

March 16, 2004

To: Mr. W. Roger Warner
Water Rights Supervisor – Eastern Region
Department of Water Resources
900 N. Skyline Dr.
Suite A
Idaho Falls, ID 83402-1718

From: Thomas M. Walsh
Hansen Guest Ranch
956 Rainey Creek Road
P.O. Box 112
Swan Valley, ID 83449-0112

Re: Lapsed Permit No. 23-2080

Dear Mr. Warner:

This letter and the enclosed documents and affidavits are being submitted to establish the extent of beneficial use by the original owner, Archie McKay, for the irrigation well located on this property.

In your letter, you indicate that Mr. McKay received an approved permit on February 23, 1967, and the date to prove beneficial use was set at February 23, 1972.

Further, your letter indicates that Mr. McKay did not provide your department proof of beneficial use until May 17, 1977, and then, on June 3, 1977, your department responded to Mr. McKay that the proof of beneficial use deadline had long since passed. The permit, therefore, had lapsed, and there was no means by which he could reinstate the permit.

Until your letter dated March 1, 2004, no ensuing owner of this property ever had knowledge that the permit for the irrigation well had lapsed, and all of the subsequent owners have used the irrigation well to supplement flood irrigation on this ranch.

Granted, the date on which Mr. McKay submitted proof of beneficial use was far beyond the allowable original date; however, the quality of the proof that Mr. McKay submitted never has been denied or rejected.

The enclosed affidavits and the letter and supporting papers from Lower Valley Energy provide documentation as to proof of beneficial use, and coupled with the original proof of beneficial use submitted by Mr. McKay on May 17, 1977, there should be sufficient evidence to satisfy your statutes governing this situation.

As you mentioned during an earlier phone conversation, it was not the documentation submitted by Mr. McKay that was questioned, but the date on which he submitted proof of beneficial use. Therefore, I also am asking that Mr. McKay's proof of beneficial use be added to the file as evidence.

Finally, upon showing that beneficial use occurred during the authorized period (3 affidavits), and that sufficient evidence has been provided to document proof of use (affidavits and documents from Lower Valley Energy), I am asking that the permit for this irrigation well be reinstated with the priority date of May 17, 1977 because that was the date Mr. McKay originally submitted his proof of beneficial use.

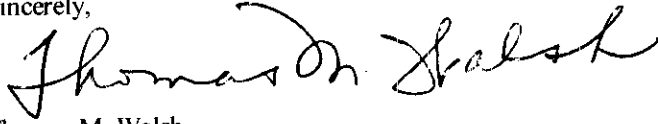
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FEB 25 2005
DEPARTMENT OF
WATER RESOURCES

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MAR 17 2004
Department of Water Resources
Eastern Region

Granted, I am not the original permit holder, Mr. and Mrs. Archie (Geneva) McKay have passed; however, irrigation on this property with this well providing supplemental water has been going on for some 37 years, and it also weighs significantly as the sole means of fire suppression on this property and the surrounding acreage.

If you have any questions, please contact me at your earliest convenience at 208-483-2305.

Sincerely,

A handwritten signature in black ink, reading "Thomas M. Walsh". The signature is written in a cursive, flowing style with a large initial 'T' and 'W'.

Thomas M. Walsh
Owner
Hansen Guest Ranch
956 Rainey Creek Road
P.O. Box 112
Swan Valley, ID 83449-0112

Mar 8, 2004

To whom it may concern,

Archie Mc Kay pumped water from 1967 to 1972
from a irrigation pump located here in Swan Valley
now owned by Tom Walsh.

Sincerely

Donell Weeks

Box 98

Swan Valley

Idaho 83449

Phone no

208-483-3344

P.S. I had lived only $\frac{1}{2}$ mile from this farm
all my life and I am 68 years old.

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MAR 17 2004

Department of Water Resources
Eastern Region

I Darrel Ricks The Nephew of the
Late Archie Geneva McKay.

I was raised on the ~~Arch~~ Ranch at
956 Rainey Creek Rd. And I know
first hand that the Irrigation Well
That Archie had dug was use for
Irrigating this property between
February 1967 - February 1972 -
If you have any more questions.
Call at 208-483-2973.

3-10-04

Darrel Ricks

PO Box 94 Sunn Valley Idaho
83449.

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MAR 17 2004

Department of Water Resources
Eastern Region

To whom it may concern
Directed to IDWR:

I was talking to Tom Walsh , he stated that he was looking for some one who has been around here from 1967 to 1972 and knew Archie McKay .

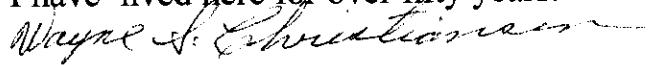
He also wanted to know when he installed his irrigation well, and pump. I told him I did. He put it in , in 1967 and it is still there at this time. I know he still used it up until the time he sold his Ranch.

Everyone up here gave him a bad time about putting a well in, because they told him the only reason he put a well in was so he wouldn't have to fight over water with Tom Weeks. He said he put it in because it was about the only way he could irrigate the one hay field and pasture land.

If I can be of any more help please let me know. Thank you

My phone number is(208)483-4935

I have lived here for over fifty years.



Wayne S. Christiansen
3471 Swan Valley HWY
Irwin, Idaho 83428

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MAR 17 2004

Department of Water Resources
Eastern Region

March 8, 2004

Mr. Chad Jensen
Vice President
Lower Valley Energy

Fax: 307-885-5787

Dear Mr. Jensen:

Thank you for returning my call earlier this morning.

As I mentioned, the Idaho Department of Water Resources has shut down my irrigation well here on the ranch located at 956 Rainey Creek Road in Swan Valley, Idaho.

They claim that back in February of 1967, Archie and Geneva McKay did not file a proof of beneficial use prior to their imposed deadline for the use of the irrigation well for which they had been issued a permit.

If I am going to be able to reinstate the permit for use of this irrigation well, IDWR now wants affidavits from people who resided here in the valley at that time and proof of utility bills from LVE that indeed Archie was using that irrigation well for supplemental water.

The period in question is from February 23, 1967 to February 23, 1972. At that time, the property probably was listed in the names of Archie and Geneva McKay, and even though it now is called Hansen Guest Ranch, it still is the same real property.

I would appreciate any assistance that you can offer in documenting proof for IDWR, and I sincerely apologize for any inconvenience that this request may cause you or your staff.

Thank you, and if I can provide you with any additional information, please contact me at your earliest convenience.



Tom Walsh
Owner
Hansen Guest Ranch
956 Rainey Creek Road
Swan Valley, ID 83449
208-483-2305
twalsh@silverstar.com

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MAR 17 2004

Department of Water Resources
Eastern Region



236 N. Washington • P.O. Box 188 • Afton, WY 83110 • 307-885-3175 • Fax: 307-885-5787

March 3, 2004

Tom Walsh
Owner
Hansen Guest Ranch
956 Rainey Creek Road
Swan Valley, ID 83449

Dear Tom:

This letter serves as a written confirmation of our phone conversation earlier today. As a general rule, Lower Valley Energy does not keep billing records for accounts as old as those you requested which were between the dates of February 23, 1967 to February 23, 1972.

However in researching Archie and Geneva McKay's file, we did disclose three new service applications that the McKay's executed for electric service for irrigation service around the dates in question. Copies of these three applications are included for your information and records.

I apologize that we could not provide you with actual billing records but these three documents should assist you in providing proof that there were indeed irrigation pumps installed and in place during the time periods from 1967 through 1972.

If I can be of any other assistance or should you have additional questions, please do not hesitate to give me a call at 307-885-3175.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chad Jensen', is written over a horizontal line.

Chad Jensen
Vice President

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MAR 17 2004

Department of Water Resources
Eastern Region

POWER

APPLICATION FOR NEW SERVICE

Nº 1018

SECTION A

APPLICANT Archie McKay Date 5-26-67
 Mail Address Trwin, Idaho Date service desired by 7-15 or sooner
 Location Swan Valley Tax District _____

MEMBERSHIP STATUS:

☒ Applicant is now a member, Certificate No. 585
☐ Applicant is now applying for membership.

DESIRES SERVICE FOR THE FOLLOWING AS CHECKED:

Residence, _____ Summer home, _____ Commercial, _____ Large Power, ☒ Irrigation,
 Street Light, _____ Flood Light, _____ Space Heating, Other _____

MAJOR APPLIANCES AND EQUIPMENT TO BE SERVED AS CHECKED:

Range, _____ Water Heater, _____ Dryer, _____ Space Heating
 Watts 25 Watts _____ Watts _____ Watts _____
 Motors 3 HP, Other _____
 Applicant's total connected load: _____ Total Watts _____

Application prepared by Boyle

SECTION B

REQUIRED TO SERVE APPLICANT:

Service drop, _____ ft. Transformer, _____ Kva
 Primary line, _____ phase, _____ ft. R/W from _____
 Other Rephasing 3 structures
 Recommended by _____

SECTION C

DETERMINATION OF MINIMUM BILL:

Trans. cap. chg.: First 3 Kva \$3.25, plus _____ Kva @ 75¢ _____ \$
 Primary line charge: 5788 ft. @ 39¢ per ft. times 12 % 270.00
 Other Requirements: 30 HP @ 29¢/HP 270.00
 Minimum Bill: \$ 270.00 (per month) (per year) on construction

SECTION D

PRE-CONSTRUCTION REQUIREMENTS

Required	Work Order No. Assigned <u>P-604</u>	Checked by
☒ Agreement For Electric Service		
☐ Right-of-Way Easement <u>Not Req.</u>		
☒ Stake Line <u>6.6.6.7</u>		<u>Boyle</u>
☒ Staking Sheets		<u>Boyle</u>
Transformer Change Order, No. _____		
Meter Order, No. _____		
Wiring Inspection, Certificate No. _____		
New Service Connection Order, No. _____		

SECTION E

APPROVED FOR CONSTRUCTION:

Date 7/9/67 By _____ For Board of Directors
 Date _____ By _____ Manager
 CONSTRUCTION COMPLETED: 8-3-67 By Boyle
 Date _____ Line Superintendent

APPLICATION FOR NEW SERVICE N^o 064 A

SECTION A

APPLICANT

Archie McKay

Date

6/8/72

Date service desired

6/29/72

Mail Address

Sweet Valley, Idaho

Location

Sweet Valley

Tax District

MEMBERSHIP STATUS:

☒ Applicant is now a member, Certificate No. 585

☐ Applicant is now applying for membership

DESIRES SERVICES FOR THE FOLLOWING AS CHECKED:

☐ Residence, ☐ Summer home, ☐ Commercial, ☐ Large Power, ☒ Irrigation,

☐ Street Light, ☐ Flood Light, ☐ Space Heating, Other

DETERMINATION OF CONSUMER'S LOAD:

☐ All electric home with ☐ KW heat and

☐ Other residential with

Motors

30 ~~25~~ Hp.3 ~~4~~

Total connected load

Application prepared by

W.A.

SECTION B

REQUIRED TO SERVE APPLICANT:

Service drop, ☐ ft. #2 ~~10~~ Transformer, ☐ Kva

Primary line, ☐ phase, ☐ ft. R/W from ☐

Other

Recommended by

R.M.T.

SECTION C

DETERMINATION OF MINIMUM BILL:

Estimated cost of secondary service (overhead/underground) \$ 300

Estimated cost of primary overhead \$ 1780

Estimated cost of primary underground \$

Other *Horsepower minimum applies (30 HP.)* \$

Total cost \$ 2080 X % = annual minimum \$ 275.00

SECTION D

PRE-CONSTRUCTION REQUIREMENTS:

Required

Work Order No. Assigned

A-176

Checked by

Agreement For Electric Service

RMT

Right-of-Way Easement

RMT

Stake Line

RMT

Staking Sheets

RMT

Transformer Change Order, No.

Meter Order, No.

Wiring Inspection, Certificate No.

New Service Connection Order, No.

SECTION E

RECOMMENDED FOR CONSTRUCTION:

By

Date

District Manager

APPROVED FOR CONSTRUCTION:

By

Date

General Manager

By

Date

For Board of Directors

CONSTRUCTION COMPLETED:

By

Date

Line Superintendent

APPLICATION FOR NEW SERVICE N^o 064 A

SECTION A

APPLICANT Archie McKay Date 6/8/72
 Mail Address Swan Valley, Idaho Date service desired 6/29/72
 Location Swan Valley Tax District _____

MEMBERSHIP STATUS:

☒ Applicant is now a member, Certificate No. 585
☐ Applicant is now applying for membership

DESIRES SERVICES FOR THE FOLLOWING AS CHECKED:

Residence, _____ Summer home, _____ Commercial, _____ Large Power, ☒ Irrigation,
 Street Light, _____ Flood Light, _____ Space Heating, Other _____

DETERMINATION OF CONSUMER'S LOAD:

All electric home with _____ KW heat and _____
 Other residential with _____
 Motors 30 ~~25~~ Hp. 3 Ø
 Total connected load _____
 Application prepared by WJA

SECTION B

REQUIRED TO SERVE APPLICANT:

Service drop, X 60 ft. #2 Tri Transformer, 3Ø 3x10 Kva
 Primary line, 3 phase, 1221 ft. R/W from Archie McKay
 Other _____
 Recommended by RMT

SECTION C

DETERMINATION OF MINIMUM BILL:

Estimated cost of secondary service (overhead/underground) \$ 300
 Estimated cost of primary overhead \$ 1780
 Estimated cost of primary underground \$ _____
 Other .. Horsepower minimum applies (30 HP.) \$ _____
 Total cost \$ 2080 X _____ % = annual minimum \$ 275.00

SECTION D

PRE-CONSTRUCTION REQUIREMENTS:

Required	Work Order No. Assigned <u>A-176</u>	Checked by
_____ Agreement For Electric Service	_____	<u>RMT</u>
_____ Right-of-Way Easement	_____	<u>RMT</u>
_____ Stake Line	_____	<u>RMT</u>
_____ Staking Sheets	_____	<u>RMT</u>
_____ Transformer Change Order, No. _____	_____	_____
_____ Meter Order, No. _____	_____	_____
_____ Wiring Inspection, Certificate No. _____	_____	_____
_____ New Service Connection Order, No. _____	_____	_____

SECTION E

RECOMMENDED FOR CONSTRUCTION: _____ By _____
 Date _____ District Manager
 APPROVED FOR CONSTRUCTION: _____ By _____
 Date _____ General Manager
 _____ By _____
 Date _____ For Board of Directors
 CONSTRUCTION COMPLETED: _____ By _____
 Date _____ Line Superintendent

AGREEMENT FOR ELECTRIC SERVICE TO IRRIGATION ³ PUMP

AGREEMENT made June 12,, 1973, between Lower Valley Power and Light, Inc., (hereinafter called the "Seller") and Archie McKay (hereinafter called the "Consumer").

WITNESSETH:

The Seller agrees to sell and to deliver to the Consumer and the Consumer agrees to purchase and receive from the Seller all of the electric power and energy sufficient to operate a 30 horsepower irrigation pump motor located at Swan Valley, Idaho upon the following terms:

1. SERVICE CHARACTERISTICS

- a. Service hereunder shall be alternating current, Three phase, sixty cycles, 240 volts.
b. The Consumer agrees not to use the electric power and energy furnished hereunder as an auxiliary or supplement to any other source of power and that electric power and energy purchased hereunder will not be resold.

2. PAYMENT

- a. The Consumer shall pay the Seller for service hereunder at the rates and upon the terms and conditions set forth in Schedule 1-6 or subsequent revision thereof as approved by the State Public Service Commission. Notwithstanding any provision in the Schedule, however, and irrespective of the Consumer's requirements, the total billing to the Consumer for each calendar year shall not be less than \$ \$270.00 per year based upon horsepower. In no case, however, shall the minimum bill per month be less than that specified in the applicable rate schedule.
b. The initial monthly billing period shall start when Consumer begins using electric power and energy, or at the time of commencement of the irrigation season next following the date Seller first makes service available to Consumer hereunder, whichever shall occur first; provided, however, that if said initial monthly billing period starts after the commencement of the normal irrigation season the foregoing yearly minimum charge shall be prorated on the basis of the ratio that the number of months service is available or furnished hereunder during the initial normal irrigation season bears to the number of months in said irrigation season.
c. Bills for service hereunder shall be paid at the office of the Seller in Afton or Jackson, State of Wyoming, monthly within fifteen (15) days after the bill is mailed to the Consumer. If the Consumer shall fail to pay any such bill within such fifteen (15) day period, the Seller may discontinue service hereunder, by giving fifteen days' notice in writing to the Consumer.
d. It is further understood that if the Consumer fails to pay his electric bills each month as rendered by the Seller and ceases to take electric service, the total remaining balance of this agreement shall then become due and payable on the sixteenth (16th) day of the month following failure to submit payment.

3. RIGHT OF ACCESS

Duly authorized representatives of Seller shall be permitted to enter Consumer's premises at all reasonable times in order to carry out the provisions hereof.

4. CONTINUITY OF SERVICE

The Seller shall use reasonable diligence to provide a constant and uninterrupted supply of electric power and energy; but if such supply shall fail or be interrupted, or become defective through act of God, or the public enemy, or by accident, strikes, labor troubles, or by action of the elements, or inability to secure rights-of-way, or other permits needed, or for any other cause beyond the reasonable control of the Seller, the Seller shall not be liable therefor.

5. MEMBERSHIP

The Consumer shall become a member of the Seller, shall pay the membership fee and be bound by the provisions of the Articles of Incorporation and By-Laws of the Seller and by such Rules and Regulations as may from time to time be adopted by the Seller.

6. TERM

This agreement shall become effective on the date first above written and shall remain in effect until 10 years following the start of the initial billing period and thereafter until terminated by either party giving to the other 2 months notice in writing.

7. SUCCESSION

This agreement shall be binding upon and inure to the benefit of the successors, legal representatives and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized representatives all of the day and year first above written.

LOWER VALLEY POWER AND LIGHT, INC.
Seller

Archie McKay
Consumer

By

By ☒ X

Title

Title

Attest:

Attest: