

RECEIVED

MAY 12 2006

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAY = 1 2006	
By _____	Clerk
_____	Deputy Clerk

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

In Re SRBA

Subcase: 85-15644

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE NOTICE OF CLAIM

On November 11, 2005, Cherrylane Ranches, Inc., filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on April 18, 2006. This *Motion* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for water right 85-15644 is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of **SRBA Administrative Order 1** 4d(2)(h).

IT IS SO ORDERED.

Dated May 1, 2006.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on May 01, 2006, with sufficient first-class postage to the following:

CHERRYLANE RANCHES INC
C/O DON A KERBY
19315 KERBY LANE
LENORE, ID 83541
Phone: 208-746-9891

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 85-15044

Date Received 5-2-06

Receipt Number 208114

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

NOV 11 2005

By

Clerk

Deputy Clerk

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Cherry Lane Ranches Inc. Phone (208) 746-9891 Day
Mailing Address 19022 Kerby Lane, Lenore ID Zip 83541 eve

2. Date of Priority (Only one (1) per claim) April 15, 1963

3. Source of water supply (a) Clearwater River
which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 37N Range 3W Section 34,
NW 1/4 of SE 1/4 of NE 1/4, Govt. Lot, B.M., County of Nez Perce

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township 37N Range 3W Section 26, SE 1/4 of SW 1/4 of SE 1/4,

Govt. Lot _____ B.M., County of Nez Perce

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. 16" Corrugated Culvert on Concrete footings in River
intake to Concrete Pump Basin, 50hp multi stage turbine pump supplies 1/2 mile mainline
Down Stream and 1 mile upstream. Buried mainline 10", 8", 6" steel + PVC.
Take offs on 180' spacing along mainline. Irrigation equipment is wheel lines
and handlines with Rainbird heads.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from April 1 to Oct 31 amount 2.67 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.67 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) None

10. 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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4 ✓				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
37N	3W	34				x									x				
37	3W	35		x			x	x	x										
37	3W	26											x				x		
																			86.2

Total number of acres irrigated 86.2

11. In which county (ies) are lands listed above as place of use located? Nez Perce

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
85-02173A, 85-15326, irrigation + Domestic + Stockwater or None ()

14. Remarks: This claim is made as part of ongoing objection to SRBA
Subcase 85-2173A. Claim is made to demonstrate water usage
above recommended quantity is necessary.

Last Name _____ Ident No. _____

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 85-~~15~~ 15644
Court SRBA Case Number 39576 Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments 3

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Vice-President

Title

of Cherrylane Ranches, Inc. , that I have signed the foregoing

Organization

document in the space below as Vice President of Cherrylane Ranches, Inc.

Title

Organization

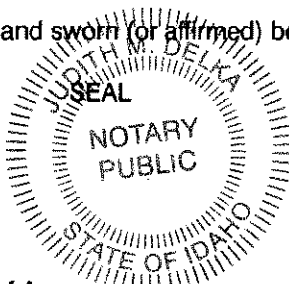
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Don A. Karley

Title and Organization Cherrylane Ranches, Inc. Date 11/10/05

State of Idaho/or _____)
County of Nez Perce) SS.

Subscribed and sworn (or affirmed) before me this 10TH day of November 19 2005



Notary Public Judith M. Delka

Residing at Lewiston

My Commission Expires 03-06-06

Please Print Name Judith M. Delka

17. Notice of Appearance:

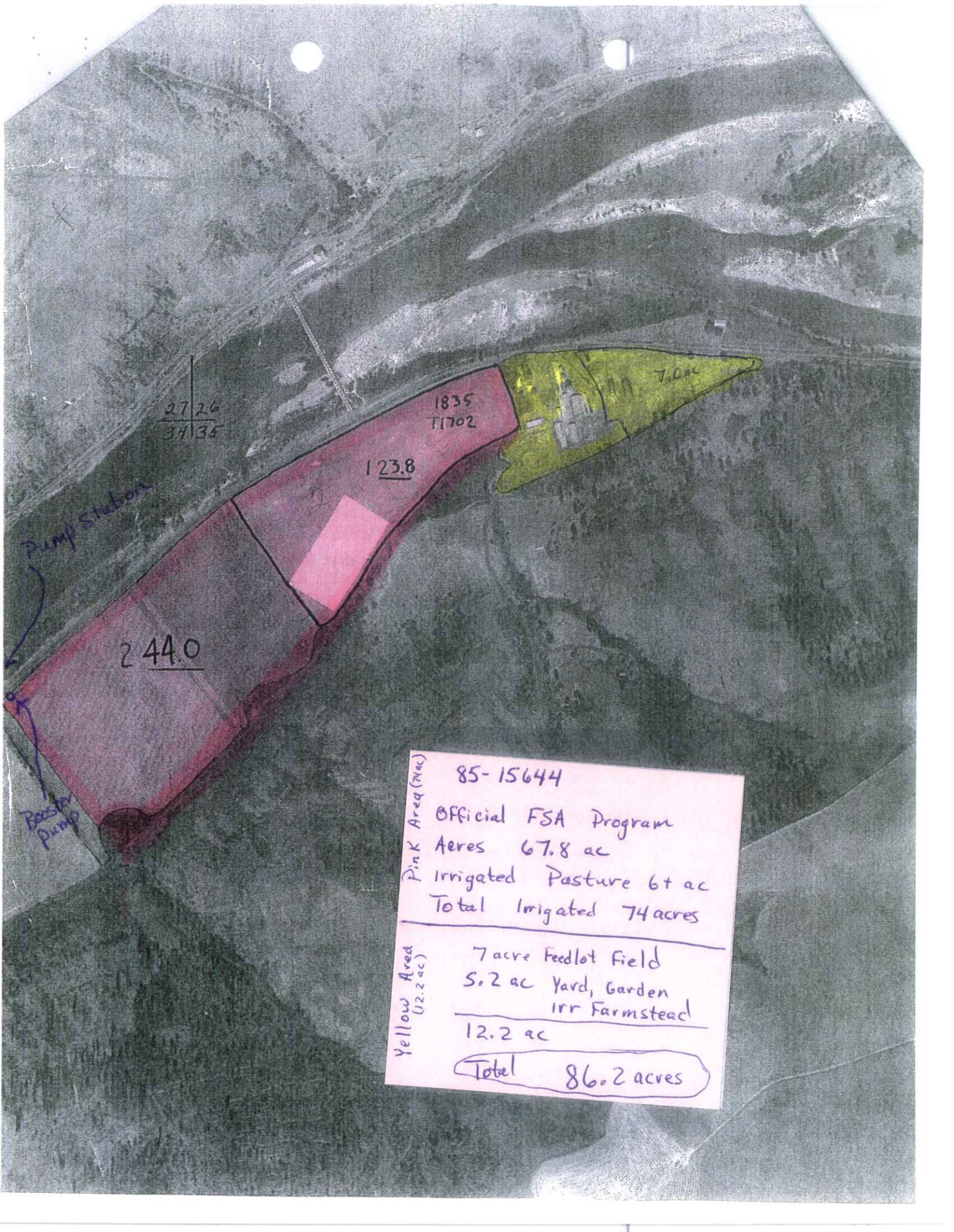
Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number _____



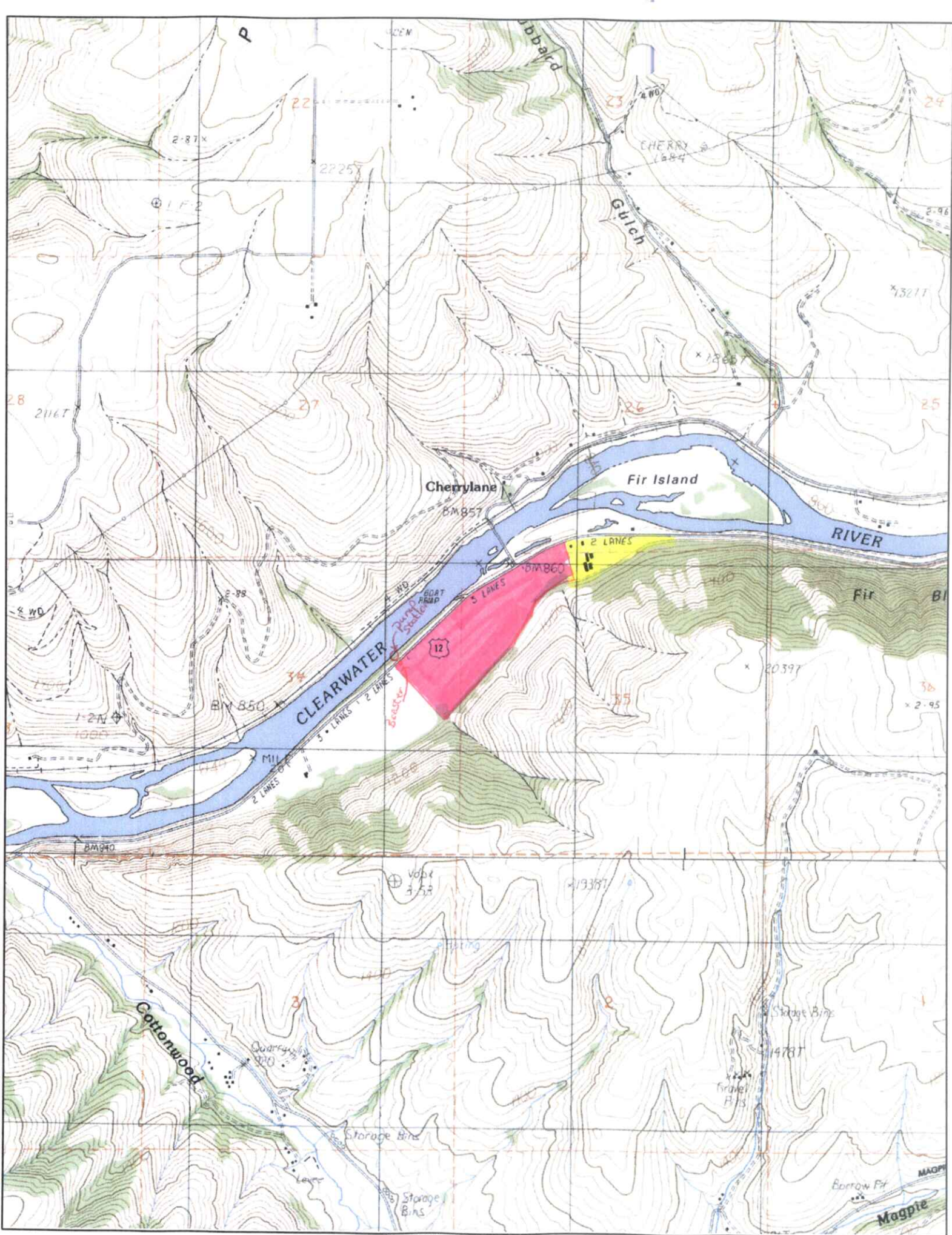
85-15644

Pink Area (74 ac)
Official FSA Program
Aeres 67.8 ac
Irrigated Pasture 6+ ac
Total Irrigated 74 acres

Yellow Area
(12.2 ac)

7 acre Feedlot Field
5.2 ac Yard, Garden
Irr Farmstead
12.2 ac

Total 86.2 acres



SKETCH ADDENDUM

Borrower/Client

Property Address

City County State Zip Code

Lender

Exposed Intake Detail

End Plug

16" Corrugated Culvert
with $\sim 3/32$ perforations on a 2" x 2" Spacing

Concrete Footings (Pipe Secured with chain)
Pipe Set $\sim 1 1/2'$ off River bottom



Exposed From this Point →

12'

Scale 1" = 5'

State of Idaho

License and Certificate of Water Right

Water License No. 20045Amount 1.604 second feet

Water District No. _____

Priority April 8, 1947

THIS IS TO CERTIFY that CHARLES KERBY
 of Julietta, Idaho, made application for a permit to appropriate the
 public waters of the State of Idaho, dated April 8,, 19 47; that Permit No. 20045
 was issued under said application; that Certificate of Completion of works, with a carrying capacity of
1.604 second feet, was issued thereunder on June 2, 19 47, showing that said works
 were completed on the 23rd day of May, 19 47; and that on the 29th
 day of December, 19 47,

CHARLES KERBY
 of Julietta,, State of Idaho, made proof to the satisfaction of the
 State Reclamation Engineer of Idaho, of the right to use the waters of Clearwater
River, a tributary of -----, for the purpose of Irrigation
-----, under Use Permit No. 20045 of the Department of Reclamation
 and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
 and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
8 of Licenses at page 4465, on the 16th day of March, 19 49;
 The right hereby confirmed dates from April 8, 19 47;
 The Point of Diversion ^{are} located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$
 in the $\frac{1}{4}$ $\frac{1}{4}$, Sec. 34, Tp. 37 N., R. 3 W., B. M. Nez Perce County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
 aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
 not exceed 1.604 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated		
37 N.	3 W.	26	SE $\frac{1}{4}$ SW $\frac{1}{4}$	7	7		
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	8	8		
			34	SE $\frac{1}{4}$ NE $\frac{1}{4}$	26	26	
				SE $\frac{1}{4}$ SW $\frac{1}{4}$	7	--	
		35	NE $\frac{1}{4}$ SE $\frac{1}{4}$	10	--		
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	27	--		
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	2	--		
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	8	8		
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	22	22		
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	13	13		
			Number of Acres Actually Irrigated				84

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
 of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this

16th day of March, 19 49.

MARK R. KULP

State Reclamation Engineer

(SEAL)

86 2017

85-2173

State of Idaho **License and Certificate of Water Right**

Water License No. 19169Amount 0.5 second foot

Water District No. _____

Priority June 10, 1941

THIS IS TO CERTIFY that UNITED STATES OF AMERICA FOREST SERVICE
 of Ogden, Utah, made application for a permit to appropriate the
 public waters of the State of Idaho, dated June 10, 1941; that Permit No. 19169
 was issued under said application; that Certificate of Completion of works, with a carrying capacity of
 0.5 second feet, was issued thereunder on June 18, 1946, showing that said works
 were completed on the 23rd day of May, 1946; and that on the 6th
 day of October, 1947,

UNITED STATES OF AMERICA FOREST SERVICE
 of Ogden, State of Utah, made proof to the satisfaction of the
 State Reclamation Engineer of Idaho, of the right to use the waters of Ten Mile Creek
 a tributary of More's Creek, for the purpose of Domestic use for summer
 under Use Permit No. 19169 of the Department of Reclamation
 and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
 and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
 8 of Licenses at page 4466, on the 18th day of March, 1949;
 The right hereby confirmed dates from June 10, 1941;
 The Point of Diversion is located

in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 35, Twp. 7 N., R. 6 E., B. M. Boise County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
 aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
 not exceed 0.5 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
Place of Use: Ten Mile Summer Home Site in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 35, Township 7 North, Range 6 East, B.M.					

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
 of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
 18th day of March, 1949.

MARK R. KILP
 State Reclamation Engineer

(SEAL)

No. 200-15

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

No. 200-15
No. 2017

Application No. 27635
Permit No. 20045
District No.

Joe M. Skok, Secretary-Treasurer
Nez Perce Nat'l Farm Ten Ass'n
326 Main St., Lewiston, Idaho

1. Name of Applicant: CHARLES KERBY

Postoffice address: Julisette County: Nez Perce State: Idaho

I. If applicant is a corporation, give:

- (a) Date and place of incorporation:
(b) Amount of capital stock:
(c) Amount paid in:
(d) Names and addresses of directors:

II. The financial resources of the applicant are: (a) Cash on hand: \$500.00
(b) Treasury stock: (c) Bonds to be issued:
(d) Other resources: Land and chattels valued at approximately \$60,000.00

2. Quantity of water claimed: 720 GPM or approximately 1.604 cubic feet per second.

3. Source of water supply: Clearwater River which is a tributary of

two 700' N and 1200' W.
4. Location of points of diversion: 1540' N and 320' W. Set distant from the quarter
between Sections 34 and 35, Twp. 37 N., Range 3 W., B. M.
corner of Section 34, T. 37 N., R. 3 W., B. M., and is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$
of Section 34, T. 37 N., R. 3 W., B. M., County of Nez Perce

5. Water is to be used for Irrigation

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: feet distant from corner of Section
T. , R. , B. M., in the of Section , T. , R. , B. M.
(b) Amount of power generated: H. P., under feet head.
(c) Water is to be returned to at a point feet
distant from the corner of Section , T. , R. , B. M., in the
of Section , T. , R. , B. M.

7. Estimated cost of works: \$ 12,000.00

8. Kind of works: 4 7 $\frac{1}{2}$ H.P. motors running 5-8 inch Centrifugal pumps; 11,970 ft. of steel and aluminum pipes, which are both movable and stationary.

9. Height of dam None feet; length of dam at top feet; length of dam at bottom
feet; material used in dam:

10. Size of headgate: Width feet; height feet;

11. Ditch: Width at bottom feet; width at water line feet; depth of water feet;
dimensions of flume:

Diameter of pipe inches; length of conduit miles.

Average grade per mile feet.

12. The time required for the completion of such work is Already installed years-

13. The time required for the complete application of the water to the proposed use is Three (3) additional years.

14. The land to be irrigated is described in the following tabulation: See remarks. None

15. (a) Is reservoir to be used? No If so, fill in (b) and (c) below.
(b) Name of Reservoir and number of Storage Permit:
(c) Date of filing of Application for Storage Permit and Name of Applicant:

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.

CHARLES KERBY

Applicant.

By

Agent.

Date of first receipt at Department of Reclamation: 2:30 P. M. April 8, 1947

Returned to applicant for correction:

Corrected application received:

Approval of State Reclamation Engineer

The number of this permit is 20045

Recorded in Book 72 Page 20045 Approved April 12, 1947

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of \$ to be filed on or before

Work to begin on or before Completed and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before

The whole of said work to be completed on or before July 12, 1947

Beneficial use of water appropriated in accordance herewith, to be made on or before July 12, 1950

Witness my hand this 12th day of April, 1947

MARK R. KULP
State Reclamation Engineer.

IN TESTIMONY WHEREOF, We, C. A. ROBINS, Governor of the State of Idaho, and J. D. "CY" PRICE, Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 12th day of April, 1947.

STATE OF IDAHO

Countersigned:

(SEAL)

By J. D. "CY" PRICE
Secretary of State.

By C. A. ROBINS
Governor

Remarks:

14.

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
37 N.	3 W.	26											7				8	15	
		34											7			10	27	72	
		35				26				8	22	13					2	43	
Total Number of Acres to be Irrigated - - - - -																		130	
CERTIFICATE OF COMPLETION OF WORKS																			
TO ALL WHOM IT MAY CONCERN:																			
This is to certify that CHARLES KERBY of Juliette, County of Nez Perce, and State of Idaho, the holder of Permit No. 20045, issued upon Application No. 27635 bearing date of priority of April 8, 1947, authorizing the diversion of 1.604 second feet of the waters of Clearwater River County of Nez Perce, State of Idaho, for irrigation purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 1.604 second feet of the waters of Clearwater River; that the two points of diversion of said waters are located 700 ft. North and 1200 ft. West, and 1540 ft. North and 320 ft. West of the quarter corner between Sections 34 and 35, Township 37 North, Range 3 West, B. M., and in the NE$\frac{1}{4}$ NE$\frac{1}{4}$ and SE$\frac{1}{4}$ NE$\frac{1}{4}$ of Section 34, Township 37 North, Range 3 West, B. M., respectively; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: SE$\frac{1}{4}$ SW$\frac{1}{4}$, SW$\frac{1}{4}$ SE$\frac{1}{4}$ Section 26; SE$\frac{1}{4}$ NE$\frac{1}{4}$, SE$\frac{1}{4}$ SW$\frac{1}{4}$, N$\frac{1}{2}$ SE$\frac{1}{4}$, SW$\frac{1}{4}$ SE$\frac{1}{4}$ Section 34; and N$\frac{1}{2}$ NW$\frac{1}{4}$, SW$\frac{1}{4}$ NW$\frac{1}{4}$ Section 35; all in Township 37 North, Range 3 West, B. M.																			
Witness my hand this 2nd day of June, A. D. 1947.																			
MARK R. KULP State Reclamation Engineer																			
Proof of Completion of Works made 23rd day of May, 1947																			
Certificate of Completion of Works issued 2nd day of June, A. D., 1947.																			

RECORDED FOR 1947 SEC. 17
P. 4465