

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 45-13573

Priority: May 19, 2003

Maximum Diversion Rate: 0.27 CFS  
Maximum Diversion Volume: 64.2 AF

This is to certify, that EVARD LLC  
C/O REED GIBBY  
576 S 650 E  
BURLEY ID 83318

has applied for a permit to appropriate water from:

**Source:** GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
COMMERCIAL	01/01 to 12/31	0.27 CFS	64.2 AF
STOCKWATER	01/01 to 12/31	0.27 CFS	64.2 AF

**LOCATION OF POINT OF DIVERSION:**

GROUND WATER SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 29, Twp 11S, Rge 24E, B.M., CASSIA County

**PLACE OF USE:** COMMERCIAL and STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S 24E 29							X				X						

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2004**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
5. Commercial use is for associated uses at a hog raising facility including wash-down, cleaning and sanitary uses.
6. Stockwater use is for 18,750 pigs.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.

8. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 22<sup>nd</sup> day of August, 2003.

for   
KARL J DREHER, Director



1000 0 1000 2000 3000 4000 Feet

## Declo Site #1 Water Right Permit Application

T11S, R24E

- ⊙ P.O.D. for permit application
- S,C P.O.U. for permit application (white)

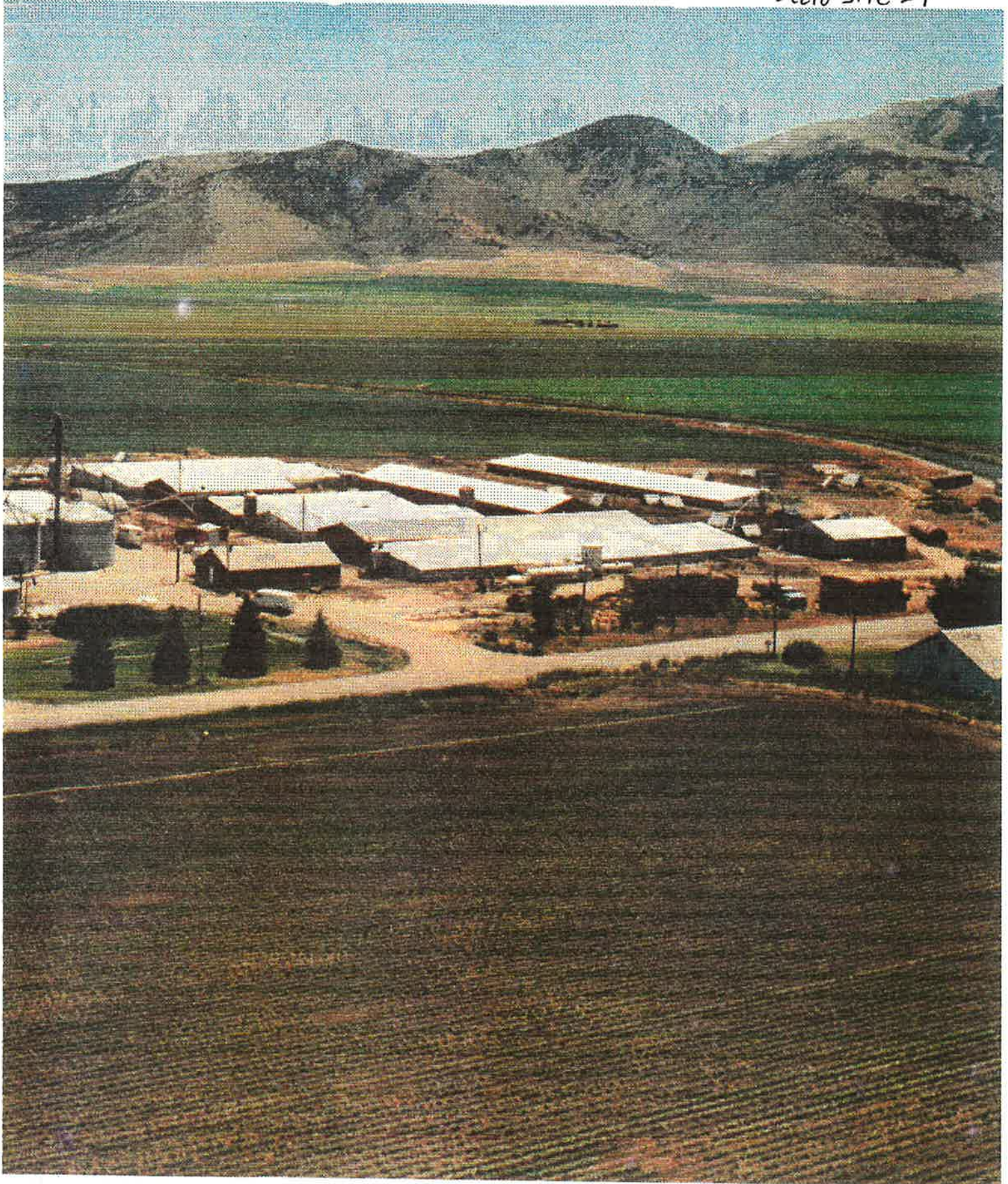
- Quarter Section Lines
- Section Lines





ca. early 1980s.

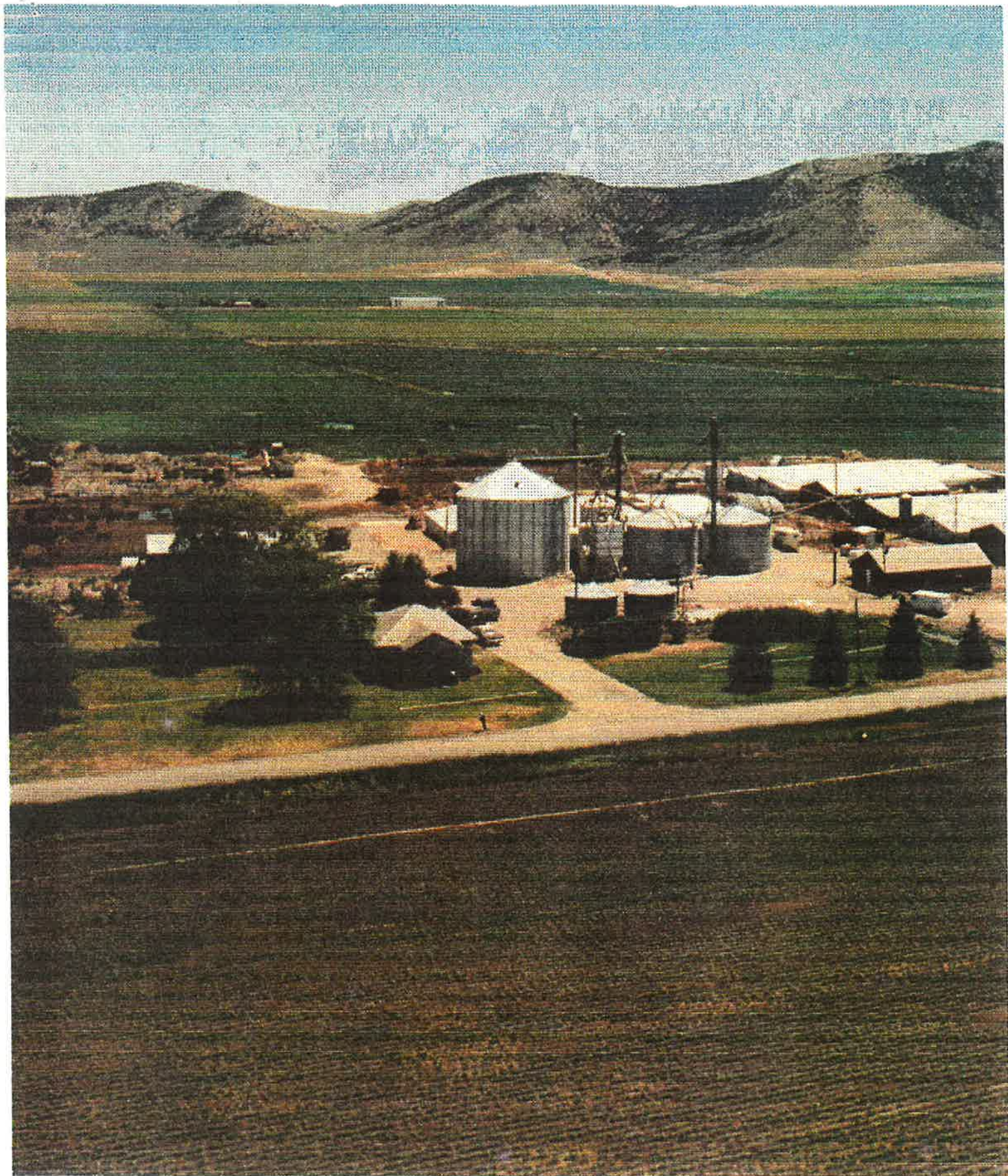
Evand LLC  
Declo Site #1



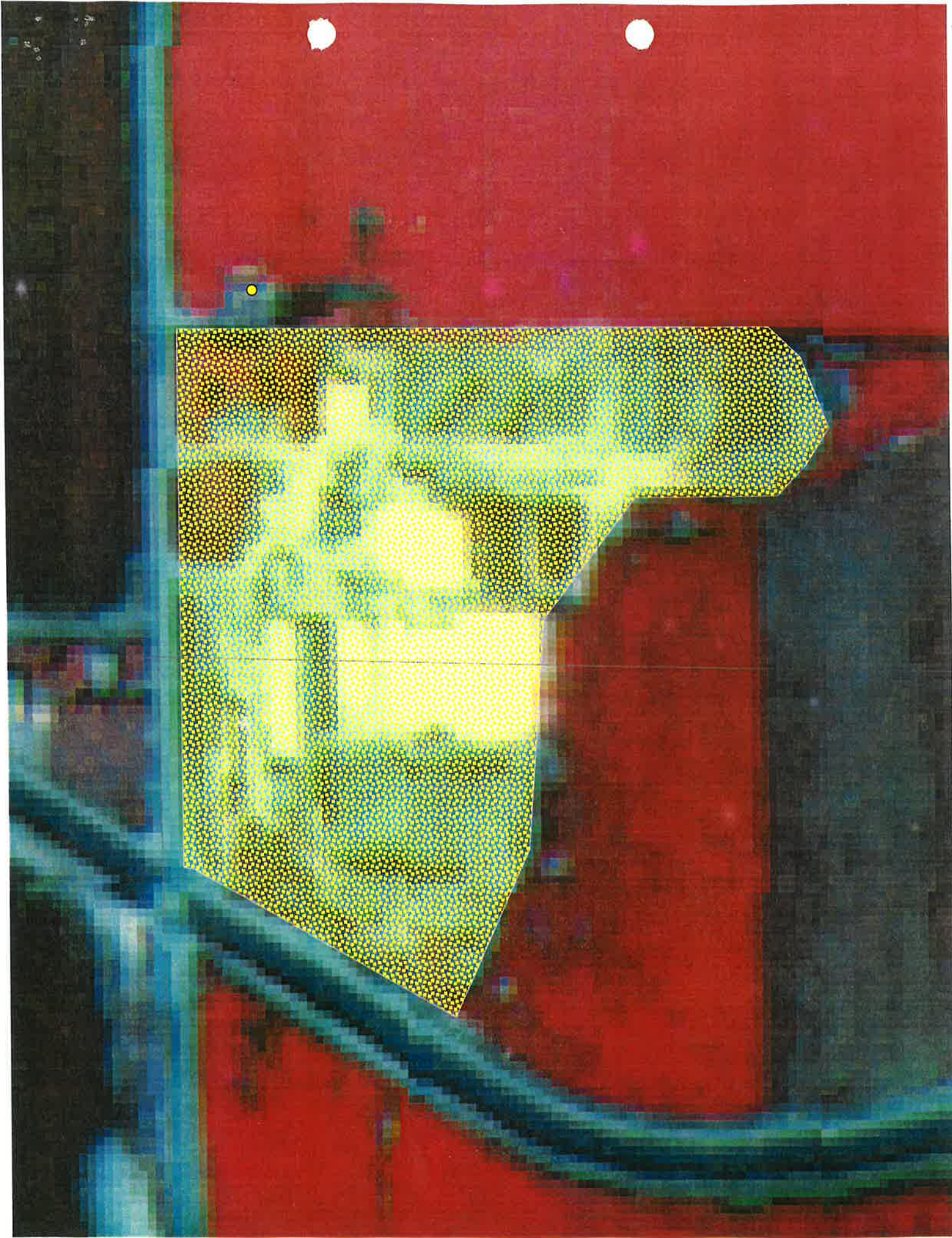


ca. early 1980s

Evard, LLC  
Declo Site #1









Page 1

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 45-13573

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This is to certify, that EVARD LLC  
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COMMERCIAL	01/01 to 12/31	0.27 CFS	64.2 AF
STOCKWATER	01/01 to 12/31	0.27 CFS	64.2 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW1/4SW1/4NW1/4 Sec. 29, Twp 11S, Rge 24E, B.M.  
CASSIA County

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S 24E 29							X			X							

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S 24E 29							X			X							

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before .
2. Subject to all prior water rights.
3. Commercial use is for associated uses at a hog raising facility including wash-down, cleaning and sanitary uses.

45-13573

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
NO. 45-13573

4. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
5. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.
7. Stockwater use is for 18750 pigs.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
KARL J DREHER, Director



Site #1

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**

Ident. No. 45-13573  
70595  
**RECEIVED**  
**MAY 19 2003**  
Department of Water Resources  
Southern Region

To appropriate the public waters of the State of Idaho

1. Name of applicant Evard LLC Phone (208) 654-2733  
Post Office address 576 South 650 East, Burley, ID 83318
2. Source of water supply Groundwater which is a tributary of \_\_\_\_\_
3. Location of point of diversion is \_\_\_\_\_ 1/4 of SW 1/4 of NW 1/4, Govt. Lot \_\_\_\_\_  
Sec. 29 Township 11S Range 24E B.M. Cassia County; additional  
points of diversion, if any: \_\_\_\_\_
4. Water will be used for the following purposes:  
Amount 0.27/64.2 for Stockwater purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount 0.27/64.2 for Commercial purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)
5. Total quantity being appropriated is (a) 0.27 and/or (b) 64.2  
cubic feet per second acre-feet per annum
6. Proposed diverting works:
  - a. Description of ditches, flumes, pumps, headgates, etc. Existing well to barns.
  - b. Height of storage dam \_\_\_\_\_ feet; active reservoir capacity \_\_\_\_\_ acre-feet; total  
reservoir capacity \_\_\_\_\_ acre-feet; period of year when water will be diverted to storage:  
\_\_\_\_\_ to \_\_\_\_\_ inclusive.
  - c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet
  - d. Is groundwater with a temperature of greater than 85 degrees being sought? No
  - e. If well is already drilled, when? mid 1960s; Drilling firm Not known;  
Well was drilled for (well owner) Evard Gibby
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
  - a. Hydropower; show total feet of head and proposed capacity in KW. \_\_\_\_\_
  - b. Stockwatering; list number and kind of livestock. 18,750 pigs, all grower-finisher animals
  - c. Municipal; show name of municipality. \_\_\_\_\_
  - d. Domestic; show number of households \_\_\_\_\_
  - e. Other; describe fully. Commercial: wash-down, cleaning, and sanitary uses.



9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
11S	24E	29							S, C		C	C							

Total number of acres to be irrigated \_\_\_\_\_

10. Describe any other water rights used for the same purposes as described above. None

11. a. Who owns the property at the point of diversion? Applicant

b. Who owns the land to be irrigated or place of use? Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: \_\_\_\_\_

12.. Remarks: This permit is being sought for groundwater use that began in the mid 1960s and has remained at the same level since the early 1980s. See attached narrative for a history of the facility. A water usage estimate is attached.

13. MAP OF PROPOSED PROJECT ATTACHED X show clearly the proposed point of diversion, place of use, section number, township and range number.

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

  
(Applicant)

Received by gi Date 5-20-03 Time noon Preliminary check by \_\_\_\_\_  
 Fee \$ 250.00 Received by gi # 5025856 Date 5-20-03  
 Publication prepared by MB Date 7/8/03 Published in Id. Ed. Press  
 Publication approved \_\_\_\_\_ Date \_\_\_\_\_





1000 0 1000 2000 3000 4000 Feet

## Declo Site #1 Water Right Permit Application

T11S, R24E

⊙ P.O.D. for permit application  
 S,C P.O.U. for permit application (white)

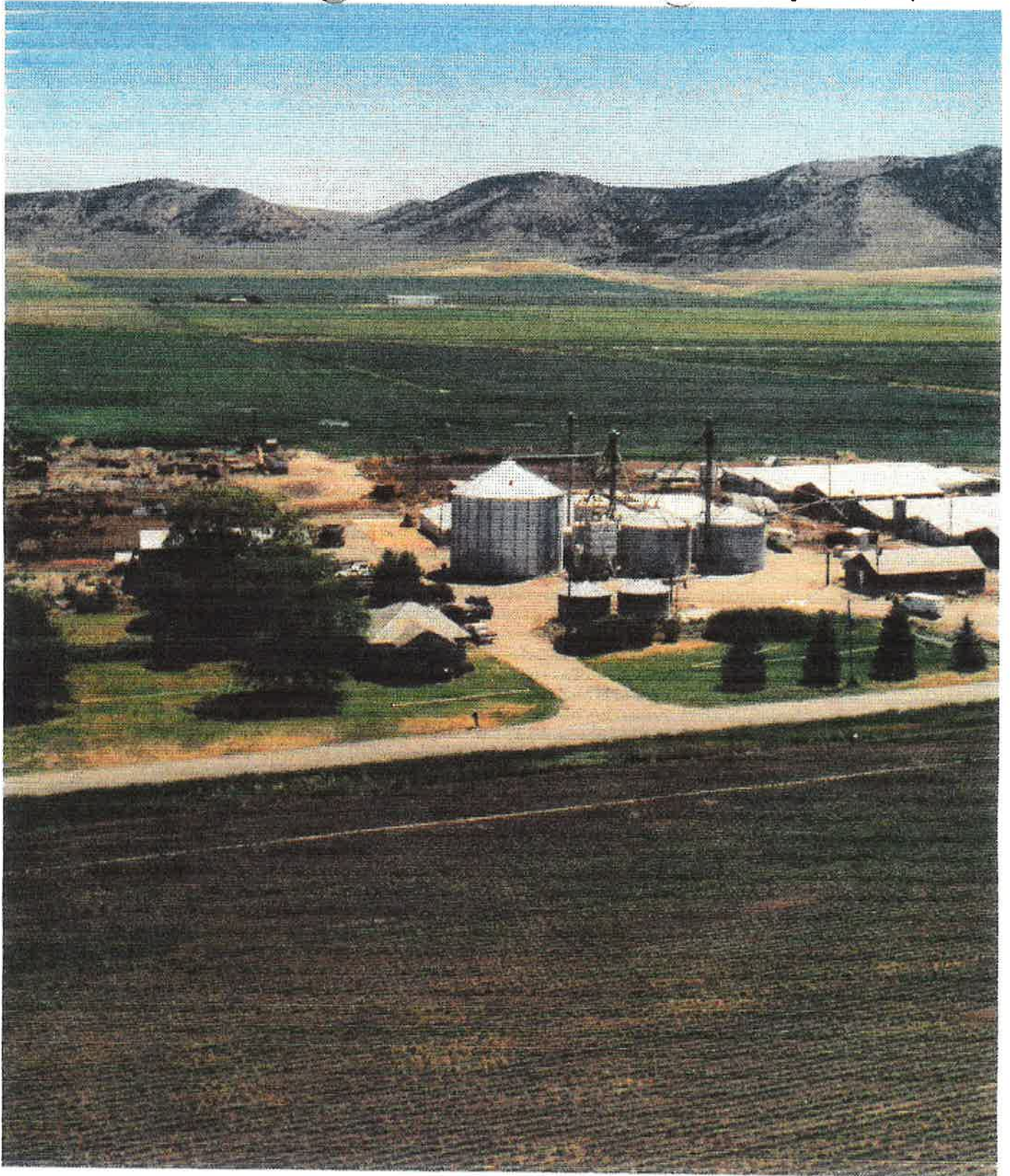
Quarter Section Lines  
 Section Lines





ca. early 1980s

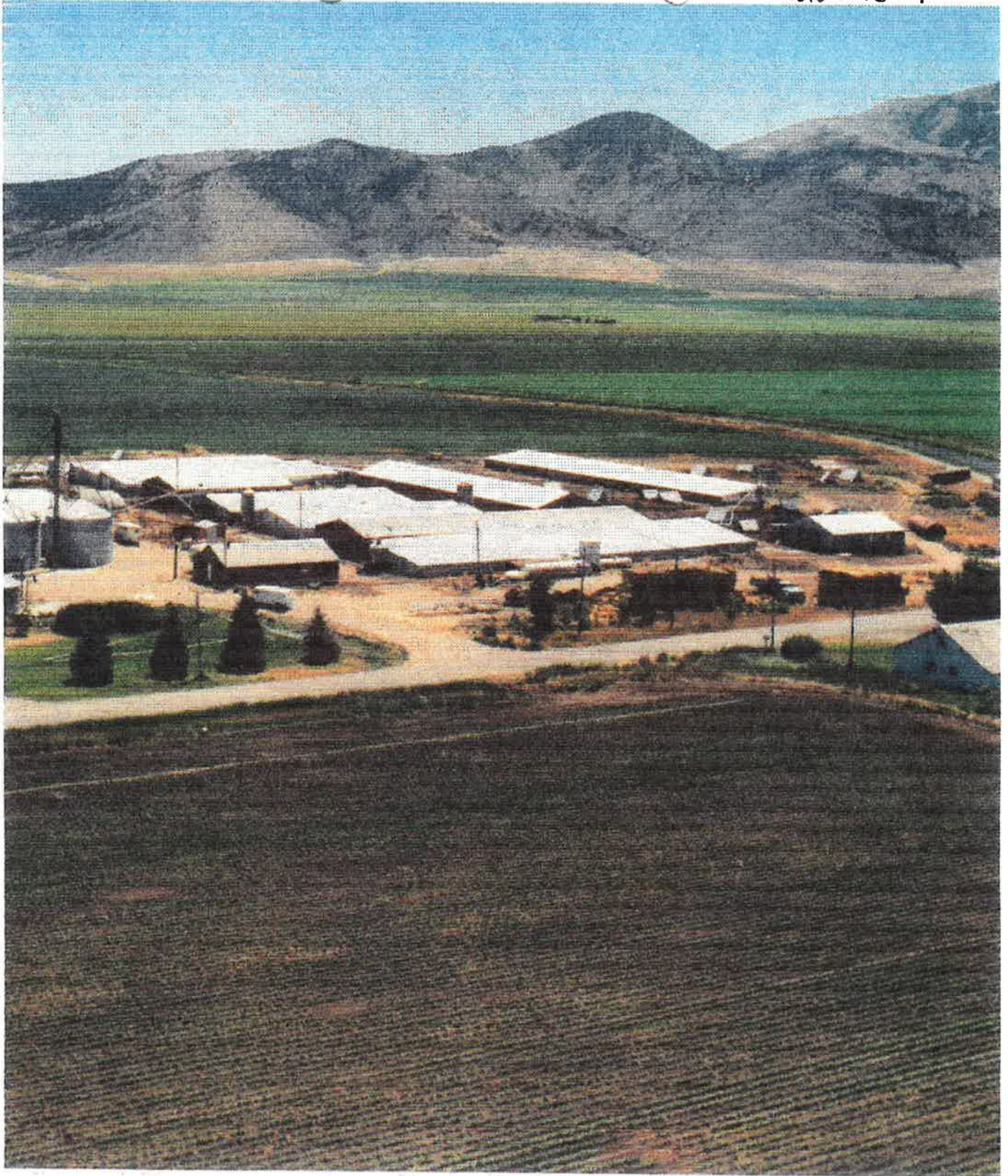
Evard, LLC  
Declo Site #1



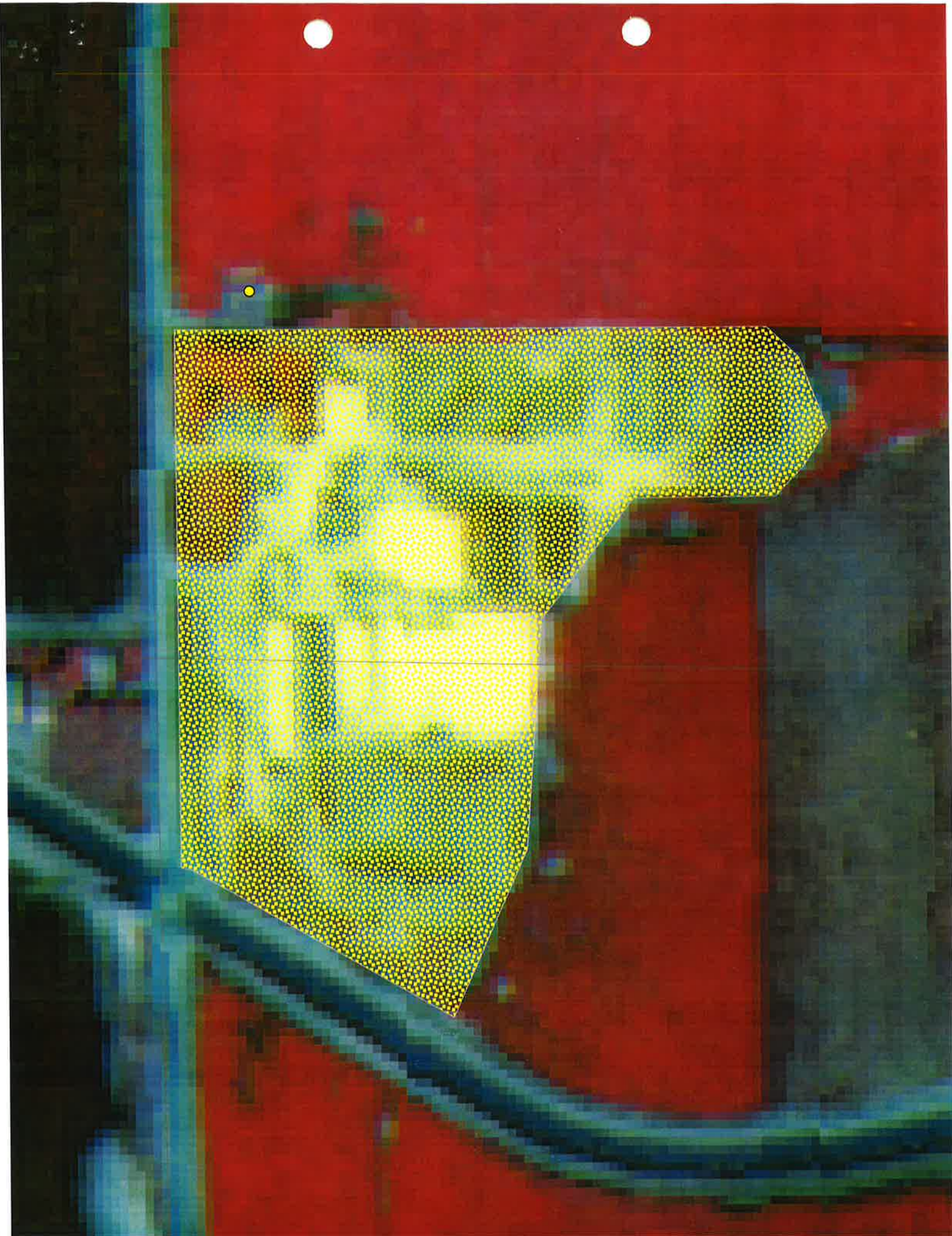


ca. early 1980s.

Evand LLC  
Declo Site #1







## **WATER USAGE ESTIMATE - DECLO SITE #1**

Evard LLC Swine Production Facilities

Brockway Engineering, PLLC

5-Mar-02

Location: SW1/4 NW1/4 Section 29, T. 11 S., R. 24 E.  
Declo, Idaho

Description: 18,750 pigs, all grower-finisher animals

### **ANNUAL WATER USAGE**

Assumes pigs receive minimal drinking water from feed

	No. Head	Gal/Hd	Gal/Day	
Lactating sows	0	5.9	0	
Pregnant sows	0	3.7	0	
Boars	50	3.1	157	
Nursery Pigs (up to 60 lb)	0	1.0	0	
Grower Pigs (60-100 lb)	0	1.9	0	
Finisher Pigs (100-250 lb)	0	2.7	0	
Grower-Finisher Pigs	18,750	2.3	43,125	
Total drinking water			43,282	gpd
Estimated commercial water usage	18750	0.75	14,063	gpd
TOTAL DRINKING + COMMERCIAL			57,344	gpd
			64.2	afa

### **DIVERSION RATE REQUIREMENT**

Average daily withdrawal	57,344 gpd
Peaking factor	3.00
Peak withdrawal rate	119 gpm
	0.27 cfs



BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE WATER RIGHTS FOR ) COMMENTS AND  
STOCKWATER AND COMMERCIAL USE ON THE ) EVIDENCE OF  
SITE KNOWN AS DECLO SITE #1. ) EVARD GIBBY  
EVARD LLC. )

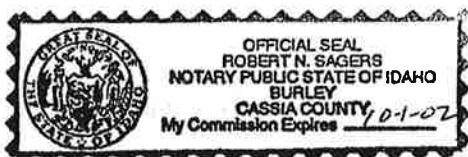
COMES NOW, Evard Gibby, and provides the following comments and evidence in this matter:

1. I have been the owner of or partner in the swine raising facility (the "Facility") located in the SW1/4 NW1/4 Section 29, T. 11 S., R. 24 E., B.M. since approximately 1950.
2. I began raising swine on the Facility in approximately 1950.
3. From approximately 1950 through the early 1970s, water supply for the Facility was provided by the View community water system.
4. In the early 1970s, we began using water from a groundwater well located on the Facility. This well had been used for irrigation since approximately 1965. This well has been the water source for the Facility since the early 1970s through the present, and the water has been used consistently every year.
5. The Facility increased in size until approximately 1980, and since this time, the Facility has remained at the same size and approximately the same water use including number and type of pigs raised.

DATED this 13 day of March, 2002

Evard P Gibby  
Evard Gibby

SUBSCRIBED and SWORN to before me this 13 day of March,  
2002.



Robert N. Sagers  
NOTARY PUBLIC  
Residing at: Burley, Idaho  
My Commission Expires: 10-1-02

LIMITED POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENT:

I, Reid Gibby, hereby nominate and appoint  
Charles G. Brockway as my attorney-in-fact with full authority to  
act for and on my behalf to undertake any and all acts or matters pertaining to water right  
transfers before the Idaho Department of Water Resources for the following water right  
transactions:

Water right transfers for right 45-07694 for site known as "Declo #2"

Permit application for site known as "Declo #1"

in Cassia County, Idaho. Additionally, I hereby ratify and confirm any  
and all such acts on matters as contemplated herein.

My agent is hereby authorized to sign, seal and deliver, as my act in deed, those said  
instruments of writing that may be necessary or proper to carry into execution and effect the  
applications, and transfers above-mentioned. Further, I hereby declare that each and every  
application, transfer, agreement, receipt, or payment which shall be by my said agent given,  
made or done for the aforesaid purposes shall be as good, valid, and effectual as if they had  
been signed, sealed, and delivered by me in my own proper person; and I hereby undertake at  
all times to ratify whatsoever my said agent shall lawfully do or cause to be done in or  
concerning the said premises by virtue of these present. This Limited Power of Attorney will  
become void upon approval, denial or withdrawal of the above referenced applications.

Dated this 26 day of Feb 2003.

Reid Gibby  
Signature

Signature

State of Idaho )

County of TWIN FALLS )

ss.

On this 26<sup>th</sup> Day of February, 2001, before me, a Notary Public  
in and for said County and State, personally appeared Reid Gibby,  
known or identified to me to be the individual whose name and subscription to the within  
instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official  
seal the day and year in this certificate first above written.

S  
E  
A  
L



Heather M Maxson  
Notary Public

In and for said State and County

2-24-09  
My Commission Expires



5/12/99 13:55:38  
254

IDAHO SECRETARY OF STATE

P.1



# ARTICLES OF AMENDMENT TO ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

99 MAY 17 AM 9:14  
SECRETARY OF STATE  
STATE OF IDAHO  
**FILED**

1. The name of the limited liability company is: EVARD, L.L.C.
2. The date the articles of organization were filed was: February 26, 1996

**COMPLETE ONLY THE APPLICABLE ITEMS**

3. The name of the limited liability company is amended to read: \_\_\_\_\_
4. The latest date certain upon which the limited liability company will dissolve is amended to read: 12-31-99
5. The management of the limited liability company shall henceforth be vested in  
☐ Manager(s) ☒ Members.
6. The information on managers/members shall be amended as follows:

Name:	Address:	Add:	Delete:	Other:
<u>Von Gibby</u>	<u>_____</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>_____</u>
<u>Evard Gibby</u>	<u>_____</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<input type="checkbox"/>	<input type="checkbox"/>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<input type="checkbox"/>	<input type="checkbox"/>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<input type="checkbox"/>	<input type="checkbox"/>	<u>_____</u>

7. Signature of at least one manager, if any, or at least one member.

*Rob Gibby*  
*Evard Gibby*

Capacity

Capacity

Capacity

Capacity

Secretary of State use only

IDAHO SECRETARY OF STATE

05/17/1999 09:00  
CK: 3597 CT: 7730 BH: 217309

1 @ 30.00 = 30.00 ORGAN AMEN # 2

W 2104

# ARTICLES OF AMENDMENT TO ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

98 MAY -4 PM  
SECRETARY OF STATE  
STATE OF IDAHO



FILED  
98 MAY -4 PM  
AH ID: 24  
SECRETARY OF STATE  
STATE OF IDAHO

1. The name of the limited liability company is: EVARD LLC

2. The date the articles of organization were filed was: Feb. 20, 1996

## COMPLETE ONLY THE APPLICABLE ITEMS

3. The name of the limited liability company is amended to read: \_\_\_\_\_

4. The latest date certain upon which the limited liability company will dissolve is amended to read: \_\_\_\_\_

5. The management of the limited liability company shall henceforth be vested in

☒ Manager(s) ☐ Members.

6. The information on managers/members shall be amended as follows:

Name:	Address:	Add:	Delete:	Other:
<u>Reed Gibby</u>	<u>576 S. 650 E. Burley, Id.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Manager</u>
<u>Von Gibby</u>	<u>715 S. 750 E. Burley, Id.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Limited Member</u>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	_____
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	_____
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	_____

7. Signature of at least one manager, if any, or at least one member.

[Signature]

Manager  
Capacity

Capacity

Capacity

Capacity

IDAHO SECRETARY OF STATE

05/04/1998 09:00  
CMT 2151 CMT 3016 DB: 107166

1 0 30.00 = 30.00 ORGAN AMEN

W2104

Revised 8/96

Information only




W2104

## ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

To the Secretary of State of Idaho,  
Statehouse, Boise, Idaho 83720

RECEIVED  
STATE OF IDAHO  
FEB 20 9 56 AM '96



- The name of the limited liability company is: KYARD, L.L.C.
- The address of the initial registered office is: 715 SOUTH 750 EAST  
(not a PO Box)  
BURLEY, IDAHO 83318 and the name of the initial registered agent at that address is: VON GIBBY  
Signature of registered agent: *Von Gibby*
- The latest date certain on which the limited liability company will dissolve: 12/31/2026
- Is management of the limited liability company vested in a manager or managers?  
☐ Yes ☒ No (check appropriate box)
- If management is vested in one or more manager(s), list the name(s) and address(es) of at least one initial manager. If management is vested in the members, list the name(s) and address(es) of at least one initial member.

Name:	Address:
<u>VON GIBBY</u>	<u>715 SOUTH 750 EAST</u>
<u></u>	<u>BURLEY, IDAHO 83318</u>
<u></u>	<u></u>
<u></u>	<u></u>
- Signature of at least one person listed in #5 above:  
*Von Gibby*

Secretary of State use only  
IDAHO SECRETARY OF STATE  
DATE 02/20/1996 0900 38879  
5  
ON #: 1251 CUST# 63210  
ORGAN LLC  
1@ 100.00= 100.00

LLC1/693

File Two Copies

Fee: \$100 if typed with no attachments  
\$120 if not typed or if attachments are included

No. <b>W 2104</b>		Due no later than Feb 28, 2002 Annual Report Form		2. Registered Agent and Office NO PO BOX	
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080		1. Mailing Address - Correct in this box, if applicable EVARD, L.L.C. REED GIBBY 576 S 650 E BURLEY, ID 83318		REED GIBBY 576 S 650 E BURLEY, ID 83318	
NO FILING FEE IF RECEIVED BY DUE DATE				3. New Registered Agent Signature	
4. Limited Liability Companies: Enter Names and Addresses of Managers.					
Office held	Name	Street or P.O. Address	City	State	Zip
Manager	EVARD C.G. Gaby	672 South 550 East	Burley	ID	83318
Manager	Reed Gaby	576 South 650 East	Burley	ID	83318
Manager	Lee Gaby	442 South 450 East	Burley	ID	83318
5. Organized Under the Laws of: IDAHO W 2104		6. Signature <i>Reed Gaby</i> Name (Typed or Printed) Reed Gaby		Date <i>12/12/01</i> Title <i>Sec.</i>	

991

Issued 12/03/2001

Do Not Tape or Staple



## MEMORANDUM

**Date:** August 20, 2003  
**To:** Water Right File 45-13573  
**From:** amerritt  
**Re:** recommendation

---

This application was processed as a pre-1987 development. Documents in the file support pre-87 development. The application was published without protest. Recommend approval of the application with conditions as stated on the draft permit contained in the file.

SCANNED  
AUG 20 2003

## **Comment Report**

**45-13573**

1. jstanton 7/7/2003 3:38:02 PM Special Administration Area Notes

Comment: Special Administration Areas : Eastern Snake Plain Aquifer

Exempt: N

Reason:

Doc Attached:

Explanation:

2. jstanton 7/7/2003 3:38:56 PM Additional Information Supporting Application

Comment:

Evidence of Pre-1987 development: Attached

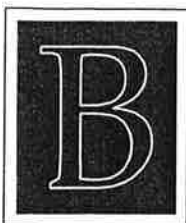
3. jstanton 7/7/2003 Comment/Analysis

Comment: This facility is clearly shown on the 1986/87 Arcview base map, so it appears clear that it was developed and in use by the start of the SRBA. Actual water usage at that time cannot be determined, of course, unless the applicant has production records or other data from that period. He has provided an affidavit stating that the present water use has existed essentially unchanged since the 1980s, so it appears that the application can be processed as a pre-1987 development. Unless evidence to the contrary is received during processing, the application can probably be approved. The application map appears to show both commercial and stockwater uses in both tracts, so I suggested that the pou description be changed accordingly; Chuck Brockway Jr, representing the applicant, agreed. Unless requested to do so, I do not plan a site visit to this property.

4. jstanton 7/7/2003 Legal Notice Remarks

Comment: This application proposes to legalize the water usage for a large hog-raising facility that has existed in its present size since about 1980. The property is located at about 635 South and 550 East and just north of the J Canal.





**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED  
MAY 19 2003  
Department of Water Resources  
Southern Region

May 13, 2003

Mr. Allen Merritt  
Idaho Department of Water Resources  
1341 Fillmore Street, Suite 200  
Twin Falls, ID 83301

Re: Application for Permit and Application for Transfer  
Reed Gibby / Declo facilities

Dear Allen:

Enclosed are the following applications in the name of Evard, LLC for two swine facilities located south of Declo, Idaho:

**Permit application for "Site #1"**

Water usage at this location began in the 1950s and has continued to the present day. Since approximately 1980, the facility has been at its present size and water usage. Included with the application are affidavits to this effect, a 1987 aerial photo showing the facility, and photos from the early 1980s showing the facility. Because the usage began prior to the moratorium enactment, Mr. Gibby is applying for a new permit rather than transferring existing water rights. This facility services approximately 18,750 grower-finisher pigs. I have estimated the water requirement to be 64.2 acre-feet/year based on several studies of the water requirements of swine in various growth stages. I can provide more detail on these studies if you are interested.

**Transfer application for "Site #2"**

This facility began production after the moratorium enactment, and therefore requires that an existing water right be transferred. This facility will service 10,000 grower-finisher pigs, which will require 34.2 acre-feet/year. To supply this water, it is proposed to convert 11.4 acres of water right 45-7694 from irrigation use to stockwater and commercial use. This water right is owned by V&R Farms LLC, which is owned by Von Gibby. Documentation of the ownership from the Idaho Secretary of State is included with the application. The location of the "from" and "to" wells are within the same cell of the

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
PH.D., P.E.

2016 NORTH  
WASHINGTON  
STREET • SUITE 4

TWIN FALLS,  
IDAHO 83301

208•736•8543

FAX: 736•8506

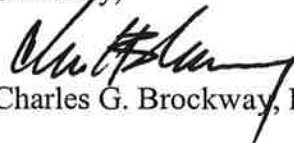
ESRPA groundwater model, and therefore this application will not require a surface water impact evaluation and/or mitigation.

With regard to historic consumptive use, Von Gibby has confirmed that alfalfa hay has been grown on at least 11.4 acres of the farm each year for the past five years. According to evapotranspiration data from the Agrimet Rupert station, the crop ET has been greater than 3.0 ac-ft/ac in all of those years, and crop irrigation requirement (ET minus effective precipitation) has been greater than 3.0 ac-ft/ac in at least three years (see attached analysis). The maximum irrigation requirement was 3.32 ac-ft/ac in 2001. This is the value used to compute the volume transferred to the swine facility.

The land from which the water will be transferred is subject to a mortgage. The mortgage holder has been contacted and is in the process of reviewing the application.

Please let me know if you need any further information.

Sincerely,



Charles G. Brockway, P.E.

cc: Reed Gibby  
Von Gibby (transfer application only)  
Enc. Permit application, transfer application, and supporting documentation



SOUTH IDAHO PRESS  
BURLEY, IDAHO  
AFFIDAVIT OF PUBLICATION

RECEIVED

JUL 29 2003

Department of Water Resources  
Southern Region

County of Cassia       )  
                                  ) ss  
STATE OF IDAHO       )

Ruth Anne Holmes, being first duly sworn, deposes and says that she is the Legals clerk of the South Idaho Press, a daily newspaper published at Burley, Idaho, in the county aforesaid and that the paper is of general circulation therein. Deponent further states that the printed notice attached hereto was duly published according to law in the regular editions of the South Idaho Press for 2 consecutive week(s), commencing with the issue dated July 17, 2003 and ending with the issue dated July 24, 2003.

Ruth Anne Holmes

STATE OF IDAHO       )  
COUNTY OF            )  
Cassia                 )

On this 24th day of July in the year of 2003 before me, a Notary Public, personally appeared Ruth Anne Holmes, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.



Ann Harper  
Notary Public for Idaho

Residing at: Burley, Idaho

My commission expires: 9-14-2007

Cost of Publication 58.63  
Affidavit Fee 5.00  
Total Cost 63.63

OK  
MB  
8/11/03

03-290

**Notice of Application**

The following application has been filed to appropriate the public waters of the State of Idaho, Cassia County:

45-13573  
EVARD LLC  
C/O REED GIBBY  
576 S 650 E  
BURLEY ID 83318  
Point(s) of Diversion: SWSWNW  
S29 T11S R24E  
Source: GROUND WATER  
Use: 01/01 To 12/31  
STOCKWATER (0.27 CFS) 64.2  
AFA  
COMMERCIAL (0.27 CFS) 64.2  
AFA  
Total Diversion: (0.27 CFS) 64.2  
AFA  
Date Filed: 05/21/2003  
Place Of Use: SWNW NWSW S29  
T11S R24E

Remark: This application proposes to legalize the water usage for a large hog-raising facility that has existed in its present size since about 1980. The property is located at about 635 South and 550 East and just north of the J Canal. Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Southern Region, 1341 Fillmore St, Suite 200, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before 08/04/2003. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director  
Published in the South Idaho Press on July 17 and 24, 2003.