

## AFFIDAVIT OF PUBLICATION

STATE OF IDAHO       )  
                              ) ss  
County of Jefferson    )

I, Robert Carlson  
of the Jefferson Star, published  
weekly at Rigby, Jefferson County,  
Idaho, do solemnly swear that the

Not. of App. for Trust Water Right  
a copy of which notice appears at-  
tached hereto, was published in the  
regular and entire issue of said  
newspaper, and not in any supple-

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

having been made on Jan 3  
and the last publication having been  
made on Jan 10, 1990.

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

Robert Carlson

On this 8<sup>th</sup> day of Jan

in the year of 1990, before  
me, a Notary Public, personally ap-

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

Karen K. Lew

Notary Public for Idaho

Residing at Firth

My commission expires: 10-23-94

### NOTICE OF APPLICATION FOR TRUST WATER RIGHT

31-07378

MARTIN FAMILY TRUST  
P. O. BOX 278  
IDAHO FALLS, ID 83402  
Source: GROUNDWATER  
Diversion Pt: SENW Sec 33 T 06N R  
34E

Use: IRRIGATION (4.540 CFS)  
Total Diversion: (4.540 CFS)

Date Filed: 12/15/1982

In: T06N R34E S33

NENW NWNW SWNW SENW  
NESE NWSE SWSE SESE

227.0 ACRES TOTAL

The permit (s) will be subject to all  
prior water rights. Protests may be  
submitted based on the criteria of Sec.  
42-203A, Idaho Code and/or the new  
public interest criteria of Sec. 42-203C,  
Idaho Code. Protests must be filed with  
the Director, Dept. of Water Resources,  
Statehouse Mail, Boise, Idaho 83720 on  
or before JANUARY 22, 1990.

R. Keith Higginson, Director

Published in the Jefferson Star,  
Rigby, Idaho, January 3 and 10, 1990.

MICROFILMED

MAR 05 1990

# THE JEFFERSON STAR

RIGBY, IDAHO

## AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }  
County of Jefferson } ss

Bruce Porter

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

### Notice Of Application For Water Right

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

Two

supplement issue thereof for \_\_\_\_\_  
consecutive issues, the first publication hav-

ing been made on Oct. 5, 1983  
and the last publication having been made

on Oct. 12, 1983

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

*Bruce Porter*

~~~~~

Subscribed to and sworn to before me

this Oct. 13, 1983

*Jeri Garner*

Notary Public.

(SEAL)

Life.

My commission expires \_\_\_\_\_

RECEIVED

NOV 7 1983

Department of Water Resources  
Eastern District Office

### NOTICE OF APPLICATION FOR WATER RIGHT

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

31-7378

MARTIN FAMILY TRUST

P.O. BOX 278, IDAHO FALLS, ID 83402

Source: GROUNDWATER

Date Filed: 12/15/1982

Diversion Pt: SENW Sec 33 T 06N R 34E

Use: IRRIGATION (4.54 CFS)

In: NENW NWNW SWNW SENW NESE

NWSE SWSE SESE Sec 33 T 06N R 34E  
FOR 227 ACRES

The permit(s) will be subject to all prior  
water rights. Protests must be filed with the  
Director, Dept. of Water Resources, 150  
Shoup Ave., Suite 15, Idaho Falls, Idaho  
83402 on or before OCTOBER 24, 1983.

KEN DUNN  
Director

Publ. Oct. 5 and 12, 1983RS

MICROFILMED

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 |
|---------|----------|---------------------------------------------------|--------------|----------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|-------|
| ✓ Right | 31 7248  | MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP, | GROUND WATER | 06N34E33 | 30   | 38   | 40   | 39   | 8    |      |      | 16   | 1    |      |      |      | 11   | 18   |      |      | 201   |
| ✓ Right | 31 7378  | MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP, | GROUND WATER | 06N34E33 |      | 2    |      |      | 30   | 39   | 28   | 14   |      |      |      | 7    | 19   | 18   | 35   | 35   | 227   |
| Permit  | 31 7378  | MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP, | GROUND WATER | 06N34E33 |      |      |      |      | 30   | 40   | 30   | 15   |      |      |      |      | 27   | 15   | 30   | 40   | 227   |
| ✓ Rec   | 31 10422 | MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP, | GROUND WATER | 06N34E33 |      |      |      |      |      |      | 5    |      |      | 3    | 7    |      |      |      |      |      | 15    |
| ✓ Rec   | 31 7201  | MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP, | GROUND WATER | 06N34E33 |      |      |      |      |      |      | 5    |      |      | 3    | 7    |      |      |      |      |      | 15    |
| ✓ Right | 31 7249  | MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP, | GROUND WATER | 06N34E33 |      |      |      |      |      |      | 5    | 6    | 39   | 38   | 27   | 31   |      | 4    | 2    |      | 152   |
| Permit  | 31 11690 | MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP, | GROUND WATER | 06N34E33 | 10   |      |      | 2    |      |      |      |      |      |      |      |      | 10   |      |      |      | 22    |
| Right   | 31 164   | MUD FLAT CANAL CO,                                | MUD LAKE     | 06N34E33 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | 0     |
| Right   | 31 165   | MUD FLAT CANAL CO,                                | MUD LAKE     | 06N34E33 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | 0     |

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17

### POINT OF DIVERSION

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8  
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HEL  
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G-9

### PLACES OF USE

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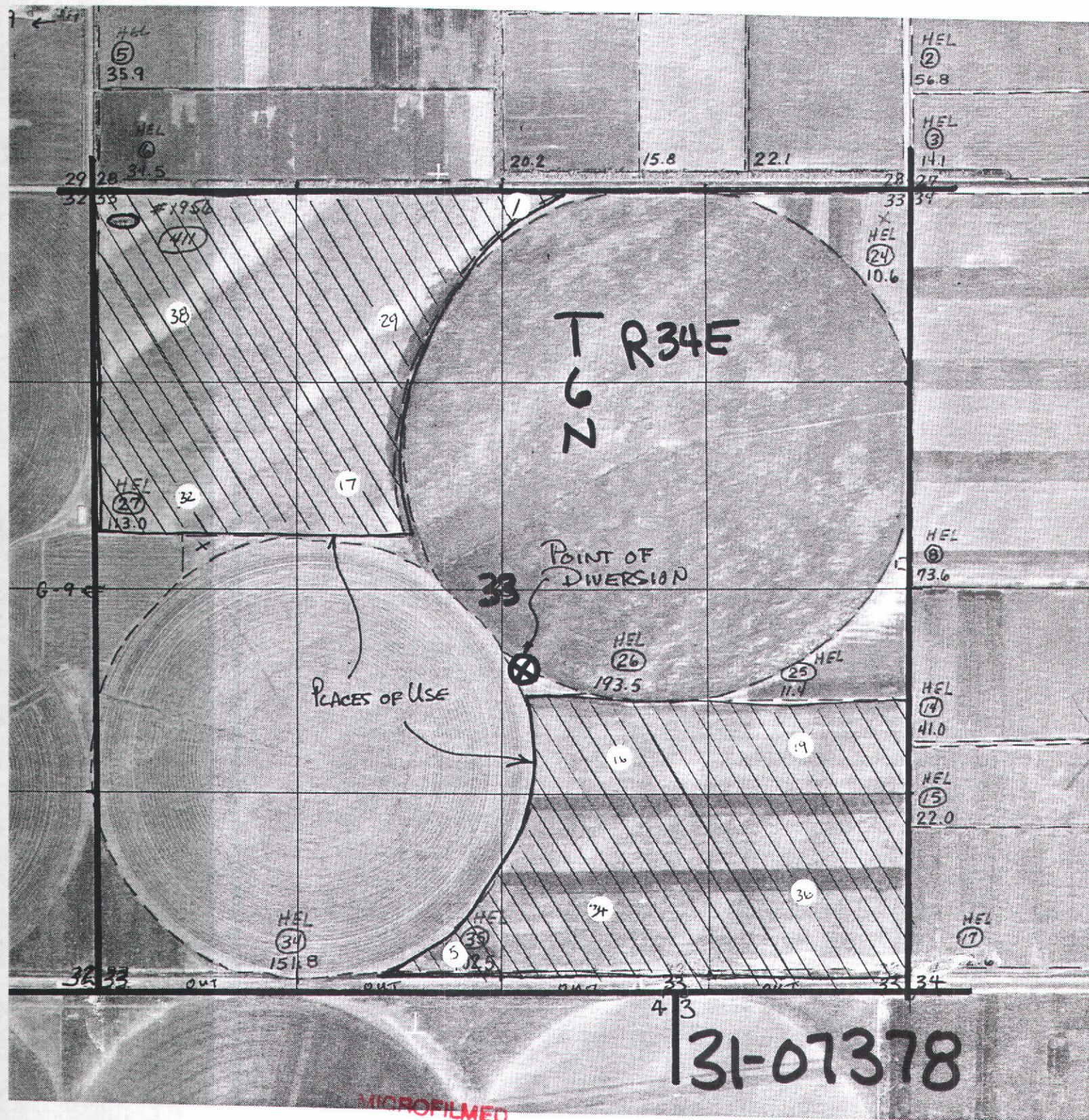
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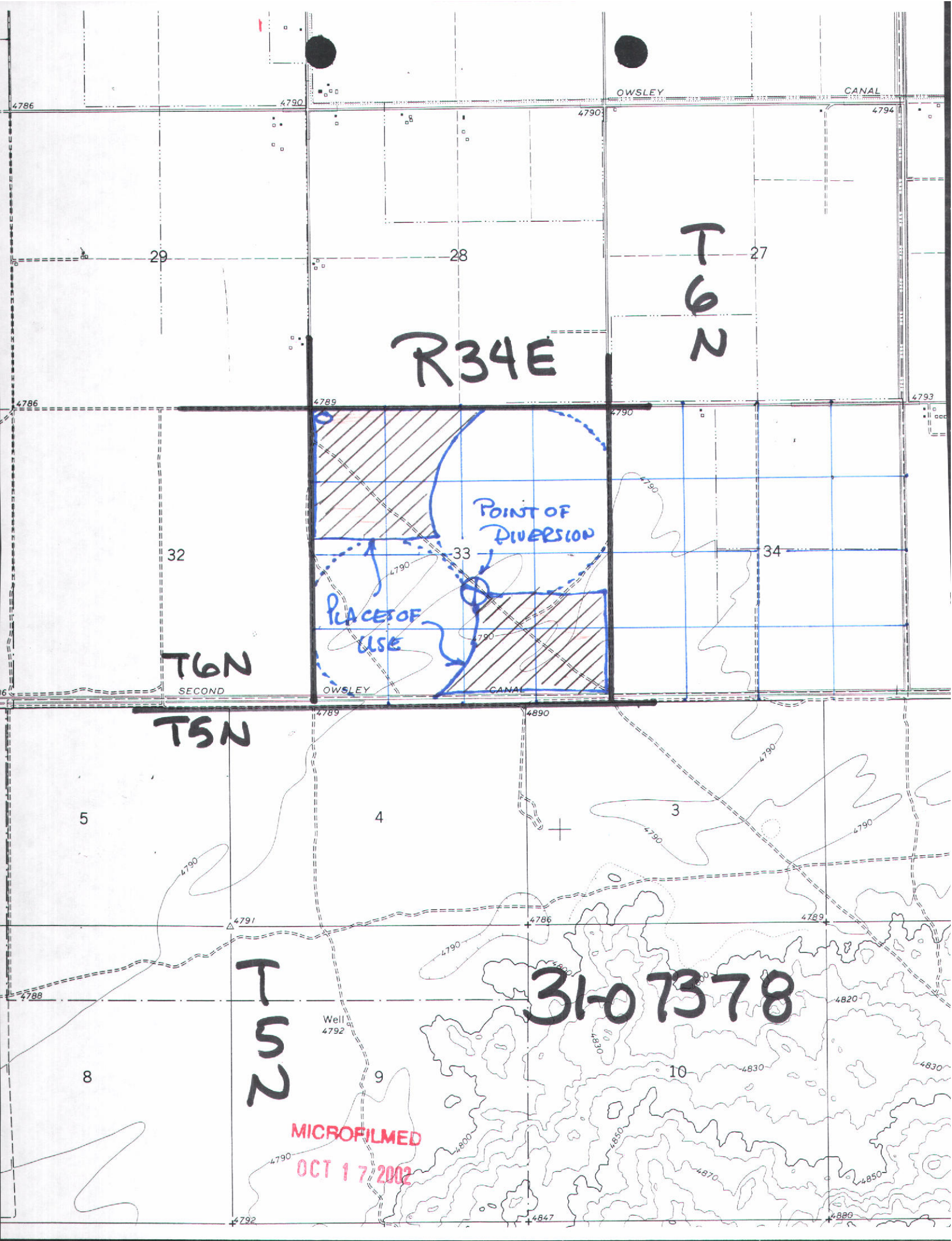
43

31-07378

31-07378



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OCT 17 2002



RECEIVED

AUG 29 1989

IDAHO DEPARTMENT OF WATER RESOURCES  
TRUST WATER INFORMATION QUESTIONNAIRE

Department of Water Resources

Application No. 31-7378

IF YOU ARE NOT INTERESTED IN HAVING YOUR APPLICATION PROCESSED,  
PLEASE COMPLETE AND RETURN THE ENCLOSED RELINQUISHMENT FORM.

INSTRUCTIONS: Please answer the following questions as  
thoroughly as possible and submit the \$20.00 readvertisement  
fee if applicable.

1. Did irrigation occur on the lands identified under your  
application prior to October 1, 1984? Yes \_\_\_\_\_ No ✓

If yes, you are requested to submit clear evidence that shows the  
number and location of acres irrigated.

Aerial photographs taken prior to October 1, 1984, located in area  
ASCS offices, are best forms of evidence. Photos submitted to the  
the Department must be accompanied by a signed statement from an  
ASCS representative which verifies the photo date and that the  
lands were irrigated prior to October 1, 1984. If ASCS does not  
have photos for the land and/or time in question, you must have the  
ASCS provide the Department with a statement that photos are not  
available and then proceed to submit other forms of suitable evidence.

2. Please state the number of acres you have irrigated under this  
application since October 1, 1984. 219

3. If you have not irrigated lands under this application, please  
state the number of acres you plan to complete. N/A

NOTE: You must submit the \$20.00 readvertisement fee if any or all  
of the lands were not irrigated before October 1, 1984.

4. If the application is a supplemental filing please identify  
other water rights which are used on the same land.  
N/A

Use the reverse side of this form if you wish to add any comments.

I hereby assert that the responses provided above are true to the  
best of my knowledge. I understand that any willful misrepresentations  
may result in voiding of the application.

Applicant Simon S. Martin

Date 8-25-89

Simon S. Martin,  
Trustee, Martin Family  
Trust

MICROFILMED

MAR 05 1990

C010648  
8/30/89  
EP

LAW OFFICES

HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING

P.O. BOX 129

IDAHO FALLS, IDAHO 83402

TELEPHONE 523-0620

AREA CODE 208

September 26, 1983

WILLIAM S. HOLDEN  
R. VERN KIDWELL, P. A.  
FRED J. HAHN  
KENT W. FOSTER  
ROBERT E. FARNAM  
WILLIAM D. FALER, P. A.  
STEPHEN E. MARTIN  
CHARLES A. HOMER  
GARY L. MEIKLE  
CURT R. THOMSEN  
RANDALL K. BARTON  
MICHAEL D. CRAPO

JAMES D. HOLMAN  
GAYLE A. SORENSON  
DONALD L. HARRIS  
BRUCE T. SMITH

ARTHUR W. HOLDEN (1877-1967)  
ROBERT B. HOLDEN (1911-1971)  
TERRY L. CRAPO (1939-1982)

RECEIVED

SEP 27 1983

Department of Water Resources

Mr. A. Kenneth Dunn, Director  
Idaho Department of Water Resources  
Statehouse  
Boise, Idaho 83720

RE: Application for Permit (No. 31-7378) to Appropriate  
the Public Waters of the State of Idaho

Dear Mr. Dunn:

*Simon S. Martin, Trustee  
Martin Family Trust.*

We appreciate receiving your letter in reference to the above matter. In that letter you referred to a letter of protest filed by Idaho Power sometime ago. Somehow the copy was apparently omitted from our letter and we would like to have a copy. If you still have an extra copy, please send us one at your convenience.

Yours very truly,

*Kent*

Kent W. Foster

KWF:sb  
8790

WILBERT  
ERASABLE FINISH  
3000  
MICROFILMED

September 15, 1983

RE: 31-7378

Kent W. Foster  
Holden, Kidwell, Hahn & Crapo  
P. O. Box 129  
Idaho Falls, ID 83402

Dear Mr. Foster:

I have carefully reviewed your letter of September 9, 1983, requesting that application No. 31-7378 be processed immediately. The application filed December 15, 1982, proposes the diversion of 4.54 cfs of ground water to irrigate 227 acres of land in Jefferson County. The department considers this application to have been protested by Idaho Power Company pursuant to a letter filed on December 3, 1982 (copy enclosed). Accordingly, the application has not been processed pending the hearing required by Section 42-203, Idaho Code, to consider the protest against issuance of a permit. Because of the magnitude of the technical and legal problems associated with the Swan Falls question and the Idaho Power's protest, and because of the possibility of a solution outside of the department's administrative processes, I have delayed processing of application No. 31-7378 and all other applications proposing new consumptive uses from water sources located upstream from Swan Falls.

Section 42-203, Idaho Code, states that ".c. . upon receipt of an application . . . the department of water resources shall . . ." prepare the legal notice and begin processing. The statute does not provide a specific time frame within which the processing is to begin but the requirement that a hearing shall be set to consider a protest within 60 days of receipt of the protest does indicate that filings are to be processed in a timely manner. For that reason and because of your insistence on behalf of your clients, processing will be resumed on application 31-7378. The regional office in Idaho Falls is instructed by copy of this letter to make the required legal notice. Following the mandatory 10-day period during which protests may be filed, a hearing will be set to consider the protest of Idaho Power Company and any others that may be received as a result of the legal notice. Also by copy of this letter, I am notifying Idaho Power Company of your request to process the application and that I consider the company to be a protestant without its having to file another written protest during the advertised

**MICROFILMED**

State of Idaho  
Department of Water Resources  
**Water Right License**

WATER RIGHT NO. 31-07378

Priority: December 15, 1982

Maximum Diversion Rate: 4.54 CFS  
Maximum Diversion Volume: 795.0 AF

It is hereby certified that MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID 83405 have complied with the terms and  
conditions of the permit, issued pursuant to Application for Permit dated December 15, 1982; and have  
submitted Proof of Beneficial Use on May 01, 1990. An examination indicates that the works have a  
diversion capacity of 5.0 cfs of water from:

**SOURCE**

GROUND WATER

and a water right has been established as follows:

**BENEFICIAL USE**  
IRRIGATION

**PERIOD OF USE**  
04/01 to 10/31

**DIVERSION RATE**  
4.54 CFS

**ANNUAL  
DIVERSION VOLUME**  
795.0 AF

**LOCATION OF POINT OF DIVERSION:**

GROUND WATER NW¼NW¼SE¼ Sec. 33, Twp 06N, Rge 34E, B.M., JEFFERSON County

**PLACE OF USE:** IRRIGATION

| Twp | Rge | Sec | NE |    |    |     | NW   |      |      |      | SW |    |    |     | SE   |      |      |      | Totals |
|-----|-----|-----|----|----|----|-----|------|------|------|------|----|----|----|-----|------|------|------|------|--------|
|     |     |     | NE | NW | SW | SE  | NE   | NW   | SW   | SE   | NE | NW | SW | SE  | NE   | NW   | SW   | SE   |        |
| 06N | 34E | 33  |    |    |    | 2.0 | 30.0 | 39.0 | 28.0 | 14.0 |    |    |    | 7.0 | 19.0 | 18.0 | 35.0 | 35.0 | 227.0  |

Total Acres: 227

**CONDITIONS OF APPROVAL**

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
2. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.

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 15<sup>TH</sup> day of OCTOBER, 2002.

**MICROFILMED**

**OCT 17 2002**

Acting for

KARL J. DREHER  
Director

State of Idaho  
Department of Water Resources  
**APPLICATION FOR AMENDMENT**  
(For Licensing Purposes)  
**WATER RIGHT NO. 31-07378**

RECEIVED

OCT - 4 2002

Department of Water Resources

Date of Priority: December 15, 1982

Maximum Diversion Rate:

4.54 CFS

Maximum Diversion Volume:

795.0 AF

Comes now MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130

IDAHO FALLS ID 83405 and represents to the Director of the Idaho Department of Water Resources that he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 31-07378, and requests that the permit be changed as follows:

Source: GROUND WATER

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| IRRIGATION            | 04/01 to 10/31       | 4.54 CFS                 | 795.0 AF             |

LOCATION OF POINT OF DIVERSION:

GROUND WATER NW¼NW¼SE¼ Sec. 33, Twp 06N, Rge 34E, B.M., JEFFERSON County

PLACE OF USE: IRRIGATION

| Twp Rge Sec | NE |     |    |    | NW   |      |      |      | SW |    |    |     | SE   |      |      |      | Totals |
|-------------|----|-----|----|----|------|------|------|------|----|----|----|-----|------|------|------|------|--------|
|             | NE | NW  | SW | SE | NE   | NW   | SW   | SE   | NE | NW | SW | SE  | NE   | NW   | SW   | SE   |        |
| 06N 34E 33  |    | 2.0 |    |    | 30.0 | 39.0 | 28.0 | 14.0 |    |    |    | 7.0 | 19.0 | 18.0 | 35.0 | 35.0 | 227.0  |

Total Acres: 227

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 27 day of SEPTEMBER, 2002

  
 (Signature)

MICROFILMED

OCT 17 2002

State of Idaho  
Department of Water Resources  
**APPLICATION FOR AMENDMENT**  
(For Licensing Purposes)  
**WATER RIGHT NO. 31-07378**

\*\*\*\*\*  
FOR DEPARTMENT USE ONLY  
Preliminary check by \_\_\_\_\_ Fee = \$50.00 Received by JM # 0064966 Date 10-4-02

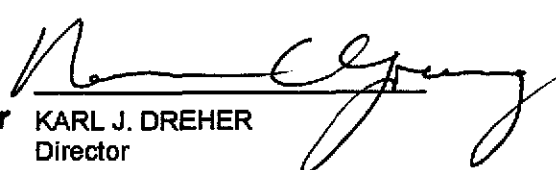
**ACTION OF THE DEPARTMENT OF WATER RESOURCES**

I, Karl J. Dreher, of the Department of Water Resources hereby approve the  
above Application for Amendment for Permit No. 31-07378 with the following:

**CONDITIONS OF APPROVAL**

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
2. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.

Witness my hand this 15<sup>TH</sup> day of OCTOBER, 2002.

Acting for   
KARL J. DREHER  
Director

MICROFILMED

OCT 17 2002

RECEIVED

MAY - 1 1990

Department of Water Resources  
Eastern District Office

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

RECEIVED  
For Office Use Only  
0086  
1990  
Received by J  
6-1-90

MAY 04 1990

Department of Water Resources

The Idaho Department of Water Resources will consider this form as 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 or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 31-07378 Telephone No. (208) 523-5171

Name(s) of Permit Holder(s): Martin Family Trust, c/o Simon S. Martin, trustee

Post Office Address: P. O. Box 50278 Idaho Falls. ID 83405

Source of Water: Ground

If ground water, well driller's name: Kenneth Vollmer Date drilled: March, 1986

Extent of Use:  
Domestic \_\_\_\_\_ (No. of households) Irrigation 219 (No. of acres)  
Stockwater \_\_\_\_\_ (No. and type of stock) Other \_\_\_\_\_

Total rate and/or volume for which proof is submitted 4.54 cfs \_\_\_\_\_ acre/feet

Show date water was first diverted and beneficially used under this permit: April 15, 1986

One of the following may be a condition of approval of your permit:

Measuring device: Required? Yes X No Installed? Yes X No

OR

Flow Measurement Port: Required? X Yes No Installed? X Yes No

Fee Enclosed: \$ 200.00 (See License Examination Fee Schedule)

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

J. Dewayne Lee (208) 663-4641  
Name Telephone No.

P. O. Box 25 Terreton, ID 83450  
Address

MICROFILMED

JUN 18 1990

The above information 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.

Martin Family Trust  
By: [Signature] trustee

April 30, 1990  
Date

Signature (and title if on behalf of a company or organization)

State of Idaho  
Department of Water Resources

# Permit To Appropriate Water

NO. 31-07378

Proposed Priority: December 15, 1982      Maximum Diversion Rate: 4.54 CFS

This is to certify, that **MARTIN FAMILY TRUST**  
**SIMON S. MARTIN, TRUSTEE**  
P.O. BOX 278  
IDAHO FALLS, ID 83402

has applied for a permit to appropriate water from: **GROUNDWATER**  
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> |
|-----------------------|----------------------|--------------------------|
| IRRIGATION            | 04/01 to 11/01       | 4.54 CFS                 |

LOCATION OF POINT(S) OF DIVERSION:      SENW      Sec. 33, Township 06N, Range 34E  
JEFFERSON 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> |
|----------------------------------|------------|------------|--------------|--------------|--------------|--------------|
| 06N                              | 34E        | 33         | NENW 30      | NWNW 40      | SWNW 30      |              |
|                                  |            |            | SESW 15      | NESE 27      | NWSE 15      |              |
|                                  |            |            | SWSE 30      | SESE 40      |              | 227          |
| Total number of acres irrigated: |            |            |              |              |              | 227          |

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before March 1, 1991.
2. Subject to all prior water rights.
3. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
4. Any license issued by IDWR pursuant to the permit or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
5. Diversion and use of water under this permit is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
6. The Director retains jurisdiction of the permit and/or subsequent license issued to change, add or remove any requirement as determined to be appropriate.
7. Prior to the diversion of water under this permit a flow measurement port or other device as specified by the Department shall be installed to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.

**Microfilm**

MAR 05 1990

State of Idaho  
Department of Water Resources**Permit To Appropriate Water**

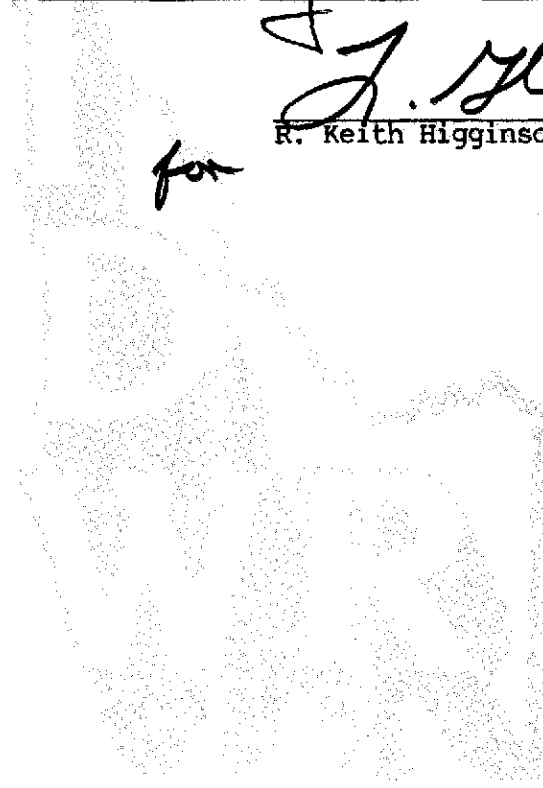
NO. 31-07378

CONDITIONS/REMARKS:

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

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

12<sup>th</sup> day of February, 1990.

*for*   
J. Glen Saxton  
R. Keith Higginson, Director

MICROFILMED

MAR 05 1990

THE JEFFERSON STAR  
RIGBY, IDAHO

AFFIDAVIT OF  
PUBLICATION

STATE OF IDAHO )  
 ) ss  
County of Jefferson )

I, Robert Carlson  
of the Jefferson Star, published  
weekly at Rigby, Jefferson County,  
Idaho, do solemnly swear that the  
Not. of App. for Trust Water Right  
a copy of which notice appears at-  
tached hereto, was published in the  
regular and entire issue of said  
newspaper, and not in any supple-  
ment issue thereof for two (2)  
consecutive issues, the first publica-

having been made on Jan 3  
and the last publication having been  
made on Jan 10, 1990.

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

Robert Carlson

On this 8th day of Jan

in the year of 1990, before  
me, a Notary Public, personally ap-

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

Karen K. Jew  
Notary Public for Idaho  
Residing at Lith  
My commission expires: 10-23-94

MICROFILMED

MAR 05 1990

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ASSIGNMENT OF PERMITS/LICENSES

I, Simon S. Martin, Trustee of the Martin Family Trust,  
hereby assign to Martin Brothers Land & Livestock Limited  
Partnership of P. O. Box 278, Idaho Falls, Idaho 83402, all of the  
right, title and interest in and to those certain licenses, and/or  
permits, and/or applications identified as:

- (a) Application for Permit No. 31-7378
- (b) Application for Permit No. 31-7422 - 80 new 1984 prior. skill app.
- (c) Application for Permit No. 31-7250 - Licensed  
proof made 1983
- (d) Water Right License No. 31-7201
- (e) Water Right License No. 31-7248
- (f) Water Right License No. 31-7249

DATED this 27<sup>th</sup> day of December, 1984.



Simon S. Martin, Trustee  
Martin Family Trust

original in file

MICROFILMED

31-7201. kw  
1/2/85

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

CONDITIONAL  
APPROVAL

To appropriate the public waters of the State of Idaho

1. Name of applicant Simon S. Martin, Trustee  
Martin Family Trust Phone 523-5171

Post office address P. O. Box 278, Idaho Falls, ID 83402

2. Source of water supply Ground Water which is a tributary of \_\_\_\_\_

3. Location of point of diversion is SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 33 Township 6N

Range 34E B.M. Jefferson County, additional points of diversion if any: \_\_\_\_\_

4. Water will be used for the following purposes:

Amount 4.54 for irrigation purposes from April 1 to Nov. 1 (both dates inclusive)  
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 4.54 cubic feet per second and/or b. \_\_\_\_\_ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. well, pump and sprinkler system

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

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

c. Proposed well diameter is 20 inches; proposed depth of well is 350 feet.

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

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$  of Section \_\_\_\_\_ Township \_\_\_\_\_  
Range \_\_\_\_\_ B.M.

(2) Amount of power to be generated: \_\_\_\_\_ horsepower under \_\_\_\_\_ feet of head.

(3) List number of each kind of livestock to be watered \_\_\_\_\_

(4) Name of municipality to be served \_\_\_\_\_, or number of families to be supplied with domestic water \_\_\_\_\_

(5) If water is to be used for other purposes describe: \_\_\_\_\_

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

| TWP | RANGE | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTALS |
|-----|-------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------|
|     |       |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |        |
| 6N  | 34E   | 33   |     |     |     |     | 30  | 40  | 30  | 15  |     |     |     |     | 27  | 15  | 30  | 40  | 227    |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |

Total number of acres to be irrigated 227

c. Describe any other water rights used for the same purposes as described above. None

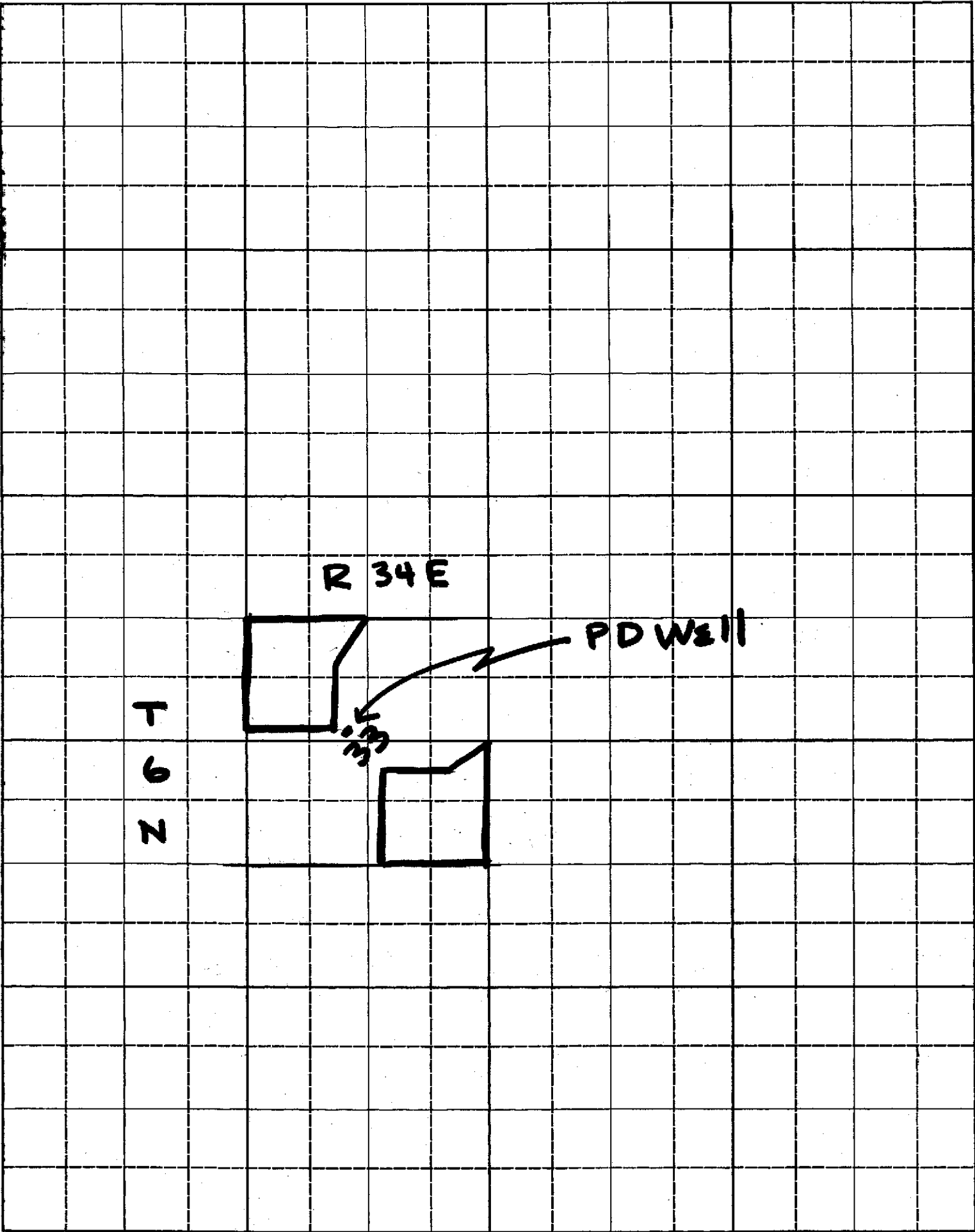
9. a. Who owns the property at the point of diversion Applicant

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 N/A

10. Remarks

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



Scale: 2 inches equal 1 mile.

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

(Applicant)  
Simon S. Martin, TRUSTEE  
Martin Family Trust

**MICROFILMED**

Proposed Priority 12/15/82

**MICROFILMED**

Received by KCW Date 12-15-82 Time 4:35 PM  
Preliminary check by KCW Fee \$ 125.00 # 23241  
Receipted by BP Date 12-15-82  
Publication prepared by BP Date 9/28/83  
Published in Highway Star  
Publication dates 10/6 - 10/13/83  
Publication approved BP Date 11/8/83  
Protests filed by: \_\_\_\_\_

Copies of protests forwarded by \_\_\_\_\_  
Hearing held by \_\_\_\_\_ Date \_\_\_\_\_  
Recommended for approval denial by RDC

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

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 31-7378, and said application is hereby conditionally approved.

1. Approval of said application is subject to the following limitations and conditions:
  - a. SUBJECT TO ALL PRIOR WATER RIGHTS.
  - b. Proof of construction of works and application of water to beneficial use is not required unless permit is reprocessed and approved in compliance with 42-203C, Idaho Code.
  - c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
  - d. Other: See attached conditions, which are hereby made a part of this action of the Director of Water Resources as if fully set out herein.

Dated this 22<sup>ND</sup> day of April, 1985.

for the Norman C. Young  
Director

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

WITH RESPECT TO INTERIM APPROVAL OF

APPLICATION FOR PERMIT NO. 31-7378

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 31-7378; and interim approval is granted subject to the following limitations and conditions:

- a. Subject to all prior water rights.
- b. A measuring device or an access port of a design approved by IDWR shall be installed prior to diverting water under the interim approval.
- c. The water user acknowledges that the interim approval does not convey a continuing right to divert water and does not convey any right to divert water except as specifically provided in the interim approval.
- d. The water user assumes all risk that he or she will be successful in obtaining a permit for water which may be reallocated under the Water Appropriation Rules and Regulations. The water user accepts all risk that storage water will be available and obtainable from the rental pool in future years to allow the interim approval procedure to continue, if storage water is required.
- e. Violation of interim approval conditions, provisions of the Idaho Code, or the Water Allocation Rules and Regulations is cause for cancellation of the interim approval and denial of future requests.
- f. By accepting and commencing diversion of water under this interim approval, the water user acknowledges and agrees that the Director of IDWR is authorized to disconnect the power supply from the pump motor used to divert water under the interim approval or to take other reasonable steps to insure that water is not diverted during any period the interim approval is suspended or revoked.
- g. The Director may impose additional conditions not a part of the original interim approval conditions as determined by the Director.
- h. The filing on which the interim approval is given may be reprocessed under the provisions of Section 42-203C, Idaho Code, at the request of the water user or as determined by the Director in compliance with pertinent adopted rules and regulations and statutes.
- i. Investments made by the water user to divert and use water under the interim approval will not be considered by IDWR when reprocessing the filing under the provisions of 42-203C, Idaho Code.
- j. The volume of stored water required to be rented from the Upper Snake River Water Supply Bank shall be equal to the volume of water consumptively used as determined by the Director. For irrigation use, the volume shall be two (2) acre feet per acre.

**MICROFILMED**

MAY 07 1987

- k. Water shall not be diverted unless storage water is available, rented, and on assignment to the Director of IDWR for purposes of replacing reductions of flow in the Snake River.
- l. The Director of IDWR will retain jurisdiction of this interim approval to enforce the provisions of the interim approval and to revise the volume of stored water, if appropriate.
- m. By accepting and commencing diversion of water under this interim approval, the water user acknowledges and agrees that the Director of IDWR may suspend the interim approval to divert water during any period that the required storage water supply is not available.

Witness my hand this 16<sup>th</sup> day of April, 1987.

J. Glen Saxton  
Chief, Operations Bureau

**MICROFILMED**

MAY 07 1987

ATTACHMENT TO CONDITIONS OF APPROVAL

The following conditions are hereby made a part of the action of the Director of Water Resources (IDWR) on Application for Permit No. 31-7378.

- d. Issuance of this permit is on an interim basis until processing can be accomplished under 42-203C, Idaho Code and is contingent upon the permit holder assigning storage water to replace water taken from other water rights as determined by the Director of IDWR.
- e. Each irrigation season before water is diverted under this permit, evidence shall be provided to the department that storage water has been rented through the Upper Snake River Water Supply Bank and assigned to the Director of IDWR for release to replace water taken from other water rights.
- f. The volume of stored water required to be rented from the Upper Snake River Water Supply Bank shall be equal to the volume of water consumptively used, as determined by the Director. For the 1985 irrigation season and each following year that this permit is to be used or until modified by order of the Director of IDWR, the volume of stored water required is 454 acre-feet (227 acres X 2.0 acre-feet/acre = 454 acre feet/year).
- g. Water shall not be diverted at any time that storage water is not available and on assignment to the Director of IDWR for purposes of replacing reductions of flow to other water right holders.
- h. The Director of IDWR retains jurisdiction of this permit to enforce the provisions of this permit, to revise the volume of stored water required, to cancel this permit for failure to comply with the conditions of approval, and to require procedural and substantive compliance with any subsequently adopted rules and regulations concerning exchange or augmentation of water supplies.
- i. By accepting and commencing diversion of water under this permit, the permit holder acknowledges and agrees that: (1) the Director of IDWR may suspend the right to divert water during any period that evidence of the required storage water supply needed for release is not on file with IDWR, and (2) the Director of IDWR is authorized to obtain a court order to disconnect the power supply from the pump motor used to divert water under this permit or by other reasonable means insure that water is not diverted at any and all times, that the right to divert water under this permit is suspended.
- j. This permit will be reprocessed under the provisions of Section 42-203C, Idaho Code, at the request of the permit holder or as determined by the Director and in compliance with pertinent adopted rules and regulations.
- k. A measuring device or an access port of a design approved by IDWR shall be installed prior to diverting water under this permit to allow the rate of diversion to be determined.

Dated this 22<sup>ND</sup> day of April, 1985

for the Norman C Young  
Director

**MICROFILMED**

THE JEFFERSON STAR

RIGBY, IDAHO

AFFIDAVIT OF  
PUBLICATION

STATE OF IDAHO }  
County of Jefferson } ss

Bruce Porter

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

Notice Of Application For Water Right

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

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

ing been made on Oct. 5, 1983  
and the last publication having been made  
on Oct. 12, 1983

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

*Bruce Porter*  
~~~~~

Subscribed to and sworn to before me  
this Oct. 13, 1983

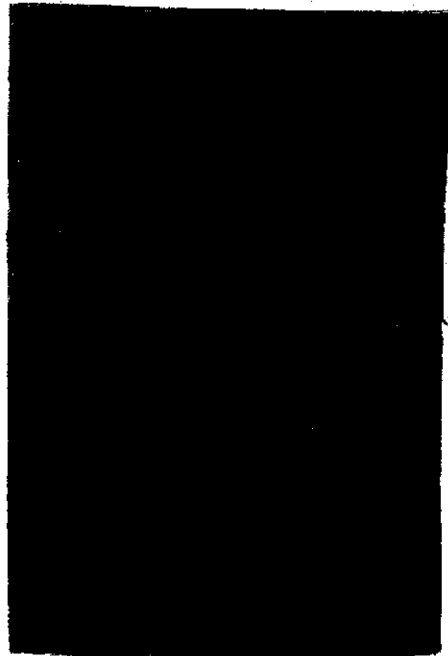
*Jeri Garner*  
Notary Public.

(SEAL)  
My commission expires Life.

RECEIVED

NOV 7 1983

Department of Water Resources  
Eastern District Office



MICROFILMED



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](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

October 16, 2002

MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID 83405

RE: License No. 31-7378 - 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.

Enclosed is a copy of the approved Application for Amendment.

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,

Shelley W. Keen

Water Rights Supervisor

**MICROFILMED**

SWK:klt

**OCT 17 2002**

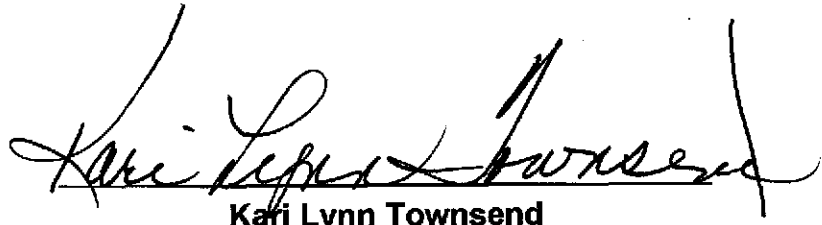
Enclosure(s)

**CERTIFICATE OF SERVICE**

I hereby certify that on October 16, 2002 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 NO.                      31-7378**

**MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID 83405**

  
**Kari Lynn Townsend  
Secretary**

**MICROFILMED**

**OCT 17 2002**

**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.

Law Offices  
**HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.**

KENT W. FOSTER  
ROBERT E. FARNAM  
WILLIAM D. FALER  
CHARLES A. HOMER  
GARY L. MEIKLE  
DONALD L. HARRIS  
DALE W. STORER  
MARIE T. TYLER  
ROBERT M. FOLLETT  
FREDERICK J. HAHN, III  
KARL R. DECKER  
THEL W. CASPER  
SHAN B. PERRY  
AMELIA A. SHEETS

US BANK BUILDING  
330 SHOUP AVENUE, THIRD FLOOR  
P.O. BOX 50130  
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620  
FACSIMILE (208) 523-9518  
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden  
(1877-1967)  
Robert B. Holden  
(1911-1971)  
Terry L. Crapo  
(1939-1982)  
William S. Holden  
(1907-1988)

Of Counsel  
Fred J. Hahn

**RECEIVED**

**OCT - 4 2002**

Department of Water Resources

October 2, 2002

Idaho Department of Water Resources  
ATTN: Kay Walker  
1301 N. Orchard St.  
Boise, ID 83706

RE: Permit No. 31-7378

Dear Kay:

We were able to finally get Mr. Martin's signature on the Application for Amendment and we are enclosing that document with his check in the amount of \$50.00 pursuant to your letter of September 3, 2002.

Thank you for your patience. Apparently the delay was occasioned by a brief stay in the hospital for Mr. Martin in the Intensive Care Unit, most of which time, he could not communicate with his family or anyone else. I think he is doing a little better and we will look forward to finalizing this matter as well.

Very truly yours,



Kent W. Foster

Enclosures

G:\WPDATA\KWF\8790 MARTIN BROS LAND & LIVESTOCK\JDWR.Kay Walker 100202.wpd:cdv

**MICROFILMED**

**OCT 17 2002**



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](http://www.idwr.state.id.us)

August 20, 2002

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID 83405

RE: Water Right Permit 31-07378

Dear Permit Holder(s):

I previously forwarded to you an Application for Amendment so that you could amend your permit to depict your water right as it has actually been developed. I have not yet received the amendment. If I do not receive it within **10 days**, I will assume you no longer have any interest in the permit and cancellation proceedings will begin.

Please note that there is a **\$50.00** filing fee for this amendment. A copy of the Application for Amendment is enclosed for your convenience.

If you have any questions regarding this matter, please call me at 208-327-7944.

Sincerely,

KAY WALKER  
Sr. Water Resource Agent

KW:klt

Enclosure

MICROFILMED  
OCT 17 2002

*Kent Foster called -  
Mr. Martin in hospital.  
Need additional time  
to submit amendment.  
Call up 10/23/02 for  
next action.  
KW*



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](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

September 3, 2002

MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID 83405

RE: Water Right Permit No. 31-07378

Dear Permit Holder:

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit. The examiner who verified your water use reported that certain elements of the permit have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

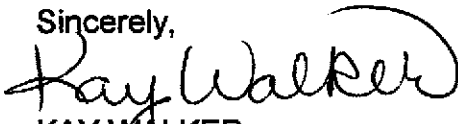
Based on the examiner's report, the following elements were developed differently than described on your permit:

☒ Point of Diversion      ☒ Place of Use

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$50.00 filing fee within 14 days.

If you have any questions, please call me at 208-327-7944.

Sincerely,

  
KAY WALKER  
Sr. Water Resource Agent

Enclosure

MICROFILMED

OCT 17 2002

LICENSE REVIEW CHECKLIST

Permit No. 31-7378

Date: 8-29-02

Reviewer: Kay Walker

Change/OK

Name/Address

fixed-

Source

Point of Diversion:

ok  
change

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

add

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

W60 (subdivision description)

W27 (ppu acre limit)

Overlaps: Right(s):

File reviewed Profile reports printed

none at pld-  
none at plu-

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

Rate of Diversion:

Permitted rate 4.54 cfs  
Fee Limit 5.0 cfs  
Measured 5.0 cfs  
Theoretical \_\_\_\_\_ cfs

Recommended Total Diversion Rate 4.54

Water Uses

ok Change (P46)

Season of Use per new Standards

4-1 10-31

Irrigation 4.54 cfs 795 af  
Stockwater \_\_\_\_\_ cfs \_\_\_\_\_ af  
Domestic \_\_\_\_\_ cfs \_\_\_\_\_ af  
\_\_\_\_\_ cfs \_\_\_\_\_ af  
Total 4.54 cfs 795 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 (106/R07)  
Payette - (W22/047/27A)  
Stockwater for US (R37)

Volume Determination

4.54 cfs x 1.9835 x 214 days = 1927.1 af (vs) 227 acres x 3.5 (FHR) = 794.5 af 2.5 (con) 795.0

Remarks:

Additional Conditions

31 Watermaster Control - NO  
\_\_\_\_\_ GW Measurement/Measuring Device  
\_\_\_\_\_ Other  
(trust R55 - remove 051)  
Non-trust (048)

GW Dist?

Water Msmt. Dist? North

Crit. GWMA?

GWMA?

Government Lots?

Advance Priority?

yes  
no

If yes, explain why below.

SRBA Claim?

NO

Adjust memo

Amend Letters

P87, S06

Second Amendment Notice

P49 S06

[illegible]

33

no p/u ok

SPD 17  
Disallowed

2002 APR -9 PM 3:08

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

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

In Re SRBA )

Case No. 39576 )

**ORDER OF PARTIAL DECREE**

**For Water Right 31-07201**

On February 13, 2002, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 31-07201 is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED 4-9-02

  
\_\_\_\_\_  
ROGER S. BURDICK  
Presiding Judge  
Snake River Basin Adjudication

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

In Re SRBA )

Case No. 39576 )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR

Water Right 31-07201

2002 APR -9 PM 3:08

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

NAME AND ADDRESS: MARTIN BROTHERS LAND &  
LIVESTOCK LTD PARTNERSHIP  
PO BOX 50278  
IDAHO FALLS, ID 83405

SOURCE: GROUND WATER

QUANTITY: 5.45 CFS  
942.00 AFY

USE OF THIS RIGHT NO. 31-10422 IS LIMITED TO A TOTAL COMBINED  
DIVERSION RATE OF 5.45 CFS.

PRIORITY DATE: 07/29/1976

POINT OF DIVERSION: T06N R34E S32 SWSENE Within Jefferson County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY               |
|-------------------------------|----------------|----------------|------------------------|
|                               | Irrigation     | 04-01 TO 10-31 | 5.45 CFS<br>942.00 AFY |

| PLACE OF USE: | Irrigation                                       | Within Jefferson County                          |
|---------------|--------------------------------------------------|--------------------------------------------------|
| T06N R34E S32 | NENE 40.0<br>SWNE 40.0<br>NESE 40.0<br>SWSE 36.0 | NWNE 40.0<br>SENE 40.0<br>NWSE 40.0<br>SESE 35.0 |
| S33           | SWNW 5.0<br>SWSW 7.0                             | NWSW 3.0                                         |
|               | 326.0 Acres Total                                |                                                  |

USE OF THIS RIGHT WITH RIGHT NO. 31-10422 IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 326 ACRES IN A SINGLE  
IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 314 ACRES WITHIN  
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

MICROFILMED

OCT 17 2002

2002 APR 09 PM 02:00  
DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

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

In Re SRBA )

Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 31-07201

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE  
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 31-07201 was mailed  
on April 09, 2002, with sufficient first-class postage prepaid  
to the following:

DIRECTOR OF IDWR  
PO BOX 83720  
BOISE, ID 83720-0098

MARTIN BROTHERS LAND &  
LIVESTOCK LTD PARTNERSHIP  
PO BOX 50278  
IDAHO FALLS, ID 83405

MARTIN BROTHERS LAND AND  
Represented by:  
KENT W FOSTER  
PO BOX 50130  
IDAHO FALLS, ID 83405  
Phone: 208-523-0620

  
ROBBIN GLATZ  
Chief Deputy Clerk

CERTIFICATE OF MAILING

MICROFILMED

OCT 17 2002

PAGE 1  
04/09/02

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

In Re SRBA )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 31-07248

NAME AND ADDRESS: MARTIN BROTHERS LAND & LIVESTOCK  
PO BOX 50278  
IDAHO FALLS, ID 83405

SOURCE: GROUND WATER

QUANTITY: 3.13 CFS  
603.00 APY

PRIORITY DATE: 03/24/1977

POINT OF DIVERSION: T06N R34E S33 NESWNE Within Jefferson County

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY               |
|----------------------------|----------------|----------------|------------------------|
|                            | Irrigation     | 04-01 TO 10-31 | 3.13 CFS<br>603.00 APY |

| PLACE OF USE: | Irrigation        | Within Jefferson County |
|---------------|-------------------|-------------------------|
|               | T06N R34E S33     |                         |
|               | NENE 30.0         | NWNE 38.0               |
|               | SWNE 40.0         | SENE 39.0               |
|               | NENW 8.0          | SENW 16.0               |
|               | NESW 1.0          | NESE 11.0               |
|               | NWSE 18.0         |                         |
|               | 201.0 Acres Total |                         |

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

*Roger Burdick*  
\_\_\_\_\_  
Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

MICROFILMED

OCT 17 2002

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

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 31-07249

NAME AND ADDRESS: MARTIN BROTHERS LAND & LIVESTOCK  
PO BOX 50278  
IDAHO FALLS, ID 83405

SOURCE: GROUND WATER

QUANTITY: 2.16 CPS  
456.00 APY

PRIORITY DATE: 03/24/1977

POINT OF DIVERSION: T06N R34E S33 SWNESW Within Jefferson County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY               |
|-------------------------------|----------------|----------------|------------------------|
|                               | Irrigation     | 04-01 TO 10-31 | 2.16 CPS<br>456.00 APY |

| PLACE OF USE: | Irrigation        |           | Within Jefferson County |
|---------------|-------------------|-----------|-------------------------|
|               | T06N R34E S33     | SNNW 5.0  | SENW 6.0                |
|               |                   | NESW 39.0 | NNSW 38.0               |
|               |                   | SNSW 27.0 | SESW 31.0               |
|               |                   | NWSE 4.0  | SWSE 2.0                |
|               | 152.0 Acres Total |           |                         |

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

  
\_\_\_\_\_  
Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

MICROFILMED

OCT 17 2002

202 APR -9 PM 3:08

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

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

**In Re SRBA**

**Case No. 39576**

**ORDER OF PARTIAL DECREE**

**For Water Right 31-10422**

On February 13, 2002, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order I*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 31-10422 is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED 4-9-02



ROGER S. BURDICK  
Presiding Judge  
Snake River Basin Adjudication

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

In Re SRBA )  
Case No. 39576 )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR

Water Right 31-10422

2002 APR -9 PM 3:08

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

NAME AND ADDRESS: MARTIN BROTHERS LAND &  
LIVESTOCK LTD PARTNERSHIP  
90 BOX 50278  
IDAHO FALLS, ID 83405

SOURCE: GROUNDWATER

QUANTITY: 0.24 CFS  
36.00 AFY

USE OF THIS RIGHT WITH RIGHT NO. 31-07201 IS LIMITED TO A TOTAL  
COMBINED DIVERSION RATE OF 5.45 CFS.

PRIORITY DATE: 04/01/1985

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A  
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED AS  
ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS BETWEEN  
WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426,  
IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR RIGHT.

POINT OF DIVERSION: T06N R34E S32 SWSENE Within Jefferson County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY              |
|-------------------------------|----------------|----------------|-----------------------|
|                               | Irrigation     | 04-01 TO 10-31 | 0.21 CFS<br>36.00 AFY |

| PLACE OF USE: | Irrigation                                       | Within Jefferson County                          |
|---------------|--------------------------------------------------|--------------------------------------------------|
| T06N R34E S32 | NENE 40.0<br>SWNE 40.0<br>NESE 40.0<br>SWSE 36.0 | NWNE 40.0<br>SENE 40.0<br>NWSE 40.0<br>SESE 35.0 |
| S33           | SNNW 5.0<br>SWSW 7.0                             | NWSW 3.0                                         |
|               | 326.0 Acres Total                                |                                                  |

USE OF THIS RIGHT WITH RIGHT NO. 31-07201 IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 326 ACRES IN A SINGLE  
IRRIGATION SEASON.

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

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 31-07201  
PURSUANT TO SECTION 42-1426, IDAHO CODE.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(5).

MICROFILMED  
OCT 17 2002

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

MICROFILMED  
OCT 17 2002

2002 APR 09 PM 02:00  
DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

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

In Re SRBA )

Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 31-10422

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE  
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 31-10422 was mailed  
on April 09, 2002, with sufficient first-class postage prepaid  
to the following:

DIRECTOR OF IDWR  
PO BOX 83720  
BOISE, ID 83720-0098

MARTIN BROTHERS LAND &  
LIVESTOCK LTD PARTNERSHIP  
PO BOX 50278  
IDAHO FALLS, ID 83405

MARTIN BROTHERS LAND AND  
Represented by:  
KENT W FOSTER  
PO BOX 50130  
IDAHO FALLS, ID 83405  
Phone: 208-523-0620

  
ROBBIN GLATZ  
Chief Deputy Clerk

CERTIFICATE OF MAILING  
MICROFILMED

OCT 17 2002

PAGE 1  
04/09/02

## MEMORANDUM

TO: File 31-07378

FROM: KAY WALKER *KW*

RE: Permit Holder

Date: August 29, 2002

.....

Initial review of this file for licensing found that an assignment had been received and processed in January of 1985 but the data base records do not show the name change. As of today, I am correcting the ownership of the permit based on the 1985 assignment.

MICROFILMED  
OCT 17 2002

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**BENEFICIAL USE FIELD REPORT**

RECEIVED

SEP 25 2001

Department of Water Resources

**A. GENERAL INFORMATION**

Permit No. 31-7378

1. Owner: Martin Family Trust

208 522-4008  
Phone No. 526-1457

Current Address: P.O. Box 50278, Idaho Falls, ID 83402

2. Accompanied by: Chad Holdaway

EXAM DATE: 7-26-2001

Address: Box 74, Terreton, ID 83450

208 589-1153  
Phone No. 663-4641

Relationship to Permit Holder: OPERATOR

3. Source: GROUNDWATER

tributary to \_\_\_\_\_

**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 |
|-----------|-----------|-----|-----|-----|------|------|------|-----------|---------------------------------|
|           |           | NW  | NW  | SE  | 33   | 6N   | 34E  | Jefferson | On site FSA Audio               |
|           |           |     |     |     |      |      |      |           |                                 |
|           |           |     |     |     |      |      |      |           |                                 |
|           |           |     |     |     |      |      |      |           |                                 |

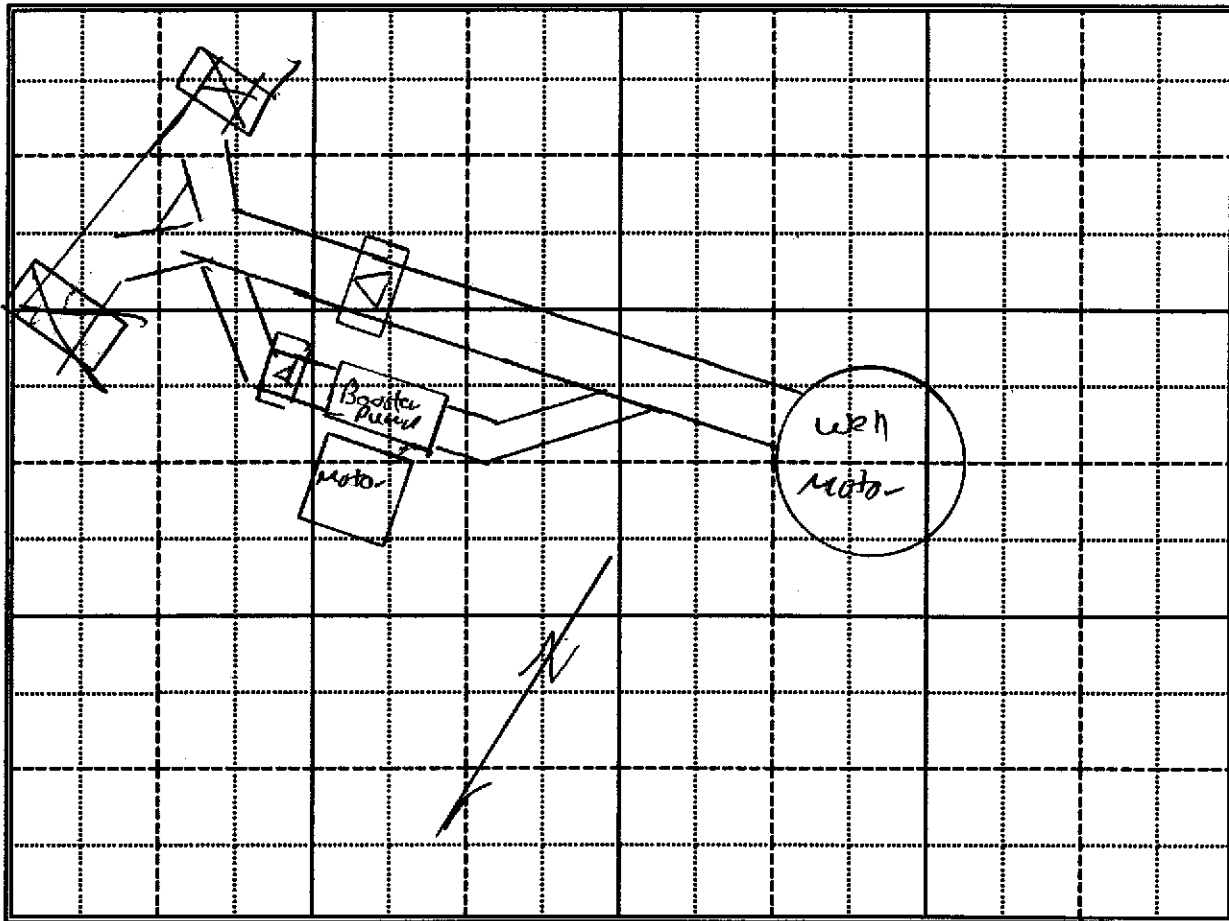
**2. Place(s) of Use:**

Indicate Method of Determination

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 6N  | 34E | 33  |    | 1  |    |    | 29 | 38 | 32 | 17 |    |    |    | 5  | 19 | 16 | 34 | 36 | 227    |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

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SEP 17 2002

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



Scale: 1" = \_\_\_\_\_

\_\_\_\_ 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 |
|---------------------------------------|-------------|-----|------------------|-----------|-----------------------------------|
| Well                                  | GE          | 600 | 2892339P020      | Amurica   | 10"                               |
| Booster                               | us Electric | 100 | 1101607V39R      | Amurica   |                                   |
|                                       |             |     |                  |           |                                   |

\*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 |
|-----------------------|------|------|-----------|------------|------|-------------|
|                       |      |      |           |            |      |             |
|                       |      |      |           |            |      |             |

2. Measurements: 10.03' od 0.125" thickness

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OCT 17 2002

E. NARRATIVE/REMARKS/COMMENTS

well pump mainline to laterals with sprinklers

Mr. Holdaway was able to turn on additional lines at which time I observed a total flow rate of 2245 gpm.

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

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OCT 17 2002

**F. FLOW CALCULATIONS**

Measured Method:

☒ Additional Computation Sheets AttachedQ LIMITED BY PERMIT = 4.54 cfs**G. VOLUME CALCULATIONS****1. Volume Calculations for Irrigation:**

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 227 (3.5) = 794.5 \text{ afe}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = 4.54 \text{ cfs} (214) (1.9835) = 1927.1$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 794.5 \text{ afe}$$

**2. Volume Calculations for Other Uses:****H. RECOMMENDATIONS****1. Recommended Amounts**

| Beneficial Use    | Period of Use |             | Rate of Diversion<br>Q (cfs) | Annual Volume<br>V (afa) |
|-------------------|---------------|-------------|------------------------------|--------------------------|
|                   | From          | To          |                              |                          |
| <u>IRRIGATION</u> | <u>4/1</u>    | <u>11/1</u> | <u>4.54 cfs</u>              | <u>794.5 afe</u>         |
| _____             | _____         | _____       | _____                        | _____                    |
| _____             | _____         | _____       | _____                        | _____                    |
| _____             | _____         | _____       | _____                        | _____                    |
| _____             | _____         | _____       | _____                        | _____                    |
| Totals:           |               |             | <u>4.54 cfs</u>              | <u>794.5 afe</u>         |

**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

Keith Culver

Date

7-26-2001

Reviewer \_\_\_\_\_

Date \_\_\_\_\_

SEAL

MICROFILMED

OCT 17 2002



# State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

### EASTERN REGION

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

LOG NAME: **31-07378**

START: 07-26-2001 12:45

END: 07-26-2001 12:50

INTERVAL: 00:01:00

07-26-2001 12:45:00

+7.006E+0 ft/s

+1.640E+3 gal/m

+3.655E+0 ft<sup>3</sup>/s

+TOTAL 0000000 gal

-TOTAL 0000000 gal

NORMAL

07-26-2001 12:50:00

+7.388E+0 ft/s

+1.729E+3 gal/m

+3.854E+0 ft<sup>3</sup>/s

+TOTAL 0008636 gal

-TOTAL 0000000 gal

NORMAL

07-26-2001 12:46:00

+7.705E+0 ft/s

+1.804E+3 gal/m

+4.019E+0 ft<sup>3</sup>/s

+TOTAL 0001638 gal

-TOTAL 0000000 gal

NORMAL

07-26-2001 12:47:00

+7.507E+0 ft/s

+1.757E+3 gal/m

+3.916E+0 ft<sup>3</sup>/s

+TOTAL 0003394 gal

-TOTAL 0000000 gal

NORMAL

$Q_{MIN} = \underline{3.66} \text{ cfs}$

$Q_{MAX} = \underline{4.02} \text{ cfs}$

$Q_{AVG} = \underline{3.85} \text{ cfs}$

07-26-2001 12:48:00

+7.529E+0 ft/s

+1.762E+3 gal/m

+3.927E+0 ft<sup>3</sup>/s

+TOTAL 0005143 gal

-TOTAL 0000000 gal

NORMAL

The maximum number of sprinklers were not on during the recorded measurement, but the operator was able to turn on additional sprinklers for a short duration.

$Q_{MAXIMUM \text{ OBSERVED FLOW}} = \underline{2245} \text{ gpm}$

$Q_{MAXIMUM \text{ OBSERVED FLOW}} = \underline{5.00} \text{ cfs}$

07-26-2001 12:49:00

+7.390E+0 ft/s

+1.730E+3 gal/m

+3.855E+0 ft<sup>3</sup>/s

+TOTAL 0006885 gal

-TOTAL 0000000 gal

NORMAL

MICROFILMED  
OCT 17 2002

# 31-07378

31-07378

31-0



PLOTS OF USE

5

34

12

35

13



POINT OF  
DIVERSION



32

17

38

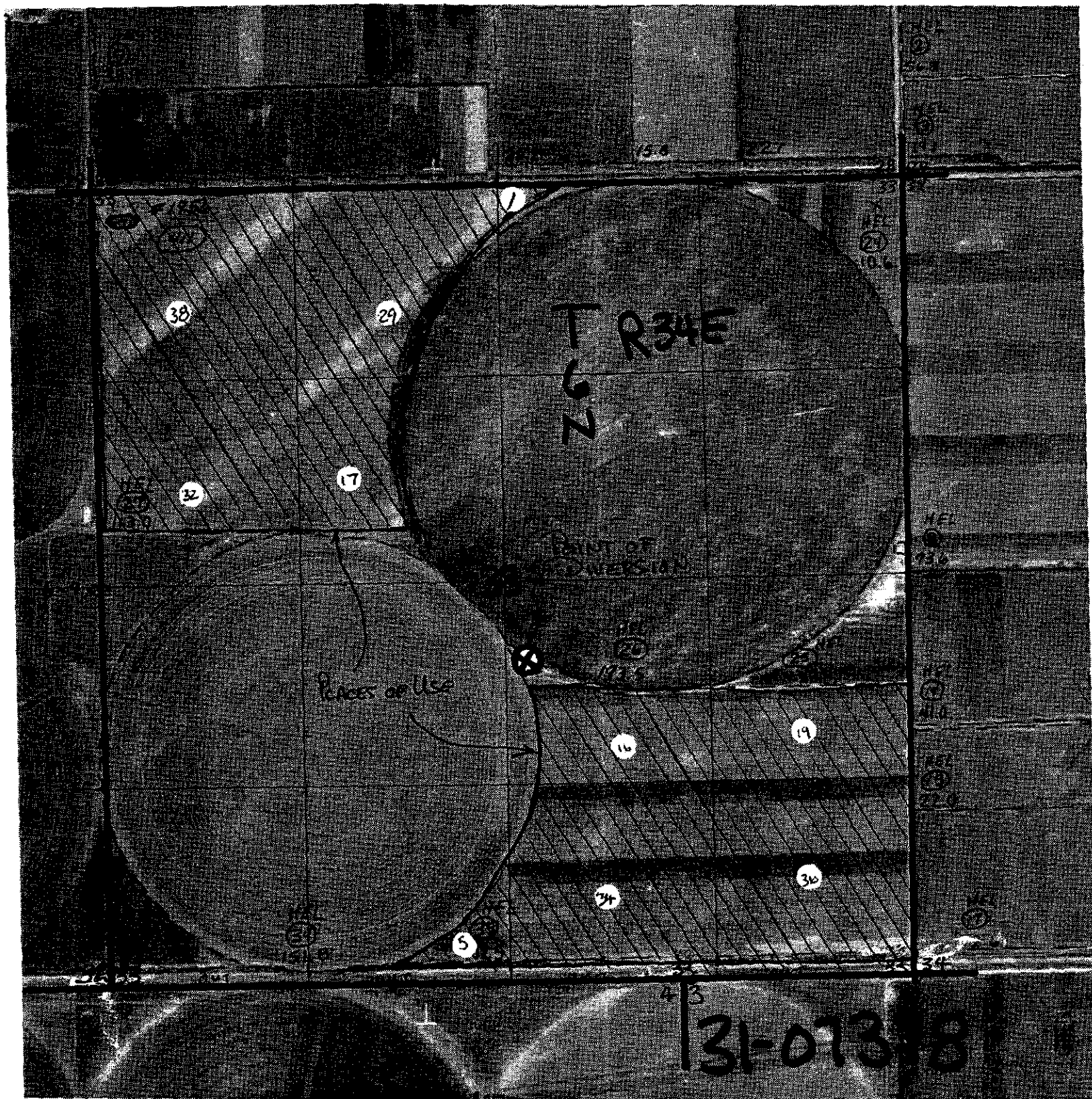
29

1

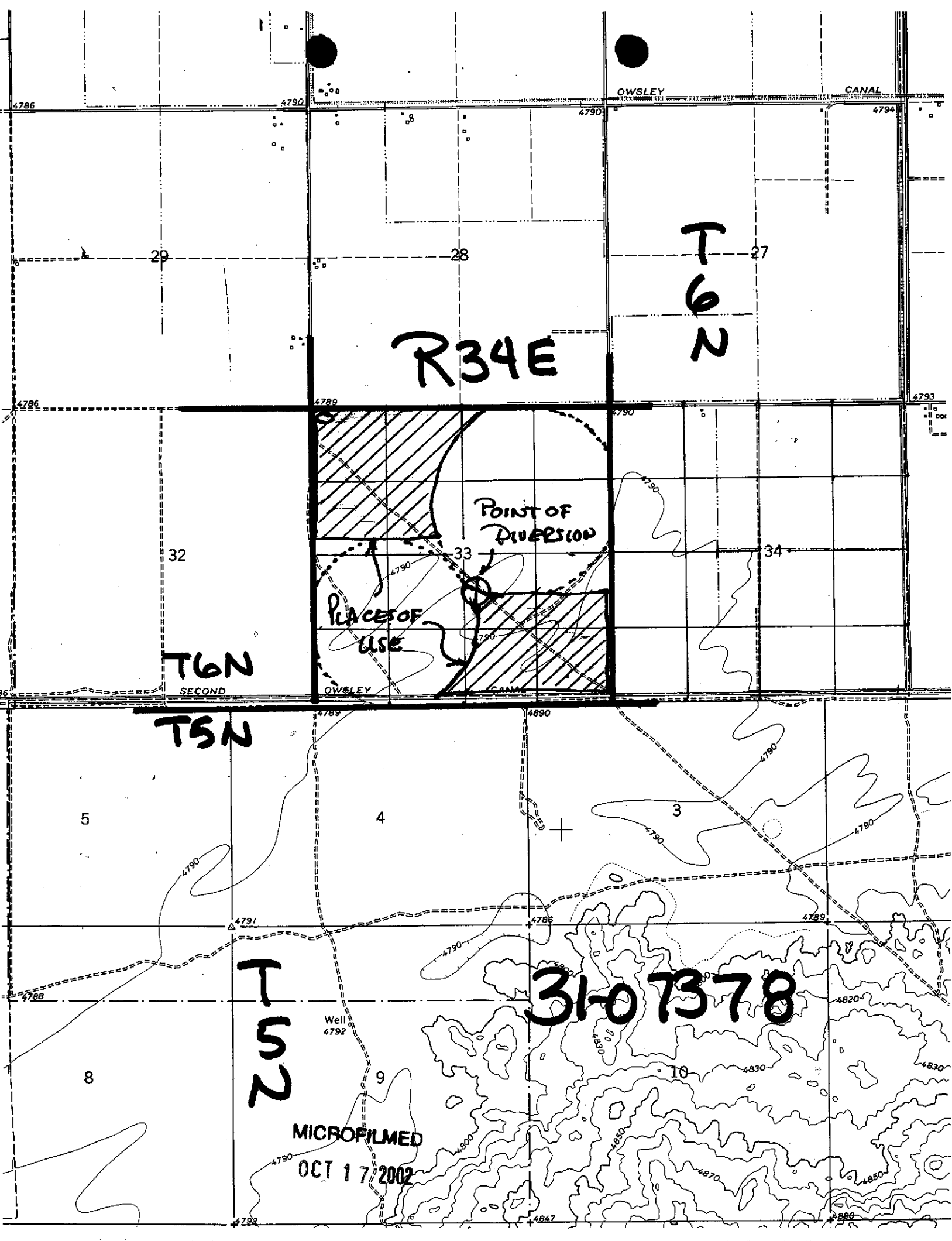
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221



OCT 17 2002



OWSLEY

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6  
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POINT OF  
DIVERSION

PLACE OF  
USE

T6N

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T5N

31-07378

MICROFILMED

OCT 17 2002

Well  
4792

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N

June 4, 1990

MARTIN FAMILY TRUST  
SIMON S. MARTIN, TRUSTEE  
P.O. BOX 278  
IDAHO FALLS, ID 83402

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 31-07378

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form 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.

If you have questions concerning this matter, please feel free to contact the EASTERN Regional Office in Idaho Falls at (208)525-7161.

Sincerely,

Rita Fleck  
Secretary/Records Manager

c: IDWR - Region

**MICROFILMED**

JUN 18 1990

1/80

PROOF OF BENEFICIAL USE

ANALYSIS SHEET

Permit No. 31-7378

Date: 6-1-90

General Considerations:

- ☒ Name same as permit  
☒ Signature the same as permit holder  
☒ Address change                      If yes, prepare a data entry  
☒ Proof received timely  
                     Reinstated

Source of Water:

- Surface water  
☒ Groundwater  
                     1. well log in file Mar 1986  
NA 2. drilling permit  
NA A. amount of drilling fee paid for proposed uses

Extent of Use and Rate of Diversion:

- ☒ Rate of diversion appropriate for uses  
                     Is rate or volume and fee appropriate?  
☒ Has permit holder indicated when water was first put to a beneficial use?

Measuring Device:

- ☒ Is a measuring device or access port required?  
☒ Has one been installed?  
                     Waiver or modification of measuring device requested

Remarks:

*Proof acceptable*

Priority Calculation:

Date proof received

Date proof due

No. of days late

Priority date

NEW PRIORITY DATE

|    |  |
|----|--|
| NA |  |
|    |  |
|    |  |
|    |  |
|    |  |
|    |  |

SEND FILES TO DATA ENTRY AND THEN TO MICROFILM

*address change*

MARTIN BROTHERS  
LAND AND LIVESTOCK  
P. O. Box 50278  
Idaho Falls, Idaho 83405-0278  
(208) 523-5171

RECEIVED

MAY - 1 1990

Department of Water Resources  
Eastern District Office

April 30, 1990

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

Re: Permit No. 31-07378

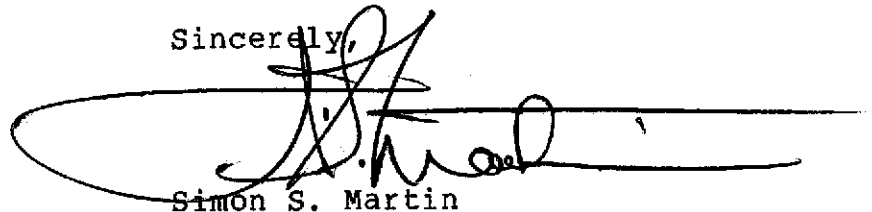
Gentlemen:

Enclosed please find original and copy of PROOF OF BENEFICIAL USE form and my check in the amount of \$200.

If you have any questions, please do not hesitate to contact the undersigned, or J. Dwayne Lee, (208) 663-4641.

Thank you for your assistance in these matters.

Sincerely,

A handwritten signature in dark ink, appearing to be "Simon S. Martin", written over a horizontal line. The signature is stylized with a large loop at the end.

Simon S. Martin

3979i

cc: J. Dewayne Lee

MICROFILMED

JUN 18 1990

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

---

Statehouse  
Boise, Idaho 83720  
(208) 327-7900  
February 13, 1990

MARTIN FAMILY TRUST  
SIMON S. MARTIN, TRUSTEE  
P.O. BOX 278  
IDAHO FALLS, ID 83402

PERMIT APPROVAL NOTICE

RE: PERMIT NO. P31-07378

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

You should be aware that the groundwater you propose to divert is located within a drainage basin where surface waters are regulated during the months of low flow. It is possible that diversion of groundwater may have an adverse impact on these surface water flows. Information available to us at this time does not warrant refusing to issue permits in your area, but we do caution that diversions of groundwater are not allowed to deplete flows available for surface water users with earlier priority dates. Siting your well as far from surface sources as possible and casing out upper water producing zones may reduce the potential of interference.

Section 42-235, Idaho Code, requires that a "drilling permit" must be obtained from the department for all wells constructed after July 1, 1987. A drilling permit is a separate permit that must be issued in addition to your permit to appropriate water. Commencement of well construction or diversion of water under your permit to appropriate water is prohibited unless a drilling permit is obtained.

Be sure to note the special condition requiring you to install a measuring device, or a flow measurement port to provide for the installation of measuring equipment by the Department. Enclosed please find a list of measuring device options, and specifications for the installation of the flow measurement port.

DISCONTINUED

MAR 05 1990

We have enclosed a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed for your convenience is a form entitled "Proof of Beneficial Use" that must be submitted to the Department when your project is completed. If development is complete, you may submit proof of beneficial use immediately.

Sincerely,

GARY SPACKMAN, Supervisor  
Water Right Permits Section

GS: SC  
Enclosures

RECEIVED

MAR 05 1990

PROCESSING

☐ Yes ☐ No form for advertising  
☐ Yes ☐ No Statewide advertising  
☐ Yes ☐ No Fee amount, receipt date & No. recorded on application

SEND COPIES TO

☐ Idaho Dept. of Health & Welfare ☐ U.S. BLM  
☐ Idaho Dept. of Fish & Game ☐ U.S. Forest Service  
☐ Idaho Dept. of Lands ☐ Water District  
☐ Adjudication Bureau Unit ☐ Other \_\_\_\_\_

FINAL REGIONAL PROCESSING REVIEW

☒ Yes ☐ No Affidavit of publication received  
☐ Yes ☐ No Application published correctly. If not, record action taken.

☐ Yes ☐ No Publication dates & paper, recorded on application

☐ Yes ☒ NO Protests received

Final date for protest \_\_\_\_\_

☐ Yes ☐ NO Protests, dates, resolution of protest, recorded on application

☐ Yes ☒ NO Recommendations attached

☐ Yes ☒ NO Measuring device required

☒ Yes ☐ NO Access port required

☒ Yes ☐ NO Will water be delivered by watermaster? If yes, what Dist. 31

☐ Yes ☐ NO Special conditions of approval or cover letter below. \_\_\_\_\_

☐ See below for additional information  
Date of priority recommended 12-15-1982  
By \_\_\_\_\_ Date \_\_\_\_\_

STATE OFFICE REVIEW P05, P23, P03, P10 46 51 52 53 01G

☐ See below for additional information  
By kw Date 1-29-90

ADDITIONAL INFORMATION

App. in TRUST area - Trust Water  
allow 1 yr. to develop -

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
State Office  
1301 North Orchard St.

---

Statehouse Mail  
Boise, Idaho 83720  
(208) 327-7900

DECEMBER 26, 1989

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

Dear Legal Dept.:

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

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

Please send the affidavit of publication and publication billing to this office before JANUARY 22, 1990.

Yours truly,

SHARLA CURTIS  
Secretary

Encl.

MICROFILMED

MAR 05 1990

NOTICE OF APPLICATION FOR TRUST WATER RIGHT

31-07378

MARTIN FAMILY TRUST  
P.O. BOX 278  
IDAHO FALLS, ID 83402

Source: GROUNDWATER

Diversion Pt: SENW Sec 33 T 06N R 34E

Use: IRRIGATION ( 4.540 CFS)  
Total Diversion: ( 4.540 CFS)

Date Filed: 12/15/1982

In: T06N R34E S33

NENW  
NESE

NWNW  
NWSE

SWNW  
SWSE

SENW  
SESE

227.0 ACRES TOTAL

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before JANUARY 22, 1990.

R. Keith Higginson, Director

Published 1/03/1990 & 1/10/1990

MicroFILMED

MAR 05 1990

MEMORANDUM

TO: FILE/APPLICATION FOR PERMIT NO. 31-7378

FROM: TIM LUKE

RE: SWAN FALLS PROCESSING

DATE: 12-22-89

---

The applicant returned the questionnaire and stated that about 219 of the 229 acres under the application had been developed after October 1, 1985. As per the department's remote sensing report for Jefferson County, based on 1986 data, all of the land described under the application is classified as irrigated (see attached printout).

Since the land was developed after 1984, the filing is considered a trust right and the acreage should be counted toward the annual 20,000 acre depletion limit.

This filing does fall within the Mud Lake study area. A department order dated December 1, 1989, established a moratorium on new irrigation development within this area. Since the development existed prior to the date of the order, the department may approve the application subsequent to proper processing as required by Sections 42-203A and 42-203C.

**MICROFILMED**

MAR 05 1990

| WR-NUMBER | NAME                  | STG | SOURCE              | T   | R   | S  | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |     | SUM |     |     |
|-----------|-----------------------|-----|---------------------|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-----|-----|-----|-----|
|           |                       |     |                     |     |     |    | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE  |     |     |     |
| 3107378   |                       |     |                     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |     |     |     |     |
| 3100164   | MUD LAKE CANAL CO.    | D   | MUD LAKE            | 06N | 34E | 33 |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |     |     |     |     |
| 3100165   | MUD LAKE CANAL CO.    | D   | MUD LAKE            | 06N | 34E | 33 |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |     |     |     |     |
| 3107248   | MARTIN FAMILY TRUST   | L   | GROUNDWATER         | 06N | 34E | 33 | 30 | 38 | 40 | 39 | :  | 8  |    |    | 16 | :  | 1  |    |    | 11 | 18 | 201 |     |     |     |
| 3107249   | MARTIN FAMILY TRUST   | L   | GROUNDWATER         | 06N | 34E | 33 |    |    |    |    | :  |    |    | 5  | 6  | :  | 39 | 38 | 27 | 31 | 4  | 2   | 152 |     |     |
| 3107378   | MARTIN FAMILY TRUST   | A   | GROUNDWATER         | 06N | 34E | 33 |    |    |    |    | :  | 30 | 40 | 30 | 15 | :  |    |    |    | 27 | 15 | 30  | 40  | 227 |     |
|           | 1986 MAPPING DATA --- | -   | COUNTY 51 QUAD W 89 | 06N | 34E | 33 | 37 | 39 | 40 | 38 | :  | 41 | 37 | 39 | 38 | :  | 37 | 40 | 40 | 34 | 38 | 42  | 41  | 39  | 620 |

MAR 05 1990

MICROFILMED

RECEIVED

AUG 29 1989

IDAHO DEPARTMENT OF WATER RESOURCES  
TRUST WATER INFORMATION QUESTIONNAIRE

Department of Water Resources

Application No. 31-7378

IF YOU ARE NOT INTERESTED IN HAVING YOUR APPLICATION PROCESSED,  
PLEASE COMPLETE AND RETURN THE ENCLOSED RELINQUISHMENT FORM.

INSTRUCTIONS: Please answer the following questions as  
thoroughly as possible and submit the \$20.00 readvertisement  
fee if applicable.

1. Did irrigation occur on the lands identified under your  
application prior to October 1, 1984? Yes \_\_\_\_\_ No ✓

If yes, you are requested to submit clear evidence that shows the  
number and location of acres irrigated.

Aerial photographs taken prior to October 1, 1984, located in area  
ASCS offices, are best forms of evidence. Photos submitted to the  
the Department must be accompanied by a signed statement from an  
ASCS representative which verifies the photo date and that the  
lands were irrigated prior to October 1, 1984. If ASCS does not  
have photos for the land and/or time in question, you must have the  
ASCS provide the Department with a statement that photos are not  
available and then proceed to submit other forms of suitable evidence.

2. Please state the number of acres you have irrigated under this  
application since October 1, 1984. 219

3. If you have not irrigated lands under this application, please  
state the number of acres you plan to complete. N/A

NOTE: You must submit the \$20.00 readvertisement fee if any or all  
of the lands were not irrigated before October 1, 1984.

4. If the application is a supplemental filing please identify  
other water rights which are used on the same land.

N/A

Use the reverse side of this form if you wish to add any comments.

I hereby assert that the responses provided above are true to the  
best of my knowledge. I understand that any willful misrepresentations  
may result in voiding of the application.

Applicant Simon S. Martin

Date 8-25-89

Simon S. Martin,  
Trustee, Martin Family  
Trust

MICROFILMED

MAR 05 1990

2010648  
8/30/89  
EP

[illegible]

MAR 05 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

August 18, 1989

RE: APPLICATION FOR PERMIT NO. 31-7378

Dear APPLICANT:

Due to the Swan Falls litigation, Department approval of the enclosed application may have been delayed. The Department is presently reviewing your application and may authorize the proposed development.

The purpose of this letter is to determine: (1) if you are still interested in developing the project, and (2) the extent of development if any, that has already occurred under the application.

Enclosed are two forms requesting information which will help the Department expedite the processing of the application.

If you have abandoned or have no interest in continuing with your plans for development of the project, please complete the enclosed relinquishment form and return it to the Department.

If you wish to continue with your proposed development plans, or have completed all or a portion of the proposed development before October 1, 1984, then you must complete and return the enclosed questionnaire.

If the entire project was not completed prior to October 1, 1984, and you still wish to proceed with your plans of development, then you must submit a \$20.00 re-advertisement fee to the Department as required by Water Appropriation Rule 4,2,2. and Section 42-221F, Idaho Code.

Failure to return the questionnaire and pay any required re-advertisement fee within thirty (30) days of the date of this letter is cause for the Department to void the application.

RECEIVED

MAR 05 1990

Page 2

If you have questions concerning the content of this letter or about completing the forms, please contact Tim Luke at the address below or by calling directly at 334-7864. The enclosed forms and all other relative information must be returned within thirty (30) days to:

Idaho Department of Water Resources  
Statehouse Mail  
Boise, Idaho 83720  
Attn: Tim Luke  
Water Allocation/Trust Water

Please note that a copy of your application is enclosed. The application number is shown on the enclosed questionnaire.

Sincerely,

TIM LUKE  
Sr. Water Resource Agent

Enclosures

cc: Region

**MICROFILMED**

MAR 05 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

April 5, 1988

Simon S. Martin, Trustee  
Martin Family Trust  
P.O. Box 278  
Idaho Falls, ID 83402

Re: Interim Approvals

Dear Mr. Martin:

In January, 1988, the Department sent you a letter regarding interim approvals for Application No. 31-7378. The letter confirmed that you received interim approval for diversion of water during the 1987 irrigation season. It also set forth the requirements to qualify for interim approval during the 1988 irrigation season. One of the requirements for interim approval during 1988 was that you must lease replacement water from the Upper Snake River Supply Bank.

I spoke to Ron Carlson, District 01 Watermaster, on March 18, 1988 and again on April 4, 1988, regarding water availability from the Upper Snake River Supply Bank. Ron informed me that unless there are extraordinary increases in the snow pack, there will be no water to lease as replacement water during the 1988 irrigation season. As a result, interim approvals will not be issued by the Department during the 1988 irrigation season.

Please be advised that you cannot irrigate any portion of your lands not covered by water rights by relying on the remote possibility that storage water will be available for lease during 1988. If you plan to irrigate the lands previously covered by interim approvals on Application No. 31-7378, some other source of water must be found. The Department will happily discuss possible alternatives with you.

Sincerely,

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

GARY SPACKMAN, Supervisor  
Water Allocation Section

GS:jf

**MICROFILMED**

MAR 05 1990



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**

**STATE OFFICE,** 1301 North Orchard Street Boise, Idaho 83706-2237 • (208) 334-4440

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

January 15, 1988

Simon S. Martin  
Trustee Martin Family Trust  
P.O. Box 278  
Idaho Falls, ID 83402

Re: Interim Approval

Gentlemen:

Department records show that you were issued an interim approval for Application No. 31-7378. Interim approvals were a temporary measure to allow users to divert and use water until the Department could process the application under the provisions of the Swan Falls Agreement. Despite the passage of congressional legislation that may resolve the Swan Falls stalemate, it appears that your application will not be processed prior to the 1988 irrigation season. If you intend to divert water under your interim approval, you must lease replacement water for the coming irrigation season from the Upper Snake River Water Supply Bank.

If replacement water is not leased and assigned to the Director by April 1, 1988, the Department will cancel the interim approval. After cancellation, diversion of water under the application will not be authorized. The application will then be held until it can be reviewed under the permit process.

Regional office personnel of the Department will field inspect the places of use listed on all cancelled interim approvals. Idaho statutes dictate penalties for the unauthorized diversion and use of water, and the Department will seek civil penalties for diversion of water on lands previously covered under an interim approval that has been cancelled.

For information on the availability of storage water from the Upper Snake River Supply Bank, you should contact the water supply bank at 150 Shoup Avenue, Suite 15, Idaho Falls, ID 83401, telephone 525-7161.

**MICROFILMED**  
MAR 05 1990

Sincerely,

GARY SPACKMAN, Supervisor  
Water Allocation Section



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRAUS  
Governor

A. KENNETH DUNN  
Director

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

April 20, 1987

RE: Water Right No. 31-7378

Simon S. Martin, Trustee  
Martin Family Trust  
P.O. Box 278  
Idaho Falls, ID 83402

Dear Permit Holder:

Enclosed is your interim approval for the 1987 irrigation season.

The copy of the application for permit to appropriate water attached to the interim approval defines the various components of your interim approval. The inclusion of the copy of the application is only for the purpose of definition, and any terms contained therein are limited by the conditions of the interim approval.

Sincerely,

GARY SPACKMAN  
Supervisor, Water Allocation Section

GS:sc

Enclosures

cc: Eastern Region  
Tom Nelson

**MICROFILMED**

MAY 07 1987

FROM Kay Walker

DATE 4/14/87

TO File 31-7378

SUBJECT Interim Approval - 1987 season

app. is within Swan Falls trust  
water area - applicant has  
rented 420 acre feet of  
storage... approve with interim  
approval conditions parts A & B.  
kw

SIGNATURE

RECEIVED

APR 3 1987

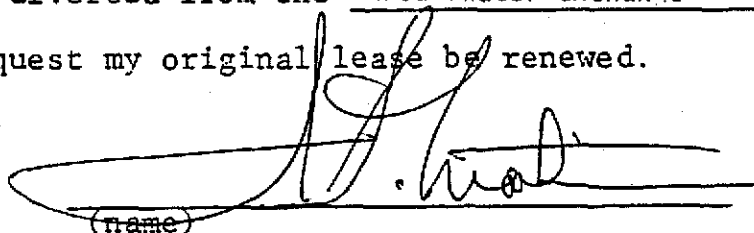
Department of Water Resources  
Eastern District Office

Interim Rental 31-7378

Ronald D. Carlson, Watermaster  
Water District No. 1  
150 Shoup, Suite 15  
Idaho Falls, ID 83402

Dear Mr. Carlson:

I would like to rent 420 acre-feet during the 1987.  
irrigation season to be diverted from the groundwater exchange.  
I would also like to request my original lease be renewed.



(name)

D & D FARMS, SIMON MARTIN

P.O. Box 278, Idaho Falls, ID 83402  
(address)

Dated this 3rd day of April, 1987.

MICROFILMED

MAY 07 1987

PAID  
\$1050.00  
Receipt No. 39136  
per telecon with  
Colleen 4/10/87  
kw



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

A. KENNETH DUNN  
Director

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

April 1, 1987

Simon S. Martin, Trustee  
Martin Family Trust  
P.O. Box 278  
Idaho Falls, ID 83402

Re: Interim Approval

Dear Mr. Martin:

## NOTICE OF PENDING INTERIM APPROVAL CANCELLATION

Department records show that you were previously issued an interim approval for Application Nos. 31-7378 and 31-7422, and that you were notified on January 26, 1987, that your interim approval must be renewed for the 1987 irrigation season. To initiate the renewal process, you were informed that you must rent storage water from the Upper Snake River Water Supply Bank.

The Department has not received the necessary proof of rental of storage water. Unless you submit: (1) notification of intent to divert water in 1987, (2) proof of rental of storage water, and (3) any required readvertising fees, you will not be authorized to divert water in 1987. Please be advised that you must process the interim approval renewal by May 1, 1987, or your interim approval will be cancelled. Diversion of water for irrigation of lands listed in your applications without interim approval is illegal under the laws of the State of Idaho.

For more information on interim approval, you should contact the Department's eastern regional office at 150 Shoup Avenue, Suite 15, Idaho Falls, ID 83401, telephone 525-7161

**MICROFILMED**

MAY 07 1987

Sincerely,

GARY SPACKMAN, Supervisor  
Water Allocation Section

GS:jf  
CC: Eastern Region



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

January 26, 1987

Simon S. Martin, Trustee  
Martin Family Trust  
P.O. Box 278  
Idaho Falls, ID 83402

Re: Interim Approval

Dear Mr. Martin:

Department records show that you were issued an interim approval for Application Nos. 31-7378 and 31-7422. As you know, interim approvals were a temporary measure to allow users the opportunity to divert and use water until the Department could consider processing the application under the provisions of the Swan Falls Agreement. Since FERC has not approved the Swan Falls Agreement, the agreement is not fully effective, making it necessary for you to lease replacement water for the coming irrigation season from the Upper Snake River Water Supply Bank if you intend to divert water authorized by the interim approval.

If replacement water is not leased and assigned to the Director by April 1, 1987, the Department will cancel the interim approval and diversion of water under the application will not be authorized. The application will then be held until it can be processed under the provisions of the Swan Falls Agreement.

Regional office personnel of the Department will field inspect the place of use for all continuing interim approvals and for all canceled interim approvals, since the Idaho statutes now dictate penalties for the unauthorized diversion and use of water.

**MICROFILMED**

MAY 07 1987

For information on the availability of storage water from the Upper Snake River Water Supply Bank, you should contact the Departments Eastern Regional office at 150 Shoup Avenue, Suite 15, Idaho Falls, ID 83401, telephone, 525-7161.

Sincerely,



GARY SPACKMAN, Supervisor  
Water Allocation Section

GS;jf

CC: Eastern Region

**MICROFILMED**

MAY 07 1981

WATER BANK WATER LEASE AGREEMENT

FOR 1986

Re: 31-7378

The Committee of Nine being authorized pursuant to Idaho Code Section 42-1765 to lease stored water which has been provided to the Water Supply Bank by water users who own space in the various Bureau of Reclamation Upper Snake reservoirs and have excess supplies for the current year, does agree to sell <sup>Martin Brothers Land and</sup> ~~Livestock, Ltd., Ptspr~~ 420 A.F. of water requested for 1986. This agreement is subject to the adopted Rules and Regulations of the Water Supply Bank and execution of same by the party herein named.

Upon receipt of \$ 1,050.00 and the information requested below, the Snake River Watermaster will release to you from storage, at the rate you specify 420 A.F. of stored water, between April 1 and November 1 of 1986.

Description of point of diversion:

Located in SE 1/4 NW 1/4, Sec. 33, T. 6N, R. 34, EFM;

Other: Jefferson County, Idaho

on source \_\_\_\_\_

Pump H.P. 250+ Lift 260±

Headgate \_\_\_\_\_ (canal name if appropriate.)

Description of place of use:

Legal Description: Within NW 1/4 and SE 1/4, S. 33, T. 6N, R. 34, EFM

Total number of acres irrigated: 210

Dated this 19th day of May, 1986.

(name) Simon S. Martin, Managing Partner,  
Martin Brothers Land & Livestock, Ltd.,  
Partnership

(address) P. O. Box 278,  
Idaho Falls, ID 83402

State of Idaho

County of Bonneville

On this 19th day of May, 1986, before me the undersigned Notary Public in and for said county and state, personally appeared Simon S. Martin, known to me to be the person whose name is subscribed to within instrument and acknowledged to me that he executed the same.

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

John T. Allain  
Notary Public in and for Idaho  
Residing at: Idaho Falls

Martin Brothers Land & Livestock,  
Ltd., Partnership

I have accepted the request of \_\_\_\_\_  
to purchase water from the Water Supply Bank this \_\_\_\_\_  
day of May, 1986.

Ronald D. Carver  
Watermaster, Water District No. 1  
Agent for the Committee of Nine

**MICROFILMED**



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS  
Governor

A. KENNETH DUNN  
Director

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

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT. (2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. GLEN SAXTON  
CHIEF, OPERATIONS BUREAU

**MICROFILMED**

July 22, 1985

Simon S. Martin  
Martin Family Trust  
P. O. Box 278  
Idaho Falls, ID 83402

Dear Mr. Martin:

Re: Interim Permit No. 31-7378

In the copy of the attached letter, the Department advised you it was returning the proof of beneficial use postcard. I found, however, it has not been enclosed. So, to complete your record and to correct the department's, I've enclosed the proof card.

Sincerely,

RITA I. FLECK  
Secretary/Records Manager

Enclosures



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS  
Governor

A. KENNETH DUNN  
Director

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

July 9, 1985

Thomas G. Nelson  
Nelson, Rosholt, Robertson,  
Tolman & Tucker  
P.O. Box 1906  
Twin Falls, ID 83303

Re: Interim Approvals for Seasonal Exchanges

Dear Mr. Nelson:

In response to your letter dated June 27, 1985 to Logan E. Lanham, the Department has issued the following interim approvals:

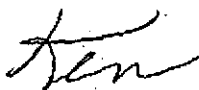
| <u>Water Right No.</u> | <u>Name</u>               | <u>Rate</u> | <u>Vol.</u> |
|------------------------|---------------------------|-------------|-------------|
| 27-7361                | N. D. Collaer             | 0.56 cfs    | 56 AF       |
| -7381                  | LDS Church                | 0.3         | 30          |
| -7399                  | LaVerelle Stecklein       | 2.4         | 240         |
| -7402                  | Dennis and Mary Jo Marlow | 1.2         | 120         |
| -7405                  | Samual J. Huffman         | 0.12        | 12          |
| 31-7378                | Martin Family Trust       | 4.54        | 454         |
| -7415                  | Quality Farms, Inc.       | 1.9         | 190         |
| -7416                  | Quality Farms, Inc.       | 2.8         | 280         |
| -7430                  | Alan Weaver               | 2.64        | 264         |
| -7431                  | Alan Weaver               | 2.64        | 264         |
| -7432                  | Alan Weaver               | 2.64        | 264         |
| -7433                  | Alan Weaver               | 2.64        | 264         |
| 35-8082                | Dwight W. Horsch          | 1.2         | 120         |
| -8572                  | Dwight W. Horsch          | 0.4         | 40          |

Please note that the volume of water associated with Water Right No. 27-7381 should be 30 AF rather than 190, and the volume for Water Right No. 27-7405 should be 12.0 rather than 190. The volumes calculated were in error and are being corrected by Order.

Thomas G. Nelson  
July 9, 1985  
Page 2

As additional interim approvals are granted, the Department will forward copies to you as in the past.

Sincerely,



A. KENNETH DUNN  
Director

AKD/LGS/1s

cc: Eastern Region

**MICROFILMED**

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER  
Chartered

ATTORNEYS AT LAW  
142 3RD AVE NO.

MAILING ADDRESS: P.O. Box 1906  
TWIN FALLS, ID 83303-1906  
TELEPHONE (208) 734-0700  
SUN VALLEY (208) 726-4661

RECEIVED  
JUL 1 1985

Department of Water Resources

THOMAS G. NELSON  
JOHN A. ROSHOLT  
J. EVAN ROBERTSON  
STEVEN K. TOLMAN  
JAMES C. TUCKER

TERRY T. UHLING  
LAIRD B. STONE  
GARY D. SLETTE

June 27, 1985

Mr. Logan E. Lanham  
Idaho Power Company  
P. O. Box 70  
Boise, Idaho 83707

*SATON  
Draft response  
for 11/15/85*

Re: Interim Approvals for  
Seasonal Exchanges

Dear Logan:

You and I have previously discussed the program going on mostly around Blackfoot whereby IDWR is approving seasonal storage leases as a basis for approving development of wells. With the irrigation season fairly well along, perhaps the last of those has now been seen for this year, although I received one yesterday. In any event, I want to give you a list of the amounts of water that the Company is entitled to call from the rental pool pursuant to those interim approvals:

|                           |             |               |                |
|---------------------------|-------------|---------------|----------------|
| Dennis L. Marlow          | No. 27-7402 | 120 acre feet |                |
| LaVerelle Stecklein       | No. 27-7399 | 240 acre feet |                |
| Dwight Horsch             | No. 35-8082 | 120 acre feet |                |
| LDS Church                | No. 27-7381 | 190 acre feet | ← 30AF         |
| Samuel J. Huffman         | No. 27-7405 | 190 acre feet | ← Should be 12 |
| Quality Farms, Inc.       | No. 31-7415 | 190 acre feet |                |
| " " "                     | No. 31-7416 | 280 acre feet |                |
| N. D. Collaer,<br>Trustee | No. 27-7361 | 56 acre feet  |                |

By the terms of my understanding with Mr. Dunn, the Company is entitled to call this water from the pool in a similar fashion to the leased water which it calls from the pool, and at the same time as that leased water is called. The reason for the last condition is the inability to measure extremely small amounts of water past Milner Dam.

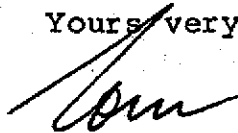
MICROFILMED

Mr. Logan E. Lanham  
June 27, 1985  
Page 2

By copy of this letter to Mr. Dunn, I am informing him of the interim permits known to me and asking him to notify us if there are any others.

If you need anything further, or need any copies of the actual documents, I will be happy to send them to you.

Yours very truly,



Thomas G. Nelson

TGN:gjc

cc: A. Kenneth Dunn  
T. A. Spofford  
P. L. Jauregui

**MICROFILMED**



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS  
Governor

A. KENNETH DUNN  
Director

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

June 3, 1985

Simon S. Martin  
Martin Family Trust  
P.O. Box 278  
Idaho Falls, ID 83402

Re: Interim Permit No. 31-7378  
(Simon S. Martin, Trustee, Martin Family Trust)

Dear Mr. Martin:

Returned is the beneficial use card you submitted in connection with the above-referenced interim permit. You will note on page 4 of the interim permit that proof of beneficial use is not required unless the permit is reprocessed and approved in compliance with Section 42-203C, Idaho Code.

The permit issued authorizes the irrigation of up to 227 acres rather than the 238 acres referred to in your letter.

An application for amendment is required to change the authorized location to a different legal subdivision than that authorized on the interim permit. Enclosed is an application for amendment for your use.

Also enclosed are instructions for the installation of a flow measurement port. I am forwarding these instructions since I cannot determine from your letter, which describes a "two inch access port," whether the size of the port is in compliance with that needed.

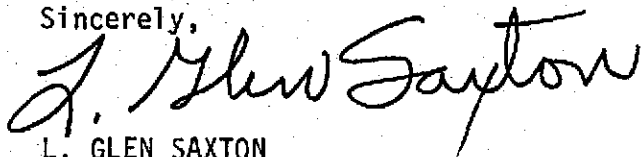
The completed amendment form together with the applicable fee should be filed with our office in Idaho Falls.

**MICROFILMED**

Simon S. Martin  
June 3, 1985  
Page 2

If you have questions, please feel free to contact me or our Eastern Regional Office in Idaho Falls at 525-7161.

Sincerely,

A handwritten signature in cursive script, reading "L. Glen Saxton".

L. GLEN SAXTON  
Chief, Operations Bureau

LGS/ljs

cc: Kent Foster  
Tom Nelson  
Ron Carlson

Enclosures

**MICROFILMED**

LAW OFFICES OF  
HANSEN, BOYLE, BEARD & MARTIN

JOHN D. HANSEN  
LARRY M. BOYLE  
WINSTON V. BEARD  
SIMON S. MARTIN  
JOHN G. ST. CLAIR  
MICHAEL R. ORME  
KENT A. HIGGINS

CHARTERED  
JUDICIAL CENTER BUILDING  
683 NORTH CAPITAL AVENUE  
POST OFFICE BOX 501  
IDAHO FALLS, IDAHO 83402-0501

TELEPHONE 523-5171  
AREA CODE 208

May 22, 1985

**RECEIVED**  
MAY 24 1985

Department of Water Resources

Idaho Department of Water Resources  
Statehouse  
Boise, Idaho 83720

Re: Permit No. 31-7378

Gentlemen:

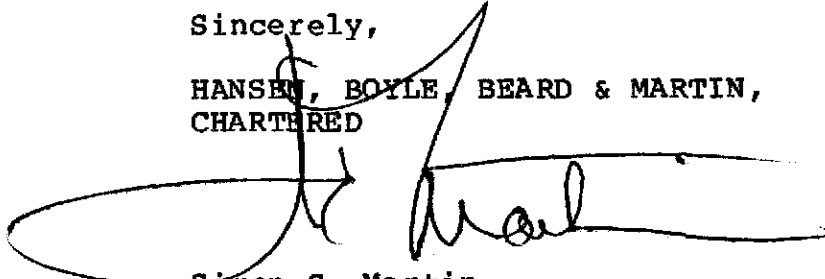
Enclosed please find fully executed beneficial use card regarding the above referenced permit. Please note we were able to increase the number of acres in this project from the 227 acres originally anticipated and as appears on our Application for Permit to 238 acres. Our tenant, Dewayne Lee and our engineer Robert Lee altered the design of the project to increase the acreage. In addition, please note that the point of diversion is in the Northwest Quarter of the Southeast Quarter, Section 33, Township 6 North, Range 34, EBM.

The two inch access port has been installed and the system is now ready for your inspection.

If you have any questions, please contact me.

Sincerely,

HANSEN, BOYLE, BEARD & MARTIN,  
CHARTERED



Simon S. Martin

SSM:wh:9717e

cc: Kent W. Foster, Esq.

**MICROFILMED**



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS  
Governor

A. KENNETH DUNN  
Director

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

April 22, 1985

Mr. Simon S. Martin, Trustee  
Martin Family Trust  
P.O. Box 278  
Idaho Falls, ID 83402

RE: 31-7378

Dear Mr. Martin:

You have requested through your attorney, Kent W. Foster, that an **interim approval** be given authorizing diversion of water for use on the lands described in Application for Permit No. 31-7378. In addition, you have obtained a lease for 454 acre feet of water for the 1985 season from the Upper Lemhi River rental pool. The enclosed interim permit has been issued to allow the well to be drilled and groundwater to be used if storage water is obtained and assigned to the Director of the Department to replace water lost to other right holders. The permit will be reprocessed under the provisions of 42-203C to determine if the trust waters made available under 42-203B and the Snake River Water Rights Agreement can be allocated to the proposed use. Reprocessing will occur after rules and regulations have been adopted to guide processing of applications under the criteria of 42-203C and will be in accordance with those adopted rules and regulations.

By issuing this interim approval, I am not committing to issuance of a permit for the trust water, and the investment you make pursuant to this interim approval will not influence the future decision as the permit is reprocessed. You assume all the risk that you will be successful in obtaining a permit for the reallocated water and thereby eliminate the need to provide replacement storage water. You are also assuming all risk relative to the availability of storage water from the rental pool in future years to allow use of water under this interim approval to continue.

Sincerely,

*Norman C. Young*

*for* A. KENNETH DUNN  
Director

AKD/lis

cc: Kent Foster  
Tom Nelson  
Ron Carlson

**MICROFILMED**



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

April 17, 1985

Tom Nelson  
Nelson, Rosholt, Robertson,  
Tolman & Tucker  
P. O. Box 1906  
Twin Falls, ID 83303-1906

Dear Tom:

Thank you for your April 9 letter concurring in the use of replacement rental stored water to allow ground water pumping.

I am proceeding immediately with approval of permits for pumping of ground water from the Snake Plain Aquifer. Rental storage water will be required to compensate for any potential depletions that might occur. I had earlier listed the conditions of approval in a letter to you.

I intend to resolve the questions of procedure in future years in the adoption of rules and regulations.

Sincerely,

A. KENNETH DUNN  
Director

AKD:alw

cc: Paul Jauregui

**MICROFILMED**

FROM *NCY*DATE *3/22/85*TO *31-7378*SUBJECT *Telecon with Kent Foster*

*I called Kent Foster to give him a response to the questions asked in his letter of 2/20/85. I described the interim approval program we were trying to implement and advised that his client's application could be approved if IPco files a letter removing their protests.*

**MICROFILMED**

SIGNATURE



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:  
Statehouse  
Boise, Idaho 8372  
(208) 334-4440

### MEMORANDUM

TO: Norman Young  
Wayne Haas

FROM: A. Kenneth Dunn

DATE: March 19, 1985

RE: Applications for New Consumptive Uses Under the  
Snake River Water Rights Agreement

Processing of applications for new consumptive uses which the provisions of the Snake River Water Rights Agreement are intended to implement, cannot occur in time to allow development for the coming irrigation season.

As an interim measure, the department may, however, grant approval for such new development if the following criteria are complied with:

1. An application to appropriate water must be filed with the department.
- \* 2. The usual advertising and compliance with statutory requirements must be followed.
3. Before water may be diverted under such a permit, evidence shall be provided to the department that storage water has been rented through the Upper Snake River Water Supply Bank and assigned to the Director for release to replace reductions of flow in the Snake River.
4. The volume of stored water required to be rented from the Upper Snake River Water Supply Bank shall be equal to the volume of water consumptively used as determined by the Director.
5. Water shall not be diverted at any time that storage water is not available and on assignment to the Director of IDWR for purposes of replacing reductions of flow in the Snake River.
6. The Director of IDWR will retain jurisdiction of the permit to enforce the provisions of the permit and to revise the volume of stored water required.

**MICROFILMED**

7. By accepting and commencing diversion of water under the permit, the permit holder acknowledges and agrees that: (a) the Director of IDWR may suspend the right to divert water during any period that evidence of the required storage water supply needed for release is not on file with IDWR, and (b) the Director of IDWR is authorized to obtain a court order to disconnect the power supply from the pump motor used to divert water under the permit or by other reasonable means insure water that is not diverted at any and all times that the right to divert water in the permit is suspended.
8. The permit may be reprocessed under the provisions of Section 42-203(c), Idaho Code, at the request of the permit holder or as determined by the Director and in compliance with pertinent adopted rules and regulations.
9. Subject to all prior water rights.
10. A measuring device or an access port of a design approved by IDWR shall be installed for licensing purposes prior to diverting water.
11. Proof of beneficial use shall be submitted within five years of issuance of the permit.

Finally, I must emphasize that IDWR would not be committing to issuance of a permit for the waters which are to be reallocated under the Snake River Water Rights Agreement. The applicant would assume all the risk that he would be successful in obtaining a permit for the reallocated water and thereby eliminate the need for the stored water. In addition, the applicant would accept all risk that storage water remains available from the rental pool in future years to allow the interim procedure to continue.

**MICROFILMED**

WILLIAMS S. HOLDEN  
R. VERN KIDWELL, P.A.  
FRED J. HAHN  
KENT W. FOSTER  
ROBERT E. FARNAM  
WILLIAM D. FALER  
STEPHEN E. MARTIN  
CHARLES A. HOMER  
GARY L. MEKLE  
CURT R. THOMSEN  
RANDALL K. BARTON  
MICHAEL D. CRAPO

JAMES D. HOLMAN  
GAYLE A. SORENSON  
DONALD L. HARRIS  
BRUCE T. SMITH  
GREGOR S. CHVISUK  
RANDALL B. REED

LAW OFFICES  
HOLDEN, KIDWELL, HAHN & CRAPO  
IDAHO FIRST NATIONAL BANK BUILDING  
P.O. BOX 129  
IDAHO FALLS, IDAHO 83402

TELEPHONE 523-0620  
AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)  
ROBERT B. HOLDEN (1911-1971)  
TERRY L. CRAPO (1939-1982)

RECEIVED

FEB 22 1985

February 20, 1985

Department of Water Resources

Mr. A. Kenneth Dunn, Director  
Idaho Department of Water Resources  
Statehouse  
Boise, Idaho 83720

RE: Application No. 31-7378 -- Martin Family Trust,  
Simon Martin, Trustee

Dear Mr. Dunn:

You will undoubtedly recall a series of correspondence regarding the above application which took place in 1973, the end result of which apparently was that Idaho Power Company did not believe it had protested this application and intended not to take part in any administrative proceedings held on the application. There is probably no legal reason under existing law not to issue the permit, except for the Swan Falls II lawsuit and its potential resolution under the agreement between the Governor and Idaho Power Company. This application was included in the Swan Falls II lawsuit and, in the event of the passage of the proposed legislative package presently pending, may require an additional review under the "public interest criteria."

It appears to us that because of the location, type and size of the Trust's proposed project under this application, it has a relatively high likelihood of ultimate approval.

The Trust is anxious to drill the proposed well and commence irrigating the land this coming season. Unlike others of whom we are aware, the Trust is unwilling to proceed in a manner which may be construed to be in violation of existing law. It is willing to assume some risk, but wishes to have the entire matter above board.

MICROFILMED

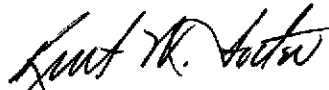
Mr. A. Kenneth Dunn  
February 20, 1985  
Page 2

You are, of course, already aware of various proposals to rent storage water from the Water District No. 1 rental pool, and use it on an exchange basis with the ground water proposed to be diverted from various wells. We have heard the interpretation of Chapter 2 of Title 42 of the Idaho Code that it may not be legal to drill a well without a permit, but the Trust's intention would be to drill the well and divert water from it for the irrigation of its land this irrigation season.

The Martin Family Trust would be willing to apply for and lease stored water from the District No. 1 rental pool in such amount as the Department deems appropriate to replace anticipated reductions in flows of the river which will result from the proposed pumping of ground water and irrigation of its land, in exchange for the Department's approval to proceed in this manner. The Trust is also willing to assume any risk that its application for permit may not ultimately be granted.

We would appreciate your written response to this proposal at your earliest convenience. We would be happy to discuss the matter with you and to provide additional information if needed.

Yours very truly,



Kent W. Foster

KWF/cl  
6799.00

cc: Ronald D. Carlson  
Simon Martin

**MICROFILMED**

**RECEIVED**

JAN 15 1985

Department of Natural Resources

January 14, 1985

RE: Permits Nos. 31-7378 and 31-7422

Mr. Simon S. Martin  
Attorney at Law  
P.O. Box 501  
Idaho Falls, ID 83402

Dear Mr. Martin:

This office acknowledges receipt of the assignments conveying the above referenced permits to Martin Brothers Land and Livestock Limited Partnership. The assignments have been entered into the department's records.

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

Very truly yours,

COLLEEN WRAY  
Adm. Secretary

cc: IDWR State Office

**MICROFILMED**

WATER BANK LEASE AGREEMENT FOR 1985

EXCHANGE AGREEMENT

The Committee of Nine, hereafter lessor, being authorized pursuant to Idaho Code §42-1765 to operate the Upper Snake River Water Supply Bank does agree to lease to Martin Bros. Land & Livestock, Ltd. Ptr. \_\_\_\_\_ of Idaho Falls, hereafter lessee, 454 A.F. of water for the irrigation year starting April 1, 1985. This agreement is subject to the adopted Rules and Regulations of the Water Supply Bank and applicable conditions on the requisite water right permit granted by the Idaho Department of Water Resources.

Upon execution of this agreement and receipt of \$ 1135.00, the Snake River Watermaster will assign to the Director of the Department of Water Resources 454 A.F. of storage to be released at his discretion in exchange for water pumped from groundwater at a well(s) located within:

SE 1/4 NW 1/4, Sec. 33, T. 6N, R. 34E;

Other: \_\_\_\_\_

For the irrigation of 227 acres of land within:

NW 1/4 and SE 1/4, Sec. 33, T. 6N, R. 34E

The lessee understands and agrees that this lease in no way obligates the lessor to future leases or in any other manner not specified above.

(Name)

MANABING PARTNER

(Address)

P.O. Box 278

IDAHO FALLS,

ID

83402

**MICROFILMED**

State of Idaho )

County of Donnerville )

On this 12 day of March 19 85, before me the undersigned Notary Public in and for said county and state, personally appeared Simon Martin, known to me to be the person whose name is subscribed to within instrument and acknowledged to me that he executed the same.

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

Cheryl Kemp

Notary Public in and for Idaho

Residing at : Idaho Falls

I have accepted the request of Simon Martin  
to purchase water from the Water Supply Bank this 13th day of  
March, 19 85.

Ronald P. Carter

Watermaster, Water District No. 1

Agent for the Committee of Nine

**MICROFILMED**

January 14, 1985

RE: Permits Nos. 31-7378 and 31-7422

Mr. Simon S. Martin  
Attorney at Law  
P.O. Box 501  
Idaho Falls, ID 83402

Dear Mr. Martin:

This office acknowledges receipt of the assignments conveying the above referenced permits to Martin Brothers Land and Livestock Limited Partnership. The assignments have been entered into the department's records.

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

Very truly yours,

COLLEEN WRAY  
Adm. Secretary

cc: IDWR State Office

**MICROFILMED**

LAW OFFICES OF  
HANSEN, BOYLE, BEARD & MARTIN

JOHN D. HANSEN  
LARRY M. BOYLE  
WINSTON V. BEARD  
SIMON S. MARTIN  
JOHN G. ST. CLAIR  
MICHAEL R. ORME  
KENT A. HIGGINS

CHARTERED  
JUDICIAL CENTER BUILDING  
683 NORTH CAPITAL AVENUE  
POST OFFICE BOX 501  
IDAHO FALLS IDAHO 83402-0501

TELEPHONE 523-5171  
AREA CODE 208

December 27, 1984

RECEIVED  
DEC 28 1984

State of Idaho  
Department of Water Resources  
State House  
Boise, Idaho 83720

Department of Water Resources

Re: Assignment of Permits

Gentlemen:

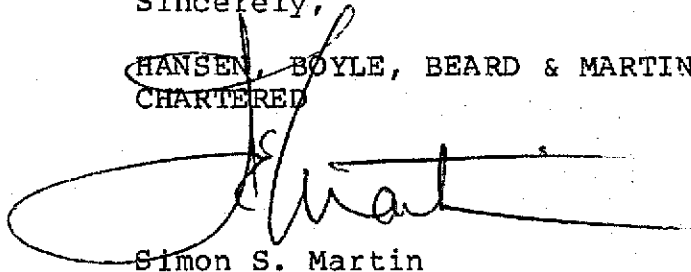
Enclosed please find original Assignment of Permits transferring all those certain licenses and/or permits and/or applications presently held by The Martin Family Trust, Simon S. Martin, Trustee, to Martin Brothers Land & Livestock Limited Partnership.

Could you please make the transfer of those licenses and/or permits and/or applications and send me confirmation of the change so I will have documentation in my records.

If you have any questions, please do not hesitate to contact me.

Sincerely,

HANSEN, BOYLE, BEARD & MARTIN,  
CHARTERED



Simon S. Martin

SSM:wh:6183e

cc: Department of Water Resources  
Eastern District Office  
150 Shoup Avenue, Suite 15  
Idaho Falls, Idaho 83402

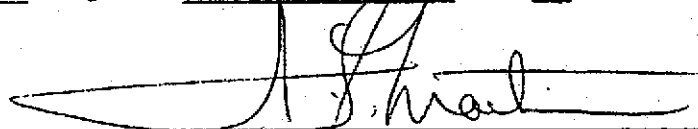
MICROFILMED

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ASSIGNMENT OF PERMITS/LICENSES

I, Simon S. Martin, Trustee of the Martin Family Trust,  
hereby assign to Martin Brothers Land & Livestock Limited  
Partnership of P. O. Box 278, Idaho Falls, Idaho 83402, all of the  
right, title and interest in and to those certain licenses, and/or  
permits, and/or applications identified as:

- (a) Application for Permit No. 31-7378
- (b) Application for Permit No. 31-7422
- (c) Application for Permit No. 31-7250 - *brief submitted.*
- (d) Water Right License No. 31-7201
- (e) Water Right License No. 31-7248
- (f) Water Right License No. 31-7249

DATED this 27<sup>th</sup> day of December, 1984.



Simon S. Martin, Trustee  
Martin Family Trust

**MICROFILMED**

*original in file*  
*31-7201. kw*  
*1/2/85*

STATE OF IDAHO,

)  
(ss.  
)

County of Bonneville.

On this 27<sup>th</sup> day of ~~November~~ December, in the year 1984, before me, WINONA M. HEARN, an Idaho Notary Public, personally appeared SIMON S. MARTIN, known to me to be the person whose name is subscribed to the within instrument as Trustee of the Martin Family Trust, and acknowledged to me that he executed the same as such Trustee.

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

Winona M. Hearn  
Notary Public for Idaho  
Residing at Idaho Falls, Idaho  
My Commission Expires: 2-22-87

5312e:wh

**MICROFILMED**

FROM Kay Walker

DATE 1/2/85

TO Eastern

SUBJECT assignments of Apps. 31-7378 (protested,  
and 31-7422.

Could you please acknowledge the assignment of these two apps. since the original files are in your office?

---

MICROFILMED<sup>ATURE</sup>

LAW OFFICES OF  
HANSEN, BOYLE, BEARD & MARTIN

JOHN D. HANSEN  
LARRY M. BOYLE  
WINSTON V. BEARD  
SIMON S. MARTIN  
JOHN G. ST. CLAIR  
MICHAEL R. ORME  
KENT A. HIGGINS

CHARTERED  
JUDICIAL CENTER BUILDING  
683 NORTH CAPITAL AVENUE  
POST OFFICE BOX 501  
IDAHO FALLS IDAHO 83402-0501

TELEPHONE 523-5171  
AREA CODE 208

December 27, 1984

RECEIVED  
DEC 28 1984

State of Idaho  
Department of Water Resources  
State House  
Boise, Idaho 83720

Department of Water Resources

Re: Assignment of Permits

Gentlemen:

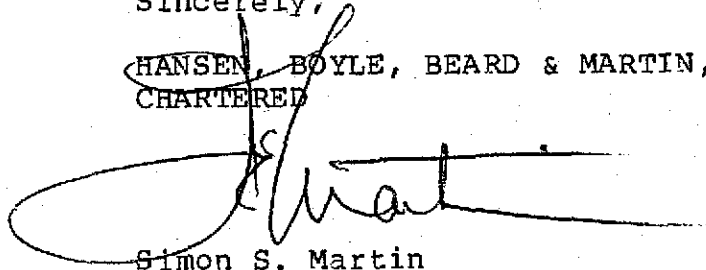
Enclosed please find original Assignment of Permits transferring all those certain licenses and/or permits and/or applications presently held by The Martin Family Trust, Simon S. Martin, Trustee, to Martin Brothers Land & Livestock Limited Partnership.

Could you please make the transfer of those licenses and/or permits and/or applications and send me confirmation of the change so I will have documentation in my records.

If you have any questions, please do not hesitate to contact me.

Sincerely,

HANSEN, BOYLE, BEARD & MARTIN,  
CHARTERED



Simon S. Martin

SSM:wh:6183e

cc: Department of Water Resources  
Eastern District Office  
150 Shoup Avenue, Suite 15  
Idaho Falls, Idaho 83402

MICROFILMED

November 16, 1983

Thomas G. Nelson  
P. O. Box 1906  
Twin Falls, ID 83301

RE: Application No. 31-7878 - Simon Martin, Trustee

Dear Tom:

Your November 3 letter is correct in identifying that I did not respond by letter to the December 2, 1982, letter by John A. Rosholt. I did, however, have discussions with Mr. Rosholt and you regarding the need to file separate protests of each filing for a water right received by the department. We agreed that separate protests would be expensive and time consuming for both Idaho Power and the department and a needless procedure. I agreed to accept Mr. Rosholt's December 2, 1982, letter as a blanket protest for filings upstream from Swan Falls Dam on Snake River including all tributary water sources.

My September 5 letter to Mr. Kent W. Foster, advises him of a protest by Idaho Power and further advises Idaho Power that we have accepted the December 2, 1982, letter as a protest and that "I consider the company to be a protestant without its having to file another written protest during the advertised period for protest." A copy of my letter was sent to Mr. Paul Jauregui.

Idaho Power's protest has been protected and it will be allowed to participate in the administrative hearing.

Sincerely,

A. KENNETH DUNN  
Director

AKD:alw

cc: Kent Foster  
Paul Jauregui

**MICROFILMED**

## INTER-DEPARTMENT MEMO — 1

DATE 11-04-83.

FROM Ernie.

TO Ron.

SUBJECT - Simman Martin Hearing: Kent Foster called to serve notice that he heard Mr. Martin's hearings is scheduled for Dec. 6, 1983 and that he will be out of town from Dec 2 to Dec 12. Do you want me to reschedule hearing and if so who should be contacted?

ERNIE, Hold til further notice. R

SIGNATURE

RECEIVED

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER

Chartered

ATTORNEYS AT LAW

P.O. Box 1906  
TWIN FALLS, ID. 83303-1906  
TELEPHONE (208) 734-0700

NOV 4 1983

Department of Water Resources

SUN VALLEY-KETCHUM OFFICE  
P.O. BOX 2399  
SUN VALLEY, IDAHO 83353  
TELEPHONE (208) 726-4491

THOMAS G. NELSON  
JOHN A. ROSHOLT  
J. EVAN ROBERTSON  
STEVE K. TOLMAN  
JAMES C. TUCKER

TIMOTHY M. WALTON

November 3, 1983

Mr. Kenneth Dunn  
Director  
Idaho Department of Water Resources  
Statehouse  
Boise, ID 83702

RE: APPLICATION NO. 31-7378  
Simon Martin, Trustee

Dear Mr. Dunn,

Thank you for your letter of September 15, informing us of the pendency of the administrative proceedings. We have reviewed our file, and while we find John A. Rosholt's letter of December 2, 1982, we find no response from the Department. It does not appear that a protest has been filed on behalf of Idaho Power Company to this particular application.

Mr. Martin has been joined in Idaho Power Company vs. Idaho Department of Water Resources, et al, Ada County Civil No. 81375, and has been served. That being the case, there appears to be no reason for IPCO to appear in the administrative proceedings and it will not do so.

If Mr. Martin desires to proceed with development in the face of IPCO's claims, and run the risk his investments may prove valueless, he is certainly entitled to do so .. I am sure his legal counsel can inform him of the problems with that approach.

If you need any further information, please advise.

Yours very truly,



Thomas G. Nelson

TGN

pj

cc: Paul Jauregui  
Kent Foster

MICROFILMED



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
EASTERN REGION

John V. Evans  
Governor

A. Kenneth Dunn  
Director

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

October 26, 1983

RE: Application for Permit No. 31-7378 MARTIN  
Claim to a Water Right No. 31-4124 WOOD  
31-4123 OLDHAM  
31-4122 "

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

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on October 6 and 13, 1983.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

COLLEEN WRAY  
Adm. Secretary

*Called  
11/3/83*

**MICROFILMED**

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER  
ATTORNEYS AT LAW  
IDAHO FIRST NATIONAL BANK BUILDING  
P.O. BOX 1906  
TWIN FALLS, IDAHO 83301  
(208) 734-0700

RECEIVED

SEP 29 1983

DATE:

9/28/83

TO:

Ron Carlson  
Watermaster

Department of Water Resources  
Eastern District Office

RE:

Ron,

Please Send me a copy  
of the Notice that You  
Send for Publication  
for 31-7378.

Thanks

MICROFILMED

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER

BY

for us

Sent  
10/03/83  
CW

LAW OFFICES

HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING

P.O. BOX 129

IDAHO FALLS, IDAHO 83402

TELEPHONE 523-0620

AREA CODE 208

September 26, 1983

WILLIAM S. HOLDEN  
R. VERN KIDWELL, P. A.  
FRED J. HAHN  
KENT W. FOSTER  
ROBERT E. FARNAM  
WILLIAM D. FALER, P. A.  
STEPHEN E. MARTIN  
CHARLES A. HOMER  
GARY L. MEIKLE  
CURT R. THOMSEN  
RANDALL K. BARTON  
MICHAEL D. CRAPO

JAMES D. HOLMAN  
GAYLE A. SORENSON  
DONALD L. HARRIS  
BRUCE T. SMITH

ARTHUR W. HOLDEN (1877-1963)  
ROBERT B. HOLDEN (1911-1970)  
TERRY L. CRAPO (1939-1962)

RECEIVED

SEP 27 1983

Department of Water Resources

Mr. A. Kenneth Dunn, Director  
Idaho Department of Water Resources  
Statehouse  
Boise, Idaho 83720

RE: Application for Permit (No. 31-7378) to Appropriate  
the Public Waters of the State of Idaho

Dear Mr. Dunn:

*Simon S. Martin Trustee  
Martin Family Trust.*

We appreciate receiving your letter in reference to the above matter. In that letter you referred to a letter of protest filed by Idaho Power sometime ago. Somehow the copy was apparently omitted from our letter and we would like to have a copy. If you still have an extra copy, please send us one at your convenience.

Yours very truly,

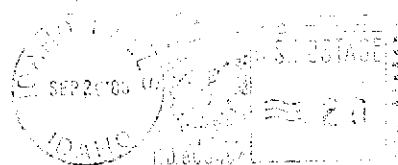
*Kent*

Kent W. Foster

KWF:sb  
8790

MICROFILMED

LAW OFFICES  
HOLDEN, KIDWELL, HAHN & CRAPO  
P. O. BOX 129  
IDAHO FALLS, IDAHO 83402



Mr. A. Kenneth Dunn, Director  
Idaho Department of Water Resources  
Statehouse  
Boise, Idaho 83720

MICROFILMED

September 15, 1983

RE: 31-7378

Kent W. Foster  
Holden, Kidwell, Hahn & Crapo  
P. O. Box 129  
Idaho Falls, ID 83402

Dear Mr. Foster:

I have carefully reviewed your letter of September 9, 1983, requesting that application No. 31-7378 be processed immediately. The application filed December 15, 1982, proposes the diversion of 4.54 cfs of ground water to irrigate 227 acres of land in Jefferson County. The department considers this application to have been protested by Idaho Power Company pursuant to a letter filed on December 3, 1982 (copy enclosed). Accordingly, the application has not been processed pending the hearing required by Section 42-203, Idaho Code, to consider the protest against issuance of a permit. Because of the magnitude of the technical and legal problems associated with the Swan Falls question and the Idaho Power's protest, and because of the possibility of a solution outside of the department's administrative processes, I have delayed processing of application No. 31-7378 and all other applications proposing new consumptive uses from water sources located upstream from Swan Falls.

Section 42-203, Idaho Code, states that "c. . upon receipt of an application . . . the department of water resources shall . . ." prepare the legal notice and begin processing. The statute does not provide a specific time frame within which the processing is to begin but the requirement that a hearing shall be set to consider a protest within 60 days of receipt of the protest does indicate that filings are to be processed in a timely manner. For that reason and because of your insistence on behalf of your clients, processing will be resumed on application 31-7579. The regional office in Idaho Falls is instructed by copy of this letter to make the required legal notice. Following the mandatory 10-day period during which protests may be filed, a hearing will be set to consider the protest of Idaho Power Company and any others that may be received as a result of the legal notice. Also by copy of this letter, I am notifying Idaho Power Company of your request to process the application and that I consider the company to be a protestant without its having to file another written protest during the advertised

**MICROFILMED**

Kent W. Foster

- 2 -

September 15, 1983

period for protest.

You and all parties protesting will be contacted to determine an acceptable hearing schedule.

Sincerely,

A. KENNETH DUNN  
Director

AKD:alw  
Enclosure

cc: Ron Carlson  
Paul Jaggui, Idaho Power Company

**MICROFILMED**

RECEIVED

SEP 12 1983

WILLIAM S. HOLDEN  
R. VERN KIDWELL, P. A.  
FRED J. HAHN  
KENT W. FOSTER  
ROBERT E. FARNAM  
WILLIAM D. FALER, P. A.  
STEPHEN E. MARTIN  
CHARLES A. HOMER  
GARY L. MEIKLE  
CURT R. THOMSEN  
RANDALL K. BARTON  
MICHAEL D. CRAPO

JAMES D. HOLMAN  
GAYLE A. SORENSON  
DONALD L. HARRIS  
BRUCE T. SMITH

LAW OFFICES  
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING

P. O. BOX 129

IDAHO FALLS, IDAHO 83402

TELEPHONE 523-0620

AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)  
ROBERT B. HOLDEN (1911-1971)  
TERRY L. CRAPO (1911-1971)

September 9, 1983

Mr. A. Kenneth Dunn, Director  
Idaho Department of Water Resources  
Statehouse  
Boise, Idaho 83720

Dear Mr. Dunn:

We are writing this letter at the request of Mr. Simon S. Martin, Trustee, Martin Family Trust. The Martin Family Trust is the owner of land in Jefferson County in the area of Mud Lake. Some of this land has been developed for agricultural purposes in recent years, and the Trust had undertaken to bring the remainder of the land under production within a time frame dictated by financing arrangements to which it is committed.

The Trust filed an application for permit to appropriate the public waters of the State of Idaho with the Idaho Falls Eastern Region Office of the Department of Water Resources on December 15, 1982. The application was receipted and assigned identification No. 31-7378, (a photocopy is enclosed) but has apparently been held and not processed as a result of the informal moratorium on processing of applications which resulted from the so-called "Swan Falls Decision" rendered by the Idaho Supreme Court in November of 1982.

We respectfully request, on behalf of this applicant, that you immediately commence the processing of this application. We are aware of the many issues presented by the "Swan Falls Decision" and the subsequent legislation; however, we believe the law requires the processing of the application after it has been filed. Idaho Code § 42-203 uses the word "shall" in describing the Department's responsibilities upon receipt of an application. We believe that term is mandatory and that the law imposes an obligation on the Department to commence the processing of an application in a timely fashion within a reasonable time after receipt.

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Mr. A. Kenneth Dunn, Director  
Idaho Department of Water Resources  
September 9, 1983  
Page Two

We understand the Idaho Power Company may claim that ground water in the Mud Lake area is tributary to the Snake River above Swan Falls and that this proposed use would therefore reduce the quantity of water under its existing water rights. We think this question, as well as whether Idaho Power Company may have forfeited or abandoned its water rights at Swan Falls or perhaps subordinated them to future upstream development through laches or estoppel or some other legally effective means, must be determined by the director if a proper protest is filed.

We have, of course, advised our client that a mandamus action may be available to compel the Department to perform its statutory duty. We trust, however, that this formal request is more appropriate at this time and that you will agree the application must legally be dealt with in the manner described in Idaho Code § 42-203, regardless of the ultimate decision which might be made in any protest hearing.

We will appreciate hearing from you as soon as possible as to your decision whether to process this application. If possible, it would be helpful if you could let us know within a week whether you will commence processing, and if so when, so that we may be able to properly advise our client as to what steps should be taken.

Thank you for your kind consideration in this matter.

Yours very truly,



Kent W. Foster

KWF:sb  
8790

Enclosure

**MICROFILMED**

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Simon S. Martin, Trustee  
Martin Family Trust Phone 523-5171Post office address P. O. Box 278, Idaho Falls, ID 834022. Source of water supply Ground Water which is a tributary of \_\_\_\_\_3. Location of point of diversion is SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 33 Township 6NRange 34E B.M. Jefferson County, additional points of diversion if any: \_\_\_\_\_

4. Water will be used for the following purposes:

Amount 4.54 for irrigation purposes from April 1 to Nov. 1 (both dates inclusive)  
(cfs or acre-feet per annum)Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 4.54 cubic feet per second and/or b. \_\_\_\_\_ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. well, pump and sprinkler systemb. Height of storage dam \_\_\_\_\_ feet, active reservoir capacity \_\_\_\_\_ acre-feet; total reservoir  
capacity \_\_\_\_\_ acre-feet, materials used in storage dam: \_\_\_\_\_Period of year when water will be diverted to storage \_\_\_\_\_ to \_\_\_\_\_ inclusive.  
(Month/Day) (Month/Day)c. Proposed well diameter is 20 inches; proposed depth of well is 350 feet.7. Time required for the completion of the works and application of the water to the proposed beneficial  
use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

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

Range \_\_\_\_\_ B.M.

(2) Amount of power to be generated: \_\_\_\_\_ horsepower under \_\_\_\_\_ feet of head.

(3) List number of each kind of livestock to be watered \_\_\_\_\_

(4) Name of municipality to be served \_\_\_\_\_, or number of families to be  
supplied with domestic water \_\_\_\_\_

(5) If water is to be used for other purposes describe: \_\_\_\_\_

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

| TWP | RANGE | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTALS |
|-----|-------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------|
|     |       |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |        |
| 6N  | 34E   | 33   |     |     |     |     | 30  | 40  | 30  | 15  |     |     |     |     | 27  | 15  | 30  | 40  | 227    |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |

Total number of acres to be irrigated 227

c. Describe any other water rights used for the same purposes as described above. None

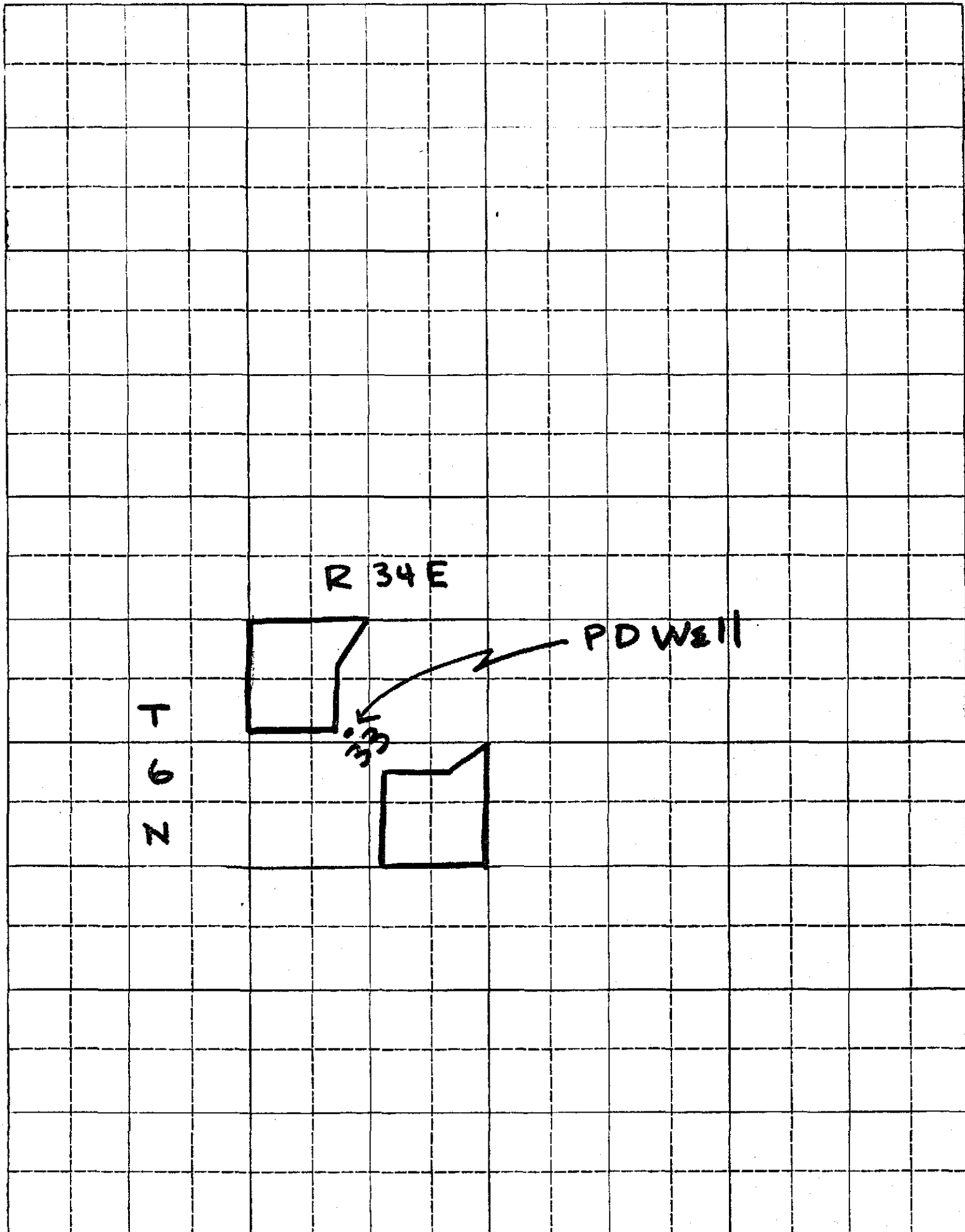
9. a. Who owns the property at the point of diversion Applicant

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 N/A

10. Remarks \_\_\_\_\_

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



Scale: 2 inches equal 1 mile.

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

(Applicant)

Simon S. Martin, Trustee  
Martin Family Trust

**MICROFILMED**

Received by KCW Date 12-15-82 Time 435 PM **MICROFILMED**  
Preliminary check by KCW Fee \$ 125.00 # 23241  
Receipted by BP Date 12-15-82  
Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_  
Published in \_\_\_\_\_  
Publication dates \_\_\_\_\_  
Publication approved \_\_\_\_\_ Date \_\_\_\_\_  
Protests filed by: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Copies of protests forwarded by \_\_\_\_\_  
Hearing held by \_\_\_\_\_ Date \_\_\_\_\_  
Recommended for approval denial by \_\_\_\_\_

---

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

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

1. Approval of said application is subject to the following limitations and conditions:
  - a. SUBJECT TO ALL PRIOR WATER RIGHTS.
  - b. Proof of construction of works and application of water to beneficial use shall be submitted on or before \_\_\_\_\_, 19 \_\_\_\_.
  - c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
  - d. Other:

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER

Chartered

ATTORNEYS AT LAW

P.O. BOX 1906

TWIN FALLS, IDAHO 83301

TELEPHONE (208) 734-0700

RECEIVED

DEC 3 1982

Department of Water Resources  
SUN VALLEY-RETRADUM OFFICE

P.O. BOX 2399

SUN VALLEY, IDAHO 83353

TELEPHONE (208) 726-4491

THOMAS G. NELSON  
JOHN A. ROSHOLT  
J. EVAN ROBERTSON  
STEVEN K. TOLMAN  
JAMES C. TUCKER

December 2, 1982

Mr. Kenneth Dunn, Director  
Department of Water Resources  
Statehouse  
Boise, Idaho 83724

Re: Idaho Power Co. vs. State of Idaho

Dear Ken:

While there are certainly many unanswered questions to be discussed since the November 19, 1982 opinion of the Idaho Supreme Court in the above case, Idaho Power has inquired of us as to whether or not they now need to file protests against each application that would be filed for consumptive use of waters tributary to the Snake River above Swan Falls.

I am enclosing copies of the correspondence between Josephine Beeman and myself in late 1977 and 1978. Presumably every applicant who sought to appropriate and consumptively use waters tributary above Hells Canyon have received one of the form letters. It would now seem appropriate that the decision would dictate that no applications for consumptive use of waters tributary above Swan Falls should be processed. Idaho Power's query now is what the Department's policy will be in the future during the pendency of any rehearing or appeal, as well as until a subsequent District Court decision is obtained, if the efforts for rehearing and appeal would be unsuccessful in changing the result of the decision.

We would appreciate your counsel in this regard since we do still see applications for permits for tributary groundwater as well as surface water advertised on a weekly basis in the newspapers to which this firm subscribes.

I would be willing to discuss the matter further with you at your convenience, but our client thinks it is important that they receive some indication in writing of the

MICROFILMED

Mr. Kenneth Dunn  
Page 2  
December 2, 1982

Department's posture in this regard so as to determine whether or not they need to initiate separate protests of each such filing until the final result is obtained.

Respectfully submitted,

  
JOHN A. ROSHOLT

JAR:cw

CC: Josephine Beeman, Ass. Att. Gen.  
J.E. Bruce, Chairman  
Paul Jaurequi, General Counsel

**MICROFILMED**

HARRY, ROBERTSON, DALY & LARSON

LAWYERS

THE IDAHO FIRST NATIONAL BANK BUILDING

P.O. BOX 1906

TWIN FALLS, IDAHO 83301

(208) 733-3722

T. M. ROBERTSON (1911-1977)

JOHN H. DALY (1913-1968)

JOHN A. LARSON  
J. MCINTYRE  
JOHN R. COLEMAN  
THOMAS G. NELSON  
JOHN A. ROSHOLT  
FRED D. DECKER  
ROBERT C. FAINE  
J. EVAN ROBERTSON  
THOMAS G. WALKER, JR.  
JAMES G. TUCKER

March 21, 1978

Josephine P. Beeman  
Assistant Attorney General  
Idaho Department of Water Resources  
Statehouse  
Boise, ID 83707

Dear Jo:

Thank you for your letter of March 15th with the form letters attached.

They appear fine and thank you for your cooperation.

I have advised Paul Jauregui's staff that there is no need to lodge the 300 plus protests that they have prepared in their office. I suppose the one question I have is whether or not everybody who has filed an application with the Department since December 9th of 1977 will be receiving one of these letters when their permits are approved. Essentially we had covered everybody in every watershed between Milner Dam and Hells Canyon through December 9th with the Power Company's notice letter. As for the notice letters to those on the Snake Plain Aquifer and in watershed 55, we were probably current through about January 10th. I presume that in the normal course of events applications filed as late as December 7th of 1977 have not yet been processed. If, however, there are some that have been processed, then perhaps it would be necessary for this letter to follow up or on the other hand, we could find out which ones they were and Idaho Power could subsequently notify those persons.

Thanks for your cooperation in this matter.

Sincerely,



JOHN A. ROSHOLT

JAR:kf

cc: Steve Allred  
Paul Jauregui

**MICROFILMED**



PARRY, ROBERTSON, DALY & LARSON  
P. O. BOX 1000  
BOISE, IDAHO 83720

MAR 17 1978

7 8 9 10 11 12 1 2 3 4 5 6  
P. H.

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

BOISE 83720

WAYNE L. KIDWELL  
ATTORNEY GENERAL

TELEPHONE  
(208) 384-2400

March 15, 1978

Mr. John Rosholt  
PARRY, ROBERTSON, DALY & LARSON  
P.O. Box 525  
Twin Falls, Idaho 83301

RE: Blanket Protest of Idaho Power

Dear John:

I am enclosing the final copies of the two form letters (SNAKE RIVER LETTER and TRIBUTARY letter), which will be mailed with the Department of Water Resource's issuance of new permits on the Snake River and tributaries to the Snake River between Milner Dam and Hells Canyon. Your suggestions by phone this noon have been incorporated into these final copies.

The Department of Water Resources will now assume that these letters satisfactorily address the general protest filed December 30, 1977, by Idaho Power. However, for the record, you may wish to file a formal withdrawal of the protest with the Department.

Thank you again.

Cordially,

*JPB*  
JOSEPHINE P. BEEMAN  
Assistant Attorney General  
Legal Counsel, Idaho Department of Water Resources

JPB:dlc

2 Encls.

**MICROFILMED**



State of Idaho

## DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 384-2215

Date \_\_\_\_\_

SNAKE RIVER LETTER  
(for Snake River be-  
tween Milner Dam & Hells  
Canyon)

RE: Permit No. \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Dear \_\_\_\_\_:

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

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

You must also be aware that there are many applications for permit for the use of Snake River water that are prior to your permit. These applications have been filed for the irrigation of land that the applicants are attempting to obtain under the Federal Land Laws such as Desert Entry and Carey Act. If these lands are developed and if a base flow is maintained in the Snake River as is the presently recommended policy approved by the state legislature then no water would be available for this permit. Therefore, you should consider carefully these facts before you make any expenditures for the construction of your system.

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

**MICROFILMED**

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

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

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

If you have any questions, please let us know.

Sincerely,

L. Glen Saxton  
Chief, Operations Bureau

\*extra: used only when measuring device is required

**MICROFILMED**



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Date \_\_\_\_\_

Letter for Surface & Ground-  
water Tributaries to Snake  
River Between Milner Dam and  
Hells Canyon (see attached map)

RE: Permit No. \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_

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**MICROFILMED**

-2-

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Sincerely,

L. Glen Saxton  
Chief, Operations Bureau

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**MICROFILMED**

PARRY, ROBERTSON, DALY & LARSON

LAWYERS

THE IDAHO FIRST NATIONAL BANK BUILDING

P. O. BOX 1906

TWIN FALLS, IDAHO 83301

(208) 733-3722

T. M. ROBERTSON (1911-1977)

JOHN H. DALY (1913-1968)

ROBERTSON  
WINTYRE  
R. COLEMAN  
THOMAS G. NELSON  
JOHN A. ROSHOLT  
FRED D. DECKER  
ROBERT C. PAINE  
J. EVAN ROBERTSON  
THOMAS G. WALKER, JR.  
JAMES C. TUCKER

March 15, 1978

Mr. Paul Jauregui  
Idaho Power Company  
P.O. Box 70  
Boise, ID 83721

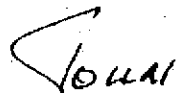
Re: Idaho Power Company v. State of Idaho,  
et al.

Dear Paul:

Rather than filing individual protests, the Department is willing to send the attached letters with the changes marked in pencil to all applicants.

I suspect this is as good as we will do and this agreement will eliminate the need for individual protests.

Sincerely yours,

  
JOHN A. ROSHOLT

JAR:vjs

Enclosures

**MICROFILMED**



PARRY, ROBERTSON, DALY & L  
RECEIVED

MAR 15 1978

AM  
7 8 9 10 11 12 1 2 3 4 5

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

BOISE 83720

TELEPHONE  
(208) 384-2400

WAYNE L. KIDWELL  
ATTORNEY GENERAL

March 14, 1978

Mr. John Rosholt  
PARRY, ROBERTSON, DALY & LARSON  
P.O. Box 525  
Twin Falls, Idaho 83301

RE: Blanket Protest of Idaho Power

Dear John:

Enclosed are two form letters which the Idaho Department of Water Resources proposes to enclose with new permits issued on the Snake River between Milner Dam and Hells Canyon and on new permits for surface and groundwater tributaries of the Snake River between Milner Dam and Hells Canyon.

Since the Department always encloses a letter with the issuance of a new permit, the information regarding the Idaho Power rights was added to the applicable form letter. A copy of the letter sent is then retained in the Department's permanent file for each permit.

The "SNAKE RIVER LETTER" would be sent to new permittees out of the Snake River; the "TRIBUTARY" letter would be sent to permittees of tributaries. (The Department will use the groundwater map supplied by Idaho Power to delineate the applicable groundwater tributaries.) The difference between these letters is a paragraph in the SNAKE RIVER LETTER which discusses prior Desert Land Act and Carey Act applications on the main stem of the Snake. The last four paragraphs in both letters are identical and are meant to notify the recipients that their permits may be subject to Idaho Power Company's water rights on the Snake River.

I do hope the letters satisfactorily address the concerns expressed in the general protest earlier filed by the Power Company. If so, the Department would appreciate receiving a formal withdrawal of the protest.

Steve Allred has reviewed the contents of these letters and would probably be the best person with whom to discuss any comments you may have regarding the Idaho Power language.

**MICROFILMED**

John Rosholt

-2-

March 14, 1978

Thank you for your cooperation, and I apologize again for the time delay.

Cordially,

  
JOSEPHINE P. BEEMAN  
Assistant Attorney General  
Legal Counsel, Idaho Department of Water Resources

JPB:dlc

Encls.

**MICROFILMED**

State of Idaho

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Date :

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(for Snake River be-  
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*Presented  
at the  
State  
Water  
Plan  
Approved  
By the  
Legislature*

**MICROFILMED**

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Chief, Operations Bureau

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State of Idaho

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Mailing address:  
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Date \_\_\_\_\_

RE: Permit No. \_\_\_\_\_

Letter for Surface & Ground-  
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Address \_\_\_\_\_

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**MICROFILMED**

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Chief, Operations Bureau

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**MICROFILMED**

State of Idaho  
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: KC Wilson

APPLICATION NUMBER: 31 7378

CHECK:

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

Field check by: \_\_\_\_\_  
Date: \_\_\_\_\_  
Comments: \_\_\_\_\_

\*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: \_\_\_\_\_

SEND COPIES TO:

- ☐ Idaho State Health Department.  
☐ Idaho Fish and Game Department.  
☐ Idaho Department of Lands.  
☐ U.S. Bureau of Land Management.  
☐ U.S. Forest Service.  
☐ Other \_\_\_\_\_

Copies sent by: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROCESSING:

- ☐ Yes ☒ No Platted by: \_\_\_\_\_ Map No. \_\_\_\_\_  
☒ Yes ☐ No Other rights on same place of use. Permit 31-7248 + Permit 31-7249  
☒ Yes ☐ No\* In form for advertising. Oct 24, 1983  
Final date for protests: \_\_\_\_\_  
☐ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 11/7/83  
☒ Application published correctly. If not, record action taken: \_\_\_\_\_  
☐ Fee amount, receipt date & number, recorded on application.  
☐ Publication dates and paper, recorded on application.  
☐ Protests, dates, withdrawal, etc., recorded on application.  
☐ Recommendation & initial, recorded on application.  
☒ Yes ☐ No Measuring device required.  
☐ Yes ☐ No Access port required.  
☒ Yes ☐ No Will water be delivered by watermaster? If yes, what district? 01 (see conditions)  
12/15/83 Date of priority recommended.  
Special conditions of approval or cover letter. See attached sheet

STATE OFFICE REVIEW:

By: RDC Date: 3/12/85

- ☐ See attached sheet for more information.  
By: \_\_\_\_\_

Date: \_\_\_\_\_

RECEIVED  
MAR 20 1985

Department of Water Resources

MICROFILMED

MICROFILMED

POINT OF DIVERSION AND STREAM INDEX INFORMATION

| TRACT                   | SEC | TWP | RGE | gov't<br>lot | rediv.<br>(R) | REACH |
|-------------------------|-----|-----|-----|--------------|---------------|-------|
| IDAHO STREAM CODE INDEX |     |     |     |              |               |       |

| TRACT                   | SEC | TWP | RGE | gov't<br>lot | rediv.<br>(R) | REACH |
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|-------------------------|-----|-----|-----|--------------|---------------|-------|
| IDAHO STREAM CODE INDEX |     |     |     |              |               |       |

NOTICE OF APPLICATION FOR WATER RIGHT

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

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before OCTOBER 24, 1983.

KEN DUNN, Dir.

Published 10/6 & 10/13/83.

**MICROFILMED**

31-2328-

MARTIN FAMILY TRUST

P.O. BOX 278, IDAHO FALLS, ID 83402

Source: GROUNDWATER

Date Filed: 12/15/1982

Diversion Pt. SENW, Sec 33 T 06N R 34E

Use: IRRIGATION (4.54 CFS)

In. NENW MNW SWNW SENW NESE NWSE SWSE ESE Sec 33 T 06N R 34E  
FOR 227 ACRES

**MICROFILMED**