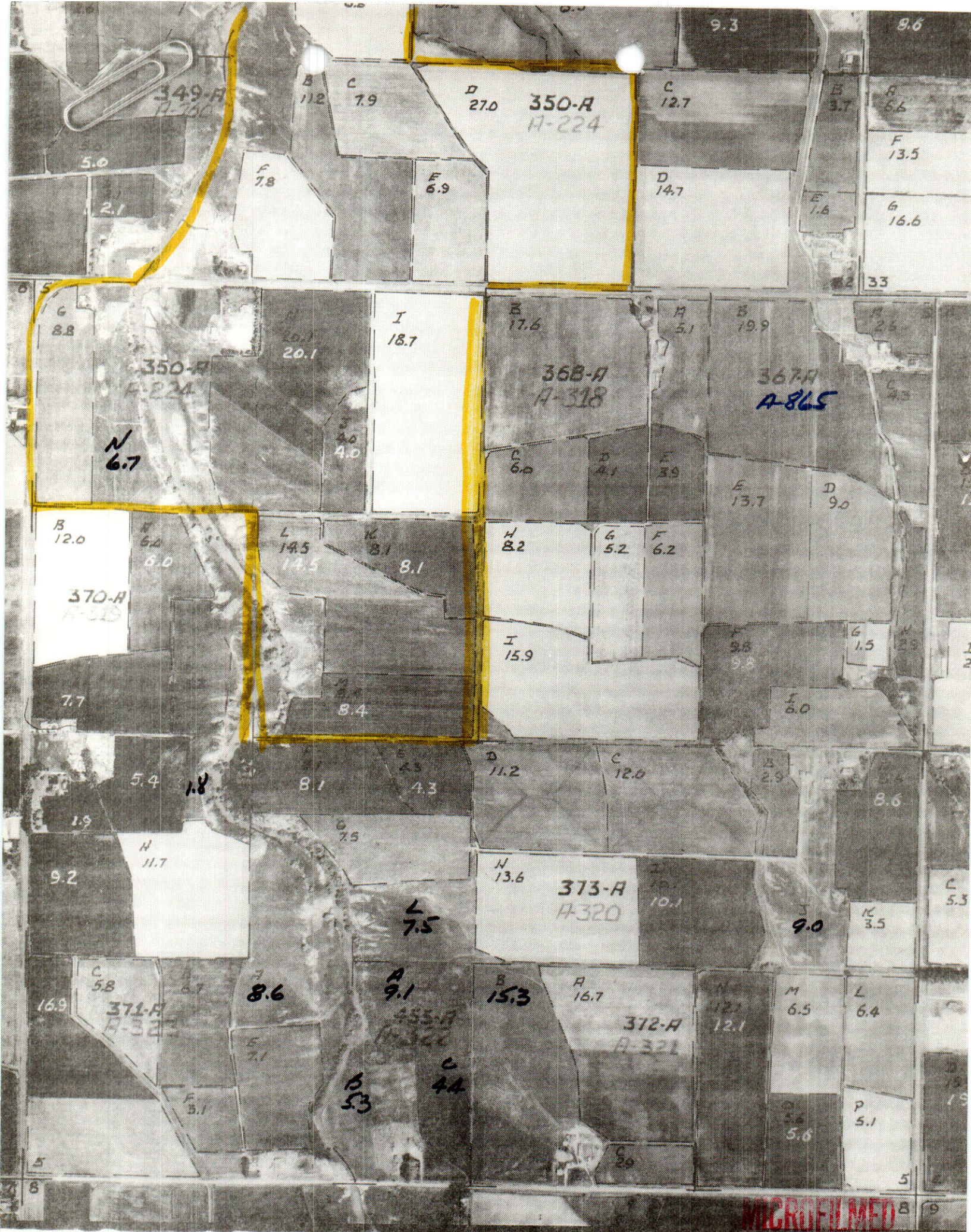
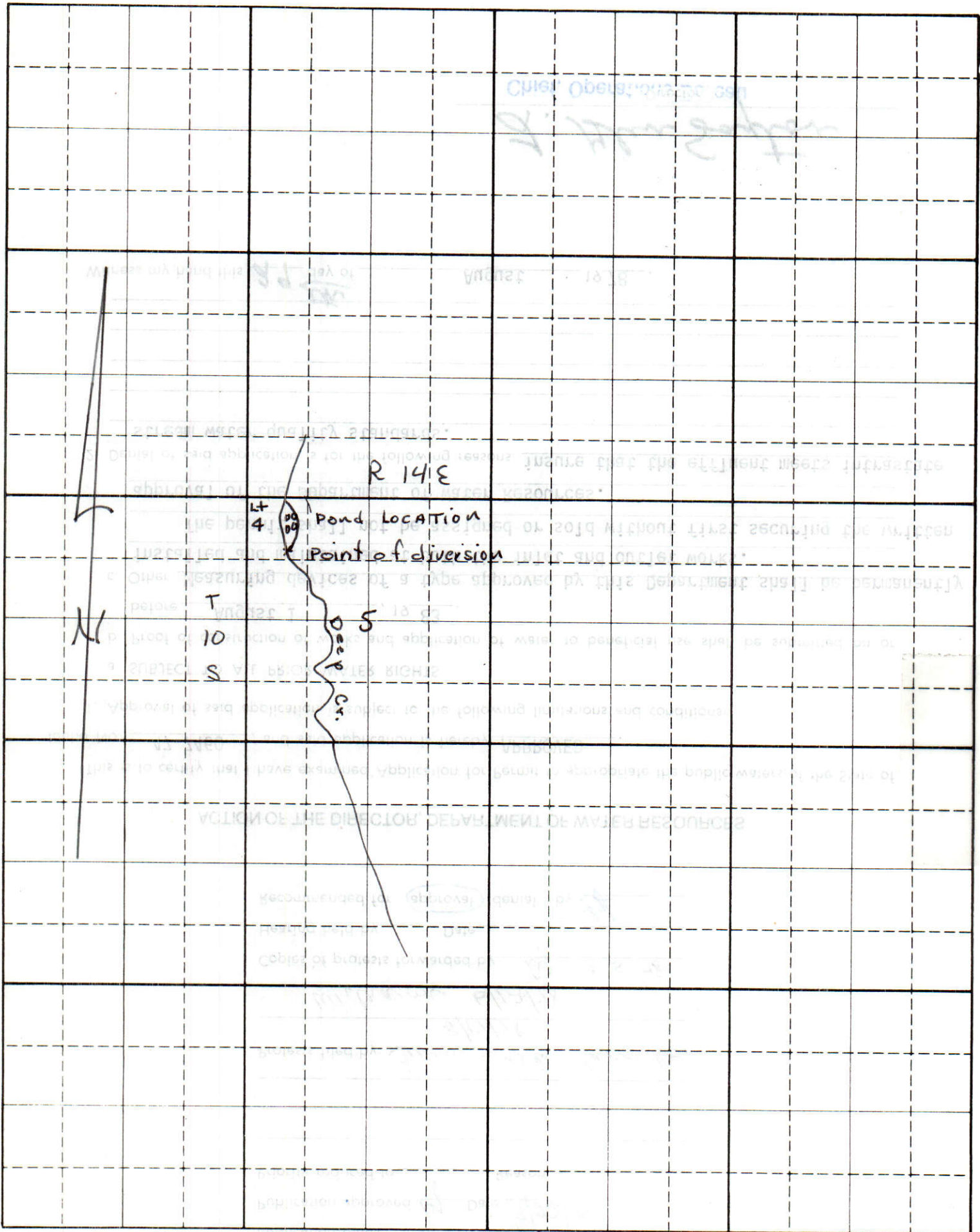




MICROFILMED

11. 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.

Evan Cox
(Applicant)

RECEIVED

MAR 20 1978

Department of Water Resources
Southern District Office

NOTICE OF APPLICATION
FOR WATER PERMIT

Notice is hereby given that Evan Cox, Buhl, Idaho, 83316, has on 3/1/78 submitted Application No. 47-7460 for a permit to appropriate 40.0 cubic feet per second of water from Deep Creek tributary to Snake River by means of headgate, ditch & fish ponds within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 5, Twp. 10S, Rge. 14E, B.M. Twin Falls County, to be used from Jan. 1 to Dec. 31 for fish propagation purposes within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 5, Twp. 10S, Rge. 14E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before March 27, 1978.

C. STEPHEN ALLRED
Director
PUBLISH: Mar. 9 & 16, 1978.

Affidavit of Publication

STATE OF IDAHO,

COUNTY OF TWIN FALLS

ss.

No. 6882

I, Marlene Kulcharek being first duly sworn upon oath, depose and say that I am Princ. Clerk of the TIMES-NEWS, published daily, except Saturday, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive Thursdays, commencing with the issue dated March 9, 1978, and ending with the issue dated March 16, 1978.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, under said name in said city and county continuously and uninterruptedly.

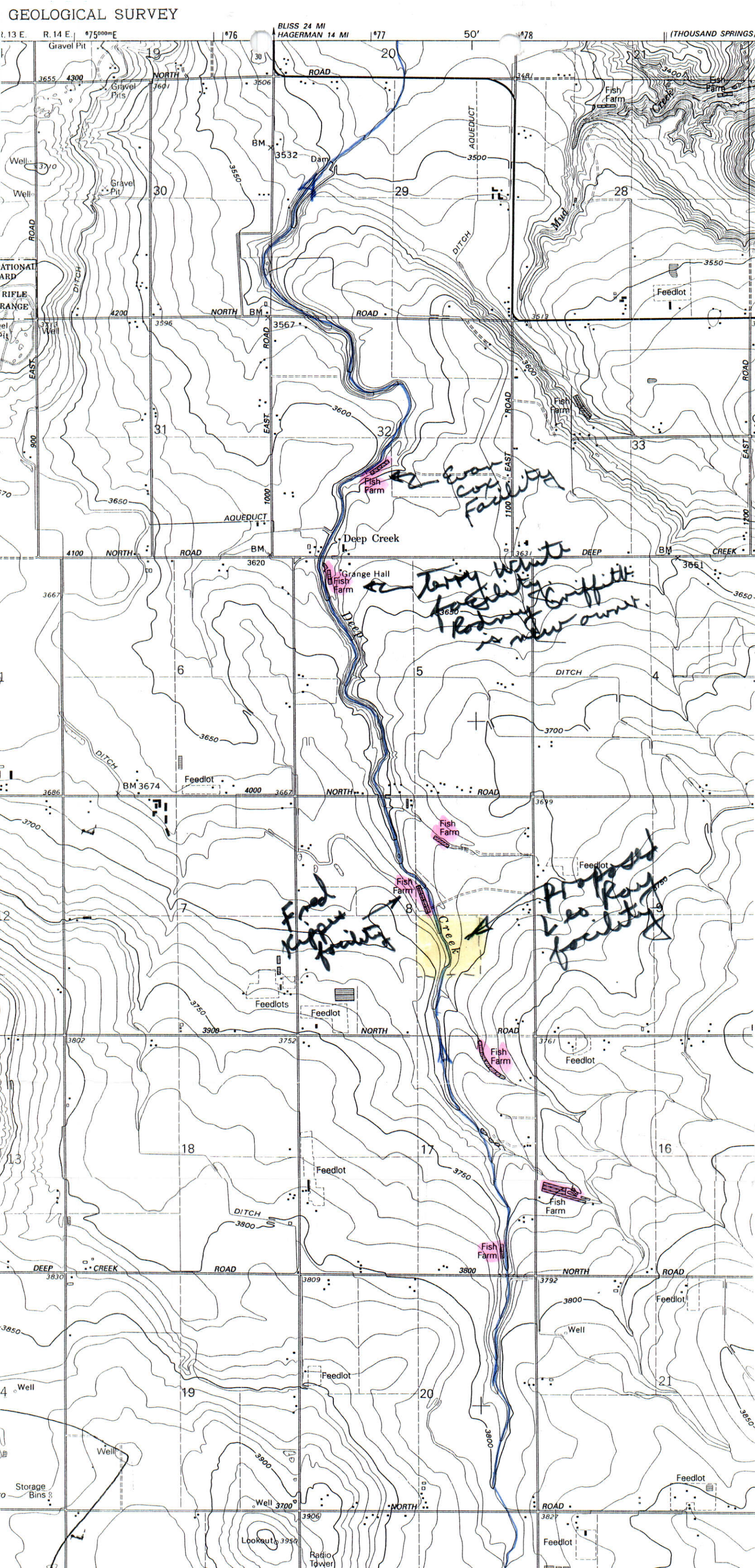
And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial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

Subscribed and sworn to before me on this March 16th day of 1978

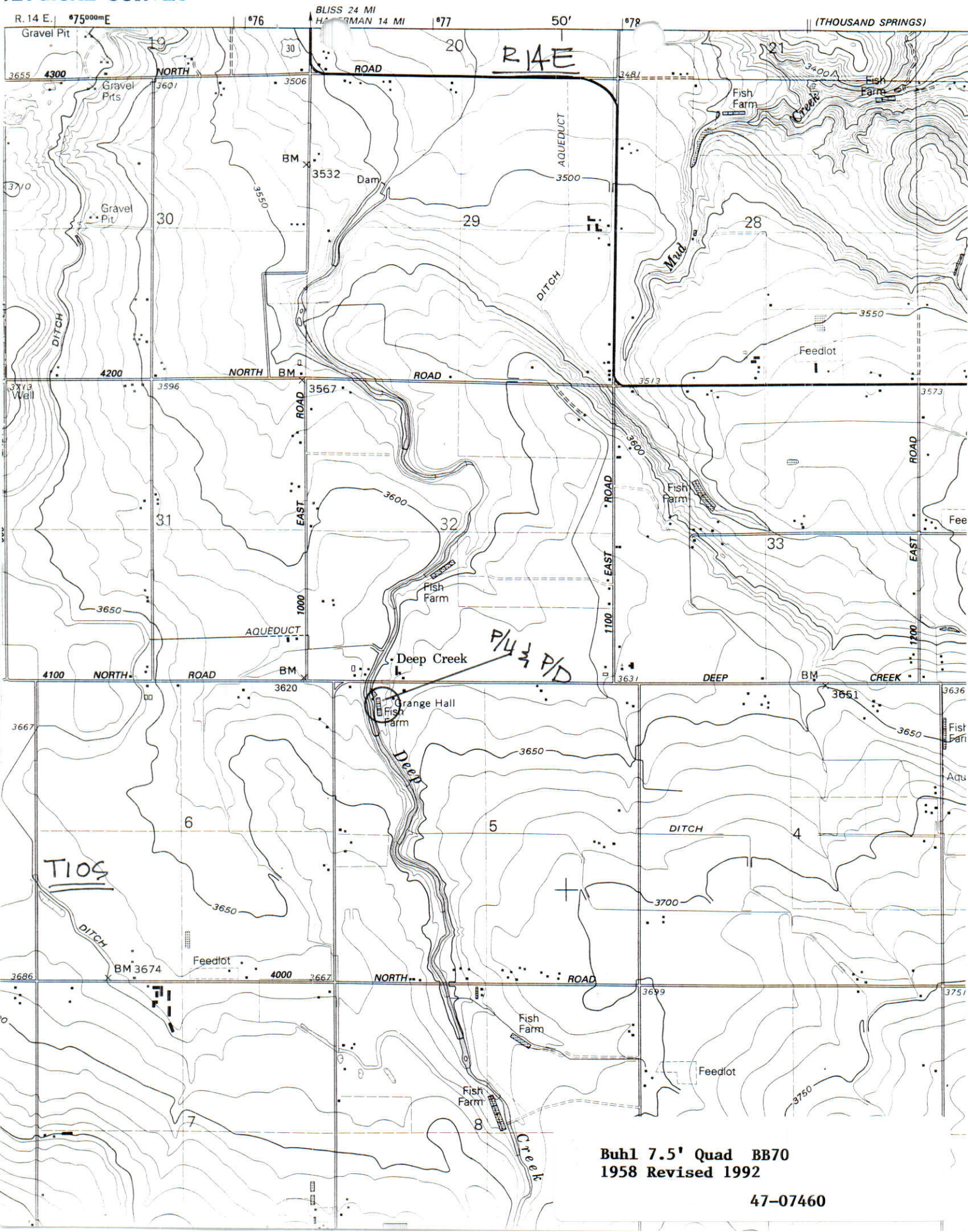
Carolee Jennings

Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho.

FILED



TOPOGRAPHICAL SURVEY



Buhl 7.5' Quad BB70
1958 Revised 1992

47-07460

1/2



Photos looking N'ly



photo looking W'ly



Griffith, Rodney & Carla
11 December 1997 0930 hrs
Examiner: Satterlee



W. side settling pond

E. side settling pond flows into W. side settling pond

photos looking NW'ly



W. side settling pond outflow into Deep Creek

WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Original Application	47-07460	Evan Cox	40.0
~~Full Assignment~~	~~47-07460~~	~~Terry G. White~~	
		~~Mary White~~	
		~~Richard W. Kelly~~	~~40.0~~
Full Assignment	47-07460	Rodney J. Griffith	
		Carla J. Griffith	40.0

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF ~~APPLICATION FOR~~ PERMIT

I, Richard Wayne Kelly & Mary C. Kelly and Terry G. White and Mary White, hereby assign to
Rodney J. Griffith and Carla J. Griffith, DBA Boswell Trout Farms
of, 4579-B River Road Buhl, ID 83316
(Full Address)

All my right, title, and interest in and to Application for Permit
No. 47-07460 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to
Application for Application for Permit No. 47-07460 to appropriate the public
waters of the State of Idaho.

Describe portion of the application assigned listing the number of acres in each 40 acre
subdivision, point of diversion location, and the amount of water in cubic feet per second.
See attached Exhibit "A"

Made this 25th day of September, 1990,
1991

Richard Wayne Kelly & Mary C. Kelly
Richard Wayne Kelly Applicant Mary C. Kelly

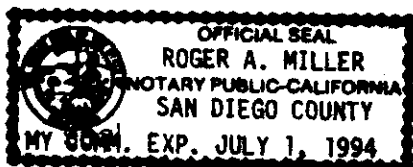
State of ~~XXXX~~ California)

ss Terry G. White

Mary White
Mary White

County of San Diego)

On this 25th day of Sept., 1990, 1991 personally appeared before me the signer of the
above instrument, duly acknowledged to me that he (she) (they) executed the same.



Roger A. Miller
Notary Public

Residing at: San Diego, CA

Commission Expires: July 1, 1994

My commission expires: July 1, 1994

T-11710 E6990 BJM

EXHIBIT "A"

Township 10 South, Range 14, East of the Boise Meridian, Twin Falls County, Idaho

Section 5: That portion of Lot 4, lying East of the centerline of Deep Creek

EXCEPT

COMMENCING at the Northeast corner of Lot 4;
THENCE West 208.708 feet;
THENCE South 417.416 feet;
THENCE East 208.708 feet;
THENCE North to the PLACE OF BEGINNING.

ALSO EXCEPTING that portion deeded to Buhl Highway District in Deed Book 104, page 352,

AND EXCEPT a portion of Lot 4, Section 5, Township 10 South, Range 14, East of the Boise Meridian, Twin Falls County, Idaho, and being more specifically described as follows:

COMMENCING at the Northwest Section corner, Section 5, Township 10 South, Range 14, East of the Boise Meridian;
THENCE South 90°00'00" East 1331.71 feet along the Northerly boundary Section 5, Township 10 South, Range 14, East of the Boise Meridian, to the Northeast corner Lot 4 said Section 5;
THENCE South 0°07'38" West 417.42 feet along the Easterly boundary said Lot 4 to the REAL POINT OF BEGINNING;
THENCE continuing South 0°07'38" West 923.00 feet to the Southeast corner Lot 4 said Section 5;
THENCE North 89°52'14" West 275.71 feet along the Southerly boundary Lot 4 said Section 5;
THENCE North 0°07'38" East 922.38 feet;
THENCE South 90°00'00" East 275.71 feet along a line being parallel to the Northerly boundary of said Section 5 to the REAL POINT OF BEGINNING.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 47-7460 IN THE)
NAME OF RICHARD KELLY, TERRY AND MARY WHITE) ORDER OF REINSTATEMENT
_____)

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before August 1, 1988; and,

WHEREAS, the Department has notified the permit holders by certified mail that proof was due and instructed the permit holders of the steps to be taken to submit the proof of beneficial use; and,

WHEREAS, the Department has notified the permit holders that the permit lapsed for failure of the permit holders to submit the proof of beneficial use; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

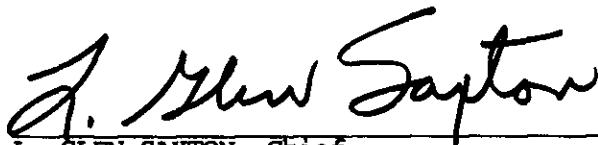
WHEREAS, the permit holders have provided a reasonable showing why the permit should be reinstated by submitting proof of beneficial use on September 2, 1988;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 47-7460 be REINSTATED and the priority advanced to April 2, 1978.

Dated this 8th day of December, 1988.

MICROFILMED

DEC 23 1988


L. GLEN SAXTON, Chief
Water Allocation Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
REQUEST FOR EXTENSION OF TIME

RECEIVED

AUG 1 1983

To provide additional time in which to submit
proof of beneficial use on a water right permit

Department of Water Resources
Southern District Office.

Terry G. White
(Name)

of Route #3 Box 201, Buhl
(Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Waters of the State of Idaho No. 47-7460.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before August 1, 1983.

That he has heretofore performed the following work described under said permit: _____

Diversion structure, ditch, and 6 concrete raceways have been built, along
with a dirt settling pond.

Costing \$35,000.

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Sale of property to present owner, along with unexpected decline in
commercial trout market, have prevented completion of project. New
owner hopes to have project completed within two years.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to August 1, 1988.

Terry G. White
Terry G. White (Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit the statement of beneficial use is extended to August 1, 1988.

IT IS FURTHER ORDERED that the permit be reinstated with no advance in priority, pursuant to Section 42-218a, Idaho Code.

Signed this 28th day of December, 1983.

J. Glen Saxton
Chief, Operations Bureau

\$15.00 fee received by sf

Date 8-4-83

Receipt # 30170

MICROFILMED

State of Idaho
Department of Water Resources

ASSIGNMENT OF PERMIT

RECEIVED

AUG 1 1983

OK to process
RC 8/10/83

Department of Water Resources
Southern District Office

I, Evan Cox, hereby assign to Terry G. &/or Mary White
of c/o Terry White, Route #3 Box 201, Buhl, ID 83316
Address &/or Richard W. Kelly

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 47-7460
to appropriate the public waters of the State of Idaho.

☐ The following described portion of my right, title, and interest in and to Permit
No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within
each 40 acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

Made this 20th day of July, 1983.

Evan Cox
Permit Holder

Diane Cox
Spouse of Permit Holder

State of Idaho)
County of Twin Falls) ss.

On this 20th day of July, 1983, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal

William A. Fullmer
Notary Public residing at
Buhl Twin Falls, Idaho

My commission expires: Life

RECORDED

Identification No. _____

Application No. 47-7460

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT APPROVED

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant Evan Cox Phone: 543-4850
post office address Route #3, Buhl, ID 83316
2. Source of water supply Deep Creek which is a tributary of Snake River
3. a. Location of point of diversion is (Gov. Lot 4)
NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 5 Township 10S
Range 14E., B.M. Twin Falls County; additional points of diversion if any: _____
- b. If water is not consumed, it will be discharged into Deep Creek at a point in (Gov. Lot 4)
NW $\frac{1}{4}$ of Section 5 Township 10S Range 14E., B.M. _____
4. Water will be used for the following purposes:
Amount 40.0 cfs for Fish Prop. purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 40.0 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Headgate, ditch & fish ponds.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
b. Estimated construction cost is \$ 34,000.00.
8. Description of proposed uses:
a. If water is **not** for irrigation: (Gov Lot 4)
(1) Give the place of use of water: NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 5 Township 10S
Range 14E., B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.
(5) If water is to be used for other purposes describe: Commercial Fish.

MICROFILM

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP.	RANGE	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	

Total number of acres to be irrigated _____

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

9. a. Who owns the property at the point of diversion Applicant

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

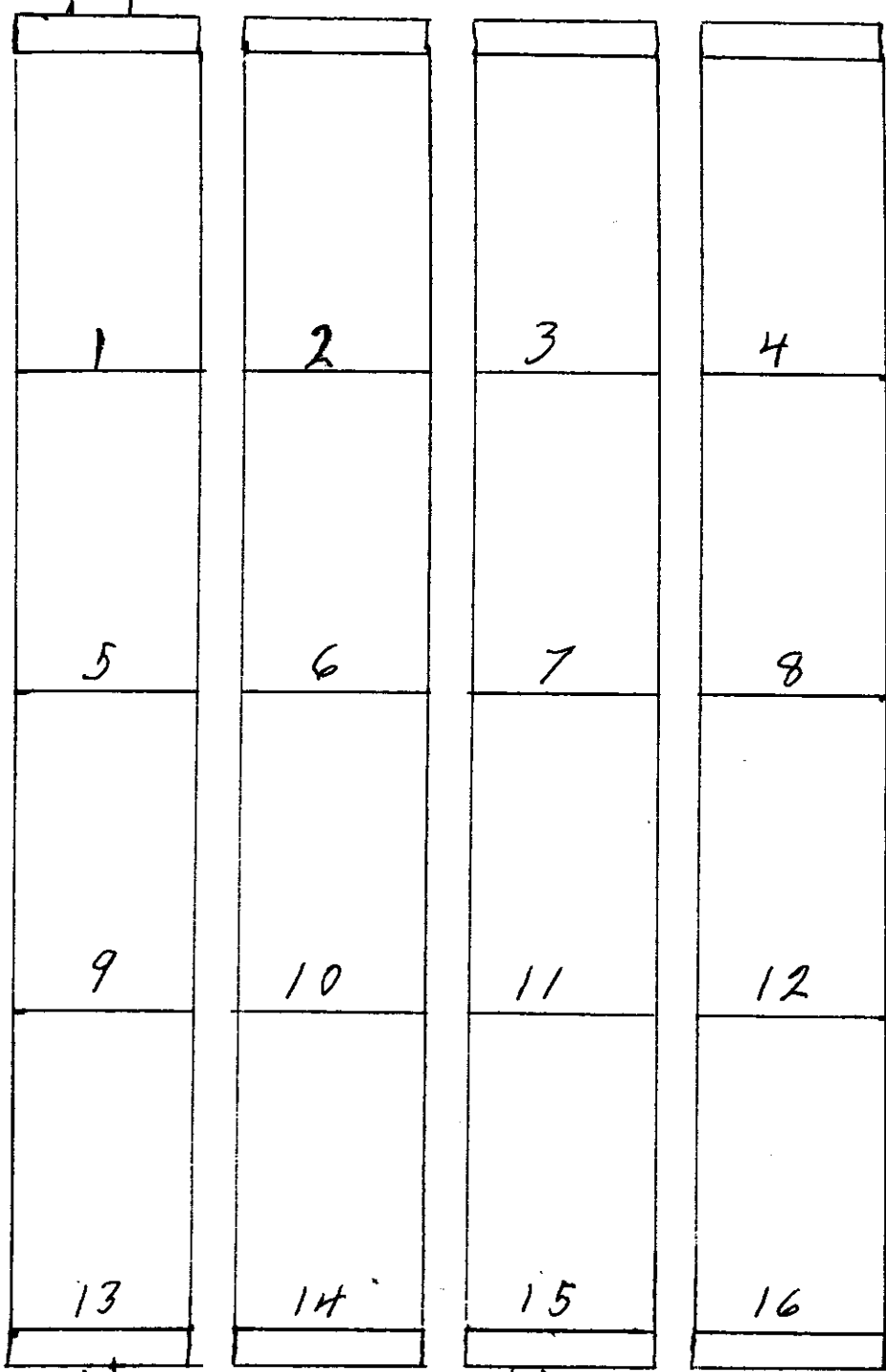
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing _____

10. Remarks _____



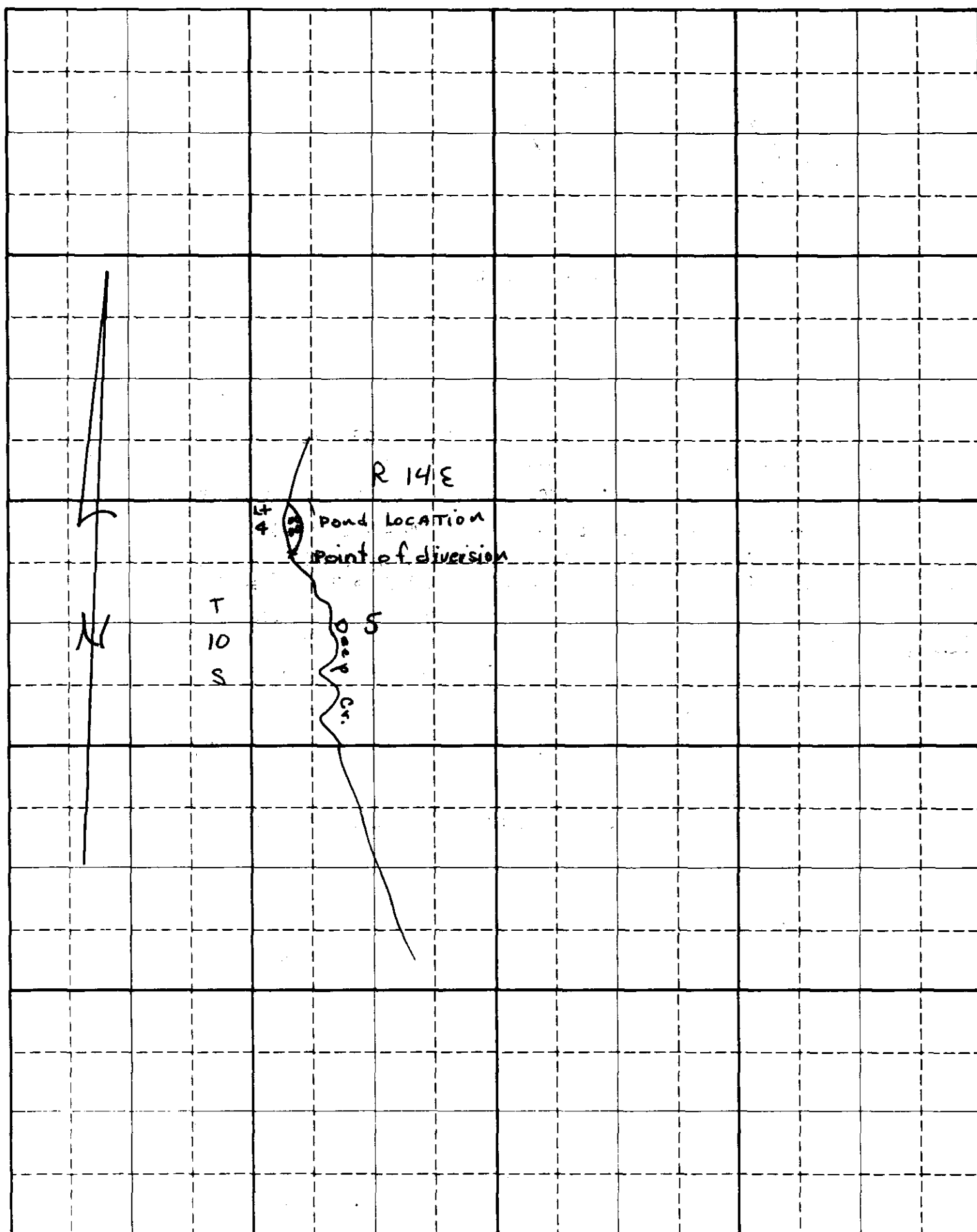
Inlet

Deep Creek



40' X 100'
6 fish ponds & 1 settling pond

11. 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.

Evan Cox
(Applicant)

Proposed Priority 3/01/78

Received by AS Date 3/1/78 Time 11:30 AM.

Preliminary check by AS Fee \$ 315

Receipted by SM Date 3-1-78 # 7549

Publication prepared by DJ Date 3/1/78

Published in Times News

Publication dates 3/9 & 3/16/78

Publication approved DJ Date 3/22/78

Priority reduced to _____ Reason _____

Protests filed by: Twinn Falls Canal Co.

3/17/78

Withdrawn 6/12/78

Copies of protests forwarded by DJ 4/5/78

Hearing held by _____ Date _____

Recommended for (approval) denial by LF

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. 47-7460, 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 August 1, 19 83.

c. Other: Measuring devices of a type approved by this Department shall be permanently installed and maintained at both the inlet and outlet works.

The permit shall not be assigned or sold without first securing the written approval of the Department of Water Resources.

Return water shall be treated to insure that the effluent meets intrastate stream water quality standards.

Witness my hand this 29th day of August, 19 78.

J. Glen Saxton

Chief, Operations Bureau

INTER-DEPARTMENT MEMO — 1

FROM Gary Funderburg

Gary

DATE March 1, 1978

TO File

SUBJECT Application for Permit No. 47-7460 - Evan Cox

I have reviewed Applicant's Financial Statement and he appears to have sufficient resources for this filing.

SIGNATURE

AGREEMENT OF SALE

PARTIES:

THIS AGREEMENT, made and entered into this 15
day of January, 1970, by and between NILE V. COX and ANNA E.
COX, husband and wife, of Buhl, County of Twin Falls, State
of Idaho, as parties of the first part, and EVAN COX and
DIANE COX, husband and wife, of Buhl, County of Twin Falls,
State of Idaho, as parties of the second part,

WITNESSETH:

PROPERTY:

THAT WHEREAS, first parties are the owners in fee
simple of certain real property situate in Twin Falls County,
State of Idaho, more particularly described as follows, to-wit:

Lots Three (3) and Four (4) in Section
Five (5), Township Ten (10) South, Range
Fourteen (14), E. B. M., excepting there-
from, commencing at the Northeast (NE)
corner of Lot Four (4) running thence
West (W) 208.708 feet thence South (S)
417.416 feet thence East 208.708 feet
thence North to the place of beginning
also excepting that portion deeded to
Buhl Highway District in Deed Book 104
Page 352 and excepting also the following:
Beginning at a point 208.708 feet West
(W) of the Northeast (NE) corner of Lot
Four (4) Section Five (5), Township Ten
(10) South, Range Fourteen (14) E. B. M.,
running thence due South (S) 322 feet
thence due West (W) 100 feet thence
due North 90 feet thence Northeast (NE)
115 feet to a point 33 feet West (W) of
the East (E) line of this described parcel
thence due North (N) 141 feet thence due
East (E) 33 feet to a point of beginning.

The Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Five (5), Township Ten (10) South, Range Fourteen (14) E. B. M.

That part of the Southwest quarter of Section Thirty-two (32) Township Nine (9) South, Range Fourteen (14) E. B. M. lying East of Deep Creek

The Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirty-two (32), Township Nine (9) South, Range Fourteen (14), E. B. M.

AND WHEREAS, first parties desire to sell the same reserving a life estate in and to the house and surrounding buildings located on the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Five (5), Township Ten (10) South, Range Fourteen (14), E. B. M.; and second parties desire to purchase the same subject to the life estate.

CONSIDERATION:

NOW, THEREFORE, for and in consideration of Ninety Thousand and no/100 Dollars (\$90,000.00) to be paid as hereinafter provided by the second parties to the first parties, the first parties agree to sell and the second parties agree to purchase the said property. The terms of payment shall be as follows:

Second parties shall assume a Federal Land Bank Loan, in the amount of \$24,215.65.

The unpaid balance, to-wit, Sixty Five Thousand Seven Hundred Eighty-four and 35/100 Dollars (\$65,784.35) plus interest at the rate of five per cent (5%) per annum shall be paid from the date of execution of this agreement in annual installments as follows:

Second parties shall make annual payments of an amount equal to five per cent (5%) interest on the unpaid balance. The first of said annual payments shall be due and payable on the 1st day of February, 1971, and a like amount on the 1st day of February of each and every year thereafter. Second parties are not required to make any specific payment on the principal until one year subsequent to the death of the survivor of the first parties, at which time second parties shall pay annually in addition to interest due, the sum of \$2,000.00 to be applied to principal, said annual sum of principal and interest until the entire purchase price, plus interest, has been paid in full.

INTEREST:

It is agreed that interest at the rate of five per cent (5%) per annum shall be computed on the unpaid balance from the date of the execution of the agreement. It is understood that the second parties may pay only the interest due annually until the death of the survivor of the first parties and interest shall be due and payable in addition to principal after said date. It is agreed that payments on the principal amount may be made at any time and in any amount and interest will be computed on the unpaid balance only.

ASSIGNMENT:

It is agreed that second parties shall not assign this contract without the written consent of first parties.

TAXES:

First parties shall pay all taxes and assessments for the year 1969 and prior years, and second parties shall pay, before delinquency, all taxes and assessments for the year 1970 and thereafter.

TITLE INSURANCE:

It is understood and agreed that first parties warrant the above-described property to be free and clear of all liens or encumbrances except those set out herein and taxes for the year 1970 and thereafter, and it is understood and agreed that first parties shall deliver to second parties, when the last payment has been made by second parties, a purchasers' policy of title insurance, showing the title to be in the first parties, and to be good and merchantable and free from encumbrance. It is expressly understood that first parties shall bear the expense of such title insurance.

INSURANCE:

It is understood and agreed that each party shall be responsible for insuring the buildings on their respective shares of the property above described against loss by fire; and it is specifically understood that second parties must insure buildings on their portion of said property in an amount not less than its insurable value. Such insurance policy shall have attached thereto a contract of sale clause with directions, that, in case of loss, payment will be made to the

first parties, and the balance to the second parties as their respective interests may appear under this contract.

Provided, that it shall be optional with the second parties to use any proceeds from the fire insurance in the event of a partial or total loss by fire, to restore damaged buildings to their original condition before the fire, or to pay the proceeds of said insurance to the first parties to apply on the contract balance. This option is to be at the election of the second parties.

REPAIRS:

Second parties agree to keep all improvements on said premises in as good a state of repair as they now are and to permit no mechanic's liens to attach to said premises without the written consent of the first parties. EXCEPT that it shall be the responsibility of first parties to keep in repair those buildings in which first parties have reserved a life estate.

ESCROW:

It is agreed that the original of this agreement, together with a warranty deed conveying the property above-described from first party to second party ^{D.C. & C.} ~~and the water~~ ^{stock certificate}, shall be placed with the Farmers National Bank, Buhl, Idaho, as escrow holder, with directions and instructions to said escrow holder to credit the account of the first parties with all payments made by the second parties herein.

POSSESSION:

Second parties shall be entitled to possession of the premises on the date of execution of this agreement and so long as they comply with the terms of this agreement.

INSPECTION:

It is agreed that second parties have made a careful and complete inspection of the real estate and the improvements herein being sold and have entered into this agreement on the basis of their inspection and not on the basis of any representation concerning the condition of the real estate or the improvements. That the only representation made by the first parties is that of good title.

DEFAULT:

Time is agreed to be of the essence of this contract and in the event the second parties should fail or refuse to make any of the payments of any kind or nature which they have hereinbefore contracted to make, at the time or in the manner therein provided, or to pay before delinquency, taxes, or commit waste, or permit waste by others on said property, or fail to comply with any of the covenants in said agreement contained, then first parties shall have the option to declare this contract at an end, and if they shall elect to declare this contract at an end, they shall first give second parties thirty (30) days written notice of the matters in regard to which they are in default, and during said thirty (30) days,

they shall have the right to remedy said default. The parties of the second part hereby agree that they shall pay unto the parties of the first part such costs that the parties of the first part might incur in having the notice of default drafted by a licensed attorney, such costs not to exceed \$20 for each notice of default in addition thereto such reasonable costs as might be incurred by having a constable or sheriff serve the notice of default upon the parties of the second part. This cost must be paid in addition to all other defaults as set out in the notice of default before the defaults on this contract shall be corrected. Said notice shall be in writing, by personal service, or by mailing to second parties, or their assigns, addressed at the residence of said premises, and if said second parties fail to remedy said default within said period of thirty (30) days, then they shall forfeit all right they may have to said premises, and first parties shall be released from obligations in law and in equity to convey said property and the first parties shall retain unto themselves all sums theretofore paid, as agreed liquidated damages, and not as a penalty for the failure of the second parties to make said payments as hereinabove provided, and as the reasonable value of the use and occupancy of said property during the time possession of said premises is retained by second parties, and second parties shall surrender the possession of said premises to first parties and from the date of such forfeiture, said second parties shall be deemed to be tenants of first parties, holding over after the expiration of their lease, and shall be

subject to dispossession under the law relating to forcible entry and detainer, or first parties, at their option, shall have the right to demand specific performance.

ATTORNEY'S FEES AND COURT COSTS:

It is specifically understood between each of the parties hereto that in the event either parties to this agreement should default in any manner, whether by failure to make the payments specified herein or otherwise, that all attorney's fees and court costs incurred in any litigation, concerning such matters shall be collectable by the prevailing party, in addition to such other remedies as the prevailing party may have under the terms of this agreement, or which may be provided for by law.

HEIRS, ETC.:

The covenants in this contract shall extend to and bind the heirs, administrators, assigns and successors of the respective parties hereto.

SIGNATURES:

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands, the day and year first above written.

Wile V. Cox

Anna E. Cox
First Parties

Ernest Cox

Diane Cox
Second Parties

STATE OF IDAHO)
County of Twin Falls) ss.

On the 15 day of January, 1970, before me, the undersigned, a Notary Public in and for said County and State personally appeared NILE V. COX and ANNA E. COX, husband and wife, known 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 day and year last above written.

(SEAL) Theodore V. Behm
Notary Public for Idaho
Residing at Buhl, Idaho

STATE OF IDAHO)
County of Twin Falls) ss.

On the 15 day of January, 1970, before me, the undersigned, a Notary Public in and for said County and State personally appeared EVAN COX and DIANE COX, husband and wife, known to me to be the persons whose names are subscribed to

RECEIVED

MAR 20 1978

Department of Natural Resources
Southern District Office

Affidavit of Publication

STATE OF IDAHO,
COUNTY OF TWIN FALLS } ss.

No. 6882

I, Madeline Kulhanek being first duly sworn upon oath, depose and say that I am Princ. Clerk of the TIMES-NEWS, published daily, except Saturday, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive Thursdays, commencing with the issue dated March 9, 1978, and ending with the issue dated March 16, 1978.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, under said name in said city and county continuously and uninterruptedly.

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

Subscribed and sworn to before me on this 16th day of

March

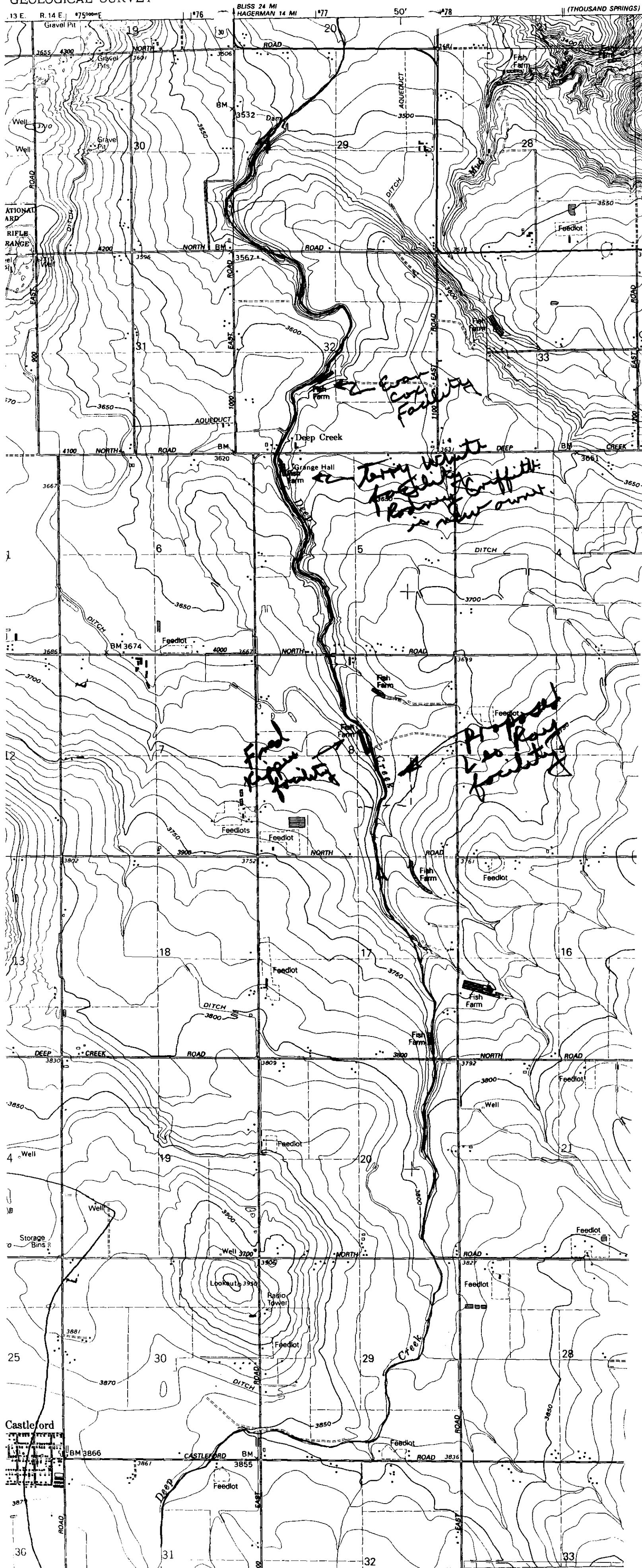
1978

Carolee J. Jennings

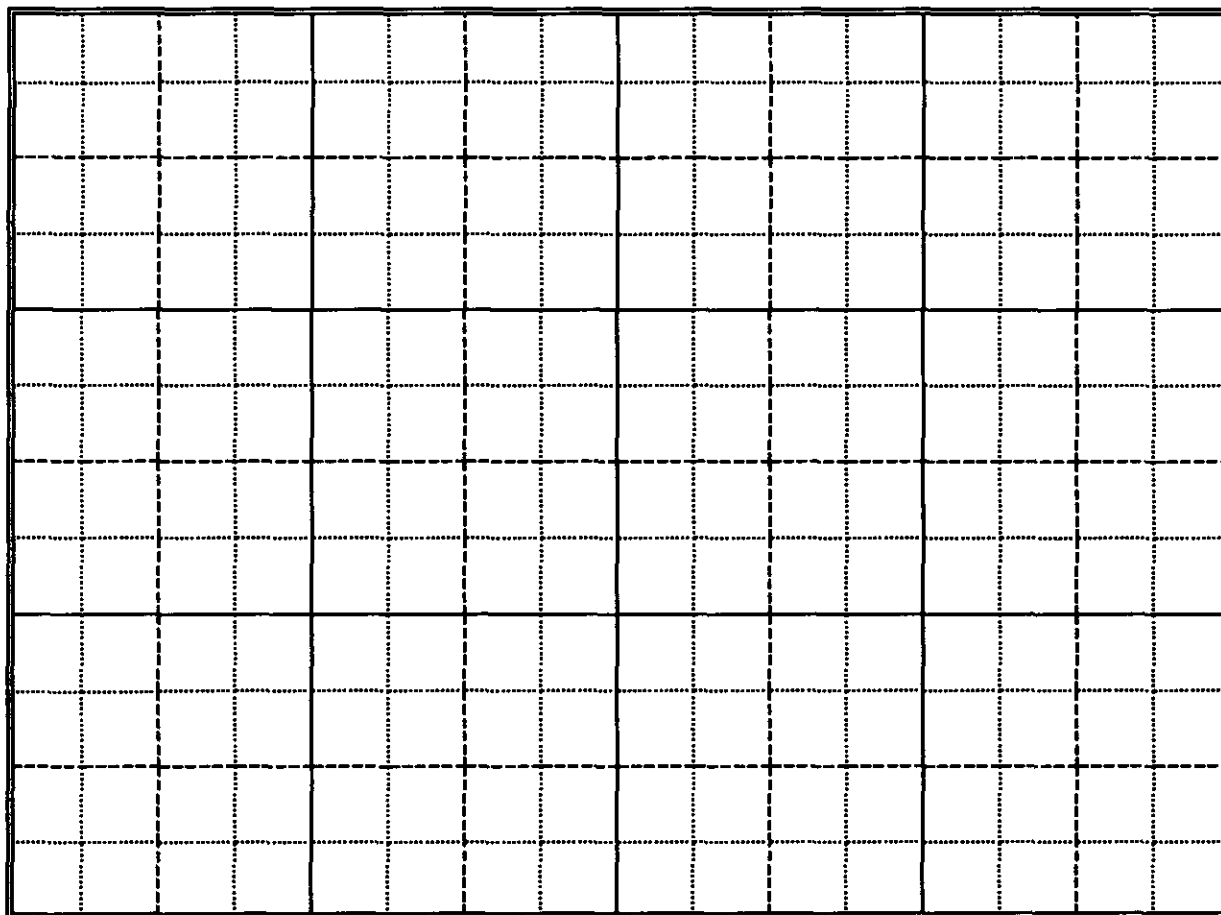
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho

MED

13 F R 14 F 175000 F 176 BLISS 24 MI HAGERMAN 14 MI 177 50' 178 (THOUSAND SPRINGS)



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



Scale: 1" = _____

☒ 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

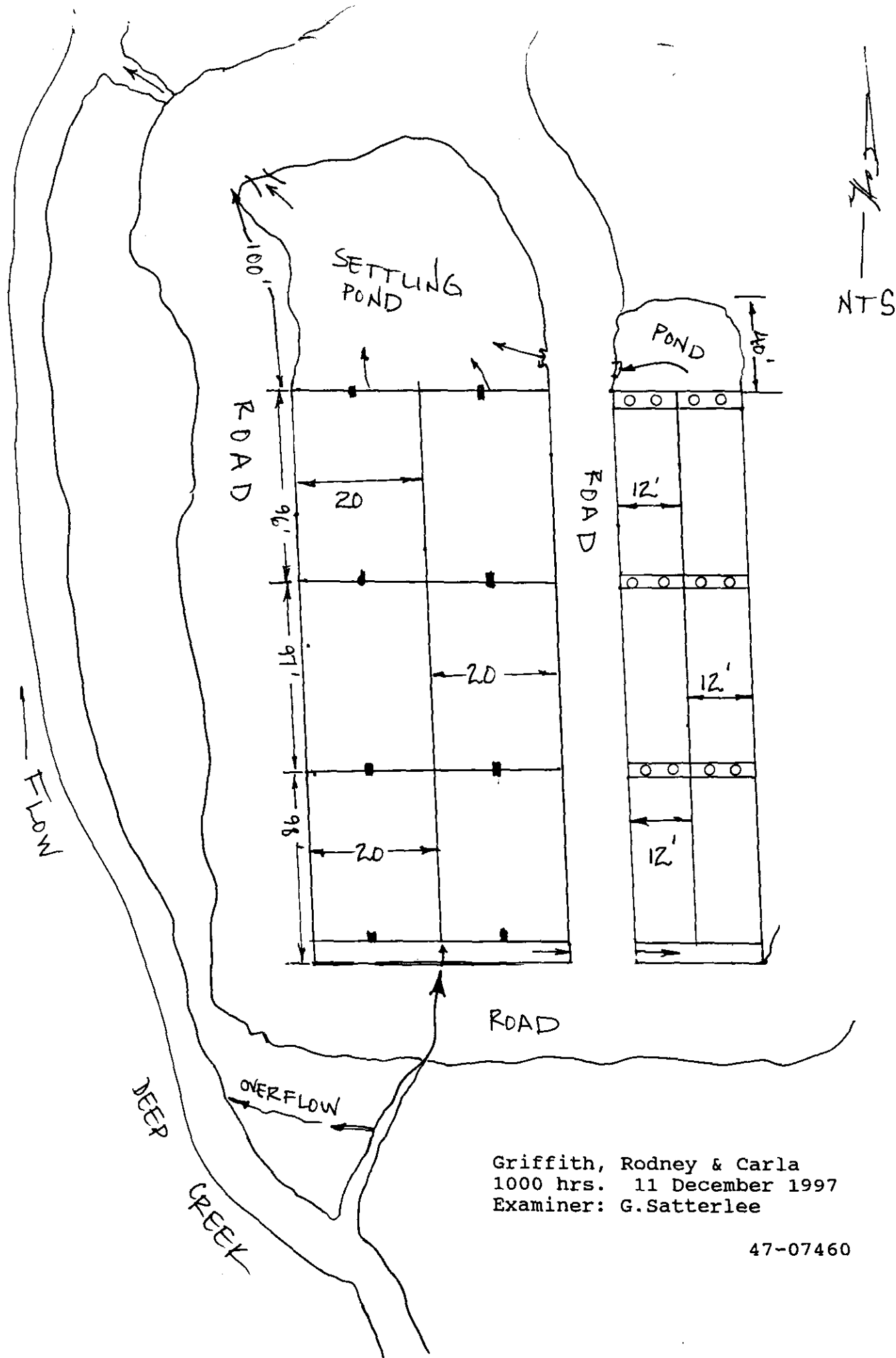
*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

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

2. Measurements: STAFF GAGE & CONTRACTED RECTANGULAR WEIRS



Griffith, Rodney & Carla
1000 hrs. 11 December 1997
Examiner: G.Satterlee

47-07460

WEST SIDE

4 Standard Contracted
Rectangular Weirs

$$2(96')(20')3'=11,520$$

$$2(97')(20')3'=11,640$$

$$2(98')(20')3'=11,760$$

$$100'(40')3' \quad \underline{=12,000}$$
$$46,920$$

EAST SIDE

2 Standard Contracted
Rectangular Weirs

$$2(96')12'(3')=6,912$$

$$2(97')12'(3')=6,984$$

$$2(98')12'(3')=7,056$$

$$40'(25')3' \quad \underline{=3,000}$$
$$23,952$$

TOTAL 70,872 = 71,000 cu. ft.

The walls of the raceways are 4 feet high, but the water level is kept at 3 feet.

Griffith, Rodney & Carla
1000 hrs. 11 December 1997
Examiner: G.Satterlee

47-07460

Forumula Used: $Q=3.33(L - 0.2H)H^{\frac{3}{2}}$

WEST SIDE

4 Standard Contracted
Rectangular Weirs

$$Q=3.33(4.9-0.2\{0.42\})0.42^{\frac{3}{2}} \\ =4.36$$

$$Q=3.33(4.8-0.2\{0.36\})0.36^{\frac{3}{2}} \\ =3.40$$

$$Q=3.33(4.8-0.2\{0.38\})0.38^{\frac{3}{2}} \\ =3.68$$

$$Q=3.33(4.8-0.2\{0.42\})0.42^{\frac{3}{2}} \\ =4.36$$

$$=15.8 \text{ cfs}$$

TOTAL = 23.2 CFS

EAST SIDE

2 Standard Contracted
Rectangular Weirs

$$Q=3.33(5.8-0.2\{0.31\})0.31^{\frac{3}{2}} \\ =3.31$$

$$Q=3.33(5.8-0.2\{0.36\})0.36^{\frac{3}{2}} \\ =4.12$$

$$=7.43$$

Griffith, Rodney & Carla
1000 hrs. 11 December 1997
Examiner: G.Satterlee

47-07460

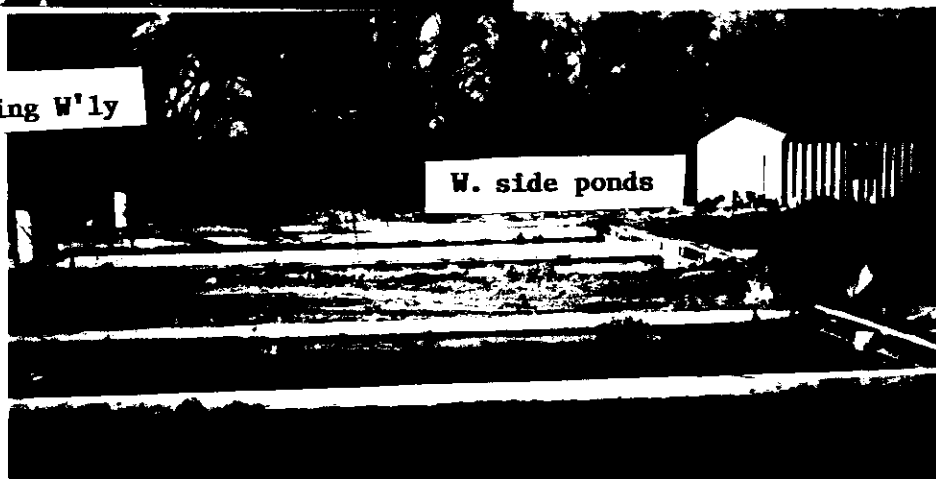
1/2



Photos looking N'ly



photo looking W'ly



E. side ponds

Griffith, Rodney & Carla
11 December 1997 0930 hrs
Examiner: Satterlee



W. side settling pond

E. side settling pond flows into W. side settling pond

photos looking NW'ly



W. side settling pond outflow into Deep Creek

DEEP CREEK FLOW →

E. NARRATIVE/REMARKS/COMMENTS

E. NARRATIVE/REMARKS/COMMENTS

FROM: Georgia Satterlee
DATE: 19 December 1997
RE: 47-07460

On 11 December 1997 at 0930 hrs., I met with Rodney Griffith to perform a field examination on the permit. The permit is for fish propagation. The water source is from Deep Creek.

The point of diversion and place of use are located in Govt. Lot 4 of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, T10S, R14E. Water is diverted from Deep Creek and is ran through concrete ponds. The year round propagation use is for raising rainbow trout. Mr. Griffith says the measurement taken today was reasonable regarding the water rate and flow.

There was a measuring device on the inlet weir but it was destroyed. The applicant has hired an consultant (JUB Engineering) to install (projected date 2/98) a stationary measuring device.

The rate was measured by using a staff gage and determining the width of the dam board key ways. All measurements and volume calculations are on the attached sheets.

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

F. FLOW CALCULATIONS

✓ Additional Computation Sheets Attached

Measured Method:

PLEASE SEE ATTACHED SHEETS
MEASURED RATE AND VOLUME

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{LR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____

$V = \text{Smaller of } V_{LR} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

PERMIT RATE 40 cfs
EXAM FEE LIMIT 20.1 — 100 cfs
MEASURED RATE 23.2 cfs

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	POND Annual Volume V (cfs) CU. FT.
FISH PROPAGATION	From 1/1	To 12/31	23.2 cfs	71,000
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			23.2 cfs	71,000

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 Georgia Senterlee Date 19 Dec 97

Reviewer _____ Date _____

SEAL

6/9/94

COMMUNICATION DOCUMENTATION

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Georgia Satterlee

DATE
December 5, 1997 10:48am

CUSTOMER
Griffith, Rodney

SUBJECT: 47-07458,-07460

phone call (x) walk-in (.)

In setting up field exams for the permits, I was told by Kippes that Mr. Griffith is and has been managing the fish propagation for 47-07458 with the intent of buying it in the near future.

Mr Griffith and I agreed to meet on Thursday 11 Decemeber @ 09:30 a.m. to perform the exams on both permits.

Home 543-5585 Cell Phone 731-5585

TO: Georgia

DATE: December 3, 1996

FROM: Jim Stanton

SUBJECT: Licensing Exam, Permit 47-07460

A review of the file indicates the following: Permit is now owned by Rod Griffith of Buhl. High flows for this system occur in July, but the original measurement was made in December at about half the permitted amount. Suggest you discuss this with owner (is a December measurement reasonable, or much lower than peak diversion rate?). Need photos of diversion works, measuring devices, etc. Gary only photographed the ponds.

With regard to inlet and outlet measuring devices, you need to look at the system and make a recommendation. If there are only concrete raceways with a fairly small surface area, the examiner can recommend that the requirement for either inlet or outlet devices be dropped (if only one location has a measuring device). If the system appears to lose a lot of water, such as in a large and possibly leaky dirt pond, we may need to require measurements on both ends. This was a standard condition in years past, but few systems were built to meet this requirement. Most systems don't lose that much water, so a device at one end or the other is usually acceptable. Boise normally is satisfied with only one measuring device if the examiner is. As you saw on the Steve Davis system on Deep Creek, sometimes we allow no measuring device at all as long as we can measure the system with our own equipment.

If you revisit the property, it might be a good idea to write up a new exam form with the current owner, etc. Just a thought - your call.

T-11710 E6990 BJM

EXHIBIT "A"

Township 10 South, Range 14, East of the Boise Meridian, Twin Falls County, Idaho

Section 5: That portion of Lot 4, lying East of the centerline of Deep
Creek

EXCEPT

COMMENCING at the Northeast corner of Lot 4;
THENCE West 208.708 feet;
THENCE South 417.416 feet;
THENCE East 208.708 feet;
THENCE North to the PLACE OF BEGINNING.

ALSO EXCEPTING that portion deeded to Buhl Highway District in Deed Book 104,
page 352,

AND EXCEPT a portion of Lot 4, Section 5, Township 10 South, Range 14, East of
the Boise Meridian, Twin Falls County, Idaho, and being more specifically
described as follows:

COMMENCING at the Northwest Section corner, Section 5, Township 10 South, Range
14, East of the Boise Meridian;
THENCE South 90°00'00" East 1331.71 feet along the Northerly boundary Section 5,
Township 10 South, Range 14, East of the Boise Meridian, to the Northeast corner
Lot 4 said Section 5;
THENCE South 0°07'38" West 417.42 feet along the Easterly boundary said Lot 4 to
the REAL POINT OF BEGINNING;
THENCE continuing South 0°07'38" West 923.00 feet to the Southeast corner Lot 4
said Section 5;
THENCE North 89°52'14" West 275.71 feet along the Southerly boundary Lot 4 said
Section 5;
THENCE North 0°07'38" East 922.38 feet;
THENCE South 90°00'00" East 275.71 feet along a line being parallel to the
Northerly boundary of said Section 5 to the REAL POINT OF BEGINNING.



First American Title Company

P.O. BOX 1807, 1616 ADDISON AVENUE EAST, TWIN FALLS, IDAHO 83303-1807
TELEPHONE (208) 734-2905

September 27, 1991

Department of Water Resources
-BY HAND-

Re: E6990BJM White-Kelly/Griffith

To Whom It May Concern:

Please find enclosed the following documents indicated with an "X", which we are sending you in connection with the above matter.

☐	Original Note	☐	Fire Insurance Binder
☐	Copy of Note	☐	Insurance receipt
☐	Original Deed of Trust	☐	Original HUD Statement
☐	Copy of Warranty Deed	☐	Copy of HUD Statement
☐	Original Warranty Deed	☐	Copy of your bill/statement
☐	Authorization to Reconvey	☐	Copy of ATR
☐	Closing Statements	☐	Copy of Insurance Check
☐	Our Check No. for \$		
☐	Copy of Payoff Statement	☐	Your Loan Package/Assumption Package
☒	Assignment Permit	☐	
☒	Reading Report	☐	

Best Regards,

FIRST AMERICAN TITLE COMPANY

Lori Barnhart

Lori Barnhart
Escrow Assistant

/lab
attachment(s)

47-07460

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

NOV 29 1991

Department of Water Resources
Southern Region Office

ASSIGNMENT OF ~~APPLICATION FOR PERMIT~~

I, Richard Wayne Kelly & Mary C. Kelly and Terry G. White and Mary White, hereby assign to Rodney J. Griffith and Carla J. Griffith, DBA Boswell Trout Farms
of, 4579-B River Road Buhl, ID 83316
(Full Address)

All my right, title, and interest in and to Application for Permit No. 47-07460 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Application for Permit No. 47-07460 to appropriate the public waters of the State of Idaho.

Describe portion of the application assigned listing the number of acres in each 40 acre subdivision, point of diversion location, and the amount of water in cubic feet per second.
See attached Exhibit "A"

Made this 25th day of September, 1990
1991

Richard Wayne Kelly Applicant Mary C. Kelly
Richard Wayne Kelly Mary C. Kelly

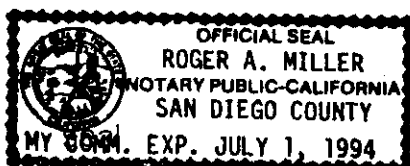
State of ~~XXXXX~~ California)

ss Terry G. White

Mary White
Mary White

County of San Diego)

On this 25th day of Sept., 1990, 1991 personally appeared before me the signer of the above instrument, duly acknowledged to me that he (she) (they) executed the same.



Roger A. Miller
Notary Public

Residing at: San Diego, CA

Commission Expires: July 1, 1994

My commission expires: July 1, 1994

47-7460

November 25, 1991

RODNEY J GRIFFITH
CARLA J GRIFFITH
DBA BOSWELL TROUT FARMS
4579-B RIVER RD
BUHL ID 83316

Re: Permit No. 47-07460

Dear Permit Holder(s):

We acknowledge receipt of the correspondence transferring ownership of the above referenced water right to you. We have modified our computer records to reflect this change in ownership.

If you have any questions regarding this matter, please feel free to contact us.

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

PS:blm



First American Title Company

P.O. BOX 1807, 1616 ADDISON AVENUE EAST, TWIN FALLS, IDAHO 83303-1807
TELEPHONE (208) 734-2905

September 27, 1991

Department of Water Resources
-BY HAND-

Re: E6990BJM White-Kelly/Griffith

To Whom It May Concern:

Please find enclosed the following documents indicated with an "X", which we are sending you in connection with the above matter.

☐	Original Note	☐	Fire Insurance Binder
☐	Copy of Note	☐	Insurance receipt
☐	Original Deed of Trust	☐	Original HUD Statement
☐	Copy of Warranty Deed	☐	Copy of HUD Statement
☐	Original Warranty Deed	☐	Copy of your bill/statement
☐	Authorization to Reconvey	☐	Copy of ATR
☐	Closing Statements	☐	Copy of Insurance Check
☐	Our Check No. for \$		
☐	Copy of Payoff Statement	☐	Your Loan Package/Assumption Package
☒	Assignment Permit	☐	
☒	Reading Report	☐	

Best Regards,

FIRST AMERICAN TITLE COMPANY

Lori Barnhart

Lori Barnhart
Escrow Assistant

/lab
attachment(s)

47-07460



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

December 8, 1988

Richard W. Kelly
Terry G. and Mary White
Rt. 3 Box 289
Buhl, ID 83316

Dear Permit Holders:

Re: Permit No. 47-7460

On September 7, 1988, the department received a request for extension of time form. On October 14, 1988, the department sent a letter requesting more information regarding the type of litigation which delayed development of this permit. On November 15, 1988, the department received a proof of beneficial use form and fee in the Southern Region Office.

Apparently, you wish to proceed with the licensing process and have submitted the proof of beneficial use form in lieu of the request for extension of time. Returned is the request for extension of time form. The \$15 extension fee will be returned to you under separate cover.

The proof is acceptable, the permit is reinstated and the regional office will be notified to conduct the field inspection to determine the extent of beneficial use. The regional office will contact you to schedule a convenient time to conduct the field examination.

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

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

c: Accounting Sec.
Reg. Office

MICROFILMED

DEC 20 1988

MEMORANDUM

DECEMBER 8, 1988

TO: Accounting Section and File 47-7460

FROM: Rita Fleck

RE: Proof of Beneficial Use

I have returned the request for extension of time form received in this office on September 7, 1988, receipted in the state office, #C002506. Please prepare a refund.

The proof of beneficial use form was submitted in lieu of the request for extension of time form. The permit will be reinstated using the date the request for extension of time was received.

MICROFILMED

DEC 20 1988

1/88.

PROOF OF BENEFICIAL USE

ANALYSIS SHEET

Permit No. 47-7460

Date: 12-6-88

General Considerations:

Y Name same as permit
Y Signature the same as permit holder
Y Address change _____ If yes, prepare a data entry
N Proof received timely
Y Reinstated

Source of Water:

Y Surface water
_____ Groundwater
_____ 1. well log in file
_____ 2. drilling permit
_____ A. amount of drilling fee paid for proposed uses

Extent of Use and Rate of Diversion:

Y Rate of diversion appropriate for uses
Y Is rate or volume and fee appropriate?
Y Has permit holder indicated when water was first put to a beneficial use?

Measuring Device:

Y Is a measuring device or access port required?
? Has one been installed?
N Waiver or modification of measuring device requested

Remarks:

Proof acceptable
Reinstated

Y Priority Calculation:
Date proof received Sept. 2, '88 = 245
Extension
Date proof due Aug. 1, '88 = 213
No. of days late = 32
Priority date Mar. 1, '78 + 60
NEW PRIORITY DATE April 2, '78 = 92

SEND FILES TO DATA ENTRY AND THEN TO MICROFILM

15-Nov-1988

Terry White
Rt. 3 Box 289
Buhl, ID 83316

RE: Permit No. 47-07460

Dear Mr. White:

We acknowledge receipt of the affidavit submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

Field examinations must be done while the system is in operation. For this reason we concentrate on irrigation permits during the summer months and do examinations on permits for other uses during the non-irrigating months.

Enclosed please find Receipt No. S003810 in the amount of \$600.00 for examination fee for the above referenced permit.

If you have any questions regarding the field examination, please contact our office.

Very truly yours,

Twylla Jasper
Clerk

Encl:

RECEIVED

03/85

NOV 15 1988

Department of Water Resources
Southern Region Office

REC

NOV 16 1988

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

For Office Use Only

Fee Received 600.00

Date 11/15/88

Receipt # 5003810

Receipt by IG

Reviewed by JS

Sent to region 50

DEEPCREEK

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has 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.

Permit No. 47-07460

Name(s) of Permit Holder: Richard Kelly + TERRY G. White + Mary White

Post Office Address: Rt-3 Box 289 Buhl, ID 83316

Telephone No. 543-5478

Source of Water: DEEP CREEK

Extent of Use:

Domestic _____ (number of households)

Stockwater _____ (number and type of stock)

Irrigation _____ (acres)

Other/Remark Fish Rearing

Total rate and/or volume for which proof is submitted 40 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: 10 - 1978

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

Fee enclosed \$ 600.00
(See License Examination Fee Schedule)

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

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

TERRY White
(Name)

543-5478
(Telephone Number)
daytime - 543-6441

Rt-3 Box 289
(Address)

MICROFILMED

DEC 20 1988

The above information is my true statement of the extent to which the above numbered permit has been used and I relinquish any undeveloped portion of the permit to the state of Idaho.

8/11/88

Terry White - Owner
Signature of Permit Holder (and title, if appropriate)

Date

October 14, 1988

Richard W. Kelly and/or
Terry G. and/or Mary White
Rt. 3 Box 289
Buhl, ID 83316

Dar Mr. Kelly and Mr. and Mrs. White:

Re: Permit NO. 47-7460

This office acknowledges receipt of the request for extension of time form. Before the department takes action on the request, more information is needed.

The reason for delay is litigation. Please substantiate your water right file with documentation of when the litigation began, when it was resolved, if it has, and why the development has been delayed due to this litigation. Please provide this information within thirty days.

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

Sincerely,

RITA I. FLECK
Secretary/Records Manager

MICROFILMED

DEC 23 1988

4/86

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESFor Office Use Only
\$15 FEE Received by NY
Date 9-8-1988
Receipt # C002306

REQUEST FOR EXTENSION OF TIME

RECEIVED

SEP 07 1988

Department of Water Resources
Sawtooth Region OfficeTo 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. 47-~~47~~460Name(s) of Permit Holder: Richard W. Kelly and Terry G. White and Mary WhitePost Office Address: Rte 3 Bx 289 Buhl, Idaho 83316Telephone No. 543-6441Date Proof Is Due: 8/1/88

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".)

12 Concrete Raceways have been Completed Inlet & outlet has been constructed & P.A. ponds have been Completed.

Costing \$ 50⁰⁰

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

Inlet is being replaced w/measuring device to measure flow. water filling is also tied up in litigation w/Leo Ray. (fish breeders)

Permit holder(s) request an extension to 8/1, 19 89.
(1 yr. minimum)*Mary White
(Signature)*

FEE: \$15.00

*IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

MICROFILMED

DEC 23 1988

Signed this _____ day of _____, 19 ____.

[Signature]

WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

Ninety days following the date of official action this file will be DESTROYED.

August 11, 1988

RICHARD W. KELLY
TERRY G. WHITE
MARY WHITE
RT. 3 BOX 201
BUHL, ID 83316

LAPSE NOTICE

RE: PERMIT NO. 47-07460

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced water permit has lapsed. This office did not receive either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time. You were provided the proper form in our proof due notice to you dated July 31, 1988.

Your permit cannot be reinstated unless you submit proof of beneficial use or submit an extension of time request showing reasonable cause for delay. Either the completed proof of beneficial use submittal (including the examination fee or a completed field examination report) or the extension request form together with the \$15 fee must be received by this lapse notice or the permit will no longer be of any force of effect.

A proof of beneficial use form and a request for extension of time form are again enclosed for your use. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a governmental agency or by litigation which might bring title to the water in question.

L. Glen Saxton
Chief, Operations Bureau

Enclosures

LGS:RF

MICROFILMED

DEC 23 1988

CERTIFICATION OF MAILING

I hereby certify that on 8/11/88
a copy/an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

Heidi Miller

138658
CERTIFIED MAIL
May 31, 1988

WHITE, TERRY G. & MARY
RT. 3 BOX 201
BUHL, ID 83316

PROOF DUE NOTICE

RE: Permit No. 47-7460

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 August 1, 1988. (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 completed 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, or the permit will no longer be of any force nor effect.

Sincerely,

RITA FLECK
Secretary/Records Manager

Enclosures

MICROFILMED

DEC 25 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT.

(2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

MICROFILMED

DEC 23 1988

January 3, 1988

Terry G. White
Route 3, Box 201
Buhl, ID 83316

Dear Mr. White:

Re: Permit No. 47-7460

This office acknowledges receipt of the assignment conveying the above-referenced permit to you. The assignment has been entered into the department's records. Enclosed is a copy of the permit for your records.

Also enclosed is a copy of the approved request for extension of time. The time within which to submit the statement of beneficial use is extended to August 1, 1988. Please note that the permit has been reinstated with no advance in priority.

In connection with the development of a water right under this permit, the department wishes to call to your attention an Idaho Supreme Court decision issued in November 1982 which likely could affect your future use of water.

The decision in the case of Idaho Power Company vs the State of Idaho, et al stated in part that Idaho Power Company's use of water for power generation purposes at the Swan Falls dam on the Snake River is not subordinated to upstream depletion by later-in-time uses. The question of whether Idaho Power's 8,400 cfs water right at Swan Falls dam has been diminished by subsequent development, however, was remanded back to district court for determination. The findings of the district court could restrict water availability or require compensation to Idaho Power Company for uses developed later in time than Idaho Power Company's water right at Swan Falls dam.

Sincerely,

RITA I. FEECK
Secretary/Records Manager

Enclosures

RECEIVED
JAN 10 1988
IDAHO DEPT. OF
WATER RESOURCES

Attn: Tim Johnson RE: permit 417-7460

In 1978, I constructed
600 ft. of head ditch, to include
two water control structures,
6 concrete raceways, measuring
20' x 100', one settling pond
measuring 40' x 200'. Tail structure
and return ditch. Approx. cost
was \$30,000.00.

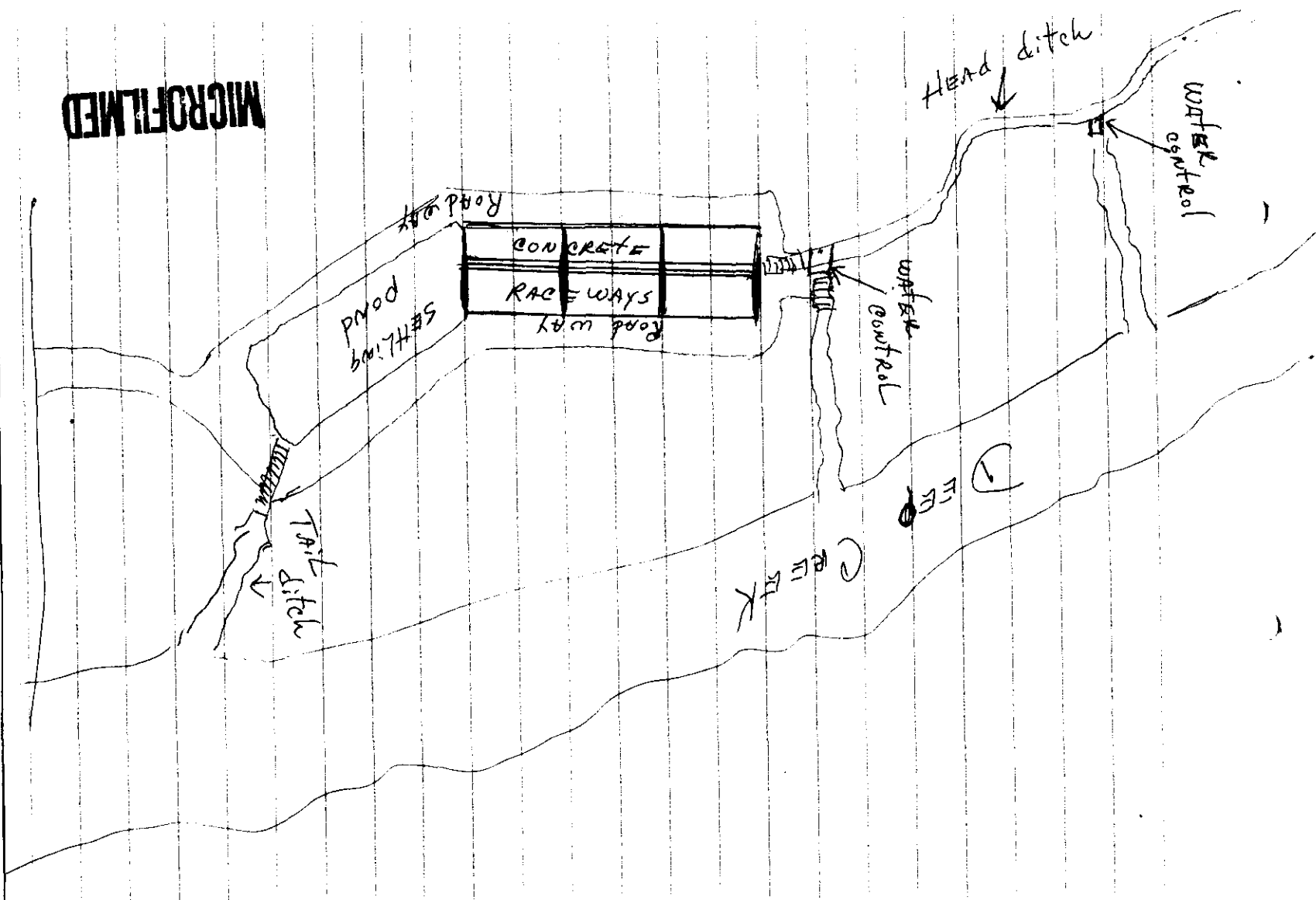
Evann Cox

RECEIVED
DEC 17 1983

Department of Water Resources

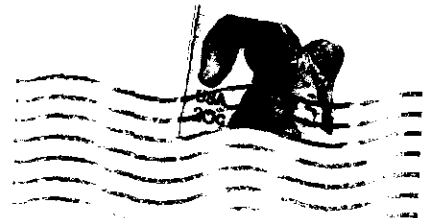
MICROFILMED

MICROFILMED



E. Cox
RR3
Buhl, Idaho

MICROFILM



State of Idaho
Dept. of WATER RESOURCES
STATE OFFICE
450 W. STATE STREET
STATEHOUSE
BOISE, IDAHO 83720
ATTN: JIM JOHNSON

December 13, 1983

Evan Cox
Rt. 3
Buhl, ID 83316

Dear Mr. Cox:

This letter is written in reference to water permit No. 47-7460, which you filed for in March, 1978.

The permit requested 40.0 cfs of Deep Creek water to be used for fish propagation.

On August 1, 1983, this Department received an Assignment of Permit form in which you assigned ownership of this permit to Terry and Mary White. This assignment has not yet been approved nor has the Request for Extension of Time to submit proof to beneficial use of water under the permit submitted by Terry White.

The reason neither of these documents have been approved is because of a condition listed on the fourth page of the water permit form which required the permit holder to obtain written permission from this Department before the permit can be assigned to someone else.

On August 19, 1983, the Department requested that you provide a detailed summary of the developments you made toward using the water identified in the permit including an estimate of the associated costs. We requested this information to be provided by September 15, 1983. To date we still have not received anything. Therefore, in order to keep your permit in good standing, please provide us with the requested information on or before January 15, 1984.

If you do not respond, the permit assignment to Mr. White may not be accepted and his request for an extension of time would be denied, leaving him with no water right.

If you have any questions on this or if I can be of any assistance, please let me know.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

STAFF REVIEW OF REQUESTS FOR EXTENSION OF TIME

Permit Number 47-7460

- Y Date Received stamp
Y Fee receipted
Y Name on request same as on permit
Y Address same as on permit
Y Proof due date correct
Y Period of request correct
OK Signature same as on permit
Y First extension request
Y Permit holder named as defendant in 1983 Idaho Power lawsuit - **EVAN COX**
Y Is extension filed before proof due date?

Date extension received _____

Proof due date - _____

Days late _____

Priority date _____

Adjusted priority date _____

____ Is delay caused by litigation? - **NOT STATED**

Date litigation began _____

Date litigation completed _____

Period of delay _____

New proof due date _____

Y Is there commencement of works?

____ Cover letter number **New Proof due date 8-1-1988**

____ Rolodex card updated

Remarks:

**LETTER SENT REQUESTING STATEMENT THAT CONSTRUCTION STARTED
PRIOR TO ASSIGNMENT - NO RESPONSE, AS OF 10-7-83**

Reviewed by: Jim

Date: 8-19-88, 9-19-83 ¹ 10-7-83

MICROFILMED



of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

August 19, 1983

Evan Cox
Rt. 3
Buhl, Id 83316

RE: Permit No. 47-7460

Dear Mr. Cox

The Department of Water Resources received an assignment of permit No. 47-7460 changing ownership from yourself to Mr. Terry G. and/or Mrs. Mary White.

You may recall that one of the conditions listed on the fourth page of your permit required you to secure written permission from the Department prior to assigning the permit to a new owner. Therefore, before we can accept this assignment the Department must be assured that ^{no}~~so~~ speculation on your part had occurred.

Please provide a detailed summary of the developments you made toward using water under this permit and when these developments were made. Also include an estimate of the cost associated with the said development.

We must emphasize that the status of this permit is dependent upon us receiving this information. Please respond by submitting said information on or before September 15, 1983.

If you have any questions on this matter or if I can be of any further assistance please let me know.

Sincerely

Jim Johnson
Water Distribution Supervisor

JJ:jvv
cc: Terry White

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

EXTENSION OF TIME

August 4, 1983

William L. Fullmer
Route 3, Box 263
Buhl, ID 83316

PERMIT NO. 47-7460, Terry G. White

We are in receipt of the \$15 extension fee for Extension(s) of Time to provide additional time in which to submit proof of beneficial use on a water right permit.

Your request for extension(s) of time is being reviewed by staff. You will be informed of our decision when review has been completed.

Enclosed is our receipt No. 30170.

Roberta Garrett
Records Supervisor

Enclosure

MICROFILMED

INTER-DEPARTMENT MEMO — 1

FROM Glen

DATE 8-16-83

TO Tim T.

SUBJECT - see assignment cond on permit
- I think we need some evidence from Cox showing that he made some development himself under the permit (i.e. wasn't speculating) prior to accepting the assignment & taking action on ext request.



SIGNATURE

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

COX, EVAN
RT. 3
BUHL, ID 83316

LAPSE NOTICE

AUGUST 02, 1983

DEAR PERMIT HOLDER:

YOU ARE HEREBY NOTIFIED THAT UNDER THE PROVISIONS OF SECTION 42-218A OF THE IDAHO CODE, PERMIT NO. 47-7460 HAS LAPSED. THIS OFFICE DID NOT RECEIVE EITHER AN ACCEPTABLE NOTICE THAT YOU HAVE COMPLETED THE PROJECT (PROOF OF BENEFICIAL USE) BY THE DATE REQUIRED ON YOUR PERMIT OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME. YOU WERE PROVIDED THE PROPER FORMS IN OUR PROOF DUE NOTICE TO YOU DATED MAY 31, 1983.

YOUR PERMIT CANNOT BE REINSTATED UNLESS YOU SUBMIT THE STATEMENT OF BENEFICIAL USE POSTCARD OR SUBMIT AN EXTENSION OF TIME REQUEST SHOWING REASONABLE CAUSE FOR DELAY. EITHER THE COMPLETED POSTCARD OR THE EXTENSION REQUEST MUST BE RECEIVED BY THIS OFFICE WITHIN SIXTY DAYS OF THE DATE OF THIS LAPSE NOTICE OR THE PERMIT WILL NO LONGER BE OF ANY FORCE OR EFFECT.

A STATEMENT OF BENEFICIAL USE POSTCARD AND A REQUEST FOR EXTENSION OF TIME FORM ARE AGAIN ENCLOSED FOR YOUR USE. PLEASE NOTE THAT A FEE OF \$15.00 MUST ACCOMPANY AN EXTENSION OF TIME REQUEST AND THAT ONLY ONE EXTENSION OF TIME CAN BE GRANTED UNLESS THE PROJECT HAS NOT BEEN COMPLETED BECAUSE OF LACK OF A NECESSARY APPROVAL BY A GOVERNMENTAL AGENCY OR BY LITIGATION.

D. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

ENCLOSURES

LES:RF

CERTIFICATION OF MAILING

I hereby certify that on 8/5/83
~~a copy~~ an original of this document was
deposited in the United States mail,
postage prepaid, addressed to the
individual(s) named above.

Sharla Curte

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

CUX, EVAN
RT. 3
BUHL, ID 83316

138644

PROOF DUE NOTICE

MAY 31, 1983

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 47-7460 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE AUGUST 01, 1983. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A POSTCARD WHICH 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, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE POSTCARD OR A 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

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

August 29, 1978

Re: Permit No.'s 47-7459 and 47-7460

Evan Cox
Route #3
Buhl, ID 83316

Dear Mr. Cox:

Your approved copies of the above referenced Applications for Permit are enclosed and we direct your attention to the conditions of approval on the fourth pages.

Please note that a special condition requiring you to install and maintain measuring devices has been placed upon your permits. Enclosed is a letter describing the different types of measuring devices accepted by this Department.

The exercise of these permits may also be affected by the court's determination of water rights in the case of Idaho Power Company v. State of Idaho, et al., Civil No. 62237, currently pending before the District Court of Ada County.

Idaho Power officials tell us that because of Case No. U-1006-124 filed before the Idaho Public Utilities Commission, Idaho Power Company is asking the District Court of Ada County to determine whether the Power Company's water rights on the Snake River are protected against subsequent upstream appropriations in the waters of the Snake River and surface and subterranean tributaries between Milner Dam and Hells Canyon.

Since the use of water under your permits may affect the flows in this reach of the Snake River, the final decision in Idaho Power Company v. State of Idaho, et al. (Ada County Civil No. 62237) may determine to what extent the exercise of your permit may be subject to the water rights of Idaho Power. While the Ada County court is examining this question, Idaho Power Company has not filed a specific protest to your permits. However, the Department of Water Resources has been advised that the Power Company is not waiving any of its rights to contest or limit the exercise of your permits or a subsequent license or water right. If you have any questions, please let us know.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:kw
Enclosures

MICROFILMED

PARRY, ROBERTSON, DALY & LARSON

LAWYERS

R. P. PARRY
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
J. EVAN ROBERTSON
THOMAS G. WALKER, JR.
JAMES C. TUCKER

THE IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 1906
TWIN FALLS, IDAHO 83301
(208) 733-3722

T. M. ROBERTSON (1911-1977)
JOHN H. DALY (1913-1968)

June 9, 1978

Department of Water Resources
Twin Falls District Office

Mr. Terry Blau
Department of Water Resources
1041 Blue Lakes Boulevard North
Twin Falls, Idaho 83301

Re: Evan Cox - Twin Falls Canal Company
Water Protest

Dear Mr. Blau:

The Twin Falls Canal Company herein withdraws their Protest to Applications for Permit No.s 47-7459 and 47-7460 filed by Evan Cox.

A copy of this letter may be inserted in both application files.

Sincerely,


JOHN A. ROSHOLT

JAR:vjs

cc: Mr. Robert Weaver
Mr. Evan Cox

RECEIVED

MAY 1 1968

Department of Water Resources
Southern District Office

ROBERT C. WEAVER
130 North Broadway
Buhl, Idaho 83316
Telephone (208) 543 8268

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

* * * * *

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 47-7460) MOTION TO STRIKE PROTEST OF
EVAN COX) TWIN FALLS CANAL COMPANY

* * * * *

COMES NOW THE APPLICANT EVAN COX, by and through his
respective attorney Robert C. Weaver, and moves the department
to strike the above mentioned allegation set forth in the protest
for the reasons set out thereunder:

1. To strike paragraph No. 2 of the allegations
in said protest for the reason that the department lacks juris-
diction to determine the extent of the company's system under
the regulation control and ownership of the Twin Falls Canal Co.
and for the further reason that the allegations in no way touch
upon the principle items the department can consider and approve
or deny in the application.

2. To strike paragraph No. 3 of the allegations
contained in the protest for the reason that it has been adjudged
that the department cannot hear water quality as an item for
determining the approval or disapproval of an application for
permit.

3. To strike allegation No. 4 in that the protestant
has no title, easement, or other right-of-way in which the
applicant would deem it necessary to receive permission to con-
struct a contemplated diversion works and for the further reason
that the department has made the determination that permission

1
2 for a right-of-way at the time an application is filed is not
3 necessary, in the application for Permit No. 36-7072, Norman
4 Standal and George Lemmon and application for Permit No. 36-7085
5 Robert Brailsford, President of Brailsford Bros., Inc., an
6 Idaho Corporation.

7 4. To strike allegation No. 7 of said protest
8 because local public interest is not a principal item the
9 department can consider in either approving or denying the application
10 for permit.

11 APPLICANT FURTHER MOVES THE COURT to strike the
12 following paragraphs for the reasons for denying said protest
13 with the reasons set out below each paragraph.

14 1. To strike paragraph No. 2 of said protest
15 for the reason that quality of water is not one of the principal
16 items the department can consider in denying or accepting an
17 application.

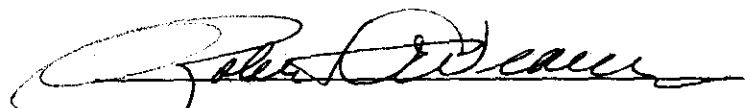
18 2. To strike paragraph No. 4 of the protest for
19 the same reasons set out in paragraph no. 3 of the allegations
20 of said protest.

21 3. To strike paragraph No. 7 for said protest
22 for reasons of local public interest at the time of filing said
23 application was not an item the department could consider in
24 either approving or denying the application for permit.

25 THE APPLICANT RESPECTFULLY Asks the Court to
26 set a time and place convenient to the parties to have said
27 Motion heard.

28 DATED this 28th day of April, 1978.

29 Respectfully submitted,

30
31 

32 ROBERT C. WEAVER
33 130 North Broadway
34 Buhl, Idaho 83316

ROBERT C. WEAVER
ATTORNEY AT LAW
130 NORTH BROADWAY
BUHL, IDAHO 83316

CERTIFIED
No. 984682
MAIL

Certified Mail
Return Receipt Requested

State of Idaho
Department of Water Resources
1041 Blue Lakes Blvd. NO.
Twin Falls, Idaho 83301



RECEIVED

MAY 2 1978

Department of Water Resources
Southern District Office



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

April 5, 1978

Mr. John Rosholt
Parry, Robertson, Daly & Larson
P. O. Box 1906
Twin Falls, Idaho 83301

Re: Applications for Permit No. 47-7459 & 47-7460 - Evan Cox

Dear Mr. Rosholt:

Your protest against the approval of the above referenced applications submitted in behalf of Twin Falls Canal Company has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the applications and to attempt to resolve the protest.

If you do not advise us 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 for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the auantity 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?

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

Sincerely,

Michael L. Steele
Southern Region Supervisor

MICROFILMED

MLS:dj



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

April 5, 1978

Mr. Evan Cox
Route # 3
Buhl, Idaho 83316

Re: Application For Permit No. 47-7459 & 47 -7460 - Evan Cox

Dear Mr. Cox:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your Applications No. 47-7459 & 47-7460. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

If you do not advise us 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 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 with which to complete the project?

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

Sincerely,

Michael L. Steele
Southern Region Supervisor

MLS:dj

MICROFILMED

PARRY, ROBERTSON, DALY & LARSON

LAWYERS

THE IDAHO FIRST NATIONAL BANK BUILDING

P. O. BOX 1906

TWIN FALLS, IDAHO 83301

(208) 733-3722

T. M. ROBERTSON (1911-1977)

JOHN H. DALY (1913-1968)

R. P. PARRY
BERT LARSON
C. G. MCINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
ROBERT C. PAINE
J. EVAN ROBERTSON
THOMAS G. WALKER, JR.
JAMES C. TUCKER

March 16, 1978

RECEIVED

MAR 17 1978

Department of Water Resources
~~Southern~~ District Office

Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

Ladies and Gentlemen:

Please find enclosed protests of
Twin Falls Canal Company.

Sincerely,


JOHN A. ROSHOLT

JAR:vjs

Enclosures

cc: Mr. Cliff Montgomery

MICROFILMED

RECEIVED

MAR 17 1978

Department of Water Resources
Southern District Office

1 JOHN A. ROSHOLT
2 Parry, Robertson, Daly & Larson
3 P. O. Box 1906
4 Twin Falls, ID 83301
5 Telephone: 733-7180
6
7
8
9

10 BEFORE THE DEPARTMENT OF WATER RESOURCES

11 OF THE

12 STATE OF IDAHO

13 * * * * *

14 IN THE MATTER OF APPLICATION)
15 FOR PERMIT NO. 47-7460) PROTEST OF TWIN FALLS CANAL
16 EVAN COX) COMPANY TO APPLICATION FOR
17) WATER PERMIT
18)

19 * * * * *

20 COMES NOW The Twin Falls Canal Company, by and through
21 their attorneys, Parry, Robertson, Daly & Larson, and
22 respectfully allege:
23

24 1. That protestant Twin Falls Canal Company is a
25 nonprofit, public irrigation corporation, which owns and
26 operates a complex system of canals and ditches so as to deliver
27 water to member shareholders who farm 202,000 acres in Twin
28 Falls County, Idaho, and to whom the Canal Company has the legal
29 duty of delivering the irrigation water represented by such
30 shares.
31

32 2. That this application proposes to divert water
from a portion of the company's system which is under the
regulation, control and ownership of the Twin Falls Canal
Company and is operated and maintained by said company to
satisfy their legal obligation to their shareholders to deliver

MICROFILMED

1 water to their member shareholders below the point where the
2 water is sought to be diverted by said applicant.

3 3. That the proposed use of the water shall violate
4 protestant's prior rights to a quantity of water of a "given-
5 quality" by polluting said water.

6 4. The applicant has no permission or right of way,
7 and cannot acquire one from the company to construct the
8 contemplated diversion works.

9 5. That the water sought to be appropriated is
10 private water not subject to appropriation.

11 6. That the use of said water as requested would
12 cause transmission loss and continuing regulation problems for
13 the company in carrying out their duty of delivering irrigation
14 and stock water.

15 7. That the Twin Falls Canal Company's duty in
16 delivering irrigation and stock water to their member stock-
17 holders is in the local public interest and that this
18 application, if granted, would erode the company's ability to
19 perform their mission in violation of local public interest.

20 NOW, THEREFORE, The Twin Falls Canal Company hereby
21 protests the above-numbered application for the following
22 reasons, to-wit:

23 1. That the proposed use will reduce the quantity of
24 water available to the company under prior existing water
25 rights.

26 2. That the company is entitled to a quantity of a
27 "given-quality" of water under their prior rights and that said
28 application if granted will add pollution to the protestant's
29 system.

30 3. That the diversion and use of said water pursuant
31 to said application for fish propagation purposes, although
32 deemed nonconsumptive, will cause additional water losses by

1 reason of seepage and regulation problems for the company and
2 their stockholders who depend upon said water for irrigation and
3 stock water below the identified point of said intended use.

4 4. That the applicant has no permission to divert
5 from the rights of way of the company and no permission to
6 enlarge or alter appurtenant drainage easements.

7 5. That the intended supply of water is private water
8 and not subject to appropriation.

9 6. That granting of said permit is not in the local
10 public interest and would conflict with the local public
11 interest if approved.

12 WHEREFORE, The Twin Falls Canal Company by and through
13 their attorneys, Parry, Robertson, Daly & Larson, respectfully
14 request that the above-numbered application be denied by the
15 Department of Water Resources and that no permit be issued
16 thereto.

17 DATED This 16 day of MARCH, 1978.

18 PARRY, ROBERTSON, DALY & LARSON

19
20 By John A. Rosholt
21 JOHN A. ROSHOLT
22 P. O. Box 1906
23 Twin Falls, ID 83301
24 Attorneys for Protestant
25 Twin Falls Canal Company
26
27
28
29
30
31
32

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Evan Cox
Buhl, Idaho 83316
has on 3/1/78 submitted Application No. 47-7460
for a permit to appropriate 40.0 cubic feet per second ~~XXXXXX~~
of water from Deep Creek tributary to Snake River
by means of headgate, ditch & fish ponds
within the NW1/4, Sec. 5, Twp. 10S, Rge. 14E, B.M. Twin Falls County

to be used from Jan. 1 to Dec. 31 for fish propagation purposes
for ~~XXX~~

within the NW1/4, Sec. 5, Twp. 10S, Rge. 14E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before March 27, 1978.

C. STEPHEN ALLRED

Director

Published in the Times News
on 3/9 and 3/16/78

MICROFILMED

March 1, 1978

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

Re: Application for Permit No. 47-7457 - Evan Cox
47-7460 - Evan Cox

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Michael L. Steele
Southern Region Supervisor

MLS:dj

Bill submitted: _____

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