

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: A63-07431
Date Received: 8/22/1989
Receipt No: W00 4792
Received By: SL

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN W. BAICY 805-943-1463
Address: 43050 ED HOLLEY PLACE
LANCASTER, CA 93536

2. Date of Priority: MAY 11, 1971

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01N	01E	19		NE	NE		ADA
				NW	NE		ADA
				SW	NE		ADA
				SE	NE		ADA

5. Description of diverting works:
16", 360' WELL, PUMP AND PIPELINES FOR SPRINKLER IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.200		
STOCKWATER	01/01	12/31	0.020		
DOMESTIC	01/01	12/31	0.020		

7. Total Quantity Appropriated is:
3.240 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 560.0 Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC 1 HOME, STOCK 40 HEAD MIXED

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01N	01E	19	NE	NE		IRR	40.0
			NE	NE		STOCK	
			NW	NE		IRR	40.0
			NW	NE		STOCK	
			SW	NE		IRR	40.0
			SW	NE		STOCK	
			SW	NE		DOMEST	
			SE	NE		IRR	40.0
			SE	NE		STOCK	
						Section Acres	160.0
						Total Acres	160.0

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
NONE

14. Remarks:

I-3414.

SINGLE WELL IS AT 1/4-1/4 INTERSECTION. STOCKWATER USE OCCURS THROUGHOUT IRRIGATED LAND INSTEAD OF JUST NWNE AS DESCRIBED IN PERMIT. DOMESTIC USE IS SWNE INSTEAD OF NWNE.

15. Basis of Claim: PERMIT

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: 1

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): John W. Bailey Date: 8/22/89
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 22 day

of August 19 89

Lori Harrison
Notary Public

Seal

Residing at Boise, Idaho

My Commission Expires 12-8-94



A63-07431
Bdry

Irrigation
and
stock

well TIN

Domestic

R/E

MICROFILMED
AUG 21 1992

WATER RESOURCES
M. OFFICE
2705 AIR ST
BOISE, IDAHO 83705

ADDRESS SERVICE
REQUESTED

FIRST CLASS



UNITED STATES
POSTAL SERVICE
MAILED FROM ZIP CODE
\$ 06

JOHN A. US...
1100 L...
CARE CENTER...

Handwritten signature or initials.

63-7431

RECEIVED

DEC 26 2006

WATER RESOURCES
WESTERN REGION

09/11/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-7431

NAME AND ADDRESS: JOHN W BAICY
43050 ED HOLLEY PLACE
LANCASTER CA 93536

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.640 CFS
594.000 AFY

PRIORITY DATE: 08/17/1971

POINT OF DIVERSION:

T01N R01E S19 NWNE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	2.640 CFS 594.00 AFY

PLACE OF USE: IRRIGATION Within ADA County

T01N R01E S19	NENE	34.00	T01N R01E S19	NWNE	38.00
T01N R01E S19	SWNE	26.00	T01N R01E S19	SENE	34.00

132 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.



Idaho Department of Water Resources

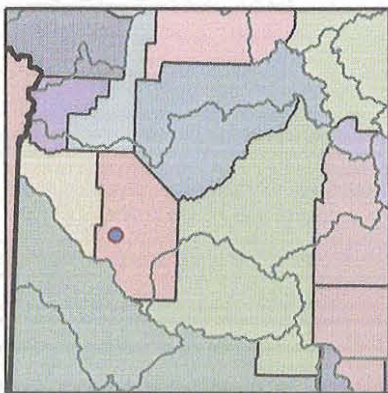
SRBA Recommendation:

63-7431

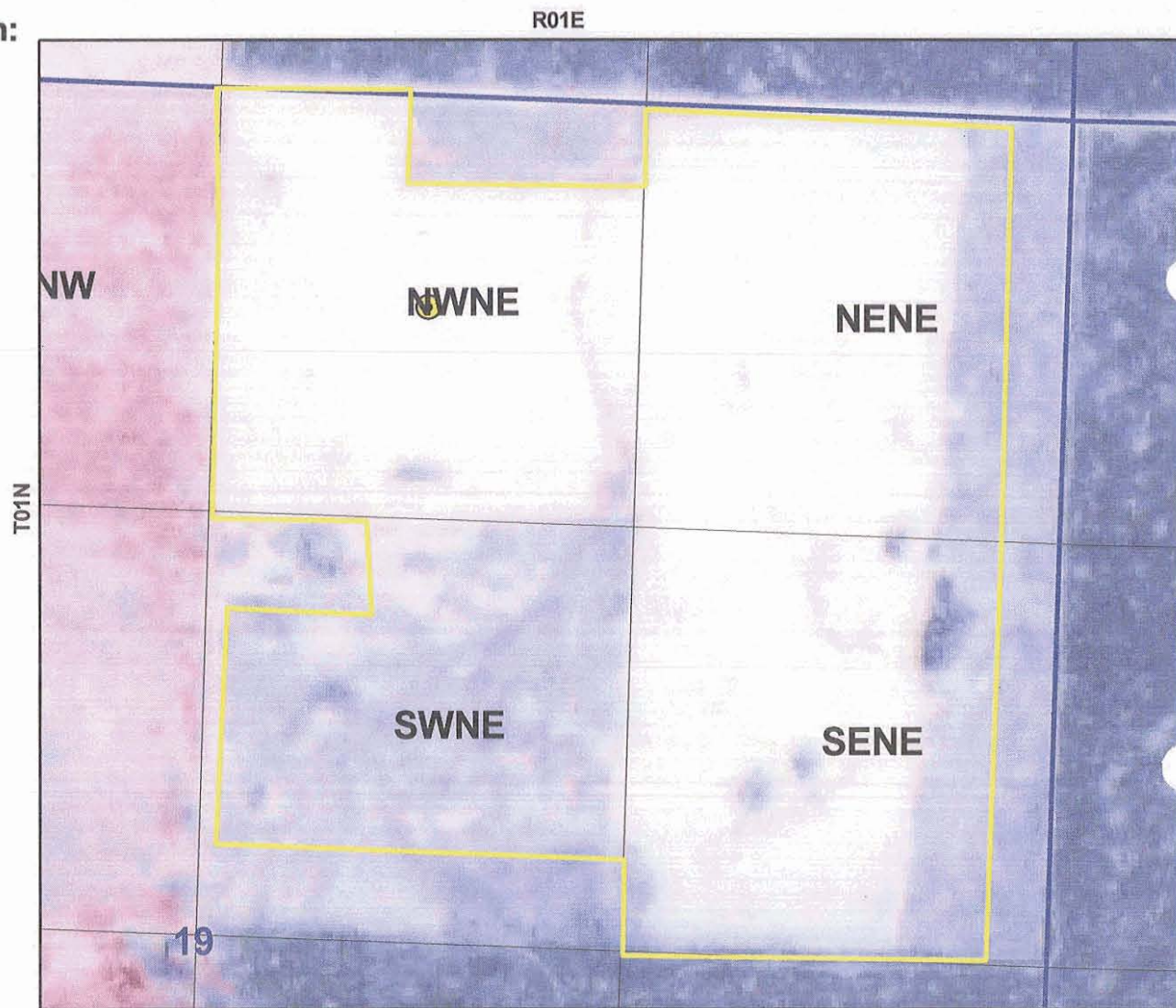
(Irrigation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Ada County
IDWR Basin 63



0 0.2 0.4 Miles



Prepared by S. Egbert
On Monday, September 11, 2006
1987/88 Aerial Photography

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-07431

Priority: August 17, 1971

Maximum Diversion Rate: 2.64 CFS
Maximum Diversion Volume: 594.0 AF

It is hereby certified that JOHN W BAICY
C/O CHARLES L HONSINGER
RINGERT CLARK CHTD
PO BOX 2773
BOISE ID 83701-2773 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated May 11, 1971; and has
submitted Proof of Beneficial Use on May 12, 1978. An examination indicates that the works
have a diversion capacity of 2.75 cfs of water from:

SOURCE

GROUND WATER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
IRRIGATION	03/01 to 11/15	2.64 CFS	594.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼NW¼NE¼ Sec. 19, Twp 01N, Rge 01E, B.M ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01N 01E 19	34.0	38.0	28.0	34.0													132.0

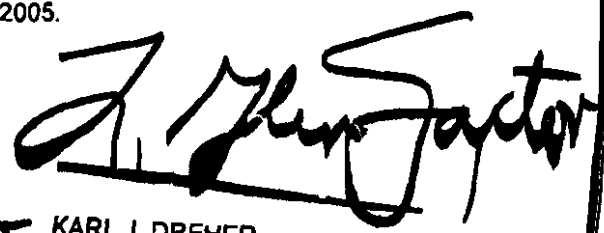
Total Acres: 132

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 3rd day of March, 2005.


for KARL J. DREHER
Director

08/09/2002

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-7431

NAME AND ADDRESS: JOHN W BAICY
43050 ED HOLLEY PLACE
LANCASTER CA 93536

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 3.24 CFS

PRIORITY DATE: 05/11/1971

POINT OF DIVERSION:

T01N R01E S19 NENE Within ADA County
T01N R01E S19 NWNE Within ADA County
T01N R01E S19 SWNE Within ADA County
T01N R01E S19 SENE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	1/01 12/31	0.020 CFS
IRRIGATION	3/15 11/15	3.200 CFS
DOMESTIC	1/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER Within ADA County

T01N R01E S19	NENE	T01N R01E S19	NWNE
T01N R01E S19	SWNE	T01N R01E S19	SENE

IRRIGATION Within ADA County

T01N R01E S19	NENE	40.0	T01N R01E S19	NWNE	40.0
T01N R01E S19	SWNE	40.0	T01N R01E S19	SENE	40.0

DOMESTIC Within ADA County

T01N R01E S19	SWNE
---------------	------

160 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

PERMIT LAPSED: This is included for a claim based on a permit that is PROPOSED to be disallowed on the basis that the permit lapsed because the appropriation was not completed as required by statute.
PERMIT LAPSED.

EXPLANATORY MATERIAL: Permit

*Desal low
Scott King
August 9, 2002*

ADJUDICATION MEMORANDUM

CLAIM NO.: 63-7431

SUBJECT: MTD. w/CHARLIE HONINGER

EMPLOYEE:

Sam Thute

DATE: 9-20-04 REF. FOR BAICY

Per the mtg. w/ Whelly Keen, Susan Hamlin - Nyquist, & Charlie Honinger & myself it was decided that Mr. Honinger, attorney for Baicy would get further information to substantiate that development was taking place prior to proof submitted - 1977. Then maybe the s.v. can take back the Order regarding the permit. This order took place because no exam done after proof submitted in 1978 - 1992. Several attempts made to contact

Right holder, however, he is a nurse engineer & travels all over. So, there is a possibility the right may be ~~to~~ reinstated & we will need to change our recommendation. I should watch for this change. Susan decided the no forfeiture while a claim was filed did not apply to this right since it was a permit & had not been vested yet.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

02/23/2001

RIGHT NO. 63-7431

Type: Name and Address
Owner: JOHN W BAICY
43050 ED HOLLEY PLACE
LANCASTER, CA 93536
(805)943-1463

Owner: LILLIAN M TERWILLIGER
BOISE, ID 83702

Date: 05/11/1971
Permit
Disallowed

Disallowed

Tributary to

GROUND WATER

Special Use	From	To	Diversion Rate	Volume	Subuse Code
IRRIGATION	3/15	11/15	3.2 CFS		
STOCKWATER	1/01	12/31	0.02 CFS		
DOMESTIC	1/01	12/31	0.02 CFS		
Total Diversion			3.24 CFS		

Location of Point(s) of Diversion:

Ground Water	NE	Sec. 19	Township 01N	Range 01E	ADA County
GROUND WATER	NWNE	Sec. 19	Township 01N	Range 01E	ADA County
GROUND WATER	SWNE	Sec. 19	Township 01N	Range 01E	ADA County
GROUND WATER	SENE	Sec. 19	Township 01N	Range 01E	ADA County

IRRIGATION Use:
Acre Limit: 160

Use(s) of use:

Place of Use Legal Description: IRRIGATION

ADA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
	01E	19		NENE	40		NWNE	40		SWNE	40		SENE	40

Place of Use Legal Description: STOCKWATER

ADA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
	01E	19		NENE			NWNE			SWNE			SENE	

Place of Use Legal Description: DOMESTIC

ADA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
	01E	19		SWNE										

Total Acres: 160

Conditions of Approval:

Right 63-7431

1. P08 PERMIT LAPSED: This is included for a claim based on a permit that is PROPOSED to be disallowed on the basis that the permit lapsed because the appropriation was not completed as required by statute.

Remarks:

1. General PERMIT LAPSED.

Dates:

Licensed Date:
 Claim Received Date: 08/22/1989
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Decreed Date:
 Date Filed with Court:
 Objection Filed Date:
 SF5 Filed:
 Special Master Recom Signed Date:

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Review Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
POD	2/23/01 2:51:13 PM	mschulte			In Process
Priority Date	2/23/01 2:51:12 PM	mschulte			In Process
Quantity	2/23/01 2:51:18 PM	mschulte			In Process
Season	2/23/01 2:51:17 PM	mschulte			In Process
Souree	2/23/01 2:51:15 PM	mschulte			In Process
Use	2/23/01 2:51:16 PM	mschulte			In Process

Other Information:

Receipt Number(s): W004792
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate per Acre:
 Generic Max Volume per Acre:
 Civil Case Number:
 Old Case Number:
 Decree Plaintiff:
 Decree Defendant:
 PresumptionFlag:
 Notice of Error Flag:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Cary Act Number:
 Mitigation Plan: False

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log Text</u>
POD	2/23/01 2:51:12 PM	mschulte	1. (NO) The basis is not beneficial use.
Priority Date	2/23/01 2:51:10 PM	mschulte	1. (NO) There has not been a later court decree of the water right(s) from the water source. 4. (NO) The basis of claim is not beneficial use. 5. (NO) The basis of claim is not a posted notice. 6. (YES) Parent right has a priority date. 7. (YES) The basis of claim is an application or permit. 8a. (YES) Proof of beneficial use was submitted. 8b. (NO) The field exam was not completed. 8e. (NO) The license will not be issued before filing the director's report. 12. (NO) The claim is not recommended. 14. (NO) Priority remark was not required. 15. (NO) Priority condition was not required.
Quantity	2/23/01 2:51:17 PM	mschulte	1. (NO) The basis of claim is not beneficial use.
Season	2/23/01 2:51:16 PM	mschulte	1. (NO) The basis of claim is not beneficial use.
Source	2/23/01 2:51:13 PM	mschulte	1. (NO) The basis is not beneficial use.
Use	2/23/01 2:51:15 PM	mschulte	1. (NO) The basis of claim is not beneficial use.

IDAHO DEPARTMENT OF WATER RESOURCES
Water Permit Report

WATER RIGHT NO. 63-7431

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JOHN W BAICY
Original Owner	LILLIAN M TERWILLIGER

Priority Date:
Status: Cancelled

Sources: No sources found for this right

Location of Point(s) of Diversion:

Place(s) of use: No POU's found for this right

Dates:

Proof Due Date:
Proof Made Date:
Approved Date:
Moratorium Expiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0
Field Exam Date:
Date Sent to State Off:
Date Received at State Off:

Other Information:

Receipt Number(s):
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 23, 1996

JOHN BAICY
3012 231 LANE SE N104
ISSAQUAH WA 98029

RE: Voided Permit No. 63-07431

Dear Mr. Baicy:

Last month the Department received your request for reconsideration of the preliminary order to void your permit. Glen Saxton, Water Allocation Bureau Chief, reviewed your request and prepared a memorandum to the file. I have enclosed a photocopy of the memorandum.

As Mr. Saxton states, the moratorium on new consumptive uses of water in the Boise River drainage has been lifted. I have enclosed an Application for Permit for you to complete if you wish to do so. However, the Director of the Department of Water Resources still has concerns about groundwater supplies in the Boise drainage, and he has adopted a go-slow approach to approving applications for new consumptive uses of water. Therefore, I am currently unable to anticipate when your application might be processed.

If you have any questions, please contact me at 208-327-7946 in Boise.

Sincerely,

Shelley Walter Keen
Water Rights Supervisor

SWK
Enclosures

c: Dan Steenson

MEMORANDUM

To: File 63-07431
From: L. Glen Saxton, *LS*
RE: PRELIMINARY ORDER VOIDING PERMIT
Date: January 16, 1996

I have again reviewed this file as a result of the December 30, 1995, letter from John Baicy. I have not determined any error in the department's procedure in its attempted mailing of the Preliminary Order (order) to Baicy. The file shows that the department twice attempted to mail the order at the addresses of record in the water right file.

Unless Baicy can provide evidence to show that the land associated with the voided permit was in a federal cropland set-aside program which would prevent forfeiture to the right through non-use as provided in Section 42-222(2), Idaho Code, the department should take no action to rescind its Preliminary Order Voiding Permit dated July 17, 1995.

Since the moratorium in the Boise River drainage has been lifted, Baicy or a successor-in-interest could file a new application for permit with the department.

CONVERSATION MEMORANDUM

CLAIM: A63-07431

DATE: DECEMBER 21, 1995

NAME OF PARTY: DAN STEENSON EMPLOYEE: MEL SCHULTE

MTD

Dan Steenson, attorney, called requesting information on behalf of his client, John Baicy. According to Mr Steenson, Mr Baicy was asked by the department to relinquish his permit, 63-07431. Mr Steenson is attempting to find out why the department is asking that the permit be surrendered.

I provided Mr Steenson with a brief chronological summary of past events based on a copy in the SRBA file of a hand written list prepared by Cindy Hodges. I also told him that I had revisited the property in July 1995 and found what appeared to be the same scenario that Cindy found in June 1992. He was also informed that the SRBA recommendation would follow in line with the licensing provisions. I recommended he call Shelly Keene at the State Office for a more detailed explanation and provided Mr Steenson with Shelly's phone number.

MTS

MEMORANDUM TO FILE

To: A63-07431 Baicy, John
From: Mel Schulte *MTS*
Date: July 12, 1995
Re: Field inspection

On July 11, 1995 I visited the property subject to the above referenced claim. The purpose of my visit was to determine if irrigated uses had been re-established since the Department attempted to conduct a beneficial use exam June 1, 1992.

I found no evidence of any current irrigation or other beneficial use of water. There is an electrical power line to the well site located near the center of the NE 1/4 of the section but the pump motor had been removed from the well. There are several piles of ten inch surface mainline on the property that supports the possibility there had in the past been some irrigation on the property. The fields appeared to have been cleared of rocks and sage brush at some time but there was no evidence of any crops or crop residue. The fields are currently covered with various types of weeds.

There is a small machine shed located to the West middle of the property that might qualify for a small domestic use but there were no houses on the site. Two horses were standing next to a watering trough along the West property line between the machine shed and the county road. There was no evidence of a hydrant or water line to the trough. It appears water is carried to the water trough used for these two horses.

MTS

A63-07431

Photos 7-24-95



#1
P/D - well site,
motor removed



#2
P/U and surface
mainline near
well site.

A63-07431

Photos 7-24-95



#3

Machine shed
and pile of
mainline
looking West



#4

PIU looking
NE from site
of machine
shed

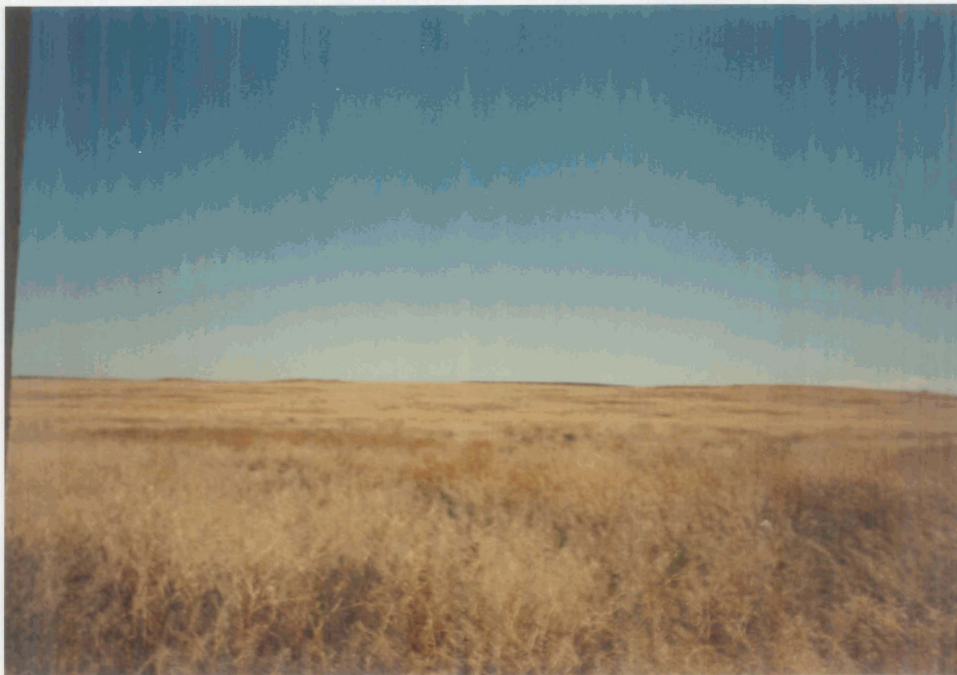
A63-07431

Photos 7-24-95



#5

P14 looking
SE from road
on West property
line.



#6

P14 looking
South from
road on West
property line

A63-07431

Photos 7-24-95



#7

PIU looking
NE from road
on West side



#8

Looking East
at NW corner
sign on pole
states "BAICY"

ADJUDICATION MEMORANDUM

CLAIM NO.: A63-07431

SUBJECT: Status of Permit 63-07431

EMPLOYEE: Mel Schulte

DATE: 7-10-95

Jimi Johnson indicated by telephone they advised John Baicy in Oct 94 and March 95 of the intention to cancel the permit unless he can proof a valid development and appropriation had been completed.

Mr Baicy indicated he did not want to loose the permit and would contact an attorney if the department issued an order of cancellation.

Jimi Johnson said Rita had the file for preparation of the "Order".

We should advise Jimi Johnson of our field review findings.

See Permit file for additional documentation

5-11-71 Ap filed (Terwilliger) Proof due 6-1-76

6-17-71 Permit issued

1-31-72 Assigned to John Baicy

5-17-76 Ext of time Submitted Proof due 6-1-78

5-12-78 Proof Submitted, w/o Fee

4-17-86 Request for fee

9-4-86 Fee reminder

9-22-86 Fee rec'd Priority addanced to 8-17-71

~~(Fee incorrect too much)~~

5-29-87 Exam scheduling letter

6-2-87 letter rec'd Stating ~~to~~ System down

← attempts all summer to contact.
10-15-87 done irrigating

~~none~~ - to level & disc; will contact in fall

5-27-88 2nd Exam schedule letter - Returned

6-8-88 " " " " Resent

6-23-88 Called to say system up in one month.

9-14-88, 9-23 & 10-25 88 Unsuccessful calls

8-22-89 Filed adjudication. Flowmeter is being repaired. Try for 1990.

10-21-91 Called, left message at #Caldwell #

10-22-91 Mrs Baicy ret. call, She & Mr Baicy are divorced & he lives in California and has for a number of years.

She knows nothing about land

10-24-91 Drive-by indicated no current B/U although certain maps show some previous use.

NAPP photography (1987-88) shows no use

Water Right Number - 63-07431

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
BAICY

JOHN W.

1 - P.O. BOX 153
2 -
3 -
City- KUNA
Phone -

State- ID Zip- 83634

*** O - ORIGINAL OWNER ***
TERWILLIGER

LILLIAN M.

1 -
2 -
3 -
City-
Phone -

State- Zip-

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
05/11/1971 14 WESTERN P - PERMIT

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
GROUNDWATER

TwN	Rng	Sec	Tract	Lot	RFlg	County	Point of Diversion	Diversion Name	Diversion Rate	Diversion No.
01N	01E	19	NW NE			(1)	ADA			

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
01 -	IRRIGATION	03/15	11/15		3.200	
04 -	STOCKWATER	01/01	12/31		0.020	
43 -	DOMESTIC	01/01	12/31		0.020	

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
3.240

TwN	Rng	Sec	Tract	Lot	Acres	Code	Place of Use	Description	County
01N	01E	19	NE NE		40.0	01	IRRIGATION	(1) ADA	
01N	01E	19	NW NE		40.0	01	IRRIGATION	(1) ADA	
01N	01E	19	SW NE		40.0	01	IRRIGATION	(1) ADA	
01N	01E	19	SE NE		40.0	01	IRRIGATION	(1) ADA	
01N	01E	19	NW NE			04	STOCKWATER	(1) ADA	

Total Acres: 160.0

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

Water right number - 63-07431

Prefix Translation: WATER RIGHT

+ - - - - - Remarks - - - - - +
I-3414.

+ - - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

+ - - - - - Conditions of Approval - - - - - +
001 - A measuring device of a type approved by the Department shall
- be permanently installed and maintained as part of the diverting
- works.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - - - - Comments - - - - - +
No Comments Found

+ - - Audit Fields - 11/07/86 05/01/88 06/17/92

+ - - - - - Water Rights Dates and Flags Area - - - - - +

Proof Due Date - 06/01/1978	Field Exam Made - 06/01/1992	Field Exam Fee - R
Approved/Denied - 06/17/1971	Protested Date - 00/00/0000	Swan Falls -
Proof Made Date - 01/01/1900	Hearing Date - 00/00/0000	Temporary Right - P
Exam to S.O. Date- 06/17/1992	Verified Date - 06/03/1985	DLE/Carey Act - D
Order Show Cause - 00/00/0000	Receipt Number -	Water District -
Licensed Date - 00/00/0000	Appl Received - 00/00/0000	Transfer/Amended -
Decree Date - 00/00/0000	Name Connector -	POU Ownership Flag-
Presumption Flag -		

Water Right Number - A63-07431

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
BAICY

JOHN W

1 - 43050 ED HOLLEY PLACE
2 -
3 -
City- LANCASTER
Phone - 805-943-1463

State- CA Zip- 93536

*** O - ORIGINAL OWNER ***
TERWILLIGER

LILLIAN M

1 -
2 -
3 -
City- BOISE
Phone - 208-000-0000

State- ID Zip- 83702

+ - - Priority Date - - +
05/11/1971

+ - - - Region - - - +
14 WESTERN

+ - - - Stage - - - +
P - PERMIT

+ - - - Status - - - +

+ - - - - Source - - - - - +
GROUNDWATER

+ - - - - Tributary - - - - - +

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Diversion Name

01N 01E 19 NE NE (1) ADA
NW NE (1) ADA
SW NE (1) ADA
SE NE (1) ADA

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION 03/15 11/15 3.200
04 - STOCKWATER 01/01 12/31 0.020
43 - DOMESTIC 01/01 12/31 0.020

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
3.240 560.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

01N 01E 19 NE NE 40.0 01 IRRIGATION (1) ADA
01N 01E 19 NW NE 40.0 01 IRRIGATION (1) ADA
01N 01E 19 SW NE 40.0 01 IRRIGATION (1) ADA
01N 01E 19 SE NE 40.0 01 IRRIGATION (1) ADA
01N 01E 19 NE NE 04 STOCKWATER (1) ADA
01N 01E 19 NW NE 04 STOCKWATER (1) ADA
01N 01E 19 SW NE 04 STOCKWATER (1) ADA
01N 01E 19 SE NE 04 STOCKWATER (1) ADA
01N 01E 19 SW NE 43 DOMESTIC (1) ADA

Total Acres: 160.0

Prefix Translation: ADJUDICATION CLAIM

+ - - Diversion Means - 16", 360' WELL, PUMP AND PIPELINES FOR SPRINKLER IRRIGATION

+ * - Non-Irrigation Use - DOMESTIC 1 HOME, STOCK 40 HEAD MIXED

+ - - Other Rights for Same Use - NONE

..... Remarks

I-3414.

SINGLE WELL IS AT 1/4-1/4 INTERSECTION. STOCKWATER USE OCCURS THROUGHOUT IRRIGATED LAND INSTEAD OF JUST NWNE AS DESCRIBED IN PERMIT. DOMESTIC USE IS SWNE INSTEAD OF NWNE.

+ Old Water Right Numbers +

No Old Water Right Numbers found.

+ Conditions of Approval +

001 - A measuring device of a type approved by the Department shall
- be permanently installed and maintained as part of the diverting
- works.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +

+ - Decree Date - +
00/00/0000

+ - - Audit Fields - 08/22/89 LESTER 03/30/95 POST-STD

-----Comments-----

No Comments Found

+ - - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	- Y	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 06/03/1985	Old Judicial District	-
Claim Received Date	- 08/22/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P
Proof Due Date	- 00/00/0000	Proof Made Date	- 00/00/0000	Water District	-
Licensed Date	- 00/00/0000	Receipt Number	- W004792	Federal/State Indicator	- S
Claims Tape Error Flg	-	POU Ownership Flag	- Y	Presumption Flag	-
Fee Exempt Flag	-	Name Connector	-	Notice of Error Flag	-

CONVERSATION MEMORANDUM

DATE 10-30-91

FILE 63-7431

NAME OF PARTY John Baicy

EMPLOYEE Cindy Hodges

RE: Letter of 10-25-91

Pump pulled for repairs, back in Spring 1992.
1974-87 irrigating continuously - (?)

Stockwater use for horses, irrigation for pasture.
Past 4 years, water use sporadic.

Mr Baicy said he could supply 1987 power bills.

Will contact us next Spring for exam...

NOTES to file:

July* - 1987 NAPP photography shows no irrigation of this parcel. (Y7 SE)

* If there is no contact or reasonable effort to schedule an exam for 1992, cancel permit

Based on history of elusiveness, this applicant should not be given any more time past June 1992.

CONVERSATION MEMORANDUM

DATE 10-22-91FILE 63-7431NAME OF PARTY BAICY (Mrs. = exwife)EMPLOYEE Cindy HodgesRE: John Baicy still resides in California. There seems to be no local contact for this permitCurrent phone 805 722 5703Address 43050 Ed Haley Place
Lancaster CA 93534Monteith, Ray
Beus, Stevemailboxes
Poss lessees10-24-91 On Site Visit indicated well in place but no Beneficial Use. Will send letter to above address.ASCS has indicated possible abandonment.

6/23/88

FILE 63-07431

NAME OF PARTY John BaicyEMPLOYEE Reno, P. Hoff

~~922-4650~~ out of service
John Baicy in Caldwell
454-3410

RE: WILL START IRRIGATION IN A MONTH. SYSTEM
IS CURRENTLY DOWN BUT WILL BE WITHIN A MONTH. MR. BAICY
WILL CALL WHEN SYSTEM IS UP.

no answer to 454-3410 9-14-88 KKC

9-23-88 KKC

10-25-88 KKC

(Prof. B. in submitted 1978)

8/22/89

Filed Application claim today.

Contact John in California for exam.

New flowmeter in line that is being repaired.

Try for 1990 irrig. season

JL

10-21-91 Called Baicy @ 454 3410 - left msg G4

384-3000 BLM Maxine DLE Patent in 1976

805-722-5703

CONVERSATION MEMORANDUM

DATE 6/22/87FILE 63-7431NAME OF PARTY Eric Baicy 922-4650EMPLOYEE Steve LesterRE: Exam

~~6~~ 9:50 left message

Flowmeter installed (per letter from John Baicy 9/22/86)?
operating normally?

New aerial photo needed?

Desert Land Entry # I-3414 - Need any info?

6/23 8:00 a.m. left message

6/24 11:00 " Ø

6/25 8:00 Reached Mrs. Baicy. Note letter of 6/2/87 from
John Baicy.

Try to do in Fall '87 when they
resume irrigating.

9/21/87 11:30 left message

9/22/87 7:45 NO answer

9:30 "

12:15 "

9/23/87 7:30 "

10/15/87 12:15 Done irrigating

Try 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

63-7431
Permit No.

Staff Analysis Sheet
for
Beneficial Use Field Report

RD NW NE 19 1 N 1 E
70 NE 1/4

Prior to Conducting the Exam, the File Contains:

- ☒ Blank Field Report Form
- ☒ Copy of Permit
- ☐ Copies of any Amendments/Orders with conditions of approval
- ☒ Computer Data Proof Report
- ☒ Copy of U.S.G.S. Quad

~~not~~ ☒ Check for Government Lots. If so, make a copy of Government Plat

Check of P/D index 08-29-88 KKC (Initial and date)

Overlap? ☐ yes ☒ no If yes: ☐ copy of exam(s) attached?

Type of Overlap? ☐ Add acres or uses to existing system

☐ Increase rate of flow or volume

☐ Other: _____

Check of P/U index 08-29-88 KKC (Initial and date)

Overlap? ☐ yes ☒ no If yes: ☐ copy of water right(s) attached?

Type of Overlap? ☐ Increase rate of flow or volume

☐ Add P/D's

☐ Increase number of acres within tracts

☐ Other: _____

Aerial Photo

Required? ☒ yes ☐ no If yes: ☒ copy attached?

Scheduling Letter sent? _____ (Initial and date)

☐ Appointment made and telephone conversation memo attached

After Conducting the Exam, the File Contains:

- ☐ Fully completed and signed Field Report Form
- ☐ Photographs of Point of Diversion and Place of Use
- ☐ Corrected Computer Data Proof Report with recommended license information, and date and signature of examiner.

Review and Processing:

Exam Completed 6/15/92 CXLodges (Signature of examiner and date)

Exam Reviewed by Senior Water Resource Agent _____ (Initial and date)

Exam Reviewed by Manager of Regional Office DRT 6/16/92 (Initial and date)

Exam Data Entered in Computer 6-17-92 st (Initial and date)

Exam sent to State Office 6-17-92 st (Initial and date)

Copy of Staff Analysis Sheet sent to Manager of Regional Office and Original
Refiled in White File _____ (Initial and date)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 63-7431

1. Owner: John W. Baily Phone No. 805-722-5703

Current Address: 43050 Ed Halley Pl Lancaster CA 93536

2. Accompanied by: None EXAM. DATE: 6/1/92

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: groundwater tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: None

☐ Copies Attached

2. Other water rights with same point of diversion: None

☐ Copies Attached

☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached

Scale: 1" = _____

2. ☐ Copy of U.S.G.S. 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 or more).

☐ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater.

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

No beneficial use. No cultivation apparent.
Power supply in place. No evidence of irrigation

See remarks.

☐ See Remarks on page 4 for continuation

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

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks

6. **Place(s) of Use:**

Indicate Method of Determination _____

Twp.	Rge.	Sec.	NE1/4				NW1/4				SW1/4				SE1/4				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	

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

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

2. Measurements:

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Ampsx .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

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

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

2. Volume Calculations for Other Uses:

H. REMARKS AND OVERLAP REVIEW ANALYSIS

Department has attempted to schedule exam since 1987. In October 1991 I attempted a drive-by exam and found no use. ~~Per~~ Permit holder was contacted and could provide no evidence of use. This year, I did a second field visit and found no change.

SCS office last October told me they felt land was abandoned & so had not been re-surveyed during last mapping 1987 Napp photography showed no recent irrigation

See Western Region file for correspondence.

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
DISALLOW				
Totals:				

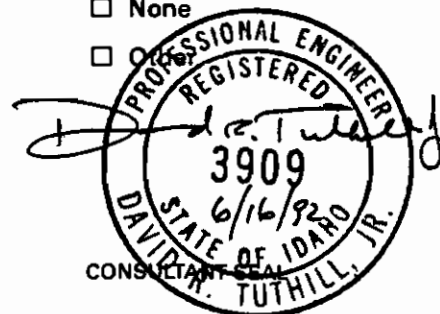
2. Recommended Amendments

- ☐ Change P.D. as reflected above ☐ Add P.D. as reflected above
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above

- ☐ None
☐ Other

J. AUTHENTICATION

Field Examiner's Name CINDY HODGES
 Signature CJ Hodges
 Certification Date _____
 Field Report Preparation Date 6/15/92



K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

WELL DRILLER'S REPORT

1. WELL OWNER Name _____ Address _____ Owner's Title No. _____	2. STANDARDS Test below land surface _____ No. S.P.M. flow _____ Quality _____ Pressure _____ Control Valve _____ Cap _____																																																																																																																																																				
3. NATURE OF WORK ☐ New well ☐ Deepened ☐ Replacement ☐ Abandoned (specify method of abandoning) _____	4. WELL TERMINATA ☐ Pump ☐ Sailer ☐ Other _____																																																																																																																																																				
5. PROPOSED USE ☐ Domestic ☐ Irrigation ☐ Test ☐ Municipal ☐ Industrial ☐ Stock	6. LITHOLOGIC LOG <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Hole Diam.</th> <th colspan="2">Depth</th> <th rowspan="2">Material</th> <th colspan="2">Water</th> </tr> <tr> <th>From</th> <th>To</th> <th>Yes</th> <th>No</th> </tr> </thead> <tbody> <tr><td>16</td><td>0</td><td>7</td><td>Clay</td><td></td><td></td></tr> <tr><td></td><td>7</td><td>10</td><td>Gray lava</td><td></td><td></td></tr> <tr><td></td><td>10</td><td>30</td><td>Clinders</td><td></td><td></td></tr> <tr><td></td><td>30</td><td>38</td><td>Brown lava</td><td></td><td></td></tr> <tr><td></td><td>38</td><td>41</td><td>Gray lava</td><td></td><td></td></tr> <tr><td></td><td>41</td><td>45</td><td>Gray clinders</td><td></td><td></td></tr> <tr><td></td><td>45</td><td>132</td><td>Gray lava</td><td></td><td></td></tr> <tr><td></td><td>132</td><td>132</td><td>Red clay and clinders</td><td></td><td></td></tr> <tr><td></td><td>132</td><td>165</td><td>Gray lava, mud seams</td><td></td><td></td></tr> <tr><td></td><td>165</td><td>168</td><td>Gray lava</td><td></td><td></td></tr> <tr><td></td><td>168</td><td>180</td><td>Cinders and clay</td><td></td><td></td></tr> <tr><td></td><td>180</td><td>180</td><td>Brown lava</td><td></td><td></td></tr> <tr><td></td><td>180</td><td>190</td><td>Gray lava</td><td></td><td></td></tr> <tr><td></td><td>190</td><td>215</td><td>Brown lava</td><td></td><td></td></tr> <tr><td></td><td>215</td><td>310</td><td>Gray lava</td><td></td><td></td></tr> <tr><td></td><td>310</td><td>325</td><td>Black lava, hard</td><td></td><td></td></tr> <tr><td></td><td>325</td><td>353</td><td>Gray lava</td><td></td><td></td></tr> <tr><td></td><td>353</td><td>365</td><td>Sand, gravel and clay</td><td>X</td><td></td></tr> <tr><td></td><td>365</td><td>385</td><td>Sand and clay</td><td></td><td></td></tr> <tr><td></td><td>385</td><td>405</td><td>Cinders and clay</td><td></td><td></td></tr> <tr><td></td><td>405</td><td>433</td><td>Clay, sand and gravel rocks</td><td>Y</td><td></td></tr> <tr><td></td><td>433</td><td>435</td><td>River rock, sand and clay</td><td>X</td><td></td></tr> <tr><td></td><td>435</td><td>440</td><td>Clay and sand</td><td></td><td></td></tr> </tbody> </table>	Hole Diam.	Depth		Material	Water		From	To	Yes	No	16	0	7	Clay				7	10	Gray lava				10	30	Clinders				30	38	Brown lava				38	41	Gray lava				41	45	Gray clinders				45	132	Gray lava				132	132	Red clay and clinders				132	165	Gray lava, mud seams				165	168	Gray lava				168	180	Cinders and clay				180	180	Brown lava				180	190	Gray lava				190	215	Brown lava				215	310	Gray lava				310	325	Black lava, hard				325	353	Gray lava				353	365	Sand, gravel and clay	X			365	385	Sand and clay				385	405	Cinders and clay				405	433	Clay, sand and gravel rocks	Y			433	435	River rock, sand and clay	X			435	440	Clay and sand		
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7. METHOD DRILLED ☒ Cable ☐ Rotary ☐ Aug ☐ Other _____																																																																																																																																																					
8. WELL CONSTRUCTION Diameter of hole _____ inches Total depth _____ feet Casing schedule _____ ☐ Steel ☐ Concrete Thickness _____ inches Diameter _____ inches From _____ feet To _____ feet _____ inches _____ inches _____ feet _____ feet _____ inches _____ inches _____ feet _____ feet _____ inches _____ inches _____ feet _____ feet _____ inches _____ inches _____ feet _____ feet _____ inches _____ inches _____ feet _____ feet Was a packer or seal used? ☐ Yes ☒ No Perforated? ☐ Yes ☒ No How perforated? ☐ Factory ☐ Knife ☐ Torch Size of perforation _____ inches by _____ inches _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet Well screen installed? ☐ Yes ☒ No Manufacturer's name _____ Type _____ Model No. _____ Diameter _____ Slot size _____ Set from _____ feet to _____ feet Diameter _____ Slot size _____ Set from _____ feet to _____ feet Gravel packed? ☐ Yes ☒ No Size of gravel _____ Placed from _____ feet to _____ feet Surface seal? ☒ Yes ☐ No To what depth _____ feet Material used in seal ☒ Cement grout ☐ Puddling clay																																																																																																																																																					
9. LOCATION OF WELL Sketch map location must agree with written location. County _____ NE 1/4 Sec. 12 T. 1 N. R. 1 E. W.	10. Work started _____ finished _____ 11. DRILLER'S CERTIFICATION This well was drilled under my supervision and this report is true to the best of my knowledge Dick Johnson--Driller Dick Johnson & Son Driller's Firm's Name _____ Mountain View, Idaho Address _____ Signed by _____ Date 2/21/74																																																																																																																																																				

Gravel Pit

285

ROAD

SWAN

280

280

280

280

280

280

280

280

24 19 L 540 1774

2.
72.9

1.
79.1

Need
newer
photo?

None available.
SCS did not map.

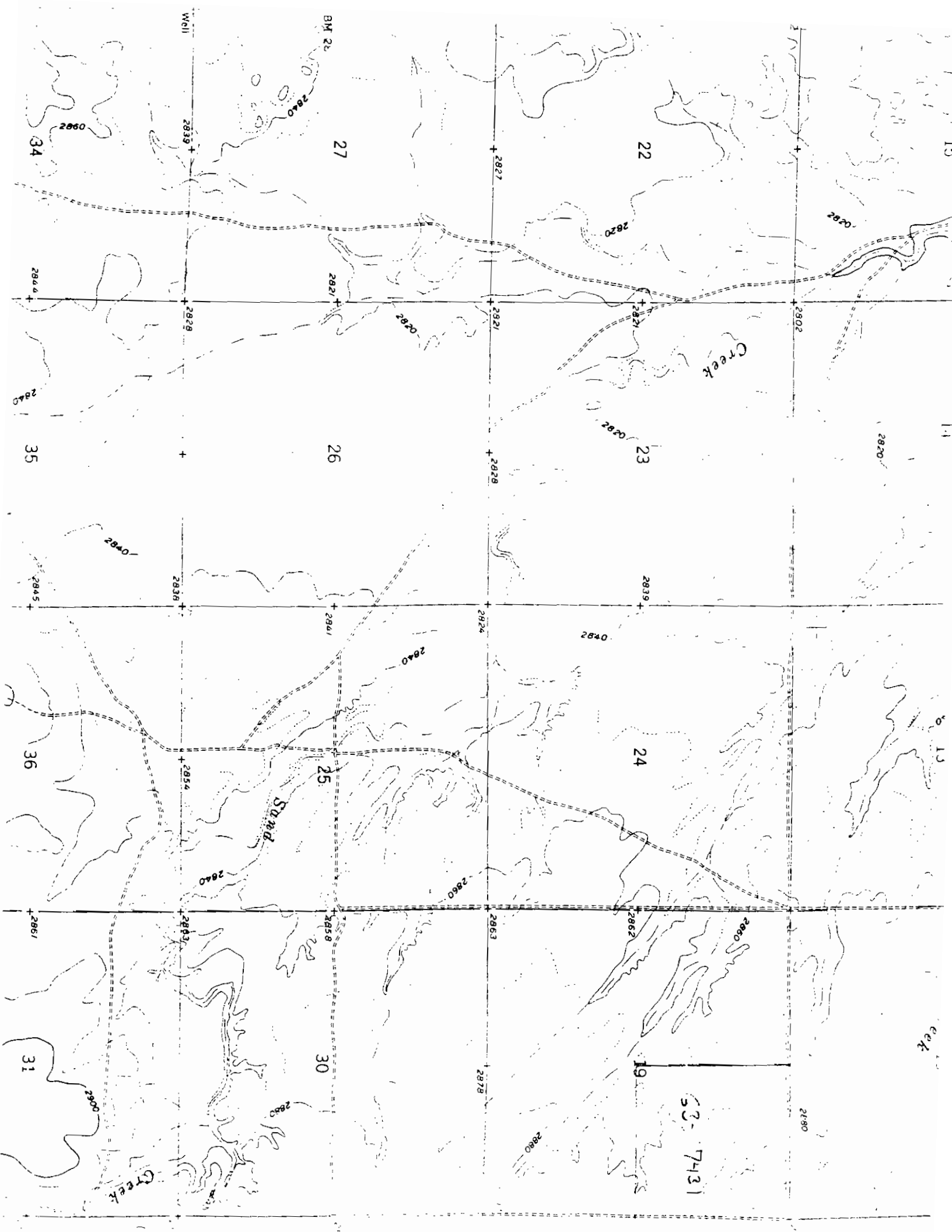
24 19
25 30

19
30

D-27

B21

821



June 15, 2004

RECEIVED
JUN 16 2004
WATER RESOURCES
WESTERN REGION

Laura E. Burri
Jeffrey R. Christenson
David P. Claiborne
D. Blair Clark
Michael J. Doolittle
S. Bryce Farris
David Hammerquist
Charles L. Honsinger
Joseph B. Jones
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson
Allyn L. Sweeney

William F. Ringert, of Counsel
Samuel Kaufman (1921-1986)

Ms. Jan Shurte
Adjudication Bureau Supervisor
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Baicy SRBA Claim to Water Right No. 63-07431

Dear Ms. Shurte:

As I explained in our recent telephone discussion, this law firm represents John Baicy with respect to the above-referenced SRBA claim to a water right. As we discussed, I am sending this correspondence to: (1) explain details related to the claim; (2) to request that IDWR conduct research related to its currently proposed disallowal of the claim; and (3) to request a meeting for discussion of the issues related to the claim.

1. The SRBA Claim

My client filed an SRBA claim to water right no. 63-07431 on August 22, 1989. The claim was for 3.2 cfs from groundwater to irrigate the entire northeast 1/4 of Section 19, Township 1N, Range 1E. The claim also included stockwater and domestic uses of .02cfs for a total quantity claimed of 3.24 cfs. The basis for the claim is permit no. 63-07431.

2. The Permit

Lillian Terwilliger applied for a permit to appropriate 3.24 cfs from groundwater for irrigation, stockwater and domestic uses on May 11, 1971. IDWR approved the permit application on June 17, 1971. Ms. Terwilliger assigned her interest in permit no. 63-07431 to Mr. Baicy on January 31, 1972. Mr. Baicy submitted Proof of Beneficial Use of water diverted pursuant to permit no. 63-07431 on September 21, 1976, but did not indicate whether or not he had installed a measuring device pursuant to the permit's conditions. The Department responded to Mr. Baicy, informing him of the failing in his submission of Proof of Beneficial Use. Mr. Baicy resubmitted Proof of Beneficial Use on May 12, 1978. In 1986, IDWR corresponded twice with Mr. Baicy explaining the new (at that time) statutory requirement that a fee be submitted prior to the conduct of a beneficial use field examination by IDWR. Mr. Baicy responded by sending a check in the amount of \$225.00 (as established by IDWR's responsive correspondence of October 21, 1986) and correspondence explaining that he had been waiting ten years for an examination. In its response of October 21, 1986, IDWR explained to Mr. Baicy that it had not conducted his

beneficial use field exam due to a lack of funding. IDWR conducted a beneficial use field exam in June, 1992. The examiner states in her report that although the power supply for the well was in place, she did not find beneficial use of the water diverted pursuant to the permit, and recommended disallowal of the right.

In the ensuing correspondence, IDWR explained to Mr. Baicy that it was planning to cancel his permit, and Mr. Baicy explained that he had put water diverted pursuant to the permit to beneficial use for at least the period from 1975 to 1985. After correspondence back and forth, IDWR conducted a second field exam in 1995 evidenced by a file memo from Mel Schulte which states that although he found no evidence of current irrigation, he did find evidence supporting use of the water right for irrigation in the past. IDWR subsequently issued its Preliminary Order voiding the permit on July 17, 1995, finding that water had "not been applied to a beneficial use since 1985." The July 17, 1995 Order did not reach Mr. Baicy, as evidenced by the certified mail receipts returned with the letter containing the Order. Mr. Baicy wrote to IDWR on December 30, 1995, again explaining that he had used water pursuant to the permit from 1975 to 1985 and notifying the Department that he had been out of the country during the time that IDWR attempted to serve him with a copy of its Preliminary Order. Glen Saxton responded to Mr. Baicy's letter by writing a file memo stating that "[u]nless Baicy can provide evidence to show that the land associated with the voided permit was in a federal cropland set-aside program which would prevent forfeiture to the right through non-use . . . the Department should take no action to rescind its Preliminary Order."

3. Analysis

The SRBA District Court has held that the running of the forfeiture period set forth in I.C. §42-222 is tolled from the time a claim is filed in the Snake River Basin Adjudication until a partial decree in that proceeding is issued. *See Memorandum Decision and Order on Challenge, In Re SRBA, Subcase 65-05033B (Wood v. Troutt) (May 9, 2002); Order on Challenge (Consolidated Issues) of "Facility Volume" Issue and "Additional Evidence" Issue, In Re SRBA, Subcases 65-02708 et. al. (Dec. 29, 1999).* It is my understanding that IDWR has recognized and applied what has become to be known as the "Forfeiture Tolling Rule" in various circumstances, including its recommendations of water rights in the SRBA. Mr. Baicy's circumstances are no different. He filed a claim in the SRBA in 1989. At that point, the forfeiture period was tolled, preventing forfeiture of his water right.

It seems appropriate that IDWR should reexamine its proposed disallowal of Mr. Baicy's SRBA claim in light of the application of the Forfeiture Tolling Rule. Instead of making an automatic assumption that the water right is void because it has been forfeited, IDWR should examine the evidence of beneficial use of the water right during the period before the SRBA claim was filed. (Notably, IDWR has only conducted an investigation of the use of the water right as of 1992, not for any other time period). If IDWR conducts its investigation and finds (as is the fact)

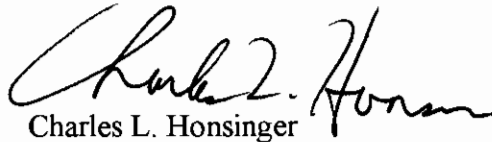
Jan Shurte
June 15, 2004
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that water was diverted and beneficially used pursuant to permit no. 63-07431 through at least 1985, then it must recommend the existence of the water right in the SRBA.

Please consider the contents of this correspondence carefully and discuss it with your staff and your attorneys. I would appreciate an opportunity to meet with you, IDWR's legal counsel, and any other appropriate personnel to discuss this issue. My client remains hopeful for a positive resolution of this matter, and would also be willing to meet personally with you and other IDWR personnel given sufficient notice.

Please contact me with any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles L. Honsinger". The signature is fluid and cursive, with the first name "Charles" and last name "Honsinger" clearly distinguishable.

Charles L. Honsinger

cc: John Baicy
Dave Tuthill
Susan Hamlin