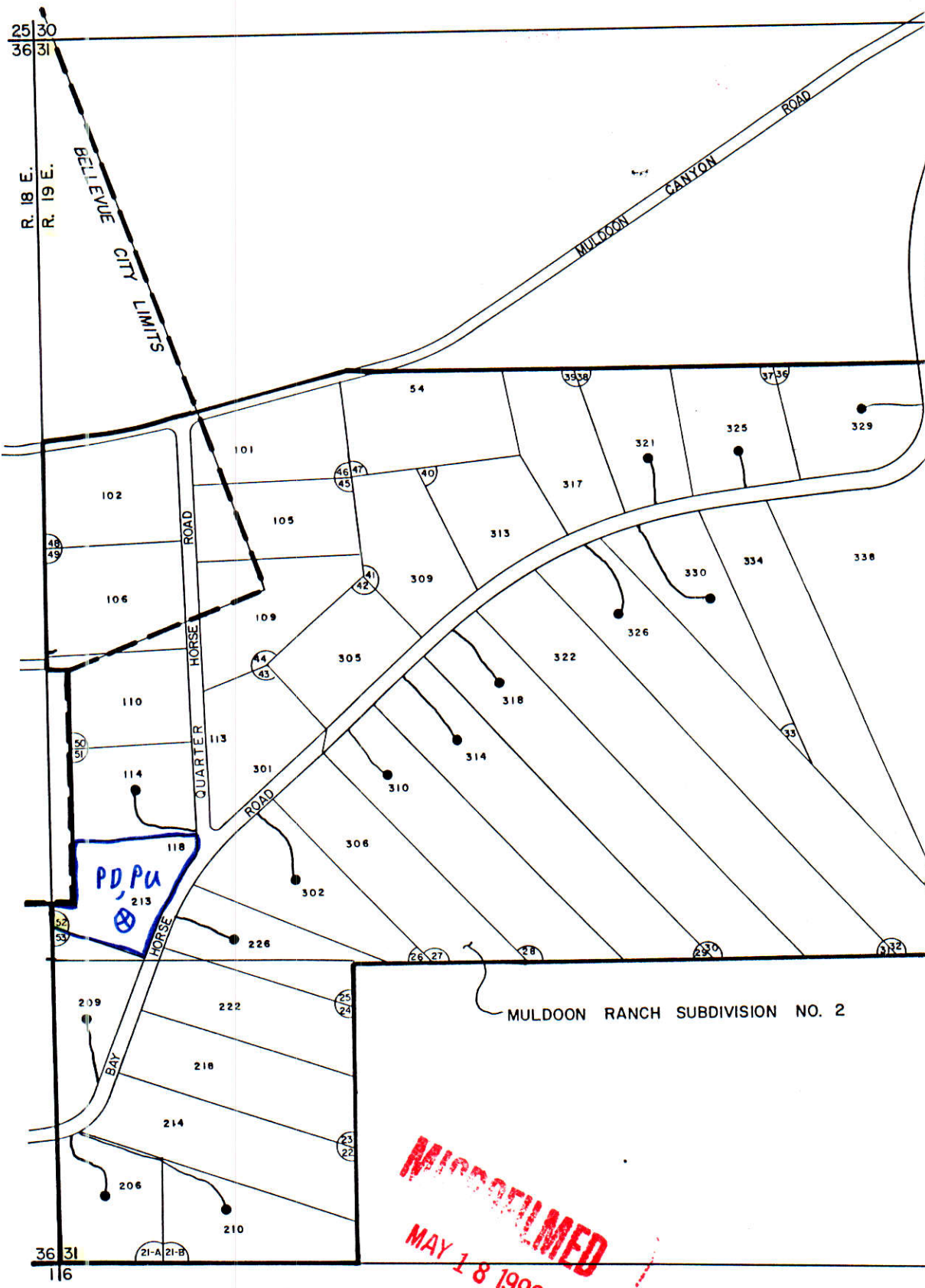
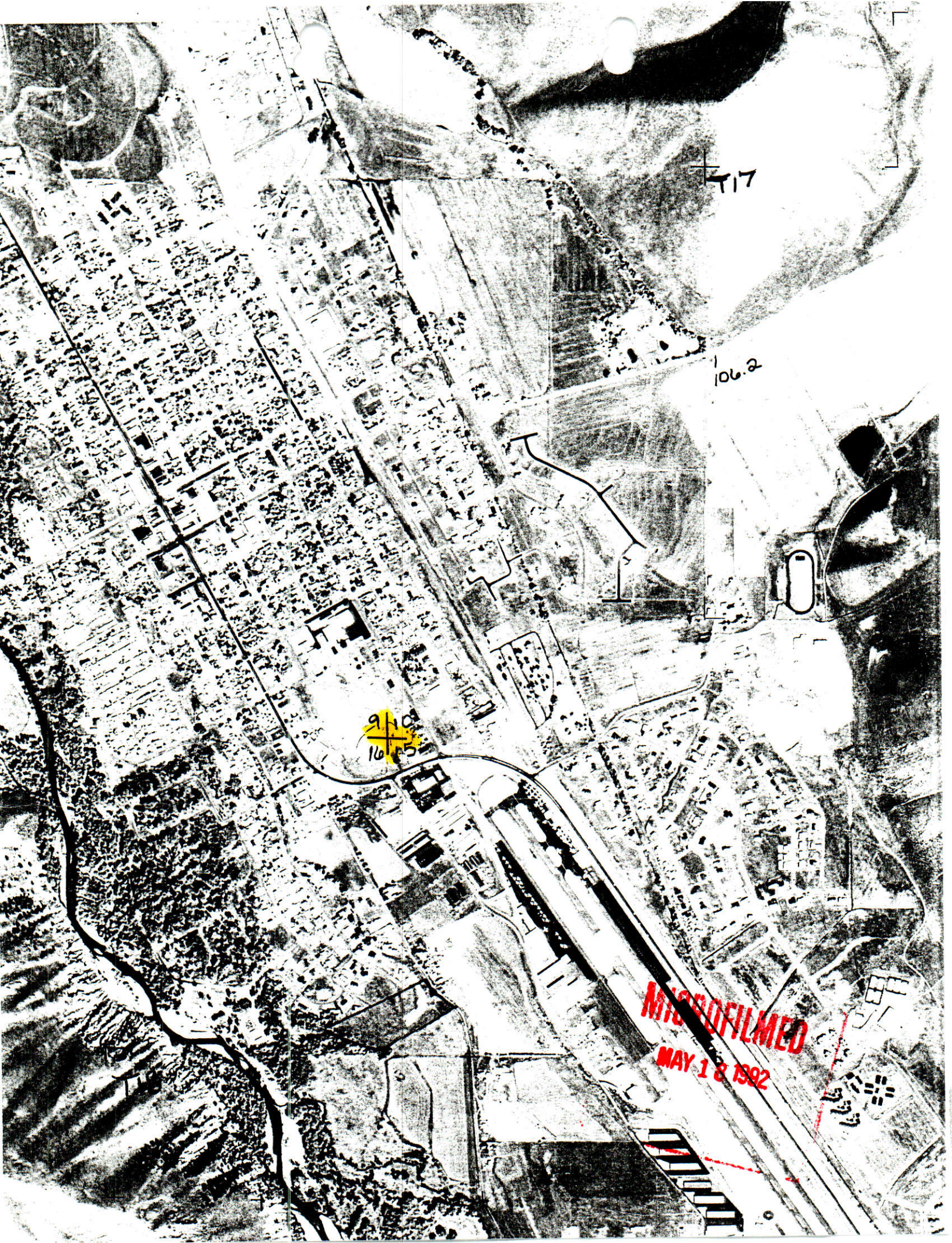




**RECORDED**  
MAY 18 1992

SEC. 31, T. 2 N., R. 19 E.





T17

106.2

9140  
1615

MICROFILMED  
MAY 18 1992

**WATER MASTER TAX RECEIPT**  
**BLAINE, LINCOLN, GOODING COUNTIES**  
**WATER DISTRICT 37 & 37M — IDAHO**

1728

IRRIGATION SEASON OF 1981 SHOSHONE, IDAHO 83352

Assessed Against Richard Thompson

Address % Mrs. Joe Arrate

Route 1 Box 170

Shoshone, Idaho 83352

Paid by

Address

CANAL NO.

32

24 Hr. SECOND FEET

18.0

PRIORITY NO.

20-A3

Budget \$ 10.00

Debit \$

Credit \$ .75

Balance Due \$ 9.25

Other Charges \$

Total Due \$

Total Tax Paid \$

Date

This receipt is issued subject to collection where  
payment is tendered in form other than cash.

The Watermaster shall mail a notice to each  
Ditch, Canal Company, Irrigation District or other  
water user of the amount payable by such water  
user for the distribution of water and other ex-  
penses of said district for the ensuing year, which  
amount shall be due and payable to the Water-  
master before any water may be delivered and  
if not paid by June 1st, shall bear interest at the  
rate of 12 per cent per annum until paid.

18

Watermaster

Big & Little Wood River

Watermaster

By

Secretary

AJ-37 10799 RICHARD THOMPSON  
165 158 5"  
**MICROFILMED**

**MAY 18 1992**



**MICROFILMED**

**MAY 18 1992**

**SEC. 31, T. 2 N., R. 19 E.**

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

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APR 19 1996

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.

1. Permit No. 37-08696 Telephone No. 208-788-2131

2. Name(s) of Permit Holder(s): SCOTT McILHENNY

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

4. Source of Water: GROUNDWATER If GROUNDWATER (well), Date Drilled: mo. 9 / yr 1992

a. Well Driller: Wood River Drilling Pump Drilling Permit Number: 37-92-5-130

b. OPTIONAL:

Pump Horsepower: \_\_\_\_\_ Pressure (psi): \_\_\_\_\_ Dynamic pumping level (ft): \_\_\_\_\_

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

Domestic (No. of households): 1 Stockwater (No. and type of stock): \_\_\_\_\_

Irrigation (No. of acres): 3 Other: \_\_\_\_\_

6. Total rate of diversion and/or volume for which proof is submitted: 0.10 cfs OR \_\_\_\_\_ acre feet

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

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

Measuring Device: Is a measuring device required? Yes \_\_\_\_\_ or No ☒

Has the measuring device been installed? Yes \_\_\_\_\_ or No ☒

Flow Measurement Port: Is a flow measurement port required? Yes \_\_\_\_\_ or No ☒

Has the measurement port been installed? Yes \_\_\_\_\_ or No ☒

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

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

Name: SCOTT McILHENNY Telephone Number: 208-788-2131

Address: 213 Bay Horse Road 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 McIlhenney Date: 4/15/96  
(Include your title, if on behalf of company of organization)

APR 29 1996

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APR 13 1994

Department of Water Resources

For Office Use Only  
\$15 Fee Received by dw  
Date 4/13/94  
Receipt No. C630023

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. 37-08696

Name(s) of Permit Holder: SCOTT McILHENRY

Mailing Address: P.O. Box 310 Bellevue, Idaho 83313

Date Proof Is Due MAY 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/ Rowdown piping Costing \$10,000<sup>00</sup>

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

TIME RAN OUT ON DIGGING SEASON,  
WANT TO DO PROJECT CORRECTLY WHICH WILL  
TAKE MORE TIME AND MONEY.

Permit holder(s) request an extension to MAY 1, 1994

FEE: \$15.00

Scott McIlhenry  
(Signature)\*

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

APR 26 1994

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 May 1, 1996.

Signed this 20<sup>th</sup> day April, 19 94

J. Shaw Saylor  
Chief, Water Allocation Bureau

State of Idaho  
Department of Water Resources

# Permit To Appropriate Water

NO. 37-08696

Proposed Priority: November 30, 1990 Maximum Diversion Rate: 0.10 CFS

This is to certify, that **SCOTT MC ILHENNY**  
PO BOX 310  
BELLEVUE ID 83313

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       | 0.06 CFS                 |
| DOMESTIC              | 01/01 to 12/31       | 0.04 CFS                 |
| Totals                |                      | 0.10 CFS                 |

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

| <u>PLACE OF USE:</u> | <u>IRRIGATION</u> |              |              |              |  |
|----------------------|-------------------|--------------|--------------|--------------|--|
| <u>TWN RGE SEC</u>   | <u>ACRES</u>      | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |  |
| 02N 19E 31           | NWSW 3            |              |              | 3            |  |

Total number of acres irrigated: 3

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **May 2, 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. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. 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.
6. This water right application 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.

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MAY 18 1992

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

NO. 37-08696

CONDITIONS/REMARKS:

7. 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.
8. 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.
9. For purposes of regulating this permit with respect to other groundwater rights, the priority of this right shall be May 4, 1990.
10. 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.
11. Water must be applied to the land by an efficient method that conserves the quantity of water delivered.
12. Place of use located within Lot 52, Muldoon Subdivision No. 2.
13. Domestic use is for 1 home.

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

10 <sup>th</sup> day of April, 1992.

*R. Keith Higginson*  
for R. Keith Higginson, Director

RECORDED  
INDEXED

MAY 18 1992

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Scott McILHENRY Phone 788-2131  
Post office address P.O. Bx 310 BELLEVUE, ID
2. Source of water supply Ground Water which is a tributary of N/A
3. Location of point of diversion is SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of SEW  $\frac{1}{4}$ , 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: \* 4-15 10-15 BLN  
Amount 0.06 cfs for IRRIGATION purposes from April to Nov 1 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount 0.04 cfs for DOMESTIC purposes from JAN 1 to Dec 31 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.10 cubic feet per second and/or (b) \_\_\_\_\_ acre feet per annum
6. Proposed diverting works:
- a. Description of ditches, flumes, pumps, headgates, etc. Well & pump
- 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 for proposed beneficial use is  
2 years (minimum 1 year).

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\* Standard Irrigation Season

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

- a. Hydropower; show total feet of head and proposed capacity in KW. \_\_\_\_\_
- b. Stockwatering; list number and kind of livestock. \_\_\_\_\_
- c. Municipal; show name of municipality. \_\_\_\_\_
- d. Domestic; show number of households. ONE
- e. Other; describe fully. \_\_\_\_\_

9. Description of place of use:

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

| TWP | RANGE | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTALS |
|-----|-------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------|
|     |       |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |        |
| 2N  | 19E   | 31   |     |     |     |     |     |     |     |     |     | 3   |     |     |     |     |     |     | 3      |
|     |       | 31   |     |     |     |     |     |     |     |     |     | D   |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |

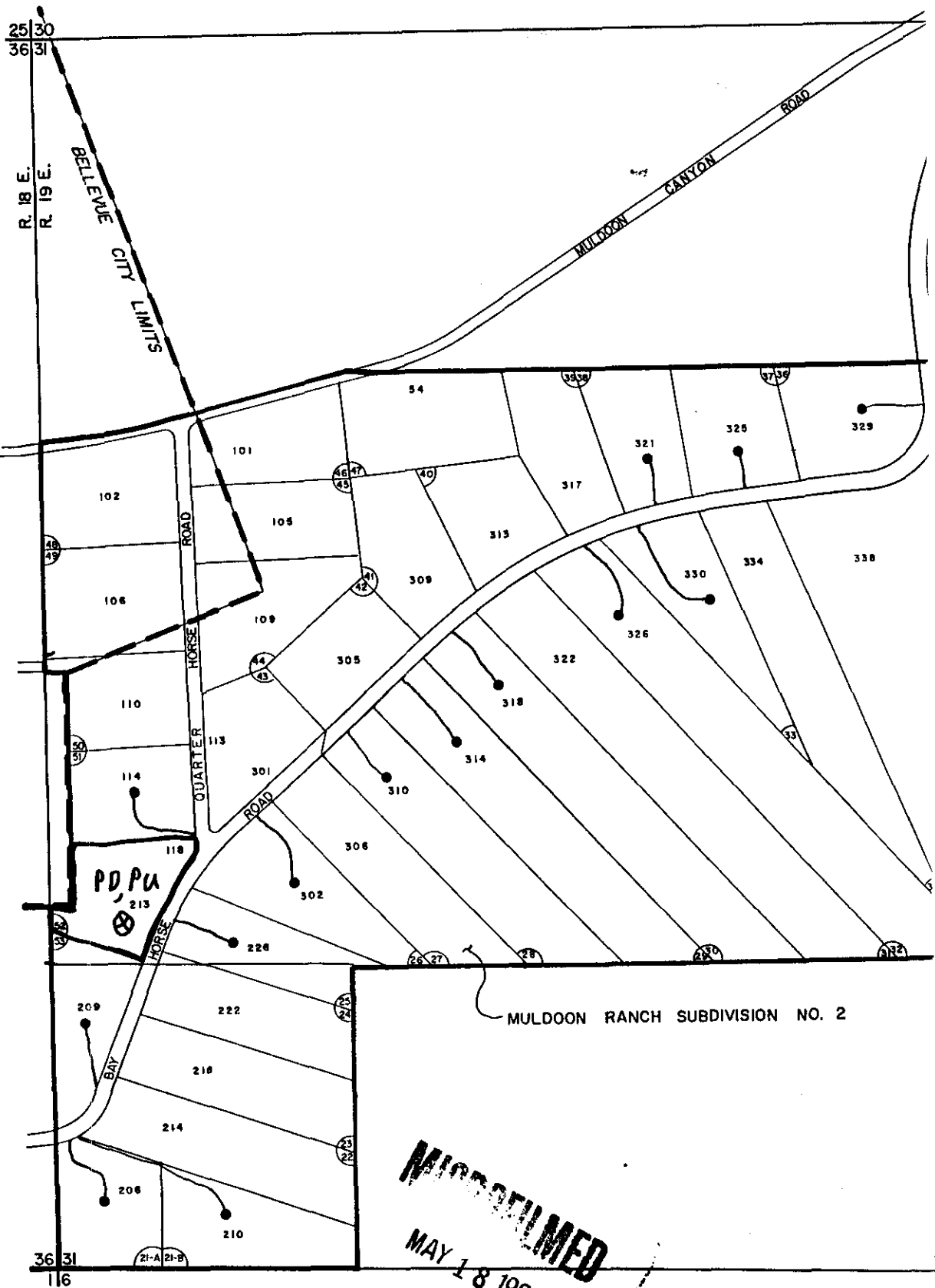
Total number of acres to be irrigated 3

10. Describe any other water rights used for the same purposes as described above. A37-003636  
A37-003646

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. \_\_\_\_\_

12. Remarks: KEN SMITH - WOOD RIVER DRILLING PUMP  
Land is Lot 52 Muldoon Subdiv. #2

MAY 18 1992



MULDOON RANCH SUBDIVISION NO. 2

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SEC. 31, T. 2 N., R. 19 E.

see attached Map

S. H. M. J. E. L.  
(Applicant)

Proposed Priority: 11-30-90

Received by MB Date 5/4/90 Time 10:10 am Preliminary check by DRJ

Fee \$ 30.00 Received by JS # 50/2862 Date 11-30-90

Publication prepared by M. Baldwin Date 12-13-90 Published in Wood River Journal

Publication approved M. Baldwin Date 1-22-91

### 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:

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# AFFIDAVIT of PUBLICATION

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State of Idaho, }  
County of Blaine } ss.

JAN 11 1991

Department of Water Resources  
Southern Region Office

DANIEL J. GORHAM

being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the

annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 2 day of Jan 1991, and

the date of the last publication was on the 9 day of Jan 1991.

Subscribed and sworn to before me this 9 day of Jan 1991  
(SEAL)

Roberta M. Mapp

NOTARY PUBLIC

# 7446

WOOD RIVER JOURNAL  
Hailey, Idaho

## COST OF PUBLICATION

Number of Picas per Line 11

Number of Lines in Notice 13.75

Number of Insertions

Lines tabular at 6¢ / Pica

123.75 Lines straight at 68.06 5¢ / Pica

123.75 Subsequent lines at 54.45 4¢ / Pica

TOTAL COST \$137.51 5.00 fee

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MAY 18 1992

## COPY OF NOTICE

(Paste Here)

Dept. of Water Resources  
TITLE OF NOTICE

37-08691 - 97

PLAINTIFF ATTORNEY

DEPENDANT

PLAINTIFF

Dept. of Water Resources  
WILL TO

## Six file on water rights

### NOTICE OF APPLICATION FOR WATER RIGHT

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

37-08691  
BABCOCK FAMILY  
PARTNERSHIP  
C/O WEST ONE BANK  
P.O. BOX 509  
TWIN FALLS, ID 83303  
Source: SPRING  
Tributary: WARM SPRINGS CR.  
Diversification Pt: NENENE Sec 36 T  
04N R 16E; SENENE Sec 36 T 04N  
R 16E  
Use: DOMESTIC (.040 CFS)  
HEATING (.166 CFS)  
AESTHETIC (.166 CFS)  
FIRE PROTECTION (.166 CFS)  
RECREATION (.166 CFS)  
Total Diversification: (.166 CFS)  
Date Filed: 8/9/1990  
In: T04N R16E S36 NENE  
37-08692  
SHELTON, JOSEPH W.  
2150 HILLCREST LANE  
TWIN FALLS, ID 83301  
Source: SPRING

Tributary: WARM SPRINGS CR.  
Diversification Pt: NENENE Sec 36 T  
04N R 16E; SENENE Sec 36 T 04N  
R 16E  
Use: DOMESTIC (.040 CFS)  
HEATING (.166 CFS)  
AESTHETIC (.166 CFS)  
FIRE PROTECTION (.166 CFS)  
RECREATION (.166 CFS)  
Total Diversification: (.166 CFS)  
Date Filed: 8/9/1990  
In: T04N R16E S36 NENE  
37-08694  
VLADIMIROFF, WANDA  
VLADIMIROFF, JOHN  
P.O. BOX 1771  
HAILEY, ID 83333  
Source: GROUNDWATER  
Diversification Pt: NESE Sec 26 T 02N  
R 17E  
Use: DOMESTIC (.040 CFS)  
IRRIGATION (.090 CFS)  
Total Diversification: (.130 CFS)  
Date Filed: 11/27/1990  
In: T02N R17E S25 NESE  
3.0 ACRES TOTAL

37-08695  
VLADIMIROFF, WANDA  
VLADIMIROFF, JOHN  
P.O. BOX 1771  
HAILEY, ID 83333  
Source: GROUNDWATER  
Diversification Pt: SWSENE Sec 25 T  
02N R 17E  
Use: DOMESTIC (.040 CFS)  
IRRIGATION (.090 CFS)  
Total Diversification: (.130 CFS)  
Date Filed: 11/27/1990  
In: T02N R17E S25 SENE  
3.0 ACRES TOTAL

37-08696  
MC ILHENNY, SCOTT  
P.O. BOX 310  
BELLEVUE, ID 83313  
Source: GROUNDWATER  
Diversification Pt: LOT 3 (SWNWWSW)  
Sec 31 T 02N R 19E  
Use: IRRIGATION (.090 CFS)  
DOMESTIC (.040 CFS)  
Total Diversification: (.130 CFS)  
Date Filed: 11/30/1990  
In: T02N R19E S31 NWSW  
3.0 ACRES TOTAL

37-08697  
OLSEN, RICHARD  
P.O. BOX 45  
CAREY, ID 83320  
Source: GROUNDWATER  
Diversification Pt: NWNWSW Sec 15 T  
01S R 21E  
Use: DOMESTIC (.040 CFS)

STOCKWATER (.040 CFS)  
COMMERCIAL (.040 CFS)  
Total Diversification: (.120 CFS)  
Date Filed: 12/11/1990  
In: T01S R21E S15 NWSW

The permittee 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, 222 Shoshone St., East, Twin Falls, Idaho 83301, on or before January 21, 1991.

R. Keith Higginson, Director  
Publisher: Wood River Journal  
January 2 & 9, 1991.



## 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 over the printed name.

Jeff Peppersack, Manager  
Water Right Permits Section

Enclosure

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

## FACSIMILE TRANSMISSION

TO: IDWR Boise  
FAX NUMBER: 327-7866  
FOR THE ATTENTION OF Pam Skaggs  
FROM Water District 37 & 37M  
FAX NO. Same as phone 886-2451  
NUMBER OF PAGES 3  
(INCLUDING THIS ONE)  
DATE 9/7/2000  
MESSAGE In reviewing our transfers & Permits for  
ground water, I found this problem. Please  
advise us what to do. We have ask about this before

=====  
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.

State of Idaho  
Department of Water Resources

# Permit To Appropriate Water

NO. 37-08696

Proposed Priority: November 30, 1990 Maximum Diversion Rate: 0.10 CFS  
This is to certify, that SCOTT MC ILHENNY  
PO BOX 310  
BELLEVUE ID 83313  
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       | 0.06 CFS                 |
| DOMESTIC              | 01/01 to 12/31       | 0.04 CFS                 |
|                       | Totals               | 0.10 CFS                 |

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

| <u>PLACE OF USE:</u> | <u>TWN</u> | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|----------------------|------------|------------|------------|--------------|--------------|--------------|--------------|
| IRRIGATION           |            |            |            |              |              |              |              |
|                      | 02N        | 19E        | 31         | NWSW         | 3            |              | 3            |

Total number of acres irrigated: 3

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 2, 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. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. 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.
6. This water right application 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.

PAGE 2

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

NO. 37-08696

CONDITIONS/REMARKS:

7. 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.
8. 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.
9. For purposes of regulating this permit with respect to other groundwater rights, the priority of this right shall be May 4, 1990.
10. 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.
11. Water must be applied to the land by an efficient method that conserves the quantity of water delivered.
12. Place of use located within Lot 52, Muldoon Subdivision No. 2.
13. Domestic use is for 1 home.

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

10 <sup>th</sup> day of April, 1992.

*R. Keith Higginson*  
for R. Keith Higginson, Director

*Transfer # 3492 list water owned as follows*

|         |         |              |
|---------|---------|--------------|
| 37-363H | .22 CFS | 11.00 inches |
| 37-364H | .16 CFS | 8.00 inches  |
|         | .38 CFS | 19 inches    |

|         |         |                         |
|---------|---------|-------------------------|
| 37-363H | .13 CFS | 6.50 inches less to BWR |
| 37-364F | .10 CFS | 5.00 inches less to BWR |

*This leaves .15 CFS to divert from a well. The diversion rate listed on this transfer is for .10 CFS. What happens to the remaining .05 CFS?*

*#10 This is not under jurisdiction of Watermaster*

**ANALYSIS SHEET  
FOR  
PROOF OF BENEFICIAL USE**

Permit No. 37-08096 Reviewed by [Signature] Date 4-26-96

**GENERAL CONSIDERATIONS**

**TYPES OF USE**

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

**SOURCE OF WATER**

           Surface water source  
✓ Ground water source  
yes Drilling permit required?  
no Copy in the file? Drilling Permit No. 37-92-8-0130-000  
200- Amount paid for permit yes Correct?  
yes Well log in the file?

**LICENSE EXAMINATION FEE**

**MEASURING DEVICE**

yes Required?  
50- Amount Submitted  
yes Correct?  
no Required?  
✓ Installed?  
           Waiver requested?

**PRIORITY CALCULATION**

|                     |                   |                   |
|---------------------|-------------------|-------------------|
| Date proof received | <u>          </u> | <u>          </u> |
| Date proof due      | <u>          </u> | <u>          </u> |
| No. of days late    | <u>          </u> | <u>          </u> |
| Priority Date       | <u>          </u> | <u>          </u> |
| New Priority Date   | <u>          </u> | <u>          </u> |

**DEFICIENCIES OR ACTION ITEMS**

Proof acceptable

**DATA ENTRY**

New Address X Proof Made 4-19-96

April 26, 1996

SCOTT MC ILHENNY  
PO BOX 310  
BELLEVUE ID 83313

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-08696

Dear Permit Holder:

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

If you have questions concerning this matter, please feel free to contact the SOUTHERN Regional Office in Twin Falls at (208) 736-3033.

Sincerely,

JULIE L. YARBROUGH  
Senior Secretary

c: IDWR - Region

RECEIVED

APR 29 1996

February 28, 1996

SCOTT MC ILHENNY  
PO BOX 310  
BELLEVUE ID 83313

PROOF DUE NOTICE

RE: PERMIT NO. 37-08696

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before May 1, 1996.

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

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

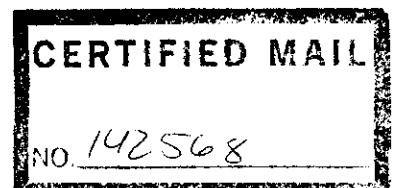
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

JULIE L. YARBROUGH  
Senior Secretary

Enclosures

APR 2 9 1996



**ANALYSIS SHEET  
FOR  
EXTENSION OF TIME**

Permit No. 37-08696 Reviewed by [Signature] Date 4-20-94

**BASIC INFORMATION**

4-13-94 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**

Recommend extend to may 1, 1996 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 5-1-96  
Change Priority Date \_\_\_\_\_

April 21, 1994

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

RE: Permit No. 37-08696

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 May 1, 1996. 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

APR 26 1994

February 28, 1994

SCOTT MC ILHENNY  
PO BOX 310  
BELLEVUE ID 83313

PROOF DUE NOTICE

RE: PERMIT NO. 37-08696

Dear Permit Holder:

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

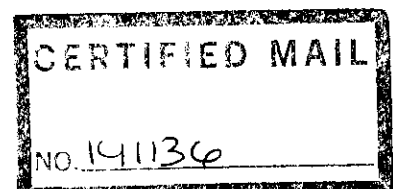
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

JULIE L. YARBROUGH  
Senior Secretary

Enclosures

APR 26 1994



## 1. WELL OWNER

## 7. WATER LEVEL

## 2. NATURE OF WORK

- ## 8. WELL TEST DATA

- ☐ Pump      ☐ Bailer      ☒ Air      ☐ Other \_\_\_\_\_

### 3. PROPOSED USE

- ## 9. LITHOLOGIC LOG

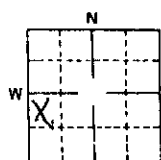
#### 4. METHOD DRILLED

- ## 5. WELL CONSTRUCTION

Describe access port \_\_\_\_\_

6. LOCATION OF WELL - 213 Bayhorse RD

Sketch map location **must** agree with written location.



Subdivision Name MULDON

RANCH SUB # 2

Lot No. 52 Block No. \_\_\_\_\_

County Blaine

NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Sec. 31 T. 2 N ☒ E ☒  
S ☐ R. 19 W ☐

## 11. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

WOOD RIVER DRILLING & PUMP INC. Firm No. 265

Address **BELLEVUE, IDAHO 83313** Date 10-12-92

Signed by Drilling Supervisor Ken Smith

and  
(Operator) PRC McHardy  
(If different than the Drilling Supervisor)



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

**MICROFILMED**

MAY 18 1992



## 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

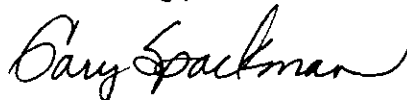
MICROFILMED  
MAY 18 1992

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

RECEIVED  
MAY 18 1992

**MEMORANDUM**

**TO:** GARY

**FROM:** JIM JOHNSON

**RE:** MC ILHENNY

**DATE:** April 9, 1992

=====  
It is really hard for me to review these type of actions when it appears to me that we have really missed the mark.

First in my opinion, the Department needs to clearly identify what is being diverted. Groundwater or surface water.

If it is surface water then why is a application for a permit to appropriate groundwater needed? Why isn't a transfer filed listing the water right and the point of diversion of the well. The whole idea of the Deer Creek transfer was to do exactly that. By approving the groundwater application on this matter it appears we double accounting. To avoid double accounting, the groundwater application has to be conditioned so that it does not allow any new appropriation at all. To follow the same logic evidenced here I should have required Deer Creek Ranches to file for a groundwater right.

Is there any possibility that dispose of the groundwater application and pursue the transfer?

**MICROFILMED**

**MAY 18 1992**

MEMORANDUM

TO: File No. 37-08696 in the Name of Scott McIlhenny  
FROM: Gary Spackman *Gary*  
DATE: April 2, 1992

RE: Conditions for Approval for Application No. 37-08696

Scott McIlhenny called me after receiving my letter dated March 6, 1992. Scott stated that he wants to irrigate a full five acres from ground water. Application no. 37-08696 was filed for irrigation of three acres because of the Swan Falls domestic limitation. He stated that he will file another application for permit for the additional two acres. McIlhenny understands that once both applications are approved, his entire ownership of water rights numbers 36-0363H and 37-0364F will be left in the river to compensate for the ground water withdrawal.

McIlhenny asked that application no. 37-08696 be processed immediately. He wants to drill a well this year. Application no. 37-08696 should be approved, with standard conditions, and the following special conditions.

1. This water right application 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 Idaho Code § 42-105.

2. A flow rate of 0.13 cfs, partially authorized by right no. 37-0363H, and 0.10 cfs of right no. 37-0364F, must remain in the Big Wood River to compensate for depletion caused by diversion of ground water authorized by this permit.

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

4. For purposes of regulating this permit with respect to other ground water rights, the priority of this right shall be May 4, 1990.

5. 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.

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

**MICROFILMED**

MAY 18 1992



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

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

**MICROFILMED**

MAY 18 1992

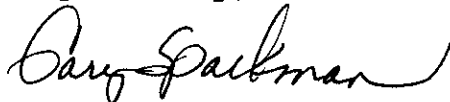
Scott McIlhenny  
March 6, 1992  
Page - 2

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

MICROFILMED

MAY 18 1992

MEMORANDUM

TO: GARY SPACKMAN

FROM: GEORGE AUSTIGUY *ga*

DATE: FEBRUARY 20, 1992

RE: MCILHENNY APPLICATION

Mr. McIlhenny's proposed exchange of surface water for ground water is based on the transfers of claims A37-0363G and A37-0364G. These claims are on part of the rights decreed to U.S. Justus in the Frost decree. Right A37-0363G has a priority date of 4/12/1883 for 0.22 cfs applied to 10 acres. Claim A37-0364G has a priority date of 5/1/1887 for 0.16 cfs with the same place of use and acreage as 37-0363G. This yields 1 inch per acre under the 1883 right and 0.8 inches per acre under the 1887 right. These rights were delivered via the Justus Ditch.

The McIlhenny transfer dated 11/4/88 transferred the point of diversion and place of use of the above rights. Acreage at the new place of use is listed as 5 acres. The transfer lists the Cove Canal as the ditch being used for delivery.

According to watermaster records water was last delivered to the Justus Ditch in 1983. Therefor at the time McIlhenny applied for the transfer the water rights had not been delivered for 5 years. Technically the transfer could have been denied based on forfeiture.

The delivery list for water district 37 for 1990 does list Scott McIlhenny as one of the users on the Cove ditch. Thus we can assume that water, if available, was being delivered to the Cove Canal after McIlhenny's transfer was approved. The Cove Canal does pass near the place of use identified in the transfer. This indicates that a system is in place by which one could irrigate the place of use. I spoke with Otis Disbennett of the Cove Canal Co. and he related to me that due to lack of water, rights as far down the canal as McIlhenny's could not be delivered last season.

The application for permit to appropriate water from a groundwater source lists the same place of use as the surface water transfer identifies. Irrigated acreage however, is identified as 3 acres.

Attached is a memo from Steve Clelland from southern which describes some aspects of the transferred rights from the adjudication perspective.

There exists the potential future conflict of the claim being denied on the grounds of forfeiture or possibly the priority date being advanced to the time of the transfer application.

**MICROFILMED**

MAY 18 1992

I was unsuccessful in finding any evidence which would indicate the claimed rights were being used between the years 1984 and 1988.

#### RECOMENDATIONS

In determining whether this mitigation plan should be approved, due consideration should be given to the possibility of the claim being denied or the priority date advanced by the SRBA. I would advise Mr. McIlhenny as to the possible consequences of such an action and that it is to his benefit to uncover any evidence that shows the transferred water was put to use during the period in question. The mitigation plan should be conditional on approval of the claim.

If the mitigation plan is approved the exchange of surface water should come from the 1883 right as the 1887 right is not deliverable throughout the irrigation season.

**MICROFILMED**

MAY 18 1992

# ROUTING SLIP

TO: GEORGE AUSTIGUY

FROM: STEVE CLELLAND

DATE: 2-11-92 TIME: \_\_\_\_\_

| PER:             |                                     |
|------------------|-------------------------------------|
| Our Conversation | <input checked="" type="checkbox"/> |
| Your Request     | <input checked="" type="checkbox"/> |
| The Attached     | <input type="checkbox"/>            |

| FOR YOUR:   |                                     | REVIEW AND:        |                          |
|-------------|-------------------------------------|--------------------|--------------------------|
| Information | <input checked="" type="checkbox"/> | Take Proper Action | <input type="checkbox"/> |
| Approval    | <input type="checkbox"/>            | Comment            | <input type="checkbox"/> |
| Signature   | <input type="checkbox"/>            | Draft A Reply      | <input type="checkbox"/> |

| ATTACHED TO BE: |                          |                       |                          |
|-----------------|--------------------------|-----------------------|--------------------------|
| Posted          | <input type="checkbox"/> | Returned To Me        | <input type="checkbox"/> |
| Circulated      | <input type="checkbox"/> | Filed                 | <input type="checkbox"/> |
| Distributed     | <input type="checkbox"/> | Copied (_____ copies) | <input type="checkbox"/> |

IDWR MEMO

\*\*\*\*\*

TO: GEORGE AUSTIGUY

FROM: STEVE CLELLAND *sc*

DATE: FEBRUARY 11, 1992

RE: JUSTUS DITCH ABANDONMENT

YOU ASKED ME TO VERIFY IRRIGATION USE ON THE LANDS DESCRIBED AS T02N, R18E, S15, SWNW, 3.0 ACRES, AND S16, SENE, 7.0 ACRES. I AM FAMILIAR WITH THIS AREA SINCE IT IS PART OF THE TEST AREA FOR THE ADJUDICATION REVIEW PROCESS. I PERFORMED SOME INITIAL FIELD EXAMS FOR THE LANDS IN T02N - R18E ON JUNE 6, 1990.

THE LANDS YOU IDENTIFIED ARE CLAIMED IN THE SRBA AS A37-00363G AND A37-00364G. THERE IS NO DELIVERY OF BIG WOOD IRRIGATION WATERS TO THIS PROPERTY. THE JUSTUS DITCH ORIGINALLY USED TO DELIVER THE WATER HAS LONG BEEN ABANDONED AND FILLED IN BY DEVELOPMENT. THERE IS AT LEAST ONE HOUSE, NEAR THE PLACE OF USE LISTED ABOVE, BUILT OVERTOP THE DITCH. ALSO, NEAR THE HAILEY CITY PARK THERE IS AN APARTMENT BUILDING BUILT OVERTOP THE DITCH. THE LANDS DESCRIBED AND SHOWN ON THE ATTACHED MAP ARE NOT IRRIGATED AND ARE IN THE PROCESS OF BEING SUBDIVIDED WITH HOUSES BEING BUILT ON THE 10 ACRE TRACT. THIS WAS CONFIRMED BY THE NAPP PHOTO X74 SW, 437-11, DATED 8-8-87.

I SPOKE TO THE WATERMASTER FOR THE BIG WOOD RIVER, LEE PETERSEN, THIS MORNING AND HE SAID THEY BELIEVED THE RECORDS INDICATE THE FINAL ABANDONMENT OF THE JUSTUS DITCH TO BE IN 1983. AFTER MY FIELD WORK IN JUNE 1990, I MET WITH REID NEWBY (PREVIOUS WATERMASTER FOR THE BIG WOOD) AND HE GAVE ME A GUIDED TOUR OF ALL THE POINTS OF DIVERSION FROM THE BIG WOOD RIVER. DURING THAT MEETING HE INDICATED THE JUSTUS DITCH HAD BEEN ABANDONED FOR A MUCH LONGER PERIOD OF TIME. IT IS POSSIBLE THAT THE RECORDS MR. PETERSEN REFERS TO IS THE PAYMENT OF THE ASSESSMENT AND NOT THE ACTUAL DELIVERY AND USE OF THE WATER IN THE JUSTUS DITCH.

TRANSFER #3492 CHANGES THE POINT OF DIVERSION OF THESE RIGHTS TO THE COVE CANAL #33 HEADGATE AND MOVES THE PLACE OF USE. THIS TRANSFER IS BASED ON A FORFEITED/ABANDONED WATER RIGHT AND SHOULD NOT HAVE BEEN APPROVED. THE ADJUDICATION CLAIMS FOR THESE RIGHTS WOULD BE RECOMMENDED FOR DISALLOWAL BASED ON THE CURRENT STANDARDS OF REVIEW.

**MICROFILMED**  
MAY 18 1992



CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELAND *sw* FILE A3600363 & 00364  
(split)

RE: ABANDONED DELIVERY SYSTEM

DATE 2-11-92

NAME OF PARTY

LEE PETERSON (BIG WOOD WATER MASTER)  
886 - 2451

I asked him about the Justus Pitch deliveries and when they were abandoned and the ditch filled in - He said the best they had come up with was about 1983 the last deliveries were made.

**MICROFILMED**

MAY 18 1992

RECEIVED  
JAN 22 1992

1/13/92

Department of Water Resources

37-8696

GARY,

ENCLOSED YOU WILL FIND THE AERIAL VIEW OF THE PROPERTY THAT MY WATER RIGHTS WERE ATTACHED TO BEFORE THE CHANGE IN PLACE OF USE. I'M INCLUDING THE LEGAL DESCRIPTION OF PROPERTY AS IT WAS RECORDED IN THE BLAINE CITY COURTHOUSE. I BELIEVE THE LAND IN QUESTION TO BE AROUND 9-10 ACRES. I THOUGHT YOU'D BE ABLE TO FIGURE TOTAL ACRES PRETTY CLOSE BY USING THE LEGAL DESCRIPTION ALSO ENCLOSED IS A COPY OF A RECEIPT FROM WATER DISTRICT 37 FROM THE YEAR 1981. I HOPE THIS INFORMATION IS WHAT YOU WERE LOOKING FOR IN PROVING WHEN AND WHERE THIS WATER HAD BEEN USED PREVIOUS TO MY ACQUISITION OF IT. THE GAL AT THE A&CS OFFICE MENTIONED THAT THE PHOTO WAS TAKEN IN 1984. THANKS GARY, LOOK FORWARD TO HEARING FROM YOU.

Sincerely

MICROFILMED

MAY 18 1992

SCOTT MILHENNY

McF

GARY,

THIS IS THE PROPERTY  
THAT MY WATER RIGHTS  
WERE PREVIOUSLY ATTACHED  
TO BEFORE THE CHANGE



TOWNSHIP 2 NORTH OF RANGE 18 EAST of the BOISE MERIDIAN  
PLAINE COUNTY, STATE OF IDAHO:  
That portion of the SE $\frac{1}{4}$  of Section 16 and of the SW $\frac{1}{4}$  of  
Section 15, Described as follows:

Beginning at a point on the west side of a county road from  
whence the section corner common to 9, 10, 15 and 16 bears N.  
10° 24' 17" W. 2256.79 distant; thence S. 61° W. 876.5 feet  
to south line of said NE $\frac{1}{4}$  Section 16; thence S. 89° 52' W.  
724.98 feet along said line; thence N. 61° E. 1415.90 feet to  
west side of said road; thence following said road approximately  
S. 44° 17' E. 362.82 feet to the place of beginning.

MICROFILMED  
MAY 18 1992



T17

106.2

MAY 1 1982

T 2 N R 8 E



Handwritten text, possibly a signature or date, located in the lower left quadrant.



**WATER MASTER TAX RECEIPT****BLAINE, LINCOLN, GOODING COUNTIES****WATER DISTRICT 37 & 37M - IDAHO**

1728

IRRIGATION SEASON OF 1981 SHOSHONE, IDAHO 83352

Assessed Against Richard Thompson

Address % Mrs. Joe Arrate

Route E Box 170

Shoshone, Idaho 83352

Paid by

Address

CANAL NO.

24 Hr. SECOND FEET

18.0

PRIORITY NO.

20-A3

Budget \$ 10.00

Debit \$

Credit \$

Balance Due \$ 9.25

Other Charges \$

Total Due \$

Total Tax Paid \$

Date

The Watermaster shall mail a notice to each Ditch, Canal Company, Irrigation District or other water user of the amount payable by such water user for the distribution of water and other expenses of said district for the ensuing year, which amount shall be due and payable to the Watermaster before any water may be delivered and if not paid by June 1st, shall bear interest at the rate of 12 per cent per annum until paid.

18

Watermaster

This receipt is issued subject to collection where payment is tendered in form other than cash.

Big &amp; Little Wood River

Watermaster

By

Secretary

RECORDED

MAY 18 1992

| SD-33     | Last Name: ARF E |           | STATE      |             |           |      |      |
|-----------|------------------|-----------|------------|-------------|-----------|------|------|
| S         | O                |           |            |             |           |      |      |
| E         | W                | Water     | Priority   |             | Total     | Use  |      |
| L         | N                | Right No. | Date       | Source      | Diversion | Code | Desc |
| ---       | ---              | ---       | ---        | ---         | ---       | ---  | ---  |
| ARRATE    |                  |           |            |             |           |      |      |
| JOE       | C                | 37-04423  | 06/01/1937 | WASTE WATER | 1.000     | 01   | IRR  |
| JOSE      | C                | 37-07529  | 09/28/1976 | WASTE WATER | 0.940     | 01   | IRR  |
| CHRISTINA | C                | 37-07529  | 09/28/1976 | WASTE WATER | 0.940     | 01   | IRR  |

(Enter=Continue)

(GOLD 7=This Query)

(Menu \_\_\_\_\_)

**MICROFILMED**

MAY 18 1992

WR5809NP  
No. 37-01193

IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHT PROFILE REPORT

DATE: 02/04/92  
PAGE: 7

| OWNER<br>CODE | NAME & ADDRESS | PRIORITY<br>DATE | WATER USE              | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|---------------|----------------|------------------|------------------------|-----------------------|-------------------|---------------------|
| C             | O. D. BARKER   | 04/01/1940       | IRRIGATION<br>DOMESTIC | 00-00 00-00           | 0.18 CFS          |                     |

TOTAL DIVERSION: 0.18 CFS

Water Source: BIG WOOD RIVER

Tributary to: MALAD RIVER

Stage: ~~SECRET~~

Point(s) of Diversion:

T03N R18E S20

SW NW

Place of use Legal Description for: IRRIGATION

|             | NE                  | NW                  | SE                  | 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 Lt Ac Lt Ac | : SUM |
| 0.00 Vol 15 | : 1                 | : 1                 | : 1                 | : 1                 | : 1                 | : 5   |

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

Remarks: SAVED & DEVELOPED RIGHT INDEPENDENT OF PRIORITY DATE.

P. U. IS TAX LOT #2135.

RT. IS FOR 9.08 INCHES OF WATER.

RT. IS DELIVERED AS A FLOOD RIGHT BY WATERMASTER.

Dates: App. Received: 04/01/1940

Proof Due Date:

Proof Made Date:

Exam Made Date:

Exam Sent to S.O.:

Licensed Date:

Misc:

Water District Number: 37

Field Exam Fee:

Audit:

03/24/87 05/28/88 CONVERT

DATE: 02/04/92  
PAGE: 6

DIVERSION  
 VOLUME  
 -----

**Stage: DECREED**

22

## References

REMARKS: SAVED & DEVELOPED RIGHT INDEPENDENT OF PRIORITY DATE.

RT. IS FOR 3.64 INCHES OF WATER.  
RT. IS DELIVERED AS A FLOOD RIGHT BY WATERMASTER.

|        |                 |                    |            |
|--------|-----------------|--------------------|------------|
| Dates: | App. Received:  | Priority Date:     | 04/01/1940 |
|        | Proof Due Date: | Proof Made Date:   |            |
|        | Exam Made Date: | Exam Sent to S.O.: |            |
|        | Licensed Date:  |                    |            |

**Misc: Water District Number: 37**

**Field Exam Fee:**

|        |          |          |         |
|--------|----------|----------|---------|
| Audit: | 03/24/87 | 05/28/88 | CONVERT |
|--------|----------|----------|---------|

WR5809NP  
No. 37-00363G

IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHT PROFILE REPORT

DATE: 02/04/92  
PAGE: 1

| OWNER<br>CODE | NAME & ADDRESS | PRIORITY<br>DATE | WATER USE | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|---------------|----------------|------------------|-----------|-----------------------|-------------------|---------------------|
|---------------|----------------|------------------|-----------|-----------------------|-------------------|---------------------|

04/12/1983 IRRIGATION

04-01 11-01

0.22 CFS

TOTAL DIVERSION: 0.22 CFS

Water Source: BIG WOOD RIVER

Tributary to: MALAD RIVER

Stage: DECREED

Point(s) of Diversion:

T02N R18E S09

SE NW

Place of use legal Description for: IRRIGATION

|            | NE             | NW             | SW             | SE             | SUM |
|------------|----------------|----------------|----------------|----------------|-----|
| T R S      | NE NE NE NE NE | NE NE NE NE NE | NE NE NE NE NE | NE NE NE NE NE |     |
| 02N 18E 15 | 1              | 1              | 1              | 1              | 4   |

Remarks:

TRANS. 1740.  
P/D GIVEN AS SNU S9 IN TRANSFER. PRESENT P/D FROM WATERMASTER.  
P/U INCOMPLETE. SEE FILE.  
RT. DECREED FROM BIG WOOD R. BUT DELIVERED FROM BIG WOOD SLOUGH.

Dates:

App. Received: 04/12/1983  
Proof Due Date: 04/12/1983  
Exam Made Date: 04/12/1983  
Exam Sent to S.O.: 04/12/1983  
Licensed Date:

Misc:

Water District Number: 37

Field Exam Fee:

Audit:

05/25/90 CURTIS





DATE: 02/04/92  
PAGE: 4

| USE PERIOD  | DIVERSION | DIVERSION |
|-------------|-----------|-----------|
| FROM TO     | RATE      | VOLUME    |
| 00-00 00-00 | 2.00 CFS  |           |

## Stage: DECIDED

SE NH

NE

|           | NE    |       |       |       | NW     |       |       |       | SW     |       |       |       | SE     |       |       |       |
|-----------|-------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|
|           | NENE  | NNNE  | SUNE  | SENE  | : NENW | NNNW  | SNWW  | SESW  | : NESW | NWSW  | SSWS  | SESW  | : NESE | NNSE  | SWSE  | SESE  |
| 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 |
| -----     | ----- | ----- | ----- | ----- | :      | ----- | ----- | ----- | :      | ----- | ----- | ----- | :      | ----- | ----- | ----- |
| I I I I : | I     | I     | I     | I     | :      | I     | I     | I     | :      | I     | I     | I     | :      | I     | I     | I     |
| -----     | ----- | ----- | ----- | ----- | :      | ----- | ----- | ----- | :      | ----- | ----- | ----- | :      | ----- | ----- | ----- |

RT. DECEED FROM BIG WOOD R. BUT DELIVERED FROM BIG WOOD SLOUGH.

P/D NOT GIVEN IN DECREE BUT DETERMINED FROM WATERMASTER  
P/U INCOMPLETE. SEE FILE. FARM = 38.5 AC.  
AC. IRRIG. NOT SPECIFIED.

|        |                |                |
|--------|----------------|----------------|
| Dates: | App. Received: | Priority Date: |
|        |                | 05/10/1887     |

**Exam Made Date:** **Exam Sent to S.O.:**

**Licensed Date:**

**Misc: Water District Number: 37 Field Exam Fee:**

Audit: 02/11/86 05/28/88 CONVERT

DATE: 02/04/92  
PAGE: 5

DIVERSION  
VOLUME

**DECEASED**

Place of use Legal Description for: IRRIGATION  
NIC

|              | NE    |       |       |       | NW    |       |       |       | SW    |       |       |       | SE    |       |       |       |
|--------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|              | NENE  | NNNE  | SNNN  | SENE  | NENN  | NNNW  | WNEN  | SENN  | NESW  | NNSW  | SSNW  | SESW  | NESE  | NNSE  | SWSE  | SESE  |
| 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 | Lt Ac | Lt Ac | Lt Ac |
| NEW 18C 15 : | :     | I     | I     | I     | I     | I     | I     | :     | I     | :     | :     | :     | :     | I     | I     | I     |

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

REMARKS: SAVED & DEVELOPED RIGHT INDEPENDENT OF PRIORITY DATE.

P. U. IS TAX LOTS #41, 1122, 2162, & 2164  
RT. IS FOR 51.94 INCHES OF WATER.  
RT. IS DELIVERED AS A FLOOD RIGHT BY WATERMASTER

**Dates:** **App. Received:** **Priority Date:** 04/01/1940

|                 |                    |
|-----------------|--------------------|
| Proof Due Date: | Proof Made Date:   |
| Exam Made Date: | Exam Sent to S.O.: |
| Licensed Date:  |                    |

**Misc: Water District Number: 37 Field Exam Fee:**

|        |          |          |         |
|--------|----------|----------|---------|
| Audit: | 03/24/87 | 05/28/88 | CONVERT |
|--------|----------|----------|---------|

| SD-33 | Last Name: MC HENNY |             | STATE      |                   |
|-------|---------------------|-------------|------------|-------------------|
| S     | O                   |             |            |                   |
| E     | W                   | Water       | Priority   |                   |
| L     | N                   | Right No.   | Date       | Source            |
|       |                     |             |            | Total             |
|       |                     |             |            | Diversion         |
|       |                     |             |            | Use               |
|       |                     |             |            | Code Desc         |
| MC    | ILHENNY             |             |            |                   |
|       | SCOTT               | C 37-00363H | 04/12/1883 | BIG WOOD RI 0.220 |
|       | SCOTT               | C 37-00364H | 05/01/1887 | BIG WOOD RI 0.160 |
|       | SCOTT               | C 37-08696  | 11/30/1990 | GROUNDWATER 0.100 |
|       | SCOTT               | C P37-08696 | 11/30/1990 | GROUNDWATER 0.100 |
|       |                     |             |            | 01 IRR            |
|       |                     |             |            | 01 IRR            |
|       |                     |             |            | 01 IRR            |
|       |                     |             |            | 43 DOMEST         |
|       |                     |             |            | 01 IRR            |
|       |                     |             |            | 43 DOMEST         |

(Enter=Continue)

(GOLD 7=This Query)

(Menu \_\_\_\_\_)

**MICROFILMED**  
**MAY 18 1992**



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

December 24, 1991

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

RE: Application for Permit to Appropriate Water No. 37-8696;  
Mitigation for Ground Water Development

Dear Scott:

After several months of discussion, the Department has decided how to treat a plan of mitigation which proposes the contribution of an existing surface water right as compensation for the ground water withdrawal. The position is explained in a letter sent to several attorneys retained by clients whose applications are pending before the Department. I have enclosed a copy of the letter for your reference.

The procedure is explained in the first full paragraph of the second page of the enclosed letter. The application for permit which you filed will suffice for the application identified. You have also proposed in your August, 1991, letter to me to leave a portion of surface water rights which you own in the Big Wood River to compensate for your ground water withdrawal. Your letter will act as the explanation clarifying the intent of the application, and, with the application, will be viewed as a proposed exchange of water.

The enclosed letter raises a question of whether five inches of your 1883 water right is sufficient compensation for your ground water withdrawal. The enclosed letter prohibits an enlargement of use. Before the Department can approve your proposal, you must show the number of acres which were irrigated by your surface water rights in recent times. I suspect that both of your water rights were used on the same land, and that they may not have irrigated in excess of five acres. You may be

MICROFILMED  
MAY 18 1992

Scott McIlhenny  
December 24, 1991  
Page - 2

required to contribute your entire water right as compensation for your ground water withdrawal. I do not know the answer, however, and wait for your reply.

Respectfully,



GARY SPACKMAN, Manager  
Water Right Permits Section

GS:js

Enclosure

cc: Southern Region

MICROFILMED  
MAY 18 1992

# INTER-DEPARTMENT MEMO

TO: File

SUBJECT: \_\_\_\_\_

FROM: Karen

DATE: 12/16/91

Original letters were sent to the 3 following attorneys:

|                           |                   |                   |
|---------------------------|-------------------|-------------------|
| Gary D. Slette            | Mr. James Speck   | Mr. Brian Ballard |
| P.O. Box 1906             | P.O. Box 987      | P.O. Box 297      |
| Twin Falls, ID 83303-1906 | Ketchum, ID 83340 | Ketchum, ID 83340 |

**MICROFILMED**  
MAY 18 1992

( ) For your information

( ) Response required

KLG  
signature



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

December 10, 1991

Mr. Gary D. Slette  
P.O. Box 1906  
Twin Falls, ID 83303-1906

RE: BIG WOOD RIVER GROUND WATER MANAGEMENT AREA

Gentlemen:

The Department has reviewed your letter dated October 17, 1991, in which you seek a directive from the department describing mitigation measures acceptable to the Department which will authorize the construction and use of wells for new consumptive uses.

The department does not intend to issue a directive that specifically details how mitigation is to occur since it wishes to remain flexible to consider any mitigation proposal that may be appropriate on a case-by-case basis. I expect, however, that once a proposal or two have been developed, reviewed, and approved, the process will become routine with most new proposals simply following the established pattern. IDWR will work closely with you and your clients to determine an acceptable approach.

The designation of the Big Wood River Ground Water Management Area recognizes the close relationship between ground water and surface water resources in the area. New ground water uses have the potential for reducing water available to established natural flow and stored water rights from the Big Wood River and other surface water sources. During extended drought periods when the reservoirs do not fill, the depletion of surface water rights may be equal to the amount of ground water consumptively used. However, the loss will be spread out over a period of time and can affect both direct natural flow diversion and the water available for storage. With this in mind, a conservative concept with regard to mitigation for new uses from ground water is that there is not enough water for the new use unless a comparable consumptive use ceases.

An example of acceptable mitigation is that for every new acre of irrigation, an existing irrigated acre needs to be dried up. This could be accomplished by acquiring an existing surface water right together with the other rights appurtenant to the same irrigated tract. The right(s) then could essentially be "exchanged" for a

**MICROFILMED**

MAY 18 1992

diversion from a ground water source. Neither the total volume diverted nor the volume of water consumptively used could be increased over the amount historically used. Such a right could then be left in the river to compensate the new diversion of water from a well.

The procedure to facilitate this type of mitigation is to file an application for permit to appropriate ground water to be pumped from the new well (Re: Section 42-203A, Idaho Code) with the exchange described on the application (Re: Section 42-105, Idaho Code). The application should describe the surface right(s) that will not be diverted in exchange for pumping the ground water. IDWR will review the application in accordance with Section 42-203A, Idaho Code. The timing of the depletion relative to the timing of mitigation will need to be considered. Approved applications will include conditions to guide the watermaster in administering the exchange.

This proposal will result in regulation of the ground water right as if the priority were for the surface water right. In other words when there is not enough surface water flow to fill a given surface water right, the ground water diversion being mitigated by the surface water right would have to cease.

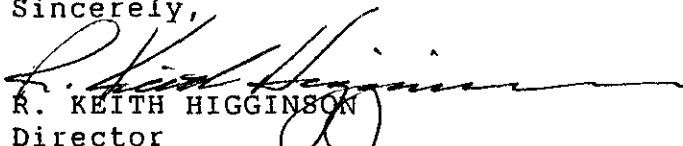
The "unstacking" of the water rights on irrigated land such as selling and transferring of either the surface water right or a ground water right and leaving the other right appurtenant to the land is not an acceptable practice and will not suffice for a right to be used for mitigation. This unstacking of rights in most cases will result in an expansion of water use.

Another unacceptable practice is to purchase a right, or portion thereof, which provides on paper for a rate of diversion in excess of one miner's inch for the acreage actually irrigated and then attempting to use the "excess" rate for the irrigation of new land. This attempted practice merely enlarges the original water right and injures other water rights.

While not necessarily feasible or even practical, other potential mitigation measures could involve inter-basin water transfer, saved water through efficiency measures or payment of compensation for water taken and not replaced.

Please feel free to contact the Department if you have other suggested alternatives or other questions in connection with this matter.

Sincerely,

  
R. KEITH HIGGINSON  
Director

C: IDWR - Southern Region

RECORDED

MAY 18 1992

*add suggested cond for trans - 1  
approval -*

The director retains jurisdiction of this transfer approval to re-define the use of water under this transfer in terms of certain legislation presently pending which if enacted would authorize a portion of an existing consumptive right diverted from a surface water source to be dedicated to the surface water source as mitigation for replacement water diverted from a ground water source.

**RECEIVED**  
**MAY 18 1992**

**RECEIVED**  
OCT 23 1991

Department of Water Resources

Glen —  
Please have a  
response drafted  
N24

Norm ~~not~~  
GLEN —

October 17, 1991

Keith Higginson  
Idaho Department of Water Resources  
1301 North Orchard Street  
Boise, ID 83720

Dear Keith:

Over the course of the past weeks, we have each received letters from the IDWR concerning the Big Wood River Groundwater Management Area (the "BWRGMA"), and its effects on existing permit applications. The letter basically provides that if a hydrologic evaluation of a newly proposed groundwater well results in a conclusion that such well cannot be constructed without depleting surface flows of the Big Wood River, a mitigation plan must be submitted that will ameliorate the depletions of surface water caused by the proposed groundwater withdrawal.

Many of the unimproved residential lots in Blaine County are in large lot subdivisions where residential landscaping in excess of 1/2 acre is desirable and was contemplated by the owner when the lot was purchased. Other large lot subdivisions were developed and sold with provisions for small horse pastures (2 - 3 acres) which require irrigation to maintain the property at acceptable levels. Until now, applications for new groundwater rights to serve these purposes were reasonably straightforward. We are concerned that the requirements for hydrologic evaluation and mitigation/compensation plans, when imposed on a case-by-case basis, will result in significant engineering and legal expenses for our clients.

To our knowledge, there has not yet been a directive<sup>2</sup> issued as to the nature and scope of the mitigation contemplated by the Department. Our goal is to arrive at an

**RECEIVED**

MAY 18 1992

Keith Higginson  
Page 2  
October 17, 1991

equitable procedure on the mitigation/compensation issue so we can properly advise our clients on those actions and procedures necessary to acquire new, consumptive groundwater rights within the BWRGMA. Hopefully, one policy can be developed which can be applied consistently and uniformly to those withdrawals which impact the flows of the Big Wood River and storage rights in Magic Reservoir, and perhaps a separate policy for withdrawals impacting the flows of Silver Creek.

We have concluded that mitigation should be based on volumetric consumptive use depletion, as opposed to overall volume of diversion. It stands to reason that the impact on the river and ultimate storage would only be the amount of water that was consumptively used from the groundwater diversion. Water that had been pumped to the surface and not consumptively used could ultimately increase the surface flows of the river over what they would have been without the groundwater pumping. The volumetric basis for pumping would be determined by the storage volume of an undiverted surface water right that is permitted to remain in the river and accumulate in Magic Reservoir.

*Sounds like a little more water being lost.*

As an example, a landowner seeking approval of a groundwater right application could obtain a water right, and mitigate his consumptive use depletion of the river by not diverting the surface water right during the period that it was "on" during the early part of the year. The entire volume of water not diverted from the surface water right would be permitted to accumulate in Magic Reservoir, and its volume would set the basis for the volume of groundwater that could ultimately be consumptively used under the groundwater application. The beneficiaries of this mitigative program would be both the river itself, as well as the holders of the storage rights in Magic Reservoir.

*surface water?*

Since we all have applications pending, we would appreciate your review of this matter at your earliest convenience. If you agree with our analysis and approach, we can proceed to work with the Department in arriving at mitigation responses for our respective clients. If you request, we will make ourselves available at the earliest possible date for a meeting to arrive at an agreement.

*No. We don't need a meeting.*

**RECEIVED**

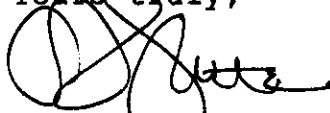
MAY 18 1992

*No! Dept probably wants a permanent commitment, not just when it is convenient to divert the surface water. Claim credit for it. JKH*

Keith Higginson  
Page 3  
October 17, 1991

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

Yours truly,

  
Gary D. Slette

*Roskott  
T. F.*

HOGUE, SPECK & AANESTAD

  
James Speck

LAWSON, PEEBLES, BALLARD  
& EDSON

  
Brian Ballard

GDS/mw  
07441

cc: Loren Holmes

**RECEIVED**

**MAY 18 1992**

*NC*  
TO: GLEN AND GARY

FROM: NORM *NC*

RE: McILHENNY PROPOSAL

DATE: SEPTEMBER 6, 1991

Sure wish we still had Section 42-240 in the Idaho Code. This seems appropriate for an exchange. However, I would propose solving this matter by conditions on the ground water permit requiring whatever portion of the surface water right to not be diverted. For whatever it would be worth, we could also describe that such surface right was not subject to abandonment or forfeiture because it was being used for augmentation purposes. Legislation implementing Dick Gardner's old augmentation proposal would be a better approach.

It is not a question of committing the surface right to the stream for "instream flow" purposes. The purpose is to mitigate for depletions occurring because of the ground water pumping. We don't expect the water to stay in the stream. It is to be diverted under the existing priorities on the stream. Thus the historic point of diversion and place of use of the surface water right needs to be considered relative to the stream reach expected to be dewatered by ground water pumping.

I think the acre-for-acre approach is probably adequate. But some thought needs to be given to particular proposals to be sure that the return flow that historically resulted from the surface right is not a factor.

**MICROFILMED**  
MAY 18 1992

MEMORANDUM

*Spackman -  
for your files  
NY*

To: Norman C. Young  
From: L. Glen Saxton *LSA*  
RE: GARY'S MEMO ATTACHED - MCILHENNY PROPOSAL  
Date: September 5, 1991

I suspect that Gary is correct that this type of proposal could become quite common if there is both incentive and protection for the right holder who proposes to dedicate some existing rights to a surface water source.

Perhaps the legislation which we plan to sponsor this legislative session can be written to allow for this type of dedication. Without some statutory protections, however, it appears that the water left in the river for mitigation purposes could either be delivered to the next junior right or appropriated for a new use. There presently is not a way to tie such mitigation to an instream dedication.

Assuming the department is successful with its proposed legislation, proposals similar to McIlhenny's could be granted similar to past exchange approvals where the rights revert back to the original if the owner no longer wants to use the exchange arrangement.

If McIlhenny needs an answer soon, I suggest the department advise him to wait to see if the department is successful with its proposed legislation.

**MICROFILMED**  
MAY 18 1992

MEMORANDUM

*ms*  
TO: Glen Saxton, Norm Young  
FROM: Gary Spackman *Gary*  
DATE: September 5, 1991

RE: Proposal for Ground Water Development in the Big Wood Ground Water Management Area

On August 26, 1991, I received a proposal for ground water withdrawal compensation from Scott McIlhenny for application for permit no. 37-08696.

McIlhenny owns two water rights: right no. 37-0363H for 0.22 cfs, priority date of 4/12/1883; and water right no. 37-0364F for 0.16 cfs, priority date of 5/01/1887. McIlhenny proposes to dedicate approximately five inches of his earliest-in-time right to the Big Wood River in exchange for irrigation of five acres from ground water. This is the first proposal of many that we probably will receive. Several questions must be resolved.

First of all, his application only seeks irrigation of three acres. McIlhenny will either be required to file another application, or must amend his present application to irrigate a full five acres.

I am uncertain whether all of the water rights owned by McIlhenny have been applied to his land. If so, we could review this proposal as one similar to a transfer, and require that all of his water rights be dedicated to the river, not simply five inches of water. I suspect that McIlhenny may attempt to market his remaining water to other applicants who may wish to divert ground water. Technically, this could result in an enlargement of the rights.

If McIlhenny's plan is accepted, I have not decided how the five inches of water left in the Big Wood River should be treated. One alternative is that the water right could be deemed abandoned, and McIlhenny could have no claim over the water right in the future. This seems to be a heavy burden to sacrifice an 1883 water right for a 1990 water right from ground water, which could be regulated in the future. It seems to me that the surface water should continue to be recognized to protect McIlhenny's right to divert water. If McIlhenny ever wanted to abandon use of his well, and divert his surface water right, he should have the right to do so.

NOT FILMED

MAY 18 1992

I cannot suggest a method, however, to protect McIlhenny's water right if it is left in the stream. Abandonment and forfeiture statutes as they are now written, and the absence of any authorization to leave a water right in the stream for minimum streamflow, jeopardizes McIlhenny's water right. Perhaps this situation could be incorporated into a statute which would allow the dedication of a water right to a minimum streamflow to be considered by the legislature this year. I think McIlhenny's proposal is a good one. Will you please comment and add suggestions?

RECEIVED  
MAY 18 1992

MEMORANDUM

TO: Glen Saxton, Norm Young  
FROM: Gary Spackman *Gary*  
DATE: September 5, 1991

RE: Proposal for Ground Water Development in the Big Wood Ground Water Management Area

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RECEIVED

MAY 18 1992

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MICROFILMED

MAY 18 1992

RECEIVED

AUG 26 1991

SCOTT McILHENRY  
P.O. Box 310  
Bellevue, Idaho  
83313

Dear Gary,

Department of Water Resources

I am writing this letter in response to your letter dated August 14, 1991. In 1990 I submitted an application to the Dept. of Water Resources, to appropriate water to irrigate 3 ac. of my 5 ac. parcel of land located in Muldoon Subd. which is just east of Bellevue. It seems obtaining this permit has become quite complicated.

It is my understanding that by drawing water out of the groundwater aquifer to irrigate land, I cannot reduce the surface flow of water in either the Big Wood River or Silver Creek, and if I do reduce one of these surface flows then I must do one of the following, 1) Hire a hydrologist to determine to what extent the impact will be and find a solution or 2) Replace the depleted surface flow caused by the groundwater withdrawal. Since the process of hiring a hydrologist could become too expensive, I have decided to

Microfilm  
1181992

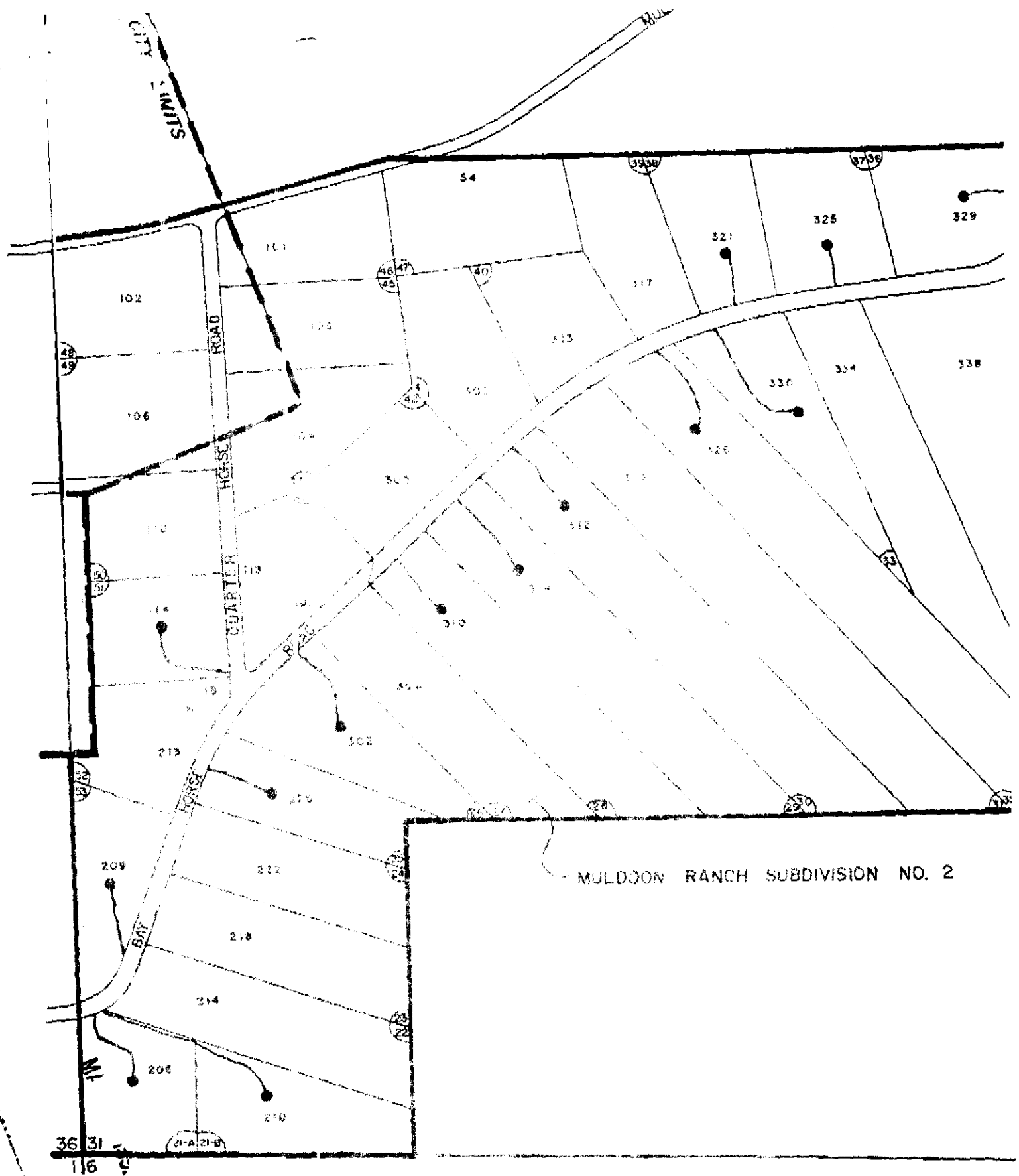
PRESENT A PLAN TO YOU THAT WOULD  
REPLACE ANY DEPLETIONS OF SURFACE  
WATER.

GARY, I CURRENTLY OWN TWO SEPARATE WATER RIGHTS. ONE IS 8" OF WATER WITH RIGHT # 37-0364F, 0.16 CFS, PRIORITY DATE 5/1/1887. THE OTHER IS 11" OF WATER WITH RIGHT # 37-0363H, 0.22 CFS, PRIORITY DATE 4/12/1883. UNDER THE THEORY THAT 1" OF WATER WILL IRRIGATE 1 AC OF LAND, I PROPOSE TO LEAVE 5" OF MY 1883 WATER IN THE BIG WOOD RIVER IN RETURN FOR THE RIGHT TO DRILL A WELL AND USE GROUNDWATER TO IRRIGATE MY ENTIRE FIVE ACRE PARCEL OF PROPERTY LOCATED IN MULDOON SUBDIVISION # 2, LOT 52, (SEE ENCLOSED MAP). BELLEVUE IDAHO COUNTY OF BLAINE.

GARY, I FEEL THIS IS A FAIR AND REASONABLE PLAN TO MITIGATE ANY REDUCTION IN FLOW TO THE BIG WOOD RIVER OR SILVER CREEK. THANK YOU FOR YOUR TIME, I HOPE THIS IS THE KIND OF COOPERATION YOUR DEPARTMENT WAS LOOKING FOR TO SOLVE OUR WATER PROBLEMS IN THE WOOD RIVER VALLEY.

RESPECTFULLY, SCOTT McILHENNY  
Scott McIlheny

11/18/2002



MULDOON RANCH SUBDIVISION NO. 2

**MICROFILMED**  
MAY 18 1992

SEC. 31, T. 2 N., R. 19 E.



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

August 14, 1991

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

Dear Mr. McIlhenny:

The Department of Water Resources recently designated a ground water management area which encompasses the upper Big Wood River Valley, the Bellevue Triangle, a portion of the Silver Creek drainage, and the Camas Prairie. Our records show that you have filed an application for permit to appropriate water with the Department which proposes a point of diversion within the ground water management area.

The Department intends to process pending applications within the ground water management area. Any applicant who proposes consumptive use, other than domestic use not exceeding one-half acre of irrigation, must show that his proposed use will not reduce flows in the Big Wood River or Silver Creek, or he must propose a reasonable plan to mitigate the reduction in flow.

Our records show that you have applied for a consumptive use of water. Prior to processing your application, or conducting a hearing if the application is protested, you must submit the following information:

1. Hydrologic evaluation of the ground water aquifer at the proposed point of diversion and its relationship to surface water, including timing of potential impacts.
2. If the hydrologic evaluation results in a conclusion that a well can be constructed without impact, a prospectus discussing well construction methods and standards must be submitted which will be implemented to prevent depletion of surface flow.
3. If the hydrologic evaluation results in a conclusion that a well cannot be constructed without depleting surface flow, a plan of mitigation and/or compensation must be submitted that will replace depletions of surface water caused by proposed ground water withdrawal.

**MICROFILMED**

MAY 18 1992

If you do not wish to submit the above information, you may withdraw your application by completing the enclosed withdrawal form. If your application includes a domestic component, and you wish to limit the application to domestic use, please inform the Department.

Failure to respond to this inquiry within thirty (30) days, with either the withdrawal or a schedule for submittal of the above information, is cause for the Department to void the application for failure to submit requested information.

Respectfully,

*Gary Spackman*  
GARY SPACKMAN, Manager  
Water Right Permits Section

GS:js

REPROFILMED

MAY 18 1992

MEMORANDUM

TO: Loren Holmes, Jim Johnson, Sharla Curtis, Tim Luke, Pam  
Skaggs and J.J. Seifert  
FROM: Gary Spackman *Gary*  
DATE: August 13, 1991

RE: Notice to Applicants for a Water Right within the Big Wood  
River Ground Water Management Area

Enclosed is a form letter which should be sent to all applicants who have filed applications for permit within the Big Wood River Ground Water Management Area. The state office should send the letter to applicants whose applications now reside in the state office. Southern Region should send the letter to applicants whose files are residing in the regional office.

We should send these letters out at approximately the same time. I would like to see all letters sent by approximately August 30, 1991.

**MICROFILMED**

MAY 18 1992

August 2, 1991

<name>

Dear <sal>:

The Department of Water Resources recently designated a ground water management area which encompasses the upper Big Wood River Valley, the Bellevue Triangle, a portion of the Silver Creek drainage, and the Camas Prairie. Our records show that you have filed an application for permit to appropriate water with the Department which proposes a point of diversion within the ground water management area.

The Department intends to process pending applications within the ground water management area. Any applicant who proposes consumptive use, other than domestic use not exceeding one-half acre of irrigation, must show that his proposed use will not reduce flows in the Big Wood River or Silver Creek, or he must propose a reasonable plan to mitigate the reduction in flow.

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**MICROFILMED**

MAY 18 1992

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Failure to respond to this inquiry within thirty (30) days, with either the withdrawal or a schedule for submittal of the above information, is cause for the Department to void the application for failure to submit requested information.

Respectfully,

GARY SPACKMAN, Manager  
Water Right Permits Section

GS:js

**MICROFILMED**

**MAY 18 1992**

# APPLICATION FOR PERMIT REVIEW

Application #: 37-8696  
Date: 7-1-91

Reviewer:

Pam Skaggs

*Brenda*

## Existing:

✓ No

Complete in 1 year - 26A-P17

Yes

Proof not submitted - P16

Proof submitted - N/A

## Groundwater:

✓ GT. 0.2 cfs - 01G-P03, 01C-P03(existing well)

✓ LT. 0.2 cfs - N/A

## Drilling Permit:

✓ Approved w/permit - P99

✓ Not included - 046-P23 (All GW, even existing wells)

## Location:

✓ Water Districts - WD No. 37  
Surface water - 005, 005-01H-P01(LT.2 w/pump)  
005-01J-P08(GT.2)

✓ Groundwater - P05

Irrigation Districts - 023

Canal Co. Areas - 023

Drainage Districts - 024

Boise Front (63) - 058 (Groundwater)

✓ Swan Falls Flag - C (1, Blank or Other)

✓ Trust - 051-052-053-P74(Consumptive Uses)

Non Trust - 048-049

## River Basins:

(Surface Water) Water District Control Condition &....

Boise (63) - 05A & 11E

Payette (65) - 047-P04, 059-P71

Snake (01, 02 & 03) - 11A-P04(01), 061-P07(02/03 No W.D.Cond.)

## Use:

Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One),  
042(req.), 002-P06(MD), 07A(Spec.),  
044(Policy 5G)

Power - Use Power Review

Mining - 06A or 010, 09E-P10 & 054(req.)

Storage - 18A-for multiple measuring devices(In WD),  
18B-P09(Size)

Rec. & Aesthetic - 027(Non-Consumptive)

Domestic - 021(restricted areas)

## Ownership:

Non land owner - 004

## Protested:

Agreement - 020

✓ Beneficial Use Due Date: - 07-01-1993 05-02-1994

✓ Other Conditions Recommended Big Wood GLWA

attached sheet of conditions from Larry

REVIEW

SHEET

Form No. 202a  
4/87

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

JT 11/30  
McIlhenny, Scott

INITIAL REVIEW BY DR DATE 12/10/90 APPLICATION NUMBER 37-08696

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)  
☒ Address  
☒ Source (See USGS Quad for names of water sources)  
☒ Point of Diversion (10 acres for spring, lot & block descriptions for subdivisions, local name, flow and/or volume)  
☒ County  
☒ Quantity (flow and/or volume)  
☒ Period of Use  
☒ Nature of proposed use (Include description of use.)  
☒ Description of diverting works  
☒ Time required for beneficial use of water  
☒ Place of use or acres irrigated  
☒ Map  
☒ Signature (If applicant is corp. partnership, or municipality, title of signator is required)  
☒ Fee  
☒ Yes ☐ No\* In form to receipt \*\*\*PROPOSED PRIORITY DATE 11/30/90

ADDITIONAL INFORMATION

- ☒ Overlapping place of use (Describe source & relationship to present application on the back.)  
☐ Overlapping point of diversion  
☐ Yes ☒ No Field check required  
☐ Field check by \_\_\_\_\_  
☐ Yes ☒ No Field report attached  
☐ Yes ☒ No Critical groundwater area  
☐ Yes ☒ No Groundwater management area  
☐ Yes ☒ No Send dam safety information  
☐ Yes ☒ No Send power requirement letter  
☐ Yes ☒ No Send fish farm requirement letter  
☐ Yes ☒ No Power residency affidavit  
☐ Yes ☒ No Power efficiency form  
☒ Yes ☐ No Within trustwater boundary (If yes, attach trust water 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

SWAN FALLS HOLD? No

\*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

Date Requested

RECEIVED  
JUN 13 1991

Department of Water Resources

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

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

FINAL REGIONAL PROCESSING REVIEW

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

☒ Yes ☐ No Publication dates & paper, recorded on application  
☐ Yes ☒ No Protests received  
Final date for protest 1/21/91  
☐ Yes ☒ No Protests, dates, resolution of protest, recorded on application  
☐ Yes ☒ No Recommendations attached  
☐ Yes ☒ No Measuring device required  
☐ Yes ☒ No Access port required  
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what Dist. 37  
☒ Yes ☐ No Special conditions of approval or cover letter below. 264

See below for additional information

Date of priority recommended 11/30/90  
By Larry O. Hulme Date 6/12/91

STATE OFFICE REVIEW

See below for additional information

By \_\_\_\_\_ Date \_\_\_\_\_

ADDITIONAL INFORMATION

Surface water (Big Wood R.) appert.  
to property. Not requesting supplement  
int. water.

LOCAL PUBLIC INTEREST

Comments received from:

|                                       |                                                  |                                              |
|---------------------------------------|--------------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> City         | <input type="checkbox"/> Idaho Fish & Game       | <input type="checkbox"/> Irrigation District |
| <input type="checkbox"/> County       | <input type="checkbox"/> Idaho Health & Welfare  | <input type="checkbox"/> Canal Company       |
| <input type="checkbox"/> Reservations | <input type="checkbox"/> Division of Environment | <input type="checkbox"/> Other _____         |

Project impacts/implications report

COMMENTS

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**Six file  
on water rights**

**NOTICE OF APPLICATION  
FOR WATER RIGHT**

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

**37-08691**  
BABCOCK FAMILY  
PARTNERSHIP  
C/O WEST ONE BANK  
P.O. BOX 509  
TWIN FALLS, ID 83303  
Source: SPRING  
Tributary: WARM SPRINGS CR.  
Diversion Pt: NENENE Sec 36 T  
04N R 16E; SENENE Sec 36 T 04N  
R 16E  
Use: DOMESTIC (.040 CFS)  
HEATING (.166 CFS)  
AESTHETIC (.166 CFS)  
FIRE PROTECTION (.166 CFS)  
RECREATION (.166 CFS)  
Total Diversion: (.166 CFS)  
Date Filed: 8/9/1990  
In: T04N R16E S36 NENE

**37-08692**  
SHELTON, JOSEPH W.  
2150 HILLCREST LANE  
TWIN FALLS, ID 83301  
Source: SPRING  
Tributary: WARM SPRINGS CR.  
Diversion Pt: NENENE Sec 36 T  
04N R 16E; SENENE Sec 36 T 04N  
R 16E  
Use: DOMESTIC (.040 CFS)  
HEATING (.166 CFS)  
AESTHETIC (.166 CFS)  
FIRE PROTECTION (.166 CFS)  
RECREATION (.166 CFS)  
Total Diversion: (.166 CFS)  
Date Filed: 8/9/1990  
In: T04N R16E S36 NENE

**37-08694**  
VLADIMIROFF, WANDA  
VLADIMIROFF, JOHN  
P.O. BOX 1771  
HAILEY, ID 83333  
Source: GROUNDWATER  
Diversion Pt: NESE Sec 25 T 02N  
R 17E  
Use: DOMESTIC (.040 CFS)  
IRRIGATION (.090 CFS)  
Total Diversion (.130 CFS)  
Date Filed: 11/27/1990  
In: T02N R17E S25 NESE  
3.0 ACRES TOTAL

**37-08695**  
VLADIMIROFF, WANDA  
VLADIMIROFF, JOHN  
P.O. BOX 1771  
HAILEY, ID 83333  
Source: GROUNDWATER  
Diversion Pt: SWSENE Sec 25 T  
02N R 17E  
Use: DOMESTIC (.040 CFS)  
IRRIGATION (.090 CFS)  
Total Diversion (.130 CFS)  
Date Filed: 11/27/1990  
In: T02N R17E S25 SENE

**37-08696** ✓  
MC ILHENNY, SCOTT  
P.O. BOX 310  
BELLEVUE, ID 83313  
Source: GROUNDWATER  
Diversion Pt: LOT 3 (SWNWSW)  
Sec 31 T 02N R 19E  
Use: IRRIGATION (.060 CFS)  
DOMESTIC (.040 CFS)  
Total Diversion (.100 CFS)  
Date Filed: 11/30/1990  
In: T02N R19E S31 NWSW  
3.0 ACRES TOTAL

**37-08697**  
OLSEN, RICHARD  
P.O. BOX 45  
CAREY, ID 83320  
Source: GROUNDWATER  
Diversion Pt: NWNWSW Sec 15 T  
01S R 21E  
Use: DOMESTIC (.040 CFS)  
STOCKWATER (.040 CFS)  
COMMERCIAL (.040 CFS)  
Total Diversion (.120 CFS)  
Date Filed: 12/1/1990  
In: T01S R21E S15 NWSW

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 Director, Dept. of Water  
Resources, 222 Shoshone St.  
East, Twin Falls, Idaho 83301, on  
or before January 21, 1991.

R. Keith Higginson, Director  
Publish: Wood River Journal-  
January 2 & 9, 1991.

OK MB  
12-21-90

RECEIVED

DEC 21 1990

Department of Water Resources  
Southern Region Office

MICROFILMED

MAY 18 1992



State of Idaho

## DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS  
Governor

17-Dec-1990

R. KEITH HIGGINSON  
Director

SCOTT MC ILHENNY  
PO BOX 310  
BELLEVUE ID 83313

Re: Application for Permit No. 37-08696

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 1/2 & 1/9/91. 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,

Douglas Jones, E. I. T.  
Water Resources Engineering Specialist

DJ:MB

MAILED

MAY 18 1992

37-08696

MC ILHENNY, SCOTT  
P.O. BOX 310  
BELLEVUE, ID 83313

Source: GROUNDWATER

Diversion Pt: LOT 3 (SWNWSW) Sec 31 T 02N R 19E

|                  |             |
|------------------|-------------|
| Use: IRRIGATION  | ( .060 CFS) |
| DOMESTIC         | ( .040 CFS) |
| Total Diversion: | ( .100 CFS) |

Date Filed: 11/30/ 1990

In: T02N R19E S31 NWSW

3.0 ACRES TOTAL

RECORDED  
MAY 18 1992

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 Director, Dept. of Water Resources, 222 Shoshone St. East, Twin Falls, Idaho 83301 on or before January 21, 1991.

R. Keith Higginson, Director

Published 01/02/1991 & 01/09/1991

RECEIVED

MAY 18 1991

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
Southern Region  
222 Shoshone Street East  
Twin Falls, ID 83301  
(208)734-3578

---

DECEMBER 13, 1990

WOOD RIVER JOURNAL  
P.O. BOX 988  
HAILEY, ID 83333

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JANUARY 7, 1991.

Yours truly,

Mary Baldwin  
Secretary/Office Coordinator

Enclosure

**MICROFILMED**

MAY 18 1992

im stanton,

PER OUR 11/28/90

TELEPHONE CONVERSATION.

WATER RIGHT PERMIT  
FEE.

THANKS

Scott Miller

**MICROFILMED**  
**RECEIVED**

MAY 18 1992

NOV 30 1990

Department of Water Resources  
Southern Region Office



State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

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

May 9, 1990

Dear Applicant:

We are returning your application for a well drilling permit because the information required on the application is not complete.

Please complete the following items and return the application and fee to this office for processing.

- ☒ Proposed well location. Please indicate 1/4 1/4 section (40-acre tract), Section, Township, and Range the well is to be located in.

*Does not agree with subdivision*

- ☐ A copy of a map showing your area is attached. If you wish, simply mark the well location on the map and return it with your application. We will complete the legal description here.

- ☐ The proposed use of the well.
- ☐ Well construction information.
- ☐ Signature.
- ☐ Fee:

\$ \_\_\_\_\_ is due with this application.

\$ 100. is the correct fee for this application.  
Your check # 629 in the amount of \$ 10. is enclosed.

**MICROFILMED**

**MAY 18 1992**

Very truly yours,

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

LH:MB

Note: Drilling permit is not acceptable more than 60 days before start of drilling.  
Also, request for expedited approval of drilling permit is needed if you wish to drill in August.

DEPARTMENT OF WATER RESOURCES - SOUTHERN REGION  
APPLICATION PRELIMINARY REVIEW REPORT

Applicant Scott McElhenny

Correction or completion of the following items is required before the application can be accepted for processing by the department:

- ( ) Name \_\_\_\_\_
- ( ) Address \_\_\_\_\_
- ( ) Source of water \_\_\_\_\_
- ( ) Point of Diversion \_\_\_\_\_
- ( ) County \_\_\_\_\_
- ( ) Quantity (Flow and/or Volume) \_\_\_\_\_
- ( ) Period of use \_\_\_\_\_
- ( ) Nature of proposed use \_\_\_\_\_
- ( ) Description of diverting works \_\_\_\_\_
- ( ) Time required for beneficial use \_\_\_\_\_
- ( ) Place of use \_\_\_\_\_
- (X) Map required on application
- ( ) Signature (If applicant is a corporation, partnership, or municipality, title of signator is required) \_\_\_\_\_
- (X) Fee \$20.00 fee required

ENCLOSURES

The following are enclosed for your use in making a complete application

- ( ) Application form
- ( ) Instructions
- (X) Map (For use as the required application map)

Reviewed by J. E. Stanton 5-9-90

RECORDED  
MAY 18 1992