

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/25/2020

Water Application 45-7578

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CUMMINS FARMS INC PO BOX 30 MURTAUGH, ID 83344-0033 (208) 432-6675
Original Owner	HOWARD E CONRAD 325 S 1200 W MURTAUGH, ID 83344 (208) 432-5444

Status: Denied

Source

Tributary

Beneficial Use

From

To

Diversion Rate

Volume

Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Application Denied Date: 11/1/2000
Number of Protests: 0
Water District Number: TBD
Application Type: New Appropriation
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

MEMO

FROM: Allen Merritt *AM*

DATE September 26, 2000

TO: Permit No:	43-07208	In the Name of:	Scott Knudsen
	43-07211		Kirtland Yates
	43-07212		Warr Brothers
	43-07299		Interstate Feeders Inc
	45-07576A		Conrad Land & Livestock
	45-07576B		Ida-Gold Farms
	45-07578		Cummins Farms Inc
	45-07579		Ron Hepworth / Hepworth Farms
	45-07607		Lambert Produce Inc
	45-07665		Lambert Produce Inc
	45-07666		Lambert Produce Inc
	45-07667		Lambert Produce Inc

Subject: Review and Recommendation

The above applications for permit have been filed for development of ground water in an established critical ground water area. In reviewing the history of why these applications were filed it appears that they were filed shortly after the Swan Falls agreement and the intention was to obtain the benefits of subordination of Idaho Powers' water rights to existing or proposed developments. In many but not all instances, the lands covered by the above filings were subsequently covered by expansion claims in the SRBA process.

This block of applications in critical ground water areas was identified in July of 2000. It appears that these applications cannot and will not ever be processed due to the critical ground water designation. In early August a letter was sent providing the applicants opportunity to withdraw their application and get a refund of the fees that have been paid. A few applications were withdrawn but the remaining applications listed above have not been withdrawn.

RECOMMENDATION

I recommend that the above listed applications be denied. Denial should be in the form of a preliminary order. The reason for denial is that they all propose ground water development in a critical ground water area which is not allowed.

45-0 7578

WR0749NP
No. 45-07578

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 08/15/00
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	CUMMINS FARMS INC 4418 E 3300 N MURTAUGH ID 83344 (208) 432-6675	06/06/1985	IRRIGATION	03/15 11/15	13.430 CFS	
TOTAL DIVERSION:					13.430 CFS	

Water Source: GROUNDWATER

Tributary to:

Stage: APPLICATION

Point(s) of Diversion:	T11S R21E S09	NENW	NESE	SESE	CASSIA County
	S10	SWSW			CASSIA County
	S15	NWNW			CASSIA County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE								
T	R	S		NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	SUM
				Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
11S	21E	7	:															10	39	49.0
11S	21E	8	:	30		34	40				10	40	21	40	40					255.0
11S	21E	9	:	40	35	40	40	40	39	40	40					40	40	40	40	474.0
11S	21E	10	:									40	40	35	40					155.0
11S	21E	15	:					40	39	39	40	40	39	39	40					316.0
11S	21E	16	:	40	39	39	40									40	39	39	40	316.0
11S	21E	18	:	40	40	40	40	40	01-40	02-40	40	40	03-40	04-40	40	40	40	40	40	640.0
TOTAL ACRES																			2205.0	

Pou County: CASSIA

Dates:	App. Received:	Priority Date:	06/06/1985
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc:	Water District Number:	Field Exam Fee:
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Comments: Date: 06/05/2000 User-ID: MBALDWIN Subject: WEST OAKLEY FAN
This application is within West Oakley Fan Critical Groundwater Area.

Date: 08/15/2000 User-ID: MBALDWIN Subject: NAME CHANGE
An assignment of application was received at Southern Region on 8/15/00 supplemented with a copy of the Real Estate Contract on the sale.

Audit: 09/22/87 05/28/88 CONVERT 02/08/98 CLEARFLD 06/05/00 MBALDWIN



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 2, 2000

HOWARD E CONRAD
CONRAD LAND & LIVESTOCK
RT 1
MURTAUGH ID 83344

RE: Application for Permit in Critical Ground Water Area

Dear Applicant:

Our office has initiated a review of applications for permits to appropriate the public waters of the State of Idaho that have been held without action for many years. One type of application being held is those which propose development of ground water within an established critical ground water area. Our records indicate you have filed such an application. (Please find attached a computer printout describing your application)

Our office intends to dispose of all applications seeking ground water development in critical areas by denying the applications. Before initiating this action our office intends to provide you opportunity to withdraw your application and request a refund of the filing fees that have been paid.

Please review this matter and if you wish to withdraw your application please complete the enclosed form. If our office does not receive a withdrawal by September 1st, 2000 your application will be forwarded to the IDWR State Office with a recommendation it be denied. Any denial will be in the form of a preliminary order which you may request reconsideration or judicial review pursuant to procedural rules.

If you have questions, please feel free to contact this office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

My commission expires: 2/02/01

REAL ESTATE CONTRACT

This agreement is entered into this 7th day of January, 1999, between Howard E. Conrad and Mary J. Conrad, Trustees, or their successors in trust, under the Howard E. and Mary J. Conrad Family Revocable Living Trust and any amendments thereto, dated March 21, 1994, of 325 South 1200 East, Murtaugh, Idaho 83344, the "Seller", and Cummins Farms, Inc. an Idaho Corporation of 4418 East 3300 North, Murtaugh, Idaho 83344, the "Buyer". The parties mutually agree as follows:

1. The Seller agrees to sell and convey the real estate described on Exhibit "A"; the water rights, identified on Exhibit B and the personal property described on Exhibit C; to the Buyer upon the following terms and conditions.

2. Purchase Price. The total purchase price is \$1,340,718, for the real estate and \$321,639 for the personal property to be paid at the time of closing by instrument payable to Pioneer 1031 Company, Trustee.

This transaction is structured as an exchange qualifying under Section 1031 of the Internal Revenue Code. Buyer will cooperate in qualification requirements.

3. Prorated Items. Real estate taxes, irrigation assessments or similar types of charges against the real estate made on a periodic basis shall be prorated as of the date of closing. If necessary the charges or assessments for the preceding years shall provide the basis for the proration.

4. Closing. The transaction will be closed on the 5th day of January, 1999. The parties may agree to extend the closing date. The closing agent shall be

1 Land Title and Escrow, Inc. located in Burley, Idaho. The parties will each pay one-
2 half (1/2) of the closing costs including the costs of document preparation which shall be
3 collected by the escrow holder.

4 5. Title Insurance. The Seller will purchase title insurance insuring
5 title in the Buyer in an amount equal to the purchase price. The commitment shall be
6 issued 30 days before the time of closing and shall show marketable title. Buyer must
7 object to the state of title 10 days prior to the time of closing or waive any objection.

8 6. Conveyance. The conveyance of the real estate will be by
9 Warranty Deed subject to the exceptions recorded in Cassia County appearing in the
10 title insurance commitment. Conveyance of the personal property shall be by bill of
11 sale.

12 7. Water. The property has water rights as established by the
13 records of the Idaho Department of Water Resources which are described on Exhibit B.
14 Numbers A45-7110 and A45-07035 are, in part, appurtenant to other property and shall
15 pass only to the extent appurtenant to the property described on Exhibit A. Buyer has
16 reviewed the water rights and accepts them as is.

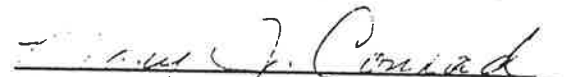
17 8. Condition of the Premises. Seller warrants it is unaware of any
18 condition upon the premises, including the condition of the improvements upon the
19 premises, rendering it unfit or unsuitably dangerous for its ordinary uses.

20 9. Casualty Insurance and Risk of Loss. Risk of loss shall pass at
21 the time of closing. The Seller shall maintain appropriate fire and casualty insurance
22 upon the property until the time of closing. Should the property be damaged or
23
24
25
26

1 the improvements in this paragraph to replacement value.

2
3 Howard E. Conrad and Mary J. Conrad,
4 Trustees, or their successors in trust,
5 under the Howard E. and Mary J.
6 Conrad Family Revocable Living Trust
7 and any amendments thereto, dated
8 March 21, 1994

9
10 
11 Howard E. Conrad, Trustee

12
13 
14 Mary J. Conrad, Trustee

15 BUYER

16 CUMMINS FARMS, INC. an Idaho
17 Corporation

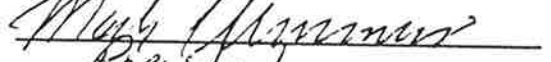
18 By: 
19 Its: President

EXHIBIT A

Township 11 South, Range 21, E.B.M., Cassia County Idaho

Section 07: SE $\frac{1}{4}$ South of HWY 30;

Section 08: NE $\frac{1}{4}$ South of HWY 30, W $\frac{1}{2}$ South of HWY 30;

Section 09: SE $\frac{1}{4}$, NE $\frac{1}{4}$, NW $\frac{1}{4}$;

Section 16: SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$

EXHIBIT B

Water Rights and Palisades Water Shares

<u>Water Right #</u>	<u>Acres Attached</u>	<u>Diversion Flow</u>	<u>Consumptive Use</u>	<u>Priority Date</u>	<u>Stage</u>
A45-02583 /	96.00	1.82 CFS	288.00AFA	06/19/59	License
A45-07020 /	188.00	3.76 CFS	564.00AFA	04/06/67	License
A45-07034	148.00	2.94 CFS	444.00AFA	03/03/69	License
A45-02689 /	494.00	5.82 CFS	1,482.00AFA	11/09/62	License
A45-07374 /	155.00	3.10 CFS	465.00AFA	04/11/79	License
A45-07110 /	310.00	3.98 CFS	930.00AFA	09/18/72	License
A45-07238 /	634.00	6.40 CFS	1,902.00AFA	05/02/75	License
A45-07035 /	320.00	5.79 CFS	960.00AFA	02/28/69	Licesne
45-07578	2,205.00	13.43 CFS	N/A	06/06/85	Application
A45-10274 *	14.00	.28 CFS	42.00 AFA	06/19/89	Beneficial Use

Palisades Water Users, Inc.

Certificate #	#of Shares
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658	1000.00
660	140.00

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Howard E. Conrad Phone 432-5444Post office address Rt. 1 Murtaugh, Idaho 833442. Source of water supply groundwater which is a tributary of _____3. Location of point of diversion is 2 points NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 9 Township 11SRange 21E B.M. Cassia County, additional points of diversion if any: _____SWSW, Sec. 10; NWNW, Sec 15; NENW, Sec. 9, 11S, 21E

4. Water will be used for the following purposes:

Amount 13.43 for irrigation purposes from Mar 15 to Nov 15 (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)Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 13.43 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 6 existing wells, w/motor pumps, pivetts
wheelines & hand lines w/gravity ditchesb. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir
capacity _____ acre-feet, materials used in storage dam: _____Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial

use is 5 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____

Range _____ B.M.

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.

(5) If water is to be used for other purposes describe: _____

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11S	21E	18	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		8	30		34	40				10	40	21	40	40					255
		9	40	35	40	40	40	39	40	40					40	40	40	40	474
		10									40	40	35	40					155
		15					40	39	39	40	40	39	39	40					316
		16	40	39	39	40									40	39	39	40	316
		7															10	39	49

Total number of acres to be irrigated 2205.0

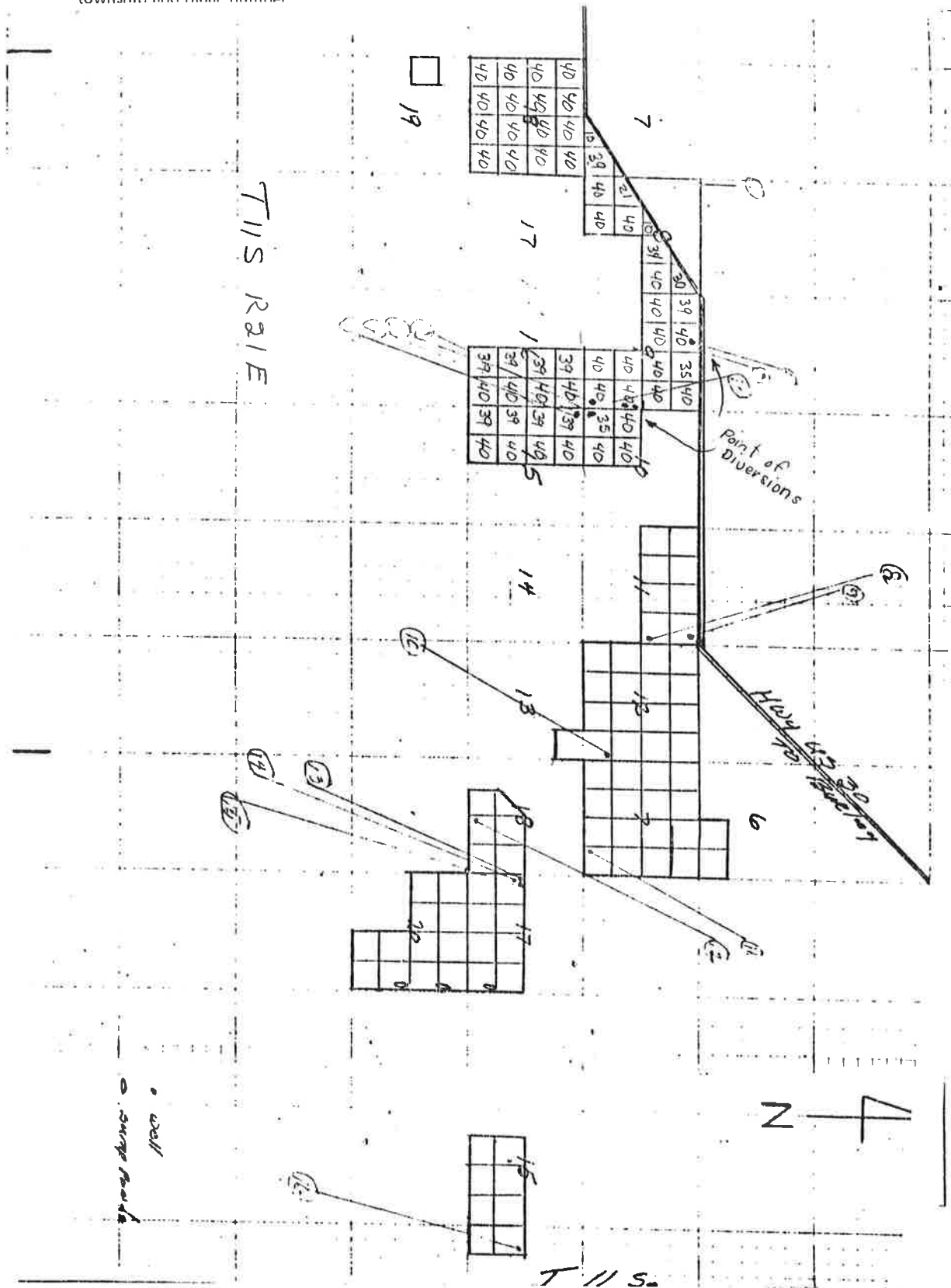
c. Describe any other water rights used for the same purposes as described above.

45-7238, 45-7020, 45-2689, 45-2583, 45-7374, 45-7110, 45-7035

9. 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 _____

10. Remarks This filing is being made to cover additional water that was developed before the Swan Falls deadline. No additional development is required, & this filing should have priority over the water rights of Idaho Power Co. However, we are requesting 5 years time so that the system can be tuned up as needed & brought up to full capacity; 1 year is not enough time to do this on a system as large as this one.

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number



[Signature]
(Applicant)

Received by AF Date 6-6-85 Time 2:30 PM
Preliminary check by JP ~~85~~ Fee \$ 305⁰⁰ 35382
Receipted by gf Date 6/6/85
Publication prepared by _____ Date _____
Published in _____
Publication dates _____
Publication approved _____ Date _____
Protests filed by: _____

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by AD

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: