 98       | NE1/4NW1/4, Sec. 34,<br>T9N, R36E | W1/2NE1/4, E1/2NW1/4,<br>Sec. 35, T9N, R36E | 221.3                  |
| 119      | NE1/4SW1/4, Sec. 25,<br>T9N, R36E | S1/2NW1/4, SW1/4,<br>Sec. 25, T9N, R36E     | 117.5                  |
| 121      | NW1/4SE1/4, Sec. 21,<br>T8N, R36E | E1/2SW1/4, W1/2SE1/4,<br>Sec. 21, T8N, R36E | 119.5                  |
| Total    |                                   |                                             | 906.9 acres            |

\* Acreage is based on actual acres irrigated in 1987 and have been measured by federal crop insurance officials, ASCS officials and/or the pivot system dealers. These pivots will not be enlarged in 1988.

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR )  
TRANSFER OF WATER RIGHT NOS. )  
32-7092/32-7058, 32-7022C, )  
31-7034H, 31-7034R, 31-7034S, )  
35-7390/35-2274, 35-7391/35-2432/ )  
35-7630B, 35-7630A/35-4015B, )  
35-7863, 35-2728/35-2844/35-7361, )  
35-2821B, 35-7773/35-2493, 35-2242, )  
35-2391/35-7777 AND AMENDMENT OF )  
PERMIT NOS. 35-7161, 35-7162. )

BLAINE LARSEN, BLAINE LARSEN FARMS, )  
AND LARSEN OF IDAHO, )  
Applicant, )

v. )

OWSLEY CANAL COMPANY, et al., )  
Protestants. )

SOURCE: GROUND WATER

COUNTY: BINGHAM, CLARK,  
AND JEFFERSON

MEMORANDUM DECISION AND ORDER

BY THE DIRECTOR

Blaine Larsen, Blaine Larsen Farms, and Larsen of Idaho ("Larsen") having made application to transfer numerous water rights; protests having been filed; a combined hearing of all protests to the transfer of water right Nos. 32-7092/32-7058, 32-7022C, 31-7034H, 31-7034R, 31-7034S, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 ("Group A") having been held on April 28 and May 5, 1988; protests to the transfer of water right Nos. 35-2728/35-2844/35-7361, 35-2821B,

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35-7773/35-2493, 35-2242, 35-2391/35-7777 and to the amendment of permit Nos. 35-7161 and 35-7162 ("Group B") having been withdrawn; and the director of the Idaho Department of Water Resources ("Director") having examined all the evidence and available information, finds, concludes and orders as follows:

# FINDINGS OF FACT

## GROUP A

1. Larsen made application to the Department of Water Resources ("Department") to change the point of diversion and place of use for the following water rights (Group A):

| <u>Water Right No.</u>                                                           | <u>Date of Application</u> |
|----------------------------------------------------------------------------------|----------------------------|
| 32-7092/32-7058,<br>32-7022C                                                     | February 26, 1988          |
| 31-7034H, 31-7034R,<br>31-7034S                                                  | March 1, 1988              |
| 35-7390/35-2274,<br>35-7391/35-2432/<br>35-7630B, 35-7630A/<br>35-4015B, 35-7863 | March 9, 1988              |

2. Larsen proposed the following changes in points of diversion and places of use:

## BEFORE CHANGE

| <u>Water Right No.</u> | <u>Points of Diversion</u>                                | <u>Places of Use</u>                                                                                                                                           |
|------------------------|-----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 32-7092                | NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 2, T9N,<br>R34E  | E $\frac{1}{2}$ , Sec. 2, NE $\frac{1}{4}$ ,<br>Sec. 11, T9N, R34E                                                                                             |
| 32-7058                | NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 2, T9N,<br>N34E  | E $\frac{1}{2}$ , Sec. 2, N $\frac{1}{2}$ NE $\frac{1}{4}$ ,<br>SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 11,<br>T9N, R34E                                      |
| 32-7022C               | SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 18, T9N,<br>R34E | S $\frac{1}{2}$ , Sec. 18, T9N,<br>R34E                                                                                                                        |
| 31-7034H               | SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 15, T8N,<br>R36E | NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , Sec.<br>15, E $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,<br>Sec. 15, T8N, R36E |

|          |                                                                                               |                                                                                                                                             |
|----------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| 31-7034R | SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 21, T8N,<br>R36E                                     | E $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 21,<br>W $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,<br>Sec. 22, T8N, R36E |
| 31-7034S | SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 28, T8N,<br>R36E                                     | W $\frac{1}{2}$ E $\frac{1}{2}$ , Sec. 28,<br>NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 33,<br>T8N, R36E                                     |
| 35-7390  | SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 21,<br>T3S, R32E | NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ,<br>Sec. 21, T3S, R32E                              |
| 35-2274  | SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 21, T3S,<br>R32E                                     | NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ,<br>Sec. 21, T3S, R32E                             |
| 35-7391  | SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 27, T3S,<br>R32E                                     | W $\frac{1}{2}$ , Sec. 27, T3S,<br>R32E                                                                                                     |
| 35-2432  | SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 27, T3S,<br>R32E                                     | W $\frac{1}{2}$ , Sec. 27, T3S,<br>R32E                                                                                                     |
| 35-7630B | SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 21,<br>T3S, R32E | W $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec.<br>27, T3S, R32E                                                |
| 35-7630A | SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 21,<br>T3S, R32E | NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec.<br>28, T3S, R32E                                                                 |
| 35-4015B | SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 21, T3S,<br>R32E                                     | NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec.<br>28, T3S, R32E                                                                 |
| 35-7863  | NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 16, T3S,<br>R32E                                     | E $\frac{1}{2}$ , Sec. 16, T3S,<br>R32E                                                                                                     |

AFTER CHANGE

| <u>Water Right No.</u>             | <u>Points of Diversion</u>                                                                                                                                                                                                                                                                                    | <u>Places of Use</u>                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 32-7092/32-7058,<br>32-7022C       | SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,<br>SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,<br>Sec. 34, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ ,<br>Sec. 27, T9N, R36E | N $\frac{1}{2}$ N $\frac{1}{2}$ , Sec. 3, T8N,<br>R36E; SW $\frac{1}{4}$ , Sec. 27,<br>E $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 28, NE $\frac{1}{4}$<br>NE $\frac{1}{4}$ , Sec. 33, W $\frac{1}{2}$ ,<br>SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec.<br>34, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,<br>Sec. 35, T9N, R36E |
| 31-7034H,<br>31-7034R,<br>31-7034S | NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 33,<br>SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 28,<br>T9N, R36E; NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,<br>Sec. 33, T10N, R36E                                                                                                                                         | NE $\frac{1}{4}$ , Sec. 33, NW $\frac{1}{4}$ ,<br>Sec. 28, T9N, R36E;<br>SE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 33,<br>W $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec.<br>34, T10N, R36E                                                                                                                                 |

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35-7390/35-2274, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 10,  
 35-7391/35-2432/ T8N, R36E;  
 35-7630B, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
 35-7630A/35-4015B, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 35-7863 NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 27,  
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 26,  
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 22,  
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 31,  
 T9N, R36E

NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 Sec. 10, SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 3, T8N,  
 R36E; SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 31,  
 E $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
 Sec. 28, E $\frac{1}{2}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$   
 SW $\frac{1}{4}$ , Sec. 27, NW $\frac{1}{4}$ ,  
 Sec. 26, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ,  
 Sec. 22, SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 21 T9N,  
 R36E

3. The Post-Register published notice of the proposed changes to Group A on March 17 and 24, 1988. The Post-Register published a correction of notice on April 14 and 21, 1988 for the proposed changes to water right Nos. 31-7034H, 31-7034R, and 31-7034S. The Post-Register is a newspaper of general circulation which is published in Bonneville County.

4. The Jefferson Star published notice of the proposed changes to water right Nos. 31-7034R, 31-7034S, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 on March 16 and 23, 1988. The Jefferson Star published notice of the proposed changes to water right No. 31-7034H on March 23 and 30, 1988. The Jefferson Star published a correction of notice on April 20 and 27, 1988 for the proposed changes to water right Nos. 31-7034H, 31-7034R, and 31-7034S. The Jefferson Star is a newspaper of general circulation which is published in Jefferson County.

5. The Morning News published notice of the proposed changes to water right Nos. 35-7390/35-2274, 35-7391/35-2432/35-7630B, and 35-7630A/35-4015B on March 17 and 24, 1988. The

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Morning News published notice of the proposed changes to water right No. 35-7863 on March 17 and 31, 1988. The Morning News published a correction of notice on April 14 and 21, 1988 for the proposed changes to water right No. 35-7863. The Morning News is a newspaper of general circulation which is published in Bingham County.

6. All the notices described the name of the applicant, the source of the water supply, the amount of water to be transferred, the nature of the use, the approximate location of the points of diversion, and the places of use.

7. On March 30, 1988, the Department received a protest to the proposed changes affecting water right Nos. 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 from Ray Sanders and Reed Mickleleson. The basis for their protest was a concern that water diverted in Jefferson and Clark Counties would not be replaced with water from Bingham County.

8. On April 1, 1988, the Department received a protest to the proposed changes affecting water right Nos. 32-7092/32-7058, 32-7022C, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 from Kent W. Foster, attorney, on behalf of the Owsley Canal Company, Jackett Canal Company, Holly Water Users Association, Jefferson Canal Company, Producers Canal Company, and Montevue Canal Company ("Canal Companies").

9. On April 4, 1988, the Department received another protest to the proposed changes affecting water right Nos. 32-7092/32-7058, 32-7022C, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, and 35-7863 from Kent W. Foster,

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attorney, on behalf of the Canal Companies, Level Canal Company, and Independent Water Users of Mud Lake, Inc. ("Mud Lake Protestants"). The basis for their protest was a concern that the proposed changes would injure their water rights and be contrary to the local public interest.

10. On April 4, 1988, the Department received four petitions under a cover page which stated that the petitions were in protest to the changes proposed by Larsen. The petitions were signed by Dee Davis, Louis Rasmussen, Michael Rasmussen, Dean A. Peterson, Wallace Robinson, Larid Dee Robinson, Julie McCulloch, Mark C. Blaser, Roger Rydalch, Lorin C. Young, Kris Rydalch, Hal Buster, W. Hal Buster, Jeff Buster, Van R. Weaver, Jan Rydalch, LuAnn Wood, Cleve L. Young, Kathlene Young, Mona Walters, Ruby Young, Keith Meyers, Ron Meyers, Lane Meyers, Bryan K. Lusk, Lea Meyers, Cheryl M. Lusk, Mark E. Peterson, Norma Peterson, Charles Parkinson, Max G. Parkinson, Alan Parkinson, Gary Mackay, Blair Withers, Harold Rigby, Grant Saurey, Edward Rindlisbacher, Cleve P. Bagley, V. J. Bagley, Olif L. Johnson, and Rigby E. Willmore. Prior to the hearing, V.J. Bagley, Cleve Bagley, Grant Saurey, Van R. Weaver, Wallace Robinson, Edward Rindlisbacher, and Blair Withers withdrew their protests. The basis for the petitions was a concern that the proposed changes would be contrary to the public interest.

11. The Department received the statutory filing fee for each application submitted.

12. The right to the use of the water and the right to the use of the diversion works and irrigation system are not repre-

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sented by shares of stock in a corporation, and neither the diversion works nor the irrigation system is owned or managed by an irrigation district.

13. Larsen is the owner or lessee of the water rights and permits which make up Group A and Group B.

14. The Department mailed notice of the hearing for Group A protests to the applicant and protestants or to their representatives on April 13, 1988. The notice stated the names of the applicant and protestants, and the time and place fixed for the hearing.

15. On April 26, 1988, Mr. Lorin Young telephoned the Department to designate Dell Raybould as the representative of the protestants which signed the four petitions.

16. A combined hearing to consider all protests to the Group A transfers was held on April 28 and May 5, 1988 in the Madison County Courthouse, Rexburg, Idaho.

17. The applicant and protestants stipulated that the record which would be created by the hearing could serve as a substitute for or a supplement to a future record which would involve other transfer applications made by Larsen.

#### Injury

18. The applicant's expert witness, Willis L. Burnham, testified that the proposed one-year change in points of diversion and places of use would not diminish the water in the protestant's wells.

19. The applicant's expert witness, Willis L. Burnham, testified that any unused water on the new places of use would

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recharge the aquifer within days.

20. The protestant's expert witness, Dr. Charles Brockway, testified that the effect of the proposed one-year change in points of diversion and places of use would probably not propagate to the protestant's wells.

21. Ray Sanders presented Sanders Exhibits 1 and 2 which suggest a one to two year time lag from precipitation received to ground water effect in the Camas National Wildlife Refuge.

#### Enlargement

22. The proposed change in points of diversion and places of use do not seek to increase the total number of acres which may be irrigated under the original water rights. See Larsen Exhibit 4.

24. Larsen has not requested changes in the rate of diversion, the volume diverted, and the consumptive use of water allowed under the original water rights. At the hearing, Kevan Varin, business manager for Larsen, suggested that the consumptive use on the new places of use may, in fact, be somewhat lower than on the old places of use. See Larsen Exhibit 15.

#### Public Interest

25. Kevan Varin testified how Larsen's farming operation buys necessary goods and services from local retailers, provides jobs, and improves the local tax base.

26. All new places of use were irrigated in 1987 according to the testimony of Kevan Varin.

27. Testimony was given by Dell Raybould which suggested that approval of the proposed changes would circumvent the

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federal Food Securities Act of 1985 and adversely impact the local economy by depressing local commodity prices. Protestants' reasoning is that any increase in production will decrease commodity prices and any decrease in production will increase commodity prices.

#### Interim Approval

28. On May 11, 1988, Larsen petitioned the Director to approve a temporary plan for emergency supply pending final determination of all the transfer applications.

29. On May 16, 1988, the Director issued an interim order which approved the change in points of diversion and places of use for Group A. Also, the interim order denied all temporary and emergency relief with one exception. Water diverted under the rights which were transferred by the interim order could temporarily be used upon the applicant's other wheat acreage for which applications for transfer remained pending before the Department.

#### GROUP B Applications

30. On March 16, 1988, Larsen made application to the Department to change the point of diversion and place of use for the following water rights: Nos. 35-2728/35-2844/35-7361, 35-2821B. The transfer applications for these rights were amended on April 8, 1988.

31. Larsen proposed the following changes in points of diversion and places of use:

**MAILED**

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BEFORE CHANGE

| <u>Water Right No.</u> | <u>Points of Diversion</u>                                | <u>Places of Use</u>                                                                                                                                                                                                                                       |
|------------------------|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 35-2728                | NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 23, T4S,<br>R30E | W $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 23, N $\frac{1}{2}$<br>NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec.<br>26, T4S, R30E                                                                                                                |
| 35-2844                | NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 23, T4S,<br>R30E | S $\frac{1}{2}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$<br>NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec.<br>23, N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,<br>Sec. 26, T4S, R30E |
| 35-7361                | NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 23, T4S,<br>R30E | SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 26,<br>T4S, R30E                                                                                                                                                                                                  |
| 35-2821B               | NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 24, T4S,<br>R30E | E $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 23, W $\frac{1}{2}$<br>SW $\frac{1}{4}$ , Sec. 24, T4S,<br>R30E                                                                                                                                                    |

AFTER CHANGE

| <u>Water Right No.</u>                   | <u>Points of Diversion</u>                                                                                                        | <u>Places of Use</u>                                                           |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| 35-2728/35-2844/<br>35-7361,<br>35-2821B | SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,<br>Sec. 16, T8N, R37E | NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , SE $\frac{1}{4}$ , Sec.<br>16, T8N, R37E |

AMENDED CHANGE

| <u>Water Right No.</u>                   | <u>Points of Diversion</u>                                                                                                                                                                                                     | <u>Places of Use</u>                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 35-2728/35-2844/<br>35-7361,<br>35-2821B | SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 13, SW $\frac{1}{4}$<br>SW $\frac{1}{4}$ , Sec. 11, T8N,<br>R36E; SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 4,<br>T7N, R36E; SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,<br>Sec. 24, T9N, R36E | N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec.<br>4, E $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 9,<br>T7N, R36E; SW $\frac{1}{4}$ ,<br>Sec. 11, W $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec.<br>13, T8N, R36E;<br>SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 24,<br>NE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 25,<br>SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 19,<br>NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 30,<br>T9N, R36E |

32. On April 6, 1988, Eastern Idaho Production Credit Association ("PCA") made application to the Department, on behalf of Larsen, to change the point of diversion and place of use for the following water rights: Nos. 35-7773/35-2493, ~~35-2493~~ 35-2242,

35-2391/35-7777.

33. On April 6, 1988, PCA made application to the Department, on behalf of Larsen, to amend the point of diversion and place of use for the following permits: Nos. 35-7161, 35-7162.

34. PCA proposed the following changes in points of diversion and places of use:

BEFORE CHANGE

| <u>Water Right No.</u> | <u>Points of Diversion</u>                             | <u>Places of Use</u>                                                                                                                                                     |
|------------------------|--------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 35-7773                | NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 22, T1S, R33E | SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec. 26, NE $\frac{1}{4}$ , Sec. 27, T1S, R33E                        |
| 35-2493                | NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 22, T1S, R33E | SE $\frac{1}{4}$ , Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec. 26, NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 27, T1S, R33E                        |
| 35-2242                | SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 36, T1S, R33E | S $\frac{1}{2}$ , Sec. 36, T1S, R33E                                                                                                                                     |
| 35-2391                | SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 28, T1S, R33E | S $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 27, S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 28, T1S, R33E |
| 35-7777                | SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 28, T1S, R33E | S $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 27, S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 28, T1S, R33E |

| <u>Permit No.</u> | <u>Points of Diversion</u>                             | <u>Places of Use</u>                                                             |
|-------------------|--------------------------------------------------------|----------------------------------------------------------------------------------|
| 35-7161           | NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 21, T1S, R33E | W $\frac{1}{2}$ , Sec. 21, N $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec. 28, T1S, R33E |
| 35-7162           | NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 21, T1S, R33E | E $\frac{1}{2}$ , Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 28, T1S, R33E |

AFTER CHANGE

| <u>Water Right No.</u>                          | <u>Points of Diversion</u>                                                                                                                                                                         | <u>Places of Use</u>                                                                                                                           |
|-------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 35-7773/35-2493,<br>35-2242,<br>35-2391/35-7777 | NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,<br>Sec. 31, T6N, R35E;<br>NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 3,<br>NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 21, T8N, | S $\frac{1}{2}$ , Sec. 31,<br>T6N, R35E;<br>SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,<br>Sec. 3, E $\frac{1}{2}$ SW $\frac{1}{4}$ |

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R36E; NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 34,  
NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 25, T9N,  
R36E

SE $\frac{1}{4}$ , Sec. 21, T8N,  
R36E; W $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ ,  
Sec. 35, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ,  
Sec. 25, T9N, R36E

| <u>Permit No.</u>   | <u>Points of Diversion</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <u>Places of Use</u>                                                                                                                                                                                                                                                                                                  |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 35-7161,<br>35-7162 | NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,<br>SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,<br>NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,<br>SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec.<br>31, T6N, R35E;<br>SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 10, T8N,<br>R36E; SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 24,<br>NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 26,<br>NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 35, T9N,<br>R36E | N $\frac{1}{2}$ , Sec. 31,<br>T6N, R35E;<br>E $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 10,<br>T8N, R36E;<br>E $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec.<br>24, NE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec.<br>26, N $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 35,<br>T9N, R36E |

35. On April 12, 1988, Larsen applied to the Department to change the points of diversion and places of use for the following water rights: Nos. 35-7009/35-7157, 35-2545B, 35-7222. Larsen later withdrew these transfer applications.

36. The Fremont County Herald-Chronicle published notice of the proposed changes to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 7 and 14, 1988. The Fremont County Herald-Chronicle is a newspaper of general circulation which is published in Fremont County.

37. The Morning News published notice of the proposed changes to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 7 and 14, 1988. The Morning News published notice of the proposed changes, as amended, to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 21 and 28, 1988; and the proposed changes to water right Nos. 35-7773/35-2493, 35-2242, and 35-2391/35-7777 and permit Nos. 35-7161, and 35-7162 on April 21 and 28, 1988.

RECORDED  
INDEXED

38. The Post-Register published notice of the proposed changes, as amended, to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 21 and 28, 1988; and the proposed changes to water right Nos. 35-7773/35-2493, 35-2242, and 35-2391/35-7777 and permit Nos. 35-7161, and 35-7162 on April 21 and 28, 1988.

39. The Jefferson Star published notice of the proposed changes, as amended, to water right Nos. 35-2728/35-2844/35-7361, and 35-2821B on April 20 and 27, 1988. The Jefferson Star published a correction of notice on May 4 and 11, 1988 for the proposed changes to water right Nos. 35-2728/35-2844/35-7361. The Jefferson Star published notice of the proposed changes to water right Nos. 35-7773/35-2493, 35-2242, and 35-2391/35-7777 and permit Nos. 35-7161, and 35-7162 on April 20 and 27, 1988.

40. All the notices described the name of the applicant, the source of the water supply, the amount of water to be transferred, the nature of the use, the approximate location of the points of diversion, and the places of use.

41. On May 2, 1988, the Department received a protest to the proposed transfer of water right Nos. 31-7034H, 35-7773/35-2493, 35-2242, and 35-7222 and the proposed amendment of permit Nos. 35-7161, and 35-7162 from Kent W. Foster, attorney, on behalf of the Mud Lake Protestants. The basis for the protest was a concern that the proposed changes would injure the water rights of the protestants and be contrary to the local public interest.

42. On May 4, 1988, the Department received a protest to the proposed transfer of the Group B water rights and right

Nos. 35-7009/35-7157, 35-2545B, and 35-7222 from Robert K. Oser on behalf of the United States Fish and Wildlife Service. The basis of the protest was the potential detrimental effects that the proposed changes might have on the water resources of the Camas National Wildlife Refuge.

43. On May 9, 1988, the Department received a protest to the proposed transfer of the Group B water rights and water right Nos. 35-7009/35-7157, 35-2545B, and 35-7222 from Herbert A. Pollard II on behalf of Idaho Department of Fish and Game. The basis of the protest was a concern that the proposed changes would injure protestant's water rights and be contrary to the local public interest.

44. On May 24, 1988, Larsen withdrew the application to transfer water right No. 35-7222.

45. The Department mailed notice of the hearing on the protests for Group B and water right Nos. 35-7009/35-7157, and 35-2545B to the applicants and protestants or to their representatives on June 1, 1988. The notice stated the names of the applicants and protestants and the time and place fixed for the hearing. The hearing was originally scheduled for June 2 and 3, 1988, but was subsequently rescheduled for July 14 and 15, 1988.

46. On June 3, 1988, the United States Fish and Wildlife Service and the Idaho Department of Fish and Game withdrew their protests to the proposed change in points of diversion and places of use for Group B and water right Nos. 35-7009/35-7157, and 35-2545B.

47. On June 3, 1988, Larsen filed with the Department a petition to allow temporary water use pending resolution of the applications for change in points of diversion and places of use for Group B and water right Nos. 35-7009/35-7157, and 35-2545B.

48. On June 6, 1988, the Director issued an order which temporarily granted the proposed changes for Group B and water right Nos. 35-7009/35-7157, and 35-2545B to the extent necessary to maintain the crop on the new places of use. The order was subject to the final determination of the transfer applications.

49. On July 13, 1988, Kent W. Foster, the attorney representing the Mud Lake Protestants, withdrew their protests to the transfer applications for Group B and water right Nos. 35-7009/35-7157, and 35-2545B.

50. On July 13, 1988, Larsen withdrew the transfer applications for water right Nos. 35-7009/35-7157, and 35-2545B.

#### CONCLUSIONS OF LAW

1. Idaho Code § 42-222(1) (Supp. 1988) applies to the changes proposed by the applicant. Section 42-222(1) states, in part, the following:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in section 42-203, Idaho Code; except the director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area. (emphasis added.)

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## Injury to Other Water Rights

2. The injury mentioned in section 42-222(1) refers to an injury to water rights, not to commodity prices, land values or other property rights. To prevent a change in the point of diversion and place of use of water, the injury, if any, must be to a water right. Colthrop v. Mountain Home Irrigation Dist., 66 Idaho 173, 180, 157 P.2d 1005, 1008 (1945).

3. Since Larsen is the owner or lessee of the water rights, finding 13, he has the right to divert a certain amount of water from the Snake Plain Aquifer. The issue then is not whether the diversion of water per se from the Snake Plain Aquifer will injure the protestants water rights. Instead, the issue with respect to injury is whether the change in points of diversion and place of use will injure the protestant's water rights.

4. The injury claimed must be a substantial injury, not merely a fanciful injury but a real and actual injury. Beecher v. Cassia Creek Irrigation Co., 66 Idaho 1, 7, 154 P.2d 507, 509 (1944). In other words, the evidence must show a direct injury to the protestant's water rights by the proposed changes. The mere fact that injury might result if changes of place of diversion and use are granted, is not a valid reason to reject the water user's application. Application of Boyer, 73 Idaho 152, 161, 248 P.2d 540, 545 (1952).

5. The protestants failed to show how pumping for one year at the new points of diversion, as compared with pumping at the old points of diversion, will cause an actual and real injury to

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their water rights.

6. The protestants failed to show how irrigation for one year on the new places of use, as compared with irrigation on the old places of use, will cause an actual and real injury to their water rights.

7. Because the protestants have failed to show that the proposed change in points of diversion and places of use will cause an actual and real injury to their water rights, the injury requirement of section 42-222(1) has not been met by the protestants.

#### Enlargement

8. The Idaho Supreme Court has not described any circumstances which constitute "an enlargement in use of the original right" under Idaho Code § 42-222(1). However, the normal meaning of the words used imply that any use of water beyond the limits of the original right is an enlargement. In other words, if the amount of use or period of use of water is limited by the original right, any use beyond that limit is an enlargement.

9. Since the number of acres which may be irrigated, the rate at which water may be diverted, the volume of water which may be diverted, and the amount of water which may be consumed under the original water rights will not be increased by approval of the proposed changes, findings 22 and 24, such changes will not create an enlargement of the original water rights.

#### Public Interest

10. Prior to approving a change in point of diversion or place of use the director of the Department must determine that

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such change is in the local public interest as defined in section 42-203A, Idaho Code. Idaho Code § 42-222(1) (Supp. 1988).

11. The local public interest includes any locally important factor impacted by proposed appropriations. Shokal v. Dunn, 109 Idaho 330, 338, 707 P.2d 441, 449 (1985).

12. The burden of demonstrating which elements of the public interest are impacted and to what degree lies with the parties having peculiar knowledge of the affected elements. Id. at 339.

13. The burden of proof is upon the applicant to show that the project is either in the local public interest or that there are factors that outweigh the local public interest in favor of the project. Id. at 339.

14. The determination of what elements of the public interest are impacted, and what the public interest requires, is committed to Water Resources' sound discretion. Id. at 339.

15. The suggestion by some of the protestants that approval of the proposed changes would circumvent the underlying policies of the federal Food Securities Act of 1985, 16 U.S.C. §§ 3801 et seq., amounts to an assertion that approval of the proposed changes will decrease the opportunity for farmers in the local area "to derive fair and reasonable profits in the marketplace." S. Rep. No. 145, 99th Cong., 1st Sess. 1, reprinted in 1985 U.S. Code Cong. & Admin. News 1676.

16. The pertinent issue is not the degree of consistency of the proposed changes with the underlying policies of the Food Securities Act of 1985. Rather, the pertinent issue is whether

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approval of the proposed changes is in the local public interest, defined as the affairs of the people in the area directly affected by the proposed use.

17. Although increased local production may tend to result in decreased commodity prices, regional and national production levels are likely to have a greater influence on commodity prices.

18. The market price of local farm commodities is not the only factor in the local economy equation. For example, the applicant presented evidence that money spent on seed, fertilizer, fuel, tractors and other goods which are necessary for agricultural production benefit the local economy. Finding 25. Production also benefits the local economy by increasing the local tax base and by providing jobs.

19. The local public interest does not require the denial of the proposed water right transfers as a means of protecting established markets and prices for farm commodities.

20. Approval of the proposed changes in points of diversions and places of use for a one-year period will not conflict with the local public interest.

#### ORDER

IT IS THEREFORE, HEREBY ORDERED that the applications for transfer of water right Nos. 32-7092/32-7058, 32-7022C, 31-7034H, 31-7034R, 31-7034S, 35-7390/35-2274, 35-7391/35-2432/35-7630B, 35-7630A/35-4015B, 35-7863, 35-2728/35-2844/35-7361, 35-2821B, 35-7773/35-2493, 35-2242, and 35-2391/35-7777 and amendment of permit Nos. 35-7161, and 35-7162 are **APPROVED** subject to the

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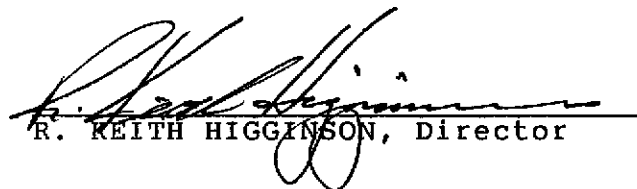
following conditions:

1. The approval is only for the 1988 irrigation season. At the end of the 1988 irrigation season, the places of use and points of diversion under the various water rights and permits shall revert to the lands from which transferred. Applicant should understand that any planned use of these water rights and permits to cover additional years of irrigation of the Larsen lands beyond the 1988 irrigation season will be processed as permanent transfers.

2. The lands from which the water rights and permits are transferred shall not be irrigated from any source during the 1988 irrigation season.

3. For the purpose of appeal, this is the final order issued by the Director.

DATED this 7<sup>th</sup> day of September, 1988.

  
R. KEITH HIGGINSON, Director

#### CERTIFICATE OF SERVICE

I hereby certify that on this 9<sup>th</sup> day of September, 1988, I served a true and correct copy of the foregoing Memorandum Decision and Order by placing a copy thereof in the United States mail addressed to the following:

Jeffrey C. Fereday, Esq.  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER  
277 North Sixth St., Suite 200  
P.O. Box 2720  
Boise, ID 83701

Kent Foster, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO  
Idaho First National Bank Bldg.  
P.O. Box 129

**MACROFILMED**

NOV 29 1988

Idaho Falls, ID 83405

Mr. Reed Mickelson  
Hamer, ID 83425

Mr. Ray Sanders  
Hamer, ID 83425

Mr. Dell Raybould  
3215 N. 2000 W.  
Rexburg, ID 83440

Eastern Idaho Production Credit Assoc.  
203 So. Garfield  
Pocatello, ID 83204

Mr. Robert K. Oser  
Program Analysis  
U.S. Fish and Wildlife Service  
500 N.E. Multnomah St. Suite 1692  
Portland, OR 97232

Ronald E. Swan, Esq.  
U.S. Department of the Interior  
Office of the Regional Solicitor  
500 N.E. Multnomah St., Suite 607  
Portland, OR 97232

Stephen V. Goddard, Esq.  
Deputy Attorney General  
Idaho Department of Fish & Game  
P.O. Box 25  
Boise, ID 83707



RITA I. FLECK  
Secretary/Records Manager  
Department of Water Resources



NOV 29 1988

BEFORE THE DIRECTOR OF THE  
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PROTESTS AGAINST THE )  
GRANTING OF APPLICATIONS FOR TRANSFER )  
NOS. 35-7009/35-7157, 35-2545B, 35-2821B, )  
35-2728/35-2844/35-7361 IN THE NAME OF )  
BLAINE LARSEN AND 35-2391/35-7777, 35-2242, )  
35-2493/35-7773 AND APPLICATIONS FOR )  
AMENDMENTS NOS. 35-7162 AND 35-7161 IN THE )  
NAME OF EASTERN IDAHO PRODUCTION CREDIT )  
ASSOC. )

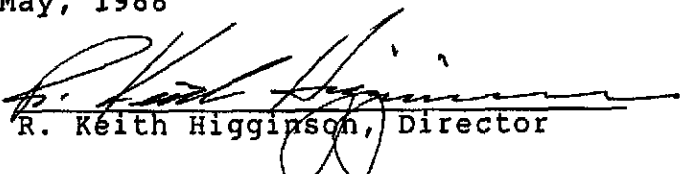
ORDER

On May 26, 1988 the Department received a Second Petition for Approval of Temporary Plan for Emergency Supply from Blaine Larsen through his attorney James D. Hansen.

This petition requests that the lands to which water is proposed to be moved by the above referenced transfer and amendment applications be allowed to be irrigated prior to the approval of the applications. All of the applications referenced above have been protested and the required hearing has not been held. A hearing will be held at the earliest date possible and the notice setting the hearing will be sent to all the parties.

Since the applications have been protested and since the hearing has not been held the Second Petition for Approval of Temporary Plan for Emergency Supply is hereby DENIED.

Dated this 27th day of May, 1988

  
R. Keith Higginson, Director

NOV 29 1988

LAW OFFICES  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER

ELEANORE S. BAKENDALE\*  
CHRISTOPHER J. BEESON  
PAUL J. BUSER  
JEFFREY C. FEREDAY  
RAYMOND D. GIVENS  
JAMES D. HANSEN  
JUDITH K. HOLCOMBE  
KENNETH R. McCLURE  
CHAS. F. McDEVITT  
LEO EDWARD MILLER  
PATRICK J. MILLER  
TERRY L. MYERS  
KENNETH L. PURSLEY  
MICHAEL T. SPINK  
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SUITE 200, PARK PLACE  
277 NO. 6TH STREET  
POST OFFICE BOX 2720  
BOISE, IDAHO 83701

TELEPHONE  
(208) 342-6571

TELECOPIER  
(208) 343-9492

May 25, 1988

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MAY 26 1988

\*ALSO ADMITTED IN OREGON

Via Hand Delivery

Mr. R. Keith Higginson  
Director  
Idaho Department of Water Resources  
1301 N. Orchard  
Boise, ID 83706

Department of Water Resources

Re: Blaine Larsen

Dear Mr. Higginson:

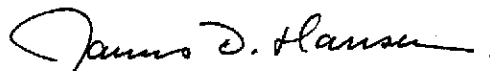
I am enclosing for your review and filing with the Department the following original pleadings:

1. Petition to Set Hearing Date.
2. Second Petition for Approval of Temporary Plan for Emergency Supply.
3. Affidavit of Jeffrey C. Fereday.

Also enclosed for filing is a telex copy of the Affidavit of Blaine Larsen. We will send the original to you tomorrow as we expect to receive it via Federal Express tomorrow.

We greatly appreciate your immediate consideration of these matters.

Very truly yours,

  
James D. Hansen

JDH:gc  
Encls.

cc: Kent Foster, Esq.  
Stephen V. Goddard, Esq. - 334-3715  
Mr. Robert K. Oser 503-281-6145  
Phillip J. Rassier, Esq.  
Mr. Blaine Larsen (c/o  
Mr. Kevan Varin)

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2143  
503-231-2423  
R. S. Swan

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Jeffrey C. Fereday  
James D. Hansen  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER  
277 North Sixth Street, Suite 200  
P.O. Box 2720  
Boise, Idaho 83701  
(208) 342-6571

Department of Water Resources

BEFORE THE DIRECTOR  
IDAHO DEPARTMENT OF WATER RESOURCES

|                                    |   |                    |
|------------------------------------|---|--------------------|
| IN THE MATTER OF TRANSFERS OF      | ) |                    |
| WATER RIGHT LICENSES AND           | ) |                    |
| AMENDMENTS OF WATER RIGHT PERMITS) | ) | SECOND PETITION    |
| BY BLAINE LARSEN, BLAINE LARSEN    | ) | FOR APPROVAL OF    |
| FARMS AND LARSEN OF IDAHO FOR      | ) | TEMPORARY PLAN FOR |
| THE 1988 IRRIGATION SEASON         | ) | EMERGENCY SUPPLY   |
|                                    | ) |                    |

Petitioner Blaine Larsen, Blaine Larsen Farms and Larsen of Idaho ("Petitioner") hereby petitions the Director of the Idaho Department of Water Resources ("Director") to extend the Interim Order dated May 16, 1988 to approve a temporary plan for emergency supply to allow Petitioner to pump a limited amount of groundwater from the Snake Plain aquifer on the remainder of his land subject to the transfer applications ("transfers") but not disposed of by the Interim Order. This matter is unusual in that it involves two separate groups of protests on a single transfer program; the applications are subject to hearing in two separate groups because of the two publication dates involved.

The Interim Order concerning the pumping program was issued after the Director heard testimony on the potential impact of

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SECOND PETITION FOR APPROVAL OF TEMPORARY PLAN  
FOR SUPPLEMENTARY SUPPLY - 1

all of the wells involved in Applicant's 1988 transfer applications, not just those which were technically subject to the hearing which ended May 5, 1988. The record contains no evidence on the potential impact on other water rights, enlargement of use or the effect on the local public interest of Applicant's pumping of only one of the two groups of wells; all evidence pertained to both groups as a unit.

In the Interim Order, the Director found that "other water rights will not be injured by the approval of the transfers for a one-year period; no enlargement in the use of the original rights will occur; and approval of the transfers will not conflict with the local public interest." Interim Order at 2. Because of the emergency nature of the situation with respect to Applicant's wheat acreage (which was dying for lack of water while the process moved forward) the Interim Order allowed Petitioner to pump groundwater to irrigate all of the land where wheat is planted, even though some of this acreage is included in the second group of applications, which technically have not yet been subject to hearing. This emergency portion of the Interim Order was based in part on Applicant's Petition for Approval of Temporary Plan for Emergency Supply dated May 11, 1988, which is on file with the Department and is incorporated herein by this reference.

This second petition seeks approval to irrigate the remaining lands on which potatoes have been planted, but which were not covered by or allowed to be irrigated pursuant to the

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Interim Order and the interpretation of the Interim Order contained in Gary Spackman's letter of May 17, 1988 (the "remaining potato acreage"). The remaining potato acreage comprises approximately 2352 acres.

No pumping would be carried out under the emergency plan unless it is absolutely necessary to preserve the crop being irrigated. The plan would be carried out on the same basis as that authorized by the Interim Order for emergency pumping to serve the wheat acreage. The plan would end simultaneously with the issuance of the Director's order on the transfers following the resolution of all pending protests.

Petitioner seeks approval of this emergency plan on an immediate, ex parte basis and restates by reference the factual and legal authority for this relief which was presented to the Director in the Petitioner's original Petition for Approval of Temporary Plan for Emergency Supply filed on May 11, 1988.

DATED this 25th day of May, 1988.

Jeffrey C. Fereday  
Jeffrey C. Fereday  
James D. Hansen  
GIVENS, McDEVITT, PURSLEY,  
WEBB & BUSER  
Attorneys for Petitioners

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25<sup>th</sup> day of May, 1988, I caused a true and correct copy of the foregoing to be served upon:

Mr. Robert K. Oser  
Program Analysis  
United States Department of  
Interior Fish & Wildlife Service  
500 Northeast Multnomah Street  
Suite 1692  
Portland, OR 97232

Stephen V. Goddard, Esq.  
Deputy Attorney General  
Idaho Department of Fish & Game  
P.O. Box 25  
Boise, ID 83707

Kent Foster, Esq.  
Holden, Kidwell, Hahn &  
Crapo  
Idaho First National Bank Bldg.  
P.O. Box 129  
Idaho Falls, ID 83405

by depositing the same in the United States mail, postage prepaid addressed to the above named at the last known address(s) as set forth above.

Lena Camar

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MAY 26 1988

Department of Water Resources

Jeffrey C. Fereday  
James D. Hansen  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER  
277 North Sixth Street, Suite 200  
P.O. Box 2720  
Boise, Idaho 83701  
(208) 342-6571

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST)  
THE GRANTING OF APPLICATIONS FOR )  
TRANSFERS NOS. 35-7009/35-7157, )  
35-2545B, 35-2391/35-7777, )  
35-2242, 35-2493/35-7773, )  
35-2821B, 35-2728/35-2844/ )  
35-7361 AND APPLICATIONS FOR )  
AMENDMENTS NOS. 35-7162 AND )  
35-7161 IN THE NAME OF BLAINE )  
LARSEN & EASTERN IDAHO PRODUCTION )  
CREDIT ASSOCIATION. )  
\_\_\_\_\_ )

AFFIDAVIT OF JEFFREY C.  
FEREDAY

STATE OF IDAHO )  
 ) ss  
County of Ada )

Jeffrey C. Fereday, being first duly sworn upon oath, and  
based upon his own personal knowledge, deposes and says as  
follows:

1. I am one of the attorneys representing the Applicant in  
this matter.

2. On May 13, 1988 I received copies of two letters dated  
May 11 enclosing a proposed stipulation, signed by Ronald D.  
Carlson of the Department of Water Resources ("Department"),

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and addressed to Protestant Idaho Department of Fish and Game ("IDFG") and Protestant U.S. Fish and Wildlife Service ("USFWS"). The stipulation pertains to allowing an existing hearing record -- which concerns the points of diversion involved in this matter as well as those involved in the hearing which ended May 5, 1988 -- to serve as the record as to this second group of protested applications. Mr. Carlson's letters suggested that, if stipulations were not executed, the parties should be ready to participate in a hearing within ten days. Copies of these letters are attached to this affidavit as Exhibits A and B.

3. Since receiving the Department's May 16, 1988 Interim Order in the case related to this action but involving different transfer applications, I have had discussions with both USFWS and IDFG in an attempt to encourage these Protestants to enter into the stipulation proposed by Mr. Carlson or otherwise to reach an accommodation with the Applicant whereby a further hearing could be avoided.

4. On May 23, 1988, I had a further conversation on this subject with Mr. Robert Oser of USFWS' Portland, Oregon office, and on May 24, 1988 with IDFG's legal counsel in Boise. On May 25, 1988, I had a further meeting with IDFG's legal counsel and an IDFG engineer. On May 25, I also had another conversation with Mr. Oser. During these conversations, both IDFG and USFWS informed me that their respective agencies had not yet formed a

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conclusion as to the advisability of proceeding with a hearing or taking some other action respecting their protests.

5. On May 23, 1988, Applicant Blaine Larsen informed me that those acres on which he has planted potatoes but which are not being pumped due to the protests are extremely dry, and that a delay of more than a few days will result in partial or complete destruction of this crop. I have communicated this information to both IDFG and USFWS.

DATED this 25th day of May, 1988

Jeffrey C. Fereday  
Jeffrey C. Fereday

STATE OF IDAHO       )  
                          ) ss.  
County of Ada        )

On this 25th day of May, 1988, before me, the undersigned, a Notary Public, in and for said State, personally appeared Jeffrey C. Fereday, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Gera Cameron  
Notary Public for Idaho  
Residing at Boise, Idaho  
My commission expires: 9/26/88

NOV 29 1988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25<sup>th</sup> day of May, 1988, I caused a true and correct copy of the foregoing to be served upon:

Mr. Robert K. Oser  
Program Analyst  
U.S. Fish and Wildlife Service  
500 NE Multnomah Street  
Portland, OR 97232

Stephen V. Goddard, Esq.  
Idaho Department of Fish and Game  
Statehouse Mail  
Boise, ID 83720

Kent Foster, Esq.  
Holden, Kidwell, Hahn &  
Crapo  
Idaho First National Bank Bldg.  
P.O. Box 129  
Idaho Falls, ID 83405

by depositing the same in the United States mail, postage prepaid addressed to the above named at the last known address(es) as set forth above.

*Gera Cameron*



NOV 29 1988



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
Eastern Region

CECIL D. ANDRUS  
Governor

May 11, 1988

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

A. KEITH HIGGINSON  
Director

RE: Applications for Transfers 35-2728/35-2844/35-7361, 35-2242,  
35-2821B, 35-2493/35-7773, 35-2391/35-7777, 35-7009/35-7157,  
35-2545B, 35-7222  
Applications for Amendments 35-7161 & 35-7162

Mr. Herbert A. Pollard, Regional Supervisor  
Idaho Department of Fish & Game  
1515 Lincoln Road  
Idaho Falls, ID 83401

Givens, McDowell, Pursley,  
Webb & Buser

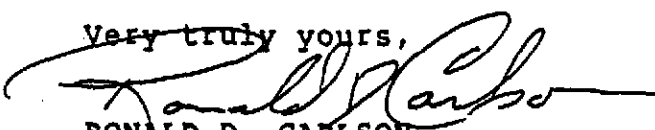
Dear Mr. Pollard:

The Department of Water Resources is in receipt of your protest against the temporary transfer of the above referenced water rights. The Idaho statutes provide an opportunity for all protests to be heard before the Department makes a decision on any application.

As you know the Department just completed two days of hearings of protests against other transfer applications initiated by the same applicant. Representatives of your agency were present and Mr. Richardson, of the Fish and Wildlife Service, was called as one of the witnesses. During these hearings a substantial amount of evidence and testimony relating directly to the applications you are now protesting was received. While you certainly are entitled to a hearing of your objections I wonder if any new evidence will be provided if additional hearings are held.

It may be appropriate for you to stipulate that the record in the previous hearing be the record in this matter as well. With this Stipulation you would have available the normal avenues of appeal if you disagree with the Director's decision. I have enclosed a draft Stipulation for your consideration because of the very short time frame we have in this matter. If you believe there is additional information you wish to present and choose not to enter into a Stipulation, you should be prepared to go forward with the hearing within the next ten days.

Very truly yours,

  
RONALD D. CARLSON  
Eastern Regional Manager

RDC:cw  
Enclosure  
cc: Jeff Fereday

**MAILED**

NOV 29 1988

EXHIBIT A

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF PROTESTS )  
AGAINST THE GRANTING OF )  
APPLICATIONS FOR TRANSFERS )  
NOS. 35-7009/35-7157, 35-7222, )  
35-2545B, 35-2391/35-7777, 35-2242, ) STIPULATION  
35-2493/35-7773, 35-2821B, )  
35-2728/35-2844/35-7361 AND )  
APPLICATIONS FOR AMENDMENTS NOS. )  
35-7162 AND 35-7161 IN THE NAME )  
OF BLAINE LARSEN & EASTERN IDAHO )  
PRODUCTION CREDIT ASSOCIATION )

IT IS HEREBY STIPULATED, that the parties entitled to a hearing of the protests filed against the above referenced applications for transfer agree to have the hearing record made before the Director of the Idaho Department of Water Resources on April 28 and May 5, 1988, be the record in this matter also. It is understood that in so doing none of the parties waive any of their rights to appeal the Director's decision.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1988.

RECEIVED

NOV 29 1988



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
Eastern Region

CECIL D. ANDRUS  
Governor

May 11, 1988

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

R. KEITH HIGGINSON  
Director

RE: Applications for Transfers 35-2728/35-2844/35-7361, 35-2242,  
35-2821B, 35-2493/35-7773, 35-2391/35-7777, 35-7009/35-7157,  
35-2545B, 35-7222  
Applications for Amendments 35-7161 & 35-7162

Mr. Robert K. Oser  
Fish & Wildlife Service  
500 NE Multnomah St., Suite 1692  
Portland, OR 97232

Dear Mr. Oser:

The Department of Water Resources is in receipt of your protest against the temporary transfer of the above referenced water rights. The Idaho statutes provide an opportunity for all protests to be heard before the Department makes a decision on any application.

As you know the Department just completed two days of hearings of protests against other transfer applications initiated by the same applicant. Representatives of your agency were present and Mr. Richardson, of the Fish and Wildlife Service, was called as one of the witnesses. During these hearings a substantial amount of evidence and testimony relating directly to the applications you are now protesting was received. While you certainly are entitled to a hearing of your objections I wonder if any new evidence will be provided if additional hearings are held.

It may be appropriate for you to stipulate that the record in the previous hearing be the record in this matter as well. With this Stipulation you would have available the normal avenues of appeal if you disagree with the Director's decision. I have enclosed a draft Stipulation for your consideration because of the very short time frame we have in this matter. If you believe there is additional information you wish to present and choose not to enter into a Stipulation, you should be prepared to go forward with the hearing within the next ten days.

Very truly yours,

  
RONALD D. CARLSON  
Eastern Regional Manager

RDC:cw  
Enclosure  
cc: Jeff Fereday



NOV 29 1988

EXHIBIT B

MAY 25 '88 15:36 LARSEN IDAHO

P.2/7

**RECEIVED**

MAY 26 1988

Department of Water Resources

Jeffrey C. Faraday  
James D. Hansen  
GIVENS, McDEVITT, PURSLEY, WEBB & RUSER  
277 North Sixth Street, Suite 200  
P.O. Box 2720  
Boise, Idaho 83701  
(208) 342-6571

BEFORE THE DIRECTOR

IDAHO DEPARTMENT OF WATER RESOURCES

|                                   |   |               |
|-----------------------------------|---|---------------|
| IN THE MATTER OF TRANSFER OF      | ) |               |
| WATER RIGHT LICENSES AND          | ) |               |
| AMENDMENTS OF WATER RIGHT PERMITS | ) |               |
| BY BLAINE LARSEN, BLAINE LARSEN   | ) | AFFIDAVIT OF  |
| FARMS AND LARSEN OF IDAHO FOR     | ) | BLAINE LARSEN |
| THE 1988 IRRIGATION SEASON        | ) |               |

STATE OF IDAHO )  
 ) ss.  
County of Jefferson )

BLAINE LARSEN, being first duly sworn upon oath, deposes  
and says:

1. I am the applicant in the above entitled matter which was the subject of a hearing before the director of the Department of Water Resources on April 28 and May 5, 1988. This hearing addressed certain protests of the transfer applications I have filed with the Department. Additional protests have been filed by the the United States Fish and Wildlife Service and the Idaho Department of Fish and Game (collectively "these Protestants") and the hearing on these protests is pending.

2. I am submitting this affidavit in support of the Second Supplement to Petition for Approval of Temporary ~~Supply~~ for Emergency Supply as a supplement to the Petition for Approval of

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MAY 25 '88 16:50 LARSEN OF IDAHO

P.2/4

Temporary Plan for Emergency Supply filed on May 11, 1988. This supplementary petition is submitted pending final determination of the transfer applications affected by the protests of these Protestants.

3. Approximately 5,300 acres of irrigated cropland were originally involved in the transfers in this matter. Since the transfer of water right No. 35-7222 has now been withdrawn, that acreage has been reduced by approximately 528 acres.

4. An interim order granting me the right to irrigate a portion of the potato land and all of the land where wheat is planted was issued on May 16, 1988 and was responsible for saving much of my wheat crop from devastation. A substantial portion of my wheat crop was lost nevertheless. Some of the winter wheat has had to be plowed under and potatoes planted there instead. A portion of the potato land is not presently covered by the Interim Order.

5. I have been pursuing leases of water rights and transfer applications for several months. I have carried out this effort with the full knowledge of the Department of Water Resources and as a part of my compliance with the Stipulation and Order of July 14, 1987. In light of these efforts, and particularly in view of the Director's Interim Order, I had no prudent economic alternative to carrying out the potato planting.

6. The crop had to be planted last week and this week in order to preserve my option to raise that crop in 1988 if and when the balance of the transfers are approved and decision not

MAINTAIN  
OUR QUALITY  
NOV 29 1988

MAY 25 '88 16:50 LARSEN OF IDAHO

P.3/4

to plant potatoes would have eliminated much of my potato crop from my 1988 program regardless of the outcome of the remaining transfer applications. A decision to delay planting potatoes on the land in question would have caused a lag time between the growth of those potatoes and the potatoes already planted on other land not involved in this transfer. A similar lag time would then be reflected at harvest.

7. Since a potato doubles in size every 10 days in its last month of growth, that period of its growth cycle is critical. If the lag time causes younger potato plants to be killed early in order to accommodate harvest of the mature crop, the yield will be substantially lower.

8. The Larsen Farms' packing and processing facilities are designed to serve the full production of potatoes on Larsen Farms' cropland. Significantly lower yields will substantially, if not irreparably, impair the economic feasibility of these operations.

9. Failure to maintain the viability of the entire potato crop between now and the time a final decision on the transfers is made could result in the economic collapse of the entire Larsen Farms' operations. The loans made by financial institutions are secured by the production from the cropland and the full operation of the potato packing and processing facilities. Failure to fully supply these facilities will cause detrimental downtime and may put these operations out of business this year. Many employees will lose their jobs, and many others will have to accept a reduction in

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POOR QUALITY

NOV 29 1988

MAY 25 '88 16:51 LARSEN IDAHO

P.4/4

wages. Much of the capital invested in these facilities also could be lost.

10. At this point, if some or all of the plants have partially died when water becomes available under the transfer, it will be too late to reseed to harvest a crop in time.

11. In the last two weeks, there has not been enough moisture from precipitation to allow the seeded potatoes to begin to fully germinate and grow without irrigation. The survival of the crop is dependent upon continued moisture, particularly at the beginning of its growth cycle; otherwise, growth will be stunted and the potatoes will begin to die within a week. This will be accelerated if a lack of precipitation is coupled with high winds, which have already occurred several times this month.

12. In order to ensure the survival of the potatoes in the event water is made available under the transfer, it may be necessary for temporary emergency applications of water to maintain moisture on young plants. If no precipitation occurs, a minimum of 2-1/2 days or approximately 60 hours of watering per week will be necessary to ensure minimally sufficient moisture.

DATED this 25th day of May, 1988.

*Blaine Larsen*  
Blaine Larsen

RECORDED

NOV 29 1988

POOR QUALITY

MAY 25 '88 15:39 LARSEN IDAHO

STATE OF IDAHO )  
 ) ss.  
County of Jefferson )

On this 25th day of May, 1988, before me, the undersigned, a Notary Public for Idaho, personally appeared BLAINE LARSEN, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Tina D. Hall  
Notary Public for Idaho  
Residing at Leah Falls  
My commission expires: 3/11/93

MICROFILMED

NOV 29 1988

CERTIFICATE OF SERVICE

I HERESY CERTIFY that on the 25<sup>th</sup> day of May, 1988, I caused a true and correct copy of the foregoing to be served upon:

Mr. Robert K. Oser  
Program Analyst  
United States Department of  
Interior Fish & Wildlife Service  
500 Northeast Multnomah Street  
Suite 1692  
Portland, OR 97232

Stephen V. Goddard, Esq.  
Deputy Attorney General  
Idaho Department of Fish & Game  
P.O. Box 25  
Boise, ID 83707

Kent Foster, Esq.  
Holden, Kidwell, Mahn &  
Crapo  
Idaho First National Bank Bldg.  
P.O. Box 129  
Idaho Falls, ID 83405

by depositing the same in the United States mail, postage prepaid addressed to the above named at the last known address(es) as set forth above.

Gene Cameron

RECEIVED

NOV 29 1988

RECEIVED  
MAY 26 1988

Jeffrey C. Fereday  
James D. Hansen  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER  
277 North Sixth Street, Suite 200  
P.O. Box 2720  
Boise, Idaho 83701  
(208) 342-6571

Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

|                                     |                         |
|-------------------------------------|-------------------------|
| IN THE MATTER OF PROTESTS AGAINST)  |                         |
| THE GRANTING OF APPLICATIONS FOR )  | PETITION TO SET HEARING |
| TRANSFERS NOS. 35-7009/35-7157, )   | DATE                    |
| 35-2545B, 35-2391/35-7777, )        |                         |
| *35-2242, 35-2493/35-7773, )        |                         |
| 35-2821B, 35-2728/35-2844/ )        |                         |
| 35-7361 AND APPLICATIONS FOR )      |                         |
| AMENDMENTS NOS. *35-7162 AND )      |                         |
| *35-7161 IN THE NAME OF BLAINE )    |                         |
| LARSEN & EASTERN IDAHO PRODUCTION ) |                         |
| CREDIT ASSOCIATION. )               |                         |
| _____ )                             |                         |

Blaine Larsen, Blaine Larsen Farms and Larsen of Idaho (collectively "Petitioner") through counsel, Givens, McDevitt, Pursley, Webb & Buser, hereby petitions the Director of the Idaho Department of Water Resources to set an expedited date for hearing on the protests filed by the United States Fish and Wildlife Service and the Idaho Department of Fish and Game (collectively "these Protestants") and to hold the hearing in Boise, Idaho on or before June 1, 1988. This petition is supported by the affidavit of Jeffrey C. Fereday filed with this petition.

Petitioner is prepared to stipulate that his case-in-chief with respect to these Protestants may be the case-in-chief and

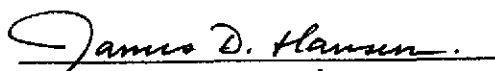
NOV 29 1988

the rebuttal case which Petitioner presented to the Director at the hearing on previously filed protests of other protestants on April 28 and May 5, 1988 in Rexburg, Idaho. This will conserve valuable time and resources of the parties and the Director. However, Petitioner would reserve the right to present rebuttal testimony to these Protestants' cases.

On May 11, 1988, after receiving these Protestants' protests, Mr. Ron Carlson, the Eastern Regional Manager of the Idaho Department of Water Resources, suggested that it might be appropriate for these Protestants to stipulate that the entire record of the previous hearing be the record in this matter as well. To Petitioner's knowledge, these Protestants did not respond to Mr. Carlson's request within the ten days provided in the May 11 letter. Further delay in setting the hearing date will severely prejudice the Petitioner's case and will threaten the survival of Petitioner's potato crop on the land involved in this matter.

On May 24, 1988 Petitioner withdrew the transfer application of water right number 35-7222 (denominated the Barrett Butte/Fullmer transfer) which involved a water right previously put to beneficial use on 578 acres. Therefore, this transfer is no longer at issue in this matter.

DATED this 24<sup>th</sup> day of May, 1988

  
Jeffrey C. Fereday  
James D. Hansen  
GIVENS, McDEVITT, PURSLEY,  
WEBB & FISER  
Attorneys for Petitioners

NOV 29 1988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24<sup>th</sup> day of May, 1988, I caused a true and correct copy of the foregoing to be served upon:

Mr. Robert K. Oser  
Fish and Wildlife Service  
U.S. Department of Interior  
500 Northeast Multnomah Street  
Suite 1692  
Portland, OR 97232

Steven Goddard  
Deputy Attorney General  
Idaho Department of Fish and Game  
650 Walnut Street  
Boise, Idaho 83707

Kent Foster, Esq.  
Holden, Kidwell, Hahn &  
Crapo  
Idaho First National Bank Bldg.  
P.O. Box 129  
Idaho Falls, ID 83405

Mr. Reed Michelson  
Hamer, ID 83425

Ray Sanders  
Hamer, ID 83425

by depositing the same in the United States mail, postage prepaid addressed to the above named at the last known address(s) as set forth above.

James D. Hansen.

**RECEIVED**

NOV 29 1988

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

|                                         |   |                |
|-----------------------------------------|---|----------------|
| IN THE MATTER OF APPLICATIONS FOR       | ) |                |
| TRANSFER OF WATER RIGHT NOS. 35-7009/   | ) |                |
| 35-7157, 35-2545B, 35-2821B, 35-2728/   | ) |                |
| 35-2844/35-7361 IN THE NAME OF BLAINE   | ) | ORDER ALLOWING |
| LARSEN, BLAINE LARSEN FARMS, AND LARSEN | ) | TEMPORARY USE  |
| OF IDAHO; AND TRANSFER NOS. 35-2391/    | ) | OF WATER       |
| 35-7777, 35-2493/35-7773, 35-2242, AND  | ) |                |
| APPLICATIONS FOR AMENDMENT NOS. 35-7161 | ) |                |
| AND 35-7162 IN THE NAME OF EASTERN      | ) |                |
| IDAHO PRODUCTION CREDIT ASSOC.          | ) |                |

BY THE DIRECTOR

On June 3, 1988, Blaine Larsen filed with the Department of Water Resources a petition to allow temporary water use pending resolution of the above-referenced applications for transfer and amendment of water rights. The petition requests permission to pump that amount of ground water necessary to maintain crops on acreages not covered by the director's May 16, 1988 Interim Order pending final resolution of any remaining issues in this matter. The applicant acknowledges that any relief granted by the director pursuant to the petition shall be temporary, pending such final resolution of the matter.

The applicant presents the following grounds in support of granting the petition:

1. The applicant has entered into a stipulation with the U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game through which these two protestants agree to drop their pending protests in this matter and to not object to the applicant immediately beginning to pump the water subject to this

NOV 29 1988

proceeding. The stipulation contains a joint agreement of the parties to request United States Geological Survey to review the feasibility of an investigation of the effect of ground water pumping on the ground and surface water levels in refuges managed by the protestants.

2. The only remaining protestants in this matter are the canal companies located in the Mud Lake area (Mud Lake Protestants), who presented evidence and argument before the director on April 28 and May 5 at a hearing in a related group of applications for transfer of water rights in the name of Blaine Larsen, Blaine Larsen Farms, and Larsen of Idaho.

3. The director originally set a hearing on the protests in this matter for June 2 and 3. The Mud Lake Protestants requested the hearing be continued. The hearing has been rescheduled to June 20 and 21. The purpose of the hearing will be to allow the Mud Lake Protestants to supplement the record made on April 28 and May 5 in the related hearing.

4. It is represented that crops planted by the applicant will not survive until the date of the scheduled hearing without irrigation.

5. The Mud Lake Protestants fully cross-examined the applicant's case and presented a full case of their own at the April 28 and May 5 hearing. All evidence at that hearing was directed at the applicant's ~~entire~~ transfer program which included the applications in this proceeding.

Mr. Kent Foster, counsel for the Mud Lake Protestants has informed the director ~~through~~ staff on June 6 that due to

NOV 23 1983

scheduled court trials in other matters he is not available for a hearing on the petition to allow temporary water use, and that he may not be available for the scheduled hearing on June 20 but that if he does become available for the hearing he will not have had time to prepare. Mr. Foster further noted that his clients are opposed to entry of an order granting temporary water use pending final resolution of the pending applications for transfer.

ORDER

The director, having reviewed the petition to allow temporary water use and the grounds supporting the petition HEREBY ORDERS as follows:

1. The petition of Blaine Larsen requesting permission to pump that amount of ground water necessary to maintain his crop on acreages covered by applications for transfer of water right nos. 35-7009/35-7157, 35-2545B, 35-2821B, 35-2728/35-2844/35-7361 in the name of Blaine Larsen, Blaine Larsen Farms, and Larsen of Idaho; and transfer nos. 35-2391/35-7777, 35-2493/35-7773, 35-2242, and applications for amendment nos. 35-7161 and 35-7162 in the name Eastern Idaho Production Credit Association pending final resolution by the director of any remaining issues in this matter is granted.

2. The relief granted by the director in this order is temporary, pending the director's entry of an order on the merits following the director's consideration of any supplemental evidence added to the record in this proceeding by the remaining

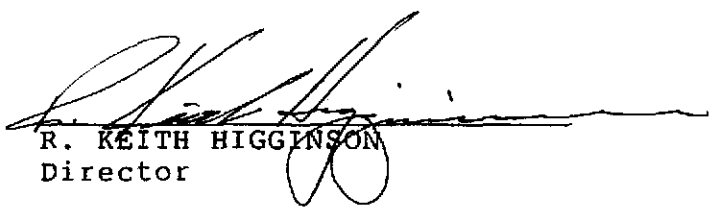
NOV 29 1988

protestants as a result of the hearing presently scheduled for June 20, 1988. Pursuant to the stipulation of the parties at the hearing held April 28 and May 5, 1988, the evidence and testimony then presented shall be considered fully as if presented at a subsequent hearing on the applications which are the subject of this proceeding. In the event of an adverse order by the director on the merits, the temporary relief granted by this order shall not be continued as a result of the filing of a petition for rehearing or notice of appeal.

3. By accepting the temporary relief granted by this order the applicants shall be deemed to waive any right they might have to be entitled to notice or hearing or to initiate civil, administrative or other action to delay or interfere with the exercise by the director of his duty to prevent the pumping of water on the subject lands without a valid water right in the event the applications for transfer and applications for amendment pending in this proceeding are not approved.

4. The director reserves the right to modify this order allowing temporary use of water in the event other water right holders establish before the director that their water rights are being directly interfered with by the pumping of the applicant's wells pursuant to this order.

DATED this 6<sup>TH</sup> day of June, 1988.

  
R. KEITH HIGGINSON  
Director

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of June, 1988, I served a true and correct copy of the foregoing Order by placing a copy thereof in the United States mail addressed to the following:

Jeffrey C. Fereday, Esq.  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER  
277 North Sixth St., Suite 200  
P.O. Box 2720  
Boise, ID 8370

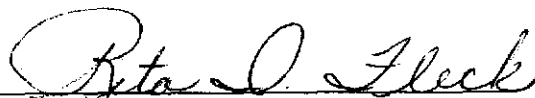
Eastern Idaho Production Credit Assoc.  
203 So. Garfield  
Pocatello, ID 83204

Kent Foster, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO  
Idaho First National Bank Bldg.  
P.O. Box 129  
Idaho Falls, ID 83405

Mr. Robert K. Oser  
Program Analysis  
U.S. Fish and Wildlife Service  
500 N.E. Multnomah St. Suite 1692  
Portland, OR 97232

Ronald E. Swan, Esq.  
U.S. Department of the Interior  
Office of the Regional Solicitor  
500 N.E. Multnomah St., Suite 607  
Portland, OR 97232

Stephen V. Goddard, Esq.  
Deputy Attorney General  
Idaho Department of Fish & Game  
P.O. Box 25  
Boise, Idaho 83707

  
RITA I. FLECK  
Secretary/Records Manager  
Department of Water Resources

State of Idaho  
Department of Water Resources

# WATER RIGHT LICENSE

WATER RIGHT NO. 35-7773

Priority: January 24, 1978 Amount: 1.56 CFS 662.2 AFA

This is to certify, that EASTERN IDAHO PRODUCTION CREDIT ASSN.

P.O. BOX 992

BLACKFOOT, ID 83221

has complied with the terms and conditions of the permit issued pursuant to Application for Permit dated January 24, 1978, and has submitted proof to the Department of Water Resources on December 29, 1982, that water has been applied to a beneficial use; an examination by the Department indicates that the works have a diversion capacity of 5.60 cfs of water from a GROUNDWATER source and that a water right has been established as follows:

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> | <u>VOLUME</u> |
|-----------------------|----------------------|--------------------------|---------------|
| Irrigation            | 04/01 to 11/01       | 1.56 cfs                 | 662.2 afa     |

LOCATION OF POINT OF DIVERSION(S): NESW , Sec. 22, Township 1S, Range 33E  
Bingham County

PLACE OF USE: Irrigation

| <u>TWN</u>                       | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|----------------------------------|------------|------------|--------------|--------------|--------------|--------------|--------------|
| 1S                               | 33E        | 22         | SWNE 1       | NESE 26      | NWSE 35      | SWSE 40      | 136          |
|                                  |            |            | SESE 34      |              |              |              | 65           |
|                                  | 26         |            | NWNW 26      | SWNW 39      |              |              | 117          |
|                                  | 27         |            | NENE 37      | NWNE 40      | SWNE 20      | SENE 20      |              |
| Total number of acres irrigated: |            |            |              |              |              |              | 318          |

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre for the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 6<sup>th</sup> day of April, 1987.

**MICROFILMED**

Acting for the

Director

APR 13 1987

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF CHANGING THE MEASURING  
DEVICE REQUIREMENT FOR PERMIT NO. 35-7773

ORDER

WHEREAS, the above numbered permit was approved with the condition that a measuring device of a type approved by the Department be permanently installed and maintained as part of the diverting works; and,

WHEREAS, on July 1, 1978, the Department adopted a new water measurement condition which states: "An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department"; and,

WHEREAS, the former condition required the permit holder to purchase and install a measuring device or hire a professional engineer to certify the rate of diversion; and,

WHEREAS, the measuring device condition effective July 1, 1978, requires less capital expenditure by the permit holder; and,

WHEREAS, to be equitable to holders of permits issued prior to July 1, 1978, the new condition should be retroactive;

NOW THEREFORE, it is hereby ordered that the condition of approval of this permit related to water measurement is hereby changed as follows:

"The permit holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department".

Dated this 1<sup>st</sup> day of June 1981.

*Glen Saxton*

GLEN SAXTON  
Chief, Operations Bureau

Identification No. \_\_\_\_\_  
Application No. 35 7773

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 Eastern Idaho Production Credit Assoc Phone: 785-1510  
post office address P.O. Box 992, Blackfoot, ID 83221
2. Source of water supply ground water which is a tributary of \_\_\_\_\_
3. a. Location of point of diversion is NE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 22 Township 1S  
Range 33E 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 3.84 for irrigation purpose from Apr. 1 to Nov. 1 (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. 3.84 cubic feet per second and/or  
b. \_\_\_\_\_ acre feet per annum.
6. Proposed diverting works:  
a. Description of ditches, flumes, pumps, headgates, etc. well, pump and sprinkler system  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
b. Height of storage dam \_\_\_\_\_ feet, active reservoir capacity \_\_\_\_\_ acre feet; total reservoir  
capacity \_\_\_\_\_ acre feet, materials used in storage dam: \_\_\_\_\_  
Period of year during which storage will occur \_\_\_\_\_ to \_\_\_\_\_ inclusive.  
(Mo. Day) (Mo. Day)  
c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ 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 \$ existing.
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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MICROFILMED

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

[illegible]

Total number of acres to be irrigated 394

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

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

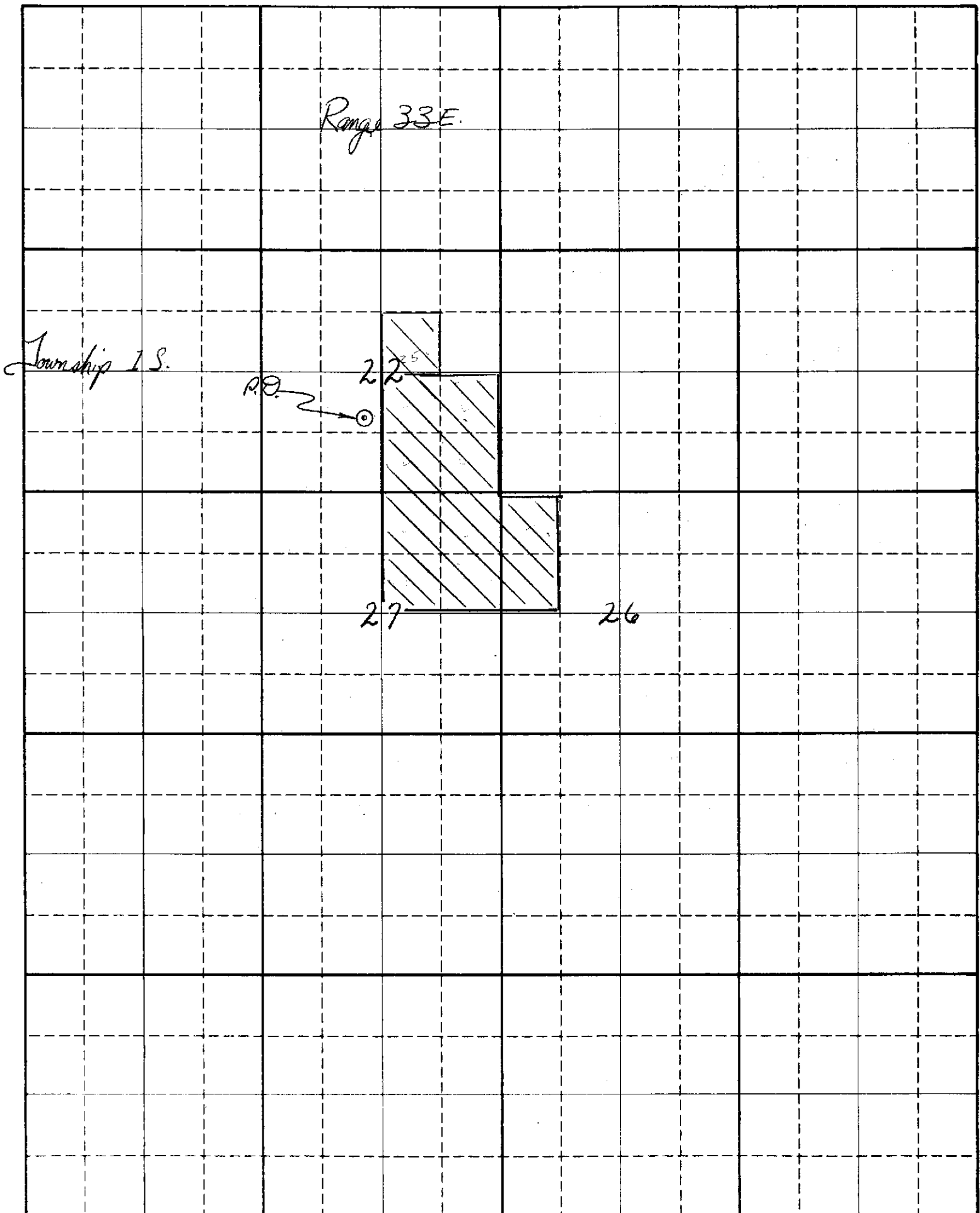
b. Who owns the land to be irrigated or place of use

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

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.

Arnold Seely  
(Applicant)  
Asst Sec.

Proposed Priority 1/24/78

Received by me Date 1-24-78 Time 3:15 p.

Preliminary check by EME Fee \$ 55.00

Received by me Date 1-26-78 # 9195

Publication prepared by me Date 1-26-78

Published in The Blackfoot Record

Publication dates Dec. 9 + Dec. 9, 1978

Publication approved me Date Dec. 14, 1978

Priority reduced to \_\_\_\_\_ Reason \_\_\_\_\_

Protests filed by: \_\_\_\_\_

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

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

Recommended for approval denial by JP

## 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. 35-7773, 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 March 1, 19 83.

c. Other: For licensing purposes a scientific measurement of the diversion rate

of the system as it is normally operated shall be provided by either properly installing an approved type of measuring device or by having a professional

engineer certify the rate of diversion to the Department prior to submitting

proof of beneficial use of water.

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

Witness my hand this 2 day of March, 19 78.

Deputy Director

RECEIVED

FEB 14 1978

Department of Water Resources  
Eastern District Office

## AFFIDAVIT of PUBLICATION

County of Bingham )  
State of Idaho ) ss.  
I, David Mark Brown do  
solemnly

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  
154 of the Sessions Laws of Idaho of 1933, approved  
March 11, 1933, and duly designated, pursuant to law, a  
particular day of the week as the day on which legal  
notices required by law or by the order of any Court of  
competent jurisdiction within the State of Idaho shall  
be published to-wit: Thurs of each week; that the  
notice attached hereto and which is a part of this af-  
fidavit and part of the proof of publication was,  
published in said

Thurs issue of said newspaper two consecutive  
weeks the first publication having been made on

the 2nd day of Feb., 19 78...

and the last publication having been made on the

9th day of Feb., 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 9th

day of Feb., 19 78...

*Patricia A. Johnson*  
Notary Public for the State of Idaho,  
Residing at Blackfoot, Idaho  
My commission expires  
Oct. 20, 1976

### NOTICE OF APPLICATION FOR WATER PERMIT

Whereas, the Board of Water Resources, Bingham County, Idaho, has on 1-24-78, submitted Application No. 35-7772, for a permit to appropriate 3.4 cubic feet per second of water from a group of perennials by means of well and pump within the NE 1/4, Sec. 22, T. 15, R. 33E, B.M., Bingham County; to be used for irrigation for 160 acres within the NE 1/4, Sec. 22, T. 15, R. 33E, B.M., NE 1/4, Sec. 22, T. 15, R. 33E, B.M.

If issued, this permit will be for the purpose of water rights. The application for 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 February 20, 1978.

C. STEPHEN ALLRED  
Director

(5461)  
Pub.: 2-2, 9

0722

**1. DRILLING PERMIT NO.**

Other IDWR No. Water Right #s 35-02493/35-07773

**2. OWNER:**

Name Delbert V. Ellis, Shawn D. Ellis  
Address 904 W. 200 N.  
City Blackfoot State Idaho Zip 83221

**3. LOCATION OF WELL by legal description:**

Sketch map location must agree with written location.



T. 01S North ☐ or South ☐  
 E. 33E East ☐ or West ☐  
 Sec. 22 SW  $\frac{1}{4}$  SE  $\frac{1}{4}$   $\frac{1}{4}$   
10 acres 40 acres 160 acres  
 Gov't Lot \_\_\_\_\_ County Bingham County \_\_\_\_\_

Address of Well Site 1/4 mile South on Willow Rd. off  
~~Highway 2~~ Arco Hwy.  
(Give at least Direction + Distance to Road or Landmark)

Lot No. \_\_\_\_\_ Block No. \_\_\_\_\_ Subd. Name \_\_\_\_\_

**4. PROPOSED USE:**

☐ Domestic    ☐ Municipal    ☐ Monitor    ☒ Irrigation  
☐ Thermal    ☐ Injection    ☐ Other

## 5. TYPE OF WORK

☐ New Well    ☐ Modify or Repair    ☒ Replacement    ☐ Abandonment

## 6. DRILL METHOD

☐ Mud Rotary ☐ Air Rotary ☒ Cable ☐ Other

## 7. SEALING PROCEDURES

| SEAL/FILTER PACK |      |    | AMOUNT          | METHOD               |
|------------------|------|----|-----------------|----------------------|
| Material         | From | To | Sacks or Pounds |                      |
| Bentinit         | 0    | 8  | 3000            | Pour in from Surface |
|                  |      |    |                 |                      |
|                  |      |    |                 |                      |
|                  |      |    |                 |                      |

Was drive shoe seal tested? Y ☐ N ☐ How?

**8. CASING/LINER:**

| Diameter | From | To | Gauge | Casting | Liner | Steel                               | Plastic                  | Welded                   | Threaded |
|----------|------|----|-------|---------|-------|-------------------------------------|--------------------------|--------------------------|----------|
| 16"      | 0    | 8  | 250   | X       |       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | RE       |
|          |      |    |       |         |       | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |          |
|          |      |    |       |         |       | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |          |
|          |      |    |       |         |       | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | MA       |

### Final location of shoes

Top Packer or Headpipe \_\_\_\_\_ Bottom Tailpipe \_\_\_\_\_

## 9. PERFORATIONS/SCREENS

☐ Perforations      Method \_\_\_\_\_

☐ Screens      Type \_\_\_\_\_ Material \_\_\_\_\_

| From | To | Slot Size | Number | Diameter | Tele/Pipe Size | Casting                  | Line                     |
|------|----|-----------|--------|----------|----------------|--------------------------|--------------------------|
| None |    |           |        |          | RECEIVED       | <input type="checkbox"/> | <input type="checkbox"/> |
|      |    |           |        |          | APR 22 1996    | <input type="checkbox"/> | <input type="checkbox"/> |

Department of Water Resources  
Eastern Region

## 10. WELL TESTS:

☐ Pump      ☐ Bailer      ☐ Air      ☐ Flowing Artesian

| Yield gal./min. | Drawdown | Pumping Depth | Time |
|-----------------|----------|---------------|------|
|                 |          |               |      |
|                 |          |               |      |
|                 |          |               |      |

Temperature of water \_\_\_\_\_ Was a water analysis done? Yes ☐ No ☒  
By whom?

Water Quality (odor, etc.) Very clean no odor

Bottom Hole Temperature \_\_\_\_\_

### 11. STATIC WATER LEVEL:

205 ft. below surface      Depth artesian flow found

Artesian pressure \_\_\_\_\_ lb. Describe access port \_\_\_\_\_

Describe Controlling Devices: \_\_\_\_\_

**12. LITHOLOGIC LOG:** (Describe repairs or abandonment)

| Bore Dia.       | From    | To        | Remarks: Lithology, Water Quality & Temperature   | GPM | SWL   |
|-----------------|---------|-----------|---------------------------------------------------|-----|-------|
| 16"             | 0       | 3         | Top Soil clay                                     |     |       |
| "               | 3       | 25        | broken lava rock                                  |     |       |
|                 | 25      | 67        | Black lava                                        |     |       |
|                 | 67      | 70        | Loose broken lava rock                            |     |       |
|                 | 70      | 76        | Grey brown clay                                   |     |       |
|                 | 76      | 94        | Black lava                                        |     |       |
|                 | 94      | 98        | Red + Black cinders                               |     |       |
|                 | 98      | 103       | Brown clay                                        |     |       |
|                 | 103     | 170       | Black & red lava                                  |     |       |
|                 | 170     | 187       | Reddish grey lava (hard)                          |     |       |
|                 | 187     | 194       | Red & Black cinders                               |     |       |
|                 | 194     | 205       | Rusty colored brown clay                          |     |       |
|                 | 205     | 210       | Black lava                                        |     | 204.5 |
|                 | 210     | 216       | Broken lava w/ packets of brown clay              |     | "     |
|                 | 216     | 232       | Black lava                                        |     | "     |
|                 | 232     | 235       | Black lava & red cinders                          |     | "     |
|                 | 235     | 270       | Black lava                                        |     | "     |
|                 | 270     | 275       | Black lava & red cinders                          |     | "     |
|                 | 275     | 281       | Black lava                                        |     | "     |
|                 | 281     | 285       | Broken Black lava last cutting (H <sub>2</sub> O) |     | 205   |
|                 | 285     | 287       | Black Sand                                        |     |       |
| ELVED           |         |           | Gravel Packed well to 281                         |     |       |
| 1 - 1996        |         |           |                                                   |     |       |
| Water Resources |         |           |                                                   |     |       |
| Date: Started   | 3-10-96 | Completed | 4-8-96                                            |     |       |

### 13. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name L. W. Fendley & Sons Well Drilling Firm No. 354

Firm Official L. W. Frandsen Date 4/15/16

and  
Supervisor or Operator Pichey, E. J. Date 4-15-96

(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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

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

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

FEBRUARY 27, 1996

DELWYN ELLIS  
SHAWN D ELLIS  
904 W 200 N  
BLACKFOOT ID 83221

RE: Transfer of Water Right Nos. 35-02493 and 35-07773

Dear Water Right Holder(s):

Enclosed is a copy of your approved Transfer of Water Right for the above referenced water right (Transfer No. 4752). Please be sure to thoroughly review the "Conditions/Remarks:" as listed on the transfer.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Johnson', followed by a horizontal line.

JIM JOHNSON, Manager  
Water Right Permits Section

JJ:rl

Enclosure

MAR 08 1996

MEMORANDUM

TO: FILE 35-07773  
FROM: PAM SKAGGS  
RE: TRANSFER # 4752  
DATE: 1/26/96

---

Original Transfer Application, Form and correspondence  
regarding the above referenced Transfer is located within  
File # 35-02493.

MICROFILMED  
MAR 08 1996

FROM *Sharla*DATE *9-30-88*TO *File 35-7773*SUBJECT *Trans. 3420*

*See file 35-2493 for further correspondence regarding  
the above referenced transfer.*

**RECEIVED**

NOV 29 1988

SIGNATURE



State of Idaho  
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

September 9, 1988

RE: Applications for Transfer of Water Right Nos. 32-7092/7058, 32-7022C, 31-7034H/R/S, 35-7390/2274, 35-7391/2432/7630B, 35-7630A/4015B, 35-7863, 35-2728/2844/7361, 35-2821B, 35-7773/2493, 35-2242, 35-2391/7777 and Amendment of Permit Nos. 35-7161/7162

Blaine Larsen  
Box 188  
Hamer, ID 83425

Dear Mr. Larsen:

Enclosed is a copy of the Memorandum Decision and Order approving the above referenced transfer applications and amendments. Copies of the approved transfers and amendments will be sent under separate cover.

Any one who disagrees with the decision of the department may request rehearing before the Director within 20 days or may appeal directly to the district court within 30 days of the date the decision is mailed.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

L. GLEN SAXTON  
Chief, Operations Bureau

LGS:ac

Enclosure

cc: See Certificate of Mailing on Order

NOV 29 1988



# United States Department of the Interior

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JUL 19 1988

## GEOLOGICAL SURVEY

### WATER RESOURCES DIVISION

230 Collins Road  
Boise, Idaho 83702

Department of Water Resources

July 14, 1988

Mr. Kent Foster, Attorney at Law  
P.O. Box 129  
Idaho Falls, ID 83402

Dear Mr. Foster:

Listed below are the wells selected for bimonthly water-level monitoring in the Mud Lake/Camas Wildlife Refuge area. The wells were chosen by Mike Jones, of this office, and Don Shenton, Watermaster of Water District 31, during a visit to the area the week of July 5. The first measurements were made at the time of the field visit and will be repeated beginning in August. Funding for this new data-collection activity will be provided equally by Water District 31 and the Geological Survey.

To assist you in locating the wells on a map, a copy of the Geological Survey's well-numbering system has been enclosed.

| WELL           | OWNER                     |
|----------------|---------------------------|
| 07N-34E-24BBA2 | Owsley Canal Co.          |
| 07N-35E-26CDD1 | Myron Evans               |
| 07N-36E-14CBA1 | Marsha Hoptak             |
| 08N-34E-11DCC1 | Bureau of Land Management |
| 08N-34E-27CDD1 | Bureau of Land Management |
| 08N-36E-03DBD1 | Blaine Larsen             |
| 08N-36E-10BDD1 | Blaine Larsen             |
| 08N-36E-21DCD1 | Blaine Larsen             |
| 09N-36E-15CCC1 | Laird and Sons            |
| 09N-37E-06ACB1 | Laird and Sons            |

Please call me at (208) 334-1750 or 554-1750 (FTS) if you have any questions.

Sincerely,

*Jerry L. Hughes*  
Jerry L. Hughes  
District Director

Enclosure

cc: Jeffrey Fereday, Attorney at Law, Law offices of Givens, McDevitt  
Pursley, Webb and Buser  
Ronald Swan, Office of Solicitor, U.S. Department of Interior  
Keith Higginson, Director, Idaho Department of Water Resources  
Steve Goddard, Office of Attorney General, State of Idaho

JLH/mrl

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JUL 13 1988

Department of Water Resources

Kent W. Foster, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO  
P. O. Box 50130  
Idaho Falls, Idaho 83405  
Telephone: (208) 523-0620

*PA*  
*For File*

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE  
STATE OF IDAHO

|                                     |   |                       |
|-------------------------------------|---|-----------------------|
| IN THE MATTER OF APPLICATION FOR    | ) |                       |
| TRANSFER OF WATER RIGHTS NO.        | ) |                       |
| 35-7009/35-7157, 35-2545B,          | ) |                       |
| 35-2821B, 35-2728/35-2844/35-7361   | ) | WITHDRAWAL OF PROTEST |
| IN THE NAME OF BLAINE LARSEN,       | ) |                       |
| BLAINE LARSEN FARMS, and LARSEN OF  | ) |                       |
| IDAHO; and TRANSFER NO.s            | ) |                       |
| 35-2391/35-7777, 35-2493/35-7773,   | ) |                       |
| 35-2242; and APPLICATIONS FOR       | ) |                       |
| AMENDMENTS NO.s 35-7161 and 35-7172 | ) |                       |
| IN THE NAME OF EASTERN IDAHO        | ) |                       |
| PRODUCTION CREDIT ASSOCIATION.      | ) |                       |
| _____                               | ) |                       |

The protestants, Owsley Canal Company, Jacket Canal Company, Holley Water Users Association, Jefferson Irrigation Company, Producers Canal Company, Montevieu Canal Company, Level Canal Company, and Independent Water Users of Mud Lake, Inc., hereby withdraw the protests filed on their behalf in the above entitled matter.

Dated this 12 day of July, 1988.

*Kent W. Foster*  
\_\_\_\_\_  
Kent W. Foster

MAILED

JUL 24 1988

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering or by mailing, with the correct postage thereon, a true and correct copy thereof on this 12 day of July, 1988.

Document Served: WITHDRAWAL OF PROTEST

Attorneys Served:

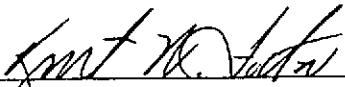
R. Keith Higginson, Director (Mail)  
IDAHO DEPARTMENT OF WATER RESOURCES  
1301 North Orchard Street  
Boise, Idaho 83706

Phillip J. Rassier, Esq. (Mail)  
IDAHO DEPARTMENT OF WATER RESOURCES  
1301 North Orchard Street  
Boise, Idaho 83706

Jeffrey C. Fereday and (Mail)  
James N. Hansen  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER  
P. O. Box 2720  
Boise, Idaho 83701

Ronald E. Swan, Esq. (Mail)  
U. S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE REGIONAL SOLICITOR  
500 N.E. Multnomah Street, Suite 607  
Portland, Oregon 97232

Steven V. Goddard, Esq. (Mail)  
Deputy Attorney General  
IDAHO DEPARTMENT OF FISH & GAME  
P. O. Box 25  
Boise, Idaho 83707

  
Kent W. Foster  
HOLDEN, KIDWELL, HAHN & CRAPO

NOV 20 1988



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS  
GOVERNOR  
R. KEITH HIGGINSON  
DIRECTOR

May 27, 1988

RE: Applications for Transfer of Water Right Nos. 35-7009/7157/  
2545B/2821B/2728/2844/7361 in the Name of Blaine Larsen,  
Applications for Transfer of Water Right Nos. 35-2391/7777/  
2242/2493/7773 and Applications for Amendment of Water Right  
Nos. 35-7162/7161 in the Name of Eastern Idaho Prod. Credit Assn.

Blaine Larsen  
Box 188  
Hamer, ID 83425

Dear Mr. Larsen:

Enclosed is an order Denying the Second Petition for Approval of Temporary Plan for Emergency Supply of the above referenced water rights.

If you have any questions concerning this matter, please feel free to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

GARY SPACKMAN, Supervisor  
Water Allocation Section

GS:sc

Enclosure

cc: Eastern Idaho Production Credit Assn.  
Jeffrey C. Fereday  
Kent Foster  
Robert K. Oser  
Stephen V. Goddard

RECEIVED  
MAY 29 1988

MAY 29 1988

LAW OFFICES  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER

ELEANORE S. BAXENDALE\*  
CHRISTOPHER J. BEESON  
PAUL J. BUSER  
JEFFREY C. FEREDAY  
RAYMOND D. GIVENS  
JAMES D. HANSEN  
JUDITH K. HOLCOMBE  
KENNETH R. McCLURE  
CHAS. F. McDEVITT  
LEO EDWARD MILLER  
PATRICK J. MILLER  
TERRY L. MYERS  
KENNETH L. PURSLEY  
MICHAEL T. SPINK  
CONLEY WARD  
JAY L. WEBB

\*ALSO ADMITTED IN OREGON

SUITE 200, PARK PLACE  
277 NO. 6TH STREET  
POST OFFICE BOX 2720  
BOISE, IDAHO 83701

TELEPHONE  
(208) 342-6571

TELECOPIER  
(208) 343-9492

June 3, 1988

Via Hand Delivery

RECEIVED  
JUN - 3 1988

Mr. R. Keith Higginson  
Director  
Idaho Department of Water Resources  
1301 N. Orchard  
Boise, ID 83706

Department of Water Resources

Re: Blaine Larsen

Dear Mr. Higginson:

I am enclosing for filing with the Department the following documents:

1. Stipulation and Withdrawal of Protests.
2. Applicant's Ex Parte Petition to Allow Temporary Water Use Pending Resolution of any Remaining Matters.

We would greatly appreciate your decision on our Petition as soon as possible.

Very truly yours,

*Jeffrey C. Fereday*

Jeffrey C. Fereday

JDH:gc  
Encls.

cc: Ronald E. Swan, Esq.  
Kent Foster, Esq.  
Stephen V. Goddard, Esq.  
Mr. Robert K. Oser  
Phillip J. Rassier, Esq.  
Mr. Blaine Larsen (c/o  
Mr. Kevan Varin)

RECEIVED  
JUN 29 1988

RECEIVED  
JUN - 3 1988

Jeffrey C. Fereday  
James D. Hansen  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER  
277 North Sixth Street, Suite 200  
P.O. Box 2720  
Boise, Idaho 83701  
(208) 342-6571

Department of Water Resources

BEFORE THE DIRECTOR

IDAHO DEPARTMENT OF WATER RESOURCES

|                                    |   |                             |
|------------------------------------|---|-----------------------------|
| IN THE MATTER OF TRANSFERS OF      | ) | APPLICANT'S EX PARTE        |
| WATER RIGHT LICENSES AND           | ) | PETITION TO ALLOW TEMPORARY |
| AMENDMENTS OF WATER RIGHT PERMITS) | ) | WATER USE PENDING RESOLU-   |
| BY BLAINE LARSEN, BLAINE LARSEN    | ) | TION OF ANY REMAINING       |
| FARMS AND LARSEN OF IDAHO FOR      | ) | MATTERS                     |
| IRRIGATION SEASON                  | ) |                             |
|                                    | ) |                             |

Blaine Larsen, Blaine Larsen Farms and Larsen of Idaho ("Applicant") hereby requests the Director of the Idaho Department of Water Resources ("Director") to allow Applicant to pump a limited amount of groundwater to irrigate that portion of his land which is subject to the transfer applications at issue in this proceeding but which is not covered by the Interim Order of May 16, 1988 ("Interim Order"). Because the limited emergency relief in the Interim Order was directed at Applicant's wheat crop, this request involves mostly Applicant's potato crop. Applicant recognizes that any relief granted pursuant to this Petition would be temporary, pending the final resolution of this matter.

As grounds for this Petition, Applicant states as follows:

NOV 28 1988

1. On June 1, 1988, Applicant met with the United States Fish & Wildlife Service ("USFWS") and the Idaho Department of Fish & Game ("IDFG"), who then had protests pending in this action. These discussions, which later included officials from the United States Geological ("Survey"), were intended to resolve the concerns of USFWS and IDFG and explore ways in which these parties might support the immediate irrigation of Applicant's potato crop. The discussions were successful. In the agreement that was reached, IDFG and USFWS agreed to withdraw their protests and stated that they do not object to Applicant receiving permission to pump immediately. In addition, these parties and Applicant jointly agreed to request that the Survey advise them of the feasibility of an investigation of the effect of groundwater pumping -- by Applicant, by IDFG and USFWS, and by others -- on the ground and surface water levels in the refuges managed by USFWS and IDFG. The Stipulation and Withdrawal of Protests containing these terms, which includes the joint letter to the Survey of June 2, 1988, is submitted simultaneously with this Petition.

2. The only protestants now remaining in this action are the canal companies located in the Mud Lake area ("Mud Lake Protestants"). These are the same protestants who had a full and fair opportunity to present their evidence and arguments concerning the potential effect of the Applicant's transfer program at the hearing held on April 28 and May 5.

3. The hearing on the remaining protests was scheduled for June 2 and 3. However, due to these protestants' problems with notice and their counsel's availability, the Mud Lake Protestants requested that the hearing be continued. Their request was granted. In a notice dated June 1, 1988, the Department's Eastern Regional Manager announced that the hearing has been rescheduled to June 20 and 21 and that "Itlthe U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game will be allowed full opportunity for submitting evidence and testimony. The other protestants, pursuant to the stipulation reached at the previous hearing, will be allowed [an] opportunity to supplement the record."

4. Applicant has been fortunate in recent days to receive sufficient moisture from precipitation to preserve the viability of his potato crop, at least through the date of this Petition. However, the rains have stopped and the crop needs irrigation. The crop likely will not survive even several more dry days, much less the period between now and the conclusion of the second hearing. If the crops are allowed to die by the date of the second hearing, obviously there would be no opportunity to replant and the transfer applications for these acres would be rendered moot.

5. The only protestants who will be parties to the hearing on June 20 and 21 have already fully cross-examined the Applicant's case and have presented a full case of their own. All evidence at the first hearing was directed at the entire

transfer program, not just the portion represented by the applications.

6. In sum, since the Director's recent denial of the Second Petition for Approval of Temporary Plan for Emergency Supply, dated May 25, 1988, two important events have transpired which have changed the posture of this case: (1) the hearing date has been postponed to a date which will -- if no interim relief is granted -- virtually guarantee the destruction of the Applicant's potato crop; and (2) IDFG and USFWS, the protestants having the full opportunity to submit evidence at the second hearing, have withdrawn their protests. Applicant is uncertain whether the Mud Lake Protestants will submit material to supplement the record in the second hearing. But in any event, the Director has had a full explication of their views and their evidence on the potential effect of all of Applicant's proposed transfers.

In the face of the record, in light of Applicant's settlement with USFWS and IDFG, and given the virtual certainty that this matter will become moot before the scheduled hearing could be held, Applicant respectfully requests permission to pump that amount of groundwater necessary to maintain his crop on acreages not covered by the Interim Order pending final resolution of remaining matters at issue, if any.

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NOV 29 1988

DATED this 31 day of June, 1988.

Jeffrey C. Fereday  
Jeffrey C. Fereday  
James D. Hansen  
GIVENS, McDEVITT, PURSLEY,  
WEBB & BUSER  
Attorneys for Applicants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31 day of June, 1988, I caused a true and correct copy of the foregoing to be served upon:

Mr. Robert K. Oser  
Program Analysis  
United States Department of  
Interior Fish & Wildlife Service  
500 Northeast Multnomah Street  
Suite 1692  
Portland, OR 97232

Ronald E. Swan, Esq.  
U.S. Department of the Interior  
Office of the Regional Solicitor  
500 N.E. Multnomah Street  
Suite 607  
Portland, OR 97232

Stephen V. Goddard, Esq.  
Deputy Attorney General  
Idaho Department of Fish & Game  
P.O. Box 25  
Boise, ID 83707

Kent Foster, Esq.  
Holden, Kidwell, Hahn &  
Crapo  
Idaho First National Bank Bldg.  
P.O. Box 129  
Idaho Falls, ID 83405

by depositing the same in the United States mail, postage prepaid addressed to the above named at the last known address(s) as set forth above.

Jeffrey C. Fereday  
Jeffrey C. Fereday

Jeffrey C. Fereday  
James D. Hansen  
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER  
277 North Sixth Street, Suite 200  
P.O. Box 2720  
Boise, Idaho 83701  
(208) 342-6571

RECEIVED  
JUN - 3 1988

Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

|                                    |                        |
|------------------------------------|------------------------|
| IN THE MATTER OF PROTESTS AGAINST) |                        |
| THE GRANTING OF APPLICATIONS FOR ) | STIPULATION AND        |
| TRANSFERS NOS. 35-7009/35-7157, )  | WITHDRAWAL OF PROTESTS |
| 35-2545B, 35-2391/35-7777, )       |                        |
| 35-2242, 35-2493/35-7773, )        |                        |
| 35-2821B, 35-2728/35-2844/ )       |                        |
| 35-7361 AND APPLICATIONS FOR )     |                        |
| AMENDMENTS NOS. 35-7162 AND )      |                        |
| 35-7161 IN THE NAME OF BLAINE )    |                        |
| LARSEN & EASTERN IDAHO PRODUCTION) |                        |
| CREDIT ASSOCIATION. )              |                        |
| _____ )                            |                        |

Protestants U.S. Fish and Wildlife Service and Idaho State Department of Fish and Game ("Protestants") and Applicant Blaine Larsen, Blaine Larsen Farms and Larsen of Idaho ("Applicant"), through their respective counsel of record, hereby stipulate and agree as follows:

Background

Protestants filed their protests in this action because of their concern that groundwater pumping under Applicant's proposed transfer applications might have an adverse effect on ground and surface water levels in the Camas National Wildlife Refuge and the Mud Lake Wildlife Management Area. The integrity of the Refuge and Wildlife Management Area depend on an adequate

NOV 29 1988

water supply. Protestants are concerned about pumping both from those wells that are before the Director of the Idaho Department of Water Resources ("Director") in this action and from those which were granted one-year transfer permits by the Director's Interim Order of May 16, 1988 (collectively, "Applicant's wells"). In addition, both Protestants and Applicant desire to have more information about the effects on water levels in their respective areas of interest that might be caused by groundwater withdrawals occurring elsewhere in the area north and east of Mud Lake.

On June 1, 1988, the Protestants and the Applicant (the "parties") met with representatives of the U.S. Geological Survey, Water Resources Division, Idaho-Nevada District ("Survey") to discuss the possibility of the Survey conducting an evaluation of the groundwater pumping regime in the Mud Lake area with specific attention to: 1) the effect of pumping from Applicant's wells on ground or surface water levels in Camas Creek and the Camas National Wildlife Refuge and the Mud Lake Wildlife Management Area if such pumping is continued in future years, and 2) the effect on ground or surface water levels in these areas of groundwater withdrawals by Protestants and by canal companies and other irrigators to the north and east of Mud Lake.

As a result of this meeting and other discussions, the parties jointly have requested that the Survey carry out an investigation based on a review of existing data and if

necessary submit a proposed investigation plan concerning an evaluation of these issues. The parties' June 2, 1988 letter to the Survey containing this request is attached hereto as Exhibit A and is incorporated by this reference.

Stipulation

1. The parties shall cooperate fully with the Survey in the Survey's efforts to carry out any investigation that is conducted in response to their letter of June 2, 1988. If the Survey determines that the investigation requires the development of new or additional data, the parties shall cooperate fully with the Survey, its agents and contractors, in the Survey's efforts to gather such data.

2. By executing this Stipulation, neither of the Protestants nor the Applicant is committing to support, express agreement with or be bound by the conclusions or interpretations contained in any investigation conducted by the Survey pursuant to the parties' request. However, the parties shall be free to use the results of such investigation for any purpose.

3. In view of this cooperative good faith effort, the Protestants hereby agree to withdraw their protests to the applications filed by Applicant in this matter, for transfer of water rights for the 1988 irrigation season, and do not object to allowing Applicant to begin immediately to pump the wells subject to this proceeding. The service of this Stipulation on the Director shall constitute these Protestants' formal

*[Handwritten signature]*

*[Handwritten date: 10/17/88]*

notification to the Director of the withdrawal of their protests in this matter.

4. Nothing in this Stipulation shall limit the right of any of the parties to file water right applications in the future, or to file protests to any future water rights application.

DATED this 24 day of June, 1988.

PROTESTANTS

U.S. Fish and Wildlife Service

By: Ronald E. Swan  
Ronald E. Swan  
Office of the Solicitor  
U.S. Department of the  
Interior

Idaho Department of Fish and  
Game

By: Stephen V. Goddard  
Stephen V. Goddard  
Deputy Idaho Attorney  
General

APPLICANT

By: Jeffrey C. Fereday  
Jeffrey C. Fereday  
Givens, McDevitt, Pursley,  
Webb & Buser

Attorneys for Blaine Larsen,  
Blaine Larsen Farms and  
Larsen of Idaho



NOV 29 1988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of June, 1988, I caused a true and correct copy of the foregoing Stipulation and Withdrawal of Protest to be served upon:

Mr. R. Keith Higginson, Director  
Idaho Department of Water Resources  
1301 N. Orchard St.  
Boise, ID 83706

Phillip J. Rassier, Esq.  
Idaho Department of Water Resources  
1301 N. Orchard St.  
Boise, ID 83706

Ronald E. Swan, Esq.  
United States Department of  
the Interior  
Office of the Regional Solicitor  
500 N.E. Multnomah  
Suite 607  
Portland, OR 97232

Mr. Robert K. Oser  
Program Analysis  
United States Department of  
Interior Fish & Wildlife Service  
500 Northeast Multnomah Street  
Suite 1692  
Portland, OR 97232

Stephen V. Goddard, Esq.  
Deputy Attorney General  
Idaho Department of Fish & Game  
650 Walnut Street  
Boise, ID 83707

Kent Foster, Esq.  
Holden, Kidwell, Hahn &  
Crapo  
Idaho First National Bank Bldg.  
P.O. Box 129  
Idaho Falls, ID 83405

by depositing the same in the United States mail, postage prepaid addressed to the above named at the last known address(s) as set forth above.



NOV 29 1988



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

JIM JONES  
ATTORNEY GENERAL  
STEPHEN V. GODDARD  
SUSAN MATTOS  
DEPUTY ATTORNEYS GENERAL  
IDAHO DEPARTMENT OF FISH AND GAME

600 S. WALNUT ST.  
P.O. Box 25  
BOISE, IDAHO 83707  
(208) 334-3715

June 2, 1988

Mr. Jerry Hughes  
District Chief, WRD  
U.S. Geological Survey  
230 Collins Road  
Boise, ID 83702

Dear Mr. Hughes:

This letter is written as a result of our meeting on June 1, 1988, between representatives of Mr. Blaine Larsen, the United States Fish and Wildlife Service, and the Idaho Department of Fish and Game with you and Mr. Lindholm. As you know, these parties have been involved in an Idaho Department of Water Resources proceeding concerning the potential impacts of those wells which are subject to the transfer applications which Mr. Larsen submitted to the Department in 1988 (the "Larsen wells").

In view of the discussion at our June 1 meeting, the undersigned parties hereby request that the Geological Survey carry out an investigation based on existing data and information that you have in your files or to which you have access in order to: 1) determine the impact of groundwater pumping through Mr. Larsen's wells on the waters flowing in Camas Creek and on ground and surface water levels within the Camas National Wildlife Refuge and the Mud Lake State Wildlife Management Area; and 2) determine the effect on the ground and surface water levels in the Refuge and the Management Area of groundwater withdrawals both within these areas and within the areas where other groundwater withdrawals are occurring through wells to the north and east of Mud Lake.

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JUN 23 1988

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EXHIBIT A

Mr. Jerry Hughes  
June 2, 1988  
Page 2

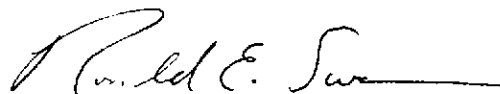
If you conclude that the existing data is insufficient to determine the impact of groundwater pumping as described above, then we would like to request a study proposal that would detail what it would take to determine these impacts, including the cost and/or duration of the study.

It is our understanding from the meeting that if the study is requested by a taxing entity such as a state governmental agency, that a fifty-fifty sharing of costs is possible between the United States government and the requesting taxing entity.

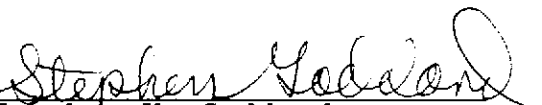
If you have any questions or concerns regarding this request, please feel free to contact Steve Goddard at 334-3715.

Sincerely,

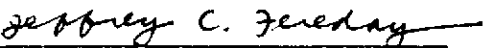
U.S. Fish and Wildlife  
Service

By:   
Ronald E. Swan  
Office of the Solicitor  
U.S. Department of the  
Interior

Idaho Department of Fish and  
Game

By:   
Stephen V. Goddard  
Deputy Idaho Attorney  
General

Blaine Larsen, Blaine Larsen  
Farms and Larsen of Idaho

By:   
Jeffrey C. Fereday  
Givens, McDevitt, Pursley,  
Webb & Buser

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

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JUN - 2 1988  
Department of Water Resources

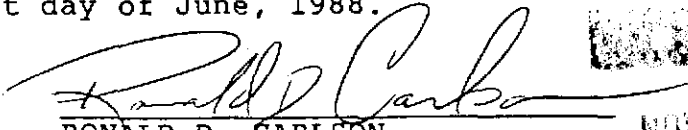
IN THE MATTER OF APPLICATION FOR TRANSFER )  
OF WATER RIGHTS NO. 35-7009/35-7157, )  
35-2545B, 35-2821B, 35-2728/35-2844/35-7361 )  
IN THE NAME OF BLAINE LARSEN, BLAINE LARSEN )  
FARMS, AND LARSEN OF IDAHO; AND TRANSFER )  
NOS. 35-2391/35-7777, 35-2493/35-7773, )  
35-2242; AND APPLICATIONS FOR AMENDMENTS )  
NO. 35-7161 AND 35-7162 IN THE NAME OF )  
EASTERN IDAHO PRODUCTION CREDIT ASSOCIATION )

HEARING NOTICE

Notice is hereby given that the Department of Water Resources has rescheduled the hearing concerning the above referenced applications for transfers and applications for amendments for Monday, June 20, beginning at 10:30 a.m. and on Tuesday, June 21, 1988, in the Civil Defense Conference Room, Bonneville County Courthouse, Idaho Falls, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources as previously indicated in the hearing notice dated May 27, 1988.

The U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game will be allowed full opportunity for submitting evidence and testimony. The other protestants, pursuant to the Stipulation reached at the previous hearing, will be allowed opportunity to supplement the record.

Dated this 1st day of June, 1988.

  
RONALD D. CARLSON  
Eastern Regional Manager

RECEIVED  
JUN 29 1988

CERTIFICATE OF MAILING

I, hereby certify that on this 12<sup>th</sup> day of June, 1988, a true and correct copy of the foregoing HEARING NOTICE was mailed, postage prepaid to:

Blaine Larsen  
P.O. Box 188  
Hamer, ID 83425

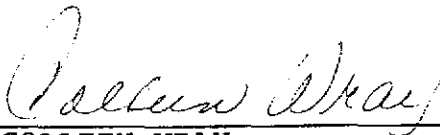
Eastern Idaho Production Credit Assoc.  
203 So. Garfield  
Pocatello, ID 83204

Jim Hansen  
Attorney at Law  
P.O. Box 2720  
Boise, ID 83701

Kent Foster  
Attorney at Law  
P.O. Box 50130  
Idaho Falls, ID 83405

Herb Pollard  
Regional Supervisor  
Idaho Fish & Game Department  
1515 Lincoln Road  
Idaho Falls, ID 83401

Robert K. Oser  
Program Analyst  
U.S. Fish & Wildlife Service  
500 NE Multnomah St., Suite 1692  
Portland, OR 97232

  
\_\_\_\_\_  
COLLEEN WRAY  
Adm. Secretary  
Department of Water Resources

RECEIVED

MAY 31 1988

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

Department of Water Resources

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER )  
OF WATER RIGHTS NO. 35-7009/35-7157, )  
35-2545B, 35-2821B, 35-2728/35-2844/35-7361 )  
IN THE NAME OF BLAINE LARSEN, BLAINE LARSEN )  
FARMS, AND LARSEN OF IDAHO; AND TRANSFER )  
NOS. 35-2391/35-7777, 35-2493/35-7773, )  
35-2242; AND APPLICATIONS FOR AMENDMENTS )  
NO. 35-7161 AND 35-7162 IN THE NAME OF )  
EASTERN IDAHO PRODUCTION CREDIT ASSOCIATION )

HEARING NOTICE

Blaine Larsen, Blaine Larsen Farms, and Larsen of Idaho; and Eastern Idaho Production Credit Association filed the above referenced applications to transfer the public waters of the State of Idaho and proposing the amendment of two water right permits. On May 2, 1988, the Department received a protest against approval of said applications from Kent W. Foster, Attorney at Law, in behalf of the Owsley Canal Company, Jackett Canal Company, Holley Water Users Association, Jefferson Irrigation Company, Producers Canal Company, Montevue Canal Company, Level Canal Company and Independent Water Users of Mud Lake, Inc. Additional protests were received on May 4, 1988 from U.S. Fish and Wildlife Service; and on May 9, 1988, from Idaho Fish and Game Department.

The Department has set the matter of protests for hearing for 10:30 a.m., June 2 & 3, 1988, in the Civil Defense Room, Bonneville County Courthouse, Idaho Falls, Idaho. The hearing will be held in

NOV 29 1988

accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67 of the Idaho Code and adopted Rules of Practice and procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

t4

Date this 27 day of May, 1988.

  
RONALD D. CARLSON  
Eastern Regional Manager

NOV 20 1988

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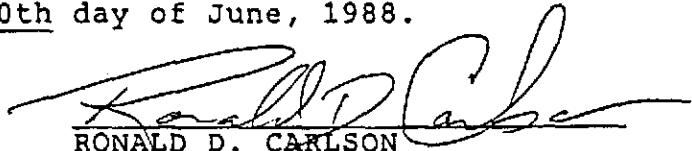
BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER )  
OF WATER RIGHTS NO. 35-7009/35-7157, )  
35-2545B, 35-2821B, 35-2728/35-2844/35-7361 )  
IN THE NAME OF BLAINE LARSEN, BLAINE LARSEN ) NOTICE OF  
FARMS, AND LARSEN OF IDAHO; AND TRANSFER ) RESCHEDULED HEARING  
NOS. 35-2391/35-7777, 35-2493/35-7773, )  
35-2242; AND APPLICATIONS FOR AMENDMENTS )  
NO. 35-7161 AND 35-7162 IN THE NAME OF )  
EASTERN IDAHO PRODUCTION CREDIT ASSOCIATION )

Notice is hereby given that the Department of Water Resources has rescheduled the hearing concerning the above referenced applications for transfers and applications for amendments for Thursday, July 14, beginning at 10:30 a.m. and on Friday, July 15, 1988, in the Conference Room, Idaho Falls Public Library, 457 Broadway, Idaho Falls, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources as previously indicated in the hearing notice dated May 27, 1988.

The U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game will be allowed full opportunity for submitting evidence and testimony. The other protestants, pursuant to the Stipulation reached at the previous hearing, will be allowed opportunity to supplement the record.

Dated this 20th day of June, 1988.

  
RONALD D. CARLSON  
Eastern Regional Manager

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JUN 22 1988

NOV 12 1988



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

May 3, 1988

Idaho Department of Water Resources  
150 Shoup Street, Suite #15  
Idaho Falls, Idaho 83402

Gentlemen:

The U.S. Fish and Wildlife Service wishes to enter into the record a protest to the approval of applications for the proposed changes to the following water rights:

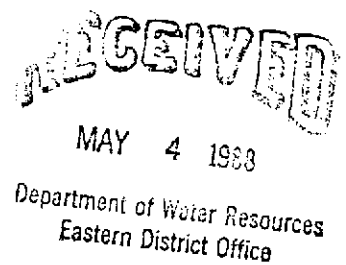
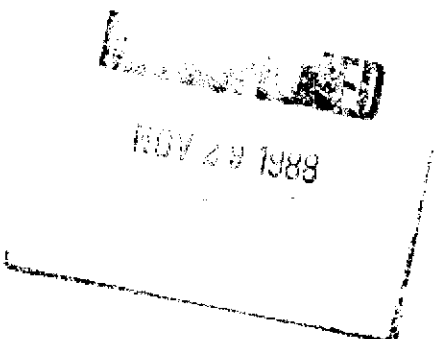
No. 35-2545B  
No. 35-7009  
No. 35-7157  
No. 35-7222  
No. 35-2493  
No. 35-7773  
No. 35-2242  
No. 35-2391  
No. 35-7777  
No. 35-2728  
No. 35-2844  
No. 35-7361  
No. 35-28218  
No. 35-7161  
No. 35-7162

Our basis for protest is the potential detrimental effects that these changes may have on the water resources of the Camas National Wildlife Refuge, located in Jefferson County near the sites of the proposed changes.

Please notify us of the date, time, and place of the hearing so we may present our reasons for protest in more detail. Thank you.

Sincerely,

Robert K. Oser  
Program Analyst



April 6, 1987

EASTERN IDAHO PRODUCTION CREDIT ASSN.  
P.O. BOX 992  
BLACKFOOT, ID 83221

RE: Permit No. 35-7773

Dear Permit Holder(s):

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

Sincerely,

JIM JOHNSON  
Water Rights Supervisor

JJ:sc

Enclosure

See File 35-2493  
FOR Original  
Transfer

NOV 29 1988

RECORDED

APR 13 1987



ate of Idaho

# DEPARTMENT OF WATER RESOURCES

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

*copy*  
CECIL D. ANDRUS  
Governor

A. KENNETH DUNN  
Director

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

February 26, 1987

EASTERN IDAHO PRODUCTION CREDIT ASSN.  
P.O. BOX 992  
BLACKFOOT, ID 83221

RE: Permit No. 35-7773

Dear Permit Holder(s):

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

This right is currently being reviewed by this office for licensing. The enclosed preliminary copy is subject to change upon further administrative review.

We ask that you review the proposed license and if you do not concur with the information, please let us know within 10 days.

Sincerely,

JIM JOHNSON  
Water Rights Supervisor

JJ:sc

Enclosure

MICROFILMED

APR 13 1987

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
LICENSING REPORT

RECEIVED  
JAN 13 1986

35-7773  
Permit No.

Department of Water Resources

1. Measurement Calculations

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

$$Q = \left( \frac{11.5 \text{ "mainline ID}}{26 \text{ "meter Reading}} \right)^2 \times 3.85 \sqrt{26 \text{ "meter Reading}} = 2596.2 \text{ gpm} \times 0.968 \text{ correction factor} = 2513.2 \text{ gpm} \text{ or } 5.60 \text{ cfs capacity}$$

A/Transf 2212/35-2493 already licenses  
4.04 cfs from same P.D. on 295  
acres of P.O.U. ✓

B/ recommend licensing amt. be 1.56 cfs  $\left( \frac{5.60 - 4.04}{1.56} \right)$   
since permit 35-7773 seeks  
an additive quantity

b) Volume Calculations for Irrigation:

$$\begin{aligned} V_{I.R.} &= (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 318 \text{ acres} \times 3.5 \text{ af/a} = 1113.0 \text{ af} \\ V_{D.R.} &= [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 1.56 \text{ cfs} \times 214 \text{ d} \times 1.9835 = 662.2 \text{ af} \\ V &= \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 662.2 \text{ af} \end{aligned}$$

c) Volume Calculations for Other Uses:

2. Overlap Review

a) Other water rights with same place of use: Tr. 2212/35-2493

b) Other water rights with same point of diversion: Tr. 2212/35-2493

c) Analysis: R17 (Tr. 2212/35-2493) (5.60 cfs) + (1113.0 af) ← N/A

FILED

APR 13 1987

RECOMMENDED AMOUNTS

|            |          |        |           |                      |                 |
|------------|----------|--------|-----------|----------------------|-----------------|
| Permit No. | Priority | Amount | App. Date | Date Proof Submitted | System Capacity |
|------------|----------|--------|-----------|----------------------|-----------------|

3. Permit Holder: \_\_\_\_\_

4. Address: \_\_\_\_\_

5. Source: \_\_\_\_\_ tributary to \_\_\_\_\_

6. Beneficial Use \_\_\_\_\_  
Period of Use From \_\_\_\_\_ To \_\_\_\_\_  
Rate of Diversion Q (cfs) \_\_\_\_\_  
Annual Volume V (afa) \_\_\_\_\_

7. Point(s) of Diversion: \_\_\_\_\_

| No. | Govt. Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County |
|-----|-----------|-----|-----|-----|------|------|------|--------|
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| Place(s) of Use |  |      |  |      |  |        |  |  |  |
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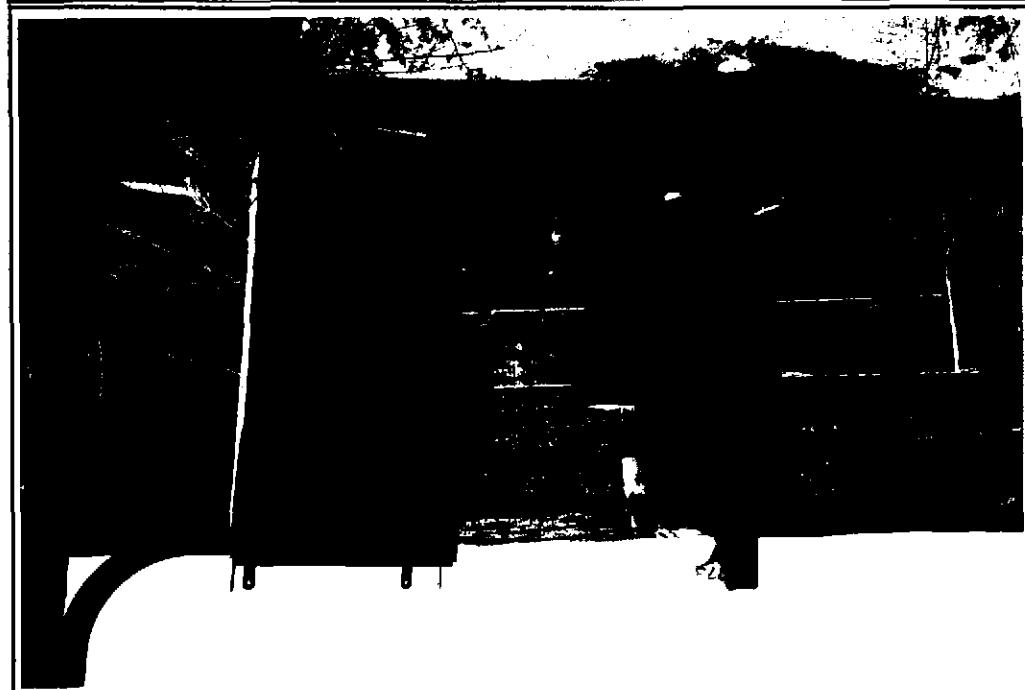
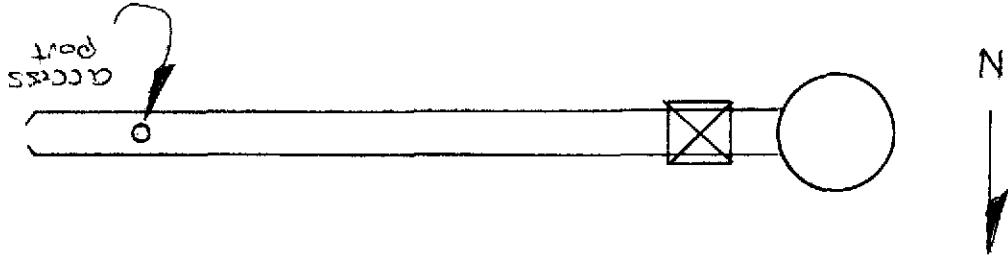
Phone No. 232-2700

- [illegible]

10. Other water rights on these lands \_\_\_\_\_
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.

DIVERSION AND DELIVERY SYSTEM



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

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

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

16. Examiner's/Consultant's Signature \_\_\_\_\_ Date 11-29-85

Consultant's License Number \_\_\_\_\_

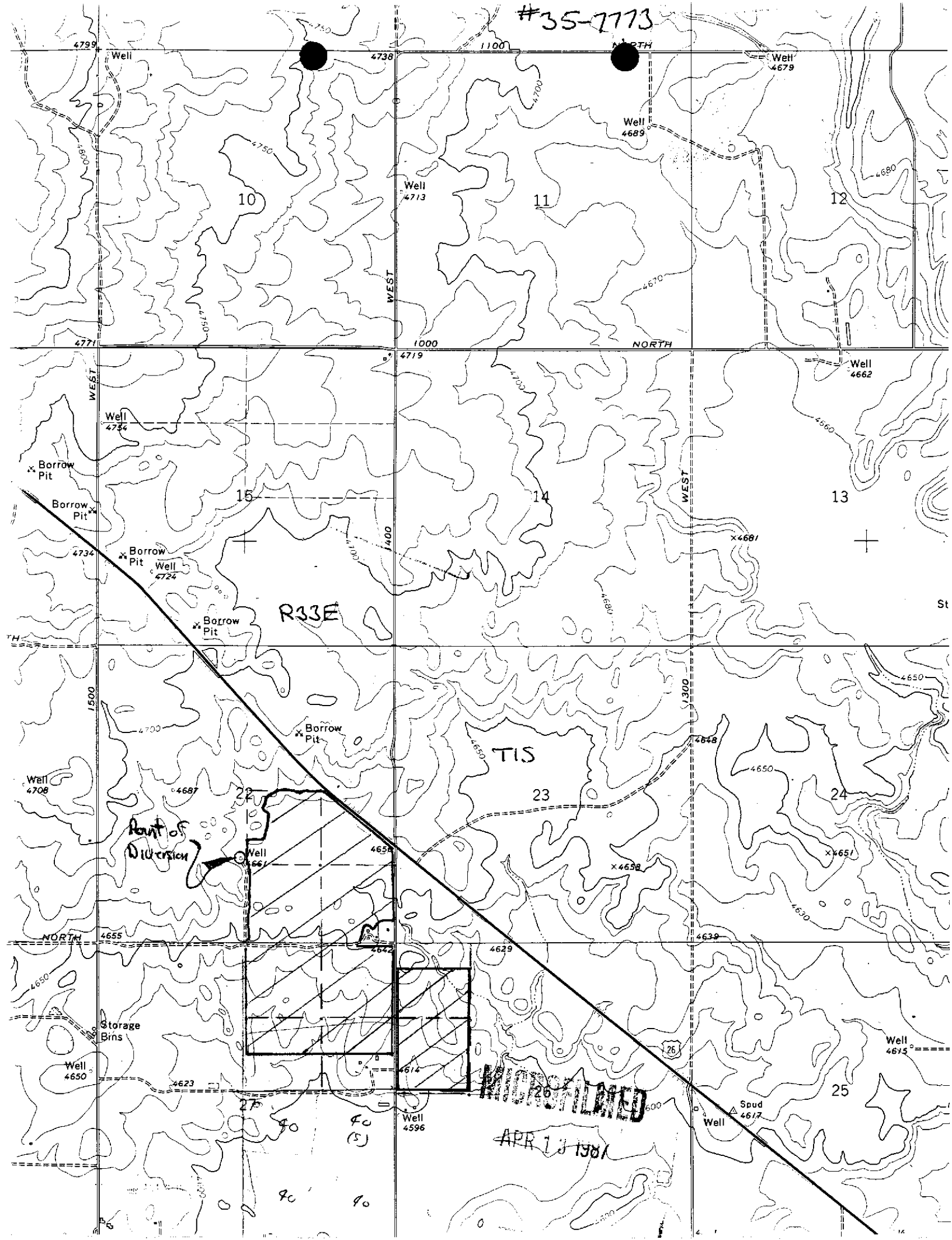
IDWR Director's Authorization to Conduct \_\_\_\_\_

Beneficial Use Examination \_\_\_\_\_

Date \_\_\_\_\_

CONSULTANT SEAL

#35-7773



#35-7783

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SUBSTATION

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C-64

MICROFILMED

APR 13 1987

METER NO. 091471RA 10'-80"DATE TESTED 7-19-1985

| UPSCALE | DOWNSCALE | AVERAGE | METER<br>READING | FLOW<br>ERROR | FLOW CORREC<br>FACTOR |
|---------|-----------|---------|------------------|---------------|-----------------------|
| 9.37    | 9.06      | 9.215   | 10               |               | 0.959                 |
| 14.62   | 14.62     | 14.62   | 16               |               | 0.955                 |
| 18.50   | 18.50     | 18.50   | 20               |               | 0.962                 |
| 24.25   | 24.50     | 24.375  | 26               |               | 0.968                 |
| 27.87   |           | 27.87   | 30               |               | 0.963                 |
|         | 29.87     | 29.87   | 31               |               | 0.981                 |
| 34.25   |           | 34.25   | 36               |               | 0.975                 |
| 40.25   |           | 40.25   | 41               |               | 0.990                 |
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#35-7773

MICROFILMED

APR 13 1987



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

January 19, 1983

Eastern Idaho Production Credit Association  
P. O. Box 1667  
Pocatello, ID 83201

Gentlemen:

Re: Permit Nos. 36-7768, 35-7771, 35-7772, 35-7773, 35-7774, 35-7775  
35-7776, 35-7777, 35-7778

This office acknowledges receipt of the statement of beneficial use postcards for the above referenced permits.

Before a license can be issued, a field examination must be made by a representative of this department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you or a representative may show him the system.

Re: Permit No. 35-7767

I'm returning the statement of beneficial use for this permit since it is the property of Laron Hansen. Also, the statement of beneficial use has already been submitted by Mr. Hansen and the permit is in good standing.

If I can be of further assistance, please feel free to contact me.

Sincerely,

RITA I. FLECK  
Sr. Secretary

Enclosure

EASTERN IDAHO PRODUCTION CREDIT ASSOCIATION

P. O. BOX 1667. POCA TELLO. IDAHO 83201

203 S. GARFIELD . TELEPHONE: 232-2700.



January 7, 1983

State of Idaho  
Department of Water Resources  
State Office, 450 W. State Street  
Boise, Idaho 83720

ATTN: Rita Fleck

Dear Rita:

Enclosed please find one postcard referencing Water Permit Number 35-7768, which evidences completion of the irrigation project described under that permit number. This card may be a duplicate, and if so, please disregard.

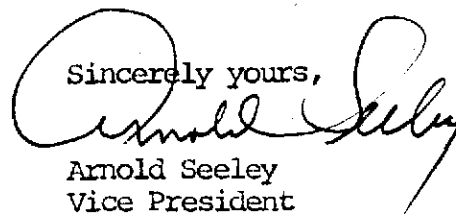
On December 27, 1982, this Association mailed to you Water Permit Completion postcards referencing the following permit numbers:

35-7778  
35-7776  
35-7777  
35-7773  
35-7775  
35-7772  
35-7771  
35-7774

Your correspondence dated December 30, 1982, says in part we have 60 days to make a statement to you as to the status of the above permit numbers. Since I cannot determine if you have ever received our Water Permit Completion postcards, which were mailed on the 27th., kindly acknowledge receipt of the cards, if, in fact, they have been received and if they have not been received, please advise, also.

Thank you.

Sincerely yours,

  
Arnold Seeley  
Vice President

encl.



# 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. 35-7773

Name(s) of Permit Holder: EASTERN IDAHO PRODUCTION CREDIT ASSOCIATION

Post Office Address: P.O. Box 1667

Pocatello, Idaho 83201

Tel. No. 232-2700

Source of Water: Underground

Extent of Use:

☐ Domestic

☐ Stockwater

☒ Irrigation

☐ Other

(number of households)

(number and type of stock)

(acres)

394

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.  
EASTERN IDAHO PRODUCTION CREDIT ASSN.

December 23, 1982

by:

*Arnold Selley* V. Pres.

Date

Signature of Permit Holder

EASTERN IDAHO CA

P. O. Box 1667

Pocatello, Idaho 83204

DEC 29 1982

Department of Water Resources



IDAHO DEPARTMENT OF WATER RESOURCES  
STATEHOUSE

BOISE, IDAHO 83720

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

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

13802-3

EASTERN IDAHO PRODUCTION CREDIT ASSN.  
P.O. BOX 992  
BLACKFOOT, ID 83221

DECEMBER 31, 1982

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 35-7773 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MARCH 01, 1983. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF OF BENEFICIAL USE.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU HAVE NOT PREVIOUSLY RECEIVED AN EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME PROVIDED THE DELAY IS FOR REASONABLE CAUSE AS INDICATED IN SECTION 42-204, IDAHO CODE, AMENDED. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED.

EITHER THE BENEFICIAL USE POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

RITA FLECK  
SR. SECRETARY

ENC: 1





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

November 17, 1982

Dear Wateruser:

The enclosed Order changes the measuring device condition of approval on your water right permit.

The changed condition is less restrictive and provides you the option to install an access port or have your system measured and certified by a professional engineer. Instructions for access port installation are also enclosed.

If you have questions regarding this matter, please contact the regional office nearest to you.

Sincerely,

DAVID R. TUTHILL JR., P. E.  
Supervisor, Water Allocations Section

DRT:jg

Enclosures

NORTHERN REGION OFFICE  
Route #5, Box 203, Government Way  
Coeur d'Alene, Idaho 83814  
Telephone 667-6484

SOUTHERN REGION OFFICE  
1041 Blue Lake Boulevard North  
Twin Falls, Idaho 83301  
Telephone 734-3578

EASTERN REGION OFFICE  
150 Shoup Avenue  
Idaho Falls, Idaho 83401  
Telephone 525-7161

WESTERN REGION OFFICE  
92 South Cole Road  
Boise, Idaho 83709  
Telephone 334-2190



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

Dear Wateruser:

Forwarded for your information in regard to your water permit is a self-explanatory letter which this office is now forwarding to holders of recently issued water right permits.

This is being mailed retroactively for informational purposes to persons who submitted applications on approximately December 30, 1977 and later.

If you have any questions, please contact this office.

Sincerely,

L. GLEN SAXTON

Chief, Operations Bureau

LGS:kw

Enclosure

MICROFILMED



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

April 14, 1978

Re: Permit No.'s 35-7767, 35-7768, 35-7769, 35-7770, 35-7771, 35-7772,  
35-7773, 35-7774, 35-7775, 35-7776, 35-7777 and 35-7778

Eastern Idaho Production Credit Assoc.  
P.O. Box 992  
Blackfoot, ID 83221

Gentlemen:

listed

Your approved copy of Application for Permit No. above is enclosed and we direct your attention to the conditions of approval on the fourth page.

Please note that a special condition requiring you to install and maintain a measuring device at your point of diversion has been placed upon your permit. Enclosed is a letter describing the different types of measuring devices accepted by this Department.

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.

MICROFILMED

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,

J. Glen Saxton

L. GLEN SAXTON  
Chief, Operations Bureau

LGS: kw  
Enclosure



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

March 27, 1978

Re: Permit No.'s 35-7767, 35-7768, 35-7769,  
35-7770, 35-7771, 35-7772, 35-7773, 35-7774,  
35-7775, 35-7776, 35-7777 and 35-7778

Eastern ID Production Credit Assoc.  
P. O. Box 992  
Blackfoot, ID 83221

Gentlemen:

Enclosed are copies of your approved Applications for Permit as referenced above. We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to either install and maintain measuring devices at your points of diversion or to provide the Department a certified measurement of the systems diversion capacity prior to submitting proof of beneficial use of water. We have enclosed a letter describing the different types of measuring devices accepted by this office.

Sincerely,

L. GLEN SAXTON  
Chief, Operations Bureau

LGS:kw  
Enclosures

RECEIVED  
MAR 29 1978  
DEPT. OF WATER RESOURCES  
BOISE, IDAHO

January 31, 1978

C

Mr. Arnold Seeley  
Eastern Idaho Credit Production Assoc.  
P.O. Box 1667  
Pocatello, Idaho 83201

Dear Mr. Seeley:

Attached herewith are departmental receipts Nos. 9186, 9187, 9188, 9190, 9191, 9192, 9194, 9195, 9198, 9199, 9200 and 9804 for applications for permits; and receipt Nos. 9196 and 9197 for two amendments.

Very truly yours,

COLLEEN WRAY  
Secretary

Attachments (14)

RECEIVED  
JAN 31 1978  
FBI - IDAHO

January 27, 1978

RE: Applications for Transfer Nos. 35-2241 EASTERN ID. PRODUCTION CREDIT ASSOC.  
35-2420 " "  
35-2493 " "  
Applications for Permit Nos. 35-7767 THRU 35-7778  
EASTERN ID. PRODUCTION CREDIT ASSOC.

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

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 2-14-78 by Carl

RDC:ME

Enclosures: 15 legals



NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Eastern Idaho Production Credit Assoc.,  
Blackfoot, Idaho

has on 1-24-78 submitted Application No. 35-7773  
for a permit to appropriate 3.84 cubic feet per second XXXXXXXXXXXXXXXXXXXX  
of water from a ground-water source  
by means of well and pump  
within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 22, T. 1S, R. 33E, B.M., Bingham County;

Apr. 1 to Nov. 1  
to be used from the irrigation of 394 acres  
for \_\_\_\_\_

within the SW $\frac{1}{4}$ N $\frac{1}{4}$ , SE $\frac{1}{4}$ , Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec. 26, NE $\frac{1}{4}$ , Sec. 27, T. 1S, R. 33E, 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 \_\_\_\_\_  
February 20, 1978

C. STEPHEN ALLRED

Director

Blackfoot News, Blackfoot, Idaho

Published in the  
February 2

February 9, 1978

on \_\_\_\_\_ and \_\_\_\_\_

MICROFILMED

*Me. A. J. M. D.*

DEPARTMENT OF WATER RESOURCES  
- STAFF ANALYSIS -

Item Initial Date

Application No.

Eastern Idaho Production  
Credit Association # 8

☒ 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

Jan 26, 1978

In form to receipt yes

(2)

Send Copies to:

☒ Idaho State Health Department

☒ Idaho Fish and Game Department

☒ Bureau of Land Management

(3)

☒ Request Special Use Permit from U.S.F.S.

☒ Request Easement from B.L.M.

☒ Request Information from Applicant

(4)

In form for advertising yes

(5)

Platted on Map No. 1533E

(6)

Located within Water District No. Basin 35

(7)

Critical groundwater area: yes ☐ no ☒

(8)

Groundwater levels:

☐ Declining, ☒ Stable, ☐ Increasing

(comment) No Obs wells in area

(9)

Other rights on the same place of use Application

(10)

Comments:

See also application for

amendment for P- 35-7310

Affidavit of Publication received (date) Feb. 14, 1978

(11)

CW

2-14-78

(12)

CW

2-21-78

Final date for protests February 20, 1978

Protests received: yes ☐ no ☒

(13)

Lgt

2-21-78

All requested information received from agencies or applicant: yes ☒ no ☐

(14)

Lgt

2-21-78

Action recommended:

☒ Approve

☐ Deny

1-24-78 Proposed Priority

☐ Reason for Reduction

☒ Measuring device required

☐ See attached sheet for other conditions of approval

☐ No special conditions for approval

(15)

District

E

By

Loren O. Huber Date 2-21-78

Copy  
Sent