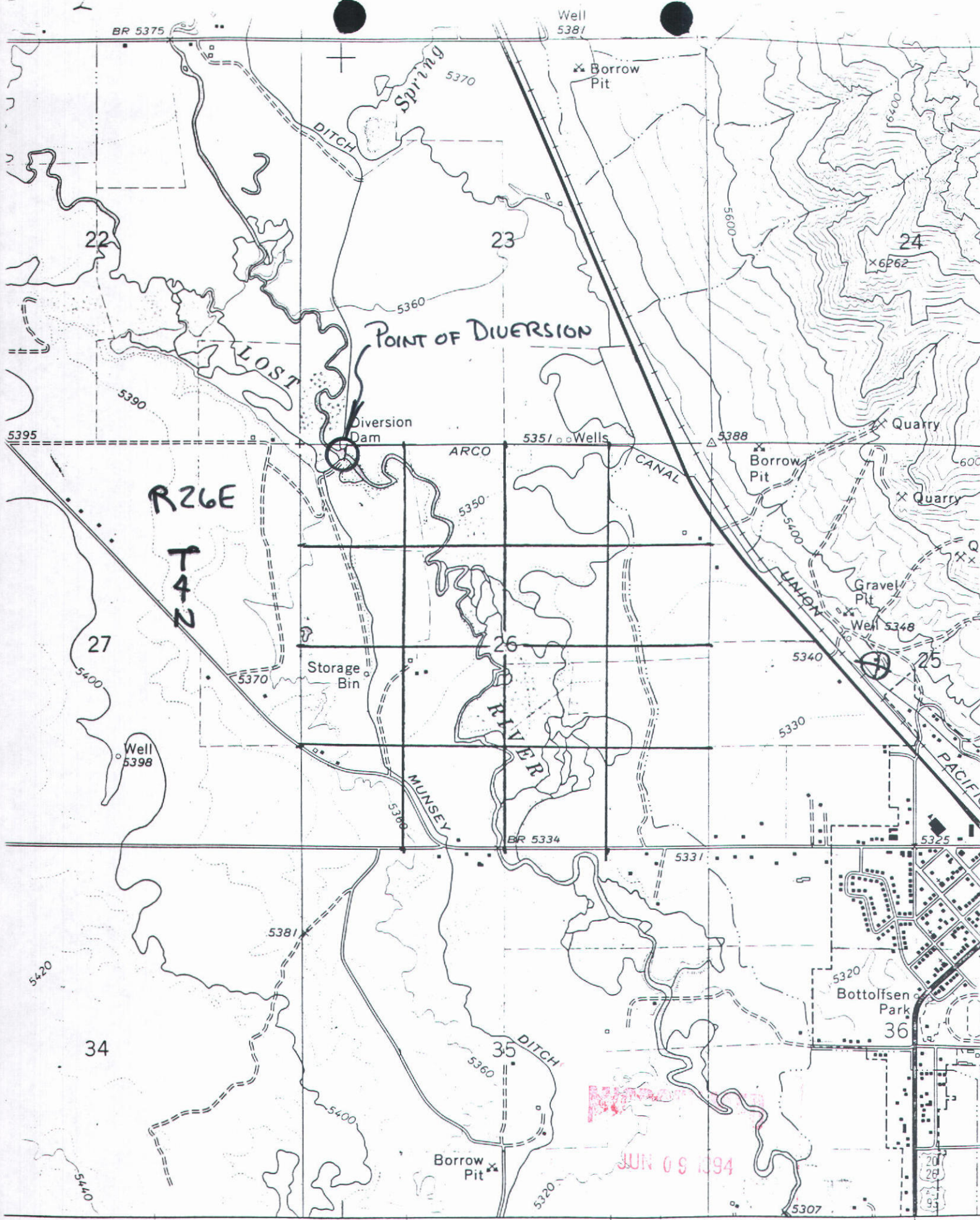
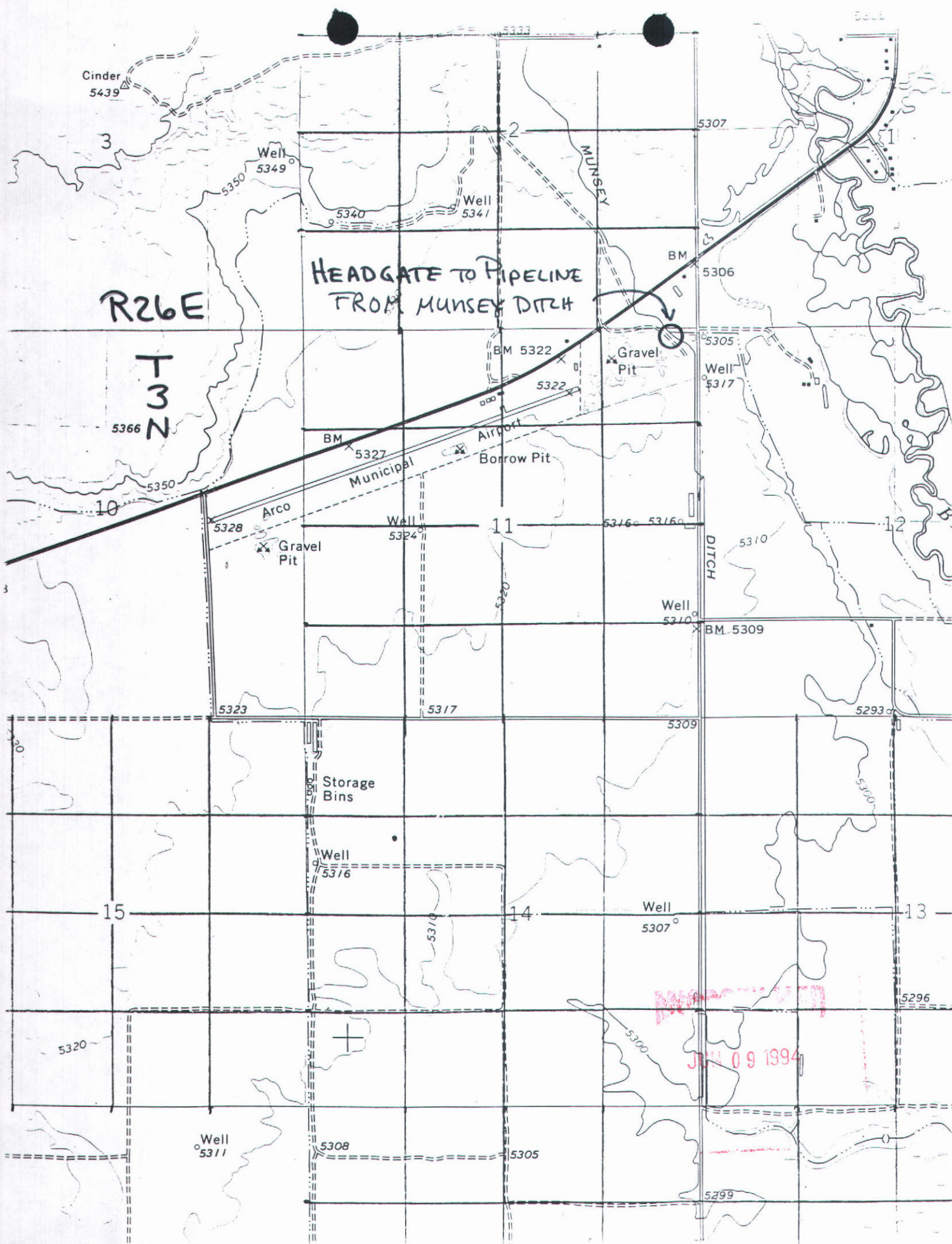






R26E

T3N

HEADGATE TO PIPELINE
FROM MUNSEY DITCH

MUNSEY
DITCH

DITCH

10

11

12

15

14

13

5320

Well
5311

5308

5305

5299

Well
5307

Well
5316

Well
5310

BM 5309

Well
5324

5323

5317

5309

5293

Well
5317

BM 5322

5322

BM 5327

5328

Gravel
Pit

Airport

Borrow Pit

Municipal

Arco

5316 5316

5310

5306

5307

5333

Cinder
5439

Well
5349

5340

Well
5341

BM

Gravel
Pit

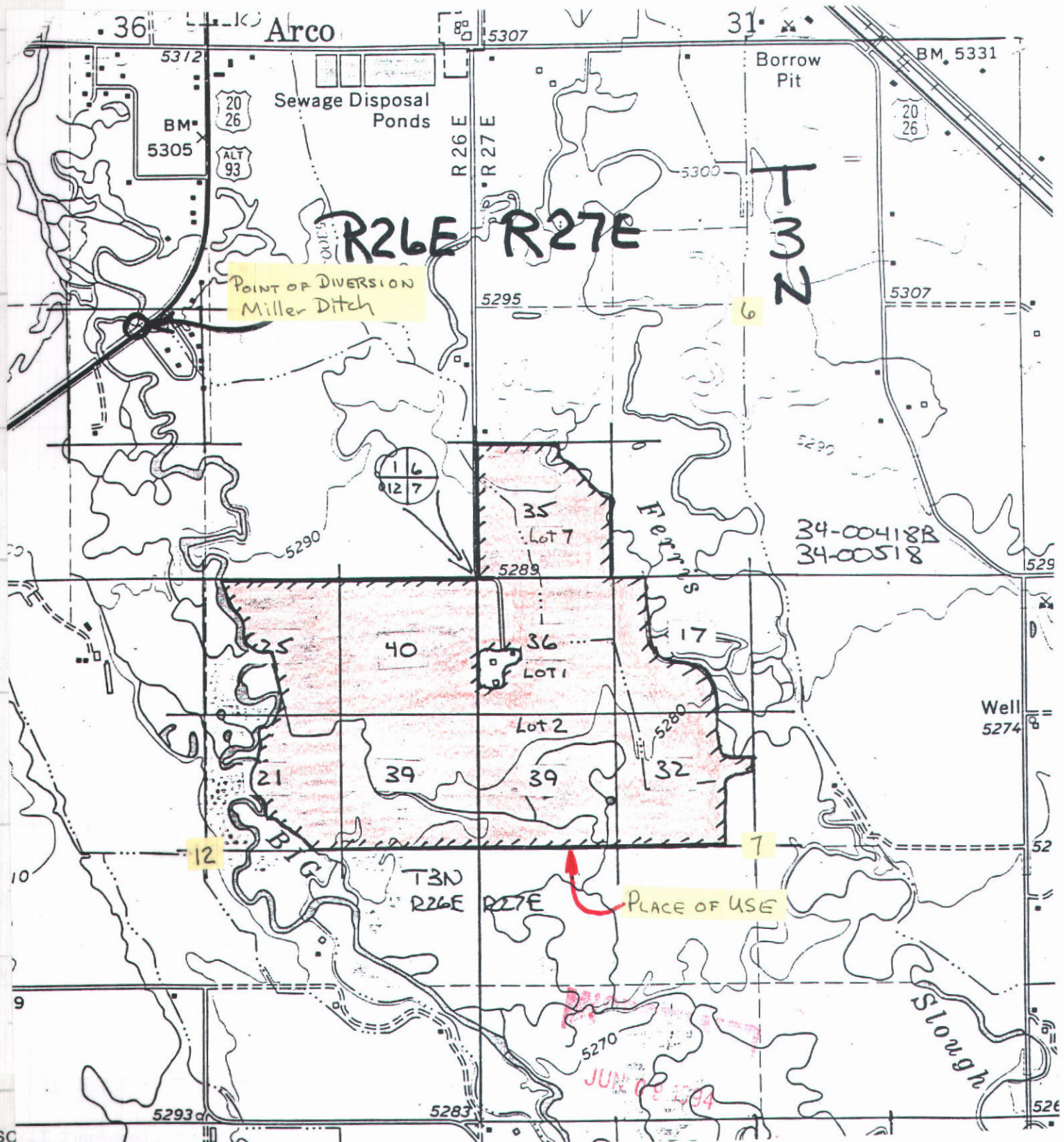
5305

5301

JUL 09 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

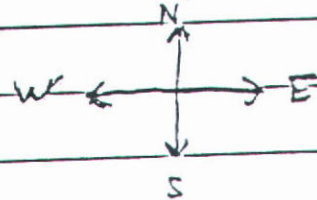


ARCO DIVERSION
(New P/D - 3.0 cfs.)

Arco Ditch

BIG LOST RIVER

Muncip Canal



Miller Headgate
(Existing P/D - 6.4 cfs.)

Miller Ditch
(Private)

NEW
PIPELINE

Place of Use

RECEIVED

JUN 09 1994

McLaughlin's Headgate

McLaughlin's
Ditch

2 1/2 mile

1/4 mile

1 1/4 mile

AFFIDAVIT OF PUBLICATION

I, COLLEEN BABCOCK
of the Arco Advertiser, a weekly newspaper of
general circulation, published weekly at Arco, Idaho,
since March, 1909, do solemnly swear that a copy of
this notice, per clipping attached, was published
weekly in the regular and entire issue of said
newspaper, and not in any supplement thereof,

for 2 consecutive weeks, commencing with
the issue dated APRIL 29, 1993
and ending with the issue dated

MAY 6, 1993
Colleen Babcock

STATE OF IDAHO }

COUNTY OF BUTTE }

On this 20 day of May
in the year of 1993, before me, a Notary Public,
personally appeared

Colleen Babcock
known or identified to me to be the person whose
name subscribed to the within instrument, and being
by me first duly sworn, declared that the statements
therein are true, and acknowledged to me that he
executed the same.

Thomas D. Cannon
Notary Public for Idaho

Residing at Arco, Id.
My commission expires: 12-30-97

NOTICE OF PROPOSED CHANGE
OF A WATER RIGHT
TRANSFER NO. 4110

Notice is hereby given that Willard O.
or Gladys K. Bell has applied to the
Department of Water Resources to add a
point of diversion of the waters of the Big
Lost River. The right sought to be changed
is evidenced by a claim and recorded as
follows:

CLAIM NO. A34-00518
AMOUNT: 6.40 CFS
PRIORITY: 6/1/1890
POINT(S) OF DIVERSION: NENESW
SEC 1 (MILLER DITCH) T3N R26E, BUTTE
COUNTY.

The water is used from May 1 to Octo-
ber 15 to irrigate 284 acres within the NE
SEC 12 T3N R26E, SWSW (LOT 7) SEC 6
E1/2NW NWNW (LOT 1) SWNW (LOT 2)
SEC 7 T3N R27E, B.M.

TO BE CHANGED AS FOLLOWS:

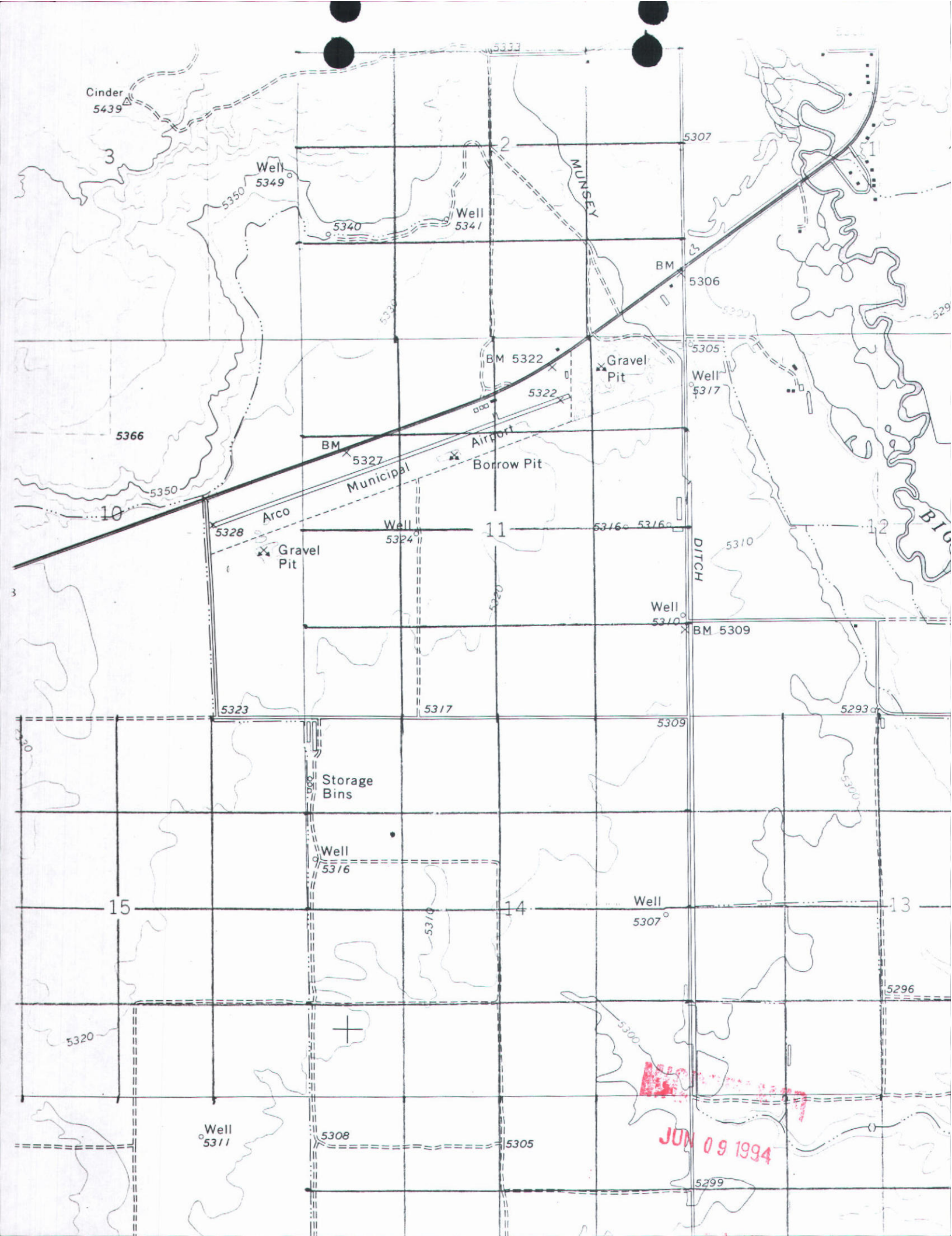
The water will be diverted from the
NWNWNW SEC 26 (ARCO DIVERSION/
MUNSEY DITCH (T4N R26E, NENESW
SEC 1 (MILLER DITCH) T3N R26E, B.M.

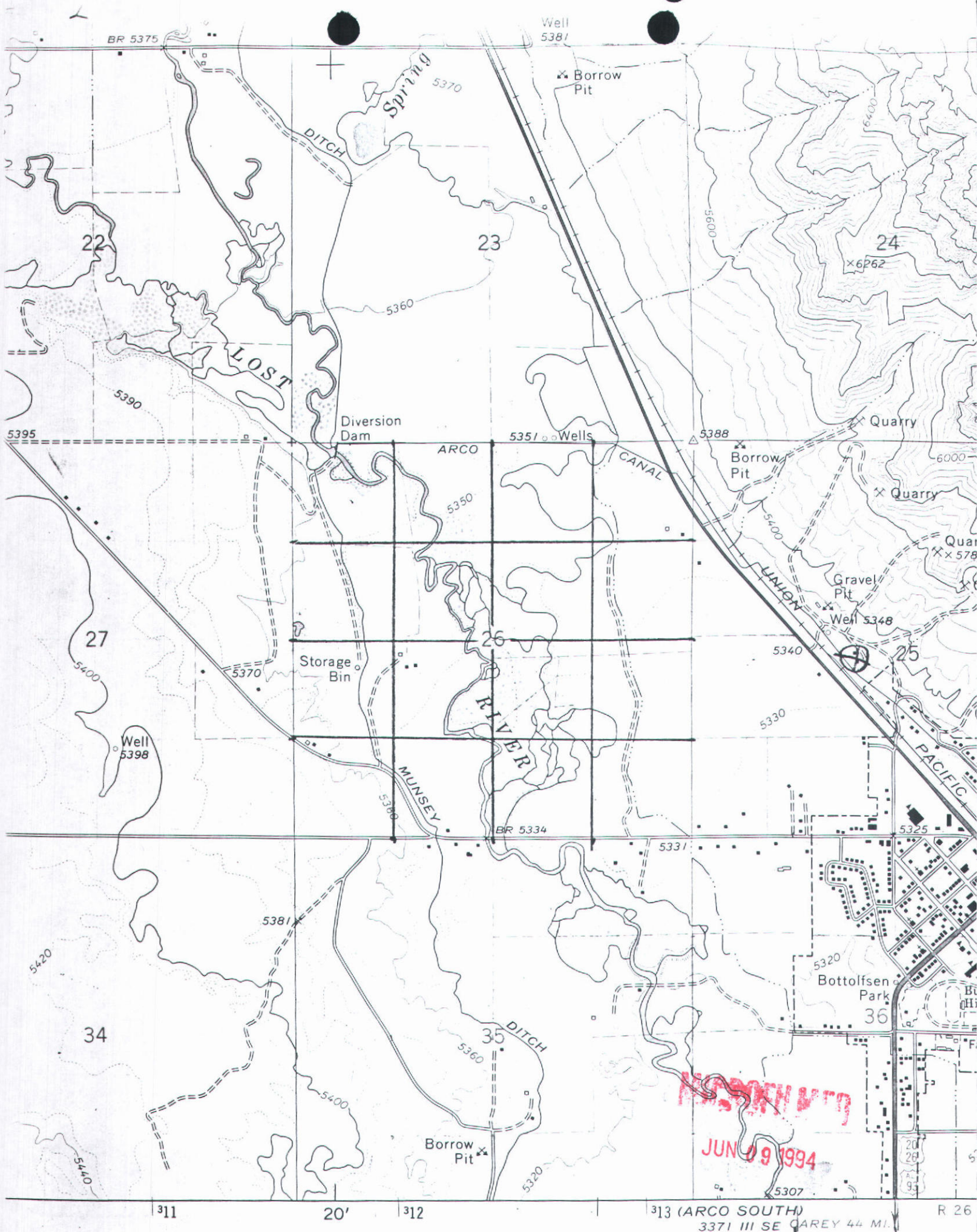
Any protest against the proposed
change must be filed with the Idaho
Department of Water Resources, 900 N.
Skyline Dr., Idaho Falls, ID 83402, on or
before May 17, 1993.

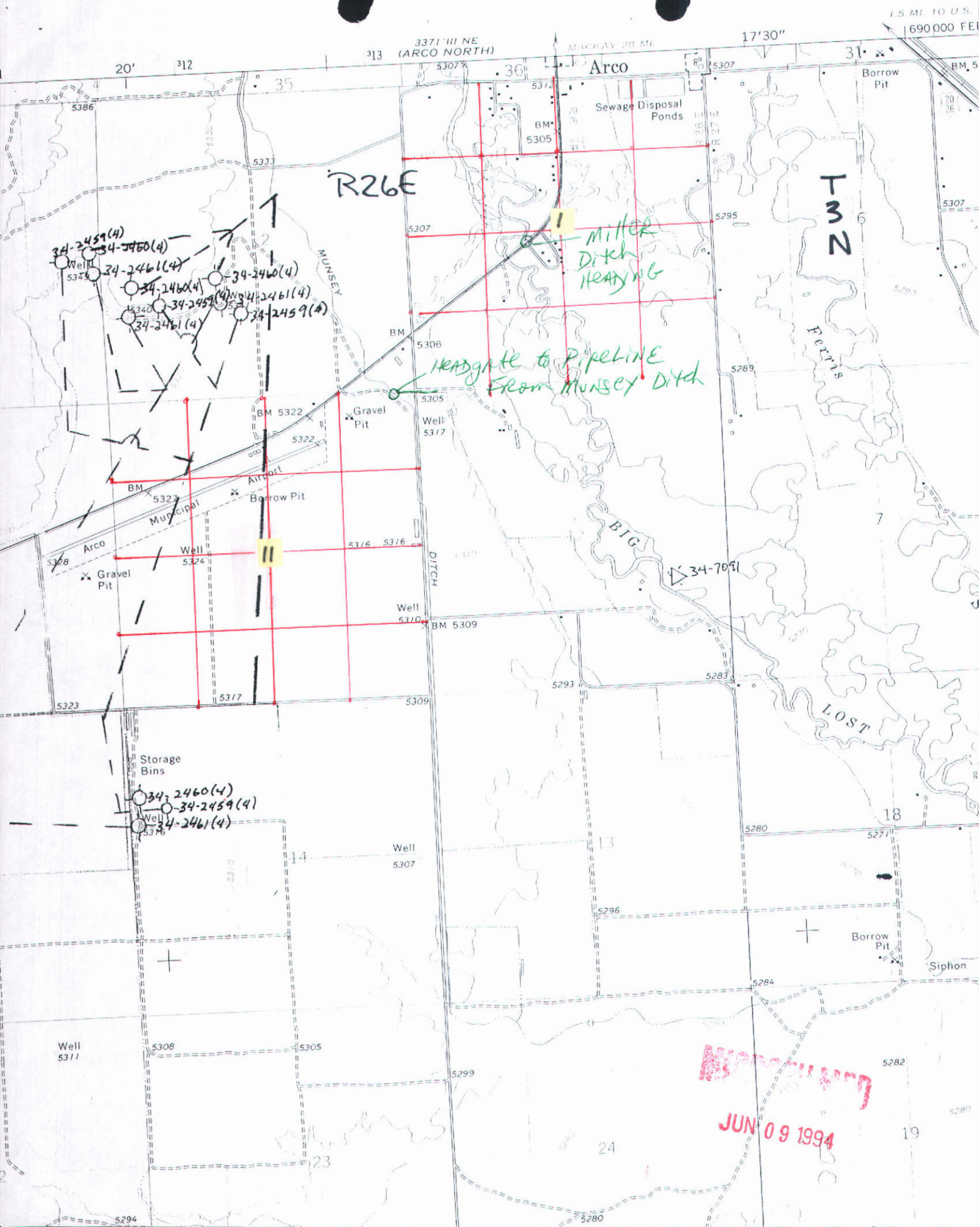
R. KEITH HIGGINSON
Director

Published in The Arco Advertiser on
April 29 & May 6, 1993.

JUN 09 1994





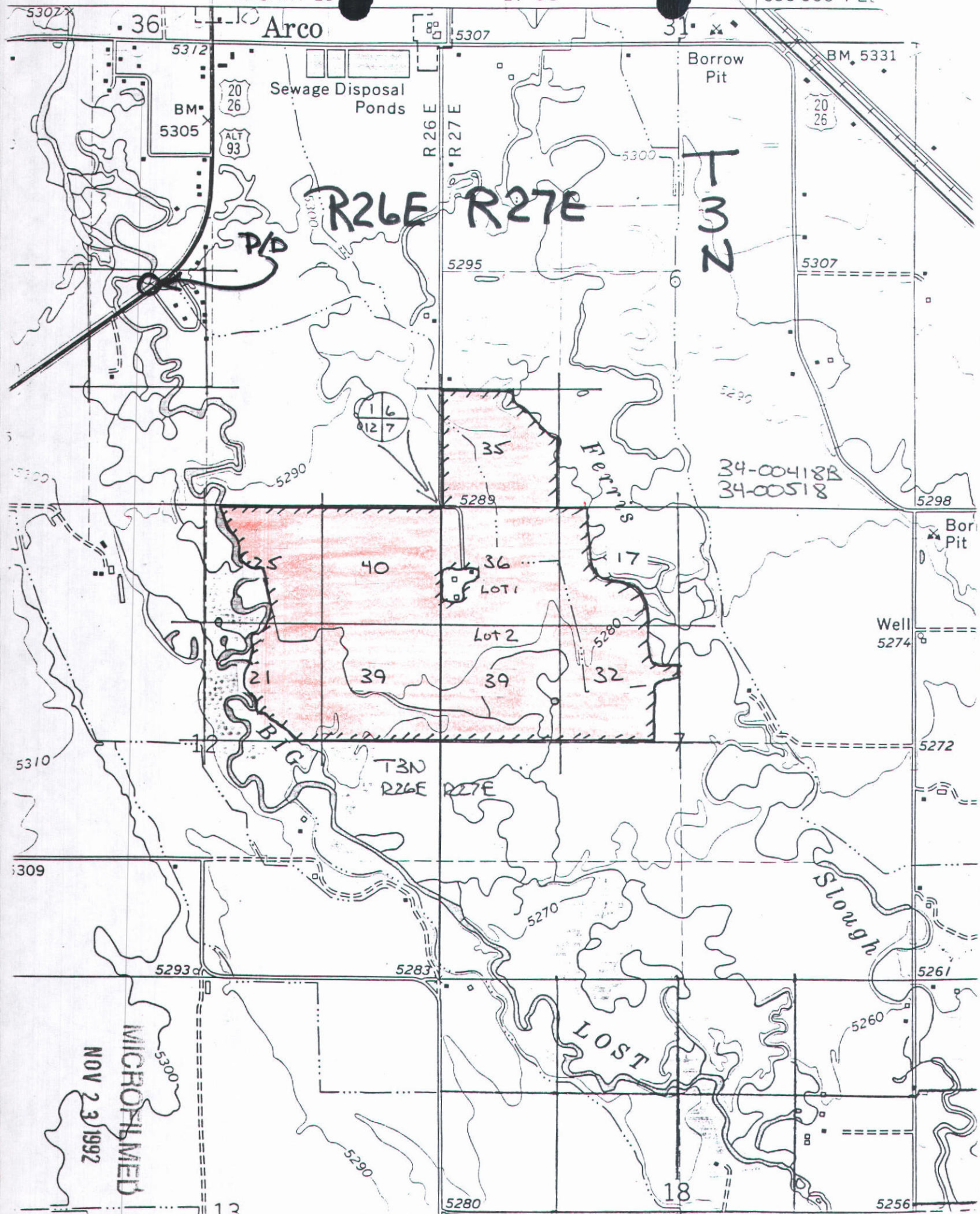


CO NORTH)

MACKAY 28

17'30"

690 000 FE.



100 83

R 26

557
T-214
BELL

R 27 E

176
T-192 NHSL
BELL

NHSL
NM
①
73.6

NHSL
NM
②
113.3

137
T-236 NHSL
SCHUREMAN

156
T-270
SOWARDS

340 NHSL
T-128
FOLKMAN

①
63.6

③
52.5

④
24.9

98
T-175
THORNTON

②
30.1

PASTURE
21.0

④
27.8

①
46.5

107
T-180
RINDFLEISCH

③
50.0

⑥
4.5

⑤
30.0

144
T-251
CORGATE

112

21
112

②
28
①
20.5
127

127
1318
370
2703

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
TRANSFER NO. 4110 (WATER RIGHT NO.	)	
34-00518) IN THE NAME OF WILLARD O.	)	ORDER ADOPTING
OR GLADYS K. BELL	)	RECOMMENDED ORDER
	)	

A Recommended Order in the above-captioned matter has been issued and a copy served on the parties;

WHEREAS; more than twenty-one days have passed since the service of the Recommended Order; and,

WHEREAS; no exception to that Recommended Order has been received,

IT IS, THEREFORE, HEREBY ORDERED that said Recommended Order be adopted and Application for Transfer No. 4110 is REJECTED.

Dated this 3rd day of March, 1994.



R. Keith Higginson, Director
Department of Water Resources

JUN 09 1994

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 3rd day of March, 1994, I mailed a true and correct copy, postage prepaid, of the foregoing Order Adopting Recommended Order to the following:

Randall C. Budge
Racine, Olson, Nye, et al
P.O. Box 1391
Pocatello, ID 83204

Willard & Gladys Bell
P.O. Box 91
Arco, ID 83213

Lester/Dennis/Trudy Braswell
Arco, ID 83213

James Rindfleisch
P.O. Box 62
Arco, ID 83213

Lewis Rothwell
P.O. Box 62
Arco, ID 83213

Charles D. Huggins
P.O. Box 216, RR1
Arco, ID 83213

IDWR-Eastern Regional Office
Idaho Falls, Idaho


Carolyn Andreagg
Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
TRANSFER NO. 4110 (WATER RIGHT	)	RECOMMENDED
NO. 34-00518) IN THE NAME OF	)	ORDER
WILLARD O. OR GLADYS K. BELL	)	
_____	)	

A hearing was conducted on July 7, 1993, regarding protests filed against application for transfer no. 4110 in the name of Willard O. or Gladys K. Bell (Bell). After having reviewed the evidence and briefs submitted by the parties, the hearing officer, as a representative of the Director of the Department of Water Resources, recommends the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Application for transfer no. 4110 proposes to add a point of diversion for water right no. 34-00518. The application proposes to locate an additional point of diversion approximately two to three miles upstream from the original point of diversion.

2. The Department recommended recognition of the right in the Snake River Basin Adjudication as follows:

Water Right No.: 34-00518

Priority: June 1, 1890

Quantity: 6.4 cfs

Point of Diversion: NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, Twp. 3N, Rge. 26E
(Commonly known as the Miller Ditch)

Basis of right: Decreed in Abbott v. Utah Construction

RECORDED

JUL 09 1994

Place of Use:

T W P	R g e	S e c	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03 N	26 E	1 2	40	25	21	39													125
03 N	27 E	6											35 L7						35
03 N	27 E	7					17	36 L1	39 L2	32									124
TOTAL ACRES																			284

3. Other water rights which also authorize irrigation of these lands are 34-00418B, 34-07048 and storage water delivered by the Big Lost River Irrigation District.

4. The application for transfer proposes to add a point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26, T4N, R26E. This point of diversion is locally known as the Arco diversion and is the heading for the Munsey Ditch.

5. Bell proposes to deliver no more than 3.0 cubic feet per second (cfs) of right 34-00518 through the Munsey Ditch. Approximately two miles down the Munsey Ditch, Bell proposes construction of a pipeline diverting from the Munsey Ditch which will cross the Big Lost River, and irrigate the listed place of use. At the hearing, Bell testified the pipeline is already installed.

6. Bell alleges the diversion of water upstream into the Munsey Ditch will conserve water now lost in the Big Lost River while flowing to reach the Miller Ditch heading.

7. The application for transfer was protested by Lewis Rothwell, Charles Huggins, James Rindfleisch, and Lester, Dennis & Trudy Braswell (Braswells). The protestants were present, except James Rindfleisch, who failed to appear at the hearing.

8. The protestants alleged the approval of the application for transfer would injure their water rights. The protestants also

alleged the proposed point of diversion change conflicts with the local public interest because the stream will be further dewatered. Finally, Rothwell alleged the Munsey Ditch did not have sufficient capacity for the additional water.

9. Huggins and Braswells both divert water from the McLaughlin Ditch. The heading of the McLaughlin Ditch is located approximately one mile downstream from the Miller Ditch. The Director's report for Basin 34 recommends the following rights, claimed by Huggins, for diversion of water from the Big Lost River at the McLaughlin diversion:

<u>Name</u>	<u>Water Right No.</u>	<u>Priority</u>	<u>Quantity</u>
Charles Huggins	34-10626	09/24/1900	1.30 cfs
	34-02445	08/17/1962	0.30 cfs
	34-07104	03/12/1975	2.92 cfs

10. The Director's report for Basin 34 recommends the following rights for Braswells, diverted from the Big Lost River at the McLaughlin diversion:

<u>Name</u>	<u>Water Right No.</u>	<u>Priority</u>	<u>Quantity</u>
Dennis Braswell	34-00908	10/02/1885	0.80 cfs
	34-00133	09/24/1900	1.10 cfs
	34-10299	09/24/1900	2.10 cfs
Lester Braswell	34-00033	10/02/1885	0.80 cfs

11. The Director's report also recommends the following rights diverted at the McLaughlin headgate:

<u>Name</u>	<u>Water Right No.</u>	<u>Priority</u>	<u>Quantity</u>
Morgan	34-00244A	10/02/1885	0.16 cfs
Stonehill	34-00244C	10/02/1885	0.30 cfs
Parkinson	34-02313	08/21/1954	1.20 cfs

12. According to his testimony at the hearing, Lewis Rothwell owns 42 inches of 1886 water, 219 inches of 1887 water and 13 inches of 1888 water in addition to storage water in the Mackay Reservoir. All the water authorized for diversion pursuant to Rothwell's rights is diverted at the Arco diversion, which is the

same point of diversion Bell wants to add to water right no. 34-00518.

13. Records of the Department of Water Resources, and the Director's report, list water rights which are diverted at the Arco diversion or upstream from the Arco diversion, which have the same or later priority than water right no. 34-00518.

14. All the witnesses at the hearing agreed the Big Lost River loses water between the Arco diversion and the Miller diversion. Willard Bell testified that during a test conducted several years ago, 2500 miners inches (50 cfs) were allowed to pass through the Arco diversion, and the entire flow disappeared into the bed of the Big Lost River several hundred yards downstream from the Arco diversion.

15. Testimony at the hearing established that delivery of Bell's 6.4 cfs at the Miller headgate has transported water diverted at the McLaughlin headgate, including water diverted by Braswell and Huggins.

16. Within the Big Lost River Basin, natural flow right holders have traditionally stored their natural flow rights in Mackay Reservoir when water is not being used. Willard Bell implied by his testimony that if his application is approved, the remaining 3.4 cfs he would not divert at the Arco diversion would be stored in Mackay Reservoir for use later in the year.

17. Bell only intends to divert water at the new proposed point of diversion if water cannot be diverted at the Miller diversion.

18. When regulating water, the watermaster will deliver to the latest priority date right, or rights that can be filled, or partially filled, for the entire river reach administered by the watermaster. In other words, if all rights bearing a priority of June 1, 1890, can only be partially satisfied, the watermaster will deliver the pro rata share of the 1890 rights to each rightholder, regardless of the location of the point of diversion, and regardless of how much water may be lost in delivering each right.

19. If substantial water is lost in delivering Bell's water

to him, he is not penalized for the loss. Bell receives his water at his point of diversion in the same proportion as any other water right holder with the same priority.

20. When June 1, 1890 priority rights cannot be delivered, Bell and all other right holders with the same priority must cease diverting natural flow. Although Bell cannot divert water at the Miller Ditch heading, sufficient water must pass the Arco diversion to satisfy 1885 priority water rights diverted at the McLaughlin Ditch headgate, or any other deliverable, downstream senior rights.

21. As flows in the Big Lost River decline, Braswell should receive his water at the McLaughlin Ditch headgate in the same proportion as any other water right holder owning a water right with priority of October 2, 1895. At some reduced natural flow rate, water would not be available for Braswell's right, with all other rights of the same priority.

22. Because of the substantial loss in the Big Lost River between the Arco diversion and the McLaughlin Ditch heading, when water can no longer be delivered to Braswell, the water previously lost in delivering water downstream to Braswell is suddenly available for diversion at or upstream of the Arco diversion. The extra water may be sufficient that 1885 priority rights, or even later priority rights, including an 1890 right, may be deliverable at or above the Arco diversion.

23. Because Bell has never diverted his water right upstream of the Arco diversion, granting him the right to do so could injure other right holders with later priority rights who have used the water no longer lost when Braswell cannot divert water at the McLaughlin Ditch headgate.

24. Moving a water right upstream while water is still flowing in the Big Lost River could result in damage to the riparian habitat as well as damage to fish and aquatic habitat.

25. If Bell were allowed to divert water at the Arco diversion, storage of 3.4 cfs of natural flow for later use would further aggravate the injury.

26. After the hearing, Bell ~~petitioned to augment the record~~

with an affidavit of the watermaster of water district no. 34, Doug Rosenkrance. The affidavit purports to add testimony regarding the capacity of the Munsey Ditch, the hydrologic characteristics of the Big Lost River and whether approval would injure other water users.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, sets forth the criteria that the Department can consider in determining whether an application for transfer should be approved:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in Section 42-203A(5), Idaho Code;

2. The applicant carries the burden of coming forward with evidence that his proposed transfer will not result in an enlargement in use, will not injure other water rights, and that it is consistent with conservation of Idaho's water.

3. All parties carry the burden of coming forward with the evidence regarding matters of local public interest of which each is most cognizant, but the applicant bears the burden to show that his proposal is in the local public interest, or that public interests which favor the proposal are of greater worth than the public interests with which it conflicts.

4. The applicant carries the burden of proof for all the criteria of Idaho Code § 42-222.

5. Because the headgate for the Miller Ditch is located upstream from the McLaughlin Ditch, and right no. 34-00518 authorizes the diversion of 6.4 cfs, which is a large quantity of water relative to other rights delivered below the Arco diversion, other users have relied on the water in the past to carry their water for the smaller rights diverted from the McLaughlin Ditch.

ORDER

IT IS HEREBY ORDERED that application for transfer no. 4110 is REJECTED.

IT IS FURTHER ORDERED that the protest filed by James Rindfleisch is DISMISSED.

IT IS FURTHER ORDERED that Bell's motion to augment the record is GRANTED.

Dated this 19th day of October, 1993.



Gary Spackman
Hearing Officer

RECEIVED

JUL 16 1994

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 20th day of October, 1993, I mailed a true and correct copy, postage prepaid, of the foregoing Recommended Order and Order Issuing the Recommended Order to the following:

Randall C. Budge
Racine, Olson, Nye et al
PO Box 1391
Pocatello, ID 83204-1391

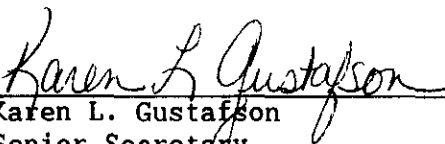
Willard & Gladys Bell
PO Box 91
Arco, ID 83213

Lewis Rothwell
Rt 1 Box 405
Arco, ID 83213

Lester/Dennis/Trudy Braswell
Arco, ID 83213

James A. Rindfleisch
PO Box 62
Arco, ID 83213

Charles D Huggins
PO Box 216 RR1
Arco, ID 83213



Karen L. Gustafson
Senior Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR)
TRANSFER NO. 4110 IN THE NAME) NOTICE OF HEARING
OF WILLARD O. OR GLADYS K. BELL)

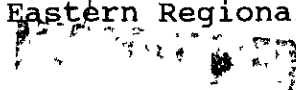
On April 3, 1993, Willard O. or Gladys K. Bell filed with the Department of Water Resources an application for transfer of the waters of the Big Lost River. On May 14, 1993, the Department received a protest against approval of said applications from James A. Rindfleisch. On May 17, 1993, the Department received protests from Charles D. Huggins, Lester Braswell, & Lewis Rothwell.

The Department has set the matter of protest for hearing to be conducted at 10:00 a.m. on Wednesday, July 7, 1993, in the Memorial Building, Butte County Courthouse, Arco, Idaho.

The hearing will be held in accordance with the provisions of the adopted Rules of Practice and Procedure of the Department of Water Resources.

If you require special accommodations for a disability in order to participate in or attend the hearing, please advise the department within ten (10) days prior to the hearing.

Dated this 8th day of June, 1993.


RONALD D. CARLSON
Eastern Regional Manager


JUN 09 1994

PROTESTANTS

NAME

ADDRESS

JAMES RINDFLEISCH PO BOX 62, Arco, ID 83213

CHARLES D. HUGGINS PO BOX 216, Arco, ID 83213

LESTER, DENNIS, TRUDY BRASWELL

LEWIS ROTHWELL RT 1 BOX 405, Arco, ID 83213

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No 4110APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of applicant WILLARD O. or GLADYS K. BELL Phone (208) 527-8903
Post Office address PO BOX 91, ARCO, ID 83213-0091

A. PURPOSE OF TRANSFER

- 1 ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
- 2 Describe the reason for the proposed changes To save water and get water to property
in low water years.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

- | 1 | Right Number | Priority | Amount
(cfs/ac-ft) | Nature
of Use | Period of Use |
|---|------------------|-----------------|-----------------------|-------------------|----------------------------|
| | <u>A34-00518</u> | <u>6/1/1890</u> | <u>6.4 cfs</u> | <u>Irrigation</u> | <u>5/1</u> to <u>10/15</u> |
| | | | | | to |
| | | | | | to |
| | | | | | to |
- 2 Total amount of water being transferred 6.4 cubic feet per second and/or _____ acre-feet per annum
- 3 Source of water Big Lost River tributary to sinks
- 4 Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp	Rge	County	Local name for diversion
	NW	NW	NW	26	4N	26E	Butte	Arco Diversion / Munsey Ditch
	NE	NE	SW	1	3N	26E	"	Miller Ditch

5 Lands irrigated or place of use

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
03N	26E	12	40	25	21	39													125
03N	27E	6											35						35
03N	27E	7					17	36	39	32			L7						124
								L1	L2										

Total acres 284

PART 1**6 General Information**

- a Description of diversion system Headgate of Munsey Ditch then thru 15" pipeline.
Pipeline will deliver only 3.0 cfs. Remaining portion will be
diverted at Miller Ditch.
- b Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? N/A Yes _____ No _____ If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes
- c Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer
None
- d Remarks
Only that amount necessary to deliver 3 cfs to the pipeline will be
diverted thru the Munsey Ditch remainder will be diverted thru the Miller
Ditch.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No _____
And said application is hereby _____, subject to the following limitations and conditions

Witness my hand this _____ day of _____, 19 _____

JUN 09 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1 Right evidenced by

- a Decree No. _____ Decreed to _____
 in case of _____ vs _____
 dated _____ in _____ county of _____
- b License No. _____ issued by the Idaho Department of Water Resources
- c Claim No. A34-00518 on file with the Idaho Department of Water Resources
- d Transfer No. _____ which produced this right

2 Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below.

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

3 Source of water Big Lost River tributary to sinks

4 Date of priority 6/1/1890

5 Water is used for the following purpose.

amount 6.4 cfs for irrigation purposes from 5/1 to 10/15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

6 Total amount of water under right 6.40 cubic feet per second and/or 887.5 acre-feet per annum

7 Point(s) of Diversion

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
	NE	NE	SW	1	3N	26E	Butte	Miller Ditch

8 Lands irrigated or place of use

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3N	26E	12	40	25	21	39													125
3N	27E	6											35						35
3N	27E	7					17	36	39	32			L7						124
								L1	L2										

Total acres 284

9 Describe any other water rights used for the same purpose as described above #34-00418B & 34-07048

10 To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

NO

If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C)

1 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2 Point(s) of Diversion

Lot	1/4	1/4	1/4	Sec	Twp	Rge.	County	Local name for diversion

3 Lands irrigated or place of use

Twp.	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

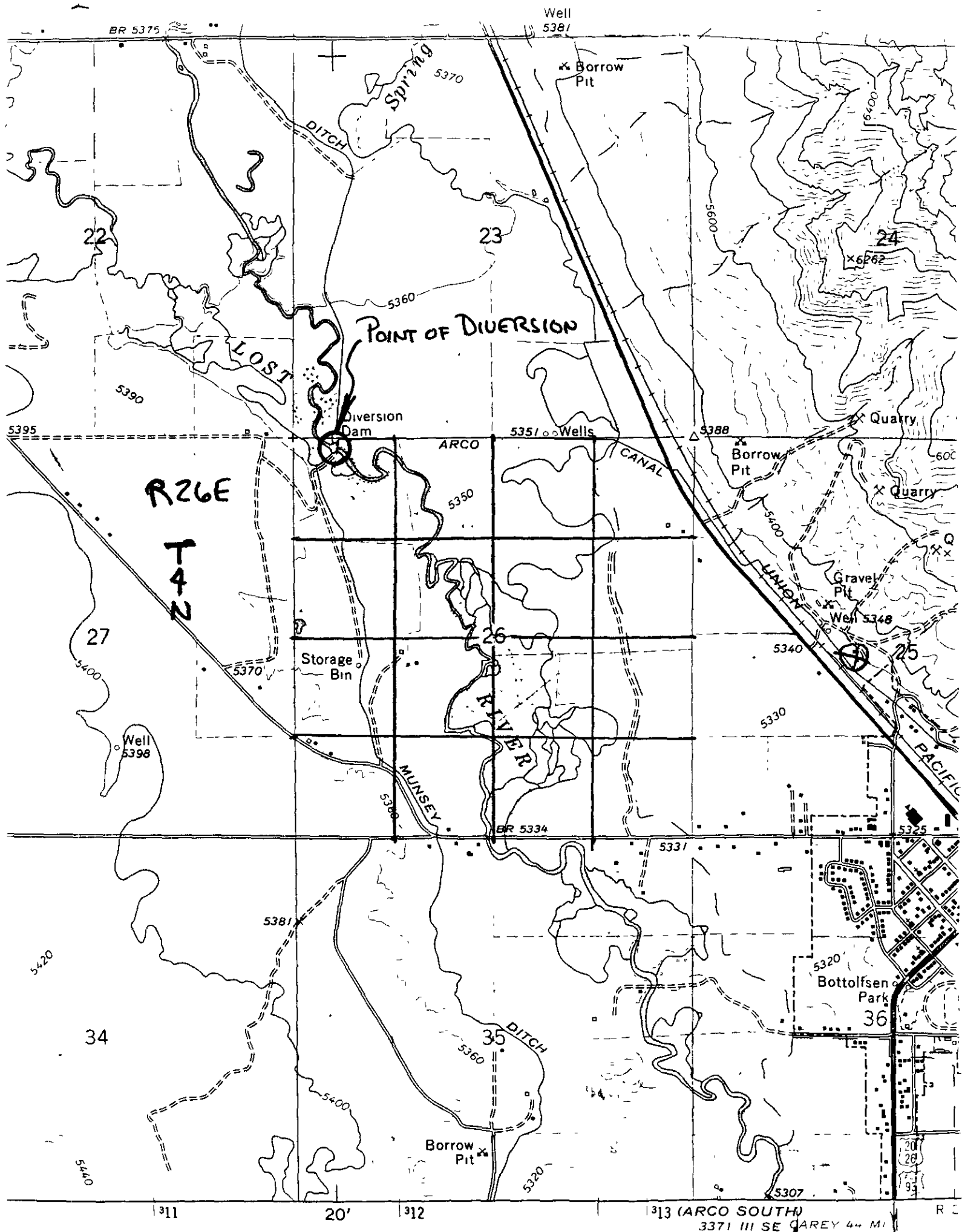
2 Point(s) of Diversion

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion

3 Lands irrigated or place of use

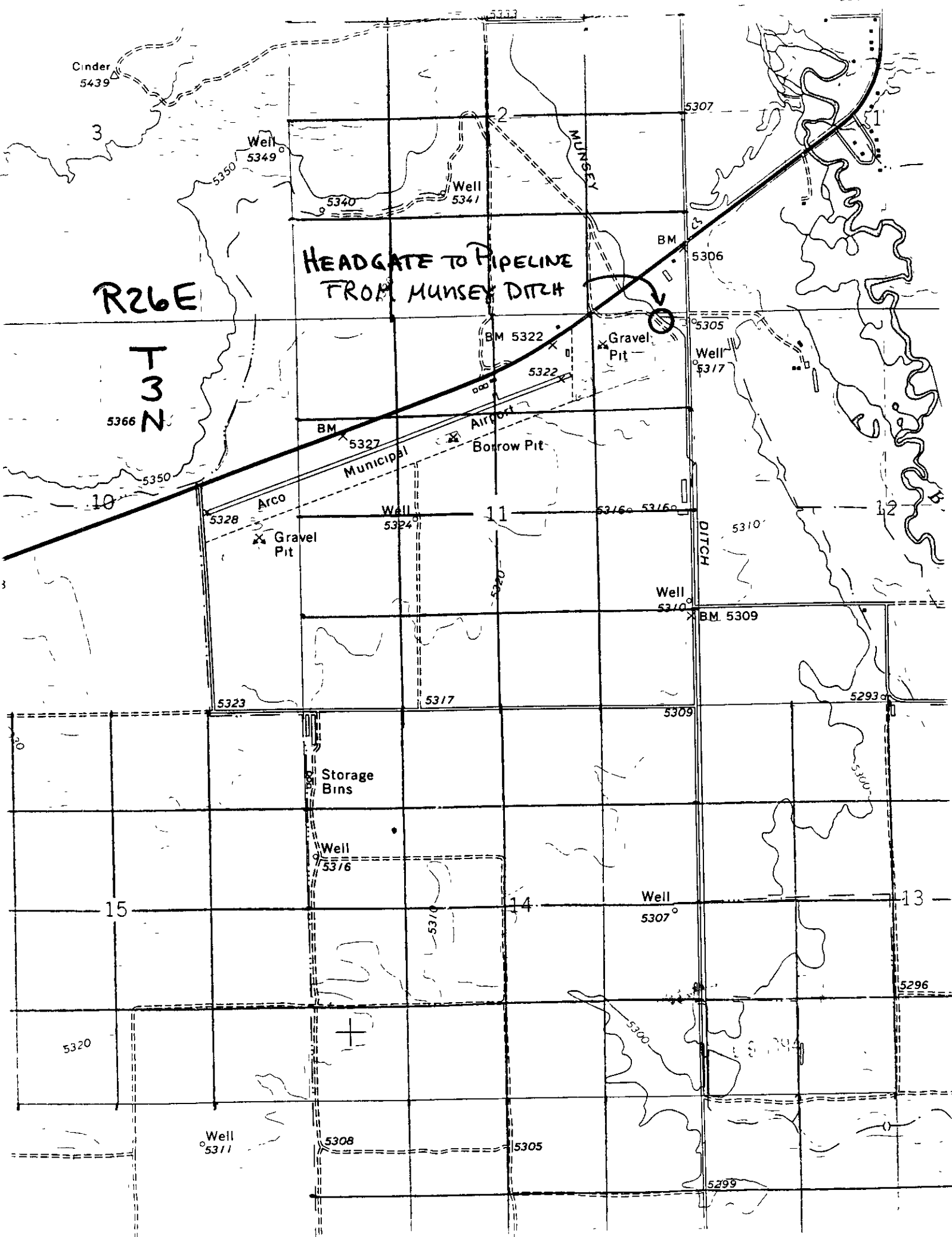
Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____



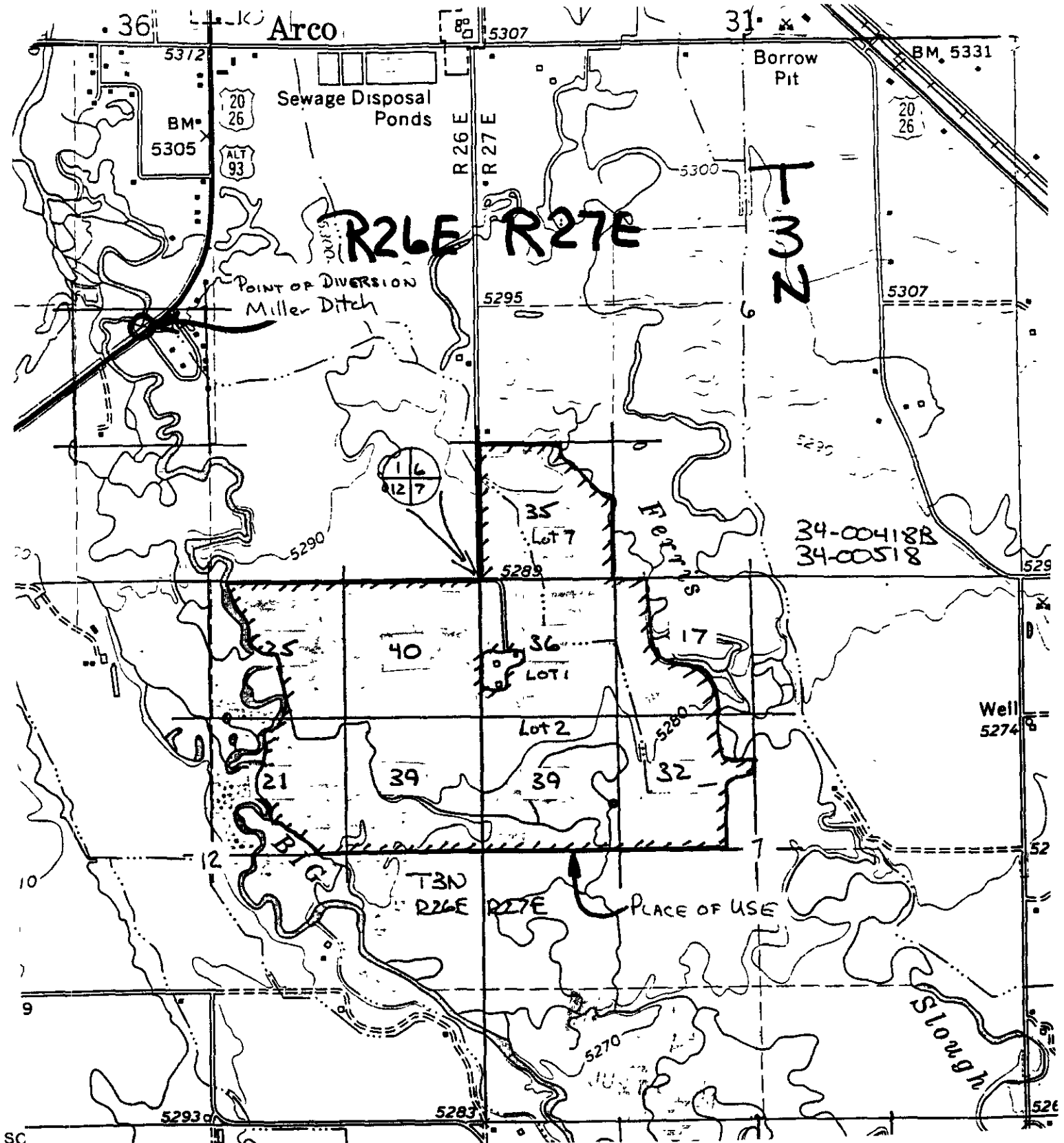
313 (ARCO SOUTH)
3371 III SE CAREY 4 MI

SCALE 1:24,000



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



PART 3**B. CHANGES IN NATURE OF USE**

1	<u>New Nature of Use</u>	<u>Amount (cfs/ac-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
	_____	_____	_____	_____ to _____
	_____	_____	_____	_____ to _____

2 Quantity and quality of return flows and location of discharge

3 Describe effects on other water uses resulting from the proposed change

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

William D. Hill
(Signature of Applicant)

Subscribed and sworn to before me this 12th day of April, 1993.

BETTY J. THOMPSON, NOTARY PUBLIC

RESIDING AT IDAHO FALLS, IDAHO
MY COMMISSION EXPIRES 6-30-94

Betty J. Thompson
(Notary Public)

My commission expires _____

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by LB Date 3/10/93 3/12/93 Protest filed by _____

Prelim. check by KW Fee 50⁰⁰ #C026954

Received by R. Fleck Date 3-10-93

Published in Idaho Advertiser Copies of protest forwarded by _____

Pub dates April 27 : May 6, 1993 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd _____ by _____

Copy of transfer sent to lien holder _____

JUN 08 1994

AJ5809NP
No. 34-00518

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/20/94
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	GLADYS K BELL	06/01/1890	IRRIGATION	05-01 10-15	6.40 CFS	
C	WILLARD O BELL					
	PO BOX 91					
	ARCO ID 83213					
	(208) 527-8903					
				TOTAL DIVERSION:	6.40 CFS	

Water Source: BIG LOST RIVER

Tributary to: SINKS

Stage: DECREED

Point(s) of Diversion: T03N R26E S01

NENESW

BUTTE County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE									
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM	
			:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
03N	26E	12	:	40		25		21		39				:					:						:
03N	27E	6	:											:			35		:						:
03N	27E	7	:							17	01-36	02-39	32	:					:						:
																							TOTAL ACRES		284.0

POU County: BUTTE

Non-Irrigation Uses: NONE

Other Rights: 34-00418B

Conditions of Approval:

- C01 - THIS RIGHT INCLUDES AN EXPANSION IN IRRIGATED ACRES PURSUANT TO IDAHO CODE 42-1416(1).
- C05 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO IDAHO CODE 42-1416A.

Remarks:

WATER IS DELIVERED THROUGH MILLER DITCH.
USE OF THIS RIGHT WITH RIGHT NOS. 34-00418B AND 34-07048 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 8.08 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 710 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 284.0 ACRES IN A SINGLE IRRIGATION SEASON.

Dates: Exam Made Date: 06/21/1991 Verified Date:

Misc: Water District Number: 34 Field Inspection Flag:
Presumption Flag: D

Comments: Date: 06/24/1991 User-ID: MEYER Subject: COPIED FROM REMARKS
FILED AS NATURAL FLOW OR RISING WATER.

Date: 09/27/1991 User-ID: KEEN Subject: CLAIM REVIEWERS

AJ5809NP
No. 34-00518

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/20/94
PAGE: 2

=====

Comments: Date: 09/27/1991 User-ID: KEEN Subject: CLAIM REVIEWERS
INVESTIGATION, RECOMMENDATIONS, AND DATA ENTRY BY PAUL R. MEYER.
SUBSEQUENT REVIEW AND DATA ENTRY BY S.W. KEEN ON 9-27-91.

Date: 05/09/1992 User-ID: AJTEMP Subject: ADDED DIVERSION VOLUME OF 1414 AF TO REMARKS

Date: 05/22/1992 User-ID: BAUMHOFF Subject: DELETED "DIV. VOL" FROM REMARKS
PER LK-H

Audit: 06/24/91 MEYER 09/26/91 DCARLSON 09/27/91 KEEN 01/26/92 PR-PRODM
05/09/92 AJTEMP 05/22/92 BAUMHOFF 07/01/92 CPSHAW 12/02/92 ADT-SHAW

WR-NUMBER:
15-02124

CURRENT OWNER:
US DEPT OF INTERIOR
COUNTY: ONEIDA
SOURCE: SPRING
WATER USE:
STOCKWATER

PRIORITY DATE:
10/22/1963

STAGE:
LICENSE

TRIBUTARY:

DIVERSION RATE:
0.010
TOTAL: 0.010

DIVERSION VOLUME:

PERIOD FROM: 01/01
PERIOD TO: 12/31

POINT OF DIVERSION: Twp Rge Sec Tract Lot
16S 35E 14 NW NW

PLACE OF USE LEGAL DESCRIPTION FOR: STOCKWATER

				NE				NW				SW				SE									
		NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SESW		NESE		NWSE		SWSE		SESE	
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
16S	35E	14	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	
								S																	

WR-NUMBER:
34-00518

CURRENT OWNER:
LEWIS T. MILLER
M.S. MILLER
ERNEST MILLER
COUNTY: BUTTE
SOURCE: BIG LOST RIVER
WATER USE:
IRRIGATION

PRIORITY DATE:
06/01/1890

STAGE:
DECREE

TRIBUTARY: SINKS

DIVERSION RATE:
6.400
TOTAL: 6.400

DIVERSION VOLUME:

WATER-DIST: 34

PERIOD FROM: 05/01
PERIOD TO: 10/15

POINT OF DIVERSION: Twp Rge Sec Tract Lot
05N 26E 01 SW

PLACE OF USE LEGAL DESCRIPTION FOR: IRRIGATION

				NE				NW				SW				SE									
		NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SESW		NESE		NWSE		SWSE		SESE	
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
03N	26E	12	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	
03N	27E	7	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	

DECREE PLAINTIFF. UTAH CONSTRUCTION
DECREE DEFENDANT: JOHN F. ABBOTT, ET AL

REMARKS: P/D MILLER DITCH IN SW1/4 SEC 1
P/U INCOMPLETE



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 3, 1994

Re: In the matter of Order Adopting Recommended Order for Application for Transfer No. 4110, Water Right No. 34-00518 in the name of Willard O. or Gladys K. Bell

Dear Interested Party:

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.

MAR 09 1994

(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 nonparty 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 67-5243(4) Idaho Code.

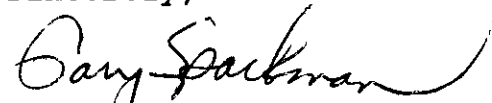
APPEAL OF FINAL ORDER TO DISTRICT COURT

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,


Gary Spackman

JUN 19 1980



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

October 20, 1993

Re: In the matter of Application for Transfer No. 4110 of water right no. 34-00518 in the name of Willard O or Gladys K Bell

Dear Interested Party:

The accompanying order is a "recommended order" issued by the department pursuant to Section 67-5243, Idaho Code. The provisions of this order will not become effective until the Director issues a final order in this matter.

Each party to these proceedings who appeared at the hearing may file a petition for reconsideration, briefs and exceptions to the recommended order and may request oral argument before the Director of the department as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of the order. The hearing officer 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 twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of a recommended order and may file briefs in support of the party's position on any issue in the proceeding. Written briefs in support of or taking exceptions to the recommended order shall be filed with the Director. Opposing parties shall have twenty-one (21) days to respond.

ORAL ARGUMENT

The Director may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Director. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

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

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The agency 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.

APPEAL OF FINAL ORDER TO DISTRICT COURT

A party aggrieved by a final order of the Director is entitled to judicial review in compliance with sections 67-5271 through 67-5279, Idaho Code.

Sincerely,



L. Glen Saxton
Chief, Water Allocation Bureau

Enclosures

RECEIVED

10-1-1971



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

August 5, 1993

Randall C. Budge
Attorney at Law
P.O. Box 1391
Pocatello, ID 83204

RE: Application for Transfer 4110 (Water Right No. 34-00518)
Willard O. or Gladys K. Bell

Dear Randy:

Enclosed is a brief and accompanying information submitted to me by the protestants to the Bell transfer by facsimile on July 21, 1993. After reading your latest submittal which stated the protestants had not submitted a brief, and after reviewing the information submitted, and not finding a certificate of mailing, I am forwarding this document to you. You are granted seven days from the date you receive the letter to submit a response if you so desire.

Sincerely,


Gary Spackman

GS:cjk
Enclosures
cc: Willard O. Bell
Lewis Rothwell
Lester Braswell
Charles D. Huggins
James A. Rindfleisch

JUN 09 1994

MEMORANDUM

TO: GARY SPACKMAN

FROM: GEORGE AUSTIGUY *GA*

DATE: AUGUST 2, 1993

RE: DELIVERIES FOR THE MILLER DIVERSION

Willard Bells best right in the Miller diversion is an 1890. During the past several years it is usually on for only a few days. If the river is running below the Arco diversion it can be delivered at the Miller headgate from the river. Willard also has storage water which he uses on the same ground the decreed right is appurtanant to. The storage water is delivered through the Munsey and piped over the river to the place of use.

We are currently delivering water rights on the McLaughlin (Lester Braswell's) through the Munsey even though Braswell's water rights do not list the Munsey as a point of diversion.

Given my understanding of the way water has been distributed there, if he is taking his stored water through the Munsey then any natural flow he recieves is also going through the Munsey.

It is my understanding that there may not be enough capacity in the Munsey to handle the storage deliveries plus decreed rights below the Arco diversion.

[Stamp]
JUN 09 1994

The following decrees were filled for the 1986 irrigation season:

May 1	May 1 through July 5	All decrees
July 6		5/1/1897
July 7		3/22/1896
July 8 - 11		6/1/1894
July 12 - 15		6/1/1896
July 16		2/1/1893
July 17		1/1/1892
July 18		1/1/1892
July 19		8/1/1889
July 20		8/1/1889
July 21 - 27		8/1/1887
July 28		10/2/1887
July 29		6/1/1890
July 30		6/1/1889
July 31		4/10/1889
August 1 - 21		6/1/1887
August 22 - October 15		All decrees

BY MONTHS, DELIVERIES FROM BIG LOST RIVER
FROM ARCO DIVERSION TO MOWER STATION, IN
SECOND FEET, Nov..1, 1985..... to
Oct..31, 1986.....

Month	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Total
Additions to River: Below Arco Diversion													
Pump	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	841	1301	-0-	-0-	2142
DIVERSIONS													
Arco	-0-	-0-	-0-	-0-	-0-	-0-	420	1817	1494	909	30	-0-	4670
Hunsey	-0-	-0-	-0-	-0-	-0-	-0-	574	1539	1694	998	355	-0-	5160
Middle	-0-	-0-	-0-	-0-	-0-	-0-	96	189	61	369	160	-0-	875
Miller	-0-	-0-	-0-	-0-	-0-	-0-	21	90	87	66	21	-0-	285
McLaughlin	-0-	-0-	-0-	-0-	-0-	-0-	46	83	193	120	-0-	-0-	442
Arco Tract	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Total Diversions	-0-	-0-	-0-	-0-	-0-	-0-	1157	3718	3529	2462	566	-0-	11432

The following decrees were filled for the 1987 irrigating season:

May 1 - 2	96% 6/1/1885	Aug. 18 - 22	10/1/1884
May 3 - 4	3/2/1887	Aug. 23 - Sept. 19	8/31/1884
May 5	9/14/1886	Sept. 20 - Oct. 15	7/31/1884
May 6	96% 7/15/1884		
May 7	6/30/1885		
May 8 - 9	6/1/1886		
May 10	7/1/1886		
May 11	7/1/1887		
May 12	7/21/1887		
May 13	5/13/1887		
May 14	7/21/1886		
May 15	8/31/1887		
May 16	5/10/1889		
May 17	3/27/1896		
May 18 - 20	All rights		
May 21	5/1/1905		
May 22	3/27/1896		
May 23 - June 1	All rights		
June 2	6/1/1887		
June 3 - 5	9/1/1886		
June 6	6/1/1887		
June 7	6/1/1888		
June 8	6/1/1896		
June 9	5/10/1897		
June 10	5/1/1892		
June 11 - 13	6/1/1896		
June 14 Arco	6/1/1896 6/10/1895		
June 15 Arco	7/21/1886 6/1/1890		
June 16 Arco	5/23/1893 4/22/1889		
June 17 Arco	7/21/1886 2/1/1893		
June 18	6/1/1886		
Arco	7/21/1886		
June 19	6/1/1886		
Arco	7/21/1886		
June 20	6/1/1888		
Arco	7/21/1886		
June 21	6/1/1888		
June 22 Arco	3/31/89 5/13/1887		
June 23 Arco	5/12/86 7/15/1884		
June 24 Arco	5/31/85 5/1/1885		
June 25 - 29	5/1/1885		
June 30 - July 6	6/1/1885		
July 7 - 11	5/15/1885		
July 12 - 16	8/31/1884		
July 17 - 18	6/1/1885		
July 19 - Aug. 1	10/2/1885		
August 2 - Aug. 10	5/12/1885		
August 11 - Aug. 17	10/12/1884		

BY MONTHS, DELIVERIES FROM BIG LOST RIVER
FROM ARCO DIVERSION TO MOWER STATION, IN
SECOND FEET, Nov. 1, 1986 to
Oct. 31, 1987

Month	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Total
Additions to River: Below Arco Diversion													
Pump	-0-	-0-	-0-	-0-	-0-	-0-	683	848	1252	1305	650	-0-	4738
DIVERSIONS													
Arco	-0-	-0-	-0-	-0-	-0-	-0-	860	876	1083	960	243	146	4168
Munsey	-0-	-0-	-0-	-0-	-0-	-0-	589	941	1103	1133	477	46	4289
Middle	-0-	-0-	-0-	-0-	-0-	-0-	84	155	69	95	48	42	493
Miller	-0-	-0-	-0-	-0-	-0-	-0-	123	102	33	76	66	-0-	400
McLaughlin	-0-	-0-	-0-	-0-	-0-	-0-	102	131	182	118	10	8	551
Arco Tract				Combined with Arco Canal									
Total Diversions	-0-	-0-	-0-	-0-	-0-	-0-	1758	2205	2470	2382	844	242	9901

JUN 09 1988

Decrees filled

order of filling - 1988

May 1 - 2	6/1/1884
May 3 - 8	5/31/1884
May 9	6/1/1884
May 10 - 13	7/15/1884
May 14 - 17	6/1/1884
May 18	10/12/1884
May 19 - 6/1/1885	
May 20	2/18/1885
May 21	10/12/1884
May 22 - 23	6/30/1885
May 24	5/31/1885
May 25 - 26	6/1/1885
May 27 - 29	10/2/1887
May 30	6/1/1888
May 31	3/27/1886
June 1	10/2/1887
June 2 - 3	5/13/1887
June 4	6/1/1887
June 5	6/1/1887
June 6	7/3/1886
June 7	6/10/1885
June 8	8/1/1886
June 9	5/1/1887
June 10	3/2/1887
June 11	5/31/1889
June 12 - 13	6/1/1887
June 14	7/21/1885
June 15 - 16	6/1/1886
June 17 - 19	6/1/1887
June 20 - 25	7/21/1886
June 26 - 29	5/1/1886
June 30	10/2/1885
July 1 - 2	10/2/1885
July 3 - 4	6/1/1885
July 5 - 7	10/12/1884
July 8	92% 10/12/1884
July 9 - 16	9/1/1884
July 17 - 18	7/31/1884
July 19 - 25	6/1/1884
July 26	5/31/1884
July 27 - 31	5/20/1884
Aug. 1 - 3	4/30/1884
Aug. 4 - Oct. 15	4/22/1884

JUN 6 9 1934

BY MONTHS, DIVERSITIES FROM BIG LOST RIVER
FROM ARCO DIVERSION TO MOWER STATION, IN
SECOND FEET. Nov. 31, 1987 to

Oct. 31, 1988

Month	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Total
Additions to River: Below Arco Diversion													
Pump	-0-	-0-	-0-	-0-	-0-	-0-	588	1529	2033	1620	818	189	6777
DIVERSIONS	No Diversions Nov. - April												
Arco							277	938	3017	770	179	75	5256
Munsey							376	1477	1599	1049	454	12	4967
Middle							-0-	245	48	-0-	-0-	-0-	293
Miller							36	60	58	54	50	22	280
McLaughlin							69	205	165	101	6	-0-	546
Arco Tract													
Total Diversions							758	2925	4887	1974	689	109	11342

TO: EOISE

AUG-02-'93 MON 11:55

: IDWR EASTERN REGION

TEL NO: (208) 577-7177

#556 P01

Decrees, 1991 water year:

May 1 - 31	In and out
June 1	10/12/1884
June 2	8/31/1884
June 3	10/1/1884
June 4	6/1/1886
June 5	9/1/1896
June 6 - 11	6/1/1896
June 12	11/2/1901
June 13 - 14	All rights
June 15	5/1/1897
June 16 - 17	6/1/1896
June 18	3/27/1896
June 19 - 21	3/10/1894
June 22 - 24	5/1/1892
June 25 - 26	10/2/1887
June 27	5/13/1887
June 28	5/1/1887
June 29 - 30	7/17/1886
July 1	7/17/1886
July 2	7/21/1887
July 3 - 5	9/14/1885
July 6 - 8	6/10/1887
July 9 - 11	6/1/1886
July 12 - 15	5/31/1885
July 16	6/1/1885
July 17	5/31/1885
July 18 - 31	2/18/1885
Aug. 1 - 9	9/14/1884
Aug. 10 - 13	8/31/1884
Aug. 14	6/1/1884
Aug. 15 - 19	5/31/1884
Aug. 21 - 23	90% 5/20/1884
Aug. 24 - 26	98% 5/20/1884
Aug. 27 - 29	5/20/1884
Aug. 30 - 31	80% 5/20/1884
Sept. 1 - 3	80% 5/20/1884
Sept. 4 - 6	78% 5/20/1884
Sept. 7 - 9	75% 5/20/1884
Sept. 10 - 19	90% 5/20/1884
Sept. 20-22	75% 5/20/1884
Sept. 23 - 30	90% 5/20/1884
Oct. 1	90% 5/20/1884
Oct. 2 - 4	80% 5/20/1884
Oct. 5 - 15	90% 5/20/1884

Post-It™ brand fax transmittal memo 7671		# of pages = 2
To: <i>George Aubrey</i>	From: <i>Dennis</i>	
Co.	Co.	
Dept.	Phone #	
Fax #	Fax #	

JUN 09 1994

LOUIS F RACINE JR
WILLIAM D OLSON
W MARCUS W NYE
GARY L COOPER
RANDALL C BUDGE
JOHN A BAILEY, JR
JOHN R GOODELL*
JOHN B INGELSTROM
DANIEL C GREEN
REED W LARSEN
BRENT O ROCHE
FRED J LEWIS
KIRK B HADLEY
MITCHELL W BROWN
ERIC S HUNN
DAVID E ALEXANDER

*ALSO MEMBER IL & WY BARS

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE
AREA CODE 208
232-6101
—
FAX
208-232-6109

July 26, 1993

Gary Spackman, Hearing Officer
Harold Jones, Water Rights Supervisor
Eastern Regional Manager
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

RECEIVED

JUL 27 1993

Department of Water Resources
Eastern District Office

RE: Application for Transfer 4110
Willard O. or Gladys K. Bell

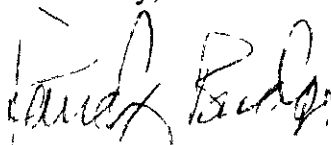
Dear Mr. Spackman and Mr. Jones:

Enclosed please find the signed original Affidavit of Douglas Rosenkrance to replace the unsigned copy forwarded you with my July 20 letter.

I have not received copies of any briefs filed by the protestants and, therefore, assume there are none. Accordingly, this matter is properly before you for decision.

If you have any questions or if I can be of further assistance to you please advise.

Sincerely,



RANDALL C. BUDGE

RCB/ns
cc: Willard Bell

JUN 09 1994

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR	)	AFFIDAVIT OF
TRANSFER NO. 4110 IN THE NAME OF	)	DOUGLAS
WILLARD O. OR GLADYS K. BELL	)	ROSENKRANCE

STATE OF IDAHO	)
	: ss
County of Butte	)

DOUGLAS ROSENKRANCE, being first duly sworn, deposes and states:

1. I am a resident of Mackay, Idaho, and my address is Rt. 1, Box 24, Mackay, Idaho 83251.

2. I am now and have been continuously for the past eight years employed by the State of Idaho Department of Water Resources as the Watermaster of District 34 which encompasses the Big Lost River and its tributaries. As Watermaster my duties and responsibilities include the distribution of the waters of the Big Lost River and its tributaries according to the priority and rights of the water right owners. I am personally familiar with the decreed water rights in the Big Lost River, storage rights in the Mackay Reservoir, and the canals, ditches, and other diversion and distribution facilities of the Big Lost River Irrigation District. I am also familiar with the Application for Transfer No. 4110 filed with the Department of Water Resources by Willard O. and Gladys K. Bell, was present at the Protest Hearing conducted on July 7, 1993, and submit this Affidavit for the purpose of addressing and clarifying some

09 1994

of the issues presented at that hearing, without taking any position in support or against the Applicants or Protestants.

3. The Arco diversion dam is a major diversion structure on the Big Lost River located north and west of the City of Arco in the NW NW of Section 26, T. 4 N., R. 26 E., Butte County. The Arco diversion dam diverts water from the Big Lost River into the Arco ditch which runs in an easterly direction and also into the Munsey ditch which runs to the west a short distance and then generally parallels the Big Lost River in a southerly direction. These facilities are owned and operated by the Big Lost River Irrigation District and are used to deliver both decreed water in the Big Lost River and storage water in the Mackay Reservoir to the various rightholders.

The next diversion downstream from the Arco diversion is the Miller headgate located approximately 2-1/2 miles further downstream to the south in the NE NE SW, Section 1, T. 3 N., R. 26 E. The Miller headgate diverts water into the Miller ditch, a private ditch which transports water in a southeasterly direction from the river to the place of use of Willard Bell. The next diversion structure located approximately 1 to 1-1/4 miles further downstream from the Miller headgate is the McLaughlin headgate. No water rights are diverted in the area of the Big Lost River between the Arco diversion and Miller headgate. Attached is a map generally sharing these facilities.

4. The Munsey ditch is used to deliver various decreed and storage rights, as well as other rights at times pursuant to various transport agreements.

JUN 09 1994

It has also been used at times to deliver water normally transported in the McLaughlin Ditch. There should be adequate capacity in the Munsey ditch to carry and deliver an additional 3.0 cfs if the Willard Bell Transfer Application is approved during those times that the Bell rights could not be delivered at the Miller diversion.

5. From the hearing, it is my understanding that Willard Bell proposes to change his point of diversion to add an additional point of diversion upstream to the Arco diversion pursuant to which 3.0 cfs of his 6.4 cfs 1890 decreed rights would be delivered via the Munsey ditch downstream to a point on the Munsey ditch which is approximately 1/4 mile south of his existing Miller ditch diversion. At that point the water would be diverted into a newly constructed pipeline and transported to the east to his place of use as identified on the maps which are a part of his Application. Additionally, that the remaining 3.4 cfs of this right would continue to be diverted at the Miller headgate.

When there is available water, Mr. Bell is delivered his decreed water to his existing point of diversion at the Miller headgate without shrink. If the Transfer Application is approved, he would be charged with shrink associated with the delivery of that portion of his right delivered via the Munsey canal.

6. It is my experience and observation that the different reaches of the Big Lost River experience loss and gain which depends and varies seasonally and is based upon water conditions. Generally speaking, the reach of the river above the Moore diversion, which is the next major diversion upstream from the Arco

JUN 09 1994

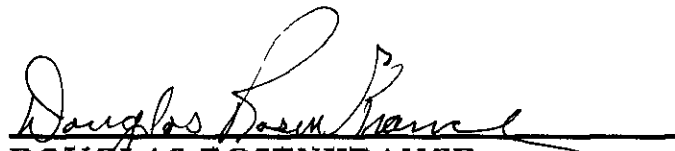
7. During dry years, particularly during the recent series of drought years, there usually is no water available at the Miller ditch point of diversion or below to satisfy any decreed rights. If Mr. Bell's point of diversion on part of his right is diverted upstream at the Arco diversion as proposed to permit delivery through the Munsey ditch, there would be more water available at times to satisfy his right than would be available at the downstream Miller diversion in dry years due to the instream loss.

AFFIDAVIT OF DOUGLAS ROSENKRANCE - 4

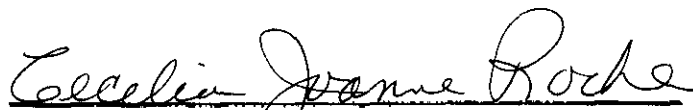
10 9 1994

FURTHER YOUR AFFIANT SAITH NOT.

DATED this 22nd day of July, 1993.


DOUGLAS ROSENKRANCE

SUBSCRIBED AND SWORN TO before me this 22nd day of July,
1993.


NOTARY PUBLIC FOR IDAHO,
Residing at: Custer County, Mackay, Idaho
My Commission Expires:
3-11-98

(SEAL)

CERTIFICATE OF MAILING

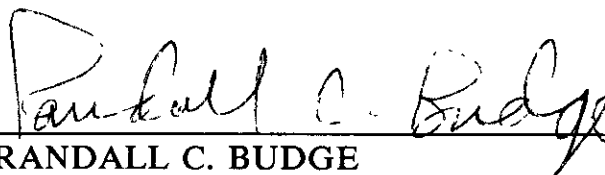
I HEREBY CERTIFY that on this 26th day of July, 1993, I mailed a true and complete copy of the foregoing document, postage prepaid, to the following:

Gary Spackman, Hearing Officer
Harold Jones, Water Rights Supervisor
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Charles D. Huggins
Box 216, RR 1
Arco, Idaho 83213

Dennis Braswell
Lester Braswell
Arco, Idaho 83213

Lewis Rothwell
Rt. 1, Box 405
Arco, Idaho 83213



RANDALL C. BUDGE

JUN 09 1994

42-1501

IRRIGATION, DRAINAGE, WATER RIGHTS

178

Compiler's notes. Section 24 of S.L. 1986,
ch. 345 is repealed by S.L. 1977.

Exhibit

CHAPTER 15

MINIMUM STREAM FLOW

2

	SECTION.
— Minimum stream flow declared beneficial.	42-1503. Application to appropriate process — Judicial review.
	42-1504. Request to file application.
	42-1505. Priority date — Administration.

42-1501. Legislative purpose — Minimum stream flow declared beneficial use. — The legislature of the state of Idaho hereby declares that the public health, safety and welfare require that the streams of this state and their environments be protected against loss of water supply to preserve the minimum stream flows required for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation and navigation values, and water quality. The preservation of the water of the streams of this state for such purposes when made pursuant to this act is necessary and desirable for all the inhabitants of this state, is in the public interest and is hereby declared to be a beneficial use of such water. The legislature further declares that minimum stream flow is a beneficial use of water of the streams of this state for the purpose of protecting such waters from interstate diversion to other states or by the federal government for use outside the boundaries of the state of Idaho. Minimum stream flows as established hereunder shall be prior in right to any claims asserted by any other state, government agency, or person for out of state diversion. It is, therefore, necessary that authority be granted to receive, consider, approve or reject applications for permits to appropriate water of the streams of this state to such beneficial uses to preserve such water from subsequent appropriation to other beneficial uses under the provisions of chapter 2, title 42, Idaho Code. [I.C., § 42-1501, as added by 1978, ch. 345, § 11, p. 884.]

Compiler's notes. Former §§ 42-1501—42-1505, which comprised S.L. 1937, ch. 95, §§ 1, 4-6, 8, p. 132, were repealed by S.L. 1969, ch. 469, § 2.

The words "this act" refer to S.L. 1978, ch. 345 compiled herein as §§ 42-241 — 42-247, 42-1501 — 42-1505, 42-1736A, 42-1736B, 42-1756.

Section 10 of S.L. 1978, ch. 345 is compiled as § 42-247.

Sec. to sec. ref. This chapter is referred to in §§ 42-1420, 42-1421 and 42-1734G.

Cited in: Shokal v. Dunn, 109 Idaho 330, 707 P.2d 441 (1985).

42-1502. Definitions. — Whenever used in this act, the terms:

(a) "Appropriate" or "appropriation" mean [means] the identification of a beneficial use and place of in-stream use of the waters of a stream. It shall not be construed to require any kind of physical structure or physical diversion from the stream;

(b) "Board" means the Idaho water resource board;

(c) "Department" means the Idaho department of water resources; 09 1994

42-108

IRRIGATION, DRAINAGE, WATER RIGHTS

16

42-108. Change in point of diversion, place of use, period of use, or nature of use — Application of act. — The person entitled to the use of water or owning any land to which water has been made appurtenant either by a decree of the court or under the provisions of the constitution and statutes of this state, may change the point of diversion, period of use, or nature of use, and/or may voluntarily abandon the use of such water in whole or in part on the land which is receiving the benefit of the same and transfer the same to other lands, if the water rights of others are not injured by such change in point of diversion, place of use, period of use, or nature of use, provided; if the right to the use of such water, or the use of the diversion works or irrigation system is represented by shares of stock in a corporation or if such works or system is owned and/or managed by an irrigation district, no change in the point of diversion, place of use, period of use, or nature of use of such water shall be made or allowed without the consent of such corporation or irrigation district. Any permanent or temporary change in period or nature of use in or out-of-state for a quantity greater than fifty (50) cfs or for a storage volume greater than five thousand (5,000) acre-feet shall require the approval of the legislature, except that any temporary change within the state of Idaho for a period of less than three (3) years may be approved by the director without legislative approval.

Any person desiring to make such change of point of diversion, place of use, period of use, or nature of use of water shall make application for change with the department of water resources under the provisions of section 42-222, Idaho Code. After the effective date of this act, no person shall be authorized to change the period of use or nature of use, point of diversion or place of use of water unless he has first applied for and received approval of the department of water resources under the provisions of section 42-222, Idaho Code. [R.S., § 3157; 1899, p. 380, § 11; reen. R.C. & C.L., § 3247; C.S., § 5563; I.C.A., § 41-108; am. 1943, ch. 53, § 1, p. 101; am. 1947, ch. 80, § 1, p. 130; am. 1969, ch. 303, § 1, p. 905; am. 1981, ch. 147, § 1, p. 253; am. 1986, ch. 313, § 1, p. 763.]

Exhibit
1

1943,	ANALYSIS
2.	Abandonment.
npiled	Application of 1947 amendment.
npiled	Approval of department.
npiled	Change causing injury.
npiled	Change in nature of use.
red an	Constitutionality
947.	Dedication.
	Extent of right.
	Federal decree fixing priorities.
	Jurisdiction of district court.
	Proof.
	Right of diversion.
	Rights of subsequent appropriator.
	Subterranean waters.
	Transfer of rights.
	Abandonment.
	Such change does not work a forfeiture or

Section 4 of S L 1981, ch 147 declared an emergency. Approved March 27, 1981.

Sec. to sec. ref. This section is referred to in §§ 42-222, 42-1416A and 50-1805A

Cited in: Schodde v. Twin Falls Land & Water Co. (1908), 161 Fed. 43. Nettleton v. Higginson, 98 Idaho 87, 558 P.2d 1048 (1977).

1009 1092

BEFORE THE IDAHO DEPARTMENT
OF WATER RESOURCES

ATTENTION: GARY SPACKMAN

In the matter of application for transfer # A34-00518
(Willard O. and Gladys Bell) and subsequent to a hearing on the
above entitled matter held in the court room at Arco, Idaho on
July 8, 1993, the following points of fact and/or law are sub-
mitted for consideration in determining the decision in this
matter;

1. According to procedure in Idaho Code 42-222,
the director of I.D.W.R. shall "obtain any
consent required by Section 42-108. In this
instance a change in point of diversion will
cause injury to the appropriators by reducing
delivery volume and; the consent for change
in point of diversion has not been obtained
from Big Lost River Irrigation District as
required under IC 42-108.

See Exhibit #1

2. There are a number of reasons that will cause
injury if this application is approved;

A. There is injury to the State of Idaho as the proposed
change in point of diversion is currently being used in
violation of state law.

B. The change in point of diversion will reduce the
natural flow of the Big Lost River causing further in-
jury to other appropriators making it more difficult to
deliver water to their diversion points.

"Change cannot be made if others are injured thereby."

-Walker v. McGinness 8 Idaho 540, 69 P. 1003, and
numerous other cases.

C. "Prior appropriator of waters of stream will not be
permitted to change his point of diversion, if such change
will injuriously affect rights of subsequent appropriators
as they existed at time such subsequent appropriations were
made."

-Crockett v. Jones, 42 Idaho 652, 249 P. 483.

D. "No change in point of use of water will be permitted with-
out limitation if enlarged use in time or amount burdens the
stream or decreases volume to injury of others."

-Beecher v. Cassia Creek Irrigation Co., 66 Idaho 1, 154 P. 2d 507

3. This application is clearly injurious to the public
interest.

JUN 09 1994

page 2 of 2

In considering public interest elements the court has ruled;

The legislature in this section must have intended the public interest on the local scale to include the public interest elements listed in 42-1501, as well as assuring minimum stream flows.....

- Shokal v. Dunn, 109 Idaho 330, 707 P.2d 441(1985)

See Exhibit #2

4. It is evident that the application concerning this particular water right has already been decided and must be delivered in accordance with a long standing court order that demands delivery in the main channel of the Big Lost River to the Miller ditch.

See Exhibit #3

For the above compelling reasons and others not expressly listed, I.D.W.R. must deny application for change in point of diversion # A34-00518 listed above.

Signed and dated this 21st day of July, 1993

Donna S. Braswell

Lewis Rothwell

Lester Braswell

Paul D. Hoff

JUL 29 1994

-2-

decree heretofore entered herein, until the petitioner, Wilse A. Nielsen, has had delivered into the intake of the Miller Ditch, 6.4 C.F.S. of the waters of Big Lost River, to fill his said right under said decree, and the said Plaintiff, Utah Construction Company and the Big Lost River Irrigation District, and all of their agents, servants, employees and attorneys and any Commissioner or other person administering the decree herein are required to deliver at the 2-B guaging station specified in said original decree 34 C.F.S. as natural flow water without deduction for water diverted into any ditch above the said 2-B guaging station, and to carry all of the said natural flow water of the Big Lost River down the main channel of Big Lost River under all conditions/as they existed at the time of the said original decree was entered herein, and without any diversion whatever from the main channel of the Big -Lost River by means of by-pass or other diversion canals or ditches used, or intended to be in any manner used, for diverting water from the main channel of Big Lost River around any portion of said channel, or for any use whatever until there has been delivered into the intake of the said Miller Ditch for petitioner's use on his said land 6.4 c.f.s. of the waters of Big Lost River.

And it is further ORDERED that said injunction continue during the pendency of this proceeding, and that Findings of Fact, Conclusions of Law and Decree are to be considered and entered after the question of damages is heard and determined as provided for in the written opinion of the Court so filed.

Dated July 9, 1937.

JUN 29 1937

CHARLES C. CAVANAH

District Judge

JUL 05 1894

*Exhibit
#3*

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE DISTRICT
OF IDAHO, EASTERN DIVISION.

Utah Construction Company,
a corporation,

Plaintiff,

vs.

John F. Abbot, et al.,

Defendants,

Wilse A. Nielson,

Petitioner.

No. 222

O R D E R

The petitioner, Wilse A. Nielson, having filed herein a petition for an order to show cause, against the Utah Construction Company, why it had not permitted the waters of Big Lost River to flow down the channel of the stream so as to protect the decreed rights of petitioner, and praying for damages sustained in the loss of crops by reason of the alleged wrongful diversion and use of water decreed to petitioner, and the Court having issued an Order to show cause, pursuant to said petition, and the plaintiff, Utah Construction Company, having filed its answer and amended answer, and the petitioner having filed a reply to said answer, and the matter having come on for hearing regularly before the Court on the said petition and answer and amended answer and reply thereto, and the Court having heard the evidence offered by the respective parties, and having heard the arguments of counsel thereon, and having considered the same, and being fully advised in the premises, it is ORDERED:

That the plaintiff, Utah Construction Company, its

successors in interest, the Big Lost River Irrigation District, and all of the agents, servants, employees, and attorneys for the plaintiff, Utah Construction Company, and its successors in interest, the Big Lost River Irrigation District, and any person administering the decree herein, are hereby enjoined and restrained from in any manner interfering with the natural flow waters of the Big Lost River as determined by the terms of the

TOTAL P.07

JUN 60

LOUIS F RACINE JR
WILLIAM D OLSON
W MARCUS W NYE
GARY L COOPER
RANDALL C BUDGE
JOHN A BAILEY JR
JOHN R GOODELL*
JOHN B INGELSTROM
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REED W LARSEN
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*ALSO MEMBER IL & WY BARS

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TELEPHONE
AREA CODE 208
232-6101
—
FAX
208-232-6109

July 20, 1993

Gary Spackman, Hearing Officer
Harold Jones, Water Rights Supervisor
Eastern Regional Manager
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

RECEIVED

JUL 21 1993

Department of Water Resources
Eastern District Office

RE: Application for Transfer 4110
Willard O. or Gladys K. Bell

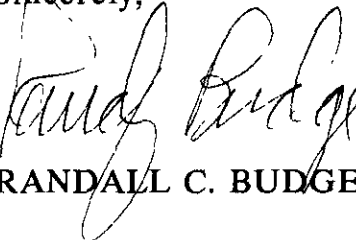
Dear Mr. Spackman and Mr. Jones:

Enclosed please find for filing the supporting Brief, Motion to Supplement Record, and attached Affidavit submitted on behalf of the Applicants, Willard O. and Gladys K. Bell.

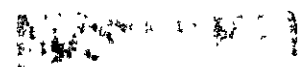
These filings are being submitted per your request following the protest hearing July 7, indicating that such filings should be simultaneously filed by the Applicant and Protestants July 21.

Thank you for your consideration. Please contact me if you have any questions.

Sincerely,


RANDALL C. BUDGE

RCB:rr
Enclosures
cc: Willard Bell (w/encls.)



JUN 09 1994

P.S.

Attached to the Motion is a copy of Doug Rosenkrance's Affidavit. As soon as the signed affidavit is received from Mr. Rosenkrance, we will forward it to you.

RCB

RECEIVED

1993

Randall C. Budge
RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED
P.O. Box 1391; 201 E. Center
Pocatello, Idaho 83204-1391
Telephone: (208) 232-6101
Fax: (208) 232-6109

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

IN THE MATTER OF APPLICATIONS FOR)
TRANSFER NO. 4110 IN THE NAME OF)
WILLARD O. OR GLADYS K. BELL)
_____)

**MOTION TO
SUPPLEMENT RECORD**

COME NOW Applicants, Willard O. and Gladys K. Bell, by and through their attorney, and hereby move the Department for leave to file the attached Affidavit of District 34 Water Master Doug Rosenkrance for the purpose of supplementing the record and addressing and clarifying certain issues raised at the Protest Hearing July 7, 1993.

DATED this 20th day of July, 1993.

RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE

CERTIFICATE OF MAILING

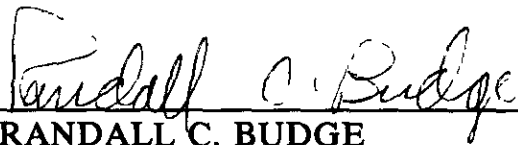
I HEREBY CERTIFY that on this 20th day of July, 1993, I mailed a true and complete copy of the foregoing document, postage prepaid, to the following:

Gary Spackman, Hearing Officer
Harold Jones, Water Rights Supervisor
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

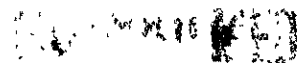
Charles D. Huggins
Box 216, RR 1
Arco, Idaho 83213

Dennis Braswell
Lester Braswell
Arco, Idaho 83213

Lewis Rothwell
Rt. 1, Box 405
Arco, Idaho 83213



RANDALL C. BUDGE



JUL 09 1994

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE**

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR)	AFFIDAVIT OF
TRANSFER NO. 4110 IN THE NAME OF)	DOUGLAS
WILLARD O. OR GLADYS K. BELL)	ROSENKRANCE
_____)	

STATE OF IDAHO)	)
: ss	
County of Butte)	

DOUGLAS ROSENKRANCE, being first duly sworn, deposes and states:

1. I am a resident of Mackay, Idaho, and my address is Rt. 1, Box 24, Mackay, Idaho 83251.

2. I am now and have been continuously for the past eight years employed by the State of Idaho Department of Water Resources as the Watermaster of District 34 which encompasses the Big Lost River and its tributaries. As Watermaster my duties and responsibilities include the distribution of the waters of the Big Lost River and its tributaries according to the priority and rights of the water right owners. I am personally familiar with the decreed water rights in the Big Lost River, storage rights in the Mackay Reservoir, and the canals, ditches, and other diversion and distribution facilities of the Big Lost River Irrigation District. I am also familiar with the Application for Transfer No. 4110 filed with the Department of Water Resources by Willard O. and Gladys K. Bell, was present at the Protest Hearing conducted on July 7, 1993, and submit this Affidavit for the purpose of addressing and clarifying some



JUN 09 1994

of the issues presented at that hearing, without taking any position in support or against the Applicants or Protestants.

3. The Arco diversion dam is a major diversion structure on the Big Lost River located north and west of the City of Arco in the NW NW of Section 26, T. 4 N., R. 26 E., Butte County. The Arco diversion dam diverts water from the Big Lost River into the Arco ditch which runs in an easterly direction and also into the Munsey ditch which runs to the west a short distance and then generally parallels the Big Lost River in a southerly direction. These facilities are owned and operated by the Big Lost River Irrigation District and are used to deliver both decreed water in the Big Lost River and storage water in the Mackay Reservoir to the various rightholders.

The next diversion downstream from the Arco diversion is the Miller headgate located approximately 2-1/2 miles further downstream to the south in the NE NE SW, Section 1, T. 3 N., R. 26 E. The Miller headgate diverts water into the Miller ditch, a private ditch which transports water in a southeasterly direction from the river to the place of use of Willard Bell. The next diversion structure located approximately 1 to 1-1/4 miles further downstream from the Miller headgate is the McLaughlin headgate. No water rights are diverted in the area of the Big Lost River between the Arco diversion and Miller headgate. Attached is a map generally sharing these facilities.

4. The Munsey ditch is used to deliver various decreed and storage rights, as well as other rights at times pursuant to various transport agreements.

It has also been used at times to deliver water normally transported in the McLaughlin Ditch. There is adequate capacity in the Munsey ditch to carry and deliver an additional 3.0 cfs if the Willard Bell Transfer Application is approved during those times that the Bell rights could not be delivered at the Miller diversion.

5. From the hearing, it is my understanding that Willard Bell proposes to change his point of diversion to add an additional point of diversion upstream to the Arco diversion pursuant to which 3.0 cfs of his 6.4 cfs 1890 decreed rights would be delivered via the Munsey ditch downstream to a point on the Munsey ditch which is approximately 1/4 mile south of his existing Miller ditch diversion. At that point the water would be diverted into a newly constructed pipeline and transported to the east to his place of use as identified on the maps which are a part of his Application. Additionally, that the remaining 3.4 cfs of this right would continue to be diverted at the Miller headgate.

When there is available water, Mr. Bell is delivered his decreed water to his existing point of diversion at the Miller headgate without shrink. If the Transfer Application is approved, he would be charged with shrink associated with the delivery of that portion of his right delivered via the Munsey canal.

6. It is my experience and observation that the different reaches of the Big Lost River experience loss and gain which depends and varies seasonally and is based upon water conditions. Generally speaking, the reach of the river above the Moore diversion, which is the next major diversion upstream from the Arco

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diversion, experiences loss during the irrigation season. Normally the reach of the river between the Moore diversion and the Arco diversion experiences gain during the irrigation season. I have observed the reach of the river between the Arco diversion and the Miller diversion to experience both loss and gain. During periods of high runoff and good water years, this reach of the river can experience gain. During normal and low water years, this reach of the river experiences loss which becomes substantial and increases later in the irrigation season during those years.

7. During dry years, particularly during the recent series of drought years, there usually is no water available at the Miller ditch point of diversion or below to satisfy any decreed rights. If Mr. Bell's point of diversion on part of his right is diverted upstream at the Arco diversion as proposed to permit delivery through the Munsey ditch, there would be more water available at times to satisfy his right than would be available at the downstream Miller diversion in dry years due to the instream loss.

8. I believe the doctrine of "futile call" would not apply with respect to the delivery of all 1890 decreed water rights, because they are all cut off at the same time as the river drops, unless there is rising water downstream.

9. If the Transfer Application were approved, it is my opinion that there would be no loss of water to other decreed right holders downstream and little effect on those upstream.

FURTHER YOUR AFFIANT SAITH NOT.

DATED this _____ day of July, 1993.

DOUGLAS ROSENKRANCE

SUBSCRIBED AND SWORN TO before me this _____ day of July,
1993.

NOTARY PUBLIC FOR IDAHO,
Residing at:
My Commission Expires:

(SEAL)

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this _____ day of July, 1993, I mailed a true and complete copy of the foregoing document, postage prepaid, to the following:

Gary Spackman, Hearing Officer
Harold Jones, Water Rights Supervisor
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Charles D. Huggins
Box 216, RR 1
Arco, Idaho 83213

Dennis Braswell
Lester Braswell
Arco, Idaho 83213

Lewis Rothwell
Rt. 1, Box 405
Arco, Idaho 83213

RANDALL C. BUDGE

JUN 09 1994

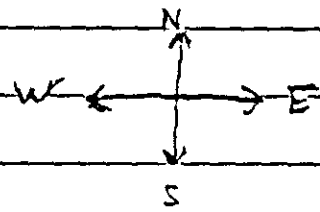
ARCO DIVERSION
(NEW P/D - 3.0 cfs.)

2 1/2 mile

Municipal Canal

Big Lost River

Arco Ditch



Miller Headgate
(Existing P/D - 6.4 cfs.)

Miller P.D. (Private)

NEW PIPELINE

Place of Use

1/4 mile

1 1/4 mile

McLaughlin
Canal

McLaughlin Headgate

09 1991

Randall C. Budge
RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED
P.O. Box 1391; 201 E. Center
Pocatello, Idaho 83204-1391
Telephone: (208) 232-6101
Fax: (208) 232-6109

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR) **APPLICANT'S BRIEF**
TRANSFER NO. 4110 IN THE NAME OF)
WILLARD O. OR GLADYS K. BELL)
_____)

COME NOW Applicants, Willard O. and Gladys K. Bell (hereinafter "Bell") and submit this Post-Hearing Brief to address and discuss the issues and evidence presented at the Protest Hearing conducted July 7, 1993. At the conclusion of the hearing, the Hearing Officer Gary Spackman requested that the Applicant and Protestants simultaneously submit post-hearing briefs fourteen days following the hearing. Applicants have also filed a Motion to Supplement the Record and request that the supporting Affidavit of Douglas Rosenkrance be accepted as a part of the record. This Affidavit is submitted to provide additional information addressing and clarifying certain questions raised at the hearing concerning the capacity of the Munsey ditch, losses and/or gains experienced along the various reaches of the Big Lost River in question based upon his experience and expertise

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as Watermaster over the past 8 years to assist the Hearing Officer in deciding the issues.

1. REVIEW OF APPLICATION

Bell's Application for Transfer No. 4110 was filed with the Department on May 14, 1993, duly published April 29 and May 6, with a protest hearing conducted in Arco, Idaho, July 7, 1993, following protests by Charles D. Huggins, Lester and Dennis Braswell, and Lewis Rothwell.

The water rights at issue owned by Bell are decreed rights in the Big Lost River identified as Right No. A34-00519 with a priority date of June 1, 1890 in the amount of 6.4 cfs used for irrigation purposes during the period May 1 through October 15 on 284 acres of land located in Sections 6 and 7 of Township 3 North, Range 27 East, and Section 12 of Township 3 North, Range 26 East, Butte County, Idaho. Bell's Application seeks to add an additional point of diversion approximately 2-1/2 miles upstream. Bell's existing point of diversion is commonly known as the Miller headgate which diverts water from the river into the Miller ditch, a private ditch, which transports water in a southeasterly direction a distance of approximately 1/2 mile to the place of use.

While retaining the existing point of diversion, Bell's Application seeks to add an additional point of diversion located in the NW NW NW of Section 26, Township 4 North, Range 26 East, B.M., commonly known as the Arco diversion, from which water would be diverted into the Munsey ditch, which transports water

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to the west and then generally parallels the river in a southerly direction. The new point of diversion would be used to run 3.0 cfs down the Munsey ditch a distance of approximately 2-1/2 to 3 miles to a point which is about 1/4 mile south of the existing point of diversion at the Miller headgate and directly west of the place of use. At that point the water would be diverted into a new pipeline constructed through Bell's property to transport the water directly east to the place of use. These points of diversion, the location of the new pipeline and the place of use are depicted in the map included in the Application and, along with the other elements of the Application, were established by the testimony of Mr. Bell.

The testimony of Bell established that he acquired the land and water rights in 1991. Historically the property has been flood-irrigated. In the spring of 1993 Bell installed a new pipeline to permit water to be transported from the Munsey ditch directly east to the place of use where nine 1/4-mile wheel lines and a pump and electric motor were also installed to convert from flood to sprinkler irrigation. The new irrigation system will have a capacity of approximately 3.5 cfs, which Bell estimates will be sufficient to regularly irrigate the entire property and raise regular crops of hay and grain. The source of water will be his 1890 decreed rights together with storage water which he owns in the Mackay Reservoir. The storage water will be transported via the Munsey ditch and the Application is necessary to permit his decreed water to be delivered in the same fashion.

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During the period of drought for approximately 5 to 6 years which preceded 1993, a good water year, no water was available at the Miller headgate to satisfy the 1890 decreed rights. Evidence presented by the testimony of Bell, Mr. Huggins and Watermaster Doug Rosenkrance reflects that there is considerable loss and shrinkage in the reach of the river between the Arco diversion and Miller headgate during times of drought and water shortage, which evidence is undisputed. During good water years, Bell is able to receive and utilize his full decreed right at the Miller headgate. The purpose of the additional point of diversion is to avoid shrinkage in dry water years in the reach of the river between the Arco diversion and Miller headgate, bypassing this reach by using the Munsey ditch. While water will actually be transported down the Munsey ditch a distance beyond and approximately 1/4 mile south of the existing Miller headgate diversion to the new pipeline, less shrinkage is expected by transporting the water through the Munsey ditch and new pipeline than otherwise would be experienced down the natural channel. Bell expects that this change will enable him to beneficially use a portion of his 1890 decreed rights for some period of time even in dry years.

2. ISSUES:

The standards for granting a change in the point of diversion are set forth in Idaho Code § 42-222 which provides in pertinent part:

"The Director of the Department of Water Resources shall examine all the evidence and available information

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and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the State of Idaho and is in the local public interest as defined in Section 42-203A(5), Idaho Code; . . ."

Accordingly the only issues to be addressed by the Department are the following:

1. Will other water rights be injured by the transfer?
2. Will a change constitute an enlargement in the use of the original right?
3. Is the change consistent with the conservation of water resources within the State of Idaho?
4. Does the change conflict with the local public interest?

Based upon the evidence presented at the hearing and for the reasons discussed below, Bell submits that the answer to each of the foregoing questions must be in the negative and that their Transfer Application should be approved.

Most of the testimony and concerns raised by the protestants at the hearing focused on the multitude of long-standing and complex water problems in the Big Lost River Valley which are largely irrelevant and unrelated to the issues presented by this Transfer Application. These issues are being addressed and can only be addressed as a part of the Snake River Basin Adjudication. Any attempt to address any other water right issues would clearly be inappropriate and must be cautioned against, particularly in light of recent decision of the Idaho Supreme

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Court in the case of Young Harvey Walker vs. Big Lost River Irrigation District, Supreme Court No. 19792, 1993 Opinion No. 70 filed June 16, 1993. In that case the Idaho Supreme Court overturned a decision of the District Court in Butte County in a breach of contract case that incidentally involved the determination of the proper place of use of storage water, ruling that only the special district court established in Twin Falls to handle the Snake River Basin Adjudication had adjudication over claims to the use of water from the Snake River and its tributaries.

3. **NO OTHER WATER RIGHTS WILL BE INJURED BY THE TRANSFER**

There is no competent evidence injury will occur to any other water right if the transfer is approved. To the contrary, the evidence established that if the transfer is approved there may well be more water available to downstream users in dry years when it is most needed, as Bell would only need to divert 3.0 cfs at the new point of diversion to satisfy his needs and the balance of his right of approximately 3.4 cfs would remain in the river.

The protestants speculated but presented no supporting evidence that they would somehow be injured by the removal of a portion of Bell's water from the river at the upstream diversion by virtue of a loss of "sub" water. Protestants express a desire that Bell, as well as other upstream right holders should be precluded from "removing any water from the river" so that they can benefit from improved "sub" to which they have established no lawful right. This

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misperception that denial of Bell's transfer will somehow improve the delivery of their decreed water in times of shortage entirely ignores the historic decreed rights of Bell and others to divert their entire right when their decrees are on and available. Protestants further ignore the reality that the past several years of severe drought conditions, coupled with the numerous groundwater wells and conversion to sprinkler irrigation upstream that have in the past and will continue in the future to be the major factors affecting natural flow of the river in the lower reaches.

Lewis Rothwell initially testified that he thought his water rights and property values would be injured. However, on cross-examination he readily admitted that since his point of diversion was upstream and his water rights all had priorities between 1886 and 1888, prior to Bell's, his water rights would not be adversely impacted or affected by the proposed change. His claim that his property values would somehow be diminished was totally speculation and unsupported by appraisal, comparative sale, or any other evidence. Additionally, his claim is undermined by his own admission on cross-examination that the assessed values of his property have been increasing consistently over the past several years, despite the several years of drought when water was inadequate to raise a crop.

Braswells' 1885 rights have an earlier priority than Bell's enabling them to cut him off altogether in times of shortage, while their 1900 rights are much later. The Braswells testify that they have had no water available under their decreed

rights for the past 5 years, the exact same situation suffered by Huggins as well as Bell. While Huggins' 1890 rights have the same priority as Bell, his downstream point of diversion would place him in the same position as Bell with simply no water available to satisfy any rights below the Arco diversion in dry years.

These protestants simply presented no substantial or competent evidence of any injury to their water rights that would warrant denial of the Application. Protestants' testimony that taking Bell's 3.0 cfs out of the river in the reach between the Arco and Miller diversions would effect their downstream rights is pure speculation without support in the record. The testimony of Watermaster Rosenkrance in his Affidavit that no injury would occur to any other right holders must be accepted. Any lost shrinkage from the 3.0 cfs transfer of the Bell right upstream would be so small that it couldn't be calculated and would be offset by the shrinkage that will occur during the delivery through the Munsey ditch and simply will not impact any downstream rights. The new diversion will only need to be used by Bell during times of shortage when there would be no water available to Bell at the Miller diversion and certainly no water available to protestants and other downstream users. Accordingly, the requirement of no injury has been met.

4. **THE CHANGE WOULD NOT CONSTITUTE AN ENLARGEMENT IN THE ORIGINAL WATER RIGHT:**

There is no evidence of any enlargement of Bell's original right. The same

number of acres will be irrigated from his new sprinkler system as were historically irrigated by flooding. It is well established that sprinkler irrigation is more efficient than flood irrigation and results in the conservation of water. Bell's testimony that he expects to need and use only about one-half of his decreed right in his sprinkler system will make available the balance of his right for the benefit of downstream users.

While it is theoretically possible that Bell could attempt to store the unused portion of his decreed right in a dry year. He indicated no intention of doing so. Further, from his testimony as well as the Affidavit of Rosenkrance, such does not typically occur and is not practical with respect to 1890 rights for the reason that they usually are only available for a short period of time during dry years.

5. **THE CHANGE IS CONSISTENT WITH THE CONSERVATION OF WATER RESOURCES.**

The evidence is undisputed that the proposed change would result in the conservation of water in two ways. First, water would be conserved in the conversion to sprinkler irrigation which is more efficient. Second, the change would enable Bell to use a portion of his decreed right to enable him to produce crops in dry years when otherwise the water would be entirely lost to shrinkage, unavailable at the Miller diversion and thus wasted. No contrary evidence was presented.

6. **THE CHANGE WILL NOT CONFLICT WITH THE LOCAL PUBLIC INTEREST.**

The local public interest is defined at I.C. § 42-203A(5) as "the affairs of the people in the area directly affected by the proposed use."

The economic well-being of the Butte County area is based almost entirely upon agriculture. Accordingly, it is clearly in the public interests to approve a change that will accomplish the conservation and beneficial use of water in dry years and permit crops to be raised that promote the financial well-being of the Bell family and the economic base of the area as a whole.

There is no dispute that the lack of water over the past 5 or 6 years in the river was caused by drought conditions and had an adverse effect on the fishery, stream-side wildlife and habitat. These adverse impacts are a fact of life during drought that have already occurred previously, cannot be changed and will reoccur during future droughts without impact by Bell's transfer.

RESPECTFULLY SUBMITTED this 20th day of July, 1993.

RACINE, OLSON, NYE, COOPER &
BUDGE

By Randall C. Budge
RANDALL C. BUDGE

JUN 09 1994

CERTIFICATE OF MAILING

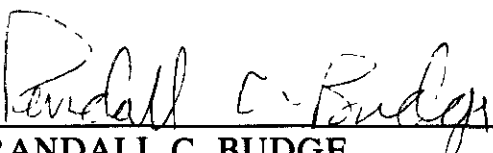
I HEREBY CERTIFY that on this 20th day of July, 1993, I mailed a true and complete copy of the foregoing document, postage prepaid, to the following:

Gary Spackman, Hearing Officer
Harold Jones, Water Rights Supervisor
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Charles D. Huggins
Box 216, RR 1
Arco, Idaho 83213

Dennis Braswell
Lester Braswell
Arco, Idaho 83213

Lewis Rothwell
Rt. 1, Box 405
Arco, Idaho 83213



RANDALL C. BUDGE

JUN 09 1994

^{or Gladys}
Willard Bel -

Application for Transfer - no 4110
Water right no. 34-00518
355 acres -

July 7, 1993

Change point of diversion 6.4 cfs
30 cfs into the Munsey ditch
remainder in the Miller ditch

Protestant

Lewis Rothwell -

Charles Huggins -

James Kinkfleisch - (not present)

Lester Dennis & Trudy Braswell -

Injure other water rights

contrary to the local public interest
(water in the stream)

No capacity in the Munsey Ditch

Idaho Code § 42-222

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Willard Bell

Resided in Arco all his life -

Began farming in 1949 -

Other family members that farm - Daughter keeps the books -

F34 00518 June 1, 1890 Secured right -

May 1 through October 15 -

Owned property since 1991 - acquired in 1991

Miller ditch - Land is sprinkler irrigated - ^{1/4 quarter} mile wheel lines
Can be irrigated by sprinkler - but could in 92 - no water
Same land

Other lands -

Half as much water for sprinkler irrigation -
Insufficient water in 91 & 92

Other water rights are storage water

Big Lost delivers the water -

No other water rights delivered
Pump & electric motor

Doesn't seek change in place of use
New Point of diversion is the Munsey Ditch
Pipeline would be one mile long -

5" line for a mile 13" from there on
pipeline is already installed

May need pipeline on bad years
Last six years no water at the Miller heading

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Only wants to use new point of diversion
when water won't reach Miller Ditch.

2500 cfs released below Arco diversion
about 5 years ago. Only made it —
~~2500~~ yards.

No pds between new pd & old pds.

McLaughlin headgate below him - &
He said transfer won't

~~Don't~~ ¹⁸⁸⁵
Braswells right, if still on, 1890 right
would be cut off

? How far below Miller is McLaughlin -
One mile as the crow flies -

? Loss when he is getting water - between

would
carry
4600
inches
Couldn't get water to Braswell in channel
Installed pipeline to Braswell through Bell's
property. pipeline is 300 feet long -
Decreed water to him. he paid for pipeline

District replaced the pipes to capacity
of about 1000 inches.

Trees along the Big Lost River have died -
(some but not all)

Recreation use on the river (not aware
of any)

Braswell - McLaughlin & Munsee -
River runs through place - 5-6 years -
all dried up - prior to that - it was green
Fishing before the drought - there was
~~regulation~~ recreation - wildfish

Pipeline cross the Big Lost

✓ Examination of Williard Bell -

IF water in river won't move it out

Man made drought - from ~~the~~ Arco diversion down

Would the 3.4 convert to storage?

? What are the other rights listed these are spring rights

34 - 00418B & 34 - 0704B
Braswell tried to deliver through the Munsee
Ditch

? What will happen to the 3.4 cfs will
it accrue to storage?

Can use 160 inches -

5000 inches lost between Arco diversion
& Miller diversion -

McLaughlin - source is rising water -
2500 cfs wouldn't make it now
but if river was open 1000 inches would make
it rising water is still coming up
If we take it out of the valley - won't be
any rising water -

~~Braswell~~

X. Exam by Budge -

No water at the McLaughlin - water
downstream a mile below - 25 inches
springs no irrigation or return flows
1085 water rights & 1900 water rights
40 inches of 1885 80 inches of 1900
storage water 100 inches
sprinkles

using ~~more~~ same water on more land - sprinkles
less return flow

Use more efficiently -

Flow diminishes in Big Lost River from
Arco diversion to the Miller diversion -

Water rises from Moore on down -

He says not that much if the river is soaked up
Miller diversion to McLaughlin -
usually this gains -

Last year water at McLaughlin 1987-1988

Will affect seepage quantities downstream:-
Pumps upstream pumping out of district
is worst -

He has 40' of '85
Dad ~~the~~ has 40" of '85
Morgan has 17" of '85
Stonhill has 11' of '85

He has 80" of 1900
Huggin - 70' of 1890 (6/1/90)
Parkinson -

Storage water come thru Murree
885 not delivered -
No decreed water delivered through Murree
ditch -
Ditch won't hold ditch for everybody -
Pipe won't ~~go~~ carry water -

Huggins He determined water rights were better in
lower river than the rights near Mackay -
Changing ~~pts~~ upstream to Arco diversion
has sucked the life blood out of the
lower area.
Loss of value carrying capacity in the river -
are the concerns

x exam by Eudge

He diverts water from the McLaughlin.

Owned property 20 years

Irrigates about 60 acres -

240 acres total

sprinkled since mid 70's

Flood irrigated - 60 acres flooded
now use the same water on 155 acres -
Filed for additional water

Also diversion to Miller. loses instead
of gain - it loses water

Thinks water rises between Miller and
McLaughlin.

Doesn't store natural flow in the dam
100 acres ~~that~~ land is within district

140 is outside everyone

No storage water in Mackay Reservoir -

Met charges long ago

Primary cause of drought its not been
opened up.

Rothwell

112' 886 -

219' 1887 -

13" 1888

7900" storage water at full dam -
Diverts water at the Arco diversion -
DOV is one half mile below Arco
diversion -

Ralston report - fairly new
Deuce

1923 - ^{July 7,} 1937

322 -

Removes natural flow water out of the river -
K. & P. dated the river recreation -

Don't can't do this without water -

take that much more out of the river

IC 42-108 - need permission to move water in -

Capacity isn't there -

Don't like sprinkling - he flood irrigates

X exam

All his rights are diverted above:

Won't impact his water rights -

His rights have not been delivered -

Is didn't irrigate more than 50 acres -

Doesn't know capacity of Munsee ditch

has been over banks of Munsee

Could be more water than necessary

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Didn't know whether excessive water is
being diverted into the Mussee.

Willard Bell Hearings - 7-7-1993
 Gary Spackman - Hearing officer

	<u>Tape # start</u>	<u>Tape # End</u>
Gary - opening remarks	19	150
Willard Bell Testimony	169	1068
1/ What WR is A34-004188 & 34-07048? is this for adjacent lands? (So called "springs" vts - from dug holes on property)		
2/ Uses 9 wheel lines or 1200-1300 spm		
3/ Does new pipeline cross the Big Lost River?		
4/ In last six years has water reached Muncie Diversion?		
5/ Protestant Braswell changed P.D or added PD on Muncie privately.		
Cross examine	1155 (Huggins)	1309
	1318 (Braswell, Dennis)	1385
	1393 (Rothwell, Lou)	1462
<u>Re-direct</u> - Budgr	1467	1600
	Does Miller Diversion dip back into River? (No)	
Spackman - questions	1620	1924
Dennis Braswell ~~Testimony~~ Testimony	1990	2168
	"Rising water" is our source!	
Budgr - cross-examine	2186	2366 only 40" of good right

Can't the Muncie
carry 1885 water?
For Bresswille. (Ditch capacity
Not enough - pipeline)
also

	<u>Tape # start</u>	<u>Tape # End</u>
Speelman Questions	2872	3126

Budge-Questions	3130	3202
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Higgins Testimony	3223	3623
-------------------	------	------

Budge-Cross Examine	3640	4150
------------------------	------	------

ISS
~~can~~ saw & only
78" of good vt
(1890)

Originally only 60
acres were flooded
when Higgins purchased.

late appl. was filed
(1970) For high water.

Rothwell Testimony	4249	4776
-----------------------	------	------

1/ ^{4th} P.D. is Area diversion
which is upstream
of Mr. Bell. what
injury can he possibly
incur?

2/ Is his property
adjacent to River
below Area Diversion?
(It sounds so)

3/ Muncie doesn't have
capacity for additional
water.

Budge Cross-Examine Rothwell	4790
---------------------------------	------

Gary's Remarks	5420
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5417

62670

JUN 09 1994

BUTTE COUNTY COURTHOUSE
ARCO, ID
WEDNESDAY, JULY 7, 1993

10:00 A.M.

WILLARD O. OR GLADYS K. BELL
T#4110

Officer: Gary Spackman

<u>Name</u>	<u>Representing</u>	<u>Address</u>
<u>Lee Battwell</u>	<u>self</u>	<u>Arco</u>
<u>Dennis Braswell</u>	<u>self</u>	<u>Arco</u>
<u>Lester Braswell</u>	<u>self</u>	<u>Arco</u>
<u>Charles D Huggan</u>	<u>self</u>	<u>Arco, RTI</u>
<u>Willard O Bell</u>	<u>Self</u>	<u>Arco Post 91</u>
<u>Russell C. Budge</u>	<u>Attorney for Applicants</u>	<u>P.O. Box 134, Pocatello, Id. 83204</u>

30-Jun-1993

MEMORIAL BLDG
BUTTE COUNTY COURTHOUSE
PO BOX 121
ARCO ID 83213

Dear Deanna:

This is to confirm the use of the Court Room for a prehearing conference to be held by this office on Wednesday, July 7, 1993, at 10:00 a.m..

Thank you for your cooperation in this matter.

Very truly yours,

Rita Bodell
Secretary/Office Coordinator

JUN 30 1993
JUN 30

LOUIS F RACINE, JR
WILLIAM D OLSON
W MARCUS W NYE
GARY L COOPER
RANDALL C BUDGE
JOHN A BAILEY, JR
JOHN R GOODELL*
JOHN B INGELSTROM
DANIEL C GREEN
REED W LARSEN
BRENT O ROCHE
FRED J LEWIS
KIRK B HADLEY
MITCHELL W BROWN
ERIC S HUNN
DAVID E ALEXANDER

*ALSO MEMBER IL & WY BARS

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE .
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE
AREA CODE 208
232-6101
—
FAX
208-232-6109

June 14, 1993

RECEIVED

JUN 15 1993

Department of Water Resources
Eastern District Office

Ronald D. Carlson
Eastern Regional Manager
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

RE: Application for Transfer 4110
Willard O. or Gladys K. Bell

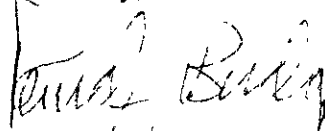
Dear Mr. Carlson:

I will be representing Willard Bell with respect to the protest hearing scheduled on the captioned matter at 10:00 a.m. on Wednesday, July 7, 1993, at Arco.

I have requested by phone that your office forward me copies of the application and all protests and I believe this is being taken care of.

As attorney for the applicant, kindly provide me with notice of all proceedings.

Sincerely,



RANDALL C. BUDGE

RCB:rr

cc: Willard O. Bell

*Done
6-16-93
RB*

JUN 09 1994

Is your RETURN ADDRESS completed on the reverse side?

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- Complete items 3, and 4a & b
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- Write "Return Receipt Requested" on the mailpiece below the article number
- The Return Receipt will show to whom the article was delivered and the date delivered

I also wish to receive the following services (for an fee)

1 ☐ Addressee's Address

2 ☐ Restricted Delivery

Consult postmaster for fee

3 Article Addressed to

Willard O. Bell
P.O. Box 91
Aico Id 83213-0071

4a Article Number

1130

4b Service Type

☐ Registered

☐ Insured

☒ Certified

☐ COD

☐ Express Mail

☐ Return Receipt for Merchandise

7 Date of Delivery

JUN 9 1993

5 Signature (Addressee)

Willard O. Bell

6 Signature (Agent)

8 Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

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JUL 1 1994

1994

Department of Water Resources
Eastern District Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

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I also wish to receive the following services (for an fee)

1 ☐ Addressee's Address

2 ☐ Restricted Delivery

Consult postmaster for fee

3 Article Addressed to

Lewis Rothwell
Rt 1 Box 405
Arco Id 83213

4a Article Number

1131

4b Service Type

☐ Registered

☐ Insured

☒ Certified

☐ COD

☐ Express Mail

☐ Return Receipt for Merchandise

7 Date of Delivery

6-9-93

5. Signature (Addressee)

6 Signature (Agent)

8 Addressee's Address (Only if requested and fee is paid)

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DEPARTMENT OF WATER RESOURCES
Eastern District Office
JAN 1 1994

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402



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I also wish to receive the following services (for an a fee)

1 ☐ Addressee's Address

2 ☐ Restricted Delivery

Consult postmaster for fee.

3 Article Addressed to

Lester Braswell
Rt. 1 Box 80
Arco Id 83213

4a. Article Number

1132

4b Service Type

☐ Registered

☐ Insured

☒ Certified

☐ COD

☐ Express Mail

☐ Return Receipt for Merchandise

7 Date of Delivery

6-9-93

5 Signature (Addressee)

Lester Braswell

8 Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

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Official Business



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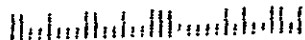


By: [illegible] [illegible]

For: [illegible] Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402



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I also wish to receive the following services (for an fee):

1 ☐ Addressee's Address

2 ☐ Restricted Delivery

Consult postmaster for fee

3 Article Addressed to

Charles O Huggins
PO Box 216 RR1
Arco ID 83213

4a Article Number

1133

4b Service Type

☐ Registered

☐ Insured

☒ Certified

☐ COD

☐ Express Mail

☐ Return Receipt for Merchandise

7 Date of Delivery

6 9 93

5 Signature (Addressee)

JUL 09 1994

8 Addressee's Address (Only if requested and fee is paid)

6 Signature (Agent)

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business

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JUN 08 1994

Department of Resources
Eastern District Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402



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I also wish to receive the following services (for an fee)

1 ☐ Addressee's Address

2 ☐ Restricted Delivery

Consult postmaster for fee.

3 Article Addressed to

James A Rindfleisch
PO Box 62
Arcu ID 83473

4a. Article Number

1134

4b. Service Type

☐ Registered

☐ Insured

☒ Certified

☐ COD

☐ Express Mail

☐ Return Receipt for Merchandise

7 Date of Delivery

JUN 9 1993

5 Signature (Addressee)

Brenda Betzer

6 Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



Official Business

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OF POSTAGE \$300

JUN 11 1994

JUN 09 1994

Department of Water Resources
Eastern District Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

AFFIDAVIT OF PUBLICATION

I, Colleen Babcock
of the Arco Advertiser, a weekly newspaper of
general circulation, published weekly at Arco, Idaho,
since March, 1909, do solemnly swear that a copy of
this notice, per clipping attached, was published
weekly in the regular and entire issue of said
newspaper, and not in any supplement thereof,

for 2 consecutive weeks, commencing with
the issue dated APRIL 29, 1993
and ending with the issue dated

MAY 6, 1993
Colleen Babcock

STATE OF IDAHO

COUNTY OF BUTTE

On this 20 day of May
in the year of 1993, before me, a Notary Public,
personally appeared

Colleen Babcock

known or identified to me to be the person whose
name subscribed to the within instrument and being
by me first duly sworn, declared that the statements
therein are true, and acknowledged to me that he
executed the same

Thomas D. Cannon
Notary Public for Idaho

Residing at Arco, Id.

My commission expires 12-30-97

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHTS**
THREATENING NO. 6720

Notice is hereby given that Thomas D.
or Gladys K. Cannon, owner of the
Department of Water Resources, is all a
point of diversion of the proposed water
Lost River. This notice is being changed
is evidenced by a claim and recorded as
follows:

CLAIM NO. 434-00514

SEC 12 T4N 24E 2W

PRIORITY: 6/1/1960

LOCATION OF DIVERSION: MUDFLOW
SEC 12 T4N 24E 2W, R2E 2W, S2E 2W
COUNTY

The water to divert from May 1 to Octo-
ber 15 to irrigate 250 acres within the NE
SEC 12 T4N 24E 2W, S2E 2W, R2E 2W
E1/2SW 1/4NW 1/4 (LOT 1), E1/2SW 1/4 (LOT 2)
SEC 7 T3N 23E 2W

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the
MUDFLOW SEC 12 T4N 24E 2W, S2E 2W, R2E 2W
MUDFLOW DITCH IT 41 1960, MUDFLOW
SEC 1 (MUDFLOW DITCH) T4N 24E 2W, R2E 2W

Any protest against the proposed
change must be filed with the Idaho
Department of Water Resources, 600 N.
Shawline Dr., Idaho Falls, ID 83402, on or
before May 17, 1993.

R. NORTH HUGHESON
Director

Published in The Arco Advertiser on
April 29 & May 6, 1993.

JUN 09 1994

AND ADDRESS OF SENDER 900 W Skyline Cedarhurst 83402

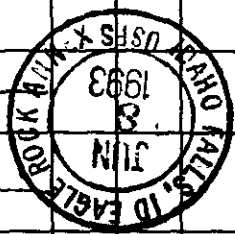
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☐ COD
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☐ Express Mail

Check appropriate block for Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

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POSTMARK AND DATE OF RECEIPT

Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act Value (If Regis.)	Insured Value	Due Sender (If C.O.D.)	R R Fee	S D Fee	S H Fee	Rest Del. Fee	Remarks
1	1130	William O. Bell P.O. Box 91 Cedar Rd 83213-0091	29	100					✓				
2	1131	Javier Rothwell Rt 1 Box 405 Cedar Rd 83213											
3	1132	Joan Braswell Rt 1 Box 60 Cedar Rd 83213											
4	1133	Charles D. Huggins Rt Box 216 RR 1 Cedar Rd 83213											
5	1134	James A. Rindley Rt Box 62 Cedar Rd 83213											
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15													



Total number of Pieces used by Sender <i>Five</i>	Total Number of Pieces Received at Post Office <i>Five</i>	POSTMASTER, PER (Name of receiving employee) <i>[Signature]</i>	The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for Registered Mail, \$500 for COD and \$500 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels.
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FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

25-May-1993

WILLARD O OR GLADYS K BELL
PO BOX 91
ARCO ID 83213-0091

RE: Application for Transfer of Water Right NO. A34-00518

Dear Mr. & Mrs. Bell:

Enclosed please find a copy of the protests filed against the above referenced application for transfer of water rights. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

- 1) Are other water rights injured by the transfer?
- 2) Does the change constitute enlargement in the use of the original water right?
- 3) Is the change consistent with the conservation of water resources within the state of Idaho?
- 4) Does the change conflict with the local public interest?

The applicant must be prepared to present evidence and/or testimony addressing each of the three items should an additional hearing be necessary. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

09 1994

LEGAL NOTICE

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT

TRANSFER NO. 4110

Notice is hereby given that Willard O. or Gladys K. Bell has applied to the Department of Water Resources to add a point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a claim and recorded as follows:

CLAIM NO. A34-00518

AMOUNT: 6.40 CFS

PRIORITY: 6/1/1890

POINT(S) OF DIVERSION: NENESW
SEC 1 (MILLER DITCH) T3N R26E, BUTTE
COUNTY.

The water is used from May 1 to October 15 to irrigate 284 acres within the NE SEC 12 T3N R26E, SWSW (LOT 7) SEC 6 E1/2NW NWNW (LOT 1) SWNW (LOT 2) SEC 7 T3N R27E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the NWNWNW SEC 26 (ARCO DIVERSION/MUNSEY DITCH (T4N R26E, NENESW SEC 1 (MILLER DITCH) T3N R26E, B.M.

Any protest against the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID 83402, on or before May 17, 1993.

R. KEITH HIGGINSON
Director

Published in The Arco Advertiser on
April 29 & May 6, 1993.

RECEIVED

MAY 17 1993

Department of Water Resources
Eastern District Office

Charles D. Huggins
Box 216 RR1
Arco, ID 83213

Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

May 14, 1993

This letter is a protest to the legal notice published April 29 and May 6, 1993 in the Arco Advertiser as to transfer number 4110 and the documents stated intent of the addition of a new diversion point (Munsey Ditch).

If the proposed change of water right transfer number 4110 was to be approved and this water right delivered to Mr. Bell's place of use by the Munsey Ditch instead of the main river channel the injury to my decreed water right would be significant. Diverting the natural flow of the Big Lost River has and continues to demonstrate negatively to this streams capacity to

deliver quantities of water to other decree holders who depend on volume to saturate the main river banks and thereby deliver unimpeded the water rights located downstream of each diversion.

The main river channel below Arco has in principle been abandoned by the Department of Water Resources for the last seven years and by this action has damaged water flow that for generations has risen as a result of feeder springs and wetland area's adjacent. Ultimately these waters provided the significant flow to this portion of the river channel (Big Lost River) from Arco downstream.

My decree is listed by the Idaho Dept. of Water Resources as water that is to be conveyed and delivered by the Big Lost River. This water right by contemporary standards is an old local decree that has for over a century in time mingled with other decree and storage waters to provide an ample supply to my water heading.

To permit these changes in points of diversion by Mr. and Mrs. Willard Bell would add insult to injury as to all of the old farms located below the Arco diversion dam and in my opinion be a wrongful diversion because such action would diminish any potential of practical farming practices by users of water on the south end of the Big Lost River's natural channel.

Page 1 of 2

JUN 09 1994

LEGAL NOTICE

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT TRANSFER NO. 4110

Notice is hereby given that Willard O or Gladys K. Bel has applied to the Department of Water Resources to add a point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a claim and recorded as follows:

CLAIM NO. A34-00518

AMOUNT: 6.40 CFS

PRIORITY: 6/1/1890

POINT(S) OF DIVERSION: NENESW
SEC 1 (MILLER DITCH) T3N R26E, BUTTE
COUNTY.

The water is used from May 1 to October 15 to irrigate 284 acres within the NE SEC 12 T3N R26E, SWSW (LOT 7) SEC 8 E1/2NW NWNW (LOT 1) SWNW (LOT 2) SEC 7 T3N R27E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the NWNWNW SEC 26 (ARCO DIVERSION/MUNSEY DITCH (T4N R26E, NENESW SEC 1 (MILLER DITCH) T3N R26E, B.M.

Any protest against the proposed change must be filed with the Idaho Department of Water Resources, 800 N Skyline Dr., Idaho Falls, ID 83402, on or before May 17, 1993.

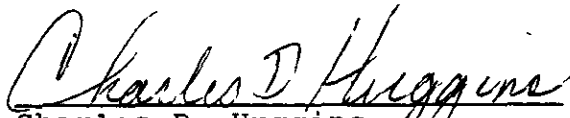
R. KEITH HIGGINSON

Director

Published in The Arco Advertiser on
April 29 & May 6, 1993.

This habitual interference with this stretch of water has, and if allowed to continue, with increasing vigor damaged land values and production capacity and left owners with little recourse to remedy of this perplexing man-made problem.

As a result of the above stated reasons, but not limited to them, I request that the Department of Water Resources deny the proposed changes requested in this legal notice.


Charles D. Huggins

JUN 09 1994

May 12, 1993

Department of Water Resources
900 W. Skyline Drive
Idaho Falls, Id 83402

RECEIVED

MAY 14 1993

Department of Water Resources
Eastern District Office

Dear Sir:

I am writing to protest the Notice of Proposed Change of a Water Right Transfer No. 4110 by Willard O. R. Gladys Bell to add a point of diversion of the water of the Big Lost River. The Claim No is A34-00518 in the Amount of 6.40 CFS with a priority of 6/1/1890 as recorded in the Arco Advertiser April 29 and May 6, 1993.

It will cause me injury by reducing the amount of sub water and flow of water through my property if the change is allowed. This in turn reduces the value of my property as well as the ability to grow crops.

Sincerely,

James A. Rindfleisch
P.O. Box 62
Arco, Id. 83213

JAMES A. RINDFLEISCH

JUN 13 1994

LEGAL NOTICE

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT TRANSFER NO. 4110

Notice is hereby given that Willard O. or Gladys K. Bell has applied to the Department of Water Resources to add a point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a claim and recorded as follows:

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AMOUNT: 6.40 CFS

PRIORITY: 6/1/1890

POINT(S) OF DIVERSION: NENESW
SEC 1 (MILLER DITCH) T3N R26E, BUTTE
COUNTY.

The water is used from May 1 to October 15 to irrigate 284 acres within the NE SEC 12 T3N R26E, SWSW (LOT 7) SEC 6 E1/2NW N4NW (LOT 1) SWNW (LOT 2) SEC 7 T3N R27E, B.M.

TO BE CHANGED AS FOLLOWS:

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Any protest against the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID 83402, on or before May 17, 1993.

R. KEITH HIGGINSON

Director

Published in The Arco Advertiser on
April 29 & May 6, 1993.

I object to this because it will affect other water users. It will affect the environment.

The old court case 222 Nelson v. Utah Construction Company and John Big Lost River Irrigation District. Other court ruled where the water would be diverted at.

The Murray Canal is at capacity now. It will take a court case to change it through my place.

Sincerely
Lewie R. Rottwell
Route 1 Box 405
Arco, Idaho 83213

RECEIVED

MAY 11 1993

Department of Water Resources
Eastern District Office

**NOTICE OF PROPOSED CHANGE
OF A WATER RIGHT
TRANSFER NO. 4110**

Notice is hereby given that Willard O. or Gladys K. Bell has applied to the Department of Water Resources to add a point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a claim and recorded as follows:

CLAIM NO. A34-00518
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PRIORITY: 6/1/1890
POINT(S) OF DIVERSION: NENESW
SEC 1 (MILLER DITCH) T3N R26E, BUTTE
COUNTY.

The water is used from May 1 to October 15 to irrigate 284 acres within the NE SEC 12 T3N R26E, SWSW (LOT 7) SEC 8 E1/2NW NWNW (LOT 1) SWNW (LOT 2) SEC 7 T3N R27E, B.M.

TO BE CHANGED AS FOLLOWS:

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Any protest against the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID 83402, on or before May 17, 1993.

R. KEITH HIGGINSON
Director

Published in The Arco Advertiser on
April 29 & May 6, 1993.

Dept of Water Resource
902 Skyline Dr
Idaho Falls, Id
83402

5/17/93

This Letter is a protest to the legal notice published April 29 and May 6 1993 in The Arco Advertiser as to transfer Number 4110 and the documents stated intent of the addition of a new diversion point (Munsey Ditch).

If the proposed change of Water Right transfer Number 4110 was to be approved and this water right delivered to Mr Bell's place of use by the Munsey Ditch instead of the main river channel the injury to my decreed Water Right would be significant. Diverting the natural flow of the Big Lost River has and continues to demonstrate negatively to this stream's capacity to deliver

quantities of water to other decree holders who depend on volume to saturate the main rivers banks and thereby deliver unimpeded the water rights located downstream of each diversion.

The main River channel below Arco has in principle been abandoned by the Dept of Water Resources for the last seven years and by this action has damaged water flow that for generations has risen as a result of feeder springs and wetlands areas adjacent. Ultimate these waters provided the significant flow to this portion of the river channel (Big Lost River) from Arco downstream.

My decree is listed by the Idaho Dept of Water Resources as water that is to be conveyed and delivered by the Big Lost River. This Water Right by contemporary standards is an old local decree that has for over a century in time mingled with other decrees and storage waters to provide an ample supply to my water heading.

09 1994

To permit these changes in points of Diversion by Mr and Mrs Willard Bell would add insult to injury as to all of the old farms located below the Arco Diversion Dam and in my opinion be a wrongful diversion because such action would diminish any potential of practical farming practices by users of water on the south end of the Big Lost Rivers natural channel

This habitat interference with this stretch of Water has, and if allowed to continue, with increasing vigor damaged land values and productive capacity and left owners with little recourse to remedy of this perplexing man-made problem.

As a result of the above stated reasons, but not limited to them, I request that the Department of Water Resources deny the proposed changes requested in this legal notice.

Lester Braswell
Dennis Braswell
Trudy Braswell

RECEIVED

MAX 11 1993

Department of Water Resources
Eastern District Office



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

25-May-1993

LEWIS ROTHWELL
RT 1 BOX 405
ARCO ID 83213

RE: Application for Transfer in the name of
Willard O. or Gladys K. Bell No. A34-00518

Dear Mr. Rothwell:

This letter acknowledges receipt of the protest filed by you against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute enlargement in the use of the original right?
3. Is the change consistent with the conservation of water resources within the state of Idaho?
4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

Harold W. Jones
HAROLD W. JONES *rb*
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

JUL 09 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

25-May-1993

CHARLES D HUGGINS
PO BOX 216 RR1
ARCO ID 83213

RE: Application for Transfer in the name of
Willard O. or Gladys K. Bell No. A34-00518

Dear Mr. Huggins:

This letter acknowledges receipt of the protest filed by you against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute enlargement in the use of the original right?
3. Is the change consistent with the conservation of water resources within the state of Idaho?
4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

Harold W. Jones
rb

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

404 09 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

25-May-1993

JAMES A RINDFLEISCH
PO BOX 62
ARCO ID 83213

RE: Application for Transfer in the name of
Willard O. or Gladys K. Bell No. A34-00518

Dear Mr. Rindfleisch:

This letter acknowledges receipt of the protest filed by you against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute enlargement in the use of the original right?
3. Is the change consistent with the conservation of water resources within the state of Idaho?
4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,


HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

JUN 09 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

25-May-1993

JAMES A RINDFLEISCH
PO BOX 62
ARCO ID 83213

RE: Application for Transfer in the name of
Willard O. or Gladys K. Bell No. A34-00518

Dear Mr. Rindfleisch:

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1. Are other water rights injured by the transfer?
2. Does the change constitute enlargement in the use of the original right?
3. Is the change consistent with the conservation of water resources within the state of Idaho?
4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,


HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

JUN 09 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

25-May-1993

LESTER, DENNIS, TRUDY BRASWELL
ARCO ID 83213

RE: Application for Transfer in the name of
Willard O. or Gladys K. Bell No. A34-00518

Dear protestants:

This letter acknowledges receipt of the protest filed by you against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute enlargement in the use of the original right?
3. Is the change consistent with the conservation of water resources within the state of Idaho?
4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

Harold W. Jones
HAROLD W. JONES *rb*
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

09 1994

25-May-1993

WILLARD O OR GLADYS K BELL
PO BOX 91
ARCO ID 83213-0091

RE: Application for Transfer of Water Right NO. A34-00518

Dear Mr. & Mrs. Bell:

Enclosed please find a copy of the protests filed against the above referenced application for transfer of water rights. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

- 1) Are other water rights injured by the transfer?
- 2) Does the change constitute enlargement in the use of the original water right?
- 3) Is the change consistent with the conservation of water resources within the state of Idaho?
- 4) Does the change conflict with the local public interest?

The applicant must be prepared to present evidence and/or testimony addressing each of the three items should an additional hearing be necessary. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,



HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

JUN 09 1994

25-May-1993

LEWIS ROTHWELL
RT 1 BOX 405
ARCO ID 83213

RE: Application for Transfer in the name of
Willard O. or Gladys K. Bell No. A34-00518

Dear Mr. Rothwell:

This letter acknowledges receipt of the protest filed by you against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute enlargement in the use of the original right?
3. Is the change consistent with the conservation of water resources within the state of Idaho?
4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

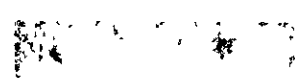
If we may be of further assistance, please contact us.

Respectfully submitted,


HAROLD W. JONES *rb*
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office


JUN 09 1994

25-May-1993

CHARLES D HUGGINS
PO BOX 216 RR1
ARCO ID 83213

RE: Application for Transfer in the name of
Willard O. or Gladys K. Bell No. A34-00518

Dear Mr. Huggins:

This letter acknowledges receipt of the protest filed by you against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute enlargement in the use of the original right?
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4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,


HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

JUN 09 1994

25-May-1993

JAMES A RINDFLEISCH
PO BOX 62
ARCO ID 83213

RE: Application for Transfer in the name of
Willard O. or Gladys K. Bell No. A34-00518

Dear Mr. Rindfleisch:

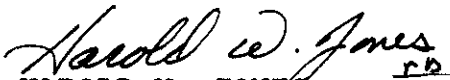
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4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,


HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

MAY 29 1993

25-May-1993

LESTER, DENNIS, TRUDY BRASWELL
ARCO ID 83213

RE: Application for Transfer in the name of
Willard O. or Gladys K. Bell No. A34-00518

Dear protestants:

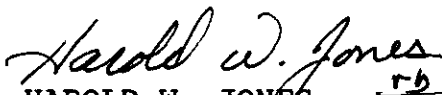
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If we may be of further assistance, please contact us.

Respectfully submitted,


HAROLD W. JONES *rb*
Water Rights Supervisor

HWJ/rb

cc: IDWR - State Office

JUN 09 1994

NOTICE

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 4110

Notice is hereby given that Willard O. or Gladys W. Bell has applied to the Department of Water Resources to add a point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a claim and recorded as follows:

CLAIM NO. A34-00318

AMOUNT: 640 CFS

PRIORITY 6/1/1880

POINT(S) OF DIVERSION NENESW SEC 1 (MILLER DITCH) T3N R26E, BUTTE COUNTY

The water is used from May 1 to October 15 to irrigate 284 acres within the NE SEC 12 T3N R26E, SWSW (LOT 7) SEC 6 E1/2NW NWNW (LOT 1) SWNW (LOT 2) SEC 7 T3N R27E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the NWNWNW SEC 26 (ARCO DIVERSION/MUNSEY DITCH T4N R26E, NENESW SEC 1 (MILLER DITCH) T3N R26E, B.M.

Any protest against the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID 83402, on or before May 17, 1993.

R. KEITH HIGGINSON
Director

Published in The Arco Advertiser on
April 29 & May 6, 1993

RECEIVED

MAY 11 1993

Department of Water Resources
Eastern District Office

Charles D. Huggins
Box 216 RR1
Arco, ID 83213

Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

May 14, 1993

This letter is a protest to the legal notice published April 29 and May 6, 1993 in the Arco Advertiser as to transfer number 4110 and the documents stated intent of the addition of a new diversion point (Munsey Ditch).

If the proposed change of water right transfer number 4110 was to be approved and this water right delivered to Mr. Bell's place of use by the Munsey Ditch instead of the main river channel the injury to my decreed water right would be significant. Diverting the natural flow of the Big Lost River has and continues to demonstrate negatively to this streams capacity to

deliver quantities of water to other decree holders who depend on volume to saturate the main river banks and thereby deliver unimpeded the water rights located downstream of each diversion.

The main river channel below Arco has in principle been abandoned by the Department of Water Resources for the last seven years and by this action has damaged water flow that for generations has risen as a result of feeder springs and wetland area's adjacent. Ultimately these waters provided the significant flow to this portion of the river channel (Big Lost River) from Arco downstream.

My decree is listed by the Idaho Dept. of Water Resources as water that is to be conveyed and delivered by the Big Lost River. This water right by contemporary standards is an old local decree that has for over a century in time mingled with other decree and storage waters to provide an ample supply to my water heading.

To permit these changes in points of diversion by Mr. and Mrs. Willard Bell would add insult to injury as to all of the old farms located below the Arco diversion dam and in my opinion be a wrongful diversion because such action would diminish any potential of practical farming practices by users of water on the south end of the Big Lost River's natural channel.

Page 1 of 2

JUN 09 1994

NOTICE OF PROPOSED CHANGE
OF A WATER RIGHT
TRANSFER NO. 4110

Notice is hereby given that Willard O. or Gladys K. Ebel has applied to the Department of Water Resources to add a point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a claim and recorded as follows:

CLAIM NO. A34-00518
AMOUNT 6.40 CFS
PRIORITY 6/1/1890
POINT(S) OF DIVERSION: NENESW
SEC 1 (MILLER DITCH) T3N R26E, BUTTE
COUNTY

The water is used from May 1 to October 15 to irrigate 264 acres within the NE SEC 12 T3N R26E, SWSW (LOT 7) SEC 6 E1/2NW NWNW (LOT 1) SWNW (LOT 2) SEC 7 T3N R27E, B.M.

TO BE CHANGED AS FOLLOWS:

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Any protest against the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID 83402, on or before May 17, 1993.

R. KEITH HIGGINSON
Director

Published in The Arco Advertiser on
April 29 & May 6, 1993

This habitual interference with this stretch of water has, and if allowed to continue, with increasing vigor damaged land values and production capacity and left owners with little recourse to remedy of this perplexing man-made problem.

As a result of the above stated reasons, but not limited to them, I request that the Department of Water Resources deny the proposed changes requested in this legal notice.

Charles D. Huggins
Charles D. Huggins

5/14/93

Dept of Water Resource
Skyline Dr
Idaho Falls, Id
83402

**NOTICE OF PROPOSED CHANGE
OF A WATER RIGHT
TRANSFER NO. 4110**

Notice is hereby given that Willard O or Gladys K. Bell has applied to the Department of Water Resources to add a point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a claim and recorded as follows:

CLAIM NO. A34-00518
AMOUNT: 640 CFS
PRIORITY: 6/1/1890
POINT(S) OF DIVERSION: NENESW
SEC 1 (MILLER DITCH) T3N R26E, BUTTE
COUNTY.

The water is used from May 1 to October 15 to irrigate 284 acres within the NE SEC 12 T3N R26E, SWSW (LOT 7) SEC 6 E1/2NW NWNW (LOT 1) SWNW (LOT 2) SEC 7 T3N R27E, B.M.

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R. KEITH HIGGINSON
Director

Published in The Arco Advertiser on
April 29 & May 6, 1993.

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JUN 09 1994

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As a result of the above stated reasons, but not limited to them, I request that the Department of Water Resources deny the proposed changes requested in this legal notice

Lester Braswell
Dennis Braswell
Tredy Braswell

RECEIVED

JUN 09 1993

MAY 11 1993

Department of Water Resources
Eastern District Office

LEGAL NOTICE

**NOTICE OF PROPOSED CHANGE
OF A WATER RIGHT**

TRANSFER NO. 4110

Notice is hereby given that Willard O or Gladys K. Dell has applied to the Department of Water Resources to add a point of diversion of the waters of the Big Lost River. The right sought to be changed is evidenced by a claim and recorded as follows

CLAIM NO. A34-00518

AMOUNT: 6.40 CFS

PRIORITY: 6/1/1890

POINT(S) OF DIVERSION: NENESW SEC 1 (MILLER DITCH) T3N R26E, BUTTE COUNTY

The water is used from May 1 to October 15 to irrigate 284 acres within the NE SEC 12 T3N R26E, SWSW (LOT 7) SEC 6 E1/2NW NW1/4 (LOT 1) SWNW (LOT 2) SEC 7 T3N R27E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the NWNW1/4 SEC 26 (ARCO DIVERSION/MUNSEY DITCH) T4N R26E, NENESW SEC 1 (MILLER DITCH) T3N R26E, B.M.

Any protest against the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID 83402, on or before May 17, 1993.

R. KEITH HIGGINSON

Director

Published in The Arco Advertiser on April 29 & May 6, 1993.

I object to this because it will affect the water users
It will affect the environment.

The old canal was 222 Nelson across the construction company and the Big Lost River Irrigation District. Other Court ruled where the water would be diverted at.

The Murray Canal is at capacity now. It will take a great deal to enlarge it through my place.

Lewis
Lewis Pettwell
Route 1 Box 405
Arco, Idaho 83213

RECEIVED

MAY 1, 1993

Department of Water Resources
Eastern District Office

May 12, 1993

Department of Water Resources
900 W. Skyline Drive
Idaho Falls, Id 83402

RECEIVED

MAY 14 1993

Department of Water Resources
Eastern District Office

Dear Sirs:

I am writing to protest the Notice of Proposed Change of a Water Right Transfer No. 4110 by Willard O. & Gladys Bell to add a point of diversion of the water of the Big Lost River. The Claim No is A34-00518 in the Amount of 6.40 CFS with a priority of 6/1/1890 as recorded in the Arco Advertiser April 29 and May 6, 1993.

It will cause me injury by reducing the amount of sub water and flow of water through my property if the change is allowed. This in turn reduces the value of my property as well as the ability to grow crops.

Sincerely,

James A. Rindfleisch
P.O. Box 62
Arco, Id. 83213

JAMES A. RINDFLEISCH

3-15-93

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY:

KC Wilson

1. Right number 34-00518 Applicant Willard O. & Gladys K. Bell

2. Type of right: ☒ Decree ☐ License ☐ Claim

3. Purpose of transfer: ☒ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Other _____

4. Check:

☒ Part 1 Period of Use

a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use

b. ☒ Description of original point of diversion.

c. ☒ Description of original place of use.

5. Amount of land &/or water transferred:

a. ☒ All of right.

b. ☒ Part of right (NOTE: Part B should be filled in only if part of the right is owned by the applicant).

c. ☒ Check description of point(s) of diversion. PART (1) Arco diversion or Munsey Ditch?

d. ☒ Check description of place of use.

e. ☒ Check map (shows p.d. and p.u. after transfer).

f. ☒ Check for correct signature, notarization, and fee.

g. ☒ Check proof of ownership of right &/or land from which water is transferred.

h. ☒ Check for expansion in use of right. Comments _____

i. ☒ Check for existing water rights from same source, on land water is being transferred to.

Right number(s) 34-00418B / 7048 -

j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No

If yes, what district? 34

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on 4-26-93 Received on 4-30-93

2. Is transfer published correctly? ☒ Yes ☐ No

3. Protest received? ☒ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve

2. ☐ Deny

3. Conditions* _____

4. By _____ Date _____

DOP
May 17, 1993

APPLICATION FOR TRANSFER OF
WATER RIGHT NO. 34-00518

RECEIVED

APR 30 1993

WATER DISTRICT 34

Department of Water Resources
Eastern District Office

WATERMASTER Doug Rosenkrantz

DATE: _____

COMMENTS: _____

☒ I do endorse approval of this change.

☐ I do not endorse approval of this change.

I recommend the following conditions of approval:

Doug Rosenkrantz
Watermaster

RECEIVED

JUN 09 1994

27-Apr-1993

DOUGLAS ROSENKRANCE
RT 1 BOX 24
MACKAY ID 83251

RE: Application No. 34-00518

Dear Watermaster:

Please find enclosed a copy of the above referenced application. Please review the application and submit any comments you may have to our Department as soon as possible.

If we may be of further assistance, please feel free to contact us.

Thank you for your cooperation in this matter.

Respectfully submitted,


Harold W. Jones ^{rb}
Water Right Supervisor

HWJ:rb
enc.



JUN 09 1994

27-Apr-1993

WILLARD O OR GLADYS K BELL
PO BOX 91
ARCO ID 83213-0091

RE: Application for Transfer of a Water Right No. 34-00518

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your permit for a water right transfer. This office is currently in the process of advertising the application in the Arco Advertiser on April 29 & May 6, 1993. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

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

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

Sincerely,


Harold W. Jones
Water Right Supervisor

HWJ:rb

JUN 09 1994

22-Apr-1993

ARCO ADVERTISER
PO DRAWER C
ARCO ID 83213

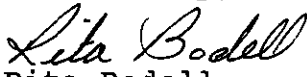
Gentlemen:

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 17, 1993.

Yours truly,


Rita Bodell
Secretary/Office Coordinator

Encl.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

05 April 1993

Willard O. or Gladys K. Bell
P.O. Box 91
Arco, Id 83213-0091

RE: Transfer A34-00518

Dear Mr. & Mrs. Bell:

Enclosed is a typed transfer that was compiled from the transfer that you submitted. Also enclosed is a copy of the transfer that you submitted with those items that were changed indicated in orange.

Please review the transfer and if you agree please sign the typed transfer in front of a notary, attach a copy of last years tax notice, and return the completed transfer to the Idaho Falls office or before 20 April 1993.

Your prompt response will insure timely processing of the transfer.

Sincerely,

A handwritten signature in cursive script that reads "Keith C. Wilson".

Keith C. Wilson
Senior Resource Agent

1034

PART 1**6. General Information**

- a. Description of diversion system Head gate out of Muncie Canal thru 15" pipeline. Pipeline will only deliver 3.0 cfs. Remaining portion of this right will be taken at Miller Ditch if there is sufficient natural flow available
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? n/a Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

None

d. Remarks

Save water & only way to get water to property on short water years

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

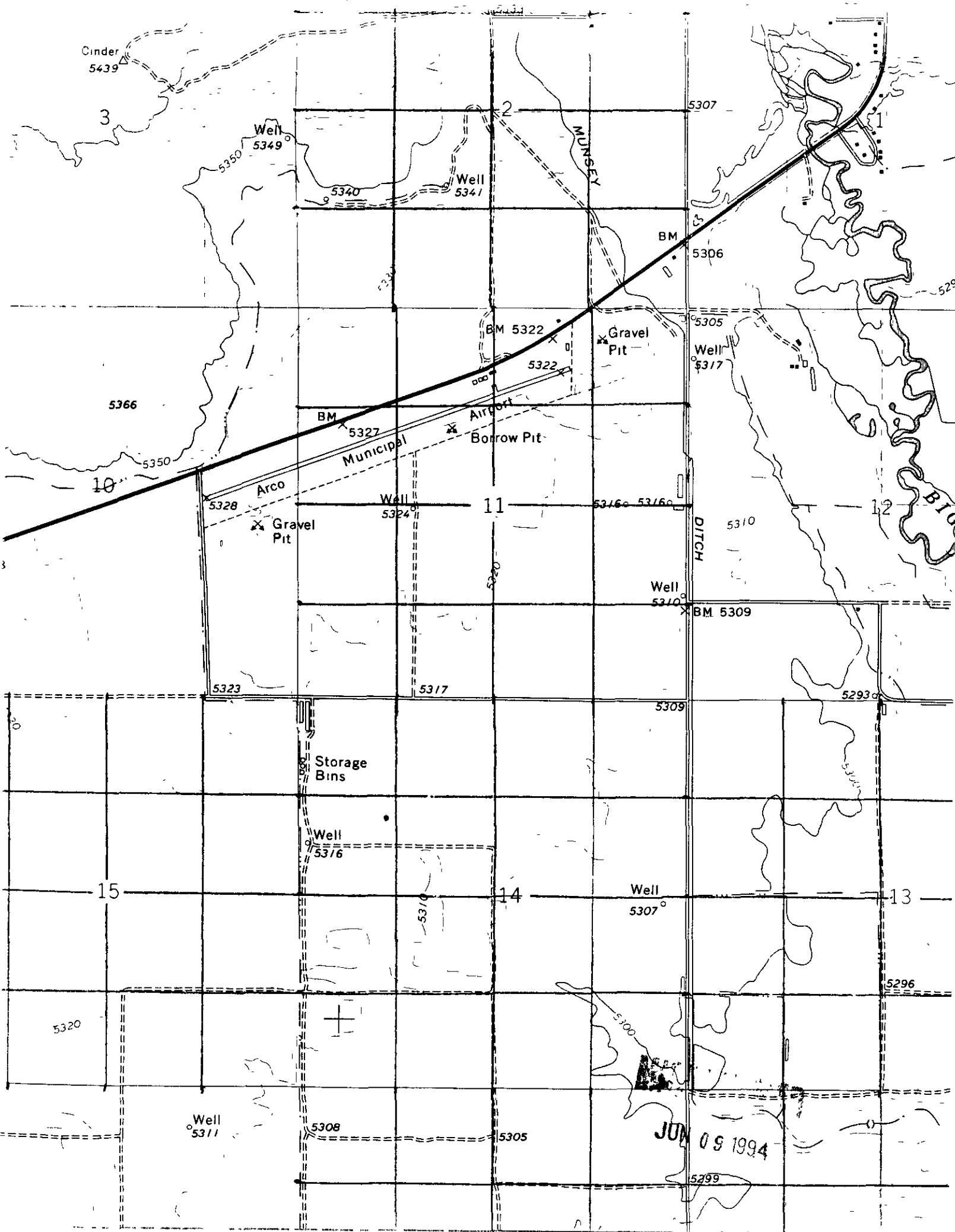
This is to certify that I have examined Application for Transfer of Water Rights No. _____

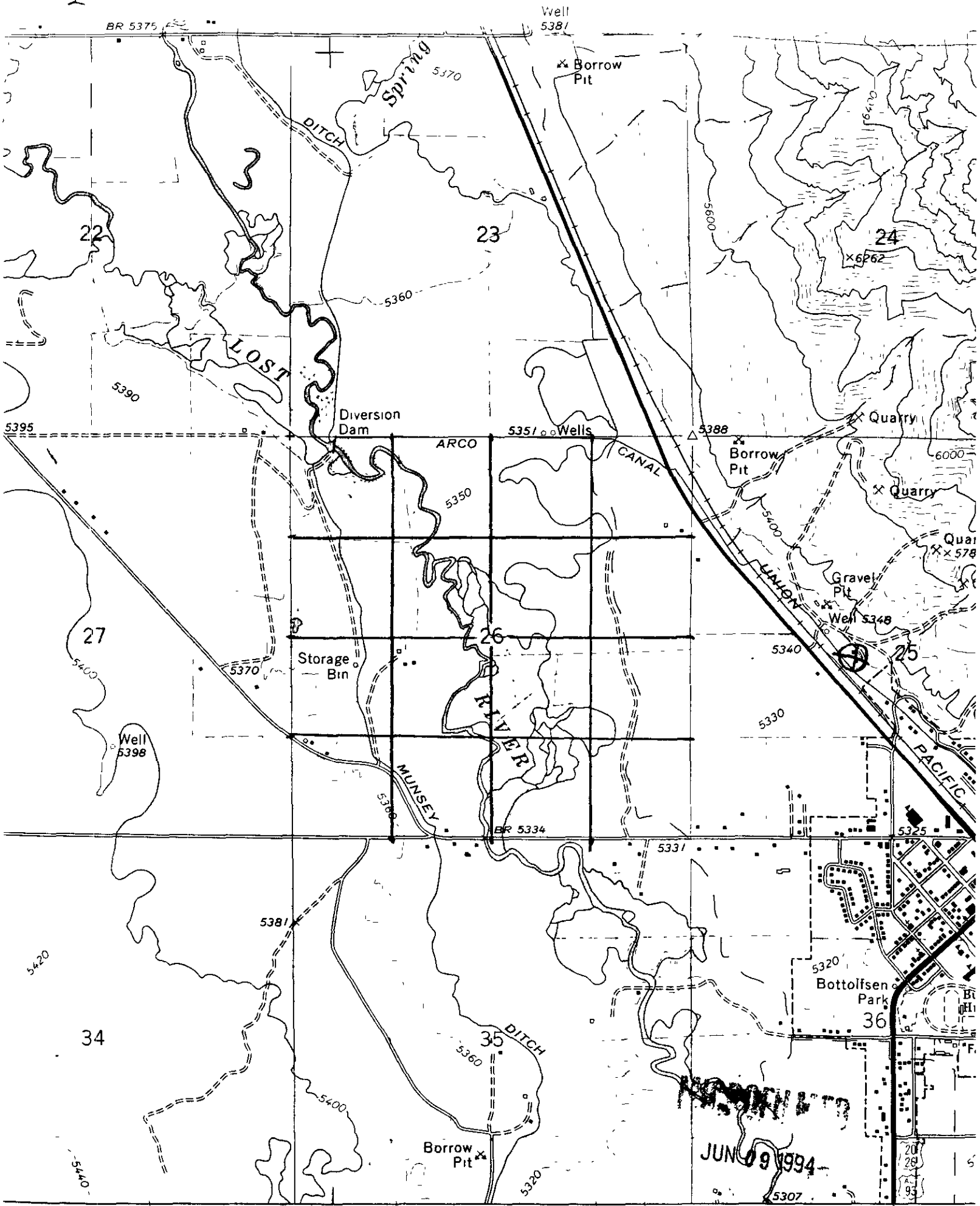
And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

RECEIVED

JUN 09 1984





STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1 Right evidenced by

- a Decree No A34-00518 Decreed to Willard O and/or Gladys K. Bell
in case of Utah Construction vs John F. Abbott, et. al
dated 10/21/25 in Fifth Judicial Dist county of Twin Falls
- b. License No _____ issued by the Idaho Department of Water Resources.
- c Claim No A34-00518 on file with the Idaho Department of Water Resources
- d. Transfer No _____ which produced this right.

2 Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership Label document as attachment A. Check appropriate box below

☒ Tax Notice

☐ Warranty Deed

☒ Other Civil Case Document

3 Source of water Big Lost River tributary to Sinks

4. Date or priority June 1, 1890

5 Water is used for the following purpose

amount 6.4 cfs for Irrigation purposes from 4/1 to Nov 1
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 6.40 cubic feet per second and/or 887.5 acre-feet per annum

7. Point(s) of Diversion

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NE	SW	1	3N	26E	Butte	MILLER Ditch

8 Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals.
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03N	26E	12	40	25	21	39													125
03N	27E	6											35						35.0
03N	27E	7					17	36	39	32									274

Total acres 284

9 Describe any other water rights used for the same purpose as described above

834-7048

#34-00412R

10 To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1 amount 3.0 cfs for Irrigation purposes from 5/1 to 10/15
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

2 Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge.	County	Local name for diversion
		NW	NW	26	4N	26E	Butte	Arco Diverscon

3. Lands irrigated or place of use No change

Twp.	Rge	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres 284

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount 3.4 cfs for IRrigation purposes from 5/1 to 10/15
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NE	SW	1	3N	26E	Butte	MILLER Ditch

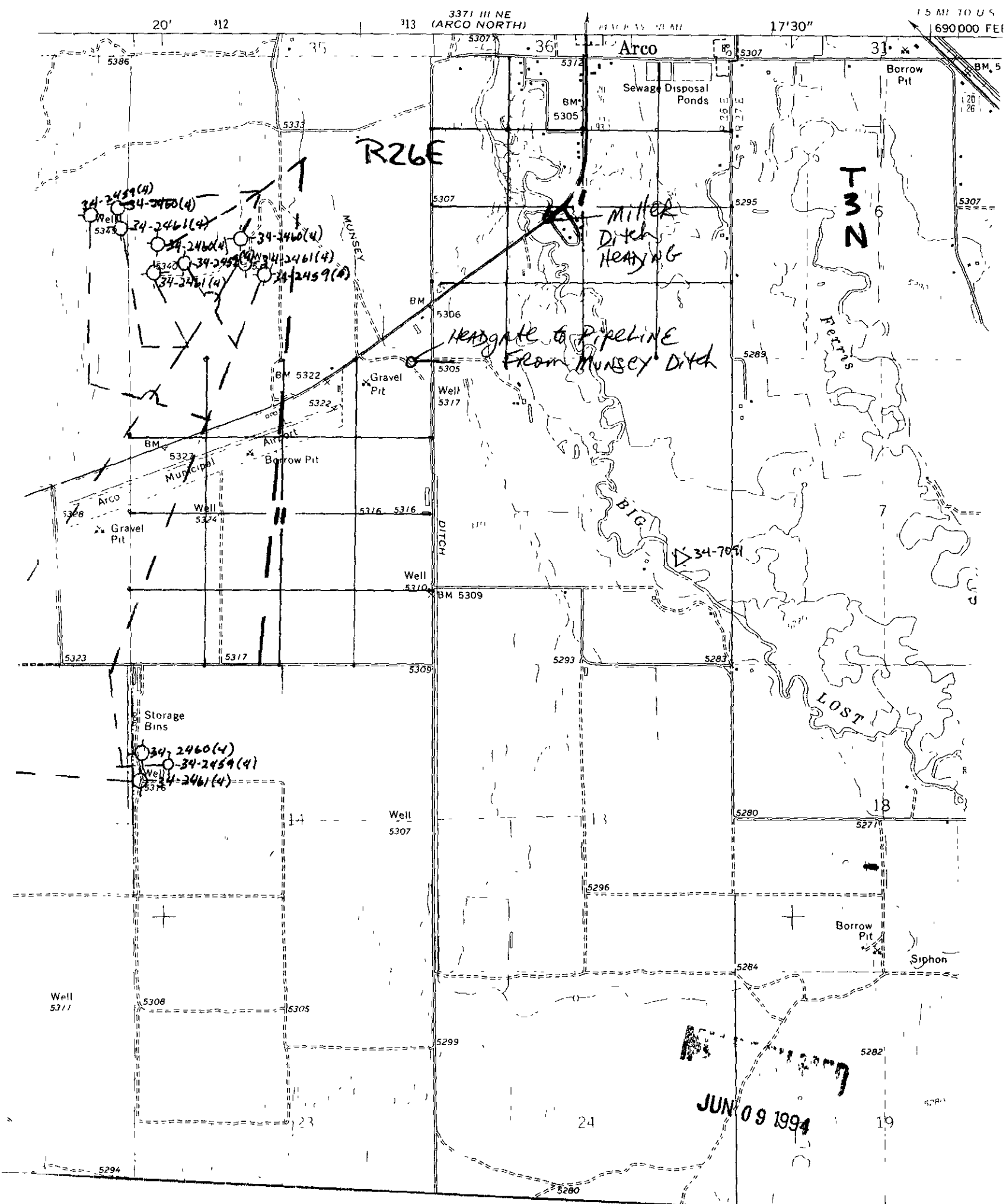
3. Lands irrigated or place of use. No change

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres 284

RECORDED

JUN 09 1994

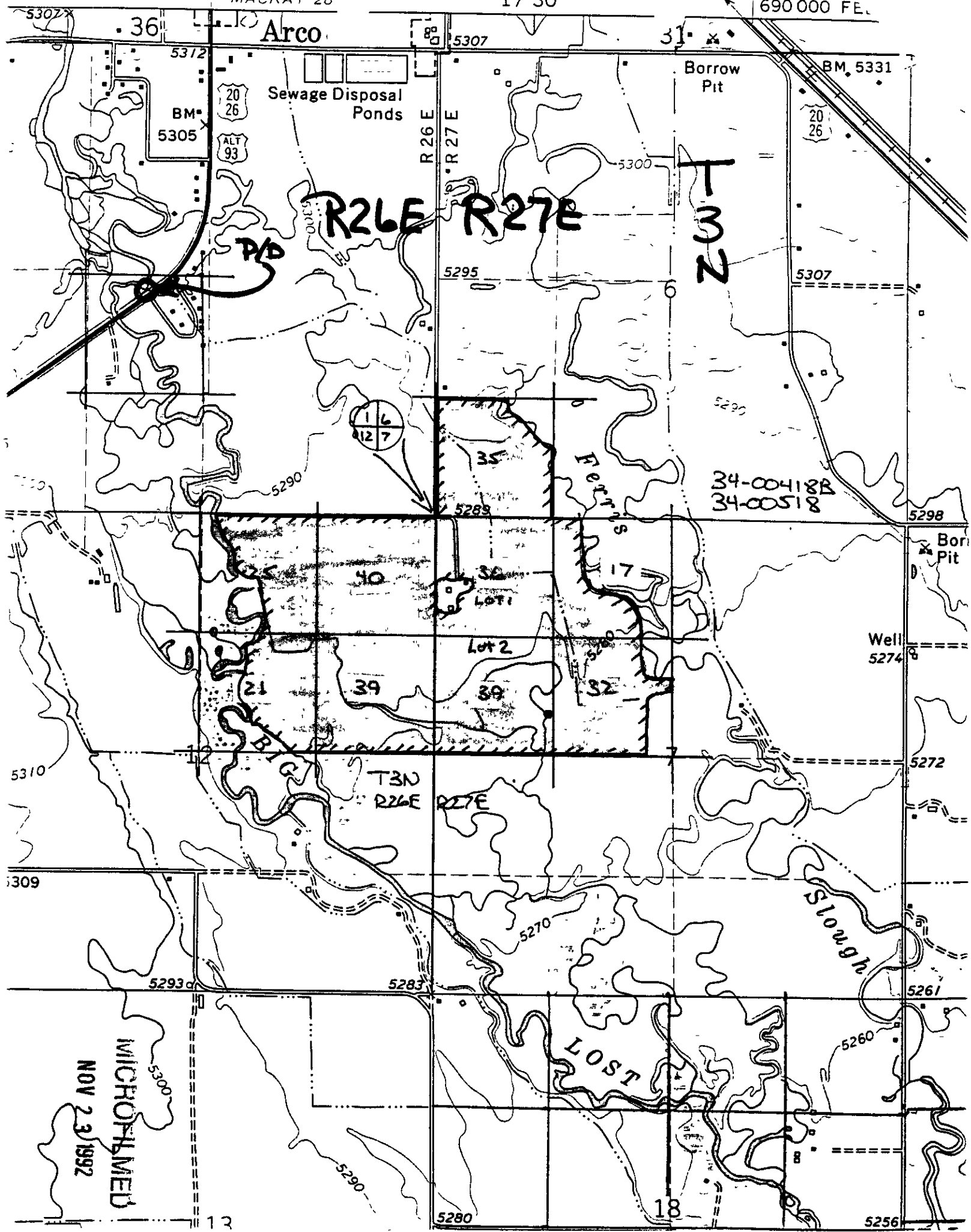


LC NORTH)

MACKAY 28

17'30"

690 000 FE.



10

R27E

28

THORNTON

87.8
(4)

1472

7	00
12	3

107
T-186
RINDFLEISCH

T-25
COR

11/12

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

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PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2 Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval

VOID

Willard O. Bell,
(Signature of Applicant)

Subscribed and sworn to before me this 10th day of MARCH, 19 93.

Jim John
(Notary Public)

My commission expires 6/30/94

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by TJ Luke RB Date 3-10-93 3-12-93 Protest filed by _____

Prelim check by _____ Fee 50.00

Received by R. Flock Date 3-10-93 Receipt # C026954

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd _____ by _____

Copy of transfer sent to lien holder _____

RECEIVED**JUN 9 1994****VOID**