

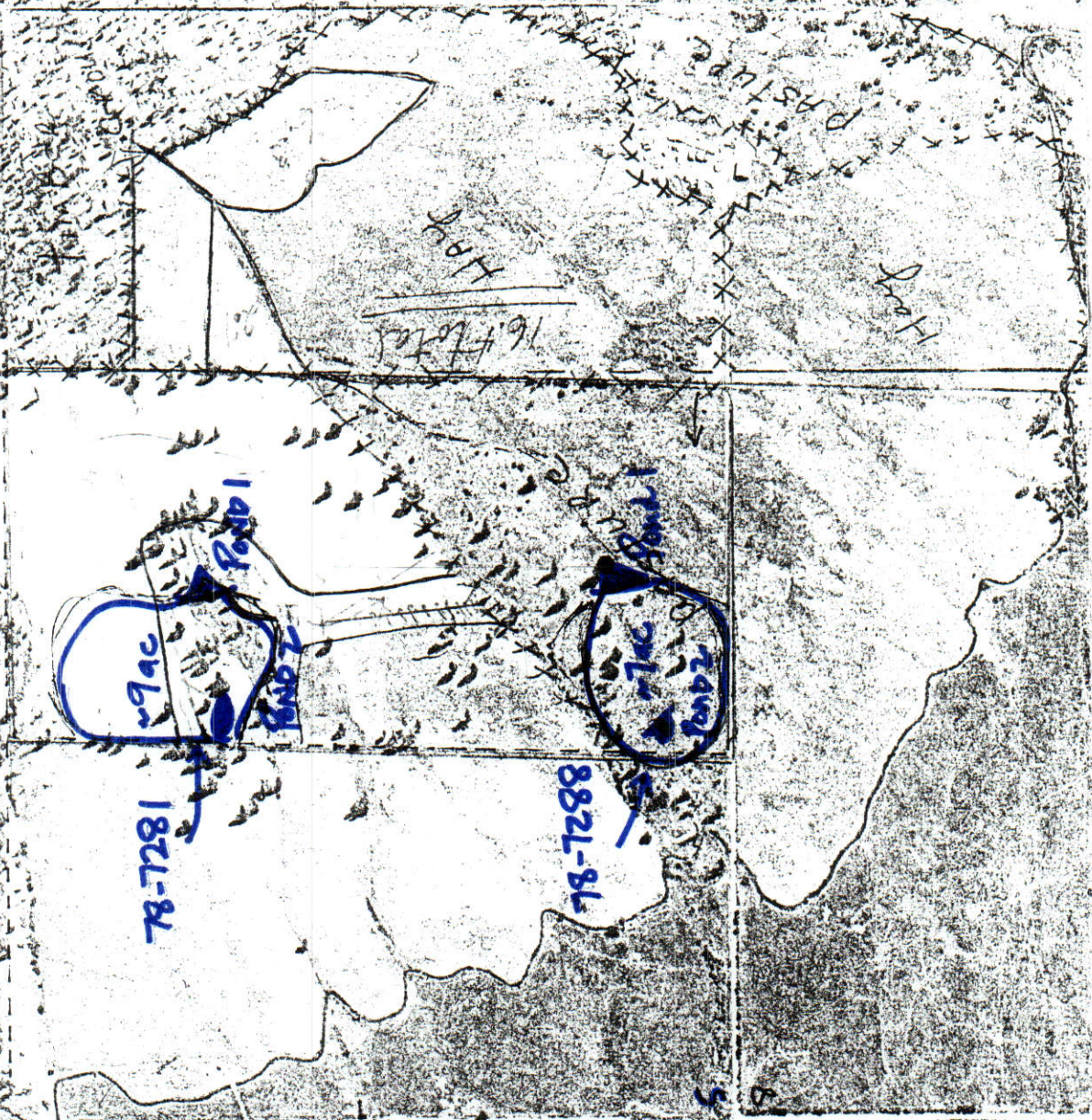
13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

Map of proposed project showing a grid with handwritten labels: TWP. 19N, RGE. 2E, and 5. The map includes red stamps: OCT 15 1988 and OCT 12 1988. A small handwritten note '15 AC' is also present.

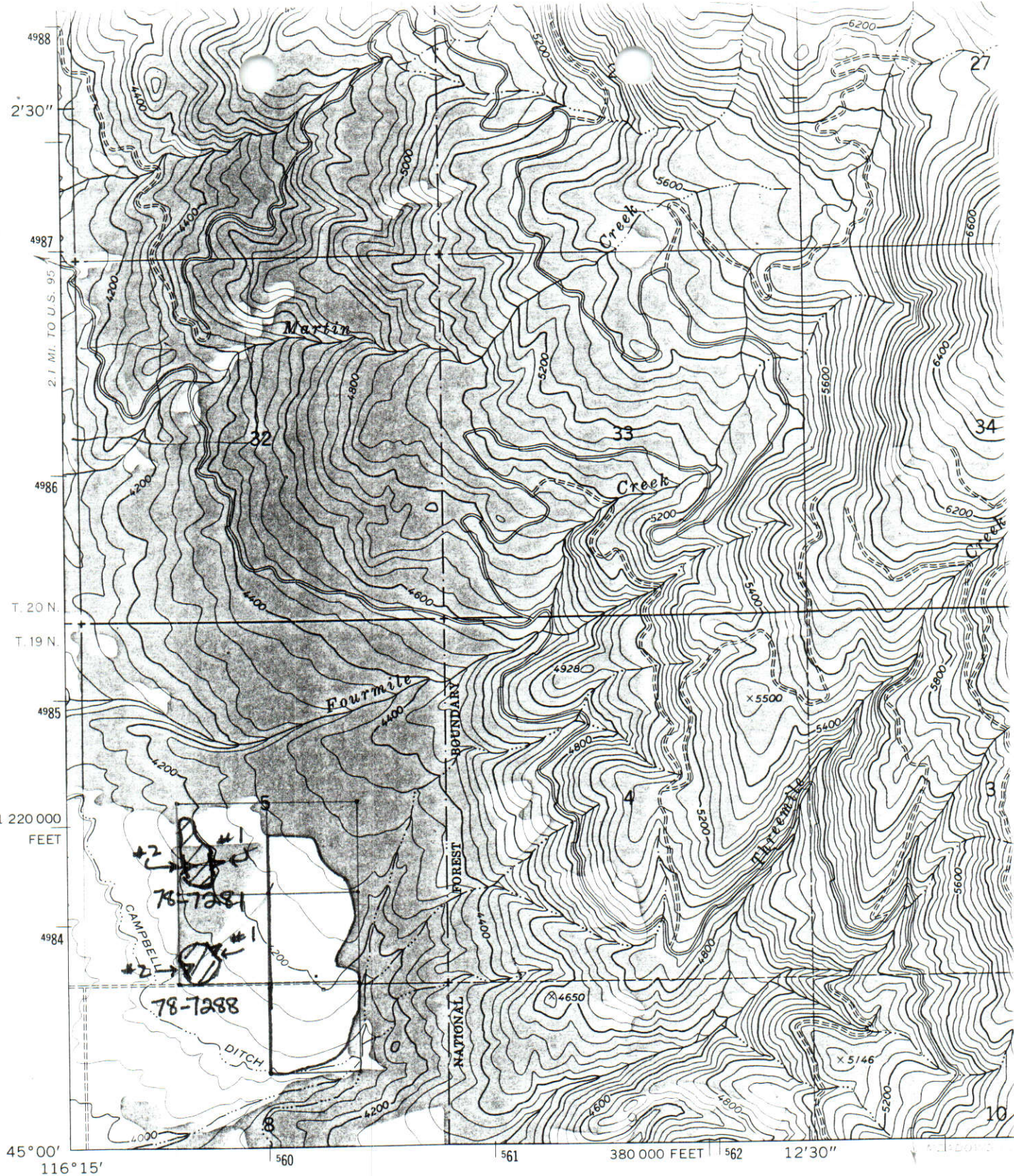
Scale: 2 inches equal 1 mile.

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

Alice L. Branstetter
(Applicant)

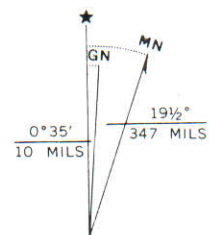


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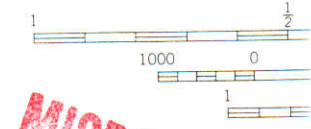


2773 IV
(NEW MEADOWS)
1:62 500

Mapped, edited, and published by the Geological Survey
Control by USGS and USC&GS
Topography by photogrammetric methods from aerial
photographs taken 1959. Field checked 1963
Polyconic projection. 1927 North American datum
10,000-foot grid based on Idaho coordinate system, west zone
1000-meter Universal Transverse Mercator grid ticks,
zone 11, shown in blue



UTM GRID AND 1963 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET



MICROFILMED
FEB 17 1995

THIS MAP
FOR SALE BY U. S. GEOL
A FOLDER DESCRIBE



Pond #1
looking south
across
embankment



Pond #2
looking west
from Pond #1
Also shows
irrigated area

APR 17 1995
FEB 17 1995

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 78-07288

Priority: May 17, 1988

Maximum Storage Volume:

2.5 AF

This is to certify, that MELVIN C BRANSTETTER
ALICE L BRANSTETTER

PO BOX 245

NEW MEADOWS ID 83654

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 17, 1988; and has submitted Proof of Beneficial Use on July 31, 1991. An examination indicates that the works have a storage capacity of 0.000 af of water from:

SPRINGS

tributary to SINKS

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION STORAGE	01/01 to 12/31		1.7 AF
IRRIGATION FROM STORAGE	04/15 to 10/15		1.7 AF
STOCKWATER STORAGE	01/01 to 12/31		2.5 AF
STOCKWATER FROM STORAGE	01/01 to 12/31		2.5 AF
	Totals		2.5 AF

LOCATION OF POINT(S) OF DIVERSION:

SWSESW, Sec. 5, Township 19N, Range 02E
ADAMS County

PLACE OF USE: IRRIGATION STORAGE

TWN RGE SEC

19N 02E 5

SESW 7

7

PLACE OF USE:

IRRIGATION FROM STORAGE, same as IRRIGATION STORAGE use

PLACE OF USE:

STOCKWATER FROM STORAGE, same as IRRIGATION STORAGE use

CONDITIONS/REMARKS:

1. This water right is appurtenant to the described place of use
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Two points of diversion are located within SWSESW, S05, T19N, R02E.
5. Stockwater storage is for 200 range cattle.

FEB 17 1995

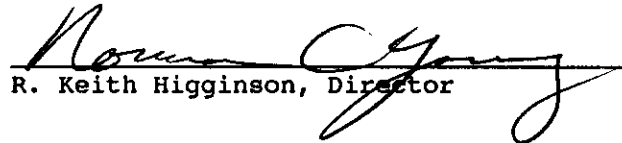
State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 78-07288

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 18TH
day of FEBRUARY, 1995.

Acting for


R. Keith Higginson, Director



RECEIVED

FEB 17 1995

RECEIVED
JUL 31 1991

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

For Office Use Only
Fee Received 50.00
Date 7-31-91
Receipt # C021357
Receipt by MJH
Reviewed by _____
Sent to region _____

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

Permit No. 78-07288Name(s) of Permit Holder: Melvin C. &/or Alice L. BranstetterPost Office Address: P.O. Box 245New Meadows, Idaho 83654 Telephone No. 347-2266Source of Water: Springs

Extent of Use:

Domestic _____ (number of households)

Stockwater 250 head of cattle (number and type of stock)Irrigation 10 (acres)

Other/Remark _____

Total rate and/or volume for which proof is submitted _____ cfs 10 acre-feetShow the date water was first diverted and beneficially used under this permit: 1988

Measuring Device: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☒ No

Fee enclosed \$ _____
(See License Examination Fee Schedule)

Flow Measurement Port: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☒ No

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

Melvin C. &/or Alice L. Branstetter
(Name)

347-2266
(Telephone Number)

3260 Branstetter Lane P.O. Box 245 New Meadows, Idaho
(Address) 83654

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

7/29/91
Date

Alice L. Branstetter
Signature of Permit Holder (and title, if appropriate)

AUG 22 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

APPROVED

1. Name of applicant MELVIN C. +/OR ALICE L. BRANSTETTER Phone 347-2266
Post office address P.O. Box 245, NEW MEADOWS, ID 83654
2. Source of water supply SPRINGS which is a tributary of SINKS
3. Location of point of diversion is SW 1/4 of SE 1/4 of SW 1/4, Govt. Lot _____
Sec. 5 Township 19N Range 2E B.M. ADAMS County; additional
points of diversion if any: NESESW, S. 5, T. 19N, R. 2E.
4. Water will be used for the following purposes:

Amount <u>10</u> for <u>IRRIGATION</u> purposes from <u>1-1</u> to <u>12-31</u> (both dates inclusive)
(~~10~~ acre-feet per annum) <u>IRRIGATION</u>
Amount <u>10</u> for <u>FROM STORAGE</u> purposes from <u>4-15</u> to <u>10-15</u> (both dates inclusive)
(~~10~~ acre-feet per annum) <u>STORAGE FOR</u>
Amount <u>10</u> for <u>STOCKWATER</u> purposes from <u>1-1</u> to <u>12-31</u> (both dates inclusive)
(~~10~~ acre-feet per annum) <u>STOCKWATER</u>
Amount <u>10</u> for <u>FROM STORAGE</u> purposes from <u>1-1</u> to <u>12-31</u> (both dates inclusive)
(~~10~~ acre-feet per annum)
5. Total quantity to be appropriated is (a) _____ and/or (b) 10
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. TWO SPRINGS - SPRING LOCATED
IN THE SWSESW IS SMALLER (4 AF), SPRING LOCATED IN THE
NESESW IS LARGER (6 AF). PONDS WILL BE DUG WITH BACK HOE.
PUMP IN PONDS FOR IRRIGATION.
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
3 years (minimum 1 year).

RECORDED

OCT 12 1988

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

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. 250 H.D.
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. _____

9. Description of place of use:

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
19N	2E	5											15						15
													5						

Total number of acres to be irrigated 15

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

78-2028B & 78-2027B

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

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

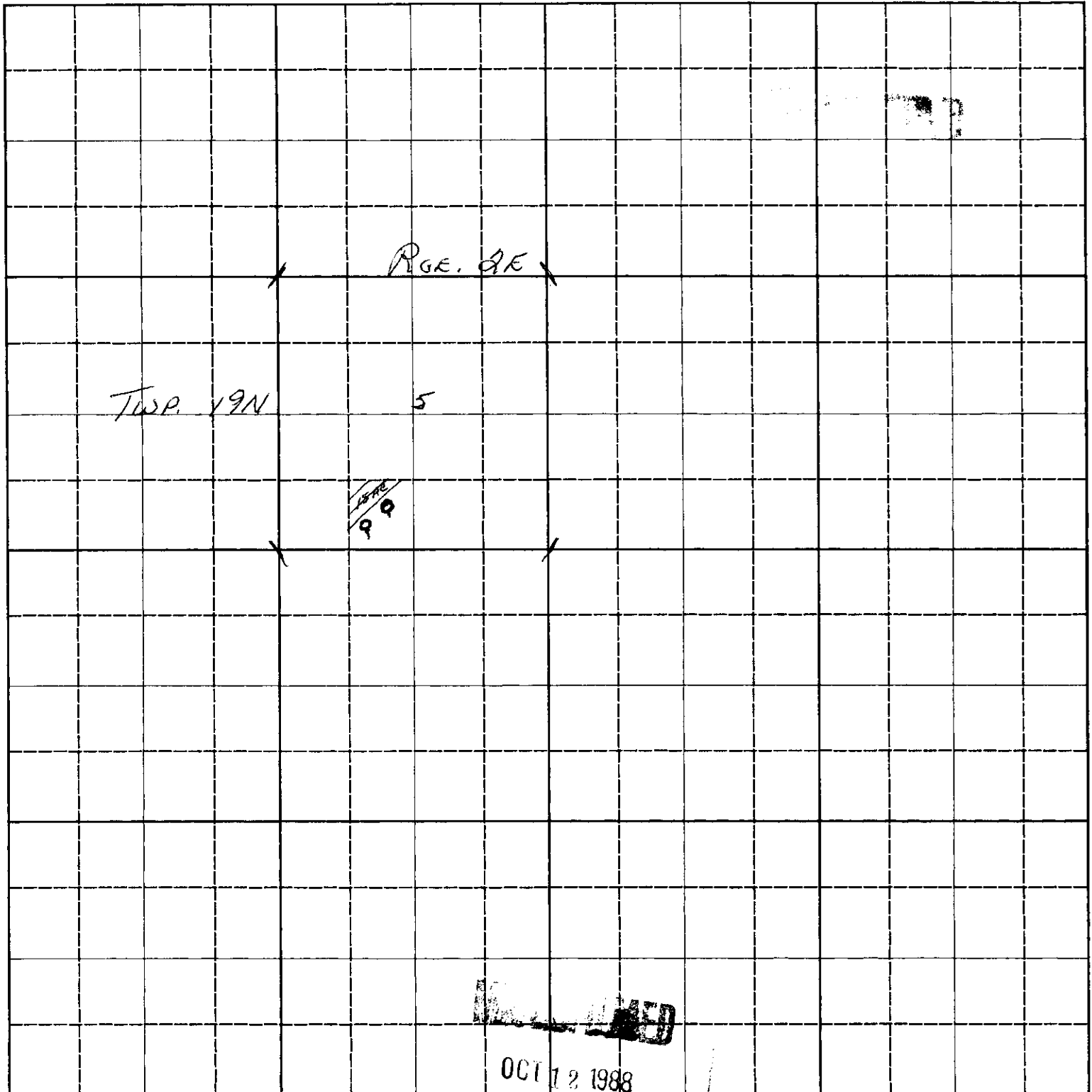
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: _____

FILED

OCT 10 1988

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



Scale: 2 inches equal 1 mile.

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

Alice L. Branstetter
(Applicant)

Proposed Priority 5/17/88
Received by [Signature] Date 5/17/88 Time 4:00 Preliminary check by BD
Fee \$ 30.00 Receipted by [Signature] # W000211 Date 5/17/88
Publication prepared by GG Date 5-25-88 Published in Adams County Leader
Publication approved [Signature] Date 6/22/1988 6/1 & 6/8/1988

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 78-7288, and said application is hereby APPROVED.

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before August 1, 19 91.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other: Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

Witness my hand this 3rd day of August, 1988.

[Signature]
Director

MICROFILMED

OCT 12 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 15, 1995

MELVIN C BRANSTETTER
ALICE L BRANSTETTER
PO BOX 245
NEW MEADOWS ID 83654

RE: WATER RIGHT NO. 78-07288

Dear Water Right Holder(s):

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

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosure

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FEB 17 1995

LICENSE REVIEW CHECKLIST

PERMIT NO. 78-07288

DATE 2-8-95



NAME	☒ Yes	☐ No	Or Address Change? ☐ NO ASSIGNMENT WITH EXAM
PRIORITY DATE	☐	☒	Advance? ☐ Advanced to: ☐ Order to reinstate needed? ☐ Incorrect fee for rate recommended? <u>NO</u>
SOURCE	☐	☒	Changes or just clarification of originally intended source? ☐ Notice of Intent to Void necessary? ☐
POINT OF DIV	☐	☒	Amendment needed? ☐ Overlaps? ☐
PLACE OF USE	☒	☒	Amendment needed? ☐ Overlaps? <u>78-02027 acres being transferred to an adjacent area by TRANSFER 4430.</u>
DIV RATE	☒	☐	Permit/fee limits: ☐ Meas Q = ☐ Theo Q = ☐ Recommend: ☐ <u>* Active rate not recommended.</u>
			Combined rates exceed capacity ☐
ANNUAL VOLUME	☒	☐	Volume Limit: <u>10 AF</u> Season: <u>8/3 (4-15 to 10-15)</u> Calculations: <u>Upper pond = 1.65 af IRR + STOCK</u> <u>Lower pond = .83 af STOCK ONLY</u>
IRR = 1.7			Flow limit: <u>.14</u> cfs x <u>184</u> x <u>1.9835</u> = <u>51.1</u>
STOCK = 1.7 + .8 = 2.5			Combined volumes exceed capacity/allowable ☐ <u>.02 x 184 x 1.9835 = 7.3 af</u>
USES	☐	☒	Change in Nature of Use or additional uses? ☐ Amendment necessary? ☐
REMARKS	<u>W32 (2)</u>	<u>W02</u>	Multiple p/d(s) in <u>1/4 1/4 SW 1/4 SEC 5 T19N R2E</u> Other <u>200 RANGE CATTLE</u>
CONDITIONS	☐	☒	Measuring/Locking Devices ☐ Watermaster control - District ☐ Irrigation Overlap ☒ Water Quality ☒ Other ☐ Heat/Cool/ Fish verified ☐

COMMENTS: Reduce acres to ?
* Because of area & crop type (PASTURE & GRASSHAY) the amount of consumptive volume much less than standard - no active flow recommended.

RECOMMENDED	CFS	VOL	SRBA Claim Filed	NO
			Adjustment Memo Needed	<u>YES</u>
<u>IRR STORAGE</u>	<u>---</u>	<u>1.7</u>		
<u>IRR FROM STOR</u>	<u>---</u>	<u>1.7</u>		
<u>STOCK STORAGE</u>	<u>---</u>	<u>2.5</u>	LICENSE	☒
<u>STOCK FROM STOR</u>	<u>---</u>	<u>2.5</u>	1ST AMENDMENT LETTER	☐
<u>TOTAL</u>	<u>---</u>	<u>2.5</u>	FINAL AMENDMENT LETTER	☐

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

JAN 13 1994

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 78-7288

1. Owner: W M ADAIR Phone No. _____

Current Address: 318 Willoughby Ave Juneau AK 99801

2. Accompanied by: Melvin Branstetter EXAM DATE: 7/21/94

Address: PO Box 245 New Meadows ID 83654 Phone No. 347 2266

Relationship to Permit Holder: previous landowner, still operates land.

3. Source: Spring tributary to Sinks

B. OVERLAP REVIEW

1. Other water rights with the same place of use: 78-2027, 4315, 7203A

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

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SE	SW	5	19N	2E	Adams	Site Visit, ASCS map

2. Place(s) of Use:

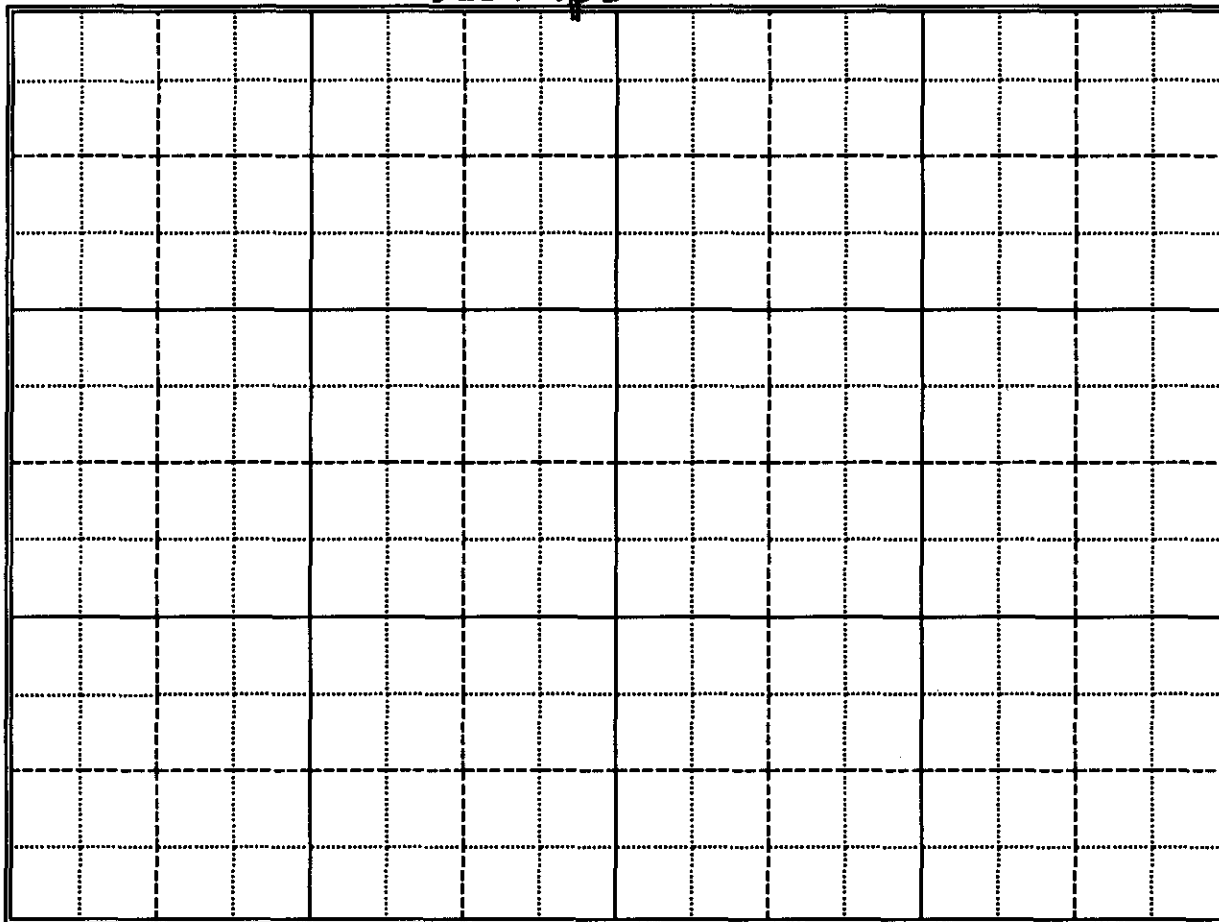
Indicate Method of Determination Site Visit, Planimeter

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
19N	2E	5																	7

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

See maps



Scale: 1" = _____

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

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

Photo of Diversion and System Attached

4.

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

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

D. FLOW MEASUREMENTS

N/A

1.

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

2. Measurements: _____

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FEB 17 1995

E. NARRATIVE/REMARKS/COMMENTS (See also attached memo)

2 ponds for irrigation & stockwater. 2 points of diversion w/in SESW Sec 5. Stockwater is for 200 range cattle.

Pond dimensions:

#1 (Upper) $200 \times 60 \times 6 (\text{avg}) = 72,000 \text{ ft}^3 = 1.65 \text{ AF}$

#2 (lower) $150 \times 40 \times 6 (\text{avg}) = 36,000 \text{ ft}^3 = .83 \text{ AF}$

TOTAL VOL

2.48 AF

Upper pond for irrigation and stock. Lower pond for stockwater only.

See attached for system description & B/N analysis.

See also transfer #4430.

Overlaps:

78-2027 & 78-4315 from 4-mile Creek. Pursuant to pending transfer #4430, these rights will be transferred from SESW Sec 5. A portion of the rights were forfeited and this license is recommended as primary source right. See transfer memo.

Ownership: Parcel sold early in 1994. See attached sales contract, pg 2, which conveys permit to buyer

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

APPROVED
FEB 17 1995

Additional Computation Sheets Attached

Measured Method: None possible

1. Volume Calculations for Irrigation:

$$V_{I.R} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 743 = 21.0$$

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

$$V = \text{Smaller of } V_{L,R} \text{ and } V_{D,R} =$$

2. Volume Calculations for Other Uses:

permit limit = 10 AF
 avail Storage total = 2.5 AF
 avail irr. Storage = 1.7 AF
 (upper pond only)

1. Recommended Amounts

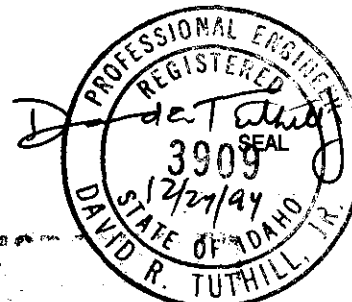
Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
IRRIGATION	4/15	10/15	.14	10.0
IRR STORAGE	1/1	12/31		1.7
IRR F/STORAGE	4/15	10/15		1.7
STOCK STORAGE	1/1	12/31		2.5
Totals:				10.0

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☐ None
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☒ Other *Addition of live-flow component - see memo.*

I. AUTHENTICATION

Field Examiner's Name Cindy Hodges Date 10/24/94

Reviewer Dms Date 12/27/99



FEB 17 1995

MEMORANDUM

TO: File 78-07288 / Melvin Branstetter
FROM: Brenda Chapman
DATE: February 8, 1995
RE: Recommendation Adjustment(s)

=====

The final licensing recommendations for the above referenced water right are based on the information below:

E. NARRATIVE/REMARKS/COMMENTS

The examiner has recommended an active flow rate of .14 cfs based on 7 acres @.02 cfs per acre. Based on information in the exam, that flow rate appears excessive. In addition, there is no diversion facility from the springs into the ponds. The ponds are just "catch basins" for the drainage from both springs. Allowing an active flow component of .14 cfs could lead to an expansion of the right beyond the original 10 afa limit.

Also, the original application for permit for 10 afa was based on the capacity of the two ponds. The exam shows the total capacity of both ponds is 2.5 af.

Based on the above information, an active flow component is not being recommended nor is an amendment being solicited to add it.

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use	Rate of Div	Annual Vol
Irr Storage	1-01 to 12-31		1.7
Irr from Stor	4-15 to 10-15		1.7
Stock Storage	1-01 to 12-31		2.5
Stock from Stor	1-01 to 12-31		2.5

See item E.

MICROFILMED
FEB 17 1995

October 24, 1994

MEMORANDUM

TO: Permit Nos. 78-07281 and 78-07288 Files

FROM: Cindy Hodges

RE: System Descriptions and Recommendation Analysis

Water right permit 78-07288 has been recommended for licensing pursuant to transfer no. 4430, which affects SESW Section 5. Some acres under water right license no. 78-02027, from 4-Mile Creek, were forfeited and permit 78-07288 was shown to have been developed in their place (see transfer memo). This transfer removes the remaining acres in this QQ from 78-02027 to an adjacent area. The water right resulting from the licensing of 78-07288 will be the only right authorizing irrigation within SESW Section 5. The balance of the irrigated acreage must be retired.

Permit 78-07281 was developed within NESW Section 5 during the same period as 78-07288. There are no recorded overlapping rights in NESW Section 5, and none found. Other than the circumstances surrounding transfer 4430 in SESW Section 5, the two permits are very similar and required the same analysis.

Each permit was developed for unique acres. Two small ponds were constructed at each site (see B/U reports for exact volumes) in existing drainages where springs were evident. The upper, and in both cases, the larger of the ponds, each were constructed with a 6" outlet and valve in the left end of an earthen embankment, through which excess or irrigation flows could be released. Early in the season when there is sufficient inflow, and with these valves closed, the pond levels can usually be raised enough that flows will spill into a ditch at the opposite end of the embankment. At the time of the field exam, inflows had ceased in NESW Section 5 and irrigation was no longer occurring. The water level in the upper pond had fallen below the outlet. In SESW Section 5, a minimal inflow was still allowing some irrigation through the lower outlet.

The lower ponds at each site were constructed using earthen berms without outlets. These ponds are used to catch any irrigation runoff and/or seepage flows, and are used for stockwater along with the upper ponds.

Both permits were written showing storage components only, not to exceed 10 AFA. Developed storage under each permit is less than 35% of the permitted maximum storage capacity. Rather than a single fill, any available live or natural inflows are used to fill and refill the ponds for continued irrigation through the summer.

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FEB 17 1995

To compensate, ~~the additional~~ of a live irrigation flow component has been added to both recommendations, at the standard rate of flow per acre, with total diverted volume not to exceed 10 AFA. Even though not originally shown on the permits, I believe this fits within the implied permit limits, and most accurately describes the beneficial use developed. The inverse of this concept, that of adding storage to a live flow only permit, has been demonstrated as being acceptable in previous licensing.

In comparison to the acres irrigated, the permitted volume limits do not appear to accommodate the beneficial use as shown under these permits. However, the characteristics of the area do allow for beneficial use to the extent which I have described. It was shown to my satisfaction that beneficial use can be accomplished under these conditions at a relatively low volume per acre per season.

The crops grown under these systems were pasture and grass hay. In the New Meadows area, diverted and consumptive volume guidelines are 3 AF and 2 AF per season, respectively. As the consumptive volume quota for a given locale is based on crops which have higher consumptive requirements than either grass or pasture, it can be presumed that actual required consumptive volume for these crops is significantly lower.

According to Mr. Branstetter, the grass hay in NESW Section 5 (78-07281) is irrigated only once or twice during the irrigation season. Depending on natural precipitation, a maximum of one or two cuttings are made before the area is opened as range. The final cutting had occurred some time before my visit and hay bales were still laying in the field. Even though semi-dryland management contributes to a short cropping season, beneficial use is undeniably occurring. Likewise, the pasture in SESW Section 5 (78-07288) is irrigated infrequently, and requires less overall irrigation because it is located within a naturally wetted area. The area had been actively pastured all summer.

RECEIVED
FEB 17 1995

October 24, 1994

MEMORANDUM

TO: Transfer File No. 4330, Water Right No. 78-02027, Permit
No. 78-07288

FROM: Cindy Hodges

RE: Pre-transfer and Beneficial Use Examinations, conducted
July 21, 1994

As requested, I have conducted a pre-approval examination pursuant to this request for transfer because there was some question present as to a possible unstacking of water rights which have been developed together.

GENERAL INFORMATION

The area in question is located within SESW Section 5, T19N R02E. Recently, this QQ was sold. Applicants wish to transfer the existing rights from this QQ to provide water right coverage for previously expanded acres on the balance of the ranch, and allow for a limited amount of new development. The sales contract (copy attached) withholds all 4-Mile Creek rights (78-02027) within SESW Section 5, but grants assignment of permit 78-07288, developed from another surface source within the same QQ.

License 78-02027 from 4-Mile Creek has been most recently defined by transfer 3229, approved in January 1986 and amended in September 1988. The transfer identified 28 acres irrigation in SESW Section 5. Permit 78-07288 was issued in August 1988 for irrigation of up to 15 acres, also within SESW Sec 5, from a spring-fed pond. The pond was constructed and beneficial use under the permit first occurred in late summer, 1988.

A beneficial use examination was conducted for 78-07288 to verify acres developed under the permit and their relation to the acres irrigated from 4-Mile Creek. To the extent that 4-Mile Creek right no. 78-02027 and permit 78-07288 were not developed and used together, the separation and transfer of the 4-Mile Creek rights from SESW Section 5 may occur. At the time of the field examination, 30 irrigated acres were found within SESW Section 5. Approximately 7 acres had been developed to irrigation from the pond. These acres are located down-gradient from the pond, and within the area previously irrigated from 4-Mile Creek. Irrigation has also continued above the pond within this QQ from 4-Mile Creek. Of the 30 found acres within SESW Section 5, if 28 were to have been placed to beneficial use under license 78-02027 subsequent to the 1988 transfer, then five acres from permit 78-07288 overlap the existing 4-Mile Creek right and 2 acres can be considered as new development.

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OCT 27 1994

TRANSFER 4430 RECOMMENDATION

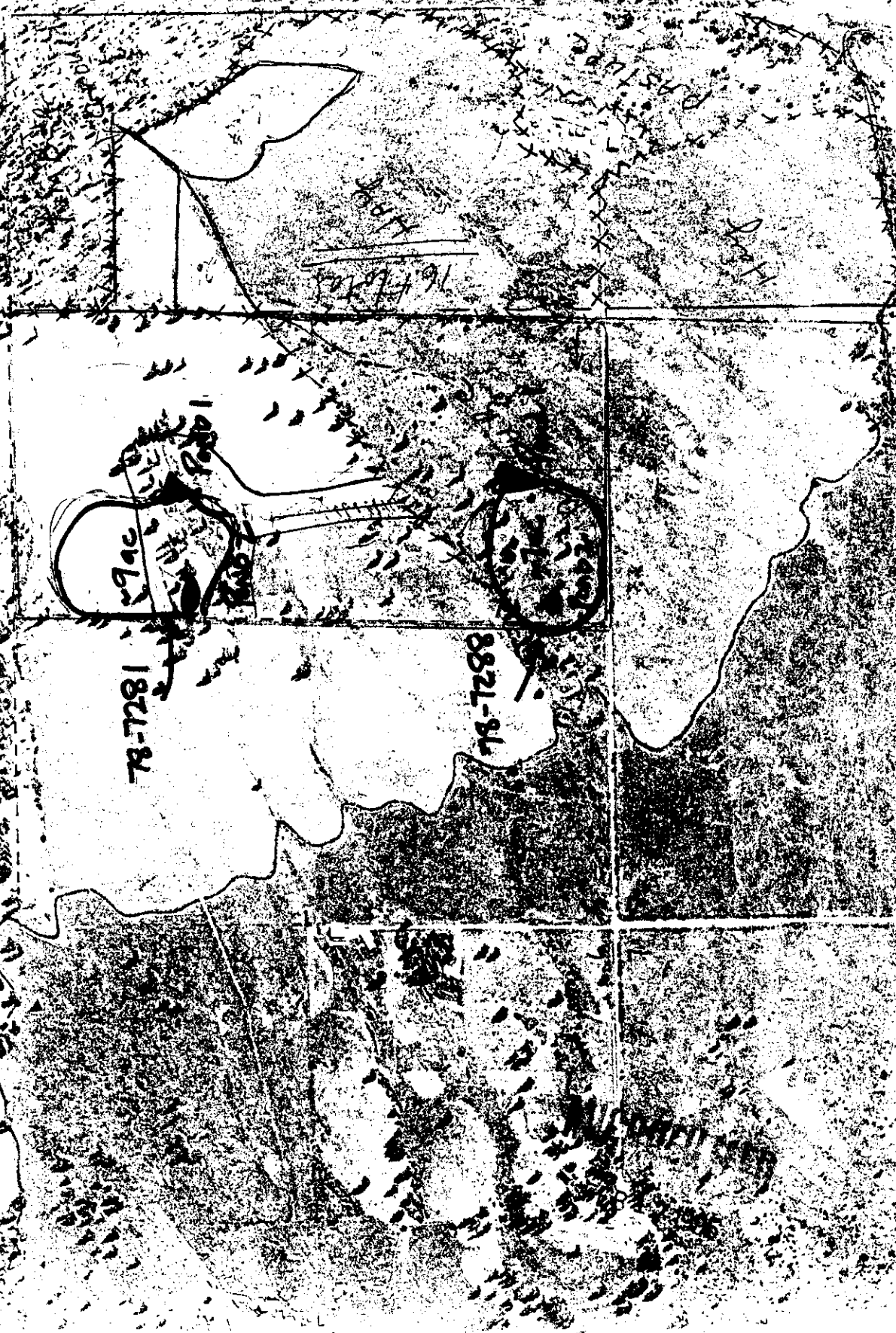
If irrigation is presumed to have continued from 4-Mile Creek on all 28 acres in SESW Sec 5, the overlapping acres with supplemental irrigation from the pond are not eligible for transfer because an expansion in total acres would occur. If irrigation from 4-Mile Creek was discontinued on the overlapping acres after the construction of the pond, then forfeiture of a portion of the 4-Mile Creek rights would have occurred at the end of the 1992 season. In either event, 5 acres are lost for purposes of this transfer. This applies to the licensed right 78-02027 as well as acres under claim no. 78-04315 (floodwater), which are also shown on the transfer.

Initially, an analysis based on accomplished transfer would have argued that all 28 acres under 78-02027 were available for transfer. According to map analysis, expansion(s) of irrigated acres did occur on this ranch between 1975 and 1988 (see attached maps). The present total acreage on the ranch (124) now exceeds the available rights from 4-Mile Creek (102). Applicants stated that, since expansion, the corner of SESW Section 5 where the acreage overlap occurs was rarely, if ever, actually irrigated with 4-Mile Creek water because of insufficient flows. Available 4-Mile Creek water is applied at the upper end of the ranch, on the expanded acres. The permit was developed as a replacement source. If accomplished changes in P/U prior to 1987 could be substantiated, these changes might be recognized as preserving the use under the right, and allow all 28 acres from SESW Section 5 to be removed pursuant to this transfer. Unfortunately, the 1988 transfer on 78-02027 contained a forfeiture condition which required beneficial use at the new place of use within five years. If pre-1987 accomplished change is alleged, then the transfer condition cannot be fulfilled.

Ultimately, the requested change should be approvable for both 78-02027 and 78-04315, subject to the reduction of total transferrable acres under both rights to 23 (30 - 7) from SESW Section 5. An attached acreage analysis shows the new place of use as it should appear on the transfer. Acres under claim 78-04315 were adjusted to match as closely as possible those acres under the license(s).

Permit no. 78-07288 has been recommended pursuant to action under this transfer. See accompanying files and memo relative to this recommendation and that for a similar permit, no. 78-07281.

MINUTEMAN
FEB 17 1995



COPY

REAL ESTATE PURCHASE AND SALE AGREEMENT

New Meadows, Idaho

Date: APRIL 1, 1994

1. BUYER. W.H. ADAIR, A SINGLE PERSON (hereinafter called "Buyer") agrees to purchase, and the undersigned Seller agrees to sell the following described real estate hereinafter referred to as "The Premises", which real property is more particularly described on Exhibit "A", which is attached hereto and incorporated herein by reference.

2. PRICE/TERMS. The total purchase price is TWO HUNDRED NINETY SIX THOUSAND DOLLARS. (\$296,000.00) Such price shall be paid as follows:

- a. \$15,000.00 in earnest money deposit;
- b. \$35,000.00 additional cash at the time of closing;
- c. The balance of \$246,000.00 shall be evidenced by a note secured by a first mortgage on the premises and shall bear interest at the rate of eight percent (8%) per annum from the date of closing. Payments of \$2,112.00 per month shall be made with the first payment due thirty (30) days after closing and a like payment due on the same day of each month thereafter with a balloon payment of all outstanding principal and interest payable in full, on the 10th anniversary of the closing of this transaction. In addition, a payment of \$25,000.00 plus interest at the rate of eight percent (8%) per annum shall be made on or before June 1, 1994.

d. There shall be no pre-payment in excess of ten

REAL ESTATE PURCHASE AND SALE AGREEMENT
(d:\sh\property\branstetter.psa)

RECORDED
FEB 17 1995

acknowledges that it has independently verified with the various agencies of the Department of Agriculture its obligation under said contracts.

c. Buyer has made an independent investigation of the water rights to such property and solely relies on such investigation. Buyer acknowledges that he is not relying on any information supplied by Seller or any of its agents. Buyer further acknowledges that he has been informed that, over the various years, Seller has utilized irrigation water which is not appurtenant to this property in farming such property. Such irrigation waters will not be available to Buyer and, such property is without any water rights other than that collected on the property through certain storage permits, as demonstrated by the Idaho Department of Water Reserve records, which may or do require additional work and/or proceedings for perfection.

d. Seller is selling the real estate "AS IS" and makes no representation of any kind to Buyer concerning the real property. Buyer agrees to rely only upon Buyer's own inspection and investigation with regard to any decision of Buyer to purchase the real property, and by accepting the terms of this agreement, Buyer accepts the real property "AS IS" based solely upon Buyer's and his agent's or representative's own inspection.

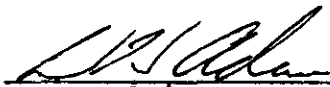
e. Buyer hereby acknowledges that Buyer has not received or relied upon statement or representation by Seller, Seller's broker, or Seller's representative which are not set forth in this agreement. Buyer has entered into this agreement

18. Except as specifically altered by the parties' subsequent written understandings, paragraphs 5, 6, 7 and 16 are specifically intended to survive the closing of this transaction.

19. TIME IS OF THE ESSENCE IN THIS AGREEMENT. THIS IS A LEGALLY BINDING AGREEMENT. IF NOT UNDERSTOOD, BUYER AND SELLER ARE ADVISED TO SEEK THE ADVICE OF COMPETENT LEGAL COUNSEL.

Buyer: W.M. Adair

Buyer's address: 318 Willoughby Avenue, Juneau, AK 99801


W.H. Adair

"BUYER"


Melvin Branstetter


Alice Branstetter

"SELLER"

TREATY ROCK REALTY

By: 
Donna Brown, Branch Manager

"BROKER"

FEB 17 1995

EXHIBIT "A"

Township 19 North, Range 2 East, Boise Meridian, Adams
County, Idaho

Section 5: E $\frac{1}{2}$ SW $\frac{1}{4}$ more particularly described as
follows:

Beginning at the Southwest corner of said E $\frac{1}{2}$ SW $\frac{1}{4}$;

Thence North 00 degrees 27'50" East along the Westerly
boundary of said E $\frac{1}{2}$ SW $\frac{1}{4}$ a distance of 2633.78 feet to
the Northwest corner of said E $\frac{1}{2}$ SW $\frac{1}{4}$;

Thence South 89 degrees 24'06" East along the Northerly
boundary of said E $\frac{1}{2}$ SW $\frac{1}{4}$ a distance of 1321.78 feet to
the Northeast corner of said E $\frac{1}{2}$ SW $\frac{1}{4}$;

Thence South 00 degrees 35'51" West along the Easterly
boundary of said E $\frac{1}{2}$ SW $\frac{1}{4}$ a distance of 2640.84 feet to
the Southeast corner of said E $\frac{1}{2}$ SW $\frac{1}{4}$;

Thence North 89 degrees 05'38" West along the Southerly
boundary of said E $\frac{1}{2}$ SW $\frac{1}{4}$ a distance of 1315.66 feet to
the POINT OF BEGINNING.

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FEB 17 1995



Pond #1
looking south
across
embankment



Pond #2
looking west
from Pond #1
Also shows
irrigated area

FEB 17 1995

August 14, 1991

MELVIN C. BRANSTETTER
ALICE L. BRANSTETTER
P.O. BOX 245
NEW MEADOWS, ID 83654

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 78-07288

Dear Permit Holder:

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

If you have questions concerning this matter, please feel free to contact the WESTERN Regional Office in Boise at (208)334-2190.

Sincerely,

Rita Fleck
Secretary/Records Manager

c: IDWR - Region

RECORDED

AUG 22 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 78-07288

Name(s) of Permit Holder(s): Melvin J. Branstetter

Post Office Address: P.O. Box 245

New Meadows Tel 83654 Tel. No. 347-2266

☒ I hereby certify that construction of diversion works for the above referenced permit began on Aug 12, 1988 I understand that I must

(date)
continue to develop the water system with due diligence to maintain a valid permit.

☐ I hereby certify that construction of diversion works on the above referenced project has not yet begun due to the following reason beyond my control*:

*Note: A financing difficulty is not an acceptable reason.

Dec 12, 1988
Date

Melvin J. Branstetter
Signature of Permit Holder

Melvin Brustetter
P.O. Box 45
New Meadows, Id

83654



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DEC 14 1988

AUG 22 1984

IDAHO DEPARTMENT OF WATER RESOURCES

STATEHOUSE

BOISE, IDAHO 83720

Department of Water Resources

138718
May 31, 1991

MELVIN C. BRANSTETTER
ALICE L. BRANSTETTER
P.O. BOX 245
NEW MEADOWS, ID 83654

PROOF DUE NOTICE

RE: PERMIT NO. 78-07288

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before August 1, 1991. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

RECEIVED

AUG 22 1991

S T A T E O F I D A H O
D E P A R T M E N T O F W A T E R R E S O U R C E S

Statehouse
Boise, Idaho 83720
(208) 334-7900
August 8, 1988

MELVIN C. BRANSTETTER
ALICE L. BRANSTETTER
P.O. BOX 245
NEW MEADOWS, ID 83654

P E R M I T A P P R O V A L N O T I C E

RE: PERMIT NO. 78-07288

Dear Permit Holder:

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

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

We have enclosed a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit into a license.

Sincerely,

Gary Spackman
Supervisor, Water Allocation Section

GS: SC
Enclosures

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OCT 12 1988

Affidavit of Publication

State of Idaho, County of Adams, ss:

I, Bert J. Rogers, being first duly sworn upon my Oath, depose and say that I am the publisher of The Adams County Leader, a newspaper; that a copy of the "Notice of Application

as per clipping
hereto attached, was published in the regular and entire issue
of said newspaper, and not in any supplement thereof, for
two (2) consecutive weeks, the first publication of the
same being made in the issue dated June 2, 1988

and the last in the issue dated June 9, 1988
that said newspaper is of general circulation in Adams County
Idaho, printed and published weekly at Council therein and
that said newspaper has been continuously and uninterrupted-
ly published in said county during a period of more than sev-
enty-eight consecutive weeks prior to the first publication of

said " Notices " as aforesaid.

Subscribed and sworn to before me this 14th

day of June 19 88

Notary Public for Idaho,
Residing at Council, Idaho

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JUN 16 1988

Department of Water Resources
Western Regional Office

MICROFILMED

OCT 12 1988

NOTICE OF APPLICATION FOR WATER RIGHT

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

67-07736

Davies, John
Davies, Maria E.
403 Bitterroot Drive
Boise, ID 83709
Source: Pole Creek
Tributary: Hornet Creek
Diversion Pt: NWSW Sec 25 T
17N R 02W
Use: DOMESTIC (.040 CFS)
Date Filed: 5/11/1988
In: T17N R02W S25 NWSW

67-07737

MESA II, INC.
730 W. BROADWAY
MERIDIAN, ID 83642
Source: WEISER RIVER,
MIDDLE FORK
Tributary: WEISER RIVER
Diversion Pt: NESW Sec 11 T
15N R 01E
Use: POWER (150,000 CFS)
Date Filed: 5/20/1988
In: T15N R01E S07 SWSE

78-07288

BRANSTETTER, MELVIN C.
BRANSTETTER, ALICE L.
P.O. BOX 245
NEW MEADOWS, ID 83654
Source: SPRINGS
Tributary: SINKS
Diversion Pt: NESESW Sec 5 T
19N R 02E
SWSESW Sec 5 T
19N R 02E
Use: IRRIGATION STORAGE
(10.00 AF)
IRRIGATION FROM STOR-
AGE (10.00 AF)
STOCKWATER STORAGE
(10.00 AF)
STOCKWATER FROM
STORAGE (10.00 AF)
Date Filed: 5/17/1988
In: T19N R02E S05 SESEW
15.0 ACRES TOTAL

78-07289

ROSS, GAY L.
283 E. SPENCER WAY
FARMINGTON, UT 84025
Source: SPRING
Tributary: BOULDER CREEK
Diversion Pt: NESE Sec 34 T
22N R 01E
Use: DOMESTIC (.200 CFS)
Date Filed: 5/19/1988
In: T22N R01E S34 NESE

The permit(s) will be subject
to all prior water rights. Pro-
tests must be filed with the Di-
rector, Dept. of Water Resources,
Western Region, 2735 Airport
Way, Boise, Idaho 83705 on or
before JUNE 20, 1988.

R. KEITH HIGGINSON, Dir.

78-07288

BRANSTETTER, MELVIN C.
BRANSTETTER, ALICE L.
P.O. BOX 245
NEW MEADOWS, ID 83654

Source: SPRINGS

Tributary: SINKS

Diversion Pt:	NESESW	Sec	5	T	19N	R	02E
	SWSESW	Sec	5	T	19N	R	02E

Use: IRRIGATION STORAGE	(10.00 AF)
IRRIGATION FROM STORAGE	(10.00 AF)
STOCKWATER STORAGE	(10.00 AF)
STOCKWATER FROM STORAGE	(10.00 AF)

Date Filed: 5/17/1988 .

In: T19N R02E S05 SESW

15.0 ACRES TOTAL

RECORDED

OCT 12 1988