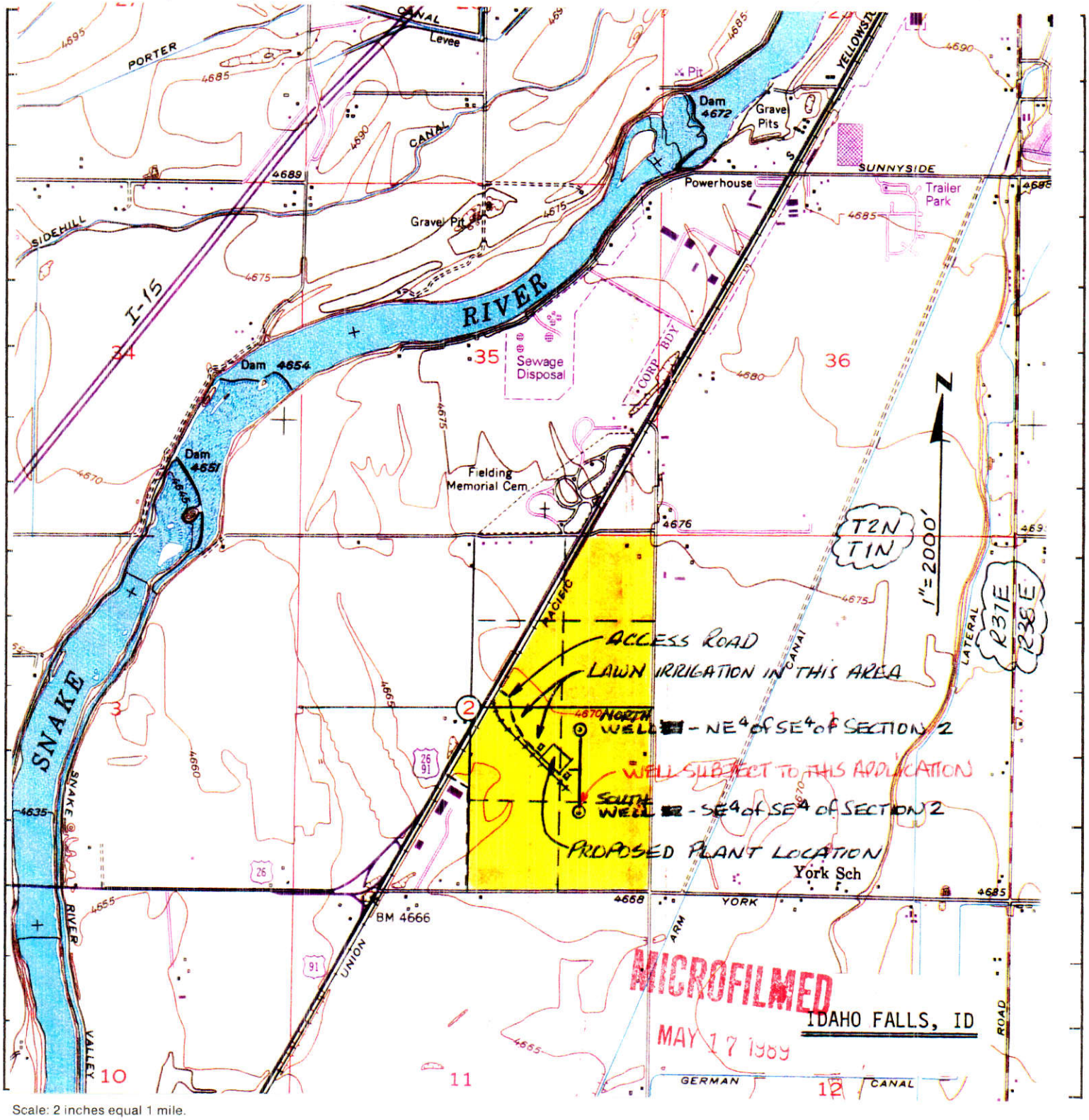
13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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.

Raymond E Doff
(Applicant)
Vice President and Group Executive
Anheuser-Busch Cos., Inc.

Proof of Publication

The Post-Register

RECEIVED
FEB 28 1989
Department of Water Resources
Eastern District Office

State of Idaho,
County of Bonneville } ss

I, Dick Hardy, first being duly sworn, depose and say: That I am the Asst. Foreman of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 16th day of February, 19 89, last publication having been made on the 23rd day of February, 19 89, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Dick Hardy

Subscribed and sworn to before me, this 27th day of February, 19 89

Notary Public

My commission expires September 30, 19 94.

NOTICE OF APPLICATION FOR WATER RIGHT

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

25-07485
BUSCH AGRICULTURAL RESOURCES INC.
C/0 CLIFFORD MAHIN, P.E.,
ANHEUSER—BUSCH COS., INC,
ONE BUSCH PLACE
ST. LOUIS, MO 63118
Source: GROUNDWATER
Diversion Pt: NWSESE Sec 2 T 01N R 37E
Use: INDUSTRIAL (6.000 CFS)
Date Filed: 2/01/1989
In: T01N R37E S02 NESE NWSE

25-07486
BUSCH AGRICULTURAL RESOURCES INC.
C/0 CLIFFORD MAHIN, P.E.
ANHEUSER—BUSCH COS. INC
ONE BUSCH PLACE
ST. LOUIS, MO 63118
Source: GROUNDWATER
Diversion Pt: NWNESE Sec 2 T 01N R 37E
Use: INDUSTRIAL (6.000 CFS)
Date Filed: 2/01/1989
In: T01N R37E S02 NESE NWSE

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, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before MARCH 6, 1989.

R. Keith Higginson, Director
Published: February 16, 23, 1989

MICROFILMED
MAY 17 1989

Form 219
6/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 25-7485 / ~~7486~~

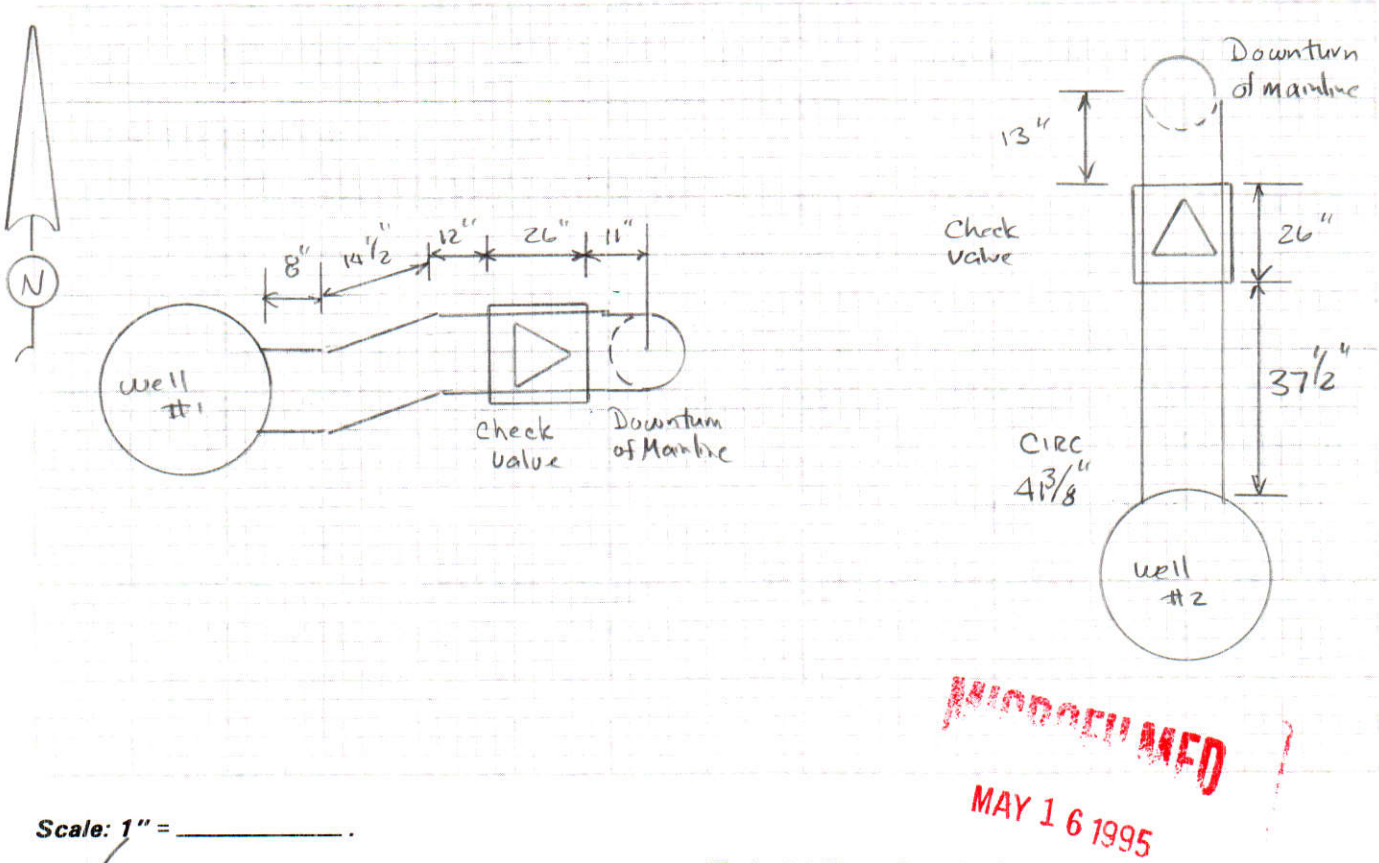
1. Owner: Busch Agricultural Resources Inc Phone No. (314) 577-9987
   Current Address: One Busch Place, St. Louis, Mo. 63118-1852
2. Accompanied by: Gary Warren EXAM. DATE: 7 Aug 1992
   Address: P.O. Box 51628 Idaho Falls Id 83405 Phone No. _____
   Relationship to Permit Holder: Maintenance Supervisor
3. Source: GROUNDWATER tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE
   _____ ☐ Copies Attached
2. Other water rights with same point of diversion: 25-7485/7486
   _____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached

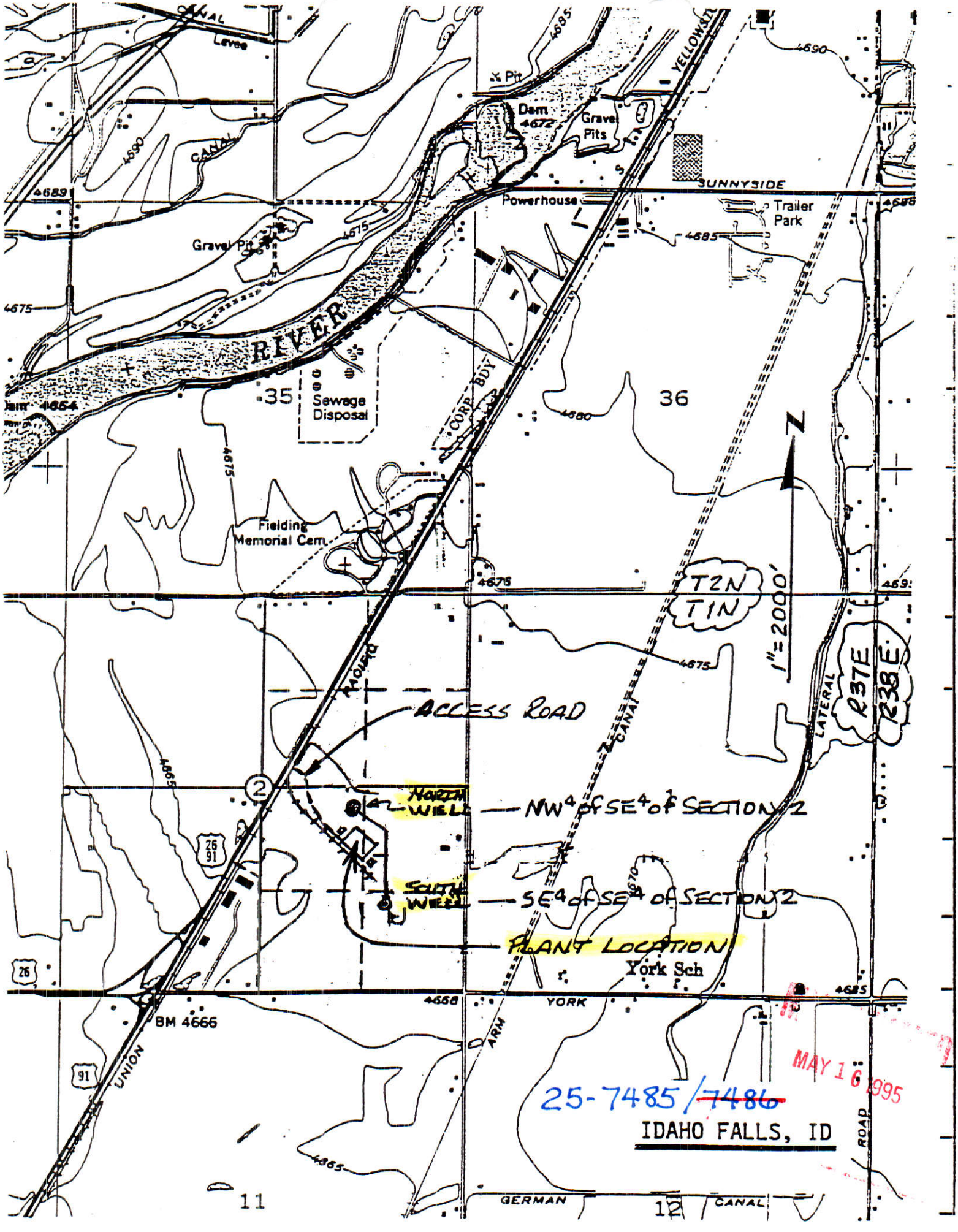


RECEIVED
MAY 16 1995

Scale: 1" = _____.

2. ☑ Copy of U.S.G.S. 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 or more).
   ☐ Photo of Diversion and System Attached
   (required for all but single household domestic groundwater, and stockwater.

d project: show clearly the proposed point of diversion, place of use, section number, ige number.



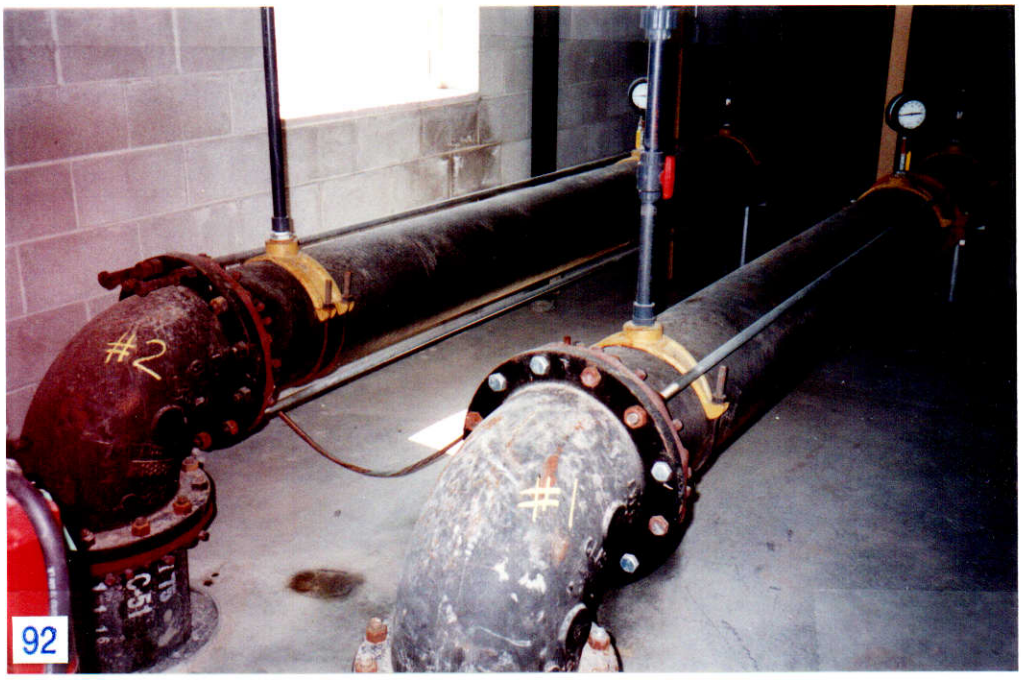
MAY 16 1995

25-7485 / ~~7486~~

IDAHO FALLS, ID

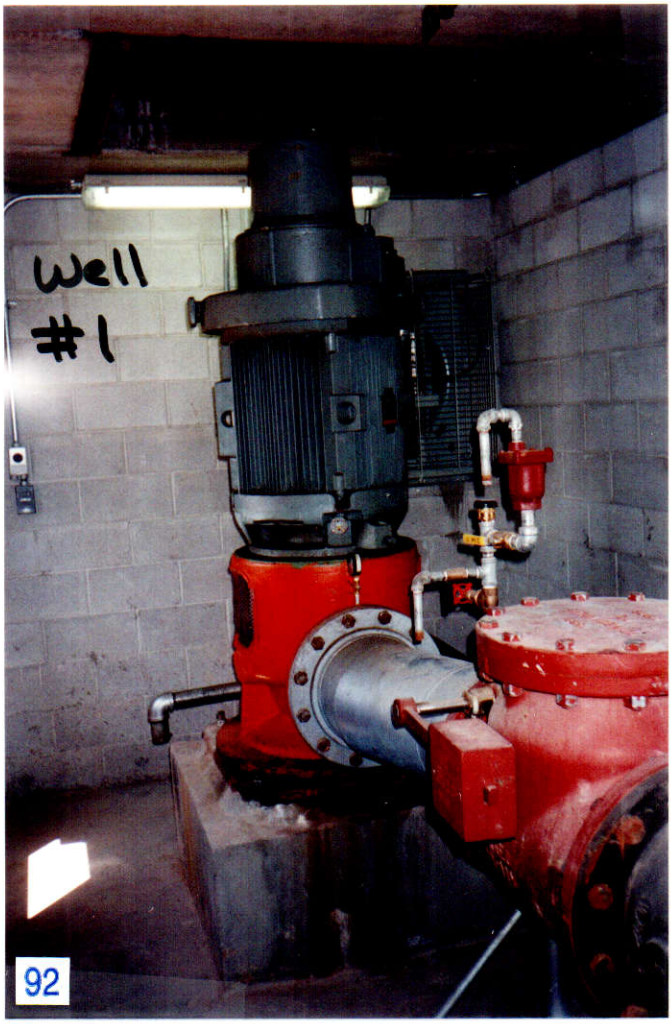


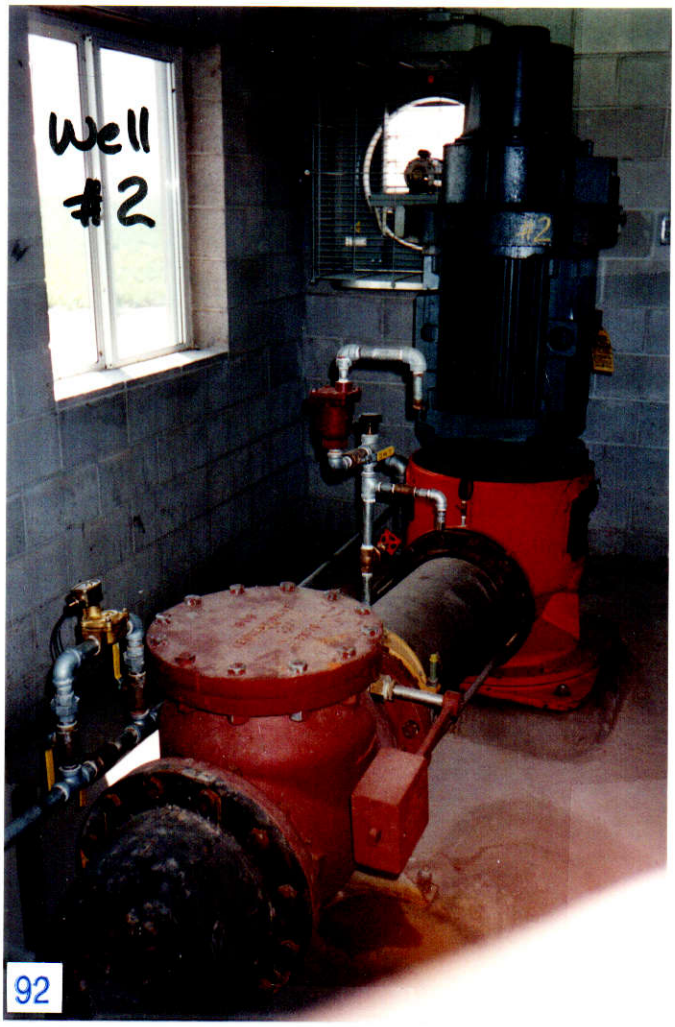
Mainlines into Storage tank

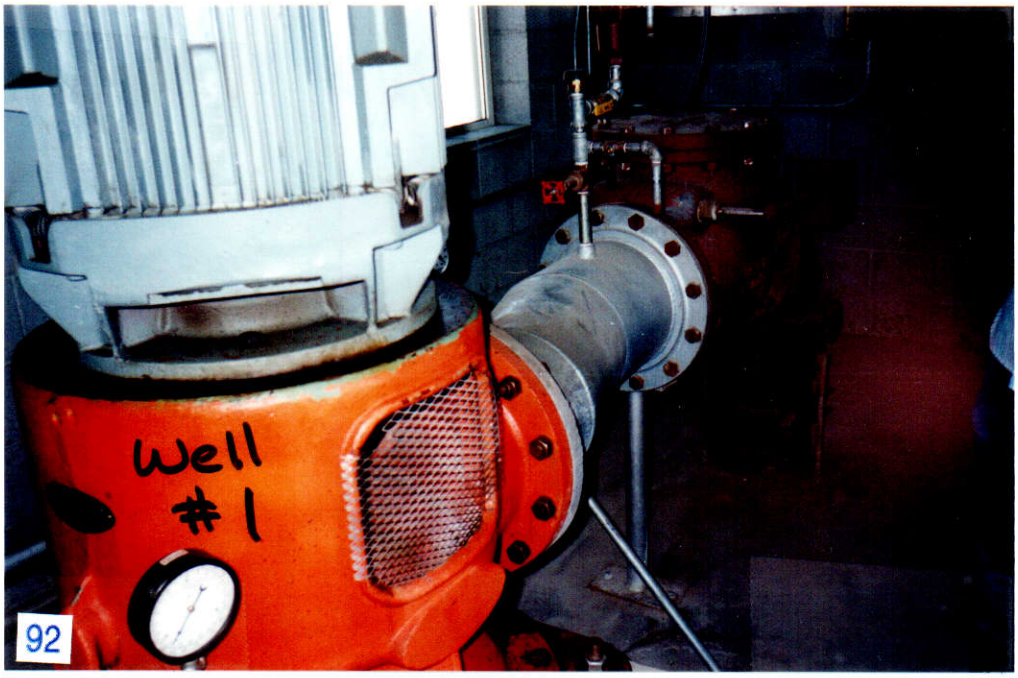


25-7485
25-7486

MAY 16 1995







25-7485
25-7486

MAY 16 1995

25-07485

BUSCH AGRICULTURAL RESOURCES INC.
C/O CLIFFORD MAHIN, P.E.,
ANHEUSER-BUSCH COS., INC,
ONE BUSCH PLACE
ST. LOUIS, MO 63118

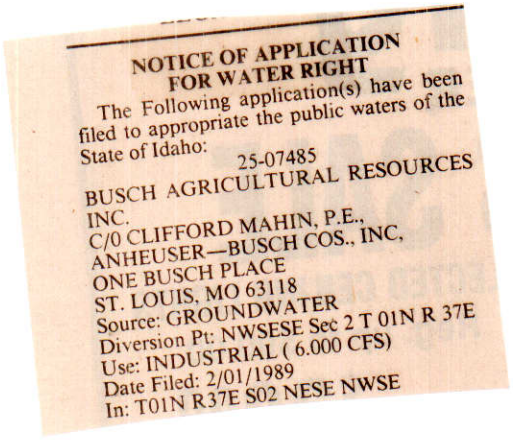
Source: GROUNDWATER

Diversion Pt: NWSESE Sec 2 T 01N R 37E

Use: INDUSTRIAL (6.000 CFS)

Date Filed: 2/01/1989

In: T01N R37E S02 NESE NWSE



NOTICE OF APPLICATION
FOR WATER RIGHT

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

25-07485
BUSCH AGRICULTURAL RESOURCES INC.
C/O CLIFFORD MAHIN, P.E.,
ANHEUSER—BUSCH COS., INC,
ONE BUSCH PLACE
ST. LOUIS, MO 63118
Source: GROUNDWATER
Diversion Pt: NWSESE Sec 2 T 01N R 37E
Use: INDUSTRIAL (6.000 CFS)
Date Filed: 2/01/1989
In: T01N R37E S02 NESE NWSE

MICROFILMED
MAY 17 1989

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 25-07485

Priority: February 1, 1989 — **Maximum Diversion Rate:** 6.00 CFS; **Maximum Diversion Volume:** 1954.7 AF

This is to certify, that BUSCH AGRICULTURAL RESOURCES INC
C/O CLIFFORD MAHIN
ANHEUSER-BUSCH COS INC
ONE BUSCH PLACE
ST LOUIS MO 63118-1852 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 1, 1989; and has submitted Proof of Beneficial Use on July 29, 1991. An examination indicates that the works have a diversion capacity of 13.280 cfs of water from a **GROUNDWATER** source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
INDUSTRIAL	01/01 to 12/31	6.00 CFS	1954.7 AF

LOCATION OF POINT(S) OF DIVERSION: NWSE , Sec. 2, Township 01N, Range 37E
SESE , Sec. 2, Township 01N, Range 37E
BONNEVILLE County

PLACE OF USE: INDUSTRIAL

TWN	RGE	SEC		
01N	37E	2	NESE	NWSE

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Water used under this right if discharged directly into a natural channel or subsurface system shall meet Idaho Water Quality Standards.
6. Industrial use is for a malting plant facility.

MICROFILMED
MAY 16 1995

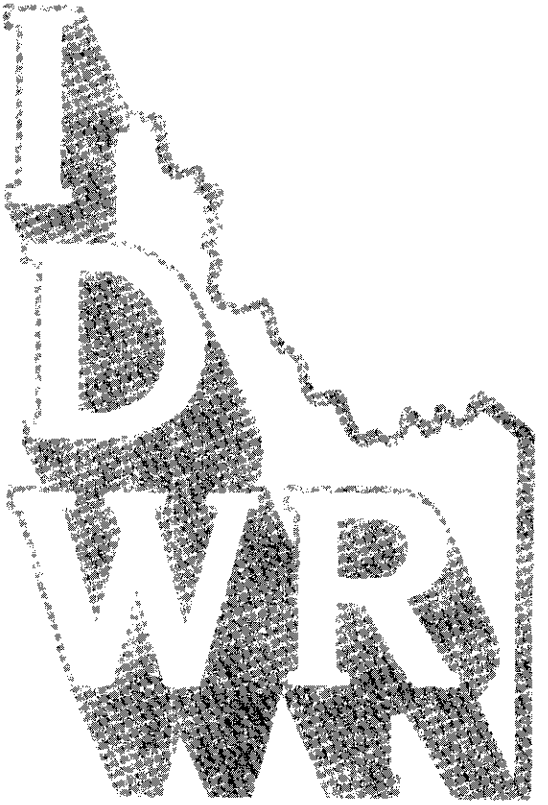
State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 25-07485

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 5th day of May, 1995.

Acting for R. Keith Higginson, Director



AUTHENTICATED
MAY 16 1995

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 25-07485

Date of Priority: February 1, 1989 Maximum Diversion Rate: 6.00 CFS
Maximum Diversion Volume: 1954.7 AF

Comes now BUSCH AGRICULTURAL RESOURCES INC
C/O CLIFFORD MAHIN
ANHEUSER-BUSCH COS INC
ONE BUSCH PLACE
ST LOUIS MO 63118-1852 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. 25-07485, and requests that the permit be changed as follows:

Source: **GROUNDWATER**

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
INDUSTRIAL	01/01 to 12/31	6.00 CFS	1954.7 AF

LOCATION OF POINT(S) OF DIVERSION: NWSE , Sec. 2, Township 01N, Range 37E
SESE , Sec. 2, Township 01N, Range 37E
BONNEVILLE County

PLACE OF USE: INDUSTRIAL

TWN	RGE	SEC		
01N	37E	2	NESE	NWSE

MIDDLETON
MAY 16 1995

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 at Boise, Idaho, this 5th day of May, 1995.

Jeffrey C. Fereday
(Signature)
attorney-in-fact for
Anheuser-Busch Cos. Inc.

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT

WATER RIGHT NO. 25-07485

****

For Department Use Only

Preliminary check by ____ Fee 50.00 Receipted by JW # 0039597 Date 5-5-95

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, R Keith Higginson, of the Department of Water Resources hereby approve the above Application for Permit No. 25-07485 with the following:

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.

2. This water right is appurtenant to the described place of use.

3. This right is subject to all prior water rights and may be forfeited by five years of non-use.

4. Modifications to or variance from this license must be made within the limits of Section 42-222, IDAHO CODE, or the applicable Idaho Law.

5. Water used under this right if discharged directly into a natural channel or subsurface system shall meet Idaho Water Quality Standards.

6. Industrial use is for a malting plant facility.

Witness my hand this 5th day of May, 1995.

R. Keith Higginson, Director

FILED
MAY 16 1995

25 7485

Form 202
6/85

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

"south well"

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Busch Agricultural Resources, Inc. Phone (314) 577-4424

   Post office address c/o Clifford Mahin, P.E., Anheuser-Busch Cos., Inc., One Busch Place St. Louis, MO 63118

2. Source of water supply groundwater which is a tributary of _____

3. Location of point of diversion is NW ¼ of SE ¼ of SE ¼, Govt. Lot _____

   Sec. 2 Township 1N Range 37E B.M. Bonneville County; additional points of diversion if any: _____

4. Water will be used for the following purposes:

   Amount 6.0cfs for industrial purposes from January 1 to Dec. 31 (both dates inclusive)
   (cfs ~~or acre-feet per annum~~)

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

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

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

5. Total quantity to be appropriated is (a) 6.0 (cubic feet per second) and/or (b) 1950 (acre feet per annum)

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. See Attachment "A"

   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.

   c. Proposed well diameter is 22 inches; proposed depth of well is approx. 800 feet.

   d. Is ground water with a temperature of greater than 90°F being sought? No

MICROFILMED MAY 17 1989

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*). for entire project. Construction to begin in Spring 1989. Water will be required for various project purposes throughout the construction phase of 1-2 years, with full flow required upon plant start-up.

8. Description of proposed uses (*if irrigation only, go to item 9*):

a. Hydropower; show total feet of head and proposed capacity in KW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. See Attachment A

9. Description of place of use:

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

b. If water is used for other purposes, place a symbol of the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	37E	2													I	I			

Total number of acres to be irrigated _____

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

11. a. Who owns the property at the point of diversion? Applicant

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

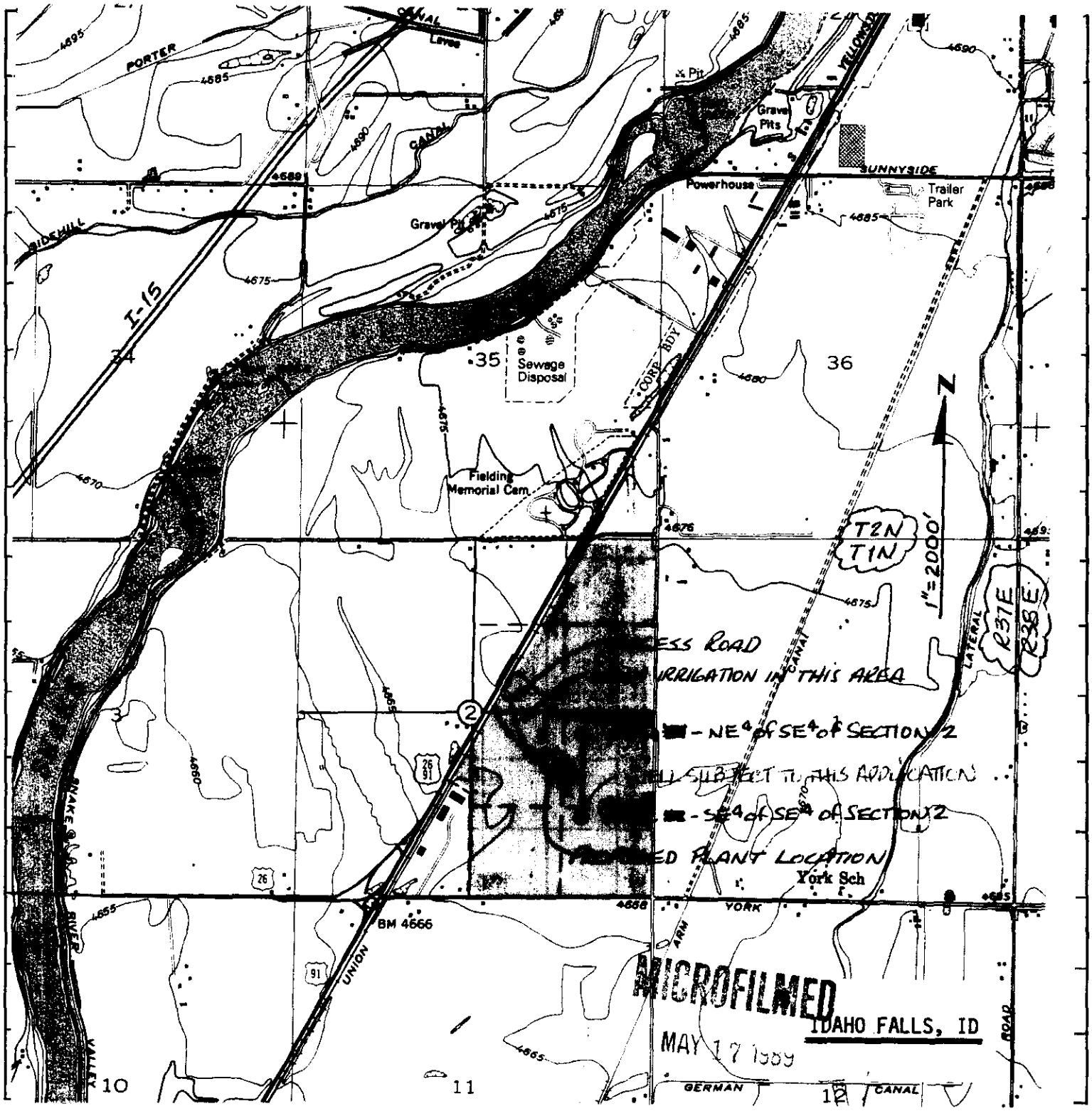
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: This water right is to be used in conjunction with a second ground-water right for the same size well to be located in the NW NE SE 1/4 section 2, T 1N R 37 E, application for which is being filed simultaneously with this application.

RECEIVED

MAY 17 1996

13. 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.

Raymond E Doff
(Applicant)
Vice President and Group Executive
Anheuser-Busch Cos., Inc.

Proposed Priority 2/1/89

Received by HWJ Date 2-1-89 Time 2:00 pm Preliminary check by HWJ

Fee $ 145.00 Receipted by HWJ # E605667 Date 2-1-89

Publication prepared by QB Date 2/9/89 Published in Post-Register 2-16 & 2-23-89

Publication approved KW Date 3/14/89

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. 25-7485, and said application is hereby APPROVED.

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

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before April 1, 19 94.

   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. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

   e. Other: SEE ATTACHED SHEET FOR CONDITIONS e thru k.

Witness my hand this 4th day of April, 1989.

R. Keith Higginson

MICROFILMED
MAY 17 1989

ATTACHMENT TO CONDITIONS OF APPROVAL

FOR PERMIT NO. 25-7485

e. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

f. Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

g. The right to the use of water acquired under this permit shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

h. The Director retains jurisdiction of the permit and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

i. 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.

j. In the event that water used under this permit should be discharged into a natural channel, settling ponds will be required which are capable of reducing the silt load to such a level that the quality of the water would not be impaired for other beneficial uses.

k. Water used under this permit if discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.

Witness my hand this 4th day of April, 1989.

L. Glen Saxton

MICROFILMED

MAY 17 1989

ATTACHMENT A

(South Well)

In this application, Busch Agricultural Resources, Inc., a subsidiary of Anheuser-Busch Companies, Inc., seeks a reliable source of groundwater for use in a barley malting plant to be constructed south of Idaho Falls, Idaho. This application seeks a permit for one of two wells with the same capacity that will supply this use. This application is being filed simultaneously with an application for a well of the same capacity to be constructed about 1400 feet north of this well in the NW¼ NE¼ SE¼ of section 2, T 1N, R 37E, B.M. For purposes of convenience, the well subject to this application is termed the "south well"; the other will be referred to as the "north well."

The south well is to be capable of supplying 6 cfs, the average daily flows needed to operate the plant. However, it can provide only about one-half of the peak flow needed (about 5400 gpm, or 12 cfs) to supply operations in the initial phase. Both wells are integral parts of the project, although only one of them may be necessary in the first construction phase and thereafter when flows approaching the peak are not required. Diversions from the south well will total approximately 1950 acre-feet annually.

The completed plant will process 16 million bushels of barley annually, although its initial phase of operations will process 8 million bushels. Water from the south well will be used for washing, germinating and other purposes associated with the project. Approximately 95% of the water used in the plant will be discharged in the form of wastewater, which will be treated and returned to surface water sources tributary to the Snake River.

A small amount of the water produced from the south well will be used to irrigate approximately 8 acres of lawn and lansdcaped area associated with the plant (to the extent that water for this purpose is not supplied from the north well). The consumptive use for this purpose is expected to be approximately 12 acre-feet annually.

MICROFILMED
MAY 17 1989

LAW OFFICES
GIVENS, MCDEVITT, PURSLEY, WEBB & BUSER

REBECCA W. ARNOLD
ELEANORE S. BAXENDALE*
CHRISTOPHER J. BEESON
PAUL J. BUSER
JEFFREY C. FEREDAY
RAYMOND D. GIVENS
JAMES D. HANSEN
JUDITH K. HOLCOMBE
KENNETH R. MCCLURE
CHAS. F. MCDEVITT
LEO EDWARD MILLER
PATRICK J. MILLER
TERRY L. MYERS
STEVEN L. OLSEN
KENNETH L. PURSLEY
MICHAEL T. SPINK
CONLEY WARD
JAY L. WEBB
*ALSO ADMITTED IN OREGON

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

TELEPHONE
(208) 342-6571

TELECOPIER
(208) 343-9492

RECEIVED
FEB 24 1989
Department of Water Resources

February 23, 1989

SERVED
MAR 3 1989
Department of Water Resources
Eastern District Office

Mr. Gary Spackman, Supervisor
Water Allocation Section
Idaho Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

Re: Anheuser-Busch applications

Dear Gary:

As you requested, the officers and directors of Busch Agricultural Resources, Inc. are:

Officers

Raymond E. Goff	Chairman of the Board
Donald W. Kloth	President
John A. Brussman	Vice President and General Manager
John L. Hayward	Secretary
JoBeth Brown	Assistant Secretary
Gerald C. Thayer	Treasurer
Richard N. Hill	Assistant Treasurer
Albert R. Wunderlich	Treasurer

Directors

Raymond E. Goff
A. J. Steinhubl
N. F. Norkaitis
Osmond Conrad
Donald W. Kloth
John A. Brussman
Gerhardt A. Kraemer
Richard T. Bennett
Melvin Anderson

MICROFILMED
MAY 17 1989

Please include this in the file of the applications we filed for Busch on January 30, 1989. Thank you.

Very truly yours,

Jeffrey C. Fereday

JCF:gc

cc: Cliff Mahin, P.E.
Sandy J. Cortopassi, Esq.

MICROFILMED
MAY 17 1989

Proof of Publication

The Post-Register

RECEIVED
FEB 20 1989
Department of Water Resources
Eastern District Office

State of Idaho,
County of Bonneville } ss

I, Dick Hardy, first being duly sworn, depose and say: That I am the Asst. Foreman of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

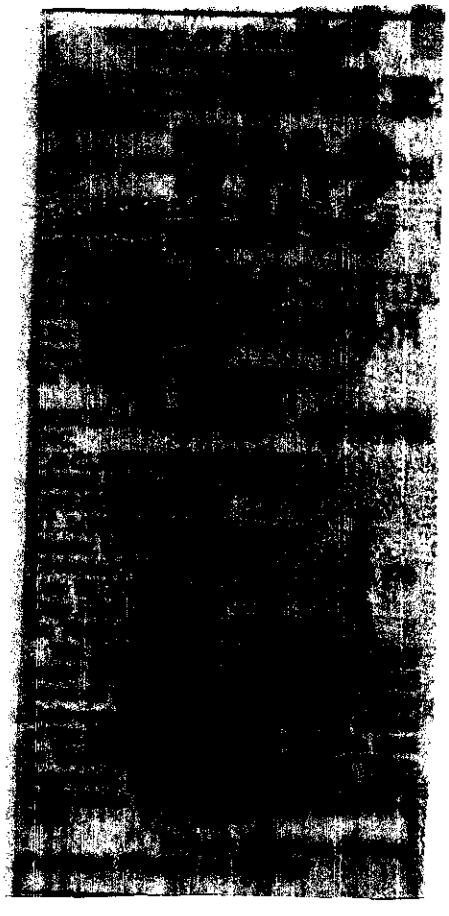
That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 16th day of February, 19 89, last publication having been made on the 23rd day of February, 1989, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Dick Hardy

Subscribed and sworn to before me, this 27th day of February, 19 89

Deann Napier
Notary Public

My commission expires September 30, 19 94.



MICROFILMED
JUN 17 1989

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 25, 2001

Ms. Jan Ferguson Klamer, Esq.
Anheuser-Busch Cos., Inc.
Executive Offices
Legal Dept., 202-6
1 Busch Plaza
St. Louis, MO 63118-1852

VIA FACSIMILE TO (314) 577-0776 AND FIRST CLASS MAIL

Re: Water Right Licenses Held by Busch Agricultural Resources, Inc.
(Licenses No. [redacted] & No. 25-07486)

Dear Ms. Ferguson Klamer:

Following a meeting on September 10, 2001, with Jeff Fereday representing Busch Agricultural Resources, my office has researched the status of the two water rights licenses held by Busch Agricultural Resources for water use at their malting plant near Idaho Falls, Idaho. Each license allows the diversion of up to 1,954.7 acre-feet of ground water per year for industrial purposes at a diversion rate up to 6.0 cubic feet per second. These licenses, issued in 1995, have a priority date of February 1, 1989.

Water diversion and usage reports for the malting plant have been submitted to the Department of Water Resources through the East Water Measurement District. The reports demonstrate that ground water has been diverted under both licenses and used each year for the past three years that reporting has been required. There are no existing or pending administrative actions before the department regarding the continued validity of the water rights, and both licenses continue to be considered valid by the department.

While the validity of the water rights does not appear to be an issue, further implementation of the conjunctive administration of surface and ground water rights could affect the use of the rights held by Busch Agricultural Resources. The department is presently updating its computer-based ground water model of the Eastern Snake Plain Aquifer to improve quantification of the effects of ground water withdrawals on the availability of water from hydraulically connected surface water sources for diversion and use by earlier priority rights. Based in part on this information, the department intends to adopt rules requiring that junior priority ground water rights be managed to protect senior priority surface water rights from

MICROFILMED
OCT 02 2001

injury. The holders of junior priority ground water rights, such as Busch Agricultural Resources, will likely be required to provide appropriate mitigation to address injury to senior priority rights and eliminate the future potential for curtailment of the junior priority rights. Current plans are to have the new ground water model completed in 2003 and rules adopted in 2004.

On an interim basis during the next two years, perhaps longer, Busch Agricultural Resources can shield itself from potential delivery calls from holders of senior priority surface water rights by joining or contracting with the Bonneville-Jefferson Ground Water District for mitigation. The ground water district was formed for the purpose of obtaining and providing mitigation for its members. It is also one of the ground water districts that is finalizing a two-year, stipulated agreement with holders of senior priority surface water rights, or their representatives, under which the senior priority right holders agree not to exercise their priority against junior rights in exchange for certain considerations. I anticipate that at the appropriate time, the Bonneville-Jefferson Ground Water District will implement some other form of mitigation that could shield Busch Agricultural Resources from delivery calls over the long term. Alternatively, the company could develop and submit its own mitigation plan at some point in the future. If this latter approach is selected, a proposed plan would be processed and, if acceptable, approved by the department under Rule 43 of the "Rules for Conjunctive Management of Surface and Ground Water Resources," IDAPA 37.03.01.

If Busch Agricultural Resources chooses to begin the process of developing and submitting its own mitigation plan, please have the appropriate individual contact either Norm Young at the department's main office in Boise or Ron Carlson at the department's regional office in Idaho Falls for further assistance.

Sincerely,

Karl J. Dreher
Director

c: Tim F. Jenson – Busch Agricultural Resources, Idaho Falls
Jeff Fereday – Givens Pursley LLP, Boise
Jay Engstrom – Idaho Department of Commerce, Boise
Ron Carlson – Idaho Department of Water Resources, Idaho Falls
Scott Turlington – Office of Governor Kempthorne

MICRO FILMED
OCT 0 2 2001

RECEIVED
AUG 2 6 1998
Department of Water Resources

RECEIVED
AUG 1 8 1998
Department of Water Resources
Eastern Region

CHANGE IN ADDRESS

This form is solely for purposes of notifying IDWR of a change in address of an adjudication claim.

[ ] Water Right Number(s): A25-07485 A25-07486

[ ] Old Mailing Address: Busch Agricultural Resources Inc.
One Busch Place
St. Louis, MO 63118-1852

[✓] New Mailing Address: Busch Agricultural Resources Inc.
P.O. Box 51628
Idaho Falls, ID 83405

[✓] Telephone Number: (208) 522-5501

[ ] Signature of Claimant: [signature]

[ ] Date: August 13, 1998

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: By:
Further Action Needed:
Further Action Taken
Date: By:
Final Review and Data-Entry - WR2 database
Date: 8.26.98 By: Kari Lepus

MICROFILMED
OCT 0 2 2001

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 8, 1995

BUSCH AGRICULTURAL RESOURCES INC
C/O CLIFFORD MAHIN
ANHEUSER-BUSCH COS INC
ONE BUSCH PLACE
ST LOUIS NO 63118-1852

RE: WATER RIGHT NOS. 25-07485 AND 25-07486

Dear Water Right Holder(s):

Enclosed are copies of the Water Right Licenses issued on the above referenced permits along with copies of your approved Applications for Amendment.

Should you have any questions regarding these documents, please contact me at (208) 327-7946.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SWK:rl

Enclosures

MICROFILMED

MAY 16 1995

RECEIVED
JUN 0 9 1994
Department of Water Resources

GARY G. ALLEN
REBECCA W. ARNOLD
JOSEPH H. BAIRD
CHRISTOPHER J. BEESON
JOANN C. BUTLER
MICHAEL C. CREAMER
ROY L. EIGUREN
JEFFREY C. FEREDAY
JULIE KLEIN FISCHER
RAYMOND D. GIVENS
L. W. GRANT, III
JUDITH K. HOLCOMBE
ROBERT C. HUNTLEY, JR.
DAVID R. LOMBARDI
KENNETH R. McCLURE
CHRISTOPHER H. MEYER
L. EDWARD MILLER
PATRICK J. MILLER
JUDSON B. MONTGOMERY
TERRY L. MYERS
RAMONA S. NEAL
STEVEN L. OLSEN
W. HUGH O'RIORDAN
KENNETH L. PURSLEY
GREGORY J. VIETZ
CONLEY WARD
STEVEN R. WEEKS
STEPHANIE C. WESTERMEIER

LAW OFFICES
GIVENS PURSLEY & HUNTLEY
SUITE 200, PARK PLACE
277 NO. 6TH STREET
POST OFFICE BOX 2720
BOISE, IDAHO 83701

JAMES A. McCLURE
OF COUNSEL

DAVID E. MABE
LEGISLATIVE SPECIALIST

TELEPHONE
(208) 342-6571

FACSIMILE
(208) 343-9492
(208) 342-8920

WRITER'S DIRECT DIAL
(208) 387-1201

June 8, 1994

Mr. Jim Johnson
Water Rights Supervisor
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706-2237

Re: Busch Agricultural Resources, Inc.
Water Right Nos.: 25-07485 and 25-07486

Dear Jim:

This is in response to your letter of June 1, 1994 to Busch Agricultural Services, which this firm represents. In that letter you asked that Busch respond within fourteen days (or June 15, 1994).

I spoke with your assistant Brenda Chapman, and explained that the two attorneys who have been working on the file (Jeff Fereday and Mike Creamer) are both out of town this week. Ms. Chapman stated that we may have until June 24, 1994 to respond, without jeopardizing any of Busch's rights.

I write to confirm this arrangement for your file.

Sincerely,

Christopher H. Meyer

MICROFILMED
MAY 16 1995

cc: Jane Ferguson Klamer
Jeff Fereday
Mike Creamer

CHM:caw
60\CHM-JOHN.L01

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 1, 1994

BUSCH AGRICULTURAL RESOURCES INC
C/O CLIFFORD MAHIN
ANHEUSER-BUSCH COS INC
ONE BUSCH PLACE
ST LOUIS MO 63118-1852

RE: WATER RIGHTS 25-07485 & 25-07486

Dear Water Right Holder(s):

The above referenced water rights are still in the process of being licensed. However, before the licenses can be issued, both permits must be amended to reflect corrections in the point of diversion description. In 1993 we forwarded to you Applications for Amendment (for licensing purposes) so that both permits could be amended to correspond with the findings of the Department's field examiner.

Correspondence with legal representatives of Anheuser-Busch and further departmental administrative review resulted in several adjustments being made to the proposed licensing Amendments. Enclosed are copies of the two proposed Amendments.

Please review carefully and if you concur, sign the Amendments and return with the $40.00 filing fees ($20.00 for each Amendment) within 14 days. If you do not concur with this information, please contact me as soon as possible. My telephone number is (208) 327-7947.

Sincerely,

JIM JOHNSON
Water Right Supervisor

Enclosures

MICROFILMED

MAY 16 1995

MEMORANDUM

Date: July 15, 1993

From: Jim Johnson

To: Files 25-07485 and 25-07486

Subject: Licensing

==========

In preparing the license to reflect the changes in Norm's letter of June 29, 1993, I noted that we still have not received an application for amendment of permit correcting the location of the point of diversion to the location found by the field examiner.

Per recommendation by Norm no action should be taken requesting the amendment for two weeks. This will allow time to see if the permit holder is going to respond to the June 29th letter.

MICROFILMED

MAY 1 6 1995

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT
(REGIONAL)

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	BUSCH AGRICULTURAL RESOURCES INC C/O CLIFFORD MAHIN ANHEUSER-BUSCH COS INC ONE BUSCH PLACE ST LOUIS MO 631181852 (314) 577-9987	02/01/1989	INDUSTRIAL	01-01	12-31	6.00 CFS	1954.7 AFA
				TOTAL DIVERSION:		6.00 CFS	1954.7 AFA

Water Source: GROUNDWATER Tributary to: Stage: LICENSE

Point(s) of Diversion Capacity: 13.28 CFS

Point(s) of Diversion: T01N R37E S02 NW SE SE SE

Place of use Legal Description for: INDUSTRIAL

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
01N	37E	2													I	I		

Pou County: BONNEVILLE

Other Rights: NONE

Conditions of Approval:

048 - The use of water under this right shall not give rise to any
- claim against the holder of a senior water right based upon the
- theories of forfeiture, abandonment, adverse possession, waiver,
- equitable estoppel, estoppel by laches or customary preference.

049 - The Director retains jurisdiction of the right to incorporate
- the use into a water district, require streamflow augmentation
- or other action needed to protect prior surface water and
- groundwater rights.

Remarks: Water used under this right if discharged directly into a natural channel or subsurface system shall meet Idaho Water Quality Standards.
Industrial use is for a malting plant facility.

Dates:
App. Received: 02/01/1989 Priority Date: 02/01/1989
Proof Due Date: 04/01/1994 Proof Made Date: 07/29/1991
Exam Made Date: 08/07/1992 Exam Sent to S.O.: 10/23/1992
Licensed Date:

Misc: Water District Number: Field Exam Fee:

Audit: 07/01/93 CHAPMAN

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 29, 1993

Jeffrey C. Fereday
GIVENS PURSLEY & HUNTLEY
277 North 6th Street
P.O. Box 2720
Boise, Idaho 83701

RE: PERMITS 25-07485 AND 25-07486 IN THE NAME OF BUSCH AGRICULTURAL RESOURCES, INC.

Dear Mr. Fereday:

I have reviewed your letter dated June 17, 1993, together with your arguments objecting to conditions 5, 6, and 7 which IDWR proposes to include on licenses for the above referenced permits. You have also questioned the annual volume proposed to be included on each of the licenses.

With respect to proposed condition 5, in a telephone conversation with Mr. Mike Creamer of your office, I indicated that the condition does not affect the right of your client to assert that senior rights have been lost by operation of law where such loss is not alleged to have occurred because of the uses allowed under rights 25-07485 and 25-07486. The purpose of the condition is to reassure the senior surface right holders that issuance of the permit and use of the water will not deprive them of part of their valid water rights. Without the condition being made part of the permit, some of the right holders were concerned that they were at risk of progressively losing water to junior users unless they immediately took administrative and judicial actions to stop use by junior ground water pumpers thought to be depleting surface flows.

Your contention that the letter to the canal companies is not binding on your clients and that it does not apply to uses other than irrigation may be correct. Whether or not these conditions are required by the letter, IDWR has discretion to condition licenses as necessary to protect prior rights. Given the size of the water uses under your client's permits and the need to administer rights for all uses from the same source under a single priority list, condition 5 is necessary and appropriate and will be included in the license.

MICROFILMED
MAY 16 1995

Condition 6 is, as you note, a subset of condition 3 which recites that your client's permits, like all other water rights in Idaho, are subject to prior rights. Whether or not condition 6 is attached to the licenses, operation of the priority system as needed to protect prior rights could require your client to either reduce diversions or take other actions such as providing replacement flows to offset depletions in surface flows caused by pumping of the wells. By acceptance of this condition on the license, your client is not foregoing the opportunity to contest the amount and nature of relief.

The effect of ground water pumping on senior surface water rights from the Snake River and tributaries is a significant issue at this time. As a result, the legislature has funded a study to determine the relationship of existing and potential ground water use on spring discharges and river flows. A part of this study is the development of management methods to allow mitigation or other actions to avoid losses to prior rights caused by junior ground water pumping. Dropping of condition 6 from permits and licenses at this time would be counter to this effort. Your clients did not contest the issuance of the permits with condition 6 being a part of the rights developed under the permits, and I am not disposed to remove or alter it at this time.

With respect to proposed condition 7, I understand your concern for not being able to control the quality of the discharge of the municipal treatment facility. However, a condition needs to be included should the system be changed to discharge directly to a natural stream. The department is agreeable to revising the condition to read essentially as it does on the permits as they were issued; i.e.,

> Water used under this right if discharged directly into a natural channel or subsurface system shall meet Idaho Water Quality Standards.

The proposed volume amount of 1950 acre feet per year for each permit simply reflects "rounding" to an appropriate number of significant figures. However, I am agreeable to using the calculated amount without rounding. The licenses will be issued for 1954.7 acre feet per year as requested.

Sincerely,

NORMAN C. YOUNG
Administrator

MICROFILMED
MAY 16 1995

c. IDWR Eastern Region

RECEIVED
JUN 2 2 1993
Department of Water Resources

DEBRA ALSAKER-BURKE
REBECCA W. ARNOLD
JOSEPH H. BAIRD
NANCY A. BASKIN
CHRISTOPHER J. BEESON
JOANN C. BUTLER
MICHAEL C. CREAMER
JEFFREY C. FEREDAY
JULIE KLEIN FISCHER
RAYMOND D. GIVENS
JUDITH K. HOLCOMBE
ROBERT C. HUNTLEY, JR.
DAVID R. LOMBARDI
KENNETH R. McCLURE
CHRISTOPHER H. MEYER
L. EDWARD MILLER
PATRICK J. MILLER
TERRY L. MYERS
STEVEN L. OLSEN
KENNETH L. PURSLEY
CONLEY WARD
STEPHANIE C. WESTERMEIER

LAW OFFICES
GIVENS PURSLEY & HUNTLEY
SUITE 200, PARK PLACE
277 NO. 6TH STREET
POST OFFICE BOX 2720
BOISE, IDAHO 83701

JAMES A. McCLURE
OF COUNSEL

DAVID E. MABE
LEGISLATIVE SPECIALIST

TELEPHONE
(208) 342-6571

FACSIMILE
(208) 343-9492
(208) 342-8920

June 17, 1993

Mr. Norman C. Young
Idaho Department of Water Resources
1301 Orchard Street
Statehouse Mail
Boise, ID 83720

Re: Busch Agricultural Resources Water
Right Permit Nos. 25-07485 and 25-07486
Our File: 60-10

Dear Norm:

Pursuant to your discussion with Mike Creamer several weeks ago, I am writing you on behalf of our client Busch Agricultural Resources, a subsidiary of Anheuser-Busch Companies, Inc. ("Anheuser-Busch") to explain its serious concerns regarding certain of the conditions proposed by the Department for the above-referenced water rights which are ready to go to license. For the reasons stated below, Anheuser-Busch is requesting that Conditions 5, 6 and 7 be removed from its final licenses, and that the total diversion volume permitted under the two rights be changed to 3909.5 acre-feet per year, or 1954.74 acre-feet per year for each licensed right.

By way of background, the malt plant has been operating in Idaho Falls, and diverting water under its permits, for approximately 18 months AT full capacity. The plant employs 44 full time employees. Anheuser-Busch's malting process requires a dependable, year-round supply of water. Anheuser-Busch has installed two wells equipped with 150 horsepower pumps. Based on the field examiner's Beneficial Use Field Report, the annual diversion for the malt plant would be limited to 3900 AFA for the two rights. Of this, only 5 to 10 percent

MICROFILMED
MAY 16 1995

actually is consumed by the malting process; the balance is treated at the City of Idaho Falls' wastewater facility and then discharged to the Snake River.

Condition 7 Should be Deleted From the Licenses

Proposed Condition 7 provides that "[r]eturn water shall be treated to insure that the effluent meets Idaho Water Quality Standards." Because Anheuser-Busch discharges its water after use into a publicly owned water treatment facility, it reasonably cannot be the guarantor of the quality of its water when it ultimately is discharged into the Snake River by the City of Idaho Falls. Mike tells me that you agreed during your telephone conversation, that Condition 7 therefore could be removed. My comment was directed toward changing the wording to require only if discharge is directly to a public water stream.

Conditions 5 and 6 Should be Deleted From the Licenses

Proposed Condition 5 provides:

> The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel,estoppel by laches or customary preference.

Proposed Condition 6 provides:

> The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

In your telephone discussion with Mike, you indicated that proposed Conditions 5 and 6 were included in the licenses because of commitments the Department apparently feels it made to the North Side Canal Company and the Twin Falls Canal Company ("Canal Companies") in February of 1989. We have reviewed the copy of Keith Higginson's February 17, 1989 letter to Gary Slette ("1989 Letter"), which you were kind enough to send us. After reading that letter, and in light of your conversation with Mike, it is apparent that proposed Conditions 5 and 6, if actually imposed, would be contrary to law and highly prejudicial to Anheuser-Busch's interests. They have no place in the Anheuser-Busch groundwater licenses. The remainder of this letter outlines the reasons for this conclusion.

MICROFILMED
MAY 16 1995

The 1989 letter apparently was intended to resolve concerns by the Canal Companies that the Department was issuing water right permits without adequately evaluating the availability of water to fill the new right or the impacts of new diversions on the Canal Companies' own rights at Milner. Although there never has been a court or administrative finding of fact to support their view, the Canal Companies take the position that the river above Milner is fully appropriated and that further groundwater development in the "non-trust water" area would injury their rights. The Canal Companies therefore protested numerous permit applications, and petitioned the Department for a moratorium on processing of new applications in the non-trust water area because of these concerns. However, as we understand the facts, the protests and petition were withdrawn prior to the Department's 1989 Letter.

We read the 1989 Letter to be the Director's confirmation that full development of then pending groundwater applications would have a minimal impact on senior surface diversions above Milner. We also read that letter as representing that in specifically limited circumstances the Department might exercise its discretion to impose special conditions on permits and licenses to appropriate non-trust water. However, as explained below, we do not believe that there are any circumstances under which it would be appropriate or legally permissible for the Department to include proposed Conditions 5 or 6 in Anheuser-Busch's licenses.

Anheuser-Busch Cannot be Bound by The Director's 1989 Letter

There are a number of reasons that Anheuser Busch is not bound by the Director's 1989 letter.

(i) First, and foremost, as a legal matter, the Department cannot, unilaterally, and by letter agreement with the Canal Companies, or anyone else, bind persons who are not parties to the agreement. If the 1989 Letter could be deemed a contract (and we do not believe it can be), Anheuser-Busch was not a party, or in privity with any party to it, and therefore is not bound by its terms.

(ii) The 1989 Letter was not the final decision of the Department in an adjudicative matter since the Canal Companies' protests and petition already had been withdrawn and those matters were closed. Therefore, the 1989 Letter does not constitute a quasi-judicial order that could bind anyone.

MICROFILMED
MAY 16 1995

(iii) Even if the 1989 Letter were a valid order, an administrative order can bind only the parties to the particular proceeding, and over whom the Department has acquired jurisdiction.

(iv) Most fundamentally, the 1989 Letter cannot provide any legal basis for the Department to prohibit an appropriator—Anheuser-Busch in this instance—from asserting any defense (such as the Canal Companies' forfeiture of water rights) that might be available to it in the future.

From Mike's conversation with you I understand that since 1989, the Department routinely has included proposed Conditions 5 and 6 in permits and licenses to appropriate water from the non-trust water area. The Department takes the position that the Director's statements to the Canal Companies in the 1989 Letter are "agency statements of general applicability," which, under Idaho law, amount to rules. Such "rules," however, can legally be imposed only after public notice and an opportunity for public comment has been given as required by Chapter 52 of Title 67, Idaho Code. The fact that such conditions would be imposed in non-trust water permits and licenses never has been published by the Department, so the 1989 Letter does not have the authority of a rule.

In our review of the Idaho Code and the Department's published rules, we found nothing that authorizes the Department to impose Conditions 5 or 6 in any license. Water Appropriation Rule 6 (the conditions the Department may impose) states that the Director may condition permits "to retain jurisdiction to insure compliance with the design, construction and operation provisions of the permit." The Rule also allows the Director "to condition permits to insure that established minimum stream flows and prior rights. . . are not injured." There is nothing to suggest that Anheuser-Busch will not comply with the operation provisions of its licenses, and Condition 3 already states that the license is subject to all prior rights.

The Idaho Code authorizes the Department to determine, among other things, whether a proposed appropriation will reduce the quantity of water available to other rights, or will adversely affect the public interest, or is contrary to the conservation of water. Based on the Director's findings on these issues, he may issue the permit, refuse to issue the permit, or grant the permit with conditions. I.C. § 42-203A. We are not aware that the Director has made any findings on these matters with respect to the Anheuser-Busch water permits that could support the imposition of proposed Conditions 5 and 6. We are certain that no such findings could ever be made with respect to Condition 5.

MICROFILMED
MAY 16 1995

Thus, it does not matter whether one analyzes the proposed Conditions as deriving from a contract, from an administrative order, or from a rule; their general application by the Department, without notice and an opportunity to comment, without appropriate findings or without joinder of persons who are to be bound by the Department's decision is contrary to Idaho law.

Condition 5 Would Deprive Anheuser-Busch of a Fundamental Element of its Water Right.

Condition 5 cuts at the heart of an appropriator's fundamental rights under prior appropriation law. By requiring that the non-trust water appropriator accept a license that bars him from claiming, in the appropriate future case, that any other water right (such as the Canal Companies' rights) has been lost through forfeiture, abandonment, estoppel, or otherwise, the appropriator is denied one of the most important components of his water right—the ability to defend it against curtailment by asserting the basic law of prior appropriation, including all defenses offered by the doctrine. A licensee should not be asked to accept such a condition. Anheuser-Busch should retain the right to object to the validity and extent of other water right claims in the SRBA, or to injurious transfers or changes of other rights.

Condition 5, which completely eviscerates the licensee's ability to question whether the stream actually is fully appropriated, is inconsistent with Condition 6, by which the Department which retains jurisdiction to impose augmentation requirements to protect existing rights where a source is fully appropriated.

As we understand the facts, the Department's attempt, in Condition 5, to force a licensee to waive the estoppel and related defenses against a senior right holder is intended to protect the Canal Companies from the kinds of problems Idaho Power Company faced in the Swan Falls dispute. But the problem Idaho Power faced was the same problem *any* senior appropriator faces when it attempts to curtail junior rights. The junior rights always are entitled to discover facts about, and assert, forfeiture, (partial forfeiture) abandonment, waiver, estoppel and other similar arguments in making their case.

More importantly, by imposing proposed Condition 5 the Department unilaterally presumes facts, circumstances and parties that have not yet been brought before it or a court, and permanently undercuts the license holder's ability

MICROFILMED
MAY 16 1995

to respond to whatever those facts and circumstances turn out to be in a particular case.

Issues of forfeiture and abandonment may well come to the fore with respect to many water rights claimed in the SRBA—including some claimed by the Canal Companies or others in the above-Milner area. Should it become necessary to protect the Company's interests, Anheuser-Busch must remain entitled to assert its legal rights. Ironically, we have heard the Deputy Attorney General represent to Judge Hurlbutt that the Department likely will be reporting the Canal Companies' water rights as less than claimed because the Canal Companies may have forfeited or abandoned some portion of them. Anheuser-Busch should be allowed to advance these issues according to its own judgment and the facts as presented in a given case.

Condition 5 is Not Required By the Terms of the 1989 Letter.

Even if the Department could bind all non-parties to the terms of the 1989 Letter, on their face these terms do not apply to Anheuser-Busch's appropriation, which is for a small quantity of groundwater for industrial purposes which will be returned to the Snake River largely unconsumed.

The 1989 Letter proposed using language that was virtually identical to that in proposed Condition 5, but only with respect to applications to appropriate water *for irrigation*. It makes no mention of using the condition in permits for industrial uses like Anheuser-Busch's:

> Applications *for irrigation* will be processed under the existing Water Appropriation rules and regulations, *but will be conditioned* to either retain jurisdiction for future inclusion into a water district or to require future streamflow augmentation and to preclude future assertion that the groundwater use has adversed or is to be administered separate from prior rights. A condition similar to the following *may be imposed as a condition of permit approval as appropriate*:
>
> The right to the use of water acquired under this permit shall be subject to all prior rights and shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

MAY 16 1995

1989 Letter at 4-5 (emphasis added). Thus on its face, the 1989 Letter announced a condition that was to apply only to licenses for irrigation purposes. It would not impose proposed Condition 5 in Anheuser-Busch's permits or licenses.

Even in the irrigation context, and assuming for sake of argument that the letter actually did create some legitimate and enforceable duty or authority in the Department, it is apparent that the Department anticipated retaining its discretion to apply the estoppel condition when "appropriate." Again, we doubt that the Department ever has or could make findings that would support its use.

Condition 6 is Not Required by the Terms of the 1989 Letter

With respect to Condition 6, the 1989 Letter purports to impose the retained jurisdiction condition on DCMI uses only for "large projects," and then only "if necessary." While the Anheuser-Busch malt plant may be a large project in terms of the amount of material processed, the numbers of people it employs, and its contribution to the tax base of the Idaho Falls area, it is an undeniably small project in terms of the amount of water diverted and consumptively used. There is nothing about the nature, quantity or timing of Anheuser-Busch's water use or the malt plant operation to suggest that retained jurisdiction is remotely "necessary" for any purpose. In fact, given the minimal consumptive use, Anheuser-Busch's diversion arguably *enhances* the amount of water available to fill senior surface rights such as the Canal Companies'. Even if the Department were somehow bound by the 1989 letter, and could bind others like Anheuser-Busch, there is sufficient room for discretion in the 1989 Letter for the Director to determine that Condition 6 is not "necessary." Anheuser-Busch is confident that a review of the facts will show that no necessity exists here.

Condition 6 is equally inappropriate from a philosophical standpoint. We do not dispute that the Director has discretion to retain jurisdiction in an appropriate case to insure that any conditions of a water appropriation or transfer are workable and carried out. For example, where a change in place of use has been approved, it might be reasonable for the Director to retain jurisdiction for a sufficient period to confirm that the approval has provided for adequate return flow to protect other rights. In the case of an augmentation plan, it might be appropriate for the Director to retain jurisdiction, for a reasonably short period, to confirm that the plan in practice indeed does protect other rights.

However, the liberal use of retained jurisdiction, without some sideboards on its duration and purposes, allows well-meaning caution to impinge on the time-

MAY 16 1995

honored policy of investing water rights with a degree of security and certainty. The broad and ambiguous retained jurisdiction condition proposed for Anheuser-Busch's proposed licenses goes against this policy without offering any measurable administrative benefit over and above what is provided by Condition 3, which states that the right is subject to all prior rights.

The Diversion Volume for Each License Should be Increased

In reviewing the field examiner's report, and using his numbers, we calculated an annual diversion volume of 1954.74 acre-feet for each of the two rights. This would make the total annual diversion volume under the combined rights 3909.5 acre-feet. Please let us know if the field examiner had a reason to show the annual diversion for each right as 1950 acre-feet.

However, proposed Condition 7 and the discrepancy as to volume are minor matters. Our client's greatest concern is with proposed Conditions 5 and 6.

Conclusion

Anheuser-Busch objects to conditions by which it would waive one of its most important legal protections guaranteed under the appropriation doctrine—namely the right to object to the exercise of water rights that have been lost through non-use or otherwise, and the right to assert such a loss as a defense where a senior seeks to curtail the junior. As drafted, Condition 5 aims directly at such claims and defenses, and compounds the insecurity and uncertainty generated by Condition 6. The proposed conditions actually could immunize forfeited rights from being declared so, which is a result that plainly would run counter to the public interest and the concept of maximum beneficial use, a fundamental dictate of the appropriation doctrine.

New permits and licenses should not be impaired by conditions designed to protect the Canal Companies. They voluntarily withdrew their protests while the estoppel and forfeiture issues were fairly raised, and presumably that decision was made after reflection upon the consequences and risks of leaving the issues unresolved. By imposing the 1989 Letter's terms on all non-trust water permits and licenses, the Department removes all risk from the Canal Companies without a hearing or any facts, thereby depriving applicants of available defenses. The 1989 Letters also place all risk squarely on the applicant's shoulders. Swan Falls was not settled with a letter because, as is the case here, there were numerous holders of junior rights who were fully entitled to be heard. The Department

MAY 16 1995

should not attempt, by a condition in a license, to effectively bar a water right holder from having this same standing.

The Canal Companies retain the ability, through the statutory application/ permit/license process, and in the SRBA, to defend their rights against any claim of estoppel (and even against a claim of "customary preference"). As the Deputy Attorney General argued, that is what the Canal Companies should have done when they recently brought their suit to enjoin the Department from granting any new permits in the non-trust water area. The Department makes that argument to the court, yet supports the opposite result when conditioning licenses.

Finally, the Department has no reason to feel obligated to honor the representations made in the 1989 Letter with respect to Anheuser-Busch's proposed licenses. The Canal Companies' recent lawsuit was founded in large part on their belief that the Department had failed to live up to the spirit of the 1989 Letter. The recent settlement of that lawsuit on new terms before Judge Hurlbutt has superseded any commitment the 1989 Letter might have created.

Anheuser-Busch is anxious to resolve these issues. We would appreciate it if you would let us know what your decision will be before any licenses are issued since if you disagree with the above analysis, I would like to discuss the matter with you in person. I look forward to hearing from you.

Sincerely,

Jeff Fereday

Jeffrey C. Fereday

JCF/MCC/sr
60\10\young.ltr
cc: Jane E. Klamer, Esq., Anheuser-Busch

I told [illegible] he was ready [illegible] could have made broader [illegible] was entitled, of course, to [illegible] against TFSS right as being forfeited by non use but not against TFSS was deprived of [illegible] by the licensing [illegible]

MAY 16 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 30, 1993

Mike Cramer
2006 Bitterroot
Twin Falls, ID 83301

RE: Water Rights 25-07485 & 25-07486
Busch Agricultural Resources, Inc.

Dear Mike:

I am responding to your inquiry into the licensing of the above referenced rights. I am aware of your concerns regarding specific conditions proposed on the licensing amendments. The request for removal of these conditions on the license is being reviewed.

A minor change was made to condition number eight (8) according to your discussion with Pam Skaggs on this matter and a copy of the updated amendments are enclosed along with copies of the field examination for these rights.

If you have any further questions regarding this matter, please contact me directly at 327-7947.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

Enclosures

MICROFILMED
MAY 16 1995

DEBRA ALSAKER-BURKE
REBECCA W. ARNOLD
J. RANDOLPH AYRE*
JOSEPH H. BAIRD
NANCY A. BASKIN
CHRISTOPHER J. BEESON
JOANN C. BUTLER
MICHAEL C. CREAMER
JEFFREY C. FEREDAY
JULIE KLEIN FISCHER
RAYMOND D. GIVENS
JUDITH K. HOLCOMBE
ROBERT C. HUNTLEY, JR.
DAVID M. LOMBARDI
KENNETH R. McCLURE
CHRISTOPHER H. MEYER
L. EDWARD MILLER
PATRICK J. MILLER
TERRY L. MYERS
STEVEN L. OLSEN
KENNETH L. PURSLEY
CONLEY WARD
JAY L. WEBB
STEPHANIE C. WESTERMEIER
*ADMITTED ONLY IN UTAH & WASHINGTON, D.C.

LAW OFFICES
GIVENS, PURSLEY, WEBB & HUNTLEY
SUITE 200, PARK PLACE
277 NO. 6TH STREET
POST OFFICE BOX 2720
BOISE, IDAHO 83701

JAMES A. McCLURE
OF COUNSEL
DAVID C. MABE
LEGISLATIVE SPECIALIST

TELEPHONE
(208) 342-6571

FACSIMILE
(208) 343-3492
(208) 342-8920

February 25, 1993

Ms. Pamela Skaggs
Water Resource Agent
Idaho Department of Water Resources
1301 No. Orchard
Statehouse Mail
Boise, ID 83720-9000

Re: Busch Agricultural Resources, Inc.
Water Right Nos. 25-07485, 25-07486

Dear Ms. Skaggs:

This is to confirm our telephone conversation today regarding the above-referenced water rights, which now are ready to go to license. As we discussed, Anheuser-Busch Co., Inc. received your correspondence containing Applications for Amendment for Licensing Purposes on February 18, 1993.

It is my understanding from our conversation that the amendments proposed in the Applications would reflect the inclusion of an additional point of diversion for each right, such that the point of diversion for each right also will serve as an alternate point of diversion for all or a portion of the other. It also is my understanding that based on the field examiner's report, the legal description for the point of diversion for Right No. 25-07486 is to be amended to the NE 1/4, SE 1/4, Sec. 2, T1N, R37E, B.M. Please provide me with a copy of the field examiner's report so that Anheuser-Busch can compare the location shown in the report with what its records show to be the location of the wells.

MICROFILMED
MAY 16 1995

Also, with respect to the conditions and remarks proposed to be contained in the license, I understand that upon your confirmation that after its use the water will be discharged into a municipal wastewater treatment facility, the Department will remove Condition #7. Condition #8 will state that the industrial use is for a malting plant facility.

With respect to Conditions #5 and #6, you have informed me that these are standard conditions in all licenses issued by the Department for rights in the non-trust water area. However, my concern with Condition #5 is that it may limit rights that Anheuser-Busch has, as a matter of statute and longstanding judicial precedent, to object to the appropriation, use or transfer of senior rights that have been lost through forfeiture, abandonment or otherwise.

I also have a concern about Condition #6 in which the Director retains jurisdiction of the right. By statute, rights on an adjudicated stream may be incorporated into a water district. Under appropriate circumstances, the right might be so incorporated regardless of any retained jurisdiction. The reference to possibly requiring "streamflow augmentation or other action needed" to protect prior rights is ambiguous and calls into question the certainty of the right. I believe the language contained in Condition #3 which recites that the rights are "subject to all prior water rights" is sufficient to address this issue. Therefore, I believe that Conditions #5 and #6 are not appropriate and also should be deleted from the license when issued.

As per our discussion, you will hold the processing of these licenses and the applications for Amendments until I have had a chance to review the field examiner's report and confirmed the legal descriptions. I will be in trial in Twin Falls for approximately 2 more weeks and I expect to be able to finalize the applications soon thereafter.

I understand from you that this short delay beyond the 15 day time period referenced in your letter to Anheuser-Busch will not prejudice the ultimate issuance of the licenses to Anheuser-Busch.

I will contact you as soon as possible regarding the above issues. Thank you for your assistance, and don't hesitate to contact me either at 2006 Bitterroot Drive, Twin Falls, Idaho 83301 or through my secretary in Boise, Sherrie Rodgers.

Sincerely,
Dictated by Mr. Creamer
but mailed without
signature to avoid delay
Michael C. Creamer

MCC:sr
cc: Clifford Mahin (via telecopy)
Jane Ferguson-Klamer (via telecopy)
Jeffrey C. Fereday

MICROFILMED
MAY 16 1995

CONVERSATION MEMORANDUM

DATE 2-25-93

FILE 25-7485 & 7486

NAME OF PARTY Mike Cramer (Givens Pursley/Boise)

EMPLOYEE Sam Skaggs

RE: Licensing Amendments

① Concerns about conditions #5-8 on amendment
Non Trust, Water Quality & description language

② Will send him a copy of exams @ Twin Falls
address 2006 Bitterroot, TF, ID 83301 (Ph# 733-3941)
He will be delayed due to trial at least 2 weeks and
I have agreed to hold processing for his response.
HOLD until 3-25-93.

MICROFILMED

MAY 16 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 12, 1993

BUSCH AGRICULTURAL RESOURCES INC
C/O CLIFFORD MAHIN
ANHEUSER-BUSCH COS INC
ONE BUSCH PLACE
ST LOUIS MO 631181852

RE: WATER RIGHT NO. 25-07485

Dear Water Right Holder(s):

The above referenced water right is in the process of being licensed. However, before a license can be issued, your permit must be amended to correspond with the findings of the Department's field examiner.

The enclosed application for amendment contains information that will be included on the license when it is issued. Please review carefully and if you concur, sign the amendment and return with the $20.00 filing fee within 15 days.

If you do not concur with these findings or if you have any questions, please contact us within the 15-day period.

Sincerely,

Pamela Skaggs

PAMELA SKAGGS
Water Resource Agent

PS:cz

Enclosure

MICROFILMED
MAY 16 1995

LICENSE REVIEW CHECKLIST

Permit # 25-07485 Date 02-05-93

38

	Yes	No	
NAME	___	✓	Address Change?
PRIORITY DATE	___	✓	Advance?
	___	✓	Memo to Advance
	___	✓	Order to Reinstate Needed?
TOTAL CFS	___	✓	Incorrect Fee for rate recommended?
	___	✓	Disagree with Actual Measurement? 6.0 cfs (IND)
	NA	___	Disagree with Theoretical? 300 x 8.8 x .7 = 1207
	___	✓	Limited by Capacity? 13.28 (measured) 130' + (2.31 x 10)
TOTAL VOLUME			Rate/ac — AFA Irr. Season —
			— Standard Irr. Season
			— Season Recommended
	___	✓	Disagree with Examiner's Calculations? 1950 afa
	___	✓	Limited by Flow?
SOURCE	___	✓	Changes? Clarification of Originally Intended source
	___	✓	Notice of Intent to Void.
P/D			Verify with Map
	✓	___	Amendment Needed? Add NW SE (2nd P/D)
	___	✓	Is Overlap Analysis a Consideration?
P/U			Verify with Map
	___	✓	Amendment Needed?
	___	✓	Is Overlap Analysis a Consideration?
USES	___	✓	Change(s) in Nature of Use?
	___	✓	Amendment Needed?
REMARKS	___	✓	Multiple P/Ds in 1/4 1/4?
	✓	___	Non-Irr. Uses IND/Malting plant
	___	✓	Special Overlap Condition
	___	✓	Other
CONDITIONS	___	✓	Measuring Device
	___	✓	W/Master Control
	___	✓	Overlap
	R09	___	Water Quality

DATES/MISC		
___	✓	Water Dist.
✓	___	App Rec'd
✓	___	Exam Made

COMMENTS: Add 2nd P/D

Used an average at 10 psi / 120' SWL - used 130' MDL - Supports measurement

LICENSE ___ AMEND ✓ SPECIAL PARAGRAPH ___

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT
(REGIONAL)

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	BUSCH AGRICULTURAL RESOURCES INC C/O CLIFFORD MAHIN ANHEUSER-BUSCH COS INC ONE BUSCH PLACE ST LOUIS MO 631181852 (314) 577-4424	02/01/1989	INDUSTRIAL	01-01	12-31	6.00 CFS	1950.0 AFA
			TOTAL DIVERSION:			6.00 CFS	1950.0 AFA

Water Source: GROUNDWATER Tributary to: Stage: LICENSE

Point(s) of Diversion Capacity: 13.28 CFS

Point(s) of Diversion: T01N R37E S02 NW SE SE SE

Place of use Legal Description for: INDUSTRIAL

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
01N	37E	2													I	I		

Pou County: BONNEVILLE

Other Rights: ~~NONE~~

Conditions of Approval:

048 - The use of water under this right shall not give rise to any
- claim against the holder of a senior water right based upon the
- theories of forfeiture, abandonment, adverse possession, waiver,
- equitable estoppel, estoppel by laches or customary preference.

049 - The Director retains jurisdiction of the right and any license
- subsequently issued to incorporate the use into a water district,
- require streamflow augmentation or other action needed to protect
- prior surface water and groundwater rights.

R09 - Return water shall be treated to insure that the effluent
- meets Idaho Water Quality Standards.

Remarks: Industrial use is for a malting plant.

Dates:
App. Received: 02/01/1989 Priority Date: 02/01/1989
Proof Due Date: 04/01/1994 Proof Made Date: 07/29/1991
Exam Made Date: 08/07/1992 Exam Sent to S.O.: 10/23/1992
Licensed Date:

Misc: Water District Number: Field Exam Fee:

Audit: 02/05/93 SKAGGS

Form 219
6/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 25-7485 / ~~7486~~

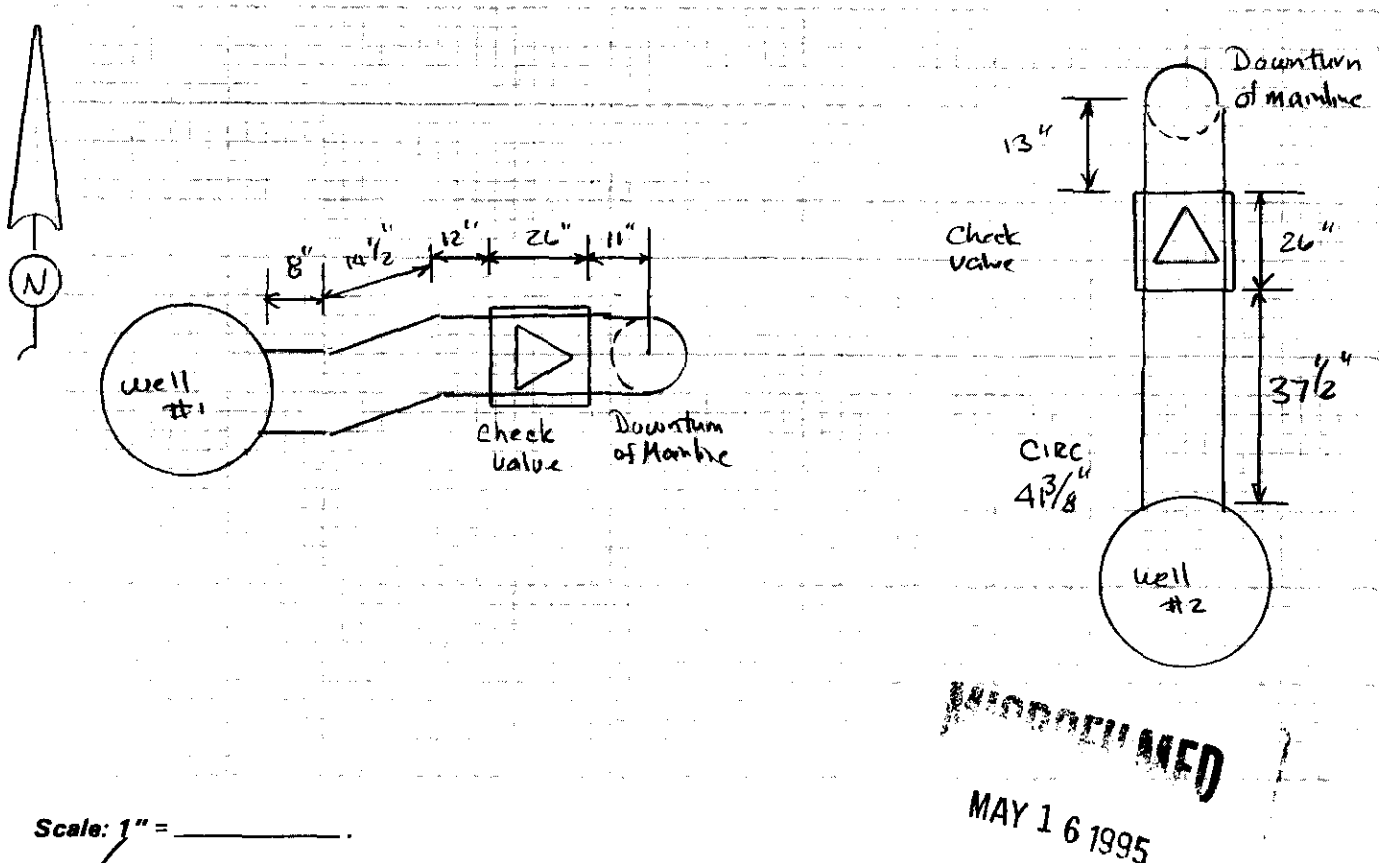
1. Owner: Busch Agricultural Resources Inc Phone No. (314) 577-9987
   Current Address: One Busch Place, St. Louis, Mo. 63118-1852
2. Accompanied by: Gary Warren EXAM. DATE: 7 Aug 1992
   Address: P.O Box 51628 Idaho Falls Id 83405 Phone No. _____
   Relationship to Permit Holder: Maintenance Supervisor
3. Source: GROUNDWATER tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE
   _____ ☐ Copies Attached
2. Other water rights with same point of diversion: 25-7485 / 7486
   _____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



RECEIVED
MAY 16 1995

Scale: 1" = _____.

2. ☑ Copy of U.S.G.S. 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 or more).
   ☐ Photo of Diversion and System Attached (required for all but single household domestic groundwater, and stockwater.

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Wells & pumps #1 & #2 pump to a holding tank thru separate mainlines. Water for the malting process is pumped from the holding tank into the plant

Current operating time for well is approximately 10 hr per day

Use to date: 48,151,600 gal for Month (31 d) of May → Note: Plant not operating at full capacity.
48,179,300 gal for Month (30d) of June

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
~~#~~ 1 WEST	GE	150	REG186054	Layne & Bowler	80-72213
#2 EAST	GE	150	VEG323028	Layne & Bowler	72277

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

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
#1			NW	SE	2	1N	37E	Bonneville	On site inspection / AICS compliance slide
#2			SE	SE	2	1N	37E	Bonneville	"

6. **Place(s) of Use:** Indicate Method of Determination

Twp.	Rge.	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	37E	2													I	I			

RECEIVED

MAY 16 1995

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
#1 Meter	Totalizing	Hersey	MHR Retro-Thrust	9015440	8"	
#2 Meter	Totalizing	Hersey	MHR Retro-Thrust	8027431	8"	

2. **Measurements:**

8.5 psi @ time of Exam

12.5 psi @ end of Exam

(1000gal/20.11sec) (1000gal/20.11sec) (2000gal/40.29) (2000gal/40.31sec)

E. FLOW CALCULATIONS

☑ Additional Computation Sheets Attached

1. Measured Method: $\left(\frac{1000\text{gal}}{20.11\text{sec}}\right)\frac{60\text{ sec/min}}{} = 2983.6\text{gpm} = 6.647\text{cfs} = Q_1$

2. Alternate Method for Checking Purposes: $\left(\frac{2000\text{gal}}{40.31\text{sec}}\right) = 2976.9\text{gpm} = 6.633\text{cfs} = Q_2$

$Q_{TOTAL} = 13.28$

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Ampsx .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = _____

$V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = _____

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

2. Volume Calculations for Other Uses: Permit @ 6.0 cfs and 1950 afa

(cfs) (#days)(1.9835) = afa

(6.0 cfs)(x days)(1.9835) = 1950 afa

days = 163.85 days @ 6 cfs/24hr

Year round operation:

163.85 day/365 day = 0.4489 = 44.9% of time

Run time: 0.4489 (24hr) = 10.8 hr/day

@ 6.0 cfs for 10.8 hr/day for 365 day/yr

$\sqrt{=(6.0)\left(\frac{10.8}{24}\right)(365)(1.9835) = 1950\text{ afa}}$

RECEIVED

MAY 16 1995

H. **REMARKS AND OVERLAP REVIEW ANALYSIS**

Two wells and pumps with separate mainlines into storage tank. Water is then pumped from the storage tank to be used in the malting process. Used water is discharged into the City of Idaho Falls Sewer system.

<<R17A>> The combined annual volume of water under this right and Right No. 25-7486 shall not exceed 3900 afa.

I. **RECOMMENDATIONS**

1. **Recommended Amounts**

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Industrial	1/1	12/31	6.0	1950
		Totals:	6.0	1950

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

J. **AUTHENTICATION**

Field Examiner's Name: KEITH C. WILSON

Signature: Keith C Wilson

Certification Date: _____

Field Report Preparation Date: _____

CONSULTANT SEAL

K. **Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.**

RECEIVED

MAY 16 1995

Capacity Volume:

$V = cfs\,(\#days)(1.9835) = (6.0)(365d)(1.9835) = 4343.9afa$

Current Volume: Plant not at capacity 48,179,300 gal in June 1992 (30days)

$V = \left(\frac{48179300gal}{30days}\right) \div 325850gal/af = 4.93\,af/day$

$V = 4.93\,af/d\,(365d) = 1799.45\,afa$

at 1950 afa and 6.0cfs / 24hrs

$V = cfs\,(\#days)(1.9835)$

$1950afa = (6.0cfs)\,\#days\,(1.9835)$

$\#days = (1950afa) \div [(6.0)(1.9835)] = 163.85days$

System operates 365 days/yr

$\therefore 163.85d / 365days = 0.4489$ or 44.9% of time

Time system operated = $24hrs\,(0.4489) = 10.8hrs/day$

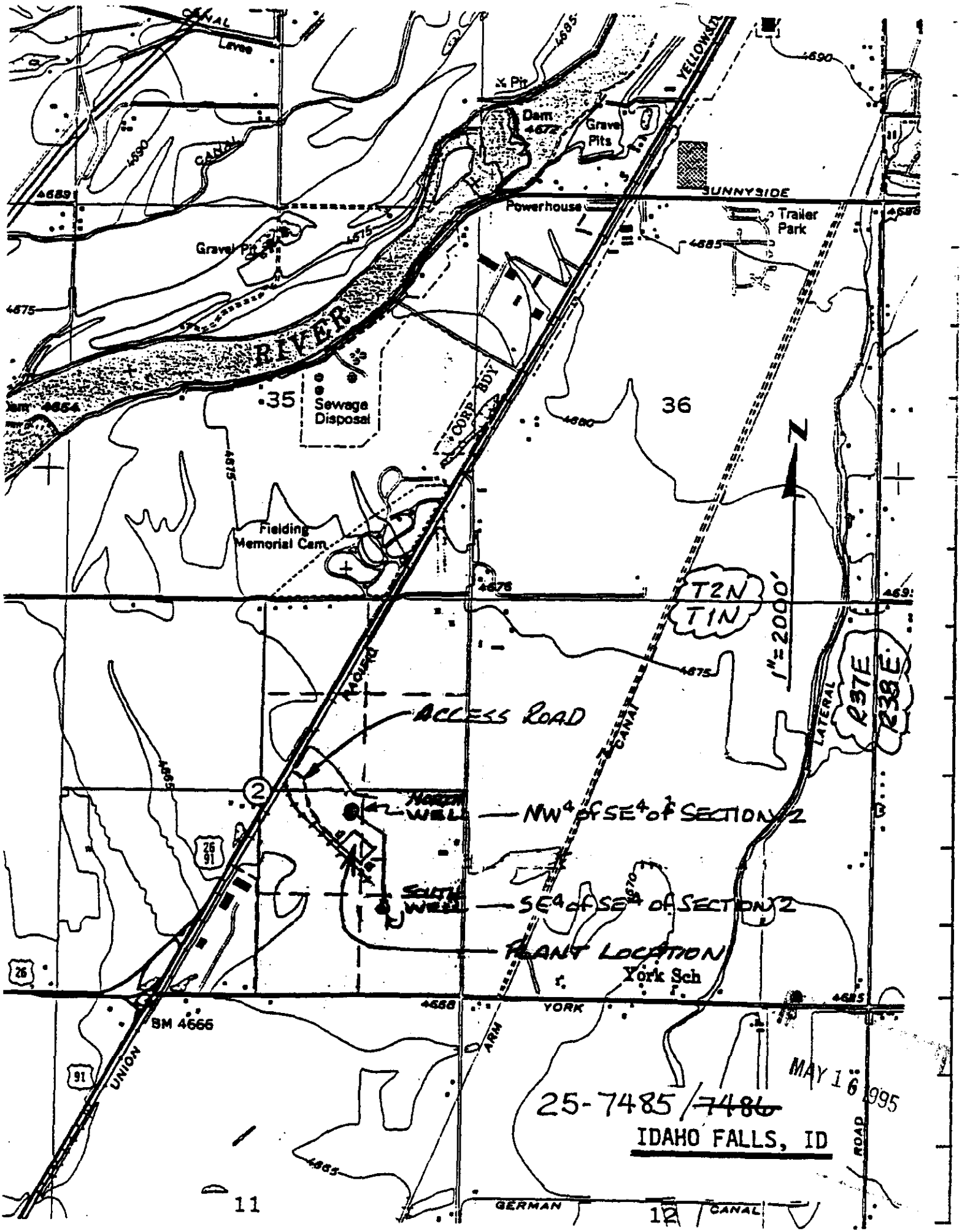
SINCE: According to Willis Wehrman plant Engineer system operates ≈ 10hr/day

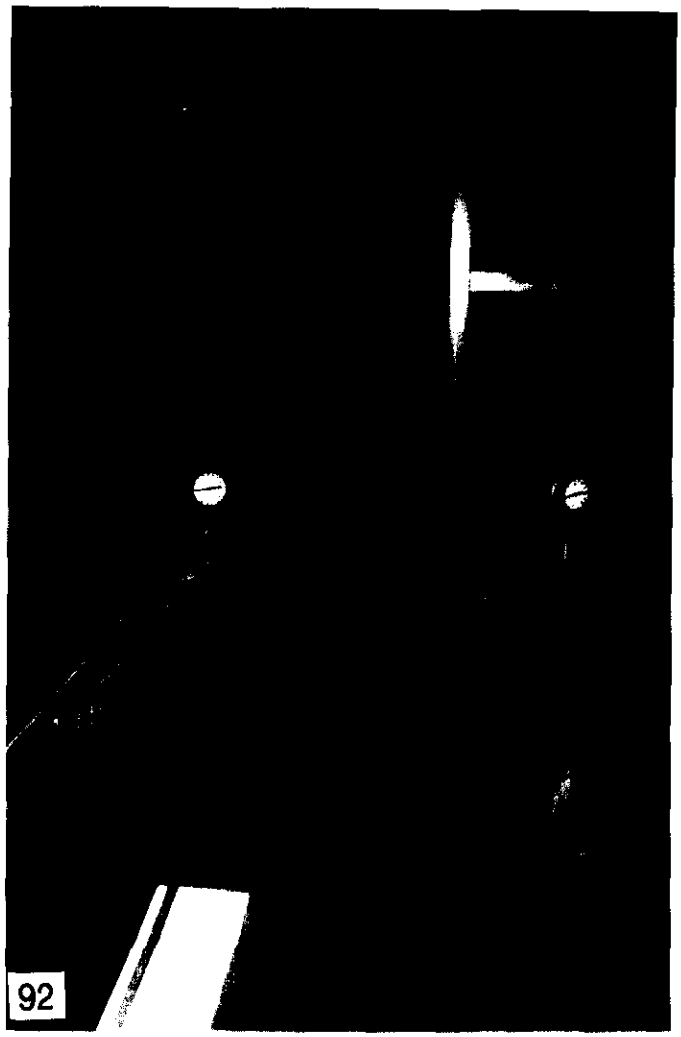
RECEIVED
MAY 16 1995

RECOMMEND: V = 1950 afa

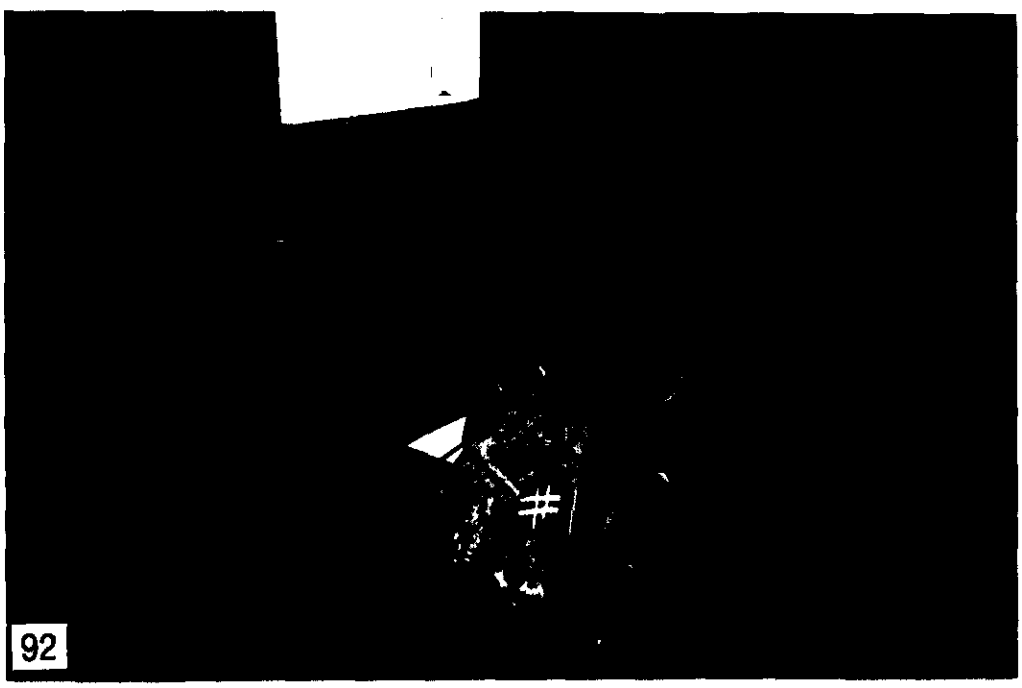
25-7485/~~7486~~

d project: show clearly the proposed point of diversion, place of use, section number, ıge number.



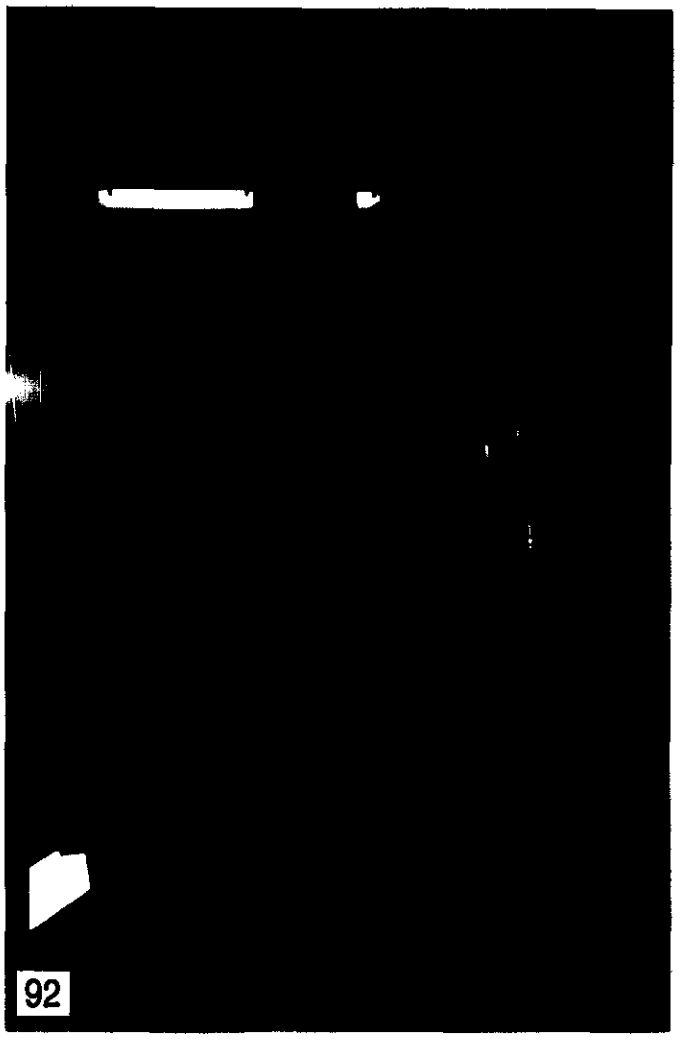


Mainlines into Storage tank



25-7485
25-7486

MAY 16 1995







25-7485
25-7486

MAY 16 1995

December 20, 1991

BUSCH AGRICULTURAL RESOURCES INC.
C/O CLIFFORD MAHIN, P.E.,
ANHEUSER-BUSCH COS., INC,
ONE BUSCH PLACE
ST. LOUIS MO 63118

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 25-07485

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.

I note that the permit issued to you by the department requires the installation of a flow measurement port to allow the department to determine the rate of diversion. The proof which you submitted does not show that you have installed this equipment.

The installation of the flow measurement port must be complete by the time the department representative conducts the examination of your system unless the department has rescinded the requirement prior to the field examination. In some cases, the equipment requirement can be rescinded because the equipment cannot be physically installed, is not appropriate or can be accommodated with other measuring methods.

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

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

MICROFILMED
DEC 23 1991

Form 217
07/90

RECEIVED
JUL 29 1991
Department of Water Resources

For Office Use Only
Amt. of Fee $ 225.00
Date 7-29-91
Receipt No. C-21335
Received by MH

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

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.

1. Permit No. 25-07485 Telephone No. (314) 577-9987

2. Name(s) of Permit Holder(s): Busch Agricultural Resources, Inc.

3. Post Office Address: One Busch Place, St. Louis, MO 63118-1852

4. Source of Water: Groundwater

   a. If ground water, well driller's name: Cushman Drilling Service Date drilled: October 12, 1989

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

5. Extent of Use:

   Domestic _____ (No. of households) Irrigation _____ (No. of acres)

   Stockwater _____ (No. and type of stock) Other Industrial

6. Total rate and/or volume for which proof is submitted 6 cfs 1950 acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

   Measuring device: Required? __Yes X No Installed? __Yes __No

   OR

   Flow Measurement Port: Required? X Yes __No Installed? __Yes __No

8. Fee Enclosed: $ 225.00 (See License Examination Fee Schedule)

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

   Patrick O'Connell (208) 522-5501
   Name Telephone No.

   5755 South Yellowstone Hwy. Idaho Falls, ID 83402
   Address

10. 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.

FILED
DEC 23 1991

7/24/91 Jerry Wallenwein
Date Signature (and title if on behalf of a company or organization)

ANALYSIS SHEET
for
PROOF OF BENEFICIAL USE

Permit No. 25-7485 Date 7-31-91

GENERAL CONSIDERATIONS
- ✓ Name same as permit?
- ✓ Address same as permit? If no, indicate below.
- ✓ Proof timely received? If no, complete priority advancement below.

SOURCE OF WATER
- ____ Surface water source
- ✓ Ground water source
- yes Drill permit req'd?
- yes Copy in file? Drill permit no. ____ applied for permit after the fact — not issued yes
- $200 Amt paid for drilling permit? yes Correct? 10/89
- yes Well log in file?

LICENSE EXAMINATION FEE
- ✓ Required?
- 225.00 Amount submitted?
- ✓ Correct amount?

MEASURING DEVICE
- yes Measuring device or access port required?
- no Installed?
- ____ Waiver requested or needed?

DEFICIENCIES OR ACTION ITEMS
needs W.C. & D.P. driller 094
needs flow meas. proof acceptable

PRIORITY CALCULATION

Date proof received	NA		
Date proof due		-	
No. of days late		=	
Priority date		+	
NEW PRIORITY DATE		=	

proof made 7/29/91
12/20/91 KLG

Busch Agricultural Resources, Inc.
ONE OF THE ANHEUSER-BUSCH COMPANIES

RECEIVED
DEC 13 1991
Department of Water Resources

December 5, 1991

Karen L. Gustafson
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

RE: Permit No. 25-07485
Well Driller's Report
Well Driller's Permit

Dear Ms. Gustafson:

Your letter of November 12, 1991 requested a copy of a well log which should have been submitted by Cushman Well Drilling 30 days after completion of the construction of our well. Cushman Well Drilling was contacted and the attached Well Driller's Reports were provided as the well logs.

Concerning the drilling permit there were three wells drilled at this site. We were able to locate the drilling permit for two of the wells but could not locate a permit for this particular well. We contacted Dennis Dunn, Idaho Department of Water Resources in Idaho Falls and he forwarded an application for a drilling permit. I have attached a copy of that application. If you require the approved permit, I will forward it to our office as soon as I receive it.

If you require any additional information or have any questions concerning this request, please contact me. Thank you for your assistance in processing this request.

Sincerely,

Theresa Lanctot
Environmental/Operations Engineer

cc: Mel Anderson
Jerry Wolkowitz
Doug Hill
Mike Wood
Robert Deraas
Mike Richter
Don DeHart

MICROFILMED
DEC 23 1991

Busch Agricultural Resources, Inc.
One Busch Place
St. Louis, MO U.S.A. 63118-1852
(314) 577-9914
Telex: 44-2796

Form 235-1 200[illegible]
7/90

Drilling Permit No. _____
Water Right Permit No. 25-07485
Injection Permit No. _____

State of Idaho
Department of Water Resources

APPLICATION FOR DRILLING PERMIT

1. **Applicant (please print)** Busch Agricultural Resources Inc.

2. **Mailing Address** One Busch Place, 701 LYN, St. Louis, MO 63118

City & State _____ Zip Code _____ Telephone (314) 577-44241

( ) Well Owner ( ) Well Operator ( ) Other, specify _____

3. **Proposed well location** SE 1/4 SE 1/4, or Gov't Lot No. _____

Sec. 2, Twp. 1N, Rge. 37E, County Bonneville

Street Address of Well Site _____

Lot, block and subdivision _____

4. **Proposed use of well:**

( ) Domestic: The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to 1/2 acre of land, if the total use is not in excess of 13,000 gpd; or any other uses, if the total use does not exceed a diversion rate of 0.04 cfs and a diversion volume of 2500 gpd.

Domestic does not include water for multiple ownership subdivisions, mobile home parks, commercial or business establishments, unless the use does not exceed a diverstion rate of 0.04 cfs and a diversion volume of 2500 gpd.

(X) Non-Domestic: Any beneficial use not included within the definition of domestic.

( ) Injection

( ) Monitoring - A well bore schematic and map is required for each well.
No. of proposed wells: _____

( ) Other _____
(Describe)

5. **Well construction information:**

A. (X) New well ( ) Deepen ( ) Enlarge ( ) Replace - See Condition 9

B. Proposed Surface Diameter 20" Proposed Maximum Depth 256'

C. Anticipated bottom hole temperature:

(X) 85°F or less (Cold water well)
( ) 85°F to 212°F (Low temp. geothermal well)
( ) 212° or more (Geothermal well)

MICROFILMED
DEC 23 1991

6. **Construction Start Date** June or July 1990

7. **Anticipated Well Driller** Jack Cushman
NOTE: The actual well driller must be identified prior to drilling.

8. **Applicant's signature** _____ Date _____

Title _____
(Owner, Firm Representative, Other)

Form 238-7
9/82

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

USE TYPEWRITER OR BALLPOINT PEN

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

1. WELL OWNER

Name Anheuser-Busch Company

Address Western Malt Plant - Idaho Falls, Idaho

Owner's Permit No. 25-69-E-064 - 25-7486

2. NATURE OF WORK

■ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3. PROPOSED USE

☐ Domestic ☐ Irrigation ☐ Test ☐ Municipal
■ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

4. METHOD DRILLED

☐ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary
■ Cable ☐ Dug ☐ Other _____

5. WELL CONSTRUCTION

Casing schedule: ■ Steel ☐ Concrete ☐ Other _____

Thickness	Diameter	From	To
1/4 inches	24 inches +	0 feet	516 feet
3/8 inches	20 inches	1 feet	146 feet
5/16 inches	16 inches	1 feet	285 feet
5/16 inches	12 inches	278 feet	412 feet

Was casing drive shoe used? ■ Yes ☐ No
Was a packer or seal used? ☐ Yes ■ No
Perforated? ■ Yes ☐ No
How perforated? ☐ Factory ☐ Knife ■ Torch
Size of perforation 1/4 inches by 6 inches

Number		From	To
60	perforations	296 feet	301 feet
40	perforations	335 feet	339 feet
60	perforations	346 feet	351 feet

Well screen installed? ☐ Yes ■ No
Manufacturer's name _____
Type _____ Model No. _____
Diameter ___ Slot size ___ Set from _____ feet to _____ feet
Diameter ___ Slot size ___ Set from _____ feet to _____ feet
Gravel packed? ☐ Yes ■ No ☐ Size of gravel _____
Placed from _____ feet to _____ feet
Surface seal depth 92 Material used in seal: ■ Cement grout ☐ Bentonite ☐ Puddling clay ☐ _____
Seating procedure used: ☐ Slurry pit ☐ Temp. surface casing ■ Overbore to seal depth
Method of joining casing: ☐ Threaded ■ Welded ☐ Solvent Weld ☐ Cemented between strata
Describe access port 2" iron pipe welded to casing

6. LOCATION OF WELL

Sketch map location must agree with written location.

N / W / E / S

Subdivision Name _____

Lot No. ___ Block No. ___

7. WATER LEVEL

Static water level 118' feet below land surface.
Flowing? ☐ Yes ■ No G.P.M. flow _____
Artesian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature ___ °F. Quality Good
Describe artesian or temperature zones below.

8. WELL TEST DATA

■ Pump ☐ Bailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped
3600	123	24 Hrs.

9. LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
24"	0	4	Clay		X
	4	48	Gravel		X
	48	52	Sand - Little clay		X
	52	92	Gray Basalt		X
20"	92	95	Gravel		X
	95	108	Gravel & Clay		X
	108	127	Sandy Gravel	X	
	127	144	Sand & Little Clay		X
20"	144	145	Soft Basalt		X
	145	192	Firm Basalt		X
	192	197	Hard Gray Basalt		X
	197	207	Brown Soft Basalt & Chalk		X
	207	232	Firm Gray Basalt		X
	232	254	Fairly Hard Basalt		X
	254	259	Cinders	X	
	259	264	Firm Basalt		X
	264	266	Black Sand		X
	266	268	Soft Basalt		X
	268	276	Tan Clay		X
	276	283	Firm Basalt		X
16"	283	297	Firm Basalt		X
	297	301	Reddish Cinders	X	
	301	320	Firm Basalt		X
	320	336	Soft Broken Basalt		X
	336	339	Cinders	X	
	339	348	Firm Basalt		X
	348	350	Cinders	X	
	350	362	Firm Basalt		X
	362	363	Black Sand		X
	363	378	Firm Gray Basalt		X
	378	383	Sandy Clay		X
	383	409	Sticky Brown Clay		X
	409	412	Firm Gray Basalt		X
			West Well		

10.

Work started 10/12/89 finished 3/2/90

MICROFILMED
DEC 23 1991

11. DRILLERS CERTIFICATION

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

Firm Name Jack Cushman Drilling Firm No. #94
Address 1405 South Broadway, Blackfoot, Idaho Date 3/5/90
Signed by (Firm Official) Jack Cushman
and

NOV 22, 1991 9:52AM #549 P.03 TO:BARI-UP ADMN. FROM:IDAHO FALLS MALT

Form 238-7
9/82

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

USE TYPEWRITER OR BALLPOINT PEN

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

1. WELL OWNER

Name Anheuser-Busch Company

Address Western Malt Plant - Idaho Falls, Id.

Owner's Permit No. 25-8949-B64 & 25-7486

2. NATURE OF WORK

■ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3. PROPOSED USE

☐ Domestic ☐ Irrigation ☐ Test ☐ Municipal
■ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

4. METHOD DRILLED

☐ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary
■ Cable ☐ Dug ☐ Other _____

5. WELL CONSTRUCTION

Casing schedule: ■ Steel ☐ Concrete ☐ Other _____

Thickness		Diameter		From		To	
1/4	inches	24"	inches	0	feet	42	feet
3/8"	inches	20"	inches	0	feet	146	feet
3/8"	inches	16"	inches	1	feet	256'	feet
	inches		inches		feet		feet

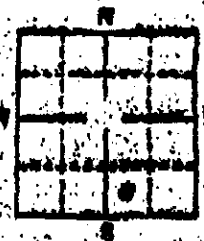
Was casing drive shoe used? ■ Yes ☐ No
Was a packer or seal used? ☐ Yes ■ No
Perforated? ■ Yes ☐ No
How perforated? ☐ Factory ■ Knife ☐ Torch
Size of perforation 3/8" inches by 3" inches

Number		From		To	
50	perforations	246	feet	250	feet
75	perforations	230	feet	236	feet
	perforations		feet		feet

Well screen installed? ☐ Yes ■ No
Manufacturer's name _____
Type _____ Model No. _____
Diameter ___ Slot size ___ Set from ___ feet to ___ feet
Diameter ___ Slot size ___ Set from ___ feet to ___ feet
Gravel packed? ☐ Yes ■ No ☐ Size of gravel _____
Placed from _____ feet to _____ feet
Surface seal depth 14' Material placed in seal: ■ Cement grout ☐ Bentonite ☐ Puddling clay ☐ _____
Sealing procedure used: ☐ Slurry pit ☐ Temp. surface casing ■ Overbore to seal depth
Method of joining casing: ☐ Threaded ■ Welded ☐ Solvent Weld ☐ Cemented between strata
Describe access port 2" Pipe on side of 16" Casing

6. LOCATION OF WELL

Sketch map location must reference at least two known and permanent roads or other permanent features



Subdivision Name _____
Lot No. _____ Block No. _____
County Bonneville

7. WATER LEVEL

Static water level 120' feet below land surface.
Flowing? ☐ Yes ■ No G.P.M. flow _____
Artesian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature ___ °F. Quality _____
Describe variation of temperature zones below.

8. WELL TEST DATA

■ Pump ☐ Bailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped
2900	135'	36

9. LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
24"	0	2	Clay		X
	2	42	Coarse Gravel		X
	42	94	Basalt		X
	94	143	Gravel	X	
	143	157	Basalt		X
	157	159	Cinders	X	
	159	180	Basalt		X
	180	185	Broken Basalt	X	
	185	190	Fairly Firm Basalt		X
	190	193	Broken Basalt	X	
	193	230	Basalt		X
	230	235	Pourous Basalt	X	
	235	247	Firm Basalt		X
	247	250	Cinders	X	
	250	256	Basalt		X

East Well

10.

Work started 3/16/90 Completed 6/3/90

11. DRILLER'S CERTIFICATION

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

Firm Name Jack Cushman Drilling Firm No. 494
Address 1405 South Broadway Blackfoot, Idaho Date 6/13/90

Signed by (Firm Official) Jack Cushman
and
(Operator) Wade Bailey

MICROFILMED
DEC 2 1991

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 3, 1991

Jack Cushman
Jack Cushman Drilling Inc.
1405 South Broadway
Blackfoot, ID 83221

Re: Permit No. 25-07485 - Busch Agricultural Resources Inc.
Drilling Permit No. unknown
Drilling Date: October, 1989
Proposed Location: 1N, 37E, Section 2, NW1/4, SE1/4, SE1/4.

In the department's review of the proof of beneficial use submitted in connection with the above referenced permit, the department was not able to locate a well log which should have been submitted 30 days after completion of the construction of this well.

While it is possible that you have submitted the log, we have been unable to locate it. Please supply me with another copy. Also, please supply me with a copy of the drilling permit as well. **Please address any correspondence directly to me.** Your response should be received within 20 days of the date of this mailing.

This information is needed before the department can proceed further with the examination of the permit holders system and the eventual issuance of a license of water right.

If you have any questions or if I can be of any further assistance, please feel free to contact me.

Sincerely,

Karen L. Gustafson

Karen L. Gustafson
Secretary/Records Manager

C: Permit Holder

MICROFILMED
DEC 23 1991

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

November 12, 1991

Busch Agricultural Resources Inc.
One Busch Place
St. Louis, MO 63118-1852

Re: Permit No. 25-07485

Dear Permit Holder:

In the department's review of the proof of beneficial use submitted in connection with the above referenced permit, the department was not able to locate a drilling permit which should have been applied for before construction of your well began. We have also been unable to locate a well log which should have been submitted by your well driller 30 days after completion of the construction of your well.

If you have a drilling permit or a copy of the well log, please provide this office with a copy of each. If you do not have a copy of the well log, please contact your driller and ask that he submit a copy. In your return letter, please be sure to show the above referenced permit number on any documents. **Also, please address any correspondence directly to me.** Your response, with both forms attached, should be received within 20 days of the date of this mailing.

This information is needed before the department can proceed further with the examination of your system and the eventual issuance of a license of water right.

If you have any questions or if I can be of any further assistance, please feel free to contact me.

Sincerely,

Karen L. Gustafson

Karen L. Gustafson
Secretary/Records Manager

MICROFILMED
DEC 23 1991

Busch Agricultural
Resources, Inc.
ONE OF THE ANHEUSER BUSCH COMPANIES

RECEIVED
JUL 29 1991
Department of Water Resources

July 9, 1991

State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

RE: PERMITS NO. P25-07485 AND P25-07486
PROOF OF BENEFICIAL USE
IDAHO FALLS MALT PLANT

Enclosed are the Proof Of Beneficial Use forms for permit nos. 25-07485 and 25-07486 and two checks in the amount of $225.00 each for the license examination fee. Request the necessary actions be completed to develop these permits into licenses.

If you require any additional information concerning this request, please contact Theresa Lanctot our Enviromental/Operations Engineer at (314) 577-9987.

Sincerely,

Jerry Wolkowitz
Director Engineering

cc: T. Lanctot
P. O'Connell
W. Lehman
M. Richter

MICROFILMED
DEC 23 1991

Busch Agricultural Resources, Inc.
One Busch Place
St. Louis MO U.S.A. 63118 1852
(314) 577-9971
Fax (314) 577-7344

25-7485
25-7486

LAW OFFICES
GIVENS, MCDEVITT, PURSLEY, WEBB & BUSER

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

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

TELEPHONE
(208) 342-6571

TELECOPIER
(208) 343-9492

RECEIVED
JUL 21 1989
Department of Water Resources

July 20, 1989

Mr. Norman C. Young
Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83701

RE: Anheuser Busch

Dear Norm:

Last Saturday I attended a ground-breaking ceremony near Idaho Falls for the new malting plant being constructed by Busch Agricultural Resources, Inc. As you know, this is the plant that many state and local officials, as well as many Idaho citizens, worked hard to attract to Idaho. A very significant part of that effort was the cooperation and diligence shown by the Idaho Department of Water Resources in evaluating and processing the groundwater permits necessary for the plant. As you know, BARI was most concerned about the ability to project an early ground-breaking date. The acquisition of permits and the reasonable assurance of a water supply was critical in that decision. I just want to express my appreciation to you, the Director and your staff in providing the type of prompt agency response that helped make this possible.

Sincerely,

Jeffrey C. Fereday

JCF/jb

cc: Mr. R. Keith Higginson

MICROFILMED
DEC 23 1991

State of Idaho
DEPARTMENT OF WATER RESOURCES (208) 327-7900
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - [redacted]

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

April 4, 1989

RE: Permit No. 25-7485

Busch Agricultural Resources, Inc.
c/o Jeff Fereday
Givens, McDevitt, Pursley, Webb, & Buser
277 N. 6th
Boise, ID 83702

Dear Permit Holder(s):

Enclosed is a copy of your approved Application for Permit. We direct your attention to the conditions of approval on the fourth page.

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.

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.

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.

Please note the requirement that as a permit holder you must commence the excavation or construction of diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The enclosed blue card must be completed and returned to this office as soon as you commence construction, no later than one year from the date the permit was approved.

MICROFILMED
MAY 17 1989

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 into a license.

Sincerely,

Gary Spackman

GARY SPACKMAN, Supervisor
Water Right Permits Section

GS:hm

Enclosure

MICROFILMED
MAY 17 1989

RECEIVED
MAR 28 1989
Department of Water Resources
Eastern District Office

NOTICE TO PUBLIC OF NO SIGNIFICANT IMPACT ON THE ENVIRONMENT AND NOTICE TO PUBLIC OF REQUEST FOR RELEASE OF FUNDS

City of Idaho Falls
620 Park Avenue
P. O. Box 50220
Idaho Falls, Idaho 83405-0220 (208) 529-1276

APR 06 1989
Department of Water Resourc

TO ALL INTERESTED AGENCIES, GROUPS, AND PERSONS:

On or about May 1, 1989, the above named City will request the Department of Commerce, State of Idaho, to release Idaho Community Development Block Grant (ICDBG) funds under Title I of the Housing and Community Development Act of 1974 (PL 93-383) for the following project:

Title: Anheuser-Busch Water System Improvements
Purpose: To construct a water line to the site of the barley malting plant to be constructed by Anheuser-Busch.
Location: E 1/2 of Section 2, T 1 N, R 37 E
Cost: Estimated to be $455,800

Finding of No Significant Impact

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of human environment and accordingly the above-named City of Idaho Falls has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for the decision not to prepare an Environmental Impact Statement are as follows:

The project will not significantly affect the quality of human environment. The City of Idaho falls has the capacity to handle the wastewater generated by the project. The site was designated in the 1967 Comprehensive Plan as industrial. There are no known historic or prehistoric sites, critical habitats or endangered species, or prime or unique agricultural lands in the project area. The site is not in the flood channel or 100 year floodplain. Applicable air and water permits are being obtained from the appropriate agencies.

MICROFILMED
MAY 17 1989

An Environmental Review Record respecting the within project has been made by the above-named City of Idaho Falls which documents the environmental review of the project and more fully sets forth the reasons why such statement is not required. This Environmental Review Record is on file at the above address and is available for public examination and copying on request at the Planning and Building Division, 620 Park Avenue, between the hours of 8:00 a.m. and Noon and

1:00 p.m. and 5:00 p.m. Monday through Friday.

Further environmental review of the project may occur prior to request for release of Federal funds.

Public Comments on Findings

All interested agencies, groups and persons who disagree with this decision are invited to submit written comments for consideration by the City to the Planning and Building Division, P. O. Box 50220, Idaho Falls, Idaho 83405-0220. Such written comments should be received at the above specified address on or before April 30, 1989. All such comments so received will be considered and the City will not request the release of ICDBG funds or take any administrative action on the within project prior to the date specified in the preceding sentence.

Release of Funds

City of Idaho Falls will undertake the project described above with Idaho Community Development Block Grant funds from the Department of Commerce, State of Idaho, under Title I of the Housing and Community Development Act of 1974. City of Idaho Falls is certifying to the Department that Thomas V. Campbell, in his official capacity as Mayor consents to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making and action; and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval the City of Idaho Falls may use the Block Grant funds and the State will have satisfied its responsibilities under the National Environmental Policy Act of 1969.

Objections to State Release of Funds

The Department will accept an objection to its approval only if it is on one of the following bases:

(a) that the certification was not in fact executed by the certifying officer; or
(b) the grantee's environmental review record for the project indicates omission of a required decision finding or step applicable to the project or the environmental review process.

Objections must be prepared and submitted in accordance with the required procedure (24 CFR Part 58) and may be addressed to:

MICROFILMED
MAY 17 1989

Idaho Department of Commerce
2nd Floor, Hall of Mirrors
700 W. State Street

Boise, Idaho 83720

Objections to the release of funds on bases other than those stated above will not be considered by the Department. No objection received after May 19, 1989, will be considered by the Department.

Thomas V. Campbell
Mayor of the City of Idaho Falls
City Hall
P. O. Box 50220
Idaho Falls, Idaho 83405-0220

Pub. date: March 24, 1989

MICROFILMED
MAY 17 1989

BOARD OF COMMISSIONERS

CLYDE A. BURTENSHAW, Chairman, District #3
A. WYLIE SNARR, District #1
CLIFFORD V. LONG, District #2

605 NORTH CAPITAL AVENUE
IDAHO FALLS, IDAHO 83402
PHONE 208—529-1360

RECEIVED
MAR 27 1989
Department of Water Resources

March 22, 1989

Mr. L. Glen Saxton, Chief
Water Rights supervisor
Idaho Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

Dear Mr. Saxton:

We have received the letter dated March 7, 1989 from Jeffrey C. Fereday concerning the water right applications filed by Busch Agricultural Resources, Inc. to appropriate groundwater in Bonneville County. We did not oppose these applications, and we have no comment about them with respect to the granting of a permit. We have been in contact with Busch regarding their plans for their melting plant, and are well advised as to the project.

Very truly yours,

Cliff Long, for the
Bonneville County Commission

cc: Mr. Clifford A. Mahin
Mr. Sandy J. Cortopassi

RECEIVED
MAY 17 1989

City of Idaho Falls

PUBLIC WORKS DIVISION

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405
PHONE: (208) 529-1250

MAR 28 1989

Department of Water Resources

March 24, 1989

Mr. L. Glen Saxton
Chief Water Rights Supervisor
Idaho Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

Dear Mr. Saxton:

We have received the letter dated March 7, 1989, from Jeffrey C. Fereday concerning the water right applications filed by Busch Agricultural Resources, Inc. to appropriate groundwater in Bonneville County. As you know, we did not protest these applications, and we have no comment about them with respect to the granting of a permit. We have been in contact with Busch regarding their plans for their malting plant, and are well advised as to the project.

Respectfully,

Chad Stanger,
Director of Public Works

CS/dt
Eng. 3B

cc: Mr. Clifford A. Mahin
Mr. Sandy J. Cortopassi

MICROFILMED

MAY 17 1989

MEMORANDUM

TO: Files nos. 25-7485 and 25-7486 in the name of Busch Agricultural Resources, Inc.
FROM: Gary Spackman Gary
DATE: March 16, 1989
RE: Informations submitted to satisfy Rule 4,5. of the Water Allocation Rules and Regulations

On February 10, 1989, I wrote a letter to Jeff Fereday, Attorney at Law, detailing information required under Rule 4,5. which was not submitted with the applications.

Jeff prepared or caused to be prepared the information that I requested. I have reviewed the information, and find it to be adequate with the following exception:

Letters of comment from Bonneville County, Idaho Fish & Game, Idaho Health and Welfare, Division of Environmental Quality, and Irrigation and Canal Companies have been sought, but we have not received any responses.

A question arose about whether an irrigation component must be specifically listed in the application as a separate use. This issue has been resolved by Norm Young in a letter dated March 9, 1989.

In the February 10 letter, I suggested that Jeff Fereday contact the Twin Falls Canal Company. In a later conversation, I retracted the request for comment from Twin Falls Canal Company.

It appears that these rights are ready to process once the letters of comment are received.

MICROFILMED
MAY 17 1989

State of Idaho
DEPARTMENT OF WATER RESOURCES (208) 327-7900
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -[redacted]

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

March 9, 1989

Jeffrey C. Fereday, Esq.
GIVENS McDEVITT PURSLEY
WEBB & BUSER
P.O. Box 2720
Boise, ID 83701

Re: Applications for Permit No. 25-7485 and 25-7486
(Busch Agricultural Resources, Inc.)

Dear Jeff:

This letter is in response to your letters dated February 14 and 17, 1989, in which you expressed concern that revising the above referenced filings to reflect a separate irrigation use component would mean an unacceptable delay to your client.

The proposed well locations are within the "non trust water area" and the applications are being processed by the department under procedures described in the February letter from Keith Higginson to Gary Slette of which you have been provided a copy. The letter provides that additional review and perhaps additional conditions of approval will be given to filings proposing large consumptive uses. Irrigation is a use that fits this category, and for this reason the department attempts to identify and consider irrigation uses under the more stringent procedures.

I am not aware of an official definition for the term "industrial use" in Idaho water law. Neither the statutes nor the rules for water appropriation include a definition. Experience indicates that industrial uses do often include irrigation of landscaping as a typical use for part of the water. Thus, inclusion of a "reasonable" amount of use for irrigation of landscaping can be considered part of an industrial use for water. Whether the requested eight acres is a "reasonable" amount for the proposed malting plant cannot be determined from the information now available to the department. Unless you were working from a set of final plans prepared by a landscape architect, I expect the value is an estimate. However, as long as the ultimate use for irrigation is only for appropriate landscaping and not for irrigation associated with crop production, parks, playing fields or similar large uses it will be considered as

MICROFILMED
MAY 17 1989

part of the industrial use. If your client intends to include some of these larger uses for irrigation, the filings can be amended after the permits are issued.

The department has not delayed processing of the filings because of this question. The required public notice has been published and the period for protest has elapsed without receipt of protest. I am not aware of anything that will prevent timely completion of our review process for the industrial use requested, assuming that the information needed under the water appropriation rules has been made available.

In response to another question raised in your letters, the submittal of the names of corporate directors does not require re-advertisement of the applications.

Very truly yours,

NORMAN C. YOUNG
Administrator
Water Management Division

NCY:dc

cc: IDWR Eastern Region
Water Right Permits Section

MICROFILMED
MAY 17 1989

LAW OFFICES
GIVENS, MCDEVITT, PURSLEY, WEBB & BUSER

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

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

TELEPHONE
(208) 342-6571

TELECOPIER
(208) 343-9492

MAR 09 1989
Department of Water Resources

March 8, 1989

Mr. L. Glen Saxton, Chief
Water Allocation Bureau
Idaho Department of Water Resources
1301 N. Orchard
Boise, ID 83706

Re: Anheuser-Busch water right application

Dear Mr. Saxton:

This responds to the request in the Department's February 2, 1989 letter from Harold W. Jones that we provide a year-by-year development plan for the Busch Agricultural Resources, Inc. ("BARI") proposed malting plant south of Idaho Falls. BARI expects full development of the initial phase of the project (8 million bushels/yr) to take three years. Beginning the third year (perhaps earlier), the market may dictate that design and construction begin quickly and move to rapid completion of an expansion, the size of which is now anticipated to be an additional 8 million bu/yr. The expected course of development will be as follows:

1989 -- Planning, permitting, design, and construction of a facility capable of processing eight million bushels per year. Both groundwater wells described in the applications will be needed during this period for production yield and quality analysis, to provide water for construction and fire protection, and for backup and emergency supply.

1990 -- Continue design and construction activities for the eight million bushel per year facility. Begin shakedown and startup of storage facilities. Well water will be used as in 1989.

1991 -- Complete shakedown and startup of malting facilities at the 8 million bu/year facility. BARI expects

MICROFILMED
MAY 17 1989

to achieve full use of the entire 12 cfs of groundwater from both wells by late 1991 to satisfy peaking and backup requirements at the eight million bushel per year facility, although experience has shown that such a schedule may not be achievable due to many factors. In 1991 (or sooner), BARI also expects to begin planning and design of a second eight million bushel per year capacity facility (again, if the market dictates).

1992 -- Full production of 8 million bu/yr facility and associated water use. This facility will operate 24 hours per day, 365 days per year. Continued design and construction activities related to the second eight million bushel per year capacity. If expansion plans proceed, a third equivalent groundwater source (and perhaps additional onsite storage facilities) will be needed for the peaking and backup needs of the expanded plant, although the two wells currently sought will provide the base supply.

1993 -- Full production of the 8 million bu/yr facility. Complete construction, shakedown and startup activities related to the expansion facility. Full operation of a 16 million bushel per year facility.

We hope that this provides you with the information you need to issue a permit allowing a five-year period for development. Please call me immediately if you have any questions.

Very truly yours,

Jeffrey C. Fereday

Jeffrey C. Fereday

JCF/gc

cc: Clif Mahin, P.E.
Sandy J. Cortopassi, Esq.
Harold W. Jones

MICROFILMED
MAY 17 1989

LAW OFFICES
GIVENS, MCDEVITT, PURSLEY, WEBB & BUSER

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

*ALSO ADMITTED IN OREGON

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

TELEPHONE
(208) 342-6571

TELECOPIER
(208) 343-9492

MAR 06 1989

Department of Water Resources

March 2, 1989

Mr. Gary Spackman, Supervisor
Water Allocation Section
Idaho Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

Re: Anheuser-Busch applications

Dear Gary:

I am sending a letter from Jack Kelly of J.M. Montgomery Engineers which responds to your request, in your letter of February 10, 1989, for "some technical discussion of the aquifer in the immediate area" of these wells which addresses "water availability and possible impacts on other water users." I trust that this satisfies that request.

As you requested, I also am enclosing a preliminary project design. The estimated cost of construction of the malting plant is $50 million.

We are preparing copies of other necessary permit applications for submission, and will keep you apprised of their status.

The Company will prepare information in response to your request for a "plat" describing the locations of wells and springs as described in the Department's rules.

We will seek letters of comment on the application as specified in the rules.

Finally, pursuant to our telephone conversation today, we understand that you have not yet determined the D[illegible]

MICROFILMED
MAY 17 1989

LAW OFFICES
GIVENS, MCDEVITT, PURSLEY, WEBB & BUSER

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

*ALSO ADMITTED IN OREGON

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

TELEPHONE
(208) 342-6571

TELECOPIER
(208) 343-9492

RECEIVED
MAR 06 1989
Department of Water Resources

March 2, 1989

Mr. Gary Spackman, Supervisor
Water Allocation Section
Idaho Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

Re: Anheuser-Busch applications

Dear Gary:

I am sending a letter from Jack Kelly of J.M. Montgomery Engineers which responds to your request, in your letter of February 10, 1989, for "some technical discussion of the aquifer in the immediate area" of these wells which addresses "water availability and possible impacts on other water users." I trust that this satisfies that request.

As you requested, I also am enclosing a preliminary project design. The estimated cost of construction of the malting plant is $50 million.

We are preparing copies of other necessary permit applications for submission, and will keep you apprised of their status.

The Company will prepare information in response to your request for a "plat" describing the locations of wells and springs as described in the Department's rules.

We will seek letters of comment on the application as specified in the rules.

Finally, pursuant to our telephone conversation today, we understand that you have not yet determined the D[illegible]

MICROFILMED
MAY 17 1989

position on the status of the irrigation component of this industrial right. We understand that, regardless of your position, this will not prevent processing of the applications.

Very truly yours,

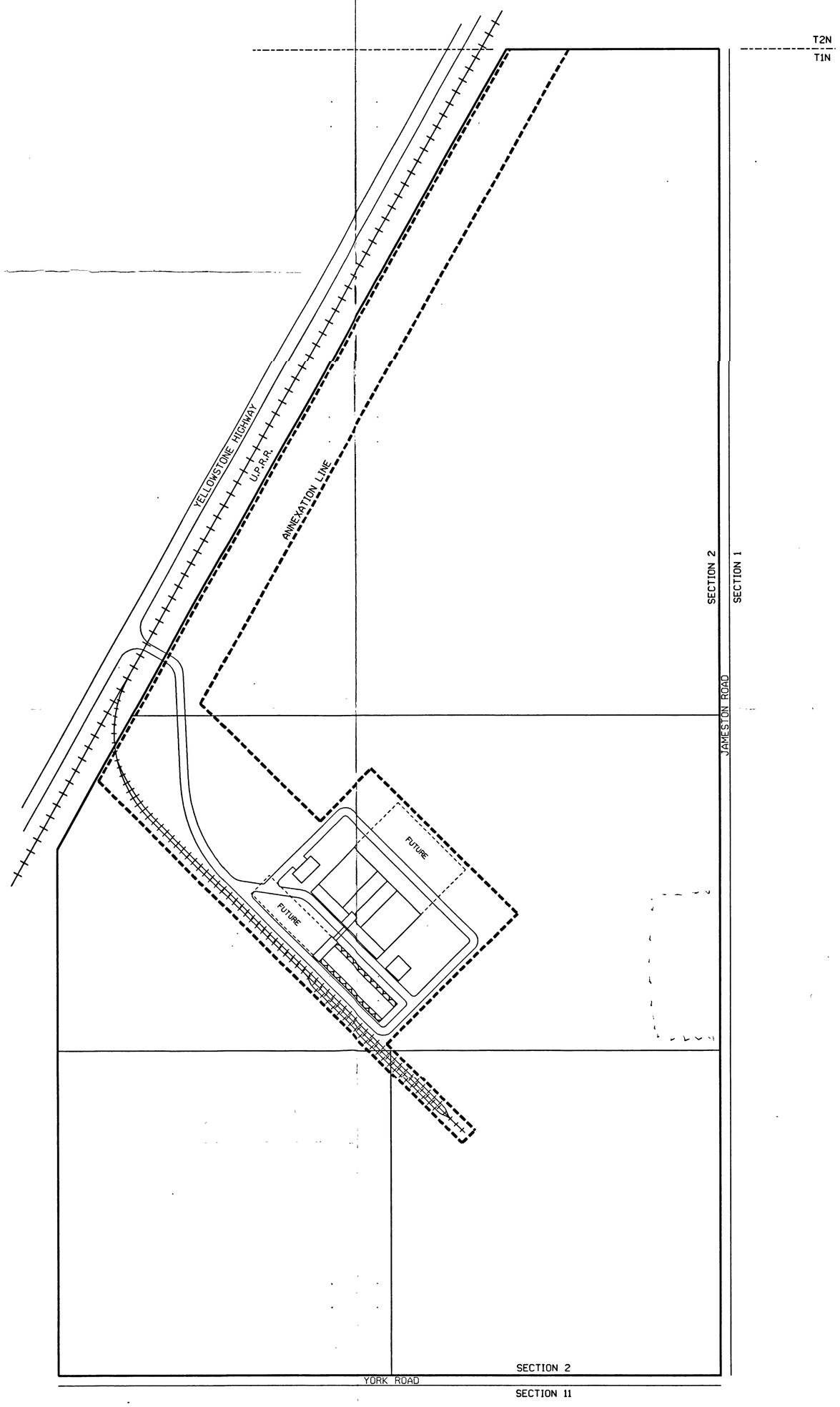
Jeffrey C. Fereday

Jeffrey C. Fereday

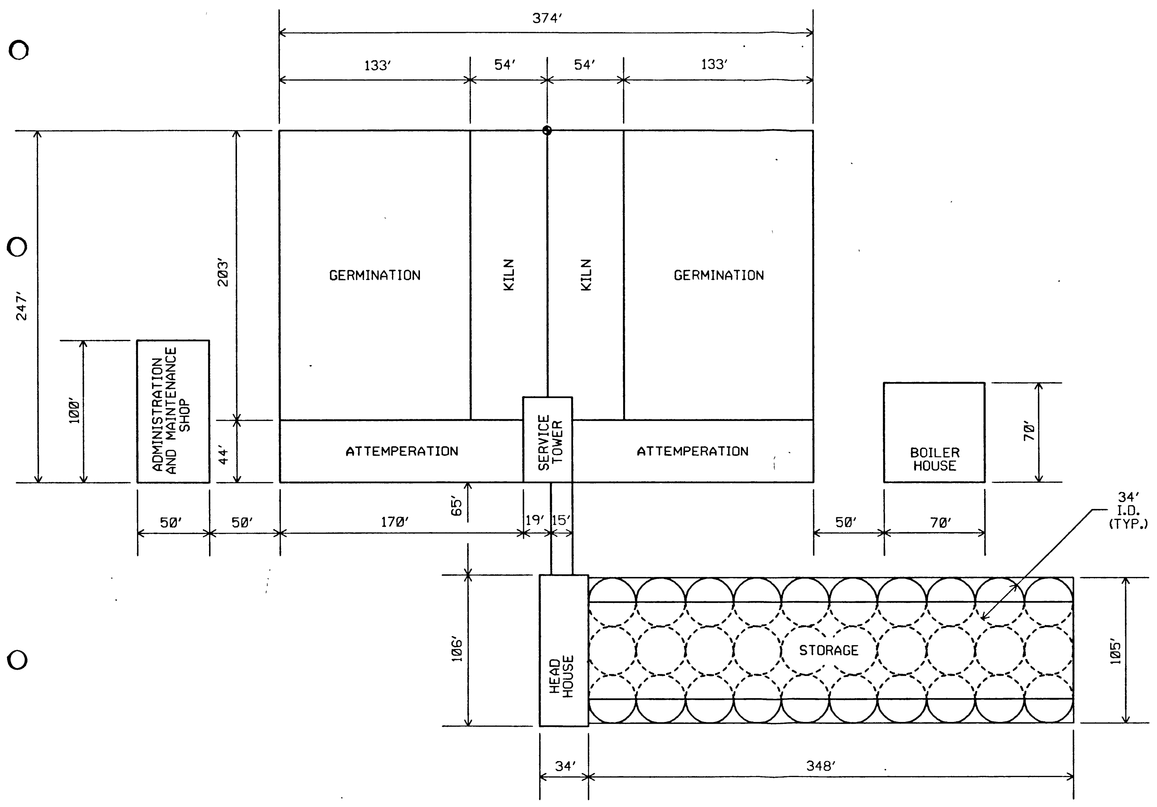
JCF:gc
Encls.

cc: Cliff Mahin, P.E.
Sandy J. Cortopassi, Esq.

RECEIVED
MAR 7 1989



SITE PLAN
1" = 200'



PLANT SITE
1" = 50'

NOTE: THIS IS A C.A.D. PRODUCED DRAWING / DO NOT MAKE ANY CHANGES ON THIS DRAWING

NO.	DATE	DESCRIPTION OF REVISION OR ISSUE	BY	CK.	PROJ. ENGR. APPROVAL	A & B APPROVAL

ESR	5672
DESIGNED	J ROCHOW
DRAWN	G BLAKE
CHECKED	
SCALE	AS NOTED
DATE	12/28/88

ANHEUSER-BUSCH COMPANIES
WESTERN MALT PLANT

PROJ. 6815

SITE PLAN
AND CITY ANNEXATION PLAN

BLDG.NAME | BLDG.NO.

ENGINEER APPROVED | OWNER APPROVED

PLANT	BLDG.NO.	DIV.	DWG.NO.	REV.
IDF-	000-	C	-0002	.A

CONSULTANT

NO.DBS] [300,2301C0002.DGN

Serving the World's
Environmental Needs

Telephone
(208) 345-5865

161 Mallard Drive, Boise,
Idaho 83706 3974

JMM James M. Montgomery
Consulting Engineers Inc.

January 27, 1989

RECEIVED
JAN 30 1989
Givens, McDevitt, Pursley,
Webb & Buser

Mr. Jeffrey C. Fereday
Givens, McDevitt, Pursley, Webb & Buser
P. O. Box 2720
Boise, ID 83701

Dear Jeff:

In accordance with your letter of January 24, 1989, we have made a preliminary evaluation of the proposed location of two wells in Sec. 2, T.2N., R.37E., Bonneville County, Idaho for Busch Agricultural Resources, Inc. Based on our review of available drillers logs in the files of IDWR, it would appear that large yield wells can be developed in the general area. We have no reason to believe that subsurface conditions at the proposed sites would be materially different than those represented by the logs.

We obtained copies of six logs of wells within Section 2, including two within the quarter-section proposed for the two new wells. Most of the six logs showed broken basalt and/or cinders, which are the prolific producing zones for wells in the general area. However, none of the logs indicated the results of test pumping.

The high yield of wells in the area, such as those for the City of Idaho Falls, are characterized by low drawdowns also. Consequently, the effects on nearby wells is minimal or not measurable in some cases. The same conditions are expected at the proposed sites. However, testing of each well should be done, together with the observation of local wells, to insure that the expected minimal effect is documented prior to long-term continuous use.

Water quality is expected to be "good" with respect to general chemical composition. However, possible contamination by organic chemicals and/or farm chemicals/insecticides cannot be evaluated. Comprehensive water analyses should be performed on samples from the wells after completion to insure that no contamination is present.

If you have any questions, please call.

Sincerely,

Jack E. Kelly

/ln

MICROFILMED
MAY 17 1989

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

COPY

February 2, 1989

Jeffrey Fereday
P.O. Box 2720
Boise, ID 83701

Dear Mr. Fereday:

I have received the two Busch Agricultural Resources applications for permit. In review I find that two areas need to be addressed. The time for development on Line 7 states 5 years. Only two years are granted unless a year by year development plan is submitted. If 5 years is distinctly required then a brief plan should be sent to my attention. Also since each application exceeds 5 cfs, a large diversion supplementary sheet needs to be completed (see enclosed).

I would suggest that you contact Gary Spackman at the Boise office with any questions on this supplementary sheet before returning it to me.

Currently the two applications will be kept in our Non-Trust Water Hold File until receipt of the needed information and until that time that regulations are in place which allow us to process applications in this particular area.

Sincerely,

Harold W. Jones

Harold W. Jones
Water Resource Supervisor

HWJ:lk

MICROFILMED
MAY 17 1989

Form No.
7/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

App. Nos. 25-7485 & 25-7486

CHECKLIST OF REQUIREMENTS
LARGE DIVERSION SUPPLEMENTARY
ANALYSIS SHEET*

EFFECT ON EXISTING RIGHTS

☐Yes ☒No Springs/surface streams with 5 or less existing users
- ☐Identify number of impacted rights
- ☐Name and address of users
- ☐Location of points of diversion
- ☐Nature of use of the existing rights

☒Yes ☐No Groundwater
- ☒Plat showing proposed well and any other wells &/or springs within ½ mile radius

☒Yes ☐No Statement of design construction, or operation techniques which will be used to reduce impact on existing rights

Submitted by Jack E. Kelly, Montgomery Engineers

SUFFICIENCY OF WATER SUPPLY

Water Requirements of Proposed Project
- ☒Required diversion rate during peak use (Maximum rate)
- ☒Required diversion rate during average use period
- ☒Annual volume By using total vol. diverted = (1950)(2) = 3900 acre/ft
- ☒Season of use 0.05(3900) = 195 ac/ft.
- ☒Volume to be consumptively used/year

Quantity of Water Available from Source

N/A ☐Flow rates for surface water sources available during peak and average water demand period
- ☒Properties of aquifers

N/A ☐Other sources available for supplementation

GOOD FAITH, DELAY OR SPECULATION

☒Copies of deeds, leases, easements, and right-of-ways from OK

☐Power applications affidavit form 205/206 is required N/A

☒Yes ☐No Other needed permits, licenses, or approvals required. If yes, Possible NPDES -.

FINANCIAL RESOURCES

- ☒Current certified financial statement
- ☒Financial commitment letter/financial statement from committed party } Deemed not necessary in this case.
- ☒Project design/plans along with cost estimation to complete project Received

*For applications of more than 5 cfs. or more than 500 AF.

LOCAL PUBLIC INTEREST

Comments received from: Requested but not in the file.

- ☐ City
- ☐ County
- ☐ Reservations
- ☐ Idaho Fish & Game
- ☐ Idaho Health & Welfare Division of Environment
- ☐ Irrigation District
- ☐ Canal Company
- ☐ Other _____

Project impacts/implications report

COMMENTS

Dist. for staffing HWJ 2-1-89

ubmitted for adv. HWJ 2-1-89

'orm No. 202a
:/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

SNAKE FALLS HOLD
NON-TRUST Area

APPLICATION FOR PERMIT ANALYSIS SHEET

25 7485

INITIAL REVIEW BY HWJ DATE 2-1-89 APPLICATION NUMBER _____

Busch Agric. Res.

REQUIRED INFORMATION

- ☑ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)
- ☑ Address
- ☑ Source (See USGS Quad for names of water sources)
- ☑ Point of Diversion (10 acres for spring, lot & block descriptions for subdivisions, local name, flow and/or volume)
- ☑ County
- ☑ Quantity (flow and/or volume)
- ☑ Period of Use
- ☑ Nature of proposed use (Include description of use.)
- ☑ Description of diverting works
- ☑ Time required for beneficial use of water Need 5 year plan
- ☑ Place of use or acres irrigated
- ☑ Map
- ☑ Signature (If applicant is corp. partnership, or minicipality, title of signator is required)
- ☑ Fee
- ☑ Yes ☐ No* In form to receipt

ADDITIONAL INFORMATION

- ☐ Overlapping place of use (Describe source & relationship to present application on the back.)
- ☐ Overlapping point of diversion
- ☐ Yes ☒ No Field check required
  Field check by _____
- ☐ Yes ☐ No Field report attached
- ☐ Yes ☐ No Critical groundwater area
- ☐ Yes ☐ No Groundwater management area
- ☐ Yes ☐ No Send dam safety information
- ☐ Yes ☐ No Send power requirement letter
- ☐ Yes ☐ No Send fish farm requirement letter
- ☐ Yes ☐ No Power residency affidavit
- ☐ Yes ☐ No Power efficiency form
- ☐ Yes ☒ No Within trustwater boundary (If yes, attach trust water supplementary analysis sheet.)
- ☒ Yes ☐ No Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.)
- ☐ See reverse side for additional information

RECEIVED
MAR 14 1989
Department of Water Resources

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT 5 year plan +
Large Div. Supplementary
Date Requested

PROCESSING

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

SEND COPIES TO

☐Idaho Dept. of Health & Welfare
☐Idaho Dept. of Fish & Game
☐Idaho Dept. of Lands
☐Adjudication Bureau Unit
☐U.S. BLM
☐U.S. Forest Service
☐Water District
☐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 3-6-89
☐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. 01-P05
☒Yes ☐No Special conditions of approval or cover letter below. _____

_____

_____ ☐See below for additional information

Date of priority recommended 2-01-1989

By HWJ Date 3-07-89

STATE OFFICE REVIEW P23, P05, P03, P17 46 48 49 26 01G 06A 09E

_____

_____ ☐See below for additional information

By tw Date 3-14-89

ADDITIONAL INFORMATION

Conditions - <06A> <09E> <01G>

App. in NON-TRUST water area ok to allow 5 yrs. to develop a project of this size.

LOCAL PUBLIC INTEREST

Comments received from:

☐ City	☐ Idaho Fish & Game	☐ Irrigation District
☐ County	☐ Idaho Health & Welfare	☐ Canal Company
☐ Reservations	Division of Environment	☐ Other_____

Project impacts/implications report

COMMENTS

_____

_____

_____

_____

_____

_____

_____

_____

February 13, 1989

Busch Agricultural Resources, Inc.
c/o Clifford Mahin, P.E.
Anheuser-Busch Cos., Inc.
One Busch Place
St. Louis, MO 63118

Application for Permit No. 25-07485

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned identification No. 25-07485. Please refer to this number in all further correspondence.

This office is currently in the process of advertising the application in the Post-Register. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

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

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

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

MICROFILMED

MAY 17 1989

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

February 10, 1989

Department of Water Resources
Eastern District Office

Jeffrey Fereday, Attorney at Law
P.O. Box 2720
Boise, ID 83701

RE: Two applications to appropriate water in the name of Busch Agricultural Resources, Inc.

Dear Mr. Fereday:

I have reviewed two applications in the name of Busch Agricultural Resources, Inc., proposing diversion of 6 cfs each, or a total of 12 cfs, for the operation of a malting plant south of Idaho Falls.

The following information required for all applications under Rule 3 of the Water Appropriation Rules and Regulations was not included with the application:

1. The names and addresses of the corporate directors and officers must be provided.

2. The full nature of the proposed beneficial use must be listed. The application narrative describes an irrigation use, but the purpose of use section (no. 4) only describes industrial. The application is being advertised as an industrial use without an irrigation component. If you desire to irrigate from the wells the applications must either be readvertised or a new application must be filed.

Both of these applications individually exceed 5 cfs, and are subject to the additional information requirements under Rule 4,5.:

1. Rule 4,5,3,1,2. requires submittal of a plat locating the proposed well relative to all existing wells, springs and permitted wells within one-half mile radius of the proposed well. General location of the wells within a forty acre tract as listed in the department's database is not sufficient. Each existing well and spring within a one-half mile radius must be identified and located accurately on the plat. Proper location may require a review of field examination[illegible] in the department's records, and on-site [illegible]h rough measurement to existing landmarks. An exception may be

MAY 17 1989

a unconstructed well authorized by a permit. Department files may contain a map, however, that locates the proposed point of diversion.

2. Some technical discussion of the aquifer in the immediate area should accompany the application. It should address water availability and possible impacts on other water users.

3. An applicant is required to submit copies of other needed permits, licenses and approvals. A discharge permit from the Division of Environmental Quality will probably be necessary. In the following paragraphs, we will request that you solicit comment from the Department of Health and Welfare, Division of Environmental Quality.

4. A project design with preliminary plan must be submitted to the department along with a cost estimate of construction.

5. Please seek letters of comment from Bonneville County; the Idaho Fish & Game; Idaho Health & Welfare, Division of Environmental Quality; and any Irrigation Districts or Canal Companies which may be affected by the withdrawal. This probably should include correspondence to the Twin Falls Canal Company. The Twin Falls Canal Company has been concerned about withdrawals from the Snake River Aquifer that could deplete water dedicated to satisfy its water rights.

Please contact me if you have any questions.

Sincerely,

Gary Spackman

Gary Spackman, Manager
Water Right Permits Section

cc: **Eastern Region**

MICROFILMED

MAY 17 1989

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region
150 Shoup Ave., Suite 15

Idaho Falls, Idaho 83402
(208) 525-7161

FEBRUARY 9, 1989

THE POST-REGISTER
P.O. BOX 1800
IDAHO FALLS, ID 83403

Gentlemen:

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

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

Please send the affidavit of publication and publication billing to this office before MARCH 6, 1989.

Yours truly,

Rita Bodell
Secretary

Encl.

MICROFILMED
MAY 17 1989

NOTICE OF APPLICATION FOR WATER RIGHT

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

MICROFILMED

MAY 17 1989

25-07485

BUSCH AGRICULTURAL RESOURCES INC.
C/O CLIFFORD MAHIN, P.E.,
ANHEUSER-BUSCH COS., INC,
ONE BUSCH PLACE
ST. LOUIS, MO 63118

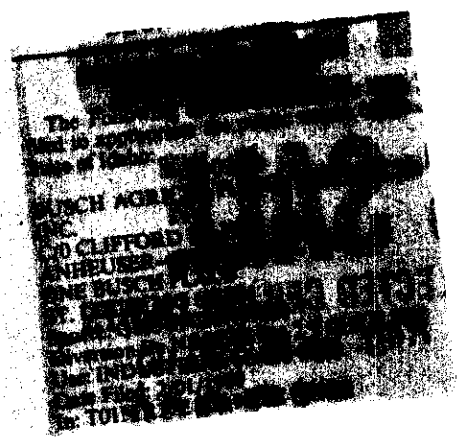
Source: GROUNDWATER

Diversion Pt: NWSESE Sec 2 T 01N R 37E

Use: INDUSTRIAL (6.000 CFS)

Date Filed: 2/01/1989

In: T01N R37E S02 NESE NWSE



MICROFILMED
MAY 17 1989

The permit(s) will be subject to all prior water rights. Protests may be submitted based . the criteria of Sec. 42-. 3A, 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, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before MARCH 6, 1989.

R. Keith Higginson, Director

Published 2/16/1989 & 2/23/1989

MICROFILMED
MAY 17 1989

LAW OFFICES
GIVENS, McDEVITT, PURSLEY, WEBB & BUSER

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

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

TELEPHONE
(208) 342-6571

TELECOPIER
(208) 343-9492

RECEIVED
Department of Water Resources
Eastern District Office

January 30, 1989

RECEIVED
JAN 30 1989
Department of Water Resources

Via Hand Delivery

Mr. Norman C. Young
Resources Administrator
Idaho Department of Water
Resources
1301 N. Orchard
Boise, Idaho 83706

Dear Norm:

I am enclosing for filing with the Department two well applications on behalf of Anheuser-Busch Companies, Inc. and our check in the amount of $290.00 to cover the filing fee (two permits, each with 6.0 cfs at $145.00 each). We would appreciate your processing these as soon as possible. Also, we would appreciate your including a notice in your publication of this application that any comments or copies of protests should be sent to my attention. Please let me know immediately if you have any questions or comments about the applications.

Sincerely,

Jeff Fereday

Jeffrey C. Fereday

JCF:gc
Encls.

cc: Mr. Raymond E. Goff
Clifford A. Mahin, P.E.
Sandy Cortopassi, Esq.

MICROFILMED
MAY 17 1989