

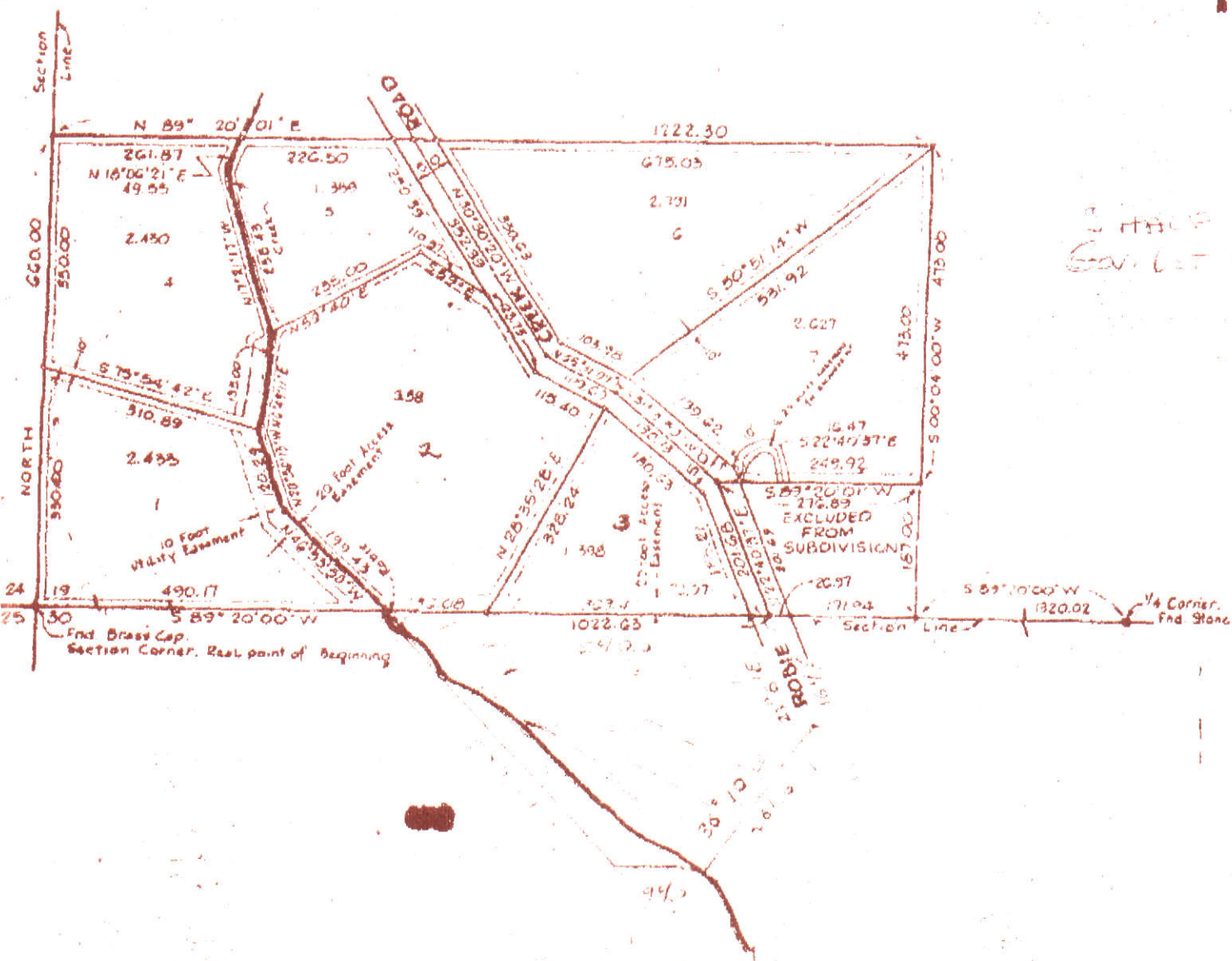
AMENDED PLAT

HENRICKSON SUBDIVISION

29
35

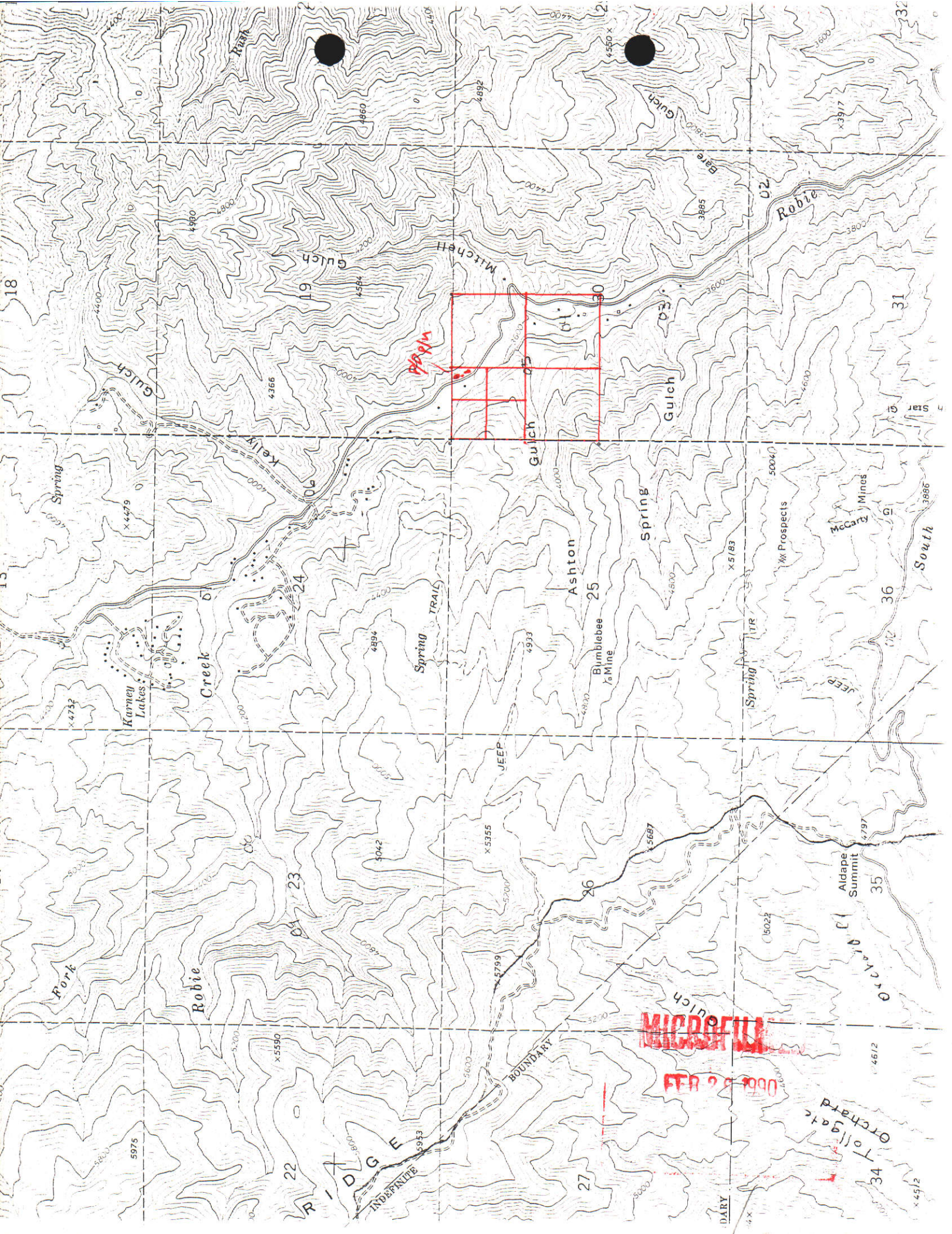
Safeco Title Insurance Company of Idaho
300 North Sixth Street
Boise, Idaho 83701

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



MICROFILMED
FEB 05 1999

966-7437



13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

POND 20'x80'
ADJACENT TO
ROBIE CREEK

NE, MW, NW SEC 30
4N, 4E, BOISE CO.

MICROFILMED

FEB 26 1990

Scale: 2 inches equal 1 mile.

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.

Jim Stephens
(Applicant)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
JAN 7 1993
Department of Water Resources

A. GENERAL INFORMATION

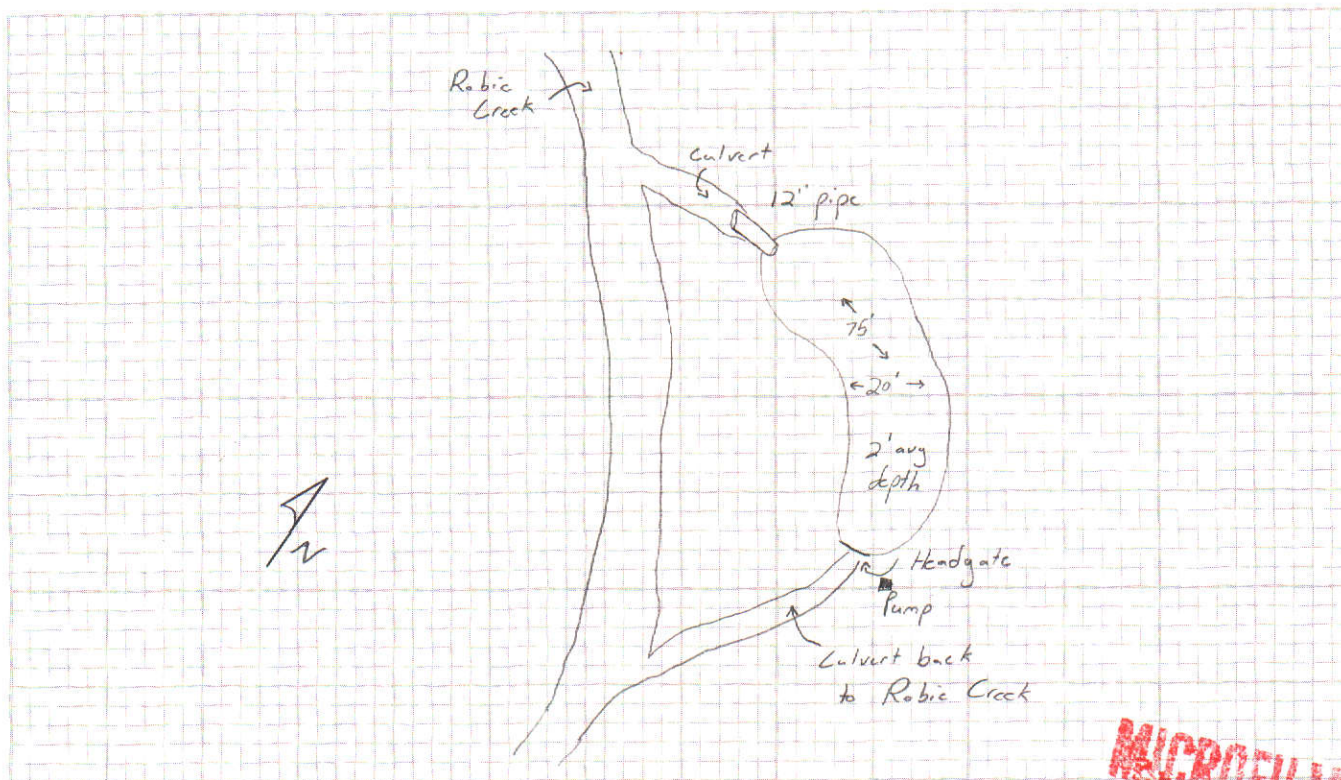
1. Owner: Jerry White No Assignment James R. Stephens Permit No. 63-10706
Current Address: H.C. 33 Box 2225 Boise, ID 83701 Phone No. 345-7154
2. Accompanied by: Same EXAM. DATE: 6-18-92
Address: _____ Phone No. _____
Relationship to Permit Holder: _____
3. Source: Robie Creek tributary to Mores Creek

B. OVERLAP REVIEW

1. Other water rights with same place of use: None ☐ Copies Attached
2. Other water rights with same point of diversion: None ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

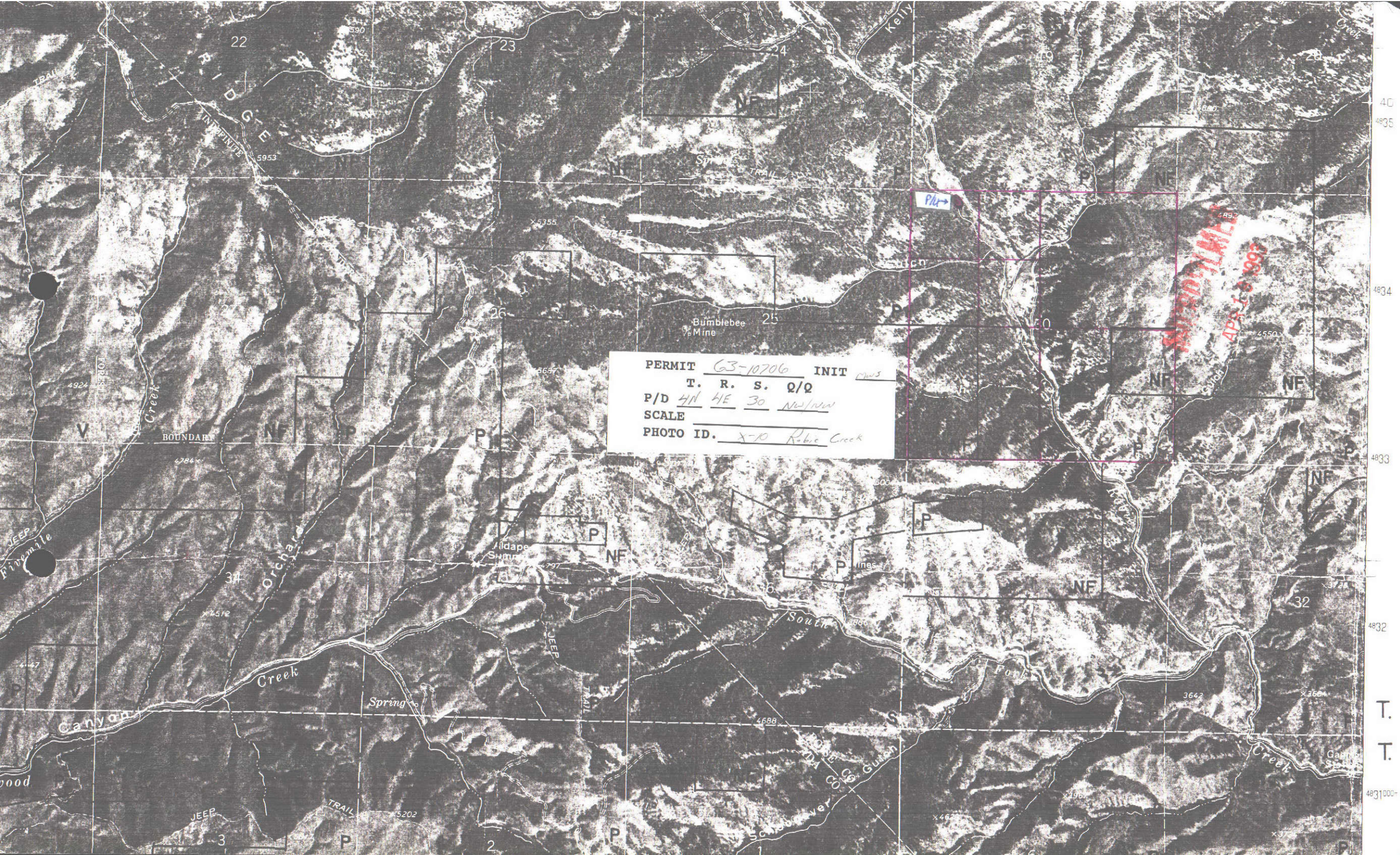
1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = _____.

2. ☒ Copy of U.S.G.S. Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required). ☐ Aerial Photo Attached (required for irrigation of 10 acres or more).
☒ Photo of Diversion and System Attached (required for all but single household domestic groundwater, and stockwater).

MICROFILMED
APR 19 1993



63-10706



P/O.

Culvert with
12" pipe on
the right.

Robic Creek
to the left.

Other pipes
used when flow
decreases.



The pond.

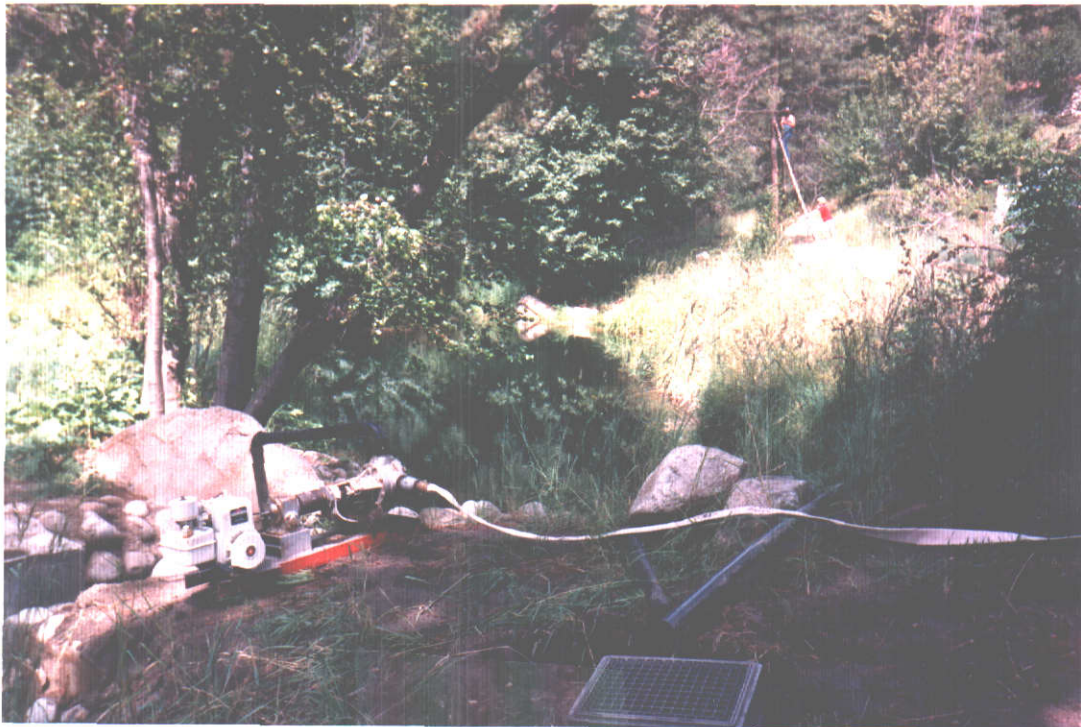
MISSOURI DNR

APR 19 1993



The headgate.
Edge of weir
is not
appropriate
for a measurement.

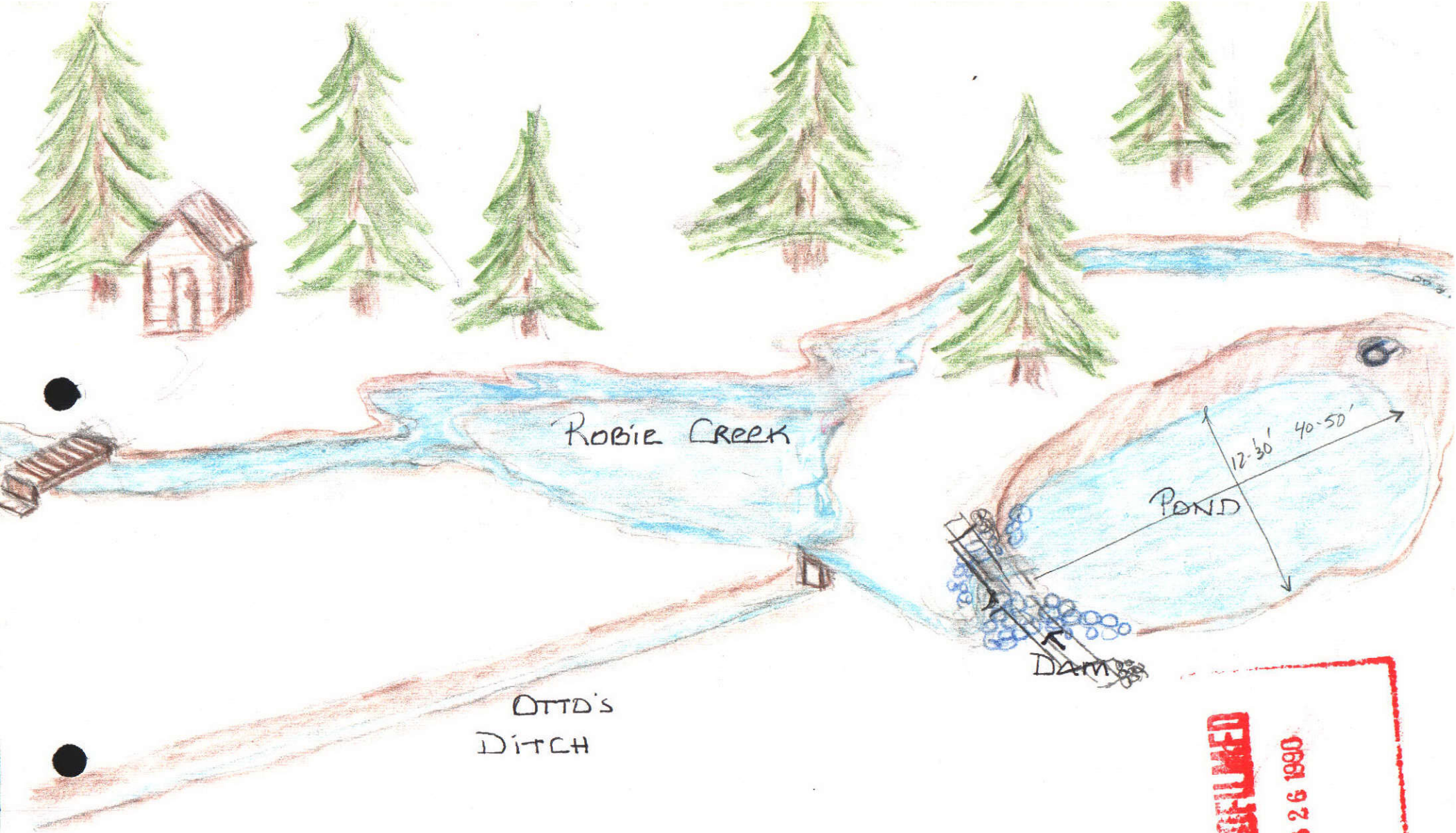
Overflow is
equivalent to
diversion to
Storage.



Pump on
edge of
pond.

CONFIRMED

APR 19 1993



Robie Creek

OTTO'S
DITCH

POND

DAM

RECEIVED

FEB 26 1990

← LODGE

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

RECEIVED

FEB 10 1998

WATER RESOURCES
WESTERN REGION

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).:

63-10706

Adjudication Claim No(s).:

N/A

2. The following REQUIRED information must be submitted with this form:

☒ A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.

AND

☒ B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)

OR

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former
Owner/ClaimantJAMES R. STEPHENSHC 33 Box 2222 BOISE 83706

4. New Owner/Claimant(s)

GERALD A. WHITEName Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

HC 33 Box 2222

City, State and ZIP Code

BOISE ID 83706

New Telephone Number

(208) 342-1845

5. Date you acquired the property

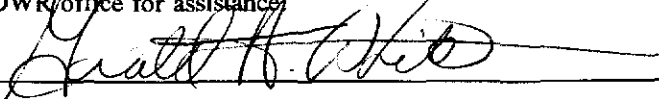
12/14/90

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres you irrigate _____ Number and type of stock _____

Diversion rate in CFS _____ Number of homes _____ Other uses _____

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner
or Claimant(s)

(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims..

MICROFILMED

FEB 05 1998

INSTRUCTIONS

This form has been prepared to assist new owners of property to comply with the requirements of Sections 42-248 and 42-1409(6), Idaho Code. Section 42-248 requires certain property holders to notify the Department of Water Resources (IDWR) of any change in mailing address or ownership of all or part of a water right record on file with IDWR. Section 42-1409(6) provides that new property owners must notify IDWR of any change in ownership of a water right during an adjudication of water rights. Required claims may be filed by a new owner.

Separate brochures are available from IDWR describing the adjudication of water rights and the requirement to notify IDWR of changes in ownership. Please contact your nearest IDWR office, or call 1-800-451-4129, if you would like more information or need help completing this form. Please attach additional sheets to the form if you require additional space to describe or explain any of the items on the form.

1. If there are water rights associated with the property, the seller should be able to provide you with the water right or adjudication claim number(s). Please enter these number(s) at **Item 1**. If you or the seller believes there are water rights for the property but the numbers are unknown, you may wish to contact IDWR for assistance in identifying the water rights for the property in question. If claims for the rights are required, and have not been filed, IDWR will so advise you.
2. The information described at **Item 2** is required, since IDWR cannot process the requested change without documentation of ownership. The preferred types of documentation are shown; contact IDWR if you have difficulty obtaining this information. Do not obtain a new survey for purposes of this form before contacting IDWR.
3. Please provide the name and address of the former owner of the water right and/or adjudication claim at **Item 3**.
4. The name, mailing address, and telephone number of the new owner(s) is entered at **Item 4**. Please indicate the relationship between multiple owners by using the connector 'and', 'or', or 'and/or'. If an 'and' is used, all parties must sign this form. If an 'and/or' or 'or' is used, all parties may sign. However, only one of the named parties is required to sign.
5. At **Item 5**, please provide the date the property in question was acquired. This may be the date of "closing" in the case of a real estate transaction or the date of court order for other types of ownership changes.
6. You may be purchasing only a portion of the total water right held by the seller. This means the water right held by the seller may be "split" to provide your share of the right in question. Be sure to include a description of the portion of the water right you have purchased at **Item 6**.

Please provide as much detail as possible concerning your water right: include the number of homes, irrigated acreage if more than 1/2 acre is irrigated, type and number of stock if your right is for stockwater, etc. In the absence of information to the contrary, IDWR will assume the intent is to split the rights *proportionately*.

7. The new owner(s) must sign the form in the space(s) provided at **Item 7**. Corporations and other organizations must submit a list of directors or officers demonstrating the authority of the director or officer to sign the form.
8. There is no filing fee. When complete, you should retain a copy and return the original of the form to the IDWR office nearest you:

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

IDWR Southern Region, 1341 Fillmore St. N., Twin Falls, ID 83301-3380 (208) 736-3033

IDWR Northern Region, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, ID 83814-2615 (208) 769-1450

IDWR Eastern Region, 900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 (208) 525-7161

MICROFILMED

FEB 03 1999

WARRANTY DEED
(Life Estate)

Grantors, JAMES R. STEPHENS and JOAN E. STEPHENS, husband and wife, of HC 33, Box 2225, Boise, Idaho, for good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto GERALD A. WHITE and CAROL WHITE, husband and wife, whose address is HC 33, Box 2225, Boise, Idaho 83706, the GRANTEES, for so long as the said Grantees, or the survivor thereof, shall live, all of the following described real estate located in the County of Boise, State of Idaho, and more particularly described as follows, to wit:

A tract of land in Section 30, T. 4N., R. 4E., B.M., Boise County, Idaho. Beginning at a point which is N. 89 degrees 20 minutes E. from the Northwest corner of Section 30, T. 4N., R. 4E., B.M. 487.5 feet along the section line between Sections 19 and 30; thence N. 89 degrees 20 minutes E., 540.0 feet, to the center line of the county road; thence S. 22 degrees 06 minutes E. along said road centerline 164.5 feet to a point; thence S. 36 degrees 10 minutes W., 261.6 feet to the bank of Robie Creek; thence S. 89 degrees 20 minutes W., 94.0 feet to a point; thence N. 43 degrees 57 minutes W., 500.7 feet to the point of beginning.

And a tract of land in Section 9, T. 4N., R. 4E., B.M. Boise County, Idaho, known as lots 2 and 3 of Henrickson Subdivision.

TOGETHER with all improvements, water, water rights, ditches ditch rights easements, hereditaments and appurtenances thereto.

SUBJECT to respectively (for the first mentioned parcel) a deed of trust to secure an indebtedness of \$44,000.00 and any other amounts therein provided, dated April 10, 1985, as instrument No. 116728, and (for the second mentioned parcel) a deed of trust to secure an indebtedness of \$26,000.00 and any other amounts therein provided, dated September 2, 1986 and recorded October 16, 1986, as instrument No. 122246, wherein JAMES R. STEPHENS and JOAN E. STEPHENS, husband and wife, are the grantors and Stewart Title of Idaho, Inc. is the trustee, and BRUCE LeFAVOUR and PATRICIA LeFAVOUR are the Beneficiaries, which grantees expressly assume and agree to pay, and all taxes, easements, covenants, restrictions and zoning regulations, if any, as may appear of record or by use upon the premises.

WARRANTY DEED - 1

MICROFILMED
FEB 9 1987

Grantors, for themselves, their heirs and assigns do hereby covenant, warranty and shall defend the quiet and peaceable possession of said premises by the grantees against the lawful claims of all persons.

Upon the death of the survivor of the said Grantees, GERALD A. WHITE and CAROL J. WHITE, the property shall revert to Grantors or their heirs.

IN WITNESS WHEREOF, Grantors have hereunto subscribed their names to this instrument this 14 day of Dec, 1990.

JAMES R. STEPHENS
JAMES R. STEPHENS

JOAN E. STEPHENS
JOAN E. STEPHENS

STATE OF IDAHO)
:SS.
County of Ada)

On this 14th day of December, 1990, before me, the undersigned, a Notary Public in and for said state, personally appeared JAMES R. STEPHENS and JOAN E. STEPHENS, husband and wife, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date and year first above written.

County Idaho ss
Request of

Gerald A. White

Time 11:38 MT

Date 12/17/90

138652

Arlene C. Kolar

By Dale T. Jones
Deputy

WARRANTY DEED - 2

Fee \$6.00

MICROFILMED
FEB 11 1991

AMENDED PLAT

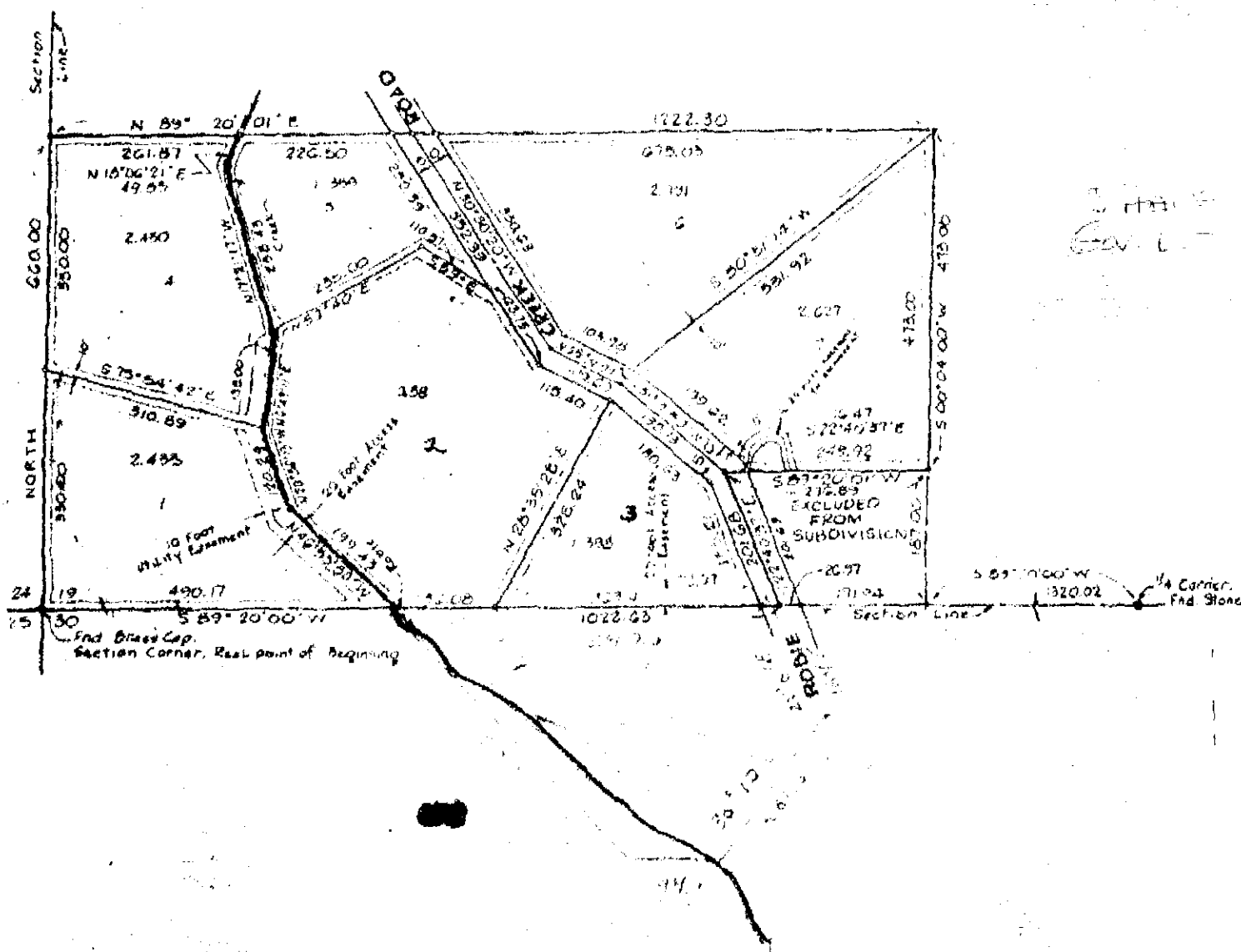
HENRICKSON

SUBDIVISION

29
35

Safeco Title Insurance Company of Idaho
300 North Sixth Street
Boise, Idaho 83701

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



MICROFILMED

FEB 05 1999

466-7137

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-10706

Priority: September 21, 1988

Maximum Diversion Rate:

0.04 CFS

Maximum Diversion Volume:

0.1 AF

This is to certify, that JAMES R STEPHENS

HC 33 BOX 2225

BOISE ID 83701

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 21, 1988; and has submitted Proof of Beneficial Use on February 20, 1992. An examination indicates that the works have a diversion capacity of .130 cfs of water from:

ROBIE CREEK

tributary to MORES 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>
FIRE PROTECTION STORAGE	01/01 to 12/31		0.1 AF
FIRE PROTECT. FROM STOR	01/01 to 12/31		0.1 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.04 CFS	
	Totals	0.04 CFS	0.1 AF

LOCATION OF POINT(S) OF DIVERSION: Lot 1(NWNW), Sec. 30, Township 04N, Range 04E
BOISE County

PLACE OF USE: FIRE PROTECTION STORAGE
TWN RGE SEC

PLACE OF USE: FIRE PROTECT. FROM STOR, same as FIRE PROTECTION STORAGE use

CONDITIONS/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 must 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.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-10706

CONDITIONS/REMARKS:

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 10th
day of FEBRUARY, 1995.

Acting for R. Keith Higginson, Director

APR 19 1995

STATE OF IDAHO

For Office Use Only
\$15 FEE Received by J.D.
Date 1/28/91
Receipt # 6019810

RECEIVED
MAR 28 1991

DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 63-10706

Name(s) of Permit Holder: JAMES R. STEPHENS

Post Office Address: HC 33 BOX 2225

BOISE ID 83706

Telephone No. 345 7154

Date Proof is Due: 3-1-91

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

DITCH WORK HAS BEEN BEGUN
SOME PIPES ARE IN PLACE

Costing \$ 100.00

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

WEATHER CHANGE

Permit holder(s) request an extension to 3-1, 19 92
(1 yr. minimum)

[Signature]
(Signature)
*IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

FEE: \$15.00

ACTION OF THE DEPARTMENT OF WATER RESOURCES

MAR 18 1991

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to March 1, 1992.

Signed this 28th day of February, 19 91.

[Signature]
Chief, Water Allocation Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 63-10706 IN THE NAME OF)
JAMES R. STEPHENS)

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

WHEREAS, R. Keith Higginson, Director of the Department of Water Resources having issued and served a copy on the parties on January 12, 1990, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Section 67-5211, Idaho Code; and,

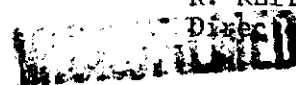
WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exception to that Proposed Memorandum Decision and Order has been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order and Application for Permit No. 63-10706 be APPROVED and proof of construction of works and application of water to beneficial use shall be submitted on or before March 1, 1991.

Dated this 19th day of FEBRUARY, 1990.


R. KEITH HIGGINSON
Director


FEB 26 1990

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 63-10706)

SOURCE: ROBIE CREEK
TRIBUTARY TO: BOISE RIVER

James R. Stephens)

Applicant,)

COUNTY: BOISE

Flont O. and Gisela Biloschaetske)

Protestants.)

PROPOSED MEMORANDUM DECISION AND ORDER
APPROVING APPLICATION FOR PERMIT

By Hearing Officer L. Glen Saxton

James R. Stephens having filed with the Department of Water Resources Application for Permit No. 63-10706; protests having been received; and a conference and hearing having been held; the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On September 21, 1988, James R. Stephens (hereinafter applicant) filed with the Department of Water Resources water right Application for Permit No. 63-10706, with source of Robie Creek tributary to the Boise River, for diversion to storage of 0.04 cubic feet per second (cfs), and fire protection storage of 0.24 acre-feet (af) per year.
2. Notice of the application was published in the Idaho World on October 5 and 12, 1988.
3. On October 20, 1988 the Department received a protest against approval of the application from Flont O. and Gisela Biloschaetske. Another protest was received the next day from Eugene and Lavonne Phillips.
4. The Department held a conference regarding the application on March 7, 1989. At the conference the participants agreed that an additional conference at the site of the proposed project, after the subsidence of high water runoff in the spring, would be beneficial. Accordingly another conference was held at the site of the proposed project on June 22, 1989. Subsequent to the second conference Eugene and Lavonne Phillips filed a protest.

REC'D 20 1990

5. The Department conducted a hearing regarding the application on October 20, 1989. At the hearing the applicant and protestants Biloschaetskes were present, and represented themselves.

6. The protestants raised objections to the proposed uses alleging that:

- (a) the uses would reduce the quantity of water under existing water rights;
- (b) the water supply is insufficient for the proposed uses; and,
- (c) the diversion would conflict with the local public interest.

7. The pond described in the application has already been created. The dimensions at the widest locations were stated by the applicant to be about 18 feet by 30 feet, in a kidney shape, with a maximum of depth of about four feet. The pond is located adjacent to Robie Creek.

8. There was no evidence presented to indicate that there is an impermeable liner between Robie Creek and the pond. Thus, due to their adjacent locations, the two are likely hydraulically connected.

9. The applicant presented unrefuted testimony that prior to construction of the pond, the area where the pond is now located was swampy and vegetated.

10. The protestants have a decreed water right from Robie Creek, for which one of the points of diversion is located near the outlet from the pond. An onsite inspection at the second conference revealed that the presence of the pond does not impede the ability of the protestants to divert water into their ditch.

11. Flow records in the Boise River drainage indicate that there is water available for appropriation in most years during the spring runoff period.

12. The concern expressed by the protestants relative to the local public interest is that if development of the pond reduces flows in Robie Creek, there will be a negative economic impact for the protestants.

13. The applicant provided unrefuted substantiation that there is a need for additional supplies of water for fire protection purposes in the Robie Creek area.

CONCLUSIONS OF LAW

Applicable Legal Principles

1. Article XV, Sec. 3 of the Constitution of the State of Idaho states in part as follows:

The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied, except the state may regulate and limit the use thereof for power purposes.

2. Idaho Code, Sec.42-203A(5) (Supp. 1989) states in part as follows:

FEB 26 1990

The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. 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 itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the department 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 directly affected by the proposed use; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

3. Consideration of the local public interest criterion of Idaho Code, Sec. 42-203A(5) (Supp. 1987) is defined by the Department Water Appropriation Rules and Regulations, Rule 5,1,5. to include:

... the effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both long and short term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains; the effect the project will have on recreation, fish and wildlife resources in the local public area affected by the proposed use; and compliance with applicable air, water and hazardous substance standards, and compliance with planning and zoning ordinances of local or state government jurisdictions.

Application of Legal Principles

4. Pursuant to Article XV, Sec. 3 of the Constitution of the State of Idaho, to the extent that there is water available for appropriation, this water shall be allowed to be diverted, even if such approval will result in a requirement for additional care in the delivery of water for the protection of senior downstream water rights.

5. All existing water rights downstream from the proposed water use are senior to this application. Diversion of water under this application should not be allowed to reduce flows available under the senior water rights.

6. During periods when downstream water rights are satisfied, diversion should be allowed for the purpose of filling the pond for fire protection.

7. With respect to local public interest, the proposed project has potential benefits and potential detriments. While use of water for fire

protection is considered to be beneficial, any reduction in summertime flows is considered to be detrimental.

8. To the extent that diversions under this water right are not consumed, diversion can occur even during periods of low flow in Robie Creek.

Analysis

The primary issue with respect to this application regards the extent to which development of the proposed pond will impact the flows of Robie Creek. There are two ways in which a pond that is hydraulically connected to a stream can adversely affect flows in the stream, either by increasing the amount of evaporation or by increasing the amount of seepage.

In this case the record indicates that the area where the pond is located was vegetated and swampy prior to the construction of the pond. Evapotranspiration water loss in a well watered vegetated area is almost equal to evaporation water loss from an open body of water. Therefore, the creation of the pond is not expected to significantly increase evaporation loss at this site.

Regarding seepage losses, the onsite inspection revealed that the pond was created in the alluvial bottomlands of the Robie Creek canyon. Due to the gradients in the canyon any seepage losses are anticipated to flow directly into the stream. In this case construction of the pond should result in no additional seepage losses from the stream.

In general, the addition of upstream storage is considered to even out the flows in a stream system, reducing peak flows and increasing base flows. This impact is normally beneficial to the downstream water users, particularly if filling of the storage occurs during periods of high flows. These benefits appear to apply in this case.

With respect to local public interest, the addition of a community resource for fire protection water is a positive economic benefit, as contrasted with essentially no negative economic impacts, as there is anticipated to be essentially no loss in available water supplies.

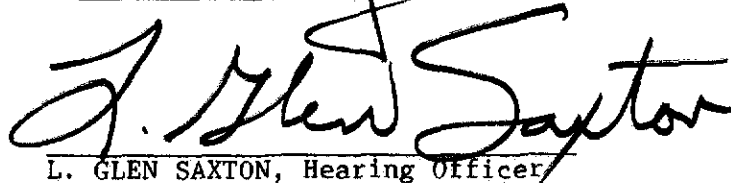
ORDER

IT IS, THEREFORE, ORDERED that Application for Permit No. 63-10706 is HEREBY APPROVED, subject to following conditions:

1. The time allowed for the completion of works and application of water to the proposed beneficial use is limited to one year following the date indicated on the final order.
2. Use of water under this water right is subject to control by the watermaster of State Water District No. 63, Boise River and tributaries.
3. This water right is subject to all prior water rights.

FEB 24 1991

Dated this 12th day of January, 1990.


L. GLEN SAXTON, Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this the 12th day of January, 1990, a true and correct copy of each of the foregoing ORDER ISSUING PROPOSED DECISION and PROPOSED MEMORANDUM DECISION AND ORDER was mailed, postage prepaid:

James R. Stephens
HC 33, Box 2225
Boise, ID 83706

Eugene and Gisela Biloschaetske
HC 33, Box 2195
Boise, ID 83706


RITA I. FLECK
Secretary/Records Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Approved

To appropriate the public waters of the State of Idaho

1. Name of applicant JAMES R. STEPHENS Phone 345-7154
Post office address H.C. 33 Box 2225 Boise ID. 83701
2. Source of water supply Robie Creek which is a tributary of Mores Creek
3. Location of point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot 1
Sec. 30 Township 4N Range 4E B.M. BOISE County; additional
points of diversion if any: _____

4. Water will be used for the following purposes:

* *per review 9/28/88, SL*
Amount .04 cfs for * Diversion to storage ~~Fire Protection~~ purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount .24 AF for Fire Prot. Stor. purposes from 1-1 to 12-31 (both dates inclusive)
(acre-feet per annum) *
Amount .24 AF ~~45~~ for Fire Prot. F.S. purposes from 1-1 to 12-31 (both dates inclusive)
(acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) *.04 .49 and/or (b) .24
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Culvert off creek into
Storage pond, overflow back to creek

b. Height of storage dam 3 feet; active reservoir capacity .24 acre-feet; total
reservoir capacity .24 acre-feet; period of year when water will be diverted to storage:
1/1 to 12/31 inclusive.

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

d. Is ground water with a temperature of greater than 90°F being sought? _____

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

MICROFILMED

FEB 26 1990

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. Fire protection -

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	4E	30					FP												

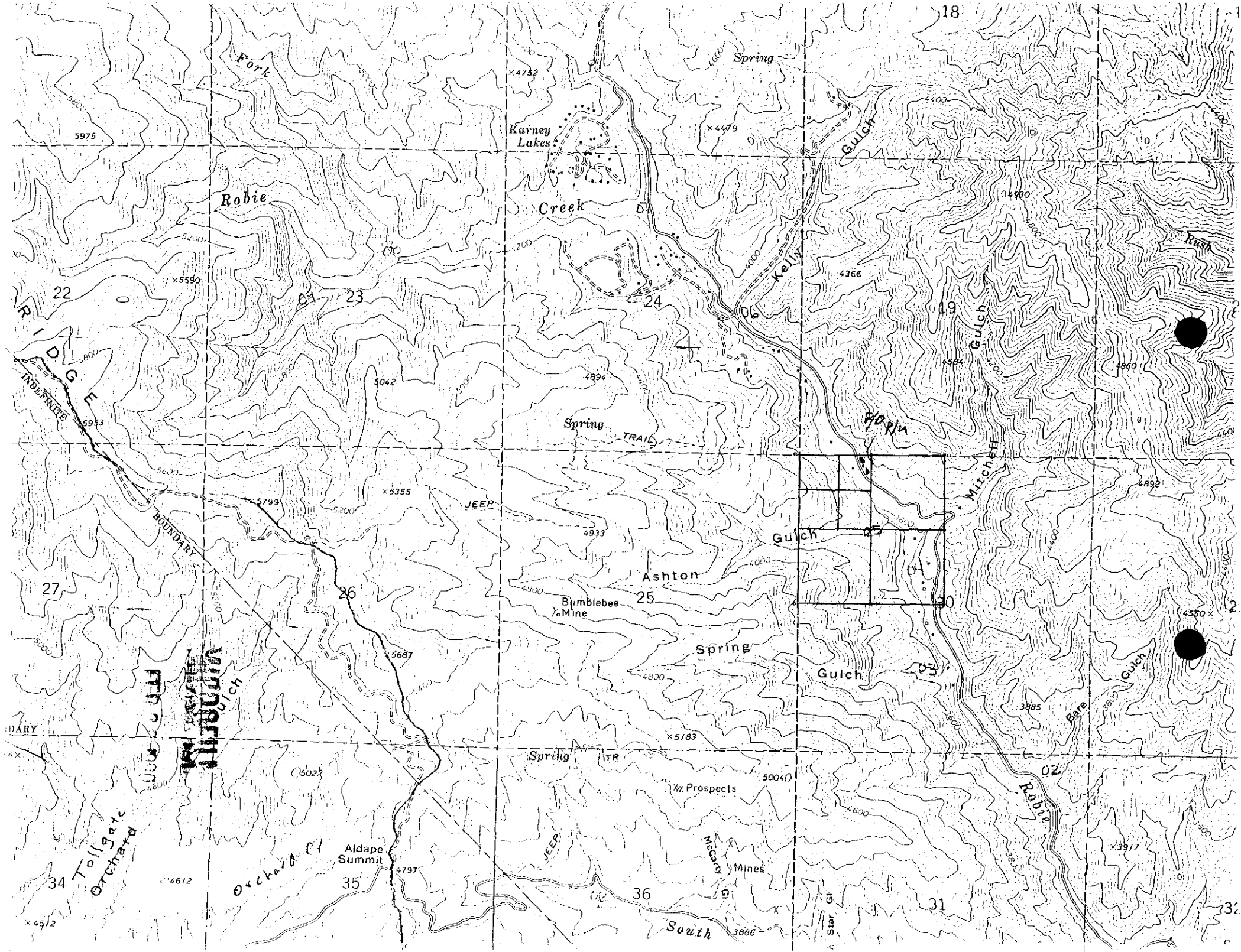
Total number of acres to be irrigated N/A

10. Describe any other water rights used for the same purposes as described above. None

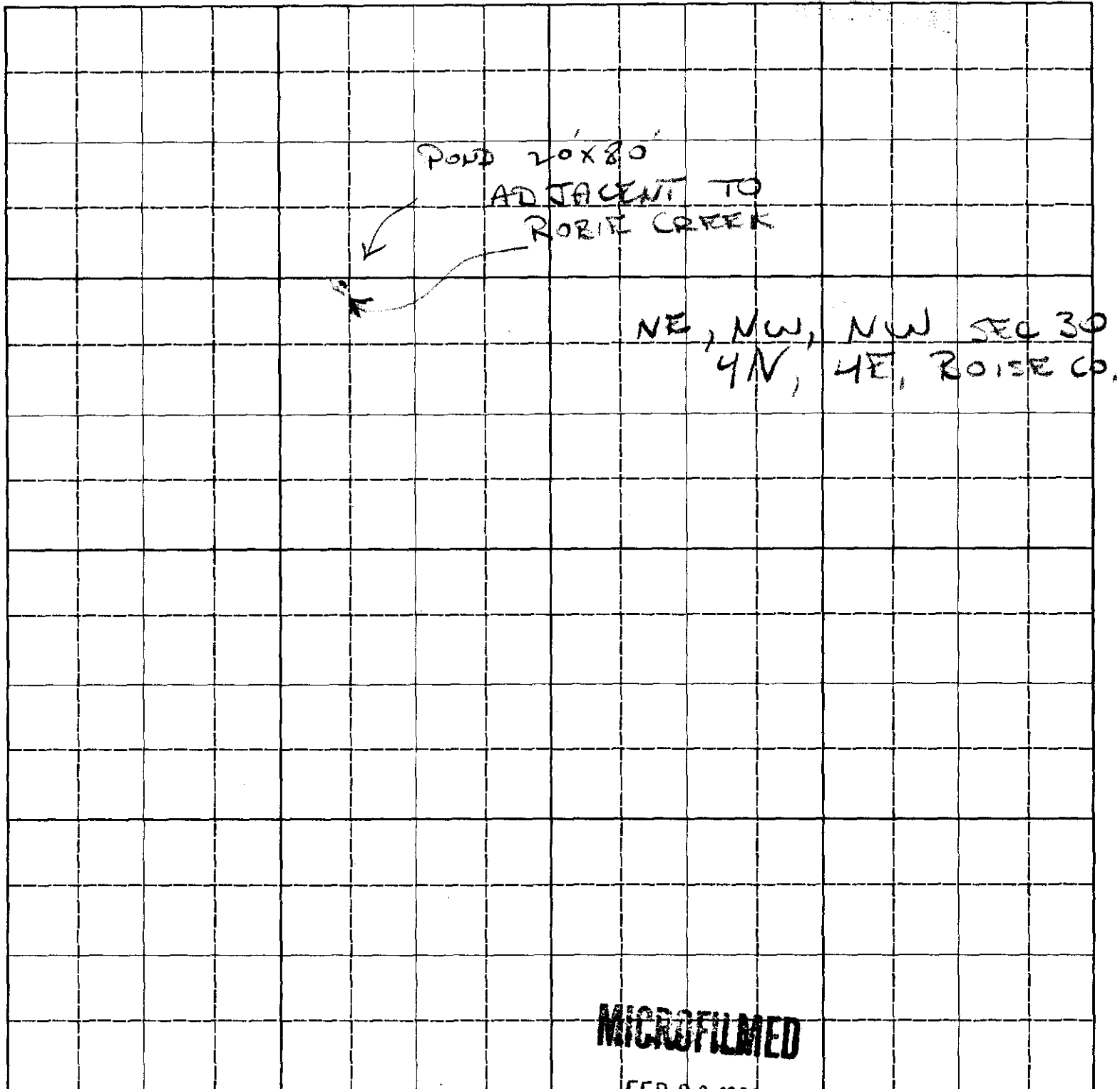
- Who owns the property at the point of diversion? Applicant
- Who owns the land to be irrigated or place of use? Applicant
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: _____

RECORDED
FEB 26 1990



13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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.

Jim Stephens
(Applicant)

Received by RBW Date 9-21-88 Time 2:30 Preliminary check by RBW
Fee \$ 30- Receipted by RBW # W000954 Date 9-21-88
Publication prepared by GG Date 9-28-88 Published in The Idaho World
Publication approved JS Date 9/21/88
10/5 & 10/12/88

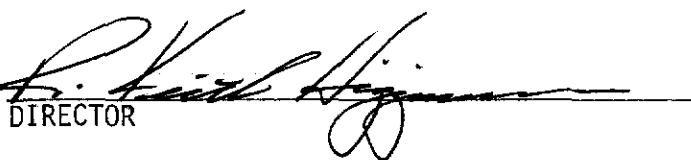
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 63-10706, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before March 1, 19 91.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other: PURSUANT TO PROPOSED MEMORANDUM DECISION AND ORDER AND ORDER ADOPTING PROPOSED MEMORANDUM DECISION AND ORDER.

Dated this 19TH day of February, 1990.


DIRECTOR

RECEIVED

FEB 28 1990

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this the 20th day of February, 1990, a true and correct copy of each of the foregoing ORDER ADOPTING PROPOSED DECISION and was mailed, postage prepaid:

James R. Stephens
HC 33, Box 2225
Boise, ID 83706

Eugene and Gisela Biloschaetske
HC 33, Box 2195
Boise, ID 83706



RITA I. FLECK
Secretary/Records Manager

MAILED

FEB 26 1990

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

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 63-10706 IN THE NAME OF)
JAMES R. STEPHENS)

ORDER ISSUING
PROPOSED MEMORANDUM
DECISION

R. Keith Higginson, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by this appointee, Bobby D. Fleenor, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 42-1701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and

3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

MICROFILMED

FEB 26 1990

III.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exception.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral argument in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Sec. 42-1701A. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.

CERTIFICATE OF SERVICE

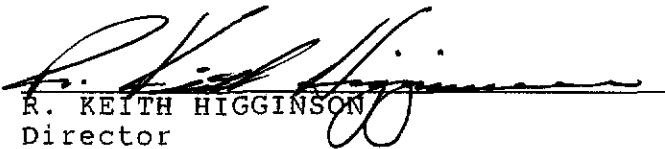
All exceptions, briefs, requests for oral argument and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.

FINAL DECISION

Following the submission of all exceptions, briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

Dated this 12th day of January, 19 90.


R. KEITH HIGGINSON
Director

MICROFILMED

FEB 26 1990

RECEIVED
OCT 24 1988

Department of Water Resources
Western Regional Office

Boise, Oct. 12 & 19, 1988.

NOTICE OF APPLICATION FOR
WATER RIGHT

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

63-10706

STEPHENS, JAMES R.
HC 33, BOX 2225
BOISE, ID 83701

Source: ROBIE CREEK; Tributary: MORRIS
CREEK; Diversion Pt: LOT 1 (NENWNW) Sec.
30 T 04N R 04E; Use: FIRE PROTECTION
STORAGE (.24 AF), FIRE PROTECT. FROM
STOR (.24 AF), DIVERSION TO STORAGE (.
.040 CFS); Date Filed: 9/21/88; In: T04N R04E
S30 NWNW.

63-10707

STEPHENS, JAMES R.
HC 33, BOX 2225
BOISE, ID 83706

Source: SPRING; Tributary: SINKS; Diversion
Pt: LOT 1 (NENWNW) Sec. 30 T 04N R 04E;
Use: DOMESTIC (.020 CFS); Date Filed: 9/21/
1988; In: T04N R04E S30 NWNW.

65-12873

HOLCOMB, DALE
POGUE, HERMAN
HC 76, BOX 3234
LOWMAN, ID 83637

Source: GROUNDWATER; Diversion Pt: LOT
5 (SENE) Sec. 31 T09N R08E; Use: COMMER-
CIAL (.040 CFS); Date Filed: 9/13/1988; In:
T09N R08E S31 Lot 5 (SENE).

65-12874

HOLCOMB, DALE
POGUE, HERMAN
HC 76, BOX 3234
LOWMAN, ID 83637

Source: GROUNDWATER; Diversion Pt:
NWSW Sec. 32 T09N R08E; Use: COMMER-
CIAL (.040 CFS); Date Filed: 9/13/1988; In:
T09N R08E S32 NWSW.

The permit(s) will be subject to all prior
water rights. Protests must be filed with the
Director, Dept. of Water Resources, Western
Region, 2735 Airport Way, Boise, Idaho 83705
on or before OCTOBER 24, 1988.

R. KEITH HIGGINSON, Director

Published in the IDAHO WORLD,
Idaho, October 5 & 12, 1988.

STATE OF IDAHO,

County of Boise

Peter Wierenga....., being
duly sworn, deposes and says:
that he is the manager and prin-
cipal clerk of THE IDAHO
WORLD, a weekly newspaper
published at Idaho City, in the
County of Boise and State of Ida-
ho; the said paper has been and
is in general circulation in the
county aforesaid, and in the vi-
cinity of Idaho City; that the
advertisement, a copy of which is
hereto attached, was published in
said newspaper once a week for
.....consecutive weeks in
the entire and regular issue of
every number of said paper dur-
ing the period and time of publi-
cation and was published in the
newspaper and not a supplement;
that said paper has been estab-
lished and regularly and continu-
ously published for more than
seventy-eight weeks past previ-
ous to the first publication of
this notice. Such notice was pub-
lished in the issue beginning with

.....10/15....., 19..88...and end-
ing with the issue of ..10/12..

19..88..
Peter A. Wierenga.....

Subscribed and sworn to before
me this 21st day of Oct. 19..88.

Jean Wierenga
Resides in ..Boise, Idaho

Commission Expires ..8/14/94..

FEB 26 1989

Department of Water Resources
Boise, Idaho



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

February 4, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

GERALD A WHITE
HC 33 BOX 2225
BOISE ID 83706

RE: Water Right 63-10706

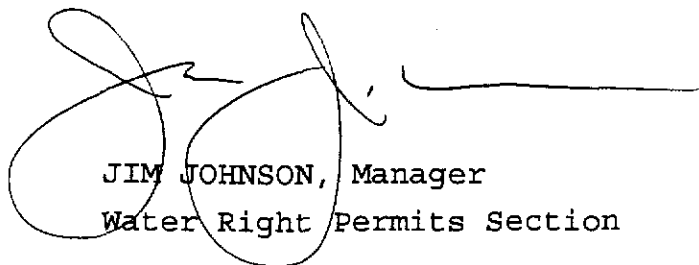
Dear Mr. White:

The Department is in receipt of the correspondence changing ownership of the above referenced water right to you. We have modified our records to reflect this change in ownership and a computer generated report is enclosed.

Just a reminder, because of a law that went into effect July 1, 1996, all water right owners are required to report change of address or ownership to the department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee to the water right owner. If you have other water rights that haven't had the ownership updated please contact the department as soon as possible.

If you have any questions regarding this matter, please feel free to contact me at (208) 327-7947.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt

Enclosure

MICROFILMED
FEB 05 1999



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

January 20, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MR GERALD A WHITE
HC33 BOX 2225
BOISE ID 83706

RECEIVED

FEB 12 1998

Department of Water Resources

RE: APPLICATION FOR PERMIT NO. 63-11952

Dear Mr. White:

The above referenced application will be advertised in the Boise County paper early next month. Application processing will continue but cannot be completed until additional information is provided as we discussed in your recent visit.

The application was protested by the Boise Project Board of Control when originally filed in 1992. This office will contact the protestant to see if that party wants to withdraw its protest based on your revision to delete the storage component. Also, this office will seek comments from the Boise River Watermaster and the Idaho Department of Fish and Game.

Please provide the following information within 30 days to help in the application processing steps.

1. Submit a management plan that justifies the desired rate of flow for power production (.50 cfs).

2. The plan should also demonstrate that the use of water for power will be totally non-consumptive. All flow diverted from the stream should be returned to the stream. A separate Stream Channel Alteration (SCA) Permit will be needed to cover the return flow portion of the project. I will discuss the water right filing the SCA staff in this office, and you can follow up by filing a SCA application (\$20 filing fee).

3. Does License No. 63-10706 include the same diversion from the creek? That right was examined in 1992 and it appears that you own the property served by that right (see enclosed information). If you do own that property, please record a change in ownership with the attached form (no fee needed) as required by I.C. § 42-248.

Thank you for your prompt attention to these items. Please let me know if you need any information regarding any of these items.

Sincerely,

Steve Lester
Water Rights Supervisor

MICROFILMED

FEB 15 1998

Office visit response
2/10/98. filed change
in own.

2 rights = separate diversions
from Robie Cr.



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 11, 1993

JAMES R STEPHENS
HC 33 BOX 2225
BOISE ID 83701

RE: WATER RIGHT NO. 63-10706

Dear Water Right Holder(s):

Enclosed herewith is a copy of the Water Right License issued on the above referenced permit.

Sincerely,

A handwritten signature in cursive script that reads 'Pamela Skaggs'.

PAMELA SKAGGS
Water Resource Agent

PS:cz

Enclosure

RECEIVED

APR 19 1993

LICENSE REVIEW CHECKLIST

Permit # 63-10706

Date 01-11-93
98

	<u>Yes</u>	<u>No</u>	
NAME	☒	☒	Address Change? Possible New Owner-No Assignment
PRIORITY DATE	☒	☒	Advance?
	☒	☒	Memo to Advance
	☒	☒	Order to Reinstate Needed?
TOTAL CFS	☒	☒	Incorrect Fee for rate recommended?
	☒	☒	Disagree with Actual Measurement?
	☒	☒	<u>.04 cfs (DEV to STOR)</u>
	☒	☒	Disagree with Theoretical?
	☒	☒	Limited by Capacity? <u>.13 cfs</u>
TOTAL VOLUME			Rate/ac <u> </u> AFA Irr. Season <u> </u> Standard Irr. Season Season Recommended
	☒	☒	Disagree with Examiner's Calculations?
	☒	☒	<u>.1 afa (EP STOR + From FPS)</u>
	☒	☒	Limited by Flow?
SOURCE	☒	☒	Changes? Clarification of <u>Originally</u> <u>Intended</u> source
	☒	☒	Notice of Intent to Void.
P/D	☒	☒	Verify with Map Amendment Needed?
	☒	☒	Is Overlap Analysis a Consideration?
P/U	☒	☒	Verify with Map Amendment Needed?
	☒	☒	Is Overlap Analysis a Consideration?
USES	☒	☒	Change(s) in Nature of Use?
	☒	☒	Amendment Needed?
REMARKS	☒	☒	Multiple P/Ds in 1/4 1/4?
	☒	☒	Non-Irr. Uses
	☒	☒	Special Overlap Condition
	☒	☒	Other
CONDITIONS	☒	☒	Measuring Device
	☒	☒	W/Master Control
	☒	☒	Overlap
	☒	☒	Water Quality
	☒	☒	DATES/MISC
	☒	☒	<u>63</u> Water Dist.
	☒	☒	App Rec'd
	☒	☒	Exam Made

COMMENTS: Reduced STORAGE VOLUME
W.D. Condition per Order Approving App.

LICENSE ☒ AMEND ☐ SPECIAL PARAGRAPH ☐

Stage: LICENSE

Audit: 01/11/93 SKAGGS

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
JAN 7 1993
Department of Water Resources

A. GENERAL INFORMATION

No Assignment

Permit No. 63-10706

1. Owner: Jerry White James R. Stephens

Phone No. 345-7154

Current Address: H.C. 33 Box 2225 Boise, ID 83701

2. Accompanied by: Same EXAM. DATE: 6-18-92

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: Robie Creek tributary to Mores Creek

B. OVERLAP REVIEW

1. Other water rights with same place of use: None

☐ Copies Attached

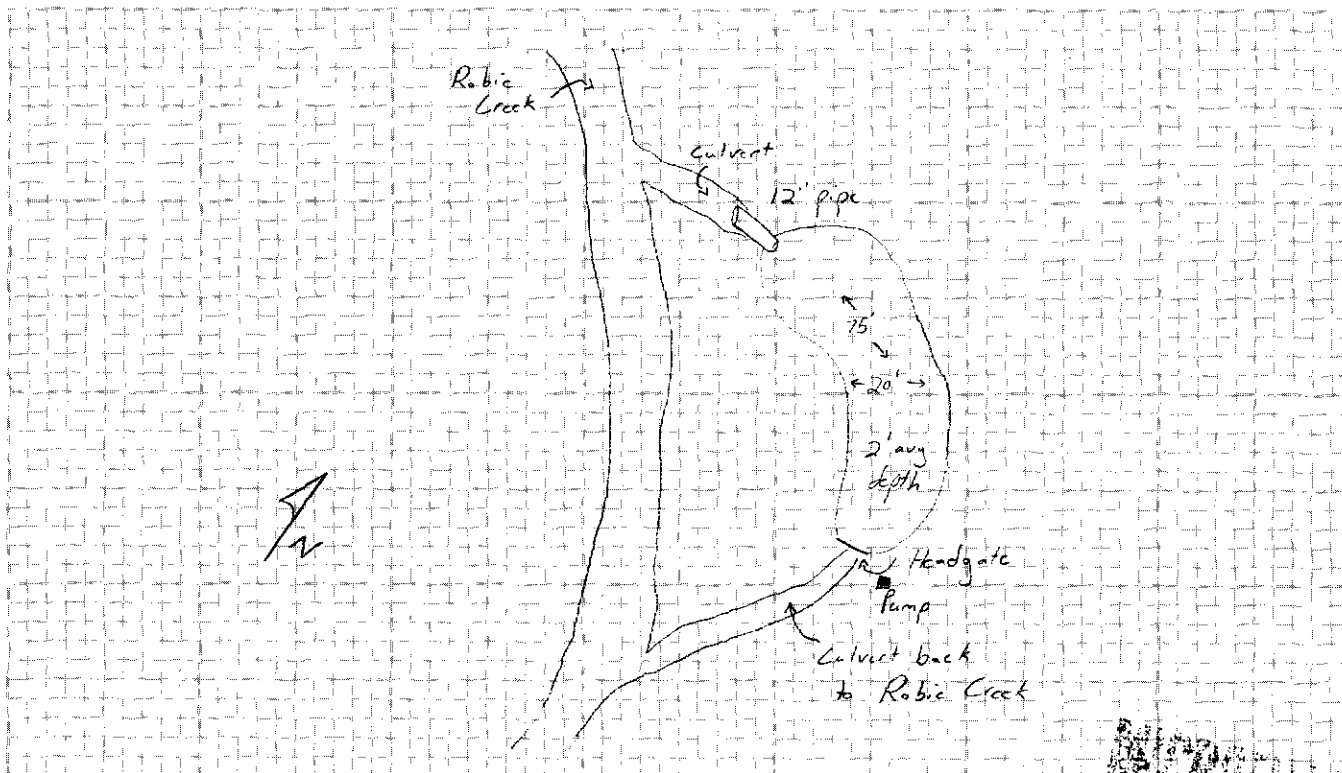
2. Other water rights with same point of diversion: None

☐ Copies Attached

☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = _____

2. ☒ Copy of U.S.G.S. Quadrangle Attached
Showing location(s) of point(s) of diversion and
place(s) of use (required).

☒ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater.

☐ Aerial Photo Attached
(required for irrigation of 10 acres or more).

APR 18 1993

System Description (continued)

3. Narrative: Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

A culvert approx. 10' long diverts water from Rabic Creek through a 12" corrugated pipe and into a storage pond. A headgate at the southern end of the pond forces a dam which allows water to overflow from the pond to flow into a culvert which returns to Rabic Creek approx. 100' downstream of the P.D. A pump is located near the gate valve. The pump is used to fill firetrucks. At the time of the exam, the pond was at capacity with flow in and overflow over the headgate.

☐ See Remarks on page 4 for continuation

4.

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

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

5. Point(s) of Diversion:

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
	1	NW	NW		30	4N	4E	Buise	USGS Photo Quad, Corner markers on property

6. Place(s) of Use:

Indicate Method of Determination USGS Photo Quad

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	4E	30					FP												

Do not use this space

MICROFILMED

APR 19 1993

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements:

5 gal. bucket on overflow 5 gal / 5 sec.

Volume = $75' \times 20' \times 2' / 43,560 = .07 \text{ AF}$

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

$$\frac{5 \text{ gal}}{5 \text{ s}} \times \frac{60 \text{ s}}{1 \text{ min}} \times \frac{1}{448.8} = .13 \text{ cfs capacity}$$

Permit = .04 cfs

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3)

: Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

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:

.13 cfs .07 AF, see above

Permit = .24 AF

APR 19 1993

H. REMARKS AND OVERLAP REVIEW ANALYSIS

No other rights affect this permit

Conditions - R04/WD63 per Order

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<i>Diversion to Storage</i>	<i>1-1</i>	<i>12-31</i>	<i>.04 cfs</i>	
<i>Fire Prot. Storage</i>	<i>1-1</i>	<i>12-31</i>		<i>.1 .07 afa</i>
<i>Fire Prot. From Storage</i>	<i>1-1</i>	<i>12-31</i>		<i>.1 .07 afa</i>
Totals:			<i>.04 cfs</i>	<i>.1 .07 afa</i>

2. Recommended Amendments

- ☐ Change P.D. as reflected above
☐ Change P.U. as reflected above

- ☐ Add P.D. as reflected above
☐ Add P.U. as reflected above

☒ None

☐ Other

J. AUTHENTICATION

Field Examiner's Name

as 01-11-93

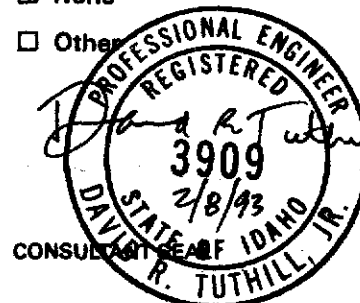
Signature

Certification Date

Field Report Preparation Date

Mark Series
[Signature]

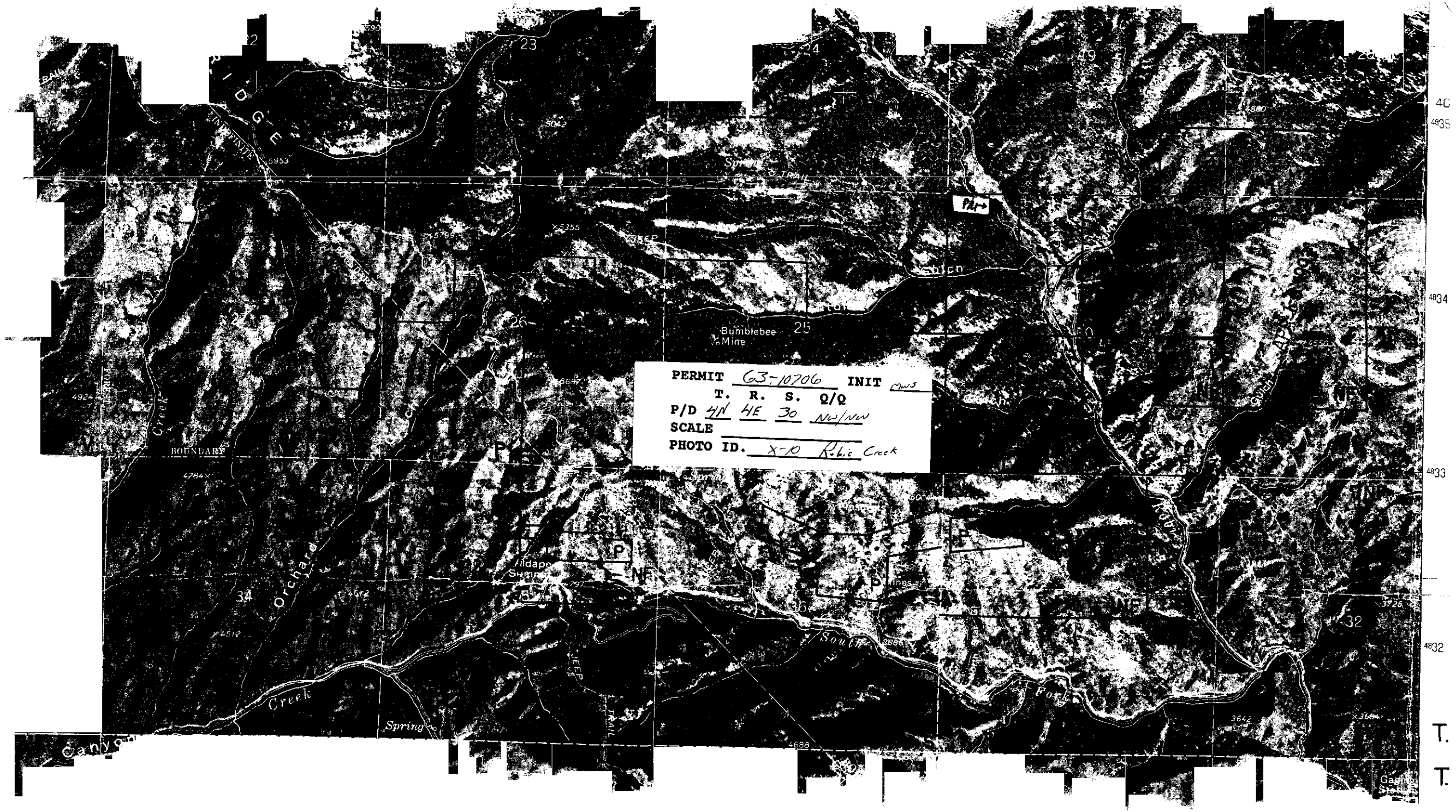
6-19-92



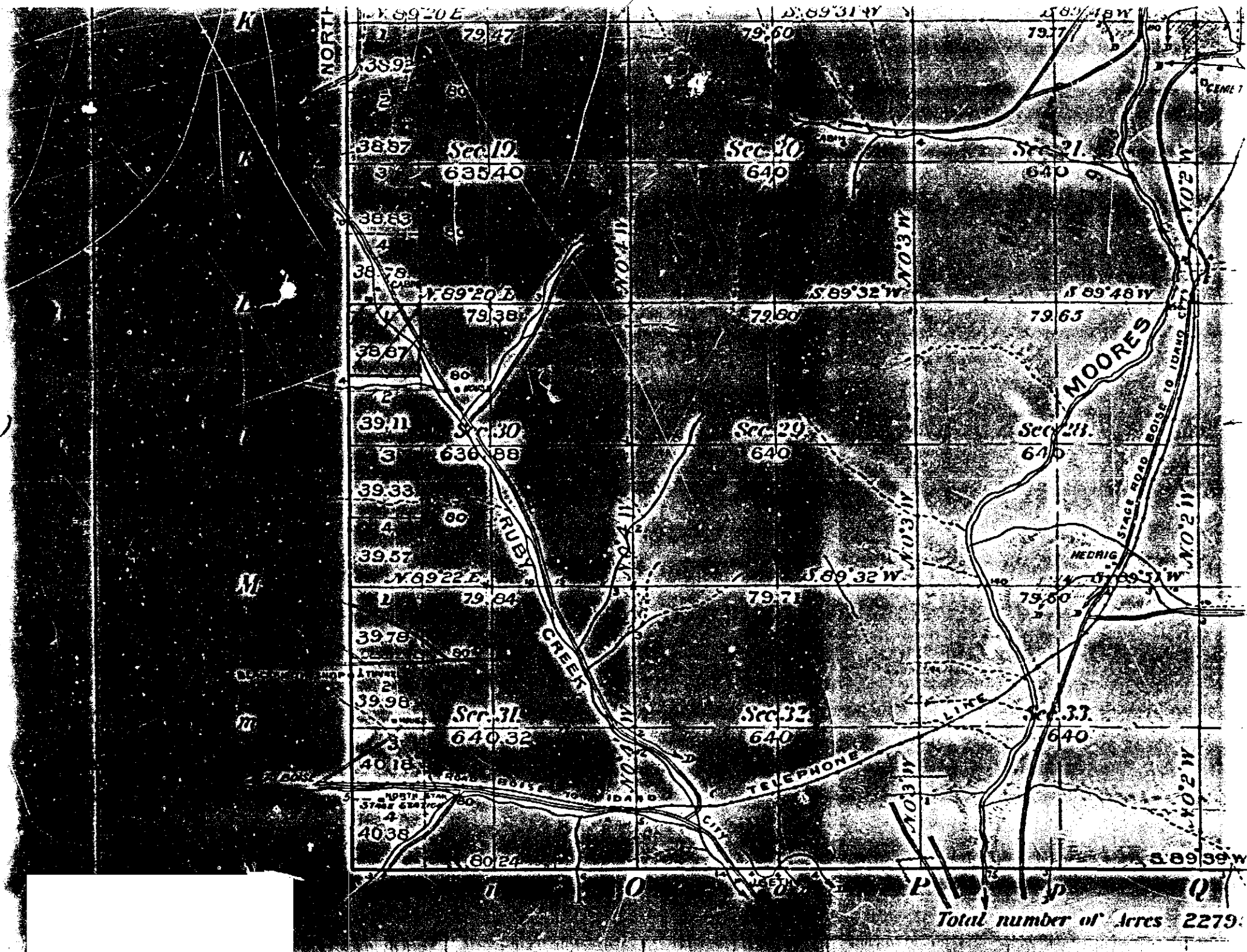
K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

MICROFILMED

APR 19 1993



PERMIT 63-10706 INIT rws
T. R. S. Q/Q
P/D 4N 4E 30 NW/NW
SCALE
PHOTO ID. x-0 R.L.C. Creek



Total number of Acres 2279.

63-10706



P/O.

Conduit with
12" pipe on
the right.

Robic Creek
to the left.

Other pipes
used when Flow
decreases.



The pond.

RECEIVED

APR 19 1993



The headgate.
Edge of weir
is not
appropriate
for a measurement.

Overflow is
equivalent to
diversion to
Storage.



Pump on
edge of
pond.

APR 19 1960

February 28, 1992

JAMES R. STEPHENS
HC 33 BOX 2225
BOISE ID 83701

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 63-10706

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.

If you have questions concerning this matter, please feel free to contact the WESTERN Regional Office in Boise at (208)334-2190.

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

c: IDWR - Region

MAR 06 1992

RECEIVED
JAN 21 1992

Department of Water Resources

RECEIVED
FEB 20 1992

STATE OF IDAHO

Department of Water Resources
DEPARTMENT OF WATER RESOURCES

For Office Use Only
Amt. of Fee \$ 50.00
Date 2-20-92
Receipt No. C023303
Received by [Signature]

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as 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 or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 63 10706 Telephone No. 343 1845
345 7154
2. Name(s) of Permit Holder(s): JAMES R. STEPHEN
3. Post Office Address: HC 33 Box 2225 BOISE ID 83706
4. Source of Water: ROBIE CREEK

a. If ground water, well driller's name: _____ Date drilled: _____

b. Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use:

Domestic _____ (No. of households) Irrigation _____ (No. of acres)

Stockwater _____ (No. and type of stock) Other POND FOR

RECREATION AND FIRE PROTECTION

6. Total rate and/or volume for which proof is submitted .04 cfs .24 acre/feet
ONE

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? Yes ☒ No Yes ☐ No

OR

Flow Measurement Port: Required? Yes ☒ No Yes ☐ No

8. Fee Enclosed: \$ NO FEE (See License Examination Fee Schedule)

9. Person to contact to accompany the Department representative during the field examination:

GERALD A. WHITE
Name

343 1845
Telephone No.

HC 33 Box 2225 BOISE ID 83706
Address

10. The above information 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.

1/16/92
Date

[Signature]
Signature (and title if on behalf of a company or organization)

MAR 06 1992

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 63-10706 Reviewed by Klg Date 1/21/92

GENERAL CONSIDERATIONS

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

TYPES OF USE

Recreation & fire
Correct Uses? yes

SOURCE OF WATER

✓ Surface water source
Ground water source
NA Drilling permit required?
/ Copy in the file? Drilling Permit No. _____
/ Amount paid for permit _____ Correct?
/ Well log in the file?

LICENSE EXAMINATION FEE

yes Required?
50.00 Amount Submitted
yes Correct?

MEASURING DEVICE

NA Required?
/ Installed?
/ Waiver requested?

PRIORITY CALCULATION

Date proof received NA
Date proof due _____ - _____
No. of days late _____ = _____
Priority Date _____ + _____
New Priority Date _____

DEFICIENCIES OR ACTION ITEMS

needs a \$50 fee New Rule applies

proof acceptable

DATA ENTRY

New Address _____

Proof Made 2/20/92
2/28/92 Klg



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 21, 1992

James R. Stephens
HC 33 Box 2225
Boise, ID 83706

Re: Permit No. 63-10706

Dear Permit Holder:

Returned is the proof of beneficial use you submitted in connection with the above referenced permit.

The Department has determined that the permit holder must meet two requirements in order to be exempt from the license exam fee. They are:

1. The water right must use a groundwater source.
2. The rate of diversion must be .04 cfs or less.

As you can see, you do not meet requirement #1 since you use Robie Creek for your source. Therefore, a license examination fee of \$50 applies to your permit.

Please return the proof of beneficial use and the \$50 license exam fee within 30 days of the date of this mailing.

If you have any questions or if I can be of any further assistance, please feel to contact me.

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

Enclosure

RECEIVED

MAR 06 1992

138374
December 31, 1991

JAMES R. STEPHENS
HC 33 BOX 2225
BOISE ID 83701

PROOF DUE NOTICE

RE: PERMIT NO. 63-10706

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 March 1, 1992. (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,

Karen L. Gustafson
Secretary/Records Manager

Enclosures

RECORDED
MAR 06 1992

March 1, 1991

JAMES R STEPHENS
HC 33 BOX 2225
BOISE ID 83706

Dear Mr. Stephens:

Re: Permit No. 63-10706

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to March 1, 1992.

Note that the department has granted this extension based on due diligence. It is important that you work diligently toward the completion of this project during the construction period allowed. The department may not be able to grant additional requests.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

RECEIVED

MAR 18 1991

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 63-10706Reviewed by [Signature]Date 2-28-91

BASIC INFORMATION

g Date stamp received
g Extension received timely (not too early not too late)
g Fee received and receipted
g Name and signature same as permit
N Address change

BASIS FOR EXTENSION REQUEST

g Has adequate work been completed to demonstrate due diligence?
g Has the cost incurred been adequate to demonstrate an intent to complete the project?
 _____ Has the permit been involved in litigation?
 a. Swan Falls _____ Dismissed from Swan Falls _____
 Other _____ Identify _____
 b. Is supporting documentation needed to complete the file? _____
 Requested _____
 c. Calculate the period of delay

Date litigation completed _____

Date litigation began _____

Total period of delay = _____

Present proof due date + _____

NEW PROOF DUE DATE = _____

_____ Is delay by a government agency?
 _____ Is supporting documentation needed to complete the file?
 Requested? _____

ACTION TAKEN

Recommend approval based on due diligence for one year.

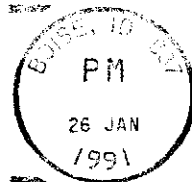
nfr Reinstate Date extension received _____ = _____
 Proof due date _____ = -
 No. of days late _____ = _____
 Priority date _____ = +
 ADJUSTED PRIORITY DATE _____ = _____

DATE ENTRY

LB Change proof due date _____ Address change
 Priority date change _____

STRONGHOLD OUTREACH CENTER

PO BOX 2225
BOISE, IDAHO 83706



DEPT. OF WATER RESOURCES
1301 N. ORCHARD ST.

STATE HOUSE MAIL

BOISE IDAHO

83720-9000

138924

December 31, 1990

JAMES R. STEPHENS
HC 33 BOX 2225
BOISE, ID 83701

PROOF DUE NOTICE

RE: PERMIT NO. 63-10706

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 March 1, 1991. (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,

Rita Fleck
Secretary/Records Manager

Enclosures

RECORDED

MAR 18 1991

February 20, 1990

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

Dear Mr. Stephens:

Re: Application for Permit No. 63-10706

Enclosed is a copy of the approved Application for Permit No. 63-10706 along with a copy of the Proposed Memorandum Decision and Order and Order Adopting Proposed Memorandum Decision and Order. Please note the conditions of approval as set forth in the first order.

Any person who does not agree with the decision of the department may request a rehearing before the Director within 20 days, or may appeal directly to the district court within 30 days of the date the decision is mailed.

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

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosures

c: Eugene and Gisela Biloschaetske

MICROFILMED

FEB 26 1990

Hearing on Jim Stephens

63-10706

10/20/1989 10:00 am

Hearing Officer: Glen Saxton

Notes by: D. Tutill

Protestants: Flont O. & Gisele Biloschaetske

Applicant: Jim Stephens

Issues:

1. Insufficient water
2. Injure other water rights
3. Public interest
4. ~~Delay or Speculation~~

Initially stated -
later deleted as a concern
by protestants.

Stephens

Primary purpose of pond is to provide fire protection water.
Cecil Darnell, fire chief, encouraged construction of this pond.

No other purpose is intended.

300-400' of fire protection hose has been purchased.

2 hydraulic pumps have been purchased.

Jerry White

Feels that the pond that was constructed is only for consumptives.

MICROFILMED

FEB 26 1990

Carol White

When the creek is down, the pond is filled by springs.

Otto Biloschaetske

3 years ago the earthen dam constructed by Stephens washed out part of his land.

Otto (cont.)

Concerned about the precedent of allowing a fire protection pond - other ponds could be created in the future

Stephens:

Inlet to pond is at a higher level than the bed of Robie Creek. At this point, during low water, all water in the creek is allowed to flow down the creek.

White

Location of pond - in high water channel (at one time the creek bed)

Stephens

Dimensions of pond 18' x 30' kidney shaped
Installed riprap for protection Depth - dry time 2 1/2'
full - 4'

where pond was constructed, area was moist & regetated & appeared to be a spring area. (swampy area)

Hearing officer:

Official Notice of
Flow records

Hearing Closed.

MICROFILMED

FEB 26 1990

Hearing conducted by: David R. Tuthill / GLEN SAXTON

P-581 149 700

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

U.S.G.P.O. 153-506

PS Form 3800, June 1985

Sent to Biloschaetske	
Street and No.	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	MICROFILMED
Special Delivery Fee	FEB 26 1990
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and 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 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.

P-581 149 701

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

(See Reverse)

U.S.G.P.O. 153-506

PS Form 3800, June 1985

Sent to

Stephens

Street and No.

P.O., State and ZIP Code

Postage

\$

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

FEB 26 1990

Return Receipt showing
to whom and Date Delivered

Return Receipt showing to whom
Date, and Address of Delivery

~~TOTAL Postage and 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 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.

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

4. Article Number P 581 149
63-10706 701

Type of Service:

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

Alleged to be lost, damaged, or stolen. **RECEIVED**
or **NOT DELIVERED.**
FEB 20 1990

5. Signature — Address

X *Joan Stephens*

6. Signature — Agent

X

7. Date of Delivery

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

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN
TO



RECEIVED

OCT 01 1989

Department of Water Resources
Western Regional Office

MICROFILMED

FOR THE RIDE
OF A
LIFETIME—
COLLECT
STAMPS



QUALITY FOR PRIVATE
USE, \$300

Print Sender's name, address, and ZIP Code in the space below.

FEB 26 1990

DEPARTMENT OF WATER RESOURCES

2735 AIRPORT WAY
BOISE, IDAHO 83705



● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

Flont & Gesela Biloschaetske
HC 33 Box 2195
Boise, ID 83706

4. Article Number

P 581 149 700

Type of service ☐ Insured 63-10706

☐ Registered ☐ COD
☐ Certified ☐ Return Receipt for Merchandise
☐ Express Mail

Always obtain signature of addressee
at point and **DATE DELIVERED.**

5. Signature — Address

X *Otto Biloschaetske*

6. Signature — Agent

X

7. Date of Delivery

227 1989

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

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN
TO



RECEIVED

OCT 03 1989

MICROFILMED



FEB 26 1990

Department of Water Resources
Western Regional Office

POSTAGE AND FEE GUARANTY FOR PRIVATE
USE, \$300

Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES

2735 AIRPORT WAY

BOISE, IDAHO 83705

IDAHO DEPARTMENT OF WATER RESOURCES

WESTERN REGION

2735 Airport Way

Boise, Idaho 83705

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
)
FOR PERMIT NO. 63-10706 IN THE)
)
NAME OF JAMES R. STEPHENS)
)
)
)

NOTICE OF HEARING

On September 21, 1988, James R. Stephens filed with the Department of Water Resources an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Flont O. & Gesela Biloschaetske and Eugene & Lavonne Phillips and a conference was held by the Department on Tuesday, March 7, 1989. The protest filed by Eugene and Lavonne Phillips was subsequently withdrawn.

The Department has now set the matter of protest for a hearing on Friday, October 20, 1989, at 10:00 a.m. in the First Floor Conference Room, Department of Water Resources, 1301 N. Orchard Ave., Boise, Idaho 83606. The hearing 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 4 and 5 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 27th day of September, 1989.

RECEIVED

FEB 26 1990

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

I hereby certify that on the _____ day of _____, 1989, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Secretary

Certified Mail

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

Flont O. & Gesela Biloschaetske
HC 33 Box 2195
Boise, ID 83706

MICROFILMED

FEB 26 1990

HEARING INFORMATION
IN THE MATTER OF APPROVAL OF AN APPLICATION FOR PERMIT

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

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 conflict with the local public interest?

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A tape record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

Under the provisions of the Idaho Code, Sections 42-1701A and 67-5215, any court review of the Department's decision on appeal shall be confined to the record created before the Department.

Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

RECORDED

FEB 26 1990



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

August 29, 1989

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

Re: Application for Permit No. 63-10706 in the name of James R. Stephens

Dear Mr. Stephens:

This office acknowledges receipt of the withdrawal of protest by Eugene and Lavonne Phillips against the above-referenced application. However, we are still in receipt of a protest by Flont O. & Gesela Biloschaetske.

Sincerely,

A handwritten signature in cursive script that reads "David R. Tuthill, Jr.".

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

DRT:st

cc: Flont O. & Gesela Biloschaetske
Eugene & Lavonne Phillips

MICROFILMED

FEB 26 1990

✓ DNR

To Idaho State Water
Resources,

RECEIVED

AUG 24 1989

Department of Water Resources
Western Regional Office

We withdraw our Complaint
against Jerry & Carol White / Jim
Stephens (aka The Stronghold)
application for water storage
from Robie Creek.

We do not feel that their storage
pond will hamper our use of Creek
waters in anyway.

Lavonne & Eugene
Phillips
HC 33 Box 2160
Boise, Id 83706

MICROFILMED
FEB 26 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region

CECIL D. ANDRUS
Governor

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

R. KEITH HIGGINSON
Director

June 23, 1989

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

Flont O. & Gesela Biloschaetske
HC 33 Box 2195
Boise, ID 83706

Eugene & Lavonne Phillips
HC 33 Box 2160
Boise, ID 83706

Re: Protested Application #63-10706

Dear Interested Parties:

At the on-site meeting held at the Stephens property on Thursday, June 22, attendees included Mr. & Mrs. Stephens, Mr. Maury Brown, President of the Board of Directors of the Robie Creek volunteer fire department, and Mrs. Gesela Biloschaetske. We reviewed the diversion structure and pond, and walked the irrigation ditch from the point of diversion to the county road.

Based on this information, the applicant has prepared a series of six proposed stipulations, which he would agree to having included as conditions of approval for his proposed water right. He proposes to do as follows:

1. Maintain irrigation ditch
 - a. 20 feet beyond concrete culvert.
 - b. in open area between deck and proposed developed spring.
 - c. in area of sliding gate
2. Construct sliding gate (redwood construction) at the point of diversion.
3. Provide adequate water for purpose of diverting water from pond spillway.

MICROFILMED

FEB 26 1990

4. Maintain pond clear of surface algae.
5. Maintain clear access from pond to gate.
6. Provide riprap to protect pond from erosion.

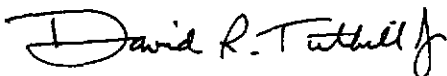
At this point, there are three options before you as interested parties. Option number one is for the protestants to agree that the proposed stipulations are restrictive enough to allow the permit to be approved. In this case, the protestants could withdraw the protests by submitting a letter to this office. A variation of this option is for the protestants to propose additional conditions of approval that might make the proposed application satisfactory.

The second option is to allow the department to prepare a proposed decision based on the information that has been submitted to date. If this option is selected, the enclosed Stipulation for Entry of Proposed Decision Without a Hearing should be dated, signed, and returned to this office.

The third option is to hold a formal hearing for the purpose of developing a record to be used in the preparation of a formal decision by the department. If this option is selected, please advise this office of your wish.

The applicant has advised that he would prefer the first option, or the second option, in that priority. At this point the department will await a response from the two protestants before taking further action. Please advise this office in writing no later than July 7, 1989, to enable our further processing of this application to proceed. If you have questions regarding this procedure, feel free to contact this office.

Sincerely,



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

DRT:st

Enclosure: Stipulation

MICROFILMED

FEB 26 1990

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR PERMIT NO. 63-10706	)	
IN THE NAME OF JAMES R.	)	STIPULATION FOR ENTRY
STEPHENS	)	OF PROPOSED DECISION
	)	WITHOUT A HEARING

The parties to this proceeding, having met at a prehearing conference for the purpose of defining the issues, informally presenting the facts, and discussing their respective positions before a hearing officer of the Idaho Department of Water Resources (department), hereby stipulate and agree as follows:

1. The hearing officer may consider information presented at the prehearing conference, information obtained through a field investigation by department personnel, and other facts available in the files and records of the department in preparing a proposed decision and order.

2. Each party shall have the opportunity, pursuant to Idaho Code §§ 42-1701A and 67-5211, to file exceptions to the proposed decision and order by filing written exceptions thereto within 15 days after service of the proposed decision and order by the department. If a timely exception is not received, the department Director will enter an order adopting a final decision.

3. Each party shall have the opportunity, pursuant to Rule 11 of the Practice and Procedure Rules and Regulations of the department, to file a petition for rehearing within 20 days after service of the final decision. If the department determines that a formal hearing is required, notice will be sent to all parties.

RECEIVED
FEB 26 1990

FEB 26 1990

4. Pursuant to Idaho Code §§ 42-1701A and 67-5215, any party may initiate a proceeding for judicial review by filing a petition in the district court within 30 days after the service of the final decision or, if a timely rehearing is requested, within 30 days after the decision thereon.

5. If an action for judicial review is filed in the district court without an administrative hearing having been held before the department, the parties agree not to oppose a motion for remand of the proceeding to the department for the purpose of conducting a hearing for the presentation of additional evidence.

DATED this _____ day of _____, 1989.

APPLICANT

PROTESTANT

James R. Stephens

Flont O. Biloschaetske

Gisela Biloschaetske

Eugene Phillips

Lavonne Phillips

1) MAINTAIN Irrigation ditch

A. 20' Beyond concrete culvert

b. in open AREA Between Deck &

Proposed Developed spring

c. in AREA of ~~the~~ sliding Gate

~~2~~

2) Construct sliding Gate (Redwood construction) At Point of Diversion

3) provide Adequate water for
purpose of diversion orienting from
Pond spillway

4) maintain pond clear of surface Algae

5) " clear Access from pond to
Gate.

~~6~~
6) Provide RP RAKE to protect Pond from
EROSION

MICROFILMED

FEB 26 1990

Maury Brown - Pres. of Bd of Dir, Volunteer Fire Dept
HC 33 Box 2002 Boise Id 83706

RECEIVED

FEB 26 1990



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

June 7, 1989

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

Flont O. & Gesela Biloschaetske
HC 33 Box 2195
Boise, ID 83706

Eugene & Lavonne Phillips
HC 33 Box 2160
Boise, ID 83706

Re: Protested Application #63-10706

Dear Interested Parties:

At the conference regarding the above-referenced protested application for permit held on March 7, 1989, we agreed that an on-site meeting would be beneficial after high water for 1989.

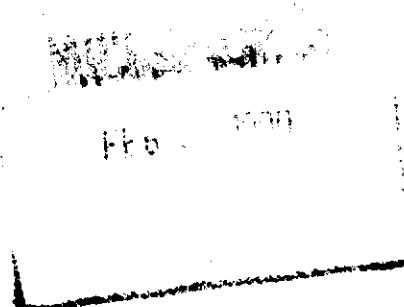
As high water is now subsiding, the purpose of this letter is to schedule the onsite meeting. The meeting has been set to be held at the storage pond identified in the application located on the Stephens property, on Thursday, June 22 at 10:00 a.m. Please advise me telephonically no later than June 13, 1989, if you will not be able to attend the meeting at the proposed time. I look forward to visiting with you all at the site in an effort to bring this matter to a resolution.

Sincerely,

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

DRT:st

cc: Norm Young, State Office





State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

June 7, 1989

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

Flont O. & Gesela Biloschaetske
HC 33 Box 2195
Boise, ID 83706

Eugene & Lavonne Phillips
HC 33 Box 2160
Boise, ID 83706

Re: Protested Application #63-10706

Dear Interested Parties:

At the conference regarding the above-referenced protested application for permit held on March 7, 1989, we agreed that an on-site meeting would be beneficial after high water for 1989.

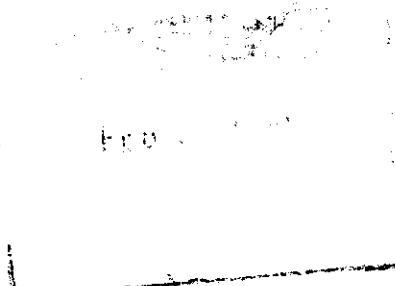
As high water is now subsiding, the purpose of this letter is to schedule the onsite meeting. The meeting has been set to be held at the storage pond identified in the application located on the Stephens property, on Thursday, June 22 at 10:00 a.m. Please advise me telephonically no later than June 13, 1989, if you will not be able to attend the meeting at the proposed time. I look forward to visiting with you all at the site in an effort to bring this matter to a resolution.

Sincerely,

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

DRT:st

cc: Norm Young, State Office





State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

June 7, 1989

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

Flont O. & Gesela Biloschaetske
HC 33 Box 2195
Boise, ID 83706

Eugene & Lavonne Phillips
HC 33 Box 2160
Boise, ID 83706

Re: Protested Application #63-10706

Dear Interested Parties:

At the conference regarding the above-referenced protested application for permit held on March 7, 1989, we agreed that an on-site meeting would be beneficial after high water for 1989.

As high water is now subsiding, the purpose of this letter is to schedule the onsite meeting. The meeting has been set to be held at the storage pond identified in the application located on the Stephens property, on Thursday, June 22 at 10:00 a.m. Please advise me telephonically no later than June 13, 1989, if you will not be able to attend the meeting at the proposed time. I look forward to visiting with you all at the site in an effort to bring this matter to a resolution.

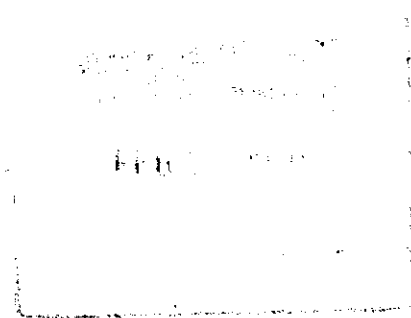
Sincerely,

A handwritten signature in cursive script that reads "David R. Tuthill, Jr.".

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

DRT:st

cc: Norm Young, State Office



Conference Notes

by Dave Tuttle

Conference Officer

March 7, 1989

63-10706

Applicant: James R. Stephens

Protestants: Flont O. * Gisela Biloschaetske

Eugene * Lavonne Phillips

All parties agreed that an on-site meeting would be beneficial,
after high water for 1989.

MICROFILMED

FEB 26 1990

Attendance List

Conference for 63-10700, James R. Stephens
9:00 am Tues Mar 7, 1989 1st Floor Conf Room, EDWR

Conference Officer: Dave Tuttle

Name

Representing

Jim Stephens

self

Carol White

J R STEPHENS

JERRY WHITE

"

Lanona Phillips

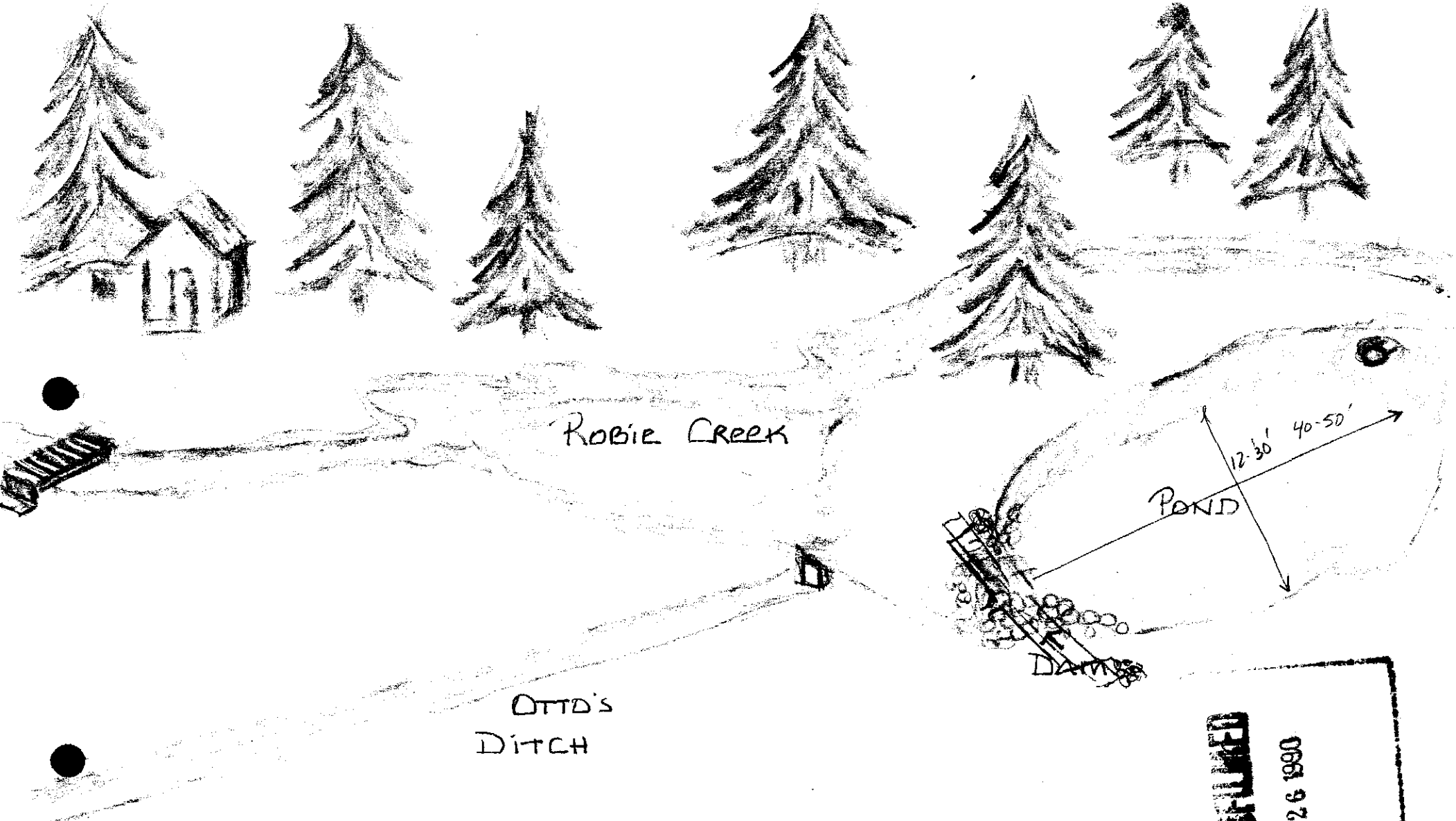
self

Lysela Bilwachtake

Ron Otto Bilwachtake

MICROFILMED

FEB 26 1990



Robie Creek

POND

OttD's
DITCH

DAM

RECEIVED

FEB 26 1990

← LODGE

P 397 .135 254

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to Font & Gisela Biloschae- tske	
Street and No. HC 33 Box 2195	
P.O., State and ZIP Code Boise, ID 83706	
Postage	\$.25
Certified Fee	.85
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	
Return Receipt Showing to Whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 1.10
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)

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

If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.

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.

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 when you make inquiry.

P 397 135 253

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to

James R. Stephens

Street and No.

HC 33 Box 2225

P.O., State and ZIP Code

Boise, ID 83701

Postage

\$.25

Certified Fee

.85

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing
to whom and Date Delivered

Return Receipt Showing to whom,
Date, and Address of Delivery

TOTAL Postage and Fees

\$ 1.10

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)

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

If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.

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.

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 when you make inquiry.

90601-59

P 397 -135 252

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to	
Eugene & Lavonne Phillips	
Street and No.	
HC 33 Box 2160	
P.O., State and ZIP Code	
Boise, ID 83706	
Postage	\$.25
Certified Fee	.85
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	
Return Receipt Showing to whom Date, and Address of Delivery	
TOTAL Postage and Fees	\$1.10

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)**

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

If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.

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.

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.

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number

RETURN
TO



RECEIVED

MICROFILMED
FEB 26 1988

Department of Water Resources
Western Regional Office
Print Sender's name, address, and ZIP Code in the space below.



PENALTY FOR PRIVATE
USE, \$300

DEPARTMENT OF WATER RESOURCES

2735 AIRPORT WAY
BOISE, IDAHO 83705

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



MICROFILMED

PERMIT OR PRIVATE
USE, \$300

RETURN

TO



Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES

2735 AIRPORT WAY
BOISE, IDAHO 83705

March 1

FEB 28 1969

Department of Water Resources
Western Regional Office

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN
TO



Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

ALWAYS



PENALTY FOR PRIVATE
USE, \$300

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION

2735 Airport Way
Boise, Idaho 83705



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region

CECIL D. ANDRUS
Governor

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

R. KEITH HIGGINSON
Director

February 22, 1989

Eugene & Lavonne Phillips
HC 33 Box 2160
Boise, ID 83706

Dear Mr. & Mrs. Phillips:

RE: Application for Permit No. 63-10706 in the Name of
James R. Stephens

This letter is to clarify that the conference date in
the above referenced matter is Tuesday, March 7, 1989,
rather than Wednesday.

Sincerely,

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

DRT/st

MICROFILMED

FEB 26 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region

CECIL D. ANDRUS
Governor

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

R. KEITH HIGGINSON
Director

February 22, 1989

Flont O. & Gisela Biloschaetske
HC 33 Box 2195
Boise, ID 83706

Dear Mr. & Mrs. Biloschaetske:

RE: Application for Permit No. 63-10706 in the Name of
James R. Stephens

This letter is to clarify that the conference date in
the above referenced matter is Tuesday, March 7, 1989,
rather than Wednesday.

Sincerely,

A handwritten signature in dark ink, reading "David R. Tuthill, Jr.", is positioned above the typed name.

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

DRT/st

MICROFILMED

FEB 26 1990



CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

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

February 22, 1989

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

Dear Mr. Stephens:

RE: Application for Permit No. 63-10706 in the Name of
James R. Stephens

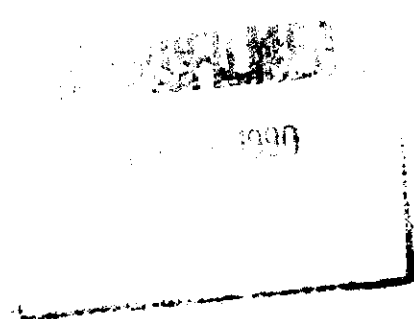
This letter is to clarify that the conference date in
the above referenced matter is Tuesday, March 7, 1989,
rather than Wednesday.

Sincerely,

A handwritten signature in cursive script, reading "David R. Tuthill, Jr.", is positioned above the typed name.

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

DRT/st



BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
)
FOR PERMIT NO. 63-10706 IN THE)
)
NAME OF JAMES R. STEPHENS)

NOTICE OF CONFERENCE

On September 21, 1988, James R. Stephens, filed with the Department of Water Resources an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Flont O. & Gisela Biloschaetske, and Eugene & Lavonne Phillips.

The Department has set the matter of protest for a conference on Wednesday, March 7, 1989, 9:00 a.m., in the First Floor Administrative Conference Room, Department of Water Resources, 1301 N. Orchard Ave., Boise, Idaho, 83706. 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 4 and 5 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

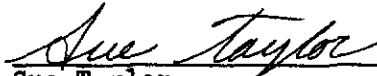
Dated this 15th day of February, 1989.

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

MICROFILMED

FEB 26 1990

I hereby certify that on the 17th day of February, 1989, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor
Secretary

Certified Mail

James R. Stephens
HC 33 Box 2225
Boise, ID 83701

Flont O. & Gisela Biloschaetske
HC 33 Box 2195
Boise, ID 83706

Eugene & Lavonne Phillips
HC 33 Box 2160
Boise, ID 83706

MICROFILMED

FEB 26 1989

CONFERENCE INFORMATION

IN THE MATTER OF APPROVAL OF AN APPLICATION FOR PERMIT

In accordance with Idaho Code, Section 42-203(A), the following issues are involved in the consideration of the application and protest(s):

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 conflict with the local public interest?

The intent of the conference is to resolve any conflicts regarding the proposed water appropriation in light of these five factors. The conference will not be recorded in an effort to promote full discussion of the issues. Possible resolutions are: (1) clarification of the issues resulting in a determination by all parties that the application is acceptable, (2) modification of the application to make it acceptable to the protestant(s), or (3) addition of acceptable restrictions or conditions of approval. If a resolution is not attainable, then a hearing will be set by the Department.

MICROFILMED

FEB 26 1990

RECEIVED
DEC 28 1988

Department of Water Resources
Western Regional Office

HC.33 Box 2225
Boise Id 83706
December 13, 1988

Mr. Erwin E. Ballou
Dept. of Water Resources
2735 Airport Way
Boise, Id 83705

Dear Mr. Ballou,

In response to your letter of Nov. 23, 1988
I have taken the following steps to
mitigate any alleged violation:

1. I have employed the services of Bob
Allen of "Custom Cat Work" to re-open
the irrigation ditch that is controlled
by Mr. Biloschaezke. This work was
completed on 10-15-88 and inspected by
Mr. Biloschaezke shortly thereafter.

2. I have had the fill material
moved back from the channel and
have planted willow starts as per your
instructions to hold the soil. Further
planting will be done in the spring in

RECEIVED
FEB 26 1989

the disturbed riparian area.

3. As you know, I have filed for the necessary permits as per your instructions.

4. We talked with the Phillips concerning our non-consumptive use of Robie Creek water for a fire protection reserve. They have agreed to personally inspect our site and have indicated that they remove their pre-test against our application for permit.

5. I have removed the ducks (two) from the pond, permanently. These were considered by Mr. Biloschaetzke to be a source of pollution and in an effort to procure his favour, have been removed.

Please allow me to reiterate our initial creation of and desired use for the pond.

FEB 26 1990

When we purchased this property in 1985 the spot where the dam is was a low spot on the property, greatly overgrown with brambles, etc. In this area was evidence of a spring which we chose to develop into a holding pond so that we might have water available to aid in fire fighting. We are active members of the Robie Creek Volunteer Fire Dept. We consulted with the then acting fire chief, Cecil Darnell concerning the need for a place from which the fire truck could pump water that was close in reference to the homes in our vicinity. He agreed that our location was good and that such a reserve would be an asset to the neighborhood.

We proceeded without the proper permits strictly due to ignorance on our part. The pond was constructed by A + A Enterprises, Gayle Allen owner (no relation to Bob Allen, previously mentioned) The creek bed and channel was not interfered with in any way. The existing springs were able to maintain a depth in

MICROFILMED

FEB 26 1990

the pond of approximately six feet.

During the flood in the spring of 1987 the creek overflowed its banks eroding the upper end of our holding pond and filling the pond with rock and sand.

The work that we did this spring was merely to reclaim our property for use as a pond and therefore cannot be considered as violation of the creek & as the channel still circumvents our pond. I believe the issue isn't the existence of our dam and pond but the right to divert Robie Creek water to fill this pond.

Should our application for permit be denied, I see no need for removal of the dam and would contest such action. Rather, such denial should result in closing off the current flow of Robie Creek into the pond, at which point we will maintain the fire protection that the pond affords by filling it with our well water and/or springs.

FEB 26 1990

As you can see, I have complied with all your suggestions and am eager to do anything that will bring a just and expedient conclusion to this matter.

Respectfully Yours,

Jim and Joan Stephens

RECEIVED

NOV 25 1970

SPECIAL NOTE: _____

PROTEST INFORMATION SHEET

Protestant - Name(s)

Flont O. & Gisela Biloschaetske

Eugene & Lavonne Phillips

Address HC 33, Box 2195, Boise, ID 83706

HC 33, Box 2160, Boise, ID 83706

Attorney - Name & Address _____

Date Filed 10/20/88 10/21/88 Protest Date 10/24/88

Issues _____

Applicant - Attorney - Name & Address _____

Dates: _____

Acknowledgement letters: _____

Hearing Notice: _____

Hearing Date: _____

MICROFILMED

FEB 26 1990

Other: _____

DEC 28 1988

Department of Water Resources

Form No. 202a
'87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY RBW DATE 7-22-88 APPLICATION NUMBER 63-10706

REQUIRED INFORMATION

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

ADDITIONAL INFORMATION

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

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT _____

_____ Date Requested _____

* overlap p/u - oth^{rs} in same 40A Not related

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

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

☐ Yes ☐ No Affidavit of publication received

☐ Yes ☐ No Application published correctly. If not, record action taken.

☒ Yes ☐ No Publication dates & paper, recorded on application
☒ Yes ☐ No Protests received
 Final date for protest October 24, 1988
☐ Yes ☐ No Protests, dates, resolution of protest, recorded on application
☐ Yes ☐ No Recommendations attached
☐ Yes ☐ No Measuring device required
☐ Yes ☐ No Access port required
☐ Yes ☐ No Will water be delivered by watermaster? If yes, what Dist. _____
☐ Yes ☐ No Special conditions of approval or cover letter below.

☐ See below for additional information

Date of priority recommended _____
By _____ Date _____

By _____ ☐ See below for additional information
Date _____

[illegible]



CECIL D. ANDRUS
Governor

State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

R. KEITH HIGGINSON
Director

October 24, 1988

Eugene & Lavonne Phillips
HC 33, Box 2160
Boise, ID 83706

Re: Application for Permit No. 63-10706, in the Name of James R. Stephens

Dear Mr. & Mrs. Phillips:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application(s). The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application(s) 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 and/or hearing. At such a conference and/or hearing, 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?

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

Sincerely,

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

MICROFILMED

FEB 26 1990

DRT:jp



CECIL D. ANDRUS
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

R. KEITH HIGGINSON
Director

October 24, 1988

Flont O. & Gisela Biloschaetske
HC 33, Box 2195
Boise, ID 83706

Re: Application for Permit No. 63-10706, in the Name of James R. Stephens

Dear Mr. & Mrs. Biloschaetske:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application(s). The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application(s) 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 and/or hearing. At such a conference and/or hearing, 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?

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

Sincerely,

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

MICROFILMED

FEB 26 1990

DRT:jp



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

October 24, 1988

James R. Stephens
HC 33, Box 2225
Boise, ID 83706

Re: Application for Permit No. 63-10706

Dear Applicant(s):

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to your Application No. 63-10706. The Department suggests you contact the protest(s) and to attempt to resolve the protest(s) and to 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 conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (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 which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

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

Sincerely,

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

[Faint, illegible stamp]

FEB 29 1990

DRT:jp

Enclosure:

RECEIVED
OCT 21 1988

Oct 21, 1988

Hand Delivered

Dear Sir, Department of Water Resources
Western Regional Office

We must protest James Stephens application for water rights on Robie Creek. His number is 63-10706.

Our water right was filed April 1, 1896. Our number is 63-0317

Because we are downstream from the other water users we have been without water since the last of June.

We realize that this has been an unusually dry year. However several people were using water that have no rights.

As more people move into this area they all feel that they are entitled to use the water. Some people even sprinkle the roads to keep the dust down.

NOT RECORDED

FEB 26 1990

We didn't have enough water in Robie Creek for 2 horses this

summer.

When people are granted water usage subject to previously established water rights they think they can use it no matter what.

Engineer Luanne
Phillips

HC 33 Box 2160

Boise, Ida 83706

MICROFILMED

FEB 26 1990

18. October 1988

Director, Dept. of Water Resources,
Western Region,
2735 Airport Way, Boise, Idaho 83705

Dear Sir,

This is in regards to the application
for water rights filed by,
63-10706

Stephens, James R.
HC33 Box 2225
Boise, Idaho 83706

I hereby protest this action which is in reference to,
Source: Robie Creek, Tributary: Moses Creek,
Diversion St. Lot 1 NE NW NW Sec. 30 T04 N R 04 E;
Date filed: 9.21.88 In: T04 N R04 E S30 NW NW.

I also want the Dam removed they already
have build on Robie Creek,
and the pollution of the water stopped.

Hont O. Biloschautske
Lizela Biloschautske
HC33 Box 2195
Boise, Id. 83706

MICROFILMED

FEB 26 1990

RECEIVED

OCT 20 1988

Department of Water Resources
Western Regional Office

Thorst O. Biluschutake
HC33 Box 2195
Boise, Id. 83706

CERTIFIED

P 836 766 331

MAIL



FEB 26 1990

MAILED

Director, Dept. of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Western Region
2735 AIRPORT WAY

Boise, Idaho 83705
(208) 334-2190

SEPTEMBER 28, 1988

The Idaho World
P.O. Box 220
Idaho City, ID 83631

Dear Legal Dept.:

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

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

Please send the affidavit of publication and publication billing to this office before OCTOBER 24, 1988.

Yours truly,

JUDY PENSE
Secretary

Encl.

RECEIVED

FEB 26 1990

63-10706

STEPHENS, JAMES R.
HC 33 BOX 2225
BOISE, ID 83701

Source: ROBIE CREEK

Tributary: MORES CREEK

Diversion Pt: LOT 1 (NENWNW) Sec 30 T 04N R 04E

Use: FIRE PROTECTION STORAGE (.040 CFS)
FIRE PROTECT. FROM STOR
DIVERSION TO STORAGE

(.24 AF)
(.24 AF)

Date Filed: 9/21/1988

In: T04N R04E S30

NWNW

NOTIFIED

FEB 26 1990