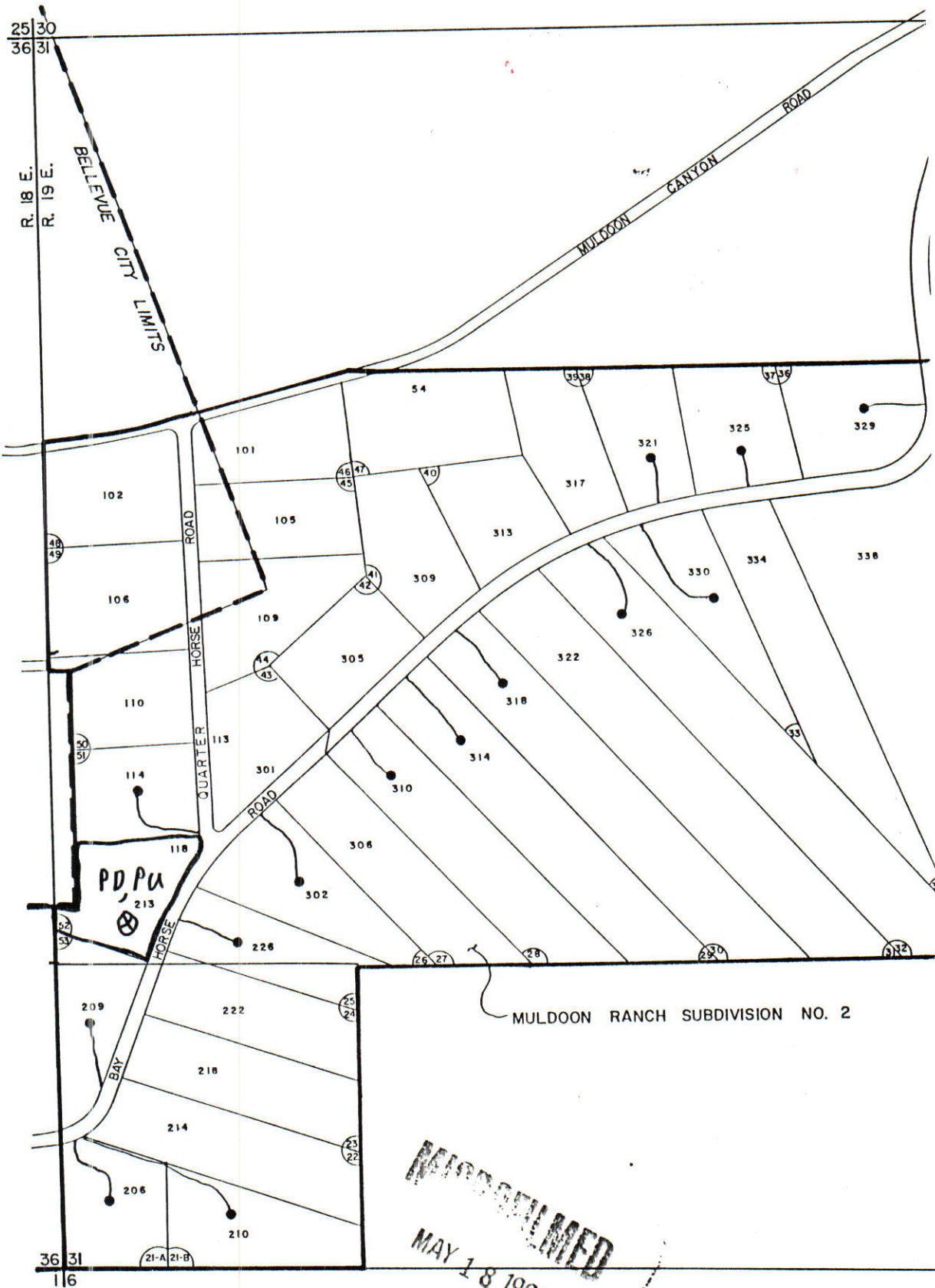




RECORDED
MAY 18 1992

SEC. 31, T. 2 N., R. 19 E.
OCT 21 1993

37-08811

RECEIVED

JUN 14 1994

Department of Water Resources

For Office Use Only

\$15 Fee Received by AW

Date 6/14/94

Receipt No. 0030536

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

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

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

Permit No. 37-08811

Name(s) of Permit Holder: SCOTT McILHENNY

Mailing Address: P.O. Box 310 BELLEVUE, IDAHO 83313

Date Proof is Due AUGUST 1, 1994 Telephone No. 208-788-2131

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

Well Has BEEN drilled, domestic pump
Has BEEN PLACED AND domestic water is
BEING used, pitless ADAPTER FOR IRRIGATION
pump in place w/ Blowdown piping Costing \$10,000⁰⁰

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

TIME Ran out on digging SEASON, I
WANT TO FINISH THE PROJECT CORRECTLY
WHICH WILL TAKE MORE TIME AND MONEY.

Permit holder(s) request an extension to AUGUST 1, 1999.

FEE: \$15.00

Scott McIlhenney
(Signature)*

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

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to August 1, 1997. JUL 25 1994

Signed this 20th day June, 19 94

J. Glen Saxton
Chief, Water Allocation Bureau

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 37-08811

Proposed Priority: May 3, 1993 Maximum Diversion Rate: 0.09 CFS
This is to certify, that SCOTT MC ILHENNY
PO BOX 310
BELLEVUE ID 833130310
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	0.09 CFS

LOCATION OF POINT(S) OF DIVERSION: Lot 3(SWNWSW), Sec. 31, Township 02N, Range 19E
BLAINE County

<u>PLACE OF USE:</u>	<u>IRRIGATION</u>					
<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
02N	19E	31	Lot 3(NWSW)	5		5
Total number of acres irrigated:						5

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before August 1, 1994.
2. Subject to all prior water rights.
3. 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.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. A well drilled pursuant to this permit must be located at least 500 feet from any existing well. Well spacing closer than 500 feet must be approved by the Department of Water Resources.
6. Construction of the well must comply with Idaho well construction standards.
7. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
8. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
9. The Director retains jurisdiction of this right and/or subsequent license issued to change, add or remove any requirement as determined to be appropriate.

RECEIVED

OCT 21 1993

Permit To Appropriate Water

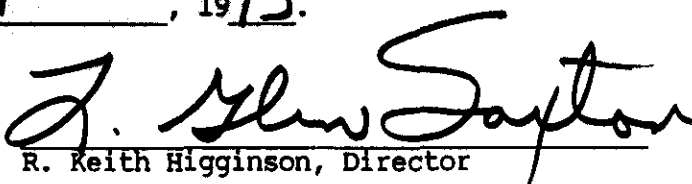
NO. 37-08811

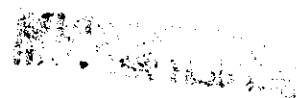
CONDITIONS/REMARKS:

10. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.03 cubic feet per second for each acre of land.
11. Place of use is located within Lot 52, Muldoon Ranch Subdivision #2.
12. The total combined rate of diversion under this right and Right No. 37-08696 shall not exceed 0.15 cfs.
13. The total combined acres to be irrigated under this right and Right No. 37-08696 shall not exceed 5 acres.
14. This permit is approved in conjunction with an exchange of surface water rights which will remain in the Big Wood River pursuant to the exchange provisions contained in Section 42-105, Idaho Code.
15. A flow rate of 0.13 cfs, partially authorized by Right No. 37-00363H and 0.10 cfs of Right No. 37-00364F, must remain in the Big Wood River to compensate for depletion caused by diversion of groundwater authorized by this permit.
16. For purposes of regulating groundwater in conjunction with flows of the Big Wood River, water may be diverted pursuant to this permit under a priority of April 12, 1883.
17. For purposes of regulating this permit with respect to other groundwater rights, the priority of this right shall be May 3, 1993.
18. The Director retains jurisdiction over this permit and any subsequent license to adjust the mitigation and to require the collection and reporting of pumpage and use data.
19. Water must be applied to the land by an efficient method that conserves the quantity of water delivered.

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

18th day of October, 1993.

for 
R. Keith Higginson, Director



OCT 21 1993

RECEIVED
JUL 19 1993

Form 202
6/85

Ident. No. 37-08811

RECEIVED

Department of Water Resources
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

MAY 04 1993

To appropriate the public waters of the State of Idaho

Department of Water Resources

Southern Region Office

1. Name of applicant SCOTT McILHENNY Phone 788-2131

Post office address P.O. Box 310 BELLEVUE, IDAHO 83313

2. Source of water supply GROUNDWATER which is a tributary of N/A

3. Location of point of diversion is SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Govt. Lot 3

Sec. 31 Township 2N Range 19E B.M. BLAINE County; additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.09 for IRRIGATION purposes from 4-15 to 10-15 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 0.09 cubic feet per second and/or (b) _____ acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. WELL AND Pump TO
SPRINKLERS

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 8 inches; proposed depth of well is 175 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 2 years (minimum 1 year).

RECEIVED

OCT 21 1993

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	
2N	19E	31									5								5
											43								

Total number of acres to be irrigated 5

10. Describe any other water rights used for the same purposes as described above. 37-08696

Also RELATED TO 37-00363H and 37-00364F.

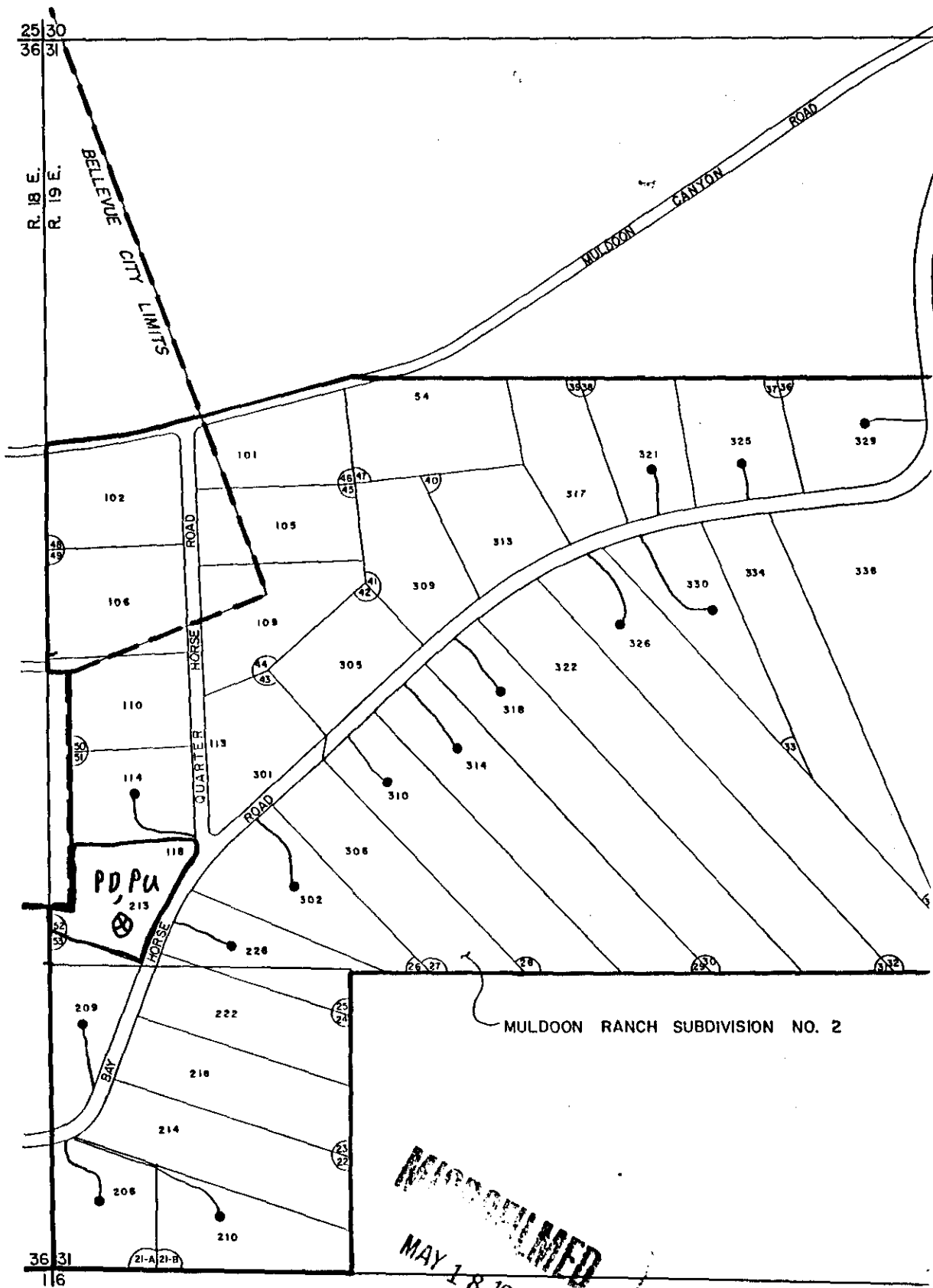
11. a. Who owns the property at the point of diversion? SCOTT MCILHENNY

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

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

OCT 21 1993

12. Remarks: THIS APPLICATION OVERLAPS THREE ACRES IRRIGATED PURSUANT TO PERMIT NO. 37-08696, AND RAISES THE RATE OF DIVERSION TO 0.03CFS/ACRE. THE REMAINDER OF RIGHTS 37-00363H AND 37-00364F WILL REMAIN IN THE BIG WOOD RIVER TO COMPENSATE FOR THE GROUNDWATER WITHDRAWAL. DIPP in Lot 52 of Muldoon 1/4 Sec. 2.

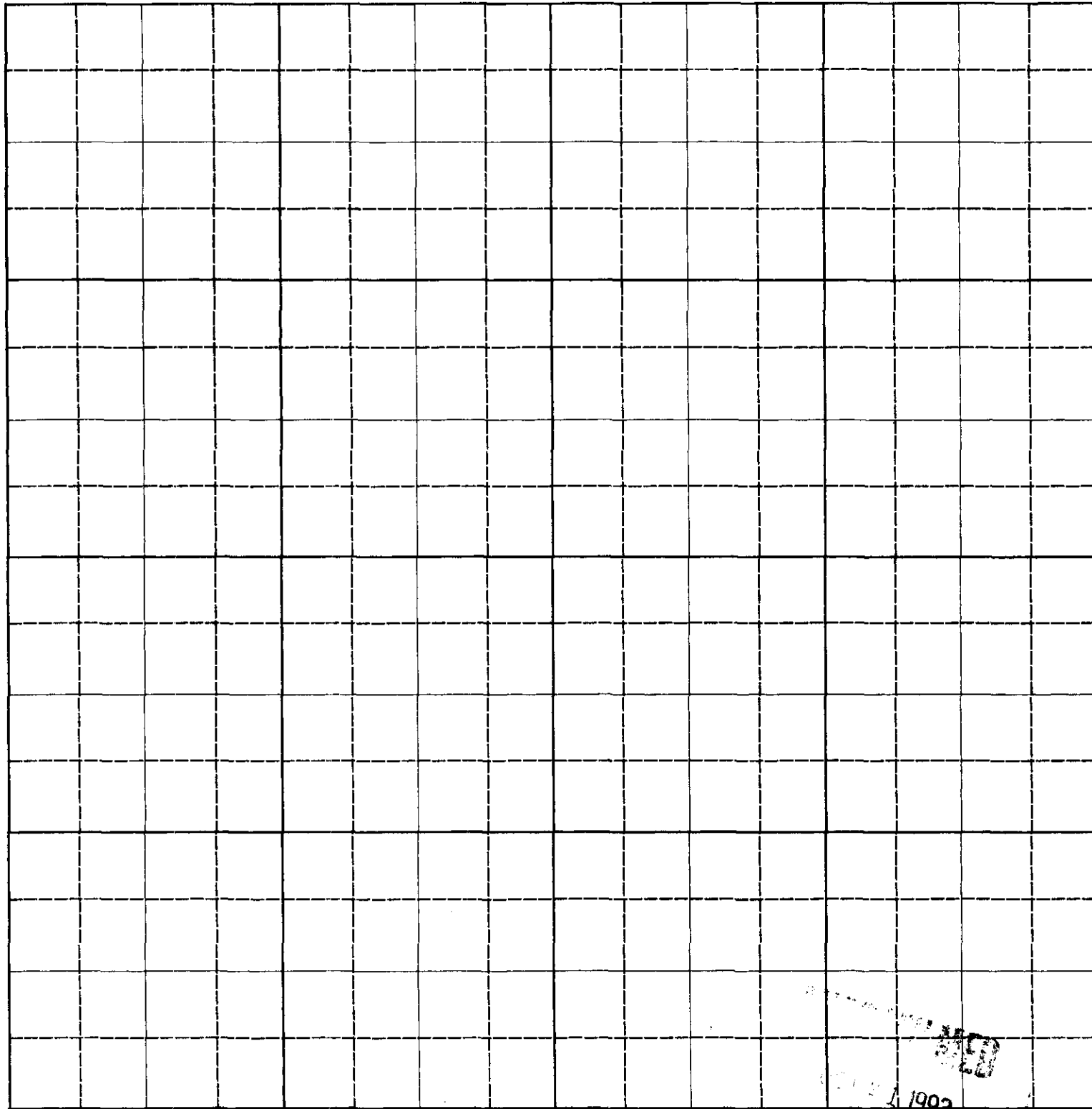


RECORDED
MAY 18 1992

SEC. 31, T. 2 N., R. 19 E.
OCT 21 1993

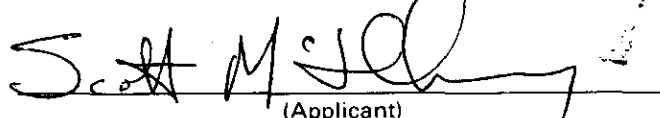
37-08811

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.


(Applicant)
SCOTT MCILHENNY

Received by MTS Date 5-3-93 Time 12:30 Preliminary check by J. F. Stanton
Fee \$ 30.00 Receipted by MTS # 5015692 Date 5-3-93
Publication prepared by MB Date 5-14-93 Published in Wood River Journal
Publication approved MBaldwin Date 6/16/93

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

OCT 21 1993



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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 11, 2000

LEE PETERSON
P O BOX T
SHOSHONE, ID 83352

RE: Water Right Permit Nos. 37-08696 and 37-08811
Water Right Nos. 37-00363H and 37-00364J

Dear Mr. Peterson:

This letter is a response to your FAX of September 7, 2000 to Pam Skaggs of this office regarding permit no. 37-08696. The conditions on the permit indicate that 0.13 cfs of right no. 37-00363H and 0.10 cfs of right no. 37-00364F would remain in the Big Wood River to compensate for depletion caused by the ground water diversion authorized under the permit. Right no. 37-00363H authorizes a total of 0.22 cfs and right no. 37-00364F was split into parts H and J under transfer no. 3492 authorizing a total of 0.16 cfs to part J for the subject property. The mitigation left a total of 0.15 cfs available for diversion from the river under those two rights (37-00363H and 37-00364J).

At the time the permit was approved, the owner was contemplating use of the remaining 0.15 cfs under right nos. 37-00363H and 37-00364J as mitigation for appropriation of additional ground water to irrigate the remaining 2 acres on the property. In fact, permit no. 37-08811 was approved in October of 1993 for that reason (see enclosed copy of permit). Unfortunately, the condition on permit no. 37-08811 regarding mitigation water is incorrect. The condition should have provided that the entire diversion authorized under right nos. 37-00363H and 37-00364J (0.38 cfs) be utilized as mitigation for ground water diversion under both permits. The condition can be corrected when the rights are processed for licensing.

At this point, the total diversion rate of 0.38 cfs authorized under right nos. 37-00363H and 37-00364J should be considered mitigation water and must remain in the Big Wood River to compensate for depletion caused by the ground water diversion authorized under permit nos. 37-08696 and 37-08811. The two permits authorize the diversion of ground water at a rate of 0.15 cfs for the irrigation of 5 acres when used together.

Please feel free to contact me at 208-327-7940 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Peppersack', written in a cursive style.

Jeff Peppersack, Manager
Water Right Permits Section

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 23, 1997

Scott McIlhenny
P.O. Box 310
Bellevue, ID 83313

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-08811

Dear Permit Holder:

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

Please be advised that Section 42-248, Idaho Code, which became affective on July 1, 1996, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner. Failure to maintain current records with the department could result in the assessment of a monetary penalty.

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

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

C: IDWR -S. Region

111-307-1111

AUG 1 2 1997

Permit No. 37-08811 Reviewed by WJH Date 7-23-97

TYPES OF USE

Int - Soc

Correct Uses? yes

SOURCE OF WATER

✓ Ground water source

Copy in the file? Drill

200 Amount paid for permit

no Well log in the file?

Drilling Permit No. 37-92-S-130-000

yes Correct?

MEASURING DEVICE

NC Required?

Installed?

Waiver requested?

Date proof received

Date proof due

No. of days late

Priority Date

New Priority Date

- none
- acknowledge proof

New Address

Proof Made

7-22-97

FOR OFFICE USE ONLY
Amt. of Fee \$: 50.00
Receipt No. 034624
Receipt By: SS
Date Received: 7/22/97

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUL 22 1997

PROOF OF BENEFICIAL USE

Department of Water Resources

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

1. Permit No. 37-08811 Telephone No. 208-788-2131
2. Name(s) of Permit Holder(s): SCOTT McILHENNY
3. Mailing Address: P.O. Box 310 BELLEVUE, ID 83313
4. Source of Water: GROUNDWATER If GROUNDWATER (well), Date Drilled: mo. 9 / yr. 92
 - a. Well Driller: WOOD RIVER DRILLING & PUMP Drilling Permit Number: 37-92-S-130
 - b. OPTIONAL:
Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): _____ Stockwater (No. and type of stock): _____
Irrigation (No. of acres): 5 Other: _____
6. Total rate of diversion and/or volume for which proof is submitted: 0.09 cfs OR _____ acre feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete).

Measuring Device: Is a measuring device required?	Yes _____ or No <u>✓</u>
Has the measuring device been installed?	Yes _____ or No <u>✓</u>
Flow Measurement Port: Is a flow measurement port required?	Yes _____ or No <u>✓</u>
Has the measurement port been installed?	Yes _____ or No <u>✓</u>

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
Name: SCOTT McILHENNY Telephone Number: 208-788-2131
Address: 213 BAY HORSE RD PO Box 310 BELLEVUE, ID 83313
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: Scott McIlhenny Date: 7/20/97
(include your title, if on behalf of company or organization)

AUG 17 1997

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

JD2

Receipt No: C039624

Date: 7/22/1997
Time: 10:48:46

Received
From: MCILHENNY, SCOTT

Type of Payment	Program A cct	Amount
BENEFICIAL USE 37-08811	56104 229 21 1155	50.00
CHECK 2670		
	Total	\$ 50.00

Region: STATE

Signature: 

MICROFILMED

AUG 12 1997

May 31, 1997

SCOTT MC ILHENNY
PO BOX 310
BELLEVUE ID 833130310

PROOF DUE NOTICE

RE: PERMIT NO. 37-08811

Dear Permit Holder:

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

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

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

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

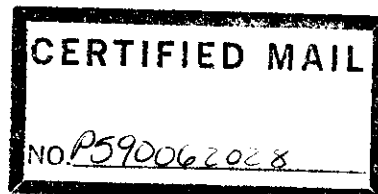
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

101-07-0111

AUG 12 1997



ANALYSIS SHEET
FOR
EXTENSION OF TIME

Permit No. 37-08811

Reviewed by JY

Date 6-17-94

BASIC INFORMATION

6-14-94 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

yes Has adequate work been completed to demonstrate due diligence?
Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? Requested?
Is delay by a government agency?
Is supporting documentation needed to complete the file? Requested?
Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN

Should extend to August 1, 1997
for due diligence

PRIORITY CALCULATION

Date extension received		=	
Proof due date		=	
Number of days late		=	
Priority date		=	
New Priority Date		=	

DATA ENTRY

New Address _____
Change Proof Due Date 8-1-97
Change Priority Date _____

June 20, 1994

Scott McIlhenny
P.O. Box 310
Bellevue, ID 83313

RE: Permit No. 37-08811

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to August 1, 1997. Please note that the department has granted this extension based on due diligence. It is important that you work diligently toward the completion of this project during the construction period allowed since the department will not be able to grant additional extensions based on due diligence.

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

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Regional Office

RECEIVED
JUL 25 1994

May 31, 1994

SCOTT MC ILHENNY
PO BOX 310
BELLEVUE ID 833130310

PROOF DUE NOTICE

RE: PERMIT NO. 37-08811

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before August 1, 1994. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

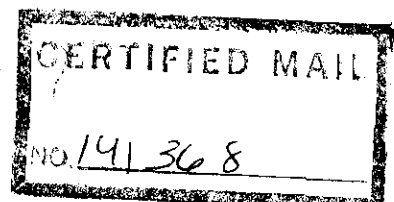
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MAILED
JUL 25 1994





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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 19, 1993

SCOTT MC ILHENNY
PO BOX 310
BELLEVUE ID 833130310

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 37-08811

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. You will receive a "Proof Due Notice" from this Department approximately 60 days prior to the completion date requiring you to file either a Proof of Beneficial Use form stating that the project has been completed or file a Request for an Extension of Time in which to file the proof statement.

Section 42-235, Idaho Code, requires that a "drilling permit" must be obtained from the department for all wells constructed after July 1, 1987. A drilling permit is a separate permit that must be issued in addition to your permit to appropriate water. Commencement of well construction or diversion of water under your permit to appropriate water is prohibited unless a drilling permit is obtained.

You should be aware that you are located within a drainage basin where surface water diversions are regulated by a watermaster. It is possible that diversion of groundwater under your permit may cause a reduction of surface water flow. Siting your well as far as possible from surface water channels and casing your well so that groundwater tributary to surface water flows are not diverted will reduce the potential for the watermaster to regulate your water use.

RECEIVED

OCT 21 1993

This permit authorizes the appropriation of trust water. Trust water is defined as that portion of a particular hydropower water right which exceeds certain minimum stream flows established by state action, and is held in trust by the State of Idaho for the use and benefit of the people within the state. Conditions pertaining to a term review, annual use fee and jurisdiction of the permit are trust water conditions.

Sincerely,



for JIM JOHNSON
Water Rights Supervisor

JJ:dc

Enclosures

OCT 21 1993

APPLICATION FOR PERMIT
STATE OFFICE REVIEW

Application #: 37-8811 Date: 7/29/93 Reviewer: Cindy Zimmerman

AREA OF CONCERN? - No/Yes E.S.R.P. Mor & Big Wood R. GUMA
SYSTEM COMPLETED:
No - 26A-P17
Complete in 1 year - P16
Yes
Proof not submitted - P16
Proof submitted - N/A
GROUNDWATER:
+ 0.2 cfs <flo-ch> - 01G-P03, 01C-P03 (existing), NMR
- 0.2 cfs - NMR <flow chart>
Drilling Permit:
Included w/permit - P99 Permit No. _____
Existing well - N/A (if drilled before 7/1/87)
No WD permit? - 046-46A(IRR)-46B-P23 (if drilled after 7/1/87)
SURFACE WATER: not in WD - 01C-P03 (+.2 w/pump), NMR <flow chart>
LOCATION:
Water District - WD No. 37
Surface water - 005 or 005-01J-P08(+.2)
or 005-01H-P01(-.2 w/pump); NMR
Groundwater - P05 (if well has not been drilled)
Irrigation Dist. - 023
Canal Co. Areas - 023
Drainage Districts - 024
Flood Control Dist. - 063
Boise Front (63) - 058 (Groundwater temperature)
Swan Falls Flag - 7 (1, Blank or Other)
Trust - 051-052-053-P74 (Consumptive Uses)
Non Trust <1> - 048-049
RIVER BASINS (Surface): Water District Control Condition (005) &....
Boise (63) - 05A (req), 11E (non-domestic use)
Payette (65) - 047-P04, -P
Snake (01, 02 & 03) - 11A-P04(01), 061-P07(02/03 No W.D.Cond.)
USE:
Fish Propagation - 06A, 09E-P10 (WQ/Choose One) & 010, 042 (req),
002-P06(MD), 07A(Special), 044(Policy 5G)
Power - 08A, 17K, 025, 027 (req); 01F-P19; 09E-P10;
+25 cfs-P18; 17G or 17M; 18B-P09
Mining - 06A, 010, or 09E-P10 & 054 (req)
Storage(✓ 3 compo.) - 18A-for multi MD in WD, 18B-P09 (+10' Size)
Rec/Wildlf/Aesthetic - 027-if +½ A. pond (Non-Consumptive)
Domestic (surface - 021 - Boise River upstream from L Peak
restricted areas) 27A - Payette River & main tributaries
OWNERSHIP:
Non land owner - 004
PROTESTED:
Hearing agreement - 020
REMARKS:
① GBI(37-8696/15) (2) when combined with 37-8696 no more than 5A
③ Exchange of water with Rts 37-363H & 37-364E remain in Big Wood R.
④ P/O located within 4152, Multnomah Reservoir
⑤ See 37-8696 for rest of remarks Sub #2
OTHER CONDITIONS:
BENEFICIAL USE DUE:
COMMENTS:
① GUMA exempt - mitigation

WR0749NP
No. P37-08811

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT
(REGIONAL)

DATE: 07/30/93
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD		DIVERSION RATE	DIVERSION VOLUME
				FROM	TO		
C	SCOTT MC ILHENNY PO BOX 310 BELLEVUE ID 833130310 (208) 788-2131	05/03/1993	IRRIGATION	04-15	10-15	0.09 CFS	
TOTAL DIVERSION:						0.09 CFS	

Water Source: GROUNDWATER

Tributary to:

Stage: PERMIT

Point(s) of Diversion: T02N R19E S31 Lot 03(SW NW SW)

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE				SUM
T	R	S	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	
02N	19E	31	:				:				:					5.0
TOTAL ACRES																5.0

Pou County: BLAINE

Other Water Rights with Same Point(s) of Diversion and Source:
37-08696 37-08811

Other Water Rights Listing Overlapping Place(s) of use:
37-00577BK 37-00577R 37-07839 37-08649 37-08811

Conditions of Approval:

- 26A - 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.
- 046 - Right holder shall comply with the drilling permit
 - requirements of Section 42-235, Idaho Code.
- 46A - A well drilled pursuant to this permit must be located at least
 - 500 feet from any existing well. Well spacing closer than 500
 - feet must be approved by the Department of Water Resources.
- 46B - Construction of the well must comply with Idaho well
 - construction standards.
- 051 - Any license issued by IDWR pursuant to the right or portion
 - thereof for the use of trust water is subject to a term review
 - of 20 years after the date of this approval to determine
 - availability of water for the use and to re-evaluate the public
 - interest at the end of the term.
- 052 - Diversion and use of water under this right is subject to an
 - annual use fee if rules are subsequently promulgated which
 - provide for the submittal of the fee.
- 053 - The Director retains jurisdiction of this right and/or
 - subsequent license issued to change, add or remove any
 - requirement as determined to be appropriate.
- 057 - The rate of diversion of water for irrigation under this right

Conditions of Approval:

- and all other water rights on the same land shall not exceed
- 0.03 cubic feet per second for each acre of land.

Remarks: Place of use is located within Lot 52, Muldoon Ranch Subdivision #2.

The total combined rate of diversion under this right and Right No. 37-08696 shall not exceed 0.15 cfs.

The total combined acres to be irrigated under this right and Right No. 37-08696 shall not exceed 5 acres.

This permit is approved in conjunction with an exchange of surface water rights which will remain in the Big Wood River pursuant to the exchange provisions contained in Section 42-105, Idaho Code.

A flow rate of 0.13 cfs, partially authorized by Right No. 37-00363H and 0.10 cfs of Right No. 37-00364F, must remain in the Big Wood River to compensate for depletion caused by diversion of groundwater authorized by this permit.

For purposes of regulating groundwater in conjunction with flows of the Big Wood River, water may be diverted pursuant to this permit under a priority of April 12, 1883.

For purposes of regulating this permit with respect to other groundwater rights, the priority of this right shall be May 3, 1993.

The Director retains jurisdiction over this permit and any subsequent license to adjust the mitigation and to require the collection and reporting of pumpage and use data.

Water must be applied to the land by an efficient method that conserves the quantity of water delivered.

Dates: App. Received: 05/03/1993 Priority Date: 05/03/1993
Proof Due Date: 08/01/1994 Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: 37 Field Exam Fee:

Comments: Date: 07/30/1993 User-ID: ZIMMERMA Subject: BIG WOOD RIVER GWMA EXEMPTION
This permit is located within the Big Wood River Groundwater Management Area boundary; however, due to mitigation where surface water from rights 37-00363H/00364F will remain in the Big Wood River, this permit is acceptable under the provisions of Section 42-105, Idaho Code.

Audit: 07/30/93 ZIMMERMA

MEMORANDUM

DATE: July 30, 1993
TO: File No. 37-08811
FROM: Cindy Zimmerman
SUBJECT: Trustwater Review

=====

This application proposes to divert trustwater 0.09 cfs from a groundwater source to irrigate 5 acres in S31, T02N, R19E. This application satisfies 42-203A & C requirements. This application is located within the Big Wood River GWMA; however, an acceptable mitigation plan involving an exchange of surface water has been agreed upon.


OCT 21 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET SCOTT McILHENNY

INITIAL REVIEW BY J.F. Stanton DATE 5-5, 1993
APPLICATION NO. 37-0 8811

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)
☒ Period of use
☒ Nature of proposed use (include description of use)
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map
☒ Signature (If applicant is corp., partnership, or municipality, title of signator is required)
☒ Fee
☒ Yes ☐ No* In form to receipt
- ++++PROPOSED PRIORITY DATE
5-3 1993

RECEIVED
JUL 19 1993

Department of Water Resources

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 report attached
☐ Yes ☒ No Critical Ground water area
☒ Yes ☐ No Groundwater management area
☐ Yes ☒ No Send Dam safety information
☐ Yes ☒ No Send power requirement letter
☐ Yes ☒ No Send fish farm requirement letter
☐ Yes ☒ No Power residency affidavit.
☐ Yes ☒ No Power efficiency form
☒ Yes ☐ No Within trustwater boundary(If yes, attach trustwater supplementary analysis sheet.
☐ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.

Drought Moratorium.
Process - Claims Mitigation
rights, per Loren

See reverse side for additional information.

* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

Date Requested _____, 19____

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

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

FINAL REGIONAL PROCESSING REVIEW

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

☒ Yes ☐ No Publication dates and paper, recorded on App.
☐ Yes ☒ No Protests received
Final date for Protest 6/21/93
☐ Yes ☒ No Protests, dates, resolution of protest, recorded on app.
☒ Yes ☐ No Recommendations attached See below
☐ Yes ☒ No Measuring device required
☐ Yes ☒ No Access port required
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what dist. 37
☒ Yes ☐ No Special conditions of approval or cover letter below. See below -

See below for additional information

Date of priority recommended 5/3, 1993
By James O'Hanlon Date 7/13, 1993

STATE OFFICE REVIEW

See below for additional information

By _____ Date _____, 19 ____

ADDITIONAL INFORMATION:

NO more than 5 Acres to be irrigated when combined with 37-8696

NO more than 15 ~~ac~~ cfs to be diverted when combined w/ 37-8696

Exchange of water with Rts. 37-00363H & 37-00364F is required under this permit - See Permit 37-08696

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____

AFFIDAVIT of PUBLICATION

State of Idaho, } SS.
County of Blaine

On this 9th day of June, in the year 1993, before me a Notary Public of said State, personally appeared **DANIEL J. GORHAM**, known or identified to me to be the person whose name is subscribed to be the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same. As the publisher of the Wood River Journal, he/she attests that said newspaper has been continuously and and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 2 day of June, 1993, and the date of the last publication was on the 9 day of June, 1993.

Daniel J. Gorham
Subscribed and sworn to before me this 9th day of June, 1993.
(SEAL)

Roberta McKencher
NOTARY PUBLIC

#8739

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice 81
Number of Insertions _____
Lines tabular at _____ 6¢/Pica
81 Lines straight at 40.50 5¢/Pica
81 Subsequent lines at 36.45 4¢/Pica
TOTAL COST 81.95 \$.00

COPY OF NOTICE (Paste Here)

Application for trust
water right

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept of Water Resources
BILL TO T.F.

Application for trust water right

NOTICE OF APPLICATION FOR TRUST WATER RIGHT

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

37-08810
VALLEY RANCH PARTNERS
1139 FALLS AVE E SUITE B
TWIN FALLS ID 83301

Source: groundwater

Two (2) points of diversion within: SW1/4NW1/4NW1/4, S28, T03N, R18E; Blaine County.

Use: Domestic (.40 cfs)
from 01/01 to 12/31
Fire Protection (3.4 cfs)
from 01/01 to 12/31

Total Diversion: 3.4 cfs

Date Filed: 5/3/93

In: SE1/4SE1/4, S20, T03N, R18E; SW1/4SW1/4, S21, T03N, R18E; NW1/4, NE1/4SW1/4, NW1/4SW1/4, SE1/4SW1/4, S28, T03N, R18E.

37-08811 ✓
SCOTT MC ILHENNY
PO BOX 310
BELLEVUE ID 83313

Source: groundwater

Diversion Pt: Lot 3
(SW1/4NW1/4SW1/4), S31, T02N, R19E; Blaine County.

Use: irrigation (0.09 cfs)
from 04/15 to 10/15

Date Filed: 5/3/93

In: 5 acres within Lot 3
(NW1/4SW1/4), S31, T02N, R19E.

The permit 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 Director, Dept. of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 on or before June 21, 1993.

R. Keith Higginson, Director

Publish: Wood River Journal-
June 2 & 9, 1993.

RECEIVED

OCT 21 1993

NOTICE OF APPLICATION FOR TRUST
WATER RIGHT

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been filed to appropriate the
public waters of the State of
Idaho:

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1139 FALLS AVE E SUITE B
TWIN FALLS ID 83301

Source: groundwater

Two (2) points of diversion
within: SW1/4NW1/4NW1/4, S28,
T03N, R18E; Blaine County.

Use: Domestic (.40 cfs)
from 01/01 to 12/31
Fire Protection (3.4 cfs)
from 01/01 to 12/31

Total Diversion: 3.4 cfs

Date Filed: 5/3/93

In: SE1/4SE1/4, S20, T03N,
R18E; SW1/4SW1/4, S21, T03N,
R18E; NW1/4, NE1/4SW1/4,
NW1/4SW1/4, SE1/4SW1/4, S28,
T03N, R18E.

37-08811
SCOTT MC ILHENNY
PO BOX 310
BELLEVUE ID 83313

Source: groundwater

Diversion Pt: Lot 3
(SW1/4NW1/4SW1/4), S31, T02N,
R19E; Blaine County.

Use: irrigation (0.09 cfs)
from 04/15 to 10/15

Date Filed: 5/3/93

In: 5 acres within Lot 3
(NW1/4SW1/4), S31, T02N, R19E.

The permit 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
Director, Dept. of Water
Resources, Southern Region, 222
Shoshone Street East, Twin
Falls, ID 83301 on or before
June 21, 1993.

R. Keith Higginson, Director

Published in Wood River Journal
on 6/2 & 6/9/93.

RECEIVED

OCT 21 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

17-May-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 once a week for two consecutive weekly issues of 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

001 21 1993

NOTICE OF APPLICATION FOR TRUST WATER RIGHT

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

37-08810
VALLEY RANCH PARTNERS
1139 FALLS AVE E SUITE B
TWIN FALLS ID 83301

Source: groundwater

Two (2) points of diversion within: SW1/4NW1/4NW1/4, S28, T03N, R18E; Blaine County.

Use: Domestic (.40 cfs) from 01/01 to 12/31
Fire Protection (3.4 cfs) from 01/01 to 12/31

Total Diversion: 3.4 cfs

Date Filed: 5/3/93

In: SE1/4SE1/4, S20, T03N, R18E; SW1/4SW1/4, S21, T03N, R18E; NW1/4, NE1/4SW1/4, NW1/4SW1/4, SE1/4SW1/4, S28, T03N, R18E.

37-08811
SCOTT MC ILHENNY
PO BOX 310
BELLEVUE ID 83313

Source: groundwater

Diversion Pt: Lot 3 (SW1/4NW1/4SW1/4), S31, T02N, R19E; Blaine County.

Use: irrigation (0.09 cfs) from 04/15 to 10/15

Date Filed: 5/3/93

In: 5 acres within Lot 3 (NW1/4SW1/4), S31, T02N, R19E.

The permit 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 Director, Dept. of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 on or before June 21, 1993.

R. Keith Higginson, Director

Published in Wood River Journal on 6/2 & 6/9/93.

RECEIVED

OCT 21 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

14-May-1993

R. KEITH HIGGINSON
Director

SCOTT MC ILHENNY
PO BOX 310
BELLEVUE ID 83313

Re: Application for Permit No. 37-08811

Dear Mr. Mc Ilhenny:

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

This office will be advertising the application in the Wood River Journal on 6/2 & 6/9/93. A period of ten days following the second publication will be allowed for the submittal of protests.

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

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

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

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

JS:MB

007 12 1993



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

April 17, 1992

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

Lee Peterson
Box T
Shoshone, ID 83352

RE: Application for Permit No. 37-08696; Water Rights Nos.
37-0363H and 37-0364F

Dear Lee:

Enclosed is a copy of a permit issued to Scott McIlhenny authorizing diversion of ground water, and a cover letter which accompanied the permit. The permit is the first in a series of permits which may be approved by the Department requiring the contribution of a surface water right to the river to compensate for the ground water withdrawal.

McIlhenny owns water rights nos. 37-0363H and 37-0364F. The water rights were transferred to five acres owned by McIlhenny, and the water was to be delivered through the Cove no. 33 headgate into the Cove Canal.

A condition of McIlhenny's permit is that McIlhenny will leave a portion of his rights in the river for compensation. The letter I wrote to McIlhenny told him the watermaster should not deliver any of his rights into the Cove Canal until instructed further. The rights must remain in the river, and cannot be sold or transferred by McIlhenny during the pendency of this permit. The water left in the river is available for diversion by later-in-time appropriators.

Thank you for your help in this matter, if you have any questions, please call.

Sincerely,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

cc: Loren Holmes
Scott McIlhenny

RECEIVED

OCT 21 1993

37-08811



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 17, 1992

Scott McIlhenny
P.O. Box 310
Bellevue, ID 83313

RE: Application for Permit to Appropriate Water No. 37-08696;
Surface Water Rights Nos. 36-0363H and 37-0364F

Dear Scott:

Enclosed is your approved application for permit authorizing diversion of ground water for irrigation of three acres. I am sorry it has taken us so long to accept your proposal for mitigation, and place it in proper form in our records.

Please note the conditions of approval on your permit. Lee Peterson, watermaster for the Big Wood River, will be instructed that all of rights numbers 37-00363H and 37-00364F, which were previously authorized for diversion through the Cove no. 33 headgate should no longer be delivered, at least until he receives further instruction from us. I am anticipating that you will file another application to irrigate the remaining two acres you own.

Please also note conditions 8 and 9 which establish priorities for purposes of regulation. This permit will not be regulated by the watermaster unless some conjunctive management of ground water and surface water is implemented in the future. Condition number 8 contemplates the possibility of co-regulation.

Condition number 9 is placed on the permit in case your well interferes with another nearby ground water use. A person drilling a new well should not be able to interfere with a prior

601 21 1993

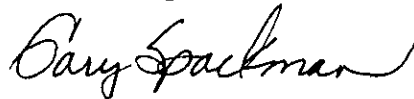
37-08811

Scott McIlhenny
April 17, 1992
Page - 2

existing well simply because surface water mitigates for the ground water withdrawal.

If you have any further questions regarding your permit, please call me.

Sincerely,



GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

cc: Loren Holmes
Lee Peterson

OCT 21 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

March 6, 1992

RECEIVED

MAR 10 1992

WATER RESOURCES
DIVISION

Scott McIlhenny
P.O. Box 310
Bellevue, ID 83313

RE: Application for Permit to Appropriate Water No. 37-08696;
Mitigation with Water Rights Nos. 37-0363 and 37-0364

Dear Mr. McIlhenny:

We have reviewed the information which you submitted regarding the ten acres from which your portions of water rights nos. 37-0363 and 37-0364 were originally transferred. We have also independently researched the use of water on the ten acres, and use of water on the five acres to which the water right is now appurtenant.

We conclude that 1983 was the last year water was delivered in the Justus Ditch. Houses have now been constructed where the Justus Ditch was once located. We have no record of delivery of your water rights until 1989, although your application for transfer was filed in November, 1988. It appears that water may not have been delivered for a period of five years, although the period of nondelivery did not exceed five years.

We have received information that, from 1989 through the present, most of the water rights delivered by the Cove Ditch have been undeliverable because of their late priority. Your rights were legally deliverable, but could not physically be delivered because additional water was needed to carry your water to you. The time from 1989 to the present will not be added on to any possible forfeiture period.

Finally, the Department allowed the transfer of the point of diversion to the Cove Ditch and a change in the place of use in 1989. The transfer only sought the irrigation of 5 acres with the entire amount of water.

The Department will recognize irrigation of not more than 5 acres with your surface water rights. Application for permit no. 37-08696 requests irrigation of three acres. I understand from our conversation that you own five acres. If you wish to irrigate more land than the three acres, you must file another application for permit. The Department of Water Resources will approve your plan of mitigation to contribute your portions of

OCT 21 1992

37-08811

37-0364

• Scott McIlhenny
March 6, 1992
Page - 2

water rights nos. 37-0363 and 37-0364 to the river to compensate for your ground water withdrawal and irrigation of three (3) acres. Application no. 37-08696 will be approved with the condition that 0.13 cfs of right no. 37-0363 and 0.10 cfs of right no. 37-0364 must remain in the Big Wood River. The remainder of your water rights can be used as compensation for irrigation of the additional two (2) acres you own.

Approval of your mitigation plan by the Department will not preclude further consideration of your water rights, including the issue of forfeiture, in the Snake River Adjudication. If you intend to market the residual portion of your rights for irrigation, the buyers should be informed that the validity of the rights may again be scrutinized in the future.

If you wish to refine any part of my letter, please respond within fifteen (15) days. If I don't receive a response, I will process application no. 37-8696.

Respectfully,



GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc: Southern Region