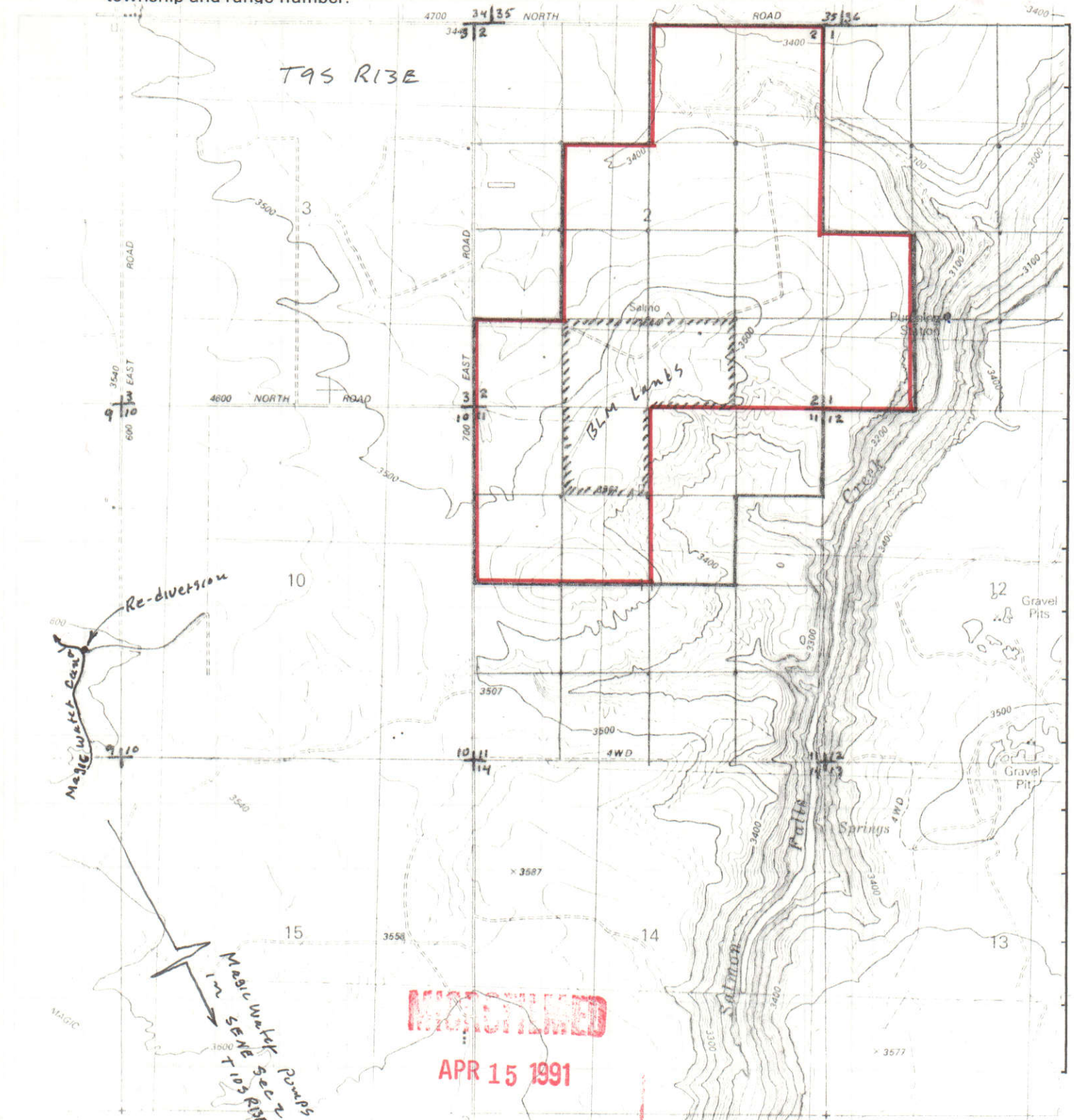


WATER 1991

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



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.

Magic Irrigators Inc
(Applicant)
by Kenneth P. Elkin (Vice Pres)

RECEIVED

RECEIVED

APR 04 1994

Department of Water Resources

OFFICE USE ONLY

Amt. of Fee \$ _____

Date _____

Receipt No. _____

Receipt by _____

MAR 31 1994

Department of Water Resources
Southern Region Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

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

1. Permit No. 47-08060 Telephone No. (208) 543-5989

2. Name(s) of Permit Holder(s): Magic Irrigators, Inc.

3. Mailing Address: Route # 3, 716-B East, 4900 North, Buhl, Idaho 83316

4. Source of Water: Salmon Falls Creek

If GROUNDWATER, Well Driller's Name: _____ Date Drilled: _____

OPTIONAL:

Pump horsepower: 200 Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use (as authorized by the permit):

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

Irrigation 746 (No. of acres) Other _____

6. Total rate and/or volume for which proof is submitted 3.0 cfs OR _____ acre/feet

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

Measuring device: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No

OR

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

8. Fee Enclosed: \$ _____ (See License Fee Schedule on back of Instruction Sheet)

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

Kenneth (Pat) Elkin (208) 543-6388

Name Telephone No.

Route # 3, Buhl, Idaho 83316

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.

03/30/94

Date

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

Kenneth M. Elkin, Secretary, Magic Irrigators Inc.

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 47-08060

Proposed Priority: February 17, 1987 Maximum Diversion Rate: 3.00 CFS
This is to certify, that **MAGIC IRRIGATORS INC.**
RT. 3
BUHL, ID 833160000
has applied for a permit to appropriate water from:

SALMON FALLS CREEK tributary of **SNAKE RIVER**

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/15 to 11/15	3.00 CFS
<u>LOCATION OF POINT(S) OF DIVERSION:</u>		
Rediversion	NESENE	Sec. 2, Township 10S, Range 13E
	SENESE	Sec. 9, Township 09S, Range 13E
		TWIN FALLS County

<u>PLACE OF USE:</u> IRRIGATION						
<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
09S	13E	1	NWSW 40	SWSW 40		80
		2	LOT 1(NENE) 53	LOT 2(NWNE) 53	SWNE 40	
			SENE 40	SENE 40	NESW 40	
			SWSW 40	SESW 40	NESE 40	
			NWSE 40	SWSE 40	SESE 40	506
		11	NENW 40	NWNW 40	SWNW 40	
			SENE 40			160
Total number of acres irrigated:						746

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **April 1, 1994**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this permit is subject to control by the watermaster of State Water District No. 47G.
5. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this permit.

RECEIVED

APR 15 1991

State of Idaho
Department of Water Resources

PAGE 2

Permit To Appropriate Water

NO. 47-08060

CONDITIONS/REMARKS:

6. Any license issued by IDWR pursuant to the permit or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
7. Diversion and use of water under this permit is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
8. The Director retains jurisdiction of the permit and/or subsequent license issued to change, add or remove any requirement as determined to be appropriate.
9. The issuance of this permit in no way grants any right-of-way or easement across the land of another.
10. The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

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

2nd day of April, 1991.

R. Keith Higginson
for R. Keith Higginson, Director

APR 15 1991

RECEIVED

Form 202
8-88 17 1987

Department of Water Resources
Southern Region Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 47-8060

To appropriate the public waters of the State of Idaho

1. Name of applicant Magic Irrigators Inc. Phone 543-6388
Post office address Rt. 3 Buhl, ID 83316

2. Source of water supply Salmon Falls Creek which is a tributary of Snake River

3. Location of point of diversion is NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt. Lot _____
Sec. 2 Township 10S Range 13E B.M. Twin Falls County; additional
points of diversion if any: Rediversion from Magic Water Canal in SENESE, Sec. 9, T9S, R13E

4. Water will be used for the following purposes:

Amount 3.0 for Irrigation purposes from 3/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 3.0 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Existing Magic Water pumping plant &
Canal

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.

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

d. Is ground water with a temperature of greater than 90°F being sought? No

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

APR 15 1991

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

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

9. Description of place of use:

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	13E	1										40	40						80
		2	Lt1 53	Lt2 53	40	40				40	40		40	*	40	40	40	*40	506
		11					*40	40	40	40									160

*BLM land

Total number of acres to be irrigated 746

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

47-2384, 47-2415

11. a. Who owns the property at the point of diversion? Magic Water Co.

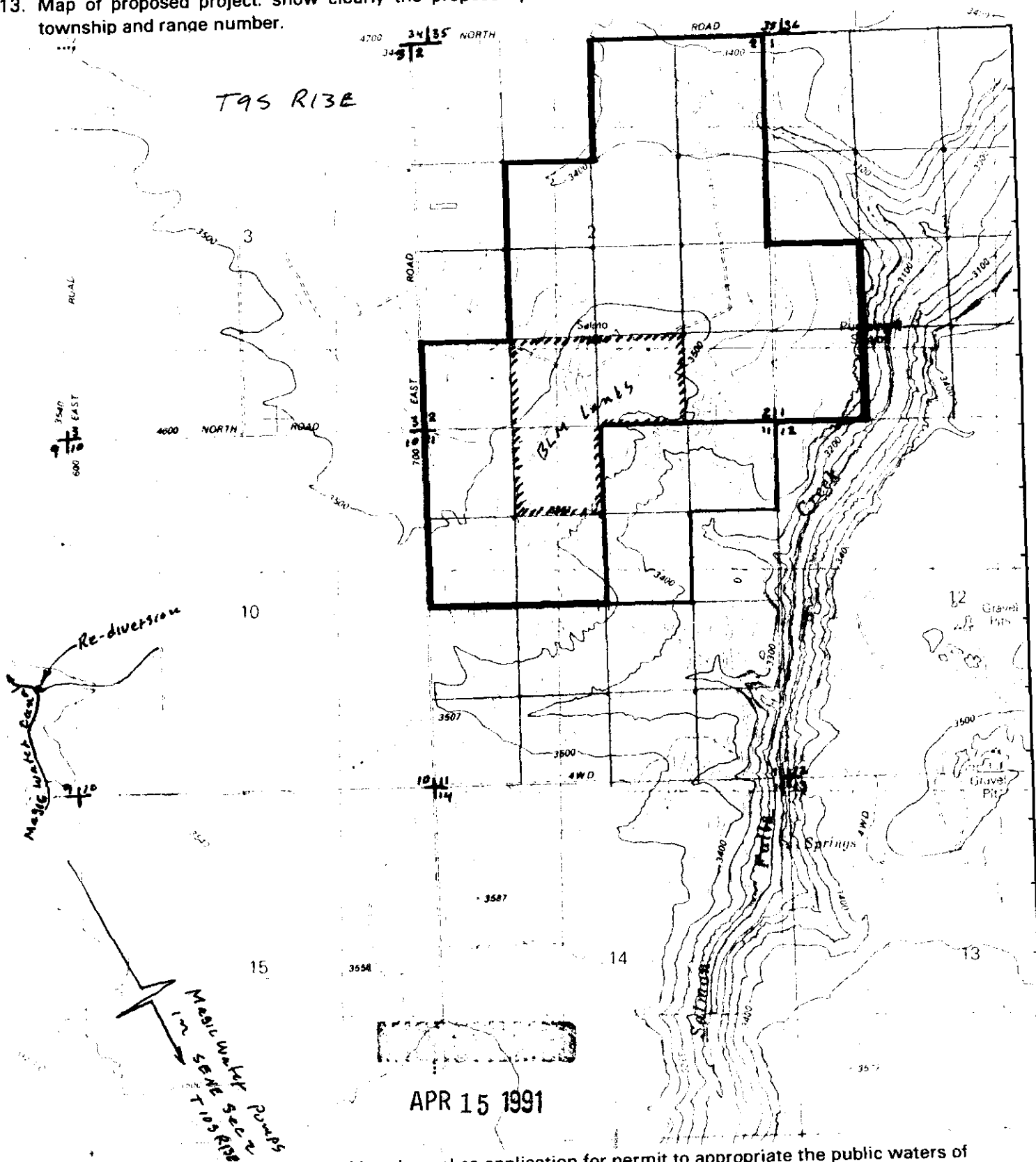
b. Who owns the land to be irrigated or place of use? Applicant & BLM

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. Agreement with Magic Water to transport water.

12. Remarks: Applicant has applied for direct purchase of BLM lands.

APR 15 1991

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



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.

Magic Irrigators Inc
(Applicant)
Kenneth P. Albin (Vice Pres)

Received by M. Baldwin Date 2/17/87 Time 4 pm Preliminary check by _____
Fee \$ 85.00 Received by M. Baldwin # 40682 Date 2/17/87
Publication prepared by BRENDA MILLER Date 2-12-91 Published in TIMES NEWS
Publication approved TJZ Date 3-4-91

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. _____, and said application is hereby _____.

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 _____, 19 ____.
- 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:

APR 15 1991

of Publication

IDAHO
OF TWIN FALLS } SS.

L. Capps McQuinn being first duly sworn upon oath, depose
I am Bruce Clerk of the TIMES-NEWS, published daily, at
Idaho, and do solemnly swear that a copy of the notice of advertisement, as per
checked, was published in the regular and entire issue of said newspaper, and not in
ent thereof, for Two consecutive Weeks

with the issue dated February 21, 1991,
with the issue dated February 28, 1991.

further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho
published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily ex-
both of which newspapers prior to consolidation had been published under said names in said city and
ously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-
uch consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at
id newspaper began daily publication under said name in said city and county continuously and
y.

ther certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated
which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho,
weekly, will be published; and that at the head of the editorial column of said combined newspapers,
ue thereof, Thursday is announced as the day on which said legal notices will be published.

IDAHO
TWIN FALLS

28 day of February in the year of 1991, before me,
ic, personally appeared Linda Capps McQuinn
ntified to me to be the person whose name subscribed to the within instrument, and being by me first
declared that the statements therein are true, and acknowledged to me that he executed the same.

Notary Public for Idaho

Residing at

My commission expires:

Legals-Legals-Legals

LEGAL NOTICE LEGAL NOTICE

NOTICE OF APPLICATION FOR TRUST WATER
RIGHT 47-08059

MAGIC IRRIGATORS INC.

RT. 3

BUHL, ID 833160000

Source: SALMON FALLS CREEK

Tributary: SNAKE RIVER

Diversion Pt: SWNESW Sec 1 T 09S R 13E

Use: IRRIGATION (6,000 CFS)

Total Diversion: (6,000 CFS)

Date Filed: 2/17/1987

In: T09S R13E S01 NWSW SWSW

S02 Lot 1 (NENE) Lot 2 (NWNE) SWNE SENE

SENE NESW SWSW SESW

NESE NWSE SWSE SESE

S11 NENW NWNW SWNW SENW

746.0 ACRES TOTAL

47-08060

MAGIC IRRIGATORS INC.

RT. 3

BUHL, ID 833160000

Source: SALMON FALLS CREEK

Tributary: SNAKE RIVER

Diversion Pt: SENESE Sec 9 T 09S R 13E

NESENE Sec 2 T 10S R 13E

Use: IRRIGATION (3,000 CFS)

Total Diversion: (3,000 CFS)

Date Filed: 2/17/1987

In: T09S R13E S01 NWSW SWSW

S02 Lot 1 (NENE) Lot 2 (NWNE) SWNE SENE

SENE NESW SWSW SESW

NESE NWSE SWSE SESE

S11 NENW NWNW SWNW SENW

746.0 ACRES TOTAL

47-08108

SHETLER, NORMAN A.

RT. 2

FILER, ID 83328

Source: WASTE WATER

Tributary: HIGHLINE

CANAL

Diversion Pt: SWSWSE Sec 32 T 10S R 16E

Use: IRRIGATION (.150 CFS)

STOCKWATER (.020 CFS)

Total Diversion: (.150 CFS)

Date Filed: 8/23/1988

In: T10S R16E S32 SWSE

5.0 ACRES TOTAL

36-08227

MAINLINE RANCHES, INC.

RT. 2 BOX 353

RUPERT, ID 83350

Source: GROUNDWATER

Diversion Pt: NWNE Sec 11 T 08S R 26E

NESW Sec 11 T 08S R 26E

SWNW Sec 12 T 08S R 26E

NESE Sec 12 T 08S R 26E

NENE Sec 13 T 08S R 26E

NWNE Sec 14 T 08S R 26E

NWNW Sec 7 T 08S R 27E

Use: IRRIGATION (12,580 CFS)

Total Diversion: (12,580 CFS)

Date Filed: 6/30/1983

In: T08S R26E S01 SWSW

S02 SESW SWSE SESE

S11 NENE NWNE SWNE SENE

NENW SWNW SENW NESW

NWSW SWSW SESW NESE

NWSE SWSE SESE

S12 NENE NWNE SWNE SENE

NENW NWNW SWNW SENW

NESW NWSW SWSW SESW

NESE NWSE SWSE SESE

S13 NENE NWNE SWNE SENE

NENW NWNW SWNW SENW

S14 NENE NWNE SENE

R27E S07 NENW Lot 1 (NWNW) Lot 2 (SWNW) SENW

ot 3 (NWSW) Lot 4 (SWSW)

18 Lot 1 (NWNW) Lot 2 (SWNW)

2012.0 ACRES TOTAL

The permit(s) will be subject to all prior water debts

RECORDED
APR 15 1991

M E M O R A N D U M

DATE: December 9, 1997

TO: Water Right File 47-08060

FROM: Shelley W. Keen *SWK*

RE: Beneficial Use Field Report

The field report fro 47-08060 was received from a certified water right examiner in 1994. At first glance it appears to be deficient in determination of the place of use. There is no map nor any distribution system diagram. Jim Stanton of Southern Region told me today that the recommended POU includes canyons, etc.

Dan Nelson at Southern Region is working on the field report for 47-08059, which overlaps 47-08060. I recommend holding 47-08060 until Dan's report is complete, then reviewing the two together. Dan's report may be sufficient to explain the deficiencies in the report for 47-08060.

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

MAR 31 1994

Department of Water Resources
Southern Region Office

A. GENERAL INFORMATION

Permit No. 47-08060

1. Owner: Magic Irrigators, Inc. Phone No. 543-8518

Current Address: Rt. 3, Buhl, Idaho 83316

2. Accompanied by: Gerald Martens EXAM DATE: _____

Address: 1139 Falls Ave. E., Twin Falls, ID 83301 **Phone No.** 208-734-4888

Relationship to Permit Holder: Consultant

3. Source: Salmon Falls Creek tributary to Snake River

B. OVERLAP REVIEW

1. Other water rights with the same place of use: 47-2269

2. Other water rights with the same point of diversion: 47-2269

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

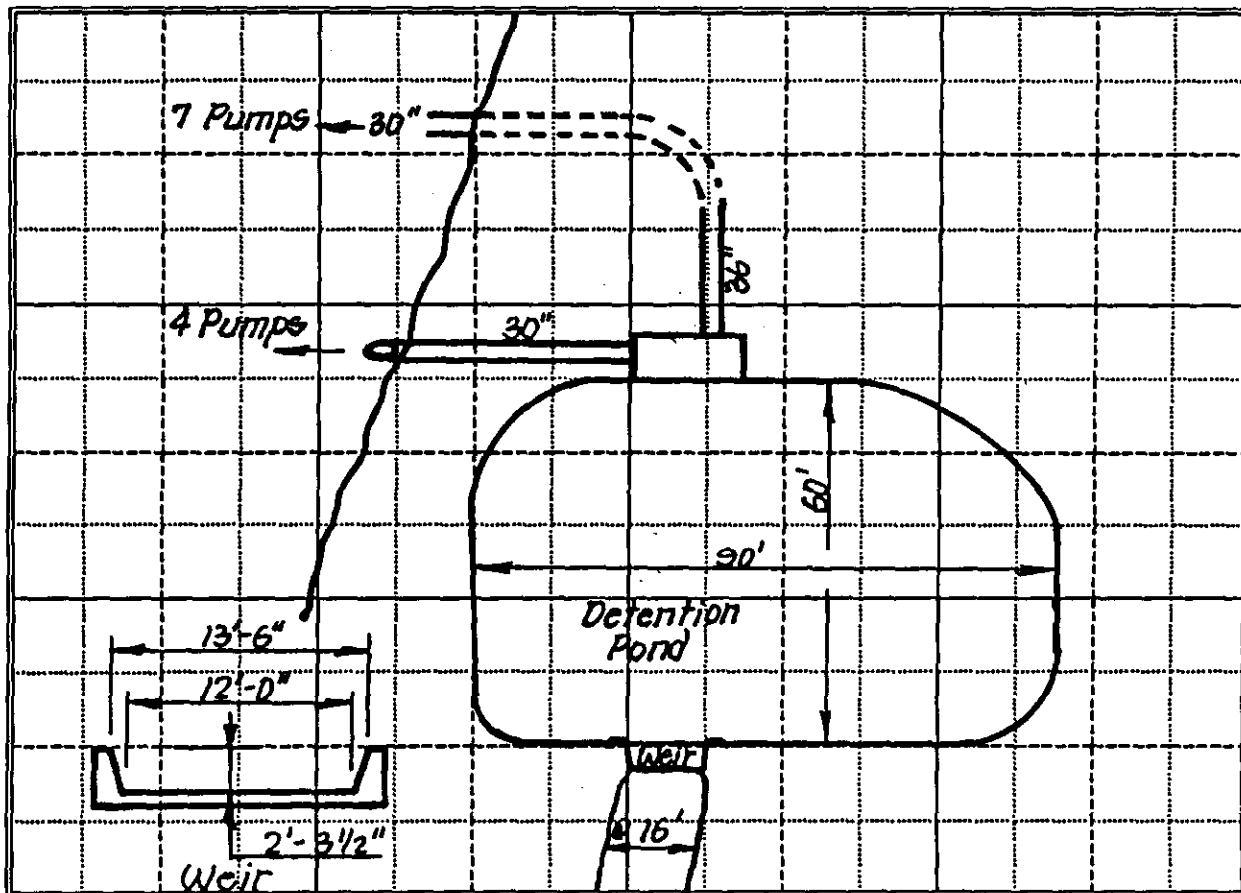
[illegible]

2. Place(s) of Use:

Indicate Method of Determination

[illegible]

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



Scale: 1" = 30'

____ Copy of USGS 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)

____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
47-2269	G.E.	200	PNJ327019	Layne & Bowler	#22361

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Cipolletti Weir					12'	

2. Measurements:

Measured Flow = 3.0902 CFS

Calculations in Section E

E. NARRATIVE/REMARKS/COMMENTS

Water flows were measured over a Cipolletti Weir with the pump in operation and with the pump off. The difference in flow is the discharge from the pump. The measured difference was .04 feet.

$$Q = 3.367 \text{ LH } 3/2$$

$$= 3.367 (12) (0.04) 3/2$$

$$= 3.0902 \text{ CFS}$$

Have conditions of permit approval been met? XX yes ___ no

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

See Paragraph E.

Flow total (this permit) = 3.0902 CFS

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

 $V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ 1428 A.F. $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ 1428 A.F.

2. Volume Calculations for Other Uses:

N/A

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<u>Irrigation</u>	<u>3/15</u>	<u>11/15</u>	<u>3.00</u>	<u>1428</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			<u>3.00</u>	<u>1428</u>

2. Recommended Amendments

___ Change P.D. as reflected above ___ Add P.D. as reflected above ___ None

___ Change P.U. as reflected above ___ Add P.U. as reflected above ___ Other

I. AUTHENTICATION

Field Examiner's Name

Gerald Martens

Date

3/8/94

Reviewer _____

Date _____



April 11, 1994

MAGIC IRRIGATORS INC
ROUTE 3 716B E 4900 N
BUHL ID 83316

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 47-08060

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form and beneficial use field report submitted for the above referenced permit. The next step in the process of developing a water right is for the field report to be reviewed for licensing.

If you have questions concerning this matter, please feel free to contact me at (208)327-7953.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

c: IDWR - Region

January 31, 1994

MAGIC IRRIGATORS INC.
RT. 3
BUHL ID 833160000

PROOF DUE NOTICE

RE: PERMIT NO. 47-08060

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 April 1, 1994. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

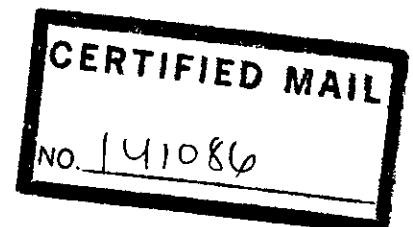
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures



June 8, 1992

MAGIC IRRIGATORS INC.
RT. 3
BUHL ID 83316-0000

RE: Water Right No. 47-08060

Dear Water Right Holder(s):

On May 19, 1992, the department sent you a letter advising that you might be required to temporarily cease diverting water from the Snake River or its tributaries if the established minimum stream flow of the Snake River in the amount of 4,750 cubic feet per second measured near Weiser is not satisfied or likely will not be satisfied.

The flow of the Snake River at Weiser is now less than 4,750 cfs. You are, therefore, directed to immediately cease diverting water under the above referenced water right and to not resume use until authorized by the department.

Past flow records show that the duration of seasonal low flow periods typically last several days to a week. Since your use of water is extremely important to you and since mail notification includes a delay associated with mail delivery time, feel free to call the toll-free telephone number 1-800-451-4129 to determine when you are again authorized to divert and use water under your water right. Please use this phone number only in connection with resumption of use.

You need to be aware that Section 42-351, Idaho Code, provides for penalties of up to \$100 per day for unauthorized diversion.

Thank you for your cooperation in this matter. Please feel free to contact L. Glen Saxton (phone: 208-327-7955) or Gary Spackman (phone: 208-327-7946) of my staff if you have questions.

Sincerely,

R. KEITH HIGGINSON
Director

June 12, 1992

MAGIC IRRIGATORS INC.
RT. 3
BUHL ID 83316-0000

RE: Water Right No. 47-08060

Dear Water Right Holder(s):

On June 8, 1992, the department sent you a letter which directed you to immediately cease diverting water under the above referenced water right, since the minimum stream flow of the Snake River in the amount of 4,750 cubic feet per second (cfs) measured near Weiser was not being satisfied.

The flow of the Snake River at Weiser is now above 4,750 cfs. You are, therefore, authorized to again divert water under your water right. If the minimum stream flow is not met later this year, however, the department will again notify you to temporarily cease diversion.

Thank you for your cooperation in this matter. Please feel free to contact L. Glen Saxton (phone: 208-327-7955) or Gary Spackman (phone: 208-327-7946) of my staff if you have questions.

Sincerely,

R. KEITH HIGGINSON
Director

May 19, 1992

MAGIC IRRIGATORS INC.
RT. 3
BUHL ID 83316-0000

RE: Water Right No. 47-08060

Dear Water Right Holder(s):

Department water right records show that you divert water from the Snake River or its tributaries under a water right that has a priority date later than December 29, 1976. This is the priority of the established minimum stream flow of the Snake River at the Weiser Gage (Weiser) in the amount of 4,750 cubic feet per second.

Because of the continuing drought conditions in the Snake River Basin, department hydrologists project that during 1992, there could be periods when the required minimum flow will not be satisfied due to low flows of the Snake River. The department urges you to not divert at a higher rate than authorized by your water right and to not use your right in any manner different than authorized. In addition, when the minimum flow will not be satisfied or is not being satisfied, you are required to cease diverting water under your water right, because your right is of later priority than the minimum stream flow at Weiser.

If the department determines the minimum flow will not be satisfied, the department will advise you and will provide as much lead time as possible in requiring that you temporarily cease your diversion of water. The greatest likelihood for this to occur is during a period from mid-June to late June.

While the department expects good cooperation from junior water right holders, water users should be aware that Section 42-352, Idaho Code, provides for penalties of up to \$100 per day for unauthorized diversions of water.

The department has contacted both the Idaho Power Company and the U.S. Bureau of Reclamation with respect to the timing of storage releases from upstream reservoirs for flow enhancement purposes. This type of coordination could minimize the impact on

existing water users and reduce the need to curtail diversions.

The department has scheduled public information meetings relative to this potential regulation as follows:

Mountain Home - June 4, 1992 - 10:00 a.m. - gymnasium at
North Elementary School, 290 E. 12th N.

Caldwell - June 4, 1992 - 7:00 p.m. - Ballroom in the
Student Union Building, Albertson College of Idaho,
2112 Cleveland

If you have questions concerning this letter or wish to provide the name of a different contact person or address to receive department correspondence, please contact the department.

Sincerely,

L. GLEN SAXTON
Chief, Water Allocation Bureau

LGS: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

April 8, 1991

MAGIC IRRIGATORS INC.
RT. 3
BUHL, ID 833160000

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 47-08060

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed. You will receive a "Proof Due Notice" from this Department approximately 60 days prior to the completion date requiring you to file either a Proof of Beneficial Use form stating that the project has been completed or file a Request for an Extension of Time in which to file the proof statement.

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

This permit authorizes the appropriation of trust water. Trust water is defined as that portion of a particular hydropower water right which exceeds certain minimum stream flows established by state action, and is held in trust by the State of

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APR 15 1991

Idaho for the use and benefit of the people within the state.
Conditions pertaining to a term review, annual use fee and
jurisdiction of the permit are trust water conditions.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:blm

Enclosures

15 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
State Office
1301 North Orchard St.

Statehouse Mail
Boise, Idaho 83720
(208) 327-7900

FEBRUARY 12, 1991

Times News
P.O. Box 548
Twin Falls, ID 83301

Dear Legal Dept.:

Enclosed you will find legal notices 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 MARCH 11, 1991.

Yours truly,

BRENDA L. MILLER
Clerical Specialist

Encl.

1 ED
APR 15 1991

NOTICE OF APPLICATION FOR TRUST WATER RIGHT

47-08060

MAGIC IRRIGATORS INC.
RT. 3
BUHL, ID 833160000

Source: SALMON FALLS CREEK

Tributary: SNAKE RIVER

Diversion Pt: SENESE Sec 9 T 09S R 13E
 NESENE Sec 2 T 10S R 13E

Use: IRRIGATION (3.000 CFS)
 Total Diversion: (3.000 CFS)

Date Filed: 2/17/ 1987

In: T09S R13E S01	NWSW	SWSW		
S02 Lot 1 (NENE) Lot 2 (NWNE)			SWNE	SENE
	SENW	NESW	SWSW	SESW
	NESE	NWSE	SWSE	SESE
S11	NENW	NWNW	SWNW	SENW

746.0 ACRES TOTAL

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before MARCH 11, 1991.

R. KEITH HIGGINSON, Director

Published 2/21/1991 & 2/28/1991

APR 15 1991

MEMORANDUM

TO: FILE

FROM: TIM LUKE

RE: APP. NO.s 47-8059 & 47-8060/Trust Water Processing &
Rule 4,5. Info

DATE: 1-29-91

These applications are trust water filings which have come up for sequential processing under the appropriate rules and statutes. The applicants have returned trust water questionnaires claiming development prior to 1984. Both applications are appurtenant to the same land.

I have reviewed 1983 and 1984 infrared aerial photos along with the department's remote sensing irrigation classification report for the 1986 irrigation season. Based on review of this data, I have determined that 153 acres were not irrigated prior to October of 1984. These 153 acres should be counted as trust acreage. The remaining acreage under the filings appear to have been developed and irrigated prior to October of 1984.

The applicants were also requested to submit Rule 4,5,3. information since the applications combined represented diversion of more than 5.0 cfs. That information has been returned (see file 47-8059) and appears to be very complete and sufficient. I recommend completing processing of the applications. The filings will be advertised as trust filings during February, 1991.

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APR 15 1991

January 26, 1991

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JAN 29 1991

Department of Water Resources

Mr. Time Luke, Senior Water Resource Specialist
Idaho Department of Water Resource
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

RE: Application for Permit Nos. 47-8059 and 47-8060
Information Submitted for Water Appropriation Rule 4,5,3.

Dear Mr. Luke

Thankyou for your letter dated January 21, 1991. I would also like to apologize for not making reference to the point of diversion given under application No. 47-8060. This application proposes diversion of 3.0 cfs into the Magic Water Co. canal and then re-diversion of that water from a point on the canal located in Section 9, Township 9S., Range 13E. It was an oversight on my part.

It is the plan of the Directors of Magic Irrigators, Inc. to divert water as proposed under the application No. 36-8060. An agreement has already been agreed upon and approved by the Directors of Magic Water Co. Since I'm President of Magic Water Co., this letter will serve notice to you that such an agreement exists and has been approved. At the Magic Water Co. pumping site, a provisional pump has already been installed for that purpose and is ready for use. Charges to Magic Irrigators, Inc. will be based on daily use.

Just for your information Tim, Magic Irrigators, Inc. and Maurice H. Eckert & Son's, Inc., together, own almost 60% of the stock of Magic Water Co. Along with my three brothers who farm with me, we own the majority of stock in both Magic Irrigators, Inc. and Maurice H. Eckert & Son's, Inc. The four of us also represent, four of the five Directors that serve on Magic Water Co. Board of Directors.

Kenneth P. Elkin

Mr. Kenneth (Pat) Elkin
President, Magic Water Co.
Vice President, Magic Irrigators, Inc.

cc: Mr. Armand Eckert, Secretary, Magic Water Co.
Mr. Granville Eckert, Director, Magic Water Co.
Mr. Norman Eckert, Director, Magic Water Co.
Mr. Farrell Jones, Treasure, Magic Water Co.

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APR 15 1991



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, 1991

Kenneth P. Elkin
Magic Irrigators Inc.
Rt. 3
Buhl, ID 83316

RE: Application for Permit No.s 47-8059 & 47-8060
Information Submitted for Water Appropriation Rule 4,5,3.

Dear Mr. Elkin:

I have received the information which you submitted to satisfy the requirements of Water Appropriation Rule 4,5,3. The information was well organized and complete. However, your responses and submitted material made no reference to the point of diversion given under application no. 47-8060. As you know, this application proposes diversion of 3.0 cfs into the Magic Water Company Canal and then re-diversion of that water from a point on the canal located in section 9, Township 9S., Range 13E.

Since your response makes no reference to the diversions to and from the Magic Water Company canal, I must ask at this time whether you actually plan to divert water as proposed under application no. 36-8060. If not, then you should consider withdrawing this application. If you do plan to divert water as proposed under this application, then you should obtain consent or comments from the Magic Water Company.

Please provide additional information and comments about application no. 36-8060 at your earliest convenience.

Sincerely,

Tim Luke
Sr. Water Resource Spec.

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APR 15 1991

RECEIVED
JAN 18 1991

January 17, 1991

Department of Water Resources

Mr. Tim Luke, Senior Water Resource Specialist
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Re: Application for Permit Nos. 47-8059 & 47-8060

Reply to Notice of Information Required by Water Appropriation
Rule 4,5,3.

Dear Mr. Luke

In relation to your letter dated December 24, 1990 and to the
above permits and rules, our responses follow.

Rule 4,5,3,1,1. -

See Exhibit A for names, addresses and water right numbers for
existing water users. The location of diversions is on Salmon
Falls Creek, the points of diversion of which are located on
Exhibit B. Each water right listed is used for irrigation of farm
lands.

Rule 4,5,3,1,2. - Not applicable.

Rule 4,5,3,1,3. -

An additional pump would be installed at the Magic Irrigators,
Inc. pump station already in existence at the point of diversion
in Salmon Falls creek. All water users listed on Exhibit A are
located above the subject pumping station, with the exception of
Bob Ring. There would be no affect on those water users located
upstream. Bob Ring has the number one water right on Salmon
Falls Creek. However, the water flow at his diversion point is
greater than the water right application for 47-8059 and 47-8060.
It should also be noted that the Twin Falls Canal Company "Low-
Line" canal empties into Salmon Falls Creek just above the
diversion point of Magic Irrigators, Inc. Since the Canal
Company has installed a power plant at the point where its canal
ends, sufficient water passes by the Magic Irrigators, Inc.
diversion point to satisfy the above applications. Finally, Magic
Irrigators, Inc. does have on file with the Soil Conservation
Service in Buhl, a conservation plan. This is included for your
review as Exhibit C.

Rule 4,5,3,2,1. -

The projection for the peak demand would be 14 cfs. during a
brief period during June. An average demand, we estimate would
be 10 cfs. The annual usage would run from middle March through

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middle of October. This project has been operating since 1973/1974 with additions in 1983 through 1990, but has short water supply causing stress on crops.

Rule 4,5,3,2,2. -

The source of water supply would be Salmon Falls Creek. See Exhibit E. Exhibit E is U.S. Geological surveys of Salmon Falls Creek water flows. Water surveys are taken at the point where U.S. Highway 30 crosses Salmon Falls Creek. The water flowing past the gaging station is approximately the same as that passing by the Magic Irrigators, Inc. point of diversion. It is apparent that the water flows are ample from Salmon Falls Creek to supply the water for the above named water application filings at the point of that diversion point.

Rule 4,5,3,3,1. -

Magic Irrigators, Inc. owns the land it intends to use the additional water right on. The Bureau of Land Management owns the area where the point of diversion is located. Enclosed for your review is Magic Irrigators, Inc. title insurance policy which spells out the ownership of the land and the Bureau of Land Management right-of-way I-40 for the point of diversion. This is Exhibit F.

Rule 4,5,3,3,2. - Since the diversion point has been established for some time and only an additional pump will be added, with minimal impact to the surrounding area, we do not believe that additional applications or permits or approvals will be required from any other governmental agencies or individual.

Rule 4,5,3,4. -

Attached as Exhibit G is a 12/31/90 copy of Magic Irrigators, Inc. Balance Sheet. It should be noted the the Note Payable on its Balance Sheet, is a long-term note payable over a 10-year period, to a related party. In addition, Magic Irrigators, Inc. has an unused line-of-credit for \$300,000, none of which was used during the 1990 year. Construction costs are expected to be funded from current operating capital, however, without the use of the line-of-credit. Magic Irrigators, Inc. already owns the additional pump it would install for the applied for rights. The penstock, etc. is already in place. According to installation costs we estimate would be \$6,000.

Rule 4,5,3,5. -

As has been discussed above, because of the minimal effect this addition would have on the point of diversion, we don't believe this project would cause any concern to any local individuals, governments, tribal reservations, the State Fish and Game Department, or Health and Welfare Departments. Based on water surveys in Exhibit E, it is apparent that ample water would pass

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below the point of diversion to satisfy Fish and Game water flow requirements. Of the individuals with water rights in Water District 476, listed in Exhibit A, Bob Ring would be the only affected water user, and we believe we have already addressed that concern under Rule 4,5,3,1. In addition, **Pat Elkin** and **Armand Eckert**, are President and Secretary, respectively, for Water District 476, and thus, consider a response from Water District 476, within the frame work of this letter. Both of these individuals are owner/operators of Magic Irrigators, Inc.

Conclusion

If the above responses are not responsive to the applicable Rules or further elaboration is needed, please contact Pat Elkin, Route # 3, Buhl, Idaho 83316 (208) 543-6388 or Armand Eckert, Route # 3, Buhl, Idaho 83316 (208) 543-8518.

Sincerely,

Pat Elkin
Kenneth (Pat) Elkin,
Vice President
Magic Irrigators, Inc.

NOT REFILED

APR 15 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

December 24, 1990

Kenneth P. Elkin
Magic Irrigators Inc.
Rt 3
Buhl, ID 83316

Re: Application for Permit Nos. 47-8059 & 47-8060

Notice of Information Required by Water Appropriation Rule 4,5,3.

Dear Applicant:

The Department acknowledges receipt of the Trust Water Information Questionnaires for the above referenced applications. On behalf of the Department, I wish to thank you for your cooperation in returning the questionnaires.

As I reviewed your applications and existing licenses, I noticed that these applications partially overlap lands under the licensed rights. You are licensed to divert up to 5.0 cfs from Salmon Falls Creek for irrigation of 435 acres. It appears that the purpose of filing these applications was to cover irrigated lands that had not been included on your licensed rights and/or to irrigate some additional undeveloped land (we have evidence that some 150 acres under the applications were not irrigated prior to 1984 and 1987). It also appears that you wanted to increase or account for an increased rate of diversion on the licensed lands. The total rate of diversion represented by the licensed rights and applications is 14.0 cfs.

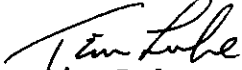
In the letter that accompanied the questionnaires, I informed you that you would need to submit additional information required by Water Appropriation Rule 4,5,3. if the either the undeveloped portion of the application exceeds 200 acres, or the project proposes diversion of more than 5.0 cfs. The returned questionnaires indicate that you wish to pursue completion of the irrigation project as proposed under your applications. Your applications together propose diversion of more than 5.0 cfs and are therefore subject to the additional information requirements of Rule 4,5,3. In particular, you must submit the information outlined in Rules 4,5,3,1. through 4,5,3,5 (copy attached). A guideline for assisting you with submittal of the additional information is also enclosed.

The information must be submitted within 90 days of the date of this notice. Failure to submit the required information within the time period allowed may be cause for the Department to void

APR 15 1991

the applications. The Department may grant an extension of time in which to submit the information upon request and a showing of good cause. Requests for extension of time must be in writing. Please contact me at this office or call me directly at 327-7864 if you have any questions concerning the contents of this notice and/or the information requested under Rule 4,5.

Sincerely,



Tim Luke

Sr. Water Resource Spec.

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APR 15 1991

722-062

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

Application No. 47-8060

INSTRUCTIONS: IF YOU ARE NOT INTERESTED IN HAVING THE APPLICATION PROCESSED, PLEASE COMPLETE AND RETURN THE ENCLOSED WITHDRAWAL FORM.

IF YOU WISH TO HAVE THE APPLICATION PROCESSED, PLEASE ANSWER THE FOLLOWING QUESTIONS AS THOROUGHLY AS POSSIBLE. FAILURE TO RETURN EITHER THE WITHDRAWAL FORM OR QUESTIONNAIRE IS CAUSE FOR THE DEPARTMENT TO VOID THE APPLICATION.

1a. Are you the current owner of the land or place of use described under this application? Yes ✓ No

b. If you are not the propoerty owner, please describe the arrangement enabling you to develop the proposed project.

2a. Has the source of water listed on this application been used to irrigate any of the land described under this same application prior to October 1, 1984? Yes ✓ No

b. If yes, please describe the extent of development and number of acres irrigated. (Note: Uses developed after October, 1984 are considered trust water diversions and may be subject to certain conditions. You may be asked to verify uses established prior to October, 1984.)

entire property has been irrigated since 1975.

3. If you answered NO to ques #2a, please state the number of acres you have irrigated with this source after October 1, 1984.

4. If you have not irrigated lands under this application, please state the number of acres you plan to complete.

5. If the permit is a supplemental filing please identify other water rights which are used on the same land.

47-2384, 2415 (same source)

Use the reverse side of this form if you wish to add any comments. You may mark changes on the enclosed application to designate any proposed amendments. (Note: Proposed changes which result in an expansion of use will not be considered by the department.)

I hereby assert that the responses provided above are true to the best of my knowledge. I understand that any willful misrepresentations may result in voiding of the application.

Applicant Magic Irrigators by Kenneth P. Elkin Date 12/18/90

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DEC 18 1990

Department of Water Resources
Southern Region Office

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APR 15 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

December 10, 1990

RE: APPLICATION FOR PERMIT NO. 47-8060

Dear APPLICANT:

Due to the Swan Falls litigation, Department approval of the enclosed application may have been delayed. The Department is presently reviewing your application and may authorize the proposed development.

The purpose of this letter is to determine: (1) if you are still interested in developing the project, and (2) the extent of development, if any, that has already occurred under the application. Enclosed are two forms requesting information which will help the Department expedite the processing of the application.

1. If you have abandoned or have no interest in continuing with your plans for development of the project, please complete the enclosed withdrawal form and return it to the Department. If you request a withdrawal of the application and the application was not previously advertised, the department will refund your original filing fee.

2. If you wish to continue with your proposed development plans, or have completed all or a portion of the proposed development before October 1, 1984, then you must complete and return the enclosed questionnaire. You may use the questionnaire and enclosed application to make any comments &/or amendments concerning the application. Your completion of the questionnaire will expedite processing and help the department determine if the water diverted under the application is public water or trust water. Approved trust water applications may be subject to additional conditions.

Failure to return either of the above forms within thirty (30) days of the date of this letter is cause for the Department to void the application.

Please be further advised that if any undeveloped portion of your proposed project is greater than 200 acres, the department will issue a notice requesting additional information as required by Water Appropriation Rule 4,5. (copy enclosed). In particular, rules 4,5,3. through 4,5,3,5. apply to your project if it is more than 200 acres. If necessary, the rule 4,5,3,5. information notice will be sent to you after you return the questionnaire.

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Page 2

If you have questions concerning the content of this letter or about completing the forms, please contact Tim Luke at the address below or by calling directly at 327-7864. The enclosed forms and all other relative information must be returned within thirty (30) days to:

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000
Attn: Tim Luke

Please note that a copy of your application is enclosed. The application number is also shown on the enclosed questionnaire.

Sincerely,



TIM LUKE
Sr. Water Resource Agent

Enclosures

APR 15 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

2148 4th Ave. E.
Twin Falls, Idaho 83301
(208) 734-3578

February 23, 1987

Magic Irrigators, Inc.
Rt. 3
Buhl, ID 83316

Re: Application for Permit No. 47-8060

Gentlemen:

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned identification No. 47-8060. Please refer to this number in all further correspondence.

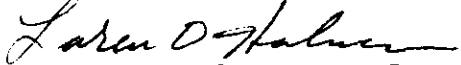
Because your application proposes to appropriate water which has been identified as "trust water" in the Swan Falls agreement, it will be processed under rules and regulations for water appropriation that have been adopted as required by law.

Under the rules, applications will be processed at a rate which allows development of 20,000 acres per year. The oldest applications will be processed first, provided that applicants are willing and able to proceed.

For this reason, it is not possible to estimate at this time when action will be taken on your application.

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

Very truly yours,


Loren O. Holmes, P. E.
Southern Region Supervisor

LOH:mb

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