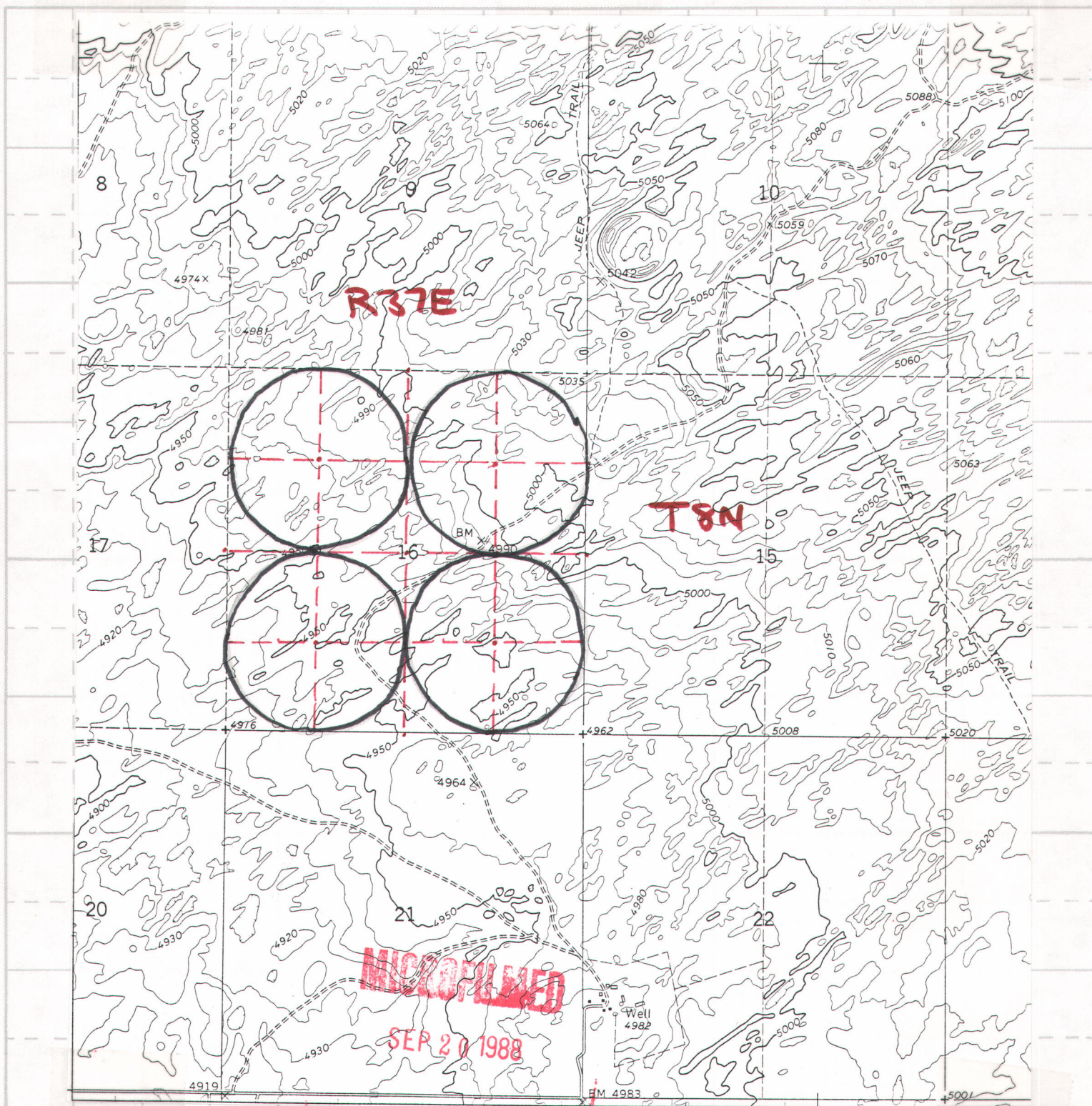


STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

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

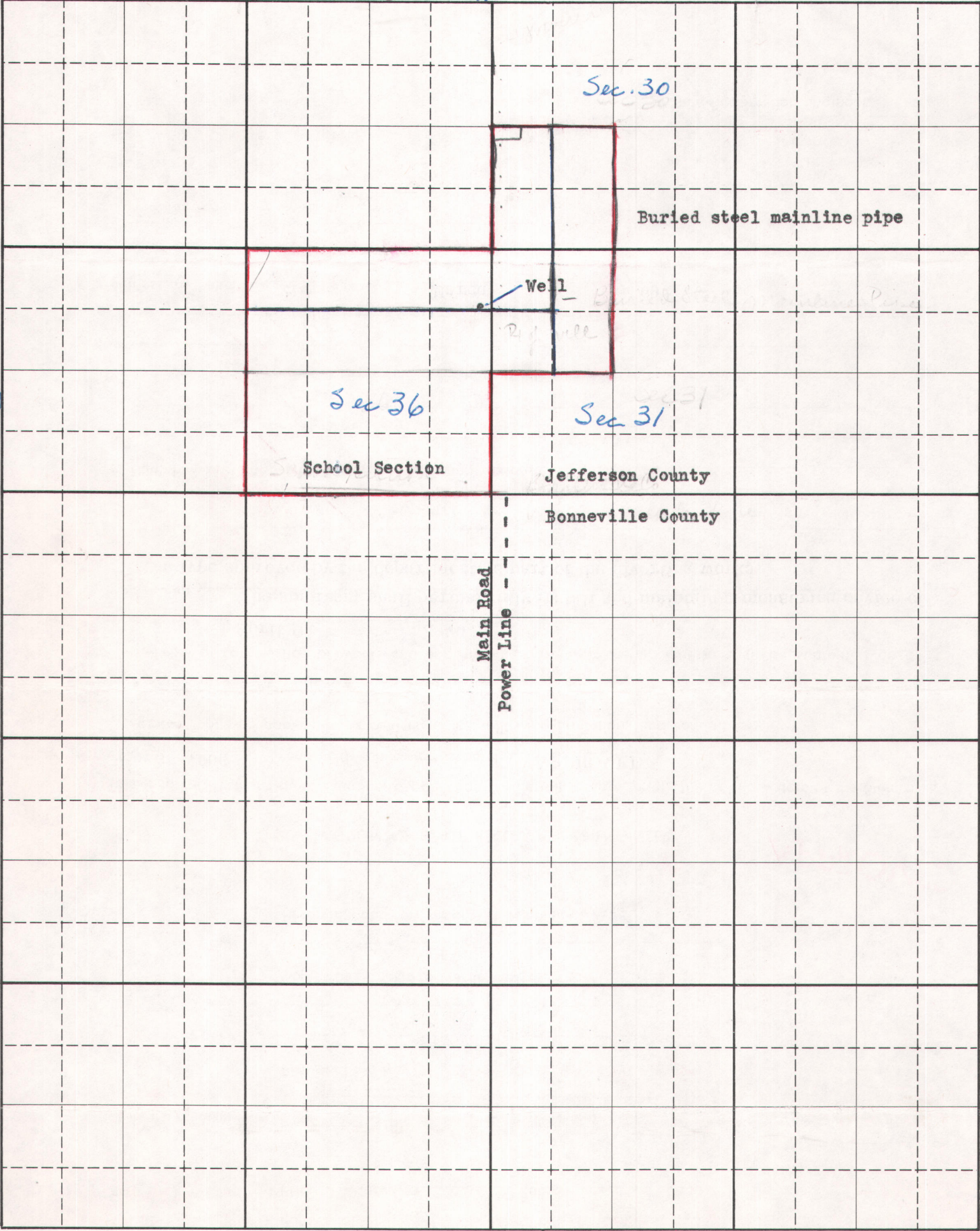


SCALE: 2 inches equal 1 mile. Draw plan in ink.

11. Map of proposed project:

Township 4 North Range 35 EBM No

Township 4 North Range 36 EBM



Scale: 2 inches equal 1 mile

S

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.

Ross Phillips
(Applicant)

35-7066

DEPUTY	
RIGHTS	
APPROP	
DIST	
ADJ	
INVESTIGATION	
WELLS	
LANDS	
ACCOUNTING	
FILE	
RETURN TO	
RECORD	

RECEIVED

FEB 17 1969

Affidavit of Publication

THE RIGBY STAR

Department of Reclamation

STATE OF IDAHO }
County of Jefferson } ss.

I, Hope B. Jones, do solemnly swear that I am the printer of THE RIGBY STAR, a weekly newspaper as defined by Idaho Codes annotated section 58-106 as amended, and that said newspaper is a weekly newspaper, printed and published at Rigby, Jefferson County, Idaho, having a general circulation in said county, and that said newspaper has been printed and published as a weekly newspaper, in said county for more than 78 consecutive weeks prior to the first publication of the attached notice.

And affiant further says that said attached notice, advertisement or publication as per clipping attached, was published in said newspaper in the regular and entire issue thereof, and not in any supplement issue thereof, for

Two Consecutive issues thereof; first publication having been made on the

23rd day of January, 1969

and the last publication on the

30th day of January, 1969

And affiant further says that at the times herein mentioned said newspaper was made up of at least four pages of at least five columns each, printed from type matter of at least seventeen and three-fourths inches depth; and that there are a least two hundred bona fide subscribers in Jefferson County.

Hope B Jones

Subscribed in my presence and sworn to before me this 13th

day of February, 1969
(SEAL)

R.H. Hamme

Notary Public for the State of Idaho,
Residence and P. O. Address, Rigby, Idaho.

My commission expires _____, 19____

Publication Fee: \$ 6.21

MY COMMISSION EXPIRES JULY 15, 1969

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Ross M. Phillips, 735 East 4650 South, Ogden, Utah has on December 26, 1968 applied for permit under application No. 35-7066 to divert 2.90 cubic feet per second of water from a ground water source. Water will be diverted by a well, and mainlines within the NE 1/4 NE 1/4, sec. 36, T. 4 N, R. 35 E, B.M., Jefferson County and is to be used from April 1 to October 31 for irrigation in all of Section 36, T. 4 N, R. 35 E, B.M.; SW 1/4, sec. 30, T. 4 N, R. 36 E, B.M.; and the NW 1/4, sec. 31 T. 4 N, R. 31 E, B.M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON
State Reclamation Engineer
Published in the Rigby Star, Rigby, Idaho on January 23 and January 30, 1969.

bill sub 2-20-69

35-7066

Rge-35 E

Rge-36 E

T
4
N

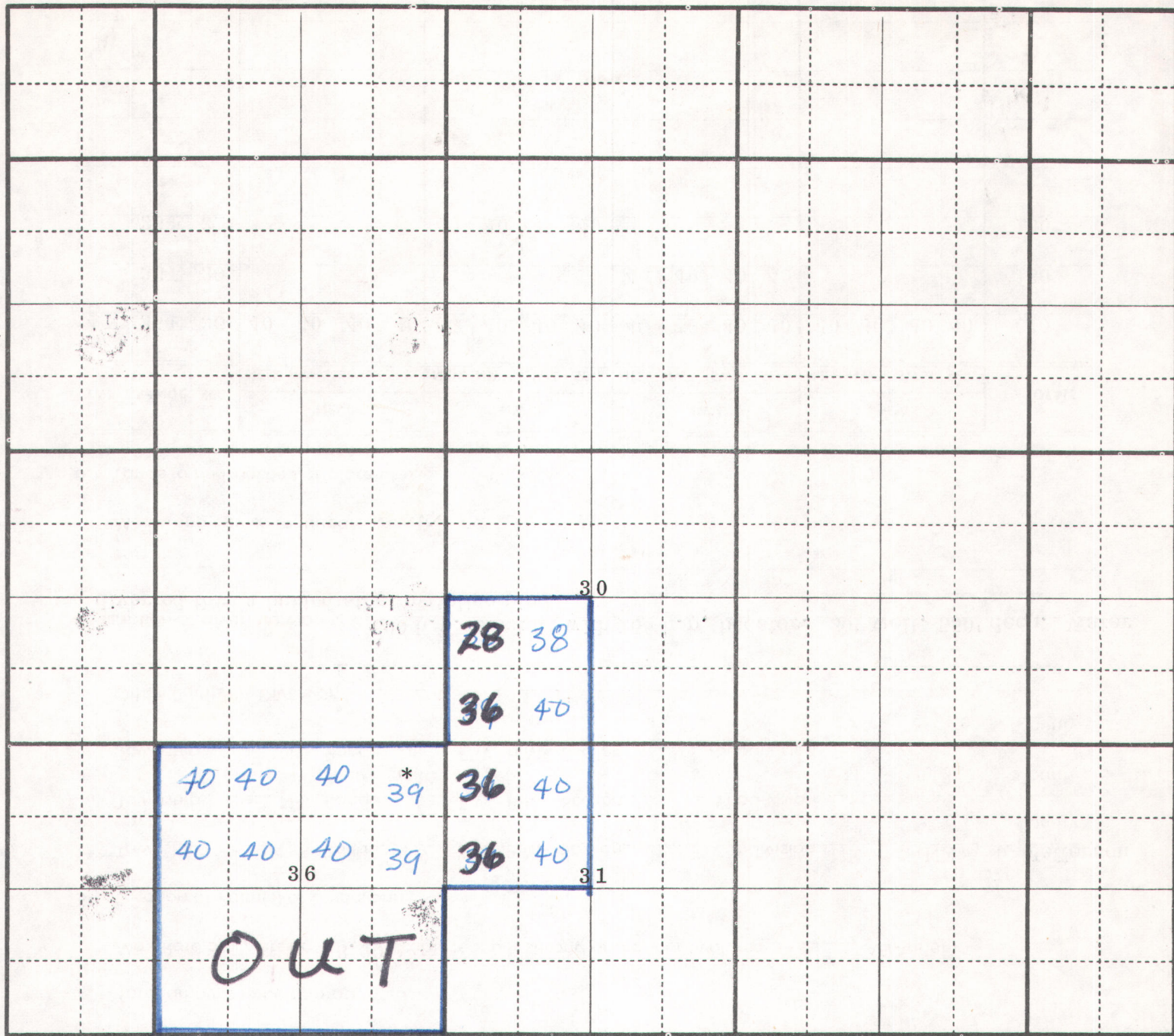


Diagram of System

RECEIVED
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
JUL 10 1964

35-7064

Jefferson Co.
Bonneville Co.

Sec. 36
S 1/2

40

Lot 2 NW 1/4

38

Sec. 31

40

Lot 1

38

Buried Steel Mainline Pipe

40

Lot 4 SW 1/4

38

Sec. 30

38

Lot 3

38

39

40

40

40

Well, Pump & Point
of H₂O Diversion

Sec. 36
N 1/2

39

40

40

40

Ross M. Phillips

Buried Steel Mainline Pipe

W&P

Esbert & Phillips

WALKER & GNEITING

EGBERT & PHILLIPS

MRP

ROSS M. PHILLIPS

BURIED STEEL MAINLINE PIPE

Well, Pump & Point
of H₂O DIVERSION

Lot 3

Lot 4

SEC. 30

BURIED STEEL MAINLINE PIPE

SEC. 31

40

40

40

39

40

40

40

39

38

Lot 1

40

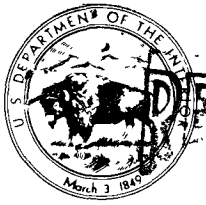
38

Lot 2

40

N 1/2 SEC. 36

N 1/2 SEC. 31



United States Department of the Interior

OFFICE OF THE SOLICITOR

Pacific Northwest Region
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232

RECEIVED

JUN 26 1989

Department of Water Resources
Eastern District Office

JUN 15 1989

RECEIVED

JUN 16 1989

FWS.PN.0781

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

Department of Water Resources

Subject: Protest of Application for Transfer of Idaho Water Right
No. 35-7066B

Dear Mr. Higginson:

The United States Department of the Interior, Fish and Wildlife Service, protests the Application for Transfer of Idaho Water Right No. 35-7066B (Jefferson County). The application for transfer of this water right was filed by Ross M. Phillips, Kaysville, Utah, for a change in the Points of Diversion and Place of Use of a groundwater source. The water would be diverted from wells located within Fremont County and would be used to irrigate approximately 528 acres of land.

Our initial analysis indicates the following facts. The Application is for the transfer of the points of diversion and place of use of approximately 7.16 cubic feet per second of public ground water of the State of Idaho. Based on the data in the Notice of Proposed Change of Water Right, it appears that the exercise of the transfer would detrimentally affect the water resources of the Camas National Wildlife Refuge, a federal refuge.

Idaho Code Ann. § 42-203A (Supp. 1987) provides for the Director of the Department of Water Resources to consider the following for all applications for transfers, whether protested or not:

1. Will the application reduce the quantity of water under existing water rights?
2. Is the water supply insufficient for the purpose set forth in the application?
3. Is the application made in good faith and not for delay or speculative purposes?
4. Does the applicant have sufficient financial resources to complete the project?

5. Will the project conflict with the local public interest?

We lack knowledge regarding the matters addressed by items 3 and 4. We protest the Application with regard to the considerations set forth in items 1, 2, and 5 as follows:

1. The Service has the following water rights to surface and ground water for domestic, wildlife, and irrigation use for the Camas National Wildlife Refuge pursuant to the laws of the State of Idaho: Water Right Nos. 31-2250, 31-2551, 31-2362, 31-2350, 31-2363, 31-2322, 31-7301, 31-4066, 31-4016, 31-0269, 31-0270, 31-6271, 31-0272, 31-0273, 31-0274, 31-0275, 31-0276, 31-0277, 31-0278, 31-0279, 31-0280, 31-0281, 31-0282, 31-0283, 31-0284, 31-0231, 31-2008, and 31-2035. It appears that the exercise of the requested transfers would significantly reduce the water availability in the area of the Refuge and thus would detrimentally affect our water rights.

2. There is not sufficient water available to satisfy the water needs of the applicant and existing water rights. The applicant should demonstrate that sufficient water is available to satisfy his purposes in addition to protecting all existing other uses.

3. The Camas National Wildlife Refuge supports migratory birds and other wildlife. Loss of sufficient water for the Refuge could eliminate or degrade wildlife habitat and eliminate some or all of the migratory birds and other wildlife for which the Refuge was reserved. These adverse conditions would conflict with the purposes of the Refuge and the public interest.

Furthermore, the Service has a responsibility to administer the Refuge lands for, inter alia, migratory birds and other wildlife purposes. Reducing water availability to insufficient amounts would interfere with the Service meeting its responsibilities under Federal law, including the protection of migratory birds under the Migratory Bird Treaty Act, 16 U.S.C. § 703 et seq. The American people, including local residents, would be denied a range of recreation opportunities because of the loss of habitat and loss of migratory birds and other wildlife. This also conflicts with the public interest.

For the above reasons, the Application should be denied.

The United States Fish and Wildlife Service will participate in the hearing on this matter. Please notify the Service through the undersigned attorney of the date, time, and place of the hearing.

Also, copies of all filings, correspondence, orders, etc., in this matter should be sent to the undersigned attorney:

Barbara Scott-Brier
Attorney for the United States Department of
the Interior, Fish and Wildlife Service
Office of the Regional Solicitor
500 N.E. Multnomah, Suite 607
Portland, Oregon 97232
Telephone: (503)231-2139

Sincerely,

A handwritten signature in cursive script, reading "Barbara Scott-Brier".

Barbara Scott-Brier
Attorney for the United States
Department of the Interior,
Fish and Wildlife Service
Pacific Northwest Region

cc:

Robert Oser, FWS, Region 1
Sandy Wilbur, FWS, Region 1
Jack Richardson, FWS, Camas NWR

THE FREMONT COUNTY HERALD-CHRONICLE

St. Anthony, Idaho

Ashton, Idaho

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Fremont

I, Terry Weatherston
being first duly sworn, depose and say,
that I am the printer of THE FREMONT
COUNTY HERALD-CHRONICLE, a semi-weekly
newspaper printed and published in
Fremont County, Idaho; and I do solemnly
swear that the Water Rights #35-7066B
a copy of which notice appears attached
hereto, was published in the regular and
entire issue of said newspaper, and not
in any supplement issue thereof
for Two consecutive issues, the
first publication having been made on

June 1, 1989

and the last publication having been
made on June 8, 1989

Further, that said newspaper is one
of general circulation in said county;
that it is a legal newspaper, conforming
to legal specifications under Idaho
statutes; that it has at least two
hundred bona fide subscribers living
within the county of publication; and
that it has been continuously and
uninterruptedly published in said county
during a period of seventy-eight
consecutive weeks prior to the first
publication of said notice.

Terry Weatherston

STATE OF IDAHO)
COUNTY OF MADISON)

On this 9th day of June
in the year of 1989, before me, a Notary
Public, personally appeared Terry
Weatherston, known or identified to me to
be the person whose name subscribed to
the within instrument, and being by me
first duly sworn, declared that the
statements therein are true, and
acknowledged to me that he executed the
same.

Joseph H. Jones

Notary Public for Idaho

Residing at Rexburg, Idaho

My commission expires: June 8, 1993

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
NO. 35-7066B**

Notice is hereby given that Ross M.
Phillips, Kayaville, UT, has applied to the
Department of Water Resources for a

change in the Points of Diversion and
Place of Use of a groundwater source.
The right sought to be changed is
evidenced by License No. 35-7066 and is
recorded as follows:

AMOUNT: 8.30 cfs

PRIORITY: December 26, 1968

POINT OF DIVERSION: NENE S36
T4N R35E Jefferson County

The water is used to irrigate 612 acres
from April 1 to October 31: 318 acres
within the N½ S36 T4N R35E; 142 acres
within the SW¼ SEC30, 152 acres within
the NW¼ SEC31 T4N R36E, B.M.

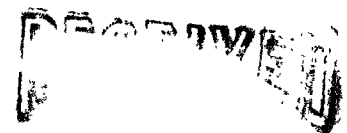
TO BE CHANGED AS FOLLOWS:

Only 7.16 cfs of water will be diverted
within the NENE NESE NESW NENW
SEC16 T8N R37E, B.M. Fremont County,
and used to irrigate 528 acres within
SEC16 T8N R37E, B.M.

Any protest against approval of the
above proposed change of water right
must be filed with the Idaho Department
of Water Resources, 150 Shoup Ave.,
Idaho Falls, ID 83402, on or before June
19, 1989.

R. KEITH HIGGINSON
Director

Publ. June 1 and 8, 1989HC.



JUL - 8 1989

Department of Water Resources
Eastern District Office

THE JEFFERSON STAR
RIGBY, IDAHO

AFFIDAVIT OF
PUBLICATION

STATE OF IDAHO)
) ss
County of Jefferson)

I, Crystal Foster
of the Jefferson Star, published
weekly at Rigby, Jefferson County,
Idaho, do solemnly swear that the
Notice of Proposed Change
a copy of which notice appears at-
tached hereto, was published in the
regular and entire issue of said
newspaper, and not in any supple-

ment issue thereof for Two (2)
consecutive issues, the first publica-

having been made on 5-31-89
and the last publication having been

made on 6-7-89.

Further, that said newspaper is one
of general circulation in said coun-
ty; that it is a legal newspaper, con-
forming to legal specifications
under the Idaho Statutes; that it has
as least two hundred bona fide
subscribers living within the county
of publication; and that it has been
continuously and uninterruptedly
published in said county during a
period of seventy-eight consecutive
weeks prior to the first publication
of the said notice.

Crystal Foster

On this 23 day of June

in the year of 1989, before
me, a Notary Public, personally ap-

peared Crystal Foster,
known or identified to me to be the
person whose name subscribed to
the within instrument, and being by
me first duly sworn, declared that
the statements therein are true, and
acknowledged to me that he ex-
ecuted the same.

Tenna Dethlefs

Notary Public for Idaho

Residing at Shelley

My commission expires: 9-24-92

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
NO. 35-7066B**

Notice is hereby given that Ross M.
Phillips, Kaysville, UT, has applied to
the Department of Water Resources for
a change in the Points of Diversion and
Place of Use of a groundwater source.
The right sought to be changed is
evidenced by License No. 35-7066 and
is recorded as follows:

AMOUNT: 8.30 cfs

PRIORITY: December 26, 1968

POINT OF DIVERSION: NENE S36
T4N R35E Jefferson County.

The water is used to irrigate 612
acres from April 1 to October 31: 318
acres within the N1/2 S36 T4N R35E;
142 acres within the SW1/4 SEC30,
152 acres within the NW1/4 SEC31
T4N R36E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 7.16 cfs of water will be
diverted within the NENE NESE NESW
NENW SEC16 T8N R37E, B.M.
Fremont County, and used to irrigate
528 acres within SEC16 T8N R37E,
B.M.

Any protest against approval of the
above proposed change of water right
must be filed with the Idaho Department
of Water Resources, 150 Shoup Ave.,
Idaho Falls, ID 83402, on or before
June 19, 1989.

**R. Keith Higginson
Director**

*Published in the Jefferson Star,
Rigby, Idaho, May 31 and June 7,
1989.*

REC-50

1989

Department of Water Resources
Eastern District Office



United States Department of the Interior
FISH AND WILDLIFE SERVICE

May 19, 1988

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

REGISTERED #P03 8186956

Gentlemen:

The U.S. Fish and Wildlife Service wishes to enter into the record a protest to the approval of the proposed change to water right number 35-7066B.

Our basis for protest is the potential detrimental effects that this change may have on the water resources of the Camas National Wildlife Refuge.

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

RECEIVED

MAY 23 1988

Department of Water Resources
Eastern District Office

CONSOLIDATED TAX NOTICE AND RECEIPT
JEFFERSON COUNTY TAX COLLECTOR 1987
MARGARET E. TREASURE, COURTHOUSE
RIGBY, IDAHO 83442 REAL PROPERTY

MARKET VALUE	TAX CODE AREA	PARCEL NUMBER	BILL NUMBER
46.160	54-00	RP04N36E312400A	2990

NW1/4; SLC 31
TWP 4 NORTH RGE 36 EBM

46.160

AC 151.360 PHILLIPS, ROSS & JOANN
370 SOUTH MT. ROAD
KAYSVILLE, UTAH 84037

DELINQUENT CERT

TAXING DISTRICT	RATE	AMOUNT	RECEIPT
STATE	.003957	182.66	FULL PAYM
COUNTY	.007626	352.02	TAX 6
SCHOOL DIST 1	.000646	29.82	PEN.
ROAD/BIDGE	.000286	13.20	SUB TOT.
ROBERTS CEMT	.000457	21.10	INT
ROBERTS FIRE DS	.000200	9.24	TOT.
COUNTY AMB			1ST INSTALL
RCB-K. BUTTE WA			TAX 30
SPEC. HIGHWAY	.000160	7.40	PEN.
			SUB TOT
			INT
			TOT
			2ND INSTALL
			TAX 30
			PLN
			SUB TOT
			INT
			TOT
TOTAL	.013332	615.44	

YOUR CANCELLED CHECK IS YOUR RECEIPT
PLEASE READ BACK OF NOTICE

CONSOLIDATED TAX NOTICE AND RECEIPT
JEFFERSON COUNTY TAX COLLECTOR 1987
MARGARET E. TREASURE, COURTHOUSE
RIGBY, IDAHO 83442 REAL PROPERTY

MARKET VALUE	TAX CODE AREA	PARCEL NUMBER	BILL NUMBER
65.786	54-00	RP04N36E360000A	2909

N1/2; SEC 36
TWP 4 N RGE 35 EBM

65.786

AC 319.000 PHILLIPS, ROSS & JOANN
370 SOUTH MT. ROAD
KAYSVILLE, UTAH 84037

DELINQUENT CERT

TAXING DISTRICT	RATE	AMOUNT	RECEIPT
STATE	.003957	260.32	FULL PAYM
COUNTY	.007626	501.68	TAX 8
SCHOOL DIST 251	.000646	42.50	PEN
ROAD/BIDGE	.000286	18.82	SUB TOT
ROBERTS CEMT	.000457	30.06	INT
ROBERTS FIRE DS	.000200	13.16	TOT
COUNTY AMB			1ST INSTALL
ROB-K. BUTTE WA			TAX 4
SPEC. HIGHWAY	.000160	10.54	PEN
			SUB TOT
			INT
			TOT
			2ND INSTALL
			TAX 4
			PEN.
			SUB TOT
			INT
			TOT
TOTAL	.013332	877.08	

YOUR CANCELLED CHECK IS YOUR RECEIPT
PLEASE READ BACK OF NOTICE

CONSOLIDATED TAX NOTICE AND RECEIPT
JEFFERSON COUNTY TAX COLLECTOR 1987
MARGARET E. TREASURE, COURTHOUSE
RIGBY, IDAHO 83442 REAL PROPERTY

MARKET VALUE	TAX CODE AREA	PARCEL NUMBER	BILL NUMBER
37.960	54-00	RP04N36E3104900A	2987

SW1/4; LESS 400 X 1400 FEET
IN NW COR; SEC 30
TWP 4 NORTH RGE 36 EBM

37.960

AC 138.540 PHILLIPS, ROSS & JOANN
370 SOUTH MT. ROAD
KAYSVILLE, UTAH 84037

DELINQUENT CERT

TAXING DISTRICT	RATE	AMOUNT	RECEIPT
STATE	.003957	150.22	FULL PAYM
COUNTY	.007626	289.48	TAX 50
SCHOOL DIST 251	.000646	24.52	PEN
ROAD/BIDGE	.000286	10.86	SUB TOT
ROBERTS CEMT	.000457	17.36	INT
ROBERTS FIRE DS	.000200	7.60	TOT
COUNTY AMB			1ST INSTALL
RCB-K. BUTTE WA			TAX 25
SPEC. HIGHWAY	.000160	6.08	PEN
			SUB TOT
			INT
			TOT
			2ND INSTALL
			TAX 25
			PEN
			SUB TOT
			INT
			TOT
TOTAL	.013332	506.12	

CONSOLIDATED TAX NOTICE AND RECEIPT

JEFFERSON COUNTY TAX COLLECTOR 1987

MARGARET E. TREASURE, COUNTY HOUSE

RIGBY, IDAHO 83442 STATE CONTRACTS

MARKET VALUE	TAX CODE AREA	PARCEL NUMBER	BILL NUMBER
150.045	23-00	SC04N35E367200A	8501

S1/2; SEC 36

TWP 4 NORTH RGE 35 EBM

L 97.430 EQUITIES IN STATE LAND

I 52.615 CATEGORY 57

AC 320.000 PHILLIPS, ROSS & JLANN

370 SOUTH MT. ROAD

KAYSVILLE, UTAH 84037

DELINQUENT CERT

TAX DISTRICT	RATE	AMOUNT	FULL PAY
STATE			TAX 1.9
COUNTY	.003957	593.74	PEN
SCHOOL DIST 251	.007626	1,144.24	SUB TOT.
ROAD/BRIDGE	.000646	96.94	INT
ROBERTS CEMT	.000286	42.92	TOT.
COUNTY AMB	.000200	30.02	1ST INSTAL
SPEC. HIGHWAY	.000160	24.02	TAX 9
			PEN
			SUB TOT.
			INT
			TOT
			2ND INSTAL
			TAX 9
			PEN
			SUB TOT.
			INT
			TOT.
TOTAL	.012875	1,931.88	

YOUR CANCELLED CHECK IS YOUR RECEIPT
PLEASE READ BACK OF NOTICE

State of Idaho
Department of Water Administration

WATER RIGHT LICENSE

License of Water Right No. 35-7000 Priority Dec. 20, 1908 Amount 8.30 cfs

THIS IS TO CERTIFY, that ROSS M. PHILLIPS
of Ogden, Utah, has complied with the terms and conditions of Permit
No. 35-7066 issued pursuant to Application for Permit dated December 28, 1968,
and has submitted proof to the Department of Water Administration on March 30, 1970,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 8.30 cfs of water from a ground water source,
tributary to _____, and that the permit holder has applied to a beneficial use &
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>Oct. 31</u>	at <u>8.30</u> cfs and	<u>2,142 acre feet or</u>
	from _____ to _____	at _____ cfs and	<u>3.5 af per acre</u>
	from _____ to _____	at _____ cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 8.30 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
2,142 acre feet per year, said waters to be diverted within the NE 1/4 NE 1/4 of Sec. 36,
Twp. 4 N, Rge. 35 E, B. M. in the County of Jefferson

Description and location of place of use:

Twp.	Range	Sec.	NEW				NWN				SWN				SEN				Totals
			NEW	NWN	SWN	SEN	NEW	NWN	SWN	SEN	NEW	NWN	SWN	SEN	NEW	NWN	SWN	SEN	
4N	35E	36	39	40	40	39	40	40	40	40									318
4N	36E	30									38	28	36	40					142
4N	36E	31						40	36	36	40								152

Total number of acres irrigated 612

A measuring device of a type approved by this Department shall be permanently
maintained as part of the diverting works.

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

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 6th day of
September, 19 74.

A. Kenneth Dunn
Director
A. KENNETH DUNN, Administrator

THE FREMONT COUNTY HERALD-CHRONICLE
St. Anthony, Idaho
Ashton, Idaho

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Fremont

I, Terry Weatherston
being first duly sworn, depose and say,
that I am the printer of THE FREMONT
COUNTY HERALD-CHRONICLE, a semi-weekly
newspaper printed and published in
Fremont County, Idaho; and I do solemnly

swear that the Notice Water Rights #35
a copy of which notice appears attached
hereto, was published in the regular and
entire issue of said newspaper, and not
in any supplement issue thereof

for Two consecutive issues, the
first publication having

been made on May 5, 1988
and the last publication having

been made on May 12, 1988

Further, that said newspaper is one
of general circulation in said county;
that it is a legal newspaper, conforming
to legal specifications under Idaho
statutes; that it has at least two-
hundred bona fide subscribers living
within the county of publication; and
that it has been continuously and
uninterruptedly published in said county
during a period of seventy-eight
consecutive weeks prior to the first
publication of the said notice.

Terry Weatherston

Subscribed to and sworn to before

me this May 13, 1988

[Signature]
Notary Public

(SEAL)

My commission expires June 3, 1988

NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
No. 35-7066B

Notice is hereby given that Ross M.
Phillips, Kaysville, Utah, has applied to the
Department of Water Resources for a
change in the point of diversion and place of
use of water from a groundwater source.
The right sought to be changed is evidenc-
ed by License No. 35-7066 and is recorded
as follows:

AMOUNT: 8.30 cfs. PRIORITY:
December 26, 1968, POINT OF DIVER-
SION: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36, T. 4N, R. 35E,
B.M., Jefferson County;

The water is used to irrigate 612 acres
within the N $\frac{1}{2}$, Sec. 36, T. 4N, R. 35E,
SW $\frac{1}{4}$, Sec. 30, NW $\frac{1}{4}$, Sec. 31, T. 4N, R.
36E, B.M.

TO BE CHANGED AS FOLLOWS

Only 7.16 cfs of the water will be diverted
within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16, T. 8N, R.
37E, B.M., Fremont County; and used to ir-
rigate 528 acres within Sec. 16, T. 8N, R.
37E, B.M.

Any protest against approval of the above
proposed change of water right must be fil-
ed with the Idaho Department of Water

Resources, 150 Shoup Ave., Suite 15,
Idaho Falls, Idaho, 83402, on or before May
23, 1988.

R. KEITH HIGGINSON
Director

Publ. May 5 and 12, 1988HC.

RECEIVED

MAY 17 1988

Department of Water Resources
Eastern District Office

SEP 20 1988

THE JEFFERSON STAR

RIGBY, IDAHO

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Jefferson ss

I, Crystal Foster
being first duly sworn, depose and say, that I am the printer of THE JEFFERSON STAR, a weekly newspaper printed and published weekly at Rigby, Jefferson County, Idaho, and I do solemnly swear that the

Notice of Proposed Change

a copy of which notice appears attached hereto, was published in the regular and entire issue of said newspaper, and not in any

supplement issue thereof for Two (2) consecutive issues, the first publication hav-

ing been made on May 4, 1988 and the last publication having been made

on May 11, 1988.

Further, that said newspaper is one of general circulation in said county; that it is a legal newspaper, conforming to legal specifications under the Idaho Statutes; that it has at least two hundred bona fide subscribers living within the county of publication; and that it has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the first publication of the said notice.

Crystal Foster

Subscribed to and sworn to before me

this 5-12-88

Loan Fisher
Notary Public.

(SEAL)

My commission expires 1-27-91

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 35-7066B

Notice is hereby given that Ross M. Phillips, Kaysville Utah, has applied to the Department of Water Resources for a change in the point of diversion and place of use of water from a ground-water source. The right sought to be changed is evidenced by License No. 35-7066 and is recorded as follows:

AMOUNT: 8.30 cfs PRIORITY: December 26, 1968

POINT OF DIVERSION: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36, T. 4N, R. 35E, B.M., Jefferson County;

The water is used to irrigate 612 acres within the N $\frac{1}{2}$, Sec. 36, T. 4N, R. 35E, SW $\frac{1}{4}$, Sec. 30, NW $\frac{1}{4}$, Sec. 31, T. 4N, R. 36E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 7.16 cfs of the water will be diverted within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16, T. 8N, R. 37E, B.M., Fremont County; and used to irrigate 528 acres within Sec. 16, T. 8N, R. 37E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402, on or before May 23, 1988.

R. Keith Higginson
Director

Published in The Jefferson Star, May 4 and 11, 1988.

RECEIVED

MAY 10 1988

Department of Water Resources
Eastern District Office

Page 1 of 6STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 3435APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of applicant Ross M. Phillips Phone (801) 544-8517
Post Office address 370 So. Mountain Rd., Kayville UT 84037

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 Original place of use will not be farmed this year and operator (Roland Walker) has owners permission to irrigate another place of use with Rt. 35-7066.

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

1. Right Number 35-7066B Priority 12-26-1968 Amount (cfs/ac-ft) 7.16 Nature of Use Irrigation Period of Use 4-1 to 11-1
2. Total amount of water being transferred 7.16 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Groundwater tributary to _____
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	16	8N	37E	Fremont	
		NE	SE	16	8N	37E	"	
		NE	SW	16	8N	37E	"	
		NE	NW	16	8N	37E	"	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
8N	37E	16	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33	528

Total acres 528

PART 1

6. General Information:

- a. Description of diversion system
- 4 wells at the center of four pivots
- Wells were drilled several years ago. Applications 31-7430, -7431, -7432 and 31-7433 filed on this new place of use.

- 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 not be farmed 1988 -

d. Remarks:

This rt. will be transferred for one year to this new place of use and applicant has the option of transferring Rt. back to old place of use if he so desires.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 35-7066B

APPROVED

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

This transfer authorizes irrigation of the lands identified herein for the 1988

irrigation season only. On November 1, 1988 this transfer approval will terminate

and the water right will revert to the lands identified by the license.

Witness my hand this

day of

August

1988

Chief, Operations Bureau

J. Allen Saylor

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. 35-7066 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 _____

3. Source of water Groundwater tributary to _____

4. Date or priority 12-26-1968

5. Water is used for the following purpose:

amount 8.30 cfs for Irrigation purposes from 4-1 to 10-31
(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 8.30 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	36	4N	3SE	Jefferson	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	3SE	36	39	40	40	39	40	40	40	40									318
4N	36E	30									38	L-3 28	L-4 36	40					142
4N	36E	31					40	L-1 36	L-2 36	40									152

Total acres 612

9. Describe any other water rights used for the same purpose as described above None

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

716 cfs for Irrigation purposes from 4-1 to 10-30

(c)(6)-(7)

(cfs/ac-ft)
amount—

(cts/ac-ft)

2. Point(s) of Diversion:

Lot	%	%	%	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	36	4N	35E	Jefferson	

3. Lands irrigated or place of use:

[illegible]

Total acres

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1.145 for Investigation purposes from 4-1 to 10-30

~~(cfs/ac-ft)~~

(cfs/ac-ft)
amount—

(CTS/ac-tt)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	36	4N	35E	Jefferson	

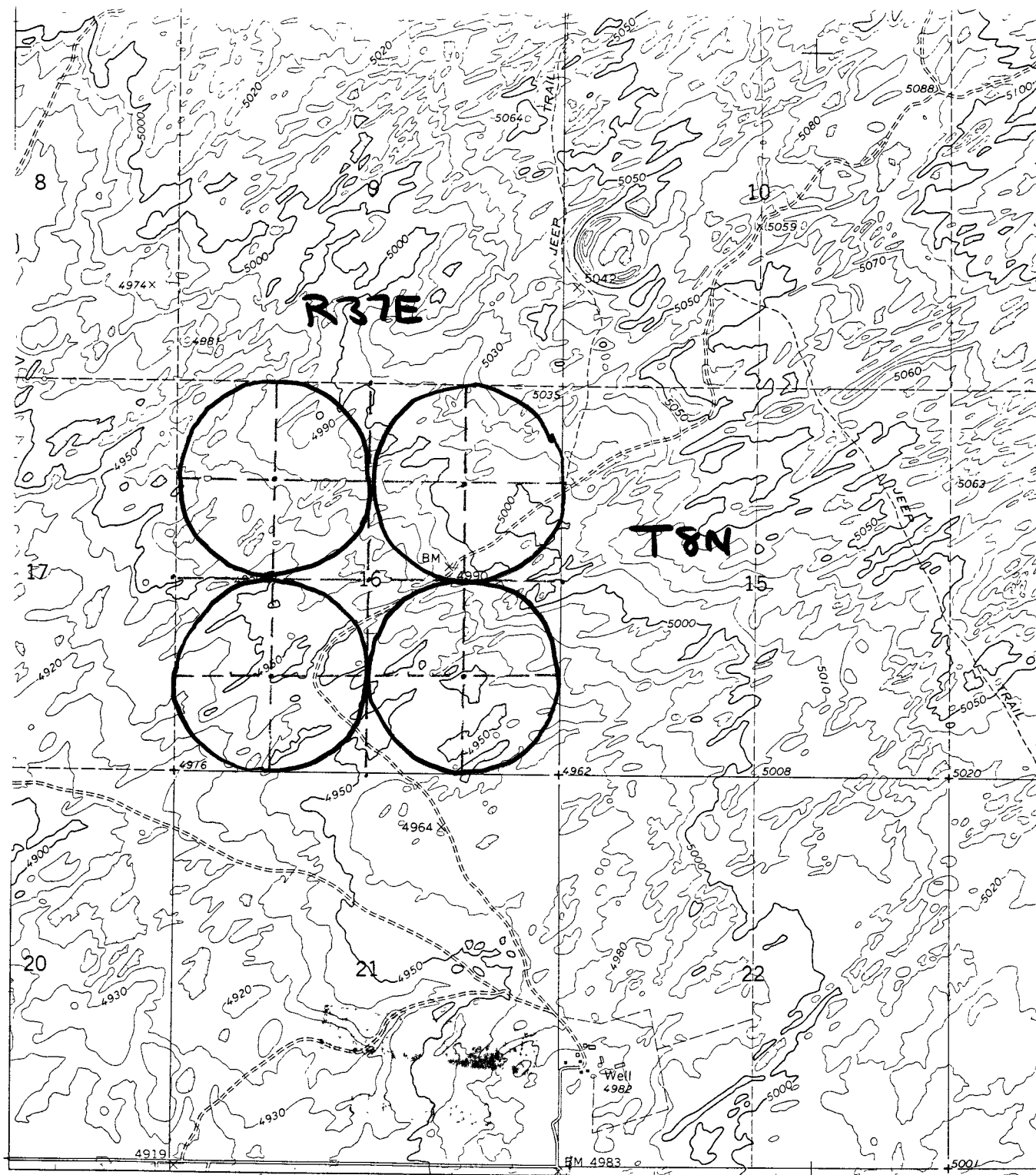
3. Lands irrigated or place of use:

[illegible]

Total acres

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

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



SCALE: 2 inches equal 1 mile. Draw plan in ink.

B. CHANGES IN NATURE OF USE

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

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.

(Signature of Applicant)

25

Subscribed and sworn to before me this _____

(Notary Public)

My commission expires

0/3/91

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by

Date:

4-15-88

Protest filed by

Prelim. check by

WS

Free

\$50 - #E000129

Received by

Date _____

88-61-1

Published in *Jefferson School & Freeman Library* Copies of protest forwarded by

Pub. dates -

5-5 + 5-12-88

Hearing held by

Date _____

Recommended for

☐ approval

denial

rec'd.

by Sam 6.5.

Copy of transfer sent to lien holder

State of Idaho

Department of Water Administration

WATER RIGHT LICENSE

License of Water Right No. 35-7066 Priority Dec. 26, 1968 Amount 8.30 cfs

THIS IS TO CERTIFY, that ROSS M. PHILLIPS of Ogden, Utah, has complied with the terms and conditions of Permit No. 35-7066 issued pursuant to Application for Permit dated December 26, 1968, and has submitted proof to the Department of Water Administration on March 30, 1970, that he has applied water to a beneficial use; an examination by the Department indicates that the works have a capacity for the diversion of 8.30 cfs of water from a ground water source tributary to, and that the permit holder has applied to a beneficial use & established a right to use water as follows:

Beneficial Use	Period of Use		Rate of Diversion		Annual Volume
Irrigation	from	April 1 to Oct. 31	at	8.30 cfs and	2,142 acre feet or 3.5 af per acre
	from	to	at	cfs and	
	from	to	at	cfs and	
(both dates inclusive)					

Subject, however, to the condition that no more than 8.30 cfs of water be diverted at any one time, and that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed 2,142 acre feet per year, said waters to be diverted within the NE¹/₄NE¹/₄ of Sec. 36, Twp. 4 N, Rge. 35 E, B.M. in the County of Jefferson

Description and location of place of use:

Twp.	Range	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	
4 N	35 E	36	39	40	40	39	40	40	40	40									318
4 N	36 E	30									38	L.3 28	L.4 36	40					142
4 N	36 E	31					40	L.1 36	L.2 36	40									152

Total number of acres irrigated 612

A measuring device of a type approved by this Department shall be permanently maintained as part of the diverting works.

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

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 6th day of September, 1974.

Director
By: A. KENNETH DUNN, Administrator

Identification No. _____

Permit No. _____

**STATE OF IDAHO
DEPARTMENT OF RECLAMATION**

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

✓

1. a) Name of Permit Holder Ross L. Phillips

b) Post Office Address 735 East 4650 South Ogden, Utah 84403

2. Permit Number 35-7066

3. Date of Priority that you are prepared to establish 12-26-68

4. a) Source from which water was appropriated Subterranean

b) Location of the point of diversion: NE 1/4 NE 1/4, Section 36

Township 4N, Range 35 E. Boise Meridian, Other points of diversion: _____

5. a) The amount of water and use to which the water has been applied:

amount 9 cfs for Irrigation purposes from April 1 to Oct 31 incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)

amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)

amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)

b) Total amount appropriated 9 cfs cfs and/or acre feet per annum

c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: Tested with orifice by Dan Orr
Engineer employed by Mel Brown Co. Idaho Falls, Idaho

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:

a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: _____

b) Describe the agreement or understanding by which you take water from the works: _____

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (If from a subterranean

source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) 600 H.P. Electric with 150 H.P. Booster
20 inch well 550 ft. depth Water diverted thru a buried steel mainline pipe. - See Aerial photo.

b) Describe the type and size of measuring device which you have installed at your point of diversion: I do not have one installed at the present time but have discussed the alternatives with Mel Brown Co. & with the Farmer who operates the Farm R.L. Walker of Lewisville, Idaho I will have an orifice type (Probably a meterflex # 33) installed as soon as possible.

c) Give well driller's name and address and date the well was completed R. L. Walker Lewisville, Idaho March 1968

35-7066

May be used in future to water livestock.

Stions:

091 086
091 086

~~We have not as yet used the water to irrigate the $\frac{2}{3}$ of Sec. 36. In my~~

overall plan however I would like to be able to divert the water from the well now

in operation on that section. Thus I have included it in Sec. (9).

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

(Date)

(Signature)

County of Madison)

signer(s) of the above instrument, who duly acknowledged to me that he (~~she~~) (~~they~~) executed the same.

Notary Public residing at Edinburg, Texas

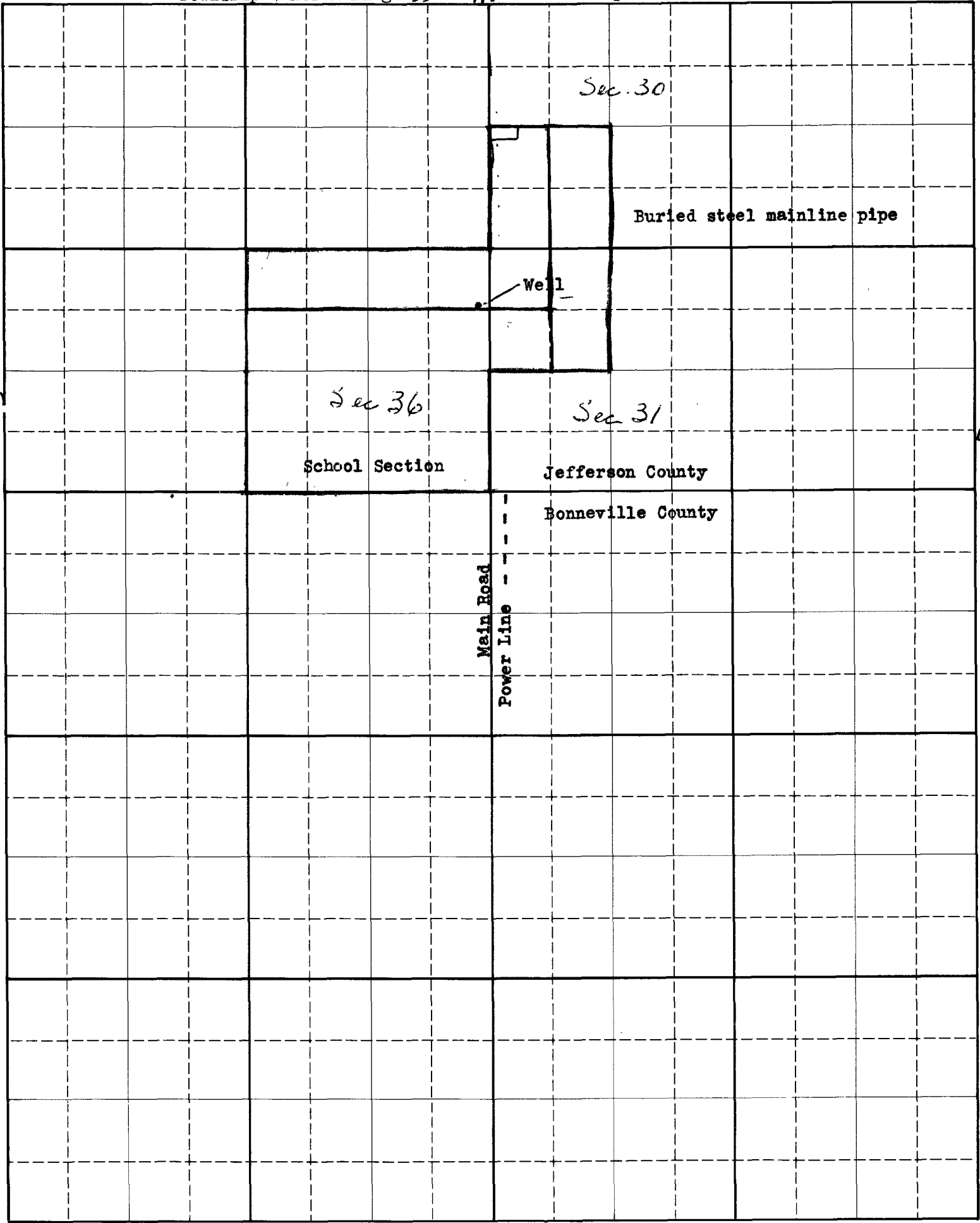
My commission expires

12-72-1

11. Map of proposed project:

Township 4 North Range 35 EBM

Township 4 North Range 36 EBM



Scale: 2 inches equal 1 mile

S

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.

Kasson Phillips
(Applicant)

35-7066

Received by dy Date 12-26-68 Time 8:00am
Preliminary check by Dew Fee \$ 60.00 Date 12-26-68

Received by dy Date 12-27-68

Publication prepared by dy Date 12-27-68

Published in Idaho

Publication dates 1-3-31

Publication approved 71 Date 12-27-68

Priority reduced to _____ Reason _____

Protests filed by: 7-26-68, 8-26-68

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by dy Date _____

ACTION OF STATE RECLAMATION ENGINEER

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 35-7006, 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 April 1, 19 70.

c. Other: The applicant shall permanently install and maintain a measuring device of a type approved by the department as part of the diverting works.

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

Witness my hand this 27th day of March, 19 69.

State Reclamation Engineer

Identification No. 35-1766
Application No. 2441

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho

1. Name of applicant Ross M. Phillips
post office address 735 East 4650 South Ogden, Utah 84403
2. Source of water supply Underground which is a tributary of _____
3. a. Location of point of diversion is NE. $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 36 Township 4 North
Range 35 N B.M. Jefferson 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. Quantity to be appropriated:
a. 4000 Gallons/ Min. 8.90 cfs cubic feet per second and/or
b. _____ acre feet per annum will be stored.
5. Water will be used for the following purposes:
Irrigation purpose from April 1 to October 31 (both dates inclusive)
_____ purpose from _____ to _____ (both dates inclusive)
_____ purpose from _____ to _____ (both dates inclusive)
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Two miles of buried steel mainline pipe as described on the map.

b. Height of storage dam _____ feet; active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet; materials used in storage dam: _____

c. Proposed well diameter is 20 inches; proposed depth of well is 550 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 years. Completed
b. Estimated construction cost is \$ 60,000.00 for permanent fixtures, well pump and motor and steel mainline pipe.
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: irrigation only Possibility that we may water some livestock in the future. None at present

35-7066

[illegible]

10. Remarks

Affidavit of Publication

THE RIGBY STAR

STATE OF IDAHO

County of Jefferson

ss.

I, Hope B. Jones, do solemnly swear that I am the printer of THE RIGBY STAR, a weekly newspaper as defined by Idaho Codes annotated section 58-106 as amended, and that said newspaper is a weekly newspaper, printed and published at Rigby, Jefferson County, Idaho, having a general circulation in said county, and that said newspaper has been printed and published as a weekly newspaper, in said county for more than 78 consecutive weeks prior to the first publication of the attached notice.

And affiant further says that said attached notice, advertisement or publication as per clipping attached, was published in said newspaper in the regular and entire issue thereof, and not in any supplement issue thereof, for

~~Two~~ Consecutive issues thereof; first publication having been made on the

23rd day of January, 1969

and the last publication on the

3rd day of January, 1969

And affiant further says that at the times herein mentioned said newspaper was made up of at least four pages of at least five columns each, printed from type matter of at least seventeen and three-fourths inches depth; and that there are at least two hundred bona fide subscribers in Jefferson County.

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that ~~Ross M. Phillips, 735 East 1050 South, Ogden, Utah~~ has on December 26, 1968 applied for permit under application No. 35-7066 to divert 2.90 cubic feet per second of water from a ground water source. Water will be diverted by a well, and mainlines within the ~~NE1/4NW1/4, sec. 36, T. 4 N, R. 35 E, B.M., Jefferson County~~ and is to be used from April 1 to October 31 for irrigation in all of Section 36, T. 4 N, R. 35 E, B.M.; ~~SW1/4, sec. 30, T. 4 N, R. 35 E, B.M.; and the NW1/4, sec. 31 T. 4 N, R. 31 E, B.M.~~

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON

State Reclamation Engineer

Published in the Rigby Star, Rigby, Idaho on January 23 and January 30, 1969.

Subscribed in my presence and sworn to before me this 13th

day of January, 1969.
(SEAL)

Notary Public for the State of Idaho,
Residence and P. O. Address, Rigby, Idaho.

My commission expires _____, 19____

Publication Fee: \$ 6.21

bill 211 8-70-69

35-7066

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 3573

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Ross M. Phillips Phone (801) 544-8317
Post Office address 370 So Mountain Rd., Laytonville WA 98037

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 Original place of use will not
be farmed from 1997, and as a result, operator (Roland Walker)
has received owners permission to irrigate another place
of use with Rt 35-7066

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

- | 1. Right Number | Priority | Amount
(cfs/ac-ft) | Nature
of Use | Period of Use |
|-----------------|------------|-----------------------|------------------|---------------|
| 35-7066B | 12-26-1968 | 7.16 | Irrigation | 4-1 to 11-1 |
| | | | | to |
| | | | | to |
| | | | | to |
| | | | | to |
2. Total amount of water being transferred 7.16 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Groundwater tributary to _____
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	16	8N	37E	Fremont	
		NE	SE	16	8N	37E	Fremont	
		NE	SW	16	8N	37E	Fremont	
		NE	NW	16	8N	37E	Fremont	

5. Lands irrigated or place of use:

[illegible]

Total acres 528

PART 1

6. General Information:

a. Description of diversion system

4 Wells at the center of four (4) plots
 Wells were drilled several years ago. Applications 31-7430,
 31-7431, 31-7432 and 31-7433 Filed on the same place of use.

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 not be impacted from 1988 to 1997

d. Remarks:

It is to be transferred for 8 years to this new place
 of use and applicant has the option of transferring it back
 to old place of use if he so desires.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 35-7066

APPROVED

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

1. Irrigation authorized by this transfer shall cease on August 11, 1989 and the

water right will revert to the lands identified on license 35-7066. 2. Use of water

under this transfer shall be in compliance with the Memorandum Agreement signed

7/28/89, to the extent the terms of the agreement are within the jurisdiction of

the Department of Water Resources.

Witness my hand this

3rd

day of

August

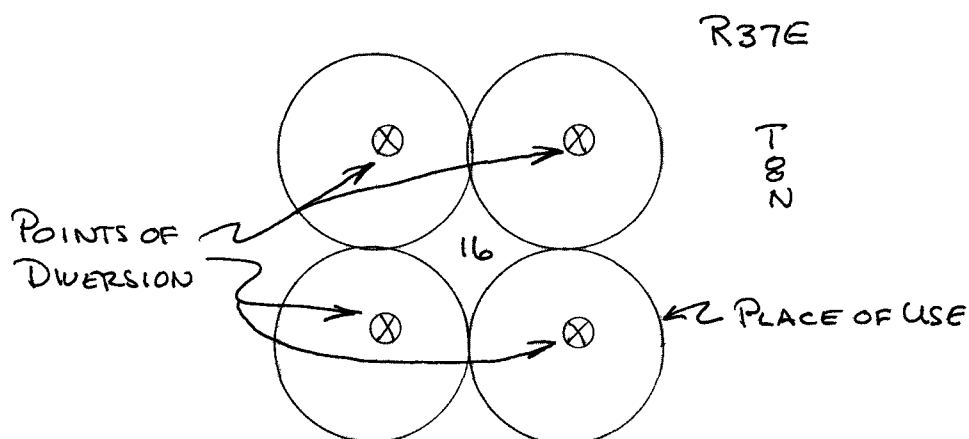
1989

Chief, Water Alloc. Bureau

J. Allen Sawyer

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

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



PART 3

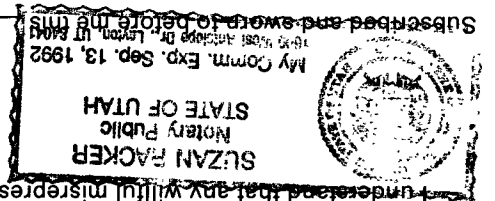
B. CHANGES IN NATURE OF USE

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

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.



(Signature of Applicant)

day of

1989

(Notary Public)

My commission expires

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and attachments

Received by Date Protest filed by

Fee 50.00

Date

4-17-89

EOO 6874

Received by Date Copies of protest forwarded by

Published in Date Hearing held by

Watermaster recommendation requested on Recommended for approval denial

rec'd. by

Copy of transfer sent to lien holder

MEMORANDUM

Date: April 30, 1994
From: Jim Johnson
To: FILE
Subject: APPLICATION FOR TRANSFER NO. 4281

=====

Blaine Larsen filed the above referenced transfer application which included this right along with several other water rights. The transfer application was denied on April 7, 1994. See file 35-02210 for a more information concerning this transfer.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

December 4, 1989

Kent W. Foster
HOLDEN, KIDWELL, HAHN & CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

RE: APPLICATION FOR TRANSFER NO. 35-7066 - ROSS PHILLIPS

Dear Kent:

I first drafted this letter in August 1989 as a follow up to our telephone conversation on August 3, 1989. If you recall, the department approved the above referenced application with conditions of approval which allowed use of this right on the transferred place of use through August 11, 1989. The right then reverted back to the original land. Enclosed for your information is a copy of the transfer.

As we discussed over the phone, the department did not plan to conduct a hearing on the protested application for transfer, since an agreement had been reached between the applicant and the protestant. For this reason, I advised you that the department would treat your petition for intervention as a request to withhold action on similar applications for transfer in the Mud Lake area until the U.S.G.S. has completed a groundwater study authorized during the last session of the Idaho Legislature.

Enclosed is a copy of an order issuing a moratorium against new irrigation development in the study area. The reason this letter is so late in coming is that I have been waiting for the order to be issued.

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

Sincerely,

A handwritten signature in black ink, reading 'L. Glen Saxton'.

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 2

c: E. Region

RECEIVED

JUL 26 1989

Department of Water Resources
Eastern District Office

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

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF	)	
	)	
APPLICATION FOR TRANSFER	)	PETITION FOR LEAVE
NO. 35-7066 IN THE NAME OF	)	TO INTERVENE
ROSS PHILLIPS	)	
	)	
	)	

The petition of 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., for leave to intervene in the above entitled matter, respectfully represents the following:

1. Petitioners are the holders of numerous water rights to the use of the waters of Mud Lake and its tributaries, including groundwater tributary sources, as well as non-tributary groundwater rights, nearly all of which are senior in priority to Right No. 35-7066, herein sought to be transferred.

2. Petitioners filed a protest to said Application for Transfer, but have been advised that their protest reached the Idaho Department of Water Resources one day after the deadline for filing protests.

3. Petitioners protested a number of similar applications filed in 1988 and 1989 by Blaine Larson, Larson Farms, and others. Such protests were instrumental in assisting to precipitate the initiation of a groundwater study by the United States Geological Survey which has commenced and which is expected to be completed in 1991 or 1992.

4. Petitioners believe the increased pumping from the aquifer within the Mud Lake Study area (which includes the proposed new point of diversion for the above numbered right) has lowered and continues to lower the groundwater levels at the locations of their wells and depletes the surface flows into Mud Lake.

WHEREFORE, your Petitioners pray that upon examination into this matter as required by law, the Director of the Department of Water Resources enter his Order:

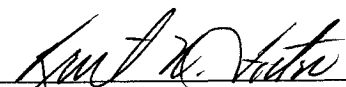
(1) Allowing Petitioners to intervene herein.

(2) Denying the Application for Transfer

No. 35-7066.

(3) Declaring a moratorium on transfers of points of diversion for water rights from outside the Mud Lake Study area to any location within said study area pending the completion of the above referenced study.

RESPECTFULLY submitted this 25 day of July, 1989.


Kent W. Foster of Holden,
Kidwell, Hahn & Crapo, Attorneys
for Owsley Canal Company, Jackett
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.

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 25 day of July, 1989.

Document Served: PETITION FOR LEAVE TO INTERVENE

Attorneys Served:

Barbara Scott-Brier, Esq. (MAIL)
U.S. Department of the Interior
Office of the Regional Solicitor
500 N.E. Multnomah Street
Suite 607
Portland, Oregon 97232

Bart M. Davis, Esq. (MAIL)
WEINPEL, WOOLF, JUST, COMBO
& DAVIS
Box 50190
Idaho Falls, Idaho 83405



Kent W. Foster
HOLDEN, KIDWELL, HAHN & CRAPO

5054.00
1710h/srr



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

August 3, 1989

RE: Transfer of Water Right No. 35-7066

Ross M. Phillips
370 S. Mountain Rd.
Kaysville, UT 84037

Dear Mr. Phillips:

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 3573). Be sure to note any conditions of approval as listed on the second page.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

cc: Bart Davis
Barbara Scott-Brier

MEMORANDUM

To: Gary Spackman
From: L. Glen Saxton
RE: APPROVAL OF APP. FOR TRANS. 3573
Date: August 3, 1989

The above referenced transfer can be approved with special conditions since the applicant and protestant (F and W service) have both signed a memorandum of agreement. Skip is sending the original transfer file which I would like approved as soon as possible before August 11, 1989.

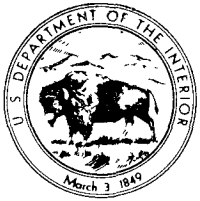
The agreement describes a qualified withdrawal of protest which allow the department to approve the transfer. One of the conditions of approval should read something like the following:

"Irrigation authorized by this transfer shall cease on August 11, 1989 and the water right will revert to the lands identified on license 35-7066."

optional "Use of water under this transfer shall be in compliance with the Memorandum of Agreement signed July 28, 1989, to the extent the terms of the agreement are within the jurisdiction of the Department of Water Resources".

Kent Foster has filed a petition to intervention in this matter which also needs to be addressed. From a discussion with Kent on Aug 3, 1989, he has no objection to our qualified approval of the application.

We need to respond to Kent's petition to intervene, however, perhaps by saying we have rec'd it, but that we do not plan to schedule and hold a hearing on it for thus and so reason, but that the department will withhold action on future similar applications for transfer in the Larsen study area until the study is complete and the results are known.



United States Department of the Interior

OFFICE OF THE SOLICITOR

Pacific Northwest Region
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232

JUL 31 1989

FWS.PN.0781

Mr. R. Keith Higginson
Director, Idaho Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83720

Re: Protest of Application of Ross M. Phillips to Transfer
Water Right License No. 35-7066 to Lands of Roland Walker

Dear Mr. Higginson:

Protestant United States Fish and Wildlife Service and Applicant Roland Walker, the parties of interest to the above-referenced proceeding, have reached agreement regarding the proposed transfer. Enclosed is a copy of the signed Memorandum of Agreement (Exhibit 1.) Also enclosed is a Stipulation and Joint Motion of the parties. Pursuant to that Stipulation and Joint Motion, we request the Department of Water Resources to affirm that Agreement and implement the pertinent provisions.

Although the Service is concerned with the effect of even a temporary transfer of the subject water right, we have agreed to a short-term transfer in order to save Applicant's 1989 crops in exchange for a moratorium on such transfers through approximately December 31, 1991. The Service does not wish to have any of the terms of the settlement agreement to be construed in any manner as an admission against its interest. Moreover, in the future the Service will continue to strenuously resist further depletions of its water supply resources.

Sincerely,

For the Regional Solicitor

Barbara Scott-Brier
Attorney for United States
Fish and Wildlife Service

Enclosure

RECEIVED
AUG 01 1989

Department of Water Resources

cc:

IDWR, 150 Shoup Ave., Suite 15, Idaho Falls, Id 83402

Bart Davis, Esq.

Robert K. Oser, FWS

Chuck Peck, FWS

Jack Richardson, FWS

Sandy Wilbur, FWS

BART M. DAVIS, ESQ.
of the law Firm of
WEINPEL, WOOLF, JUST, COMBO & DAVIS
408 Shoup Ave.
P.O. Box 50190
Idaho Falls , Idaho 83405
(208) 524-5430

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF THE PROTEST	)	
AGAINST GRANTING OF APPLICATION	)	STIPULATION AND JOINT
FOR TRANSFER OF WATER RIGHT	)	MOTION FOR AN ORDER
LICENSE NO. 35-7066 TO LANDS	)	AFFIRMING AND IMPLE-
OF ROLAND WALKER,	)	MENTING THE MEMORANDUM
	)	OF AGREEMENT
	)	

Applicant, ROLAND WALKER, (Applicant) and
Protestant, United States Fish and Wildlife Service,
(Protestant), through their respective counsel of record
hereby stipulate, agree and move as follows:

1. The Applicant and the Protestant hereby
stipulate and agree that they have entered into a Memorandum
of Agreement (Agreement) and that they will be bound by the
terms of that Agreement. A copy of that Agreement is
attached hereto as Exhibit No. 1 and is incorporated by this

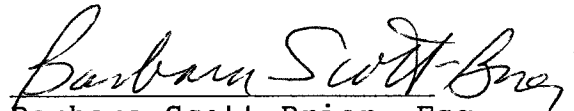
RECEIVED
AUG 01 1989
Department of Water Resources

reference.

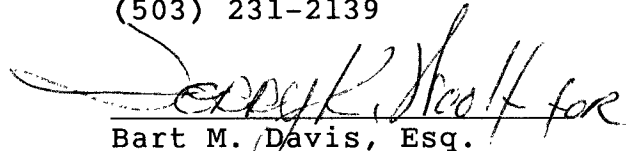
2. Applicant and Protestant hereby move the Department of Water Resources to issue an Order affirming the Memorandum of Agreement and implementing the pertinent provisions of that Agreement.

Respectfully submitted,

Dated: 7/28/89



Barbara Scott-Brier, Esq.
Attorney for the United
States Fish and Wildlife
Services
Office of the Regional
Solicitor
500 N.E. Multnomah,
Suite 607
Portland, Oregon 97232
(503) 231-2139



Bart M. Davis, Esq.
Attorney for Walker Produce
P.O. Box 50190
Idaho Falls, Idaho 83405
(208) 524-5380

RECEIVED
AUG 01 1989

Department of Water Resources

MEMORANDUM OF AGREEMENT

Protestant United States Fish and Wildlife Service (Protestant) and Applicant Roland Walker (Applicant), the Parties to this Memorandum of Agreement (Agreement), hereby stipulate and agree as follows:

PREAMBLE

1. The Applicant is seeking the transfer of the water right evidenced by License No. 35-7066 to certain lands (the Weaver Property) of Applicant identified in Exhibit A, attached hereto. The Protestant is concerned about the effect of the transfer of that water right on the water resources of the Camas National Wildlife Refuge (Refuge). Consequently, the Protestant has filed a protest with the Idaho Department of Water Resources protesting the proposed transfer.

2. Although the Applicant is currently using groundwater for the irrigation of the Weaver Property, the Applicant has not received approval for such use.

3. Since the Applicant has planted the Weaver Property to grain, and without water that crop may fail, the Protestant and Applicant agree that Protestant will not object to the applying of groundwater to the Weaver Property in 1989 in accord with the following Provisions.

PROVISIONS

4. The Protestant will seek to stay for a period of time not to exceed August 11, 1989 its protest of Applicant's use of groundwater on the Weaver Property so that Applicant may complete his 1989 irrigation of said grain crop on that Property. The Protestant will not object to a temporary grant of a transfer of License No. 35-7066 to the Weaver Property until August 11, 1989. In exchange for this agreement, the Applicant has agreed to eliminate pumping from twenty-three (23) wells in the area identified in Exhibits A and B, attached hereto, from July 20 through July 23, 1989, and agrees for the remainder of the irrigation season to conserve water wherever possible, and to use no more than fifty-one (51) wells at any one time from July 26, 1989, through the remainder of the 1989 irrigation season. Further, the Applicant shall identify to the Protestant those four or more wells which will not be in operation.

EXHIBIT 1

5. For the duration of the study of the Mud Lake area, entitled "Effects of Water Use on Recharge/Discharge Relations in the Mud Lake Area, Southeastern Idaho," which is being conducted by the United States Geological Survey and will be completed approximately December 31, 1991, the Applicant will not seek a transfer of License No. 35-7066 to any land North or East of said Refuge. Until the study is completed, the Applicant may apply for a temporary transfer of valid water rights from those presently owned by Applicant, as described in Exhibit B, to the Weaver Property. The Applicant may also apply for transfer to the Weaver Property of valid water rights which may be acquired during this study so long as these rights exist in the same aquifer and are North or East of said Refuge. Any applications made prior to December 31, 1991, for temporary transfers of water rights to any of Applicant's lands North or East of the Refuge shall be for a period of time not to exceed December 31, 1991.

The Protestant retains the right to protest any of the transfers mentioned above; however, the Parties agree to negotiate in good faith to avoid either the filing or enforcement of said protest in an attempt to allow the transfer.

6. The Applicant will not apply water to his lands without a valid water right.

7. This Agreement does not constitute a waiver of any rights of the Protestant or an admission against the interest of the Protestant. The Protestant explicitly reserves the right to protest the transfer of License No. 35-7066 after August 11, 1989, or any other application of Applicant.

8. This Agreement is not severable.

9. The parties hereby assure that no member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this Agreement, or any agreement, understanding, grant, or contract developed pursuant to this Agreement or to any benefit that may arise from them. This clause shall not be construed to extend to this Agreement or any agreements, understanding, grants, or contracts pursuant to this Agreement to the extent they are made with a corporation or company for its general benefit.

10. The Applicant will provide verification of all his existing water rights on or before the date this Agreement is signed.

11. This Agreement may be modified or terminated by agreement of both Parties.

JERRY K. WOOLF, ESQ.
of the law Firm of
WEINPEL, WOOLF, JUST, COMBO & DAVIS
408 Shoup Ave.
P.O. Box 50190
Idaho Falls , Idaho 83405
(208) 524-5430

RECEIVED
JUL 24 1989

Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF THE DIVERSION	)	
OF GROUNDWATER WITHOUT A VALID	)	RESPONSE TO ORDER
RIGHT ON LANDS OWNED OR	)	TO SHOW CAUSE
CONTROLLED BY WALKER PRODUCE	)	
OR ROLAND WALKER,	)	
	)	
	)	

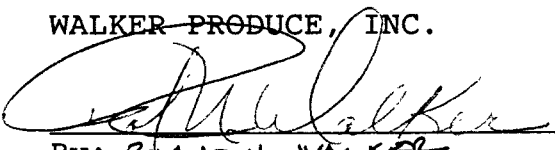
COMES NOW, BART M. DAVIS, attorney for WALKER
PRODUCE and responds to the Order to Show Cause dated July
10, 1989, as follows:

1. In 1987, the previous owner of this
property, ALAN WEAVER, filed a bankruptcy with the United
States Bankruptcy Court. As a result of this Bankruptcy, and
as an effort to provide some financial assistance for Mr
Weaver, certain agreements were entered into and approved by
the Bankruptcy Court whereby Walker Produce, herein after
referred to as Walkers, purchased certain interests in the
land which is at issue in this case and designated as the
Weaver property and also entered into a long term lease with
Mr. Weaver.

12. This Agreement shall become effective upon the date of the last signature hereto.

Dated: 7/27/89

WALKER PRODUCE, INC.

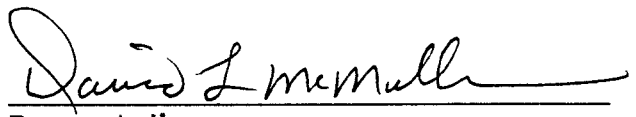

By: RANSOM J. WALKER
Its: SECRETARY.

Dated: 7/28/89

U.S. FISH AND WILDLIFE SERVICE,
REGION I


By:
Its: Attorney

Dated: 7/28/89


By: Acting
Its: Regional Director

2. At the time these transactions were entered into, wells existed on the Weaver property, which had been placed there prior to any interest being obtained by the Walkers and irrigation of the property was being conducted by means of these wells through certain sprinkler irrigations systems.

3. During the year of 1987, the crops had been planted on the Weaver property prior to any interest being obtained by the Walkers, and said crop was irrigated and harvested by the Walkers in the year of 1987.

4. In the year 1988, for purpose of irrigating the Weaver property, the Walkers applied for a transfer for license #35-7066 to the Weaver property. Although, it was later determined, that a protest had been filed by the Department of Interior against this transfer, said protest was withdrawn and the transfer was allowed. Said transfer indicated, an expiration date of late 1988. Following the harvest for that year, and, it was the Walker's opinion, that the transfer, since being allowed in 1988, would be allowed in 1989.

5. Based upon this assumption, the Walker's planted a wheat crop, prior to the expiration of the permit, which was granted for the 1988 irrigation season. Since the protest had been withdrawn the year before and no explanation had been provided to Walkers as to the reason for the

withdrawal of the protest, they reasonably relied upon the issuance of the permit for the previous year in planning said crop.

6. On April 17, 1989, an application to transfer the same license for the irrigation year for 1989, was filed by the Walkers based upon the assumptions stated above. It was not until June 16, 1989, that they were notified that a protest had been filed, nor were they aware of the difficulties which had caused the protest to be filed, as they were not made a part of negotiations between the Department of Interior, Idaho Fish and Game, the Mud Lake Irrigation District, and other participants in the study which is currently being conducted in the area. These meetings were held during the year of 1988, and they were not provided with any notice of this proposed study or other negotiations.

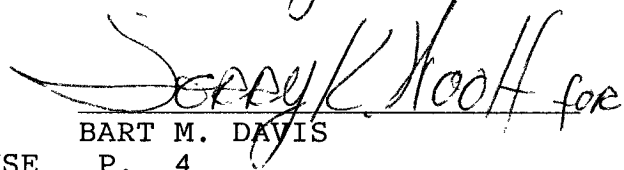
7. Based upon the Walkers justifiable reliance and the fact that their crop was planted prior to the expiration of the prior permit, the Walkers do not feel, that their actions in irrigating the crop during the year 1989 were with malice, or in direct confrontation of the law, but, was based upon a misunderstanding and failure of communication which could have been resolved in the year 1988 had they been advised of the circumstances regarding the geological survey which is being conducted.

8. The information contained in the Order to Show Cause was transmitted to the Department of Water Resources orally, on Tuesday, July 18, 1989, and since that time, extensive negotiations have occurred between the protester, The Department of Interior and the Walkers to resolve this conflict. Based upon these negotiations, a tentative settlement has been arrived at in which the protest will be withdrawn, but cannot be acted upon officially, until either Von Walker or Roland Walker returns from vacation which is anticipated to be in the early part of the week of July 24, 1989. If the proposed agreement is accepted by either Von Walker or Roland Walker, the need for further action on this show cause or the protest will be unnecessary for the year 1989, and future years through 1991.

9. To eliminate the Walker's ability to irrigate the crops on the Weaver property will cause irreparable harm and the crop will be lost, which is not equitable under these facts.

10. Walkers, by this response, allege that they are entitled to a hearing on the Order to Show Cause prior to the issuance of any cease and desist order, and would, by this document, hereby request a hearing to be set where evidenced by way of testimony and exhibits can be presented to protect their rights of equal protection and due process.

DATED this 21 day of July, 1989.


BART M. DAVIS
P. 4

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a licensed attorney in Idaho, with my office in Idaho Falls, and that on the 21 day of July, 1989, I served a true and correct copy of the following-described document on the parties listed below, by mailing, with the correct postage thereon, or by causing the same to be hand delivered.

DOCUMENT SERVED:

RESPONSE TO ORDER
TO SHOW CAUSE

PARTIES SERVED:

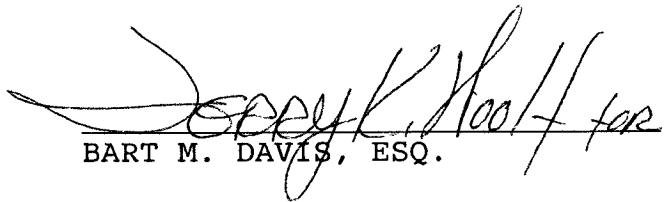
KENT W. FOSTER, ESQ.
P.O. Box 50130
Idaho Falls, Idaho 83405

BARBARA SCOTT-BRIER, ESQ.
Attorney for United States
Fish & Wildlife Services
Pacific Northwest Region
500 N.E. Multnomah, Suite 607
Portland, Oregon 97232

Department of Water Resources
State Office Building
150 Shoup Ave.
Idaho Falls, Idaho 83402

() Hand Delivery

(☒) Mailing


BART M. DAVIS, ESQ.

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
R. VERN KIDWELL, OF COUNSEL

WILLIAM S. HOLDEN
FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHENE E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEELER
MARIE T. FEELEY

June 19, 1989

JUN 20 1989

Department of Water Resources
Eastern District Office

Idaho Department of Water Resources
150 Shoup Avenue
Idaho Falls, Idaho 83402

Gentlemen:

We have been requested by 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 Waterusers of Mud Lake, Inc., to file this Notice of Protest to the proposed change of Water Right No. 35-7066B.

This protest is filed on the grounds that the proposed transfer of said right will injure the water rights of the canal companies listed herein, and that said change is contrary to the local public interest.

Very truly yours,



Kent W. Foster

KWF:ct
1608e (47)
#5054.00

cc: Mr. Don Shenton
Mr. Russ Osborne
Mr. Louis Green
Mr. Carl Hoggan
Mr. Pat Hendren
Mr. Mike Overton
Mr. Dale Cope
Mr. Andy Dobson
Barbars Scott-Brier, Esq.
Steve Goddard, Esq.

July 6, 1989

RE: Application for Transfer No. 35-7066

Mr. Ross M. Phillips
370 So. Mountain Road
Kaysville, UT 84037

Dear Applicant:

Enclosed please find a copy of a protest filed against the above referenced application. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed use under this transfer conflict with the local public interest?

The applicant must be prepared to present evidence and/or testimony addressing each of the three items should an additional hearing be necessary. You will be notified at a later date as to the time and place set for conference and/or hearing. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

July 6, 1989

RE: Application for Transfer No. 35-7066 ROSS PHILLIPS

Ms. Barbara Scott-Brier
Attorney for the United States
Department of the Interior,
Fish & Wildlife Service
Pacific Northwest Region
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232

Dear Ms. Scott-Brier:

This is to acknowledge receipt of your protest filed against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfers?
2. Does the change constitute an enlargement in the use of the original rights?
3. Will the proposed use under these transfers conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

July 6, 1989

RE: Application for Transfer No. 35-7066 PHILLIPS

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

Dear Mr. Foster:

On June 20, 1989, the Department received your letter, 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 Waterusers of Mud Lake, Inc., in reference to the above captioned application. Your letter will be placed in the file; however, you cannot be recognized as a protestant because the letter arrived in our office after the protest period had expired.

If you wish to be a party of record and have an opportunity to testify at the hearing you must petition for leave to intervene in the pleadings. The procedure for filing such a petitions is described on the enclosed copy of Rule 6 from the Department's Rules and Regulations for Practice and Procedure.

Though intervention can be requested any time up to five (5) days prior to the date set for hearing, your petition should be submitted to this office as soon as possible.

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

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

Enclosure

cc: IDWR - State Office

12-Jun-1989

Ross M. Phillips
370 S. Mountain Rd.
Kaysville, UT 84037

RE: Application for Permit No. 35-7066

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Jefferson Star. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our state office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 35-7066B

Notice is hereby given that Ross M. Phillips, Kaysville, UT, has applied to the Department of Water Resources for a change in the Points of Diversion and Place of Use of a groundwater source. The right sought to be changed is evidenced by License No. 35-7066 and is recorded as follows:

AMOUNT: 8.30 cfs PRIORITY: December 26, 1968

POINT OF DIVERSION: NENE S36 T4N R35E Jefferson County

The water is used to irrigate 612 acres from April 1 to October 31: 318 acres within the N1/2 S36 T4N R35E; 142 acres within the SW1/4 SEC30, 152 acres within the NW1/4 SEC31 T4N R36E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 7.16 cfs of water will be diverted within the NENE NESE NESW NENW SEC16 T8N R37E, B.M. Fremont County, and used to irrigate 528 acres within SEC16 T8N R37E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID 83402, on or before June 19, 1989.

R. Keith Higginson

Director

Published in the JEFFERSON STAR June 1 and 8, 1989.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 35-7066B

Notice is hereby given that Ross M. Phillips, Kaysville, UT, has applied to the Department of Water Resources for a change in the Points of Diversion and Place of Use of a groundwater source. The right sought to be changed is evidenced by License No.

35-7066 and is recorded as follows:

AMOUNT: 8.30 cfs PRIORITY: December 26, 1968

POINT OF DIVERSION: NENE S36 T4N R35E Jefferson County

The water is used to irrigate 612 acres from April 1 to October 31: 318 acres within the N1/2 S36 T4N R35E; 142 acres within the SW1/4 SEC30, 152 acres within the NW1/4 SEC31 T4N R36E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 7.16 cfs of water will be diverted within the NENE NESE NESW NENW SEC16 T8N R37E, B.M. Fremont County, and used to irrigate 528 acres within SEC16 T8N R37E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID 83402, on or before June 19, 1989.

R. Keith Higginson

Director

Published in the JEFFERSON STAR June 1 and 8, 1989.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 35-7066B

Notice is hereby given that Ross M. Phillips, Kaysville, UT, has applied to the Department of Water Resources for a change in the Points of Diversion and Place of Use of a groundwater source. The right sought to be changed is evidenced by License No.

35-7066 and is recorded as follows:

AMOUNT: 8.30 cfs PRIORITY: December 26, 1968

POINT OF DIVERSION: NENE S36 T4N R35E Jefferson County

The water is used to irrigate 612 acres from April 1 to October 31: 318 acres within the N1/2 S36 T4N R35E; 142 acres within the SW1/4 SEC30, 152 acres within the NW1/4 SEC31 T4N R36E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 7.16 cfs of water will be diverted within the NENE NESE NESW NENW SEC16 T8N R37E, B.M. Fremont County, and used to irrigate 528 acres within SEC16 T8N R37E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID 83402, on or before June 19, 1989.

R. Keith Higginson

Director

Published in the JEFFERSON STAR June 1 and 8, 1989.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 35-7066B

Notice is hereby given that Ross M. Phillips, Kaysville, UT, has applied to the Department of Water Resources for a change in the Points of Diversion and Place of Use of a groundwater source. The right sought to be changed is evidenced by License No. 35-7066 and is recorded as follows:

AMOUNT: 8.30 cfs PRIORITY: December 26, 1968

POINT OF DIVERSION: NENE S36 T4N R35E Jefferson County

The water is used to irrigate 612 acres from April 1 to October 31: 318 acres within the N1/2 S36 T4N R35E; 142 acres within the SW1/4 SEC30, 152 acres within the NW1/4 SEC31 T4N R36E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 7.16 cfs of water will be diverted within the NENE NESE NESW NENW SEC16 T8N R37E, B.M. Fremont County, and used to irrigate 528 acres within SEC16 T8N R37E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID 83402, on or before June 19, 1989.

R. Keith Higginson

Director

Published in the HERALD-CHRONICLE June 1 and 8, 1989.

July 11, 1989

Walker Produce
c/o Roland and Blair
P. O. Box 129
Menan, ID 83434

RE: ORDER TO SHOW CAUSE - APPLICATION FOR TRANSFER OF
WATER RIGHT NO. 35-7086B

Gentlemen:

Enclosed is an order requiring you to show cause within five (5) days why the Department of Water Resources (department) should not issue an order directing you to cease the irrigation of the land described in the order to show cause.

The department has researched water right records in this office and has not been able to locate a water right which authorizes you to irrigate the land described in the order. The department, however, appreciates the potential consequences associated with the issuance of a cease and desist order and wants to provide you the opportunity to show cause and to provide any information to the department which authorizes your use of water.

You may show cause either in writing or by calling the department at 327-7870. Since time is of the essence, the department suggests you first call the department if you have information to justify your continued use of water and then to follow up the call with a letter. If the department does not hear from you, a cease and desist order will be issued.

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

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enc.

c: Mr. Ross M. Phillips w/enc.
E. Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF THE DIVERSION OF	)	
GROUNDWATER WITHOUT A VALID RIGHT ON	)	
LANDS OWNED OR CONTROLLED BY WALKER	)	
PRODUCE OR ROLAND WALKER	)	
	)	ORDER TO SHOW CAUSE

The Director of the Department of Water Resources (department), being charged with the duties of protecting vested water rights, enforcing specific statutes of the State of Idaho and the rules promulgated by the department, and being authorized to order the cessation of violations or attempted violations of the provisions of the law relating to all aspects of the appropriation and distribution of water, has investigated certain diversions of water being made by or under the control of Ross M. Phillips or Walker Produce or Roland Walker (applicant). Based upon the Director's investigation and his understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On April 17, 1989, Application For Transfer 3573 was filed with the department by Ross M. Phillips proposing to change the place of use of licensed right 35-7066 to 528 acres in Sec. 16, Twp. 8N, Rge. 37E, BM.
2. On June 16, 1989, a protest against the approval of the application for transfer was filed by the United States Department of the Interior, Fish and Wildlife Service. On July 3, 1989, the protestant notified the department that the land proposed for irrigation under the application was being irrigated on June 16 and 28, 1989.
3. Department discussions with the applicant indicate that the land proposed for irrigation under transfer 3573 is being irrigated even though the application for transfer has not been approved.
4. The Director of the department has not completed processing of the application for transfer and has not authorized diversion and use of water as proposed in the application for transfer.
5. The department is not aware of other rights for the irrigation of the land proposed on the application for transfer.

CONCLUSIONS OF LAW

1. Section 42-351, Idaho Code, provides as follows:

If the director of the department of water resources finds, on the basis of available information, that a person

is diverting water from a natural water source without obtaining a valid right to do so or is applying water not in conformance with the conditions of a valid right, then the director of the department of water resources may issue an order directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or of any existing water right.

2. Section 42-222, Idaho Code, provides that an applicant for a transfer is authorized to make the change in the original right upon approval by the department of the application for transfer.

3. The lands described in Finding of Fact No. 1 are being irrigated in violation of the statutes of the state of Idaho and the rules of the department.

4. The illegal diversion of the public waters of the state of Idaho must be stopped or mitigated to prevent injury to other water rights, to protect the water resources of the state and to assure that the allocation and use of available water supplies takes place in an orderly manner.

5. Section 42-352, Idaho Code, provides that:

Any person who wilfully violates any cease and desist order issued under Chapter 3, Title 42, Idaho Code, after the same has been served upon him shall be subject to a civil penalty not to exceed one hundred dollars (\$100) for each day following service of the cease and desist order in which the illegal diversion or use of water occurs.

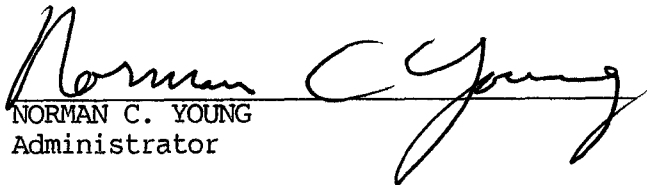
6. Illegal diversion from each well or illegal application of water constitutes a separate, individual diversion and if used without a valid water right constitutes a separate violation of Section 42-231, Idaho Code.

ORDER

IT IS HEREBY ORDERED, that the applicant SHOW CAUSE within five (5) days of the service of this order why the department should not issue a cease and desist order directing the applicant to immediately cease the diversion of groundwater from all points for which withdrawal of water is not authorized.

IT IS FURTHER ORDERED, that the applicant SHOW CAUSE why he should not cease and desist the irrigation of all lands for which the right to irrigate does not exist until such approval is received from the Director to appropriate or otherwise use water for the irrigation of these lands.

Dated this 10TH day of July, 1989.


NORMAN C. YOUNG
Administrator

CERTIFICATE OF SERVICE

I hereby certify that on 17-day of July, 1989, a true and correct copy of the foregoing ORDER TO SHOW CAUSE was mailed, certified mail, return receipt requested to:

Mr. Ross M. Phillips
370 South Mountain Rd.
Kaysville, UT 84037

Walker Produce
c/o Roland and Blair Walker
P. O. Box 129
Menan, ID 83434



RITA I. FLECK
Secretary/Records Manager



United States Department of the Interior

OFFICE OF THE SOLICITOR

Pacific Northwest Region
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232

RECEIVED
JUL 03 1989

Department of Water Resources

JUN 30 1989

NDM

FWS.PN.0781

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

Re: Protest of Application of Ross M. Phillips for
Transfer of Idaho Water Right No. 35-7066B

Dear Mr. Higginson:

This letter is to complain of an apparent illegal diversion and to request immediate action by your office to bring such action into compliance with applicable law and existing water rights.

As you are aware, on approximately April 17, 1989, the Department of Water Resources received an Application for Transfer of Water Right from Ross M. Phillips, for a change in the Points of Diversion and Place of Use of 7.16 c.f.s. of the water right evidenced by License No. 35-7066. (Hereinafter, the "Application.") In essence, the Application was for an eight-year transfer of that water right for diversion of groundwater and use on certain lands, identified on the Application, belonging to Roland Walker. (Hereinafter, the "proposed new place of use.") A Notice of the proposed change in water right was published on approximately May 31 and June 7, 1989. Protests were due to be filed by June 19, 1989. On June 16, 1989, the Department of the Interior, Fish and Wildlife Service, filed a protest of the proposed change because the change would reduce the quantity of water available for existing water rights and was not in the public interest. Subsequently, 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 Waterusers of Mud Lake, Inc., also filed a protest. The hearing on this matter has not yet been held or scheduled.

It has come to our attention that water is already being diverted from the proposed new diversion points and to the proposed new place of use. (See Affidavit of Jack L. Richardson, Ex. 1, attached.) It is our understanding that the proposed new diversions points and new place of use do not have an existing water right. (See Affidavit of Jack L. Richardson and the Application.) (If, in fact, the proposed new place of use already had a water right there would be no need for the pending Application.) It appears that the change of diversion points and place of use requested in the Application has already been initiated. Clearly, changes in water rights are not to occur prior to approval by the Department of Water Resources.

Idaho Code § 42-108 (Change in point of diversion, place of use, period of use, or nature of use - Application of act) provides that:

Any person desiring to make such change of point of diversion, place of use, period of use, or nature of use of water shall make application for change with the department of water resources under the provisions of section 42-222, Idaho Code after the effective date of this act, no person shall be authorized to change the period of use or nature of use, point of diversion or place of use of water unless he has first applied for and received approval of the department of water resources under the provisions of section 42-222, Idaho Code. [Emphasis added.]

Idaho Code § 42-222 (Change in point of diversion, place of use, period of use, or nature of use of water under established rights - Forfeiture and extension - Appeals) provides that:

Any person, entitled to the use of the water ... who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of the change. [Emphasis added.]

That provision further provides that after filing of a protest and consideration of all the evidence and available information, if the director of water resources determines to approve the change in whole or part, "provided that 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 public interest," then "[a] copy of the approved application for change shall be returned to the applicant and he shall be authorized upon receipt thereof to make the change...." [Emphasis added.]

As the Department of Water Resources is well aware, the change in diversion points and place of use proposed in the Application has not been approved by the Department of Water Resources. If there is no water right for the diversion and use of water on the proposed new place of use, that is an illegal diversion and use of water. Moreover, in the event of an illegal diversion, the Director of the Department of Water Resources is authorized to issue an order directing those involved in such activity to cease and desist. Idaho Code § 42-351 (Illegal diversion or use of water - Injunctive relief - Cease and desist orders) provides that:

If the director of the department of water resources finds, on the basis of available information, that a person is diverting water from a natural watercourse or from a ground water source without having obtained a valid water right to do so or is applying water not in conformance with the conditions of a valid water right, then the director of the department of water resources may file an action seeking injunctive release or may issue an order directing the person to cease or desist the activity or activities alleged to be in violation of applicable law or any existing water right.

If we are correct that water is being diverted from ground water sources without a valid water right to do so and water is being applied not in conformance with a valid water right, the United States Department of the Interior, Fish and Wildlife Service, hereby respectfully requests the Director of the Department of Water Resources to issue an order directing those persons diverting water to the proposed new place of use, i.e. those lands of Roland Walker identified on the Application for Transfer of License No. 35-7066B, to cease and desist in those activities. We respectfully submit that to allow unauthorized water uses to continue, once known, would be to condone, and perhaps even to encourage, such activities. Further, we contend, although not the issue here, such water diversion and use will injure existing water rights and is not in the public interest. Certainly, in light of the serious

question whether the uses pursuant to the Application should be approved, those uses should not be allowed prior to the hearing on this matter.

Thank you for your immediate attention to this important matter.

Sincerely,



Barbara Scott-Brier
Attorney for the
United States Department of
the Interior
Fish and Wildlife Service
Pacific Northwest Region

cc:

Robert Oser, FWS, Region 1
Sandy Wilbur, FWS, Region 1
Jack Richardson, FWS, Camas NWR
Kent W. Foster
Stephen V. Goddard
Jeffrey C. Fereday
Jerry Hughes

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above was mailed this date to:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ross M. Phillips
370 South Mountain Road
Kaysville, Utah 84037

DATED:



Barbara Scott-Brier
Attorney for the
United States Department of
the Interior
Fish and Wildlife Service
Pacific Northwest Region

Affidavit re: proposed change to water right No. 35-7066B

1. My name is Jack L. Richardson. I am employed by the U. S. Fish and Wildlife Service as the Refuge Manager at the Camas National Wildlife Refuge near Hamer, Idaho.
2. At 1:20 pm on June 16, 1989, I visited Section 16, Township 8 North, Range 37 East, Boise Meridian. At that time, the four circles of farm land within the section were planted to grain which was eight to ten inches in height. All four water systems were running to irrigate the grain. I again visited Section 16 at 1:20 pm on June 28, 1989. The grain has grown and is very lush except in areas of very shallow soils. All four water systems were again running.
3. Since there is a proposal filed to change water right no. 35-7066B for use on Section 16 at the present time, I assume there is no existing water right permit for those lands.
4. Since the water table at Camas National Wildlife Refuge is dropping at an alarming rate, I am concerned about any unauthorized use of water in the area which may affect the water resources of the refuge.

Signed Jack L. Richardson Date June 28, 1989

Margaret L. Ward, Steno
June 28, 1989

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check boxes for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

Walter Thorne
c/o Blair & Roland Walter
P.O. Box 129
Merrim, DE 83434

4. Article Number

138448

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Address
X

8. Addressee's Address (ONLY if requested and fee paid)

6. Signature — Agent
X

7. Date of Delivery

7-13-89

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN

TO

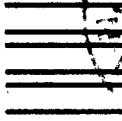


Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES

STATEHOUSE

BOISE, IDAHO 83720



1989
A 6861



PENALTY FOR PRIVATE
USE, \$300



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

August 17, 1988

RE: Transfer of Water Right No. 35-7066B

Ross M. Phillips
370 S. Mountain Rd.
Kaysville, UT 84037

Dear Mr. Phillips:

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 3435). Be sure to note any conditions of approval as listed on the second page.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure



SEP 20 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: Steve McCormick

1. Right number 35-7066 Applicant Ross M Phillips
2. Type of right: ☐ Decree ☒ License ☐ Claim
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☐ All of right.
 - b. ☒ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☒ Check description of point(s) of diversion.
 - d. ☒ Check description of place of use.
 - e. ☒ Check map (shows p.d. and p.u. after transfer).
 - f. ☒ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
 - h. ☒ Check for expansion in use of right. Comments _____
 - i. ☒ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☐ Is use within a Watermaster District? ☐ Yes ☒ No
If yes, what district? _____

FINAL PROCESSING REVIEW BY: _____

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

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* The annual volume shall not exceed
1848 AF. Ross M. Phillips shall retain the
right to transfer water back to original p.u.
4. By RDC Date June 27, 1988

Jan 7-5-88
*All uses within Watermaster Districts require special conditions.

copy to Roberta ✓ lg

Department of Water Resources

MEMORANDUM

TO: FILE

FROM: JIM JOHNSON

RE: CONVERSATION WITH MR. GLEN LEAK

DATE: 7-21-88

In follow-up to the processing of this transfer Mr. Leak of Farm Credit Services called and confirmed that he had been in contact with Ross Phillips and they had reached an agreement on requirements that FCS had on this transfer application.

He wanted the Dept. to go ahead and approve the transfer with the condition that the water right would return to the original land at the end of the 1988 irrigation season.

SEP 20 1988

MEMORANDUM

TO: FILE

FROM: JIM JOHNSON

RE: CONVERSATION WITH DR. PHILLIPS PH. 801 774-7122 OR
544-8517

DATE: 7-18-88

I finally contacted Dr. Phillips and informed him that Mr. Glen Leak of Federal Land Bank would not authorize us to approve the transfer until their terms had been met.

Dr. Phillips agreed to call Mr. Leak and work out the necessary agreements.

Mr. Leak will inform us when the agreements have been reached.

SEP 20 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

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

June 13, 1988

RE: Application for Transfer No. 35-7066B

Ross M. Phillips
370 S. Mountain Road
Kaysville, UT 84037

Dear Mr. Phillips:

This letter is to advise you that Robert Oser, U.S. Fish & Wildlife Service, has withdrawn the protest against the above referenced application. The Department has now resumed processing of this application.

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

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:CW



SEP 20 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

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

June 13, 1988

RE: Application for Transfer No. 35-7066B PHILLIPS

Mr. Robert K. Oser
Program Analyst
U.S. Fish & Wildlife Service
500 N.E. Multnomah Street, Suite 1692
Portland, OR 97232

Dear Mr. Oser:

This letter is to acknowledge receipt of your withdrawal of protest against the above referenced application.

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

Very truly yours,

ERNEST CARLSEN
Water Rights Supervisor

EC:CW

SEP 20 1988



United States Department of the Interior

FISH AND WILDLIFE SERVICE

LLOYD 500 BUILDING, SUITE 1692
500 N E MULTNOMAH STREET
PORTLAND, OREGON 97232

June 7, 1988

Mr. Ernest Carlsen
Idaho Department of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, Idaho 83402

Dear Mr. Carlsen:

Subject: Application for Transfer No. 35-7066B (Phillips)

This is to advise you that the U.S. Fish and Wildlife Service hereby withdraws its protest against the above referenced application for water right transfer.

Sincerely,

Robert K. Oser
Program Analyst

SEP 20 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region

CECIL D. ANDRUS
Governor

June 2, 1988

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

R. KEITH HIGGINSON
Director

RE: Application for Transfer No. 35-7006B PHILLIPS

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

Dear Mr. Oser:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed use under this transfer conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If we may be of further assistance, please contact us.

Respectfully submitted,

ERNEST CARLSEN
Water Rights Supervisor

EC:CW

cc: IDWR - State Office

RECEIVED
JUN 21 1988
ST-26137



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region

CECIL D. ANDRUS
Governor

May 2, 1988

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

R. KEITH HIGGINSON
Director

RE: Application for Transfer No. 35-7066B

Mr. Ross M. Phillips
370 So. Mountain Road
Kaysville, UT 84037

Dear Mr. Phillips:

Enclosed please find a copy of the protest filed against the above referenced application. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed use under this transfer conflict with the local public interest?

The applicant must be prepared to present evidence and/or testimony addressing each of the three items should an additional hearing be necessary. You will be notified at a later date as to the time and place set for conference and/or hearing. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If we may be of further assistance, please contact us.

Respectfully submitted,

ERNEST CARLSEN
Water Rights Supervisor

EC:CW

cc: IDWR - State Office

SEP 20 1988



Farm Credit Services
Idaho Falls

1020 Land Bank Street
P.O. Box 30
Idaho Falls, Idaho 83405
208/523-1785
1-800-227-8078

May 6, 1988

Mr. and Mrs. Ross M. Phillips
370 S. Mountain Road
Kaysville, Utah 84037

RE: License # 35-7066B Ross Phillips

Dear Mr. and Mrs. Phillips:

We have been approached by Roland Walker to approve the temporary transfer of the place of use for Water License Number 35-7066B. After reviewing this request we find that approval can be granted conditional upon the satisfaction of the following requirements:

- (1). Agreement for temporary transfer of water to be approved by FLB and signed by all parties involved. Said Agreement to specify or state that the transfer is for one year only.
- (2). Signed State Department of Water Resource forms transferring the water right back to the original place of use to be approved by State Department of Water Resources and held in Federal Loan Bank loan file.
- (3). Evidence of participation in the CRP program.
- (4). Farm Credit Services processing fee of \$250 to be paid to Farm Credit Services-Idaho Falls.

Please contact me if you have any questions.

Sincerely,

Glen D. Leak
Manager

cc Department of Water Resources-Idaho Falls

SEP 20 1988

RECEIVED

MAY 9 1988

Department of Water Resources
Eastern District Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

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

April 28, 1988

Ross M. Phillips
370 So. Mountain Rd.
Kaysville, Utah 84037

RE: Transfer Application No. 35-7066B

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your transfer application. Please refer to the application number above in all further correspondence.

This office is currently in the process of advertising the application in the Jefferson Star and Fremont County Chronicle News. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our state office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Ernest Carlsen
Water Rights Supervisor

EC/dg

SEP 20 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

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

April 27, 1988

The Jefferson Star
P.O. Box 37
Rigby, ID 83442

Gentlemen:

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

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

Please send the affidavit of publication and publication billing to this office before May 23, 1988.

Respectfully submitted,

Deena Green
Office Secretary

Enclosure

*aff rec'd
5-13-88*

OK



SEP 20 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

APRIL 27, 1988

Fremont County Chronicle News
P. O. Box 568
St. Anthony, Idaho 83445

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

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

Please send the affidavit of publication and publication billing to this office before MAY 23, 1988.

Yours truly,

Deena Green
Office Secretary

Encl.

MAILED

SEP 20 1988

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
No. 35-7066B**

Notice is hereby given that Ross M. Phillips, Kayaville, Utah, has applied to the Department of Water Resources for a change in the point of diversion and place of use of water from a groundwater source. The right sought to be changed is evidenced by License No. 35-7066 and is recorded as follows:
AMOUNT: 8.30 cfs, PRIORITY: December 26, 1968, POINT OF DIVERSION: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36, T. 4N, R. 35E, B.M., Jefferson County;
The water is used to irrigate 612 acres within the N $\frac{1}{2}$, Sec. 36, T. 4N, R. 35E, SW $\frac{1}{4}$, Sec. 30, NW $\frac{1}{4}$, Sec. 31, T. 4N, R. 36E, B.M.

TO BE CHANGED AS FOLLOWS

Only 7.16 cfs of the water will be diverted within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16, T. 8N, R. 37E, B.M., Fremont County; and used to irrigate 528 acres within Sec. 16, T. 8N, R. 37E, B.M. Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho, 83402, on or before May 23, 1988.

R. KEITH HIGGINSON
Director
Publ. May 5 and 12, 1988HC.

SEP 20 1988

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT NO. 35-7066B**

Notice is hereby given that Ross M. Phillips, Kayaville Utah, has applied to the Department of Water Resources for a change in the point of diversion and place of use of water from a groundwater source. The right sought to be changed is evidenced by License No. 35-7066 and is recorded as follows:
AMOUNT: 8.30 cfs PRIORITY: December 26, 1968
POINT OF DIVERSION: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36, T. 4N, R. 35E, B.M., Jefferson County;
The water is used to irrigate 612 acres within the N $\frac{1}{2}$, Sec. 36, T. 4N, R. 35E, SW $\frac{1}{4}$, Sec. 30, NW $\frac{1}{4}$, Sec. 31, T. 4N, R. 36E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 7.16 cfs of the water will be diverted within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16, T. 8N, R. 37E, B.M., Fremont County; and used to irrigate 528 acres within Sec. 16, T. 8N, R. 37E, B.M. Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402, on or before May 23, 1988.

R. Keith Higginson
Director
Published in The Jefferson Star, May 4 and 11, 1988.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 35-7066B

Notice is hereby given that Ross M. Phillips, Kaysville, Utah, has applied to the Department of Water Resources for a change in the point of diversion and place of use of water from a groundwater source. The right sought to be changed is evidenced by License No. 35-7066 and is recorded as follows:

AMCUNT: 8.30 cfs PRIORITY: December 26, 1968

POINT OF DIVERSION: NE1/4NE1/4, Sec. 36, T. 4N, R. 35E,
B.M., Jefferson County;

The water is used to irrigate 612 acres within the N1/2, Sec. 36, T. 4N, R. 35E, SW1/4, Sec. 30, NW1/4, Sec. 31, T. 4N, R. 36E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 7.16 cfs of the water will be diverted within the NE1/4NE1/4, NE1/4SE1/4, NE1/4SW1/4, NE1/4NW1/4, Sec. 16, T. 8N, R. 37E, B.M., Fremont County; and used to irrigate 528 acres within Sec. 16, T. 8N, R. 37E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho, 83402, on or before May 23, 1988.

R. Keith Higginson

Director

Published May 4 & 11, 1988

IDENT. NO. 35-7066

WATER RIGHT
DATA ENTRY LOG

[illegible]

September 9, 1974

Re: Permit No. 35-7066

Mr. Ross Phillips
379 So. Mtn. Road
Kaysville, Utah 84037

Dear Mr. Phillips

Enclosed is a copy of the water license issued on the above referenced permit.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

Enclosure

MICROFILMED

Days Return To
RESOURCE BOARD
ate House
IDAHO 83720

AUG 1974

VT OF WATER RESOURCES
STATION
1974, IDAHO 83720

- ☐ Moved, left no address
- ☒ No such number
- ☒ Moved, not forwarding
- ☒ Addressee unknown

513

Mr. Ross Phillips
735 East 4650 South
Ogden, UT 84403

OGDEN, UT
AUG 7
PM
1974



Resent to:
370 So. Main Rd
Kayaville, Utah 84037
8-12-74

MICROFILMED

August 5, 1974

Ross M. Phillips
~~735 East 4650 South~~
~~Ogden, Utah 84403~~

Resent to: 370 So. Mtn. Road
Kaysville, UT 84037

Dear Mr. Phillips:

A representative of this Department has made an examination of the works covered by your Permit No. 35-7066 and has found the following:

Quantity of water diverted: 8.30 cfs

Amount of water that can be recognized as beneficially used under Idaho law: 8.30 cfs

The maximum quantity diverted shall not exceed 2,142 acre feet per year.

Beneficial use: For irrigation of 612 acres within the N₁, Sec. 36, Twp. 4N, Rge. 35E, SW₄, Sec. 30; NW₄, Sec. 31; Twp. 4N, Rge. 36E

Point of diversion: NE₄NE₄, Sec. 36, Twp. 4N, Rge. 35E, B.M.

Priority date established: December 26, 1968

If you do not concur with these findings, please advise us within 10 days; otherwise, a license will be issued as set forth in this letter.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

MICROFILMED

DEPARTMENT OF WATER ADMINISTRATION
FIELD REPORT

1. Name of permit holder Ross M. Phillips
Post office address 735 East 4650 South, Ogden, Utah 84403 Phone 522-1974
Person to contact _____ Phone _____

2. Source of water supply: Groundwater ☒ Surface water ☐ _____
(name spring, stream, etc.)
Tributary to _____

3. Water will be used for the following purposes:

Amount 8.90 c.f.s. for irrigation
_____ AF/Annum (nature of use)

Period of Use: from Apr. 1 to Oct. 31
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
_____ AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
_____ AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses: _____

RECEIVED

APR 23 1974

Department of Water Administration
Eastern District Office

Permit No. 35-7066
Examination for b/u

4. Total amount to be appropriated:

Max Rate of Diversion 8.90 cubic feet per second and annual volume _____ AF/Annum.

5. Location of Point(s) of Diversion:

Township 4 N N/S, Range 35 E E/W, B.M., Section 36, Subdivision NE 1/4 NE 1/4, Jefferson County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4, _____ County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4, _____ County

Other Points of Diversions: 37

Description of diverting works: 600 h.p. electric with 150 h.p. booster. 20" well, 550' deep. Water diverted thru a buried steel mainline pipe.

Measuring device required: yes ☒ no ☐

6. Lands to be irrigated or place of use.

TWP.	RANGE	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	
4 N	35 E	36	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
	36 E	30									40	40	40	40					160
	36 E	31					40	40	40	40									160

TOTAL ACREAGE

960

35-7066

[illegible]

Diagram of System

Q u T

40	40	36	39
----	----	----	----

40	40	40
39	39	39
*	*	*

40 98

38 | 28

03

13

40 36

40 | 7E

REG-35 E

Ref-36 E

35-7066

DATE OF EXAM 13 Aug 73

ACREAGE

Found 612
Recommended 612

Irrigation Requirement 3.5 Ac Ft/Ac

USE

Irrigation Q = 8.30 c.f.s. V = 2142.0 AF/Ann. from Apr to Nov
Domestic Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____
Livestock Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____

Is water co-mingled? yes _____ no X

Name source: _____
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Exchange? yes _____ no X

Name source exchanged with: _____
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Point of injection: _____
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Point of exchange: _____
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Total Q measured 8.30 cfs Method of measurement p.t.t.

Total Q recommended 8.30 cfs Meter No. A-203 Type _____ Condition IDWN

Total V recommended 2142.0 AF

Recommended Amendments: Measuring Device Mcrometer 12"
#74 12 455

P.D. _____
Place of Use _____
Other _____
None X

MEASUREMENT CALCULATION:

35 psi. Avg → 28 x 32 = 896 max 4.16 gal = 3727 gal
3727 gal = 8.30
448.8 gal / cfs

612 Ac x 3.5 AF/Ac = 2142.0 AF

SYSTEM DESCRIPTION:

GE 600 Hp Motor Ser# ECT503006 28 1/2 mile laterals
Layne & Bowler Pump Ser# D19742 W/32 NO2/line
Booster 150 Hp Ser# JCT913149 MOTOR
Booster Layne & Bowler Pump Ser# D19741

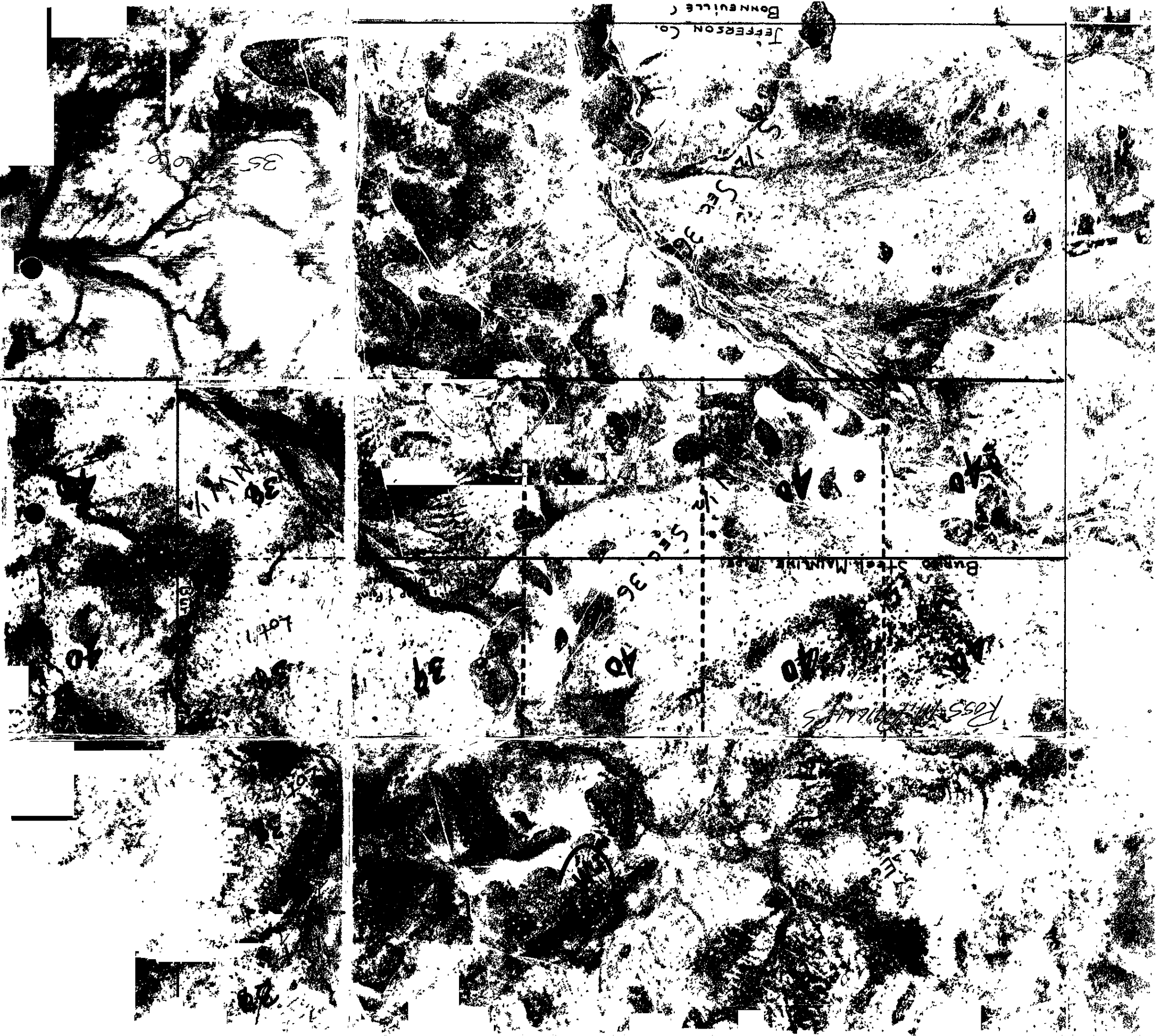
REMARKS:

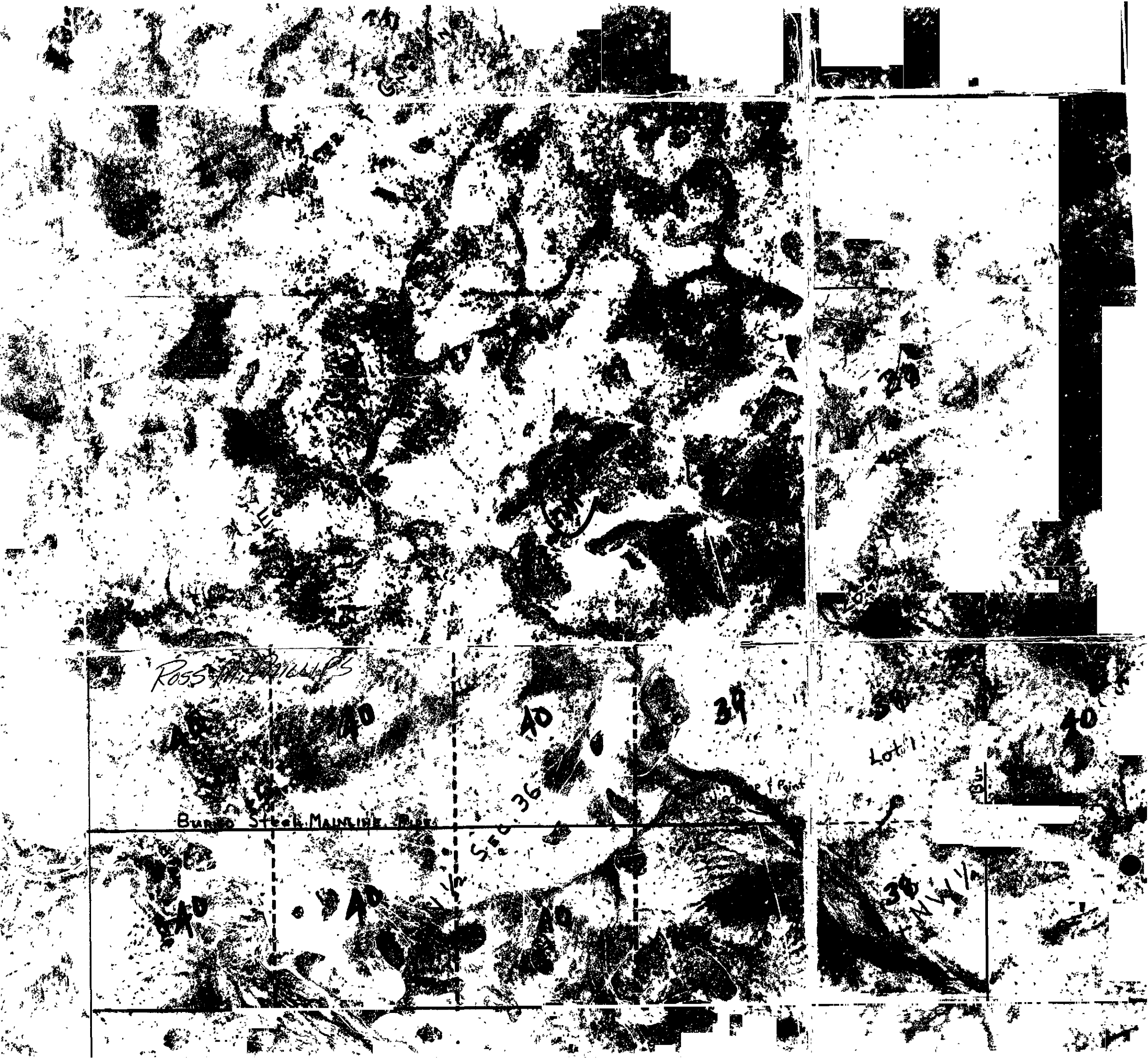
System & Land shown by MR Walker.
Measuring Device Installed, Visual inspection
July 22, 1974 (WRP)

Examiner's Signature William Rhoads Date Sept 25, 1973

Checked by John Gerebauer Date Nov 26, 1973

Approved by _____ Date _____





ROSS ~~WILLIAMS~~

AD AD

AD

39

BURIED STEEL MAINLINE

36

AD

AD

AD

38

40

Lot 1

Bar

38

4 1/2

RECEIVED

INTER-DEPARTMENT MEMO — 1

FROM

Darlene

APR 23 1974

DATE 4/22/74

RECEIVED

JUL 26 1974

TO

Norm

Department of Water Administration
Eastern District Office

SUBJECT

Permit 35-7066 - Ross M. Phillips

Department of Water Resources

Attached herewith is the field exam, rough license draft and copies of correspondence that are self-explanatory.

Since we have not heard from Mr. Phillips, I tried to send out a notice of lapsing, but Keith would not sign it. Am assuming then that we are to once again ~~look~~ look at this project to see if the measuring device has been installed.

This should no doubt be marked "priority". If the measuring device requirement has not been met, please return data and we will proceed to cancel this filing. (I think) Keith's letter of 2/11/74 states that it will automatically lapse!"

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM Bill Rhoads

TO Darlene

SUBJECT Permit No. 35-7066

RECEIVED

JUL 26 1974

Department of Water Resources

DATE July 25, 1974

The measuring device which was required, has been installed and is now ready to be licensed.

WR

SIGNATURE

IMPORTANT MESSAGE

FOR

Bill

DATE

7-15-74

TIME

4:20

A.M.

P.M.

WHILE YOU WERE OUT

FROM

Phil Brown

BUCKLE UP

OF

JUL 26 1974

PHONE NO.

Department of Water Resources

TELEPHONED



PLEASE CALL

CALLED TO SEE YOU



WILL CALL AGAIN



WANTS TO SEE YOU



RUSH



MESSAGE

We indicated the water meter (pump) concerning permit # 35-7066 has been installed for Ross Phillips

SIGNED

UB

INTER-DEPARTMENT MEMO — 1

FROM **Darlene**

TO **Norm**

SUBJECT **Permit 35-7066 - Ross M. Phillips**

DATE **4/22/74**

Attached herewith is the field exam, rough license draft and copies of correspondence that are self-explanatory.

Since we have not heard from Mr. Phillips, I tried to send out a notice of lapsing, but Keith would not sign it. Am assuming then that we are to once again ~~look~~ look at this project to see if the measuring device has been installed.

This should no doubt be marked "priority". If the measuring device requirement has not been met, please return data and we will proceed to cancel this filing. (I think) Keith's letter of 2/11/74 states that it will automatically lapse!

35-7066

SIGNATURE

February 11, 1974

Re: Permit No. 35-7066

Ross M. Phillips, M.D.
370 South Mountain Road
Kaysville, Utah 84037

Dear Mr. Phillips:

We received your February 6, 1974, letter showing cause why your Permit No. 35-7066 should not be lapsed.

We are concerned that the installation of a measuring device take place, prior to the approaching irrigation season. Therefore, a measuring device must be installed on or before April 1, 1974, or the permit will automatically lapse on that date.

If you have any questions regarding this matter, please let us know.

Very truly yours,

R. KEITH HIGGINSON
Director

RKH:BDF/jc

35-7066

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)

(Additional charges required for these services)

☐ Show address
where delivered

☐ Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below

REGISTERED NO.

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

CERTIFIED NO.

INSURED NO.

SIGNATURE OF ADDRESSEE'S AGENT IF ANY

DATE DELIVERED

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

③

1/25/74

35-7066

U.S. POSTAL SERVICE
OFFICIAL BUSINESSPENALTY FOR PRIVATE
USE TO AVOID PENALTY
OF POST \$300

Postmark of Delivering Office

SENDER INSTRUCTIONS

Print in the space below your name, address, including ZIP Code.

- ↓
- If special services are desired, check block(s) on other side.
 - Moisten gummed ends and attach to back of article.

8 1 3
1974RETURN
TO

55-7066

January 23, 1974

CERTIFIED MAIL

#25104

Re: Permit No. 35-7066

Ross M. Phillips
370 S. Mount Rd.
Kaysville, Utah 84037

Dear Mr. Phillips:

On September 25, 1973, this office inspected the water diversion works and place of use described in Permit No. 35-7066. Our examiner found no measuring device of a type approved by the Department installed as part of your diverting works. Such a measuring device is an express condition which must be met prior to approval of a license for your permit.

As you may be aware, your water right cannot be confirmed by the issuance of a license, unless all of the conditions of approval are met. In the event that a license is not issued and the permit lapses, further diversion of the water under the permit would be illegal.

You are, therefore, hereby ordered to show cause, if any there be, before the Director of the Department of Water Administration, 614 State Street, Boise, Idaho, on or before February 23, 1974, as to why Permit No. 35-7066 should not be lapsed for failure to complete the requirements under said permit.

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

Very truly yours,

R. KEITH HIGGINSON
Director

RKH:JC

35-7066

35-7066

370 South Mountain Road
Kaysville, Utah 84037
February 6, 1974

R. Keith Higginson, Director
State of Idaho
Department of Water Administration
614 State Street
Statehouse - Annex 2
Boise, Idaho 83720

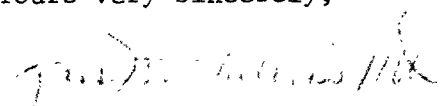
Dear Mr. Higginson:

Pursuant to your letter dated January 23, 1974, and our telephone conversation of the following day, I would like to go on record as to my intention with regard to a water measuring device on my property in Jefferson County, situated south and west of Roberts. The person to whom the property is leased had assured me previously that he would see to this detail so that there would be no delay for a water use permit license.

Because of the fairly remote location and the difficulty in getting work done at this time of the year, I would respectfully request an extension of time beyond the February 23, 1974, date given in your letter. As soon as conditions permit, I will ask the Mel Brown Company, from Idaho Falls, to install this device. I have no intention other than to fulfill the requirements that I may preserve as early a filing date as possible on the use of this water.

If there is any reason why this time extension cannot be given, I would appreciate your notifying me by return mail.

Yours very sincerely,


Ross M. Phillips, M.D.

RMP:jh

5-5-77 D. G. G.

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
Statehouse - Annex 2
Boise, Idaho 83707



R. M. Phillips, M.D.
University Hospital
Salt Lake City, Utah 84112

NAME
ST. NOTICE, DEC 15 1973
ENC. NOTICE
MAY 11 1973

35-70606

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
Statehouse - Annex 2
Boise, Idaho 83707

CERTIFIED MAIL
NO. 25036
RETURN RECEIPT REQUESTED

REASON CANCELED
Returned to sender
Unclaimed
Addressee unknown
No such address
No such state
No such address
No such address

RR

☒ Moved, new address
☒ No such number
☒ Moved, not forwarding
☒ Addressee unknown

OGDEN, UT
PM
3 DEC
1973

Ross M. Phillips
735 East 4650 South
Ogden, Utah 84403
☒ Moved, new address
☒ No such number
☒ Moved, not forwarding
☒ Addressee unknown

Account to address of letter dated April 13, 1973 & changed date from November 29, 1973 to December 5, 1973 & due date from December 29, 1973 to January 5, 1974.

Card removed

for

35-1046

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)

(Additional charges required for these services)

☐ Show address
where delivered

☐ Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below

REGISTERED NO.

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

CERTIFIED NO.

INSURED NO.

25037

U OF U Mex. Center

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

M. Phillips

DATE DELIVERED

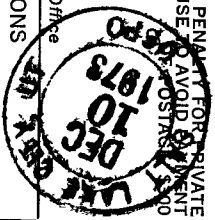
SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

DEC 8 1973

35-7046

**U.S. POSTAL SERVICE
OFFICIAL BUSINESS**

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE \$200



Postmark of Delivering Office

SENDER INSTRUCTIONS

Print in the space below your name, address, including ZIP Code.

- If special services are desired, check block(s) on other side.
- Moisten gummed ends and attach to back of article.



**RETURN
TO**



**DEPARTMENT OF WATER ADMINISTRATION
STATEHOUSE • ANNEX #2
BOISE, IDAHO 83707**

25-7066

November 29, 1973

CERTIFIED MAIL

25036 (Cancelled)
Permit by # 25037

Re: Permit No. 35-7066

Ross M. Phillips
735 East 4650 South
Ogden, Utah 84403

Dear Mr. Phillips:

On September 25, 1973, this office inspected the water diversion works and place of use described in Permit No. 35-7066. Our examiner found no measuring device of a type approved by the Department installed as part of your diverting works. Such a measuring device is an express condition which must be met prior to approval of a license for your permit.

As you may be aware, your water right cannot be confirmed by the issuance of a license, unless all of the conditions of approval are met. In the event that a license is not issued and the permit lapses, further diversion of the water under the permit would be illegal.

You are, therefore, hereby ordered to show cause, if any there be, before the Director of the Department of Water Administration, 614 State Street, Boise, Idaho, on or before December 29, 1973, as to why Permit No. 35-7066 should not be lapsed for failure to complete the requirements under said permit.

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

Very truly yours,

R. KEITH HIGGINSON
Director

RKH:JC

35-7066

UNIVERSITY OF UTAH
MEDICAL CENTER
SALT LAKE CITY, UTAH 84112

UNIVERSITY HOSPITAL

April 10, 1970

Mr. Donald W. McEldowney
Department of Reclamation
107 State House
Boise, Idaho 83701

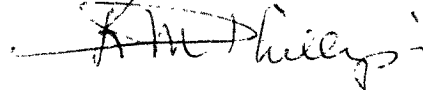
Dear Mr. McEldowney:

I am in receipt of your letter of March 31, 1970 regarding permit 35-7066.

I live in Ogden, Utah but will make an effort to be on hand for the examination of my irrigation facility if arrangements can be made beforehand. As an alternative, if I cannot be present, my father Mr. Edward Phillips of Route 1, Idaho Falls, Idaho would be happy to be present on relatively short notice. His telephone number is 522-8678. Mr. R. L. Walker of Louisville, Idaho, telephone number 754-4580 is farming the property and was instrumental in the development and is the person most knowledgeable about the system could also be contacted.

Thank you very much for your interest.

Yours very sincerely,



R. M. Phillips, M.D.

RMP/jr

35-7066

March 31, 1970

Re: Permit No. 35-7066

Mr. Ross M. Phillips
735 East 4650 South
Ogden, Utah 84403

Dear Mr. Phillips:

We acknowledge receipt of your affidavit submitted as proof of beneficial use on application for permit 35-7066.

Before a license can be issued a field examination must be made by a representative from 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 may show him the system. If someone other than you should be contacted by the examiner, please advise.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

35-7066

Form 8

March 20, 1970

Re: Permit No. 35-7066

Mr. Ross M. Phillips
735 East 4650 South
Ogden, Utah 84403

Dear Mr. Phillips:

We are enclosing a Proof of Application of Water to Beneficial Use form and instructions on how to complete this form, as you requested on this date. This form must be received by this department on or before April 1, 1970. After that date, your permit will lapse and be of no further force or effect.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:kh

Enclosures

35-7066

January 30, 1970

Re: Permit No. 35-7066

Mr. Ross M. Phillips
735 East 4650 South
Ogden, Utah 84403

Dear Mr. Phillips:

One of the conditions of the approval of your permit no. 35-7066 was that proof of application of the water to beneficial use be submitted to this office on or before April 1, 1970.

Enclosed is an affidavit form which must be used to submit this proof. You may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code Amended.

Either the proof or a request for 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.



State Reclamation Engineer

Enc: Proof form
RKH:dr

CERTIFIED MAIL

#21592

35-7066

March 31, 1969

Re: Permit No. 35-7066

**Mr. Ross M. Phillips
735 East 4650 South
Ogden, Utah 84403**

Dear Mr. Phillips:

We enclose a copy of your approved application for permit 35-7066
in which we direct your attention to the limitations and conditions as given
on the fourth page under approval of the State Reclamation Engineer.

Very truly yours,

C. Stephen Allred, Assistant
State Reclamation Engineer

CSA:kh

**Enclosures: Copy of application
Receipt No. 2441 for \$60.
2 informational letters**

35-7066

February 10, 1969

Re: Application No. 35-7066
Ross M. Phillips

Rigby Star
Rigby,
Idaho 83442

Gentlemen.

As of this date we have not received the affidavit or the signed
certified bill of publication for the above referenced application for
permit.

Your assistance in this matter is greatly appreciated.

Very truly yours.

Donald W. McElldowney
Appropriation Examiner

DWM:ks

enclosure: none

35-7066

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Ross M. Phillips, 735 East 4650 South, Ogden,

Utah

has on December 26, 1968

applied for permit under application No. 35-7066 to divert ~~store~~

8.90 cubic feet per second ~~above feet~~ of water from a ground
water source

. Water will be diverted by a well,
and mainlines

within the NE $\frac{1}{4}$ NE $\frac{1}{4}$,
sec. 36, T. 4 N, R. 35 E, B.M., Jefferson County

and is to be used from April 1 to October 31 for
irrigation

//// all of section 36, T. 4 N, R. 35 E, B.M.; SW $\frac{1}{4}$, sec. 30, T. 4 N,
in the R. 36 E, B.M.. and the NW $\frac{1}{4}$, sec. 31, T. 4 N, R. 31 E, B.M.

Any protest against this application must be filed with the Department of
Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Rigby Star, Rigby, Idaho,
on January 23 and January 30.

35-7066

**NOTICE OF APPLICATION
FOR WATER**

Notice is hereby given that ~~Ross M. Phillips, 735 East 4650 South, Ogden, Utah~~ has on December 26, 1968 applied for permit under application No. 35-7066 to divert 2.80 cubic feet per second of water from a ground water source. Water will be diverted by a well, and mainlines within the ~~NE 1/4 NE 1/4, sec. 36, T. 4 N, R. 35 E, B.M., Jefferson County~~ and is to be used from April 1 to October 31 for irrigation in all of Section 36, T. 4 N, R. 35 E, B.M.; SW 1/4, sec. 30, T. 4 N, R. 36 E, B.M.; and the NW 1/4, sec. 31 T. 4 N, R. 31 E, B.M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of

this notice.

R. KEITH HIGGINSON
State Reclamation Engineer
Published in the Rigby Star, Rigby,
Idaho on January 23 and January 30,
1969.

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

December 19, 1968

Re: Application for Permit

Mr. Ross M. Phillips
735 East 4650 South
Ogden, Utah 84403

Dear Mr. Phillips:

We are returning your application to appropriate the public waters of the State of Idaho. Please be advised that until the application is submitted in the proper form and with the proper filing fee, we cannot process the application.

The correct filing fee for an application request for 4,000 gallons per minute or approximately 8.90 cubic feet per second is \$60.00. Other than this, the application appears to be in proper order.

Please contact us if we may be of further assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Donald W. McEldowney".

Donald W. McEldowney
Appropriation Examiner

DWM:ks
enclosure: Application and carbon

*I am sorry for the oversight, I was not aware
what the filing fee was at the time I submitted the
application - Thank you*

Ross M. Phillips 35-7066