

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 43-2355
Date Received: 4/3/89
Receipt No:
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

TED HIGLEY Phone: (208)645-2444
HANK HIGLEY
BETTY ANN HIGLEY
2200 RODOCKER LANE BOX 57
MALTA ID USA 83342

2. Date of Priority: 08/07/1950

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
13S	26E	13	NW NE NW	CASSIA

5. Description of diverting works:

WELL & PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	1.42	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
13S	26E	12	NE SW	IRRIGATION	33
			SE SW	IRRIGATION	38
				Section Acres	71

Total Acres 71

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:

14. Remarks:

Change of ownership data entered on 10-19-2000 kkc

15. Basis of Claim: License

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: _____

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 _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

RECEIVED

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOV 06 1997

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Department of Water Resources
Southern RegionPlease print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s): → A43-16794 A43-00099A A43-00101A A43-000102A
repealed (A43-000103A), A43-02355
 Adjudication Claim No(s): 0
2. The following REQUIRED information must be submitted with this form:
 - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating you ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
 - AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed c on file with the county.)
 - OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIA PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Owner/Claimant GRANT + CLARA Beyler
Marta Id 83342
4. New Owner/Claimant(s) Ted Betty Ann + Joe Hank Higley
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
 New Mailing Address 2200 Rodocker Ln Bldg 57
 City, State and ZIP Code Marta Id 83342
 New Telephone Number (208) 445-2444
5. Date you acquired the property _____
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the space below. If necessary, attach additional pages.
 Number of acres you irrigate _____ Number and type of stock _____
 Diversion rate in CFS _____ Number of homes _____ Other uses _____
 If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.
7. Signature of New Owner or Claimant(s) Ted Higley
 (Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form)
8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims..

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: A43-02355
Date Received: 4/03/1989
Receipt No: 5006759
Received By: AD

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GRANT N. BEYLER 208-645-2594
Address: P.O. BOX 52
MALTA, ID 83342
AND/OR
Name: CLARA W. BEYLER 208-645-2594
Address: P.O. BOX 52
MALTA, ID 83342

2. Date of Priority: AUG 07, 1950

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13S	26E	13	NW	NE	NW		CASSIA

5. Description of diverting works:
WELL & PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.420		

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

8. Total consumptive use is 213.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A43-02355

Page 1

Date: 04/03/89

MICROFILMED
MAR 03 1993

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
13S	26E	12	NE	SW	IRR	33.0
			SE	SW	IRR	38.0
					Section Acres	71.0
					Total Acres	71.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A43-00099A THRU A43-00103A

14. Remarks:

15. Basis of Claim: LICENSE
Water Right Number: 21655

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

Number of attachments: See Map A43-00103A

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): Grant M. Beyler Date: 4/03/89
Clara W. Beyler Date: 4/03/89

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 3rd day
of April 19 89
[Signature]
Notary Public

Seal

Residing at Kimberly, Id.
My Commission Expires 6/30/92

08/29/2001

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

RIGHT NUMBER: 43-2355

NAME AND ADDRESS: BETTY ANN HIGLEY
HANK HIGLEY
TED HIGLEY
2200 RODOCKER LANE BOX 57
MALTA, ID 83342

SOURCE: GROUND WATER

QUANTITY: 1.42 CFS
284 AFY

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE
THAN .02 CFS PER ACRE. COMBINED RIGHTS 43-11263, AND 43-2355.

PRIORITY DATE: 08/07/1950

POINT OF DIVERSION: T13S R26E S13 NWNENW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03-15 11-15	1.42 CFS 284.00 AFY

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>			
T13S R26E S12	NESW	32	T13S R26E S12 SESW 39

71 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 71 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHTS 43-11263, AND 43-2355.

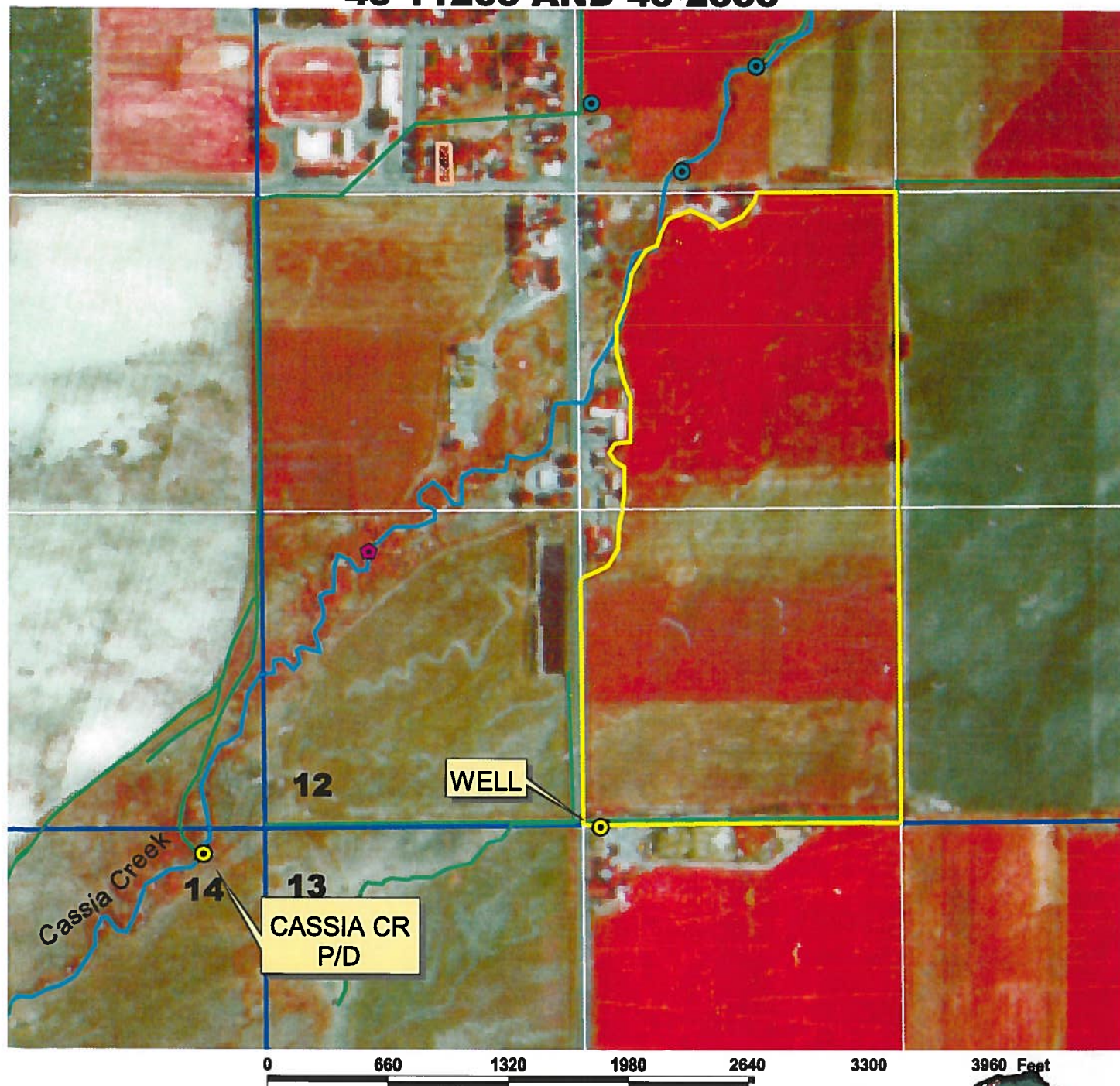
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

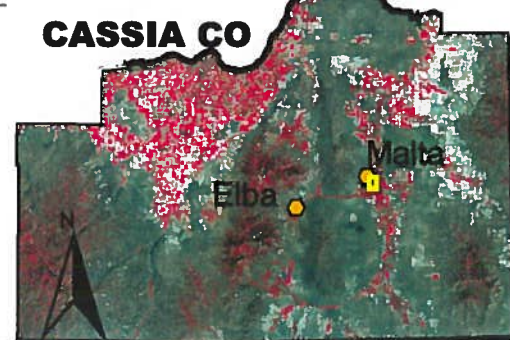
Idaho Department of Water Resources
RECOMMENDED PLACE OF USE FOR
43-99A, 43-100A, 43-101A, 43-102A,
43-11263 AND 43-2355



PLACE OF USE
 TWP 13S, RNG 26E, SEC 12
 Data entry on November 6, 2000

GIS PLACE OF USE PRESENTATION
 1987/1988 NAPP AERIAL PHOTOGRAPHY
 DATA ENTRY BY KELLY K CHRISTENSEN

- RECOMMENDED POINT OF DIVERSION
- RECOMMENDED PLACE OF USE
- SECTION LINES
- QUARTER/QUARTER LINES



Iaho Dept of Water Resources
Claims review notes and narrative

Date: 10-30-2000

File: 43-99 thru 104 recom analysis

Prepared by Kelly K Christensen

SPLIT ANALYSIS FOR 43-99, 43-100, 43-101, 43-102, 43-103, AND 43-104
These rights were decreed to Deardorff and are collectively referred to as the
DEARDORFF RIGHTS

DECREED RIGHTS	SIMPLOT	BEYLER	HIGLEY
43-99	43-99C	43-99A	43-99B
43-100	43-100C	43-100A	43-100B
43-101	43-101C	43-101A	43-101B
43-102	43-102C	43-102A	43-102B
43-103	43-103C	43-11263	43-103B
43-104	43-104C		43-104A

Two different parties now own the decreed property. When claims were filed there were three different owners. Higley now owns the Beyler property but for narrative purposes the two parcels will be analyzed individually and be referred to as either the Beyler property or the Higley property. (see table above)

There are two arguments concerning how the rights are to be split.

Argument 1. Simplot Rights should be 'unstacked'

Simplot's argument is that 43-99 thru 43-103 are appurtenant to the property currently owned by Simplot and that 43-104 is appurtenant to the ground claimed by Beyler and Higley. This is based upon wording in the warranty deed when the property was first split.

Argument 2, All rights should be delivered proportionately

The Beyler-Higley argument was that the rights have been historically delivered on a proportionate basis and should continue to be delivered in such manner.

A conflict concerning the delivery surfaced and the department was contacted. The department's decision was that the rights should be delivered according to the decree (proportionally) until as such time as Simplot filed a transfer and supported the delivery of the rights as unstacked and appurtenant to the parcels as described above. That transfer was never filed. Throughout the 1980's and 1990's the rights have been delivered proportionately. As this is the historic practice and it has been supported by the department in administrative action I am recommending these rights based upon the proportionate splitting of the original decreed rights based upon a percentage of each claimant's ownership of a portion of the original decreed place of use. See the excel spreadsheet printout that documents the proportionate split rates. (File: 43-99 to 104 proportional rate table.xls)

HIGLEY PLACE OF USE ANALYSIS

Found irrigated place of use = 116 acres. Total of surface water rights.2.39 cfs. One ground water right exists, 43-2310. This right was licensed for 2.40 cfs on 120 acres. I am recommending a 116-acre place of use with the rights limited to 0.02 cfs/acre when combined.

BEYLER PLACE OF USE ANALYSIS

There was a change of ownership from Beyler to Higley in 1997, however this property will be referred to as the Beyler property for analysis purposes.

The place of use is 71 irrigated acres within the original decreed place. The total claimed diversion rate for the Cassia Creek rights is 1.50 cfs. No individual right exceeds 1 inch to the acre or $(71 * 0.02 \text{ cfs/acre} = 1.42 \text{ cfs})$.

One ground water right (43-2355) is also appurtenant to this property. I located the well during my field exam on 9-20-2000 and found that there was no motor or pump installed at that location. I talked with the current owner's daughter-in-law and she indicated that the pump had been pulled for several years. She did not know how many years. As the system was in operation as of 1987 I am recommending this right as valid for the licensed rate of 1.42 cfs and the 71-acre place of use.

SIMPLOT PLACE OF USE ANALYSIS

Simplot owns that portion of the decreed place of use for the Deardorf property that lies west of highway 81. I am recommending that ground with the proportionate rate that is appurtenant to that ground. I found approximately 416 irrigated acres within the decreed place of use. The combined proportional diversion rate is less than one inch per acre when applied to the 416 acres (combined rate = 4.74 cfs). This system overlaps with other decreed Cassia Creek rights and a ground water right.

Surface water rights

43-99A
43-100A
43-101A
43-102A
43-10794(split pending)

Ground water right
43-2355

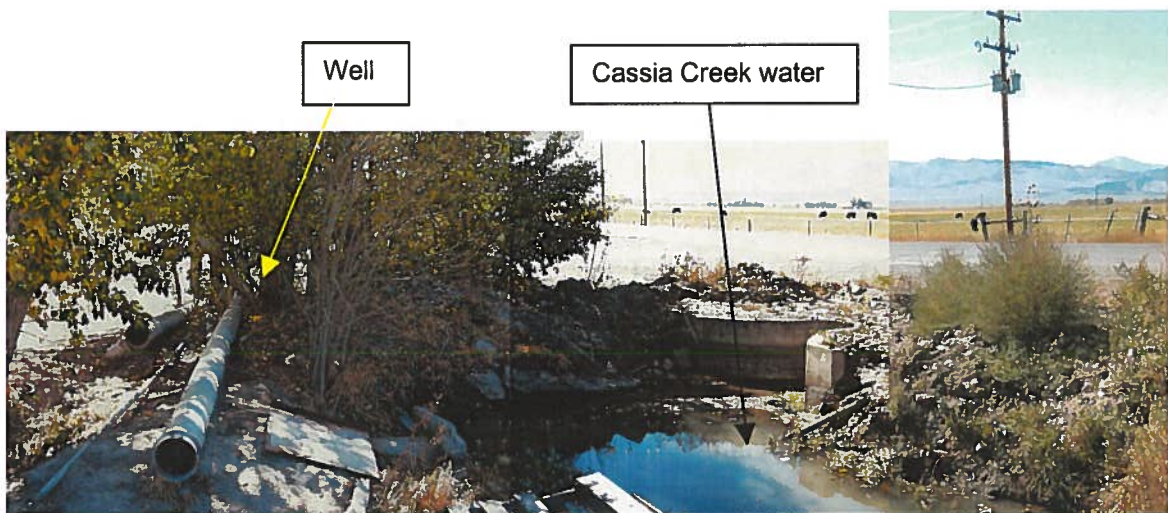
Photos taken 9-20-2000

By: Kelly K Christensen

File: 43-99A 43-2355 Higley p-u p-d



This is a close-up of the well location. The casing is inside the half barrel and under a rock. I could hear cascading water in the well. You are looking north in this photo. Site tag A0004889 was placed on the power pole next to this well. Ted's daughter-in-law stated that it has been 10 years or more since this well has been used.



This shows the same pipe as the previous photo and the relationship with surface water to the right. You are looking south toward the well on the left to southwest on the right.

Cassia Creek water comes from Simplot's property, under Highway 81 and to this location. The surface water is pumped into the buried mainline through a centrifugal pump located just out of the photo range on the left.



This photo set was taken from the northeast corner of the place of use and is looking south on the left to west on the right. This just confirms that the claimed place of use is well irrigated and that there are developments along the northwest side of the recommended place of use.

State of Idaho

License and Certificate of Water Right

Water License No. 21655

Amount 1.42 second feet

Water District No.

Priority August 7, 1960

THIS IS TO CERTIFY that **WALTER R. HILL**

of **Malta, Idaho**, made application for a permit to appropriate the public waters of the State of Idaho, dated **August 7, 1950**; that Permit No. 21655 was issued under said application; that Certificate of Completion of works, with a carrying capacity of **1.42 second feet**, was issued thereunder on **September 18, 1950**, showing that said works were completed on the **31st day of August, 1950**; and that on the **30th day of October, 1950**,

WALTER R. HILL

of **Malta, State of Idaho**, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of a well **subterranean (subterranean flow)**, for the purpose of **irrigation**, under Use Permit No. 21655 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 **4605**, on the **15th day of August, 1951**; The right hereby confirmed dates from **August 7, 1950**;

The Point of Diversion is located

in the **NE 1/4 SW 1/4 Sec. 13, T. 13 S., R. 26 E., E. M. Cassia 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 **1.42 cubic feet per second.**

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
13 S.	26 E.	12	2 1/2 SW 1/4	2 1/2 SW 1/4	7 1/2

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 **15th day of August, 1951.**

(SEAL)

E. W. SUMMERS
Deputy State Reclamation Engineer

43 235

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Form No. 1 (1931)

This report is for _____

In Water District No. _____

1. Name of applicant: Walter K. Hill, Salt Lake, Idaho

2. Source of water supply: Subterranean flow from a well

3. Location of point of diversion: Is in the NE 1/4

of Section 13

T. 13 S.

R. 26 E.

County of Cassia

4. Describe works as they exist, giving dimensions and capacities of same: Well is 300' deep by 12" diameter, cased to the bottom. H. equals 8' in the spring, drawdown is 75'.

Pump sets down 180'. Size of bowl and column unknown. Pump and motor are located in a shed type covering, approximately 7' x 9' x 6' high, with a earth floor. Motor is mounted on a heavy concrete base 30" x 30" and the pump is also set on a concrete base. Motor is a 40 h.p. horizontal motor - Crocker-Whitaker Mfg. 220 volts, 95 amps., 1760 r.p.m., 3 phase, 60 cycle, Serial #206382425. (continued below)

5. Water is used for: Irrigation

6. State whether or not water has been turned into works of diversion:

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

NE 1/4, Section 12, Twp. 13 S., Range 26 E., P.M.

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks: Pump is a Johnson, #5239, driven by 6 V belts. Pump and motor set on approximately 30" concrete. Delivery is to the West through a 8" pipe, 7' long; reduced to approximately 7 1/2" i.d. at outlet. T. equals 54°F.

Water was measured over a 2' cippoletti weir. Q. equals 95".

Crops are hay, grain and row crops.

This examination was made on the

1st

day of

August

19 31

(Signed)

E. H. Humphrey

Examiner

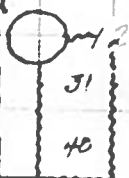
21655

Top 155 - N 26 E

30

#

11 Malta



12

10 yds to road center

14 PD

15

18

U.S. Highway

Area = 71 acres

G = 95' pumped

T = 54° F