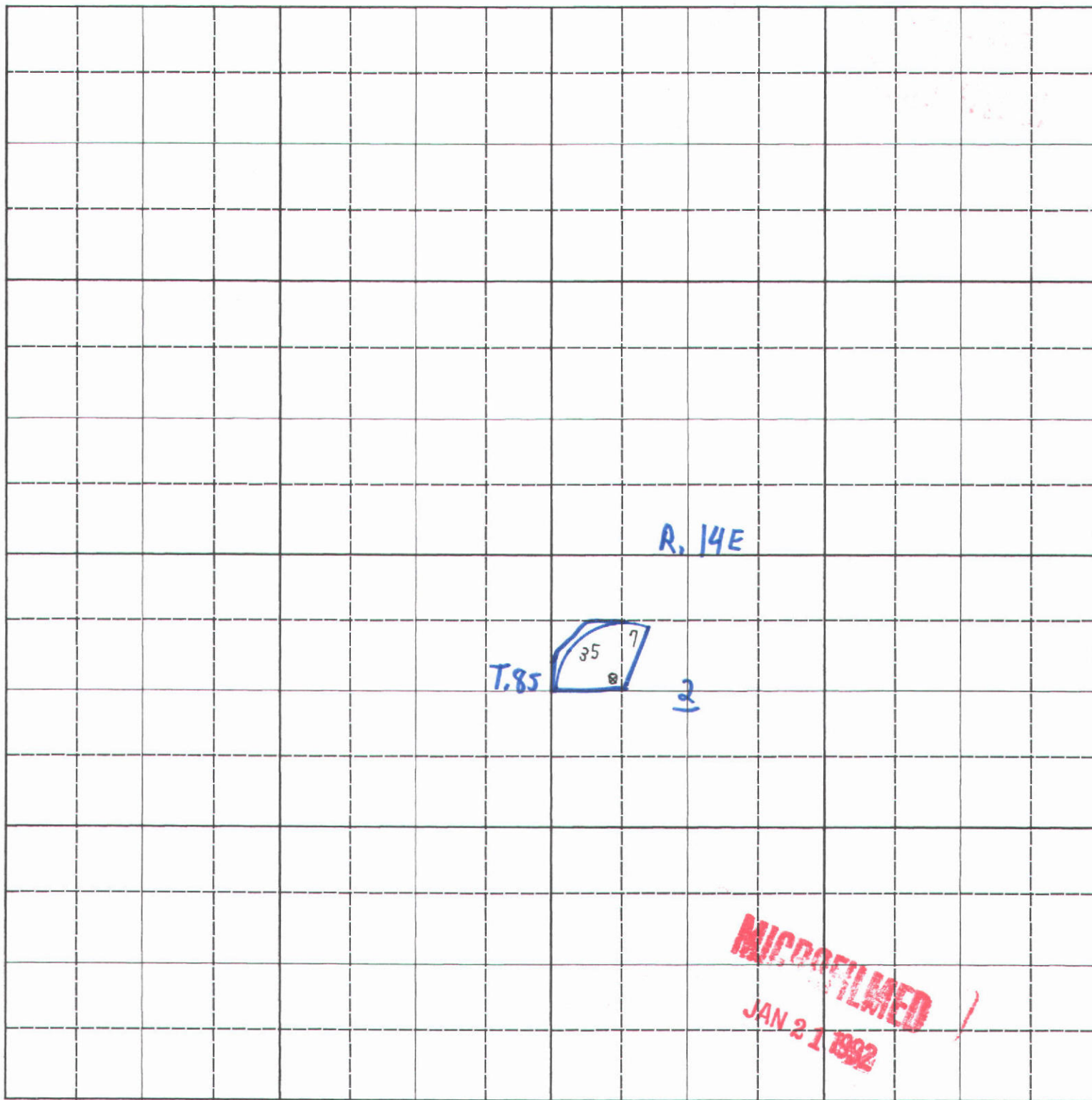


13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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.


(Applicant)

AFFIDAVIT of PUBLICATION

State of Idaho }
County of Gooding } ss.

Patty Nance, being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 1st day of May, 1991, and the date of the last publication was on the 8th day of May, 1991.

Patty Nance
Subscribed and sworn to before me this 8th day of May, 1991.
(SEAL)

Vicente Gaudinaga
NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 2X

_____ Lines tabular at _____ 6¢/Pica

323.4 Lines straight at 16.17 5¢/Pica

_____ Subsequent lines at 12.94 4¢/Pica

TOTAL COST 29.11

COPY OF NOTICE

(Paste Here)

Not. Appl. Tr. Wat. Rt.
TITLE OF NOTICE
m. Branchflower
36-08581
PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Q D W R T.F
BILL TO

NOTICE OF APPLICATION FOR TRUST WATER RIGHT

36-08581

BRANCHFLOWER, MIKE
BRANCHFLOWER, KATHY
P.O. BOX 392

WENDELL, ID 83355

Source: GROUNDWATER

Diversion Pt: SESWNW Sec 2 T 08S R 14E

Use: IRRIGATION (.840 CFS)

Total Diversion: (.840 CFS)

Date Filed: 2/20/ 1991

In: T08S R14E S02 SWNW SENW

42.0 ACRES TOTAL

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 222 Shoshone St. East, Twin Falls, Idaho 83301 on or before MAY 20, 1991.

R. Keith Higginson

Director

G5618

Pub: 5-1, 8

7-8 pt. per line tabular.....6¢/Pica

7-8 pt. per line straight.....5¢/Pica

7-8 pt. per line successive
insertions.....4¢/Pica

RECEIVED

MAY 09 1991

No. 5021

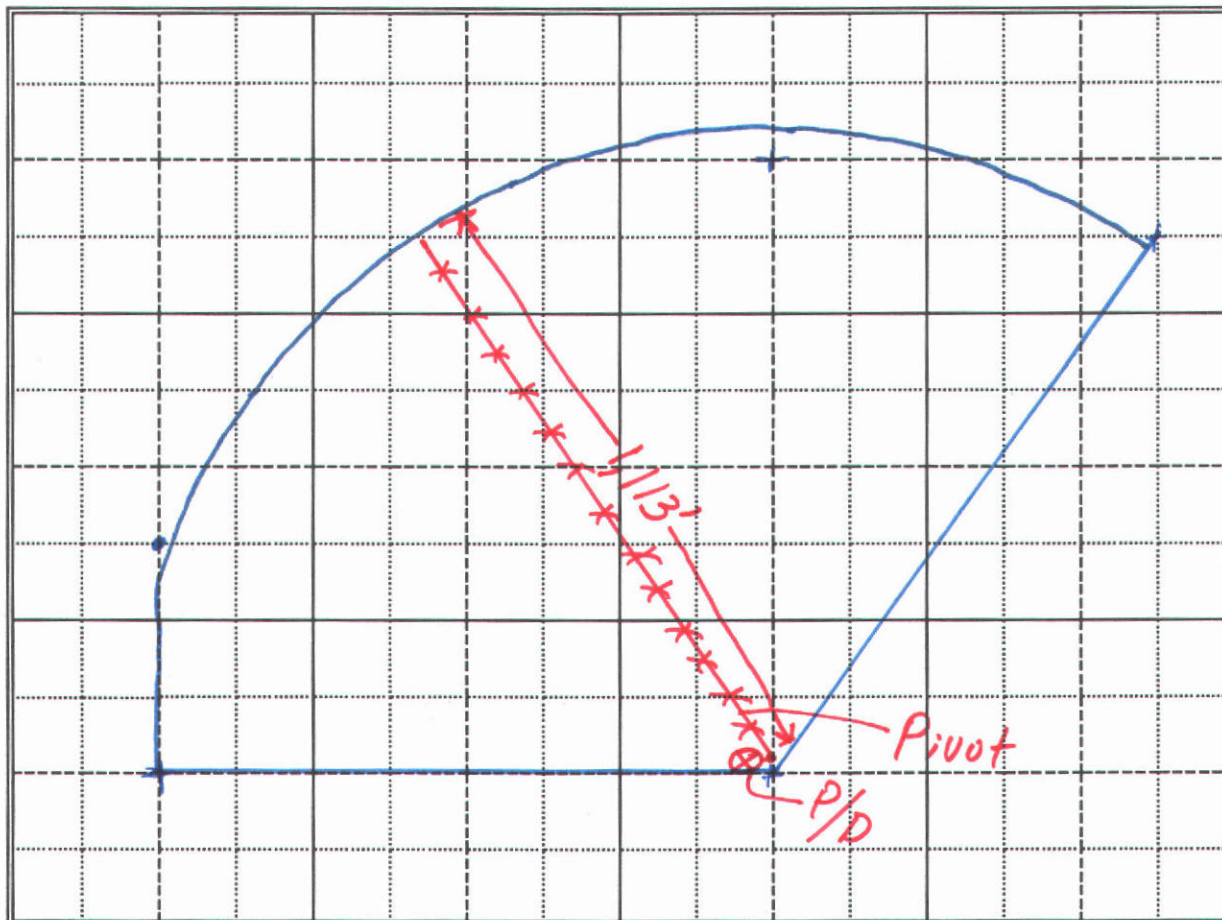
Department of Water Resources

Southern Region Office

5618

MICROFILMED
JAN 21 1992

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



Scale: 1" = _____

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

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

☒ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	Unknown	25	Unknown	Unknown	Unknown

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

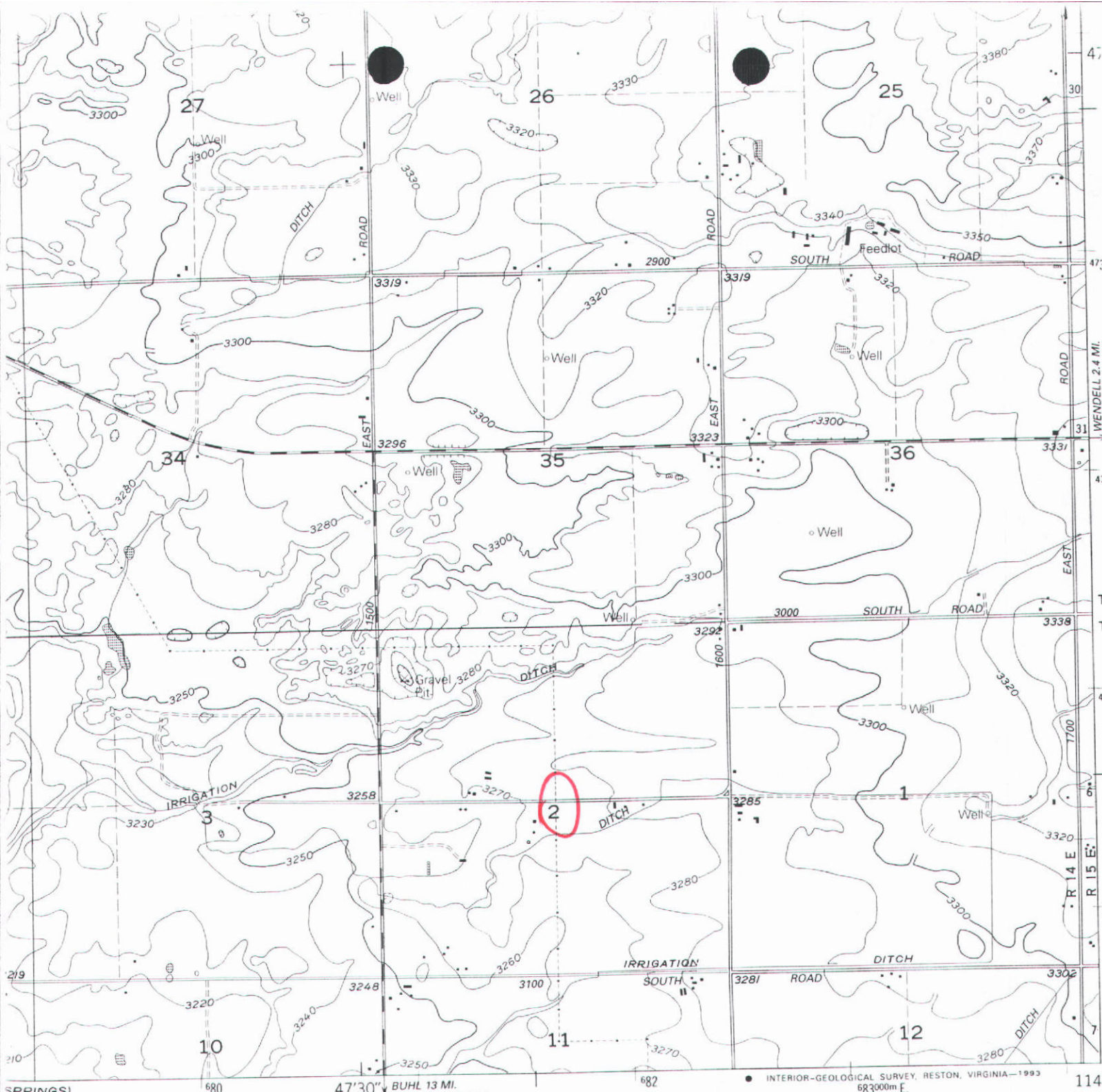
D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: No measurements were taken. A theoretical calculation is used to estimate flow.

JUN 27 1996



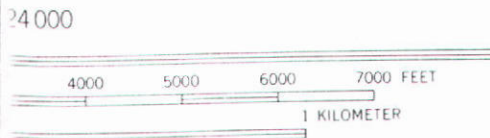
SPRINGS) 680 47°30' BUHL 13 MI. TWIN FALLS 29 MI. 682 114°

INTERIOR-GEOLOGICAL SURVEY, RESTON, VIRGINIA-1993 683000m E.

ROAD CLASSIFICATION

Primary highway, all weather, hard surface	Light-duty road, all weather, improved surface
Secondary highway, all weather, hard surface	Unimproved road, fair or dry weather

☐ Interstate Route
 ☐ U. S. Route
 ☐ State Route



VAL 10 FEET
ICAL DATUM OF 1929

STANDARDS FOR SPATIAL ACCURACY-CLASS 2
 OLOGICAL SURVEY
 R RESTON, VIRGINIA 22092
 AND SYMBOLS IS AVAILABLE ON REQUEST



T08S-R14E52
 36-08581

JUN 27 1996

TUTTLE, IDAHO
 42114-G7-TF-024
 1949
 REVISED 1992
 DMA 3069 IV SE-SERIES V893



PERMIT 36-08881 INIT _____
T. R. S. Q/Q
P/D 85 ME 2 SWNW
SCALE _____
PHOTO ID. _____

SCALE 1:24,000
0 1 MILE
0 3000 4000 5000 6000 7000 FEET
0 1 KILOMETRE

RECEIVED
JUN 27 1996

683000m.E.

TUTTLE, II
N4245-W1144
1974
ADVANCE

35

2

35

2

(X)

PERMIT 26-08571 INIT _____

T. R. S. Q/Q

P/D 85 HE 2 SUNW

SCALE _____

PHOTO ID. _____

P/a

P/a

9/1
HEL

962
7.782
H

4.0
HEL

115.1
HEL

JUN 27 1996

36-08581

#1
P/D



#2
P/u



JUN 27 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PETITION FOR	)	
DECLARATORY RULING SUBMITTED BY	)	
MICHAEL G. BRANCHFLOWER AND	)	FINAL ORDER
KATHERINE L. BRANCHFLOWER	)	
_____	)	

This matter having come before the Idaho Department of Water Resources (department), as a result of the filing of a petition for a declaratory ruling, the department makes the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT

1. On February 18, 1997, Michael G. Branchflower and Katherine L. Branchflower (petitioner) filed a Petition for Declaratory Ruling in connection with certain transfer approvals and licenses granted by the department to the petitioner.

2. On May 22, 1996, the department issued license no. **36-08581** with Conditions of Approval no's. 5 and 9 as follows:

This right when combined with all other water rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre for the lands above.

Diversion and use of water under this right is subject to rules that may subsequently be promulgated for the use of existing rights used for supplemental purposes.

Water right no. 36-08581 was not established as a supplemental water right for use with surface water.

Condition no. 5 is general in nature relative to the maximum amount of water authorized for diversion and does not limit use of the right to use as a supplemental source of water.

3. On February 20, 1996, the department issued license no. **36-08560B** with Conditions of Approval no's. 7 and 8 as follows:

Diversion and use of water under this right is subject to rules that may subsequently be promulgated for the use of existing rights used for supplemental purposes.

This right when combined with all other water rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre for the lands above.

The original water right no. 36-08560 was not established as a supplemental water right for use with surface water.

Condition of Approval no. 8 is general in nature relative to the maximum amount of water authorized for diversion and does not limit use of the right to use as a supplemental source of water.

4. On February 20, 1996, the department issued license no. **36-08582** with Conditions of Approval no's. 7 and 8 as follows:

Diversion and use of water under this right is subject to rules that may subsequently be promulgated for the use of existing rights used for supplemental conditions.

This right when combined with all other water rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre for the lands above.

Water Right no. 36-08582 was not established as a supplemental water right for use with surface water.

Condition of Approval no. 8 is general in nature relative to the maximum amount of water authorized for diversion and does not limit use of the right to use as a supplemental source of water.

5. On January 31, 1996, the department issued transfer no. 4375 involving water right no. **36-02517C** with Conditions of Approval no's. 6, 7, and 10 as follows:

The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right.

This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased, or used on any other place of use.

Use of this right is combined with water from the North Side Canal Co. Ltd.

The original water right no. 36-02517 was established as a supplemental water right to supplement surface water from North Side Canal Company shares. Transfer no. 4375 did not change the use of water right no. 36-02517C from supplementing surface water.

6. On January 31, 1996, the department approved transfer no. 4404 involving water right no. **36-07460G** with Conditions of Approval Nos. 6 and 7 as follows:

The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right.

This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased, or used on any other place of use.

The original water right 36-07460 was not established as a supplemental water right for use with surface water.

7. Water right no. **36-07460E** is the remaining portion of right 36-07460D after transfer no. 4052 involving right no's. 36-07460F and 36-07460G was approved on June 20, 1995. Right no. 36-07460E contains the following remark:

Use of this right is combined with water from North Side Canal Co. Ltd.

This remark is based on the recommendation of this right in the Snake River Basin Adjudication.

8. On June 9, 1994, the department issued license no's. **36-08313A** and **36-08313B** with Condition of Approval no. 10 as follows:

The right holder shall fully use all surface water rights appurtenant to the lands identified above prior to using water under this right.

The original water right no. 36-08313 was not established as a supplemental water right for use with surface water.

9. On March 17, 1994, the department issued transfer no. 4053 involving water right no. **36-02517B** with Condition of Approval no. 2 as follows:

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre for the lands above.

The original water right no. 36-02517 was established as a supplemental water right to supplement surface water from North Side Canal Company shares. Transfer no. 4053 did not change the use of water right no. 36-02517B from supplementing surface water.

CONCLUSIONS OF LAW

1. IDAPA 37.01.01402 (Rule of Procedure 402) provides in pertinent part as follows:

402. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER (Rule 402).

01. Final Agency Action. The agency's decision on a petition for declaratory ruling on the applicability of any statute, rule or order administered by the agency is a final agency action decided by order.

2. The department should respond to the request for declaratory ruling as follows:
 - a. 36-07460E and 36-07460G - The department should rescind Condition of Approval no's. 6 and 7.
 - b. 36-08313A and 36-08313B - The department should rescind Condition of Approval no. 10.
 - c. 36-08560B and 36-08582 - The department should rescind Condition of Approval no. 7.
 - d. 36-08581 - The department should rescind Condition of Approval no. 9.
 - e. The department should not change the remarks or conditions of approval for right no's. 36-02517B and 36-02517C.

ORDER

IT IS THEREFORE, HEREBY ORDERED as follows:

1. Condition of Approval no's. 6 and 7 for right no's. 36-07460E and 36-07460G are **RESCINDED**.
2. Condition of Approval no. 10 for right no's. 36-08313A and 36-08313B is **RESCINDED**.
3. Condition of Approval no. 7 for right no's. 36-08560B and 36-08582 is **RESCINDED**.
4. Condition of Approval no. 9 for right no. 36-08581 is **RESCINDED**.
5. The department will not change the remarks or Conditions of Approval for right no's. 36-02517B and 36-02517C.

DATED this 2nd day of October, 1997.



KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I do hereby certify that on this 14th day of October, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing FINAL ORDER to the following:

Mike and Kathy Branchflower
Box 392
Wendell, ID 83355

Kevin F. Trainor
STEPHAN KVANVIG STONE
& TRAINOR
102 Main Ave. South
P.O. Box 83
Twin Falls, ID 83303-0083

HAND DELIVERED

Scott King
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706


JULIE L. YARBROUGH
Senior Secretary

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 36-08581

Priority: March 13, 1991

Maximum Diversion Rate:

0.74 CFS

Maximum Diversion Volume:

156.0 AF

This is to certify, that MIKE BRANCHFLOWER
KATHY BRANCHFLOWER

PO BOX 392

WENDELL ID 83355-0392

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 20, 1991; and has submitted Proof of Beneficial Use on November 26, 1993. An examination indicates that the works have a diversion capacity of 0.740 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	0.74 CFS	156.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 2, Township 08S, Range 14E
GOODING County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
08S	14E	2	SWNW 32	SENE 7		39

Total number of acres irrigated: 39

CONDITIONS OF APPROVAL AND 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 that 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. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
6. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.

RECEIVED
JUN 27 1996

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

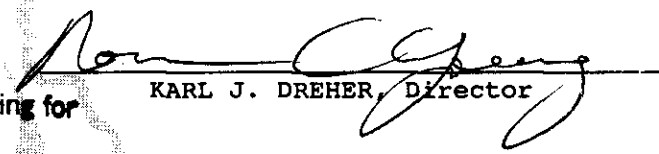
WATER RIGHT NO. 36-08581

CONDITIONS OF APPROVAL AND REMARKS

7. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
8. The Director retains jurisdiction over this right and may change, add, or remove any requirement as determined to be appropriate.
9. Diversion and use of water under this right is subject to rules that may subsequently be promulgated for the use of existing rights used for supplemental purposes.

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 22ND day of MAY, 1996.

Acting for


KARL J. DREHER, Director

27 1996

RECEIVED

RECEIVED

NOV 29 1993

Department of Water Resources

OFFICE USE ONLY

Amt. of Fee \$ 100.00Date 11-26-93Receipt No. 5016378Receipt by J. C. Stanton

NOV 26 1993

Department of Water Resources
Southern Region OfficeSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

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

1. Permit No. 36-08581 Telephone No. 208 536 2594
2. Name(s) of Permit Holder(s): Mike Branch Flower Kathy Branch Flower
3. Mailing Address: Box 392 Wendell Idaho 83355
4. Source of Water: Groundwater

If GROUNDWATER, Well Driller's Name: Eaton Drilling Date Drilled: 1/27/93

OPTIONAL:

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

5. Extent of Use (as authorized by the permit):

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

Irrigation 42 (No. of acres) Other _____

6. Total rate and/or volume for which proof is submitted .84 cfs OR _____ acre/feet

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

Measuring device: Required? Yes ☒ No ☒ Installed? _____ Yes ☒ No ☒

Flow Measurement Port: Required? Yes ☒ OR ☒ No ☒ Installed? _____ Yes ☒ No ☒

8. Fee Enclosed: \$ 100.00 (See License Fee Schedule on back of Instruction Sheet)

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

Michael G Branch Flower 208 536 2594
Name Telephone No.

Box 392 Wendell Idaho 83355
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.

JUN 27 1996

Nov 24, 1993
Date

Michael G Branch Flower
Signature (and title, if on behalf of a company or organization)

RECEIVED

Form 204
11-91

DEC 22 1992

Department of Water Resources
Southern Region Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
\$15 Fee Received by 92
Date 12-22-92
Receipt No. 5015940

REQUEST FOR EXTENSION OF TIME

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

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

Permit No. 36-08581
Name(s) of Permit Holder: Mike &/or Kathy Branchflower
Mailing Address: PO Box 392, Wendell, ID 83355
Date Proof Is Due 12-1-92 Telephone No. 536-2594

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

Driller has been hired, and will start as soon as water permit is reinstated.
Drilling permit has been approved. Sprinklers have been purchased.

Costing \$ 8000.

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

Development of other irrigation projects has not allowed enough time for completion of this project. I mistakenly asked for only one year on the original permit.

Permit holder(s) request an extension to Dec. 1, 19 93.

FEE: \$15.00

(Signature) [Signature]

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

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED JAN 27 1993
and the time within which to submit proof of beneficial use is
extended to December 1, 1993.

IT IS FURTHER ORDERED that this permit be REINSTATED and the priority
date advanced to March 13, 1991, pursuant to Section 42-218a, Idaho Code.

Signed this 24th day December, 19 92

[Signature]
Chief, Water Allocation Bureau

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 36-08581

Proposed Priority: February 20, 1991 Maximum Diversion Rate: 0.84 CFS
This is to certify, that MIKE BRANCHFLOWER

KATHY BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

has applied for a permit to appropriate water from: GROUNDWATER
and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
-----------------------	----------------------	--------------------------

IRRIGATION	03/15 to 11/15	0.84 CFS
------------	----------------	----------

LOCATION OF POINT(S) OF DIVERSION: SESWNW, Sec. 2, Township 08S, Range 14E
GOODING County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
08S	14E	2	SWNW 35	SESW 7		42

Total number of acres irrigated: 42

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before December 1, 1992.
2. Subject to all prior water rights.
3. Prior to the diversion of water under this right 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.
4. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
6. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
7. The Director retains jurisdiction of this right and/or subsequent license issued to change, add or remove any requirement as determined to be appropriate.
8. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

RECEIVED
JAN 21 1992

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 36-08581

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

17 th day of December, 1991.

for R. Keith Higginson, Director

RECORDED
JAN 21 1992

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

FEB 21 1991

To appropriate the public waters of the State of Idaho

Department of Water Resources
Southern Region Office1. Name of applicant Mike & or Kathy Branch/Flower Phone 506-2584Post office address P.O. Box 392, Wendell, ID 833552. Source of water supply Groundwater which is a tributary of _____3. Location of point of diversion is SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot _____Sec. 2 Township 8S Range 14E B.M. Gooding County; additional
points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.84 for Irrig. purposes from 3-15 to 11-15 (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) 0.84 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Well & pump, sprinklersb. 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 12 inches; proposed depth of well is 100 feet.d. Is ground water with a temperature of greater than 90°F being sought? No7. Time required for the completion of the works and application of the water to the proposed beneficial use is
One years (minimum 1 year).APPROVED
JAN 21 1992

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

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
8S	14E	2							25	7									42

Total number of acres to be irrigated 42

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

Northside Canal Co. shares

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

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

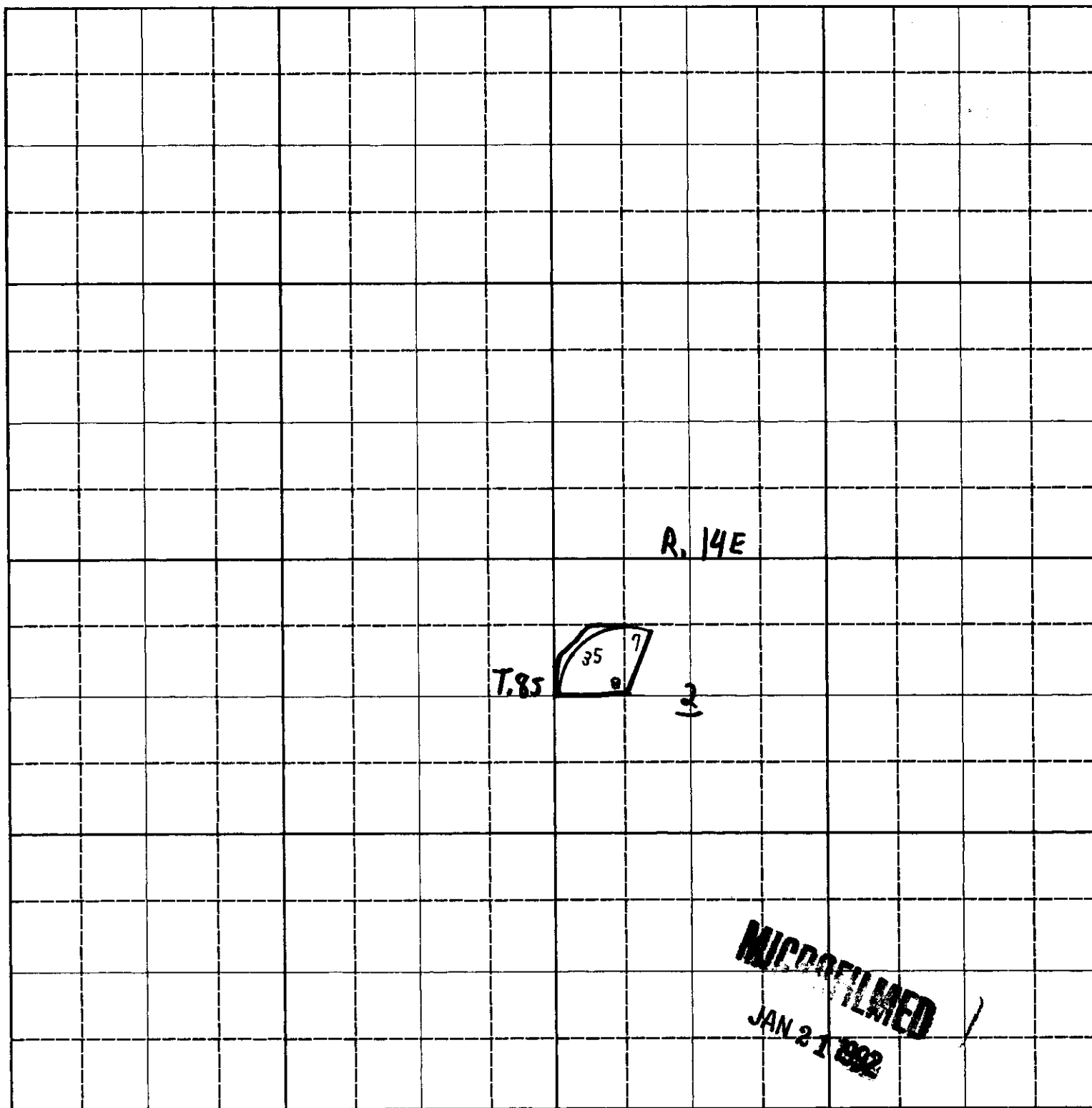
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: Well will replace canal shares to provide a constant water flow for sprinkler operation

RECEIVED

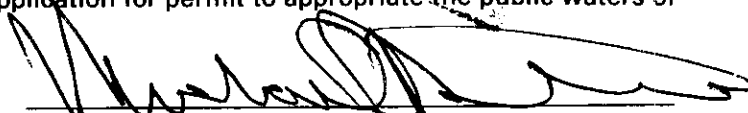
JAN 21 1992

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.


(Applicant)

Received by J.F. Stanten Date 2-20-91 Time 2:40 pm Preliminary check by DRS
Fee \$ 45.00 Receipted by JS # 5013084 Date 2-20-91
Publication prepared by M. Baldwin Date 4-17-91 Published in Landing Co. Leader
Publication approved M. Baldwin Date 5-16-91

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

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

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. 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:

MICROFILMED

JAN 21 1992

AFFIDAVIT of PUBLICATION

State of Idaho }
County of Gooding } ss.

Patty Nance, being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 1st day of May, 1991, and the date of the last publication was on the 8th day of May, 1991.

Patty Nance
Subscribed and sworn to before me this 8th day of May, 1991.
(SEAL)

Vicente Andujar
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

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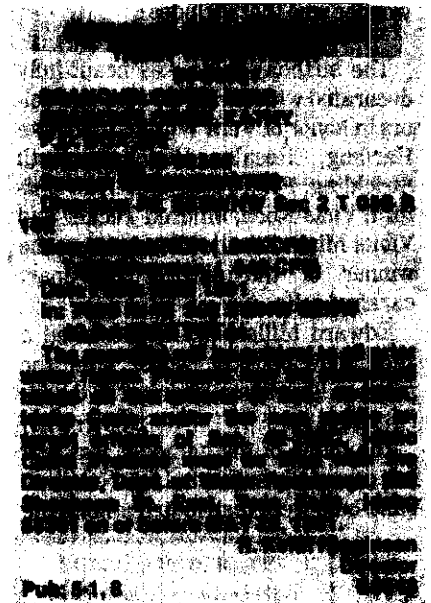
(Paste Here)

Not. Appl. To Wat. Rt.
TYPE OF NOTICE
Mr. Branchflower
36-08581
PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

J D W R T.E
BILL TO



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STEPHAN, KVANVIG, STONE & TRAINOR

ATTORNEYS AT LAW

FIRST SECURITY BANK BUILDING
102 MAIN AVENUE SOUTH
POST OFFICE BOX 83
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ROBERT W. STEPHAN 1946-1992
RETIRED

RUSSELL G. KVANVIG
LAIRD B. STONE
KEVIN F. TRAINOR

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FRANK L. STEPHAN 1886-1952
DANIEL A. SLAVIN 1938-1987

OCT 31 1997

OFFICE ADMINISTRATOR
ESTHER BOPP

Department of Water Resources
TELEPHONE 208/733-2722
FAX 208/733-3619

Date 10-28-97

☒ Clerk of the Idaho Department of Water Resources Court County, Idaho

☐ County Recorder

Re: In the Matter of Beneficial Use of Groundwater by
Case Number Michael & Katherine Branchflower
Our File Number _____

☒ Please file the attached Petition for Reconsideration

RECEIVED

☐ Please issue the attached _____

OCT 28 1997

☐ Please certify the attached _____

Department of Water Resources
Southern Region

☐ Please present to the Judge for his consideration the attached _____

☐ Please record the enclosed _____

☐ Our firm check is enclosed in the amount of \$ _____ to cover your fee for _____

☐ Please return to this office _____

☐ Please forward _____

☐ Other _____

Sincerely yours,

STEPHAN, KVANVIG, STONE & TRAINOR

Loraine Jones

RECEIVED

OCT 28 1997

Department of Water Resources
Southern Region

BEFORE THE DIRECTOR OF THE
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

IN THE MATTER OF BENEFICIAL)
USE OF GROUNDWATER BY MICHAEL)
G. BRANCHFLOWER AND KATHERINE)
L. BRANCHFLOWER AFTER)
ACCOMPANYING SURFACE WATER IS)
TRANSFERRED.)

PETITION FOR
RECONSIDERATION

Petitioners, Michael G. Branchflower and Katherine L. Branchflower, through their attorney of record, Kevin F. Trainor of Stephan, Kvanvig, Stone & Trainor, petition this Court to reconsider the Order issued by the Director of the Idaho Department of Water Resources dated October 2, 1997, and served upon these Petitioners by mail on October 14, 1997. This Petition for Reconsideration is addressed only to paragraph 9 of the Findings of Fact and paragraph 2(e) of the Conclusions of Law, and paragraph 5 of the Order as those paragraphs effect Water Right Nos. 36-02517B and 36-02517C.

This Petition for Consideration does not address any other Finding of Fact, Conclusions of Law, or portion of the Order issued by the Director.

DATED this 24th day of October, 1997.

STEPHAN, KVANVIG, STONE & TRAINOR

By 
Kevin F. Trainor, Attorney for
Michael G. Branchflower and
Katherine L. Branchflower

PETITION FOR RECONSIDERATION



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

October 14, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RE: In the Matter of Petition for Declaratory Ruling submitted by Michael G. Branchflower and Katherine L. Branchflower

Dear Interested Parties:

The accompanying order is a "final order" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

- (1) If the presiding officer is the agency head, the presiding officer shall issue a final order.
- (2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.
- (3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.
- (4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the issuance of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.
- (5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:
 - (a) the petition for reconsideration is disposed of; or
 - (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.
- (6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

The appeal must be filed within twenty-eight (28) days a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

C: IDWR - Region, Dick Larsen

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JUL 30 1997

STEPHAN, KVANVIG, STONE & TRAINOR

ATTORNEYS AT LAW

FIRST SECURITY BANK BUILDING
102 MAIN AVENUE SOUTH
POST OFFICE BOX 83
TWIN FALLS, IDAHO 83303-0083

ROBERT W. STEPHAN 1946-1992
RETIRED

RUSSELL G. KVANVIG
LAIRD B. STONE
KEVIN F. TRAINOR

Department of Water Resources

FRANK L. STEPHAN 1886-1952
DANIEL A. SLAVIN 1938-1987

OFFICE ADMINISTRATOR
ESTHER BOPP

TELEPHONE 208/733-2722
FAX 208/733-3619

July 29, 1997

Scott King *SL → Tim*
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

RE: Branchflower/Petition for Declaratory Relief

Dear Scott:

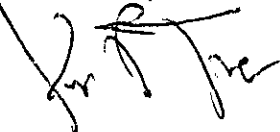
I enjoyed talking with you on July 18th, 1997. As I mentioned to you on the phone, it has been since late April when you and Michael Branchflower met regarding the Petition for Declaratory Relief.

Please give me an idea as to when your recommendations will be acted upon by the Department. Any assistance you can give to move this along, would be greatly appreciated.

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

Sincerely yours,

STEPHAN, KVANVIG, STONE & TRAINOR



Kevin F. Trainor

KFT/lmm

STEPHAN, KVANVIG, STONE & TRAINOR
ATTORNEYS AT LAW

ROBERT W. STEPHAN 1946-1992
RETIRED

RUSSELL G. KVANVIG
LAIRD B. STONE
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FRANK L. STEPHAN 1886-1952
DANIEL A. SLAVIN 1938-1987

OFFICE ADMINISTRATOR
ESTHER BOPP

TELEPHONE 208/733-2722
FAX 208/733-3619

September 19, 1997

RECEIVED

SEP 23 1997

Scott King
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

Department of Water Resources

RE: Branchflower/Petition for Declaratory Relief

Dear Scott:

As I am sure your file reflects, you wrote my clients Mike and Kathie Branchflower on August 30, 1996. You addressed some specific problems with water measurement, distribution, places of use, and conditions of use.

My notes indicate you met several times with Mike Branchflower and a number of the Department's concerns were resolved.

In part at the Department's suggestion, the Branchflowers filed a Petition For Declaratory Relief in February of this year. Mike and I then met with you on April 23 of this year and reviewed all the remaining issues. At that time you provided us with a copy of your draft Memorandum Response to the Branchflower's Petition. We have been awaiting the decision from the Department since then. As I told you in our numerous phone conversations, the Branchflowers are anxious to resolve this and have some concern that possible legislative actions may effect their water rights if these are not resolved shortly.

If there is any further information you need from us, please let us know. It has been almost five months since we met and reviewed all of these issues and the Branchflowers are anxious to resolve it.

Sincerely yours,

STEPHAN, KVANVIG, STONE & TRAINOR


Kevin F. Trainor

KFT/lj

cc: Mike and Kathie Branchflower

MEMORANDUM

To: Glen
From: Scott
Date: June 17, 1997

Subject: Response to Branchflower's Petition for Declaratory Relief

In February 1997, the department received a Petition for Declaratory Relief from Michael and Katherine Branchflower in response to my letter to them and a subsequent meeting in Twin Falls between Branchflower, Gary Spackman, and myself. During our meeting, it was evident that Branchflower has transferred and/or developed several ground water rights on lands which had previously been irrigated with Northside Canal water. Several of his ground water rights include conditions which prevent using ground water if the surface water is no longer used. Branchflower's intention was to develop satisfactory ground water supplies so that the often unreliable surface water could be sold or used on other lands. The petition indicates that much of the transferred canal water went to land which already had canal shares, and was therefore supplementing another surface supply. However, these changes may still induce an enlargement of ground water usage.

Some of Branchflower's ground water rights were developed as a sole-source supply and surface water was not appurtenant. These rights were later transferred onto lands that had appurtenant surface water, but the surface water was not used after the ground water supply was developed. Conditions preventing the use of ground water if surface water is not used were included on some transfers. Other rights were developed on land where surface water was appurtenant, but were probably not used conjunctively; surface water was used elsewhere upon development of ground water. Again, conditions limiting sale or non-use of the surface were included.

I have reviewed the water rights identified by Branchflower's Petition:

36-08313B Part of Item 1 in Branchflower's Petition. The application for permit (August 1986) doesn't mention surface water. Permit and amended permit (March 1991) includes "rate of diversion ... shall not exceed 0.02 cfs per acre ..." condition. The right was licensed in June 1994 as supplemental with conditions for 0.02 cfs, 4 afa per acre, and " ... fully use all surface water rights ... prior to using water under this right."

Branchflower claims he developed the property intending to use only ground

water, and to lease and/or use surface water on other property until he was able to sell it. Surface water was likely last used on this land in 1989 or 1990, and was thereafter used on other land until it was sold to Thiebault in October 1995.

Although use of the surface water on this land was discontinued prior to licensing or any other notification that it must be used first, the department had issued the conditioned license prior to the sale of the surface water. Therefore, Branchflower should have been aware of such restrictions prior to selling the surface water. However, the condition requiring Branchflower to "... fully use all surface water rights ... prior to using water under this right" does not specifically prevent the sale of surface water.

Since surface water is no longer appurtenant to this property, it is difficult to enforce the above condition. Branchflower requests that the condition be removed. I support supplementing it or replacing it with a condition stating that the right may be subject to future conjunctive / supplemental use rules.

No —

- 36-08313A Item 2 of Branchflower's Petition. See review of part B above. The license, issued June 9, 1994, restricts ground water use if surface water is not used. Northside claimed land as a place of use.

Branchflower claims the land was developed with the intent to use the ground water only, and to lease and/or use the surface water on other property until it could be sold. Since about 1989 or 1990, surface water has been leased and used on other property until it was sold in October 1995.

As with part B, since surface water is no longer appurtenant to this property, it is difficult to enforce the above condition. Branchflower requests that the condition be removed. I support supplementing it or replacing it with a condition stating that the right may be subject to future conjunctive / supplemental use rules.

No —

- 36-07460G Part of Item 1 of Branchflower's Petition. It appears that part A was split into C & D. The original right does not mention or indicate any use of surface water, and Northside did not claim any land at the original place of use. Part D was moved to land that Northside claimed, so standard comments were added in the adjudication claim/recommendation process, although surface and ground water were probably not ever used conjunctively. Part D was then split into parts E, F, & G. Pam's memo to file states the claim combines water with Northside on original (part D) place of use, which was probably based on review of adjudication records. Part G changes POU to land served by Northside, but I believe Branchflower sold or used the surface water elsewhere upon development of ground water.

The transfer for Part G, approved January 31, 1996, includes these conditions: (1) "... no more than 0.02 cfs ... 4.0 afa per acre...", (2) "This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased, or used on any other place of use." and (3) "The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right."

$$\frac{14.2 \text{ cfs}}{900 \text{ acres}} = 0.0158 \text{ cfs/acre}$$

Since the original right was developed as ground water only, and since the right was never used in a supplemental nature, conditions regarding supplemental use should be removed from this right and other portions of 36-07460.

✓ Yes

36-07460E

Part of Item 3 of Branchflower's Petition. See notes on 36-07460G, Item 1 above. Part E does not have any restricting language, but includes a condition that use is combined with Northside. Part E has always been used as a sole source, and never in conjunction with Northside water, but it was moved to land where surface water was used. Since this part has not been used conjunctively with surface water, and since the original right was not used with surface water, I support removing language suggesting that this right is supplemental to surface water.

✓ Yes

36-02517C

Part of Item 1 of Branchflower's Petition. The 1961 Application for Permit was for supplemental ground water use. The license does not mention of the supplemental nature of the right. Transfer 4053 (March 1994, part B & C) included the "no more than 0.02 cfs, 4 afa per acre" condition. Transfer 4375 (January 31, 1996, part C) included these conditions: (1) "... no more than 0.02 cfs ... 4.0 afa per acre...", (2) "This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased, or used on any other place of use," and (3) "The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right."

Branchflower purchased the original 36-02517 land from Dake in September 1990. He has retained ownership of the surface water, but has never used it on this property. The changes approved by transfer 4053 (part C) were never made. Transfer 4375 authorized moving the ground water to DeVries property, which also had appurtenant surface water. According to the sales agreement between DeVries and Branchflower, upon approval in October 1995 of a separate transfer DeVries had made for commercial use, DeVries received ownership of the ground water and Branchflower received the surface water from DeVries which was immediately sold to Thiebault.

Although the right was initially developed as supplemental, the license does not specifically reflect this nature. Branchflower was not notified by the department that transfer 4375 would include limitations until its final approval in January 1996,

at which time the right was owned by DeVries and surface water was no longer appurtenant to DeVries property. Branchflower was therefore not aware of these conditions until my August 1996 letter to him.

Although Branchflower no longer owns this right, he requests that conditions limiting ground water use due to surface water non-use or sale be removed. I have mixed feelings about this change. On one hand, the surface water was sold and transferred off the property before the parties had notice that they would be required to retain and use it. On the other hand, the transfer likely leads to an expansion of ground water use; although Branchflower used the right as a sole source after 1990, evidence suggests it was used as a supplemental source by the original owners. Overall, I don't support this change, and I feel that the conditions should be enforced unless DeVries either (1) obtains ownership of and uses surface water on this property, or (2) shows that the surface water shares that were appurtenant to the property were of such little value and unreliable that the ground water would have been the primary source of irrigation even if the surface water had been retained and used.

✓ Yes

36-02517B Part of Item 3 of Branchflower's Petition. See comments on 36-02517C, Item 1 above. The ground water was originally developed as a supplemental source, but now is used as the sole source. The "... no more than 0.02 cfs, 4 afa per acre" condition is included on the transfer. Branchflower would like to have this condition removed. However, I don't support this change; the language does not specifically restrict the non-use or sale of surface water from the appurtenant property, but it does reflect the supplemental nature of the original right.

✓ Yes

36-08560B Part of Item 5 of Branchflower's Petition. The license, approved February 20, 1996, includes conditions "combined 0.02 cfs, 4 afa" and "diversion and use of water under this right is subject to rules that may subsequently be promulgated for the use of existing rights used for supplemental purposes." VAX database shows Northside as "other rights." The September 1990 application for permit states that canal shares will be transferred off, and remarks that "Farm is being converted from gravity to sprinkler irrigation, and from canal water/ground water to strictly ground water."

Branchflower acquired the property in September 1990, the same time he applied for the permit. Although Branchflower remains owner of the appurtenant surface water, he claims he has never used it on this property, and that it is currently being leased and used on other property. He has requests that Northside not be listed as "other rights" and that the "supplemental" condition be removed. Northside is another appurtenant right, but Northside water was never used in conjunction with this right.

Not in
petition

Since Northside water is appurtenant to this land, although it hasn't been used here since ground water was developed, it is still an "other right" and the record should reflect so. The other conditions do not specifically limit Branchflower's use of the surface water at this time, but may as supplemental use rules are promulgated. I don't support removal of this condition. However, I think if evidence supports, the record should be clear that this right has never been used as supplemental to surface water.

- 36-08581 Part of Item 5 of Branchflower's Petition. The license, approved in May 1996, includes conditions "combined 0.02 cfs, 4 afa" and "diversion and use of water under this right is subject to rules that may subsequently be promulgated for the use of existing rights used for supplemental purposes." VAX database shows Northside as "other rights." The February 1991 application remarks that "Well will replace canal shares to provide a constant water flow for sprinkler operation."

The situation is similar to 36-08560B above with Branchflower requesting to have conditions removed. Branchflower remains owner of the surface water, but it has not been used on this property since he purchased it in September 1990, and it was clear from the application that Branchflower did not intend to use the two sources conjunctively. My recommendation is the same as above; conditions should remain, but the record should reflect that the ground water right has not been used to supplement a surface source.

Not in
petition

- 36-08582 Part of Item 5 of Branchflower's Petition. The license, approved February 20, 1996, includes conditions "combined 0.02 cfs, 4 afa" and "diversion and use of water under this right is subject to rules that may subsequently be promulgated for the use of existing rights used for supplemental purposes." VAX database shows Northside as "other rights."

Again, the situation is similar to the above two rights. Branchflower used the surface water in 1991, but it has not been used on this property since. Although he still owns the surface water, it is being leased or used on other property. The February 1991 application for permit remarks that "Well will replace canal shares to provide a constant flow of water for sprinkler operation." Branchflower would like these conditions removed, but my recommendation is the same as for the two rights above.

Not in petition

RECEIVED

FEB 18 1997

Department of Water Resources

BEFORE THE DIRECTOR OF THE
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

IN THE MATTER OF BENEFICIAL)
USE OF GROUNDWATER BY MICHAEL)
G. BRANCHFLOWER AND KATHERINE)
L. BRANCHFLOWER AFTER)
ACCOMPANYING SURFACE WATER IS)
TRANSFERRED.)

PETITION FOR
DECLARATORY RELIEF

INTRODUCTION

Petitioners, Michael G. Branchflower and Katherine L. Branchflower have lived and farmed southwest of Wendell, Idaho since 1981. Petitioners first purchased 80 acres from Bessie Lehmann.

Petitioners own and operate a center pivot construction and repair business known as Branchflower Company, and also farm the ground described in this Petition.

Over the years Petitioners have purchased other small farms from 40 acres to 200 acres and currently own and farm approximately 700 acres.

This area is at the end of the surface water delivery system for the Northside Canal Company. Historically delivery of water by the Northside Canal Company has been short, unpredictable and depending on the water year, even non-existent. Petitioners have had several crop failures due to lack of delivery of water by Northside Canal Company.

Petitioners began to purchase groundwater rights so they would have a reliable water source. Once the groundwater became appurtenant to a particular farm the surface water was no longer used upon that property to which the ground water was appurtenant.

The first such purchase was from Janss Farms (36-07460). Protracted negotiations with Idaho Department of Water Resources were entered during this transfer involving, in part, the Department's concern that a portion of the right may have been abandoned. The transfer was eventually approved with no restrictions.

There had been no restrictions placed upon the use of any of these groundwater rights until January 1996 (36-07460G) that prohibited the "sale, transfer, lease or use on any other place of use."

Petitioners have acted in reliance on Idaho Department of Water Resources groundwater rights as issued by IDWR. That is with no restrictions on "sale, transfer or lease" of the Northside Canal Company shares. Agreements have been made to transfer or lease approximately 350 shares of Northside Canal Company water. This retroactive imposition of restriction by IDWR has caused Petitioners to seek declaratory relief.

PETITION

Pursuant to the Idaho Department of Water Resources Rules of Procedure 400, the Petitioners make the following petition for declaratory relief. The Petitioners are Michael G. Branchflower and Katherine L. Branchflower who are the owners of certain water

rights discussed in this Petition and are transferors of certain water rights discussed in this Petition.

Petitioners request a declaratory ruling from the Department that their ground water rights may be used without the conditions imposed by IDWR in February 1996. The conditions that Petitioners object to are that: a) "surface water rights appurtenant to the place of use not be sold, transferred, leased, or used in any other place of use," and the condition that, b) "surface water rights appurtenant to the land be used prior to using ground water rights."

These Rights include 36-08313B, 36-02517C, 36-07460G, 36-08313A, 36-02517B, and 36-07460E.

This Petition is based upon Idaho Code 42-350 and 42-351 and the factual allegations set out below.

This Petition is made basically in response to a letter from Scott King to Petitioners dated August 30, 1996, a copy of that letter is attached as Exhibit A to this Petition. The Petition will attempt to address the "problems" and "concerns" set forth in Exhibit A, items 1, 2, 3, and 5.

ITEM 1: Water Right 36-08313B, 36-02517C, 36-07460G

Acquisition of Property - Petitioners never owned the ground to which these rights are now appurtenant. Petitioners leased that property in 1994, 1995, and 1996 from Ed Southfield.

Development of Groundwater Right - ^{Petitioners?} Petitions owned these water rights which were appurtenant to different property before

x

the rights were split and transferred by Petitioners to DeVries' property, to which they are now appurtenant. The original water rights did not contain any conditions to require use of existing surface water. No prohibitions on transfer of surface water were attached to the water rights before the transfer to DeVries.

Conveyance of Surface Water - There were 80 shares of Northside Canal Company water traded to Petitioners by DeVries. Petitioners have sold these shares to Don Thiebault.

Current Irrigation Method - Groundwater is being used on the property exclusively.

Conditions of Water Right -

All of these 80 shares with the exception of 3.5 shares are appurtenant to ground which was already served by Northside Canal Company shares. These shares with the exception of 3.5 shares were supplemental shares.

36-074606?

x

With regard to Water Right 36-07460J, this claim was created and then modified pursuant to a stipulation filed in the SRBA sub case in January of 1996. The existing water right does not contain a condition prohibiting its use of surface water that is sold or otherwise not used.

ITEM 2: Water Right No. 36-08313A

Acquisition of Property - Petitioners purchased 39 acres from the Merrill in May of 1990, and 40 acres from Twambly in October of 1990.

Development of Groundwater Rights - There was no

groundwater right appurtenant to this ground when Petitioners purchased it. Petitioners had applied for a water right several years prior to purchasing this ground during the moratorium. The Department of Water Resources granted the Water Right 36-08313 with the priority date of 1986. There were no conditions restricting transfer of surface water in this water right when it was issued.

Conveyance of Surface Water - Petitioners have never used canal water on this ground.

Current Irrigation Method - The property is now irrigated with ground water from Water Right 36-08313A.

Conditions of Water Right - The license as now issued requires using surface water rights appurtenant to the lands prior to using the ground water right. Petitioners have historically leased the ^{surface water?} (ground water) rights appurtenant to this land since they purchased the land in 1990. Petitioners have leased the surface water every year since purchasing the property. When Petitioners paid off the mortgage on this piece of property the surface water rights were transferred, 40 shares to Greg Thiebault, 23 shares to Bill Gully, 8 shares to Howe, and 8 shares to Prescott. The Thiebault and Gully surface water rights were supplemental to other surface water being used on the land to which it was transferred (all Northside Canal Company water). The 8 shares each to Howe and Prescott are believed to be used for new home sites.

ITEM 3: Water Rights Nos 36-02517B and 36-07460E

Acquisition of Property - Petitioners purchased this

ground from Virgil Dake in September of 1990. There were 207 acres purchased. There were 192 acres of Northside Canal Company water appurtenant to the land.

Development of Ground Water Right - Ground Water Right 36-02517 with a priority date of 1961 was appurtenant to this ground at the time Petitioners purchased it. When Petitioners purchased this ground only the 169 acres below the Northside Canal Company ditch were irrigated. The Canal Company water and ground water was co-mingled. There were no sprinklers on the property. The Petitioners only used Canal water for the 1991 season.

Conveyance of Surface Water - Petitioners transferred a portion of Water Right 36-07460C to this property to run a small pivot on a portion of the ground located above the Northside Canal Company ditch. Petitioners applied for trust water when they acquired the property in 1990, and a water right was issued. Water Right 36-08560 This brought the ground water rate up to 1 inch per acres for the entire 207 acres.

Conveyance of Surface Water - Of the 192 Northside Canal Company shares 180 have been leased to Jerry Doughty since 1992. Petitioners intend to convey these shares to Jerry Doughty when the mortgage is paid. Doughty uses this water as supplemental water to other ground which Northside Canal Company shares are appurtenant.

Current Irrigation Method - The property now is irrigated entirely with ground water rights.

Conditions of Water Rights -

02517B - There are no conditions regarding use of surface

water. 07460E

(07460C) - There are no conditions except to mention the existence of NSCC water. The Northside Canal Company has never delivered to the ground to which this water right is appurtenant.

ITEM 5: Water Right 36-08582 and 36-08560B

Acquisition of Property - This property was purchased from Murphy by Petitioners in February of 1991, 70 acres of property. There was 67.75 shares of Northside Canal Company water appurtenant to the property. There was no ground water appurtenant to the property. The property was located close to the end of the Northside Canal Company's delivery system.

Development of Groundwater Right - Petitioners applied for ground water, two diversion points, two pivots. Water Right 36-08581 and 36-08582. The first Right was .74 cfs 39 acres, the second .46 cfs, 23 acres. 08581 was used on the west side of the property and 08582 was used on the east side of the property. 8560B is .12 for 6 acres.

Conveyance of Surface Water - The surface water has never been used by Petitioners on the west side of the property and was only used by Petitioners in 1991 on the east side. It has been leased to Kent Thiebault, Vern Kohntop, and Bill Braum. It is being used as supplemental surface water for property to which Northside Canal Company shares are already appurtenant.

Current Irrigation Method - Groundwater, pivot and hand lines.

Conditions of Water Right - There are no restrictions on transfer.

ARGUMENT

Petitioners seek declaratory relief for the reason that the current state of these ground water rights make it uncertain whether Petitioners will be allowed to continue using ground water.

Petitioners are aware that the Department's general policy in the past has been to require the use of surface water prior to the use of ground water rights. Petitioners understand that in some cases the transfer of surface water rights can result in enlargement of use.

In the instant case, Petitioners transferred 79 shares of Northside Canal Company water from the Twambly and Merrill farms. 40 shares were sold to Greg Thiebault. All of these shares are appurtenant to the ground which already uses Northside Canal Company water. Twenty-three shares have been sold to Bill Gully. These shares also are being used to supplement and are appurtenant to ground already serviced by Northside Canal Company water.

Eight shares were sold to a Mr. Prescott in the spring of 1996 for a homesite. Eight shares were sold to Mr. Howe in the spring of 1996 for a homesite. It is possible that these shares may be an enlargement of use.

The location of all the ground for which Petitioners applied for and received ground water rights is at the end of the Northside Canal Company delivery system. Historically the Canal

Company has either not delivered the water to this ground or it has delivered water sporadically and in insufficient quantities so that it cannot always be put to beneficial use. Petitioners need to be able to divert water under their ground water rights with the security that the water diversion will not be curtailed under the Department's interpretation of Idaho Code 42-351 or that these water rights will not be avoided pursuant to Idaho Code 42-350.

Petitioners seek declaratory relief pursuant to Department's rules 400 in the form of a declaration from the director granting Petitioners the ability to continue to divert water pursuant to ground water right nos. 36-08313B, 36-02517C, 36-07460G, 36-08313A, 36-02517B, and 36-07460E.

DATED this 14 day of February, 1997.


MICHAEL G. BRANCHFLOWER


KATHERINE L. BRANCHFLOWER



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

August 30, 1996

RECEIVED

FEB 18 1997

Department of Water Resources

Michael & Katherine Branchflower
PO Box 392
Wendell, ID 83355

Dear Mr. & Mrs. Branchflower:

This letter documents a variety of water measurement and distribution problems and concerns regarding your ground water diversions located in the Wendell area. It appears that some of your diversions exceed authorized water right limits. Other diversions are in violation of specific conditions requiring that groundwater be used only when appurtenant surface water rights are not available. Finally, you may be irrigating lands not authorized by water rights. The department may issue notices of violation for illegal diversion of water at these sites. One transferred right lists an incorrect description of the diversion location, and you must apply for a transfer to change the point of diversion to match the well actually used. Finally, diversions from two dairy wells must also be measured and reported to the department.

Please read this letter carefully. If you disagree with any part of it, please contact me as soon as possible.

Four water rights are used to irrigate the NW quarter of section 11, Township 8 South, Range 14E. Department records show that you own three of the four water rights, and that Irene Vander Vegt is owner of 36-07460J. -?

Water Right	Flow Rate (cfs)	Acres	
36-08313B	0.32	16	(NWNW)
36-02517C	0.17	20	(NENW)
36-07460G	0.19	12	(NENW)
36-07460J	1.23	69	(SWNW-36, SENW-33) Irene Vander Vegt

The map you submitted in 1995 indicates that a pivot is centered in the NW quarter, and operates full circle, irrigating approximately 33 acres per 40 acre quarter-quarter. You do not have adequate water rights to cover the full use of this pivot as only 16 acres are authorized in the NW of the NW quarter of section 11, but it appears you are irrigating about 33 acres.

Transferred water rights 36-02517C and 36-07460G were approved with conditions stating that:

C:\tr-bran.wpd

EXHIBIT A

This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased, or used on any other place of use.

And

The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.

Water right 36-08313B was approved with the following condition:

The right holder shall fully use all surface water rights appurtenant to the lands identified above prior to using water under this right.

Water right 36-07460J does not contain specific conditions requiring surface water use. The North Side Canal Company has confirmed that the 160 surface water shares appurtenant to this land have been recently sold and are no longer used at this location. According to the above conditions, you can no longer use these rights for irrigation of this ground if the appurtenant surface water rights are sold or otherwise not used when available. If this analysis is incorrect, please notify me as soon as possible. Otherwise, the department will issue a notice of violation for illegally diverting water.

Water right 36-08313A authorizes the use of two wells to irrigate 60 acres with a diversion rate of 1.20 cfs. Gary Spackman measured a total of 1.73 cfs from the two wells, which exceeds the authorized amount by 0.53 cfs. You also reported irrigation of 64 acres during 1995; four acres were not authorized for irrigation. The licence stipulates that "The right holder shall fully use all surface water rights appurtenant to the lands identified above prior to using water under this right." The North Side Canal Company has confirmed that the surface water shares appurtenant to this land have been recently sold and are no longer used at this location. According to the above condition, you can no longer use this right for irrigation of this ground if the appurtenant surface water rights are sold or otherwise not used when available. As above, if this analysis is incorrect, please notify me as soon as possible. Otherwise, the department will issue a notice of violation for illegal diversion of water.

It appears that transferred rights 36-02517B & 36-07460E are used together and list the same diversion (well) located in lot 3 (NWNENW quarter of) section 2, Township 8 South, Range 14 East, and authorize a total diversion rate of 0.34 cfs for irrigation of 33 acres. Gary Spackman measured a flow rate of 1.28 cfs, which exceeds the authorized amount by 0.94 cfs. You have also reported irrigation of 38 acres, which exceeds the authorized amount by 5 acres.

Gary Spackman measured a total flow rate of 4.61 cfs from the two wells used for transferred right 36-07377A. This right authorizes only 4.36, and you are exceeding this amount by 0.25 cfs.

Water rights 36-08582 and 36-08560B together authorize diversion of 0.58 cfs to irrigate 29 acres. Gary Spackman measured 0.68 cfs, which exceeds the authorized amount by 0.10 cfs. You also reported irrigating 35 acres, which exceeds the authorized amount by 6 acres.

In your 1995 ground water measurement report, you imply that the well located in the NESESW quarter of section 3, Township 8 South, Range 14 East is used to divert groundwater for water right numbers 36-15219B, 36-08252E, 36-08063C, and 36-07460B. However, 36-07460B does not include this location as a point of diversion, but instead lists a well in the NENESW quarter of section 3. To legitimately use the well in the NESESW quarter for water right no. 36-07460B, a transfer must be approved changing the point of diversion of this right. Currently, only 36-15219B, 36-08252E, and 36-08063C can legitimately be diverted from the well in the NESESW quarter to irrigate a total of 33 acres.

A comparison of water right limits to actual measured diversions for the above well shows that the measured flow rate is 0.34 cfs higher than the water rights authorize. Gary Spackman measured 914 gpm (2.04 cfs), but the authorized flow is only 1.70 cfs, including the 36-07460B right.

Recently transferred rights 36-07377B and 36-07547B, co-owned by yourself and DeVries, authorize a total of 0.20 cfs and 59.6 acre-feet annually for stockwater and commercial uses (a dairy). Conditions of this transfer require that diversions under these rights must be measured and reported. If flowmeters have not yet been installed on the wells used for this dairy, they should be installed as soon as can reasonably be expected. Enclosed are reporting forms for these wells.

If you have any questions about these matters, please let me know. I can be reached by mail at the above address or by phone at (208) 327-7897.

Sincerely,

Scott King

Scott King

Enclosure: Reporting forms for dairy wells

cc: portions to Vander Vegt and DeVries



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 22, 1996

MIKE BRANCHFLOWER
KATHY BRANCHFLOWER
PO BOX 392
WENDELL ID 833550392

RE: WATER RIGHT NO. 36-08581

Dear Water Right Holder(s):

Enclosed is a copy of the Water Right License issued on the above referenced permit. If you have any questions, please contact me within 10 days of receipt of this license.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosure

MAY 27 1996

JUN 27 1996

B/U FIELD EXAM REVIEW
Cindy Zimmerman

Permit #: 36-8581 Name: Branch/Flower Date: 12/26/95 \$ 5/9/96
App Rcd 2/20/91 Priority 3/13/91 Examined 7/20/94 ✓ Lots ✓

NAME Chng Same ✓ Or Address Change?

SOURCE Chng Same ✓ Clarify source SWNW-32A
Prelim. Order to Void - Source change.

P/D Chng Same ✓ Amendment Needed? SWNW-32A -P39, P38
Overlap(s) SWNW-32A

P/U Chng Same ✓ Amendment Needed? SWNW-32A -P41, P38
Overlap(s) A01-00212 (Card) - not deliverable
*P/D & P/U Amend? P37, P38
(See paragraph list for governmental agencies)

RATE Chng Same ✓ Permit/fee limits: 0.84 / 1.0
Chng Same ✓ Measured Q= 0.74 cfs/Theoretical Q= 0.74 cfs
irr = 39a x 0.02 cfs/A = 0.78 cfs
(HP) 8.8 x 0.70 x 25 = 154.0 = 0.74 cfs
70 + (2.31 x 60) = 208.6
Chng Same ✓ Recommended capacity 0.74 cfs
Chng Same ✓ Recommended rate 0.74 cfs

VOLUME Chng Same ✓ Season of Use: (C/4.0) 4/1-10/31 = 214 days
Calculations: 39ac. x 4.0 AF/ac. = 156.0

Chng Same ✓ Flow limit: 0.74 x 214 x 1.9835 = 314.1 AF
Chng Same ✓ Recommended volume 156.0 AF

USES Chng Same ✓ Same Nature of Use? Chng -P46
Chng Same ✓ Amendment Needed? Chng

REMARKS Chng Same Chng Multiple p/d's in 1/4?

CONDITIONS Chng Same Chng Measuring (R01)/Locking (R02) Devices
Chng Same Chng Watermaster Control (R04) - WD # Chng
Chng Same Chng Irrigation rate/volume overlap R31
not deliverable Chng Same Chng Irrigation water overlap (065) (If gw use sw)
Chng Same Chng Water Quality/Other R55, R56, 053, 050

PRIORITY Due 12/1/93 Rc'd 11/26/93 Receipt# 5016390 Fee OK? (Yes)/No
Order to Reinstate Needed? Yes/No Done? 12/24/92
If Yes, Advanced? Yes/No to: 3/13/91

COMMENTS: limited by capacity

USE	CFS	DIV VOL
<u>irr. 39A</u>	<u>0.74</u>	<u>156.0</u>
<u>TOTAL</u>	<u>0.74</u>	<u>156.0</u>

Adjustment Memo Chng
LICENSE: P49
#1 AMEND LTR: P46 or
P39/P41/P37 & P38
#2 AMEND LTR: P42/P47

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
JUL 08 1996
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 36-08581

1. Owner: Mike & Kathy Branchflower

Phone No. 536-2594

Current Address: Box 392 Wendell ID 83355

2. Accompanied by: Owner

EXAM DATE: 7-20-94

Address: SAME

Phone No. SAME

Relationship to Permit Holder: Owner

3. Source: Groundwater tributary to None

B. OVERLAP REVIEW

1. Other water rights with the same place of use: 36-08560 (Permit)

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

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SW	NW	2	8S	14E	Gooding	Ortho Photo Quad Map

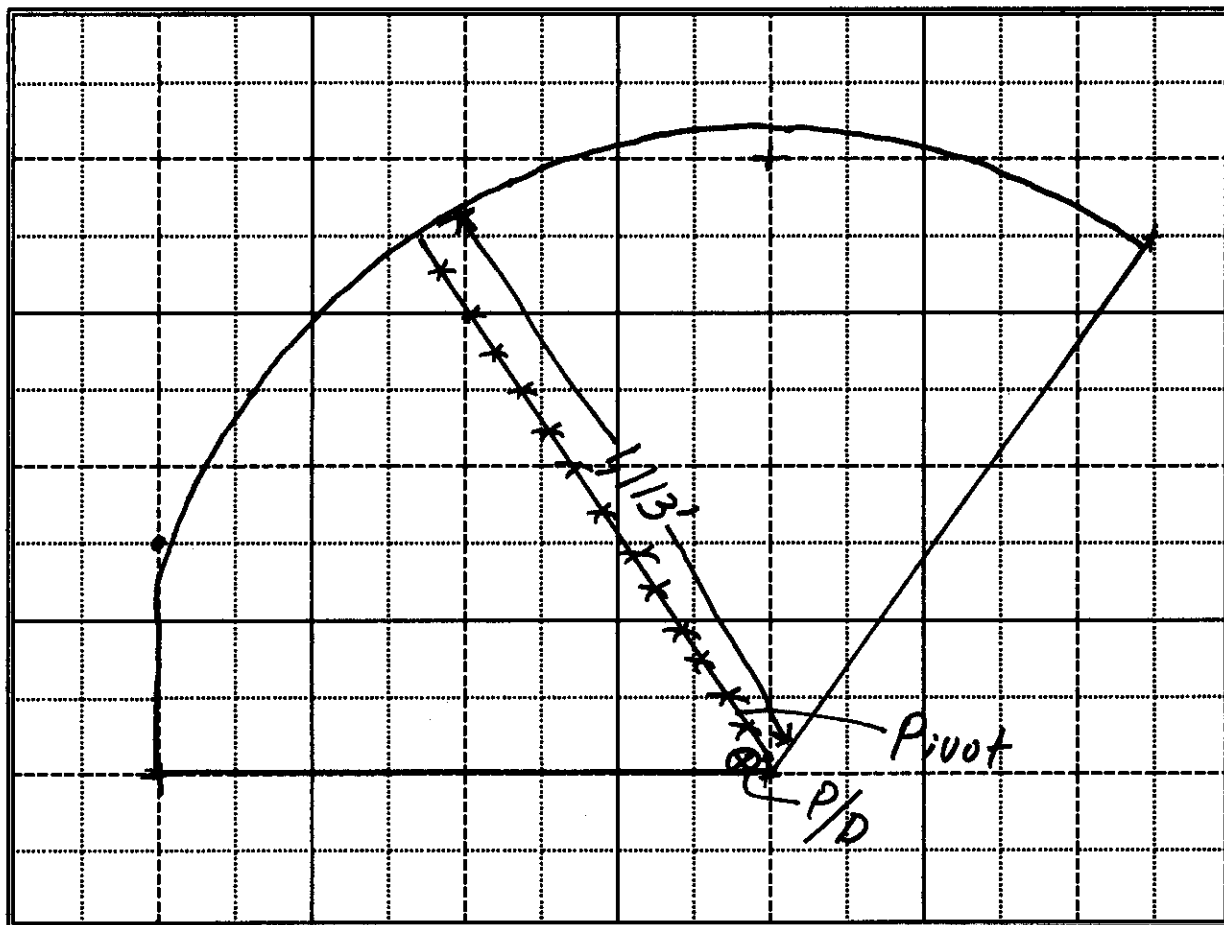
2. Place(s) of Use:

Indicate Method of Determination ASCS Map

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
8S	14E	02							32	7									39
																			</

JUN 27 1996

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



Scale: 1" = _____

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

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

☒ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	Unknown	25	Unknown	Unknown	Unknown

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: No measurements were taken. A theoretical calculation is used to estimate flow.

JUN 27 1996

E. NARRATIVE/REMARKS/COMMENTS

See Narrative Attachment

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

APPROVED
JUN 27 1996

F. FLOW CALCULATIONS

____ Additional Computation Sheets Attached

Measured Method:

$$Q = \frac{8.8(25).7}{70 + 60(2.31)} = .74 \text{ cfs}$$

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 39(4.0) = 156 \text{ afa}$$
$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = .74(215)/1.9835 = 315.6 \text{ afa}$$
$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 156 \text{ afa}$$

2. Volume Calculations for Other Uses:

Legal limit: .78 cfs
Freemil: 1 cfs
System: .74 cfs

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Irrigation	4-1	10-31	.74 cfs	156.0 afa
Totals:			.74 cfs	156.0 afa

2. Recommended Amendments

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

I. AUTHENTICATIONField Examiner's Name Alan Hamster Date 7-25-94

Reviewer _____ Date _____

SEAL

JUN 27 1996

36-08581

Narrative Attachment

There were no overlapping water rights found for the point of diversion. Water right 36-8560 is a place of use overlapping permit, however, water is not deliverable from this water right. The sole source of water for this irrigation system is a well which is located very close to the pivot point.

A 25 Hp submersible pump is used to deliver water to the pivot sprinkler system. The pivot itself is approximately 1,113 feet in length with an end gun on the end. The end gun has a radius of approximately 50 feet. The end gun is shut-off when the pivot is near the Clear Springs Road and then turns on as the end of the pivot moves eastward.

No flow measurements were obtained during the field exam since the system was shut-off.

JUN 27 1996

20 21 22 23 24 25

36.0958

legu flow = .84 cfs

$$Q = \frac{8.8(25) \cdot 7}{70 + 60(2.31)} = .74 \text{ cfs per 1 cfs 100 ft}$$

Scale $\frac{1}{16}'' = 5280'$
 $1'' = 655'$

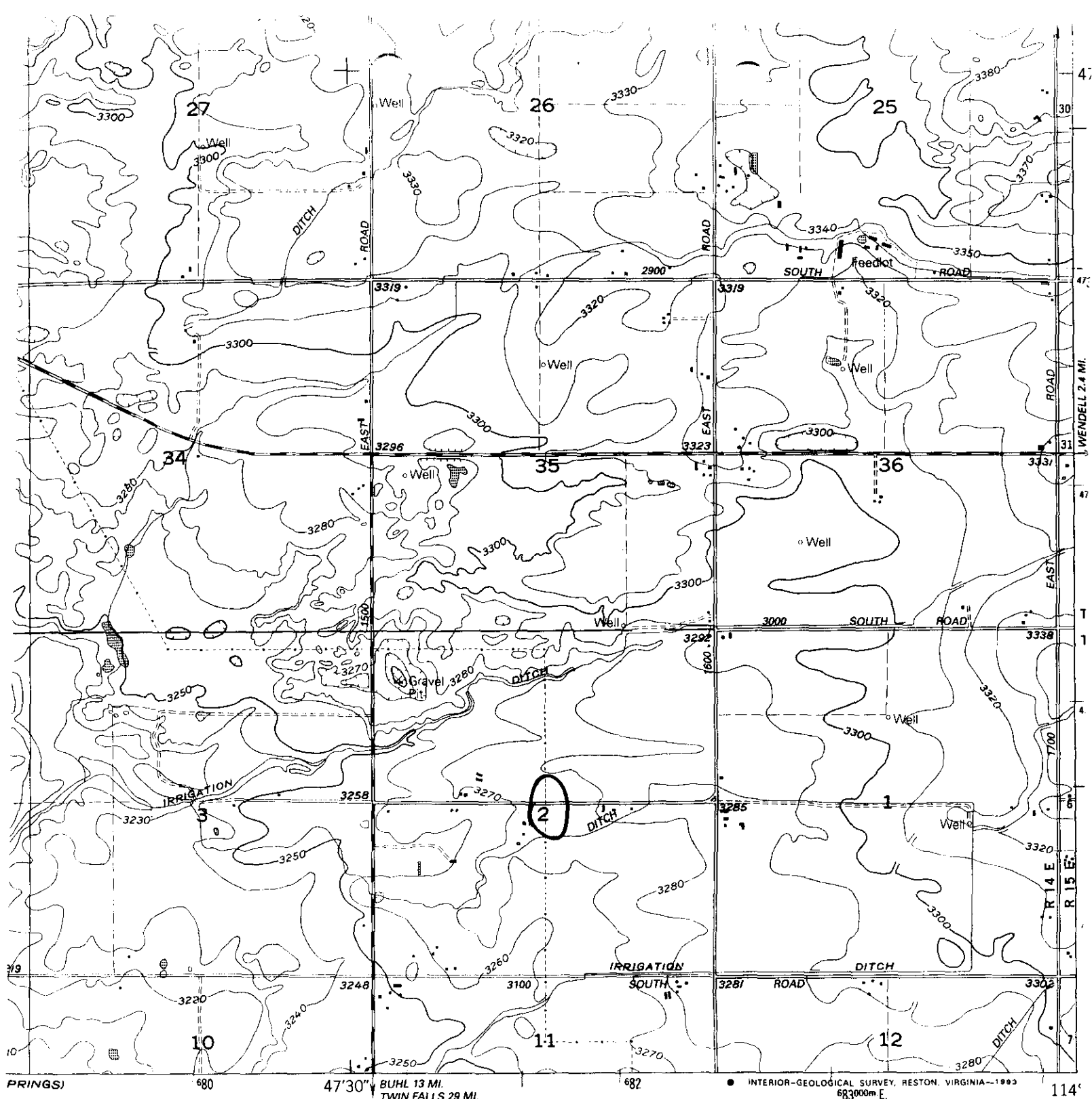
Shot arm

$$CA = \frac{655^2 \times .009699}{43560} = .09549$$

SWNW 31.4
 31.7
 31.9
 31.3
 31.8
31.6 32.0

SE NW 6.6
 6.5
 6.9
7.0

RECEIVED
 JUN 27 1986



VAL 10 FEET
CAL DATUM OF 1929

STANDARDS FOR SPATIAL ACCURACY--CLASS 2
GEOLOGICAL SURVEY
RESTON, VIRGINIA 22092
AND SYMBOLS IS AVAILABLE ON REQUEST



QUADRANGLE LOCATION

ROAD CLASSIFICATION

Primary highway, all weather, hard surface ————
Secondary highway, all weather, hard surface ————
Light-duty road, all weather, improved surface ————
Unimproved road, fair or dry weather ————
○ Interstate Route { U. S. Route ○ State Route

TUTTLE, IDAHO
42114-G7-TF-024

1949
REVISED 1992
DMA 3069 IV SE-SERIES V893

JUN 27 1996

TOPS-R 14 E 52
36-08581

PERMIT 30-0581 INIT
 T. R. S. Q/Q
 P/D SE ME 2 SW NW
 SCALE
 PHOTO ID.

3296

3285

83000m. E.

JUN 27 1996

TUTTLE, II
 N4245-W1144
 1974

ALE 124000
 0
 1
 2000 4000 6000 8000 10000 FEET
 0 1 2 3 4
 1 KILOMETRE

35

2

35

2

(X)

PERMIT 26-08571 INIT

T. R. S. Q/Q

P/D 85 ME 2 SUNN

SCALE

PHOTO ID.

P/a

P/a

962 4.0 HEL
7.782
H

4.5.1
HEL

JUN 27 1996

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

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.

RECEIVED

USE TYPEWRITER OR
BALLPOINT PEN

FEB 24 1993

1. WELL OWNER

Name Mike Branch/Lower
Address P.O. Box 392, Wendell, ID 83255
Drilling Permit No. 36-92-S-0298-000
Water Right Permit No. 36-08582

2. WATER LEVEL

Static water level 65 feet below land surface
Flowing? ☐ Yes ☒ No G.P.M. flow _____
Arterian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature -85°F. Quality _____
Describe artemian or temperature zones below.

2. NATURE OF WORK

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

3. WELL TEST DATA

☐ Pump ☐ Sailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped

3. PROPOSED USE

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

4. LITHOLOGIC LOG

Bore Diam.	Depth		Material	Water	
	From	To		Yes	No
15	0	2	top soil		
15	2	6	gray loam		
10	6	58	11"		
10	58	64	1st layer		
10	64	66	Red loam		
10	66	77	Best broken loam		✓
10	77	84	gray loam		
10	84	86	CREN53C		X
10	86	90	1st layer		
10	90	95	Broken at loam		X
10	95	106	1st layer		

4. METHOD DRILLED

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

5. WELL CONSTRUCTION

Casing schedule: ☐ Steel ☐ Concrete ☐ Other _____
Thickness _____ Diameter _____ From _____ feet _____ feet
_____ inches _____ inches _____ feet _____ 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 ☐ Gun
Size of perforation? _____ inches by _____ inches
Number _____ From _____ To _____
_____ perforations _____ feet _____ feet
_____ perforations _____ feet _____ feet
_____ perforations _____ feet _____ feet
Well screen installed? ☐ Yes ☒ No
Manufacturer _____ Type _____
Top Packer or Headpipe _____
Bottom of Tailpipe _____
Diameter _____ Slot size _____ Set from _____ feet to _____ feet
Diameter _____ Slot size _____ Set from _____ feet to _____ feet
Gravel packed? ☐ Yes ☒ No ☐ Size of gravel _____
Placed from _____ feet to _____ feet
Surface seal depth 6' Material used in seal: ☒ Cement grout
☐ Bentonite ☐ Pudding 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 Steel plate with 1" plug well seal

6. LOCATION OF WELL

Sketch map location must agree with written location.
Subdivision Name _____
Lot No. _____ Block No. _____
County Gooding
Address of Well Site 1050 S. Rd 8 Wendell
(give at least part of road)
SE 1/4 Sec. 2 T. 8 N. ☐ or S ☒
R. 14 E. ☐ or W ☒

11. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.
Firm Name Eaton Drilling Firm No. 26
Address Wendell ID 83255
Signed by Drilling Supervisor [Signature]
and [Signature]
(Operator) Dave Cook
(If different than the Drilling Supervisor)

USE ADDITIONAL SHEETS IF NECESSARY -- FORWARD THE WHITE COPY TO THE DEPARTMENT

34-08581

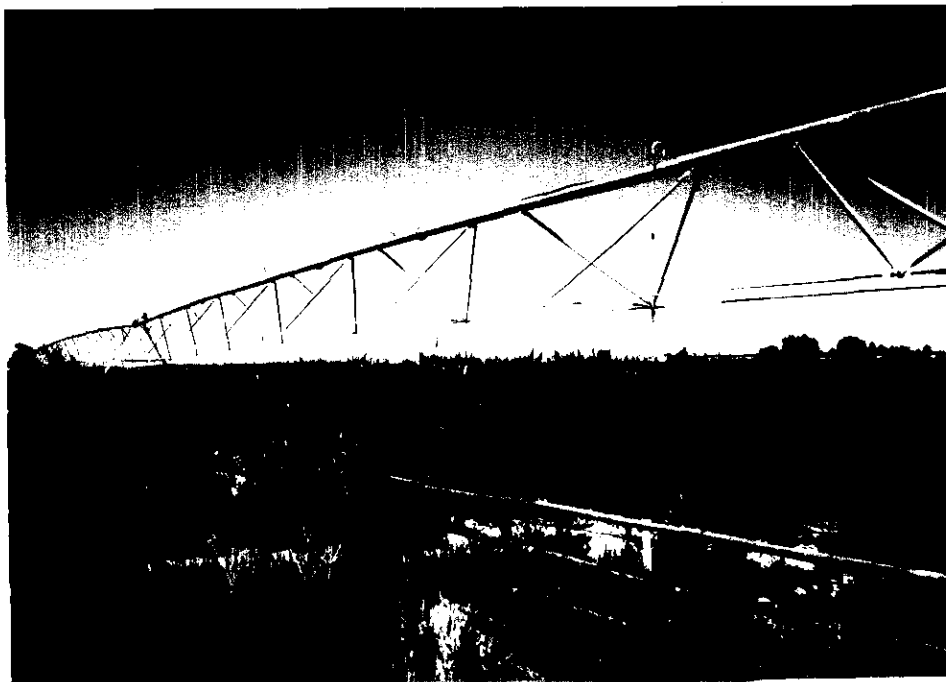
#1

P/D



#2

P/4



JUN 27 1966



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 6, 1993

MIKE AND KATHY BRANCHFLOWER
P O BOX 392
WELDELL ID 83355

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 36-08581

Dear Permit Holder:

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

If you have questions concerning this matter, please feel free to contact the SOUTHERN Regional Office in Twin Falls, at (208)736-3033.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

MAILED 150

JUN 27 1996

September 30, 1993

MIKE BRANCHFLOWER
KATHY BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

PROOF DUE NOTICE

RE: PERMIT NO. 36-08581

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before December 1, 1993. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

SINCERELY,

Karen L. Gustafson
Secretary/Records Manager

Enclosures

JUN 27 1993

CERTIFIED MAIL

NO. 140779



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 28, 1992

Mike or Kathy Branchflower
PO Box 392
Wendell, ID 83355

Re: Permit No. 36-08581

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to December 1, 1993. However, since the extension was received after the proof of beneficial use date, it was necessary for the department to reinstate your permit and advance your priority date to March 13, 1991.

Please note that the department has granted this extension based on due diligence. It is important that you work diligently toward the completion of this project during the construction period allowed. The department may not be able to grant additional requests.

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

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

c: IDWR - Regional Office

RECEIVED

JAN 27 1993

December 7, 1992

MIKE BRANCHFLOWER
KATHY BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

LAPSE NOTICE

RE: PERMIT NO. 36-08581

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated September 30, 1992. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifteen dollar (\$15) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

L. GLEN SAXTON
Chief, Water Allocation Bureau

LGS:klg

Enclosures

CERTIFICATION OF MAILING

I hereby certify that on 12/7/92
a copy/an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

klg
J

JAN 27 1993

September 30, 1992

MIKE BRANCHFLOWER
KATHY BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

PROOF DUE NOTICE

RE: PERMIT NO. 36-08581

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before December 1, 1992. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

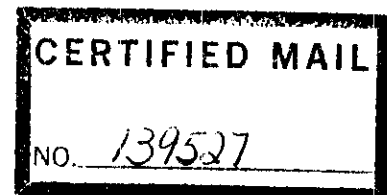
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental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

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

SINCERELY,

Karen L. Gustafson
Secretary/Records Manager

Enclosures





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 30, 1991

MIKE BRANCHFLOWER
KATHY BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 36-08581

Dear Permit Holder:

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

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed you should complete and submit this form immediately.

Be sure to note the special condition requiring you to install a measuring device. Enclosed, for your reference, is a list of measuring device options.

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.

This permit authorizes the appropriation of trust water. Trust water is defined as that portion of a particular hydropower water right which exceeds certain minimum stream flows established by state action, and is held in trust by the State of Idaho for the use and benefit of the people within the state. Conditions

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JAN 21 1992

pertaining to a term review, annual use fee and jurisdiction of the permit are trust water conditions.

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

PS:blm

Enclosure

4714
JAN 21 1992

MEMORANDUM

TO: FILE

FROM: TIM LUKE

RE: APP. NO. 36-8581/Trust Water Processing

DATE: 12-13-91

The above application is a trust water filing which has been forwarded to the state office for final review and processing.

Review of statements on the application indicate that the land under the application is irrigated from a canal system with existing surface water rights. The applicant has further stated though that the groundwater source under this application will replace his canal shares which have traditionally been appurtenant to the place of use. Since the groundwater source will likely be used as a primary source, then all of the acreage should be counted as trust acreage.

Continued processing of the application is recommend. Trust conditons are applicable.

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State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

19-Apr-1991

MIKE &/OR KATHY BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

Re: Application for Permit No. 36-08581 & 36-08582

Dear Applicant (s):

The Department of Water Resources acknowledges receipt of your water right applications for permit. The applications have been assigned the above referenced identification numbers. Please refer to these numbers in all further correspondence.

This office will be advertising the applications in the Gooding County Leader on 5/1 & 5/8/91. A period of ten days following the second publication will be allowed for the submittal of protests.

If the applications are 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 applications are not protested, they 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.

Very truly yours,

Douglas Jones, E. I. T.
Water Resources Engineering Specialist

DJ:MB

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NOTICE OF APPLICATION FOR TRUST WATER RIGHT

36-08581

BRANCHFLOWER, MIKE
BRANCHFLOWER, KATHY
P.O. BOX 392
WENDELL, ID 83355

Source: GROUNDWATER

Diversion Pt: SESWNW Sec 2 T 08S R 14E

```
Use: IRRIGATION      ( .840 CFS)
      Total Diversion: ( .840 CFS)
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Date Filed: 2/20/ 1991

In: T08S R14E S02 SWNW SENW

42.0 ACRES TOTAL

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 222 Shoshone St. East, Twin Falls, Idaho 83301 on or before MAY 20, 1991.

R. Keith Higginson, Director

published 5/ 1/1991 & 5/ 8/1991

REPROFILMED

JAN 21 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region
222 Shoshone Street East
Twin Falls, ID 83301
(208) 734-3578

APRIL 17, 1991

GOODING COUNTY LEADER
BOX 56
GOODING, ID 83330

Gentlemen:

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

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

Please send the affidavit of publication and publication billing to this office before MAY 20, 1991.

Yours truly,

Mary Baldwin
Secretary/Office Coordinator

Enclosure

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