

**STARTING
LEFT
SIDE OF
FILE**

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 29-7391.

Name(s) of Permit Holder: Floyd J. Banks

Post Office Address: Bancroft, Idaho 83217

Tel. No. 658-7856

Source of Water: Springs & drain ditch

Extent of Use:

☐ Domestic	(number of households)
☐ Stockwater	(number and type of stock)
☒ Irrigation <u>189</u>	(acres)
☐ Other	

Measuring Device: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No

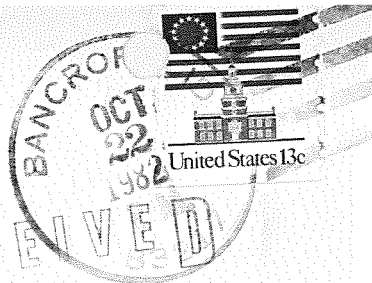
Access Port: Required? ☐ Yes ☒ No Installed? ☐ Yes ☒ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

23 Oct 1982
Date

Floyd J. Banks
Signature of Permit Holder

Floyd J Banks
Bancroft
Idaho 83217



OCT 25 1982

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

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AUG 23 1979

Department of Water Resources
Eastern District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

Comes now Floyd J. Banks

of (address) Bancroft, Idaho 83217, and represents to the

Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 29-7391, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SE ¼ SW ¼, Section 19, Township 6S, Range 39E, B.M.,
County of Caribou. Other points of diversion: _____

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 3.82 for Irrigation purposes from April 1 to Nov. 1 (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)

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6S	39E	19			14						40	26	5	26					111
		30		40	40														80

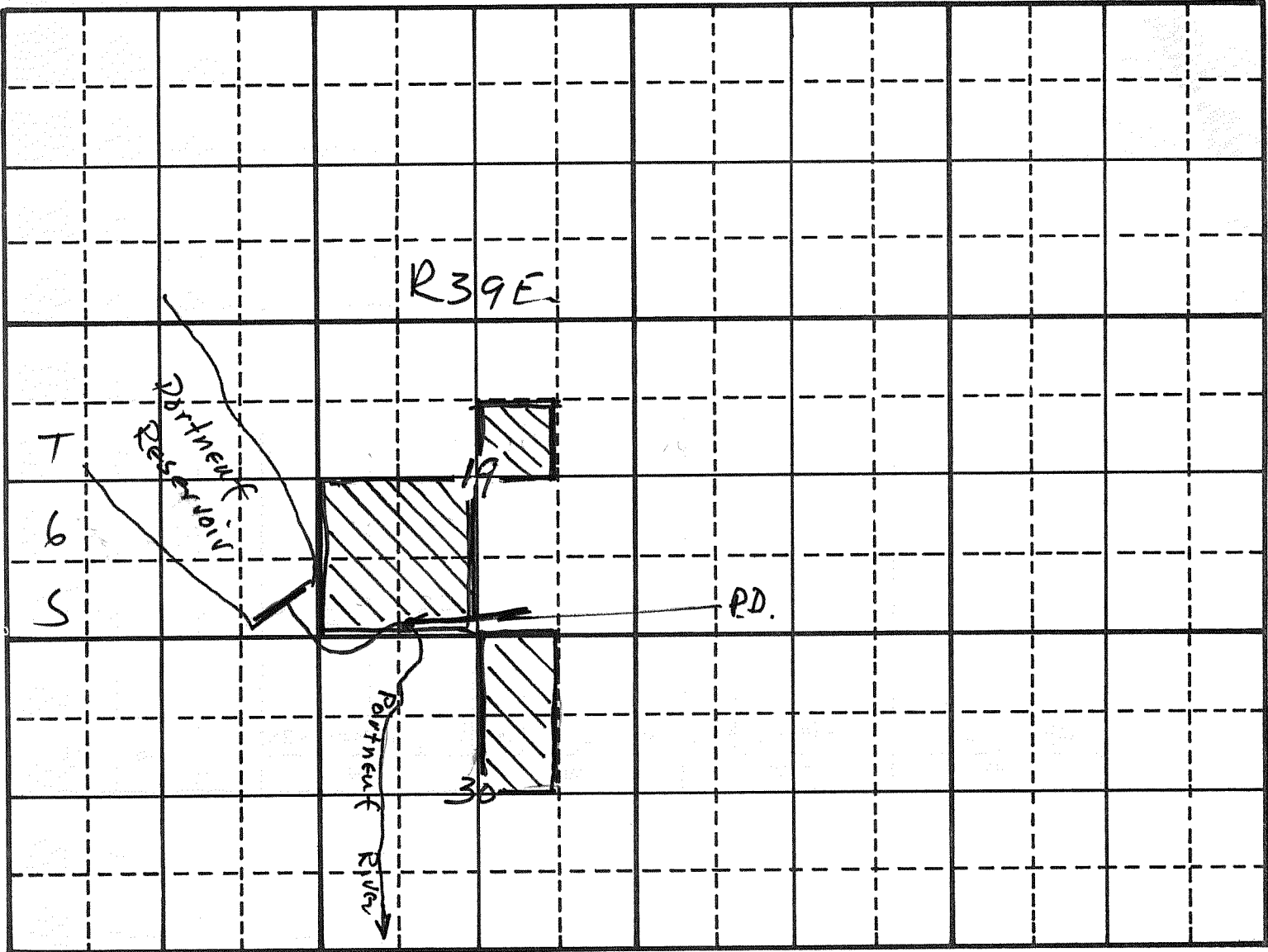
Total number of acres to be irrigated = 191

4. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or the 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: _____

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Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Idaho Falls, Id, this 15 day of Aug., 1979.

Lloyd J. Banke
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by LJB Fee = \$20.00
Publication prepared by N/A Date _____
Publication dates N/A

Received by dh Date 8-23-79 #13680

Published in N/A

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, David R. Tuthill, Acting Chief, Operations Bureau of the Department of Water Resources hereby
APPROVE this Application for Amendment on Permit No. 29-7391.

Witness my hand this 31 day of October, 19 79.

David R. Tuthill
Acting Chief, Operations Bureau

OK
JG

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT }
NO. 29-7391 IN THE NAME OF FLOYD J. BANKS }

MEMORANDUM DECISION
AND ORDER

On May 5, 1977, Floyd J. Banks of Bancroft, Idaho, filed with the Department of Water Resources an application for permit to appropriate 3.82 cubic feet per second of water from a drain ditch, tributary to the Portneuf River, approximately a quarter-mile below the Portneuf Reservoir Dam, located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19, Twp. 6S, Rge. 39E, B.M., Caribou County, to be used for the irrigation of 191 acres of land.

Notice of this application was published in the Caribou County Sun on May 19 and May 26, 1977, and was subsequently protested by the McCammon Ditch Company, Rondo W. Perkins, K.V. Hansen, and the Portneuf-Marsh Valley Canal Company. A conference in the matter was held on July 20, 1977, in Soda Springs, Idaho. The applicant was present and represented by James Manning, Attorney at Law. The protestants, McCammon Ditch Company was represented by Leo Hanson, President; Portneuf-Marsh Valley Canal Company was represented by Ralph Olson, President; Rondo W. Perkins was present and represented himself.

During the conference, pertinent information on behalf of the applicant and protestants was presented to the Department. After discussing the issues, it appeared that a possible agreement could be reached between the applicant and protestants, and it was agreed that the Department would take no action in the matter for a forty-five (45) day period to allow time for the parties directly involved to reach an agreement. The Department has been notified that no agreement could be reached and has been requested to make a decision in the matter based upon the information presented at the conference and that contained in the official files of the Department. Pursuant to the wishes of the parties involved, the Department took the matter under consideration and having reviewed all of the information presented by each of the parties and all the pertinent information in the Department's official files, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. The property through which the applicant proposes to construct an open drain is in the flood plain of the Portneuf River. The present vegetation consists

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WATER RESOURCES

primarily of cattails and water loving grasses, which indicates a high local water table.

2. Prior to submitting application for permit no. 29-7391, the applicant constructed approximately 1,200 feet of open drain along the contour of the North boundary of the area to be drained. In November of 1977, approximately one-half cubic foot per second of water was flowing from this drain into the Portneuf River. The water of an old existing drain flows from the toe of the Portneuf Reservoir dam towards the east and is intercepted by the applicant's newly constructed drain approximately twenty feet above the point where it enters the river. The water in this drain was estimated to be flowing about one cubic foot per second at the time of a field inspection conducted by the Department on November 10, 1977.

3. The applicant diverts a portion of his decreed water rights from the old drain.

4. A bridge originally constructed for vehicle traffic across the old drain, presently can be used only as a foot bridge, which indicates that the area below the reservoir has become more marshy than it was at the time the bridge was constructed.

5. On May 20, 1971, Idaho Code 42-201 was amended to allow water rights from surface sources to be acquired only by following the statutory permit procedures.

CONCLUSIONS OF LAW

1. The applicant has the right to drain his property to improve its agricultural productivity.

2. A portion of the water drained by the drainage system would not normally be available during the irrigation season to fill water rights on the Portneuf River.

3. The protestants have not acquired by diversion and beneficial use, a water right to any surface water developed after May 20, 1971.

4. The applicant is entitled to a permit from the Department of Water Resources subject to certain conditions necessary to protect existing prior water rights.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Permit No. 29-7391 is APPROVED subject to the following conditions:

1. The permit be and is subject to all existing prior water rights.

2. The applicant must install and maintain adequate measuring devices at locations acceptable to the Department in the old existing drain, the drain he recently constructed and any future drains that may be installed.

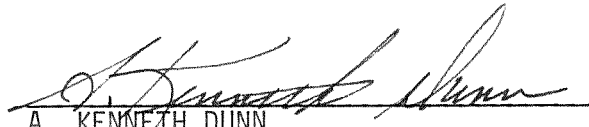
3. Any water diverted under this right must be developed through a drainage system constructed between May 20, 1971 and December 1, 1982.

4. Any pump installed under this right must be so located as to assure no water will be diverted from any drain existing prior to May 20, 1971, or from the Portneuf River.

5. This right shall be under the control of the watermaster of Water District No. 29, Portneuf River.

6. Proof of completion of works and application of water to beneficial use shall be submitted to the Department on or before December 1, 1982.

Dated this 19 day of December, 1977.


A. KENNETH DUNN
Deputy Director

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DEC 21 1977

Identification No. 29 7391

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho

(TYPE OR PRINT IN INK)

1. Name of applicant Floyd J. Banks Phone: 648-7856
post office address Bancroft, ID 83217

2. Source of water supply drain ditch which is a tributary of Portneuf River

3. a. Location of point of diversion is SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 19 Township 6S
Range 39E B.M. Caribou County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____

4. Water will be used for the following purposes:

Amount 3.82 for irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 3.82 cubic feet per second and/or
b. _____ acre feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. drain ditch, pump and sprinkler system

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)

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

7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.

b. Estimated construction cost is \$45,000.00.

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: _____ hp 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: _____

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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	
6S	38E	24				24													24
6S	39E	19							30	40	40	26	5	26					167

Total number of acres to be irrigated 191

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

9. a. Who owns the property at the point of diversion Applicant

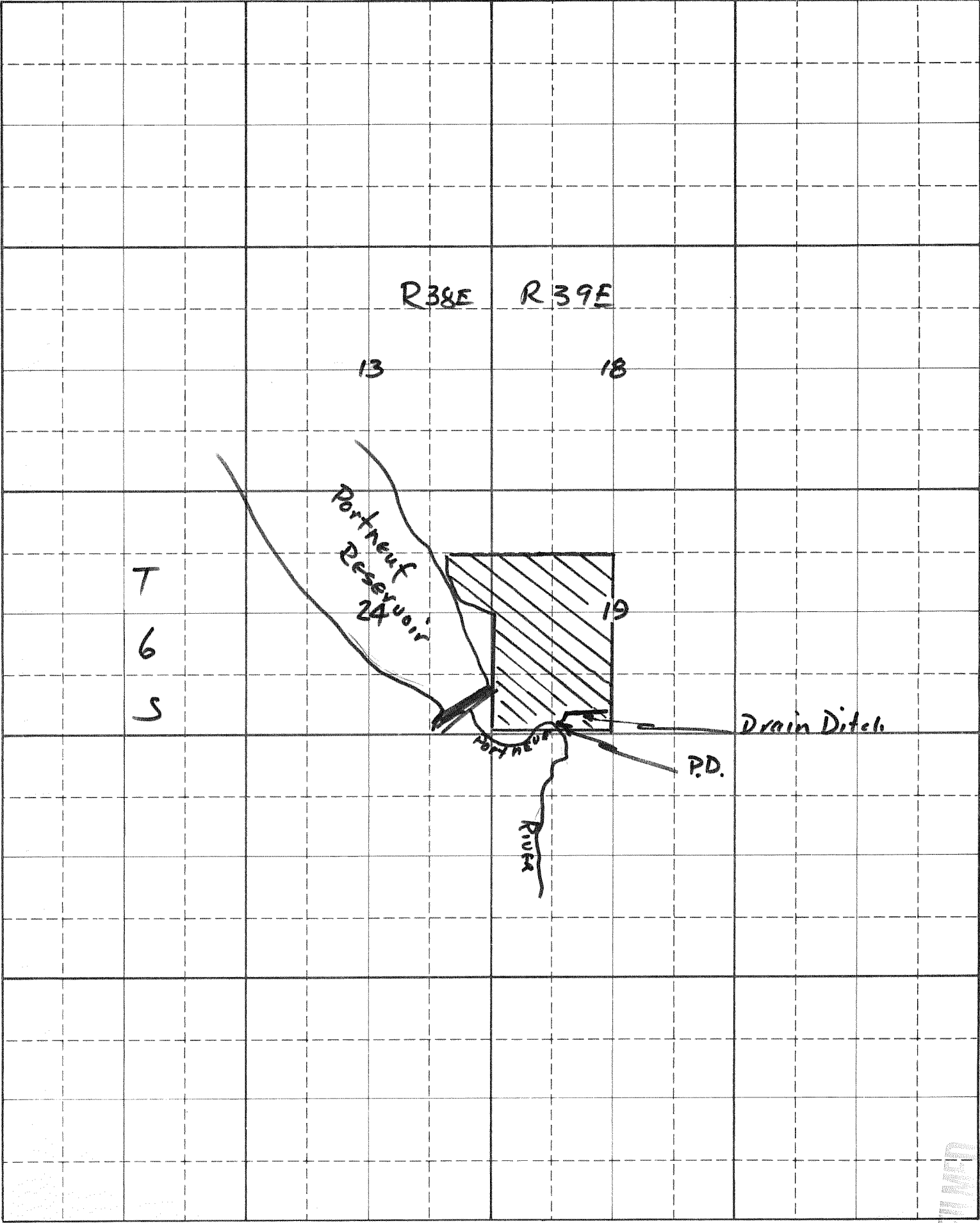
b. Who owns the land to be irrigated or place of use Applicant

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



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



Scale: 2 inches equal 1 mile

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

W. J. Banks
(Applicant)

MICROFILMED

May 5, 1977

Received by me Date 5-5-77 Time 12:50 p.

Preliminary check by me Fee \$ _____

Receipted by me Date 5-5-77 # 7210

Publication prepared by me Date 5-16-77

Published in The Caribou County Sun

Publication dates May 19 + 26, 1977

Publication approved me Date 6-2-77

Priority reduced to _____ Reason _____

Protests filed by Les O. Hanson,

Ralph Olson, L. V. Hansen,

Rondo W. Perkins

Copies of protests forwarded by me

Hearing held by _____ Date _____

Recommended for approval denial by RDC Wthm

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. 29-7391, and said application is hereby APPROVED.

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

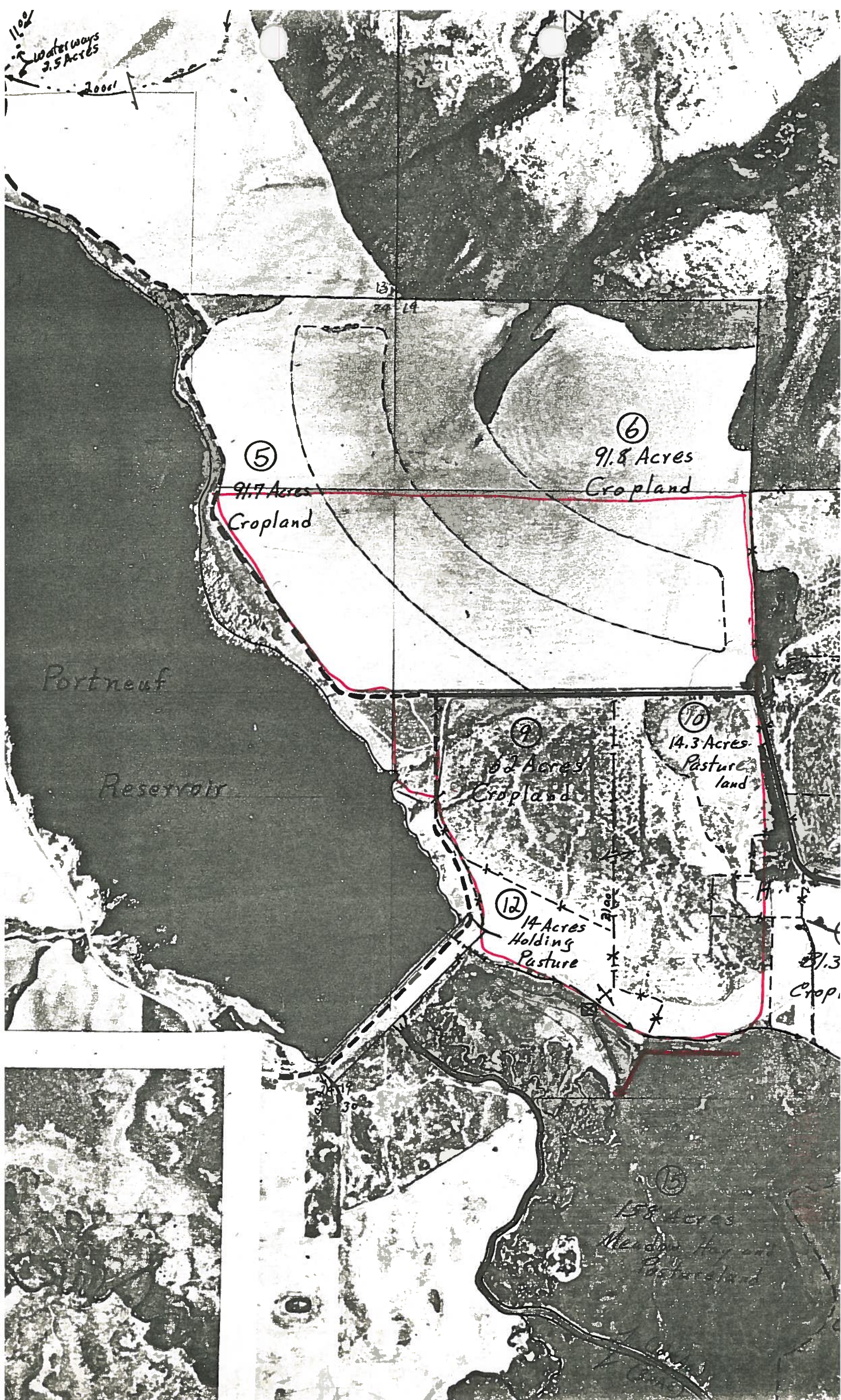
b. Proof of construction of works and application of water to beneficial use shall be submitted on or before December 1, 1982.

c. Other: PURSUANT TO MEMORANDUM DECISION AND ORDER DATED THIS DATE.

2. Denial of said application is for the following reasons: _____

Witness my hand this 19 day of December 1977.

[Signature]
Director



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JUN 1 1977

Department of Water Resources
Eastern District Office

**NOTICE OF APPLICATION
FOR WATER PERMIT
No. 29-7391**

Notice is hereby given that Floyd J. Banks, Bancroft, Idaho has on 5-5-77 submitted Application No. 29-7391 for a permit to appropriate 3.82 cubic feet per second of water from a drain ditch tributary to Portneuf River by means of pump and ditch within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19, T. 6S, R. 39E, B.M., Caribou County; to be used from Apr. 1 to Nov. 1 for the irrigation of 191 acres within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, T. 6S, R. 38E, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 19, T. 6S, R. 39E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before June 6, 1977.

C. STEPHEN ALLRED
Director

Published in the Caribou County Sun, Soda Springs, Idaho on May 19 and May 26, 1977

Affidavit of Publication

County of Caribou }
State of Idaho } ss.

Mark Steele

being first duly sworn on his oath, states:

That he is Publisher of the Caribou County Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County, that said newspaper has been published in said County uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement;

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof

for 2 successive weekly issues thereof, the date of the first publication being the

19th

day of

May

, 19 77

The date of the last publication

being the 26th day of

May

, 19 77

Subscribed and sworn to before me this 26th day

of May, 19 77

Wendy J. Steele
Notary Public, residing
at Soda Springs, Idaho
(SEAL)

My Commission expires the

1st day of March

19 80

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**STARTING
RIGHT
SIDE OF
FILE**

MEMORANDUM

DATE: December 20, 2001

TO: Skip Jones and to file 29-7391

FROM: Shelley W. Keen *SWK*

RE: Field examination for 29-7391

David Banks has agreed to install a measuring device as required under permit 29-7391, and he has paid for another examination to confirm compliance with the condition and to establish a diversion rate for this right. I told Mr. Banks that I would ask you or your staff to contact him right away to arrange for a re-examination in the spring of 2002.

Copies of relevant correspondence are attached. Please call if you have any questions.

Idaho Department of Water Resources Receipt

Receipt ID C058610

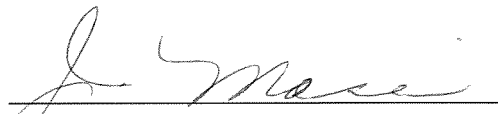
Payment Amount \$175.00 Date Received 12/19/2001 1:52:24 PM Region State Status
Payment Type Check Check Number 1886

Payer BANKS BROTHERS

Comment WATER RIGHT # 29-7391

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$175.00	LIC EXAM FEE	0229	21	56104	1155


Signature Line (Dept. Representative)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 7, 2001

DAVID BANKS
RT 1 BOX 1340
BANCROFT ID 83217

RE: Water Right Permit No. 29-7391

Dear Mr. Banks:

Last July I sent you a letter acknowledging your agreement to install a weir on your drain before the 2002 irrigation season. In that letter I also informed you that you must pay an examination fee in accordance with Beneficial Use Examination Rule 50.01.e. (IDAPA 37.03.02.050.01.e.). A copy of my letter, which explains the need for the fee, is enclosed. The fee for 3.82 cfs, as authorized by the permit, is \$175.

In my letter I said that if the fee has not been received by December 1, 2001, I would take action to void your permit. I cannot find evidence that you have submitted the required examination fee. Please submit the fee or evidence that you have paid the fee by January 7, 2001. If the fee is not received by that date, I will take action to void your permit.

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

Sincerely,

Shelley Walter Keen
Water Rights Supervisor

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 10, 2001

DAVID BANKS
RT 1 BOX 1340
BANCROFT ID 83217

RE: Water Right Permit No. 29-7391

Dear Mr. Banks:

I received your letter stating that you will install a weir on your drain before the 2002 irrigation season so that the diversion authorized under Permit 29-7391 can be measured. The purpose of the measuring device, as you know, is to measure the amount of water in the drain so that it can be measured and administered separately from Portneuf River rights. Before IDWR can issue a license for water use developed in accordance with the permit, a field examiner will have to conduct an inspection of your water development, including measuring the flow in the drain. On at least two occasions in the past, IDWR examiners have attempted to verify your water use but have been unable to confirm beneficial use because no measuring device was in place. Before IDWR will conduct a re-examination, you must pay an examination fee in accordance with Beneficial Use Examination Rule 50.01.e. (IDAPA 37.03.02.050.01.e.). The fee for 3.82 cfs, as authorized by the permit, is \$175. Please remit the fee by December 1, 2001, or I will take action to void your permit. Once IDWR receives the fee, I will ask our staff in Eastern Region to contact you to schedule an examination for the spring of 2002.

The weir you plan to install is also important as a long-term regulation tool for the watermaster in your water district. Without a measuring device in place, the watermaster will be unable to differentiate the water in the drain from the Portneuf River water you are diverting. This is especially true because you've not installed a separate pump as required under approval condition no. 4 of the memorandum decision and order issuing your permit. In researching how the permit has been regulated by the watermaster in the past, I was given a letter which contained the following interpretation made by Tim Luke of IDWR in 1992.

When the 1880 Portneuf River rights can not be entirely filled and the holders of said 1880 rights call for the water, then the 1881 rights held by Banks should be cut. Based on the conclusions and conditions of the 1977 permit, it is reasonable to allow Banks to pump that amount of water which is in the 1976 drain as long as Banks maintains a measuring device in the drain and on the pump. Thus, even if the 1881 rights were cut, then Banks may be limited to pumping only the amount of water measured in the drain.

David Banks

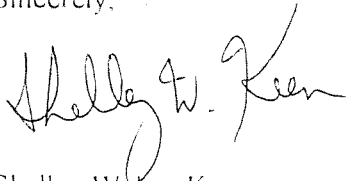
July 10, 2001

Page 2

As I understand Tim's interpretation, he does not think it is necessary to have a separate pump, as long as your pump can be throttled back or otherwise regulated to divert no more than authorized under the permit. He does, however, indicate that the weir you propose is necessary for regulation. Without the weir, the watermaster would not know how much diversion to allow, and will, therefore, probably just shut down the entire diversion. Therefore, it will be important for you to maintain the weir in place during the part of the irrigation season that diversions are being regulated by the watermaster.

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

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen". The signature is written in dark ink and is positioned above the printed name.

Shelley Walter Keen
Water Rights Supervisor

June 14, 2001

Shelly Walter Keen
Water Rights Supervisor
1301 North Orchard St.
P.O. Box 83720
Boise Idaho, 83720-0098

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JUN 18 2001

Department of Water Resources

RE: Water Right Permit No. 29-07391

Dear Mr. Keen:

I am responding to the telephone conversation that we had on 14 June 2001 concerning installing a weir in the drain that supplies the water for this permit. As of our conversation we will install a new weir so that the flow can be measured before the start of the 2002 irrigation season. We will also be allowed to remove the weir to improve water flow as needed to help said drain to function properly.

Respectfully,



David Banks

Keen, Shelley

From: Luke, Tim
Sent: Tuesday, May 29, 2001 8:43 AM
To: Keen, Shelley
Subject: Banks diversion

Shelley,

I reviewed some old field notes of mine regarding the Banks diversion pump that we discussed last week. My notes indicate that on June 23, 1992, I inspected the pump and the installed McCrometer meter. I timed the meter totalizer over 1 complete minute and obtained a volume of 0.004 acre-feet, which converts to a flow rate of 1303.4 gpm or 2.9 cfs. I did not test or calibrate the meter with any primary device such as an ultrasonic meter. Caution should be used therefore in accepting this measurement as being 100 percent accurate. However, our experience shows that installation accuracy of McCrometer meters is generally good, being generally less than +/-10 percent.

I also found a letter dated July 15, 1992 that I wrote to some of the upper river users regarding water rights and distribution. I will forward this to you as it includes some discussion on the Banks pump. My copy of the letter does not include a copy of the attached/referenced water rights so I will have Dayna retrieve that from the file before I forward on to you. We should probably discuss this letter with respect to your licensing decisions for consistency or other considerations.

Tim

INTER-DEPARTMENT MEMO--1

FROM S.W. Keen

DATE 5/29/2001

TO Water Right File 29-07391

SUBJECT Response from David Banks (208)648-7856

David Banks called in response to my 5/9/2001 letter. He will respond in writing by 6/18/2001.


SIGNATURE



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 15, 1992

Upper Portneuf River Water Users

Re: Distribution of Upper Portneuf River Water near Chesterfield

Gentlemen:

This letter is in response to several questions which have been raised concerning water rights and distribution on the upper reach of the Portneuf River near Chesterfield. These questions are addressed separately below.

1) Distribution of 1880 Portneuf River Rights

Attached to this letter is a list of Portneuf River water rights in the upper reach near Chesterfield. The list reflects both the original decreed rights and what has been claimed in the Snake River Basin Adjudication. As shown on the list, the two earliest rights are of the same priority (4/15/1880) but under different ownership. According to all of the Department's records, K.V. Hansen has 6.74 cfs or 85.5 percent of the 1880 priority water while Rondo Perkins holds the remaining 14.5 percent, which is 1.14 cfs. Perkins has told the watermaster and representatives of the Department that in addition to his 1.14 cfs, he is also entitled to some portion of K.V. Hansen's 6.74 cfs 1880 water via some type of land exchange or sale. The Department has no formal record of any transfer of water from Hansen to Perkins. Furthermore, it does not appear that Mr. Perkins filed any adjudication claim for this additional water. The Department therefore does not at this time recognize Perkins' ownership of any additional water and has instructed the watermaster to deliver only 14.5 percent of the total available natural flow in the upper reach. Mr. Perkins must file a transfer for the additional water in order to update the ownership, point of diversion and possibly the place of use, and to guarantee delivery of this water in succeeding years. If the transfer is approved, then the original rights and adjudication claims of both Perkins and Hansen will be updated.

In regard to distribution of the 1880 rights, the watermaster will have to consider the reach of the river (i.e.; PMV Canal) from the reservoir to the lower most diversion (Hansen's lower diversion) as one reach. Any gain in this reach should be considered as natural flow available for all rights, and the total flow should be allocated among the two users according to the percentages described above. The watermaster will have to measure both user's diversions and have those diversions adjusted according to the proportionate percentages. Drains or springs arising on the property of either user which are tributary to the river should accrue as natural flow and be available for allocation among the

two users according to the proportionate percentages. Blockage of any such springs or drains in a way that prohibits the water reaching the river will only mean that there is less water in the river channel to allocate to both users. If the developed drains are man-made and not natural channels, and were developed for the purpose of capturing waste seepage or return flow on the owners land, then the owner may directly divert the water for re-use on his existing irrigated acreage without any obligation to existing rights. If the water is not diverted and returns to the river or other natural channel, then the water is subject to appropriation or delivery to the earliest priority rights. If the drain was constructed for any other purpose, such as the reclamation and irrigation of the same land, then the developed drain water is subject to appropriation and should be regulated accordingly.

2) Distribution of Banks Rights

The attached water rights list shows that E.M. Banks holds and claims several Portneuf River rights of May 1, 1881 priority. Mr. Perkins also owns several rights of the same priority. Banks also has an 1883 Portneuf River right and a 1977 priority permit for a drain which was developed in 1976. Information in the Department's records indicate that the drain was constructed in order to keep increased reservoir seepage off Banks' meadow ground which was normally irrigated with Portneuf River water. An order approving the 1977 permit concluded that a portion of the water drained by Banks' drainage system would not normally be available to fill water rights on the Portneuf River. The permit was approved on the condition that any pump installed under the permit was to be located so as to assure no water would be diverted from the Portneuf River or any other drain constructed prior to 1971. The permit was also issued on the condition that a measuring device be installed on the drain.

When the 1880 Portneuf River rights can not be entirely filled and the holders of said 1880 rights call for the water, then the 1881 rights held by Banks should be cut. Based on the conclusions and conditions of the 1977 permit, it is reasonable to allow Banks to pump that amount of water which is in the 1976 drain as long as Banks maintains a measuring device in the drain and on the pump. Thus, even if the 1881 rights were cut, then Banks may be limited to pumping only that amount of water measured in the drain.

Prior to my instructions to the watermaster and David Banks to cut or limit the diversion of water only to that water in the 1977 priority drain, I had generally not considered the water diverted by Banks to be natural flow. Instead, I had considered this as reservoir seepage or waste water which was generally not tributary to the Portneuf River. Further review of this matter, which included some extensive walking of the area below the reservoir and along the PMV canal, and discussion with the watermaster and other Department hydrologists, has led me to believe that the reservoir seepage water, other than the 1977 drain, is water that is

tributary to the Portneuf River/PMV Canal. This water therefore should be considered as natural flow and should be available to senior rights.

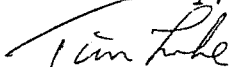
3) Questions concerning use of reservoir seepage water

Some of the seepage water below the reservoir drains toward the south and west through a culvert which goes under the PMV Canal to a ditch owned by Mr. Perkins. Other seepage water is tributary to the PMV Canal below the Perkins culvert and canal headgate. The seepage water which drains through the culvert basically accrues to the exclusive benefit of Mr. Perkins rather than just dumping into the PMV canal. Since this water will now be considered natural flow, Mr. Perkins will have to measure this water in addition to the water diverted out of the PMV Canal. Water from both sources should be measured over the same weir which Mr. Perkins installed earlier this year. Again, Perkins' and Hansen's rights should be distributed as described under item 1, paragraph 2 of this letter.

There has been some concern by the users in the upper reach that much of the seepage water below the reservoir will not adequately reach the lower users because of beaver dams or other natural obstructions. If this is true, then it is the responsibility of the lower users who may depend on this natural flow and who hold the senior rights to maintain the natural channels or take steps to get the natural flow downstream.

I hope this explanation helps with some of your questions and clarifies our position concerning the distribution of water in this area. I have no doubt that there is probably some situation or twist to this whole matter which has not been raised or which has not yet been considered. Please contact me directly at 327-7864 if there are further questions or concerns.

Sincerely,



Tim Luke
Hydrologist

cc: Arlin Olson
Eastern Region

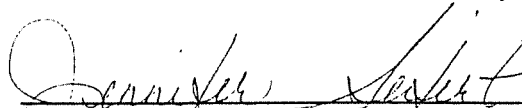
CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of July, 1992, I mailed a true and correct copy of the attached letter, postage prepaid, to the following individuals:

Rondo Perkins
3124 Nipper Rd.
Bancroft, ID 83217

E.M. or David Banks
3229 Banks Rd.
Bancroft, ID 83217

K.V. Hansen Ranch
c/o Jim Bartschi
2919 Hansen Rd.
Bancroft, ID 83217


JENNIFER SEIFERT, Secretary
Department of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

May 9, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

FLOYD J BANKS
RT 1 BOX 1340
BANCROFT ID 83217

RE: Water Right Permit No. 29-07391

Notice of Pending Order to Void Permit

Dear Permit Holder:

On October 25, 1982, the Department of Water Resources (IDWR) received the Proof of Beneficial Use statement you submitted for Permit 29-07391, which authorized you to establish a right to divert 3.82 cfs of water from a drain ditch in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19, Twp. 6S, Rge. 39E, to irrigate 191 acres. On July 18, 1984, IDWR personnel conducted an examination to verify your water use. The examiner reported that you had not complied with the condition of approval requiring you to install and maintain adequate measuring devices at locations acceptable to the Department in the old drain and the drain supplying the source of water for your permit. In 1987 IDWR staff informed you that you must comply with the measuring device requirement. On August 26, 1998, IDWR personnel conducted another examination to verify your use of water and again found that you had not installed adequate measuring devices. From the two field reports it also appears that you may be in violation of the approval condition requiring you to locate your pump so that "no water will be diverted from any drain existing prior to May 20, 1971."

The purpose of this letter is to inform you that IDWR cannot issue a water right license for the beneficial use developed under the permit unless you have complied with all the conditions of approval. Within 30 days, please comply with one of the following three options.

1. Provide documentation showing that you have installed the required measuring devices and pay an examination fee for the Department to send someone out to verify compliance with the condition and to complete the Beneficial Use Field Report necessary for licensing your right. I have enclosed an examination fee schedule for you, and also a document describing acceptable measuring devices.
2. Explain in detail why conditions requiring measuring devices and special placement of your pump are not necessary and request that IDWR waive the conditions. Be sure to support your request with a statement from the watermaster of Water District No. 29.
3. Relinquish your permit. I have enclosed a relinquishment form for you.

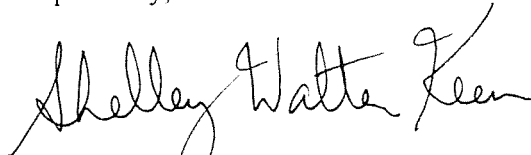
If you do not respond to this notice within 30 days of the date of mailing of this letter, I will

Floyd J. Banks
May 9, 2001
Page 2

recommend that your permit be voided on the grounds that you have not complied with the conditions of approval.

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

Respectfully,

A handwritten signature in black ink, reading "Shelley Walter Keen". The signature is written in a cursive, flowing style. The first name "Shelley" is written with a large, prominent 'S'. The last name "Keen" is written with a large, prominent 'K'.

Shelley Walter Keen
Water Rights Supervisor

Enclosures

MAR 22 1999

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RE-EXAM

A. GENERAL INFORMATION

Permit No. 29-67391

1. Owner: FLOYD J. BANKS % ERMA M. BANKS

208
Phone No. 648 - 7856

Current Address: 3229 Banks Rd. Bancroft Ia 83217

2. Accompanied by: NO ONE

EXAM DATE: 8-26-1998

Address: _____ Phone No. _____

Relationship to Permit Holder:

3. Source: Unnamed Drain tributary to Portneuf River

B. OVERLAP REVIEW

1. Other water rights with the same place of use:

2. Other water rights with the same point of diversion:

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

[illegible]

2. Place(s) of Use:

Indicate Method of Determination

[illegible]

[illegible]

Photo of Diversion and System Attached

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

SEE ORIGINAL EXAM

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

1. NAME _____ ADDRESS _____
 2. PHONE _____ CITY _____
 3. STATE _____ ZIP _____

E. NARRATIVE/REMARKS/COMMENTS

Water from drainage ditch from base of Chesterfield Reservoir is co-mingled with water from permitted drainage ditch, and collected at a sump pond. Water is held in the sump pond by what appears to be a diversion dam. Water in sump pond appears to be 4" to 6" above water in old river channel (appears to be a slough)

There is no weir on permitted drainage ditch to determine how much water ditch contributes for licensing.

Have conditions of permit approval been met? ☐ yes ☒ no

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

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. RECOMMENDATIONS

1. Recommended Amounts

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

2. Recommended Amendments

___ Change P.D. as reflected above

___ Add P.D. as reflected above

___ None

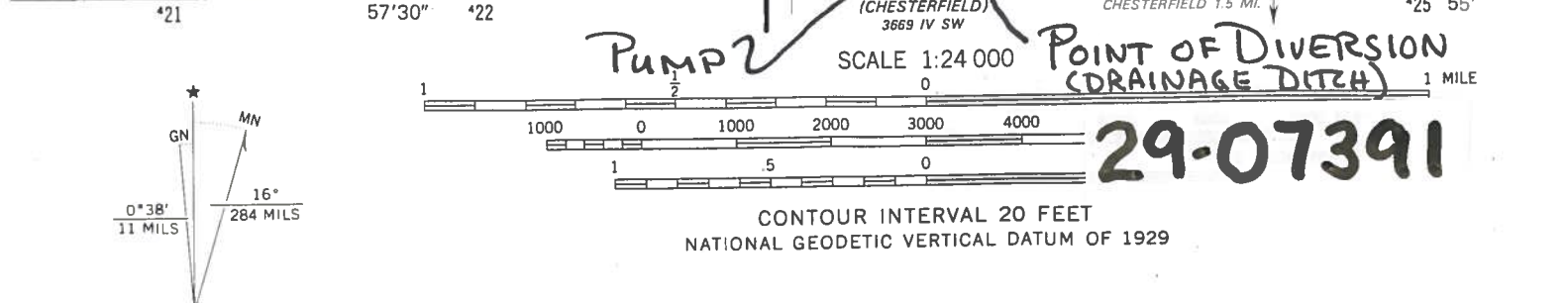
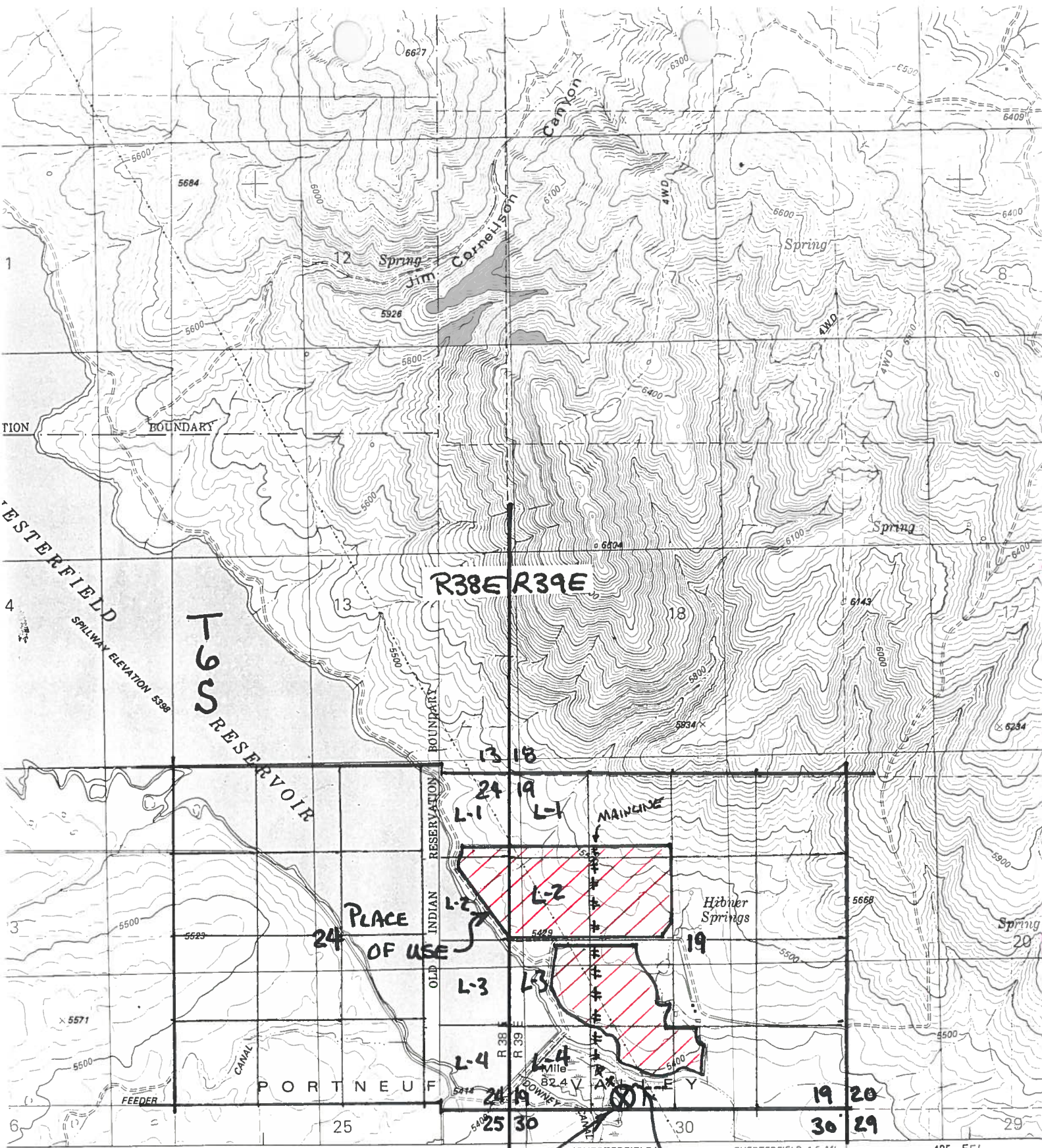
☒ Change P.U. as reflected above

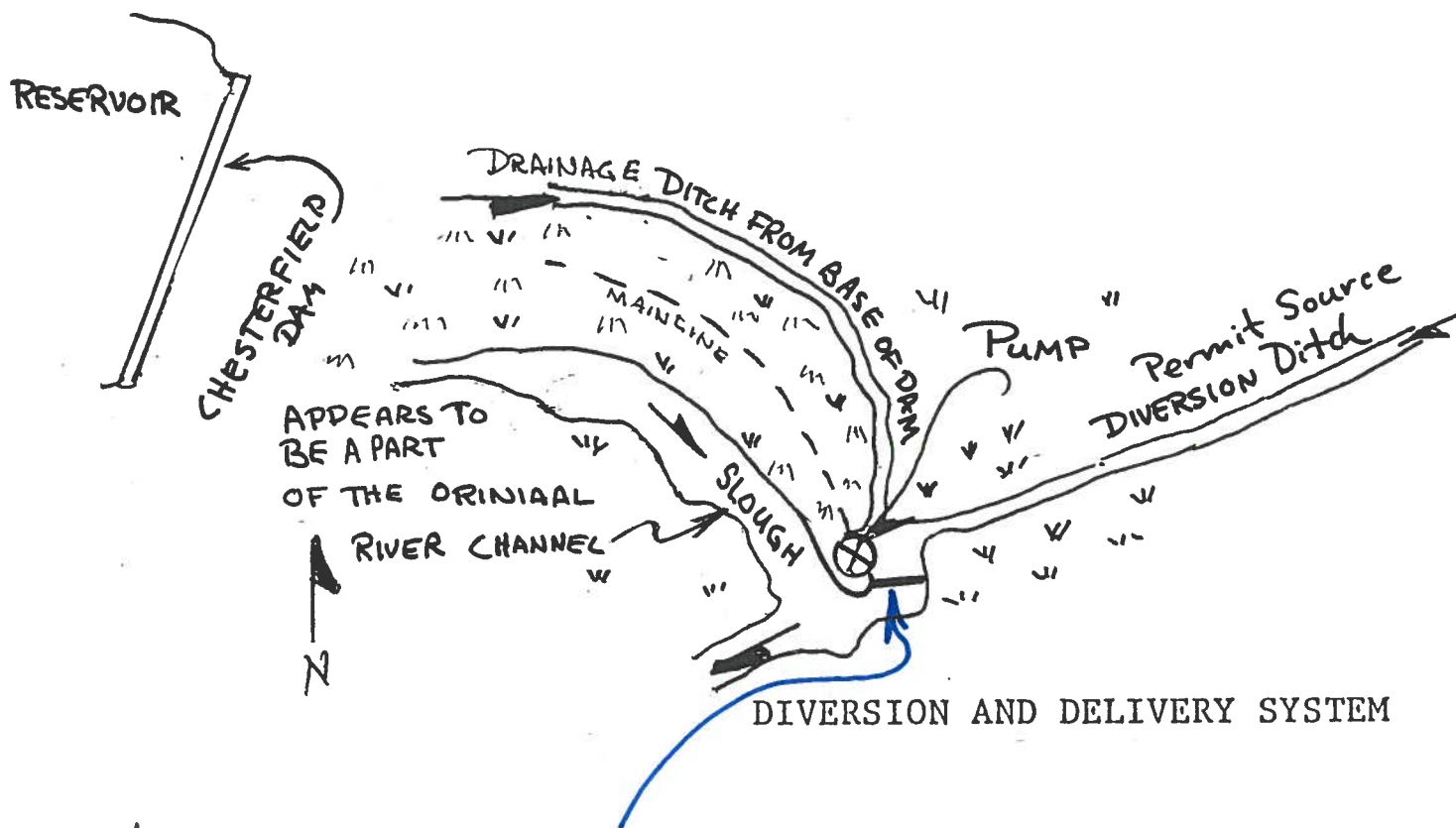
___ Add P.U. as reflected above

☒ OtherSEE ORIGINAL
EXAM ON 7-18-1984**I. AUTHENTICATION**Field Examiner's Name KENT C. WILSON Date 8-26-1998

Reviewer _____ Date _____

SEAL





APPEARS TO BE A DIVERSION DAM. KEEPS WATER ELEVATION IN Sump Pond 4" to 6" above water elevation in Slough (old River Channel)

29-07391

8-26-1998 Keith C Wilson

13 18

24 19

Lot 1

2
8.2
CRP 44
1987-1996
HEL

2

4

3

4

4

40.7
HEL

14

38

37

Lot 2

PLACE OF USE

MANLINE

Lot 3

19.9

39.8

18

26

Lot 4

18

8

24 19

25 30

22.9
CRP
1987-2001
HEL

40.5

DRAINAGE DITCH

29-07391

PERMITTED
Drainage Ditch

POINT OF DIVERSION

OLD RIVER CHANNEL (SLOUGH)

APPEARS TO BE A
DIVERSION DAM KEEPS
WATER IN PUMP SUMP
HIGHER THAN WATER IN
OLD RIVER CHANNEL

OLD RIVER
Channel



PERMITTED
SOURCE
FLOW

Drainage Ditch from
Base of Chesterfield
Reservoir

SUMP FOR
PUMP

PUMP & MOTOR BASE

29-07391

POINT OF
DIVERSION

Drainage Ditch from
Base of Chesterfield
Reservoir



PHOTO IS VIEW FROM CHESTERFIELD RESERVOIR

POINT OF DIVERSION

Permitted
Source
Ditch



Old River Channel
NOW A
Slough

MAINLINE
Drainage Ditch from
Base of
Chesterfield Reservoir

29-07391



BENEFICIAL USE FIELD REPORT

RECEIVED

SEP 19 1986

Department of Water Resources

Permit No. 29-739/

Phone No. 648-7856

1. Owner: Floyd J. Banks Phone No. 648-7856
Current Address: Rt. 1 Box 1340 Rancraft, ID
2. Accompanied by: David Banks EXAM. DATE: 7-18-1984
Address: _____ Phone No. _____
Relationship to Permit Holder: Son
3. Source: Spring tributary to Portneuf River

Well/Diversion* No.	Motor Make	HP	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	G.E.	150	CPJ322132	N.A.	N.A.

*Code with points of diversion, system diagram & photos on reverse side. Disregard if only one.

5. System Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)
Motor/pump sits in sump in old Portuaf River channel. Drain ditch flows into this area as does ditch from Reservoir. Excess water not pumped flows out through old River channel. 4 lines running at time of measurement.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
McCrometer Meter				78-12-245		

7. Measurements 1100 gpm by meter = 2.45 ☐ Additional data/computation sheets attached
.003 aF / 58 sec = 2.25

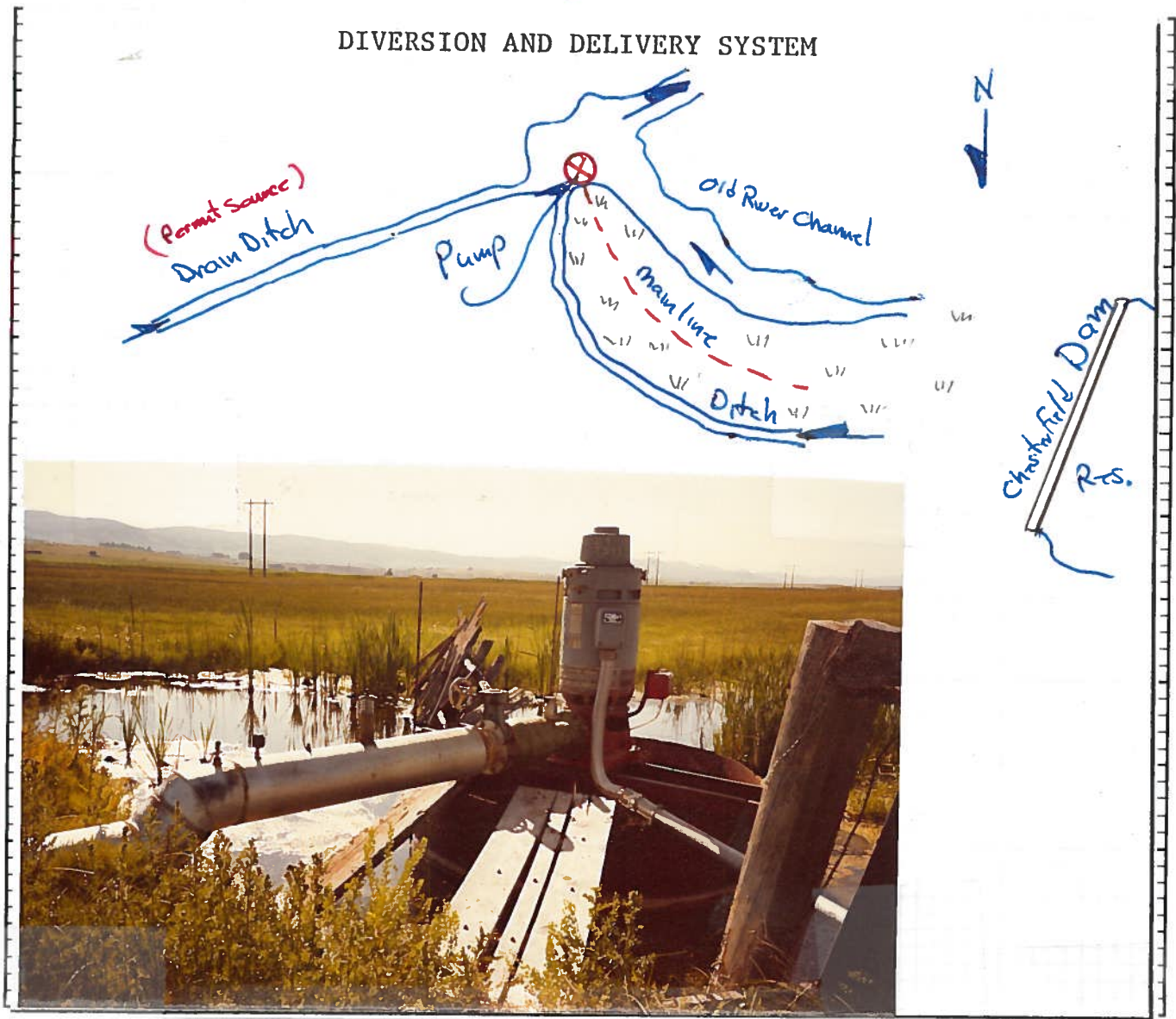
- | | | |
|---------------------------|----------------------------------|----------|
| 8. Point(s) of Diversion: | Indicate Method of Determination | ASCS MAP |
|---------------------------|----------------------------------|----------|

[illegible]

- | | | |
|----|------------------|---|
| 9. | Place(s) of Use: | Irrigation - give acres served by system at time of exam.
Indicate Method of Determination _____ |
|----|------------------|---|

[illegible]

10. Other water rights on these lands Tr. 2341 / 29-0010 For 2.32 cfs
11. Other water right diverted from same p.d. Tr. 2341 / 29-0010
12. **Diversion and Delivery System Diagram:** Indicate all major components and distances between components. Indicate ditch size/pipe i.d. as applicable. Indicate on systems with measurement port the distance between the port and the nearest component/pipe bend/restriction both upstream and downstream, and the inside pipe diameter at the measurement port. On multiple diversion systems indicate how diversion systems are connected.



13. ☒ Photo of Diversion & System Attached ☒ Aerial Photo of Place of Use Attached or Map of Irrigated Acreage Attached
14. Remarks All water is commingled at ponding area of pump. There is a meter on mainline but no weir on drain ditch to determine how much water this source contributes for licensing of this permit. I feel this violates the memorandum agreement & does not qualify for licensing of the permit.

15. Recommended Amendments
- | | | |
|--|--|--------------------------------|
| ☒ Change P.D. as reflected above | ☐ Add P.D. as reflected above | ☐ None |
| ☒ Change P.U. as reflected above | ☐ Add P.U. as reflected above | ☐ Other |
16. Examiner's/Consultant's Signature [Signature] Date 5-12-86
- Consultant's License Number _____
- IDWR Director's Authorization to Conduct Beneficial Use Examination _____
- Date _____
- CONSULTANT SEAL

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

RECEIVED
SEP 19 1986

29-7391
Permit No.

Department of Water Resources

1. Measurement Calculations

a) Field Measurement Calculations (Include theoretical capacities and system capacity)

meter $\nearrow \frac{.003 \text{ afc} \times 43,560 \text{ afc}}{58 \text{ sec}} = \underline{\underline{2.25 \text{ cfs}}}$ } use lower value of two readings
1100 gpm by meter = 2.45 cfs } 2.25 cfs (This was from meter on pump)

* A Field measurement of how much water was being contributed by the source on this permit which is the drain ditch was not possible as per the memorandum agreement which requires a measuring device. Since this situation is in conflict with the agreement I have to recommend this permit be Cancelled!
HWF

b) Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{169 \text{ acres} \times 3.0 \text{ afc} = 507 \text{ afc}}$
 $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{\hspace{2cm}}$
 $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{\hspace{2cm}}$

c) Volume Calculations for Other Uses:

2. Overlap Review

a) Other water rights with same place of use: Tr. 2341 / 29-0010

b) Other water rights with same point of diversion: Tr. 2341 / 29-0010

c) Analysis:

RECOMMENDED AMOUNTS

Permit No.	Priority	Amount	App. Date	Date Proof Submitted	System Capacity

4. Permit Holder: _____

Address: _____

5. Source: _____ tributary to _____

6. Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		

N.A.

Allowable Maximums: _____

7. Point(s) of Diversion:

[illegible]

8. Place(s) of Use

[illegible]

9. Recommended Conditions/Remarks: _____

10. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

11. Examiner's Signature L. W. Jones

Date 8-07-86

Checked in Regional Office by John W. Gramling

Date 8-8-86

Approved in State Office by _____

Date _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

August 25, 1987

David Banks
RR 1, Box 1340
Bancroft, ID 83217

Re: Permit to Appropriate Water No. 29-7391

Dear Mr. Banks:

This letter acknowledges the receipt of your correspondence dated August 11, 1987, and the references to our telephone conversation during July, 1987.

As I indicated to you on the telephone, I discussed this matter with Harold Jones, Senior Water Resource agent in our eastern regional office. Mr. Jones agreed to visit the site and discuss possible measuring device alternatives with you. The beaver dams in the stream which impound water in the drains must be removed before proper measurement is possible. You are responsible for maintaining a free flow over the measuring devices.

If I can be of further assistance, please contact me.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

CC: Eastern Region

Field exam returned to region - 9/15/88 - SC

August 11, 1987
Bancroft, Id 83217

RECEIVED
AUG 17 1987

Gary Spackman
Supervisor, Water Allocation Section
State of Idaho, Department of Water Resources
State Office, 450 W. State Street,
Boise, Idaho

Department of Water Resources

RE: Permit to Appropriate Water No. 29-7391

Dear Mr. Spackman:

In response to our telephone conversation of July 20, 1987:

We received a letter from your office on July 20th regarding our failure to provide a measuring device for our drain ditch.

We are very sorry about this, but we did not know we were to have one. The drain ditch flows into our Portneuf Water and we have a water meter on the main line.

The drain ditches are backed up by beaver dams for most of the year, some years the dams are never removed. The water level is up to a foot higher when the dams are in, making it hard to measure the water flow through a check.

We are willing, as we indicated by phone, to do what is necessary. We do not want to relinquish our water rights. Please let us know what we must do.

Thank you,

David Banks

David Banks

CONVERSATION MEMORANDUM

DATE July 29, 1987FILE 29-7391NAME OF PARTY David BanksEMPLOYEE Gary SpackmanRE: Possible Cancellation of Permit

On July 20, 1987, David Banks, son of the permit holder, Floyd Banks, called to discuss the Notice of Pending Order Voiding Permit. David did not understand why we were attempting to cancel the permit.

I reviewed the file, and agreed with Harold Jones that the measuring devices had not been properly installed.

I called David Banks on July 29, and told him that both the old and the new drains must ~~be~~ have measuring devices installed. David stated that the beaver dams must be ~~controlled~~ removed from downstream so that a measurement could be made with the measuring devices. I told him that the beaver control was his problem, and that he must solve it.

I also told David that Department personnel would visit the site and recommend a measuring device.

Gary



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

July 16, 1987

Floyd J. Banks
Rt. 1, Box 1340
Bancroft, ID 83217

RE: Permit to Appropriate Water No. 29-7391

Dear Mr. Banks:

NOTICE OF PENDING ORDER VOIDING PERMIT

On December 19, 1977 the Department of Water Resources approved an application to appropriate water, numbered 29-7391, from a drain ditch tributary to Portneuf River, for irrigation of 191 acres located in the SE1/4NE1/4, Sec. 24, Twp 6S, Rge 38E; S1/2NW1/4, SW1/4, Sec. 19, Twp 6S, Rge 39E; B.M., with the condition that you must install and maintain measuring devices in the drains.

Based on a field inspection conducted by a representative of our Department it has come to our attention that you have not complied with the condition requiring measuring devices.

The purpose of this letter is to request that you relinquish your permit or explain why the Department should not void the permit. Enclosed is a relinquishment form that should be signed and returned to this office, unless you have some explanation that would prevent the Department from voiding your permit.

If you fail to respond to this notice within thirty (30) days of the date of mailing of this letter, the Department will act to void your permit. The permit will be voided on the grounds that you failed to install and maintain the measuring devices required under this permit.

If you have any questions in regard to this matter, please feel free to contact our office.

Respectfully,

GARY SPACKMAN
Supervisor, Water Allocation Section

cc: Eastern Region

I hereby certify that on this 16th day of July, 1987, I sent the original copy of this letter, postage prepaid, to the person and address listed above.

4/86

FIELD EXAM COMPLETE 18 July 1984

For Office Use Only

Fee Received _____

Date 5-22-86

Receipt # _____

Receipt by _____

Sent to S.O. 5-22-86

RECEIVED

MAY 22 1986

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources
Eastern District Office

EXAMINATION FEE INFORMATION

RECEIVED

MAY 23 1986

1. Permit No. 29-7391

ONE OF THE FOLLOWING BOXES SHOULD BE MARKED TO DESIGNATE YOUR CHOICE:

Department of Water Resources

☒ I choose to have the department make the field examination of this permit; attached is the examination fee. (If this box is marked, complete items 1 thru 8.)

2. Permit Holder: Floyd J. Banks

3. Post Office Address: Rt 1 Box 1340 Bancroft Id 83217

Telephone No. 648-7856

4. Source of Water: Drain

5. Extent of Use:

Domestic _____ (No. of households) Stockwater _____ (No. and type of stock)

Irrigation 191 (acres) Other/Remark _____

6. Total rate &/or volume for which proof is submitted 3.82 cfs _____ acre-feet

7. Show the date water was first diverted and beneficially used under this permit:

June 1978

8. Person to contact to accompany the department representative during the field examination:

NOT NECESSARY FIELD EXAM COMPLETED 18 July 1984

(Name)

(Address)

(Telephone Number)

☐ I choose to have the field examination conducted by a certified water right examiner. Attached is a statement from the certified examiner I have selected verifying that he has been retained to conduct the examination. (If this box is marked, complete items 1 thru 7.)

22 May 1986
Date

David M Banks for Floyd J Banks
Signature of Permit Holder (and title, if appropriate)

copy retained for file



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

Mailing address:
Statehouse
Boise, Idaho 83720

A. KENNETH DUNN
Director

29-7391
BANKS, FLOYD J.
BANCROFT, ID 83217

138197

April 17, 1986

CERTIFIED MAIL

EXAMINATION FEE NOTICE

Dear Permit Holder:

Department records show that proof of beneficial use has been submitted for the above-referenced permit, but that a field examination has not yet been conducted to determine the extent of beneficial use of the water for licensing purposes.

House Bill 671 (effective April 4, 1986) enacted by the 1986 Idaho Legislature requires the payment of a fee before this department can conduct the field examination needed to issue a license confirming use of water under the permit. This letter is notification that the license examination fee is due within sixty (60) days of the date of this letter. The examination fee information sheet (enclosed) must be returned with the fee.

As an alternative to submitting the fee, the department will accept a field examination report completed by a certified water right examiner from the private sector. If you choose to have the examination done by a certified water right examiner, you need not submit the license examination fee to the department, but you must within sixty (60) days of the date of this letter return to the department, the examination fee information sheet showing appropriate information together with a statement from the certified examiner to verify that you have retained a certified examiner to conduct the field examination. If you choose this alternative, a completed field examination report must be submitted within one year of the date of this letter. You cannot later change your decision to use this alternative and submit the fee needed for the department to conduct the field examination, but you may change to another certified examiner.

Certified water right examiners are licensed engineers, geologists, or land surveyors certified by the department to conduct water right examinations. The procedure for certifying examiners results from the recently enacted HB 671 and is being developed at this time. A listing

of certified water right examiners will be available from this department when examiners have been certified.

If your permitted use, in fact, has already been examined by the department and you have not asked to have the examination repeated, the fee requirement is not applicable to your permit. If you believe this is the case, please contact the department.

The license examination fee is to be based on the amount of water you indicate you have developed, as listed in item 6 on the examination fee information sheet. The amount of water on which the examination fee is based can be less than the permitted amount, if less water has been diverted and beneficially used. The licensed amount of water, however, will not exceed the amount you claim on the examination fee information sheet. The enclosed license examination fee schedule shows a listing of applicable fees.

FAILURE TO SUBMIT WITHIN THE SIXTY (60) DAY PERIOD, THE FEE OR THE STATEMENT THAT A CERTIFIED EXAMINER HAS BEEN RETAINED TO MAKE THE FIELD EXAMINATION, WILL BE CAUSE TO ADVANCE THE PRIORITY OF THE PERMIT ONE DAY FOR EACH DAY THAT THE FEE SUBMITTAL IS LATE.

FAILURE TO SUBMIT THE FEE OR THE COMPLETED FIELD EXAMINATION REPORT WITHIN A YEAR WILL BE CAUSE TO CONSIDER THE PROOF OF BENEFICIAL USE TO BE INCOMPLETE AND TO LAPSE THE PERMIT.

The attached examination fee information sheet and the fee may be submitted to the following department offices.

Northern Region

Idaho Dept. of Water Resources
4055 Government Way
Coeur d'Alene, ID 83814
Phone: 765-4639

Eastern Region

Idaho Dept. of Water Resources
150 Shoup Ave., Suite 15
Idaho Falls, ID 83401
Phone: 525-7161

Southern Region

Idaho Dept. of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, ID 83301
Phone: 734-3578

Western Region

Idaho Dept. of Water Resources
450 W. State St., (Third Floor)
Boise, ID 83720
Phone: 334-2190

Sincerely,



L. GLEN SAXTON
Chief, Operations Bureau

Enclosures



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

150 Shoup
Idaho Falls, Idaho 83401
(208) 525-7161

A. Kenneth Dunn
Director

December 27, 1992

Floyd J. Banks
Bancroft,
Idaho 83217

RE: Permit No. 29-7391

Dear Mr. Banks:

We acknowledge receipt of your statement submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department.

_____ A field examination of your system has been scheduled for _____.

If this time and date is not convenient for you, please contact this office as soon as possible.

 X A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office.

Sincerely,

COLLEEN WRAY
Adm. Secretary

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

138673

BANKS, FLOYD J.
BANCROFT, ID 83217

SEPTEMBER 30, 1982

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 29-7391 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE DECEMBER 01, 1982. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF OF BENEFICIAL USE.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU HAVE NOT PREVIOUSLY RECEIVED AN EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME PROVIDED THE DELAY IS FOR REASONABLE CAUSE AS INDICATED IN SECTION 42-204, IDAHO CODE, AMENDED. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED.

EITHER THE BENEFICIAL USE POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

RITA FLECK
SR. SECRETARY

ENC: 1

MICROFILMED

November 6, 1979

Re: Permit No. 29-7391

Floyd J. Banks
Bancroft, ID 83217

Dear Mr. Banks:

Enclosed is a copy of the approved application for amendment submitted on the above referenced permit.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:pb

MICROFILMED

State of Idaho
Department of Water Resources

AMENDMENT ANALYSIS SHEET

INITIAL REVIEW BY: ARK

Right Number 29-7391 Applicant Floyd I. Banks

Purpose of Amendment: ☐ Change point of diversion. ☐ Add diversion point(s).
☐ Increase amount. ☒ Change place of use. ☐ Other _____

CHECK:

- ☐ Description of amended point(s) of diversion. n/a
- ☐ Amount, nature and period of use. If increased, delay date of priority. n/a
- ☒ Description of amended places of use. If expanded, delay date of priority.
- ☒ Ownership of point of diversion and place of use.
- ☒ Map.
- ☒ Signature (must be permit holder).
- ☒ Fee.
- ☒ Existing water rights from the same source, amended place of use. now
- ☒ Right number(s) n/a
- ☐ Yes ☒ No Should amendment be advertised?
- ☐ Yes ☒ No Should date of priority be delayed? If yes, to what date? _____

FINAL REGIONAL PROCESSING REVIEW:

- ☐ Affidavit of publication received.
- ☐ Amendment published correctly.
- ☐ Protests processed.
- ☐ Approve.
- ☐ Deny.

Conditions _____

By _____ Date _____

STATE OFFICE PROCESSING:

- ☐ Amendment correct and complete. By _____ Date _____
- ☐ Approved copy sent to applicant and to Region. By _____ Date _____

MICROFILMED

December 22, 1977

Re: Permit No. 29-7391

Floyd J. Banks
Bancroft, ID 83217

Dear Mr. Banks:

Enclosed is a copy of your approved Application for Permit No. 29-7391 along with the Memorandum Decision and Order approving this permit.

Be sure to note the conditions of approval as listed in the Memorandum Decision and Order.

Sincerely,

BOBBY D. FLEENOR
Chief, Operations Bureau

BDF:kw
Enclosures

cc: Protestants and Attorney
Encl: Copy of Memorandum Decision and Order

RECEIVED

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Item Initial Date

Application No. Banks

drain ditch
~~water~~ Source

☒ Point of Diversion

☒ County

3.82 Quantity of Water and Period of Use

☒ Description of Diverting Works

☒ Time required for B/U of water

191 Place of Use or Acres Irrigated

☒ Map & photo

☒ Signature

55.00 Fee

(1) EMC 5/6/77

In form to receipt YES

(2) " "

Send Copies to:

N Idaho State Health Department

N Idaho Fish and Game Department

N Bureau of Land Management

(3) " "

Water Master Portneuf River

N Request Special Use Permit from U.S.F.S.

N Request Easement from B.L.M.

N Request Information from Applicant

N Request Dam Safety Information

(4) " "

In form for advertising YES.

(5) " "

Platted on Map No. Quail Map RAH3

(6) " "

Located within Water District No. 29

(7) " "

Critical groundwater area: yes no X

(8) " "

Groundwater levels:

Declining, Stable, Increasing

(comment) No OB WELLS IN AREA.

(9) " "

Other rights on the same place of use NONE.

(10) " "

Comments: Possibly a pre permit of am.
none true

(11) CW 6-01-77

Affidavit of Publication received (date) June 1-1977

(12) CW 5-26-77

Final date for protests June 6, 1977

Protests received: yes no

(13) RDC 11/18/77

All requested information received from agencies or applicant: yes no

(14) " "

Action recommended:

☒ Approve

Deny

5/5/77 Proposed Priority

Reason for Reduction

☒ Measuring device required

See Memo Decision

☒ See attached sheet for other conditions of approval

No special conditions for approval

(15) District E

By RDC

Date 11/18/77

Bank
fact

M E M O R A N D U M

TO: File
FROM: Ron Carlson
RE: Application for Permit No. 29-7391 FLOYD J. BANKS
DATE: November 14, 1977

On November 10, 1977, Bill Rhoads and I examined in the field the work commenced by Floyd Banks pursuant to this application.

Below the dam there is an old ditch which is fed by spring activity. The water in this ditch flows to the east for approximately 300 yards and then turns flowing into the Portneuf River. Approximately 20 feet above the point where it enters the river is an old board structure that appears to be a diversion dam of some sort. Just north of this old diversion dam an open drain paralleling the edge of the hill and flowing from the east to the west enters this old existing ditch.

At the time of the inspection the stream flowing in the old ditch channel may have been in excess 1.00 cfs of water. That flowing in the drain was approximately half that much.

The applicant indicates that he proposes to install his pump just in front of the old board dam and just below the confluence of the two streams.

Our inspection revealed a heavy cattail growth all along the toe of the dam indicating significant seepage is taking place through the dam.

The stream previously referred to as the old ditch has its head in these willows directly below the left toe of the dam. The applicant indicates that if his permit is granted, he wishes to co-mingle the two streams of water pumping water under the new application from the water developed in the drain and other river rights he claims for his meadow area would be pumped from the stream arising in the springs below the dam. It appears that the old ditch acts also as a drain since it appears to develop water through its entire length. At the existing time, the drain is approximately

Page 2
Memo - 29-7391 BANKS
November 14, 1977

1,200 feet long. (The applicant indicates that if the permit is approved, the SCS will probably extend the drain to increase the amount of drainage necessary to make the bottom lands farmable.)

RECEIVED
NOV 15 1977
FBI - MEMPHIS

LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CHARTERED

CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

TELEPHONE
AREA CODE 208
232-6101

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
D. JAMES MANNING
W. MARCUS W. NYE
GARY L. COOPER
DENNIS W. OLLEY

November 10, 1977

RECEIVED

NOV 14 1977

Department of Water Resources
Eastern District Office

Mr. Ronald J. Carlson
Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: In the Matter of Application of
Floyd J. Banks for Permit
Application No. 29-7391

Dear Mr. Carlson:

I spoke with my client, Mr. Banks, about the above matter recently and he advised me that in a recent conversation with you you stated you thought your office hadn't heard further regarding the attempt to work out a settlement and the question of whether or not the Department needed to rule on your application. It may be that somehow my letter of August 26th with proposed agreement attached did not reach you and I forward another copy of that letter with the attachment.

Very truly yours,



D. JAMES MANNING

DJM:jc

CC: Mr. Floyd Banks

RECEIVED

LAW OFFICES OF
RACINE, HUNTLEY & OLSON

CHARTERED

CENTER PLAZA - CORNER FIRST & CENTER
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GARY L. COOPER
DENNIS W. OLLEY

TELEPHONE
AREA CODE 208
232-6101

August 26, 1977

Mr. Bobby J. Fleenor
Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

RE: Matter of Application of Floyd J. Banks
For Permit
Application No.: 29-7391

Dear Mr. Fleenor:

Subsequent to conference and hearing in the above matter, I prepared a proposed stipulation and agreement on behalf of Mr. Banks incorporating what I thought would be the tentative agreement of the parties as developed at the hearing. You will recall as the Hearing Officer, you ordered that the parties consider this matter until September 6, 1977, in an attempt to see if such an agreement could be finalized.

Mr. Banks has met several times with the protestants but it now appears the parties cannot agree and the matter will have to be submitted for decision by the Department.

I enclose a copy of our proposed agreement which may be of assistance in preparation of findings and conclusions.

By copy of this letter to the various protestants, I am expressing our willingness to discuss further settlement based on the enclosed stipulation and agreement if it appears there is any purpose in doing so prior to September 6th.

I might add, that it would be our position that pursuant to the Department's rules and the agreement procedure at the conference/hearing, further evidentiary matters may not now be presented to the Department, and we would expect written and other communications to the Department in this regard to be excluded unless permitted procedures for reopening proceedings under the Department's rules.

Mr. Bobby Fleenor
August 26, 1977
Page 2

If the signed stipulation and agreement is not presented to the Department by September 6th, I believe you can assume the matter is submitted to you for decision.

Very truly yours,

D. James Manning

DJM:cv
Enclosures

cc: Floyd Banks
cc: (with proposed agreement enclosed)
K. V. Perkins
Rondo W. Perkins
Leo O. Hanson
Ralph Olson

ENCLOSURE

BEFORE THE DEPARTMENT OF WATER RESOURCES

In the Matter of the Application of

FLOYD J. BANKS, for Permit,)

Applicaton No. 29-7391)

This Stipulation and Agreement made this _____ day of August, 1977, by and between Floyd J. Banks, hereinafter termed "Applicant," and Bar O/N Ranch, Rande W. Perkins, McCammon Ditch Company, Portneuf Irrigating Company and Portneuf-Marsh Valley Canal Company, hereinafter collectively termed "Protestants."

1. RECITALS

1.1 Floyd J. Banks, by application filed with the Department of Water Resources on May 5, 1977, seeks permit to appropriate and apply to beneficial use certain waters from point of diversion in the SE ¼ of the SW ¼, Section 19, Township 6 South, Caribou County, Idaho, for irrigation purposes on certain upland properties more particularly described in said application.

1.2 Protestants have each duly filed protests to such proposed diversion and appropriation of water.

1.3 Conference before hearing officers, Department of Water Resources, has been held wherein Applicant and Portestants have stated their contentions as to the application, and the parties are desirous of entering into a sipulation and agreement which will resolve the protests to said application.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto as follows:

2. APPROPRIATION OF WATER AND DIVERSION

2.1 Applicant will be permitted, subject to approval of the Department of Water Resources, to appropriate water at a point

of diversion within the area of diversion described in his application, for irrigation purposes, to the extent sought in said application and to be beneficially applied to the upland crop and pasture areas described therein.

2.2 Applicant's point of diversion shall be located, within the area described in the application, at a point which will permit him to divert standing, accumulated and seepage water from the property owned by him below and to the south and east of the Portneuf Reservoir, Caribou County, Idaho. The property from which such standing, accumulated and seepage water may be developed, collected and diverted is more particularly shown as that property outlined in green on the aerial photograph attached hereto as Exhibit A.

2.3 Applicant shall not divert directly, in connection with this appropriation, the water flowing in that channel commonly referred to as the "Old Ditch," the approximate course of which is marked in red on Exhibit A to this Stipulation and Agreement. Applicant's point of diversion shall be located along his drainage ditch or ditches in such a manner that he is not pumping directly from said "Old Ditch" in connection with application of irrigation waters to the upland crop and pasture lands referred to herein.

3. RESERVATION OF CLAIMS

The parties hereto expressly reserve all claims to use of waters from said "Old Ditch" by reason of prior diversion and application to beneficial use or decree, license or permit, resolution of that matter not being involved in the present application by reason of this Stipulation and Agreement.

4. WITHDRAWAL OF PROTESTS

In consideration of this Stipulation and Agreement, Protestants hereby withdraw their protests in the above-referenced application.

IN WITNESS WHEREOF, the parties hereto have executed
this Stipulation and Agreement the day and year first above written.

APPLICANT:

PROTESTANTS:

Floyd J. Banks

By: K. V. Hansen

Rondo W. Perkins

McCammon Ditch Company

By _____
Leo O. Hanson, President

Attest:

Secretary

Portneuf Irrigating Company

By _____
Leo O. Hanson, President

Attest

Secretary

Portneuf Marsh Valley Canal Company

By _____
Ralph Olson, President

Attest:

Secretary

STATE OF IDAHO)
) ss.
County of)

On this _____ day of August, 1977, before me, the
undersigned Notary Public in and For said county and state,
personally appeared Floyd Banks, known to me to be the person
whose name is subscribed 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.

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of)

ON this _____ day of August, 1977, before me, the undersigned Notary Public in and for said county and state, personally appeared K. V. Hansen, President and _____, Secretary, respectively of Bar O/N Ranch, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of)

On this _____ day of August, 1977, before me, a notary public in and for said county and state, personally appeared Rondo W. Perkins, known to me to be the person whose name is subscribed 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.

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of 0

On this _____ day of August, 1977, before me, a Notary Public in and for said county and state, personally appeared Leo O. Hanson and _____, President and Secretary respectively of McCammon Ditch Company, known to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me that they 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.

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of)

On this _____ day of August, 1977, before me, a

Notary Public in and for said county and state, personally appeared Leo O. Hanson and + _____, President and Secretary respectively of Portneuf Irrigating Company, known to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me that they executed the same.

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

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of)

On this _____ day of August, 1977, before me, a Notary Public in and for said county and state, personally appeared Ralph Olson and _____, President and Secretary respectively of Portneuf-Marsh Valley Canal Company, known to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me that they 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.

(seal)

Notary Public for Idaho
Residing at:

LAW OFFICES OF
RACINE, HUNTLEY & OLSON

CHARTERED
CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
D. JAMES MANNING
W. MARCUS W. NYE

GARY L. COOPER
DENNIS W. OLLEY

RECEIVED
AUG 29 1977
Department of Water Resources
Eastern District Office
TELEPHONE AREA CODE 208
232-6101

August 26, 1977

Mr. Bobby J. Fleenor
Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

RE: Matter of Application of Floyd J. Banks
For Permit
Application No.: 29-7391

Dear Mr. Fleenor:

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Mr. Banks has met several times with the protestants but it now appears the parties cannot agree and the matter will have to be submitted for decision by the Department.

I enclose a copy of our proposed agreement which may be of assistance in preparation of findings and conclusions.

By copy of this letter to the various protestants, I am expressing our willingness to discuss further settlement based on the enclosed stipulation and agreement if it appears there is any purpose in doing so prior to September 6th.

I might add, that it would be our position that pursuant to the Department's rules and the agreement procedure at the conference/hearing, further evidentiary matters may not now be presented to the Department, and we would expect written and other communications to the Department in this regard to be excluded unless permitted procedures for reopening proceedings under the Department's rules.

RECEIVED
AUG 29 1977

Mr. Bobby Fleenor
August 26, 1977
Page 2

If the signed stipulation and agreement is not presented to the Department by September 6th, I believe you can assume the matter is submitted to you for decision.

Very truly yours,



D. James Manning

DJM:cv
Enclosures

cc: Floyd Banks
cc: (with proposed agreement enclosed)
K. V. Perkins
Rondo W. Perkins
Leo O. Hanson
Ralph Olson

RECEIVED
SEP 1 1977
U.S. DEPT. OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C.

RECEIVED

AUG 29 1977

Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES

In the Matter of the Application of

FLOYD J. BANKS, for Permit,)

Applicaton No. 29-7391)
_____)

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1.2 Protestants have each duly filed protests to such proposed diversion and appropriation of water.

1.3 Conference before hearing officers, Department of Water Resources, has been held wherein Applicant and Portestants have stated their contentions as to the application, and the parties are desirous of entering into a sipulation and agreement which will resolve the protests to said application.

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2.3 Applicant shall not divert directly, in connection with this appropriation, the water flowing in that channel commonly referred to as the "Old Ditch," the approximate course of which is marked in red on Exhibit A to this Stipulation and Agreement. Applicant's point of diversion shall be located along his drainage ditch or ditches in such a manner that he is not pumping directly from said "Old Ditch" in connection with application of irrigation waters to the upland crop and pasture lands referred to herein.

3. RESERVATION OF CLAIMS

The parties hereto expressly reserve all claims to use of waters from said "Old Ditch" by reason of prior diversion and application to beneficial use or decree, license or permit, resolution of that matter not being involved in the present application by reason of this Stipulation and Agreement.

4. WITHDRAWAL OF PROTESTS

In consideration of this Stipulation and Agreement, Protestants hereby withdraw their protests in the above-referenced application.

ORIGINAL

IN WITNESS WHEREOF, the parties hereto have executed
this Stipulation and Agreement the day and year first above written.

APPLICANT:

PROTESTANTS:

Floyd J. Banks

By: K. V. Hansen

Rondo W. Perkins

McCammon Ditch Company

By _____
Leo O. Hanson, President

Attest:

Secretary

Portneuf Irrigating Company

By _____
Leo O. Hanson, President

Attest

Secretary

Portneuf Marsh Valley Canal Company

By _____
Ralph Olson, President

Attest:

Secretary

STATE OF IDAHO)
) ss.
County of)

On this _____ day of August, 1977, before me, the undersigned Notary Public in and For said county and state, personally appeared Floyd Banks, known to me to be the person whose name is subscribed 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.

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of)

ON this _____ day of August, 1977, before me, the undersigned Notary Public in and for said county and state, personally appeared K. V. Hansen, President and _____, Secretary, respectively of Bar O/N Ranch, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of)

On this _____ day of August, 1977, before me, a notary public in and for said county and state, personally appeared Rondo W. Perkins, known to me to be the person whose name is subscribed 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.

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of 0

On this _____ day of August, 1977, before me, a Notary Public in and for said county and state, personally appeared Leo O. Hanson and _____, President and Secretary respectively of McCammon Ditch Company, known to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me that they 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.

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of)

On this _____ day of August, 1977, before me, a

Notary Public in and for said county and state, personally appeared Leo O. Hanson and + _____, President and Secretary respectively of Portneuf Irrigating Company, known to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me that they executed the same.

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

(seal)

Notary Public for Idaho
Residing at:

STATE OF IDAHO)
) ss.
County of)

On this _____ day of August, 1977, before me, a Notary Public in and for said county and state, personally appeared Ralph Olson and _____, President and Secretary respectively of Portneuf-Marsh Valley Canal Company, known to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me that they 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.

(seal)

Notary Public for Idaho
Residing at:

RECEIVED

AUG 26 1977

11. Cannon Idaho
August 25-1977

Department of Water Resources
Eastern District Office
Sept. 4 Water Resources.

Gentlemen:

Inclosed please find brief
accounts of the meetings with
Mr. Lloyd Banks. we did not
come to a mutual agreement
therefore it is up to you to make
the decision
Leo O. Hanson

RECEIVED
AUG 26 1977

Department of Water Resources
Eastern District Office

McCammon, Idaho
August 16, 1977

Minutes of special meeting called by the Waterusers of Portneuf River District #29, who protested the application of Floyd Banks of Chesterfield to file on stagnant Portneuf River water in the amount of 3.82 second feet causing swamp areas in his meadow. The meeting was called to order by Thomas Bloxham, Chairman of Portneuf River Advisory Board. Roll call showed the following Canal Company directors present; Leo O. Hanson, Lyndon Green, Ned Allen, Floyd Crump, Jeff Harris and Harold Raymond Secretary of McCammon Ditch Company. Thomas Bloxham, Ralph Olsen and Allen Brady of Portneuf MarshValley Canal Co. Leo O. Hanson, Robert Henderson, James Capell and Douglas Freestone of the Portneuf Irrigating Co. Floyd Banks and Rondo Perkins of Bancroft.

This meeting was called as a follow up of the previous meeting, one in Soda Springs to hear protests against the granting of a permit by the State Dept of Water Resources to Floyd Banks to acquire the right to use 3.82 second feet of undetermined amount of projected water by draining inundated areas of his meadow land; also from on the spot investigation of the entended project. This follow up meeting was called for the purpose to try and reach a mutual agreement between Mr. Banks and Water Users concerned relative to the status of Mr. Banks development project.

Status of opinion by all Water Users present was that Mr. Banks go a head with draining his swamp and then after a five (5) year period determine how much water he had developed by runing it over a cipolleti weir and through an inflow meter installed in his sprinkler pump.

Mr. Banks declared this to be unsatisfactory to him because it would eliminate any government finanical help.

Ralph Olsen, President of MarshValley Canal Co. made the following motion. Since we could not come to a mutual agreement, we should leave it up to the Idaho Department of Water Resources to make the final recommendations and decision. The motion received a second by Douglas Freestone and the support of all present voting AYE; where upon it was declared carried by Chairman Thomas Bloxham.

There being no further business presented the Chair declared the meeting adjourned.

Thomas Bloxham
Chairman

Leo O. Hanson
Secretary

RECEIVED

AUG 26 1977

McCammon, Idaho
August 1, 1977

Department of Water Resources
Idaho Dept of Water Resources Eastern District Office
Idaho Falls, Idaho

Gentlemen:

On August 1, 1977 at 9:00 A.M. the following waterusers of the Portneuf River met at the Floyd Bank meadow below the Chesterfield Reservoir; Thomas Bloxham. Ralph Olsen of the Portneuf MarshValley Canal Company. Leo O. Hanson, Robert S. Henderson, James Capell, Douglas Freestone of the Portneuf Irrigating Co. Leo O. Hanson, Lyndon Green. and Ned Allen of the McCammon Ditch Co. also Rondo Perkins, Floyd Banks Russell Hebdon and Lafe Holbrook were present.

After on the spot investigation the consensus of opinion was that Mr. Banks would be permitted to pump 2;99 C.F.S. any place he chose to apply out of the old river channel; providing it was coming into reservoir at the north or his proportionate share delivered at the north end of the Chesterfield Reservoir and turned out of the drainage canal.

Relative to the meadow water he intended to develop this water first be developed and prove the amount developed over a five year (5) period in order to establish the permanency of the amount before being granted a stipulated amount of the development. If a hard pan exists eight (8) feet below the surface the water which stands there now may shrink considerable when once the stagnant water is drained off. The consensus of opinion is that Mr. Banks drain the meadow and then determine the amount of water he will be permitted to file on after a five (5) year period.

Sincerely yours,

Leo O. Hanson

July 27, 1977

RE: Application for Permit No. 29-7391 BANKS

Floyd J. Banks
Bancroft
Idaho 83217

Dear Mr. Banks:

Enclosed please find a copy of the stipulation and agreement signed in Soda Springs on July 20, 1977. Please be advised that any agreement you may reach in this matter or additional information you wish to supply to the Department must be supplied by September 2, 1977.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:ME

Enclosure

**Same letter sent to Rondo Perkins
Leo Hansen
Ralph Olson

RECEIVED
JUL 28 1977
FBI - SALT LAKE CITY

Application 29-7391
Floyd J. Banks

July 20, 1977

(9:30 AM)

Floyd Banks - (James Manning Atty)
Comments on AD.

1. water not totally tributary to Portneuf
2. Parcel 12 on A. Photo owned by Caribou County
applicant has no agreement from county but has talked of purchase with County Comm.

Drains now exist. one pot in last fall. Other drains are proposed by S.C.S.

Pump ~ 75' From old river Channel & just above old wooden dam.

When do natural flow rights get cut? - generally mid May - Tom Bloxha

MICROFILMED

July 20, 1977

Application 29-7391

Applicant - Floyd Banks

Attorney James Manning

Protestant

✓ Mc Cammon Ditch Co. - Leo Hanson, Pres.

✓ Portneuf - Marsh Valley Canal Co. - Ralph Olson, Pres

Kakalil V. Hansen - No Present -

✓ Rondo W. Perkins

Informal Conference

- Changes -

Comment - tributary to Portneuf is questionable

Place of use - 10 acres in SW SW Sec 19

- When were existing drains constructed -

Last winter one drain - Old drain constructed prior to the ^{dam} ~~drain~~

- Land no irrigated at the present

- Will not draw water from the old river channel ✓

- The water will not be used on the land ~~it~~ ^{is} that is drained.

- Protestant Perkins is concerned about diverting existing drain water -

Middle of May rights begin being cut -

- Effect of Drain - very little according to Mr Perkins -

= Mr Hansen concerned about loss in Port River -

= Mr Olson " " " also additional expense of regulation -

= Possible agreement if not a decision should be based on conference information

JULY 20, 1977

IN The Matter of Application)
For Permit 29-7391) STIPULATION
IN The Name of) and
FLOYD J. Banks) AGREEMENT

After reviewing this application and the proposals made by the applicant and Protestants in this matter, it appears that the potential does exist to develop additional water to the mutual benefit of all parties involved. We therefore request that the Department of Water Resources allow the parties involved Forty-Five (45) days to review the proposal and work out an agreement that will best protect existing water rights and still allow the applicant opportunity to accomplish his anticipated development.

We agree to supply the Dept. of Water Resources with a copy of this agreement within this 45 day period.

If no agreement is reached by that time we request the Dept. review the information presented at the conference and any other pertinent information and reach a decision.

We understand any decision can be appealed to the Dept. within 20 days or to the District court within 60 days
signed at Soda Springs July 20, 1977

Floyd J. Banks H. W. Rich Leo O. Hansen Ralph Olson

Protestants

1. Will deplete existing water rights.

2. If subject to Portneuf water rights right only good in to ~~May~~

3. No objection to the development of new water. — but are concerned about interference w/ existing water.

Applicant has a decreed rights for . ⁽¹⁸⁸³⁾2.32 cfs, ⁽¹⁸⁸¹⁾.36 ⁽¹⁸⁸²⁾1.22 ⁽¹⁸⁸¹⁾.31 for meadows & lands to the SE of the reservoir.

29-7391 - Floyd J. Banks

Legion Room, Caribou County Courthouse, Soda Springs, Idaho

July 20, 1977 - 9:00 a.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
A. Paul Hatch	Bancroft Ida,	Floyd Banks
Joel Simons	Bancroft, Ida.	Floyd Banks
Wm. Jean Treasure	Bancroft. Ida	Floyd Banks
Leo J. Banks	Bancroft Ida	Floyd Banks
Ernest Banks	Bancroft, Ida.	Floyd Banks
D. James Manning	Pocatello, Idaho	Floyd Banks
Floyd J. Banks	Bancroft. Idaho	self
Ralph Olson	Downey, Ida	P.M.V. Canal Co.
Leo O. Hanson	McCammon Idaho	McCammon Co. Ditch
Thomas Bloxham	Downey Ida	P.M.V. Canal Co.
Rondo Perkins	Bancroft Ida	C.V. Ranch
Lyle Rindlistokun	Bancroft Ida	Belt

LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CHARTERED

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
D. JAMES MANNING

CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

TELEPHONE
AREA CODE 208
232-6101

W. MARCUS W. NYE
GARY L. COOPER

July 18, 1977

Ronald Carlson,
Supervisor Eastern Region
State of Idaho
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Application for Permit No. 29-7391
Floyd J. Banks

Dear Mr. Carlson:

Herewith pre-hearing memorandum relating to the above which is scheduled for hearing Wednesday, July 20, 1977 in Soda Springs. Kindly see that the hearing officer scheduled to hear that matter receives the memorandum.

Very truly yours,


D. JAMES MANNING

DJM:jc

Encl.

CC: Mr. Floyd Banks

D. James Manning
RACINE, HUNTLEY & OLSON, Chartered
P. O. Box 1391 - Center Plaza
Pocatello, Idaho 83201
Telephone: 208-232-6101

Attorneys for Applicant

BEFORE THE DEPARTMENT OF WATER RESOURCES

In the Matter of the Application)
) PRE-HEARING MEMORANDUM
of FLOYD J. BANKS for Permit,)
)
Application No. 29-7391.)

- - - - -

STATEMENT OF FACTS

Applicant, Floyd Banks, seeks permit to appropriate the public waters of this State to the extent of 3.82 cfs for the purpose of irrigation. Banks is the owner of certain lands lying below and east of the Portneuf Reservoir (commonly called "Chesterfield Reservoir") in Caribou County.

Mr. Banks owns certain decreed rights, now evidenced by shares in the Reservoir Company, as successor in interest of one Christian Call, which rights are exercised by diversion through the Siphon Canal of the Portneuf Reservoir and which are applied to certain lands of the applicant lying below the reservoir. Mr. Banks also has water rights in another reservoir (Twenty-Four Mile Reservoir), but has not been successful in overcoming transportation problems necessary to apply that water to his lands.

In the last several years, Mr. Banks' lands, lying below the Portneuf Reservoir and adjacent to the main channel of the Portneuf River, have become increasingly wet and marshy due to increased seepage from the Reservoir which lies immediately north of these lowlands. As a result, Mr. Banks has been unable to farm these lowlands for the last three years and has thereby lost the use of a substantial portion of his property. He has attempted drainage of the land with the help and advice of the Soil Conservation Service, but without notable success.

Mr. Banks present application, then, has the two-fold purpose of watering upland crop ground as well as in assisting in the drainage of the lowlands presently rendered unusable by Reservoir seepage. Applicant proposes to achieve this by installing a pump at or near the confluence of drainage ditches already in existence in the marshy area below the Reservoir dam. This excess water would then be pumped to the upland fields for application by spinkler.

DISCUSSION OF THE LAW

I.

The Idaho Supreme Court has frequently recognized the policy of the law of this State to be the realization of "...the maximum use and benefit, and the least wasteful use, of its water resources." Poole v. Olaveson, 82 Idaho 496 at 502, 356 P.2d 61 (1960).

Perhaps as an outgrowth of this policy, the Idaho Legislature has included as part of the Water Code, a provision placing appropriation of waste or seepage water on a par with appropriation of the waters of a flowing stream. Idaho Code section 42-107.

Several Idaho cases have acknowledged the desirability of permitting appropriation of waste or seepage water, and have, in fact, permitted such appropriation. In Sebern v. Moore, 44 Idaho 410 258 Pac. 176 (1927), the landowner made use, for irrigation purposes, of certain waste and seepage water which arose in a formerly dry gulch near his lands. Over the years, as irrigation of the upland properties increased, the seepage flow in the gulch likewise substantially increased and was used by the landowner. Subsequently, the irrigation company constructed a drainage ditch through the gulch to convey the waste and seepage water, and thereafter complained of the landowner's attempts to divert water from the ditch. The Idaho Supreme Court supported the landowner's contentions, and concluded that under Idaho law waste and seepage water is subject to appropriation, subject to the irrigation or reservoir companies right to remedy the loss through waste or seepage.

Later, in the case of Milner Low Lift Irrigation District v. Eagen, 49 Idaho 184, 286 Pac. 608 (1930), the Idaho Supreme Court reiterated these principles in a situation involving the question

of whether an irrigation district could compel a landowner to pay for use of water which had seeped or wasted onto the landowner's property from the irrigation district's canal and from the lands of subscribers to the district's water. The Court concluded the landowner could not be compelled to pay, noting particularly that there was no evidence the irrigation district had any plans to attempt to eliminate the seepage or loss, and noting further that it appeared the landowner took only such water as happened to waste onto his land.

See also Colthrop v. Mountain Home Irrigation District, 66 Idaho 173, 157 P.2d 1005 (1945), again acknowledging that waste and seepage water may be subject to appropriation, and emphasizing the declared policy of the State to recognize the maximum use and benefit from the State's water resources.

Hence, it is clear under the law of this State that applicant Floyd Banks is entitled to appropriate the water arising and coming upon his lands by reason of seepage from the adjoining reservoir. Further, such appropriation and use of the water would tend to maximize the beneficial application of the water, and serve the further useful purpose of aiding Mr. Banks in the draining of croplands rendered unproductive by the seepage water.

II.

Several other matters relating to this application and the protests filed thereto require mention.

First, under the applicable statute (Idaho Code 42-203,), the Department is rather narrowly limited as to the areas it may consider in protest of an application to appropriate water. Under that statute and the procedural rules of the Department, the issues raised by the protests define the issues for adjudication by the Department, and the hearing officer cannot permit new issues, not clearly raised by timely-filed protests to be considered. Likewise, the issues timely raised by the protests and which the hearing officer may consider are further limited by the scope of Idaho Code 42-203. It would appear that a number of the items raised by the protests here exceed the scope of that statute, and are thereby rendered irrelevant and immaterial insofar as this hearing is concerned.

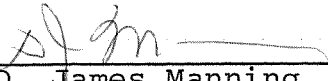
Secondly, one of the protests (Perkins) makes reference to a "trade" with the irrigation company for the seepage water from the Reservoir. In this connection, it should be noted that anything less than a formal, duly executed transfer of such a right is ineffectual under Idaho law, and that evidence of such a purported "trade" not meeting the statutory requirements is irrelevant and immaterial as not tending to prove any enforceable right. In Coltrop v. Mountain Home Irrigation District, supra, at 66 Idaho 181, it was pointed out that Idaho law has always treated a right to the use of water as a real property right. The Idaho Statute of Frauds, found at Idaho Code 9-503, makes it clear that a real property right, or appurtenance thereto, cannot be conveyed, transferred or assigned by anything less than an instrument in writing, duly executed.

By reason of the foregoing and based on the evidence adduced at the hearing, it will be shown that applicant is entitled to the permit for appropriation of water which he seeks.

Respectfully submitted,

RACINE, HUNTLEY & OLSON, Chartered

By


D. James Manning
Attorneys for Applicant

July 12, 1977

Caribou County Clerk
Caribou County Courthouse
Soda Springs, Idaho 83276

Gentlemen:

This is to confirm the use of the Legion Room in the Caribou County Courthouse for conference and/or hearing to be held by this office on Wednesday, July 20, 1977, at 9:00 a.m.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

RECEIVED
JUL 13 1977
CLERK

July 6, 1977

RE: Application for Permit No. 29-7391 FLOYD J. BANKS

Mr. D. James Manning
Attorney at Law
P.O. Box 1391
Pocatello, Idaho 83201

Dear Mr. Manning:

Pursuant to your letter of June 30, 1977, please find enclosed a copy of the above referenced application and a notice of conference and/or hearing.

If we may be of further assistance in this matter, please feel free to contact this office.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enclosures

RECEIVED
JUL 10 1977

Name and Address of Sender

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

Indicate type of mail:

☐ REGISTERED ☐ REGISTERED C.O.D. ☒ CERTIFIED

Affix stamp here if issued as certificate of postage for additional copies of this bill.
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1 421	Gay Bishop, 450 Main St. Pocatello	13	60				29 02 96
2 422	Phil Anderson, Box 426 Mint, Ok. Pa.						
3 423	James E. Frazer, 779 Washington, Co.						
4 424	Mr. Robert W. Field, Star Route, Box 46 Pa.						29 23 84
5 425	Arthur Deussen, Star Route, Box 48 Pa.						
6 426	Rev. Hanson, Mc Conn						29 29 91
7 427	Karph Olsen, Dawson, Ida.						
8 428	Robert W. Perkins, Bancroft, Id.						
9 429	L. V. Hansen, Bancroft, Id.						
10 430	Floyd J. Bate, Bancroft, Id.						
11 431	Barth R. Fisher, Clifton, Pa.						13 7 70
12 432	J. W. Cranther, 210 State Creston						
13 433	Quinn Casperson, Creston, Idaho						13 2 4
14 434	Don O. Hayes, Rt. 3 Box 33 Creston, Idaho						
15 435	John C. Glatker, P.O. Box 813 Soda Springs, Id.						11 21 6
16 436	Chas. Nelson, Star Rt. 1, Montpelier, Id.						11 21 0 8
17 437	Larry B. Kellogg, Paris, Id.						11 21 13
18 438	Wynne Bird, Paris, Id.						
19 439	Thomas W. Higgins, Utah Power P.O. Box 899						13 7 76
20 440	Robert Laworth, Rankin, Id.						
TOTAL NO. OF PIECES BY SENDER 20		TOTAL NO. OF PIECES REC'D AT P.O. 20		POSTMASTER, PER (Name of recommending employee) 1099			

Form 8377, Dec. 1973

APPLICATION FOR REGISTERED, REGISTERED C.O.D. AND CERTIFIED MAIL

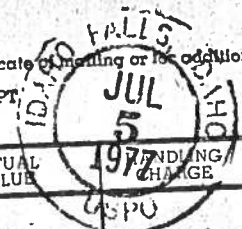
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Name and Address of Sender

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

Indicate type of mail:
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☒ CERTIFIED

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1	461 Lerin A. Winger, 315 S. 2nd East, Preston, Ida	13	60				13-7187
2	462 Gene Austin, Rt. #3, Preston						"
3							
4							
5	SENT UNCERTIFIED TO:						29-2384
6	1. Oliver W. Ames, Star Rt. Box 52, Coeur d'Alene, Ida						29-2391
7	2. P. James Manning, P.O. Box 1321, Coeur d'Alene, Id						"
8	3. Francis Foster, Arwa Hot Springs, Ida						"
9	4. Ronald Hall, Watermaster, Arwa Hot Spg, Idaho						13-7182; 13-7174
10	5. Russell Staker, Soda Springs						11-7123+14
11	6. Wayne J. Fox, Paris, Idaho						13-7176
12	7. Roland Austin, Preston, Id.						13-7124
13	8. Russell D. Castleton, Preston, Ida						13-7186
14	9. J. H. Williams, Preston						
15							
16							
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PS Form 3877, Dec. 1973

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LAW OFFICES OF
RACINE, HUNTLEY & OLSON

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POCATELLO, IDAHO 83201

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LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
D. JAMES MANNING

W. MARCUS W. NYE
GARY L. COOPER

June 30, 1977

RECEIVED

JUL 1 1977

Department of Water Resources
Eastern District Office

Mr. Ronald Carlson
Supervisor, Eastern Region
State of Idaho
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Application for Permit No. 29-7391
Floyd J. Banks

Dear Mr. Carlson:

Mr. Floyd J. Banks has asked us to review the above matter for him upon which several protests have been filed. I would appreciate your forwarding to me a copy of Mr. Bank's application as he did not retain the same. Additionally, I would appreciate being advised when hearing is scheduled on this matter, of course, the Department's primary notice would go directly to Mr. Banks.

Very truly yours,


D. JAMES MANNING

DJM:jc

CC: Mr. Floyd J. Banks



— Possible Agreement that the water diverted
under this permit will exclude water in the
old existing drain—

—

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

In the Matter of Protest Against Approval
of Application for Permit No. 29-7391 in
the Name of FLOYD J. BANKS

NOTICE OF CONFERENCE
AND/OR HEARING

On May 5, 1977, Floyd J. Banks, Bancroft, Idaho, filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On May 26, 1977, the Department received a protest from the McCammon Ditch Company submitted by Leo O. Hanson, President. On June 6, 1977, additional protests were received from Rondo W. Perkins, K. V. Hansen, and the Portneuf-Marsh Valley Canal Company, Ltd. submitted by the president, Ralph Olson.

The Department has set the matter of protests for conference and/or hearing for Wednesday, July 20, 1977, at 9:00 a.m., in the Legion Room of the Caribou County Courthouse, Soda Springs, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicant or protestants may allow the Department without prejudice to dismiss the protest or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 1st day of July, 1977.

s/ Ronald D. Carlson

RONALD D. CARLSON

Supervisor, Eastern Region



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

June 15, 1977

Mr. Francis Potter
Box 263
Lava Hot Springs, Idaho 83246

Dear Francis:

I received the letter you sent Loy Johnson on May 16, 1977, concerning any discussions I may have had with Floyd Banks concerning the pumping of water from the slough below Chesterfield Reservoir. Unfortunately, we were unable to find Mr. Banks that day and as a matter of fact, at that time, he was in our Idaho Falls Office making an application for permit to appropriate that water.

Notice of this application was published in the Caribou County Sun on May 19 and May 26, 1977, and has been protested by Leo Hanson, Ralph Olson, K. V. Hansen and Rondo Perkins. A hearing in this matter will be scheduled in the future and the Department will hear all of the testimony and evidence concerning the availability of water in that source.

I am sorry that I didn't have the opportunity to stop and discuss this matter with you on my way home on May 12th but I waited to see Mr. Banks until quite late. I hope this letter clarifies the status of this matter at the present time.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

RECEIVED
JUN 16 1977
IDaho Falls



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

C. Stephen Allred
Director

June 8, 1977

RE: Application for Permit No. 29-7391

Mr. Floyd J. Banks
Bancroft,
Idaho 83217

Dear Mr. Banks:

Enclosed please find additional protests filed by Ralph Olson, K. V. Hansen, and Rondo W. Perkins against the above referenced application.

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

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enclosures (3)

cc: IDWR - State Office

RECEIVED
JUN 10 1977
IDWR



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

June 8, 1977

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

Stephen Allred
Director

RE: Application for Permit No. 29-7391 BANKS

Rondo W. Perkins
Quarter Circle V Ranches
Bancroft, Idaho 83217

Dear Mr. Perkins:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

- (1) Will the proposed use reduce the quantity of water under existing water rights?
- (2) Is the proposed water supply insufficient for the purposes intended?
- (3) Is the application made in good faith or for delay or speculative purposes?
- (4) Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: CW

cc: IDWR - State Office

RECORDED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

Stephen Allred
Director

June 8, 1977

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

RE: Application for Permit No. 29-7391 BANKS

Mr. K. V. Hansen
Bar O/N Ranch
Bancroft, Idaho 83217

Dear Mr. Hansen:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

- (1) Will the proposed use reduce the quantity of water under existing water rights?
- (2) Is the proposed water supply insufficient for the purposes intended?
- (3) Is the application made in good faith or for delay or speculative purposes?
- (4) Has the applicant sufficient financial resources with which to complete the project?

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You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: CW

cc: IDWR - State Office

RECORDED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

June 8, 1977

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

Stephen Allred
Director

RE: Application for Permit No. 29-7391 BANKS

Mr. Ralph Olson, President
Portneuf-Marsh Valley Canal Company, Ltd.
Downey, Idaho 83234

Dear Mr. Olson:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

- (1) Will the proposed use reduce the quantity of water under existing water rights?
- (2) Is the proposed water supply insufficient for the purposes intended?
- (3) Is the application made in good faith or for delay or speculative purposes?
- (4) Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: CW

cc: IDWR - State Office

RECEIVED
JUN 10 1977
IDWR

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JUN 6 1977

Department of Water Resources
Eastern District Office

Portneuf-Marsh Valley Canal Company, Ltd.

DOWNEY, IDAHO 83234

June 1, 1977.

Idaho State Department of Water Resources,
1515 Lincoln Road,
Idaho Falls, Idaho.
att. Mr. C. Stephen Allred.

Re: Application for Water
Permit #29-7391. Floyd J.
Banks, Bancroft, Idaho.

Gentlemen:

This is to advise that we, the undersigned, do hereby protest a permit to Floyd J. Banks for the appropriation of water from a tributary of the Portneuf River.

Inasmuch as there are already more water rights in the Portneuf than the stream can supply during the irrigation season, we feel there is no justification for the said permit. If earlier rights are protected, Mr. Banks would never receive water during the irrigation season and his investment would be of little or no value.

Whether ^{water} was deliverable or not, the permit would further encumber the duties of the River Watermaster, add to his mileage and supervision during the irrigation season and thereby add additional expense to the existing rights. A pump in or at the stream would be impossible to control by the watermaster. Thus all of the existing rights would be adversely affected.

As to our own river right, which is also secondary, there is seldom enough water in the river during the irrigation season to supply our decree. Therefore, we earnestly and respectfully urge your denial of the said permit.

Very truly yours,

Portneuf-Marsh Valley Canal Company

Ralph Olson, president.

RO:hb

Ralph Olson

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May 26; 1977

JUN 6 1977

Department of Water Resources
Eastern District Office

Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho

Gentlemen:

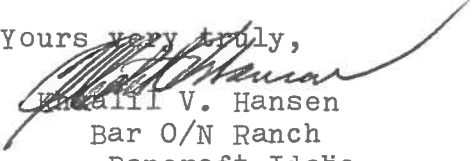
Re: application 29-7391

I herewith protest the granting of the above application of water appropriation in the amount of 3.82 cubic foot to applicant, Floyd Banks of Bancroft, Idaho.

This is protested by reason of the fact that this water is already appropriated and in beneficial use by others and in particular, by myself under former filings, same being used by myself and appropriated under 1880 and 1881 decrees; said amount being in the amount of 12.76 cu. feet.

I feel that if this is granted it would be in an amount in excess of that which is already appropriated and would be an infringement of my present water decreed rights

Yours very truly,


Kenneth V. Hansen
Bar O/N Ranch
Bancroft, Idaho

MC

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JUN 6 1977

Department of Water Resources
Eastern District Office

June 4, 1977

Ron Carlson
Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho

R.E. Application

Dear Sir:

I protest the application 29-7391 for the amount of
3.82 cubic feet.

I have been using the water since 1965. I also made
a trade with the Portneuf River Board and the Downey Canal
co. for the water that seeps through the reservior. I also
have some 1880 and 1881 River Rights and I feel this water
Floyd Banks is filing on has already been appropriated and
is being used by myself and prior water rights.

Thank you,

Rondo W. Perkins

Rondo W. Perkins

Quarter Circle V Ranches

Bancroft, Idaho 83217

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

June 2, 1977

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

C. Stephen Allred
Director

Mr. Floyd J. Banks
Bancroft, Idaho 83217

Dear Mr. Banks:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application No. 29-7391. You should be aware that the following are the principal items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

- (1) Will the proposed use reduce the quantity of water under existing water rights?
- (2) Is the proposed water supply insufficient for the purposes intended?
- (3) Is the application made in good faith or for delay or speculative purposes?
- (4) Has the applicant sufficient financial resources with which to complete the project?

The Department cannot allow a permit for irrigation purposes which would entail the use of more than a continuous flow of 0.02 cubic feet per second of water for each acre of land, or an annual amount of 5 acre feet for each acre of land, unless the applicant can show that more is required (Section 41-202, Idaho Code).

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the applicant through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for a conference and/or hearing to discuss the matters of protest. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

If we may be of any assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: CW

cc: IDWR - State Office

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JUN 14 1977
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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

June 2, 1977

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

Stephen Allred
Director

RE: Application for Permit No. 29-7391 FLOYD J. BANKS

Mr. Leo O. Hanson, President
McCammon Ditch Co. & Portneuf Irrigating Co.
Box 11
McCammon, Idaho 83250

Dear Mr. Hanson:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

- (1) Will the proposed use reduce the quantity of water under existing water rights?
- (2) Is the proposed water supply insufficient for the purposes intended?
- (3) Is the application made in good faith or for delay or speculative purposes?
- (4) Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: CW

cc: IDWR - State Office

RECEIVED

June 2, 1977

RE: Application for Permit No. 29-7391 BANKS

Mr. Ronald Hall, Watermaster
Water District 29
Lava Hot Springs, Idaho 83246

Dear Mr. Hall:

We are enclosing a copy of an application that may be of interest to your water district. Please review the application and if you have any comments, submit them to our Department as soon as possible. The last date of protest is June 6, 1977, and we are required to take final action shortly thereafter.

If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enclosure

NOTE: This application has been protested.

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RECEIVED

MAY 26 1977

Department of Water Resources
Eastern District Office

McCammon, Idaho

May 25, 1977

State Dept of Water Resources
Idaho Falls, Idaho

Gentlemen:

We here register our protest with the State Dept. of Water Resources against the filing NO. 29-7391 by Floyd Banks of Chesterfield for 3.82 Second feet of water to irrigate 191 acres of land located near the upper channel of the Portneuf River discribed and published in the Soda Springs Sun issues of May 19th and May 26th 1977. These springs are tributary to the Portneuf River and if a permit was granted for use of water therefrom would create a loss to earlier rights and increased River water Master supervision. We urge your denial of this permit.

Sincerely yours,

MCCAMMON DITCH COMPANY

By

Leo O. Hanson "Pres."

PORTNEUF IRRIGATING COMPANY

By

Leo O. Hanson "Pres."

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Dear Friend
Gay

MAY 17 1977

Department of Water Resources
Eastern District Office

Lava Hot Springs
May 16-1977

Mr Carlson was up here
Saturday and we were up in
Chesterfield at Rondo Perkins place
We were talking about Floyd Ban
Pumping water it was getting late
and Tom Bloxham and myself
had to leave and come home
Mr Carlson and Rondo Perkins
was going over to see Floyd Ban
I would like to know what he
Mr Carlson told Mr Floyd Ban
about Pumping water I told Mr
Banks a week ago that as far
as I am concerned that the water
they are talking about is part of
the Portneuf River Decree
H. V. Hanson a big owner off
a Ranch that has about 12 CFS of

was not going to pump his
water there sure is going to
be trouble if we dont do
some thing to stop Mr Banks
from pumping I talked to
Mr Banks and He said he
was going to Put in a 100 H. P
motor and Pump on the High
ground would you please
let me know what Mr Carlson

Told Mr Banks I thought
Mr Carlson would stop at my
home Saturday Night and talk
to me about ^{what} was said

Thanking you
Flannier Potter

Excuse my writing I am a little
shaky

May 13, 1977

RE: Applications for Permit Nos. 29-7391 BANKS
29-7392 WISTISEN
T 240/243/245 SMITH

The Caribou County Sun
P.O. Box 815
Soda Springs, ID 83276
Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

Bill submitted 6-01-77 by Cal

RDC:ME

Enclosures

MICROFILMED

**NOTICE OF APPLICATION
FOR WATER PERMIT
No. 29-7391**

Notice is hereby given that Floyd J. Banks, Bancroft, Idaho has on 5-5-77 submitted Application No. 29-7391 for a permit to appropriate 3.82 cubic feet per second of water from a drain ditch tributary to Portneuf River by means of pump and ditch within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19, T. 6S, R. 39E, B.M., Caribou County; to be used from Apr. 1 to Nov. 1 for the irrigation of 191 acres within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, T. 6S, R. 38E, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 19, T. 6S, R. 39E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before June 6, 1977.

C. STEPHEN ALLRED
Director

Published in the Caribou County Sun, Soda Springs, Idaho on May 19 and May 26, 1977

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Floyd J. Banks,

Bancroft, Idaho

has on 5-5-77 submitted Application No. 29-7391

for a permit to appropriate 3.82 cubic feet per second ~~acre feet per annum~~ XXXXXX
of water from a drain ditch tributary to Portneuf River

by means of pump and ditch

within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19, T. 6S, R. 39E, B.M., Caribou County;

to be used from Apr. 1 to Nov. 1
for the irrigation of 191 acres

within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, T. 6S, R. 38E, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 19, T. 6S, R. 39E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before June 6, 1977.

C. STEPHEN ALLRED
XXXXXX
R. KEITH HIGGINSON

Director

Published in the Caribou County Sun, Soda Springs, Idaho

on May 19 and May 26, 1977.

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