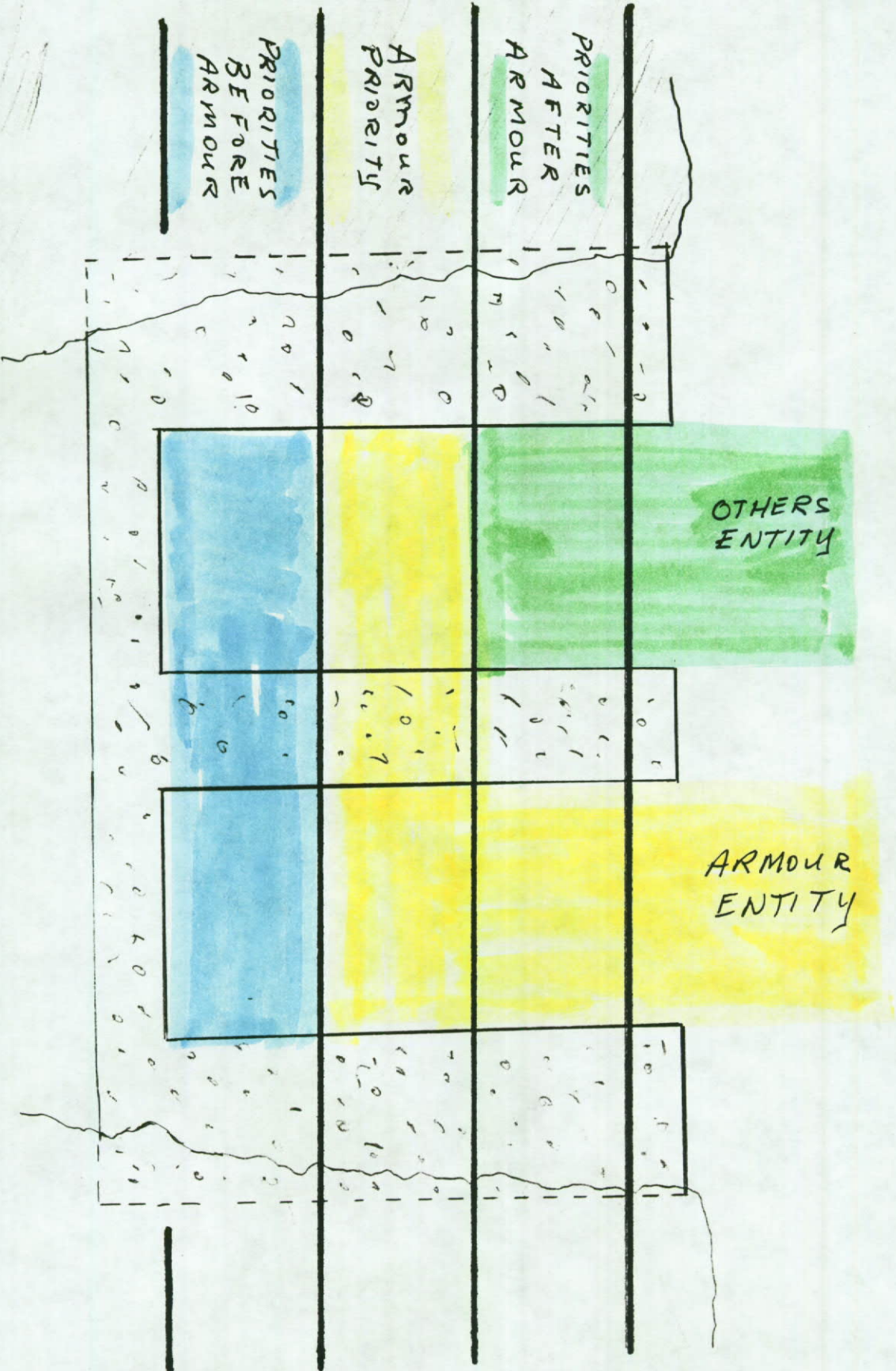


TREON CREEK WEIR



RECEIVED

JAN 09 1989

Ident. No. 72-7098

STATE OF IDAHO Department of Water Resources

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Treon Creek Waterusers Phone See Sec 10 for owner names.
Post office address 1/2 Hope Atmout 128 Martin St No 22 Twin Falls, ID 83301
And 1/2 Thutle H. French P.O. Box 68, Stanley, ID 83218

2. Source of water supply Treon Creek which is a tributary of Salmon River

3. Location of point of diversion is NE 1/4 of SE 1/4 of Section 25 Township 11N

Range 15E B.M. Custer County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.30 for Domestic purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 0.30 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Diversion Box & Pipeline
System

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

Period of year when water will be diverted to storage _____ (Month/Day) to _____ (Month/Day) inclusive.

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation: See 86
(1) Give the place of use of water: _____ 1/4 of _____ 1/4 of Section _____ Township _____

Range _____ B.M. _____

MICROFILMED

MAY 15 1989

10. Other water rights on these lands 36-7090 , 72-2136

11. Other water right diverted from same p.d. 72-2136

12. Diversion and Delivery System Dis-
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multiple diversion systems



13. ☒ Photo of

of Use Attached
Increase Attached

14. Remarks At
however, The
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the System
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15. Recommended Amendments

- ☐ Change P.D. as reflected above
☐ Change P.U. as reflected above

- ☐ Add P.D. as reflected above
☐ Add P.U. as reflected above

- ☒ None
☐ Other

16. Examiner's/Consultant's Signature Terry S. Blau Date 1-29-85

Consultant's License Number _____

IDWR Director's Authorization to Conduct
Beneficial Use Examination _____

Date

MICROFILMED

MAR 16 1988

CONSULTANT SEAL

Divider box in Treon Creek
9-24-85

5

SEP. 1985

SEP. 1985

... ..

10. Other water

11. Other water

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



13. ☒ Photo of ☐ Diagram of Use Attached
☐ Increase Attached

14. Remarks At
however, The
hook ups applied for.

15. Recommended Amendments

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

16. Examiner's/Consultant's Signature Jerry S. Blau Date 1-29-85

Divider box in Treon Creek
9-24-85

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SEP. 1985

SEP. 1985

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- 10. Other water
- 11. Other water
- 12. Diversion and
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- 13. ☒ Photo of

14. Remarks At
however, The
hookups applied for

of Use Attached
Increase Attached

the System
onal 7

- 15. Recommended Amendments

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

16. Examiner's/Consultant's Signature Jerry D. Blau Date 1-29-85

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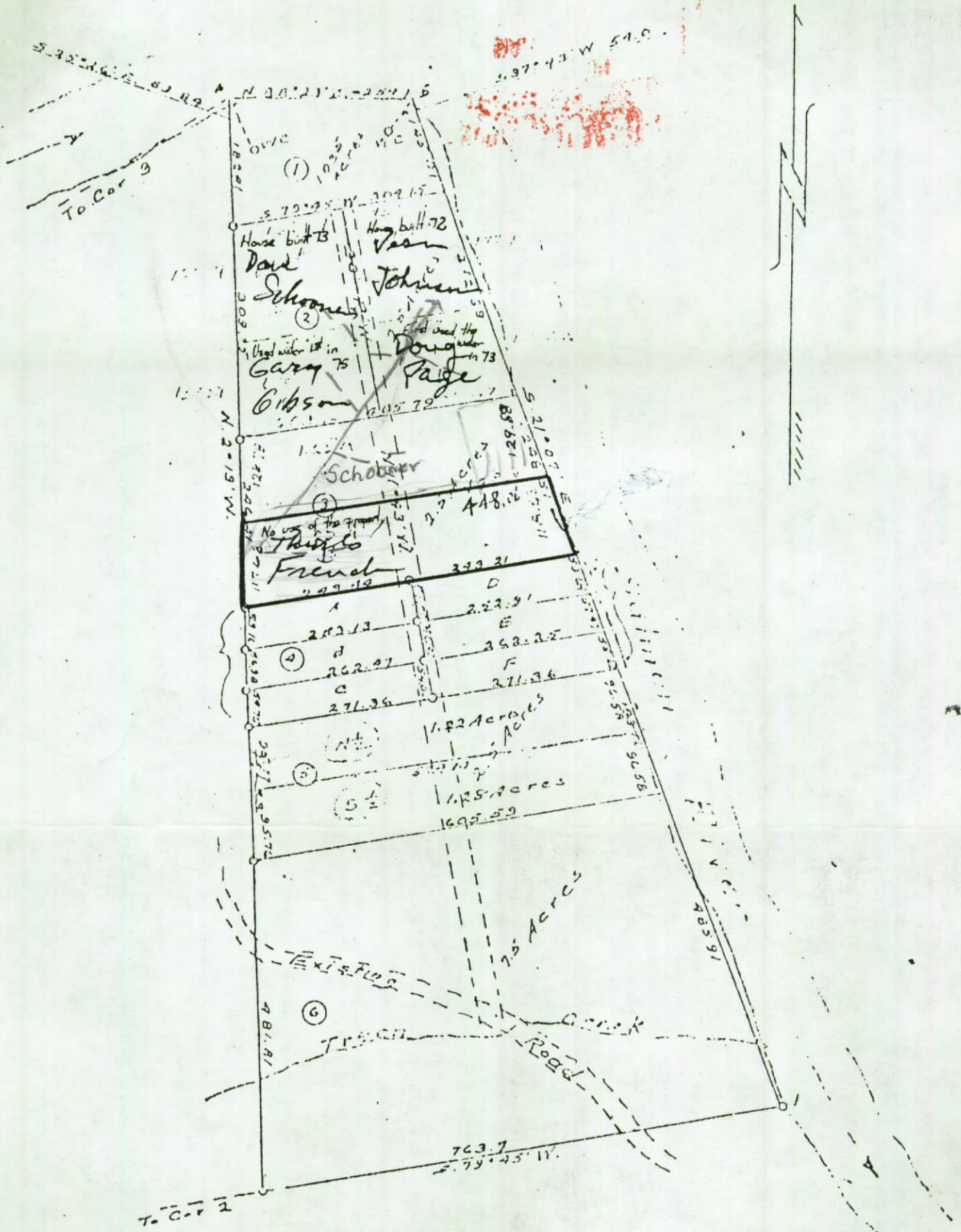
C-98
W.K. KIMBLE
98C

90.

2324
2625

MICROFILMED

MAR 16 1988



CORDINGLY TRACTS

E½ M.S. No 3580
 Appx. Section 25 T11N, R15E, B1M
 and Section 30 T11N, R16E, B1M
 Custer County, Idaho
 ELKHORN PLACER

MICROFILMED

MAR 16 1988

Scale: 1 in = 200 ft



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 72-7098

Priority: April 3, 1980 Amount: .08 CFS 14.4 AFA

This is to certify, that TREON CREEK WATERUSERS
C/O THURLO H. FRENCH
P.O. BOX 68
STANLEY, ID 83278

has complied with the terms and conditions
of the permit issued pursuant to Application for Permit dated April 3, 1980, and
has submitted proof to the Department of Water Resources on April 16, 1985, that
water has been applied to a beneficial use; an examination by the Department indicates
that the works have a diversion capacity of .08 cfs of water from;

TREON CREEK tributary to SALMON RIVER

and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Domestic	01/01 to 12/31	.08 cfs	14.4 afa

LOCATION OF POINT OF DIVERSION(S): NESE , Sec. 25, Township 11N, Range 15E
Custer County

PLACE OF USE: Domestic

TWN RGE SEC

11N 15E 25 SENE NESE
11N 16E 30 LOT11(NWSW)

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Domestic use is for 12 homes.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 16th day
of October 19 87.

MAKROFILMED

MAR 16 1988

Director

RECEIVED

APR 8 1980

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT****RECEIVED
APPROVED**

To appropriate the public waters of the State of Idaho

Department of Water Resources
Southern District Officesee See 10 for owner names
Department of Water Resources
Southern District Office

1. Name of applicant Treem Creek Waterusers Phone _____
Post office address 1/2 Hope Atmout 128 Mattin St No 22 Twin Falls, ID 83301
And 1/2 Thutla H. French P.O. Box 68, Stanley, ID 83278
2. Source of water supply Treem Creek which is a tributary of Salmon River
3. Location of point of diversion is NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 25 Township 11N
Range 15E B.M. Custer County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

- Amount 0.30 for Domestic purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

- a. 0.30 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

- a. Description of ditches, flumes, pumps, headgates, etc. Diversion Box & Pipeline
System

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

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

- a. If water is not for irrigation: See 86
- (1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M.
- (2) Amount of power to be generated: _____ horsepower under _____ feet of head.
- (3) List number of each kind of livestock to be watered _____
- (4) Name of municipality to be served _____, or number of families to be
supplied with domestic water 12.
- (5) If water is to be used for other purposes describe: _____

RECORDED

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11N	15E	25				X									X				
11N	16E	30										17.11							
												X							

Total number of acres to be irrigated _____

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

Application for Permit No 72-7090 & Lic. 72-2136

9. a. Who owns the property at the point of diversion L.A. Fuller

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

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

10. Remarks Names of Landowners:

Hops Atmout 128 Martin St No 22, Twin Falls
for ID 83301

Thutlo H. French P.O. Box 68
for Stanley, ID 83278

L. Douglas Page Route 7 Box 252
for Blackfoot ID 83221

Gary Gibson Box 16
for Atomic City ID 83215

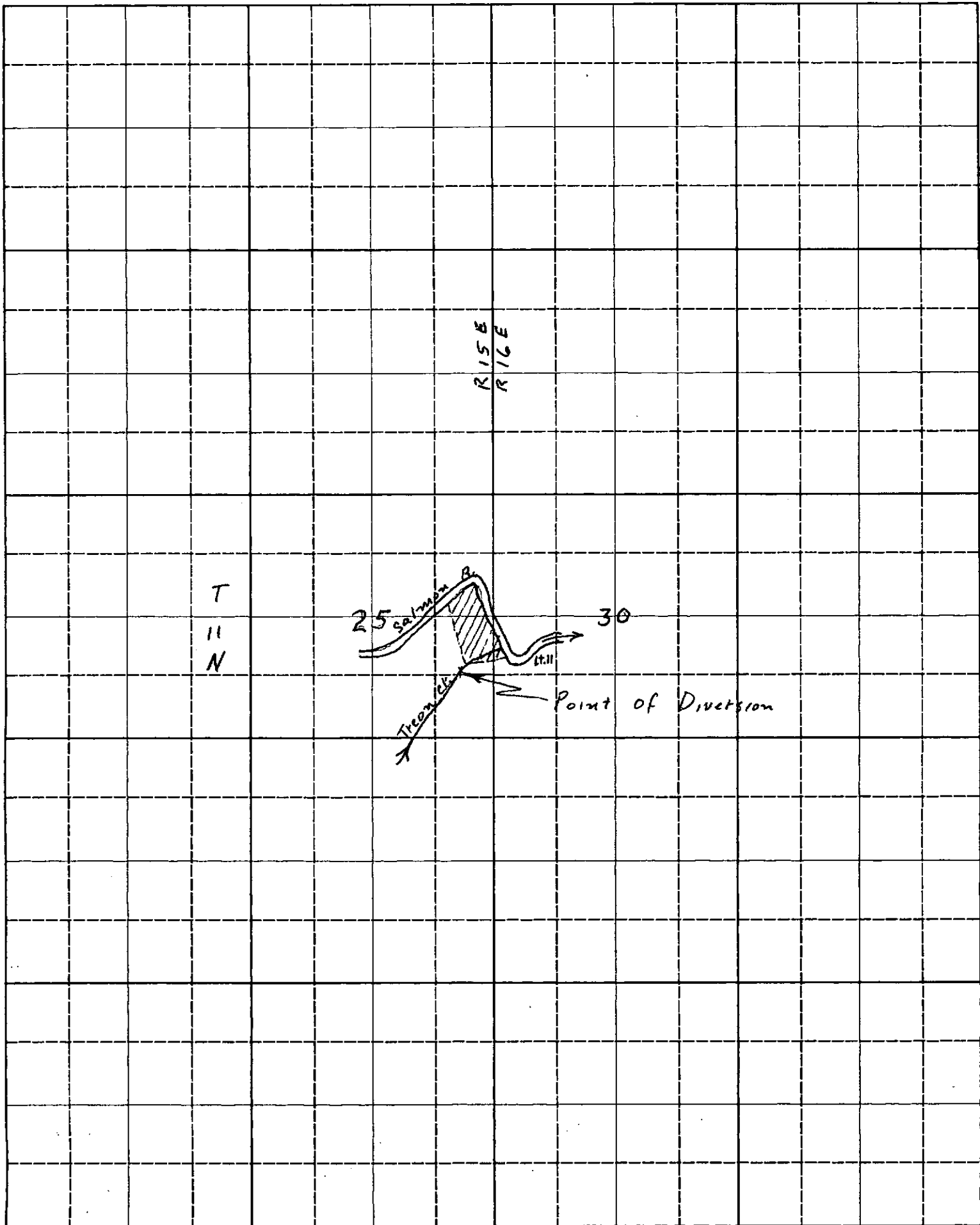
Sam Armour 1210 Butterfly Dr
for San Jose CA 95120

D.H. Schoonen 1364 12th St
for Idaho Falls ID 83401

Vernon P. Johnson P.O. Box 271
for Atco ID 83213

John Benkauff P.O. Box 162
Vale, OR 97918

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



Scale: 2 inches equal 1 mile.

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

Spencer Amundson
Shirley H. Turner
L. Douglas Coge
Gary Nelson
Samuel F. Armon
W. H. Schooner
Vernon Johnson
 (Applicant)

Proposed Priority 4/3/80

Received by Lzh Date 4-3-80 Time 4:30 PM

Preliminary check by JP Fee \$ 35.00

Receipted by Lzh Date 4-3-80 # 17179

Publication prepared by lh Date 4/10/80

Published in ruston publishing co.

Publication dates 4/24 & 5/1/80

Publication approved marya Date 5/5/80

Protests filed by: None

Copies of protests forwarded by _____

Hearing held by _____ Date, _____

Recommended for approval denial by ADM Jim

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 72-7098, and said application is hereby approved.

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 19 85.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: (1) The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Witness my hand this 23rd day of May, 19 80.

A. Glen Saxton
Chief, Operations Bureau

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS

Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for consecutive weeks, commencing with the issue dated APR 24, 1980 and ending with the issue dated MAY 1, 1980.

Margaret Parks
Subscribed and sworn to before this 2 day of May, 1980.

Sandra M. James
Notary Public, residing at Challis, Idaho. My commission expires on April 30, 1983.

NOTICE OF APPLICATION FOR WATER RIGHT

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

72-7098

TREON CREEK WATERUSERS
c/o THURLO H. FRENCH, P.O.
BOX 68, STANLEY, ID 83278

Source: TREON CREEK tributary
to SALMON RIVER

Date Filed: 04/03/1980

Amount: 0.30 CFS

Diversion Point: NESE Sec 25 T 11N
R 15E, CUSTER Co.

Use: DOMESTIC (0.30 CFS) from
01/01 to 12/31

Place of Use: SENE NESE Sec 25 T
11N R 15E LOT 11 (NWSW) Sec 30 T
11N R 16E

Diversion Means: DIVERSION BOX
AND PIPELINE

If issued, the permit will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before MAY 12, 1980.

C. STEPHEN ALLRED

Director

Pub. 4/24 & 5/15/80.

000

RECEIVED

MAY 5 1980

Department of Water Resources
Southern District Office

*sd
may
5/5/80*

RECORDED

MEMORANDUM

To: Loren Holmes, S. Region of IDWR
From: L. Glen Saxton *LS*
RE: LETTER DATED SEPTEMBER 13, 1993
Date: September 16, 1993

Forwarded for your information, review and response is a letter from D. H. Schoonen involving use of water from Treon Creek in Custer County.

You are probably familiar with this matter since correspondence in the files show that inquiries have previously been forwarded to your region.

September 13, 1993

STATE OF IDAHO
DIRECTOR, Department of Water Resources
1301 North Orchard Street,
Statehouse Mail, Boise, ID 83720

RECEIVED

SEP 15 1993

Department of Water Resources

Dear Sir:

This letter is written for two purposes:

1. To again present a petition for abandonment by the Armours, by reason of non use of Treon Creek water for any purpose for a period in excess of ten years prior to May 16, 1992. This would include A72-07098A, A72-02136A, and 72-07090; - and
2. To urgently request that the Director issue a revocation order, including a cease and desist order, regarding the Armour's alleged water rights, per the applicable statutes relating to non use as contained within the Constitution of the State of Idaho.

Affidavits were previously submitted to the Department of Water Resources regarding non-use by the Armours. Initially, the Armours made an obviously false statement, without basis, regarding non work because of "litigation in progress". Later, during an inspection by a representative of the Department of Water Resources, they claimed they had done some work, although there were no observable indications. A report of that inspection should have been forwarded to your office by Mr. Loren Holmes. On, or about May 16, 1992, the Armours commenced construction of a distribution weir in Treon Creek on their own property. The same "litigation", previously claimed as a hindrance, was still in progress! As an aside, Mr. Armour has previously lied directly to the D.W.R. by claiming that his signature was forged on a letter provided to the Department. His basis, - absolutely none, except his refusal to recognize his own signature. Mr. Armour has a documented record of making false and misleading statements to public officials, examples of which can be furnished, if desired. Furthermore, the filing of three valid contempt of court charges was necessary to force compliance on other issues. Litigation ended June 10, 1993 (copy enclosed).

Information reports about the new weir installed on Treon Creek in 1989 have been submitted to your office. A brief recap follows. Following a court hearing in which an element of cooperation was present between the Armours and the Treon Creek Water Users, Mr. Armour co-hired the same engineer whom we had hired because of Armours insistence that a new weir be installed. He specifically directed the engineer to insure that all orifices and pipes must meet exactly the (then known) water priorities as to amounts and locations and that any water removed from Treon Creek must be in pipes. Except for a small retainer paid to the engineer, Mr. Armour took no further interest in the weir, provided no support, paid no bills, used no water from the weir, and submitted an alternate design, copy of his letter enclosed. Fortunately, in the latter case, his letter was forwarded under cover of his attorney's letter, so that he cannot lie about his signature. The weir was designed, in good faith, so that half of

the weir could be utilized by the Armours. An open flowing port was left for their use, yet the Armours **chose to continue their non use of Treon Creek** and generated a voluminous document about the legality of the weir.

In general, it would appear that the Armours have never appropriated any water for a useful or beneficial purpose, and specifically, that there is no observable evidence of ever being used for domestic purposes for a period in excess of ten years. THERE HAS NEVER BEEN ANY APPLICATION MADE TO THE SNRA/ FOREST SERVICE for the purpose of mining exploration or work utilizing Treon Creek water. Therefore, (in summary for Item 1), please consider the previous affidavits and this letter as a petition for the abandonment of any Armour water rights relative to Treon Creek. A TERMINATION PROCEEDING is respectfully requested on the grounds that the Armour rights were abandoned as to beneficial use and failure to ever put Treon Creek water to beneficial use.

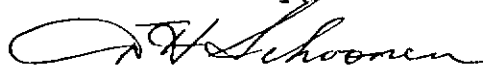
With regard to the forfeiture of water rights, the Armours have never put the water to beneficial use for a period well in excess of the five year requirement. Even if we are determined to be junior appropriators, where the Armours have never utilized Treon Creek or indicated a need for the use of the Treon Creek water, we should be allowed to enjoy the beneficial use of this water, without disruption or provocation by the Armours.

On Labor Day weekend, 1993, Mr. Armour took down "no trespassing" signs, drove his vehicle across another person's property and onto Forest Service land, excavated a deep ditch, and installed a shear gate culvert below the water level of Treon Creek. His purpose, upon completion of the ditch, was to divert the entire Treon Creek flow around a weir which was in use, whereas such users have claimed the same priority date as the Armours. Some of the ditch would have been excavated, without permission, on another person's property. He also posted an illegal sign which, except for the purchase information, contained false statements and APPEARS TO PRECLUDE ANY EFFECTIVE RULING from the Snake River Adjudication Board. A copy of the wording is enclosed.

Because of abandonment and non use of Treon Creek water, and the above provocative act by the Armours, the Director, Idaho State Department of Water Resources, is respectfully requested to issue a REVOCATION ORDER (Item 2) for the alleged Armour water rights, as well as a cease and desist order to prevent further disruptive activity by the Armours. Although not knowledgeable about the State Constitution and Idaho Codes, it would appear that our established domestic use should be somehow protected, particularly where there has been an obvious abandonment by the Armours and where our priority dates, running with the purchase of the land, are the same as those claimed by the Armours.

Your specific response to the two items requested; termination proceedings, and revocation order will be greatly appreciated.

Sincerely,


D. H. Schoonen

Copy: Mr. Loren Holmes

HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FALLS OFFICE

FRED J. HAHN
 KENT W. FOSTER
 ROBERT E. FARNAM
 WILLIAM D. FALER
 STEPHEN E. MARTIN
 CHARLES A. HOMER
 GARY L. MEIKLE
 MICHAEL D. CRAPO
 GAYLE A. SORENSON, P.A.
 DONALD L. HARRIS
 MARIE T. TYLER
 JOHN G. SIMMONS
 ROBERT M. FOLLETT
 KUMEN L. TAYLOR
 JAMES K. SLAVENS

WEST ONE BANK
 P.O. BOX 50130
 IDAHO FALLS, IDAHO 83405

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

KEY FINANCIAL CENTER
 702 W. IDAHO SUITE 310
 BOISE, IDAHO 83702

TELEPHONE (208) 343-0820
 TELEFAX (208) 343-0878

BOISE OFFICE

WM. LYMAN BELNAP, P.A.
 RANDALL B. REED
 RONALD D. CHRISTIAN

RECEIVED
 APR 20 1992

April 16, 1992

Department of Water Resources

HUR W. HOLDEN
 (877-1967)
 BERT B. HOLDEN
 (911-1971)
 ERY L. CRAPO
 (939-1982)
 WILLIAM S. HOLDEN
 (907-1988)

Douglas R. Nelson, Esq.
 ANDERSON, PIKE & BUSH
 P.O. Box 51630
 Idaho Falls, Idaho 83405-1630

Mr. Ed Fuller
 c/o Clyde Fuller
 1415 South Lowell
 Casper, Wyoming 82601

Dear Messrs. Nelson and Fuller:

As you are aware, we were recently retained by the Armours to review water rights issues which have arisen in connection with litigation between Vernon and Yvonne Johnson, David and Helen Schoonen, Thurlo and Dorothy French, Donna Monk, and Gary and Brenda Gibson and the Armours.

In our review, we have been able to discover that at least three water rights filings are of record with the Idaho Department of Water Resources for the diversion and use of the waters of Treon Creek in the NE1/4 of the SE1/4 of Section 25, Township 11 North, Range 15 East. They are: License No. 72-2136 and Permits Nos. 72-7090 and 72-7098. It appears to us that portions of 72-2136 and 72-7098, and all of 72-7090 are appurtenant to or are to become appurtenant to the lands of the Armours.

In order to complete and continue the diversion and beneficial use of water from Treon Creek, it is necessary for the Armours to reconstruct diversion works on the creek. This letter is to notify you that the Armours will be doing that work within the next month or so and hope to have it completed before June of 1992. The diversion structure will be located on Treon Creek where it flows through the Armour property in Lot 7, and your cooperation in assuring that the structure is not destroyed or otherwise damaged or interfered with will be very much appreciated.

Mr. Ed Fuller
Douglas R. Nelson, Esq.
April 16, 1992
Page 2

The structure will permit diversion of all the water to which the Armours may be entitled under the three described rights, whenever the same is available in the creek. The structure will be located downstream from the concrete and wood structure constructed in recent years pursuant, as we understand it, to Permit No. 72-7098. Because the priority for 72-7098 is junior to the Armour rights under 72-2136 and 72-7090, whenever the Armours are diverting and using water under the senior priorities, it will be necessary to allow all waters of Treon Creek to bypass or flow through the concrete weir structure upstream, except for any water that may be available in Treon Creek at such times in excess of the amounts Armours are entitled to divert and use. Of course, at such times as Armours are not diverting and using any water, such water may also be diverted and used under junior priority rights.

Based upon the information available to us, we have also advised the Armours that in our opinion they have acquired a prescriptive right or easement which runs with their land to traverse the lands upon which Treon Creek is located, immediately adjacent to said creek for purposes of inspecting the flows and other diversions and cleaning or removing debris and blockages to maintain the flows to their diversion structure at such times as water is available in the creek to fill their rights or any portion thereof.

Any and all disputes regarding amounts of water available to fill various rights or the appropriateness of particular diversions or uses of such water should be referred directly to the Idaho Department of Water Resources.

Thank you for your kind attention to this matter.

Yours very truly,


Kent W. Foster

#9819.00/srs

cc: Dept. of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 5, 1992

D. H. Schoonen
1364 12th Street
Idaho Falls, ID 83404

Re: Treon Creek Dispute

Dear Mr. Schoonen:

The state office of the Department of Water Resources has been receiving copies of memos and correspondence related to the long standing dispute regarding water rights and water delivery from Treon Creek. In fact, three people in our office, Don Shaff, Rita Fleck, and Bobby Fleenor all are receiving copies. None of these people now work directly with questions of water distribution.

Please direct all of your correspondence in this matter to Loren Holmes, Idaho Department of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, Idaho, 83301. Mr. Holmes will coordinate any assistance that may be needed.

Respectfully,

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

Gary Spackman

C: Loren Holmes

*Glenn
I'm no longer involved in
this*

IDAHO DEPARTMENT OF WATER RESOURCES

January 18, 1992

Mr. Donald V. Shaff, Mr. Loren O. Holmes, Ms. Rita Fleck,
Mr. Bobby D. Fleenor

Dear Department Representatives:

TREON CREEK WEIR - SYNOPSIS

Ref. Schoonen document to Idaho Department of Water
Resources, dated January 8, 1992; Permits 72-7098 and
72-7090.

Following discussion with members of Treon Creek Water
Users, the information below is provided to support the
reference document.

Mr. Armour was in agreement regarding the installation of a
weir and piping system. This agreement was willingly
documented in the Schoonen affidavit dated June 5, 1990.

Treon Creek Water Users were very pleased with the
agreement for two reasons: 1) We believed that the long
standing dispute over water removal from Treon Creek could
be resolved and preempt a court order requiring a weir if
we would provide an exceptional weir/piping system that
would encompass all users, and 2) the engineer (also
retained by Mr. Armour) understood Mr. Armour's concerns
and instructions and that these would be incorporated into
the new weir system.

After notification to the Armours, we openly and in good
faith proceeded with the installation of the new weir
system. The attached letter provided to the engineer and
Mr. Armour also documented our intent to comply with the
agreement. We believed that the weir system was of
superior design, would provide adequate safeguards for all
users, and was placed at an optimum location. We also
believed that Mr. Armour understood that he was to provide
us with orifice openings to accommodate Permit 72-7090.

Over a year later, we were dismayed and frustrated when we
first heard (written information first received in
December, 1991) that Mr. Armour had vacillated on the above
agreement, which we considered conciliatory on our part and
responsive to Mr. Armour's demands; that Mr. Armour was
doing a complete reversal of his prior position, which was
that no water could leave Treon Creek except as authorized
by permit and in plastic pipes.

An amended page 4 from the reference (as annotated by
lines) is attached only to demonstrate Mr. Armour's
inflammatory and exaggerated accusations. Mr. Armour

insisted and, as part of the 1988 agreement, required that no extraneous water be removed from Treon Creek. Following this agreement, it is contradictory to expect all parties to remove water only by engineered measuring systems and piping and yet allow Treon Creek stream flow to proceed down a presently unused ditch which is NOT A PART OF THE STREAM BED!

Contrary to what Mr. Armour has stated and as many legal proceedings attest to, Mr. Armour knew precisely that the plastic pipe in the westerly ditch was for permit 72-7098. The court records document that Mr. Armour intended to bury this pipe. On more than one occasion, before witnesses including two attorneys, Mr. Armour stated that he was going to fill the ditch and build a house on it. This was not conducive to "irrigation" but certainly provided concern for our continued application (plastic piping) for License 72-7098.

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Please attach this summary information to the reference document.

Sincerely yours,



D. H. Schoonen
1364 12th Street
Idaho Falls, ID 83404

Copy to:

Douglas Nelson, Anderson, Pike & Bush
P.O. Box 51630, Idaho Falls, Idaho 83405-1630

Treon Creek Water Users

COPY

Anderson, Pike & Bush
ATTORNEYS AT LAW

January 23, 1990

490 MEMORIAL DRIVE
POST OFFICE BOX 51630
IDAHO FALLS, IDAHO 83405-1630
TELEPHONE (208) 522-3001
FAX (208) 523-7254

of counsel
John M. Sharp

Eugene L. Bush
(1928-1986)
Arthur L. Smith
(1916-1988)

W. Joe Anderson
Edward W. Pike
Douglas R. Nelson
Gregory S. Anderson
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Blake G. Hall
Dona Adams Pike
Joseph C. Burgess
Scott R. Hall
Anne M. O'Brien
Joel E. Tingey

Mr. Mark J. Schell
803 Hansen Ave.
Idaho Falls, Idaho 83402

RE: Irrigation System, Armour/Schoonen, et al.

Dear Mr. Schell:

Our office represents the Elkhorn Placer Association which consists of the Schoonens, the Frenches, the Johnsons, the Gibsons and the Munks. The Fullers have recently become involved in the happenings of the Association by reason of their water rights which have some priority in the area. At this point, our office does not represent the Fullers.

I have reviewed a copy of your letter to Stephen Hart which enclosed the irrigation design and his letter to you dated December 19. My clients believe that your design is appropriate and consent to its implementation. We understand that the design is installed in a relocated position upstream from the existing wier on the Fuller property and will guarantee two elements which have been essential from Mr. Armour's perspective:

- (1) Absolutely no water will be removed from the creek except in plastic piping, which means that open ditch flow will not be permitted.
- (2) Any leakage or overflow from the wier will return automatically to the creek.

We understand that the flanged nozzles shown in your design will permit only authorized amounts of flow which will be based on the individual water permits. These flanges will be bolted to heavy redwood planking and set in place based upon the priority of the individual water licenses. We believe the design is adaptable for change, is cleanable and more easily maintained. We further believe that it meets all of the requirements of the court order.

Mr. Hart's letter reflected some concern about the lapse of time since the hearing which approved the court order. This concern seems somewhat artificial in light of the fact the

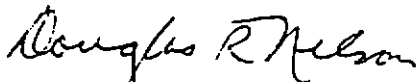
Elkhorn Placer Association checked with you six to eight months following the hearing and found that Mr. Armour had provided no input to your design process. We are unaware of any input provided by Mr. Armour other than that referred to in the December letter of Stephen Hart. Also, there are pending motions to reconsider certain portions of the court order and it is our understanding that Mr. Armour has not recorded the change of the right-of-way and certainly there has been no notice given showing the completion of those required recordings.

My clients have reviewed your drawing in some detail and have visited with the Department of Water Resources as well as observed other installations. We agree that the wier you have designed appears to be based on the industry standard in the Western United States, certainly in the Idaho area. The design provides safety to all parties in that unlicensed water will not be removed from the creek and yet allows the device to be conveniently cleaned and more flexible to accommodate changes in water licensing. Since the court action, the Fullers have perfected their prior water right and we understand they are willing to comply on a voluntary basis with the court order which is binding upon the other parties. In this regard, flexibility is important so that we can avoid future litigation between various property owners in the area.

It is my understanding that your design was installed in September of 1989 and can be fully implemented with considerable ease by installing the planks and piping devices. We would encourage all of the parties to proceed in a peaceful and orderly manner to put this matter to rest.

I am providing a copy of this letter to Stephen Hart and my clients so that they will be aware of the communication and our encouragement that the parties proceed in an orderly manner to conclude this issue. Thank you for your assistance in the matter.

Very truly yours,



Douglas R. Nelson

A136/DRNC/ap

cc: Stephen Hart
David H. Schoonen
Thurlo French
Gary Gibson
Donna Munk
Vernon Johnson

presented to the Department of Water Resources.

Our physical work on the Treon Creek water systems has always been open, and believed consistent with the moral and legal requirements issued by the Department of Water Resources. We were in contact with the Department by phone or in meetings to discuss the status of our work. We have provided written information and photographs to the Department. The new weir is not an exception. We contend that the new weir is at the general location of the old weir. The Department of Water Resources confirmed that the relocation of about 75 feet was not significant. There were no other observable or recorded water improvement activities in progress.

The new weir provides the maximum benefit for all users and the location is optimized because of the physical terrain. In our opinion, the weir is adequate for all permit holders and provides separate entities based on permit priorities, the latter at the insistence of Mr. Armour. The new weir is certainly a better option than the concrete block which Mr. Armour proposed. All parties agreed that the old weir would not be displaced or damaged; thus concurrence for a new measuring system was reached. Mr. Armour was informed in writing of the proposed design and construction schedule before the start of any work.

The general allegations that Schoonen, et al., were "SOMEHOW DESTROYING THE ARMOUR WATER SYSTEM AS IT WAS BEING PUT IN PLACE" is absolutely false. The "TERRIBLE DESTRUCTION" and "MOST EVIL DEED" was placing a small earthen hump, about 8 - 12 inches high by 16 - 20 inches long at the west fork of the old weir so that absolutely NO EXTRANEIOUS WATER could leave the Treon Creek stream bed. To the best of our knowledge, there have been no observable or physical indications along the westerly ditch that Armours had or are doing anything to prove up their water permit! See Note on page 2. Schoonen, et al., have not, nor presently have any intention of "destroying" any beneficial work being done by the Armours. To date, no such work has ever been observed, except for the one time "irrigation" event on the Armour property on the north side of the F.S. road.

RESPONSE TO ARMOUR ATTACHMENT TO DONALD V. SHAFF
DATED NOVEMBER 5, 1991.

First and foremost, the allegations that we are causing a "blockage" of Treon Creek is a total misrepresentation of facts by Mr. Armour. The weir was constructed at the insistence of Mr. Armour, who even offered an alternative design (providing concurrence for the concept, but not the actual weir design)

RECEIVED
JAN 23 1992
Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES

January 18, 1992

Mr. Donald V. Shaff, Mr. Loren O. Holmes, Ms. Rita Fleck,
Mr. Bobby D. Fleenor

Dear Department Representatives:

TREON CREEK WEIR - SYNOPSIS

Ref. Schoonen document to Idaho Department of Water Resources, dated January 8, 1992; Permits 72-7098 and 72-7090.

Following discussion with members of Treon Creek Water Users, the information below is provided to support the reference document.

Mr. Armour was in agreement regarding the installation of a weir and piping system. This agreement was willingly documented in the Schoonen affidavit dated June 5, 1990.

Treon Creek Water Users were very pleased with the agreement for two reasons: 1) We believed that the long standing dispute over water removal from Treon Creek could be resolved and preempt a court order requiring a weir if we would provide an exceptional weir/piping system that would encompass all users, and 2) the engineer (also retained by Mr. Armour) understood Mr. Armour's concerns and instructions and that these would be incorporated into the new weir system.

After notification to the Armours, we openly and in good faith proceeded with the installation of the new weir system. The attached letter provided to the engineer and Mr. Armour also documented our intent to comply with the agreement. We believed that the weir system was of superior design, would provide adequate safeguards for all users, and was placed at an optimum location. We also believed that Mr. Armour understood that he was to provide us with orifice openings to accommodate Permit 72-7090.

Over a year later, we were dismayed and frustrated when we first heard (written information first received in December, 1991) that Mr. Armour had vacillated on the above agreement, which we considered conciliatory on our part and responsive to Mr. Armour's demands; that Mr. Armour was doing a complete reversal of his prior position, which was that no water could leave Treon Creek except as authorized by permit and in plastic pipes.

An amended page 4 from the reference (as annotated by lines) is attached only to demonstrate Mr. Armour's inflammatory and exaggerated accusations. Mr. Armour

insisted and, as part of the 1988 agreement, required that no extraneous water be removed from Treon Creek. Following this agreement, it is contradictory to expect all parties to remove water only by engineered measuring systems and piping and yet allow Treon Creek stream flow to proceed down a presently unused ditch which is NOT A PART OF THE STREAM BED!

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Please attach this summary information to the reference document.

Sincerely yours,



D. H. Schoonen
1364 12th Street
Idaho Falls, ID 83404

Copy to:

Douglas Nelson, Anderson, Pike & Bush
P.O. Box 51630, Idaho Falls, Idaho 83405-1630

Treon Creek Water Users

presented to the Department of Water Resources.

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COPY

Anderson, Pike & Bush
ATTORNEYS AT LAW

January 23, 1990

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TELEPHONE (208) 522-3001
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Mr. Mark J. Schell
803 Hansen Ave.
Idaho Falls, Idaho 83402

RE: Irrigation System, Armour/Schoonen, et al.

Dear Mr. Schell:

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I have reviewed a copy of your letter to Stephen Hart which enclosed the irrigation design and his letter to you dated December 19. My clients believe that your design is appropriate and consent to its implementation. We understand that the design is installed in a relocated position upstream from the existing wier on the Fuller property and will guarantee two elements which have been essential from Mr. Armour's perspective:

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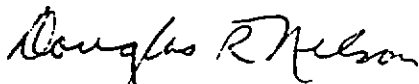
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It is my understanding that your design was installed in September of 1989 and can be fully implemented with considerable ease by installing the planks and piping devices. We would encourage all of the parties to proceed in a peaceful and orderly manner to put this matter to rest.

I am providing a copy of this letter to Stephen Hart and my clients so that they will be aware of the communication and our encouragement that the parties proceed in an orderly manner to conclude this issue. Thank you for your assistance in the matter.

Very truly yours,


Douglas R. Nelson

A136/DRNC/ap

cc: Stephen Hart
David H. Schoonen
Thurlo French
Gary Gibson
Donna Munk
Vernon Johnson

January 6, 1992

IDAHO DEPARTMENT OF WATER RESOURCES

Mr. Donald V. Shaff
Mr. Loren O. Holmes
222 Shoshone Street
Twin Falls, Idaho 83301

Rita Fleck
Bobby D. Fleenor
Statehouse Mail
Boise, Idaho 83720

Issues relating to the use of water from Treon Creek, M.S.
3580, Elkhorn Placer, Custer County Idaho and Permits # 72-7090
and # 72-7098.

Dear Sirs:

The enclosed document provides a more accurate and complete portrayal of the situation relating to the above permits and rebuts the information submitted to you by Mr. Armour dated July 31, 1991 and November 5, 1991.

Key information regarding the installed weir is included. Mr. Armour insisted that a weir system be provided and even provided a weir design of his own. All parties were in agreement that plastic piping would be the method used for water dispersion.

Quite frankly, when all of Mr. Armour's rhetoric and smoke screen are moved aside, we are having trouble determining what he is trying to accomplish with his capricious remarks, except to further alienate the Treon Creek community.

Mr. Armour's propensity for searching out minuscule items from which to create complex and monstrous issues, should be noted.

It is requested that within a period of about three or four months, Mr. Holmes provide an appropriate response to the first section of the attached document - SPECIFIC REQUESTS.

RECEIVED
JAN 08 1992

Department of Water Resources

Copy to:

Douglas Nelson, Anderson, Pike & Bush,
P.O. Box 51630, Idaho Falls, Idaho 83405-1630

Treon Creek Water Users

Sincerely yours,



D. H. Schoonen
1364 12th Street
Idaho Falls, ID 83404
Ph: 522-9060

Apology is given for the length of this document, but it is necessary to carefully rebut the Armour material which appears to be mostly false and inflammatory. Copies of this document will be provided to all Department of Water Board officials contacted by the Armours so that more accurate and complete information can be considered. The response is divided into categories as follows:

- o SPECIFIC REQUESTS.
- o RESPONSE TO ARMOUR LETTER TO DONALD V. SHAFF DATED JULY 31, 1991.
- o RESPONSE TO ARMOUR ATTACHMENT TO DONALD V. SHAFF DATED NOVEMBER 5, 1991.
- o OCTOBER 24, 1991 TREON CREEK MEETING
- o RESPONSE TO ITEMS NOT RELEVANT TO TREON CREEK WATER ISSUES

SPECIFIC REQUESTS

Specific requests are sought following your review of the accurate and more complete information provided herein.

The Idaho Department of Water Resources, Southern Region or Idaho Department of Water Resources, Adjudication Section is requested, within appropriate jurisdiction, to consider making the following rulings:

- a) That there is (or is not) a significant issue which must be addressed.
- b) That the Treon Creek Water Users (License # 72-7098 which does not include the Armours) had the right to relocate their domestic use plastic pipe consistent with the location of the new weir and with the permission of the property owners.
- c) That the Armours have not provided any bonafide proof of beneficial use for Permit # 72-7090; to do so would contradict the time extension for Permit # 72-7090. See Note on page 2.
- d) That the installation of the new weir on Treon Creek is consistent with past and current practices required by the Department of Water Resources; that if an administrative error was committed that any required waiver be allowed for consideration.
- e) That, although no one is contesting the Armours access to the weir location, the Armours be required to negotiate a specific route to that location with the property owners.

f) That, except for item e) and any confirmed ditch rights, the Armours restrict their water development activities to property now solely owned by them.

g) That the ditch rights presently in use by Schoonens, et al., are in agreement with applicable Department requirements and that Armours, if they so desire, can utilize the same ditch. (A definition of Armour ditch rights be provided in order to avoid further misunderstandings).

Note: The Armours need to qualify their water development "activity". Was it during the period (mid 1980's) when he was suing us for creating a Treon Creek diversion (the very same westerly ditch in use by the Fullers and ourselves)? Or was it during the immediately subsequent period when he was threatening to bury our pipe (across Lot 4); all available in court records? Mr. Armour stated that he was going to fill the ditch (Lot 4) and build a house on it! Or was it during about 1987 - 1988 when Armours claimed they could do no work because of litigation (to bury our pipe) in progress. Except for water in our pipe, there has been no water crossing under the F.S. road via the westerly ditch since about the summer of 1987.

1. That all parties, including the Armours, agreed that the old weir would not be displaced or damaged as noted in court records. This established the REQUIREMENT for a new location somewhere above the old weir.

2. That before any new weir design activity was initiated, Mr. Armour, on a number of occasions and with both attorneys and others present, insisted that measured water into plastic pipes would be required. This insistence by Mr. Armour and common agreement by all parties, formed the basis for the design requirement that all users would remove only authorized water, by priority, through measuring devices and plastic piping and that no other water, including leakage, would be removed from the Treon Creek stream bed.

3. That a very comprehensive design activity was dictated using an engineer jointly hired by Mr. Armour and Schoonen, et al. That the design was intended to (and does) provide separate entities for each user and should avoid future conflicts regarding priorities or water amounts.

4. The concept for a new weir was formally agreed upon in that Mr. Armour submitted his own design for a common weir. However, his design did not adequately address all water users. Mr. Armour failed to provide any contact, comment or discussion of the proposed design and construction schedule which he received in advance of the start of any work.

5. That Mr. Armour had full knowledge (spring, 1990) that his piping/orifice was not installed in my response to his direct inquiry to me. We assumed he would provide this information.

RESPONSE TO ARMOUR LETTER TO DONALD V. SHAFF DATED
JULY 31, 1991.

This letter contains a considerable number of false statements and exaggerations and therefore each item will not be individually rebutted. An accurate account of the proceedings is provided below.

Following the lack of water beginning in about the mid 1980s, it was determined by all parties at the continued insistence of Mr. Armour, that some kind of a weir with individual piping would have to be constructed and that a court order requiring it was imminent; summer of 1988. The weir, constructed in the general area of the old weir, was engineered to optimize the need for separate entities (permit holders) and the physical conditions of the terrain. The location of the weir enhances the head pressure for all users.

In the spring, 1990, shortly after the new weir was placed in service, Mr. Armour asked me if we had installed his piping. The answer was "no". Therefore Mr. Armour had knowledge that he needed to provide this information to us. Mr. Armour also knew that a separate entity was planned for the Armour permit because he made these demands of the engineer and was informed that such was the case. A blank board and rough orifice was placed in the new weir to demonstrate to the Department of Water Resources representative that this indeed was the intent. It was obvious by his inspection that there was NOT enough water to reach that level on the weir, even with all of the boards lowered into the summer position. The lack of water was also emphasized to the Department representative when I explained the method used to haul well water to our trees and pointed out the vehicle pathway to our other lot.

To our dismay, rather than providing the orifice size(s) required for their use, the Armours planned their strategy to create adverse, false and derogatory information to be

presented to the Department of Water Resources.

Our physical work on the Treon Creek water systems has always been open, and believed consistent with the moral and legal requirements issued by the Department of Water Resources. We were in contact with the Department by phone or in meetings to discuss the status of our work. We have provided written information and photographs to the Department. The new weir is not an exception. We contend that the new weir is at the general location of the old weir. The Department of Water Resources confirmed that the relocation of about 75 feet was not significant. There were no other observable or recorded water improvement activities in progress.

The new weir provides the maximum benefit for all users and the location is optimized because of the physical terrain. In our opinion, the weir is adequate for all permit holders and provides separate entities based on permit priorities, the latter at the insistence of Mr. Armour. The new weir is certainly a better option than the concrete block which Mr. Armour proposed. All parties agreed that the old weir would not be displaced or damaged; thus concurrence for a new measuring system was reached. Mr. Armour was informed in writing of the proposed design and construction schedule before the start of any work.

The general allegations that Schoonen, et al., were "SOMEHOW DESTROYING THE ARMOUR WATER SYSTEM AS IT WAS BEING PUT IN PLACE" is absolutely false. No "destruction" or "evil" deeds were done. To the best of our knowledge, there have been no observable or physical indications along the westerly ditch that Armours had or are doing anything to prove up their water permit! See Note on page 2. Although it would be VERY DIFFICULT TO DESTROY SOMETHING THAT DOESN'T EXIST, Schoonen, et al., have not, nor presently have any intention of "destroying" any beneficial work being done by the Armours. To date, no such work has ever been observed, except for the one time "irrigation" event on the Armour property on the north side of the F.S. road.

RESPONSE TO ARMOUR ATTACHMENT TO DONALD V. SHAFF
DATED NOVEMBER 5, 1991.

First and foremost, the allegations that we are causing a "blockage" of Treon Creek is a total misrepresentation of facts by Mr. Armour. The weir was constructed at the insistence of Mr. Armour, who even offered an alternative design (providing concurrence for the concept, but not the actual weir design)

and in anticipation of a court order requiring it. It is doubtful that Mr. Armour presented all of this information to the Water Resources representative in Idaho Falls, Idaho - thus misrepresenting the situation.

The weir never has, was never intended to, nor will "block" the Treon Creek water for any permit holders, except to remove, in proper priority, their authorized water amounts. The blank boards (Armour entity) were not inserted because we were anticipating that Mr. Armour would provide the correct orifice dimensions, and the water was not even reaching that level. All parties agreed that the old weir would not be disturbed or damaged; thus an implied and tacit concurrence from the Armours that a new measuring system (weir) would be required. The new weir was placed a reasonable distance above the old weir consistent with the terrain, permission from the property owners, and usability by all permit holders. We do not understand Mr. Armour's ludicrous statement that "other water permit holders for Treon Creek DO NOT HAVE THE RIGHT OF ACCESS". This is an absurd statement because the access rights HAVE NOT CHANGED! WE CONTEND THAT THE NEW WEIR IS LOCATED AT THE GENERAL LOCATION OF THE OLD WEIR AND THAT NO "IMPOSITIONS" HAVE BEEN PLACED ON ANYONE. The Department of Water Resources confirmed that a move of about 75 feet was insignificant. Furthermore, the Armours, through their counsel, agreed in the Court Order signed October 16, 1991, that the only remaining issue was the ADEQUACY of the weir.

It should be noted that, in friendly neighborliness, we agreed to move our ditch rights with the consent of the Fullers so that they could construct a new cabin in the general area of the old westerly ditch. Some people, such as Mr. & Mrs. Thurlo French and Fuller-Roberts, are very easy to like and respect, perhaps because they reflect the virtues of the "old west" where a friendly greeting, honesty, and neighborliness are everyday events.

Page 2, Background Information. Mr. Armour begins his statement on background information with misleading information. The pipe we were using to prove up Permit 7098 was in a ditch that we (not Armours) had used for a number of years. This was also a common pipe for Johnson and his prior use as later filed with Permit A72-10490, although that is a separate issue for the Adjudication Court. To imply that we had specified "authorized water right ditches" is incorrect.

Item 1. Schoonen, et al., have not diverted ALL THE TREON CREEK water through the west fork of the old weir for proving up Permit 7098. We were using a small diameter pipe for distribution to lots 2 and 3 and it would be nonsensical to

divert all of Treon Creek into this pipe. Several years ago, there were some infrequent instances when the east fork of the weir was blocked by persons unknown. This situation was corrected when found. During this same period, the west fork of the weir was also found blocked. On numerous occasions I personally made certain that the both forks of the weir were clear and I also emphasized to others that it must remain that way, particularly the actual Treon Creek stream bed. The blocking of the weir, presumably by both parties, and counter accusations were not productive toward a resolution. During each fall, the west fork was blocked by us permitting all flow to remain in the stream bed. Mr. Armour's statement that ALL of the water permit holders (Lots 1 through 7) were served by this ditch is believed false. See Note on page 2. To our knowledge, the Armours initiated irrigation only on their own property on the north side of the Forest Service road, utilizing only the east fork of the old weir (actual Treon Creek stream bed).

Notes (a) through (e) are again misleading; primarily fabricated by Armour. Note (c) is incorrect as explained below. Mr. Armour insisted that measuring devices (weir) be considered and it was commonly agreed that piping would be the logical method of transport. To the best of our knowledge the Armours never diverted water down the westerly ditch; to the contrary someone blocked the west side of the old weir a number of times, hindering our efforts to prove Permit 7098.

Note (e) makes false statements regarding Schoonen, et al., diverting all of the water from Treon Creek, wherein Treon Creek dried up. The creek naturally dried up beginning in the mid 1980s as a result of low water levels and long dry summers. Each summer and late fall, as with October, 1991, there was no water running down the creek near the Fuller cabin with NO obstructions of any kind in the creek; the weir boards being pulled up out of the creek for winter storage. The boards were removed in late September or early October.

A vague recollection of "the application of water to the Armour parcel" prompted by the Armours does not provide consistent and demonstrated use of any ditch. In fact no one has ever witnessed or documented any conscientious and diligent activities by the Armours to prove up permit # 72-7090 except the one time "irrigation" event on the north side of the forest service road. For the most part, the Armours were seldom present on the Cordingly tracts property; living and working out of state. None of the persons living on Cordingly tracts or frequently spending time there can recall Armour doing any constructive work. Mr. Armour needs to be more specific as to the alleged activity rather than providing only innuendos. Mr.

Armour states that "such an application of water use is not possible under the present conditions, etc." The "application" of using the ditch by the Armours has never existed. Rather, they threatened to bury our pipe. However, the Armour priority for Permit 7090 still exists; this amount of water can pass through the weir, plus leakage and presents no restriction of use for the Armours. The east side of the old weir (actual Treon Creek stream bed) is open, and has been that way for years (excluding a few incidents). To our knowledge the Armours have never used the west side of the old weir except to impede progress relative to Permit 7098.

Item 2, page 4. The lack of water and absorption of water into the ground was recognized by all parties and following the insistence of Mr. Armour, common agreement was reached that piping would be necessary, but with measuring devices which would permit only authorized flow into the piping.

Item 3, page 4. Again, the Armour statement is misleading. The water diverted to the north end is in piping furnished by Fuller-Roberts to more adequately demonstrate their continued use of their mining activity! The mining operation, pursuant to all necessary regulations, is not an issue. His statements indicate that he is again trespassing on property belonging to others. The mining operations utilized piping with an in-line valve (which can be closed) as well as a fire hose for washing dirt, softening the work area, etc. The mining operation certainly WAS NOT diverting Treon Creek into the Salmon River as exaggerated by Mr. Armour. Rather, Mr. Armour conveniently omitted the fact that the domestic and irrigation pipes being used by the Fullers were providing water to an area near the old cabin and to the south end of that property respectively, even though he was present when I pointed out these pipes to Mr. Holmes.

The Armour Summary Remarks (page 4) include a totally false statement -- that the weir is designed to block all of Treon Creek flow. Mr. Armour discussed the purpose of the weir with the engineer which he retained; the same engineer which we had hired. Each user has a separate entity; with priorities preceding Armour, the Armour priority, and priority after Armour. The Armours certainly have a right to access to the weir area, which everyone understands. It is believed, however that he should negotiate one specific route with the property owners.

Mr. Armour stated to me that he could traverse any of the Fuller property because Mr. Marshall had given him permission to do so. Everyone recognizes that the Armours have exercised

this "option" on many occasions. I do believe that it would be more proper for Armours to negotiate a specific easement with the Fuller-Roberts property owners. EVERYONE UNDERSTANDS THAT THEY HAVE A RIGHT OF ACCESS TO THE WEIR LOCATION.

To state that they "DO NOT HAVE AN EASEMENT" is probably true, but they have the right of access. The new weir is at the same general location as the old weir and no restrictions on ACCESS have ever been imposed. NO ONE IS RESTRICTED from their right to inspect the diversion weir. We are not certain about the status of any written described easement for any of the parties.

The Marshall warranty deed applies to the Cordingly Tracts property; the 18.035 acres purchased by Armour, and subsequently to the portion he now owns! The words "diversion point" or "weir" probably never appeared in any deeds as implied by Mr. Armour. The wording relative to ditch and water rights appears in other deeds, including my own, yet we established a right-of-way only by formal use and with permission from the current property owners. The Department of Water Resources stated that even though we placed the domestic use pipe in the ditch (License # 72-7098), a right-of-way was not necessarily established. Of course NO ONE is altering the Armour deed and we don't understand this issue.

The Armour statement (last paragraph, page 4) regarding illegally destroying the Armour water diversion system is categorically denied because such a "system" was never established.. The Armours were informed in writing of the proposed weir design and construction schedule and the only objection was regarding the design. Mr. Armour then submitted a design which was inadequate because it did not meet all priority requirements. Armours agreed that the old weir would not be displaced or destroyed and could reasonably expect the new weir be placed in an optimum location for all parties. Mr. Armour's allegation that all Treon Creek water was "taken" is ludicrous. The water amount was so small that it only partially filled the Fuller-Roberts priority. There was little or no water in Treon Creek Water Users piping the entire year, nor would there have been any overflow into Treon Creek even if the Armour measuring devices were installed in the new weir in place of the rough orifice presently installed. When Armours finally do some work to prove beneficial use for Permit # 7090, we expect to seldom obtain water from Treon Creek, even in the spring. We have been watering trees using well water. Mr. French has not watered his lawn for at least the past three summers - no water available in our pipe. Treon Creek water is indeed in short supply because the Fullers are utilizing it as provided and authorized by their license.

Item B, page 5 is totally incomprehensible. Mr. Armour surely must understand how a weir is operated. It appears that this section is fabricated out of feigned ignorance. The weir boards for all users are placed in the down position in the late spring and moved upward or totally removed from the weir in the late fall. Thus, Treon Creek has no obstruction which would support Mr. Armour's fantasy for gross damage to the area. His own design (had it been adopted) might have done so because it entailed plugging the three pipes in his weir during winter months, thus providing a solid dam across Treon Creek. During the summer the present weir provides each user with the exact amount of water authorized by permit. There are not copious amounts of water in the creek as seen in the early and late 1970s so all users will see a decrease in availability. TREON CREEK IS NOT ALTERED FROM ITS COURSE, and no damages have been sustained from "illegal" use of water.

Item C, page 5. The Armours certainly have the right to exercise their water rights within the authorization of their permit - #72-7090, on their own property. We're not certain what rights they have on property belonging to others, especially when they have done no beneficial proof work for their permit. However, they do have access and inspection/use rights for the weir area; which no one is contesting.

Item D, page 6. The diversion point is essentially the same. Relocation necessitated by not being able to displace the old weir (per agreement which provided basic concurrence and necessity for a new weir) to optimize the location for all users; and maximize the design for priority applications is not considered to be outside any previous authorization. Should a formal waiver be required because of an administrative error on our part, then such waiver will be applied for.

The Department of Water Resources is requested to review the reasonableness of the new weir location and the fact that all parties agreed that the old weir could not be displaced and agreed that a new measuring weir would have to be provided. Mr. Armour even provided a weir design (concrete block with three pipes) specifying this.

Item E., page 6. All water NOT passing through an authorized measuring device and piping which removes it from Treon Creek is returned to the Treon Creek stream bed, including any leakage around or through the weir. Again, Mr. Armour is pretending ignorance of how the weir operates. The design absolutely supports the rights of each water user.

Item F., page 6. It is believed that our convictions were properly presented and no "false testimony" was included by Schoonen, et. al.

The allegation on the last page of the Armour attachment is totally opposite of the intent of the new weir, which is to provide a measured and authorized amount of water for each user without removing any unauthorized water, including leakage, from Treon Creek. Mr. Armour is incorrect if he believes that Schoonen, et. al., are trying to GAIN CONTROL OF TREON CREEK!

OCTOBER 24, 1991 TREON CREEK MEETING

The only comment regarding "disrupting" the meeting was that, without the exaggerations Mr. Armour provided, the Armours were equally disruptive. It was difficult to remain silent when the Armours were making false accusations and derogatory statements. We showed Mr. Holmes the extent of our operations and the piping layout, as well as the three pipes in use by Fuller-Roberts. We could readily understand that the competition on both sides was disrupting the meeting and voluntarily left after Mr. Holmes arranged to meet with us separately. Mr. Holmes met with the Armour group for nearly an hour before coming to the Munk cabin, so I believed the time spent with each group was nearly equal. In hindsight, the only inadequacy might have been that we did not show Mr. Holmes the old weir and collection pool location which we previously used.

Mr. Armour made a number of false statements in front of everyone at the meeting on Treon Creek on October 24, 1991.

He stated that I probably had an "in" with the judge. Mr. Armour indiscreetly wrote a personal letter to Judge Bengtson; I did not!

After first denying that he had hired the same engineer to design the weir, he stated that the engineer was "under my control"!

He stated that he had permission from a deceased person which allowed him to traverse the Fuller-Roberts property!

He stated that Armours had used the old westerly Fuller ditch for irrigation purposes! This contradicts his own reason for obtaining a time extension for permit 7090. See Note - page 2.

He stated that "he had been working with these folks to help resolve the issues"! Could this have been at the time he took the culverts from the Cordingly Tracts right-of-way and then told the Custer County Prosecuting Attorney that he did not

know who the pipes belonged to? Or perhaps it was on one of the many occasions when he was placing rocks and debris on the right-of-way or on the common property pathway to the cable car? Or perhaps it was during the time he was erecting one of his famous barricades (without prior notice to anyone); the latest in the fall of 1990 when he barricaded in three vehicles and two families; he later (in writing) told the Forest Service that he did not intend to barricade out the U.S. government; only private individuals and that the structures were really only "gates"! He was ordered to remove the illegal structures.

RESPONSE TO ITEMS NOT RELEVANT TO TREON CREEK WATER ISSUES

Mr. Armour's statements regarding the cable car on the point property are inaccurate. Forest Service permission was received but not in the form of a written permit. Mr. Armour does not relate how he misled the Forest Service into believing he owned all of the property. Once the F.S. was apprised of the common ownership, they readily granted us a liberal extension of time to relocate the cable car, which was our intent.

Mr. Armour falsely relates the information regarding the Cordingly Tracts right-of-way. The deed for my cabin lot was prepared by the former White Clouds attorney who was very cognizant of the Cordingly Tracts survey and described the right-of-way as going straight (across Treon Creek) to the F.S. road as shown on the Cordingly Tracts survey and on the Custer County property plat. Mr. French's property deed was prepared by Mr. Armour's OWN ATTORNEY who resided in Challis and had access to Court records, and provided the same description. The Armour's sued us for using our own right-of-way but later dropped the "trespassing" charges. The issue was resolved legally when an agreement was reached for a changed right-of-way which was different than the contested areas. Trees were removed during the construction of the right-of-way. However, trees were also destroyed and property damage occurred when the Armour's removed the Treon Creek culverts from the right-of-way and erected an illegal barricade. Later, when we pressed grand theft charges, Mr. Armour stated in writing to the prosecuting attorney that he did not know who the pipes belonged to!

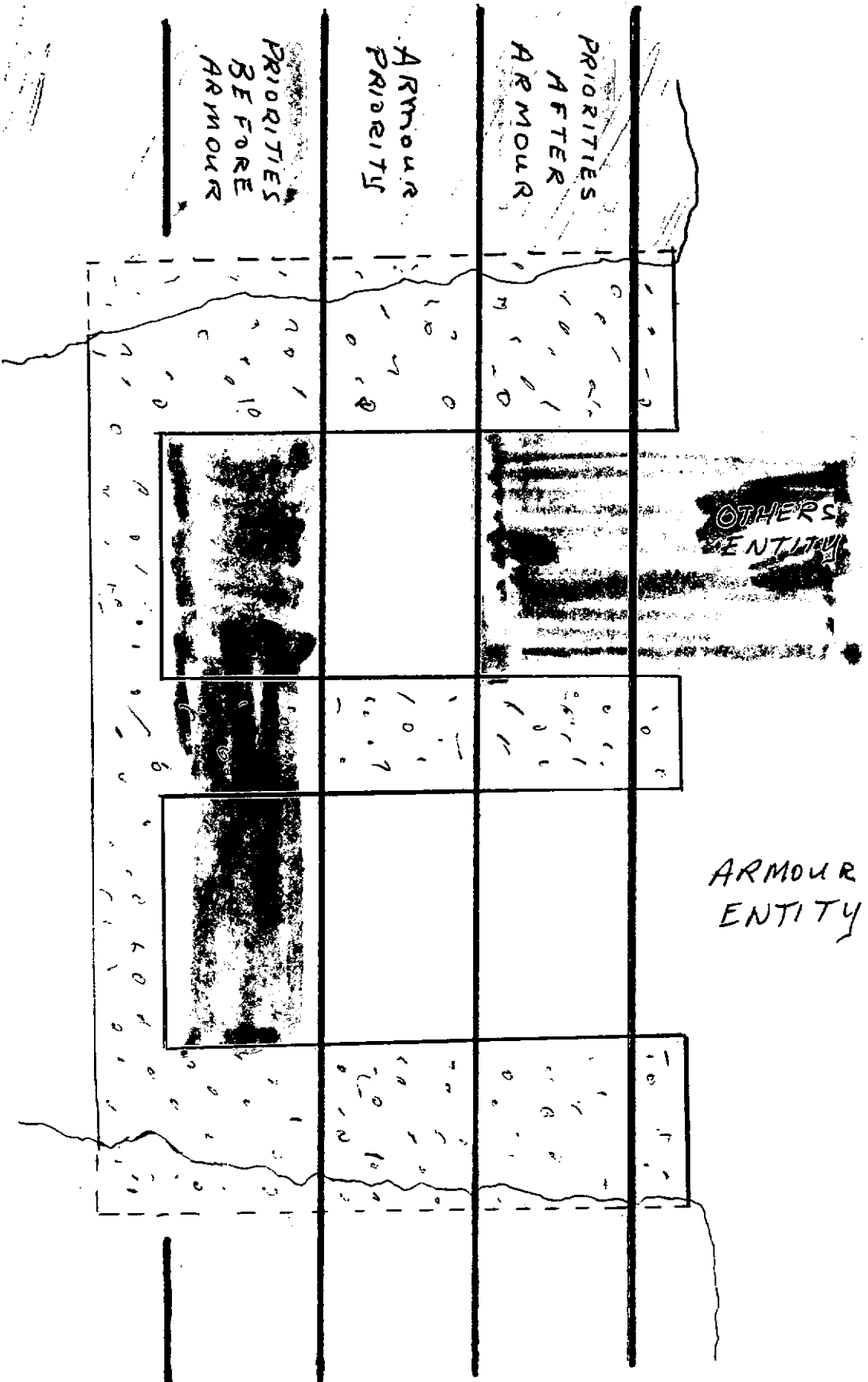
The Cordingly Tracts right-of-way was in use for a number of years before Mr. Armour thought to identify his change to the right-of-way description - which went to Treon Creek and then vaguely ran alongside Treon Creek to the F.S. road. No survey

or other markings ever identified it. When a change of right-of-way was agreed to, it was necessary to press contempt of court charges on two occasions to finally obtain (after about 3 years) the changed right-of-way description.

Despite all that has transpired, we sincerely wish there were some way we could reach a conciliatory and neighborly relationship with the Armours. Because of the friction caused by the above (and other) incidents, it is difficult for either side to mend the breach. The present situation does not seem to bring us any closer to a solution.

I appreciate the time required for you to review the above extensive information, especially when it was necessary to repetitive. If you have questions or need clarification of wording, please contact me at 522-9060.

TREON CREEK WEIR



May 31, 1990

STATE OF IDAHO
Department of Water Resources
Southern Region
2148 4th Avenue East
Twin Falls, Idaho 83301

RECEIVED
JUN 8 1990

Attention: Mr. Bob Fleenor

REQUEST FOR PRIORITY DATE CHANGE

Department of Water Resources

Dear Mr. Fleenor

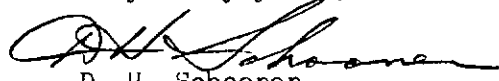
It is respectfully requested that the priority dates for domestic water use for permits #72-7098 and #72-07418 be reordered to precede the priority date of application #72-7090.

Permits 72-7098 and 72-07418 have been worked conscientiously as required to prove up and actually utilize the water from Freon Creek in the amounts and manner prescribed. A new weir has been constructed and installed to include the accomodation of the above two permits. New plastic piping carrying the allocated amount of water have been placed in use. The same restrictions for usage exist for the above two permits as for application #72-7090 described below, e.g., absolutely nothing to prohibit development.

During the same period, since approximately 1983, there has been no indications of activity to prove up application 72-7090 as required by the preceding Water Resources Board Order. The premise for the extension of time for application 72-7090 is very questionable. Although Mr. Armour may provide some lucid fantasy to the contrary, the real reason for inactivity regarding 72-7090 is that, until recently, Mr. Armour lived outside Idaho; in California and for a number of years in Georgia and never engaged anyone to proceed with the improvement work.

We have requested that our attorney prepare a letter regarding this matter and forward it to your office.

Very truly yours,


D. H. Schoonen
1364 12th Street
Idaho Falls, Idaho 83404

cc: Anderson, Pike & Bush
Attn: Mr. Douglas Nelson

D.H. & HELEN SCHOONEN
1364 12TH
Idaho Falls, Idaho 83404

RECEIVED

JUN 6 - 1990

Department of Water Resources
Southern Region Office

Attn: Bobby Fleener

STATE OF IDAHO
DEPT of WATER RESOURCES
SOUTHERN REGION
2148 4TH AVE EAST
TWIN FALLS, ID 83301



OFFICIAL SPONSOR
1992 OLYMPIC





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - [REDACTED]

(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

April 6, 1989

D.H. Schoonen
1364 12th St.
Idaho Falls, ID 83404

RE: Permits no. 72-7090 & 72-7098

Dear Mr. Schoonen:

I acknowledge the receipt of your letter dated March 20, 1989. Bobby Fleenor of this office has represented that you telephoned him regarding the questions raised in the letter. I do not know whether it is still necessary to respond to the letter, but I will attempt to do so.

You inquired about a letter which may have modified the Order Adopting the Memorandum Decision and Order. I cannot find a letter which would modify the order. It is very unlikely that any letter was sent by the Department that would modify an earlier decision of the Director.

You refer to the language in the fifth paragraph on page two of the Proposed Memorandum Decision and Order adopted by the Director. The paragraph reads:

Following the April 3, 1980 conference, the applicants and protestants, acting on as the Treon Creek Waterusers, jointly filed application no. 72-7098 to appropriate water from Treon Creek for domestic use for all lots within the Cordingly Tracts. The application was approved on May 23, 1980.

You also state that paragraphs one and three of the conclusions of law are not consistent with the language quoted above.

While conclusions of law number one and number three could be more explicit, it is not necessary at this time to amend the order. Your allegations that permit no. 72-7098 provides domestic water for both the applicants and the protestants, and that domestic water for the holders of water right no. 72-7090 is also supplied by permit no. 72-7098 can probably be implied in the language of the order.

MAY 15 1989

Finally, you asked whether permit no. 72-7090 will be issued for irrigation purposes only. The Proposed Memorandum Decision and Order states that the permit was issued for both irrigation

of 7.5 acres and domestic water supply to two homes. I believe it could be licensed for both uses.

I hope I have answered your questions adequately.

Sincerely,

A handwritten signature in cursive script, reading "Gary Spackman".

Gary Spackman, Manager
Water Right Permits Section

GS:ds

cc: Southern Region

EX-100-100000

MAY 15 1989

March 20, 1989

Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Sir:

Thank you for providing the copy of pending permit 72-7090. As I recall, there was a letter modification subsequent to the order adopting the memorandum decision and order regarding the "establishing of a right-of-way by use of the existing ditch". I think the letter stated that the right-of-way wasn't an absolute, but may be established by use or with permission. If such is the case, would you please provide me with a copy of the above mentioned letter of clarification.

As specified in the order in the fifth paragraph on page 2, all authorized domestic water use for the Cordingly Tracts lots would be provided to the Treon Creek Water Users per application 72-7098. It appears that to be consistent, paragraph 1 on page 4 should specify that the water rights for domestic use of the applicants and protestants has a priority date of April 3, 1980 as evidenced by application 72-7098. Perhaps paragraph 3 on page 4 should also specify that domestic water use by the applicants is provided under application 72-7098.

It is our understanding that permit 72-7090, when finalized, would be issued for irrigation purposes only. Is this interpretation correct?

Very truly yours,



D. H. Schoonen
1364 12th Street
Idaho Falls, ID 83404

Microfilm

MAY 15 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

04-Jan-1989

D. H. Schoonen
1364 12th St.
Idaho Falls, ID 83404

RECEIVED
JAN 09 1989

Re: Water rights 72-7098 & 72-7090

Department of Water Resources

Dear Mr. Schoonen:

Regarding your question about the .08 cfs of water under license 72-7098. The amount is the flow of water that was measured being diverted when the water system was examined on Sept. 24, 1985.

Water rights are licensed for the lesser of the amount permitted, the capacity of the diverting works, or the amount of water beneficially being used.

This office has only a microfilm of the examiner's report, and I was unable to reproduce a legible copy. If you would like a copy of the field report, our state office can send you one on request.

Permit 72-7090 is still in the permit stage and, as such, the final determination of acreage and water amount has not been made. An extension of time has been granted until July 1, 1992 to make final proof on the permit.

If we can be of any further assistance, please let us know.

Very Truly yours,

Loren O. Holmes, P. E.
Southern Region Manager

NOT RECORDED
MAY 15 1989

State of Idaho
Department of Water Resources
2148 4th Avenue East
Twin Falls, Idaho 83301

October 20, 1988

RECEIVED

RECEIVED

JAN 09 1989

OCT 21 1988

Attn: Mr. Loren O. Holmes

Dear Mr. Holmes

Department of Water Resources
Southern Region Office

Department of Water Resources

I have recently reviewed the pertinent documents pertaining to Permit 72-7090. It appears that the application for 72-7090 contains incorrect information and that the Armours have obtained a larger irrigation water allowance than should be specified based on the acreage which exists or can be irrigated. Water use was specified for 12 acres, whereas the Armours' sole ownership of property entailed less than 11 acres at the time of the application. I have attached a Cordingly Tracts layout for your information. Furthermore, an estimated 2 or 3 acres in the S.W. portion of the property is on a high bluff (approximately 100 - 200 feet above Treon Creek) and adjoining steep face and thus not irrigable.

If Mr. Armour is intending to request an extension relative to Permit No. 72-7090, we would like to know on what premise the extension is based. We are not aware of any significant or diligent activity by the Armours to establish proof of beneficial use. It should be noted for the record that Mr. Armour did establish a diversion point for 7090 at the approximate location of the "X" on the attached sketch.

The Water Resources Board's written determination and planned action regarding the above two items is requested by the earliest possible date so that we may consider requesting a Water Board hearing and, if necessary, appropriate legal action.

Although we have no objection to the correct allowance of irrigation water to the Armours, our concerns embrace an incorrect application, non-development for beneficial use, and the uncertainty regarding the speculative nature of the property development; any of which should invalidate Permit No. 7090. With regard to the latter concern, the Water Resources Board is requested to obtain a notarized statement from Mr. Armour which specifies what the intended development of his property entails. This statement could then be used as a baseline document for evaluating whether or not the planned development constitutes a speculative venture.

Sincerely yours,


D. H. Schoonen

cc: Anderson, Pike & Bush
Attn: Mr. D. Nelson

1364 12th Street
Idaho Falls, Idaho 83401

MICROFILMED

MAY 15 1989

NORTH

COMMON PROPERTY - JOINT OWNERS

V. Johnson French
M. Johnson Schoonen
Armour (66 2/3%)

OWNED BY OTHER THAN ARMOUR

Right of Way
30 feet wide

1582.80

Existing Road

RELOCATED

CORDINGLY TRACTS

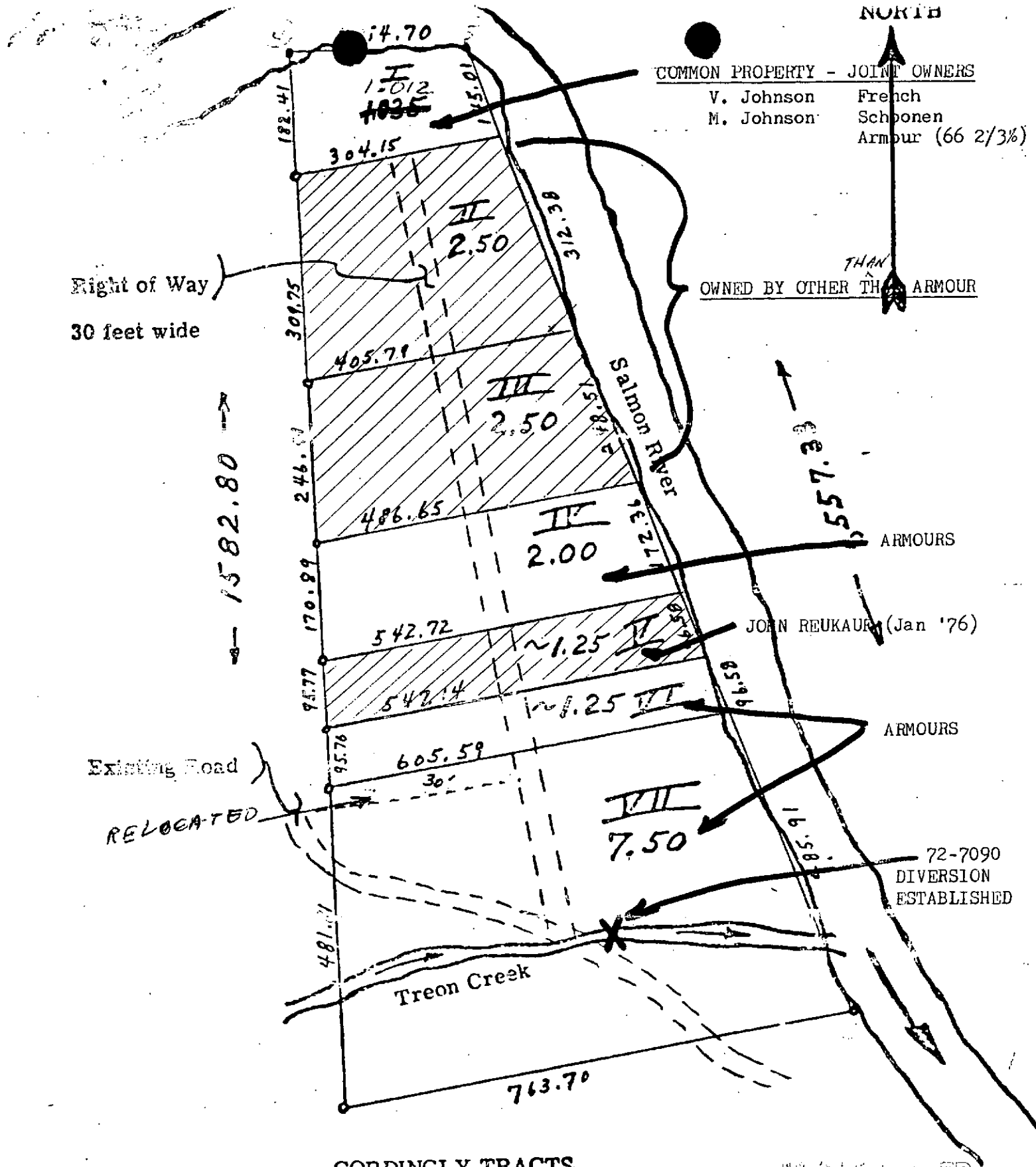
EAST 1/2 of M.S. No. 3580

Appx. Section 25 T 11 N, R 15 E, B.M.

and Section 30 T 11 N, R 16 E, B.M.

CUSTER COUNTY, IDAHO ---- ELKHORN PLACER

MAY 15 1969



RECEIVED
OCT 5, 1988
JAN 09 1989

State Water Resource Board

Turn Falls, Idaho

Attn: Mr. Loren Holmes

Department of Water Resources

RECEIVED

OCT 7 1988

Department of Water Resources
Southern Region Office

Dear Mr Holmes

Enclosed is a copy of a letter from
Hope Armour and my response to
that letter. I believe my letter to
Mr Armour presents the facts clearly.

Although I was unaware that the blockage
had occurred, the diversion of Treon Creek
water was probably necessary as stated
in my letter. The water runs only a
short distance beyond the intake before
it disappears into the ground; not
to any of the co-defendants property.

If all goes well, the problem will
be resolved by mid-summer 1989
as specified by the court.

MICROFILMED

MAY 15 1989

Please send the information which
I requested in my previous letter
at your earliest convenience
so that the measuring device
design and reviews can be completed
this winter.

Sincerely yours

Ed Schooner

P.S. Please call me if you
have any questions
regarding this matter.

RECEIVED

OCT 7 1988

October 5, 1988

REC

JAN 09 1989

Hope Armour
H C 67 Box 740
Clayton, ID 83227

Department of Water Resources
Southern Region Office

Department of Water Resources

Ms. Hope Armour

Your letter of September 28, 1988 regarding the diversion on Treon Creek was received October 4, 1988..

The Court hearing on August 24, 1988 culminated a court case that has been pending for several years. The Court wisely recognized that a measuring device could not be instantaneously designed, constructed and installed in Treon Creek. My recollection is that an effective date of mid-July, 1989 will be stipulated to change the current diversion method.

We have hired an Engineer to prepare the design of the measuring device (which Armours' will review); however, this work is on hold pending a requested verification from the State Water Resource Board regarding the water permit and allowance per household. I requested (by phone) that you be sent a copy of this verification. It is our intent to have the measuring device in place as soon as possible, but definitely on or before the required effective date. Thereafter, only the exact and stipulated amount of water will be removed from Treon Creek for domestic use by the co-defendants in the current lawsuit.

As you are aware, the present piping system has been in existence for a number of years; initially installed approximately 1973, then extended in 1979 with permission for our utilization of the ditch on their property granted by the Fullers'.

In extremely low water periods (late summer/fall), Treon Creek water may of necessity be diverted to cover the present intake piping supplying water for domestic use by the co-defendants. The Water Resource Board is aware that this possibility exists. The water intake is about 100 ^{feet} ~~yards~~ below the Fuller diversion weir and preliminary calculations indicate the pipe is sized too small for the water allowance for our use.

Never-the-less, the above situation will be corrected with the installation of the court-ordered measuring device. Therefore, you are being somewhat presumptuous with your allegations and are respectfully requested to exercise a reasonable amount of restraint until the new diversion point is completed to the required specifications; in essence, the purpose of the pending court order.

MICROFILMED

MAY 15 1989

One situation which is apparent from your letter is that you are ignoring the "NO TRESPASSING" and "PRIVATE PROPERTY" signs posted on the Fuller property. To my knowledge, the court order has not been revised and issued to reflect the proposed language from the August 24, 1988 hearing regarding the Treon Creek diversion. That language may specify an inspection of the installed measuring device on Treon Creek. Therefore, you should not trespass on property belonging to others until the stipulation from the court is issued and understood.

Sincerely yours,


D. H. Schoonen

MICROFILMED

MAY 15 1989

Sept. 28, 1988

H.C. 67 Box 740
Clayton, Idaho
83227

RECEIVED
JAN 09 1989

Mr David Schoonen
1364 12th St.
Idaho Falls, Idaho
83404

Department of Environmental Conservation

Dear Mr Schoonen

Just to remind you that the diversion in Treon Creek is not to be altered. Perhaps your group do not feel that obstructing the flow through our portion of the diversion is not altering it, however I feel that it definitely is. I took pictures of the obstruction and will show them to the water resources board when I get the pictures developed. Also will have them for future sessions to show that your parties are behaving as usual and not adhering to the word of the court order.

Sincerely

Hope Falconer Armour
Hope Falconer Armour

MICROFILMED

MAY 15 1989

Attn:

Mr Loren O. Holmes

SEP 3 1988
RECEIVED

SEP 7 1988

Department of Water Resources
Southern Region Office

Dear Sir

My letter was returned because I sent it to an old address. Am returning it when we can get the correct address from the Idaho Falls Office.

As mentioned by phone, the mixup appears to be with permit 72-7090. As we all joined together (including Armoura) to form the Trout Creek water users group, I think the domestic portion of 72-7090 should be cancelled. Everyone appears to be satisfactorily served by 72-7098.

MICROFILMED

I apologize for the delay

MAY 15 1989

Sincerely

Carl Schoonen

REC-11

JAN 09 1989

Department of Water Resources

REC

JAN 09 1989

August 25, 1988

Department of Water Resources

RECEIVED

SEP 12 1988

Department of Water Resources
Southern Region Office

Mr. Loren O. Holmes
Southern Region Supervisor
State of Idaho Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

Dear Sir:

During the hearing in the Custer County Courthouse on August 24, 1988, to determine partitioning action on some common property near Treon Creek and to resolve the means of diversion from Treon Creek pursuant to Permit No. 72-7098, a possible error in the diversion capacity was noted. This apparent error was noted in the proposed court order and stipulation. A copy of the court stipulation could be provided to you if you deem it is necessary. The facts pertaining to the error are presented in the following paragraphs.

The application for permit specified an amount of 0.30 cfs and this amount was apparently approved. A partial copy of the application form is enclosed.

A letter from you regarding my inquiry for an interpretation of the permit and the right-of-way status, dated December 11, 1980 further described the amount of water as .30 cfs. A copy of this letter is also enclosed.

A copy of the permit issued in October, 1987, specifies only .08 cfs. We believe this to be an error and apologize for not discovering the discrepancy at the time the permit was issued. The permit copy is enclosed.

Many of the Treon Creek property owners, with their respective legal counsel were present at the hearing, e.g., Armours', French, Schoonen, Johnson, Munk (formerly Donna Page), etc., and agreement was reached on all issues. However, although we are anxious to proceed with the design of the "diversion box", we are uncertain whether to design for the intended 0.30 cfs.

Would you please provide the Water Resources position on this matter and the direction to proceed on both the design and correction of the permit (if the latter is determined).

Your prompt response to me would be very much appreciated. I will make certain that all of the involved parties receive a copy of the response.

Very truly yours,

cc: T. H. French

D. H. Schoonen

D. H. SCHOONEN
1364 12TH ST
IDAHO FALLS ID 83404

MICROFILMED

MAY 15 1989

RECEIVED

JAN 09 1989

Ident. No. 72-1098

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

Department of Water Resources

Southern Region Office

To appropriate the public waters of the State of Idaho

APPROVED

- See Sec 10 for owner names.
1. Name of applicant Trecon Creek Waterusers Phone _____
- Post office address % Hope Almost 128 Martin St No 22 Twin Falls, ID 83301
And % Thalia H French P.O. Box 68 Stanley, ID 83218
2. Source of water supply Trecon Creek which is a tributary of Salmon River
3. Location of point of diversion is NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 25 Township 4N Range 15E B.M. Center County additional points of diversion if any:

4. Water will be used for the following purposes:

- Amount 0.30 for domestic purposes from Jan 1 to Dec 31 (both dates inclusive)
 (cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)

5. Total quantity to be appropriated:

- a. 0.30 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

- a. Description of ditches, flumes, pumps, headgates, etc. Diversion Box & Pipeline
System

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

Period of year when water will be diverted to storage _____ to _____ inclusive.
 (Month/Day) (Month/Day)

- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

- a. If water is not for irrigation: See 86

(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____

Range _____ B.M. _____

MICROFILMED

MAY 15 1989



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

RECEIVED
JAN 09 1989

December 11, 1980

Mr. D. H. Schoonen
1364 12th Street
Idaho Falls, Idaho 83401

Department of Water Resources

Dear Mr. Schoonen:

In regard to your inquiry about Permit No. 72-7098, the total amount of water, .30 cubic feet per second, is the total amount to be diverted to the 12 homes described in the permit. This is equal to .025 cfs or 11.2 gallons per minute for each home.

The condition of approval on the permit stating that the permit does not grant a right-of-way or easement was imposed because the application indicated that the point of diversion was to be located on land owned by Mr. L. A. Fuller, who was not an applicant.

The Department cannot grant a right-of-way by the issuance of a water permit, however, Sections 42-1102 and 42-1103 of the Idaho Code provide that a holder of a permit may establish a right-of-way by condemnation.

In the case of water being carried in an existing ditch for other uses, a right-of-way may already have been established by use.

If you have any further questions, please contact me.

Very truly yours,

Loren O. Holmes
LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

MICROFILMED

MAY 15 1989

State of Idaho
Department of Water Resources

RECEIVED
JAN 09 1989
Department of Water Resources

CONFORMED COPY

WATER RIGHT LICENSE

WATER RIGHT NO. 72-7098

Priority: April 3, 1980 Amount: .08 CFS 14.4 AFA

This is to certify, that TREON CREEK WATERUSERS
C/O THURLO H. FRENCH
P.O. BOX 68
STANLEY, ID 83278

has complied with the terms and conditions
of the permit issued pursuant to Application for Permit dated April 3, 1980, and
has submitted proof to the Department of Water Resources on April 16, 1985, that
water has been applied to a beneficial use; an examination by the Department indicates
that the works have a diversion capacity of .08 cfs of water from;

TREON CREEK tributary to SALMON RIVER

and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Domestic	01/01 to 12/31	.08 cfs	14.4 afa

LOCATION OF POINT OF DIVERSION(S): NESE , Sec. 25, Township 11N, Range 15E
Custer County

PLACE OF USE: Domestic

TWN RGE SEC

11N 15E 25 SENE NESE
11N 16E 30 LOT11(NWSW)

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Domestic use is for 12 homes.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 16th day
of October, 1987.

MICROFILMED

[Signature]
Director

MAY 15 1989

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No.

72-1098

Name(s) of Permit Holder(s)

Iron Creek Water Users (see attached)

Post Office Address:

Box 68, Stanley, Idaho

83218

Tel. No.

832-266

☒ I hereby certify that construction of diversion works for the above referenced permit began on Summer of 1972 (Date) I understand that I must continue to develop the water system with due diligence to maintain a valid permit.

☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control:

See attached sheet.

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

Date

19 July 82

Signature of Permit Holder

Paul H. French

Permit # 12-7098.

RECEIVED

JUL 21 1982

Department of Water Resources

Subject: Iron Creek water users.

Charles H. French 1 Lot

L. Douglas Page 1 Lot

Gary Gibson 1 Lot

A. H. Schoonen 2 Lots

Vernon P. Johnson 1 Lot

Other Iron Creek water users should
be reported by Hape Armour, Clayton, Idaho
83227

Sincerely

Charles H. French

MICROFILMED

JUL 25 1988

Iron Creek Water Users
Phurlo H. French
Box 68 Stanley Idaho
83278

Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720



MICROFILMED

JUL 25 1988

October 19, 1987

TREON CREEK WATERUSERS
C/O THURLO H. FRENCH
P.O. BOX 68
STANLEY, ID 83278

RE: Permit No. 72-7098

Dear Permit Holder(s):

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

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

MICROFILMED

MAR 16 1988

September 15, 1987

TREON CREEK WATERUSERS
C/O THURLO H. FRENCH
P.O. BOX 68
STANLEY, ID 83278

RE: Permit No. 72-7098

Dear Permit Holder(s):

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

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

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

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

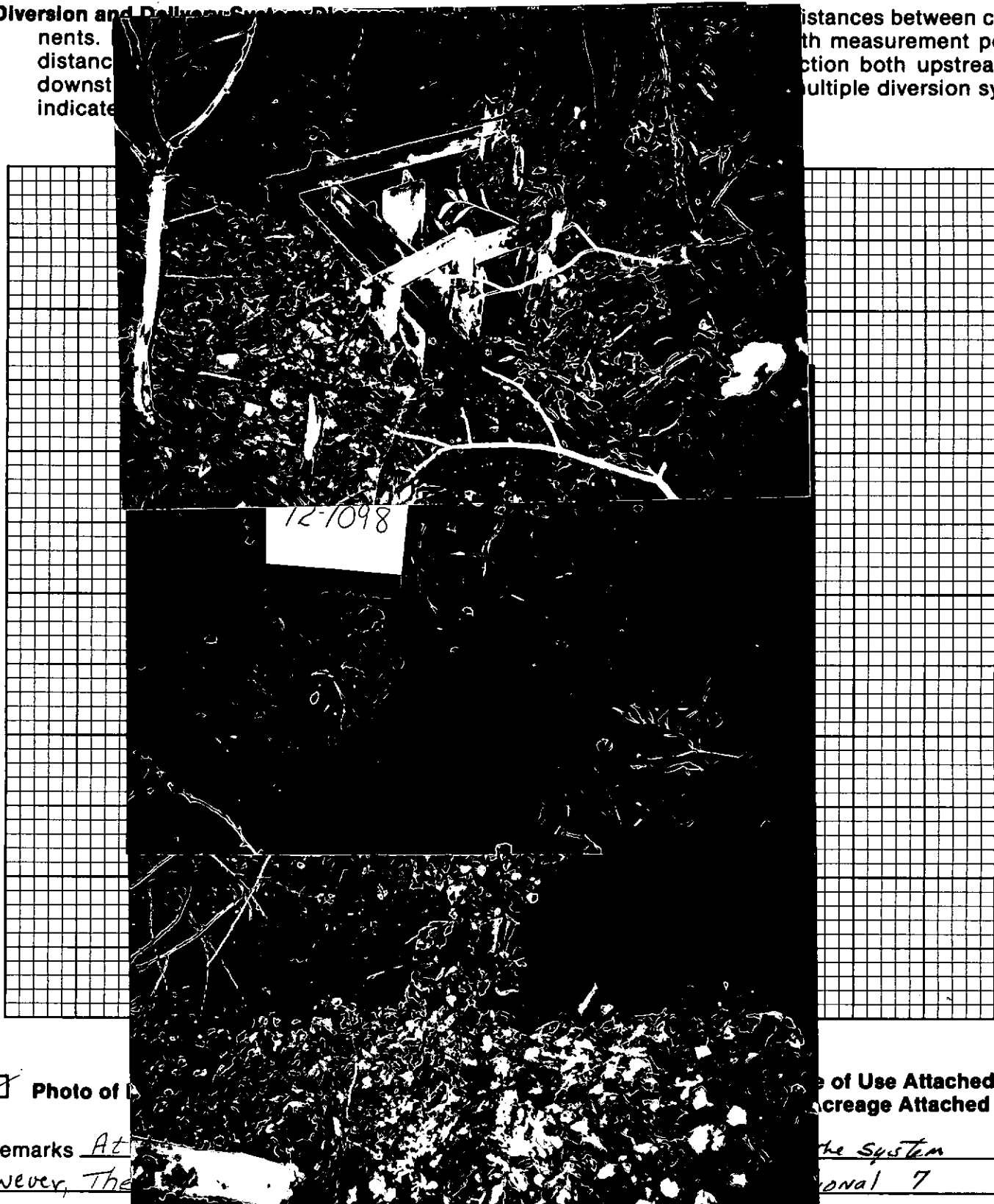
Enclosure

RECEIVED

MAR 16 1988

Place(s) of Use:			Indicate Method of Determination																
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	
11N.	15E	25				D									D				
11N	16E	30							D										
									Lot 11										
Total Acres _____																			

10. Other water rights on these lands 36-7090, 72-2136
11. Other water right diverted from same p.d. 72-2136
12. Diversion and Delivery System Diagrams. Distances between components. With measurement port the distance. Both upstream and downstream. Multiple diversion systems indicate



13. ☒ Photo of the system ☐ of Use Attached ☐ Increase Attached
14. Remarks At however, The hook ups applied for the system ional 7

15. Recommended Amendments
- | | | |
|---|--|--|
| ☐ Change P.D. as reflected above | ☐ Add P.D. as reflected above | ☒ None |
| ☐ Change P.U. as reflected above | ☐ Add P.U. as reflected above | ☐ Other |
16. Examiner's/Consultant's Signature Terry A. Blau Date 1-29-85
- Consultant's License Number _____
- IDWR Director's Authorization to Conduct Beneficial Use Examination _____

DATE FILMED
MAR 16 1988
CONSULTANT SEAL

Divider box in Treon Creek
9-24-85

5

SEP. 1985

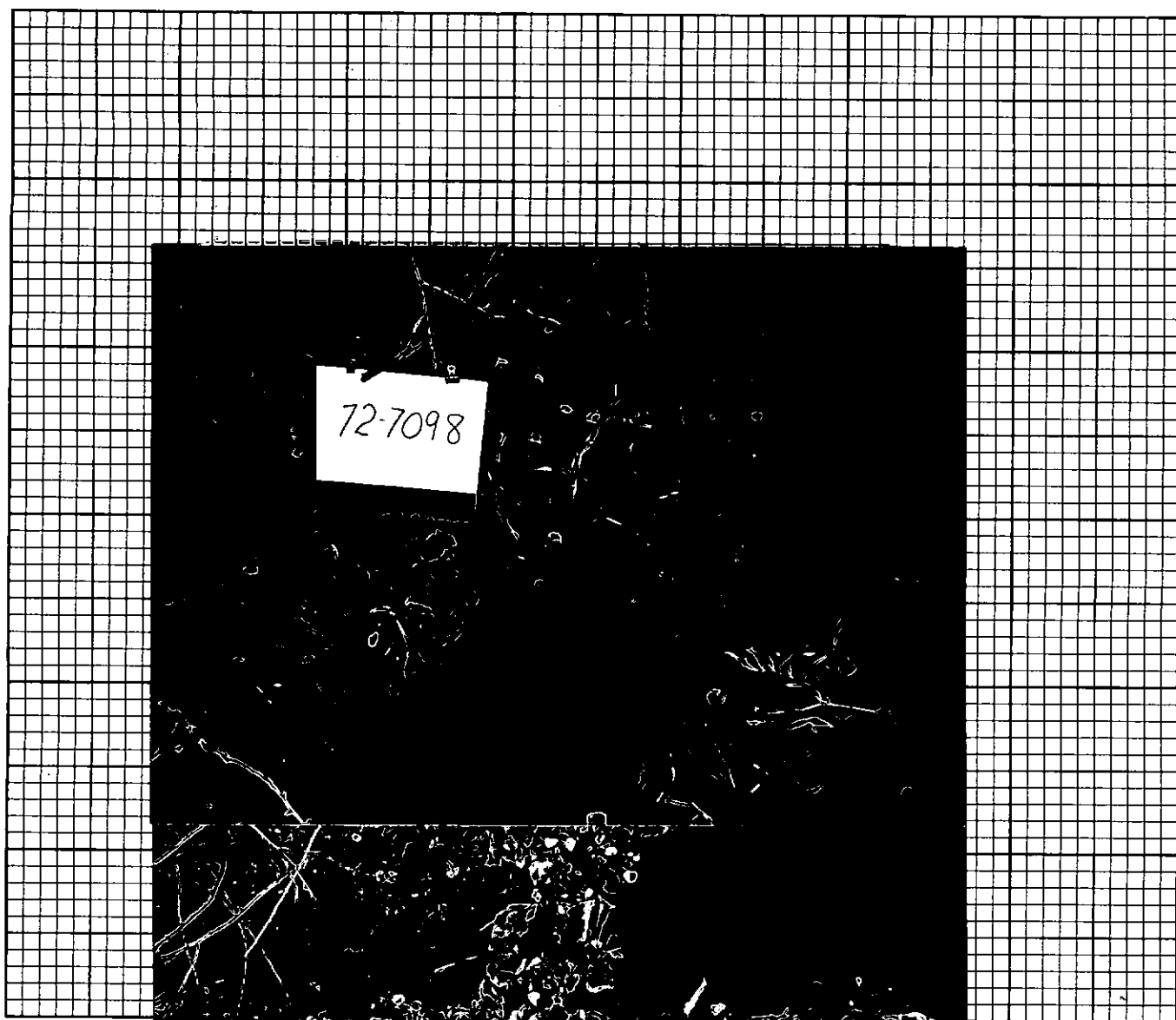
SEP. 1985

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10. Other water

11. Other water

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



13. ☒ Photo of ☐ of Use Attached
☐ Increase Attached

14. Remarks At the system
however, The ional 7
hookups applied for

15. Recommended Amendments

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

16. Examiner's/Consultant's Signature Terry S. Blum Date 1-29-85

Divider box in Treon Creek
9-24-85

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SEP. 1985

SEP. 1985

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10. Other water

11. Other water

12. Diversion and
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Portable V-notch weir measuring
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9-24-85

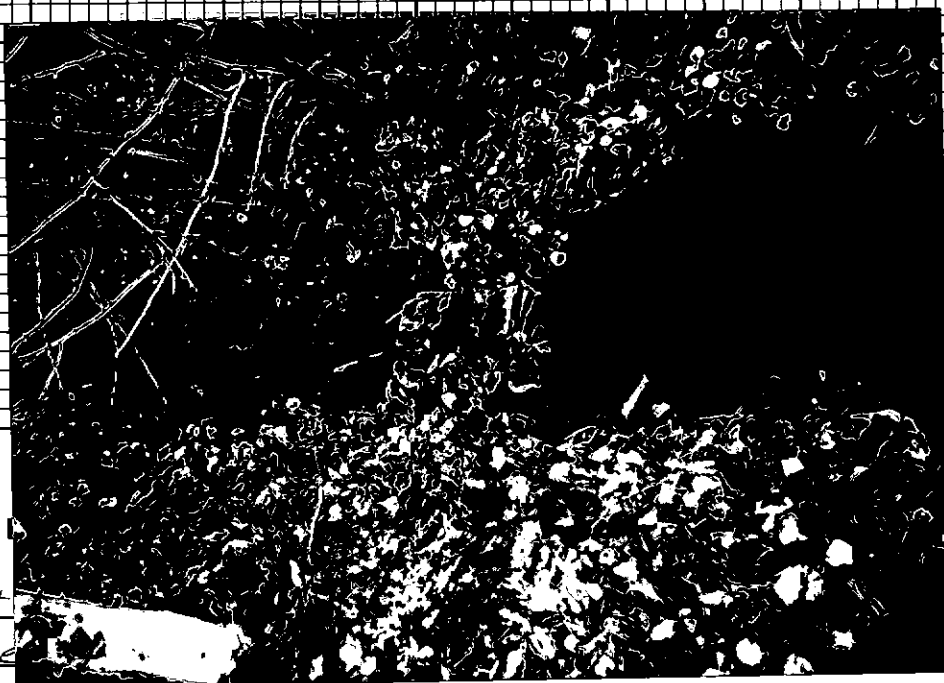
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SEP. 1985

stances between compo-
measurement port the
ion both upstream and
multiple diversion systems

8

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13. ☒ Photo of

Use Attached
Increase Attached

14. Remarks At

the system
ional 7

however, The
hook ups applied for

15. Recommended Amendments

☐ Change P.D. as reflected above

☐ Add P.D. as reflected above

☒ None

☐ Change P.U. as reflected above

☐ Add P.U. as reflected above

☐ Other

16. Examiner's/Consultant's Signature

Larry S. Blau

Date 1-29-85

Divider box in Treon Creek
9-24-85

5

SEP. 1985

SEP. 1985

ooo ooo

10. Other water

11. Other water

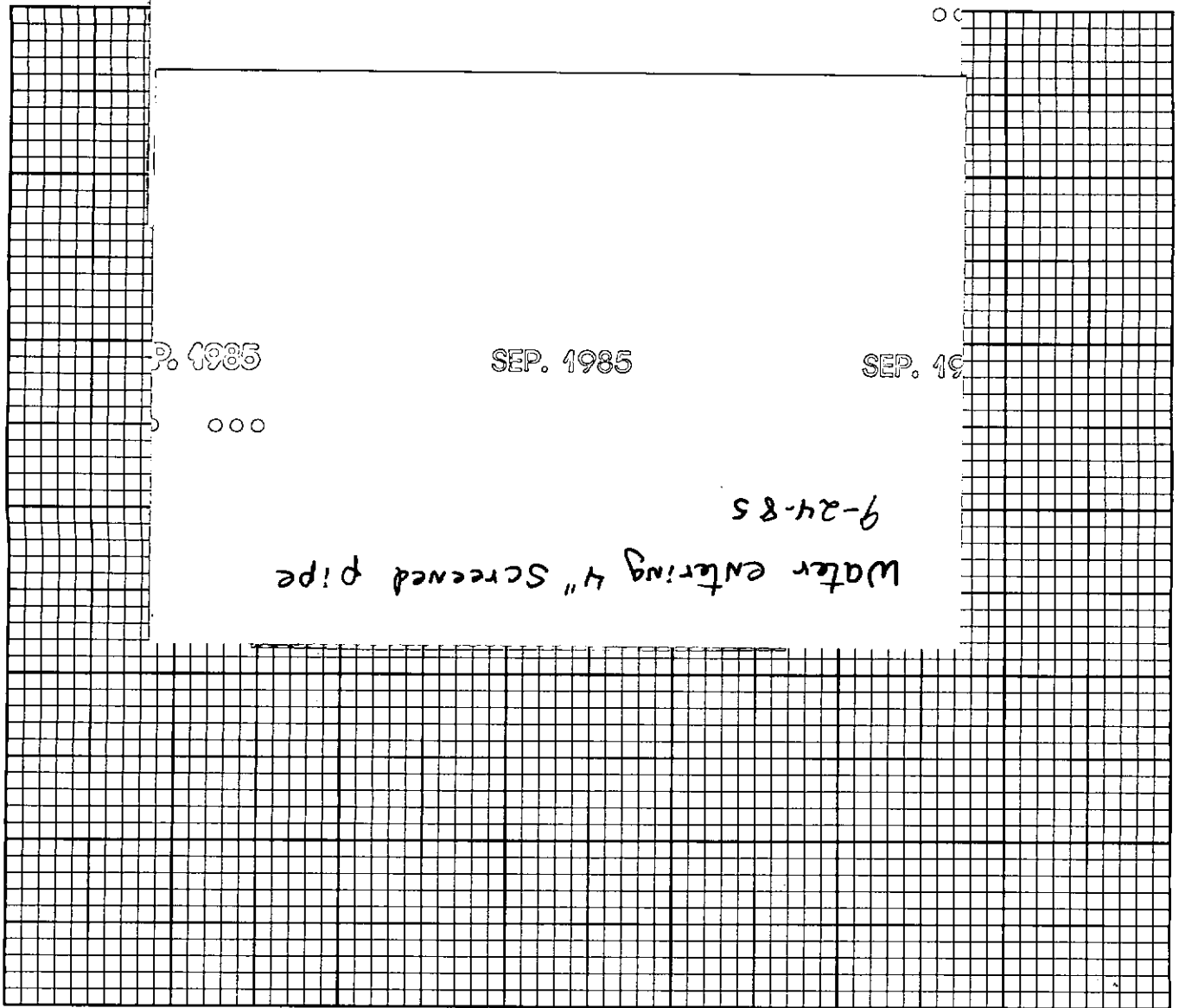
12. Diversion and
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Portable v-notch weir measuring
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9-24-85

SEP. 1985

SEP. 1985

Distances between compo-
nent measurement port the
diversion both upstream and
multiple diversion systems



13. ☒ Photo of Diversion & System Attached

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

14. Remarks At time of exam only 5 houses were hooked up to the system
however, The system would probably accomodate The additional 7
hook ups applied for.

15. Recommended Amendments

☐ Change P.D. as reflected above

☐ Add P.D. as reflected above

☒ None

☐ Change P.U. as reflected above

☐ Add P.U. as reflected above

☐ Other

16. Examiner's/Consultant's Signature Terry A. Blum Date 1-29-85

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

RECEIVED
MAR 3 1986

72-7098
Permit No.

Department of Water Resources

1. Measurement Calculations

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

SEE Form 219A ITEM 7.

- b) Volume Calculations for Irrigation:

$$\begin{aligned} V_{I.R.} &= (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{\hspace{2cm}} \\ V_{D.R.} &= [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{\hspace{2cm}} \\ V &= \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{\hspace{2cm}} \end{aligned}$$

- c) Volume Calculations for Other Uses:

$$\begin{aligned} &12 \text{ households @ } 5 \text{ persons/household} \times 100 \text{ gal./day/person} \times 365 \text{ days/ann} \div 325,851 \text{ gal./AF} = 6.72 \text{ AF/ann} \\ &12 \text{ Lots} \times \frac{1}{2} \text{ acre/Lot} \times 3 \text{ AF/acre} = 18 \text{ AF/ann} \\ &.08 \times 1.9835 \times 365 \text{ days/ann} = 57.9 \text{ AF/ann} \end{aligned}$$

2. Overlap Review

- a) Other water rights with same place of use: _____

- b) Other water rights with same point of diversion: _____

- c) Analysis: _____

MICROFILMED

MAR 16 1988

RECOMMENDED AMOUNTS

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

4. Permit Holder: _____

Address: _____

5. Source: _____ tributary to _____

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

Domestic	Jan1	Dec31	0.08 cfs	24.7 AFA
----------	------	-------	----------	----------

Allowable Maximums: 0.08 cfs 24.7 AFA

7. Point(s) of Diversion:

[illegible]

8. Place(s) of Use

[illegible]

9. Recommended Conditions/Remarks: _____

10. Recommended Amendments

MAR 16 1988

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

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

11. Examiner's Signature Terry S. Blau Date 1-29-86

Checked in Regional Office by J. P. Stanton Date 2-28-86

Approved in State Office by _____ Date _____

RISE RISE

24 79
25 30

FIN



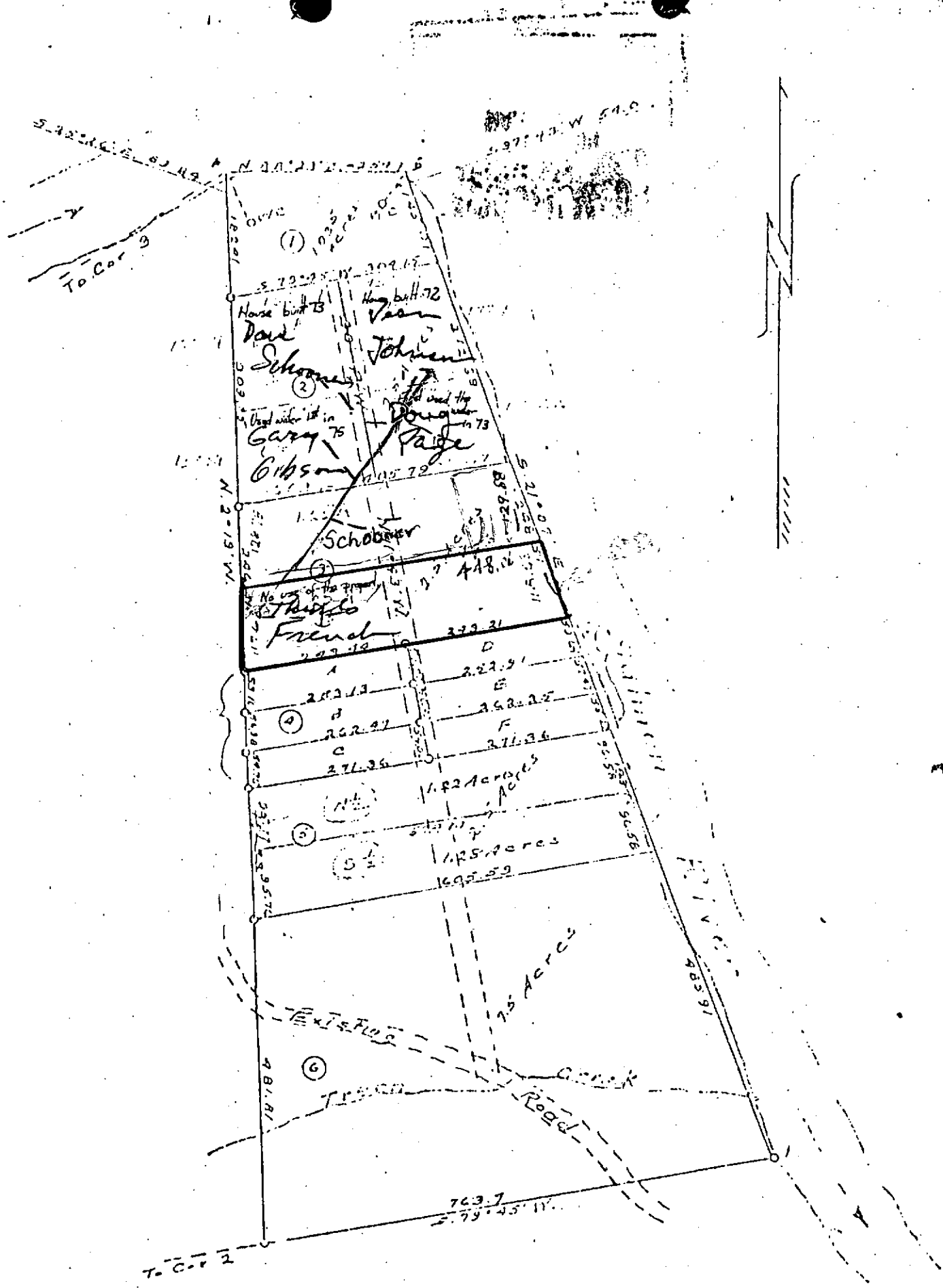
C-98
W.K. KIMBLE
380

80

2324
2625

MICROFILMED

MAR 16 1988



CORDINGLY TRACTS

E± M.S. No 3580
 Appx. Section 25 T11N, R15E, B1M.
 and Section 30 T11N, R15E, B1M.
 Custer County, Idaho
 ELKHORN PLACER

MICROFILMED

MAR 16 1988

Scale: 1 in = 200 ft



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd. N
Twin Falls, Idaho 83301
(208) 734-3578

AUGUST 2, 1985

TREON CREEK WATER USERS
P.O. BOX 68
STANLEY ID 83278

RE: Permit No. 72-7098

Dear Permit Holder:

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

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

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

If you have any questions regarding the field examination, please contact this office by phone at 734-3578 or in person at our office at 1041 Blue Lakes Blvd. N. Twin Falls, Idaho.

Sincerely,
s/Mary A. Newby
Secretary

RECEIVED
MAR 16 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
PROOF OF BENEFICIAL USE

RECEIVED
APR 16 1985

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed development under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below:

Permit No. 12-9098 12-7098

Name(s) of Permit Holder: TREON CREEK WATER USERS (T.H. FRENCH, L. DOUGLAS PAGE, GARY GIBSON, D.H. SHOONEN, VERNON JOHNSON)

Post Office Address: P.O. BOX 68, STANLEY, IDAHO, 83278

Telephone No. 838-2266

Source of Water: TREON CREEK

Extent of Use:

Domestic 5 (number of households)

Stockwater - 0 - (number and type of stock)

Irrigation 1/2 ACRE (D.H. SHOONEN & T. FRENCH) (acres)

Other/Remarks * ONLY THE ABOVE NAME INDIVIDUALS (5 HOUSEHOLDS)

HAVE APPLIED TREON CREEK WATER TO BENEFICIAL USE AS OF THIS DATE

Indicate the date water was first diverted and beneficially used under this permit: _____

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

Flow Measurement Port: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☐ No

Person to contact to accompany the Department representative during the field examination

THURLO H FRENCH

(Name)

Box 68 STANLEY IDAHO 83278

(Address)

838-2266

(Telephone Number)

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

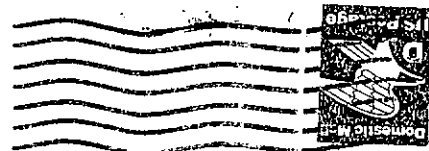
11 APRIL 1985
Date

Thurlo H French
Signature of Permit Holder (and Title, if appropriate)

MICROFILMED

Jim

TREON CREEK WATER USERS
Box 68, STANLEY, IDAHO
83278



Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

138782

TREON CREEK WATERUSERS
C/O THURLO H. FRENCH
P.O. BOX 68
STANLEY, ID 83278

PROOF DUE NOTICE

FEBRUARY 28, 1985

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 72-7098 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MAY 01, 1985. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A FORM WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

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

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

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

January 24, 1984

Mr. Brent Roche
P. O. Box 1412
Pocatello, ID 83204

Dear Mr. Roche:

Pursuant to our telephone conversations yesterday, enclosed is a copy of the map you requested.

The ditches indicated on the map are the ditches constructed under the old license (72-2136). It was our understanding from the hearing that a pipeline for domestic purposes was installed in the ditches. These are the ditches with the pipeline in them that should have been protected by the decision.

If you have any questions, please contact Bob Fleenor. Bob will be out of the office until Friday, January 20, however.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

MICROFILMED

February 9, 1981

D. H. Schoonen
1364 12th Street
Idaho Falls, ID 83401

Dear Mr. Schoonen:

Re: Permit No. 72-7098

On January 21, 1981, this office received the statement of beneficial use and your letter explaining the present situation pertaining to Treon Creek Waterusers. Before officially accepting the statement of beneficial use, there are a few items I wish to point out.

In your letter you state: "... no other construction or active use for domestic purposes is planned in the near future. Should such activities commence you (Department of Water Resources) will be immediately notified by Mr. French or myself." Please be advised that submission of the statement of beneficial use is a way of advising the Department of Water Resources that all construction or development has been totally completed and that no further construction or development can occur under this permit. So if it is possible that any more domestic development should take place before May 1, 1985, then I suggest that you wait to submit the statement of beneficial use. Also, it is possible that you could get an extension of time for another five years after the May 1, 1985 deadline.

If, however, you do submit the statement of beneficial use now, should any more domestic developments occur they will not be covered under this particular water right. You will need to apply for an application for permit for those particular uses with a priority date of the date of filing.

To maintain your options with regard to this filing, we are returning the beneficial use card at this time. If you wish to submit the card in light of the aforementioned comments, you may do so. Please contact me if you wish to discuss this matter further.

Sincerely,

RITA FLECK.
Sr. Secretary

MICROFILMED

RECEIVED

JAN 21 1981

Department of Water Resources

State of Idaho State Office
Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Ms Fleck:

Re: Permit No. 72-7098 and your letter dated October 15, 1980

Thank you for clarifying the proper procedure for filing the water right application, i.e., organization rather than individual application. I did not understand this procedure and, therefore, improperly submitted the statement of beneficial use form.

The statement of beneficial use is hereby resubmitted for the Treon Creek Waterusers organization with Mr. Thurlo French representing the existing domestic households which are utilizing this water source. For your further information, the following names and signatures (representing present users) indicate concurrence with the above application:

T. H. French Thurlo French
D. H. Schoonen D. H. Schoonen
G. R. Gibson G. R. Gibson
V. P. Johnson Vernon P. Johnson
L. Douglas Page L. Douglas Page

To the best of my knowledge, no other construction or active use for domestic purposes is planned in the near future. Should such activities commence you will be immediately notified by Mr. French or myself.

Additionally, I own one of the other lots which represents a future household and partially own another lot. However, the latter is a common property lot and, as such, it is doubtful that any construction will occur in the near future.

Because the above information represents the present status and use to the best of our knowledge it is requested that the enclosed water right application be approved with the stipulation that you will be informed of any further domestic construction activity related to the Treon Creek Waterusers holdings.

Sincerely,

D. H. Schoonen
D. H. Schoonen

MICROFILMED

Thurlo N. French
Box 68, Stanley, Idaho
83278



MICROFILMED

State of Idaho State Office
Department of Water Resources
Statehouse, Boise, Idaho
83720

IDENT. NO.

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT
DATA ENTRY LOG

Initials

Date

Item

Feb

4-10-80

Original form entered

тема

7-14-87

Edit Report Correct

Date Protested

Date of Hearing

W. L.

5/23/80

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

Record Verified

Amendment Approved

Extension Approved

Partial Proof

Proof Complete

Field Exam Received

Field Exam Accepted
and changes entered

License Signed

Transfer Approved

October 15, 1980

D. H. Schoonen
1364 12th Street
Idaho Falls, ID 83401

Dear Mr. Schoonen:

RE: Permit No. 72-7098

This office received the statement of beneficial use you submitted on July 17. However, I am returning it for several reasons.

The water users organization, Treon Creek Waterusers, of which you are a member filed a water right application for Treon Creek Waterusers for the development of twelve domestic households. The statement of beneficial use indicates your use only. Since the permit is issued to an organization, the organization is the permit holder and submits the statement of beneficial use on the entire system. The organization is considered the whole system while the individual water systems are considered part of the system.

Consequently, when the entire twelve domestic uses have been developed or if not all twelve are developed, when the proposed construction is done, then the statement should be submitted.

If, at this point, all the domestic systems are in and working, then a representative of the organization needs to submit the statement of beneficial use (enclosed) for the entire organization.

If you wish to discuss the matter further, feel free to contact me.

Sincerely,

RITA FLECK
Sr. Secretary

Enclosure

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

TREON CREEK WATERUSERS
C/O THURLO H. FRENCH
P.O. BOX 68
STANLEY, ID 83278

JUNE 03, 1980

RE: PERMIT NO. 72-7098

DEAR PERMIT HOLDER:

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

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

SINCERELY,

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

ENCLOSURE

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

April 11, 1980

Mr. Allan Ashton
Sawtooth National Recreation Area
Box 438
Ketchum, Idaho 83340

Re: Application for Permit No. 72-7098

Dear Mr. Ashton:

Enclosed is a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

MICROFILMED



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Twin Falls, Idaho 83301
(208) 734-3578

April 11, 1980

Mr. Henry Moran
Department of Health & Welfare
Custer County
636 Pershing
Pocatello, Idaho 83201

Re: Application for Permit No. 72-7098

Dear Mr. Moran:

Enclosed is a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd N.
Twin Falls, Idaho 83301
(208) 734-3578

APRIL 10, 1980

Custer Publishing Company
P. O. Box 405
Challis, Idaho 83226

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 12, 1980.

Yours truly,

Mary A. Hill
Secretary

Encl.

RECEIVED

NOTICE OF APPLICATION FOR WATER RIGHT

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

22-2098

TREON CREEK WATERUSERS

C/O THURLO H. FRENCH, P.O. BOX 68, STANLEY, ID 83278

Source: TREON CREEK tributary to SALMON RIVER

Date Filed: 04/03/1980

Amount: 0.30 CFS

Diversion Point: NESE Sec 25 T 11N R 15E, CUSTER Co.

Use: DOMESTIC (0.30 CFS) from 01/01 to 12/31

Place of Use: SENE NESE Sec 25 T 11N R 15E LOT 11 (NWSW) Sec 30 T 11N R 16E

Diversion Means: DIVERSION BOX AND PIPELINE

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before MAY 12, 1980.

C. STEPHEN ALLRED

Director

Published 4/24 & 5/1/80.

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State of Idaho
Department of Water Resources

Trean Creek Watershed

APPLICATION FOR PERMIT ANALYSIS SHEET

ARMOUR, Hope
FRENCH, Thurto H.

INITIAL REVIEW BY: J. E. Stanton

APPLICATION NUMBER: 72-7098

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: _____

Date: _____

Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☒ Idaho State Health Department. Copies sent by: 4/11/80 Date: _____
☐ Idaho Fish and Game Department.
☐ Idaho Department of Lands.
☐ U.S. Bureau of Land Management.
☒ U.S. Forest Service. Sawtooth NRA 4/11/80
☐ Other _____

PROCESSING:

- ☐ Yes ☒ No Platted by: LC Map No. U-71
☒ Yes ☒ No Other rights on same place of use. LC 72-2126, application 72-7070
☒ Yes ☐ No* In form for advertising. Final date for protests: 5/12/80
☐ Yes ☒ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 5/5/80
☒ Application published correctly. If not, record action taken: _____
☐ Fee amount, receipt date & number, recorded on application.
☐ Publication dates and paper, recorded on application.
☐ Protests, dates, withdrawal, etc., recorded on application.
☐ Recommendation & initial, recorded on application.
☐ Yes ☒ No Measuring device required.
☐ Yes ☒ No Access port required.
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____
4/3/80 Date of priority recommended.
Special conditions of approval or cover letter. None

By: ADM Date: 5/15/80

STATE OFFICE REVIEW:

04
S.L. w/o cond

- ☐ See attached sheet for more information.

By: J. E. Stanton Date: 5/22/80

MICROFILMED