

RECEIVED

AUG 16 2007

DEPARTMENT OF
WATER RESOURCES

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

A.

Subcase

67-4103

(Insert water right number)

Case No. 39576

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: FINCHEN, ANTHONY J
Address: 2205 JACKSON CR RD
COUNCIL ID 83612
Daytime Phone: (208) 253-4680

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: FINCHEN, ANTHONY J
Address: 2205 JACKSON CR RD
COUNCIL ID 83612

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on AUG-9, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: ANTHONY J FINCHEN
Address: 2205 JACKSON CR RD
COUNCIL ID 83612

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449

Signature of objector or attorney
mailing on Objector's behalf

F.

VERIFICATION (must be completed)

State of IDAHO)
)ss.
County of ADAMS)

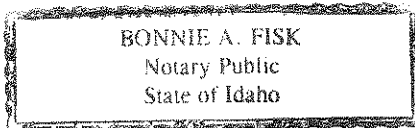
ANTHONY J FINCHER, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Anthony J Fincher
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: August 9th, 2007



Bonnie A Fisk
Notary Public for Council Idaho
Residing at: Council, Idaho
My Commission Expires: 11/21/09

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: ANTHONY J FINCHEN - 2205 JACKSON GR RD
COUNCIL ID - 83612
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: 1889
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
☐ This water right Should not exist.

☒ This water right was not recommended, but Should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTIONS(S):** WATER RIGHT # 67-4103
AND WATER RIGHT # 67-11026 ARE COMBINED, TAKING
3" OF WATER AWAY. UNDER WATER RIGHTS # 22634
WITH NOTARY PUBLIC PRIORITY DATE OF 1889 & 1912 TO 1945
C- STATE OF IDAHO DEPT OF RECLAMATION PERMIT #22634 C-ATTACH.

Idaho Department of Water Resources Receipt

Receipt ID W030971

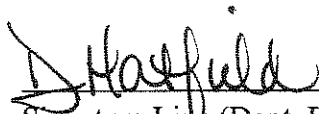
Payment Amount \$94.00 Date Received 10/2/2003 10:04:32 AM Region Western Status 
Payment Type Check Check Number 6004

Payer FINCHEN, ANTHONY J

Comment NOTICE OF CLAIM TO A WATER RIGHT 67-4103 


Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$94.00	ADJUDICATION FILING FEE	0337	42503	1155	



Signature Line (Dept. Representative)

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4103 V1

WATER RIGHT NUMBER: 67-4103 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	JUNE I DERIE 920 JONATHAN RD WEISER, ID 83672-5122 (208)741-0343
Current Owner	ANTHONY J FINCHEN 2205 JACKSON CREEK RD COUNCIL, ID 83612-5244 (208) 253-4680
Original Owner	LARRY D DERIE 920 JONATHAN RD WEISER, ID 83672-5122

Priority Date: 06/01/1896

Basis: Beneficial Use

Status: Disallowed

<u>Source</u>	<u>Tributary</u>
COTTONWOOD CREEK	WEISER RIVER
LESTER CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 7/30	1.980 CFS	
	<u>Total Diversion:</u>	1.980 CFS	

Location of Point(s) of Diversion

LESTER CREEK	NE1/4SW1/4	Sec. 27, Twp 16N, Rge 01W, B.M.
ADAMS County		
COTTONWOOD CREEK	NW1/4SW1/4	Sec. 27, Twp 16N, Rge 01W, B.M.
ADAMS County		
COTTONWOOD CREEK	NW1/4SE1/4	Sec. 28, Twp 16N, Rge 01W, B.M.
ADAMS County		
COTTONWOOD CREEK	NW1/4NW1/4	Sec. 36, Twp 16N, Rge 01W, B.M.
ADAMS County		

Place of UseIRRIGATION Within ADAMS County

T16N R01W S27 SWNW 37.0 T16N R01W S27 NWSW 7.0

Total Acres: 44

Conditions of Approval:

1. P06 Recommended as Right No. 67-11026.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4103 V1

2. P16 Recommended as Right No. 67-11026: This is included for a claim that is proposed to be disallowed because the right claimed is recommended pursuant to another right. The remark indicates the water right number of the other right that is proposed to be recommended. If you are not mailed a notice of the recommendation of the other right, then the other right is recommended in another claimants name.

Remarks:

Comments:

1. csaxton 3/7/2006 Disallow

Comment: Recommended as right 67-11026

2. csaxton 3/7/2006 Priority date

Comment: The claimed priority date dates back into the Muir vs. Allison decree. Our records do not show that there is any water decreed to the claimed POU other than spring water which was not claimed. Thus, cannot recommend a decreed priority date, and cannot recommend a priority with one day after decree. That being the case, the elements of this claim are recommended under claim 67-11026. Recommending this claim would be redundant.

Water Supply Bank:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED

SEP 15 2003

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

WATER RESOURCES
 WESTERN REGION

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
67-4103		YES			

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former
 Owner/Claimant(s)

June Deric & Larry Deric
 Star Rt, Council, ID 83612

4. New Owner/Claimant(s)

Anthony J. Fincher
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

5715 E Airport Road

City, State and ZIP Code

Wampa, ID 83687

New Telephone Number

(208) 442-8917

5. Date you acquired the property

9/02/03

6.

If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number <u>67-4103</u>		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	<u>.42 cfs</u>	<u>20.9 acres</u>
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7.

Signature of New Owner(s) or Claimant(s) _____
(include title if applicable)

Anthony J. Sanchez

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

For Office Use Only

Received by <u>DH</u>	Date <u>9-15-03</u>	Fee _____
Received by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

For Value Received, LARRY DUANE DERIE and JUNE ILENE DERIE, husband and wife

the grantors, do hereby grant, bargain, sell and convey unto
ANTHONY J. FINCHEN, a single man

the grantee, whose current address is 5718 E. Airport Rd., Nampa, ID 83687

the following described premises, in Adams County, Idaho, to-wit:

SEE ATTACHED EXHIBIT 'A' MADE A PART HEREOF

TO HAVE AND TO HOLD THE said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that they are free from all encumbrances excepting for all easements of record, rights of way, matters visible, and all matters of record and title and that they will warrant and defend the same from all lawful claims whatsoever.

Date: September 2, 2003

Larry Duane Derie
LARRY DUANE DERIE

June Ilene Derie
JUNE ILENE DERIE

Instrument # 104453

COUNCIL, ADAMS, IDAHO

2003-09-03

10:50:39 No. of Pages: 2

Recorded for : TIMBERLINE TITLE & ESCROW

MICHAEL FISK

Fee \$0.00

Ex-Officio Recorder Deputy

Index to: DEED

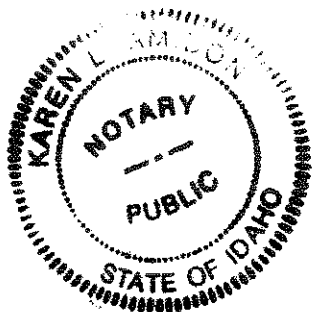
STATE OF Idaho

COUNTY OF Adams

On this 2nd day of September, in the year of 2003, before me, a Notary Public in and for said State, personally appeared

LARRY DUANE DERIE & JUNE ILENE DERIE

known or identified to me to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that they executed the same.



Karen L. Amodeo
Notary Public

Residing at: Cambridge, ID

Commission expires: 6/26/2009

EXHIBIT 'A'

INSTRUMENT NO. 104453

PAGE 2 OF 2

Township 16 North, Range 1 West, Boise Meridian, Adams County, Idaho:

All that part of the E1/2NE1/4 and N1/2SE1/4 of Section 28 and the SW1/4NW1/4 and NW1/4SW1/4 of Section 27 lying South of the County Road known as Jackson Creek Road.

EXCEPTING THEREFROM the right-of-way of the former Pacific & Idaho Northern Railway now known as Friends of the Weiser River Trail and the County Road.

ALSO EXCEPTING THEREFROM the two parcels of land located in the NW1/4SW1/4 of Section 27 T16NR1WBM previously conveyed to James A. Renwick and Margaret Renwick, husband and wife, as referenced in Book 27 of Deeds page 491 and Book 32M page 38, records of Adams County, Idaho.



SCALE: 2 inches Equal 1 Mile. Draw Plan In Ink.



Idaho Department of Water Resources

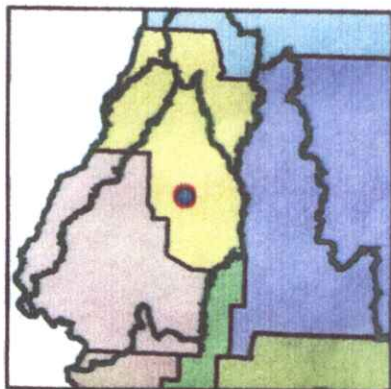
Black Ink Ditch

Adjudication Claim Number: **67-4103**

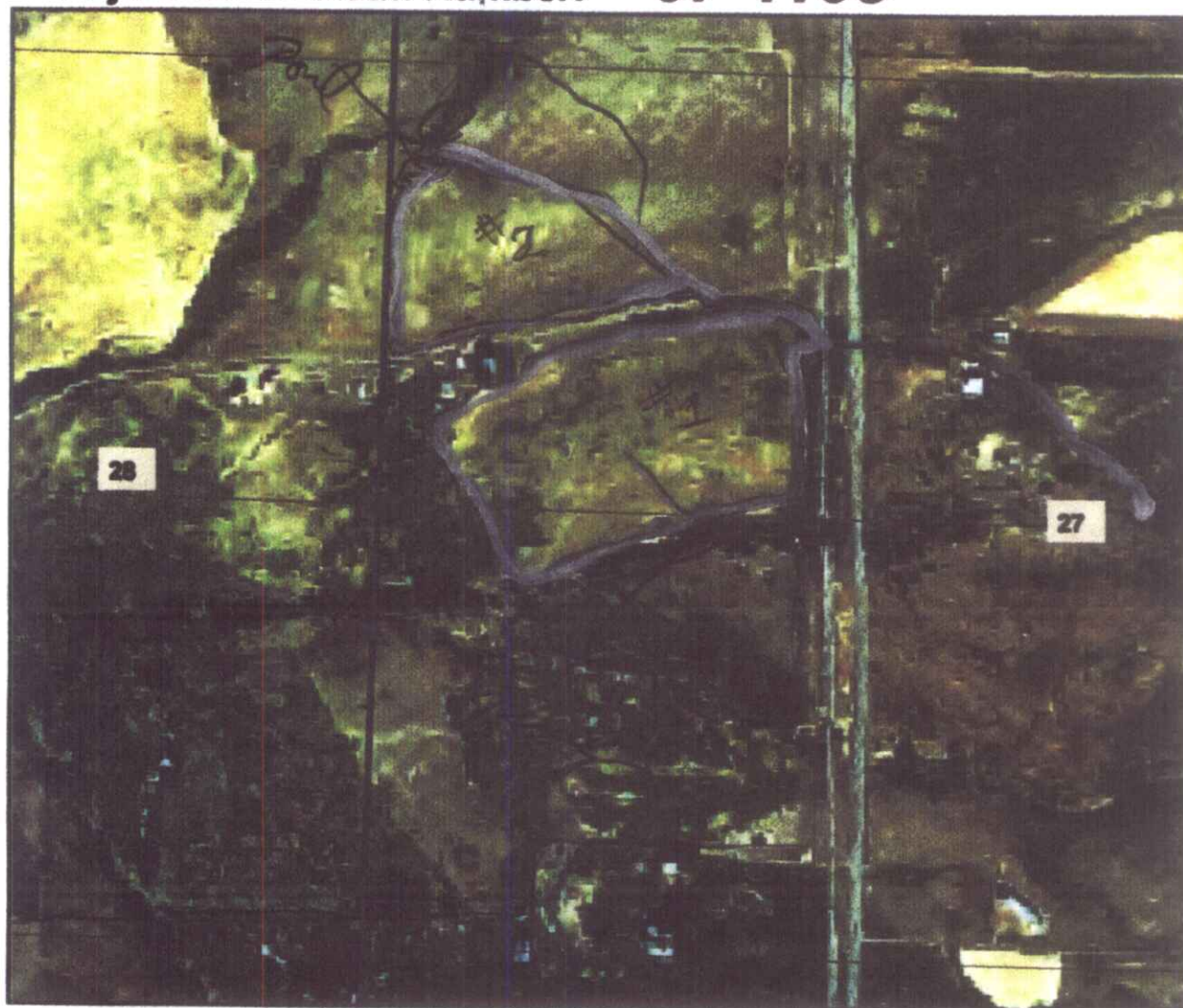
T16N R01W

Legend

□ PLS Sections
□ GCDB Quarter Quarters



Adams County
IDWR Basin 67



0 0.2 0.4 Miles

Prepared by M. Van Bussum
On Wednesday, August 31, 2005
1987 Aerial Photography

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 67-4103
Date Received: 9/15/2003
Receipt No: **W030971**
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

OCT 02 2003

WATER RESOURCES
WESTERN REGION

1. Name of Claimant(s)

ANTHONY J FINCHEN
5718 E AIRPORT RD
NAMPA ID USA 83687

Phone: (208) 442-8917

2. Date of Priority: 06/01/1896

3. Source: COTTONWOOD CREEK Trib. to: WEISER RIVER
LESTER CREEK WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
16N	01W	28	NW	SE		ADAMS	
16N	01W	36	NW	NW		ADAMS	
16N	01W	27	NW	SW		ADAMS	
16N	01W	27	NE	SW		ADAMS	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose
IRRIGATION

From To C.F.S.
4/01 7/30 1.98

(or) A.F.A

7. Total Quantity Appropriated is:
1.98 C.F.S.

**ALL OVER ON HOUSE CREEK'S
GRT ALL TO ME & TRY'S TO CHANGE**

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
16N	01W	27	SW	NW	IRRIGATION	37
			NW	SW	IRRIGATION	7
					Section Acres	44
					Total Acres	44

11. Place of use in counties: ADAMS

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Statutory Claim

16. Signature(s) *Anthony Stunch*

(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 y wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

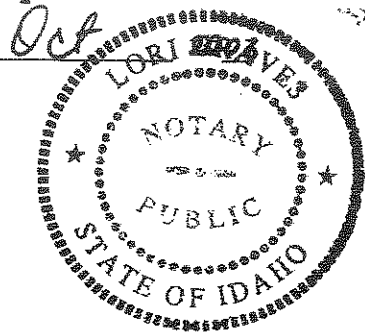
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this

2nd day

of



Notary Public

Residing at Boise

My commission Expires 6/18/04

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
MAR 8 1957
Department of Reclamation

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PERMIT NO. 22634

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Bill Houston - 81 - Payette, Idaho - farmer - Route #2, Payette, Idaho.

Ques. 2. Are you acquainted with Andy R. Loy, the holder of Permit No. 22634? How long have you known him and where does he reside?

Ans. Yes 6 years Council, Idaho.

Ques. 3. Have you read or heard read said Permit No. 22634, and are you familiar with its provisions and conditions?

Ans. Yes Yes

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Lester Creek SW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 27, Twp. 16 N. R. 1 W. B.M.
An old creek channel used as ditch, and headgate.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 1 second foot. 1 second foot

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. irrigation - SW $\frac{1}{4}$ of NW $\frac{1}{4}$, NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 27,
NE $\frac{1}{4}$ of SE $\frac{1}{4}$ and SE $\frac{1}{4}$ of NE $\frac{1}{4}$, all in Section 28, Twp. 16 N. Range 1 W. B.M.
natural meadow land.

22634

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Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent.

Ans. None.

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. good - 1 inch per acre.

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. No.

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. 1953 - I used to live there and saw S. D. Warner irrigating same land same way from 1912 to 1925.
Also, Harvey Houston irrigated same way in 1889 on 2 1/2 acres.

(Signed) Bill Keston

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Payette,
County of Payette, State of Idaho, on this 22nd day of February,
A. D. 1957.

My commission expires Nov. 1, 1958 [Signature] Notary Public.

22634

Permit No. 22634

STATE OF IDAHO
Department of Reclamation

RECEIVED
JAN 23 1957
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF IDAHO

County of Adams

Andy R. Lay

being first duly sworn, upon his oath deposes and says:

First: That he is the holder and owner of Permit to appropriate the Public Waters of the State of Idaho, No. 22634, and that his postoffice address is Council State of Idaho

Second: That the name of the stream from which said water is to be diverted is Lester Creek

Third: That the point of diversion of said water is SW 1/4 NE 1/4 Section 27 T16N R1W. PM

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by March 5, 1957

Fifth: That the use for which said water is intended is Irrigation

Sixth: That on the date above mentioned, the works constructed under said permit were (or were not) fully completed and consisted of the following:

I. Kind of Works: headgate and ditch

RESERVOIR, DAM, DITCH, FLUME, PIPE OR OTHERWISE

II. Dimensions of work:

(a) Height of dam feet, length of dam at top feet, length of dam at bottom feet. Material used in construction

(STATE WHETHER WOOD, EARTH STONE OR CONCRETE)

(b) Capacity of reservoir acre feet.

(c) Size of headgate: Width 1 feet, height 1 feet.

(d) Conduit ditch width at bottom 2 feet, width at water line 2 to 3 feet, depth of water 2 feet; diameter of pipe inches, average grade per mile is 75 feet. Length of conduit is 1/2 miles.

(STATE WHETHER DITCH, FLUME OR PIPE)

Seventh: That said works are capable of conducting to the place of intended use 1 second foot of water.

Eighth: That water appropriated under said permit is available for 24 acres of land described as follows: SW 1/4 NE 1/4 and NE 1/4 SW 1/4 of Section 27 and SE 1/4 NE 1/4 and NE 1/4 SE 1/4 of Section 28 TWP 16N. R1W. 3M

Ninth: Remarks: That Water has been used from same point of diversion through ancient creek channel, on same land since 1884 to date, but creek goes dry about August 5th.

Subscribed and sworn to before me this 21 day of January, 1957
Notary Public
My commission expires the 29, 1959

22634

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RECEIVED
JAN 23 1957
Department of Reclamation

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) January 21, 1957

(P. O.) Council, Idaho

TO THE STATE RECLAMATION ENGINEER:

Boise, Idaho

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the

Adams County Leader

of Council, Idaho

published in

the county in which the works are situated.

Andy R. Jay

(In case of canals or other works designed to divert and carry more than 50 cubic feet of water per second, the following certificate must be signed by a well-known and competent engineer.)

I hereby certify that the facts set forth in the attached notice are true.

Engineer.

22634

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NOTICE FOR PUBLICATION
 NOTICE OF PROOF APPLICATION OF WATER
 TO BENEFICIAL USE

Department of Reclamation

Notice is hereby given that at 10 A. M. on the 5th day of March, 19 57,
 at Council, County of Adams, State of Idaho, before
George F. Johnson, Notary Public, proof will be submitted of the
 application to beneficial use of .48 cubic feet per second of the waters of Lester Creek
 in accordance with the terms and conditions of Permit No. 22634
 heretofore issued by the State Reclamation Engineer of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are _____

Andy R. Lay Council, Idaho

The use to which said water has been applied is irrigation

The amount applied to beneficial use is .48

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated)

SW¹/₄ NW¹/₄ & NW¹/₄ SW¹/₄ of Section 27 and
SE¹/₄ NE¹/₄ & NE¹/₄ SE¹/₄ of Section 28 TWP. 16N R1W, EM

The name of the canal or ditch or other works by which said water is conducted to such place of use is _____

Ditch

The right to take water from such works is based upon Permit No. 22634

The source of supply from which such water is diverted is Lester Creek

The date of priority which said user is prepared to establish is _____

February 25, 1957

MARK R. KULP

State Reclamation Engineer.

22634