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DEPARTMENT OF WATER RESOURCESTransfer No. 70720

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Idaho Dept of Fish & Game Phone 232-4703
Post Office address 1345 Burton Rd Pocatello, ID 83204

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes The Dept acquired this land and water right in 1994 to create the Edson Fichter Nature Area. The water was used in 1998 to irrigate 12 acres of native grasses. Since then irrigation has not been necessary for the grass stands. Current plans for the area are to create a .4 acre wildlife pond. We want to pump water through a pipe to the pond, then allow it to return to the river through a meandering stream.

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>29-02137A</u>	<u>1/27/1912</u>	<u>.24 cfs</u>	<u>wildlife pond</u>	<u>4/1 to 10/31</u>
		<u>4 AF</u>	<u>wildlife storage</u>	<u>01/01 to 12/31</u>
				to _____
				to _____

2. Total amount of water being transferred .24 cubic feet per second and/or 4.102 acre-feet per annum.

3. Source of water Portneuf River tributary to Snake River

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	SE	SE	7	7S	35E	Bannock	N/A

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	35E	7																W	

Total acres _____

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PART 1

6. General Information:

- a. Description of diversion system A pump will be placed at the original diversion site the cut banks & deteriorated diversion dam require that a pump be used. The water will be pumped approximately 300 feet to the pond.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
The 12 acres now have an established native grass stand & no longer need irrigation. The stand has not needed water since 1998. The change in use will have no adverse impacts.

d. Remarks:

The area involved is the Edison Fichter Nature Area. This is a heavily used interpretive area. The change of use is to create a wildlife pond.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

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

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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-2137A V1

WATER RIGHT NUMBER: 29-2137A V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STATE OF IDAHO DEPT OF FISH & GAME PO BOX 25 BOISE, ID 83707 (208)334-2920
Original Owner	ERASTUS M PURKEY POCATELLO, ID 83210
Original Owner	LORRAINE POWELL 5500 BANNOCK HWY POCATELLO, ID 83204 (208)232-2278
Original Owner	JOHN D POWELL JR 5500 BANNOCK HWY POCATELLO, ID 83204 (208)232-2278

Priority Date: 01/27/1912

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
PORTNEUF RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	0.240 CFS	
	<u>Total Diversion:</u>	0.240 CFS	

Location of Point(s) of Diversion

PORTNEUF RIVER	SE1/4SE1/4	Sec. 7, Twp 07S, Rge 35E, B.M.
BANNOCK County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	35E	7													1.0	1.0	.8	9.2	12.0

Total Acres: 12

Conditions of Approval:

- c18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

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07/17/2003

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-2137A V1

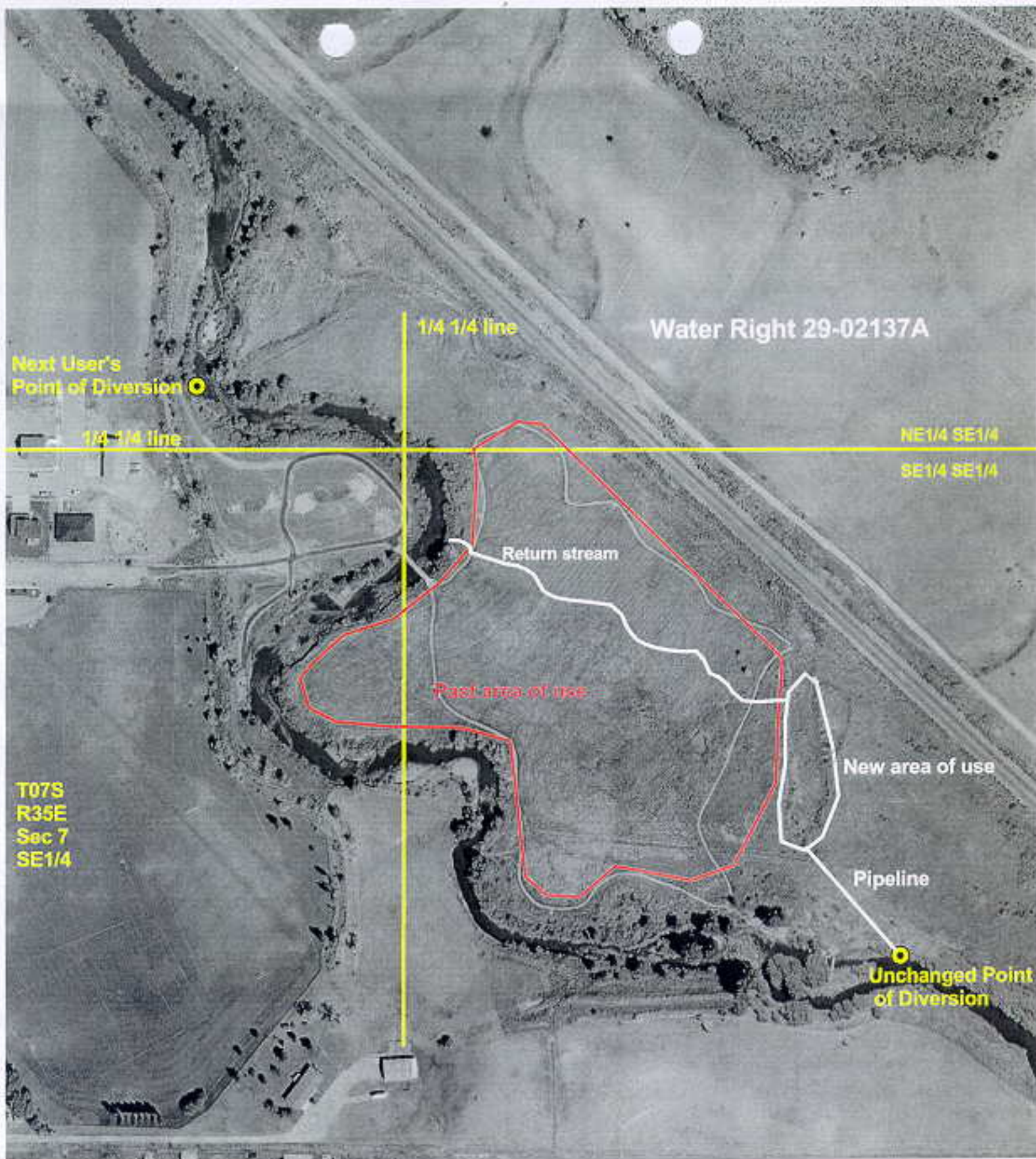
Remarks:

Comments:

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector: OR
Water District Number: 29
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

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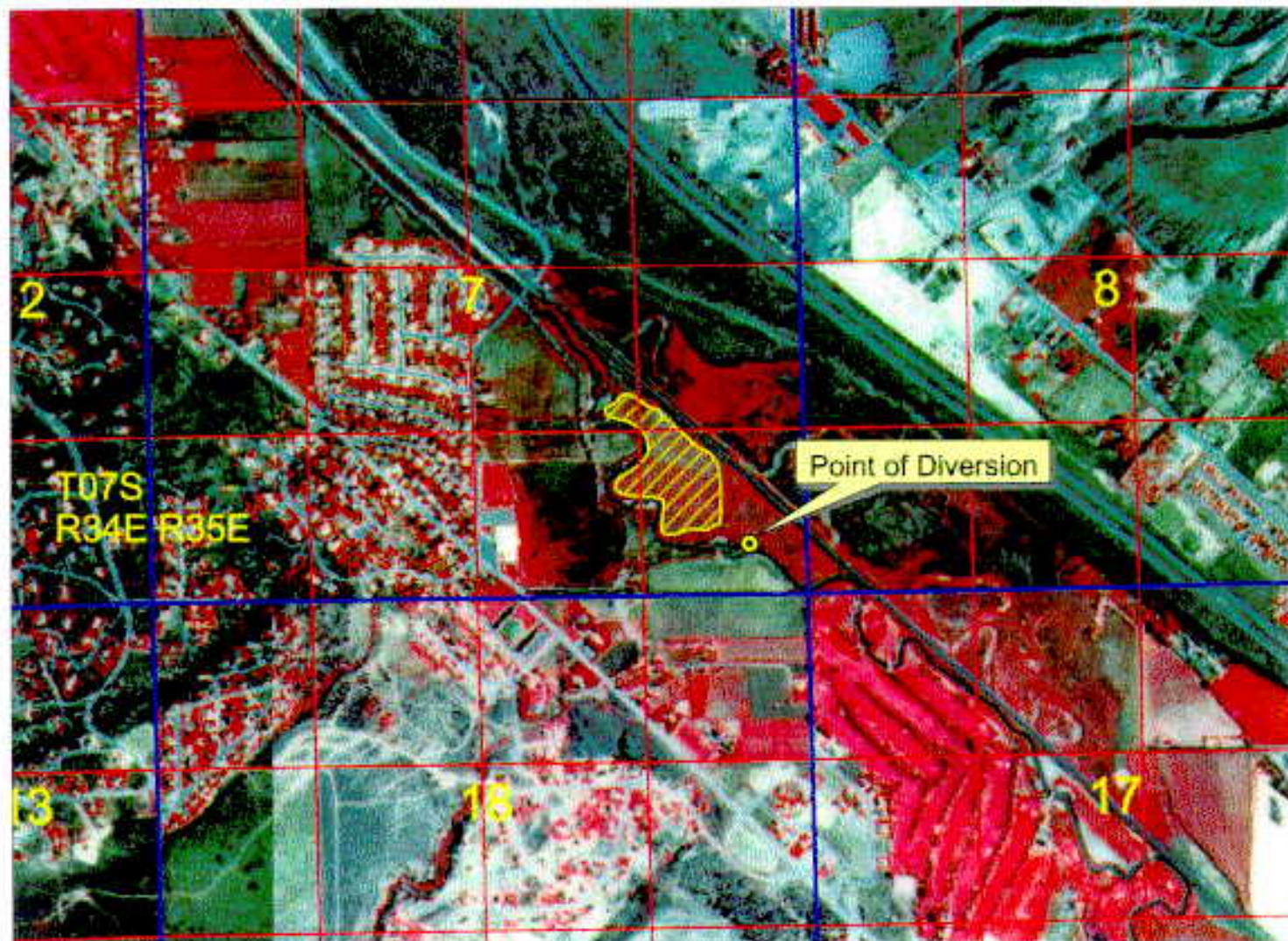
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State of Idaho
Department of Water Resources
Eastern Region

Water Right 29-02137A



0.5 0 0.5 1 Miles

1:16000



-  Point(s) of Diversion
-  Place of Use
-  Section Lines
-  Quarter Quarter Lines

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GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: P. Meyer
Date: December 2002

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	<u>wildlife pond</u>	<u>.24 cfs</u>	<u>24/24/yr</u>	<u>4/1</u> to <u>10/31</u>
	<u>wildlife storage</u>	<u>4AF</u>		<u>01/01</u> to <u>12/31</u>

2. Quantity and quality of return flows and location of discharge: all water will be returned to the river either through surface flow or ground water. The pond + stream will always be within 300 feet of the river. The only water that will be lost will be from evaporation. Discharged water will have less sediment load than original water. Discharge site will be at NW 1/4 SE 1/4 Sec 7, T 7S, R 35E

3. Describe effects on other water uses resulting from the proposed change:
There will be no negative affects on any other water users. All water will be returned to the river prior to any other user diverting their right.

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

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

Subscribed and sworn to before me this 16th day of July, 2003
Eris Anderson (Signature of Applicant)

My commission expires 08/07
Cori Cooper (Notary Public)
CORI COOPER
 Notary Public
 State of Idaho

FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and 6 attachments
 Received by SC Date _____ Protest filed by _____
 Prelim. check by _____ Fee \$250
 Receipted by SC Date 7/16/03 E029004
 Published in Idaho State Journal (Thurs) Copies of protest forwarded by _____
 Pub. dates _____ Hearing held by _____ Date _____
 Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial
 _____ rec'd. _____ by _____
 Copy of transfer sent to lien holder _____

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Attachment I

PART 1.A.2:

The Dept. acquired this land and appurtenant water right in 1994 to create the Edson Fichter Nature Area. The previous owner had grown hay on the twelve acres for a period of five years preceding the sale of the property to the Department. The Department irrigated the twelve (12) acres in 1998 to establish a stand of native grasses. After this stand of native grasses was established, irrigation has been unnecessary. Current plans are to create a wildlife pond with a surface area of 0.4 acres and a capacity of four (4) acre feet. The Dept. intends to pump water into the pond through a pipe year-round. The outflow of the pond would return to the river through a meandering artificial stream.

PART 1.B.6:

The proposed diversion structure is more particularly as follows: A single 7.5 horsepower single phase pump will be placed on the bank at the site of the existing point of diversion. The pump will be connected directly to a 10 inch diameter, 300 foot long, buried plastic pipe. The water will exit the pipe directly into the pond. Since the pump is on its own meter, power consumption will be used to determine flow.

PART 1.B.6.c:

The twelve acres that was previously irrigated with water right no. 29-02137A was last irrigated in 1998 to establish a native grass stand. It no longer needs any irrigation. The change in use has substituted a native grass stand for irrigated pasture/hay land. This change will have no adverse impacts.

PART 1.B.6.d:

The members of the public heavily use the Edson Fichter Nature Area for recreation as an interpretive area. The change in purpose of use is from irrigation to wildlife for a wildlife pond. The change in period of use is to keep a continual flow of water into the proposed wildlife pond and back into the Portneuf River.

The following documents are attached for your review in connection with this application:

- Attachment II: Warranty Deed (Instrument #93017569) (consisting of four (4) pages).
- Attachment III: Aerial Photo that shows the Public Land Survey System Subdivision Lines, The Portneuf River channel, the point of diversion, the proposed pipeline, the proposed wildlife pond, and the proposed return stream (consisting of one (1) page).
- Attachment IV: GIS Place of Use Illustration 1987/1988 NAPP Photography for Water Right No. 29-02137A (Consisting of one (1) page).

PART 3.B.2:

Two losses of water will potentially occur. Evaporation may occur from the wildlife pond and from the surface stream that takes the water discharged from the wildlife pond to the Portneuf River. Transpiration may occur from riparian plants that surround the wildlife pond and the discharge stream. All other water will be returned as surface flow or as subsurface flow to the Portneuf River. Since the wildlife pond will act as a settling pond, the discharged water will have less sediment than the source water. The discharge wite will be at the NW1/4 SE1/4 SE1/4 of section 7, Twp. 7 South, Rge. 35 East.

PART 3.B.3

The effects on other water users wil be beneficial. Since no diersions exist on the Portneuf River between the point of diversion and the pint of discharge of the water from the wildlife pond into the Portneuf River, no water user will be affected by the removal of the water from the Portneuf River for the distance between these two points. Since twelve acres of land are taken out of production, the evaporation and transpiration that occurred from the wildlife pond and discharge stream is expected to be less than the evaporation and transpiration that occurred from the twelve-acre field. All water, except for the amount lost to evaporatoin and transpiration will return as surface or subsurface flow to the Portneuf River.

3-1
Warranty Deed

93017569

For Value Received

JOHN D. POWELL JR. aka JOHN POWELL and
MARY LORRAINE POWELL aka LORRAINE POWELL, Husband and wife

the grantor, do hereby grant, bargain, sell and convey unto
STATE OF IDAHO - DEPARTMENT OF FISH AND GAME

whose current address is:

P.O.Box 25, Boise, ID 83707

the grantee, the following described premises, in BANNOCK County Idaho, to wit:

SEE ATTACHED EXHIBIT "A"

DO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor do hereby covenant to and with the said Grantee, that he the owner in fee simple of said premises; that they are free from all incumbrances

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee ,
heirs and assigns forever. And the said Grantor do hereby covenant to and with the said
Grantee , that he the owner in fee simple of said premises; that they are free from all incumbrances

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: OCTOBER 15 , 1993

John D. Powell Jr.
JOHN D. POWELL JR.

Mary Lorraine Powell
MARY LORRAINE POWELL

John D. Powell Jr.
ally at fact

STATE OF IDAHO, COUNTY OF BANNOCK
On this 15th day of OCTOBER , 1993,
before me, a notary public in and for said State, personally appeared

JOHN D. POWELL JR.

NOTARY SEAL

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged to me that
he executed the same.

Betty Huse
Residing at AMERICAN FALLS
Comm. Expires 1-14-98

Notary Public
, Idaho

STATE OF IDAHO }
COUNTY OF BANNOCK } ss.

On this 15th day of OCT. in the year 1993 before me, a Notary
Public, personally appeared JOHN D. POWELL JR.

known to me to be the person who subscribed to the within instrument
as the attorney in fact of MARY LORRAINE POWELL
and acknowledged to me that he subscribed the name of
MARY LORRAINE POWELL
thereto as principal, and ~~her~~ (his) own name attorney in fact.

Betty Huse
Residing at AMERICAN FALLS, ID
Comm. Expires 1-14-98 Notary Public

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EXHIBIT A.

93017569

PARCEL 1B

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., A PORTION OF THE LAND DESCRIBED IN INSTRUMENT 542515 AND 89011647 OF THE RECORDS OF BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M.; THENCE SOUTH $89^{\circ}21'33''$ EAST ALONG THE SOUTH LINE OF SECTION 7, FOR A DISTANCE OF 387.32 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY RIGHT OF WAY LINE BANNOCK HIGHWAY; THENCE CONTINUING SOUTH $89^{\circ}21'33''$ EAST ALONG THE SAID SOUTH LINE FOR A DISTANCE OF 2255.99 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 7; THENCE NORTH $00^{\circ}17'55''$ EAST ALONG THE EAST LINE OF SAID SECTION 7 FOR A DISTANCE OF 24.93 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE CENTER OF THE PORTNEUF RIVER; THENCE NORTHWESTERLY, FOLLOWING THE CENTER OF THE PORTNEUF RIVER FOR A DISTANCE OF 1897 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE EAST BOUNDARY OF THE PORTNEUF RIVER FLOOD CONTROL LEVEE, DESCRIBED IN INSTRUMENT 425621 OF THE RECORDS OF BANNOCK COUNTY, FROM SAID INTERSECTION THE SOUTH QUARTER CORNER OF SECTION 7 BEARS SOUTH $60^{\circ}06'00''$ WEST A DISTANCE OF 1376.03 FEET; THENCE NORTHWESTERLY ALONG THE EASTERLY BOUNDARY OF THE FLOOD CONTROL LEVEE, FOLLOWING 218.24 FOOT RADIUS, NON-TANGENT CURVE, THOROUGH A CENTRAL ANGLE OF $08^{\circ}56'57''$ FOR AN ARC DISTANCE OF 34.09 FEET TO A POINT OF TANGENCY (THE CHORD OF THE AFORE DESCRIBED CURVE BEARS NORTH $55^{\circ}40'32''$ WEST 34.05 FEET); THENCE CONTINUING ALONG THE SAID EASTERLY BOUNDARY OF THE FLOOD LEVEE FOR THE FOLLOWING THREE (3) COURSES:

1. NORTH $60^{\circ}09'00''$ WEST FOR A DISTANCE OF 89.78 FEET TO THE POINT OF CURVATURE; THENCE

2. NORTHWESTERLY FOLLOWING A 68.24 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, THROUGH A CENTRAL ANGLE OF $59^{\circ}33'00''$, FOR AN ARC DISTANCE OF 70.92 FEET; THENCE

3. NORTH $00^{\circ}36'00''$ WEST FOR A DISTANCE OF 104.34 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE CENTER OF THE PORTNEUF RIVER, THE SOUTH QUARTER CORNER OF SECTION 7, BEARS SOUTH $49^{\circ}02'42''$ WEST 1392.34 FEET FROM SAID INTERSECTION, THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTHWESTERLY ALONG THE SAID FLOOD LEVEE FOR THE NEXT SEVEN (7) COURSES:

1. NORTH $00^{\circ}36'00''$ WEST FOR A DISTANCE OF 111.46 FEET; TO A POINT OF CURVATURE THENCE

2. NORTHWESTERLY FOLLOWING A 218.24 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, THROUGH A CENTRAL ANGLE OF $18^{\circ}56'00''$ FOR AN ARC DISTANCE OF 72.12 FEET TO A POINT OF TANGENCY; THENCE

3. NORTH $19^{\circ}32'00''$ WEST FOR A DISTANCE OF 7.72 FEET; THENCE

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ATTACHMENT 5 OF 6

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EXHIBIT A (Continued)

93017569

4. SOUTH 70°28'00" WEST FOR A DISTANCE OF 35.00 FEET; THENCE
5. NORTH 19°32'00" WEST FOR A DISTANCE OF 180.00 FEET; THENCE
6. NORTH 70°28'00" EAST FOR A DISTANCE OF 35.00 FEET; THENCE
7. NORTH 19°32'00" WEST FOR A DISTANCE OF 92.25 FEET; MORE OR LESS, TO AN INTERSECTION WITH THE PORTNEUF RIVER; THENCE

FOLLOWING THE CENTER OF THE PORTNEUF RIVER, SOUTHEASTERLY, SOUTHERLY AND SOUTHWESTERLY FOR A DISTANCE OF 915 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., A PORTION OF THE LAND DESCRIBED IN INSTRUMENTS 542515 AND 89011647 OF THE RECORDS OF BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M.,; THENCE SOUTH 89°21'33" EAST ALONG THE SOUTH LINE OF SECTION 7, FOR A DISTANCE OF 387.32 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY RIGHT OF WAY LINE BANNOCK HIGHWAY; THENCE CONTINUING SOUTH 89°21'33" EAST ALONG THE SAID SOUTH LINE FOR A DISTANCE OF 2255.99 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 7; THENCE NORTH 00°17'55" EAST ALONG THE EAST LINE OF SAID SECTION 7 FOR A DISTANCE OF 24.93 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE CENTER OF THE PORTNEUF RIVER, THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 00°17'55" EAST ALONG THE EAST LINE OF SECTION 7 FOR A DISTANCE OF 376.64 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE NORTH 46°42'13" WEST ALONG THE SAID RAILROAD RIGHT OF WAY LINE FOR A DISTANCE OF 2879.33 FEET; THENCE SOUTH 43°43'13" EAST FOR A DISTANCE OF 23.81 FEET TO THE CENTER OF THE PORTNEUF RIVER, THE SAME BEING A POINT ON THE NORTHEASTERLY BOUNDARY OF THE PORTNEUF RIVER FLOOD CONTROL LEVEE, DESCRIBED IN INSTRUMENT 425621 OF THE RECORDS OF BANNOCK COUNTY, IDAHO; THENCE SOUTHEASTERLY FOLLOWING THE CENTER OF THE PORTNEUF RIVER FOR A DISTANCE OF 4244 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

93017569

NO.
RECORDED AT REQUEST OF
AMERICAN LAND TITLE CO.

'93 OCT 20 P2:29

OFFICIAL RECORD BOOK NO. 598
BANNOCK COUNTY IDAHO
LARRY W. CHAN RECORDER
FEE. 9.00 DEPUTY *am*

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ATTACHMENT