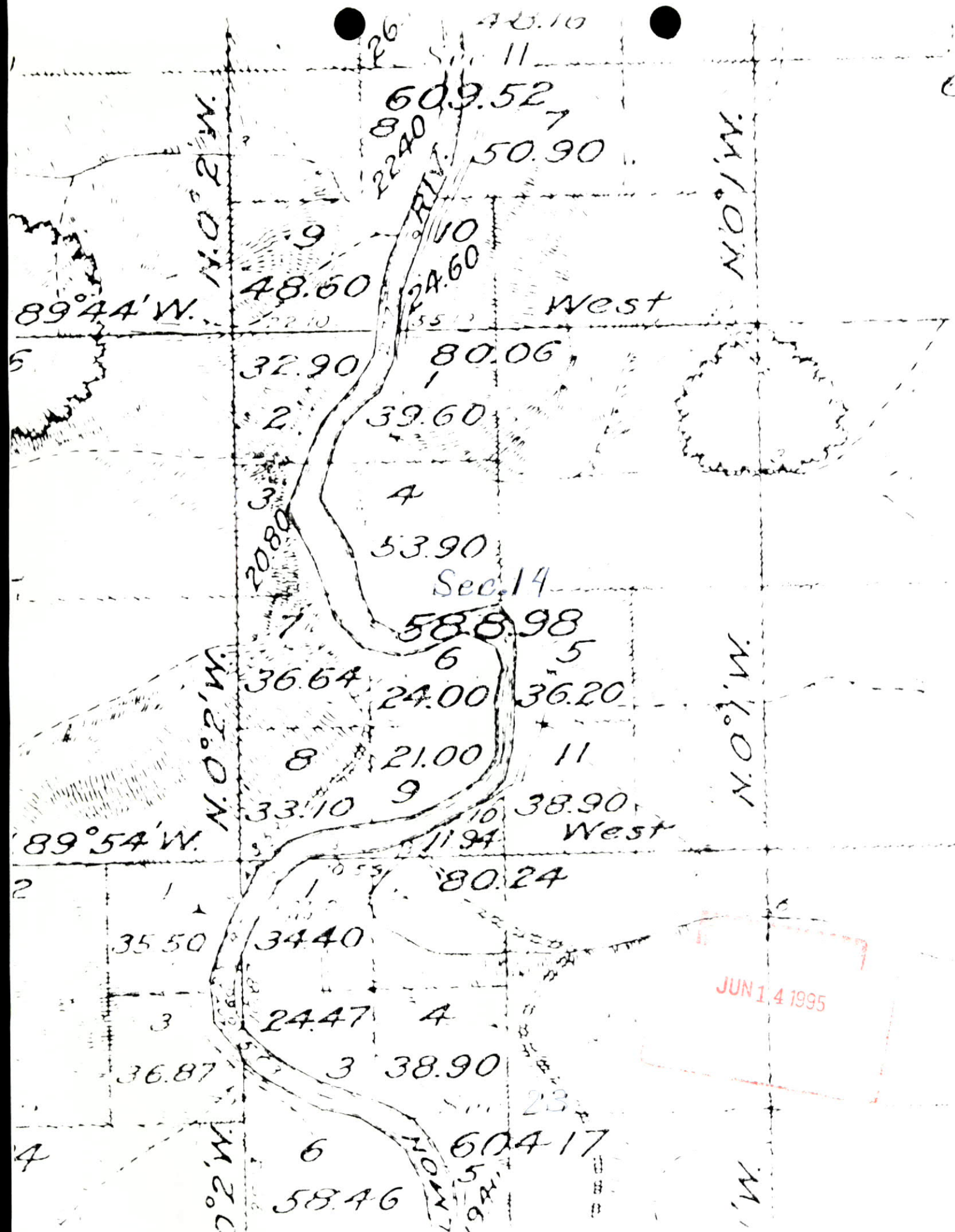




13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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.

[Signature]
(Applicant)
Carol B. Simonson

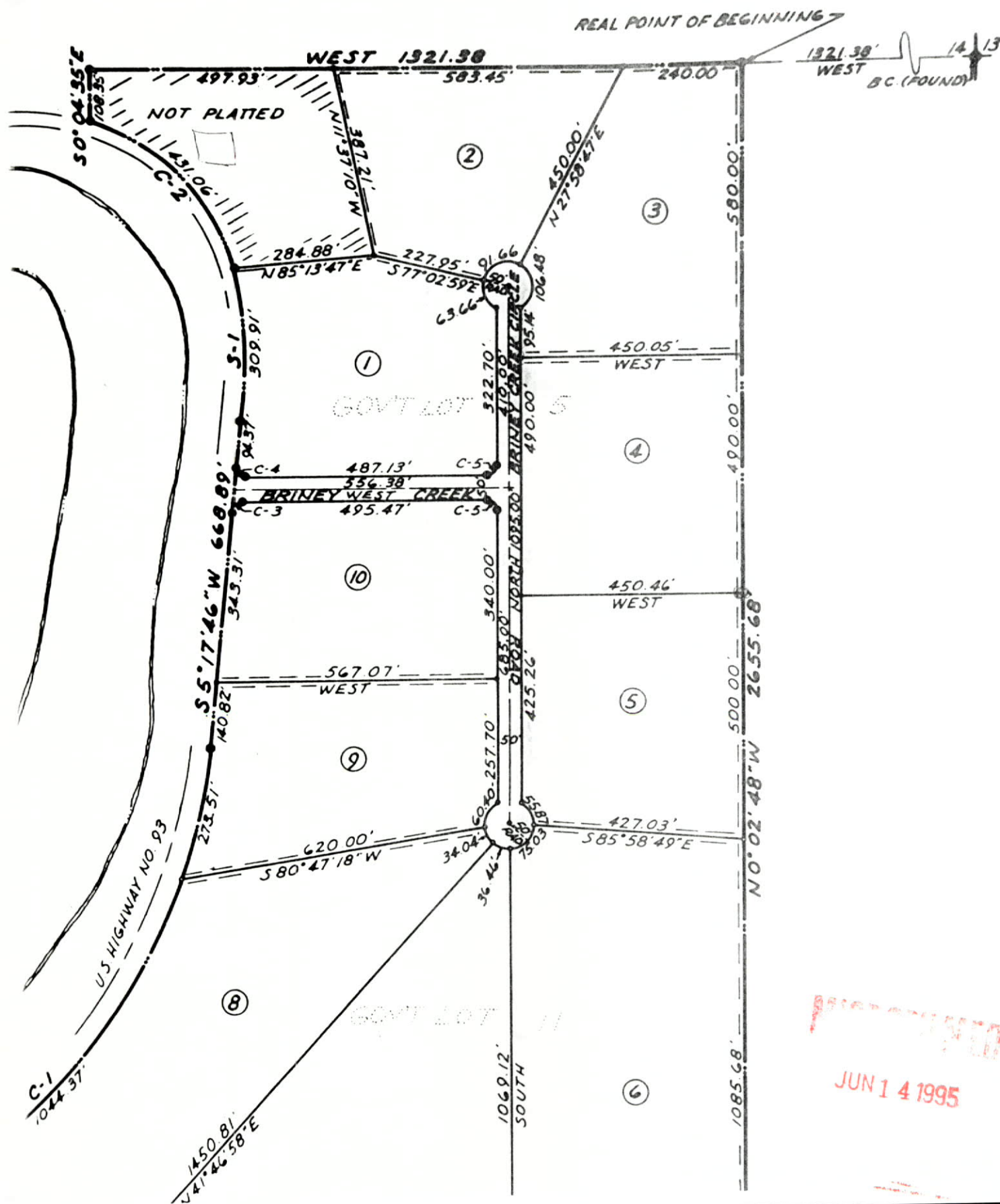
1



JUN 14 1995

ORIGINAL 1977

2.



RECORDER'S CERTIFICATE

THIS MAP WAS FILED IN THE OFFICE OF THE
 COUNTY CLERK, JUN 14 1995
 PLAT BOOK 5 AT PAGE 3

Alberta Christensen
 COUNTY RECORDER
 by Joyce Santos, deputy

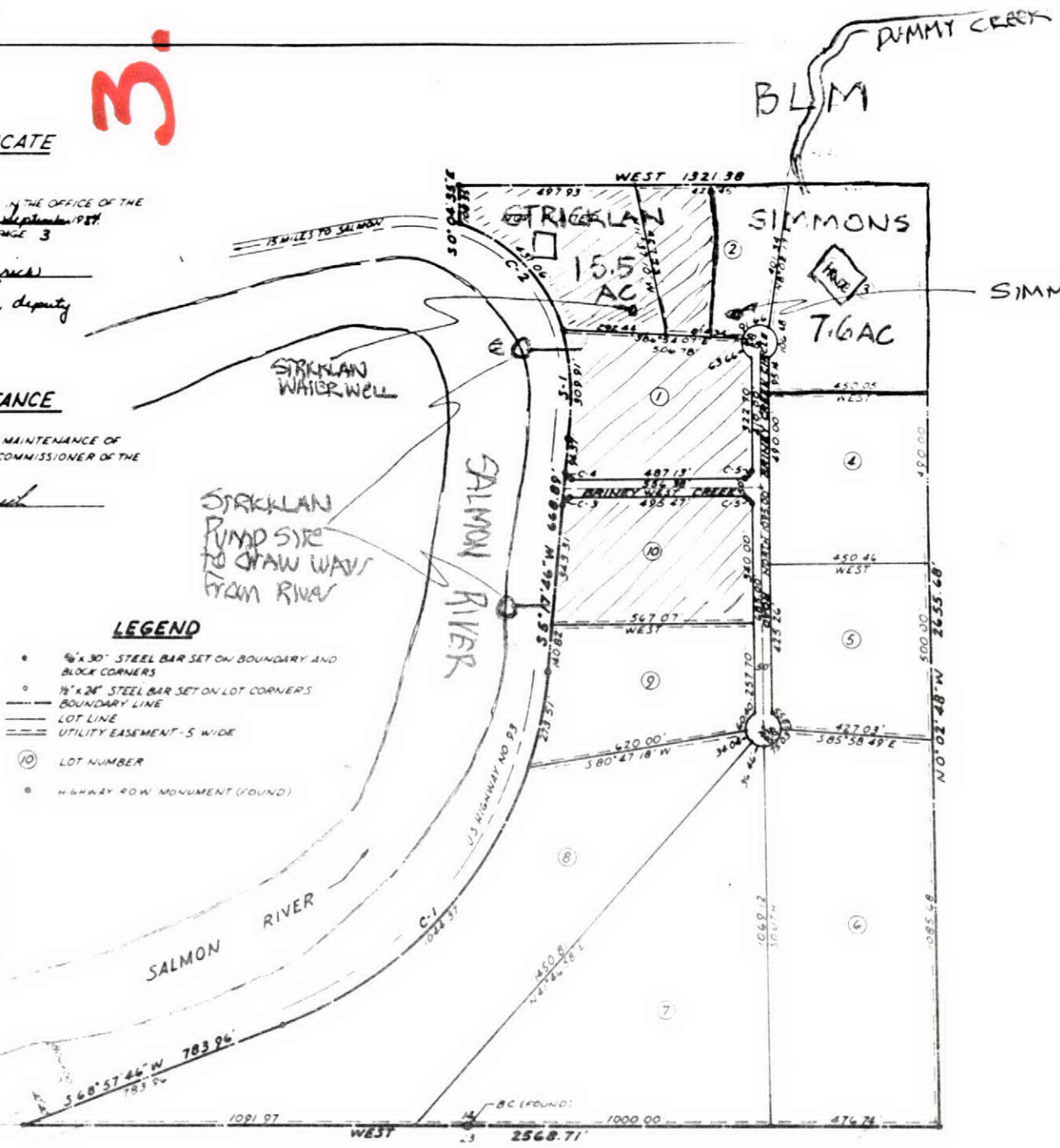
COMMISSIONER'S ACCEPTANCE

THE BOARD OF COUNTY COMMISSIONERS HAS REVIEWED AND APPROVED AND MAINTENANCE OF
 ACCEPTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE
 PLAT THIS DAY OF 1977

Levin S. Smith
 CHAIRMAN

FIELD DATA

ANGLE	LENGTH	CHORD
78.94	1817.87	1251.11
293.74	491.06	414.72
10.29	29.57	26.95
21.04	19.26	29.56
20.00	91.42	28.28
14.90	309.91	308.00



Amended 8/27/84
 BRINEY CREEK ACRES SHEET 1

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

75-07606

SIMMONS, ROBERT R

SIMMONS, CAROLE B

PO BOX 151

SALMON, ID 83467

Source: DUMMY CREEK

Tributary: SINKS

Diversion Pt: SWNE Sec 14 T
19N R 21E in LEMHI County.

Use: IRRIGATION (.060 CFS)

Total Diversion: (.060 CFS)

Date Filed: 7/23/1993

In: LEMHI County

T19N R21E S14 Lot 5(NWSE)

2.0 ACRES TOTAL

The permit(s) will be subject to
all prior water rights. Protests must
be filed with the Director, Dept. of
Water Resources, Eastern Region,
900 N Skyline, Idaho Falls, Idaho
83402 on or before OCTOBER 4,
1993.

R. KEITH HIGGINSON, Direc-
tor

Published: 9/16/1993 & 9/23/1993

9-16-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RECEIVED

NOV 15 1993

Department of Water Resources

being first duly sworn before me
Eastern District Office

RICKY G. HODGES

and says he is one of the printers (publishers) of the RECORDER-HERALD, a newspaper published
weekly at Salmon, Lemhi County, Idaho, and of general circulation therein.

That the NOTICE OF APPLICATION FOR WATER RIGHT

DEPT. OF WATER RESOURCES

....., a true
printed copy of which is attached to the margin hereof, has been and was correctly printed and pub-
lished in the regular and entire issue of every number of said newspaper and not in any supplement
thereof or thereto for TWO (2) consecutive issues, commencing with the issue
dated SEPT 16 1993 and ending with the issue dated SEPT 23 1993.

STATE OF IDAHO

COUNTY OF LEMHI

ss.

On this 23 day of SEPTEMBER in the year of 1993
before me, A Notary Public, personally appeared RICKY G. HODGES
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.

Rachel E. Snook
Notary Public for Idaho

Residing At Salmon, Idaho

My Commission expires: 10-18-97

Publication Fee \$ 34.56

JUN 14 1995
#630

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APR 1 - 1996

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder (Robert R. Simmons) 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, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 75-07606 Telephone No. 208 894-2448

2. Name(s) of Permit Holder(s): ROBERT R. SIMMONS

3. Mailing Address: P.O. Box 151 Salmon, ID 83467

4. Source of Water: DUMMY CREEK If GROUNDWATER (well), Date Drilled: mo. / yr.

a. Well Driller: Drilling Permit Number: - - -

b. OPTIONAL:
Pump Horsepower: Pressure (psi): Dynamic pumping level (ft):

5. Use(s) (as authorized by the water right permit):

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

Irrigation (No. of acres): 2AC Other:

6. Total rate of diversion and/or volume for which proof is submitted: .06 cfs OR acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes or No ✓

Has the measuring device been installed? Yes or No ✓

Flow Measurement Port: Is a flow measurement port required? Yes or No ✓

Has the measurement port been installed? Yes or No ✓

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: ROBERT R. SIMMONS Telephone Number: 208 894-2448

Address: P.O. Box 151 or HC 61 Box 28-3 SALMON, IDAHO 83467

10. The information given on this form 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.

Signature of permit holder: [Signature] Date: 3-28-96

(include your title, if on behalf of company or organization)

APR 30 1996

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 75-07606

Proposed Priority: July 23, 1993

Maximum Diversion Rate:

0.06 CFS

This is to certify, that **ROBERT R SIMMONS**
CAROLE B SIMMONS
PO BOX 151
SALMON ID 83467-0151

has applied for a permit to appropriate water from:
DUMMY CREEK tributary of **SINKS**

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

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

IRRIGATION	04/15 to 10/15	0.06 CFS
------------	----------------	----------

LOCATION OF POINT(S) OF DIVERSION:

SWNE , Sec. 14, Township 19N, Range 21E
LEMHI County

PLACE OF USE: IRRIGATION

<u>TWN</u> <u>RGE</u> <u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
19N 21E 14	Lot 5(NWSE)	2.0		2.0

Total number of acres irrigated: 2.0

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **May 1, 1996**.
2. Subject to all prior water rights.
3. Use of water under this right may be affected by an agreement between the protestant and the right holder.
4. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.03 cubic feet per second for each acre of land.
5. The issuance of this right in no way grants any right-of-way or easement across the land of another.
6. Place of use is located within the east 1/2 of Lot 2, and in Lot 3, Briney Creek Acres Subdivision.

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

15th day of May, 1995.

[Signature]
for **R. Keith Higginson, Director**

JUN 14 1995

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APR 20 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 75-7606

Department of Water Resources

To appropriate the public waters of the State of Idaho

1. Name of applicant Robert R. Simmons & Carol B. Simmons Phone 894-2448
756-6302
Post office address PO Box 151 Salmon ID 83467
2. Source of water supply Dunning Creek which is a tributary of Sinks
3. Location of point of diversion is 1/4 of SW 1/4 of NE 1/4, Govt. Lot 14
Sec. 14 Township 19N Range 21E B.M. Benhi County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.06 ^{cfs} for Irrigation purposes from 4-15 to 10-15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) _____ and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. head box, pipeline & sprinkler system
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 85°F being sought? _____
e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____
7. Time required for the completion of the works and application of the water to be proposed beneficial use is
1 years (minimum 1 year).

APPROVED
JUN 14 1995

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

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

9. Description of place of use:

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	21E	14														45			2

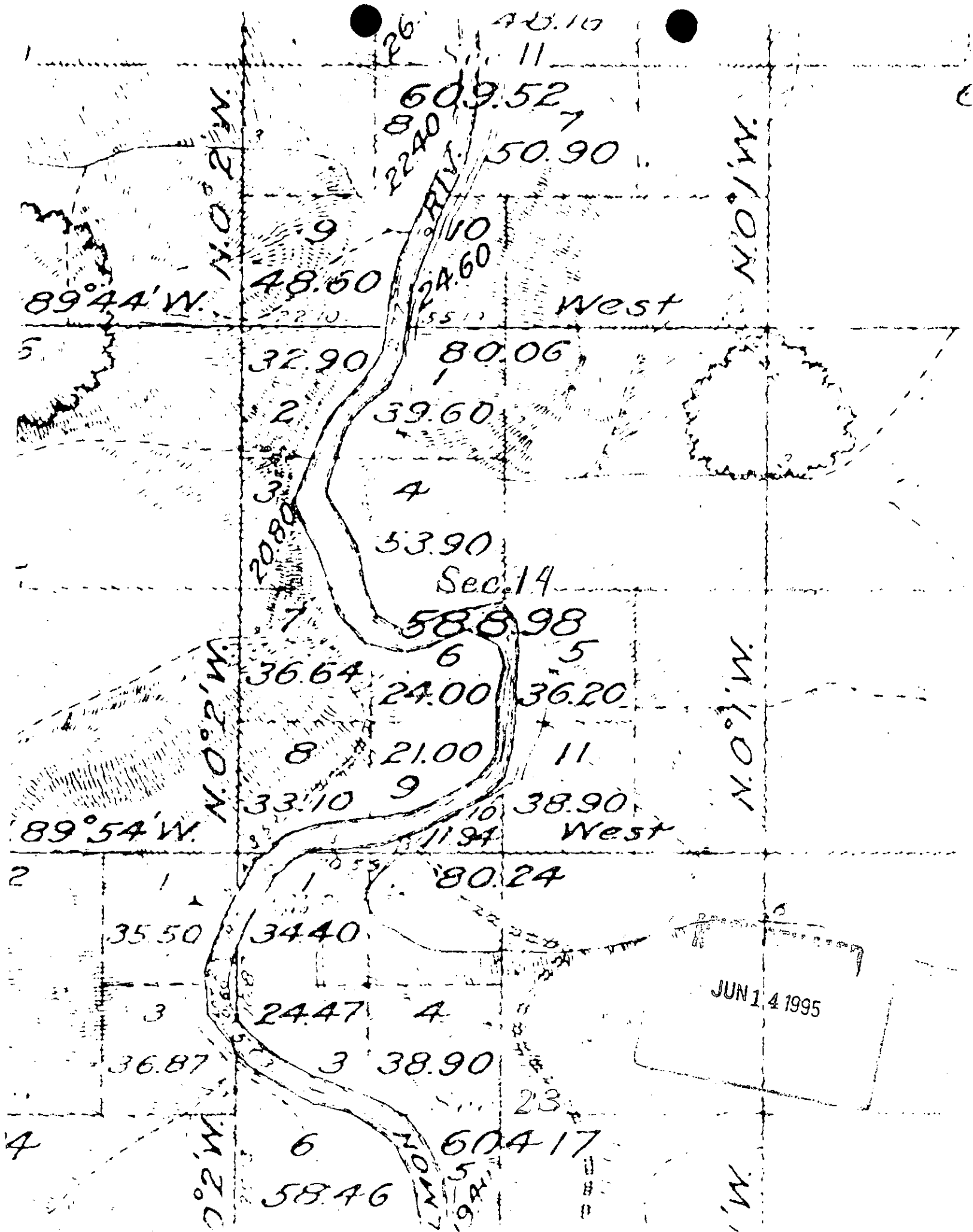
Total number of acres to be irrigated 2

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

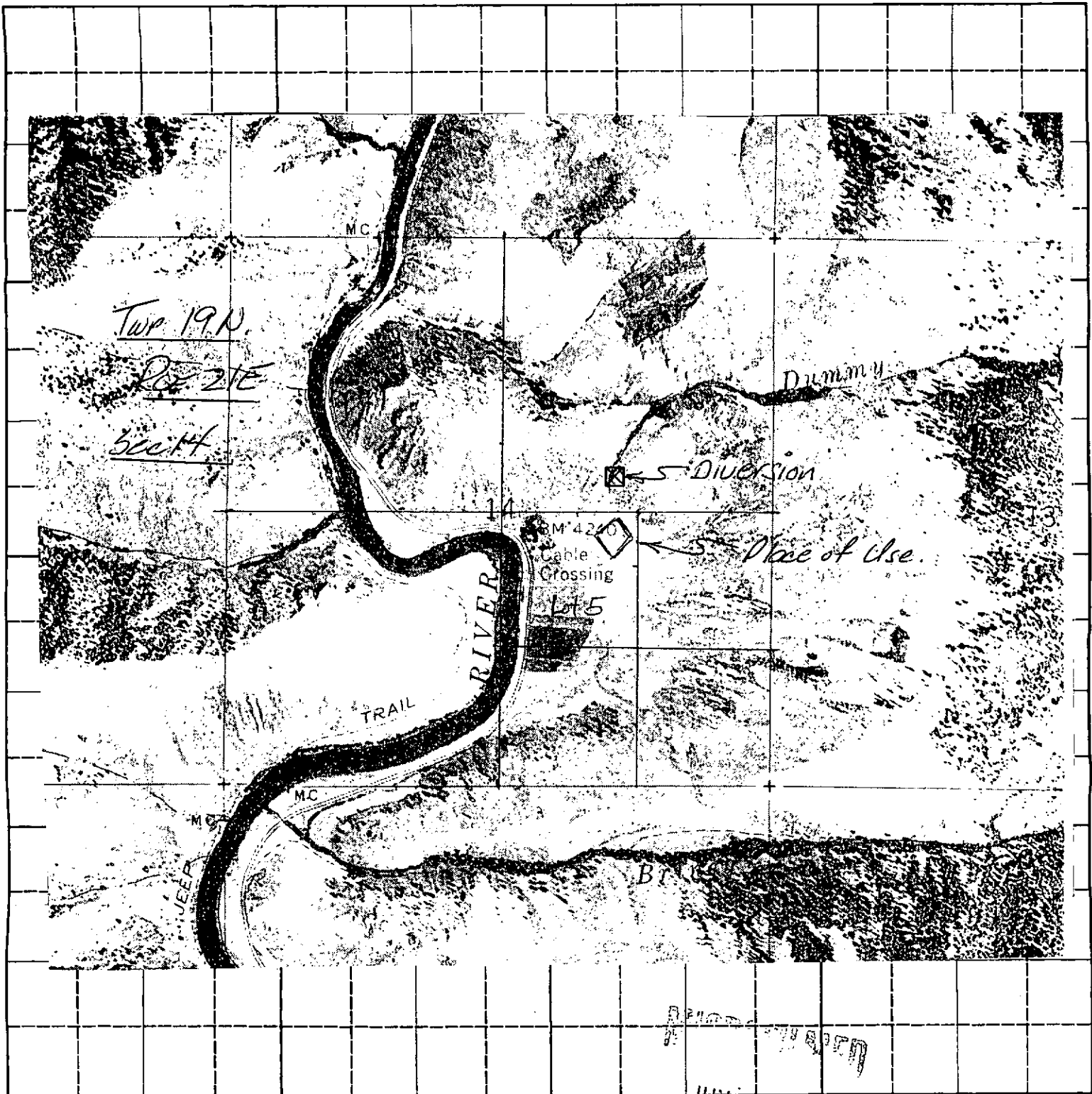
- Who owns the property at the point of diversion? BLM
- Who owns the land to be irrigated or place of use? Applicant.
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. Applicant will obtain permission from BLM to install a pipeline.

12. Remarks: _____

BLM - BUREAU OF LAND MANAGEMENT
JUN 14 1995



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.

JUN 14 1995

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.

W. M. M. M. M.
(Applicant)
Carol B. Simmons

Received by EMC Date July 23, 93 Time _____ Preliminary check by _____
Fee \$ 30.00 Receipted by EMC # E018927 Date 7/23/93
Publication prepared by RB Date 7-16-93 Published in Recorder Herald
Publication approved RB Date 11-15-93

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

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

JUN 14 1995

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 75-07606 Reviewed by Jy Date 4-3-96

GENERAL CONSIDERATIONS

yes Name same as permit?
yes Address same as permit?
yes Proof timely received?
If not, complete calculation below.

TYPES OF USE

Imm.

Correct Uses? yes

SOURCE OF WATER

☒ Surface water source

☐ Ground water source

☐ Drilling permit required?

☐ Copy in the file? Drilling Permit No. _____

☐ Amount paid for permit

☐ Well log in the file?

_____ Correct?

LICENSE EXAMINATION FEE

yes Required?
50- Amount Submitted
yes Correct?

MEASURING DEVICE

no Required?
☐ Installed?
☐ Waiver requested?

PRIORITY CALCULATION

Date proof received	_____	_____
Date proof due	_____	_____
No. of days late	_____	_____
Priority Date	_____	_____
New Priority Date	_____	_____

DEFICIENCIES OR ACTION ITEMS

Proof Acceptable

DATA ENTRY

New Address _____ Proof Made 4-1-96

April 4, 1996

ROBERT R SIMMONS
CAROLE B SIMMONS
PO BOX 151
SALMON ID 834670151

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 75-07606

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 EASTERN Regional Office in Idaho Falls at (208)525-7161.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

RECEIVED
APR 30 1996

February 28, 1996

ROBERT R SIMMONS
CAROLE B SIMMONS
PO BOX 151
SALMON ID 834670151

PROOF DUE NOTICE

RE: PERMIT NO. 75-07606

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 May 1, 1996.

(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.

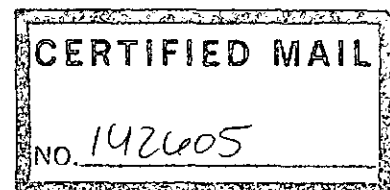
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

RECEIVED
APR 30 1996





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 15, 1995

ROBERT R SIMMONS
CAROLE B SIMMONS
PO BOX 151
SALMON ID 83467-0151

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 75-07606

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

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

Please note that a separate stream channel alteration permit must be obtained from the IDWR prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosures

RECEIVED

JUN 14 1995

APPLICATION FOR PERMIT
STATE OFFICE REVIEW
by Cindy Zimmerman

No.: 75-7606 Name: Simmons Date: 4/28/95 Ad OK? ✓
Correct Fee? ✓ Receipt #: E618927 Priority: 7/23/93 ✓ Gvmt Lts: ✓

AREA OF CONCERN? - sn/sinks - No/Yes S/C Mor GWMA Trust/Non-trust
PROTESTED: - 020 (Prehearing agreement) or W19 (See Order)

SYSTEM COMPLETED:

Yes/proof filed - NA
1 year/no proof - P16
+1 year - 26A-P17

GROUNDWATER: <✓ FLO-CH>

+ 0.2 cfs - 01M
- 0.2 cfs - No MD
+ 5 a. (POU cmp) - 01M, 803 (if GW use SW 1st)

Drilling Permit:

Existing well - NA (pre 7/1/87)
Included w/permit - Permit No. _____, P99
No WD permit? - 046-46B-P23 (post 7/1/87)
irr. in WD - P05 (new well)

SURFACE WATER <✓ FLO-CH> (Surface water that doesn't sink):

Water District (~~dem~~) - 005 (req) WD # _____ <SEE MAP & LISTING>
+ 0.2 cfs - 01J-P08 or 01M
- 0.2 cfs - 01H-P01 or No MD
+ 5 a. irr. - 01M (POU cmp)
~~In-WD~~ + 0.2 cfs - 01M or No MD (in-stream)
- 0.2 cfs - No MD
+ 5 a. irr. - 01M (POU cmp)

RIVER BASINS (*Surface water):

Snake R (01) - 11A-P04, NA
(02/03) - 007-P07 (w/remark WB9), NA
Boise R (63) - 05A (if WD), 11E (not 42-111 use), NA
Payette R (65) - 064 (consump. use), 047-P04 (Payette Lake), NA

USE:

Domestic (surface) - 021 (Boise R ↑ L Peak); 064 (Payette R); NA
Fish Propagation - 07A-042 (rq) - 010/06A/09E (WQ) - P10; 044 (N 1000 Spr)
Irr - 5 acres - 057 (0.03 cfs/A)
+ 5 acres - 03A (0.02 cfs/A)
Mining - 054 (req) & 06A/010/09E-P10
Power - 08A-17K-025-027-01M-01F (P19) - 09E (P10);
+25 cfs-P18; 17G (FERC) or 17M (FERC); 18B-P09
Storage (✓ 3 compo.) - 18A (multi MD in WD), 18B-P09 (+10' dam), NA

LOCATION:

Boise Front LoGeo - 058 (-85° GW temp only)
In-stream dev. - P52 (stream channel alteration)
Irr Dist/Canal Co. - 023 (Twin Falls area)
Swan Falls Flag - B <SEE CONDITION CODE CHART>
Trust - 051-052-053-P74 (Consumptive Uses), NA
Non-Trust <1> - 048-049 (Consumptive Uses), NA

OWNERSHIP: Non-land owner

OTHER CONDITIONS:

STANDARD REMARKS:

- ① 7/11 E 1/2 LT 2, & LT 3, Briney Creek Acres Subd.

BENEFICIAL USE DUE:

COMMENTS:

- 5-1-1996

Form No. 202a
4/87

Dist. for staffing 7-26-93
Submitted for advertising _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATIONS FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY HWT DATE 7-26-93 APPLICATION NO. 75-7606
Robert R. & Carole B. Simmons
 REQUIRED INFORMATION

REQUIRED INFORMATION

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

ADDITIONAL INFORMATION

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

See reverse side for additional information

***REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT**

Date Requested

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

SEND COPIES TO ☐ Idaho Dept. of Health & Welfare ☒ U.S. BLM
☒ Idaho Dept. of Fish & Game ☐ U.S. Forest Service
☐ Idaho Dept. of Lands ☐ Water District
☐ Adjudication Bureau Unit ☐ Other

FINAL REGIONAL PROCESSING REVIEW

☒ Yes ☐ No Affidavit of publication received
☒ Yes ☐ No Application published correctly. If not, record action taken.

☒ Yes ☐ No Publication dates & paper, recorded on application
☒ Yes ☐ No Protests received
Final date for protest 10-4-93
☒ Yes ☐ No Protests, dates, resolution of protest, recorded on application
☐ Yes ☐ No Recommendations, attached
☐ Yes ☐ No Measuring device required
☐ Yes ☐ No Access port required
☐ Yes ☐ No Will water be delivered by watermaster? If yes, what Dist. _____
☒ Yes ☐ No Special conditions of approval or cover letter below. _____

See below for additional information
Date of priority recommended July 23 1993
By HWS Date 4-17-93

STATE OFFICE REVIEW

See below for additional information
By _____ Date _____

ADDITIONAL INFORMATION

* Applicant must gain a special use permit from the BLM to use the point of diversion on their land.

BLM and on-site establish this spring flow is very minimal and does not reach the Salmon River. Since this would not have a detrimental effect on anadromous fish spawning or migration, I recommend approval!
HWS

LOCAL PUBLIC INTEREST

Comments received from

<u> </u> City	<u> </u> Idaho Fish & Game	<u> </u> Irrigation District
<u> </u> County	<u> </u> Idaho Health & Welfare	<u> </u> Canal Company
<u> </u> Reservations	<u> </u> Division of Environment	<u> </u> Other

Project impacts/implications report

COMMENTS

[illegible]

RECEIVED

APR 17 1995

Department of Water Resources
Eastern District Office

Mr. Harold W. Jones
State of Idaho
Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1718

RE: Application for Permit
No. 75-7606

Dear Mr. Jones,

Enclosed for your further handling is the original agreement settling the water dispute affecting the captioned Application for Permit.

Mr. Stricklan's withdrawal of their objection to said Application is incorporated in the Agreement on Page 1, Paragraph identified as No. 1.

Mr. Jones, thank you for your patience and assistance in the resolution of this matter, should you have any questions or comments, please advise.



R. R. Simmons
P.O. Box 151
Salmon, ID 83467
(208) 894-2448

RECEIVED
APR 14 1995

WATER RIGHT DISTRIBUTION AGREEMENT

PARTIES: Robert R. Simmons et ux Carole B. Simmons
P.O. Box 151
Salmon, ID 83467
First Parties

and;

John E. Stricklan et ux Linda K. Stricklan
Salmon, ID 83467
Second Parties.

RECEIVED

APR 17 1995

Department of Water Resources
Eastern District Office

Whereas, the parties own the real property located in Lemhi County, Idaho described on the attached Exhibit A.

Whereas on April 20, 1990 Second Parties filed with the State of Idaho, Department of Water Resources, a Notice of Claim to a Water Right, Identification No. A75-10105, and

Whereas, on July 23, 1993, First Parties filed with the State of Idaho, Department of Water Resources, an Application for Permit, Identification No. 75-7606, to utilize water from Dummy Creek.

Whereas, on September 30, 1993, Second Parties filed with the State of Idaho, Department of Water Resources, a protest to the aforementioned First Parties Application for Permit.

Whereas, the parties have reached an agreement as to the above mentioned Notice of Claim to a Water Right and the Application for Permit and the distribution of water under the terms of the Claim or Permit which may be issued pursuant to the above mentioned filings.

IT IS HEREBY AGREED AS FOLLOWS:

1. Second Parties hereby withdraw their objection to the Application for Permit Identification No. 75-7606 which has been filed with the Department of Water Resources in Idaho Falls, Idaho and give their permission for a copy of this agreement to be supplied to the Department of Water Resources to effect the withdrawal of their objection. This in no way changes Second Parties above mentioned Water Right Claim.

2. First Parties agree to pursue their Application for Permit, and Second Parties agree to pursue their Water Right Claim, to obtain the water.

3. The parties shall pursue at their joint expense the acquisition of a Pipeline Right of Way from the Bureau of Land Management. Subject to the mandates of the Bureau of Land Management, the parties shall agree as to the type of diverting works and its placement on BLM property. The cost of construction and maintenance of said diverting works and pipeline to the point where such pipeline enters First Parties property, at the Northwest corner of Lot 3, shall be shared equally by the parties. First Parties give Second Parties a Right of Way for a one inch (1") water trough line and a two inch (2") water line across the most northerly two feet (2') of Lot 2.

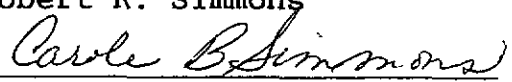
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JUN 14 1995

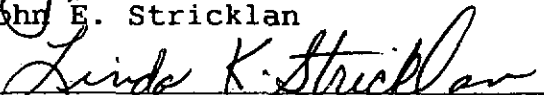
WATER RIGHT DISTRIBUTION AGREEMENT (Continued)

4. The parties agree to equally share the water from Dummy Creek under the terms of the Permit or Water Right Claim issued by the State of Idaho, Department of Water Resources, on property owned by them described in Exhibit A. Said water shall be shared on a rotating basis with one party taking the entire stream of water for four (4) consecutive days and thereafter relinquishing to the other party said water stream for the next consecutive four (4) day period. The only exception to this arrangement is that each party may install two (2) 100 gallon watering troughs for animals on their respective property whose level of water is controlled solely by a float device and is not subject to the four (4) day restriction.

To effect a determination of which party has a particular four (4) day period of water use, the parties agree to annually mark and separately maintain two (2) calendars identifying the periods of water use by each party.

IN WITNESS WHEREOF, the parties have hereunto set our hands this
10th day of April 1995.


Robert R. Simmons

Carole B. Simmons

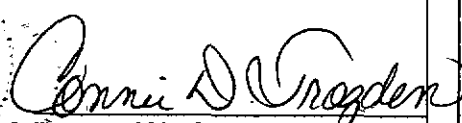

John E. Stricklan

Linda K. Stricklan

STATE OF IDAHO, County of Lemhi

On this 10th day of April, 1995, before me, a Notary Public in and for said State, personally appeared

Robert R. Simmons
and
Carole B. Simmons

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.


Notary Public for State of Idaho
Residing at Salmon, Idaho
My Commission Expires: 7-10-98

STATE OF IDAHO, County of Lemhi

On this 13th day of April, 1995, before me, a Notary Public in and for said State, personally appeared

John E. Stricklan
Linda K. Stricklan

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.


Notary Public for State of Idaho
Residing at Salmon, Idaho
My Commission Expires: 8-22-2000

EXHIBIT "A"

PROPERTY OWNED BY ROBERT R. SIMMONS:

The East half (E²) of Lot 2 and all of Lot 3 of the Briney Creek Acres Subdivision according to the Official Plat filed for Record in Book 5 of Plats at Page 3, Records of Lemhi County, Idaho as amended by Instrument No. 173337 recorded September 14, 1984.

PROPERTY OWNED BY JOHN E. STRICKLAN and LINDA K. STRICKLAN:

The West half (W²) of Lot 2 of the Briney Creek Acres Subdivision according to the Official Plat filed for record in Book 5 of Plats at Page 3, Records of Lemhi County, Idaho as amended by Instrument No. 173337 recorded September 14, 1984, and that certain parcel of land described in Warranty Deed from Francis C. Walker, et al, to John E. Stricklan et ux, dated March 16, 1990 and recorded in Book _____ Page _____ of the Deed Records of Lemhi County, Idaho.

JUN 14 1993

May 6, 1994

Robert Simmons
PO Box 151
Salmon, ID 83467

Mr. Simmons:

I have talked to the BLM and protestant John Stricklan about your application 75-07606. Mr. Stricklan does not appear ready to withdraw his protest and a pre-hearing conference would then be needed.

The timetable for such a conference is now something I cannot determine. Since an evaluation of the protest would involve the protestants adjudication claim, specific problems have come up. The district court judge, who presides over the adjudication, has restricted the evaluation and data gathering process on adjudication claims. I have no idea when that restriction would be lifted.

If you have any questions, please give me a call.

Sincerely,

Harold W. Jones
Water Resource Supervisor

.HWJ:lk

CC: John Stricklan
Box 211
Wells, NV 89835

RECEIVED

JUN 14 1995

MEMORANDUM

To: File 75-07606
From: Paul R. Meyer
Date: 4 May 1994

RE: Pre-conference investigation

On Wednesday, 20 April 1994, I met with the applicant, Bob Simmons, onsite to conduct a field review of the proposed use Mr. Simmons wishes to pursue.

Mr. Simmons proposes to build a collection device in the spring shown in his application and run a small diameter pipeline to his property for irrigation of approximately 1.5 acres around his home.

The spring is located on land administered by the Bureau of Land Management approximately 300 feet north and east of the Simmons' property line. The surrounding rock structure consists mainly of shale. The spring rises from the shale, runs through a short gully and sinks just short of the Simmons' property line. Mr. Simmons indicated that he measured a flow just below the spring of 8 to 10 gallons per minute during the 1993 season. My visual estimate of the flow at the time of the examination was approximately 8 gallons per minute.

Historic use of the spring was evident. Mr. Simmons showed me several lengths of ABS tubing that had been used by the previous owner, Bill Gravatt, to supply a trailer home that once was located on the applicants' property. There were also two unconnected lengths of 2" steel pipe that Mr. Simmons indicated had once supplied the neighboring Stricklan property with stockwater. However, it was evident that it had been several years since it had supplied water to the Stricklan property.

The spring showed several signs of development over the years. No diversion works were intact, but some old steel pipe, weathered boards, an old bag of concrete mix and some newer pieces of ABS plastic pipe were onsite. The streambed just below the spring showed signs of light excavation and damming.

There are no signs that the spring flow is tributary to the Salmon River. The stream from the spring sinks several hundred yards from the river into loose shale. There is no sign of the water from the stream reappearing on the surface in the fields and sagebrush below the sinks.

MICROFILMED

JUN 14 1995

I recommend that the Bureau of Land Management be included in all proceedings concerning this application as the historic use of the spring constitutes a trespass issue that needs to be resolved before IDWR can approve this application.

Additional contacts:

Bill Gravatt (Previous Owner)
1224 Singingwood Court #1
Walnut Creek, California 94595
(510)943-5471

Ken Doring (Neighbor)
Salmon, Idaho 83467
(208)894-2447

RECEIVED
MAY 4 1995

5 May 1994

To: Harold Jones
from: Dennis

Re: 75-07606

I met with Dick Buster on 20 April, at the Salmon BLM office. We discussed the legality of beneficial use claims, 243 claims, and apps for permit. We also discussed trespass.

Dick then brought up app 75-7606 (Simmons) and A75-10105 (Stricklan). I told Dick that the BLM did not have to grant trespass to Mr Simmons if they did not want to. I also told them that until the department had reviewed Mr Stricklan's claim and the judge had ruled on the claim it was not a legal water right. I told Dick that if the BLM was convinced through their inspections that the claim was valid then they could allow Mr Stricklan to continue to divert the water if they wanted to, but they were not required to.

Dick indicated that the BLM did not have a problem with trespass if Mr Stricklan would file an application for permit, and he and Mr Simmons could agree to use one pipeline. Anything else will be denied.

Dick also indicated that the creek never reaches the highway. He said it sinks on the fan at the mouth of the creek.

MICROFILMED

JUN 14 1995

JAN 3rd, 94

To: SHERMAN FUREY
From: BOB SIMMONS

RECEIVED

JAN 04 1993

Subject: WATER RIGHT Dispute with JOHN STRICKLAN

FUREY & FUREY

Submitted herewith for your review prior to your conversation with John Stricklan are copies of the following together with my comments which I think are appropriate

1. Geological Survey Map of Section 14, T19N, R21E - I've sketched the approximate location of the Simmons and Stricklan property. ~~located~~ Please note Dummy Creek - the spring which is the subject of the dispute
2. Original Briney Creek Acres Subdivision MAP - 1977
3. Amended Briney Creek Acres Subdivision Map - Sept. 84. Bill Gravatt, the owner of the entire S/D amended the common boundary of Lot 2 and Lot 3 after talking with the IDWR relative to establishing the fact that Dummy Creek would empty onto Lot 3 the lot I now own (together with the E² of Lot 2). and He intended the spring water of Dummy Creek to be used solely by himself as owner of Lot 3 and felt that if the creek emptied upon his property, this would help establish that fact.
lot on which Gravatt intended to build his retirement home.
4. License and Certificate of Water Right establishing MAY 31, 1917 Priority date.
5. Stricklan's "Notice of Claim to a Water Right" filed in 1990, the year in which I think Stricklan purchased the home site tract - shown on 1977 Briney Creek S/D Map as "NOT PLATED"

I call your attention to the following with regard to this notice:

- + DATE OF PRIORITY - MAY 31, 1917 the only such documented date of water right I found is (4) above which regards water from Briney Creek in Section 23, ~~NOT~~ Section 24 which is where Dummy Creek, the spring, is located.

JUN 14 1995

- + The location of Strickland's point of diversion is the NE⁴ SE⁴ Section 14 T19N R21E which would put it east of my property. There is no ground water at such location to my knowledge.
- + Strickland has never used water from Rummy Creek
- + Strickland's description of his diverting works - Strickland has never had any diverting works in place from any source except the locations from which he's using water from the Salmon River
- + Water used for the following purposes - Stockwater - Strickland has never used water from any source except the River
- + Non irrigation use - 10 cattle Strickland has never had any cattle on his property.

6. SIMMONS Application of Permit - I filed this as a result of discussion with Ernie Carlsen, IDWR, Idaho Falls on July 23, 93. Carlsen indicated that there had never been anything filed with the IDWR on the spring (Rummy Creek) that Strickland's claim was highly questionable since Strickland had never used any water from the spring, etc.
7. IDWR Letter Advising me of Strickland's Protest with a copy of such protest
8. BLM Letter to Simmons indicating they had no problem to my request for a ROW to the point I take water from Rummy Creek
9. Agreement Strickland prepared for my signature. I was advised by IDWR Harold Jones not to sign this on December 10th 93 since he (Jones) felt that based upon his knowledge of the facts, Strickland did not have a valid claim to the spring - Rummy Creek. HISTORICAL USE NOT ESTABLISHED because of abandonment and did not file on DEC 87 date
10. Notes from my telephone conversation with Bill Gravatt establishing the fact that the spring had not been used in many, many, years prior to his acquisition in 1979 and had been used by him on Lot 3 only after he put a water system in place around 1983.

JUN 14 1995

Sherman, After digesting this information, I hope you're able to convince John Strickland that his protest of my Application is futile, that I'm determined to exercise my rights to such water, that I never intended to infringe upon his rights, and that it was only after I began to gather the facts and discuss the matter with the IDWR and you that I decided to pursue this matter through the hearing process of the IDWR if necessary. If John were not already drawing water from the Salmon River, and had he not tried to bluff me into believing that he had exclusive rights to water from the spring (Dumny Creek), I'd be much more receptive to working out an equitable sharing of such water under my Application.

Please Advise is anything further is needed.

Bob Simmons

Bob Simmons

John Strickland

phone # @ Briney Creek 1-208-894-2480

* Please do not call him until next Tues-Thru since his son is vacationing with them this week

RECEIVED

JUN 14 1995

INTERIOR
SURVEY

33

39

57°30"

740

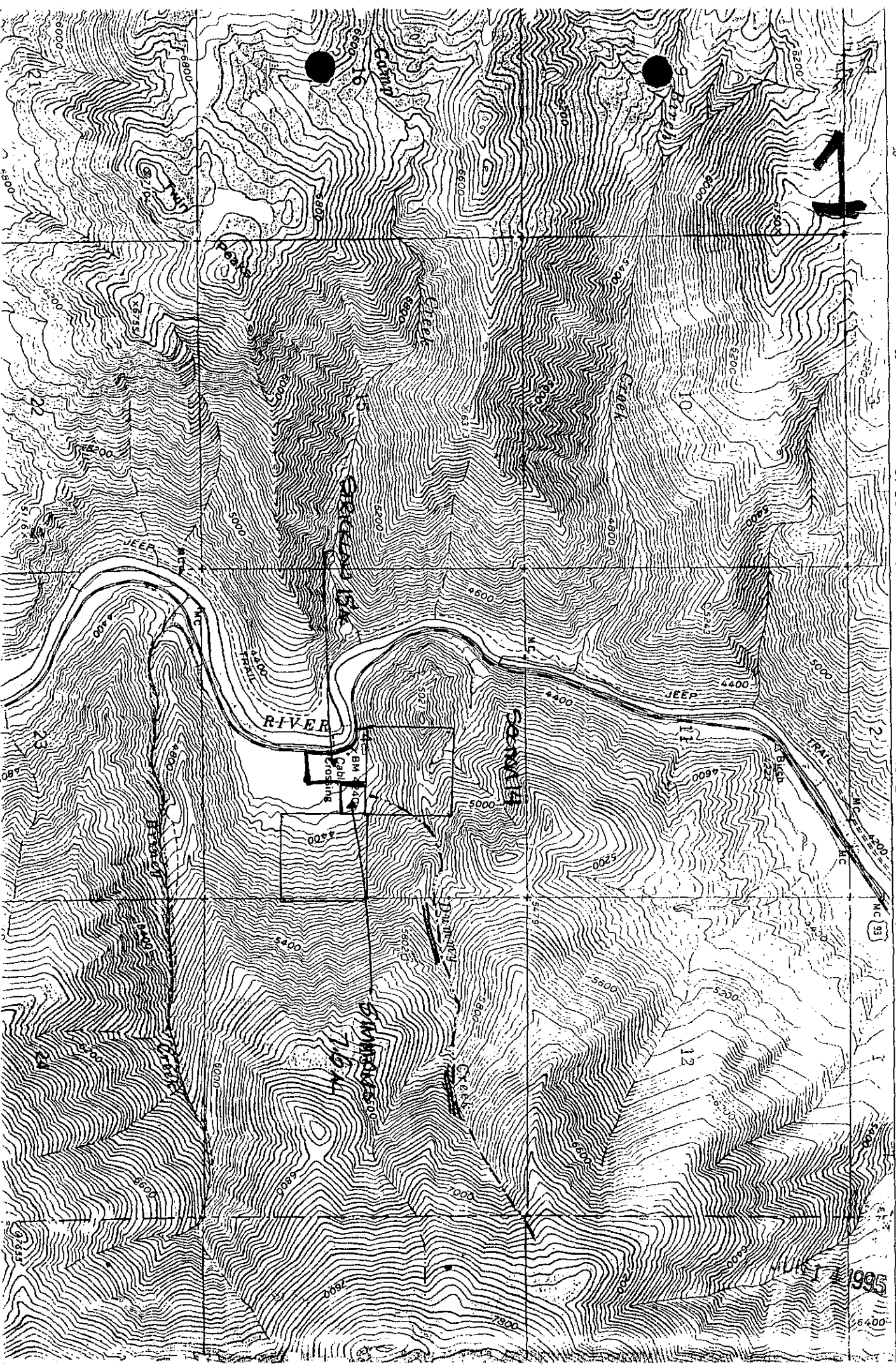
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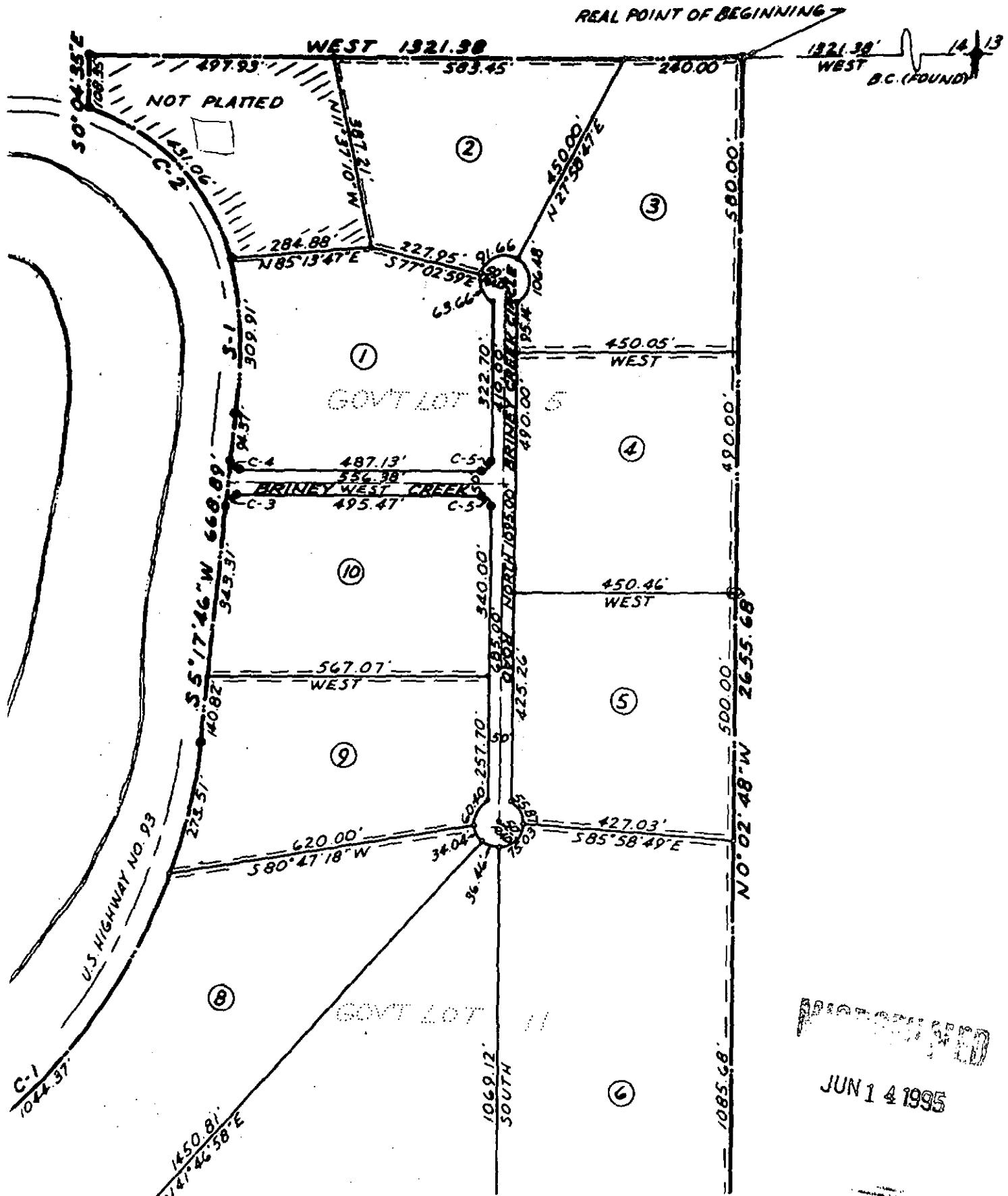
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1995



ORIGINAL 1977

2.



RECORDER'S CERTIFICATE

THIS PLAT WAS FILED IN THE OFFICE OF THE
 CLERK OF THE COUNTY OF BRINEY CREEK, MISSOURI
 ON THIS 14th DAY OF September 1977
 IN PLAT BOOK 5 AT PAGE 3

Alvin H. Hines
 COUNTY RECORDER
 by *John H. Hines*, deputy

COMMISSIONER'S ACCEPTANCE

THE BOARD OF COUNTY COMMISSIONERS OF THE
 COUNTY OF BRINEY CREEK, MISSOURI
 HAS REVIEWED AND APPROVED AND MAINTENANCE OF
 THIS PLAT ON THIS 14th DAY OF September 1977

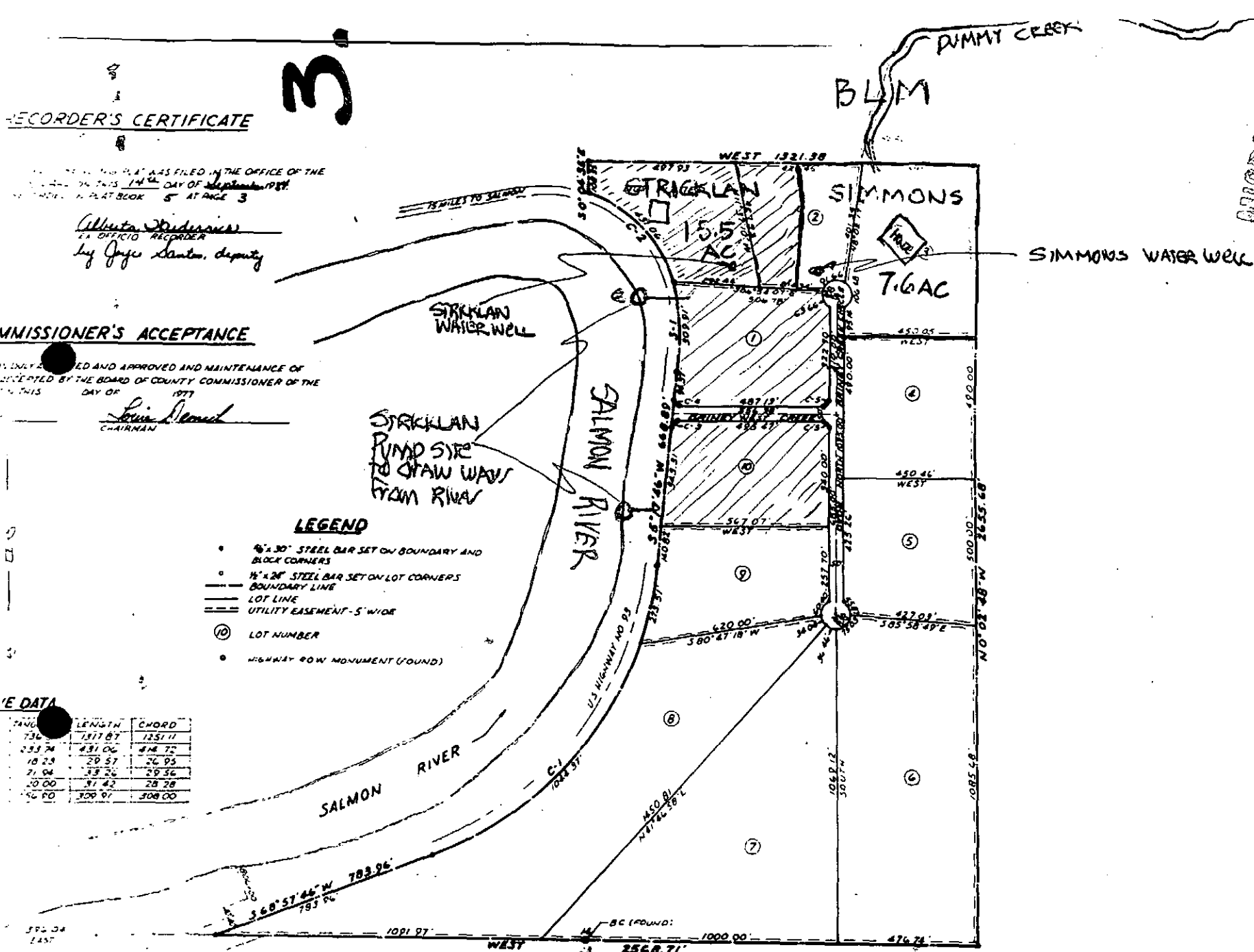
Louis Hines
 CHAIRMAN

LEGEND

- 1/2" x 30" STEEL BAR SET ON BOUNDARY AND BLOCK CORNERS
- 1/4" x 24" STEEL BAR SET ON LOT CORNERS
- BOUNDARY LINE
- LOT LINE
- UTILITY EASEMENT - 5' WIDE
- ⑩ LOT NUMBER
- HIGHWAY ROW MONUMENT (FOUND)

FIELD DATA

ANGLE	LENGTH	CHORD
73.6	1517.87	1251.11
233.74	431.06	414.72
10.23	20.57	20.95
71.04	13.26	20.56
10.00	31.42	28.28
10.00	309.91	308.00



Amended 8/27/84

BRINEY CREEK ACRES SHEET 2

RECORDED

JUN 14 1995

4.

3004

State of Idaho
License and Certificate of Water Right

Water License No. 12986Amount 1.3 sec. ft.Water District No. 3-APriority 5-31-17

THIS IS TO CERTIFY that William A. Driney
of Salmon, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated May 31, 19 17; that Permit No. 12986
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
1.3 second feet, was issued thereunder on July 5, 19 18, showing that said works
were completed on the 18th day of June, 19 18; and that on the 1st
day of June, 19 22,

William A. Driney
of Salmon, State of Idaho, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of Falls Creek
, a tributary of Salmon River, for the purpose of irrigation &
domestic use, under Use Permit No. 12986 of the State Engineer
and that said right to the use of said waters has been perfected in accordance with the laws of
Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in
Volume 4 of Licenses, at page 3004, on the 1st day of November, 19 22;

The right hereby confirmed dates from May 31, 19 17;

The Point of Diversion is located
in the NE 1/4 SW 1/4 Sec. 23, Tp. 19 N., R. 21 E., B. M.

RECORDED
JUN 14 1925

The Point of Diversion is located
in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 23, Tp. 19 N, R. 21 E., B. M.
County of Lemhi.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not
exceed 1.3 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
19 N.	21 E.	14	Lot 10	9	2
			Lot 11	24	30
			Lot 5	32	33
					Total 65

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of
use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
this 1st day of November, 1922.

H. G. SWENDSEN.
Commissioner of Reclamation.

(SEAL)

75 1050

RECORDED
JUN 14 1925

5

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A75-10105
Date Received: 4/12/1990
Receipt No: 5012020
Received By: Adt

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN E. STRICKLAN 702-752-3068
Address: BOX 211
WELLS, NV 89835

OR
Name: LINDA K. STRICKLAN 702-752-3068
Address: BOX 211
WELLS, NV 89835

2. Date of Priority: MAY 31, 1917

3. Source: SPRING Trib. to: SINK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
19N	21E	14	NE	SE			LEMHI

5. Description of diverting works:
PIPELINE, 1-1/2" DIA., 1000 HOLDING TANK, 1 HP PUMP, TROUGHS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
STOCKWATER	01/01	12/31	0.020		

7. Total Quantity Appropriated is:
0.020 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK, 10 CATTLE

A75-10105

Page 1

Date: 04/12/90

MICROFILMED
DEC 15 1992
JUN 14 1995

Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
19N	21E	14	NW SE		STOCK	
			NW SE		DOMEST	

11. Place of use in counties: LEMHI

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
DOMESTIC WELL ALSO USED FOR STOCK

14. Remarks:
THIS PROPERTY WAS ORIGINALLY A PART OF THE KNIGHT PROPERTY; THE
PRIORITY DATE OF THIS CLAIM IS BASED ON MR. KNIGHT'S DEVELOPMENT.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below; I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): John E. Strubbe Date: 4/12/90
Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 12th day

of April 19 90

John E. Strubbe
Notary Public

Seal

Residing at Helen Harrington, Notary Public
Residing at Boise, Idaho
My Commission Expires December 1, 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Ernest Carlgen
IDWR Id Falls

208 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

13-Oct-1993

ROBERT &/OR CAROLE SIMMONS
PO BOX 151
SALMON ID 83467

7.

RE: Application for Permit No. 75-07606

Dear Applicants:

Enclosed is a copy of a protest filed against the issuance of a permit. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for transfer (Sec. 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

RECEIVED
JUN 14 1995

Robert &/or Carole Simmons
Page 2

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If this office can be of further assistance, please contact us.

Sincerely,

Harold Jones rb
HAROLD W. JONES
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office
Enc.

In letter to Jones with regards to diversion of water. John must indicate his withdrawal of protest. Needs of BLM letter. Agree permit would issued condit BLM grants ROW

- As requested I contacted the BLM on Oct 27 & rec'd their reply by ltr dated Nov 2nd - They have no objection to my request but a Right of Way will be necessary & they suggest I Await the granting of the water right before proceeding with ROW
- As requested I visited with John Stricklan also on Oct 27th - he indicated that we would share the ~~water~~ WATER from Dummy Creek & that we would ~~allocate~~ ^{indicate} the amount each would receive by a written statement which we would submit to Harold Jones Idaho Water Resource Dept. We were to prepare this statement this week when he came ^{to Salmon} from his home in Nevada. He did not contact me, as he said he would, this week however -
- John is scheduled to be back in Salmon next week & we will then prepare the statement & submit it to you -
- Will contact you next week -

JUN 14 1995

4-30-93

Director, Dept of Water Resources

I am protesting filing Water
right # 75-07606 in the names
of Robert R and Carol B. Simmons
Due to the fact that my water
right # A75-10105 on 4-12-90 using
the word spring is one in the same
as Dummy Creek is the sole source
of water to my spring

This protest is filed by:
John E Strickland
Linda K Strickland

RECEIVED

SEP 30 1993

Department of Water Resources
Southern Region Office

RECEIVED

OCT 01 1993

Department of Water Resources
Eastern District Office

RECEIVED

JUN 14 1995



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Salmon District Office

P.O. Box 430

Salmon, Idaho 83467

TAKE
PRIDE IN
AMERICA

IN REPLY REFER TO:

7250

November 02, 1993

8.

Robert R. or Carole B. Simmons
P.O. Box 151
Salmon, ID 83467

Dear Robert or Carole:

With regards to your filing for a water right on Dummy Creek in T.19N., R.21E., sec. 14, the Bureau of Land Management (BLM) has no objection to this filing, however, to construct a diversion point and to transfer the water via pipeline, you must file a right-of-way application with this office.

The area in question has never been inventoried by this office. A minimum of one field visit would be needed; this would entail an application fee of at least \$300.00. You may wish to hold off on your right-of-way application until the Department of Water Resources issues you a water right permit.

This letter is only to inform you that BLM has no objection to your filing and will pursue a right-of-way once you are granted a water right permit.

If you have any questions, please contact Dick Buster, Stephanie Snook, or me at 756-5400.

Sincerely,

David E. Krosting
Lemhi Area Manager

RECEIVED
JUN 14 1995

11/10/93

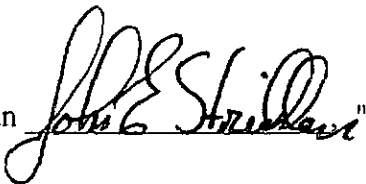
9.

To Whom It May Concern:

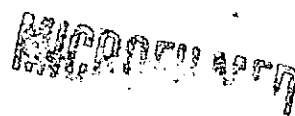
We the undersigned, agree to the following pertaining to the water right to Dummy Creek and all sub waters thereof.

1. Water usage for domestic, stock and irrigation has been used by property, known as "The Buckhorn Ranch", known as the "Mrs. Burnham Place".
2. Second property, owner Robert Simmons, Briney Creek Estates, Lot Three. Waste water usage began 7/1/93.
3. Said primary water will be used by original first party owner of "The Buckhorn Ranch" Monday being the first day of the week, first party usage will be Monday through Thursday.
4. Second party, Robert Simmons, usage of waste water will be Friday through Sunday of the same week.

Signed by:

1. John Stricklan  "The Buck Horn Ranch", HC 61, Box 27, Salmon, ID 83467

2. Roberty Simmons _____, Lot #3, Briney Creek Estates, Salmon, ID 83467



JUN 14 1995

Nov 27, 93

CONVERSATION WITH BILL GRAVATI

according to his seller

(Briney Creek Acres Subdivision)

Bill GRAVATI bought the property¹ in October 1978 ~~and~~ and the only water rights associated with the acquisition were 2 claims filed in the 20s on water from Briney Creek and 172 claims filed by Ralph Knight in the 50 or 60s ~~on~~ on Salmon River water. There was ~~no~~ no evidence of any water rights associated with the spring and ~~and~~ the spring was not being utilized when he purchased the property, nor was there any indication it had been used in many many years.

Bill indicated that after he purchased the property, he talked to several "old timers" who had knowledge of the property; found out that during the 30's-40's-50's the property ~~had been used as an orchard~~ had ^{apparently} been farmed and at one time during this period there ^{even though no evidence of any orchard existed on the property when he purchased it} had been an Apple orchard ~~on~~ located on the existing Buckhorn ^{lot 2} of the subdivision. He was told that water from the spring had been used to irrigate the orchard and to supplement the water on the Buckhorn. ~~Bill~~ Bill ~~indicated~~ ^{later} indicated that he ^{had} stumbled upon some old ^{rusty} galvanized pipe ^{that} crossed lot 2 which apparently was utilized to water the Apple trees many years prior.

even though there was no visible evidence of such when he bought the property

Bill thought the spring had some value and he intended to use it on Lot 3 which was where he intended to build his house. He sold the ranch house in 83 and about the same time built a pad for a mobile home and installed a septic system on Lot 3. He also laid out several hundred feet of poly pipe ~~and~~ and began to take water from the spring. He indicated that ~~and~~ he intended to file on the water but ~~because of the~~ never did. He did however ~~have~~ have the subdivision lines affecting Lot 2 & Lot 3 reversed, moving the west line of lot 3 so it ^{was} clear the spring came onto Lot 3. He intended Lot 3 ^{to have the sole use of such} spring water. He also indicated that ^{one} year he came back to the property (he had moved ^{to} ~~to~~ ^{California} to his wife would

have access to a medical help) and found out that the owner of the ranch house had moved Bills poly pipe & put it onto the ranch house tract to water a garden. Bill confronted the man, telling him that the water from the spring was his (Guaranteed) & for the man to move the poly pipe back to Lot 3 w/in 24 hours. ~~or the (Bill) would get it~~ The man moved the poly pipe back and Bill continued to use the spring water whenever he traveled back to Lot 3 with ~~his~~ his mobile home until I bought Lot 3 in December of '92.

7

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JUN 14 1995



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

13-Oct-1993

ROBERT &/OR CAROLE SIMMONS
PO BOX 151
SALMON ID 83467

RE: Application for Permit No. 75-07606

Dear Applicants:

Enclosed is a copy of a protest filed against the issuance of a permit. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for transfer (Sec. 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

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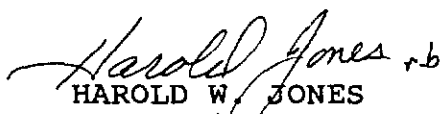
JUN 14 1995

Robert &/or Carole Simmons
Page 2

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If this office can be of further assistance, please contact us.

Sincerely,

 rb
HAROLD W. JONES
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office
Enc.

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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

13-Oct-1993

JOHN & LINDA STRICKLAN
SALMON ID 83467

RE: Application for Permit No. 75-07606

Dear Mr. & Mrs. Stricklan:

Your protest against approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the applications for permit (Sec. 42-203, Idaho Code): the following are the principle items the Department can consider in either approving or denying the applications for permit (Sec. 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

RECORDED

JUN 14 1995

John E & Linda K Stricklan

Page 2

The protestant must be prepared to present proof of allegations involving one or more of the six items.

If this office can be of further assistance, please contact us.

Sincerely,

Harold Jones rb

HAROLD W. JONES
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office

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9-30-93

Director, Dept of Water Resources

I am protesting filing Water right # 75-07606 in the names of Robert R and Carol B. Simmons.

Due to the fact that my water right # A75-10105 on 4-12-90 using the word Spring is one in the same as Dummy Creek is the sole source of water to my spring.

This protest is filed by:

John E Strickland
Linda K Strickland

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SEP 30 1993

Department of Water Resources
Southern Region Office

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OCT 01 1993

Department of Water Resources
Eastern District Office

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JUN 14 1995

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

75-07606

SIMMONS, ROBERT R.

SIMMONS, CAROLE B

PO BOX 151

SALMON, ID 83467

Source: DUMMY CREEK

Tributary: SINKS

Diversion Pt: SWNE Sec 14 T
19N R 21E in LEMHI County.

Use: IRRIGATION (.060 CFS)

Total Diversion: (.060 CFS)

Date Filed: 7/23/1993

In: LEMHI County

T19N R21E S14 Lot 5(NWSE)
2.0 ACRES TOTAL

The permit(s) will be subject to
all prior water rights. Protests must
be filed with the Director, Dept. of
Water Resources, Eastern Region,
900 N Skyline, Idaho Falls, Idaho
83402 on or before OCTOBER 4,
1993.

R. KEITH HIGGINSON, Direc-
tor

Published: 9/16/1993 & 9/23/1993
9-16-2tc

Affidavit of Publication

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NOV 15 1993

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES

Department of Water Resources
being first duly sworn before me, a Notary Public
and says he is one of the printers (publishers) of the RECORDER-HERALD, a newspaper published
weekly at Salmon, Lemhi County, Idaho, and of general circulation therein.

That the NOTICE OF APPLICATION FOR WATER RIGHT
DEPT. OF WATER RESOURCES

a true
printed copy of which is attached to the margin hereof, has been and was correctly printed and pub-
lished in the regular and entire issue of every number of said newspaper and not in any supplement
thereof or thereto for TWO (2) consecutive issues, commencing with the issue
dated SEPT. 16 1993 and ending with the issue dated SEPT. 23
1993.

STATE OF IDAHO

COUNTY OF LEMHI

ss.

On this 23 day of SEPTEMBER in the year of 1993
before me, A Notary Public, personally appeared RICKY G. HODGES
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.

Rachel E. Snook
Notary Public for Idaho

Residing At Salmon, Idaho

My Commission expires: 10-18-97

Publication Fee \$ 34.56

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JUN 14 1995
#630

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region
900 N Skyline

Idaho Falls, Idaho 83402
(208) 525-7161

SEPTEMBER 9, 1993

RECORDER-HERALD
P.O. BOX 310
SALMON, ID 83467

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 OCTOBER 4, 1993.

Yours truly,

Rita Bodell
Secretary

Encl.

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JUN 14 1995

NOTICE OF APPLICATION FOR WATER RIGHT

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

RECORDED

JUN 14 1995

75-07606

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SIMMONS, CAROLE B
PO BOX 151
SALMON, ID 83467

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In: LEMHI County
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2.0 ACRES TOTAL

JUN 14 1995

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402 on or before OCTOBER 4, 1993.

R. KEITH HIGGINSON, Director

Published: 9/16/1993 & 9/23/1993

JUN 14 1995