

**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:

37-7842

Hardy, Earl
Rangen, Tharleif
Jones, John W., Jr.
LeMoyne, John
1301 Vista Ave., Boise, Idaho
83705

Source: Little Wood & Big
Wood River tributary of
Snake River

Date Filed: 6/30/80

Amount: 800 cfs

Diversion Point: SW $\frac{1}{4}$ SE $\frac{1}{4}$,
Sec. 24, T.4S, R.19E, Lincoln
County

Use: Groundwater Recharge
(800 cfs) from Jan. 1 to Dec.
31

Place of Use: Within the
boundaries of the Lower
Snake Plains Aquifer Re-
charge District located with-
in T5S, R14E; T5S R15E;
T5S, R16E; T5S R17E; T6S
R13E; T6S R14E; T6S R15E;

T6S R16E; T6S R17E; T6S
R18E; T7S R13E; T7S R14E;
T7S R15E; T7S R16E; T7S
R17E; T7S R18E; T7S R19E;
T8S R13E; T8S R14E; T8S
R15E; T8S R16E; T8S R17E;
T8S R18E; T9S R14E; T9S
R15E; T9S R16E; T9S R17E;
T9S R18E; T10S R18E.

Possible sites for recharge of
the water are within the
following described lands:
Sec. 15, 16, 21, 22, 28, T.5S
R19E.

Diversion Means: Contract
use of Dietrich Canal system
and Richfield Canal system.

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 De-
partment of Water Re-
sources, 1041 Blue Lakes
Blvd. North, Twin Falls,
Idaho 83301 and received on
or before September 2, 1980.

/s/ C. Stephen Allred
Director

L/2tc/8-14

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T6S R15E; T6S R16E; T6S
R17E; T6S R18E; T7S R13E;
T7S R14E; T7S R15E; T7S
R16E; T7S R17E; T7S R18E;
T7S R19E; T8S R13E; T8S
R14E; T8S R15E; T8S R16E;
T8S R17E; T8S R18E; T9S
R14E; T9S R15E; T9S R16E;
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following described lands:
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R19E.

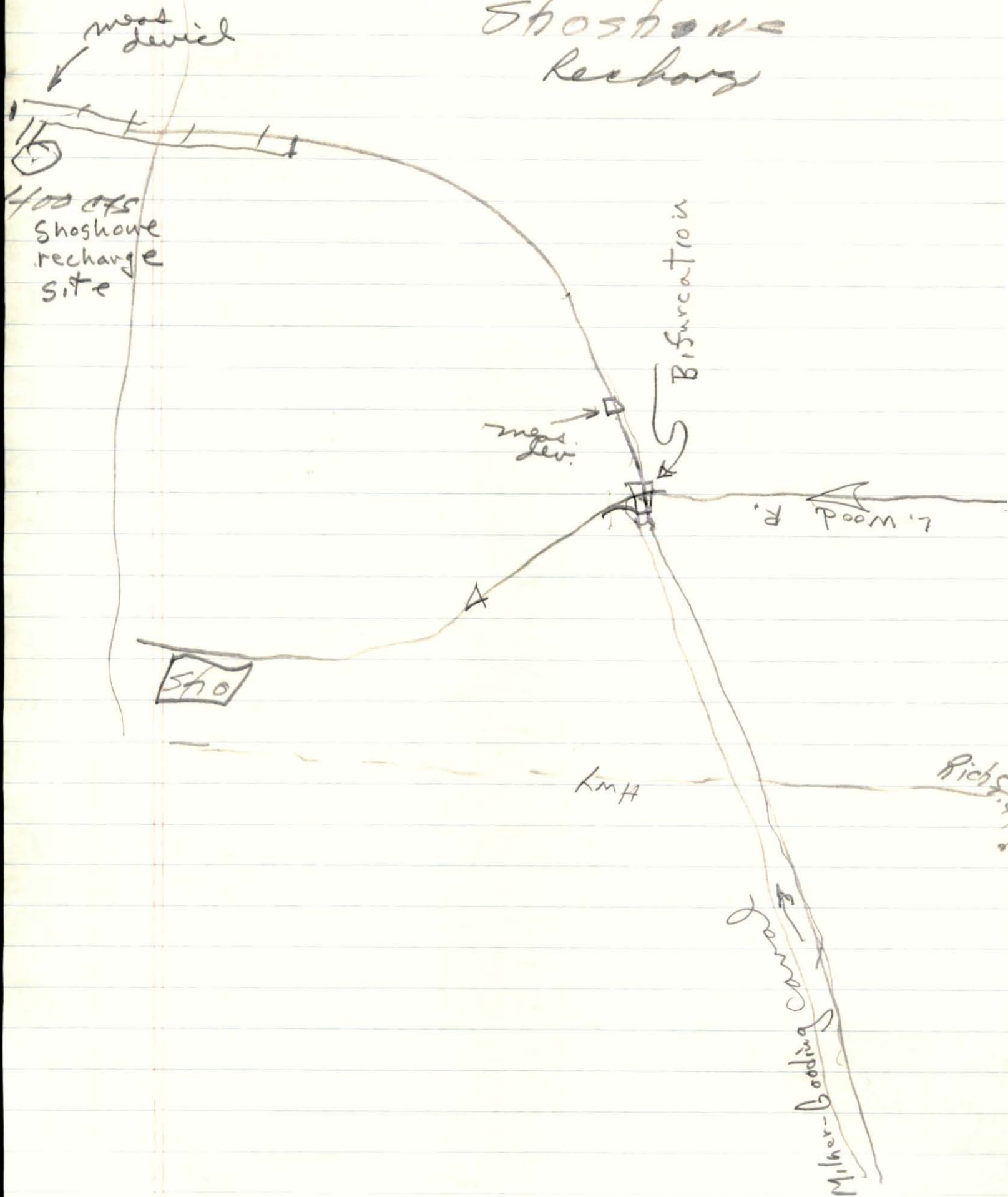
Diversion Means: Contract
use of Dietrich Canal system
and Richfield Canal system.

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 De-
partment of Water Re-
sources, 1041 Blue Lakes
Blvd. North, Twin Falls,
Idaho 83301 and received on
or before August 17, 1980.

/s/ C. Stephen Allred
Director

Shoshone Recharge



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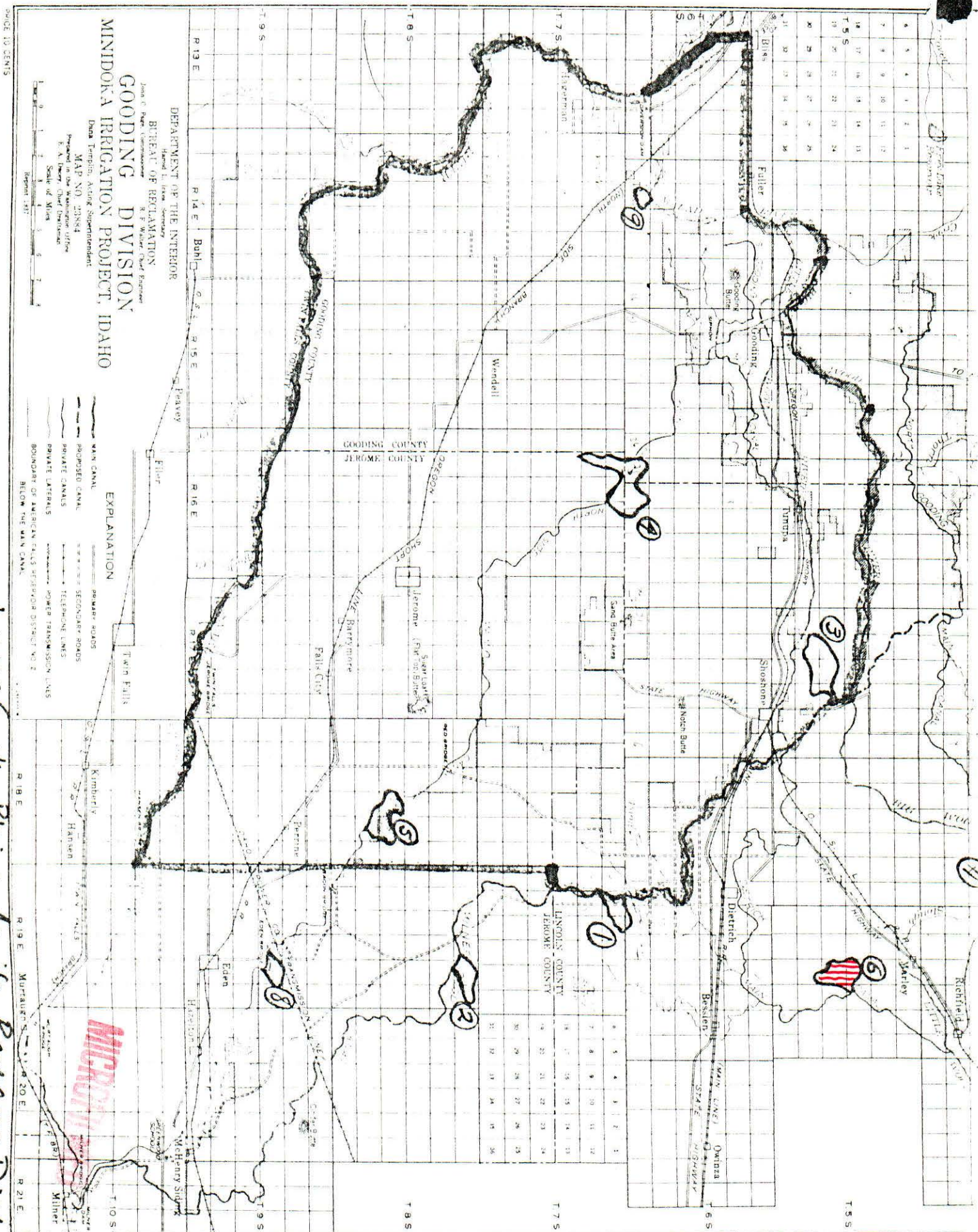
Richfield

W. River

5000/5000

Deerfield

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MINIDOKA IRRIGATION PROJECT, IDAHO

GOODING DIVISION

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

J. F. Walker, Chief Engineer

R. F. Walker, Chief Engineer

Dana Tappin, Acting Superintendent

MAP NO. 23884

measured in the Washington D.C. area

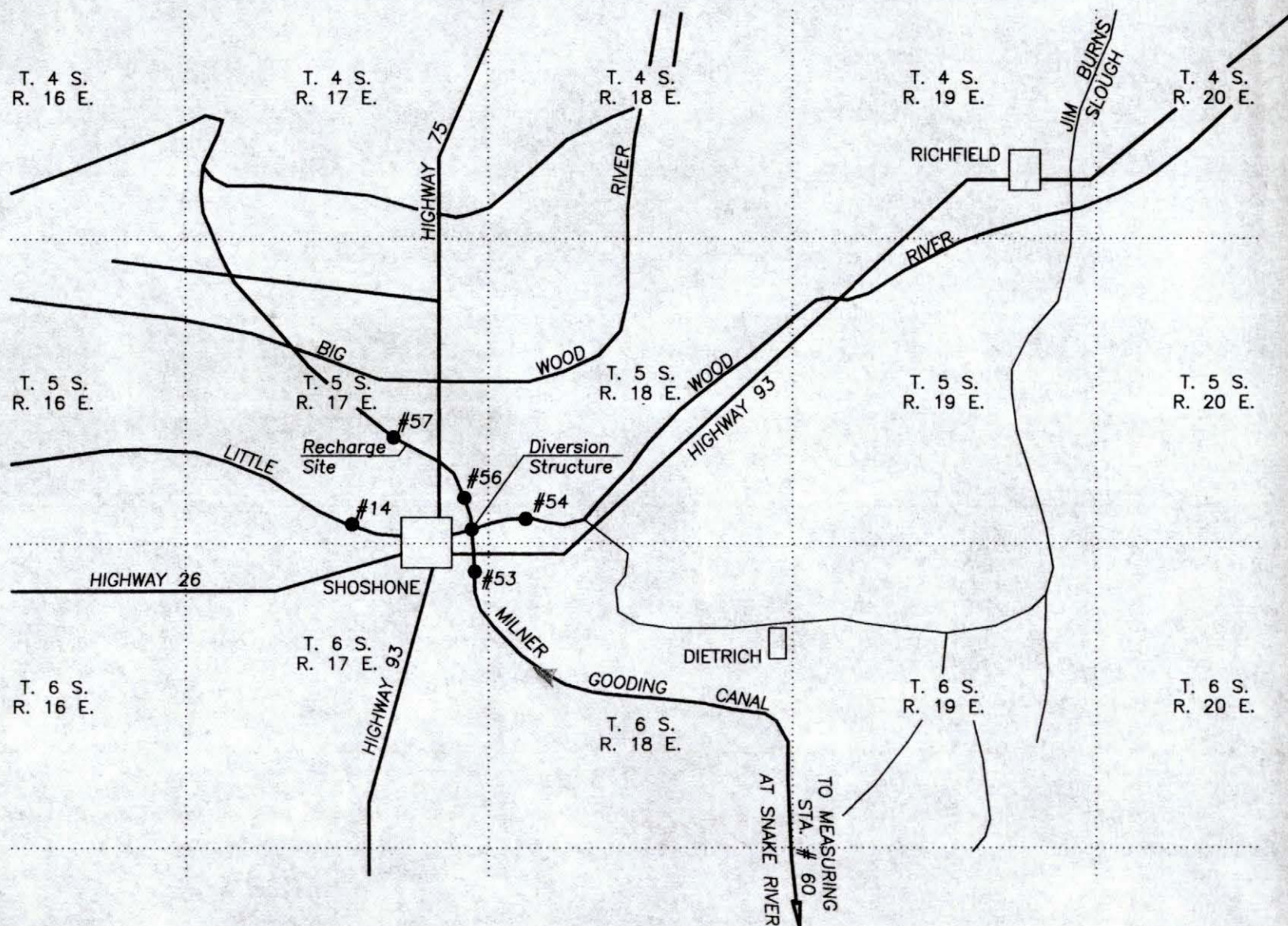
Dr. A. Lacey, Chief Librarian

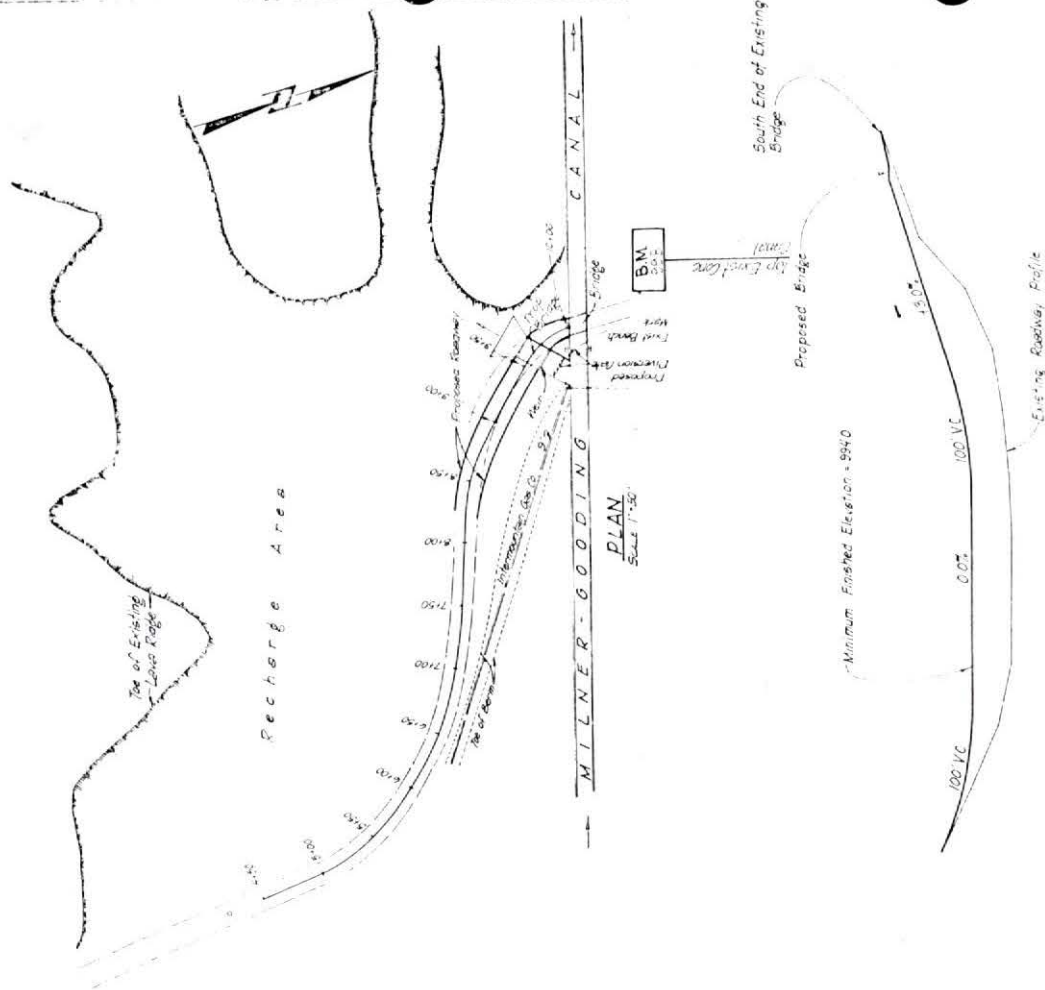
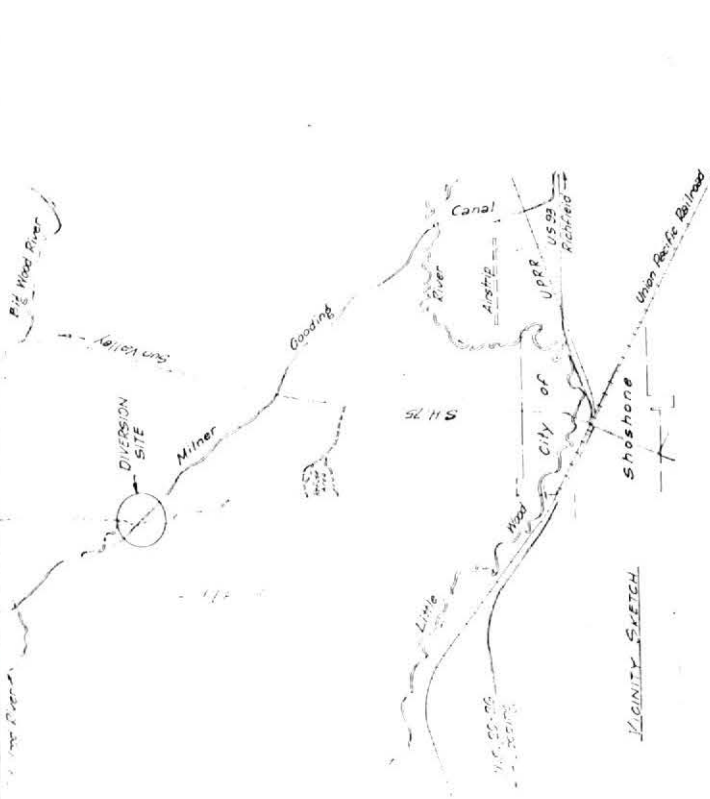
Scale of Mile

Копия: 1937

EXPLANATION

Exhibit For
Lower Snake River Aquifer Recharge
Permit No's. 01-07054 & 37-07842



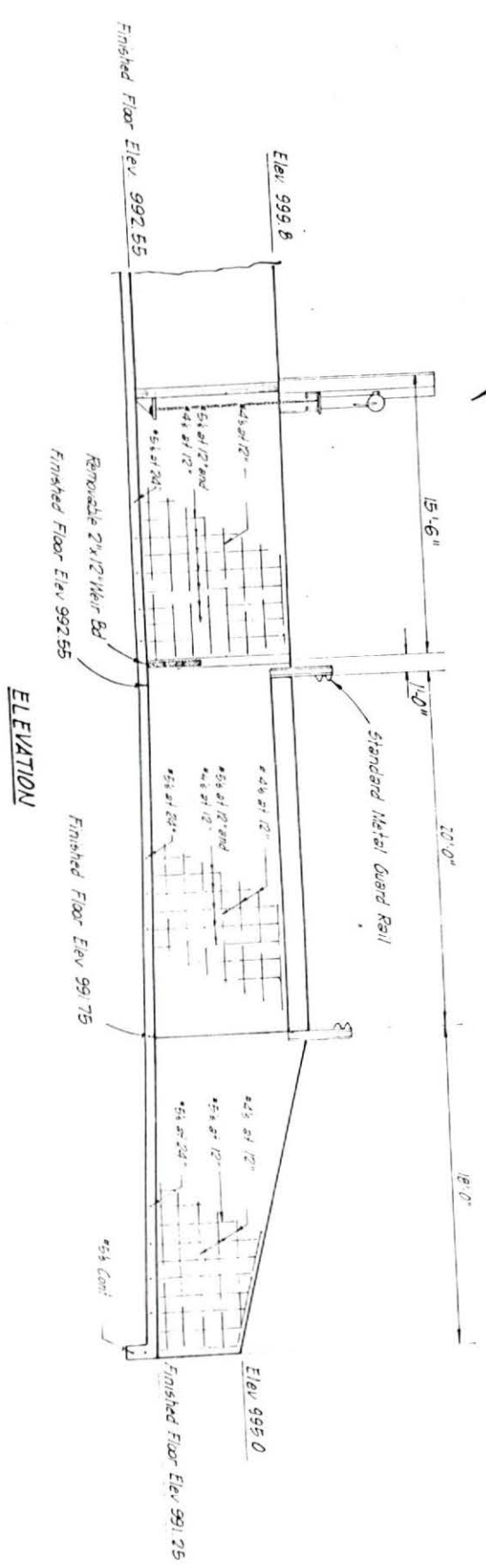
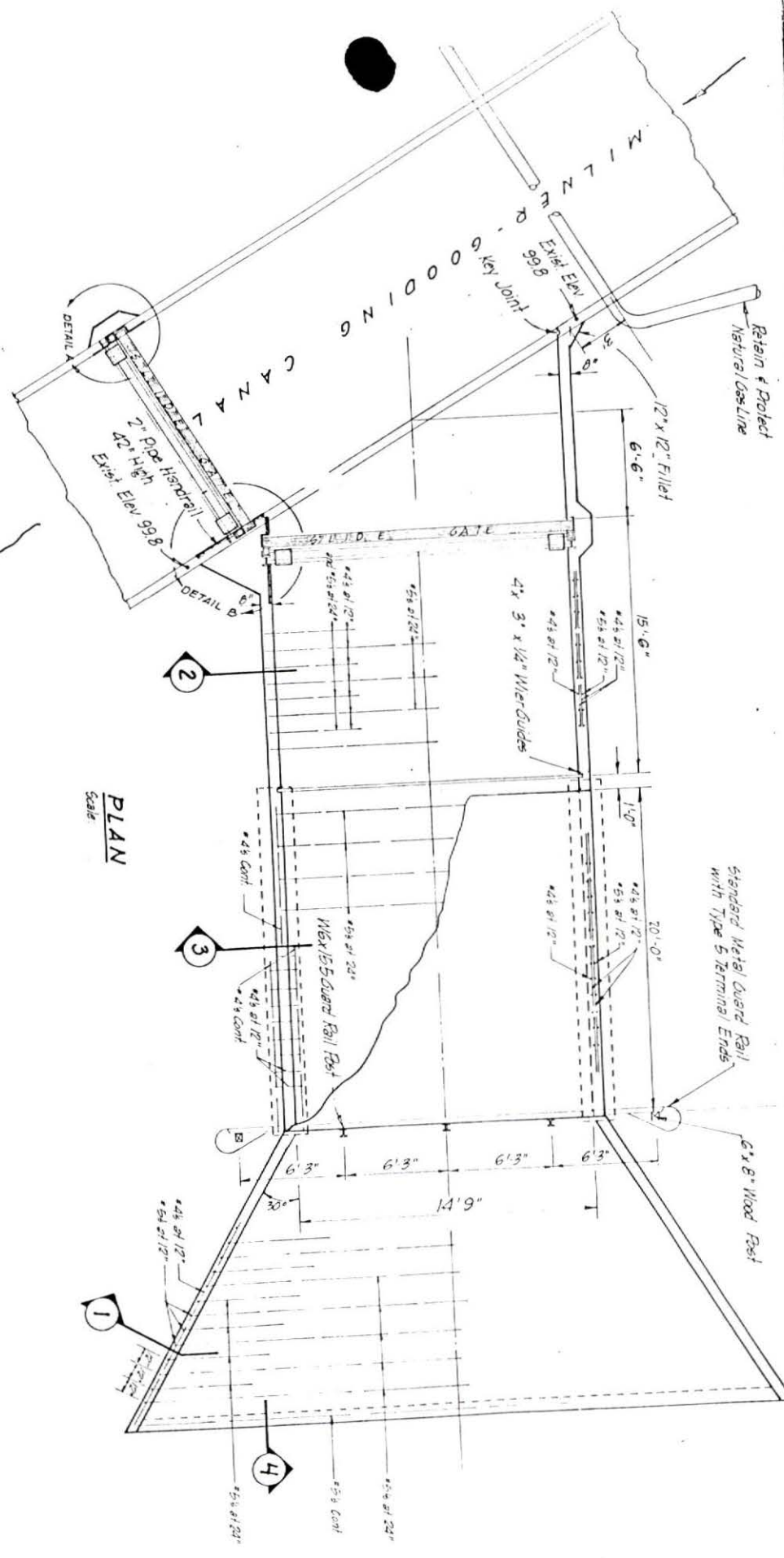


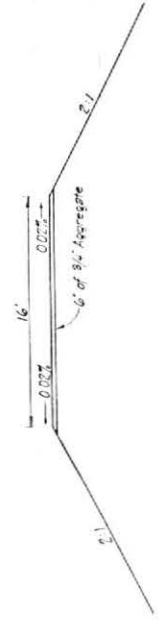
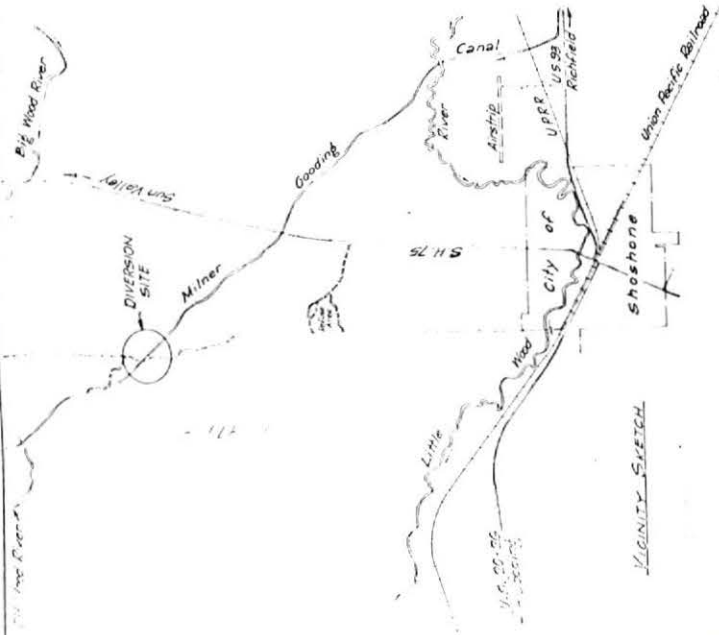
TYPICAL ROADWAY SECTION
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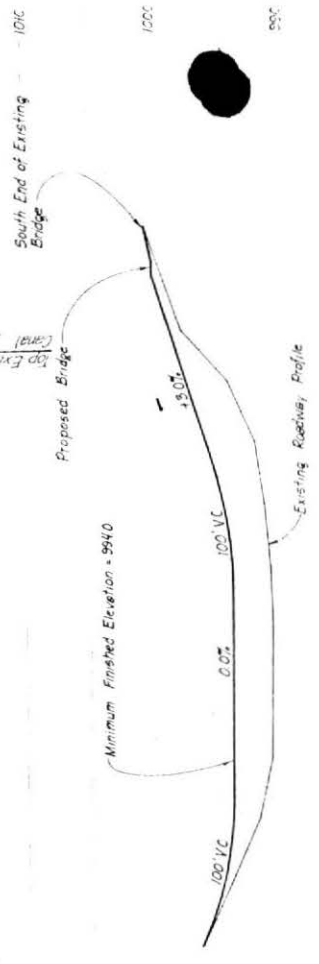
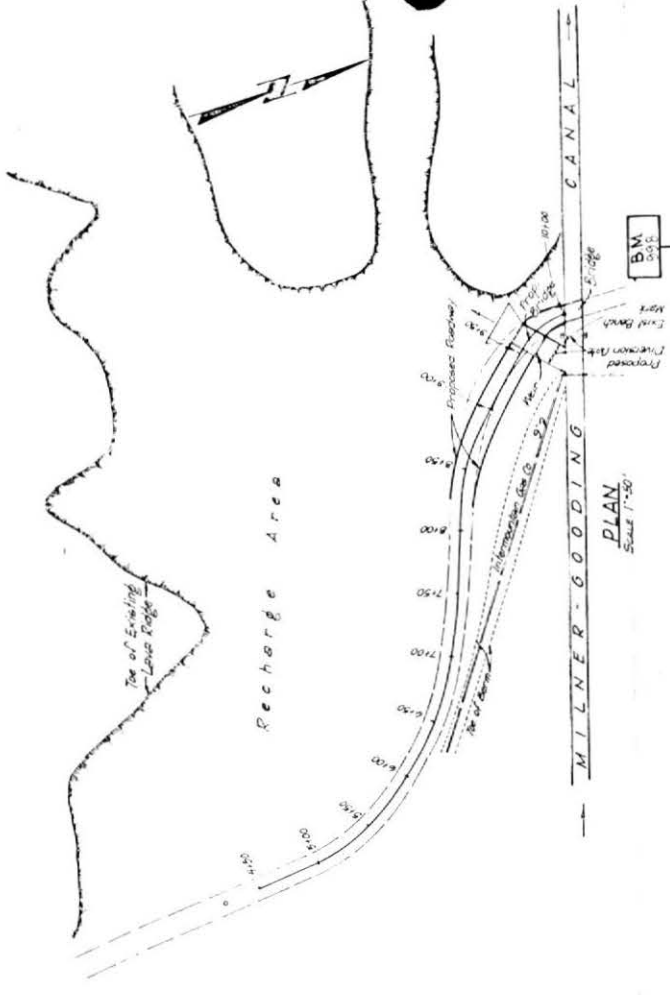
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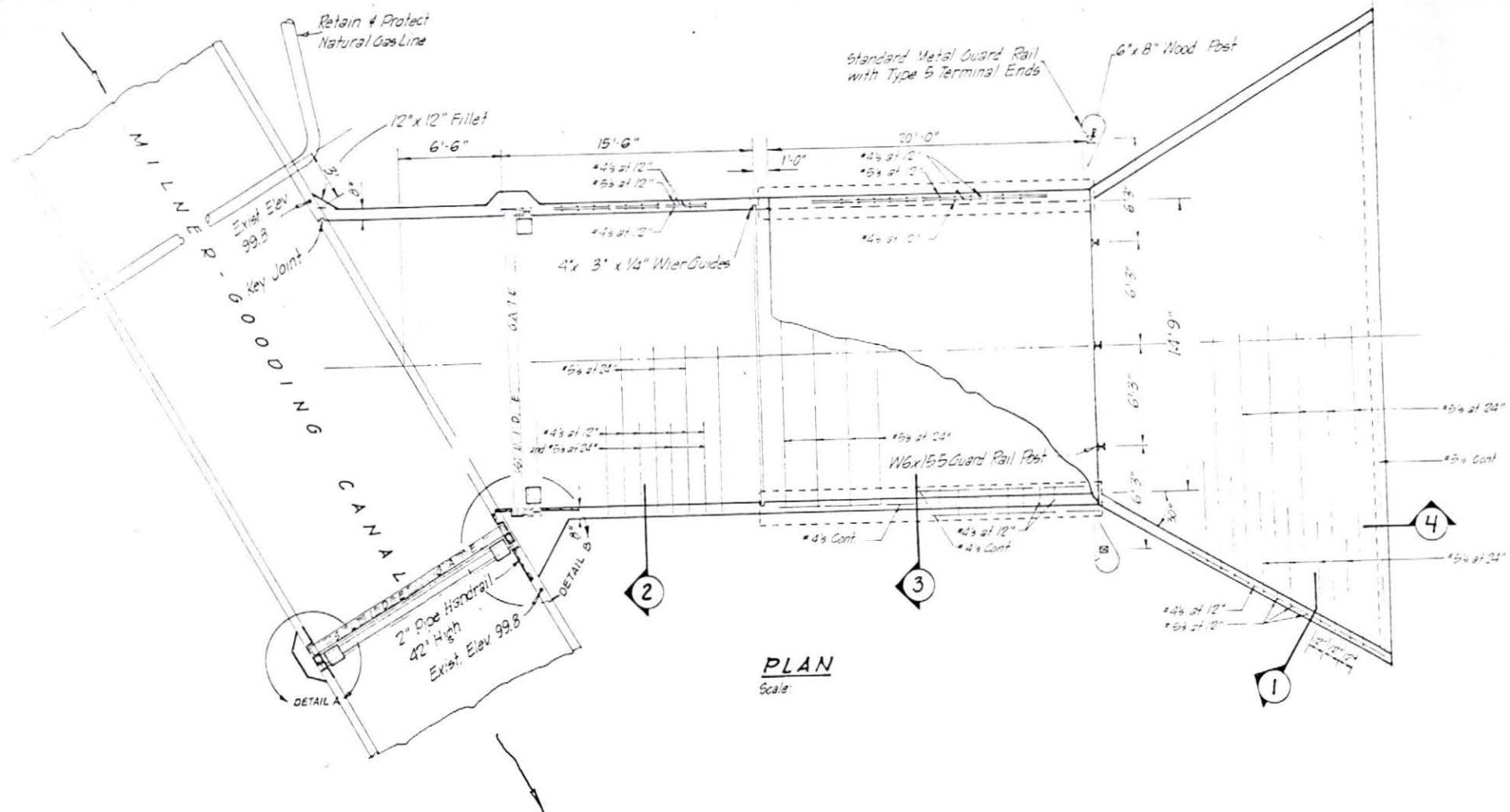
TYPICAL ROADWAY SECTION
NTS



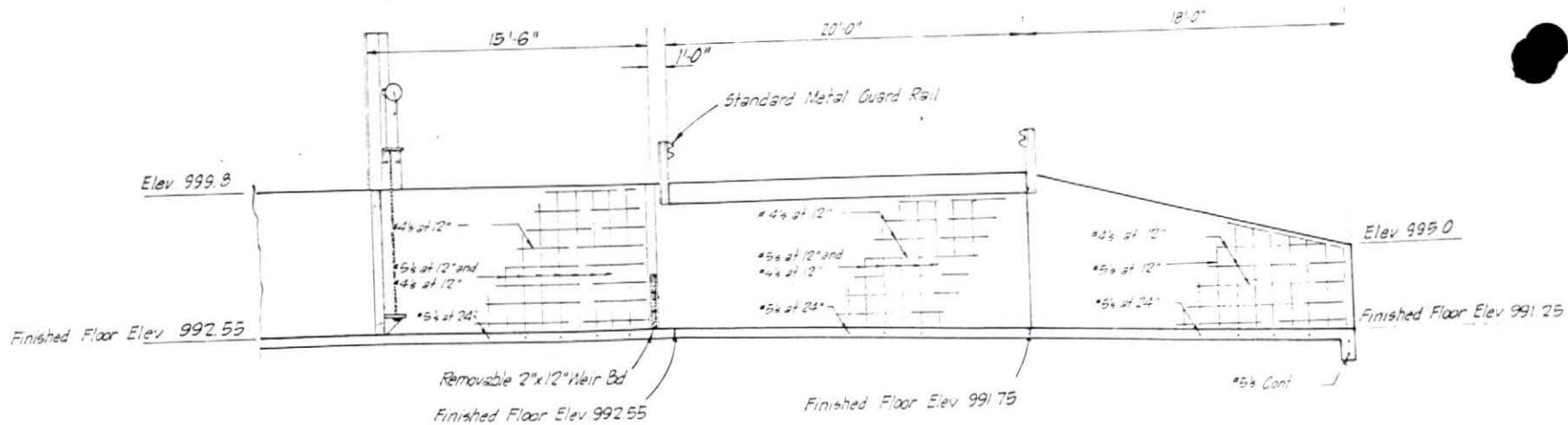
ROADWAY PROFILE

4+00 5+00 6+00 7+00 8+00 9+00 10+00

MILNER-GOODING DIVERSION



PLAN
Scale:



ELEVATION

G E A

Water with High Current All Me of Ben 500 is Plaf form, Edge not 0 Other.

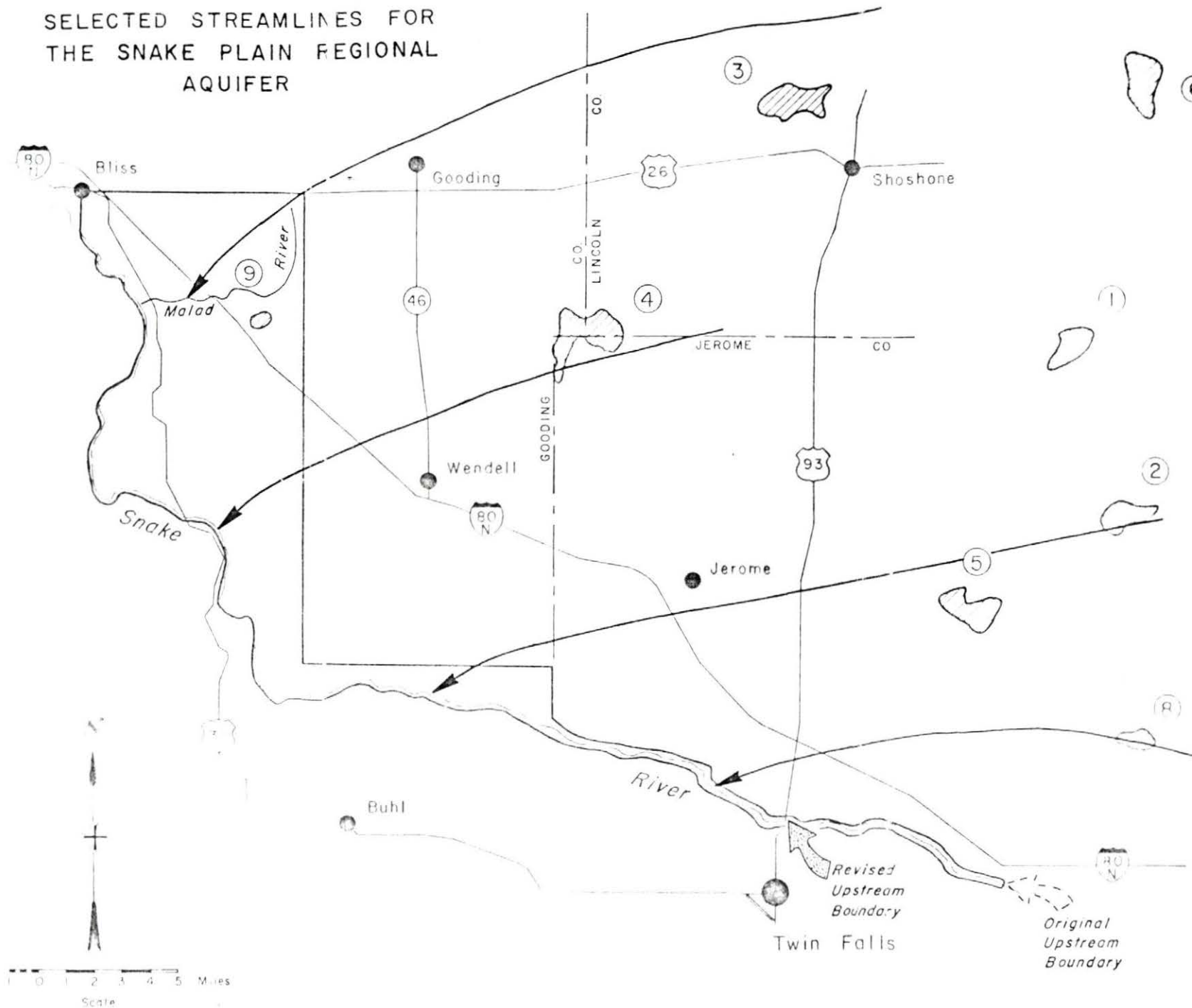
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5-11 T.O. Cont. More Free Max Act.

SELECTED STREAMLINES FOR THE SNAKE PLAIN REGIONAL AQUIFER



**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT NOS.)
37-07842 AND 01-07054 IN THE)
NAME OF THE IDAHO WATER)
RESOURCE BOARD)
_____)

ORDER

FINDINGS OF FACT

1. On June 2, 1982, the Idaho Department of Water Resources ("Department") issued Permit No. 01-07054 ("permit") to the Lower Snake Aquifer Recharge District ("district") authorizing the diversion of 1,200 cubic feet per second ("cfs") of water from the Snake River for groundwater recharge purposes. Proof of construction of works and application of water to beneficial use ("proof") was due on June 1, 1987 but was extended by the Department to June 1, 1992.
2. On June 2, 1982, the Idaho Department of Water Resources ("Department") also issued Permit No. 37-07842 ("permit") to the district authorizing the diversion of 800 cubic feet per second ("cfs") of water from the Little Wood and Big Wood Rivers for groundwater recharge purposes. Proof was due on June 1, 1987 but was extended by the Department to June 1, 1992.
3. On March 31, 1992, the Department sent a proof due notice to the district and on June 5, 1987, sent a lapse notice to the district, since the district had not filed either proof or a request for extension of time in which to file proof.
4. On July 27, 1992, the district filed proof of beneficial use together with a field report completed by a non-department certified water right examiner. The proof was identified as being for Permit No. 37-07842.
5. On August 12, 1993, the district advised the Department that the proof which was filed was intended to be for both Permit Nos. 01-07054 and 37-07842. Based on that representation, on December 1, 1993, the Department issued a Reinstatement Order for both permits advancing the priority of use to August 25, 1980.
6. On March 19, 1999, the Idaho Water Resource Board ("Board") by resolution agreed to accept the assignment of the permits from the district.

7. On March 21, 2000, the Board adopted a resolution asking the Director of the Department to extend the proof due date for submitting proof of beneficial use for the undeveloped portions of the permits.

CONCLUSIONS OF LAW

1. Section 42-204, paragraph 4, Idaho Code, provides in pertinent part as follows:

In connection with permits held by the United States, or the Idaho water resource board, whether acquired as the original applicant, by assignment or otherwise, the director of the department of water resources may extend the time for completion of the works and application of the water to full beneficial use for such additional period or periods of time as he may deem necessary upon application supported by a showing that such additional time is required by reason of the status of plans, authorization, construction fund appropriations, construction, or any arrangements which are found to be requisite to completion of the construction of such works.

2. The Board has shown adequate reason for the Director to grant an extension of time in which to submit proof for the permits.

3. The department should issue an order designating a proof due date for the undeveloped portion of each permit.

ORDER

IT IS THEREFORE, hereby ORDERED that the proof due date for Permit Nos. 01-07054 and 37-07842 be **EXTENDED** to June 1, 2004.

Signed this 3rd day of April, 2000.


L. GLEN SAXTON, Chief
Water Allocation Bureau

BEFORE THE IDAHO WATER RESOURCE BOARD
OF THE
STATE OF IDAHO

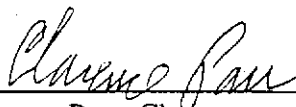
IN THE MATTER OF PERMITS NOS.)
01-07054 AND 37-07842 IN THE NAME) RESOLUTION
OF THE IDAHO WATER RESOURCE BOARD)
_____)

WHEREAS, the Idaho Water Resource Board ("Board"), pursuant to Idaho Code, has authority to acquire, purchase, lease, or exchange land, rights, water rights, easements, franchises, and other property deemed necessary or proper for the construction, operation and maintenance of water projects; and

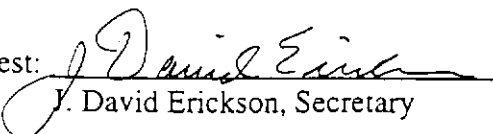
WHEREAS, the Board by resolution passed and approved on the 19th day of March, 1999, agreed to accept the assignment of Water Right Permit No. 01-07054 from the Snake River upstream from Milner Dam and Water Right Permit No. 37-07842 from the Little and Big Wood Rivers for aquifer recharge purposes on the Lower Snake River Plain, both permits having a priority date of August 25, 1980.

NOW, THEREFORE BE IT RESOLVED that the Board requests the Director of the Idaho Department of Water Resources to extend the time for submitting proof of beneficial use required on the undeveloped portions of the Board's Water Right Permit Nos. 01-07054 and 37-07842.

Dated this 21st day of March, 2000.



Clarence Parr, Chairman,
Idaho Water Resource Board

Attest: 
J. David Erickson, Secretary

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ASSIGNMENT OF PERMIT

I, Dan McFadden, hereby assign to Idaho Water Resource Board
of, P.O. Box 83720 Boise Idaho (208) 327-7900
(Full Address) 83720-0098 (Phone)

All my right, title, and interest in and to Permit No. 37-07842 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Permit No. 37-07842 to appropriate the public waters of the State of Idaho. (Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision, point of diversion location, and the amount of water in cubic feet per second.)

Made this 28th day of April, 1999.

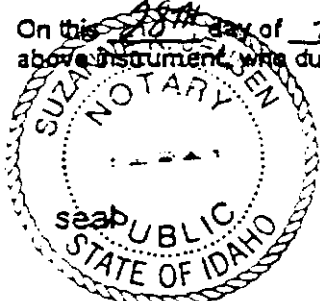
Dan McFadden
Permit Holder

Chairman
Lower Snake River Aquifer
Recharge District

State of Idaho)

County of CODDING) ss

On this 28th day of APRIL, 1999, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.



Suzanne K. Jensen
Notary Public residing at
Hagerman, Idaho

My commission expires: 08/04/2004

RECEIVED

JUN - 3 1999

Department of Water Resources

**AGREEMENT CONVEYING LEGAL TITLE TO WATER RIGHTS
FROM THE LOWER SNAKE RIVER AQUIFER RECHARGE DISTRICT
TO THE IDAHO WATER RESOURCE BOARD**

THIS AGREEMENT is made and entered into this 13th day of May, 1999,
by and between the IDAHO WATER RESOURCE BOARD ("BOARD") and the LOWER SNAKE
RIVER AQUIFER RECHARGE DISTRICT ("LSRARD").

WITNESSETH:

WHEREAS, the BOARD, pursuant to Section 42-1734, Idaho Code, has authority to acquire, purchase lease, or exchange land, rights, water rights, easements, franchises, and other property deemed necessary or proper for the construction, operation and maintenance of water projects; and

WHEREAS, the LSRARD is the holder of Water Right Permit No. 01-07054 from the Snake River upstream from Milner Dam and Water Right Permit No. 37-07842 from the Little and Big Wood Rivers for aquifer recharge purposes on the Lower Snake River Plain, both permits having a priority date of August 25, 1980; and

WHEREAS, the LSRARD desires to convey and assign all its legal interests in Water Right Permit Nos. 01-07054 and 37-07842 to the BOARD, at no cost, so that the rights may be developed and utilized to the full extent feasible under the law for managed recharge purposes consistent with the State Water Plan; and

WHEREAS, the LSRARD by a majority vote of its Board of Directors taken at a special meeting convened in accordance with the provisions of Section 42-4211, Idaho Code, on the 5th day of April, 1999, has authorized its Chairman to execute the present Agreement Conveying Legal Title to Water Rights on its behalf; and

WHEREAS, the Board by resolution passed and approved on the 19th day of March, 1999, agreed to accept the assignment of Water Right Permit Nos. 01-07054 and 37-07842 as conveyed under this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The LSRARD shall convey legal title and all ownership rights and interests in Water Right Permit Nos. 01-07054 and 37-07842 to the BOARD. Simultaneously with the execution of this Agreement, the LSRARD shall execute an Assignment of Permit form to be filed with the Idaho Department of Water Resources.

AGREEMENT CONVEYING WATER RIGHTS
IDAHO COUNTY RECORDER
J. DAVID NAVARRO
SOLICITOR, IDAHO

State of IDAHO
RECORDED - REQUEST OF
FEE 2a DEPUTY

1999 HY 28 AM 10:00

99053981

2. The BOARD shall accept the assignment of Water Right Permit Nos. 01-07054 and 37-07842 from the LSRARD and shall hold legal title to the water rights. The Board shall not assign or convey the water rights represented by Water Right Permit Nos. 01-07054 and 37-07842, or any portion thereof, to any third party or entity without first providing to the LSRARD written notice and opportunity to reacquire title to the water rights, or any portion thereof, from the Board within six (6) months from the date of the written notice.
3. The LSRARD shall exercise full operational and fiscal responsibility for existing recharge projects utilizing Water Right Permit Nos. 01-07054 and 37-07842 and is hereby authorized by the Board to continue the existing use of water under these two rights for recharge purposes.
4. LSRARD shall indemnify and hold harmless the BOARD from all liability and expense on account of claims, suits and costs growing out of or connected with willful or negligent acts, errors, or omissions by its employees or agents with respect to existing or future recharge projects owned or operated by LSRARD that utilize Water Right Permit 01-07054 or 37-07842, provided, however, that the BOARD shall not be relieved hereby from liability for its own willful or negligent acts, errors, or omissions, and those of its employees or agents. This indemnification and hold harmless provision shall not apply to projects utilizing Water Right Permit 01-07054 or 37-07842 that are not owned or operated by LSRARD.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

IDAHO WATER RESOURCE BOARD

Clarence Parr
Clarence Parr, Chairman

LOWER SNAKE RIVER AQUIFER
RECHARGE DISTRICT

Don McFadden
Chairman

ATTEST:

J. David Erickson
J. David Erickson, Secretary

ATTEST:

Delores Jones
Secretary

Approved as to Legal Form and Sufficiency:

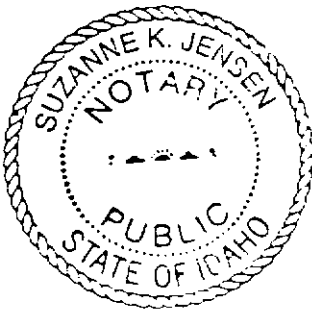
Phillip J. Rasser
Deputy Attorney General

ACKNOWLEDGEMENT

STATE OF IDAHO)
) SS.
County of Gooding)

On this 28TH day of April, 1999, before me, a Notary Public in and for said County and State, personally appeared DAN McFADDAN, known or identified to me to be the duly elected Chairman of the LOWER SNAKE RIVER AQUIFER RECHARGE DISTRICT, the quasi-municipal district that executed the foregoing instrument, and acknowledged to me that said district executed the same.

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



Suzanne K. Jensen
NOTARY PUBLIC FOR IDAHO
Residing at: Hagerman, Id. 83332
My Commission expires: 08/04/2004

180642

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of Dept. of Water
51 min. past 10 o'clock A m. this 21st
of May, 1999 9:00
By Penny Archibald Deputy

BEFORE THE WATER RESOURCE BOARD
OF THE STATE OF IDAHO

IN THE MATTER OF BOARD ACCEPTANCE)
OF WATER RIGHT PERMIT NOS. 01-07054)
AND 37-07842 FROM THE LOWER SNAKE) RESOLUTION
RIVER AQUIFER RECHARGE DISTRICT.)
_____)

WHEREAS, Policy 1J of the Idaho State Water Plan adopted by the Board provides that it is the policy of Idaho that managed recharge be encouraged, pursuant to state law; and

WHEREAS, the Idaho Water Resource Board ("Board") pursuant to Section 42-1734, Idaho Code, has authority to acquire, purchase, lease, or exchange land, rights, water rights, easements, franchises and other property deemed necessary or proper for the construction, operation and maintenance of water projects; and

WHEREAS, the Lower Snake River Aquifer Recharge District ("Recharge District") is the holder of Water Right Permit No. 01-07054 from the Snake River upstream from Milner Dam and Water Right Permit No. 37-07842 from the Little and Big Wood Rivers for aquifer recharge purposes on the Lower Snake River Plain, both permits having a priority date of August 25, 1980; and

WHEREAS, the Recharge District desires to assign all its legal interests in Water Right Permit Nos. 01-07054 and 37-07842 to the Board, at no cost, so that the rights may be developed and utilized to the full extent feasible under the law for managed recharge purposes consistent with the State Water Plan; and

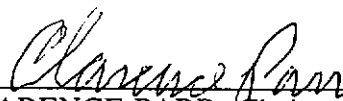
WHEREAS, it is the desire and intention of the Board and the Recharge District that the Recharge District shall have and exercise full operational and fiscal responsibility for existing recharge projects utilizing the assigned water rights pursuant to agreement with the Board; and

WHEREAS, it is the desire and intention of the Board and the Recharge District that the Recharge District shall hold the Board harmless from any and all liability associated with the operation of any recharge project utilizing the assigned water rights.

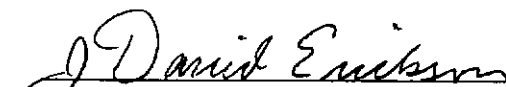
NOW THEREFORE, BE IT RESOLVED that the Idaho Water Resource Board hereby agrees to accept, without cost, the assignment of all interests held by the Lower Snake River Aquifer Recharge District in Water Right Permit Nos. 01-07054 and 37-07842 contingent upon the Board and the Recharge District executing a written agreement governing the rights and responsibilities of the parties resulting from the assignment of the water rights.

BE IT FURTHER RESOLVED that the Board Chairman is hereby authorized to file with the Idaho Department of Water Resources an Assignment of Permit form for Water Right Permit Nos. 01-07054 and 37-07842, and to file such other pleadings or documents and to take such other actions before the Department as are appropriate and necessary to perfect all vested or inchoate interests acquired under the two water right permits.

PASSED AND APPROVED this 19th day of March, 1999.


CLARENCE PARR, Chairman

ATTEST:


J. DAVID ERICKSON, Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NOS.)
01-07054 AND 37-07842 BOTH)
IN THE NAME OF LOWER SNAKE)
AQUIFER RECHARGE DISTRICT)
_____)

REINSTATEMENT ORDER

This matter having come before the Idaho Department of Water Resources (department), as a result of the filing of proof of beneficial use of water and a beneficial use field report with the department, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On June 2, 1982, the department issued Permit No. 01-07054 to the Lower Snake Aquifer Recharge District (permit holder) authorizing the diversion of 1,200 cubic feet per second (cfs) of water from the Snake River for ground water recharge purposes. Proof of construction of works and application of water to beneficial use (proof) was originally due on June 1, 1987 but was extended by the department to June 1, 1992.
2. On June 2, 1982, the department also issued Permit No. 37-07842 to the permit holder authorizing the diversion of 800 cfs of water from the Little Wood and the Big Wood Rivers for ground water recharge purposes. Proof of beneficial use was originally due on June 1, 1987, but was extended by the department to June 1, 1992.
3. On March 31, 1992, the department sent a proof due notice for each permit to the permit holder. On June 5, 1992, the department sent a lapse notice for each permit to the permit holder, since the permit holder had not responded and both permits had lapsed.
4. On July 27, 1992, the permit holder filed proof of beneficial use together with a field report completed by Gerald Martens, a certified water right examiner. The proof was identified as being for Permit No. 37-07842 with authorized sources of the Little Wood and Big Wood Rivers.
5. On August 12, 1993, the permit holder advised the department that the proof which was filed on July 27, 1992 was intended for both Permit Nos. 01-07054 and 37-07842.
6. The department's review of the completed field examination and

supporting data shows that the permit holder diverted water from both the Snake River and the Big and Little Wood Rivers even though the proof was identified as being only for Permit No. 37-07842.

CONCLUSIONS OF LAW

1. Section 42-218a.1., Idaho Code, provides in part as follows:

That within sixty (60) days after such notice of lapsing the department, may upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof;

2. The Director should reinstate both Permit Nos. 01-07054 and 37-07842 pursuant to Section 42-218a.1., Idaho Code, and should advance the priority of each permit to August 25, 1980.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Permit Nos. 01-07054 and 37-07842 are reinstated and the priority is advanced to August 25, 1980.

Dated this 1st day of December, 1993.



L. GLEN SAXTON, Chief
Water Allocation Bureau

RECEIVED

JUL 27 1992

No ✓

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

OFFICE USE ONLY

Amt. of Fee \$ N/A
Date _____
Receipt No. _____
Receipt by _____**PROOF OF BENEFICIAL USE**

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

1. Permit No. and 01-07054A
37-07842A Telephone No. 837-4887
2. Name(s) of Permit Holder(s): LOWER SNAKE RIVER RECHARGE DISTRICT
3. Mailing Address: Box 487 HAGERMAN, IDAHO
4. Source of Water: SNAKE RIVER

If GROUNDWATER, Well Driller's Name: NA Date Drilled: _____

OPTIONAL:

Pump horsepower: NA Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use (as authorized by the permit):

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

Irrigation _____ (No. of acres) Other GROUNDWATER RECHARGE

6. Total rate and/or volume for which proof is submitted 300 cfs OR _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

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

OR

Flow Measurement Port: Required? NA Yes ☐ No Installed? NA Yes ☐ No

8. Fee Enclosed: \$ _____ (See License Fee Schedule on back of Instruction Sheet)

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

GEROLD MARTINS
Name

208-734-4388
Telephone No.

APR 18 1994

1139 FALLS AVE. EAST, TWINFALLS IDAHO
Address

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

Date

Signature (and title, if on behalf of a company or organization)

JUL 29 1992

6/12/92

Signature (and title, if on behalf of a company or organization) Gerold Martins project engineer CURE #001

AFFIDAVIT PUBLICATION

State of Idaho, }
County of Lincoln } SS.

Melba Thorne, being first duly sworn, deposes and says that he is the printer (publisher) of the Lincoln County Journal, a newspaper published every week in Shoshone, Lincoln County, 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 14 day of August, 1980, and the date of the last publication was on the 21 day of August, 1980.

Melba Thorne
Subscribed and sworn to before me this 21
day of August, 1980.
(SEAL)

Maylin Hagen
NOTARY PUBLIC

LINCOLN COUNTY JOURNAL Shoshone, Idaho COST OF PUBLICATION

Number of Lines in Notice
Number of Insertions
Lines tabular at 315c
Lines straight at 21c
Subsequent lines at 15c
TOTAL COST

MICROFILMED

COPY OF NOTICE

(Paste Here)

Rept Water Right
TITLE OF NOTICE

37-7842 Hardy et al
PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

BILL TO

Rept Water Resources

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1971)

7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

RECEIVED 3262

SEP 2 1980

Department of Water Resources
Southern District Office

**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:

37-7842

Hardy, Earl
Rangen, Tharleif
Jones, John W., Jr.
LeMoyne, John
1301 Vista Ave., Boise, Idaho
83705

Source: Little Wood & Big
Wood River tributary of
Snake River

Date Filed: 6/30/80

Amount: 800 cfs

Diversion Point: SW $\frac{1}{4}$ SE $\frac{1}{4}$,
Sec. 24, T.4S, R.19E, Lincoln
County

Use: Groundwater Recharge
(800 cfs) from Jan. 1 to Dec.
31

Place of Use: Within the
boundaries of the Lower
Snake Plains Aquifer Re-
charge District located with-
in T5S, R14E; T5S R15E;
T5S, R16E; T5S R17E; T6S
R13E; T6S R14E; T6S R15E;

T6S R16E; T6S R17E; T6S
R18E; T7S R13E; T7S R14E;
T7S R15E; T7S R16E; T7S
R17E; T7S R18E; T7S R19E;
T8S R13E; T8S R14E; T8S
R15E; T8S R16E; T8S R17E;
T8S R18E; T9S R14E; T9S
R15E; T9S R16E; T9S R17E;
T9S R18E; T10S R18E.

Possible sites for recharge of
the water are within the
following described lands:
Sec. 15, 16, 21, 22, 28, T.5S
R19E.

Diversion Means: Contract
use of Dietrich Canal system
and Richfield Canal system.

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 De-
partment of Water Re-
sources, 1041 Blue Lakes
Blvd. North, Twin Falls,
Idaho 83301 and received on
or before September 2, 1980.

/s/ C. Stephen Allred
Director

L/2tc/8-14

AFFIDAVIT PUBLICATION

State of Idaho, }
County of Lincoln } SS.

Melba Thorne, being first duly sworn, deposes and says that he is the printer (publisher) of the Lincoln County Journal, a newspaper published every week in Shoshone, Lincoln County, 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 TWO consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 31 day of July, 1980, and the date of the last publication was on the 7 day of August, 1980.

Melba Thorne
Subscribed and sworn to before me this 7
day of August, 1980.
(SEAL)
Raymond Wagon
NOTARY PUBLIC

LINCOLN COUNTY JOURNAL Shoshone, Idaho COST OF PUBLICATION

Number of Lines in Notice
Number of Insertions
Lines tabular at 315c
72 Lines straight at 21c 20.88
72 Subsequent lines at 15c 13.68
TOTAL COST 34.56

MICROFILMED

COPY OF NOTICE

(Paste Here)

Application for permit
TITLE OF NOTICE

NO. 37-7842

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

BILL TO

Dept. Water Resources

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1971)

7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

RECEIVED

AUG 8 1980

NO. 3255
Department of Water Resources
Southern District Office

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COUNT
AGENCY

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

37-7842

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Rangen, Tharleif
Jones, John W., Jr.
LeMoynes, John
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83705

Source: Little Wood & Big
Wood River tributary of
Snake River

Date Filed: 6/30/80

Amount: 800 cfs

Diversion Point: SW $\frac{1}{4}$ SE $\frac{1}{4}$,
Sec. 24, T.4S, R.19E, Lincoln
County

Use: Groundwater Recharge
(800 cfs) from Jan. 1 to Dec.
31

Place of Use: Within the
boundaries of the Lower
Snake Plains Aquifer Re-
charge District located with-
in T5S, R14E; T5S R15E; T5S
R17E; T6S R13E; T6S R14E;
T6S R15E; T6S R16E; T6S
R17E; T6S R18E; T7S R13E;
T7S R14E; T7S R15E; T7S
R16E; T7S R17E; T7S R18E;
T7S R19E; T8S R13E; T8S
R14E; T8S R15E; T8S R16E;
T8S R17E; T8S R18E; T9S
R14E; T9S R15E; T9S R16E;
T9S R17E; T9S R18E; T10S
R18E.

Possible sites for recharge of
the water are within the
following described lands:
Sec. 15, 16, 21, 22, 28, T.5S
R19E.

Diversion Means: Contract
use of Dietrich Canal system
and Richfield Canal system.

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 De-
partment of Water Re-
sources, 1041 Blue Lakes
Blvd. North, Twin Falls,
Idaho 83301 and received on
or before August 17, 1980.

/s/ C. Stephen Allred
Director

L/7-31/2tc

Note to File:

- P.d. as described on app
appears to be in error.

- P.d. appears to be in
SWSE - Sec 25, T4S, R19E
rather than in Sec 24.

- also ? on source. - appears
to be only Little Wood

HYJ
12-29-81

Glen's notes are
Correct

for

Message

Telephoned		Wants to see you		Returned your	
		Called to see you		Will call again	
		Please call			

Phone

of

WHILE YOU WERE OUT

Date

Time

To

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 37-07842)
IN THE NAME OF LOWER SNAKE RIVER RECHARGE) ORDER OF
DISTRICT) REINSTATEMENT
_____)

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before June 1, 1992; and,

WHEREAS, the Department notified the permit holder by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

WHEREAS, the Department notified the permit holder that the permit had lapsed for failure to submit the proof of beneficial use; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

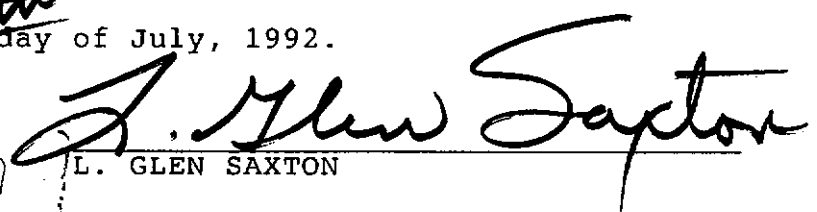
WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting proof of beneficial use on July 27, 1992;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 37-07842 be REINSTATED with an advance in priority to August 25, 1980.

Dated this 29th day of July, 1992.

MICROFILMED

JUL 29 1992


L. GLEN SAXTON

SEND CORRESPONDENCE TO:

LOWER SNAKE AQUIFER RECHARGE DISTRICT

c/o John R. LeMoyne, Chairman
P. O. Box 487
Hagerman, ID 83332

c/o Earl Hardy
1301 Vista Avenue
Boise, ID 83705

MICROFILMED

OCT 18 1989

RECEIVED
JUN 1 1987
Department of Water Resources
Southern Region Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
\$15 FEE Received by
Date 6-3-87
Receipt # 42524

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof
of beneficial use for a water right permit

RECEIVED
JUN 03 1987

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

Permit No. 37-7842

Name(s) of Permit Holder: Lower Snake River Aquifer Recharge District

Post Office Address: c/o John LeMoyne, P. O. Box 487, Hagerman, Idaho 83332

Telephone No. 837-4887

Date Proof Is Due: June 1, 1987

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

Construction of diversion and recharge facility with capacity of 600 cfs.

Facility completed and operational for approximately 24 months. Continued
negotiation for land rights necessary for additional sites.

Costing \$ 85,000

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

Unable to date to obtain necessary land rights for private sources,
State Land Board, and BLM pursuant to demonstration of need and success
of completed facility.

Permit holder(s) request an extension to June 1, 19 92.
(1 yr. minimum)

[Signature]
(Signature)*

FEE: \$15.00

*IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

OCT 18 1989

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to June 1, 1992.

Signed this 4th day of October, 19 89.

[Signature]
Chief, Water Allocation Bureau

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
37-7842 IN THE NAME OF LOWER) ORDER
SNAKE AQUIFER RECHARGE DISTRICT)
_____)

WHEREAS, on June 30, 1980, Earl Hardy, Thorleif Rangen, John LeMoyne and John W. Jones, Jr. applied to the Department of Water Resources for a permit to appropriate 800.0 cubic feet per second of water from the Little Wood River and the Big Wood River within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 24, Twp. 4S, Rge. 19E, B.M., Lincoln County to be used for groundwater recharge purposes; and,

WHEREAS, on January 18, 1982 the Department received an assignment for said Application for Permit whereby the applicants assigned all their right, title and interest in said Application for Permit to the Lower Snake Aquifer Recharge District; and,

WHEREAS, on June 2, 1982 the Department approved said Application for Permit with one of the conditions of approval being that the permit holder shall commence the excavation or construction of diverting works within one year of the date the permit was issued and shall proceed diligently until the project is complete; and,

WHEREAS, pursuant to the changes made by the 1982 Idaho Legislature to Section 42-204, Idaho Code, whereby commencement of excavation and construction must be made within one year of the date the permit is issued, Applications for Permit with a flow of 25.0 cubic feet per second or greater are not subject to the requirement;

IT IS, THEREFORE ORDERED that the condition of approval of this permit related to the commencement of excavation or construction within one year from the date the permit was issued be removed.

Dated this 3rd day of February, 1983.

L. Glen Saxton
L. GLEN SAXTON
Chief, Operations Bureau

PHONE 342-0090

EARL M. HARDY
BOISE, IDAHO 83705

1301 VISTA AVENUE

January 18, 1982

RECEIVED

JAN 18 1982

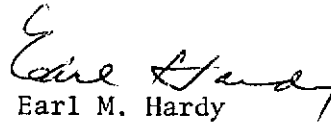
Department of Water Resources

A. Kenneth Dunn, Director
Idaho Department of Water Resources
450 West State Street
Boise, Idaho 83702

Dear Mr. Dunn,

Enclosed are assignments of Application for Water Permit No.'s
37-7842 and 01-7054 to the Lower Snake River Aquifer Recharge District.

Sincerely,


Earl M. Hardy

EMH/akh

cc: D. Brent Martens
Thorlief Rangen
John W. Jones, Jr.
John LeMoyne

MICROFILMED

31 13 1982 10

JAN 18 1982

State of Idaho

Department of Water Resources

Department of Water Resources

ASSIGNMENT OF APPLICATION FOR WATER PERMIT

I, Earl Hardy, individually and pursuant to my authority as attorney-in-fact for all other named individual applicants, including Thorlief Rangen, John W. Jones, Jr., and John LeMoyne, hereby assign to Lower Snake Aquifer Recharge District of 1301 Vista Avenue, Boise, Idaho 83705, all of our right, title and interest in and to Application for Water Permit No. 01-7054 to appropriate the public waters of the State of Idaho.

Made this 18 day of January, 1982

Attached hereto are copies of said Powers-of-Attorney

Earl Hardy
Earl Hardy, Individually and on behalf of all other named applicants, including Thorlief Rangen, John W. Jones, Jr., and John LeMoyne, pursuant to my authority as their duly appointed attorney-in-fact

STATE OF IDAHO)
) ss.
County of Ada)

On this 18th day of January, 1982, personally appeared before me the signer of the above instrument, who duly acknowledged to me that he executed the same, both individually and on behalf of all other named applicants pursuant to his authority as their duly appointed attorney-in-fact.

Mary Ann Johnson
Notary Public for State of Idaho
Residing at Boise, Idaho

My commission expires:

January 11, 1986

31 13 1982 10

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

POWER OF ATTORNEY

The undersigned holder(s) of Permit / Application No. _____ of the
Department of Water Resources of the State of Idaho hereby nominates Earl Hardy
_____, whose address is 1301 Vista Ave Boise, Idaho 83705
as attorney-in-fact, with full authority to act for and on behalf of the undersigned in all
matters pertaining to the above numbered permit or application. Such acts shall include,
but not be limited to, the filing of application, receiving of all notices, the signing and
filing of applications for extension of time and for amendments of said permits, and the
submission of proofs of completion of works and beneficial use of water.

Dated this 26 day of June, 1980.

John R. LeMoyne

John R. LeMoyne

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this 26 day of June, 1980, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

Ray C. Antwell

Notary Public
Residing at Buhl Idaho

seal

My Commission expires:
1981

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

POWER OF ATTORNEY

The undersigned holder(s) of Permit / Application No. _____ of the
Department of Water Resources of the State of Idaho hereby nominates Earl Hardy
_____, whose address is 1301 Vista Boise, Idaho
83705
as attorney-in-fact, with full authority to act for and on behalf of the undersigned in all
matters pertaining to the above numbered permit or application. Such acts shall include,
but not be limited to, the filing of application, receiving of all notices, the signing and
filing of applications for extension of time and for amendments of said permits, and the
submission of proofs of completion of works and beneficial use of water.

Dated this 27 day of June, 1980.

John W. Jones Jr.

John W. Jones Jr.

STATE OF IDAHO)
County of Twin Falls) ss.

On this 27 day of June, 1980, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

Don C. Tutwell

Notary Public
Residing at Boise, Idaho

seal

My Commission expires:
1981

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

POWER OF ATTORNEY

The undersigned holder(s) of Permit / Application No. _____ of the
Department of Water Resources of the State of Idaho hereby nominates Early Hardy
_____, whose address is 1301 Vista Ave Boise, Idaho 83705
as attorney-in-fact, with full authority to act for and on behalf of the undersigned in all
matters pertaining to the above numbered permit or application. Such acts shall include,
but not be limited to, the filing of application, receiving of all notices, the signing and
filing of applications for extension of time and for amendments of said permits, and the
submission of proofs of completion of works and beneficial use of water.

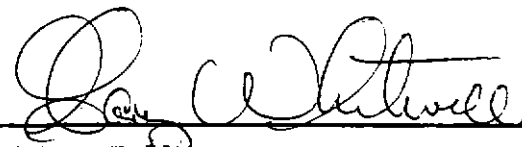
Dated this 26 day of June, 19 80.



Thorleif Rangen

STATE OF IDAHO)
County of Twin Falls) ss.
_____)

On this 26 day of June, 19 80, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

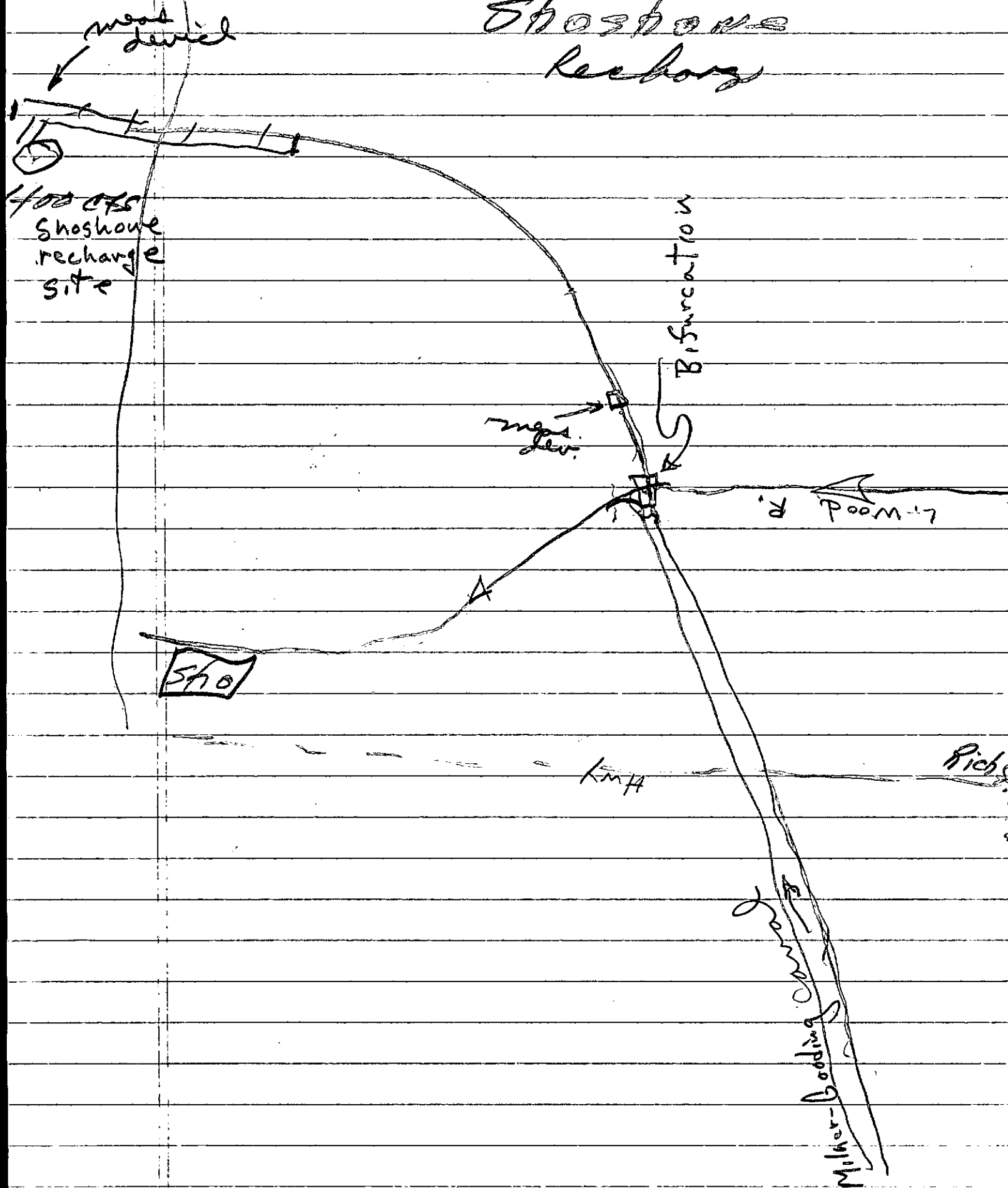


Notary Public
Residing at Buhl, Idaho

My Commission expires:
1981

seal
NOTARY PUBLIC
IDAHO

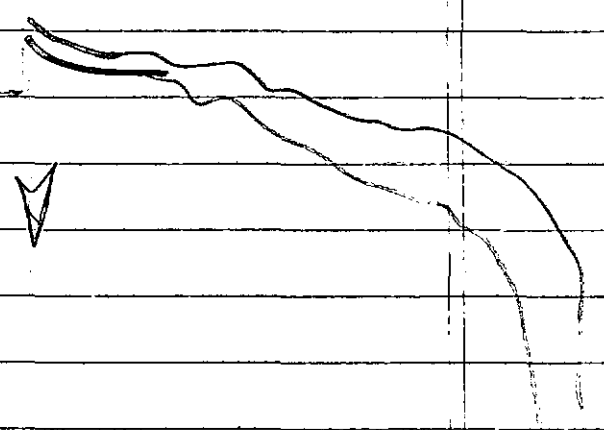
Shoshone Recharge



E

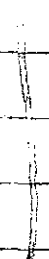
4000/5 95

Right
area



Lu River

Right
area



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N



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M

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



LEE R. PETERSON
Watermaster

The following is a list of the days and the CFS of water delivered to the recharge during the 1995 irrigation season.

Date	CFS	Date	CFS
Mar 21	83	April 1	63
22	89	2	63
23	94	3	95
24	92	4	100
25	92	5	95
26	77	6	98
27	77	7	104
28	76	8	104
29	74	9	104
30	67	10	136
31	63	11	136
Total	-----	12	143
	884	13	144
		14	146
		15	146
		16	146
		17	139
		18	144
		19	134
		Total	-----
			2,240

884	
+ 2240	

3124 CFS for 1995	

WATER DISTRICT 37 & 37M

CANAL NAME		RE-CHARGE			CANAL NO.		1993
OWNER							
DATE	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	DATE
1							1
2							2
3							3
4							4
5							5
6							6
7							7
8							8
9							9
10							10
11							11
12							12
13							13
14							14
15							15
16							16
17							17
18							18
19							19
20							20
21		101.00					21
22		101.00					22
23		101.00					23
24		95.00					24
25		95.00					25
26		95.00					26
27		80.00					27
28		80.00					28
29		80.00					29
30							30
31							31
TOTAL	0.00	828.00	0.00	0.00	0.00	0.00	

YEARLY C F S	828
YEARLY ACRE FEET	1639
TOTAL NO OF DAYS	9
YEARLY MEAN	92.00

WATER DISTRICT 37 & 37M

CANAL NAME		RE-CHARGE		CANAL NO.		1995	
OWNER							
DATE	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	DATE
1		63.00					1
2		63.00					2
3		95.00					3
4		100.00					4
5		95.00					5
6		98.00					6
7		104.00					7
8		104.00					8
9		104.00					9
10		136.00					10
11		136.00					11
12		143.00					12
13		144.00					13
14		146.00					14
15		146.00					15
16		146.00					16
17		139.00					17
18		144.00					18
19		134.00					19
20							20
21	83.00						21
22	89.00						22
23	94.00						23
24	92.00						24
25	92.00						25
26	77.00						26
27	77.00						27
28	76.00						28
29	74.00						29
30	67.00						30
31	63.00						31
TOTAL	884.00	2240.00	0.00	0.00	0.00	0.00	

YEARLY C F S	3124
YEARLY ACRE FEET	6186
TOTAL NO OF DAYS	30
YEARLY MEAN	104.13

ASSIGNED TO:
Lower Snake River
Recharge District
1301 Vista Ave.
Boise ID 83705
JUL 12 1980

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED
APPROVED

Department of Water Resources
Northern District Office

To appropriate the public waters of the State of Idaho

Department of Water Resources

Name of applicant Earl Hardy, Thorleif Rangen & John LeMay & John W. Jones, Jr. Phone 342-0090

Post office address 1301 Vista Ave.; Boise, ID 83705

2. Source of water supply Little Wood & Big Wood which is a tributary of Snake

3. Location of point of diversion is SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 24 Township 4S

Range 19E B.M. Lincoln County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 800 cfs for G.W. Recharge purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 800 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Contract use of Dietrich Canal System
and Richfield Canal system.

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 _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial

use is 5 years (minimum 1 year — 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: Groundwater recharge subject to the
requirements of Title 42 Chapter 42 Idaho Code

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	

Total number of acres to be irrigated _____

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

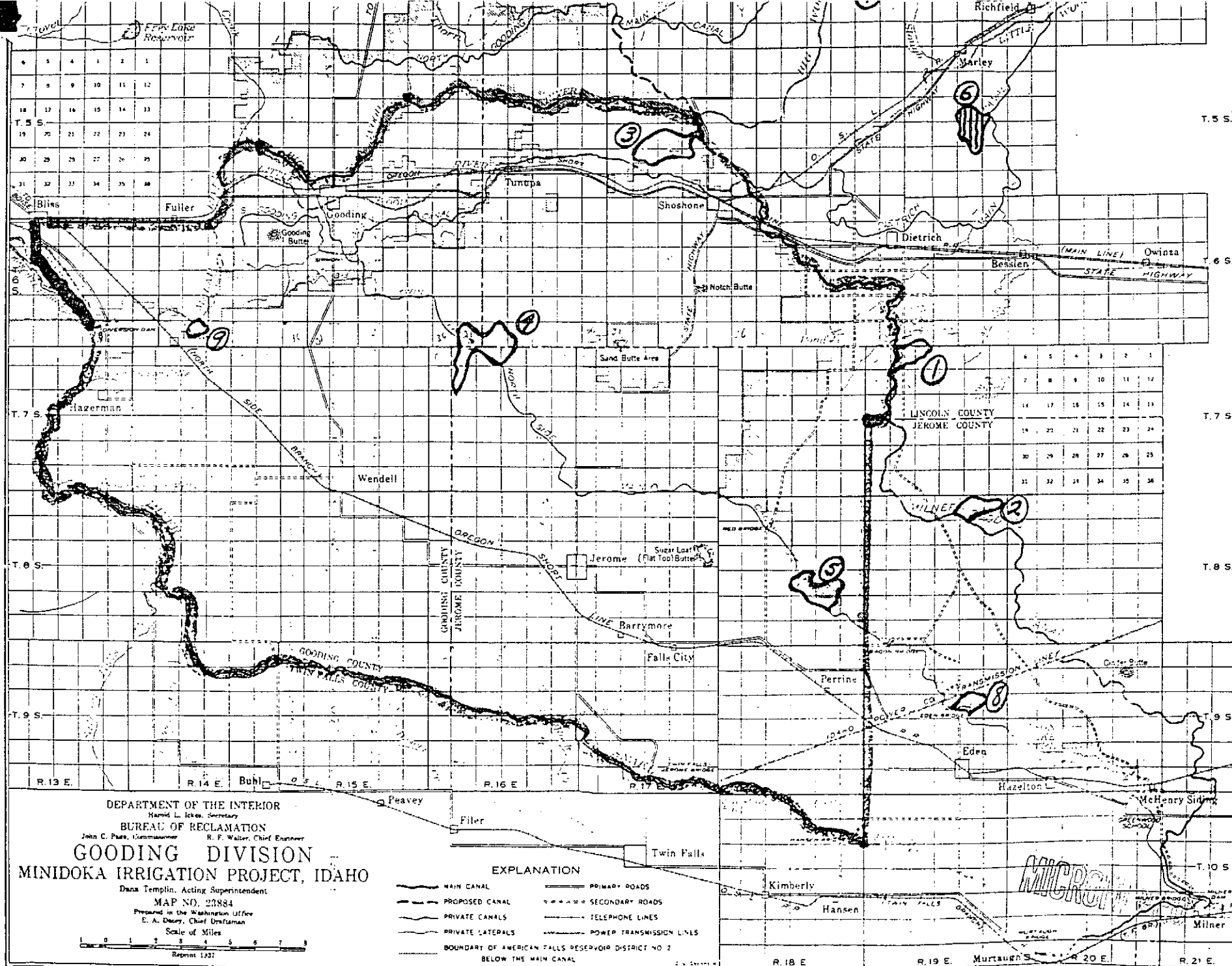
9. a. Who owns the property at the point of diversion Big Wood Canal Co.

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Applicant has worked with owners of P.D. & place of use to negotiate agreement for use of facilities. Negotiations will continue until agreement is complete.

10. Remarks Applicant agrees to meet specifically the requirements of 42-4201 (2) subordinating applicants right to all prior perfected water rights including those held by any privately owned electric generating company, and 42-4201 (3) providing for the reduction of applicants right under certain conditions. Applicant further agrees to meet all additional requirements and conditions of Title 42, Chapter 42.

Applicant's filing is being held in trust for a recharge district being formed under 42-4202 Idaho Code. Applicant agrees to assign application to the recharge district upon reimbursement of costs.



PRICE 10 CENTS

Lower Snake Plains Aquifer Recharge Dist.

[illegible]

11

E. J. G. G. G. G.
(Applicant)

Received by maga Date 7/2/80 Time 11:30 am
sf Date 6/30/80 Time 2:18
 Preliminary check by LH Fee \$ 1485.00
16193
 Receipted by sf Date 6/30/80
 Publication prepared by maga Date 7/23/80
 Published in Lincoln Co. Journal
 Publication dates 7/31 + 8/7/80 8/14 + 8/21/80
 Publication approved maga Date 9/2/80
 Protests filed by: None

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

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. 37-7842, 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 June 1, 19 87.

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: Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.

The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Use of water under this permit is subject to control by the watermaster of State Water District No. 37, Big Wood River.

Permit shall be secondary to all prior water rights including rights held by any privately owned electrical generating company to appropriate waters in the reaches of the Snake River downstream from the Milner diversion for purposes of hydroelectric power generation.

The Director may regulate or reduce the rate of diversion under this permit pursuant to requirements of Section 42-4201, Idaho Code.

The permit shall not be assigned or sold without first securing the written approval of the Department of Water Resources.

Water may not be diverted under this permit until the Board of Directors of the District establish and implement a procedure acceptable to the Director for assuring that the water quality of the Lower Snake Aquifer will not be impaired.

Plans for recharge facilities and any conveyance works needed shall be submitted to the Department for approval prior to construction.

Witness my hand this 2nd day of June, 1982.

A. Glen Saxton
 Chief, Operations Bureau

RECEIVED
JUL 2 1980

Department of Water Resources
Southern District Office

RECEIVED

JUN 30 1980

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

POWER OF ATTORNEY

The undersigned holder(s) of Permit / Application No. _____ of the
Department of Water Resources of the State of Idaho hereby nominates Early Hardy
_____, whose address is 1301 Vista Ave Boise, Idaho 83705
as attorney-in-fact, with full authority to act for and on behalf of the undersigned in all
matters pertaining to the above numbered permit or application. Such acts shall include,
but not be limited to, the filing of application, receiving of all notices, the signing and
filing of applications for extension of time and for amendments of said permits, and the
submission of proofs of completion of works and beneficial use of water.

Dated this 26 day of June, 19 80.



Thorleif Rangen

STATE OF IDAHO)
County of Twin Falls) ss.

On this 26 day of June, 19 80, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal


Notary Public
Residing at Buhl, Idaho

My Commission expires:

1981

MICROFILMED

RECEIVED
JUL 2 1980
Department of Water Resources
Southern District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUL 15 1980

Department of Water Resources

POWER OF ATTORNEY

The undersigned holder(s) of Permit/Application No. _____ of the
Department of Water Resources of the State of Idaho hereby nominates Earl Hardy
_____, whose address is 1301 Vista Ave Boise, Idaho 83705
as attorney-in-fact, with full authority to act for and on behalf of the undersigned in all
matters pertaining to the above numbered permit or application. Such acts shall include,
but not be limited to, the filing of application, receiving of all notices, the signing and
filing of applications for extension of time and for amendments of said permits, and the
submission of proofs of completion of works and beneficial use of water.

Dated this 26 day of June, 1980.

John R. LeMoine
John R. LeMoine

STATE OF IDAHO)
County of Twin Falls) ss.

On this 26 day of June, 1980, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal

Ray C. Hill
Notary Public
Residing at Buhl Idaho

My Commission expires:

1981

MICROFILMED

RECEIVED
JUL 2 1980
Department of Water Resources
Southern District Office

RECEIVED

JUN 30 1980

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

POWER OF ATTORNEY

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83705
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but not be limited to, the filing of application, receiving of all notices, the signing and
filing of applications for extension of time and for amendments of said permits, and the
submission of proofs of completion of works and beneficial use of water.

Dated this 27 day of June, 1980.

John W. Jones Jr.
John W. Jones Jr.

STATE OF IDAHO)
County of Twin Falls) ss.

On this 27 day of June, 1980, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal

Don C. Lister
Notary Public
Residing at Buhl Idaho

My Commission expires:
1981

MICROFILMED

RECEIVED

JUL 2 1980

Department of Water Resources
Southern District Office

Big Wood Canal Company

P.O. BOX C

SHOSHONE, IDAHO 83352

June 26, 1980

RECEIVED

JUN 30 1980

Department of Water Resources

Mr. Steve Allred
% Vern Ravenscroft
Box 893
Boise, Idaho 83701

Mr. Steve Allred;

This is to inform any interested parties that the leaders and staff of the Thousand Springs Water Users have kept the officials of the Big Wood Canal Co. and the American Falls Reservoir Dist. #2 apprised of their interest and efforts concerning the underground recharge which they are contemplating. At no time have they made plans without informing the Company and District of their intentions.

Very truly yours

J. Leon Grieve
J. Leon Grieve
Manager

JLG/lma

RECEIVED



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

July 8, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE MAIL
BOISE ID 83720

RE: Water Rights 01-07054A & B/37-07842A & B

Dear Water Right Holder(s):

The department acknowledges receipt of correspondence changing ownership of the above referenced water rights to you. The department has modified its records to reflect the changes in ownership and has enclosed computer-generated reports for your records.

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 L. GLEN SAXTON, Chief
Water Allocations Bureau

LGS:klt

Enclosure

cc: Lower Snake River Aquifer Recharge District

ORIGINAL

From
Paul C. 99
on 11-16-99

BIG WOOD CANAL COMPANY
AMERICAN FALLS RESERVOIR DISTRICT #2
P.O. BOX C
SHOSHONE, ID 83352
(208) 886-2331

DEPARTMENT OF WATER RESOURCES
FAX (208) 736-3037

ATTENTION ALAN MERRITT

This was all water
Gooding Canal, prior to migration
demand. Ref. Dick Oneida
Tel 11-16-99

RECHARGE

YEAR	DATES	ACRE FEET
1986	4/7 TO 5/5 -	16564
1987	4/4 TO 4/24	4810
1988	4/14 TO 4/21	2912
1993	4/3 TO 4/10	3700
1995	4/3 TO 5/22 - 25 days	30252
1995	5/29 TO 7/5	26464

The flows of Big Wood at Gooding in 1995 ran from April 12th to July 21st at a rate of 22 CFS on April 12th to a high of 2670 CFS on June 8th.

In 1986, Big Wood at Gooding ran from April 1st to June 22nd with a high of 4500 CFS on May 31st.

No water ran from 1985 to 1994.

If you have any questions or need more information, feel free to contact me.

Sincerely,

Dick Oneida

Dick Oneida
Manager

NOV 14 2003
SCANNED

American Falls Reservoir District No. 2
112 S. Apple * Box C
Shoshone, Idaho 83352
(208) 886-2331 Fax (208) 886-2010

November 10, 1999

RECEIVED

NOV 12 1999

Department of Water Resources

Dennis Heaps
Recharge Coordinator
Idaho Dept. of Water Resources
1301 N. Orchard
State House Mail
Boise, Idaho 83720-9000

Re: Canal Loss Milner-Gooding Canal

Dear Dennis;

In response to your question as to the estimated canal loss in the Milner-Gooding Canal. It has been estimated to be as high as 50 to 69% at one time shortly after construction in the 1930's. Recent estimates based on gage readings at the head of the canal, subtractions for farm turnouts and lateral diversions as well as flow measured at two separate power plants on the system it appears to be the 30 to 35% range at this time. We are however, working to try and cut down on these losses through channel improvements which are being started this year.

I hope this answers your question. Please call me at the above number if you have any more questions.

Sincerely Yours,

Lynn Harmon
General Manager

Big Wood Canal Company
112 S. Apple * Box C
Shoshone, Idaho 83352
(208) 886-2331 Fax (208) 886-2010

November 10, 1999

Dennis Heaps
Recharge Coordinator
Idaho Dept. of Water Resources
1301 N. Orchard
State House Mail
Boise, Idaho 83720-9000

Re: Canal Loss Richfield Main

Dear Dennis,

This is to verify the estimated water loss in the Richfield from the headwork's to the recharge area at the Devil's Headgate. Based upon our flow data over the past 80 years it appears we are loosing approximately 25% of the total flow to evaporation and seepage loss. These figures are arrived at based upon the difference in the gage readings at the head of the canal and the readings at the forks where the canal is split and measured into the three smaller canals. There are only 5 farm turnouts between the headwork's and the forks which are measured daily.

I hope this answers your question concerning the amount of loss we estimate to be occurring in this section of the canal system.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Lynn Harmon".

Lynn Harmon
General Manager

Glen S.

American Falls Reservoir District No. 2
112 S. Apple * Box C
Shoshone, Idaho 83352
(208) 886-2331 Fax (208) 886-2010

November 10, 1999

RECEIVED

NOV 12 1999

Department of Water Resources

Dennis Heaps
Recharge Coordinator
Idaho Dept. of Water Resources
1301 N. Orchard
State House Mail
Boise, Idaho 83720-9000

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I hope this answers your question. Please call me at the above number if you have any more questions.

Sincerely Yours,

Lynn Harmon
General Manager

Big Wood Canal Company
112 S. Apple * Box C
Shoshone, Idaho 83352
(208) 886-2331 Fax (208) 886-2010

November 10, 1999

Dennis Heaps
Recharge Coordinator
Idaho Dept. of Water Resources
1301 N. Orchard
State House Mail
Boise, Idaho 83720-9000

Re: Canal Loss Richfield Main

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I hope this answers your question concerning the amount of loss we estimate to be occurring in this section of the canal system.

Sincerely Yours,



Lynn Harmon
General Manager

MEMORANDUM

To: File 37-07842

FROM: Sharla

DATE: October 7, 1999

RE: Recharge Project(s)

As I initially reviewed these two files and the examiner's field report, I was confused as to the groundwater recharge taking place under 37-07842 from either of the permitted sources, the Little Wood River or the Big Wood River. The recharge under 01-07054 from the Snake River through the Milner-Gooding Canal could be confirmed and a license for that right has been prepared for signature.

When I spoke with Lee Peterson (watermaster of Water District 37 and 37-M) regarding the capacity of the Dietrich Canal, he told me where he believed recharge had occurred from that canal. I then spoke with Dan McFadden of the Lower Snake River Aquifer Recharge District (see his letter to Clarence Parr dated 12/30/98) and he told me that what Lee had described was actually "flood control" that occurred several years ago. He went on to say that no groundwater recharge has ever taken place via the Dietrich Canal.

I have spoken with Paul Castelin of the Technical Services Bureau. He also knows of no recharge from the Little Wood or Big Wood Rivers to date. Recharge projects that are in the planning/development stages are as listed in Paul's and Hal Anderson's memos contained in file 01-07054.

Based on the information above, this permit (in whole, there is no reason to split into parts A & B because there has been no beneficial use to date) should be routed for Glen Saxton for extension/reinstatement processing.



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 www.idwr.state.id.us/idwr/idwrhome.htm

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 22, 1999

Dan McFaddan
Chairman, LSRARD
17966 US Hwy 30
Hagerman, ID 83332

Re: Assignment of Water Right Permit Nos. 01-07054 and 37-07842

Dear Mr. McFaddan:

In response to your letter of December 30, 1998, the Idaho Water Resource Board at its March 19, 1999 meeting approved a resolution agreeing to accept an assignment, without cost, of the two referenced water right permits owned by the Lower Snake River Aquifer Recharge District ("LSRARD") contingent upon LSRARD executing an Assignment of Permit form for each right and upon LSRARD and the Board executing an Agreement conveying legal title to the water rights.

Enclosed is a copy of the Board Resolution, two blank Assignment of Permit forms, and a copy of a draft Agreement Conveying Legal Title to Water Rights. Please review the draft Agreement with your Board of Directors and the District's legal counsel, as you deem appropriate. Please let me know at your earliest convenience if there are other matters the District seeks to have addressed prior to executing the Agreement.

If you have any questions, please contact Phillip Rassier at (208) 327-7920.

Sincerely,

Wayne Haas
Administrator
Planning and Policy Division

Attachments

MEMORANDUM

TO: Files 01-07054 and 37-07842

FROM: Sharla

DATE: February 9, 1999

RE: Licensing Review

These two rights were filed in 1980. The recharge district was created in 1981. Right 01-07054 represents water diverted from the Snake River through the Milner-Gooding Canal. Right 37-07842 represents water diverted from the Little Wood Canal through the Dietrich Canal.

I reviewed materials found in the Lower Snake River Aquifer Recharge District file located with all of the CGWMA and GWMA files in the vault. Attached are documents that demonstrate the amount of recharge and/or compliance with requirements set forth by the department for the recharge project. Although it appears that data submittal was at times late and sometimes overlooked entirely, it also appears that the district attempted to comply with all departmental requests. These requirements should be reiterated at the time of licensing.

The point of diversion identified by the examiner is the point water is discharged from the canal to the lava beds (shown as discharge site below). The actual point of diversion for 01-07054 is where the Snake River is diverted into the Milner-Gooding Canal.

The recharge project under 01-07054 is limited to 8000 af annually in order to keep water quality monitoring at a minimum. From the records provided, annual recharge exceeded 8000 af several times. A condition reiterating the limitation and requirements for exceeded recharge should be placed on the license when issued.

In a phone conversation with Lyle Swank of Water District 01, the diversion capacity of the Milner-Gooding Canal is 2550.0 cfs.

SEE SEPARATE MEMO DATED 10/7/99 REGARDING DISPOSITION OF RIGHT 37-07842

FROM Sharla

DATE 1/20/99

TO Jile

SUBJECT

See file 01-07054 for misc documents referenced
in memo of 1/19 and for large topo (pieced-together) map
prepared for informational purposes.

SIGNATURE

January 10, 1994

Gerald Martens
EHM Engineers, Inc.
1139 Falls Ave. E
Suite B
Twin Falls, ID 83301

RE: Permit Nos. 01-07054 and 37-07842

Dear Mr. Martens:

Enclosed is a copy of the Reinstatement Order for permits 01-07054 and 37-07842. The mailing of the Order was delayed due to the file reconstruction of permit no. 01-07054, and extensive data entry involved in recreating the lapsed permit from microfilm.

If you have any questions or concerns, please do not hesitate to call the department.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: John LeMoyne, IDWR - S. Region

MEMORANDUM

To: Norman C. Young

From: L. Glen Saxton *LS*

RE: COMMENTS ON DAN MCFADDAN LETTER RECEIVED JANUARY 7, 1999

Date: January 14, 1999

You have asked for comments in connection with the above referenced letter in which Dan McFaddan, Chairman for the Lower Snake River Aquifer Recharge District (LSRARD) offers to assign Permit Nos. 01-07054 and 37-07842 in the name of LSRARD to the Idaho Water Resource Board (Board). The purpose of seeking comments, as I understand it, is to be able to brief the Board in connection with the permits in order that the Board can better evaluate whether to accept assignment of the permits. My comments are as follows:

1. Both 01-07054 and 37-07842 are permits for which proof has been filed and are being reviewed for issuance of a license. Hence, assignment forms together with the statutory fee of \$25 for each permit are required to change ownership of the permits.
2. In July 1992, LSRARD filed proof of beneficial use at a rate of 300 cfs for each permit. The department can not issue licenses for more than 300 cfs for either permit, unless the permit holder can show that the proof of beneficial use understated the amount of water has been diverted and applied to beneficial use during the permit development period. If the permit holder can show documentable delays associated with litigation or failure of the federal government to grant needed federal approvals for the permitted project, the permit holder could request withdrawal of proof of beneficial use seeking additional time to further develop the permits.
3. The permits require installation of totalizing meters. Are the meters in place? If not, the Board would need to address this matter if they assumed ownership of the permits.

Clarence Parr
Chairman, Idaho Water Resource Board
1009 South River Drive
Heyburn, Idaho 83336

12/30/98

RECEIVED
JAN 07 1999

Department of Water Resources

Dear Chairman Parr,

This letter is a formal request from the Board of Directors of the Lower Snake River Aquifer Recharge District (LSRARD) to assign the groundwater recharge water rights held by LSRARD to the Idaho Water Resource Board. There are two water rights, # 01-07054 for 1200 cfs from Milner Dam on the Snake River, and # 37-07842 for 800 cfs from the Little and Big Wood Rivers. Both filings have a priority date of 8/25/80. IDWR Water Right Profile Reports for these water rights are attached.

LSRARD was approved by the legislature as an aquifer recharge district in 1982, giving it the authority to assess its members. Since 1982, LSRARD has invested nearly \$250,000 to construct sites, monitor water quality and quantity, and convey water to the sites. Erosion of groundwater levels which feed springs that support water quality limited streams in the 1000 springs reach of the Middle Snake River led LSRARD members to recognize the need to fund and establish managed aquifer recharge projects to protect groundwater levels and spring flows in the Magic Valley. In fact, diminished spring flows are the cause of much of the litigation before the S.R.B.A. court today. We believe managed aquifer recharge may be the only realistic alternative to preventing further erosion of groundwater levels in our area.

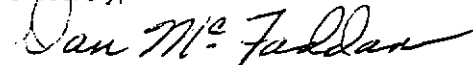
LSRARD has encountered many obstacles in proving up on these water rights within the allowed time frame including 6 years of drought, lack of money, and fulfilling National Environmental Protection Act requirements. It is our understanding that the Water Resource Board would be bound by less stringent time constraints in proving up on these water rights. Also, because of the wide range of benefits of managed aquifer recharge and the ever broadening base of support for recharge, we believe it is important for the Water Resource Board to hold these rights in the public interest. As you are aware, there is an urgent need to use these water rights for several managed aquifer recharge projects presently on the drawing board.

Already established on the Milner right are the recharge site northwest of Shoshone which has taken up to 400 cfs via the Milner-Gooding Canal and recharge done by the North Side Canal Company in their canal system of up to 200 cfs. Additionally, the established Carey site on the Little Wood recharges up to 150 cfs and the new Devil's Headgate site on the Richfield Canal of the Big Wood system will take 100 cfs. Pending are the Mile Post 31 site on the Milner-Gooding Canal, Kinsey Butte on the Big Wood River, the Little Wood bifurcation into the Milner-Gooding Canal to supplement the existing Shoshone site, and other potential sites near Carey on the Little Wood. Each of these recharge projects can be beneficial when there is need for flood control.

The State Water Plan supports aquifer recharge and the Governor has supported aquifer recharge. Legislators have provided funding for aquifer recharge and passed a law recognizing aquifer recharge as a beneficial use of water. Groundwater districts recognize aquifer recharge as a means to insure that the needs of senior water right holders are met. The attached article by Jerry Rigby which he presented at the recent Water Law Seminar in Boise highlights passages from the Idaho Code outlining State support for aquifer recharge and also supports the spirit of this request.

We urge your earliest possible approval of this request to initiate action on the assignment of water right #s 01-07054 and 37-07842 from LSRARD to the Water Resource Board. Please contact me if I can provide information or respond to questions regarding this request.

Sincerely,



Dan McFadden
Chairman, LSRARD
208-837-6649
17966 US Hwy 30
Hagerman, Id. 83332

cc: Wayne Haas, Karl Dreher, Water Resource Board Members

November 24, 1993

State of Idaho
Department of Water Resources
1301 North Orchard St.
Statehouse Mail
Boise, ID 83702

RECEIVED

NOV 29 1993

Department of Water Resources

ATTN: L. Glenn Saxton

RE: Permits 01-07054 & 37-07842

Dear Mr. Saxton:

The following is in response to your letter of October 21, 1993 and following a review of all known available information.

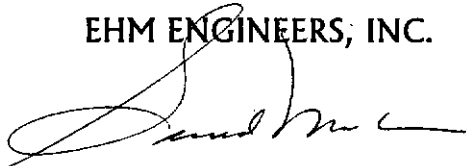
1. I have attached a map showing all major features and all measuring stations.
2. Attached is a summary of all flow records which are utilized to compute the recharge quantity and maximum potential recharge quantity from each source, Snake River and Bigwood River.
3. Measuring stations have been located on the exhibit and daily flow rates are provided.
4. All flow data has been consolidated onto a single sheet in a much more legible format with clarification foot notes.
5. All discharged water receded from the surface within a few hours of discharge from the Milner Gooding Canal. No water ran-off into any other surface canal, stream or other means of conveyance.

Please excuse the delay in responding to your letter. Collecting all the data and assembling it into a more reasonable format took more time than I anticipated.

Please call if there are any questions.

Respectfully yours,

EHM ENGINEERS, INC.

A handwritten signature in dark ink, appearing to read "Gerald L. Martens", with a long horizontal flourish extending to the right.

Gerald L. Martens, P.E.

GLM:bn

cc: John Lemoyne
Dick Onieda

[illegible]

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

See attached exhibits and recharge structure plans.											
---	--	--	--	--	--	--	--	--	--	--	--

Scale: 1" = _____

____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

____ Aerial Photo Attached (required for irrigation of 10+ acres)

____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
N/A					

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Milner Gooding Canal Measuring Stations 56 and 57						

2. **Measurements:** Water measured in concrete flume above and below diversion. Diversion quantity is mathematical difference. Upstream flow measured at Milner Gooding Canal Diversion Structure 56. Downstream measurement at Milner Gooding Canal Structure No. 57. Rating curves have been established for both stations. See attached ledger.

E. NARRATIVE/REMARKS/COMMENTS

Measurement flow records for April 1986, as prepared by Big Wood Canal Company. Attached are flow records.

The Big Wood Canal Co-mingles water from Snake River and Bigwood River upstream of diversion. District routinely replaces water. from one source with water from other sources. At time of proof of Beneficial Use Report the Bigwood water was supplementing Snake River flows to facilitate flows measured at diversion.

Division agreement between Lower Snake River Recharge District and Bureau of Land Management attached for your information.

Attached is a flow summary sheet that tabulates the recharge rate of flow and the maximum potential contribution to total recharge from each potential source.

↑
this document
already in file
below

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

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

See Section E.

G. VOLUME CALCULATIONS N/A

1. Volume Calculations for Irrigation:

 $V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Groundwater Recharge	1-1	12-31	300 CFS	
Totals:			300 CFS	

2. Recommended Amendments

___ Change P.D. as reflected above ___ Add P.D. as reflected above ___ None
___ Change P.U. as reflected above ___ Add P.U. as reflected above ___ Other

I. AUTHENTICATIONField Examiner's Name Gerald Martens Date 11/24/93

Reviewer _____ Date _____



EHM Engineers Inc.
1139 Falls Ave. E
Twin Falls, Idaho 83301

Re: Water permit # 37-07842

Dear Mr. Martins:

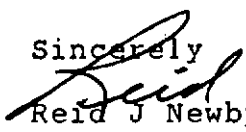
Enclosed find copy of the record for water diverted into the recharge area from the Milner-Gooding canal North of Shoshone, Idaho.

The method used for caculating this discharge is as follows. Measuring Station # 56 above the concrete flume on the Milner-Gooding canal was measured, Measuring station # 57 below the recharge diversion was also measured, the difference is the caculated amount of water diverted into the recharge area.

Rating curves were established for both of the measuring stations on the Milner-Gooding canal.

I sincerely hope this will satisfisy the requirments for permit # 37-07842.

Sincerely


Reid J Newby

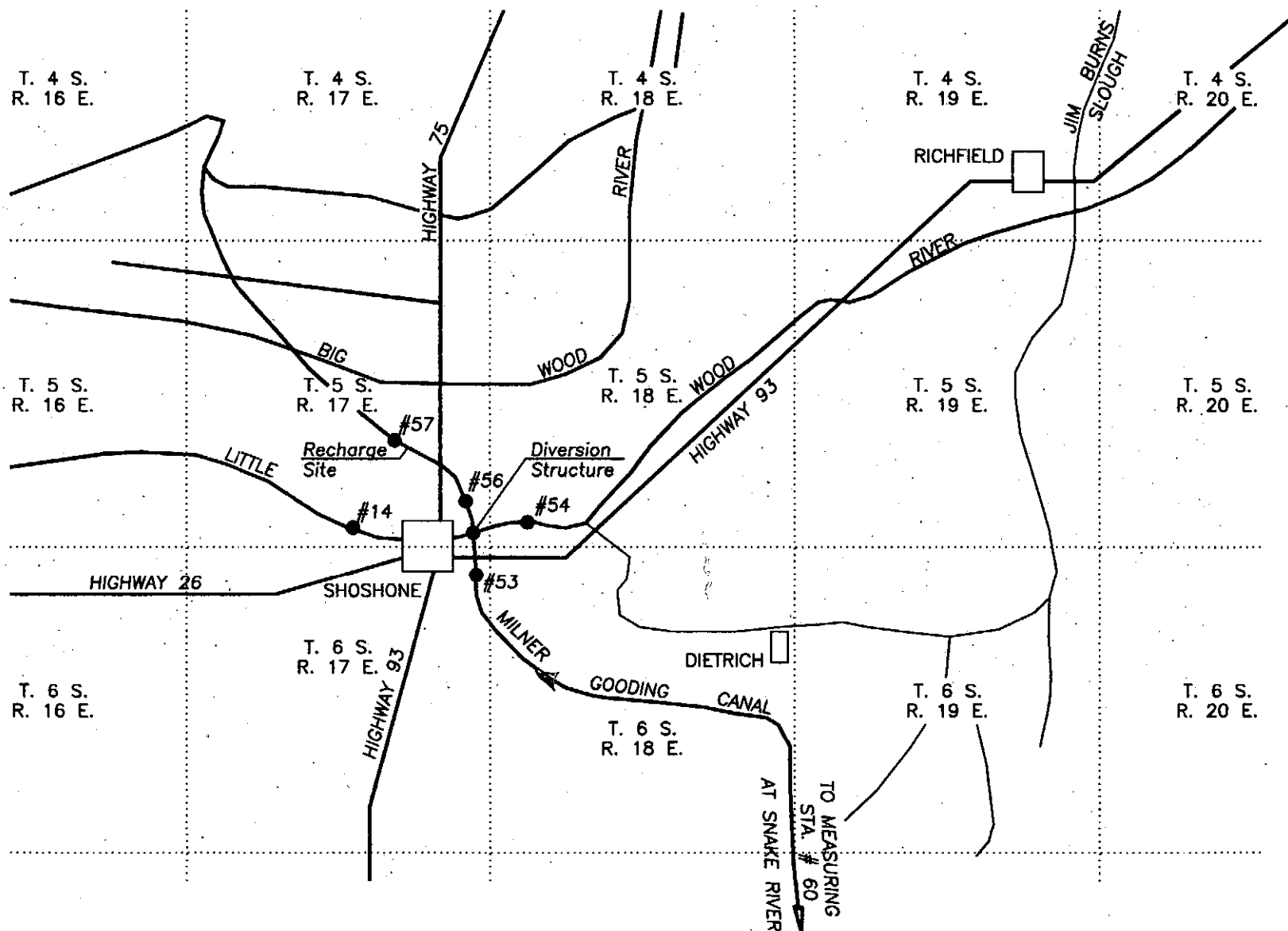
P.O. Box N
Shoshone, Idaho 83352

No	X	No Y	No Z	+ or -	No 21	No 43	150 only	to 100
		6/24/92					93	
This is a Copy of Big Wood Canal Co. Record for April 1986 Water into Recharge. Yellow in in C.F.S Each Day.								
Self hereby								252
for Permit # 37-07842								260
								260
								265
								261 265
								250 261
								270
								275
								260 252
								256 279
								240 223
								234 210
								354 242
								334 342
								341 350
								348 360
								375 396
								374 394
								332 340
								450 466
								448 465
								444 459

1985

Exhibit For Lower Snake River Aquifer Recharge

Permit No's. 01-07054 & 37-07842



Summary of Recharge
Records for
Lower Snake River Recharge
Permit No. 01-07054 & 37-07842

DATE	MEASURING STAT ON						RECHARGE	MAX POSSIBLE RECHARGE FROM BIG WOOD	MAX POSSIBLE RECHARGE FROM SNAKE RIVE
	JBS	14	53	54	56	57			
04-07-86			220		252	252	0		
04-08-86						260	260	260	
04-09-86		646	425		432	260	172	172	
04-10-86			401		448	265	183	183	
04-11-86	97	692	472		460	265	195	195	97
04-12-86	57		472			261	261	261	57
04-13-86	62					270	270	270	62
04-14-86	66	717	486	787	486	275	211	211	66
04-15-86	52	681	485	721	482	252	230	230	52
04-16-86	57	659	479	689	470	239	231	231	57
04-17-86	43	636	405	674	496	223	273	273	43
04-18-86	40	604	614	628	632	310	322	322	40
04-19-86	73	556	596	564	618	342	276	276	73
04-20-86	142		596	563			---	---	142
04-21-86	141	615	596	651	618	342	276	276	141
04-22-86	50	526	585	544	604	350	254	254	50
04-23-86	221	454	566	544	580	360	220	220	220
04-24-86	213	596	572	636	586	396	190	190	190
04-25-86	168	560	563	585	580	394	186	186	168
04-26-86	181	500	644	524	654	340	314	314	181
04-27-86	172		644	530			---	---	172
04-28-86	165	615	696	537	648	466	182	182	165
04-29-86	158	580	670	503	626	465	161	161	158
04-30-86	142	506	661	420	616	459	157	157	142

JBS - Jimmy Byrnes Slough

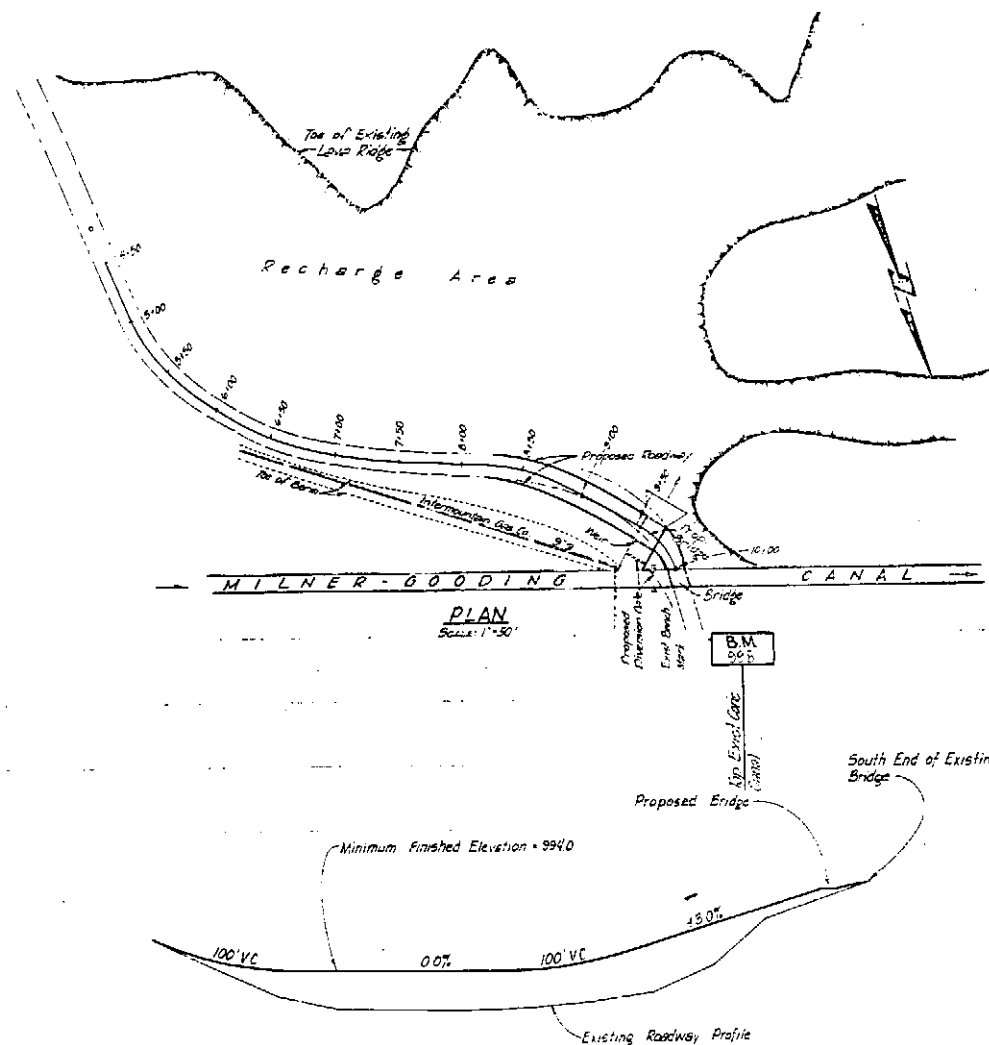
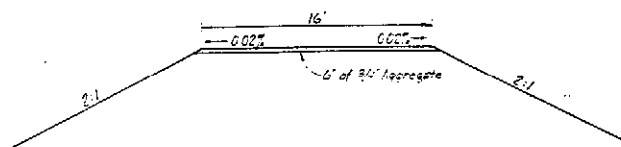
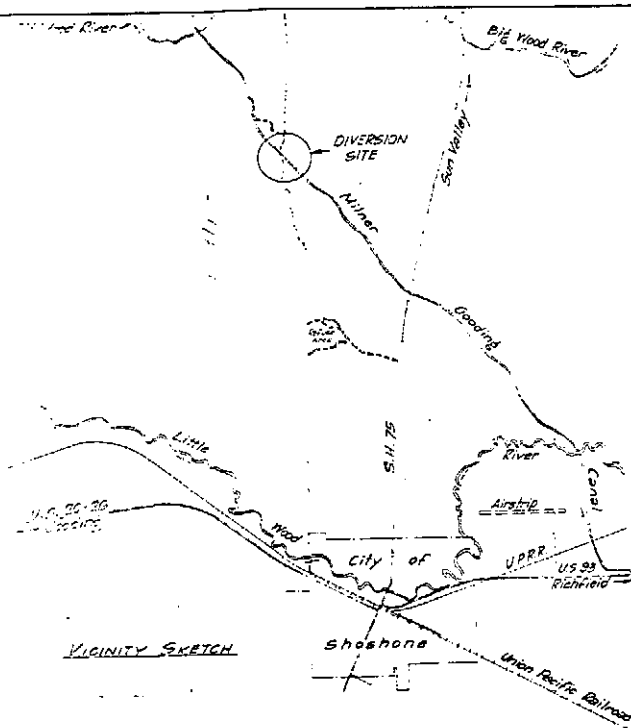
All flows in CFS as recorded by Bigwood Canal Co.

Recharge = 56-57

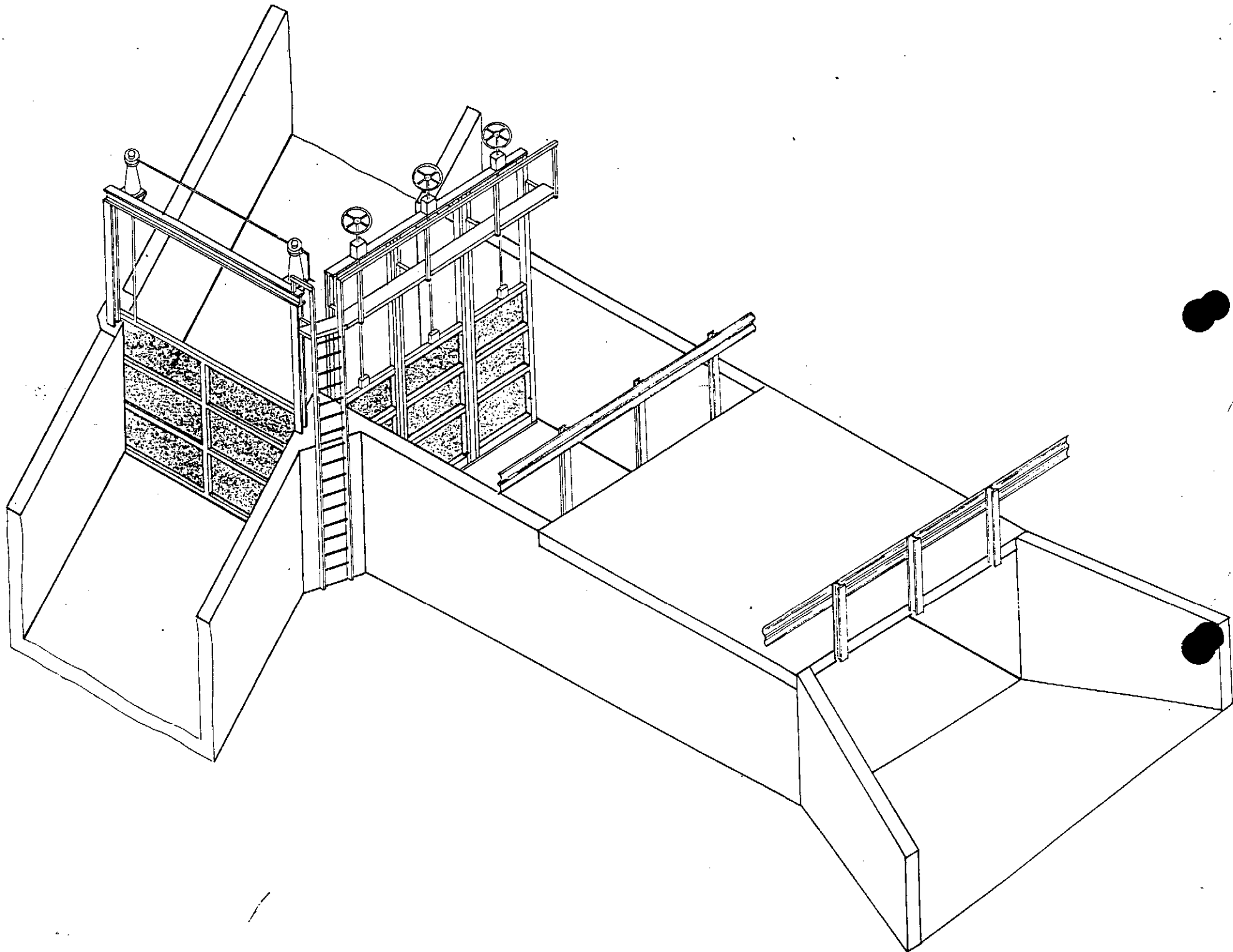
Max Recharge (from Snake River): Total discharge but not to exceed flow at M.S. 53. M.S.

Max Recharge (from Big Wood River): Total discharge from JBS but not to exceed total discharge.

Measuring stations 14+56 should approximately total measuring stations 53+54



NO. 00000000 - 20000000







State of Idaho
DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 21, 1993

Gerald Martens
EHM Engineers, Inc.
1139 Falls Ave. E.
Twin Falls, ID 83301

RE: BENEFICIAL USE FIELD REPORT - 01-07054 AND 37-07842

Dear Mr. Martens:

Returned is the amended beneficial use field report together with attachments which you submitted to the department on October 19, 1993 in connection with the above referenced permits. The report in the form you have presented it is not acceptable since it is not complete.

More specifically, the following are deficiencies which you need to address:

1. A map is needed which will readily show major features of the project including diversion points, places of injection and measuring points. The map needs to clearly show the diversion system from the Snake River and from the Big and Little Wood Rivers together with any special features of the two systems.

2. The specific rates diverted from the Big Wood River and from the Little Wood River needs to be provided and documented. i.e. the maximum rate of diversion, where diverted from the Big Wood River and from the Little Wood River, the number of days diverted, how measured together with supporting information of the rates diverted. Legal descriptions of points of diversion, redirection and any commingling of water, etc. are needed.

3. The same information as in deficiency 2. above is needed for water diverted from the Snake River. Measuring stations 56 and 57 need to be located on the general map which you need to provide.

4. The measurement data for stations 56 and 57 provided by Reid Newby is not legible and needs to be reworked. In addition, the measurement notes provide no units or explanation of how to read and use the table.

5. Provide any other information which will either explain or support the diversion and beneficial use of water for ground

water recharge purposes.

The department will hold the two permits without further action until you provide the above described information. Based on your submittal, the department will then again review the matter to determine if there is justification to reinstate lapsed permit no. 01-07054 and to consider issuing a licence for one or both of the permits.

Please provide the requested information within thirty (30) days. If you have questions, please feel free to contact the department.

Sincerely,

A handwritten signature in cursive script, reading "L. Glen Saxton". The signature is written in dark ink and is positioned above the typed name and title.

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: IDWR - Loren Holmes
John LeMoyne



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 29, 1992

Gerald L. Martens, P.E.
EHM Engineers, Inc.
1139 Falls Avenue E, Suite B
Twin Falls, ID 83301

Re: Permit No. 37-07842

PROOF ACKNOWLEDGEMENT LETTER

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for this permit.

Since you have chosen to hire a certified water right examiner to complete the field exam, we will continue with the licensing process.

Also enclosed is a copy of an order advancing your priority date since you failed to submit the proof of beneficial and field exam by the proof due date.

If you have any questions or if we can be of any further assistance, please feel free to contact me.

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

C: IDWR - Regional Office

Enclosure

RECORDED
JUL 29 1992

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 37-07842

Reviewed by Klg Date 6/15/92

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?
yes Address same as permit?
no Proof timely received?
If not, complete calculation below.

groundwater Recharge
Correct Uses? yes

SOURCE OF WATER

✓ Surface water source
Ground water source

NA Drilling permit required?
Copy in the file? Drilling Permit No. _____
Amount paid for permit _____ Correct?
Well log in the file?

LICENSE EXAMINATION FEE

yes Required?
15450 Amount Submitted
no Correct?

MEASURING DEVICE

yes Required?
yes Installed?
NA Waiver requested?

PRIORITY CALCULATION

Date proof received 7/27/92 208
Date proof due 6/1/92 - 152
No. of days late = 56
Priority Date 6/30/80 + 181
New Priority Date 8/25/80 237

DEFICIENCIES OR ACTION ITEMS

Return proof & check for \$15 - ~~needs \$1500~~ ~~to be \$600~~
Field Exam Submitted

proof acceptable
Reinstate & advance priority - vs
needs an order

DATA ENTRY

New Address _____

Proof Made 7/27/92
2/29/92 Klg



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 23, 1992

Gerald L. Martens, P.E.
EHM Engineers, Inc.
1139 Falls Avenue E, Suite B
Twin Falls, ID 83301

Re: Permit No. 37-07842

Dear Mr. Martens:

On June 15, 1992, I returned the original proof of beneficial use and \$15 check you submitted in connection with the above referenced permit. You later forwarded the completed field examination report, negating the need for an addition fee with the proof of beneficial use. However, you failed to return the original proof that had been sent back.

On July 9, 1992, I requested that you return the original proof of beneficial use. As of this date, I have not received the original form back in this office. I cannot complete my analysis of this permit until it is returned.

I have enclosed a copy of the original proof and a blank form in case the first one was lost or misplaced. Please forward one of these completed documents within 20 days of the date of this mailing. As soon as the document is received, we will complete the analysis and move forward with the eventual licensing of this permit.

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

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

Enclosures

MICROFILMED

JUL 29 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KETH HIGGINSON
DIRECTOR

July 9, 1992

Gerald L. Martens, P.E.
EHM Engineers, Inc.
1139 Falls Avenue E, Suite B
Twin Falls, ID 83301

Re: Permit No. 37-07842

Dear Mr. Martens:

The Department is in receipt of the Beneficial Use Field Report that you submitted in connection with the above referenced permit. However, you failed to return the original proof of beneficial use (copy enclosed) that I mailed back to you on June 15, 1992.

In order for me to continue the licensing process, it will be necessary for you to return the original proof of beneficial use. Please do so as soon as possible.

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

Sincerely,

Karen L. Gustafson
Karen L. Gustafson
Secretary/Records Manager

Enclosure

MICROFILMED

JUL 29 1992

RECEIVED

JUL 27 1992

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

OFFICE USE ONLY

Amt. of Fee \$ N/A
Date _____
Receipt No. _____
Receipt by _____**PROOF OF BENEFICIAL USE**

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

1. Permit No. 01-07054A ~~27-078424~~ Telephone No. 837-4337
2. Name(s) of Permit Holder(s): LOWER SNAKE RIVER RECHARGE DISTRICT
3. Mailing Address: Box 487 HAGERMAN, IDAHO
4. Source of Water: SNAKE RIVER

If GROUNDWATER, Well Driller's Name: NA Date Drilled: _____

OPTIONAL:

Pump horsepower: NA Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use (as authorized by the permit):

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

Irrigation _____ (No. of acres) Other GROUNDWATER RECHARGE

6. Total rate and/or volume for which proof is submitted 300 cfs OR _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? ☒ Yes _____ No Installed? ☒ Yes _____ No

OR

Flow Measurement Port: Required? NA Yes _____ No Installed? NA Yes _____ No

8. Fee Enclosed: \$ _____ (See License Fee Schedule on back of Instruction Sheet)

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

GERALD MARTINS 208-734-4333
Name Telephone No.

1139 FALLS AVE. EAST, TWINFALLS IDAHO
Address

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

Date

Signature (and title, if on behalf of a company or organization)

JUL 29 1992

6/12/92

Signature (and title, if on behalf of a company or organization) Gerald Martins project engineer CWRE #001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 37-07842

1. Owner: Lower Snake River Recharge District Phone No. 837-4837

Current Address: Box 48 / Hagerman Idaho

2. Accompanied by: Gerald Martens EXAM. DATE: _____

Address: 1139 Falls Ave E Twin Falls ID Phone No. 734-4838

Relationship to Permit Holder: None

3. Source: Snake River tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: None ☐ Copies Attached

2. Other water rights with same point of diversion: None ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached

SEE ATTACHED PLAN

Scale: 1" = _____

2. ☐ Copy of U.S.G.S. Quadrangle Attached ☐ Aerial Photo Attached
Showing location(s) of point(s) of diversion and (required for irrigation of 10 acres or more).
place(s) of use (required).
☐ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater).

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Measurement flow records for April 1986, as prepared by Big Wood Canal Company. Attached are flow records. Flow exceeded 300 CFS for 12 consecutive days.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
NA					

*Code to correspond with No. on map and aerial photo

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SE	NE		22	5S	17E	Lincoln	7.5 Minute Quadrangle

6. **Place(s) of Use:**

Indicate Method of Determination

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	
5S	17E	22			X	X			X	X	X	X		X		X	X		

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Milner Gooding Canal Measuring Stations 56 and 57						

2. Measurements:

Water measured in concrete flume above and below diversion.

Diversion quantity is mathematical difference. Upstream flow

measured at Milner Gooding Canal Diversion Structure 56. Downstream

measurement at Milner Gooding Canal Structure No 57. Rating curves

have been established for both stations. See attached letter.

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

See Section G-3

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional) NA

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Ampsx .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS NA

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

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

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

H. REMARKS AND OVERLAP REVIEW ANALYSIS

Division agreement between Lower Snake River Recharge District
and Bureau of Land Management attached for your information.

I. RECOMMENDATIONS

1. Recommended Amounts

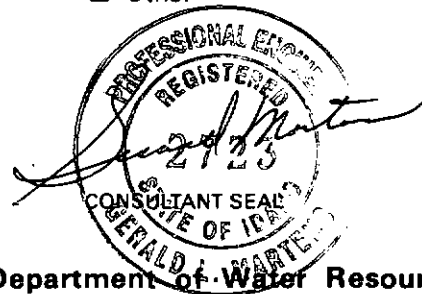
Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Groundwater Recharge	1-1	12-31	300 CFS	
Totals:			300 CFS	

2. Recommended Amendments

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

J. AUTHENTICATION

Field Examiner's Name George Martin
Signature [Signature]
Certification Date 7/6/92
Field Report Preparation Date 7/6/92



K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

COOPERATIVE AGREEMENT

I-05-82

BETWEEN

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
SHOSHONE DISTRICT OFFICE
P.O. BOX 2B
SHOSHONE, ID 83352

AND

LOWER SNAKE RIVER AQUIFER
RECHARGE DISTRICT

RTE 1, BOX 148
HAGERMAN, ID 83332

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COVER PAGE

TABLE OF CONTENT

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II. AUTHORITY

A. Bureau of Land Management

B. Cooperator

III. AGREEMENT AREA

IV. DEFINITIONS

A. Bureau of Land Management

B. Cooperator

C. District Manager

D. Contractor

V. OPERATION AND RESPONSIBILITIES

A. Bureau of Land Management

B. Cooperator

C. Mutual Agreement

D. Effective Date

E. Degradation

IV. APPENDIX

A. Area Map

B. Site Map

COOPERATIVE AGREEMENT

I-05-82

I. PURPOSE

The purpose of this agreement is to establish guidelines and provide procedures and authorization so the cooperator can enter public lands administered by the Bureau of Land Management (BLM) for Lower Snake River aquifer recharge purposes. The public lands will be used when there is ample excess water to divert to the desert lands for aquifer recharge.

II. AUTHORITY:

A. Bureau of Land Management:

Section 307, Federal Land Policy and Management Act of 1976, P.L. 94-579, 43 U.S.C. 1737.

B. Cooperators:

State Law - Drainage-Water Rights and Reclamation, Section 42-4212.

III. AGREEMENT AREA

This cooperative agreement will involve only public lands located within the Shoshone BLM District, and described as follows:

T. 5 S., R. 17 East, Boise Meridian, Lincoln County, Idaho
Section 22: All 640 acres.

The public land in the agreement area is a desert environment and is not within any livestock grazing allotment.

IV. DEFINITIONS

A. Bureau of Land Management (BLM):

The agency in the Department of Interior that has management responsibilities on those lands covered by this agreement.

B. Cooperators:

The governmental body of the Lower Snake River Aquifer Recharge District, chaired by John R. LeMoyne, Rte 1, Box 148, Hagerman, ID 83332.

C. District Manager:

The authorized officer in the Bureau of Land Management who has been delegated the responsibility, by the Secretary of the Interior, for the management of public lands within the Shoshone District.

D. Contractor:

All companies, groups, individuals, or agents to include Federal and State agencies who are retained by the cooperators in their aquifer recharge program for the operation of this agreement.

E. Degradation:

The changing, altering, or lowering in character and quality of the lands as a result of the cooperator use through vegetative and soil disturbance, creating a negative or undesirable effect on the environment. This may be the effects from, but not limited to the hydraulic action of recharge waters or the disturbance by vehicles or heavy equipment.

V. OPERATION AND RESPONSIBILITIES

The Bureau of Land Management, acting through the District Manager, and the Cooperator, acting through the Lower Snake River Aquifer Recharge District Chairman, agree as follows:

A. The Bureau of Land Management shall:

1. Provide only the land used in the operation of this agreement.
2. Continue to allow existing uses on the subject lands and any additional uses which are compatible with this agreement. Existing uses on the subject land may include, but are not limited to recreation, minerals, water conveyance, livestock grazing, wildlife habitat, and public access.

B. The Cooperator shall:

1. Provide all labor, material, equipment, and money needed in the maintenance programs, rehabilitation, or studies authorized by the cooperator for the operation of this agreement.
2. Exercise every reasonable precaution to prevent the degradation of all resources and shall rehabilitate the area, both inside and outside of the agreement area, which has been subject to degradation by the cooperator or their contractor's use.
3. Restrict operations to the existing roads or trails if vehicular equipment is used within the agreement area and no new roads will be constructed.
4. Indemnify and hold harmless the Bureau of Land Management, its officers, agents, and employees from any and all damages and claims for damages of every description or kind whatsoever which may result from the exercise of privileges granted by this agreement or which may result from the exercise of any of the rights reserved herein.
5. Be subject to the provisions of Executive Order 11246 of September 24, 1965 as amended, which sets forth the Equal Opportunity clauses. A copy of this order may be obtained from the district manager.
6. Be responsible for the prevention and suppression of all range fires resulting from their own or their contractor's actions. This includes responsibility for suppression costs incurred by any party in controlling such fires that are determined to be the cooperator's responsibility.

7. Allow authorized representatives of the Bureau of Land Management and the general public the right of unrestricted ingress and egress within the agreement area.

8. Remove from the public lands all trash, litter, garbage, and other items originating from the cooperator and contractor's use.

9. Notify the district manager immediately if damage has occurred to public lands within or outside the agreement area as a result of the operation of this agreement.

10. If additional development is needed to prevent recharge waters from overflowing the use area to external lands, the cooperator shall provide the district manager with detailed plans for such development for review and concurrence, 30 days prior to development initiation.

11. Restrict development to the approved structures, diversion, and other related facilities allowed under the approved Plan of Development identified as LSRARD Plan 82-1, dated June 1, 1982.

12. Raise or build up the present access road to the cement canal and drops recreation area to prevent flooding during times of aquifer recharge.

13. Fill in the area between the lava rock outcrop, cement canal, present access road, and proposed diversion structure to allow vehicular access to mining claims to the west.

C. Other Items Mutually Agreed by the Bureau of Land Management and Cooperator:

1. This agreement in no way abrogates BLM responsibility and authority as set by the Federal Land Policy and Management Act (Public Law 94-579, 90 Statute 2743), for management of the subject lands.

2. None of the items covered in this cooperative agreement are to be construed as obligating either party to the expenditure of funds in excess of authorized appropriations.

3. This agreement shall remain in full force and effect until modified or terminated by mutual agreement of BLM and the cooperator. This shall be accomplished by a 30 day written notice by either party on the other. Any proposals to change, modify, or otherwise alter any part of this agreement must have total concurrence by the cooperator and BLM.

4. This agreement or any interest therein shall not be transferred or assigned without prior approval, in writing of the district manager and the cooperator.

5. All tools, equipment, and other property taken upon or placed upon the public land by the cooperator or contractor during maintenance or rehabilitation efforts, shall remain the property of the cooperator or contractor and shall be removed by the cooperator or contractor within a

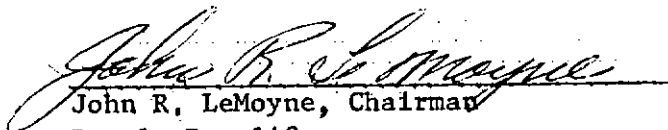
reasonable time, but no later than 30 days after completion of their work. If they are not removed as directed by the district manager, within a reasonable time then trespass actions can be taken towards the cooperator or contractor under the provisions of 43 CFR 9230.

6. No rental or use fees will be charged for the use of the public lands involved with this agreement. However, all damage and rehabilitation of the lands shall be the responsibility of the cooperator or contractor. If mineral materials such as gravel, fill dirt, etc. are needed for any phase of maintaining or rehabilitating the subject land, the cooperators shall notify BLM. These materials shall be applied for under the provisions of 43 CFR 3610 and 3620, whichever is applicable.

D. Effective Date

This cooperative agreement will be in full force and effect as of the last date signed.

LOWER SNAKE RIVER AQUIFER RECHARGE DISTRICT

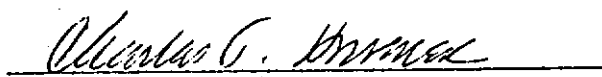

John R. LeMoyne, Chairman

Rte 1, Box 148
Hagerman, Idaho 83332

4-18-84
Date

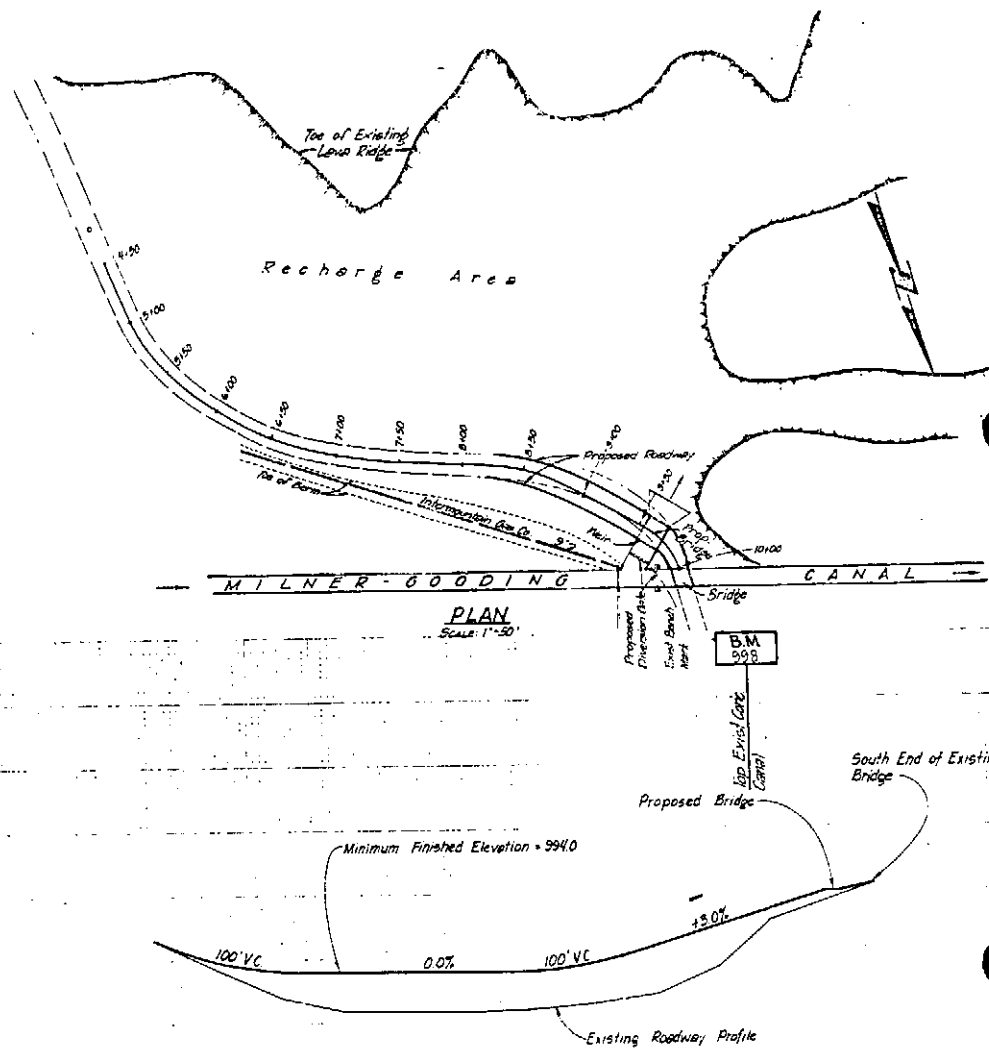
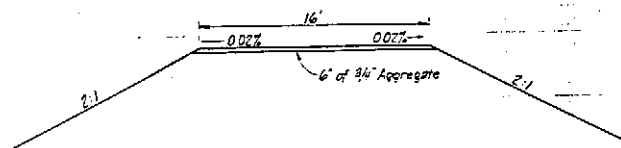
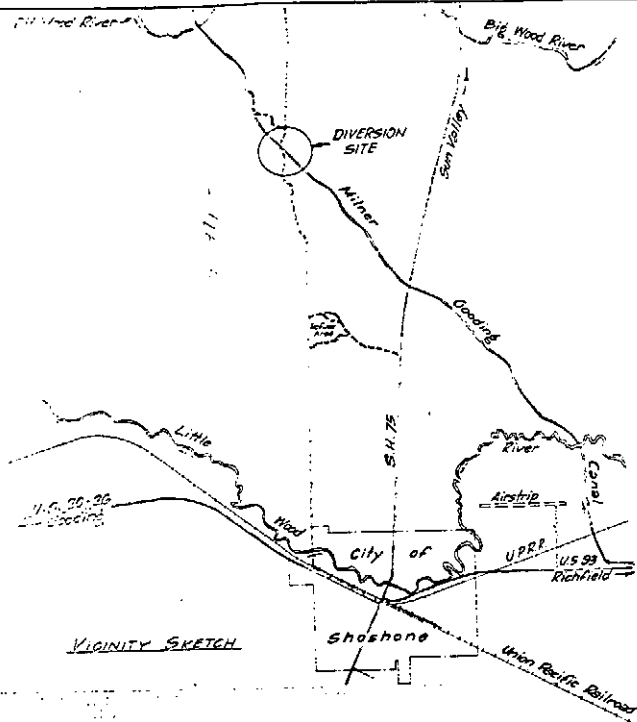
DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT

22

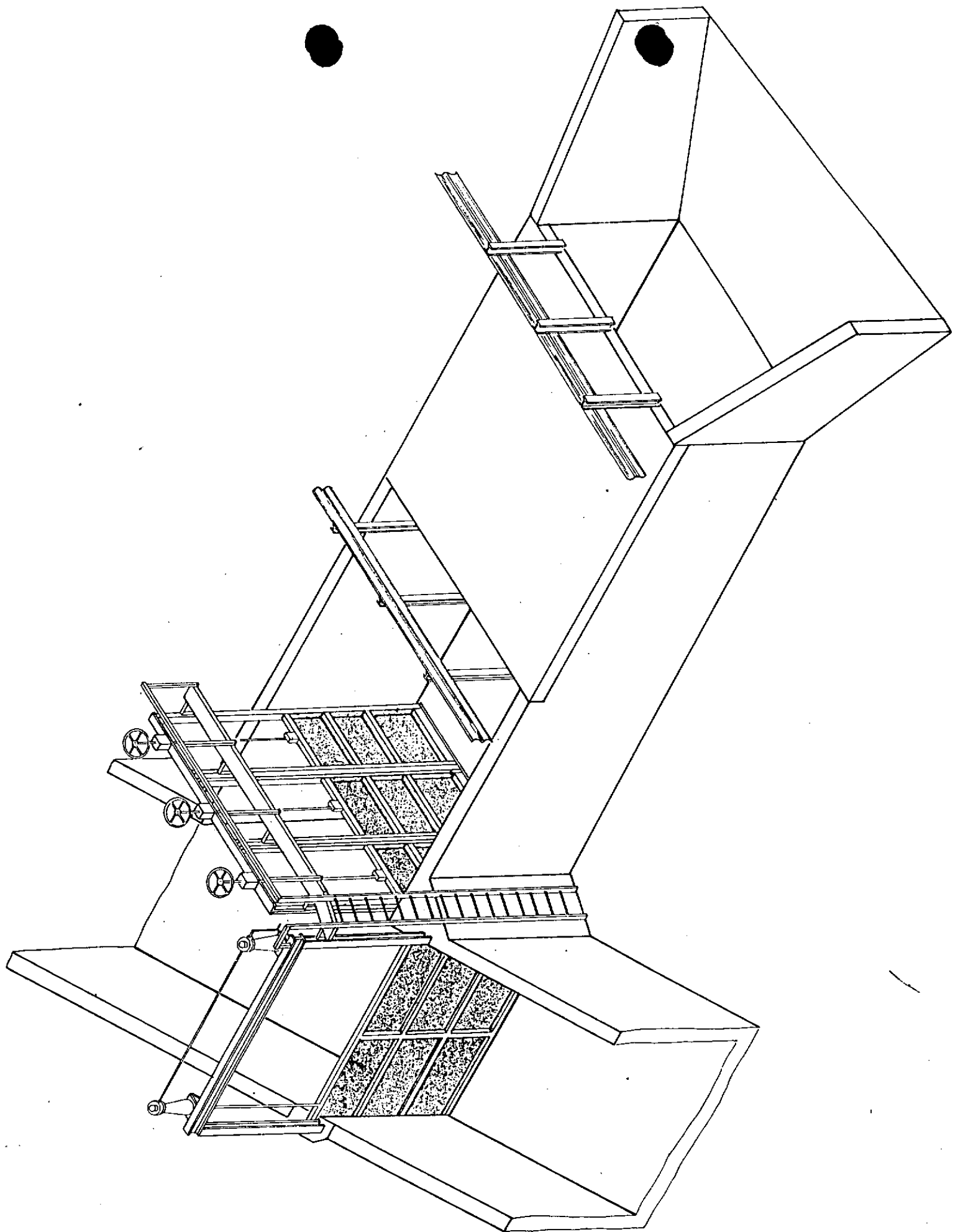

Charles J. Haszier

Shoshone District Manager
Shoshone, Idaho 83352

4/18/84
Date



MILNER-GOODING DIVERSION



July 6, 1992

RECEIVED
JUL 9 1992

Karen L. Gustafson
State of Idaho
Dept of Water Resources
1301 N Orchard St
Statehouse Mail
Boise ID 83702-9000

Department of Water Resources

Dear Ms. Gustafson,

Enclosed please find the Proof of Beneficial Use form for the
Lower Snake River Recharge District, Permit #37-07842.

Please call if you have any questions.

Respectfully yours,

EHM ENGINEERS, INC.


Gerald L. Martens, P.E.

GLM:dw

MICROFILMED
JUL 20 1992



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 15, 1992

Gerald L. Martens, P.E.
EHM Engineers, Inc.
1139 Falls Avenue E, Suite B
Twin Falls, ID 83301

Re: Permit No. 37-07842

Dear Permit Holder:

Returned is the Proof of Beneficial Use form submitted to this office in connection with the above referenced permit. It indicates the total rate of water to be 300 cfs.

When the total maximum rate of diversion is greater than 0.04 cfs, a license examination fee is required to be submitted with the proof. A license examination fee based on a rate of flow of 300 cfs is \$600. Note the back of the enclosed instruction sheet/fee schedule. I have also returned your \$15 check which you submitted with the proof. You indicate the check to be a reinstatement fee. Please note, that there is no fee for reinstatement of a permit.

Please return the proof and fee to me as soon as possible. Upon receipt of the proof form and fee, we will continue processing your proof by notifying the region that a field exam is needed. Since the proof you submitted was unacceptable, your permit is still lapsed and your priority date is being penalized one day for every day that the proof is late.

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

Sincerely,

Karen L. Gustafson
Karen L. Gustafson
Secretary/Records Manager

Enclosures

C: John LeMoyne, Chairman
C: Earl Hardy

MICROFILMED

JUL 29 1992

copy

RECEIVED

JUL 29 1992

92-1/1241

4657

EHM ENGINEERS, INC.
1139 FALLS AVE. E. 208-734-4888
TWIN FALLS, IDAHO 83301
FIFTH STREET & 1ST AVE. 208-726-3578
KETCHUM, IDAHO 83340

REMITTANCE ADVICE

PAY <i>fifteen & no/100</i>		TO THE ORDER OF <i>Dept of water Resources</i>		ACCT. #	GROSS	DESCRIPTION <i>Permit</i>	DISC.	CHECK AMOUNT <i>1500</i>
DATE <i>7/12/92</i>						F.I.C.A. FED WITH ST. WITH		

WEST ONE BANK IDAHO, N.A. BLUE LAKES OFFICE 55
POST OFFICE BOX 1254 TWIN FALLS, IDAHO 83308

[Signature]
EHM ENGINEERS, INC.

⑈004657⑈ ⑆124100019⑆110055149739⑈

McBer CT



Engineers, Inc.
ENGINEERS/SURVEYORS/PLANNERS

IN THE FIELDS OF:
PLANNING
SURVEYING
HIGHWAYS
WATER
SEWAGE
STRUCTURAL
SUBDIVISIONS
BRIDGES
ENVIRONMENTAL
QUALITY CONTROL
CONSTRUCTION MNGMT.

June 12, 1992

RECEIVED
JUN 15 1992

L. Glen Saxton
State of Idaho
Department of Water Resources
1301 N Orchard Street
Statehouse Mail
Boise ID 83720-9000

Department of Water Resources

RE: Permit 37-07842

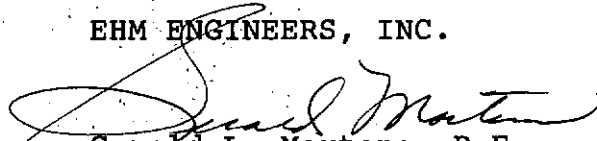
Dear Mr. Saxton,

Please find attached a proof of beneficial use form for the above specified permit. The Recharge District requested this be completed several months ago and I failed to make the appropriate submittals. Please find enclosed a check for \$15.00 to cover the reinstatement fee.

Please call if you have any questions.

Respectfully yours,

EHM ENGINEERS, INC.


Gerald L. Martens, P.E.

GLM:dw

RECEIVED

JUL 28 1992

June 5, 1992

LOWER SNAKE AQUIFER RECHARGE DIST.
1301 VISTA AVE.
BOISE ID 83705

LAPSE NOTICE

RE: PERMIT NO. 37-07842

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated March 31, 1992. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifteen dollar (\$15) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

L. GLEN SAXTON
Chief, Water Allocation Bureau

LGS:klg

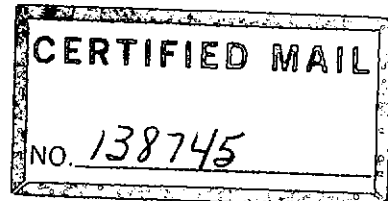
Enclosures

MICROFILMED

JUL 29 1992

LOWER SNAKE AQUIFER RECHARGE DIST.
1301 VISTA AVE.
BOISE ID 83705

March 31, 1992



RE: PERMIT NO. 37-07842 PROOF DUE NOTICE

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before June 1, 1992. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

SINCERELY,

Karen L. Gustafson
Secretary/Records Manager

Enclosures

MICROFILMED

JUL 29 1992

October 4, 1989

Lower Snake River Aquifer Recharge District
c/o John LeMoyne
P. O. Box 487
Hagerman, ID 83332

Gentlemen:

Re: Permit Nos. 01-7054 and 37-7842

Enclosed is a copy of the approved requests for extension of time. The time within which to submit proof of beneficial use for each permit is extended to June 1, 1992.

If you have any questions concerning these permits, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosures

c: Earl Hardy

MICROFILMED

OCT 18 1989

Hagerman, Idaho

July 24, 1987

RECEIVED

JUL 27 1987

State of Idaho
Department of Water Resources
Statehouse
Boise, Idaho 83720

Attention: L. Glen Saxton, Chief Operations Bureau

Department of Water Resources

Dear Mr. Saxton:

In reply to your letter of July 16, 1987, I am enclosing two completed forms asking for an extension of time for the permits for the Lower Snake River Aquifer Recharge District. These should be used in place of the request made by Gerald Martens since you are unsure of his authority to request an extension. I believe he did submit his check with the original request, so I did not send more money.

I have called John Beal and made a trip to Twin to talk to Gerald. Both have said they would call the other and straighten out what data needed to be sent to you. When I first received your letter of April 7, 1987 I called Gerald and sent him a copy of your letter. He said he would do the monitoring and would send you the weekly summary you requested. He now assures me he will get this done. If this is not forthcoming in the near future, please get in touch with me and I will make other arrangements.

Yours truly,

John R. LeMoyne

John R. LeMoyne, Chairman
Lower Snake River Aquifer Recharge District

MicroFILMED

OCT 18 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

July 16, 1987

John R. LeMoyne
Lower Snake River Aquifer
Recharge District
P.O. Box 487
Hagerman, ID 83332

RE: Request for an Extension of Time
for 37-7842 and 01-7054

Dear Mr. LeMoyne:

The Department has reviewed the requests for extension of time your engineer submitted in connection with the above referenced permits. Prior to consideration of the extension requests, you need to submit the information requested in the Department's letter of April 7, 1987 (copy enclosed). Of particular concern to the Department was the failure of the District to provide the Department with the volume recharged on a weekly basis.

Another concern is whether or not Gerald Martens has the authority to sign for the permit holder to take action on the permits such as the requests for extension of time. Since a water right permit is personal property, only the permit holder or authorized agent may take action on the permit. If he is authorized, please provide the Department with a copy of the power of attorney.

If you have questions regarding the information requested, please contact John Beal in Groundwater Protection Section (phone 334-4291).

Sincerely,

L. GLEN SAXTON, Chief
Operations Bureau

LGS:ldt

Enclosure

CC: Earl Hardy

MICROFILMED

OCT 18 1989

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 01-70542 37-7842 Reviewed by JYDate 6-17-1987

BASIC INFORMATION

Y Date stamp received
Y Extension received timely
 (not prior to 6 month before proof due date or after reinstatement period)
Y Fee received and receipted
Y Name and signature same as permit
Y Address change (indicate on coding sheet)

BASIS FOR EXTENSION REQUEST

Y Has adequate work been completed to demonstrate due diligence?
Y Has the cost incurred been adequate to demonstrate an intent to complete the project?
N Has the permit been involved in litigation?
 a. Swan Falls _____ Dismissed from Swan Falls _____
 Other _____ Identify _____
 b. Is supporting documentation needed to complete the file? _____
 Requested _____
 c. Calculate the period of delay

Date litigation completed _____

Date litigation began _____

Total period of delay = _____

Present proof due date + _____

NEW PROOF DUE DATE = _____

YES Is delay by a government agency?
 Is supporting documentation needed to complete the file? _____
 Requested? _____

ACTION TAKEN

*Recommend approval for 5 years
 based on delay by a governmental
 agency*

Special conditions or remarks:

N/A Reinstatement Date extension received _____ = _____
 Proof due date _____ = _____
 No. of days late _____ = _____
 Priority date _____ = + _____
 ADJUSTED PRIORITY DATE _____ = _____

____ Prepare coding sheet
 ____ Change rolodex cardf



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

EXTENSION OF TIME

June 10, 1987

Edwards, Howard & Martens, Inc.
1139 Falls Ave. E., Suite B
Twin Falls, ID 83301

PERMIT NO. 37-7842, 01-7054, Lower Snake River Aquifer Recharge District

We are in receipt of the \$30 extension fee for Extension(s) of Time to provide additional time in which to submit proof of beneficial use on a water right permit.

Your request for extension(s) of time is being reviewed by staff. You will be informed of our decision when review has been completed.

Enclosed is our receipt No. 42524.

Roberta Garrett
Records Supervisor

Enclosure

cc Lower Snake River Aquifer Recharge District

REPROFILMED

OCT 14 1989



Edwards, Howard & Martens, Inc.

ENGINEERS / PLANNERS / SURVEYORS

1139 Falls Ave. E., Suite B
Twin Falls, Idaho 83301
Phone 734-4888

IN THE FIELDS OF:

PLANNING
SURVEYING
HIGHWAYS
WATER
SEWAGE
STRUCTURAL
SUBDIVISIONS
AIRPORTS
BRIDGES

June 1, 1987

RECEIVED

JUN 1 1987

Department of Water Resources
2148 Fourth Avenue East
Twin Falls, Idaho 83301

Attention: Loren Holmes

Department of Water Resources
Southern Region Office

Dear Mr. Holmes:

Transmitted herewith are the requests for extension for Permit Nos. 37-7842 and 01-7054. They are being hand-delivered to you to meet the June 1, 1987, deadline.

I am signing the extension requests in my capacity as engineer for the Lower Snake River Aquifer Recharge District.

Also find enclosed a check in the amount of \$30.00 to cover the application fees.

Respectfully yours,

EHM ENGINEERS, Inc.

Gerald L. Martens, P.E.

GLM/bn

cc: file

John LeMoyne

encl.

MICROFILMED

OCT 18 1989

RECEIVED

JUN 03 1987

Department of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

April 7, 1987

John R. LeMoyne
Lower Snake River Aquifer
Recharge District
P.O. Box 487
Hagerman, ID 83332

RE: Monitoring Program

Dear Mr. LeMoyne:

The Department of Water Resources wants to congratulate the district for the large amount of recharge in 1986. While this amount of recharge can help insure the success of the district, considerable concern has been generated at the Department. As you know, the Department felt comfortable with the data generated in 1985 for the recharge of 8,000 acre-feet, although there continues to be some concern that water quality after the irrigation season could be markedly different than that sampled in 1985 prior to the irrigation season. Recharging more than seven times the expected amount, however, creates a new set of concerns about pollution potential and travel distances.

For 1987 the Department will once again use 8,000 acre-feet as a base figure. If it appears that recharge will exceed 8,000 acre-feet, the Department will impose additional monitoring requirements. For early 1987:

1. Please provide a map or sketch showing the location of the flow measuring points. Are there still plans to install recorders or will the measurements always be manual?
2. Contact the Department prior to beginning recharge. This is an ongoing requirement. We must be notified at the start of each event. Your agreement with Big Wood Canal Company should provide for you to be notified whenever the recharge area receives any water.
3. Provide a summary of daily flow measurements and weekly recharge amounts. This shall be provided to the Department weekly.
4. The water level in the two monitoring wells shall be measured and recorded weekly. This shall be sent to the Department weekly.

OCT 18 1989

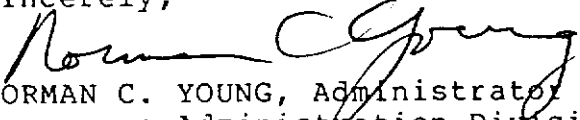
John R. LeMoyne
RE: Monitoring Program
Page 2

5. The source of the recharge (Snake River or Wood River) shall be documented with each event. Past records you have sent to the Department are not adequate in this respect.
6. If the canal company uses the recharge site for regulating flow along the canal, this recharge shall be measured and recorded. These data shall be provided to the Department weekly or at each 600 acre-feet of recharge, whichever time period is longer.

I recognize that the requirement for weekly reporting to the Department is an additional expense and work effort; however, the Department must be better informed about activities at the recharge site. If the recharge volume goes over 8,000 acre-feet, water quality monitoring will have to start. Dramatic changes in water level in either MW-1 or MW-2 might also indicate to the Department that water quality data should be collected. Staff at Water Resources are still concerned that MW-2 is not adequate as a monitoring well for the recharge program, and that poor quality water from the landfill area could reach the aquifer because of the way MW-2 was constructed. Based on the significant recharge achieved in 1986, you should prepare for expenditures for additional monitoring wells.

Please maintain close contact with the Department relative to your recharge activities.

Sincerely,


NORMAN C. YOUNG, Administrator
Resources Administration Division

NCY:ldt(GP5-1.9)

CC: Loren Holmes

MICROFILMED

OCT 18 1989

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
MARCH 31, 1987

138868

LOWER SNAKE AQUIFER RECHARGE DIST.
1301
VISTA AVE.
BOISE, ID 83705

PROOF DUE NOTICE

RE: PERMIT NO. 37-7842

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF THE ABOVE REFERENCED WATER PERMIT WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE JUNE 1, 1987. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH WHEN ACCOMPANIED BY THE LICENSE EXAMINATION FEE OR A COMPLETED FIELD EXAMINATION REPORT PREPARED BY A CERTIFIED WATER RIGHT EXAMINER MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER AN ACCEPTABLE PROOF OF BENEFICIAL USE SUBMITTAL OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

MICROFILMED

OCT 18 1989

To Files 37-7842
01-7054

From - Joh Beal

For information pertaining
to

Lower Snake Aquifer
Recharge District.

See Separate File on
District.

MICROFILMED

OCT 18 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

SPECIFICALLY, PURSUANT TO SECTION 42-2030, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-2030, WHICH READS AS FOLLOWS:

42-2030. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT.
(2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

December 1, 1983

John R. LeMoyné, Chairman
Lower Snake River Aquifer Recharge District
P. O. Box 487
Hagerman, ID 83332

Re: Lower Snake Aquifer Recharge District

Dear Mr. LeMoyné:

As you are aware, a primary concern of the public with respect to the recharge of the Lower Snake aquifer is water quality. The purpose of this letter is to clarify the roles of this agency and the IDHW regarding the water quality aspect of recharge systems proposed by your Board.

The water quality requirements for the recharge district are included in the order creating the recharge district and in the condition of approval placed on the water appropriation permits Nos. 37-7842 and 01-7054. As shown on page 4 of each of the approved permits this condition is as follows:

"Water may not be diverted under this permit until the Board of Directors establish and implement a procedure acceptable to the Director for assuring that the water quality of the Lower Snake Aquifer will not be impaired."

Based on discussions with Mr. Russell Renk of the IDHW relative to this condition of approval, this agency will act as the primary review agency for water quality study information. We plan to participate in a joint review format with IDHW.

The water quality review to be conducted will be based on the Idaho Water Quality Standards and Wastewater Treatment Requirements as identified in Mr. McMaster's letter dated November 17, 1983. As he indicated, the information needed includes the quality and quantity of water to be recharged, the area of impact, depth to groundwater, rates

MICROFILMED

John R. LeMoine
December 1, 1983
Page 2

of infiltration, geological information, structure of the impact area and other details. Pursuant to telephone conversations between Mr. Dave Tuthill of this office and your engineer Mr. Gerald Martens, it is my understanding that Mr. Chuck Brockway is currently working on development of a water quality monitoring plan. Mr. Martens indicated that an initial water quality monitoring plan has been prepared and a copy will be sent to this office.

Mr. Martens has provided this office with a blueprint of the proposed Milner-Gooding diversion works. He has indicated that construction of the works is anticipated to begin soon, with first water delivery planned to begin as soon as April 1984. Please be advised that this department will require that the water quality monitoring plan must be approved prior to the diversion of water for recharge purposes. This office will make every effort to expedite the review; however, we encourage your submittal of the required information at the earliest possible opportunity because some monitoring modifications may be required prior to initial diversion.

You should be aware that the Lower Snake River Aquifer Recharge District has been named as a defendant in the Idaho Power Company's "7500 lawsuit" and should adequately consider the potential implications of the suit as you proceed with your proposed project.

Sincerely,

L. GLEN SXTON
Chief, Operations Bureau

LGS:rf

cc: Russell Renk
Gerald Martens
Bill Graham

RECEIVED



STATE OF IDAHO

37-7842

DEPARTMENT OF HEALTH AND WELFARE 734-9520

DIVISION OF ENVIRONMENT

P. O. Box 1626

Twin Falls, ID 83303-1626

November 17, 1983

RECEIVED

NOV 18 1983

Department of Water Resources

John R. LeMoyne, Chairman
Lower Snake River Aquifer Recharge District
P. O. Box 487
Hagerman, Idaho 83332

Dear Mr. LeMoyne,

In reviewing our letter of October 27, 1983, relative to the submission of plans and specifications for the District's proposed recharge facility, it appears that Section 39-118 of the Idaho Code may not be applicable to the aquifer recharge district. There is some question whether or not the facility constitutes a wastewater disposal facility; however, the provision in the Idaho Department of Water Resources approval of appropriation of recharge water does require that Idaho Water Quality Standards and Wastewater Treatment Requirements are met. This would include Sections 1-2003.01, 1-2050.02, and 1-2200.02 of the standards which address protection of beneficial uses of groundwater.

It is our intent to work with the Lower Snake River Aquifer Recharge District and the Department of Water Resources to assure that the proposed aquifer recharge will not adversely impact groundwater as a result of the operation of the recharge district.

In order to evaluate and approve the proposed recharge project, the submission of plans and specifications are needed. As we have discussed, the information should include the quality and quantity of water to be recharged, the area of impact, depth to groundwater, rates of infiltration, geological information, and structure of the impact area and other details.

We are looking forward to working with you and the Department of Water Resources to ensure that the project is successful and has no adverse effects on groundwater in the area. We appreciate your cooperation and understanding. Should any questions arise, please contact myself or Russ Renk at 734-9520.

Sincerely,

Michael J. McMasters

Michael J. McMasters
Source Control Field Officer

MICROFILMED

MJM/ta

cc: Larry L. Koenig
Al E. Murrey
Gerald Martens
Dave Tuthill
Jack McDaniel
Chuck Brockway
Loren Holmes
Norm Young/Bill Graham

EQUAL OPPORTUNITY EMPLOYER

CONVERSATION MEMORANDUM

01-7054
DATE 1 37-7842
FILE Nov 18, 1983NAME OF PARTY Gerald Martens of Edwards Howard & Martens Engineers
EMPLOYEE Dave Tuthill
1139 Falls Ave E
Twin Falls 83301 734-4800RE: Lower Snake Aquifer Recharge Dist

Plans to begin construction in 3 weeks on the diversion structure where the Milner Gooding canal crosses highway 75 N. of Shoshone, 2 miles downstream. He will send a copy of the plans to me to document the file.

They have had 2 meetings with Dept of Health & Welfare Div of Environment to work out water quality considerations. Chuck Brockway is developing a plan for this.

They hope to divert water for this project in March 84.

MICROFILMED



STATE OF IDAHO

RECEIVED

OCT 28 1983

DEPARTMENT OF HEALTH AND WELFARE 734-19520ment of Water Resources

DIVISION OF ENVIRONMENT
P. O. Box 1626
Twin Falls, ID 83303-1626

October 27, 1983

John R. LeMoyne, Chairman
Lower Snake River Aquifer Recharge District
P. O. Box 487
Hagerman, Idaho 83332

Re: Approval of District Recharge Plans Needed

Dear Mr. LeMoyne:

This is to confirm our conversation of October 24, 1983. At that time we discussed the efforts of the Recharge District to begin work on recharge groundwater in the area. The District members should be aware of the following:

- 1) The Department of Water Resources has approved the appropriation of the recharge waters provided the Idaho Water Quality Standards and Wastewater Treatment Requirements are met.
- 2) Section 1-2200.02 of these water quality standards prohibits the discharge of water which contains deleterious material to underground water if this discharge impairs a protected beneficial use of the groundwater.
- 3) Existing beneficial uses, including domestic use, are protected under Sections 1-2050.02 and 1-2003.01.
- 4) Appendix A, page 4, of the water quality standards, Section 39-118 of Idaho Code, requires that waste treatment or "disposal facilities" require review and approval by our Department.

In view of the above, would you please submit plans and specifications reflecting the recharge project you are proposing. The information should include the quality and quantity of water to be discharged, the area of impact, depth to groundwater, rates of infiltration, and geological formation and structure of the impact area.

MICROFILMED

October 27, 1983

Our concern is to protect the groundwater for domestic use in the area. If you have any questions, please call. Thank you for your interest in Idaho's environment.

Sincerely,

Russ Renk

Russ Renk
Environmental Engineer

RR/ta

cc: Gerald Martens
Jack McDaniel
Dave Huthill
Chuck Brockway
Al E. Murrey

RECEIVED



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

February 8, 1983

RE: Permit Nos. 01-7054 and 37-7842

Lower Snake Aquifer Recharge District
c/o John R. LeMoyne, Chairman
Route #1, Box 148
Hagerman, ID 83332

Dear Mr. LeMoyne:

Enclosed are copies of Orders which remove the condition of approval of the above referenced permits related to the commencement of excavation or construction within one year from the date the permits were issued.

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

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:kw.
Enclosures

RECEIVED
FEB 10 1983
WATER RESOURCES

RECEIVED

HAGERMAN REALTY

JOHN R. LEMOYNE
BROKER • APPRAISER

"Service is Our Business"

OCT 25 1982

Department of Water Resources

PHONE 208/837-4463
HOME 208/837-4887

HAGERMAN, IDAHO 83332

October 22, 1982

Norm _____

Mr. Kenneth Dunn, Director
State Dep't. of Water Resources
Statehouse
Boise, ID. 83720

Dear Sir:

As a follow up to my letter of the 11th, I would like to have your initial reaction to our proposal for an extension of time and of the project itself before I order a complete engineering done. The board of directors decided to check with each clearing agency to see if any big problems had come up before proceeding with such an expense.

Thank you for your prompt consideration.

Yours truly,

John R. LeMoyne

John R. LeMoyne, Chairman
Lower Snake River Aquifer Recharge Dist.
Rt. 1, Box 148
Hagerman, ID. 83332

RECEIVED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

November 4, 1982

RE: Permit Nos. 01-7054 and 37-7842

John R. LeMoyne, Chairman
Lower Snake River Aquifer Recharge District
Route #1, Box 148
Hagerman, ID 83332

Dear Mr. LeMoyne:

Thank you for your letter of October 11, 1982, requesting an extension of time in which to submit proof to beneficial use of water under the above referenced permits. However, the request cannot be accepted at this time because the proof to beneficial use of water under these permits is not due until June 1, 1987. Sixty days prior to this date you will be receiving a reminder letter from our office asking that you either submit proof of water use statement or request an extension of time in which to submit proof of water use.

I am enclosing the material that you provided in your October 11, 1982, letter. If you have any questions on this matter, please let me know.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosure

RECEIVED
NOV 11 1982
DEPT. OF WATER RESOURCES

HAGERMAN REALTY

JOHN R. LEMOYNE
BROKER • APPRAISER

"Service is Our Business"

PHONE 208/837-4463
HOME 208/837-4887

Oct. 11, 1982

HAGERMAN, IDAHO 83332

RECEIVED

Mr. Kenneth Dunn
State Dep't. of Water Resources
Statehouse
Boise, Id. 83720

OCT 13 1982

Department of Water Resources

Dear Sir:

I am writing to request an extension of time of permits #37-7842 and #01-7054. I think a two year extension may be in order. Our problems are as follows:

1. We have an agreement in principle with the Big Wood Canal Co. for a diversion north and a little west of Shoshone, but we need to negotiate some more on the terms.
2. The Big Wood Canal Co. has to have the Bureau of Reclamation approve any plans for changes in the canal, and we may have to have a contract with the Bureau.
3. The BLM needs to review and approve of our plans to divert water out onto their land before we can get a permit from them.
4. You also must approve of our plans before we can implement any action at all. Accordingly, I am enclosing a preliminary drawing of the diversion from the Gooding-Milner canal. The canal company would like to be able to divert the whole flow of the canal in times of flooding on both Big and Little Wood Rivers. This would amount to approximately 500 to 550 cfs. Normally our diversions would be somewhat smaller than that amount.
5. As yet we have not collected any money. Our assessment notices are going out this month. Until they are all in we won't know how much money we will have to work with.
6. We can only work on the canal between the middle of October and freeze up so we are very limited. We hope to have the paper work out of the way so we can proceed next year on this first diversion. It will be able to use water from either one of the permits so it should qualify for both of them.

In view of the above problems and others that we are not aware of at this time we feel an extension of time would be in order.

Yours truly,

John R. LeMoyné

John R. LeMoyné, Chairman
Lower Snake River Acquirer Recharge District
Rt. 1, Box 148
Hagerman, ID. 83332

RECEIVED

August 30, 1982

RE: Lower Snake River Recharge District
Permit No. 37-7842

Paul Jauregi
Idaho Power Company
Box 70
Boise, ID 83707

Dear Mr. Jauregi:

In October 1981, you expressed concern on behalf of the Idaho Power Company that permit No. 37-7842 in connection with aquifer recharge would potentially interfere with Idaho Power Company's hydropower rights on the Malad River. In that regard, the department by letter dated November 19, 1981, then asked for identification of water rights which may not be recorded with the department. Our files do not show a response to this letter.

Department research of recorded rights shows the following rights in the name of Idaho Power Company for power purposes on the Malad River:

License 37-2128	800 cfs	Priority: Nov. 25, 1908
License 37-2471	900 cfs	May 14, 1946
License 37-2472	650 cfs	May 14, 1946

Idaho Power Company has also submitted the following applications for fish propagation purposes on the Malad River:

Application No. 37-7774	250 cfs	Priority: May 3, 1979
Application No. 37-7781	100 cfs	May 30, 1979

The watermaster on the Malad River (Big Wood River) will recognize only these rights as he regulates the diversion and use of water in order or priority to those parties entitled to its use, including the diversion by the recharge district.

I trust this information will resolve your past concerns relative to use of water by the Lower Snake River Recharge District.

Sincerely,

A. KENNETH DUNN
Director

AKD:alw

cc: U. Ravenscroft



young new
Dynan
Consulting Associates, Incorporated

BOISE OFFICE
VERNON RAVENSCROFT
HELEN CHENOWETH

PHONE (208) 345-2670
P.O. BOX 693
BOISE, IDAHO 83701

July 13, 1982

RECEIVED

JUL 14 1982

Department of Water Resources

Mr. Kenneth Dunn
Director
Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720

Dear Ken,

This note is to reaffirm my request that you quantify some level of minimum flow before you issue the water permit for the recharge district water diversion from the Little Wood River at Richfield, or any other points on Little Wood or Big Wood which said district may propose.

This action is advisable to comply with the recharge law and its provisions which gave prior right status to all existing downstream power generation rights.

Idaho Power does use significant volumes of water from both Big and Little Wood Rivers at their plant sites in the Malad Canyon. I have been told that their use involves upwards of 300 C.F.S. of this above-canyon water.

It would seem impossible to administer the river unless some specific quantification is established. Fortunately, there is a gauging station No. 131510.00 just a short distance (about 2 miles) upstream above the canyon.

Regards,

Vernon F. Ravenscroft
Vernon F. Ravenscroft

VFR:sh

RECEIVED

JUL 8 1982

Department of Water Resources

PHONE (208) 543-8268

WEAVER & DYKAS, P.A.

Attorneys at Law

130 N. BROADWAY
BUHL, IDAHO 83316

ROBERT C. WEAVER

FRANK J. DYKAS
REGISTERED PATENT
TRADEMARK ATTORNEY

July 7, 1982

JOHN M. MELANSON

Department of Water Resources
450 West State
Boise, Idaho

file

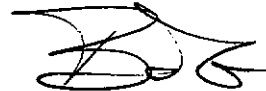
Re: Application ID No. 37-7842--Earl Hardy, et al
Lower Snake River Aquifer Recharge District

Dear Mr. Dunn:

Please be advised that this office has been retained by the Lower Snake River Aquifer Recharge District to represent it in all matters pertaining to the above water right.

Any future correspondence should be mailed directly to this address.

Sincerely yours,



ROBERT C. WEAVER

RCW:sh

cc: Mr. D. Brent Martens
Mr. Terry E. Coffin
Mr. Paul L. Jauregui
Department of Water Resources
Twin Falls, Idaho

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

RANGEN, THARLEIF
1301
VISTA AVE.
BOISE, ID 83705

JUNE 22, 1982

RE: PERMIT NO. 37-7842

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.

BE SURE TO NOTE THE SPECIAL CONDITION REQUIRING YOU TO INSTALL AND MAINTAIN A MEASURING DEVICE AT YOUR POINT OF DIVERSION. WE HAVE ENCLOSED A DESCRIPTION OF THE DIFFERENT TYPES OF MEASURING DEVICES ACCEPTED BY THIS OFFICE.

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. TUTHILL, JR., P.E.
SUPERVISOR, WATER ALLOCATION SECTION

ENCLOSURE

RECEIVED
JUN 23 1982

103 15 6
MAY 20 1982
Department of Water Resources

A special meeting of the Board of Directors of the Lower Snake River Aquifer Recharge District was held Monday the 24th of May pursuant to proper notice by the Chairman. Members present were Merle Owsley, George Lemmon and John LeMoyne. The meeting was called to order by Chairman LeMoyne. It was moved by Lemmon and seconded by Owsley that the assignments of water applications for permits numbered 37-7842 and 01-7054 be accepted by the board for the district. This would include all right, title and interest in these permits that the assignees might have had. The motion passed on a unanimous vote.

The board then toured the sites of potential recharge areas and reviewed the progress that had been made to date. It was decided to meet with the canal boards as soon as they could schedule a meeting and arrange for a fee schedule for wheeling our water and diverting it into the recharge areas.

The board next met with Joe Aitken of the BLM office to arrange for a permit to flood some water out into the lava fields in Sec. 22, T. 5 S., R. 19 E. B. M.

It was reported by the Chairman that the Idaho State Bank at Hagerman has approved our application for a loan and would be processing the papers soon.

There appearing no further business, the meeting adjourned.

John R. LeMoyne
John R. LeMoyne, Chairman

RECEIVED
MAY 24 1982



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

May 20, 1982

John LeMoyne, Chairman
Board of Directors
Lower Snake Aquifer Recharge District
Route #1, Box 148
Hagerman, Idaho 83332

RE: Assignment of Application for Water Right Permit
Numbers 37-7842 and 01-7054

Dear Chairman LaMoyne:

On January 18, 1982, the Department of Water Resources received executed assignment forms assigning to the Lower Snake Aquifer Recharge District all right to Applications for Permit No. 37-7842 and No. 01-7054 from Earl Hardy, individually, and pursuant to power of attorney, all other named applicants, including Thorlief Rangen, John W. Jones, Jr., and John LaMoyne.

The Department acknowledges the assignment of the referenced applications for permit and is prepared to take action upon the applications pursuant to I.C. § 42-203. Before action is taken upon the applications the Department considers it necessary that the Lower Snake Aquifer Recharge District take formal action to accept or reject the assignment to the District of all right, title and interest in Applications for Permit No. 37-7842 and No. 01-7054. The Department should be notified in writing as to the action taken by the District.

Sincerely,

A. Kenneth Dunn
Director

AKD:jh
cc: D. Brent Martens, Esq.
Terry E. Coffin, Esq.
Earl Hardy

MICROFILMED



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

May 20, 1982

Terry E. Coffin
RUNFT, STECKER & COFFIN, CTD.
P.O. Box 1960
Boise, Idaho 83701

RE: Application for Permit No. 37-7842

Dear Mr. Coffin:

On June 30, 1980, Application for Permit No. 37-7842 to appropriate 800 c.f.s. for groundwater recharge purposes was filed with the Department of Water Resources by four individuals to be held in trust for a recharge district being formed pursuant to recently enacted I.C. § 42-4202. The contemplated Lower Snake Aquifer Recharge District was formed by order of the Director on November 9, 1981. On January 18, 1982, an assignment was executed assigning all right, title and interest in Application 37-7842 to the Lower Snake Aquifer Recharge District.

By your letter of September 25, 1981, on behalf of Cogeneration, Inc., and your letter of November 16, 1981, on behalf of Hydro Energy Financing and Development, a joint venture, you expressed your position that Application 37-7842 is invalid because it was speculatively filed on behalf of the yet to be created district.

Whether the application is determined to be valid or invalid is likely to be critical to the ability of the district to carry out the public purposes for which it was authorized by the Legislature to be established. If the application is considered to be invalid the district will lose the benefit of the June 30, 1980 priority date. Any subsequent priority date the district might acquire would be junior to certain intervening downstream hydro-power applications including that filed by Cogeneration, Inc.

I.C. § 42-4201(1) contains a strong policy statement supporting the public benefits to be derived from the successful operation of the recharge district. The Department of Water Resources would appear to be obligated to accept and act upon Application 37-7842 unless it is clearly invalid.

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MAY 24 1982
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Terry E. Coffin
May 19, 1982
Page 2

It is clear from I.C. § 42-4201(2) that the Department has authority to issue a water right permit to the district for groundwater recharge purposes. It should also be clear that the district, once formed, has authority to accept assignment of a valid water right application which is related to the purposes of the district.

The issue presented in this instance is whether or not it is permissible for private individuals to have filed application 37-7842 on behalf of the recharge district prior to its creation. If the application is considered to be void it would apparently have to be upon the theory that it was speculatively filed.

The leading Idaho case on speculation, Lemmon v. Hardy, 95 Idaho 778, 519 P.2d 1168 (1974), which holds that a person may not file an application for a water right and then seek a place for its use, does not appear decisive with respect to the present factual situation involving a recharge district having powers of condemnation. See, Bassett v. Swenson, 51 Idaho 256, 5 P.2d 722 (1931) and Marshall v. Niagara Springs Orchard Co., 22 Idaho 144, 125 P. 208 (1912).

A case more directly on point is Scherck v. Nichols, 95 P.2d 74 (Wyo. 1939), wherein the court concluded that no good reason exists, if the law is compiled with in other respects, why a man should be forbidden to act as volunteer in filing a water right application for another as part of the steps leading up to a perfected appropriation. The holding in this case has more recently been cited with approval by the Wyoming and New Mexico courts in White v. Board of Land Com'rs, 595 P.2d 76, 83 (Wyo. 1979) and Mathers v. Texaco, Inc., 421 P.2d 771, 77 (N. Mex. 1966).

It cannot be said that Application 37-7842 was speculatively filed in the sense that it was not made in good faith or was made without a definite intended beneficial use in mind. The interest of the public in the unappropriated waters of the state would appear to be adequately protected by the fact that if the recharge district was not formed as anticipated or if the assignment was not executed as promised, the application would fail. Given these factors, plus the Nichols line of cases, it is concluded that it would be inappropriate for the Director to declare the application invalid.

RECEIVED
MAY 20 1982
WATER RIGHTS

Terry E. Coffin
May 19, 1982
Page 3

The Department will, therefore, proceed with the timely processing of Application for Permit 37-7842.

Sincerely,

A. Kenneth Dunn
Director

AKD:jh
cc: D. Brent Martens, Esq.
John LeMoyne
Earl Hardy

RECEIVED
MAY 20 1982
FBI - WASH DC

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

Hardy, Earl; Rangen, Tharle
LeAoyne; Jones, John W., Jr

INITIAL REVIEW BY: JH

APPLICATION NUMBER: 37-7842

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ 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: maria Date: 9/5/80
☒ Idaho Fish and Game Department. maria 9/5/80
☐ Idaho Department of Lands.
☒ U.S. Bureau of Land Management. Shoshone Dist maria 9/5/80
☐ U.S. Forest Service.
☒ Other Reid Newby maria 9/5/80

PROCESSING:

- ☐ Yes ☒ No Platted by: _____ Map No. _____
☐ Yes ☐ No Other rights on same place of use. _____

- ☒ Yes ☐ No* In form for advertising. 8/17/80 9/2/80 ✓
☐ Yes ☒ No Final date for protests: 1/17/80 9/2/80 ✓
☐ Yes ☒ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 9/2/80
☒ Application published correctly. If not, record action taken: left out TSS 16E
☒ 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? 37
✓ 6/30/80 Date of priority recommended.
Special conditions of approval or cover letter. _____

Shoshone Pending Formation of a G.W. Recharge
District Per Title 42, Chapter 42, I.C.

By: Larry O. Hansen Date: 4/16/81

STATE OFFICE REVIEW:

SLW/L12, L02

26, 01, 04, 05

37 Big Wood R. dyo
cond attached

- ☐ See attached sheet for more information.

By: Polym Date: 5/26/82

Acknowledge Assignment in Permit letter

JOHN L. RUNFT
DAVID J. STECHER
TERRY E. COFFIN
JOHN F. ADLARD
W. HUGH O'RIORDAN

RUNFT, STECHER & COFFIN, CHARTERED
ATTORNEYS & COUNSELORS AT LAW
420 WEST BANNOCK STREET
P.O. BOX 1960
BOISE, IDAHO 83701

TELEPHONE
(208) 345-6521

Iver J. Longeteig
of Counsel

February 1, 1982

RECEIVED

FEB 1 1982

A. Kenneth Dunn, Director
Idaho Department of Water Resources
450 West State Street
Boise, Idaho 83702

Department of Water Resources

Re: Water Permit Application No. 37-7842

Dear Mr. Dunn:

On or about January 14, 1982, Mr. D. Brent Martens, Esq., representing the Lower Snake Aquifer Recharge District in the above-entitled application, filed with the Department, a memorandum in support of the applicants' position.

The facts surrounding this application have been previously presented to you in my letter of November 16, 1981.

Mr. Martens cites general private corporate law with regard to "promoters" and attempts to draw an analogy between private promoters and their relationship to private corporations and the applicants here as they may relate to a ground water recharge district. This letter is submitted in response to Mr. Martens' memorandum on behalf of Hydro Energy Finance and Development, a joint venture.

No argument is made by Hydro Energy Finance and Development that promoters may not, within the private sector, enter into a contract for and on behalf of a corporation which has not yet been formed. It is clear that in the private sector, activities may be undertaken prior to the formation of a corporation in order to eventually establish the corporation itself. For instance, someone interested in the future corporation may take it upon himself to contact an attorney, and possibly an accountant, to establish the corporation itself. Once established, the private corporation may then accept, confirm and ratify the activities of the promoter. However, in the public sector, the activities of a promoter are limited by statute and public policy. Here, Idaho Code, Section 42-4201 allows an aquifer recharge district to appropriate water. It does not allow individual private promoters to file applications or to accept permits in their name. The permit must be issued to the aquifer recharge district. In the aquifer recharge district situation, interested third parties are involved, unlike a private promoter-corporation relationship.

ENCLOSURE

A. Kenneth Dunn, Director
Idaho Dept. of Water Resources
February 1, 1982
Page Two

Here, individual private citizens have applied for a permit to appropriate water. If the application was approved, they could not legally hold such a permit.

It is inappropriate to attempt to analogize private promoter-corporation practice with the activities under consideration here. In the private sphere, the promoter may enter into contracts upon which he is personally liable, doing so with the assumption that the corporation, upon formation, will adopt and ratify his activities. However, in the event the corporation does not adopt and ratify his activities and the contract, the personal liability remains. Further, even in the private sphere, a promoter may not enter into contracts on behalf of a proposed corporation unless he individually has the power to do so, i.e., liquor licenses. Under Idaho Code, Section 42-4201, it is clear that no individual or promoter has the right to obtain a water appropriation permit for his own use. It is also clear that the promoter, if allowed to make such application, would suffer no individual liability in the event the aquifer recharge district was never established or in the event that once established, it would not accept or ratify contracts entered into on its behalf by the individual promoter.

To allow individual promoters to apply for permits presents two very interesting problems:

1. Notwithstanding the fact that individuals are not authorized to apply for or to receive the type of permit contemplated under Idaho Code, Section 42-4201, private individuals filing, purportedly on behalf of an aquifer recharge district, could tie up, administratively, valid applications made by a recharge district itself, and, in fact, such promoters could place themselves in a position where they could literally sell their application priority to the recharge district. This would be speculative. (At the time of the application made by the individuals herein, the applications were purely speculative, since the individual applicants not only did not know whether an aquifer recharge district would ratify their activities, but they did not even know whether or not a recharge district would be formed.)

MICROFILMED

A. Kenneth Dunn, Director
Idaho Dept. of Water Resources
February 1, 1982
Page Three

2. Under Idaho's water appropriation system, the filing for the instant permit by the individual applicants establishes a form of priority for the applicants even though they could not be issued a permit. See, Hidden Springs Trout Ranch v. C. J. Allred, 81 ISCR 845 (1981). The purpose of Idaho Code, Section 42-4201 is clearly to establish a valid aquifer recharge district which, in the view of the legislature, would be in the public interest of the state of Idaho. However, until such district is established, individuals purportedly acting on behalf of the district (who have no statutory authority to do so) should not be allowed to interfere with the rights of third parties, who, under the Constitution and laws of the state of Idaho, have a right to appropriate waters of this state for beneficial use and to obtain such appropriation based upon the priority of the filing of their application. Clearly, the recharge district may appropriate water, but its priority must be based upon the date which the aquifer district applies for a permit, not upon the date of an application by persons not even entitled to hold such a permit. At the very earliest, the district's priority can only be the date it came into existence.

Allowing individual applicants to file for a water appropriation permit pursuant to Idaho Code, Section 42-4201 prior to the establishment of the aquifer recharge district, not only condones speculation in the area of water appropriation, but also effectively interferes with the legitimate and authorized rights of third parties to establish valid application priorities for water permits under Idaho law. ✓

It is respectfully urged that if this Department grants application No. 37-7842, made by the individual applicants, it will effectively condone speculation in water appropriation and will have interfered with the constitutionally and statutorily guaranteed rights in and to the water of the state of Idaho of third parties whose applications for water appropriations were filed subsequent to application No. 37-7842, but prior to the establishment of the aquifer recharge district pursuant to Idaho Code, Section 42-4201. ✓

RECEIVED
FEB 11 1982

A. Kenneth Dunn, Director
Idaho Dept. of Water Resources
February 1, 1982
Page Four

Additionally, no permit should be issued to the applicants until and unless Idaho Power Company quantifies its claimed water rights as requested in the November 19, 1981, letter from Howard Carsman, Deputy Attorney General, to Paul Jauregi, of Idaho Power Company. ✓

Respectfully submitted this 1st day of February, 1982.

RUNFT, STECHER & COFFIN, CTD


Terry E. Coffin, Of the Firm
Attorneys for Hydro Energy
Finance and Development, a
Joint Venture

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of February, 1982, a copy of the foregoing letter was served upon D. Brent Martens, Esq., attorney for the individual applicants, Permit Application No. 37-7842, by mailing a copy to post office box 589, Buhl, Idaho 83316.


Terry E. Coffin

RECEIVED
FEB 1 1982

INTER-DEPARTMENT MEMO — 1

DATE 1-18-82

FROM

Dave T.

TO

~~Glenn~~ ^{MS}

Norm

per

SUBJECT

37-7842

We have received a reply brief from the attorney of the Lower Snake Aquifer Recharge Dist. I suggest that the legal staff review this matter.

RECEIVED
FEB 1 1982

Dr

SIGNATURE

LAW OFFICES

HEPWORTH, NUNGESTER, AND FELTON

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BUHL, IDAHO 83316

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JAN 15 1982

Department of Water Resources

JOHN C. HEPWORTH, Chartered
WM. L. NUNGESTER, Chartered
MICHAEL H. FELTON, Chartered
D. BRENT MARTENS
JEFFREY E. ROLIG
JOHN T. LEZAMIZ
JOHN C. HOHNHORST

January 14, 1982

TWIN FALLS OFFICE
Blick Building
133 Shoshone Street North
Post Office Box 389
Twin Falls, Idaho 83301
Telephone (208) 734-7510

OUR FILE NUMBER

04-3416

A. Kenneth Dunn, Director
Idaho Department of Water Resources
450 West State Street
Boise, Idaho 83702

Re: Water Permit Application No. 37-7842

Dear Mr. Dunn:

Enclosed find a memorandum submitted on behalf of the individual applicants under the above-referenced application as well as on behalf of the Lower Snake ~~Adviser~~ Recharge District. I believe your file should reflect an assignment by the individual applicants to the district of the rights under that application. If not so received, I am sure that Mr. Earl Hardy will soon be delivering such an assignment to your office to be placed into your file on this application.

Very truly yours,

HEPWORTH, NUNGESTER & FELTON



D. Brent Martens

DBM:ag

cc: Earl Hardy
Terry E. Coffin

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JAN 15 1982

Department of Water Resources

MEMORANDUM

TO: IDAHO STATE DEPARTMENT OF WATER RESOURCES
Attention: A. Kenneth Dunn, Director

RE: Water Right Permit Application No. 37-7842

FACTUAL BACKGROUND

This Memorandum is offered in support of that water right permit application No. 37-7842 filed with the Idaho State Department of Water Resources on or about June 30, 1980.

In 1978 the Idaho Legislature adopted the Groundwater Recharge Act which provided for the establishment of an aquifer recharge district within Jerome, Lincoln, Gooding and Twin Falls Counties. Pursuant to the Act, a recharge district was subject to formation upon the submission of a proper petition to the Idaho State Department of Water Resources.

Shortly after the enactment of the Act, numerous interested parties became actively involved in the establishment of what is now known as the Lower Snake Aquifer Recharge District.

On or about June 30, 1980, application for Permit No. 37-7842 was filed with the Idaho State Department of Water Resources. This application was filed by several of the individuals actively engaged in the formation of the Lower Snake Aquifer Recharge District, namely Earl Hardy, Thorlief Rangen, John W. Jones, Jr., and John LeMoyne. Pursuant to Power of Attorney submitted with their application, Mr. Earl Hardy was designated as spokesman for the individual applicants. The application sought 800 c.f.s. of water for groundwater recharge purposes. Furthermore, the application carefully and specifically

1 provided that the same was being submitted pursuant to Chapter 42
2 of Title 42 of the Idaho Code. In these regards the application
3 states in paragraph 5 and paragraph 10 as follows:

4 (5) If water is to be used for other purposes
5 describe: Groundwater recharge subject to the
6 requirements of Title 42, Chapter 42, Idaho Code.

7 (10) Remarks: Applicant agrees to meet
8 specifically the requirements of 42-4201(2)
9 subordinating applicant's right to all prior
10 perfected water rights, including those held by any
11 privately owned electric generating company, and
12 42-4201(3) providing for the reduction of
13 applicant's right under certain conditions.
14 Applicant further agrees to meet all additional
15 requirements and conditions of Title 42, Chapter 42.

16 Applicant's filing is being held in trust for a
17 recharge district being formed under 42-4202 Idaho
18 Code. Applicant agrees to assign application to the
19 recharge district upon reimbursement of costs.

20 Although the application for permit has not yet been
21 approved by the Idaho State Department of Water Resources, the time
22 for filing of protests to that application has expired. To the
23 knowledge of the applicants, no timely protests were submitted.
24 However, following the time for filing of protests Mr. Terry E.
25 Coffin, attorney at law, submitted a written letter dated
26 September 25, 1981, in protest of the application. The letter was
27 purportedly submitted on behalf of Cogeneration, Inc., an Idaho
28 corporation. On October 1, 1981, A. Kenneth Dunn, Director of the
Idaho State Department of Water Resources, advised Mr. Coffin that
the time for protest had expired, but that a written Brief would be
received and considered by the Department in acting upon the
application for permit. On November 9, 1981, the Lower Snake
Aquifer Recharge District was formally created following the
statutory procedures set forth in Idaho Code Section 42-4202 and

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1 Section 42-4203.

2 On November 16, 1981, Mr. Terry Coffin submitted his
3 Memorandum in letter form as suggested by the Director of the
4 Department of Water Resources in his letter of October 1, 1981.
5 Pursuant to that letter of November 16, 1981, Mr. Coffin does now
6 purportedly represent Hydro Energy Financing and Development, a
7 joint venture.

8

9

LAW AND ARGUMENT

10 It unquestionably was the intention of the applicants
11 under Water Right Application No. 37-7842 to submit that
12 application not in their individual capacity, but rather as
13 representatives for the proposed recharge district which was then
14 contemplated and which was then in the process of being formed.
15 Apparently it is the argument of Hydro Energy Financing and
16 Development, in its written memorandum, that the Lower Snake
17 Aquifer Recharge District cannot be the beneficiary of Water Right
18 Application No. 37-7842 insofar as it was filed in the names of
19 several individuals and at a time before the recharge district was
20 officially formed. A principle question is then presented as to
21 the right of the promoters of the district to take the initial
22 steps in the acquisition of a water right for the benefit of that
23 proposed district and at a time before the final formation of that
24 district. Together with this question must be analyzed the issue
25 as to the right of the district, upon its creation, to ratify and
26 confirm the actions of its promoters and to succeed to the benefits
27 acquired by those promoters.

28

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1 The situation can be best correlated to that where an
2 individual enters into a contract or otherwise takes actions on
3 behalf of a contemplated but unorganized corporation. It is very
4 common that an individual or group of individuals will enter into
5 pre-incorporation contracts and agreements and will otherwise seek
6 to acquire property or other benefits on behalf of a corporate
7 entity not yet created. In the case of Powerine Co. v. Russell's,
8 Inc., 135 P.2d 906 (Utah 1943), a promoter is defined as follows:

9 . . . As defined in Fletcher Cyc. on Corp., Vol. 1,
10 Page 597, a "promoter includes those who undertake
11 to form a corporation, and to procure for it the
12 rights, instrumentalities and capital by which it is
13 to carry out the purposes set forth in its charter,
and to establish it as fully able to do business",
citing Old Dominion Copper Min. & Smelt. Co. v.
Bigelow, 203 Mass. 159, 89 N.E. 193, 40 L.R.A.,
N.S., 314.

14 In Bigelow v. Old Dominion Copper Mining & Smelting Co.,
15 71 A 153 (N.J. _____) a promoter was similarly defined as follows:

16 . . . "a promoter is one who seeks opportunities for
17 making advantageous purchases and profitable
18 investments in industrial or other enterprises, who
19 interests men of means in such a project when found,
organizes them into a corporation for the purpose of
'taking over' the project, and attends upon the
newly formed company until it is fully launched in
business."

20 The relationship between a promoter and the yet uncreated
21 corporation is discussed at some length in Fletcher Cyclopedia
22 Corporations (Permanent Edition, Vol. 1, Sec. 192), where it is
23 further stated:

24 It is settled law that persons who promote a
25 corporation are or become charged with certain
26 duties and responsibilities even before the
corporation comes into existence, . . .

27 * * *

28 MEMORANDUM - 4

1 Promoters are not the corporation itself, and
2 although they may be regarded, for certain purposes,
3 as sustaining to the corporation a relation similar
4 to that of an agent, are subject to certain
5 disabilities of an agent, and even have been stated
6 in terms to be agents of the corporation, strictly
7 speaking, they cannot be regarded as such, there
8 being at the time no existent principal. It is
9 equally well settled that a promoter does sustain a
10 fiduciary relation or a relation of trust and
11 confidence to the corporation. This fiduciary
12 relation continues at common law until the plan or
13 scheme of promotion has been accomplished, and where
14 the promotional plan includes the continued
15 operation of the corporation, its incurrence of
16 taxes, debts and liabilities and the procurement of
17 capital by sale of the corporation's stock to the
18 public, the promoter's obligation of good faith
19 continues to the completion of such plan. It may be
20 said that there can be no trust without parties and
21 a subject matter, any more than there can be an
22 agency without a principal; but the objection on
23 either theory is met by imposing the fiduciary
24 obligations of an agent or trustee to prevent fraud
25 or inequitable dealings, as soon as the need to do
26 so is asserted, so far as necessary to prevent
27 fraud, or, it may be added, to work out statutory
28 and contract rights. The doctrines of constructive
and implied trusts need little, if any, stretching
to fit the case of promoters, and seem to afford
both a basis for and an explanation of the fiduciary
duties imposed on them.

As explaining some of the applications of the
trust relation and liability consistently with trust
principles, attention is called to the differences
between express, implied, resulting and constructive
trusts. Obviously a promoter might sustain any of
these trusts, yet the first three rest in intention
expressed or implied and the last exists in
disregard of intention. Even an express trust may
be in futuro, executory and revocable until a
beneficiary, who is not a mere volunteer, claims
under it or comes into existence. The fiduciary
relation or trust attaches when there are parties
and a subject matter as to which it may operate, and
it does not necessarily cease upon the organization
of the corporation and election of directors. . . .

* * *

It is the duty of the promoters to retain in
their hands the property which is to constitute

1 corporate assets until the corporation is formed, to
2 cause it to be formed within a reasonable time, and
then to turn over to it the assets so held. . . .

3 The principles set forth above can be easily applied to
4 the facts of the present case. The relationship between those
5 individuals named on Application for Permit No. 37-7842 and the
6 Lower Snake Aquifer Recharge District is identical to that
7 relationship between a promoter of a corporation and that
8 corporation upon its eventual formation. Those individuals stood
9 in a fiduciary relationship with the proposed recharge district,
10 which fiduciary relationship continued at all times prior to the
11 actual creation of that recharge district. As noted, the law
12 imposes a trust relationship between those promoters and the
13 separate legal entity sought to be created. Any benefits or
14 properties acquired or obtained by promoters on behalf of that
15 legal entity are said to be held in trust on behalf of and until
16 such time as that entity is formally created. It is interesting to
17 note that in this same respect the individual applicants under
18 Water Application No. 37-7842 specifically stated that the filing
19 was being held in trust for the proposed recharge district then
20 being formed under Section 42-4202 of the Idaho Code.

21 Secondly, the basic principles of corporation law clearly
22 dictate that once created, a corporation may succeed to all those
23 rights, benefits and liabilities either obtained by promoters or
24 incurred by promoters in anticipation of the formation of a
25 corporation. While the following quoted material deals with a
26 succession of contract rights and liabilities from a promoter to a
27 corporation, the same principles would be applicable to the
28

1 situation at hand in the present case where the promoters of the
2 recharge district filed that Water Permit No. 37-7842 in
3 anticipation of the creation of that recharge district now known as
4 the Lower Snake Aquifer Recharge District. In Fletcher Cyclopedia
5 Corporations, supra, the following quotes are found:

6 § 207. . . . American courts generally hold that
7 a contract made by the promoters of a corporation on
8 its behalf may be adopted, accepted or ratified by
9 the corporation when organized, and that the
10 corporation is then liable, both at law and in
11 equity, on the contract itself, and not merely for
12 the benefits which it is received.

13 * * *

14 § 208. . . . The statement that a corporation may
15 adopt or ratify the contracts executed by its
16 promoters presupposes, of course, that such
17 contracts are ones which the corporation would have
18 the power to make in the first instance. . . . In
19 positive expression, the corporation may adopt a
20 contract which it might make, and which is
21 beneficial, reasonable and in good faith.

22 * * *

23 § 209. . . . As a general proposition, a
24 corporation may, in the absence of a statutory
25 provision to the contrary, make its promoters'
26 contracts its own in the same manner that it might
27 itself enter into similar contracts as one of the
28 original contracting parties. If there would be no
particular formality to be observed in the latter
case, no particular formality is required in the
former.

 * * *

 § 211. . . . Generally an express adoption or
ratification is not required in order to bind the
corporation; on the other hand, the latter will be
bound where the act or conduct of those who would
have authority to bind it in the first instance in
the matter, is such that an adoption or ratification
must necessarily be implied. Generally, also, if
promoters enter into a contract for the benefit of
the corporation with the understanding, express or
implied, that the contract will be adopted and

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1 performed by the corporation, and the latter, with
2 knowledge of the contract, accepts the benefits
3 thereof, it is bound both in law and in equity to
4 perform the obligations imposed thereby.

5 See also the case of Albano et al v. Motor Center of
6 Pocatello, 75 Idaho 348 (1954), where it is said:

7 It is urged that no corporate entity was in
8 existence at the time of the execution of the
9 purported contract of sale and hence there was no
10 purchaser. The contract was made and the notice to
11 the creditors given for and on behalf of the
12 corporation prior to the completion of the corporate
13 organization; subsequently the corporate
14 organization was completed and of course the
15 corporation made a party defendant by the
16 respondents who seek now to hold it responsible.

17 Generally, if promoters of a corporation in
18 contemplation of its organization enter into a
19 contract for and on behalf of the corporation which
20 was intended for its benefit and the contract is
21 adopted, accepted, confirmed and ratified by the
22 corporation when organized, such corporation is then
23 liable, both in law and in equity, to perform the
24 obligations imposed thereby. Hackbarth v. Wilson
25 Lumber Co., 36 Idaho 628, 212 P. 969; Henry Gold
26 Mining Col. v. Henry, 25 Idaho 333, 137 P. 523;
27 Mantle v. Jack Waite Mining Co., Ltd., 24 Idaho 613,
28 135 P. 854, 136 P. 1130. See also Fletcher
Cyclopedia Corporations, Permanent Edition, Vol. 1,
sec. 207, p. 681 and sec. 211, pp. 701-2.

18 In light of the above authorities, a court of law would
19 readily conclude that a corporation could succeed to and benefit
20 from those actions taken by its promoters in anticipation of its
21 creation. Undoubtedly, a promoter of a private corporation could,
22 in his own individual name, make a filing with the Idaho State
23 Department of Water Resources of an application for water permit,
24 and thereafter assign and transfer that application unto the
25 corporation, following its organization. So, too, logic dictates
26 that a water recharge district, once created, must be entitled to
27 receive, ratify and confirm all benefits, contract, or actions
28

1 taken on its behalf by its promoters, in this case those
2 individuals responsible for the filing of Water Application No.
3 37-7842.

4 In the letter of protest filed on behalf of Hydro Energy
5 Financing and Development, a joint venture, it is emphasized that
6 Idaho Code § 40-4201(2) states that the Department of Water
7 Resources is authorized to issue a water permit for groundwater
8 recharge to an "aquifer recharge district". It is further pointed
9 out that the language of that subsection further authorizes the
10 Department of Water Resources to issue a license to the "aquifer
11 recharge district". The argument is made that while Application
12 No. 37-7842 is in the name of several individual applicants, it
13 must be deemed invalid and cannot provide the basis for the
14 issuance of either a permit or a license to the Lower Snake Aquifer
15 Recharge District.

16 Despite the arguments of the protestant, there is nothing ✓
17 indicated in the statutory language which would prohibit the filing
18 of an application for water permit by several individuals on behalf
19 of a proposed but yet unformed aquifer recharge district. A
20 reading of Idaho Code § 42-4201(2) speaks only to the issuance of a
21 permit and to the subsequent issuance of a license in favor of an
22 aquifer recharge district established pursuant to Idaho Code
23 § 42-4202 and Idaho Code § 42-4203. The individual applicants
24 under Water Application No. 37-7842 have assigned and transferred
25 all of their right, title, claim and interest under that permit
26 unto the Lower Snake Aquifer Recharge District which has now been
27 formally created pursuant to the above-referenced Idaho statutes.

28

MEMORANDUM - 9

1 In light of that action already taken, the issuance of any permit
2 by the Idaho State Department of Water Resources will be made not
3 in favor of the original individual applicants shown on Water
4 Application No. 37-7842. Rather that issuance will be in favor of
5 Lower Snake Aquifer Recharge District, to which has inured all
6 benefits and rights under that application. The Idaho State
7 Department of Water Resources is not being asked to issue any
8 permit in violation of the provisions of Idaho Code 42-4201(2), but
9 will rather be asked to issue a permit for groundwater recharge to
10 the Lower Snake Aquifer Recharge District and as contemplated by
11 the provisions of that statute.

12 Furthermore, the granting of a permit to the Lower Snake
13 Aquifer Recharge District will result in a priority date which
14 relates back to the date of filing of the original Application. In
15 Hidden Springs Trout Ranch v. C.J. Allred, 81 ISCR 845 (1981), the
16 primary issue before the Court centered on the retroactive
17 application of Idaho Code Section 42-203 as amended March 29, 1978.
18 The Idaho Court concluded that the amended statute should be
19 retroactively applied to water applications pending as of that
20 date. In so reaching that conclusion, the Court made the following
21 comments which have some importance to the case at bar:

22 Initially, it is important to note that we do not
23 discuss the status of one who has acquired an
24 adjudicated right, a licensed right or an
25 unadjudicated "constitutional" right to water as
26 defined in Idaho statutes or the Idaho Constitution.
27 Nor are we concerned with the status of one who has
28 already procured a water appropriation permit. Cf.
Big Wood Canal Co. v. Chapman, 45 Idaho 380, 263
P.45 (1927) (a permittee secures an inchoate right, a
merely contingent right which may ripen into a
complete appropriation but is not real property and

1 is merely a consent given by the state to construct
2 and acquire real property). Rather, we address
3 today only the status of one who has but initiated
4 the statutory process by the filing of an
5 application for a water appropriation permit and
6 whose application is properly pending when
7 legislation is passed which impacts upon the permit
8 application.

9 * * *

10 . . . We do not find that the mere initiation of the
11 statutory process for water appropriation
12 immediately grants the applicant vested rights in
13 the water. The applicant gains but an inchoate
14 right upon filing of the application which may ripen
15 into a vested interest following proper statutory
16 adherence.

17 Accordingly, in the instant case, at the time the
18 legislation in question was enacted, the status of
19 the appellant had progressed no further than that of
20 an applicant with a pending application. Appellant
21 therefore possessed no vested right which could be
22 interfered with by application of the legislation.
23 The filing of the application for the permit did of
24 course establish the priority date of the
25 appropriation under the doctrine of relation back,
26 but any such priority date right is nonetheless
27 contingent upon future statutory adherence and
28 issuance of a license, I.C. § 42-219, and is not
therefore a right rising to any vested level which
would preclude application of the amended I.C.
§ 42-203.

The priority date of a water permit relates back to the
date of filing of the Application. The only limitation imposed is
the requirement that there be future statutory adherence and
eventual issuance of a license.

Finally, the argument is made that the application in
this instance should be denied under Idaho Code § 42-203 on the
basis that it is speculative in nature and that sufficient
financial resources do not exist in order to complete the work
contemplated. As already noted, the individuals signing the water

MEMORANDUM - 11

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1 application did so expressly on behalf of the proposed water
2 recharge district. In addition thereto, these individuals have now
3 assigned and transferred any rights or benefits under that
4 application unto the Lower Snake Aquifer Recharge District. As
5 intended at all times, that district is now the applicant seeking
6 the issuance of the permit. The critical question to be determined ✓
7 by the Department of Water Resources is whether that applicant at
8 this time is proceeding with a speculative purpose and whether that
9 applicant at this time has sufficient financial resources to
10 complete the work contemplated under that application. Idaho Code
11 § 42-203 expressly and impliedly dictates that the evaluation on
12 these points are to be made at the time of the protest hearing.
13 Following this procedure, one must conclude that the Lower Snake
14 Aquifer Recharge District is not proceeding from a speculative
15 standpoint, but is rather acting in good faith and with full intent
16 to apply the water sought under the application to the beneficial
17 uses enumerated in that application. This good faith is clearly
18 exemplified by that documentation and detailed information already
19 presented by the organizers of the district to the Department of
20 Water Resources in order to effectuate its formation pursuant to
21 Idaho Code § 42-4202. Certainly, this Department would not have
22 proceeded with nor authorized the formation of the Lower Snake
23 Aquifer Recharge District had there been evidence that those
24 organizers were acting speculatively or with purposes in mind other
25 than that specifically contemplated under § 42-4201. The Lower
26 Snake Aquifer Recharge District, as the applicant herein, intends
27 to proceed diligently and in the utmost good faith in putting to
28

MEMORANDUM - 12

1 beneficial use those waters sought pursuant to the above-referenced
2 application.

3 There is no question but that the Lower Snake Aquifer
4 Recharge District does possess the ability to secure the necessary
5 financial resources in order to complete the work contemplated.
6 The Legislature, in enacting Chapter 42 to Title 42 of the Idaho
7 Code, specifically provided a means whereby a groundwater recharge
8 district could acquire necessary financing and funds to construct
9 the required diversion works and facilities of the district.
10 § 42-4215 provides for the levy of assessments against water users
11 within the district. Furthermore, § 42-4216 specifically
12 authorizes a groundwater recharge district to borrow money from a
13 lending institution, with such a loan then repaid with those
14 assessments collected on an annual basis from water users within
15 the district.

SUMMARY

18 No substantial showing can be made to invalidate the
19 Application for Water Permit No. 37-7842 nor to provide grounds for
20 its denial under Idaho Code Section 42-203.

21 The individual applicants were clearly acting on behalf
22 of the proposed recharge district at the time the Application was
23 made. In this sense, the Lower Snake Aquifer Recharge District was
24 the original applicant. Legal authorities clearly recognize the
25 right of an organizer to take action on behalf of an organization
26 before its formal creation. Those contracts and those acts of the
27 organizers, i.e., promoters, may be ratified, approved and affirmed

28

MEMORANDUM - 13

**LAW OFFICES
HEPWORTH
NUNGESTER
and
FELTON**

1 by the organization following its formation. Application for Water
2 Permit No. 37-7842 was made on behalf of Lower Snake Aquifer
3 Recharge District. All rights of the individual applicants have
4 likewise been assigned to that District. Request is now made for
5 issuance of a permit in favor of that District. When granted, the
6 priority date will relate back to date of filing of that
7 Application.

8 Furthermore, the Lower Snake Aquifer Recharge District,
9 as applicant, is not pursuing this matter with any speculative
10 purposes or designs, but is rather acting in good faith. Its sole
11 purpose in pursuing this application is identical to that purpose
12 which instigated its own formation -- namely, the desire to insure
13 the adequate recharge of the Lower Snake River Aquifer. Likewise,
14 the statutory means of financing this project disposes of the
15 argument that the applicant does not possess the financial means to
16 proceed.

17 DATED this 14th day of January, 1982.

18 HEPWORTH, NUNGESTER & FELTON

19 By Brent Martens
20 D. Brent Martens, of the firm
21 Attorney for Lower Snake
22 Aquifer Recharge District
23
24
25
26
27

28 MEMORANDUM - 14

MICROFILMED

December 18, 1981

RE: Application for Permit No. 37-7842

Earl Hardy
1301 Vista Ave.
Boise, ID 83705

Dear Mr. Hardy:

Please be advised that due to the highly contested nature of waters in the Wood River Drainage, the Director plans to review the above referenced application soon. Therefore, we request that any replied to the correspondence identified in your letter dated December, 3, 1981, be submitted on or before January 15, 1982.

It appears from your letter that you have already reviewed copies of the correspondence identified therein. Therefore additional copies are not enclosed but we can provide them if you wish.

Please feel free to call on me if you need any additional information..

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:kw
cc: Thorleif Rangen
John LeMoyne
John W. Jones
John Hepworth

PHONE 342.0090

EARL M. HARDY
BOISE, IDAHO 83705

1301 VISTA AVENUE

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December 3, 1981

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Department of Water Resources

A. Kenneth Dunn
Idaho Department of Water Resources
450 West State Street
Boise, Idaho 83702

Re: Application for permit No. 37-7842

Dear Mr. Dunn:

As your records show, subject permit was filed by me in trust for the Lower Snake Aquifer Recharge District, which district was authorized by the Idaho State Legislature. The hearing on this application was held on August 27, 1981 at the Gooding City Hall.

No. This was the hearing on formation of the Lower Snake Aquifer Recharge District.
DRR

On September 25, 1981 a letter was written to you by Mr. Terry Coffin of Runft, Stecher & Coffin, Chartered on behalf of Cogeneration, Inc., to which you replied on October 1, 1981.

On November 16, 1981 Mr. Coffin submitted another letter regarding subject application.

On October 7, 1981 Mr. Paul L. Jauregui of Idaho Power Company also filed a letter in the matter.

Please be advised that Mr. John C. Hepworth of Hepworth, Nungester & Felton, Twin Falls, will reply to these letters in our behalf.

Sincerely,

Earl M. Hardy
Earl M. Hardy

cc: Thorleif Rangen
John LeMoyne
John W. Jones
John Hepworth

EMH/dk

MICROFILMED

November 19, 1981

Mr. Paul Jauregi
Idaho Power Company
Box 70
Boise, Idaho 83707

Dear Paul:

I have reviewed your letter of October 7, 1981, regarding application for permit no. 37-7842 to appropriate waters for the purpose of aquifer recharge. As you noted, any water rights acquired by the recharge district would be subject to any prior, perfected water rights which Idaho Power Company holds on the waters as described in I.C. § 42-4201(2). After reviewing the department's files, I found three water rights licenses for Idaho Power Company on the Malad River, for 900 cfs, 650 cfs, and 700 cfs, respectively.

Since your letter did not refer to these licenses, or to any other quantifications of Idaho Power's water rights on the Snake, the department does not fully understand the letter's purpose. Are you referring to water rights which are not represented by permit, license or decree? If your letter refers to water rights not of record, the department needs more information from you.

To resolve this uncertainty please supply the department with a list of Idaho Power's water rights which you feel could be affected by application for permit no. 37-7842, showing the amounts of water beneficially used. Any supporting data which would establish the amounts of water beneficially used should also be provided.

Sincerely,

Howard Carsman
Deputy Attorney General
Department of Water Resources

HC:jh

cc: *Larry Coffin*

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JOHN L. RUNFT
DAVID J. STECHER
TERRY E. COFFIN
JOHN F. ADLARD
W. HUGH O'RIORDAN

RUNFT, STECHER & COFFIN, CHARTERED
ATTORNEYS & COUNSELORS AT LAW
420 WEST BANNOCK STREET
P.O. BOX 1960
BOISE, IDAHO 83701

NOV 16 1981

TELEPHONE
(208) 345-6521

Department of Water Resources
Iver J. Longeteig
of Counsel

November 16, 1981

HAND DELIVERED

A. Kenneth Dunn, Director
Idaho Department of Water Resources
450 West State Street
Boise, Idaho 83702

Re: Application ID No. 37-7842/Earl Hardy, et al.

Dear Mr. Dunn:

On September 25, 1981, I corresponded with you on the above-referenced application on behalf of Cogeneration, Inc. A copy of that letter is attached for your reference. On October 1, 1981, I received your response to that letter denying my request for a hearing, but inviting the submission of a brief or memorandum explaining my position. A copy of that letter is attached. This letter is written on behalf of Hydro Energy Financing and Development, a joint venture, and does not necessarily reflect the views of Cogeneration, Inc.

On October 16, 1981, David R. Tuthill, Jr., P.E., Supervisor, Water Allocation Section for the Idaho Department of Water Resources, forwarded a letter to interested parties regarding the creation of the lower Snake Aquifer Recharge District. A copy of that letter is attached for your reference.

On October 7, 1981, Mr. Paul L. Jauregui, an attorney for Idaho Power Company forwarded a letter to you regarding the Application for Permit to Appropriate Water of the State of Idaho, Identification No. 37-7842, Earl Hardy, et al. A copy of that letter is attached. The purpose of Mr. Jauregui's letter was to notify your Department, as well as the applicants under ID No. 37-7842, of Idaho Power Company's rights in and to water and the protection thereof under subsection (2) of Idaho Code, Section 42-4201. Idaho Power Company did not quantify its "water right", but rather stated:

"The company's position and comment is therefore, that if the permit is approved that any right obtained thereunder must not at any time interfere with any hydroelectric generation at Idaho Power Company facilities on the Big Wood River (Malad River) or on the Snake River below the confluence of said River and the Snake River through Hells Canyon and any adverse effect on the company's generation of hydroelectric energy would require full compensation for all losses and expenses incurred by the company due to such interference."

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A. Kenneth Dunn, Director
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Page Two

Prior to the passage of Idaho Code, Section 42-4201 by the Idaho Legislature in 1978, no project to recharge ground water basins existed and it was certainly far from clear that the Director of the Department had any authority to issue a permit for the purposes of ground water recharge. In 1978, the Idaho Legislature passed Idaho Code, Section 42-4201 which reads in pertinent part as follows:

"(2) In view of the public betterment to be achieved by the completion of this water project, the Legislature hereby declares that the appropriation and underground storage of water by the aquifer recharge district hereinafter created for purposes of groundwater recharge shall constitute a beneficial use and hereby authorizes the Department of Water Resources to issue the aquifer recharge district a permit, pursuant to Section 42-4203, Idaho Code, for the appropriation and underground storage of the unappropriated waters of the Snake River in Jerome, Lincoln and Gooding Counties and its tributaries in Gooding and Lincoln Counties. The Department of Water Resources is further authorized to issue to the aquifer recharge district a license confirming the right to appropriate such waters for the beneficial use herein established upon compliance by the District with the requirement specified in Chapter 2, Title 42, Idaho Code. The rights acquired by the aquifer recharge district pursuant to any permit and license obtained is herein authorized shall be secondary to all prior perfected water rights, including those held by any privately-owned electrical generating company to appropriate waters in the reaches of the Snake River downstream from the Milner Diversion for purposes of hydroelectric power generation."

The application at issue, ID No. 7842, is in the name of individual applicants, to wit: Earl Hardy, Thorleif Rangen, John W. Jones, Jr., and John LeMoyne. The aquifer recharge district was not formed pursuant to the requirements of Chapter 42, Title 42, Idaho Code, until November 9, 1981. The application of the four individuals was filed much before the district was formed. That chapter sets out a very specific

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A. Kenneth Dunn, Director
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Page Three

legislatively-required process for the establishment of the recharge district which, when formed, will have the right to apply for and receive a permit and a license for water appropriation for recharge purposes pursuant to Idaho Code, Section 42-4201. It appears from the record that no such recharge district had been formed prior to November 9, 1981, and clearly, since it had not been formed, could not have granted any authority to the individual applicants before the Department to act on its behalf.

Idaho Code, Section 42-203, sets forth five major considerations which the Director may look to with regard to any application and based upon such considerations he may reject such an application and refuse the issuance of a permit, or may partially approve and grant a permit for a smaller quantity of water than applied for, or he may grant the permit upon conditions.

Item three therein allows the Director to take the aforementioned action "where it appears to the satisfaction of the Department that such application is not made in good faith, is made for delay or speculative purposes . . ." Clearly here, any application made by Earl Hardy, et al. in their individual capacity, was speculative in that they purported to act on the part of a recharge district which had not yet been formed at the time of the application and which, at the time of the application, may not have ever been formed. Item four set forth in the statute allowing the Director to refuse to grant the permit states that he may do so when it appears "that the applicant has not sufficient financial resources with which to complete the work involved therein. . . ." Title 42, Chapter 42, Idaho Code, anticipated that a great deal of expense would be involved in establishing and operating a recharge district. It does not appear from the record with regard to the instant application that the individual applicants have the financial resources to carry through the project (even assuming that they have the authority) nor does it appear that they intend to utilize their own funds. ✓

In addition to the fact that the four individual applicants have no grant of authority under law to file an application for water to be appropriated for use in recharging aquifers, there is no assurance that, if they are granted a water right, they will transfer the water rights to validly establish a recharge district. ✓

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A. Kenneth Dunn, Director
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November 16, 1981
Page Four

Each of the four individual applicants would, under Idaho law, have the power to apply for water permits for their own use to the extent to which they could place it to a beneficial use. Here, the four individual applicants clearly cannot put 800 cfs to work for their own purposes and the application by them was purely speculative. ✓

Idaho Code, Section 42-4201(2) leaves no doubt that the appropriation of underground storage of water by the aquifer recharge district constitutes a beneficial use of the appropriated water. However, it is far from clear that individuals such as have made application here are entitled to make application for appropriation of water for purposes of ground water recharge. An application by individuals for such purposes would, under a reading of Idaho Code, Section 42-4201, not be for a beneficial purpose. ✓

The application at issue is further speculative since the boundaries of the recharge district were not yet established when the individual application was filed, nor has the amount of water necessary for recharge within the boundaries of the district been established. Therefore, the application for 800 cfs for ground water recharge by the four individuals is speculative. ✓

It is respectfully submitted that the procedures for formation of the recharge district as set forth in Idaho Code, Section 42-4201, et seq., must be read separate and apart from the procedures for obtaining a water right in general. Clearly, a water right is available to a recharge district after its formation. A recharge district is formed pursuant to the procedures set forth in Chapter 42, Title 42, Idaho Code.

Idaho Code, Section 42-4212 sets forth the powers and duties of the board of directors once the recharge district is established. That statute reads in pertinent part as follows:

"The board shall have the following powers and duties:

* * *

(2) to employ and appoint such agents, officers and employees as may be required and prescribe their duties; . . . "

* * *

MICROFILMED

A. Kenneth Dunn, Director
Idaho Department of Water Resources
November 16, 1981
Page Five

(7) to acquire, either by purchase, condemnation or other legal means, all lands and other property necessary for the construction, use and supply, maintenance, repair and improvement of diversion works and facilities. The power of condemnation shall be limited to the acquisition of land and/or easements for right-of-way purposes only. The appropriation and storage of underground waters of the Snake River and its tributaries by the aquifer recharge district, together with the acquisition of such rights-of-way for the construction, maintenance and improvements of such diversion works and facilities as are necessary to the accomplishment of the purposes of the district is hereby declared to be a public use, subject to the regulation and control of the State in the manner prescribed by law."

It is respectfully submitted that the four individual applicants herein have never had authority to make application for the water rights sought. While a vested water right may be sold or transferred, it is our position that an invalid application cannot later be made valid by the assignment or transfer of said application to another entity. Therefore, it is our position that since the initial application was invalid, it cannot later be validated by an assignment or transfer of the application date and identification number to the recharge district if and when it is established. Rather, the recharge district must, after its establishment, then file its own application for appropriation of water. The recharge district, has not filed an application for a water right. The water right applied for by the four individuals is invalid and cannot be transferred and therefore, under no circumstances should the recharge district be allowed to utilize the application date for application ID No. 37-7842. ✓

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A. Kenneth Dunn, Director
Idaho Department of Water Resources
November 6, 1981
Page Six

Lastly, it is our position that in order to avoid the waste or misuse of Idaho's water resources and further, to avoid, alternatively, the unnecessary administrative or judicial resolution of conflicts regarding Idaho's water resources, that Idaho Power should be required to quantify its rights under Idaho Code, Section 42-4201(2). Unless this Department requires Idaho Power to so quantify, the Department, as well as any water users, will be operating without sufficient guidelines as to the extent of their water appropriations upstream from the Idaho Power facilities. ✓

With the advent of the Federal Public Utility Regulatory Policies Act of 1978, many "privately-owned electrical generating companies" will be seeking water appropriation permits and licenses. It appears that each of those privately-owned hydroelectrical generating companies will be required to quantify their appropriations. Idaho Power Company should be required to quantify its current appropriation for hydroelectric uses. It goes without saying that Idaho Power would be capable of determining the quantities necessary for its own use. In the event Idaho Power Company is unwilling to do so, it will cause not only problems for the Department and future appropriators, but will also make it difficult, if not impossible, for small hydroelectric energy producers under the Federal Public Utility Regulatory Act of 1978 to conduct business. By declining to quantify its water requirements, Idaho Power Company may also discourage small hydroelectric development under the federal act because of potential liability to Idaho Power for water used under permit from the State, the use of which may prove detrimental to Idaho Power's generating capacity.

For the foregoing reasons it is respectfully submitted that the application filed by the four individual applicants is a nullity and is void and may not be assigned to or accepted by any recharge district created after the application. Any application for an appropriation under Idaho Code, Section 42-4201(2) must be made by the recharge district by its authorized agents after the establishment of the recharge district itself.

It is further respectfully submitted that the Department, if it fails to require Idaho Power Company to quantify its water rights on the Snake River and its tributaries, will be jeopardizing the efficient distribution and use of Idaho's water resources. By failing to require Idaho Power to disclose its needs, it may place unacceptable potential liability upon ✓

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A. Kenneth Dunn, Director
Idaho Department of Water Resources
November 16, 1981
Page Seven

would-be applicants who desire to establish privately-owned hydroelectric generation companies under the Public Utility Regulatory Policies Act of 1978.

RUNFT, STECHER & COFFIN, CTD.



TERRY E. COFFIN

TEC:aa

Attachments

cc: Members of the Board
Idaho Dept. of Water Resources

Howard Carsman, Esq.

RECEIVED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 1, 1981

Terry Coffin
P. O. Box 1960
Boise, ID 83701

Dear Mr. Coffin:

The department understands your clients' concern over water right permit application No. 37-7842, in the names of Earl Hardy, et al. However, the department cannot offer you a hearing. As an apparent protestant to the application, your time for filing a protest and requesting a hearing has long since passed.

You may, if you desire, submit a brief or memorandum explaining your position. Under I.C. Section 42-203, the director must examine five criteria, whether or not an application has been protested, in determining whether a permit should be issued. Any help which you can offer to the director, in the form of a brief, will be appreciated. Out of fairness to the applicants, please serve copies of your written submission upon them.

Sincerely,

A. KENNETH DUNN
Director

AKD:alw

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JOHN L. RUNFT
DAVID J. STECHER
TERRY E. COFFIN
JOHN F. ADLARD
W. HUGH O'RIORDAN

RUNFT, STECHER & COFFIN, CHARTERED
ATTORNEYS & COUNSELORS AT LAW
420 WEST BANNOCK STREET
P.O. BOX 1960
BOISE, IDAHO 83701

TELEPHONE
(208) 345-6521

Iver J. Longeteig
of Counsel

September 25, 1981

HAND DELIVERED

A. Kenneth Dunn
Director
Idaho Department of Water Resources
450 W. State
Boise, Idaho 83702

Re: Application Id. No. 37-7842
Earl Hardy, et al.

Dear Mr. Dunn:

I am writing on behalf of Cogeneration, Inc., an Idaho corporation, and other parties involved in small hydro-electric projects in southern Idaho. On July 2, 1980, applicants Earl Hardy, Thorleif Rangen, John W. Jones, Jr. and John LeMoyné filed Permit Application No. 37-7842 with the Department of Water Resources. The application sought the appropriation of water on the Little Wood and Big Wood Rivers, the diversion for which would be located in the southwest quarter of the southeast quarter of Section 24, Township 4 South, Range 19 East, B.M., Lincoln County, Idaho. The application sought a permit for 800 cfs for groundwater recharge purposes from January 1 through December 31. The application stated that the water would be used for "groundwater recharge subject to requirements of Title 42, Chapter 42, Idaho Code."

Cogeneration, Inc., filed an application for a non-consumptive water appropriation subsequent to the filing by Earl Hardy, et al.

It is the position of Cogeneration, Inc., and other permit applicants concerned with the use of waters for hydro-electric power generation that the application filed by Earl Hardy, et al., is an invalid and inappropriate permit application and that it should be denied by the Department. Idaho Code Title 42, Chapter 42, deals with groundwater recharge and the establishment of an aquifer recharge district. Idaho Code Section 42-4201(2) reads as follows:

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A. Kenneth Dunn
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Page Two

In view of the public betterment to be achieved by the completion of this water project, the legislature hereby declares that the appropriation and underground storage of water by the aquifer recharge district hereinafter created for purposes of groundwater recharge shall constitute a beneficial use and hereby authorizes the Department of Water Resources to issue the aquifer recharge district a permit, pursuant to Section 42-203, Idaho Code, for the appropriation and underground storage of the unappropriated waters of the Snake river in Jerome, Lincoln and Gooding Counties and its tributaries in Gooding and Lincoln Counties.

It is clear that the application for Earl Hardy, et al., is made in their individual names and not in the name of any recharge district. The statute clearly requires that any appropriation for groundwater recharge be made by the district itself. It is my understanding that no such district is presently in existence. Nevertheless, the attempt to appropriate water for groundwater recharge by individual applicants is clearly precluded by the language of Idaho Code Section 42-4201.

Notwithstanding the clear mandate of the statute, other problems will exist if the Department grants the pending application. There is no guarantee that the individual applicants will appropriately assign any rights obtained under the application to the aquifer recharge district at such time as the district is established. Further, the granting of a permit to individuals for groundwater or aquifer recharge in contravention of the statute will tend to cloud water rights on the Snake River and its tributaries.

Idaho Code Section 42-4201 is clear in that it defines appropriation of water for purposes of groundwater recharge as a beneficial use but only when such appropriation is accomplished by the issuance of a permit to an aquifer recharge district. Since no aquifer recharge district has applied for such a permit, none can be issued.

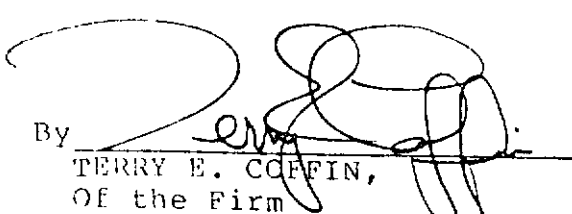
MICROFILMED

A. Kenneth Dunn
September 25, 1981
Page Three

Cogeneration, Inc., and other interested applicants request a hearing before the Director on this issue prior to the issuance of any permit based upon Application No. 37-7842. Additionally, if the request for hearing is denied, it is requested that the Department give prior notice to Cogeneration, Inc., in the event that the Department determines to issue the permit as requested in Application No. 37-7842.

RESPECTFULLY SUBMITTED,

RUNFT, STECHER & COFFIN, CTD.

By 
TERRY E. COFFIN,
Of the Firm

TEC:kd

cc: Members of the Board, Idaho
Department of Water Resources

Howard Carsman, Esq.

bcc: Jim Barber, JUB

RECEIVED
MAY 1982



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

RECEIVED
OCT 19 1981

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 16, 1981

RE: Creation of the Lower Snake Aquifer Recharge District.

Dear Sir:

The Director of this Department is currently considering creation of the above referenced recharge district. Because you attended the hearing in Gooding on this matter, you may be interested in the information that has been obtained since the hearing.

As you recall, a major item of controversy at the hearing was the direction of groundwater flow in the vicinity of the proposed spreading basins. The hydrology section of this Department has prepared a flow map (copy enclosed) which depicts the direction of flow based on our best data.

Based on the map we are considering a small modification in the proposed district boundary. As shown on the map the modification would move the easternmost edge of the district from Section 12, T. 10 S., R. 18 E. (near the Highway 50 Bridge), to the Highway 93 Bridge north of Twin Falls within Section 34, T. 9 S., R. 17 E. Only five waterusers would be eliminated from the District if this change is made.

Please review this information and inform this office by October 26, 1981 if you have any objections to this proposed change.

Sincerely,

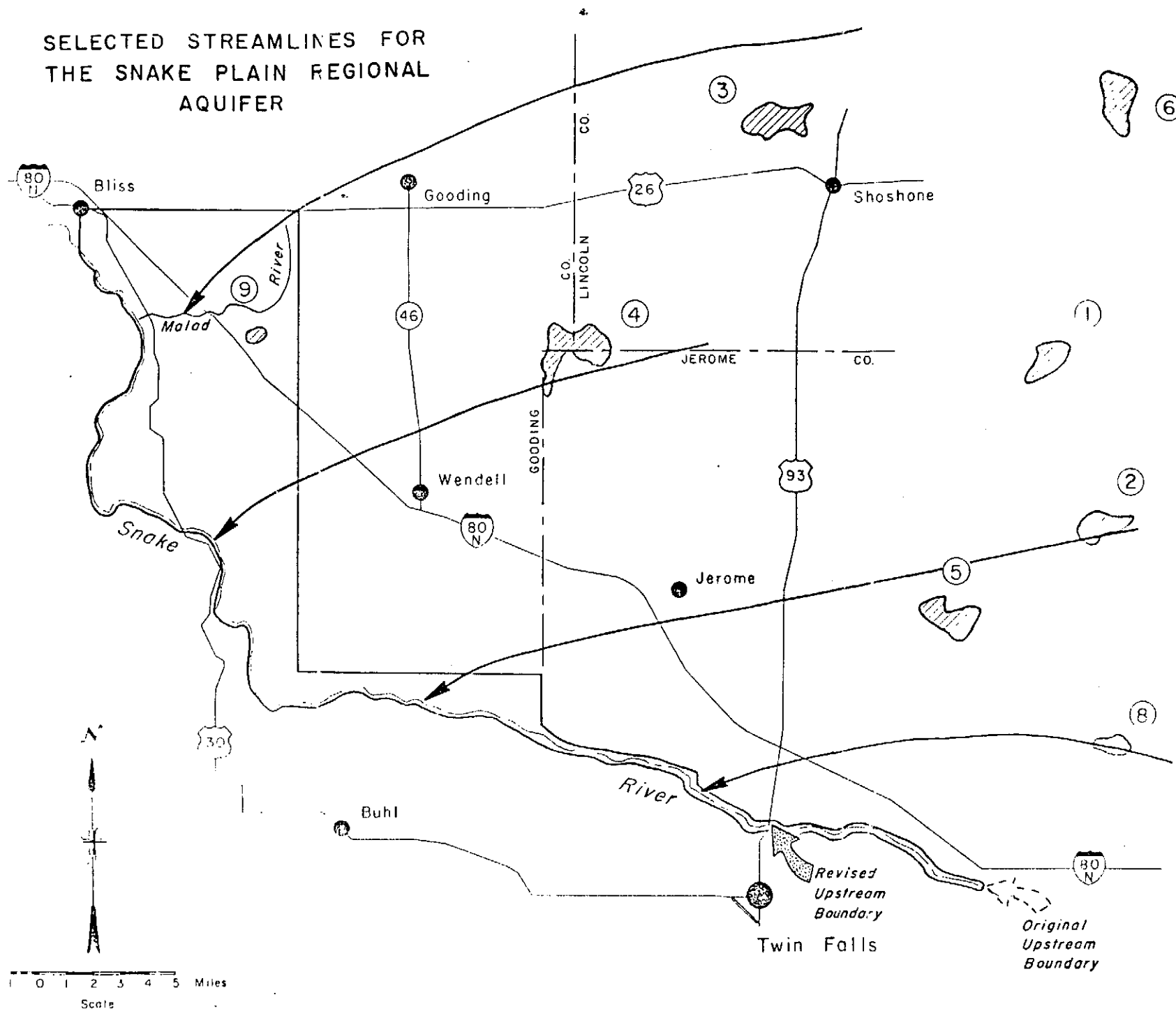
DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

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SELECTED STREAMLINES FOR THE SNAKE PLAIN REGIONAL AQUIFER





IDAHO POWER COMPANY

BOX 70 • BOISE, IDAHO 83707

October 7, 1981

(208) 383-2678

PAUL L. JAUREGUI
Vice President
Secretary and General Counsel

State of Idaho
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Re: Application for Permit to Appropriate Waters of
the State of Idaho Identification Number: 37-7842
Earl Hardy, Thorlief Rangen & John W Jones, Jr.,
and John LeAoyne

Gentlemen:

We have received a copy of the above referenced Application requesting 800 cfs to be appropriated with the point of diversion being the Southwest quarter of the Southeast quarter of Section 24, Township 4 South, Range 19 East, B M, Lincoln County, Idaho, for ground water recharge from January 1 to December 31.

Idaho Power Company requests that this letter be included in the above referenced file and be considered in the decision and action on the above referenced application. The application indicates that the water to be appropriated is to be from the Little and Big Wood Rivers which are a tributary to the Snake River. As you are aware, the Big Wood River is the same river as the Malad River on which this Company has hydroelectric generating facilities. In addition, the water is tributary to the Snake River and the proposed appropriation could have an adverse effect upon this Company's operation of the Upper and Lower Malad Hydroelectric Plants, as well as all hydroelectric plants located on the Snake River from the confluence of the Big Wood River (Malad River), through the Company's Hells Canyon hydroelectric development. It is further noted that the proposed appropriation is for ground water recharge subject to the requirements of Title 42, Chapter 42, Idaho Code. The Idaho Power Company would point out to the applicant and the Department that pursuant to subsection (2) of 42-4201, Idaho Code, that the proposed appropriation and rights acquired by the aquifer recharge district, pursuant to any permit and license, as obtained under Title 42, Chapter 42, Idaho Code, "shall be secondary to all prior perfected water rights, including those held by any privately-owned electric generating company to appropriate waters in the reaches of the Snake River downstream from the Milner diversion for purposes of hydroelectric power generation." The Company's position and comment is therefore, that if the permit is approved that any right obtained thereunder must not at any time interfere with any hydroelectric generation at Idaho Power Company facilities on the Big Wood River (Malad River) or on the Snake River below the confluence of said River and the Snake River through Hells Canyon and any adverse effect on the Company's generation of hydroelectric

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energy would require full compensation for all losses and expenses incurred by the Company due to such interference.

In the event the Applicants or the Department has any question regarding this Company's position at this time or what action would be taken by the Company in the event there would be an interference with its hyroelectric generating facilities or ability to generate at maximum capacity at any of such facilities, please feel free to contact me.

Very truly yours,

Paul L Jauregui
Paul L Jauregui

.jar

cc: L E Lanham
Earl Hardy, Thorleif Rangen, John W James, Jr
and John LeAoyne
1301 Vista Avenue
Boise, Idaho 83705
bcc Terry Coffin

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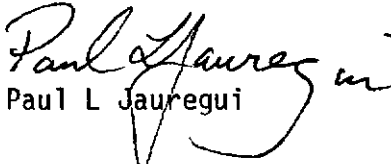
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energy would require full compensation for all losses and expenses incurred by the Company due to such interference.

In the event the Applicants or the Department has any question regarding this Company's position at this time or what action would be taken by the Company in the event there would be an interference with its hydroelectric generating facilities or ability to generate at maximum capacity at any of such facilities, please feel free to contact me.

Very truly yours,


Paul L. Jauregui

jar

cc: L E Lanham
Earl Hardy, Thorleif Rangen, John W James, Jr
and John LeAoyne
1301 Vista Avenue
Boise, Idaho 83705

RECEIVED

October 1, 1981

Terry Coffin
P. O. Box 1960
Boise, ID 83701

Dear Mr. Coffin:

The department understands your clients' concern over water right permit application No. 37-7842, in the names of Earl Hardy, et al. However, the department cannot offer you a hearing. As an apparent protestant to the application, your time for filing appropose and requesting a hearing has long since passed.

You may, if you desire, submit a brief or memorandum explaining your position. Under I.C. Section 42-203, the director must examine five criteria, whether or not an application has been protested, in determining whether a permit should be issued. Any help which you can offer to the director, in the form of a brief, will be appreciated. Out of fairness to the applicants, please serve copies of your written submission upon them.

Sincerely,

A. KENNETH DUNN
Director

AKD:alw

RECEIVED

JOHN L. RUNFT
DAVID J. STECHER
TERRY E. COFFIN
JOHN F. ADLARD
W. HUGH O'RIORDAN

RUNFT, STECHER & COFFIN, CHARTERED
ATTORNEYS & COUNSELORS AT LAW
420 WEST BANNOCK STREET
P.O. BOX 1960
BOISE, IDAHO 83701

TELEPHONE
(208) 345-6521

Iver J. Longeteig
of Counsel

September 25, 1981

HAND DELIVERED

A. Kenneth Dunn
Director
Idaho Department of Water Resources
450 W. State
Boise, Idaho 83702

Re: Application Id. No. 37-7842
Earl Hardy, et al.

Dear Mr. Dunn:

I am writing on behalf of Cogeneration, Inc., an Idaho corporation, and other parties involved in small hydro-electric projects in southern Idaho. On July 2, 1980, applicants Earl Hardy, Thorleif Rangen, John W. Jones, Jr. and John LeMoyne filed Permit Application No. 37-7842 with the Department of Water Resources. The application sought the appropriation of water on the Little Wood and Big Wood Rivers, the diversion for which would be located in the southwest quarter of the southeast quarter of Section 24, Township 4 South, Range 19 East, B.M., Lincoln County, Idaho. The application sought a permit for 800 cfs for groundwater recharge purposes from January 1 through December 31. The application stated that the water would be used for "groundwater recharge subject to requirements of Title 42, Chapter 42, Idaho Code."

Cogeneration, Inc., filed an application for a non-consumptive water appropriation subsequent to the filing by Earl Hardy, et al.

It is the position of Cogeneration, Inc., and other permit applicants concerned with the use of waters for hydro-electric power generation that the application filed by Earl Hardy, et al., is an invalid and inappropriate permit application and that it should be denied by the Department. Idaho Code Title 42, Chapter 42, deals with groundwater recharge and the establishment of an aquifer recharge district. Idaho Code Section 42-4201(2) reads as follows:

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SEP 25 1981

Department of Water Resources

MICROFILMED

A. Kenneth Dunn
September 25, 1981
Page Two

In view of the public betterment to be achieved by the completion of this water project, the legislature hereby declares that the appropriation and underground storage of water by the aquifer recharge district hereinafter created for purposes of groundwater recharge shall constitute a beneficial use and hereby authorizes the Department of Water Resources to issue the aquifer recharge district a permit, pursuant to Section 42-203, Idaho Code, for the appropriation and underground storage of the unappropriated waters of the Snake river in Jerome, Lincoln and Gooding Counties and its tributaries in Gooding and Lincoln Counties.

It is clear that the application for Earl Hardy, et al., is made in their individual names and not in the name of any recharge district. The statute clearly requires that any appropriation for groundwater recharge be made by the district itself. It is my understanding that no such district is presently in existence. Nevertheless, the attempt to appropriate water for groundwater recharge by individual applicants is clearly precluded by the language of Idaho Code Section 42-4201. *well*

Notwithstanding the clear mandate of the statute, other problems will exist if the Department grants the pending application. There is no guarantee that the individual applicants will appropriately assign any rights obtained under the application to the aquifer recharge district at such time as the district is established. Further, the granting of a permit to individuals for groundwater or aquifer recharge in contravention of the statute will tend to cloud water rights on the Snake River and its tributaries.

Idaho Code Section 42-4201 is clear in that it defines appropriation of water for purposes of groundwater recharge as a beneficial use but only when such appropriation is accomplished by the issuance of a permit to an aquifer recharge district. Since no aquifer recharge district has applied for such a permit, none can be issued.

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SEP 25 1981

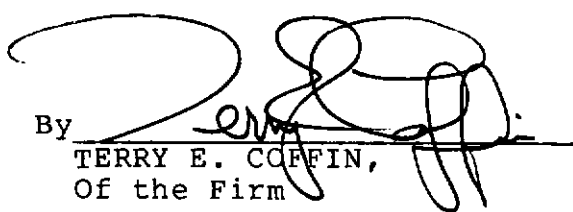
Department of Water Resources

A. Kenneth Dunn
September 25, 1981
Page Three

Cogeneration, Inc., and other interested applicants request a hearing before the Director on this issue prior to the issuance of any permit based upon Application No. 37-7842. Additionally, if the request for hearing is denied, it is requested that the Department give prior notice to Cogeneration, Inc., in the event that the Department determines to issue the permit as requested in Application No. 37-7842.

RESPECTFULLY SUBMITTED,

RUNFT, STECHER & COFFIN, CTD.

By 

TERRY E. COFFIN,
Of the Firm

TEC:kd

cc: Members of the Board, Idaho
Department of Water Resources

Howard Carsman, Esq.

RECEIVED
SEP 25 1981
DEPARTMENT OF WATER RESOURCES

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SEP 25 1981

Department of Water Resources

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT
DATA ENTRY LOG

[illegible]

November 6, 1980

TO: Bob Fleenor - State Office
FROM: Loren O. Holmes *LA*
RE: File 01-7054 - 37-7842

Attached is a petition for creation of the Lower Snake Aquifer Recharge District.

The petition was delivered to this office on November 6, 1980 by John LeMoyne.

The district boundary described in the petition have been reduced from that described in the above water rights applications.

NOTED
11/10/80



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

September 5, 1980

Mr. Alex Schaefer
Department of Health & Welfare
Division of Environment
P. O. Box 1626
Twin Falls, Idaho 83301

Re: Application for Permit No. 37-7842

Dear Mr. Schaefer:

Please find enclosed a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

ALLRED



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

September 5, 1980

Mr. Bob Bell, Regional Fisheries Biologist
Idaho Fish & Game Department
Region #4
P. O. Box 428
Jerome, Idaho 83338

Re: Application for Permit No. 37-7842

Dear Mr. Bell:

Please find enclosed a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

MICROFILMED



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

September 5, 1980

Mr. Reid Newby
Watermaster District 37
Box T
Shoshone, Idaho 83352

Re: Application for Permit No. 37-7842

Dear Mr. Newby:

Please find enclosed a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

MICROFILMED



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

September 5, 1980

U. S. Dept. of Interior
Bureau of Land Management
Shoshone District
112 South Cherry - Box 2B
Shoshone, Idaho 83352

Re: Application for Permit No. 37-7842

Gentlemen:

Please find enclosed a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

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:

37-7842

Hardy, Earl
Rangen, Tharleif
Jones, John W., Jr.
LeMoyne, John

1301 Vista Ave., Boise, Idaho 83705

Source: Little Wood & Big Wood River tributary of Snake River

Date Filed: 6/30/80

Amount: 800 cfs

Diversion Point: SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec.24, T.4S, R.19E, Lincoln County

Use: Groundwater Recharge (800 cfs) from Jan. 1 to Dec. 31

to be P/U incomplete see file

Place of Use: Within the boundaries of the Lower Snake Plains Aquifer Recharge District

located within T5S R14E; T5S R15E; T5S R16E; T5S R17E; T6S R13E; T6S R14E; T6S R15E;
T6S R16E; T6S R17E; T6S R18E; T7S R13E; T7S R14E; T7S R15E; T7S R16E; T7S R17E; T7S R18E;
T7S R19E; T8S R13E; T8S R14E; T8S R15E; T8S R16E; T8S R17E; T8S R18E; T9S R14E; T9S R15E;
T9S R16E; T9S R17E; T9S R18E; T10S R18E .

Possible sites for recharge of the water are within the following described lands:
Sec. 15,16,21,22, 28, T.5S R19E.

Diversion Means: Contract use of Dietrich Canal system and Richfield Canal system.

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 August 17, 1980.

sept 2,

C. STEPHEN ALLRED
Director

Published Lincoln County Journal - July 31 and August 7, 1980.

Aug 14 Aug 21

*called correction
8/1/80*

RECEIVED

July 23, 1980

Lincoln County Journal
P. O. Box 704
Shoshone, Idaho 83352

Re: Application for Permit No. 37-7842

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

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

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

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

Bill submitted: _____

MICROFILMED