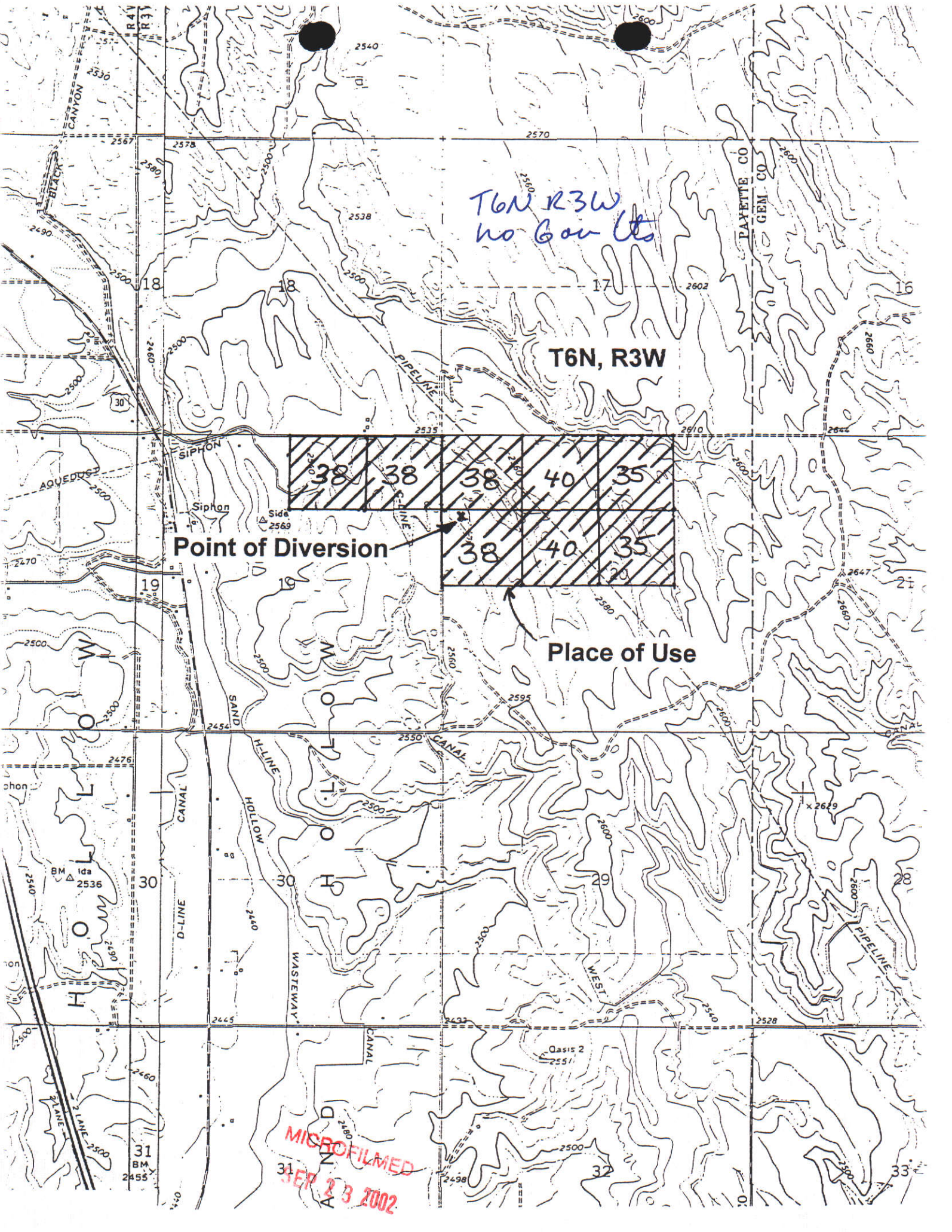




T6N R3W
no Gov lts

T6N, R3W

Point of Diversion

Place of Use

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SEP 23 2002

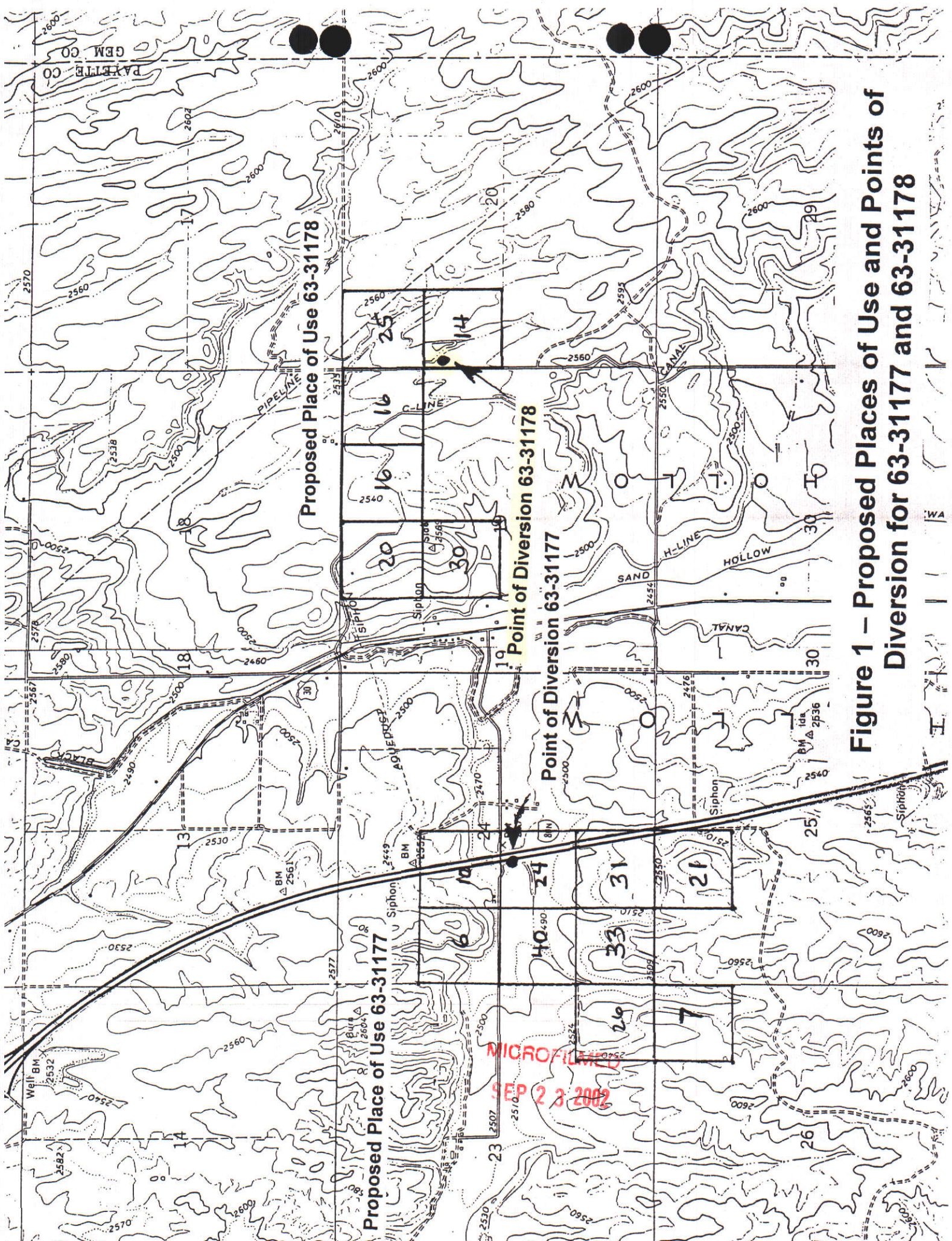


Figure 1 – Proposed Places of Use and Points of Diversion for 63-31177 and 63-31178

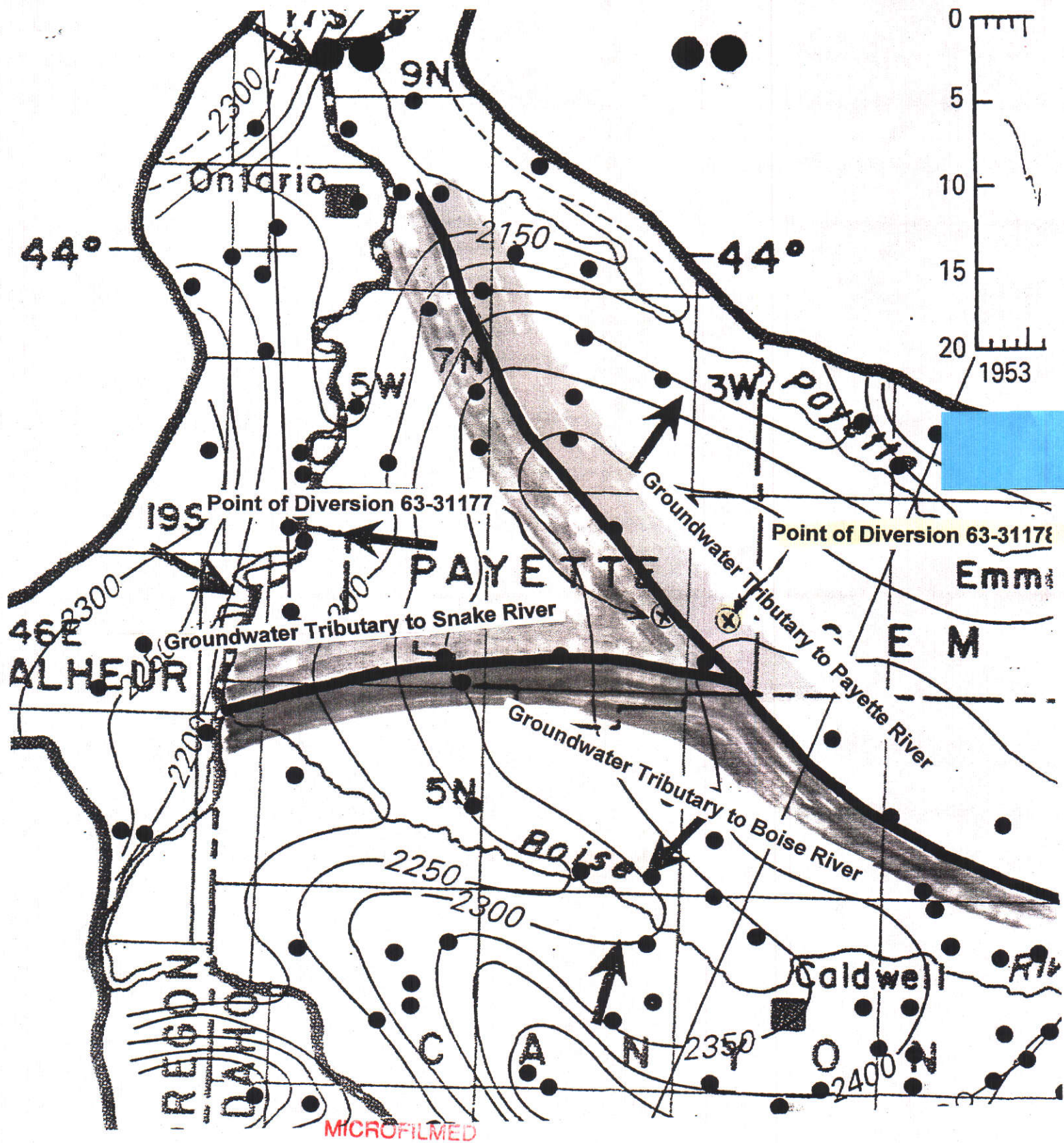
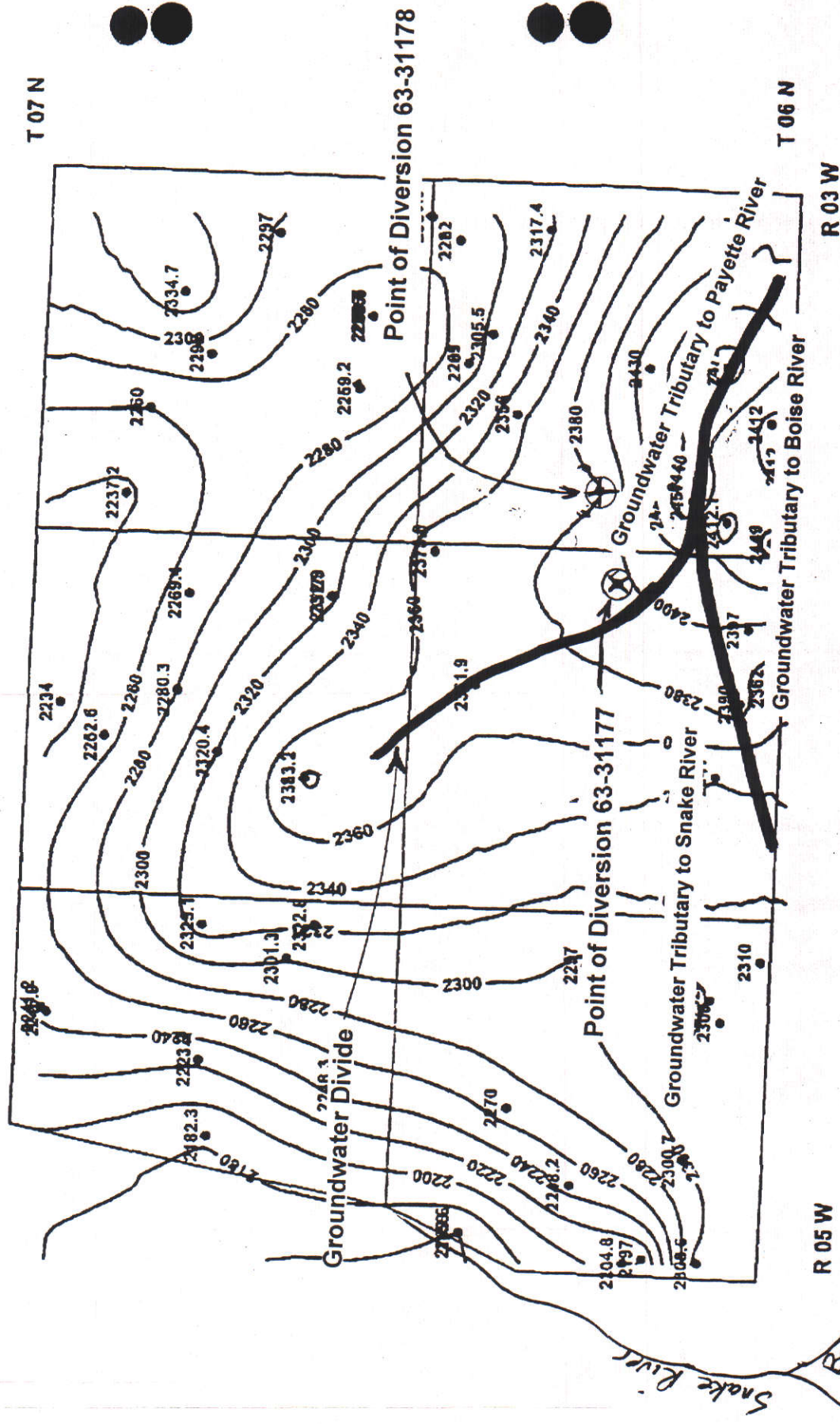


Figure 2 – USGS Water Table Contour Map
(points of diversion location and groundwater divides added by Scanlan)

Source: "Configuration of the Water Table and Depth to Water, Spring 1980, Water-Level Fluctuations, and Water Movement in the Snake River Plain Regional Aquifer System, Idaho and Eastern Oregon", by G.F. Lindholm and others (USGS Hydrologic Atlas HA-702, 1989)

Figure 3 – IDWR Water Table Contour Map
 (computer generated by IDWR from water level data base; point of
 diversion locations and groundwater divides added by Scanlan)

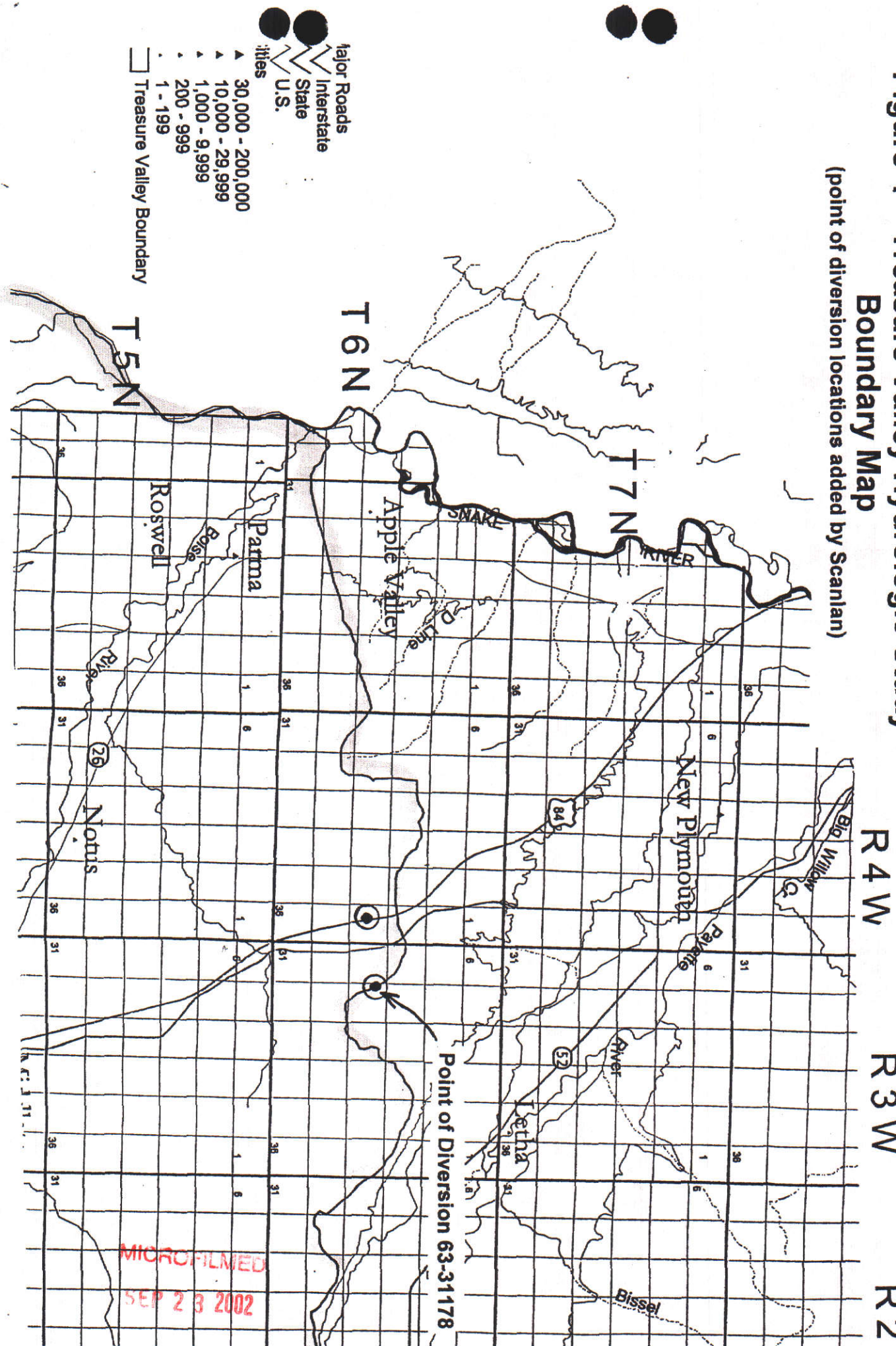
Ground Water Levels
Township 6 North, Ranges 3, 4 and 5 West

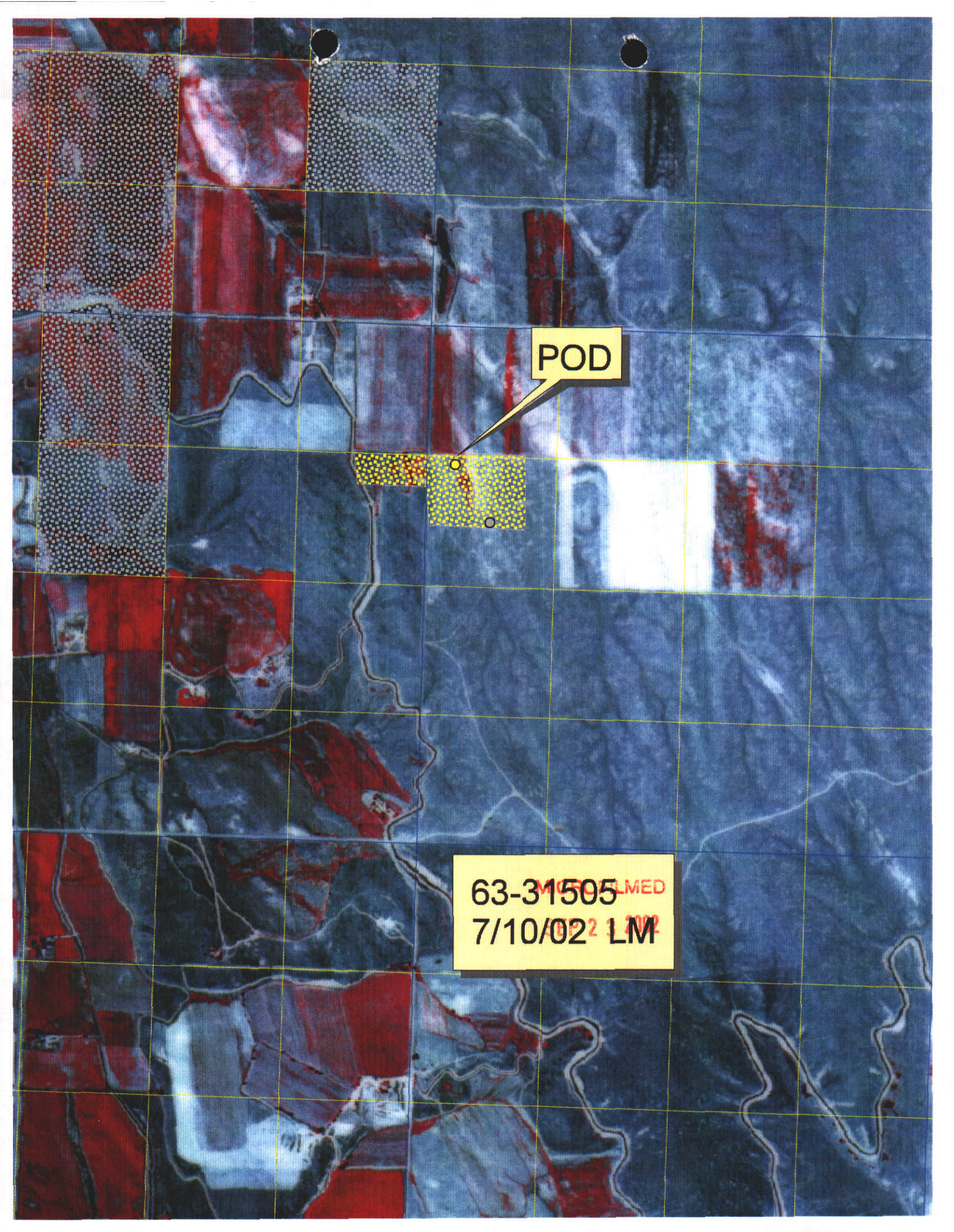


Ground water levels compiled from unsorted data. All wells with water levels included, without any sorting of spring or fall measurements. If well had multiple measurements, only the first measurement is plotted.

Figure 4 – Treasure Valley Hydrologic Study Boundary Map

(point of diversion locations added by Scanlan)





POD

63-31505
MICROFILMED
7/10/02 LM

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-31505

Priority: 05/10/2002

Maximum Diversion Rate: 1.92 CFS

This is to certify, that **ROD & MAUREEN FRISBY FAMILY LTD PARTNERSHIP**
6208 S E 8TH AVE
CALDWELL ID 83605

has applied for a permit to appropriate water from:

Source: GROUND WATER

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	03/01 to 11/15	1.92 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER SW¼NW¼ Sec. 20, Twp 06N, Rge 03W, B.M., PAYETTE 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	
06N 03W 19	38.0	38.0															76.0
06N 03W 20		35.0	35.0		40.0	38.0	38.0	40.0									226.0

Total Acres: 302

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2007**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

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SEP 11 2009

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-31505

6. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
7. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
8. This permit is for the use of ground water and is subject to administration as a water right from connected sources in the Snake River Basin in accordance with applicable law.
9. This permit for the use of ground water shall be junior to, and subject to, the water rights of the United States Bureau of Reclamation heretofore appropriated, including, as authorized by applicable law, reuse of water under such water rights.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 9th day of August, 2002


for **KARL J DREHER, Director**

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SEP 11 2002

RECEIVED

MAY 06 2002

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-31505

RECEIVED

AUG - 5 2002

Department of Water Resources

Rod & Maureen Frisby Family LTD Partnership

208-459-0875

1. Name of Applicant _____ Phone _____

Mailing address 6208 S.E. 8th Avenue, Caldwell, ID 83607

2. Source of water supply ground water which is a tributary of NA

3. Location of point of diversion is Township 6N Range 3W Sec. 20 in the 1/4

SW 1/4, NW 1/4, Govt. Lot _____, B.M., Payette County;

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 1.92 for irrigation purposes from 3/1 to 11/15 (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) 1.92 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 existing well, new or upgraded pump system

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet

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

d. Is ground water with a temperature of greater than 85°F being sought? no

e. If well is already drilled, when? 1978?; Drilling firm _____;

Well was drilled for (well owner) Harmon Hughes; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 5 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. _____

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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	
6N	3W	19	38	38															76
		20		35	35		40	38	38	40									226

Total number of acres to be irrigated 302

10. Describe any other water rights used for the same purposes as described above. 63-10785, 63-31178

11. a. Who owns the property at the point of diversion? applicant
b. Who owns the land to be irrigated or place of use? applicant
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: This application seeks to increase the diversion to lands proposed for irrigation under water rights 63-10875 and 63-31178. This application overlaps these water rights and increases the diversion rate up to 0.02 cf/ac. A maximum of 10 additional acres (without overlap) are proposed. Water will be diverted from the existing well that serves 63-10875. The same well is proposed as diversion point for 63-31178.

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.)

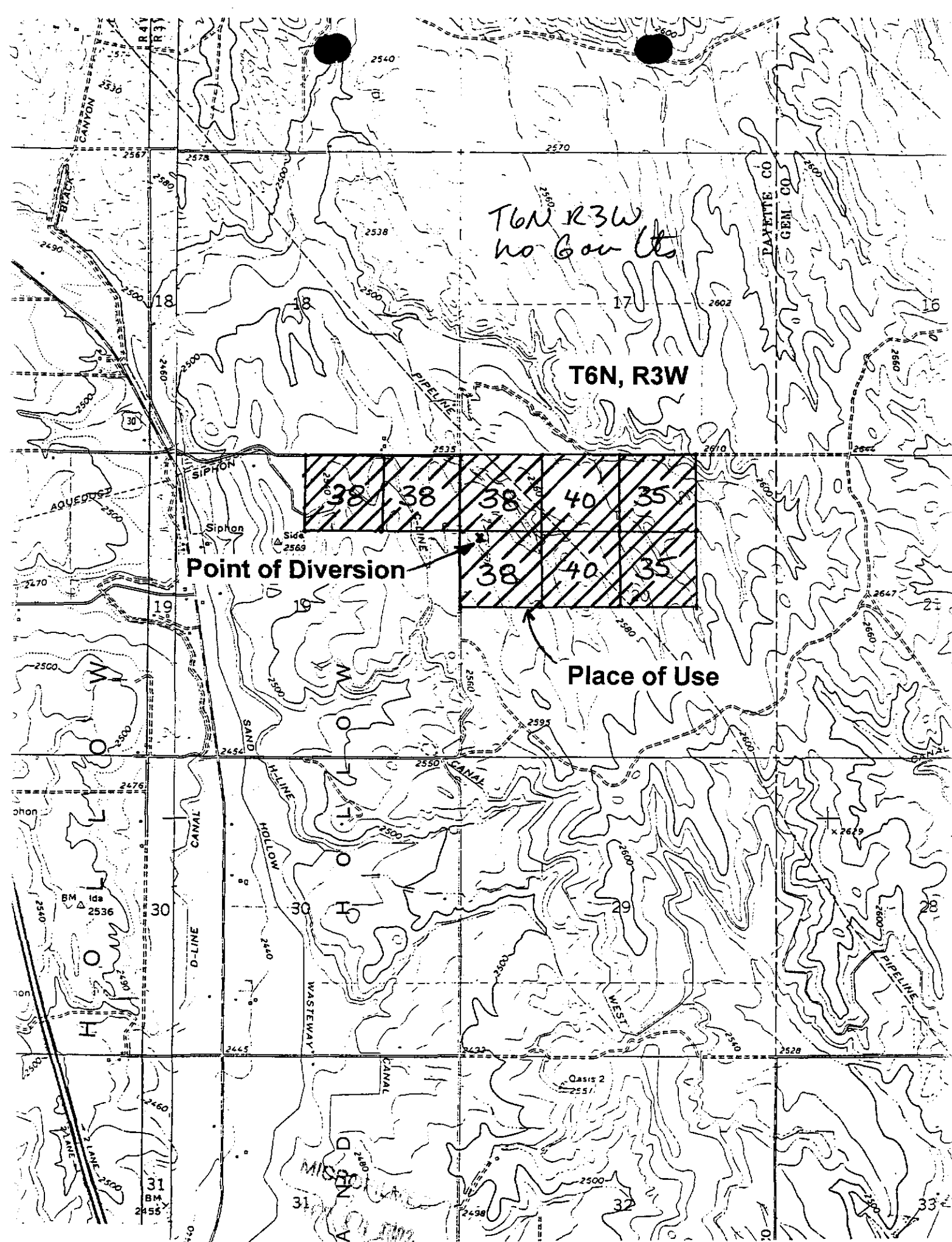
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Maureen G. Truby
Signature of Applicant (and title, if applicable)

Received by KL Date 5/10/02 Time 2:30 Preliminary check by g
Fee \$ 290.00 Receipted by KL # 10079149 Date 5/10/02
Publication prepared by dt Date 7-3-10-02 Published in INDEPENDENT ENTERPRISE
Publication approved dt Date 7-30-02 INDEPENDENT ENTERPRISE

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SEP 23 2002



REQUEST TO PROCESS

COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE
THREE ALTERNATIVES BELOW

Name of Applicant

ROD + MAUREEN FRISBY

Mailing Address

6208 S East 8th Ave
Caldwell ID 83605

Application No.
(if known)

 IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.

 PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will amend my application to include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.

 / WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature

Maureen Frisby

Date

5/6/02

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way - MICROFILMED
Boise, ID 83705-5082

SEP 24 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 9, 2002

ROD & MAUREEN FRISBY FAMILY LTD PARTNERSHIP
6208 S E 8TH AVE
CALDWELL ID 83605

RE: Permit No. 63-31505

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources 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 the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date 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.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

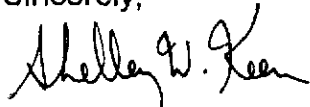
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SEP 2 1997

Also, please note that water right owners are required to report any change of water right ownership and/or 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 forms and instructions.

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

Sincerely,

A handwritten signature in black ink that reads "Shelley W. Keen". The signature is written in a cursive style with a large, stylized 'S' and 'K'.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

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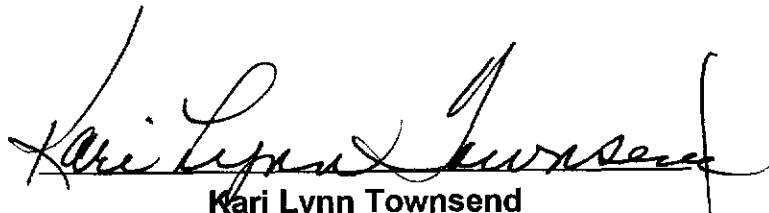
SEP 2 2002

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2002 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 63-31505

**ROD & MAUREEN FRISBY FAMILY LTD PARTNERSHIP
6208 S E 8TH AVE
CALDWELL ID 83605**


**Kari Lynn Townsend
Secretary**

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SEP 23 2002

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing 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 this 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 fourteen (14) 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 this 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 with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director 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 Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director 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 Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

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FINAL ORDER

The Director 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 Director 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.

RECEIVED

AUG - 5 2002

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Department of Water Resources

Initial review by Ly Date 6/11/02 Application # 63-31505

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, the names and addresses for the director, officers, and other partners must be included)
- ☒ Address
- ☒ Source (See USGS Quad for names of water sources)
- ☒ Point of Diversion (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ 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 (Show T, R, S, QQ &/OR QQQ)
- ☒ Subdivision plat (for > 1 home in restricted area ≥ 5 homes in non-restricted area)
- ☒ Signature (if applicant is corporation, partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid
- Government Lots
☒ P/D
☒ P/U

ADDITIONAL INFORMATION

Y ADVERTISE REMARKS (Yes or No)

YES NO

- ☒ Overlapping place of use (Describe source and relationship to present application on next page)
- ☒ Overlapping point of diversion
- ☒ Critical groundwater area
- ☒ Ground water management area
- ☒ 1992 moratorium
- ☒ Surface water source, IDFG letter needed
- ☒ Protected river or minimum flow reach, notify water planning bureau
- ☒ E-mail to SCA staff (perennial stream, non-pump diversion &/or any mining)
- ☒ E-mail to Dam Safety staff (for any storage)
- ☒ Mitigation plan Check any that apply
- ☐ Immediate = acceptable plan required and submitted
- ☒ Future = open areas, acceptance of condition of approval is in file
- ☒ Send power requirement letter &/or fish farm requirement letter
- ☒ Power residency affidavit
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres (If YES, attach Large Diversion supplementary analysis sheet)
- ☒ REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

Date Requested _____ Date Response Received _____

PROCESSINGAPPLICATION # 63-31505

YES NO

☒ ☐ In form for advertising
☐ ☒ Statewide advertising (> 10 cfs &/or 1000 af)
☒ ☐ Fee amount, receipt number, and date recorded on application

SEND COPIES TO NOTE IF E-MAIL COMMENT LETTER USED

YES NO

☐ ☒ I.D. Environmental Quality
☐ ☒ I.D. District Health
☐ ☒ I.D. Fish & Game
☐ ☒ I.D. Lands

YES NO

☐ ☒ US BLM
☐ ☒ US Forest Service
☐ ☒ Water Dist # _____
☐ ☒ Water Planning Bureau
☐ ☒ Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☐ Affidavit of publication received
☒ ☐ Application published correctly? If not, record action taken _____

☒ ☐ Publication dates and paper recorded on application
☐ ☒ Final date for protest 7-22-02
☐ ☒ Protests received
☐ ☒ Recommendations attached
☐ ☒ Measuring device required
☐ ☒ Water delivered by water master? District # _____
☒ ☐ Special conditions of approval or cover letter

121, Two conditions set out in a stipulation signed by the Bureau of Reclamation, Black Canyon Irr., and Frisbys must be included in any approval.

Recommended Date of Priority 5/10/02Recommendation ☒ Approve ☐ Deny by Gary S Date 7/30/02**ADDITIONAL INFORMATION**☐ See Attachment(s) ... always include application proof report

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

Lois B. Jones -
Let's process -
8/4/01

RECEIVED

AUG 02 2001

WATER RESOURCES
WESTERN REGION

August 1, 2001

Gary Spackman
Regional Manager
Western Region Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Subject: Water Right Applications 63-31177 and 63-31178
(Rod & Maureen Frisby Family Ltd Partnership)

Dear Gary:

On behalf of Rod and Maureen Frisby, I have investigated groundwater flow direction and water availability in relation to water right applications 63-31177 and 63-31178. The water rights are described below.

- Water right application 63-31177 proposes a diversion rate of 3.96 cfs for irrigation of 196 acres located 3 miles north-northwest of Sand Hollow in Payette County. All of the acres proposed for irrigation by this application were irrigated prior to the 2001 irrigation season with water obtained from the Black Canyon Irrigation District (BCID). However, only half of these lands had recorded rights with BCID, and BCID has required that irrigation cease using BCID water on the approximately 100 acres without recorded water rights. Thus, the application is proposing use of groundwater as a primary source on approximately 100 acres, and as a supplemental source on the remaining 96 acres.
- Water right application 63-31178 proposes a diversion rate of 2.42 cfs for irrigation of 121 acres located 3 miles north-northeast of Sand Hollow in Payette County. Approximately 40 acres of new irrigation are proposed. The remaining 81 acres currently are irrigated, with approximately 63 acres irrigated with groundwater under claim A63-10785, and 18 acres irrigated with surface water from BCID. The groundwater use under claim A63-10785 was expanded from the licensed amount under 63-10785. Therefore, application 63-31178 would provide primary irrigation on approximately 40 acres of new land, supplemental irrigation on approximately 18 acres of BCID, and would be an "overfile" on acres claimed in the SRBA under A63-10785.

The places of use and points of diversion proposed by each of these water right applications are shown on Figure 1. The proposed points of diversion are located in Basin 63 (Boise River Basin). As you know, applications for new irrigation water rights from groundwater sources in Basin 63 are subject to IDWR's "administrative hold" until completion of the Treasure Valley Hydrologic

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Project. However, we understand that IDWR has exempted some applications from the administrative hold if hydrologic conditions suggest that a proposed water right will have no significant detrimental impact to surface water or groundwater in the Boise River Basin. We propose that applications 63-31177 and 63-31178 be exempted from the administrative hold for the following reasons.

- (1) The groundwater flow at the proposed points of diversion is not towards the Boise River. Instead, groundwater flow is toward the Snake River (Basin 03) and Payette River (Basin 65) where water is available for appropriation.
- (2) Nearly all of the lands proposed for irrigation have been irrigated for more than 10 years. Therefore, approval of the applications should not result in a significant increase in the consumptive use within Basin 63.
- (3) The point of diversion proposed by application 63-31178 is on the boundary of the Treasure Valley Hydrologic Project (TVHP) area. The TVHP might not provide meaningful information relative to the groundwater resource at this boundary location.
- (4) There are no reported problems with water-level decline in the aquifers proposed for appropriation. Thus, the groundwater supply is sufficient for the proposed purposes.
- (5) The well sites are not located in areas where depletions to surface water sources are likely to injure senior Boise River water rights.

Supporting information related to the five points described above follows.

Groundwater Flow Direction. As shown on Figures 2 and 3, the proposed well sites are located near the crest of a groundwater "mound" between the Boise, Snake, and Payette Rivers.

- Figure 2 is a water table contour map from USGS Hydrologic Atlas HA-703. Interpretation of the contours suggests that flow direction at the point of diversion for 63-31177 is probably west or northwest toward the Snake River, or north toward the Payette River. Flow direction at the point of diversion for 63-31178 is north, toward the Payette River.
- Figure 3 is a computer generated water table contour map obtained from IDWR staff. This map suggests that groundwater flow directions are north (toward the Payette River) at the diversion points for 63-31177 and 63-31178.

Neither map suggests a southerly flow component toward the Boise River from the proposed diversion points.

Consumptive Use. The approximately 100 acres that are proposed for primary irrigation by application 63-31177 have been irrigated since 1989 or earlier. The source of irrigation water was the BCID. Therefore, the consumptive use proposed by application 63-31177 replaces consumptive use of surface water that has been ongoing since prior to the start of both the original Basin 63 moratorium and the more recent Basin 63 administrative hold.

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The approximately 96 acres of land with BCID water rights generally do not require significant supplementation from groundwater. BCID water supplies are relatively dependable and are typically deliverable throughout most of the irrigation season. As a result, the annual diversion volume for supplemental irrigation (and associated consumptive use of the supplemental irrigation volume) on the approximately 96 acres with BCID water will be a small percentage of the annual irrigation requirement for the 96 acres.

The irrigation proposed by application 63-31178 will occur on (1) 40 acres of new land, (2) approximately 18 acres irrigated with BCID water, and (3) approximately 63 acres that have been irrigated from groundwater since the 1980s due to expansion under water right 63-10785.

- The increase in consumptive use associated with the 40 new acres will be approximately 100 acre feet per year (40 acres x 2.5 af/ac). The applicants are willing to eliminate these 40 acres from the application if the Department is concerned about the increase in consumptive use associated with new lands.
- There will be only a slight increase in consumptive use for supplemental irrigation of 18 acres irrigated with water from BCID.
- There should be no change in consumptive use associated with the 63 acres currently irrigated with groundwater through expansion of 63-10785.

Thus, although 63-31177 and 63-31178 propose irrigation of 196 acres and 121 acres, respectively, the net increase in consumptive use within Basin 63 associated with the proposed water rights will be relatively small.

Treasure Valley Hydrologic Project Boundary. As shown on Figure 4, the well site proposed for 63-31178 is located on the Treasure Valley Hydrologic Project boundary. Therefore, the TVHP might not be useful in determining the impact of a new groundwater appropriation at that location on the water resources within the Boise River Basin.

Sufficiency of Water Supply. I am not aware of any long-term groundwater-level declines in the project area.

The closest USGS-monitored observation well with a long-term record (7N3W34ABD) is located about four miles northeast of the proposed well site. There has been no significant water level decline at that well site since monitoring began in 1968. Although well 7N3W34ABD is too far away to provide significant data for the proposed well site, the lack of nearby USGS monitoring wells might be an indication that significant water-level decline problems have not occurred in the project vicinity.

The TVHP has been monitoring wells in the area. Their monitoring does not indicate any problems with water-level decline. Data are provided as Attachment 1.

Impact on Boise River Water Rights. As discussed previously, groundwater flow directions at the proposed points of diversion are toward the Snake and Payette Rivers. Therefore, the potential for pumping under the proposed water rights to deplete flows in the Boise River is low.

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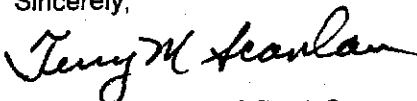
However, even if there were some depletion, is unlikely that senior Boise River water rights would be injured for two reasons.

- First, the effected river reach would probably be below Notus Bridge. The Boise River Watermaster's Annual Report (1993 edition) states, "This section of the river is operated without any regulation what so ever, but it is measured and recorded the same as Section 1 [above Star] and 2 [Star to Notus]. The return flow to Section 3 [below Notus] was sufficient to take care of all rights in this section during most of the season, and therefore no regulations were required. In fact, during all the years on record on the distribution of the water of the Boise River, beginning with 1914, there has been only one year -1931- during which it was necessary to regulate diversion from this section of the river, and during that year it was not necessary to run water past the Notus Bridge to supply the rights below."
- Second, Sand Hollow Creek is the surface water drain in the vicinity of the proposed water right applications. Sand Hollow Creek flows into the Snake River, below the mouth of the Boise River. Any depletion to Sand Hollow Creek would be unlikely to significantly effect flow in the Boise River.

Based on the information discussed above, I believe that there is sufficient reason to determine that water right applications 63-31177 and 63-31178 should be exempt from the administrative hold on processing of new groundwater applications in the Boise River Basin.

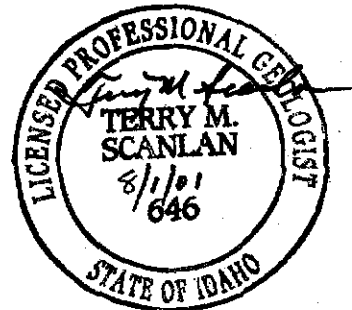
Please contact me with any questions.

Sincerely,



Terry M. Scanlan, P.E., P.G.
Engineer/Hydrogeologist

Cc: Rod and Maureen Frisby



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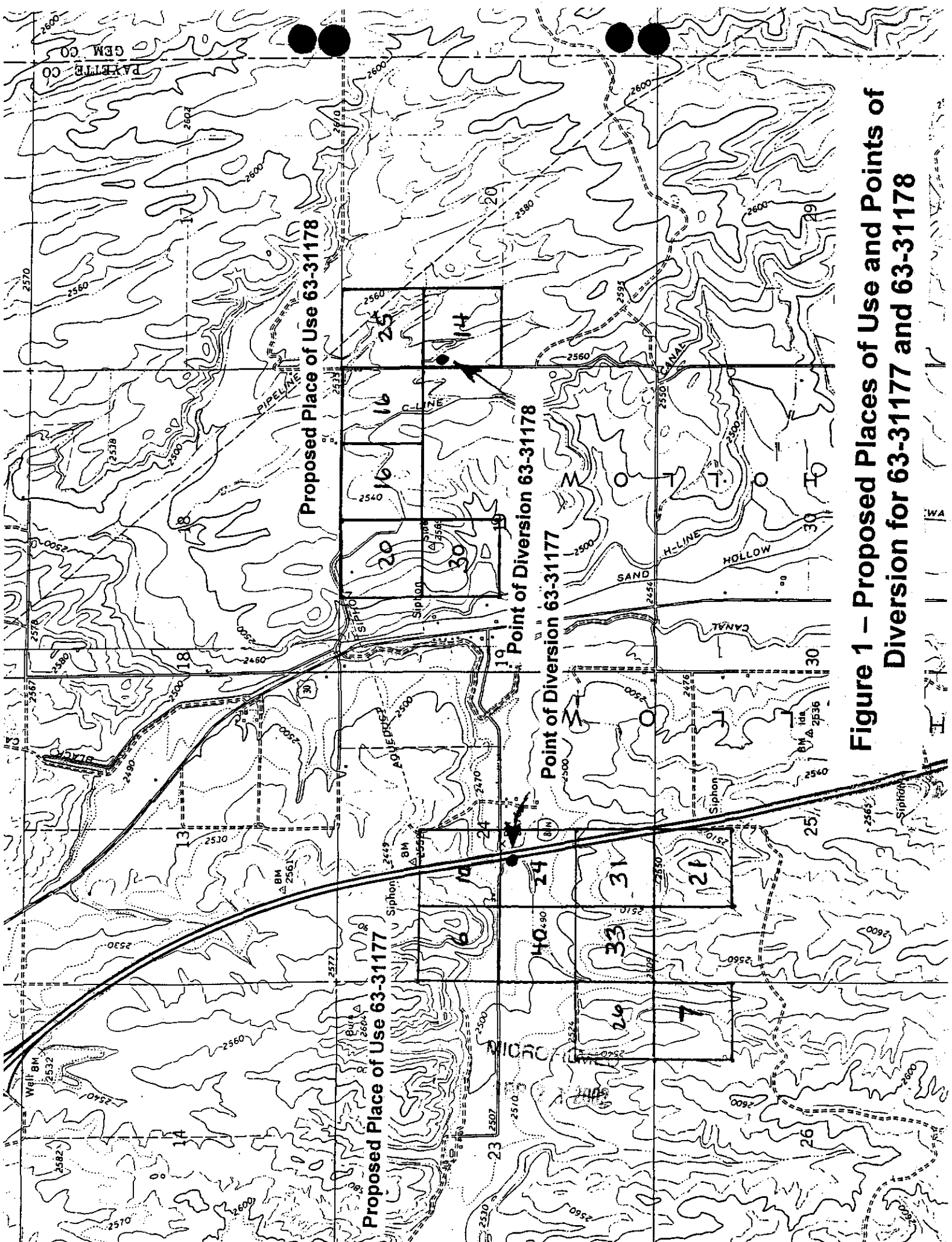


Figure 1 – Proposed Places of Use and Points of Diversion for 63-31177 and 63-31178

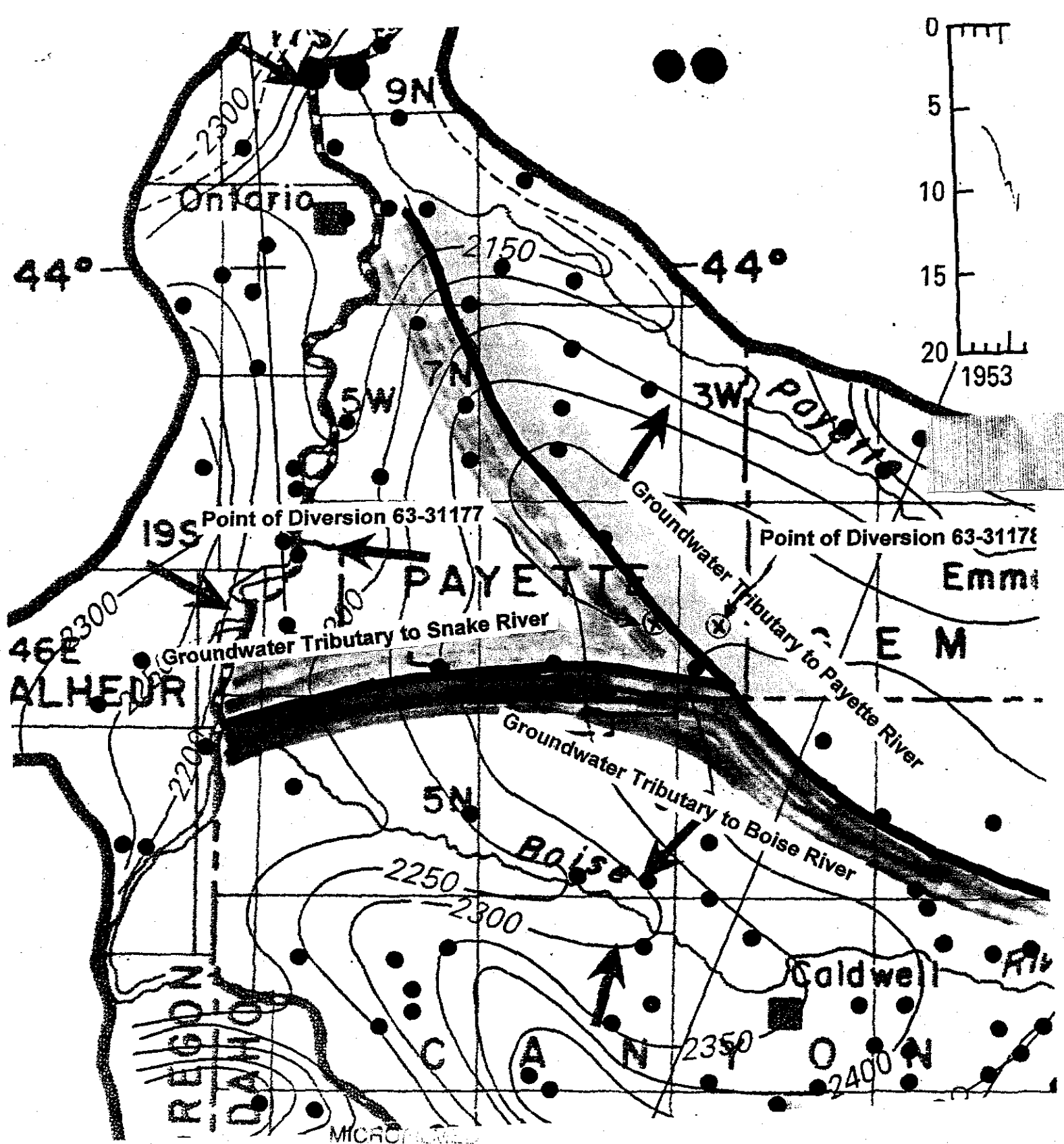
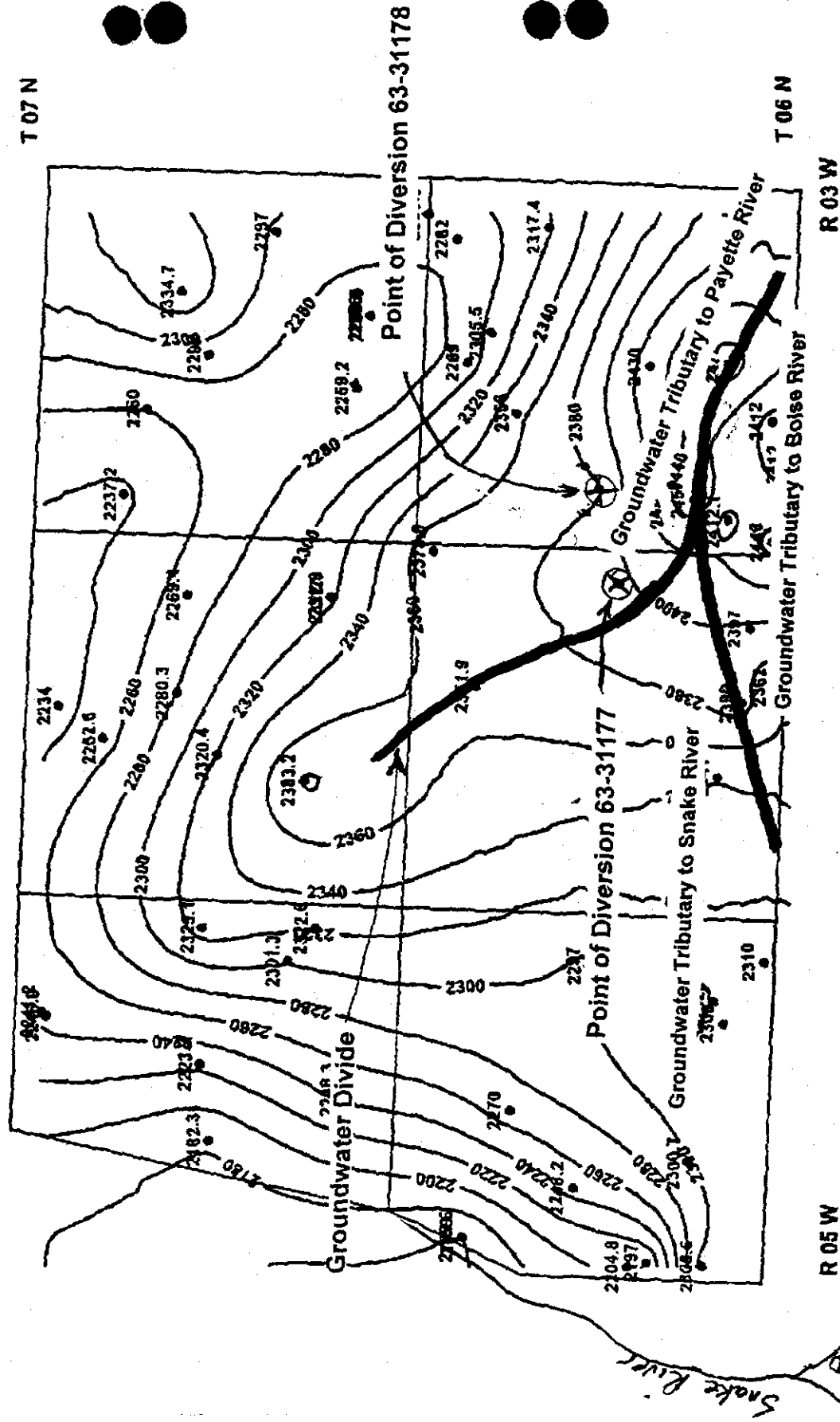


Figure 2 – USGS Water Table Contour Map
(points of diversion location and groundwater divides added by Scanlan)

Source: "Configuration of the Water Table and Depth to Water, Spring 1980, Water-Level Fluctuations, and Water Movement in the Snake River Plain Regional Aquifer System, Idaho and Eastern Oregon", by G.F. Lindholm and others (USGS Hydrologic Atlas HA-700, 1980)

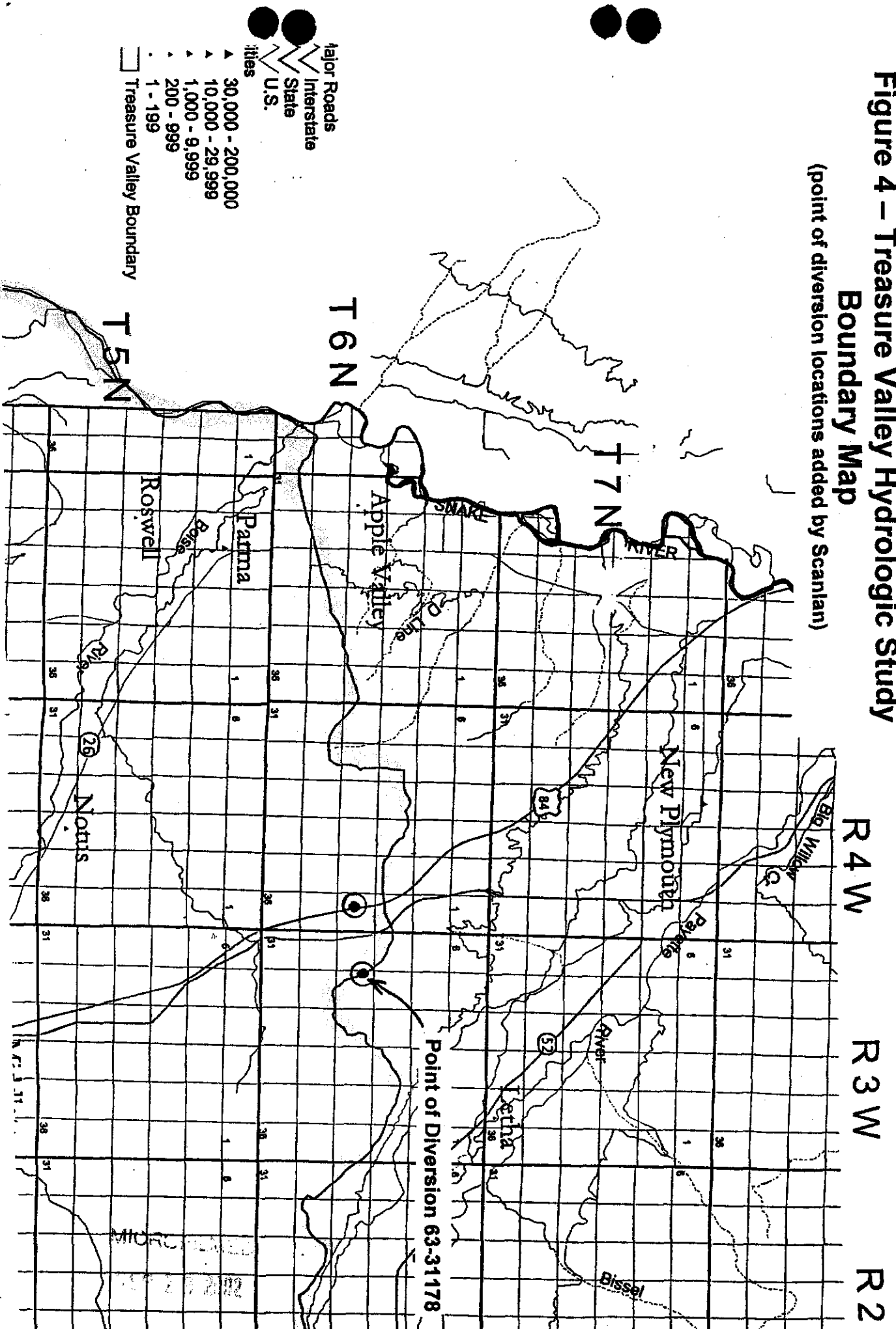
Figure 3 – IDWR Water Table Contour Map
 (computer generated by IDWR from water level data base; point of diversion locations and groundwater divides added by Scanlan)

Ground Water Levels
Township 6 North, Ranges 3, 4 and 5 West



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**Figure 4 – Treasure Valley Hydrologic Study
Boundary Map**
(point of diversion locations added by Scanlan)



Affidavit of Publication

Copy of Notice
(First Copy)

STATE OF IDAHO,
COUNTY OF PAYETTE

ss.

Application of Water Right
TITLE OF PUBLICATION
(Trinity)

Dept. of Water Resource
SPONSOR OF PLAINTIFF
PLAINTIFF OR LEGAL AGENT

I, Viola M Hawkins, being
duly sworn, deposes and says:
That She is the principal clerk of

THE INDEPENDENT-ENTERPRISE, a weekly newspaper published at Payette, in the County of Payette and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Payette; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with July 3, 2002, 12, and ending with the issue of July 10, 2002, 18.

STATE OF IDAHO
COUNTY OF

On this 11th day of July in the year of 2002, before me, a Notary Public, personally appeared Viola Hawkins known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Marilee Rhinert
Notary Public for Idaho
Residing at Phittsburg
My commission expires: 12-1-04

Independent-Enterprise
PAYETTE, IDAHO

Number of Lines 24 x 4 columns
Number of Insertions (2) two
24 Lines @ 2.38 ... \$ 57.12
24 Lines @ 2.04 ... \$ 48.96
TOTAL COST
WILL BE \$ 106.08

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Way, Boise, ID 83705, together with a protest fee of \$25.00 for each application on or before 07/22/02. The protestant must also send a copy of the protest to the applicant.
No. 263

APPLICATION OF WATER RIGHT
The following application(s) have been filed to appropriate the public waters of the State of Idaho:
63-31505
ROD & MAUREEN FRISBY FAMILY LTD PARTNERSHIP
6208 S.E. 8TH AVENUE
CALDWELL, ID 83605
Point(s) of Diversion:
SWNW S20 T06N 03W PAYETTE County Source GROUND WATER
Use: IRRIGATION 03/01 To 11/15 1.92 CFS
Total Diversion: 1.92 CFS
Date Filed: 05/10/2002
Place of Use: IRRIGATION
T06N R03W S19 NENE NWNE
T06N R03W S20 NENE SWNE NENW NWNW SWNW SENW
Number of Acres 302
Remark: Applicant agrees to mitigate consumptive use in the future as needed.
Water hearing zone to be appointed is from 200 to 450 feet.
Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code.

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JUL 23 2002
No. 263

POD

63-31595-100
7/10/02 LM



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 26, 2002

Legal Notice Department

Independent Enterprise

124 S MAIN

Payette ID 83661

RE: Transfer No. 69956
Water Right No(s). 63-10785
and
Application for Permit No. 63-31505

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 07/22/2002. Your cooperation is appreciated.

Sincerely

Sue Taylor
Senior Secretary

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SEP 23 2002

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

63-31505

ROD & MAUREEN FRISBY FAMILY LTD PARTNERSHIP
6208 S E 8TH AVE
CALDWELL ID 83605

Point(s) of Diversion SWNW S20 T06N R03W PAYETTE County Source GROUND WATER

Use: IRRIGATION 03/01 To 11/15 1.92 CFS

Total Diversion: 1.92 CFS

Date Filed: 05/10/2002

Place Of Use: IRRIGATION

T06N R03W S19 NENE NWNE

T06N R03W S20 NWNE SWNE NENW NWNW SWNW SENW

Number of Acres 302

Remark: Applicant agrees to mitigate consumptive use in the future as needed.

Water bearing zone to be appropriated is from 200 to 450 feet.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 07/22/2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Independent Enterprise on July 3 and 10, 2002.

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SEP 23 2002

MEMORANDUM

DATE: 6/14/2002

FROM: Lori Graves 

TO: Gary Spackman

RE: Frisby Applications 63-31176, 63-31177, 63-31178

Applicants filed the above applications as a result of policy changes enacted by BCID regarding water spreading.

The first obstacle the applicants encountered regarding ground water applications 63-31177 and 63-31178 was the fact that they are located in basin 63 and therefore subject to the to the Boise River basin administrative hold. Terry Scanlan submitted supporting documentation that indicated that ground water flow at the existing and proposed well sites is towards the Snake River and Payette River where water is available for appropriation.

The second obstacle the applicants encountered was an objection filed by the US Bureau of Reclamation (USBOR). After much negotiation, a stipulation was filed to resolve the protests in which the applicants, USBOR and BCID agreed to inclusion of specific conditions on **any permit or license** that is issued to applicants by the Department in connection with the applications.

Obviously the parties involved were aware that an amendment to application no. 63-31178, new application 63-31505, and new application for transfer on license 63-10785 were in the works. The Department received these three new filings from the applicants May 6, 2002. The new filings were filed to consolidate ground water use from the existing well to lands not irrigated with BCID water. In combination, the three applications propose a total diversion rate of 6.04 cfs from the existing well for 302 acres irrigation.

Amended application no. 63-31178 did not require re-advertising because none of the application components were changed. The acres were consolidated to quarters that were part of the original advertised p/u. No increase in total acres or flow rate was proposed.

Applicants agreed to withdraw wastewater application 63-31176 because USBOR plans to retain control of said wastewater.

Both ground water applications 63-31177 and 63-31178 should be approved as filed and conditioned in accordance with the stipulation.

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JUN 18 2002

Application 63-31505 and transfer 69956 have been submitted to advertising. A copy of the stipulation was included in those files. Both these applications should also be conditioned in accordance with the stipulation.

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SEP 2 1981

Michael C. Creamer (Idaho State Bar #4030)
GIVENS PURSLEY LLP
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, ID 83701
Telephone: (208) 388-1200
Facsimile: (208) 388-1300
S:\clients\63271\Stipulation.doc

Attorneys for Applicant Frisby Family Limited Partnership

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

**IN THE MATTER OF APPLICATION
FOR PERMIT NOS. 63-31177 AND 63-
31178 IN THE NAME OF FRISBY
FAMILY LIMITED PARTNERSHIP**

STIPULATION

Applicant Frisby Family Limited Partnership ("Frisby") through its attorneys Givens Pursley LLP, Protestant United States Bureau of Reclamation, through J. William McDonald, Regional Director, Pacific Northwest Region ("USBOR"), and Intervenor Black Canyon Irrigation District ("BCID"), through its attorneys McDevitt & Miller, LLP (collectively the "Parties") stipulate as follows:

1. Frisby has filed the above-captioned applications for permit ("Applications") to appropriate ground water to supply water for irrigation use. The intended place of use of such water includes lands within the boundaries of the BCID.
2. USBOR delivers water for irrigation of lands within the boundaries of BCID pursuant to contract with BCID.

3. USBOR has protested ("Protests") the Applications.
4. BCID has intervened in the contested case resulting from the USBOR Protests.
5. To resolve the Protests Frisby, USBOR and BCID agree to inclusion of the following conditions in any permit or license that may be issued to Frisby by the Department in connection with the Applications:
 - a) This [permit/license] is for the use of ground water and is subject to administration as a water right from connected sources in the Snake River Basin in accordance with applicable law.
 - b) This [permit/license] for the use of ground water shall be junior to, and subject to, the water rights of the United States Bureau of Reclamation heretofore appropriated, including, as authorized by applicable law, reuse of water under such water rights.
6. Provided the Department will incorporate the above conditions in the form set forth herein in any permit or license issued in connection with the Applications, USBOR agrees to withdraw its Protests, and USBOR and BCID agree to the Department's further processing of the Applications without a hearing.
7. The Parties understand that the Department may include additional conditions in any permit or license as it deems appropriate, and provided such additional conditions are not inconsistent with the above conditions, they shall not negate the withdrawal of Protests effected by this Stipulation.
8. This Stipulation is the result of negotiations, and these negotiations involved written and oral communications between and among the Parties and their

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attorneys. The Parties agree that all preceding and contemporaneous oral and written statements, understandings, representations, warranties, and promises of any kind whether consistent or inconsistent herewith, are agreed to be of no force or effect for any purpose whatsoever except as may be expressly stated in this Stipulation. This Stipulation represents the complete and final agreement of the Parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous consistent and inconsistent statements, representations, warranties, understandings, negotiations, and agreements, if any among the Parties hereto. This Stipulation may not be supplemented, modified or amended by evidence, either oral or written, of any such matters or by course of dealing, but only by the written agreement of the Parties executed with the same formality of this Stipulation. The Parties hereto hereby acknowledge that the provisions contained in this Stipulation were expressly bargained for and that the plain meaning of those provisions memorializes the intent of the Parties hereto.

[End of text]

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SEP 23 2002

DATED this 24th day of May, 2002.

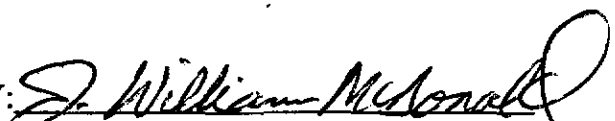
GIVENS PURSLEY LLP

BY: 
Michael C. Creamer
Attorney for Applicant Frisby Family
Limited Partnership

MCDEVITT & MILLER, LLP

BY: 
Charles F. McDevitt
Attorney for Intervenor Black Canyon
Irrigation District

UNITED STATES DEPARTMENT OF
INTERIOR, BUREAU OF RECLAMATION

BY: 
J. William McDonald, Regional Director,
Pacific Northwest Region

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MAY 25 2002

STIPULATION - 4

CERTIFICATE OF SERVICE

I hereby certify that on this 24 day of May, 2002, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Karl J. Dreher
Director
Idaho Department of Water Resources
1301 N. Orchard St.
P.O. Box 83720
Boise, ID 83720-0098

☐ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☒ Hand Delivery

Gary Spackman
Western Regional Manager
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

☐ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☒ Hand Delivery

Kathleen M. Carr
U.S. Department of the Interior
Office of the Field Solicitor
550 West Fort Street, MSC 020
Boise, ID 83724-0020

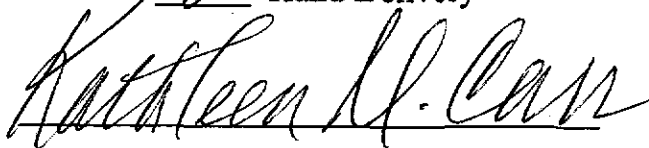
☐ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☒ Hand Delivery

Charles F. McDevitt
McDevitt & Miller, LLP
420 West Bannock Street
P.O. Box 2564
Boise, ID 83702

☐ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☒ Hand Delivery

Michael C. Creamer
Givens Pursley LLP
P.O. Box 2720
Boise, ID 83701-2720

☐ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☒ Hand Delivery



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MAY 23 2002

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

RECEIVED

May 8, 2002

MAY 10 2002

WATER RESOURCES
WESTERN REGION

Lori Graves
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Subject: Fees for Water Right Applications – Frisby Family Limited Partnership

Dear Lori:

As a follow-up to our telephone conversation today, I have enclosed a check for \$540 to cover the filing fees for two of the three water right applications that I submitted to your office on behalf of the Frisby Family Limited Partnership on April 30, 2002. I understand that you determined the following.

- The filing fee for Application for Transfer of Water Right 63-10875 is \$250. In my April 30 letter, I did not include a filing fee for the transfer because the application does not propose irrigation in any $\frac{1}{4}$ $\frac{1}{4}$ sections that were not previously licensed under this water right. Since no other changes to the license are proposed, we assumed that the change could be accomplished administratively without legal notice. I understand that your office has determined that legal notice is required, and therefore a filing fee is necessary. – For 52 acres affected by transfer (.30 cfs)
- The filing fee for the new Application for Permit is \$290 rather than \$330 submitted with my letter of April 30. I understand that you are returning the \$330 check to me.
- The third application that I submitted was an amendment of Application for Permit 63-31178. I understand that the proposed changes to the application can be made administratively and that no filing fee is required.

Thanks for your help on this matter. Please contact me if you have any additional questions or comments.

Sincerely,



Terry M. Scanlan, P.E., P.G.

Cc: Mike Creamer
Rod & Maureen Frisby

MAY 11 2002

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

RECEIVED

MAY 06 2002

WATER RESOURCES
WESTERN REGION

April 30, 2002

Gary Spackman
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Subject: Water Right Applications – Frisby Family Limited Partnership

Dear Gary:

On behalf of Frisby Family Limited Partnership, Scanlan Engineering is pleased to submit the following three water right applications.

- (1) Application for Transfer of Water Right 63-10785, which is intended to clarify the distribution of irrigated acres within the currently described place of use for this licensed water right. The diversion rate of 1.70 cfs for irrigation of 292 acres (the licensed diversion rate and total acres) will not be changed.
- (2) Amended Application for Permit 63-31178, which is intended to clarify the distribution of irrigated acres within the same $\frac{1}{4}$ $\frac{1}{4}$ s proposed in the original Application for Permit. The original request for a diversion rate of 2.42 cfs for irrigation of 121 acres has not been changed. The 121 acres proposed for irrigation under 63-31178 will overlap lands irrigated by 63-10785.
- (3) A new Application for Permit proposes diversion of 1.92 cfs for irrigation of 302 acres. This application seeks to appropriate supplemental water for the 292 acres of land irrigated under 63-10785 and 63-31178, and a primary supply for up to 10 acres of additional irrigated area.

In combination, the three water rights propose a total diversion rate of 6.04 cfs (2,711 gpm). This combined diversion rate will provide no more than 0.02 cfs/acre (9 gpm/acre) over the 302-acre irrigated area. The applications have been prepared to allow the Frisby's to continue to irrigate their farm following recent changes in policy by the US Bureau of Reclamation and the Black Canyon Irrigation District that now require them to separate their lands that are irrigated with groundwater from their lands that are irrigated with surface water supplied by the Bureau and Black Canyon Irrigation District.

I have enclosed a \$330.00 check for the filing fee associated with the new application for permit.

MICHOEL LEMAY

APR 27 2002

Because the Amended Application for Permit 63-31178 does not propose irrigation in any $\frac{1}{4}$ $\frac{1}{4}$ sections that were not previously listed on the original application, and does not propose changes to the quantity, point of diversion, purpose or season of use originally applied for, we have assumed that this amendment can be accomplished administratively without the need for an additional filing fee or further legal notice. Thus, I have not included a filing fee with the application for to amend application for permit 63-31178.

Similarly, the Application for Transfer of water right 63-10785 does not propose irrigation in any $\frac{1}{4}$ $\frac{1}{4}$ sections that were not previously licensed under this water right. Since no other changes to the license are proposed, we assume that the change can be accomplished administratively without legal notice. Thus, I have not included a filing fee with the application for transfer.

Please contact me if you disagree with our assumptions or if you have any questions concerning these applications.

Sincerely,



Terry M. Scanlan, P.E., P.G.

Cc: Mike Creamer
Rod & Maureen Frisby

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APR 30 2002