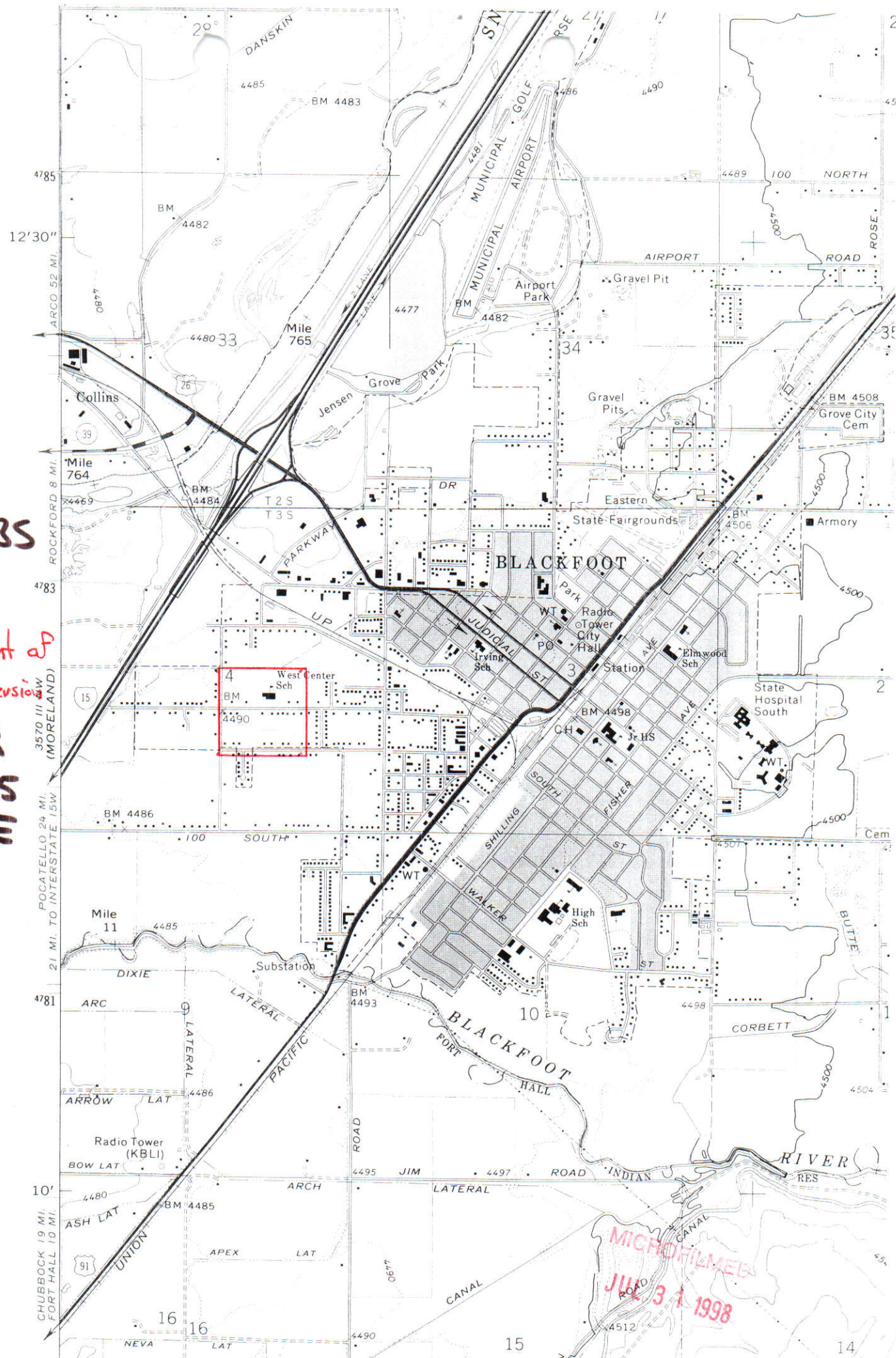


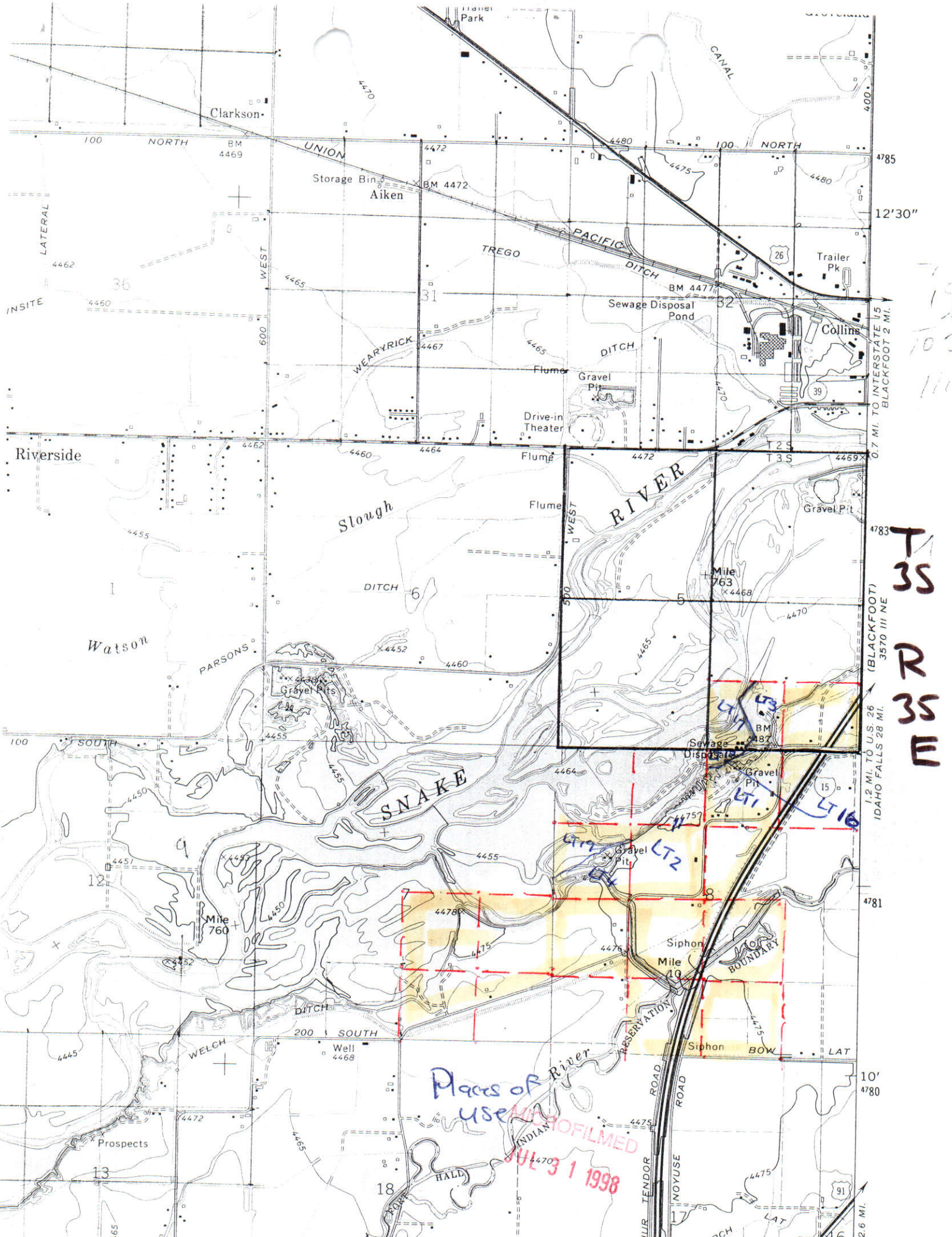


T3S

Point of
Diversion

R
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MICROFILMED
JUL 31 1998



T 35
R 35 E

Places of River
use
INDIAN FILMED
JUL 31 1998

(BLACKFOOT)
3570 III NE
1.2 MI. TO U.S. 26
IDAHO FALLS 28 MI.

0.7 MI. TO INTERSTATE 15
BLACKFOOT 2 MI.

4781

10'

4780

2.6 MI.

91

BM 4468

ARCH

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ROAD

ROAD

RESERVATION

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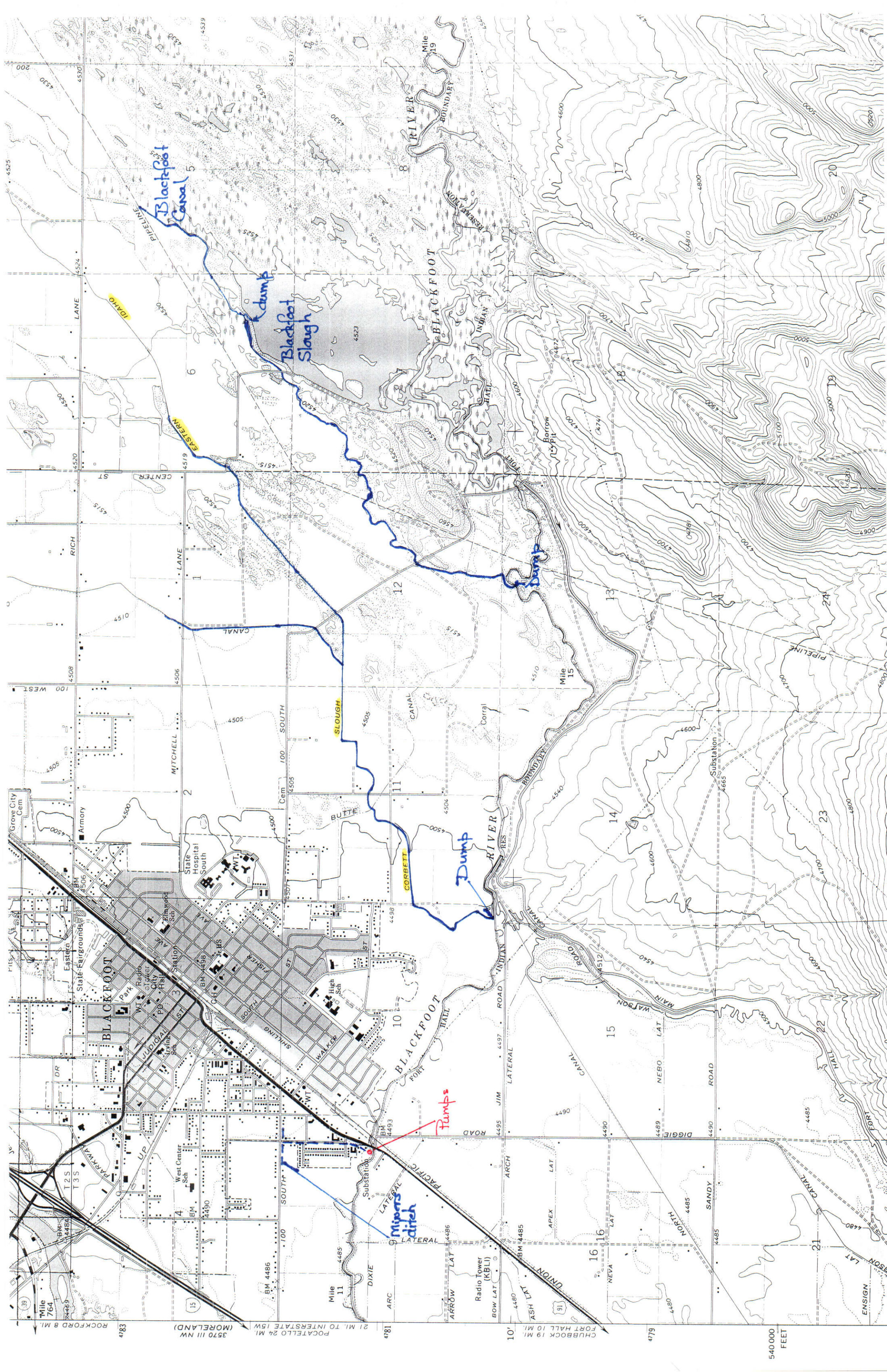
Gravel Pit

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Gravel Pit



RECEIVED

AUG 14 1996

Department of Water Resources
Eastern Region

DEPT. OF WATER RESOURCES
900 N. Skyline Drive
Idaho Falls, Idaho 83402-1718
(208) 525-7161
Fax: (208) 525-7177

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

27-07577

CITY OF BLACKFOOT
157 N. Broadway
Blackfoot, Idaho 83221
Source: GROUNDWATER
Diversion Pt: NWSE, Sec. 4, T. 03S, R.
35E, in BINGHAM County.
Use: IRRIGATION (7.280 CFS)
Total Diversion: (7.280 CFS)
Date Filed: 7/1/1996
In: BINGHAM County
T03S, R35E, S05, SWSE, SESE

S07, NESE, NWSE, SWSE, SESE
S08, NENE, NWNE, SWNE, SWNW,
SENW, NESW, NWSW, SESW, NWSE,
SWSE

364.0 ACRES TOTAL.

Miner's Ditch users will allow all their
surface water shares held in East Idaho,
Corbett Slough, Blackfoot Irrigation, and
private rights to continue down the
Snake River as mitigation to offset the
use of this well.

The permit(s) will be subject to all prior
water rights. Protests must be filed with
the applicant and the Director, Dept. of
Water Resources, along with a \$25.00 fil-
ing fee, Eastern Region, 900 N. Skyline,
Idaho Falls, Idaho, 83402, on or before
AUGUST 5, 1996.

KARL J. DREHER
Director

(2943)
Pub.: 7/18, 25

MICROFILMED

JUL 31 1998

Legals

**AFFIDAVIT OF
PUBLICATION**

County of Bingham)

State of Idaho)

I, Jacqueline Graham do
solemnly Legal

swear that I am the Coordinator of
The Morning News, which is a daily news-
paper of general circulation, published
each day except Sunday at Blackfoot,
Bingham County, Idaho, said newspaper
having been so published at Blackfoot,
aforesaid for more than one year past;
that said newspaper heretofore complied
with all the provisions of Chapter 154 of
the Sessions Laws of Idaho of 1911, ap-
proved March 11, 1911, and duly desig-
nated, pursuant to law, a particular day
of the week as the day on which legal no-
tices required by law or by the order of
any Court of competent jurisdiction within
the State of Idaho shall be published to-
wit: of each week; that the notice at-
tached hereto and which is a part of this
affidavit and part of the proof of publi-
cation was published in said issue of said
newspaper 2 consecutive Weeks
the first publication having been made on
the 18th day of July,
1996 and the last publication having
been made on the 23rd day of
July, 1996; that said notice
was published in the regular and entire
issue of every number of the paper as
aforesaid during the period and time of
publication, and that notice was pub-
lished in the newspaper and not in a sup-
plement.

Jacqueline Graham

On this 13th day of August, in
the year 1996, before me a Notary
Public of said State, personally appeared
Jacqueline Graham

known or identified to me to be the per-
son whose name is subscribed to the with-
in instrument, and being by me first duly
sworn, declared that the statements
therein are true, and acknowledged to
me that he executed the same.

Dave Moses
Notary Public for the State of Idaho
Residing at Blackfoot, Idaho
My Commission Expires:

November 10, 2000

Affidavit Processing Fee. \$5.00

RECEIVED

JUN 1 - 2000

FOR OFFICE USE ONLY
Amt. of Fee \$: 275.00
Receipt No. 5025873
Receipt By: KCW
Date Received: 6-5-2000

RECEIVED
JUN 05 2000

Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

RECEIVED

JUN 8 -

Department of Water Resources

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

1. Permit No. 27-07577 Telephone No. (208) 785-8608

2. Name of Permit Holder(s): CITY OF BLACKFOOT WATER DEPARTMENT

3. Mailing Address: 157 NORTH BROADWAY

City BLACKFOOT State IDAHO Zip 83221

4. Source of Water: DEEP WELL If GROUNDWATER (well), Date Drilled: mo. 4 / yr. 60

a. Well Driller: BILL E. FINDLEY Drilling Permit Number: UNKNOWN

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

Domestic (No. of households): IRRIGATION Stockwater (No. and type of stock): UNKNOWN

Irrigation (No. of acres): 364 Other: NONE

6. Total rate of diversion and/or volume for which proof is submitted: 7.28 cfs OR acre feet

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

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

Measuring Device: Is a measuring device required? Yes X or No
Has the measuring device been installed? Yes or No X

METER WILL BE INSTALLED BY JULY 1ST, 2000

8. Fee Enclosed: \$ 275.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: RICHARD S. MANGUM Telephone Number: (208) 785-8608

Address: 157 NORTH BROADWAY, BLACKFOOT, IDAHO 83221

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Richard Mangum Water Supervisor

Signature of permit holder CITY OF BLACKFOOT/RICHARD MANGUM, WATER SUPERVISOR Date: MAY 11, 2000
(include your title, if on behalf of company or organization)

MICROFILMED

JUN 12 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSE EXAMINATION FEE SCHEDULE

(C.F.S. = cubic feet per second AF = acre feet)

<u>CFS</u>	<u>AF</u>	<u>FEE</u>
0 - 0.20	0 - 20	\$50.00*
.21 - 1.00	21 - 100	100.00
1.01 - 2.00	101 - 200	125.00
2.01 - 3.00	201 - 300	150.00
3.01 - 4.00	301 - 400	175.00
4.01 - 5.00	401 - 500	200.00
5.01 - 6.00	501 - 600	225.00
6.01 - 7.00	601 - 700	250.00
7.01 - 8.00	701 - 800	275.00
8.01 - 9.00	801 - 900	300.00
9.01 - 10.00	901 - 1000	325.00
10.01 - 11.00	1001 - 1100	350.00
11.01 - 12.00	1101 - 1200	375.00
12.01 - 13.00	1201 - 1300	400.00
13.01 - 14.00	1301 - 1400	425.00
14.01 - 15.00	1401 - 1500	450.00
15.01 - 16.00	1501 - 1600	475.00
16.01 - 17.00	1601 - 1700	500.00
17.01 - 18.00	1701 - 1800	525.00
18.01 - 19.00	1801 - 1900	550.00
19.01 - 20.00	1901 - 2000	575.00
20.01 - over	2001 - over	600.00

*Checks should be made payable to the
Idaho Department of Water Resources (IDWR.)

A license examination fee is not required in connection with
permits which use a ground water source AND have a total rate of
diversion of 0.04 cfs or less or where the total volume stored is 4.0 AF per annum or less.

A license exam fee is required for ANY permit which uses surface water

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 27-07577

Proposed Priority: July 1, 1996

Maximum Diversion Rate:

7.28 CFS

This is to certify, that **CITY OF BLACKFOOT**
157 N BROADWAY
BLACKFOOT ID 83221

has applied for a permit to appropriate water from: **GROUNDWATER**

and a permit is **APPROVED** for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/01 to 10/31	7.28 CFS

LOCATION OF POINT(S) OF DIVERSION:

NWSE , Sec. 4, Township 03S, Range 35E
BINGHAM County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03S	35E	5	SWSE 34.0	SESE 28.0		62.0
		7	NESE 32.0	NWSE 9.0	SWSE 9.0	
			SESE 10.0			60.0
		8	NENE 22.0	NWNE 34.0	SWNE 20.0	
			SWNW 30.0	SENW 36.0	NESW 27.0	
			NWSW 38.0	SESW 5.0	NWSE 5.0	
			SWSE 25.0			242.0

Total number of acres irrigated: 364.0

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before July 1, 2000.
2. Subject to all prior water rights.
3. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
4. Diversion of water under this right shall be used to supply share holders of the East Idaho, Corbett Slough, and Blackfoot Irrigation canal companies diverting water from the Miner Ditch. Miner Ditch users will allow their surface water shares to continue down the Snake River as mitigation to offset the use of groundwater under this right.
5. The point of diversion is known as the Lansing Street well.
6. Use of water under this right will be regulated by watermasters of State Water Districts Nos. 01 and 27.

MICROFILMED

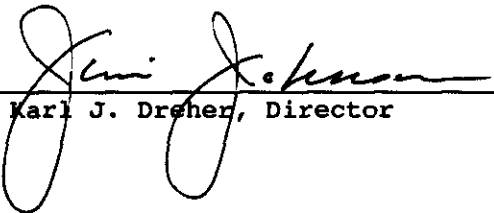
JUL 31 1998

State of Idaho
Department of Water Resources

Permit To Appropriate Water
NO. 27-07577

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

17TH day of June, 1998.


for Karl J. Dreher, Director



RECORDED

JUN 31 1998

RECEIVED -

FEB 12 1997

RECEIVED

FEB 13 1997

Department of Water Resources
STATE OF IDAHOIdent. No. 27-7577

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of Applicant City of Blackfoot Phone (208) 785-8600
Mailing address 157 N. Broadway, Blackfoot ID 83221
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is Township 3S Range 35E Sec. 4 in the _____ 1/4,
NW 1/4, SE 1/4, Govt. Lot _____, B.M., Bingham County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 10.0 cfs for Irrigation purposes from 04-01 to 10-31 (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)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 7.28 cfs and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Describe type and size of devices used to divert water from the source Well and Pump to ditch.
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet
c. Proposed well diameter is 18 inches; proposed depth of well is 160 feet
d. Is ground water with a temperature of greater than 85°F being sought? _____
e. If well is already drilled, when? 1972; Drilling firm _____
Well was drilled for (well owner) City of Blackfoot; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
a. Hydropower; show total feet of head and proposed capacity in KW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. _____
e. Other; describe fully. _____

JUL 31 1998

9. Description of place of use:

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

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

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3S	35E	5															34	28	62
		7													32	9	9	10	60
		8	22	34	20				30	36	27	38		5		5	25		242

Total number of acres to be irrigated 364

10. Describe any other water rights used for the same purposes as described above. See Remarks

11. a. Who owns the property at the point of diversion? City of Blackfoot

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

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

12. Remarks: Miner's Ditch users will allow all their surface water shares held in East Idaho, Corbett Slough, Blackfoot Irrigation, and private rights to continue down the Snake River as mitigation to off set the use of this well.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

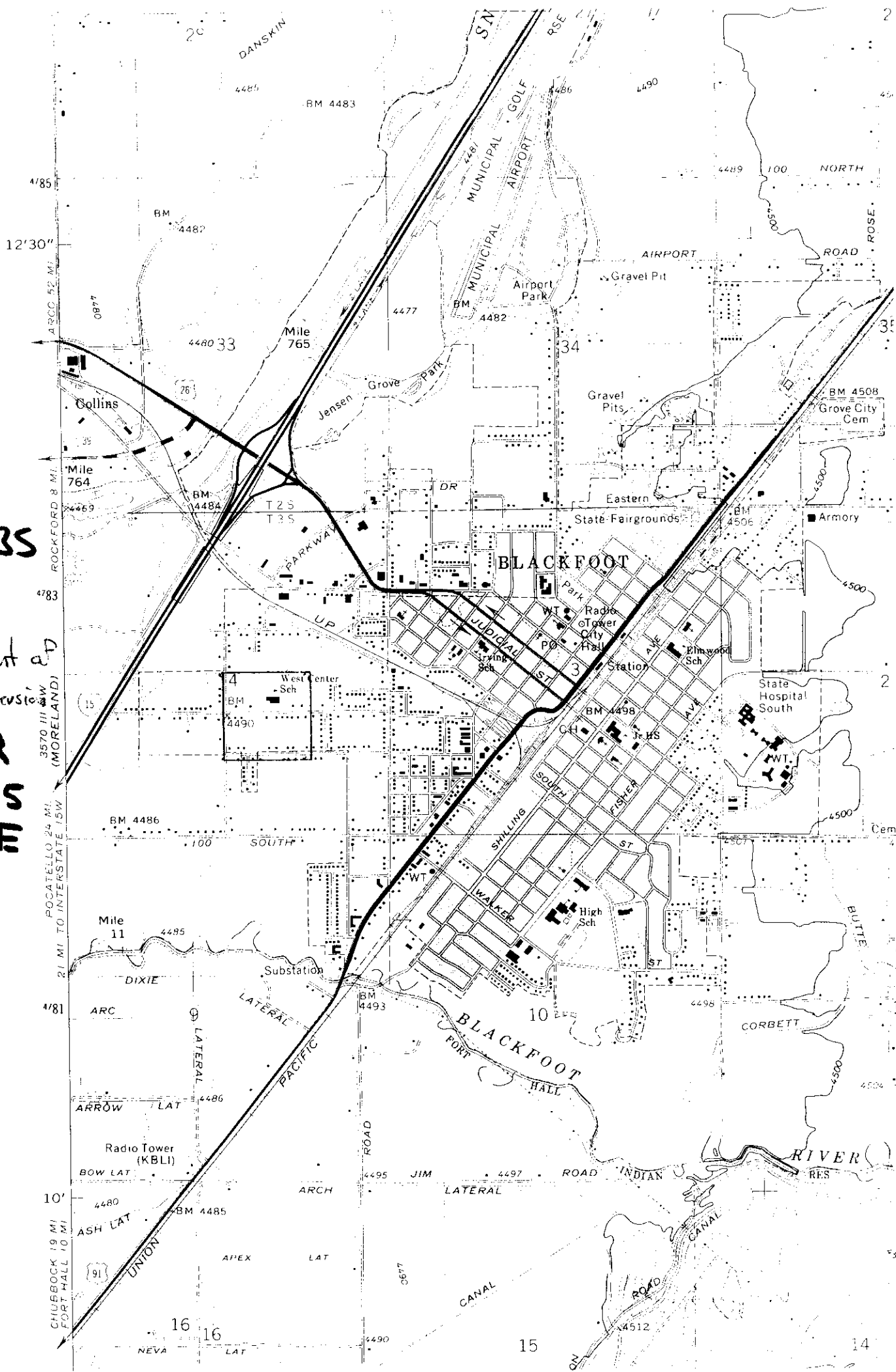
R Scott Reese JUL 31 1998
Signature of Applicant (and title, if applicable)

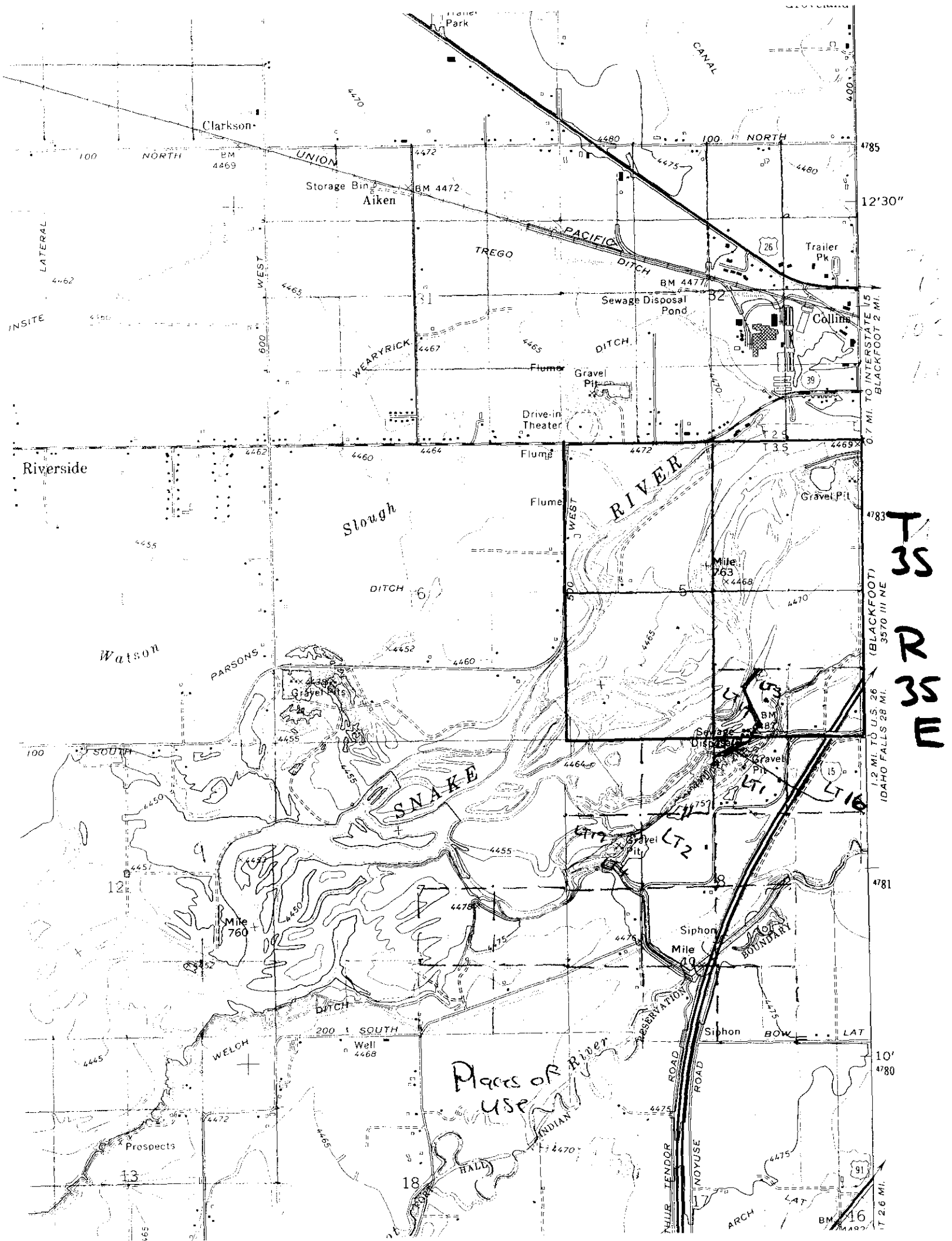
Received by HWT Date 7-1-96 Time _____ Preliminary check by _____
Fee \$ 240.00 Receipted by HWT # E02326 Date 7-1-96
Publication prepared by RB Date 2-18-25-96 Published in Morning News
Publication approved _____ Date _____

T3S

Point of
Division

R
3S
E







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

June 14, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

CITY OF BLACKFOOT
157 N BROADWAY
BLACKFOOT ID 83221

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 27-07577

Dear Permit Holder:

The department acknowledges receipt of the proofs of beneficial use forms submitted for the above referenced permits. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions concerning the field examination, please contact the **Eastern** Regional Office of the department in Idaho Falls at (208) 525-7161.

Sincerely,

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office

MICROFILMED

JUN 14 2000

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 27-0757 Reviewed by D. S. G. Date 6/14/00

GENERAL CONSIDERATIONS

TYPES OF USE

Yes Name same as permit?

Yes Address same as permit?

Yes Proof timely received?

Correct Uses? Yes

If not, complete calculation below.

SOURCE OF WATER

No Surface water source

Yes Ground water source

No Drilling permit required?

No Copy in the file? Drilling Permit No. _____

Amount paid for permit _____ Correct?

Well log in the file?

LICENSE EXAMINATION FEE

Yes Required?

\$275 Amount Submitted

Yes Correct?

MEASURING DEVICE

Yes Required?

No Installed? Wester installed by 7/1/2000.

No Waiver requested?

PRIORITY CALCULATION

Date proof received 6/5/2000

Date proof due 7/1/2000 -

No. of days late N/A =

Priority Date _____ +

New Priority Date _____

DEFICIENCIES OR ACTION ITEMS

acknowledge proof.

DATA ENTRY

New Address No Proof Made 6/5/2000

April 30, 2000

CITY OF BLACKFOOT
157 N BROADWAY
BLACKFOOT ID 83221

PROOF DUE NOTICE

RE: PERMIT NO. 27-07577

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 July 1, 2000.

(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.

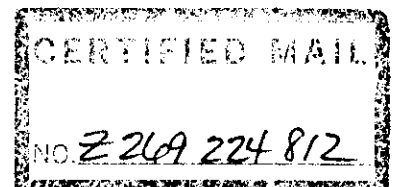
SINCERELY,

DEBORAH DREW-ELLIS
Administrative Assistant

Enclosures

MICROFILMED

JUL 1 1999





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 18, 1998

CITY OF BLACKFOOT
157 N BROADWAY
BLACKFOOT ID 83221

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 27-07577

Dear Permit Holder:

The Department of Water Resources (IDWR) has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a preliminary order issued by IDWR pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a "Proof Due Notice" approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

Also, please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the department or visit the department's homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at 208-327-7946.

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen". The signature is written in dark ink and is positioned above the typed name.

Shelley W. Keen
Water Rights Supervisor

SK:klt

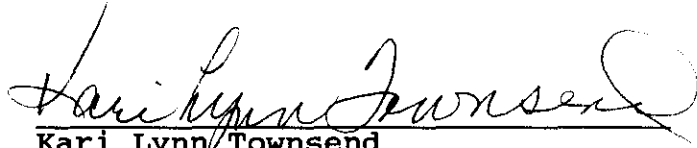
Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of June, 1998, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Right No. 27-07577

CITY OF BLACKFOOT
157 N BROADWAY
BLACKFOOT ID 83221


Kari Lynn Townsend
Secretary

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MEMORANDUM

Date: June 17, 1998

To: File

From: Jim Johnson 

Subject: Application for permit 27-07577

=====

This application represents the best efforts of a number of people reviewing City of Blackfoot's problem of seeking alternatives to the high maintenance cost of pumps diverting water directly from the Blackfoot River.

The approval of this application was delayed while issues related to possible impacts of changing from a surface water source to a groundwater source were evaluated. Some of the delay is attributed to the possibility of implementing provisions of the recently passed exchange statutes that go into affect July 1, 1998. However, the new exchange provisions did not include groundwater, making this option unusable.

Lacking better solutions, it has been decided to recognize the City's non use of its Blackfoot River diversion as sufficient mitigation for this permit.

The permit approval should include a specific condition that requires the river diversion to be discontinued when water from the Lansing street well begins diversion. The approval of this permit allows the City of Blackfoot to continue to meet its obligations to shareholders diverting water from Miner Ditch.

MEMORANDUM

DATE: APRIL 25, 1997

TO: KARL & NORM

FROM: RON 

RE: CITY OF BLACKFOOT/MINERS DITCH APPLICATION

The Miner's Ditch has no water rights of its own. It's only function is to carry water for people who have acquired water entitlements from the Snake and Blackfoot rivers. We have enclosed a map that shows where the water from the Snake River is dumped into the Blackfoot River. As far as I can tell it makes little difference to down-stream waterusers whether the water for the Miner's ditch is pumped from the Blackfoot or from a well. In fact I think a good argument could be made that, with proper administration, down stream water users will receive a direct benefit from this transfer.

RON
CITY OF BLACKFOOT

MINER'S DITCH WATER

WATER RIGHTS, INCHES

NAME	TOTAL	East Idaho	Corbett Slough	Kirkpatrick	Fox Whitten	Leon Mislin	John Mislin	Black Irrig.	Robert Millen	James Welch
Empey	2.5			2.5						
McNutt	1.0			1.0						
Hoge/Ellsworth	36.5			36.5						
Kirkpatrick	5.0			5.0						
Lilya	5.0			5.0						
Collard	20.0				20.0					
Dechant	50.0			50.0						
Hinderager	75.7	66.7	9.0							
Hamilton	121.0		74.0		35.0	12.0				
Sub-total:	316.7	66.7	83.0	100.0	55.0	12.0	0.0	0.0	0.0	0.0
Bergeman, Ed	2.5	2.5								
Bergeman, David	2.0	2.0								
Christensen	1.5	1.5								
Petersen	1.0	1.0								
Smith	80.0	51.0			15.0					14.0
Hinderager	138.3	33.3	55.0					50.0		
Hill	77.7				24.0				41.7	12.0
Stokes	21.3		21.3							
Cushman	12.0		12.0							
Lindsey	53.5		10.0						43.5	
Mickelson	21.0		21.0							
Colson	5.0								5.0	
Haddon	4.0								4.0	
Bingham	5.0								5.0	
Carson	12.0	12.0								
Ellefson	5.8								5.8	
Sub-total:	442.6	103.3	119.3	0.0	39.0	0.0	0.0	50.0	105.0	26.0
Younie Ditch	151.5					31.5	120.0			
Giest	4.5					4.5				
GRANDTOTAL:	915.3	170.0	202.3	100.0	94.0	48.0	120.0	50.0	105.0	26.0
% of Total Water Rights:		18.6%	22.1%	10.9%	10.3%	5.2%	13.1%	5.5%	11.5%	2.8%

DITCH BRANCH	% OF TOTAL
Riverton Road	34.6%
Beyond concrete	48.4%
Younie	16.6%
Giest	0.5%
Total:	100.0%

DATES OF WATER RIGHTS

Leon Misslen	1873 & 1885
John Misslen	1874
Kirkpatrick	1878
Eastern Idaho	1880 & 1885 (64% & 36%)
Robert Millen	1885
Fox & Whitten	1885
James Welch	1886
Corbett Slough	(Snake River Water)
Blackfoot Irrig.	(Snake River Water)

24 April 1997

From: Dennis M Dunn
To: Ronald D. Carlson

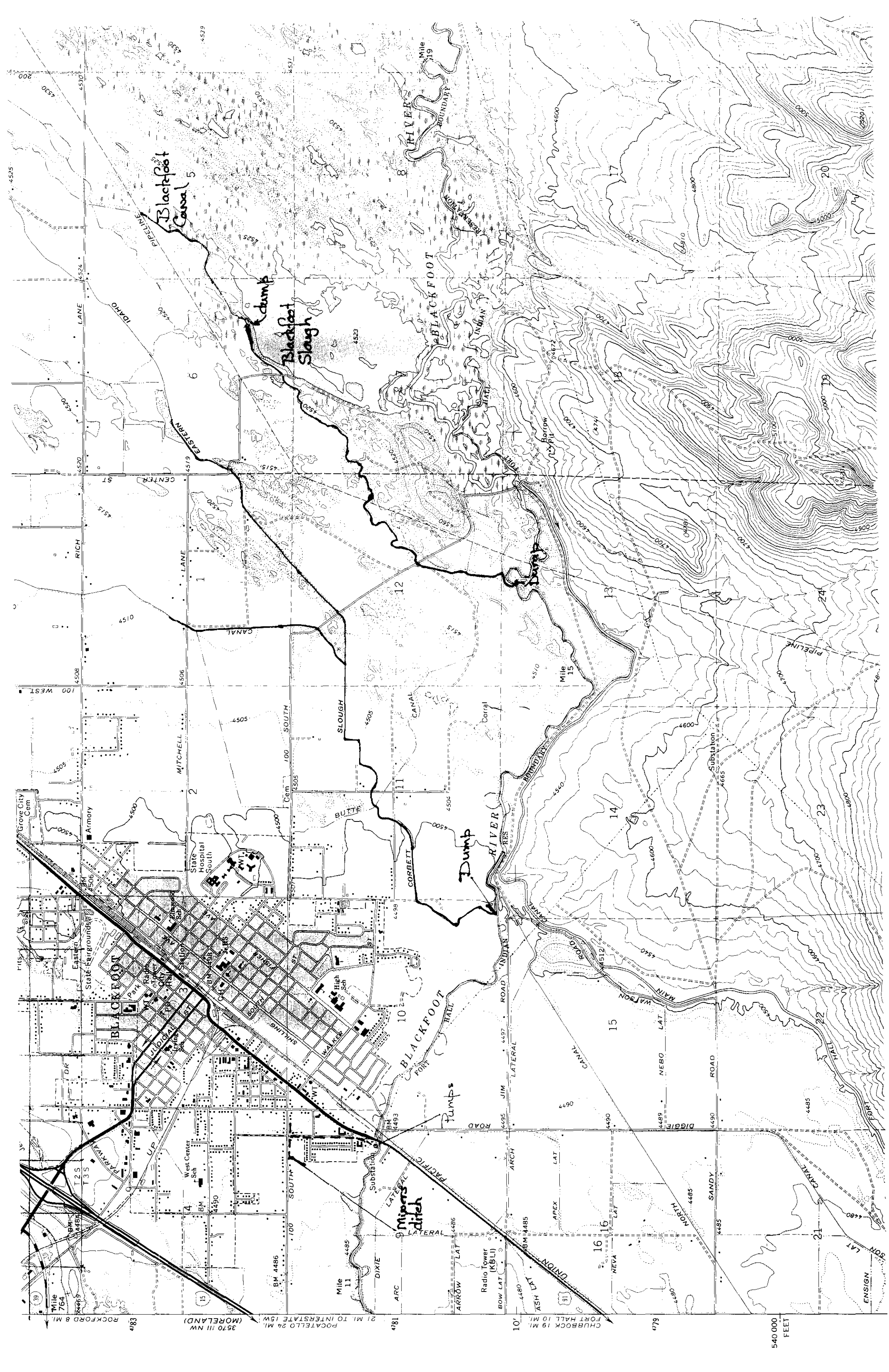
Re: Miners Ditch

This morning I spoke with the Blackfoot River Watermaster, John Davidson concerning the delivery of Snake River water to the Miners Ditch via the Blackfoot River.

Mr Davidson said that the East Branch of the Blackfoot Canal dumps into the Blackfoot Slough which is tributary to the Blackfoot River. The Eastern Idaho Canal merges with the Corbett Slough Canal which then dumps into the Blackfoot River about one mile upstream of the City of Blackfoot pumps.

CC: J. M. Dunn

101 11 1998



MEMORANDUM

DATE: FEBRUARY 5, 1997

TO: FILE 27-7577

FROM: RON CARLSON

RE: INTENT OF APPLICATION AND CONDITIONS OF APPROVAL

RECEIVED

FEB 12 1997

Department of Water Resources

.....

This application was filed to facilitate an exchange. In the 1960's the City of Blackfoot agreed to put a pump in the Blackfoot river and pump water for the Miner's ditch in exchange for allowing the city to fill in the upper portion of the ditch. Because of the sand movement in the Blackfoot river this turned out to be a significant financial burden for the city. They apparently were unsuccessful in screening out sand and ended up with major pump repairs each year. The city concluded that this problem could be resolved if they could pump ground water to supply the rights on the Miner's ditch. However, without statutory authority to make this exchange there did not appear to be the necessary legal tools to accomplish the change. Upon the advice of John Rosholt, the city applied for a permit to appropriate ground water under a 1996 water right priority under a proposal that water would be delivered to the head of the Miner's ditch but then left in the river to mitigate downstream impacts. Perhaps a reasonable condition of approval for this would be: **the rights previously carried by the Miner's ditch will continue to be delivered to the head of the Miner's ditch and left undiverted above the confluence of the Blackfoot and Snake Rivers, or in the alternative recharged at a location where the water can reasonably be expected to reach the Snake River Plain Aquifer.**

INTER-DEPARTMENT MEMO

TO: Applic 27-07577

SUBJECT: Supporting data

FROM: H.W. Jones-Eastern

DATE: 2-6-97

Originally the City of Blackfoot + Miners ditch wanted to file a transfer / exchange to allow them to drill a well and let the Miners ditch water which involves Eastern Idaho Water ^{Blackfoot Irrig Comp} Camp + Carbett Slough shares. In addition private surface rts (Fox-Whitten, Millen + Welch) are part of Miners ditch flow. I have tried to verify thru adj claims + canal company statements the flows delivered to Miners ditch. There is 3.32 cfs of private rights 2.07 cfs of Eastern Idaho Water and 2.33 cfs of Carbett Slough for a total of 7.72 cfs delivered (verified) to Miners Ditch. Good luck with this!

(X) For your information

() Response required

H.W. Jones
signature

RECEIVED

JAN 23 1995

Department of Water Resources
Eastern District Office

January 18, 1995

Mr. Harold Jones
Department of Water Resources
900 North Skyline
Idaho Falls, Idaho 83401

Dear Mr. Jones:

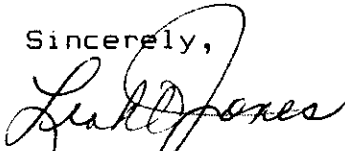
This is to confirm that the Eastern Idaho Water Company
shareholders listed below have shares for inches of water
as indicated:

Eddie Bergeman	2 1/2 inches
David Bergeman	2 inches
Robert Christensen	1 1/2 inches
Roger Peterson	1 inch
Merlin Smith	51 inches
Larry Hinderager	33 1/3 inches
Dewey Carson	12 inches

103.3 inches or 2.07 cfs

If I can be of further assistance, please let me know.

Sincerely,



Leah O. Jones
Secretary
Eastern Idaho Water Company
342 East 400 North
Blackfoot, Idaho 83221

Copy: Larry Hinderager, President, Eastern Idaho Water
Company

MICROFILMED

100 3 1 1998

CONFIRMED BY HEBER BARNARD OF CORBETT SLOUGH
1/16/95

	<u>INCHES</u>	<u>SHARES</u>
Gene Cushman	12	2 2/5
Dan Stokes	20.5	4 1/10
Loreen Mickelson	10	2
Orris Lindsey	10	2
Larry Hinderager	64	12 4/5

116.5 inches

or

2.33 cfs

1/16/95

AGREEMENT

The City of Blackfoot is proposing to supply water to the Miner's Ditch from wells instead of from the Blackfoot River. To test the concept it will be necessary to apply to the State for an additional point of diversion (letter from Ronald D. Carlson to Frank Miles dated May 24, 1994)

By the signatures in the table below each of the following water users agree to authorize officers of the Miner's Ditch Company to act in their behalf for the water rights listed in such application. (No authority other than the stated purpose is bestowed by this document.)

NAME	TOTAL	East Idaho	Corbett Slough	Fox Whitten	Blkt Irrig.	Robert Miller	James Welch	Signature	Date
Eddie Bergeman	2.5	(2.5)						Eddie Bergeman	7/27/94
David Bergeman	2.0	(2.0)						Dave Bergeman	7/27/94
Robert Christensen	1.5	(1.5)						Robert Christensen	7/27/94
Roger Petersen	1.0	1.0						Roger Petersen	7/27/94
Merlin Smith	80.0	51.0		(15.0)			(14.0)	Merlin Smith	7-27-
Larry Hinderager	138.3	33.3	55.0		(50.0)			Larry Hinderager	7/27/94
Stan Hill	77.7			24.0		41.7	12.0	Stanley M Hill	7/27/94
Dan Stokes	21.3		21.3					Dan Stokes	7/27/94
Gene Cushman	12.0		12.0					Gene Cushman	7/27/94
Orris Lindsey	53.5		10.0			43.5		Orris Lindsey	7-27-94
Loreen Mickelson	21.0		(21.0)					Loreen Mickelson	7-28-94
Robert Colson	5.0					5.0		Robert Colson	7/27/94
Vonnie Haddon	4.0					4.0		Vonnie Haddon	7-27-94
Paul Bingham	5.0					5.0		Paul Bingham	7-27-94
Deen Carson	12.0	12.0						Deen Carson	7-27-94
Richard Ellefson	5.8					5.8		Richard Ellefson	7/27/94
Totals:	442.6	103.3	119.3	39.0	50.0	105.0	26.0		

✓ H & B v A correct

Wring
Lynn

Jack Jones
Custer Idaho
water

ask about John
Hamilton Water.
(H. inc)
Madamuth Water

BLACKFOOT IRRIGATION CO
1111 E AIRPORT, BLACKFOOT, 83221

BOOK
785-0768

OFFICERS

PRES:	FORD CALL, 458 N HWY 91, FIRTH, 83236	785-1913
VPRES:	LYNN EVANS, 297 N 150 E, BLACKFOOT	785-4827
SEC:	CARL R COOPER, 1111 E AIRPORT, BLACKFOOT	785-0768
WM:	JAY MORTENSEN, 339 E 210 N BLACKFOOT	
ATTY:	KENT FOSTER	
DIR:	~~CHARLES NETTZEL, 217 LANSING, BLACKFOOT~~	~~785-7103~~
	DEAN EVANS, 108 E 200 N, BLACKFOOT	785-6992
	GARY PRATT, 486 E WEEDING, BLACKFOOT	785-4245
	STEPHEN BLASER, 144 E 400 N, BLACKFOOT	785-4248

PERTINENT DATA: JAY MORTENSEN
MINUTES OF MEETINGS: CARL COOPER
WEEKLY WATER REPORT: CARL COOPER
BILLING: CARL COOPER

4/95

CARL COOPER, Sec of Blackfoot Irr.
Confirmed on 2/7/97 that Larry Hindenberg
has 50 inches of Blackfoot Irr. water delivered
to Mirror Ditch
Helfman

RECEIVED

AUG 14 1996

Department of Water Resources
Eastern Region

DEPT. OF WATER RESOURCES
900 N. Skyline Drive
Idaho Falls, Idaho 83402-1718
(208) 525-7161
Fax: (208) 525-7177

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

27-07577

CITY OF BLACKFOOT

157 N. Broadway

Blackfoot, Idaho 83221

Source: GROUNDWATER

Diversion Pt: NWSE, Sec. 4, T. 03S, R.
35E, in BINGHAM County.

Use: IRRIGATION (7.280 CFS)

Total Diversion: (7.280 CFS)

Date Filed: 7/1/1996

In: BINGHAM County

T03S, R35E, S06, SWSE, SESE

S07, NENE, NWSE, SWSE, SESE

S08, NENE, NWSE, SWNE, SWNW,

SESW, NESW, NWSW, SESW, NWSE,

SWSE

364.0 ACRES TOTAL

Miner's Ditch users will allow all their
surface water shares held in East Idaho,
Corbett Slough, Blackfoot Irrigation, and
private rights to continue down the
Snake River as mitigation to offset the
use of this well.

The permit(s) will be subject to all prior
water rights. Protests must be filed with
the applicant and the Director, Dept. of
Water Resources, along with a \$25.00 fil-
ing fee, Eastern Region, 900 N. Skyline,
Idaho Falls, Idaho, 83402, on or before
AUGUST 5, 1996.

KARL J. DREHER
Director

(2943)

Pub: 7/16, 25

Legals

**AFFIDAVIT OF
PUBLICATION**

County of Bingham)

ss

State of Idaho)

I, Jacqueline Graham do
solemnly Legal

swear that I am the Coordinator of
The Morning News, which is a daily news-
paper of general circulation, published
each day except Sunday at Blackfoot,
Bingham County, Idaho, said newspaper
having been so published at Blackfoot,
aforesaid for more than one year past;
that said newspaper heretofore complied
with all the provisions of Chapter 154 of
the Sessions Laws of Idaho of 1911, ap-
proved March 11, 1911, and duly desig-
nated, pursuant to law, a particular day
of the week as the day on which legal no-
tices required by law or by the order of
any Court of competent jurisdiction within
the State of Idaho shall be published to-
wit: of each week; that the notice at-
tached hereto and which is a part of this
affidavit and part of the proof of publi-
cation was published in said issue of said
newspaper 2 consecutive weeks
the first publication having been made on
the 18th day of July,
1996 and the last publication having
been made on the 25th day of
July, 1996; that said notice
was published in the regular and entire
issue of every number of the paper as
aforesaid during the period and time of
publication, and that notice was pub-
lished in the newspaper and not in a sup-
plement.

Jacqueline Graham
On this 13th day of August,
in the year 1996, before me a Notary
Public of said State, personally appeared
Jacqueline Graham

known or identified to me to be the per-
son whose name is subscribed to the with-
in instrument, and being by me first duly
sworn, declared that the statements
therein are true, and acknowledged to
me that he executed the same.

Ray H. Hesse
Notary Public for the State of Idaho
Residing at Blackfoot, Idaho
My Commission Expires:

November 10, 2000

Affidavit Processing Fee. \$5.00

JUL 31 1996

27-07577

CITY OF BLACKFOOT
157 N BROADWAY
BLACKFOOT, ID 83221

Source: GROUNDWATER

Diversion Pt: NWSE Sec 4 T 03S R 35E in BINGHAM County.

Use: IRRIGATION (7.280 CFS)

Total Diversion: (7.280 CFS)

Date Filed: 7/ 1/1996

In: BINGHAM County

T03S R35E S05

S07

S08

SWSE

NESE

NENE

SENE

NWSE

SESE

NWSE

NWNE

NESW

SWSE

SWSE

SWNE

NWSW

SESE

SWNW

SESW

364.0 ACRES TOTAL

Miner's Ditch users will allow all their surface water shares held in East Idaho, Corbet Slough, Blackfoot Irrigation, and private rights to continue down the Snake River as mitigation to offset the use of this well.

JUL 31 1998

The permit(s) will be subject to all prior water rights. Protests must be filed with the applicant and the Director, Dept. of Water Resources, along with a \$25.00 filing fee, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402 on or before AUGUST 5, 1996.

KARL J. DREHER, Director

Published: 7/18/1996 & 7/25/1996

NOT RECORDED

JUL 31 1998

Form No. 202
4/87

Dist. for staffing 7-2-96
Submitted for advertising 7-3-96

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATIONS FOR PERMIT ANALYSIS PERMIT

INITIAL REVIEW BY HWS DATE 7-5-96 APPLICATION NO. 27-7577

City of Blackfoot
REQUIRED INFORMATION

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

ADDITIONAL INFORMATION

- ☒ Overlapping place of use (Describe source & relationship to present application on the back.)
☐ Overlapping point of diversion
Yes ☐ No ☐ Field check required
Field check by _____
Yes ☐ No ☐ Field report attached
Yes ☐ No ☐ Critical groundwater area
Yes ☐ No ☐ Groundwater management area
Yes ☐ No ☐ Send dam safety information
Yes ☐ No ☐ Send power requirement letter
Yes ☐ No ☐ Send fish farm requirement letter
Yes ☐ No ☐ Power residency affidavit
Yes ☐ No ☐ Power efficiency form
Yes ☐ No ☐ Within trustwater boundary (If yes, attach trust water supplementary analysis sheet.)
☒ Yes ☐ No ☐ Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.)

See reverse side for additional information

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT _____

_____ Date Requested _____

RECEIVED

FEB 13 1997

" Utilize line 12 - Remarks in the advertisement "

[Signature]
Department of Water Resources

PROCESSING

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

SEND COPIES TO NONE

☐ Idaho Dept. of Health & Welfare ☐ U.S. BLM
☐ Idaho Dept. of Fish & Game ☐ U.S. Forest Service
☐ Idaho Dept. of Lands ☐ Water District
☐ Adjudication Bureau Unit ☐ Other _____

FINAL REGIONAL PROCESSING REVIEW

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

☒ Yes ☐ No Publication dates & paper, recorded on application
☒ Yes ☐ No Protests received
Final date for protest 8-5-96
☐ Yes ☐ No Protests, dates, resolution of protest, recorded on application
☐ Yes ☐ No Recommendations attached
☐ Yes ☐ No Measuring device required
☒ Yes ☐ No Access port required
☒ Yes ☐ No Will water be delivered by watermaster? If yes, what Dist. 27
☒ Yes ☐ No Special conditions of approval or cover letter below.
See Ray Carlson's memo

Date of priority recommended 7-01-1996
By: [Signature] Date: 2-7-1997

STATE OFFICE REVIEW

By _____ Date: _____

ADDITIONAL INFORMATION

* Surface water share will be sent on down the Snake River in line of using this well.

LOCAL PUBLIC INTEREST

Comments received from

_____ City	_____ Idaho Fish & Game	_____ Irrigation Dist.
_____ County	_____ Idaho Health & Welfare	_____ Canal Company
_____ Reservations	_____ Div. of Environment	_____ Other _____

Project impacts/implications report

COMMENTS

[illegible]

February 3, 1997

CITY OF BLACKFOOT
157 N BROADWAY
BLACKFOOT ID 83221

RE: Application for Permit No. 27-07577

Dear Applicant:

This letter is to advise you that the protest filed by the Corbett Slough against approval of the above referenced application for permit has been withdrawn.

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

Very truly yours,


Harold W. Jones
Water Right Supervisor

HWJ/rb

FILED

JUL 31 1998

February 3, 1997

BOB OLSEN
CORBETT SLOUGH
21 E 100 N
BLACKFOOT ID 83221

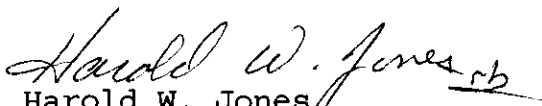
RE: Application for Permit No. 27-07577

Dear Protestant:

This letter acknowledges receipt of the withdrawal of protest by you against the above referenced application.

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

Very truly yours,


Harold W. Jones
Water Right Supervisor

HWJ/rb

RECEIVED
JUL 31 1998

Jan 24, 1997

The directors of the Corbett Slough ditch
Company wish to withdraw the protest
on # 27-07577.

Robert W. Allen
President Corbett Slough

RECORDED

JUL 31 1998

This agreement entered into this _____ day of _____, 1997 between Minors Ditch Water Users, the City of Blackfoot, the Corbett Slough Ditch Company, and the Department of Water Resources.

The purpose of this agreement being to lower the cost of maintenance and operations to the City of Blackfoot which resulted in their obligation to furnish water to the Minors Ditch Users by a previous agreement at the time they eliminated the lateral that supplied the water to the Minors Ditch Users that was located through the southern part of the city of Blackfoot, and in exchange, pumping this supply of water from the Blackfoot River.

It is agreed that the City of Blackfoot will now furnish the water to Minors Ditch Users from a ground water source that is not being used by the city at this time. This will be an additional water resource for the Minor Ditch Users until such time it can be proven a sufficient resource.

Pumps that have been in use at the place of the surface water source will be left intact to enhance the water supply in the event that the ground water source is inadequate for a sufficient amount of time.

This agreement will in no way set a presedence for changing any other Corbett Slough stockholders water rights, nor will it affect any changes in the assessments due the Corbett Slough Ditch Company for the maintenance and operation of the canal system.

The Corbett Slough will continue to supply Minors Ditch Users surface water through the canal system which will continue down to the Blackfoot River and on into the Snake River as mitigation to offset the use of the ground water.

This agreement will be on "trial basis" for no less than two years and no more than five years or until such time to prove itself beneficial to all parties involved, then at which time this agreement will be entered into permanently.

This agreement comes under the scrutiny and advisement of the Water Resource Board subject to all Idaho water laws.

This agreement will not be subject to any "Conjunctive Management" rules so as to not complicate or confuse the purpose of intent.

Signed:

Notorized:

1997-1998
JUL 31 1998

August 15, 1996

CITY OF BLACKFOOT
157 N BROADWAY
BLACKFOOT ID 83221

RE: Application for permit No. 27-07577

Dear SIRS:

Enclosed is a copy of a protest filed against the issuance of your permit. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Sec. 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If this office can be of further assistance, please contact us.

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

JUL 31 1998

August 15, 1996

CORBETT SLOUGH
21 E 100 N
BLACKFOOT ID 83221
ATTEN. BOB OLSEN

RE: Application for PERMIT 27-07577 CITY OF BLACKFOOT

Dear Protestant:

Your protest against approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Sec. 42-203, Idaho Code): the following are the principle items the Department can consider in either approving or denying the application for permit (Sec. 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The protestant must be prepared to present proof of allegations involving one or more of the six items.

If this office can be of further assistance, please contact us.

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

JUL 31 1998

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Application for Water Right #27-07577 (See attached clipping) (name of) City of Blackfoot/Miners Ditch users
2. Name of protestant Corbett Slough Board of Directors
3. Protestant's representative for service (If different than protestant)
Bob Olsen, Pres., Heber L. Barnard, Director, Walt Yerke, Dir., William Neff, Dir., Cecil Johnson, Dir., Candice High, Secy.
4. Service mailing address Corbett Slough % Bob Olsen, 21 E. 100 N., Blackfoot, ID 83221
5. Service telephone no. (208) 785-0467 (Pres.), (208) 785-7296 (Secy.)
6. Basis of protest (including statement of facts and law upon which the protest is based)
We, the Board of Directors of the Corbett Slough, have not been notified or seen any mitigation plan involving all parties involved in a proposed water transfer by City of Blackfoot, nor been involved in any formal hearing to resolve any basic matters pursuant to existing surface water problems. We (the Corbett Slough board) need to see a mitigation plan based upon & in compliance with State law that will guarantee protection to all stockholders & current canal's system of Maintenance and operation. (additional pages may be attached to describe the nature of the protest)
7. What would resolve your protest? A formal hearing with a mitigation plan involving all parties of the Corbett Slough, Blackfoot Irrigation, Eastern Idaho, Miner Ditch, and City of Blackfoot to resolve any existing problems and any other problems that may occur in years to come.

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

Signed this 3rd day of August, 1996.

Corbett Slough

PROTESTANT

Bob Olsen, President

PROTESTANT'S REPRESENTATIVE

NOT RECORDED

JUL 31 1996

NOTE:

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

INSTRUCTIONS

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

FOR DEPARTMENT USE ONLY

Received by SC Date Aug 5, 1996 Time 1:17 p.m.
\$25.00 fee Receipted by SC # E022451 Date Aug 5, 1996

MACTOFORMED

JUL 31 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 15, 1996

CITY OF BLACKFOOT
157 N BROADWAY
BLACKFOOT ID 83221

RE: Notice of Application for Permit 27-07577

Dear Applicant:

The Department of Water Resources acknowledges receipt of your water right application. This office is currently in the process of advertising the application in the Morning News on July 18 & 26, 1996. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

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

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

Sincerely,


Harold W. Jones
Water Right Supervisor

HWJ/rb

JUL 31 1996



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JULY 9, 1996

Legal Notices Department
THE MORNING NEWS
P.O. BOX 70
BLACKFOOT, ID 83221

Gentlemen:

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

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

Please send the affidavit of publication and publication billing to this office before AUGUST 5, 1996.

Yours truly,

Rita Bodell
Secretary

Encl.

MAILED
JUL 31 1996

City of Blackfoot

R. SCOTT REESE, MAYOR
REID K. LARSEN, CITY ATTORNEY
AUSTIN L. MOSES, CITY CLERK/ TREASURER



CITY OFFICES
157 NORTH BROADWAY
PHONE 785-8600

STANLEY D. ARNELL, COUNCILMAN
STEVEN BARTON, COUNCILMAN
FARRELL D. CAMMACK, COUNCILMAN
DEAN PACKHAM, COUNCILMAN

RECEIVED
JUN 28 1996
Department of Water Resources
Eastern Region

June 26, 1996

Mr. Ron Carlson
Idaho Department of Water Resources
900 N. Skyline
Idaho Falls, Idaho 83402

Dear Mr. Carlson:

We are resubmitting the Application for Permit to transfer water rights on the Miner's Ditch to an underground source. We have changed the applicant name to the City of Blackfoot rather than the Miner's Ditch in order to facilitate this transfer.

As you are aware from past conversations, we feel this will benefit more than the water users of the Miner's Ditch Co. Because of the costs born by the City of Blackfoot, more than 10,000 people will benefit from this change. We hope you will lend your influence to obtain its approval.

Thank you for all your efforts on our behalf.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Scott Reese". The signature is written in a cursive, flowing style.

R. Scott Reese
Mayor

Enclosures

RECEIVED

JUL 31 1998

IN ACCOUNT WITH

ROSHOLT, ROBERTSON & TUCKER
ATTORNEYS AT LAW
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
(208) 734-0700

IRS NO. 82-0367837

CITY OF BLACKFOOT
FRANK MILES - WATER DEPT.
157 N. BROADWAY
BLACKFOOT ID 83221

04/30/96
Account No: 12797-12797N
Statement No: 9702

IRRIGATION MATTER

	Hours	
03/28/96		
JAR PREPARE FOR AND MEET WITH CITY OF BLACKFOOT LAWYER AND DELEGATION ON IRRIGATION PROBLEM.	2.00	290.00
NMS MEETING WITH JAR AND BLACKFOOT REPS; BEGIN TO REVIEW CITY RECORDS; BEGIN RESEARCH.	1.90	180.50
04/16/96		
NMS REVIEW MATERIALS FROM BLACKFOOT WATER DEPT.; RESEARCH; BEGIN RESEARCH MEMO TO JAR.	1.80	171.00
04/19/96		
NMS REVIEW FILES; CONTINUE RESEARCH; CONFS.W/ JAR AND JCT; CONTINUE RESEARCH MEMORANDUM TO JAR.	3.90	370.50
	----	-----
For Current Services Rendered	9.60	1,012.00
04/19/96 COPIES		30.20

Total Expenses and Advances		30.20
Total Current Work		1,042.20
Balance Due		\$1,042.20
		=====

FOR SERVICES RENDERED THROUGH APRIL 20TH, 1996

JUL 31 1996

ROSHOLT, ROBERTSON & TUCKER
Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
PAUL W. SAMUELSON
TIMOTHY J. STOVER
NORMAN M. SEMANKO

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

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

April 23, 1996

Frank Miles
Blackfoot Water Department
157 N. Broadway
Blackfoot, ID 83221

Re: City of Blackfoot -- Water for Irrigation Interests

Dear Frank:

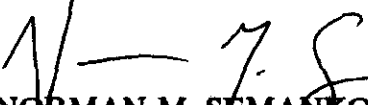
We have reviewed the materials given to us and done some research on the questions asked at our meeting of March 28, 1996. Our conclusions are presented in the enclosed research memorandum.

In short, we believe the best option for the City is to file a transfer application with the Idaho Department of Water Resources, seeking to change the point of diversion from the Blackfoot River to ground water. A mitigation plan may have to be put together to deal with any potential injuries. Of course, the cooperation of the irrigation interests involved would be a must, as they are the owners of the water rights in question.

If you have any questions, or wish to have us commence the transfer process, please give us a call.

Respectfully submitted,


JOHN A. ROSHOLT


NORMAN M. SEMANKO

04239601.NMS

cc: R. Scott Reese, Mayor
Reid K. Larsen, City Attorney
Austin L. Moses, City Clerk/Treasurer

1996 3 1 1996

**ROSHOLT, ROBERTSON & TUCKER
ATTORNEYS AT LAW**

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

MEMORANDUM

**TO: JAR
FROM: NMS
DATE: April 22, 1996
RE: Blackfoot Water Department -- Water for Irrigation Interests**

I have reviewed the materials provided to us by the Blackfoot Water Department and conducted research on the questions asked at our meeting of March 28, 1996. My findings and conclusions are as follows.

I. BRIEF SUMMARY

In short, it appears that the City does have a continuing legal obligation to work with the irrigation interests in providing a method of delivery for their irrigation water. In addition, the irrigation interests should pay for a portion of the operation and maintenance costs equal to the cost of operating and maintaining the irrigation ditches that have been replaced.

To reduce the operation and maintenance costs associated with diverting water from the Blackfoot River, the best alternative appears to be applying for a change in point of diversion to a ground water source under Section 42-222, Idaho Code.

The application process will be complicated, both factually and legally, because: (1) the number of irrigation interests involved is great; (2) the proposed switch is from surface water to ground water; and (3) the two sources are not interconnected. However, development of a mitigation plan to address the potential concerns of downstream Snake River water users and local ground water users may be possible.

II. NATURE OF BLACKFOOT'S OBLIGATION

The first question is whether the City of Blackfoot has a legally enforceable obligation to maintain the conveyance system for the various irrigation interests. As explained more fully below, it appears that the City does have such a legal obligation.

According to the City Council minutes of March 1, 1960, the City, School District and State Highway Department desired to relocate the Miners Ditch. The ditch ran by school property and the open ditch was deemed a hazardous factor for school children's safety. The irrigation interests were agreeable so long as they could be guaranteed delivery of their water. The attorney for the Miners Ditch Company agreed to prepare an agreement between the City and the ditch company to be voted on by the ditch company and the City Council at their next meetings. The ditch company agreed to pay a portion of

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JUL 31 1998

the maintenance on the new pump and water line. There is no indication in the minutes or other materials provided by the City that a written agreement was entered into. In fact, the opposite appears to be true, although a resolution was approved by the City, as explained below.

A special meeting was scheduled for March 10, 1960 to accept or reject the request that the City assume the responsibility of removing the Miners Ditch and supplying the irrigation interests with water from another location. The City Attorney, Jay Stout, reported that the City had the legal right to move the ditch and provide water to the irrigation interests from another location. Commitments to finance the \$75-80,000 project were provided by the School District (\$30-31.5 Thousand), State Highway Department (\$38 Thousand), and a Citizens Committee (\$5 Thousand). Five-Thousand Dollars worth of equipment and labor was to be contributed by the City. Also, the Miners Ditch Company agreed to pay a portion of the maintenance cost for the pump and water line equal to the prorated share of the Company's annual ditch maintenance cost attributable to the ditches eliminated by the City. The following resolution was adopted by a unanimous vote of the City Council:

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

That the City of Blackfoot declare the Miners Ditch Company, irrigation ditches, and canals running through the Southeast portion of Blackfoot, and which convey water to users thereof beyond the Corporate Limits to be dangerous, unsightly, and unsanitary, and that the same be removed from the Corporate limits of the City. The City to construct free of cost to the users thereof. It would not then be necessary that such water, insofar as possible, be conveyed through the Corporate Limits of the City of Blackfoot, and that the funds given to the City of Blackfoot for that purpose be so used.

Subsequently, at the March 15, 1960 City Council meeting, a revised version of the above resolution was adopted at the request of R. J. Kidwell, the attorney for the Miners Ditch Company. The revised resolution was the same as the original, but added the following language:

Provided further, that the City shall assume the expense of providing pumping facilities necessary to convey such water from the new point of diversion off the Blackfoot River to be established by the City, to the point where water from such new point of diversion will be emptied into the Miners Ditch Company system; provided further, that the City will pay for the expense incidental to repair, operation, management and maintenance of such pumping facilities, it being understood that the Miners Ditch Company may contribute to the cost of such maintenance a sum corresponding to the amount of saving to the ditch company resulting from its decreased maintenance cost resulting from elimination of its system of ditches within the Corporate Limits of Blackfoot.

APR 1 1960
JUL 31 1998

The resolution reveals that the City: (1) prompted the replacement of the ditches; (2) assumed the expense of providing a new system; and (3) assumed the expenses of repair, operation, management and maintenance of the new system (minus a contribution from the irrigation interests, discussed below).

A possible option for the City would be to enact a new resolution, disclaiming any further responsibility for the water delivery, on the theory that past City Councils cannot bind future City Councils. Whether this is a good theory or not, the City appears to have some form of legal obligation under Section 42-1207, Idaho Code. The statute, as it existed in 1960, provides:

Where any lateral ditch has heretofore been, or may hereafter be, constructed across the lands of another, the person or persons owning or controlling said land shall have the right at their own expense to change said lateral ditch to any other part of said land, but such change must be made in such a manner as not to impede the flow of water therein, or to otherwise injure any person or person using or interested in such lateral ditch.

I.C. Sec. 42-1207 (1990).

The City of Blackfoot replaced the problem ditches in the 1960's. As its attorney concluded, they had a right to do so. However, in doing so, they also assumed a legal obligation to prevent injury to the users of the ditch. This is consistent with the opinion of Kent Foster, attorney for the Miners Ditch Company's in 1981, expressed in the City Council minutes of April 7, 1981: "Normally if the flow of water is changed or ditch covered it becomes the responsibility of who ever made the change." This is true, at least to the extent the operation and maintenance requirements are increased.

As a result, it appears that, because of the actions it has previously taken, the City has a continuing legal obligation to provide a means of delivery to the irrigation interests, regardless of whether any resolution or written or oral agreement exists or continues to exist in the future.

III. NATURE OF THE IRRIGATION INTERESTS' OBLIGATION

A second question involves the irrigation interests' proper share of the operation and maintenance costs.

At the March 1, 1960 meeting, it was indicated that the Miners Ditch Company might be willing to pay part of the maintenance costs for the new pump and water line. They were to hold a meeting the following Saturday. At the special City Council meeting held on March 10, 1960, Stanley Jensen, a representative of the Miners Ditch Company agreed only to pay maintenance costs equal to the maintenance costs for the portion of the ditches that were being replaced. In addition, the revised resolution adopted at the March 15, 1960 City Council meeting stated that the Miners Ditch Company may contribute an amount equal to the savings resulting from elimination of portion of its ditches.

As a general rule, the owner of a ditch is responsible for the costs of operation and maintenance. I.C. Sec. 42-1202. However, Idaho courts have concluded that when such costs are increased because someone else moves or replaces the ditch pursuant to Section 42-1207, any additional costs are properly attributed to the one making the change. Abbott v. Nampa School Dist. No. 131, 119 Idaho 544 (1991). This rule was expressly added to the statute when it was amended in 1994, as follows: "Any increased operation and maintenance shall be the responsibility of the landowner who makes the change." I.C. Sec. 42-1207 (1994).

Therefore, the irrigation interests should be required to pay a portion of the costs of operation and maintenance equal to the cost of operation and maintenance of the ditches that have been replaced. The balance of the costs would be properly attributable to the City. This is consistent with the City's resolution and applicable law.

IV. DISCUSSION OF POTENTIAL SOLUTION

Assuming that the City has some continuing obligation, or that it chooses to accommodate the irrigation interests, there are several possible solutions to be explored.

In your February 26, 1996 letter to Frank Miles you suggested at least three possibilities: (1) formation of a city irrigation district; (2) adding a point of diversion for groundwater; and (3) ponding the ditch for recharge. Preliminary research indicates that a variation of option 2, and perhaps elements of option 3, appear the most promising of the three. As a result, these options are explored together in more detail below.

A. Transferring Point of Diversion from Blackfoot River to Ground Water Source.

This is the option that was recommended by Ron Carlson, IDWR Eastern Regional Manager, in his letter to the City dated May 24, 1994. He suggested that a transfer application to change the point of diversion of approximately 10 cfs (4500 gpm) from the Blackfoot River to the City's existing Lansing Street well be filed with IDWR. This would be accomplished under authority of Section 42-222, Idaho Code.

The transfer idea was discussed at a meeting with Ron Carlson on October 14, 1994. According to some written notes from the meeting, the basics of such a transfer were discussed and Carlson said the application process should be started. He warned that it would not be easy to complete the transfer, but that it was possible.

There is also an indication in some written notes that a meeting was held with Rexburg attorney Ray Rigby earlier in the year on March 14, 1994. During that meeting, Rigby and the City Attorney were told to prepare a transfer application and Rigby was to talk with then-IDWR director Keith Higginson. An earlier letter from Ray Rigby to the City Attorney, dated March 22, 1993, suggested that Higginson saw no problem with filing a transfer application to change the point of diversion, while retaining the original priority date.

It is not clear from the materials provided whether a transfer application was ever submitted and, if not, why not. Perhaps it is because the ground water is tributary to the Snake River, and not the Blackfoot River. This may have caused some hesitation at

JUL 31 1998

IDWR in changing the point of diversion from one source (the Blackfoot River) to another unconnected source (ground water tributary to the Snake River). While there is nothing on the face of the statute prohibiting such a transfer, IDWR's Conjunctive Management Rules state that wells can be used as alternate or changed points of diversion for surface water rights when the new point of diversion of the water is in an interconnected area having a common ground water supply. IDAPA 37.03.11.20.10.

This uncertainty may explain the reason for the City's pursuit of House Bill 313 during the 1995 session of the Idaho State Legislature. The bill purported to authorize exchanges of surface and ground water. However, it does not appear that this bill would have solved the City's problem.

An exchange contemplates a temporary "trading" of water rights. However, no trade of water rights is contemplated in this matter. ~~In the event~~ that IDWR determines that the point of diversion cannot be transferred from the Blackfoot River to the ground water that is tributary to the Snake River, the best alternatives would be to seek declaratory relief from a state district court or to amend section 42-222, Idaho Code to specifically authorize such a change in point of diversion. H.B. 313 would have done neither of these.

As a first step, the best legal alternative available under existing law is file a transfer application, even in the face of the Blackfoot River/ground water issue. Any negative implications of such a transfer could perhaps be dealt with in the form of mitigation, as explained below. If not, the judicial and legislative alternatives mentioned above should be explored in greater detail.

B. Mitigation for Impacts to Snake River and Local Ground Water Rights.

Any questions regarding the fact that the two sources (the Blackfoot River and ground water) are separate sources could perhaps be addressed during the transfer process. As a practical matter, it appears that, since both sources are tributary to the Snake River, something could be worked out to avoid injury to existing water rights.

For example, to address the concerns of downstream Snake River water users, water that is not diverted from the Blackfoot River, and ultimately reaches the Snake River, could mitigate any reduction in ground water flowing to the Snake River as the result of the new ground water pumping.

A separate issue that would have to be addressed is whether any other ground water rights in the immediate area would be injured. If necessary, perhaps some of the Blackfoot River water could be used to recharge the aquifer while the rest of the water is left in the Blackfoot River to mitigate any impacts that the ground water pumping might have on the Snake River.

Please advise how we should proceed.

04169607.NMS

MEMORANDUM - 5

JUL 31 1998

M E M O R A N D U M

DATE: OCTOBER 24, 1994

TO: FILE

FROM: RONALD CARLSON

RE: MINERS DITCH TRANSFER TO A GROUNDWATER SOURCE

The City of Blackfoot inquired earlier this year about the possibility of exchanging a portion of the rights carried by the Miner's ditch for water pumped from one of the City's wells. The City of Blackfoot frames the issues behind this application for exchange as follows:

Originally the Miner's ditch carried water through, what became a residential area of Blackfoot. Because of the complaints of the residents, the mayor agreed to pump water from the Blackfoot River for the irrigators on the Miner's ditch in exchange for abandoning the ditch through town. This was done in the early 1960's, and the city has been pumping water for the Miner's ditch ever since. This has proven to be very expensive for the city who indicates their pumping and maintenance costs have been averaging over \$20,000 per year. Much of this expense results from wear associated with sand and sediment being pumped from the river. The city believes it would be much cheaper for them if they could pump water from its Lansing street well to supply the portion of the Miner's ditch reflected by this transfer application. The well, which is located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ SEC 4 TWP 02S RGE 35E is currently associated with water right A27-04165. The users who would be supplied from groundwater, should this exchange be approved, have all agreed to the change. A transfer of the rights to the well is complicated. The department has had experience with the complications associated with transfer applications from one surface water source to another. Many times these are not possible because of the regulatory complications and infact, those that do get approved are generally conditioned to make them essentially exchanges. Transferring surface water rights to a well is even more complicated. In the case of the Miner's Ditch Co., which was organized to be a carrying company, (where each user holds specific water entitlements that are delivered from two different water districts)* the preparation of a transfer is daunting task at best. By assuming that surface deliveries will continue to be made to the original point of diversion, and allowed to flow down stream a reasonable argument that down-stream surface water users will be the net beneficiaries of the proposed exchange. Ground water users will be

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unaffected. Since the department no longer has an exchange form, the transfer form has been modified to reflect the intended exchange. It is not the intent of the making a transfer from surface water to groundwater there are some assumptions that have Since the deliveries from the Snake River would not be effected by this transfer and, at least in theory, water delivered into the Blackfoot from the Snake would flow down stream and be available to surface water rights in exchange of the ground water being pumped, the transfer treats the well as a point of rediversion or exchange for water delivered from the Snake River. The same logic was used in treating the water provided from the Blackfoot River by the Eastern Idaho Canal. By not changing the ability to "call" water to the old Miners Ditch heading, downstream impacts should not become an issue.

* Some of these entitlements held by the users on the Miner's ditch are delivered to the Blackfoot River from the Snake River by the Blackfoot Irrigation Co. and the Corbett Slough Ditch Co. These are delivered to the Blackfoot river through the Eastern Idaho canal.

NOTED

JUL 31 1998

May 24, 1994

Mr. Frank Miles
CITY OF BLACKFOOT
157 N Broadway
Blackfoot, Idaho 83221

RE: Miner's Ditch

Dear Mr. Miles:

I have evaluated the possible ways to for the city to legally proceed with a test exchange of groundwater for Blackfoot River water in the Miner's ditch. It appears that the only reasonable option would be for some of the users on the Miners Ditch to change their points of diversion for their water rights to the city's Lansing Street well. There would need to be approximately 10 cfs (4500 gpm) of water rights transferred. The requested change could be for an additional point of diversion which would allow a return to the river if water users were not satisfied with the test. Once the transfer has been filed I will recommend authorizing the city to proceed with the test.

As I told you before we will be happy to assist you or the Miner's ditch water users with the preparation of the transfer.

Very truly yours,

Ronald D. Carlson
Regional Manager

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JUL 31 1998