

BUCKHORN SUBDIVISION FIRST ADDITION
PLAT SHOWING

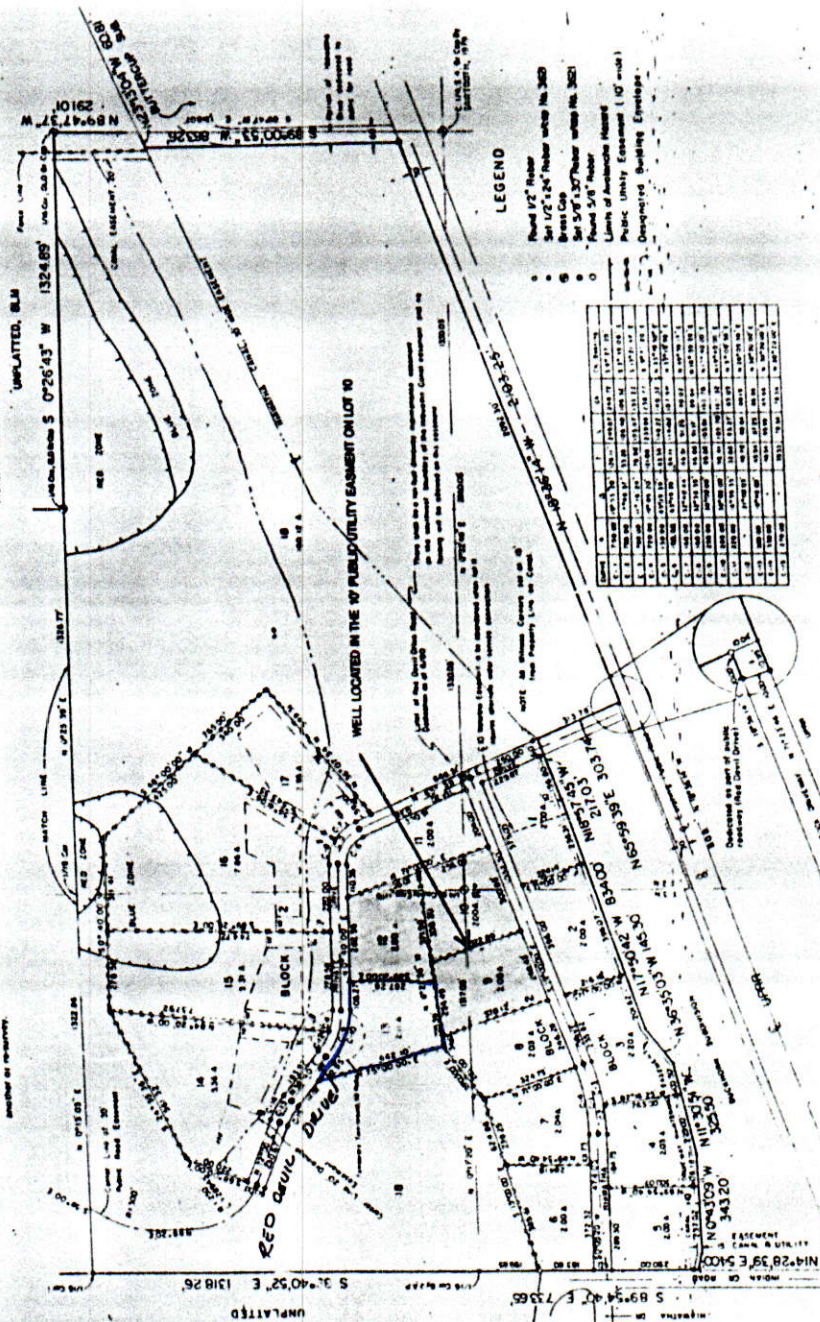
BUCKHORN SUBDIVISION FIRST ADDITION
PLAT SHOWING

LOCATED WITHIN S 4, T2N, R18E., & S. 33, T3N, R.18E., D. M.

BLAINE COUNTY, IDAHO

Sun Valley Title Company
P.O. Box 1604
Ketchum, Idaho 83340

where this map is a photographic reproduction of that on file in either the recorder's or surveyor's office, the company assumes no liability for variation, if any, with another as re-survey.

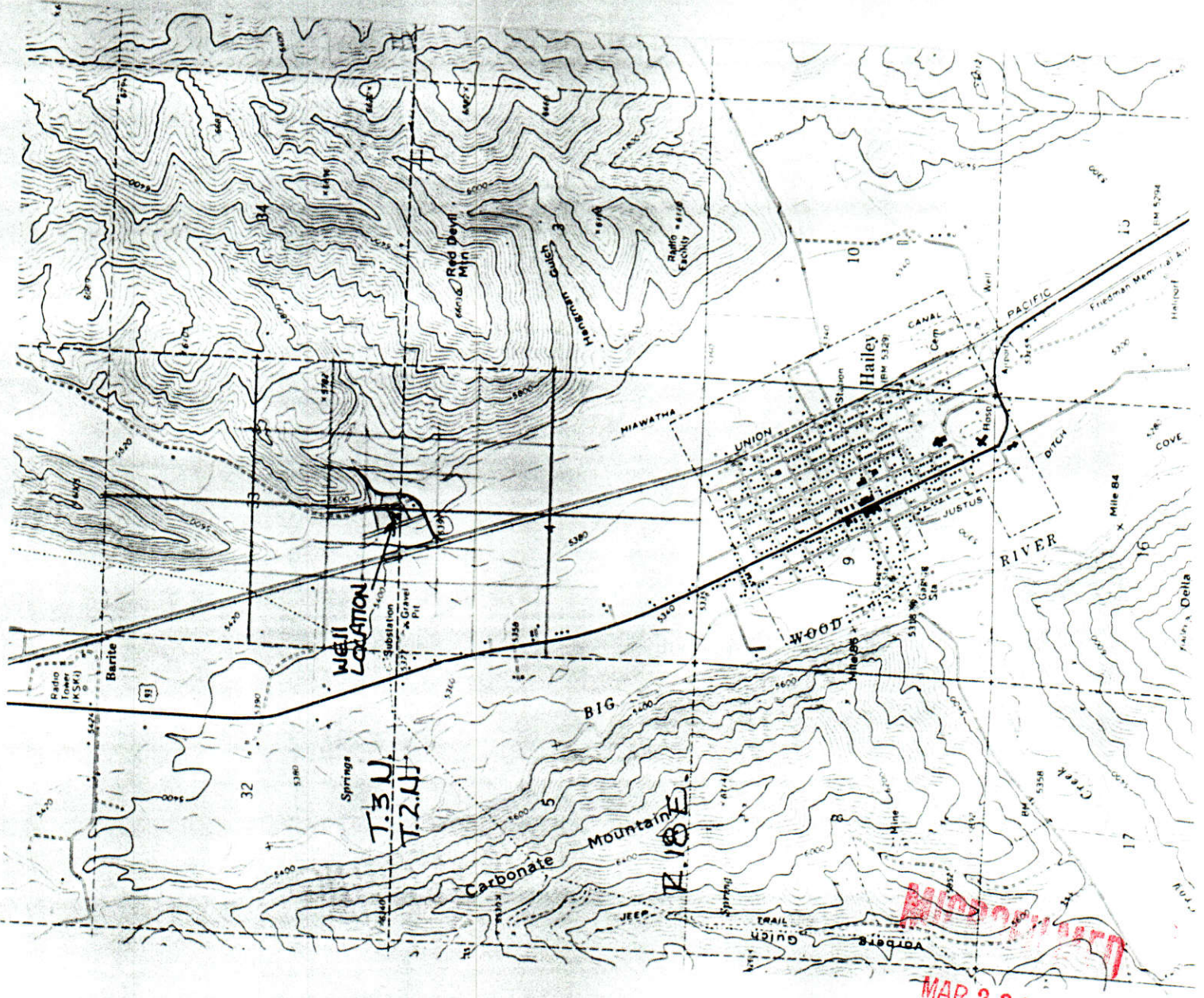


MICROFILMED
MAR 23 1995

37-08820

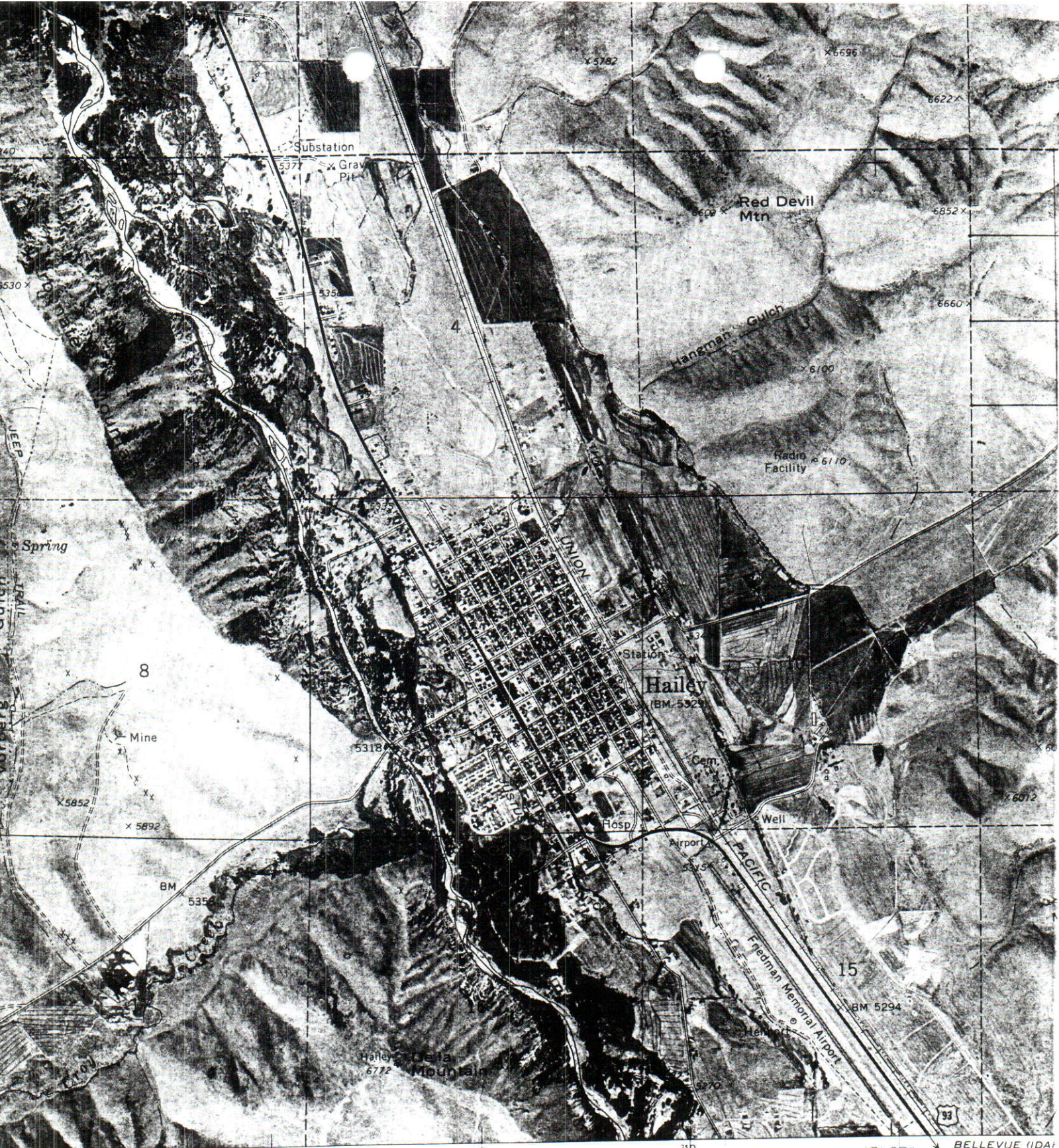
37-8508

30



MAR 23 1995

37-08820



410,000 FEET

20'

16

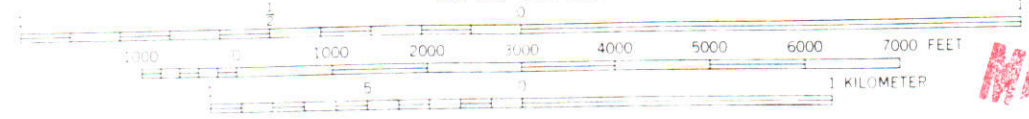
17

18

17' 30"

BELLEVUE (IDA) TWIN FALLS 63

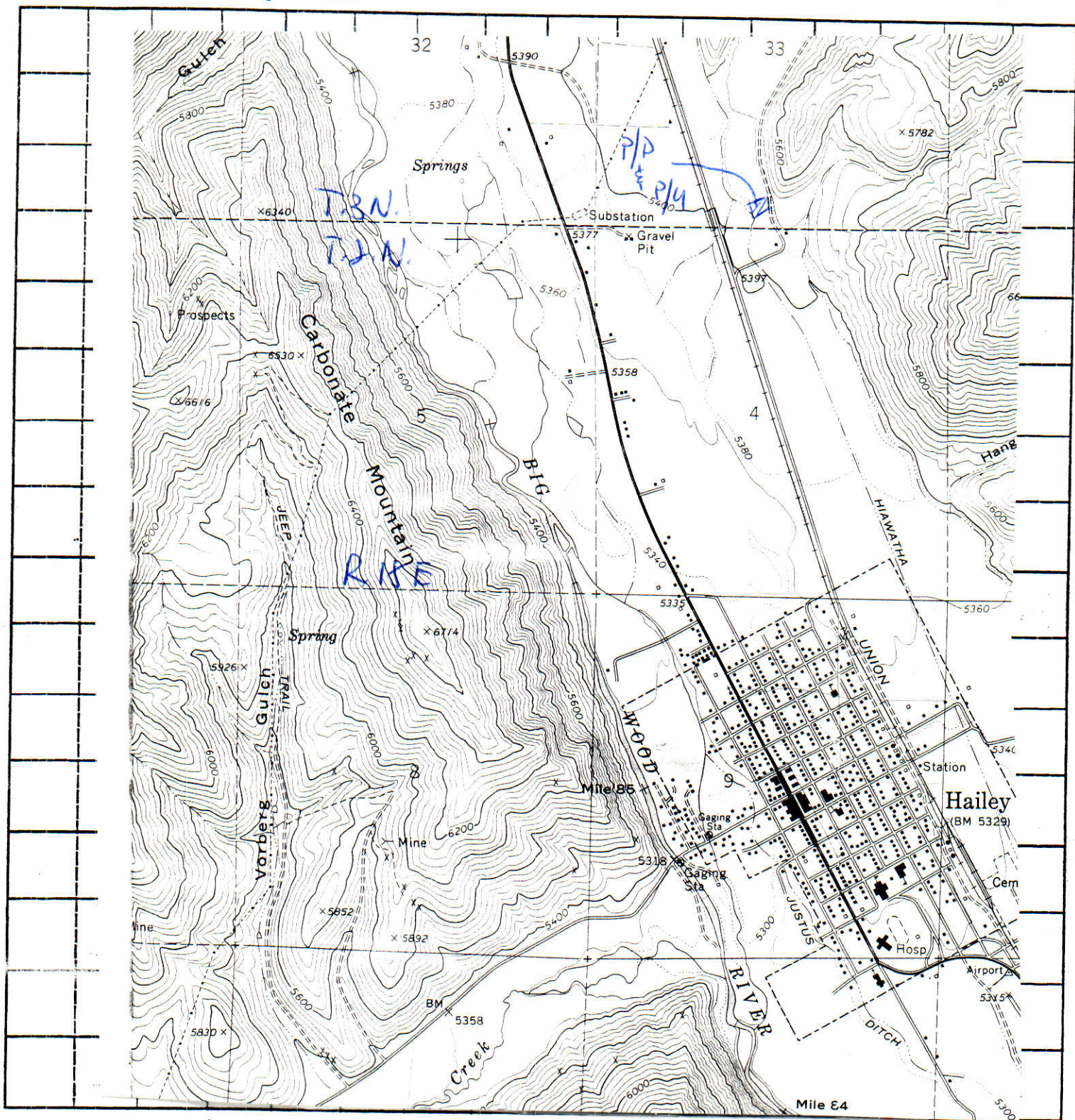
SCALE 1:24,000



MICROFILMED
MAR 23 1995

37-08820

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.

Bob Shanton
(Applicant)

MAR 23 1995

P/U & P/D, 37-8448, 8508, 8819, 8820

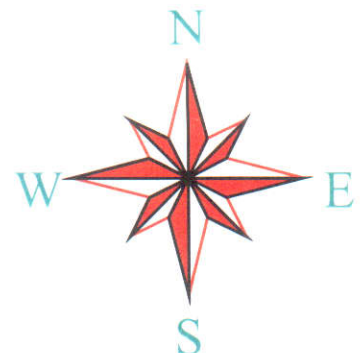
R. 18E



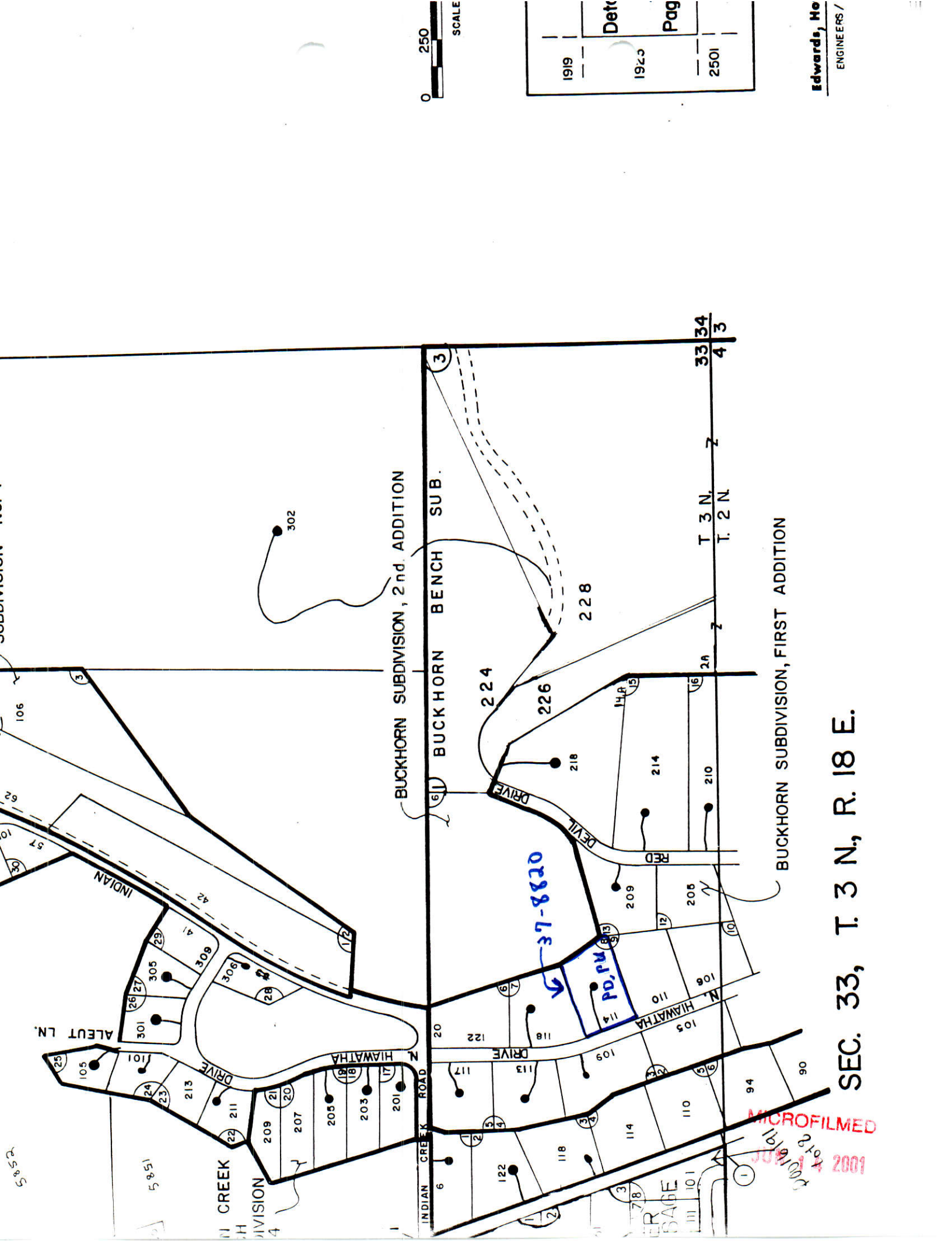
● Private Irrigation Well

● Well For Lots 9, 10, 12 & Part of Lot 13

MICROFILMED
JUN 14 2001



Prepared By J E Stanton 1-17-01



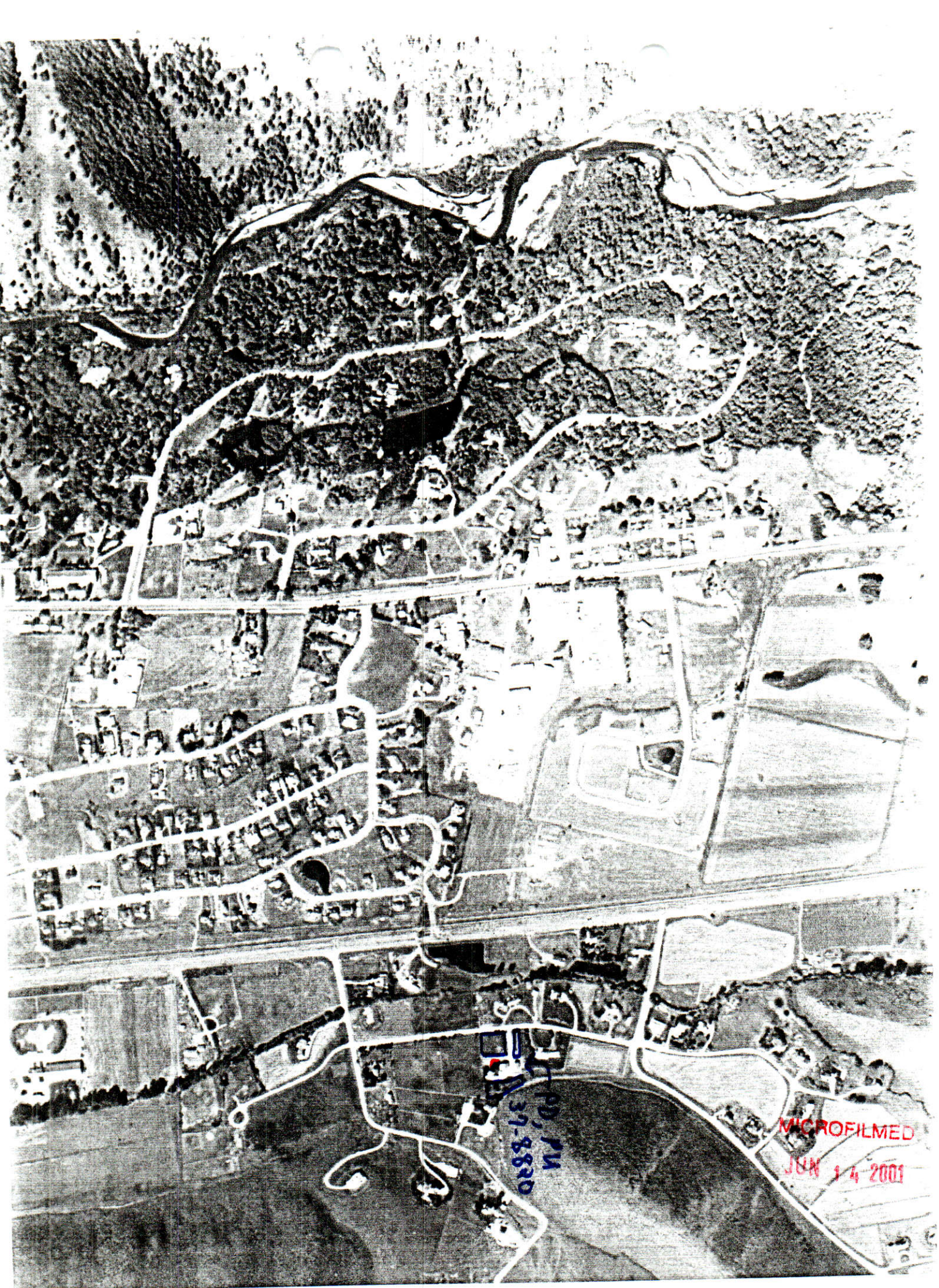
0 250
SCALE

Det	Pag
1919	1923
2501	

Edwards, Ho
ENGINEERS /

SEC. 33, T. 3 N., R. 18 E.

MICROFILMED
JUN 19 2001





Inside of Well House



Pasture Looking West From Well House

MICROFILMED

JUN 14 2001

37-8820

12-1-00

JE Stanton



Landscaped Hillside Behind Home (Looking SE)

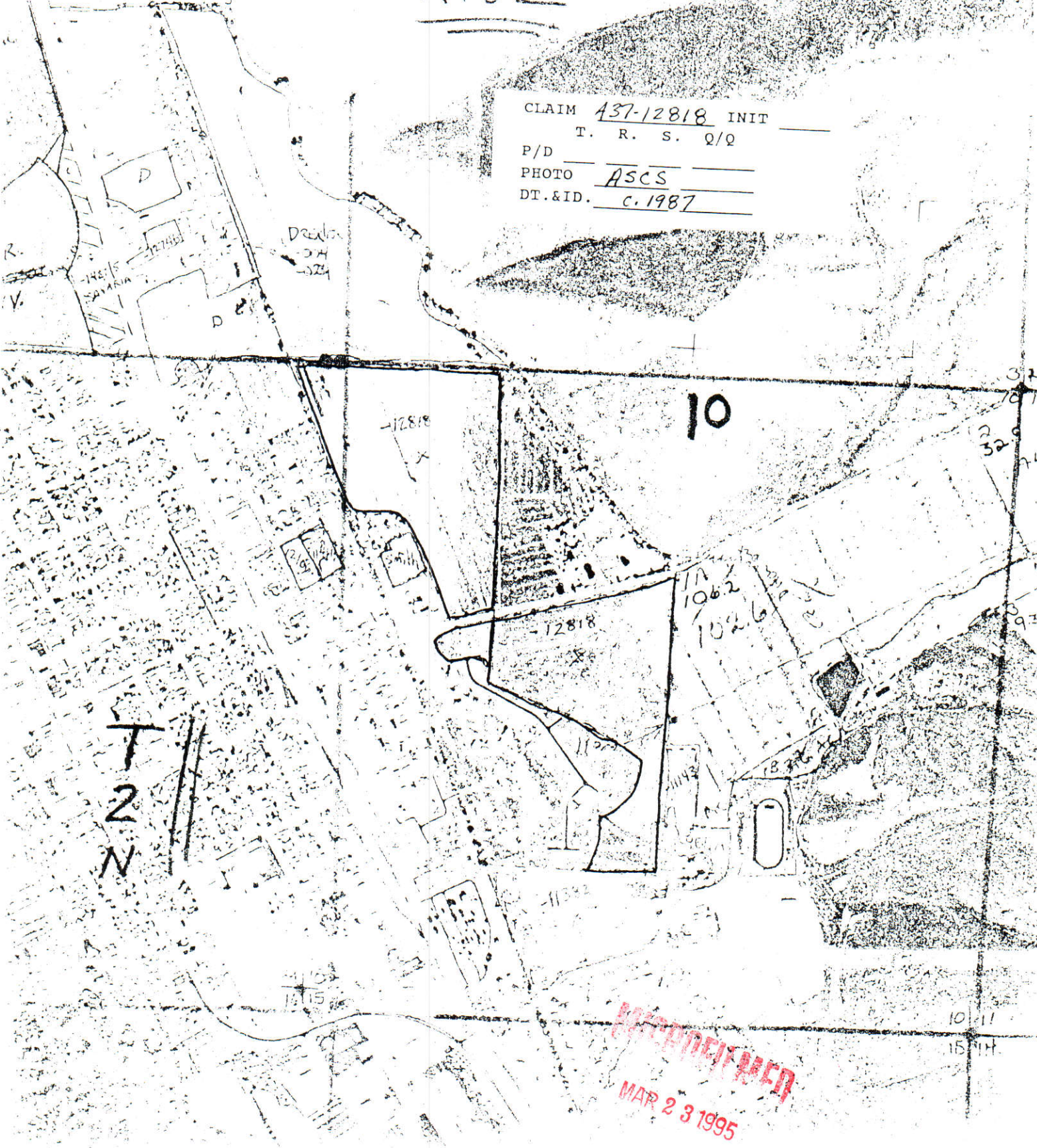
87-8820
12-1-06
JE Stanton

MICROFILMED
JUN 14 2001

4 3

R18E

CLAIM 437-12818 INIT _____
T. R. S. Q/Q
P/D _____
PHOTO ASCS
DT. & ID. C. 1987



1988
NAPP

CLAIM A37-12818 INIT See

T. R. S. Q/Q

P/D

PHOTO NAPP 444-60 X74 SE

DT.&ID. 9-15-88

DELIVERY
IRRIGATION DITCH
ALONG THIS
EDGE OF FIELD

NON-IRRIGATED
LANDS

DELIVERY DITCHES TO THIS
POU SHOW NO EVIDENCE OF
CARRYING WATER. POU LOOKS
UNIRRIGATED IN THIS PHOTO.

UNRECORDED

MAR 23 1995

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-08820

Priority: April 29, 1993

Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume: 3.5 AF

It is hereby certified that ROD THORNTON
PO BOX 246
KETCHUM ID 83340 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated April 29, 1993; and has
submitted Proof of Beneficial Use on February 05, 1998. An examination indicates that the works have
a diversion capacity of 0.02 cfs of water from:

SOURCE

GROUND WATER

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>
IRRIGATION	04/15 to 10/31	0.02 CFS	3.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 33, Twp 03N, Rge 18E, B.M., BLAINE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 18E 33												.9				.3	1.2

Total Acres: 1.2

CONDITIONS OF APPROVAL

1. This right is approved in conjunction with an exchange of surface water right which will remain in the Big Wood River pursuant to the exchange provisions in Section 42-105, Idaho Code.
2. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. This right is limited to the irrigation of 1 acre within the place of use described above in a single irrigation season.
5. Point of diversion and place of use are located within Lot 8, Buckhorn Subdivision, 1st Addition.

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JUN 14 2001

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-08820

6. Use of water under this right may be affected by an agreement between the protestant and the right holder.
7. The right holder shall install and maintain a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
8. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
9. Diversion and use of water shall only occur at those times when water is available to fill Right 37-00577BN.

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 6TH day of JUNE, 2001.

Acting for

KARL J. DREHER
Director

MICROFILMED
JUN 14 2001

RECEIVED

APR 18 2001

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-08820

Department of Water Resources

Date of Priority: April 29, 1993

Maximum Diversion Rate: 0.02 CFS

Maximum Diversion Volume: 3.5 AF

Comes now ROD THORNTON
PO BOX 246

KETCHUM ID 83340 and represents to the Director of the Idaho Department of Water Resources that he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 37-08820, and requests that the permit be changed as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/31	0.02 CFS	3.5 AF

LOCATION OF POINT(S) OF DIVERSION:

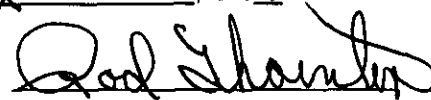
GROUND WATER SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 33, Twp 03N, Rge 18E, B.M., BLAINE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 18E 33												.9			.3		1.2

Total Acres: 1.2

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 15 day of April, 2001.


(Signature)

MICROFILMED

APR 18 2001

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)
WATER RIGHT NO. 37-08820

FOR DEPARTMENT USE ONLY

Preliminary check by kw Fee = \$50.00 Received by jm # C053203 Date 4-13-01

ACTION OF THE DEPARTMENT OF WATER RESOURCES

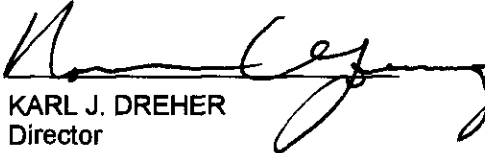
I, Karl J. Dreher, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 37-08820 with the following:

CONDITIONS OF APPROVAL

1. This right is approved in conjunction with an exchange of surface water right which will remain in the Big Wood River pursuant to the exchange provisions in Section 42-105, Idaho Code.
2. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. This right is limited to the irrigation of 1 acre within the place of use described above in a single irrigation season.
5. Point of diversion and place of use are located within Lot 8, Buckhorn Subdivision, 1st Addition.
6. Use of water under this right may be affected by an agreement between the protestant and the right holder.
7. The right holder shall install and maintain a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
8. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
9. Diversion and use of water shall only occur at those times when water is available to fill Right 37-00577BN.

Witness my hand this 6TH day of JUNE, 2001.

Acting for


KARL J. DREHER
Director

MICROFILMED

JUN 14 2001

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT	)	PRELIMINARY ORDER MODIFYING
NO. 37-08820 IN THE NAME OF	)	MEASURING DEVICE AND LOCKABLE
ROD THORNTON	)	CONTROLLING WORKS REQUIREMENT
_____	)	

This matter having come before the Department of Water Resources (Department) as a petition to remove a measuring device and lockable controlling works requirement, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On March 15, 1995, the Department issued Permit 37-08820 (permit) to Rod Thornton (permit holder) with a condition of approval requiring the installation of a measuring device and a lockable controlling device on the diversion works.
2. On December 1, 2000, the Department conducted a field inspection of the development under the permit and found that the permit holder had not installed the required measuring device and lockable controlling works.
3. On February 6, 2001, the Department received a letter from Lee R. Peterson, watermaster of State Water District No. 37, saying that he believes the measuring device and lockable controlling works are necessary for him to properly regulate the diversion of water under the permit.
4. On February 7, 2001, the Department received a request from the permit holder for a waiver of the measuring device and lockable controlling works requirement.
5. Diversion of water under the permit is authorized only when water is available to fill water right 37-00577BN.
6. Installation of a measuring device is not necessary because it is impractical for the watermaster to deliver less than the 0.02 cfs authorized by the permit without shutting off the entire diversion.
7. Installation of lockable controlling works is necessary to ensure that the watermaster can limit diversions of water under the permit to those times when water right 37-00577BN is available.

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JUN 14 2001

8. The well that serves as the point of diversion for the permit is also the point of diversion for water the permit holder diverts for domestic purposes.
9. It is possible to modify the diversion works in such a manner that diversion of water for irrigation under the permit can be regulated without impacting diversions for domestic purposes.

CONCLUSIONS OF LAW

1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver or modification of a measuring device requirement by the Department.

ORDER

IT IS HEREBY ORDERED that the requirement to install and maintain a measuring device is **WAIVED**, and

IT IS FURTHER HEREBY ORDERED that prior to diverting water under the permit, the permit holder shall comply with the following condition, which shall replace approval condition no. 8 on the permit.

The right holder shall install and maintain a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.

It is further hereby ordered that the right shall comply with the condition stated above prior to diverting water under the permit for irrigation purposes.

Dated this 28th day of March, 2001.



L. GLEN SAXTON
Chief, Water Allocation Bureau

MICROFILMED
JUN 14 2001

RECEIVED

FEB 06 1998

RECEIVED

JAN 05 1998

FOR OFFICE USE ONLY

Amt. of Fee \$: 0

Receipt No. NA

Receipt By: NA

Date Received: NA

FEB 05 1998

Department of Water Resources
Southern Region

STATE OF IDAHO
SPECK & AANESTAD

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 who has been appointed by the department.

RECEIVED BY
P. SKINNER 02/05/98
NO FEE DUE TO GROUNDWATER
AND LESS THAN 0.04
cfs

1. Permit No. 37-08820 Telephone No. 208 788 2113
2. Name(s) of Permit Holder(s): Rod Schantz
3. Mailing Address: Box 246, KETCHUM ID 83340
4. Source of Water: Groundwater If GROUNDWATER (well), Date Drilled: mo. 12 / yr. 1987
 - a. Well Driller: Ken Smith Drilling Permit Number: 37-87-S-042
 - b. OPTIONAL:
Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____
5. Use(s) (as authorized by the water right permit): not authorized by permit, well originally drilled for domestic use
Domestic (No. of households): 1 Stockwater (No. and type of stock): _____
Irrigation (No. of acres): 1 Other: _____
6. Total rate of diversion and/or volume for which proof is submitted: .02 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 <u>X</u>	or	No _____
	Has the measuring device been installed?	Yes _____	or	No <u>X</u>
Flow Measurement Port:	Is a flow measurement port required?	Yes _____	or	No <u>X</u>
	Has the measurement port been installed?	Yes _____	or	No <u>X</u>
8. Fee Enclosed: \$ NA (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: Rod Schantz Telephone Number: 208 788 2113
Address: Box 246 Ketchum, Id 83340

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: Rod Schantz Date: 2/5/98
(include your title, if on behalf of company or organization)

RECEIVED
MAR 27 1998

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 37-08820

Proposed Priority: April 29, 1993 **Maximum Diversion Rate:** 0.02 CFS

This is to certify, that **ROD THORNTON**
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340-0987

has applied for a permit to appropriate water from: **GROUNDWATER**

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

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

IRRIGATION	04/15 to 10/15	0.02 CFS
------------	----------------	----------

LOCATION OF POINT(S) OF DIVERSION: SESESW , Sec. 33, Township 03N, Range 18E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	18E	33	SESW	1.0		1.0

Total number of acres irrigated: 1.0

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **March 1, 1998**.
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. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. Construction of the well must comply with Idaho well construction standards.
7. Use of water under this right is subject to control by the watermaster of State Water District No. 37.
8. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right.
9. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

RECORDED

MAR 23 1995

State of Idaho
Department of Water Resources

Permit To Appropriate Water

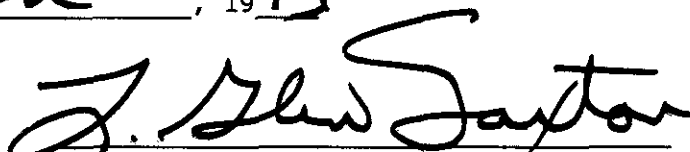
NO. 37-08820

CONDITIONS/REMARKS:

10. This right is approved in conjunction with an exchange of surface water right which will remain in the Big Wood River pursuant to the exchange provisions in Section 42-105, Idaho Code.
11. Diversion and use of water shall only occur at those times when water is available to fill right no. 37-00577BN.
12. The Director retains jurisdiction to require the collection and reporting of water diverted.
13. For purposes of regulating this right with respect to other groundwater rights, the priority of this right shall be April 29, 1993.

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

15th day of March, 1995

for 
R. Keith Higginson, Director

RECEIVED

MAR 23 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 37-01820
37-0882

RECEIVED

To appropriate the public waters of the State of Idaho APR 29 1993

Department of Water Resources
Southern Region Office
Phone 208/726-4421

1. Name of applicant Rod Thornton Phone 208/726-4421
Post office address c/o James P. Speck, Hogue, Speck & Aanestad, P. O. Box 987, Ketchum, ID 83340
2. Source of water supply groundwater which is a tributary of _____
3. Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Govt. Lot _____
Sec. 33 Township 3N Range 18E B.M. Blaine County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount * 0.026 for irrigation purposes from 4/15 April 1 to 10/15 (standard season) Nov 1 (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) 0.026 and/or (b) 3.5 (per standards)
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. well, pump, mainline, sprinkler
irrigation system.
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
c. Proposed well diameter is 6 inches; proposed depth of well is 140 feet.
d. Is ground water with a temperature of greater than 90°F being sought? No
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
5 years (minimum 1 year).

RECEIVED
MAR 29 1995

* per addendum, rate of flow for irrigation is 0.02 cfs

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

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

9. Description of place of use:

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
3N	18E	33											1						1

Total number of acres to be irrigated 1

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

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

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

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: See Addendum

APPROVED
MAY 23 1995

BUCKHORN
SUBDIVISION FIRST ADDITION
PLAT SHOWING

BUCKHORN
SUBDIVISION FIRST ADDITION
PLAT SHOWING

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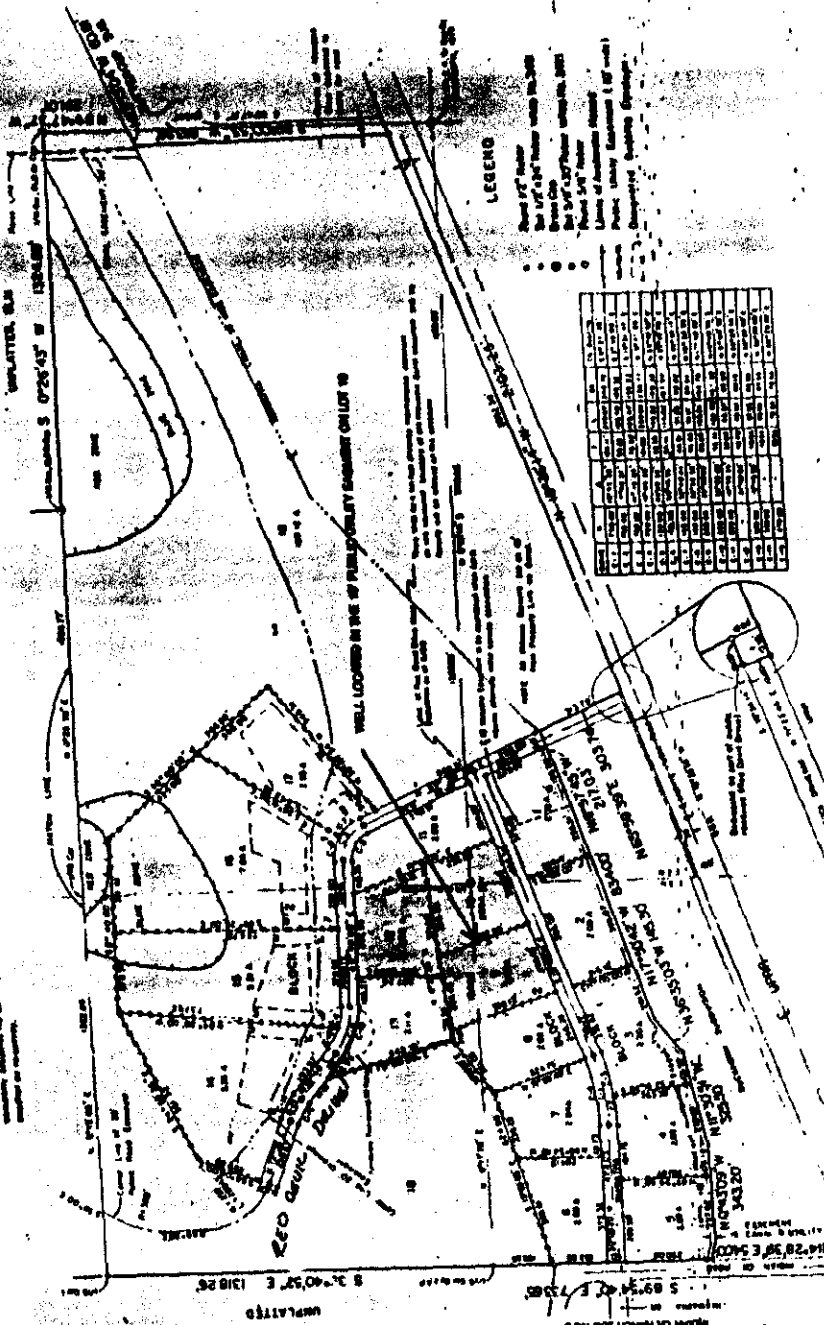
LOCATED WITHIN S. 4, T. 2N., R. 10E., & 3E.
IN ANNE COUNTY, DAVID

ONE JUNE COUNTY, ILLINOIS

Sun Valley Title Company
P.O. Box 1000
Ketchikan, Alaska 99901

Sun Valley Yuba County

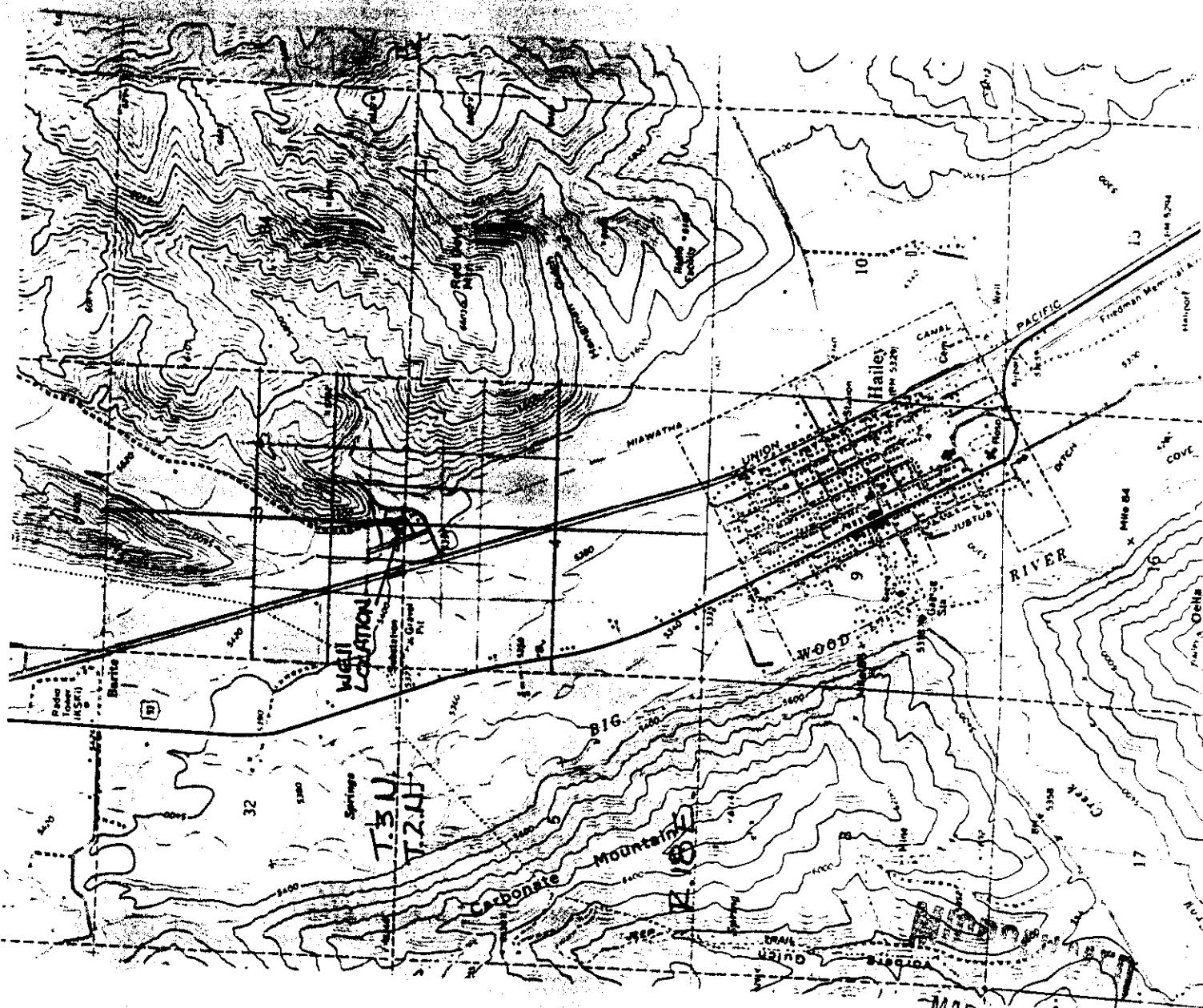
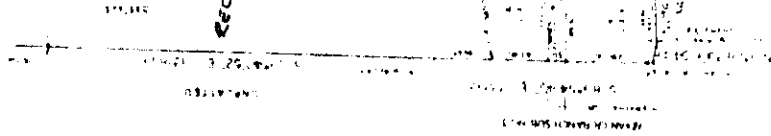
P.O. Box 1444



MAR 23 1995

37-08820

37-8508



MAR 23 1995

37-08820



410000 FEET

20'

16

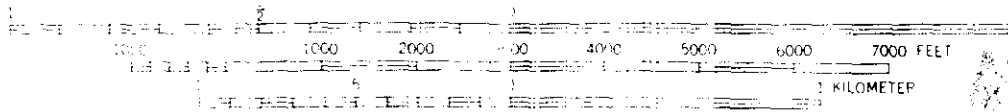
17

18

17 30"

BELLEVUE (IDAHO)
TWIN FALLS 63

SCALE 1:24000



MAR 23 1995

37-08820

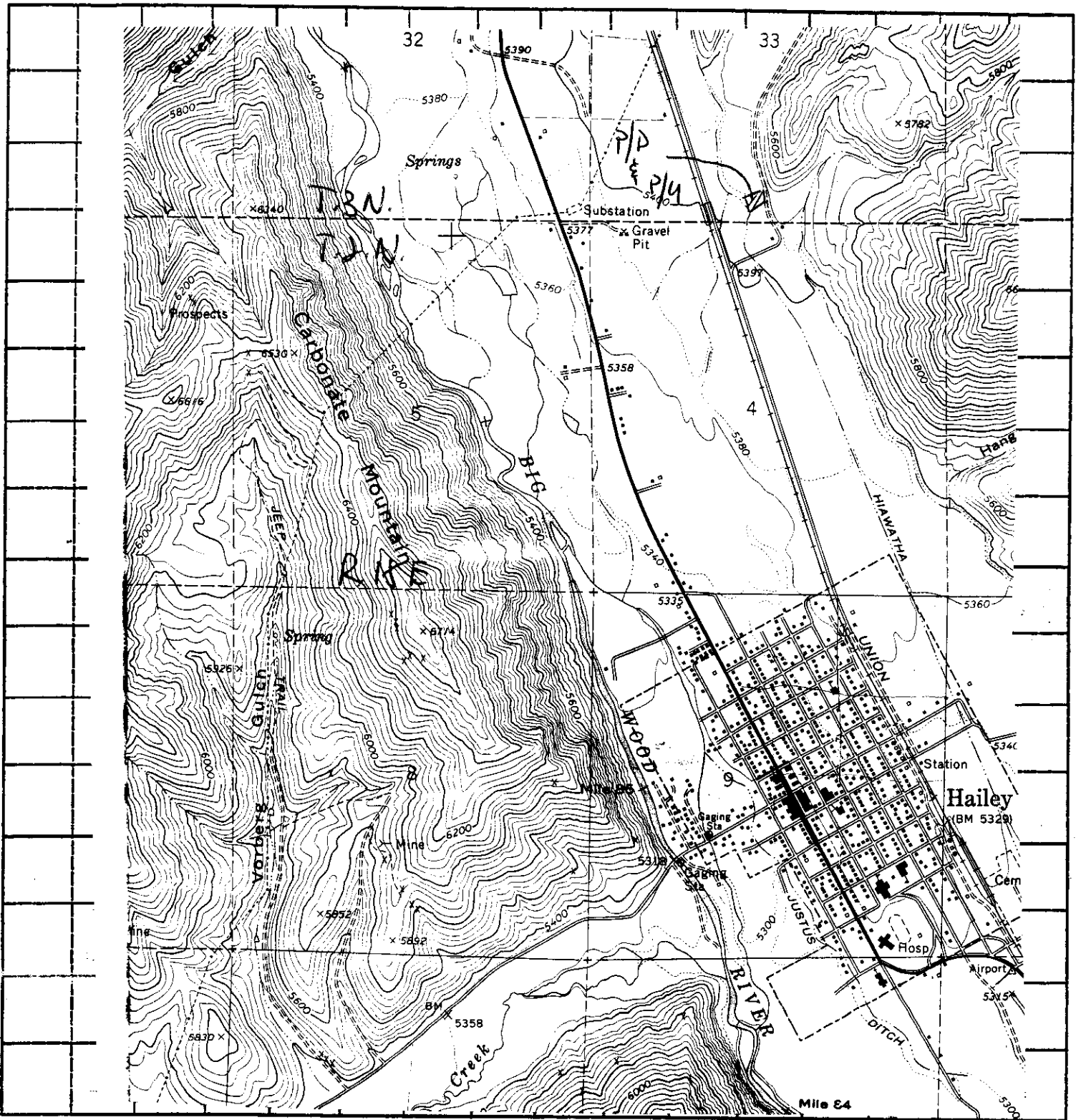


NAPP
X 74-SW
X 74-SE. - 444-60
437-11

MAR 23 1965

37-08820

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.

Rad Shonka
(Applicant)

MAR 23 1995

Received by ll Date 4/29/93 Time 10:55 Preliminary check by _____
Fee \$ 30 Receipted by TJ # 5015679 Date 4/29/93
Publication prepared by mb Date 8/27/93 Published in Wood River Journal
Publication approved mbaldwin Date 10/18/93

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

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

_____, 19____.

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

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

e. Other:

RECEIVED
MAR 23 1995

RECEIVED

APR 20 1993

ADDENDUM TO
APPLICATION FOR PERMIT
BY
ROD THORNTON

Department of Water Resources
Southern Region Office

The following is an Addendum to the Application for Permit submitted by Rod Thornton:

12. Remarks: This Application seeks a permit to divert ground water for the consumptive use of irrigation of one (1) acre within the Big Wood River Ground Water Management Area (the "Area"). The proposed point of diversion (well) is within the upper Big Wood River Basin as defined in section I,A of the Management Policy for the Area (the "Policy"). Under section III of the Policy, approval of this Application may be granted if it is determined the water supply is adequate and other water rights will not be injured by the new diversion to a consumptive use. Applicant proposes the following plan of mitigation to satisfy these requirements.

MITIGATION PLAN

I. THE MITIGATION RIGHT.

Marathon Partners, an Idaho general partnership ("Marathon"), is the owner of 2.72 cfs of Idaho Water Right No. 37-00577, commonly known as the "W. T. Riley right", and claimed in the Snake River Basin Adjudication (the "Adjudication") as Claim No. 12818 for the irrigation of 103 acres in Sections 9 and 10, Township 2 North, Range 18 East, B.M owned by Marathon. No other water rights have been used for this purpose. All of this land has been annexed into the City of Hailey and subdivided or proposed to be subdivided into small, single family residential lots known as Deerfield Subdivisions Nos. 3, 4 and 5 and Hidden Meadows Subdivision (the "Subdivisions"). The Subdivisions will be served by the municipal water supply of the City.

Applicant has purchased from Marathon (see attached copy of Quitclaim Deed), contingent upon approval of this Application, 0.026 cfs of this water right (this acquired portion of the water right is hereinafter referred to as the "Mitigation Right").

PAGE 1

j\thornton\permit.add
3/18/93

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MAR 23 1995

37-08820

ADDENDUM TO
APPLICATION FOR PERMIT
BY
ROD THORNTON

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APR 29 1993

Department of Water Resources
Southern Region Office

II. EXCHANGE OF WATER RIGHTS.

The Mitigation Right has historically irrigated the following lands within the subdivision (2.72 cfs / 103 acres = 0.026 cfs / acre; 0.026 cfs / 0.026 cfs / acre = 1 acre):

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4</u>	<u>1/4</u>	<u>Irrig. Acres</u>
2N	18E	9	NE	NE	1

Total number of irrigated acres: 1

These lands will no longer be irrigated by the Mitigation Right. Applicant proposes to "exchange" the Mitigation Right pursuant to the provisions of I.C. § 42-105 in return for the consumptive ground water diversion under the permit and license sought by this Application (the "Ground Water Right") on the following terms and conditions:

1. The Mitigation Right shall remain in the Big Wood River to compensate for depletion of the Big Wood River flows available for diversions pursuant to valid water rights and for the supply of water to Magic Reservoir.

2. The Ground Water Right shall have the same priority date as the Mitigation Right (March 24, 1883) for the conjunctive administration of ground water and surface water diversions from the Big Wood River and its tributaries.

3. The Ground Water Right shall have a priority date of the date this Application is received by the Department for its administration solely with respect to other ground water rights,

4. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as a part of the diverting works for the Ground Water Right prior to any diversion thereunder.

5. Diversion of ground water pursuant to the Ground Water Right shall be administered by the watermaster of Water District 37, Big Wood River.

PAGE 2

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3/18/93

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37-08820

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ROD THORNTON

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Department of Water Resources
Southern Region Office

6. The maximum instantaneous diversion rate under the Ground Water Right shall be 0.02 cfs.

7. The annual diversion volume and annual consumptive use of the Ground Water Right shall be limited to 3.5 acre feet and 2.5 acre feet respectively, and the maximum number of acres irrigated by the Ground Water Right during any one irrigation season shall be 1 acre.

8. Upon approval of this Application and issuance of the permit for the Ground Water Right, Applicant shall file a claim for the Ground Water Right in the Snake River Basin Adjudication. The provisions of this "exchange" shall be incorporated into the Director's recommendations for the Mitigation Right and the Ground Water Right in the Director's Report for Basin 37 to be filed in the Snake River Basin Adjudication. The non-use of the Mitigation Right for irrigation purposes as a part of this "exchange" shall not be deemed non-use subject to the forfeiture provisions of I.C. § 42-222.

The consumptive use of the Mitigation Right (2.5 AFA for the irrigation of one (1) acre) is the same as the consumptive use of the Ground Water Right. The total annual volume historically diverted by the Mitigation Right will also be the total annual volume limitation for the Ground Water Right (3.5 AFA X 1 acre = 3.5 AFA - see paragraph 5 of the Application). The Mitigation Right will be "left in the river", so that neither the total annual volume diverted from the interconnected ground water and surface flow resource nor the consumptive use of such diverted water shall increase over the present uses. Thus, there will not be any injury to other surface water rights in the Big Wood River or its tributaries, or to the storage rights in Magic Reservoir. Finally, it should be noted that any return flows from the Mitigation Right are presently to the Big Wood River and not to Silver Creek. Thus, this proposal will not affect in any way the surface flows of Silver Creek or its tributary aquifer.

MAR 23 1995

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APR 20 1993

Department of Water Resources
Southern Region Office

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

James P. Speck, Esq.
HOGUE, SPECK & AANESTAD
P. O. Box 987
Ketchum, Idaho 83340

(space above line for Recorder's use)

QUITCLAIM DEED

FOR VALUE RECEIVED, MARATHON PARTNERS, an Idaho general partnership, whose address is c/o Edmund E. Dumke, P. O. Box 3118, Ketchum, ID 83340 (hereinafter referred to as the "Grantor"), does hereby convey, release, remise and forever quitclaim unto ROD THORNTON, whose address is P. O. Box 246, Ketchum, ID 83340 (hereinafter collectively referred to as the "Grantee"), any and all interest Grantor may have in the following described water right, appurtenant to premises, situated in Blaine County, Idaho, to wit:

0.026 cfs of the Big Wood River
with a March 24, 1883 priority date
pursuant to Idaho Water Right No.
37-00577 and Claim No. A37-12818 in
In Re the General Adjudication of
Rights to the Use of Water From the
Snake River Basin Water System,
Twin Falls District Court Case No.
39576, used for the irrigation of
one (1) acre within lands commonly
referred to as the Hidden Meadows
Subdivision parcel in the
NE1/4NE1/4, S.9, T.2N., R.18E.,
B.M., Blaine County, Idaho.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining, the reversion and reversions, remainder and remainders, rents, issues

QUITCLAIM DEED - 1

MAR 23 1995

and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the Grantee, and to Grantee's heirs and assigns forever.

DATED this 15 day of March, 1993.

GRANTOR:

MARATHON PARTNERS, an Idaho
general partnership

By: Edmund E. Dumke
Edmund E. Dumke, managing
general partner

STATE OF IDAHO)
) ss.
County of Blaine)

On this 15th day of March, 1993, before me, the undersigned notary public in and for said state, personally appeared EDMUND E. DUMKE, known or identified to me to be the managing general partner of MARATHON PARTNERS, an Idaho general partnership, and the person who executed the foregoing instrument on behalf of said partnership and acknowledged to me that said partnership executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Deborah L. Erickson
Notary Public for Idaho
Residing at: Hailey, Idaho
Commission expires: 9/24/98

QUITCLAIM DEED - 2

MAR 23 1995



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

June 7, 2001

ROD THORNTON
PO BOX 246
KETCHUM ID 83340

RE: License No. 37-8820 - 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.

Enclosed is a copy of the approved Application for Amendment.

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

MICROFILMED

SWK:klt

JUN 14 2001

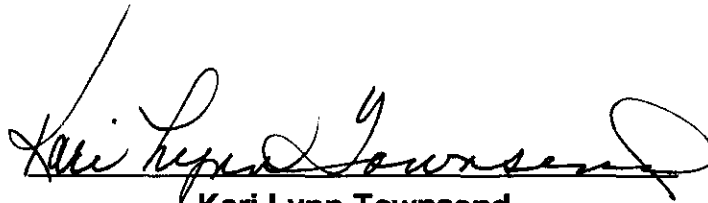
Enclosure(s)

CERTIFICATE OF MAILING

I hereby certify that on June 7, 2001 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. 37-8820

**ROD THORNTON
PO BOX 246
KETCHUM ID 83340**

A handwritten signature in cursive script, reading "Kari Lynn Townsend", written over a horizontal line.

**Kari Lynn Townsend
Secretary**

**MICROFILMED
JUN 14 2001**

**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
JUN 14 2001

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.

April 28, 2001

Department of Water Resources

Here are the pictures of the irrigation control box which can have a lock put on it. I talked with Lee Peterson and he said that he saw no reason why this would not work. Each of the six stations could be on or off individually, and then be locked if need be. I also talked with Shelly Keen about this. I hope this will work for all us.

RE: Permit No. 37-08820

talked with Lee Peterson and he said
Sincerely,

Rod Shanton

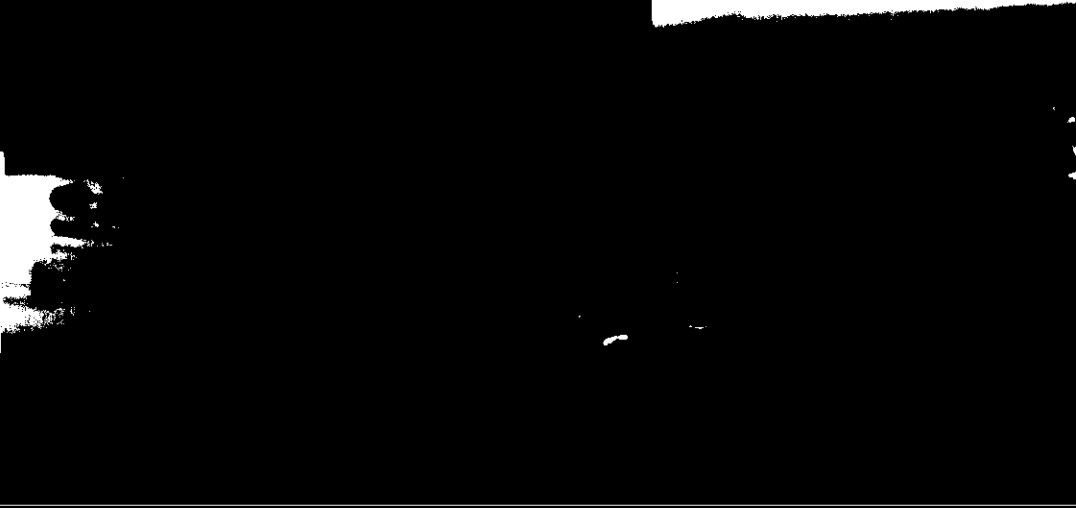
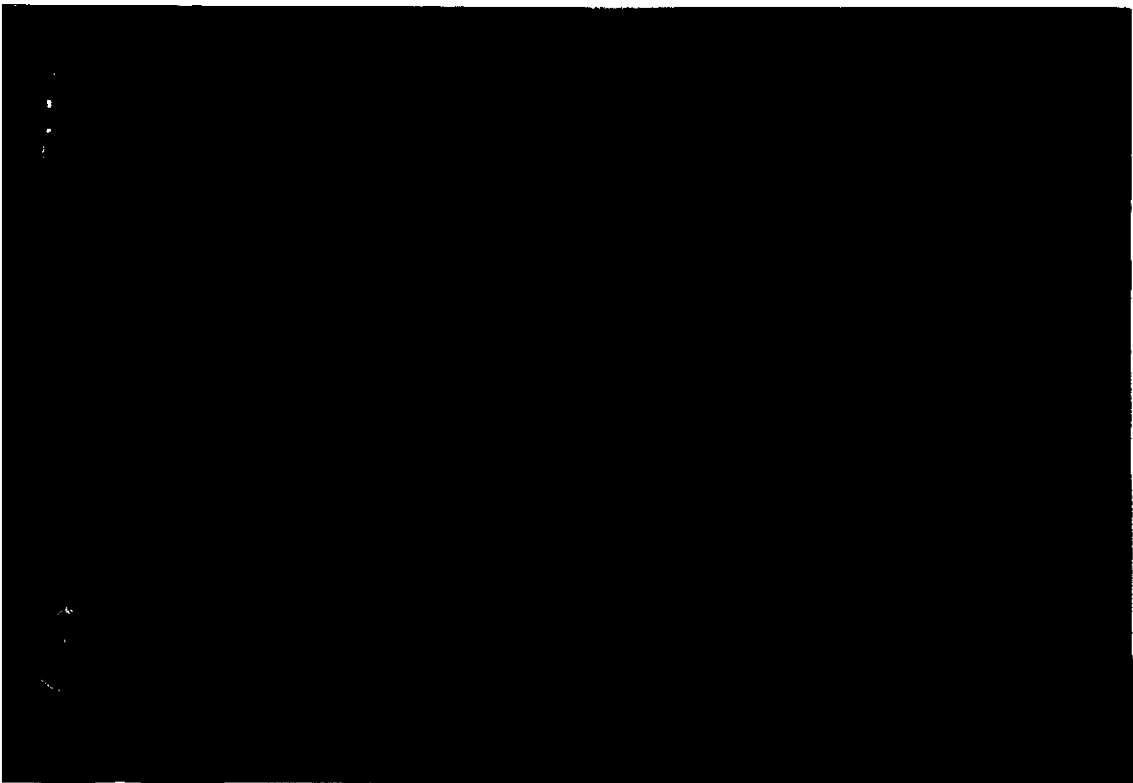
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APR 30 2001

Department of Water Resources

MICROFILMED

JUN 14 2001



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JUN 16 2009



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 20, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

ROD THORNTON
PO BOX 246
KETCHUM ID 83340

RE: Permit No. 37-08820

Dear Mr. Thornton:

We are prepared to issue licenses on your water rights as soon as we know that you have complied with the condition requiring a lockable device which will allow the watermaster control of the irrigation use under Permit No. 37-08820. This is the permit that we recently modified the measuring device and lockable controlling works requirement on. Please send us some documentation that you have complied with this condition. The documentation could be in the form of pictures or a statement from the watermaster that the device you have is acceptable to him for controlling your diversion.

If you have any questions in regard to this matter, please do not hesitate to contact me.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

KW:k

MICROFILMED

JUN 14 2001



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 16, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

JIM SPECK
ATTORNEY AT LAW
PO BOX 987
KETCHUM ID 83340

RE: Permit 37-08820

Dear Mr. Speck:

Pursuant to your telephone request this morning, enclosed you will find copies of the correspondence we have sent out to Mr. Rod Thornton regarding the above referenced permit. The copies included are as follows: Letter of 3/29/2001 requesting submittal of Application for Amendment, Application for Amendment (which Mr. Thornton submitted to our office without his signature so it has been returned for his signature only), Preliminary Order Modifying Measuring Device and Lockable Controlling Works Requirement and Explanatory Information to Accompany a Preliminary Order.

We have not sent any correspondence out on Mr. Thornton's portion of Permit 37-08508 recently since a licensing amendment will not be required to license that right.

I hope this information is what you wanted, if not, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Kay Walker". The signature is fluid and cursive, with the first name "Kay" and last name "Walker" clearly distinguishable.

KAY WALKER
Sr. Water Resource Agent

KW:k
Enclosures

MICROFILMED

JUN 14 2001



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

March 29, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

ROD THORNTON
PO BOX 246
KETCHUM ID 83340

RE: Water Right Permit No. 37-08820

Dear Permit Holder:

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit. The examiner who verified your water use reported that certain elements of the permit have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than described on your permit:

_____ Point(s) of Diversion

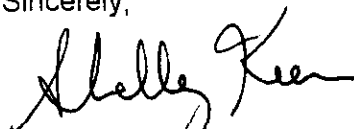
☒ Place(s) of Use

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$50.00 filing fee within 14 days.

Also enclosed is a "Preliminary Order Modifying Measuring Device and Lockable Controlling Works Requirement" 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 unless a party petitions for reconsideration with fourteen (14) days after issuance as described in the enclosed information sheet.

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

Sincerely,


SHELLEY KEEN
Water Rights Supervisor

Enclosures

MICROFILMED

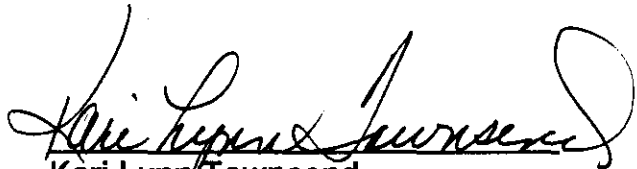
JUN 14 2001

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of **March, 2001**, I mailed a true and correct copy, certified, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

RE: Preliminary Order in the Matter of Permit 37-08820

**ROD THORNTON
PO BOX 246
KETCHUM ID 83340-0246**


**Kari Lynn Townsend
Secretary**

**MICROFILMED
JUN 14 2001**

**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).

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:

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- (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.

LICENSE REVIEW CHECKLIST

Permit No. 37-8820 Date: 1-31-2001 Reviewer: Kay Walker

Change/OK

Name/Address OK

Source OK

Point of Diversion: OK

Does change clarify original intended source? If no, void permit.
Change (P39/P49) Add (P45/P44) Feds (P40)

W32 (multiple in 1/4/1/4)
W36 (overlap)
W59 (subdivision description)

Place of Use add

Change (P41/P49) Add (P41/P44) Feds (P43)

W60 (subdivision description)
W27 (ppu acre limit)

Lot 8, Buckhorn 1st

Overlaps: Right(s): _____

File reviewed _____ Profile reports printed _____

P/D & P/U amend (P37) Feds (P48)

Rate of Diversion:

Permitted rate 0.02 cfs

Fee Limit _____ cfs

Measured _____ cfs

Theoretical 0.02 cfs

Recommended Total Diversion Rate 0.02

Water Uses OK

Change (P46)

Season of Use per new Standards

4-15 10-31

Irrigation 0.02 cfs 3.5 af
Stockwater _____ cfs _____ af
Domestic _____ cfs _____ af
_____ cfs _____ af
Total 0.02 cfs 3.5 af

Irrigation - overlap (R58-R61, R62-R65, R66-R69)
supp. Gw (W87/065/104)
overlap spec combined rts (W35)
>1 acre (W31)
Domestic (W01/wb5/070/071/075)
Power (W42 or W43/025/027/R22 or R23)
Fish (042)
Fire (077)
Water Quality (081/R07)
Payette - (W22/047/27A)
Stockwater for US (R37)

send letter to Thornton requesting a request to remove meas. device cc: to jim Speck

Volume Determination

0.02 cfs x 1.9835 x 200 days = 7.9 af (vs) 1 acres x 3.5 (FHR) = 3.5 af
2.5 (con)

Remarks: _____

Additional Conditions yes

Watermaster Control

GW Measurement/Measuring Device

Other

Trust 052/R55 - remove 051)

Non-trust (048/049)

GW Dist? 0

Water Msmt. Dist? 0

Crit. GWMA? 0

GWMA? Big Wood River

Government Lots? _____

Advance Priority? yes

no

If yes, explain why below.

SRBA Claim? not reg'd

Adjust memo _____

Amend Letters _____

P87, S06

Second Amendment Notice _____

S06

MEMORANDUM

TO: File 37-08820

FROM: KAY WALKER *KW*

RE: Measuring Device/Lockable Controlling Works Condition

Date: February 22, 2001

.....

Rod Thornton contacted me this afternoon in response to the letter I had sent him on 2/9/2001. He has discussed the matter with Lee Peterson, watermaster, and is uncertain how he can install a measuring device and lockable controlling works on a well that also supplies water for his domestic use. We discussed the matter, and I talked it over with Shelley who had talked with him previously, and it was decided that we need a group discussion with Tim, Glen, Shelley and I to decide what needs to be done in this situation. I relayed this to Mr. Thornton and he was still hesitant due to the 30 day limit I had put in my letter for him to submit compliance with the condition. I told him not to worry about the 30 day limit, we would have our discussion and get back with him about what he needs to do on this system.

MICROFILMED

JUN 14 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

February 9, 2001

DIRK KEMPTHORNE
GOVERNOR

ROD THORNTON
PO BOX 246
KETCHUM ID 83340

KARL J. DREHER
DIRECTOR

RE: Permit No. 37-08820

Dear Mr. Thornton:

We are reviewing the above referenced permit so we can issue a license for the use developed. In a review of our files, we noticed that you have not complied with a condition of approval of the permit. The condition we are referring to is on the permit as follows:

A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right.

Our field examiner found no measuring device or lockable controlling works on your system and we must resolve this issue before the license can be issued. Pursuant to Section 42-219(6), Idaho Code, "if the conditions of approval on a permit are not complied with, we may issue an order voiding the permit or issue a license for only a portion of the use developed under the permit". We have reviewed your request for removal of the measuring device condition and found that we cannot remove the condition since this right is to be regulated by the water master.

There are a couple of options that you can take to resolve this problem. Either submit documentation that you have complied with the condition and our examiner was not informed of the compliance at the time of the exam or install the measuring device and lockable controlling works, as required on the permit. I have enclosed a listing of "minimum acceptable standards for measurement and reporting of surface and ground water diversions" which discusses different types of acceptable measuring devices. Since this permit is under the control of the watermaster of Water District No. 37, you may be able to discuss what type of measuring device and lockable controlling works would be acceptable to him.

We will withhold further action on this permit for 30 days from the date of this letter in order to allow you time to respond. If we do not receive a response from you within this time period we will assume you are not interested in pursuing a water right license and will take action as suggested above.

If you have any questions in regard to this matter, please do not hesitate to contact me.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

MICROFILMED

JUN 14 2001

Cc: Jim Speck, Attorney at Law
P.O. Box 987
Ketchum, ID 83340

Lee R. Peterson, Water District No. 37
P.O. Box T
Shoshone, ID 83352

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M

P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451



LEE R. PETERSON
Watermaster

RECEIVED**FEB - 6 2001**

Department of Water Resources

FACSIMILE TRANSMISSION

TO:	IDWR Boise
FAX NUMBER:	327-7866
FOR THE ATTENTION OF	Kay Walker
FROM	Water District 37 & 37M
FAX NO.	Same as phone 886-2451
NUMBER OF PAGES (INCLUDING THIS ONE)	2
DATE	2/6/01
MESSAGE	

=====

If you do not receive the above number of pages, or if there is any other problem, please call (208) 886-2451 at Shoshone, Idaho.

=====

The information contained in this fax is confidential and subject to attorney-client privilege. If the reader is not the intended recipient or the agent thereof, you are hereby notified that any dissemination, distribution or copying of the fax is prohibited. If you have received this fax in error, please notify us immediately and return the original by mail at our expense. Thank you.

MICROFILMED

JUN 14 2001

RECEIVED

FEB - 6 2001

Department of Water Resources

February 6, 2001

Kay Walker
IDWR
Fax No. 327-7866

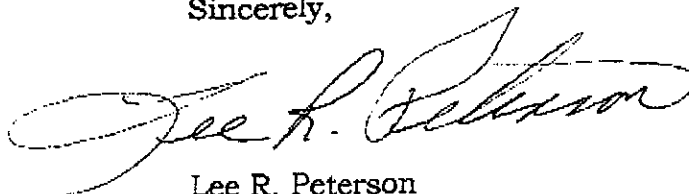
Dear Kay,

Regarding the phone conversation with my Secretary this morning, about a measuring device and lockable controlling works, referred to in paragraph No. 8 of Permit Nos. 37-08819 and 37-08820.

I will not approve of the Permits or Licensing of these permits without compliance of paragraph No. 8. Without such devices, there is no way for the water to be measured and controlled. The Department is now in the process of drawing up conjunctive management rules for surface and ground water. As I see it these measuring devices will be necessary for every system in the very near future.

If you have any questions feel free to contact me.

Sincerely,

A handwritten signature in cursive script, reading "Lee R. Peterson".

Lee R. Peterson
Watermaster

MICROFILMED

JUN 14 2001

MR. ROD THORNTON
PO BOX 246
KETCHUM ID 83340

RECEIVED
FEB - 7 2001
Department of Water Resources

February 5, 2001

Mr. Shelly Keen
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise ID 83720-9000

RE: Permit No. 37-08820 - Rod Thornton

Dear Mr. Keen:

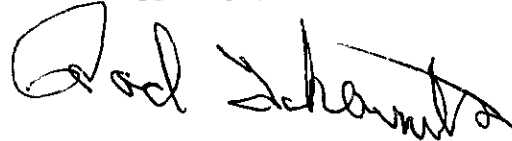
This letter is a formal request for a waiver of Condition No. 8 for the approval of my Permit No. 37-08820 which requires installation and maintenance of a measuring device and lockable controlling works. The expense associated with the installation and maintenance of these devices is unreasonable in relation to the amount of volume and flow for this water right which is used to irrigate one acre of residential landscaping. My attorney, Jim Speck, has recently submitted to Kay Walker, information relating to the relative availability of Water Right No. 37-00577BN which relates to Condition No. 11 for this Permit. I believe the information relating to my diversion works is adequately described in the Beneficial Use Field Report recently submitted by Jim Stanton.

Please contact my attorney, Jim Speck, or me immediately if you need any additional information in order to waive Condition No. 8.

Thank you.

Sincerely,

ROD THORNTON



cc: Jim Speck

MICROFILMED

JUN 14 2001

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS
P. O. Box 987
Ketchum, ID 83340
1-208-726-4421
Fax: 1-208-726-0752

FAX COVER SHEET/MEMO

To: Ms. Kay Walker	Date: February 5, 2001
Fax #: (208) 327-7866	Pages: 2, including this cover sheet.
From: James P. Speck	
Subject: Permit 37-08820 - Rod Thornton	Our File No: 1129/970421

COMMENTS:

Kay -

Here is a copy of the measuring device requirement waiver letter. The original will be mailed to Shelley today. Call if you need any further information for this or the other permits. Thanks.

Jim

THE INFORMATION CONTAINED IN THIS FAX TRANSMISSION IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE ABOVE-NAMED RECIPIENT AND MAY BE THE SUBJECT OF ATTORNEY/CLIENT PRIVILEGE. IF THE READER OF THIS MESSAGE IS NOT THE ABOVE-NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION, DISSEMINATION, COPYING OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND NO PRIVILEGE IS WAIVED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.

- 1 -

MICROFILMED

JUN 14 2001

MR. ROD THORNTON
PO BOX 246
KETCHUM ID 83340

February 5, 2001

Mr. Shelly Keen
Idaho Department of Water Resources
1301 North Orchard Street
Statthouse Mail
Boise ID 83720-9000

RE: Permit No. 37-08820 - Rod Thornton

Dear Mr. Keen:

This letter is a formal request for a waiver of Condition No. 8 for the approval of my Permit No. 37-08820 which requires installation and maintenance of a measuring device and lockable controlling works. The expense associated with the installation and maintenance of these devices is unreasonable in relation to the amount of volume and flow for this water right which is used to irrigate one acre of residential landscaping. My attorney, Jim Speck, has recently submitted to Kay Walker, information relating to the relative availability of Water Right No. 37-00577BN which relates to Condition No. 11 for this Permit. I believe the information relating to my diversion works is adequately described in the Beneficial Use Field Report recently submitted by Jim Stanton.

Please contact my attorney, Jim Speck, or me immediately if you need any additional information in order to waive Condition No. 8.

Thank you.

Sincerely,

ROD THORNTON



cc: Jim Speck

MICROFILMED

JUN 14 2001

SPECK & AANESTAD
A PROFESSIONAL CORPORATIONATTORNEYS
P. O. Box 987
Ketchum, ID 83340
1-208-726-4421
Fax: 1-208-726-0752**FAX COVER SHEET/MEMO**

To: Ms. Kay Walker	Date: January 31, 2001
Fax #: (208) 327-7866	Pages: 2, including this cover sheet.
From: James P. Speck	
Subject: Permits 37-08819 and 37-08820	Our File No: 33/950315

COMMENTS:

Kay -

Here is a graph prepared by Dr. Chuck Brockway from data compiled by the District 37 Watermaster depicting the dates of priority cuts for the 3/24/1883 Big Wood River water rights from 1945 through 1989. I trust this will satisfy the Department's request for information on the availability of this water right.

Jim

THE INFORMATION CONTAINED IN THIS FAX TRANSMISSION IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE ABOVE-NAMED RECIPIENT AND MAY BE THE SUBJECT OF ATTORNEY/CLIENT PRIVILEGE. IF THE READER OF THIS MESSAGE IS NOT THE ABOVE-NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION, DISSEMINATION, COPYING OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND NO PRIVILEGE IS WAIVED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.

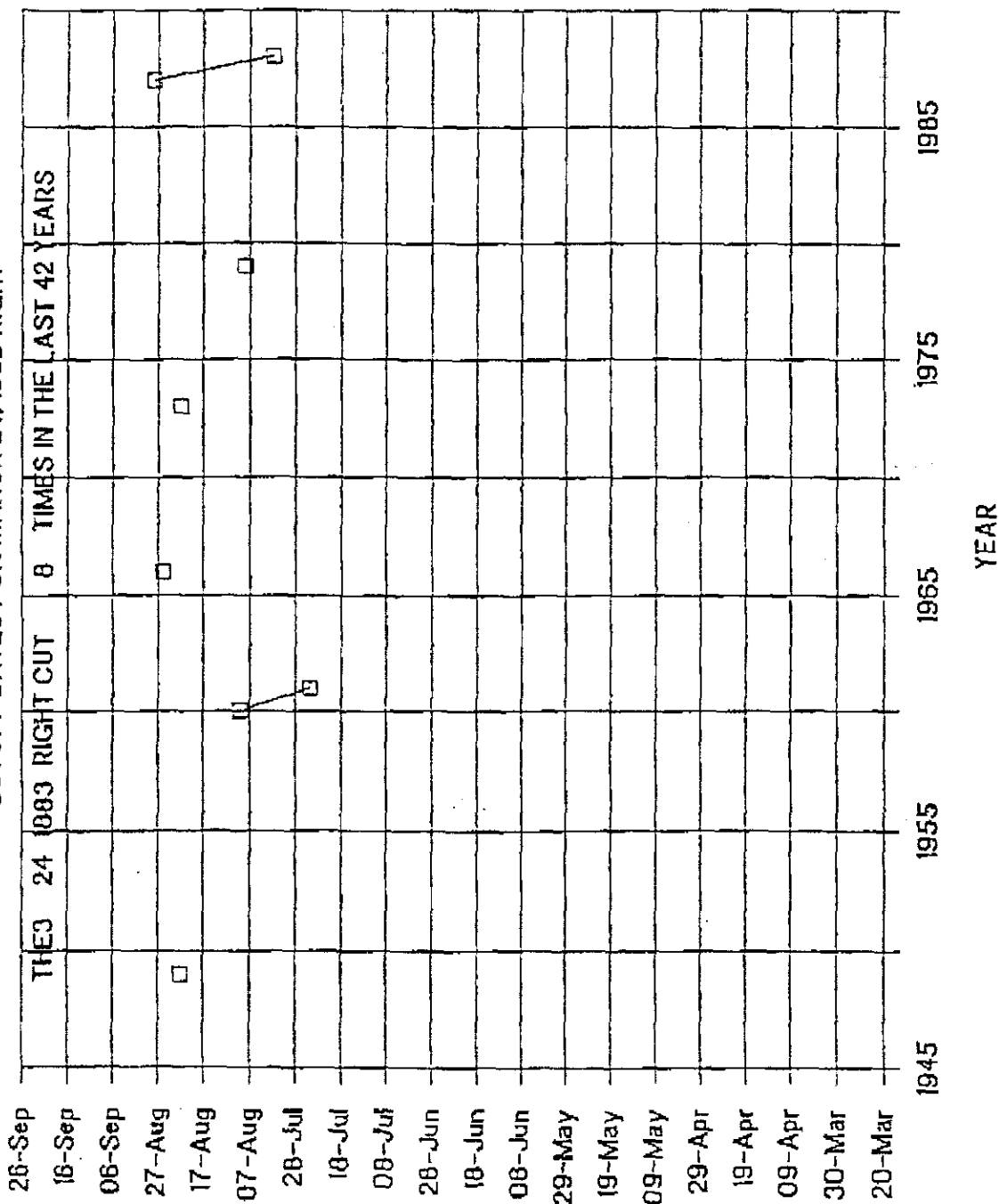
- 1 -

MICROFILMED

JUN 14 2001

BIG WOOD RIVER WATER RIGHTS

CUTOFF DATES FOR MARCH 24, 1883 RIGHT



MICROFILMED

JUN 16 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
JAN 26 2001
DEPARTMENT OF WATER RESOURCES

A. GENERAL INFORMATION

Permit No. 37-08820

1. Owner: Red Thornton

Phone No. 788-2113

Current Address: PO Box 245, Ketchum, ID 83340

2. Accompanied by: Greg Sturtevant & Mr. Thornton

EXAM DATE: 12-1-00

Address: PO Box 2724, Ketchum, ID 83340

Phone No. 726-3250

Relationship to Permit Holder: representative

3. Source: Groundwater

tributary to _____

B. OVERLAP REVIEW

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

2. Other water rights with the same point of diversion: _____

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SE	SE	SW	33	3N	18E	Blaire	G/S

2. Place(s) of Use: PPU of 1.0 ac/yr

Indicate Method of Determination G/S

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	18E	33												0.9			0.3		1.2

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JAN 26 2001

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

Scale: 1" = _____

GIS

☒ 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	Model/ Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	franklin	3	2823028/10	Franklin	?

*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: Not Measured. System is set up for 36 gpm (12 Rainbirds at 3 gpm or 3 Rainbirds at 12 gpm).

MICROFILMED

E. NARRATIVE/REMARKS/COMMENTS

This land was originally watered from the well in Lot 10, but was cut off after the 1992 exam for 37-8508 found excessive irrigation from that well. P/D, P/U are on Lot 8 of Buckhorn Subdivision First Addition. The same well & pump also provides domestic water for the Thornton home on Lot 8. Irrigation use is subject to cutoff by watermaster if Rt 37-577BN is not available. Right is not subject to provisions of 1180 contract. There is no measuring device or lockable device as required, but these do not appear necessary. Watermaster sends out compliance letters as needed, but does not physically measure groundwater diversions or control them. Recommend this condition be removed from permit prior to licensing.

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

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JUN 14 2001

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

*Allow 0.02 cfs permitted amount***G. VOLUME CALCULATIONS**

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{1.0 \text{ permitted} \times 3.5 = 3.5}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{\hspace{2cm}}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{3.5 \text{ AFA}}$$

2. Volume Calculations for Other Uses:

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<i>Irrigation</i>	<i>4-15</i>	<i>10-31</i>	<i>0.02 cfs</i>	<i>3.5</i>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			<i>0.02</i>	<i>3.5</i>

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. Stanton* Date *12-18-01*

Reviewer _____ Date _____

SEAL

P/U & P/D, 37-8448, 8508, 8819, 8820

R. 18E

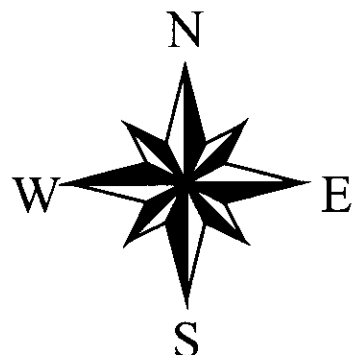
T. 3N

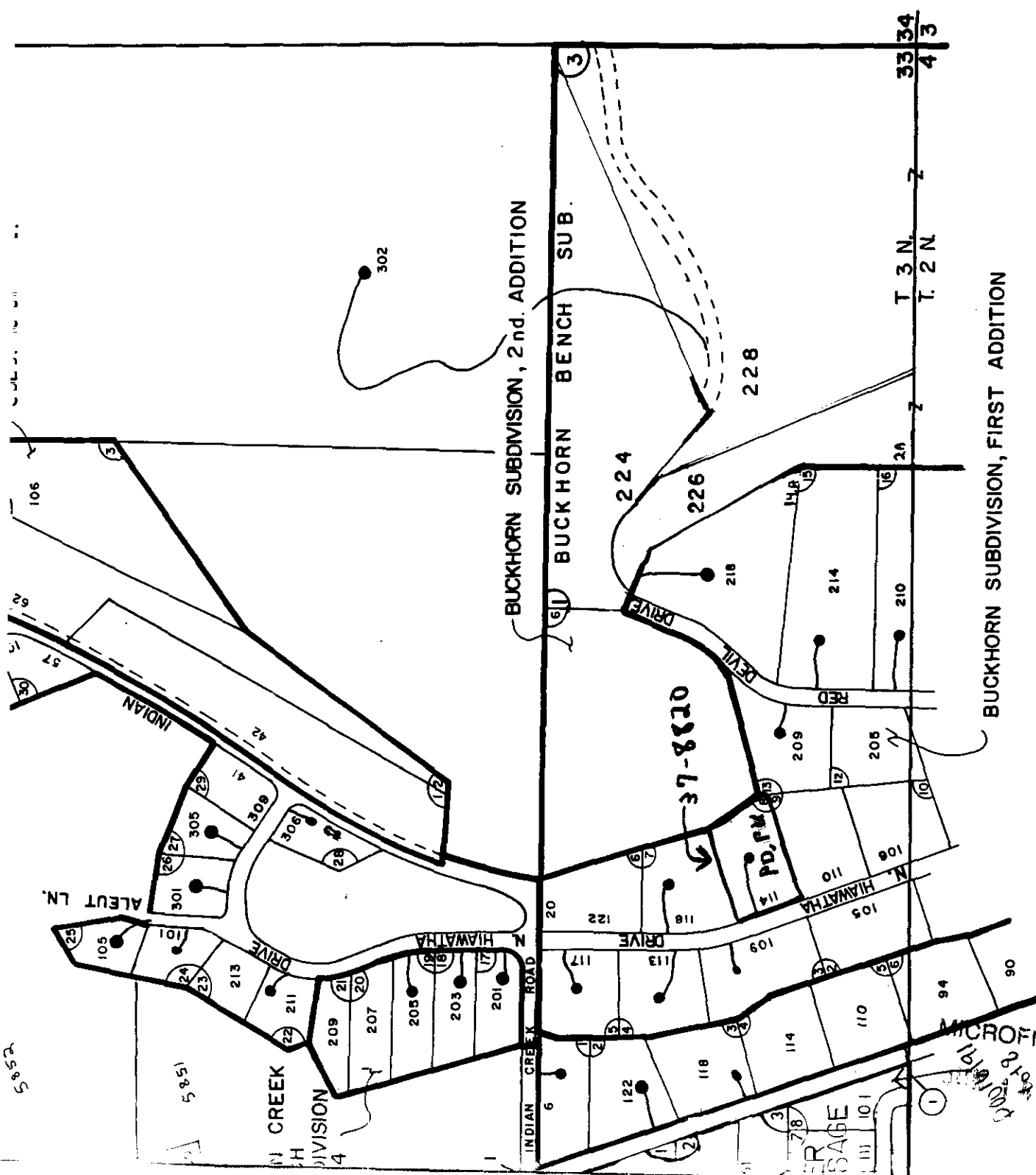
T. 2N

- Private Irrigation Well
- Well For Lots 9, 10, 12 & Part of Lot 13

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JUN 14 2001

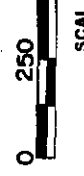
Prepared By J E Stanton 1-17-01





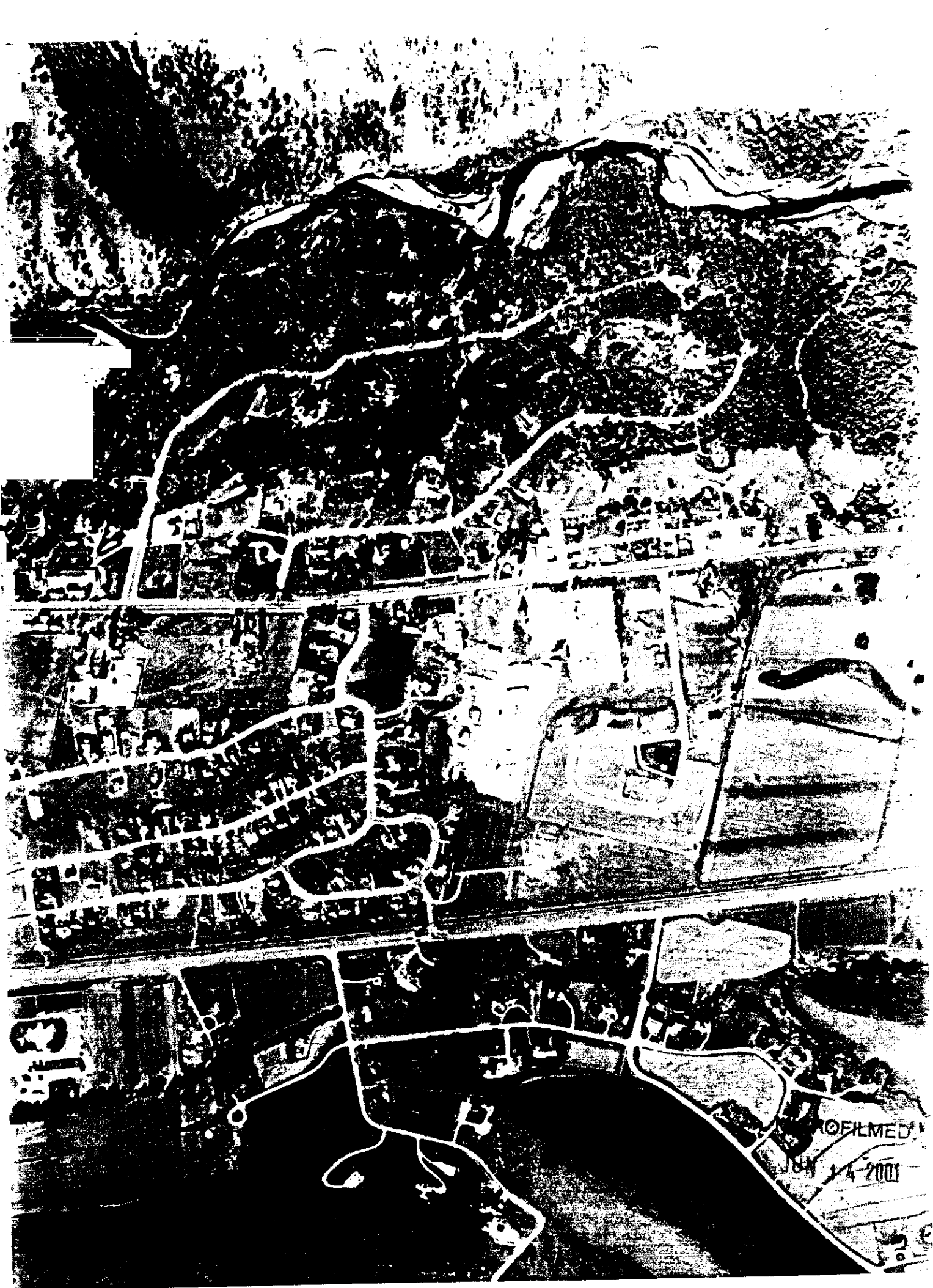
SEC. 33, T. 3 N., R. 18 E.

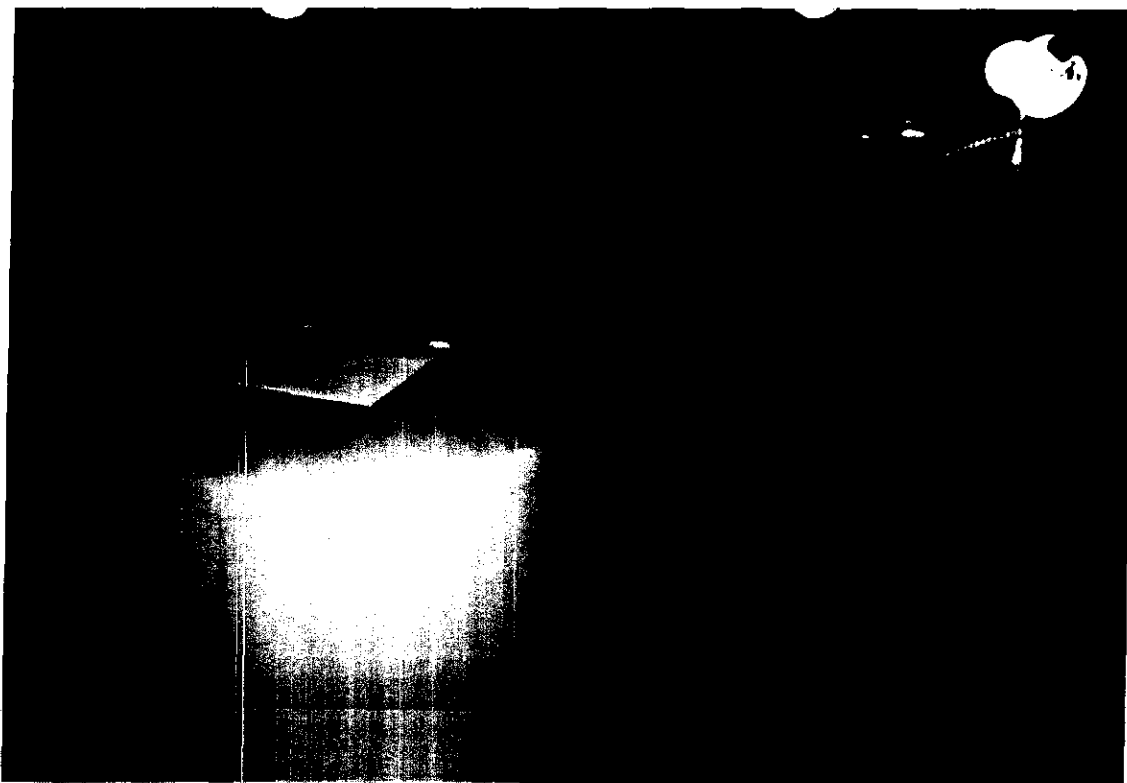
MICROFILMED
JUL 16 1982
2194
2009



1919	Det	1923	Pc	2501
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Edwards, Ho
ENGINEERS /





Inside of Well House



Pasture Looking West From Well House

MICROFILMED

JUN 14 2001

37-8820

12-1-00

J E Stanton



Landscaped Hillside Behind Home (Looking SE)

87-8820
12-1-06
JE Stanton

MICROFILMED

JAN 4 2009

10 DEPARTMENT OF WATER RESOURCES

STAFF ANALYSIS SHEET FOR BENEFICIAL USE FIELD EXAMS:

PERMIT NO.

27-08820

RECEIVED

JAN 26 2001

DEPARTMENT OF WATER RESOURCES

A. Items To Be Placed In Exam File (Items A & B to be Completed by Completer)

- (☒) Blank Field Report & Notice of Completed Exam
- (☒) Copy of App. for Permit, Approved Permit, Amendments, Orders
Proof of Beneficial Use, SRBA Claim (Claim Filed? _____ Required? _____)
- (☒) Well Inspection Form, Dairy Water-Use Worksheet (if applicable)
- (☐) Well Log(s) & Groundwater Measurement Analysis Form (if applicable)
- (☐) Copy of Orthophotoquad Map
- (☒) 660-Scale Aerial Photo (Examiner Will Obtain If Applicable)
- (☐) Government Lot Plats (If Applicable)

B.1. P/D Overlap - Yes or No? If Yes, Include Copy of Overlapping Rights & Claims

- If Yes, Type of Overlap: (☐) Add Acres or Uses to Existing System
(☐) Increase Rate of Flow or Volume

B.2. P/U Overlap - Yes or No? If Yes, Include Copies of Overlapping Rights & Claims

- If Yes, Type of Overlap: (☐) Increase Rate of Flow or Volume
(☐) Add Supplemental Water Source
(☐) Increase Acres Within Tracts

C. Field Exam Appointment Made:

Date 12-1-00

Time _____

Place P/U

Contact Person & Phone _____

D. Post-Exam Review & Processing

Exam Completed 12-1-00

Notice of Completion Turned In 1-18-01

Field Report Completed 1-18-01

G.F. Stanton 1-18-01
Signature of Examiner & Date

Field Report Reviewed by Sr. Agent _____ (Initial & Date)

Field Report Reviewed by Region Mgr. _____ (Initial & Date)

Field Report Sent to S.O. _____ Region Card File Updated _____

MICROFILMED

JUN 14 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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 19, 1998

Rod Thornton
PO Box 246
Ketchum ID 83340

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-08820

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.

One of the conditions of your water right permit requires that you install a lockable controlling device to provide the watermaster suitable control of the water diverted from the waste water source. Your proof submittal shows that you have not installed this device. Please be aware that your failure to have this device installed and operable at the time the department conducts the field examination may jeopardize the validity of the permit.

Be advised that 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. 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 concerning the field examination, please contact the department's SOUTHERN Regional Office in Twin Falls at (208)736-3033.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

c: IDWR - Regional Office

MICROFILMED
MAR 27 1998

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 37-08820 Reviewed by Jay Date 3-19-98

GENERAL CONSIDERATIONS

TYPES OF USE

YES Name same as permit?

Irr. dom

NO Address same as permit?

YES Proof timely received?

Correct Uses? NO

If not, complete calculation below.

SOURCE OF WATER

 Surface water source

✓ Ground water source

YES Drilling permit required?

NO Copy in the file? Drilling Permit No. 37-87-S-0042-000

NO Amount paid for permit

YES Correct?

NO Well log in the file?

LICENSE EXAMINATION FEE

NO Required?

/ Amount Submitted

 Correct?

MEASURING DEVICE

~~NO~~ YES Required?

NO Installed?

NO Waiver requested?

PRIORITY CALCULATION

Date proof received	<u> </u>
Date proof due	<u> </u>
No. of days late	<u> </u> = <u> </u>
Priority Date	<u> </u> + <u> </u>
New Priority Date	<u> </u>

DEFICIENCIES OR ACTION ITEMS

*Advise of measurement & wellable device requirement.
Proof acceptable*

DATA ENTRY

New Address P.O. Box 246 Proof Made 2-5-98

December 31, 1997

ROD THORNTON
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 833400987

PROOF DUE NOTICE

RE: PERMIT NO. 37-08820

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 March 1, 1998.

(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.

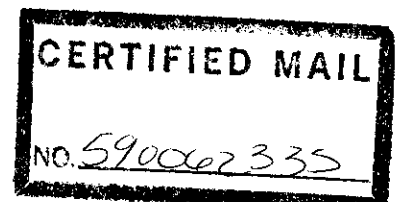
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

MAR 27 1998





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 WINSON
DIRECTOR

R. KEITH HIGGINSON
DIRECTOR

March 17, 1995

ROD THORNTON
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340-0987

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 37-08820

Dear Permit Holder:

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

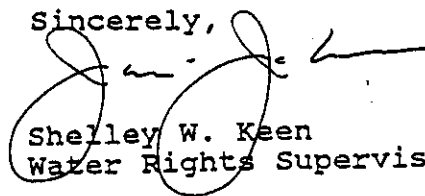
As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a "Proof Due Notice" approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

If a well has not already been constructed you are required to obtain a "drilling permit" from the department. The right to drill a well is not a part of this permit to appropriate water.

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.

Sincerely,


for Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosures


MAR 23 1995

APPLICATION FOR PERMIT
STATE OFFICE REVIEW
by Cindy Zimmerman

No.: 37-8820 Name: Thornton Date: 2/21/95 ^{3/14/95} Ad OK? ☒
Correct Fee? ☒ Receipt #: 5019679 Priority: 4/29/93 ☒ Gvmt Lts: ☒

AREA OF CONCERN? Mitigated - No/Yes ESRP Mor TF GWMA Trust/Non-trust
PROTESTED: - 020 (Prehearing agreement) or W19 (See Order)

SYSTEM COMPLETED:

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

GROUNDWATER: <☒ FLO-CH>

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

Drilling Permit:

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

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

Water District (~~dom~~) - 005 (req) WD # 37 <SEE MAP & LISTING>
+ 0.2 cfs - 01J-~~P08~~ or 01M *per mitigation plan*
- 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)
+ 5 a. irr. - 01M (POU cmp)

RIVER BASINS (*Surface water):

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

USE:

Domestic (surface) - 021 (Boise R + L Peak); 064 (Payette R); NA
Fish Propagation - 07A-042 (rq)-010/06A/09E(WQ)-**P10**; 044 (N 1000 Spr)
Irr - 5 acres ^{1A} - 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(FERE); 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. - 030 (stream channel alteration)
Irr Dist/Canal Co. - 023 (Twin Falls area)
Swan Falls Flag 1A - C <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:

See attached sheet

BENEFICIAL USE DUE:

COMMENTS:

3-1-1998
SRBA claim #A37-12818 used as mitigation in this
application is being recommended as disallowed due
to forfeiture

SD-0410-1
MODIFY RIGHT

Idaho Department of Water Resources
Water Rights Remarks Screen

Date: 03/14/95
Time: 15:43:52

Water Right Number: P37-08820

FIRST PAGE

13. Remarks: 1. This right is approved in conjunction with an exchange of surface water right which will remain in the Big Wood River pursuant to the exchange provisions in Section 42-105, Idaho Code. _____
2. Diversion and use of water shall only occur at those times when water is available to fill right no. 37-00577BN. _____
3. The Director retains jurisdiction to require the collection and reporting of water diverted. _____
4. For purposes of regulating this right with respect to other groundwater rights, the priority of this right shall be April 29, 1993. _____
- _____
- _____
- _____
- _____
- _____

(GOLD2=Update)	(GOLD4=Prev Screen)	(GOLD6=End of Data)	(Enter=Exit)
(GOLD3=Add Std Rmk)	(GOLD5=Next Screen)		(GOLD8=Cancel)



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

October 7, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

James P. Speck
Hogue, Speck & Aanestad
120 E. Avenue
P.O. Box 987
Ketchum, ID 83340

RE: APPLICATION FOR PERMIT NO. 37-08587 IN THE NAME OF GREGG T. STURTEVANT, APPLICATION FOR PERMIT NO. 37-08819 IN THE NAME OF KEITH FRIEDLY, APPLICATION FOR PERMIT NO. 37-08820 IN THE NAME OF ROD THORNTON AND APPLICATION FOR PERMIT NO. 37-08821 IN THE NAME OF BLAINE COUNTY SCHOOL DISTRICT

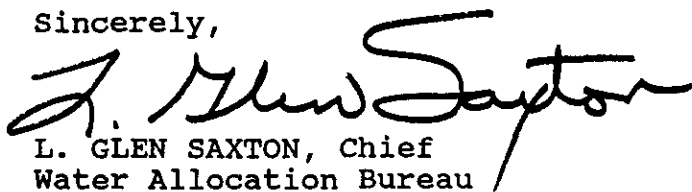
Dear Mr. Speck:

The above referenced applications were filed about a year ago with the department and have been the subject of numerous letters and phone discussions between Nick Spencer of this office and you related to surface water which has been proposed under application for transfer no. 4205 as mitigation for the diversion of ground water under the applications for permit.

The problem that needed to be resolved was whether and how to determine the validity of surface water right 37-00577(part)/A37-12818 which upon investigation by SRBA field staff appears to have been lost through five (5) years non-use. At one time, the SRBA court appeared to be the logical entity to deal with the validity of the offered mitigation right. Since the court has stayed action in the SRBA, however, the department's position is that there is authority as expressed in Jenkins, 103 Idaho 384, 389, 647 P.2d 1256 (1982) for the department to consider the validity of a right as an application for transfer is processed.

In order to get this matter moving again, I propose that the department issue a Preliminary Order denying the four (4) pending applications for permit and denying the transfer unless you have a different suggested solution which will allow this matter to proceed to a conclusion rather than languish in department files. If I do not hear from you within twenty (20) days, the department will issue such an order.

Sincerely,


L. GLEN SAXTON, Chief
Water Allocation Bureau

c: IDWR S. Region

RECEIVED
MAR 23 1995

MEMORANDUM

DATE: 28-Oct-1993

FROM: Loren Holmes *LH*

TO: Files; Transfer 4205, Apps for permit 37-8587, 8270, 8819, 8821

SUBJECT: Final region review of files

SRBA claim A37-12818, which is a previously unrecorded split of 37-00577, is proposed to be used as the basis for mitigation plans enabling approval of the applications for permit. A .11 cfs portion of the right is proposed for transfer under transfer 4205.

The following is a summary of the proposed changes in acres and amounts of water:

Application	Acres	Q	Acres remaining	Q remaining
T4205	4	.11	99	2.61
37-08587	3	.079	96	2.531
37-08220	1	.026	95	2.505
37-08819	1	.026	94	2.479
37-08821	40	.80	54	1.679

Approval of these applications will result in an untransferred remainder of A37-12818 of 1.679 cfs appurtenant to an unspecified 54 acres of the claimed place of use.

The claim has been completely reviewed by SRBA staff according to the standards set for review of claims. A claim verification report (CVR) has been completed and the claim has been recommended for disallowal based on a finding of 5 years non-use. Pertinent parts of the CVR and the reviewing agent's analysis are attached.

If water under claim A37-12818 has historically been turned into the canal, then execution of the mitigation plans will result in an actual contribution of water to the river.

If water has not been turned into the canal, then the river flows have actually been augmented by this water for some time. The mitigation plans will contribute no additional water to the river and exercise of the groundwater permits will further stress the existing conditions.

A study of historic daily flows in the Hiawatha canal documented in "Water distribution and Hydrometric Work in Water District 37" reports covering the 1970's to the present may shed some light on whether the water was turned into the canal. The region does not have a complete set of these records.

2100-0000 1270
MAR 23 1995

Page 2

With respect to Transfer 4205, the file supports a recommendation of denial because water has not been beneficially used on the place of use of the water right. On the other hand, if this right has been delivered by the watermaster at the Hiawatha headgate, and this is sufficient to prevent a forfeiture, the transfer can be granted.

Of course, the court may uphold the disallowal of the claim which would render this set of applications impossible. It may be necessary to hold the whole matter in abeyance until the SRBA court rules on the claim.

RECEIVED
MAR 23 1995

R18E

CLAIM 437-12818 INIT

T. R. S. Q/Q

P/D

PHOTO ASCS

DT.&ID. C. 1987

10

T
2
N

MAR 23 1995

1988
NAPP

CLAIM A37-12818 INIT SC
T. R. S. Q/Q

P/D

PHOTO NAPP 444-60 X74 SE

DT. & ID. 9-15-88

DELIVERY IRRIGATION DITCH
ALONG THIS
EDGE OF FIELD

NON-IRRIGATED
LANDS

DELIVERY DITCHES TO THIS
POU SHOW NO EVIDENCE OF
CARRYING WATER. POU LOOKS
UNIRRIGATED IN THIS PHOTO.

MAR 23 1995

Water Right Number - R37-12818

Prefix Translation: RESEARCH

Old (D) Number -

*** A - ATTORNEY ***
SPECK

JAMES P

Address

1 - PO BOX 987

2 -

3 -

City- KETCHUM

Phone - 208-000-0000

State- ID Zip- 83340

*** C - CURRENT OWNER ***
PACESETTER DEVELOPMENT COMPANY

1 - 4540 CAMPUS DR

2 -

3 -

City- NEWPORT BEACH
Phone - 714-852-8600

State- CA Zip- 92660

Priority Date - 03/24/1983

Region - ERROR IN REGION

Stage -

Status - 1 - DISALLOWED

Source - BIG WOOD RIVER

Tributary - MALAD RIVER

Turn	Ring	Sec	Tract	Lot	Rflg	County	Point of Diversion
03N	18E	20	SE SW NW			(13) BLAINE	MIAMATHA CANAL

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
01 - IRRIGATION		04/01	11/01		2.720	

Total Div. Rate - 2.720 + Total Div. Volume - + Total Consumptive Use - 257.5 + KW Usage - +

Turn	Ring	Sec	Tract	Lot	Acres	Place of Use	Code	Description	County
02N	18E	9	NE NE		6.0	IRRIGATION	01		(13) BLAINE
02N	18E	10	NW NW		37.0	IRRIGATION	01		(13) BLAINE
02N	18E	10	SE NW		17.0	IRRIGATION	01		(13) BLAINE
02N	18E	10	SE NW		27.0	IRRIGATION	01		(13) BLAINE
02N	18E	10	NE SW		16.0	IRRIGATION	01		(13) BLAINE

Total Acres: 103.0

+ - - Diversion Means - VIA HEADGATE #22 & MIAMATHA CANAL
+ - - Non-Irrigation Use -
+ - - Other Rights for Same Use - NONE

MAR 23 1995

Water right number - R37-12818

Prefix Translation: RESEARCH

FORFEITED/ABANDONED.

3700577

Old Water Right Numbers

P04

FORFEITED/ABANDONED: This is included for a claim based on a

- decree or license that is PROPOSED to be disallowed on the basis
- that the water right no longer exists because forfeiture of the
- right by nonuse was confirmed and a defense to forfeiture was not
- confirmed, or because abandonment of the right was confirmed.

S.C. FROST ET AL

Decree Defendant
ALTURUS WATER CO., ET AL

Decree Date
00/00/0000

Date: 10/15/1993 User Id: CLELLAND Subject: RECOMMENDATION/DISALLOWAL
SEE FILE FOR DETAILS OF REVIEW. WATER HAS NOT BEEN USED FOR A PERIOD OF AT LEAST 5 YEARS; 1987-1992.

Audit Fields
10/15/93 CLELLAND

Adjudication Rights Dates and Flags Area

Court Report Filing	- 00/00/0000	Field Inspection Made	- 09/30/1993	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 10/15/1993	Old Judicial District	-
Claim Received Date	- 02/03/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- X777777	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	- D
				Notice of Error Flag	-

MAR 23 1995

A37-12818

Comparison of Evidences & Review

10-15-93

STEVE CLELAND

2
(ABANDONED) 1974 X74 OPO irrigation not shown
1980 plots filed to Subdivide w/ County.
1984 Landsat does not support irrigation uses
1985 W. Master bills for Water.
(FORGOTTEN) 1986 W. Master Bills for Water.
① 1987 No Billing. Napp shows Non-irrigation
② 1988 No Billing. Napp shows Non-irrigation
③ 1989 No Billing.
④ 1990 Billed. 6-11 Field Exam no irrigation, no system
⑤ 1991 Billed.
⑥ 1992 Billed.
1993 9-30 Field Exam - No irrigation, system reditched.
5-14 Field Exam (by Mel Schulte)
no irrigation - no delivery system.

Affidavits claim:

GREGORY MANN (OCT 1 1993)

1991 July - claims to irrigate SENE 5.10 for Cattle Grazing.
Aug - claims to irrigate North of Quigley Road
for Cattle Grazing.

(replaces an earlier sworn statement.)

No system for irrigation existed in 1990 or in 1993
to irrigate the lands in SENE. They looked the same
on both exams - unirrigated and prepared for Subd.

NO cattle were grazed here either; no fences
during either exam and no cattle signs of grazing
i.e. manure, Tracks, or grazed off crops.

MAR 2 1995

P. 2 of 2

A37-12818 review

In discussing the irrigation possibilities for lands north of Quigley road, Mel Schulte and I compared what we had viewed on previous exams and we concluded; No irrigation system for delivery existed until our last exam in 9-30-93, At that time new ditches had been dug or cleaned. No evidence of Cattle grazing had occurred. The area was not completely fenced off from Residential areas and the signs of cattle were absent.

The crop/vegetation found growing on 9-30-93 was a mixture of local weeds, some sagebrush has started to reclaim the land, and a volunteer alfalfa crop was found. Not uncommon for alfalfa to remain growing like that due to the deep root system & gravelly soils.

Evidence does not support this affiant's statements.

AFFIDAVIT:

BURR SMITH (9-22-93)

1983

He moved to property adjacent to A37-12812 pou. Since then has irrigated the parcels & pastured horses.

MAR 23 1995

See the listing on page one of this review.
Property may have been irrigated in part
during 1983 as claimed. It is possible
Landsat reports list a partial irrigation
in 1984, but from 1987 onward to present
no evidence supports this affiant's claims.
Again, the place is not fenced nor are there
signs of grazing by horses or cattle in
this field.

AFFIDAVIT:

CLINT STENNETT (9-15-93)

1983, 84, 85 Says he farmed & irrigated the property
North of Augley Road. also pastured
Horses there.

Evidence supports some possible irrigation
on parts of this parcel in Landsat of 1984.
No ~~upper~~ information on 1983 or 1985.

RECORDED

MAR 23 1995

P. 4 of

A37-12818

AFFIDAVIT:

GEORGE MANN (9-7-93)

1991	July	{ same as the first affidavit, except ← change in date on the August entry from 1993 to 1991. }
1993	Aug	

Raises the question of the validity of
"sworn statements" by affiant

Summary:

The history of this right is pretty clear and is supported by the evidence available at this time of Review.

In 1974 when the downstream rights on Hiawatha Canal were abandoned, this place became the last delivery on the ditch. A reduced flow in the Canal made economical use of this land and water impractical. (See CVR page 10 ✓ for analysis.) Finally, in 1980 the Deerfield Plats were filed to Subdivide this property. Some partial use occurred around 1983 & 84. By 1987 no use was being made of

MAR 23 1995

595

437-12818

the water for irrigation and the Water Master never billed for its use until 1990. All the evidence during this time confirms the non-use of water for irrigation on this property.

The Billing of Water Master for these rights doesn't support its use in 1990, 91 or 92.

It has been my experience with water users that they believe merely paying the assessment to the Water Master will insure continued validity of their rights. This belief is reinforced by water masters also. (Dale Mizer mentioned this to me during our conversation of this area and its rights.)

My personal field exam in 1990 on June 11th would have followed 3 years of non use on these lands as indicated by the evidence shown. In Sept 30 1993 when I returned for a followup look at the same property, the conditions and appearance of the property had not changed it remained unirrigated.

Only in 1993, when mitigation uses appear for this right, are any efforts made to develop the irrigation system. But the efforts aren't complete since the right is ~~not~~ ^{not} wanted for irrigation use.

Recommend: Disallow^{MAY 2 1995} by Forfeiture/Abandonment

Steve Caldwell 10-15-93

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES x 0.02 CFS/ACRE = CFS
(Taken from P/U review)

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y() N()

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N() ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 257.5 AF/A

ACRES x CONSUMPTIVE VOL. AF/A FOR AREA =

TOTAL CONSUMPTIVE USE AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES x DIVERSION VOL. AF/A FOR AREA =

TOTAL DIVERSION VOLUME AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

$$\frac{2.72 \text{ cfs}}{103 \text{ Ac.}} = 0.026 \text{ cfs/Ac.}$$

$$= 1.32''/\text{Ac}$$

May need to run a Hubble analysis on this system.
This Field is now the last place on the ditch, a ditch claimed by others upstream and the watermaster to be heavy on conveyance losses. When the places downstream, Woodside area, were taken out of production in 1974 the flow in the Canal was reduced. Without those additional flows, this rate of 1.32"/acre may not have been sufficient to sustain an economical crop. This led to the non use of the land & water as found.
See 10-15-93

MAR 23 1995

STATE OF IDAHO Thornton, Rod
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY MTS DATE 5-3-, 1993
APPLICATION NO. 37-08820

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)
☒ Address
☒ Source (see USGS quad for names of water sources)
☒ Point of diversion (10 Acres for spring, lot & block descriptions for subdivisions, local name, flow &/or volume.
☒ County
☒ Quantity (flow &/or volume) *(Exceeds department standards)*
☒ Period of use *(Exceeds department standards)*
☒ 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
4-29 1993

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 Mel Schutte & Steve Cloward for mitigation ^{Right.}
☒ Yes ☐ No Field report attached
☒ Yes ☒ No Critical Ground water area * *Mitigation plan attached*
☒ Yes ☒ No * Groundwater management area *but validity of mitigation right is questionable*
☐ Yes ☒ No Send Dam safety information
☐ Yes ☒ No Send power requirement letter
☐ Yes ☒ No Send fish farm requirement letter
☐ Yes ☒ No Power residency affidavit. *See attached "Analysis Summary"*
☐ 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 _____, 19____

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 _____

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

<u> </u>	<u>Yes</u>	<u> </u>	<u>No</u>	Publication dates and paper, recorded on App.
<u> </u>	<u>Yes</u>	<u> </u>	<u>No</u>	Protests received
				Final date for Protest
<u> </u>	<u>Yes</u>	<u> </u>	<u>No</u>	Protests, dates, resolution of protest, recorded on app.
<u> </u>	<u>Yes</u>	<u> </u>	<u>No</u>	Recommendations attached
<u> </u>	<u>Yes</u>	<u> </u>	<u>No</u>	Measuring device required
<u> </u>	<u>Yes</u>	<u> </u>	<u>No</u>	Access port required
<u> </u>	<u>Yes</u>	<u> </u>	<u>No</u>	Will water be delivered by watermaster? If yes, what dist. <u> </u>
<u> </u>	<u>Yes</u>	<u> </u>	<u>No</u>	Special conditions of approval or cover letter below. <u> </u>

See below for additional information _____
Date of priority recommended _____, 19____
By _____ Date _____, 19____

See below for additional information

By _____ Date _____, 19 _____

ADDITIONAL INFORMATION:

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 _____

See "Analysis Summary" for A37-12818

It is not clear if P37-8508 overlaps the P/4 & P/D
for this application.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

27-Oct-1993

R. KEITH HIGGINSON
Director

RICHARD M ONEIDA MGR
BIG WOOD CANAL CO
PO BOX C
SHOSHONE ID 83352

RE: Application for Permit Nos. 37-08587 (Sturtevant)
37-08819 (Friedly)
37-08820 (Thornton)
37-08821 (Blaine Co. School)

Dear Mr. Oneida:

This office acknowledges receipt of the withdrawal of your protests against the above referenced applications.

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.

Very truly yours,

Loren O. Holmes, P.E.
Southern Region Manager

LH:MB

RECEIVED

MAR 23 1995

Big Wood Canal Company

112 S. Apple P.O. Box C
Shoshone, Idaho 83352
886-2331

RECEIVED

OCT 26 1993

Department of Water Resources
Southern Region Office

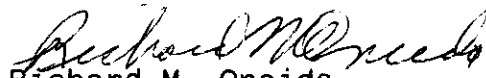
Oct. 25, 1993

R. Keith Higginson, Director
IDAHO DEPARTMENT OF WATER RESOURCES
222 Shoshone St. East
Twin Falls, Idaho 83301

RE: Application for Permit No.
37-08820
Rod Thornton

The Big Wood Canal Company will release the protest filed on application #37-08820 by Rod Thornton provided the mitigation plan is strictly followed.

Sincerely,


Richard M. Oneida
Manager

RMO/mae


MAR 23 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

19-Oct-1993

R. KEITH HIGGINSON
Director

JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

RE: APPLICATION FOR PERMITS NOS: 37-08819 (Friedly)
37-08820 (Thornton)
37-08821 (Blaine Co. School)

Dear Mr. Speck:

Enclosed are copies of protests filed against the above referenced applications.

The Department suggests you contact the protestant directly to determine the exact nature of the protests 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,

Loren O. Holmes, P.E.
Southern Region Manager

LH:MB
Enclosure(s)

RECEIVED
MAR 23 1995

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.

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 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.

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.

8-11-95



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

18-Oct-1993

R. KEITH HIGGINSON
Director

RICHARD M ONEIDA MGR
BIG WOOD CANAL CO
PO BOX C
SHOSHONE ID 83352

RE: APPLICATIONS FOR PERMIT NOS: 37-08587 (Sturtevant)
37-08819 (Friedly)
37-08820 (Thornton)
37-08821 (Blaine Co. School)

Dear Mr. Oneida:

Your protest against the approval of the above referenced applications have 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,

Loren O. Holmes, P.E.
Southern Region Manager

LH:MB
Enclosure(s)

RECEIVED
OCT 21 1993
SOUTHERN REGION

Big Wood Canal Company

112 S. Apple P.O. Box C
Shoshone, Idaho 83352
886-2331

RECEIVED

SEP 20 1993

Department of Water Resources
Southern Region Office

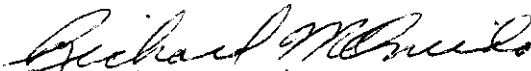
Sept. 17, 1993

R. Keith Higginson, Director
IDAHO DEPARTMENT OF WATER RESOURCES
222 Shoshone St. East
Twin Falls, Idaho 83301

RE: Application for Permit No.
37-08820 Rod Thornton

The Big Wood Canal Company would like to protest the application filed by Rod Thornton on the grounds that the use of this water could be detrimental to the storage of irrigation water at Magic Reservoir.

Sincerely,



Richard M. Oneida
Manager

RMO/mae

RECEIVED

MAR 23 1995

AFFIDAVIT of PUBLICATION

RECEIVED

SEP 28 1993

State of Idaho, }
County of Blaine } SS.

Department of Water Resources
Southern Region Office

On this 22nd day of Sept in the year 1993, before me a Notary Public of said State, personally appeared Gregg K. Sturtevant, 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 uninterrupted 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 15 day of Sept 1993 and the date of the last publication was on the 22 day of Sept 1993

Subscribed and sworn to before me this 22nd day of Sept 1993.
(SEAL)

Roberta M. Kinchen

NOTARY PUBLIC

#8868
WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice 126
Number of Insertions _____
Lines tabular at _____ 6¢ / Pica
126 Lines straight at 63.00 5¢ / Pica
126 Subsequent lines at 56.20 4¢ / Pica
TOTAL COST 124.20 5.00

COPY OF NOTICE

(Paste Here)

Application for water
TITLE OF NOTICE right

"Sturtevant"

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water - T.F.
BILL TO

Application for trust water right

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

37-08587

GREGG K. STURTEVANT
PO BOX 2924
KETCHUM ID 83340

Source: groundwater

Diversion Pt: HANNE, S19, T02N, R18E (Lot 2, Blk 1, Plaza Del Sol Subdivision; Blaine County.

Use: Irrigation (.11 cfs) from 04/01 to 11/01

Date Filed: 01/09/1990

In: 3.74 acres within HANNE, S19, T02N, R18E.

37-08819

KEITH FRIEDLY
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Source: groundwater

Diversion Pt: BUNNAGE, S33, T03N, R18E; Blaine County.

Use: Irrigation (.026 cfs) from 04/01 to 11/01

Date Filed: 04/29/1993

In: One (1) acre within BUNNAGE, S33, T03N, R18E.

37-08820

ROD THORNTON
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Source: groundwater

Diversion Pt: SESEBU, S33, T03N, R18E; Blaine County.

Use: Irrigation (.026 cfs) from 04/01 to 11/01

Date Filed: 04/29/1993

In: One (1) acre within SESEBU, S33, T03N, R18E.

37-08821

BLAINE COUNTY SCHOOL DISTRICT
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Source: groundwater

Diversion Pt: HANNE, S15, T02N, R18E; Blaine County.

Use: Irrigation (.80 cfs) from 04/15 to 10/15

Date Filed: 05/24/1993

In: 40 acres within W1/2SE, S10, T02N, R18E; W1/2NE, S15, T02N, R18E.

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the applicant and with the Director, Dept. of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 on or before October 4, 1993.

R. Keith Higgason, Director

Publish: Wood River Journal-September 15 & 22, 1993.

NOTICE OF APPLICATIONS FOR
TRUST WATER RIGHT

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

37-08587

GREGG K. STURTEVANT
PO BOX 2924
KETCHUM ID 83340

Source: groundwater

Diversion Pt: NWNNE, S19,
T02N, R18E (Lot 2, Blk 1, Plaza
Del Sol Subdivision; Blaine
County.

Use: irrigation (.11 cfs) from
04/01 to 11/01

Date Filed: 01/09/1990

In: 3.74 acres within NWE,
S19, T02N, R18E.

37-08819

KEITH FRIEDLY
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Source: groundwater

Diversion Pt: SWSWSE, S33,
T03N, R18E; Blaine County.

Use: irrigation (.026 cfs)
from 04/01 to 11/01

Date Filed: 04/29/1993

In: One (1) acre within SWSE,
S33, T03N, R18E.

37-08820

ROD THORNTON
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Source: groundwater

Diversion Pt: SESESW, S33,
T03N, R18E; Blaine County.

Use: irrigation (.026 cfs)
from 04/01 to 11/01

Date Filed: 04/29/1993

In: One (1) acre within SESW,
S33, T03N, R18E.

37-08821

BLAINE COUNTY SCHOOL DISTRICT
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Source: groundwater

Diversion Pt: NWNNE, S15,
T02N, R18E; Blaine County.

Use: irrigation (.80 cfs) from
04/15 to 10/15

Date Filed: 05/24/1993

In: 40 acres within W1/2SE,
S10, T02N, R18E; N1/2NE, S15,
T02N, R18E.

The permit (s) will be subject
to all prior water rights.
Protests may be submitted based
on the criteria of Sec.
42-203A, Idaho Code and/or the
new public interest criteria of
Sec. 42-203C, Idaho Code.
Protests must be filed with the
applicant and with the
Director, Dept. of Water
Resources, Southern Region, 222
Shoshone Street East, Twin
Falls, ID 83301 on or before
October 4, 1993.

R. Keith Higginson, Director

Published in Wood River Journal
on 9/15 & 9/22/93.

RECORDED
INDEXED

MAR 23 1995

MAR 23 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

30-Aug-1993

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
Secretary/Office Coordinator

Enclosure

MAR 23 1995

NOTICE OF APPLICATIONS FOR TRUST WATER RIGHT

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

37-08587

GREGG K. STURTEVANT
PO BOX 2924
KETCHUM ID 83340

Source: groundwater

Diversion Pt: NWNWNE, S19, T02N, R18E (Lot 2, Blk 1, Plaza Del Sol Subdivision; Blaine County.

Use: irrigation (.11 cfs) from 04/01 to 11/01

Date Filed: 01/09/1990

In: 3.74 acres within NWNWNE, S19, T02N, R18E.

37-08819

KEITH FRIEDLY
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Source: groundwater

Diversion Pt: SWSWSE, S33, T03N, R18E; Blaine County.

Use: irrigation (.026 cfs) from 04/01 to 11/01

Date Filed: 04/29/1993

In: One (1) acre within SWSWSE, S33, T03N, R18E.

37-08820

ROD THORNTON
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Source: groundwater

Diversion Pt: SESESW, S33, T03N, R18E; Blaine County.

Use: irrigation (.026 cfs) from 04/01 to 11/01

Date Filed: 04/29/1993

RECORDED
MAR 23 1995

In: One (1) acre within SESW, S33, T03N, R18E.

37-08821

BLAINE COUNTY SCHOOL DISTRICT
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Source: groundwater

Diversion Pt: NWNENE, S15, T02N, R18E; Blaine County.

Use: irrigation (.80 cfs) from 04/15 to 10/15

Date Filed: 05/24/1993

In: 40 acres within W1/2SE, S10, T02N, R18E; N1/2NE, S15, T02N, R18E.

The permit (s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the applicant and with the Director, Dept. of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 on or before October 4, 1993.

R. Keith Higginson, Director

Published in Wood River Journal on 9/15 & 9/22/93.

RECEIVED

MAR 23 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

27-Aug-1993

R. KEITH HIGGINSON
Director

JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

Re: Application for Permit Nos. 37-08587 (Sturtevant); 37-08819 (Friedly); 37-08820 (Thornton); 37-08821 (Blaine County School District); Application for Transfer No. 4205/37-00577 Part, A37-12818 Part (J. Peter &/or Claire B. Fitzpatrick)

Dear Mr. Speck:

The Department of Water Resources acknowledges receipt of the above referenced applications. The applications have been assigned the above referenced identification numbers. Please refer to these numbers in all further correspondence.

This office has scheduled advertising the applications in the Wood River Journal for 9/15 & 9/22/93. 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. When 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,

Mel Schulte
Water Right Agent

MS:MB

MAR 23 1995

ANALYSIS SUMMARY---A37-12818
PACESETTER DEVELOPMENT CO.
JULY 28, 1993

1. The claim is for irrigation of 103 acres and a diversion of 2.72 cfs of Big Wood River water delivered through the Hiawatha Canal with a 3-24-1883 priority.
2. The right claimed is a portion of the originally decreed W. T. Riley right.
3. Pacesetter Development Co. sold the subject property and assigned the water right to Marathon Partners c/o Edmund E. Dumke in September 1992. A change of ownership is on file.
4. Portions of the right have been proposed as part of mitigation plans for the following, pending applications:
 - a. Application for Transfer--n/o J. Peter Fitzpatrick and/or Claire B. Fitzpatrick. Proposes to dry up 4 acres and transfer .11 cfs.
 - b. Application for Permit 37-08587--n/o Gregg Sturtevant. Proposes to dry up 3 acres and exchange .079 cfs for a groundwater right to irrigate 3.74 acres with .11 cfs.
 - c. Application for Permit--n/o Rod Thornton. Proposes to dry up one (1) acre and exchange .026 cfs for a groundwater right to irrigate one (1) acre with .026 cfs.
37-08820
 - d. Application for Permit--n/o Keith Friedly. Proposes to dry up one (1) acre and exchange .026 cfs for a groundwater right to irrigated one (1) acre with .026 cfs.
37-08819
 - e. Application for Permit--n/o Blaine County School District. Proposes to dry up 40 acres and exchange .80 cfs for a groundwater right to irrigate 40 acres with .80 cfs.
37-08821
5. The right subject to A37-12818 is administered by Water District #37. The water master's records indicate Pacesetter Development Co. was billed for 1985 and 1986, not billed for 1987, 1988 and 1989, and billed for 1990, 1991 and 1992.
6. A field exam on June 11, 1990 found no irrigation of land nor a delivery system in place to most of the P/U.
7. A field exam on May 14, 1993 found no irrigation of land nor a delivery system in place to most of the P/U.
8. NAPP photo X74(SW) #437-11 dated 6-8-87 reveals that the subject land appears not to be irrigated.

NAPP photo X74(SE) #444-60 dated 9-15-88 reveals that the subject land appears not to be irrigated.

RECORDED

MAR 23 1995

37-08820

9. Water may have been turned into the delivery ditch from the Hiawatha canal but application of the water to the land subject to the claim is very questionable. Application of water for irrigation purposes is not supported by the field exams conducted and the NAPP photos described in #8 above.

10. The evidence currently available does not support recommending claim A37-12818 as a valid water right.

RECEIVED
MAR 23 1995

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
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) 788-3367
FAX (208) 788-4230

April 28, 1993

RECEIVED

VIA FACSIMILE 1-736-3037

APR 30 1993

Mr. Frank Hitchcock
Department of Water Resources
222 Shoshone Street
Twin Falls, Idaho 83301

Department of Water Resources
Southern Region Office

Re: Marathon Partners - Pacesetter Development Co.

Dear Frank:

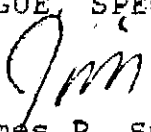
Attached is a copy of the Assignment of Water Rights from Pacesetter Development Company to Edmund E. Dumke and Susan M. Dumke, who hold title to the property and water rights as a nominee for Marathon Partners. As I mentioned, portions of this water right are the subject of the following, pending applications:

1. Application for Transfer by J. Peter Fitzpatrick;
2. Application for Permit by Blaine County School District;
3. Application for Permit by Gregg Sturtevant;
4. Application for Permit by Rod Thornton; and
5. Application for Permit by Keith Friedly.

Please call if you need any additional information on the chain of title. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS/dlw


MAR 23 1995

37-08820

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APR 29 1993

Department of Water Resources
Southern Region Office

ASSIGNMENT OF WATER RIGHTS

THIS ASSIGNMENT OF WATER RIGHTS is made by PACESETTER DEVELOPMENT COMPANY, an Idaho corporation ("Pacesetter") this 24th day of September, 1992.

WHEREAS, Pacesetter owns water rights as defined and set forth in that NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference. The water right is appurtenant to real property located in the City of Hailey, County of Blaine, State of Idaho and more particularly described as set forth in Exhibit "B", attached hereto and incorporated herein by reference.

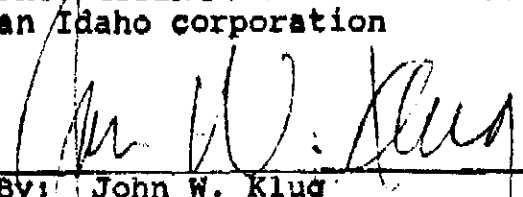
WHEREAS, the real property was sold by Pacesetter to Edmund E. Dumke and Susan M. Dumke on or about September 10, 1992.

WHEREAS, the parties intend the water rights to be conveyed along with the real property.

NOW, THEREFORE, for valuable consideration, Pacesetter hereby assigns all of its right, title and interest in all of its water rights appurtenant to the real property described above, including those water rights set forth in Exhibit "A", to Edmund E. Dumke and Susan M. Dumke.

IN WITNESS WHEREOF, this Assignment of Water Rights has been executed the day and year first above-written.

PACESETTER DEVELOPMENT COMPANY,
an Idaho corporation


By: John W. Klug
Its: President

BLAINE CO. REQUEST

OF Barrick, Donovan

1992 OCT 13 P 2:42

345759

MARY GREEN, CLERK
FEES \$

21.00 MP

muc

MAR 23 1995

RECEIVED

APR 20 1993

Department of Water Resources
Southern Region Office

STATE OF CALIFORNIA)

County of Orange)

ss.

On this 24th day of September, 1992, before me, a Notary Public in and for said State, personally appeared JOHN W. KLUG, known or identified to me to be the President of Pacesetter Development Company, an Idaho corporation, whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in the name of and on behalf of said corporation.

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



Karen Sauerwein
NOTARY PUBLIC in and for
the State of California,
residing at Orange County
Commission expires 11/4/94

RECEIVED
MAR 23 1995

APR 28 '93 08:54

D. VAN PRAGGASTIS

417 F04/08

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

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

CIVIL CASE NUMBER: 39576

RECEIVED

Ident. Number: A37-12818
Date Received: 2/03/1989
Receipt No: S006212
Received By: _____

APR 20 1993

Department of Water Resources
Southern Region Office

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FACESETTER DEVELOPMENT COMPANY
Address: 4540 CAMPUS DRIVE
NEWPORT BEACH, CA 92660

714-852-8600
This Copy For Your Records
DO NOT RETURN

2. Date of Priority: MAR 24, 1883

3. Source: BIG WOOD RIVER

Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
03N	18E	20	SE	SW	NW		BLAINE

5. Description of diverting works:
VIA HEADGATE #22 & HIAWATHA CANAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.720		

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

A.F.A.

8. Total consumptive use is 257.5 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
02N	18E	9	NE	NE		IRR	6.0

Section Acres 6.0

A37-12818

Page 1

Date: 02/03/89
MAR 23 1989

RECEIVED

FEB 17 1989

APR 28 '93 08:54

I. JUAN PRAGGASTIS

417 P05/08

RECEIVED

APR 29 1993

Department of Water Resources
Southern Region Office

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres	No
02N	18E	10	NW	NW	IRR	37.0	No
			SW	NW	IRR	17.0	Yes 05
			SE	NW	IRR	27.0	No
			NE	SW	IRR	16.0	No
Section Acres						97.0	
Total Acres						103.0	

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
NONE

14. Remarks:

THIS CLAIM IS FOR A PORTION OF 37-0577 ORIGINALLY DECREED TO W.
T. RILEY.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

S. C. FROST ET. AL.

Decree Plaintiff

vs

ALTURUS WATER COMPANY, ET. AL.

Decree Defendant

APR 28 '93 08:55

I. IVAN PRAGGASTIS

417 F06/08

RECEIVE

APR 29 1993

16. Signature(s)

Department of Water Resources
Southern Region Office

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____

This Copy To Your Records
DC 1-23-93 RETURN

Date: _____

State of Idaho)

) ss.

County of _____)

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

A37-12818

Page

3

Date: 02/03/89

MAR 23 1995

APR 28 '93 08:56

JUAN PRAGGASTIS

417 P87/08

RECEIVED

APR 29 1993

Department of Water Resources
Southern Region Office

Order No. 22-11221

PARCEL 1TOWNSHIP 2 NORTH, RANGE 18 EAST, BOISE MERIDIAN, CITY OF HAILEY,
BLAINE COUNTY, IDAHO:SECTION 10: A parcel of land lying with the N $\frac{1}{4}$ SW $\frac{1}{4}$ and the S $\frac{1}{4}$ NW $\frac{1}{4}$
more particularly described as follows:BEGINNING at the Brass Cap marking the South 1/4 corner of said
Section 10;THENCE North 0°05'09" West 1313.54 feet to a 5/8 inch bar marking
the South-center 1/16 corner, Section 10, which point is the TRUE
POINT OF BEGINNING;THENCE North 89°41'57" West 1383.78 feet to the intersection of
Seventh Avenue and the South line of said N $\frac{1}{4}$ SW $\frac{1}{4}$, Section 10;THENCE North 29°00'00" West 348.63 feet along said centerline of
Seventh Avenue to a point in the center of the Hiawatha Canal;THENCE following the center of said canal North 23°34'36" West
439.60 feet to the Southeast Corner of HIAWATHA ESTATES NO. 1
SUBDIVISION;THENCE along said canal, and also along the Easterly boundary of
said Subdivision the following four courses;

North 23°14'00" West 939.91 feet;

North 17°30'00" West 163.66 feet;

North 32°00'00" West 110.00 feet;

North 24°00'00" West 157.98 feet to a point on the Southerly edge
of Croy Street;THENCE along said Southerly edge of Croy Street North 60°58'36"
East 139.37 feet to a 5/8 inch bar on the Easterly boundary of
the original Townsite of the CITY OF HAILEY;THENCE South 29°00'00" East 301.05 feet along said Easterly
boundary of Hailey to a 5/8 inch bar on the South side of the
Quigley Gulch Road;THENCE North 75°30'18" East 2065.63 feet along said South side of
the Quigley Gulch Road to a 5/8 inch bar on the Easterly line of,
said S $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10;THENCE South 0°05'00" East 980.60 feet to the Center 1/4 corner,
Section 10;THENCE South 0°05'09" East 1313.21 feet to the TRUE POINT OF
BEGINNING.

EXCEPTING THEREFROM;

All of DEERFIELD SUBDIVISION NO. 1, BLAINE COUNTY, IDAHO,
according to the official plat thereof, recorded August 30, 1979,
Instrument No. 196423, records of Blaine County, Idaho.

AND FURTHER EXCEPTING;

All of the RE-PLAT OF DEERFIELD SUBDIVISION NO. 2, BLAINE COUNTY,
IDAHO, according to the official plat thereof, on file in the
office of the County Recorder, recorded July 30, 1981, as
Instrument No. 217572, records of Blaine County, Idaho.

MAR 23 1995

APR 28 '93 08:57

DUAN/PRAGGASTIS

417 P08/28

RECEIVED

APR 29 1993

Department of Water Resources
Southern Region Office

Order No. 22-11221

EXHIBIT "A"

PARCEL II

TOWNSHIP 2 NORTH, RANGE 18 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO:

SECTIONS 9 & 10: A parcel of land lying with NE&NE&, Section 9 and the NW&, Section 10 being more particularly described as follows:

BEGINNING at the brass cap set by Bruce T. Butler marking the section corner common to Sections 3, 4, 9, and 10, TOWNSHIP 2 NORTH, RANGE 18 EAST, BOISE MERIDIAN, being the TRUE POINT OF BEGINNING;

THENCE North 89°57'19" East, 1264.10 feet along the North boundary of Section 10 to a 5/8" bar;

THENCE South 0°10'03" West, 689.85 feet to a 5/8" bar;

THENCE South 89°53'37" East, 56.08 feet to a 1/2 bar marking the Southwest corner of Lot 1, Block 1, MARVIN GARDENS SUBDIVISION;

THENCE South 0°06'23" West, 1297.70 feet along the West boundary of said MARVIN GARDENS SUBDIVISION to a 5/8" bar marking the Southwest corner of said Subdivision;

THENCE South 75°43'07" West, 684.58 feet along the South side of Quigley Gulch Road to a 5/8" bar;

THENCE North 28°44'48" West, 401.16 feet along the East boundary of the original Hailey City Limits to a 5/8" bar;

THENCE South 73°36'04" East, 70.71 feet along RATHKE SUBDIVISION to a 5/8" bar;

THENCE South 28°44'48" East, 307.29 feet along RATHKE SUBDIVISION to a 5/8" bar;

THENCE North 75°43'07" East, 195.28 feet along RATHKE SUBDIVISION to a 5/8" bar;

THENCE leaving said road North 22°39'16" West, 909.27 feet to a 5/8" bar at a fence corner;

THENCE South 63°54'58" West, 413.85 feet to the approximate center line of the Hiawatha Canal;

THENCE North 22°41'12" West, 183.40 feet to the South side of Carbonate Street;

THENCE North 61°13'30" East, 57.97 feet to the Hailey City Limits;

THENCE North 28°45'58" West, 80.00 feet to the North side of Carbonate Street (20 feet being vacated);

THENCE South 61°13'30" West, 49.45 feet to the center line of the Hiawatha Canal;

THENCE North 22°41'12" West, 466.90 feet to the intersection with the Hailey City Limits;

THENCE continuing North 22°53'07" West, 779.28 feet along said canal to the North boundary of Section 9;

THENCE South 89°25'28" East, 442.36 feet to the brass cap marking the TRUE POINT OF BEGINNING.

MAR 23 1995

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
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HAILEY OFFICE:
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HAILEY, IDAHO 83333
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FAX (208) 788-4230

April 27, 1993

Mr. Loren Holmes
Regional Manager
Department of Water Resources
Southern Regional Office
222 Shoshone Street, East
Twin Falls, Idaho 83301

RECEIVED

APR 29 1993

Department of Water Resources
Southern Regional Office

Re: Applications for Permit
Rod Thornton & Keith Friedly

Dear Loren:

Enclosed you will find Applications for Permit which I have prepared for Rod Thornton and Keith Friedly. Each application seeks the right to divert groundwater to irrigate one (1) acre of land on a residential lot in the Buckhorn Subdivision, First Addition, north of Hailey, Idaho. Each Application includes a mitigation plan using a portion of Water Right No. 37-00577 (Adjudication Claim No. A37-12818) owned by Marathon Partners. This is the same water right used in mitigation plans which I recently submitted on behalf of the Blaine County School District and Gregg Sturtevant. Another portion of this same water right is the subject of an application for transfer I recently filed for Dr. J. Peter Fitzpatrick. Therefore, it probably makes sense to review these applications together.

Please call me if you have any questions concerning these Applications. I would also appreciate some indication of the Department's current timing for scheduling these Applications for advertising. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD

James P. Speck
James P. Speck

JPS/dlw

cc: Rod Thornton (w/enclosures)
Keith Friedly (w/enclosures)
Gary Slette (w/enclosures)
Gregg Sturtevant (w/enclosures)

RECORDED

MAR 23 1995

HOGUE, SPECK & AANESTAD

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March 25, 1993

RECEIVED

MAR 29 1993

Mr. Glen Saxton
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Department of Water Resources
Southern Region Office

Re: Application for Permit No. 37-08587
Mr. Gregg K. Sturtevant - Plan of Mitigation

Dear Glen:

I represent Mr. Gregg K. Sturtevant who has filed Application for Permit No. 37-08587 (the "Application") which seeks the diversion of 0.11 cfs of groundwater for the irrigation of 3.74 acres of a single family residential lot located in the Croy Canyon area west of Hailey, Idaho. This Application seeks a permit to divert ground water for a consumptive use within the Big Wood River Ground Water Management Area (the "Area"). The proposed point of diversion (well) is within the upper Big Wood River Basin as defined in section I,A of the Management Policy for the Area (the "Policy"). Under section III of the Policy, approval of this Application may be granted if it is determined the water supply is adequate and other water rights will not be injured by the new diversion to a consumptive use. Applicant proposes the following plan of mitigation to satisfy these requirements.

MITIGATION PLAN

I. THE MITIGATION RIGHT.

Marathon Partners, an Idaho general partnership ("Marathon"), is the owner of 2.72 cfs of Idaho Water Right No. 37-00577, commonly known as the "W. T. Riley right", and claimed in the Snake River Basin Adjudication (the "Adjudication") as Claim No. 12818 for the irrigation of 103 acres in Sections 9 and 10, Township 2 North, Range 18 East, B.M owned by Marathon. No other water rights have been used for this purpose. All of this

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land has been annexed into the City of Hailey and subdivided or proposed to be subdivided into small, single family residential lots known as Deerfield Subdivisions Nos. 3, 4 and 5 and Hidden Meadows Subdivision (the "Subdivisions"). The Subdivisions will be served by the municipal water supply of the City.

Applicant has purchased from Marathon (see enclosed copy of Quitclaim Deed), contingent upon approval of the Application, 0.079 cfs of this water right (this acquired portion of the water right is hereinafter referred to as the "Mitigation Right").

II. EXCHANGE OF WATER RIGHTS.

The Mitigation Right has historically irrigated the following lands within the subdivision (2.72 cfs / 103 acres = 0.026 cfs / acre; 0.079 cfs / 0.026 cfs / acre = 3 acres):

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4</u>	<u>1/4</u>	<u>Irrig. Acres</u>
2N	18E	10	NW	NW	3

Total number of irrigated acres: 3

These lands will no longer be irrigated by the Mitigation Right. Applicant proposes to "exchange" the Mitigation Right pursuant to the provisions of I.C. § 42-105 in return for the consumptive ground water diversion under the permit and license sought by the Application, as amended to reduce the amount to 0.079 cfs and the place of use to 3.0 acres of irrigated land (the "Ground Water Right"), on the following terms and conditions:

1. The Mitigation Right shall remain in the Big Wood River to compensate for depletion of the Big Wood River flows available for diversions pursuant to valid water rights and for the supply of water to Magic Reservoir.

2. The Ground Water Right shall have the same priority date as the Mitigation Right (March 24, 1883) for the conjunctive administration of ground water and surface water diversions from the Big Wood River and its tributaries.

3. The Ground Water Right shall have a priority date of January 9, 1990 for its administration solely with respect to other ground water rights,

4. A measuring device and lockable controlling works

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of a type acceptable to the Department shall be permanently installed and maintained as a part of the diverting works for the Ground Water Right prior to any diversion thereunder.

5. Diversion of ground water pursuant to the Ground Water Right shall be administered by the watermaster of Water District 37, Big Wood River.

6. The maximum instantaneous diversion rate under the Ground Water Right shall be 0.079 cfs.

7. The annual diversion volume and annual consumptive use of the Ground Water Right shall be limited to 10.5 acre feet and 7.5 acre feet respectively, and the maximum number of acres irrigated by the Ground Water Right during any one irrigation season shall be three (3) acres.

8. Upon approval of this Application and issuance of the permit for the Ground Water Right, Applicant shall file a claim for the Ground Water Right in the Snake River Basin Adjudication. The provisions of this "exchange" shall be incorporated into the Director's recommendations for the Mitigation Right and the Ground Water Right in the Director's Report for Basin 37 to be filed in the Snake River Basin Adjudication. The non-use of the Mitigation Right for irrigation purposes as a part of this "exchange" shall not be deemed non-use subject to the forfeiture provisions of I.C. § 42-222.

The consumptive use of the Mitigation Right (7.5 AFA for the irrigation of three (3) acres) is the same as the consumptive use of the Ground Water Right. The total annual volume historically diverted by the Mitigation Right will also be the total annual volume limitation for the Ground Water Right (3.5 AFA X 3 acres = 10.5 AFA - paragraph 5 of the Application should be amended to reflect this diversion volume limitation). The Mitigation Right will be "left in the river", so that neither the total annual volume diverted from the interconnected ground water and surface flow resource nor the consumptive use of such diverted water shall increase over the present uses. Thus, there will not be any injury to other surface water rights in the Big Wood River or its tributaries, or to the storage rights in Magic Reservoir. Finally, it should be noted that any return flows from the Mitigation Right are presently to the Big Wood River and not to Silver Creek. Thus, this proposal will not affect in any way the surface flows of Silver Creek or its tributary aquifer.

I am also enclosing a copy of my letter of even date to Loren Holmes forwarding an Application for Permit in the name of

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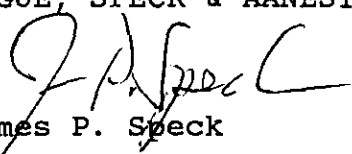
Mr. Glen Saxton
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Page 4

the Blaine County School District, which also proposes the use of a part of Marathon's claimed portion of the W. T. Riley Right for mitigation. It makes sense to me that the Department consolidate its review of this water right for each of the applications into a single process.

Mr. Sturtevant's Application for Permit No. 37-08587 was not protested. I am also sending a copy of this letter to Loren Holmes in the event the Application is still in his office. Please contact me as soon as you have had an opportunity to review this proposal. Thank you again for your continuing cooperation and assistance in these matters.

Sincerely yours,

HOGUE, SPECK & AANESTAD



James P. Speck

JPS\dmk
(enclosures)

cc: Mr. Gregg K. Sturtevant (w/ enclosures)
Mr. Edmund E. Dumke (w/ enclosures)
Mr. Gary Slette (w/ enclosures)
Mr. Loren O. Holmes (w/ enclosures)

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