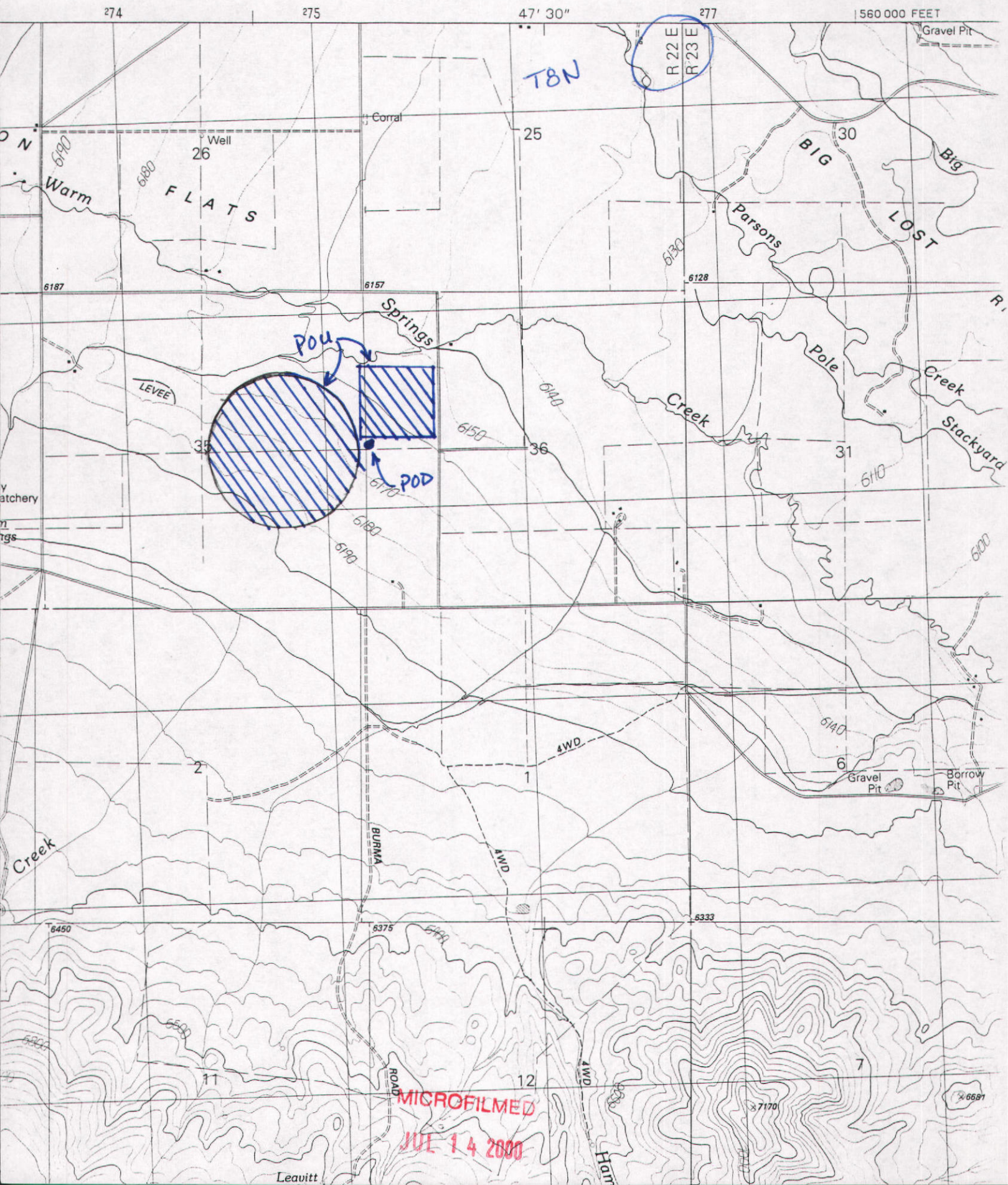




**APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS**

Reviewed by Sharla Curtis on 3/9/00

No. 34-07595 Name: Id Cowboy Corp. Officers _____ Ad ok ☒ Govt Lots _____

AREA OF CONCERN: No/Yes ESPA Moratorium _____ GWMA _____ TRUST/NON-TRUST _____

GROUNDWATER: (√Flow Chart)

DRILLING PERMIT

All wells - 046 **(P23)**
Basin 34 - 085
Irr. w/in WD - **P05**
WMD - North/East/West
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 067
~~WMD~~
Supp irr (irr = only use) - 065-104
Supp irr (+ other uses) - 100-105
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M

LOCATION:

~~Boise Front LeGeo~~ - 058 (<85 GW)
~~Mitigation~~ - 121 - *mitigation plan submitted*
42-248 Area - **(P84)** (20s-70s, 81-86)
Swan Falls Flag
Trust - 051 **(P74)** (consumptive uses)
~~Non-Trust~~ - 048-049 (consumptive uses or non-cons. > 1.0 cfs)

USES:

~~STORAGE~~ - 18A-01H **(P01)**, 01P-18B **(P09)**-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/USFS)
MINING - 054-081 **(P10)**
FISH PROP - 029(70'S only)-007-042-081 **(P10)**
HEAT/COOL - R07(injection well)
FIRE PROT. - 077

BENEFICIAL USE DUE: 3 / 01 / 2005

MISC CONDITIONS/REMARKS:

~~Protested~~ - 020-W19
Development Period
≤ 1 yr - **P16**
> 1 yr - 26A **(P17)**
Ownership - 004
Non-consumptive - 027
Water Quality - 081-R07

SURFACE WATER: (√Flow Chart)

F&G contacted - Yes/No Response _____
In/Above MSF - WB9
PLANNING SECTION REVIEW/RESPONSE _____
In-stream development - **P52**
WD - R04 (WD# 34)
≤ 0.20 cfs/others - 01H(P01), 01P or No MD
> 0.20 cfs - 01 **(P08)**

SPRINGS/SINK, INACTIVE WD & REST OF STATE

≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M or No MD

RIVER BASINS: (SW special considerations)

Snake R (01) - W22 **(P04)**, N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - 047 **(P04)** (Payette Lake)
Salmon R (70's) - 029 (fish screens)
Weiser R (67) - 086-087

USES:

POWER - 17H-17K (+uses)-08A-025 **(P18)**-01N-081 **(P10)**
MUNICIPAL
Restricted area - 022,075
Irr., GW supp to SW - 102
DOMESTIC
Surface water - WB5 (Big Wood or Boise above Star Bridge)
27A (Payette R)
> 1 in restricted area - 070-071-075 (no parks/common areas, etc)
Irr use listed separate - WB5
Moratorium approvable - W03 (2500 gpd - meets domestic definition
i.e. D/convenience store)

Multiple pd's per ¼¼ - W32
Subd lot desc (pd) - W59
Subd lot desc (pu) - W60
Use definitions - W02 example - S/50 range
Pre-1987 development - 068-074 (allow 120 days for proof due)
Single p/d intended - 076

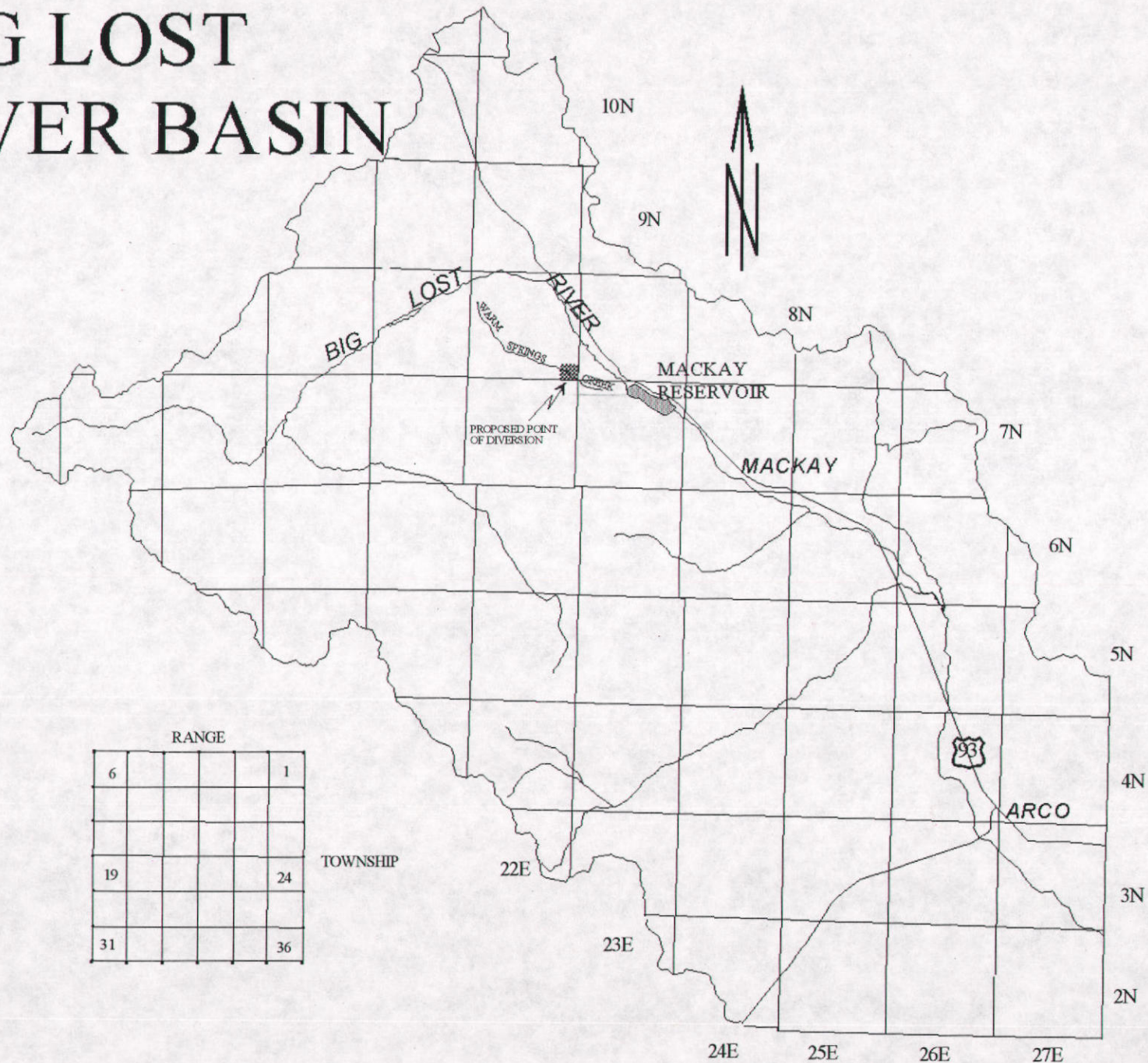
IRRIGATION SEASON 4/1 - 10/31 (Per updated map)

OTHER CONDITIONS/REMARKS _____

COMMENTS Sent copy of Skip's memo to wmaster by fax 3/23/00

telecon w/ Jerry Deantaw 3/21/00 - gw & sw both trib to Mackay Res. if there is a concern like Skip state, it would be users between the div. & the head of the Resv

BIG LOST RIVER BASIN



ATTACHMENT #1

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NOTE:

Pam Skaggs and I discussed the application of conditions 9 & 16 to distribution of affected surface water rights. It appears to me that condition 16 should be eliminated, because the mitigation plan only allows for diversion of a total of 2.589 cfs from the surface water rights when groundwater is being used. Please review this condition prior to licensing.

Jennifer Berkeley

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 34-07595

Priority: January 11, 2000

Maximum Diversion Rate:

3.12 CFS

This is to certify, that IDAHO COWBOY INC
C/O DAVID STOECKLEIN
PO BOX 856
KETCHUM ID 83440

has applied for a permit to appropriate water from: GROUNDWATER

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

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

IRRIGATION	04/01 to 10/31	3.12 CFS
------------	----------------	----------

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 36, Township 08N, Range 22E
CUSTER 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>
08N	22E	35	SWNE 31.0	SENE 31.0	NESE 31.0	
			NWSE 31.0			124.0
		36	SWNW 32.2			32.2

Total number of acres irrigated: 156.2

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before March 1, 2005.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right 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. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
7. Use of water under this water right will be regulated by the watermaster of State Water District No. 34.

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State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 34-07595

CONDITIONS OF APPROVAL AND REMARKS

8. Use of water under this right is subject to the terms of the mitigation plan submitted by the right holder. Rights 34-00703B, 34-00704B, 34-00573B, 34-00583B, 34-00584D, 34-00699B, 34-00702B, and portions of Rights 34-00703C, 34-00704C, 34-00699C, 34-00700C, 34-00701C and 34-00702C are to serve as mitigation for diversion under this right for any irrigation season that the right holder wishes to divert groundwater instead of surface water.
9. The water normally delivered under Rights 34-00703B, 34-00704B, 34-00573B, 34-00583B, 34-00584D, 34-00699B, 34-00702B and portions of Rights 34-0070C, 34-00704C, 34-00699C, 34-00700C, 34-00701C and 34-00702C shall remain undiverted in Warm Springs Creek and the Big Lost River in any year that the right holder diverts groundwater under this right.
10. Water rights from the Warm Springs Creek source shall be subject to terms and limitations contained in the Stipulation, Settlement, and Joint Motion for Order filed with the Department on October 12, 1999, in the matter of Application for Permit No. 34-07591, in the name of L & S Partners, numerous other captioned matters, and the Preliminary Order of the Department issued on November 18, 1999.
11. This approval is subject to any future modifications resulting from or required by the terms of that Stipulation, the Preliminary Order of the Department, and the actions taken pursuant thereto.
12. Water will not be diverted from groundwater under this right at such times when an equivalent amount of the surface water rights provided for mitigation is not deliverable.
13. The right holder shall be entitled to cease use of the groundwater right and resume use of the surface water rights upon request in writing to the Water District 34 watermaster prior to the beginning of the irrigation season. The right holder shall not be entitled to divert from both sources in any year.
14. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and a totalizing meter which displays the instantaneous rate of diversion from the well. Written notice of compliance with this condition shall be submitted to IDWR. If the measuring device or totalizing meter becomes inoperable at any time, diversion of water from the well under this right shall cease.
15. Rights 34-00573B, 34-00583B, 34-00584D, 34-00699C, 34-00700C, 34-00701C, 34-00702B, 34-00702C, 34-00703B, 34-00703C, 34-00704B, 34-00704C, and 34-07595 when combined shall not exceed the irrigation of 269.2 total acres.

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State of Idaho
Department of Water Resources

Permit To Appropriate Water

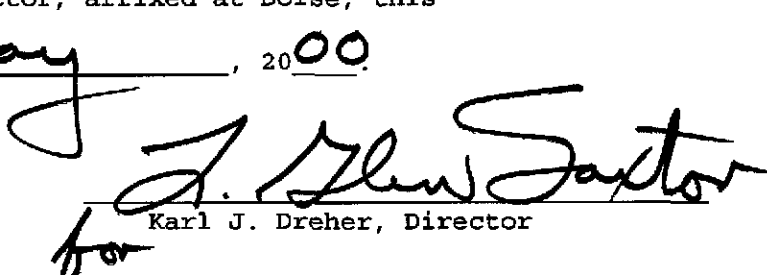
NO. 34-07595

CONDITIONS OF APPROVAL AND REMARKS

16. During any irrigation season that groundwater is diverted under this right, use of water rights 34-00573B, 34-00583B, 34-00584D, 34-00699C, 34-00700C, 34-00701C, 34-00702B, 34-00702C, 34-00703B, 34-00703C, 34-00704B and 34-00704C is limited to a total combined diversion rate of 4.70 cfs.

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

19 th day of May, 2000.


for Karl J. Dreher, Director

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JUL 14 2000

RECEIVED

MAR - 8 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

JAN 11 2000

Department of Water Resources
Eastern Region

Department of Water Resources

1. Name of Applicant Idaho Cowboy, Inc., c/o David Stoecklein Phone 208-726-5191

Mailing address P.O. Box 856, Ketchum, ID 83340

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

3. Location of point of diversion is Township 8N Range 22E Sec. 36 in the SW 1/4, SW 1/4, NW 1/4, Govt. Lot , B.M., Custer County;

additional points of diversion if any:

4. Water will be used for the following purposes:

Amount 3.12 for irrigation purposes from 5/1 to 10/15 (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)

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) 3.12 and/or (b)
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source Well (16" x 125'),
electric pump (100 hp), buried pipe to sprinklers

b. Height of storage dam feet; active reservoir capacity acre-feet; total
reservoir capacity acre-feet

c. Proposed well diameter is 16 inches; proposed depth of well is 125 feet

d. Is ground water with a temperature of greater than 85°F being sought? NO

e. If well is already drilled, when? ; Drilling firm ;

Well was drilled for (well owner) ; Drilling Permit No.

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

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

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

b. Stockwatering; list number and kind of livestock.

c. Municipal; show name of municipality.

d. Domestic; show number of households.

e. Other; describe fully.

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9. Description of place of use:

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

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

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
8N	22E	35			31	31									31	31			124
		36							32.2										32.2

Total number of acres to be irrigated 156.2

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

see attached mitigation plan

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

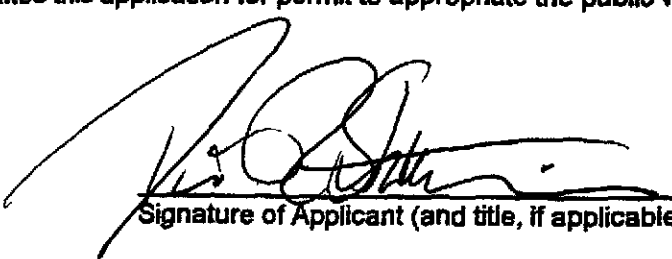
b. Who owns the land to be irrigated or place of use? applicant

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

12. Remarks: see attached mitigation plan

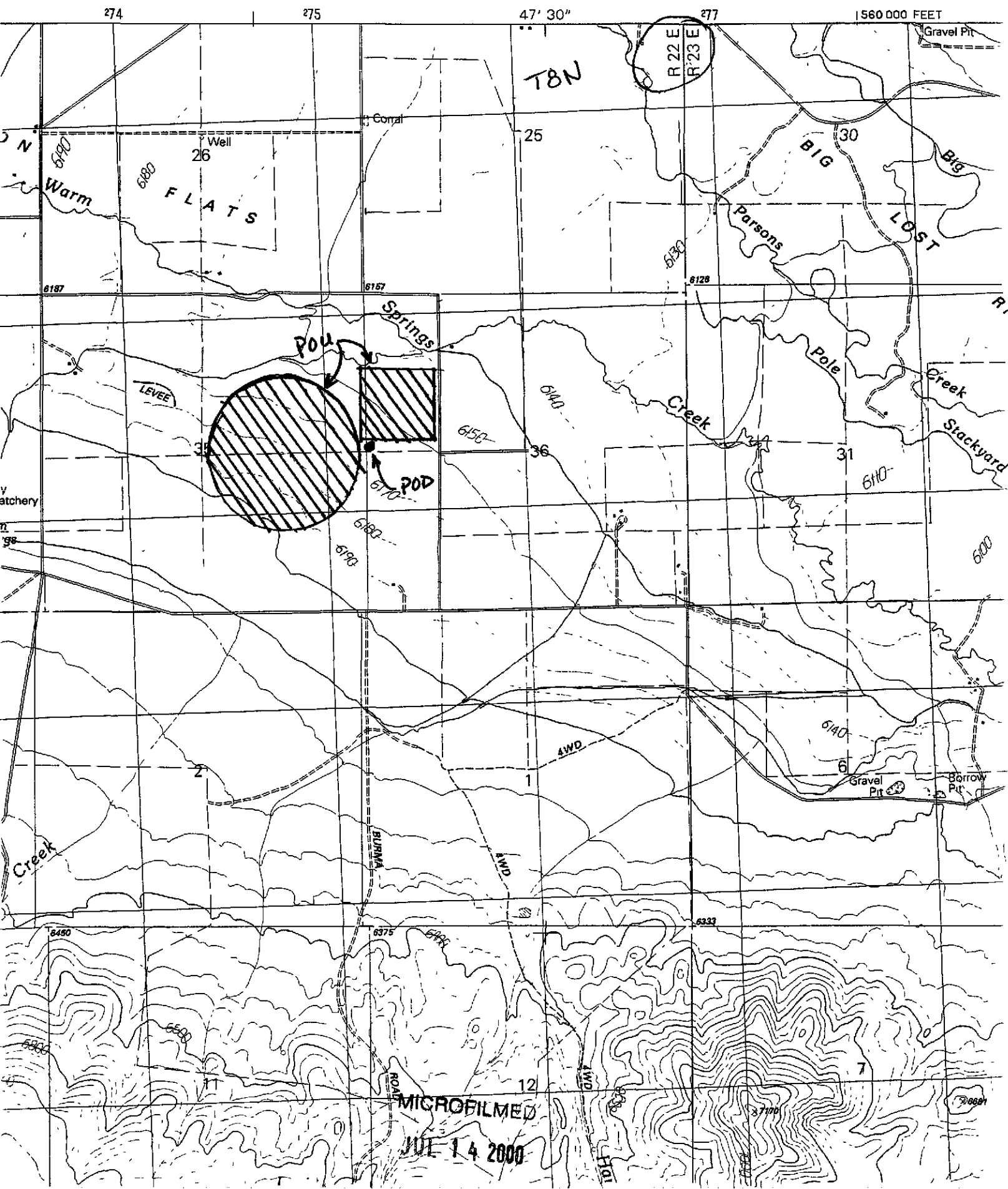
13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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


Signature of Applicant (and title, if applicable)

Received by HUT Date 1-12-2000 Time _____ Preliminary check by _____
 Fee \$ 160.00 Received by HUT # 6025556 Date 1-12-2000
 Publication prepared by SC Date 2/3 & 2/10/00 Published in Challis Messenger
 Publication approved _____ Date 2/29/00

JUL 14 2000



Mitigation Plan for Water Right Application by Idaho Cowboy, Inc.

As a part of the attached application for permit to appropriate groundwater for irrigation purposes, Idaho Cowboy, an Idaho Corporation, proposes the following mitigation plan to prevent injury to other water rights.

- 1 The application for permit proposes appropriation of 3 12 cfs for irrigation of 156 2 acres located in Sections 35 and 36. The acres include approximately 124 acres for a center pivot sprinkler in Section 35 and 32 2 acres to be irrigated with a wheel line sprinkler in Section 36.
- 2 Groundwater and surface water in the Big Lost River Basin are interconnected and tributary to Mackay Reservoir in the vicinity of the place of use and point of diversion.
3. To mitigate for the consumptive use associated with the irrigation proposed by the application for permit, the applicant shall not divert and irrigate under the following water rights

- a All of the following water rights decreed for irrigation of a total of 116 2 acres within Sections 35 and 36

<u>Water Right</u>	<u>Priority</u>	<u>Source</u>	<u>cfs</u>	<u>acres</u>
✓ 34-00703B	June 1, 1890	Warm Spring Creek	1 400	70 0
✓ 34-00704B	May 1, 1905	Warm Spring Creek	0 940	100 2
Subtotal			2 340	100 2
✓ 34-00573B	May 13, 1912	Big Lost River	2 400	109 2
✓ 34-00583B	June 1, 1899	Big Lost River	0 800	40 0
✓ 34-00584D	June 1, 1916	Big Lost River	0 580	109 2
✓ 34-00699B	June 1, 1885	Big Lost River	0 160	8 0
✓ 34-00702B	May 1, 1910	Big Lost River	0 426	21 3
Subtotal			4 370	109 2
Total			4 370	116 2

- b A 40-acre portion of the following rights recommended in the SRBA for irrigation of a total of 158 acres within Sections 35 and 36. The 40 acres that will not be irrigated consist of 20 acres within the NW ¼ of the NW ¼ of Section 36 and 20 acres within the NE ¼ of the NE ¼ of Section 35. The diversion rate authorized for each of the following rights will be reduced by 25 3 percent (40 ac/158 ac) to account for the 40-acres removed from irrigation.

<u>Water Right</u>	<u>Priority</u>	<u>Source</u>	<u>cfs</u>	<u>acres</u>
✓ A34-00703C	June 1, 1890	Warm Spring Creek	0 800	158
✓ A34-00704C	May 1, 1905	Warm Spring Creek	0 533	158
Subtotal			1 333	158
Mitigation Portion (25.3%)			0 338	40
✓ A34-00699C	June 1, 1885	Big Lost River	0 160	158
✓ A34-00700C	May 1, 1905	Big Lost River	0 373	158
✓ A34-00701C	June 1, 1916	Big Lost River	1 173	158
✓ A34-00702C	May 10, 1910	Big Lost River	0 426	158
Subtotal			2 132	158
Mitigation Portion (25 3%)			0 540	40
Total			3 465	158
Mitigation Portion (25.3%)			0 877	40

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4. The water normally delivered under the above surface water rights will be allowed to flow down Warm Springs Creek past the existing points of diversion (or rediversion in the case of the Big Lost River water rights), to Mackay Reservoir.
5. Water rights from the Warm Spring Creek source shall be subject to terms of the Stipulation, Settlement, and Joint Motion for Order in the Matter of Application for Permit No. 34-7591, and Applications for Transfer Nos 5000, 5004, 5400, and 5456
6. Water will not be diverted from the groundwater source proposed by the application for permit at such times when an equivalent amount of the surface water rights provided for mitigation are not deliverable.
7. As a result of this mitigation plan, flows in Warm Springs Creek downstream from the place of use will increase and provide a benefit to the fishery
8. The applicant reserves the right to divert under either the proposed groundwater rights or the surface water rights proposed for mitigation in any particular year. Therefore, the applicant is entitled to cease use of the groundwater right and resume use of the surface water right upon request. Any such request shall be made in writing to the District 34 Watermaster prior to the beginning of the irrigation season. The applicant shall not be entitled to divert from both sources in any particular year
9. The applicant shall continue to pay all water district assessments associated with the surface water rights proposed for mitigation
10. The surface water rights used for mitigation shall not be considered abandoned or forfeited provided that (1) the water district assessments are paid and (2) either the surface water rights or the proposed groundwater right do not experience five consecutive years of nonuse. The use of the surface water rights for mitigation pursuant to this plan shall be deemed beneficial use of such rights for irrigation purposes with respect to the application of the doctrines of statutory forfeiture and common law abandonment.

MEMORANDUM

DATE: October 6, 2003

TO: Water Right Files 34-13789 and 34-7595

FROM: Shelley W. Keen *SWK*

RE: Filings required to implement the proposed mitigation plan

Last week Terry Scanlan and I discussed the need for the following step to implement the mitigation plan proposed for Application 34-13789 and the revised mitigation plan for Permit 34-7595. See file 34-13789 for additional details of the plans.

- The place of use for Permit 34-7595 should be reduced by 15.5 acres – 11.5 acres from the pivot in Section 35 and four acres from the wheel line field in Section 36. An amendment of permit will not be required to reduce the place of use and modify the approval conditions on Permit 34-7595.
- Application 34-13789 should be amended to show a new place of use, and possibly a new point of diversion, and it should be re-advertised.
- The applicant should submit an application for transfer to change Rights 34-703B and 34-703C and parts of 34-583B and 34-702B to show “mitigation” as the beneficial use. These rights will mitigate for the diversion and use of ground water on the pivot in Section 35 under Permit 34-7595.
- The applicant should submit a second application for transfer to change Right 34-704B and parts of 34-583B, 34-702B, 34-573B, and 34-584D to show “mitigation” as the beneficial use. These rights will mitigate for the diversion and use of ground water on the wheel line field in Section 36 under Permit 34-7595.
- The applicant should submit a third application for transfer to change Right 34-704C and part of Right 34-701C to show “mitigation” as the beneficial use. These rights will mitigate for the diversion and use of ground water to irrigate 25.7 acres proposed on Application 34-13789.
- The applicant should file a fourth application for transfer to revise the permissible place of use for these rights or portions of rights that are not used for mitigation: 34-583B, 34-700C, 34-702C, 34-701C, 34-573B, 34-699B, 34-699C, and 34-584D.

Terry asked if IDWR would approve the application for permit without waiting for the transfer applications to be filed and processed. He suggested conditioning the permit require the completion of the transfers before diversion and use of water could occur. Terry indicated two reasons for his request. First, he said it would reassure his client that the project is feasible. Second, with the permit in hand his client could apply for a drilling permit. I told Terry that IDWR would consider his request, but that I could make no assurances.

Printed 06/06/2000
Ident No. 764777
Water Right Number: 34-7595
0949

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
DRILLING PERMIT

Relationship: Representative
Name: SCANLAN ENGINEERING
Address: C/O TERRY SCANLAN 600 E RIVER PARK LN SUITE 105
BOISE ID 83706

Relationship: Owner/Operator
Name: IDAHO COWBOY INC.
Address: PO BOX 856
KETCHUM ID 83440

Relationship: Owner/Operator
Name: DAVID STOECKLEIN
Address: PO BOX 856
KETCHUM ID 83440

Proposed Well Location: Township 08N, Range 22E, Section 36, SW, NW
CUSTER County

Street Address of Well Site: 1/4 mile S of Warm Springs Creek
MACKAY ID

Proposed Use of Well: Irrigation

Well Construction Information:

- A. New Well
- B. Proposed Surface Diameter: 12 Inches. Proposed Maximum Depth 150 Feet
- C. Anticipated Bottom Hole Temperature: 85F and less

Construction Start Date: 06/07/2000

Anticipated Well Drilling Company: GUTHRIE WELL DRILLING (No. 226)

Applicant's Signature: _____ Date: _____

Title: _____

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ACTION OF THE DEPARTMENT OF WATER RESOURCES

This permit is Approved on Tuesday, June 06, 2000.

If approved, this permit authorizes the construction or modification of a well subject to the following conditions. READ CAREFULLY!

CONDITIONS OF APPROVAL:

1. This drilling permit is valid for two (2) months from the approval date for the start of construction and is valid for one (1) year from the approval date for completion of the well unless an extension has been granted.
2. This permit does not constitute an approval of the District Health Department or the Idaho Department of Health and Welfare which may be required prior to construction of this well. The local Health Department should be contacted for septic tank/drainfield locations. Domestic wells must not be drilled closer than 100' from any drainfield and 50' from any septic tank. Public Water Supply wells must not be drilled closer than 100' from any drainfield or septic tank.
3. The well shall be constructed by a driller currently licensed in the state of Idaho who must maintain a copy of the drilling permit at the drilling site.
4. Approval of this drilling permit does not authorize trespass on the land of another party
5. This permit does not constitute other local, county, state or federal approvals which may be required for construction of a well.
6. This drilling permit does not represent a right to divert and use the water of the State of Idaho.
7. If a bottom hole temperature of 85 Degrees F (29 44 oC) or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.
8. Idaho Code, S 55-2201 - 55-2210 requires the applicant and/or his contractors to contact "Digline" (DigLine is a one-call center for utility notification) not less than 2 working days prior to the start of any excavation for this project. The "Dig Line" Number for your area is &DIG-LINE-NUMBER
9. Please be advised that this drilling permit should be considered and treated as a preliminary permit. If you are in disagreement with this preliminary permit you have fourteen (14) days of the service date of this permit to petition the Department for reconsideration pursuant to Section 67-5243, Idaho Code
10. The well tag for the drilling permit/start card shall be securely and permanently attached to the well casing through welding or by the use of four closed end domed stainless steel pop rivets. The tag attachment will be done at the time of completion of the well, and prior to removing the drill rig from the drill site.
11. The well owner has obtained the Drilling Permit and Well Tag. The permit is approved under the condition that the Well Driller submit a Start Card to this office by Mail or Fax prior to the commencement of construction.
12. Failure to construct the well in accordance with these conditions may result in the revocation of the drilling permit and constitute a violation of Idaho Law.
13. The uppermost unconfined aquifer shall be cased and sealed to exclude water from this zone from entering the well. All seals will be placed from the bottom up.
14. The screened, perforated, filterpacked or otherwise open and commingled strata which are to be produced from, shall be of similar hydraulic head, temperature and quality. If there are notable variations encountered as the well is drilled and/or developed, the Department will be notified for evaluation.

Bobby D. Fleeman
Signature of Authorized Dept. Representative

Bureau Chief
Title

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JUN 14 2000



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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 22, 2000

IDAHO COWBOY INC
C/O DAVID STOECKLEIN
PO BOX 856
KETCHUM ID 83440

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 34-07595

Dear Permit Holder:

The Department of Water Resources (IDWR) has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a preliminary order issued by IDWR pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

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

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

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

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this right were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Groundwater Protection Section located here at this office or our regional office nearest

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1 - 2000

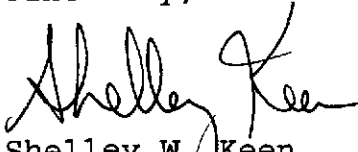
you.

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

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

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

Sincerely,



Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

MICROFILMED

JUL 14 2000

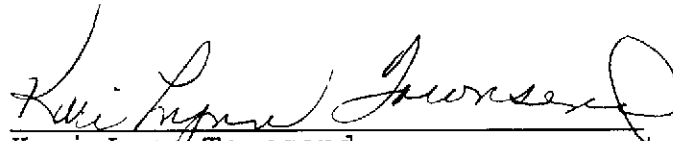
141

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of May, 2000, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Right No. 34-07595

IDAHO COWBOY INC
C/O DAVID STOECKLEIN
PO BOX 856
KETCHUM ID 83440


Kari Lynn Townsend
Secretary

MICROFILMED

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below.**

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

CERTIFICATE OF SERVICE

All documents intended to be part of the Department record in connection with a preliminary order shall be served upon the representatives of each party of record. Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate.

I HEREBY CERTIFY (swear or affirm) that I have this day of _____, served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names))
(Signature)

MICROFILMED

ORAL ARGUMENT

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

FINAL ORDER

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

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.

RIGHT TO HEARING

Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department is otherwise provided by statute, any person aggrieved by any decision, determination, order, or action of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the Department, who is aggrieved by a denial or conditional approval ordered by the Department, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the Department to contest the denial or conditional approval upon filing with the Department, within fifteen (15) days after receipt of the denial or conditional approval, a written permission stating the grounds for contesting the action by the director and requesting a hearing.

APPEAL OF FINAL ORDER TO DISTRICT COURT

If a preliminary order becomes final, any party aggrieved by the final order or orders previously issued in the case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which (a) a hearing was held, or (b) the final agency action was taken, or (c) the party seeking review of the order resides, or (d) the real property or personal property that was the subject of the agency action is located. The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. See Sections 67-5270 through 67-5273, Idaho Code.

TRANSACTION REPORT

P. 01

MAY-19-00 FRI 03:01 PM

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#
MAY-19	02:58 PM	93834156	2'02"	3	SEND	OK	

Copy of Permit Approval
to Jerry Scanlon. Ket

Kari Lynn-
Please fax a copy
of this approval
to Jerry Scanlon
@ 383-4156

Thank!
Yahoooo! pc

MICROFILMED

MAY 19 2000

MEMORANDUM

To: File 34-07595

FROM: Sharla

DATE: May 16, 2000

RE: Telecon

On this date I again spoke with the watermaster, Doug Rosenkrance about this application. I told him our records indicate that there are no Big Lost River Irrigation District water rights diverted from the Big Lost River or Warm Springs Creek between Stoecklein's diversions and the reservoir. The records also indicate there are no other water rights diverted from those two sources (with later priorities than the priority date of the most junior mitigation right) between the diversion points and the reservoir, which includes the area between the new proposed point of diversion and the reservoir. Doug agreed with our database records.

A condition will be added to the permit stating the limitations of this right and all the associated mitigation rights to a combined total of 262.2 acres per season. This number was determined as follows:

116.2 acres listed under item 3a of the mitigation plan

153.0 acres listed under item 3B of the mitigation plan (the mitigation plan indicates 269.2 acres 158 acres, however Trans. #5544 approved earlier this year limits these rights to 153 acres)

A condition limiting the surface water diversion to 4.70 cfs in any year that groundwater is pumped under this permit shall also be added to the permit approval. The total of all mitigation rights is 7.82 cfs minus the 3.12 cfs requested for groundwater diversion leaves 4.70 cfs.

MICROFILMED

MAY 16 2000

APPLICATION FOR PERMIT STATE OFFICE ANALYSIS

Reviewed by Sharla Curtis on 3/9/00

No. 34-07595 Name: Id Cowboy Corp. Officers _____ Ad ok ☒ Govt Lots _____

AREA OF CONCERN: No/Pes ESPA Moratorium _____ GWMA _____ TRUST/NON-TRUST _____

GROUNDWATER: (√Flow Chart)

DRILLING PERMIT

All wells - 046-023
Basin 34 - 085
Irr w/in WD - P05
WMD - North/East/West
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 067
WMD
Supp irr (irr = only use) - 065-104
Supp irr (+ other uses) - 100-105
≤ 0.24 cfs/5 acres - No MD
0.24 cfs/5 acres - 01M

LOCATION:

Boise Front LeGeo - 058 (<85 GW)
Mitigation - 121 - mitigation plan submitted
2-248 Area - 084 (20s-70s, 81-86)
Swan Falls Flag
Trust - 05 (consumptive uses)
Non-Trust - 048-049 (consumptive uses or non-cons. > 1.0 cfs)

SURFACE WATER: (√Flow Chart)

F&G contacted - Yes/No Response _____
In/Above MSF - WB9

PLANNING SECTION REVIEW/RESPONSE

In-stream development - P52
WD - R04 (WD# 34)
≤ 0.20 cfs/others - 01H(P01), 01P or No MD
0.20 cfs - 01 (08)

SPRINGS/SINK, INACTIVE WD & REST OF STATE

≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M or No MD

RIVER BASINS: (SW special considerations)

Snow R (01) - W22(P04), N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - 047(P04) (Payette Lake)
Salmon R (70's) - 029 (fish screens)
Weiser R (67) - 086-087

USES:

STORAGE - 18A-01H(P01), 01P-18B(P09)-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/USFS)
MINING - 054-081(P10)
FISH PROP - 029(70'S only)-007-042-081(P10)
HEAT/COOL - R07(injection well)
FIRE PROT - 077

USES:

POWER - 17H-17K (+uses)-08A-025(P18)-01N-081(P10)
MUNICIPAL
Restricted area - 022,075
Irr., GW supp to SW - 102
DOMESTIC
Surface water - WB5 (Big Wood or Boise above Star Bridge)
27A (Payette R)
> 1 in restricted area - 070-071-075 (no parks/common areas, etc)
Irr use listed separate - WB5
Moratorium approvable - W03 (2500 gpd - meets domestic definition
i.e D/convenience store)

BENEFICIAL USE DUE: 3 / 01 / 2005

MISC CONDITIONS/REMARKS:

Protested - 020-W19
Development Period
≤ 1 yr - P16
1 yr - 26A (P17)
Ownership - 004
Non-consumptive - 027
Water Quality - 081-R07

Multiple pd's per 1/4 - W32
Subd lot desc (pd) - W59
Subd lot desc (pu) - W60
Use definitions - W02 example - S/50 range
Pre-1987 development - 068-074 (allow 120 days for proof due)
Single pd intended - 076

IRRIGATION SEASON 4/1 - 10/31 (Per updated map)

OTHER CONDITIONS/REMARKS

COMMENTS sent copy of Skip's memo to wmaster by fax 3/23/00
telecon w/ Jerry Leantaw 3/21/00 - gw & sw bot 1 - ltr to Mackey Reg if there is
a concern like Skip state, it would be users between the div & the
head of the resv

MEMORANDUM

To: File 34-07595

FROM: Sharla

DATE: April 5, 2000

RE: Telecon with Doug Rosenkrance

On this date, the watermaster called me in response to the fax I had sent him a few days earlier requesting his input on the issue(s) raised in Skip's memo. Doug told me that he had spoken with Skip about this one and had raised the concern that the unused surface water remaining in the creek would be delivered to the next-in-priority right. He said there is probably about a month in the summer time when flows would be reduced to a point that he would have to be making cuts in water delivery based upon the priority dates in question.

On the other hand, when I read Shane's memo to him, he agreed that ground and surface water in the basin are so closely interrelated that they can be considered as a single source. So he didn't have any strong opinions one way or the other as to whether this application gets approval or is denied. But I told him we would take his concerns and Shane's information under consideration and would be taking action to get this filing resolved quickly.

MICROFILMED

APR 14 2000

March 30, 2000

MEMORANDUM

To: ~~Sharla Curtis & Shelley Keen~~ *File*
From: Shane Bendixsen
Through: Bob Sutter
Subject: Water Right Application #34-07595-Idaho Cowboy Inc.

It is my understanding the proposed application is asking to divert ground water in place of adjacent surface water in Warm Springs Creek and the Big Lost River (see Attachment #1). The proposed point of diversion (T08N- R22E sec36) and the current point of diversion are approximately in the same area. The applicant believes the unused surface water would then enhance local fisheries. The questions Sharla asked me is the ground water at the proposed point of diversion tributary to Mackay Reservoir and are ground and surface water hydrologically connected.

The only in depth report available is Crosthwaite and others, 1970. They stated that " the ground and surface water of the big Lost River Basin are so closely interrelated that they should be considered as a single resource". They also showed that the water table is generally less than 50 feet below ground surface and near the river usually less than 10 feet.

Attachment #2 presents a profile of the Big Lost River and the position of the water table. The proposed point of diversion is approximately located at point 'E' above Mackay Reservoir. As presented, the water table and surface water are in direct connection. Therefore water diverted from ground water or surface water will have the same net effect at Mackay Reservoir as long as sufficient flow exists in the surface water source at the original point of diversion.

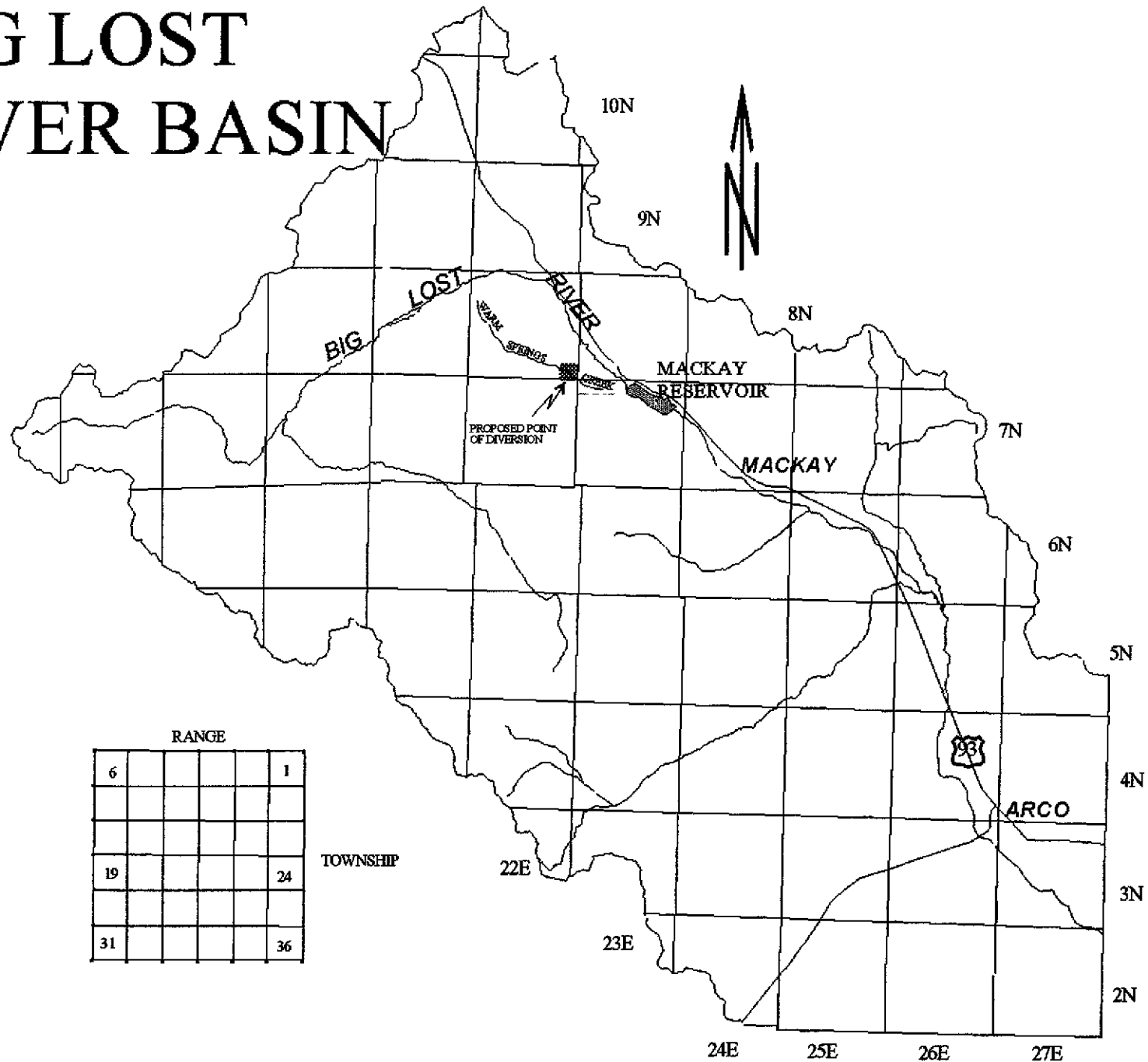
References

Crosthwaite, E.G., Thomas, C.A., and Dyer, K.L., Water Resources of the Big Lost Basin, South-Central, Idaho, United States Department of the Interior Geological Survey Water Resources Division, in cooperation with the Idaho Department of Reclamation, Boise, Idaho, 1970.

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1999 1 4 2000

BIG LOST RIVER BASIN

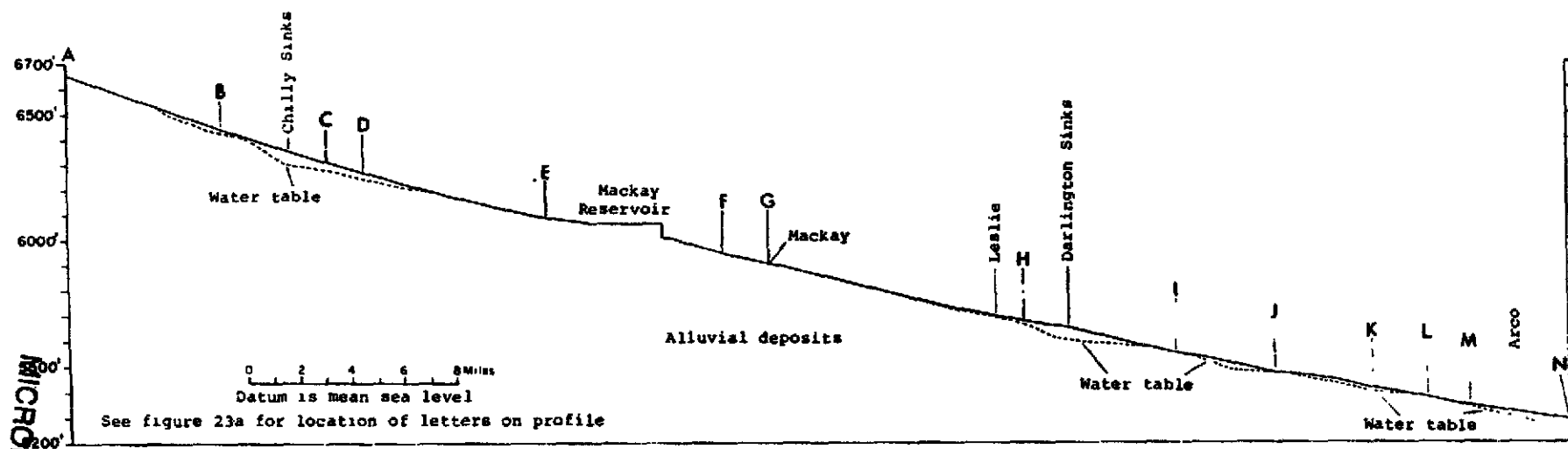


ATTACHMENT #1

MICROFILMED
JUL 14 2000

JUL 14 2000

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Adapted from Crosthwaite and others, 1970

ATTACHMENT #2

MEMORANDUM

TO: File 34-07595

FROM: Sharla

DATE: March 21, 2000

RE: Telecon with Terry Scanlan

On this date Terry Scanlan called to inquire of the status of this application. I read to him the memo from Harold (Skip) Jones explaining his concerns with the filing. Terry told me that while he had worked on several projects as described in Skip's memo, he felt that this filing was a bit different for the following reason: surface water and groundwater are hydrologically tied together and are both tributary to Mackay Reservoir. Terry feels that if there is a concern as expressed by Skip, it would be a concern of users between the diversion described in the application and the head of the reservoir.

MICROFILMED
JUL 14 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 34-07591 AND)
APPLICATION FOR TRANSFER NO.)
5400 (L&S PARTNERS), APPLICATION) **PRELIMINARY ORDER**
FOR TRANSFER NO. 5456 (ASLETT)
RANCHES) AND APPLICATIONS FOR)
TRANSFER NOS. 5001 AND 5004)
(DAVID AND MARY STOECKLEIN))
_____)

On October 12, 1999, the Idaho Department of Water Resources (Department) received a document entitled Stipulation, Settlement, and Joint Motion for Order ("Stipulation") in the above referenced matter. A conference call between representatives of the parties and the department was held on November 15, 1999. Based upon the Stipulation and the understandings reached in the conference call, the Department enters the following Preliminary Order:

1. The protests of Mark T. Gates, Trustee; Blake Quinn, on behalf of 6X Ranch LLC; and David and Mary Stoecklein, or any partnership or entity in which David and/or Mary Stoecklein is a partner, officer, or stockholder, to Application for Transfer No. 5400 in the name of L&S Partners, are hereby deemed withdrawn with prejudice.

2. The protests of Mark T. Gates, Trustee; Blake Quinn; and David and Mary Stoecklein, or any partnership or entity in which David and/or Mary Stoecklein is a partner, officer, or stockholder, to Application for Transfer No. 5456 (formerly application for Transfer No. 4906) in the name of Aslett Ranches, are hereby deemed withdrawn with prejudice.

3. Application for Permit No. 34-07591, in the name of L&S Partners, is hereby deemed withdrawn with prejudice.

4. The protests of Aslett Ranches to Applications for Transfer Nos. 5001 and 5004 are hereby withdrawn with prejudice.

5. The remaining terms of the Stipulation are deemed accepted by the Idaho Department of Water Resources, and the parties thereto are hereby ordered to comply with the terms stated therein.

6. Doug Rosenkrance, when providing the services described in the Stipulation, is acting in a personal capacity and not as the Water District No. 34 Watermaster. The selection of Doug Rosenkrance is a mutual decision of the parties. The parties agree that the services performed are separate from the normal duties and responsibilities of the watermaster. Additionally, all costs associated with the study provided for in the Stipulation, including compensation to Mr. Rosenkrance, shall be borne by the parties to the Stipulation and shall be kept separate from the Water District No. 34 budget.

7. The parties consent to IDWR proceeding with administrative processing of water rights transfers and permits before completion of the study provided that any approvals include the following condition:

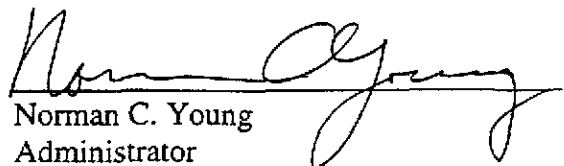
Condition No. __ This approval is specifically conditioned upon the terms and limitations contained in the Stipulation, Settlement, and Joint Motion for Order filed with the Department on October 12, 1999, In the Matter of Application for Permit No. 34-07591, In the Name of L&S Partners, numerous other captioned matters, and the Preliminary Order of the Department issued on November 18, 1999. This approval is subject to any future modifications resulting from or required by the terms of that Stipulation, the Preliminary Order of the Department, and the actions taken pursuant thereto.

8. Issuance of this Preliminary Order does not commit IDWR to approval of the applications now pending. IDWR will evaluate each application in accordance with applicable law and act accordingly.

9. The Stipulation and this Preliminary Order do not prevent including procedures in the plan of study needed to determine canal losses based upon conditions as they existed prior to the changes that will occur if the pending applications are approved.

10. Nothing in the Stipulation or this Preliminary Order prevents the Department from fulfilling its statutory duties and obligations in the administration and regulation of water rights.

Dated this 18th day of November, 1999.


Norman C. Young
Administrator

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of November, 1999, I served a true and correct copy of the within and foregoing document upon the persons named below by U. S. mail, postage prepaid:

Mr. Scott L. Campbell
Elam & Burke
Key Financial Center
702 West Idaho
P. O. Box 1539
Boise, ID 83701

James P. Speck
Speck & Aanestad
P. O. Box 987
Ketchum, ID 83340

Michael C. Creamer
Givens Pursley
P. O. Box 2720
Boise, ID 83701

Norman M. Semanko
Rosholt, Robertson & Tucker
P. O. Box 1906
Twin Falls, ID 83303-1906



Rita I. Fleck
Administrative Assistant

MICROFILMED

MAR 22 2000

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JUL 14 2000

COPY

Scott L. Campbell
Angela D. Schaer
ELAM & BURKE, P.A.
Key Financial Center, 10th Floor
702 West Idaho Street
P.O. Box 1539
Boise, Idaho 83701
Telephone: (208) 343-5454
Facsimile: (208) 384-5844

Attorneys for L&S PARTNERS
and ASLETT RANCHES

RECEIVED

OCT 12 1999

Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 34-07591,)

STIPULATION, SETTLEMENT, AND
JOINT MOTION FOR ORDER

IN THE NAME OF L&S PARTNERS.)
_____))

DAVID STOECKLEIN AND MARY)
STOECKLEIN.)

Protestants,)

LLC.)

Intervenors.)
_____))

IN THE MATTER OF APPLICATION)
FOR TRANSFER OF WATER RIGHT)
NOS. 34-00703B and 34-00704B)
_____))

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MAR 22 2000

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER -

MICROFILMED
MAY 14 2000

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. T5456, WATER)
RIGHT NOS 34-00469 AND 34-00471)

APPLICANT: ASLETT RANCHES)

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5400; WATER)
RIGHT NO. 34-04035C)

IN THE NAME OF L&S PARTNERS)

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 34-08591)

L AND S PARTNERS,)

Applicant)

DAVID AND MARY STOECKLEIN.)

Protestants)

AND)

APPLICATIONS FOR TRANSFER NOS.)
5001 AND 5004)

DAVE STOECKLEIN.)

Applicant)

ASLETT RANCHES)

Protestant)

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 4985, WATER)
RIGHT NO. 34-00870. IN THE NAME OF)
MARK T. GATES, TRUSTEE)

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STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - MAR 22 2000

MICROFILMED
JUL 14 2000

In order to resolve the various water right disputes among them, the undersigned parties hereby stipulate and agree as follows.

1. Mark T. Gates, Trustee; Blake Quinn, on behalf of 6X Ranch LLC; and David and Mary Stoecklein, or any partnership or entity in which David and or Mary Stoecklein is a partner, officer, or stockholder, hereby stipulate and agree to withdraw with prejudice their respective protests and/or motions to intervene to Application for Transfer No. 5400, in the name of L & S Partners. Transfer No. 5400 seeks the transfer of Water Right Number 34-04035C.

2. Mark T. Gates, Trustee; Blake Quinn, on behalf of 6X Ranch LLC; and David and Mary Stoecklein, or any partnership or entity in which David and/or Mary Stoecklein is a partner, officer, or stockholder, hereby stipulate and agree to withdraw with prejudice their respective protests and/or motions to intervene to Application for Transfer No. 5456 (formerly Application for Transfer No. 4906), in the name of Aslett Ranches. Application for Transfer No. 5456 seeks the transfer of Water Rights Number 34-00469 and 34-00471.

3. L & S Partners, by and through Steve Aslett, Sr., hereby stipulate and agree to withdraw with prejudice their Application for Permit No. 34-07591.

4. Aslett Ranches hereby stipulates and agrees to withdraw with prejudice its protest to Application for Transfer No. 5004, in the name of David and Mary Stoecklein. Application for Transfer No. 5004 seeks the transfer of Water Rights Nos. 34-00703E, 34-00704E, 34-00699E, 34-00700E, 34-00701E, and 34-00702E.

5. Aslett Ranches hereby stipulates and agrees to withdraw with prejudice its protest to Application for Transfer No. 5001, in the name of David and Mary Stoecklein. Application

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - 3

1. This stipulation is made by and between the parties to the above-captioned case.

MICROFILMED

MICROFILMED

MAR 22 2000

MAR 14 2000

for Transfer No. 5001 seeks the transfer of Water Rights Nos. 34-00123B, 34-00124B, 34-00125B, 34-00230B, and 34-00483B.

6. The undersigned parties hereby stipulate and agree that they shall not protest the Application for Transfer of Water Rights Number 34-00703B and 34-00704B, filed in the name of Idaho Cowboy, Inc., an entity of David Stoecklein. The parties also understand that 6X Ranch intends to file a transfer application to transfer its Water Right No. 34-00963 out of the Upper Fish Hatchery Canal, which transfer will be subject to the same ditch loss requirements as other rights so transferred, as provided herein. The parties hereby stipulate and agree that they shall not protest such Application for Transfer by 6X Ranch.

7. The undersigned parties further stipulate and agree that a study shall be conducted, and measurements of the Upper Fish Hatchery Canal taken, by Watermaster Doug Rosenkrance, who shall consult with the Eastern Region Office of the Idaho Department of Water Resources to assure that his methodology and procedures for the conduct of the study are appropriate. The study must begin at the beginning of the irrigation season in the year 2000. The study shall take place over a minimum two-year, but not to exceed three-year, time period after the date of execution of this Stipulation. The purpose of the study is to determine ditch loss in Upper Fish Hatchery Canal.

Each of the undersigned parties, or their representative, shall have the right to be present when readings and/or measurements are taken by Watermaster Rosenkrance, and each party, or their representative, shall have the right to take their own reading at the same time and location as the reading taken by Watermaster Rosenkrance. Watermaster Rosenkrance shall provide at least 48 hours' notice to the undersigned parties prior to taking any measurements.

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - 1

U.S. DISTRICT COURT FOR THE DISTRICT OF IDAHO

MICROFILMED

MICROFILMED

1111 14 2000

MAR 22 2000

The undersigned parties further stipulate and agree that they shall fully cooperate with the measurements and study, share equally in Watermaster Rosenkrance's costs and expenses, and shall not hinder the study and measurements in any way.

The term "ditch loss" shall mean the amount of each water right lost due to seepage and/or evapotranspiration between the Upper Fish Hatchery Canal diversion headgate and the end of the Upper Fish Hatchery Canal, located on the Aslett Ranch properties.

The undersigned parties further stipulate and agree that they will be bound by the results of the measurements, readings and/or studies conducted by Watermaster Rosenkrance.

8. The undersigned parties stipulate and agree that until the measurement and/or studies referenced in Paragraph 7, *supra*, have been completed, any party to this Stipulation, and their heirs and assigns, who have filed an Application for Transfer with the Idaho Department of Water Resources, the effect of which shall be to transfer the point of diversion and/or place of use from lands currently served by the Upper Fish Hatchery Canal or the groundwater system hydrologically connected thereto, shall leave 21 percent of the water associated with the water right(s) being transferred in the Upper Fish Hatchery Canal.

Upon completion of the measurements and/or studies referenced in Paragraph 7, *supra*, the parties will be bound by the results of the measurements, readings, and/or studies conducted by Watermaster Rosenkrance without need for further agreement, even if the result is that more or less than 21 percent of the water should be left in the Upper Fish Hatchery Canal.

The study results shall specifically apply to applications before the Idaho Department of Water Resources, including but not limited to past, pending or future transfer applications when

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - 1

MICROFILMED

MICROFILMED

MAR 22 2000

JUL 14 2000

seek or sought to change the point of diversion from the Upper Fish Hatchery Canal to another location.

9. The undersigned parties further stipulate and agree that during the study described in Paragraph 7, *supra*, the Upper Fish Hatchery Canal shall be maintained in the condition as exists of the date of execution of this Stipulation. However, the parties may perform such work as may be needed in the case of an emergency, or if the all the parties to this Stipulation agree thereto in writing.

10. The undersigned parties further stipulate and agree that they shall properly install and maintain headgates and accurate measuring devices at their respective turnouts from the Upper Fish Hatchery Canal, prior to the beginning of the year 2000 irrigation season, and that such headgates and measuring devices are of a type approved by the Idaho Department of Water Resources.

11. The undersigned parties further stipulate and agree that each party shall not pursue allegations of partial or complete forfeiture of the water rights of another party to this agreement, if such allegation is based upon non-use of water up to and including the date of execution of this Stipulation. This limitation shall apply to the Snake River Basin Adjudication and any administration proceedings of the Idaho Department of Water Resources.

However, the undersigned parties are specifically not precluded from raising any water right forfeiture issues for those rights for which statutory forfeiture time period begins to run as of the date of execution of this Stipulation.

12. Except as otherwise stated herein, and specifically with the exception of Paragraphs 7, 8, and 11, *supra*, the undersigned parties stipulate and agree that this Stipulation

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER

of the Snake River Basin Adjudication

MICROFILMED

MICROFILMED

MAR 22 2000

JUL 14 2000

shall apply only to the water right matters specifically listed herein, and shall not apply to any future applications for transfer, applications for permit, applications for amendment of permit, or any other applications or other documents pertaining to water rights, filed by the undersigned, their heirs, or assigns, before the Idaho Department of Water Resources or any court.

13 The undersigned parties stipulate and agree that the terms of this Stipulation are mutually dependent upon each other, and that should any party fail to perform its duties under this Stipulation, the Stipulation in its entirety shall be null and void, unless otherwise agreed to in writing by the parties. Any party which breaches this Stipulation shall be responsible for any resulting damages to the other parties to this Stipulation, including but not limited to legal costs and attorney fees.

14. The undersigned parties further stipulate and agree that the terms of this Stipulation are expressly subject to the acceptance by the Idaho Department of Water Resources of the withdrawals referenced in Paragraphs 1 to 6 of this Stipulation and the signing of the Order requested by the Joint Motion included herein. Further proceedings in the matters encaptioned above are suspended pending acceptance by the Idaho Department of Water Resources of the withdrawals referenced in Paragraphs 1 to 6 of this Stipulation and the signing of the Order requested by the Joint Motion included herein.

15. The undersigned parties further agree that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving this legal dispute, by compromise and settlement and that nothing in this Stipulation, or any offers or compromises made in the course of negotiating this Stipulation, shall be construed as admissions against interest or tendered or used as evidence to show the validity or invalidity of the above-referenced

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - "

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JUL 14 2000

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MAR 22 2000

Applications or Protests or Motions to Intervene thereto, in any other manner by any party to this Stipulation in future proceedings before the Idaho Department of Water Resources, or by any party in the SRBA in any future proceedings in the SRBA, other than those for interpretation or enforcement of this Stipulation, or for a purpose contemplated by Idaho Rule of Evidence 408 and IDWR Rule of Practice and Procedure 610, IDAPA 37.01.01.610.

16. The undersigned parties further agree that this Stipulation shall be binding on them and their successors and assigns.

JOINT MOTION FOR ORDER ACCEPTING STIPULATION AND SETTLEMENT

The undersigned parties, in accordance with Idaho Department of Water Resources Rules of Practice and Procedure 610-614, hereby move that the Department order as follows:

1. The protests of Mark T. Gates, Trustee; Blake Quinn, on behalf of 6X Ranch LLC; and David and Mary Stoecklein, or any partnership or entity in which David and/or Mary Stoecklein is a partner, officer, or stockholder, to Application for Transfer No. 5400 in the name of L&S partners, are hereby deemed withdrawn with prejudice.

2. The protests of Mark T. Gates, Trustee; Blake Quinn; and David and Mary Stoecklein, or any partnership or entity in which David and/or Mary Stoecklein is a partner, officer, or stockholder, to Application for Transfer No. 5456 (formerly application for Transfer No. 4906) in the name of Aslett Ranches, are hereby deemed withdrawn with prejudice.

3. Application for Permit No. 34-07591, in the name of L&S Partners, is hereby deemed withdrawn with prejudice.

4. The protests of Aslett Ranches to Applications for Transfer No. 5001 and 5002 are hereby withdrawn with prejudice.

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - 3

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MAR 22 2000
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JUL 14 2000

4. The protests of Aslett Ranches to Applications for Transfer No. 5001 and 5004 are hereby withdrawn with prejudice.

5. The remaining terms of the Stipulation and Settlement are deemed accepted by the Idaho Department of Water Resources, and the parties thereto are hereby ordered to comply with the terms stated therein

DATED This 20 day of Sept, 1999.

Steve Aslett, Sr.
Steve Aslett, Sr., on behalf of Aslett
Ranches, Inc. & L & S Partners

DATED This ___ day of _____, 1999.

Mark T. Gates, Trustee

DATED This ___ day of _____, 1999.

Blake Quinn, on behalf of 6X Ranch LLC

DATED This ___ day of _____, 1999.

David Stoecklein

DATED This ___ day of _____, 1999.

Mary Stoecklein

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - 9
In The Matter of A 2001 Old Idaho State Fair, Inc. and

MICROFILMED
JUL 14 2000
MAY 22 2000

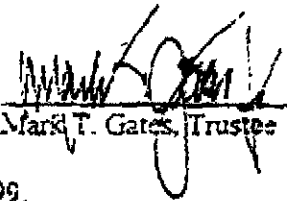
4. The protests of Aslett Ranches to Applications for Transfer No. 5001 and 5004 are hereby withdrawn with prejudice.

5. The remaining terms of the Stipulation and Settlement are deemed accepted by the Idaho Department of Water Resources, and the parties thereto are hereby ordered to comply with the terms stated therein.

DATED This ____ day of _____, 1999.

Steve Aslett, Sr. on behalf of Aslett
Ranches, Inc. & L & S Partners

DATED This ____ day of _____, 1999.


Mark T. Gates, Trustee

DATED This 20 day of September, 1999.

Blake Quinn, on behalf of 6X Ranch LLC

DATED This ____ day of _____, 1999.

David Stoecklein

DATED This ____ day of _____, 1999.

Mary Stoecklein

STIPULATION, SETTLEMENT AND JOINT MOTION FOR ORDER - 6
COURT REPORTER: JUDITH A. BURKE, 1111 14 2000

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MAR 22 2000

SEP 17 1999 10:32

PAGE 3.2

4. The protests of Aslett Ranches to Applications for Transfer No. 5004 and 5004 are hereby withdrawn with prejudice.

5. The remaining terms of the Stipulation and Settlement are deemed accepted by the Idaho Department of Water Resources, and the parties thereto are hereby ordered to comply with the terms stated therein.

DATED This ____ day of _____, 1999.

Steve Aslett, Sr., on behalf of Aslett
Ranches, Inc. & L & S Partners

DATED This ____ day of _____, 1999.

Mark T. Gates, Trustee

DATED This 7 day of Sept, 1999.



Blake Quinn, on behalf of 6X Ranch LLC

DATED This ____ day of _____, 1999

David Stoecklein

DATED This ____ day of _____, 1999.

Mary Stoecklein

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - 9
C:\2000\1124\PAU32\stipulation\stipulation 7-1-99

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JUL 14 2000
MAR 22 2000

4 The projects of Aslett Ranches to Applications for Transfer No. 5001 and 5002 are hereby withdrawn with prejudice.

5 The remaining terms of the Stipulation and Settlement are deemed accepted by the Idaho Department of Water Resources, and the parties thereto are hereby ordered to comply with the terms stated therein.

DATED This ____ day of ____, 1999.

Steve Aslett, Sr., on behalf of Aslett
Ranches, Inc. & L & S Partners

DATED This ____ day of ____, 1999.

Mark T. Gates, Trustee

DATED This ____ day of ____, 1999.

Blake Quinn, on behalf of 6X Ranch LLC

DATED This 9th day of Sept, 1999.

David Stoecklein

DATED This 9th day of Sept, 1999.

Mary Stoecklein

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER

MICROFILMED
JUL 14 2000

DATED This ____ day of _____, 1999.

Vic Johnson

DATED This ____ day of _____, 1999.

Scott Johnson

DATED This 22 day of September, 1999.

Lynn Reno
Lynn Reno

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - 10

FILED WITH CASE 2024 pleadings captioned as follows

MICROFILMED
MAR 22 2000
1111 14 2000

DATED This ____ day of _____, 1999.



Vic Johnson

DATED This 29 day of September, 1999.



Scott Johnson

DATED This ____ day of _____, 1999.

Lynn Reno

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - 10

G:\TWP\WPDATA\1524\pleadings\stipulation-10-17.wpd

MICROFILMED
JUL 14 2000

6002 2 2 0000

MICROFILMED

MICROFILMED

JUL 14 2000

DATED This ____ day of _____, 1999.

Vic Johnson
Vic Johnson

DATED This 29 day of September, 1999.

Scott Johnson
Scott Johnson

DATED This ____ day of _____, 1999.

Lynn Reno
Lynn Reno

STIPULATION, SETTLEMENT, AND JOINT MOTION FOR ORDER - 10
D:\Thom\WPDATA\3524\pleadings\stipulation-9-17.wpd

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JUL 14 2000

P. 16/16

FAX NO. 2083845844

DEC-27-99 MON 11:06 AM
ELAM & BURKE

RECEIVED

MAR 8 2000

Dist for Staffing _____
Submitted for advertising 1-13-2000

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS PERMIT

WILD HORSE RANCH

INITIAL REVIEW BY HWT DATE 1-12-2000 APPLICATION NO. 34-07595

REQUIRED INFORMATION:

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

ADDITIONAL INFORMATION:

- ☒ Overlapping place of use (Describe source & relationship to present application on the back)
- _____ Overlapping point of diversion
- _____ Yes _____ No Critical groundwater area
- _____ Yes _____ No Groundwater management area
- _____ Yes _____ No Send dam safety information
- _____ Yes _____ No Send fish farm requirement letter
- _____ Yes _____ No Power residency affidavit
- ☒ Yes _____ No Within trustwater boundary (If yes, attach trust water supplementary analysis sheet)
- _____ Yes _____ No Public Water System
- _____ Yes _____ No Planning section review
- _____ Yes _____ No Moratorium Hold file
- _____ See reverse side for additional information

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

_____ Date Requested _____

PROCESSING:

- ☒ Yes _____ No In form for advertising
- ☒ Yes ☒ No Statewide advertising
- ☒ Yes _____ No Fee amount, receipt date & No. recorded on application

SEND COPIES TO:

- _____ Id Dept of Health & Welfare
- ☒ ~~Id Dept of Fish & Game~~
- _____ Id Dept of Lands
- _____ Adjudication Bureau Unit

- _____ U.S. BLM
- _____ U.S. Forest Service
- ☒ Water District 34
- _____ Other _____

FINAL REGIONAL PROCESSING REVIEW:

 ✓ Yes No

Affidavit of publication received

 Yes No

Application published correctly. If not, record action taken

 ✓ Yes No

Publication dates & paper, recorded on application

 Yes / No

Protests received

Final date for protest_

 Yes No

Protests, dates, resolution of protest, recorded on application

~~X~~ Yes No

Recommendations attached

 Yes No

Measuring device required

 Yes No

Access port required

 Yes No

Will water be delivered by watermaster? If yes, what District

_____ Yes _____ No

Special conditions of approval or cover letter below.

Date of priority recommend.

By: _____ Date: _____

STATE OFFICE REVIEW:

By: _____ Date: _____

ADDITIONAL INFORMATION:

LOCAL PUBLIC INTEREST:

Comments received from:

City _____

Id Fish & Game

 County

Id Health & Welfare

 Reservations

Div. Of Environment

Irrigation District

Canal Company

Other

Project impacts/implications report

COMMENTS

FROM: H.W. JONES
TO: APPLIC # 3407595

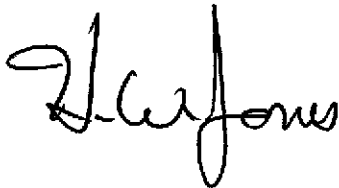
This applic. proposes to mitigate the drilling of a well for irrigation by not using adjacent surface water from Warm Springs Creek and the Big Lost River that irrigated an equal amount of acres (156.2). The unused surface water would then be available in the stream beds for the applicants desire to enhance the local fisheries.

It appears , however, that this unused surface water will still be available for the next user in priority on the creek and river. This water will then be delivered and used elsewhere thereby increasing the total amount of water used. There is no way to guarantee this water will stay in the system and there is no plan to recharge the groundwater aquifer.

This appears to be more of a de facto transfer of sources. In the past when plans of this nature were proposed the response from our Boise office was to require some plan to take the unused surface water and inject it into the underground aquifer in a real time fashion without violating drinking water standards to supplement that source in preparation for the well use. In addition the priorities on the surface rights appear to be quite junior and the use of a well could be an enhancement of source. Even though the applicant states that the well will not be run when surface rights are not available how can the watermaster realistically modulate this well when some of the rights are not deliverable.

Without further information I could not support this application.

Harold W. Jones

A handwritten signature in black ink, appearing to read "H. W. Jones", written in a cursive style.

MICROFILMED

JUL 14 2000

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, Ruth E. Burchill, representing the
Challis Messenger, a weekly newspaper, pub-
lished at Challis, Idaho, do solemnly swear that
the notice hereto attached and made a part here-
of, was published in the regular and entire issue
of the Challis Messenger for 2
consecutive weeks, commencing with the issue
dated Feb 3 10 00 and ending with
the issue dated Feb 10 10 00.

Ruth E. Burchill

STATE OF IDAHO

COUNTY OF CUSTER

On this 10th day of Feb in the
year of 2000 before me, a Notary Public,
personally appeared Ruth E. Burchill
known or identified to me to be the person
whose name subscribed to the within instru-
ment, and being by me first duly sworn, declared
that the statements therein are true, and ac-
knowledgeed to me that he executed the same.

Notary Public for Idaho

Residing at

My commission expires: 4/30/04

NOTICE OF APPLICATION FOR TRUST WATER RIGHT

34-07595

IDAHO COWBOY INC.

C/O DAVID STOECKLEIN

PO BOX 856

KETCHUM, ID 83340

Source: GROUNDWATER

Diversion Pt: SWSWNW Sec 36 T
08N R 22E in Custer County

Use: IRRIGATION (3.120 CFS)

Total Diversion: (3.120 CFS)

Date Filed: 1/11/2000

In: CUSTER County T08N R22E
S35 SWNE SENE NESE NWSE
S36 SWNW

156.2 ACRES TOTAL

The applicant has proposed a
mitigation plan to stop using an
equivalent amount of decreed sur-
face water if this application is ap-
proved. The plan is available upon
request.

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. Pro-
tests must be filed with the appli-
cant and the Director, Dept. of Wa-
ter Resources, along with a \$25
filing fee, 900 N. Skyline Dr., Ida-
ho Falls, ID, 83402, on or before
FEBRUARY 22, 2000.

KARL J. DREHER, Director

Pub: Feb. 3 & 10, 2000.

MICROFILMED

JUL 14 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

FEB 02 2000

Department of Water Resources
Eastern Region

RECOMMENDATION OF WATERMASTER

Application No: 34-07595Applicant's Name: Idaho Cowboy, Inc., c/o David Stodcklein

Watermaster's Recommendation:

- a) x I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows: _____

- c) _____ I oppose approval of this application for the following reasons: _____

- d) _____ Additional Comment: _____

Dated this 1st day of February, 2000Water District No: 34
Watermaster's Signature

Use reverse side of page if you need more space.

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JUL 14 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 27, 2000

**IDAHO COWBOY INC
% DAVID STOECKLEIN
PO BOX 856
KETCHUM ID 83340**

RE: Application for Permit #34-07595

Dear Applicant:

This office is currently in the process of advertising the application in the Challis Messenger on February 3 and 10, 2000. The advertisement will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

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

Sincerely,

**Harold W. Jones
Water Right Supervisor**

HWJ::sc

MICROFILMED

JUL 14 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 27, 2000

DOUG ROSENKRANCE
WATERMASTER #34
PO BOX 53
MACKAY ID 83251

RE: Applications for Permit #34-07595

Dear Doug:

Please find enclosed a copy of the above referenced application. Please review the application and submit any comments you may have to our Department by February 22, 2000.

If you have any questions, please feel free to contact us.
Thank you for your cooperation in this matter.

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ:sc

enc.

MICROFILMED

JUL 14 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JANUARY 26, 2000

Legal Notices Department
CUSTER PUBLISHING CO.
P.O. BOX 405
CHALLIS, ID 83226

Dear Legal Dept.:

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

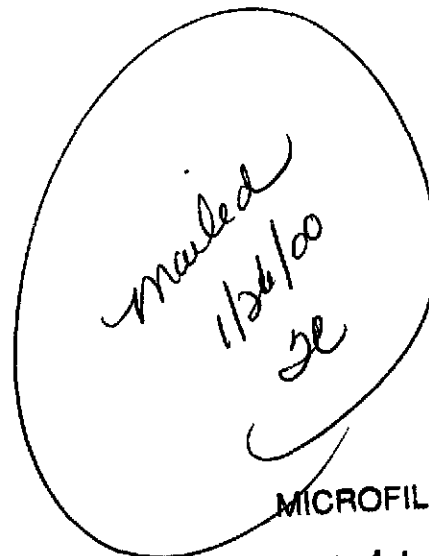
An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before FEBRUARY 22, 2000.

Yours truly,

Sharla Cox
Senior Secretary

Encl.



MICROFILMED
JUL 14 2000

NOTICE OF APPLICATION FOR WATER RIGHT

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

34-07595

IDAHO COWBOY INC
C/O DAVID STOECKLEIN
PO BOX 856
KETCHUM, ID 83440

Source: GROUNDWATER

Diversion Pt: SWSWNW Sec 36 T 08N R 22E in CUSTER County.

Use: IRRIGATION (3.120 CFS)
Total Diversion: (3.120 CFS)

Date Filed: 1/11/2000

In: CUSTER County
T08N R22E S35 SWNE SENE NESE NWSE
S36 SWNW

156.2 ACRES TOTAL

The applicant has proposed a mitigation plan to stop using an equivalent amount of decreed surface water if this application is approved. The plan is available upon request.

Any protests against the proposed application must be filed with the Dept. of Water Resources, 900 N Skyline Dr., Ste A, Idaho Falls ID 83402, together with a protest fee of \$25.00 on or before FEBRUARY 22, 2000. to be considered by the Department in its decision to grant or deny any part of the proposed application. The protestant must also send a copy of the protest to the applicant.

MICROFILMED

KARL J. DREHER, Director

Published: 2/ 3/2000 & 2/10/2000 JUI 14 2000



Idaho Dep. of Water Resources.
900 N. Stryker Dr. Suite A.
Idaho Falls, Idaho 83402

RECEIVED
JAN 11 2000
Department of Water Resources
Eastern Region

Dear Sir

I am requesting an exemption from the water right Moratorium that is within in the Eastern Snake River Basin including the Big Lost River Basin. I am asking for this exemption because this Mitigation proposal will protect all prior surface water and ground water rights.

Thank you very much for your time.

David R. Stoeckle

inc checks # 01166
\$ 166.00

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JUL 14 2000

deliver to: 10TH STREET CENTER, SUITE A1
mail to P.O. BOX 856
KETCHUM, ID 83340
tel: 208 726 5191
fax: 208.726.9752