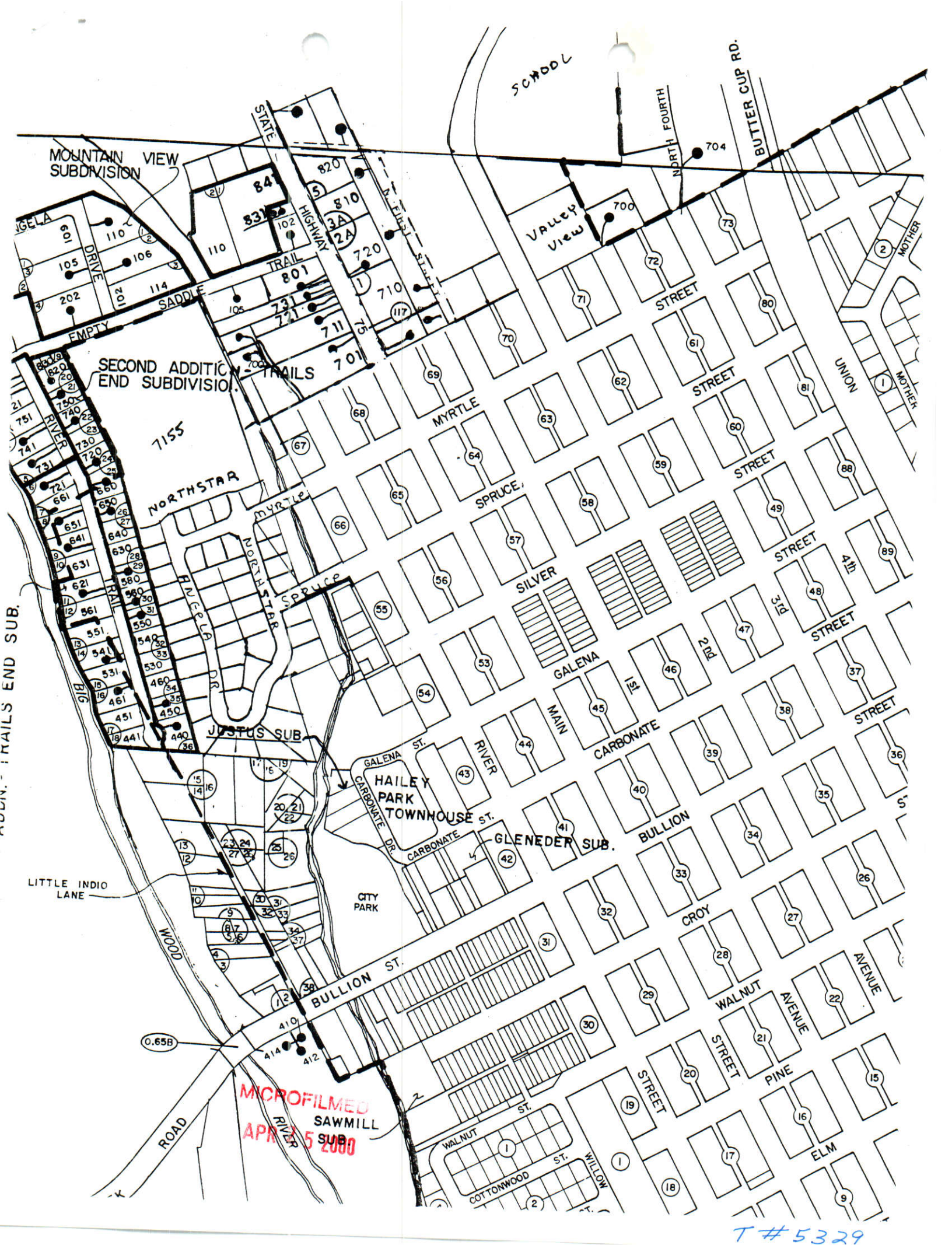
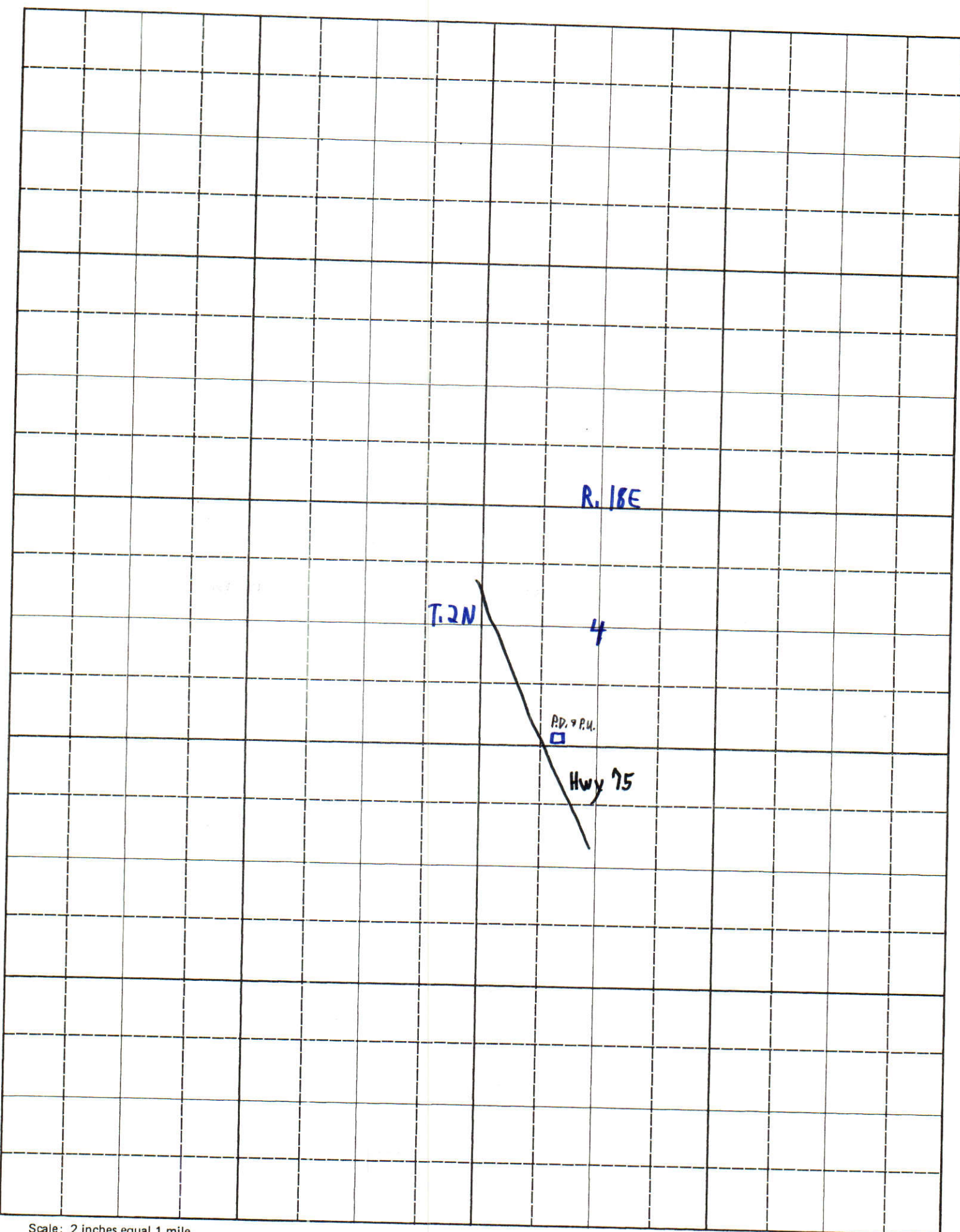




MICROFILMED
APR 15 2000
SAWMILL
SUB

T#5329

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



Scale: 2 inches equal 1 mile.

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

Carol A. Stapleton
(Applicant)

**NOTICE OF APPLICATION
FOR WATER RIGHT**

NOTICE IS HEREBY GIVEN, That the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

37-7958

Name: STAPLETON, OWEN T. &/or PEARL A.

BOX 324, HAILEY, ID. 83333

Source: GROUNDWATER

Date Filed: 12/04/1981

Amount: 0.05 cfs

Diversion Point: SESW Sec 04 T 02N R 18E, BLAINE Co.

Use: IRRIGATION — (0.05 cfs)
from 04/01 to 11/01

Place of Use: SESW Sec 04 T 02N R 18E for 1.5 acres

Diversion Means: TWO EXISTING SHALLOW WELLS AND PUMPS, SPRINKLERS

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho, 83301, and received on or before JANUARY 4, 1982.

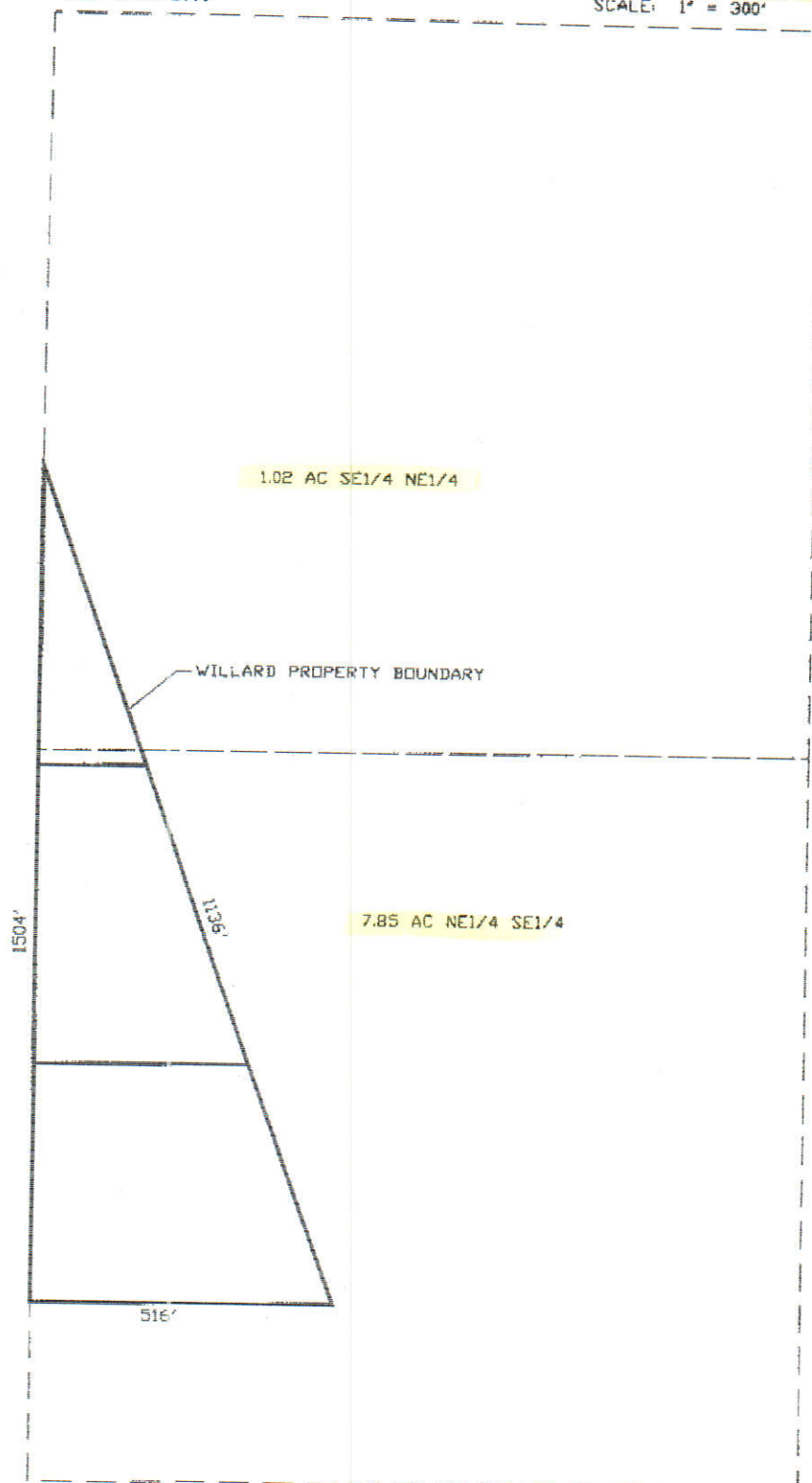
A. KENNETH DUNN

Director

Publish: Wood River Journal--
December 17, 24, 1981.

CGR 3/30/2000

SEC. 29 T.3N. R.18E. B.M.
SCALE: 1" = 300'



MICROFILMED
APR 25 2000

Proposed change of water rights

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

Notice is hereby given that MICHAEL WILLARD, 1339 HAMPSHIRE CIRCLE; NEWPORT BEACH CA 92660 has filed two applications for transfer with the Department of Water Resources.

The purpose of Transfer No. 5329 is to change the point of diversion and change place of use for a purchased water right. PRESENTLY, Licensed Water Right No. 37-07958 (0.05 cfs) 12/04/1981 is diverted from ground water within SE1/4SW1/4, S04, T02N, R18E; Blaine County for irrigation of 1.5 acres within SE1/4SW1/4, S04, T02N, R18E; Blaine County.

PROPOSED CHANGE

The applicant wishes to divert 0.05 cfs from an existing well within NE1/4SE1/4, S29, T03N, R18E; Blaine County to irrigate a combined total of 1.5 acres within SE1/4NE1/4, S29, T03N, R18E; Blaine County. The purpose of Transfer No. 5330 is to add storage use in order to record water usage in two existing ponds. PRESENTLY, Decreed Water Right No. 37-30000B (0.10 cfs) is diverted from the Big Wood River tributary to Malad River via Hiawatha Canal within SW1/4NW1/4, S20, T03N, R18; Blaine County for irrigation of 1.5 acres within NE1/4SE1/4, S29, T03N, R18E; Blaine County.

PROPOSED CHANGE

The applicant wishes to divert a total of 0.10 cfs/5.3 afa from the Big Wood River tributary to Malad River within same point within NE1/4SE1/4, S29, T03N, R18E; Blaine County with the following listed uses:

- Use*Amount:
- Irrigation (0.10 cfs)
- Recreation Storage (2.0 afa)
- Aesthetic Storage (2.0 afa)
- Div. to Storage (2.0 afa)

Any protest against the proposed changes must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before November 16, 1998 to be considered by the Department in its decision to grant or deny any part of the proposed change. (Each transfer requires a separate protest). The protestant must also send a copy of the protest to the

Karl J. Dreher, Director

Publish: Wood River Journal — October 28 and November 4, 1998.

VIRGINIA R. BALLOU
NOTARY PUBLIC
STATE OF IDAHO



VIEW LOOKING ACROSS NORTH EAST CORNER OF CURRENT PLACE OF USE
 (INSIDE FENCE, MARKED WITH DASHED LINES). NOTE SEVERAL BUILDINGS ON
 PROPERTY. ALSO NOTE THAT AREA INSIDE FENCE (DASHED LINES)
 LOOKS VERY SIMILAR TO AREA OUTSIDE FENCE.

WILLARD TRANSFER MICROFILMED
 FILE (956015) 37-07958

APR 25 2000

T #5329

WILLARD TRANSFER (37-07958) FILE



VIEW LOOKING ACROSS
EAST EDGE OF PROPERTY
NEAR THE NORTH
BOUNDARY (INDICATED)
OF THE CURRENT PLACE
OF USE. NOTE
PRESENCE OF SAGE
BRUSH ON PROPERTY.

VIEW SHOWING PROPERTY FROM SOUTHEAST CORNER.
MICROFILMED
APR 25 2000



T #5329

32 | 33
5 | 4

Twp. 2N Rge. 18E

33 | 34
4 | 3

MICROFILMED



Point(s) of diversion: 2 pts in SE 1/4 SW 1/4 Sec 4, Twp. 2N Rge. 18E.

Place(s) of Use

TWP.	RGE.	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
2 N.	18 E	4												1.5					1.5

Recommended Amendments:

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

Examiner's Signature Larry J. Black

Checked by J. G. Stanton

Approved by LH Kay Walker

Date 8-29-83

Date 12-7-83

Date 8-30-85

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5329
WATER RIGHT NO. 37-07958

This is to certify that: **MICHAEL E WILLARD**
1339 HAMPSHIRE CIRCLE
NEWPORT BEACH CA 92660

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 11/01	0.05 CFS	4.5 AF

SOURCE

GROUNDWATER

Priority: 12/04/1981

LOCATION OF POINT(S) OF DIVERSION: NESE , Sec. 29, Township 03N, Range 18E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	18E	29	SENE 1.0	NESE 7.9		8.9
Total number of acres irrigated:						* 8.9

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
3. Use of water under this right may be affected by an agreement between the protestant and the right holder.
4. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
5. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

MICROFILMED

APR 25 2000

TRANSFER NO. 5329
WATER RIGHT NO. 37-07958

CONDITIONS OF APPROVAL AND REMARKS

7. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- * 8. Right 37-07958 is limited to the irrigation of 1.5 acres in the place of use described above in a single irrigation season.
- * 9. Rights 37-07958 and 37-30000B when combined shall not exceed the irrigation of 2.6 total acres within the 8.9 acre place of use described above in a single irrigation season.
10. The right holder shall maintain a totalizing measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Dated this 3rd day of

April

, 2000.

J. Glen Saylor

Chief, Water Allocation Bureau

MICROFILMED

APR 25 2000

Page 1 of 6

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5329SEP 03 1998 APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Department of Water Resources

Name of applicant Michael E. WillardPhone (949) 574-9996Post Office address 1339 Hampshire Circle, Newport Beach, CA 92660

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other

RECEIVED

DEC 8 1999

2. Describe the reason for the proposed changes Water is being purchased and moved Department of Water Resources

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>37-07958</u>	<u>12/4/1981</u>	<u>0.05/4.5</u>	<u>Irrigation</u>	<u>4/1</u> to <u>11/1</u>
				to
				to
				to

2. Total amount of water being transferred 0.05 cubic feet per second and/or 4.5 acre-feet per annum.

3. Source of water Groundwater tributary to

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
		NE	SE	29	03N	18E	Blaine	Well and pump

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03N	18E	29				0.5									1.0				1.5

MICROFILMED

APR 1 2000

PART 1

6. General Information:

a. Description of diversion system Well and pump to underground sprinkler system

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

☐ Yes ☒ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer:

*.5 acres
deeded(?)* 1.5 acres would no longer be irrigated in SE1/4 SW1/4 Sec. 4, T. 2 N., R. 18 E.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

MICROFILMED
APR 25 2000

Page 3 of 6Transfer No. 5329

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. 37-07958 issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. check appropriate box below.

☐ Tax notice☒ Warranty Deed☐ Other _____3. Source of water Groundwater tributary to _____4. Date of priority 12/4/1981

5. Water is used for the following purpose:

Amount 0.05/4.5 for Irrigation purposes from 4/1 to 11/1
(cfs/ac-ft)
Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 0.05 cubic feet per second and/or 4.5 acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
		SE	SW	4	02N	18E	Blaine	Well and pump

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
02N	18E	4												2.0					2.0

MICROFILMED

APR 25 2000

* Water right limits irrigation to 1.5 acres

Total acres 2.0*

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No

If yes, describe

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(if the entire right is to be changed by the applicant, omit part B and C)

1. Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

MICROFILMED

APR 25 2000

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

See Attached Map

MICROFILMED

APR 25 2003

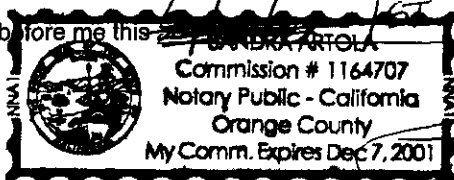
PART 3**B. CHANGES IN NATURE OF USE**

1. New Nature of Use Amount Hours/days/year Period of Use
(cfs/ac-ft) _____ to _____
_____ to _____
2. Quantity and quality of return flows and location of discharge:
n/a
3. Describe the effects on other water uses resulting from the proposed change:
n/a

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 1st day of SEPTEMBER, 19 98



(Signature of Applicant)

(Notary Public)

My commission expires _____

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 3 attachments

Received by MB Date 9/3/98

Protest filed by B/line County

Prelim. check by P. SKINNER Fee 100.00

Receipted by P. SKINNER Date 9/3/98 SD21470

Published in Wood River Journal

Copies of protest forwarded by _____

Pub. dates 10/28 & 11/4/98

Hearing held by _____ Date _____

Watermaster recommendation requested on N/A

Recommended for ☒ Approval ☐ Denial

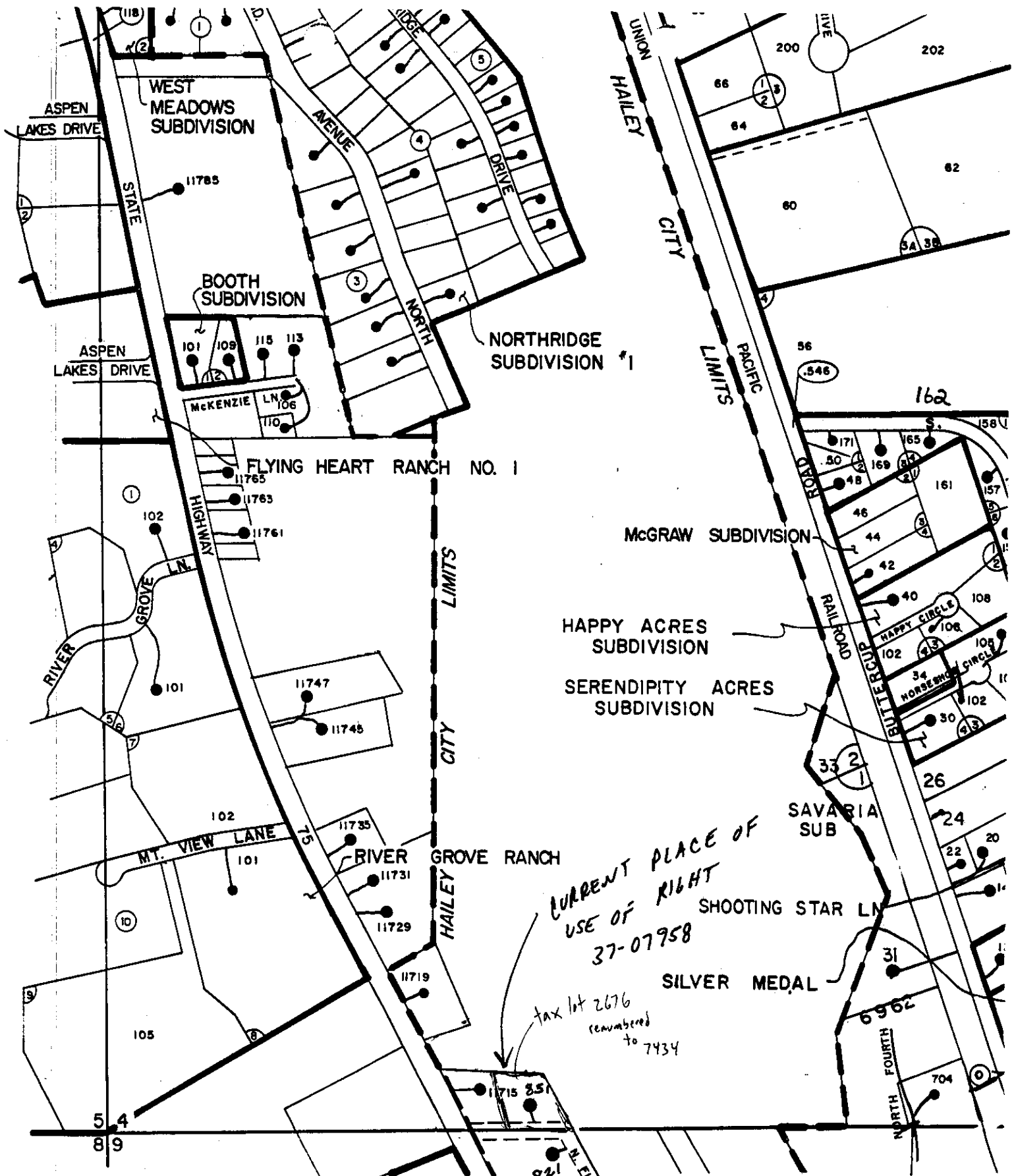
rec'd. _____

by Adm

Copy of transfer sent to lien holder _____

MICROFILMED

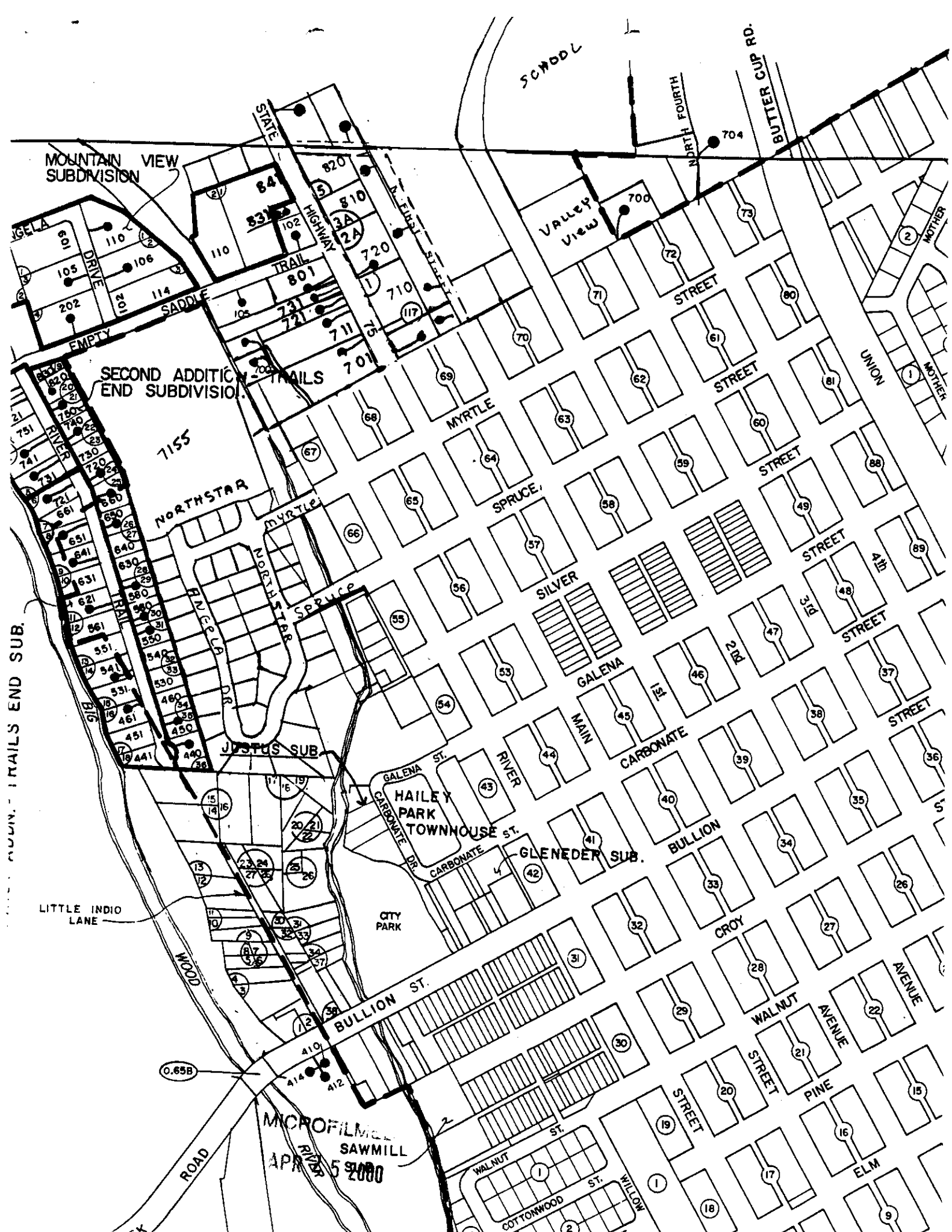
APR 25 2000



Tax Lot 2676
APR 25 2000
Bruce Allen
1.45 acres

SEC. 4, T. 2 N., R. 18 E.

T# 5329



ADJ. TRAILS END SUB.

MOUNTAIN VIEW SUBDIVISION

VALLEY VIEW

SECOND ADDITION TRAILS

EMPTY

TRAILS

NORTHSTAR

MYRTLE

SPRUCE

SILVER

GALENA

MAIN

CARBONATE

BULLION

CROY

WALNUT

PINE

ELM

ROAD

0.65B

APR 25 2000

SCHOOL

NORTH FOURTH

BUTLER CUP RD.

UNION

MOTHER

CITY PARK

HAILEY PARK TOWNHOUSE

GLENEIDER SUB.

T#5329

**PURCHASE, SALE AND TRANSFER AGREEMENT
FOR WATER RIGHT # A37-07958**

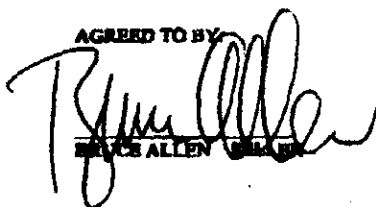
THIS AGREEMENT IS ENTERED INTO THE 30TH DAY OF JULY 1998, BETWEEN BRUCE ALLEN,
SELLER AND MICHAEL E. WILLARD, BUYER.

WHEREAS BRUCE ALLEN IS THE LEGAL OWNER OF THE PROPERTY WHERE THE WATER
RIGHT IS GRANTED DESCRIBE AS: T2N, R18E, S4, SESEW BLAINE COUNTY, ID. AND
THEREFORE THE BENEFICIAL OWNER OF THE WATER RIGHT IDENTIFIED AS # A37-07958
WHICH EXISTS AS A PART OF THE AFORE MENTIONED PROPERTY.

WHEREAS MICHAEL E. WILLARD IS THE LEGAL OWNER OF THE PROPERTY LOCATED AT
970 BUTTERCUP RD. HAILEY, ID.

WHEREAS BRUCE ALLEN AGREES TO SELL AND CONVEY HIS INTEREST IN THE WATER
RIGHT TO MICHAEL E. WILLARD AND TRANSFER THE SAID RIGHT INTO THE WELL
LOCATED ON HIS PROPERTY AT 970 BUTTERCUP RD. HAILEY, ID. FOR THE PURCHASE
PRICE OF \$ 15,000, IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE LETTER
OF INTENT AND OFFER TO PURCHASE ENTERED INTO BY THE PARTIES ON 7-30-98.

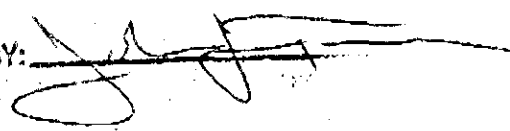
AGREED TO BY


BRUCE ALLEN SELLER


MICHAEL E. WILLARD BUYER

MICROFILMED
APR 25 2000

T# 5329

ACCEPTED & APPROVED BY: 

[Space Above This Line for Recording Data]

DEED OF TRUST

THIS DEED OF TRUST ("Security Instrument") is made on FEBRUARY 13, 1998

The grantor is Bruce I. Allen

("Borrower"). The trustee is PIONEER TITLE COMPANY OF ADA COUNTY

is NORWEST MORTGAGE, INC.

existing under the laws of THE STATE OF CALIFORNIA

408 SW FIFTH STREET, DEER HORN, IA 55009

("Lender"). Borrower owes Lender the principal sum of TWO HUNDRED TWENTY THREE THOUSAND

ONE HUNDRED TWENTY FIVE AND NO/100

Dollars (U.S. \$ 223,125.00)

This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on MARCH 1, 2008. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 1 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in BLAINE County, Idaho:

LEGAL DESCRIPTION IS ATTACHED HERETO AS SCHEDULE "A" AND MADE A PART HEREOF.

which has the address of 718 NORTH FIRST STREET

(Street)

HAILEY

83333

("Property Address")

[City]

[Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

Legal Description**Exhibit "A"**

The land referred to in this policy is situated in that State of Idaho, County of Blaine and is described as follows:

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

SECTION 4: A parcel of land more particularly described as follows:

COMMENCING at a brass cap marking the South one-quarter corner of said Section 4; thence North 89° 33' 36" West 741.96 feet along the South boundary of said Section 4 to a found 5/8 inch rebar by JUB Engineers circa 1970 marking the Southeast corner of Tax Lot 2676 and also the REAL POINT OF BEGINNING; thence continuing North 89° 33' 36" West 240.02 feet along said South boundary of Section 4 to a set 1/2 inch rebar by L.S. 792 marking the Southwest corner of Tax Lot 2676; thence North 28° 31' 58" West 300.22 feet along the common boundary line between Tax Lots 2067 and 2676 to a set 1/2 inch rebar by L.S. 792 marking the Northwest corner of said Tax Lot 2676; thence South 89° 33' 31" East 240.02 feet along the North boundary of said Tax Lot 2676 to a found 5/8 inch rebar by JUB Engineers circa 1970 marking the Northeast corner of said Tax Lot 2676; thence South 28° 32' 00" East 300.22 feet along the Easterly boundary of said Tax Lot 2676 to the POINT OF BEGINNING.

MICROFILMED
APR 25 2000

T #5329

RECEIVED

JUL 10 1998

Southern Region Source

Order No. 19105

WARRANTY DEED

For Value Received Owen T. Stapleton and Pearl A. Stapleton, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
Bruce Allen and Pamela Sue Martin, husband and wife
whose address is: P.O. Box 2275, Hailey, ID 83333

Hereinafter called the Grantee, the following described premises situated in Blaine County, Idaho, to-wit:

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

SECTION 4: A parcel of land more particularly described as follows:

COMMENCING at a brass cap marking the South one-quarter corner of said Section 4; thence North 89° 33' 36" West 741.96 feet along the South boundary of said Section 4 to a found 5/8 inch rebar by JUB Engineers circa 1970 marking the Southeast corner of Tax Lot 2676 and also the REAL POINT OF BEGINNING; thence continuing North 89° 33' 36" West 240.02 feet along said South boundary of Section 4 to a set 1/2 inch rebar by L.S. 792 marking the Southwest corner of Tax Lot 2676; thence North 28° 31' 58" West 300.27 feet along the common boundary line between Tax Lots 2067 and 2676 to a set 1/2 inch rebar by L.S. 792 marking the Northwest corner of said Tax Lot 2676; thence South 89° 33' 31" East 240.02 feet along the North boundary of said Tax Lot 2676 to a found 5/8 inch rebar by JUB Engineers circa 1970 marking the Northeast corner of said Tax Lot 2676; thence South 28° 32' 00" East 300.22 feet along the Easterly boundary of said Tax Lot 2676 to the POINT OF BEGINNING.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: July 31, 1996

Owen T. Stapleton
Owen T. Stapleton

Pearl A. Stapleton
Pearl A. Stapleton

State of IDAHO

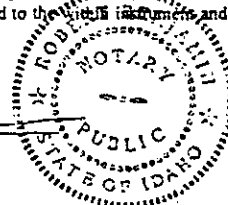
County of BLAINE

On August 1, 1996 before me, the undersigned, a Notary Public in and for said State, personally appeared Owen T. Stapleton and Pearl A. Stapleton personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature

Commission Expires: 10-9-99



MICROFILMED
APR 25 2000

96 AUG 1 PM 3 31
BLAINE CO. REQUEST
C. FIRST AMERICAN TITLE
FEES \$ 3.00
T#5329

JAN-30-98 FRI 15:22

SPECK & AANESTAD

FAX NO. 208/2 J152

11:03/07

Jan-30-98 11:56A The Clark Law Firm

(208, 788-3918

P.02

QUITCLAIM DEED

INSTRUMENT No. _____

FOR VALUE RECEIVED. PAMELA SUE MARTIN of Blaine County, Idaho, (Grantor), does hereby convey, release, remise and forever quit claim unto BRUCE ALLEN, of Blaine County, Idaho, (Grantee), all right, title and interest in and to the parcel of real property more particularly described as follows:

Tax Lot 2676, Section 4, T2N, R18E, Hailey Townsite according to the official plat thereof, on file in the office of the County Recorder, Blaine County, Idaho

together with all appurtenances.

DATED this 30th day of Jan, 1998

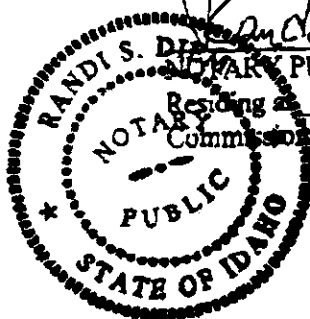
P. S. Martin
PAMELA SUE MARTIN

STATE OF IDAHO,)

) ss.

County of Blaine.)

On this 30th day of January, 1998, before me, a Notary Public in and for said State, personally appeared PAMELA SUE MARTIN, Grantor, known to me to be the person who name is subscribed to the within instrument, and acknowledged to me that she executed the same.



CERTIFIED TO BE AN EXACT
COPY OF THE ORIGINAL
BY Dale Swen

MICROFILMED

APR 25 2000

Legal Description

Exhibit "A"

The land referred to in this policy is situated in that State of Idaho, County of Blaine and is described as follows:

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

SECTION 4: A parcel of land more particularly described as follows:

COMMENCING at a brass cap marking the South one-quarter corner of said Section 4; thence North 89° 33' 36" West 741.96 feet along the South boundary of said Section 4 to a found 5/8 inch rebar by JUB Engineers circa 1970 marking the Southeast corner of Tax Lot 2676 and also the REAL POINT OF BEGINNING; thence continuing North 89° 33' 36" West 240.02 feet along said South boundary of Section 4 to a set 1/2 inch rebar by L.S. 792 marking the Southwest corner of Tax Lot 2676; thence North 28° 31' 58" West 300.22 feet along the common boundary line between Tax Lots 2067 and 2676 to a set 1/2 inch rebar by L.S. 792 marking the Northwest corner of said Tax Lot 2676; thence South 89° 33' 31" East 240.02 feet along the North boundary of said Tax Lot 2676 to a found 5/8 inch rebar by JUB Engineers circa 1970 marking the Northeast corner of said Tax Lot 2676; thence South 28° 32' 00" East 300.22 feet along the Easterly boundary of said Tax Lot 2676 to the POINT OF BEGINNING.

MICROFILMED
APR 25 2008

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 37-7958 Priority December 4, 1981 Amount 0.05 cfs

THIS IS TO CERTIFY, that Owen T. &/or Pearl A. Stapleton
of Hailey, Idaho, has complied with the terms and conditions of Permit
No. 37-7958 issued pursuant to Application for Permit dated December 4, 1981,
and has submitted proof to the Department of Water Resources on January 26, 1983,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 0.12 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	<u>from April 1 to November 1</u>	<u>at 0.05 cfs and</u>	<u>4.5 acre feet</u>
_____	<u>from _____ to _____</u>	<u>at _____ cfs and</u>	_____
_____	<u>from _____ to _____</u>	<u>at _____ cfs and</u>	_____

(both dates inclusive)

Subject, however, to the condition that no more than 0.05 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
4.5 acre feet per year, said waters to be diverted within the (2 pts) S4SW4,
Section 4, Twp 2N, Rge 18E in the County of Blaine

Description and location of place of use:

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	18E	4											2						2

Ac. Irr. = 1.5.

Total number of acres irrigated 2

MICROFILMED

MICROFILMED

CONDITIONS OF APPROVAL

a. Modifications to or variance from this license must be made within the limits of Section 42-222, **Idaho Code**, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

b. The right to the use of the water hereby confirmed is restricted and appurtenant to lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.

c. Any water right confirmed in this license 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 license 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 license.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 12TH day of NOVEMBER, 19 85.

Acting for the

Director

Norman C Young

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Owen T. &/or Pearl A. Stapleton Phone 788-2289

Post office address Box 324, Hailey, ID 83333

2. Source of water supply Groundwater which is a tributary of _____

3. Location of point of diversion is 2 points
SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 4 Township 2N

Range 18E B.M. Blaine County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.05cfs for irrigation purposes from Apr 1 to Nov 1 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 0.05 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Two existing shallow wells and pumps,
sprinklers

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir
capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is _____ inches; proposed depth of well is 30 feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial
use is 1 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M.

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.

(5) If water is to be used for other purposes describe: _____

MICROFILMED

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

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	18E	4												1.5					1.5

Total number of acres to be irrigated 1.5

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

None

9. a. Who owns the property at the point of diversion Applicants

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

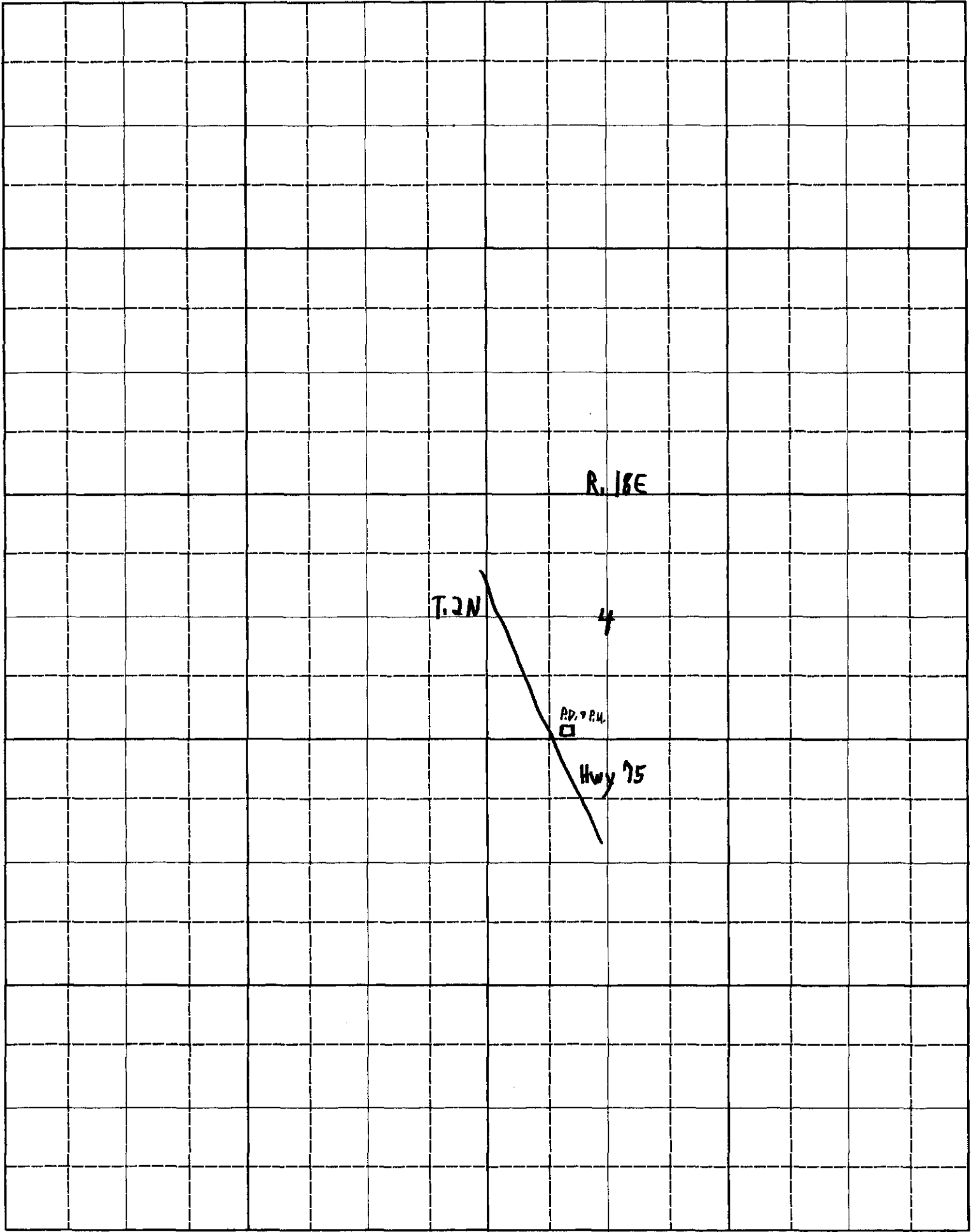
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

10. Remarks These are old wells that have not been used for 10 years or more. Each well now irrigates a small pasture, total 1.5 acres.

RECEIVED

YOUNG & ASSOCIATES

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



Scale: 2 inches equal 1 mile.

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

Cecil G. Stapleton
(Applicant)

RECEIVED
JAN 11 1964
IDAHO DEPT. OF AGRICULTURE

Processed Priority 12/4/1981
Received by J Date 12-4-81 Time 2:28 pm
Preliminary check by T.G.B Fee \$ 30.00 # 20689
Receipted by marya Date 12/4/81
Publication prepared by marya Date 12/7/81
Published in wood river journal
Publication dates 12/17 + 12/24/81
Publication approved marya Date 12/16/81
Protests filed by: None

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by ADM Jim

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. 37-7958 , and said application is hereby APPROVED .

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 March 1 , 19 83 .
- 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. Other:

Witness my hand this 3rd day of February, 1982.

J. Glen Saxton
Chief, Operations Bureau

RECEIVED

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Blaine } SS.

GORDON O. GLASHMAN

, 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 17 day of Dec. 1981, and the date of the last publication was on the 24 day of Dec. 1981.

Subscribed and sworn to before me this 24th

day of December, 1981.
(SEAL)

NOTARY PUBLIC

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Numer of Picas per Line 13
Number of Lines in Notice 38
Number of Insertions 2
Lines tabular at _____ 4¢ / Pica
38 Lines straight at 14.82 3¢ / Pica
38 Subsequent lines at 9.88 2¢ / Pica
TOTAL COST 24.70

CERTIFICATE OF NOTICE
(Paste Here)

Appl. W.R. 37-2958
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. Water Resources
BILL TO

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1980)

7-8 pt. per line, straight	3¢ / Pica
7-8 pt. per line, tabular	4¢ / Pica
7-8 pt. per line successive insertions	2¢ / Pica

FILED

No. 933
DEC 28 1981

Department of Water Resources
Southern District Office

MICROFILMED

NOTICE IS HEREBY GIVEN That
the following applications have been
submitted for permit to appropriate
the public waters of the State of
Washington.

Project: STANLEY, GLEN T. GROW
SPOKANE, A.

Box 100, WALEY, ID 83333

For: FLOW WATER

One (1) cfs.

For: FLOW WATER

One (1) cfs.

For: FLOW WATER

One (1) cfs.

For: FLOW WATER

One (1) cfs.

For: FLOW WATER

One (1) cfs.

For: FLOW WATER

One (1) cfs.

For: FLOW WATER

One (1) cfs.

For: FLOW WATER

One (1) cfs.

For: FLOW WATER

One (1) cfs.

A. KENNETH CUNN
Director

Water Resources Journal

Volume 1, No. 1, 1968



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

April 6, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MICHAEL E WILLARD
1339 HAMPSHIRE CIRCLE
NEWPORT BEACH CA 92660

RE: Water Right 37-07958 (Transfer 5329)

Dear Water Right Holder(s):

Enclosed is the copy of your approved Transfer of Water Right for the above referenced water right (Transfer 5329). Please be sure to thoroughly read the Conditions and Remarks listed on the transfer. Also, please be advised that the accompanying transfer approval should be considered and treated as a **preliminary order** of the department issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the approved transfer.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

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

Sincerely,

for *Sharla Curtis*
Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

MICROFILMED

APR 25 2000

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of April, 2000 I mailed a true and correct copy, postage prepaid, of the foregoing **TRANSFER APPROVAL** to the person(s) listed below:

RE: WATER RIGHT 37-07958 (Transfer 5329)

**MICHAEL E WILLARAD
1339 HAMPSHIRE CIRCLE
NEWPORT BEACH CA 92660**


**Kari Lynn Townsend
Secretary**

**MICROFILMED
APR 25 2000**



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

April 6, 2000

LEE PETERSON
WATERMASTER
BOX T
SHOSHONE ID 83352

RE: TRANSFER OF WATER RIGHT 37-30000B
(Transfer 5329)

Dear Lee:

Enclosed is a copy of the recently approved Transfer of Water Right for the above referenced water right (Transfer 5330) in the name of Michael E. Willard.

If you have any questions, please call me at 208-327-7940.

Sincerely,

Sharla Curtis

for Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

MICROFILMED

APR 25 2000

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

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

MICROFILMED

APR 25 2000

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MICROFILMED

APR 25 2000

Fax

To: Pam Skaggs, IDWR

From: Chuck Brockway, Jr.

Fax: (208) 327-7866

Pages: 2

Phone:

Date: 03/30/00

Re: Transfer Nos. 5329 and 5330

CC: Mr. Willard

(Michael Willard)

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

• **Comments:**

Pam,

Here is a drawing showing Mr. Willard's property boundaries and acreage relative to the two 40-acre tracts to which the water rights are appurtenant. Per our phone conversation today, please denote the PPU acres as the gross property area to allow flexibility in irrigation. Total irrigation = 2.6 acres within the 8.9-acre PPU.

Please do not hesitate to call if you have any questions. Have a great day!

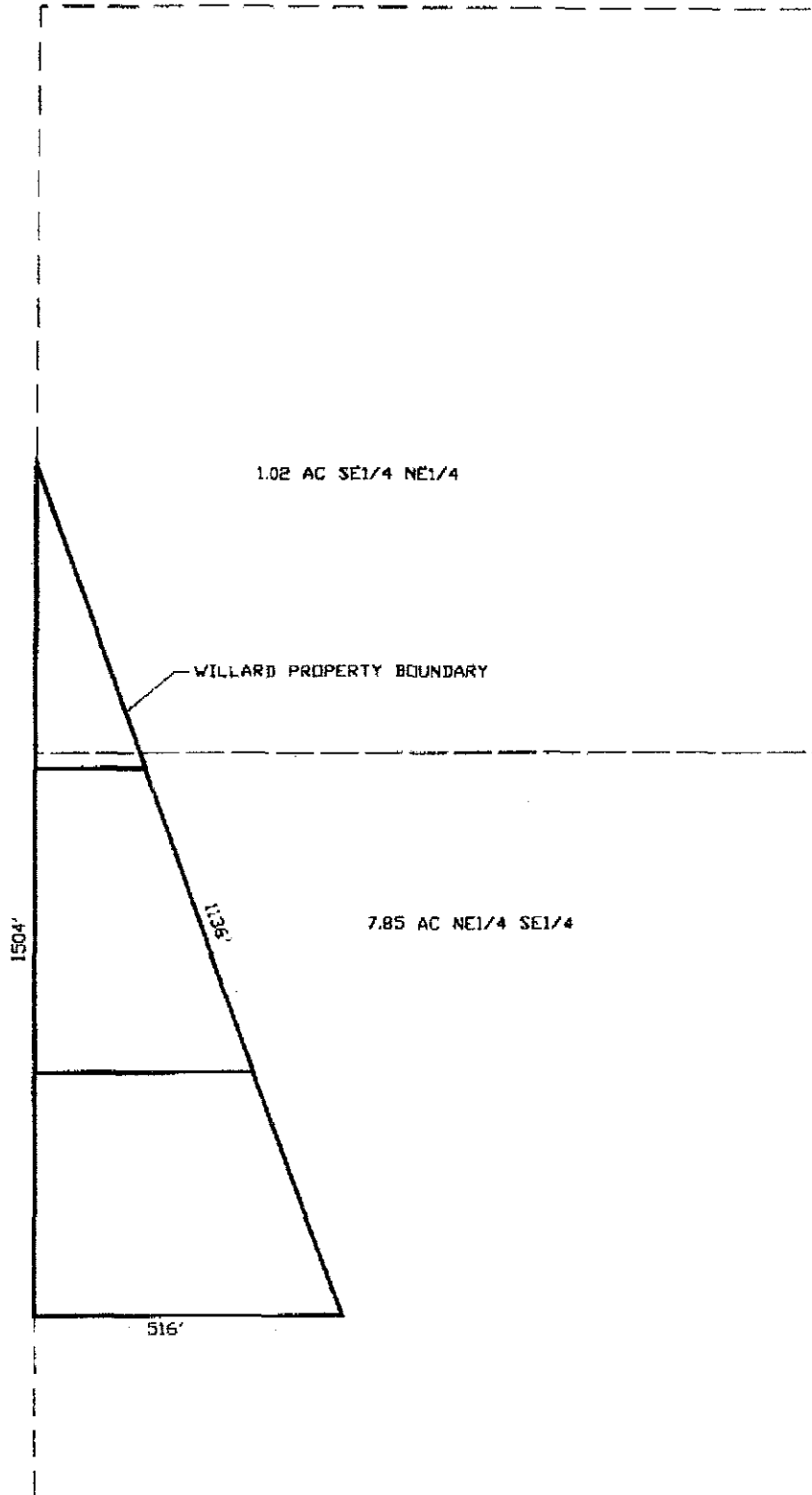
Chuck

MICROFILMED
APR 25 2000

MICHAEL WILLARD PROPERTY BOUNDARIES
BASED ON SURVEY DESCRIPTION

CGB 3/30/2000

SEC. 29 T.3N. R.18E. S.M.
SCALE: 1" = 300'



MICROFILMED
APR 25 2000

TRANSFER REVIEW SHEET

(10-99)

Transfer # 5329

Date Reviewed 03-29-2000
CS

Right(s) 37-07958 _____

☒ WRQ/Split Summary ☒ ^{No Activity} SRBA Status ☒ By C. Skinner/No Overlaps
Run POU Comparison Report

B:Change P/D C:Add P/D D:Change P/U E:Change Nature of Use
F:Change Period of Use G:Other H:Change P/D & Add P/D
I:Change P/D & P/U J:Add P/D & Change P/U

Proof of Ownership ¹⁹⁹⁶ Warranty Deed from Stapleton to Bruce Allen & Pamela Sue Martin.
Quitclaim Deed from Martin to Bruce Allen. * Purchase & Sale Agreement Allen to Willard.

Transfer ☒ All of Right _____ Portion of Right
Resulting Split(s) NDNE

Check Transfer Against Recorded Right:

Standard Season 4-15 to 10-31 Standard Volume 3.5 / 2.5

(1) ☒ Priority (2) ☒ Use (3) Season ~~W61~~ (4) ☒ Rate (5) Volume

(6) ☒ Source (7) P/D (8) P/U (9) ☒ Proof/Owner (10) ☒ Map

(11) 37 Water District (12) NO Pertinent Conditions (13) NO Expansion
WM Comment Revid 10-29-98

(3) Licensed season > current standard

(5) Current Standard = 3.5 x 1.5 = 5.25 or 5.3 ac

(7) Change P/D

(8) Change P/U

DOM - A37-11371

Stipulation Agreement to withdraw Protest

Transfer Remarks ^{*} R+ 37-07958 1.5 Acres. R+ 37-07958 + 37-30000B = 2.6 acres

R43 w/totalizing within 8.9 acre P/U

Conditions 046, R04, 020, R67 T07, T08, T09

Per ADM recommendation.

Database/Processing Notes Standard ☒ Non-Standard _____

T file.

"T" Files Update Complete ☒ Approval Form ☒ Transfer Memo _____

Database Updated Following Approval ☒ Memo/Form Files Deleted _____

* Per FAX from CG Brockway. Single IRR sprinkler system from 2 sources.

Called Chuck Brockway

3-24-00

(208) 736-8543

Common 2-6 acre sprinkler
system?
pnd + well to sprinkler
Agreement to cap well?

" Bruce Allen

3-24-00

(208) 726-2237

Same well for A37-11371
DOM use Home/IRR?
2 P/O's on License

3-30-00 - Separate DOM well - No problem abandoning
original IRR well.
Will send statement.
will use domestic well
4/0 city water for any
IRR. 1/2 acre from well

IDAHO DEPARTMENT OF WATER RESOURCES
PREFIX/SPLIT QUERY

DATE: 03/29/00

TIME: 12:38:25

PAGE: 1

WATER RIGHT NO.	NAME	OWNER	PRIORITY DATE	STG/STS	SOURCE	USE DESC	SYSTEM
37-07958	STAPLETON, OWEN T.	C	12/04/1981	L/	GROUNDWATER	IRR	WR
	STAPLETON, PEARL A.	C					
T37-07958	WILLARD, MICHAEL E	C	12/04/1981	L/	GROUNDWATER	IRR	WR

A37-07958	STAPLETON, OWEN T	C	12/04/1981	L/	GROUNDWATER	IRR	AJ
	STAPLETON, PEARL A	C					
R37-07958	STAPLETON, OWEN T	C	12/04/1981	L/	GROUNDWATER	IRR	AJ
	STAPLETON, PEARL A	C					

IDWR TRANSFER ANALYSIS SHEET

APPLICANT Willard, Michael E. TRANSFER NO. 5329

1. Right number(s) 37-07958

2. Type of right ☐ Decree ☒ License ☐ Statutory Claim
☐ SRBA Beneficial Use Claim

3. Purpose of transfer ☒ Change P/D ☐ Add P/D ☒ Change P/U
☐ Change N/U ☐ Change Source ☐ Split Right
☐ Other: _____

4. Check Existing Right: ☒ Source ☒ Priority ☒ Amount ☒ Purpose
☒ Period ☒ SRBA Claim
☒ Description of original point(s) of diversion
☒ Description of original place of use
☒ Overlapping rights on original place of use

Comments: ~~37~~ 137-11371 (DOMESTIC CLAIM) APPEARS TO
POSSIBLY OVERLAP, BUT SHOULD CAUSE NO PROBLEMS.

5. Check Proposed Right for amount of land &/or water transferred:

☒ Also see attached memo for more analysis information

- a. ☒ All of right
- b. ☐ Part of right (NOTE! Part B should be filled in only if part of right is owned by the applicant)
- c. ☒ Description of point(s) of diversion
- d. ☒ Description of place of use
- e. ☒ Map showing P/D & P/U after transfer
- f. ☒ Correct notarized signature and \$100 fee
- g. ☐ Proof of ownership of right &/or land from which water is transferred
- h. ☒ Expansion in use of right - Comments: _____

NONE APPARENT, CURRENT PLACE OF USE?

i. ☒ Existing rights from same source, on land water is being transferred to; right number(s): 37-30000 R (816 WOOD)
WATER DELIVERED VIA HIAWATHA) IS FOR SEPERATE GROUND.

j. ☒ SRBA claim(s) - Comments (NOTE: Approved transfer amends SRBA claim; differences between existing water right and SRBA claim? any ownership or other outstanding issues? Explain) NO APPARENT PROBLEMS

k. ☒ Comment letters _____ Yes ☒ No
If yes _____ Water District # _____
Lienholder, others, see #2 below for name and address

INITIAL ALLOCATION REVIEW BY AJ
SRBA SUPERVISOR REVIEW BY _____
PUBLICATION REVIEW BY _____

DATE 11/27/98
DATE _____
DATE _____

1. Legal Notice electronically sent to DWRO3::VAULT

☒ Yes 10/20/98 (1:47pm)

2. COMMENT LETTERS

Copy of Pg 1 to AJ

☒ Yes 10/20/98

Watermaster recommendation requested on _____, Received on _____

Other comments letters - send to the following name(s) & address(es): _____

3. Transfer published correctly?

☒ Yes _____ No

4. Affidavit of publication received?

☒ Yes _____ No

5. Protests received? ☒ Yes _____ No; Acknowledgement sent? ☒ Yes

6. Copies made for Region file (see attached supplemental page)? ☒ Yes

RECOMMENDED ACTION

1. ☒ Approve

2. ☐ Deny due to _____

3. Conditions (special conditions in Water Districts) _____

☒ Also see attached memo for recommendation dated: 11/27/98

4. By _____

Date _____

MEMO

FROM: Allen Merritt 

DATE: November 27, 1999

TO: Transfer File No. 5329 5330
Water Right(s): 37-07958 37-30000B

In the Name of: Michael Willard

SUBJECT: Review and Recommendation

RECEIVED

DEC 8 1999

Department of Water Resources

These transfers were filed to cover the Willard development in Section 29, T03N, R18E. On June 30, 1998 Mr. Willard was sent a warning letter regarding the development of ponds on his property. In response these transfers were filed. Transfer T5329 deals with purchase of a groundwater right and moving it to the Willard property for additional irrigation use. This would allow another 1.5 acres to be irrigated. Transfer T5330 modifies an existing surface water right from the Big Wood River that was moved to the property in 1996 under approved transfer T4882. The modification requested converts the authorized irrigation of 1.5 acres to irrigation of 1.1 acres and development of 2 ponds (2.0 af capacity) for recreation/aesthetic use. The reduction of 0.4 acres allows for building the ponds. If both transfers are approved it would allow a total of 2.6 acres to be irrigated and use of the surface water for two ponds with a surface area of 0.37 acres.

These transfers were advertised and both protested by Blaine County. A pre-hearing conference was held and ultimately the county and the applicant resolved the protests with an agreement. The agreement stipulates that the well where 37-07958 is currently diverted (Allen well) be capped and the new well authorized for use be metered.

I have created GIS shapes for these transfers. I only created one POU shape file for both rights which is 3.0 acres in size. I recommend the rights be recommended as a PPU for irrigation of 2.6 acres and 0.4 acres for two ponds within the shape since realistically that is how they will be used since all water for irrigation is diverted from the lower pond. Note that the shape crosses between the NESE & SENE tracts.

Recommendation

I recommend that these transfers be approved subject to the following conditions:

- Rights are under the control of the watermaster of district 37.
- A measuring device must be maintained at the point of diversion at the head of the Hiawatha Canal.
- A lockable control valve and meter which registers accumulated flow must be maintained at the well authorized for use under 37-07958.
- Right 37-07958 is limited to 0.05 cfs and 4.5 afa and may be used to irrigate 1.5 acres within the 2.6 acre PPU within SENE & NESE Section 29, T03N, R18E.
- Right 37-30000B is limited to 0.10 cfs measured at the point of diversion from the Big Wood River for use to irrigate 1.1 acres within a 2.6 acre PPU within SENE & NESE

MICROFILMED

APR 25 2000

Section 29, T03N, R18E. and may be used to fill a storage facility from 4/15 to 10/15 (2 ponds – 2 af capacity) for Irrigation/Recreation/Aesthetic purposes (Ponds may store water year round).

-The new well authorized under 37-07958 must comply with drilling permit requirements. The original well or site of diversion for right 37-07958 within SESW 4, T02N, R18E known to be located on the Bruce Allen property must be properly abandoned before the new well is authorized to be drilled.

-Uses are subject to agreement with protestant.

MICROFILMED
APR 25 2000

T# 5329

WATER RIGHT NO. 37-07958

[illegible]



State of Idaho
DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 26, 1999

MARY ANN MIX-CHAIRMAN
BLAINE COUNTY COMMISSIONERS
PO BOX 400
HAILEY ID 83333

Re: Application for Transfer Nos. 5229 & 5330-Michael Willard

Ladies and Gentlemen::

This office acknowledges receipt of the withdrawal of your protest against the above referenced applications per the Stipulated Agreement dated October 18, 1999.

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

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

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

Very truly yours,

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

AM:mb

Cc:

Attn Charles G Brockway
BROCKWAY ENGINEERING
2016 NORTH WASHINGTON ST-STE 4
TWIN FALLS ID 83301

GARY D SLETTE ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

MICROFILMED

APR 25 2000

ROSHOLT, ROBERTSON & TUCKER

ATTORNEYS AT LAW
142 3RD AVENUE NORTH
PO. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE: (208) 734-0700
FAX: (208) 736-0041

DATE: October 25, 1999

TO: Allen D. Merritt
IDWR

RECEIVED
OCT 26 1999
Department of Water Resources
Southern Region

RE: Willard, Michael E. - applications for transfer

Enclosed is the original Stipulation regarding
the above-referenced matter and Blaine County.
Please call with any questions you may have.

MICROFILMED

APR 25 2000
ROSHOLT, ROBERTSON & TUCKER

BY: Gary D. Slette/rlw

RECEIVED

OCT 26 1999

Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF)
APPLICATIONS FOR TRANSFER)
NOS. 5329 (37-07958) and 5330 (37-30000)) STIPULATION
IN THE NAME OF)
MICHAEL E. WILLARD)
_____)

COME NOW BLAINE COUNTY, the Protestant herein, by and through the Chairman of the Board of Commissioners thereof, and MICHAEL E. WILLARD, the Applicant herein, by and through his counsel of record, and stipulate as follows:

1. Willard agrees to cap, or cause to have capped, the irrigation well on the present point of diversion located on the Bruce Allen Property.

2. Willard agrees to install a metering device on any new well or wells constructed on his property, which wells are authorized by the Idaho Department of Water Resources, in order to monitor and regulate the use of water therefrom.

3. Willard agrees to meet all other applicable standards and conditions imposed by the Idaho Department of Water Resources with regard to the above-numbered transfers.

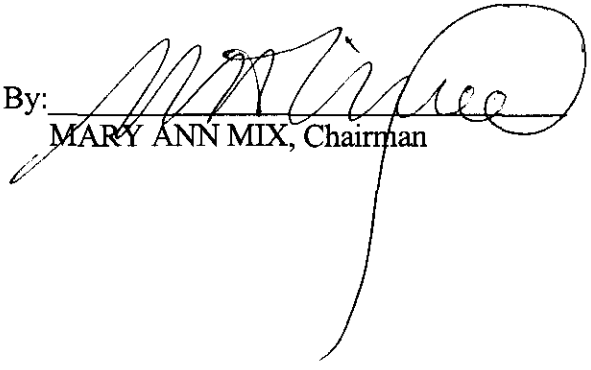
APR

1
2 4. Blaine County hereby withdraws its protest to the applications for the above-
3 numbered transfers.

4 5. Each party will bear its own costs and attorney's fees incurred in this matter.

5 DATED this 18th day of October, 1999.

6
7 BLAINE COUNTY

8
9 By: 
MARY ANN MIX, Chairman

10
11 ATTEST:

12
13 By: 
14 Clerk

15 DATED this 18th day of October, 1999.

16 MICHAEL E. WILLARD, Applicant

17
18 By: 
19 GARY D. SLETTE
20 Attorney for Applicant

ROSHOLT, ROBERTSON & TUCKER
ATTORNEYS AT LAW
PO. BOX 1906
TWIN FALLS, IDAHO 83303-1906

RECEIVED

OCT 26 1999

Department of Water Resources
Southern Region

MICROFILMED

APR 25 2000

ALLEN D MERRITT, MANAGER
IDAHO DEPT OF WATER RESOURCES
1341 FILLMORE ST - STE 200
TWIN FALLS ID 83301

83301X3380 18

|||||

ROSHOLT, ROBERTSON & TUCKER

Chartered

ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
JOHN K. SIMPSON
TIMOTHY J. STOVER
NORMAN M. SEMANKO
AMY CHESTNUT

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

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

RECEIVED

OCT 21 1999

**Department of Water Resources
Southern Region**

October 20, 1999

Allen Merritt
Idaho Dept. of Water Resources
1341 Fillmore Street - Ste. 200
Twin Falls, ID 83301

RE: Willard - Water Right Transfer Applications

Dear Allen:

Enclosed is a fully executed Stipulation with regard to the above-referenced matter. As this concludes all pending protests, please proceed with processing Transfer Application Nos. 5329 and 5330 in the name of Michael E. Willard.

Should you have any questions or comments, please don't hesitate to contact me.

Yours truly,



GARY D. SLETTE

GDS:rlw

Encls.

cc: Michael Willard
Charles Brockway, Jr.

rlw\gds\letters\merritt

MICROFILMED

APR 25 2000

~~COPY~~

RECEIVED

OCT 21 1999

Department of Water Resources
Southern Region

ORIGINAL

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF)
APPLICATIONS FOR TRANSFER)
NOS. 5329 (37-07958) and 5330 (37-30000)) STIPULATION
IN THE NAME OF)
MICHAEL E. WILLARD)
_____)

COME NOW BLAINE COUNTY, the Protestant herein, by and through the Chairman of the Board of Commissioners thereof, and MICHAEL E. WILLARD, the Applicant herein, by and through his counsel of record, and stipulate as follows:

1. Willard agrees to cap, or cause to have capped, the irrigation well on the present point of diversion located on the Bruce Allen Property.

2. Willard agrees to install a metering device on any new well or wells constructed on his property, which wells are authorized by the Idaho Department of Water Resources, in order to monitor and regulate the use of water therefrom.

3. Willard agrees to meet all other applicable standards and conditions imposed by the Idaho Department of Water Resources with regard to the above-numbered transfers.

MICROFILMED

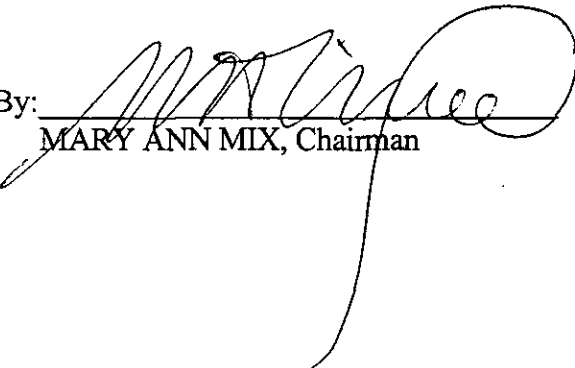
APR 25 2000

1
2 4. Blaine County hereby withdraws its protest to the applications for the above-
3 numbered transfers.

4 5. Each party will bear its own costs and attorney's fees incurred in this matter.

5 DATED this 18th day of October, 1999.

6
7 BLAINE COUNTY

8
9 By: 
10 MARY ANN MIX, Chairman

11 ATTEST:

12
13 By: 
14 Clerk

15 DATED this 18th day of October, 1999.

16 MICHAEL E. WILLARD, Applicant

17
18 By: 
19 GARY D. SLETTE
20 Attorney for Applicant

21
22
23
24
25
26
MICROFILMED
APR 25 2000

ROSHOLT ROBERTSON & TUCKER
ATTORNEYS AT LAW

142 THIRD AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
(208) 734-0700
FAX (208) 736-0041

RECEIVED

OCT 18 1999

Department of Water Resources
Southern Region

FACSIMILE TRANSMISSION

DATE: 10-18-99

FAX TO: Allen Merritt

FAX NO. 736-3037

FROM: Gary D. Slette

RE: Willard

NUMBER OF PAGES INCLUDING THIS ONE: 4

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL US BACK AS SOON AS POSSIBLE
AT (208) 734-0700.

INFORMATION CONTAINED IN THIS FACSIMILE COMMUNICATION IS ATTORNEY/CLIENT PRIVILEGED AND/OR
CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF
THE READER OF THIS COVER PAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE
TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION,
DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINED HEREIN IS STRICTLY
PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY CALL AT (208) 734-
0700, AND RETURN THIS FACSIMILE TO US BY MAIL AT THE ABOVE ADDRESS. WE APPRECIATE YOUR
COOPERATION.

ADDITIONAL MESSAGE:

MICROFILMED

APR 25 2000

ROSHOLT, ROBERTSON & TUCKER

Chartered
ATTORNEYS AT LAWJOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
JOHN K. SIMPSON
TIMOTHY J. STOVER
NORMAN M. SEMANKOTwin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

RECEIVED

OCT 18 1999

Department of Water Resources
Southern Region

October 18, 1999

Douglas A. Werth
Blaine County Prosecuting Attorney
201 2nd Ave. South, Suite 100
Hailey, ID 83333

Re: Willard - Water Right Transfer Applications

Dear Doug:

Pursuant to our telephone conversation of this morning, enclosed you will find a revised Stipulation with regard to the above-referenced matter.

If you have any questions or comments, please do not hesitate to contact me.

Yours truly,



GARY D. SLETTE

GDS:rlw

Encls.

cc: Mike Willard
Allen Merritt

Urlw\gds\letters\werth15

MICROFILMED

APR 25 2000

RECEIVED
OCT 18 1999
Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF)
APPLICATIONS FOR TRANSFER)
NOS. 5329 (37-07958) and 5330 (37-30000)) STIPULATION
IN THE NAME OF)
MICHAEL E. WILLARD)
_____)

COME NOW BLAINE COUNTY, the Protestant herein, by and through the Chairman of the Board of Commissioners thereof, and MICHAEL E. WILLARD, the Applicant herein, by and through his counsel of record, and stipulate as follows:

1. Willard agrees to cap, or cause to have capped, the irrigation well on the present point of diversion located on the Bruce Allen Property.

2. Willard agrees to install a metering device on any new well or wells constructed on his property, which wells are authorized by the Idaho Department of Water Resources, in order to monitor and regulate the use of water therefrom.

3. Willard agrees to meet all other applicable standards and conditions imposed by the Idaho Department of Water Resources with regard to the above-numbered transfers.

MICROFILMED

APR 25 2000

1
2 4. Blaine County hereby withdraws its protest to the applications for the above-
3 numbered transfers.

4 5. Each party will bear its own costs and attorney's fees incurred in this matter.

5 DATED this _____ day of October, 1999.

6
7 BLAINE COUNTY

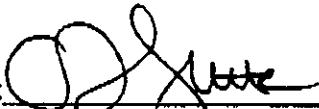
8
9 By: _____
10 MARY ANN MIX, Chairman

11 ATTEST:

12
13 By: _____
14 Clerk

15 DATED this 18th day of October, 1999.

16 MICHAEL E. WILLARD, Applicant

17
18 By:  _____
19 GARY D. SLETTE
20 Attorney for Applicant
21
22
23
24
25
26

STIPULATION - 2

MICROFILMED
APR 25 2000

ROSHOLT, ROBERTSON & TUCKER

Chartered

ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
JOHN K. SIMPSON
TIMOTHY J. STOVER
NORMAN M. SEMANKO

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

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

RECEIVED

OCT 18 1999

Department of Water Resources
Southern Region

October 15, 1999

Douglas A. Werth
Blaine County Prosecuting Attorney
201 2nd Ave. South, Suite 100
Hailey, ID 83333

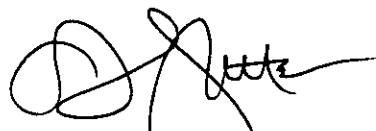
Re: **Willard - Water Right Transfer Applications**

Dear Doug:

Enclosed for your consideration please find a Stipulation with regard to the Willard transfer applications. Trusting that this Stipulation accurately sets forth the criteria we discussed last night, I have executed the original enclosed herewith. Once the Board has executed it, please return it to me in the enclosed self-addressed stamped envelope, and I will provide it to Allen Merritt of the Idaho Department of Water Resources.

If you have any questions or comments, please do not hesitate to contact me.

Yours truly,



GARY D. SLETTE

GDS:jl

cc: Mike Willard
Allen Merritt

\\rlw\gds\letters\werth14

MICROFILMED

APR 25 2000

RECEIVED

OCT 18 1999

Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF)
APPLICATIONS FOR TRANSFER) **STIPULATION**
NO. 5329 (37-07958) and 5330 (37-30000))
IN THE NAME OF)
MICHAEL E. WILLARD)
_____)

COMES NOW BLAINE COUNTY, the Protestant herein, by and through the Chairman of the Board of Commissioners thereof, and MICHAEL E. WILLARD, the Applicant herein, by and through his counsel of record, and stipulate as follows:

1. Willard agrees to cap, or cause to have capped, the irrigation well on the present point of diversion located on the Bruce Allen property.

2. Willard agrees to install a metering device on any new well or wells constructed on his property, which wells are authorized by the Idaho Department of Water Resources, in order to monitor and regulate the use of water therefrom.

3. Willard agrees to meet all other applicable standards and conditions imposed by the Idaho Department of Water Resources with regard to the above-numbered transfers.

STIPULATION - 1

MICROFILMED

APR 25 2000

1
2 4. Blaine County hereby withdraws its protest to the applications for the above-
3 number transfers.

4 "BLAINE COUNTY"

5 DATED this ____ day of _____, 1999.
6

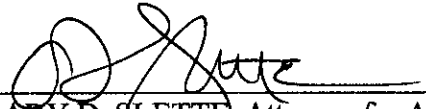
7 By: _____
8 MARY ANN MIX, Chairman
9

10 ATTEST:

11 By: _____
12 Clerk
13

14 "MICHAEL E. WILLARD"

15 DATED this 15 day of October, 1999.
16

17
18 By:  _____
19 GARY D. SLETTE Attorney for Applicant
Michael E. Willard
20
21
22
23
24
25
26

STIPULATION - 2

MICROFILMED

APR 25 2000

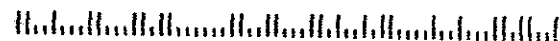
ROSHOLT, ROBERTSON & TUCKER
ATTORNEYS AT LAW
PO. BOX 1906
TWIN FALLS, IDAHO 83303-1906

RECEIVED
MICROFILMED
APR 25 2000

Allen Merritt, PE
Southern Regional Office.
Idaho Department of Water Resources
1341 Fillmore Street, Ste 200
Twin Falls ID 83301-3380

Department of Water Resources
Southern Region

83301X3380 18



FROM: Allen Merritt

DATE: July 29, 1999

TO: Willard Transfers 5329 & 5330

SUBJECT: Pre-hearing Conference

On 7/26/99 I held a pre-hearing conference in Hailey during the Blaine County Commissioner's scheduled public meeting time. Present at the conference were the commissioners who have protested the transfers, their attorney Doug Werth. Also the applicant, his attorney Gary Slette, and his consultant Chuck Brockway Jr.

We openly discussed both transfers and there was no resolution. The commissioners decided to discuss in private the issues and then Werth will get with Slette and let me know by August 8th if they will settle the protests or give me specifics about scheduling the formal hearing.

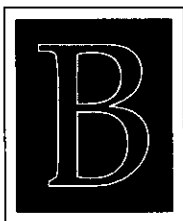
MICROFILMED

APR 25 2000

ROSTER OF ATTENDANCE

~~MICROFILMED~~

APR 25 2003



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

July 14, 1999

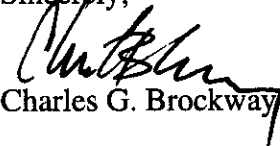
Allen D. Merritt, P.E.
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

RECEIVED
JUL 15 1999
Department of Water Resources
Twin Falls, Idaho

Dear Allen:

Please be advised that the contact person at Brockway Engineering for the Willard Transfer is Charles G. Brockway, not Jeffrey S. Rau.

Sincerely,


Charles G. Brockway

CGB:GG

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

MICROFILMED

APR 25 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

July 6, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MICHAEL E WILLARD
1339 HAMPSHIRE CIRCLE
NEWPORT BEACH CA 92660

ATTN LEN HARLIG CHAIRMAN
BLAINE COUNTY COMMISSIONERS
PO BOX 400
HAILEY ID 83333

JEFFREY S RAU P E
BROCKWAY ENGINEERING
2016 NORTH WASHINGTON ST-STE 4
TWIN FALLS ID 83301

GARY D SLETTE ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

RE: APPLICATION FOR TRANSFER NOS. 5329 & 5330

Gentlemen:

By this letter you are being notified of a Pre-Hearing Conference set for **Monday-July 26, 1999 at 9:00 a.m. in the Commissioners' Room, Blaine County Courthouse, 206 First Ave. South; Hailey ID** regarding the above referenced applications.

If this date and time is a problem for you, please let me know at your earliest convenience.

Very truly yours,

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

AM:MB

cc: Denise Jackson, Assistant
Blaine County P & Z

MICROFILMED

APR 25 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NOS. 5329, 5330)
37-07858, 37-30000 respectively)

NOTICE OF

PRE-HEARING CONFERENCE

Michael E. Willard,)
Applicant)
Blaine County Commissioners,)
Protestant)

SOURCE: groundwater
Big Wood River tributary to
Malad River

COUNTY: Blaine

On 07/16/98, Michael E. Willard, (applicant), filed with the Department of Water Resources an application to transfer the public waters of the State of Idaho; subsequently numbered Transfer No. 5330.

On 09/03/98, Michael E. Willard, (applicant), filed with the Department of Water Resources an application to transfer the public waters of the State of Idaho; subsequently numbered Transfer No. 5329.

The Department has received a protest against the approval of said applications from the above captioned protestant.

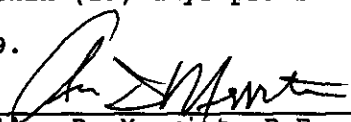
The Department has set the matter of protest for conference on Monday-June 28, 1999 at 4:30 p.m. in the Commissioners' Room, Blaine County Courthouse, 206 First Ave. South; Hailey, ID.

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with Chapter 2, Title 42, of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources.

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

Dated this 2nd day of June, 1999.


Allen D. Merritt, P.E.
Regional Manager

MICROFILMED

APR 25 2003

CERTIFICATE OF MAILING

I hereby certify that on the 2nd day of June, 1999 a true and correct copy of the foregoing Notice of Pre-Hearing Conference was forwarded with all required charges prepared, by the method(s) indicated below, to the parties listed:

Mary A. Baldwin
Secretary

MICHAEL E WILLARD
1339 HAMPSHIRE CIRCLE
NEWPORT BEACH CA 92660

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

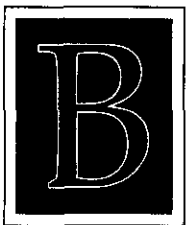
JEFFREY S RAU P E
BROCKWAY ENGINEERING
2016 NORTH WASHINGTON ST-STE 4
TWIN FALLS ID 83301

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

ATTN LEN HARLIG CHAIRMAN
BLAINE COUNTY COMMISSIONERS
PO BOX 400
HAILEY ID 83333

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

APR 25 2000



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

MAY 20 1999

Department of Water Resources
Southern Region

May 18, 1999

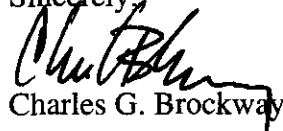
Mr. Allen Merritt
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301

Re: Transfer Applications #5329 and #5320
37-07958 and 37-30000B

Dear Allen:

Several discussions with representatives of Blaine County have failed to resolve the protest of the above-referenced water right transfers. Therefore, please schedule a pre-hearing conference at the earliest possible time. All Blaine County commissioners should be at the meeting if a resolution is to be reached.

Sincerely,


Charles G. Brockway

cc: Bruce Allen
Mike Willard
Len Harlig

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

Mon June 28 4:30
July 19 4:30 } *OK for*
council

MICROFILMED

APR 25 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 24, 1998

Blaine County Commissioners
PO Box 400
Hailey, ID 83333

Brockway Engineering
2016 N Washington St
Suite 4
Twin Falls, ID 83301

RE: Fire Protection Water Rights

Gentlemen and Ladies:

I have recently reviewed the December 8th letter (copy attached) from Brockway Engineering which proposes to modify transfers 5329 and 5330 in the name of Willard in an effort to resolve the protests of Blaine County. It appears that the inclusion of "fire protection" as a listed use for the rights associated with these transfers seems to be the key in resolution of the protests.

Since "fire protection" appears to be the issue, I think it is important to share with you the department's policy and recent court decisions on "fire protection". Please find enclosed a copy of "Administrator's Memorandum #30" dated 5/18/1983. Please also find a copy of a portion of Judge Hurlbutt's decision on Basin Wide Issue 5 dated 4/26/1996 and also a copy of the Idaho Supreme Court's decision on the appeal of Hurlbutt's decision.

It is my interpretation of the above that:

- No water right is necessary for emergency diversion of water to suppress a fire.
- A water right is required to divert water to storage if the purpose of the storage is solely for suppression of a future fire.

Further that:

- Inclusion of "Storage for Fire Protection" on transfer 5330 (right 37-3000B) may be appropriate although not required. If the application is amended to include this use which already includes storage for other uses we will re-advertise the transfer but would not consider this addition as an expansion of use.
- Inclusion of "Storage for Fire Protection" on transfer 5329 (right 37-07958) is not appropriate since on the

MICROFILMED
APR 25 2000

face such an addition would be considered an expansion of the original right. As an alternative if the desire is to divert the well specifically to provide storage for fire protection then a new application for permit should be considered. Please note that the well may be used at any time to suppress a fire without a water right.

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

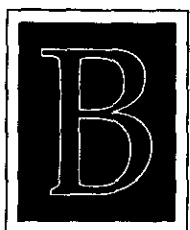
Sincerely,



Allen Merritt, PE
Southern Region Manager

CC: IDWR-Glen Saxton & Staff

MICROFILMED
APR 25 2000



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

DEC 10 1998

Department of Water Resources
Southern Region

December 8, 1998

Mr. Corey Skinner
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301

Re: Michael Willard transfer applications
37-30000B (surface water)
37-07958 (ground water)

Dear Corey:

As you know, both of the above transfer applications have been protested by Blaine County. I spoke with Mary Ann Mix, one of the county commissioners, and she indicated the county would withdraw its protests if storage for fire protection is included on both rights. Mr. Willard has agreed to this change. Please amend both applications as follows:

37-30000B

Part 1.B. - include the following line:

2.0 ac-ft Storage for Fire Protection 1/1 to 12/31

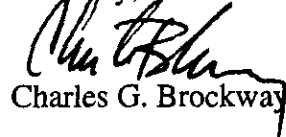
37-07958

Part 1.B. - include the following line:

2.0 ac-ft Storage for Fire Protection 1/1 to 12/31

Please give me a call if you have any questions. Blaine County will be forwarding a withdrawal of both protests once this change is made.

Sincerely,



Charles G. Brockway

cc: Mike Willard
Blaine County (Mary Ann Mix)

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

MICROFILMED

APR 25 2000

RECEIVED

JUN 7 1983

Department of Water Resources
Southern District Office

ADMINISTRATOR'S

MEMORANDUM

Application Processing No. 31

TO: Water Allocation Section and Regional Offices
FROM: Norman C. Young *NCS*
DATE: May 18, 1983
SUBJECT: Recording of Water Rights for Fire Protection

It is the department's policy that fire protection is an "implied" use for any water right up to the maximum amount of that water right.

It is also appropriate that the use of water actually diverted from a public source and used for fire suppression purposes, regardless of whether or not that diversion is associated with another water right, be recognized and protected. Typically, water diverted for fire suppression is taken randomly, without the quantifying characteristics of a recordable water right; however, the use of water for fire suppression does benefit the public.

It is the department's policy that it is not necessary to record a water right, for historical or future use, for the random diversion of water from a public source for fire suppression purposes. This policy is limited to that water which is actually diverted from a public source for fire suppression purposes.

MICROFILMED

APR 25 2000

RECEIVED

APR 30 1996

Department of Water Resources
Adjudication Bureau

1996 APR 26 PM 4:39

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO

FILED

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

In Re SRBA

Case No. 39576

Case: 91-00005

MEMORANDUM DECISION AND
ORDER RE: BASIN-WIDE ISSUE 5

I. PROCEDURAL HISTORY

In the Snake River Basin Adjudication (SRBA), I.C. § 42-1411(2) assigns the Director of the Idaho Department of Water Resources (IDWR) the duty of preparing a Director's Report on the Snake River water system. In 1994 the legislature expanded the Director's role by amending I.C. § 42-1411 to provide that "[t]he director may include such general provisions in the director's report, as the director deems appropriate and proper, to define and to administer all water rights." I.C. § 42-1411(3) (1995).

On September 5, 1995, A&B Irrigation, et al., filed a *Motion to Designate Basin-Wide Issue 5 (Motion to Designate)* with the SRBA Court in Twin Falls, in which it sought to hasten "the resolution of all objections to the inclusion of general provisions and other statements in the Director's Report for Reporting Areas 1 (Basin 34), 2 (Basin 57), and 3 (Basin 36), ..." *Motion to Designate* at 2.

Between November 28, 1995 and December 19, 1995, IDWR filed *Amended Director's Reports* for Basins 34, 36, and 57, the three test basins. In each of the *Amended Director's Reports* several general provisions contained in the original Director's Report were either stricken or moved to the "explanatory material" portion of the report. Following a hearing on the amended general provisions, the proposed amendments were granted, in part, and denied in part. In particular, general

III. FIREFIGHTING

For all three test basins, the use of water for firefighting has been proposed as a general provision.³ "Firefighting purposes is an alternate use for which any water right may be used, and firefighting is recognized as a lawful use of water with or without a water right." *General Provision 5, Amended Director's Report Part 1 for Reporting Area 1(Basin 34); General Provision 2, Amended Director's Report Part 1 for Reporting Area 3(Basin 36); General Provision 1, Amended Director's Report Part 1 for Reporting Area 2(Basin 57).*⁴

The first inquiry is whether firefighting is necessary as a lawful use of water for a water right. For either a constitutionally or statutorily based water right, the purpose of use is defined by the intentional application of water to an intended beneficial use of water. *Hidden Springs Trout Ranch v. Hagerman Water*, 101 Idaho 677, 680, 619 P.2d 1130 (1980); *State, Dept. of Parks v. Idaho Dept. of Water Admin.*, 96 Idaho 440, 530 P.2d 924 (1974).⁵ The key term is "intent." For the vast majority of water rights, water has been appropriated for a specific intended purpose other than firefighting. In order to find that each water right includes firefighting as a purpose of use, the court would have to ignore well-established and fundamental principles of water law by decreeing an implied purpose of use. A use would be recognized even though the appropriator intended a specific use of water other than firefighting. This court is not willing to open the floodgates to implied purposes of use where the appropriator did not intend to or beneficially apply water to a particular use.

as established in that report is an unconstitutional intrusion into the province of the judicial department of government." *In Re: SRBA Case 39576; State of Idaho, et al. v. United States, et al.* 95.18 ISCR 816, 822.

³ The full text is set forth in Appendix A.

⁴ Firefighting is not one of the listed uses of water under Article 15, § 3, of the Idaho Constitution. However, uses other than those listed under Article 15, § 3, may be considered beneficial uses. *State, Dept. of Parks v. Idaho Dept. of Water Admin.*, 96 Idaho 440, 530 P.2d 924 (1974). The *Parks* court recognized firefighting as a beneficial use of water.

⁵ "It is generally held that to constitute a valid appropriation of water, there must be a bona fide intent to apply it to some beneficial use, existing at the time or contemplated in the future, followed by diversion from the natural channel by means of a ditch, canal, or other structure and also an active application of water, within a reasonable time, to a beneficial use." *Hidden Springs Trout Ranch v. Hagerman Water*, 101 Idaho 677, 680, 619 P.2d 1130 (1974) (quoting 78 Am.Jur.2d *Waters* § 321 (1975)).

In determining whether firefighting is a purpose of use for all water rights, the next inquiry is whether statutes allow for such a use when the purpose of use is not contained in a permit or license. The resolution of this question is a matter of statutory construction:

It is a basic rule of statutory construction that, unless the result is palpably absurd, we must assume that the legislature means what is clearly stated in the statute. It is also well established that statutes must be interpreted to mean what the legislature intended the statute to mean, and the statute must be construed as a whole. Statutory interpretation always begins with an examination of the literal words of the statute. In so doing, every word, clause and sentence should be given effect, if possible. The clearly expressed intent of the legislature must be given effect and there is no occasion for construction where the language of a statute is unambiguous. Finally, when construing a statute, its words must be given their plain, usual and ordinary meaning.

Rim View Trout Farm v. Higginson, 121 Idaho 819, 822, 828 P.2d 848 (1994) (citations omitted).

Under the permitting and licensing statutes, an applicant first applies for a specific purpose of use. I.C. § 42-217 (1990). If the applicant complies with the permit conditions and applies the water for the intended purpose of use, the applicant is issued a license for that particular use of water. I.C. § 42-219 (1990). In reviewing the ordinary and plain meaning of both I.C. §§ 42-217 and 42-219, there is no allowance for any use other than that use specified by the permit or license. The fact that a use is limited is evidenced by the requirement to apply for a transfer of use for any use different than the use specified by the license. I.C. § 42-222 (1995). Applying a literal interpretation to the ordinary words of both I.C. §§ 42-217, 42-219 and 42-222, there is no mention of implied uses of water other than those listed in the permit or license. Therefore, the court finds that the legislature did not provide for a purpose of use for water other than that specified by the license.

The fact that the legislature did not provide for implied uses of water is significant when considering general provisions. General provisions are necessary only in the absence of legislation on the subject. *Silkey v. Tiegs*, 51 Idaho 344, 358, 5 P.2d 1049 (1931). There is a difference between an absence of legislative action versus legislation in a specific field that does not cover a proposed general provision. If the legislature has not occupied a specific field, the court may enact general provisions necessary to administer the decree. *Id.* However, if the legislature has covered a specific field and chooses not to address a subject made part of a proposed general provision, the court is not free to fill in the gaps. An attempt by the court to fill in gaps in an occupied field would constitute a violation of separation of powers under Article 2, § 1, of the Idaho Constitution. By adopting permitting and licensing statutes outlined under I.C. §§ 42-201 through 42-247, the court

assumes that the legislature has completely occupied the field as to how licenses are obtained and what those licenses include. Since there are no provisions allowing for a purpose of use other than that specifically contained in a license, this court does not have the authority to judicially infer purposes of use different than those specifically set out in a license or permit.

Finally, the primary purpose of the prior appropriation doctrine is to enable the state to regulate a finite resource. I.C. § 42-101 (1990). Including firefighting as a purpose of use for a water right does not further the state's regulatory scheme.⁶ Regardless of quantity, priority, place of use, or annual volume of consumptive use listed for a particular water right, one is going to use as much water as required and wherever needed in order to save lives, property, or natural resources. No state interest would be served by including firefighting as a purpose of use to all water rights.

The second inquiry is whether water may be used without a water right. At the outset, the court notes that "[n]o person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right" I.C. § 42-201(2) (1990). Anyone using water without a water right is subject to criminal or civil sanctions under I.C. § 42-237g. In light of these sections, this court cannot judicially carve out exceptions to criminal conduct where the legislature has clearly and unequivocally stated that water may not be used without a water right. Again, such judicial activism would amount to a violation of separation of powers under Article 2, § 1, of the Idaho Constitution.

However, under certain circumstances, water may be used to fight fires regardless of whether a water right exists. If one trespasses upon the land of another to access water to fight fire, like any alleged criminal act, the defense of necessity is always available. The common law defense of necessity was recognized by the Idaho Supreme Court in *State v. Hastings*, 118 Idaho 854, 801 P.2d 563 (1990). "A man may break the words of the law, and yet not break the law itself . . . where the words of them are broken to avoid greater inconvenience, or through necessity, or by compulsion." *Id.* at 855.⁷ The elements of the defense of necessity are as follows:

⁶ For example, in fighting a fire, is one limited to the amount of water defined under the water right? Can senior water right holders make a call on a junior user who is fighting an extended fire? May the water be used on property different than the place of use listed in the water right? If a water user exceeds the annual volume of consumptive use fighting a fire, can the user continue to use water for the remaining part of the year?

⁷ (Citing, E. Arnolds & N. Garland, *The Defense of Necessity in Criminal Law: The Right to Choose the Lesser Evil*, 65 J.Crim.Law & Criminology 285, 294 (1974)).

1. A specific threat of immediate harm;
2. The circumstances which necessitates the illegal act must not have been brought about by the defendant;
3. The same objective could not have been accomplished by a less offensive alternative available to the actor;
4. The harm caused was not disproportionate to the harm avoided.

Id.

The law of necessity recognizes that an actor can avoid criminal sanctions when the conduct is necessary and reasonable under the circumstances. In most cases, reasonable minds would conclude that water may be used to fight fires regardless of whether a right to use the water exists. In such cases, otherwise criminal conduct would be excused. However, there may be limited cases where one fighting a fire without a right to use water is not acting reasonably. For example, it may be unreasonable to bulldoze a river and divert water onto a small brush fire when nearby hoses were available to extinguish the fire. In this case, the actor's conduct may not be defensible under a necessity theory.

As to criminal or civil relief, the attorney general is the person given the authority to bring actions for potential violations of mandatory permitting and licensing requirements. I.C. § 42-237h (1990). For either a criminal or civil violation, the attorney general can apply the necessity criteria outlined in *State v. Hastings*. The decision of whether to bring any action rests within the sound discretion of the attorney general. A judicial finding that water may be used to fight fires in all cases would limit this discretion. Application of the necessity doctrine must be evaluated on a case-by-case basis.

Regardless of whether a water right exists or not, water has always been used to fight fires. Whether or not this court includes the proposed firefighting provisions is not going to change the ability of any person or entity to use water to fight fires. Considering the inherent nature of fires and the exigent circumstances they create, it is not necessary to include administrative provisions to deal with these emergencies. A watermaster is not going to refer to the Director's Report to determine whether an individual or entity has the ability to use water to fight a fire. For all these reasons, the court concludes that it is unnecessary to include the proposed firefighting provisions in the Director's Report.

IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket Nos. 23223, 23224, 23225, and 23226

IN RE: SRBA CASE NOS. 39576,
91-00005 EX REL. GENERAL PROVISIONS
RE: BASIN-WIDE ISSUE 5, ENTERED
4-26-96.

Boise, January 1997 Term

1997 Opinion No. 122

Filed: October 3, 1997

Frederick C. Lyon, Clerk

A & B IRRIGATION DISTRICT, FALLS
IRRIGATION DISTRICT, and BURLEY
IRRIGATION DISTRICT; FREMONT-
MADISON IRRIGATION DISTRICT and
MITIGATION GROUP; PAYETTE RIVER
WATER USERS ASSOCIATION, INC.;
STATE OF IDAHO,

Appellants,

v.

IDAHO CONSERVATION LEAGUE, IDAHO
RIVERS UNITED and IDAHO WILDLIFE
FEDERATION; AMALGAMATED SUGAR
COMPANY, CITY OF ASHTON, CITY OF
BLISS, CITY OF BUHL, CITY OF BURLEY,
CITY OF CASCADE, CITY OF
CHUBBUCK, CITY OF COUNCIL, CITY
OF DECLO, CITY OF DONNELLY, CITY
OF EDEN, CITY OF EMMETT, CITY OF
FAIRFIELD, CITY OF FRUITLAND,
CITY OF GARDEN CITY, CITY OF
GLENN'S FERRY, CITY OF GRAND VIEW,
CITY OF HAILEY, CITY OF HEYBURN,
CITY OF INKOM, CITY OF KUNA, CITY
OF MACKAY, CITY OF MOUNTAIN
HOME, CITY OF MUD LAKE, CITY OF
NAMPA, CITY OF NEW PLYMOUTH, CITY
OF MERIDIAN, CITY OF MIDDLETON,
CITY OF MINIDOKA, CITY OF OAKLEY,
CITY OF PARMA, CITY OF PAUL, CITY
OF PAYETTE, CITY OF RIGBY, CITY OF
RIRIE, CITY OF ROBERTS, CITY OF
RUPERT, CITY OF ST. ANTHONY, CITY
OF SUGAR CITY, CITY OF WEISER, CITY
OF UCON, BASIC AMERICAN FOODS,
INC., THE CITY OF POCA TELLO,
LAMB-WESTON, INC., NORTH SNAKE
GROUND WATER DISTRICT, SAND
SPRINGS RANCH PARTNERSHIP,
ORE-IDA FOODS, INC. and J.R. SIMPLOT
COMPANY; DON MC FARLAND, CAROL
MC FARLAND and SUNDANCE, INC.;
IDAHO GROUND WATER
APPROPRIATORS, INC.; NAMPA &
MERIDIAN IRRIGATION DISTRICT,
ALLEN NOBLE FARMS, INC., CLEAR
LAKES TROUT, INC., COTTONWOOD
CANAL COMPANY, FARM
DEVELOPMENT CORPORATION,
GRINDSTONE BUTTE MUTUAL CANAL
COMPANY, G. PATRICK MORRIS, CARL

MICROFILMED
APR 25 2000

NICHOLSON, THOMAS NICHOLSON,
ALLEN T. NOBLE, RAINBOW TROUT
FARMS, INC., RIM VIEW TROUT
COMPANY and SAILOR CREEK WATER
COMPANY; TWIN FALLS CANAL
COMPANY and NORTH SIDE CANAL
COMPANY; IDAHO POWER COMPANY;
BOISE-KUNA IRRIGATION DISTRICT,
NEW YORK IRRIGATION DISTRICT,
WILDER IRRIGATION DISTRICT and
BIG BEND IRRIGATION DISTRICT;
HAGERMAN WATER RIGHT OWNERS,
INC.; G. DAVID NELSON and SAN
FELIPE RANCHES; THE UNITED STATES
OF AMERICA,

Respondents.

Appeal from the District Court of the Fifth Judicial
District of the State of Idaho. Hon. Daniel C. Hurlbutt,
District Judge.

Appeal from decision of SRBA district court. Affirmed in
part, Vacated in part, Reversed in part, and Remanded.

Ling, Nielsen & Robinson, Rupert, for Appellants A & B
Irrigation District, Falls Irrigation District and Burley
Irrigation District. Roger D. Ling argued.

Hon. Alan G. Lance, Attorney General, Clive Strong,
Deputy Attorney General, Boise, for Appellant State of
Idaho. Clive Strong argued.

Elam & Burke, P.A., Boise, for Appellants Payette River
Water Users Association, Inc. Scott L. Campbell argued.

Dillon, Bosch, Daw & Bock, Chtd., Boise, for Respondents
Amalgamated Sugar Co., all cities, Lamb-Weston, North
Snake Ground Water District, Sand Springs Ranch
Partnership, Ore-Ida Foods, Inc., and J. R. Simplot Co.
Dana L. Hofstetter argued.

Betty Richardson, United States Attorney, Boise, William
B. Lazarus, Department of Justice, Washington, D.C., for
Respondent United States of America. William B. Lazarus
argued.

Lawrence J. (Laird) Lucas, Boise, for Respondent Idaho
Conservation League, et. al.

Rosholt, Robertson & Tucker, Chtd., Twin Falls, for
Respondents Twin Falls Canal Company and North Side Canal
Company and Idaho Power Company. Norman M. Semanko
argued for Twin Falls Canal Company and Northside Canal
Company. James C. Tucker appeared for Idaho Power
Company.

Benoit, Alexander, Sinclair, Harwood & High, Twin Falls,
for Respondents McFarlands and Sundance, Inc. John K.
Butler argued.

Ringert, Clark Chtd., Boise, for Respondent Nampa-

MICROFILMED

APR 25 2000

Meridian Irrigation District, et al. Daniel V. Steenson appeared.

Hawley, Troxell, Ennis & Hawley, Boise, for Respondents Boise-Kuna, New York, Wilder, and Big Bend Irrigation Districts. Waived participation.

Hepworth, Lezamiz & Hohnhorst, Twin Falls, for Respondent Hagerman Water Right Users. Waived participation.

Givens, Pursley & Huntley, Boise, for Respondent Idaho Ground Water Appropriators. Waived participation.

McDEVITT, Justice*

In the Snake River Basin Adjudication (SRBA), the Director of the Idaho Department of Water Resources (IDWR or Director) has the duty of preparing a Director's Report on the Snake River water system. I.C. Section 42-1411 (1996). On November 28, 1995, IDWR submitted the Amended Director's Report for Basin 57, which is one of three Basins that have been designated as test Basins. The issue raised in this case is whether each of the test Basins, (Director's Reporting Areas 1 (Basin 34), 2 (Basin 36), and 3 (Basin 57)), should be subject to general provisions regarding firefighting purposes, irrigation use, and conjunctive management. 1

*

Justice McDevitt participated in this opinion prior to his resignation.

1

The conjunctive management issue has been ordered to be reargued. Consequently, this opinion does not address conjunctive management.

END FOOTNOTE 1

The SRBA district court found that the general provisions were not necessary for the definition of the rights or for the efficient administration of the water rights and ruled that the general provisions would not be included in the decrees issued in the SRBA. This Court granted appellants' motion for permission to appeal the SRBA district court's decision pursuant to Idaho Appellate Rule 12.

I.

FACTS AND PRIOR PROCEEDINGS

On September 5, 1995, A & B Irrigation District, among other parties (collectively referred to as appellants), filed a motion to designate basin-wide issue number 5 with the SRBA district court. Appellants requested the SRBA district court resolve all objections to the inclusion of general provisions and other statements in the Amended Director's Reports for Basins 34, 36, and 57.

On December 19, 1995, a hearing on the designation of basin-wide issue number 5 was held. On December 21, 1995, the SRBA district court entered an order designating basin-wide issue number 5. The SRBA district court described basin-wide issue number 5 as whether the general provisions were necessary for the definition of the rights or for the efficient administration of the water rights. The SRBA district court considered the general provisions 3, 5, and 6 in Basin 34, the general provisions 1, 2, and 3 in Basin 36, and the general provisions in 1, 3, and 4 in Basin 57. 2 The SRBA district court found that general provision 2, involving Reynolds Creek, was particularly unique to Basin 57. 3

APR 25 2006

provision 2 to a Special Master. 3

On March 12, 1996, the SRBA district court heard oral argument regarding the issue of whether the general provisions were legally necessary for the definition of the rights or for the efficient

2

The proposed general provisions are attached as Appendix A to this opinion.

END FOOTNOTE 2

3

General provision 2 for Basin 57 is designated as basin-wide issue 5A.

END FOOTNOTE 3

administration of the water rights. The SRBA district court bifurcated the proceedings, over the objection of the parties, considering first whether the general provisions were legally necessary without hearing factual evidence supporting the inclusion or exclusion of the general provisions.

The SRBA district court entered a memorandum decision and order regarding basin-wide issue number 5 on April 26, 1996. The SRBA district court ruled that the general provisions 3, 5, and 6 for Basin 34, the general provisions 1, 2, and 3 for Basin 36, and the general provisions 1, 3, and 4 for Basin 57, "shall not be decreed in the SRBA and they are, therefore, struck from the Director's Reports and are not subject to any further court action in the test Basins." This Court granted appellants' motions for permission to appeal and appellants filed notices of appeal.

II.

DEFINITION OF A GENERAL PROVISION

A general provision is not defined by the SRBA code. The SRBA district court interpreted I.C. Section 42-1411(3) as requiring a general provision to directly apply to every water right. The SRBA district court focused upon the language in I.C. Section 42-1411(3) that states "[t]he director may include such general provisions in the director's report, as the director deems appropriate and proper, to define and to administer all water rights."

A general provision is a provision that is included in a water right decree regarding the administration of water rights that applies generally to water rights, is not an element of the water right, or is necessary for the efficient administration of the water rights decreed. Administering a water right is not a static business. While some administrative provisions would clearly apply to a certain type of water right in certain circumstances other administrative provisions clearly would not apply to a certain type of water right and every circumstance.

Idaho Code Section 42-1412(6) provides that "[t]he decree shall also contain an express statement that the partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights." I.C. Section 42-1412 (1996). We conclude that a general provision is an administrative provision that generally applies to water rights but it need not apply to every water right.

Idaho Code Section 42-1412(6) instructs that a general provision should be included in a water right decree if such general provision is "necessary" to define or efficiently administer water rights. Whether a general provision is "necessary" depends upon the specific general provision at issue and involves a question of fact, (defining the proposed general provision and the circumstances of its application) and a question of law,

MICROFILMED

APR 25 2000

(determining whether the general provision facilitates the definition or efficient administration of water rights in a decree). A general provision is "necessary" if it is required to define the water right being decreed or to efficiently administer water rights in a water right decree.

III.

A PROVISION REGARDING FIREFIGHTING GENERALLY APPLIES TO WATER RIGHTS AND IS NECESSARY FOR THE EFFICIENT ADMINISTRATION OF WATER RIGHTS

The SRBA district court found that the proposed general provision regarding firefighting was not a general provision and struck it from the Director's Amended Report. We conclude that a provision regarding firefighting is an appropriate general provision and should be included as a general provision in the decrees issued in the SRBA.

The proposed provision regarding firefighting generally applies to all water rights. The proposed provision provides that firefighting purposes is an alternate use for which any water right may be used, and firefighting is recognized as a lawful use of water with or without a water right.

The proposed provision regarding firefighting is necessary to define water rights being decreed. The firefighting provision recognizes a lawful use of water "with or without a water right" and describes the circumstances in which water may be used:

to extinguish an existing fire on private or public lands, facilities, or equipment; to prevent an existing fire from spreading to private or public lands, facilities, or equipment within the vicinity of and endangered by an existing fire; and by firefighting personnel engaged in fighting an existing fire.

The proposed firefighting provision also instructs that "[f]irefighting purposes does not include the use of water to prevent a fire from occurring in the future, the use of water for domestic purposes in regularly maintained firefighting stations, or the storage of water for fighting future fires."

A general provision allowing for the use of water with or without a water right for the limited and beneficial use of firefighting is necessary to define or efficiently administer water rights. We hold that as a matter of law the proposed provision regarding firefighting should be included as a general provision in the decrees issued in the SRBA.

IV.

A PROVISION DEFINING A WATER RIGHT AS FOR "IRRIGATION SEASON" CAN BE STATED AS AN ELEMENT OF A WATER RIGHT

The SRBA district court found that a general provision regarding early and late season irrigation was not necessary to administer irrigation water rights and determined a general provision regarding early and late season irrigation would not be included in the decrees issued in the SRBA. The SRBA district court ruled that all decrees for irrigation in the SRBA shall set the period of use as the "irrigation season." We agree that a general provision regarding early and late season irrigation need not be included in the decrees issued in the SRBA.

A general provision is not an essential element of a water right. Idaho Code Section 42-1411(2) mandates the Director "shall determine the following elements, to the extent the director deems appropriate and proper, to define and administer the water rights acquired under state law: . . . (g) the period of the year when water is used for such purposes." Idaho Code Section 42-1412(6) states that "[t]he decree shall contain or incorporate a statement

APR 25 2000

of each element of a water right as stated in subsections (2) and (3) of section 42-1411, Idaho Code"

We agree with the SRBA district court and the Director that due to year to year changes in climatic conditions and variability in each area's soil type, the period of use for irrigation water rights should not be defined as a fixed period of use. The period of use for irrigation is the irrigation season. The irrigation season is determined by the irrigator based upon when water is available, needed, and can be put to beneficial use for that purpose. No irrigator has the right to waste water. The Director has the administrative duty and authority to annually determine the beginning and ending of an irrigation season and to prevent wasteful use of water by irrigators.

The period of the year when water is used for irrigation purposes shall be determined annually by irrigators subject to the authority of the Director and any reasonable rules and regulations the Director may adopt.

V.

INCIDENTAL STOCK WATERING AS A GENERAL PROVISION
IS NOT NECESSARY TO DEFINE A WATER RIGHT OR FOR
THE EFFICIENT ADMINISTRATION OF A WATER RIGHT

The SRBA district court found that the provision regarding incidental stock water would not be included as a general provision in the decrees issued in the SRBA. We agree.

Idaho Code Section 42-1411(2) instructs the Director to determine the element of purpose of use, I.C. Section 42-1411(2)(f), and to include "such remarks and other matters as are necessary for definition of the right, for clarification of any element of a right, or for administration of the right by the director," I.C. Section 42-1411(2)(k).

Incidental stock watering is defined by the Director as stock water that

is not specifically included for a water right that includes irrigation, a portion of the quantity described for irrigation use can be diverted and used from the same point of diversion and at the same place of use as the irrigation use for purposes of maintaining a reasonable water supply for stock watering during the period of use for irrigation.

Stock watering is included as a beneficial use of water under I.C. Sections 42-111, 42-113, and 42-114. The Director has the authority to define incidental stock watering regulations for the administration of a water right. A general provision regarding incidental stock watering is not necessary for the definition of the rights or for the efficient administration of the water rights issued in the SRBA.

VI.

USE OF "EXCESS WATER" CANNOT BE DECREED AS A WATER RIGHT

The SRBA district court found that the provision regarding excess water would not be included as a general provision in the decrees issued in the SRBA. The SRBA district court determined that the provision regarding excess water was not legally necessary. We agree with the SRBA district court that "excess water" or "high flow," (a term used by the parties to describe the same water), is not subject to a water right. Excess flow is not subject to definition in terms of quantity of water per year, which is essential to the establishment and granting of a water right.

The provision regarding excess water is not an element of a water right since excess water inherently relates to water that has not been decreed. Consequently there cannot be a prior relation to

MICROFILMED
APR 25 2000

excess water. A general provision concerning excess water would not define a water right or be necessary to administer a water right and therefore is not appropriate.

VII.

CONCLUSION

We hold that a provision regarding firefighting should be included as a general provision in regulations and the period of use for irrigation water rights as the irrigation season. The use of excess water cannot be decreed as a water right or a general provision. No costs are awarded on appeal.

Justice JOHNSON, CONCURRING AND DISSENTING.

I concur in part I (Facts and Prior Proceedings), part IV (A Provision Defining a Water Right as for "Irrigation Season" Can Be Stated as an Element of a Water Right), part V (Incidental Stock Watering as a General Provision Is Not Necessary to Define a Water Right or for the Efficient Administration of a Water Right), part VI (Use of "Excess Water" Cannot Be Decreed as a Water Right), and part VII (Conclusion) of the Court's opinion. I respectfully dissent from parts II (Definition of a General Provision) and III (A Provision Regarding Firefighting). In my view, the SRBA district court correctly decided these issues. The portions of the conclusion contained in the SRBA district court's decision quoted below succinctly express my view of the correct resolution of the issues decided in the parts from which I dissent:

None of the proposed general provisions on firefighting, irrigation use . . . constitute statutorily recognized general provisions because none applies [to] all water rights recommended in the Director's Report.

Firefighting cannot be implied as a purpose of use included in irrigation uses. It is not necessary to define irrigation rights nor is it necessary for their administration.

Justice SILAK, CONCURRING AND DISSENTING.

I concur fully in Parts I, II, III, IV, and V of the Court's opinion. However, I must respectfully dissent in part from Part VI of the Court's opinion. I agree with the portion of Part VI in which the Court holds that "excess" or "high flow" water is not subject to a water right. However, rather than ruling as a matter of law that "excess" water is not necessary for the efficient administration of water rights, I would remand this portion of the appeal for a factual determination regarding the provision's necessity. In Part II of this opinion, we hold that "[w]hether a general provision is "necessary" depends upon the specific general provision at issue and involves a question of fact, (defining the proposed general provision and the circumstances of its application), and a question of law, (determining whether the general provision facilitates the definition or efficient administration of water rights in a decree)." In my view, the question of fact has not been resolved. Administration of "excess" water is a long standing practice in Idaho. The parties should have been permitted to adduce proofs on that historic use so that the necessity of including a general provision could be more fully assessed. Thus, I would remand the matter for a factual determination consistent with this opinion.

Justice Pro tem DRESCHER, CONCURS IN JUSTICE SILAK'S OPINION.

Justice SCHROEDER, CONCURS IN RESULT AS TO PART V.

I concur in Parts I, II, III, IV and VI. I concur in the result in Part V.

MICROFILMED

APR 25 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

November 20, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JEFFREY S RAU P E
BROCKWAY ENGINEERING
2016 NORTH WASHINGTON ST-STE 4
TWIN FALLS ID 83301

RE: APPLICATIONS FOR TRANSFER NO. 5329 (37-07958) & 5330 (37-30000 PT)
Michael E. Willard

Dear Mr. Rau:

Enclosed are copies of protests received against the above referenced applications filed on behalf of your client.

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

Please note that the applications are considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

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

If you wish to proceed with a Pre-hearing Conference &/or formal Hearing, please notify this office..

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

Very truly yours,

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

AM:MB

Enclosure(s)

cc:
MICHAEL E WILLARD
1339 HAMPSHIRE CIRCLE
NEWPORT BEACH CA 92660

MICROFILMED
JAN 13 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

November 20, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ATTN LEN HARLIG CHAIRMAN
BLAINE COUNTY COMMISSIONERS
PO BOX 400
HAILEY ID 83333

RE: APPLICATIONS FOR TRANSFER NO. 5329 (37-07958) & 5330 (37-30000 PT)
Michael E. Willard

Dear Protestant(s):

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

Please note that the application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

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

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

Very truly yours,

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

AM:MB

Enclosure(s)

MICROFILMED

APR 25 2000

BOARD OF COUNTY COMMISSIONERS

BLAINE COUNTY

P.O. BOX 400 • HAILEY, IDAHO 83333

(208) 788-5500

FAX (208) 788-5576

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

November 12, 1998

RECEIVED

NOV 16 1998

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

Department of Water Resources
Southern Region

RE: BLAINE COUNTY PROTESTS OF PROPOSED TRANSFERS #5329 and #5330

Dear Allen,

We wish to file a formal protest (see attached two Notices of Protest and \$50 in fees) on Right Numbers 37-07958 and 37-30000B (Applications for Transfer #5329 and #5330) by Michael E. Willard.

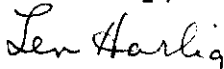
Although the applicant's representative Jeffrey Rau has asked IDWR to "hold" 37-07958, we wish to protect our ability to protest this application by including it in our filing at this time.

The request to divert water from downstream sources and impound it upstream for private aesthetic purposes, and to be also used for landscape purposes in excess of that allowed for domestic exemption use, is clearly counter to the State of Idaho's water conservation policy. It is also a practice identified in *Blaine County's Local Interest Water Policy* as contrary to the public interest.

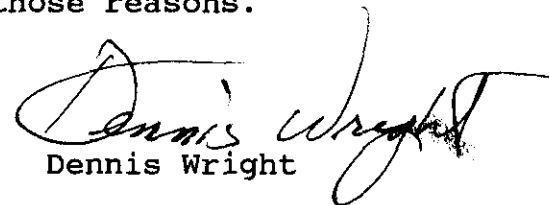
Additionally, the City of Hailey has a municipal well in the general vicinity of the downstream diversion. They should be consulted to ensure that the diversion does not have an impact on their system.

We believe that these transfers will cause harm to senior water right holders, be a defacto enlargement of right, create an increase in usage, and should be denied by for those reasons.

Sincerely,


Len Harlig


Mary Ann Mix


Dennis Wright

cc: Linda Haavik
James Kennedy
Michael E. Willard
Daryl James, City of Hailey
Brockway Engineering
Doug Werth

MICROFILMED

APR 25 2000

enc: (Formal Protests and \$50 in fees)

1. Matter being protested APPLICATION FOR TRANSFER #5329 (37-07958)
2. Name of protestant BLAINE COUNTY BOARD OF COMMISSIONERS
3. Protestant's representative for service (If different than protestant)
SAME
4. Service mailing address 206 1ST AVE SOUTH STE 300 HAILEY, ID 83333
5. Service telephone no. 208 788 5500
6. Basis of protest (including statement of facts and law upon which the protest is based)
SEE ATTACHED LETTER

(additional pages may be attached to describe the nature of the protest)

7. What would resolve your protest? WITHDRAWAL OF APPLICATION

(additional pages may be attached to describe the nature of the protest)

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 12th day of NOVEMBER, 1998.

RECEIVED

NOV 16 1998

**Department of Water Resources
Southern Region**

BLAINE COUNTY BOARD OF COMMISSIONERS
PROTESTANT
Leonard Harlig, Chairman
PROTESTANT'S REPRESENTATIVE

MICROFILMED

APR 25 2000

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" "Application for Transfer No. _____ in the name of _____"
2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by TS Date 11/16/98 Time 1:38 pm
\$25.00 fee Receipted by RS # 5021627 Date 11/16/98

MICROFILMED
APR 25 2000

AFFIDAVIT of PUBLICATION

RECEIVED

NOV 00 1998

State of Idaho, }
County of Blaine } SS.

Department of Water Resources
Southern Region

COPY OF NOTICE

(Paste Here)

Prop. Change of Water Rights
TITLE OF NOTICE TN-5329

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept of Water Resources
BILL TO

On this 5th day of Nov, in the year 1998, before me a Notary Public of said State, personally appeared **DANIEL J. GORHAM**, known or identified to me to be the person whose name is subscribed to be the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same. As the publisher of the Wood River Journal, he/she attests that said newspaper has been continuously and and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 28 day of Oct, 1998 and the date of the last publication was on the 4 day of Nov, 1998.

Subscribed and sworn to before me this 5th day of Nov, 1998.

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

Virginia R. Ballou
NOTARY PUBLIC
Commission exp 9-17-04

11169

WOOD RIVER JOURNAL
Hailey, Idaho

OK
MB
11/12/98

COST OF PUBLICATION

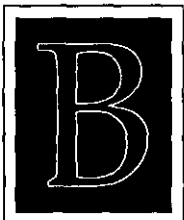
Number of Picas per Line 11.5
Number of Lines in Notice 98.800 MICROFILMED
Number of Insertions 2 APR 25 2000
Lines tabular at 98.800 7¢ / Pica
Lines straight at 68.172 6¢ / Pica
Subsequent lines at 56.810 5¢ / Pica
TOTAL COST \$129.98

Publication Rates
As of 1997
? (Idaho code,
Rev. Statutes 1984)
7-8 pt./line straight: .06 / pica
7-8 pt./line tabular: .07 / pica
7-8 pt./line successive
insertion: .05 / pica

11169

NOTICE
CHANGE OF ADDRESS
JAMES HILL CIRCLE
[Illegible text follows]

RECEIVED
[Illegible text]



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

NOV 03 1998

Department of Water Resources
Southern Region

November 2, 1998

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

Re: Application for transfer - 37-07958

Dear Mr. Merritt:

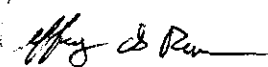
On behalf of our Client Mr. Mike Willard, Brockway Engineering would like to request that review and action on the above mentioned transfer be put on hold until further notice from our office.

It has come to our attention that issues concerning the water right transfer are still in the process of being resolved between the buyer and seller of the water right. We apologize for any confusion that this might have caused and we will notify IDWR when we wish the transfer process to continue on this water right.

If you have any questions concerning this "hold" please do not hesitate to call.
Thank you.

Sincerely,

CHARLES E.
BROCKWAY,
PH.D., P.E.


Jeffrey S. Rau, PE

CHARLES G.
BROCKWAY,
PH.D.

Cc: Mike Willard

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

MICROFILMED

APR 25 2000

TRANSMITTAL COVER SHEET

TO: Denise Jackson

fax # 788-5576

(BLAINE COUNTY)

TOTAL PAGES SENT: 14

(including cover sheet)

DOCUMENT DESCRIPTION: TRANSFER APPLICATIONS #
5329 AND # 5330 (WILLARD)

FROM:

IDAHO DEPARTMENT OF WATER RESOURCES

1341 FILLMORE ST, STE 200

TWIN FALLS ID 83301-3380

PHONE: 736-3033

FAX: 736-3037

CHARGES: One (1) free copy
per request, cover sheet not
counted. Two (2) or more
copies per request will cost
\$0.25 per page. (\$0.50
minimum)

Please consider this document as a billing statement.

The charge for your fax copies is: _____ Please remit to the above address.

SENDER:

Cory Skinner

COMMENTS: I HAVE SENT YOU THE APPLICATIONS AS
YOU REQUESTED. THERE IS OTHER INFORMATION IN THE
FILES, INCLUDING MEMOS, PHOTOS, CORRESPONDENCE, ETC.
LET US KNOW IF YOU NEED ANYTHING ELSE.

DATE, TIME	11/05 14:58
FAX NO./NAME	912/887885576-244385
DURATION	00:07:41
PAGE(S)	14
RESULT	OK
MODE	STANDARD
ECM	OK

TIME : 11/05/1998 14:58
NAME : IDWR SOUTHERN REGION
FAX : 208/7363037
TEL : 208/7363033

TRANSMISSION VERIFICATION REPORT

Corey -

11/4/98

does this problem
affect both transfers
or just T# 5329?

MICROFILMED

11/05/98

PER JEFF RAU: 12000
HOLD OFF ON JUST #5329
PROCEED WITH PROCESSING

Thh -
MB

OF APPLICATION # 5330 P.S.

RECEIVED

OCT 29 1998

Department of Water Resources
Southern Region

APPLICATION FOR TRANSFER OF A WATER RIGHT

NO. ~~37~~-5329

RECOMMENDATION OF WATERMASTER

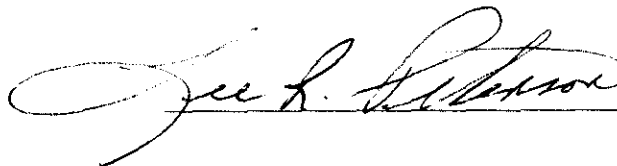
I, Lee R. Peterson, watermaster of Big Wood River,
of Water District No. 37, County of Blaine, State of Idaho,
whose address is P O Box T, Shoshone, Idaho 83352,
have read the attached copy of the application for transfer of water right _____
for Michael Willard, and to the best of my knowledge believe the
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend
that the director of the Department of Water Resources approve the transfer subject to
the following conditions: Will this groundwater be a supplemental source to
WR # 30000B? If so designation should be supplemental.

OR

B. I do not endorse approval of the above numbered Application for Transfer as
requested for the following reasons: _____

Dated at Shoshone, Idaho, this 28th day of October 1998.



Please use reverse side if needed.

MICROFILMED

APR 25 2000

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS
Notice is hereby given that MICHAEL WILLARD, 1339 HAMPSHIRE CIRCLE; NEWPORT BEACH CA 92660 has filed two applications for transfer with the Department of Water Resources.

The purpose of Transfer No. 5329 is to change the point of diversion and change place of use for a purchased water right. PRESENTLY, Licensed Water Right No. 37-07958 (0.05 cfs) with a priority date of 12/04/1981 is diverted from groundwater within SE1/4SW1/4, S04, T02N, R18E; Blaine County for irrigation of 1.5 acres within SE1/4SW1/4, S04, T02N, R18E; Blaine County.

PROPOSED CHANGE

The applicant wishes to divert 0.05 cfs from an existing well within NE1/4SE1/4, S29, T03N, R18E; Blaine County to irrigate a combined total of 1.5 acres within SE1/4NE1/4 and NE1/4SE1/4, S29, T03N, R18E; Blaine County. The purpose of Transfer No. 5330 is to add storage use in order to record water usage in two existing ponds. PRESENTLY, Decreed Water Right No. 37-30000B (0.10 cfs) with a priority date of 03/24/1883 is diverted from the Big Wood River tributary to Malad River via Hiawatha Canal within SW1/4NW1/4, S20, T03N, R18; Blaine County for irrigation of 1.5 acres within NE1/4SE1/4, S29, T03N, R18E; Blaine County.

PROPOSED CHANGE

The applicant wishes to divert a total of 0.10 cfs/5.3 afa from the Big Wood River tributary to Malad River within same point of diversion to irrigate 1.1 acres within NE1/4SE1/4, S29, T03N, R18E; Blaine County with the following listed uses:

Use*Amount:

Irrigation (0.10 cfs)

Irrigation Storage (2.0 afa)

Recreation Storage (2.0 afa)

Aesthetic Storage (2.0 afa)

Div. to Storage (0.10 cfs)

Any protest against the proposed changes must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before November 16, 1998 to be considered by the Department in its decision to grant or deny any part of the proposed change. (Each transfer

requi. a separate protest).

The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Wood River Journal on 10/28 & 11/04/98.

MICROFILMED

APR 25 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

October 20, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ATTENTION-LEGALS
WOOD RIVER JOURNAL
PO BOX 988
HAILEY ID 83333

Gentlemen:

Enclosed you will find a legal notice which we wish to have published in your newspaper. We have inserted the required publication dates.

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

If you cannot publish the notice on the proposed dates, please contact us immediately.

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

Very truly yours,

Mary Baldwin
Sr. Secretary

Enclosure

MICROFILMED

APR 25 2000

NOTICE OF PROPOSED CHANGE F WATER RIGHTS

Notice is hereby given that MICHAEL WILLARD, 1339 HAMPSHIRE CIRCLE; NEWPORT BEACH CA 92660 has filed two applications for transfer with the Department of Water Resources.

The purpose of **Transfer No. 5329** is to change the point of diversion and change place of use for a purchased water right.

PRESENTLY, Licensed Water Right No. 37-07958 (0.05 cfs) with a priority date of 12/04/1981 is diverted from groundwater within SE1/4SW1/4, S04, T02N, R18E; Blaine County for irrigation of 1.5 acres within SE1/4SW1/4, S04, T02N, R18E; Blaine County.

PROPOSED CHANGE

The applicant wishes to divert 0.05 cfs from an existing well within NE1/4SE1/4, S29, T03N, R18E; Blaine County to irrigate a combined total of 1.5 acres within SE1/4NE1/4 and NE1/4SE1/4, S29, T03N, R18E; Blaine County.

The purpose of **Transfer No. 5330** is to add storage use in order to record water usage in two existing ponds.

PRESENTLY, Decreed Water Right No. 37-30000B (0.10 cfs) with a priority date of 03/24/1883 is diverted from the Big Wood River tributary to Malad River via Hiawatha Canal within SW1/4NW1/4, S20, T03N, R18; Blaine County for irrigation of 1.5 acres within NE1/4SE1/4, S29, T03N, R18E; Blaine County.

PROPOSED CHANGE

The applicant wishes to divert a total of 0.10 cfs/5.3 afa from the Big Wood River tributary to Malad River within same point of diversion to irrigate 1.1 acres within NE1/4SE1/4, S29, T03N, R18E; Blaine County with the following listed uses:

<u>Use</u>	<u>Amount</u>
Irrigation	0.10 cfs
Irrigation Storage	2.0 afa
Recreation Storage	2.0 afa
Aesthetic Storage	2.0 afa
Diversion to Storage	0.10 cfs

Any protest against the proposed changes must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before November 16, 1998 to be considered by the Department in its decision to grant or deny any part of the proposed change. **(Each transfer requires a separate protest)**. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Wood River Journal on 10/28 & 11/04/98.

MICROFILMED

APR 25 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

October 20, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

CHARLES G BROCKWAY
2016 NORTH WASHINGTON ST-STE 4
TWIN FALLS ID 83301

Re: Applications for Transfer No. 5329 and 53330 (Michael Willard)

Dear Mr. Brockway:

The Department of Water Resources acknowledges receipt of two (2) Applications for Transfer on behalf of Mr. Willard.

This office has scheduled advertising the application in the Wood River Journal for 10/28 and 11/04/98. The advertisement will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

The department's review process may have to include field investigation and verification of the claims which is required as part of the Snake River Basin Adjudication.

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.

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

Sincerely yours,

Corey Skinner, E.I.T.
Safety of Dams Engineer

cs:mb

cc:

MICHAEL WILLARD

1339 HAMPSHIRE CIRCLE MICROFILMED

NEWPORT BEACH CA 92660

APR 25 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

October 20, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

LEE PETERSON WATERMASTER
WATER DISTRICT #37
PO BOX T
SHOSHONE ID 83352

Re: Applications for Transfer of Water Right Nos. 5329 & 5330
(MICHAEL WILLARD)

Dear Mr. Peterson:

Enclosed is a copy of an Application for Transfer of a Water Right within your District, and Watermaster's Recommendation Form(s).

Section 42-222 of the IDAHO CODE requires that the watermaster must be advised of proposed changes in water rights in the water district and must notify the Department of his recommendation on the application.

Please complete the enclosed recommendation form(s) and return to this office.

Regional review of an unprotested application can be completed as soon as the final protest period is past; therefore, your prompt response to this request is appreciated.

If you have any questions about an application, please contact this office or the applicant.

Sincerely yours,

Corey Skinner, E.I.T.
Safety of Dams Engineer

cs:mb

Enclosures

MICROFILMED

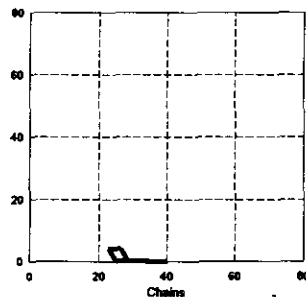
APR 25 2009

T# 5329

X-COR	Y-COR	ANGLE	BEARING	DIST (FT)	CUM ACRES
-------	-------	-------	---------	-----------	-----------

-QUAD COEF-
IF NE, X=1,Y=1
IF SE, X=1,Y=-1
IF SW, X=-1,Y=-1
IF NW, X=-1,Y=1

Acres = 1.45

Sec , T , R 

MICROFILMED
APR 25 2000

MEMORANDUM

TO: Michael Willard Transfer (37-07958) File

FROM: Corey Skinner /s

DATE: September 22, 1998

SUBJECT: Staff Review

The enclosed transfer application, filed in the name of Michael Willard, seeks to move a groundwater license, 37-07958, to new property in the Big Wood River valley, just north of Hailey. The transfer proposes a change in the point of diversion and a change in the place of use of water right 37-07958. The transfer should be pretty straightforward, but a couple of items probably need further clarification.

Mr. Willard has obtained water right license 37-07958 from Bruce Allen, the current owner of the right. This particular license is currently appurtenant to land located along the south edge of the SESW $\frac{1}{4}$ of Section 04 (T02N, R18E). Examination of the Department's water right and SRBA records indicate that several surface water irrigation claims have been filed in the SESW $\frac{1}{4}$ of Section 04. Wood River Valley Investors has filed several SRBA claims for 25 acres of surface water irrigation and EMB-Hailey, A California Limited Partnership, has several SRBA claims for 26 acres of surface water irrigation in the SESW $\frac{1}{4}$ of Section 04. It appears that the Wood River Valley Investors' and EMB's surface water claims cover the entire SESW $\frac{1}{4}$ of Section 04. However, examination of their claim files revealed that the acres claimed are probably somewhat higher than what is actually indicated as being irrigated on the claim maps. In addition, it appears that the irrigated areas indicated on the claim maps may overlap somewhat. Comparing these claim maps with the field exam map for water right 37-07958 (the right involved with the enclosed transfer) reveals that the surface water claims and the place of use for 37-07958 do not overlap. The only other potential overlap on the current place of use of water right 37-07958 is a domestic SRBA claim, A37-11371.

Water right 37-07958 was licensed for 2.0 acres, but was limited to the irrigation of 1.5 acres. A September 11th field visit revealed that there probably is not actually 1.5 acres of irrigated ground at the current place of use. The vast majority of the current recorded place of use appeared unirrigated, when compared to adjoining unirrigated properties (see attached photos). Bruce Allen's lot (tax lot #2676 renumbered to #7434) is 1.45 acres in size according to Blaine County records, and the meets and

MICROFILMED

APR 25 2000

T# 5329

Page 2
Willard Transfer (37-07958) Memo
September 22, 1998

bounds legal description of the property included with the warranty deed (in enclosed transfer file). There is a house (with yard) and a couple of buildings on Mr. Allen's lot. Blaine County records indicate that the house is 1384 square feet with a 672 square foot garage (2056 square feet total). If the actual lot size, the home, buildings, driveway, and other unirrigated areas of the lot are accounted for, it appears that there is less than 1.5 acres of irrigated ground at the current place of use.

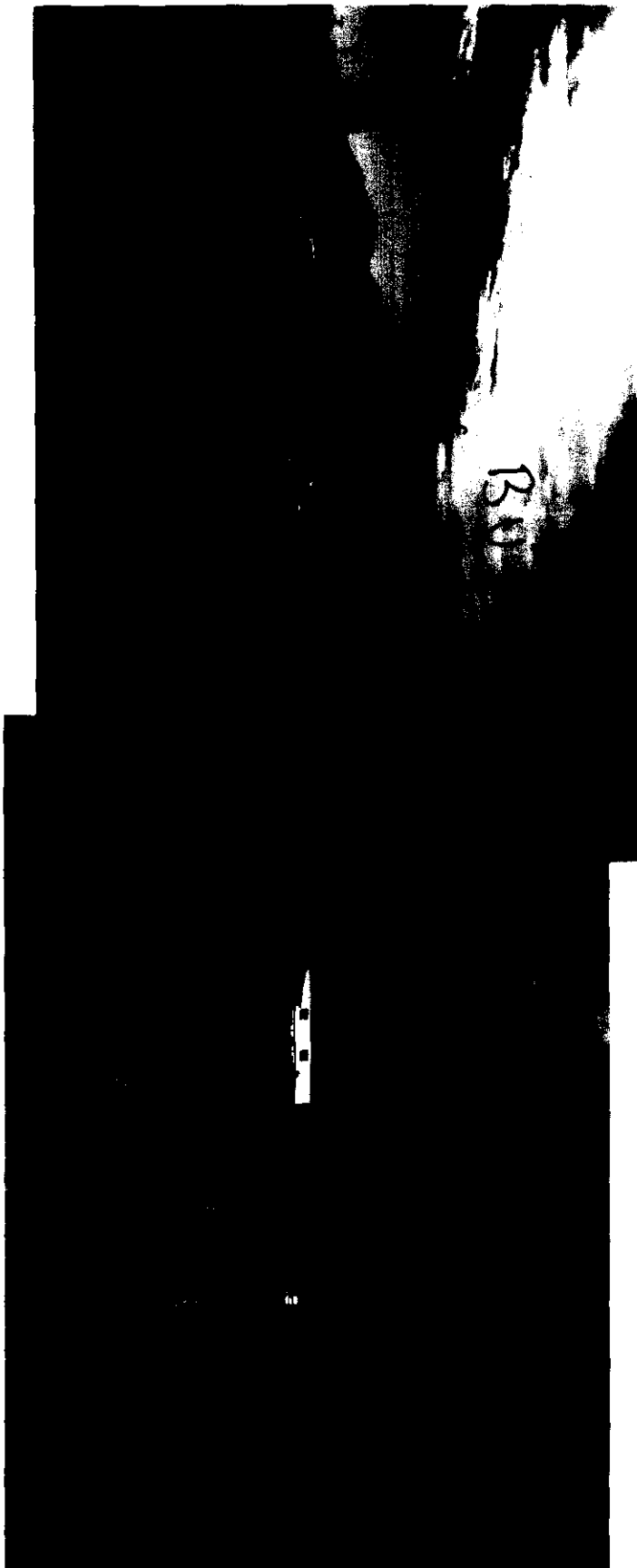
The enclosed transfer proposes "drying up" 1.5 acres of ground in order to irrigate 1.5 acres of new ground. The irrigation of 1.5 acres of the current place of use appears questionable. In addition, it appears that a domestic claim, A37-11371, is appurtenant to the current place of use. It appears that if the enclosed transfer application is approved, a scenario could exist where 1.5 acres of a 1.45 acre lot are "dried up", and moved to new unirrigated ground, while up to $\frac{1}{2}$ acre of the "dried up" ground could still be irrigated under a domestic right.

The new proposed place of use is located on property owned by the applicant in the SENE $\frac{1}{4}$ and NESE $\frac{1}{4}$ of Section 29 (T03N, R18E), where Buttercup Road intersects with Highway 75 north of Hailey. Note that the transfer proposes moving the point of diversion and place of use a little over two miles up the Big Wood River valley. The applicant, Michael Willard, also has some Big Wood River water, 37-30000B, that is delivered via the Hiawatha Canal that he uses to irrigate part of this same property. Note that Mr. Willard already has a transfer application pending to convert some of water right 37-30000B from irrigation to pond use. The irrigated acres covered under 37-30000B are separate from the acres that are intended to be covered under the enclosed transfer application. If the enclosed application is approved, I recommend that conditions &/or remarks be implemented in the approval stating that the acres irrigated by 37-07958 and 37-30000B are separate, independent acres. A similar condition &/or remark could be implemented into the approval of the transfer application involving right 37-30000B, if it is also approved. Note that the applicant's consultant, Brockway Engineering, requested that this be done in their September 3rd, 1998 letter to the Department that accompanied the 37-07958 transfer. This would help clarify the rights, and hopefully eliminate any possible future confusion regarding the two rights.

MICROFILMED

APR 25 2000

1 VIEW LOOKING ACROSS NORTH EAST CORNER OF CURRENT PLACE OF USE
(INSIDE FENCE, MARKED WITH DASHED LINES). NOTE SEVERAL BUILDINGS ON
PROPERTY. ALSO NOTE THAT AREA INSIDE FENCE (DASHED LINES)
LOOKS VERY SIMILAR TO AREA OUTSIDE FENCE.

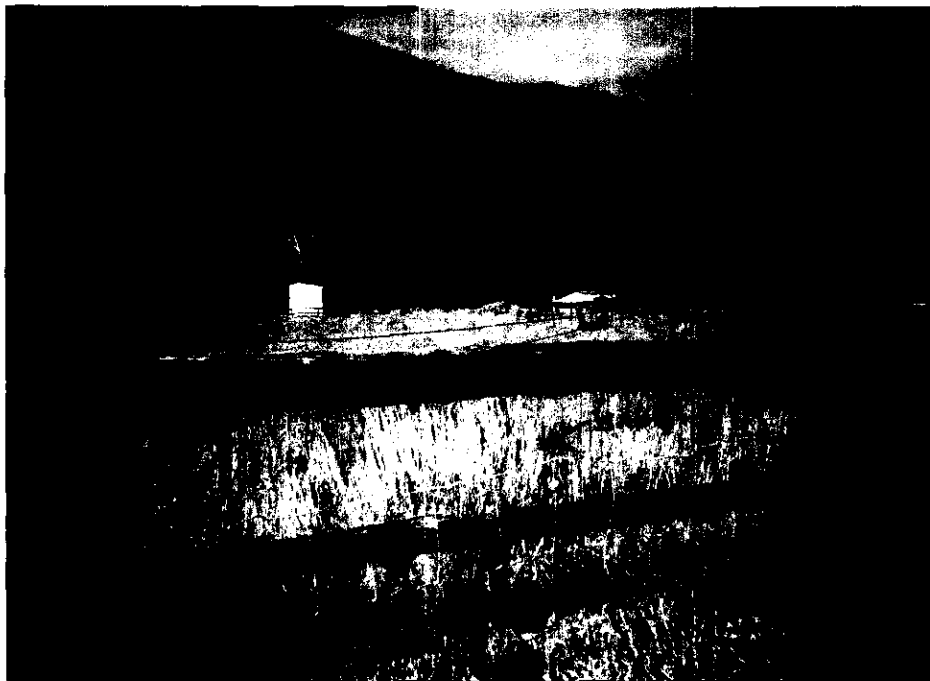


WILLARD TRANSFER (37-07958) FILE
MICROFILMED

APR 25 2000

T#5329

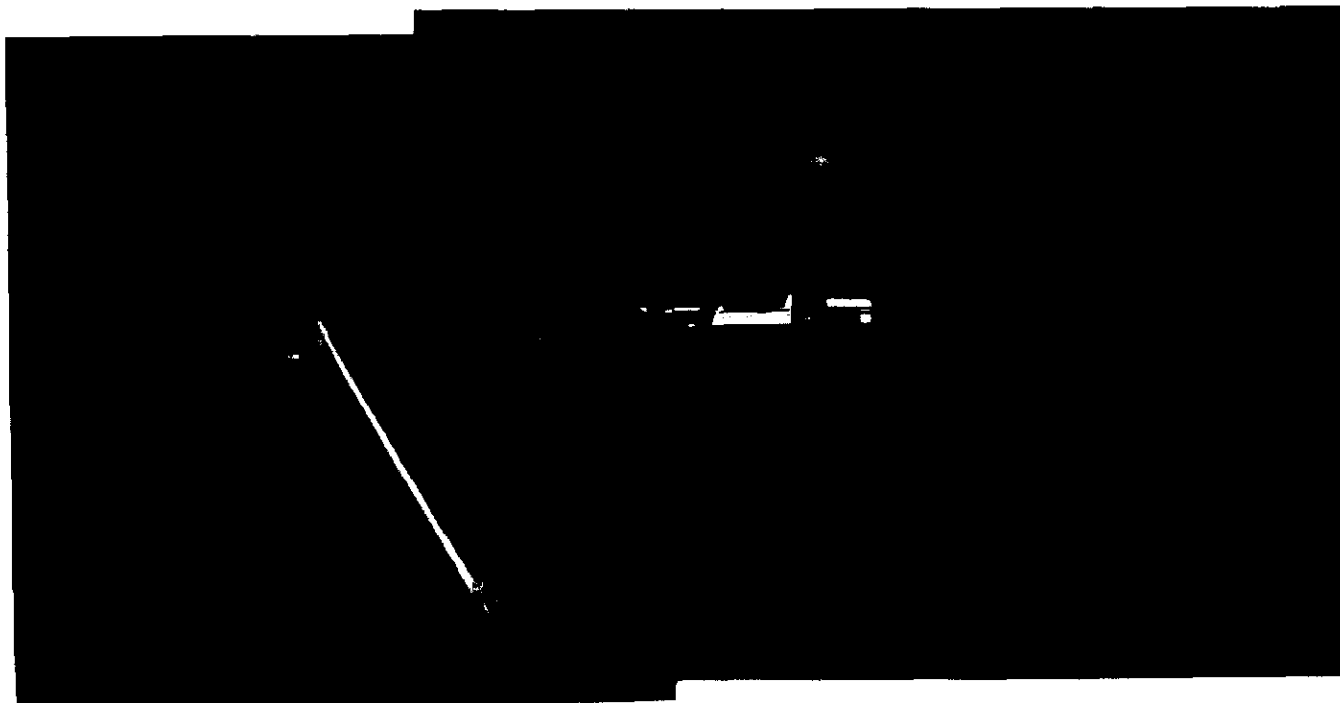
WILLARD TRANSFER (37-07958) FILE



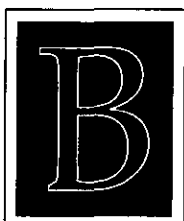
VIEW LOOKING ACROSS
EAST EDGE OF PROPERTY
NEAR THE NORTH
BOUNDARY (INDICATED)
OF THE CURRENT PLACE
OF USE. NOTE
PRESENCE OF SAGE
BRUSH ON PROPERTY.

VIEW SHOWING PROPERTY FROM SOUTHEAST CORNER.
MICROFILMED

APR 25 2000



T #5329



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

SEP 03 1998

Department of Water Resources
Southern Region

September 3, 1998

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

Re: Application for transfer - 37-07958

Dear Allen:

Enclosed is an application for transfer of the above right, which seeks to move the entire right from land just north of Hailey to Mr. Michael Willard's property at the junction of Highway 75 and Buttercup Road. Mr. Willard has entered into an agreement with Mr. Bruce Allen to purchase the water contingent upon a successful transfer.

The right is a groundwater right for 2.0 acres of irrigation from two wells, although a condition limits the total irrigation to 1.5 acres. Currently, pasture is being irrigated from the wells, one of which also serves a residence. According to Mr. Allen, no surface rights are applicable to the property and no surface irrigation has historically occurred, so the groundwater right is a primary right. It is proposed to transfer the entire right north approximately 2.5 miles to Mr. Willard's property. An existing domestic / irrigation well would be used to supply irrigation water to the 1.5 acres via an underground system.

Water right 37-30000B is a surface right from the Hiawatha Canal which is also appurtenant to the Willard property and which allows 1.5 acres of irrigation. This right is the subject of a pending transfer which would add storage as a use and reduce the irrigated acres to 1.1 to account for pond evaporation. The acres on 37-30000B are not the same acres as those under the proposed groundwater transfer. Thus, there will be no overlap between the surface and groundwater right and a total of 2.6 acres would be irrigated. Because of the potential for confusion in the future, I would request that remarks be placed on the groundwater and surface water transfers, if approved, stating that the two rights do not overlap.

Sincerely,


Charles G. Brockway

cc: Mike Willard
Bruce Allen

MICROFILMED

APR 25 2000

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

T #5329

OLD PLACE OF USE

09/03/98 BY C. SKINNER

TOZN, R18E Section 04 SESW

WRQY

37-00183

37-00298A

37-00334D

37-00900

*37-07958

37-30039 left over part of T#354

AJQY

city of Hailey Staff

*A37-07958

A37-00183A

A37-00298C

A37-00334E

AR37-00298D

AR37-00334F

A37-11371

A37-12302 Zabal Domestic

A37-00577 BX 25 acres Wood River Valley Invest

A37-00183 B 26 acres EMB-Hailey, A C. C. Co. limited partnership

A37-12869 26 EMB

WOOD RIVER VALLEY INVESTORS

CLAIM(S) APPEARS TO BE ON SEPERATE GROUND

EMB CLAIM(S) APPEARS TO BE ON SEPERATE GROUND

MAPS WITH
CLAIMS
APPEAR THAT
SOME ACRES MAY
OVERLAP.

ALSO ACRES CLAIMED
APPEAR TO BE MORE
THAN WHAT IS SHOWN ON
MAP(S).

MICROFILMED

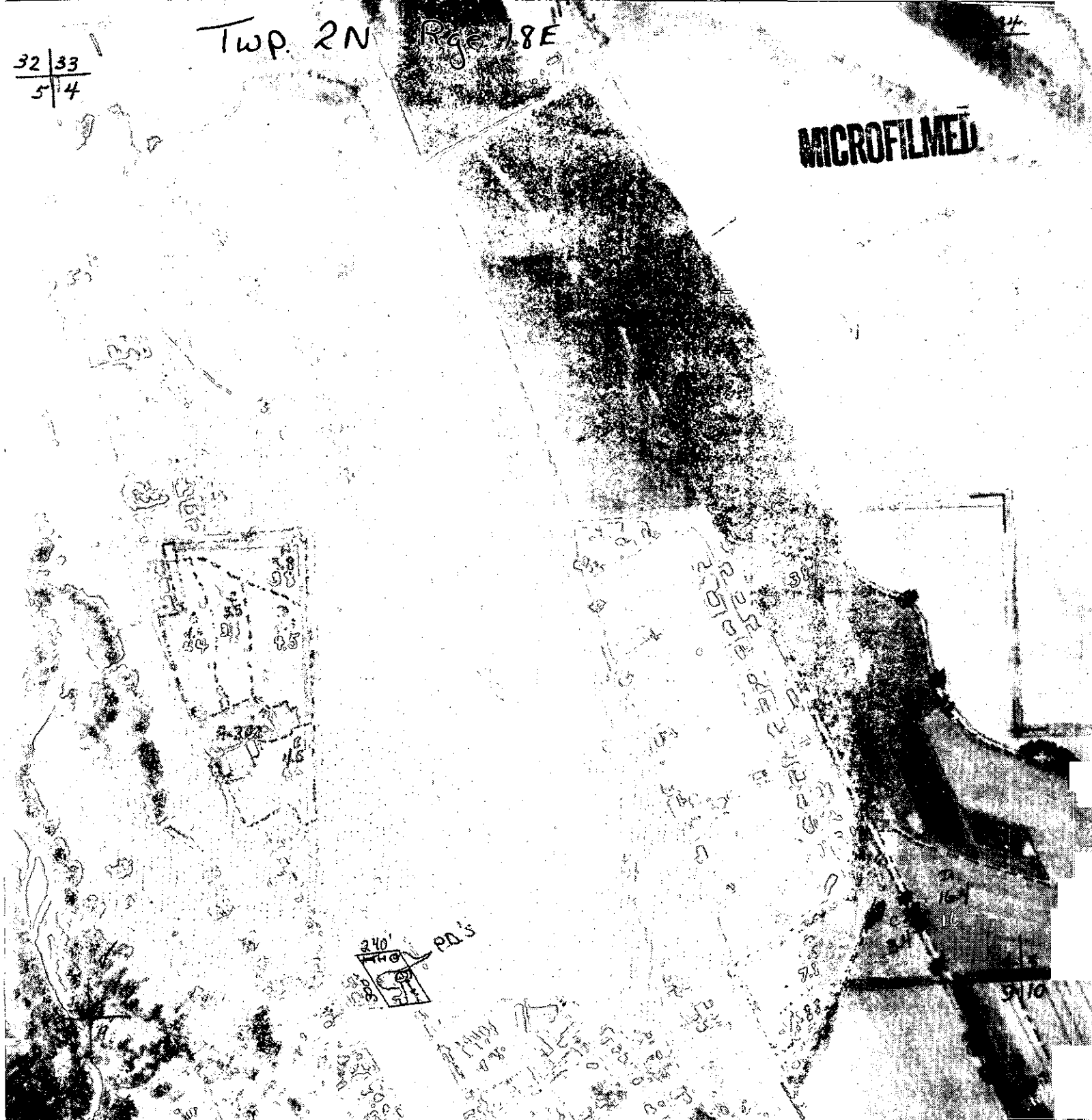
APR 25 2000

MICROFILMED

32 | 33
5 | 4

Twp. 2N Rge. 18E

MICROFILMED



Point(s) of diversion: 2 pts in SE 1/4 SW 1/4 Sec. 4, Twp. 2N Rge. 18E.

Place(s) of Use ☒

TWP.	RGE.	SEC.	NE%				NW%				SW%				SE%				TOTALS
			NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	
2 N.	18 E	4												1.5					1.5

Recommended Amendments:

- ☐ Change P.D. as reflected above
☐ Change P.U. as reflected above

- ☐ Add P.D. as reflected above
☐ Add P.U. as reflected above

- ☒ None
☐ Other

Examiner's Signature Terry A. Blair
Checked by J. P. Stanton
Approved by L. Kay Walker

Date 8-29-83
Date 12-7-83
Date 8-30-85



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

February 25, 1983

Owen T. &/or Pearl A. Stapleton
Box 324
Hailey, Idaho 83333

Re: Permit 37-7958

Dear Mr. & Mrs. Stapleton:

We acknowledge receipt of the affidavit submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

Field examinations must be done while the system is in operation. For this reason we concentrate on irrigation permits during the summer months and do examinations on permits for other uses during the non-irrigating months.

If you have any questions regarding the field examination, please contact our office.

Sincerely,

Gary L. Funderburg
Sr. Water Resource Agent

LOH:GLF:marya

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

138044

STAPLETON, OWEN T. & PEARL A.
BOX 324
HAILEY, ID 83333

DECEMBER 31, 1982

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 37-7958 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MARCH 01, 1983. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF OF BENEFICIAL USE.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU HAVE NOT PREVIOUSLY RECEIVED AN EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME PROVIDED THE DELAY IS FOR REASONABLE CAUSE AS INDICATED IN SECTION 42-204, IDAHO CODE, AMENDED. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED.

EITHER THE BENEFICIAL USE POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

TA FLECK
SECRETARY

1

S T A T E O F I D A H O
DEPARTMENT OF WATER RESOURCES

**STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440**

**STAPLETON, OWEN T. & PEARL A.
BOX 324
HAILEY, ID 83333**

FEBRUARY 09, 1982

RE: PERMIT NO. 37-7958

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

WE HAVE ENCLOSED A FORM ENTITLED "MAKING PROOF OF BENEFICIAL USE". PLEASE READ THE INSTRUCTIONS CAREFULLY SINCE YOU MUST TAKE FURTHER ACTION TO DEVELOP THIS PERMIT INTO A LICENSE.

SINCERELY,

**DAVID R. TOTHILL, JR., P.E.
SUPERVISOR, WATER ALLOCATION SECTION**

ENCLOSURE

MICROFILMED

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 37-7958.

Name(s) of Permit Holder: Owen T. & or Pearl A. Stapleton

Post Office Address: Box 324

Hailey, ID 83333 Tel. No. 788-2289

Source of Water: Groundwater

Extent of Use: ☐ Domestic (number of households)
☐ Stockwater (number and type of stock)
☒ Irrigation 1.5 (acres)
☐ Other

Measuring Device: Required? ☐ Yes ☒ No Installed? ☐ Yes ☒ No

Access Port: Required? ☐ Yes ☒ No Installed? ☐ Yes ☒ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

January 26, 1983
Date

Pearl Stapleton
Signature of Permit Holder

PLACE
13 CENT
STAMP
HERE
RECEIVED

JAN 26 1983

Department of Water Resources
Southern District Office



IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

3Z-2958-

STAPLETON, OWEN T. &/or PEARL A.

BOX 324, HAILEY, ID 83333

Source: GROUNDWATER

Date Filed: 12/04/1981

Amount: 0.05 CFS

Diversion Point: SESW Sec 04 T 02N R 18E, BLAINE Co.

Use: IRRIGATION (0.05 CFS) from 04/01 to 11/01

Place of Use: SESW Sec 04 T 02N R 18E FOR 1.5 ACRES

Diversion Means: TWO EXISTING SHALLOW WELLS AND PUMPS, SPRINKLERS

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before JANUARY 4, 1982.

A. KENNETH DUNN

Director

Published 12/17 & 12/24/81.

MICROFILMED

**NOTICE OF APPLICATION
FOR WATER RIGHT**

NOTICE IS HEREBY GIVEN, That
the following application(s) have been
submitted for permit to appropriate
the public waters of the State of
Idaho:

37-7958

Name: STAPLETON, OWEN T. &/or
PEARL A.

BOX 324, HAILEY, ID. 83333

Source: GROUNDWATER

Date Filed: 12/04/1981

Amount: 0.05 cfs

Diversion Point: SESW Sec 04 T 02N
R 18E, BLAINE Co.

Use: IRRIGATION -- (0.05 cfs)
from 04/01 to 11/01

Place of Use: SESW Sec 04 T 02N R
18E for 1.5 acres

Diversion Means: TWO EXISTING
SHALLOW WELLS AND PUMPS,
SPRINKLERS

If issued, the permit(s) will be sub-
ject to all prior water rights. Protests
against the granting of any permit
must be filed with the Director of the
Idaho Department of Water
Resources, 1041 Blue Lakes Blvd.
North, Twin Falls, Idaho, 83301, and
received on or before JANUARY 4,
1982.

A. KENNETH DUNN
Director

Publish: Wood River Journal--
December 17, 24, 1981.

MICROFILMED

*ok
meyer
12/16/81*

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd N.
Twin Falls, Idaho 83301
(208) 734-3578

DECEMBER 7, 1981

Wood River Journal
P.O.Box 988
Hailer 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. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. 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 4, 1982.

Yours truly,

Mary A. Hill
Secretary

Encl.

MICROFILMED

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

Pearl A.
STAPLETON, Owen T. &/or

INITIAL REVIEW BY: T. G. Blum

APPLICATION NUMBER: 37-7958

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: _____

Date: _____

Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department. Copies sent by: _____ Date: _____
☐ Idaho Fish and Game Department. _____
☐ Idaho Department of Lands. _____
☐ U.S. Bureau of Land Management. _____
☐ U.S. Forest Service. _____
☐ Other _____

PROCESSING:

- ☐ Yes ☒ No Platted by: _____ Map No. _____
☒ Yes ☐ No Other rights on same place of use. 37-0183, 37-0298B, 37-03340
37-0900
☒ Yes ☐ No* In form for advertising.
Final date for protests: 1/4/82
☐ Yes ☒ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 12-30-81
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☐ Yes ☒ No Measuring device required.
☐ Yes ☒ No Access port required.
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____
☒ 12/4/81 Date of priority recommended.
Special conditions of approval or cover letter. None

STATE OFFICE REVIEW:

By: ADM

Date: 1/11/82

L II

RECEIVED
JAN 14 1982

- ☐ See attached sheet for more information.

By: [Signature]

Date: 2/1/82

Department of Water Resources

MICROFILMED