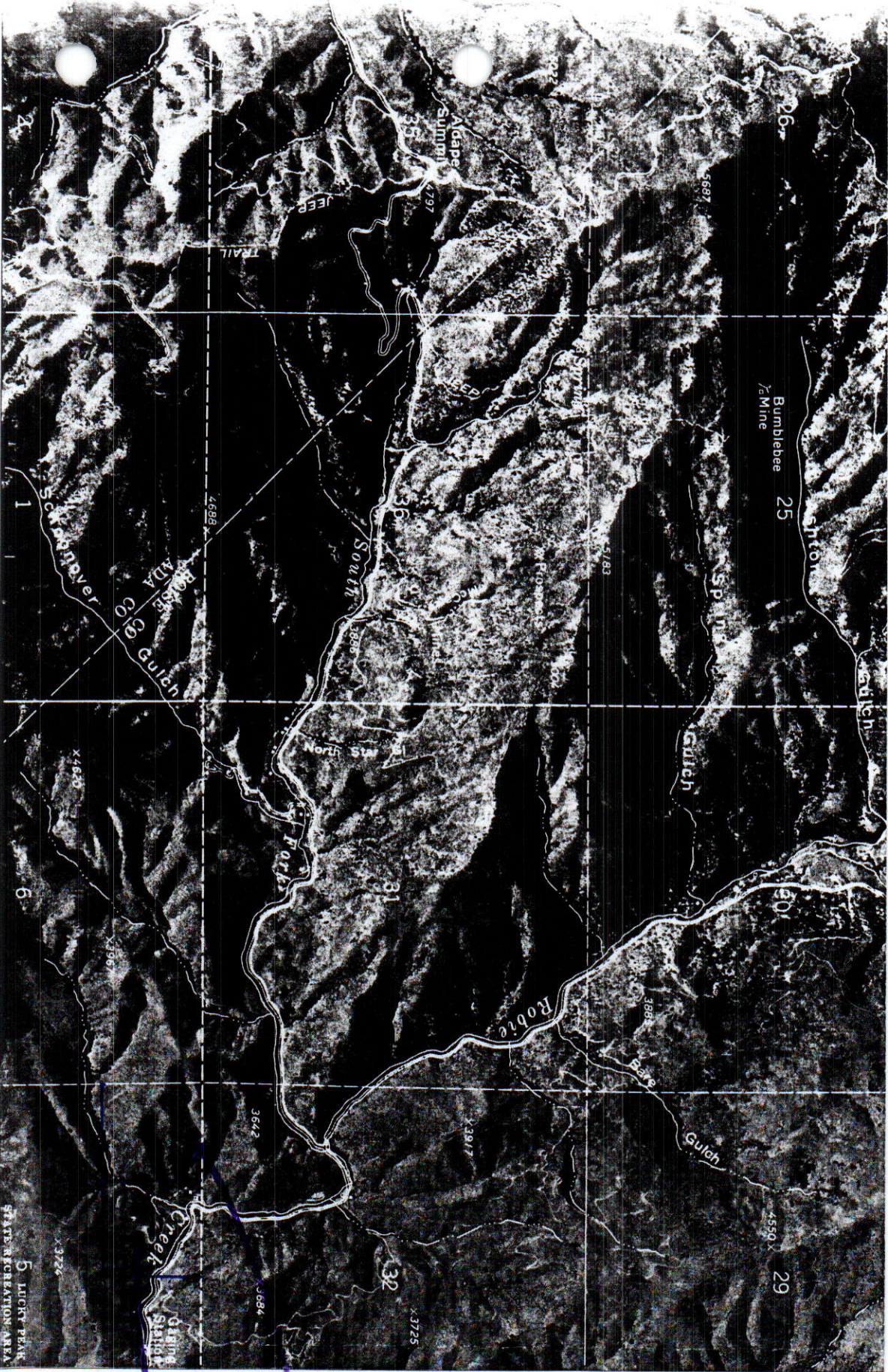
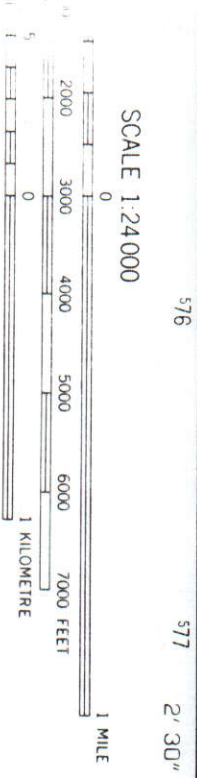




QUADRANGLE LOCATION

*this map doesn't show it as clearly as
 App. 63-12290 map, but spring definitely
 is L.4*

*P/O L.4 Newnum
 p/r L.3 Newnum*

-82 11/6/95 1981

63-12284
(Brown)
 JUN 28 1996
 MICROFILM

Home

SPRINGS

T41

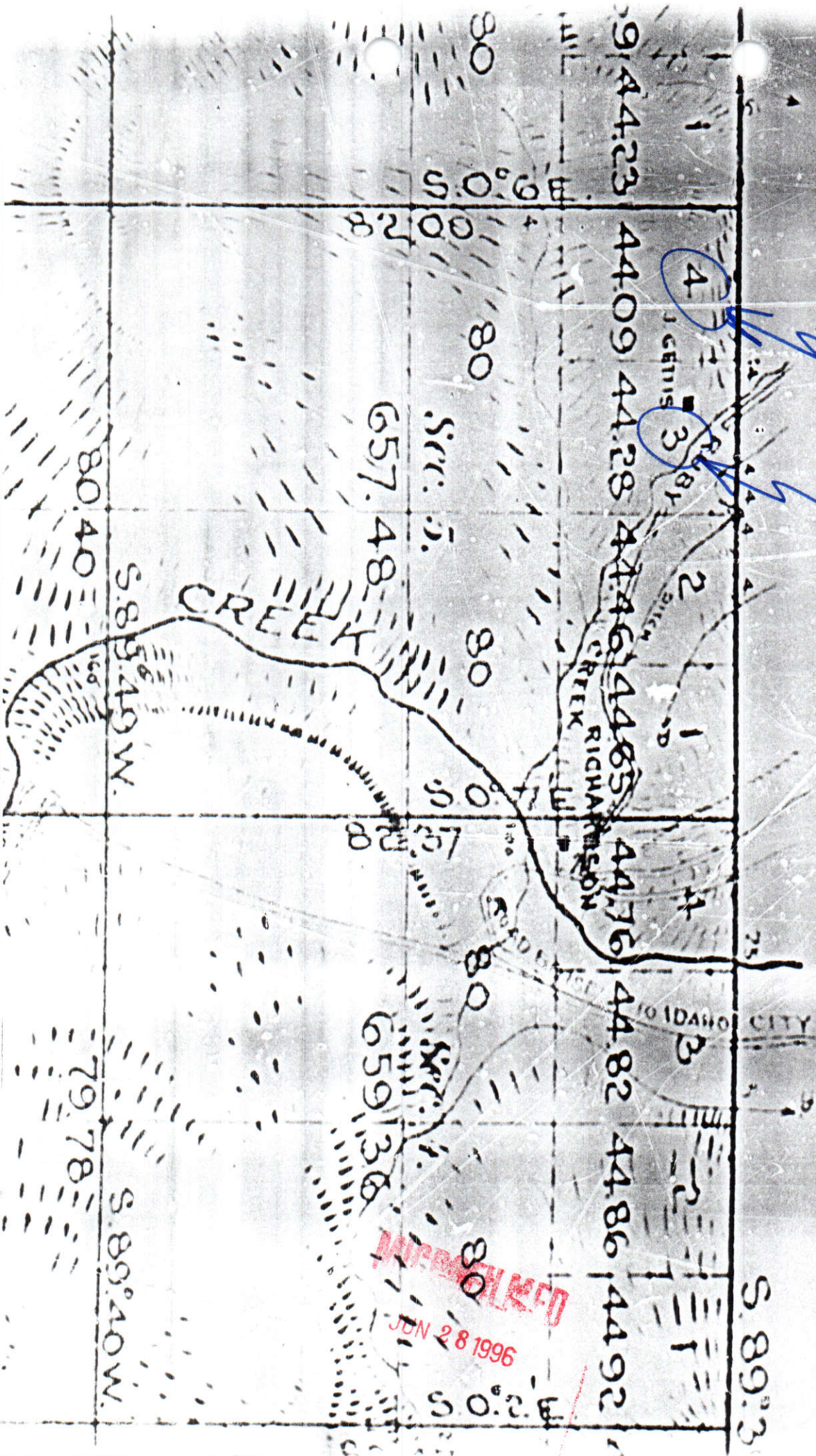
T31

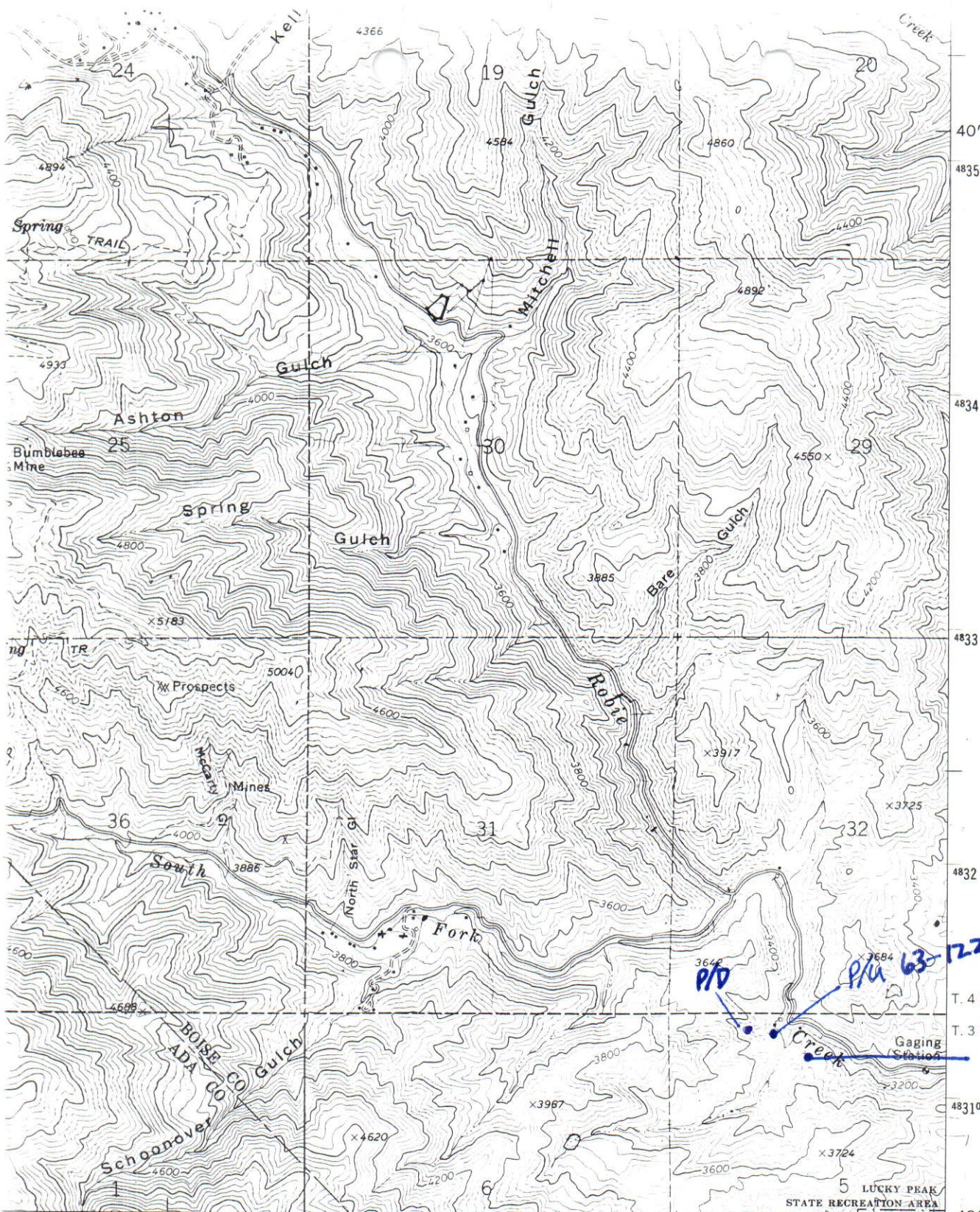
No. 5 North Range No. 1 W.

F
P/O
P/V

E
63-12284 (Brown)
d

D





75

T. 4 N.
T. 3 N.

P/u 63-12284

(ARROW ROCK DAM)
2871 III SW

MICROFILMED
OCT 27 1998

AT TOP OF PAGE 30"

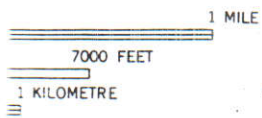
R. 3 E. R. 4 E.

579

INTERIOR—GEOLOGICAL SURVEY, RESTON, VIRGINIA—1975
580000m E.

116°00'

43°37'30"



QUADRANGLE LOCATION

ROAD CLASSIFICATION

- Primary highway, hard surface
- Secondary highway, hard surface
- Light-duty road, hard or improved surface
- Unimproved road

- Interstate Route
- U. S. Route
- State Route

ROBIE CREEK, IDAHO

NE/4 BOISE 15' QUADRANGLE
N4337.5—W11600/7.5

1972

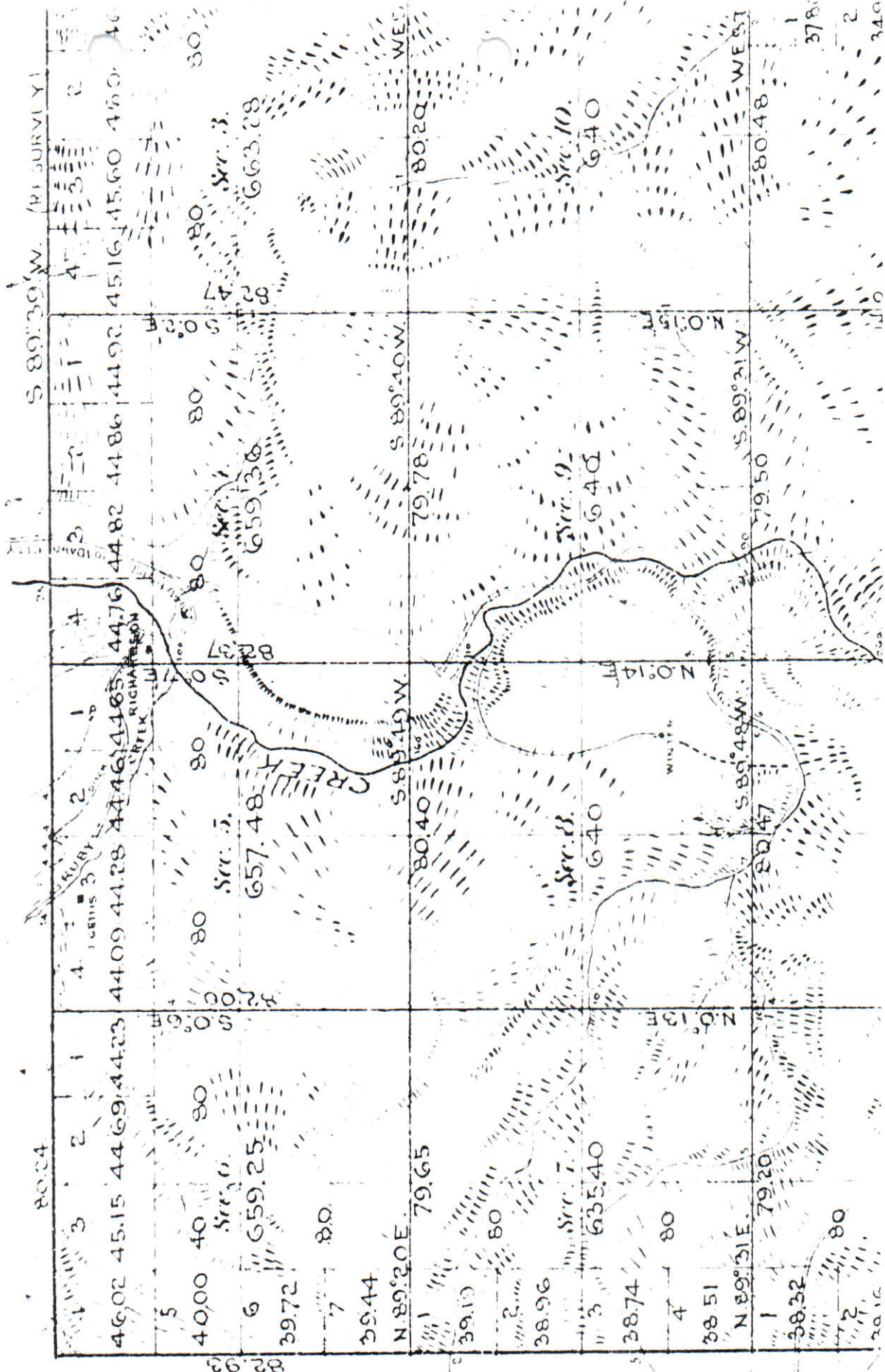
AMS 2771 II NE—SERIES V803

63-12284

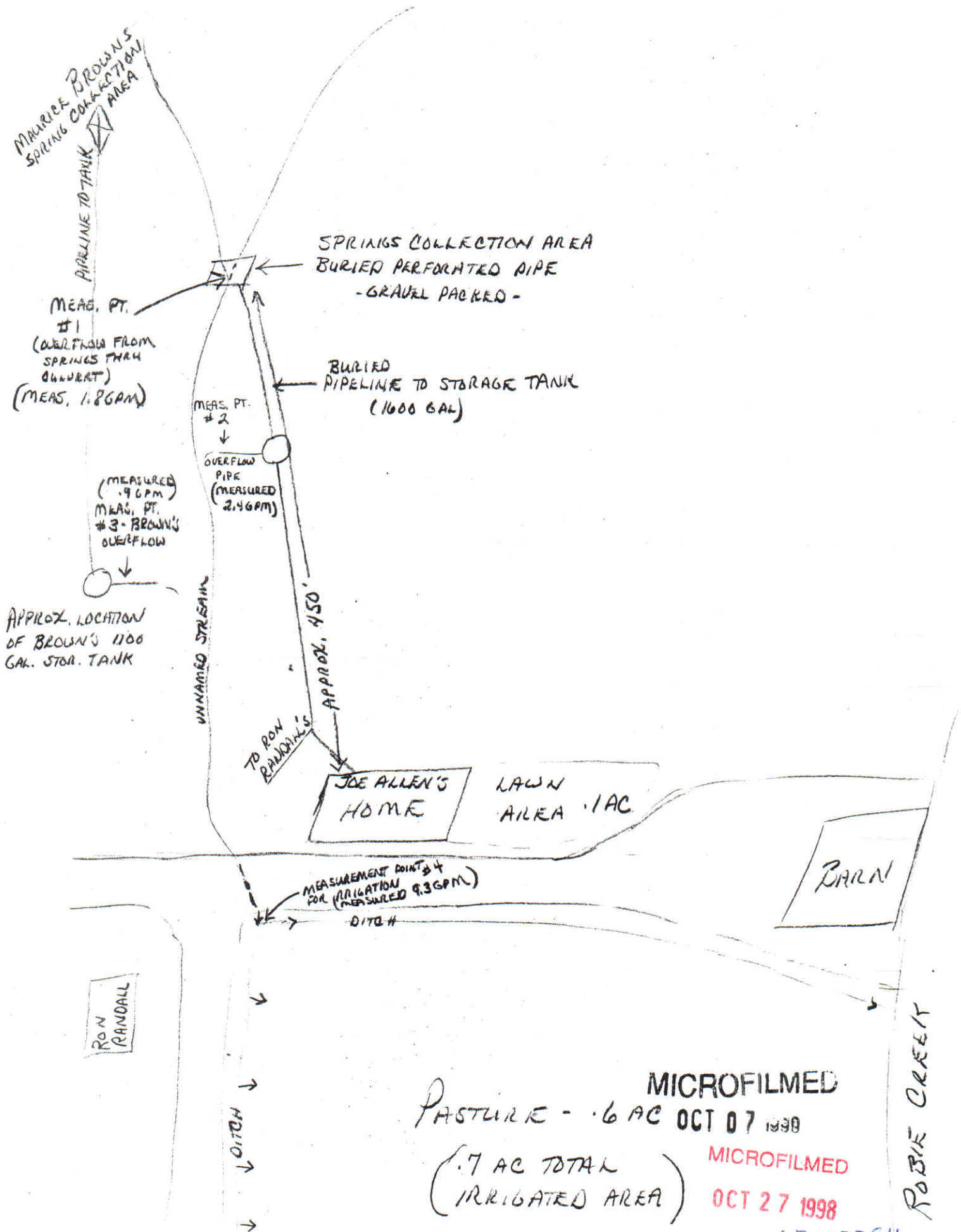
DS
ON, VIRGINIA 22092
REQUEST

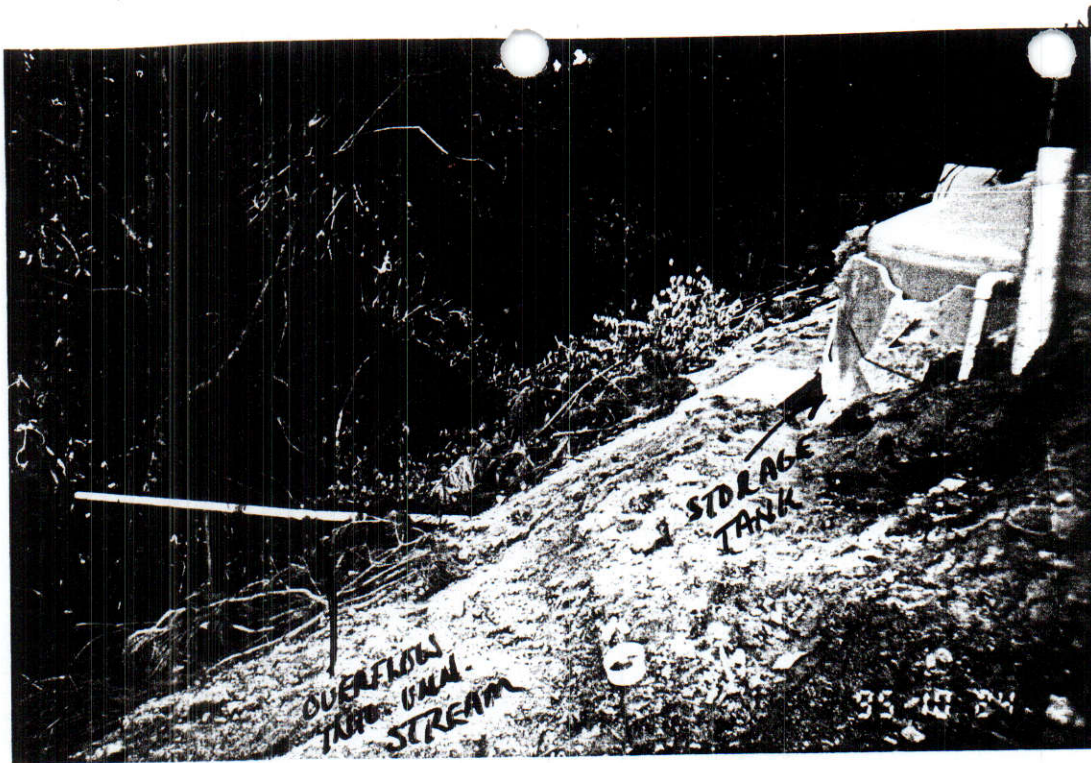
Township No. 5 North, Range No. 4 East of 141

G F E D C



SYSTEM DIAGRAM
(NOT TO SCALE)





PICTURE TAKEN
10-24-95 J

THIS PICTURE
SHOWS THE OVER-
FLOW PIPE FROM
THE STOR. TANK
INTO THE UNN.
STREAM - MEAS.
POINT #2 (2.46PM)
NO WATER WAS BEING
USED AT THIS TIME,
SO OVERFLOW SHOULD
INDICATE WHAT WAS
FLOWING INTO TANK.



PICTURE TAKEN
10-24-95 J
THIS IS A PICTURE
TAKEN OF THE
HILLSIDE LOCATED
WEST OF MR. ALLEN'S
HOME. HE INDICATED
THAT THIS HILLSIDE
WAS IRRIGATED AT
ONE TIME, BUT THE
PIPE WAS DESTROYED
BY MUD & IRRIGATION
CEASED IN ABOUT 1980
OR 1981. TREES APPEAR
TO BE DEAD & DOES NOT
APPEAR TO HAVE BEEN
IRRIGATED FOR QUITE AWHILE

MICROFILMED

OCT 27 1998

63-12284

WEST



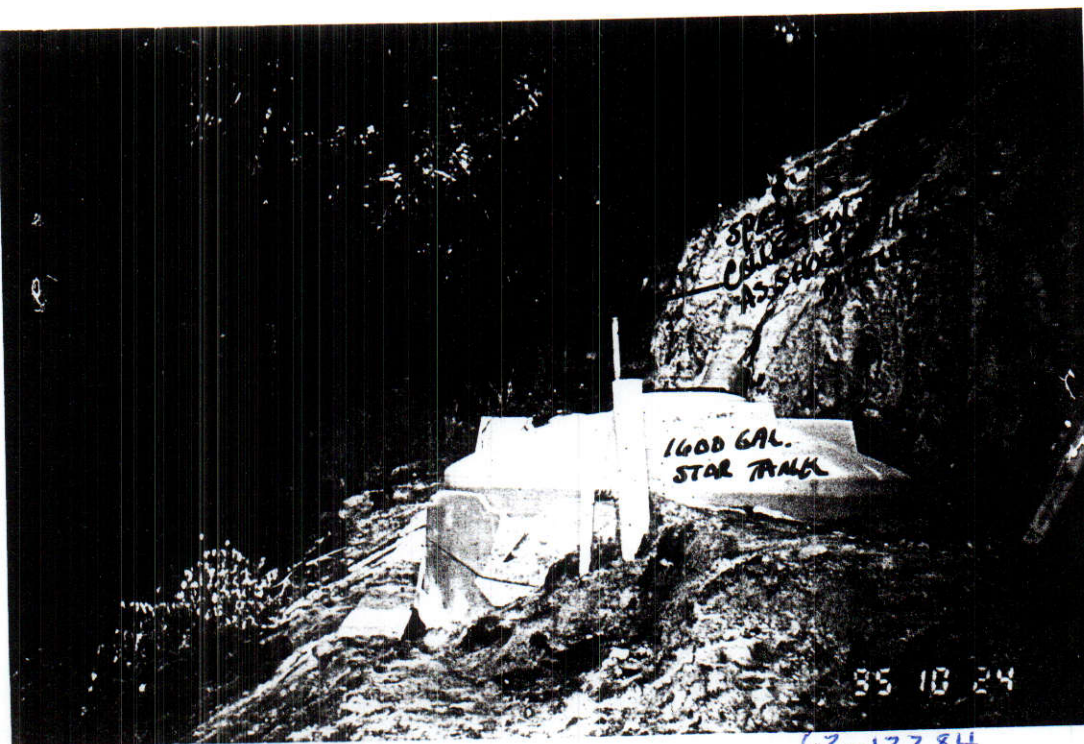
EAST

NORTH

PICTURE OF PT. OF DIVERSION
TAKEN 10-24-95 JZ

THIS PICTURE WAS TAKEN FACING
WEST & LOOKING UPHILL FROM
THE SPRINGS COLLECTION AREA.
THE CIRCLED AREA IS WHERE
THE PERFORATED PIPE IS BURIED
& GRAVEL PACKED WITH A PIPE -
LINK TO THE STORAGE TANK,
THIS PICTURE SHOWS THE TWO
DRAINAGES FROM THE SOUTHWEST
& NORTHWEST WHICH JOIN AT THE
COLLECTION AREA. THE CORRUGATED
METAL PIPE IS THE OVERFLOW AND
WAS A MEAS. POINT. THE OVERFLOW
DUMPS INTO THE UNN. STREAM WHICH
FLOWS DOWNHILL TO THE POINT WHERE
IT IS DIVERTED FOR IRRIGATION OF THE
PASTURE AREA.

PICTURE OF STOR. TANK TAKEN 10-24-95
JZ



1600 GAL. STOR. TANK
BELOW SPRINGS COLLEC-
TION AREA IN THE
ABOVE PICTURE. THE
UNN. STREAM IS SHOWN
FLOWING TO THE LEFT
OF STOR. TANK IN THIS
PICTURE. BURIED
PERFORATED PIPE FLOWS WATER
DOWNHILL FROM THIS
STOR. TANK TO BOTH
JOE AND JESSIE RON
RANDALL'S HOMES.
OVERFLOW FROM THIS
TANK SHOWN IN NEXT PIC.

63-12284



1994

protest ex
A



1994

B B



1994

C C

Protestants
Exhibits
A thru H
admitted
on 2-21-96
VH

RECEIVED
JUN 28 1996



^F
Oct/24/1995



^E
Oct/24/1995 E



^D
Oct/24/1995 D



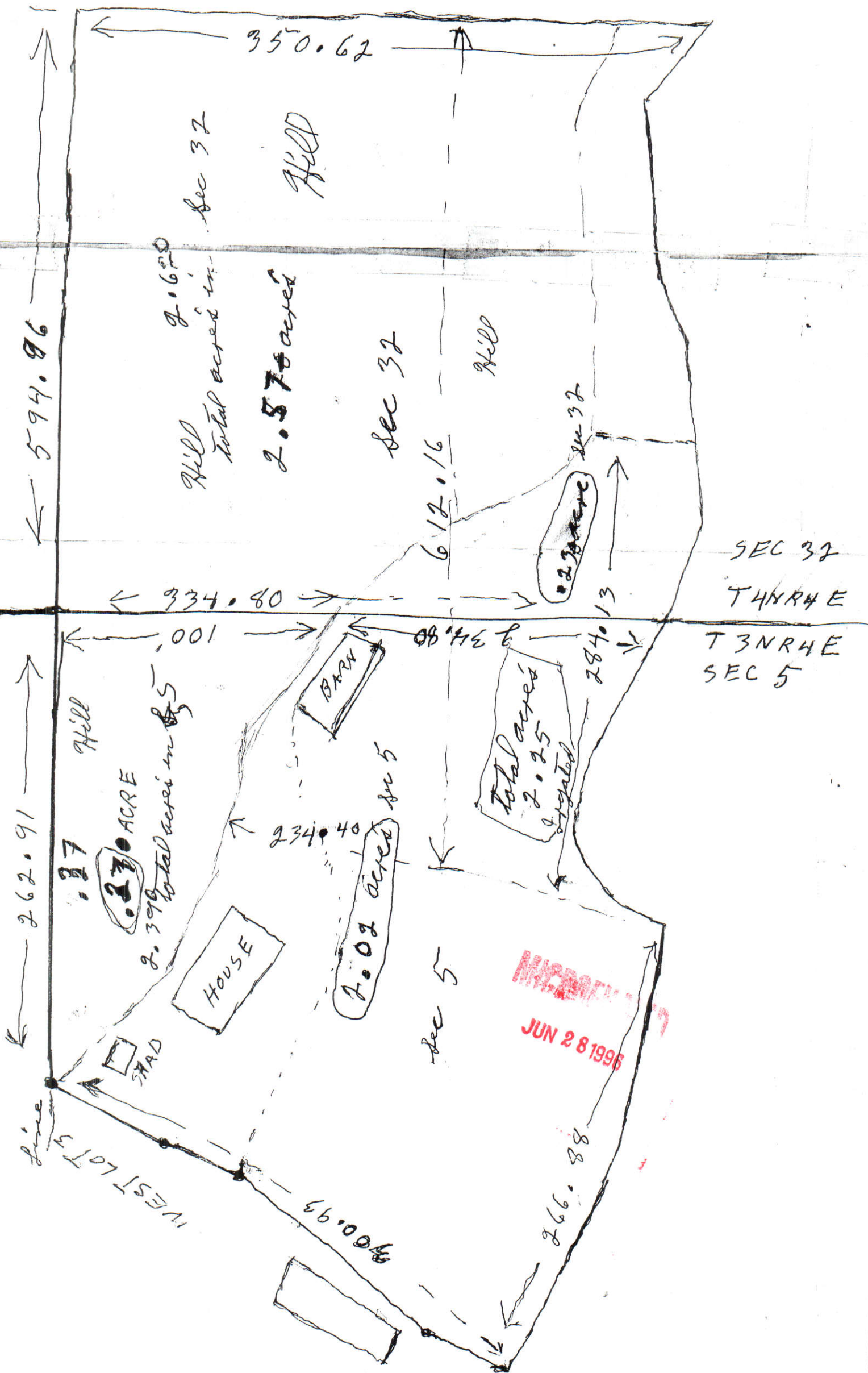
oct/24/1995^G

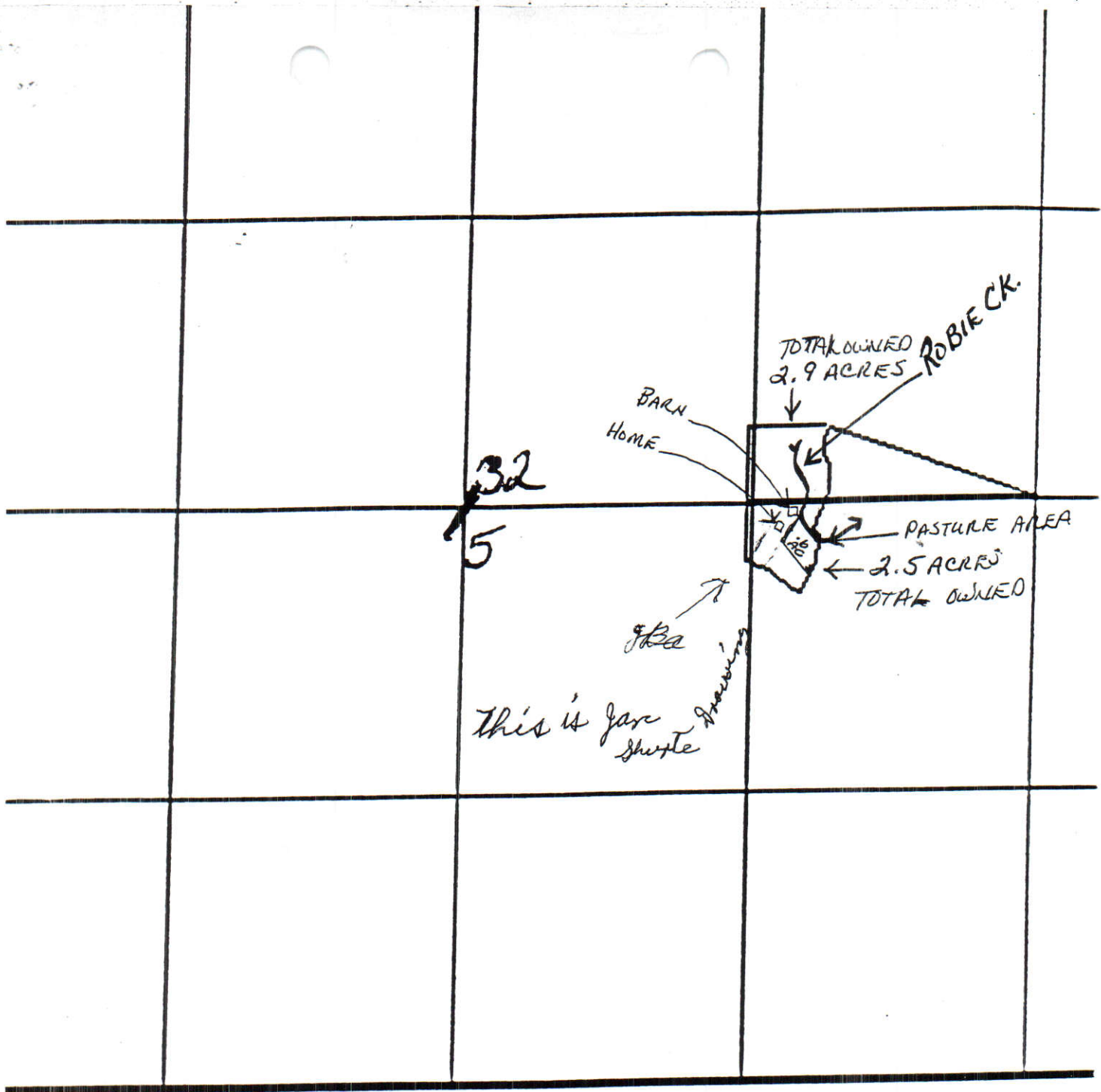


oct/24/1995^H

pending of fact
section 10

I





-20

0

20

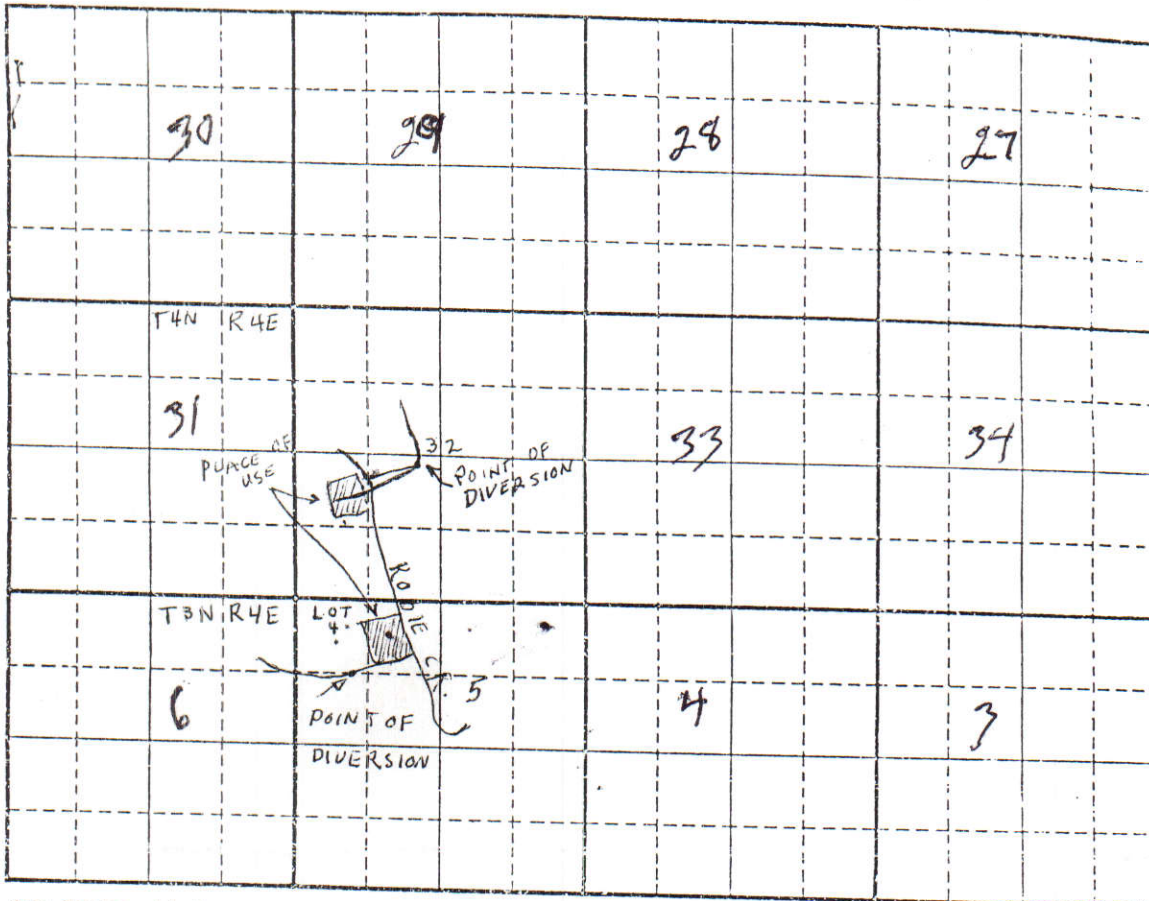
40

EASTERLY

RECORDED
JUN 28 1996

AREA PLOTTED USING METES & BOUNDS DESCRIPTION FOR JOE ANKEN

(8) Remarks



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 16 day of JUNE

Lester Hoover
(Claimant)

, 19 83

Notary Public

Residing at BOISE, ID

My commission expires LIFE

FOR DEPARTMENT USE ONLY

Received by gwo Date 6/21/83 Exception filed by: _____
Prelim. check by gwo Date 6/23/83 _____
\$30.00 fee received by gwo Date 6/22/83 31119
Published in Idaho World
Dates 9/29 & 10/6/83

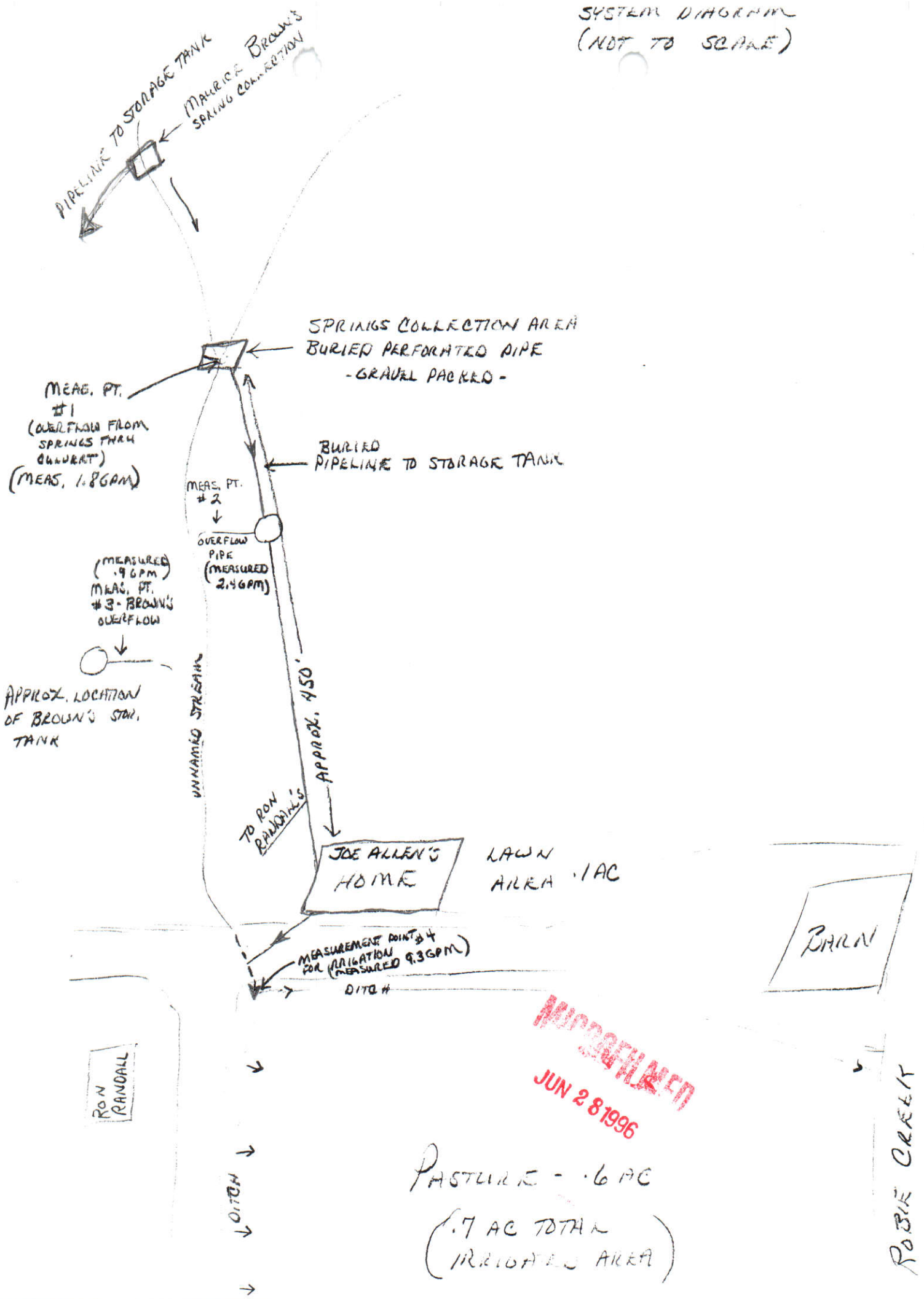
Forwarded to
claimant by: _____ Date _____

The springs
was not claimed
on this claim

Hoover's did not
get the property of
springs until
late 1984
from E.H. after

JUN 28 1986

SYSTEM DIAGRAM
(NOT TO SCALE)



State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-12284

Priority: October 23, 1995

Maximum Diversion Rate:

0.01 CFS

Maximum Diversion Volume:

0.6 AF

This is to certify, that MAURICE BROWN

HC 33 BOX 2002

BOISE ID 83706

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 23, 1995; and has submitted Proof of Beneficial Use on April 24, 1997. An examination indicates that the works have a diversion capacity of 0.020 cfs of water from:

SPRING

tributary to ROBIE CREEK

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.01 CFS	0.6 AF

LOCATION OF POINT(S) OF DIVERSION: Lot 4 (NENWNW), Sec. 5, Township 03N, Range 04E
BOISE County

PLACE OF USE: DOMESTIC

TWN RGE SEC

03N 04E 5 Lot 3 (NENW)

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license shall be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63.

MICROFILMED

OCT 2 / 1998

State of Idaho
Department of Water Resources

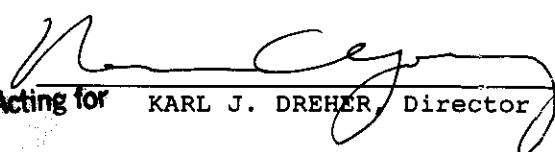
Water Right License

WATER RIGHT NO. 63-12284

CONDITIONS OF APPROVAL AND REMARKS

6. Reasonable use of the spring by the right holder of Snake River Basin Adjudication Claim A63-05161B shall be allowed and License 63-12284 shall not be the basis for shutting off the presently unadjudicated claim during times of water shortage.
7. Right 63-12290 is also diverted through the point(s) of diversion described above.
8. Domestic use is for 1 home with in-house use only and includes watering of household stock.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 7TH day of OCTOBER, 1998.


Acting for KARL J. DREHER, Director

MICROFILMED

OCT 27 1998

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
APR 24 1997

PROOF OF BENEFICIAL USE

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

1. Permit No. 63-12284 Telephone No. 345-4523
2. Name(s) of Permit Holder(s): MAURICE C. BROWN
3. Mailing Address: H.C. 33 Box 2002 Boise, Idaho 83706
4. Source of Water: Spring If GROUNDWATER (well), Date Drilled: mo. ____ / yr. ____
- a. Well Driller: ____ Drilling Permit Number: ____ - ____ - ____ - ____
- b. OPTIONAL:
Pump Horsepower: ____ Pressure (psi): ____ Dynamic pumping level (ft): ____
5. Use(s) (as authorized by the water right permit):
- Domestic (No. of households): 1 Stockwater (No. and type of stock): 0
- Irrigation (No. of acres): 0 Other: 0
6. Total rate of diversion and/or volume for which proof is submitted: 0.01 cfs OR ____ acre feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)
- | | | |
|------------------------|--|-------------------------|
| Measuring Device: | Is a measuring device required? | Yes ____ or No <u>X</u> |
| | Has the measuring device been installed? | Yes ____ or No <u>X</u> |
| Flow Measurement Port: | Is a flow measurement port required? | Yes ____ or No <u>X</u> |
| | Has the measurement port been installed? | Yes ____ or No <u>X</u> |
8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
- Name: MAURICE BROWN Telephone Number: 345-4523
- Address: H.C. 33 Box 2002 Boise, Id.

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

Signature of permit holder: Maurice C. Brown Date: 3/22/97
(include your title, if on behalf of company or organization)

MICROFILMED
JUN 10 1997

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

IN THE MATTER OF APPLICATION)
FOR PERMIT NOS. 63-12284 IN)
THE NAME OF MAURICE BROWN AND)
63-12290 IN THE NAME OF RON)
RANDALL)
_____)

**ORDER DENYING
PETITION FOR RECONSIDERATION**

On February 26, 1996, the hearing officer for the Department of Water Resources (department) issued a Recommended Order in connection with Application for Permit Nos. 63-12284 in the name of Maurice Brown (Brown) and 63-12290 in the name of Ron Randall (Randall). On March 5, 1996, protestant Joseph B. Allen (Allen) submitted a Petition for Reconsideration of the Recommended Order to the department's hearing officer. On March 12, 1996, the hearing officer denied the petition, since it did not present any information different from that which was presented during the water right hearing.

On April 9, 1996, the Director of the department issued a Final Order in the matter to which Allen submitted another Petition for Reconsideration (petition) on April 24, 1996. Having examined the issues raised in the petition, the Director responds to each issue as follows:

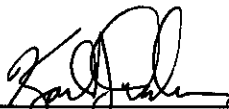
1. The department has not allowed Maurice Brown or Ron Randall to file "priority claims over the water rights" of Allen. To the contrary, the department has issued permits to Brown and Randall conditioned that use of water under those permits is subject to all prior water rights including any water rights of Allen.
2. Allen's predecessor-in-interest, Erna Hoover filed Snake River Basin Adjudication Claim No. A63-05161, a portion of which was later assigned to Allen through the filing of a "Notice of Change of Water Right Ownership". The priority of use claimed is October 23, 1906.
3. The department does not have the authority to "permanently establish" a water right based on a SRBA claim on file with the department. Only the SRBA court has the authority to determine and establish the water right.
4. The Petition for Reconsideration was timely filed as provided in Section 67-5246, Idaho Code, not as provided in Section 67-5273, Idaho Code, referenced in the petition.

JUN 28 1996

ORDER

IT IS THEREFORE, hereby ORDERED that the petition of protestant Joseph B. Allen is **DENIED** as provided in Section 67-5246, Idaho Code, and IDAPA Rule 37.01.01740 (Rule of Procedure 740).

Signed this 13th day of May, 1996.



KARL S. DREHER
Director

JUN 28 1996

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14th day of May, 1996, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER DENYING PETITION FOR RECONSIDERATION** to the following:

Maurice Brown
HC 33 Box 2002
Boise, ID 83706

Ron Randall
HC 33 Box 2030
Boise, ID 83706

Joseph B. Allen
HC 33 Box 2032
Boise, ID 83706


JULIE L. YARBROUGH
Senior Secretary

State of Idaho
Department of Water Resources
Permit To Appropriate Water
NO. 63-12284

Proposed Priority: October 23, 1995

Maximum Diversion Rate:

0.01 CFS

This is to certify, that **MAURICE BROWN**
HC 33 BOX 2002
BOISE ID 83706

has applied for a permit to appropriate water from:
SPRING tributary of **ROBIE CREEK**

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

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

DOMESTIC

01/01 to 12/31

0.01 CFS

LOCATION OF POINT(S) OF DIVERSION: Lot 4(NENWNW), Sec. 5, Township 03N, Range 04E
BOISE County

PLACE OF USE: DOMESTIC

TWN RGE SEC

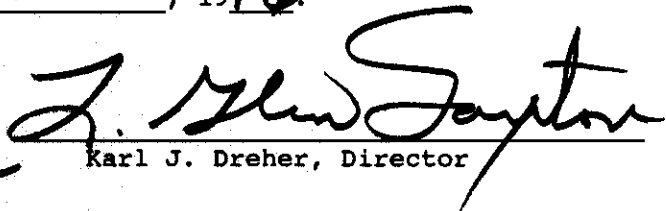
03N 04E 5 Lot 3(NENW)

CONDITIONS OF APPROVAL AND REMARKS

1. See Final Order for conditions and limitations for use of water under this approval.

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

9th day of April, 1996

for 
Karl J. Dreher, Director

JUN 28 1996

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

IN THE MATTER OF APPLICATION)
FOR PERMIT NOS. 63-12284 IN)
THE NAME OF MAURICE BROWN AND)
63-12290 IN THE NAME OF RON)
RANDALL)

FINAL ORDER

On February 26, 1996, the hearing officer for the Idaho Department of Water Resources (department) issued a Recommended Order in connection with the above captioned matter. On March 5, 1996, the protestant filed a Petition for Reconsideration (petition) in connection with the Recommended Order. On March 12, 1996, the hearing officer denied the petition. Based upon his understanding of the law and the facts in this matter, the Director makes the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT

1. On October 23, 1995, Maurice Brown (Brown) filed Application for Permit No. 63-12284 (application) with the department proposing the diversion of 0.01 cubic feet per second (cfs) of water from a spring to be diverted in Lot 4 (NENWNW) Section 5, T3N, R4E, B.M., Boise County to be used year-round for domestic purposes for one (1) home.

2. On October 23, 1995, Ron Randall (Randall) also filed Application for Permit No. 63-12290 (application) with the department proposing the diversion of 0.04 cfs of water from a spring to be diverted in Lot 4 (NENWNW) Section 5, T3N, R4E, B.M., Boise County to be used year-round for stockwater and domestic purposes for one (1) home.

3. The department published notice of the applications which were subsequently protested by Joseph B. Allen (Allen or protestant).

4. On February 21, 1996, the department conducted a hearing in the matter. The applicants were present and represented themselves. The protestant was present and represented himself.

5. Issues identified by the protestant include all six (6) potential issues which are described in Section 42-203A, Idaho Code.

JUN 28 1996

6. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibits 1 and 2 - Photographs of protestant Joe Allen's irrigated pasture.

b. Protestant's Exhibits A through H - Photographs of protestant Joe Allen's property.

7. In 1989, Brown filed a Snake River Basin Adjudication (SRBA) claim with the department as follows:

Ident No: A63-05161A
Priority: September 1, 1918
Rate of div: 0.01 cfs
Source: Spring tributary to Robie Creek
Pt of div: Lot 4 (NENWNW) Section 5, T3N, R4E, B.M.
Use: Domestic - 1 home
Basis of right: Statutory claim

8. In 1989, Erna Hoover filed a SRBA claim with the department which in 1993 was assigned to Allen claiming the following:

Ident No: A63-05161B
Priority: October 23, 1906
Rate of div: 0.04 cfs
Source: Spring tributary to Robie Creek
Pt of div: Lot 4 (NENWNW) Section 5, T3N, R4E, B.M.
Uses: Domestic - 1 home
Irrigation - 5 acres
Basis of right: Statutory claim

9. The applicants and the protestant all currently obtain water from the spring source. Randall's mobile home was moved onto the property in 1976 by Erna Hoover who used water from the spring. In July 1993, Randall purchased the mobile home and property from Erna Hoover. Brown has used water from the spring for 12 to 14 years (since about 1983). Allen moved onto his property in 1988.

10. On October 24, 1995, the department conducted a field examination at the request of Allen. The department measured nine (9) gallons per minute from the spring source available for irrigation use by the protestant and determined that the protestant irrigates about 0.7 acres.

11. Brown's diversion and distribution facility is upgradient from the common system used by Allen and Randall. The Brown system includes a 1,100 gallon storage tank and the Allen/Randall system includes a 1,300 gallon storage tank.

JUN 28 1996

12. During the time that the three homes have been connected to the spring source, the spring has provided sufficient water for the three (3) domestic connections.

13. In an addendum dated June 13, 1993 to the Purchase and Sale Agreement between Allen and Erna Hoover (former owner of the property involved), Allen agreed to let Brown and Randall use water from the spring.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor... .

2. Approval of the applications will not reduce the quantity of water under existing water rights if the permits are issued with certain conditions and limitations.

3. The water supply available is sufficient for the purposes intended, provided the maximum rate of flow for the Randall application is reduced.

4. The applications are made in good faith and not for delay or speculative purposes.

5. The applicants have sufficient financial resources with which to complete the projects since the projects are existing.

6. The applications do not conflict with the local public interest.

7. The applications are not contrary to the conservation of water resources within Idaho.

JUN 28 1996

8. The department should approve the applications with certain conditions and limitations.

ANALYSIS

While the flow measured by the department during its field examination is likely less than the combined flow rates for the three (3) domestic uses once the Allen right is determined, the single measurement should not be considered as the maximum rate of flow available from the spring at other times of the year.

By signing the addendum to the Purchase and Sale Agreement on June 13, 1993, the protestant appears to have either agreed to convey a portion of an existing water right to the applicants or to have waived the right to oppose the applicants' appropriation of water from the spring source. Since the protestant's water right has not been determined by the SRBA court, and since there has been enough water in the spring for past uses of the protestant and the applicants, the department should approve the applications.

If the SRBA court awards a water right to Brown pursuant to SRBA claim No. A63-05161A, the right should be considered as a replacement for the water right represented by Permit No. 63-12284, and not an addition to it.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit Nos. 63-12284 and 63-12290 are **APPROVED** subject to the following conditions and limitations.

63-12284 - MAURICE BROWN

1. Use of water under the right is subject to all prior water rights.
2. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before **May 1, 1997**.
3. Domestic use is for one (1) home.
4. The issuance of this right does not grant any right-of-way or easement across the land of another.
5. Use of water under this right is subject to the control by the watermaster of State Water District No. 63.
6. Use of water for domestic purposes under this right shall be limited to in-house use and watering of household stock.

7. Approval of this permit is predicated upon allowing reasonable use of the spring by the protestant pursuant to the protestant's unadjudicated SRBA claim and shall not be the basis for shutting off the unadjudicated claim of the protestant during times of water shortage.

63-12290 - RON RANDALL

1. Use of water under the right is subject to all prior water rights.

2. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before May 1, 1997.

3. Domestic use is for one (1) home.

4. The issuance of this right does not grant any right-of-way or easement across the land of another.

5. The stockwater use shown on the application is considered to be included within the domestic use and is not a separate authorized use. The maximum rate of diversion authorized for domestic use under this right shall not exceed 0.01 cfs.

6. Use of water under this right is subject to the control by the watermaster of State Water District No. 63.

7. Use of water for domestic purposes under this right shall be limited to in-house use and watering of household stock.

8. Approval of this permit is predicated upon allowing reasonable use of the spring by the protestant pursuant to the protestant's unadjudicated SRBA claim and shall not be the basis for shutting off the unadjudicated claim of the protestant during times of water shortage.

Signed this 9th day of April, 1996.



KARL J. DREHER, Director

JUN 28 1996

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 12th day of April, 1996, I mailed a true and correct copy, postage prepaid, of the foregoing **FINAL ORDER** to the following:

Maurice Brown
HC 33 Box 2002
Boise, ID 83706

Ron Randall
HC 33 Box 2030
Boise, ID 83706

Joseph B. Allen
HC 33 Box 2032
Boise, ID 83706


JULIE L. YARBROUGH
Senior Secretary

JUN 28 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NOS. 63-12284 IN THE NAME)
OF MAURICE BROWN AND 63-12290 IN)
THE NAME OF RON RANDALL)
_____)

ORDER DENYING
PETITION FOR RECONSIDERATION

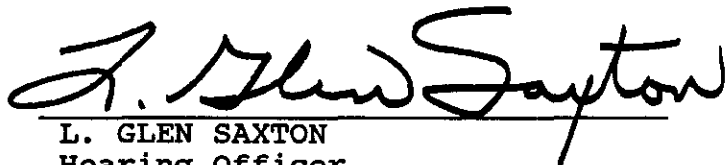
On February 26, 1996, the hearing officer for the Idaho Department of Water Resources (department) issued a Recommended Order in connection with Application for Permit Nos. 63-12284 filed in the name of Maurice Brown and 63-12290 filed in the name of Ron Randall. On March 5, 1996, protestant Joseph B. Allen submitted a Petition for Reconsideration (petition) to the department.

The hearing officer has reviewed the petition which should be denied, since the petition does not present information different from that which was presented in the water right hearing conducted on February 21, 1996.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that the protestant's Petition for Reconsideration of the Recommended Order is hereby DENIED.

Dated this 12th day of March, 1996.



L. GLEN SAXTON
Hearing Officer

RECEIVED
JUN 28 1996

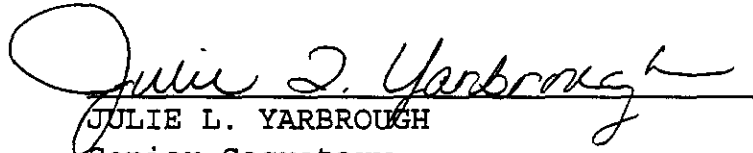
CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 12th day of March, 1996, I mailed a true and correct copy, postage prepaid, of the foregoing ORDER DENYING PETITION FOR RECONSIDERATION to the following:

Maurice Brown
HC 33 Box 2002
Boise, ID 83706

Ron Randall
HC 33 Box 2030
Boise, ID 83706

Joseph B. Allen
HC 33 Box 2032
Boise, ID 83706


JULIE L. YARBROUGH
Senior Secretary


JUN 28 1996

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

IN THE MATTER OF APPLICATION)
FOR PERMIT NOS. 63-12284 IN)
THE NAME OF MAURICE BROWN AND)
63-12290 IN THE NAME OF RON)
RANDALL)

RECOMMENDED ORDER

This matter having come before the Idaho Department of Water Resources (department) in the form of a protest against approval of two (2) applications for permit, the department having held a conference and a hearing in the matter, the hearing officer recommends the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On October 23, 1995, Maurice Brown (Brown) filed Application for Permit No. 63-12284 (application) with the department proposing the diversion of 0.01 cubic feet per second (cfs) of water from a spring to be diverted in Lot 4 (NENWNW) Section 5, T3N, R4E, B.M., Boise County to be used year-round for domestic purposes for one (1) home.

2. On October 23, 1995, Ron Randall (Randall) also filed Application for Permit No. 63-12290 (application) with the department proposing the diversion of 0.04 cfs of water from a spring to be diverted in Lot 4 (NENWNW) Section 5, T3N, R4E, B.M., Boise County to be used year-round for stockwater and domestic purposes for one (1) home.

3. The department published notice of the application which was subsequently protested by Joseph B. Allen (Allen or protestant).

4. On February 21, 1996, the department conducted a hearing in the matter. The applicants were present and represented themselves. The protestant was present and represented himself.

5. Issues identified by the protestant include all six (6) potential issues which are described in Section 42-203A, Idaho Code.

6. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibits 1 and 2 - Photographs of protestant

JUN 28 1996

Joe Allen's irrigated pasture.

b. Protestant's Exhibits A through H - Photographs of protestant Joe Allen's property.

7. In 1989, Brown filed a Snake River Basin Adjudication (SRBA) claim with the department as follows:

Ident No: A63-05161A
Priority: September 1, 1918
Rate of div: 0.01 cfs
Source: Spring tributary to Robie Creek
Pt of div: Lot 4 (NENWNW) Section 5, T3N, R4E, B.M.
Use: Domestic - 1 home
Basis of right: Statutory claim

8. In 1989, Erna Hoover filed a SRBA claim with the department which in 1993 was assigned to Allen claiming the following:

Ident No: A63-05161B
Priority: October 23, 1906
Rate of div: 0.04 cfs
Source: Spring tributary to Robie Creek
Pt of div: Lot 4 (NENWNW) Section 5, T3N, R4E, B.M.
Uses: Domestic - 1 home
Irrigation - 5 acres
Basis of right: Statutory claim

9. The applicants and the protestant all currently obtain water from the spring source. Randall's mobile home was moved onto the property in 1976 by Erna Hoover who used water from the spring. In July 1993, Randall purchased the mobile home and property from Erna Hoover. Brown has used water from the spring for 12 to 14 years (since about 1983). Allen moved onto his property in 1988.

10. On October 24, 1995, the department conducted a field examination at the request of Allen. The department measured nine (9) gallons per minute from the spring source available for irrigation use by the protestant and determined that the protestant irrigates about 0.7 acres.

11. Brown's diversion and distribution facility is upgradient from the common system used by Allen and Randall. The Brown system includes a 1,100 gallon storage tank and the Allen/Randall system includes a 1,300 gallon storage tank.

12. During the time that the three homes have been connected to the spring source, the spring has provided sufficient water for the three (3) domestic connections.

13. In an addendum dated June 13, 1993 to the Purchase and Sale Agreement between Allen and Erna Hoover (former owner of the

JUN 28 1996

property involved), Allen agreed to let Brown and Randall use water from the spring.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor...

2. Approval of the applications will not reduce the quantity of water under existing water rights if the permits are issued with certain conditions and limitations.

3. The water supply available is sufficient for the purposes intended, provided the maximum rate of flow for the Randall application is reduced.

4. The applications are made in good faith and not for delay or speculative purposes.

5. The applicants have sufficient financial resources with which to complete the projects since the projects are existing.

6. The applications do not conflict with the local public interest.

7. The applications are not contrary to the conservation of water resources within Idaho.

8. The department should approve the applications with certain conditions and limitations.

ANALYSIS

While the flow measured by the department during its field examination is likely less than the combined flow rates for the

JUN 28 1996

three (3) domestic uses once the Allen right is determined, the single measurement should not be considered as the maximum rate of flow available from the spring at other times of the year.

By signing the addendum to the Purchase and Sale Agreement on June 13, 1993, the protestant appears to have either agreed to convey a portion of an existing water right to the applicants or to have waived the right to oppose the applicants' appropriation of water from the spring source. Since the protestant's water right has not been determined by the SRBA court, and since there has been enough water in the spring for past uses of the protestant and the applicants, the department should approve the applications.

If the SRBA court awards a water right to Brown pursuant to SRBA claim No. A63-05161A, the right should be considered as a replacement for the water right represented by Permit No. 63-12284, and not an addition to it.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit Nos. 63-12284 and 63-12290 are **APPROVED** subject to the following conditions and limitations.

63-12284 - MAURICE BROWN

1. Use of water under the right is subject to all prior water rights.
2. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before the date in the Final Order issued by the department.
3. Domestic use is for one (1) home.
4. The issuance of this right does not grant any right-of-way or easement across the land of another.
5. Use of water under this right is subject to the control by the watermaster of State Water District No. 63.
6. Use of water for domestic purposes under this right shall be limited to in-house use and watering of household stock.
7. Approval of this permit is predicated upon allowing reasonable use of the spring by the protestant pursuant to the protestant's unadjudicated SRBA claim and shall not in itself be the basis for shutting off the unadjudicated claim of the protestant during times of water shortage.

63-12290 - RON RANDALL

1. Use of water under the right is subject to all prior

JUN 28 1996

water rights.

2. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before the date in the Final Order issued by the department.

3. Domestic use is for one (1) home.

4. The issuance of this right does not grant any right-of-way or easement across the land of another.

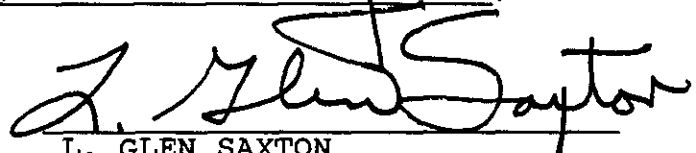
5. The stockwater use shown on the application is considered to be included within the domestic use and is not a separate authorized use. The maximum rate of diversion authorized for domestic use under this right shall not exceed 0.01 cfs.

6. Use of water under this right is subject to the control by the watermaster of State Water District No. 63.

7. Use of water for domestic purposes under this right shall be limited to in-house use and watering of household stock.

8. Approval of this permit is predicated upon allowing reasonable use of the spring by the protestant pursuant to the protestant's unadjudicated SRBA claim and shall not in itself be the basis for shutting off the unadjudicated claim of the protestant during times of water shortage.

Signed this 26th day of February, 1996.


L. GLEN SAXTON
Hearing Officer

JUN 28 1996

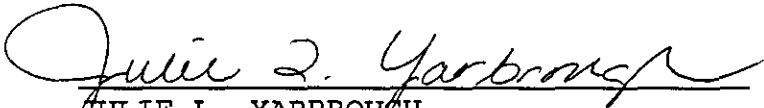
CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 26th day of February, 1996,
I mailed a true and correct copy, postage prepaid, of the foregoing
RECOMMENDED ORDER to the following:

Maurice Brown
HC 33 Box 2002
Boise, ID 83706

Ron Randall
HC 33 Box 2030
Boise, ID 83706

Joseph B. Allen
HC 33 Box 2032
Boise, ID 83706


JULIE L. YARBROUGH
Senior Secretary

JUN 28 1996

Ident. No. 63-12284

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: MAURICE BROWN
Address: HC 33 BOX 2002
BOISE ID 83706
208-345-4523
2. Source: SPRING Trib. to: ROBIE CREEK
3. Location of Point of Diversion: Lot 4 (NENWNW), Sec. 5, Township 03N, Range 04E
BOISE County
4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
DOMESTIC	01/01	12/31	0.010		
5. Total quantity to be appropriated is:
0.010 CFS (and/or) AF
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc.
PIPED TO 1100 GAL STORAGE TANK W/PUMP TO HOME.
 - b. Height of storage dam feet; active reservoir capacity
acre-feet; total reservoir capacity acre-feet; period of
year when water will be diverted to storage: to inclusive.
 - c. Proposed well diameter is inches; proposed depth of well is
feet.
 - d. Is groundwater with a temperature greater than 85F being sought? NO
 - e. 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: DOMESTIC

TWN RGE SEC
03N 04E 5 Lot 3 (NENW)

JUN 28 1996

* d'base update 11/6/95 -82

9. a. Who owns the property at the point of diversion?
ERNA HOOVER
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.
PER SALES CONTRACT APPLICANT ALLOWED USE OF SPRING WATER.

10. Remarks: *Domestic use is for 1 home.*

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.

Maurine C. Brown
Applicant

Received by *[Signature]* Date 10-23-95 Time 12:00 Preliminary check by *[Signature]*
Fee \$ 50 Receipted by *[Signature]* # 0020017 Date 10-23-95
Publication prepared by *[Signature]* Date 11-8-95 Published in *[Signature]*
Publication approved *[Signature]* Date 12-11-95

RECEIVED

**d'case update 11/6/95 per appl. JUN 28 1996*
-82

SD-0420-2
ADD COMMENT

Idaho Department of Water Resources
Modify Comment

Date: 11/06/95
Time: 10:30:34

Water Right Number: 63-12284

Comment Date: 11/ 6/1995 User ID: SLESTER

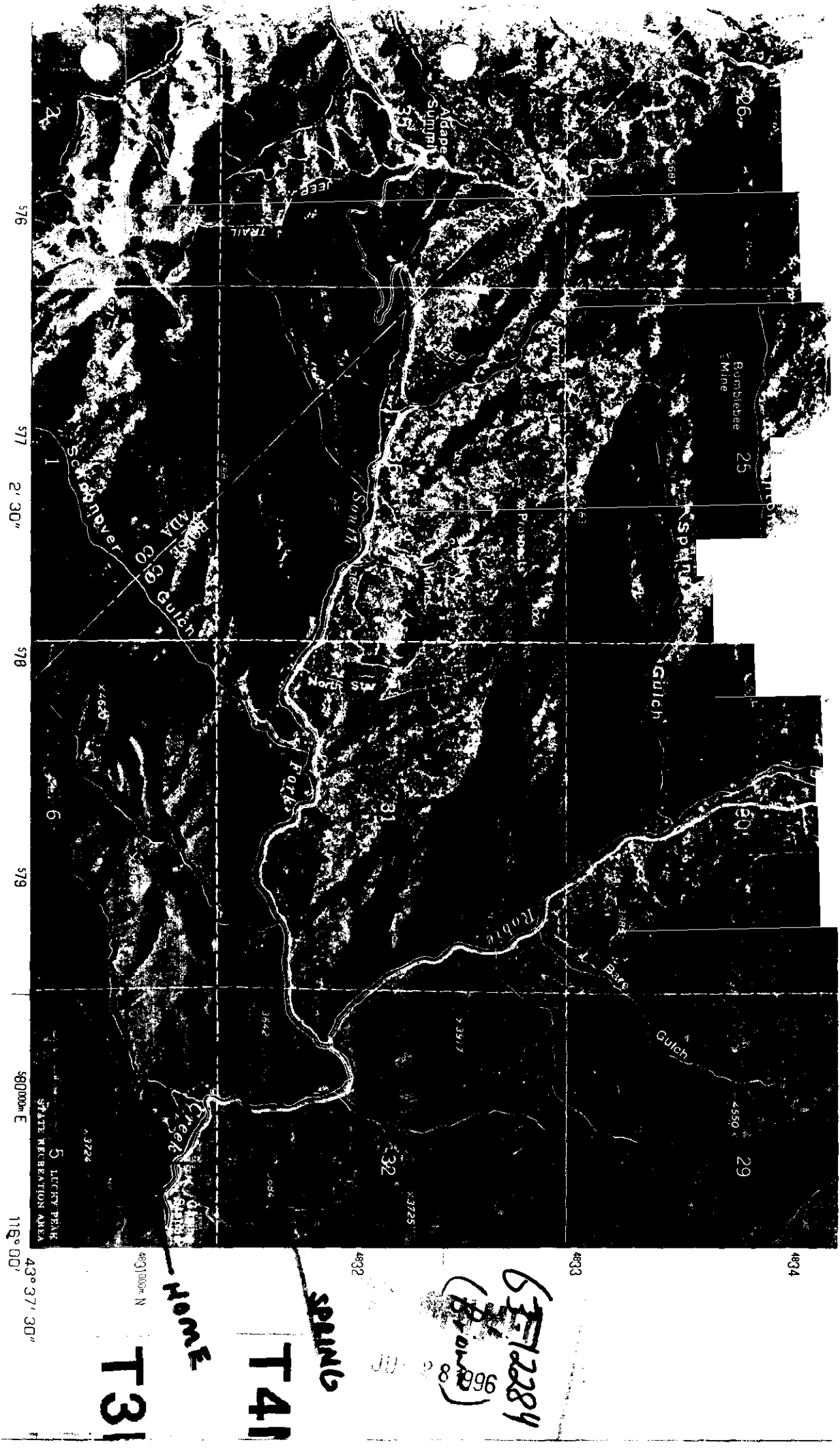
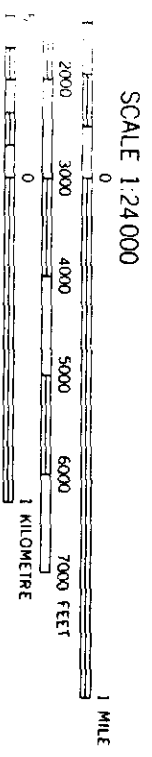
Subject: OVERLAP & PROCESSING

This use is not subject to Basin 63 processing delay provided that in-house use only is allowed. No yard irrig. use with water tributary to Lucky Peak is permitted regardless of Bs. 63 delay. Note that same spring filed upon in 63-12290 (Randall) & related to portion of right 63-05161 (per SRBA claims). Copy of new appl. sent to protestant Joseph Allen. See file information regarding multiple hook-ups from this spring. Both new appls. (63-12284 and 63-12290) protested by Mr. Allen.

(Enter=Add) (Gold4=Prev) (Gold5=Next) (Gold7=Return to Comment Selection)

MINNESOTA

JUN 28 1996



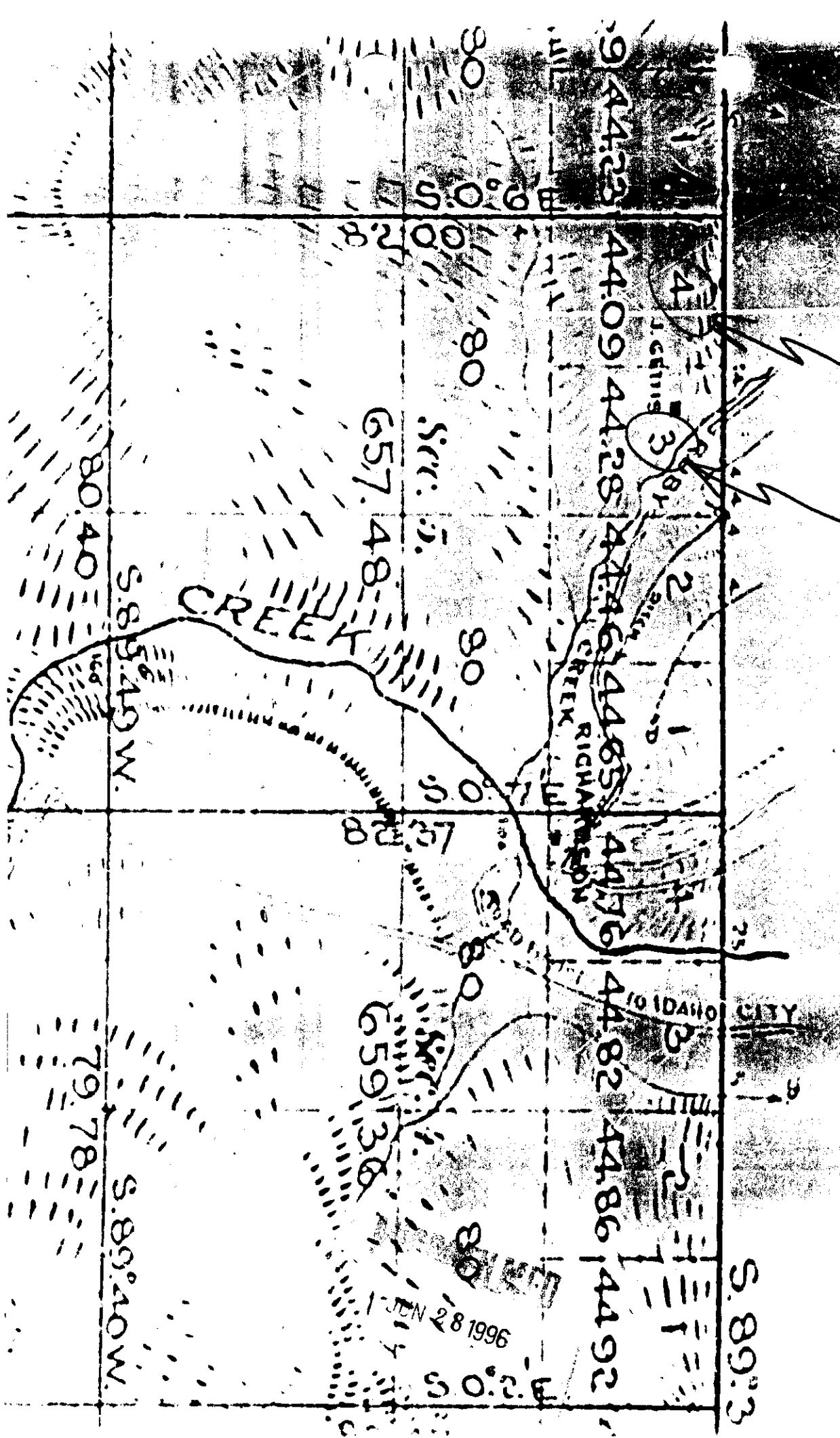
QUADRANGLE LOCATION

P/O L. Y NENUNU
 P/R L.3 NENUNU
 this map doesn't show it as clearly as
 App. 63-12290 map, but spring definitely
 in L. Y
 ROBIE CREEK, IDAHO
 N4337.5-W116007.5
 -82 11/6/95 1981

HOME
 T3
 SPRING
 T4

63-12284
 (Brown)
 96098

63-12284 (8 rows)
"1"





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

October 8, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MAURICE BROWN
HC 33 BOX 2002
BOISE ID 83706

RE: WATER RIGHT NO. 63-12284

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license 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 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 this order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within 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 Department.

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 Department. The Department retains the right to review the preliminary order on its own motion.

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ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with 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 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.

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

Sincerely,

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

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

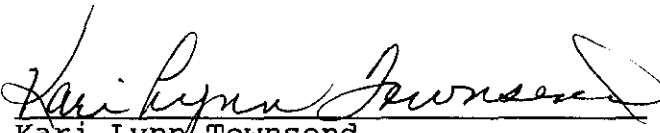
MICROFILMED
30 OCT 27 1998

CERTIFICATE OF MAILING

I hereby certify that on the 8th day of October, 1998, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 63-12284

MAURICE BROWN
HC 33 BOX 2002
BOISE ID 83706


Kari Lynn Townsend
Secretary

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OCT 27 1998

LICENSE REVIEW CHECKLIST

PERMIT NO. 63-12284 DATE 10/6/98 REVIEWER: S H A R L A

NAME Change/OK
 Address OK
 SOURCE OK Does change clarify orig. intended source? If no, Void permit
 POINT OF DIV OK Change (P39 /P47) Add (P45/P42) Feds - P40

W32 (multiple in 1/4)
~~W36 (overlap)~~ 63-12290
 W59 (subd. desc)

Overlaps: Right(s): _____
 File reviewed _____ Profile reports printed _____

PLACE OF USE _____ Change (P41/P47) Add (P41/P42) Feds - P43

W60 (subd. desc)
 W27 (ppu acre limit)

Overlaps: Right(s): _____
 File reviewed _____ Profile reports printed _____

PD & PU amend (P37) Feds - P48

RATE OF DIV

Permitted Rate .01 cfs
 Fee limit .20 cfs \$50⁰⁰
 Measured .01 cfs
 Theoretical — cfs

Recommended Total Div Rate .01 cfs

WATER USES	<u>OK</u>	Change (P46)	
<u>Dom</u>	<u>.01</u> cfs	<u>.6</u> af	Irrig - overlap (R58-R61, R62-R65, R66-R69)
_____	_____ cfs	_____ af	supp. gw (WB7/065/079)
_____	_____ cfs	_____ af	overlap spec. combined rts (W35)
_____	_____ cfs	_____ af	<1acre (W31)
_____	_____ cfs	_____ af	Domestic (W01/WB5/070/071/075)
TOTALS	<u>.01</u> cfs	<u>.6</u> af	Power (W42 or W43/025/027/R22 or R23)
			Fish (042) Fire (077) Wtr Quality (081/R07)

Flow rate .01 cfs X 365 days X 1.98 = 7.2 af

REMARKS _____

ADD'L CONDITIONS 204 Watermaster Control WD# 63
 _____ GW Measurement/Measuring Device

_____ Others Trust (052/R55 - remove 051) Non-trust (048/049)

Advance Priority yes ☒ no

SRBA Claim N/A

Adjust Memo _____
 Amend letters _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

NOV 21 1997

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 63-12284

1. Owner: Maurice Brown Phone No. 345-4523

Current Address: HC 33 BOX 2002 Boise 83706

2. Accompanied by: _____ EXAM DATE: 6/11/97⁽⁶⁾
10/14/95⁽⁵⁾

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: Spring tributary to Robie Cr

B. OVERLAP REVIEW

1. Other water rights with the same place of use: _____

2. Other water rights with the same point of diversion: 63-12290, A63-05161A + B

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
	4	NE	NW	NW	5	3N	4E	Boise	USGS Quad

2. Place(s) of Use:

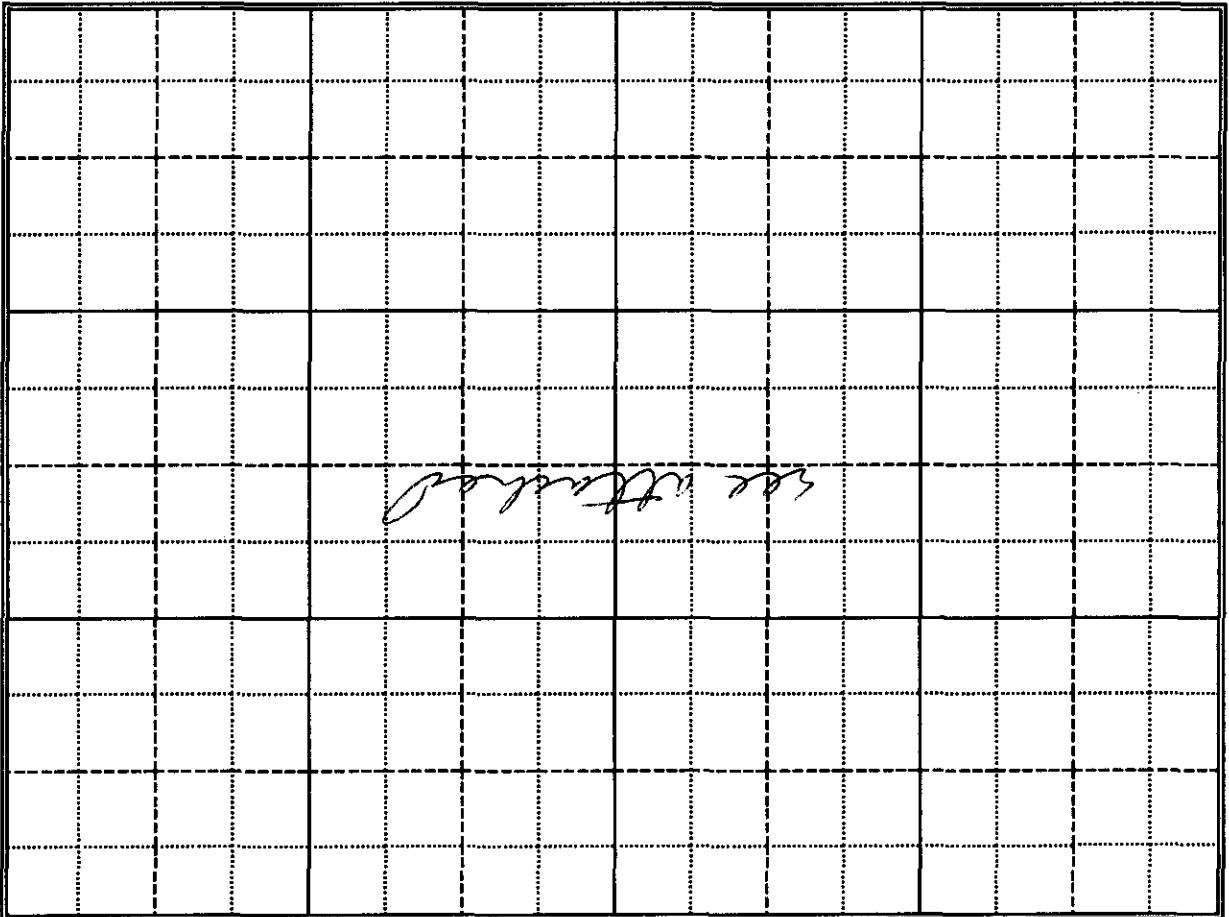
Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	4E	5					63 D											17	

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OCT 27 1998

3. Delivery System Diagram: Indicate all major components and distances between components. Indicate well size/ditch size/pipe l.d. as applicable.



Scale: 1" = _____
 Copy of USGS Quadrangle Attached Showing location(s) of _____
 point(s) of diversion and place(s) of use (required).
 N/A Aerial Photo Attached (required for irrigation of 10+ acres)
 Photo of Diversion and System Attached
 see file A63-051618

4.

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

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
5 gal bucket						

2. Measurements: *see attached*

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E. NARRATIVE/REMARKS/COMMENTS

Jan Shurte conducted a field exam on this spring system 10/14/95 to help resolve a protest situation, which included this permit. A final order was issued 4/11/1996. The recommendations for this permit are based on Jan's exam and the conclusions of the final order. See attached and also file 163-05161B for additional info.

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

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F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

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

2. Volume Calculations for Other Uses:

*Internal domestic use .6***H. RECOMMENDATIONS**

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<i>domestic</i>	<i>1/1</i>	<i>12/31</i>	<i>.01</i>	<i>.6</i>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			<i>.01</i>	<i>.6</i>

2. Recommended Amendments

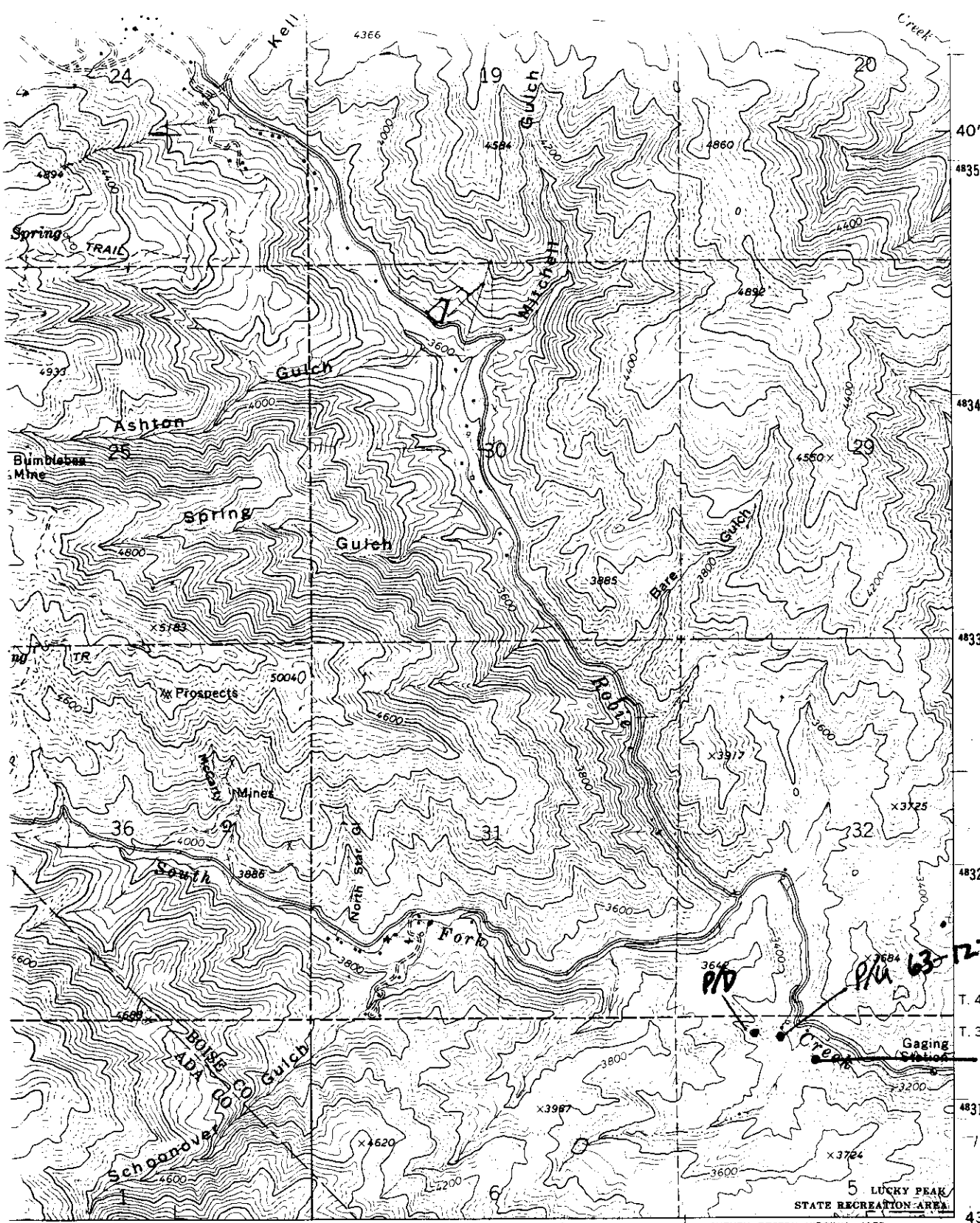
____ Change P.D. as reflected above ____ Add P.D. as reflected above ☒ None
____ Change P.U. as reflected above ____ Add P.U. as reflected above ____ Other

I. AUTHENTICATIONField Examiner's Name *Don Gorman* Date *6/11/97*

Reviewer _____ Date _____

SEAL

MICROFILMED
OCT 27 1998



AT TOP OF PAGE '30"

R. 3 E. R. 4 E.

579

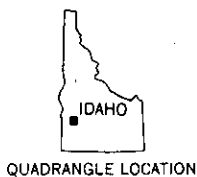
ROAD CLASSIFICATION

Primary highway, hard surface _____ Light-duty road, hard or improved surface _____
 Secondary highway, hard surface _____ Unimproved road _____

○ Interstate Route ○ U. S. Route ○ State Route

MICROFILMED

1 MILE
 7000 FEET
 1 KILOMETRE



ROBIE CREEK, IDAHO

NE/4 BOISE 15' QUADRANGLE
 N4337.5-W11600/7.5

1972

AMS 2771 II NE-SERIES V893

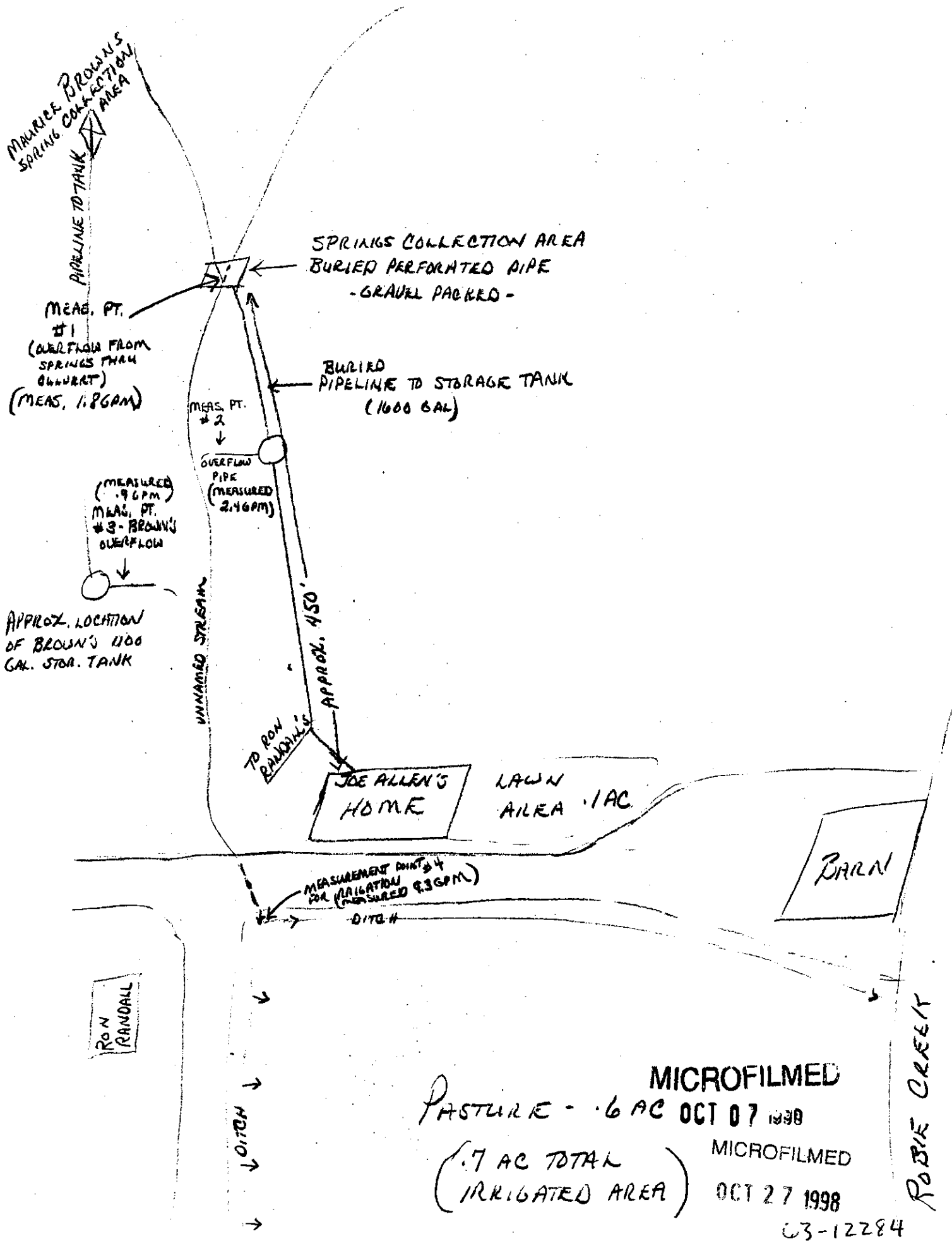
OCT 27 1998

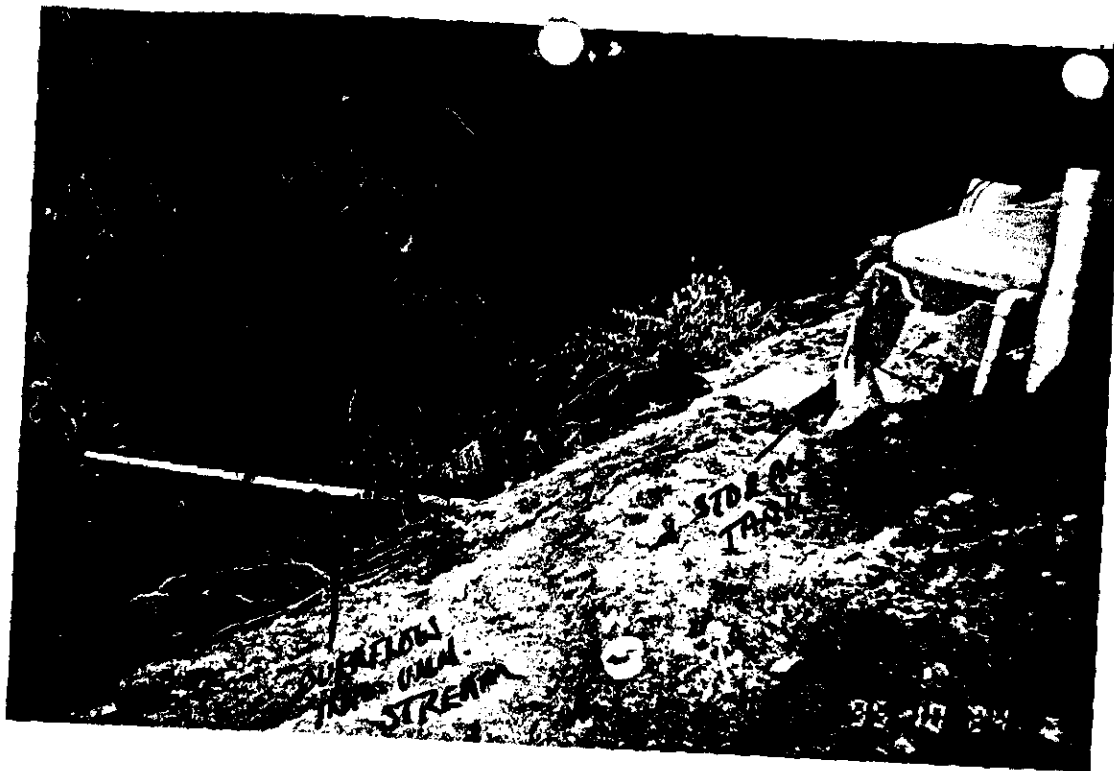
63-12284

RDS
 ON, VIRGINIA 22092
 REQUEST

(ARROW ROCK DAM)
 287' III SW

SYSTEM DIAGRAM
(NOT TO SCALE)





PICTURE TAKEN
10-24-95 J
THIS PICTURE
SHOWS THE OVER-
FLOW PIPE FROM
THE STOR. TANK
INTO THE UNN.
STREAM - MEAS.
POINT #2 (2.4 GPM)
NO WATER WAS BEING
USED AT THIS TIME,
SO OVERFLOW SHOULD
INDICATE WHAT WAS
FLOWING INTO TANK.

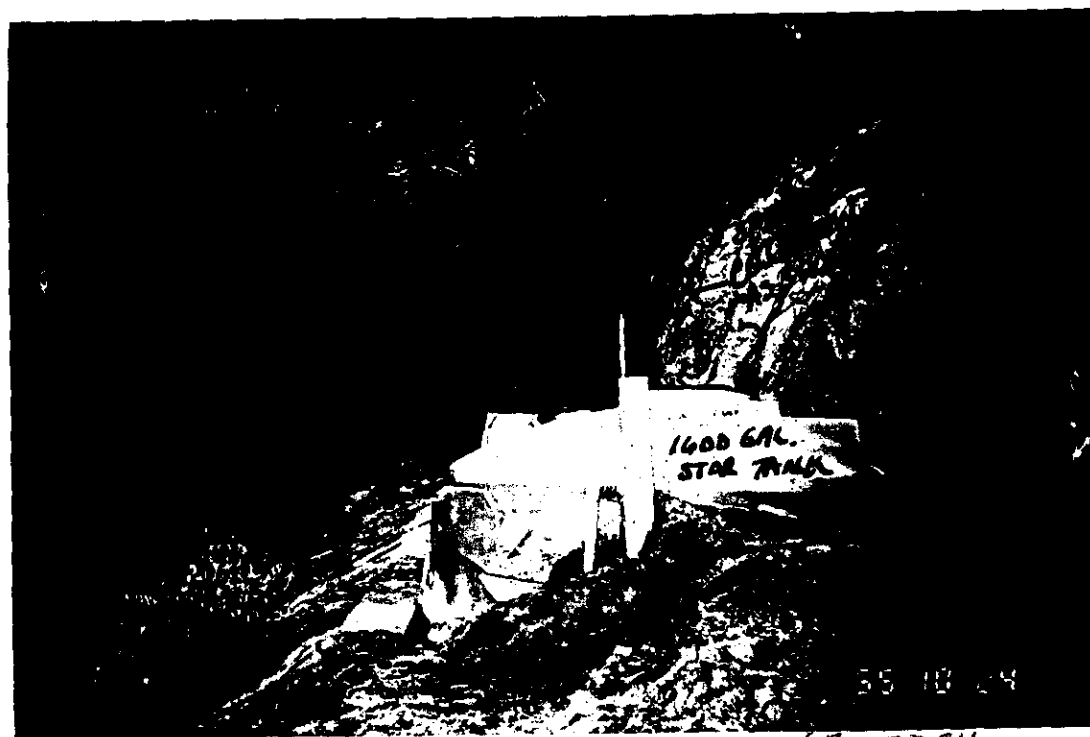


PICTURE TAKEN
10-24-95 J
THIS IS A PICTURE
TAKEN OF THE
HILLSIDE LOCATED
WEST OF MR. ALLEN'S
HOME. HE INDICATED
THAT THIS HILLSIDE
WAS IRRIGATED AT
ONE TIME, BUT THE
PIPE WAS DESTROYED
BY MUD & IRRIGATION
CRACKS IN ABOUT 1985
OR 1988. TREES APPEAR
TO BE DEAD & DOES NOT
APPEAR TO HAVE BEEN
IRRIGATED FOR QUITE AWHILE

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OCT 27 1998
63-12284



PICTURE OF STOR. TRUNK TAKEN 10-24-95
JW



PICTURE - PT. OF DIVERSION
TAKEN 10-24-95 JG

THIS PICTURE WAS TAKEN FACIN^G
WEST ^{SOUTH} & LOOKING UPHILL FROM
THE SPRINGS CONNECTION AREA.
THE CIRCLED AREA IS WHERE
THE PERFORATED PIPE IS BURIED
& GRAVEL PACKED WITH A PIPE -
LINK TO THE STORAGE TANK.
THIS PICTURE SHOWS THE TWO
DRAINAGES FROM THE SOUTHWEST
& NORTHWEST WHICH JOIN AT THE
CONNECTION AREA. THE CORRUGATED
METAL PIPE IS THE OVERFLOW AND
WAS A MEAS. POINT. THE OVERFLOW
DUMPS INTO THE UNN. STREAM WHICH
FLOWS DOWNHILL TO THE POINT WHERE
IT IS DIVERTED FOR IRRIGATION OF THE
PASTURE AREA.

16000 GAL. STOR. TANK
BELOW SPRINGS COLLEC-
TION AREA IN THE
ABOVE PICTURE. THE
UNK. STREAM IS SHOWN
FLOWING TO THE LEFT
OF STOR. TANK IN THIS
PICTURE. ^{MICROFILMED} ~~FOURIED~~
OCT 27 1998
DOWN HILL FROM THIS
STOR. TANK. ^{MICROFILMED} BOTH
JOE ~~AND~~ ^{AND} RON
RANDALL'S HOME S.
OVERFLOW FROM THIS
TANK SHOWN IN NEXT PIC.

MEMORANDUM

October 26, 1995

TO: CLAIM FILE NOS. A63-05161A, A63-05161B, A63-05161C
& A63-15427
APPLICATION FOR PERMIT NOS. 63-12284 & 63-12290

FROM: JAN SHURTE

RE: GENERAL SUMMATION OF FILING PROBLEMS WITH ABOVE CLAIMS
EXPLANATION OF WATER RIGHT DISPUTE AND FILING OF
APPLICATIONS

On June 21, 1983, Mr. & Mrs. Hoover filed Statutory Claim No. 63-05161. This claim was filed for 60 acres of irrigation, domestic and stockwater purposes from two unnamed streams, tributary to Robie Creek. The description of diversion works stated open ditch and 2" pipe out of stream for domestic. The priority date claimed was May 1, 1955. The number of homes or head of stock was not shown on this claim.

In May, 1989, Erna Hoover refiled on the above statutory claim under Claim Nos. A63-05161 and A63-15223 (see claims in file). In the remarks for Claim No. A63-05161(now renumbered to A63-05161B) Mrs. Hoover stated, "The basis of this claim is the statutory claim 63-05161 which had given unnamed streams as the source, when in actuality the source is and was 2 springs which were developed before 1955." In the remarks for Claim No. A63-15223(now renumbered to A63-05161C) she stated, "The basis of this claim is the statutory claim 63-05161 which originally gave unnamed streams as the source, when in actuality the source is a spring. The old school house was the original place of use, and when the new home was moved in the use was transferred." There is a memo to the file from Anna Baumhoff which states that from discussions with both Mrs. Hoover and Maury Brown (A63-05161A & A63-15427) it appears the unnamed stream systems were abandoned and Mrs. Hoover did not file a claim in the adjudication because she felt these unnamed streams had not been used for more than 5 years. Two other claims have been filed by Maury Brown based on this statutory claim. Claim No. A63-05161A covers one home for .01 cfs (4.5 gpm) from a spring source and Claim No. A63-15427 covers 12 acres of irrigation from one of the unnamed stream sources (Sec. 5).

There are currently 3 homes attached to the spring source. Two of the homes were added after 1971 and the one home is on the site of the original homestead - original home burnt down years ago and this house replaced it. When Mrs. Hoover sold the land for the two newer homes (Maury Brown & Ron Randall) and the third home (Joe Allen), she put a clause in their contracts concerning the spring use. The clauses stated that the two newer homeowners could use the water from the spring. She also put a clause in the third homeowners (Joe Allen) where he signed off stating that he would honor the agreement for the spring use between Brown & Hoover and

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OCT 27 1998

63-12284

that he would allow the owners of the adjacent mobile home(Ron Randall) use of the spring water. It appears that Joe Allen's home has the oldest water right, however, it will remain to be decided if a portion of this older right was given up when he purchased the home and signed the contract granting the other two users the right to the use of the spring water. Due to this question, along with the after 1971 uses, both Maury Brown & Ron Randall have now filed new applications for permit for this spring water.

Per Joe Allen's request, I conducted an adjudication field exam on October 24, 1995, on his land in Sec. 5 as described in the original statutory claim. The diversions are all from springs located in the draw approximately 600' to the west of the unnamed stream described in the original statutory claim in Sec. 5. The unnamed stream in Sec. 32 was not field examined at this time. This portion has been claimed as a spring source by Sterling & Debbie Turner under Claim No. A63-15223(now A63-05161C) per an ownership change from Ms. Hoover. Mr. Allen requested the exam because he is having a water dispute with the 2 other users of the spring source, Maury Brown and Ron Randall. He claims that he does not have enough water to irrigate his lawn and pasture area.

At the time of the field exam, I measured 9 gpm (.02 cfs) available at the headgate for irrigation. The amount measured at the springs collection area was 5 gpm with the remaining 4 gpm picked up thru other springs subbing into the stream from the springs as it flows down to the irrigation headgate. The stream from these springs is not the same as the unnamed stream described in the original statutory claim. See file for more details. Irrigation of the pasture area is .6 acres and approximately .1 acre for the lawn area around the home. The lawn area is less than .1 acre, however, I rounded it up to the nearest tenth. This brings the total irrigated area to .7 acres. I used an 8" to the mile acre grid and counted the acres using 1/10th acre increments. The area irrigated was outlined using both the orthophotoquad and Napp photos based on the findings during my field exam. Photos were also taken and are in the file showing the pasture and lawn area. Mr. Allen stated the hillside behind his home had once been irrigated, however, he indicated it has not been irrigated since 1987 or 1988. It is not now being irrigated nor does it appear to have been irrigated recently. A photo of this hillside area is also in the file. Mr. Allen owns a total of 2.5 acres in Sec. 5. The other two owners do not have outside irrigation.

In summary, the claims filed appear to be for a different source than that claimed originally under 63-05161. Mr. Allen did have 9 gpm for .7 acres at the time of the field exam. The spring water cannot be regulated by the Department or anyone since the source has not been decreed. Mr. Allen will need to seek civil action in order to pursue administration of this water. In the meantime, copies of the applications are being sent to Mr. Allen and a conference may be set up to tell the details again.

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OCT 27 1998

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OCT 07 1996

EXAM DATE - 10-14-95

TO: CLAIM FILE NO. A63-05161B

FROM: JAN SHURTE

SUBJECT: MEASUREMENT CALCULATIONS FOR CLAIM NO. A63-05161B

Measuring Point #1 - Taken at the overflow thru the culvert at the springs collection area above water tank. See diagram map.

Measured 4.5 gallons in 2 minutes 30 seconds

$$\frac{4.5 \text{ gal}}{150 \text{ sec}} \times \frac{60 \text{ sec}}{1 \text{ min}} = \frac{270 \text{ gal}}{150 \text{ min}} = 1.8 \text{ gpm}$$

Measuring Point #2 - Taken at the overflow pipe from Allen/Randall water tank. See diagram map.

Measured 2.5 gallons in 62 seconds

$$\frac{2.5 \text{ gal}}{62 \text{ sec}} \times \frac{60 \text{ sec}}{1 \text{ min}} = \frac{150 \text{ gal}}{62 \text{ min}} = 2.4 \text{ gpm}$$

Measuring Point #3 - Taken at the overflow pipe for Maury Brown's water system. See diagram map.

Measured 2.5 gallons in 2 minutes 40 seconds

$$\frac{2.5 \text{ gal}}{160 \text{ sec}} \times \frac{60 \text{ sec}}{1 \text{ min}} = \frac{150 \text{ gal}}{160 \text{ min}} = .9 \text{ gpm}$$

Total from spring sources only = 5.1 gpm

Measuring Point #4 - Irrigation - Taken at the headgate to the field, which included overflow from Joe Allen's domestic use and the flow from the springs and unnamed stream. See diagram map.

Measured 4.8 gal in 31 seconds

$$\frac{4.8 \text{ gal}}{31 \text{ sec}} \times \frac{60 \text{ sec}}{1 \text{ min}} = \frac{288 \text{ gal}}{31 \text{ min}} = 9.3 \text{ gpm}$$

All measured using a 5 gallon bucket and stopwatch during which time no domestic use was occurring - per Randall & Allen.

Note - Total flow from this source is the 9.3 gpm with 5.1 gpm measured from the spring sources and 4.2 gpm subbing into the stream as it flowed downhill from the springs to the headgate.

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OCT 27 1998

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OCT 07 1996

Permit No. 63-12284 Reviewed by Qy Date 5-9-97

yes Name same as permit?
yes Address same as permit?
yes Proof timely received?
If not, complete calculation below.

no	Required?
	Installed?
	Waiver requested?

Date proof received	_____	_____
Date proof due	_____	_____
No. of days late	_____	_____
Priority Date	_____	_____
New Priority Date	_____	_____

Proof acceptable

Proof Made 4-24-97



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 22, 1997

MAURICE C BROWN
HC 33 BOX 2002
BOISE ID 83706

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO.63-12284

Dear Permit Holder:

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

Please be advised that Section 42-248, Idaho Code, which became affective on July 1, 1996, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner. Failure to maintain current records with the department could result in the assessment of a monetary penalty.

If you have questions concerning the field examination, contact the **WESTERN** Regional Office in Boise, at (208)334-2190.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

C: IDWR - Region

MICROFILMED
JUN 10 1997

February 28, 1997

MAURICE BROWN
HC 33 BOX 2002
BOISE ID 83706

PROOF DUE NOTICE

RE: PERMIT NO. 63-12284

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 May 1, 1997.

(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.

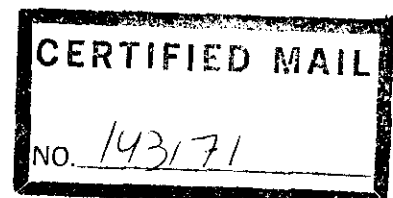
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

JUN 10 1997





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 20, 1996

Joseph B. Allen
P.O. Box 2583
Boise, Idaho 83701

COPY

Re: Water Right Permit Nos. 63-12284 and No. 63-12290

Dear Mr. Allen:

This letter acknowledges the Department of Water Resources' receipt of your correspondence of July 11, 1996, entitled "Constructive Notice," in which you object to the department's approval of water right permits 63-12284 and 63-12290 issued on April 9, 1996. The department served a copy of the Final Order approving the permits upon you by mail on April 11, 1996. Accompanying the order was a letter informing you that any aggrieved party seeking judicial review must file a petition with the appropriate district court within 28 days of the service of the final order pursuant to section 67-5273, Idaho Code. In this instance the 28-day period expired on May 9, 1996. The Final Order issuing the two water right permits is now final and effective.

Your correspondence states that the issuance of the two permits has adversely affected the water right you claim from the same spring source identified as Claim No. A63-05161B in the Snake River Basin Adjudication. The issuance of the two permits should not change the pattern of water usage from the spring. In fact, each permit is conditioned so that the use of water under the permit shall not be the basis for shutting off the reasonable use of your claimed water right pending its determination in the Snake River Basin Adjudication.

I appreciate the time and effort that you devoted to participating in the department hearing process. The decision adequately addresses and protects your property interests. I hope that you and the holders of the new permits will exercise your respective water rights in a reasonable and cooperative manner.

Sincerely,

KARL J. DREHER
Director

c: Maurice Brown
Ron Randall
IDWR - Region

MICROFILMED

JUN 10 1997

PS Form 3811, December 1991 *U.S. GPO: 1993-552-714

SE ER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

JOSEPH B ALLEN
HC 33 BOX 2032
BOISE ID 83706

5. Signature (Addressee)

6. Signature (Agent)

I also wish to receive the following services (for an extra fee):

- 1. ☐ Addressee's Address
 - 2. ☐ Restricted Delivery
- Consult postmaster for fee.

4a. Article Number

478 661 238

4b. Service Type

- ☐ Registered
- ☐ Insured
- ☒ Certified
- ☐ Registered Mail
- ☐ Return Receipt for Merchandise

Address (Post Office) Press (Only if requested)
JAN 11 1992

PS Form 3811, December 1991 *U.S. GPO: 1993-552-714 DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



Official Business

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300

NOV 1996

RECEIVED

FEB 21 1996

WATER RESOURCES
WESTERN REGION

U.S. MAIL



Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

63-12284

SR ER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery
- Consult postmaster for fee.

4a. Article Number

3. Article Addressed to:

MAURICE BROWN
HC 33 BOX 2002
BOISE ID 83706

MICROFIL
JUN 10

5. Signature (Addressee)

6. Signature (Agent)

Melba Brown

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991

*U.S. GPO: 1993-352-714

DOMESTIC RETURN RECEIPT

Thank you for using our Return Receipt Service.

UNITED STATES POSTAL SERVICE



Official Business

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



RECEIVED

JUN 1 1996

WATER RESOURCES

FEB 21 1996

WATER RESOURCES

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES

2735 AIRPORT WAY
BOISE, IDAHO 83705

63-12284

SE ER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
 2. ☐ Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:

RON RANDALL
HC 33 BOX 2030
BOISE ID 83706

4a. Article Number

9478661237

☐ Registered ☐ Insured

☐ Restricted ☐ COD

5. Signature (Addressee)

6. Addressee's Address (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991

*U.S. GPO: 1993-352-714

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

JUN 1 1996

Official Business

RECEIVED

FEB 16 1996

WATER RESOURCES
WESTERN REGION

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



Print your name, address and ZIP Code here

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JUN 26 1996

Department of Water Resources

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

RECEIVED

JUL 15 1996

Department of Water Resources

July 11, 1996

Joseph B. Allen
% U. S. Post Office
P.O. Box 2583
Boise, Idaho 83701

Mr. Karl J. Dreher, Director
State of Idaho
Department of Water Resources
1301 North Orchard St.
State House Mail
Boise, Idaho
83720-9000

Mr. Dreher, Et al.

RE: "CONSTRUCTIVE NOTICE"

Whereas, I, Joseph B. Allen, the undersigned, aver the following:

1. On June 13, 1993 I signed an earnest money agreement with Erna Hoover for a contract to purchase certain real property and water rights as specified on the contract.
2. Pursuant to specific performance of said contract any and all water usage through any and all grace proviso(s) is/are terminated as of January 29, 1993.
3. Therefore, with clean hands and good faith pursuant to 42 U.S.C.A. 1986 each individual/person are jointly & severally given service of this Notice that Permits #63-12284 & #63-12290 of the State of Idaho Department of Water Resources that were fraudulently issued are null and void ab initio as the issuing agency wilfully and vexatiously usurped jurisdiction without authority to impair the obligation of contract in deprivation of Constitutional Rights guaranteed by Idaho Constitution, Article I, Section 2; and the Fifth and Fourteenth Amendments to the Constitution for the United States of America.

Therefore, any person in position to correct any unlawful and illegal taking of Joseph B.

CONSTRUCTIVE NOTICE

MICROFILMED
JUN 10 1997

PAGE 1 OF 2

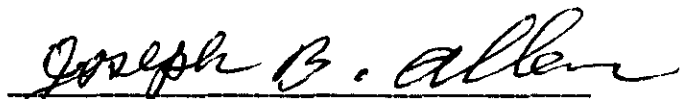
Allen's property from July 10, 1996 will be involved in a criminal conspiracy in deprivation of Constitutional and/or Civil Rights/Privileges and/or Immunities pursuant to 42 U.S.C.A. 1985.

Remedy for a CRIMINAL ACTION lies in Title 18 U.S.C.A. 242 and 241 with a criminal referral to U. S. Attorney's Office for RICO proceedings under Title 18 U.S.C. 1961 THROUGH 1968.

YOU NOW HAVE KNOWLEDGE OF THE LAW, failure to correct the wrong(s) will be an intentional act/omission on your part and will be done/omitted recklessly, wantonly, and wilfully, subjecting you to suit in Title 42 U.S.C.A. 1983 and Idaho Code 6-901 et seq.

An emergency exists as to the protection of my property rights, therefore, you have 5 days upon receipt of this service to NOTICE The holders of the fraudulently issued Permits aforementioned are voided.

Signed and sworn this 11th day of July, 1996.



Joseph B. Allen

RECEIVED

JUL 15 1996

CERTIFICATE OF SERVICE

Department of Water Resources

I, the undersigned, do **HEREBY CERTIFY** that I caused true and correct copies of the **CONSTRUCTIVE NOTICE** to be served upon by either hand delivery or by United States mail, Boise, Idaho postage prepaid, in an envelope addressed to the following

Karl J. Dreher, Director
State of Idaho
Dept. of Water Resources
1301 North Orchard St.
State House Mail
Boise, Idaho
83720-9000

Steve Lester
State of Idaho
Dept. of Water Resources
2735 Airport Way
Boise, Idaho
83705-5082

L. Glen Saxton
State of Idaho
Dept. of Water Resources
1301 North Orchard St.
State House Mail
Boise, Idaho
83720-9000

Jan Schurte
State of Idaho
Dept. of Water Resources
2735 Airport Way
Boise, Idaho
83705-5082

Ron Randall
HC 2030
Boise, Idaho
83706

Julie L. Yarbrough
State of Idaho
Dept. of Water Resources
1301 North Orchard St.
State House Mail
Boise, Idaho
83720-9000

Mrs. Erna K. Hoover
256 Elder Place #3
College Place, Washington
99324

Maurice Brown
HC-33 Box 2002
Boise, Idaho
83706

Dated: July 14, 1996

15/

MICROFILMED
JUL 10 1997

IN THE MATTER OF APPLICATION FOR PERMIT NO.
63-12284 IN THE NAME OF MAURICE BROWN AND APPLICATION FOR PERMIT
NO. 63-12290 IN
THE NAME OF RON RANDALL

Date: February 21, 1996

Time: 9:00 a.m.

Location: IDWR Conference Room
1301 N. Orchard St
Boise, ID 83703

Hearing Officer: L. Glen Saxton

* * Please Print * *

NAME	ADDRESS	REPRESENTING
Joseph Ballen	Hc 33 Box 2032	
MAURICE BROWN	H. C. 33 Box 2002	
Ron Randall	H.C. 33 Box 2030	



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MEMORANDUM

To: L. Glen Saxton
From: Karl J. Dreher 
RE: **APPOINTMENT AS HEARING OFFICER - PROCEDURE RULE 410**
Date: February 13, 1996

I, Karl J. Dreher, Director of the Idaho Department of Water Resources (department) hereby appoint **L. GLEN SAXTON** in compliance with IDAPA 37.01.01410 (department Procedure Rule 410) to act as Hearing Officer on behalf of the department in the following contested matter:

In the Matter of Application for Permit Nos. 63-12284 in the name of Maurice Brown and 63-12290 in the name of Ron Randall

The department has scheduled a hearing in the matter as follows:

Date: February 21, 1996
Time: 9:00 a.m.
Place: IDWR Conference Room
1301 N. Orchard St.
Boise, ID


JUN 28 1996



1994

protest ex
A



1994

B B

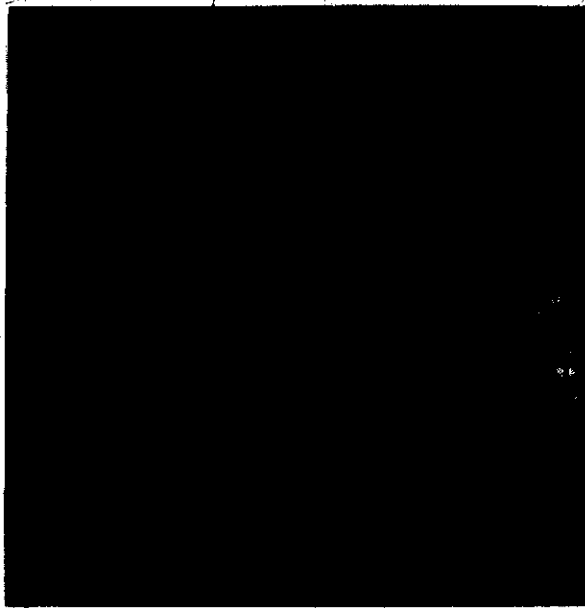


1994

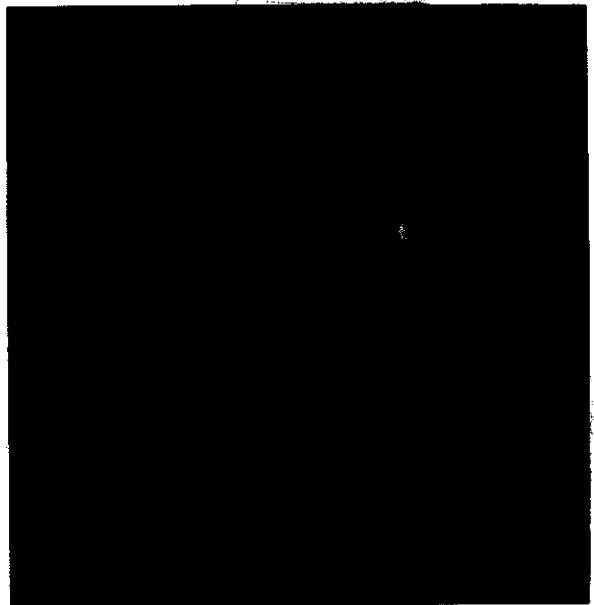
C C

Protestants
Exhibits
Admitted
on 2-21-96
NY

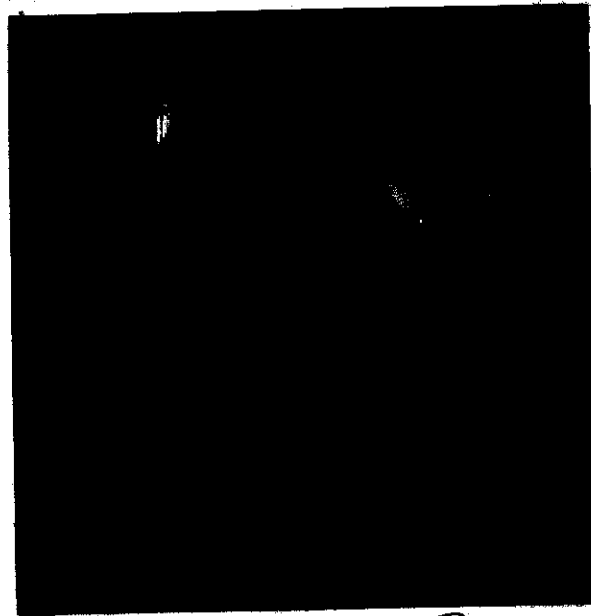
JUN 28 1996



^F
Oct/24/1995



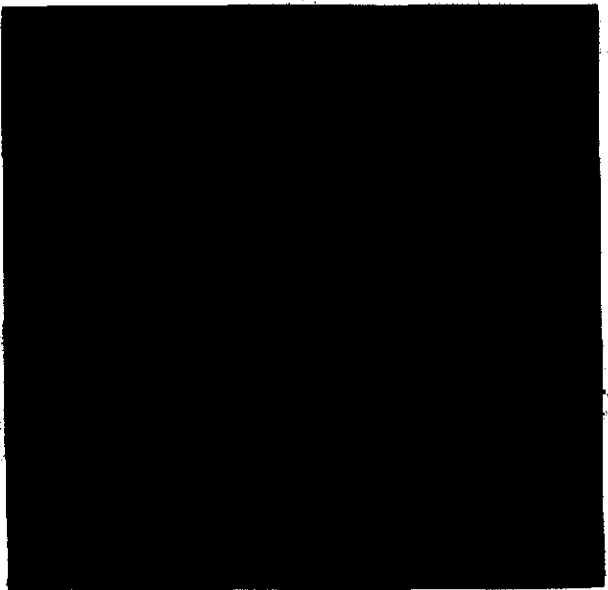
^E
Oct/24/1995 E



^D
Oct/24/1995 D



oct 24/1995



oct 24/1995

HEARING

Exhibits

1/2/75



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 14, 1996

RE: In the Matter of Application for Permit Nos. 63-12284 in the name of Maurice Brown and 63-12290 in the name of Ron Randall

Dear Interested Parties:

I have enclosed a copy of the **ORDER DENYING PETITION FOR RECONSIDERATION** submitted by Joseph B. Allen in connection with the above referenced applications for permit.

If you have any questions regarding the enclosed order, please feel free to contact me at (208)327-7900.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

cc: IDWR - Region

MAILED 12-7

JUN 28 1996

April 23, 1996

RECEIVED

APR 24 1996

Department of Water Resources

L. Glen Saxton
STATE OF IDAHO
Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83720-9000

Joseph B. Allen
HC 33 Box 2032
Boise, Idaho. USA
Postal Zone: 83706/adc

re: Permit Numbers - 63-12284 & 63-12290

Dear Mr. Saxton:

This letter is to protest the action being taken by your department, and it is a DEMAND for reconsideration.

In addition, it is a redress of grievance - First Amendment, Bill of Rights to the Constitution for the united States of America (Constructive Notice) that a crime is, or is about to take place with your department aiding and abetting the crime of Grand Theft, i.e. theft of my water rights.

The genesis of this action occurred when your department allowed Maurice Brown and Ron Randall to file priority claims over the water rights which I purchased together with my property from Erna Hoover on June 30, 1993.

Ownership of this water right by "Notice of Change of Water Right Ownership" dated 6/30/93 and executed by myself as purchaser, and Erna Hoover as seller is conclusive presumption to any disputable presumption by Randall or Brown.

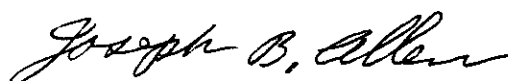
Now, it is my intention to allow you the opportunity to correct your records and establish my water right permanently.

Further, this objection is being made timely according to Section 67-5273 Idaho Code.

It is also our intention to file action in state district court should my rights be ignored by your office. This action shall be pursuant to Section 67-5270 and 67-5272 Idaho Code, and Article 15, Section 4 of the Idaho State Constitution, and Article 1, Section 10 of our National Constitution, re: "No state shall pass any bill...., or law impairing the obligation of contracts,...".

Your attention to this matter would be greatly appreciated.

Sincerely,



Joseph B. Allen

JUN 28 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 23, 1996

Ron Randall
HC 33, Box 2030
Boise, ID 83706

Maurice Brown
HC 33, Box 2002
Boise, ID 83706

**RE: IN THE MATTER OF APPLICATION FOR PERMIT NOS. 63-12284 IN THE
NAME OF MAURICE BROWN AND 63-12290 IN THE NAME OF ROM
RANDALL**

Dear Mr. Randall and Mr. Brown:

Enclosed for your information is a copy of a Petition for
Reconsideration filed in connection with the Final Order of the
Department in the above referenced matter.

I am forwarding the information to you, since I can not
determine from Mr. Allen's petition submittal that he has served
you with a copy of the pleading as he is required to do by IDAPA
Rule 37.01.01302 (Rule of Procedure 302).

If you have questions, please feel free to contact me or the
department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: IDWR - W. Region
Dave Tuthill
Joseph B. Allen



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 11, 1996

RE: In the Matter of Application for Permit Nos. 63-12284 in the name of Maurice Brown and 63-12290 in the name of Ron Randall

Dear Interested Party:

The accompanying order is a "final order" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the issuance of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) 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:

JUN 28 1996

- (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.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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 a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

JUN 2 1966



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 12, 1996

RE: In the Matter of Application for Permit Nos. 63-12284 in the name of Maurice Brown and 63-12290 in the name of Ron Randall

Dear Interested Parties:

I have enclosed a copy of the **ORDER DENYING PETITION FOR RECONSIDERATION** submitted by Joseph B. Allen in connection with the above referenced applications for permit.

If you have any questions regarding the enclosed order, please feel free to contact me at (208)327-7900.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

cc: IDWR - Region

RECEIVED

JUN 28 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

March 5, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Maurice Brown
HC 33 Box 2002
Boise, ID 83706

RE: In the Matter of Application for Permit Nos. 63-
12284 in the name of Maurice Brown and 63-12290 in
the name of Ron Randall

Dear Mr. Brown:

I have enclosed for you information a copy of a
Petition for Reconsideration (petition) filed with the
department on March 5, 1996, by Joseph B. Allen in
connection with the above referenced matter.

Since the rules of procedure require that a party
must serve copies of documents on all other parties in a
contested matter, and since I can not determine from Mr.
Allen's submission that he has served you, I am
forwarding a copy of his petition to you.

If you have any questions regarding the enclosed
order, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

c: IDWR - W. Region
Joseph B. Allen

JUN 28 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

March 5, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Ron Randall
HC 33 Box 2030
Boise, ID 83706

RE: In the Matter of Application for Permit Nos. 63-12284 in the name of Maurice Brown and 63-12290 in the name of Ron Randall

Dear Mr. Randall:

I have enclosed for you information a copy of a Petition for Reconsideration (petition) filed with the department on March 5, 1996, by Joseph B. Allen in connection with the above referenced matter.

Since the rules of procedure require that a party must serve copies of documents on all other parties in a contested matter, and since I can not determine from Mr. Allen's submission that he has served you, I am forwarding a copy of his petition to you.

If you have any questions regarding the enclosed order, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

c: IDWR - W. Region
Joseph B. Allen

JUN 28 1996

Joseph L. B. Allen

March 1, 1996

RECEIVED

MAR 05 1996

PETITION FOR RECONSIDERATION

Department of Water Resources

To: L. Glen Saxton

Answer to Per Your Letter of February 26, 1996

(FINDING OF FACT)

(Section 8) It is not the claim (Erna Hoover) sold me! She sold me Claim A6305161 with two Springs.

(Section 10) There is 2.25 acres to be irrigated.

(Section 11) Randall does not own any of the systems, that is my systems. I own all of it!

(Section 12) It is not sufficient for three domestic connections and 2.25 acres of irrigation.

(Section 13) That agreement was based on water claim bought with the property! Claim A6305161 with 80 gallons per minute water flow! or 180 C.F.S.

(CONCLUSIONS OF LAW)

(SECTION 1) (A) That it will reduce the quantity of water under existing Water Right (MINE)

(B) That the water supply is insufficient for the purpose for which sought to be appropriate for!

(C) Is made for Delay or Speculative purposes! (Brown) has two water claims and this permit.

(SECTION 2) Approval of the applications will reduce the quantity of water of existing water right!

(SECTION 3) The water supply available is not sufficient for the purposes intended even if flow is cut to 0.01 C.F.S. or 4 1/2 gallons per minute! per permit.

(SECTION 4) (Brown) for speculative purposes and delay

(SECTION 5) (Randall) I own that system

(SECTION 8) It did not work the last two years! 2/3 of my land dried up! and I had to feed my horse hay and my yard and flowers suffered and pasture dried up; damage!

(ANALYSIS)

The flow from the springs should be considered year around there not enough water flow to make a difference and my stock drinks in the winter.

I tell you again the water part of the agreement is unrevealed and null & void (UCC 1-207 & UCC 1-103 claim). There has not been enough water flow in the past for my use and the applicants!

JUN 28 1996

March 1, 1996
L. Glen Saxton
Page 2

(Brown) has two water claims and a permit claim!

(ORDER)

(SECTION 1) My water right is prior to Brown and has a priority date of 1906 (Erna Hoover's)
claim dated May 9, 1989. Brown claim date May 19, 1989

(SECTION 3) Brown 0.01CFS or 4 1/2 gallons per minute

(SECTION 5) Randall 0.01CFS or 4 1/2 gallons per minute

TOTAL serving flow 0.02CFS or 9 gallons per minute

(ALLEN) FIRST priority water rights (but no water)

That agreement with Erna Hoover is unrevealed and null & void and will be justified by Erna Hoover! My water right goes back to mid 1860's and been used on the property I own and has been passed down through the (assigns/owners) to me! I would like for a Reconsideration Order, I'm asking you to take a look at the Idaho State Constitution Article XV-Section 3, Section 4, Section 7 and U.S. Constitution Amendment 5 & 7!

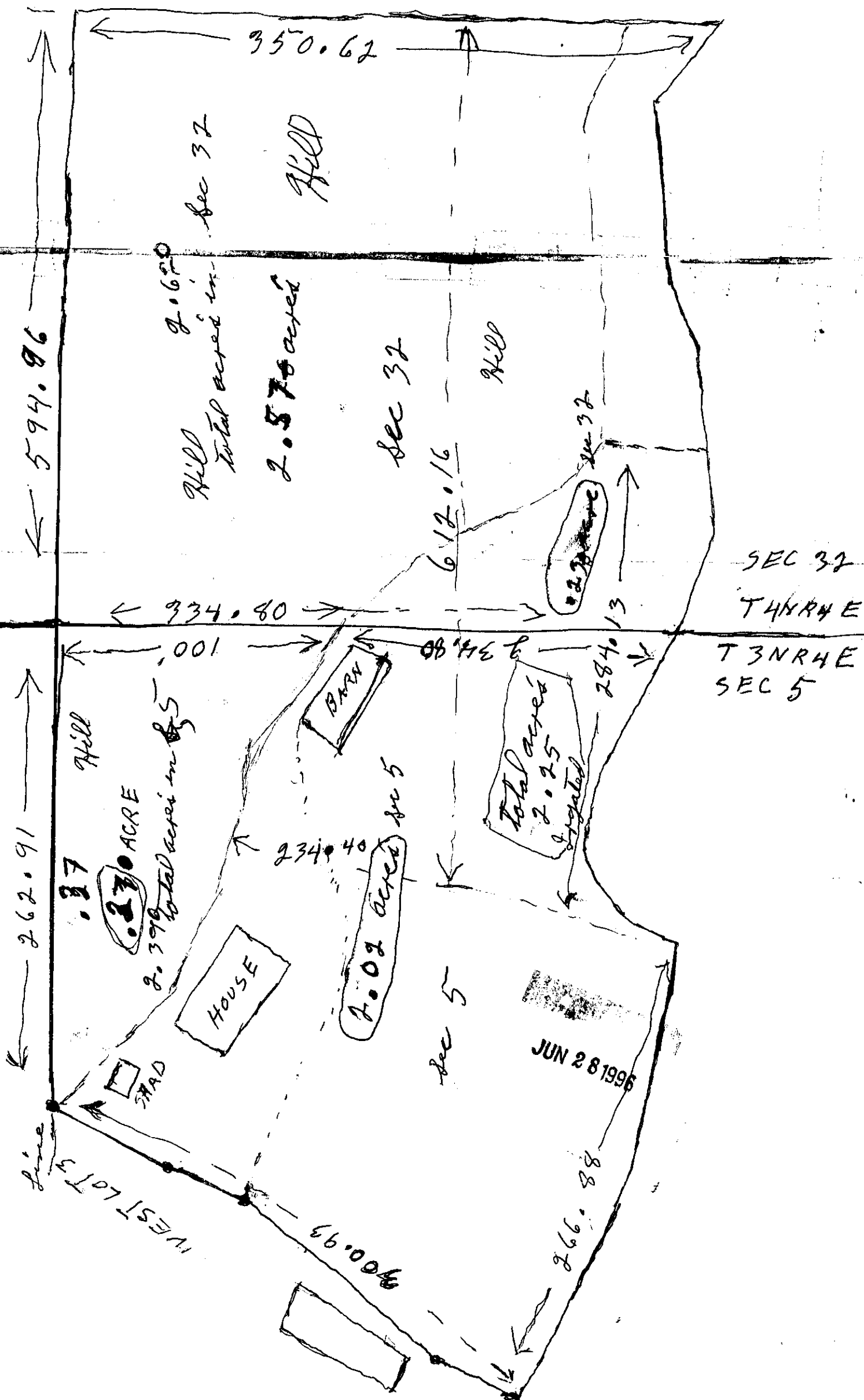
Sincerely,
Without prejudice
UCC1-207 & UCC 1-103

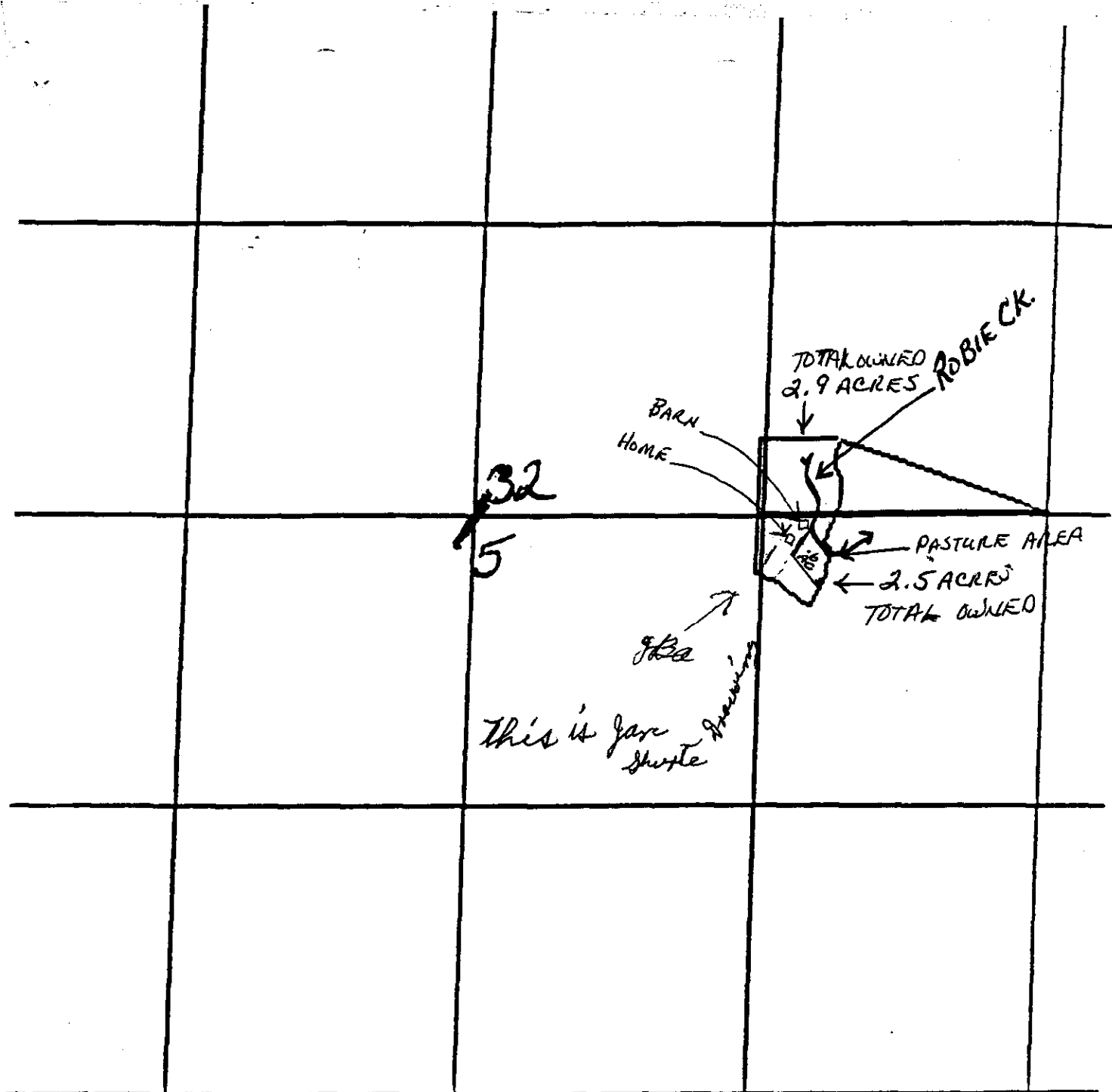
Joseph B. Allen

JUN 28 1996

finding of fact
section 10

I





-20

0

20

40

EASTERLY

JUN 28 1996

AREA PLOTTED USING METES & BOUNDS DESCRIPTION FOR JOE ANKEN



II

State of Idaho
DEPARTMENT OF WATER RESOURCES

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

*finding of fact
Section 13*

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 25, 1994

Joseph B. Allen
HC 33 Box 2015
Boise, ID 83706

Re: Identification Number Change for a Notice of Claim in the
Snake River Basin Adjudication (SRBA)
Boise County - Claim No. A63-05161B

Dear Claimant,

The identification number of your Notice of Claim to a Water Right has been changed from A63-05161 to A63-05161B. The Idaho Department of Water Resources assigns identification numbers to claims that will allow processing without duplication or confusion; this change does not affect your claim in any other way.

Enclosed is a computer-generated copy of your claim with the new identification number. Refer to this record number in any future inquiries or correspondence. Please do not hesitate to contact this office, if you have any questions.

Sincerely,

Roxanne McCarthy
Sr. Water Resource Agent
Adjudication Bureau

Enclosures:
copy of Notice of Claim

RECEIVED
JUN 28 1996

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: A63-05161B
Date Received: 5/ 9/1989
Receipt No: C006690
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: JOSEPH B ALLEN
Address: HC 33 BOX 2015
BOISE ID

208-336-0067

83706

2. Date of Priority: MAY 1, 1955

Settys priority Date 07/23/1906

3. Source: SPRINGS

Trib. to: ROBIE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
03N	04E	5	NE	NW	NW	4	BOISE

5. Description of diverting works:

CEMENT BOX PIPE TO HOLDING TANK, PIPED TO HOUSES, DITCHES TO IRRI

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/15	0.100		
DOMESTIC	01/01	12/31	0.080		

7. Total Quantity Appropriated is:

0.180 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

D/ 2 HOUSE, SINGLE OWNERSHIP

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03N	04E	5	NE	NW		DOMEST	
			NE	NW	3	IRR	5.01

A63-05161B

Page

1

Date: 03/25/94

JUN 28 1996

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	5.0
					Total Acres	5.0

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:

THE BASIS OF THIS CLAIM IS THE STATUTORY CLAIM 63-05161 WHICH HAD GIVEN UNNAMED STREAMS AS THE SOURCE, WHEN IN ACTUALITY THE SOURCE IS AND WAS 2 SPRINGS WHICH WERE DEVELOPED BEFORE 1955.

15. Basis of Claim: STATUTORY CLAIM

Form 42-1409(7)



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type

(see instructions on back of page)

DATE OF CLOSING: 6/30/93

LEGAL DESCRIPTION OF PROPERTY: Township 03N Range 04E
Section 5, NE 1/4 of NW 1/4 of 1/4, Govt. Lot , BM.
Lot 3, Block , Subdivision/Townsite .
If you have additional legal descriptions, please attach separate sheet.

☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

☐ Water Right Number(s) Assigned by IDWR: A63-05161B ← spot water Dept marked (B) on this

☐ Name and Address of Former Owner/Claimant(s)(Seller): Erna K. Hoover
P.O. Box 1564
Boise, Idaho 83701

☐ New Owner/Claimant (Purchaser): Joseph B. Allen

☐ New Mailing Address: HC 33, Box 2015
Boise, Idaho 83706

☐ New Telephone Number: (208) 336-0067

☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

☐ Attach proof of ownership, describe proof attached:

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☐ Signature of New Owner/Claimant(s) Joseph B. Allen Date 6/29/93

☐ Signature of Former Owner/Claimant(s) Erna K. Hoover Date 6/29/93

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: By:
Further Action Needed:
Further Action Taken
Date: By:
Final Review and Data-Entry
Date: By:
Claim Numbers of Split, if any:

(Signature of former claimant(s) is not required if proof of ownership is attached.)

JUN 28 1996

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

(analysis)

II

November 22, 1995

David R. Tuthill
and the Department of Water Resources

I'm putting you all on notice that without prejudice I claim
UCC1-207 and 1-103 of the Uniform Commercial Code! I claimed it
for the past and I am claiming it now! Please be on notice.

UCC 1-207 1-103

JOSEPH B ALLEN

HC 33 BOX 2032
BOISE IDAHO 83706

I saw ~~the~~ copy of this
I sent to water resources
in that office on Jan 17/96
at hearing (JBA)

Joseph B. Allen

copy

JUN 28 1996

IV
analysis and order

February 24, 1996

Dear Erna Hoover:

I'm putting you on notice that without prejudice I am claiming UCC1-207 and UCC1-103 of the Uniform Commercial Code! (Law).

I reserve my rights not to be compelled to perform under any contract or agreement that I did not enter into knowingly, voluntarily or intentionally).

I do not accept the liability of the compelled benefit of any unrevealed contract or agreement! The agreement I made with you on the water flow at the time of closing was based on 80 gallons of water flow per minute claimed you sold me with the property. As per the Department of Water Resources there is a 9 1/2 gallons per minute total water flow. This being the case the water agreement portion of the contract becomes unrevealed, null and void.

I have been damaged for two and one half years and if you do not want to try and justify this problem with Randall and Brown by April 1, 1996, I will be forced to start proceedings for damages and costs to correct this problem. I have been damaged by you not straightening this out before now, I hope to hear from you on this matter by March 10, 1996.

Sincerely,

UCC 1-207 and UCC 1-103
Joseph B. Allen

copy

RECEIVED
JUN 28 1996

Under the provisions of Section 42-213, 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 LESTER HOOVER

PC Box 1564, Boise, IDAHO (Mailing Address) (Name of Claimant) 83761 Telephone No. 342-0852 (Zip Code)

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) MAY 1, 1955 (SA)

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)

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
WILLIAMS STREAM tributary to ROBIE 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:

		(Both dates inclusive)	
(cfs, af)	(Domestic, Irrigation, Stock, Etc.)	(Mo., Day)	(Mo., Day)
Quantity <u>6.1.2 cfs</u>	Use <u>IRRIGATION</u>	Period of Use From <u>APRIL 1</u>	To <u>OCT. 15</u>
Quantity <u>.16 cfs</u>	Use <u>DOMESTIC</u>	Period of Use From <u>JAN. 1</u>	To <u>DEC. 31</u>
Quantity <u>10.02 cfs</u>	Use <u>STOCK</u>	Period of Use From <u>JAN. 1</u>	To <u>DEC. 31</u>
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____

(4) 1.38 ~~6.25~~ TOTAL QUANTITY USED.

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

NE ¼ of Section 32, Twp. 4 N, Rge. 4 E, B.M., County of BOISE

Additional points of diversion: LOT 4 (OF THE NW 1/4 OF THE NW 1/4), SECTION 5,

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. OPEN DITCH

(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.

[illegible]

No. of acres 60

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

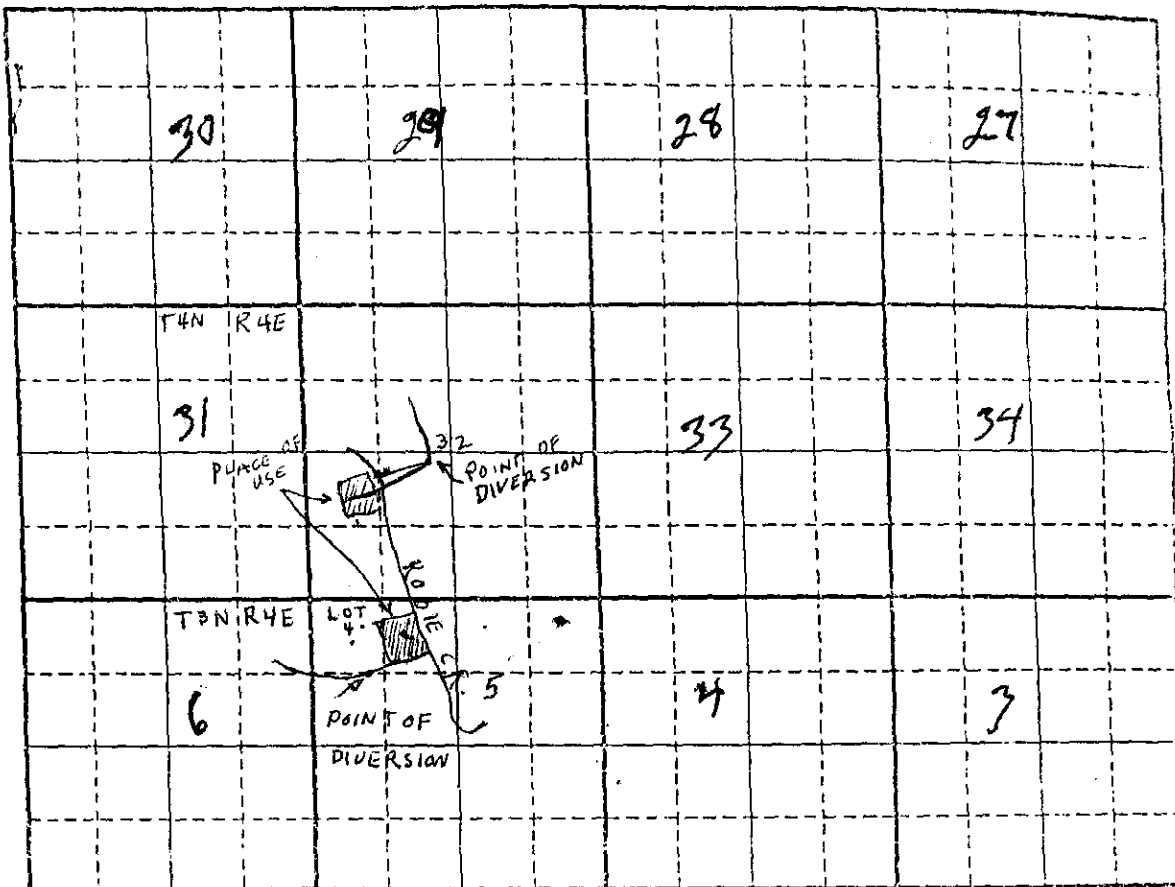
2" PIPE OUT OF STREAM FOR DOMESTIC.

NOTE: Include here the type and number of stock watered: Cows and Steers 10, Horses 4.

(7) If you are claiming water as a member of an organization, list name of organization:

JUN 28 1996

(B) Remarks



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 16 day of JUNE

Lester Hoover
(Claimant)
[Signature]
Notary Public
Residing at Boise, ID

My commission expires LIFE

FOR DEPARTMENT USE ONLY

Received by [Signature] Date 6/21/83 Exception filed by: _____ Date _____
Prelim. check by [Signature] Date 6/23/83 Forwarded to claimant by: _____
\$30.00 fee received by [Signature] Date 6/23/83 \$ 1119
Published in F. Idaho Journal
Dates 9/29 & 10/6/83

The springs
was not claimed
on this claim

Hoover's Did not
get the property of
springs until
late 1984
from E.H. after

The United States of America,

Us all to whom these presents shall come. Greeting:

WHEREAS, a Certificate of the Register of the Land Office at Boise, Idaho,

has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862,

"To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of

Elmer C. Gottys

has been established and duly consummated, in conformity to law, for the east half of the southwest quarter of Section thirty-two in Township four north and the Lots three and four of Section five in Township three north all in Range four east of the Boise Meridian, Idaho, containing one hundred sixty-eight and thirty-seven-hundredths acres,

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described TO HAVE AND TO HOLD the said tract of Land, with the ~~thereof~~ thereof, unto the said claimant and to the heirs and ~~subject~~ subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, **Woodrow Wilson**

President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the THIRTEENTH

day of NOVEMBER In the year of our Lord one thousand

nine hundred and SEVENTEEN and of the Independence of the

United States the one hundred and FORTY-SECOND

By the President,

Woodrow Wilson
M. P. LeRoy Secretary.

John O'Connell
Acting Recorder of the General Land Office.

BUREAU OF LAND MANAGEMENT

Instrument # 76566

REVENUE STAMPS

WARRANTY DEED

For Value Received CYRUS M. GETTYS and JESSIE E. GETTYS, husband and wife,

the grantors, do hereby grant, bargain, sell and convey unto

EARLE H. AFTON and MABEL AFTON, husband and wife,
the grantees, the following described premises, in.....Boise...County Idaho, to wit:

SW 1/4 and W 1/2 of the SE 1/4 of Section 32 in Township 4 North, Range 4 East of the Boise Meridian; and

Lots 2, 3 and 4 and the SW 1/4 of the NE 1/4 and the S 1/2 of NW 1/4 and the SW 1/4 of Section 5, Township 3 North, Range 4 East of the Boise Meridian.

Together with all and singular the tenements, easements, rights, water rights, hereditaments and appurtenances thereunto belong, or in anywise appertaining, and the rents, issues and profits thereof.

And including that certain private cemetery located on said property, which shall be forever hereafter reserved, preserved, used and devoted to no other purpose except as a cemetery; both grantors and grantees reserving hereby the right of interment for themselves, their heirs, and members of their respective families, subject to the reasonable capacity of the said cemetery.

TO HAVE AND TO HOLD the said premises, with their unto the said Grantees, their heirs and And the said Grantors do, hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all incumbrances except taxes for the year 1966, and subject to easements and rights of way of record, if any.

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

Dated June 16 1966.

Cyrus M. Gettys
Jessie E. Gettys

WASHINGTON
STATE OF COUNTY OF SPOKANE
On this 1st day of August 1966,
before me, a notary public in and for said State, personally appeared
Cyrus M. Gettys and Jessie E. Gettys,
husband and wife,
known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.
Hermit P. Owens
Notary Public
Residing at Spokane, Washington
Comm. Expires August 29, 1967.

STATE OF IDAHO, COUNTY OF Boise
I hereby certify that this instrument was filed for record at the request of at 45 minutes past o'clock in this 30th day of June 1966, in my office, and duly recorded in Book of Deeds at page 103.
Richard J. [Signature]
Ex-Officio Recorder
By Deputy.
Fees \$ 1.00
Mail to:

INSTRUMENT No 76566

JUN 28 1966

RECEIVED

WARRANTY DEED

JUN 10 1983 For Value Received E. H. AFTON and MABEL AFTON, husband and wife,

BOISE COUNTY
Auditor / Recorder

the grantor s, do hereby grant, bargain, sell and convey unto LESTER HOOVER, a single man,

the grantee, the following described premises, to-wit:

SW $\frac{1}{4}$ and W $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 32 in Township 4 North, Range 4 East of the Boise Meridian; and Lots 2, 3 and 4, and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the S $\frac{1}{4}$ of NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of Section 5, Township 3 North, Range 4 East of the Boise Meridian.

COVENANT AND RESTRICTIONS, CEMETERY:

There is located upon said real property a certain private cemetery containing the remains of the ancestors and members of the Gettys' families. The said cemetery shall be perpetually preserved and maintained at its present location and in its present size and to be devoted to no other use except as a cemetery; and parties to this deed shall have the right of interment for themselves and for their heirs and members of their families, subject to the reasonable capacity of the cemetery; and that a covenant of perpetual preservation, maintenance and use for said cemetery is contained herein. ~~And any other covenants or restrictions of record.~~ Grantors shall have, and hereby reserve, the right to occupy the house and barn located on said premises, together with approximately two (2) acres of land around said house and barn which includes some alfalfa land, all without cost to the Grantors, so long as either or both of grantors shall live. Grantors further reserve the right to use necessary water for both domestic and irrigation purposes on the property occupied by them,

afton's had house until med 1984

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

and that they will warrant and defend the same from all lawful claims whatsoever.
Dated: January 31, 1972.

E. H. Afton
E. H. AFTON
Mabel Afton
Mable Afton

STATE OF IDAHO, COUNTY OF ADA
On this 31st day of January 19 72, before me, a notary public in and for said State, personally appeared E. H. AFTON and MABEL AFTON, husband and wife,

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

[Signature]
Notary Public
Residing at Boise, Idaho
Comm. Expires Aug 6 1972

STATE OF IDAHO, COUNTY OF Boise
I hereby certify that this instrument was filed for record at the request of *Mar Hoover*
at 30 minutes past 2 o'clock P.M.,
this 10 day of June 19 83, in my office, and duly recorded in Book 86 of Deeds at page 308

Alfred C. Talbot
Ex-Officio Recorder
By *[Signature]* Deputy.
Fees \$ 2.00
Mail to: *Mar Hoover*

INSTRUMENT NO. 109319

Capitol Title Company
BOISE, IDAHO

Title File No.: B93-20420

WARRANTY DEED

FOR VALUE RECEIVED

ERNA K. HOOVER, also known of record as ERNA HOOVER, a single person

GRANTOR(s), does(do) hereby GRANT, BARGAIN, SELL and CONVEY unto
single person

JOSEPH B. ALLEN, a

GRANTEE(S), whose current address is: ^{Box} 105 HC 33 Boise ID 83706
the following described real property in Boise County, State of Idaho,
more particularly described as follows, to wit:

See Attached Exhibit "A"

BOISE COUNTY IDAHO SS
REQUEST OF

Mt. View Title
DATE TIME H.

147822

93 JUN 30 PM 3:43

ARLENE C. KOLAR

BY Shirley George
DEPUTY
FEE \$6.00

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: June 29, 1993

Erna K. Hoover
Erna K. Hoover

STATE OF Idaho, County of Ada, ss.

On this 29th day of June
in the year of 1993, before me, the undersigned, a Notary
Public in and for said State, personally appeared
Erna K. Hoover

known or identified to me to be the person whose name
is Erna K. Hoover subscribed to the within instrument, and
acknowledged to me that she executed the same.

Signature

Tara M. Jagels

(type or print)

Residing at Meridian, Idaho

My commission expires: 06/10/98

JUN 28 1996



Boise Title & Escrow, Inc.

Exhibit "A"

A parcel of land located in the Northwest Quarter of Section 5, Township 3 North, Range 4 East, and the Southwest Quarter of Section 32, Township 4 North, Range 4 East, Boise Meridian, Boise County, Idaho; more particularly described as follows:

Beginning at a ½" iron pipe with a brass screw and washer marking the Northwest corner of said Section 5; thence North 89°48'00" East, 2619.42 feet along the North line of said Section 5 to a brass cap being the North Quarter corner of said Section 5; thence North 70°49'48" West, 1001.16 feet, to an iron pin being on the centerline of a county road, also being the real point of beginning; thence along said county road South 38°33'53" West, 51.98 feet to a point; thence South 4°55'18" East, 84.83 feet to a point; thence South 18°54'28" East, 54.46 feet to a point; thence South 6°07'36" East, 99.70 feet to a point; thence South 17°34'36" West, 66.44 feet to a point; thence South 31°36'58" West, 48.14 feet to a point; thence South 25°53'37" West, 43.94 feet to a point; thence South 0°51'56" West, 37.96 feet to a point; thence South 39°45'29" East, 38.25 feet to a point; thence South 75°26'34" East, 28.42 feet to a point on the centerline intersection of said county road and a private drive; thence along said centerline of said private drive South 10°24'40" West, 125.73 feet to a point; thence South 23°11'32" West, 75.67 feet to a point; thence South 27°00'31" West, 65.48 feet to a point; thence North 74°30'22" West, 40.18 feet to a point; thence North 51°23'36" West, 101.16 feet to a point; thence North 46°57'51" West, 40.19 feet to a point; thence North 65°41'01" West, 39.31 feet to a point at the end of said centerline of said private drive; thence leaving said centerline of private drive North 66°23'35" West, 80.09 feet to an iron pin; thence North 0°12'00" West, 594.96 feet to an iron pin; thence North 89°48'00" East, 350.62 feet to the Real Point of Beginning.

JUN 28 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 26, 1996

RE: In the matter of Application for Permit Nos. 63-12284[✓] in the name of Maurice Brown and 63-12290 in the name of Ron Randall

Dear Interested Party:

The accompanying order is a "**recommended order**" issued by the department pursuant to Section 67-5243, Idaho Code. The provisions of this order will not become effective until the Director issues a final order in this matter.

Each party to these proceedings who appeared at the hearing may file a petition for reconsideration, briefs and exceptions to the recommended order and may request oral argument before the Director of the department as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of the 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 this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of a recommended order and may file briefs in support of the party's position on any issue in the proceeding. Written briefs in support of or taking exceptions to the recommended order shall be filed with the Director. Opposing parties shall have ~~twenty-one~~ (21) days to respond.

ORAL ARGUMENT

JUN 28 1996

The Director may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Director. If oral arguments are to be heard, the Director will, within a reasonable time, 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 recommended order shall be served on all other parties to these 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 agency 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.

APPEAL OF FINAL ORDER TO DISTRICT COURT

A party aggrieved by a final order of the Director is entitled to judicial review in compliance with sections 67-5271 through 67-5279, Idaho Code.

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

JUN 28 1996

WR0749NP
No. P63-12284

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 02/22/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MAURICE BROWN HC 33 BOX 2002 BOISE ID 83706 (208) 345-4523	10/23/1995	DOMESTIC	01-01 12-31	0.010 CFS	
TOTAL DIVERSION:					0.010 CFS	

Water Source: SPRING

Tributary to: ROBIE CREEK

Stage: PERMIT

Point(s) of Diversion: T03N R04E S05 Lot 04(NENWNW)

BOISE County

Place of use Legal Description for: DOMESTIC

	NE				NW				SW				SE			
T R S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac
03N 04E 5	:		:		:		:		:		:		:		:	
	:		:		:		:		:		:		:		:	

Pou County: BOISE

Other Water Rights Listing Overlapping Place(s) of use:
63-05161

Conditions of Approval:

- 005 - Use of water under this right is subject to control by the watermaster of State Water District No. 63.
- 021 - Use of water for domestic purposes under this right shall be limited to in-house use and watering of household stock.
- 004 - The issuance of this right does not grant any right-of-way or easement across the land of another.

Remarks: Domestic use is for 1 home.

Dates: App. Received: 10/23/1995 Priority Date: 10/23/1995
Proof Due Date: 01/01/1997 Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: 63 Field Exam Fee:

Comments: Date: 11/06/1995 User-ID: SLESTER Subject: OVERLAP & PROCESSING
This use is not subject to Basin 63 processing delay provided that in-house use only is allowed. No yard irrig. use with water tributary to Lucky Peak is permitted regardless of Bs. 63 delay. Note that same spring filed upon in 63-12290 (Randall) & related to portion of right 63-05161 (per SRBA claims). Copy of new appl. sent to protestant Joseph Allen. See file information regarding multiple hook-ups from this spring. Both new appls. (63-12284 and 63-12290) protested by Mr. Allen.

**APPLICATION FOR PERMIT
STATE OFFICE REVIEW**
by Cindy Zimmerman

No.: 63-12284 Name: Brown Date: 2/22/96 Ad OK? ☒
Correct Fee? ☒ Receipt #: W620017 Priority: 10/23/95 ☒ Gvmt Lts: ☒

AREA OF CONCERN? - No/Yes ↑ Star Bridge on Boise R. Mor GWMA Trust/Non-trust
PROTESTED: - 020(Protest Agr) or W19(See Final/Prelim Order)

SYSTEM COMPLETED:

Yes/proof filed - NA
1 year/no proof - P16
+1 year - 26A-P17

~~GROUNDWATER~~ <✓ FLO-CH>

+ 0.2 cfs - 01M
=- 0.2 cfs - No MD
=/+ 5 a. - 01M, 065(if GW use SW 1st)

Drilling Permit:

Existing well - NA (pre 7/1/87)
Included w/permit - Permit No. _____, P99
No WD permit? - 046-46B-P23 (post 7/1/87)
irr. in WD - P05 (new well)

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

Water District(~~dem~~) - 005 (req) WD # 63 <SEE MAP & LISTING>
+ 0.2 cfs - 01J(meas dev)-P08
=- 0.2 cfs - 01H(lock dev)-P01 or No MD
In WD + 0.2 cfs - 01M or No MD (in-stream)
- 0.2 cfs - No MD
=/+ 5 a. irr. - 01M

RIVER BASINS (*Surface water):

Snake R (01) - 11A-P04, NA
(02/03-irr) - 007-P07 (w/remark WB9-↑ Weiser), NA
Boise R (63) - 05A (if WD), 11E (not 42-111 use), NA
Payette R (65) - 064(regulated uses), 047-P04(Payette Lake), NA

USE:

Domestic (surface) - 021(Boise R ↑ L Peak); 27A(Payette R); NA
Fish Propagation - 07A-042(rq)-010/06A/09E(WQ)-P10; 044(N 1000 Spr)
Irr <POU> =/- 5 a - 057 (0.03 cfs/A)
+ 5 a - 03A (0.02 cfs/A)
Mining - 054 (req) & 06A/010/09E-P10
Power - 08A-17K-025-027-01M-01F(P19)-09E(P10);
+25 cfs-P18; 17G(FERC) or 17M(FERC); 18B-P09
Storage(✓ 3 compo.) - 18A(multi MD in WD), 18B-P09 (+10' dam), NA

LOCATION:

Boise Front LoGeo - 058 (-85° GW temp only)
In-stream dev. - P52 (stream channel alteration)
Irr Dist/Canal Co. - 023 (Twin Falls area)
Swan Falls Flag - B <SEE CODE CHART>
Trust - 051-052-053-P74 (Consumptive Uses), NA
Non-Trust <1> - 048-049 (Consumptive Uses), NA

OWNERSHIP: Non-land owner

OTHER CONDITIONS:

STANDARD REMARKS:

004 (PD/PU) Carroll → Allen / easement
DWS/I

BENEFICIAL USE DUE:

COMMENTS:

- 4-1-1997

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS)	
FOR PERMIT NOS. 63-12284 IN THE)	NOTICE OF HEARING
NAME OF MAURICE BROWN AND 63-12290)	
IN THE NAME OF RON RANDALL.)	
_____)	

On October 23, 1995, Maurice Brown filed with the Department of Water Resources an application for permit to appropriate the public waters of the State of Idaho. On October 23, 1995, Ron Randall also filed with the Department an application for permit. The applications were protested by Joseph B. Allen. The conference held on January 17, 1996, did not resolve the matter of protest.

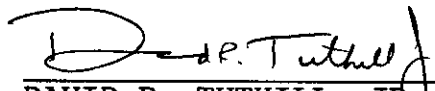
The Department has scheduled the matter for a hearing to be held on Wednesday, February 21, 1996, at 9:00 a.m. in the Second Floor Conference Room, Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the Department and Water Appropriation Rules 40 and 45. The presiding officer at the hearing will be Glen Saxton.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the Department within (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 9th day of February, 1996.



DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

JUN 28 1996

February I hereby certify that on the 9th day of
1996, I mailed a true and correct copy, postage
prepaid, of this document to the applicant(s) and protestant(s)
listed:


Sue Taylor
Secretary, Office Coordinator

Certified Mail

MAURICE BROWN
HC 33 BOX 2002
BOISE ID 83706

RON RANDALL
HC 33 BOX 2030
BOISE ID 83706

JOSEPH B ALLEN
HC 33 BOX 2032
BOISE ID 83706

JUN 28 1996

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize

JUN 28 1996

themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

JUN 28 1996

Conference for Brown (63-12284) & Randall (63-12290)
Notes by D. Tuttle

1/17/96

Purchase dates:

		<u>Use began</u>
Maurice Brown	1985 in-home	1979 (Hoover place)
Ron Randall	7/1993 in-home, 23hd stock	1976
Joseph Allen	6/1993	1800's (6cHys)

- Not enough water for irrigation use.

Afton → Hoover 1972

No resolution made.

Set for hearing. - 2/21/96 9:00am
Dr

JUN 28 1996

Conference for Brown 63-12284
+ Randal 63-12290

Western Regional Office IDWR 1/17/95 9:00 am

<u>Name</u>	<u>Representing</u>
MAURICE BROWN	
Ron Randall	
Joseph Bralton	
Debra Brown	

RECEIVED

JUN 28 1996

P 478 661 236

US Postal Service

Receipt for Certified Mail

MAURICE BROWN
HC 33 BOX 2002
BOISE ID 83706

PS Form 3800, April 1995

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 2.52
Postmark or Date	

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED adjacent to the number**.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

P 478 661 237

US Postal Service

Receipt for Certified Mail

RON RANDALL

HC 33 BOX 2030

BOISE ID 83706

PS Form 3800, April 1995

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 2.52
Postmark or Date	

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RETURN RECEIPT REQUESTED adjacent to the number.
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5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

P 478 661 238

US Postal Service

Receipt for Certified Mail

JOSEPH B ALLEN
HC 33 BOX 2032
BOISE ID 83706

PS Form 3800, April 1995

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 2.52
Postmark or Date	

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).

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4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in Item 1 of Form 3811.

6. Save this receipt and present it if you make an inquiry.

P 478 661 240

US Postal Service

Receipt for Certified Mail

MAURICE BROWN
HC 33 BOX 2002
BOISE ID 83706

PS Form 3800, April 1995

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 2 52
Postmark or Date	

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

P 478 661 241

US Postal Service

Receipt for Certified Mail

RON RANDALL

HC 33 BOX 2030

BOISE ID 83706

PS Form 3800, April 1995

Postage	\$
Certified Fee	\$
Special Delivery Fee	\$
Restricted Delivery Fee	\$
Return Receipt Showing to Whom & Date Delivered	\$
Return Receipt Showing to Whom, Date, & Addressee's Address	\$
TOTAL Postage & Fees	\$
Postmark or Date	

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery resindiced to the addressee, or by an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

Z 111 981 139



**Receipt for
Certified Mail**

No Insurance Coverage Provided

JOSEPH B ALLEN
HC 33 BOX 2032
BOISE ID 83706

PS Form 3800, March 1993

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$2.52
Postmark or Date	

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

105603-93-B-0218

Is your **RETURN ADDRESS** completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
 2. ☐ Restricted Delivery
- Consult postmaster for fee.

4a. Article Number

P 478 661 240

4b. Service Type

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☒ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

5. Signature (Addressee)

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991

*U.S. GPO: 1993-352-714

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business

RECEIVED

JAN 12 1996

WATER RESOURCES
WESTERN REGION



PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE \$3000

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES

2735 GREGORY WAY
BOISE, IDAHO 83705

11

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
 - ☐ Restricted Delivery
- Consult postmaster for fee.

4a. Article Number

2 111 981 139

4b. Service Type

- ☐ Registered ☐ Insured
- ☒ Certified ☐ COD
- ☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

1/8

8. Addressee's Address (Only if requested and fee is paid)

5. Signature (Addressee)

6. Signature (Agent)

PS Form 3811, December 1991 *U.S. GPO: 1993-352-714

DOMESTIC RETURN RECEIPT

JOSEPH B ALLEN
HC 33 BOX 2032
BOISE ID 83706

Joseph B. Allen

Joseph B. Allen

Thank you for using Return Receipt Service.

63-12284-50

UNITED STATES POSTAL SERVICE



Official Business

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



RECEIVED
JAN 9 1996
NATIONAL ARCHIVES
WASHINGTON

1.25
JAN 10 1996

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
 - ☐ Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:

RON RANDALL
HC 33 BOX 2030
BOISE ID 83706

4a. Article Number

478 661 241

4b. Service Type

- ☐ Registered ☐ Insured
- ☒ Certified ☐ COD
- ☐ Express Mail ☐ Return Receipt for Merchandise

Date of Delivery

11/8

5. Signature (Addressee)

Ron Randall

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991

*U.S. GPO: 1993-352-714

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business



PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300

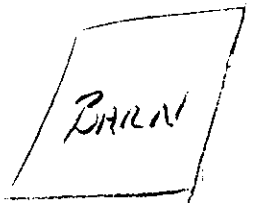
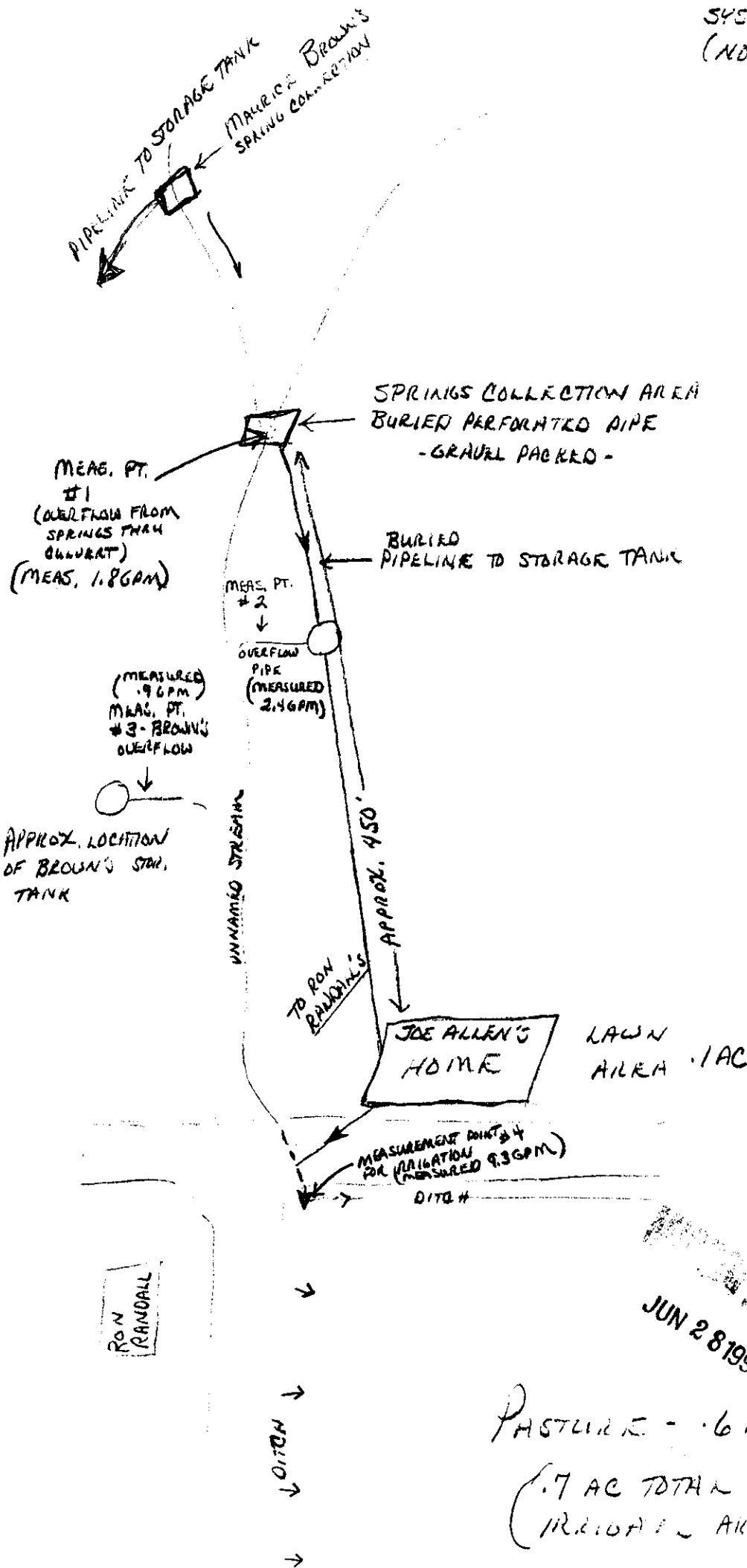
RECEIVED
JAN 9 1996
WESTERN REGION
WATER RESOURCES

JUN 28 1996

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE IDAHO 83705

SYSTEM DIAGRAM
(NOT TO SCALE)



ROBIN CREEK

JUN 28 1996

RECEIVED

NOV 27 1995

WATER RESOURCES
WESTERN REGION

November 22, 1995

Don
David R. Tuthill
and the Department of Water Resources

I'm putting you all on notice that without prejudice I claim
UCC1-207 and 1-103 of the Uniform Commercial Code! I claimed it
for the past and I am claiming it now! Please be on notice.

UCC 1-207 1-103

JOSEPH B ALLEN

HC 33 801 2032

BOISE 10440 83706

Joseph B. Allen

RECEIVED
JUN 28 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS	)	
	)	
FOR PERMIT NOS. 63-12284 IN THE	)	NOTICE OF CONFERENCE
	)	
NAME OF MAURICE BROWN AND 63-12290	)	
	)	
IN THE NAME OF RON RANDALL.	)	

On October 23, 1995, Maurice Brown filed with the Department of Water Resources an application for permit to appropriate the public waters of the State of Idaho. On October 23, 1995, Ron Randall also filed with the Department an application for permit. The applications were protested by Joseph B. Allen.

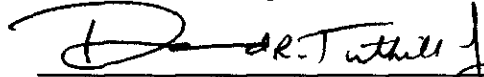
The Department has set the matter of protest for a conference to be held on Wednesday, January 17, 1996, at 9:00 a.m., at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

NOTICE OF CONFERENCE

JUN 28 1996

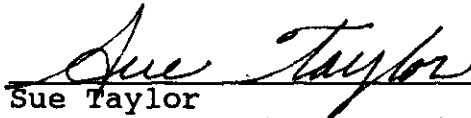
Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 4th day of January, 1996.



DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

I hereby certify that on the 5th day of January, 1996, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:



Sue Taylor
Secretary/Office Coordinator

Certified Mail

MAURICE BROWN
HC 33 BOX 2002
BOISE ID 83706

RON RANDALL
HC 33 BOX 2030
BOISE ID 83706

JOSEPH B ALLEN
HC 33 BOX 2032
BOISE ID 83706

NOTICE OF CONFERENCE

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. the applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize

themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may be written stipulation waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

JUN 28 1996

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 Nov 15, 1995 and ending with the issue of Nov 22, 1995.

Deanna Stevenson

State of Idaho >
>
County of Boise >

On this 7 day of Dec in the year 1995, 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.

V. Chadette
Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires 6-25-2000

RECEIVED

DEC 08 1995

JUN 28 1996

WATER RESOURCES
WESTERN REGION

NOTICE OF APPLICATION FOR WATER RIGHT

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

63-12284

BROWN, MAURICE
HC 33 BOX 2002
BOISE, ID 83706

Source: SPRING

Tributary: ROBIE CREEK

Diversion Pt: LOT 4 (NENWNW) Sec 5 T 03N R 04E in BOISE County.

Use: DOMESTIC	(	0.010 CFS)
Total Diversion:	(	0.010 CFS)

Date Filed: 10/23/1995

In: BOISE County
T03N R04E S05 Lot 3 (NENW)

63-12290

RANDALL, RON
HC 33 BOX 2030
BOISE, ID 83706

Source: SPRING

Tributary: ROBIE CREEK

Diversion Pt: LOT 4 (NENWNW) Sec 5 T 03N R 04E in BOISE County.

Use: DOMESTIC	(	0.020 CFS)
STOCKWATER	(	0.020 CFS)
Total Diversion:	(	0.040 CFS)

Date Filed: 10/23/1995

In: BOISE County
T03N R04E S05 Lot 3 (NENW)

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 DECEMBER 4, 1995. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Published in The Idaho World November 15 and 22, 1995.



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

November 16, 1995

PHILIP E. BATT
GOVERNOR

JOSEPH B ALLEN
HC 33 BOX 2032
BOISE ID 83706

KARL J. DREHER
DIRECTOR

Re: Application for Permit No. 63-12284 in the Name of Maurice Brown

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application. The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At such a conference, the following are the principle items the Department can consider in either approving or denying an application or permit (Section 42-1203, Idaho Code):

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

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

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT/st

JUN 20 1996



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

November 16, 1995

MAURICE BROWN
HC 33 BOX 2002
BOISE ID 83706

Re: Application for Permit No. 63-12284

Dear Applicant:

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to the above-referenced applications. The Department suggests that you contact the protestant(s) and attempt to resolve the protest(s).

If this office has not been advised within twenty (20) days that the protest(s) has been resolved, the matter will be scheduled for a conference. At such a conference, the following are the principle items the Department will review (per Section 42-203, Idaho Code):

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

Please contact this office if you have questions regarding this procedure.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

Enclosure: Copy of protest(s)

JUN 28 1996

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST**

**RECEIVED
NOV 03 1995
WATER RESOURCES
WESTERN REGION**

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

1. Matter being protested APPLICATION FOR PERMIT NO. 63-12284
IN THE NAME OF MAURICE BROWN
2. Name of protestant JOSEPH B. ALLEN
3. Protestant's representative for service (If different than protestant)

4. Service mailing address HC33 BOX 2032 BOISE ID 83704
5. Service telephone no. 336-0067
6. Basis of protest (including statement of facts and law upon which the protest is based) I
AM SOLE OWNER OF THE WATER RIGHT TO THE SPRINGS. I AM
ONE OF THE ASSIGNS & OWNER OF THE LAND GRANT & PATENT.
THERE IS NOT SUFFICIENT WATER TO SUPPLY THE 3
PARTIES, OR EVEN FOR MY DOMESTIC & IRRIGATION USE.
(additional pages may be attached to describe the nature of the protest)
7. What would resolve your protest? NOT TO GRANT THE WATER RIGHT
PERMIT DUE TO INSUFFICIENT WATER SUPPLY.

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

Signed this 3rd day of NOVEMBER, 19 95.

Joseph B. Allen
PROTESTANT

PROTESTANT'S REPRESENTATIVE

NOV 3 1995

NOTE:

a) Not more than two (2) representatives for service of documents may be designated on a protest. If this protest is signed by more than one person without identifying the representative(s) for service of documents, the hearing officer may select the person(s) upon whom documents will be served.

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

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____" in the name of _____ or "Application for Transfer No. _____" in the name of _____.

2. Show the name of the protestant.

3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.

4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.

5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.

6. Specifically describe the nature of the protest.

7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by _____

Date 11-3-95

Time 2:00 PM

\$25.00 fee Received by _____

W080072

Date 11-3-95

JUN 28 1996

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: SL DATE: 11/6/95 APPLICATION: 63-12284

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)
Fee:
Yes ☐ No ☐ In form to receipt:

Gov't. Lots:

4 P/D
1 P/U

ADDITIONAL INFORMATION

YES NO

 } N/A but see Appl. Comments
 } 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: -EXEMPT from processing delay
 } 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

DATE REQUESTED: _____

Additional information on reverse side:

Five

Procan together:

63-12284

63-12290

Both protested

by J. Allen prior
to advertising.

-JL

PROCESSING

APPLICATION NO. 63-12284

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

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. # _____

Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO

☐ ☐
☐ ☐

Affidavit of publication received:

Application published correctly: If not, record action taken.

Publication dates and paper recorded on application:

Protests received. Final date for protest 12-4-95

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

Protested 11/3/95 by J. Allen

See file into ID Appl. e dispute.

Process w/ 63-12290.

Allow internal O/I use only.



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

November 1, 1995

Joseph B. Allen
HC 33, Box 2032
Boise, ID 83706

Dear Mr. Allen:

Per request by Dave Tuthill, Western Regional Manager, enclosed are copies of the two new applications for permit filed by Ron Randall and Maurice Brown on their use of the spring water. These copies are being sent for your review due to the on-going water dispute over the use of this water. The applications are presently being reviewed and will be advertised in the Idaho World within the next month. During the application processing and up to 10 days after the last date of publication in the newspaper, a written protest and \$25 fee can be filed against the approval of these applications.

These filings are a result of my letter dated 10-20-95 which pointed out that if the homes were hooked up after May 20, 1971, then an application for permit may need to be filed. The priority date on these applications is the date they were filed. There is still a question concerning whether or not Ron Randall and Maurice Brown acquired a portion of the older historical water rights when the contract was signed allowing them the use of the spring water. Regardless of these filings, or any others, the spring water cannot be regulated at this time.

If you have any questions concerning these applications, please contact this office.

Sincerely,

JAN SHURTE
Water Rights Supervisor
Adjudications Section
Western Region

JS:j
Enclosures

cc: Ron Randall
Maurice Brown

JUN 28 1995

MEMORANDUM

October 26, 1995

TO: CLAIM FILE NOS. A63-05161A, A63-05161B, A63-05161C
& A63-15427

APPLICATION FOR PERMIT NOS. 63-12284 & 63-12290

FROM: JAN SHURTE

RE: GENERAL SUMMATION OF FILING PROBLEMS WITH ABOVE CLAIMS
EXPLANATION OF WATER RIGHT DISPUTE AND FILING OF
APPLICATIONS

On June 21, 1983, Mr. & Mrs. Hoover filed Statutory Claim No. 63-05161. This claim was filed for 60 acres of irrigation, domestic and stockwater purposes from two unnamed streams, tributary to Robie Creek. The description of diversion works stated open ditch and 2" pipe out of stream for domestic. The priority date claimed was May 1, 1955. The number of homes or head of stock was not shown on this claim.

In May, 1989, Erna Hoover refiled on the above statutory claim under Claim Nos. A63-05161 and A63-15223 (see claims in file). In the remarks for Claim No. A63-05161(now renumbered to A63-05161B) Mrs. Hoover stated, "The basis of this claim is the statutory claim 63-05161 which had given unnamed streams as the source, when in actuality the source is and was 2 springs which were developed before 1955." In the remarks for Claim No. A63-15223(now renumbered to A63-05161C) she stated, "The basis of this claim is the statutory claim 63-05161 which originally gave unnamed streams as the source, when in actuality the source is a spring. The old school house was the original place of use, and when the new home was moved in the use was transferred." There is a memo to the file from Anna Baumhoff which states that from discussions with both Mrs. Hoover and Maury Brown (A63-05161A & A63-15427) it appears the unnamed stream systems were abandoned and Mrs. Hoover did not file a claim in the adjudication because she felt these unnamed streams had not been used for more than 5 years. Two other claims have been filed by Maury Brown based on this statutory claim. Claim No. A63-05161A covers one home for .01 cfs (4.5 gpm) from a spring source and Claim No. A63-15427 covers 12 acres of irrigation from one of the unnamed stream sources (Sec. 5).

There are currently 3 homes attached to the spring source. Two of the homes were added after 1971 and the one home is on the site of the original homestead - original home burnt down years ago and this house replaced it. When Mrs. Hoover sold the land for the two newer homes (Maury Brown & Ron Randall) and the third home (Joe Allen), she put a clause in their contracts concerning the spring use. The clauses stated that the two newer homeowners could use the water from the spring. She also put a clause in the third homeowners (Joe Allen) where he signed off stating that he would honor the agreement for the spring use between Brown & Hoover and

JUN 28 1996

that he would allow the owners of the adjacent mobile home(Ron Randall) use of the spring water. It appears that Joe Allen's home has the oldest water right, however, it will remain to be decided if a portion of this older right was given up when he purchased the home and signed the contract granting the other two users the right to the use of the spring water. Due to this question, along with the after 1971 uses, both Maury Brown & Ron Randall have now filed new applications for permit for this spring water.

Per Joe Allen's request, I conducted an adjudication field exam on October 24, 1995, on his land in Sec. 5 as described in the original statutory claim. The diversions are all from springs located in the draw approximately 600' to the west of the unnamed stream described in the original statutory claim in Sec. 5. The unnamed stream in Sec. 32 was not field examined at this time. This portion has been claimed as a spring source by Sterling & Debbie Turner under Claim No. A63-15223(now A63-05161C) per an ownership change from Ms. Hoover. Mr. Allen requested the exam because he is having a water dispute with the 2 other users of the spring source, Maury Brown and Ron Randall. He claims that he does not have enough water to irrigate his lawn and pasture area.

At the time of the field exam, I measured 9 gpm (.02 cfs) available at the headgate for irrigation. The amount measured at the springs collection area was 5 gpm with the remaining 4 gpm picked up thru other springs subbing into the stream from the springs as it flows down to the irrigation headgate. The stream from these springs is not the same as the unnamed stream described in the original statutory claim. See file for more details. Irrigation of the pasture area is .6 acres and approximately .1 acre for the lawn area around the home. The lawn area is less than .1 acre, however, I rounded it up to the nearest tenth. This brings the total irrigated area to .7 acres. I used an 8" to the mile acre grid and counted the acres using 1/10th acre increments. The area irrigated was outlined using both the orthophotoquad and Napp photos based on the findings during my field exam. Photos were also taken and are in the file showing the pasture and lawn area. Mr. Allen stated the hillside behind his home had once been irrigated, however, he indicated it has not been irrigated since 1987 or 1988. It is not now being irrigated nor does it appear to have been irrigated recently. A photo of this hillside area is also in the file. Mr. Allen owns a total of 2.5 acres in Sec. 5. The other two owners do not have outside irrigation.

In summary, the claims filed appear to be for a different source than that claimed originally under 63-05161. Mr. Allen did have 9 gpm for .7 acres at the time of the field exam. The spring water cannot be regulated by the Department or anyone since the source has not been decreed. Mr. Allen will need to seek civil action in order to pursue administration of this water. In the meantime, copies of the applications are being sent to Mr. Allen and a conference may be set up to tell the details again.

JUN 28 1996

ADDENDUM # 1 (1, 2, 3, etc.)

THIS IS AN ADDENDUM TO A PURCHASE AND SALE AGREEMENT. READ THE ENTIRE DOCUMENT, INCLUDING ANY ATTACHMENTS, CAREFULLY, BEFORE SIGNING. IF YOU HAVE ANY QUESTIONS, CONSULT YOUR ATTORNEY BEFORE SIGNING.

This is an ADDENDUM to the Real Estate Purchase and Sale Agreement and Receipt for

Earnest Money Dated: June 13, 1993 ID # 151653

ADDRESS: Robie Creek HC 33 - see legal attachment

BUYER (S) Mr Joseph Allen

SELLER (S) Mrs Erna Hoover

The undersigned Parties hereby agree as follows:

1. Seller to carry back a Note of \$10,000 secured by a First Deed of Trust. Said note to be amortized over 5 years at 9% interest per annum. Title Co. to set up long term escrow.

2. Seller to agree to transfer existing water rights to buyer.

3. Buyer agrees to honor present spring water agreement between Erna Hoover and Maurice and Debra Brown.

4. Buyer agrees to allow the owners of adjacent mobile home property use of the spring water.

5. Buyer as owner of water rights must have right of way to maintain the springs.

6. Buyer agrees that the seller Erna Hoover will retain the mineral rights in the real property below 300 S. 1st St with no right of surface entry.

7. Buyer agrees to accept the home and the real property in an "as is" condition.

The herein agreement, upon its execution by both parties, is made an integral part of the aforementioned Agreement.

Joseph B. Allen BUYER

Erna Hoover SELLER

BUYER

SELLER

DATED: June 13, 1993

DATED: June 13, 1993

TIME: _____ ☐ A.M. ☐ P.M.

TIME: _____ ☐ A.M. ☐ P.M.

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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

October 20, 1995

Joseph B. Allen
HC 33, Box 2032
Boise, ID 83706

*COPY OF THIS LETTER WAS
SENT TO MAURICE BROWN - SEE
TOP OF LAST PAGE. AS A RESULT,
MAURICE BROWN FILED 63-12284.*

Dear Mr. Allen:

This letter is to respond to your requests for a field examination of your water system by explaining the Department's duties in this regard and provide information concerning the original filing and current filings on the water right you have claimed.

Originally, Mr. & Mrs. Hoover filed Statutory Claim No. 63-05161 on June 21, 1983. This claim was filed for two unnamed streams, tributary to Robie Creek, for the irrigation of 60 acres, domestic and stockwater use. A statutory claim is a filing based on what the claimants state they have been using the water for since the date of first use, which Mr. & Mrs. Hoover stated was May 1, 1955. This filing did not claim the use of any springs and listed the diversion works as open ditch for irrigation and 2" pipeline out of the stream for domestic use (the number of home(s) was not listed on this original claim). Enclosed is a copy of this claim and map for your review.

During the Snake River Basin Adjudication claims filing, all property owners were notified to file a Notice of Claim to a Water Right for any water being used. The only exemption was domestic use from a groundwater source that did not exceed 13,000 gallons per day. During that time the following claims were filed, based on Statutory Claim No. 63-05161 (the A prefixes designate a claim filed during the adjudication filing process):

Claim No. A63-05161

Claim filed 5-10-1989 by Erna K. Hoover claiming 5 acres of irrigation and domestic use for two homes dating back to May 12, 1955 located within Govt. Lot 3 (NENW), Sec. 5, Twp. 3N, Rge. 4E. This claim was filed based on the existing statutory claim, however, the source was changed to springs, tributary to Robie Creek, with a remark: "The statutory claim had given unnamed streams as the source, when in actuality the source is and was 2 springs which were developed before 1955." The location of the springs were listed as Govt. Lot 4 (NENWNW), Sec. 5, Twp. 3N, Rge. 4E. Documentation will be required to prove that the sources had always been the springs rather than the unnamed streams originally claimed, or if the sources have changed, evidence of the date of change will be needed.

7-8-93 - Change of ownership was received and processed from Erna K. Hoover to Joseph B. Allen.

JUN 28 1996

A63-05161 cont.

3-25-94 - This claim number was changed to A63-05161B after it was discovered another claim had been filed on this same right by Maurice Brown - A63-05161A (see below).

7-11-95 - Claim amended by claimant changing priority date to October 23, 1906, reducing domestic use to one home and changing amount of water to .04 cfs (18 gpm) total from .18 cfs. Evidence will also be required supporting this change of the priority date and continuous historical irrigation of the 5 acres claimed. Some evidence has been submitted by the claimant at this time.

Claim No. A63-15223 - Renumbered to A63-05161C (see below)

Claim filed 5-10-1989 by Erna K. Hoover claiming 2 acres of irrigation and domestic use for one home dating back to May 1, 1955 located north of the above claim in the NESW, Sec. 32, Twp. 4N, Rge. 4E. The remarks on this claim state: "The basis of this claim is statutory claim 63-05161 which originally gave unnamed streams as the source, when in actuality the source is a spring. The old school house was the original place of use, and when the new home was moved in, the use was transferred." This claim will also require evidence concerning the change in source(s) of the water as described above under Claim No. A63-05161B.

6-6-1994 - Change of ownership was received and processed from Erna K. Hoover to Sterling and Debbie Turner.

7-1995 - Amended claim submitted by claimants changing the basis of claim from beneficial use to statutory claim number 63-05161. Due to the other two claims being filed on this same existing water right, this claim was renumbered to A63-05161C. This claim was also amended from 2 acres of irrigation to 20 acres and from .04 cfs of water for irrigation purposes to .80 cfs. The place of use for irrigation was changed from the NESW, Sec. 32 to the NWSW, Sec. 32, Twp. 4N, Rge. 4E. Evidence will be required supporting the date of priority, source, date of change of the place of use and the continuous historical irrigation of the 20 acres.

Claim No. A63-05161A

Claim filed 5-19-1989 by Maurice Brown claiming domestic use for 1 home from a spring source, tributary to Robie Creek, dating back to September 1, 1918. This filing was based on the original claim 63-05161, however, the priority date (date of first use) of the water, as claimed, changed from the original filing, May 1, 1955, to September 1, 1918. Evidence to support the earlier priority date will be needed along with evidence to support the source question mentioned above. Some evidence has been submitted by the claimant at this time.

JUN 28 1996

NOTE - If evidence cannot be submitted supporting a date of priority prior to May 20, 1971, then it is likely that the claim(s) will not be recommended for court decree. Any development, from a surface water source, after May 20, 1971, was required to be filed upon at the time of development. If evidence cannot be located now, or in the future, supporting a date earlier than May 20, 1971, then an application for permit should be filed at this time. An application for permit has a priority date as of the date it is filed.

The Department's job is to verify the items claimed and make a recommendation for decree to the Snake River Basin Adjudication Court in Twin Falls. We are currently conducting exams in the Boise River drainage basin, however, we have four other basins that have field exams completed for which recommendations will be required prior to this area. We can do a field exam on your claim, as we discussed in my office, however, the information will be placed in the file and no recommendation made. Water cannot be regulated unless all the rights involved have been decreed in court. If you feel this is necessary at this time, you must contact an attorney to initiate a court action. In the meantime, this water cannot legally be regulated, either by the Department or yourself.

If you have any questions concerning the contents of this letter, please feel free to contact this office.

Sincerely,



JAN SHURTE
Water Rights Supervisor
Adjudication Section
Western Regional Office

Enclosures: Copies of Original Claim No. 63-05161
Adjudication Claim Nos. A63-05161A
A63-05161B
A63-05161C

cc: William Collins, Attorney at Law
Maurice Brown
Sterling & Debbie Turner
Ron Randall

JUN 28 1996

SD-0605-2		Township: 03N		Range: 04E		Section: 5		Tract: NWNW		Lot:	
S	L	R	STATE		O	S	Max # Records		5		
E	O	D	Water	Name	W	T	Priority	Total			
L	Tract	T	V	Right No.	Last, First	N	G	Date	Source	Diversion	
	NWNW	4		63-05161	HOOVER, LESTER	C	S	05/01/1955	UNNAMED STR	1.38	
	NENWNW			63-12290	RANDALL, RON	C	A	10/23/1995	SPRING	0.04	
	NENWNW	4		63-12284	BROWN, MAURICE	C	A	10/23/1995	SPRING	0.01	

WRQ5

SD-0605-2		Township: 03N		Range: 04E		Section: 5		Tract: NWNW		Lot:	
S	L	R	STATE		O	S	Max # Records		6		
E	O	D	Water	Name	W	T	Priority	Total			
L	Tract	T	V	Right No.	Last, First	N	G	Date	Source	Diversion	
	NENWNW	4		A63-05161B	HOOVER, ERNA K	O	S	10/23/1906	SPRINGS	0.04	
					ALLEN, JOSEPH	C					
	NENWNW	4		A63-05161A	HOOVER, ERNA K	O	J	09/01/1918	SPRING	0.01	
					BROWN, MAURICE	C					
	NENWNW	4		A63-05161	HOOVER, ERNA K	O		05/01/1955	SPRINGS	0.18	
					ALLEN, JOSEPH	O			SPLIT RIGHT		
					SPLIT RIGHT,	C					
	NENWNW	4		R63-05161	HOOVER, ERNA K	O		05/01/1955	SPRINGS	0.18	
					ALLEN, JOSEPH	O			SPLIT RIGHT		
					SPLIT RIGHT,	C					

AJQ5

(Enter=Continue)

(GOLD7=This Query)

(Menu)

JUN 28 1996

P/D

11/6/95

-SL

63-12284

BROWN, MAURICE
HC 33 BOX 2002
BOISE, ID 83706

Source: SPRING

Tributary: ROBIE CREEK

Diversion Pt: LOT 4 (NENWNW) Sec 5 T 03N R 04E in BOISE County.

Use: DOMESTIC	(	0.010 CFS)
Total Diversion:	(	0.010 CFS)

Date Filed: 10/23/1995

In: BOISE County
T03N R04E S05 Lot 3 (NENW)



JUN 28 1996