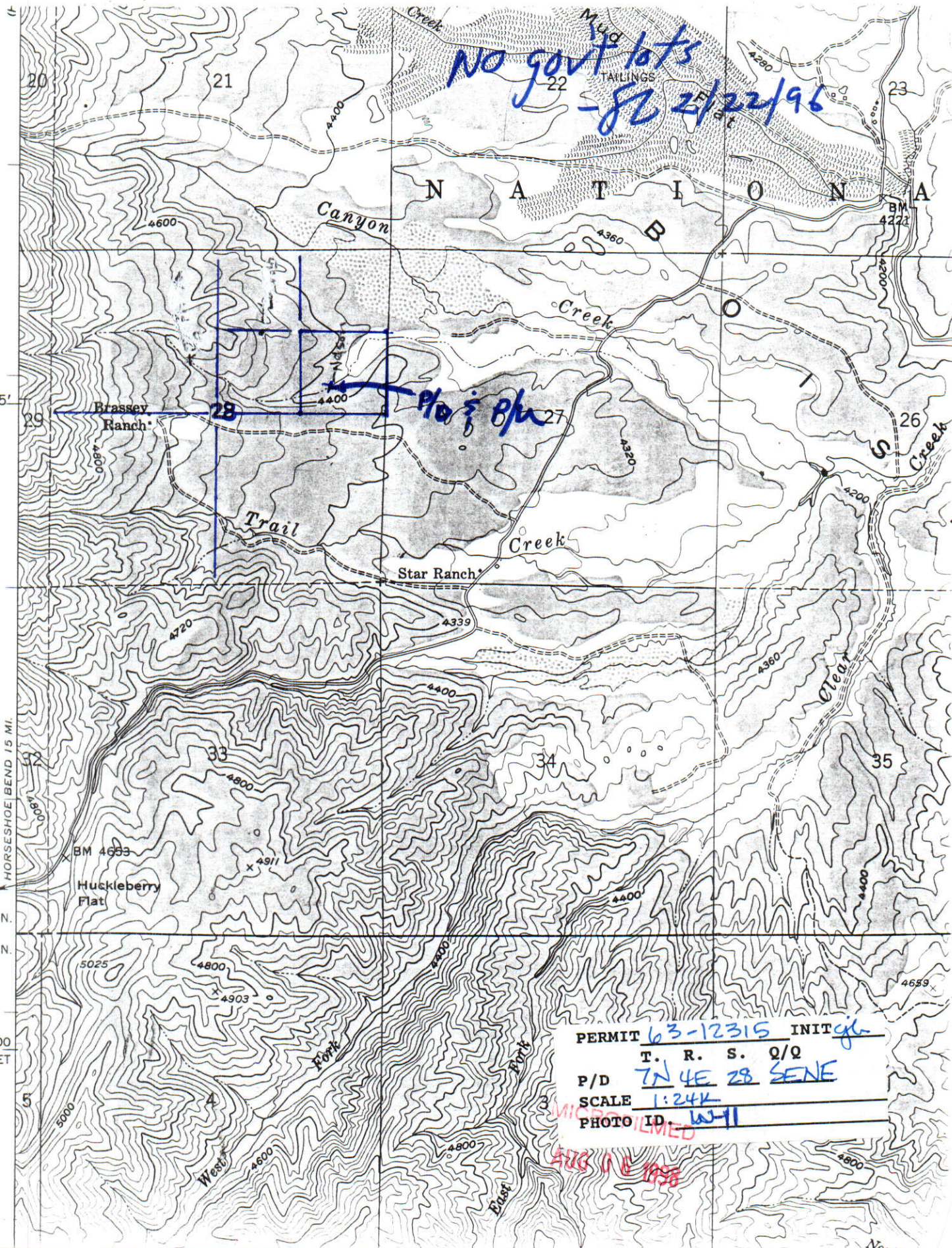




No govt lots
- 8/22/96

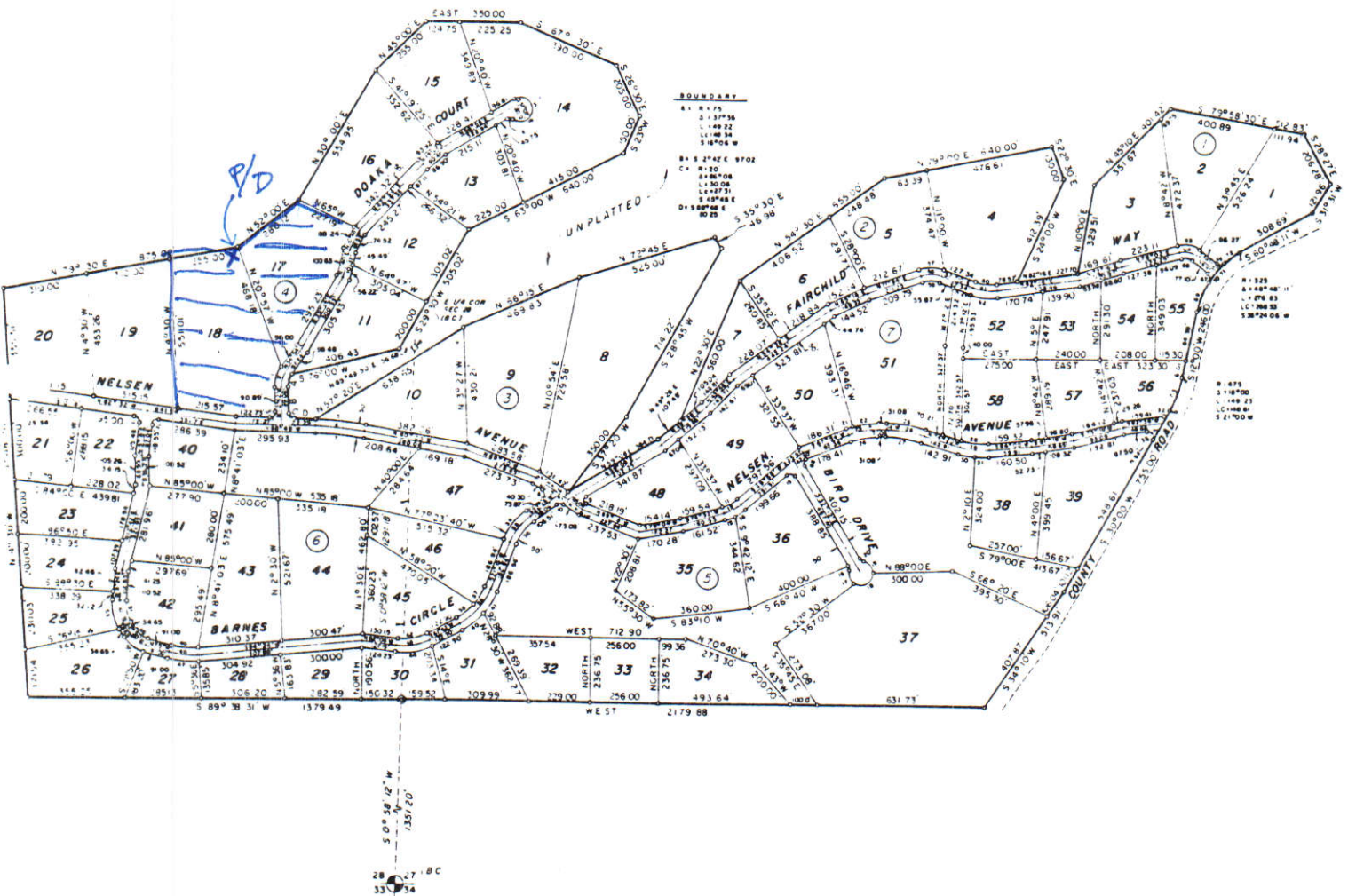
No 8/22/96

PERMIT 63-12315 INIT gk
T. R. S. Q/Q
P/D 7N 4E 28 SENE
SCALE 1:24K
PHOTO ID W-1

AUG 11 1996

STAR RANCH-UNIT NO. 5

While this map is a photographic reproduction of that on file in either the recorder's or surveyor's office, the company assumes no liability for variation, if any, with another or re-survey.



103-12315
MICROFILMED
AUG 06 1998

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No:

004965a

Date:

Time: 7/ 3/2000

. 09:44:49

Received

From:

NELSON JAMES T

Type of Payment

Program A cct

Amount

BENEFICIAL USE	#63-123	56104	229 21.1155	50.00
----------------	---------	-------	-------------	-------

CHECK 955

Total \$ 50.00

Region: STATE

Signature:



MICROFILMED

AUG 23 2000

The Idaho World

P.O. Box 99
Garden Valley, ID 83622
(208) 462-3487

State of Idaho)
County of Boise)

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with May 6, 1998 and ending with the issue of May 13, 1998.

Deanna Stevenson

State of Idaho)
County of Boise)

On this 15 day of May in the year 1998, before me, a notary public, personally appeared Deanna Stevenson 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 she executed the same.

Diane E. Caughlin

Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires 6/26/2001

RECEIVED

MAY 18 1998

WATER RESOURCES
WESTERN REGION

MICROFILMED
AUG 06 1998

NOTICE OF APPLICATION FOR WATER RIGHT

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

63-12315

NELSON, JAMES T
4150 KINGSWOOD DR
BOISE, ID 83704

Source: UNNAMED STREAM

Tributary: CANYON CREEK

Diversion Pt: SENE Sec 28 T 07N R 04E in BOISE County.

Use: STOCKWATER	(	0.020 CFS)	
STOCKWATER STORAGE	(		2.00 AF)
FIRE PROTECTION STORAGE	(		2.00 AF)
Total Diversion:	(	0.020 CFS)	

Date Filed: 2/8/1996

In: BOISE County
T07N R04E S28 SENE

Mitigation is proposed for consumptive losses from existing pond.

65-13778

BENNIG, OTTO
BENNIG, MARY
11 RIVER MEADOW DR
GARDEN VALLEY, ID 83622

Source: GROUNDWATER

Diversion Pt: SENE Sec 34 T 10N R 04E in BOISE County.

Use: IRRIGATION	(	0.050 CFS)	
DOMESTIC	(	0.020 CFS)	
Total Diversion:	(	0.070 CFS)	

Date Filed: 4/8/1998

In: BOISE County
T10N R04E S34 SENE

1.5 ACRES TOTAL

65-13788

GIBSON, TED
GIBSON, HELEN
1304 E 5TH
MERIDIAN, ID 83642

Source: SPRING

Tributary: BEAR CREEK

Diversion Pt: SENWSW Sec 28 T 10N R 11E in BOISE County.

Use: DOMESTIC	(	0.040 CFS)	
Total Diversion:	(	0.040 CFS)	

Date Filed: 4/24/1998

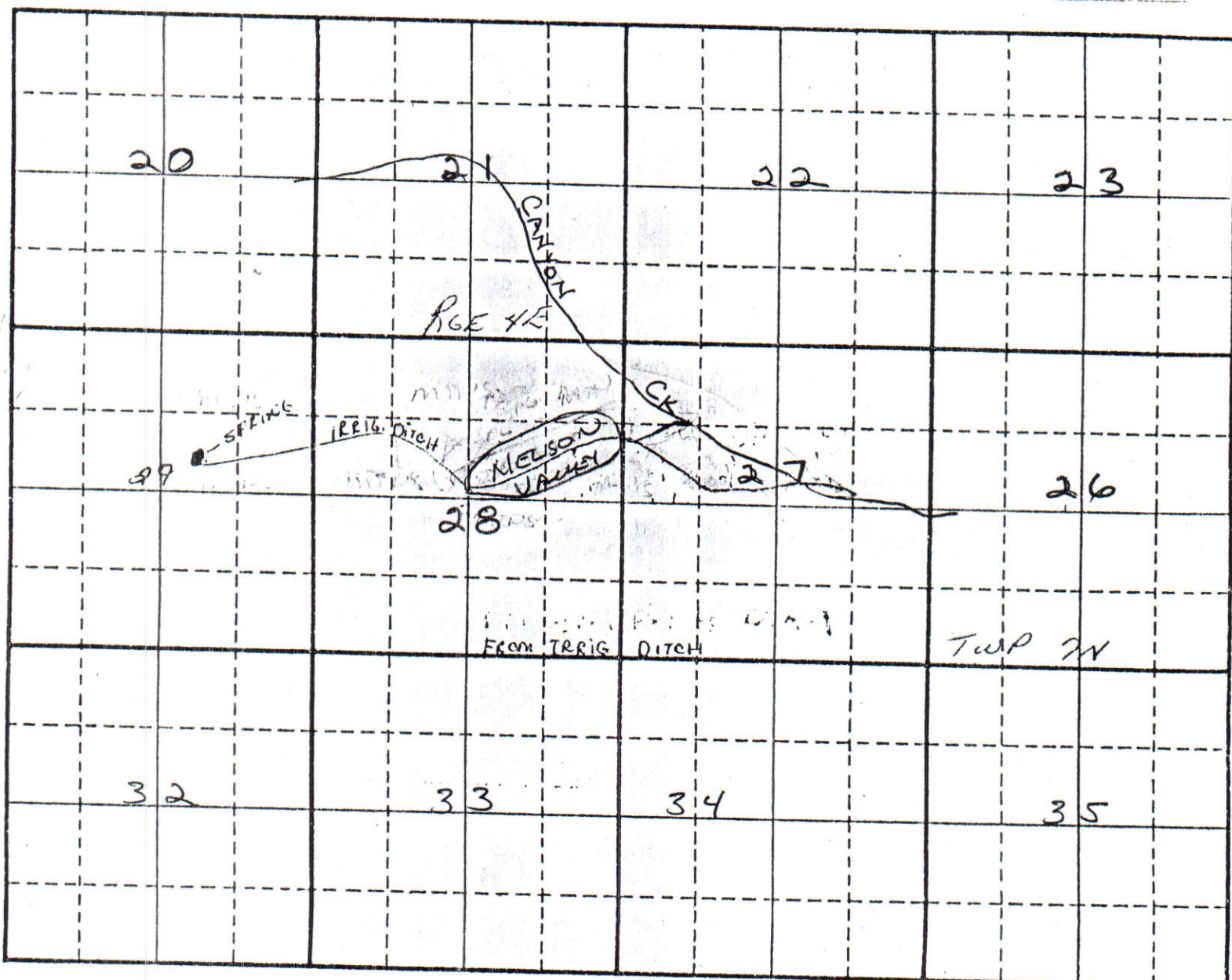
In: BOISE County
T10N R11E S28 NWSW

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 Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of \$25.00 on or before MAY 26, 1998. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Published in The Idaho World May 6 and 13, 1998

(8) Remarks Refer to depositions of Jon Brassey and W. C. Brassey filed in the District Court, State of Idaho, Case No. 1103, Boise County, Idaho, State, ex rel Allred vs. Jon Brassey, copies of which are in possession of Department. See attached affidavit of W. C. Brassey.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Ada) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Jon Brassey
(Claimant)

Sworn to before me this 10th day of February, 19 81.

W. C. Brassey
Notary Public
Residing at Boise, Idaho

My commission expires April 28, 82

FOR DEPARTMENT USE ONLY

Received by <u>1 DBS</u>	Date <u>2/12/81</u>	Exception filed by:	Forwarded to	Date
Prelim. check by	Date		claimant by:	
\$20.00 fee received by <u>DBS</u>	Date <u>2/12/81</u>	<u>#1294</u>		
Published in <u>Idaho Statesman</u>			<u>Ken</u>	<u>3/25/81</u>
<u>3/13/81</u>				

1-M. = 150 ft.

47

46

4

VALLEY RD.

WILLIS

BRASSEY LN.

2

Lot 41 = 9.723 Acres

Sub #6

NELSON

40

PROPERTY

Nine Proposed Diversion Points

POND

RAVINE OUTLINE

COURT

-Forfeit This 5 Acres-

41

RAVINE STARTS HERE

STREAM

RAVINE RUNS 50-60 FT. WIDE AND 10-12 FEET DEEP!

3

-SUB

2

1

#7-

-SUB

20

19

#5-

18

17

DOAKA

11

16

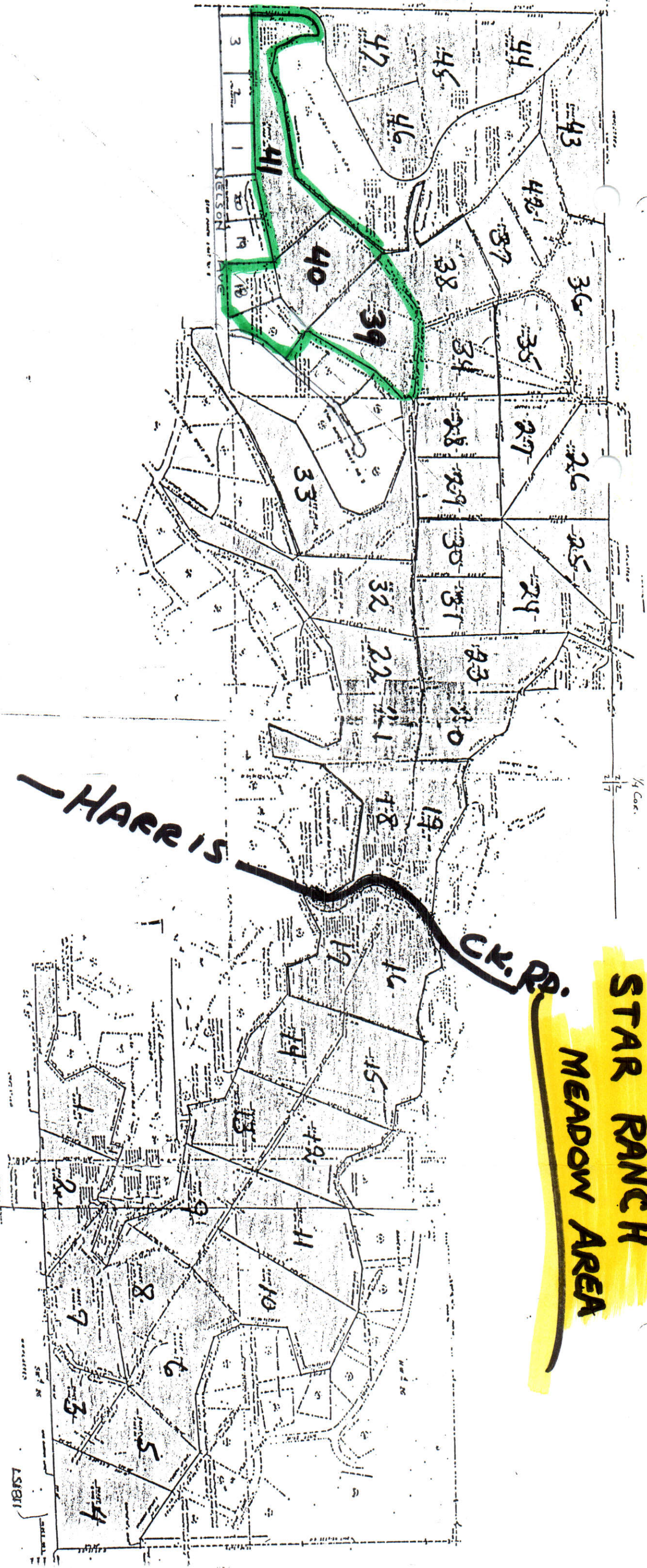
12

NELSON

AVE.

3

STAR RANCH
MEADOW AREA



	TRACT		TRACT		TRACT
16	8.876 acres ✓		32	12.161 acres ✓	
15	9.534 acres ✓		31	5.765 acres ✓	
14	7.388 acres ✓		30	5.932 acres ✓	
13	7.913 acres ✓		29	5.931 acres ✓	
12	8.325 acres ✓		28	5.823 acres ✓	
11	11.674 acres ✓		27	6.011 acres ✓	
10	11.175 acres ✓		26	8.793 acres ✓	
9	7.375 acres ✓		25	6.271 acres ✓	
8	6.975 acres ✓		24	8.162 acres ✓	
7	8.460 acres ✓		23	7.961 acres ✓	
6	9.691 acres ✓		22	6.191 acres ✓	
5	7.183 acres ✓		21	7.654 acres ✓	
4	9.443 acres ✓		20	6.173 acres ✓	
3	5.142 acres ✓		19	6.879 acres ✓	
2	6.938 acres ✓		18	7.232 acres ✓	
1	8.573 acres ✓		17	6.947 acres ✓	

H/141/1

34	6.916 acres ✓		40	7.596 acres ✓	7.579
35	7.319 acres ✓		41	9.714 acres ✓	9.723
36	9.702 acres ✓	9.707	42	5.443 acres ✓	5.435
37	5.239 acres ✓	5.234	43	10.521 acres ✓	10.519
38	8.579 acres ✓	8.572	44	7.731 acres ✓	
39	9.005 acres ✓	9.092	45	7.317 acres ✓	
			46	5.975 acres ✓	
			47	7.205 acres ✓	

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

IN THE MATTER OF PERMIT NO.)
63-12315 IN THE NAME OF)
JAMES T. NELSON)
_____)

ORDER

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before July 1, 2000, and

WHEREAS, the permit holder submitted Proof of Beneficial Use on the 20th of June, 2000, and

WHEREAS, on July 3, 2000 the Department issued a Reinstatement Order advancing priority to February 10, 1996; and

WHEREAS, further review of the date of the proof submittal shows that the proof was timely filed; and

IT IS, THEREFORE, HEREBY ORDERED that the Reinstatement Order is rescinded and the priority established as February 8, 1996.

DATED this 27th day of July, 2000.


L. GLEN SAXTON, CHIEF
Water Allocation Bureau

MICROFILMED

AUG 23 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
63-12315 IN THE NAME OF)
JAMES T. NELSON)
_____)

REINSTATEMENT ORDER

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before July 1, 2000, and,

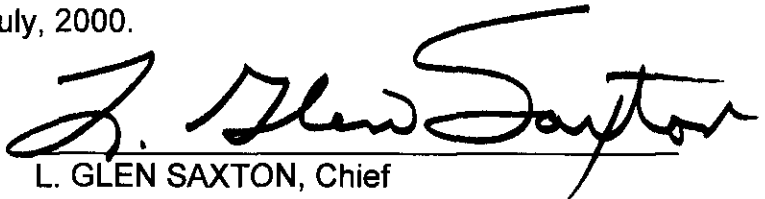
WHEREAS, Permit No. 63-12315 lapsed on July 1, 2000, since the permit holder did not submit the proof of beneficial use or an extension of time request; and

WHEREAS, Section 42-218a, Idaho Code, provides that the Department may reinstate a permit upon a showing of reasonable cause by the permit holder within sixty days of the date of the lapse; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting proof of beneficial use on July 3, 2000;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 63-12315 is **REINSTATED** with an advance in priority to **February 10, 1996**.

DATED this 12th day of July, 2000.


L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED
AUG 23 2000

FOR OFFICE USE ONLY
Amt. of Fee \$ 50.00
Receipt No. 2049656
Receipt By: [Signature]
Date Received: 7-3-00

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

PROOF OF BENEFICIAL USE

JUL - 3 2000

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. 63-12315 Telephone No. 376-0211

2. Name of Permit Holder(s): JAMES T. NELSON

3. Mailing Address: 4150 KINGSWOOD DR.

City BOISE State Id. Zip 83704

4. Source of Water: INTERMITTENT STREAM If GROUNDWATER (well), Date Drilled: mo. ____ / yr. ____

a. Well Driller: _____ Drilling Permit Number: ____ - ____ - ____ - ____

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

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

Irrigation (No. of acres): _____ Other: FIRE PROTECTION WATER STORAGE

6. Total rate of diversion and/or volume for which proof is submitted: _____ cfs OR 2 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 ☒ or No ☐

Has the measuring device been installed?

Yes ☒ or No ☐

8. Fee Enclosed: \$ \$50. (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: TIM NELSON Telephone Number: 376-0211

Address: 4150 KINGSWOOD DR.

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.

MICROFILMED
AUG 23 2000

Signature of permit holder: [Signature] Date: 6-30-2000
(include your title, if on behalf of company or organization)

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

MICROFILMED
AUG 23 2000

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 63-12315

Proposed Priority: February 8, 1996 Maximum Diversion Rate: 0.02 CFS

This is to certify, that JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704

has applied for a permit to appropriate water from:
UNNAMED STREAM tributary of CANYON CREEK

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>	<u>ANNUAL VOLUME</u>
STOCKWATER	01/01 to 12/31	0.02 CFS	
STOCKWATER STORAGE	01/01 to 12/31		2.0 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		2.0 AF
	Totals	0.02 CFS	

LOCATION OF POINT(S) OF DIVERSION: SENE , Sec. 28, Township 07N, Range 04E
BOISE County

PLACE OF USE: STOCKWATER

TWN RGE SEC

07N 04E 28 SENE

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. 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. Use of water under this water right will be regulated by the watermaster of State Water District No. 63.
5. The right holder shall install/maintain permanent measuring devices in such a manner that the amount of water entering the reservoir and the amount of water released from the reservoir can be measured.
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 needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary 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.

MICROFILMED

AUG 06 1998

State of Idaho
Department of Water Resources

Permit To Appropriate Water

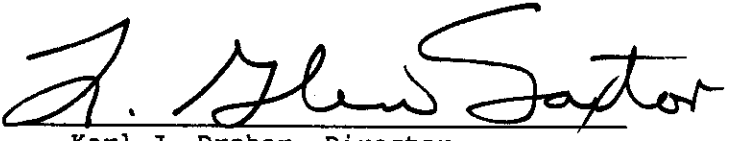
NO. 63-12315

CONDITIONS OF APPROVAL AND REMARKS

7. Point of diversion and place of use is located within Lots 17-18, Blk. 4, Star Ranch Unit No. 5.
8. Stockwater use is for up to 15 horses and range cattle.
9. From June 15 to November 1 of each year outflow from the storage facility must equal or exceed inflow to the storage facility.

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

25th day of June, 1998.

for 
Karl J. Dreher, Director

MICROFILMED

AUG 06 1998

Ident. No. 63-12315

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APPLICATION FOR PERMIT

JUN 19 1998

To appropriate the public waters of the State of Idaho

1. Name: JAMES T NELSON
Address: 4150 KINGSWOOD DR
BOISE ID 83704

AMENDED
3/26/96

376 0211
208-000-0000

2. Source: UNNAMED STREAM Trib. to: CANYON CREEK
3. Location of Point of Diversion: SENE Sec. 28, Township 07N, Range 04E
BOISE County

4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
FIRE PROTECTION STORAGE	~~01/01~~	~~12/31~~	~~11/2-6/94~~		2.00
~~ESTHETIC STOCK WATER~~	01/01	12/31	0.020		
~~ESTHETIC STORAGE~~	~~01/01~~	~~12/31~~			2.00
~~STOCK WATER~~	11/2	6/14			

5. Total quantity to be appropriated is:
0.020 CFS (and/or) ~~2.00~~ AF * per Appl. Proc. Memo. #13 43. 6/22/98.

6. Proposed diverting works:

- Description of ditches, flumes, pumps, headgates, etc.
POND (SEE COMMENTS)
- Height of storage dam ~~7~~ feet; active reservoir capacity 2.00 acre-feet; total reservoir capacity 2.00 acre-feet; period of year when water will be diverted to storage: 1/01 to 12/31 inclusive.
- Proposed well diameter is inches; proposed depth of well is feet.
- Is groundwater with a temperature greater than 85F being sought? NO
- If well is already drilled, when?
Drilling Firm
Well was drilled for

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 year(s).

8. Place of Use: FIRE PROTECTION STORAGE

TWN RGE SEC
07N 04E 28

SENE

Place of Use: ~~ESTHETIC~~, same as FIRE PROTECTION STORAGE
J.T.N. STOCK WATER

RECEIVED
AUG 06 1998

* d'base update per dept. standards -SC 2/22/96

SEE 4/27/98 version for clarity

9. 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.

10. Remarks:

Mitigation is proposed for consumptive losses.

Point of diversion and place of use are within Lots 17 and 18,

Block 4, Star Ranch Unit No. 5.

JTH. Stockwater is for 15 head range cattle or horses.

11. Map of proposed point of diversion and place of use attached? ☒

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

James T. Tulsom
Applicant

Received by Cjh Date 2/8/96 Time 1030 Preliminary check by [initials]
Fee \$ 50- Receipted by W 020373 # Cjh Date 2/8/96
Publication prepared by ST Date 4/30/98 Published in Id. World
Publication approved ST KG Date 5/22/98
on 5/6 & 13/98

MICROFILMED
AUG 06 1998

Comments: Date: 2/ 8/1996 User-ID: CHODGES

*

Subject: MORE INFO

System is a small on-stream impoundment ^(100' x 250' x 4' avg) ~~(50 x 100 feet)~~ db change
constructed in 1989, which serves as storage for extended fire
protection and aesthetic use on applicant's property. Pond has
also been used as part of the diversion system under claim no.
A63-04776B, for irrigation. eph

This area is tributary to the Upper Boise River system. This
right cannot be processed without additional information.

**As part of proposed mitigation for this application, any
consumptive losses during the irrigation season will be
compensated for by reductions in irrigation under right no.
A63-04776B.** This consumptive loss should be able to be
quantified during the field examination. Prior to advertising,
a full mitigation document shall be provided along with evidence
of historical use under A63-04776B.

Applicant visited the department prior to 1989 and the
information he received was that no right was required for this
development. However, recent sensitivity in the area, along with
the filing of the SRBA claim has prompted this filing.

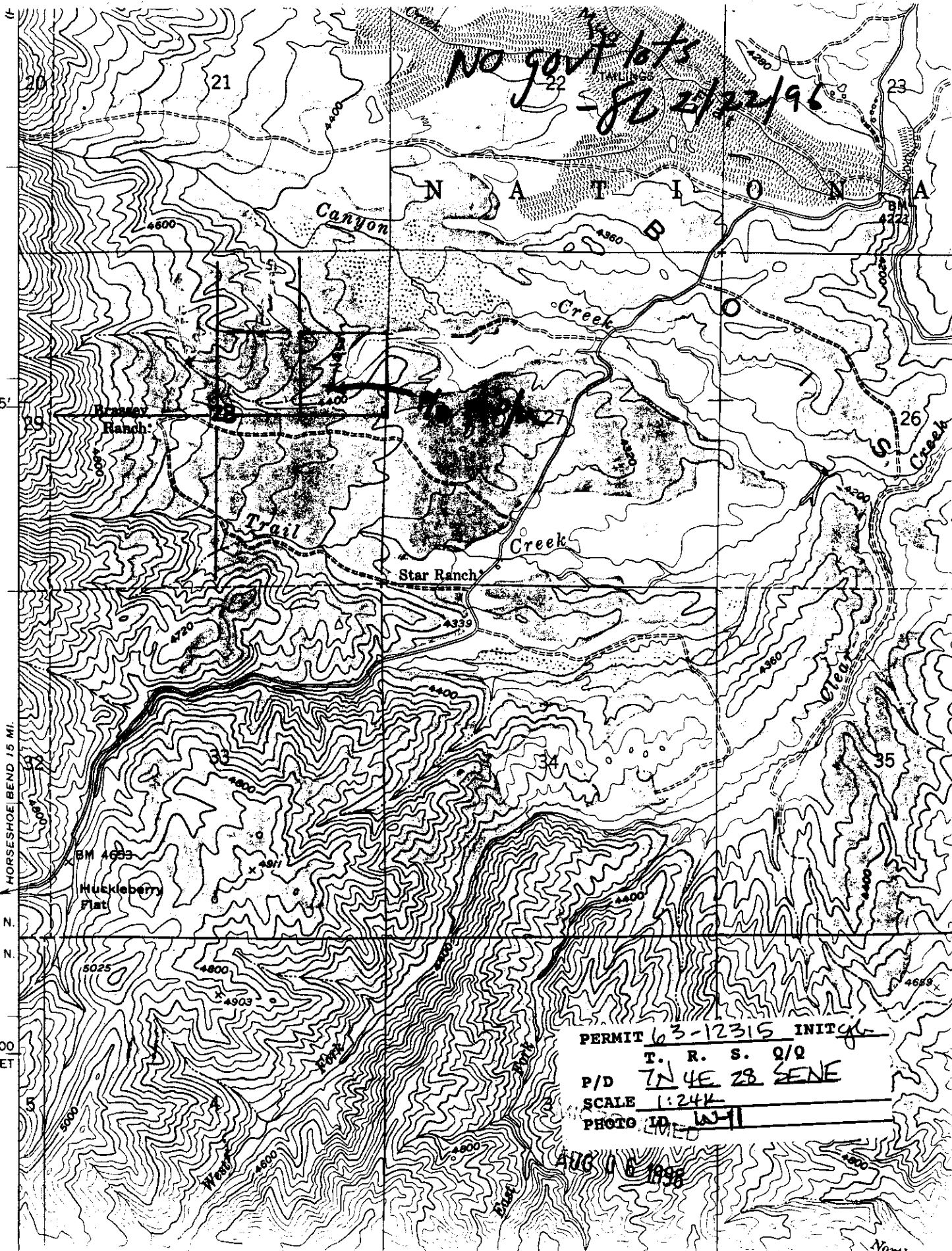
*

Surface area of pond $\approx \frac{100 \times 250}{43,560} \approx \frac{1}{2}$ acre

JK 2/22/96

MICROFILMED

AUG 06 1998



NO govt plots
8/22/96

NATIONAL

Canyon

Creek

26 Creek

Trail

Creek

Star Ranch

Ranch

Huckleberry Flat

55'

T. 7 N.

T. 6 N.

810 000
FEET

PERMIT 63-12315 INIT

T. R. S. Q/Q

P/D TN 4E 28 SENE

SCALE 1:24K

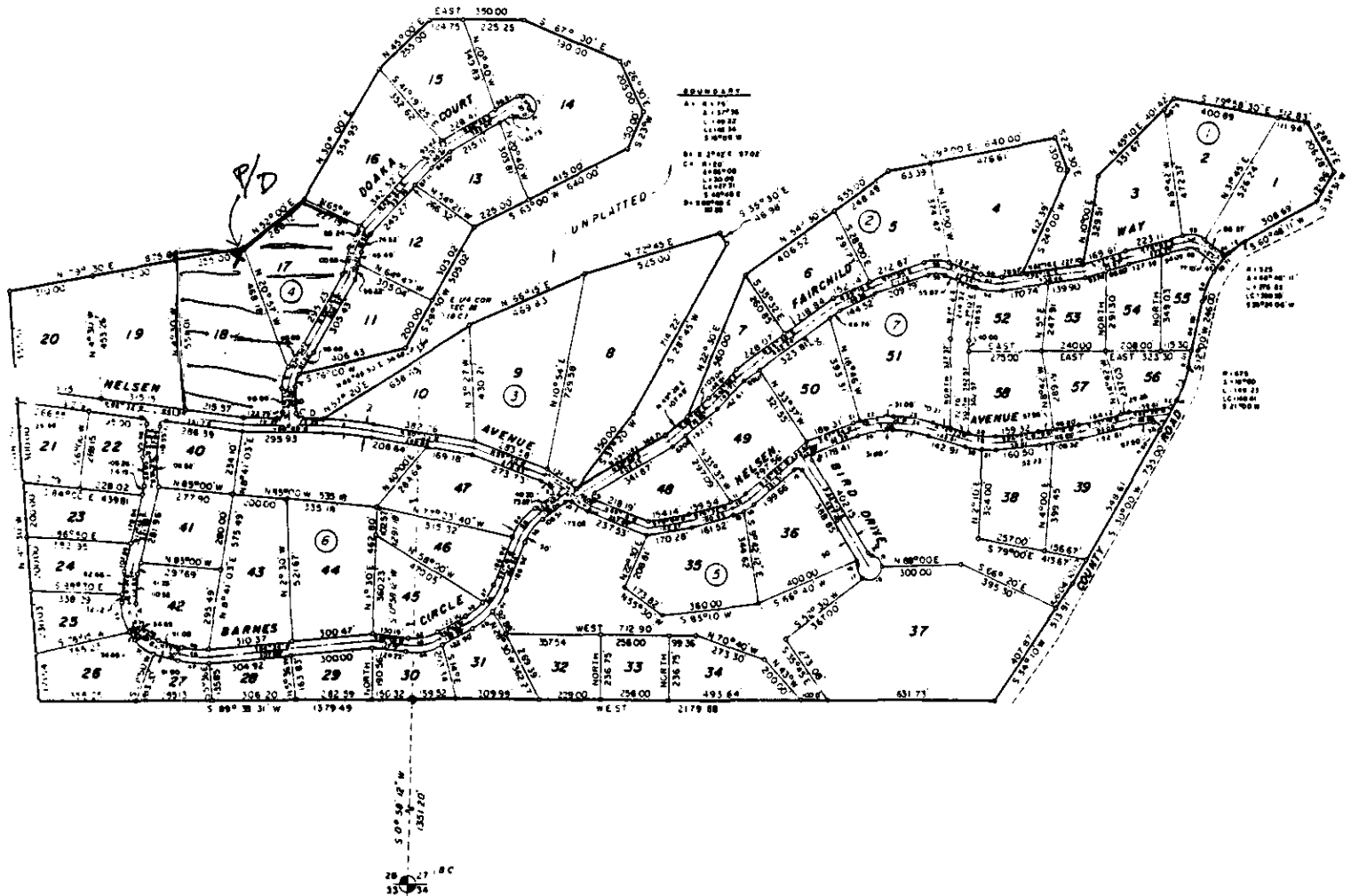
PHOTO ID W-11

AUG 06 1998

North

STAR RANCH-UNIT NO. 5

While this map is a photographic reproduction of that on file in either the recorder's or surveyor's office, the company assumes no liability for variation, if any, with another or re-survey.



123-12315
MISCELLANEOUS
AUG 06 1998

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

IN THE MATTER OF APPLICATION)	
FOR PERMIT NO. 63-12315 IN THE)	ORDER CONDITIONALLY RESCINDING
NAME OF JAMES T. NELSON)	PRELIMINARY ORDER
_____)	

This matter having come before the Idaho Department of Water Resources (department), as a result of a response to a preliminary order issued by the department, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On August 20, 1997, the department issued a Preliminary Order Voiding Application (order) in connection with Application for Permit No. 63-12315 in the name of James T. Nelson (applicant).
2. On September 2, 1997, the applicant contacted the department and advised that contrary to Finding of Fact No. 3 in the August 20, 1997 order that he has submitted a mitigation plan to the department in the past but was working on some changes. He also described that the nature of his job was part of the reason for delays in submitting information to the department.

CONCLUSIONS OF LAW

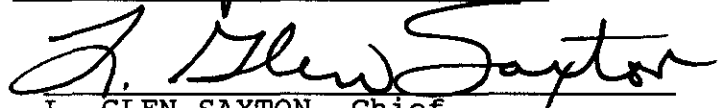
1. The applicant should have the opportunity to further develop a mitigation plan and submit it to the department for review and approval.
2. The department should conditionally rescind the Preliminary Order Voiding Application issued by the department on August 20, 1997.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the Preliminary Order Voiding Application issued by the department on August 20, 1997 in connection with Application for Permit No. 63-12315 in the name of James T. Nelson is **CONDITIONALLY RESCINDED**; and

IT IS FURTHER HEREBY ORDERED that the August 20, 1997 order will be considered to be in full force and effect again if the applicant has not submitted an acceptable mitigation plan to the department on or before **March 1, 1998**.

Dated this 2nd day of September, 1997.


L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED

AUG 06 1998

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

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 63-12315 IN THE NAME)
OF JAMES T. NELSON)
_____)

**PRELIMINARY ORDER
VOIDING APPLICATION**

This matter having come before the Idaho Department of Water Resources (department), as a result of the applicant's failure to provide requested information, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On February 8, 1996, James T. Nelson (applicant) filed Application for Permit No. 63-12315 with the department seeking to appropriate and store 2 acre feet of water diverted from an Unnamed Stream tributary to Canyon Creek. The application proposed a point of diversion within Section 28, T7N, R4E, B.M., Boise County.

2. On February 8, 1996, the applicant also filed Notice of Claim to a Water Right No. 63-04776B in connection with the Snake River Basin Adjudication claiming a portion of claim no. 63-04776 previously filed by Jon Brassy based on beneficial use.

3. On February 22, 1996, the department corresponded with the applicant seeking a mitigation plan, evidence to show the extent of development which occurred prior to 1987 and evidence to support the validity of the claimed use. The applicant did not respond to the department.

4. On March 19, 19⁹67, the department sent a Notice of Intent to Void the application to the applicant. The applicant again did not provide the requested information.

CONCLUSIONS OF LAW

1. Pursuant to provisions of Section 42-204, Idaho Code, the director of the department is empowered to void applications for which requested information is not received within thirty (30) days.

2. The applicant has not provided the requested information within the thirty (30) day period.

3. The department should void the application.

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ORDER

IT IS THEREFORE, HEREBY ORDERED that Application for Permit No. 63-12315 in the name of James T. Nelson is **VOIDED**.

Dated this 20th day of August, 1997.



L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED
AUG 06 1998

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-04776B
Date Received: 2/ 8/1996
Receipt No: _____
Received By: _____

Copy from claim file

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

AMENDED

1. Name: JAMES T NELSON
Address: 4150 KINGSWOOD DR
BOISE ID

83704

*Affidavits submitted
3/26/96. May be
found in claim file*

2. Date of Priority: JAN 1, 1863

3. Source: UNNAMED STREAM

Trib. to: CANYON CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	04E	27		SW	NE		BOISE
		28		SW	NE		BOISE
				SE	NE		BOISE

5. Description of diverting works:
PUMP & GRAVITY IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.600		
STOCKWATER	01/01	12/31	0.020		

7. Total Quantity Appropriated is:
0.620 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK, 15 MIXED HEAD

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10. Place of Use:

AUG 06 1998

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	04E	27	SW	NE		IRR	2.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	04E	27	SW	NE		STOCK	
			SE	NW		IRR	1.0
			SE	NW		STOCK	
						Section Acres	3.0
		28	SW	NE		IRR	10.0
			SW	NE		STOCK	
			SE	NE		IRR	17.0
			SE	NE		STOCK	
						Section Acres	27.0
						Total Acres	30.0

11. Place of use in counties: BOISE

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

NOTE: A SPRING SOURCE WAS ORIGINALLY CLAIMED WITH THE UNNAMED STREAM FLOWING FROM THE SPRING AS AN IRRIGATION DITCH. HOWEVER, THE USGS TOPO MAP SHOWS THE DITCH AS AN UNNAMED STREAM. THE PTS OF DIVERSION ARE FROM THE UNNAMED STREAM. NO CHANGE IN SOURCE HAS OCCURRED. THERE ARE 3 POINTS OF DIVERSION IN THE SWNE, ONE POINT IN THE SENE, S. 28, AND ONE POINT IN THE SWNE, S27, T. 7N, R. 4E, FOR A TOTAL OF 5 POINTS OF DIVERSION.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

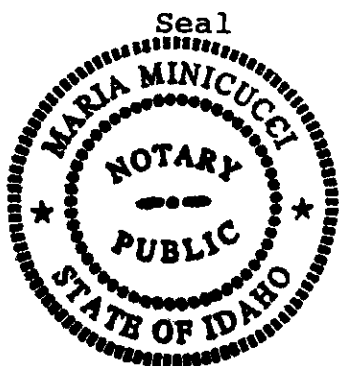
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): James T. Tulsan Date: 3-26-96
Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 26th day
of MARCH 19 96

[Signature]
Notary Public



Residing at 06/26/1999 Boise, Idaho
My Commission Expires 06/26/1999



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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 27, 2000

JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704

Re: Permit No. 63-12315

Dear Mr. Nelson:

I am enclosing a copy of an Order that addresses our July 24, 2000 telephone conversation. The Department has issued this Order to rescind the previous Reinstatement Order issued July 12, 2000, and to correct the priority date of the permit back to February 8, 1996.

If you have any questions or comments, please contact me at 327-7953.

Sincerely,

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

Enclosure
cc: Regional Office

MICROFILMED

AUG 23 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

July 11, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 63-12315

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. Enclosed is an order reinstating the permit since proof was submitted after the proof due date.

Please 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.

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 of the water. If you have questions concerning the field examination, please contact the **Western** Regional Office of the department in Boise at (208) 334-2190.

Sincerely,

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR - Region

MICROFILMED

AUG 23 2000

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 63-12315 Reviewed by D. Ellis Date 7/11/00

GENERAL CONSIDERATIONS

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

TYPES OF USE

Fire Protection &
Stockwater
Correct Uses? Yes

SOURCE OF WATER

Yes Surface water source
No Ground water source

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

LICENSE EXAMINATION FEE

Yes Required?
\$50 Amount Submitted
Yes Correct?

MEASURING DEVICE

Yes Required?
Yes Installed?
 Waiver requested?

PRIORITY CALCULATION

Date proof received 7/3/00
Date proof due 7/1/00 -
No. of days late = 2
Priority Date 7/8/96 + 2
New Priority Date 7/10/96

DEFICIENCIES OR ACTION ITEMS

Acknowledge proof & move priority date to:

DATA ENTRY

New Address No Proof Made 7/3/00

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No:

2049656

Date:

Time: 7/ 3/2000

109:44:49

Received

From:

NELSON JAMES T

Type of Payment

Program Acct

Amount

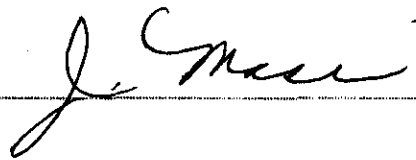
BENEFICIAL USE	#63-123	56104	229 21 1155	50.00
----------------	---------	-------	-------------	-------

Total \$ 50.00

CHECK 955

Region: STATE

Signature:



MICROFILMED

AUG 23 2000

April 30, 2000

JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704

PROOF DUE NOTICE

RE: PERMIT NO. 63-12315

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.

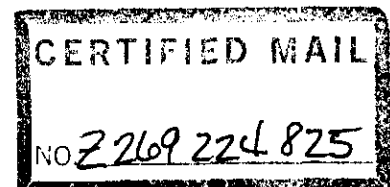
SINCERELY,

DEBORAH DREW-ELLIS
Administrative Assistant

Enclosures

MICROFILMED

AUG 23 2000





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 25, 1998

JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 63-12315

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.

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.

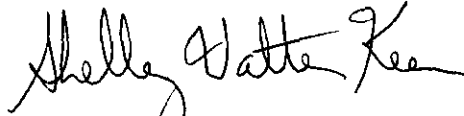
MICROFILMED

AUG 06 1998

Please note that a separate stream channel alteration permit must be obtained from the IDWR prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

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

Sincerely,

A handwritten signature in cursive script, reading "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

MICROFILMED

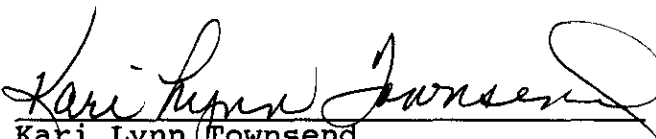
AUG 06 1998

CERTIFICATE OF MAILING

I hereby certify that on the 25th 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. 63-12315

JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704


Kari Lynn Townsend
Secretary

MICROFILMED
AUG 06 1998

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.

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AUG 06 1998

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.

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AUG 06 1998

APPLICATION FOR PERMIT STATE OFFICE ANALYSIS

by Cindy Lou

No.: 63-12315 Name: Nelson Date: 6/22/98 Ad OK? ☒ ☒ Gvmt Lts: ☒

AREA OF CONCERN: - No/Yes: BRD Mor / GWMA / Trust / Non-trust

PROTESTED: - 020 (Protest Agreement) or *W19 (Order)

SYSTEM COMPLETED:

- > 1 year - 26A-P17
- ≤ 1 year/no proof - P16

GROUNDWATER: (✓ FLO-CH)

WMD (✓ MAP)

- > 0.24 cfs/5 acres - North / East / West
- ≤ 0.24 cfs/5 acres - 067 or No MD (in-stream stock or power)

WMD Supplemental use

- > 0.24 cfs/5 acres - No MD
- ≤ 0.24 cfs/5 acres - 065-079 (if GW use SW 1st-statewide)-(cannot move SW off)

DRILLING PERMIT:

All wells (✓ WDQ3)

In Basin 34?

Irr. within WD

- 046-P23
- 085
- P05 (new well location)

SURFACE WATER: (✓ FLO-CH) (Surface water that doesn't sink is regulated):

IN/ABOVE MIN. STR. FLOW (✓ MAP)

WD (✓ MAP & LISTING)

> 0.10 cfs

≤ 0.10 cfs

WMD (✓ MAP)

> 0.24 cfs/5 acres

≤ 0.24 cfs/5 acres

- *WB9
- R04 (WD # 63)
- 01J-P08 (MD & LD)
- 01H-P01 (LD), ~~01P~~ or No MD (in-stream stock)
- use 18A
- 067 or No MD (in-stream stock or power)
- No MD

SPRINGS/SINK, INACTIVE WD & REST OF STATE

> 0.24 cfs/5 acres

≤ 0.24 cfs/5 acres

- 01M or No MD (in-stream stock or power)
- No MD

RIVER BASINS: (*Surface water):

Snake R (01)

(02/03-irr)

Payette R(65)

Salmon R (70's)

- *W22 -P04, NA
- 007 (w/ remark *WB9 if above Weiser), NA
- *W22 (regulated uses), 047-P04 (Payette Lake), NA
- 029 (fish screens), NA

USE:

Domestic surface

>1 in rest. area

Fire Protection

Fish Propagation

Heating/Cooling

Irr ≤ 5 acres

> 5 acres

Mining

Municipal

Power

Stockwater

Storage (✓ 3 compo.)

- *WB5 (Big Wood R or Boise R ↑ Star Bridge); 27A (Payette River); NA
- 071-070
- 077
- 029-007-042(req)-081 (WQ)-P10
- R07 (injection well)
- R66/R67/R68/R69 (0.03 cfs/acre + 3.0/3.5/4.0/4.5 AF)
- R62/R63/R64/R65 (0.02 cfs/acre + 3.0/3.5/4.0/4.5 AF)
- 054(req) -081-P10
- 022, 075, 004 (+memo?), NA (not in restricted area)
- 17H/17K(+uses)-08A-025(P18)-01N-028-081(P10)-027 (if no other cons. use);
- 17G (FERC) or 17M (FERG); 18B-P09; >25 cfs-P18
- R37 (BLM/USFS); NA
- 18A (in & out MD for on-stream storage), 18B-P09 (>10' dam), NA

LOCATION:

42-248 area

Boise Front LoGeo

In-stream dev.

Mitigation

SWAN FALLS FLAG (See Code Chart)

Trust

Non-Trust (1)

- P84 in 20/30/40/50/60/70/80 (87) basin
- 058 (<85° GW temp only)
- P52 (stream channel alteration)
- 120

OWNERSHIP:

OTHER CONDITIONS:

STANDARD REMARKS:

BENEFICIAL USE DUE:

COMMENTS:

- 051-052-053-P74 (Consumptive Uses), NA
- 048-049 (Consumptive Uses), NA
- 004 (PD/PU)
- ① W02/15 RC/H ② W59/W60 - US 17-18, B4, Star Ranch Unit #5.
- 7/1/ 2000

JUN 19 1998

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPROPRIATION APPLICATION ANALYSIS SHEET

*this version
replaces 2/22/96
version*

INITIAL REVIEW BY: ER DATE: 4/27/98 APPLICATION: 63-12315

REQUIRED INFORMATION

- ☒ Name: (If applicant is a corporation or partnership, 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. $\geq$ 5 homes in non-restricted area)
- ☒ Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid

Gov't. Lots:

N P/D
P/U

ADDITIONAL INFORMATION

yes ADVERTISE REMARK(S)
(Reviewer identify which remarks)

✓ DONE T FLAG CHANGED TO P FLAG

YES NO

- ☒ ☐ Overlapping place of use: (Describe source & relationship to present application on next page.)
- ☒ ☐ Overlapping point of diversion.
- ☐ ☒ Critical groundwater area:
- ☐ ☒ Groundwater management area:
- ☐ ☒ 1992 moratorium: - *OK to process within allowable limits*
- ☒ ☐ Bull trout impact area - *IDFG letter to be sent*
- ☐ ☒ E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining) } *were notified 2/22/96*
- ☐ ☒ E-mail to Dam Safety staff: (for any storage)
- ☒ ☐ Mitigation plan: Check any that apply.
- ☒ ☐ immediate = acceptable plan required and submitted. *see SK's 3/5/98 memo*
- ☐ ☒ *N/A* future = open areas, acceptance of condition of approval is in file.
- ☐ ☒ Send power requirement letter:
- ☐ ☒ Send 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 _____

PROCESSING

APP. NO. 63-12315

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. Health & Welfare
☐ ☒ I.D. District Health
☒ ☒ I.D. Fish & Game
☐ ☒ I.D. Lands

re: Bull
Herd☒ YES NO

☐ ☒ U.S. BLM
☒ ☒ U.S. Forest Service
☒ ☒ Water Dist. # 63
☐ ☒ Other _____

FINAL REGIONAL PROCESSING REVIEW:

YES NO

☒ ☐ Affidavit of publication received:
☒ ☐ Application published correctly: If not, record action taken.

re: consumptive use impacts
 even though unregulated source, should
 get user's comments ("the pool syndrome")

☒ ☐ Publication dates and paper recorded on application:☐ ☒ Final date for protest 5-26-98☐ ☒ Protests received.☐ ☒ Recommendations attached:☐ ☒ Measuring device required:☐ ☒ Measuring port required:☒ ☐ Water delivered by water master? District # 63☐ ☐ Special conditions of approval or cover letter: See Shelley Keen memodated 3/5/98

See below for additional information

Recommended Date or Priority 2/8/96Recommended by: Darys Date: 6/17/98

STATE OFFICE REVIEW

See below for additional information. By _____ Date _____

ADDITIONAL INFORMATION:

Overlap - 63-04776 spring for in/stock c applicant's property.

Claimed in SRBA as 63-04776 as cur. stream, same div. system
as this application. Doubtful validity per f.k. See SK's 3/5/98 memo.

63-04157 Canyon Ck, per 63-04157 A & B, does not appear to
be related to applicant's land.

ALSO SEE Attached pgs →

63-12315.
ADD'L. REVIEW NOTES

-82 4/27/18

- 1) Adm. Memo #13 would allow cons. use prior to 6/15.
- 2) However, 5/3/95 Order lifting Rs. 63 maintenance:
see item 4, attached.

This effectively moved point of control downstream to Star Bridge & increased time of control to all year (since time period not limited in Order) - implying that any cons. use of tributary surface water must be mitigated.

- 3) Applicant's mitigation plan probably does not hold water, so to speak.
- 4) However, in this case it was agreed @ Regional level that ok to proceed - to backtrack now gives the appearance of "moving the goalpost".

- 5) Provided that:

this Appl. is not seen as precedent for green light for ponds in upper Boise River drainage, and assuming that a new Order will further define the surface water point of control; then

- 6) It should be acceptable to approve this application.

- 7) This further assumes:

Watermaster approval will be obtained. } comment
IDFG does not have significant concerns. } letters sent
"Future mitigation" cond. of approval probably not needed
since it is presumed that cons. use is not an
issue.

bull trout
etc.

ORDER

IT IS, THEREFORE HEREBY ORDERED that the prior order of the department dated May 15, 1992, as amended January 6, 1993, and April 30, 1993, in connection with the Snake River Basin upstream from the U.S.G.S. gaging station at Weiser, Idaho is modified by this Amended Moratorium Order.

IT IS, FURTHER HEREBY ORDERED that the moratorium is removed from the Boise River Drainage Area, and that applications for permit filed within this area shall be subject to the following provisions:

1. This moratorium removal does not change or affect the administration of any area within the Boise River Drainage Area that has been previously designated as a ground water management area pursuant to Section 42-233b, Idaho Code.
2. Processing of applications for permit within the Boise River Drainage Area that had been withheld by the moratorium shall proceed at a rate not to exceed thirty (30) applications for permit per month, in priority date order. All applications for which the applicants desire to proceed shall be advertised, or readvertised if notice has previously been made. The advertisement for each application which indicates the intended water source to be ground water shall include an indication of the proposed depth interval from which the applicant proposes to withdraw water by means of a well.
3. Applications, which indicate the intended source to be ground water, shall be further reviewed and screened within the department. During this review, the water right application shall be considered along with the well drilling application, if applicable. The review may result in conditions of approval to: (a) prevent development and use of water from any known water-limited aquifers, (b) prevent material injury to prior surface and ground water rights, (c) encourage use of lower-quality water for irrigation and higher-quality water for domestic purposes, (d) enhance protection of water quality in the aquifer, (e) ensure that subdivision proposals for presently irrigated land consider the need for the continuation of aquifer recharge, (f) require wells to be constructed to a sufficient depth to withstand expected fluctuations in the ground water level caused by drought, conservation or other factors, and (g) well location (spacing) requirements to prevent direct lowering of water levels in nearby existing wells.
4. Applications which propose use of surface water upstream from the Star Bridge will be denied unless the applicant files an acceptable plan to mitigate or avoid any material injury to existing water rights.
5. Applications that are protested shall be processed in accordance with the Rules of Procedure of the Department of Water Resources, IDAPA 37.01.01.

ORDER - Pg 3

FROM 5/3/95 ORDER
LIFTING MORATORIUM

ATTACHMENT C
e BOISE RIVER MOR.

The Idaho World

P.O. Box 99
Garden Valley, ID 83622
(208) 462-3487

State of Idaho)
County of Boise)

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with May 6, 1998 and ending with the issue of May 13, 1998.

Deanna Stevenson

State of Idaho)
County of Boise)

On this 15 day of May in the year 1998, before me, a notary public, personally appeared Deanna Stevenson 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 she executed the same.

Diane E. Caughlin

Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires 6/26/2001

RECEIVED

MICROFILMED

MAY 18 1998

AUG 06 1998

WATER RESOURCES
WESTERN REGION

NOTICE OF APPLICATION FOR WATER RIGHT

The Following applications have been filed to appropriate the public waters of the State of Idaho:

63-12315

NELSON, JAMES T
4150 KINGSWOOD DR
BOISE, ID 83704

Source: UNNAMED STREAM

Tributary: CANYON CREEK

Diversion Pt: SENE Sec 28 T 07N R 04E in BOISE County.

Use: STOCKWATER	(	0.020 CFS)	
STOCKWATER STORAGE	(		2.00 AF)
FIRE PROTECTION STORAGE	(		2.00 AF)
Total Diversion:	(	0.020 CFS)	

Date Filed: 2/8/1996

In: BOISE County
T07N R04E S28 SENE

Mitigation is proposed for consumptive losses from existing pond.

65-13778

BENNIG, OTTO
BENNIG, MARY
11 RIVER MEADOW DR
GARDEN VALLEY, ID 83622

Source: GROUNDWATER

Diversion Pt: SENE Sec 34 T 10N R 04E in BOISE County.

Use: IRRIGATION	(	0.050 CFS)
DOMESTIC	(	0.020 CFS)
Total Diversion:	(	0.070 CFS)

Date Filed: 4/8/1998

In: BOISE County
T10N R04E S34 SENE

1.5 ACRES TOTAL

65-13788

GIBSON, TED
GIBSON, HELEN
1304 E 5TH
MERIDIAN, ID 83642

Source: SPRING

Diversion Pt: SENWSW Sec 28 T 10N R 11E in BOISE County.

Use: DOMESTIC	(	0.040 CFS)
Total Diversion:	(	0.040 CFS)

Date Filed: 4/24/1998

In: BOISE County
T10N R11E S28 NWSW

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 Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of \$25.00 on or before MAY 26, 1998. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Published in The Idaho World May 18 and 19, 1998



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 13, 1998

SCOTT GRUNDER
STATE OF IDAHO
DEPT OF FISH & GAME
3101 S POWERLINE RD
Nampa ID 83686

Re: Applications for Permit Nos. 65-13784 in the Name of Richard Layton, 65-13786 in the Name of Michael Justice, 65-13787 in the Name of Michael Justice, 63-12315 in the Name of James T. Wilson and 65-13785 in the Name of Selma Ann &/or Donald Eberle

Dear Sir:

Enclosed are copies of the above-referenced applications for permit which may be of interest to your agency. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest along with the \$25.00 protest fee must be received in this office by May 26, 1998.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

GS:st

Encl.

MICROFILMED

AUG 06 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

APRIL 29, 1998

Legal Notices Department
The Idaho World
PO Box 99
Garden Valley, ID 83622

Dear Legal Dept.:

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 MAY 26, 1998.

Yours truly,

SUE TAYLOR
Secretary/Office Coordinator

Encl.

MICROFILMED

AUG 06 1998

NOTICE OF APPLICATION FOR WATER RIGHT

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

MICROFILMED

AUG 06 1998

63-12315

NELSON, JAMES T
4150 KINGSWOOD DR
BOISE, ID 83704

Source: UNNAMED STREAM

Tributary: CANYON CREEK

Diversion Pt: SENE Sec 28 T 07N R 04E in BOISE County.

Use: STOCKWATER	(	0.020 CFS)	
STOCKWATER STORAGE			(2.00 AF)
FIRE PROTECTION STORAGE			(2.00 AF)
Total Diversion:	(	0.020 CFS)	

Date Filed: 2/ 8/1996

In: BOISE County
T07N R04E S28 SENE

Mitigation is proposed for consumptive losses from existing pond.

MICROFILMED

AUG 06 1998

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KARL J. DREHER, Director

Published: 5/ 6/1998 & 5/13/1998

MICROFILMED

AUG 06 1998

TO: STEVE LESTER ✓
WESTERN REGION

FROM: S.W. Keen

Steve, see my memo to Glen inside. I
hope this works.

S.W. Keen 3-5-98

Steve *SL*

I kept this after our discussion
yesterday, but it appears it needs
to be published.

Dary

MICROFILMED
AUG 06 1998

4/24/98
63-12315

MEMORANDUM

DATE: March 5, 1998

TO: Glen Saxton *OK* *WJS*

FROM: Shelley W. Keen *SWK*

RE: Application 63-12315 (James T. "Tim" Nelson)

In compliance with your Sept. 2, 1997, order, Tim Nelson delivered his mitigation plan for application 63-12315 to me last Thursday. On its face the plan is simple -- Mr. Nelson will discontinue irrigating five acres claimed as part of the place of use for SRBA claim A63-04776B. The problem is that claim A63-04776B is a beneficial use claim that will not likely be investigated via the SRBA process, let alone decreed, for some time yet.

I talked about this situation with Jan Shurte, who is familiar with the claim file. She told me that affidavits in the SRBA claim file, along with information in the statutory claim file, strongly suggest that there was some irrigation in the past. Her concern, however, is that any right that may have existed has been forfeited through non-use. When asked, Mr. Nelson did not deny that irrigation was discontinued some time ago.

Even if we become convinced that A63-04776B represents a valid right, the acres Mr. Nelson proposes to discontinue irrigating appear to be upstream from the old point of diversion. In a gravity irrigation scenario, they could not have been irrigated in the past. If the old point of diversion is confirmed through a field examination, the land set aside as mitigation should be within the area previously irrigated with water diverted at that point of diversion.

At this point, I am uncomfortable accepting a mitigation plan based on a questionable claim. If we do not accept the plan, however, we then must either send Mr. Nelson back to the drawing board or cause him to cease storing water. If we send him back to the drawing board, I am not sure that he has any other real options. Also, our experience with this filing suggests that Mr. Nelson may procrastinate in developing an alternate mitigation plan. If we require him to cease storing water, I am not sure how Mr. Nelson will respond.

In searching for another alternative, I explored the idea that there may be an overriding public interest in approving this application. Water for firefighting purposes is scarce in the area of Mr. Nelson's reservoir. His mitigation packet includes a letter from the Placerville Fire Protection District calling his reservoir a "great service to all of the fire agencies in our area." In fact, Mr. Nelson told me that water from his reservoir was used last summer by helicopter crews to combat a forest/range fire in the area. The Eastern Snake River Plain Area moratorium contains a provision for approving permits in the "furtherance of the public interest." In the Upper Boise River basin, however, the controlling document is apparently Application Processing Memo 13,

which declares that no water is available for appropriation from June 15 to November 1. The memo has no "public interest" exception.

If Memo 13 is, in fact, still a clear statement of department policy, then we should be able to approve Mr. Nelson's application for the storage of water prior to June 15 each year, regardless of potential consumption, assuming it is not protested when advertised. After June 15, Mr. Nelson would be required to allow all natural flow to pass through the reservoir. Mr. Nelson's right would also be subject to prior winter fill storage rights downstream.

Because the mitigation proposal is questionable at best, I propose processing the application with the idea that it can be approved for storage prior to June 15 each year in accordance with Memo 13, unless Memo 13 in some way conflicts with department policy regarding Boise River basin appropriations during the Treasure Valley Hydrologic Project. If you concur with this concept, I will return the application to Western Region for advertising.

RECEIVED
FEB 26 1998
DEPARTMENT OF WATER RESOURCES

Mitigation Report
Application For Permit



Home Phone
376-0211

TIM NELSON
Energy Consultant
West Energy

(208) 388-2406
FAX (208) 388-6907
CELLULAR (208) 861-6139

IDAHO POWER COMPANY
1520 WEST STATE STREET
P.O. BOX 70
BOISE, IDAHO 83707

To: State of Idaho - Department of Water Resources
From: James T. Nelson - Applicant
Date: January 20, 1998

Applicant was mailed a certified notice from the Idaho Department of Water Resources Jan. 9, 1996 regarding unclaimed water rights in the Boise River Basin (Exhibit 1). This notice prompted applicant to contact the IDWR to inquire about his claiming one of these unclaimed water rights. Applicant then met with Jan and Cindy at the district office where they found a claim to water right on the stream through his property (Exhibit 2).

[Applicant had visited the IDWR nine years prior regarding information pertaining to fire protection, erosion control and other forms of water control. Applicant was told at that time he did not need a permit to build a fire protection and erosion control pond. Applicant then constructed a fire protection and erosion control pond in a portion of a long eroded ravine on his property (Exhibit 3).]

Applicant was later requested by the IDWR to submit a mitigation plan after the fact that could be used to meet the department's requirements for consumptive water losses from the pond. The applicant considered many mitigation plans and found the following to be the most viable alternative. The applicant's mitigation plan is to forfeit irrigating five acres of lot #41 in trade for five acre feet of water storage to offset the consumptive losses of the pond and other diversion points (Exhibit 3).

MICROFILMED
AUG 06 1998

Applicant has also constructed 800 feet of rocked drainage ditch to allow the spring runoff that collects in large pools on a 10 acre area on the valley floor to drain into the stream. This runoff comes from a 30 to 40 acre slope and collects on applicant's valley property below and would normally evaporate over a two to three month period. This drainage will also help offset the consumptive losses of the pond and other diversion points.

MICROFILMED
AUG 06 1998

YOUR FILING DEADLINE IS: APR 12, 1996

COUNTY: BASIN 63

779

YOU APPARENTLY HAVE A RECORDED INTEREST
IN PROPERTY WITHIN THE BUISE RIVER BASIN
THAT MAY HAVE AN UNCLAIMED WATER RIGHT.

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE MAIL
BOISE, ID 83720



Presorted
First Class
Permit No. 1
Boise, ID

RETURN RECEIPT REQUESTED

FIRST CLASS MAIL

TO: NELSON, JAMES T
4150 KINGSWOOD DR
BOISE ID 83704

Notice 1-9
1st Notice
2nd Notice
Return

1/9/96
LAD

**HAVE YOU FILED TO CLAIM
THE WATER YOU ARE USING IN THE SNAKE RIVER BASIN?**

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

In Re the General Adjudication of
Rights to the Use of Water from
the Snake River Basin Water System.

Civil No. 39576

**COMMENCEMENT
NOTICE**

TO: ALL PERSONS OWNING RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER
BASIN WATER SYSTEM. COMMENCEMENT NOTICES NOTIFYING WATER RIGHT
OWNERS TO FILE CLAIMS IN THE SRBA WERE SERVED IN YOUR AREA. IF YOU ARE
A WATER RIGHT OWNER AND HAVE NOT FILED A CLAIM PLEASE READ THIS NOTICE.

YOU ARE HEREBY NOTIFIED THAT:

On November 19, 1987, the District Court for the County of Twin Falls issued an order commencing a general adjudication of all water rights from the Snake River Basin water system in Idaho. A general adjudication is a court case which will result in a decree determining all water rights from the water system. The purpose of the adjudication is to get an accurate schedule of water rights to assure the proper delivery of water in times of shortage. The purpose of this notice is to inform you of the commencement of the adjudication and your legal responsibilities at this stage of the adjudication.

GENERAL REQUIREMENT TO FILE NOTICE OF CLAIM WITH IDWR

Idaho Code §42-1409 requires all persons owning water rights within the boundaries of the Snake River Basin water system in Idaho to file a Notice of Claim with the Idaho Department of Water Resources (IDWR) for each water right, except for certain water rights specifically excluded by law. "Water rights within the boundaries of the Snake River Basin water system in Idaho" includes rights to the use of water from any water source, including streams, springs, lakes, ground water, developed water, waste water, or any other source for any purpose within the boundaries of the Snake River Basin water system in Idaho. A map showing the boundaries of the water system is included at the end of this notice.

FAILURE TO FILE A REQUIRED NOTICE OF CLAIM WILL RESULT IN A DETERMINATION BY THE COURT THAT THE WATER RIGHT NO LONGER EXISTS.

A Notice of Claim must be filed for all water rights based upon Idaho state law. Water rights based upon Idaho state law include historic use rights (based upon diversion and application of water to a beneficial use, regardless of whether the water right has been recorded with IDWR pursuant to Idaho Code §42-243), decreed rights (based upon a decree of a state or federal court), licensed rights, or appropriation permits if proof of beneficial use was filed before November 19, 1987 (based upon a license or permit issued by IDWR, which used to be called the Idaho Department of Water Administration, the Idaho Department of Reclamation, and the State Engineer's Office). A Notice of Claim or negotiated agreement must be filed for all water rights based upon federal law. Water rights based upon federal law are generally reserved rights claimed by the federal government, by or on behalf of the Indian Tribes, or by subsequent owners of former federal reserved lands.

YOUR FILING DEADLINE IS: APR 12, 1996

COUNTY: BASIN 63

775

YOU APPARENTLY HAVE A RECORDED INTEREST
IN PROPERTY WITHIN THE BUISE RIVER BASIN
THAT MAY HAVE AN UNCLAIMED WATER RIGHT.

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE MAIL
BOISE, ID 83720



Presorted
First Class
Permit No. 1
Boise, ID

RETURN RECEIPT REQUESTED

FIRST CLASS MAIL

TO: NELSON, JAMES T
4150 KINGSWOOD DR
BOISE ID 83704

Notice
1st Notice
2nd Notice
Return

1-9
1/9/96
[Signature]

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THE WATER YOU ARE USING IN THE SNAKE RIVER BASIN?**

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that JON BRASSEY of Placerville, Idaho, 83666

(Name of Claimant)

P.O. Box 2603, Boise, Idaho

(Mailing Address)

83701

(Zip Code)

Telephone No. 343-6132

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) 1863

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Spring

tributary to Canyon Creek, Trib. of Grimes Creek

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity	(cfs, gpd, AFA)	Use	(Domestic, Irrigation, Stock, Etc.)	Period of Use From	(Mo., Day)	To	(Mo., Day)
<u>2 c.f.s.</u>		<u>Irrigation</u>		<u>Apr. 15</u>		<u>Oct. 15</u>	
<u>.2 c.f.s.</u>		<u>Stock water</u>		<u>Apr. 1</u>		<u>Oct. 15</u>	
Quantity		Use		Period of Use From		To	
Quantity		Use		Period of Use From		To	
Quantity		Use		Period of Use From		To	

- (4) 2.2 c.f.s. TOTAL QUANTITY USED.

(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

SW 1/4 NE 1/4, Sec. 27, Twp. 7N, Rge. 4E, B.M., County of Boise

Additional points of diversion:

B). Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Ditches and dams - No change in the system. Pumps have and may be used from time to time.

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE%				NW%				SW%				SE%				TOTAL
			NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	
1N	4E	28	6.91		3.21	4.68													33.31
1N	4E	27			7.33	15.81		13.64	24.05	13.84									78.97

No. of acres 112.28

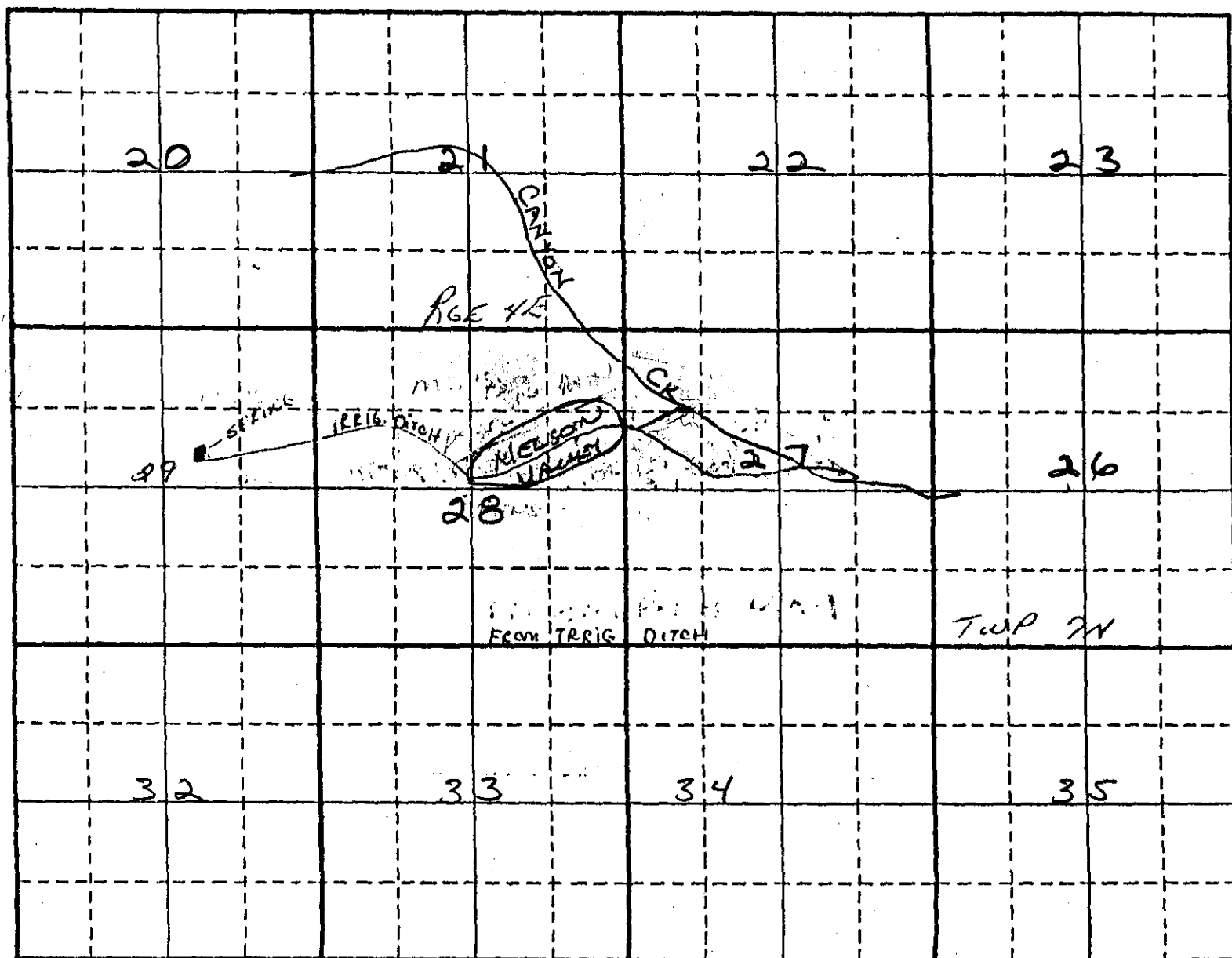
- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Stock water for varying number of stock.

NOTE: Include here the type and number of stock watered: Beef cattle, horses and sheep.

- (7) If you are claiming water as a member of an organization, list name of organization: Jon Brassey, Pine Trust, Fir Trust, Spruce Trust & Aspen Trust have an equal undivided ownership in the water right, ditches, dams and diversions necessary or proper for irrigation and other uses of their respective properties, and easements therefor.

EXHIBIT
#2

(8) Remarks Refer to depositions of Jon Brassey and W. C. Brassey filed in the District Court, State of Idaho, Case No. 1103, Boise County, Idaho, State, ex rel Allred vs. Jon Brassey, copies of which are in possession of Department. See attached affidavit of W. C. Brassey.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Ada) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 10th day of February, 19 81.

Jon Brassey
(Claimant)

Notary Public
Residing at Boise, Idaho

My commission expires April 28, 82

FOR DEPARTMENT USE ONLY

Received by <u>DBS</u>	Date <u>2/12/81</u>	Exception filed by:	Forwarded to	Date
Prelim. check by	Date		claimant by:	
\$20.00 fee received by <u>DBS</u>	Date <u>2/12/81</u>	<u>#1294</u>	<u>Ken</u>	<u>3/25/81</u>
Published in <u>Arctic</u>				

1-In. = 150 ft.

47

46

4

VALLEY

WILLIS

BRASSETT LN

2

Lot 41 = 9.723 Acres

Sub #6

NELSON

PROPERTY

Nine Proposed Diversion Points

RAVINE OUTLINE

COURT

3

-SUB

2

1

#7-

-SUB

20

19

#5-

18

DOAKA

11

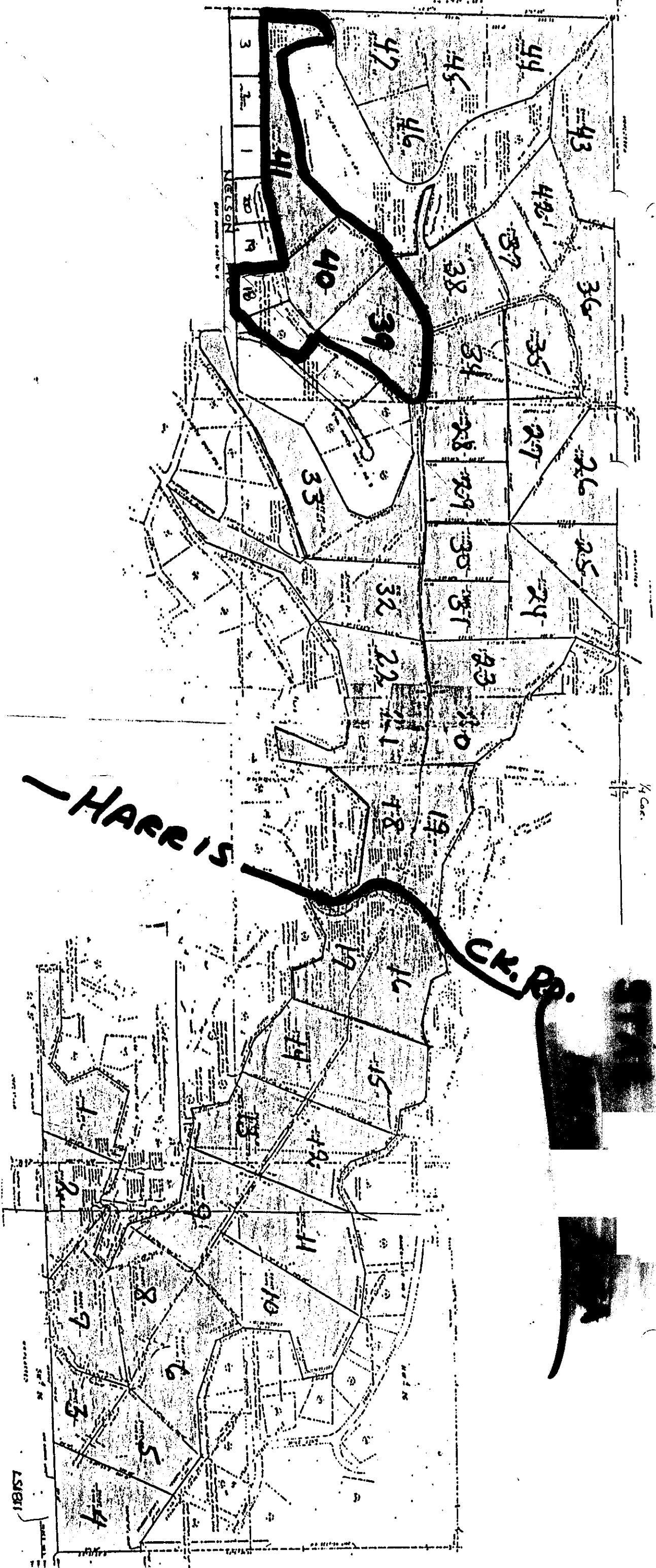
NELSON

AVE.

(RAVINE STAYS Here)

STREAM

RAVINE Pools 50-60 FT. WIDE AND 10-12 FEET DEEP!



TRACT 1		TRACT 17		TRACT 33		TOTAL	
1	8.573 acres ✓	17	6.947 acres ✓	33	16.440 acres ✓	373.247 acres	231.611 A
2	6.938 acres ✓	18	7.232 acres ✓	34	6.916 acres ✓	239	
3	5.142 acres ✓	19	6.879 acres ✓	35	7.319 acres ✓		
4	9.443 acres ✓	20	6.173 acres ✓	36	9.702 acres ✓		
5	7.183 acres ✓	21	7.654 acres ✓	37	6.239 acres ✓		
6	9.691 acres ✓	22	6.191 acres ✓	38	8.579 acres ✓		
7	8.460 acres ✓	23	7.961 acres ✓	39	9.005 acres ✓		
8	6.975 acres ✓	24	8.162 acres ✓	40	7.506 acres ✓		
9	7.375 acres ✓	25	6.271 acres ✓	41	0.214 acres ✓		
10	11.175 acres ✓	26	8.793 acres ✓	42	5.743 acres ✓		
11	11.674 acres ✓	27	6.011 acres ✓	43	10.521 acres ✓		
12	8.325 acres ✓	28	5.823 acres ✓	44	7.731 acres ✓		
13	7.913 acres ✓	29	5.931 acres ✓	45	7.317 acres ✓		
14	7.388 acres ✓	30	5.932 acres ✓	46	5.975 acres ✓		
15	9.534 acres ✓	31	5.765 acres ✓	47	7.205 acres ✓		
16	8.876 acres ✓	32	12.161 acres ✓				

141.54

Since 1880

Placerville Fire Protection District

29 May 1998

Box 281 • Placerville, Idaho 83666

Dear Mr. Nelson

The Placerville Fire District has taken the opportunity to inspect the reservoir you have created on your property in the Star Ranch area. This pool will be of great service to all of the fire agencies in our area including both the Forest Service and the Department of Lands and ourselves in the controlling of Wild lands Fires within our boundaries.

We would like to discuss the access to the reservoir so that there would be no misunderstandings by any of the other property owners adjacent to or crossed in getting to the water. Please contact either myself at 392-6694 or Jerry Crowell, Fire Chief, at 392-4178 for this authorization. Either of us are normally in the area on the weekends when you may be here.

Sincerely,

Don Weiss
Chairman
Placerville Fire Dist.

➔ THIS IS THE ONLY
VIALE WATER SOURCE
FOR FIRE PROTECTION IN
A TWO MILE RADIUS OF
POND!

MICROFILM
AUG 06 1998

Received by
Prelim. check by
\$20.00 fee received
published in 11-1-14

A F F I D A V I T

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

W. C. BRASSEY, being first duly sworn, on oath deposes and says:

That he is a resident of Boise, Ada County, Idaho, and resides at 1818 Brumback, Boise, Idaho.

That he is the father of Jon Brassey and is the direct predecessor in title to Jon Brassey.

That between 1919 and 1929 your affiant acquired, among other properties, portions of the northeast quarter of Section 28, Township 7 North, Range 4 East, Boise Meridian, and portions of the northwest quarter of Section 27, Township 7 North, Range 4 East, Boise Meridian.

That on said Sections 27 and 28 there exists a spring flow. The spring is unnamed and arises to the west but enters the property now owned by Jon Brassey in Section 28 and flows on a generally easterly course thereafter.

That the spring flow varies in quantity but your affiant would estimate that the average peak flow of the spring is 2 c.f.s. more or less.

That from April 1 to approximately October 15 of each year the waters from such spring are utilized for the irrigation of the adjacent grounds. The waters are further used for stock water for varying numbers of stock, the quantity of which stock and type thereof varying from year to year.

That such spring was being used prior to your affiant's acquisition of the property, and the reputation in the area at the time was that the spring was being utilized from the first settlement of the country, being approximately 1863.

DATED this 10 day of February, 1981.

W C Brassey
W. C. Brassey

SUBSCRIBED AND SWORN to before me this 10th day of
February, 1981.

Loth. M. Walker
Notary Public for Idaho
Residing at Boise, Idaho

MICROFILM

AUG 06 1988

A Tribute to Willis Brassey

By Spike Ericson

Willis C. Brassey, one of Boise Basin's well-known residents died of natural causes Sunday, September 9, 1984 in a Boise hospital. He was almost 90 years old. From 1916 to 1940 he lived in Placerville. His parents, Cenia and Christian Brasse, moved to Idaho from Nevada in 1880 according to records from the State Historical Society. Christian changed the family name from Brasse to Brassey so that his mail would not be confused with his neighbor's, who spelled their name Braase.

Willis Brassey was born in Middleton in 1894 and grew up from age five in Pearl, Idaho. In the small mining camp of Pearl young Willis learned all about the mining trade. When he was 18 he was driving the mail from Horseshoe Bend to Pearl. The next year he worked 500 feet down in a mine near Placerville. Right away he opened his own "auto livery" business running passengers between Boise and the Placerville-Centerville area for \$5.00 per person. He had saved money through his various jobs and bought a 1915 Studebaker which he soon traded in on a new 1916 seven-passenger Cadillac. He left this thriving business in 1917 to join the war effort and spent two years in France with the 20th Engineers division of the Army. When he returned home he bought a logging truck and supplied many of the area mines with timber.

Brassey also hauled ore to Centerville and to the Boise assay office from the Gold Hill, the Belshazzar, the Mountain Chief, and the Mayflower mines. All the ore went through the mills at the mines and the concentrates were hauled down along with his timber runs. The concentrates were stored at the mills during the winter. Sometimes as much as five- to seven-hundred tons would be hauled by Brassey in the spring to Centerville, where it would be loaded in to boxcars and shipped to Murray, Utah to recover the gold values. With his old Cadillac Brassey often hauled gold retorts, melted down at the mills, to the Boise assay office. One chunk from the Gold Hill was worth \$51,000. He kept the "Gold burtons" in an oak box under the seat of the stage car and the passengers never knew there was any such cargo. "The assay office was a very efficient, very good agency of the government" in those days. "It really was the thing that started the development of this whole area around here. That's why the people came here in the first place, was the mining; that's all that ever brought 'em."

Brassey continued hauling ore until 1931 when that big forest fire came into the Boise Basin. That burned all the mines up there... And there's really been no mining to amount to anything up there since that."



William Brassey at age 25

Willis C. Brassey 1894 - 1984

Brassey, who was almost caught in the fire when it broke out said it was started by a man who came over the Jerusalem Summit with a couple of horses; and "he must have thrown a cigar or a match on the road up near the Belshazzar mine about 11 O'clock on the morning of August 18, 1931. The fire kept running and going until a snow storm really put it out near Summit Flat that fall. It burned down the whole of Quartzburg. Burned down the mining plant and everything. A real disaster for the Boise Basin - burned down the power lines and everything."

In about 1940 he moved to Boise where he bought property for a housing development and worked as a contractor in this area for many years.

Considering his rough life and many experiences Brassey thought he was privileged: "I always credit the Lord for taking us to the right place at the right time for a great many of these things."

Brassey is survived by his wife, Josephine Fairchild Brassey, also from a pioneer family, and his three sons, Bart, Vernon and John. Vernon Brassey is a State Legislator and John Brassey also served the state in that capacity. Brassey left ten grandchildren and five great grandchildren. His funeral was held Wednesday, September 12 at Saint Michael's Cathedral, Boise and he is buried at Star Cemetery, just a few miles from his birthplace.

(Ed. note: Quotations reprinted by permission of the Idaho State Historical Society Library. Taken from the Oral History transcript #OH-16. Willis Brassey was interviewed and recorded in December, 1974, by Annabelle Alexander.)

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO.(S))
A63-04776B)
_____)
_____))

AFFIDAVIT

State of Idaho)
County of _____)

GARRICK JAMES NELSON being first duly sworn,
deposes and says:

I helped my dad remove some irrigation pipes on our valley property we purchased from Jon Brassey in 1989. These pipes were taking water from the stream for irrigation of the valley.

Garrick James Nelson
(Signature)

Subscribed and sworn to before me this
day 22 of March, 1996.

Krist K Hubble
(Notary Public)

Residing at Bowle.

My Commission Expires 1997.

SEAL

MORE
AUG 06 1988

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO.(S))

AFFIDAVIT

A63-04776B)
)
)

State of Idaho)
County of _____)

JAMES T. NELSON being first duly sworn,
deposes and says:

My first experience with Jon Brassey's valley property and irrigation usage was the spring of 1983. I was up looking at my brothers newly acquired lot #15 in Star Ranch sub #5 which is adjacent to the Brassey valley property. When I went down to check out the Brassey property, I noticed some steel and pvc piping being used to divert water from the Brassey valley stream for irrigation purposes.

When I purchased this valley property in 1989 my son Garrick and I began cleaning up and restoring the property. We removed the old irrigation piping and ditch diversions, planning to replace them later with a better system. I still have some of the piping available for evidence.

My son and I have been using water from this stream since 1986 to irrigate hundreds of fir and pine trees we planted in our valley and adjacent properties through the years. We are in the process of reforesting some parts of our property to improve the environment. Some of the stream water is also used for stock water and other beneficial uses.

James T. Nelson
(Signature)

Subscribed and sworn to before me this
day 12th of March, 1996.

May Low Russell
(Notary Public)

Residing at Newport Home, ID.

My Commission Expires May 31st 2000.

SEAL

MCR
AUG 06 1998

MAKE CHECK PAYABLE TO: BOISE COUNTY TAX COLLECTOR
P.O. BOX BC, ID. CITY, ID 83631
PHONE: 392-4441

1997 TAX BILL/RECEIPT
BILL# 6834 CODE AREA 20-00 L
PARCEL NUMBER RPO7NO4E281650A 7,771

1ST HALF DUE	2ND HALF DUE	FULL DUE	TOT MV
TAX 52.09	TAX 52.09	TAX 104.18	7,771
LATE	LATE	LATE	
INT	INT	INT	
COST	COST	COST	
TOT	TOT	TOT	

NELSON JAMES T
4150 KINGSWOOD DR
BOISE ID 83704

TAXING DISTRICT	RATE	AMOUNT
STATE	.000000000	
COUNTY	.004506510	35.02
SCH DIST # 72	.003070044	23.86
ROAD & BRIDGE	.000000000	
PV FIRE DIST.	.001387649	10.78
BASIN LIBRARY	.000597611	4.64
EAST B.C. AMB	.000313260	2.42
SCH 72 BOND	.002905337	22.58
DISTRICT TOTAL	.012780411	99.30
STATE FIRE ASSEM		4.38
FPA		.50
AMOUNT DUE		104.18

17N-RAE-SEC-28
TAX 45 (TRACT 41 ROS#98281)
INST. #135319

★ ★ ★ IMPORTANT ★ ★ ★
PLEASE READ BOTH FRONT AND BACK
★ ★ ★ MONTHLY PAYMENTS ARE ACCEPTED ★ ★ ★

PAYMENTS RECEIVED WITH A DELINQUENCY WILL BE
APPLIED TO THE OLDEST DELINQUENT YEAR.

TO AVOID LATE CHARGES, PAYMENTS MUST BE
RECEIVED OR POSTMARKED BY THE DUE DATE.

KEEP TOP PORTION FOR YOUR RECORDS.
PERSONAL CHECKS ARE YOUR RECEIPT
SUBJECT TO BANK CLEARANCE.

YOUR COMPLETED CHECK IS YOUR RECEIPT

MAKE CHECK PAYABLE TO: BOISE COUNTY TAX COLLECTOR
 P.O. BOX BC, ID. CITY, ID 83631
 PHONE: 392-4441

1997 TAX BILL/RECEIPT

1ST HALF DUE	2ND HALF DUE	FULL DUE	TOT MV	PARCEL NUMBER
48.88	48.88	97.76		RPO7NO4E281800A

TAX LATE INT COST TOT

48.88 48.88 97.76 7,295

NELSON JAMES T
 4150 KINGSWOOD DR
 BOISE ID 83704

TAXING DISTRICT	RATE	AMOUNT
STATE	.0000000000	
COUNTY	.004506510	32.66
SCH DIST # 72	.003070044	22.40
ROAD & BRIDGE	.000000000	
PV FIRE DIST.	.001387649	10.12
BASIN LIBRARY	.000597611	4.36
EAST B.C. AMB	.000313260	2.28
SCH 72 BOND	.002905337	21.18
DISTRICT TOTAL	.012780411	93.20
STATE FIRE ASSM		4.10
FPA		.46
AMOUNT DUE		97.76

T7N-R4E-SEC 28
 TAX 83 (TRACT 39 R05#98281)
 INST. #135319

★ ★ ★ IMPORTANT ★ ★ ★
 PLEASE READ BOTH FRONT AND BACK
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 SUBJECT TO BANK CLEARANCE.

YOUR CANCELLED CHECK IS YOUR RECEIPT

MAKE CHECK PAYABLE TO:
 BOISE COUNTY TAX COLLECTOR
 P.O. BOX BC, ID. CITY, ID 83631
 PHONE: 392-4441

1997 TAX BILL/RECEIPT

PARCEL NUMBER
 RP07N04E281950A
 6,077

1ST HALF DUE	2ND HALF DUE	FULL DUE	TOT MV	6,077
TAX 40.72	TAX 40.72	TAX 81.44		
LATE	LATE	LATE		
INT	INT	INT		
COST	COST	COST		
TOT	TOT	TOT		7.596

MAILED
 AUG 06 1998

NELSON JAMES T
 4150 KINGSWOOD DR
 BOISE ID 83704

T7N R4E SEC 28
 TAX 77 (TRACT 40 ROS#98281)
 INST. #135319

TAXING DISTRICT	RATE	AMOUNT
STATE	.000000000	27.38
COUNTY	.004506510	18.66
SCH DIST # 72	.003070044	
ROAD & BRIDGE	.000000000	
PV FIRE DIST.	.001387649	8.42
BASIN LIBRARY	.000597611	3.62
EAST B.C. AMB	.000313260	1.90
SCH 72 BOND	.002905337	17.66
DISTRICT TOTAL	.012780411	77.64
STATE FIRE ASSM		3.42
FPA		.38
AMOUNT DUE		81.44

★ ★ ★ IMPORTANT ★ ★ ★
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YOUR CANCELLED CHECK IS YOUR RECEIPT

MAKE CHECK PAYABLE TO: 1997 TAX BILL/RECEIPT PARCEL NUMBER
 BOISE COUNTY TAX COLLECTOR RPO69050010030A
 P.O. BOX BC, ID. CITY, ID 83631 BILL# 6323 CODE AREA 20-00 L 11,000
 PHONE: 392-4441

1ST HALF DUE	2ND HALF DUE	FULL DUE	TOT MV	11,000
TAX 73.98	TAX 73.98	TAX 147.96		
LATE	LATE	LATE		
INT	INT	INT		
COST	COST	COST		
TOT	TOT	TOT	TOT ACS	2.850

NELSON JAMES TIMOTHY
 4150 KINSWOOD DR
 BOISE ID 83704

TAXING DISTRICT	RATE	AMOUNT
STATE	.0000000000	
COUNTY	.004506510	49.53
SCH DIST # 72	.003070044	33.76
ROAD & BRIDGE	.0000000000	
PV FIRE DIST.	.001387649	15.26
BASIN LIBRARY	.000597611	6.56
EAST B.C. AMB	.000313260	3.44
SCH 72 BOND	.002905337	31.96
DISTRICT TOTAL	.012780411	140.54
SOLID WASTE		6.00
STATE FIRE ASSM		1.28
FPA		14
AMOUNT DUE		147.96

T7N R4E STAR RANCH 5
 BLK 1 LOT 3

AUG 06 1998

★ ★ ★ IMPORTANT ★ ★ ★
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MAKE CHECK PAYABLE TO: BOISE COUNTY TAX COLLECTOR
 P.O. BOX BC, ID. CITY, ID 83631
 PHONE: 392-4441

1997 TAX BILL/RECEIPT

BILL# 6337 CODE AREA 20-00 L

PARCEL NUMBER
 RP069050040170A
 11,000

1ST HALF DUE	74.05	2ND HALF DUE	74.05	FULL DUE	148.10	TOT MV	11,000
TAX		TAX		TAX			
LATE		LATE		LATE			
INT		INT		INT			
COST		COST		COST			
TOT		TOT		TOT			

NELSON JAMES TIMOTHY
 4150 KINGWOOD DR
 BOISE ID 83704

T7N R4E STAR RANCH 5
 BLK 4 LOT 17

TAXING DISTRICT	RATE	AMOUNT
STATE	0000000000	
COUNTY	004506510	49.56
SCH DIST # 72	003070044	33.76
ROAD & BRIDGE	0000000000	
PV FIRE DIST.	001387649	15.26
BASIN LIBRARY	000597611	6.56
EAST B.C. AMB	000313260	3.44
SCH 72 BOND	002905337	31.96
DISTRICT TOTAL	012780411	140.54
SOLID WASTE		6.00
STATE FIRE ASSM		1.40
FPA		.16
AMOUNT DUE		148.10



★ ★ ★ IMPORTANT ★ ★ ★
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 SUBJECT TO BANK CLEARANCE.

YOUR CANCELLED CHECK IS YOUR RECEIPT

AUG 06 1998

MAKE CHECK PAYABLE TO: BOISE COUNTY TAX COLLECTOR
 P.O. BOX BC, ID. CITY, ID 83631
 PHONE: 392-4441

1997 TAX BILL/RECEIPT
 BILL# 6338 CODE AREA 20-00 L

PARCEL NUMBER
 RP069050040180A
 12,000

1ST HALF DUE	2ND HALF DUE	FULL DUE	TOT MV	TOT ACS	AMOUNT
TAX 80.82	TAX 80.82	TAX 161.64			
LATE	LATE	LATE			
INT	INT	INT			
COST	COST	COST			
TOT	TOT	TOT			

NELSON JAMES T
 4150 KINGSWOOD DR
 BOISE ID 83704

TAXING DISTRICT	RATE	AMOUNT
STATE	.000000000	54.53
COUNTY	.004506510	36.84
SCH DIST # 72	.003070044	16.64
ROAD & BRIDGE	.000000000	7.16
PV FIRE DIST.	.001387649	3.76
BASIN LIBRARY	.000597611	34.86
EAST B.C. AMB	.000313260	153.34
SCH 72 BOND	.002905337	6.00
DISTRICT TOTAL	.012780411	2.06
SOLID WASTE		24
STATE FIRE ASSM		161.64
FPA		
AMOUNT DUE		

T7N R4E STAR RANCH 5
 BLK 4 LOT 18

AUG 06 1997
 MIC

★ ★ ★ IMPORTANT ★ ★ ★
 PLEASE READ BOTH FRONT AND BACK
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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

BASIN 63 DELAY - DO NOT ADVERTISE

mitigation &
verification issues

INITIAL REVIEW BY: FL DATE: 2/22/96 APPLICATION: 63-12315

REQUIRED INFORMATION

Name: (If applicant is a corporation or partnership, names and addresses of 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 corp., partnership, or municipality, title of signatory is required)

Fee:

Yes ☐ No* In form to receipt: TEMP RIGHT = T

DATA ENTRY *
COMMENTS = Processing delayed pending backlog reduction.

ADDITIONAL INFORMATION

YES NO

Overlapping place of use: (Describe source & relationship to present application on the back.)

Overlapping point of diversion:

Field check required: Field check by: _____

Field report attached:

Critical groundwater area:

Groundwater management area:

1992 moratorium: LETTER SENT 2/22/96

Copy to SCA staff: (perennial stream, non-pump diversion)

Copy to Dam Safety staff: (for any storage)

Basin 63 mitigation plan: (where ground water replaces surface water for irrigation, request additional information &/or mitigation plan to address reduced aquifer recharge)

Send power requirement letter:

Send fish farm requirement letter:

Power residency affidavit:

Power efficiency form:

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

mitigation plan, verification of A63-04776B re: upper Boise R., consumptive use issue

DATE REQUESTED: 2/22/96

Additional information on reverse side:

* T changed to P & Comment deleted upon Advertising.

PROCESSING

APPLICATION N°

63-12315

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 IF Applicable: comment letters not sent until Advertising occurs.

YES

NO

☐ ☒
☐ ☒
☐ ☒
☐ ☒
☐ ☒

I.D. Health and Welfare

I.D. District Health

I.D. Fish and Game

I.D. Lands

Adjudication Bureau

(YES)

NO

☐ ☒
☐ ☒
☒ ☐
☐ ☒

U.S. BLM

U.S. Forest Svc.

Water Dist. # 63

Other

potential inputs to Boise R.
Storage system

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:

Protests received. Final date for protest

Protest dates, resolution of protest recorded on application:

Recommendations attached:

Measuring device required:

Measuring port required:

Water delivered by water master? District #

Special conditions of approval or cover letter:

See below for additional information

Recommended Date or Priority

Recommended by:

Date

STATE OFFICE REVIEW

See below for additional information. By

Date

ADDITIONAL INFORMATION

Overlap -

63-04776 Spring irrig/stock includes Applicant's property. See
 63-04776. Requires verification of use - some Foreclosure
 questions have been raised. Reduce use of this claim
 to cover cons. use in new right?

63-04157 Canyon Cr., includes irrig/stock in SENE 5-28. PER AJ check:
 split portions A & B to Applicant to assume no relations.

MEMORANDUM

DATE: February 12, 1998

TO: Water Right File 63-12315

FROM: Shelley W. Keen *SWK*

RE: Phone call from applicant

Today James T. "Tim" Nelson called to let me know that his is finalizing his mitigation plan and will submit it soon.

MICROFILMED

AUG 06 1998



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

September 3, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704

RE: Water Right Application No. 63-12315

Dear Mr. Nelson:

I have enclosed a copy of the order conditionally rescinding the preliminary order voiding your water right application. Please note that the August 20, 1997, preliminary order voiding your application will again be in full force and effect if you have not submitted an acceptable mitigation plan to the department in writing by March 1, 1998.

Your mitigation plan must offset the consumption of water resulting from evaporation from your reservoir. Notes in your application file indicate that you have discussed the possibility of discontinuing some irrigation under SRBA claim A63-04776B as mitigation. If you are still pursuing this option, you must provide evidence to substantiate the beneficial use of water under claim A63-04776B.

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

Respectfully,

A handwritten signature in cursive script that reads "Shelley Walter Keen".

Shelley Walter Keen
Water Rights Supervisor

Enclosure

c: Steve Lester

MICROFILM

AUG 06 1998

MEMORANDUM

To: File 63-12315
From: L. Glen Saxton 
RE: TELEPHONE CALL FROM APPLICANT
Date: September 2, 1997

On this date, the applicant James T. Nelson (Tim Nelson) called in connection with the Preliminary Order of the department issued on August 20, 1997 voiding Application for Permit No. 63-12315. He stated that he does not want his application voided and that he has been working on the mitigation plan which the department has requested. Mr. Nelson stated that he has prepared a mitigation plan but that it was not satisfactory with the department. He also stated that his job with Idaho Power Company requires him to be gone for long periods of time and that is part of the reason for the delays in responding to the department.

In order to allow more time for Mr. Nelson to provide the requested information, the department should conditionally rescind the Preliminary Order.

Mr. Nelson can be reached at the following phone numbers if necessary:

Home - 376-0211
Work - 388-2406

MICROFILMED

AUG 06 1998



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

August 21, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704

RE: Permit No. 63-12315

Dear Water Right Holder(s):

The accompanying order 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer 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 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. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this 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 Director. The Director retains the right to review the preliminary order on his own motion.

MICROFILMED

AUG 06 1998

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 Rules of Procedure 302 and 303.

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:

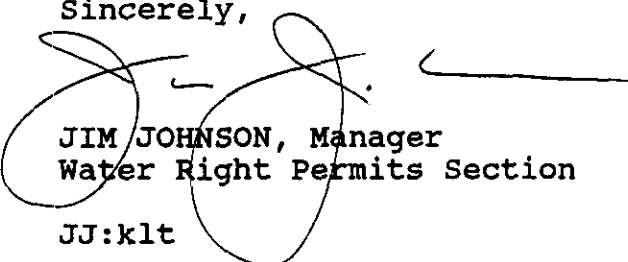
- i. A hearing was held,
- ii. The final agency action was taken,

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- 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.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt

Enclosure

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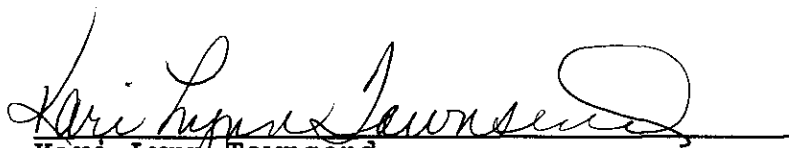
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CERTIFICATE OF MAILING

I hereby certify that on the 21st day of August, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Order Voiding Application)** to the person(s) listed below:

Water Right No. 63-12315

**JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704**


Kari Lynn Townsend
Secretary

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CONVERSATION MEMORANDUM

DATE 4-11-97FILE 63-12315NAME OF PARTY James (Tim) NelsonEMPLOYEE Cindy HodgesRE: Mitigation Plan

Mr. Nelson has prepared a draft plan which calls for dedicating 7 acres of previously irrigated land for mitigation of this application.

However, the plan did nothing to validate the claim A63-4776B. Affidavits Mr. Nelson submitted to the claim file only support irrigation since 1983 when Nelsons bought the property.

I called Mr Nelson's attention to Steve's letter which specified the required validation of the claim in order to proceed. I also made sure he had a copy of "evidence of priority" pamphlet.

Mr. Nelson will collect more info and drop the completed plan by this office next week.

Mr Nelson phoned again approx one week after the above date to report he is still working on revising his plan. I advised that time was of the essence.

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CONVERSATION MEMORANDUM

DATE 3-31-97FILE 63.12315NAME OF PARTY James (Tim) NelsonEMPLOYEE Cindy HodgesRE: Ap for permit, mitigation plan

Mr. Nelson has phoned in response to the enclosed Notice of Intent to Void. He says he has almost completed a mitigation plan. He wanted a meeting w/ me to go over it again. I declined. * At this point, Mr Nelson needs to respond by submitting something in writing for our review. I advised that he should have only 30 days from the date of the letter to submit a plan.

* Jan and I have met w/ Mr. Nelson twice, and he has received numerous letters & phone conversations from this office advising of content of his plan. I do not feel that any additional "pre-review" of his plan is warranted.

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State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 19, 1997

JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704

Re: Application for Permit to Appropriate Water No. 63-12315

Dear Mr. Nelson:

NOTICE OF INTENT TO VOID APPLICATION

On February 8, 1996, you filed an application for permit to appropriate water numbered in the department files as application number 63-12315, proposing to construct a reservoir on an unnamed stream tributary to Canyon Creek. The application describes a reservoir of 2 acre-feet. The application proposes use of water for fire protection and stockwater. In response to the application, Steve Lester of this office wrote you a letter dated February 22, 1996, informing you that the application could not be approved without mitigation for use of water to compensate other water rights that will be injured by its construction and use. The letter suggests that the pond was constructed in 1989.

Our records also reflect that you visited with personnel in this office and reported that you were still trying to develop a mitigation plan.

The department has waited approximately one year for you to submit a mitigation plan. The purpose of this letter is to inform you that the department cannot hold your application indefinitely, and, having requested information approximately one year ago, the department intends to remove the application from its records unless the plan is submitted shortly. Please consider this letter notice that water should not be stored in the pond during 1997 or any year thereafter until a mitigation plan and your application for permit are approved by the Department of Water Resources.

Respectfully,

Gary Spackman

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CONVERSATION MEMORANDUM

DATE 12/19/96

FILE 63-12315

NAME OF PARTY Tim Nelson

EMPLOYEE Jan Shurte. (by Cindy Hodges)

RE: Ap for Permit

Mr. Nelson called & spoke w/ Jan to report
that he is still working on a mitigation plan.
See last corr. from SL on 2/22/96.

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State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

February 22, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JAMES T NELSON
4150 KINGSWOOD DR
BOISE ID 83704

**RE: APPLICATION FOR PERMIT NO. 63-12315
AND SRBA CLAIM NO. A63-04776B**

Dear Mr. Nelson:

The above-referenced application for a pond on an unnamed stream tributary to Canyon Creek cannot be processed at this time as you most likely learned during your last office visit. The application will be held pending submittal of additional information relating to water uses on your property.

The pond introduces consumptive use through evaporative losses in an area where new consumptive uses of surface water cannot be approved due to a fully appropriated system (Boise River natural flow and storage rights). In order for this office to consider processing your application, please submit a mitigation plan that addresses the new consumptive use introduced by the pond. An acceptable mitigation plan would show that no increase in consumptive use has occurred on your property after the pond was constructed (1989?). Enclosed is a recent sample of such a plan that you requested in your last visit.

Also, Snake River Basin Adjudication claim no. A63-04776B that you filed must be discussed in any consideration of your new water right application. It is conceivable that some irrigation use in the claim has been or could be reduced to account for consumptive use from the pond. In order for that concept to work as a mitigation plan, the validity of the claim must be determined.

You can help substantiate the claim by providing evidence of beneficial use that occurred under the claim by 1987 and also within the past five year period. More information about verifying an adjudication claim is available from this office.

A response at your earliest convenience would be appreciated to clear up any questions about the pond. The pond remains unprotected by any approved water right at this time and therefore remains an item of concern to this office.

Sincerely,

Steve Lester
Water Rights Supervisor

Enclosure

c: IDWR Western Region - Stream Channel & Dam Safety Staff

REC'D - ENV

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FROM

DATE 2.9.96

TO Reviewed

SUBJECT Attached ap 63-12315

The attached ap is in the Upper Boise drainage and may not be advertised w/o a mitigation plan. Please send an Upper Boise ~~concern~~^{hold} notification letter ASAP, and include paragraphs pertaining to: Dam Safety & SCA permitting (I have ~~a~~ one I use if you need one)

This pond has been contested and there are already SCA/404 concerns. ^{Please} ~~show~~ forward ~~the~~ copies to Gene and John w/ your correspondence, so they may follow up in their programs

cjh

Note: see complaints file or my office for complaint documentation to date.

Note 2: T flag added & Sharla notified re: non-standard remark, however, lost my copy of mail message due to printer malfunction. 2-9-96 cjh

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 9, 1996

CRAIG LAMB
PO BOX 141
HORSESHOE BEND ID 83629

RE: *Illegal Diversions, Star Ranch Subdivision*

Dear Mr. Lamb:

As a follow-up to your letter of complaint filed January 10, 1996, I would like to inform you of the current status of our investigation.

Tim Nelson was contacted and has visited this office on two occasions to discuss filing requirements for his pond. To date, Mr. Nelson has filed the attached application for permit. If approved, this right would authorize the pond for fire protection and aesthetic storage. Approval of the application for permit is contingent on a number of other factors. IDWR's Stream Channel Protection and Dam Safety programs may also have jurisdiction over this project.

*

Mr. Nelson's application is presently on hold pending submittal of additional information, and will not be advertised immediately. If you wish to protest the filing, you may do so at this time or within the standard protest period, which occurs during advertising. A protest form is enclosed; a fee of \$25.00 is required.

Because Mr. Nelson has been cooperative, no action against him has been taken at this time. However, I anticipate that this office will make an on-site inspection of his property later this spring when weather and road conditions are more favorable.

Richard Rivera or members of his family cannot be located. The Boise County Assessor has no record of property in his name within Section 28. The Rivera property will be inspected when we are in the area. In the meantime, if you can provide me with any information which will help locate Mr. Rivera, I will contact him.

Please contact me if you have other questions or information.

Sincerely,

Cindy Hodges

Cindy Hodges
Sr. Water Resource Agent

Enclosures

* 63-12315

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