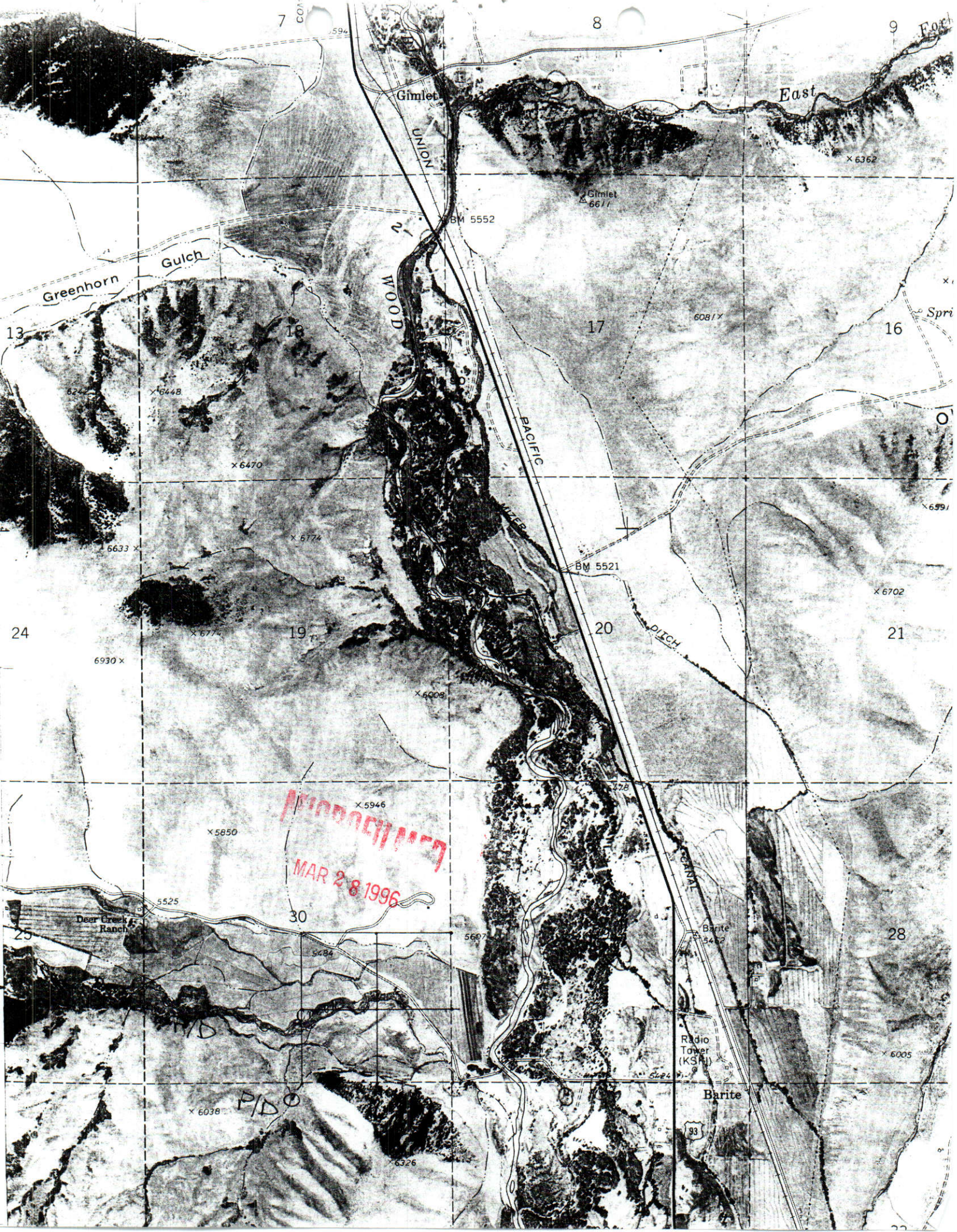


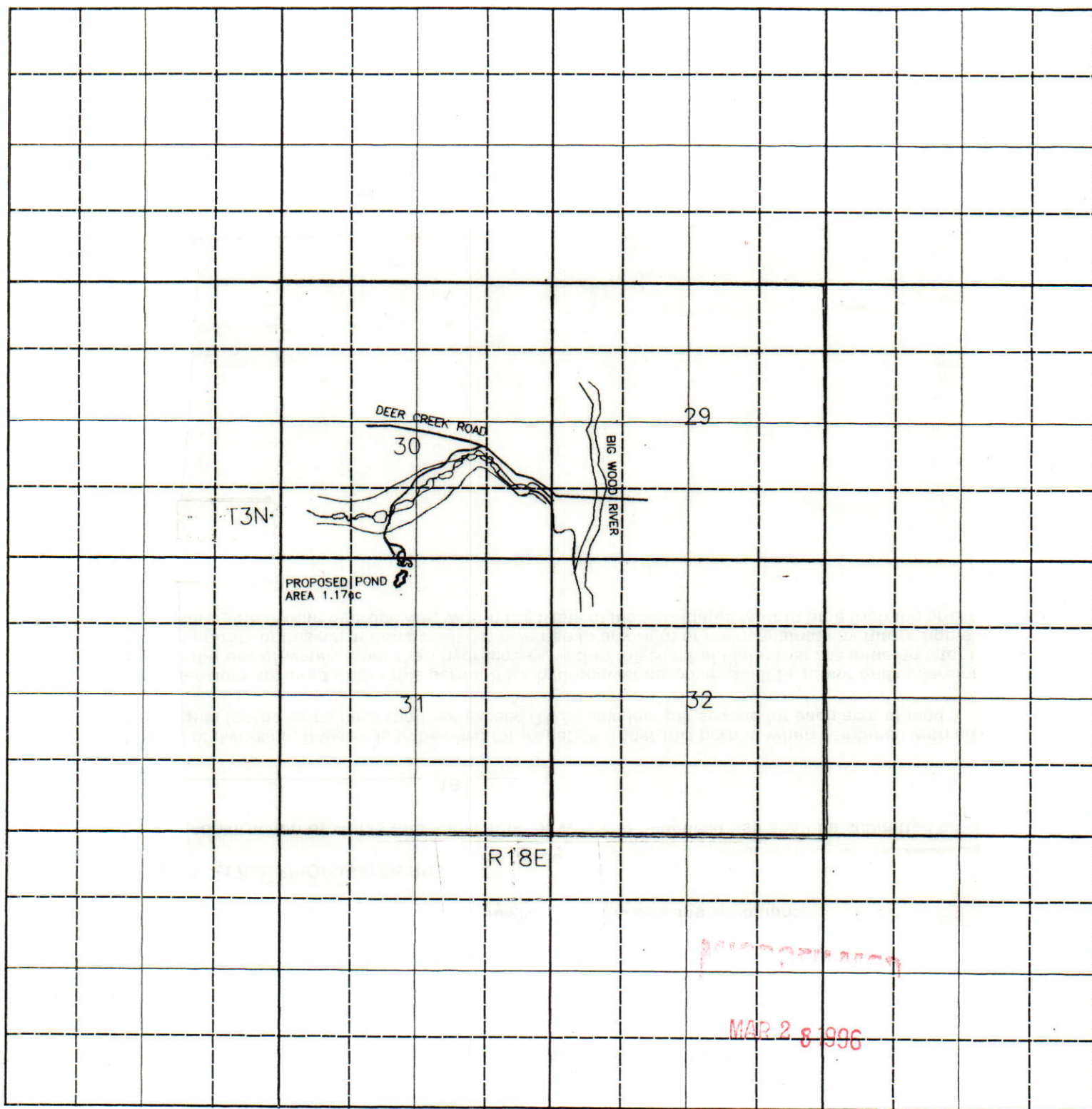
37-08836



37-08836



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

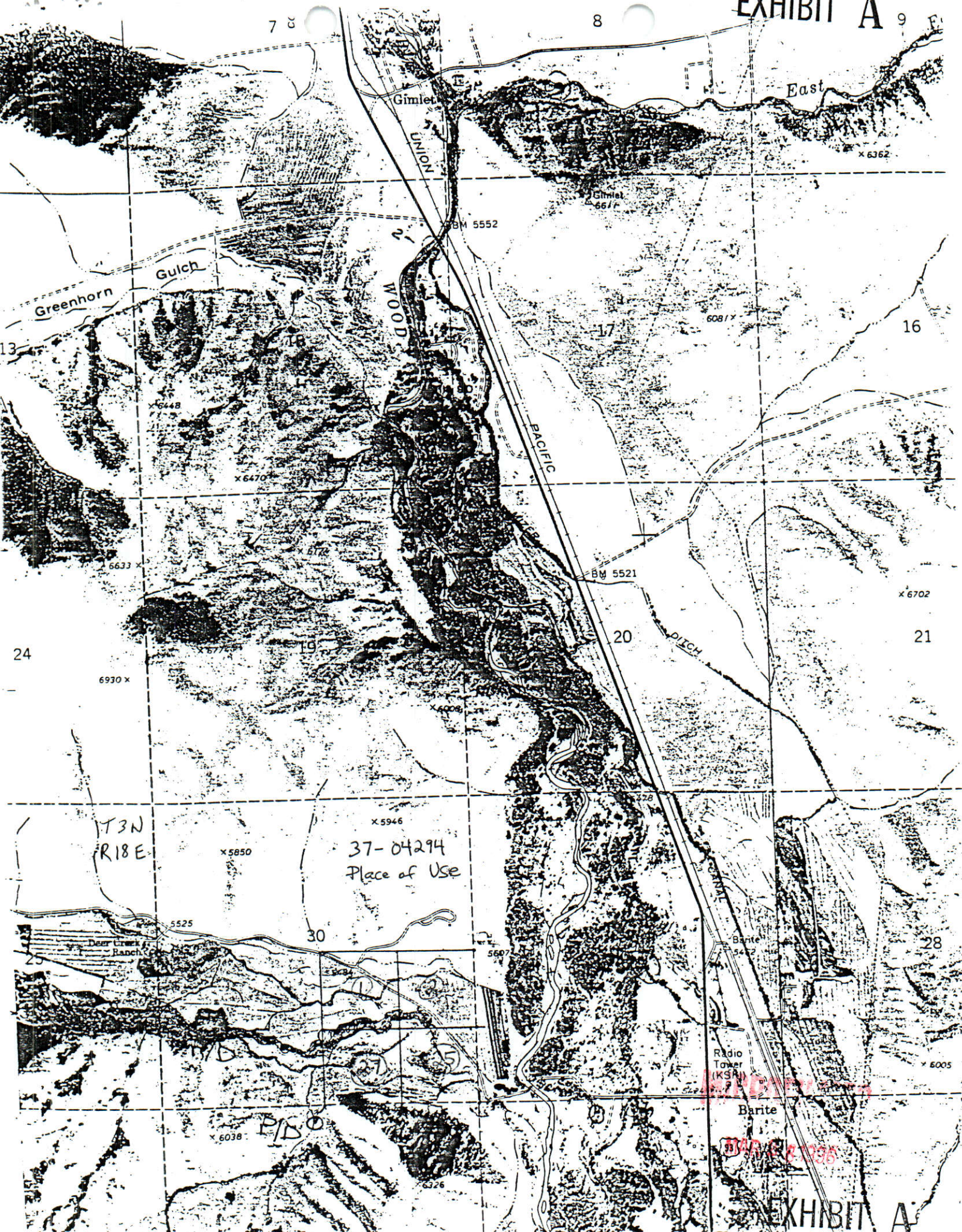


Scale: 2 inches equal 1 mile.

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

New Deer Creek Ranch Inc. by
Jay Lamy, President
(Applicant)

37-08836



WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
~~Original Application~~	~~37-08836~~	~~New Deer Creek Ranch~~	~~12.3afa~~
Full Assignment	37-08836	Deer Creek Ranch Inc	12.3afa

APPROVED

APR 29 1996

Receipt No. 039293
 Receipt By: R. Stank
 Date Received: 6-19-97

**STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES**

RECEIVED

PROOF OF BENEFICIAL USE

No ✓ APR 28 1997

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 who has been appointed by the department.

1. Permit No. 37-08836 Telephone No. 208 788 9813
2. Name(s) of Permit Holder(s): Deer Creek Ranch, Inc.
3. Mailing Address: P.O. Box 187 • Hailey, Idaho 83333
4. Source of Water: Surface Unnamed tributary GROUNDWATER (well), Date Drilled: mo. ____ / yr. ____
of Deer Creek.
- a. Well Driller: _____ Drilling Permit Number: ____ - ____ - ____ - ____
- b. **OPTIONAL:**
 Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____

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

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

Irrigation (No. of acres): _____ Other: Aesthetic Storage

6. Total rate of diversion and/or volume for which proof is submitted: _____ cfs OR 12.3 acre feet

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

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

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

Has the measuring device been installed? Yes ____ or No ____

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

Has the measurement port been installed? Yes ____ or No ____

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

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

Name: Jay Sevy Telephone Number: 208 788 9813

Address: P.O. Box 187 • Hailey, Idaho 83333

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: _____

Deer Creek Ranch, Inc. by

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

Date: 4/26/97

MICROFILMED

APR 12 1997

APR 09 1996

STATE DEPARTMENT OF WATER RESOURCES
DEPARTMENT OF WATER RESOURCES

OFFICE USE ONLY
Amt. of Fee \$25.00
Date 4/11/96
Receipt No. S019005
Receipt by GS

ASSIGNMENT OF ~~APPLICATION FOR~~ PERMIT

I, NEW DEER CREEK RANCH, INC., hereby assign to DEER CREEK RANCH, INC.

Of, P. O. BOX 187, HAILEY, ID 83333
(Full Address)

All my right, title, and interest in and to Application for Permit
No. 37-08836 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to
Application for Application for Permit No. _____ to appropriate the public
waters of the State of Idaho.

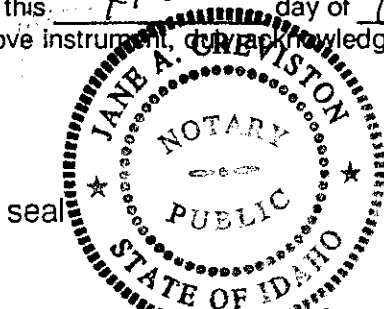
Describe portion of the application assigned listing the number of acres in each 40 acre
subdivision, point of diversion location, and the amount of water in cubic feet per second.

Made this 4th day of April, 1996
NEW DEER CREEK RANCH, INC.

Jay Sevy
Applicant
BY: Jay Sevy, President

State of Idaho)
County of Blaine) ss

On this 4th day of April, 1996, personally appeared before me the signer of the
above instrument, Jay Sevy, who acknowledged to me that he (she) (they) executed the same.



Jane A. Creighton
Notary Public
Hailey, Idaho 83333

My commission expires: 3-22-99

APR 29 1996

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 37-08836

Proposed Priority: September 12, 1994

Maximum Storage Volume:

12.3 AF

This is to certify, that **NEW DEER CREEK RANCH INC**

PO BOX 187

HAILEY ID 83333-0187

has applied for a permit to appropriate water from:

UNNAMED STREAM

tributary of **DEER CREEK**

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31		12.3 AF

LOCATION OF POINT(S) OF DIVERSION: NENENW , Sec. 31, Township 03N, Range 18E
BLAINE County

PLACE OF USE: AESTHETIC STORAGE

TWN RGE SEC

03N 18E 31

NENW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 1997.
2. Subject to all prior water rights.
3. Use of water under this right may be affected by an agreement between the protestant and the right holder.
4. Use of water under this right is subject to control by the watermaster of State Water District No. 37.
5. This right authorizes an annual volume of water to fill the pond and the amount required to replace losses through evaporation.
6. The right holder has discontinued the diversion and use of water for irrigation purposes under Right No. A37-04294 as mitigation for the hydrologic impacts of diversion and use of water under this right.

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

19th day of March, 1996

Karl J. Dreher
Karl J. Dreher, Director
for

MAR 28 1996

U L G E I V

Form 202

10/92

SEP 12 1994

Department of Water Resources
Southern Region OfficeSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMITRECEIVED
MAY 12 1995

32-08836

To appropriate the public waters of the State of Idaho
Department of Water Resources

- Name of applicant New Deer Creek Ranch, Inc. Phone (208) 788-9813
Post office address P.O. Box 187; Hailey ID 83333
- Source of water supply Unnamed creek (spring) which is a tributary of Deer Creek & Big Wood R.
- Location of point of diversion is NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot _____
Sec. 31 Township 3N Range 18E B.M. Blaine County; additional
points of diversion if any: _____
- Water will be used for the following ^(storage) purposes:
In Pond aesthetically - 9.9.3.
Amount 12.3 af for Fish & Wildlife 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)
- Total quantity to be appropriated is (a) _____ and/or (b) 12.3
cubic feet per second acre feet per annum
- Proposed diverting works:
 - Description of ditches, flumes, pumps, headgates, etc. Existing ephemeral channel draining into pond excavation.
 - Height of storage dam 7.5 ft. feet; active reservoir capacity 9.9 acre-feet; total reservoir capacity 12.3 acre-feet; period of year when water will be diverted to storage:
1/1 to 12/31 inclusive.
 - Proposed well diameter is N/A inches; proposed depth of well is _____ feet.
 - Is ground water with a temperature of greater than 85°F being sought? No
 - If well is already drilled, when? _____; Drilling firm MAR 28 1996 _____;
Well was drilled for (well owner) _____
- Time required for the completion of the works and application of the water to be 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. 2
- e. Other; describe fully. In pond - ~~Fish and Wildlife~~ *Aesthetic Use*

9. Description of place of use:

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
3N	18E	31					X												

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? New Deer Creek Ranch, Inc.
- b. Who owns the land to be irrigated or place of use? New Deer Creek Ranch, Inc.
- 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: Convert all water claimed under right #A37-04294 for irrigation to use in

in a pond for *Aesthetic Use*. Retain the 0.03 cfs claimed for stockwater.

Total Filtration Loss: 3.7 ac.ft. per. year. (average: 2.3 gpm)

MAR 28 1996

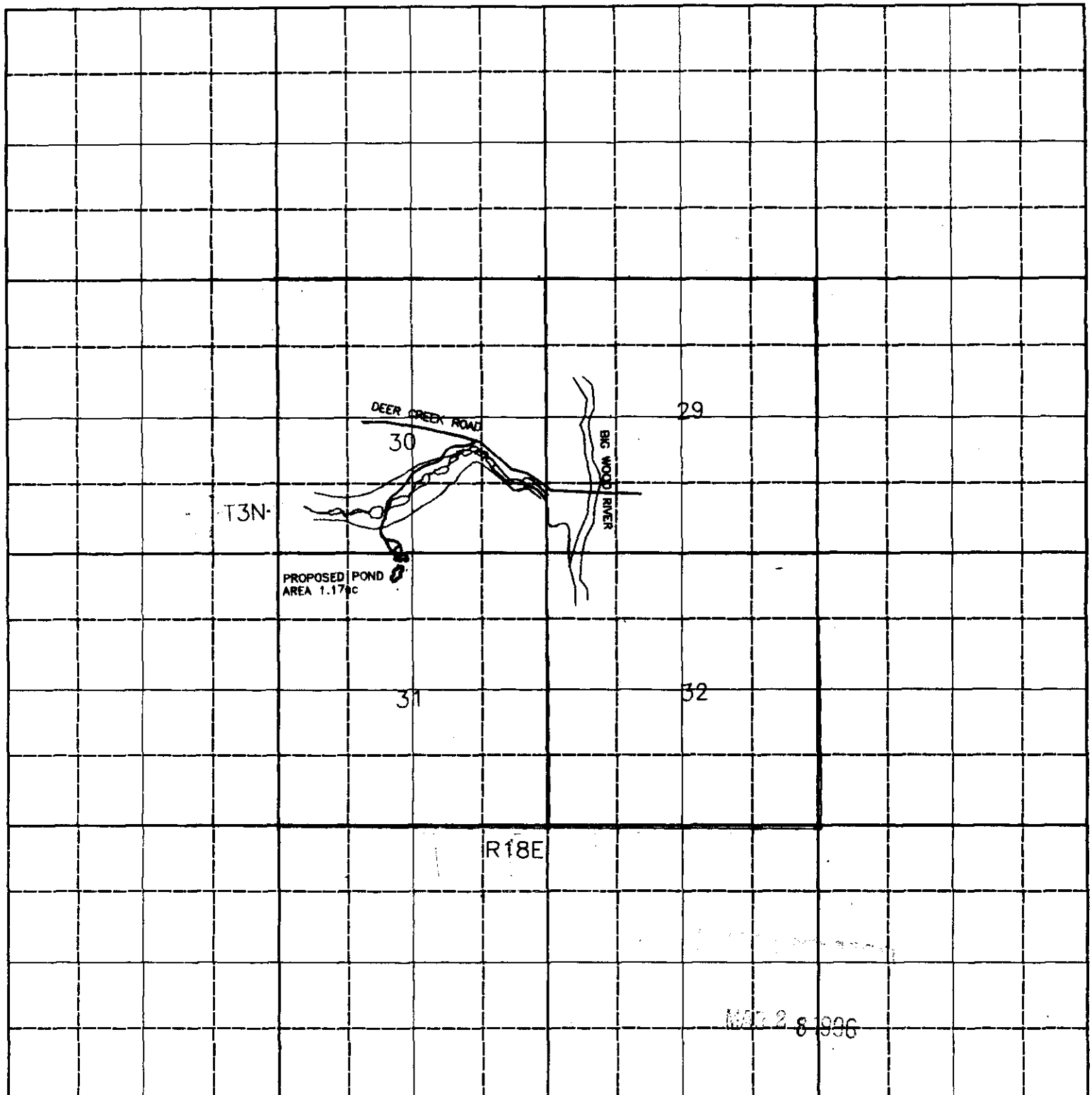
37-08836



37-08836



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



Scale: 2 inches equal 1 mile.

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

New Deer Creek Ranch Inc, by
Jay S. Sneyd President
(Applicant)

37-08836

Received by JC Date 9/12/94 Time 10:30 CK 1572 Preliminary check by MTS
Fee \$ 50 Receipted by [Signature] # 501 7366 Date 9/12/94
Publication prepared by MB Date 11/16/94 Published in Wood River Journal
Publication approved MBaldwin Date 12/20/94

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before

_____, 19____.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

MAR 28 1996

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 37-0 8836 Reviewed by Jay Date 5-9-97

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?

aesthetic / storage

yes Address same as permit?

yes Proof timely received?

Correct Uses? yes

If not, complete calculation below.

SOURCE OF WATER

☒ Surface water source

☐ Ground water source

☐ Drilling permit required?

☐ Copy in the file? Drilling Permit No. _____

☐ Amount paid for permit

☐ Correct?

☐ Well log in the file?

LICENSE EXAMINATION FEE

MEASURING DEVICE

yes Required?

no Required?

0 Amount Submitted

+ Installed?

no Correct?

+ Waiver requested?

PRIORITY CALCULATION

Date proof received

Date proof due

No. of days late

Priority Date

New Priority Date

_____	-	_____
_____	=	_____
_____	+	_____
_____		_____

DEFICIENCIES OR ACTION ITEMS

Request \$50.00 lic. exam fee
7/9- Fee Received / Proof acceptable

DATA ENTRY

New Address _____ Proof Made 4-28-97



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

July 9, 1997

DEER CREEK RANCH INC
PO BOX 187
HAILEY ID 83333

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-08836

Dear Permit Holder:

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

Please be advised that Section 42-248, Idaho Code, which became affective on July 1, 1996, 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. Failure to maintain current records with the department could result in the assessment of a monetary penalty.

If you have questions concerning the field examination, contact the **SOUTHERN** Regional Office in Twin Falls, at (208)736-3033.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

C: IDWR - Region

MICROFILMED
AUG 12 1997



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 23, 1997

Deer Creek Ranch, Inc.
P.O. Box 187
Hailey, ID 83333-0187

RE: Permit No. 37-08836

Dear Permit Holder:

I have returned a copy of the Proof of Beneficial Use Statement you submitted in connection with the above referenced water right. The proof form can not be accepted by the department until it is accompanied by the appropriate license examination fee.

The Department has determined, from pertinent sections of the Idaho Code, that the permit holder must meet two requirements in order to be exempt from the license examination fee. They are:

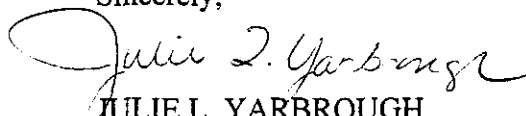
- ▶ The water right must use a **ground water** (well) source, **and**;
- ▶ The rate of diversion must be .04 cfs or 4.0 AF or less.

You do not meet requirement #1 since you divert water from a surface water source (unnamed stream). Therefore, a license examination fee of \$50.00 applies to the permit. You indicated on the proof form that \$50.00 was enclosed, however, the proof was not accompanied with the fee.

Please return the copy of the proof form along with the \$50.00 license examination fee to my attention within thirty (30) days of receipt of this letter.

If you have any questions regarding this matter, please contact me at (208)327-7900.

Sincerely,


JULIE L. YARBROUGH
Senior Secretary

Enclosure

MICROFILMED

AUG 12 1997

February 28, 1997

DEER CREEK RANCH INC
PO BOX 187
HAILEY ID 833330187

PROOF DUE NOTICE

RE: PERMIT NO. 37-08836

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before May 1, 1997.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

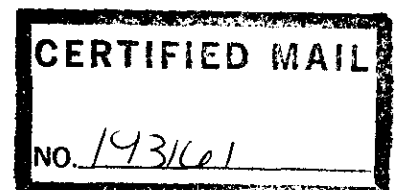
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MAILED
AUG 12 1997





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 19, 1996

Deer Creek Ranch Inc
PO Box 187
Hailey ID 83333-0187

RE: Permit Nos. 37-08836 and 37-08748

Dear Permit Holder(s):

We acknowledge receipt of the correspondence changing ownership of the above referenced water rights to you. We have modified our computer records to reflect these changes in ownership.

If you have any questions regarding this matter, please feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Johnson', with a long horizontal line extending to the right.

JIM JOHNSON, Manager
Water Right Permits Section

JJ:rl

APR 29 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 20, 1996

JOHN ROSHOLT
ROSHOLT, ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 37-08836 IN THE NAME OF NEW DEER CREEK RANCH INC

Dear Mr. Rosholt,

Enclosed is a copy of the approved application for permit for water right no. 37-08836. Please be sure to thoroughly review the "CONDITIONS/REMARKS" listing on the permit.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since the permit holder must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled "Proof of Beneficial Use". If the project is already completed, please complete and submit this form immediately.

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

I have also enclosed a withdrawal form for SRBA claim no. A37-00888 pursuant to correspondence dated 3/14/96. If you or your client have any questions, I can be contacted directly at (208) 327-7946.

Respectfully,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosures

MAR 28 1996

ROSHOLT, ROBERTSON & TUCKER

Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
PAUL W. SAMUELSON
TIMOTHY J. STOVER
NORMAN M. SEMANKO

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

RECEIVED

MAR 15 1996

Department of Water Resources

March 14, 1996

Shelley Walter Keen
Water Rights Supervisor
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

Re: New Deer Creek Ranch

Dear Shelley:

Please find enclosed a copy of the amended SRBA claim for A37-04297, terminating the irrigation portion of the claim.

113
Pursuant to your February 23, 1996 letter, please send us a copy of Permit No. 37-08836 as soon as it is approved, along with any forms you think are necessary to withdraw SRBA Claim No. A37-00888.

Respectfully submitted,

John A. Rosholt
JOHN A. ROSHOLT

JAR:le
03149602.NMS

Enclosure

MAR 28 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

February 23, 1996

KARL J. DREHER
DIRECTOR

JOHN A ROSHOLT
ROSHOLT, ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

RE: Application 37-08836 for New Deer Creek Ranch, Inc.

Dear Mr. Rosholt:

I have reviewed Application for Permit 37-08836 for New Deer Creek Ranch, Inc., and I believe it is acceptable if its impacts are mitigated by terminating the irrigation portion of claimed water right A37-04294. I have enclosed a draft permit for you to review. Once Snake River Basin Adjudication Claim A37-04294 is amended to remove the claimed irrigation use, I will forward the permit for approval. I have enclosed an amended claim form for A37-04294 for you to review, sign, and return.

Also, in previous correspondence we have discussed the withdrawal of SRBA Claim A37-00888. Withdrawal of the claim appears to be the appropriate step to correct an oversight during the processing of Transfer 3861 for Water Right 37-00466.

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

Respectfully,

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

Shelley Walter Keen
Water Rights Supervisor

SWK
Enclosures

MAR 2 8 1996

MEMORANDUM

DATE: February 22, 1996

TO: Jim Johnson

FROM: Shelley W. Keen (Suk)

RE: New Deer Creek Ranch -- Application 37-08836

=====

New Deer Creek Ranch proposes to give up the irrigation component of a statutory claim as mitigation for creating a storage reservoir for aesthetic purposes on the same stream, an unnamed stream tributary to Deer Creek. Based on Doug Jones's assessment of the history of use from this stream, I believe the mitigation plan is acceptable. As Doug says, it appears there is some acreage above the Deer Creek ditch in the SESE and SWSE, Section 30, T3N, R18E, that was irrigated with water from the unnamed stream only. Retirement of the irrigated acres above the Deer Creek ditch would compensate for the evaporation losses associated with the reservoir.

MISSOURI

MAR 28 1996

ROSHOLT, ROBERTSON & TUCKER

**Chartered
ATTORNEYS AT LAW**

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
PAUL W. SAMUELSON
TIMOTHY J. STOVER
NORMAN M. SEMANKO
ERIK P. SMITH

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

RECEIVED

SEP 19 1995

Department of Water Resources

September 18, 1995

Shelley Walter Keen, Water Rights Supervisor
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720-9000

Re: New Deer Creek Ranch, Inc.

Dear Shelley:

Pursuant to our letter of September 13, 1995, enclosed herewith is a copy of the signed original Affidavit of Harold Schmidt. We have retained the original for our file.

If you have any questions, please call.

Respectfully submitted,



JOHN A. ROSHOLT

09189501.NMS
Enclosure

cc: Jay Sevy, President, New Deer Creek Ranch, Inc.

MAR 28 1996

1 Claimant's Name:
2 Attorney's Name and Address:

New Deer Creek Ranch, Inc.
John A. Rosholt
ROSHOLT ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
09139501.NMS

3
4
5
6
7
8 BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
9

10 In Re:
11 New Deer Creek Ranch, Inc.
12 SRBA Claim No. A37-04294

)
)
) AFFIDAVIT OF
) HAROLD SCHMIDT

13
14 STATE OF IDAHO)
15) ss.
County of Blaine)

16 COMES NOW, the undersigned, Harold Schmidt, and being duly sworn,
17 deposes and says:

18 1. That I presently reside in Blaine County in close proximity to Deer
19 Creek Ranch.

20 2. That since 1960, I have been familiar with Deer Creek Ranch and
21 the irrigation of the ranch, located in Township 3 N., Range 17 E. and Range 18 E.B.M.

22 3. Under Agreement dated June 29, 1967, I leased, operated and
23 maintained Deer Creek Ranch as a cattle ranch operation for the owner from that date
24 until April of 1990. Since April 17, 1990, I have been employed by the new ranch owner,
25 New Deer Creek Ranch, Inc., as an independent contractor to operate said ranch. I have
26 been the operator of the irrigation system for the ranch since 1967.
27
28

AFFIDAVIT OF HAROLD SCHMIDT - 1

MAR 28 1996

1 4. I am the authorized agent that executed and filed the adjudication
2 claims on behalf of the ranch, including SRBA Claim No. 37-04294.

3 5. The source of water right 37-04294 is a network of springs which
4 originate in what is referred to as "Ernst Canyon". The water flows out of the canyon and
5 has historically been intercepted by a flood irrigation system that distributes water to 55
6 acres in Section 30, Township 3 N., Range 18 E., B.M., as depicted in Exhibit "A".
7

8 6. During drought years water did not always flow out of the canyon,
9 but in normal years, or when otherwise available, the water was always utilized for
10 irrigation.

11 7. The water supplying water right no. 37-04294 does not connect to
12 Deer Creek. However, during the 1993 irrigation season, water from Ernst Canyon
13 flowed to and into Deer Creek.
14

15 8. Water from Ernst Canyon has been used on the 55-acre place of use
16 depicted on Exhibit "A" during the 1995 irrigation season.
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MAR 28 1996

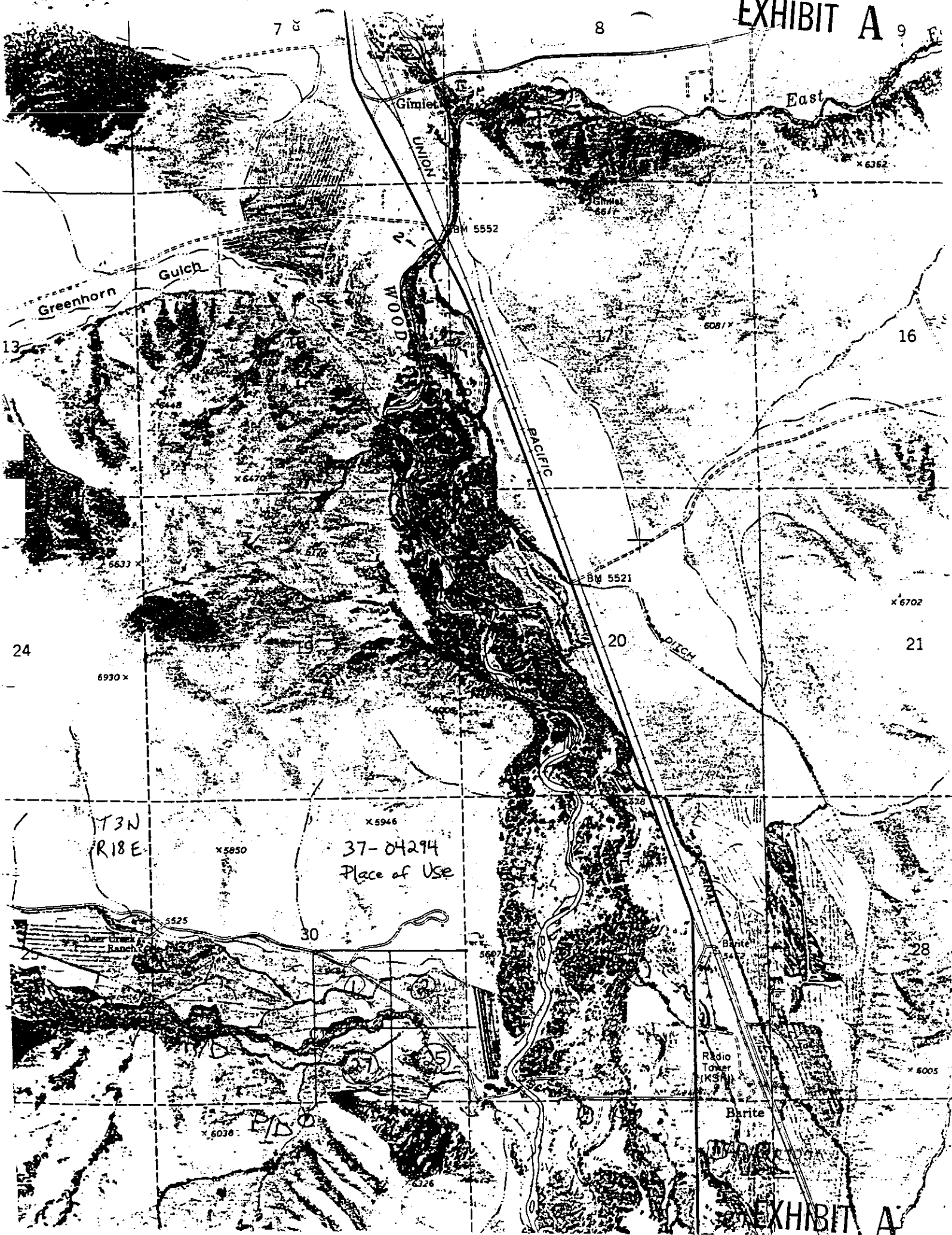
1 DATED this 15 day of September, 1995.
2
3
4

5 Harold Schmidt
6 HAROLD SCHMIDT
7

8 SUBSCRIBED AND SWORN to before me this 15th day of September, 1995.
9

10 Leah D. Eck
11 NOTARY PUBLIC FOR IDAHO
12 Residing at: Twin Falls
13 My commission expires: 10-18-98
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MAR 28 1996



ROSHOLT, ROBERTSON & TUCKER

**Chartered
ATTORNEYS AT LAW**

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
PAUL W. SAMUELSON
TIMOTHY J. STOVER
NORMAN M. SEMANKO
ERIK P. SMITH

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

RECEIVED
SEP 15 1995

Department of Water Resources

September 13, 1995

Shelley Walter Keen, Water Rights Supervisor
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720-9000

Re: New Deer Creek Ranch, Inc.

Dear Shelley:

This correspondence is in response to your letter dated August 31, 1995, regarding various water rights held in the name of New Deer Creek Ranch, Inc. Set forth below are our comments on each of the issues raised in your letter.

1. Amended Transfer of Water Right No. 37-00466

We appreciate the department's cooperation in correcting the minor clerical error in transfer no. 3861. The Preliminary Order appears to do the job and we see no need for changes. Pursuant to Rule 730.b. of the department's Rules of Procedure, it is our understanding that the Preliminary Order will become a Final Order of the department on or about September 20, or 21 days after the service date of the Preliminary Order (August 31, 1995). Please send us a copy of the Final Order as soon as it is issued.

2. Relinquishment of SRBA Claim No. A37-00888

Consistent with your request, our client has completed and signed the relinquishment form for A37-00888. In keeping with the previous view of these three issues as a "package deal", we will forward the completed relinquishment form to you as soon as issue no. 3, discussed below, is resolved.

3. Permit No. 37-08836 & Verification of SRBA Claim No. 37-04294

In your letter, you advise that "verification of claim 37-04294 is necessary" in order for the department to accept our client's mitigation proposal. It was our impression that the department had already verified this claim as evidenced by the enclosed memorandum of October 28, 1994 from Doug Jones (Exhibit "A"). Nevertheless, we have

MAR 28 1996

also enclosed a copy of an affidavit to verify the claim which is in the process of being signed and notarized. (Exhibit "B"). The executed original will be sent as soon as we receive it back from our client.

Again, our client is proposing to sacrifice the irrigation component of water right no. 37-04294. This will more than mitigate the consumptive (evaporation) impacts of Permit No. 37-08836. We presume that is why Doug Jones recommended the approval of the proposed mitigation plan in his October 28, 1994 memo.

As indicated in Doug Jones' memo, field observations and review of photos reveal that "irrigation had been made from this source historically" and "show that there was irrigation that could only have occurred from the unnamed stream [37-04294]." (emphasis added). In addition, the memo correctly notes that transfer no. 3861, approved in 1992, did not impact water right no. 37-04294. Rather than seeking to transfer the right, or agreeing to relinquish the right, as was the case for other rights covering the new place of use under the transfer (A37-0058, A37-00467 and A37-00889), our client decided to retain A37-04294 so that it could be used to mitigate the impacts of the pond. In the process, our client will give up the right to irrigate 1 acre in the SE 1/4 of the SE 1/4 of Section 30 (compare place of use for water right no. 37-04294 (25 acres in SE 1/4 of SE 1/4 of Section 30) with the place of use for transfer no. 3861 (24 acres in SE 1/4 of SE 1/4 of Section 30). In addition, our client will be relinquishing A37-00888.

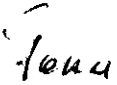
The pond is already in place (built in 1992 and lined during 1994) and our clients are ready to implement the mitigation plan. In fact, water from Ernst Canyon's springs (the source of 37-04294) reached Deer Creek during 1993, demonstrating that this is a viable mitigation proposal. We seek only to formalize this arrangement through the approval of Permit No. 37-08836.

You note in your letter that IDWR "staff have reported not finding any evidence of current diversion and use of water for irrigation" pursuant to water right no. 37-04294 (emphasis added). This certainly does not serve as proof that the right has not been used. As indicated by the enclosed affidavit, the water flows out of Ernst Canyon and has been used for irrigation. In addition, it is planned to turn the water into Deer Creek for mitigation purposes as soon as possible. With the exception of the 1 acre noted above, the acres irrigated under water right no. 37-04294 are now irrigated pursuant to transfer no. 3861. Of course, all of this has taken place since the transfer was approved in 1992, in less than five years, and with no intent to abandon the right. As a result, there could have been no forfeiture or abandonment of the right for non-use. As indicated by the proof which we have submitted, water right no. 37-04294 was used for irrigation up until the time that transfer no. 3861 was implemented and there should be no question regarding beneficial use.

37-04294-0000
MAR 28 1996

We trust that this information is sufficient. As a result, please let us know as soon as possible that Permit No. 37-08836 has been approved, subject to the mitigation plan.

Respectfully submitted,


JOHN A. ROSHOLT

09129504.NMS

Enclosures

cc: Jay Sevy, President, New Deer Creek Ranch, Inc.

37-08836

MEMORANDUM

TO: NEW DEER CR RANCH APP FOR PERMIT 37-
FROM: DOUGLAS JONES
DATE: October 28, 1994
RE: OVERLAP, MITIGATION

STAFF REVIEW OF APP FORM SHOWS THAT THIS APPROPRIATION WOULD NEED TO BE MITIGATED IN ORDER TO BE APPROVED. IN THE "REMARKS" SECTION THE APPLICANT'S REPRESENTATIVE INDICATES THAT IRRIGATION UNDER A STATUTORY CLAIM WOULD BE GIVEN UP. STOCKWATER ALSO APPEARS ON THE STATUTORY CLAIM AND WOULD BE RETAINED.

I HAVE BEEN TO THE PROPERTY AND OBSERVED THE DRAINAGE. I HAVE ALSO REVIEWED NAPP AND ORTHO PHOTOS OF THE AREA. BASED ON THESE DATA I CONCLUDE THAT IRRIGATION HAD BEEN MADE FROM THIS SOURCE HISTORICALLY. HOWEVER, THE PRESENT OWNER PURCHASED THE PROPERTY IN 1990 (APPROX) AND A TRANSFER (#3861) CHANGING THE IRRIGATION SYSTEM AROUND WAS APPROVED IN 1992. THE TRANSFER DID NOT DEAL WITH STAT. CLAIM 37-4294 - THE SUBJECT OF THE MITIGATION. PHOTOS SHOW THAT THERE WAS IRRIGATION THAT COULD ONLY HAVE OCCURRED FROM THE UNNAMED STREAM (I.E. ABOVE DEER CR DITCH).

RANCH MANAGER JAY SEVY SAYS THAT WATER GENERALLY FLOWS IN THIS STREAM YEAR ROUND. MY VISIT SHOWED THAT NO WATER WAS FLOWING IN THE STREAM BED IN THE VICINITY OF THE POND DUE TO EXTRAORDINARILY DRY YEAR. ALL OLD DIVERSION SYSTEM ELEMENTS WERE OBLITERATED BY CONSTRUCTION OF FILL FOR HOUSE IN MOUTH OF CANYON. THE BORROW SOURCE FOR THE HOUSE FILL WAS THE POND SITE, SO THAT THERE NOW EXISTS AN UNLINED RESERVOIR. THE OULET FOR THE RESERVOIR DAYLIGHTS FAR FROM THE HOUSE AREA AND WOULD TRICKLE OVERLAND AND SINK.

THE EMBANKMENT FOR THE HOUSE FILL WOULD NOT BE A JURISDICTIONAL DAM. EMERGENCY OVERFLOW CHANNELS HAVE BEEN DEVELOPED ALONG BOTH SIDES OF THE VALLEY. FLOW THROUGH THESE WOULD LIKEWISE BE OVERLAND AND SINK BEFORE REACHING DEER CREEK IN NORMAL FLOW YEARS.

I RECOMMEND APPROVAL OF THE STATED MITIGATION PLAN TO ABANDON THE IRRIGATION COMPONENT OF 37-4294 UPON APPROVAL OF THIS APPLICATION. A COPY OF THIS APP AND MEMO HAVE BEEN PLACED WITH THE SRBA CLAIM A37-04294 AND AN APPROVED PERMIT WOULD EFFECTIVELY AMEND THE CLAIM TO REMOVE IRRIGATION.

RECEIVED

MAR 28 1996

MEMORANDUM TO FILE A37-04294

FROM: MEL SCHULTE *MTS*

DATE: OCTOBER 31, 1994

IF THE APPLICATION FOR PERMIT DATED 9-12-1994 FOR AESTHETIC POND STORAGE IS APPROVED, THE IRRIGATION COMPONENT OF SRBA CLAIM A37-04294 HAS BEEN SACRIFICED IN A MITIGATION PLAN. SEE THE ATTACHED APPLICATION FORM AND DOUGLAS JONES' MEMORANDUM DATED 10-28-1994 FOR MORE INFORMATION.

MTS

A37-04294

MAR 28 1994

1 Claimant's Name:
 2 Attorney's Name and Address:

New Deer Creek Ranch, Inc.
 John A. Rosholt
 ROSHOLT ROBERTSON & TUCKER
 P.O. Box 1906
 Twin Falls, Idaho 83303-1906
 Telephone: (208) 734-0700
 09139501.NMS

8
 9 BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

10 In Re:

11 New Deer Creek Ranch, Inc.
 12 SRBA Claim No. A37-04294

)
) AFFIDAVIT OF
) HAROLD SCHMIDT
)

13
 14 STATE OF IDAHO)

15 County of Blaine)

) ss.

16 COMES NOW, the undersigned, Harold Schmidt, and being duly sworn,
 17 deposes and says:

18 1. That I presently reside in Blaine County in close proximity to Deer
 19 Creek Ranch.

20 2. That since 1960, I have been familiar with Deer Creek Ranch and
 21 the irrigation of the ranch, located in Township 3 N., Range 17 E. and Range 18 E.B.M.

22 3. Under Agreement dated June 29, 1967, I leased, operated and
 23 maintained Deer Creek Ranch as a cattle ranch operation for the owner from that date
 24 until April of 1990. Since April 17, 1990, I have been employed by the new ranch owner,
 25 New Deer Creek Ranch, Inc., as an independent contractor to operate said ranch. I have
 26 been the operator of the irrigation system for the ranch since 1967.
 27
 28

AFFIDAVIT OF HAROLD SCHMIDT - 1

MAR 28 1996

1 4. I am the authorized agent that executed and filed the adjudication
2 claims on behalf of the ranch, including SRBA Claim No. 37-04294.

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4 originate in what is referred to as "Ernst Canyon". The water flows out of the canyon and
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MAR 28 1996

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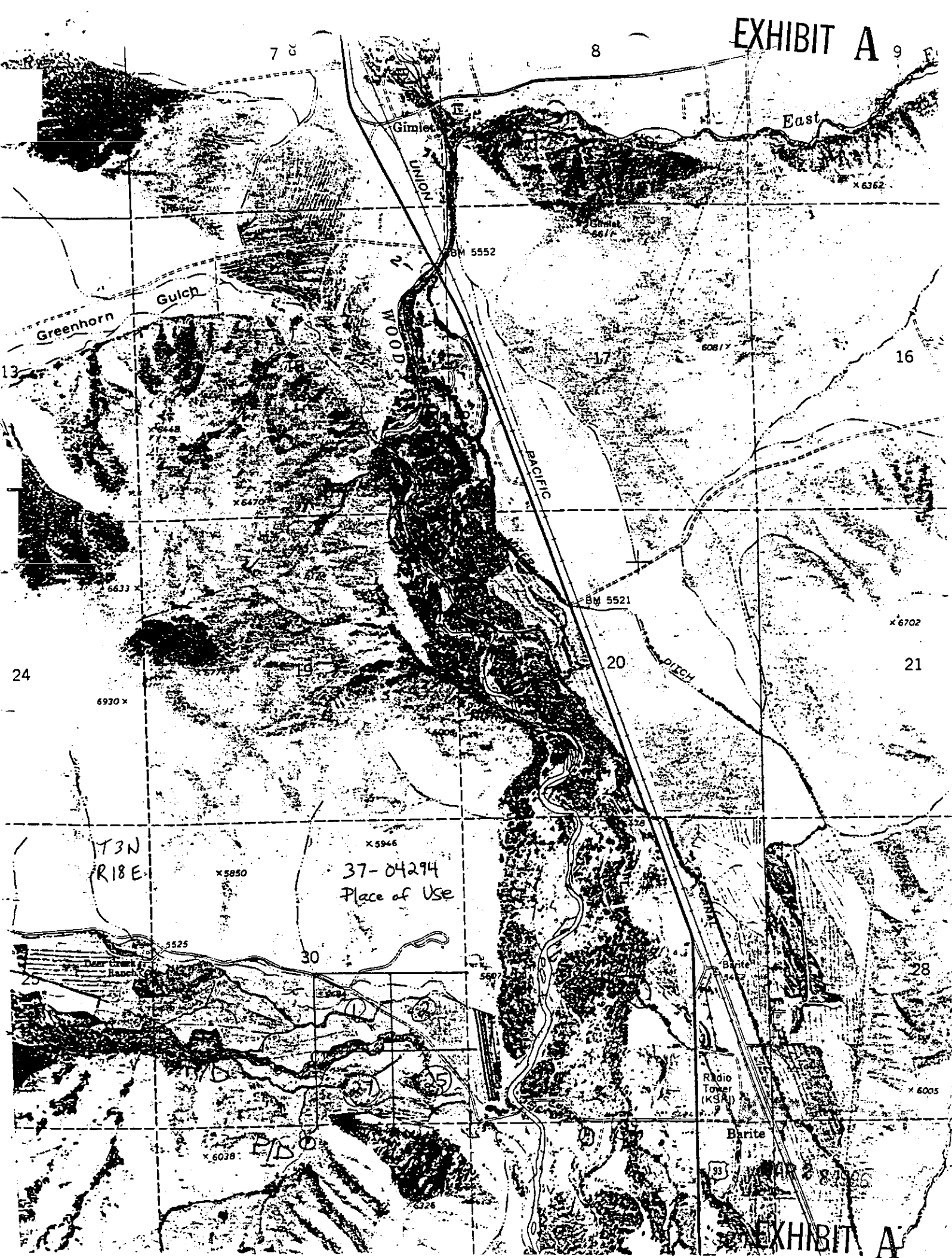
DATED this ____ day of September, 1995.

HAROLD SCHMIDT

SUBSCRIBED AND SWORN to before me this ____ day of September, 1995.

NOTARY PUBLIC FOR IDAHO
Residing at: _____
My commission expires: _____

MAR 28 1996





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 31, 1995

NEW DEER CREEK RANCH INC
PO BOX 187
HAILEY ID 83333
Atten: Jay Sevy

RE: Amended Transfer of Water Right No. 37-00466
Preliminary Order to Correct and Amend Transfer No. 3861
Application for Permit No. 37-08836

Dear Jay:

Enclosed is a copy of amended Transfer of Water Right No. 37-00466 (Transfer No. 3861) and a copy of the Preliminary Order to Correct and Amend Transfer No. 3861. This amended transfer order was needed to correct a place of use location omission on the approved transfer. We have had recent communications with John Rosholt's office on the proper procedure for doing this type of action. We decided to issue an amended transfer with a preliminary order. Please see the order for details.

In this recent review of the water right file we found that we are missing relinquishment on one of the four rights that were originally appurtenant to the ranch. You may recall that when the transfer was being processed in 1991, you and John Rosholt added to the remarks portion of the transfer your intent to relinquish Snake River Basin Adjudication (SRBA) claims to rights A37-00508, A37-00467, and A37-00889. However, the fourth right, A37-00888, has not been accounted for. It appears the omission of this right was simply an oversight, and I believe that you would not have a problem with relinquishing this SRBA claim as well. I have filled out the attached relinquishment form for your convenience. Please sign and return it.

You have also submitted Application for Permit No. 37-08836 to store 12.3 AF of water for aesthetic purposes on an unnamed stream tributary to Deer Creek. In order for the Department to approve the application while under the moratorium imposed in this area, you proposed mitigating the consumption of water (evaporation losses) from the reservoir by eliminating the use of water under claim 37-04294.

Before the department can accept your mitigation proposal, verification of claim 37-04294 is necessary. This may or may not be possible. Department staff have reported not finding any evidence of current diversion and use of water for irrigation.

MAR 28 1996

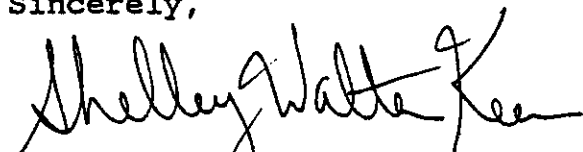
New Deer Creek Ranch Inc.
August 30, 1995
Page 2

from this source. We need to have convincing evidence that water was used as described in the claim.

If providing this information is difficult, there are other potential mitigation plans that may be easier to support. One option is to reduce the number of acres irrigated under right 37-00466 by the number of acres equal to the surface area of the reservoir you intend to construct. I will hold Application for Permit No. 37-08836 awaiting your response. I would like to hear from you, if possible, within 15 days.

If you have any questions, you can contact me at 327-7946 or Jim Johnson at 327-7947.

Sincerely,



Shelley Walter Keen
Water Rights Supervisor

SWK
Enclosures

MAR 28 1996

APPLICATION FOR PERMIT
STATE OFFICE REVIEW
by Cindy Zimmerman

No.: 37-8836 Name: New Deer Creek Ranch Inc Date: 5/19/95 Ad OK? ☒
Correct Fee? ☒ Receipt #: 3017366 Priority: 9/12/94 ☒ Gvmt Lts: ☒

AREA OF CONCERN? - No/Yes ESRP Mor Big Wood RGWMA Trust/Non-trust
PROTESTED: - 020 (Prehearing agreement) or W19 (See Order)
SYSTEM COMPLETED:
Yes/proof filed - NA
1 year/no proof - P16
+1 year - 26A-P17
~~GROUNDWATER~~ <✓ FLO-CH>
+ 0.2 cfs - 01M
- 0.2 cfs - No MD
+ 5 a. (POU cmp) - 01M, 803 (if GW use SW 1st)
Drilling Permit:
Existing well - NA (pre 7/1/87)
Included w/permit - Permit No. _____, P99
No WD permit? - 046-46B-P23 (post 7/1/87)
irr. in WD - P05 (new well)
SURFACE WATER <✓ FLO-CH> (Surface water that doesn't sink):
Water District (dem) - 005 (req) WD # 37 <SEE MAP & LISTING>
+ 0.2 cfs - 01J-P08 or 01M
- 0.2 cfs - 01H-P01 or No MD
+ 5 a. irr. - 01M (POU cmp)
In WD + 0.2 cfs - 01M or No MD (in-stream)
- 0.2 cfs - No MD
+ 5 a. irr. - 01M (POU cmp)
RIVER BASINS (*Surface water):
Snake R (01) - 11A-P04, NA
(02/03) - 007-P07 (w/remark WB9), NA
Boise R (63) - 05A (if WD), 11E (not 42-111 use), NA
Payette R (65) - 064 (consump. use), 047-P04 (Payette Lake), NA
USE:
Domestic (surface) - 021 (Boise R ↑ L Peak); 27A (Payette R); NA
Fish Propagation - 07A-042 (rq) - 010/06A/09E (WQ) - P10; 044 (N 1000 Spr)
Irr - 5 acres - 057 (0.03 cfs/A)
+ 5 acres - 03A (0.02 cfs/A)
Mining - 054 (req) & 06A/010/09E-P10
Power - 08A-17K-025-027-01M-01F (P19) - 09E (P10);
+25 cfs-P18; 17G (FERC) or 17M (FERC); 18B-P09
Storage (✓ 3 compo.) - 18A (multi MD in WD), 18B-P09 (+10' dam), NA
LOCATION:
Boise Front LoGeo - 058 (-85° GW temp only)
In-stream dev. - P52 (stream channel alteration)
Irr Dist/Canal Co. - 023 (Twin Falls area)
Swan Falls Flag - W <SEE CONDITION CODE CHART>
Trust - 051-052-053-P74 (Consumptive Uses), NA
Non-Trust <1> - 048-049 (Consumptive Uses), NA
OWNERSHIP: Non-land owner - 004 (PD/PU)
OTHER CONDITIONS: -
STANDARD REMARKS: - ① W07 ② Exchange w/ in portion of 37-4294
BENEFICIAL USE DUE: - 6-1-1996
COMMENTS: - ① Comp Off

New Deer Creek Ranch, Inc

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

RECEIVED
MAY 14 1995
Department of Water Resources

INITIAL REVIEW BY MTS
APPLICATION NO. 37-08836

DATE 9-13-1994

REQUIRED INFORMATION

- Need names of officers.*
- ☒ 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
- Process - mitigated*

++++PROPOSED PRIORITY DATE
9-12-94 1994

ADDITIONAL INFORMATION

- ☒ Overlapping place of use(Describe source & relationship to present application on the back.
- ☒ Overlapping point of diversion.
- ☐ Yes ☒ No Field check required
- ☐ Yes ☒ No Field check by _____
- ☒ Yes ☐ No Field report attached
- ☒ Yes ☒ No Critical Ground water area
- ☒ Yes ☐ No Groundwater management area
- ☒ Yes ☒ No Send Dam safety information
- ☒ Yes ☒ No Send power requirement letter
- ☒ Yes ☒ No Send fish farm requirement letter
- ☒ Yes ☒ No Power residency affidavit.
- ☒ Yes ☒ No Power efficiency form
- ☒ Yes ☐ No Within trustwater boundary(If yes, attach trustwater supplementary analysis sheet.
- ☐ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft. If yes, attach large diversion supplementary analysis sheet.
- ☒ See reverse side for additional information.

* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

Date Requested _____

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

SEND COPIES TO: ☐ Idaho Dept of Health & Welfare ☐ USDI BLM
☐ Idaho Dept of Fish & Game ☐ USFS
☐ Idaho Dept of Lands ☐ Water Dist.
☐ Adjudication Bureau Unit ☐ Other _____

FINAL REGIONAL PROCESSING REVIEW

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

☒ Yes ☐ No Publication dates and paper, recorded on App.

☒ Yes ☐ No Protests received

Final date for Protest _____

☒ Yes ☐ No Protests, dates, resolution of protest, recorded on app.

☐ Yes ☒ No Recommendations attached

☐ Yes ☒ No Measuring device required

☐ Yes ☒ No Access port required

☒ Yes ☐ No Will water be delivered by watermaster? If yes, what dist. 37

☒ Yes ☐ No Special conditions of approval or cover letter below. _____

005
See below for additional information ☒

Date of priority recommended 9/12, 19 94

By ADL Date 5/10, 19 95

STATE OFFICE REVIEW

See below for additional information

By _____ Date _____, 19 _____

ADDITIONAL INFORMATION:

- Subject to private agreement between
F&G & applicant.

- The irrigation component of 37-04294 (A37-04294)
shall cease as mitigation for loss in the
empowerment.

LOCAL PUBLIC INTEREST

Comments recieved from:

____ City	____ Idaho Fish & Game	____ Irrigation Dist
____ County	____ Idaho Health & welfare	____ Canal Company
____ Reservations	____ Div. of Enviromental Quality	____ Other _____

PROJECT IMPACTS/IMPLICATIONS REPORT

COMMENTS:

DATE _____, 19____

No overlaps for proposed pond
A37-04294 used as mitigation -



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor PHIL BATT

May 1, 1995

R. KEITH HIGGINSON
Director

CARL H NELLIS SUPERVISOR
ID DEPT FISH & GAME
PO BOX 428
JEROME ID 83338

RE: Application for Permit No. 37-08836 (New Deer Creek Ranch Inc)

Dear Dear Mr. Nellis:

This office acknowledges receipt of the withdrawal of your protest against the above referenced application.

Since you were the only protestant, the issue of the protest has been resolved and the Department is now prepared to proceed with the normal processing of the application which includes regional review prior to being forwarded to our State Office.

The Department will continue review of the application without further contact with you unless information is requested.

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

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
cc: New Deer Creek Ranch, Inc.

MAR 28 1996



IDAHO FISH & GAME

Magic Valley Region
868 East Main • P.O. Box 428
Jerome, Idaho 83338
(208) 324-4350
Fax (208) 324-1160

Phil Batt / Governor

Jerry M. Conley / Director

April 25, 1995

RECEIVED

APR 26 1995

Department of Water Resources
Southern Region

Mr. Allen Merritt
Idaho Dept. Of Water Resources
222 Shoshone St. East
Twin Falls, Idaho 83301

RE: Protest of Water Right 37-08836 (New Deer Creek Ranch)

Dear Allen,

Enclosed is a copy of a letter provided to our office by Mr. Jay Sevy of the New Deer Creek Ranch addressing our concerns over new water right filing 37-08836. Mr. Sevy has adequately satisfied issues which we presented in our protest letter dated November 7, 1994, therefore, we would like to withdraw our protest at this time.

Thank you for your cooperation in resolving this matter.

Sincerely,

for Carl H. Nellis
Magic Valley Regional Supervisor

cc: NRPB (Robertson)
IDFG-Legal (Goddard)
Sevy

RECEIVED

MAR 28 1996

DEER CREEK RANCH, Inc.

Quality Cattle

128 Deer Creek Road • P.O. Box 187 • Hailey, Idaho 83333
(208) 788-9813 • FAX (208) 788-9763



April 6, 1995

Mr. Carl H. Nellis
Magic Valley Regional Supervisor
Magic Valley Region
Idaho Department of Fish & Game
P.O. Box 428
Jerome, Idaho 83338

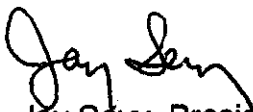
Re: Water Right Filing #37-08836 (New Deer Creek Ranch)

Dear Mr. Nellis:

Dave Parrish notified me that the statement I faxed to you for review was acceptable. The signed and notarized statement follows:

In the event the Deer Creek ponds go dry, Deer Creek Ranch agrees to conduct a fish salvage through any means acceptable to IDFG. We understand that we need IDFG's permission in the form of a collection permit or the presence of a department employee to conduct a salvage operation.

Sincerely,



Jay Sevy, President New Deer Creek Ranch Inc.

FISH AND GAME: R4

APR - 7 1995

TO: Dave P.
FROM: CHN
ACTION: _____
RETURN: _____
COMMENTS: _____

MAR 28 1995

STATE OF IDAHO

County of Blaine

ss.

On this 10th day of April, 1995, before me, the undersigned notary public, in and for said State, personally appeared JAY SEVY, known or identified to me to be the person whose name is subscribed to the foregoing letter and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.


Notary Public for Idaho
Residing at: Blaine, Idaho
Comm. Expires: 10/99

681336

Allen M

Date 2/13/95 Time 2:40 ☐ AM ☒ PM

WHILE YOU WERE OUT

M Maureen Parush

of _____

Phone () 324 - 4359

Area Code Number Extension

TELEPHONED	☐	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

☐ RETURNED YOUR CALL

Message Allen M

He wanted to know if salvage of
fish could be a condition. I
told him I would rather it be an
agreement between F&G & applicant
and then we would mention approval
subject to private agreement.

Operator AD

LET'S
GET
BACK
TO

BASICS™

#71100



IDAHO FISH & GAME

Phil Batt / Governor

Magic Valley Region
868 East Main • P.O. Box 428
Jerome, Idaho 83338
(208) 324-4350
Fax (208) 324-1160

Jerry M. Conley / Director

January 25, 1995

RECEIVED

FEB 06 1995

Department of Water Resources
Southern Region

Mr. Jay Sevy
New Deer Creek Ranch
128 Deer Creek Road
P.O. Box 187
Hailey, Idaho 83333

RE: Water Rights Protest 37-08836 (New Deer Creek Ranch)

Dear Jay,

We have reviewed your proposal for resolution of our protest of new water right application 37-08836. Idaho Dept. of Fish and Game appreciates your interest in maintaining perennial flow in Deer Creek and your in-stream series of ponds and propose fish salvage only as a last resort.

We will withdraw our protest if Idaho Dept. of Water Resources can condition approval of this new water right to your commitment to: 1) attempt to maintain surface flow in Deer Creek; and 2) in the event surface flow can't be sustained, you will be responsible, under the direction of Idaho Dept. of Fish and Game, for salvage of fish from the ponds on Deer Creek.

If these two conditions are acceptable to the New Deer Creek Ranch, please contact Dave Parrish, Environmental Staff Biologist to finalize details with Idaho Dept. of Water Resources.

Sincerely,

Carl H. Nellis
Magic Valley Regional Supervisor

cc: IDFG-NRPB (Robertson)
IDFG-Legal (Goddard)
IDWR-Twin Falls (Merritt)

MAR 28 1995

DEER CREEK RANCH, Inc.

Quality Cattle

128 Deer Creek Road • P.O. Box 187 • Hailey, Idaho 83333
(208) 788-9813 • FAX (208) 788-9763



FISH AND GAME: FA

JAN 20 1995

TO: Dave P.
FROM: CHN
ACTION: _____
RETURN: _____
COMMENTS: _____

January 11, 1995
Mr. Carl H. Nellis
Magic Valley Regional Supervisor
Magic Valley Region
Idaho Department of Fish & Game
P.O. Box 428
Jerome, Idaho 83338

Re: Water Right Filing #37-08836 (New Deer Creek Ranch)

Dear Mr. Nellis:

This letter is submitted as follow-up to recent communication between Mr. Steve Fisher, private Aquatic Biologist, and Mr. Dave Parrish, IDFG Environmental Staff Biologist, regarding the Idaho Department of Fish and Game protest to the above referenced application. As you know, Mr. Fisher has been extensively involved with Deer Creek Ranch's stream restoration program and other riparian issues here on the ranch since prior to 1990. I asked him to initiate the communication regarding the protest of this water right application.

The application is for the appropriation of 12.3 acre feet of water from an unnamed tributary of Deer Creek on the Deer Creek ranch. The proposed use is non consumptive; however there is a current water right that allocates .5 cfs of this stream for ~~consumptive irrigation use~~.

Steve explained to Mr. Parrish that this tributary is an ephemeral intermittent stream that does not reach the Deer Creek channel. In fact, no channel has existed in the lower part of this drainage because of the historic agricultural uses of the land adjacent to Deer Creek. However, even if agricultural activity were not present, the water from this drainage would percolate into the alluvium before reaching Deer Creek. This is what also occurs in a much larger tributary that enters the ranch further up Deer Creek.

Fisher's and Parrish's conversation did lead to the real reason for your filing the protest; your concern about other ponds on Deer Creek that have dried up thereby leading to the death of trout trapped in them. Parrish said that, if we

RECEIVED
MAR 28 1996

were to submit a plan for salvaging trapped fish, this and subsequent protests to the application would be withdrawn.

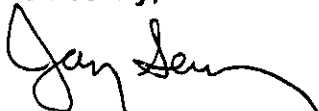
Allow me to describe a couple of scenarios for alleviating this problem. First, our future management plan for the ranch and the ponds on Deer Creek channel includes augmenting Deer Creek flows when Deer Creek surface flow gets low and /or ceases. The ranch has changed and acquired water rights for aesthetic and wildlife/fisheries uses specifically for this reason. This alternative assuages the problem altogether. We did not initiate augmentation of the stream last year because that particular feature of the irrigation system was not completed in time.

Second, in the event the ponds do go dry, we agree to conduct a fish salvage through any means acceptable to IDFG. Methods we can employ are hand nets, seines, or electrofishing apparatus. Mr. Fisher has all of the necessary equipment and is available on call. We understand that we need IDFG's permission in the form of a collection permit or the presence of a department employee to conduct a salvage operation.

In closing, I would bring to your attention that considerable time, effort, not to mention financial resource, has been expended protecting and enhancing wildlife, fisheries, and aesthetics on Deer Creek Ranch. These amenities will continue to be included as an important part of the overall ranch management as will the economic aspects of the ranch operation. We do not feel that the two goals are incompatible.

Inform me if this letter addresses and alleviates your concerns. If it does not, I propose continuing the dialogue towards that end.

Sincerely,



Jay Sevy, President New Deer Creek Ranch Inc.

MAR 28 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

GEORGE ANDRUS
Governor PHIL BATT

R. KEITH HIGGINSON
Director

January 3, 1995

ATTN JAY SEVY PRESIDENT
NEW DEER CREEK RANCH INC
PO BOX 187
HAILEY ID 83333

RE: APPLICATION FOR PERMIT NO. 37-08836

Dear Mr. Sevy:

Enclosed is a copy of a protest filed against the above referenced application.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

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

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

RECEIVED

MAR 28 1996

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT ISSUES

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation injure other water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
6. Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, and 6 above and must provide evidence for the department to evaluate these criteria. The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. The department may issue a "pre-conference statement order" which requires response to the inquiries.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape. The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director. Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer. As part of the conference a date may be set by which exchange of exhibits and witness lists must occur.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing party.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

MAR 28 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

~~GEORGE ANDERSON~~
Governor PHIL BATT

R. KEITH HIGGINSON
Director

January 3, 1995

CARL H NELLIS SUPERVISOR
IDAHO DEPT FISH & GAME
PO BOX 428
JEROME ID 83338

RE: APPLICATION FOR PERMIT NO. 37-08836 (New Deer Creek Ranch, Inc.)

Dear Mr. Nellis:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

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

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

MAR 28 1996



IDAHO FISH & GAME

Magic Valley Region
868 East Main • P.O. Box 428
Jerome, Idaho 83338
(208) 324-4350
Fax (208) 324-1160

Cecil D. Andrus / Governor
Jerry M. Conley / Director

December 7, 1994

Mr. Alan Merritt
Idaho Dept. of Water Resources
222 Shoshone St. East
Twin Falls, Idaho 83301

RE: Water Right Filing #37-08836 (New Deer Creek Ranch)

Dear Alan,

We would like to protest the above referenced application to appropriate 12.3 acre-feet of water from an unnamed creek which is a tributary to Deer Creek and the Big Wood River. Further withdrawal or development of water from this source has the potential to degrade water quality and damage aquatic and terrestrial resources, consequences which are not in the public interest.

We would be willing to meet on-site with the applicant and a representative of IDWR to further discuss concerns and issues. To coordinate a meeting please contact Dave Parrish, Environmental Staff Biologist at this office.

Sincerely,

Carl H. Nellis
Magic Valley Regional Supervisor

DEC 16 1994

Department of Water Resource
Southern Region Office

cc: NRPB (Robertson)
IDFG-Legal (Goddard)
J. Sevy

ck no.
153257
attached

Receipt 5017613
MAR 28 1996
153257-94
jd

AFFIDAVIT of PUBLICATION

RECEIVED

DEC 20 1994

Department of Water Resources
Southern Region Office

State of Idaho, } ss.
County of Blaine }

COPY OF NOTICE
(Paste Here)

Application for Water Right
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

ID Dept. of Water Resources
BILL TO

On this 14 day of Dec. in the year 1994, before me a Notary Public of said State, personally appeared **DANIEL J. GORHAM**, 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 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 7 day of Dec., 1994, and the date of the last publication was on the 14 day of Dec., 1994.

Subscribed and sworn to before me this 14 day of Dec. 1994.
(SEAL)

Roberta M. Karcher
NOTARY PUBLIC

#9378

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 95.333
Number of Insertions 2
Lines tabular at 6c / Pica
95.333 Lines straight at 54.817 5c / Pica
95.333 Subsequent lines at 43.853 4c / Pica
TOTAL COST + \$103.67

Application for water right

NOTICE OF APPLICATION FOR WATER PERMIT

The following applications have been filed to appropriate the public waters of the State of Idaho:

37-08834

SUN VALLEY WATER & SEWER DISTRICT
PO BOX 2410
SUN VALLEY ID 83353

Source: groundwater

Diversion Pt: NENE, S24, T4N, R17E; Blaine County.

Use: Municipal (0.10 cfs) from 1/1 to 12/31

Date Filed: 9/6/1994

In: SESW, S26, T4N, R17E

37-08835

SUN VALLEY WATER & SEWER DISTRICT
PO BOX 2410
SUN VALLEY ID 83353

Source: groundwater

Diversion Pt: NENE, S24, T4N, R17E; Blaine County.

Use: Municipal (1.33 cfs) from 1/1 to 12/31

Date Filed: 9/6/1994

In: NENE, S24, T4N, R17E

37-08836

NEW DEER CREEK RANCH, INC.
PO BOX 187
HAILEY ID 83333

Source: Unnamed creek tributary to Deer Creek & Big Wood River
Diversion Pt: NENENW, S31, T3N, R18E; Blaine County.

Use: Aesthetic (12.3 afa) from 1/1 to 12/31

Date Filed: 9/12/1994

In: NENW, S31, T3N, R18E
The permit will be subject to all prior water rights. Any protest must be filed with the Director, Dept. of Water Resources, Southern Region, 222 Sunshine Street East, Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before December 26, 1994. The protestant must also send a copy of the protest to the applicant.

R. Keith Higginson, Director

Publish: Wood River Journal
December 7 & 14, 1994.

MAR 28 1996

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
JOHN A. SEILLER

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

December 7, 1994

12 11 12 11 V

DEC 08 1994

Department of Water Resources
Southern Region Office

Mr. Allen Merritt
Idaho Department of Water Resources
222 Shoshone Street East
Twin Falls, Idaho 83301

Re: New Water Right Filings as of 11/21/94

Dear Allen:

Would you please mail to my attention, a copy of Permit No. 37-08836, New Deer Creek Ranch, Inc.?

Please invoice this firm for any copying charges. Please call if you have any questions. Thank you in advance for your prompt cooperation.

Sincerely yours,

HOGUE, SPECK & AANESTAD

Sue Anne Bennett
Sue Anne Bennett

12-12-94
Sent copy of
app. for
Permit has not
yet been issued
copy of app. sent
12/16/94
28 1996

DEER CREEK RANCH, Inc.

Quality Cattle

128 Deer Creek Road • P.O. Box 187 • Hailey, Idaho 83333
(208) 788-9813 • FAX (208) 788-9763



File - M+S.

NOV 21 1994

Department of Water Resources
Southern Region Office

11/18/94

RE: Application For permit no. 3708836.

Dear Mr. Schulte!

Reference your Nov. 16, 1994 letter,
corporate officers are as follows!

President Jay Seay

Secretary, Treasurer M. A. Pope

Assistant Secretary John A. Rusholt

Assistant secretary Gary D. Skotte

Director M. A. Pope

Sincerely,

Jay Seay

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MAR 28 1996

**NOTICE OF APPLICATION
FOR WATER PERMIT**

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SEWER DISTRICT
PO BOX 2410
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Date Filed: 9/6/1994

In: SESW, S26, T4N, R17E

37-08835

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Date Filed: 9/6/1994

In: NENE, S24, T4N, R17E

37-08836

NEW DEER CREEK RANCH,
INC.
PO BOX 187
HAILEY ID 83333

Source: Unnamed creek
tributary to Deer Creek & Big
Wood River

Diversion Pt: NENENW, S31,
T3N, R18E; Blaine County.

Use: Aesthetic (12.3 afa) from
1/1 to 12/31

Date Filed: 9/12/1994

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The permit will be subject to all prior water rights. Any protest must be filed with the Director, Dept. of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before December 26, 1994. The protestant must also send a copy of the protest to the applicant.

R. Keith Higginson, Director

Published in Wood River
Journal on 12/7 & 12/14/94.

MAR 28 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

November 17, 1994

R. KEITH HIGGINSON
Director

WOOD RIVER JOURNAL
PO BOX 988
HAILEY ID 83333

Gentlemen:

Enclosed you will find a legal notice which we wish to have published in your newspaper. We have inserted the required publication dates. If time allows, please submit a galley proof for review before publication.

We have attempted to submit this legal as camera ready. Please call me at your earliest convenience and prior to your staff re-typing the legal if it does not meet your specifications so I can possibly make adjustments.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin
Sr. Secretary

Enclosure

MAR 28 1996

NOTICE OF APPLICATION FOR WATER PERMIT

The following applications have been filed to appropriate the public waters of the State of Idaho:

37-08834

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37-08836

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PO BOX 187
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MAR 28 1996

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R. Keith Higginson, Director

Published in Wood River Journal on 12/7 & 12/14/94.

RECEIVED

MAR 28 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

November 16, 1994

R. KEITH HIGGINSON
Director

ATTN JAY SEVY PRESIDENT
NEW DEER CREEK RANCH INC
PO BOX 187
HAILEY ID 83333

Re: Application for Permit No. 37-08836

Dear Mr. Sevy:

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 12/7 & 12/24/94. A period of ten days following the second publication will be allowed for the submittal of protests.

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

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

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

Very truly yours,

Mel Schulte
Sr. Water Resource Agent

MS:MB

MAR 28 1996

S. Region
5/89

Application No. 37-08836

ADDITIONAL INFORMATION REQUIREMENTS
FOR APPLICATIONS IN THE NAME OF A CORPORATION,
COMPANY, OR PARTNERSHIP

In reviewing the application for compliance with the requirements of the Department's Rules and Regulations for Water Appropriations, we have determined that the following information is required to make the Application complete for processing.

- 1) If the Application is filed in the name of a corporation, the names and addresses of its directors and officers shall be provided. If the application is filed by or in behalf of a partnership or joint venture, the application shall provide the names and addresses of all partners and shall designate the managing partner, if any. (Rule 3,3,2,1)

Because the required information does not appear in the legal notice, we are proceeding with advertising of your Application. If the required information is received within ten days of the second publication date, no additional delay should be incurred in processing.

MAR 28 1986

MEMORANDUM TO FILE A37-04294

FROM: MEL SCHULTE

DATE: OCTOBER 31, 1994

COPY

IF THE APPLICATION FOR PERMIT DATED 9-12-1994 FOR AESTHETIC POND STORAGE IS APPROVED, THE IRRIGATION COMPONENT OF SRBA CLAIM A37-04294 HAS BEEN SACRIFICED IN A MITIGATION PLAN. SEE THE ATTACHED APPLICATION FORM AND DOUGLAS JONES' MEMORANDUM DATED 10-28-1994 FOR MORE INFORMATION.

MTS

APPROVED

MAR 28 1996

37-08836

MEMORANDUM

TO: NEW DEER CR RANCH APP FOR PERMIT 37-08836
FROM: DOUGLAS JONES
DATE: October 28, 1994
RE: OVERLAP, MITIGATION

STAFF REVIEW OF APP FORM SHOWS THAT THIS APPROPRIATION WOULD NEED TO BE MITIGATED IN ORDER TO BE APPROVED. IN THE "REMARKS" SECTION THE APPLICANT'S REPRESENTATIVE INDICATES THAT IRRIGATION UNDER A STATUTORY CLAIM WOULD BE GIVEN UP. STOCKWATER ALSO APPEARS ON THE STATUTORY CLAIM AND WOULD BE RETAINED.

I HAVE BEEN TO THE PROPERTY AND OBSERVED THE DRAINAGE. I HAVE ALSO REVIEWED NAPP AND ORTHO PHOTOS OF THE AREA. BASED ON THESE DATA I CONCLUDE THAT IRRIGATION HAD BEEN MADE FROM THIS SOURCE HISTORICALLY. HOWEVER, THE PRESENT OWNER PURCHASED THE PROPERTY IN 1990 (APPROX) AND A TRANSFER (#3861) CHANGING THE IRRIGATION SYSTEM AROUND WAS APPROVED IN 1992. THE TRANSFER DID NOT DEAL WITH STAT. CLAIM 37-4294 - THE SUBJECT OF THE MITIGATION. PHOTOS SHOW THAT THERE WAS IRRIGATION THAT COULD ONLY HAVE OCCURRED FROM THE UNNAMED STREAM (I.E. ABOVE DEER CR DITCH).

RANCH MANAGER JAY SEVY SAYS THAT WATER GENERALLY FLOWS IN THIS STREAM YEAR ROUND. MY VISIT SHOWED THAT NO WATER WAS FLOWING IN THE STREAM BED IN THE VICINITY OF THE POND DUE TO EXTRAORDINARILY DRY YEAR. ALL OLD DIVERSION SYSTEM ELEMENTS WERE OBLITERATED BY CONSTRUCTION OF FILL FOR HOUSE IN MOUTH OF CANYON. THE BORROW SOURCE FOR THE HOUSE FILL WAS THE POND SITE, SO THAT THERE NOW EXISTS AN UNLINED RESERVOIR. THE OULET FOR THE RESERVOIR DAYLIGHTS FAR FROM THE HOUSE AREA AND WOULD TRICKLE OVERLAND AND SINK.

THE EMBANKMENT FOR THE HOUSE FILL WOULD NOT BE A JURISDICTIONAL DAM. EMERGENCY OVERFLOW CHANNELS HAVE BEEN DEVELOPED ALONG BOTH SIDES OF THE VALLEY. FLOW THROUGH THESE WOULD LIKEWISE BE OVERLAND AND SINK BEFORE REACHING DEER CREEK IN NORMAL FLOW YEARS.

I RECOMMEND APPROVAL OF THE STATED MITIGATION PLAN TO ABANDON THE IRRIGATION COMPONENT OF 37-4294 UPON APPROVAL OF THIS APPLICATION. A COPY OF THIS APP AND MEMO HAVE BEEN PLACED WITH THE SRBA CLAIM A37-04294 AND AN APPROVED PERMIT WOULD EFFECTIVELY AMEND THE CLAIM TO REMOVE IRRIGATION.

RECEIVED
MARCH 28 1996

MAR 28 1996