

RECEIVED

NOV 19 2010

DEPARTMENT OF
WATER RESOURCES

Attorney Name & Address:

James P. Speck, ISB#2067
Speck & Aanestad
A Professional Corporation
120 East Avenue
P. O. Box 987
Ketchum, Idaho 83340
(208) 726-4421
FAX: (208) 726-0752

Attorneys for Darrell E. McDonald and Norman K. Sowards

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 Nos. 34-2459, 34-2460, 34-2461,
	)	34-2462, and 34-10925
Case No. 39576	)	
	)	AFFIDAVIT OF NORMAN K.
	)	SOWARDS
_____	)	

STATE OF IDAHO	)
	:ss
County of Butte	)

I, NORMAN K. SOWARDS, being over the age of eighteen years, make this affidavit based on personal information.

1. I own property north of Arco, Idaho, in the vicinity of two large wells commonly referred to as the "Island Wells" owned by Charles Isom. I understand Mr. Isom now wants to make these wells additional points of diversion for five of his water rights which presently are pumped only from wells down north of the Arco airport to irrigate his ranch south of the airport. I also understand those five rights were previously decreed in the SRBA for a total combined diversion rate of 12.5 cfs.

2. I have two groundwater irrigation rights, 34-2302 and 34-7228, which are pumped

from a well located just north of the Island Wells. The relative location of these wells is depicted on **Exhibit A** attached to this Affidavit. Copies of the Partial Decrees for my water rights are attached as **Exhibits B and C**.

3. I purchased this property in 1994 from Wayne Rathbun and started farming it that summer. I did not retain an attorney to assist me with the water rights related to my property. My water rights were decreed in the SRBA in December, 1997. I do not subscribe to the court's docket sheet. In fact, I didn't know it existed until a week or so ago. I generally spend my winters in Palm Springs, returning to Arco in early April, then spend June and July in Alaska. I had no idea that Mr. Isom was attempting to acquire the right to legally more than double the amount of water that he pumps from the Island Wells into the Island Canal and takes completely out of our valley until Darrell McDonald told me about this in September, 2010.

4. Darrell then contacted Mr. James P. Speck in late October to assist us in opposing the change in Mr. Isom's water rights. However, we were not able to meet with Mr. Speck to discuss these matters until November 5, 2010.

5. During the 1994 irrigation season I found that my existing well became progressively inadequate to irrigate my land as the other nearby wells were brought on line and began pumping. The only alternative to abandoning farming the land was to attempt to deepen and improve the well. First we reset the pump at about 95 ft. which was as low as possible, but the well would only produce 50% to 75% of my licensed water rights before it would cavitate. We then attempted to drill the well deeper in 1995 but we were unsuccessful for various reasons. A copy of the Well Driller's Report for this work is attached as **Exhibit D**.

6. With strong surface water years in 1996 to 2000 I was able to irrigate my land with my storage and decreed water rights. In 2001 I was forced to drill a deeper new well and install a larger pump in order to obtain my rightful amount of water. The pumping level was 120 ft. which allowed me to pump the full amount of my water rights. A copy of that Well Driller's Report is attached as **Exhibit E**. This was done at major capitol expenditure to me and also has caused me to experience permanent increased annual costs due to the larger pump and motor it was necessary to install with its accompanying higher demand and operating cost.

7. With the new well I am normally able to pump my licensed amount of water at the beginning of the irrigation season. However, as the season progresses and when the large nearby pumps are brought on line my well drops off in flow rate and can become marginal to achieve my required irrigation needs. Any additional water removed from that region of the aquifer will further exacerbate the problem in a major way.

8. I understand that the changes requested by Mr. Isom to his water rights would allow him to pump 24.5 cfs from the two Island Wells at any and all times throughout the irrigation season. It would also allow him to pump a total of 8,441.5 acre feet from these two wells to irrigate 1,980

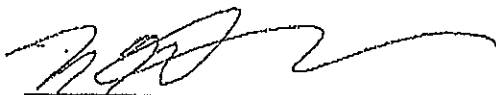
acres more than 9 miles South of my wells, which is approximately 4.3 acre feet per acre irrigated. This is far in excess of the volume amounts for other ground water rights in the vicinity of the Island Wells, including mine.

9. I have reviewed printouts from online records of the discharge of the two Island Wells into the Big Lost River Irrigation District canal system for the period of 2003 through 2009. The maximum amount for any single year was 4,784 acre-feet, which is only 57% of the amount of water Mr. Isom seeks permission to divert from these wells.

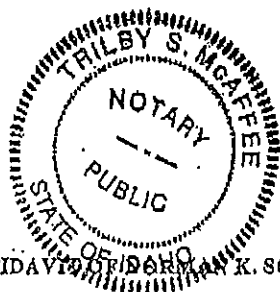
10. I am aware of the condition proposed to be added to Mr. Isom's water rights that gives the additional diversions from the Island Wells above the 12 cfs allowed under 34-7037 a 1982 priority date. My water rights described above are senior to 1982. To protect and be sure I get the full amount of my water rights I will have to make a priority call and rely on the Watermaster to somehow get the Island Wells' output limited to 12 cfs. If and when this can be done, the negative impact on the local water table and thus my ability to divert the full amount of my water rights will have occurred. Based on my experience farming my land using my ground water rights, I do not believe the water table will recover in time to avoid injury to my water rights. Furthermore, the time required for the completion of the enforcement of such a water delivery call will likely result in some serious damage to my crops due to my inability to divert and deliver the full amount of my above described senior ground water rights.

11. All of the water pumped from the Island Wells is removed from the portion of the aquifer from which I pump water for my water rights described above. If Mr. Isom is granted the right to legally pump from the Island Wells at more than twice the rate he can pump under his existing water rights, I firmly believe that I will soon be forced to again drill deeper to attempt to regain the ability to divert the amounts of water to which I am entitled under my senior water rights at great expense to me.

DATED this 16th day of November, 2010.


NORMAN K. SOWARDS

SUBSCRIBED AND SWORN to before me this 16 day of Nov, 2010.




Notary Public for Idaho
Residing at: Arco, Id
Comm. Expires: 1-28-2015

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of November, 2010, I served a true and correct copy of the foregoing on the following persons in the manner designated below:

Chief, Natural Resources Division
Office of the Attorney General, State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

The United States Department of Justice
Environmental and Natural Resources
Division
550 West Fort Street
Box 33
Boise, ID 83724

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

Idaho Department of Water Resources
Document Depository
P.O. Box 83720
Boise, ID 83720-0098

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

Mr. Paul Arrington
Barker, Rosholt & Simpson, LLP
113 Main Ave. West, Suite 303
P.O. Box 485
Twin Falls ID 83303-0485

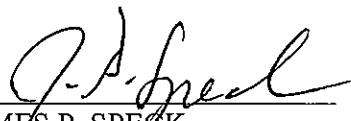
- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☒ Facsimile, with copy by United States Mail, Postage Prepaid

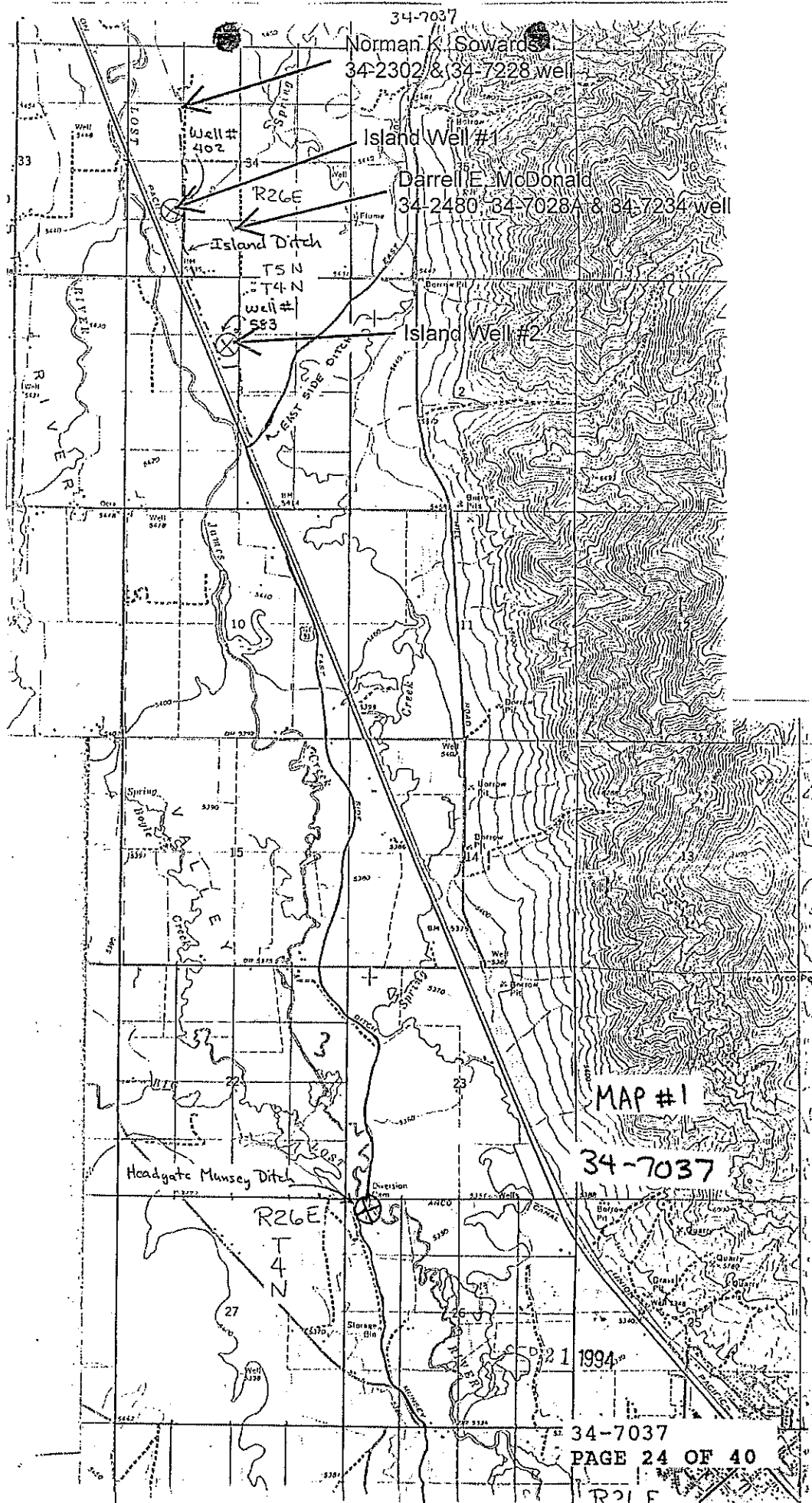
Mr. Robert L. Harris
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
P.O. Box 50130
1000 Riverwalk Dr., Suite 200
Idaho Falls, ID 83405

- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☒ Facsimile, with copy by United States Mail, Postage Prepaid

W. Kent Fletcher
Fletcher Law Office
P.O. Box 248
Burley, ID 83318

- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☒ Facsimile, with copy by United States Mail, Postage Prepaid


JAMES P. SPECK



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)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 34-02302

1997 DEC 29 PM 4:42
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED

NAME & ADDRESS: NORMAN K SOWARDS
1719 FINCH RD
HAYDEN LAKE ID 83835

SOURCE: GROUNDWATER

QUANTITY: 3.14 CFS
549.5 AFY

USE OF THIS RIGHT WITH RIGHT NO. 34-00666 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 4.10 CFS.

PRIORITY DATE: 02/28/1953

POINT OF DIVERSION: T05N R26E S34 NWSENW Within BUTTE County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	3.14 CFS 549.5 AFY

PLACE OF USE:	IRRIGATION	Within BUTTE County			
	T05N R26E S34	SENEW 40	NESW 40	NWSE 40	SWSE 37
	157 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHT NO. 34-00666 IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 157 ACRES IN A SINGLE
IRRIGATION SEASON.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

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)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 34-07228

1997 DEC 31 AM 11:09

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILE _____

NAME & ADDRESS: NORMAN K SOWARDS
1719 FINCH RD
HAYDEN LAKE ID 83835

SOURCE: GROUNDWATER

QUANTITY: 0.98 CFS
171.5 AFY

USE OF THIS RIGHT WITH RIGHT NO. 34-00621B IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.22 CFS.

PRIORITY DATE: 05/03/1979

POINT OF DIVERSION: T05N R26E S34 NWSEW Within BUTTE County

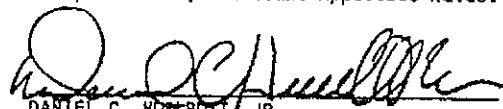
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	0.98 CFS
			171.5 AFY

PLACE OF USE: IRRIGATION Within BUTTE County
T05N R26E S34 NENEW 40 NWNW 9
49 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 34-00621B IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 49 ACRES IN A SINGLE IRRIGATION
SEASON.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


DANIEL C. KORTBUSH, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

Form 238-7
3/95

IDAHO DEPARTMENT OF WATER RESOURCES

WELL DRILLER'S REPORT

Use Typewriter or Ballpoint Pen

62111

Office Use Only			
Inspected by _____			
Twp _____	Rge _____	Sec _____	
1/4 _____	1/4 _____	1/4 _____	
Lat: _____	_____	Long: _____	_____

1. DRILLING PERMIT NO. 34-95-E-0005-100
Other IDWR No. 34-2302/34-7228

2. OWNER:
Name NORM SOWARDS
Address RT 1
City MOORE State ID Zip 83255

3. LOCATION OF WELL by legal description:

Sketch map location must agree with written location.

N		Twp. <u>5</u>		North ☒ or South ☐	
E		Rge. <u>24</u>		East ☒ or West ☐	
S		Sec. <u>34</u>		1/4 <u>SE</u> 1/4 <u>NW</u> 1/4	
		Gov't Lot _____		County <u>Blaine</u> 10 acres 40 acres 160 acres	
		Lat: _____		Long: _____	

Address of Well Site _____

(Give at least name of road + Distance to Road or Landmark)

Lt. _____ Blk. _____ Sub. Name _____

4. USE:

- ☐ Domestic ☐ Municipal ☐ Monitor ☒ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)

- ☐ New Well ☒ Modify ☐ Abandonment ☐ Other REPAIR

6. DRILL METHOD

- ☐ Air Rotary ☒ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEA/FILTER PACK			AMOUNT		METHOD
Material	From	To	Sacks or Pounds		

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) 85'

Was drive shoe seal tested? ☐ Y ☐ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
12	41	85	238	Steel	☐	☒	☒	☐
					☐	☐	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS

- ☒ Perforations Method torch
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
0	82	1/4x3	120			☐	☒
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

58 ft. below ground Artesian pressure _____ lb.
Depth flow encountered _____ ft. Describe access port or control devices: TOP OF WELL.

11. WELL TESTS:

- ☐ Pump ☐ Bailor ☐ Air ☐ Flowing Artesian

Yield gal/min.	Drawdown	Pumping Level	Time

RECEIVED

Water Temp. _____ Bottom hole temp. _____

Water Quality test comments: _____

NOV 18 1997

12. LITHOLOGY (Describe repairs or abandonment) _____

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Y	N
			The Existing Well was 16"		
			The Owner wanted to go deeper with 12" casing		
			We got into a restriction at 50'		
			Drove 12" Liner to Refusal to 85' - the existing well is around 100'		
			It is now pending who is responsible for the well: OWNER OR SELLER - Driller		
			Recently the previous Leeson came up with a video that showed a 14" Liner down the 16" well		

RECEIVED

NOV 18 1997

Department of Water Resources

107 112 122

Completed Depth 100 (Measurable)

Date: Started 3-8-95 Completed 4-8-95

13. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name H4H Well Service Firm No. 541

Firm Official Doug Hendrick Date 11-2-97

and _____

Supervisor or Operator _____ Date _____

(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

EXHIBIT D

Form 33-7
1-78

DMD

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp _____ Rge _____ Sec _____
1/4 _____ 1/4 _____ 1/4 _____
Lat _____ Long _____
☐ Air ☒ Flowing Artesian

1. WELL TAG NO. D 0021032
DRILLING PERMIT NO. 34-2322-34-7228
Other IDWR No. 7168681

2. OWNER:
Name NORMAN K. SOWARDS
Address 1719 FINCH ROAD
City HAYDEN LAKE State ID Zip 83835

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location.

	X		

Twp. S North ☒ or South ☐
Rge. 26 East ☒ or West ☐
Sec. 34 NE 1/4 SE 1/4 NW 1/4
Gov't Lot _____
Lat _____ Long _____

Address of Well Site 1/4 MI. SOUTH OF MOORE THEN EPS MOORE

LI. _____ Blk. _____ Sub. Name _____

4. USE:
☐ Domestic ☐ Municipal ☐ Monitor ☒ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☐ Air Relay ☒ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK			AMOUNT	METHOD
Material	From	To	Sacks or Pounds	
Bentonite	0	20		Temp. Pipe

Was drive shoe used? ☒ N ☐ Shoe Depth(s) 188
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Linear	Welded	Threaded
16 x 1	188	254		Steel	☒	☒	☒	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS

Method Perforations Screen Type touch cut

From	To	Slot Size	Number	Diameter	Material	Casing	Linear
68	186					☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

42 ft. below ground Artesian pressure _____ lb.
Depth flow encountered _____ ft. Describe access port or control devices: TOP OF WELL

11. WELL TESTS:

Yield gal/min	Drawdown	Pumping Level	Time
2000	84	120	6 hrs.

Water Temp. COLD Bottom hole temp. _____
Water Quality test or comments: _____

12. LITHOLOGIC LOG: (Describe repairs or abandonment) Water

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Y	N
200	4		SOIL GRAY		X
	4	52	SAND + GRAVEL		X
	1652	169	BROWN CLAY + GRAVEL		X
	1669	188	SAND + GRAVEL		X

RECEIVED

NOV 14 2001

Department of Water Resources
Eastern Region

Completed Depth 188' (Measurable)
Date: Started 5-18-01 Completed 6-19-01

13. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name CATHARTIS Drilling Firm No. 226

Firm Official D. G. GUTER Date 11-10-01

and
Driller or Operator _____ Date _____
(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

EXHIBIT E