

PROOF OF PUBLICATION

STATE OF IDAHO }
County of Owyhee } S.S.

I, RODNEY A. HAWES, being first duly sworn, on oath says that he is the Publisher of the OWYHEE NUGGET, a newspaper of general circulation, published weekly by Rodney A. Hawes, publisher and printer thereof, at Marsing, County of Owyhee, State of Idaho;

That the annexed notice was published in said newspaper once each week and every week for 2 consecutive weeks, the first publication being on the 26 day of Sept, 1968, and the last publication being on the 3 day of Oct, 1968;

That the said newspaper has been published continuously and uninterruptedly in said county during a period of more than seventy-eight consecutive weeks prior to the first publication of the attached notice.

Rodney A. Hawes
PUBLISHER

Subscribed and sworn to before me this 4 day of Oct, 1968.

Leona S. Hawes
NOTARY PUBLIC

My commission expires 9-10-72

(SEAL)

RECEIVED

OCT 7 1968

Department of Reclamation

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Richard V. Keim, Route No. 3, Nampa, Idaho has on September 3, 1968, applied for permit under application No. 57-7022 to divert 3.2 cubic feet per second of water from a subterranean source. Water will be diverted by a well, pump, motor, and sprinkler system within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M., Owyhee County, and is to be used from April 1 to October 31 for irrigation in the N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M.

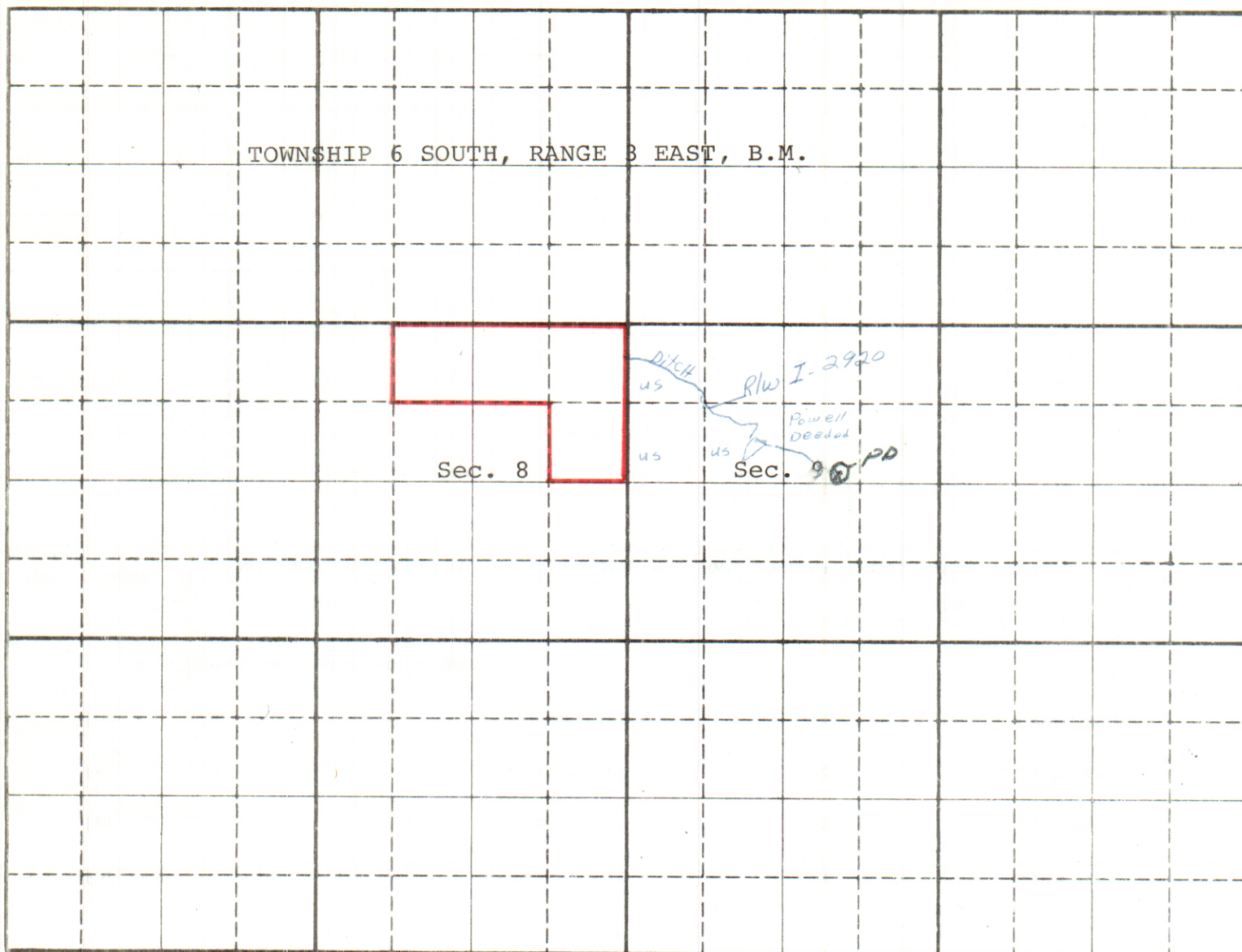
Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON,
State Reclamation Engineer
Published in the Owyhee Nugget, Marsing, Idaho, on September 26, 1968, and October 3, 1968.

57 7022

hired sub 10-7-68

Complete the following map by showing land and point of diversion as proposed by this amendment. Show 40 acre subdivisions, sections, 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 Boise, this 1st day of February, 19 72.

Francis J. Ponce
(signature)

ACTION OF STATE RECLAMATION ENGINEER

Dept. of Water Admin.

I, R. KEITH HIGGINSON, Director, ~~State Reclamation Engineer~~ of the State of Idaho,

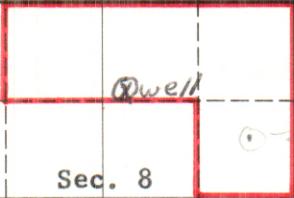
hereby approve the above application for amendment for Permit No. 57-7022.

Witness my hand this 4 day of February, 19 72.

R. Keith Higgins
Director ~~State Reclamation Engineer~~

11. Map of proposed project:

TOWNSHIP 6 SOUTH - RANGE 3 EAST, B.M.



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.

RICHARD V. KEIM

BY: Harley M. McDaniel
(Applicant)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
FEB 13 1991

Department of Water Resources

A. GENERAL INFORMATION

1. Owner: LAYNE ASTLE or CARLEEN ASTLE

Permit No. 57-07162

Phone No. 834-2720

Current Address: HC 85 BOX 341 B

2. Accompanied by: LAYNE ASTLE

EXAM. DATE: 8 Nov 90

Address: _____

Phone No. _____

Relationship to Permit Holder: _____

3. Source: GROUNDWATER

tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: 57-07162, 57-07490, 02-07279

☒ Copies Attached

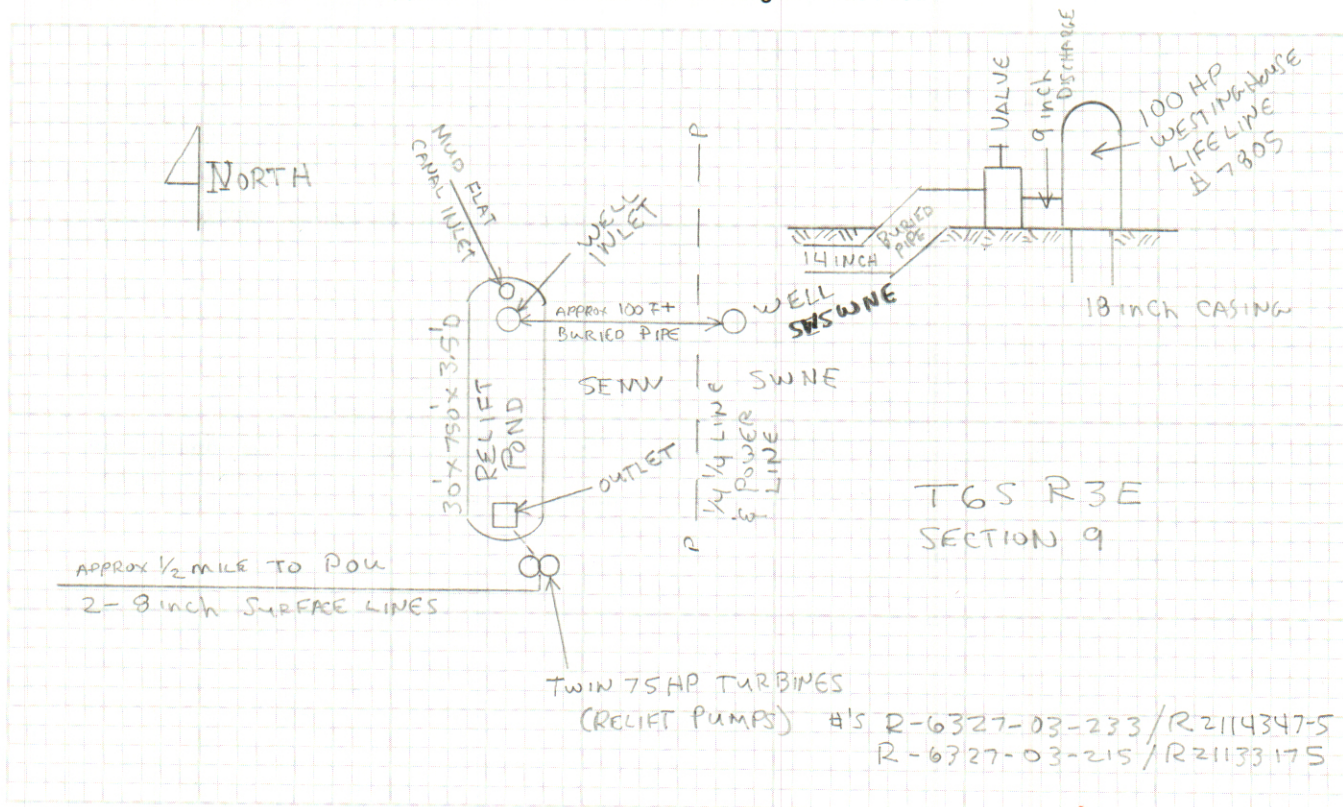
2. Other water rights with same point of diversion: - NONE -

☐ Copies Attached

☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = _____

2. ☒ Copy of U.S.G.S. Quadrangle Attached
Showing location(s) of point(s) of diversion and
place(s) of use (required).

☒ Photo of Diversion and System Attached

(required for all but single household domestic groundwater, and stockwater.

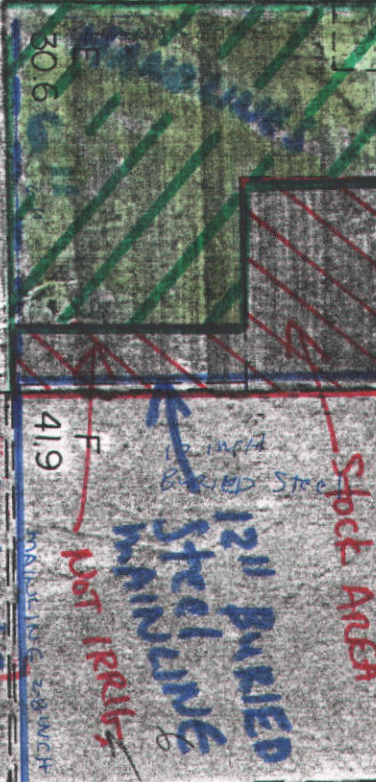
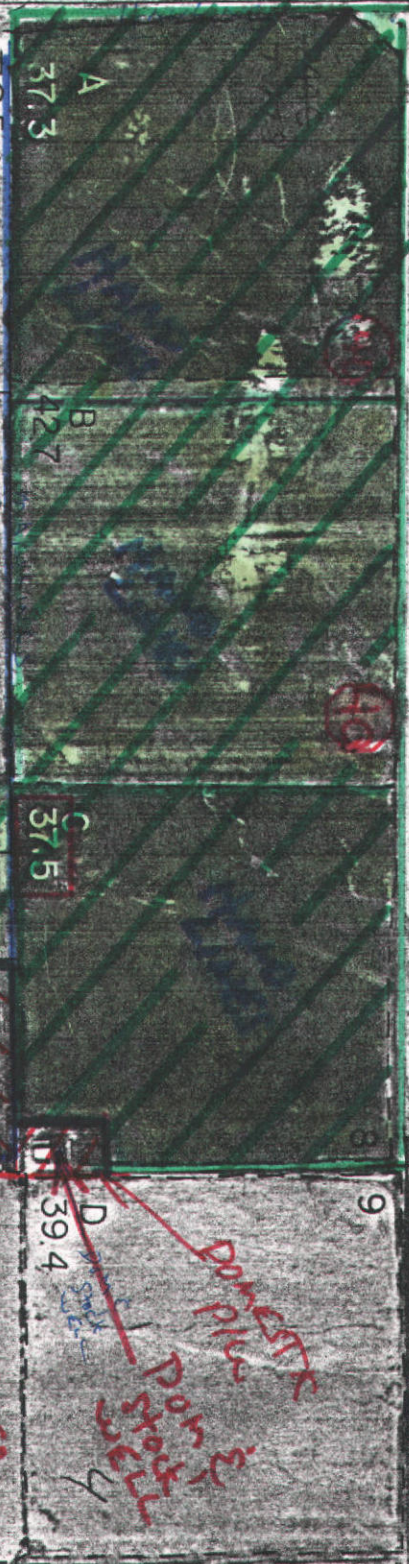
☒ Aerial Photo Attached

(required for irrigation of 10 acres or more).

MICROFILMED
MAY 08 1991

NE NW 40 Ac
NW NE 40 Ac
NE NE 37.5 Ac

615
718 796 CRP
1987-A 77
T 760 1986



T65 R3E SECTION 8
P/L = NE NE 37.5 Ac
NW NE 40.0 Ac
SE NE 29.0
NE NW 40.0
TOTAL ACRES 146.5

CRP
2
B CRP 1987-1996
98.3
86-95
11.2

PERMIT # 57-0722

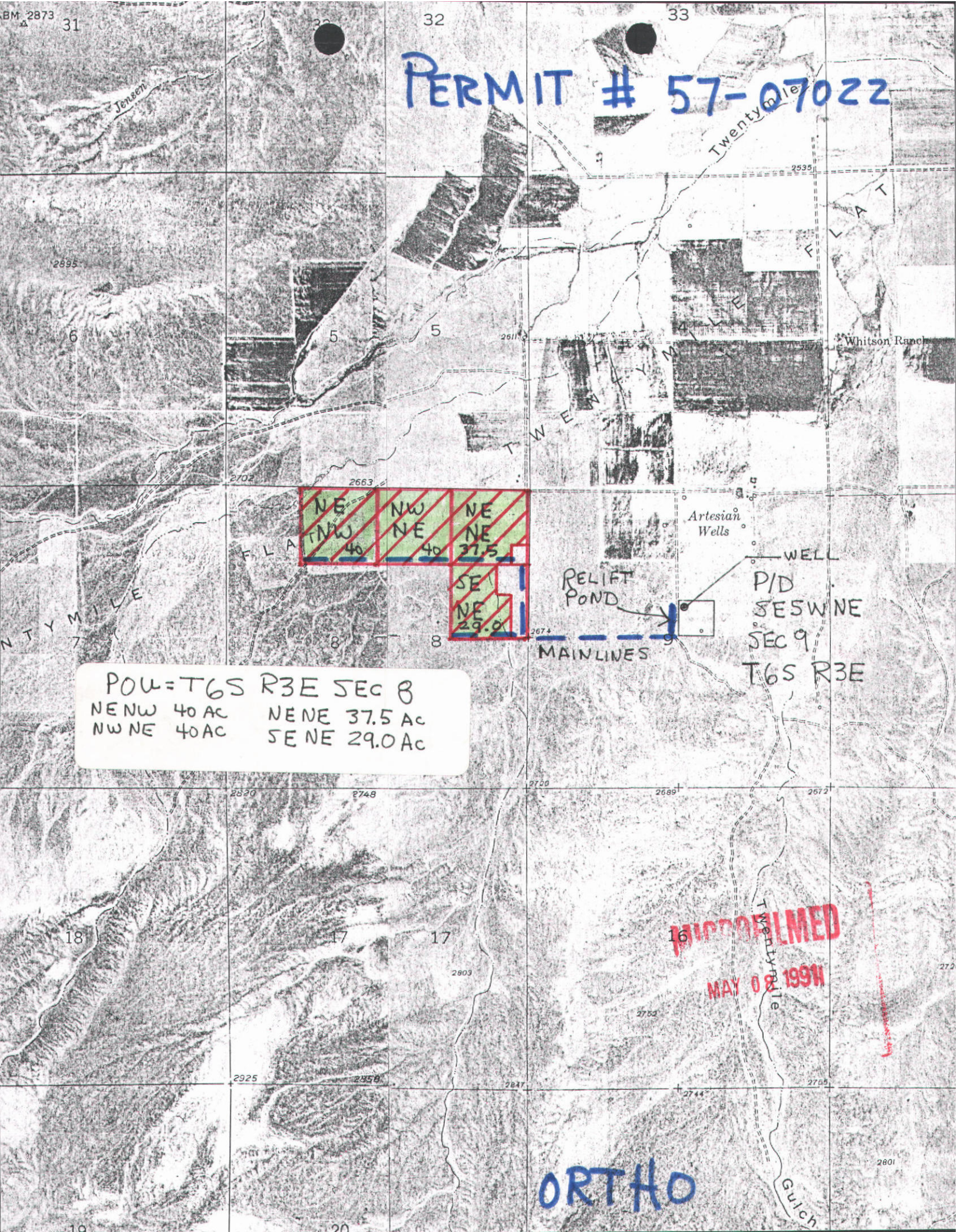
CRP
3
29.0 Ac
SE NE
86-95
28.5

CRP
4
86-95
28.5

ASCS PHOTO

4B CRP 1987-1996
CRP 1987-1996
5

MAINTAINED
8 inch
MAY 08 1991



PERMIT # 57-07022

POU=T6S R3E SEC 8
NENW 40 AC NENE 37.5 AC
NWNE 40 AC SENE 29.0 AC

RELIFT POND
MAINLINES
Artesian Wells
WELL P/D
SESW NE
SEC 9
T6S R3E

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MAY 08 1991

ORTHO

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P O I N T O F D I V E R S I O N



I N L E T O F R E L I F T P O N D



OUTLET OF RELIFT POND

57-07022



TWIN LIFT PUMPS

MAY 08 1991

FILED

POU LOOKING SOUTH

57-07022



POU LOOKING SOUTH EAST



MAY 08 1991



STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

September 13, 1968

Re: Application No. 51-7029 - Mildred H. Russell
Application No. 57-7022 - Richard V. Keim

Owyhee Nugget
Marsing,
Idaho

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 ample 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 date. If you can not publish the notice on the proposed dates please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation, 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 same has been paid.

Signature of claimant

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:ks
Enclosure: legal notice

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Richard V. Keim, Route No. 3, Nampa, Idaho has on September 3, 1968, applied for permit under application No. 57-7022 to divert 3.2 cubic feet per second of water from a subterranean source. Water will be diverted by a well, pump, motor, and sprinkler system within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M., Owyhee County, and is to be used from April 1 to October 31 for irrigation in the N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON,
State Reclamation Engineer
Published in the Owyhee Nugget, Marsing, Idaho, on September 26, 1968, and October 3, 1968.

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Richard V. Keim, Route No. 3, Nampa, Idaho has on September 3, 1968, applied for permit under application No. 57-7022 to divert 3.2 cubic feet per second of water from a subterranean source. Water will be diverted by a well, pump, motor, and sprinkler system within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M., Owyhee County, and is to be used from April 1 to October 31 for irrigation in the N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON,
State Reclamation Engineer
Published in the Owyhee Nugget, Marsing, Idaho, on September 26, 1968, and October 3, 1968.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 57-07022

Priority: September 15, 1969

Maximum Diversion Rate: 2.34 CFS
Maximum Diversion Volume:¹ 732.5 AF

This is to certify, that CARLEEN MAY ASTLE
HC 85 BOX 341B

GRAND VIEW, ID 83624 has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated September 3, 1968; and
has submitted Proof of Beneficial Use on December 12, 1978. An examination indicates
that the works have a diversion capacity of 10.270 cfs of water from a **GROUNDWATER**
source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	2.34 CFS	732.5 AF

LOCATION OF POINT(S) OF DIVERSION: SWNE , Sec. 9, Township 06S, Range 03E
OWYHEE County

<u>PLACE OF USE: IRRIGATION</u>						
<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
06S	03E	8	NENE 37.5	NWNE 40	SENE 29	
			NENW 40			146.5
Total number of acres irrigated:						146.5

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 5.0 afa per acre for the lands above.
6. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.

RECORDED
MAY 08 1991

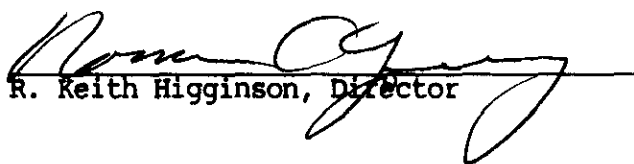
State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 57-07022

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 26th
day of April, 1991.

Acting for


R. Keith Higginson, Director

RECEIVED

MAY 08 1991

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT	}	
	}	
NO. 57-7022 IN THE NAME OF	}	ORDER OF REINSTATEMENT
	}	
CARLEEN MAY ASTLE	}	

This matter having come before the Department of Water Resources (Department) as a result of preparing Permit No. 57-7022 for issuance of a license, the Department finds, concludes and orders:

FINDINGS OF FACT

1. The Department approved Application for Permit No. 57-7022 to appropriate the public waters of the State of Idaho with a proposed priority of SEPTEMBER 14, 1968.
2. On APRIL 03, 1987 the Department advised the permit holder that a license examination fee was required before an examination could be conducted to confirm the extent of use developed under the permit. The examination fee was due on JUNE 02, 1987.
3. The license examination fee was not paid within one year of the date, and the permit lapsed for failure to pay the license examination fee.

MAY 08 1991

4. The license examination fee was received on
JUNE 03, 1988, 366 day(s) late.

CONCLUSIONS OF LAW

1. The Director may advance the priority date of the permit one day for each day the license examination fee is late, pursuant to the provisions of Section 42-217, Idaho Code.

2. The date of priority of Permit No. 57-7022 should be advanced 366 day(s).

ORDER

IT IS HEREBY ORDERED that Permit to Appropriate Water No. 57-7022 is reinstated.

IT IS FURTHER ORDERED that the date of priority of Permit No. 57-7022 is advanced to SEPTEMBER 15, 1969.

Dated this 3rd day of April, 1991.

for James Johnson
Chief Water Allocation Bureau

MAY 08 1991

INTER-DEPARTMENT MEMO —

FROM

Pete

DATE

1/22/49

TO

File 57-7022

SUBJECT

Before licensing, ~~the~~ please note that the point of diversion is owned by someone other than the permit holder.

MICROFILMED

Send copies of any correspondence to
Fred Kennedy's office,
1229 Vista Ave., Bain, ~~IA~~ ⁸⁵²⁶⁵

SIGNATURE

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 57-7022)
IN THE NAME OF CARLENE MAY ASTLE)

ORDER OF REINSTATEMENT

WHEREAS, on September 3, 1968, Richard V. Keim filed with the Department of Water Resources an application for permit to appropriate 3.20 cubic feet per second of water from a groundwater source within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, Twp. 6 S., Rge. 3 E., B.M., Owyhee County, to be used for irrigation purposes; and,

WHEREAS, on October 23, 1968, the Department approved said application and issued Permit No. 57-7022 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before October 1, 1973; and

WHEREAS, on January 19, 1972, the permit was assigned to Francis J. Powell; and,

WHEREAS, on September 27, 1973, the permit holder was granted an extension of time to October 1, 1978; and,

WHEREAS, on November 12, 1974, the permit holder assigned the permit to Carlene May Astle; and,

WHEREAS, on September 30, 1978, the permit holder was granted an extension of time to December 1, 1978; and,

WHEREAS, on September 30, 1978, the Department notified the permit holder by certified mail that proof of beneficial use was due and instructed the permit holder as to the steps to be taken to make said proof; and,

WHEREAS, on December 8, 1978, the Department notified the permit holder that Permit No. 57-7022 had lapsed for failure to submit proof of beneficial use of water; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within 60 days from the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing as to why said permit should be reinstated by submitting proof of beneficial use on December 12, 1978;

WITNESSED

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 57-7022 be REINSTATED
and the priority advanced to September 14, 1968.

Dated this 5th day of January, 1979.

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF EXTENDING THE PROOF DUE }
DATE IN CONNECTION WITH PERMIT NO. 57-7022 }
IN THE NAME OF CARLENE MAY ASTLE }

ORDER

WHEREAS, on September 3, 1968, Richard V. Keim applied to the Department of Water Resources for a permit to appropriate 3.20 cubic feet per second of water from a groundwater source within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, Twp. 6S, Rge. 3E B.M., Owyhee County, to be used for irrigation purposes; and,

WHEREAS, on October 23, 1968, the Department approved said application and issued Permit No. 57-7022 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before October 1, 1973; and,

WHEREAS, on January 19, 1972, the permit was assigned to Francis J. Powell; and,

WHEREAS, on September 27, 1973, the permit holder requested and was granted an extension of time to October 1, 1978; and,

WHEREAS, on November 12, 1974, the permit holder assigned the permit to Carlene May Astle; and,

WHEREAS, on July 31, 1978, the Department failed to send notice of proof of beneficial use to the permit holder;

IT IS, THEREFORE, HEREBY ORDERED that the time within which to submit proof of beneficial use of water under Permit No. 57-7022 be extended to December 1, 1978.

Dated this 30th day of September, 1978.

MICROFILMED

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

ASSIGNMENT OF PERMIT

Department of Water Resources

I, Francis J. Powell, hereby assign to Carleen May Astle
 of Star Route, P.O. Box 339, Grandview, Idaho,
 Address

CHECK ONE

☒ All my right, title, and interest, in and to Permit No. 57-7022
 to appropriate the public waters of the State of Idaho.

☐ The following described portion of my right, title, and interest in and
 to Permit No. _____ to appropriate the public waters of the State
 of Idaho. (Describe that portion of the permit being assigned by list-
 ing the acreage within each 40-acre subdivision, the point of diversion
 and the amount of water in cubic feet per second for direct diversion,
 or acre feet for storage.)

Made this 11th day of November, 19 74.

Francis J. Powell
 Permit Holder

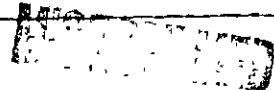
Grace Powell
 Spouse of Permit Holder

State of Idaho)
 County of Ada) ss.

On this 11th day of November, 19 74, personally
 appeared before me the signer(s) of the above instrument, who duly acknowledged
 to me that he (she) (they) executed the same.

Quinn Spangler
 Notary Public residing at
Boise, Idaho

My commission expires: life



STATE OF IDAHO
DEPARTMENT OF RECLAMATION

SEP 27 1973

APPLICATION FOR EXTENSION OF TIME

State of Idaho)
County of Ada)

Permit No. 57-7022

Francis J. Powell of Rt. B, Box 343, Grand View, ID 83624
(name) (address)

State of Idaho, being first duly sworn, upon his oath deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Waters of the State of Idaho No. 57-7022.

That under the terms and conditions of said permit, work thereunder was required to be completed by October 1, 1973.

That he has heretofore performed the following work described under said permit:

The well has been drilled.

Costing \$

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: It has caved in to 500 feet and will have to be repaired before I can equip it and put the water to beneficial use. This permit was obtained for irrigation of a desert entry, I have obtained an extension of one year on my desert entry and am requesting an additional year.

WHEREFORE, he asks that the State Reclamation Engineer extend the time for the completion of obligations under said permit to October 1, 1978.

(signature)

Subscribed and sworn to before me this 25th day of September, 1973.

(notary public)

My commission expires 8/2/74.

Date of receipt at office of Department of Reclamation

ACTION OF STATE RECLAMATION ENGINEER

I, R. KEITH HIGGINSON, State Reclamation Engineer of the State of Idaho, hereby approve the above application for extension of time for Permit No. 57-7022 to October 1, 1978.

Witness my hand this 2 day of October, 1973.

State Reclamation Engineer

* If other than the holder, Power of Attorney must be supplied.

57 7022

State of Idaho

Department of Water Administration

ASSIGNMENT OF PERMIT

I, Minnie E. Keim Odle, Executrix
Richard V. Keim Estate, hereby assign to Francis J. Powell
of Rt. B, Box 343, Grand View, ID 83624,
Address

CHECK ONE

☒ All my right, title, and interest, in and to Permit No. 57-7022
to appropriate the public waters of the State of Idaho.

☐ The following described portion of my right, title, and interest in and
to Permit No. _____ to appropriate the public waters of the State
of Idaho. (Describe that portion of the permit being assigned by list-
ing the acreage within each 40-acre subdivision, the point of diversion
and the amount of water in cubic feet per second for direct diversion,
or acre feet for storage.)

Made this 19th day of January, 19 72.

RICHARD V. KEIM ESTATE

BY: Minnie E. Keim Odle
Minnie E. Keim Odle, Executrix
Permit Holder

Laura J. Spangler
Spouse of Permit Holder

State of Idaho)
County of Ada) ss.

On this 19th day of January, 19 72, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged
to me that he (she) (they) executed the same.

Laura J. Spangler
Notary Public residing at
Boise, Idaho

My commission expires: 8/12/74

7722

RECEIVED

SEP 2 1968

STATE OF IDAHO
OFFICE OF STATE RECLAMATION ENGINEER
POWER OF ATTORNEY

Department of Reclamation

The undersigned owner (s) of ~~Permit~~ (Application) ~~No.~~ attached
of the State Reclamation Engineer of the State of Idaho hereby nominates
and appoints IDAHO LAND & APPRAISAL SERVICE, whose address is
P. O. BOX 1603, BOISE, IDAHO 83701, as attorney-in-fact, with full author-
ity to act for and on behalf of the undersigned in all matters pertaining
to Application or Permit. Such acts shall include, but not be limited
to the filing of applications, receiving of all notices, the signing and
filing of applications for extension of time and for amendment of said
Permit, ~~and the submission of proofs of completion of works and beneficial~~
~~use of water.~~

Dated this 28 day of August, 1968

Richard V. Keim
Richard V. Keim

STATE OF IDAHO)
County CANYON) ss

On this 28th day of August, 1968, personally
appeared before me the signer (s) of the above instrument, who duly
acknowledged to me that he (she) (they) executed the same.

William L. Seal
Notary Public

My Commission expires:

7/14/70

PROOF OF PUBLICATION

STATE OF IDAHO }
County of Owyhee } s.s.

I, RODNEY A. HAWES, being first duly sworn, on oath says that he is the Publisher of the OWYHEE NUGGET, a newspaper of general circulation, published weekly by Rodney A. Hawes, publisher and printer thereof, at Marsing, County of Owyhee, State of Idaho;

That the annexed notice was published in said newspaper once each week and every week for 2 consecutive weeks, the first publication being on the 26 day of Sept, 1968, and the last publication being on the 3 day of Oct, 1968;

That the said newspaper has been published continuously and uninterruptedly in said county during a period of more than seventy-eight consecutive weeks prior to the first publication of the attached notice.

Rodney A. Hawes
PUBLISHER

Subscribed and sworn to before me this 4 day of Oct, 1968.

Leona S. Hawes
NOTARY PUBLIC

My commission expires 9-10-72

(SEAL)

Department of Reclamation

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Richard V. Keim, Route No. 3, Nampa, Idaho has on September 3, 1968, applied for permit under application No. 57-7022 to divert 3.0 cfs per second of water from a subterranean source. Water will be diverted by a well, motor, and sprinkler within the NW 1/4 NE 1/4, Sec. 6 S., R. 3 E., B. M., Owyhee County, and is to be used from April 1 to October 31 for irrigation in the N 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 NW 1/4, Sec. 8, T. 6 S., R. 3 E., B. M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON,
State Reclamation Engineer
Published in the Owyhee Nugget, Marsing, Idaho, on September 26, 1968, and October 3, 1968.

57 7022

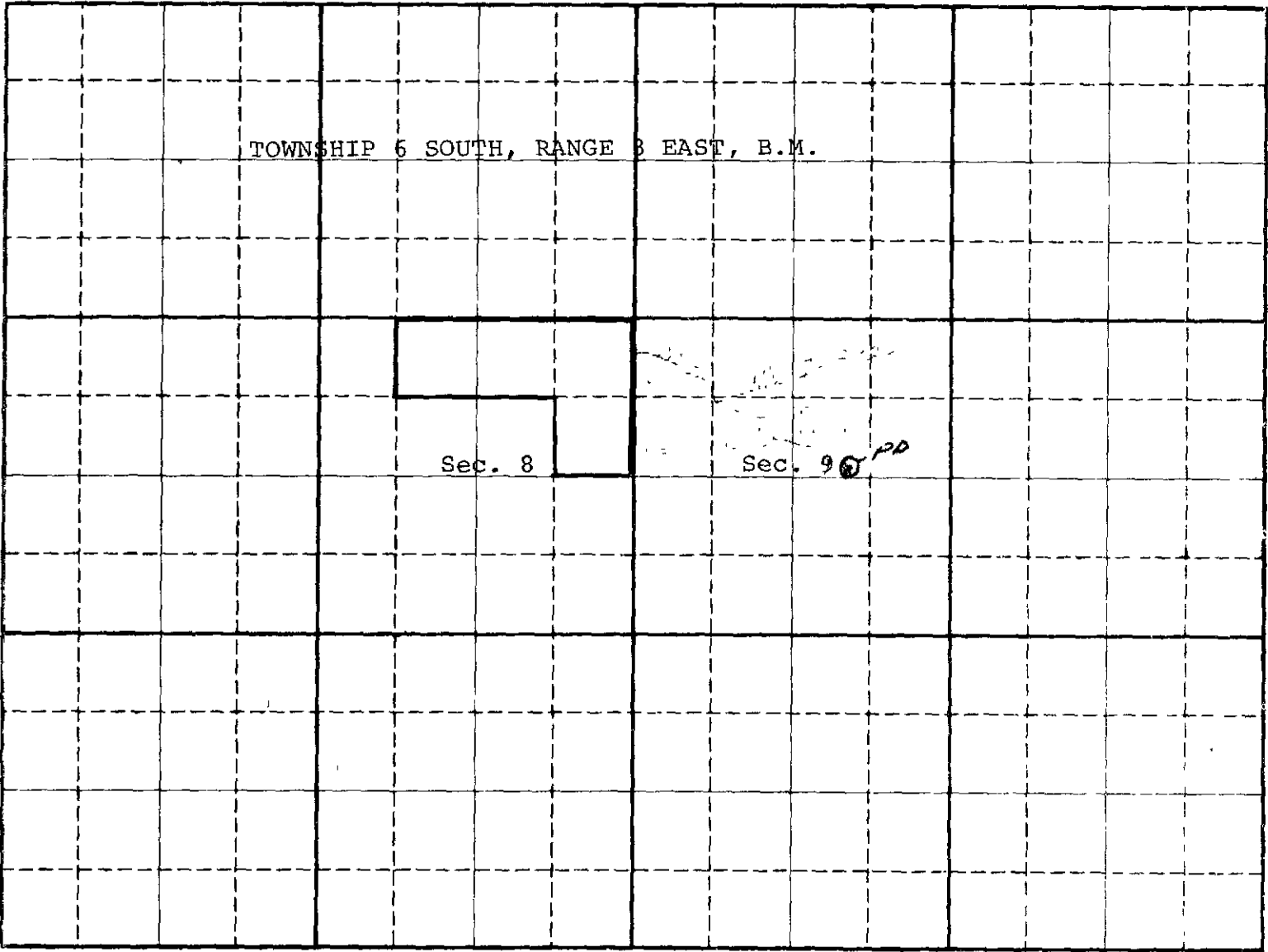
hired sub 10-7-68

Rec # 8794

Permit No. 57-7022

57 7022

Complete the following map by showing land and point of diversion as proposed by this amendment. Show 40 acre subdivisions, sections, 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 Boise, this 1st day of February, 19 72

[Signature]
(signature)

ACTION OF STATE RECLAMATION ENGINEER

Dept. of Water Admin.

I, R. KEITH HIGGINSON, Director, ~~State Reclamation Engineer~~ of the State of Idaho

hereby approve the above application for amendment for Permit No. 57-7022.

Witness my hand this 4 day of February, 19 72

[Signature]
Director ~~State Reclamation Engineer~~

No

Comes now Richard V. Keim

Route 3, Nampa, Idaho 83651

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho

1 Point of diversion SE 1/4 NE 1/4, Sec. 8, T 6 S

3 E _____, B.M. Other points of diversion _____

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

mo. - day

For _____ purposes from _____ to _____ (both dates incl.)

For _____ purposes from _____ to _____ (both dates incl)

For _____ purposes from _____ to _____ (both dates incl.)

For _____ purposes from _____ to _____ (both dates incl.)

3 Place of use or land to be irrigated.

[illegible]

Total number of acres to be irrigated

5. *Other*

[illegible]

TOWNSHIP 6 SOUTH - RANGE 3 EAST, B.M.

Sec. 8

X 2.7

Signed at Boise, this 7th day of March, 1969
RICHARD V. KEIM

BY: Harley M. McDaniel
(signature)

I, ^A R. KEITH HIGGINSON, State Reclamation Engineer of the State of Idaho,

hereby approve the above application for amendment for permit 57-7022. j

Witness my hand this 7th day of March, 1969

State Reclamation Engineer

Identification No. 57-7022
Application No. 42804

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
APPLICATION FOR PERMIT

APPROVED

ASSIGNED TO: 1/19/72
Francis J. Powell
Route B, Box 343
Grand View, Idaho 83624

To Appropriate the Public Waters of the State of Idaho

ASSIGNED TO: CARLEEN MAY ASTLE - 11/12/74
Star Rt., Box 339, Grandview, ID

1. Name of applicant Richard V. Keim
post office address Route 3, Nampa, Idaho 83651
2. Source of water supply subterranean which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 8 Township 6 S
Range 3 E B.M. Owyhee 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. Quantity to be appropriated.
a. 3.2 cubic feet per second and/or
b. _____ acre feet per annum will be stored.
5. Water will be used for the following purposes:
irrigation purpose from April 1 to October 31 (both dates inclusive)
_____ purpose from _____ to _____ (both dates inclusive)
_____ purpose from _____ to _____ (both dates inclusive)
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. well, pump, motor, sprinkler system

b. Height of storage dam _____ feet; active reservoir capacity _____ acre feet, total reservoir
capacity _____ acre feet; materials used in storage dam. _____

c. Proposed well diameter is 12 inches, proposed depth of well is 800 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 \$ 17,000.
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 _____

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

TWP.	RANGE	SEC	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6 S	3 E	8	40	40		40	40												160

Total number of acres to be irrigated 160

c. Describe any other water rights used for the same purposes none

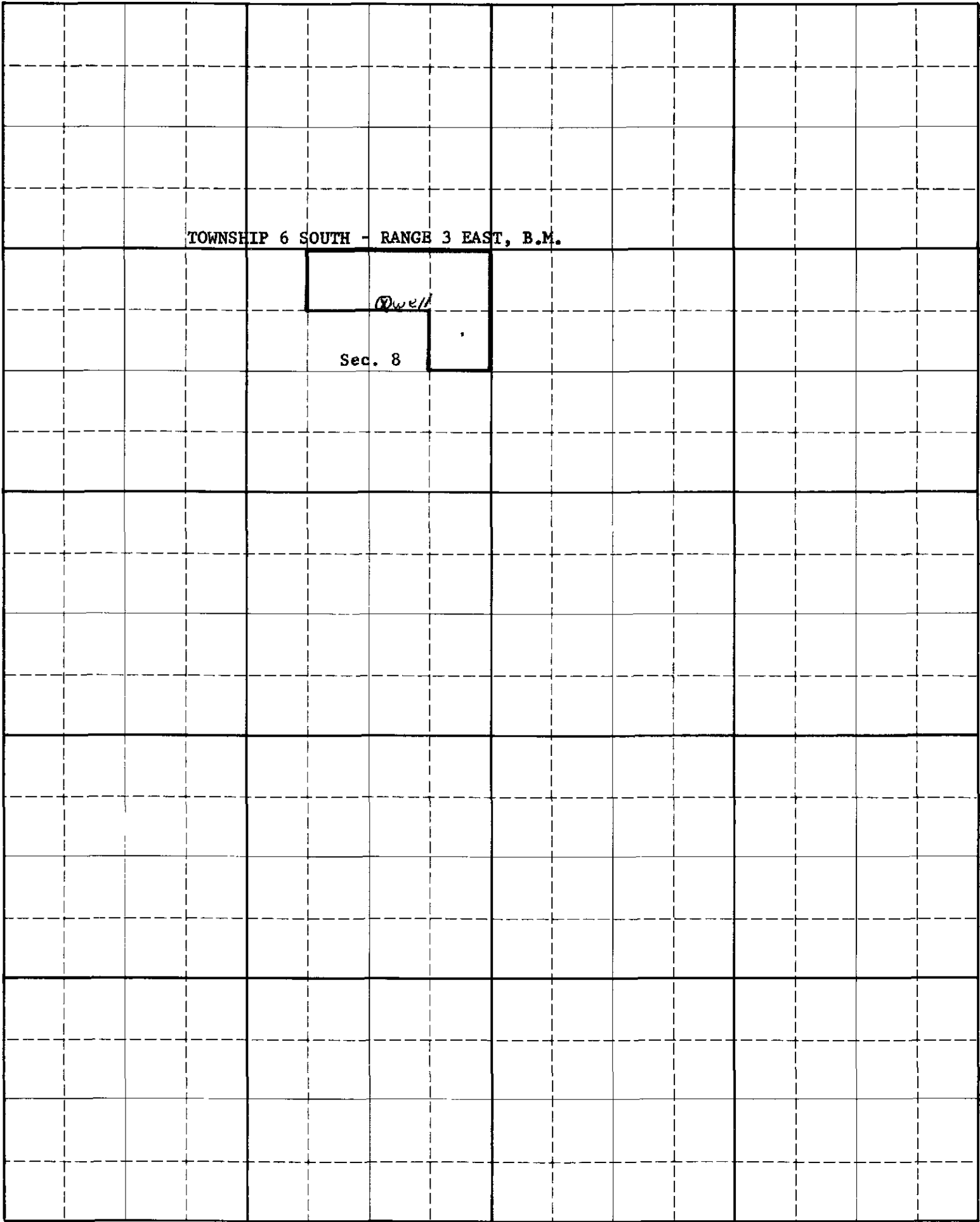
9 a. Who owns the property at the point of diversion U.S. PUBLIC LAND

b. Who owns the land to be irrigated or place of use U.S. PUBLIC LAND

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing this land under desert land application I-2134 which has been classified for approval. See attached letter from BLM.

10. Remarks

11 Map of proposed project



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.

RICHARD V. KEIM
BY: Harley M. McDowell
(Applicant)

Received by dy Date 9-3-68 Time 8:00 a.m.

Preliminary check by Deke Fee \$ 35.00 9-3-68 plus \$100 for BLA copy

Receipted by dy Date 9-4-68

Publication prepared by TS Date 9-13-68

Published in Dunsmuir Nugget

Publication dates 9-26 & 10-3-68

Publication approved TS Date T.S.

Priority reduced to _____ Reason _____

Protests filed by: none

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by SA Deke

APPROVED

ACTION OF STATE RECLAMATION ENGINEER

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 57-7022, 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 73.
- c. Other: The applicant shall permanently install a measuring device of a type approved by the department as part of the diverting works.

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

Witness my hand this 23rd day of October 19 68.

R. Keith Higgins
State Reclamation Engineer

April 29, 1991

CARLEEN MAY ASTLE
HC 85 BOX 341B
GRAND VIEW, ID 83624

RE: WATER RIGHT NO. 57-07022

Dear Water Right Holder(s):

Enclosed herewith is a copy of the Water Right License issued on the above referenced permit.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:blm

Enclosure

RECEIVED
MAY 1 1991
MAY 1 1991

April 3, 1991

CARLEEN MAY ASTLE
HC 85 BOX 341B
GRAND VIEW, ID 83624

RE: WATER RIGHT NO. 57-07022

Dear Water Right Holder(s):

Enclosed is a draft copy of the license proposed to be issued on the above referenced water right. The draft reflects the actual use of water found by a representative of our department at the time of the field examination. Please review the draft and if you do not concur with the information or if you have any questions, let me know within 10 days.

The claim you filed on this right under the ongoing Snake River Basin Adjudication contains the same information that you listed on the original permit. Before the Department will issue a license reflecting the actual development occurring under this right, you should amend your claim to match the information on the proposed license. Enclosed for your signature is the Amended Claim form with the license information already listed.

Once I receive the signed amended claim, the water right license will be issued and your claim to this right will be included in the Director's Report summarizing the water uses in the Snake River Basin. (See the attached table for a summary of the water appropriation process.)

Sincerely,

SHARLA CURTIS
Technical Records Specialist

SC:blm

Enclosure

MAILED
MAY 08 1991

LICENSE REVIEW CHECKLIST

Permit No. 57-7022

Name/Address change? ok ✓

Priority date Advance? yes ✓ no ✓

Memo to advance ✓

Order to reinstate needed? yes ✓ no

Total cfs Limited by fee ok

Limited by capacity

Total volume Limited by flow

Chart checked for AF rate/ac ✓ ~~5.0~~ 5.0

Capacity Actual measurement checked

Theoretical checked

If greater than permit, check for other rts

Source Changed? yes no ✓

If so, is memo needed to clarify?

P/D Verify with map ✓ permit ✓

More than one per 1/4? Remember remark

Check p/d overlap

Uses Check irrigation period of use w/ chart 3/15-11/15

P/U Verify with map ✓ permit ✓

> 5 acres irrigated, run overlap

Remarks More than one p/d in 1/4

Description of non-irrig uses

Special overlap condition

Conditions -

Measuring device R01

W.Master control

Overlap R33

Water quality

Other

Dates/Misc. -

Water Dist

App Rec'd ✓

Proof Rec'd ✓

CHECK FOR ADJ. CLAIM

Needed according to proof filed

Filed - needs amended ✓

Add'l fee required

Not filed -

Not needed

MICROFILMED

Comments/Changes to Examiner's Recommendations:

MAY 08 1991

License 10-day ✓

30-day

Back of field report signed? ✓

Reviewer S. Curtis Date 2/20/91

Review time 10 min.

BENEFICIAL USE FIELD REPORT REVIEW

TO: FILE 57-7022

FROM: SHARLA CURTIS

RE: PRIORITY ADVANCE REVIEW

DATE: 25-MAR-1991

=====

This review memo is prepared to show the process for determining what elements were involved in advancement of the priority.

	<u>DATE</u>	<u>JULIAN</u>
PERMIT		
Permit priority Date:	SEPTEMBER 14 1968	257
EXAM FEE NOTICE		
Exam Fee Notice Date:	APRIL 03 1987	93
Exam Fee/Info Sheet Received Date:	JUNE 03 1988	519
Exam Fee or Info Due Date:	JUNE 02 1987	153
Days Late:		366 DAY(S)
NEW PRIORITY DATE		
Original Priority Date:	SEPTEMBER 14 1968	257
Total Days Late:		366 DAY(S)
New Priority Date:	SEPTEMBER 15 1969	258

MICROFILMED

MAY 08 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Staff Analysis Sheet
for
Beneficial Use Field Report

A. Prior to Conducting the Exam, the File Contains:

- ☒ Blank Field Report Form
- ☒ Copy of Permit
- ☒ Copies of any Amendments/Orders with Conditions of Approval
- ☒ Well Inspection Form (If Needed)
- ☒ Aerial Photo Required? ☒ yes ☐ no If yes: ☒ copy attached
- ☒ SRBA Attachment A Submitted to Adjudication Section
SRBA Claim Check Received Rdh 13 Nov 90 (initial & date)
☐ N/A ☒ Applicable, See Attachment A 57-07022
- ☒ Copy of U.S.G.S. Quad
- ☒ Check for Government Lots. If so, make a copy of government plat
- ☒ Check of P/D index Rdh 13 Nov 90 (initial & date)
Overlap ☐ yes ☒ no If yes: ☐ copy of exam(s) attached?
Type of Overlap? ☐ Add acres or uses to existing system
☐ Increase rate of flow or volume
☐ Other: _____
- ☒ Check of P/U index Rdh 13 Nov 90 (initial & date)
Overlap? ☒ yes ☐ no If yes: ☒ copy of water right(s) attached?
Type of Overlap? ☐ Increase rate of flow or volume
☐ Add P/D's
☐ Increase number of acres within tracts
☒ Other: MUD FLAT CANAL CO.
- ☒ Scheduling Letter Sent? 7/19/90 Rdh (initial & date)
- ☒ Appointment Made and Telephone Conversation Memo Attached

B. After Conducting the Exam, the File Contains:

- ☒ Fully Completed and Signed Field Report Form
- ☒ Photographs of Point of Diversion and Place of Use
- ☒ Copy of SRBA Claim Verification Sheet / ☒ Original Returned to Adjudication Section

C. Review and Processing:

Exam Completed 8 Nov 90 R. H. Hutton (signature of examiner & date)
Exam Reviewed by Senior Water Resource Agent SL 11/19/91 (initial & date)
Exam Reviewed by Manager of Regional Office DM 11/5/91 (initial & date)
Exam Sent to State Office 2-15-91 ST (initial & date)

RECEIVED
MAY 08 1991

System Description (continued)

3. Narrative: Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

WATER IS PUMPED THROUGH A 100 HP TURBINE. THE OWNER STATES THAT THE WELL HAS A 18 inch CASING. A 9 inch discharge FROM THE PUMP IS THEN PUT IN A 14 inch BURIED PIPE APPROX 100 FT TO A OPENING IN A RELIFT POND. WATER IS PUMPED OUT BY TWIN 75 HP TURBINES. IT IS PIPED APPROX 1/2 MILE VIA SURFACE LINES TO PLACE OF USE. THE WATER IS THEN TRANSFERED INTO EITHER BURIED OR SURFACE MAINLINES AND HANDLINES ARE FINALLY USED TO PUT THE WATER ON THE LAND.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	WESTINGHOUSE	100	7805	LAYNE BOWLER	9 inch DISCHARGE
	LIFELINE			3 STAGE TATE BOWLS	Pump # 79049 per
					pump test data, attached *

*Code to correspond with No. on map and aerial photo

5. Point(s) of Diversion:

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SW	SWNE		9	65	3E	OWYHEE	USGS, NAPP & ASCS MAPS
									LIC. TO 1/4 1/4 ONLY

6. Place(s) of Use:

Indicate Method of Determination

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
65	3E	8	37.5	40			29	40											146.5

* 82 1/4/91

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MAY 08 1991

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

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

2. Measurements:

Lift data was from OWNER, POND DATA TO SEE IF VOL. REQ'D.
 $30 \times 750 \times 3.5 = 1.8 \text{ Ac Ft}$ then $(2.34)(1.9835) = 4.6 \text{ AF/24 HRS}$ then
 $\frac{43560}{43560}$ NO STORAGE NEEDED

E. FLOW CALCULATIONS

☒ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes: $HP \text{ EQ} = \frac{(100 \text{ HP})(8.8)(0.7)}{(60)(0)(PSI)} = \frac{616}{60} = 10.27 \text{ cfs}$

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3); Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (8)

Panel Input HP: (8) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = (146.5 \text{ AC})(5 \text{ IRA REQ}) = 732.5 \text{ AFA}$

$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = (2.34 \text{ cfs})(213 \text{ days})(1.9835) = 988.6 \text{ AFA}$

$V = \text{Smaller of } V_{IR} \text{ and } V_{DR} = 732.5$

2. Volume Calculations for Other Uses:

MICROFILMED

MAY 08 1991

H. REMARKS AND OVERLAP REVIEW ANALYSIS

57-07162 = DOMESTIC WELL - LICENSED
57-07490 = STOCKWATER PERMIT, SAME WELL AS DOMESTIC, THIS PERMIT DOESN'T HAVE PROOF YET. IF REPLACED BY ADJ. CLAIM THIS PERMIT WILL LAPSE OR BE RELINQUISHED DEPENDING UPON WHAT THE APPLICANT DOES.
02-07279 = THIS IS A DEFUNCT MUD FLAT CANAL CO. LICENSE, NO RECORD IN AJ SHOWING THAT A CLAIM WAS FILED BY THE CANAL CO. THIS IS A SNAKE RIVER SOURCE. IT HAD BEEN CO-MINGLED IN THE SAME RELIEF POND. NO MEASUREMENT DEVICE BUT CAN BE ^{WAIVED} ~~WAIVED~~ BECAUSE OF NEW IRRIGATION REQUIREMENTS FROM A GROUNDWATER SOURCE.

I. RECOMMENDATIONS

1. Recommended Amounts

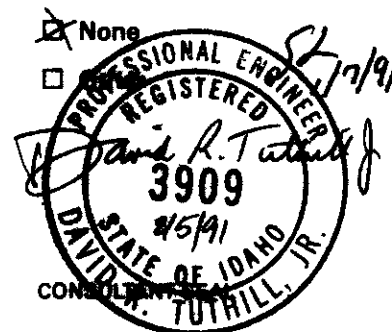
Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
IRRIGATION	04/01	10/31	2.34 cfs	732.5
Totals:			2.34 cfs	732.5 afa

2. Recommended Amendments

- ☐ Change P.D. as reflected above ☐ Add P.D. as reflected above
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above

J. AUTHENTICATION

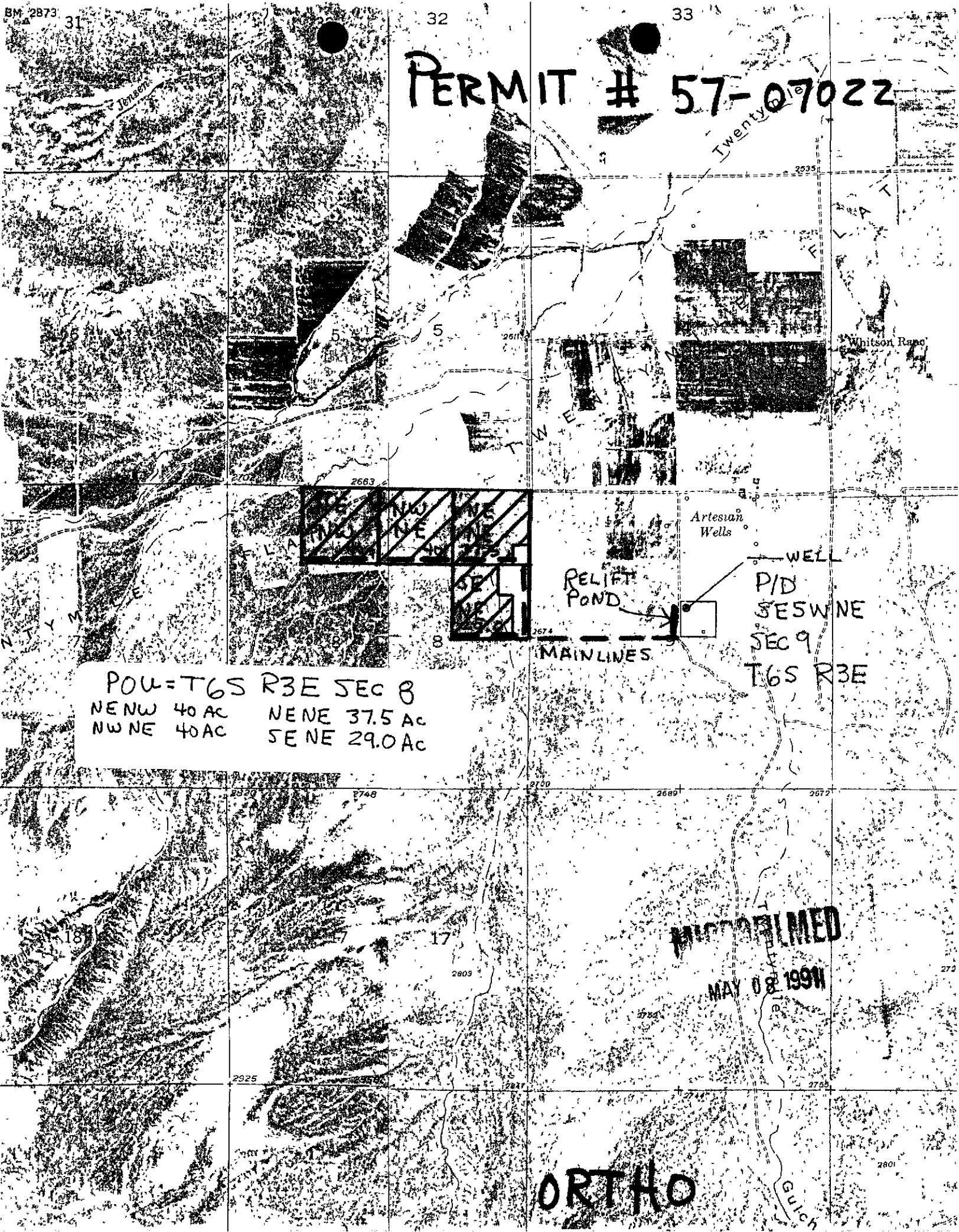
Field Examiner's Name RON HOWERTON
Signature Ron Howerton
Certification Date _____
Field Report Preparation Date 13 NOV 90



- K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

MICROFILMED
MAY 02 1994

④



PERMIT # 57-07022

POU=T6S R3E SEC 8
NENW 40 AC NENE 37.5 Ac
NWNE 40 AC SENE 29.0 Ac

RELIFT POND

MAINLINES

Artesian Wells

WELL
P/D
SESWNE
SEC 9
T6S R3E

MICROFILMED

MAY 08 1991

ORTHO

Guich

57-07022



P.O. Box 1005

Nampa, Idaho 83651

208-466-7376

24, 1990

Ron Howerton
Idaho Dept. Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705

December 20, 1990

Re: Information regarding 100 HP Pump for Layne Astel

100 HP Motor

100 HP Pump # 79049

3 Stage Tate Bowls Pump 12 HCCH

1000 GPM 222' TDH 69 BHP

1100 GPM 210' TDH 72 BHP

Pump is set at 240' deep in the well. We do not have a pump curve for this pump. If we can be of help to you in the future, Please call.

Sincerely;

Norman D. Webb
NORMAN D.(BILL) WEBB
Manager

MAY 08 1991

57-07022

MOTOR - WESTINGHOUSE LIFE LINET.

100 HP - AT 1770 RPM

SERIAL # 7805

MOTOR STYLE - 7738920G17

3 PHASE 60 HERTZ

KVA CODE F

DRIVE - 70BC03JPP3

IDAHO POWER Box 1892

277/480 VOLT

PUMP - LAYNE BOWLER (WEL LINE)

SER # T79049

3 STAGE TH BOWLS 12 HCCA

TATE BOWLS

TEST DATA FROM LAYNE BOWLER

1000 GPM 222' TDH 69 BHP

1100 GPM 210' TDH 72 BHP

IRRIG REQ = 732.5 AFA

$$\frac{1000 \text{ GPM}}{448.8} = 2.23 \text{ CFS} \times 213 \text{ DAYS} \times 1.9835 = 942.14 \text{ AFA}$$

$$\frac{1100 \text{ GPM}}{448.8} = 2.45 \text{ CFS} \times 213 \text{ DAYS} \times 1.9835 = 1035.09 \text{ AFA}$$

$$\begin{array}{l} \text{* AVERAGE} \\ \text{CFS} \end{array} \quad 2.23 + 2.45 \div 2 = \underline{\underline{2.34 \text{ CFS}}} \quad \begin{array}{l} \text{RECOMMEND} \\ \underline{\underline{\text{CFS}}} \end{array}$$

$$\text{VOL} = 2.34 \text{ CFS} \times 213 \text{ DAYS} \times 1.9835 = 988.61 \text{ AFA}$$

$$\text{SMALLER} = \text{IRRIG REQ} = 732.5 \text{ AFA}$$

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MAY 08 1991

ATTACHMENT A

SRBA CLAIM CHECK PER BENEFICIAL USE EXAM

EXAMINER RON HOWERTON DATE SUBMITTED 8 NOV 90
ADJUDICATION AGENT RON HOWERTON RESPONSE DUE DATE 8 NOV 90
COUNTY DWYHEE OWNER'S NAME LAYNE ASTLE

PERMIT DATA	T	R	S	Q/Q	T	R	S	Q/Q
P/D	<u>65</u>	<u>3E</u>	<u>9</u>	<u>SWNE</u>				
P/U	<u>65</u>	<u>3E</u>	<u>8</u>	<u>NENE NEWW</u> <u>NWNE</u> <u>SENE</u>				

ADJUDICATION DATA RELATING TO THIS PERMIT NUMBER

A. Check Permit Number for Adjudication Claim Filing

- ☐ Claim required for permit but not filed
(examiner needs to notify permit holder during exam)
☒ Claim filed for permit and copy attached *
☐ Claim filed although not required (proof filed after 11-19-87)
☐ No claim filed or required.

B. Check Adjudication Claims Relating to the Permit Holder but are Different Claims (new number - different right)

- ☒ Name index search
☐ Non-data entry claims search
☐ Claim found but large system no exam required *

Claims found requiring exam	Date field exam conducted	Exam data is in, Permit file Attached
--------------------------------	------------------------------	--

<u>A 57-7162</u>	Adj No. <u>11-8-90</u>	☐	☐ X Adj. Claim Files
<u>A 57-10837</u>	Adj No. <u>"</u>	☐	☐ X Adj Claim FILES
<u>A 57-10453</u>	Adj No. <u>"</u>	☐	☐ X Adj Claim FILES
<u>A 57-07022</u>	<u>11-8-90</u>	☒	☐ PERMIT FILE

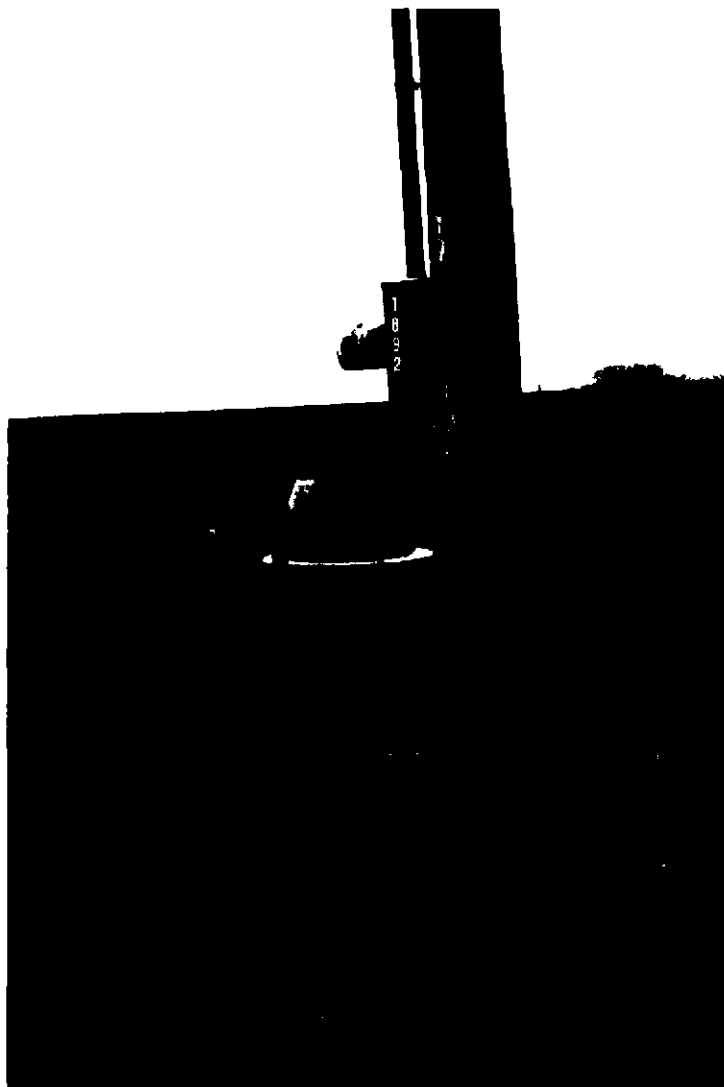
* copies included only if pertinent to permit field exam

RECORDED

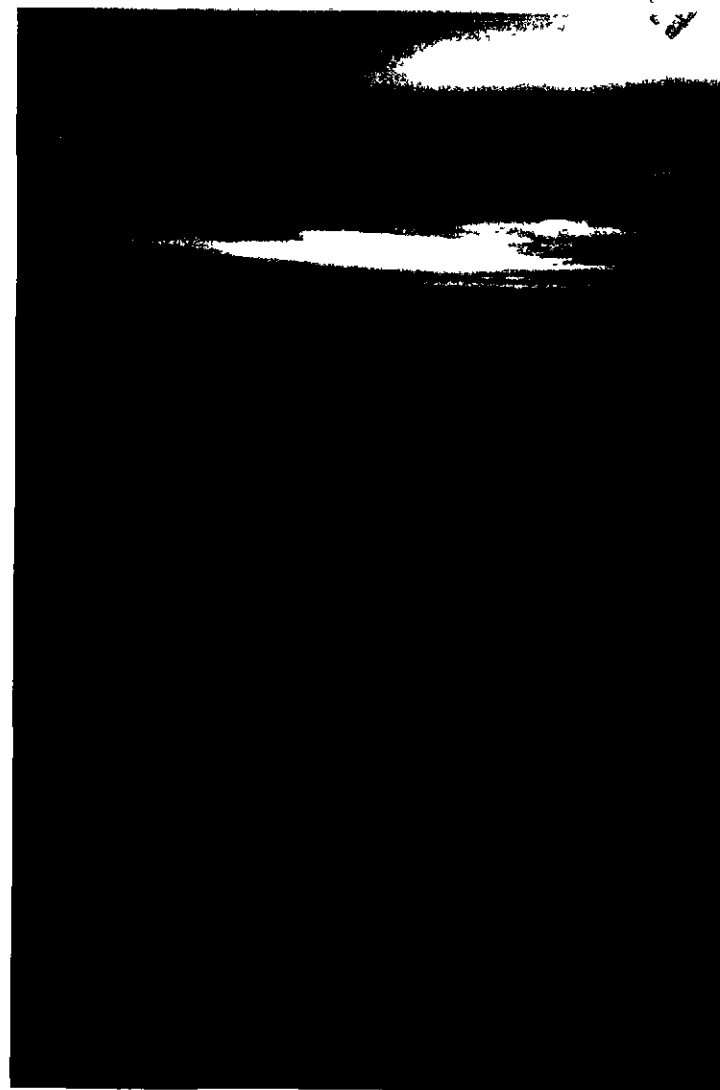
MAY 08 1991

5 7 - 0 7 0 2 2

RECEIVED
MAY 08 1991
166L 80 AM



P O I N T O F D I V E R S I O N



I N L E T O F R E L I F T P O N D



OUTLET OF RELIFT POND

57 - 07022



TWIN LIFT PUMPS

POU LOOKING SOUTH

57-07022



POU LOOKING SOUTH EAST



234 03 1097

Department of Water Resources

WELL INSPECTION FORM

If well is associated with water right, provide WR# 57-07022

Otherwise provide legal description and a sketch map and/or address so that the well can be located easily.

1. Legal Description: TWP____, Rge____, Sec.____, ____1/4____1/4
or Lot_____.

2. Owner: _____

Address_____, City_____, St_____

3. Casing $\geq$ 12 inches above ground: Yes ☒ No ☐

4. Access Port: Yes ☐ No ☒ Static Water Level: OWNER GUESSES 20 FT
Pressure Gauge: Yes ☐ No ☒ Casing Diameter: 18 inch OWNER SAYS
Flowing: Yes ☐ No ☒ Temperature: 84° GUESSES BY OWNER

5. Are there any obvious construction problems that may be a source for contamination or waste of water: Yes ☐ No ☒

If answer to Item 5 is Yes, describe in remarks and attach photo.

Remarks: _____

1991

4/86

DEPT

JUN - 3 1988

1988

KEYPUNCHED

For Office Use Only

Fee Received 7175Date 6/1/88Receipt # W000308Receipt by JPSent to S.O. 6/28/88

Department of Water Resources

STATE OF IDAHO

Water Resources

DEPARTMENT OF WATER RESOURCES

EXAMINATION FEE INFORMATION

1. Permit No. 57-7022

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

- ☒ 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: Carleen May Astle3. Post Office Address: H.C. 85 Box 34113 GrandviewIdaho 83624 Telephone No. 834-27204. Source of Water: well

5. Extent of Use:

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

Irrigation 160 (acres) Other/Remark _____6. Total rate &/or volume for which proof is submitted 3.2 cfs _____ acre-feet

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

Jan 3, 1977

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

LAYNE Astle (Name)Grandview (Address) 834-2720 (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.)

Date

6-1-88

Signature of Permit Holder (and title, if appropriate)

Carleen May Astle

State of Idaho

Department of Water Resources

LICENSE EXAMINATION FEE SCHEDULE

(c.f.s. = cubic feet per second
AF = acre feet)

cfs	AF	Fee
0 - 0.04	0 - 4	\$ 0
.05 - 0.20	5 - 20	50.00
.21 - 1.0	21 - 100	100.00
1.01 - 2.0	101 - 200	125.00
2.01 - 3.0	201 - 300	150.00
3.01 - 4.0	301 - 400	175.00
4.01 - 5.0	401 - 500	200.00
5.01 - 6.0	501 - 600	225.00
6.01 - 7.0	601 - 700	250.00
7.01 - 8.0	701 - 800	275.00
8.01 - 9.0	801 - 900	300.00
9.01 - 10.0	901 - 1000	325.00
10.01 - 11.0	1001 - 1100	350.00
11.01 - 12.0	1101 - 1200	375.00
12.01 - 13.0	1201 - 1300	400.00
13.01 - 14.0	1301 - 1400	425.00
14.01 - 15.0	1401 - 1500	450.00
15.01 - 16.0	1501 - 1600	475.00
16.01 - 17.0	1601 - 1700	500.00
17.01 - 18.0	1701 - 1800	525.00
18.01 - 19.0	1801 - 1900	550.00
19.01 - 20.0	1901 - 2000	575.00
20.01 & over	2001 & over	600.00

Checks should be made payable to the
Department of Water Resources

No fee is required for single family
domestic use or stockwater use.



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

57-7022
ASTLE, CARLEEN MAY
RT. 8 BOX 341B
GRANDVIEW, ID 83624

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

May 5, 1988

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 3, 1988, 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 3, 1987.

If the permit lapses, it 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 1, 1988, 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, Chief
Operations Bureau

Enclosure

RECORDED
MAY 08 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

57-7022
Fred KENNEDY
1224 Vista Avenue
Boise, ID 83705

May 5, 1988

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 3, 1988, 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.

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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, Chief
Operations Bureau

Enclosure

4/86

For Office Use Only
Fee Received _____
Date _____
Receipt # _____
Receipt by _____
Sent to S.O. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EXAMINATION FEE INFORMATION

1. Permit No. _____

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

☐ 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: _____

3. Post Office Address: _____

_____ Telephone No. _____

4. Source of Water: _____

5. Extent of Use:

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

Irrigation _____ (acres) Other/Remark _____

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

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

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

_____ (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.)

_____ Date

_____ Signature of Permit Holder (and title, if appropriate)

State of Idaho
Department of Water Resources

LICENSE EXAMINATION FEE SCHEDULE

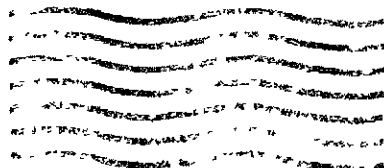
(c.f.s. = cubic feet per second
AF = acre feet)

cfs	AF	Fee
0 - 0.04	0 - 4	\$ 0
.05 - 0.20	5 - 20	50.00
.21 - 1.0	21 - 100	100.00
1.01 - 2.0	101 - 200	125.00
2.01 - 3.0	201 - 300	150.00
3.01 - 4.0	301 - 400	175.00
4.01 - 5.0	401 - 500	200.00
5.01 - 6.0	501 - 600	225.00
6.01 - 7.0	601 - 700	250.00
7.01 - 8.0	701 - 800	275.00
8.01 - 9.0	801 - 900	300.00
9.01 - 10.0	901 - 1000	325.00
10.01 - 11.0	1001 - 1100	350.00
11.01 - 12.0	1101 - 1200	375.00
12.01 - 13.0	1201 - 1300	400.00
13.01 - 14.0	1301 - 1400	425.00
14.01 - 15.0	1401 - 1500	450.00
15.01 - 16.0	1501 - 1600	475.00
16.01 - 17.0	1601 - 1700	500.00
17.01 - 18.0	1701 - 1800	525.00
18.01 - 19.0	1801 - 1900	550.00
19.01 - 20.0	1901 - 2000	575.00
20.01 & over	2001 & over	600.00

Checks should be made payable to the
Department of Water Resources

No fee is required for single family
domestic use or stockwater use.

DEPARTMENT OF WATER RESOURCES
STANLEY GULE
BOISE, IDAHO 83720



RECEIVED

MAY 16 1988

Department of Water Resources

*Under
501*

REN 24 021349W1 05/10/88

RETURN TO SENDER
NO FORWARDING OTHER UNIT OF
UNDER 10 FORWARD

MAY 08 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

57-7022
Fred Kennedy
1224 Vista Avenue
Boise, ID 83705

May 5, 1988

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 3, 1988, 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 3, 1987.

If the permit lapses, it 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 1, 1988, 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, Chief
Operations Bureau

RECORDED

Enclosure

MAY 08 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

Cecil D. Andrus
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

57-7022
ASTLE, CARLEEN MAY
RT. 2 BOX 341P
GRANDVIEW, ID 83624

138069

April 3, 1987

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.

MAY 03 1987

INTER-DEPARTMENT MEMO — 1

DATE 10/25/79

FROM

Rita

TO

Western

SUBJECT

Field Examination of Permit No. 57-7022

Please advise me of the status of this field examination.

RECEIVED

OCT 30 1979

Department of Water Resources

RECEIVED

OCT 29 1979

Department of Water Resources
Western Regional Office

It was attempted by Lee and no measurement was taken so its still pending.

RF

SIGNATURE

INTER-DEPARTMENT MEMO — 1

DATE 10/25/79

FROM Rita

TO Western

SUBJECT Field Examination of Permit No. 57-7022

Please advise me of the status of this field examination.

RF

SIGNATURE

INTER-DEPARTMENT MEMO — I

DATE July 2, 1979

FROM Rita

TO Western

SUBJECT Field Exam -- 57-7022

Please review and advise if you have a field exam for this file. If so, please have one of the examiners do it this summer. If not, please let me know and I will prepare one.

RF

SIGNATURE

FROM Glen S
TO Rita F

DATE 7-2-79

SUBJECT permit 57-7022

- This permit has been the subject of petitions to intervene, ~~etc.~~ objections, etc.
- Those matters have now been resolved.
- Please check w/ region to make sure they have an exam & ask them to do the exam this summer if possible. *FLS*
- The file can go back to vault.

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM

Phil Rossier

DATE

6-26-79

TO

Clen Saxton

SUBJECT

Castle Permit No. 57-7022

In light of the June 7, 1979 letter from attorney Bruce J. Thomas withdrawing the petition to intervene, filed February 14, 1979, and withdrawing any objection by Dr. & Mrs. Wells, ~~the Dept should now issue its order on the granting of a license. Because of the complexity of the file & memorandum decision should probably be written with mention of the petition to intervene and its subsequent withdrawal.~~ No. 57-7022 first. Then issue lic w/o writing memo decision since none is req'd.

JH 6-27-79
SIGNATURE

FRED KENNEDY
BRUCE L THOMAS
M MICHAEL SASSER

LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701

AREA CODE 208
TELEPHONE 336-3250

June 7, 1979

RECEIVED

Mr. Glen Saxton
Chief Operations Bureau
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Department of Water Resources

Re: Permit No. 57-7022 (Carleen May Astle)

Dear Glen:

This letter will confirm our telephone conversation of June 6, 1979.

As I advised you, Mr. Darrel Yost paid off the balance due on the escrow contract by which he was purchasing the real property from Dr. Ivyl W. Wells and Mrs. Dianne K. Wells. Thus, he is the record owner of the property. The well which Carleen May Astle claims a right to take water from pursuant to Permit No. 57-7022 is situated upon this real property which is now owned by Mr. Yost.

On behalf of Dr. Ivyl W. Wells and Mrs. Dianne K. Wells, I respectfully withdraw the Petition to Intervene to Protest Grant of a License to Ms. Astle, which I have previously filed with the Department. Dr. Wells and Mrs. Wells also hereby withdraw their objections to the grant of a license to Mrs. Astle, pursuant to Permit No. 57-7022.

Thank you for your cooperation in this matter. If you have any questions, please advise.

Very truly yours,

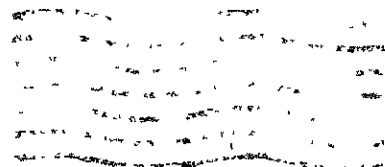
Bruce L. Thomas

Bruce L. Thomas

BLT:cj

cc: Mrs. Dianne K. Wells
Dr. Ivyl W. Wells
D. Blair Clark
Darrel Y. Yost

LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701



Mr. Glen Saxton
Chief Operations Bureau
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

4-1-79
5-1-79
RECEIVED

MAY 1979

Department of Water Resources

May 24, 1979

Mr. Bruce L. Thomas
Kennedy, Thomas & Sasser
P.O. Box 2561
Boise, Idaho 83701

Dear Bruce:

I received today my copy of your letter to Glenn Saxton dated May 23, 1979.

I have been informed by Darrel Yost and by the Astles that Mr. Yost has purchased the Wells' farm and that the matter has been compromised. The compromise involved a change in easements, a copy of which is enclosed, wherein Yost granted to Astle an easement for the well and facilities, and Astle granted to Yost an easement for a pipeline to the Mud Flat Canal.

I certainly have no objections to continuing your petition to intervene but do believe that the matter is now moot.

Yours very truly,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

by

D. Blair Clark

DBC/k

Encl.

cc: Mr. Glenn Saxton

MICROFILMED

IDENT. NO. 51-7123

WATER RIGHT
DATA ENTRY LOG

[illegible]

LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701

FRED KENNEDY
BRUCE L THOMAS
M MICHAEL SASSER

AREA CODE 208
TELEPHONE (208) 336-3250

May 29, 1979

RECEIVED

MAY 30 1979

Mr. Glenn Saxton
Department of Water Resources
Statehouse Mail
Boise, Idaho 83702

Department of Water Resources

Re: Permit No. 57-7022

Dear Glen:

I am in receipt of a letter from Blair Clark, dated May 24, 1979, a copy of which you received. In this letter, Blair states that Darrel Yost has purchased the Wells property and that, in his opinion, the matter is moot.

Please be advised that, as of this date, Mr. Yost has not paid off the balance due on an escrow contract to purchase the real property from Dr. Ivyl W. Wells and Mrs. Dianne K. Wells. Therefore, he does not hold record title to the property and so cannot grant an easement to the Astles.

I respectfully request the Department of Water Resources to continue to defer any action on the Petition to Intervene or on the decision to grant a water license to Mrs. Astle until June 6, 1979. I anticipate that, by June 6, 1979, Mr. Yost will have purchased the real property. If Mr. Yost does in fact pay off the contract balance, I anticipate that Dr. Wells and Mrs. Wells would withdraw their Petition to Intervene.

Thank you for your cooperation in this matter. If you have any questions, please advise.

Very truly yours,

Bruce L. Thomas

Bruce L. Thomas

BLT:jg
cc: Blair Clark
Dr. Ivyl Wells
Mrs. Dianne Wells

P.S. This letter was dictated before I received your letter, dated May 24, 1979. I believe that this letter responds to the questions proposed in your letter.

LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701

AREA CODE 208
TELEPHONE 336-3250

FRED KENNEDY
BRUCE L THOMAS
M MICHAEL SASSER

May 29, 1979

Mr. D. Blair Clark
Anderson, Kaufman, Anderson & Ringert
Attorneys at Law
P.O. Box 2773
Boise, Idaho 83707

Re: Wells/Astle

Dear Blair:

I am writing in response to your letter dated May 24, 1979, regarding your clients, the Astles.

As you are aware, Darrel Yost is presently purchasing on an escrow contract from the Wells certain real property. The well which the Astles claim a right to take water from is located on this property. The Astles claim this right under Permit No. 57-7022.

As of this date, Mr. Yost has not paid the Wells the balance due under the contract. Therefore, Dr. Ivy Wells and Mrs. Dianne K. Wells are still the record owners of the property. If Mr. Yost did in fact convey an easement to the Astles, he is in breach of the escrow contract.

I requested the Department of Water Resources to continue to defer any action on the Petition to Intervene or on the decision to grant a water license to Mrs. Astle until June 6, 1979 as I expected Mr. Yost to pay off the contract balance by that time. Until he does pay off the contract balance and obtains record title, the matter is not moot.

If you have any questions, please advise.

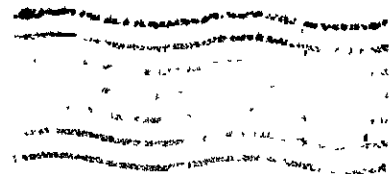
Very truly yours,

Bruce L. Thomas

BLT:dt

cc: Mr. Glen Saxton
Dr. Ivy Wells
Mrs. Dianne K. Wells

LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701



Mr. Glen Saxton
Department of Water Resources
Statehouse Mail
Boise, Idaho 83702

May 24, 1979

RE: Permit No. 57-7022 (Carleen May Astle)

Bruce L. Thomas
Kennedy, Thomas & Sasser
1414 West Franklin Street
P. O. Box 2561
Boise, ID 83701

Dear Mr. Thomas:

In your letter of April 5, 1979, you requested that the Department of Water Resources defer action until May 15, 1979 on the Petition to Intervene and on the decision to grant a water right license in connection with the above referenced permit.

Please advise if the controversy has been resolved, since the department still has the pending matters to be addressed.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:alw

UNRECORDED

EASEMENT GRANT AND AGREEMENT

Between: LAYNE ASTLE and CARLEEN
MAY ASTLE, husband and
wife,

FIRST PARTIES,

and

DARREL F. YOST and HELEN
I. YOST, husband and wife,

SECOND PARTIES.

THIS INDENTURE made and entered into, jointly and reciprocally, between LAYNE ASTLE and CARLEEN MAY ASTLE, husband and wife, of Grandview, County of Owyhee, State of Idaho, hereinafter referred to as the "First Parties", and DARREL F. YOST and HELEN I. YOST, husband and wife, of Grandview, County of Owyhee, State of Idaho, hereinafter referred to as "Second Parties";

W I T N E S S E T H:

That for and in consideration of the mutual covenants herein contained to be kept and performed by the parties hereto, it is agreed as follows:

I.

First Parties hereby grant unto Second Parties, their heirs, successors and assigns, an easement and right-of-way over and across the real property of First Parties, described as follows:

The NE 1/4 of the NW 1/4, the N 1/2 of the NE 1/4, and the SE 1/4 of the NE 1/4 of Section 8, Township 6 South, Range 3 East, Boise-Meridian in Owyhee County, Idaho

to construct, maintain and repair an underground pipeline for the purpose of conveying irrigation water across, through and under

MICROFILMED

the real property of First Parties for the irrigation of property of Second Parties described as follows:

The West 1/2 of the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4, Section 9, Township 6 South, Range 3 East, Boise-Meridian, Owyhee County, Idaho.

Such easement and right-of-way shall extend from the Mud Flat Canal to the property of Second Parties heretofore described, being approximately .75 miles in length and shall include the right to maintain the same so long as the property of First Parties is restored to the same condition it was prior to construction and/or maintenance.

II.

Second Parties do hereby grant and convey unto First Parties an easement and right-of-way over and across the real property described as follows:

The West 1/2 of the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4, Section 9, Township 6 South, Range 3 East, Boise-Meridian, Owyhee County, Idaho.

for the purpose of construction and maintenance of pipelines and other water conveyance facilities from a certain well situate on the real property of Second Parties aforesaid, for the irrigation of the real property of First Parties described as follows:

The NE 1/4 of the NW 1/4, the N 1/2 of the NE 1/4, and the SE 1/4 of the NE 1/4 of Section 8, Township 6 South, Range 3 East, Boise-Meridian in Owyhee County, Idaho

Such well is owned by First Parties which all parties hereto, on behalf of themselves, their successors and assigns, do hereby recognize and confirm, and Second Parties further grant to First Parties an easement and right-of-way for the location, use, maintenance and operation of said well.

For a further description of said well and any of the irrigation facilities used therewith, reference is made to Permit No. 57-7022 on file with the Department of Water Resources

of the State of Idaho and to Right-of-Way I-2920 issued by the Bureau of Land Management of the Department of the Interior of the United States of America on May 27, 1969.

III.

Each and all of the foregoing easements are hereby declared to be permanent and deemed to be an appurtenance on behalf of the dominant tenement therefor, and a burden upon the servient tenement, and each of the Grantees shall hold the easements hereby granted to them forever including the normal customary and necessary operation, repair and maintenance of the same and the irrigation structures thereon, together with a right of ingress and egress over and across the servient tenement in order to properly consummate or perform the same.

IV.

As a further consideration, Second Parties do hereby agree with First Parties to accept, use, utilize or dispose of irrigation waste water coming from the property of First Parties onto the property of Second Parties, and Second Parties acquiesce to the entry onto the property of Second Parties of irrigation waste water of First Parties.

V.

The terms hereof shall bind and the benefits shall inure to the parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the _____ day of _____, 1979.

Layne Astle

Cafleen May Astle

FIRST PARTIES

Darrel F. Yost

Helen I. Yost

SECOND PARTIES

STATE OF IDAHO)
) ss.
COUNTY OF OWYHEE)

On this _____ day of _____, 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared LAYNE ASTLE and CARLEEN MAY ASTLE, husband and wife, 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 as of the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____, Idaho

STATE OF IDAHO)
) ss.
COUNTY OF OWYHEE)

On this _____ day of _____, 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared DARREL F. YOST and HELEN I. YOST, husband and wife, 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 as of the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____, Idaho

FRED KENNEDY
BRUCE L THOMAS
M MICHAEL SASSER

LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701

AREA CODE 208
TELEPHONE 336-3250

May 23, 1979

RECEIVED

MAY 24 1979

Department of Water Resources

Mr. Glenn Saxton
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Re: Permit No. 57-7022

Dear Glenn:

Reference is made to the above case file and to my letter, dated April 5, 1979. As you are aware, I represent Ivyl W. Wells and Dianne K. Wells who have filed a Petition to Intervene in the above entitled matter to protest the grant of a license to Carleen May Astle. By letter dated April 15, 1979, I advised you that the parties might be able to compromise their differences in this matter. In that letter, I requested the Department to defer any action on the Petition to Intervene or on the decision to grant a water license to Mrs. Astle until May 15, 1979.

The parties have been unable to conclude this matter, but I anticipate that this matter will be resolved within the next two weeks. Therefore, I would respectfully request the Department of Water Resources to continue to defer any action on the Petition to Intervene or on the decision to grant a water license to Mrs. Astle until June 6, 1979.

By copy of this letter, I am advising Blair Clark, the attorney for Mrs. Astle of my request.

Thank you for your cooperation in this matter. If you have any questions, please advise.

Very truly yours,

Bruce L. Thomas

Bruce L. Thomas

BLT:dt

cc: Mr. D. Blair Clark
Dr. Ivyl W. Wells
Mrs. Dianne K. Wells

6/1/79

FRED KENNEDY
BRUCE L THOMAS
M MICHAEL SASSER

LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701

AREA CODE 208
TELEPHONE (208) 336-3250

April 5, 1979

Mr. Glenn Saxton
Department of Water Resources
Statehouse Mail
Boise, Idaho

RECEIVED
APR 4 1979
Department of Water Resources

Re: Permit No. 57-7022

Dear Glenn:

This letter will confirm our telephone conversation of April 3, 1979. As you are aware, I represent Ivyl W. Wells and Dianne K. Wells who have filed a Petition to Intervene in the above entitled matter to protest the grant of a license to Carleen May Astle. It appears that the parties may be able to compromise and settle their differences in this matter. Therefore, I would respectfully request the Department of Water Resources to defer any action on the Petition to Intervene or on the decision to grant a water license to Mrs. Astle until May 15, 1979.

I have conferred with Blair Clark, the attorney for Mrs. Astle, in regard to this matter and he has agreed that any action in this matter should be deferred. By copy of this letter, I am confirming our agreement in this matter.

Thank you for your cooperation in this matter. If you have any questions, please advise.

Very truly yours,

Bruce L. Thomas

Bruce L. Thomas

BLT:dt

cc: Mr. D. Blair Clark
Mrs. Dianne K. Wells
Dr. Ivyl W. Wells

RECEIVED
APR 10 1979

LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701

FRED KENNEDY
BRUCE L THOMAS
M MICHAEL SASSER

AREA CODE 208
TELEPHONE (208) 336-3250

March 21, 1979

Director, Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Department of Water Resources

Re: Permit No. 57-7022

Dear Director:

Please find enclosed the original and one copy of a Stipulation. By terms of this Stipulation, Blair Clark, the attorney for Carleen May Astle, and I, the attorney for Ivyl W. Wells and Dianne K. Wells, agree that I may have until April 4, 1979 to respond to the Objection to Petition to Intervene.

Please review this Stipulation and, if you approve, sign the Order which is a part of the Stipulation. Please request your Staff to conform the enclosed copy and return it to my office for my file.

Thank you for your cooperation in this matter. If you have any questions, please advise.

Very truly yours,

Bruce L. Thomas

Bruce L. Thomas

BLT:dt
Enclosures

cc: Dr. Ivyl W. Wells w/enclosure
Mrs. Dianne K. Wells w/enclosure

MICROFILMED

Bruce L. Thomas
KENNEDY, THOMAS & SASSER
Attorneys at Law
1414 West Franklin Street
P.O. Box 2561
Boise, Idaho 83701
Telephone: 336-3250

Attorney for Intervenors

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLEEN MAY ASTLE,)

Applicants,)

STIPULATION

IVYL W. WELLS and DIANNE K.)
WELLS, PERSONAL REPRESENTATIVE)
OF THE ESTATE OF NOVELL M.)
WELLS, DECEASED,)

Intervenors.)

COME NOW Carleen May Astle, applicant above named, by and through Blair Clark, of the firm of Anderson, Kaufman, Anderson & Ringert, Attorneys at Law, Boise, Idaho, her attorneys of record, and Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells, deceased, the intervenors above named, by and through Bruce L. Thomas, of the firm of Kennedy, Thomas & Sasser, Attorneys at Law, Boise, Idaho, their attorneys of record, and stipulate and agree as follows:

That Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells, may have until April 4, 1979, to file a response to Objection to Petition to Intervene and Memorandum in Support of Objections to Petition to Intervene which were filed on behalf of Carleen May Astle in the above entitled proceeding on or about March 15, 1979.

DATED this 21st day of March, 1979.

MICROFILMED

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By


D. Blair Clark, Of the Firm
Attorneys for Applicant

KENNEDY, THOMAS & SASSER

By

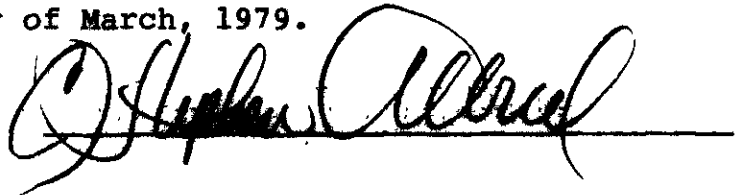

Bruce L. Thomas, Of the Firm
Attorneys for Intervenors

ORDER

The foregoing Stipulation having been submitted to the Department of Water Resources, and the undersigned having duly read and considered the same and good cause appearing therefore;

IT IS HEREBY ORDERED that Ivyl W. Wells and Dianne K. Wells, the personal representative of the estate of Novell M. Wells, shall be granted an extension of time until April 4, 1979, to file a response to the Objection to Petition to Intervene and Memorandum in Support of Objections to Petition to Intervene filed on behalf of Carleen May Astle, the above named applicant.

DATED this 29 day of March, 1979.



MICROFILMED

Confirmed copies sent
to both attorneys
3-30-79
PJR

ANDERSON, KAUFMAN, ANDERSON AND RINGERT
CHARTERED
LAWYERS

IDAHO BUILDING
BOISE, IDAHO 83701

EUGENE H. ANDERSON (1902-1972)
SAMUEL KAUFMAN
RICHARD ANDERSON
WILLIAM F. RINGERT
D. BLAIR CLARK
ANDREW M. HARRINGTON
JEFFREY R. CHRISTENSEN
JAMES P. KAUFMAN

AREA CODE 208
TELEPHONE 342-4591
POST OFFICE BOX 2773

March 14, 1979

Mr. C. Stephen Allred, Director
Department of Water Resources
Statehouse Mail
Boise, ID 83720

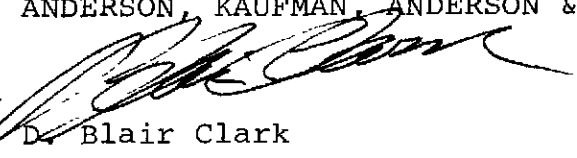
RE: Permit No. 57-7022

Dear Mr. Allred:

Enclosed please find Objections to Petition to Intervene and Memorandum in support thereof to be filed in the file titled "In the Matter of Permit No. 57-7022 to Appropriate Public Waters of the State of Idaho Granted to Carleen May Astle."

Yours very truly,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

by 

D. Blair Clark

DBC/cal

Encs.

D. Blair Clark
ANDERSON, KAUFMAN, ANDERSON & RINGERT
503 Idaho Building, Boise, Idaho
Telephone: 342-4591
Attorneys for Applicant

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.
57-7022 TO APPROPRIATE PUBLIC
WATERS OF THE STATE OF IDAHO
GRANTED TO CARLEEN MAY ASTLE

Applicant,

IVYL W. WELLS and DIANNE K.
WELLS, PERSONAL REPRESENTATIVE
OF THE ESTATE OF NOVELL M.
WELLS, DECEASED,

Intervenors.

OBJECTION TO PETITION
TO INTERVENE

COMES NOW Carleen May Astle, Applicant under Permit No.

57-7022, and objects to the Petition to Intervene filed by Ivyl W. Wells and Dianne K. Wells as personal representative of the Estate of Novell M. Wells, deceased, on their own behalf and on behalf of Darrel F. Yost and Helen I. Yost, as and for the following reasons:

I

Under and by the terms of a certain Stipulation, copy of which is attached, in Case No. 3976 in the District Court of the Third Judicial District of the State of Idaho, in and for the County of Owyhee, Applicant and her husband, Layne Astle, have the right without interference by Intervenorors, to use water from the well until such time as the right to use of the water in the well and the validity of the easement over and across Intervenorors' property is

determined by a court of competent jurisdiction. The Department of Water Resources is not a court of competent jurisdiction and this matter cannot be resolved in this forum.

II

No trespass exists nor has any trespass existed, regardless of Intervenor's purported notices to the contrary.

III

Reference is made to that certain Memorandum Decision and Order, dated July 11, 1977, which held as a finding of fact that the well in question has been used for several years by the Applicant herein and such decision held that Intervenor could not use such well but had the option to drill another well in the same forty acre parcel and the matter is now res judicata.

IV

For purposes of the record and not to confer or stipulate jurisdiction, Applicant hereby denies each and every allegation of paragraphs V, VI, VII, VIII, IX, X and XI of the Petition to Intervene.

WHEREFORE, Applicant prays that the Petition to Intervene be denied.

DATED this 14th day of March, 1979.

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By


D. Blair Clark
A Member of the Firm
Attorneys for Applicants

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14th day of March, 1979, I mailed a true and correct copy of the foregoing OBJECTIONS TO PETITION TO INTERVENE to Mr. Bruce L. Thomas of the firm Kennedy, Thomas & Sasser, P.O. Box 2561, Boise, Idaho, 83701, Attorneys for Intervenor, by U. S. mail, postage prepaid.


D. Blair Clark

FRED KENNEDY
KENNEDY & THOMAS
Attorneys at Law
1414 West Franklin Street
P.O. Box 2561
Boise, Idaho 83701
Telephone (208) 336-3250

Stipulation	
FILED	
10:35 A.M.	P.M.
APR 25 1978	
BARBARA JAYO, CLERK	
Deputy Clerk	

Attorneys for Defendants

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF OWYHEE

LAYNE ASTLE and CARLEEN MAY
ASTLE, husband and wife,

Plaintiffs,

vs.

IVYL W. WELLS and NOVELL M.
WELLS, and any and all
unknown claimants of that
certain well situate in the
SW 1/4 of the NE 1/4 of Sec-
tion 9, Township 6 South,
Range 3 East, Boise-Meridian,
Owyhee County, Idaho,

Defendants.

Case No. 3976

S T I P U L A T I O N

COME NOW Layne Astle and Carleen May Astle, husband and wife, plaintiffs above named, individually and by and through D. Blair Clark, of the firm of Anderson, Kaufman, Anderson & Ringert, attorneys at Law, Boise, Idaho, their attorneys of record, and Ivyl W. Wells and Novell M. Wells, defendants above named, individually and by and through Fred Kennedy, of the firm of Kennedy & Thomas, Attorneys at Law, Boise, Idaho, their attorneys of record, and stipulate and agree as follows:

That the above entitled action shall be dismissed, without prejudice to the filing of the same or similar type of court action by either party if the need arises in the future, upon the following terms and conditions:

1. If in the future, the plaintiffs need to use water from the well situate on the real property described in paragraph III of plaintiff's complaint to irrigate their real property, described as the NE 1/4 of the NW 1/4, the N 1/2 of the NE 1/4, and the SE 1/4 of the NE 1/4 of Section 8, Township 6 South, Range 3 East, Boise Meridian, Owyhee County, Idaho, they shall be allowed to do so without interference by defendants or their assigns, until such time as the right to the use of the water in said well and the validity of the easement over and across the subject property owned by defendants, as claimed by plaintiffs in the above entitled action, have been determined by a court of competent jurisdiction. *astle wells*

2. That such use by the plaintiffs of the water in said well and any use by the plaintiffs of the easement they claim over and across the subject property owned by defendants to maintain said well and to deliver water therefrom to their own property, from and after February 1, 1978, cannot be used or claimed by the plaintiffs under any circumstances for the purpose of attempting to acquire by adverse possession or prescription any right to said well or the irrigation water therein contained, or any license, easement or right of way over and across said property described in paragraph III of plaintiff's complaint to repair, operate, maintain or use said well, or to deliver irrigation water from same to irrigate the property owned by the plaintiffs. *astles*

DATED this 20 day of April, 1978.

Layne Astle
Layne Astle

Carleen May Astle
Carleen May Astle

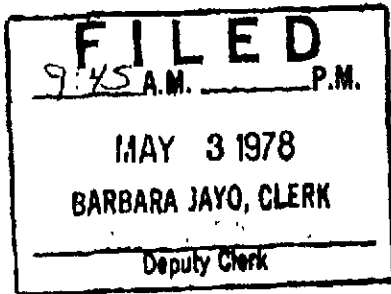
ANDERSON, KAUFMAN, ANDERSON &
RINGERT

By D. Blair Clark
D. Blair Clark
Attorneys for Plaintiffs

Ivyl W. Wells
Ivyl W. Wells

Novell M. Wells
Novell M. Wells

KENNEDY & THOMAS



By Fred Kennedy
Fred Kennedy, Of the Firm
Attorneys for Defendants

O R D E R

The foregoing Stipulation having been submitted to the Court, and the Court having duly read and considered the same and good cause appearing therefor;

IT IS HEREBY ORDERED that the above entitled action be and the same is hereby dismissed, without prejudice to the filing of the same or similar type of court action by either party if the need arises in the future, subject to the terms and conditions as are set forth in said Stipulation.

DATED this 28th day of April, 1978.



District Judge

D. Blair Clark
ANDERSON, KAUFMAN, ANDERSON & RINGERT
503 Idaho Building, Boise, Idaho
Telephone: 342-4591
Attorneys for Applicant

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

	*	
	*	
	-----*	
IN THE MATTER OF PERMIT NO.	)	
57-7022 TO APPROPRIATE PUBLIC	)	
WATERS OF THE STATE OF IDAHO	)	
GRANTED TO CARLEEN MAY ASTLE	)	
	)	
Applicant,	)	MEMORANDUM IN SUPPORT OF
	)	OBJECTIONS TO PETITION
IVYL W. WELLS and DIANNE K.	)	TO INTERVENE
WELLS, PERSONAL REPRESENTATIVE	)	
OF THE ESTATE OF NOVELL M.	)	
WELLS, DECEASED,	)	
	)	
Intervenors.	)	
	*	
	*	
	-----*	

STATEMENT OF THE CASE

Intervenors Wells have filed Petition to Intervene to the granting of a license upon the basis of Permit No. 57-7022, claiming primarily that the water right in question exists in trespass and, therefore, no water right exists. They make this assertion by virtue of their claim that they now own the land upon which the well is situate and, therefore, own the well.

An analysis of the chain of title shows that these allegations are insufficient as a matter of law and there is no legal basis for this intervention.

Idaho Code, §42-224, requires protests to be based solely upon the statements in the notice.

An examination of the file of the Department will show

the following set of facts to exist which facts are not controverted by Intervenor:

1. Permit No. 57-7022 was originally issued to Richard V. Kiem on October 23, 1968.

2. Francis J. Powell acquired this permit on January 19, 1972.

3. On February 1, 1972 Mr. Powell caused the permit to be amended by changing the point of diversion to the well in question on the land now owned by Wells but at the time owned by Powell.

4. Powell Feed Lots, Inc. acquired the land on which the well is situate on March 21, 1973 but said corporation did not acquire the land for which the water was to be used, being the land owned by Mrs. Astle.

5. Mr. Powell assigned the permit to Mrs. Astle November 11, 1974.

6. Intervenor acquired the land on which the well is situate by redemption on July 8, 1975.

7. The permit was always for the irrigation of the following described real property:

NE 1/4 NW 1/4, N 1/2 NE 1/4, SE 1/4 NE 1/4, all in
Section 8, T. 6 S., R. 3 E., B.M., Owyhee County, Idaho.

8. The property now owned by Mrs. Astle was quitclaimed to her by Powell on November 11, 1974 simultaneously with assigning the permit for the irrigation thereof, being Permit No. 57-7022.

9. A right-of-way exists from the servient land (that owned by Intervenor) to the dominant land (that owned by Applicant), being right-of-way granted by the Bureau of Land Management, No. I-2920, issued May 27, 1969 and reference is made to the application for amendment signed by Mr. Powell which clearly shows that this right-of-way is the method for conveyance of water between the two tracts and was always so intended.

10. Patent was issued from the United States January 3, 1977.

POINTS AND AUTHORITIES

A water right becomes appurtenant to the land on which it is used and to which it has been applied.

Koon v. Empey
40 Idaho 6 (1924)

Russell v. Irish
20 Idaho 194 (1911)

A deed to the land on which water is applied effects a transfer of the water and water rights as are appurtenant thereto under the general "appurtenances" clause.

Koon v. Empey
Supra

A water right may be sold and transferred separately from the land to which it has become appurtenant.

Andrews v. North Side Canal Company
52 Idaho 117 (1932)

A water right is an appurtenance to the land on which it has been used and will pass by conveyance of the land. A division of the land would divide the appurtenant water right in the same proportion as it divided the land.

Russell v. Irish
Supra

It is not trespass perse to make application for and receive a permit to appropriate water without first acquiring consent.

Idaho Power Company v. City of Buhl
62 Idaho 351 (1941)

If a party has no interest in the premises on which the purported trespass occurred at the time of the trespass, could not object to water right on grounds it was initiated under trespass.

Idaho Power Company v. City of Buhl
Supra

ARGUMENT

Intervenors have made several erroneous claims, the most glaring of which is that they are the owners of the well and that Astles have trespassed by their use of the well.

Applicant, however, contends that since Powell caused the permit to be amended by changing the point of diversion to the well which is the subject of the intervention, he dedicated the use of that well to the tract of land now owned by Astles.

The law is well settled that a well may be owned by a person other than the owner of the land upon which the well is situate and in determining the ownership of the well and the right to use of the water, it is the land on which the water is used that is the controlling factor.

The dominant estate is the land owned by Astles. Appurtenant to that land is the well upon Intervenors' ground and the water right under Permit No. 57-7022. Intervenors' land, therefore, is the servient tenement and is burdened with the easement for the well, the irrigation works, and the transmission facilities.

Powell, by transferring the servient land to Powell Feed Lots, Inc., could transfer no more than he had, which was the title to the land subject to the easement for the well and water right appurtenant to Astles' property, which at the time he owned.

The dominant land was conveyed to Mrs. Astle by Powell together with the permit in question eight months prior to the acquisition of the servient land by the Intervenors. The conveyance by Powell to Astle conveyed not only the land but also the water right appurtenant to it under the authority of Koon v. Empey and Russell v. Irish.

It is important to note that this water right was not initiated under trespass for when Powell amended the permit he owned both the dominant and the servient tenements. A man cannot trespass against himself.

Applicant is not trespassing and has not trespassed on the serviant land as by its nature it is burdened with the easement in favor of applicant's property and a person likewise does not commit trespass by the use and exercise of an easement he is entitled to use.

Under the authority of Idaho Power Company v. City of Buhl, Intervenorors have no standing to contest this water right at any rate. They have no interest in the premises upon which the alleged trespass occurred at the time of said purported trespass and thus cannot object. Intervenorors may have owned stock in Powell Feed Lots, Inc. but ownership does not give them ownership of the assets unless and until the corporation is liquidated or they likewise acquire a deed or document of conveyance. Further, the water license would relate back to the date of issuance of the permit which was October 23, 1968.

The purported notices of trespass could, therefore have no affect.

Applicant further suggests that this matter has already been resolved by the Department at the time when Intervenorors sought issuance of Permit No. 57-7145. In those proceedings, Intervenorors desired to use the Astles' well as their source of water but by Memorandum Decision and Order of July 11, 1977 that privilege was denied to them. Having already ruled, the matter is now res judicata and cannot be attacked in this proceeding.

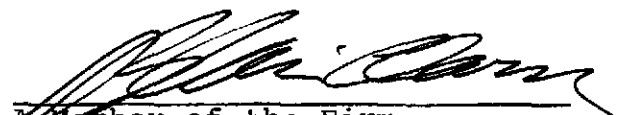
Applicant further suggests that the Department cannot adjudicate this matter in opposition to the position taken by Applicant because of the Stipulation in Case No. 3976, a copy of which is attached to Applicant's Objection. That Stipulation provided that Plaintiffs (Applicant herein) could use the well and the water until such time as the matter was adjudicated to the contrary by a court of competent jurisdiction which your Applicant suggests respectfully the Department is not.

For the foregoing reasons the Petition to Intervene should be denied and Applicant issued her license.

Respectfully submitted,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By

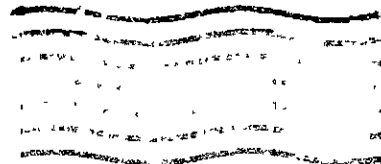

A Member of the Firm
Attorneys for Applicant

CERTIFICATE OF MAILING

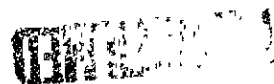
I HEREBY CERTIFY that on this 14th day of March, 1979, I mailed a true and correct copy of the above and foregoing MEMORANDUM IN SUPPORT OF OBJECTIONS TO PETITION TO INTERVENE by U. S. mail, postage prepaid, to Mr. Bruce L. Thomas of the firm Kennedy, Thomas & Sasser, P.O. Box 2561, Boise, Idaho, 83701.


D. Blair Clark

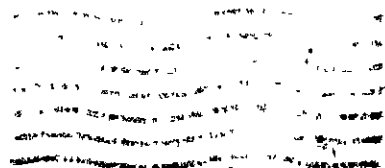
LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701



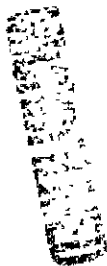
Mr. Glenn Saxton
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720



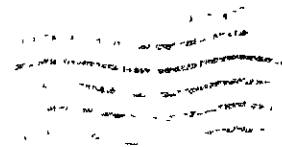
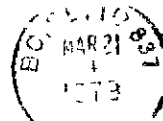
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Mr. Glenn Saxton
Department of Water Resources
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Boise, Idaho 83702



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Director, Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

ANDERSON, KAUFMAN, ANDERSON AND RINGERT
CHARTERED
LAWYERS
IDAHO BUILDING
BOISE, IDAHO 83701

Mr. C. Stephen Allred
Department of Water Resources
Statehouse Mail
Boise, ID 83720

February 20, 1979

Carleen May Astle
Route B, Box 341B
Grandview, ID 83624

Dear Ms. Astle:

Re: Permit No. 57-7022

A review of the proof affidavit which you submitted to this office on December 12, 1978 in connection with the above referenced permit raises several questions.

The original point of diversion on the permit was described as within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, Twp. 6S, Rge. 3E B.M., Owyhee County. The point of diversion was changed by amendment to the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9, Twp. 6S, Rge. 3E B.M. The point of diversion shown on the proof affidavit is described as SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9, Twp. 6S, Rge. 3E B.M.

Item 6 on the proof was left blank. This item reads as follows:

6(a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use.

6(b) Describe the understanding by which you take water from the works.

These items are specifically described in Section 42-217, Idaho Code as items the proof must address. It is possible that item 6(a) and 6(b) are not applicable and if so, your confirmation would be appropriate.

A condition of approval of the permit was that "The applicant shall permanently install a measuring device of a type approved by the department as part of the diverting works." The proof affidavit does not describe the type of measuring device you have installed.

Your clarification of these points will be appreciated.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

cc: Bill Ringert

MICROFILMED

INTER-DEPARTMENT MEMO — 1

FROM Phil Rassin

DATE 2-21-79

TO Glen Saxton

SUBJECT Permit No. 57-7022 in NAME of CARLEEN MAY ASTIE.

I agree that the Dept should require completion of item 6 (b) on the Proof of Application to Beneficial Use before any further action is taken.

Give the attorney for the permit holder time to respond before acting on the Motion to Intervene.

42-224 would appear to be superseded by 42-217 and 42-219, but only to the extent that these later sections are inconsistent with 42-224. Note that the last sentence of 42-219 makes reference to the appeal provisions of 42-224.


SIGNATURE

Bruce L. Thomas
KENNEDY, THOMAS & SASSER
Attorneys at Law
1414 West Franklin Street
P.O. Box 2561
Boise, Idaho 83701
Telephone: 336-3250

Attorney for Intervenors

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)	
57-7022 TO APPROPRIATE PUBLIC)	
WATERS OF THE STATE OF IDAHO)	
GRANTED TO CARLEEN MAY ASTLE,)	
)	
Applicants,)	PETITION TO INTERVENE TO
)	PROTEST GRANT OF A LICENSE
IVYL W. WELLS and DIANNE K.)	
WELLS, PERSONAL REPRESENTATIVE)	
OF THE ESTATE OF NOVELL M.)	
WELLS, DECEASED,)	
)	
Intervenors.)	
)	

COME NOW Ivyl W. Wells and Dianne K. Wells, Personal Representative of the Estate of Novell M. Wells, deceased, and petition to intervene in the above entitled proceeding on their own behalf and on behalf of Darrel F. Yost and Helen I. Yost, to protest and object to the issuance of a license to Carleen May Astle to appropriate the public waters of the State of Idaho, for each of the reasons and grounds set forth as follows:

I.

Ivyl W. Wells and Novell M. Wells, applied, on June 17, 1975, for Permit No. 57-7145 to appropriate the public waters of the State of Idaho by diversion by means of a well located in the Southwest 1/4, Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian, to irrigate 120 acres of farm land, located in the West 1/2 of the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 6 South, Range 3 East, Boise Meridian. This application was approved by the Department of Water Resources and a permit was issued, July 11, 1977.

II.

Novell M. Wells died on August 31, 1978 and Dianne K. Wells was appointed the personal representative of his estate. Letters Testamentary were issued to her by the Magistrate of the District Court, Elmore County, State of Idaho, on September 18, 1978.

III.

Carleen May Astle claims to be the assignee of Permit No. 57-7022 to appropriate the public waters of the State of Idaho by diverting ground water from a well located in Southwest 1/4 of the Northeast 1/4, of Section 9, Township 6 South, Range 3 East, Boise Meridian. Layne Astle is the husband of Carleen May Astle.

IV.

Pursuant to Permit No. 57-7022, Carleen May Astle submitted her Proof of Application of Water to Beneficial Use to the Department on December 12, 1978. In this application, she stated that she had caused to be applied water in the amount of 3.2 cfs for irrigation purposes to 160 acres and that such water had been diverted from the well described above in paragraph III.

V.

Ivyl W. Wells has been informed and verily believes that the well described above, in paragraph III, has caved in and that it is impossible to pump water in the amount of 3.2 cfs from said well.

VI.

All real property situated in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, including the well located thereon from which Carleen May Astle seeks a license to divert water, is legally owned by Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells. Said property has been sold under an escrow contract to Darrel F. Yost and Helen I. Yost.

VII.

Neither Carleen May Astle or Layne Astle, her husband, has acquired nor enjoys any easement or license to go upon the real property located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, owned by the Petitioners, in order to construct a well, other diversion works, ditches or to lay pipes.

VIII.

Permit No. 57-7022 was purportedly assigned to Carleen May Astle on November 12, 1974. Since that date, Carleen May Astle, and/or her husband, Layne Astle, have trespassed and continue to trespass upon said real property, described in the paragraph next preceding, even though she and her husband were served with a Notice of Trespass and Unlawful Detainer by the Sheriff of Owyhee County, on June 9, 1975, at the express direction of Ivy W. Wells and Novell M. Wells.

IX.

Any diversion of water from a point located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, by Carleen May Astle or Layne Astle, can only be effected by a trespass upon the said real property legally owned by Ivy W. Wells and the estate of Novell M. Wells, deceased, as a result of which said Carleen May Astle or Layne Astle cannot acquire a license to divert irrigation water from a point of diversion located in said quarter section.

X.

Carleen May Astle has not submitted and cannot submit proof of the relation or understanding upon which the right to take water from the well, described above, is based as required by Sections 42-217 and 42-219, Idaho Code.

XI.

The petitioners, Ivyl W. Wells and Dianne K. Wells, the personal representative of the estate of Novell M. Wells, deceased, would be irreparably injured by the grant of a license to Carlene May Astle, or her successors or assignees, to appropriate the public waters of the State of Idaho by diverting ground water from a well located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, because the grant of said license would give Carleen May Astle a water right senior to any water rights which the Petitioners may acquire under Permit No. 57-7145.

WHEREFORE, the Petitioners pray that this Petition to Intervene in the Matter of Permit No. 57-7022 To Appropriate Public Waters of the State of Idaho granted to Carleen May Astle be granted so that the Petitioners may have the opportunity to protest the granting of a license to Carleen May Astle, or her successors or assigns, to appropriate the public waters of the State of Idaho upon the basis of and as requested by Permit No. 57-7022 and the Proof of Application of Water to Beneficial Use.

If this petition is granted and a hearing is held on the matter, the Petitioners will submit evidence, both documentary and testimonial, establishing that Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells, deceased, are the legal owners of all real property situated in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, that neither Carleen May Astle nor Layne Astle has acquired nor enjoys any easement or license to go upon the above mentioned real property in order to construct a well, other diversion works, ditches, or to lay pipes, and that Carleen May Astle and Layne Astle have trespassed and continue to trespass upon said real property described above in order to divert water from a well located in said quarter section.

This petition is filed pursuant to Section 42-224, Idaho Code, and Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources.

DATED this 14th day of February, 1979.

Bruce L. Thomas
Bruce L. Thomas
KENNEDY, THOMAS & SASSER
Attorney for Intervenors
P.O. Box 2561
Boise, Idaho 83701

STATE OF IDAHO)
) ss.
County of Elmore)

IVYL W. WELLS and DIANNE K. WELLS, personal representative of the estate of Novell M. Wells, deceased, being first duly sworn, depose and say:

That they are the Petitioners in the above entitled cause; that they have read the foregoing Petition, know the contents thereof, and that they believe the facts stated therein to be true.

Ivy W. Wells
Ivy W. Wells

Dianne K. Wells
Dianne K. Wells, Personal
Representative of the Estate
of Novell M. Wells, Deceased

SUBSCRIBED AND SWORN to before me this 13th day of February, 1979.

John L. Lormand
Notary Public for Idaho
Residing at Int. Home, Lila Idaho

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 14th day of February, 1979, I served a true and correct copy of the foregoing PETITION TO INTERVENE TO PROTEST GRANT OF A LICENSE, by depositing copy thereof in the United States mail, postage prepaid and addressed to W.F. Ringert, of the firm of Anderson, Kaufman, Anderson & Ringert, Attorneys at Law, 503 Idaho Building, Boise, Idaho, 83701, attorney for Permit Holder.

Bruce L. Thomas
Bruce L. Thomas
KENNEDY, THOMAS & SASSER
Attorney for Intervenors

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I HEREBY CERTIFY that on the 14th day of February, 1979, I served a true and correct copy of the foregoing Petition to Intervene to Protest Grant of a License, by depositing a copy thereof in the United States mail, postage prepaid and addressed to Carleen May Astle, Route B, Box 341 B, Grand View, Idaho, 83624, the Permit Holder.

Bruce L. Thomas
Bruce L. Thomas
Attorney for Intervenors

Bruce L. Thomas
KENNEDY, THOMAS & SASSER
Attorneys at Law
1414 West Franklin Street
P.O. Box 2561
Boise, Idaho 83701
Telephone: 336-3250

Attorney for Intervenors

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO. 57-7022 TO APPROPRIATE PUBLIC WATERS OF THE STATE OF IDAHO GRANTED TO CARLEEN MAY ASTLE,	)	
Applicants.	)	ORDER GRANTING LEAVE TO INTERVENE
IVYL W. WELLS and DIANNE K. WELLS, PERSONAL REPRESENTATIVE OF THE ESTATE OF NOVELL M. WELLS, DECEASED	)	
Intervenors.	)	

The Petition to Intervene to Protest Grant of a License filed in the above entitled matter by Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells, deceased, having been reviewed and duly considered, and all other pleadings and documents on file in this cause also having been reviewed and considered, and good cause appearing therefor;

IT IS HEREBY ORDERED that the Petition to Intervene filed in the above matter by Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells, deceased, be and the same is hereby granted in its entirety, pursuant to Section 42-224, Idaho Code, and Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources.

DATED this _____ day of _____, 1979.

C. Stephen Allred, Director of the
Department of Water Resources
State of Idaho
Boise, Idaho

CERTIFICATE OF MAILING

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Bruce L. Thomas
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Boise, Idaho 83701
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Attorney for Intervenors

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLEEN MAY ASTLE,)

Applicants.)

IVYL W. WELLS and DIANNE K.)
WELLS, PERSONAL REPRESENTATIVE)
OF THE ESTATE OF NOVELL M.)
WELLS, DECEASED)

Intervenors.)

MEMORANDUM OF AUTHORITIES

This Memorandum of Authorities is submitted by the Intervenors, Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells, in support of their Petition to Intervene to Protest Grant of a License in the above entitled case. Before the question of intervention can be considered, the history of the ownership of the Astle permit and the Wells' property must be analyzed.

STATEMENT OF FACTS

On December 12, 1978, Carleen May Astle submitted a Proof of Application of Water to Beneficial Use so as to obtain a license to divert water upon the basis of Permit No. 57-7022. This permit, now allegedly owned by Carleen May Astle, was originally granted to Richard V. Kiem on October 23, 1968. The point of diversion for this permit was a well located in the Northwest 1/4 of the Northeast 1/4, Section 8, Township 6 South, Range 3 East, Boise Meridian. Kiem applied for and was granted a change

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in the point of diversion on March 7, 1969 to a point located in the Southeast 1/4 of the Northeast 1/4, Section 8, Township 6 South, Range 3 East, Boise Meridian. Minnie Kiem Odle, as executrix of the estate of Richard Kiem, assigned this permit to Francis J. Powell, January 19, 1972. On February 1, 1972, Powell was granted an amendment to this permit, changing the point of diversion to a point located in the Southwest 1/4, Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian, a quarter section which Powell was purchasing under contract at that time and which is now legally owned by the Intervenor. Powell purportedly assigned this permit to Carleen May Astle on November 11, 1974.

Prior to January 30, 1973, the record owner of the property where the well in dispute is located, described as the Southwest 1/4 of the Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian, and now owned by the Intervenor, was Olive Hughes; Francis Powell was purchasing this property under contract from Olive Hughes. On January 30, 1973, Olive Hughes deeded this property to Francis J. Powell and Grace A. Powell, husband and wife. Francis J. Powell and Grace A. Powell conveyed this property, by warranty deed, on March 21, 1973, to Powell Feed Lots, Inc., a corporation in which the Wells brothers were stockholders. Foreclosure proceedings on debts owed by Powell Feed Lots, Inc. were initiated against the property and Ivyl W. Wells and Novell M. Wells redeemed the property from the Sheriff's sale of real property on July 8, 1975. Since that date, Ivyl W. Wells and Novell M. Wells have been the legal and equitable owners of the property described as the Southwest 1/4 of the Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian, the property upon which the Astles seek to divert water from the well.

Novell M. Wells died on August 31, 1978 and Dianne K. Wells was appointed the personal representative of his estate.

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Letters Testamentary were issued to her by the Magistrate of the District Court, Elmore County, State of Idaho, on September 18, 1978. The Intervenor's have sold the property, described above, to Darrel F. Yost and Helen I. Yost, husband and wife, under an escrow contract.

When Ivy W. and Novell M. Wells became aware that the Astles were trespassing upon the above described property so that the Astles could divert water from the well located on said property, the Wells brothers immediately served Layne Astle, Carleen May Astle's husband, with a Notice of Trespass and Unlawful Detainer on June 16, 1975. The Astles claim to enjoy an easement or a license to go upon the above described property owned by the Intervenor's so that they can divert water from the well located thereon. However, the only easement or license granted to the Astles which the Intervenor's are aware of is Right-of-Way No. I-2920, which granted the Astles an easement across the Northwest 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian. This easement ends at the survey line dividing the Northwest quarter section from the Northeast quarter section of Section 9. Thus, this easement does not give the Astles any right to go upon property where the well is located in the Northeast quarter section of Section 9 and owned by the Intervenor's.

INTERVENTION

This Petition to Intervene is submitted pursuant to Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources. Said rule allows the Director to enter an order granting leave to intervene to those persons who are directly and substantially affected by the proceeding. As the Astles have been granted a permit and seek a license to divert water from a point located on the property legally owned by the Intervenor's, they will be directly and substantially affected by the granting of a license because the Astles will have to trespass

upon their property in order to exercise the water right which they seek. Moreover, Ivyl W. and Novell M. Wells have been granted Permit No. 57-7145 to appropriate ground water from a point of diversion located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian; thus any water right which the Intervenor may acquire under this permit may be substantially injured by the grant of a senior water right to the Astles.

In order to be granted a license to divert water, the Astles must submit proof of "[t]he relation or understanding upon which the right to take water from such [diversion] works is based". I.C. §42-217(6). In addition, they also must submit proof of the amount of water which has been applied to a beneficial use. I.C. §42-217(3). Any person may protest the statements made by the Astles in the submission of their proof of beneficial application of water for their license. I.C. §42-224. It is the position of the Intervenor that I.C. §42-224 gives them the right to intervene to protest such statements made by the Astles. Thus, this Petition to Intervene should be granted so that the Intervenor may protest the statements made by the Astles in their application for a license.

GRANT OF A LICENSE

The ultimate issue which must be resolved in this proceeding is whether the Astles are entitled to a license to divert water from a point located in the Southwest 1/4 of the Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian. It is the position of the Intervenor that the Astles cannot acquire such a license because, in order to divert the water, the Astles must trespass upon the property owned by the Intervenor. The Intervenor further contend that the Astles have not diverted and applied to a beneficial use the amount of water for which they seek a license to appropriate.

According to Wells A. Hutchins in his comprehensive article entitled "Idaho Law of Water Rights", "[i]t is the settled rule of decision in Idaho that an appropriation of water cannot be made or a permit to appropriate water acquired through trespass upon the land of another". 5 Idaho Law Review, p. 15 (1968). This principle was recently reaffirmed by the Supreme Court of Idaho in the case of Lemmon v. Hardy, 95 Idaho 778, 519 P.2d 1168 (1974), wherein Justice McQuade quoted with approval from Bassett v. Swenson, 51 Idaho 256, 259, 5 P.2d 722, 723 (1931):

"It is quite generally held that a water right initiated by trespass is void. That is to say, one who diverts water and puts it to a beneficial use by aid of a trespass does not, pursuant to such trespass, acquire a water right. Any claim of right thus initiated is void." 95 Idaho 780.

Accord, Idaho Power Company v. City of Buhl, 62 Idaho 351, 111 P.2d 1088 (1941); Jones v. McIntire, 60 Idaho 338, 91 P.2d 373 (1939); Marshall v. Niagara Springs Orchard Company, 22 Idaho 144, 125 P. 208 (1912).

In the case of Marshall v. Niagara Springs Orchard Company, supra, Marshall applied for and received a permit to appropriate water from a point of diversion located on land owned by Niagara Springs Orchard Company. He then initiated an action against Niagara Springs Orchard Company to condemn a right-of-way for a ditch and power house so that he could divert the water and put it to a beneficial use. The Court found that Marshall trespassed on the land owned by Niagara Springs Orchard Company when he entered that land to inspect and survey the point of diversion. This survey was required for Marshall's application to the State engineer for a permit to appropriate the water. The Court ruled that, because of Marshall's trespass, the permit granted to him "was of no force or effect" and so he did not enjoy a right to condemn the property of Niagara Springs Orchard Company. 22 Idaho 158.

Thus, if the Astles did trespass upon property owned by the Intervenor in order to construct diversion works, ditches, or to lay pipes, then they could not and cannot now acquire a water right because of this trespass. As the evidence will show, the Astles do not now enjoy nor can they acquire a license or easement to go upon the property legally owned by the Intervenor, described as the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian; therefore, any right which the Astles may hold to divert water under Permit No. 57-7022 from a point located in the above described quarter section could only be acquired by trespass and so is invalid. As the Astles do not have a valid water right, they cannot be granted a license for the same.

SUMMARY

The Intervenor is directly and substantially affected by issuance of a license to appropriate water based upon Permit No. 57-7022 to the Astles. If this Petition to Intervene is granted, the Intervenor, by and through their attorney, will present a meritorious case to establish that the Astles cannot acquire a license to appropriate water because of their trespass. The Intervenor may also submit evidence that the Astles have not diverted and applied to a beneficial use water in the amount for which they seek a license. Thus, the Intervenor respectfully submit that their Petition to Intervene in the above entitled matter should be granted.

DATED this 14th day of February, 1979.

Bruce L. Thomas
Bruce L. Thomas
Attorney for Intervenor

CERTIFICATE OF MAILING

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Attorney for Intervenors

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLEEN MAY ASTLE,)

Applicants.)

IVYL W. WELLS and DIANNE K.)
WELLS, PERSONAL REPRESENTATIVE)
OF THE ESTATE OF NOVELL M.)
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SUMMARY

The Intervenor are directly and substantially affected by issuance of a license to appropriate water based upon Permit No. 57-7022 to the Astles. If this Petition to Intervene is granted, the Intervenor, by and through their attorney, will present a meritorious case to establish that the Astles cannot acquire a license to appropriate water because of their trespass. The Intervenor may also submit evidence that the Astles have not diverted and applied to a beneficial use water in the amount for which they seek a license. Thus, the Intervenor respectfully submit that their Petition to Intervene in the above entitled matter should be granted.

DATED this 14th day of February, 1979.

Bruce L. Thomas
Bruce L. Thomas
Attorney for Intervenor

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Attorney for Intervenors

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLEEN MAY ASTLE,)

Applicants,)

IVYL W. WELLS and DIANNE K.)
WELLS, PERSONAL REPRESENTATIVE)
OF THE ESTATE OF NOVELL M.)
WELLS, DECEASED,)

Intervenors.)

PETITION TO INTERVENE TO
PROTEST GRANT OF A LICENSE

COME NOW Ivyl W. Wells and Dianne K. Wells, Personal Representative of the Estate of Novell M. Wells, deceased, and petition to intervene in the above entitled proceeding on their own behalf and on behalf of Darrel F. Yost and Helen I. Yost, to protest and object to the issuance of a license to Carleen May Astle to appropriate the public waters of the State of Idaho, for each of the reasons and grounds set forth as follows:

I.

Ivyl W. Wells and Novell M. Wells, applied, on June 17, 1975, for Permit No. 57-7145 to appropriate the public waters of the State of Idaho by diversion by means of a well located in the Southwest 1/4, Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian, to irrigate 120 acres of farm land, located in the West 1/2 of the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 6 South, Range 3 East, Boise Meridian. This application was approved by the Department of Water Resources and a permit was issued, July 11, 1977.

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II.

Novell M. Wells died on August 31, 1978 and Dianne K. Wells was appointed the personal representative of his estate. Letters Testamentary were issued to her by the Magistrate of the District Court, Elmore County, State of Idaho, on September 18, 1978.

III.

Carleen May Astle claims to be the assignee of Permit No. 57-7022 to appropriate the public waters of the State of Idaho by diverting ground water from a well located in Southwest 1/4 of the Northeast 1/4, of Section 9, Township 6 South, Range 3 East, Boise Meridian. Layne Astle is the husband of Carleen May Astle.

IV.

Pursuant to Permit No. 57-7022, Carleen May Astle submitted her Proof of Application of Water to Beneficial Use to the Department on December 12, 1978. In this application, she stated that she had caused to be applied water in the amount of 3.2 cfs for irrigation purposes to 160 acres and that such water had been diverted from the well described above in paragraph III.

V.

Ivyl W. Wells has been informed and verily believes that the well described above, in paragraph III, has caved in and that it is impossible to pump water in the amount of 3.2 cfs from said well.

VI.

All real property situated in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, including the well located thereon from which Carleen May Astle seeks a license to divert water, is legally owned by Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells. Said property has been sold under an escrow contract to Darrel F. Yost and Helen I. Yost.

VII.

Neither Carleen May Astle or Layne Astle, her husband, has acquired nor enjoys any easement or license to go upon the real property located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, owned by the Petitioners, in order to construct a well, other diversion works, ditches or to lay pipes.

VIII.

Permit No. 57-7022 was purportedly assigned to Carleen May Astle on November 12, 1974. Since that date, Carleen May Astle, and/or her husband, Layne Astle, have trespassed and continue to trespass upon said real property, described in the paragraph next preceding, even though she and her husband were served with a Notice of Trespass and Unlawful Detainer by the Sheriff of Owyhee County, on June 9, 1975, at the express direction of Ivyl W. Wells and Novell M. Wells.

IX.

Any diversion of water from a point located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, by Carleen May Astle or Layne Astle, can only be effected by a trespass upon the said real property legally owned by Ivyl W. Wells and the estate of Novell M. Wells, deceased, as a result of which said Carleen May Astle or Layne Astle cannot acquire a license to divert irrigation water from a point of diversion located in said quarter section.

X.

Carleen May Astle has not submitted and cannot submit proof of the relation or understanding upon which the right to take water from the well, described above, is based as required by Sections 42-217 and 42-219, Idaho Code.

XI.

The petitioners, Ivyl W. Wells and Dianne K. Wells, the personal representative of the estate of Novell M. Wells, deceased, would be irreparably injured by the grant of a license to Carlene May Astle, or her successors or assignees, to appropriate the public waters of the State of Idaho by diverting ground water from a well located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, because the grant of said license would give Carleen May Astle a water right senior to any water rights which the Petitioners may acquire under Permit No. 57-7145.

WHEREFORE, the Petitioners pray that this Petition to Intervene in the Matter of Permit No. 57-7022 To Appropriate Public Waters of the State of Idaho granted to Carleen May Astle be granted so that the Petitioners may have the opportunity to protest the granting of a license to Carleen May Astle, or her successors or assigns, to appropriate the public waters of the State of Idaho upon the basis of and as requested by Permit No. 57-7022 and the Proof of Application of Water to Beneficial Use.

If this petition is granted and a hearing is held on the matter, the Petitioners will submit evidence, both documentary and testimonial, establishing that Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells, deceased, are the legal owners of all real property situated in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, that neither Carleen May Astle nor Layne Astle has acquired nor enjoys any easement or license to go upon the above mentioned real property in order to construct a well, other diversion works, ditches, or to lay pipes, and that Carleen May Astle and Layne Astle have trespassed and continue to trespass upon said real property described above in order to divert water from a well located in said quarter section.

This petition is filed pursuant to Section 42-224, Idaho Code, and Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources.

DATED this 14th day of February, 1979.

Bruce L. Thomas
Bruce L. Thomas
KENNEDY, THOMAS & SASSER
Attorney for Intervenor
P.O. Box 2561
Boise, Idaho 83701

STATE OF IDAHO)
) ss.
County of Elmore)

IVYL W. WELLS and DIANNE K. WELLS, personal representative of the estate of Novell M. Wells, deceased, being first duly sworn, depose and say:

That they are the Petitioners in the above entitled cause; that they have read the foregoing Petition, know the contents thereof, and that they believe the facts stated therein to be true.

Ivy W. Wells
Ivy W. Wells

Dianne K. Wells
Dianne K. Wells, Personal
Representative of the Estate
of Novell M. Wells, Deceased

SUBSCRIBED AND SWORN to before me this 13th day of February, 1979.

[Signature]
Notary Public for Idaho
Residing at 1000 Pine, 83701 Idaho

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 14th day of February, 1979, I served a true and correct copy of the foregoing PETITION TO INTERVENE TO PROTEST GRANT OF A LICENSE, by depositing copy thereof in the United States mail, postage prepaid and addressed to W.F. Ringert, of the firm of Anderson, Kaufman, Anderson & Ringert, Attorneys at Law, 503 Idaho Building, Boise, Idaho, 83701, attorney for Permit Holder.

Bruce L. Thomas
Bruce L. Thomas
KENNEDY, THOMAS & SASSER
Attorney for Intervenor

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 14th day of February, 1979, I served a true and correct copy of the foregoing Petition to Intervene to Protest Grant of a License, by depositing a copy thereof in the United States mail, postage prepaid and addressed to Carleen May Astle, Route B, Box 341 B, Grand View, Idaho, 83624, the Permit Holder.

Bruce L. Thomas
Bruce L. Thomas
Attorney for Intervenors

Bruce L. Thomas
KENNEDY, THOMAS & SASSER
Attorneys at Law
1414 West Franklin Street
P.O. Box 2561
Boise, Idaho 83701
Telephone: 336-3250

Attorney for Intervenors

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLEEN MAY ASTLE,)

Applicants.)

IVYL W. WELLS and DIANNE K.)
WELLS, PERSONAL REPRESENTATIVE)
OF THE ESTATE OF NOVELL M.)
WELLS, DECEASED)

Intervenors.)

ORDER GRANTING LEAVE
TO INTERVENE

The Petition to Intervene to Protest Grant of a License filed in the above entitled matter by Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells, deceased, having been reviewed and duly considered, and all other pleadings and documents on file in this cause also having been reviewed and considered, and good cause appearing therefor;

IT IS HEREBY ORDERED that the Petition to Intervene filed in the above matter by Ivyl W. Wells and Dianne K. Wells, personal representative of the estate of Novell M. Wells, deceased, be and the same is hereby granted in its entirety, pursuant to Section 42-224, Idaho Code, and Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources.

DATED this _____ day of _____, 1979.

C. Stephen Allred, Director of the
Department of Water Resources
State of Idaho
Boise, Idaho

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 14th day of February, 1979, I served a true and correct copy of the foregoing ORDER GRANTING LEAVE TO INTERVENE, by depositing a copy thereof in the United States mail, postage prepaid, and addressed to W.F. Ringert, of the firm of Anderson, Kaufman, Anderson & Ringert, Attorneys at Law, 503 Idaho Building, Boise, Idaho, 83701, attorney for Permit Holder.

Bruce L. Thomas
Bruce L. Thomas

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 14th day of February, 1979, I served a true a correct copy of the foregoing ORDER GRANTING LEAVE TO INTERVENE, by depositing a copy thereof in the United States mail, postage prepaid and addressed to Carleen May Astle, Route B, Box 341 B, Grand View, Idaho, 83624, the Permit Holder.

Bruce L. Thomas
Bruce L. Thomas

LAW OFFICE
KENNEDY, THOMAS & SASSER
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2561
BOISE, IDAHO 83701

FRED KENNEDY
BRUCE L THOMAS
M MICHAEL SASSER

AREA CODE 208
TELEPHONE (208) 336-3250

February 14, 1979

Mr. C. Stephen Allred
Director
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

RECEIVED

FEB 14 1979

Department of Water Resources

Re: Permit No. 57-7022

Dear Mr. Allred:

Please find enclosed herewith the original and one copy of a Petition to Intervene to Protest Grant of a License, Memorandum of Authorities and a proposed Order Granting Leave to Intervene. Ivyl W. Wells and Dianne K. Wells seek an order of the Department permitting them to intervene in the matter of Permit No. 57-7022, which permit has been issued to Carleen May Astle, to protest the grant of a license to her.

Please request your staff to file these pleadings in the appropriate file.

Thank you for your cooperation in this matter.

Very truly yours,

Bruce L. Thomas

Bruce L. Thomas

BLT:ke
Enclosures

cc: Mr. W.F. Ringert
Carleen May Astle
Dr. Ivyl W. Wells
Mrs. Dianne K. Wells

RECEIVED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address
Statehouse
Boise, Idaho 83720
(208) 384-2215

January 8, 1979

Marleen May Astle
Leota, Box 3418
Grandview, ID 83624

Dear Ms. Astle:

Re: Permit No. 57-7022

Enclosed is a copy of the Order reinstating your permit and advancing the priority date to September 14, 1978.

We acknowledge receipt of the affidavit 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. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

If you have any questions regarding the field examination, please contact our regional office in Boise.

Sincerely,

RITA FLECK
Water Rights

cc: Fred Kennedy

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESPROOF OF APPLICATION
OF WATER TO BENEFICIAL USERECEIVED
DEC 12 1971
Department of Water Resources

1. a) Name of permit holder Carleen May Astle
b) ~~Address~~ address Rt 2 Box 3410 Grandview, Idaho
2. Permit number 57-7022
3. Date of priority that you are prepared to establish Nov 1971
4. a) Source from which water was appropriated well
b) Location of the point of diversion: SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 9
Township 6 S, Range 3 E Boise Meridian. Other points of diversion: _____

5. a) The amount of water and use to which the water has been applied:

Amount 3.2 for irrigation purposes from April 1 to Oct 31 incl.
(cfs &/or acre-feet per annum) (month-day) (month-day)

Amount _____ for _____ purposes from _____ to _____ incl.
(cfs &/or acre-feet per annum) (month-day) (month-day)

Amount _____ for _____ purposes from _____ to _____ incl.
(cfs &/or acre-feet per annum) (month-day) (month-day)

- b) Total amount appropriated _____ cfs and/or acre-feet per annum.

- c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement:

I measured the flow and time with a flow measuring device I obtain from Lagne of Idaho
manpa.

6. If the means of diversion and conveyance are owned by someone other than the permit holder:

- a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use:

- b) Describe the agreement of understanding by which you take water from the works:

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (if from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch):

Pump and mainline
150 H.P. motor 240' of column 1250 GPM
Pump, well casing 18" well depth 1423

- b) Describe the provision for making a measurement which you have at your point of diversion: (i.e., installed measuring device, access port, other)

pump can pump a maximum of 1250 GPM
at 100 psi. This is according to
Lagne of Idaho pump chart
MICROFILMED

c) Give well driller's name and address and the date the well was completed: Lea Nelson

Grandview, Idaho

I don't know when well was completed

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use:

9. Irrigation uses: describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision:

40 acres in each subdivision is irrigated

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
6S	3E	8	X	X		X	X												

Total number of acres irrigated 160

10. Remarks:

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

Dec 11, 1979
(Date)

Carleen May Astle
(Signature)

State of IDAHO)
County of OWYHEE) ss.

On this 11 day of DECEMBER, 19 80, personally appeared before me the
signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Ruth Knox
Notary Public
Residing at GRAND VIEW, IDAHO

My commission expires 12-16-80

MEMO TO Fred Kennedy
1224 U. Street
Boise, ID 85705

of permit holders
submittance of

Log of B/U.
IMPORTANT

RECEIVED

20301

2561

301583701



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address

Statehouse

Boise, Idaho 83720

(208) 384-2215

December 8, 1978

Re: Permit No. 57-7022

Carleen May Astle
Star Route, Box 339
Grandview ID 83624

Dear Ms. Astle:

You are hereby notified that under the provisions of Section 42-218a of the Idaho Code, Permit No. 57-7022 has lapsed since you have not notified us that you have completed the project by the date required on your permit. You were provided forms for that purpose in our notice to you dated September 30, 1978.

Your permit cannot be reinstated unless you submit the proof of beneficial use affidavit, enclosed, or show other reasonable cause why the permit should be reinstated within 60 days from the date of this lapse notice.

A handwritten signature in cursive script, reading "Stephen Allred", is written over a horizontal line.

C. STEPHEN ALLRED
Director

CSA:jfr

Encl.

cc: Fred Kennedy
P.O. Box 2561
Boise ID 83701



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

C. STEPHEN ALLRED
Director

CERTIFIED MAIL 100228

September 30, 1978

Re: Permit No. 57-7022

Carleen May Astle
Star Route, Box 339
Grandview, ID 83624

Dear Ms. Astle:

One of the conditions of approval of your water Permit No. 57-7022 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before December 1, 1978. Enclosed is an affidavit form which must 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 affidavit 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.


RITA FLECK
Water Rights

Encl: Proof affidavit
Order

cc: Fred Kennedy
P. O. Box 2561
Boise, ID 83701

RECEIVED
OCT 1 1978

LAW OFFICE
KENNEDY & THOMAS
ATTORNEYS AT LAW
1414 WEST FRANKLIN STREET
P O BOX 2581
BOISE, IDAHO 83701

FRED KENNEDY
BRUCE L. THOMAS

AREA CODE 208
TELEPHONE 338-3250

September 14, 1978

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SEP 15 1978

Ms. Rita Fleck
Department of Water Resources
State of Idaho
Statehouse Mail
Boise, Idaho 83720

Department of Water Resources

Re: In the Matter of Permit No. 57-7022 in the
Name of Carlene May Astle

Dear Ms. Fleck:

This letter will confirm our telephone conversation of Tuesday, September 12, regarding the above mentioned matter wherein you confirmed that this office would receive notice and copies of any pleadings or other documents filed in the above mentioned case.

Your attention is directed to an order entered in the above mentioned proceeding, dated June 27, 1977, and signed by A. Kenneth Dunn. This order provides that Ivyl W. Wells and Novell M. Wells, whom this firm represents, are to be notified if and when the holder of Permit No. 57-7022 files proof of application of water to beneficial use.

Thank you for your cooperation in this matter.

Very truly yours,

Bruce L. Thomas

Bruce L. Thomas

T:ke

cc: Mrs. Dianne K. Wells
Dr. Ivyl W. Wells



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 384-2215

CERTIFIED MAIL

July 31, 1978

Re: Permit No. 57-7022

Francis J. Powell
Route B, Box 343
Grand View, ID 83624

Dear Mr. Powell:

One of the conditions of approval of your water Permit No. 57-7022 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before October 1, 1978. Enclosed is an affidavit form which must 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 affidavit 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.

RITA FLECK

Water Rights

Encl: Proof affidavit



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

CERTIFIED MAIL

138946

July 31, 1973
Re: Permit No.

57-7022

Francis J. Powell
Route 2, Box 343
Grand View, ID 83624

Dear Mr. Powell:

One of the conditions of approval of your water Permit No. _____ (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before _____. Enclosed is an affidavit form which must 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 affidavit 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.

RITA FLECK
Water Rights

Encl: Proof affidavit

RECEIVED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 57-7022
IN THE NAME OF CARLENE MAY ASTLE

REJECTION OF PETITION
TO INTERVENE

On April 13, 1977, Ivy W. Wells and Novell M. Wells through their attorney, Fred Kennedy, submitted a petition to intervene in the matter of Permit No. 57-7022.

This petition to intervene is filed pursuant to Rule 6 of the Department's Rules of Practice and Procedure. This rule allows persons directly or substantially affected by a proceeding to intervene. At the present time there is no proceeding before the Director of the Department in which the petitioners can intervene.

The petition also requests that the petitioner be notified when the permit holder files the proof of application of water to beneficial use on Permit No. 57-7022.

THEREFORE, the petition to intervene in the matter of Permit No. 57-7022 is hereby REJECTED, but the petitioner will be notified when the permit holder files the proof of application of water to beneficial use.

Dated this 27 day of June, 1977.


A. KENNETH DUNN
Deputy Director

RECEIVED

ANDERSON, KAUFMAN, ANDERSON AND RINGERT
CHARTERED
LAWYERS

IDAHO BUILDING
BOISE, IDAHO 83701

April 15, 1977

EUGENE H. ANDERSON (1902-1972)
SAMUEL KAUFMAN
RICHARD ANDERSON
WILLIAM F. RINGERT
D. BLAIR CLARK
ANDREW M. HARRINGTON
HOWARD R. FOLEY
JEFFREY R. CHRISTENSEN

AREA CODE 208
TELEPHONE 342-4591
POST OFFICE BOX 2773

Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Permit No. 57-7022

Gentlemen:

Herewith are Objections to Petition to Intervene, which
please file in your office.

Yours very truly,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By


William F. Ringert

WFR:am
Enclosure

RECEIVED

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

*

*

*

IN THE MATTER OF PERMIT NO..)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLENE MAY ASTLE,)

Permit Holder,)

IVYL W. WELLS and NOVELL M.)
WELLS,)

Intervenors.)

OBJECTIONS TO PETITION TO
INTERVENE

*

*

*

COME NOW Carlene May Astle and Layne Astle, her husband,
holders of Permit No. 57-7022 to appropriate public waters of the
State of Idaho, and object to the Petition to Intervene filed in
this matter by Ivyl W. Wells and Novell M. Wells, on the following
grounds and for the following reasons:

I

Water Permit No. 57-7022 is a validly issued permit now owned
and held by Carlene May Astle and Layne Astle. The proceedings under
which the permit was issued and the transactions by which it became
the property of the Astles, are as follows:

(a) Application for Permit was filed September 3,
1968, by Richard V. Keim. Notice of Application was duly
published in the Owyhee Nugget on September 26 and October
3, 1968. No protests were filed against the granting of
the application. The application was approved by R. Keith
Higgonson, State Reclamation Engineer, on October 23, 1968;

(b) On March 7, 1969, pursuant to application by the holder of the permit, Richard V. Keim, the State Reclamation Engineer approved a change in point of diversion to the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, Township 6 South, Range 3 East, B.M.;

(c) On January 19, 1972, the permit was assigned by Minnie Keim Odle, Executrix of the Richard V. Keim Estate, to Francis J. Powell;

(d) On February 4, 1972, pursuant to application by Francis J. Powell, who then was the owner and holder of the permit and was the owner of the land next described, a change in point of diversion to the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, Township 6 South, Range 3 East, B.M., was approved by the Director of the Department of Water Administration of the State of Idaho;

(e) On November 11, 1974, Francis J. Powell and Grace Powell, his spouse, assigned Permit No. 57-7022 to Carlene May Astle.

II

The proposed intervenors have no standing in this matter. So far as administrative proceedings before the Department of Water Resources are concerned, matters subsequent to approval of the application and issuance of the water permit are strictly between the state and the permit holder. There is no statutory authorization for further participation by third parties after issuance of water permit. See Idaho Code § 42-219.

MACRC
FIELD

III

The proposed intervenors failed to file a protest as authorized by Idaho Code § 42-203 within the time allowed after publication of the Notice of Application and are barred by the provisions of that statute from protesting or objecting to the permit holders' appropriation of water under the permit.

IV

The statutory procedure embodied in Chapter 2 of Title 42 of the Idaho Code is a complete procedure designed to resolve all objections and protests before approval of an application and issuance of a water permit, in order that the permit holder may be protected in the work he does and in the expenditures he makes to complete his appropriation. The requested intervention is contrary to the policy of this statutory procedure and cannot be allowed.

V

The right to appropriate public waters of the State of Idaho already has been granted to the permit holders and the relief sought by the proposed intervenors is beyond the jurisdiction and authority of the Idaho Department of Water Resources.

VI

The proposed intervenors should not be permitted to harass the permit holders and put them to additional expense in defending against the unauthorized intervention they seek.

VII

The permit holders own the well referred to in Paragraphs III and IV of the Petition to Intervene, and own an easement for the 1 and for the pipeline extending to the boundary line of the proposed intervenors' property, and own a secondary easement for

MACROFILMED

access, and for operation and maintenance of the well and pipeline. Any dispute as to ownership of the well and the easements is a judicial matter for the courts to determine, and the Department of Water Resources has no jurisdiction to consider or determine such a dispute.

VIII

The permit holders deny the allegations of trespass set forth in the Petition to Intervene. Any questions of trespass are judicial matters for the courts to determine, and the Department of Water Resources has no jurisdiction to determine such questions of trespass.

IX

That the water rights which the proposed intervenors might perfect should their applications for water permits be approved would be junior and inferior to the water rights of the permit holders under their Permit No. 57-7022, is no ground for authorizing intervention in this matter. The grounds for protest and objection to applications for permits to appropriate public waters of the State of Idaho are specified in Idaho Code § 42-203, and no other grounds for protest or objection exist for proceedings before the Department. These grounds asserted by the proposed intervenors are not within the provisions of Idaho Code § 42-203.

WHEREFORE, the permit holders pray that the Petition to Intervene by Ivyl W. Wells and Novell M. Wells be denied.

Dated April 15, 1977.

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By

W. F. Ringert
W. F. Ringert, A Member of the Firm
503 Idaho Building, Boise, Idaho
Attorney for Permit Holders

I hereby certify that service of the within and foregoing
Objections to Petition to Intervene was made this 15th day of
April, 1977, by mailing a copy thereof to Fred Kennedy, Attorney
for the Intervenors, at P. O. Box 2561, Boise, Idaho 83701.



W. F. Ringert

FRED KENNEDY
1224 Vista Avenue
P.O. Box 2561
Boise, Idaho 83701
Telephone: 336-3250

Attorney for Intervenor

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO. 57-7022 TO APPROPRIATE PUBLIC WATERS OF THE STATE OF IDAHO GRANTED TO CARLENE MAY ASTLE,	)	
	)	
Applicants.	)	
	)	
IVYL W. WELLS and NOVELL M. WELLS,	)	
	)	
Intervenor.	)	
	)	ORDER GRANTING LEAVE TO INTERVENE

The Petition to Intervene filed in the above entitled matter by Ivyl W. Wells and Novell M. Wells having been reviewed and duly considered, and all other pleadings and documents on file in this cause also having been reviewed and considered, and good cause appearing therefor;

IT IS HEREBY ORDERED that the Petition to Intervene filed in the above matter by Ivyl W. Wells and Novell M. Wells be and the same is hereby granted in its entirety, pursuant to Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources.

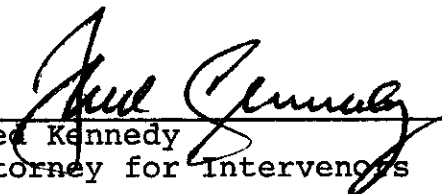
IT IS FURTHER ORDERED that the granting of this Order shall not be construed to be a finding or determination of the Director or the Board that said parties will or may be parties aggrieved by any ruling, order or decision of the Director, for purposes of court review or appeal.

DATED this _____ day of April, 1977.

C. Stephen Allred, Director of the
Department of Water Resources
State of Idaho
Boise, Idaho

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 13th day of April, 1977, I served a true and correct copy of the foregoing Order Granting Leave to Intervene, by depositing a copy thereof in the United States mail, postage prepaid, and addressed to W. F. Ringert, of the firm of Anderson, Kaufman, Anderson & Ringert, Attorneys at Law, 503 Idaho Building, Boise, Idaho 83701, attorney for Applicants.



Fred Kennedy
Attorney for Intervenor

MICROFILMED

FRED KENNEDY
1224 Vista Avenue
P.O. Box 2561
Boise, Idaho 83701
Telephone: 336-3250

Attorney for Intervenor

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.	)	
57-7022 TO APPROPRIATE PUBLIC	)	
WATERS OF THE STATE OF IDAHO	)	
GRANTED TO CARLENE MAY	)	
ASTLE,	)	
	)	ORDER GRANTING LEAVE
Applicants.	)	TO INTERVENE
	)	
IVYL W. WELLS and NOVELL M.	)	
WELLS,	)	
	)	
Intervenor.	)	

The Petition to Intervene filed in the above entitled matter by Ivyl W. Wells and Novell M. Wells having been reviewed and duly considered, and all other pleadings and documents on file in this cause also having been reviewed and considered, and good cause appearing therefor;

IT IS HEREBY ORDERED that the Petition to Intervene filed in the above matter by Ivyl W. Wells and Novell M. Wells be and the same is hereby granted in its entirety, pursuant to Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources.

IT IS FURTHER ORDERED that the granting of this Order shall not be construed to be a finding or determination of the Director or the Board that said parties will or may be parties aggrieved by any ruling, order or decision of the Director, for purposes of court review or appeal.

DATED this _____ day of April, 1977.

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IN THE MATTER OF PERMIT NO.)
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WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLENE MAY)
ASTLE,)
Applicants.)
IVYL W. WELLS and NOVELL M.)
WELLS,)
Intervenors.)

ORDER GRANTING LEAVE
TO INTERVENE

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IT IS HEREBY ORDERED that the Petition to Intervene filed in the above matter by Ivyl W. Wells and Novell M. Wells be and the same is hereby granted in its entirety, pursuant to Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources.

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at Law, 503 Idaho Building, Boise, Idaho 83701, attorney for
Applicants.

Fred Kennedy
Fred Kennedy
Attorney for Intervenors

BRUCE L THOMAS
ASSOCIATE

LAW OFFICE
FRED KENNEDY
ATTORNEY AT LAW
1224 VISTA AVENUE
P O BOX 2561
BOISE, IDAHO 83701

TELEPHONE (208) 336-3250

April 22, 1977

Mr. Bobby Fleenor
Chief, Water Rights Bureau
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

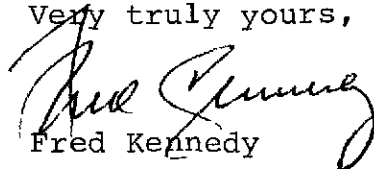
Re: In the Matter of Permit No. 57-7022
to Appropriate Public Waters of the
State of Idaho Granted to Carlene
May Astle

Dear Mr. Fleenor:

I have enclosed the original and one copy of a Memorandum of Authorities submitted in support of our Petition to Intervene in the above entitled matter. Please file the memoranda in the above entitled matter. A copy of the Memorandum of Authorities was mailed to W. F. Ringert, attorney for the Astles. It is my understanding that the Department does not expect to conduct a hearing on our Petition to Intervene; therefore, we are submitting this Memorandum of Authorities in support of our Petition to assist the Director in his consideration of the case.

If you have any questions, please contact me.

Very truly yours,


Fred Kennedy

K:ke
Enclosures

cc: Drs. Ivyl and Novell Wells w/enclosure
W. F. Ringert, Esq. w/enclosure

FRED KENNEDY
1224 Vista Avenue
P.O. Box 2561
Boise, Idaho 83701
Telephone: 336-3250

Attorney for Intervenors

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLENE MAY ASTLE,)

Applicants.)

IVYL W. WELLS and NOVELL M.)
WELLS,)

Intervenors.)

MEMORANDUM OF AUTHORITIES

This Memorandum of Authorities is submitted by the Intervenors, Ivyl W. Wells and Novell M. Wells, in support of their Petition to Intervene in the above entitled case. Before the question of intervention can be considered, the history of the ownership of the Astle permit and the Wells' property must be analyzed.

Permit No. 57-7022, the permit now allegedly owned by Carlene May Astle, was granted to Richard V. Kiem on October 23, 1968. The point of diversion for this permit was a well located in the Northwest 1/4 of the Northeast 1/4, Section 8, Township 6 South, Range 3 East, Boise Meridian. Kiem applied for and was granted a change in the point of diversion on March 7, 1969 to a point located in the Southeast 1/4 of the Northeast 1/4, Section 8, Township 6 South, Range 3 East, Boise Meridian. Minnie Kiem Odle, as executrix of the estate of Richard Kiem, assigned this permit to Francis J. Powell, January 19, 1972. On February 1, 1972, Powell was granted an amendment to this permit, changing the point of diversion to a point located in the Southwest 1/4, Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian,

a quarter section which Powell was purchasing under contract at that time and which is now owned by the Wells brothers. Powell purportedly assigned this permit to Carlene May Astle on November 11, 1974.

Prior to January 30, 1973, the record owner of the property where the well in dispute is located, described as the Southwest 1/4 of the Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian, and now owned by the Wells brothers, was Olive Hughes; Francis Powell was purchasing this property under contract from Olive Hughes. On January 30, 1973, Olive Hughes deeded this property to Francis J. Powell and Grace A. Powell, husband and wife. Francis J. Powell and Grace A. Powell conveyed this property, by warranty deed, on March 21, 1973, to Powell Feed Lots, Inc., a corporation in which the Wells brothers were stockholders. Foreclosure proceedings on debts owed by Powell Feed Lots, Inc. were initiated against the property and Ivyl W. Wells and Novell M. Wells redeemed the property from the Sheriff's sale of real property on July 8, 1975. Since that date, Ivyl W. Wells and Novell M. Wells are and have been the legal and equitable owners of the property described as the Southwest 1/4 of the Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian, the property upon which the Astles seek to divert water from the well.

When Ivyl W. and Novell M. Wells became aware that the Astles were trespassing upon the above described property so that the Astles could divert water from the well located on said property, the Wells brothers immediately served Layne Astle, Carlene May Astle's husband, with a Notice of Trespass and Unlawful Detainer June 16, 1975. The Astles claim to enjoy an easement or a license to go upon the above described property owned by the Wells brothers so that they can divert water from the well located thereon. However, the only easement or license granted to the Astles which the Wells brothers are aware of is Right-of-Way No. I-2920, which

granted the Astles an easement across the Northwest 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian. This easement ends at the survey line dividing the Northwest quarter section from the Northeast quarter section of Section 9. Thus, this easement does not give the Astles any right to go upon property where the well is located in the Northeast quarter section of Section 9 and owned by Ivyl W. Wells and Novell M. Wells.

This Petition to Intervene is submitted pursuant to Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources. Said rule allows the Director to enter an order granting leave to intervene to those persons who are directly and substantially affected by the proceeding. As the Astles have been granted a permit and seek a license to divert water from a point located on the property owned by the Wells brothers, the Intervenors will be directly and substantially affected by the permit and/or license because the Astles will have to trespass upon their property in order to perfect the water right which they seek. Moreover, Ivyl W. and Novell M. Wells have applied for Permit No. 57-7145 and Permit No. 57-7177 to appropriate ground water from points of diversion located in the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian; thus, any water rights which the Wells brothers may acquire under these applications may be substantially injured by the grant of a senior water right to the Astles.

In order to be granted a license to divert water, the Astles must submit proof of "[t]he relation or understanding upon which the right to take water from such [diversion] works is based" I.C. §42-217(6). Any person may protest the statements made by the Astles in the submission of their proof of beneficial application of water for their license. I.C. §42-224. It is the position of the Intervenors that I.C. §42-224 gives them the right to intervene to protest such statements made by the Astles, if and when

the Astles file said statement of proof. Thus, the granting of this Petition to Intervene at this stage of the proceeding would serve to insure that the Intervenor received notice of the Astles' submission of proof and would grant them the right to intervene at the present time, a right which the Intervenor cannot be denied if and when the Astles' file proof of beneficial use.

The ultimate issue which must be resolved in this proceeding is whether the Astles are entitled to a license to divert water from a point located in the Southwest 1/4 of the Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian. It is the position of the Intervenor that the Astles cannot acquire such a license because, in order to divert the water, the Astles must trespass upon the property owned by the Wells brothers.

According to Wells A. Hutchins in his comprehensive article entitled "Idaho Law of Water Rights", "[i]t is the settled rule of decision in Idaho that an appropriation of water cannot be made or a permit to appropriate water acquired through trespass upon the land of another". 5 Idaho Law Review p. 15 (1968). This principle was recently reaffirmed by the Supreme Court of Idaho in the case of Lemmon v. Hardy, 95 Idaho 778, 519 P.2d 1168 (1974), wherein Justice McQuade quoted with approval from Bassett v. Swenson, 51 Idaho 256, 259, 5 P.2d 722, 723 (1931):

"It is quite generally held that a water right initiated by trespass is void. That is to say, one who diverts water and puts it to a beneficial use by aid of a trespass does not, pursuant to such trespass, acquire a water right. Any claim of right thus initiated is void." 95 Idaho 780.

Accord, Idaho Power Company v. City of Buhl, 62 Idaho 351, 111 P.2d 1088 (1941); Jones v. McIntire, 60 Idaho 338, 91 P.2d 373 (1939); Marshall v. Niagara Springs Orchard Company, 22 Idaho 125 P. 208 (1912).

In the case of Marshall v. Niagara Springs Orchard Company, supra, Marshall applied for and received a permit to appropriate water from a point of diversion located on land

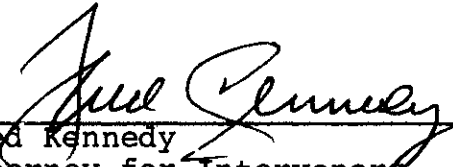
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Thus, if the Astles did trespass upon property owned by the Wells brothers in order to construct diversion works, ditches, or to lay pipes, then they could not and cannot now acquire a water right, even if they do divert ground water and apply it to a beneficial use, because of this trespass. As the evidence will show, the Astles do not now enjoy nor can they acquire a license or easement to go upon the property owned by the Wells brothers, described as the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian; therefore, any right which the Astles may hold to divert water under Permit No. 57-7022 from a point located in the above described quarter section could only be acquired by trespass and so is invalid. As the Astles do not have a valid water right, they cannot be granted a license for the same.

In summary, the Wells brothers are directly and substantially affected by the granting of Permit No. 57-7022 and the issuance of a license to appropriate water based thereon to the Astles. If this Petition to Intervene is granted, the Wells brothers, by and through their attorney, will present a meritorious case to establish that the Astles cannot acquire a license to appropriate

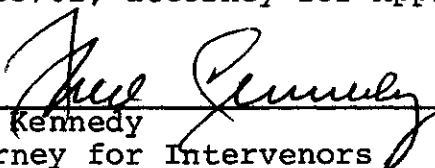
water because of their trespass. Thus, the Intervenor respectfully submit that their Petition to Intervene in the above entitled matter should be granted.

DATED this 22nd day of April, 1977.


Fred Kennedy
Attorney for Intervenor

CERTIFICATE OF MAILING

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Telephone: 336-3250

Attorney for Intervenors

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLENE MAY ASTLE,)

Applicants.)

IVYL W. WELLS and NOVELL M.)
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In summary, the Wells brothers are directly and substantially affected by the granting of Permit No. 57-7022 and the issuance of a license to appropriate water based thereon to the Astles. If this Petition to Intervene is granted, the Wells brothers, by and through their attorney, will present a meritorious case to establish that the Astles cannot acquire a license to appropriate

water because of their trespass. Thus, the Intervenor respectfully submit that their Petition to Intervene in the above entitled matter should be granted.

DATED this 22nd day of April, 1977.

Fred Kennedy
Fred Kennedy
Attorney for Intervenor

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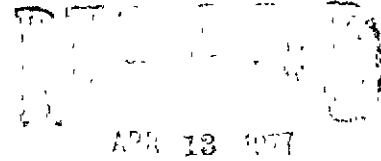
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LAW OFFICE
FRED KENNEDY
ATTORNEY AT LAW
1224 VISTA AVENUE
P O BOX 2561
BOISE, IDAHO 83701

BRUCE L. THOMAS
ASSOCIATE

TELEPHONE (208) 336-3250

April 13, 1977



Department of Water Resources

Mr. C. Stephen Allred
Director
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Re: In the Matter of Permit No. 57-7022
to Appropriate Public Waters of the
State of Idaho Granted to Carlene
May Astle

Dear Mr. Allred:

Today, I have handed you the original and one copy
of a Petition to Intervene and the original and two copies of
a proposed Order Granting Leave to Intervene in the above
entitled matter.

Please file the Petition in the above mentioned file.
Once the Order Granting Leave to Intervene has been dated and
signed, I would appreciate it if you would return a stamped
and conformed copy of same to this office.

Thank you for your cooperation in this matter.

Sincerely,

Bruce L. Thomas

T:ke

cc: Drs. Ivyll and Novell Wells
W. F. Ringert, Esq., with enclosures

FRED KENNEDY
1224 Vista Avenue
P.O. Box 2561
Boise, Idaho 83701
Telephone: 336-3250

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APR 13 1977

Department of Water Resources

Attorney for Intervenor

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLENE MAY)
ASTLE,)

Applicants.)

IVYL W. WELLS and NOVELL M.)
WELLS,)

Intervenor.)

PETITION TO INTERVENE

COME NOW Ivyl W. Wells and Novell M. Wells, and petition to intervene in the above entitled proceeding to protest and object to the above mentioned Permit No. 57-7022, to the granting thereof and to the issuance of a license to appropriate the public waters of the State of Idaho, for each of the reasons and grounds set forth as follows:

I

Ivyl W. Wells and Novell M. Wells, applied, on June 17, 1975, for Permit No. 57-7145 to appropriate the public waters of the State of Idaho by diversion by means of a well located in the Southwest 1/4, Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian, to irrigate 120 acres of farm land, located in the West 1/2 of the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 6 South, Range 3 East, Boise Meridian.

II

Ivyl W. Wells and Novell M. Wells applied, on January 11, 1977, for Permit No. 57-7177 to appropriate the public waters of the State of Idaho by diversion of said waters by means of a well located in the Northwest 1/4 of Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, to irrigate 120 acres of farm land located in the West 1/2 of the Northeast 1/4, and the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 6 South, Range 3 East, Boise Meridian.

III

Carlene May Astle claims to be the assignee of Permit No. 57-7022 to appropriate the public waters of the State of Idaho by diverting ground water from a well located in Southwest 1/4 of the Northeast 1/4, of Section 9, Township 6 South, Range 3 East, Boise Meridian. Layne Astle is the husband of Carlene May Astle.

IV

All real property situated in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, including the well located thereon referred to in the paragraph next preceding, is owned by Ivyl W. Wells and Novell M. Wells.

V

Neither Carlene May Astle or Layne Astle, her husband, has acquired nor enjoys any easement or license to go upon the real property located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, owned by Ivyl W. Wells and Novell M. Wells, in order to construct a well, other diversion works, ditches or to lay pipes.

VI

Permit No. 57-7022 was purportedly assigned to Carlene May Astle on November 12, 1974. Since that date, Carlene May Astle, and/or her husband, Layne Astle, have trespassed and con-

tinue to trespass upon said real property, described in the paragraph next preceding, even though she and her husband were served with a Notice of Trespass and Unlawful Detainer by the Sheriff of Owyhee County, on June 9, 1975, at the express direction of Ivyl W. Wells and Novell M. Wells.

VII

Any diversion of water from a point located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, by Carlene May Astle or Layne Astle, can only be effected by a trespass upon the said real property owned by Ivyl W. Wells and Novell M. Wells, as a result of which said Carlene May Astle or Layne Astle never could and cannot now acquire a license to divert irrigation water from a point of diversion located in said quarter section.

VIII

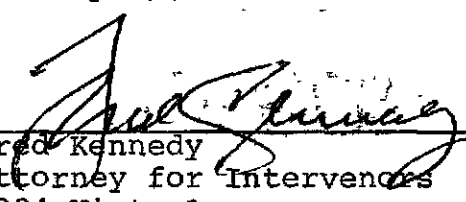
The petitioners, Ivyl W. Wells and Novell M. Wells, would be irreparably injured by the grant of a license to Carlene May Astle, or her successors or assignees, to appropriate the public waters of the State of Idaho by diverting ground water from a well located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, because the grant of said license would give Carlene May Astle a water right senior to any water rights which Ivyl W. Wells and Novell M. Wells may acquire under Application No. 57-7145 and Application No. 57-7177.

WHEREFORE, the Petitioners pray that this Petition to Intervene in the Matter of Permit No. 57-7022 To Appropriate Public Waters of the State of Idaho Granted to Carlene May Astle be granted so that the Petitioners may have the opportunity to protest the granting of Permit No. 57-7022 and to contest the grant of a license to Carlene May Astle, or her successors or assigns, to appropriate the public waters of the State of Idaho upon the basis of and as requested by Permit No. 57-7022.

If this petition is granted and a hearing is held on the matter, the Petitioners will submit evidence, both documentary and testimonial, establishing that Ivyl W. Wells and Novell M. Wells own all real property situated in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, that neither Carlene May Astle nor Layne Astle has acquired nor enjoys any easement or license to go upon the above mentioned real property in order to construct a well, other diversion works, ditches, or to lay pipes, and that Carlene May Astle and Layne Astle have trespassed and continue to trespass upon said real property described above in order to divert water from a well located in said quarter section.

This petition is filed pursuant to Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources.

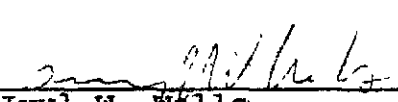
DATED this 13th day of April, 1977.


Fred Kennedy
Attorney for Interveners
1224 Vista Avenue
P.O. Box 2561
Boise, Idaho 83701

STATE OF IDAHO)
) ss.
County of Elmore)

IVYL W. WELLS and NOVELL M. WELLS, being first duly sworn, depose and say:

That they are the Petitioners in the above entitled cause; that they have read the foregoing Petition, know the contents thereof, and that they believe the facts stated therein to be true.


Ivyl W. Wells


Novell M. Wells

Joe W. Terrell
Notary Public for Idaho
Residing at Mountain Home, Idaho

Fred Kennedy
Attorney for Intervenor

FRED KENNEDY
1224 Vista Avenue
P.O. Box 2561
Boise, Idaho 83701
Telephone: 336-3250

RECEIVED

APR 13 1977

Department of Water Resources

Attorney for Intervenor

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO.)
57-7022 TO APPROPRIATE PUBLIC)
WATERS OF THE STATE OF IDAHO)
GRANTED TO CARLENE MAY)
ASTLE,)

Applicants.)

IVYL W. WELLS and NOVELL M.)
WELLS,)

Intervenor.)

PETITION TO INTERVENE

COME NOW Ivyl W. Wells and Novell M. Wells, and petition to intervene in the above entitled proceeding to protest and object to the above mentioned Permit No. 57-7022, to the granting thereof and to the issuance of a license to appropriate the public waters of the State of Idaho, for each of the reasons and grounds set forth as follows:

I

Ivyl W. Wells and Novell M. Wells, applied, on June 17, 1975, for Permit No. 57-7145 to appropriate the public waters of the State of Idaho by diversion by means of a well located in the Southwest 1/4, Northeast 1/4, Section 9, Township 6 South, Range 3 East, Boise Meridian, to irrigate 120 acres of farm land, located in the West 1/2 of the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 6 South, Range 3 East, Boise Meridian.

II

Ivyl W. Wells and Novell M. Wells applied, on January 11, 1977, for Permit No. 57-7177 to appropriate the public waters of the State of Idaho by diversion of said waters by means of a well located in the Northwest 1/4 of Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, to irrigate 120 acres of farm land located in the West 1/2 of the Northeast 1/4, and the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 6 South, Range 3 East, Boise Meridian.

III

Carlene May Astle claims to be the assignee of Permit No. 57-7022 to appropriate the public waters of the State of Idaho by diverting ground water from a well located in Southwest 1/4 of the Northeast 1/4, of Section 9, Township 6 South, Range 3 East, Boise Meridian. Layne Astle is the husband of Carlene May Astle.

IV

All real property situated in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, including the well located thereon referred to in the paragraph next preceding, is owned by Ivyl W. Wells and Novell M. Wells.

V

Neither Carlene May Astle or Layne Astle, her husband, has acquired nor enjoys any easement or license to go upon the real property located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, owned by Ivyl W. Wells and Novell M. Wells, in order to construct a well or other diversion works, ditches or to lay pipes.

VI

Permit No. 57-7022 was purportedly assigned to Carlene May Astle on November 12, 1974. Since that date, Carlene May Astle, and/or her husband, Layne Astle, have trespassed and con-

tinue to trespass upon said real property, described in the paragraph next preceding, even though she and her husband were served with a Notice of Trespass and Unlawful Detainer by the Sheriff of Owyhee County, on June 9, 1975, at the express direction of Ivyl W. Wells and Novell M. Wells.

VII

Any diversion of water from a point located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, by Carlene May Astle or Layne Astle, can only be effected by a trespass upon the said real property owned by Ivyl W. Wells and Novell M. Wells, as a result of which said Carlene May Astle or Layne Astle never could and cannot now acquire a license to divert irrigation water from a point of diversion located in said quarter section.

VIII

The petitioners, Ivyl W. Wells and Novell M. Wells, would be irreparably injured by the grant of a license to Carlene May Astle, or her successors or assignees, to appropriate the public waters of the State of Idaho by diverting ground water from a well located in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, because the grant of said license would give Carlene May Astle a water right senior to any water rights which Ivyl W. Wells and Novell M. Wells may acquire under Application No. 57-7145 and Application No. 57-7177.

WHEREFORE, the Petitioners pray that this Petition to Intervene in the Matter of Permit No. 57-7022 To Appropriate Public Waters of the State of Idaho Granted to Carlene May Astle be granted so that the Petitioners may have the opportunity to protest the granting of Permit No. 57-7022 and to contest the grant of a license to Carlene May Astle, or her successors or assigns, to appropriate the public waters of the State of Idaho upon the basis of and as requested by Permit No. 57-7022.

If this petition is granted and a hearing is held on the matter, the Petitioners will submit evidence, both documentary and testimonial, establishing that Ivyl W. Wells and Novell M. Wells own all real property situated in the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 6 South, Range 3 East, Boise Meridian, that neither Carlene May Astle nor Layne Astle has acquired nor enjoys any easement or license to go upon the above mentioned real property in order to construct a well, other diversion works, ditches, or to lay pipes, and that Carlene May Astle and Layne Astle have trespassed and continue to trespass upon said real property described above in order to divert water from a well located in said quarter section.

This petition is filed pursuant to Rule 6 of the Rules and Regulations, Practice and Procedure, of the Department of Water Resources.

DATED this 13th day of April, 1977.

Fred Kennedy
Fred Kennedy
Attorney for Intervenor
1224 Vista Avenue
P.O. Box 2561
Boise, Idaho 83701

STATE OF IDAHO)
) ss.
County of Elmore)

IVYL W. WELLS and NOVELL M. WELLS, being first duly sworn, depose and say:

That they are the Petitioners in the above entitled cause; that they have read the foregoing Petition, know the contents thereof, and that they believe the facts stated therein to be true.

Ivyl W. Wells
Ivyl W. Wells

Novell M. Wells
Novell M. Wells

SUBSCRIBED AND SWORN to before me this 12th day of
April, 1977.

(SEAL)

Joe W. Terrell
Notary Public for Idaho
Residing at Mountain Home, Idaho

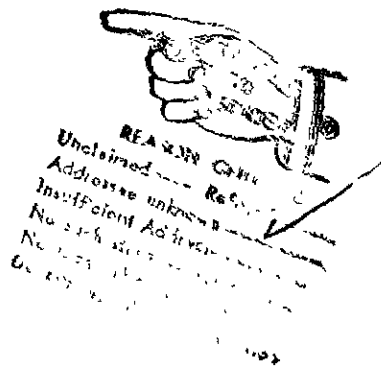
CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 13th day of April, 1977,
I served a true and correct copy of the foregoing Petition to
Intervene, by depositing a copy thereof in the United States mail,
postage prepaid and addressed to W. F. Ringert, of the firm of
Anderson, Kaufman, Anderson & Ringert, Attorneys at Law, 503
Idaho Building, Boise, Idaho 83701, attorney for Applicants.

Fred Kennedy
Fred Kennedy
Attorney for Intervenors

UNRECORDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
Boise, Idaho 83720



~~Francis J. Powell
Route 3, Box 343
Grand View, ID 83624~~

RECEIVED

AUG 4 1978

Department of Water Resources

Assessor's Office has no
forwarding address, nor
does he own property
in Owyhee County

8/16/78

if

128016

FROM

To Beerman

DATE

8 April 1977

TO

permit 57-7022 file

SUBJECT

call from Bruce Thomas, an associate of
Fred Kennedy

Thomas represents individual who owns land
where well is located. Permit holder has not
yet obtained right of way or easement to well.
Thomas wondered if there was any need for
him to intervene in the Dept's proceedings. Since
there are no proceedings before the Dept. ~~of~~ (permit
holder has until 1978 to make
application of proof of beneficial use), Bob

SIGNATURE

MICROFILMED

Fleenor suggested Thomas consider whether a petition for cancellation of permit under 42-301 would be appropriate. I relayed info to Thomas, and told him that dept would not issue a license until there was proof of application to beneficial use. Thus, dept wouldn't act until permit holder had access to well and had completed distribution system from well.

Go

November 18, 1974

Re: Permit No. 57-7022

Carleen May Astle
Star Route, Box 339
Grandview, ID 83624

Dear Ms. Astle:

We acknowledge receipt of the assignment submitted conveying the above referenced permit to you. The assignment has been recorded and the Department's records changed.

If you have any questions concerning this permit, please contact us.

Sincerely,

D. Darlene Reich
Water Rights Supervisor

DDR:JG

MICROFILMED

October 2, 1973

Re: Permit No. 57-7022

Francis J. Powell
Route B, Box 343
Grand View, Idaho 83624

Dear Mr. Powell:

Enclosed please find a copy of the approved application for extension of time in connection with the above referenced permit.

The time within which to submit proof of beneficial use of water has been extended to October 1, 1978.

Sincerely,

D. Darlene Reich
Water Rights Supervisor

DDR:JC
Enclosure

cc: Idaho Land & Appraisal

57 7022

February 4, 1972

C Re: Permit No. 57-7022

Mr. Francis J. Powell
Route B - Box 343
Grandview, Idaho 83624

Dear Mr. Powell:

Enclosed please find a copy of the APPROVED application for amendment in

P connection with your Permit No. 57-7022.

Sincerely,

Y BOBBY D. FLEENOR
Assistant Director

BDF:DR

Enc: Copy of amendment

cc: Idaho Land & Appraisal Service

Enc: Copy of amendment

Receipt #8794

57 7022

January 27, 1972

Re: Permit No. 57-7022 (Desert Land Entry I-2134)

Francis J. Powell
Route B, Box 343
Grand View, Idaho 83624

Dear Mr. Powell:

Enclosed is a copy of the recorded assignment conveying Permit No. 57-7022. We are also enclosing a copy of the permit and amendment. We wish to advise you that proof of beneficial use of the water is to be submitted on or before October 1, 1973.

If we can assist you further, please contact us.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM/BB
Enclosures

cc: Bureau of Land Management
Idaho Land & Appraisal
Enc: Copy of assignment

57 7022



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATE HOUSE BOISE, IDAHO 83720

July 15, 1975

Re: Permit No. 57-7022 - Carleen May Astle

Fred Kennedy, Attorney
1224 Vista Avenue
Boise, Idaho 83705

Dear Mr. Kennedy:

We received your letter concerning the conflict between your clients and the permit holder over the use of the water from a deep well, named as the point of diversion in Permit No. 57-7022.

Permit No. 57-7022 was amended on February 3, 1972, to show the well in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9, Twp. 6S, Rge. 3E, as the point of diversion. This land is shown on the amendment application map as owned by Mr. Powell, the applicant at that time. A copy of the application for amendment is enclosed for your review. Your letter will be entered as a part of the file and you will be notified of the permit holders submittance of proof of beneficial use prior to the issuance of a license on this permit.

Sincerely,

Bobby D. Fleenor
BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

Encl: Copy of amendment

LAW OFFICE
FRED KENNEDY
ATTORNEY AT LAW
TELEPHONE (208) 336-3250
1224 VISTA AVENUE
BOISE, IDAHO 83705

July 10, 1975

Department of Water Resources
State Office
373 West Franklin
Boise, Idaho 83702

Re: Permit to appropriate public
waters of the State of Idaho
Permit No. 57-7022
~~Present owner or holder of~~
permit: Carleen May Astle

Gentlemen:

I represent and write on behalf of Dr. Ivyl W. Wells and Dr. Novell M. Wells, both of Mountain Home, Idaho, who are the equitable owners of the real property on which the well which is the subject of Permit No. 57-7022 is situated in Owyhee County, Idaho. The legal description of the real property on which the well is situated is as follows:

The West Half of the Northeast Quarter and
the Northeast Quarter of the Northwest
Quarter of Section 9, Township 6 South,
Range 3 East, Boise Meridian.

I discussed the present status of the permit referred to above by telephone today with Mr. Barron of the Western District Office, and with Mrs. Woods, who I believe is in the State Office. I was advised that the last document in the State's file concerning Permit No. 57-7022 was the assignment by Francis J. Powell to Carleen May Astle dated November 11, 1974. I was also advised that the time within which proof of application of water to beneficial use must be made is October 1, 1978. I was also advised that the present owner or holder of Permit No. 57-7022 has not submitted any proof of the application of water to a beneficial use as of this date.

Department of Water Resources
State Office
July 10, 1975
Page 2

As I informed both Mr. Barron and Mrs. Woods, my clients, Dr. Ivyl Wells and Dr. Novell Wells, contend that neither Francis J. Powell nor Carleen May Astle has any right to the use of water from the deep well situated on the property they own which is described above, and which well is the one described as the point of diversion in Permit No. 57-7022.

It is my understanding that Attorney Alan D. Wilson of Mountain Home, Idaho, is presently in the process of preparing a formal sworn protest against the granting of a license to Carleen May Astle under Permit No. 57-7022, or to any successor in interest to such permit, and that saidwritten protest, sworn to both by Dr. Ivyl Wells and Dr. Novell Wells, will be filed in the office of the Department of Water Resources within the next few days, under the provisions of Idaho Code Section 42-224.

The purpose of this letter, then, is to advise the Department of the position taken by my clients with respect to Permit No. 57-7022, and to formally request that my clients receive written notification of any action which is contemplated with respect to the granting of a license under Permit No. 57-7022. We would also request that my clients be notified if and when the holder or owner of Permit No. 57-7022 submits proof of the application of water to a beneficial use in an attempt to obtain a license under that permit, so that my clients can take that action deemed appropriate to protect their interests in the subject well and the water rights appurtenant thereto. I was informed by Mrs. Woods that this letter directed to the Department is all that will be necessary to ensure that my clients do receive such written notification of any contemplated action with respect to Permit No. 57-7022, but if any further action is needed at this time to make sure that such notification is given, I would appreciate it if you would advise.

Very truly yours,


Fred Kennedy

K:gs

cc: Mr. Alan D. Wilson

Drs. Ivyl and Novell Wells

Department of Water Resources
Western District Office

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.

☐

Show to whom, date and address
where delivered

☐

Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*)

CERTIFIED NO.

24723

1

2

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

INSURED NO.

DATE DELIVERED

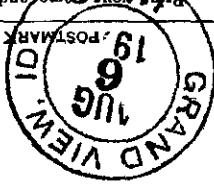
8/6/73

3

SHOW WHERE DELIVERED (*only if insured*)

87-7022

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS



CS5-16-7154B-11

POD Form 3811 Apr. 1969

POSTMARK OF DELIVERING OFFICE

Print your name and address below. If you want to receive delivery, or to have the address of delivery shown on this receipt, check block(s) on other side. Moistened gummed ends and attach this card to back of article.

RETURN
TO

PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300



DEPARTMENT OF WATER ADMINISTRATION

STATEHOUSE - ANNEX #2

BOISE, IDAHO 83703

57 7022

August 1, 1973

CERTIFIED MAIL

#24723

Re: Permit No. 57-7022

Francis J. Powell
Route B, Box 343
Grandview, Idaho 83624

Dear Mr. Powell:

One of the conditions of approval of your water Permit No. 57-7022 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before October 1, 1973. Enclosed is an affidavit form which must 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 affidavit 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.



R. KEITH HIGGINSON
Director

57 7022

Enc: Proof affidavit

cc: Idaho Land & Appraisal
Box 1603
Boise, Idaho 83701

Idaho Land & Appraisal Service

BOISE, IDAHO 83701

Real Estate Appraisers & Counselors
Grazing Management

January 26, 1972

MERVIN J. CHRISTENSEN
JOSEPH J. THACKABERRY
ROBERT W. SMITH

633 N. 4TH
P. O. BOX 1603
208-344-2547

Mr. R. Keith Higginson
Director
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Higginson:

Enclosed herewith please find an Assignment of Permit
from the Richard V. Keim Estate to Francis J. Powell.

Also enclosed is a copy of the Decree of Distribution.
If you require anything further, do not hesitate to let us
know.

Very truly yours,

IDAHO LAND & APPRAISAL SERVICE

Joseph J. Thackaberry
Joseph J. Thackaberry

ls

encl

57 1022

FILED
10/12/71 A.M. P.M.
NOV 10 1971
WALTER FRY, CLERK
C. COON
CLERK OF
COURT

In The Matter Of The Estate Of

RICHARD V. KEIM,

Deceased.

It further appearing that the said Minnie Keim Odle and Richard V. Keim, now deceased, were married at McPherson, Kansas.

the 29th day of May, 1925, and continued as wife and husband to the date of death of said decedent; that during the existence of their marriage, they acquired wholly by their joint and common efforts and entirely from community funds, the real and personal property hereinafter more particularly described and set out; and

That the said Richard V. Keim died intestate at Bowmont, Canyon County, Idaho, on the 18th day of August, 1969, at the age of sixty-eight (68) years, or thereabouts; that at the time of the decedent's death, he was a resident of said County of Canyon, State of Idaho, and left surviving him, as his sole and only heirs at law, the said Minnie Keim Odle, his widow, and the following named children born to the marriage of the decedent and Minnie Keim Odle, to-wit: Robert E. Keim, George A. Keim and Richard V. Keim, Jr., his sons, and Margaret K. Goering and Elizabeth K. Nelson, his daughters; that all of the aforesaid persons are of legal age; that the decedent was not survived by any other child or children nor by the issue of any deceased child or children; that at the time of the decedent's death, he was seized and possessed of a community interest in the real and personal property hereinafter set out, and that upon his death, the fee simple title to all of said property vested in the said Minnie Keim Odle as the surviving spouse of the decedent, under the laws of succession and inheritance of the State of Idaho relating to community property, and that she, the said Minnie Keim Odle, is entitled to have all of said property set over and assigned to her as the surviving member of said marital community; and

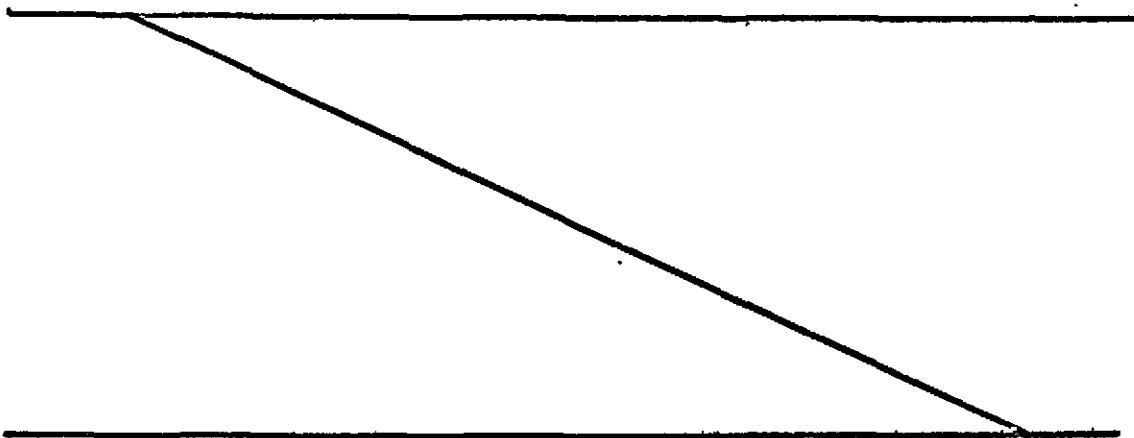
That more than two (2) years have elapsed since the death of Richard V. Keim, but that no application has been made in the State of Idaho, or elsewhere, for the appointment of an administrator of his estate, either by the heirs of the decedent or by any person or persons claiming to be a creditor or creditors of the decedent, or by any other person or persons whomsoever; and

It further appearing to this Court that all the material allegations and averments contained in said petition are sustained by testimony free from all legal exceptions as to its competency, admissibility and sufficiency, NOW, THEREFORE,

IT IS HEREBY ORDERED, ADJUDGED and DECREED, and this does ORDER, ADJUDGE and DECREE That the said Richard V. Keim died intestate at Bowmont, Canyon County, Idaho, on the 18th day of August, 1969; that said decedent died seized and possessed of an estate in the nature of a community interest in and to the hereinafter described real and personal property; that no application has been made in the State of Idaho, or elsewhere, for the appointment of an administrator of the estate of the decedent, and that more than two (2) years have elapsed since the date of death of said Richard V. Keim; that said property, and all thereof, was the community property of the decedent and his surviving widow, Minnie Keim Odle; and

That at the time of death of the decedent, Richard V. Keim, he left surviving him as his sole and only heirs at law, the said Minnie Keim Odle, his widow, and the following named children born the issue of the marriage of the decedent and Minnie Keim Odle, to-wit: Robert E. Keim, George A. Keim and Richard V. Keim, Jr., his sons, and Margaret K. Goering and Elizabeth K. Nelson, his daughters; that all of the aforesaid persons are of legal age; that the decedent was not survived by any other child or children, nor by the issue of any deceased child or children; and

That the said Minnie Keim Odle, as the surviving widow of Richard V. Keim, deceased, is now, and ever since the date of death of Richard V. Keim, her husband, has been the owner in fee simple of all of the following described real and personal property, to-wit:



(3).

Estate of Richard V. Keim, Sr., deceased.

Lot 7, Block 5 of the Original Townsite of Bowmont, Canyon County, Idaho, according to plat filed in Book 3 of Plats, page 57, records of said county.	\$ 7,000.00	
Lot 8, Block 5 of the Original Townsite of Bowmont, Canyon County, Idaho, according to plat filed in Book 3 of Plats, page 57, records of said county.	\$	
Lot 9, Block 5 of the Original Townsite of Bowmont, Canyon County, Idaho, according to plat filed in Book 3 of Plats, page 57, records of said county.	\$15,500.00	
Lot 10, Block 5 of the Original Townsite of Bowmont, Canyon County, Idaho, according to plat filed in Book 3 of Plats, page 57, records of said county.	\$	
5. Helen B. Subdivision of portion of SE $\frac{1}{4}$ of Section 8, Township 3 North, Range 2, West of the Boise Meridian, Canyon County, Idaho, more particularly described as follows: All that part of SE $\frac{1}{4}$ of Section 8, Township 3 North, Range 2, West of the Boise Meridian, as follows: Commencing at the NE corner of said SE $\frac{1}{4}$; thence West 2650.5 feet to NW corner of said SE $\frac{1}{4}$; thence South along West line said SE $\frac{1}{4}$, 638.3 feet to point 100 feet Nrlly from center line of main track of OSLRR; thence deflecting left 46°48' from last described course, 541.3 feet; thence deflecting left 43°01' from last described course, 1513 feet; thence deflecting to right in SErly direction 21°31' from said last described course, 807.4 feet to point on East line of said SE $\frac{1}{4}$, 1319.6 feet South of NE corner of said SE $\frac{1}{4}$; thence North, 1319.6 feet to place of beginning. (Less that portion thereof taken by condemnation proceedings, State of Idaho -vs- Richard V. Keim et al, District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Canyon, judgment dated and filed April 27, 1967, recorded as instrument #594372, Book 40 of Judgments, page 224, records of Canyon County, Idaho.) (Subject to a mortgage balance of \$10,244.17 due Federal Land Bank of Spokane -loan #113846-) Appraised value:.....		\$35,000.00
Stock in Federal Land Bank of Spokane held in connection with loan #113846.	550.00	
Block 1 of Arbor Subdivision of the W $\frac{1}{2}$ NW $\frac{1}{2}$ of Section 16, Township 3 North, Range 2, West of the Boise Meridian, Canyon County, Idaho, being also described as all that portion of the NW $\frac{1}{2}$ NW $\frac{1}{2}$ of said Section 16, lying North and East of the Oregon Short Line Railroad right-of-way through said lands, as the same is now located. (Less the following described tract, to-wit: Beginning at the intersection of the South boundary of the NW $\frac{1}{2}$ NW $\frac{1}{2}$ of Section 16, Township 3 North, Range 2, West of the Boise Meridian, Canyon County, Idaho, and the NE boundary of the right-of-way of the Oregon Short Line Railroad and bearing East 310 feet, along the South boundary of the aforesaid NW $\frac{1}{2}$ NW $\frac{1}{2}$; thence North 100 feet; thence West 416.55 feet to the NE boundary of the right-of-way of the Oregon Short Line Railroad; thence S. 46°49' E. 146.13 feet, along the NE boundary of the right-of-way of the Oregon Short Line Railroad to the point of beginning.) (Also less that portion thereof taken in condemnation proceedings, State of Idaho -vs- Richard V. Keim et al, District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Canyon, judgment dated and filed December 28, 1967, recorded as instrument #603868, Book 41 of Judgments, page 336, records of Canyon County, Idaho.)		57 7022

5. (Continued)

Subject to a mortgage balance of \$7,623.28 due Federal Land Bank of Spokane -loan #112963-) Appraised value:.....\$55,000.00

Stock in Federal Land Bank of Spokane held in connection with loan #112963. \$ 475.00

7. Desert Land Entry #I-2134, NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 8, Township 6 South, Range 3, East of the Boise Meridian, Owyhee County, Idaho. \$ 1,000.00

8. Balance, joint checking account, The Idaho First National Bank, Nampa, Idaho. \$ 2,023.64

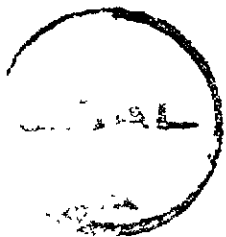
9. Balance, joint checking account, The Idaho First National Bank, Nampa, Idaho. \$ 347.07

Together with any other real or personal property belonging to the decedent which was the community property of said decedent and his surviving spouse, Minnie Keim Odle.

That there is no transfer or inheritance tax due the State of Idaho from the estate of Richard V. Keim, deceased.

Dated and entered in open Court this 10th day of November, 1971.

Paul C. McClintick
Magistrate.



11/10 1971
Clerk of the District Court
C. Corn
County Clerk of Magistrate Division

March 10, 1969

Re: Permit No. 57-7022

Richard V. Keim
Route 3
Nampa, Idaho

Dear Mr. Keim:

Enclosed please find a copy of APPROVED application for amendment for the above referenced permit and Departmental receipt no. 2793 in the amount of \$5.00. We have forwarded a copy of this amendment to the Bureau of Land Management and Idaho Appraisal Service.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:TG

57 7022

March 10, 1969

Re: Permit No. 57-7022

Bureau of Land Management
Idaho Land Office
Room 334, Federal Building
550 W. Fort Street
Boise, Idaho

Gentlemen:

Please find enclosed a copy of the APPROVED application for amendment for the above referenced permit to be used in connection with Desert Land Entry no. I-2134.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:TG

Enc: amendment

57 7022

March 10, 1969

Re: Permit No. 57-7022
Richard V. Keim

Idaho Land And Appraisal Service
Box 1603
Boise, Idaho

Gentlemen:

Please find enclosed a copy of the APPROVED application for amendment for the above referenced permit.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:TG

Enc: amendment
receipt no. 2793

57 7022

57-1022



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho Land Office

IN REPLY REFER TO.

L:VSS
I-2134

NOTICE OF ALLOWANCE

Richard V. Keim
Route 3
Nampa, Idaho 83651

NOV 14 1968

Serial No. I-2134 160 Acres

T. 6 S., R. 3 E., Boise Meridian, Idaho
Sec. 8: NE¹₄NW¹₄, N¹₂NE¹₄, SE¹₄NE¹₄

Your desert land application for the above described land has this day been approved and allowed, subject to any valid existing rights and your further compliance with laws and regulations applicable thereto. The acceptability of final proof is contingent upon development and reclamation of the land in accordance with your plan of development which is on file in the Boise Land Office. Any substantial change in source of water or deviation in the construction of the irrigating facilities must have the approval of the Bureau of Land Management. The irrigable acreage of this entry has been determined to be approximately 150 acres. In correspondence relating to this entry, always refer to the serial number shown above.

Subject to the Act of July 17, 1914, which will require the reservation of all oil and gas deposits to the United States.

cc: State Dept. of Reclamation

IN WITNESS WHEREOF, I have hereunto set
my hand and seal this 14th
day of November, 19 68

/s/ ORVAL G. HADLEY

MANAGER, LAND OFFICE
BOISE, IDAHO

DON SAMUELSON
GOVERNOR



P. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

October 29, 1968

Re: Permit Nos. 02-7019, 33-7005, 36-7037, 47-7045,
47-7047, 47-7048, 51-7024, 51-7029,
57-7022, 57-7024 & 63-7080

Land Office
Bureau of Land Management
P. O. Box 2237
Federal Building
Boise, Idaho

Gentlemen:

Enclosed are copies of the above referenced permits which have
been accepted for desert land entries.

Very truly yours,

C. Stephen Allred, Assistant
State Reclamation Engineer

CSA:kh

Enclosures

57 7022

DON SAMUELSON
GOVERNOR



R KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

October 29, 1968

Re: Permit Nos. 51-7025, 57-7022,
63-7139, 63-7140 & 63-7142

Idaho Land & Appraisal Service
Box 1603
Boise, Idaho

Dear Sir:

Enclosed you will find copies of the above referenced permits
which have been approved by this office.

Very truly yours,

C. Stephen Allred, Assistant
State Reclamation Engineer

CSA:kh

Enclosures

57 7022

October 28, 1968

Re: Permit No. 57-7022 - Richard V. Keim

Mr. Richard V. Keim
Route 3
Nampa, Idaho 83651

Dear Mr. Keim:

We enclose a copy of your approved application for permit 57-7022
in which we direct your attention to the limitations and conditions as given
on the fourth page under approval of the State Reclamation Engineer.

Very truly yours,

C. Stephen Allred, Assistant
State Reclamation Engineer

CSA:kh

Enclosures: Copy of application
Receipt No. 2011 for \$36.
2 informational letters

57 7022

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Richard V. Kaim, Route #3, Nampa, Idaho

has on September 3, 1968
applied for permit under application No. 57-7022 to divert ~~store~~
3.2 cubic feet per second ~~acre feet~~ of water from a subterranean
source. Water will be diverted by a wall,
pump, motor, and sprinkler system within the NW 1/4,
sec. 8, T. 6 S, R. 3 E, B.M., Owyhee County

_____ and is to be used from April 1 to October 31 for irrigation

in the NE₁NE₄, SE₁NE₄, NE₄NW₄, sec. 8, T. 6 S, R. 3 E, E.M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Owyhee Nugget, Marsing, Idaho
on September 26 and October 3
19 September 26

57 7022

IDAHO LAND & APPRAISAL SERVICE

HARLEY M. McDOWELL
E J. McDOWELL
MGR OWNERS

MERVIN J. CHRISTENSEN
(LICENSED SURVEYOR)

JOSEPH J. THACKABERRY

ROBERT W. SMITH

224 IDAHO BLDG

BOISE, IDAHO 83701

P O Box 2101 1603

PHONE 344-2547

August 29, 1968

ALL PROPERTY APPRAISALS
CUSTOM DRAFTING, MAPPING
LAND PURCHASES
OIL AND GAS LEASES

GRAZING MANAGEMENT
FEDERAL LAND APPLICATIONS
WATER FILINGS & PROOF
STATE LAND LEASES & ASSIGNS

RECEIVED

SEP 3 1968

Department of Reclamation

Mr. R. Keith Higginson
State Reclamation Engineer
Idaho Department of Reclamation
Statehouse - Annex 2
Boise, Idaho 83707

RE: Application for Water Permit, Richard V. Keim

Dear Mr. Higginson:

Enclosed are the following:

1. Application for Water Permit in the name of Richard V. Keim
2. Power of Attorney naming Idaho Land & Appraisal Service
3. Letter from Bureau of Land Management, Land Office requesting the permit
4. Check in the amount of \$36.00 to cover filing fee for 3.2 cfs plus \$1 for mailing a copy of the approved permit to the Land Office.

If you require any further information, please let us know.

Very truly yours,

IDAHO LAND & APPRAISAL SERVICE

Harley M. McDowell

lh
encl

cc: Richard V. Keim
Idaho Land Office, U. S. Bureau of Land Management - RE: I-2134

NEVADA

UTAH

57 2032



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Idaho Land Office
Room 334, Federal Building
450 W. Fort Street
Boise, Idaho 83702

IN REPLY REFER TO:

L:VBS
I-2134

RECEIVED

SEP 3 1968

Department of Reclamation

AUG 19 1968

Mr. Richard V. Keim
Route 3
Nampa, Idaho 83651

Dear Mr. Keim:

On July 8, 1968, the Boise District Manager issued an "Initial Decision" approving your desert land petition I-2134.

According to your plan of development, water for irrigation is to be obtained from a well to be drilled. You must submit evidence of your right to appropriate and use the water. The evidence should consist of a copy of a State water permit approved by the State Reclamation Engineer. Attached is an extra copy of this letter. The copy should be submitted to the State Department of Reclamation at the time you apply for a permit. Unless they have knowledge that the land of the desert land application has been classified as suitable for entry, they may decline to issue the water permit. You should make arrangements with the State Reclamation Engineer to have a copy of the permit sent to this office.

We would appreciate receiving a copy of the permit as soon as possible. Also, please advise us when you apply for the permit.

Sincerely yours,

/S/ ORVAL G. HADLEY

Orval G. Hadley
Manager, Land Office

Attachment



STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

September 13, 1968

Re: Application No. 51-7029 - Mildred H. Russell
Application No. 57-7022 - Richard V. Keim

Owyhee Nugget
Marsing,
Idaho

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 ample 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 date. If you can not publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation, 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 same has been paid.

Signature of claimant

Very truly yours,

Donald W. McIlldowney
Appropriation Examiner

DWM:ks
Enclosure. legal notice

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Richard V. Keim, Route No. 3, Nampa, Idaho has on September 3, 1968, applied for permit under application No. 57-7022 to divert 3.2 cubic feet per second of water from a subterranean source. Water will be diverted by a well, pump, motor, and sprinkler system within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M., Owyhee County, and is to be used from April 1 to October 31 for irrigation in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON,
State Reclamation Engineer
Published in the Owyhee Nugget, Marsing, Idaho, on September 26, 1968, and October 3, 1968.

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Richard V. Keim, Route No. 3, Nampa, Idaho has on September 3, 1968, applied for permit under application No. 57-7022 to divert 3.2 cubic feet per second of water from a subterranean source. Water will be diverted by a well, pump, motor, and sprinkler system within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M., Owyhee County, and is to be used from April 1 to October 31 for irrigation in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 8, T. 6 S., R. 3 E., B. M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of publication of this notice.

R. KEITH HIGGINSON,
State Reclamation Engineer
Published in the Owyhee Nugget, Marsing, Idaho, on September 26, 1968, and October 3, 1968.