

RECEIVED
MAR 26 2010
DEPARTMENT OF
WATER RESOURCES

Dana L. Hofstetter, ISB #3867
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Boise, Idaho 83702
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Attorney for Hultz Farms, Petitioner

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

In the Matter of Permit No. 63-8682

)
)
)
)
)

**AFFIDAVIT OF
DANA L. HOFSTETTER**

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Dana L. Hofstetter, being first being duly sworn upon oath, deposes and says:

(1) I am Dana L. Hofstetter, counsel of record in this matter for Petitioner Hultz Farms.

(2) Attached hereto as Exhibit A are true and correct copies of Idaho Session Laws 1967, ch. 374, § 8, and 1979, ch 138, § 1 which provide the form of the proof of beneficial use requirement in Idaho Code § 42-217 in effect in the years 1977 and 1982, respectively. I obtained these copies of the 1967 and 1979 Session Laws from the Idaho State Law Library.

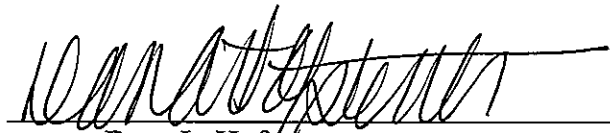
(3) Attached hereto as Exhibit B is a true and correct copy of the portion of House Bill 671 amending Idaho Code § 42-217 that was enacted by the 1986 Idaho Legislature as Idaho Session Laws 1986, ch. 242, § 1. I obtained this copy of the 1986 Session Laws from the Idaho State Law Library.

(4) Attached hereto as Exhibit C is a true and correct copy of the Idaho Department of Water Resources' ("IDWR") microfilmed file for water right Permit No. 63-8682 that I obtained by request from IDWR.

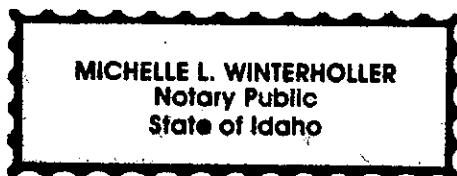
(5) Attached hereto as Exhibit D is a true and correct copy of the Well Driller's Report for the well associated with Permit No. 63-8682 that I obtained from IDWR's Internet website.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 26th day of March, 2010.


Dana L. Hofstetter

SUBSCRIBED AND SWORN to before me this 26 day of March, 2010.



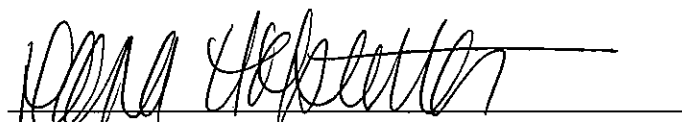

Notary Public in and for the State of Idaho
Residing at: Luna, ID
My Commission Expires: 3-5-13

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of March, 2010, I caused the foregoing
AFFIDAVIT OF DANA L. HOFSTETTER to be served by the pre-paid method(s) indicated on
the following:

Original to:

Director
Idaho Department of Water Resources
The Idaho Water Center
322 East Front Street
Boise, Idaho 83702
☐ U.S. Mail ☐ Fed Ex ☒ Hand ☐ Fax


Dana L. Hofstetter

SECTION 8. That Section 42-217, Idaho Code, be, and the same is hereby amended to read as follows:

42-217. PROOF OF APPLICATION TO BENEFICIAL USE.—On or before the date set for the beneficial use of waters diverted under the provisions of this chapter, which in no case shall be more than six years from the date set for the completion of any canal or other works designed to divert and conduct the public waters of the state to a place of use, or the date for the enlargement or extension or the completion of works for such purpose, the person or persons using such water shall submit proof that they have used such water for the beneficial purpose for which the diversion of such water was intended. Such user of such water shall first notify the department of reclamation that he is prepared to prove that such water has been beneficially applied to the purpose for which it was intended. Such notice to the department proof shall state:

1. The name and post-office address of such user.
2. The use to which such water has been applied.
3. The amount used together with a statement of the manner in which the quantity of water was determined and the qualifications of the person making such determination.
4. The place of such use, and if for irrigation, the description by legal subdivisions of the land so irrigated.
5. The name of the canal or ditch or other works by which such water is conducted to such place of use.
6. The relation or understanding upon which the right to take water from such works is based.
7. The source of supply from which such water is diverted; and,
8. The date of the priority which such user is prepared to establish; and,
9. Such other information as shall be required by the blank form furnished by the department.

Such notice and such written proof as may be required to be submitted by such user shall be upon forms furnished by the department of reclamation, and such statements shall be sworn to by such user and be supported by the affidavits of two disinterested witnesses.

Upon receipt of such notice proof by the department of

reclamation the department shall order its publication in some newspaper designated by such user and published in the county in which the major portion of such land is situated, for a period of four weeks, and shall fix a date when such proof shall be submitted and name a place where proof will be received. Such date shall be subsequent to the completion of such publication, and the department shall, on or before the date set for such final proof, examine, or cause to be examined:

1. The place where such water is used, and, if the use is for irrigation, he shall ascertain the area and location of the land irrigated and the nature of all the improvements which have been made as a direct result of such use.
2. The capacities of the ditches or canals or other means by which such water is conducted to such place of use, and the quantity of water which has been beneficially applied for irrigation or other purposes.

The department or the person making such examination under the direction of the department shall also, on the date set for such final proof, receive the written statements made by the person or persons submitting such proof, and the affidavits of the witnesses, which statements and affidavits, together with prepare and file a report of the investigation which the department is instructed to make, shall be forwarded at once to the department; provided, that whenever several of such final proofs shall be offered from the same locality, the department shall arrange, whenever practicable, to have such notices for publication combined, and to have such examinations made by the same person and on the same date, as near as may be, with a view of minimizing the expense of taking such proofs, and such publication shall be at the expense of the person persons submitting such proof: provided also, that whenever irrigation systems cover more than 25,000 acres, that proof of beneficial use may be made at any time within a period of ten years from the date set for the completion of the works, and in all such cases, proof of beneficial use may be made by the persons, company or corporation constructing the irrigation works on behalf of the project, and in such cases, the lands upon which the water has been used need not be described by legal subdivisions, but may be described generally as the lands under the irrigation system, and it shall only be necessary to show in such cases that the quantity of water beneficially applied for irrigation has been applied within the limits of the project.

SECTION 9. That Section 42-218, Idaho Code, be, and the same is hereby amended to read as follows:

42-218. PROOF OF APPLICATION TO BENEFICIAL USE—EXTENSION OF TIME.—Whenever a less period of time than the maximum prescribed in the preceding section 42-204 has been granted by the department of reclamation for making proof of beneficial use, upon a satisfactory showing being made by the permit holder, the department can extend the time for making such proof of beneficial use, but in no case shall such extension or extensions, including the original time granted, exceed the maximum prescribed in the preceding section 42-204. The department shall grant no extension unless the application therefor be filed with it prior to the date upon which the proof of beneficial use was required to be made under the original terms of the permit, ~~or within thirty days after such date.~~

SECTION 10. That Chapter 2, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a new section following Section 42-218, to be known and designated as Section 42-218a, Idaho Code, and to read as follows:

42-218a. LAPSE OF APPLICATION FOR FAILURE TO REQUEST EXTENSION OR SUBMIT PROOF OF APPLICATION TO BENEFICIAL USE — NOTICE OF LAPSING.—A permit upon which the proof of beneficial use has not been submitted, or a request for extension of time has not been received, on or before the date set for such proof, shall lapse and be of no further force nor effect. Notice of said lapsing shall be sent by the department to the applicant at the address of record by regular mail provided: that within sixty days after such notice of lapsing the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof. The original priority date of a lapsed permit shall not be reinstated except upon a showing of error or mistake of the department.

SECTION 11. That Section 42-219, Idaho Code, be, and the same is hereby amended to read as follows:

42-219. ISSUANCE OF LICENSE — PRIORITY. — Upon receipt by the department of reclamation of all the evidence in relation to such final proof, it shall be the duty of the department to carefully examine the same, and if the department is satisfied that the law has been fully com-

plied with and that the water is being used at the place claimed and for the purpose for which it was originally intended, the department shall issue to such user or users a license confirming such use. Such license shall be issued under the seal of the office of the department of reclamation, and shall state the name and post-office address of such user, the purpose for which such water is used, the quantity of water which may be used, which in no case shall be an amount in excess of the amount that has been beneficially applied. If such use is for irrigation, such license shall give a description, by legal subdivisions, of the land which is irrigated by such water. Such license shall bear the date of the application for, and the number of, the permit under which the works from which such water is taken were constructed; ~~the date of the completion of such works, the capacity of such works on such date of completion; the date when proof of beneficial use of such water was made, and also the date of the priority of the right confirmed by such license, which shall be the date of the application for the permit for the construction of the works from which such water is taken, and to which such right relates provided there has been no loss of priority under the provisions of this chapter. All the licenses which relate to the same permit and which bear the same date of priority shall be numbered alike, and shall belong to the same class, and all the rights relating to the same sources of supply shall be numbered numerically in the order of the priority of such rights: provided, that whenever proof of the beneficial application of water shall be offered subsequent to the date stated in the permit, or in any authorized extension thereof, when such beneficial application shall be made, such proof shall be taken, if received by the department within the sixty days prescribed in the preceding paragraph, and if satisfactory to the department of reclamation, a license shall be issued by the department the same as though such proof had been made before such date fixed for such beneficial application, but the priority of the right established by such proof shall not date back to the date of the application for the permit to which such right would relate under the provisions of this chapter, but shall bear a date which shall be subsequent to the date of such application, a time equal to the difference between the date set in such permit, or extension thereof, for such beneficial application of such water and the date of such proof: provided, however, that upon irrigation projects where the canals constructed cover an area of 25,000 acres or more, or within irrigation districts organized and existing as such under the laws of the state of Idaho, the license~~

and furnished by the director. The director shall approve such transfer upon submission of the application and receipt by the director of a transfer fee of twenty dollars (\$20.00).

Approved March 27, 1979.

CHAPTER 138
(H.B. No. 90)

AN ACT

RELATING TO THE APPROPRIATION OF WATER; AMENDING SECTION 42-217, IDAHO CODE, TO PROVIDE AN ABBREVIATED LIST OF ITEMS THAT MUST BE ADDRESSED ON THE PROOF OF APPLICATION TO BENEFICIAL USE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 42-217, Idaho Code, be, and the same hereby amended to read as follows:

42-217. PROOF OF APPLICATION TO BENEFICIAL USE. On or before the date set for the beneficial use of waters diverted appropriated under the provisions of this chapter, the person or persons using such water permit holder shall submit proof that they have a statement that such water has been used for the beneficial purpose for which the diversion of such water was intended allowed by the permit. Such proof shall state: The statement shall include:

1. The name and post-office address of such user the permit holder.
2. The use to which such water has been applied The permit number.
3. The amount used together with a statement of the manner in which the quantity of water was determined and the qualifications the person making such determination A description of the extent the use.
4. The place of such use; and if for irrigation, the description by legal subdivisions of the land so irrigated The source of the water used.
5. The name of the canal or ditch or other works by which such water is conducted to such place of use.
6. The relation or understanding upon which the right to take water from such works is based.
7. The source of supply from which such water is diverted.
8. The date of the priority which such user is prepared to establish; and,

9. Such other information as shall be required by the blank form furnished by the department.

Such written proof as may be required to be submitted by such user shall be upon forms furnished by the department of water resources; and such statements shall be sworn-to-by-such-user.

Upon receipt of such proof by the department of water resources the department shall examine, or cause to be examined:

1. The place where such water is used, and, if the use is for irrigation, he shall ascertain the area and location of the land which is a direct result of all the improvements which have been made

2. The capacities of the ditches or canals or other means by which such water is conducted to such place of use, and the quantity of water which has been beneficially applied for irrigation or other purposes.

The department or the person making such examination under the direction of the department shall prepare and file a report of the investigation: provided, that whenever irrigation systems cover more than twenty-five thousand (25,000) acres, proof of beneficial use may be made by the persons, company or corporation constructing the irrigation works on behalf of the project, and in such cases, the lands upon which the water has been used need not be described by legal subdivisions, but may be described generally as the lands under the irrigation system, and it shall only be necessary to show in such cases that the quantity of water beneficially applied for irrigation has been applied within the limits of the project.

Approved March 27, 1979.

CHAPTER 139
(H.B. No. 107)

AN ACT

RELATING TO CHECKSCALERS; AMENDING SECTION 38-1215, IDAHO CODE, TO PROVIDE THAT CHECKSCALERS EMPLOYED BY THE STATE OF IDAHO SHALL BE NONCLASSIFIED EMPLOYEES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 38-1215, Idaho Code, be, and the same is hereby amended to read as follows:

38-1215. CHECKSCALERS -- APPOINTMENT -- CHECKSCALING CRITERIA -- REPORT -- BOND. The director of the department of lands shall, with

hereby amended to read as follows:

42-217. PROOF OF APPLICATION TO BENEFICIAL USE. On or before the date set for the beneficial use of waters appropriated under the provisions of this chapter, the permit holder shall submit a statement that he has used such water for the beneficial purpose allowed by the permit. The statement shall include:

1. The name and post-office address of the permit holder.
2. The permit number.
3. A description of the extent of the use.
4. The source of the water used.
5. Such other information as shall be required by the blank form furnished by the department.

Such written proof as may be required to be submitted by such user shall be upon forms furnished by the department of water resources and shall include fees as provided in subsection K of section 42-221, Idaho Code, or a field examination report prepared by a certified water right examiner.

Upon receipt of such proof and the fee as required in section 42-221, Idaho Code, by the department of water resources the department shall examine, or cause to be examined:

1. The place where such water is diverted and used, and, if the use is for irrigation, he shall ascertain the area and location of the land irrigated and the nature of all the improvements which have been made as a direct result of such use.
2. The capacities of the ditches or canals or other means by which such water is conducted to such place of use, and the quantity of water which has been beneficially applied for irrigation or other purposes.

The department or the person making such examination under the direction of the department shall prepare and file a report of the investigation: provided, that whenever irrigation systems cover more than twenty-five thousand (25,000) acres, proof of beneficial use may be made by the persons, company or corporation constructing the irrigation works on behalf of the project, and in such cases, the lands upon which the water has been used need not be described by legal subdivisions, but may be described generally as the lands under the irrigation system, and it shall only be necessary to show in such cases that the quantity of water beneficially applied for irrigation has been applied within the limits of the project.

Holders of permits who have submitted proof of beneficial use but have not had their project examined for beneficial use shall submit the fee required in section 42-221, Idaho Code, within sixty (60) days of notification by the director of the department of water resources that a license examination fee is required. Failure to submit the fee in the time allowed shall be cause for the director to advance the date of priority of the permit one (1) day for each day that the fee is late; provided that if the fee is not fully paid within one (1) year of the time it is due, the director of the department of water resources may consider the proof of beneficial use for the permit to be incomplete and lapse the permit, as provided in section 42-218a, Idaho Code.

SECTION 2. That Section 42-221, Idaho Code, be, and the same is hereby amended to read as follows:

42-221. FEES OF DEPARTMENT. The department of water resources shall collect the following fees which shall constitute a fund to pay for legal advertising, the publication of public notices and for investigations required of the department in connection with the issuance of permits and licenses as provided in this chapter:

A. For filing an application for a permit to appropriate the public waters of this state:

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less \$30.00
2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s. or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet \$45.00
3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet \$45.00
4. For a quantity greater than 20 c.f.s. but not exceeding 100 c.f.s. or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet \$425.00
5. For a quantity greater than 100 c.f.s. but not exceeding 500 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet \$1,225.00
6. For a quantity greater than 500 c.f.s., or for a storage volume greater than 50,000 acre feet \$3,225.00

B. For filing application for change of point of diversion, place, period, or nature of use of water of established rights; for exchange of water; or for an extension of time within which to resume the use of water under a vested right:

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less \$30.00
2. For all other amounts \$50.00
3. For filing application for amendment of permit \$20.00
4. For filing claim to use right under section 42-243, Idaho Code \$30.00
5. For filing a late claim to use a right under section 42-243, Idaho Code, where the date filed with the department of water resources, or if mailed to the department of water resources the postmark is:

1. After June 30, 1983, but not later than June 30, 1984..\$100.00
2. After June 30, 1984, but not later than June 30, 1988..\$200.00
- F. For readvertising application for permit, change, exchange, or extension to resume use
- G. For certification, each document
- H. For making photo copies of office records, maps and documents for public use A reasonable charge as determined by the department.
- I. For filing request for extension of time within which to submit proof of beneficial use on a water right permit
- J. For tasks requiring in excess of one (1) hour research or for computerized data provided for public use A reasonable charge as determined by the department.
- K. For filing proof of beneficial use of water and requests for water right license examinations, a fee based upon the rate of diversion claimed in the proof of beneficial use:

1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20 acre feet or less
- except no fee shall be charged for single family domestic use for which a permit is not required.
2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s., or for a storage volume greater than 20 acre feet, but not exceeding 100 acre feet
3. For a quantity greater than 1.0 c.f.s., or for a storage volume greater than 100 acre feet
- plus \$25.00 for each additional c.f.s. or part thereof, or 100 acre feet with a maximum fee not to exceed \$600.00.

All fees received by the department of water resources under the provisions of this chapter shall be transmitted to the state treasurer for deposit in the water administration account.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1986.

CHAPTER 243
(H.B. No. 672)

AN ACT

RELATING TO LOG SCALING; AMENDING SECTION 38-1220A, IDAHO CODE, TO PROVIDE FOR CIVIL ENFORCEMENT ACTIONS AND PENALTIES; AMENDING SECTION 38-1221, IDAHO CODE, TO PROVIDE FOR THE ATTORNEY GENERAL TO COMMENCE CIVIL ENFORCEMENT ACTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 38-1220A, Idaho Code, be, and the same is hereby amended to read as follows:

38-1220A. INSPECTION -- INVESTIGATION -- VIOLATIONS -- ENFORCEMENT -- PENALTY. (a) The chairman of the state board of scaling practices shall cause investigations to be made upon the request of the board or upon receipt of information concerning an alleged violation of this act or of any rule, or regulation, order or license issued or promulgated thereunder, and may cause to be made such other investigations as he the chairman shall deem advisable.

(b) The chairman or his the chairman's designee shall have the authority to:

- (1) Conduct a program of continuing surveillance and of regular or periodic inspection of log scaling sites.
- (2) Enter at all reasonable times upon any private or public property for the purpose of inspecting or investigating to ascertain possible violations of this act or of any rules-and, regulations--adopted--and, order or license issued or promulgated by the board thereunder.

(c) If an investigation discloses--that--there--is--a--reasonable basis--for--believing--that--a--violation--exists--the director--or--his designee--shall--notify--the prosecuting attorney--of--the county--or--counties--in--which--the violation--is--alleged--to--have--been--committed--and--the prosecuting attorney--shall--proceed--in--accordance--with Whenever the chairman determines that any person or legal entity is in violation of any provisions of this act or any rule, regulation, order or license issued or promulgated pursuant to this act, the chairman may initiate a civil enforcement action through the attorney general and/or a criminal action through the prosecuting attorney as provided in section 38-1221, Idaho Code. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person or legal entity who is alleged to have violated any provisions of this act or any rule, regulation, order or license which has become effective pursuant to this act. Such action may be brought to compel compliance with any provisions of this act or any rule, regulation, order or license issued or promulgated hereunder and for any relief remedies authorized in this act. Except as provided in section 38-1218, Idaho Code, the chairman shall not be required to initiate or prosecute an administrative action before initiating a civil enforcement action.

(d) Any person or legal entity determined in a civil enforcement action to have violated any provision of this act or any rule, regulation, order or license issued or promulgated pursuant to this act shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per violation or five hundred dollars (\$500) for each day of a continuing violation, whichever is greater. The method of recovery of said penalty shall be by a civil enforcement action in the district court in and for the county where the violation occurred. All civil penalties collected under this act shall be paid into the state scaling account.

(e) In addition to such civil penalties, any person or legal entity who has been determined to have violated the provisions of this act or any rule, regulation, order or license issued or promulgated

Identification No. _____

Application No. 6-3-86, 82

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 Hultz Farms, Inc. Phone: 459-2950 or 459-7214
post office address Route #5, Caldwell, ID 83005
2. Source of water supply groundwater which is a tributary of _____
3. a. Location of point of diversion is SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 25 Township 5N
Range 4W B.M. Canyon County; additional points of diversion if any: _____
b. If water is not consumed, it will be discharged into _____ at a point in _____
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 5.1 for irrigation purpose from Mar. 15 to Nov. 15 (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. 5.1 cfs cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Ditches, pipelines, pump,

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 \$ _____
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 _____

[illegible]

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

1st Unit Black Canyon Irrigation Dist.

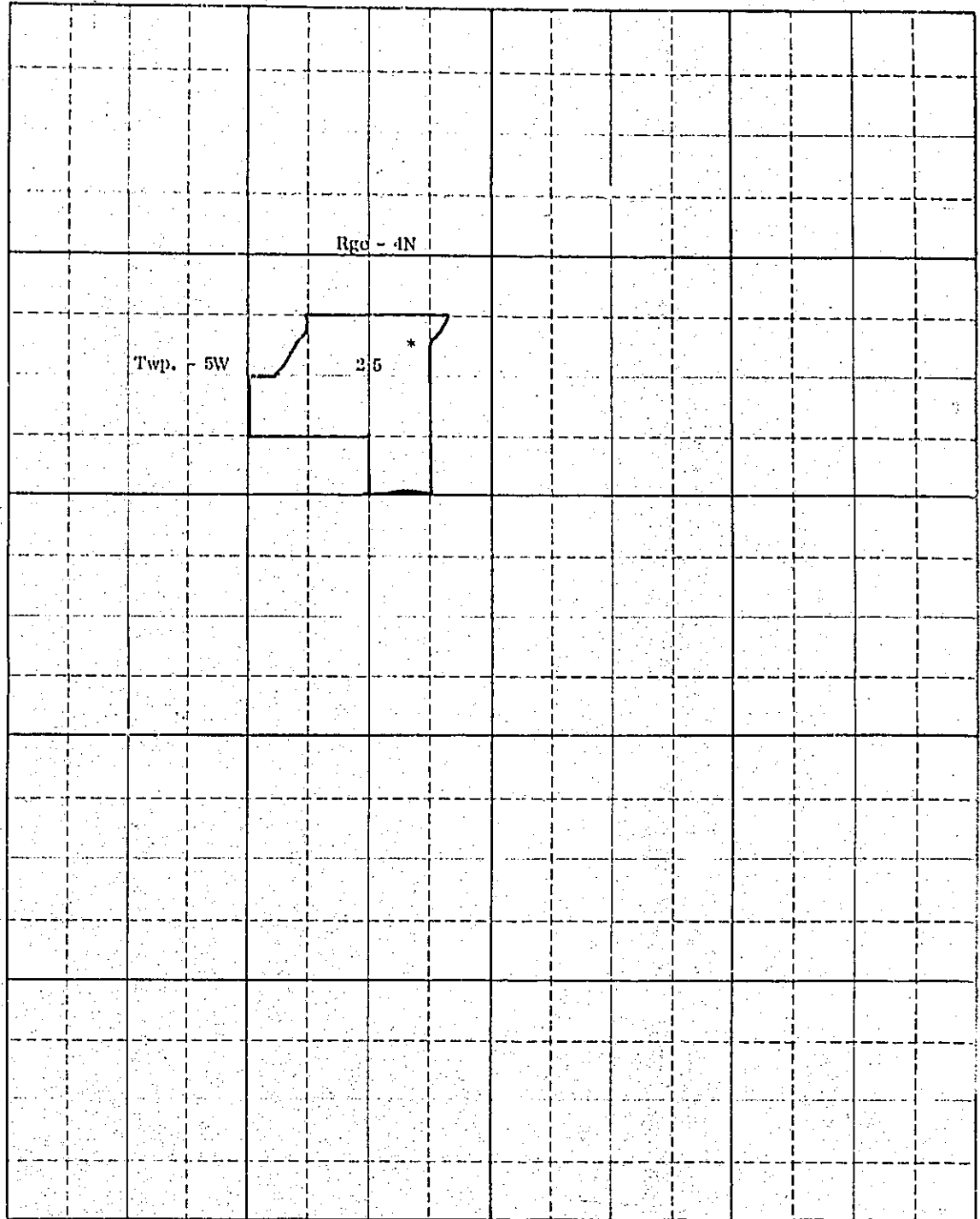
9. a. Who owns the property at the point of diversion: Applicant

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.

HULTZ FARMS, INC.

by Narod Hultz, Pres.
(Applicant)

Project Priority: 8/11/77

Received by: JG Date 4/11/77 Time 3:10

Preliminary fee by: JG Fee 1.425.00

Received by: JG Date 4/11/77 5:11 PM

Publication prepared by: JG Date 4/11/77

Published on: 4/11/77

Publication date: 4/11/77

Publication approved by: JG Date 5-4-77

Priority reduced to: Reason:

Protests filed by:

Copies of protests forwarded by:

Hearing held by: Date:

Recommended for: (approval) dated by: JGS

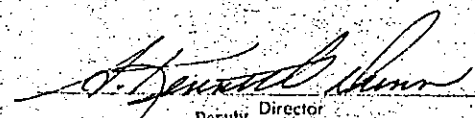
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 63-8682 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 June 1, 1982.
- c. Other: A measuring device of a type approved by the Director shall be permanently installed and maintained as part of the diverting works.
The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

Witness my hand this 17 day of June 1977


Deputy Director

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

County of Canyon.

)
) ss.
)

FOR WATER PERMIT

Notice is hereby given that HULTZ FARMS, INC. R1. S. Caldwell, ID has on April 11, 1977 submitted Application No. 63-6482 for a permit to appropriate 5.1 cubic feet per second of water from a groundwater source by means of ditches, pipelines, pump within the SW 1/4 NE 1/4 Sec 25 T5N-R4W B.M., Canyon County to be used from March 15 to Nov. 15 for the irrigation of 255 acres within the SW 1/4 NE 1/4, SW 1/4 NW 1/4, NW 1/4 SW 1/4, W 1/2 SE 1/4 Sec 25 T5N-R4W 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 Director of the Idaho Department of Water Resources, 92 South Cole Road, Boise, Idaho 83705 on or before May 9, 1977.
C. STEPHEN ALLRED
Director
April 21, 28, 1977

OK 144
5-4-77

Verla Barker
of Caldwell, Canyon County, Idaho, being first duly sworn, deposes and says:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was over the age of twenty-one years, and not a party to the above entitled action.

2. That I am the Principle Clerk of the News-Tribune a daily, (except Sunday) newspaper published in the City of Caldwell, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of the notice, a copy of which is hereto attached.

3. That the notice, of which the annexed is a printed copy, was published in said newspaper

Two Times
in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

4. That said notice was published the following dates:

April 21, 28, 1977

Verla Barker

Subscribed and sworn to before me this

19 77 28th day of April

Adam D. K...
Notary Public, Residing at Nampa, Idaho

Published in the News-Tribune, Caldwell, Idaho on April 21 & 26, 1977.

NOTICE OF CORRECTION

63-4435	Ruth LeMaster
63-8567	Yoshie Yamada
63-8572	Wendell B. Platt

NOTICE OF CLAIM TO A WATER RIGHT

63-4453	F. Eldon &/or Louise O. Cook
63-4455	Robert M. XXXX Batt
63-4456	C. J. &/or Robert Kniefel
63-4457	Kniefel Farms, Inc.
63-4458	Edgar W. Sells
63-4459	Greenleaf Farms, Inc.
63-4460	Greenleaf Farms, Inc.
63-4463	Ivan &/or Alma Dillon
63-4466	Harold Duane &/or XXXXXXXX Margret M. Root

NOTICE OF APPLICATION FOR WATER PERMIT

63-8658	J. C. Watson Co.
63-8667	Claude &/or Billie Percy
63-8668	Michio Takasugi
63-8669	Thomas J. &/or Mildred Brown
63-8671	Willie Fletcher
63-8675	Michio Takssugi
63-8677	F. Eldon &/or Louise O. Cook
63-8679	Marvin &/or XXX Vearl Sorenson
63-8680	Orville Obendorf

continued

Published in the News-Tribune, Caldwell, Idaho on April 21, 1977 & April 28, 1977.

63-8682	Hultz Farms, Inc.
63-8683	R. E. Maybon or Norma M. Maybon
63-8684	Cline J. &/or Winoma Sidener



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES WESTERN REGION

Cecil D. Andrus
Governor

R. Keith Higginson
Director

92 South Colo Road
Boise, Idaho 83705
(208) 384-2190

April 15, 1977

Re: See attached sheets

63-3662

News-Tribune
P.O. Box 1179
Caldwell, ID 83605

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. 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. In order to receive payment, the following certification must appear on the bill:

"I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due after allowing all just credits and that no part of the same has been paid."

(Signature of Claimant)

Please send the affidavit of publication and publication billing to this office before May 9, 1977.

Sincerely,

Bill submitted
5-4-77
J

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Item Initial Date

Application No. _____

☐ Source
☐ Point of Diversion
☐ County
☐ Quantity of Water and Period of Use
☐ Description of Diverting Works
☐ Time required for B/U of water
☐ Place of Use or Acres Irrigated
☐ Map
☐ Signature
☐ Fee

(1) JF 4/1/77

In form to receipt

(2) _____

Send Copies to:

☐ Idaho State Health Department
☐ Idaho Fish and Game Department
☐ Bureau of Land Management

(3) _____

☐ Request Special Use Permit from U.S.F.S.
☐ Request Easement from B.L.M.
☐ Request Information from Applicant
☐ Request Dam Safety Information

(4) WJH 4-12-77

In form for advertising

(5) _____

Platted on Map No. _____

(6) _____

Located within Water District No. _____

(7) _____

Critical groundwater area: yes _____ no ☒

(8) _____

Groundwater levels:

_____ Declining, _____ Stable, _____ Increasing

(comment) _____

(9) _____

Other rights on the same place of use none platted

(10) _____

Comments: _____

(11) JF OK

Affidavit of Publication received (date) 5-4-77

(12) _____

Final date for protests 5-9-77

Protests received: yes _____ no ☒

(13) _____

All requested information received from agencies or applicant: yes _____ no _____

(14) _____

Action recommended:

☒ Approve _____ Deny

_____ Proposed Priority

_____ Reason for Reduction

☒ Measuring device required

_____ See attached sheet for other conditions of approval

_____ No special conditions for approval

(15) District W

By WJH Date 5-10-77

June 20, 1977

Re: Permit No. 63-8682

Hultz Farms, Inc.
Route #5,
Caldwell, ID 83605

Gentlemen:

Enclosed is a copy of your approved Application for Permit No. 63-8682. We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to install and maintain a measuring device at your point of diversion has been placed upon your permit. We are enclosing a letter describing different types of measuring devices accepted by this office.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

Enclosure: Copy of permit

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE
STATE OF IDAHO

IN THE MATTER OF CHANGING THE MEASURING
DEVICE REQUIREMENT FOR PERMIT NO. 63-8682

ORDER

WHEREAS, the above numbered permit was approved with the condition that a measuring device of a type approved by the Department be permanently installed and maintained as part of the diverting works; and,

WHEREAS, on July 1, 1978, the Department adopted a new water measurement condition which states: "An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department"; and,

WHEREAS, the former condition required the permit holder to purchase and install a measuring device or hire a professional engineer to certify the rate of diversion; and,

WHEREAS, the measuring device condition effective July 1, 1978, requires less capital expenditure by the permit holder; and,

WHEREAS, to be equitable to holders of permits issued prior to July 1, 1978, the new condition should be retroactive;

NOW THEREFORE, it is hereby ordered that the condition of approval of this permit related to water measurement is hereby changed as follows:

"The permit holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department".

Dated this 1st day of June 1981.

Glen Saxton

GLEN SAXTON
Chief, Operations Bureau



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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

March 19, 1982

Dear Wateruser:

The enclosed Order changes the measuring device condition of approval on your water right permit.

The changed condition is less restrictive and provides you the option to install an access port or have your system measured and certified by a professional engineer. Instructions for access port installation are also enclosed.

If you have questions regarding this matter, please contact the regional office nearest to you.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocations Section

DRT:jg

Enclosures

NORTHERN REGION OFFICE
Route #5, Box 203, Government Way
Coeur d'Alene, Idaho 83814
Telephone 667-6484

SOUTHERN REGION OFFICE
1041 Blue Lake Boulevard North
Twin Falls, Idaho 83301
Telephone 734-3578

EASTERN REGION OFFICE
150 Shoup Avenue
Idaho Falls, Idaho 83401
Telephone 525-7161

WESTERN REGION OFFICE
92 South Cole Road
Boise, Idaho 83709
Telephone 334-2190

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

138607

HULTZ FARMS INC.
RT. 5
CALDWELL, ID 83605

MARCH 31, 1982

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 63-8682 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE JUNE 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

DEPARTMENT OF WATER RESOURCES 62-11-10

The (also Dept. of Water Resources will consider this card as a statement that the permit holder(s) has c. listed development to the extent shown below of: nit No.

Name(s) of Permit Holder: H. H. Evans, Inc.

Post Office Address: Box 5, 601 S. 2nd St., Caldwell, Idaho 83605 Tel. No. _____

Source of Water: Well (number of households)

Extent of Use: ☐ Domestic (number and type of stock)
☐ Stockwater
☒ Irrigation 200 (acres)
☐ Other

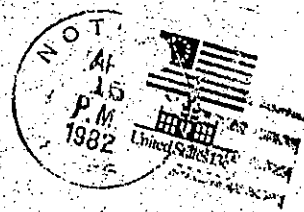
Measuring Device: Required? ☐ Yes ☒ No Installed? ☒ Yes ☒ No
Access Port: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No

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

Date _____

L. B. L. A. C.
Signature of Permit Holder

S. Hult
Admitted to Bureau
Caldwell Idaho



RECEIVED



APR 16 1982
IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720
Department of Water Resources



State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-2190

December 7, 1982

Holtz Farms, Inc.
Route #5 P.O. Box 97
Coldwell, Idaho 83605

Re: 63-8682

Dear Mr. Holtz:

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.

☐ 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,

Judy Pense

Judy Pense
Secretary



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUHN
Director

63-8682
HULTZ FARMS INC.
RT. 5 BOX 57
CALDWELL, ID 83605

Mailing address:
Storehouse
Boise, Idaho 83720

138821

April 30, 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

L. GLEN SAXTON
Chief, Operations Bureau

Enclosures



State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

63-8682
BULTZ FARMS INC.
P.O. BOX 57
COLUMBIA, IDAHO

Mailing address:
Storehouse
Boise, Idaho 83720
(208) 334-2190

September 4, 1986

EXAMINATION FEE REMINDER

Dear Permit Holder:

Earlier this year you were mailed a certified letter by our state office, which described a new law related to your water right permit. The water right permit to which this law applies is identified by the number at the top of the mailing label above. The purpose of this letter is to act as a reminder of the new law and to warn you that your permit is now losing priority daily.

As described in the certified letter, House Bill 671 enacted by the 1986 Idaho Legislature requires payment of a fee before this Department can conduct the field examination needed to issue a license confirming use of water under the permit. 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. The certified letter described the procedure for selecting the latter alternative, whereby you initially notify us regarding which water right examiner you have selected, and provide a statement from the examiner as verification.

The date of priority of your water right permit is now being delayed one day for each day the response is late. Also, if the fee or completed field examination report are not submitted within a year from the sixty-first day after the certified letter was mailed, the permit may be lapsed and rendered invalid. The fee, or notice that a private field examination will be conducted, should be submitted as soon as possible if you wish to maintain your permit in a valid status.

Enclosed please find an Examination Fee Information Sheet, with the License Examination Fee Schedule printed on the back. This sheet should be submitted if either the fee payment option or the private examination option is selected. If you have questions or desire assistance in this matter, please feel free to contact this office.

Sincerely,

David R. Tuthill Jr.
David R. Tuthill, Jr. P.E.
Manager, Western Regional Office

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

63-8682
HULTZ FARMS INC.
RT. 5 BOX 57
CALDWELL, ID 83605

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

April 30, 1987

Dear Permit Holder:

LAPSE NOTICE License Examination Fee

You are hereby notified that under the provisions of Section 42-217 and 42-218a, Idaho Code, the above referenced permit will lapse and be of no further force nor effect on June 30, 1987, for failure of the permit holder to submit either the license examination fee or an acceptable field examination report prepared by or under the supervision of a certified water right examiner.

Provisions of § 42-217, Idaho Code, and the Beneficial Use Examination Rules and Regulations provide that failure of the permit holder to submit either the fee or an acceptable field examination report within one (1) year and sixty (60) days after notification by the director that the submittal is due is cause for the director to reject the proof of beneficial use and lapse the permit. The Department notified you of the required submittal on April 30, 1986.

The lapsed permit can be reinstated upon a showing of reasonable cause for late submittal of proof of beneficial use, if you submit to the Department on or before August 28, 1987, either the license examination fee or an acceptable field examination report prepared by or under the supervision of a certified water right examiner.

Enclosed is a fee information sheet that must be completed and submitted to the Department to keep the permit in good standing. If you have questions, please contact any office of the Department.

Sincerely,

L. Glen Saxton
L. GLEN SAXTON, Chief
Operations Bureau

Enclosure

I certify that file No. 63-8682 has been
reviewed and is ready to be MICROFILMED
and DESTROYED.

Rita Fleck
Signature

4-11-1988
Date

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water
days after the completion or abandonment of the well.

RECEIVED

copy within 1301977

15-67

[illegible]

USE ADDITIONAL SHEETS IF NECESSARY

FORWARD THE WHITE COPY TO THE DEPARTMENT

6063

EXHIBIT