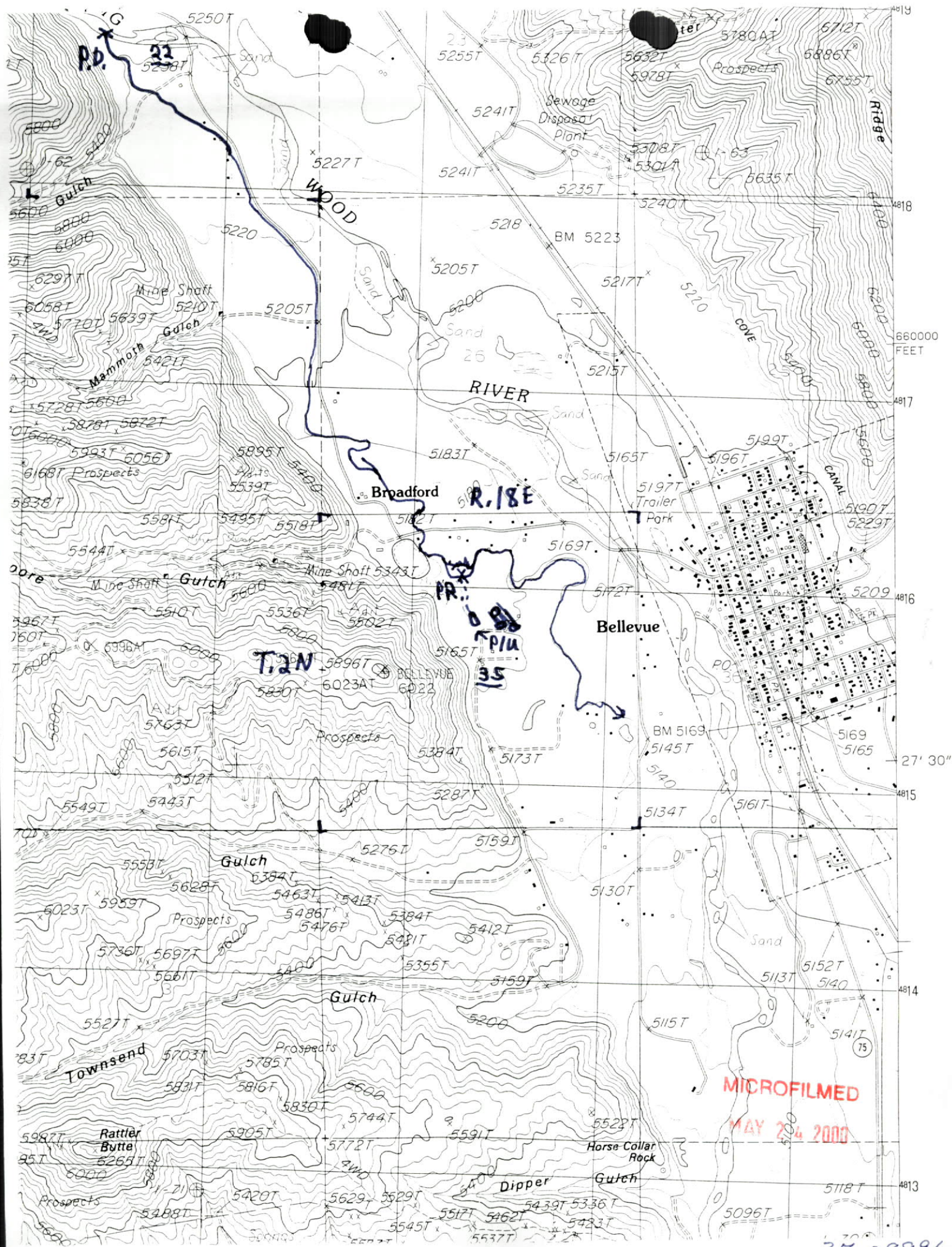




37-08896



P/R

Slough

Pond

100' 0" 0.000000
100' 0" 0.000000
100' 0" 0.000000



Wrencher #39 Headgate In Broadford Slough
By J E Stanton 6-11-2003 Permit 37-8896

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Measuring Point w/Weir Plate Removed
By J E Stanton 6-11-2003 Permit 37-8896



Weir Plate – Permit 37-8896
By J E Stanton 6-11-2003

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Feeder Ditch Looking Southerly – Permit 37-8896
By J E Stanton 6-11-2003



Pond Looking Northerly – Permit 37-8896
By J E Stanton 6-11-2003



Pond Looking Westerly – Permit 37-8896
By J E Stanton 6-11-2003



West Side of Pond Looking Northerly
By J E Stanton 6-11-2003 Permit 37-8896

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AFFIDAVIT of PUBLICATION

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OCT 01 1999

Department of Water Resources
Southern Region

State of Idaho, }
County of Blaine } SS.

On this 30th day of September, in the year 1999, before me a Notary Public of said State, personally appeared **CLYDE PINSON**, known or identified to me to be the person whose name is subscribed to be 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. As the publisher of the Wood River Journal, he/she attests that said newspaper has been continuously and and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 15th day of Sept., 1999, and the date of the last publication was on the 22nd day of Sept., 1999.

Clyde Pinson

Subscribed and sworn to before me this 30th day of September, 1999.

(SEAL)
VIRGINIA R. BALLOU
NOTARY PUBLIC
STATE OF IDAHO

Virginia R Ballou

Commission exp 9-17-04
NOTARY PUBLIC

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 39.000
Number of Insertions 2
Lines tabular at 39.000 7¢ / Pica
Lines straight at 26.910 6¢ / Pica
Subsequent lines at 22.425 5¢ / Pica
TOTAL COST \$54.34

COPY OF NOTICE
(Paste Here)

Application Water Right 37-08896
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. Water Resources
BILL TO
1341 Filmore St., Ste 200
Twin Falls, ID 83301-3380

Application for water right

NOTICE OF APPLICATION FOR WATER RIGHT

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

37-08896

EVANS, WILLIAM H
EVANS, HELEN B
42 FOX-HOLLOW GULCH RD
BELLEVUE, ID 83313
Source: Broadford Slough
Tributary: Big Wood River
Source: Big Wood River
Tributary: Malad River
Diversion Pt: SWSNW Sec 22 T 02N
R 18E in BLAINE County; SENENW
Sec 35 T 02N R 18E in BLAINE County.
Use: aesthetic (0.400 CFS); Total Diversion: (0.400 CFS)
Date Filed: 7/16/1999
In: BLAINE County
T02N R18E S35 SENW

The permit(s) will be subject to all prior water rights. Any protest must be filed with the Director, Dept. of Water Resources, Southern Region, 1341 Fillmore St., Suite 200, Twin Falls, ID 83301, together with a protest fee of \$25.00 on or before OCTOBER 4, 1999. The protestant must also send a copy of the protest to the applicant.
Karl J. Dreher, Director

Publish: Wood River Journal — September 15 & 22, 1999.

Publication Rates As of 1997

(Idaho code,
Rev. Statutes 1984)
7.8 pt./line straight: .06 / pica
7.8 pt./line tabular: .07 / pica
7.8 pt./line successive
insertion: .05 / pica

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MAY 24 2000

11498



Ditch Looking North Towards Headgate



Ditch Looking SW Toward Pond

MICROFILMED

MAY 24 2000

App. for Permit, Bill Evans

6-10-99

JE Stanton

37-08896



Headgate On Big W Broadford Slough



Splitter Box On Wrencher Ditch

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MAY 24 2000

App. For Permit, Bill Evans
6-10-99
JE Stanton

37-08896



Pond Looking From Upper End Toward Lower End

Inlet

MICROFILMED
MAY 24 2000

App For Permit, Bill Evans
6-10-99
JE Stanton

37-08896

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-08896

Priority: July 16, 1999

Maximum Diversion Rate: 0.40 CFS
Maximum Diversion Volume: 290.0 AF

It is hereby certified that WILLIAM H EVANS And/or HELEN B EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE ID 83313 have complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated July 16, 1999; and have
submitted Proof of Beneficial Use on March 25, 2002. An examination indicates that the works have a
diversion capacity of 0.4 cfs of water from:

SOURCE

BIG WOOD RIVER

Tributary: MALAD RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
AESTHETIC	01/01 to 12/31	0.40 CFS	290.0 AF

LOCATION OF POINTS OF DIVERSION:

BIG WOOD RIVER SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 35, Twp 02N, Rge 18E, B.M., BLAINE County (Rediversion)

BIG WOOD RIVER SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 22, Twp 02N, Rge 18E, B.M., BLAINE County (Injection)

PLACE OF USE: AESTHETIC

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02N 18E 35								X									

CONDITIONS OF APPROVAL

1. The issuance of this right does not grant any right-of-way or easement across the land of another.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
4. Water shall not be diverted under this right when flows in the Big Wood River are below established minimum stream flows.
5. Rights 37-00578C, 37-00688C and 37-08896 when combined shall not exceed a total diversion rate of 0.40 cfs and a total annual maximum diversion volume of 290.0 af at the field headgate.

MICROFILMED
OCT 20 2003

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-08896

6. If Rights 37-00578C and 37-00688C are sold, transferred, leased, or moved to any other place of use after the date of this approval, the right holder shall not divert water under this right without an approved transfer pursuant to Section 42-222, Idaho Code, or other written approval of the Department if a transfer is not required.
7. This right is injected into the Broadford Slough and rediverted from the Slough through the Wrencher #39 headgate.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 26th day of September 2003.


for **KARL J. DREHER**
Director



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OCT 20 2003

RECEIVED

RECEIVED

SEP 26 2003

MAR 18 2002

FOR OFFICE USE ONLY

Amt. of Fee \$: 100.00
Receipt No. 0060884
Receipt By: gmm
Date Received: 3-25-02

Department of Water Resources
STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 25 2002

PROOF OF BENEFICIAL USE

Department of Water Resources

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

1. Permit No. 37-08896 Telephone No. 208-788-2683
2. Name of Permit Holder(s): William H. EVANS Helen B. EVANS
3. Mailing Address: 42 Fox Hollow Gulch
City Belleve State ID. Zip 83313
BROAD FORD Slough
4. Source of Water: WRECHER #39 If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____
Well Driller: _____ Drilling Permit Number: _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): _____ Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: AESTHETIC
6. Total rate of diversion and/or volume for which proof is submitted: 0.40 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 _____
\$100 Receipt ID
8. Fee Enclosed: \$ 0252283 (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: William H EVANS Telephone Number: 208-788-2683
Address: 42 Fox Hollow Gulch Belleve ID. 83313
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: William H. Evans
(include your title, if on behalf of company or organization)

Date: 3/14/02

APR 23 2002

RECEIVED

MAR 26 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

REQUEST FOR EXTENSION OF TIME

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

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

Permit No. 37-8896Name(s) of Permit Holder: William H. EvansAddress: 42 Fox Hollow Gulch City Bellevue State Id Zip 83723Telephone No. 208-788-2683 Date Proof is Due: May 1, 2001

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

Gate is presently being fabricated by Wood River
welding. When completed and the grounds sufficiently
dried to give access for heavy equipment it will be
installed in accordance with permit requirements

Costing \$ Not Sure

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

Personnel to construct + install plus winter months.
This has now been arranged + should be completed by
June 30, 2001.

Permit holder(s) request an extension to June 30, 2001

William H. Evans
(Signature)*

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

ACTION OF THE DEPARTMENT OF WATER RESOURCES MICROFILMED

IT IS HEREBY ORDERED that the above request for extension of time be

MAR 29 2001

APPROVED and the time within which to submit proof of beneficial use
is extended to May 1, 2002.

Signed this 29 th day of March, 2001

L. Glen Saxton
L. GLEN SAXTON, Chief
Water Allocation Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
INSTRUCTIONS FOR EXTENSION OF TIME REQUEST
TO SUBMIT PROOF OF BENEFICIAL USE

If the water right development authorized by your permit is not complete and you need more time to submit proof of beneficial use of water under your permit, please read the following:

Under the provisions of Section 42-204, Idaho Code, the department can extend the proof due date of your permit only once, and then only if you can demonstrate that you have been pursuing development of the permit with due diligence.

The Request for Extension of Time form requires that you indicate the extent of development that has occurred, the cost, and the reason(s) the work has not been completed. This information must be provided in enough detail to show due diligence. Examples of work performed are: well drilled, pump installed, 10 acres now irrigated, fish propagation ponds constructed, sprinkler system purchased, etc.

If no work has been accomplished, the statutes provide that the Request for Extension of Time must be denied. **Lack of financial resources, the state of the economy or personal illness usually cannot be considered adequate reasons to approve a Request for Extension of Time.**

EXCEPTIONS TO ONLY ONE EXTENSION

The proof due date for a permit that has not been developed for one of the following reasons may be granted one or more extensions of time even though no work has been accomplished:

- When there is a lack of a required consent or final approval from a federal government agency (evidence of delay must be submitted with the request), i.e. right-of-way easement or land classification such as Desert Land Entry or Carey Act.
- When litigation related to title of the water has prevented development of the permit (evidence must be submitted with the request).
- When the water project is of a large scale -- storage of more than 10,000 acre-feet or diversion of more than 25,000 acre-feet in one irrigation season for an irrigation project of at least 5,000 acres.
- When the water right permit is held by the United States of America (reason for request must be submitted).

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MAR 29 2001

A non-refundable filing fee of \$50.00 must accompany the Request for Extension of Time form.

NOTE that in no case should a Proof of Beneficial Use form and a Request for Extension of Time form both be submitted. If your water development project is completed, then the proof of beneficial use form should be completed and returned. If the project is started but not completed, then the Request for Extension of Time form should be completed and returned in compliance with the guidelines above. If the project has not been initiated and does not fit into one of the exceptions listed above, then neither form should be returned and the permit will lapse and become of no further force nor effect.

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 37-08896

Priority: July 16, 1999

Maximum Diversion Rate:

0.40 CFS

This is to certify, that **WILLIAM H EVANS**
HELEN B EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE ID 83313

has applied for a permit to appropriate water from:
BIG WOOD RIVER tributary of **MALAD RIVER**

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

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

AESTHETIC

01/01 to 12/31

0.40 CFS

LOCATION OF POINT(S) OF DIVERSION:

Injection

Rediversion

SWSENW , Sec. 22, Township 02N, Range 18E

SWSENW , Sec. 22, Township 02N, Range 18E

SENENW , Sec. 35, Township 02N, Range 18E

BLAINE County

PLACE OF USE: AESTHETIC

TWN RGE SEC

02N 18E 35

SENW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before **May 1, 2001**.
2. Subject to all prior water rights.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
5. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

MICROFILMED
MAY 24 2000

State of Idaho
Department of Water Resources**Permit To Appropriate Water**

NO. 37-08896

CONDITIONS OF APPROVAL AND REMARKS

6. Water shall not be diverted under this right when flows in the Big Wood River are below established minimum stream flows.
7. Rights 37-00578C, 37-00688C and 37-08896 when combined during the irrigation season shall not exceed a total diversion rate of 0.40 cfs.
8. The aesthetic features can only be constructed on lands previously irrigated under Rights 37-00578C and 37-00688C.
9. As mitigation for the use of water under this right for aesthetic purposes, the right holder shall reduce the number of acres irrigated under Rights 37-00578C and 37-00688C by the maximum number of acres covered by the surface area of the pond developed under this right.
10. If Rights 37-00578C and 37-00688C are sold, transferred, leased, or moved to any other place of use after the date of this approval, the right holder shall not divert water under this right without an approved transfer pursuant to Section 42-222, Idaho Code, or other written approval of the Department if a transfer is not required.
11. Water is injected into the Broadford Slough and rediverted from the slough at the headgate known as Wrencher #39.

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

9th day of May, 2000.

Karl J. Dreher
for Karl J. Dreher, Director

MICROFILMED

MAY 24 2000

RECEIVED

NOV 22 1999

FORM 202

2/96

Ident. No. 37-08896

RECEIVED

OCT 14 1999

Department of Water Resources

Department of Water Resources
STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

JUL 16 1999

Department of Water Resources
Southern Region

1. Name of Applicant William H. &/or Helen B. Evans Phone 788-2683
Mailing address 42 Fox Hollow Gulch Rd., Bellevue, ID 83313
2. Source of water supply Big Wood River via Broadford Slough which is a tributary of Malad River
3. Location of point of diversion is Township 2N Range 18E Sec. 22 in the SW 1/4.
SE 1/4, NW 1/4, Govt. Lot , B.M., Blaine County:
additional points of diversion if any: Re-diversion from Slough in SE/NE/NW Sec. 35 T 2N R. 18E
4. Water will be used for the following purposes:
 Amount 0.40 cfs for Aesthetics purposes from 1-1 to 12-31 (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount for purposes from to (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount for purposes from to (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount for purposes from to (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount for purposes from to (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount for purposes from to (both dates inclusive)
 (cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.40 and/or (b)
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source Headgate on Big Wood River to
Broadford Slough, Wrencher #39 headgate in Slough, ditch to dug pond
 - b. Height of storage dam feet; active reservoir capacity acre-feet; total
reservoir capacity acre-feet
 - 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? No
 - e. If well is already drilled, when? ; Drilling firm
Well was drilled for (well owner) ; Drilling Permit No.
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in KW.
 - b. Stockwatering; list number and kind of livestock.
 - c. Municipal; show name of municipality.
 - d. Domestic; show number of households.
 - e. Other; describe fully.

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MAY 24 2000

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 or use below. See instructions for standard symbols.

TWP	RGE	SEC	N E				N W				S W				S E				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	18E	35								X									

X = Aesthetic Use

Total number of acres to be irrigated _____

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

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

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: The requested water is already delivered for irrigation under Rights 37-00578C & 00688C by the District 37 watermaster. Use will alternate between irrigation and pond maintenance as needed, with every effort made to minimize water loss in the pond. No additional flow rate is being requested. The pond is about 1/4 acre in surface area.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

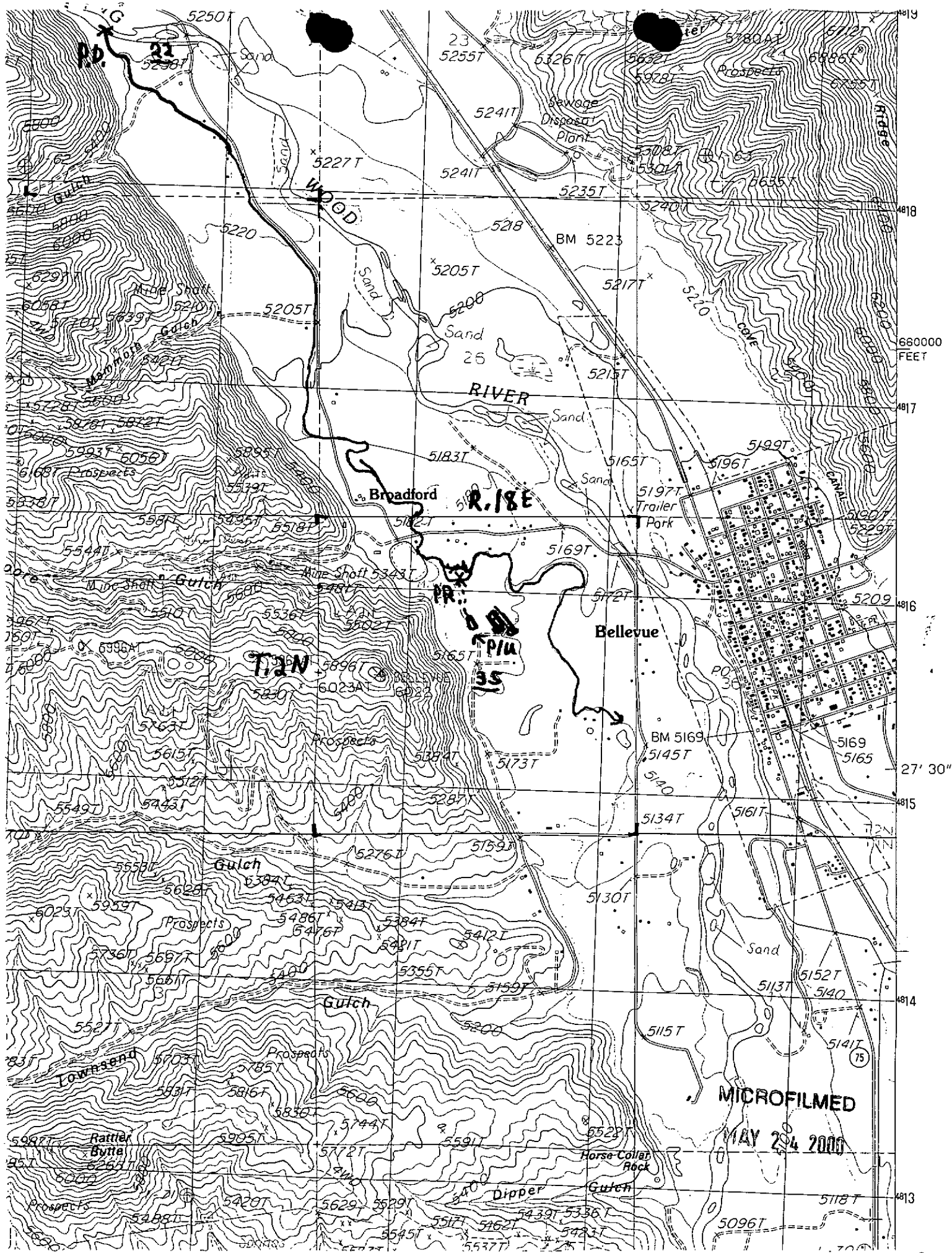
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

William H. Evans
Signature of Applicant (and title, if applicable)

Received by JF Ellerton Date 7-16-99 Time 11 am Preliminary check by JS
Fee \$ 100. Receipted by JS # 5022367 Date 7-19-99
Publication prepared by MB Date 9/3/99 Published in Wood River Journal
Publication approved MB Date 10/6/99

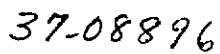
MICROFILMED

MAY 24 2000



37-08896

Pond 3



MICROFILMED
JUL 2 2000
Inlet

37-08896



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 26, 2003

WILLIAM H EVANS
HELEN B EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE ID 83313

RE: License No. 37-8896 - Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

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

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

Sincerely,

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED
OCT 20 2003

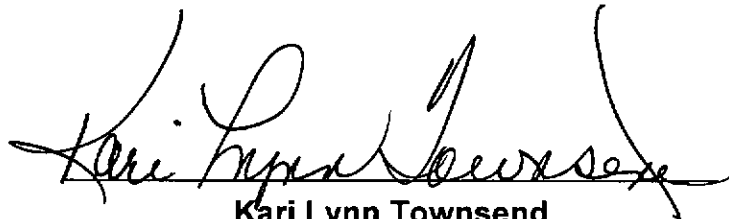
CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

37-8896

**HELEN B EVANS
WILLIAM H EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE ID 83313**



**Kari Lynn Townsend
Secretary**

MICROFILMED
OCT 20 2003

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

MICROFILMED
OCT 20 2003

FINAL ORDER

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

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MICROFILMED
OCT 20 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT
RECEIVED

RECEIVED
JUL 10 2003

SEP 26 2003

A. GENERAL INFORMATION

Permit No. 37-578C & 688C Department of Water Resources

1. Owner: Wm. & Helen Evans Department of Water Resources Phone No. 788-2683

Current Address: 42 Fox Hollow Fulch Rd, Bellevue, ID 83313

2. Accompanied by: _____ EXAM DATE: 6-11-03

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: Big Wood R. via Broadford Slough tributary to Malad River

B. OVERLAP REVIEW

1. Other water rights with the same place of use: _____

2. Other water rights with the same point of diversion: 37-578C & 688C

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SW	SE	NW	22	2N	18E	Blaine	Head of Broadford Slough
		SE	NE	NW	35	"	"	"	Wrencher #39 Headgate in Slough

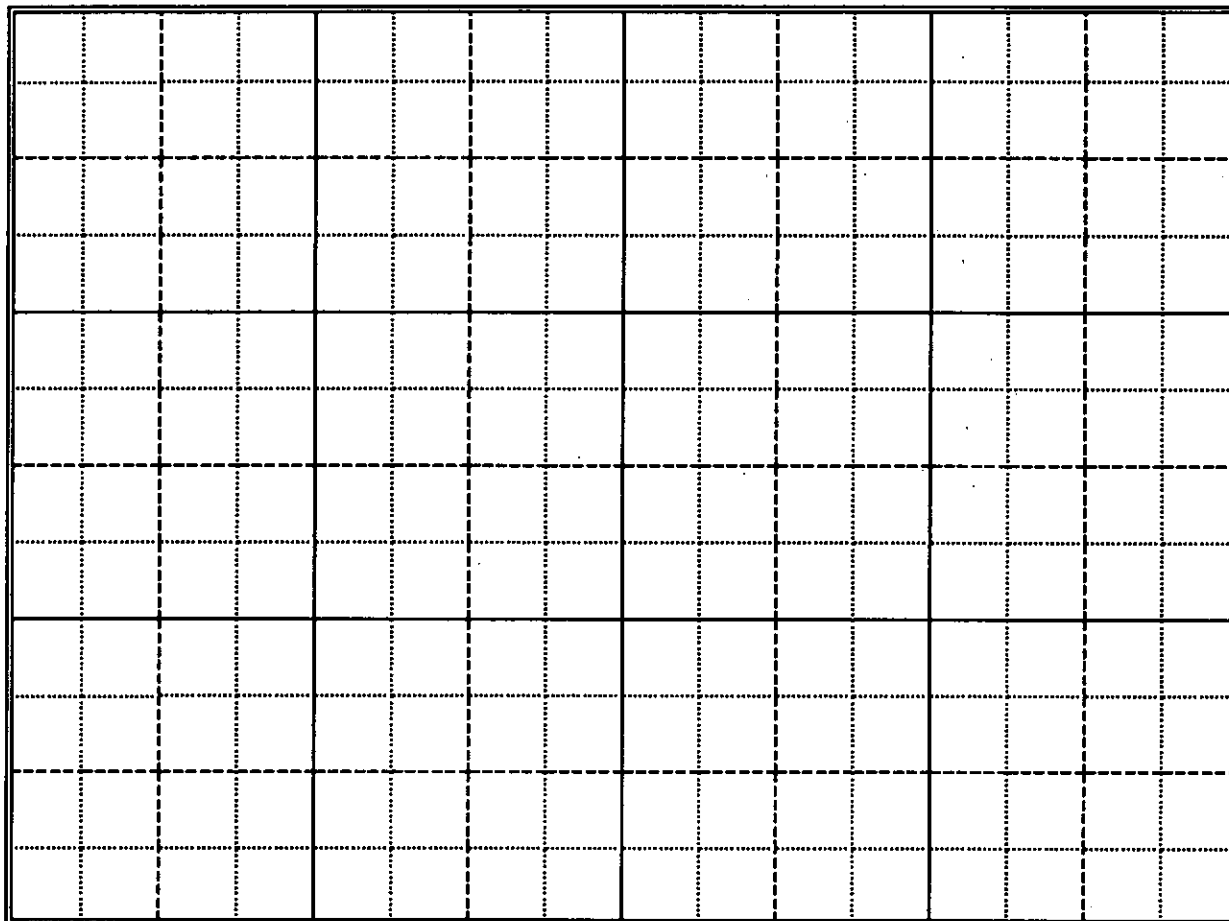
2. Place(s) of Use:

Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	18E	35								X									

MISSOURI
SEP 20 2003

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



Scale: 1" = _____ AncView SDE

☒ 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

1.

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

2. Measurements: Measured 0.18' head on Cippolatti weir cut into 8"x9" wood beam 15" wide at upstream end, 13" wide at downstream end. A 12" Cippolatti plate was nearly laying on the ground. Watermark 0.24' on weir plate.

E. NARRATIVE/REMARKS/COMMENTS

I did the pre-permit exam on this system, so the licensing exam just confirmed what I previously observed. Water was being used for irrigation during the exam, with none going to the pond. The pond was holding water, however, confirming the permitted use. The headgate had been set & locked by the water district in accordance with the existing decreed rights, & this permit just adds an additional use to the irrigation system. The ditch rider for this area, Brian Brockette, told me that water is allowed to run to the Evans property all year long in order to maintain this pond (probably the other ponds there also).

Not to exceed 289.6 AFA when combined with 37-578C & 688C.

The pond covers less than $\frac{1}{2}$ acre, & is only 2-3' deep. So no storage is involved in this use.

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

MICROFILMED
OCT 20 2003

F. FLOW CALCULATIONS

Additional Computation Sheets Attached

Measured Method:

Water mark on 12" Cippolletti weir of 0.24 cfs = 0.40 cfs, Recommend permitted amount.

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

 $V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

0.40 cfs $\times$ 1.9835 AF/cfs/day $\times$ 365 days/yr = 289.6 AFA

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Aesthetic	1-1	12-31	0.40 cfs	289.6
Totals:			0.40	289.6

2. Recommended Amendments

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

I. AUTHENTICATIONField Examiner's Name J. F. Thornton Date 7-9-03

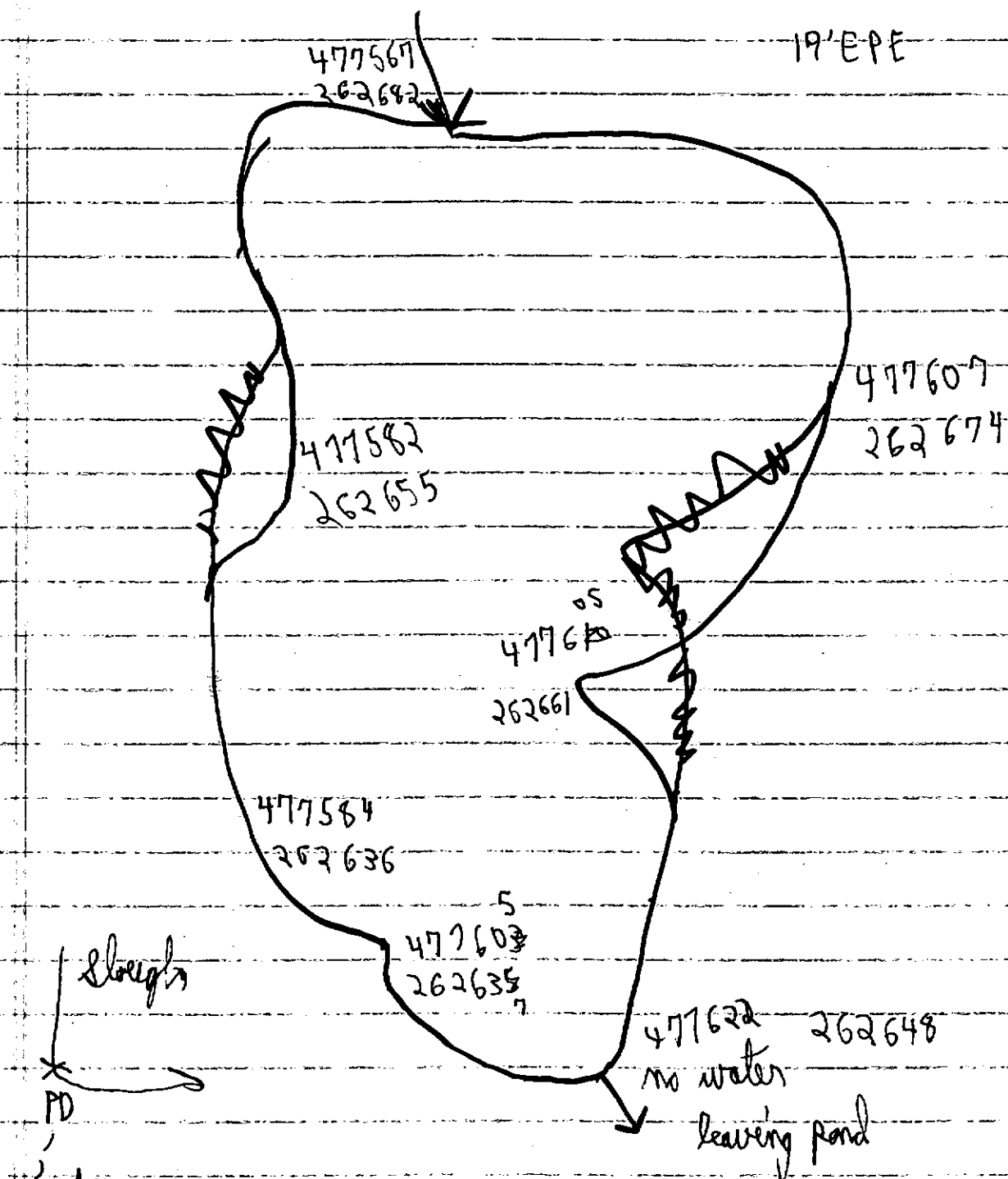
Reviewer _____ Date _____

SEAL

MICROFILMED

OCT 20 2003





MP at 477434
 M.P. 262844 20' EPE

Wedge 477404 average
 262970

26' EPE

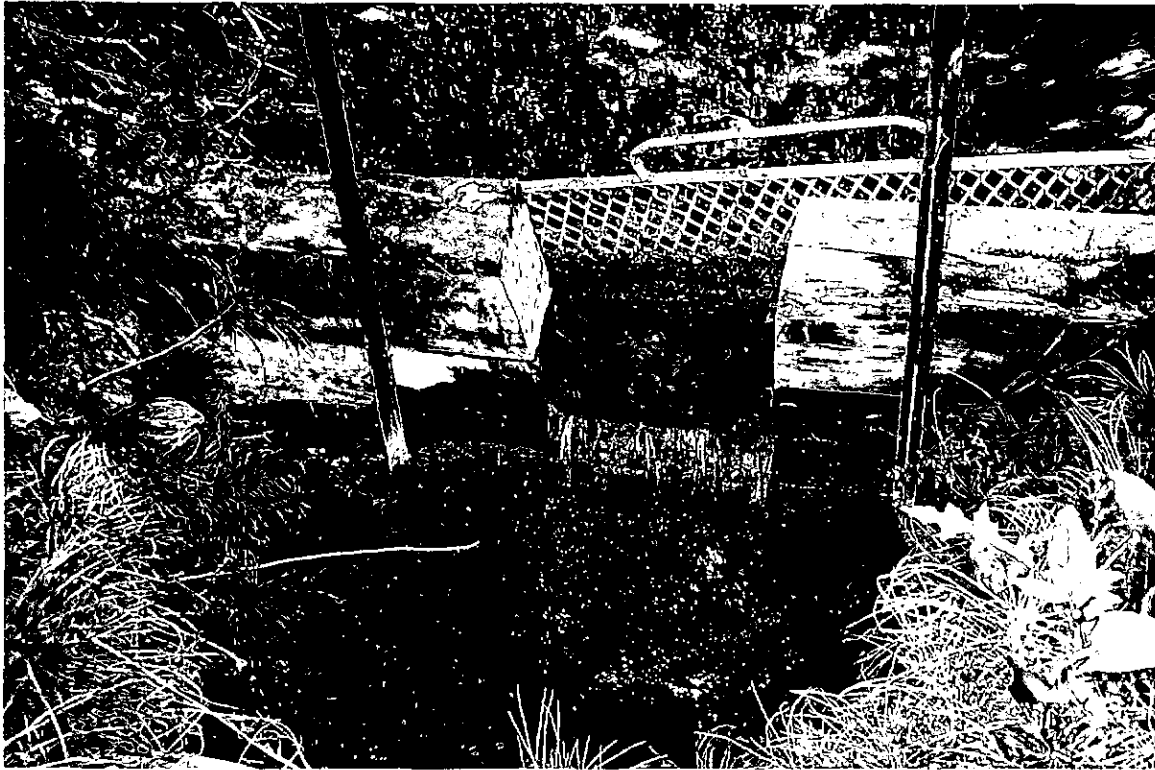
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OCT 20 2003



Wrencher #39 Headgate In Broadford Slough
By J E Stanton 6-11-2003 Permit 37-8896

MICROFILMED
OCT 20 2003



Measuring Point w/Weir Plate Removed
By J E Stanton 6-11-2003 Permit 37-8896



Weir Plate - Permit 37-8896
By J E Stanton 6-11-2003

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OCT 20 2003



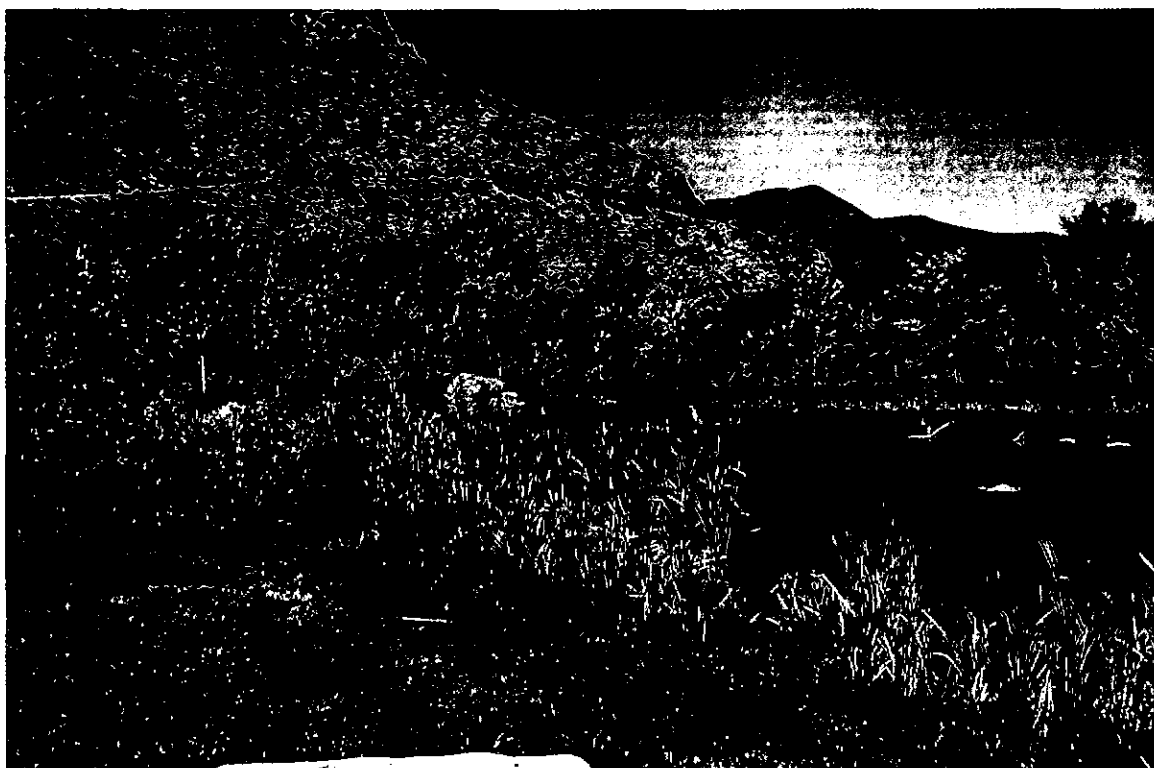
Feeder Ditch Looking Southerly – Permit 37-8896
By J E Stanton 6-11-2003



Pond Looking Northerly – Permit 37-8896
By J E Stanton 6-11-2003



Pond Looking Westerly – Permit 37-8896
By J E Stanton 6-11-2003



West Side of Pond Looking Northerly
By J E Stanton 6-11-2003 Permit 37-8896

MICROFILMED

OCT 20 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

April 10, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

WILLIAM H EVANS
HELEN B EVANS
42 FOX HOLLOW GULCH
BELLEVUE ID 83313

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-08896

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 contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions, please contact the **Southern** Regional Office of the department in Twin Falls at (208) 736-3033.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office (w/encl.)

MICROFILMED
APR 23 2002

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 37-8896

Reviewed By: dgibson

Date: April 10, 2002

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?	X		Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:		C060884	Well driller's report filed?		X
Additional Amount Due:			Measuring device required?	X	
Name and address same as permit?	X		Measuring device installed?	X	
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received		03/25/2002
Date proof due	-	05/01/2002
Lapse notice sent	-	
No. of days late	=	0
Holiday allowance	+	
Priority date	+	07/16/1999
New priority date	=	07/16/1999

Deficiencies of Actions Items

Acknowledge proof.

MICROFILMED
APR 23 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 19, 2002

HELEN B. EVANS
WILLIAM H. EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE ID 83313

RE: PERMIT NO. 37-8896

Dear Permit Holder:

Enclosed is a copy of the Proof of Beneficial Use (proof) statement you submitted in connection with the above referenced water right permit. Before the department can accept your proof, it must be accompanied by the appropriate license examination fee.

Please return the enclosed copy of the proof form along with the \$100.00 license examination fee to my attention before the May 1, 2002 proof deadline. If you have any questions regarding the Proof of Beneficial Use process, please contact me at (208) 327-7953, or contact the regional office in Twin Falls at (208) 736-3033 with your water right questions.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR- Region

MICROFILMED

APR 23 2002

RECEIVED

MAR 18 2002

FOR OFFICE USE ONLY

Amt. of Fee \$: _____
Receipt No. _____
Receipt By: _____
Date Received: _____

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

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

1. Permit No. 37-08896 Telephone No. 208-788-2683
2. Name of Permit Holder(s): William H. EVANS Helen B. EVANS
3. Mailing Address: 42 Fox Hollow Gulch
City Belleuve State ID. Zip 83313
BROADFOAD Slough
4. Source of Water: WRENCHER #39 If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____
Well Driller: _____ Drilling Permit Number: _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): _____ Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: AESTHETIC
6. Total rate of diversion and/or volume for which proof is submitted: 0.40 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 _____
Receipt 10
8. Fee Enclosed: \$ 5052883 (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: William H EVANS Telephone Number: 208-788-2683
Address: 42 Fox Hollow Gulch Belleuve ID. 83313
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: William H. Evans

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

Date: 3/14/02

MICROFILMED

APR 23 2002

MEMO TO THE FILE NO. 37-8896

DATE: March 8, 2002

FROM: Deborah Gibson *dg*

Lee Peterson contacted me today, he is the watermaster for Water District No. 37. He called me at the permit holder's (William H. Evans) request to prove beneficial use of the permit. Lee verified that he has examined the weir, it is complete, and that it meets Lee's specifications, and therefore, he approves the structure.

I then contacted the permit holder and requested that he file a Proof of Beneficial Use form to meet the requirements the department has regarding establishing proof.

MICROFILMED
APR 23 2002

February 28, 2002

HELEN B EVANS
WILLIAM H EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE, ID 83313

PROOF DUE NOTICE

RE: PERMIT NO. 37-8896

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 01, 2002. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed 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.

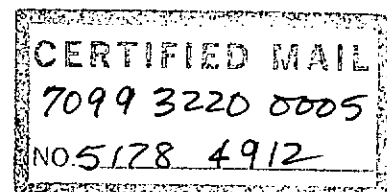
Sincerely,

Deborah J. Gibson, Admin. Assistant
Water Allocation Bureau

Enclosures

MICROFILMED

APR 23 2002





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 29, 2001

WILLIAM H EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE ID 83313

RE: PERMIT NO. 37-8896

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit which extends the time within which to submit proof of beneficial use of water to **May 1, 2002**.

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

Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

The fee for filing a Request for Extension of Time is \$50.00. You paid \$100.00 and I will request that you be refunded the \$50.00 you overpaid. This request will be processed and a check for \$50.00 will be prepared and mailed to you under separate cover.

Please feel free to contact the department if you have questions.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

MICROFILMED

Enclosure

c: IDWR - Regional Office
Fiscal

MAR 29 2001

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No.: 37-8896

Reviewed By: dgibson

Date: March 29, 2001

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Request received timely?	X		Is delay by a government agency?		X
Appropriate fee	X		Is supporting documentation needed to support the file?		
Additional Amount Due:					
Receipt No.:	C052883		Has the permit been involved in litigation?		X
Name and signature same as permit?	X		Is supporting documentation needed to support the file?		
Is address same as permit?	X		Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?		X
Has adequate work been completed to demonstrate due diligence?	X				

Priority Calculation

Extension request received	03/26/2001	New proof due date	05/01/2002
Date proof due	- 05/01/2001		
Lapse notice sent	-		
No. of days late	= 0		
Holiday allowance	+		
Priority date	+ 07/16/1999		
New priority date	= 07/16/1999		

Action Taken

Acknowledge request and extend proof due date to May 1, 2002. Refund \$50.00 over paid by the permit holder. *Extension based on due diligence.*

MICROFILMED
MAR 29 2001

RECEIVED

MAR 26 2001

STATE OF IDAHO

Department of Water Resources

Dept. of Water Resources

Re: Permit No. 37-8896

ATTN: Deborah Gibson

Water Allocation Bureau

Dear Ms. Gibson

Enclosed is my Request for extension of
time to complete permit Requirements.

My ck # 1375 is enclosed for my \$100.00 permit
Fee.

Thank you for your patience.

Sincerely
William H. Evan

MICROFILMED

MAR 29 2001

February 28, 2001

HELEN B EVANS
WILLIAM H EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE, ID 83313

PROOF DUE NOTICE

RE: PERMIT NO. 37-8896

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 01, 2001. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed 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.

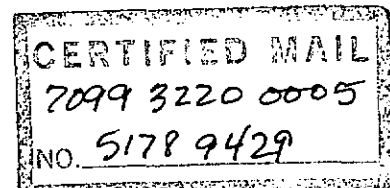
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

Sincerely,

Deborah J. Gibson, Admin. Assistant
Water Allocation Bureau

Enclosures

MICROFILMED
MAR 29 2001





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

May 10, 2000

DIRK KEMPTHORNE
GOVERNOR

WILLIAM H EVANS
HELEN B EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE ID 83313

KARL J. DREHER
DIRECTOR

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 37-08896

Dear Permit Holder:

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

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

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 into a licensed water right. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed, you should complete and submit this form immediately.

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

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

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

MICROFILMED

MAY 24 2000

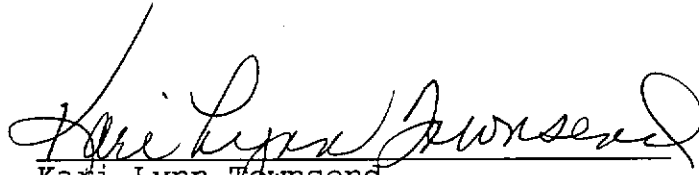
SK:klt

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of May, 2000, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Right No. 37-08896

WILLIAM H EVANS
HELEN B EVANS
42 FOX HOLLOW GULCH RD
BELLEVUE ID 83313


Kari Lynn Townsend
Secretary

MICROFILMED
MAY 24 2000

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

CERTIFICATE OF SERVICE

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

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

ORAL ARGUMENT

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

FINAL ORDER

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

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when (a) the petition for reconsideration is disposed of; or (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

RIGHT TO HEARING

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

MEMORANDUM

TO: File 37-08896

FROM: Sharla

DATE: April 20, 2000

RE: Telecon

On this date I faxed a copy of this application to the watermaster of Water District #37, Lee Peterson. I not only wanted to make sure he had no objections to the issuance of this permit (his comments had been solicited by the region but Lee had not responded), but I also wanted verification of the legal descriptions used to identify the point of injection (at the head of the slough) and for the redirection point at the Wrencher #39 headgate.

Lee confirmed that the injection point is in the SENW, S22 and the Wrencher #39 headgate is within the NENW, S35. He also stated he has no objections to issuance of this permit.

MICROFILMED

MAY 24 2000

APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS
Reviewed by Sharla Curtis on 11/23/99
4/10/00

No. 37-08896 Name: Evans Corp. Officers N/A Ad ok ☒ Govt Lots

AREA OF CONCERN: No/Yes SR Moratorium GWMA ~~TRUST~~/NON-TRUST

GROUNDWATER: (✓Flow Chart)

DRILLING PERMIT

All wells - 046(P23)
Basin 34 - 085
Irr. w/in WD - P05
WMD - North/East/West
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 067
~~WMD~~
Supp irr (irr = only use) - 065-079
Supp irr (+ other uses) - 100-101
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M

LOCATION:

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

USES:

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

aesthetic

BENEFICIAL USE DUE: 12/01/2000

MISC CONDITIONS/REMARKS:

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

SURFACE WATER: (✓Flow Chart)

F&G contacted - Yes/No Response None
In/Above MSF - WB9
PLANNING SECTION REVIEW/RESPONSE
In-stream development - P52
WD - R04(WD# 37)
≤ 0.20 cfs/others - 01H(P01), 01P or No MD
> 0.20 cfs - 01(P08)

SPRINGS/SINK, INACTIVE WD & REST OF STATE

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

RIVER BASINS: (SW special considerations)

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

USES:

POWER - 17H-17K (+uses)-08A-025(P18)-01N-081(P10)
MUNICIPAL
Restricted area - 022,075
Irr., GW supp to SW - 102
DOMESTIC
Surface water - WB5 (Big Wood or Boise above Star Bridge)
27A (Payette R)
> 1 in restricted area - 070-071-075(no parks/common areas, etc)
Irr use listed separate - WB5
Moratorium approvable - W03 (2400 gpd - meets domestic definition
i.e. D/convenience store)

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

OTHER CONDITIONS/REMARKS

pt of injection = headgate @ slough (SENW, S22)

COMMENTS

sent copy of app to wtmaster - he gave me the legal desc for head of slough (injection pt) and confirmed legal for wunches #39 headgate

STATE OF IDAHO
IDWR SOUTHERN REGION
APPLICATION FOR PERMIT ANALYSIS SHEET

RECEIVED

NOV 22 1999

DEPARTMENT OF WATER RESOURCES

INITIAL REVIEW BY

J. Stanton

DATE

7-19-99

REQUIRED INFORMATION (Ck if OK)

- ☒ 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 &/or volume.
- ☒ County
- ☒ Quantity (flow &/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?

++++PROPOSED PRIORITY DATE

7-16

19,99

ADDITIONAL INFORMATION

☒ Overlapping place of use(Describe source & relationship to present application on the back.

☒ Overlapping point of diversion.

☒ Yes ☐ No Is Source Surface Water?

If Yes Send Copy to F&G.

If Yes Field check/memo required.

Field check/memo by J. Stanton

☒ Yes ☐ No Field report attached?

☒ Yes ☒ No Critical Ground water area?

☒ Yes ☐ No Groundwater management area?

☐ Yes ☒ No Measurement District or Groundwater District?

What District?

☐ Yes ☒ No Send Dam safety information?

☐ Yes ☒ No Send power requirement letter?

☐ Yes ☒ No Send fish farm requirement letter?

☐ Yes ☒ No Power residency affidavit attached?

☐ Yes ☒ No Power efficiency form?

☒ Yes ☐ No Within trustwater boundary?(If yes, attach trustwater supplementary analysis sheet.

☐ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft? (If yes, attach large diversion supplementary analysis sheet.

☐ Yes ☒ No Is Application made to record Pre Nov 1987 Development?

If Yes then request clear evidence of when use started.

Process - non-consumptive use

* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

Date Requested

Date Sent Comments Received

SEND COPIES TO:

☐ Idaho Dept of Health & Welfare	_____	_____
☐ USDI BLM	_____	_____
☒ Idaho Dept of Fish & Game	<u>9-3-97</u>	<u>None</u>
☐ USFS	_____	_____
☐ Idaho Dept of Lands	_____	_____
☒ Water Dist. No. <u>37</u>	<u>9-3-97</u>	<u>None</u>
☐ Adjudication Bureau Unit	_____	_____
☒ <u>SC - Tows</u>	<u>9/7/95</u>	<u>None</u>

PROCESSING ☒ Yes ☐ No In form for Advertising?
☐ Yes ☒ No Statewide Advertising?
☒ Yes ☐ No Fee amount, receipt date & No. recorded?

☐ Yes ☐ No Has all requested additional information been received?
If not, describe action taken: _____

FINAL REGIONAL PROCESSING REVIEW

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

☒ Yes ☐ No Publication dates and paper recorded?
Final date for protest: _____
☐ Yes ☒ No Protests received?
☐ Yes ☒ No Protested?
Describe Resolution: _____

☒ Yes ☐ No Measuring device required?
☐ Yes ☒ No Access port required?
☒ Yes ☐ No Will water be delivered by watermaster? If yes, what dist? 37
☐ Yes ☒ No Special conditions codes:

☒ Yes ☐ No Is Evaluation Memo Attached?
If yes; date of Memo _____
Date of priority recommended: 10/11/95

COMMENTS:

RECOMMEND ☒ Approval ☐ Denial

By AD Date 10/11/99
11/18/99

MEMO

FROM: Allen Merritt 

DATE: November 18, 1999
REVISED

TO: Application for Permit No: 37-08896

In the Name of: Evans

SUBJECT: Review and Recommendation

This application is for aesthetic purposes which essentially is for development of a pond and wetland area. (According to Jim Stanton's 6/11/99 memo the pond has already been built and the application covers what has been constructed.) The site of the development is on previously irrigated lands served by water diverted from the Big Wood River under decreed rights. It is intended to continue to divert the irrigation water and use some of this diverted water for the aesthetic use. This application was processed since the area of the pond and wetland is small and could be considered non-consumptive and the use is being mitigated by the reduction in irrigated land.

The application was processed without protest. Comments were requested from IF&G, the watermaster of Water District 37 and the stream channel section. No comments have been received.

After initial review the application was forwarded to the S.O. but our office then received a letter requesting denial by Blaine County. On receiving the letter I requested that the application be returned to the region for further review. I then sent my 10/28/99 letter to the applicant & Blaine County for additional comment which they wished the department to consider. Our office received comment from both parties in letters dated 11/9 & 11/15. These letters did not add much as far as something more to consider. At issue is Blaine County's "Local Interest Water Policy". Please find copies attached along with their transmittal letter dated 1/26/98. Also find Norm Young's 12/22/97 comment letter regarding the issue of the county policy.

Since the adoption of Blaine County's policy there have been several transfers processed in the area and some have been protested by Blaine County. Of the ones protested some went to hearing and some were resolved by the county withdrawing their protest. In reviewing these situations I find no clear indication or determination that the policy is the final word on public interest. To the contrary, in Norm's letter he indicates the policy will be given weight in IDWR administrative proceeding and for review by the courts.

Since no additional water is proposed to be diverted during the irrigation season it appears that little or no negative environmental impact would be expected. Actually enhancement of the wildlife in the area may result.

RECOMMENDATION

MICROFILMED

MAY 24 2000

THIS APPLICATION NEEDS TO BE REVIEWED BY ADMINISTRATION GIVING WEIGHT TO BLAINE COUNTY'S WATER POLICY. IT IS MY RECOMMENDATION THAT THE APPLICATION BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

-This application does not authorize additional water to be diverted during the irrigation season. When this right is combined with rights 37-000578C & 37-000688C during the irrigation season the rate is limited to that determined to be beneficial under rights 37-000578C & 37-000688C for irrigation of the Evans' lands including those lands historically irrigated at the site of the aesthetic development under this permit.

-The use of this permit is under control of the watermaster of district 37.

-As mitigation for development of the aesthetic area the underlying irrigation rights shall remain appurtenant to the property and not allowed to be transferred to other uses or allowed to develop additional irrigated lands. The aesthetic features can only be constructed on irrigated lands.

-A measuring device and control works must continue to be maintained at the point of diversion.

MICROFILMED

MAY 24 2000

SPECK & AANESTAD

A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

JAMES P. SPECK
DOUGLAS J. AANESTAD
BENJAMIN W. WORST

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

November 15, 1999

RECEIVED

NOV 16 1999

Department of Water Resources
Curtis D. Smith

Mr. Allen Merritt
Idaho Department of Water Resources
1341 Fillmore, Suite 200
Twin Falls ID 83301

Re: Application for Permit No. 37-08896
William H. and/or Helen B. Evans

Dear Allen:

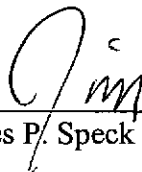
The Applicants have received and reviewed the November 9, 1999 letter to you from Blaine County. It does not provide any additional facts on which the Department can base a decision that this Application does not satisfy all of the criteria of Idaho Code § 42-203A. Furthermore, the Applicants do not believe their Application is contrary to any moratorium, order, rule or regulation of the Department. Finally, as you noted in your October 11, 1999 Memo, the Application may result in enhancement of wildlife in the area which would certainly further the local public interest.

The Applicants agree with the conditions you suggest in your October 11, 1999 Memo. The Applicants request you forward the Application to the State office of the Department with the recommendation set forth in your October 11, 1999 Memo.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

JPS:rsd
cc: Blaine County Board of Commissioners
cc: client

MICROFILMED

MAY 24 2000

THE BLAINE COUNTY BOARD OF COMMISSIONERS

206 FIRST AVENUE SOUTH, SUITE 300

HAILEY, IDAHO 83333

(208) 788-5500 • FAX (208) 788-5576

Mary Ann Mix, Chairman • Leonard Harlig, Commissioner • Dennis Wright, Commissioner

November 9, 1999

RECEIVED

NOV 12 1999

Mr. Allen Merritt
Department of Water Resources, Southern Region
1341 Fillmore St. Suite 200
Twin Falls, ID 83301

Department of Water Resources
Southern Region

RE: BLAINE COUNTY COMMENT ON PROPOSED TRANSFER #37-08896

Dear Allen,

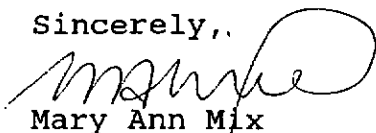
Thank you for the further explanation you provided Commissioner Harlig today on the proposed Evan's new permit application for an additional domestic exemption under I.C. 42-111.

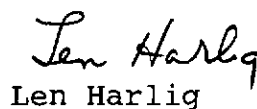
Under Blaine County's *Local Interest Water Policy*, we believe a new, additional permit will create an enlargement of use in contradiction to our *Policy*. It also will be contrary to the State's moratorium in our area, on additional water usage, and the rules and regulations of the Department of Water Resources. There is no public benefit or public purpose served by this new and additional use.

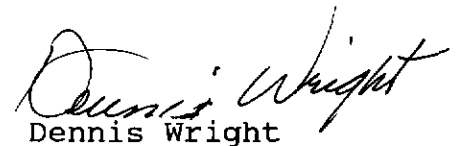
We believe that this transfer will be a defacto enlargement of right in our county because the property already has access to both domestic and surface water. The additional domestic exemption appears to be contrary to the Department's regulations. We can find no section of the statutes that permit 1/2 acre ponds in addition to domestic/irrigation uses. Although the amount of water impounded at this one pond may not immediately impact the total watershed, the cumulative impact of such impoundments can be devastating to the watershed in the future and to senior water rights holder downstream.

We understand that it is too late for a formal protest, but it shouldn't be too late for the Department to consider whether this application is in violation of its own regulations.

Sincerely,,


Mary Ann Mix


Len Harlig


Dennis Wright

cc: Linda Haavik
William Evans
Laird Lucas

MICROFILMED

MAY 24 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 28, 1999

William H. &/or Helen Evans
42 Fox Hollow Gulch Rd.
Bellevue, ID 83313

Blaine County Board of Commissioners
206 First Ave S
Suite 300
Hailey, ID 83333

RE: Application for Permit 37-08896 in the name of William and Helen Evans

Dear Ladies & Gentlemen:

Our office finished advertising the above referenced application and acknowledges receipt of the October 5th letter from the commissioners after the final date for protest. (Copy enclosed). The department periodically receives late protests or negative comment letters that are not timely filed and no other protests have been filed in connection with the matter. The department does not consider this letter a protest nor is it establishing a contested case regarding this matter.

Although the letter does not give standing before the department as a contested matter, Section 42-203A of the Idaho Code reads in pertinent part:

In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

MICROFILMED

MAY 24 2000

In connection with its evaluation the department will allow 14 days within which the applicant or the commissioners may submit any information to the department which the party believes to be pertinent to the department's evaluation of the application. If information is provided please also submit a copy to the other party. If information is submitted an additional 14 days will be allowed for response by the other party. After reviewing the information and any response to it, the department may conduct a fact-finding hearing, if the department determines such a hearing is necessary.

The department will ultimately issue a Preliminary Order in the matter, to which only the applicant has standing to file a petition for reconsideration, an exception or brief. The commissioners do not have standing in this matter.

If you have questions, please feel free to contact me at this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Allen Merritt".

Allen Merritt, PE
Southern Region Manager

CC: Glen Saxton - IDWR

MICROFILMED
MAY 24 2000

THE BLAINE COUNTY BOARD OF COMMISSIONERS

206 FIRST AVENUE SOUTH, SUITE 300

HAILEY, IDAHO 83333

(208) 788-5500 • FAX (208) 788-5576

Mary Ann Mix, Chairman

• Leonard Harlig, Commissioner

• Dennis Wright, Commissioner

October 5, 1999

RECEIVED

OCT 12 1999

Department of Water Resources
Southern Region

Mr. Allen Merritt
Department of Water Resources, Southern Region
1341 Fillmore St. Suite 200
Twin Falls, ID 83301

RE: BLAINE COUNTY COMMENT ON PROPOSED TRANSFER #37-08896

Dear Allen,

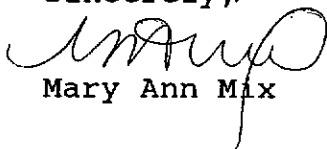
We just learned today that the protest period for this application expired on October 4, 1999. We ask that you deny this Application for Permit even though we are untimely with a formal protest.

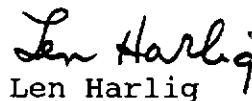
The history of the Broadford Slough is replete with complaints from senior water rights holders at the south end of the Slough about upstream users who have diverted water from the Slough for various ponds and aesthetic uses, thereby drying up or reducing the amount of water that is available for the senior water rights holders to the south.

Under Blaine County's *Local Interest Water Policy*, we believe the transfer will divert water from legitimate irrigation uses to impoundment of water for the sole purpose of personal aesthetic use. There is no public benefit or public purpose served by this transfer. The Evans' request will only exacerbate the long, contentious interaction between neighbors and further upset the water users in the area.

We believe that this transfer will cause potential harm to senior water right holders, be a defacto enlargement of right in our county, create an increase in usage in our county, and should be denied for those reasons.

Sincerely,,


Mary Ann Mix


Len Harlig


Dennis Wright

cc: Linda Haavik

MICROFILMED

MAY 24 2000

MEMO

FROM: Allen Merritt *AM*

DATE: October 11, 1999

TO: Application for Permit No: 37-08896

In the Name of: Evans

SUBJECT: Review and Recommendation

This application is for aesthetic purposes which essentially is for development of a pond and wetland area. The site of the development is on currently irrigated lands served by water diverted from the Big Wood River under decreed rights. It is intended to continue to divert the irrigation water and use some of this diverted water for the aesthetic use. This application was processed since the area of the pond and wetland is small and could be considered non-consumptive and the use is being mitigated by the reduction in irrigated land.

The application was processed without protest. Comments were requested from IF&G, the watermaster of Water District 37 and the stream channel section. No comments have been received.

Since no additional water is proposed to be diverted during the irrigation season it appears that little or no negative environmental impact would be expected. Actually enhancement of the wildlife in the area may result.

RECOMMENDATION

I recommend the application be approved subject to the following conditions:

-This application does not authorize additional water to be diverted during the irrigation season. When this right is combined with rights 37-000578C & 37-000688C during the irrigation season the rate is limited to that determined to be beneficial under rights 37-000578C & 37-000688C for irrigation of the Evans' lands including those lands historically irrigated at the site of the aesthetic development under this permit.

-The use of this permit is under control of the watermaster of district 37.

-As mitigation for development of the aesthetic area the underlying irrigation rights shall remain appurtenant to the property and not allowed to be transferred to other uses or allowed to develop additional irrigated lands. The aesthetic features can only be constructed on irrigated lands.

-A measuring device and control works must continue to be maintained at the point of diversion.

MICROFILMED

MAY 24 2000

AFFIDAVIT of PUBLICATION

RECEIVED

OCT 01 1999

State of Idaho, }
County of Blaine } SS.

Department of Water Resources
Southern Region

On this 30th day of September, in the year 1999, before me a Notary Public of said State, personally appeared **CLYDE PINSON**, known or identified to me to be the person whose name is subscribed to be 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. As the publisher of the Wood River Journal, he/she attests that said newspaper has been continuously and and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 15th day of Sept., 1999, and the date of the last publication was on the 22nd day of Sept., 1999.

Clyde Pinson

Subscribed and sworn to before me this 30th day of September, 1999.

(SEAL)
VIRGINIA R. BALLOU
NOTARY PUBLIC
STATE OF IDAHO

Virginia R Ballou

NOTARY PUBLIC

Commission exp 9-17-04

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 39.000
Number of Insertions 2
Lines tabular at 7¢ / Pica
Lines straight at 26.910 6¢ / Pica
Subsequent lines at 22.425 5¢ / Pica
TOTAL COST \$ 54.34

COPY OF NOTICE

(Paste Here)

Application Water Right 37-08896
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. Water Resources
BILL TO
1341 Filmore St., Ste 200
Twin Falls, ID 83301-3380

Application for water right

NOTICE OF APPLICATION FOR WATER RIGHT

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

37-08896

EVANS, WILLIAM H
EVANS, HELEN B
42 FOX HOLLOW GULCH RD
BELLEVUE, ID 83313
Source: Broadford Slough
Tributary: Big Wood River
Source: Big Wood River
Tributary: Malad River
Diversion Pt: SWSNW Sec 22 T 02N
R 18E in BLAINE County; SENENW
Sec 35 T 02N R 18E in BLAINE County.
Use: aesthetic (0.400 CFS); Total Diversion: (0.400 CFS)

Date Filed: 7/16/1999

In: BLAINE County

T02N R18E S35 SENW

The permit(s) will be subject to all prior water rights. Any protest must be filed with the Director, Dept. of Water Resources, Southern Region, 1341 Fillmore St., Suite 200, Twin Falls, ID 83301, together with a protest fee of \$25.00 on or before OCTOBER 4, 1999. The protestant must also send a copy of the protest to the applicant.
Karl J. Dreher, Director

Publish: Wood River Journal — September 15 & 22, 1999.

Publication Rates

As of 1997.

(Idaho code,

Rev. Statutes 1984)

7-8 pt./line straight: .06 / pica

7-8 pt./line tabular: .07 / pica

7-8 pt./line successive

insertion: .05 / pica

MICROFILMED

MAY 24 2000

11498



State of Idaho
DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 7, 1999

**WILLIAM H EVANS &/OR
HELEN B EVANS
42 FOX HOLLOW GULCH RD
BELLEVEUE ID 83313**

Re: Application for Permit No. 37-08896

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned the above referenced identification number. Please refer to this number in all further correspondence.

This office has scheduled advertising the application in the Wood River Journal for 09/15 & 09/22/99. A period of ten days following the second publication will be allowed for the submittal of protests.

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

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

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

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

JS:MB

MICROFILMED

MAY 24 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

September 7, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

**LEE PETERSON WATERMASTER
WATER DISTRICT #37
PO BOX T
SHOSHONE ID 83355**

**ATTN DAVE PARRISH
ID FISH & GAME
PO BOX 428
JEROME ID 83338**

Re: Application for Permit No. 37-08896

Gentlemen:

Please find enclosed a copy of an Application for Permit for your information and files.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very Truly Yours,

**James E. Stanton
Sr. Water Resource Agent**

Enclosure

MICROFILMED

MAY 24 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

SEPTEMBER 3, 1999

Legal Notices Department
WOOD RIVER JOURNAL
PO BOX 988
HAILEY, ID 83333

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, 1999.

Yours truly,

Mary Baldwin
Administrative Assistant

Enclosure

MICROFILMED

MAY 24 2000

NOTICE OF APPLICATION FOR WATER RIGHT

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

37-08896

EVANS, WILLIAM H
EVANS, HELEN B
42 FOX HOLLOW GULCH RD
BELLEVUE, ID 83313

Source: BROADFORD SLOUGH
Source: BIG WOOD RIVER

Tributary: BIG WOOD RIVER
Tributary: MALAD RIVER

Diversion Pt: SWSENW Sec 22 T 02N R 18E in BLAINE County.
 SENENW Sec 35 T 02N R 18E in BLAINE County.

Use: AESTHETIC (0.400 CFS)
 Total Diversion: (0.400 CFS)

Date Filed: 7/16/1999

In: BLAINE County
 T02N R18E S35 SENW

The permit(s) will be subject to all prior water rights. Any protest must be filed with the Director, Dept. of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before OCTOBER 4, 1999. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published: 9/15/1999 & 9/22/1999

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MAY 24 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 13, 1999

William Evans
42 Fox Hollow Gulch Rd
Bellevue, ID
83313

Dear Bill;

Enclosed is the application for a water permit that I have prepared to cover your new pond. I was sure that I had mailed this before going on vacation, but just found it in my files. If the application is acceptable, it should be signed and returned to me for processing. The filing fee is \$100.

Regards,

James E. Stanton
Sr. Water Resource Agent

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MAY 24 2000

37-08896

TO: File

DATE: June 11, 1999

FROM: Jim Stanton

SUBJECT: App. for Permit, Bill Evans

Yesterday I met with Mr. Evans on his property west of Bellevue. He planned to build a large pond on land that has been historically irrigated with water from the Broadford Slough, and I have been preparing an application for transfer to change the nature of use. He has built a pond, which I measured with a wheeled distance counter at 70' x 230' in maximum dimensions. The pond is sort of hourglass shaped, so actually covers less than 0.3 acres. He does not plan to enlarge the pond from what is there now. A pump aerates the pond to maintain water quality. The south part of the pond has a deep hole for fish, but most of the pond is shallower for wildlife. This is mainly an aesthetic pond that will increase the natural beauty of this property.

The water for this pond comes thru the Wrencher #39 headgate on the Broadford Slough. The old irrigation ditch splits into south and east branches, and the pond is built right on the south branch. No water left the pond when I was there, while a few inches were flowing in. The pond has been lined with clay to minimize seepage loss. Mr. Evans told me that he still irrigates with gravity to maintain his water rights, although the property is mainly sprinkled with groundwater. He plans to run this pond as efficiently as possible in order to minimize water losses.

Since the pond is under 1/2 acre, it is non-consumptive under Sec. 42-111 I. C. I therefore suggested that Mr. Evans file for a permit instead of a transfer. If mitigation is needed, he has taken land out of production to build the pond. Although he is applying for the same flow rate as his decreed rights, the amount of water going to the pond will be much less most of the time. This is a wet area, with groundwater sitting within 3 feet of the surface. So it is unlikely that this pond will have any measurable effect on downstream users.

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37-08896



Ditch Looking North Towards Hedgate



Ditch Looking SW Toward Pond

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App. For Permit, Bill Evans

6-10-99

JE Stanton

37-08896



Headgate on ~~Agway~~ Broadford Slough



Splitter Box On Wrencher Ditch

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MAY 24 2000

App. for Permit, Bill Evans
6-10-99
JE Stanton

37-08896



Pond Looking From Upper End Toward Lower End

Inlet

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MAY 24 2000

App For Permit, Bill Evans
6-10-99
JE Stanton

37-08896



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 19, 1999

Bill Evans
42 Fox Hollow Gulch
Bellevue, ID
83313

Dear Bill;

While preparation of your application for transfer has been delayed due to my heavy workload, I hope to visit your property sometime during the next 3 weeks to gather more information on your irrigation systems. I will be on vacation from June 12 thru 27. I should have time to work on your application after that. I will also be out of the office until next Monday. If this is satisfactory, let me know so that a field visit can be scheduled. If you wish to have someone else complete your application, I can send you what I have so far. I did not expect this process to take so long, but I have been just swamped with other work for several months.

Regards,

James E. Stanton
Sr. Water Resource Agent

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MAY 24 2000

37-08896



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 22, 1997

Board of County Commissioners
Blaine County
P.O. Box 400
Hailey, Idaho 83333

DEC 24 1997

Resource

Re: Local Public Interest Water Policy

Dear Commissioners:

I have reviewed the draft "Local Public Interest Water Policy" and have some comments for your consideration.

Page 1, Paragraph 2, could be read as seeking to bind IDWR to the public interest determination made by the County. The paragraph should be reworded to clarify that the County determination is provided to IDWR for consideration in accordance with applicable state law.

Page 1, Paragraph 3, refers to the "Conjunctive Management Rules," 37.03.11. The criteria for determining public interest are fully described in the "Water Appropriation Rules," ADAPA 37.03.08.

Page 1, Paragraph 5, discusses several actions taken by IDWR to limit appropriation of water in the Big Wood River Basin. It would be clearer if the actions were discussed separately. The moratorium on issuance of permits for new consumptive uses from the Big Wood River above Magic Reservoir was issued as a "policy memorandum" in 1980 declaring the surface sources fully appropriated. The 1991 designation of the Upper Big Wood River Basin upstream from Magic Reservoir as a ground water management area and the accompanying management plan restricts the issuance of permits for the consumptive uses of ground water. The management plan allows approval of permits for non-consumptive purposes, municipal uses, stockwater and domestic uses. Consumptive uses will not be approved unless the applicant can demonstrate that no injury will occur or provides acceptable mitigation to prior rights.

The last sentence of the paragraph could be misread to imply that IDWR approves permits for domestic uses without giving the notice required by statute. Uses from ground water that meet the definition of Section 42-111, Idaho Code, are exempt from obtaining a water right

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permit. An application is not required, but can be filed voluntarily. If an application for domestic or any other use is filed seeking a water right, public notice is always given.

A drilling permit is required for any well, including domestic wells exempt from water right permitting. The approval criteria for drilling permits relate to protecting the ground water resource from waste and contamination by assuring that the appropriate well is properly constructed. The statute does not provide for public notice to be given.

Page 2, Paragraph 1, could be read to infer that IDWR allows increased use of water under existing rights. Section 42-222, Idaho Code, requires that approval be given to an application to transfer an existing right if the approval criteria are met. This statute specifically requires that the change not enlarge the original use of the right or injure the use of another water right. The change must also be consistent with the local public interest and conservation of water resources in Idaho. IDWR uses all available information to evaluate these criteria whether or not the application is protested. Enlargement is considered to occur if the rate of diversion, annual volume diverted or annual volume used consumptively increases. Obviously, a change to year-round use would require that water be used at a reduced rate to prevent an increase in the annual volume diverted.

Page 3, Paragraph 2 of the Policy. For several years, the IDWR has been conditioning new water right permits, licenses and transfer approvals to require that surface water rights be retained and used to the full extent available before supplemental ground water rights are used. The department's policy can be applied if a transfer of a surface right is proposed after the supplemental ground water right is established. It is difficult to apply if the surface rights are transferred before an application is made for a new development using ground water. If IDWR's management plan were changed to refuse processing and approval of a water right for municipal or multiple domestic uses, the development would likely occur anyway using multiple, exempt, domestic wells. Policy changes should be avoided that encourage an individual well per domestic lot rather than a single community well. A change in statute may be needed to provide the management tools needed to address this problem.

Page 3, Paragraph 2(a). Domestic and stockwater uses as described in Section 42-111, Idaho Code, are exempt from measuring and reporting requirements of Section 42-701, Idaho Code.

Page 3, Paragraph 2(b). A change in the law (Sections 42-111 or 42-227, Idaho Code) would be required before IDWR could adjust the 13,000 gpd/0.5 acre exemption for domestic uses.

Page 4, Paragraphs 6(a) and 8. IDWR evaluates surface to ground water transfers under the criteria of Section 42-222, Idaho Code. Review of an application considers the impact of the

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Board of Blaine County Commissioners

December 22, 1997

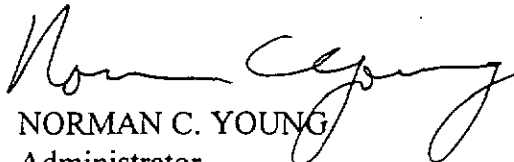
Page 3

change on the surface water source and the ground water source. An approval must include conditions necessary to protect rights from the surface source taking into account the changes made to stream flow by both the revised diversion from the stream and the change in recharge/discharge of the stream resulting from the pumping of ground water under the changed right. The effect on existing rights to ground water must be considered.

The location and depth at which recharge is accomplished is an important consideration. The original point of diversion may not be the best location for the recharge. A review of a mitigation plan offering recharge must include consideration of the total volume recharged, its location, the percentage of the recharge that is effective to offset the effects of pumping, the quality of the recharge water, the timing of the recharge and the reliability of the recharge source. IDWR does not have a policy that requires water to be available 75% of the time under the surface right. It is the responsibility of the applicant to show that a proposed mitigation plan will be effective. A requirement to have water available at least 75% of the time does not assure that mitigation will be available during the critical drought periods.

As we discussed at a meeting on October 28, 1996 in Hailey, a county water policy as proposed in the draft is a new effort in Idaho. It is not my intention by providing comments on some of the policies in the draft to indicate IDWR endorsement of policies not commented on or to guarantee that IDWR will embrace the policy if revised to respond to these comments. The appropriate role and weight to be given to a county policy in an IDWR administrative proceeding involving a protested water right must be left for determination in that proceeding and for review by the courts. My intention in submitting these comments is only to provide information on the present policies and procedures of IDWR under state law.

Sincerely,



NORMAN C. YOUNG

Administrator

Water Management Division

c. Allen Merritt
Nick Purdy
Sherl Chapman

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MAY 24 2000

BOARD OF COUNTY COMMISSIONERS

RECEIVED

BLAINE COUNTY
P.O. BOX 400 • HAILEY, IDAHO 83333
(208) 788-5500
FAX (208) 788-5576

FEB 02 1998

Department of Water Resources
Southern Region

LEN HARLIG, Chair • MARY ANN MIX, Commissioner • DENNIS WRIGHT, Commissioner

January 26, 1998

Mr. Allen Merritt
Department of Water Resources, Southern Region
1341 Fillmore St. Suite 200
Twin Falls, ID 83301

RE: BLAINE COUNTY "LOCAL PUBLIC INTEREST WATER POLICY"

Dear Allen,

Enclosed is a copy of Blaine County's newly adopted "Local Public Interest Water Policy". We are providing this "Policy" for IDWR's use in reviewing applications for transfers, diversions, or proposed new uses in our community.

We appreciate the difficult task IDWR has in reviewing new applications. With this "Policy", we are lending our support to the already existing rules and regulations your Department has for evaluating such applications. By providing the Department with Blaine County's, "local public interest", all applications involving Blaine County may be more easily evaluated, utilizing a specific set of criteria as part of the "affairs of the people in the area directly affected by the proposed use".

The "Policy" contains both description of process and specific code sections, as well as directions to our own Staff and planning jurisdictions. The "Policy" should be considered as a whole, however, the excerpted sections of the "Policy" listed below are for day to day use by your office in evaluating applications:

2. Blaine County believes there can be a de facto increase of water use through the domestic purpose exemption when existing surface or groundwater rights on a subject property are available for domestic and landscape needs but they are not used for these domestic purposes. In addition:

a. Although exempt from measuring and reporting requirements (see I.C. §42-701), the present 13,000 gallon limitation on domestic wells and one-half acre landscape use should be rigorously enforced to prohibit use beyond the allowable limit. Where appropriate for new subdivisions, the Board endorses IDWR's recommendation for central water systems that would reduce the total amount of water use in subdivisions in accordance with I.C. §42-111 1 (b), 2, and 3.

b. Existing on-site surface and ground water rights should be utilized for domestic and landscape use before allowing applications for new domestic uses, especially for new

MAILED
MAY 24 2000

subdivisions which fall under the regulations of I.C. §42-111.

4. The Board may protest diversions or transfers of water used primarily for private recreation or private aesthetic purposes in Blaine County when they are contrary to this Policy and contrary to I.C. §42-1503. The burden of responsibility to show a "public interest" is on the applicant. [see also, *Shokal v. Dunn* (1985)]

When such uses are proposed for absorbing flood flows and recharging the aquifer, adding to minimum stream flows, or providing water for non-profit public recreation facilities, they may warrant an exception from this section, when there is a positive recommendation from the Board.

5. The Board may protest transfers between sub-basins in Blaine County when they are contrary to this Policy, except for transfers within the Big Wood Valley bounded on the southwest by Stanton Crossing (range 17E; township 1S; section 13) and on the southeast by the junction of Silver Creek and the Little Wood River (range 21E; township 2S; section 31) and where such transfers allow for the traditional recharge of Silver Creek from the Big Wood Drainage.

Among the considerations for such transfers would be a demonstration that the transfer does not adversely affect recreational uses, minimum stream flows, water temperature and fish habitat, and the total maximum daily load of pollutants in the Big wood River and its tributaries.

6. Blaine County believes that transfers of surface water rights to ground water rights and transfers of ground water rights to surface uses within the moratorium area can generally be a defacto increase of use because of the difficulty of monitoring new and existing meters. Before any such transfers take place in Blaine County, the Board requests IDWR to consider the following criteria along with existing IDWR review criteria:

a. Ensure that the scale of transfer in the receiving zone does not adversely affect adjacent wells. Require applicants to utilize appropriate technologies or protocols (ie. test wells, well logs, etc.) to demonstrate compliance with this requirement.

b. Require meters and monitoring to prevent expansion of use at the well site, with the priority cut-off date enforced by the Water Master.

c. Require the applicant to demonstrate that their water right is not just "flood water" and that the water right can be delivered with reasonable consistency, over a reasonable number of years (as determined by USGS gauging data), and for the duration of the water season.

d. Require appropriate recharge at the original point of diversion or at the location most likely to ensure compliance with IDWR regulations.

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MAY 24 2000
2

If you have any questions, please feel free to call any of the Commissioners. Thank you for your continued service to Blaine County.

Sincerely,

Len Harlig
Len Harlig
Chairman

Mary Ann Mix
Mary Ann Mix
Commissioner

Dennis Wright
Dennis Wright
Commissioner

enc: (1)

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MAY 24 2000

RECEIVED

JAN 28 1998

Department of Water Resources
Southern RegionBLAINE COUNTY RESOLUTION 98- 1

A RESOLUTION OF THE COUNTY OF BLAINE, STATE OF IDAHO,
ADOPTING A BLAINE COUNTY LOCAL PUBLIC INTEREST WATER
POLICY.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
BLAINE COUNTY, IDAHO AS FOLLOWS:

The Board of County Commissioners of Blaine County, Idaho
resolves that it is in the best interest of Blaine County to
adopt a "Local Public Interest Water Policy." Adoption of such a
policy complies with the Blaine County Comprehensive Plan and
identifies for the Idaho Department of Water Resources the "local
public interest."

A copy of the policy is attached to this resolution as
Exhibit "A". Blaine County Resolution 98- 1 shall be in effect
upon its passage, approval and adoption.

DATED THIS 26th DAY OF JANUARY, 1998.

BLAINE COUNTY COMMISSIONERS

Leonard Harlig
LEONARD HARLIG, CHAIRMAN

Mary Ann Mix
MARY ANN MIX, COMMISSIONER

Dennis Wright
DENNIS WRIGHT, COMMISSIONER

ATTEST:

MICROFILMED

MARY GREEN, BLAINE COUNTY CLERK

MAY 24 2000

BOARD OF COUNTY COMMISSIONERS**BLAINE COUNTY****P.O. BOX 400 • HAILEY, IDAHO 83333****(208) 788-5500****FAX (208) 788-5576****LEN HARLIG, Chair • MARY ANN MIX, Commissioner • DENNIS WRIGHT, Commissioner****January 26, 1998****BLAINE COUNTY "LOCAL PUBLIC INTEREST WATER POLICY"****BACKGROUND FOR THE CREATION OF THE POLICY**

The Blaine County Comprehensive Plan ("Plan") recognizes the importance of water to property owners, residents, and visitors of the County. Unlimited supplies of water are not always available. Conservation of water resources, and the adequacy of water supplies for future use, is deemed essential to the present and future health, safety and welfare of Blaine County's residents, visitors, and property owners. During the recent drought years of 1987 to 1994, residents in some of the canyon areas of Blaine County regularly reported dry wells or severely reduced well flows. A recent aquifer study conducted by Dr. Charles Brockway indicates that the aquifer in Blaine County has declined approximately 12 feet during the past two decades.

The Blaine County Board of Commissioners ("Board") adoption of a "local public interest water policy" ("Policy") complies with the directions of the Plan; helps ensure the conservation of water resources in Blaine County; and identifies for the Idaho Department of Water Resources, ("IDWR") the "local public interest" as determined by the Board, for IDWR consideration in accordance with applicable state law. The Board understands that water policy in Idaho is a State jurisdiction and is administered through the IDWR.

IDWR lists as one of their criteria [see I.C. §42-203A (5)] [see also: I.C. §42-211 and §42-222, and the Water Appropriations Rules, ADAPA 37.03.08] for evaluation of applications for water rights transfer, diversion, or increase of use, the following statement: "whether the application will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use" [see also, Shokal v. Dunn (1985); Hardy v. Higgenson (1993)].

The Blaine County Plan identifies senior water rights holders (mostly agriculture); fish and wildlife habitat; public recreation; minimum stream flows; surface and ground water quality; and Blaine County's residential and visitor populations as some of the "affairs of the people" affected by the quality and availability of water. The Board considers the entire County as economically interrelated and part of the "local public interest". The county-wide public interest may not be adequately met if the proposed transfer or diversion benefits only a single subdivision at the

EXHIBIT**'A'****MICROFILMED
MAY 24 2000**

IDWR declared in 1980, through a "policy memorandum", a moratorium on issuance of permits for new consumptive uses from the Big Wood River above Magic Reservoir, declaring the surface sources fully appropriated.

In 1991, the Upper Big Wood River Basin was designated as a ground water management area, with an accompanying management plan that restricts the issuance of permits for the consumptive use of ground water. Consumptive uses are not approved unless the applicant demonstrates that no injury will occur to prior rights or provides acceptable mitigation.

Certain application requests to IDWR, for transfer or diversion of water rights, have the potential to result in an actual increase of water use that is contrary to the best interests of Blaine County's residents and visitors, and is contrary to State Legislative intent to preserve and conserve water in Idaho. Among these requests are:

- 1) transfers or diversions of use to private recreational and aesthetic ponds, and fire protection ponds greater in size than needed for fire protection, (all with an attendant impoundment of water that would normally be available for maintenance of instream flows, agricultural use, and the use of senior water right holders) [see §42-1503 (b), which requires that the application, "is in the public, as opposed to private, interest];
- 2) requests from developers to utilize new domestic wells in place of, or in addition to, existing surface or groundwater rights on the subject property, when these rights are already sufficient to meet domestic uses [see I.C. §42-111]; and,
- 3) requests to transfer limited surface water rights to year-round well groundwater rights or to transfer limited well ground-water rights to surface uses, especially when there are not enough IDWR personnel for monitoring.

The Board requests that IDWR consider this, "Policy" in reviewing applications for water use permits, diversions, and transfers of water rights within Blaine County.

In order to provide IDWR with a policy statement reflecting the "local public interest" in Blaine County, the Board convened a group of interested and knowledgeable citizens as a Water Policy Group ("Group") to propose guidelines to the Board for a water use policy for the County. After a series of meetings and work shop sessions, the Group presented their recommendations to the Board.

The proposed Policy was first presented by the Board in public hearing for wider public comment on April 7, 1997 at 6:30 PM in the Old Blaine County Courthouse. Approximately 25 people attended the hearing which lasted until 8:45 PM.

The Board met on April 14 and reviewed the Policy, taking into account the additional public comment and evaluation of the draft.

2 MICROFILMED
MAY 24 2000

The Board subsequently reviewed several revised drafts, taking ^{P. 4/9} consideration and personal comments they had received from interested members of the public. At a special notice workshop on June 10, 1997, the Board submitted a revised draft to the Group for their evaluation and suggestions.

The Group met again on October 8, 1997. After a review of a June 12 draft, based on the Board's June 10 workshop, the Group made specific suggestions for improvements to, and clarifications of, the draft.

A second public hearing was duly noticed and held by the Board on December 22, 1997 at 4:00 PM. The Board received valuable input from IDWR and from several members of the public at the December 22 hearing. The Policy was further reviewed by the Board and revised accordingly.

A third and final public hearing was held January 26, 1998. The Board of Commissioners adopted this Policy by Resolution #98-1 on January 26, 1998.

The Silver Creek Nature Conservancy is in the process of completing the second phase of an aquifer study of the Wood River Valley and the Silver Creek area. When that study is completed, analyzed, and peer reviewed Blaine County may supplement its "local public interest water policy" where additional data make changes or additions appropriate.

BLAINE COUNTY WATER POLICY

1. Blaine County encourages property owners and developers to utilize landscaping techniques for residential and commercial use which will reflect the limited water resource in our community.

2. Blaine County believes there can be a de facto increase of water use through the domestic purpose exemption when existing surface or groundwater rights on a subject property are available for domestic and landscape needs but they are not used for these domestic purposes. In addition:

a. Although exempt from measuring and reporting requirements (see I.C. §42-701), the present 13,000 gallon limitation on domestic wells and one-half acre landscape use should be rigorously enforced to prohibit use beyond the allowable limit. Where appropriate for new subdivisions, the Board endorses IDWR's recommendation for central water systems that would reduce the total amount of water use in subdivisions in accordance with I.C. §42-111 1 (b), 2, and 3.

b. Existing on-site surface and ground water rights should be utilized for domestic and landscape use before allowing applications for new domestic uses, especially for new subdivisions which fall under the regulations of I.C. §42-111.

c. To better monitor and regulate water use, Blaine County may require, where appropriate, separate domestic and landscaping water systems for new subdivisions.

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3 MAY 24 2000

3. Blaine County supports the State-required loss of water rights after five years of non-use without appropriate extensions and encourages IDWR to enforce this statutory requirement.

4. The Board may protest diversions or transfers of water used primarily for private recreation or private aesthetic purposes in Blaine County when they are contrary to this Policy and contrary to I.C. §42-1503. The burden of responsibility to show a "public interest" is on the applicant. [see also, *Shokal v. Dunn* (1985)]

When such uses are proposed for absorbing flood flows and recharging the aquifer, adding to minimum stream flows, or providing water for non-profit public recreation facilities, they may warrant an exception from this section, when there is a positive recommendation from the Board.

5. The Board may protest transfers between sub-basins in Blaine County when they are contrary to this Policy, except for transfers within the Big Wood Valley bounded on the southwest by Stanton Crossing (range 17E; township 1S; section 13) and on the southeast by the junction of Silver Creek and the Little Wood River (range 21E; township 2S; section 31) and where such transfers allow for the traditional recharge of Silver Creek from the Big Wood Drainage.

Among the considerations for such transfers would be a demonstration that the transfer does not adversely affect recreational uses, minimum stream flows, water temperature and fish habitat, and the total maximum daily load of pollutants in the Big wood River and its tributaries.

The Board will appoint an advisory body of water use experts to advise the Board on application protests for transfers and diversions under §4 and §5 of the Policy.

6. Blaine County believes that transfers of surface water rights to ground water rights and transfers of ground water rights to surface uses within the moratorium area can generally be a defacto increase of use because of the difficulty of monitoring new and existing meters. Before any such transfers take place in Blaine County, the Board requests IDWR to consider the following criteria along with existing IDWR review criteria:

a. Ensure that the scale of transfer in the receiving zone does not adversely affect adjacent wells. Require applicants to utilize appropriate technologies or protocols (ie. test wells, well logs, etc.) to demonstrate compliance with this requirement.

b. Require meters and monitoring to prevent expansion of use at the well site, with the priority cut-off date enforced by the Water Master.

c. Require the applicant to demonstrate that their water right is not just "flood water" and that the water right can be delivered with reasonable consistency, over a reasonable number of years (as determined by USGS gauging data), and for the duration of the water season.

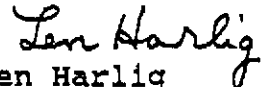
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MAY 24 2000

7. Blaine County supports the creation of a *Ground Water District* and/or a *Ground Water Recharge District* in the watersheds of the County.

8. The Board accepts its responsibility to engage in the pre-litigation dispute resolution process provided by IDWR for water applications, keeping in mind that the burden of proof is on the applicant to demonstrate that their water right is not just "flood water" and that the water right can be delivered with reasonable consistency, over a reasonable number of years (as determined by USGS water resource data), and for the duration of the water season, and that the application is not in actual conflict with the Policy.

Respectfully submitted,


Len Harlig
Chairman


Mary Ann Mix
Commissioner


Dennis Wright
Commissioner

Attachment (1)

5 MICROFILMED
MAY 24 2000

THE AMERICAN WATER RESOURCES COMPANY

For the Record

The project planned for Mr. Bill Evans has been supported by local, state and federal agencies in the effort to return hay producing land to a more native condition.

The pond/wetlands will support water fowl and typical wetland vegetative species of this area in Blaine County. Native grasses, shrubs and trees will be planted in the riparian areas around the pond and in other areas of the present hay fields.


Bruce Lium
Consultant

MICROFILMED

MAY 24 2000

22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS



ANALYSIS OF WATER LOSS FROM THE
CONSTRUCTION OF THE
LAKE CREEK TRAINING CHANNEL AND
APPURTENANT PONDS AND WETLANDS

BIG WOOD RIVER
BLAINE COUNTY, IDAHO

AUGUST 16, 1989

PREPARED BY:

DENNIS D. FINDORFF, RLS/EIT

Geomax
GEOLEGAL • GEOMECHANICAL • GEODESIGN

PROFESSIONAL ENGINEERS & SURVEYORS

622 SOUTH SIXTH AVENUE • BOZEMAN, MONTANA • 59715

MICROFILMED

MAY 24 2000

37-08896

EVAPOTRANSPIRATION FROM NEW WETLANDS

- AREA OF NEWLY CREATED WETLANDS = 7 ACRES,
MORE OR LESS.

THE FOLLOWING INFORMATION WAS TAKEN FROM WATER IN ENVIRONMENTAL PLANNING BY THOMAS DUNNE & LUNA B. LEOPOLD, © 1978

The Blaney-Criddle Formula was developed for estimating consumptive use of irrigated crops in the western United States. It is based on the same assumptions as Thornthwaite's method, and also uses temperature and day-length as the major independent variables. The most recent statement of the formula, as used by the U.S. Soil Conservation Service (1970), is

$$E_p = (0.142T_a + 1.095)(T_a + 17.8)kd \quad (5-11)$$

where E_p = potential evapotranspiration (cm/mo)

T_a = average air temperature ($^{\circ}\text{C}$). When T_a is less than 3°C , the first term in parentheses is set equal to 1.38.

k = empirical crop factor that varies with crop type and stage of growth (see Table 5-3). For perennial crops the coefficient is given for each month. For annual crops the coefficient is tabulated for various percentages of the growing season.

d = the monthly fraction of annual hours of daylight (see Table 5-4).

Table 5-3 Empirical crop factors (k) for the Blaney-Criddle Formula. In the Southern Hemisphere the monthly coefficients for perennial crops should be interchanged to correspond with the onset of growing seasons. (From U.S. Soil Conservation Service 1970.)

CROP	GROWING SEASON														
	BEGINNING MEAN TEMP. ($^{\circ}\text{C}$)	END MEAN TEMP. ($^{\circ}\text{C}$)	MAX. LENGTH (DAYS)	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.
PERENNIALS															
Pasture grass	7	7	Variable	0.49	0.57	0.73	0.85	0.90	0.92	0.92	0.91	0.87	0.79	0.67	0.53
Alfalfa	10	-2 (frost)	Variable	0.63	0.73	0.86	0.99	1.08	1.13	1.11	1.06	0.99	0.91	0.78	0.64
Grapes	13	10	Variable	0.20	0.24	0.33	0.50	0.71	0.80	0.80	0.76	0.61	0.50	0.35	0.23
Deciduous orchard	10	7	Variable	0.17	0.25	0.40	0.63	0.88	0.96	0.95	0.82	0.54	0.30	0.19	0.15

Table 5-4 Monthly fraction of annual hours of daylight (for use in the Blaney-Criddle Equation).

LATITUDE	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.
60°N	.047	.057	.081	.096	.117	.124	.123	.107	.086	.070	.050	.042
50°N	.060	.063	.082	.092	.107	.109	.110	.100	.085	.075	.061	.056
40°N	.067	.066	.082	.089	.099	.100	.101	.094	.083	.077	.067	.075
20°N	.073	.070	.084	.087	.095	.095	.097	.092	.083	.080	.072	.072
10°N	.081	.075	.085	.084	.088	.086	.089	.087	.082	.083	.079	.081
0	.085	.077	.085	.082	.085	.082	.085	.085	.082	.085	.082	.085
10°S	.089	.079	.085	.081	.082	.079	.081	.083	.082	.086	.085	.088
20°S	.092	.081	.086	.079	.079	.074	.078	.080	.081	.088	.089	.093
30°S	.097	.083	.086	.077	.074	.070	.073	.078	.081	.090	.092	.099
40°S	.102	.086	.087	.075	.070	.064	.068	.074	.080	.092	.097	.105

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T_a , AVERAGE MONTHLY AIR TEMPERATURE, IS BASED UPON TEMPERATURE DATA SUPPLIED BY THE NATIONAL WEATHER SERVICE IN BOISE. THE TEMPERATURES ARE FROM THE HAILEY AIRPORT. KETCHUM TEMPERATURES ARE LIKELY TO BE SLIGHTLY LESS DUE TO ELEVATION BUT NO AVERAGE MONTHLY TEMPERATURES ARE AVAILABLE FOR KETCHUM.

K , EMPIRICAL CROP FACTOR, IS BASED UPON TABLE 5-3 USING PASTURE GRASS AND DECIDUOUS ORCHARD. THE MONTHLY VALUES WERE AVERAGED UNDER THE ASSUMPTION THAT EACH VEGETATIVE TYPE IS RESPONSIBLE FOR 50% OF THE GROUND COVER.

d , MONTHLY FRACTION OF ANNUAL HOURS OF DAYLIGHT, WAS INTERPOLATED FROM TABLE 5-4 BASED UPON A SITE LATITUDE OF 44° NORTH.

THE FOLLOWING TABLE SUMMARIZES THE MONTHLY COMPUTATIONS FOR POTENTIAL EVAPOTRANSPIRATION, E_t .

MONTH	T_a	K	d	E_t (cm/mo)
JAN.	-6.9	0.33	0.064	0.32
FEB.	-4.1	0.41	0.065	0.50
MAR.	-0.8	0.57	0.082	1.10
APRIL	5.2	0.74	0.090	2.81
MAY	10.5	0.89	0.102	6.64
JUNE	14.7	0.94	0.104	10.11
JULY	19.4	0.94	0.105	14.14
AUG.	18.5	0.87	0.096	11.28
SEPT.	13.7	0.71	0.084	5.71
OCT.	8.0	0.55	0.076	2.41
NOV.	0.3	0.43	0.065	0.70
DEC.	-5.4	0.35	0.067	0.40

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22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS



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THE ANNUAL POTENTIAL EVAPOTRANSPIRATION
EQUALS THE SUMMATION OF THE MONTHLY
POTENTIAL EVAPOTRANSPIRATIONS, E_t .

$$\begin{aligned} E_t \text{ ANNUAL} &= \sum E_t = 56.12 \text{ CM/YR} \\ &= 22.09 \text{ IN/YR} \\ &= 1.84 \text{ FT/YR} \end{aligned}$$

FOR THE NEW WETLANDS AREA OF ± 7 ACRES,
THE VOLUME OF WATER LOST TO EVAPOTRANSPIRATION
EQUALS:

$$\begin{aligned} \text{POTENTIAL WATER LOSS} &= 1.84 \text{ FT/YR (7 ACRES)} \\ &= 12.89 \text{ AC-FT/YR} \end{aligned}$$

22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETSMICROFILMED
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8/22/91

DECREASE IN EVAPOTRANSPIRATION FROM NEW CHANNEL

LENGTH OF NEW TRAINING CHANNEL = 2530'

WIDTH OF BOTTOM = 70'

LOSS OF VEGETATION = 2530' x 70'

= 177,100 FT²

= 4.07 ACRES

ASSUMING THAT THE POTENTIAL EVAPOTRANSPIRATION FOR THE VEGETATION LOST WITHIN THE NEW CHANNEL IS EQUAL TO THAT OF THE WETLANDS VEGETATION:

 $E_t \text{ ANNUAL} = 1.84 \text{ FT/YR}$

POTENTIAL WATER LOSS = 1.84 FT/YR (4.07 ACRES)

= 7.49 ACRE-FT/YR

SINCE THE VEGETATION REMOVED BY THE CONSTRUCTION OF THE TRAINING CHANNEL CANNOT REMOVE WATER FROM THE SOIL BY EVAPOTRANSPIRATION, THERE IS A DECREASE IN THE AMOUNT OF TRANSPIRATION EQUAL TO 7.49 ACRE-FT/YR.

THE NET POTENTIAL EVAPOTRANSPIRATION IS DETERMINED BY DEDUCTING THE ABOVE CALCULATED POTENTIAL WATER LOSS FROM THE POTENTIAL WATER LOSS CALCULATED ON PAGE 4. THE RESULT IS:

NET POTENTIAL WATER LOSS = 12.89 AC-FT/YR - 7.49 AC-FT/YR

= 5.40 AC-FT/YR

= 1.48×10^{-2} AC-FT/DAY= 7.46×10^{-3} CFS

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0.35 or 0.30

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≈ 0.34 MINERS INCH *

* 1 MINERS INCH EQUALS 1/40 OR 1/50 CFS, DEPENDING ON LOCAL USAGE.

EVAPORATION FROM NEW WETLANDS

- AREA OF NEWLY CREATED WETLANDS = 7 ACRES, MORE OR LESS.

THE FOLLOWING TWO FIGURES ARE FROM WATER IN ENVIRONMENTAL PLANNING

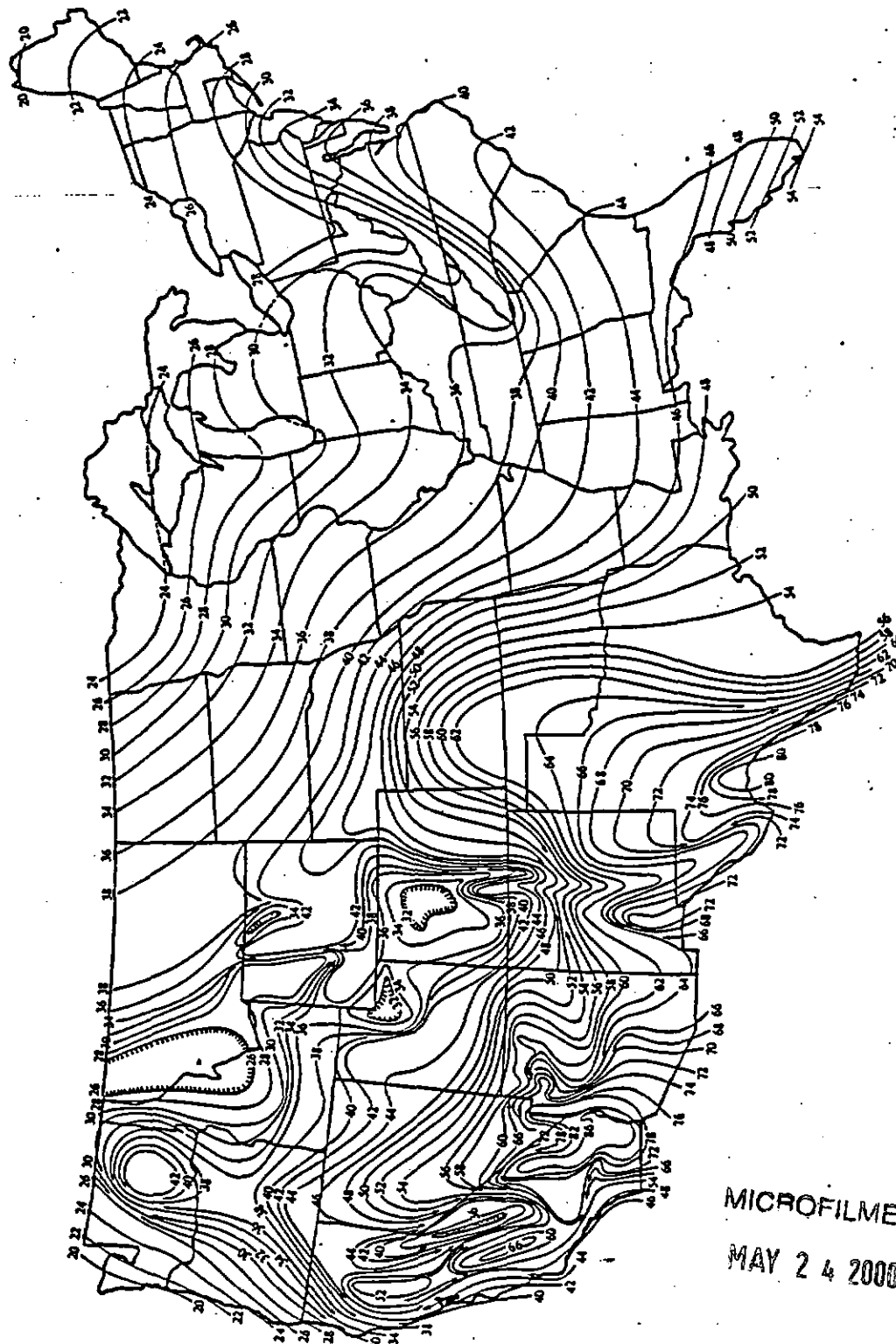
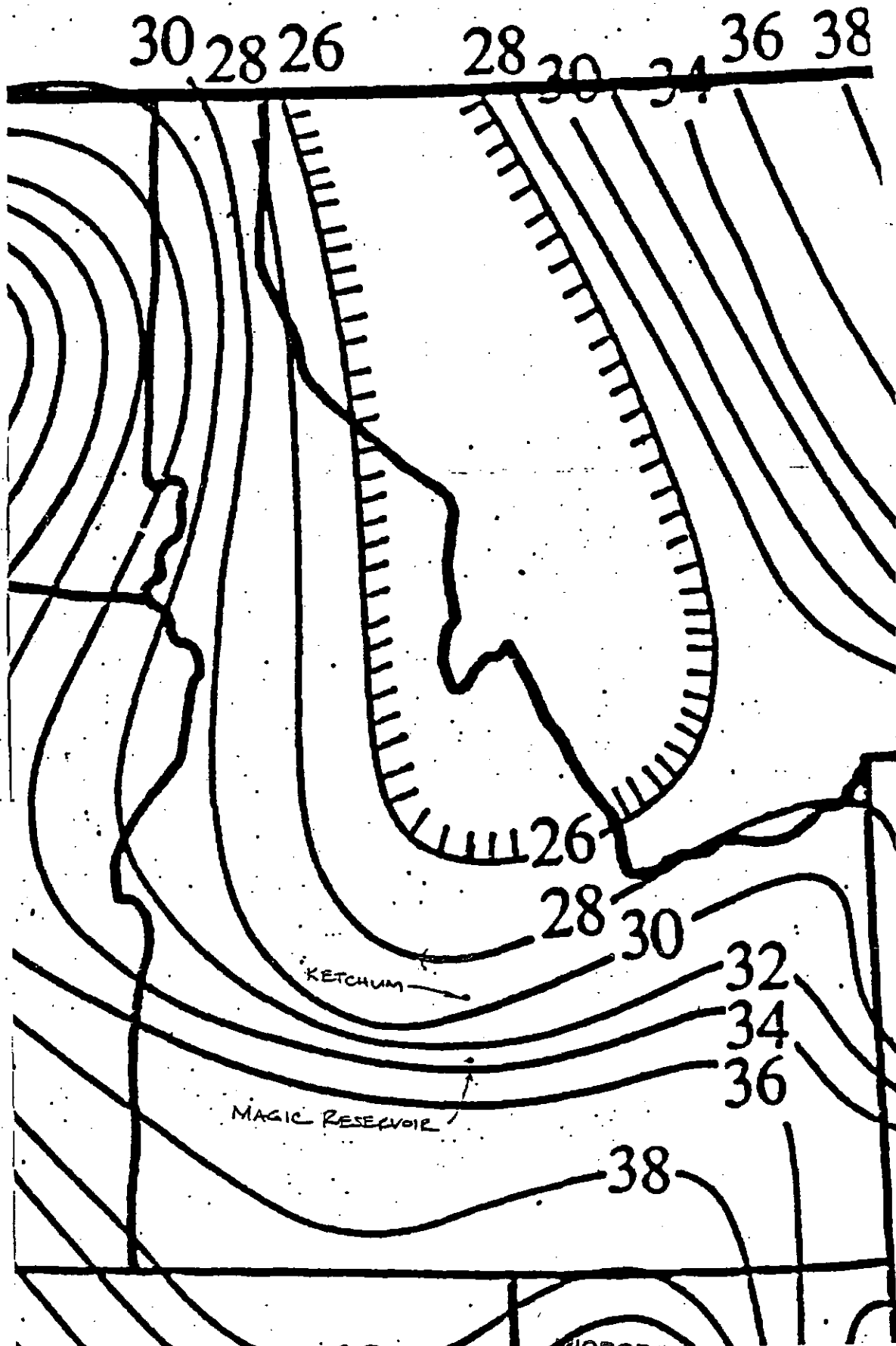


Figure 4-10 Mean annual lake evaporation (in inches) for the period 1946-1955, calculated with the aid of Figure 4-9. (From Kohler et al. 1959.)

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22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS



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THE FIGURE SHOWN ON PAGE 6 IS AN ENLARGEMENT OF THE STATE OF IDAHO FROM FIGURE 4-10 ON PAGE 5. KETCHUM AND MAGIC RESERVOIR HAVE BEEN IDENTIFIED ON THE FIGURE.

EVAPORATION FROM LAKES IN THE KETCHUM AREA IS APPROXIMATELY 29 INCHES PER YEAR. ASSUMING, THAT THE NEW WETLANDS IS ENTIRELY WATER, THE AMOUNT OF EVAPORATION WOULD BE AS FOLLOWS:

$$\text{WATER LOSS BY EVAPORATION} = 29 \text{ IN/YR } (\pm 7 \text{ ACRES})$$

$$= 203 \text{ AC-IN/YR}$$

$$= 16.92 \text{ AC-FT/YR}$$

$$= 0.05 \text{ AC-FT/DAY}$$

$$= 0.023 \text{ CFS}$$

$$\approx 1.1 \text{ MINERS INCH}$$

$$1.17$$

$$45.3 \text{ } \frac{\text{in}}{\text{yr}} \times 0.53$$

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EVAPORATION FROM NEW PONDS

- SURFACE AREA OF LAKE CREEK POND = 144,120 FT²
= 3.31 ACRES

SURFACE AREA OF BLM POND = 144,470 FT²
= 3.32 ACRES

USING THE LAKE EVAPORATION RATE OF 29 INCHES
PER YEAR:

WATER LOSS BY EVAPORATION = 29 IN/YR (3.31 + 3.32 ACRES)

= 192.27 AC-IN/YR

= 16.02 AC-FT/YR

= 0.044 AC-FT/DAY

= 0.022 CFS

≈ 1 MINERS INCH
1.11

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EVAPORATION FROM MAGIC RESERVOIR

- THE FIGURE ON PAGE 6 SHOWS THE EVAPORATION RATE FOR MAGIC RESERVOIR AS BEING APPROXIMATELY 33 INCHES PER YEAR. THE AREA OF MAGIC RESERVOIR AT FULL STORAGE CAPACITY IS 3800 ACRES. THE AMOUNT OF ANNUAL EVAPORATION IS:

$$\begin{aligned}\text{WATER LOSS BY EVAPORATION} &= 33 \text{ IN/YR (3800 ACRES)} \\ &= 125,400 \text{ AC-IN/YR} \\ &= 10,450 \text{ AC-FT/YR}\end{aligned}$$

THE WATER LOSS BY EVAPORATION FROM THE NEW PONDS IS APPROXIMATELY:

$$\frac{16.02 \text{ AC-FT/YR}}{10,450 \text{ AC-FT/YR}} = 0.15\% \text{ OF THE WATER LOSS BY EVAPORATION FROM MAGIC RESERVOIR.}$$

IN OTHER WORDS, THE VOLUME OF WATER EVAPORATED FROM THE PONDS DURING THE COURSE OF A YEAR IS EQUAL TO THE VOLUME OF WATER EVAPORATED FROM MAGIC RESERVOIR DURING A HALF DAY!

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SUMMARY

- IT IS EVIDENT FROM THE PRECEDING CALCULATIONS THAT EVAPORATION IS THE MAJOR MECHANISM OF WATER LOSS FOR THIS PROJECT. THE POTENTIAL WATER LOSS DUE TO EVAPORATION FROM THE WETLANDS, IF COVERED ENTIRELY BY WATER, IS 1 MINERS INCH. THIS CONDITION IS NOT REALISTIC. ASSUMING THAT ONE HALF OF THE WETLANDS AREA IS COVERED WITH WATER AND THE OTHER HALF IS COVERED WITH PLANTS, THE WATER LOSS FROM THE WETLANDS WOULD EQUAL HALF THE CALCULATED EVAPORATIVE LOSS FROM PAGE 7. THE LOSS DUE TO EVAPOTRANSPIRATION WOULD BE ZERO SINCE THE AREA OF VEGETATION LOST BY CONSTRUCTION OF THE TRAINING CHANNEL WOULD EXCEED THE NEW VEGETATION IN THE WETLANDS. (7.0 AC)

THEREFORE, THE WATER LOSS TO WATER USERS IS:

WATER LOSS BY POND EVAPORATION = 1 MINERS INCH

WATER LOSS BY WETLANDS EVAPORATION = 0.5 MINERS INCH
(ASSUMING 3.5 ACRE WATER SURFACE)

TOTAL WATER LOSS RESULTING
FROM CONSTRUCTION OF THE
PROJECT

1.5 MINERS INCH

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