

TO: Allen

DATE: May 7, 1998

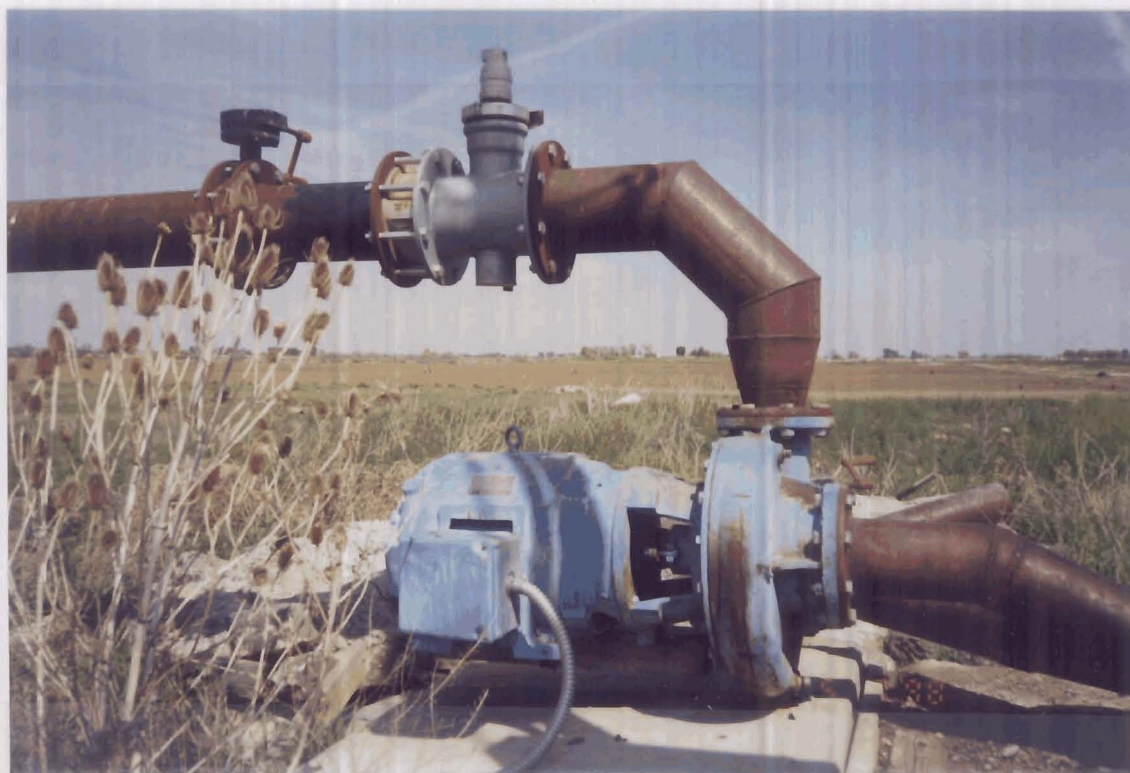
FROM: Jim Stanton

SUBJECT: Possible Illegal Use of Decree 36-04117

Per your request, I have investigated the present use of this right. I obtained a 1987 aerial photo (the latest available) from the Gooding FSA office. I then went to the Box Canyon Dairy, where I met with Tom Heida to discuss this situation. I have worked with him in the past on various water-rights matters, and he was open and cooperative on this matter. He and Franz Aardema have leased this property for some time, but apparently on bought it about a year ago. Tom said that the irrigation well is still used as it was when they bought the place. Although the well was decreed as a supplemental source to canal shares, Tom said that the shares are no longer used in conjunction with the well. The well now supplements wastewater from the large dairy that is just south of the irrigated ground. And the place of use is now a small pivot and a few corner handlines, covering about 70 acres, and is considerably different than what was licensed. I told Tom that he would have to apply for a transfer to show the present place of use, and he told me that his attorney (Mike Felton Jr.) was working on transferring additional water to this ground. I plan to correspond with Felton on this matter so that the necessary paperwork gets filed. A transfer should have obviously been filed when the pivot was installed, but was not. This appears to be another case of a decree being issued that does not reflect the actual use of the water. Although this right was based on beneficial use, the well was never measured; its theoretical capacity is 1.38 cfs, much more than the 0.02 cfs/acre that could be decreed. Based on what Tom said, the well is not used much, but he wants to be properly covered should he need it. But he has a huge dairy in Sec. 25, so having enough wastewater will probably not be a problem.



Well Pump



Booster Pump. A/U in Background

36-04/17
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Dairy Lagoon + Pump South of Pivot (Looking SE)



Former P/U North of Well (Looking North)

96-04117
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