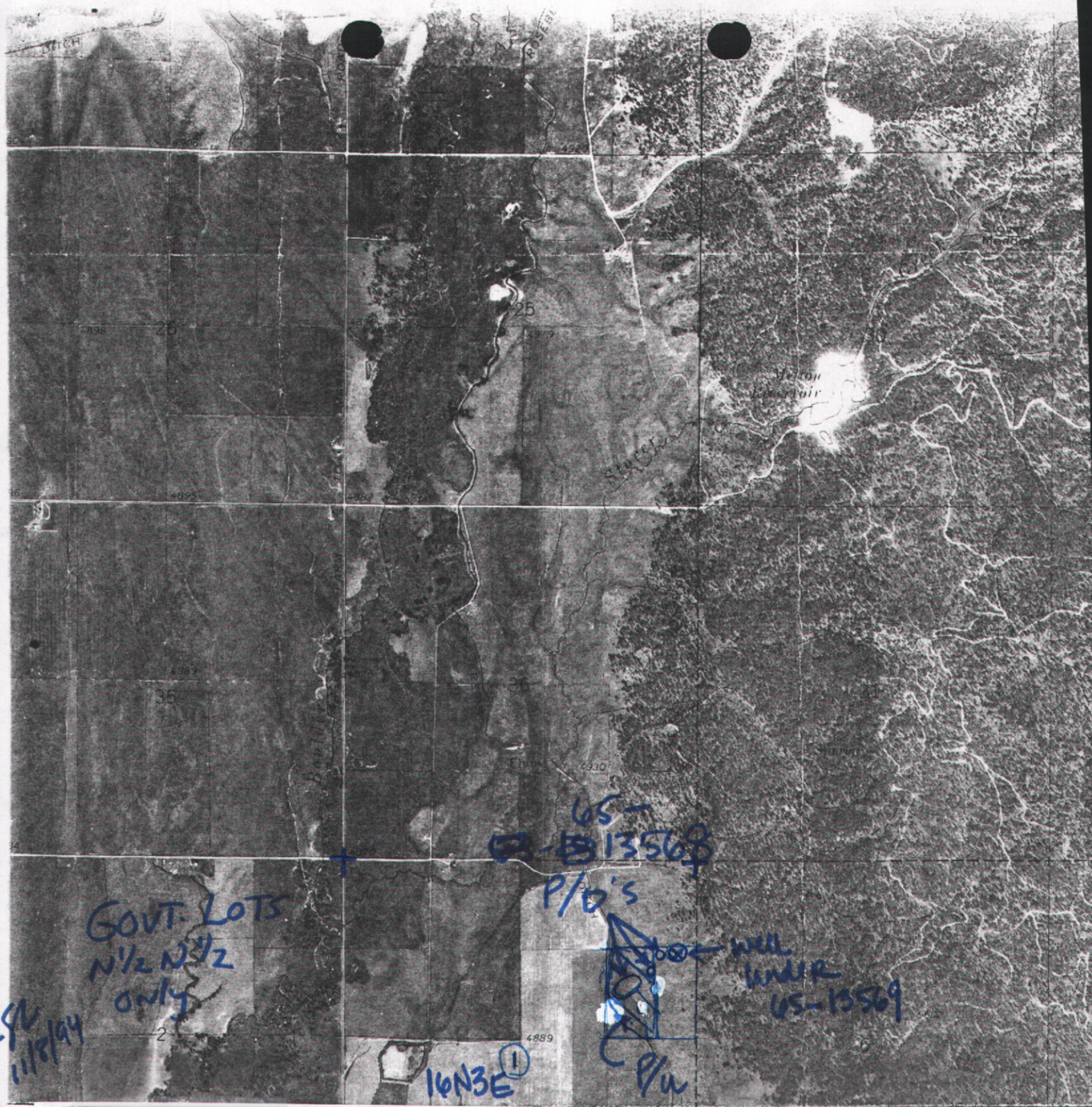




74
SCA
1
2
3

FEB 17 1995



Roseberry Canal

Pond

36

31

32

35

34

1

6

5

2

3

12

7

8

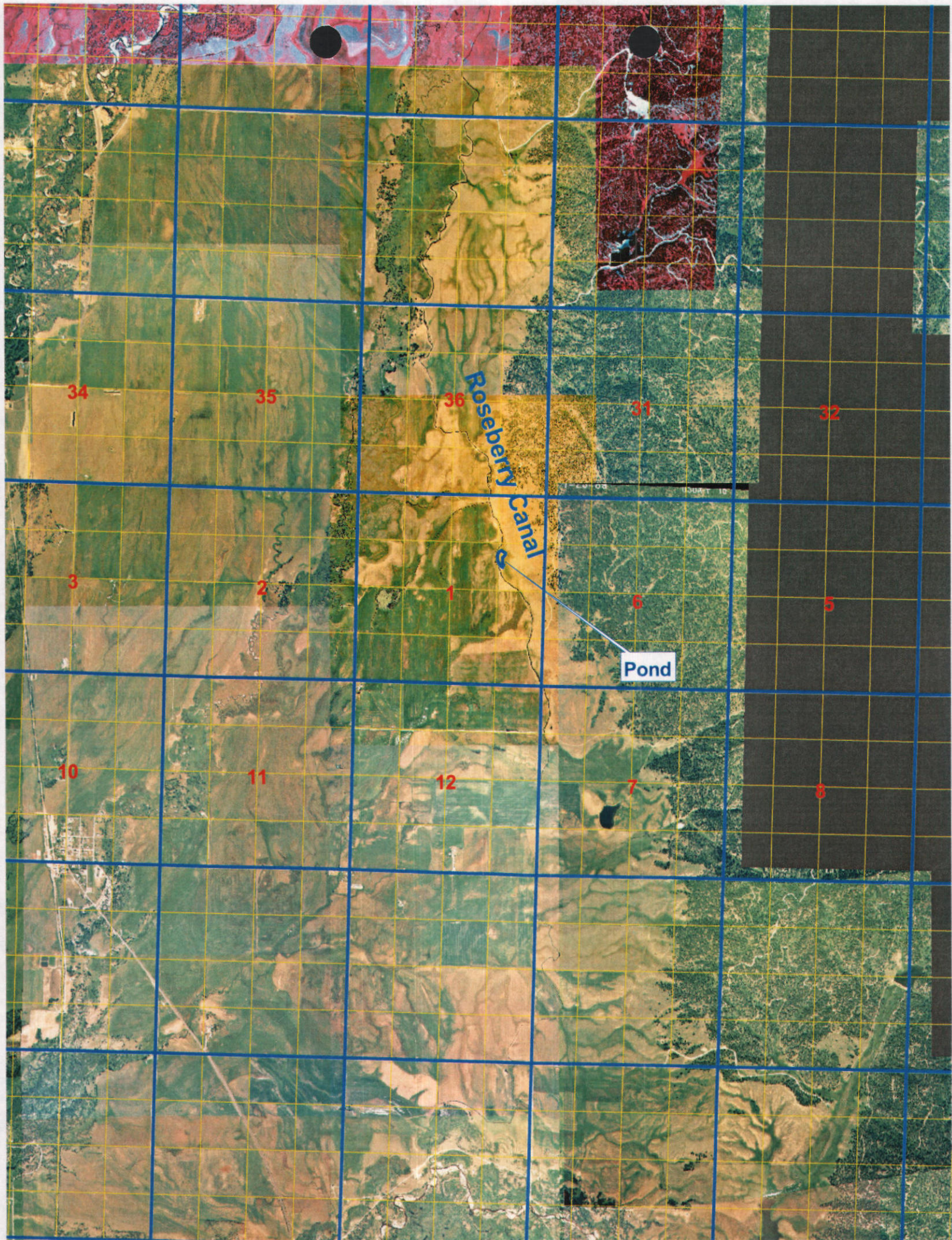
11

10

Donnelly

Roseberry

Fork



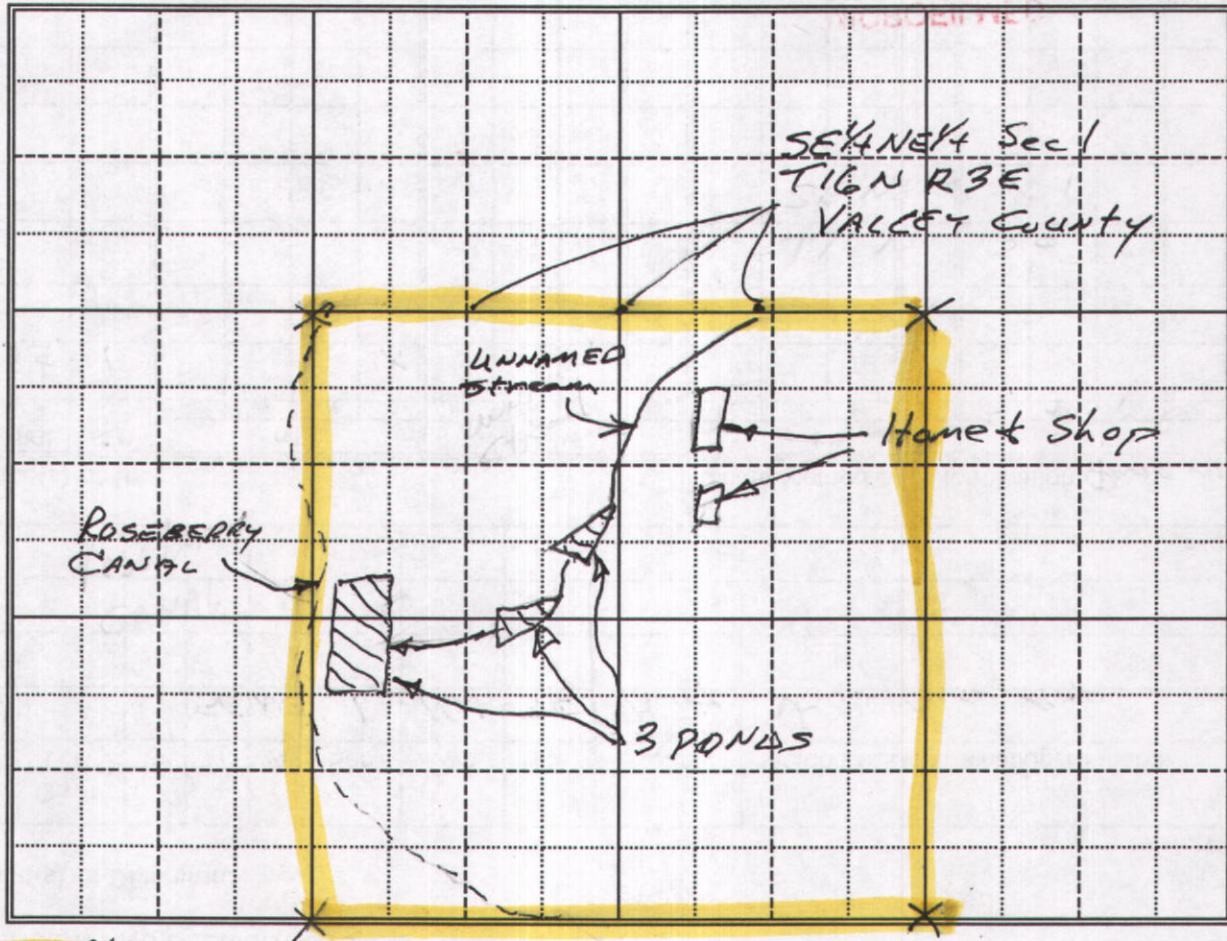


**Idaho Dept. of Water Resources
Place of Use Comparison Report**

Type	WR #	Owner	Source	TRS	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	Total
Rec	65 2515A	EASTERN WESTERN CORP.	BOULDER CREEK	16N03E1									40	20	17						77
Rec	65 7361	EASTERN WESTERN CORP.	BOULDER CREEK	16N03E1										20	20	40					80
Rec	65 7361	EASTERN WESTERN CORP.	BOULDER CREEK	16N03E1									40	32	40	40					152
Right	65 2515	EASTERN WESTERN CORP.	BOULDER CREEK	16N03E1									40	20	17						77
Right	65 7361	EASTERN WESTERN CORP.	BOULDER CREEK	16N03E1									40	32	40	40					152
Rec	65 17170	LOIS J BEAN, LYNN I BEAN,	GROUND WATER	16N03E1								0									0
Right	65 8455	PAULINE E YENSEN, JACK YENSEN,	GROUND WATER	16N03E1					0												0
Rec	65 2306	HELEN E CRUICKSHANK,	STOVER CREEK	16N03E1						38											38
Right	65 2306	JAMES L CRUICKSHANK,	STOVER CREEK	16N03E1						38											38
Right	65 8454	PAULINE E YENSEN, JACK YENSEN,	STOVER CREEK	16N03E1					0												0
Permit	65 13568	KEN MC PHAIL,	UNNAMED STREAM	16N03E1				20													20
Right	65 13568	KEN MC PHAIL,	UNNAMED STREAM	16N03E1				X													0
Right	65 13568	KEN MC PHAIL,	UNNAMED STREAM	16N03E1				X													0



3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable.



Scale: 1" = 440 ft

☒ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

☐ Aerial Photo Attached (required for irrigation of 10+ acres)

☒ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
N.A.					

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Visual Estimates and calculation						

2. Measurements: Outflow from middle pond thru the 8" outlet pipes (2) visually estimated as 10 gpm. However, water marks in the pipes indicate flows at times reach about a 3" depth in pipes. The channel leading from middle to lower pond has a typical cross-section of 2 ft wide by 18" deep indicating flows larger than permitted occur.

JUN 20 2001











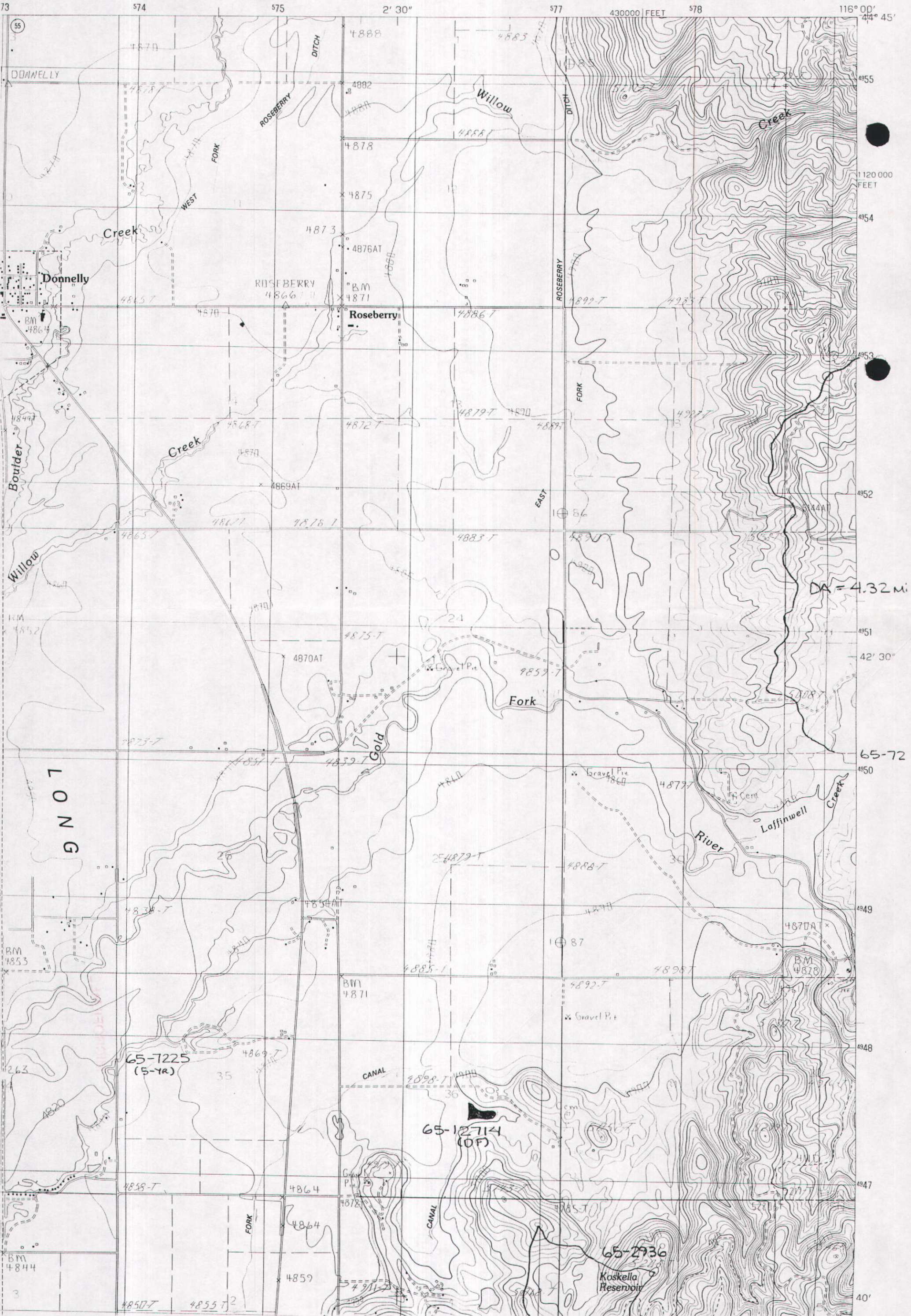








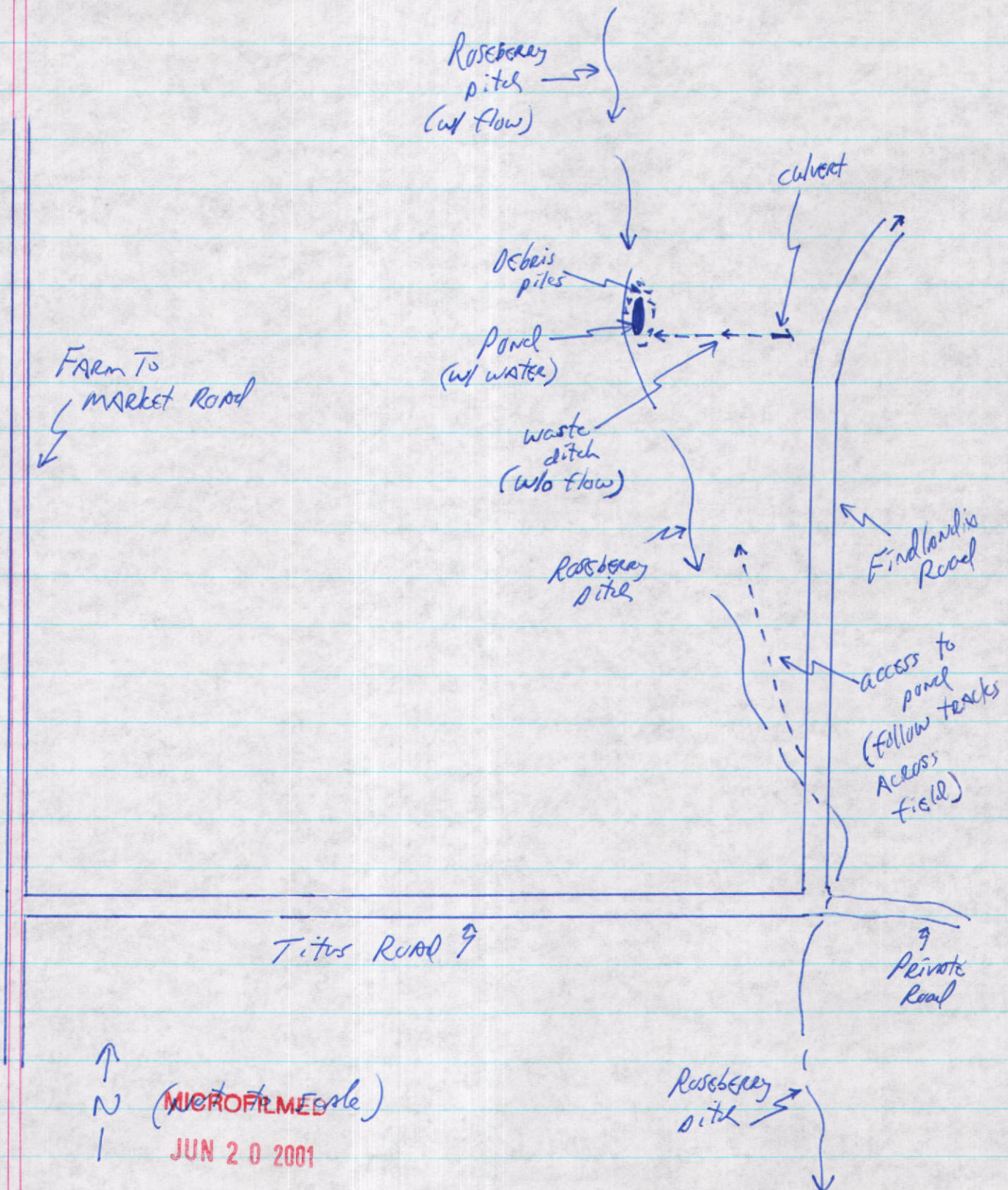
DONNELLY QUADRANGLE
IDAHO-VALLEY CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)





Site Visit 10/27/00
65-13568

-JC



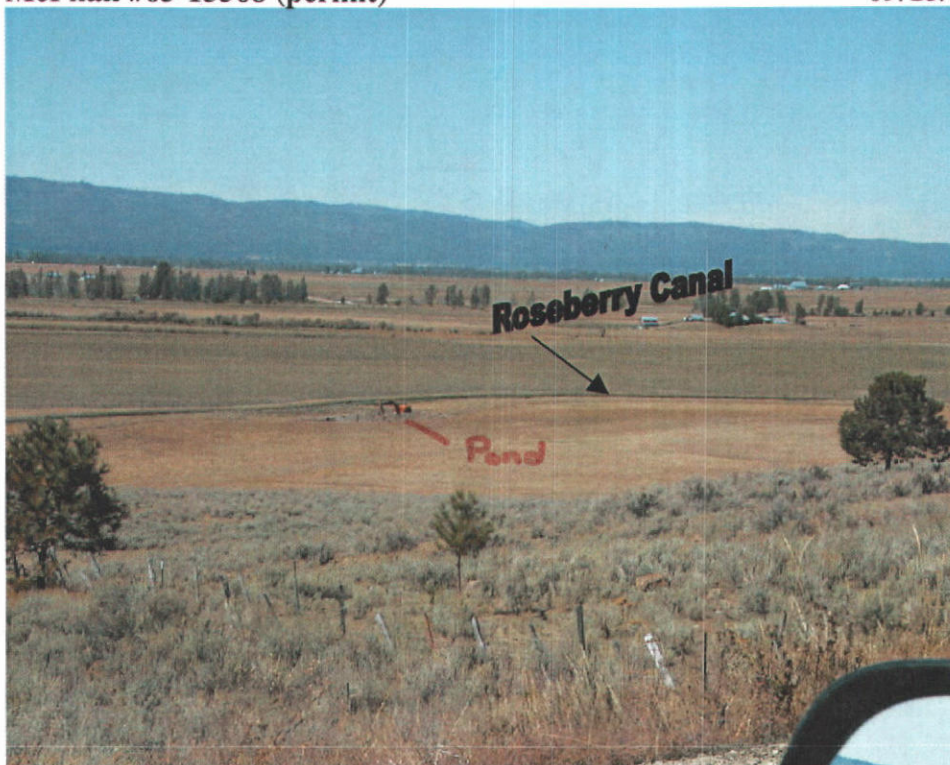


Photo #1

Overview of the pond and Roseberry Canal, taken from Finlandia Rd. to the east.
16N-03E-Sec 01-SE1/4 of NE1/4



Photo #2

Pond excavation, note close proximity to Roseberry Canal, overflow pipe from pond into canal.

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JUN 20 2001



Photo #3

Close-up view of the pond related to the canal. Pond surface area is approx. 100' X 50'. Can not determine if hose in overflow pipe is siphon or ? Appears water level in the pond is the same as canal.



Photo #4

Overview of unnamed stream drainage into the pond.

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JUN 20 2001

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 65-13568

Priority: October 26, 1994

Maximum Diversion Volume 2.0 AF

It is hereby certified that KEN MC PHAIL
PO BOX 731
DONNELLY ID 83615-0731 has complied with the terms and
conditions of the permit. issued pursuant to Application for Permit dated October 26, 1994; and has
submitted Proof of Beneficial Use on December 30, 1999. An examination indicates that the works have
a storage capacity of 2.0 acre feet of water from:

SOURCE

UNNAMED STREAM

Tributary: SINKS

and a water right has been established as follows.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL DIVERSION VOLUME</u>
STOCKWATER STORAGE	01/01 to 12/31	2 0 AF
WATER QUALITY IMPROVEMENT STORAGE	01/01 to 12/31	2 0 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM	SE¼NE¼	Sec 1, Twp 16N, Rge 03E, B.M., VALLEY County
UNNAMED STREAM	SE¼NE¼	Sec 1, Twp 16N, Rge 03E, B.M., VALLEY County
UNNAMED STREAM	SE¼NE¼	Sec. 1, Twp 16N, Rge 03E, B.M., VALLEY County

PLACE OF USE: STOCKWATER STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	03E	1				X													

PLACE OF USE: WATER QUALITY
IMPROVEMENT STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	03E	1				X													

MICROFILMED

DEC 20 1999

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 65-13568

CONDITIONS OF APPROVAL

- 1 Use of water under this water right will be regulated by the watermaster of State Water District No. 65
- 2 Upon specific notification by the Department, the right holder shall install and maintain permanent measuring devices in such a manner that the amount of water entering the reservoirs and the amount of water released from the reservoirs can be measured.
3. Water quality improvement storage is for sediment ponds

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

Signed and sealed this 15TH day of JUNE, 2001

Acting for


KARL J. DREHER
Director

MICROFILMED

JUN 20 2001

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	ORDER CHANGING CONDITION
NO 65-13568 IN THE NAME OF	)	REQUIRING MEASURING AND
KEN MC PHAIL	)	LOCKABLE DEVICE
_____	)	

This matter having come before the Department of Water Resources (Department) as a petition to remove measuring device and lockable controlling works requirement, the Department makes the following Findings of Fact, Conclusions of Law, and Order

FINDINGS OF FACT

- 1 On July 12, 1999, the Department issued Permit 65-13568 (permit) to Ken McPhail (permit holder) with a condition of approval requiring the installation and maintenance of a measuring device and lockable controlling works before any diversion of water under the permit
- 2 On April 25, 2001, the Department received a petition from the examiner to remove the measuring device and lockable controlling works requirement.
3. Installation of the measuring device and lockable controlling works is not necessary at this time.

CONCLUSIONS OF LAW

1. Beneficial Use Examination Rule 35 02.d. (IDAPA 37 03.02 35.02 d.) provides for the waiver of a measuring device and lockable controlling works requirement by the Department.

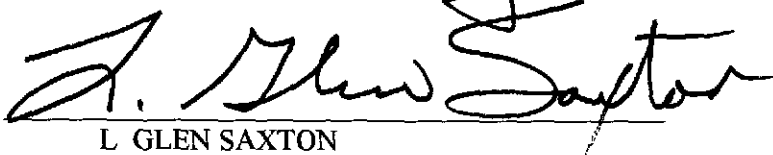
ORDER

IT IS THEREFORE HEREBY ORDERED as follows:

The condition of approval requiring the installation of a measuring device and lockable controlling works as part of the diversion works for the permit is **MODIFIED** as follows

Upon specific notification by the Department, the right holder shall install and maintain permanent measuring devices in such a manner that the amount of water entering the reservoirs and the amount of water released from the reservoirs can be measured.

Dated this 7th day of May, 2001



L. GLEN SAXTON
Chief, Water Allocation Bureau

MICROFILMED

APR 22 2001

DEC 30 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 65-13568 Telephone No. 208 325 8166

2. Name(s) of Permit Holder(s): Ken McMillan

3. Mailing Address: Box 731 Donnelly, Idaho 83615

4. Source of Water: periodic stream If GROUNDWATER (well), Date Drilled: mo. ____ / yr. ____
run off

a. Well Driller: _____ Drilling Permit Number: ____ - ____ - ____ - ____

b. OPTIONAL:
Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): _____ Stockwater (No. and type of stock): 30 cows

Irrigation (No. of acres): _____ Other: _____

6. Total rate of diversion and/or volume for which proof is submitted: 0 - 2.0 cfs OR 1.25 acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes ____ or No X

Has the measuring device been installed? Yes ____ or No X

Flow Measurement Port: Is a flow measurement port required? Yes ____ or No X

Has the measurement port been installed? Yes ____ or No X

8. Fee Enclosed: \$ 50 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: Samuel L. Lusk Telephone Number: _____

Address: _____

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho

MICROFILMED

Signature of permit holder: [Signature]
(include your title, if on behalf of company or organization)

Date: Dec 26, 1999

JO2

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

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

NOV 19 1996
Department of Water Resources

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

Permit No. 65-13568

Name(s) of Permit Holder: KEN Mc PHAIL

Mailing Address: PO Box 731, Donnelly ID. 83615-0731

Date Proof is Due: 1/1/97 Telephone No. 325-8166

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

3 ponds have been developed - system still
being modified for optimum land use
efficiency

Costing \$ 742

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

Still evaluating what the optimum
needs are. Have been constrained
by differing periods of water flow.

Permit holder(s) request an extension to 1/1 19 2000.
(need 3 yrs to determine average flow)

FEE: \$50.00

[Signature]
(Signature)*

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

ACTION OF THE DEPARTMENT OF WATER RESOURCES

MICROFILMED

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

Signed this 20th day of November, 19 96

[Signature]
Chief, Water Allocation Bureau

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 65-13568

Proposed Priority: October 26, 1994 Maximum Diversion Rate: 0.20 CFS

This is to certify, that **KEN MC PHAIL**

PO BOX 731

DONELLY ID 83615-0731

has applied for a permit to appropriate water from:

UNNAMED STREAM

tributary of **WILLOW CREEK**

and a permit is **APPROVED** for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.20 CFS	
IRRIGATION STORAGE	01/01 to 12/31		20.0 AF
IRRIGATION FROM STORAGE	04/15 to 10/15		20.0 AF
STOCKWATER STORAGE	01/01 to 12/31		20.0 AF
WATER QUAL. IMPR. STOR	01/01 to 12/31		20.0 AF
	Totals	0.20 CFS	

LOCATION OF POINT(S) OF DIVERSION: SENE , Sec. 1, Township 16N, Range 03E
VALLEY County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
16N	03E	1	SENE	20.0		20.0

Total number of acres irrigated: 20.0

PLACE OF USE: IRRIGATION FROM STORAGE, same as IRRIGATION use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **January 1, 1997**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this right is subject to control by the watermaster of State Water District No. 65.
5. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right.
6. When water is not available to fill this right, the right holder shall cease diversion or shall rent water from the Payette River Rental Pool.

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FEB 17 1995

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 65-13568

CONDITIONS/REMARKS:

7. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
8. Three points of diversion are located within SENE, S01, T16N, R03E.
9. Stockwater is for 150 range cattle.
10. Water quality improvement storage is for sediment ponds.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.
Witness the signature of the Director, affixed at Boise, this

19th day of January, 1995


for
R. Keith Higginson, Director

FEB 17 1995

RECEIVED

DEC 28 1994

Ident. No. 65-13568

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: KEN MC PHAIL 208-325-8166
Address: PO BOX 731
DONELLY ID 83615
2. Source: UNNAMED STREAM Trib. to: WILLOW CREEK
3. Location of Point of Diversion: SENE Sec. 1, Township 16N, Range 03E
VALLEY County
4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
IRRIGATION	04/15	10/15	0.200		
IRRIGATION STORAGE	01/01	12/31			20.00
IRRIGATION FROM STORAGE	04/15	10/15			20.00
STOCKWATER STORAGE	01/01	12/31			20.00
WATER QUAL. IMPR. STOR	01/01	12/31			20.00
5. Total quantity to be appropriated is:
0.200 CFS (and/or) ~~20.00~~ AF
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc.
PONDS, RELIFT PUMPS TO IRRIGATION
 - b. Height of storage dam 5 feet; active reservoir capacity 20.00
acre-feet; total reservoir capacity 20.00 acre-feet; period of
year when water will be diverted to storage: 1/01 to 12/31 inclusive.
 - c. Proposed well diameter is inches; proposed depth of well is
feet.
 - d. Is groundwater with a temperature greater than 85F being sought? NO
 - e. If well is already drilled, when?
Drilling Firm
Well was drilled for
7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 5 year(s).

* Data Entry corrections completed 11/8/94

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FEB 17 1995

8. Place of Use: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
16N	03E	1	SENE	20		20

Total number of acres irrigated: 20

Place of Use: IRRIGATION FROM STORAGE, same as IRRIGATION use

Place of Use: STOCKWATER, same as IRRIGATION use
(WATER QUAL. IMP STORAGE " " " (see state city standards) *

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

APPLICANT

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

APPLICANT

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:

Stockwater is for 150 range cattle.

Water Quality Improvement is for sediment ponds. *

Three points of diversion within SENE Section 1, T16N R03E.

11. Map of proposed point of diversion and place of use attached? ☒

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

X [Signature] Oct 27, 1994
Applicant

Received by Cyt Date 10/26/94 Time 1400 Preliminary check by SL

Fee \$ 50 Receipted by Cyt # W018292 Date 10/26/94

Publication prepared by AT Date 11-9-94 Published in Star News ✓

Publication approved AT Date 12-12-94 ✓
Long Valley Adv.

RECEIVED
FEB 17 1995

* W&I an initial in DRT's draft memo

Rec't. # already done & filed. 52 11/8/94

Comments: Date: 10/26/1994 User-ID: CHODGES

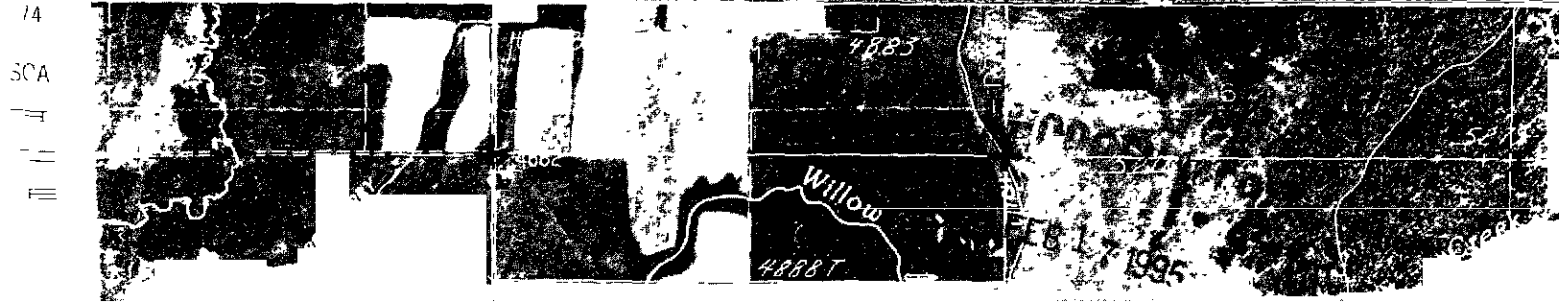
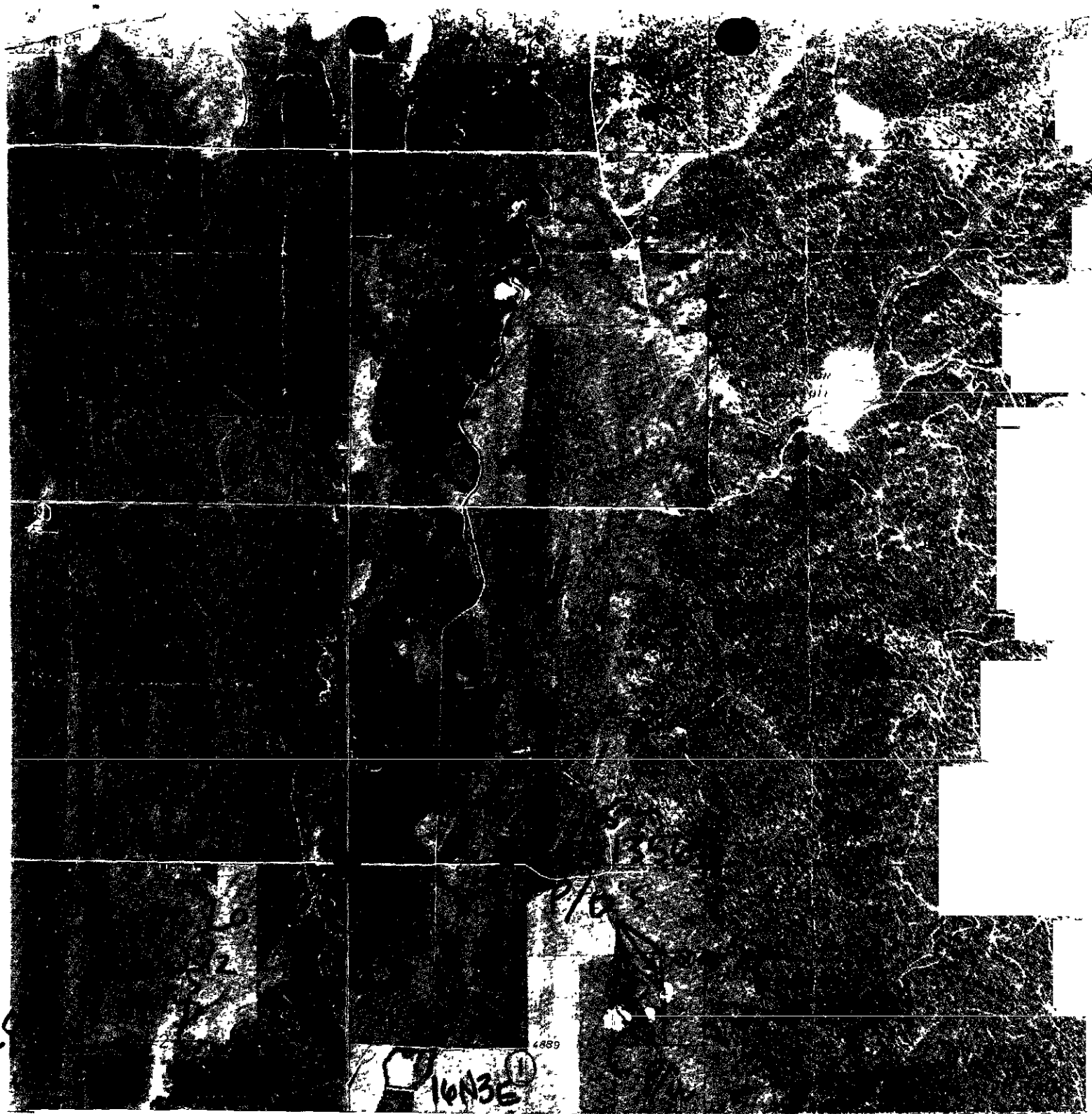
Subject:

ADDITIONAL INFO, EXISTING PONDS

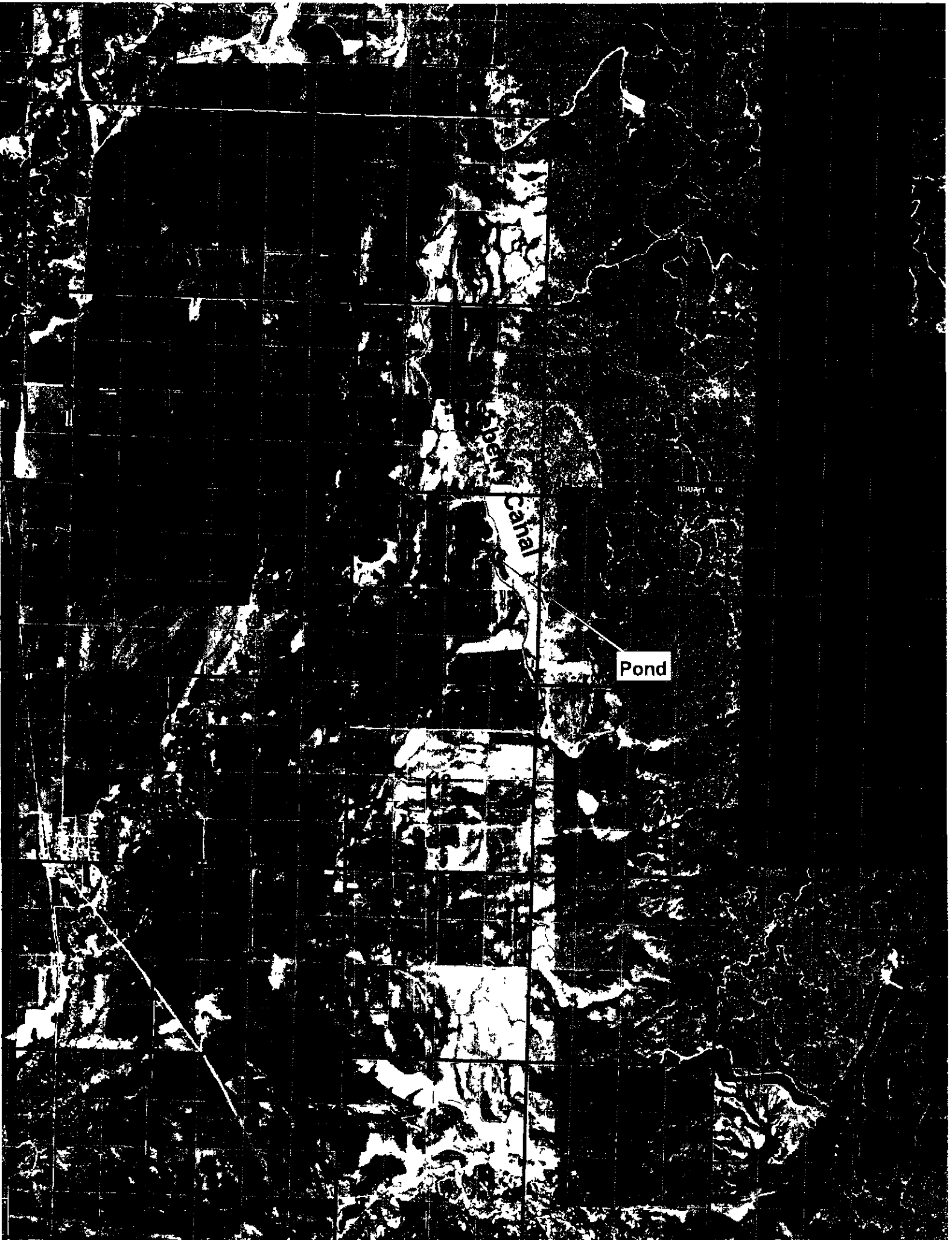
Ponds are existing but will likely be enlarged. Irrigation will be supplemented with groundwater; see companion application 65-13569.

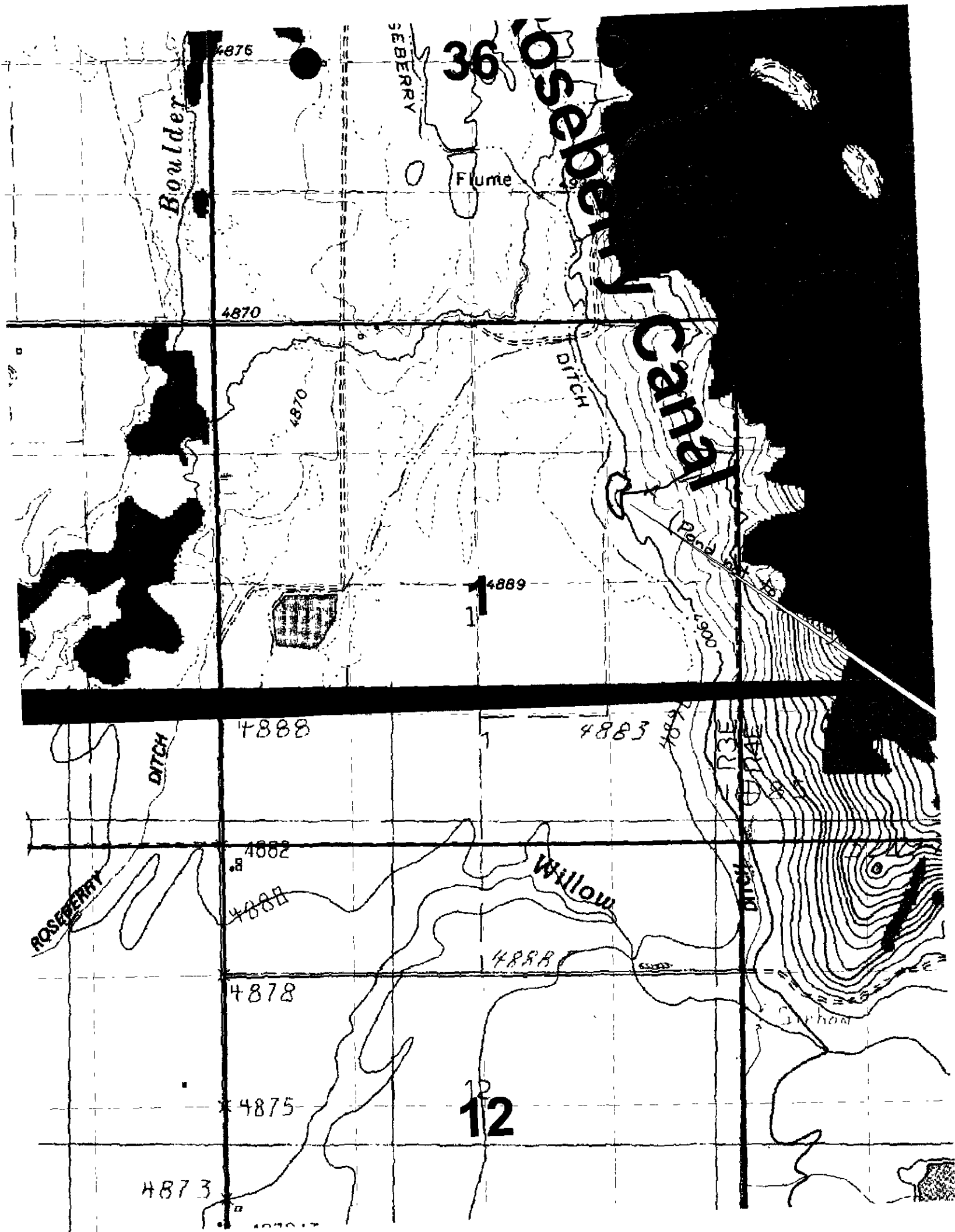
Finished pond(s) size approximately 3 acres open water by 6-7 feet average depth.

APPROVED
FEB 17 1995











State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 18, 2001

KEN MC PHAIL
PO BOX 731
DONNELLY ID 836150731

RE License No. 65-13568 - Issuance of License

Dear Water Right Holder(s)

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

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

Sincerely,

for Shelley W. Keen
Shelley W. Keen
Water Rights Supervisor

MICROFILMED

JUN 20 2001

SWK:kit

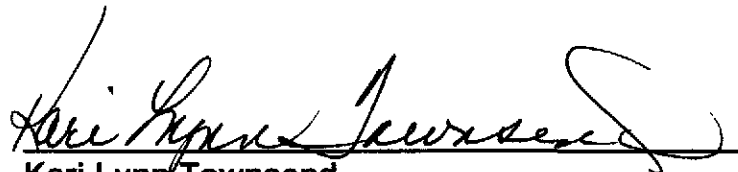
Enclosure(s)

CERTIFICATE OF MAILING

I hereby certify that on **June 19, 2001** I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved License)** to the person(s) listed below

RE: WATER RIGHT 65-13568

**KEN MC PHAIL
PO BOX 731
DONNELLY ID 83615-0731**


**Kari Lynn Townsend
Secretary**

WITNESSES

JUN 20 2001

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01 01302 and 37 01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

May 7, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

KEN MC PHAIL
PO BOX 731
DONNELLY ID 83615-0731

RE Preliminary Order in the Matter of Permit 65-13568

Dear Permit Holder(s):

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

If you have any questions regarding this matter, please call me at 208-327-7940

Sincerely,

for Kari Lynn Townsend
Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

MICROFILMED

JUN 20 2001

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of **May, 2001**, I mailed a true and correct copy, certified, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

RE: Preliminary Order in the Matter of Permit 65-13568

**KEN MC PHAIL
PO BOX 731
DONNELLY ID 83615-0731**


**Kari Lynn Townsend
Secretary**

**MICROFILMED
JUN 20 2001**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

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JUN 20 2001

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

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JUN 29 2001

LICENSE REVIEW CHECKLIST

Permit No. 65-13568 Date 5-4-2001 Reviewer: Kay Walker

topo S60

Change/OK

Name/Address

Source
Point of Diversion

Does change clarify original intended source? If no, void permit
Change (P39/P49) Add (P45/P44) Feds (P40)

W32 (multiple in 1/4/1/4)
W36 (overlap)
W59 (subdivision description)

Place of Use

Change (P41/P49) Add (P41/P44) Feds (P43)

W60 (subdivision description)
W27 (ppu acre limit)

Overlaps: Right(s) none
File reviewed _____ Profile reports printed _____

P/D & P/U amend (P37) Feds (P48)

Rate of Diversion

Permitted rate 0.2 cfs
Fee Limit 0.2 cfs
Measured 2.74 cfs
Theoretical _____ cfs

Recommended Total Diversion Rate

on-stream storage

Water Uses

OK Change (P46)

Season of Use per new Standards

Irrigation _____ cfs _____ af
Stockwater _____ cfs _____ af
Domestic _____ cfs _____ af
SS _____ cfs 2.0 af
WQIS _____ cfs 2.0 af
Total _____ cfs 2.0 af

Irrigation - overlap (R58-R61, R62-R65, R66-R69)
supp Gw (WB7/065/104)
overlap spec combined rts (W35)
<1 acre (W31)
Domestic (W01/wb5/070/071/075)
Power (W42 or W43/025/027/R22 or R23)
Fish (042)
Fire (077)
Water Quality (081/R07)
Payette - (W22/047/27A)
Stockwater for US (R37)

Volume Determination

_____ cfs x 1.9835 x _____ days = _____ af (vs) _____ acres x _____ (FHR) = _____ af

Remarks:

Additional Conditions YES Watermaster Control
_____ GW Measurement/Measuring Device
_____ Other
Trust R55 - remove 051)
Non-trust (048/049)

GW Dist? _____
Water Msmt. Dist? _____
Cnt. GWMA? _____
GWMA? _____
Government Lots? NO

Advance Priority? yes If yes, explain why below
no

SRBA Claim? Not req'd

Adjust memo _____

Amend Letters _____ P87, S06

Second Amendment Notice _____ S06

Idaho Dept. of Water Resources Place of Use Comparison Report

[illegible]

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
APR 25 2001
DEPARTMENT OF WATER RESOURCES

A. GENERAL INFORMATION

Permit No. 65-13568

1. Owner: Ken McPhail Phone No. 208-325-8166

Current Address: PO BOX 731 DONNELLY IDAHO 83615

2. Accompanied by: Ken McPhail EXAM DATE: 4/25/01

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: UNNAMED Stream tributary to SINKS/Roseberry Canal

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NONE

2. Other water rights with the same point of diversion: NONE

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
3(pst)			SE	NE	1	16N	3E	VALLEY	USGS QUAD MAP

2. Place(s) of Use:

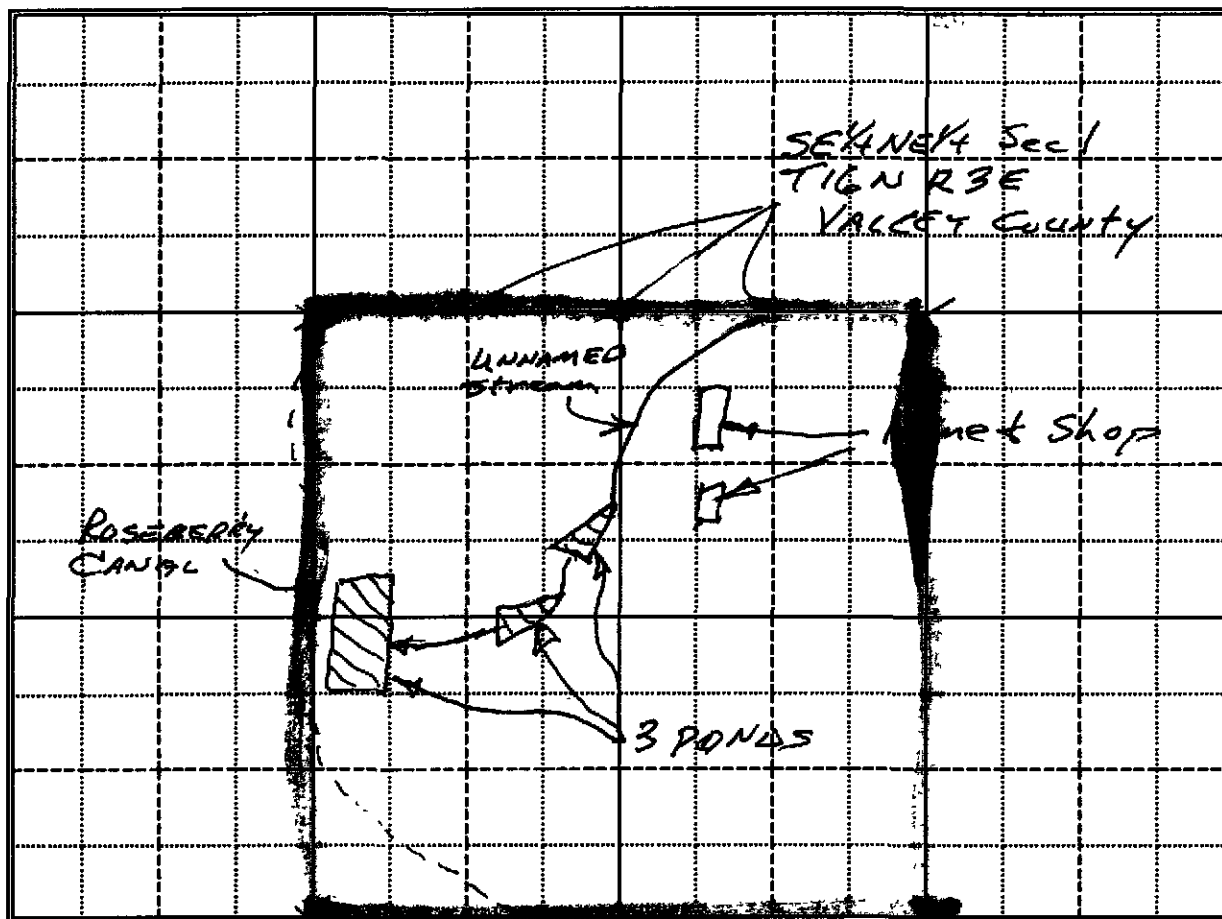
Indicate Method of Determination QUAD MAP

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	3E	1				X													

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JUN 20 2001

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe I.D. as applicable.



☒ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

☐ Aerial Photo Attached (required for irrigation of 10+ acres)

☒ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
N.A.					

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Visual Estimates and calculation						

2. Measurements: Outflow from middle pond thru the 8" outlet pipes (2) visually estimated as 10 gpm. However, water marks in the pipes indicate flows at times reach about a 3" depth in pipes. The 12" pipe leading from middle to lower pond has a typical cross-section of 2 ft wide by 18" deep indicating flows larger than permitted. JUN 24 2001

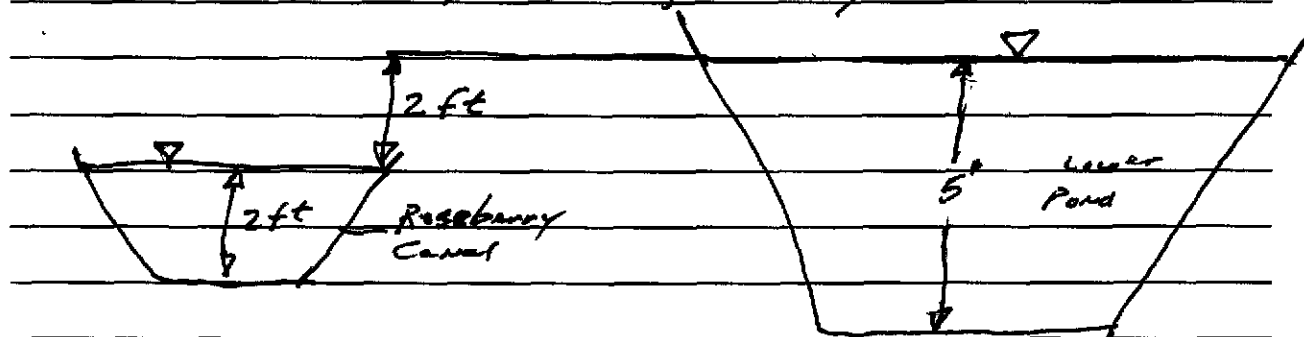
E. NARRATIVE/REMARKS/COMMENTS

Water is stored in three ponds under this permit. The upper pond is about 50 ft wide by 40 ft long (ave). It is formed by a small dam across the stream. The dam is about 8 ft high with 2 ft freeboard (est) which creates a pond 6 ft deep at the dam and on (est) 4 ft ave depth. No water was flowing thru the two plastic 8" dia outlet pipes, but springs or sub water was coming up below the dam in the channel. $Vol = 50 \times 40 \times 4 ft = 8000 ft^3$

The middle pond is created by a 6 ft high dam across the stream channel. The bottom has been excavated so average depth is perhaps 4 feet. Two 8" dia plastic outlet pipes thru the field. $Vol = 80 \times 40 \times 4 (ft) = 12,800 ft^3$

The lower pond is an excavated hole in the channel about 15 to 20 ft upgradient from where the channel would enter the Roseberry Canal. It is located in a marshy area that permitted some water remains wet except late summer/fall on dry years. $Vol = 60 \times 120 \times 5 = 36000 ft^3$

Water used for up to 80 range over year round.



Level survey data indicate gradient would be from lower pond toward canal unless pond was less than $\frac{1}{2}$ full. Owner indicates pond rarely drops by more than 1 ft in level.

Lower pond ringed by sediment piles dredged from ponds.

Have conditions of permit approval been met? ☒ yes# ☐ no

* measuring devices have not been installed. Requirement should be waived with understanding that same be required if needed & a practical way to measuring the difference in inflow vs - outflow is available.

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F. FLOW CALCULATIONS

No Additional Computation Sheets Attached

Measured Method: California Pipe Method - USBR Water Measurement Manual (1967)

$$Q = 8.69 \left(1 - \frac{a}{d}\right)^{1.89} d^{2.48}$$

$$Q = \text{cfs}$$

a = distance from top of pipe to water level in ft ($5\frac{1}{2}$ ft)

d = diameter of pipe in ft ($8\frac{1}{2}$ ft)

$$Q = 8.69 \left(1 - \frac{5\frac{1}{2}}{8\frac{1}{2}}\right)^{1.89} \left(8\frac{1}{2}\right)^{2.48} = 0.74 \text{ cfs} \approx 330 \text{ gpm}$$

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation: Q greatly exceeds permit - precise measurement not required.

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \text{no irrigation found}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days In Irrigation Season}) \times 1.9835 =$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$$

2. Volume Calculations for Other Uses:

Combined Volume of storage for water quality & stock =
 $8000 + 12,000 + 36000 = 56,800 \text{ ft}^3 \approx 2 \text{ A-F}$

Annual Rate/Volume for stockwater from Lower River. But 3 is 0.03 cfs and 1.4 A-F/yr. Because this is storage for livestock water with seepage and evaporation and a variable supply

H. RECOMMENDATIONS allow 0.2 cfs to storage and 2 A-F/yr

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Stockwater Storage	1/1	12/31	0.2 cfs	2 A-F
Water quality imp. Storage	1/1	12/31	0.2 cfs	2 A-F
Totals:			0.2 cfs	2 A-F

2. 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

I. AUTHENTICATION

Field Examiner's Name Norman C. Young Date Apr. 125, 2001

Reviewer _____ Date _____

SEAL
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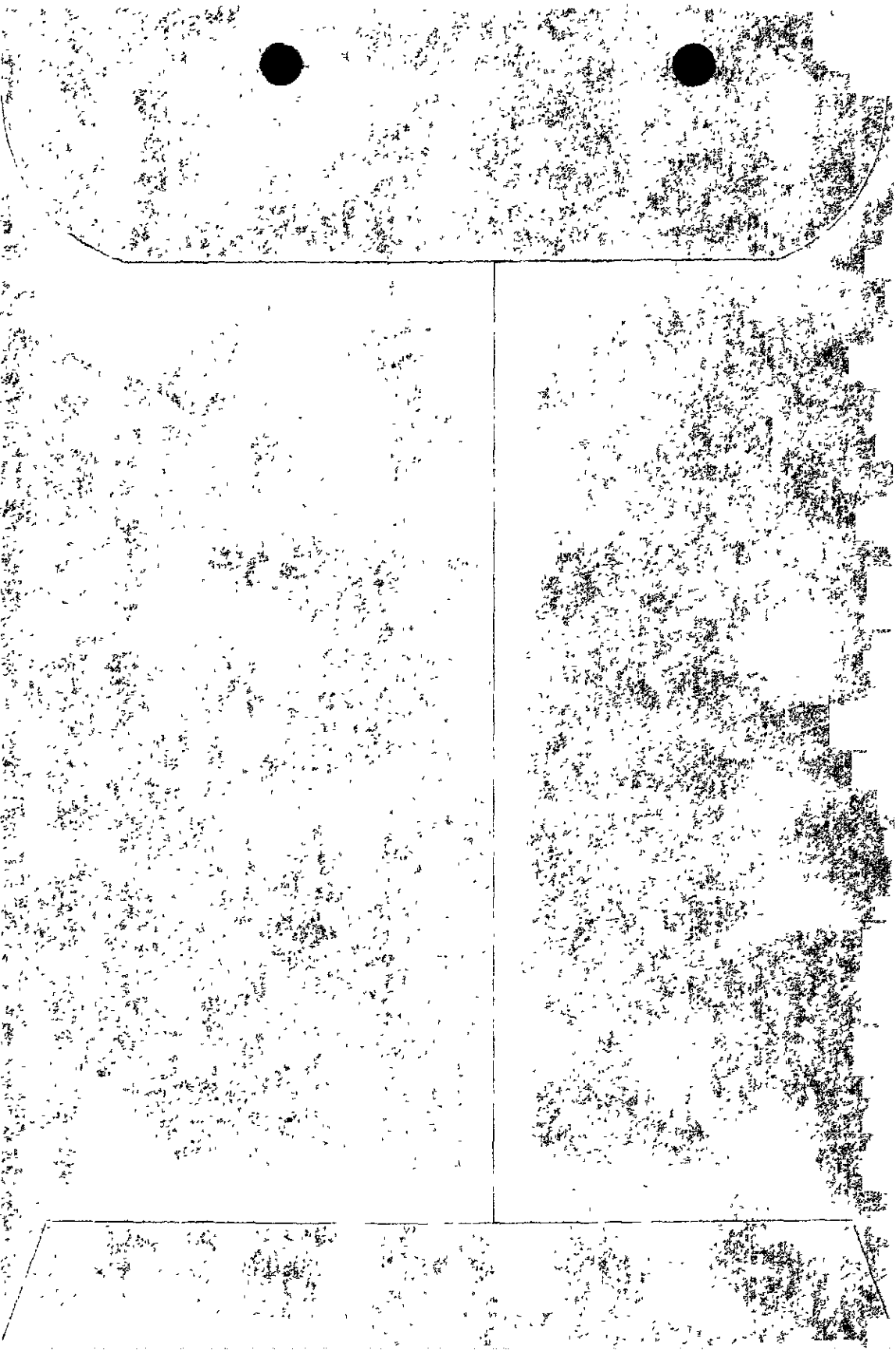
JUN 20 2001

Field Exam
photos
for

65-13569

MICROFILMED

JUN 20 2001



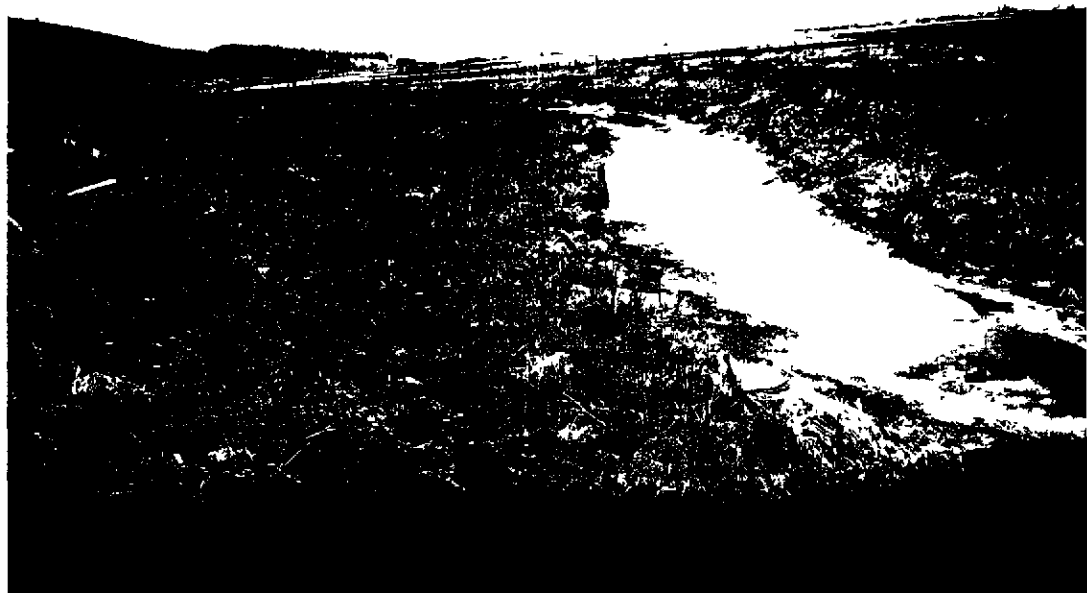


4/25/2001

65-13568

McPhail ponds &
pasture

WCS

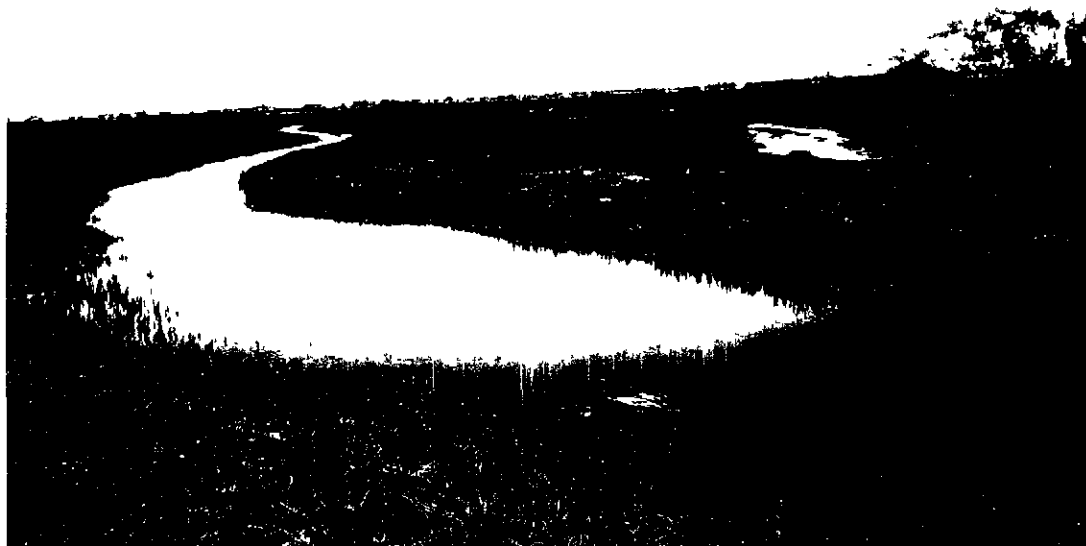


4/25/2001

65-13568

Old channel of Roseburg
Canal to the north of
lower pond.

xy



4/25/2001

65-13566

Channel with most water
is old Roseberry canal. Other
channel is the present Roseberry
canal. Photo shows the
saturated condition and water
availability to fill lower
pond.

NCS



4/25/2001
65-13568

Roseberry Canal looking
upstream (westerly) -

Spice pile on bank of
lower pond.

NY



4/25/2001

65-13568

Ken McPhail standing
beside lower pond.

Ney



4/25/2001

65-13568

Channel of unnamed
stream from middle to
lower pond.

Nay



4/25/2001
65-1356E

Outlet from lower
pond -

Kcy



4/25/2001
65-13564

Middle pond - dike &
overflow pipes

Wing



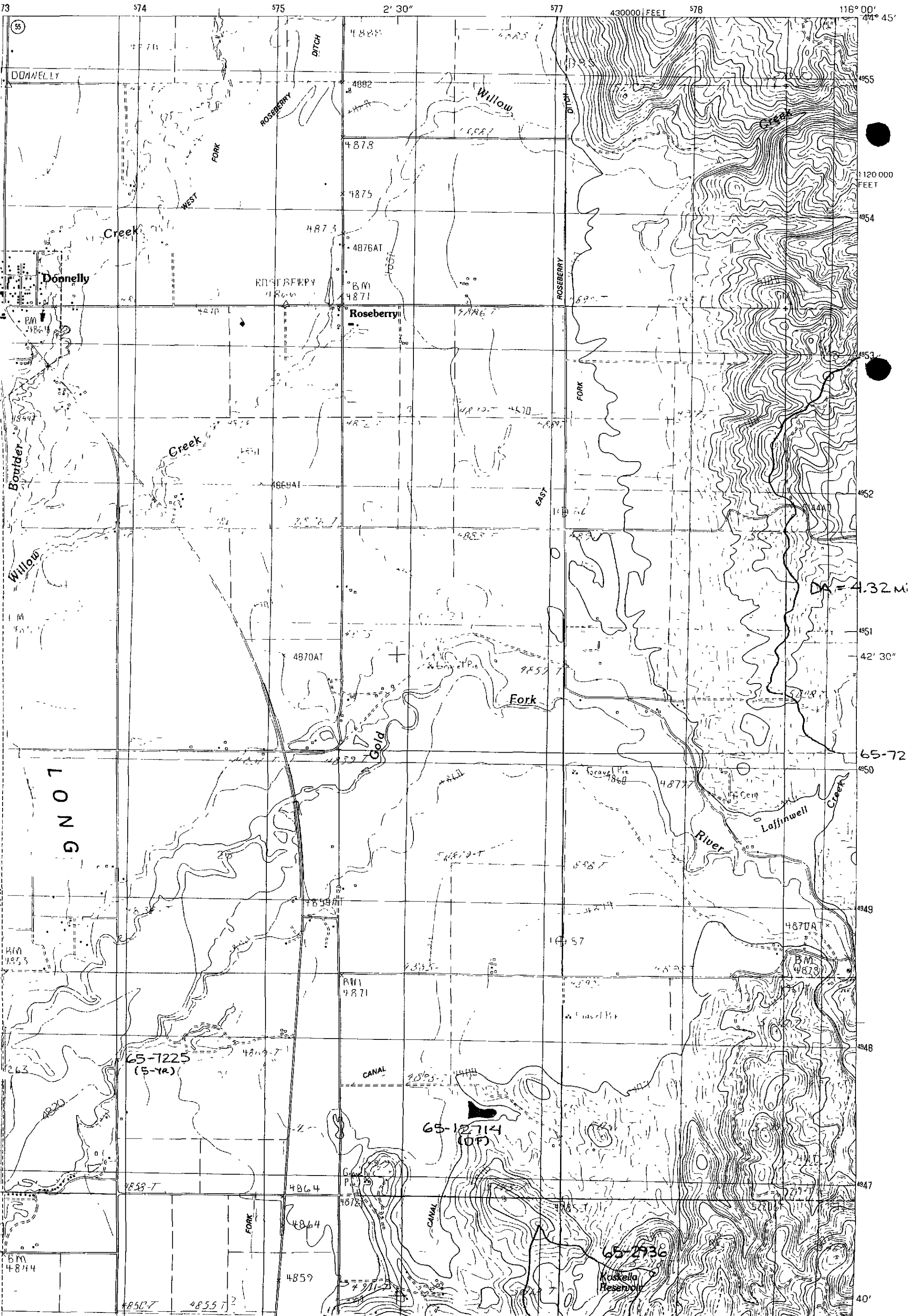
4/25/2001

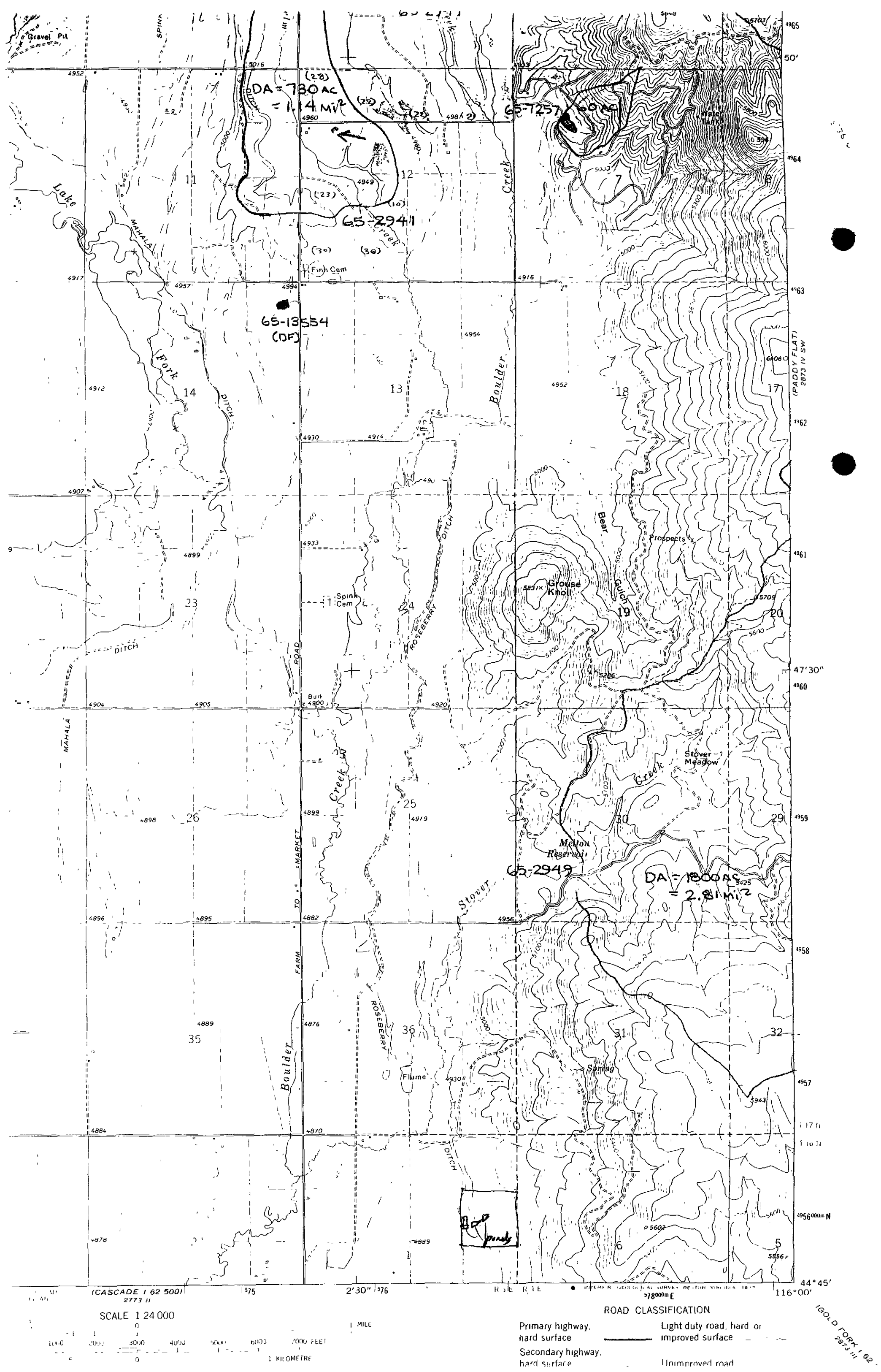
3 ponds built under
65-13560

Photo taken from McPhail's
guest house looking westwardly

Not

DONNELLY QUADRANGLE
IDAHO-VALLEY CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)







State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 10, 2001

Ken McPhail
422 Powell
Hollister, CA 95023

Re: Permit No. 65-13568

Dear Mr. McPhail:

This letter is to confirm the meeting to review water use under the above referenced permit. As we agreed in the phone conversation last month, I will meet you at the permitted place of use near Donnelly at 10:00 am on Wednesday, April 25, 2001. At your request, representatives of the Roseberry Irrigation District will not be asked to attend this meeting. I will plan to be accompanied by a staff member from the Department's Western Region Office.

Sincerely,

Norman C. Young
Administrator
Water Management Division

c: Gary Spackman, IDWR - Western Region
Roseberry Irrigation District

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JUN 20 2001



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

December 12, 2000

KARL J. DREHER
DIRECTOR

KEN MCPHAIL
PO BOX 731
DONNELLY ID 83615

Re: Constuction of a Pond-Permit No 65-13568

Dear Mr. McPhail:

I received your correspondence dated November 8, 2000. I also received a copy of a letter written to you by Sandra Ledford of the Roseberry Irrigation District.

In the letter dated November 8, 2000, you asked for a copy of "your mission statement. . . ." Our agency has a strategic plan that contains a mission statement. I do not believe, however, that a general agency mission statement is what you are asking for. In general, the Department of Water Resources (IDWR) is responsible for examining the beneficial use for all permits after the beneficial use is complete. In addition, IDWR is responsible for the general administration of water rights in the state of Idaho, and regulation of the use of water, including illegal uses. These authorities are contained in title 42 of the Idaho Code, primarily in Chapters 2 and 3.

When someone complains about an illegal use of water to IDWR, we investigate, and we usually write a letter of inquiry if we find a possible violation. These letters often request a prompt response and inform the person using the water that additional action may be taken if a response is not received. In your response, you offered facts that raised questions about whether your use is authorized. These questions should be resolved through a future beneficial use exam.

I read the letter written by Sandra Ledford of the Roseberry Irrigation District. When a complaint is lodged with IDWR, we often encourage the complaining party to contact the water user directly.

We will contact you in the spring or summer of 2001 to arrange a field examination.

Sincerely,

Gary Spackman
Manager, Western Region

cc: John Westra
GS:lm

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JUN 20 2001

To: Gary Sprackman

What is this nonsense? Your office is cited as responsible for this letter.

Fr. Michel

November 7, 2000

- Received Nov. 21, 2000

Ken McPhail
P.O. Box 731
Donnelly, ID 83615

RE: Decorative Pond

Mr. McPhail

The Water Master from District 45 has advised us that you plan to build a decorative pond adjacent to the Roseberry Ditch.

Roseberry Irrigation District checked with Idaho Water Resources and they advised us to write to you with our opposition to your project.

It is clear that you do not have a natural flow of water from the creek or have a spring to provide your water for the pond. The only place the water could come from is the Roseberry Ditch and you do not have any water rights. We can not back your project.

Please contact us if you have some concern about this.

Samuel Lechard

Sandra Ledford Secretary/Treasurer
Roseberry Irrigation District
P.O.Box 366
Donnelly, ID 83615

CC Water Resources
Att: John Westra

out this.

1 See packet
for info source for
US "Coordinate s for
in Port's construction
1995 under permit
65-13568

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JUN 20 2009

RECEIVED

NOV 15 2000

Department of Water Resources

November 7, 2000

Ken McPhail
P.O. Box 731
Donnelly, ID 83615

RE: Decorative Pond

Mr. McPhail

The Water Master from District 45 has advised us that you plan to build a decorative pond adjacent to the Roseberry Ditch

Roseberry Irrigation District checked with Idaho Water Resources and they advised us to write to you with our opposition to your project.

It is clear that you do not have a natural flow of water from the creek or have a spring to provide your water for the pond. The only place the water could come from is the Roseberry Ditch and you do not have any water rights. We can not back your project.

Please contact us if you have some concern about this.

Sandra Ledford

Sandra Ledford Secretary/Treasurer
Roseberry Irrigation District

Donnelly, ID 83615

CC / Water Resources
Att: John Westra

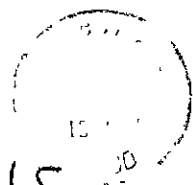
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JUN 20 2001

R. B. ID

P.O. Box 366

Donnelly, ID 83615



Dept. of Water Resources

P.O. Box 83720

Boise, ID 83720-0098

MICROFILMED

JUL 15 1998

83720+0098



THRU: Director, Department of Water Resources

TO: Gary Spackman, Mgr. Western Region
Nov. 8, 2000
Sent via Fax to 208-327-7886

Re: permit 65-13568

RECEIVED

NOV 13 2000

**WATER RESOURCES
WESTERN REGION**

Mr. Spackman,

Since your correspondence could have future use, I wish to clarify points in your unnumbered paragraphs.

1. Your photographs could only have depicted a permitted pond that has been recently dredged to remove silt deposited there over the 6 years the pond has been there, and of course my ranch which is of no concern of yours.
2. I suggest that your response to me that Mr. Westra's letter was merely to "apprise you of potential future problems" is suspect given the letter contained directions to me to "respond immediately in writing" and "if a timely response is not received additional action will be taken".
3. It should be noted for the record that none of my specific comments were addressed in your response to me dated Nov. 2, 2000. ie: the length of time the permitted pond has been there without comment, the failure to inspect the pond for its use as requested in Dec. of 1999, etc
4. Since it is clear to me and my advisors that there is a hidden agenda on your part, I request that a copy of your mission statement be provided my corporate attorney, Mr. Lloyd, Red Barn Corporation, 1000 Hwy 101, Aromas, Calif. 95004. Please highlight your authority for all your actions taken or proposed, above that of observing the "beneficial use" of my permitted pond
5. I also request that you advise me of the date and time you intend to be on my property so that I may have my Idaho attorney or other representatives there for your inspection of my pond, as well as all other visits by your agency to my ranch



Ken C. McPhail

Attached: W.R. ltr Nov. 2, 2000

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NOV 20 2000



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARI J. DREHER
DIRECTOR

November 2, 2000

KEN C MCPHAIL
PO BOX 731
DONNELLY ID 83615

Re: Construction of a Pond and Your Letter

Dear Mr. McPhail:

Your letter dated October 14, 2000 was received by John Westra of this office. I am John Westra's supervisor, and manage the Western Regional Office of the Idaho Department of Water Resources (IDWR).

Before John wrote his letter, he discussed his observations with me and showed me photographs of the pond and the surrounding area. He also discussed with me his conversations with the ditch rider for the Roseberry Ditch Co., who informed him of the pond. John also conversed with at least one other long-time resident of the area about the existence of the pond.

The purpose of John Westra's letter was to apprise you of possible future problems with the pond. I am sorry you feel that the letter was inappropriate. This office will conduct a field exam of the use as soon as we can. I have asked the examiners in our office to contact you and arrange for an exam at the earliest convenient time. It sounds as if you will not be on location during the winter, and perhaps conditions will be best for an examination in the spring. I have, however, asked one of my staff to stop by the location and look at the water levels in the pond after the water is no longer being diverted in the Roseberry ditch.

Should you have further questions regarding this matter please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Gary Spackman', is written over a horizontal line.

Gary Spackman

GS:st

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JUN 20 2001

MEMORANDUM

TO: File

FROM: Steve Lester 

DATE: October 30, 2000

RE : *Site Visit for Permit 65-13568*

I visited the pond immediately east of the Roseberry Irrigation District ditch about 4:00 p.m. on October 27, 2000. The district's ditch still carried a lot of water. Water was observed in the pond. Large piles of dirt bordered the pond. Pond development remained incomplete from all appearances.

A small ditch originating from a culvert led to the pond but was not delivering any water to the pond. See the attached diagram.

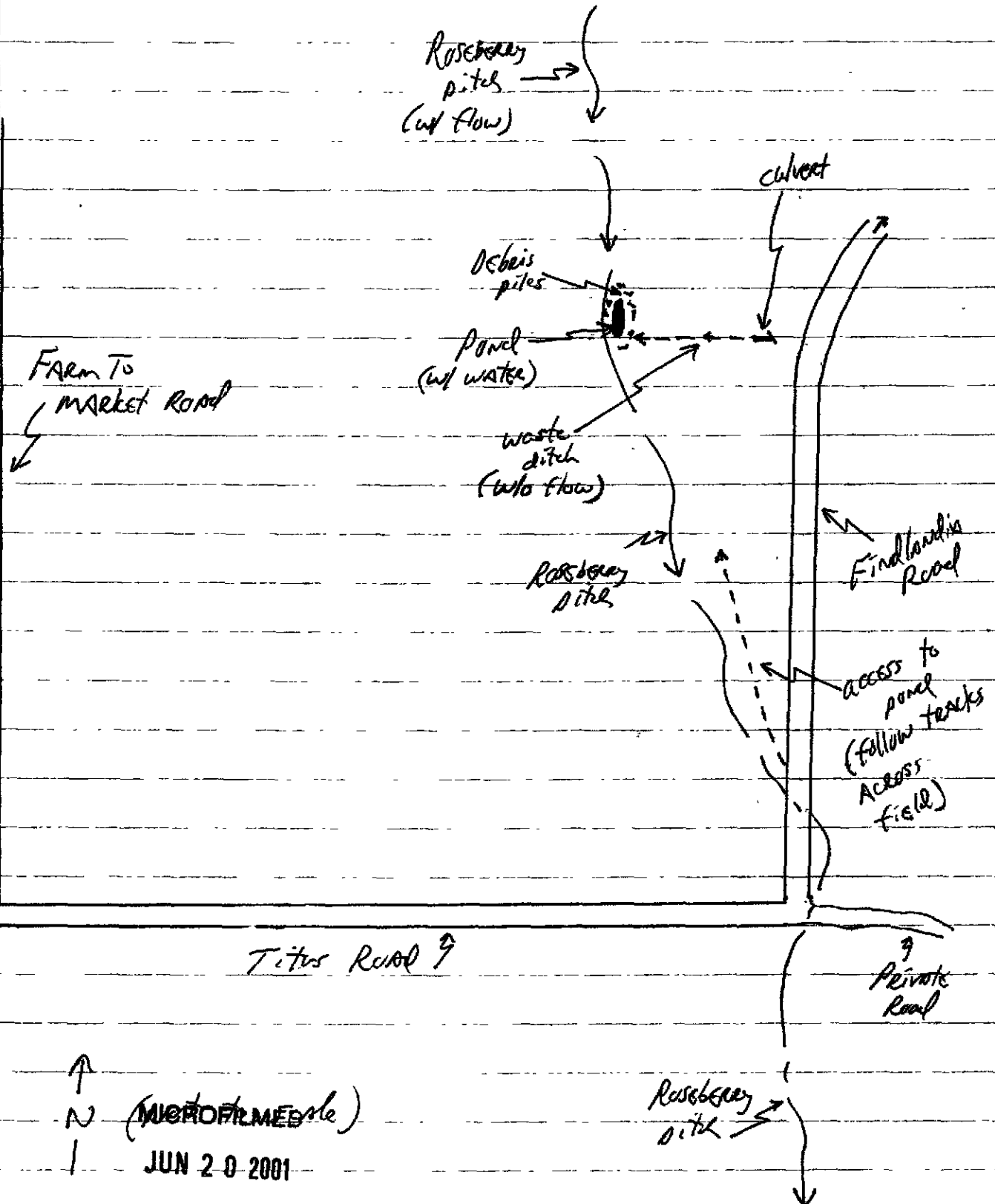
Photographs were not taken during this visit.

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JUN 20 2001

Site Visit 10/27/00
65-13568

-JC



See highlighted
item my letter
your letter.

State of Idaho
Department of Water Resources
Attn: John Westra
2735 Airport Way,
Boise, Idaho, 83705
Oct. 14, 2000

RECEIVED

Re: pond

OCT 17 2000

Sir,

WATER RESOURCES
WESTERN REGION

My response to your letter is succinctly provided below:

1. The pond is part of the permit development. I was permitted for a much larger size but found the current ponds appear adequate to control the State of Idaho flooding of my property up until this time.
2. In the future as professionals please provide numbered paragraphs for my response. Your unnumbered first paragraph appears to have concern with the location of the pond by the canal. This has been in place since 1994 and has not been questioned or been a problem regarding its current location. The president of the Roseberry Canal, Joe Eld, has reviewed this pond each year and he and I have personally noted that it is at a level above that of the canal. This is due to the slope (drainage) of the land, high water table and run off. The whole bottom part of my 50 acre ranch is designated semi marsh. It is noted that this "complaint" has surfaced in the year 2000, six years after the pond being in place and 6 months after my ranch is no longer leased to Joe Eld, President of the Roseberry Ditch Ass., due to non payment of fees for 6 years. The right of way for canal work is the road running along side the canal thru my property and everyone elses property that lives on that section of land. This was the source for access before I bought the land and is the source now. I personally have never been contacted by the Roseberry Ditch people regarding any matter. I have contacted them regarding there continual failing to close my gates when they access my property on the above mentioned access road.
3. Your second unnumbered paragraph addresses water source. This pond is normally stocked from the run off from my land which is fed from a apparent stream owned by the State of Idaho. This previously has flooded my property, hence the ponds, which work adequately at this time. At the time the bottom pond was initially dug in 1994 the pond was fed by the high water table that maintained its level above that of the canal. Several witnesses can testify to this including Joe Eld, if he is so inclined. In fact, Joe Eld sold me the property and ALL actions regarding the ponds and there location were discussed with Joe Eld. In fact, he suggested getting a cost sharing contract with Soil and Conservation Service. Who I might add, supported the ponds project but had no cost sharing funds. As I pointed out above, this area is classified as semi-marsh and has a extremely high water table. However, since your personnel where not able to see the 25 foot access road

MICROFILMED

JUN 20 2001

Director Decker
1. What are your people doing? Is this a ditch version of a ditch here?
2. I suggest that your corporation / subsidiaries contain a "threat" until fail to perform your agency's public relation & security looking!

running along side the canal for miles, it hardly surprises me that you can't see the difference in the levels of water between the canal and the pond.

4. Your field examination was scheduled for this summer per your letter to me. Despite two phone calls and a letter from me advising you of my availability, nobody showed up. You have, not so cleverly tried to cover up your failure to perform the inspection this summer by saying that it is still in progress.

5. It is noted that the pond dams have held without repair, for 6 years. It is coincidental, I am sure, that no complaint had ever been received on the pond until Joe Eld lost his lease this year on my property due to 6 years of non payment.

6. The overflow from the entire property flows through the bottom pond and back into the Roseberry ditch. You should note that there are two overflow pipes at different levels that allow ALL water from the bottom pond to flow back into the Roseberry ditch. Naturally they are higher than the ditch to preclude backflow, however, if you observe the pond periodically throughout the year you would have noted that water flows from my pond into the Roseberry ditch not the reverse.

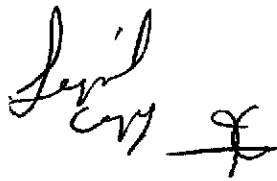
7. I find it notable that the only time you choose to contact me is in the winter when it is known I am not on site. If I am required to get a permit to perform maintenance on my ponds please advise me. The bottom pond had silted up and was merely being restored to its original depth in order to preclude flooding of my land by your own previous acknowledgment of it being Idaho Water causing this flooding . A situation resulting in my getting the pond permits in the first place. Further, Mr. Joe Eld as President of the Roseberry Ditch Ass., would have immediately brought to your attention within the first year or so (1994) any valid existing problem (s) as alluded to in your letter since he had leased this land from me for grazing from 1993 through 1999. is very familiar with it, and has been on the board of the Roseberry Ditch Ass. forever.

8. If, as stated in your letter, you had someone visit my pond site you should have readily observed the fact that the banks of the pond have not been extended, that the excavation was merely maintenance (silt removal), that there is a difference in water level between the ditch and the pond, and you would have noted the access road bordering the canal its entire length. Further your review of the permit would have shown you there are three ponds and their permitted size is considerably larger than what is in place. In addition, if you had performed your inspection as you were supposed to, or observed the facts when you visited my pond site, you would have been able to answer your own questions and not bothered me. Your concern for items such as a canal access road that has been there forever and is used by the ditch people almost daily suggests there is a different intent behind your letter than objective information gathering for a purported complaint. I do not intend to be held hostage to the well (newspaper) documented antagonism you Idahoans have against Californians or those you perceive to be Californians, nor do I intend to do your work for you in the future because you failed to observe facts to answer your own questions during your site visits. Let the games begin.

MICROFILMED

JUN 20 2001

9. I request that this letter be made a permanent part of the permit record.

A handwritten signature in black ink, appearing to read "Ken C. McPhail", followed by a stylized flourish or initial.

Ken C. McPhail
831-636-1246

P.S. Since the stream is unnamed I request that it be name McPhail Creek.

cc: Water Resource Director with accompanying note

MICROFILMED

JUN 20 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 28, 2000

Ken McPhail
PO Box 731
13297 Finlandia RD
Donnelly, ID 83615

RE: Pond Excavation

Dear Mr. McPhail:

Recently, the Department received a complaint concerning the excavation of a pond on your property located in the NE ¼ of Section 1 of Township 16N; Range 03E near the Roseberry Canal. On 9/13/00 Regional Staff visited the site, and indeed found a pond in the process of being excavated with a track hoe. A review of the Department's water right records found permits #65-13568 & #65-13569 relating to the property, (see attachment).

If the pond is part of the referenced permit development, there are several issues the Department would like you to address/clarify. Please respond in writing to the following:

-The pond excavation appears to be encroaching on the Roseberry Canal right-of-way. The stability of the canal bank near the pond area is also questionable. Under Idaho Code 42-1204; owners of canals/ditches must have a right-of-way width of land to maintain and repair the canal. Please document your arrangement with the Roseberry Irrigation District.

-Under permit #65-13568 the water source is listed as an unnamed stream tributary to Willow Creek. It was noted during the site visit, the pond water level was approximately the same as the canal water, appearing the pond source may be direct subsurface canal water. Permit #65-13569 for groundwater has lapsed. Please provide information regarding the source of water presently in the pond.

-Proof of Beneficial Use for Permit #65-13568 was filed with the Department on 01/03/00. The Proof states the permit holder has completed all development that will occur under the permit listed, and that water has been applied according to the provisions of the permit. A field examination is the next step in the license process. It appears development is continuing, please address.

MICROFILMED
JUN 20 2001

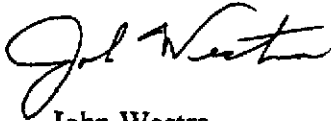
McPhail, Page 2.

Please respond to the issues outlined above by October 20, 2000, The Department will take further action if a response is not received in a timely manner.

I have tried to contact you by telephone, but found the number no longer in service.

Please contact me or Gary Spackman, Regional Manager at 208-334-2190 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Westra".

John Westra
Western Region

Enclosure

MICROFILMED

JUN 20 2001

Complaint Memorandum

Permit #65-13568

Name: McPhail

Date: 9/20/00

From: J. Westra, Western Reg

RE: Pond Construction

On 9/7/00 the Western Regional Office received a complaint from the Jerry Greenland, Roseberry Irrigation District Manager concerning a pond being excavated on the McPhail property 16N-03E-01 SE-NE near the Roseberry Canal (Finlandia Road).

On 9/13/00 I made an on-site inspection driving along the canal access road. I found a trackhoe being used to excavate a pond within a few feet of the Roseberry Canal bank. At present, the pond was approx. 100' X 50' being full of water to approx. the same level as the canal. There was a pvc pipe through the bank with a hose inside the pipe. I was unable to determine if the hose was being used to fill the pond from the canal, or to draw water from the pond. See photos attached.

In checking the Department data base, I found permit #65-13568 for the land parcel owned by Mr. McPhail. The permit use is for irrigation, irrigation storage, and water quality improvement. The P/D (3) source is unnamed streams trib. to Willow Creek. An Extension of Time was granted for the development on 11/20/96, and Proof of of Beneficial Use was filed with the Department on 12/26/99. A license field exam. has not been completed.

Issues

-It appears the source of the water presently in the pond is sub-water from the Roseberry canal, it is doubtful the storage is from the listed surface source, as the summer has been extremely dry in Valley County.

- It appears the pond has encroached the canal right-a-way. With the close proximity of the pond to the canal, the stability of the canal bank could be in question.

- The Proof of Beneficial Use was filed in December 99, but development of the project appears to be continuing.

Attachment

MICROFILMED

JUN 20 2001

*Reviewed with
Gary 9/27/00
JW*

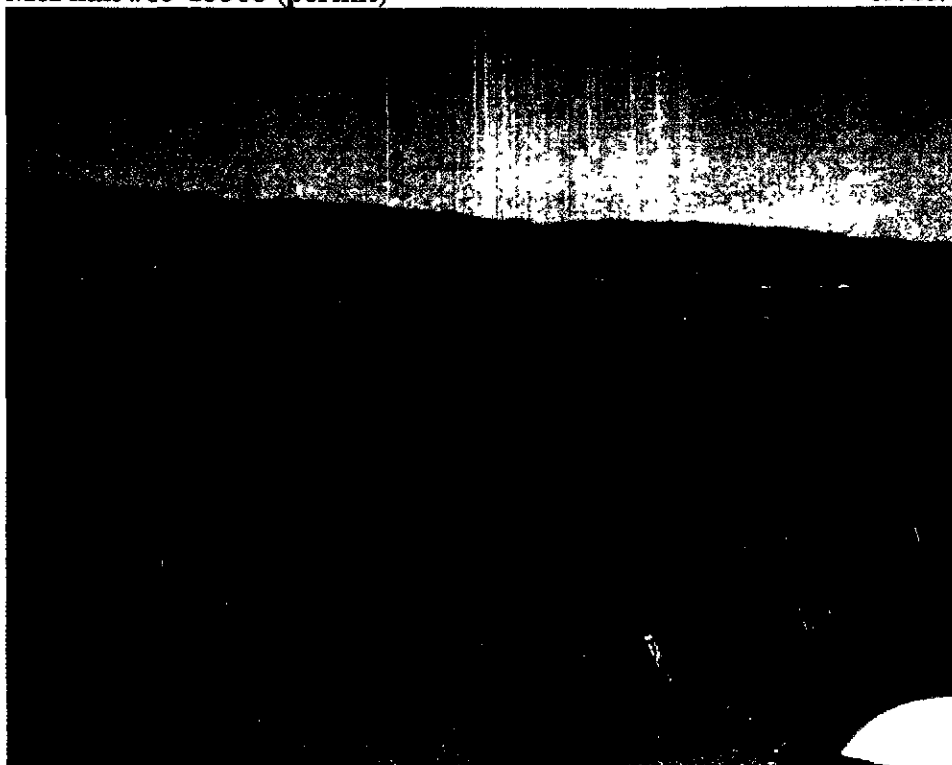


Photo #1

Overview of the pond and Roseberry Canal, taken from Finlandia Rd. to the east.
16N-03E-Sec 01-SE1/4 of NE1/4

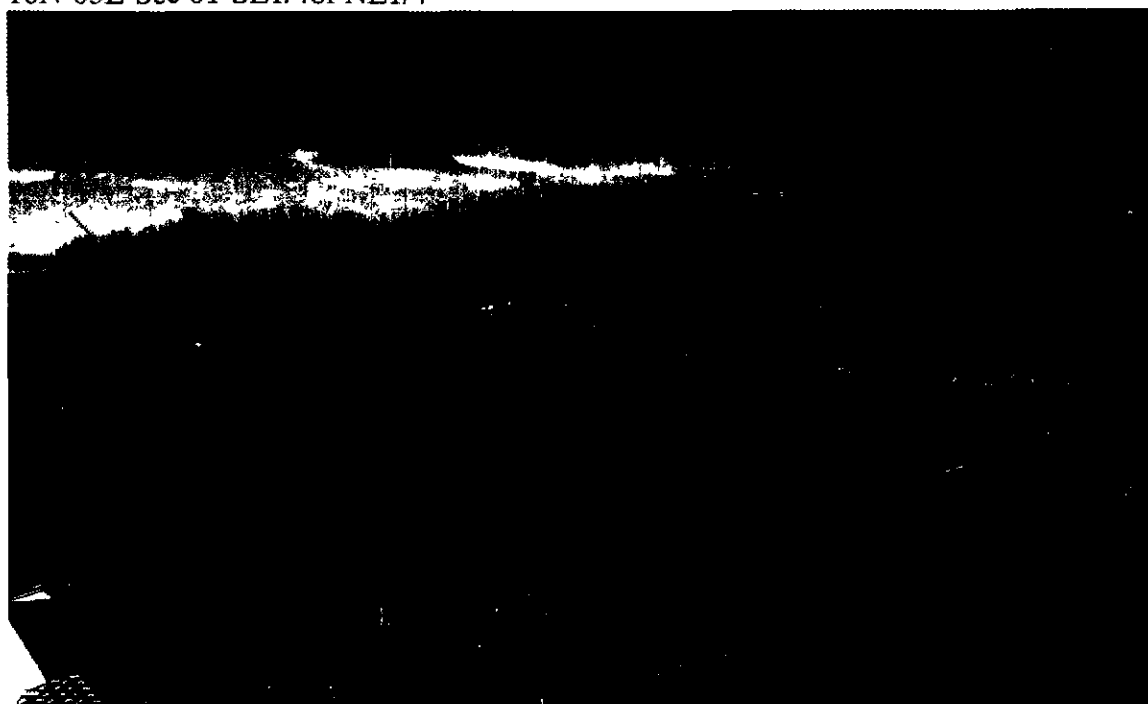


Photo #2

Pond excavation, note close proximity to Roseberry Canal, overflow pipe from pond into canal.

MICROFILMED

JUN 20 2001



Photo #3

Close-up view of the pond related to the canal. Pond surface area is approx. 100'X 50'. Can not determine if hose in overflow pipe is siphon or ? Appears water level in the pond is the same as canal.

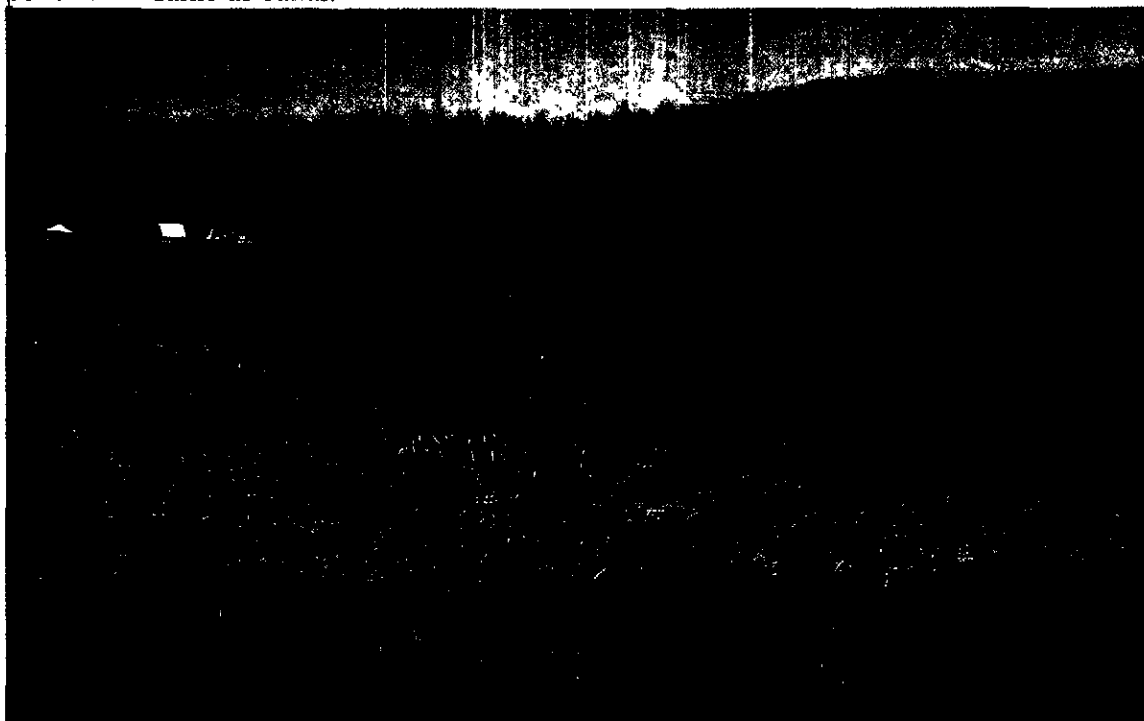


Photo #4

Overview of unnamed stream drainage into the pond.

MICROFILMED

SEP 26 2001

Box 532
Donnelly, Id 83615

Sept 15, 2000

John Westra
Idaho Dept. of Water Resources
1301 N Orchard
Boise, Id 83706
Dear John,

I am writing you concerning the construction of a pond, which I feel, is not in the best interest of the Roseberry Irrigation District.

In the last week of August I noticed a track hoe working on the Ken McPhail property. Upon further investigation I found that they were digging an existing pond deeper. This small pond has always been a catch basin for run off in the spring and then dries up as summer progresses. By digging deeper they had hit surface water which I believe belongs to Roseberry Irrigation District, as this pond is approximately 30 feet from the main irrigation canal. I talked with the Board of Directors on this matter and they had no knowledge of any permits issued for this project. Also, this piece of property has no water rights in the Roseberry District. I would appreciate you following up on this for me.

Sincerely,
Jerry Greenland
Water Master 65D

MICROFILMED

JUN 20 2001

Westra, John

From: Westra, John
Sent: Thursday, September 07, 2000 4:38 PM
To: Spackman, Gary
Subject: Complaint

I received a call from Jerry Greenland, Boulder Creek Watermaster. He indicated that a large pond is being built off Finlanda Rd near Roseberry, owner Ken McPhail, phone 325-8166. The pond is being constructed next to an irrigation canal apparently to pick up sub. Jerry is certain the owner has no water right, and would like to submit a complaint. I told Jerry, that as watermaster his call would be considered a formal complaint.

I will be working in McCall next week 9/11 thru 9/15, can investigate this if you wish. If you can't get me on my cell before, I will call in late Tuesday afternoon. Am staying at the Scandia in McCall- 634-7394

John
cell-867-0161

MICROFILMED
JUN 20 2001
1



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

January 18, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

KEN MC PHAIL
PO BOX 731
DONNELLY, ID 83615

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 65-13568

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form ("proof") submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

The proof you submitted indicates that you have not installed a measuring device and lockable controlling works on your point of diversion as required by condition #5 of your permit. The installation must be complete by the time the examination is conducted in order to keep the permit in good standing.

If you have questions concerning the field examination or the timing of it, please feel free to contact the Western Regional Office of the department in Boise at (208) 334-2190.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: IDWR - Regional Office

MICROFILMED

JAN 31 2000

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 65-13568 Reviewed by VZA Date 1-17-00

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?

Site

yes Address same as permit?

yes Proof timely received?

Correct Uses? yes

If not, complete calculation below.

SOURCE OF WATER

✓ Surface water source

_____ Ground water source

_____ Drilling permit required?

_____ Copy in the file? Drilling Permit No. _____

_____ Amount paid for permit _____ Correct?

_____ Well log in the file?

LICENSE EXAMINATION FEE

yes Required?

50 Amount Submitted

yes Correct?

MEASURING DEVICE

yes Required?

NO Installed?

NO Waiver requested?

PRIORITY CALCULATION

Date proof received _____

Date proof due _____

No. of days late _____ = _____

Priority Date _____ + _____

New Priority Date _____

DEFICIENCIES OR ACTION ITEMS

- Measuring device req - Cond # 5,
- Install by time exam is conducted

DATA ENTRY

New Address Donnelly, ID

Proof Made 12-30-99

↑ *

October 31, 1999

KEN MC PHAIL
PO BOX 731
DONELLY ID 836150731

PROOF DUE NOTICE

RE: PERMIT NO. 65-13568

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before January 1, 2000.

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

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

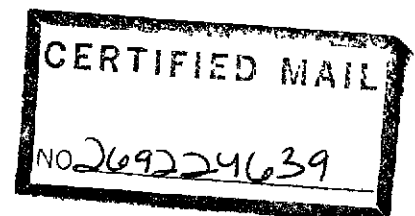
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED
JAN 31 2000



ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 65-13568 Reviewed by Chy Date 11-20-96

BASIC INFORMATION

11-19-96 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

yes Has adequate work been completed to demonstrate due diligence?

_____ Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? _____ Requested? _____

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

_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN Recommend extendal to Jan 1, 2000, on basis of due diligence

PRIORITY CALCULATION

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

DATA ENTRY

New Address X _____

Change Proof Due Date 1-1-2000

Change Priority Date X _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 21, 1996

Ken McPhail
P.O. Box 731
Donnelly, ID 83615-0731

RE: Permit No. 65-13568

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit. The time within which to submit proof of beneficial use is extended to **January 1, 2000**. Please note that the department has granted this extension based on **due diligence**. It is important that you work diligently toward the completion of the development during the construction period allowed since the department **will not** be able to grant additional extensions based on due diligence.

Please be advised that Section 42-248, Idaho Code, which became affective on July 1, 1996, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner. Failure to maintain current records with the department could result in the assessment of a monetary penalty.

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

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Regional Office

MICROFILMED

DEC 02 1996

October 31, 1996

KEN MC PHAIL
PO BOX 731
DONELLY ID 836150731

PROOF DUE NOTICE

RE: PERMIT NO. 65-13568

Dear Permit Holder:

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

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

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

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

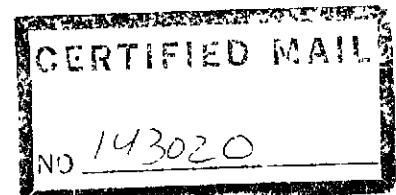
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

DEC 02 1996





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 20, 1995

KEN MC PHAIL
PO BOX 731
DONELLY ID 83615-0731

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 65-13568

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a "Proof Due Notice" approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosures

RECORDED

FEB 17 1995

**APPLICATION FOR PERMIT
STATE OFFICE REVIEW
by Cindy Zimmerman**

No.: 65-13568 Name: McPhail Date: 1/3/95
Correct Fee? ✓ Receipt #: WD18292 Priority: 10/26/94

AREA OF CONCERN? - No/Yes _____ Mor _____ GWMA Trust/Non-trust
PROTESTED: - 020(Prehearing agreement)/W19(See Order)

SYSTEM COMPLETED:

Yes - NA (proof filed)
1 year/no proof - P16
+1 year - 26A-P17

GROUNDWATER:

```
+ 0.2 cfs <FLO-CH>      - 01G (new), 01K (existing), No MD
- 0.2 cfs                - No MD <FLOW CHART>
```

Drilling Permit:

Included w/permit - Permit No. _____, P99
Existing well - NA (pre 7/1/87)
No WD permit? - 046-46A(Irr)-46B-P23 (post 7/1/87)

SURFACE WATER:

Not in WD - 01K (+.2 w/pump), No MD <FLOW CHART>
Water District(~~dem~~) - WD No. 65 <SEE MAP & LISTING>
*Surface water - 005 (req) 01J-P08 (-.2 w/pump) <FLOW CHART>
(*doesn't sink*) or 01H-P01 (+.2) <FLOW CHART>; No MD
GW irr. in WD - P05 (new well)

RIVER BASINS (*Surface water):

Snake R(01/02/03) - 11A-P04 (01), 061-P07 (02/03 No WD Cond.), NA
Boise R(63) - 05A (if WD), 11E (non-domestic use), NA
Payette R(65) - 064 (consump. use), 047-P04 (Payette Lake), NA

USE:

Domestic (surface) - 021(Boise R + L Peak), 064(Payette R), NA
Fish Propagation - 07A-042 (req) & 010/06A/09E(WQ)-P10
044 (N 1000 Spr)
Irrigation - 03A/057, 803(if GW use SW 1st)(+5A PU comp), NA
Mining - 054 (req) & 06A/010/09E-P10
Power - 08A-17K-025-027(req); 01F(MD)-P19; 09E(WQ)-P10;
+25 cfs-P18; 17G(FERC) or 17M(FERC); 18B-P09
Storage(✓ 3 compo.) - 18A(multi MD in WD), 18B-P09 (+10' dam), NA

LOCATION:

Boise Front (63)	-	058 (-85° GW temp only)
Drainage Districts	-	024 (region recommend)
Flood Control Dist.	-	063 (region recommend)
In-stream	-	030 (stream channel alteration)
Irr Dist/Canal Co.	-	023 (Twin Falls area)
Swan Falls Flag	-	<u>B</u> <SEE CONDITION CODE CHART>
Trust	-	051-052-053-P74 (Consumptive Uses), NA
Non Trust <1>	-	048-049 (Consumptive Uses), NA

OWNERSHIP:

Non land owner - 004 (PD/PU)

OTHER CONDITIONS:

REMARKS:

① W02/50 RC ② W32/3 pds w/in SESE, SOI, TIBU, ROSE.
③ W01 Star / sediment ponds.

BENEFICIAL USE DUE:

1-1-1997

COMMENTS:

DATE: 01/03/95
PAGE: 1

Remarks: Three points of diversion are located within SENE, S01, T16N, R03E.

WR0749WP
No. P65-13568

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 01/03/95
PAGE: 2

Remarks: Stockwater is for 150 range cattle.
Water quality improvement storage is for sediment ponds.

Dates: App. Received: 10/26/1994 Priority Date: 10/26/1994
Proof Due Date: 01/01/1997* Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: 65 . Field Exam Fee:

Comments: Date: 10/26/1994 User-ID: CHODGES Subject: ADDITIONAL INFO, EXISTING PONDS
Ponds are existing but will likely be enlarged. Irrigation will
be supplemented with groundwater; see companion application
65-13569.
Finished pond(s) size approximately 3 acres open water by 6-7
feet average depth.

Audit: 01/03/95 CZIMMERM

(WATER RIGHT NUMBERS THAT BEGIN WITH AN (*) ARE ADJUDICATION CLAIMS)

WR-NUMBER	SOURCE	NE				NW				SW				SE				SUM
		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
6513568	T16N R03E S 1 UNNAMED STREAM																	20
	:																	:
6502306	STOVER CRE :																	38
A6502306	STOVER CRE :																	38
A6503114	BOULDER CR :			35	40									20		40	40	175
A6503115	BOULDER LA :			35	40									20		40	40	175
A6503116	BOULDER CR :			35	40									20		40	40	175
6507361	BOULDER CR :															20	20	80
6513569	GROUNDWATE : <i>same pou</i>																	20
	C85Q-S 60 :					20												20
				30	38									24	36	36	35	38
NO QTRS	MAPPING	Lot01-33	Lot02-37	Lot03-36	Lot04-37													393

Groundwater supplemental to this surface water right

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

16N 36 5.1
INITIAL REVIEW BY: J- DATE: 11/8/94 APPLICATION: 65-13568

REQUIRED INFORMATION

Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)
Address:
Source: (See USGS Quad for names of water sources)
Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
County:
Quantity: (flow and/or volume)
Period of use:
Nature of proposed use: (Include description of use)
Description of diverting works:
Time required for beneficial use of water:
Place of use or acres irrigated:
Map:
Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
Fee:
Yes ☐ No ☐ In form to receipt:

Gov't. Lots:

N P/D
P/U

RECEIVED
DEC 28 1994

ADDITIONAL INFORMATION

Department of Water Resources

YES NO

☒ Overlapping place of use: (Describe source & relationship to present application on the back.)
☒ Overlapping point of diversion: (except proposal 65-13569)
Field check required: Field check by: _____
Field report attached:
Critical groundwater area:
Groundwater management area:
1992 moratorium
Copy to SCA staff (perennial stream, non-pump diversion):
Send dam safety information:
Send power requirement letter:
Send fish farm requirement letter:
Power residency affidavit:
Power efficiency form:
Within trust water boundary: (If yes, attach Trust Water Supplementary Analysis Sheet.)
Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
*REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED: _____

Additional information on reverse side:

copy to JFW @ Cascade Res. water quality improvement project ✓

PROCESSING

APPLICATION

65-13568

YES NO

☒ ☒
☒ ☒
☒ ☒

In form for advertising:

Statewide advertising: (> 10 cfs &/or 1000 af)

Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES NO

☐ ☒
☐ ☒
☐ ☒
☐ ☒

I.D. Health and Welfare

I.D. Fish and Game

I.D. Lands

Adjudication Bureau

YES NO

☐ ☒
☐ ☒
☐ ☒
☐ ☒

U.S. BLM

U.S. Forest Svc.

Water Dist. # _____

Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☐
☒ ☐

Affidavit of publication received:

Application published correctly: If not, record action taken.

☐ ☒
☐ ☒
☐ ☒
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Publication dates and paper recorded on application:

Protests received. Final date for protest 12-5-94

Protest dates, resolution of protest recorded on application:

Recommendations attached: Approved, Dnr

Measuring device required:

Measuring port required:

Water delivered by water master? District # _____

Special conditions of approval or cover letter: _____

26A (Allow 2 yrs)

See below for additional information

Recommended Date or Priority 10/26/1994Recommended by: Dnr Date 12/21/1994

STATE OFFICE REVIEW

See below for additional information. By _____ Date _____

ADDITIONAL INFORMATION

Non-mainstem source possibly within W.D. # 65-0 (Boulder Co.) ✓ Not within 650 Dnr

Should not need watermaster comment.

Note W.Q.I. as part of Cascade Res. clean-up project.

Proposed well (65-13569) will also save ponds.

NOTICE OF APPLICATION FOR
WATER RIGHT

The Following application(s) have been
filed to appropriate the public waters of
the State of Idaho.

65-13567
BESKON, LARRY
BESKON, ROBERTA LYNN
MC COMAS, DAVE
4746 ANDERSON WY
NANPA, ID 83687

Source SPRING
Tributary: ROUND VALLEY CREEK
Diversion Pt NESESE Sec 36 T 12N
R 03E in VALLEY County.

Use IRRIGATION (800 CFS)
Total Diversion: (800 CFS)

Date Filed: 10/24/1994

In. VALLEY County
T 12N R 04E S31 NESW Lot 3
(NWSW) Lot 4 (SWSW) SESW

80.0 ACRES TOTAL

65-13568
MC PHAIL, KEN
PO BOX 731
DONNELLY, ID 83615

Source: UNNAMED STREAM
Tributary: WILLOW CREEK
Diversion Pt SENE Sec 1 T 16N R
03E in VALLEY County.

Use: IRRIGATION (200 CFS)
IRRIGATION STORAGE (20.00 AF)
IRRIGATION FROM STORAGE
(20.00 AF)
STOCKWATER STORAGE (20.00
AF)
WATER QUAL IMPR STOR (20.00
AF)
Total Diversion: (.200 CFS)

Date Filed 10/26/1994

In: VALLEY County
T16N R03E S01 SENE
20.0 ACRES TOTAL

65-13569
MC PHAIL, KEN
PO. BOX 731
DONNELLY, ID 83615

Source: GROUNDWATER
Diversion Pt SENE Sec 1 T 16N R
03E in VALLEY County.

Use: IRRIGATION (.200 CFS)
IRRIGATION STORAGE (20.00 AF)
IRRIGATION FROM STORAGE
(20.00 AF)
STOCKWATER STORAGE (20.00
AF)
DIVERSION TO STORAGE (.200
CFS)
Total Diversion: (.200 CFS)

Date Filed: 10/26/1994

In VALLEY County
T16N R03E S01 SENE
20.0 ACRES TOTAL

65-13575
US DEPT OF INTERIOR

BUREAU OF RECLAMATION
1150 N CURTIS RD
BOISE, ID 83706-1234

Source WILLOW CREEK
Tributary CASCADE RESERVOIR
Diversion Pt. SWNE SEC 11 T 13N
R 03E in VALLEY County

Use: WILDLIFE (1 000 CFS)
WILDLIFE STORAGE (10.00 AF)
WATER QUAL. IMPROVEMENT
(2 000 CFS)
WATER QUAL. IMPR STOR 9 5 00
AF)
Total Diversion: (3 000 CFS)

Date Filed: 11/3/1994
In VALLEY County
T13N R 03E S11 SWNE

Permits will be subject to all prior water
rights. Protests may be submitted based
on the criteria of Sec 42-203A, Idaho
Code. Any protest against the approval
of this application must be filed with the
Director, Dept of Water Resources,
Western Region, 2735 Airport Way,
Boise, Idaho 83705 together with a
protest fee of \$25.00 on or before
DECEMBER 5, 1994. The protestant
must also send a copy of the protest to
the applicant.

R KEITH HIGGINSON, Director
Publish 11/23, 11/30 - #591

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Affidavit of Publication

STATE OF IDAHO COUNTY OF VALLEY

I, Michael C. Stewart, being duly sworn deposes, and says, I
am the Publisher of The Advocate, a weekly newspaper
published at Cascade, in Valley County, Idaho; and having a
general circulation therein and of legal status in said
county.

The notice of application for water rights, a copy of which
is attached hereto; was published in said newspaper once a
week for 2 consecutive weeks in the regular and
entire issue of every number thereof during the period and
time of publication, and was published in the newspaper
proper and not in a supplement; and that publication of
such notice began 11/22, 1994, and
ended 11/30, 1994.

Michael C. Stewart

Michael C. Stewart

Signed this the 8th day of Dec, 1994

STATE OF IDAHO) COUNTY OF VALLEY) SS.

On this the 8th day of Dec, 1994
before me, a Notary Public in and for said State, personally
appeared Michael C. Stewart, known or identified to me to
be the person whose name is subscribed to the within
Instrument, and being by me first duly sworn, declared that
the statements therein are true, and acknowledged to me
that he executed the same.

Linda S. Flemer

Notary Public State of Idaho
Residing at: Cascade
Commission Expires: 10/24/95



RECEIVED

DEC 12 1994

WATER RESOURCES
WESTERN REGION

FEB 17 1995

Publisher's Affidavit of Publication

STATE OF IDAHO

.SS

County of Valley

I, Ramona A French, being duly sworn and say, I am the receptionist of The Central Idaho Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of aforesaid and is a legal newspaper; that the NOTICE OF APPLICATION FOR WATER RIGHT, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began November 17, 1994 and ended November 23, 1994

Ramona A French
Subscribed and sworn before me this the 23rd day of November, 1994.

STATE OF IDAHO

COUNTY OF VALLEY

On this 23rd day of November, in the year of 1994, before me, a Notary Public, personally appeared Ramona A. French, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same

Tom Grote

Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires 1999

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

65-13568

MCPHAIL, KEN

PO BOX 731

DONNELLY, ID 83615

Source. UNNAMED STREAM

Tributary. WILLOW CREEK

Diversion Pt SENE Sec 1 T 16N R 03E in VALLEY County.

Use: IRRIGATION (200 CFS)

IRRIGATION STORAGE (20 00 AF)

IRRIGATION FROM STORAGE (20 00 AF)

STOCKWATER STORAGE (20 00 AF)

WATER QUAL IMPR. STOR (20 00 AF)

Total Diversion (200 CFS)

Date Filed 10/26/1994

In VALLEY County
T16N R03E S01 SENE
20.00 ACRES TOTAL
65-13569

MCPHAIL, KEN

PO BOX 731

DONNELLY, ID 83615

Source GROUNDWATER

Diversion Pt SENE Sec 1 T 16N R 03E in

VALLEY County

Use IRRIGATION (200 CFS)

IRRIGATION STORAGE (20 00 AF)

IRRIGATION FROM STORAGE (20 00 AF)

STOCKWATER STORAGE (20 00 AF)

DIVERSION TO STORAGE (200 CFS)

Total Diversion (200 CFS)

Date Filed: 10/26/1994

In VALLEY County

T16N R03E S01 SENE

20.0 ACRES TOTAL

65-13572

ESPY JR, ROBERT E

BOX 1245

MCCALL, ID 83638

Source GROUNDWATER

Diversion Pt SWSWSW Sec 15 T 18N R

03E in VALLEY County

Use IRRIGATION (200 CFS)

Total Diversion (200 CFS)

Date Filed: 10/19/1994

In VALLEY County

T18N R03E S15 SWSW

10.0 ACRES TOTAL

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-103A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of \$25.00 on or before DECEMBER 5, 1994. The protestant must also send a copy of the protest to the applicant.

R KEITH HIGGINSON, Director 2/11/23

FEB 17 1995

65-13568

MC PHAIL, KEN
PO BOX 731
DONELLY, ID 83615

Source: UNNAMED STREAM

Tributary: WILLOW CREEK

Diversion Pt: SENE Sec 1 T 16N R 03E in VALLEY County.

Use: IRRIGATION	(.200 CFS)	
IRRIGATION STORAGE		(20.00 AF)
IRRIGATION FROM STORAGE		(20.00 AF)
STOCKWATER STORAGE		(20.00 AF)
WATER QUAL. IMPR. STOR		(20.00 AF)
Total Diversion:	(.200 CFS)	

Date Filed: 10/26/1994

In: VALLEY County
T16N R03E S01 SENE

20.0 ACRES TOTAL

RECEIVED
FEB 17 1995

OCT - 9 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESUSE TYPEWRITER OR
BALLPOINT PEN

WELL DRILLER'S REPORT

Department of Water Resources
Western Regional OfficeState law requires that this report be filed with the Director, Department of Water Resources
within 30 days after the completion or abandonment of the well.

1. WELL OWNER

Name Ken McPhail
Address Box 731-Donnelly, Idaho 83615
Drilling Permit No. _____
Water Right Permit No. 65-92-W-227-001

7. WATER LEVEL

Static water level _____ feet below land surface.
Flowing? ☐ Yes ☐ No G.P.M. flow _____
Artesian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature _____ °F Quality _____
Describe artesian or temperature zones below.

2. NATURE OF WORK

- ☒ New well ☐ Deepened ☐ Replacement
☐ Well diameter increase ☐ Modification
☒ Abandoned (describe abandonment or modification procedures
such as liners, screen, materials, plug depths, etc. in lithologic
log, section 9.)

8. WELL TEST DATA

☐ Pump ☐ Bailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped

3. PROPOSED USE

- ☒ Domestic ☐ Irrigation ☐ Monitor
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

9. LITHOLOGIC LOG

Bore Diam.	Depth		Material	Water	
	From	To		Yes	No
9	0	1	Top Soil		X
9	1	9	Boulders and DK Brown Clay		X
9	9	10	Broken Brown Basalt		X
9	10	14	Hard Black Basalt Boulder		X
9	14	18	Red/Brown Clay and Boulders		X
6	18	30	Red/Brown Clay and Boulders		X
6	30	35	Broken Black Basalt and Boulders		X
6	35	38	Brown/Green Basalt Hard		X
6	38	40	Black Basalt Hard		X
6	40	40	Gray/Green Basalt		X

4. METHOD DRILLED

- ☒ Rotary ☒ Air ☐ Auger ☐ Reverse rotary
☐ Cable ☐ Mud ☐ Other _____
(backhoe, hydraulic, etc.)

5. WELL CONSTRUCTION

Casing schedule: ☐ Steel ☐ Concrete ☐ Other _____
Thickness Diameter From To
_____ inches _____ inches + _____ feet _____ feet
_____ inches _____ inches _____ feet _____ feet
_____ inches _____ inches _____ feet _____ feetWas casing drive shoe used? ☐ Yes ☐ No
Was a packer or seal used? ☐ Yes ☐ No
Perforated? ☐ Yes ☐ NoHow perforated? ☐ Factory ☐ Knife ☐ Torch ☐ Gun

Size of perforation? _____ inches by _____ inches

Number From To
_____ perforations _____ feet _____ feet
_____ perforations _____ feet _____ feet
_____ perforations _____ feet _____ feetWell screen installed? ☐ Yes ☐ No

Manufacturer _____ Type _____

Top Packer or Headpipe _____

Bottom of Tailpipe _____

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Gravel packed? ☐ Yes ☐ No ☐ Size of gravel _____

Placed from _____ feet to _____ feet

Surface seal depth _____ Material used in seal. ☐ Cement grout☐ Bentonite ☐ Pudding clay ☐ _____Sealing procedure used: ☐ Slurry pit☐ Temp. surface casing ☐ Overbore to seal depthMethod of joining casing: ☐ Threaded ☐ Welded☐ Solvent Weld ☐ Cemented between strata

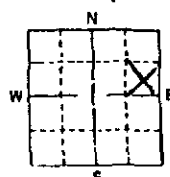
Describe access port _____

10.

Department of Water Resources
Western Regional OfficeWork started 9-3-92 finished 9-6-92

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name _____

Finlandia Estates

Lot No. _____ Block No. _____

County Valley

Address of Well Site _____

(give at least name of road)

T. 16 N ☒ or S ☐
SE 1/4 NE 1/4 Sec 1, R. 3 E ☒ or W ☐

11. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were
complied with at the time the rig was removed.Firm Name GASTIN WELL DRILLING Firm No. 408Address 43 PLANT LN. DONNELLY, ID Date 9-11-92Signed by Drilling Supervisor [Signature]

and _____

(Operator) [Signature]

(If different than the Drilling Supervisor)