

Jan 22 11 08:55p

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MAR 11 2005

p.1

Department of Water Resources

01/03

Before the Idaho Water Resource Board

APPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK

Applicant The Turf Co. Phone 888 3760
 Address 6100 S. Eagle Rd.
 City Meridian State Idaho Zip Code 83642

A. DESCRIPTION OF WATER SOUGHT TO RENT

1. Source of water Ground water Right from Idaho State Bank
tributary to _____
2. Maximum volume of water according to law. AF.
3. Maximum rate of diversion 80 miners Inches cfs.
4 days @ 24 hrs/day

B. DESCRIPTION OF USE PROPOSED

1. Nature of intended use Water shall be used seedling turf grass
2. Location of point of diversion 1/4 1/4, Section see legal.
Township _____, Range _____, B.M. _____ County _____
3. Season of use: From March 11, 2005 to March 15, 2005
4. Description of diverting works:
Pump HP 30 hp. Lift 60' Pump type Turbine
Canal name, if appropriate None
5. Place of use:
a. If water is for irrigation, describe the number of acres to be irrigated by
40-acre tract, section, township and range.
See Attached lease

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b. If water is not for irrigation, describe the nature of the intended use and the place of use.

Irrigation

6. Describe any other water rights used for the same purposes as rental water sought under this application.

The land has surface water rights under Nampa Meridian Irrigation Dist

7. Who owns the property at the point of diversion?

I. M. Kleiner

8. Who owns the property at the place of use?

9. Are you seeking a rental for more than one (1) year? No (yes or no)
If yes, for how many years? _____

10. Remarks: _____

March 11, 2005
Date

Darwin McKay
Signature of Applicant

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Time _____

Published in _____ Pub. dates _____

Protests filed by _____

Hearing held by _____

Action recommended _____

09/15/2000 17:00 4254541119

WALTER H KLEINER

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0001/003

09/15/2000 FRI 20:01 FAX 208 375 6518 PRUDENTIAL ID PROPERTIES

Department of Water Resources

**Kleiner Brothers - The Turf Co.
Farm Lease Agreement**

This agreement is entered into this 1st day of October, 2000 by and between Walter H. Kleiner and Eugene M. Kleiner, dba KLEINER BROTHERS, hereafter referred to as Lessor, and The Turf Co., hereafter referred to as Lessee.

In consideration of the mutual covenants contained herein, the parties agree to the following terms, which shall control this lease:

1. **PERMISES SUBJECT OF LEASE.** The real property subject of this lease is the total farm land located in Ada County, State of Idaho, contained in the following parcels all within T3N, R1E BM.

SW1/4 of Section 4
W1/2, SW1/4, SE1/4 of Section 4
→ B1/2, SE1/4 of Section 5

excluding roadways. The remaining net farm acres leased constitute approximately 250 acres, including two houses

2. **LEASE TERM.** The term of this lease for the subject premises shall be for a period of five(5) years, commencing October 1, 2000, and ending September 30, 2005.
3. **ANNUAL RENT.** Lessee shall pay Lessor rent of \$43,500.00 per year, payable January 1, 2001, then \$55,000.00 payable January 1, 2002; \$78,000.00 payable January 1, 2003, 2004, and 2005.
4. **LEASE RENEWAL.** Lessor gives Lessee the option to renew this lease for an additional five(5) years, subject to rental adjustment accepted in writing by both parties.
5. **OPERATION, REPAIRS AND MAINTENANCE.** Lessee shall be responsible for the operation, repair, and maintenance of the property (including existing irrigation systems) and shall bear the entire cost thereof, during the term of this lease. All improvements made to the property during this lease shall become and remain a part of the leased premises, Lessee having no ownership or other interest in the premises or improvements except as a lessee.
6. **TAXES AND ASSESSMENTS.** Lessor shall pay all real property taxes and assessments concerning the leased premises, which shall by reference include regular assessments of the Nampa and Meridian Irrigation Districts.
7. **WATER AND IRRIGATION COSTS.** Lessee shall pay for all electric power costs for irrigation, if any. Lessee shall pay for all excess irrigation water, if any.

10/01/2000 Lease Agreement

WVK
WVK

EMK

The Turf Co.

09/16/2000 17:00

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WALTER H KLEINER

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8. **CROP PRODUCTION AND MARKETING COSTS.** All crop production and marketing costs, unless otherwise specifically referred to in this agreement, shall be the sole responsibility of Lessee.
9. **USE.** The leased premises shall be used and occupied by Lessee exclusively for agricultural purposes, and neither the premises nor any part thereof shall be used during the term of this lease by Lessee for the purpose of carrying on any other business, profession, or trade of any kind, or for any other purpose. Lessee shall comply with all laws, ordinances, rules and orders of appropriate governmental authorities affecting the use and occupancy of the premises.
10. **SPECIAL DUTIES OF LESSEE.** It is understood and agreed that the Lessee will keep all ditches, fences, and roads sprayed and clean of weeds and debris.
11. **ASSIGNMENT AND SUBLETTING.** Lessee shall not assign this lease, or sublet or grant any concession or license to use the premises or any part thereof, without the prior written consent of lessor.
12. **LIENS.** This lease and Lessee's leasehold interest hereunder are and shall be subject, subordinate, and inferior to any liens or encumbrances now or hereafter placed on the demised premises by Lessor, all advances made under such liens or encumbrances, and the interest payable on any such liens or encumbrances. Lessee shall not cause any liens to attach to the land or buildings and, if such do attach and are attributable to Lessee, Lessee shall immediately pay and satisfy the same. Lessor shall be fully indemnified if it suffers damages as a result of any such liens.
13. **SURRENDER OF PREMISES.** At the expiration of the lease term, Lessee shall quit and surrender the premises hereby demised in as good state and condition as they were at the commencement of this lease, or as improved, reasonable use and wear thereof and damages by the elements excepted.
14. **SUBSEQUENT SALE OR LEASE.** It is understood and agreed that Lessor may, during the term of this lease, sell, convey, transfer or lease (for non- agricultural purposes) all or a portion of the subject premises and the Lessee shall be entitled to be reimbursed only for the actual cash value of any crop planted or growing on such portion of the premises so removed from the terms of this lease, and only for the crop year of such removal.
15. **CANCELLATION OF LEASE.** In the event of early cancellation by either party, this lease will terminate 1(one) year after date of notice with rent to be prorated.
16. If any default is made in the payment of rent at the time hereinbefore specified, or if any default is made in the performance of or compliance with any other term or condition hereof, the lease, at the option of the Lessor, shall terminate and be forfeited, and the Lessor may re-enter the premises and remove all persons therefrom. Lessee shall be given thirty days notice of any default or

10/01/2000 Lease Agreement

WHLK
WHK

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The Turf Co

7 0 212168099 No. 6809319472 P (FRI) MAR 11 2005 12:16/ST 12:14/No. 6809319472 P

FROM

09/16/2000 17:00 4254541119
 09/13/2000 FRI 20:02 FAX 208 375 8518 PRUDENTIAL ID PROPERTIES

WALTER H KLEINER

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16 Cont.

breach, and termination and forfeiture of the lease shall not result if, within thirty days of mailing such notice by certified mail, Lessee has corrected the default or breach or has taken action reasonably likely to effect such correction within a reasonable time.

17. **INDEMNITY.** Lessee agrees to indemnify and hold Lessor harmless from any and all claims or causes of action arising from Lessee's use or occupancy of the premises, and shall carry sufficient insurance and not less than \$5 million liability with Lessor as named insured. Lessee to protect Lessor from loss arising from any such claims or losses. Lessee shall provide Lessor proof of insurance coverage, and Lessor shall be notified of any termination or modification of such coverage.

18. **NOTICE.** For all purposes of this agreement, written notice shall be mailed by certified mail to the respective parties at the addresses indicated below, or to such address as may be subsequently provided by either party:

Lessor: E.M. Kleiner
 1408 Eighth Ave. W.
 Seattle, WA 98119

W. H. Kleiner
 1725 89th Pl. N.E.
 Bellevue, WA 98004

Lessee: The Turf Co.
 6100 S. Eagle Rd.
 Meridian, ID 83642

Kleiner Brothers
 Attn: Elden Gray
 8665 Emerald
 Boise, ID 83704

19. **LITIGATION.** In the event either party refers this agreement to an attorney, or commences legal action to enforce any rights arising from this agreement, the prevailing party shall be entitled to recover all its attorneys' fees and costs so incurred.

20. **BINDING EFFECT.** This agreement shall be binding on the heirs, beneficiaries, representatives, and assigns of the respective parties and represents the full agreement of the parties

Dated: the first day of October, 2000

LESSOR: Walter H. Kleiner &
 Eugene M. Kleiner
 (dba Kleiner Brothers)

LESSEE: The Turf Co.
 6100 S. Eagle Rd.
 Meridian, ID. 83642

By: Walter H. Kleiner
 Walter H. Kleiner

By: L. Darwin McKay, President

By: Eugene M. Kleiner

Patricia E. McKay, Sec. Treasurer

09/15/2000 17:00 4254541119
 09/13/2000 FRI 20:02 FAX 208 375 0518 PRUDENTIAL ID PROPERTIES

WALTER H KLEINER

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16 Cont.

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By: Walter H. Kleiner
 Walter H. Kleiner

By: L. Darwin McKay
 L. Darwin McKay, President

By: Eugene M. Kleiner

Patricia E. McKay, Sec. Treasurer

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July 13, 1988

Meridian, Idaho
JMK FARMS

Ref: Irrigation well located SE $\frac{1}{4}$; SW $\frac{1}{4}$ (approximately 40' West and 80' North of quarter corner), Sec 4, T3N, R1E., B.M., Ada County, Idaho.

Drilling information:

Hole 28" diameter, 143' feet
80' screen 60' casing
18 yds gravel - well packing
20 HP G.E. Motor, 3-Phase, #5K364XA120A
1 Stage Bowl Pump

See attached Invoices:

Pete Cope Drilling	\$ 8,344.00
Meridian Electric	443.72
Layne of Idaho Inc.	4,029.00
Hopper Electric (repair 50 HP)	390.22
Concrete Base, paid by tenant	n/c
Idaho Department of Water Resources	
(permit) paid by Meridian	
account, JMK Farms	n/c
Trade in 50 H.P. Motor	900.00
	\$14,106.94

WHK owes	\$ 6,798.58
EMK owes	6,858.36
	<u>597.82</u>
difference	\$ ~~5,978.00~~

WHK paid repair on 50 H.P. trade in motor.
EMK paid one-half of trade in value.

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RECEIPT
For Monies Paid
to the
Idaho Department of Water Resource

Receipt No: C003075

Date: 10/27/88
Time: 13:10:03

Received
From: KLEINER BROTHERS

Type of Payment
PROOF OF BENEFICIAL USE

Program A cct
0620122 1238 6490
Amount
\$125.00

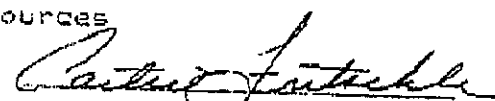
Total
\$125.00

CHECK 1726

Idaho Department of Water Resources

Region: State

Signature:



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Form 202
6/88Ident No. 63-10412

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

APPROVED

1. Name of applicant Kleiner Bros. Phone 375-3750
Post office address 326 N. Orchard, Boise, Idaho 83706
2. Source of water supply ground water which is a tributary of _____
3. Location of point of diversion is _____ 1/4 of SE 1/4 of SW 1/4, Govt Lot _____
Sec 4 Township 3N Range 1E B M. Ada County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 2.0 (cfs or acre-feet per annum) for irrigation purposes from 3-15 to 11-15 (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated is (a) 2.0 and/or (b) _____
cubic feet per second acre-feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates etc. well, pump, gravity ditches

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive
c. Proposed well diameter is 16 inches; proposed depth of well is _____ feet
d. Is ground water with a temperature of greater than 90°F being sought? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is:
5 years (minimum 1 year)

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- e. Other; describe fully.

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

Total number of acres to be irrigated, 129

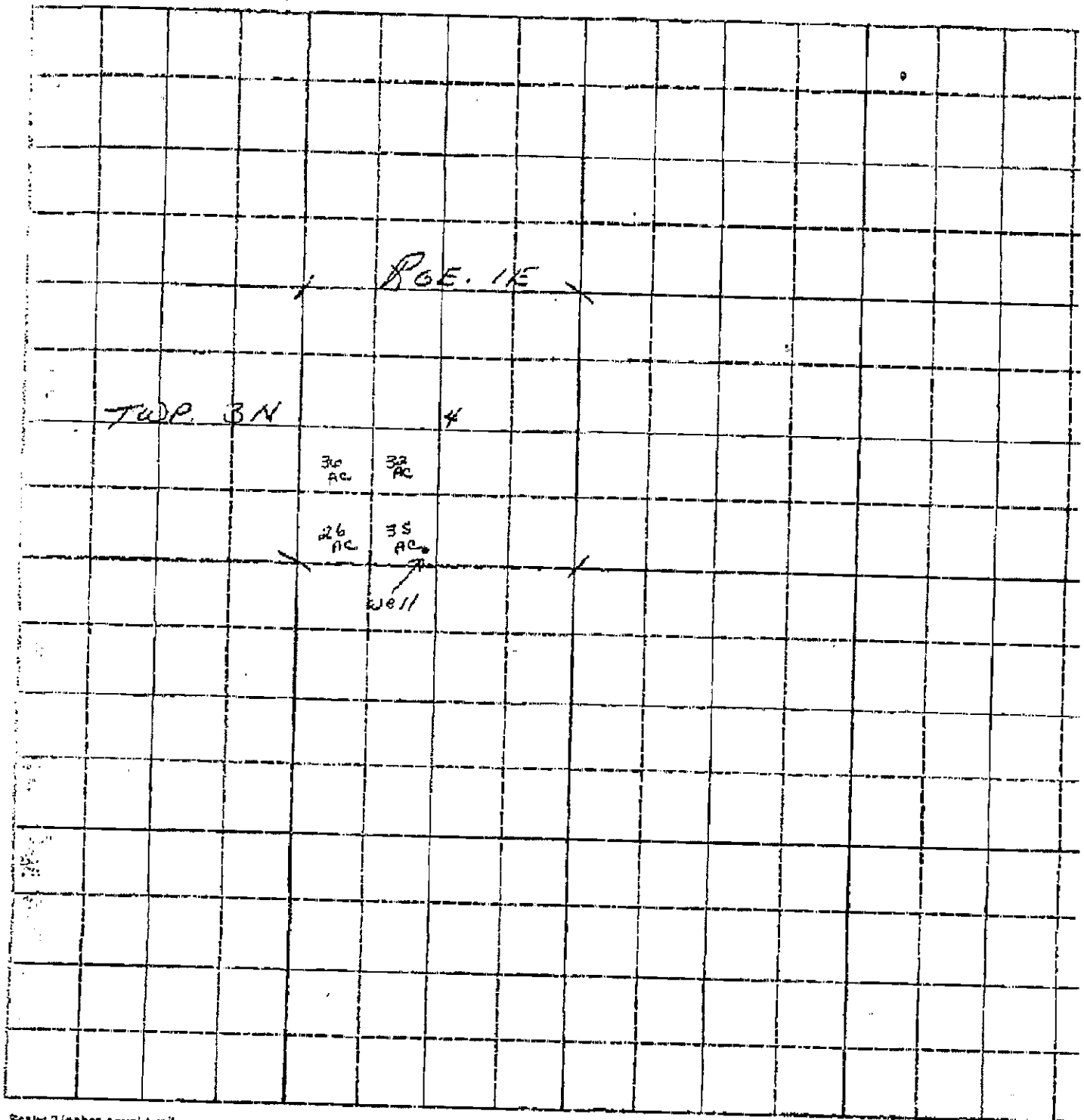
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing _____

12. Remarks:

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13. 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.

Klein Bros.
By Elmer E. Gray
 (Applicant)

Mar 11 05 12:31p

Received by [Signature] Date 4/15/88 Time 11:30 Preliminary check by [Signature] P-4
 Fee \$ 65.00 Receipted by [Signature] # 42326 Date 4/15/87
 Publication prepared by JLA Date 4-29-1987 Published in The Idaho Statesman
5-7 & 8, 14/1987
 Publication approved [Signature] Date 6-8-87 Revised Draft 5/7/87

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. 63-10412, 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 October 1, 19 88.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other: If construction of the well under this permit was not initiated prior to July 1, 1987, commencement of well construction or diversion of water under this permit is prohibited unless a drilling permit is obtained from the Department.

Prior to the diversion of water under this permit a flow measurement port or other device as specified by the Department shall be installed to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.

Witness my hand this 14th day of September, 1987.

[Signature]
 Chief, Operations Bureau