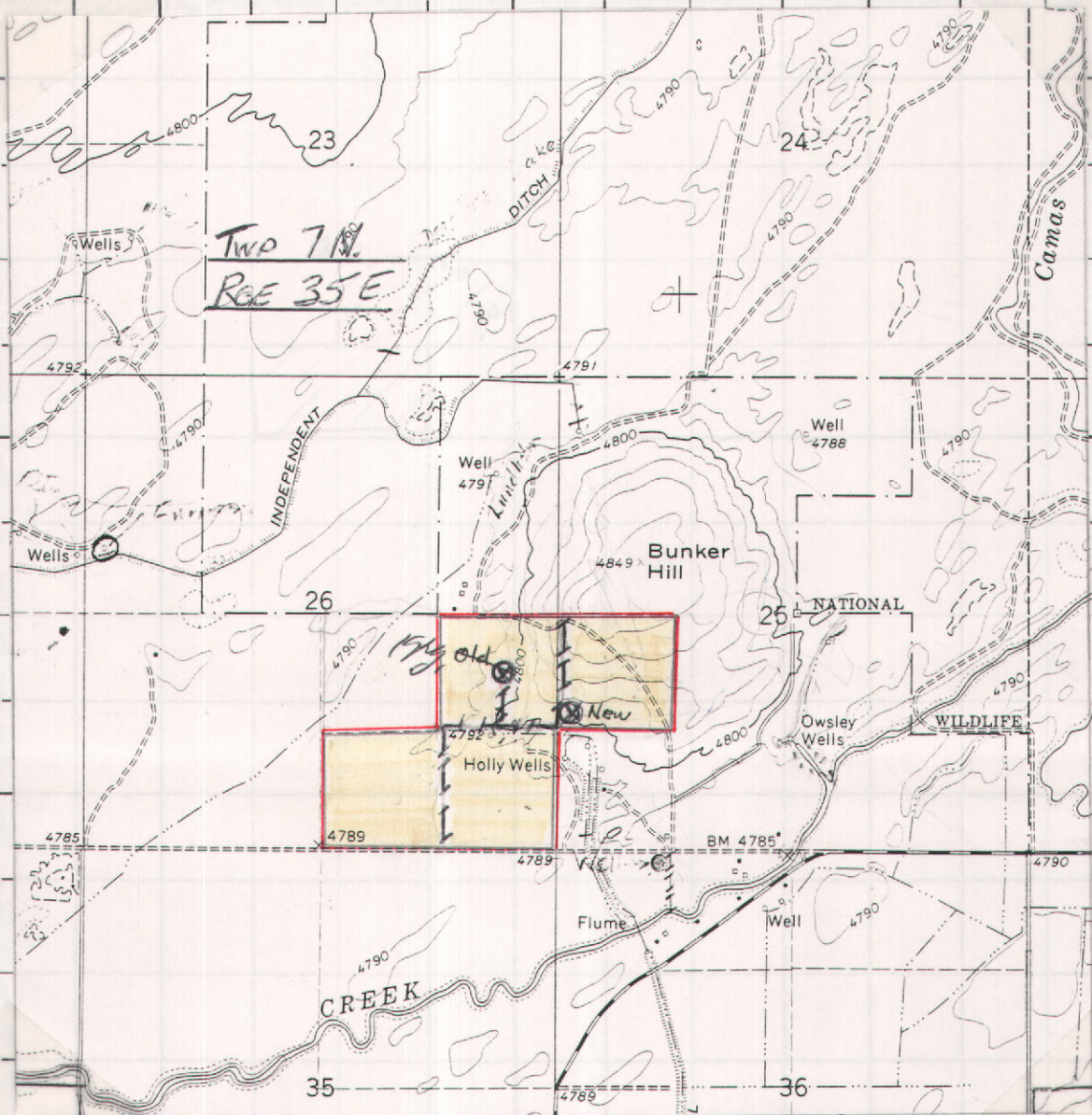


11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

R 35 E



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.

David A. Edwards
(Applicant)

(Applicant)

MICROFILMED
MAY 14 1998

Water User

GUNDERSON, K PAUL ID: 74

POD

07N 35E 25 ~~NESW~~ *NWSW*

Site Tag #

A0008600

Record #

300763

Diversion Name

BARNES PLACE

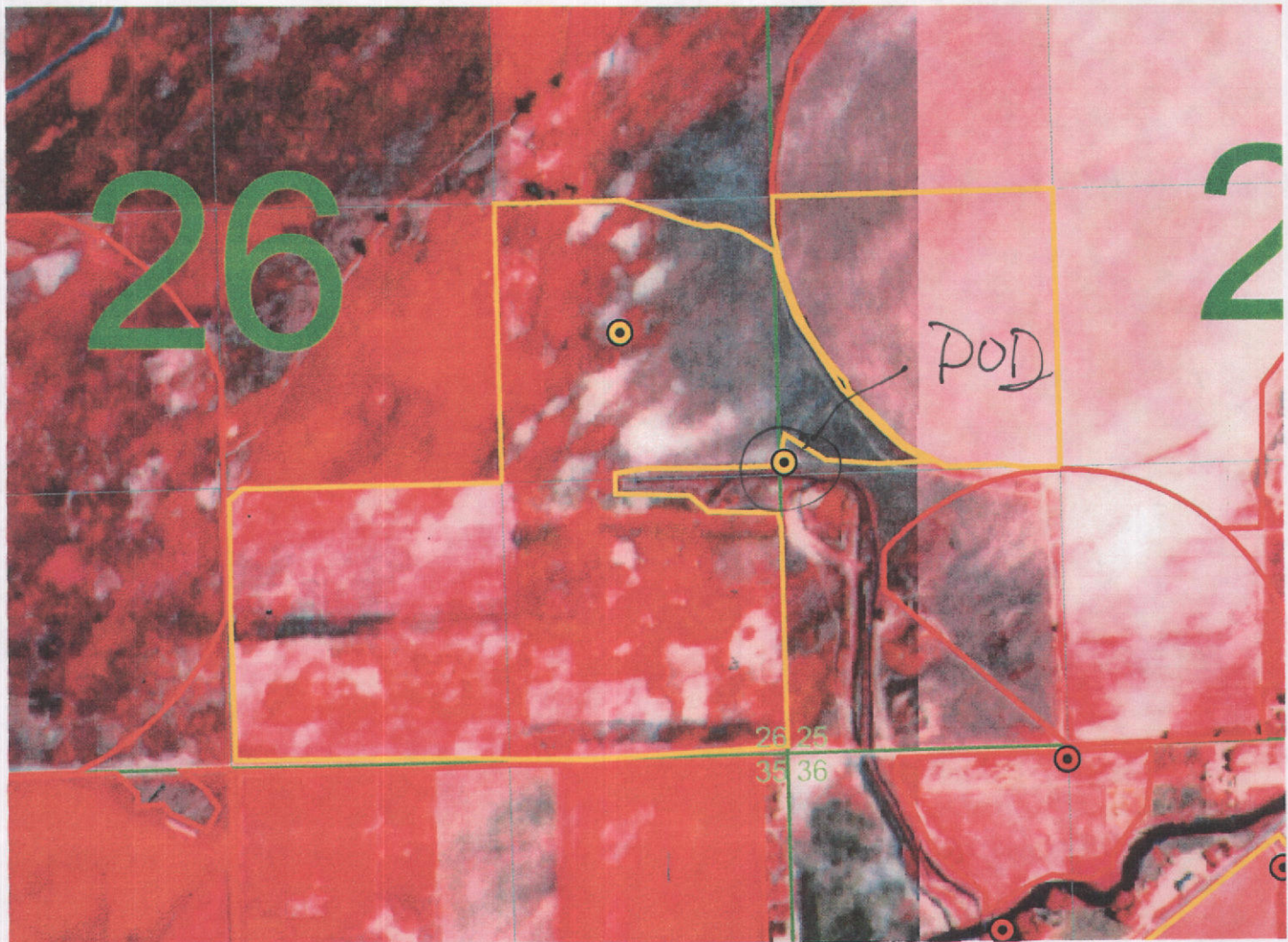


Idaho Department of Water Resources

Water Right 31-11603 and 31-11604

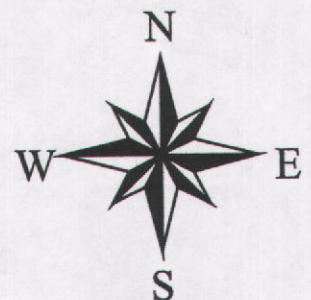
Township 7N Range 36E Section 25, 26

31-7338



0 1320 Feet

-  Point of Diversion
-  Point of Diversion - Other Rights
-  Place of Use
-  Place of Use - Other Rights
-  Quarter-quarter Sections
-  Section Lines



A
78.8

A135

A226

T191

A136

A226

A136

A229

A133

A227

T192

Ac.
to be
landed

36.2

335

226

T191

A1

A8

A1

A238

A136

A230

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4.5

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A140

A239

A231

17.1

10.3

28.5

5.4

5.4

5.4

5.4

5.4

5.4

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5.4

5.4

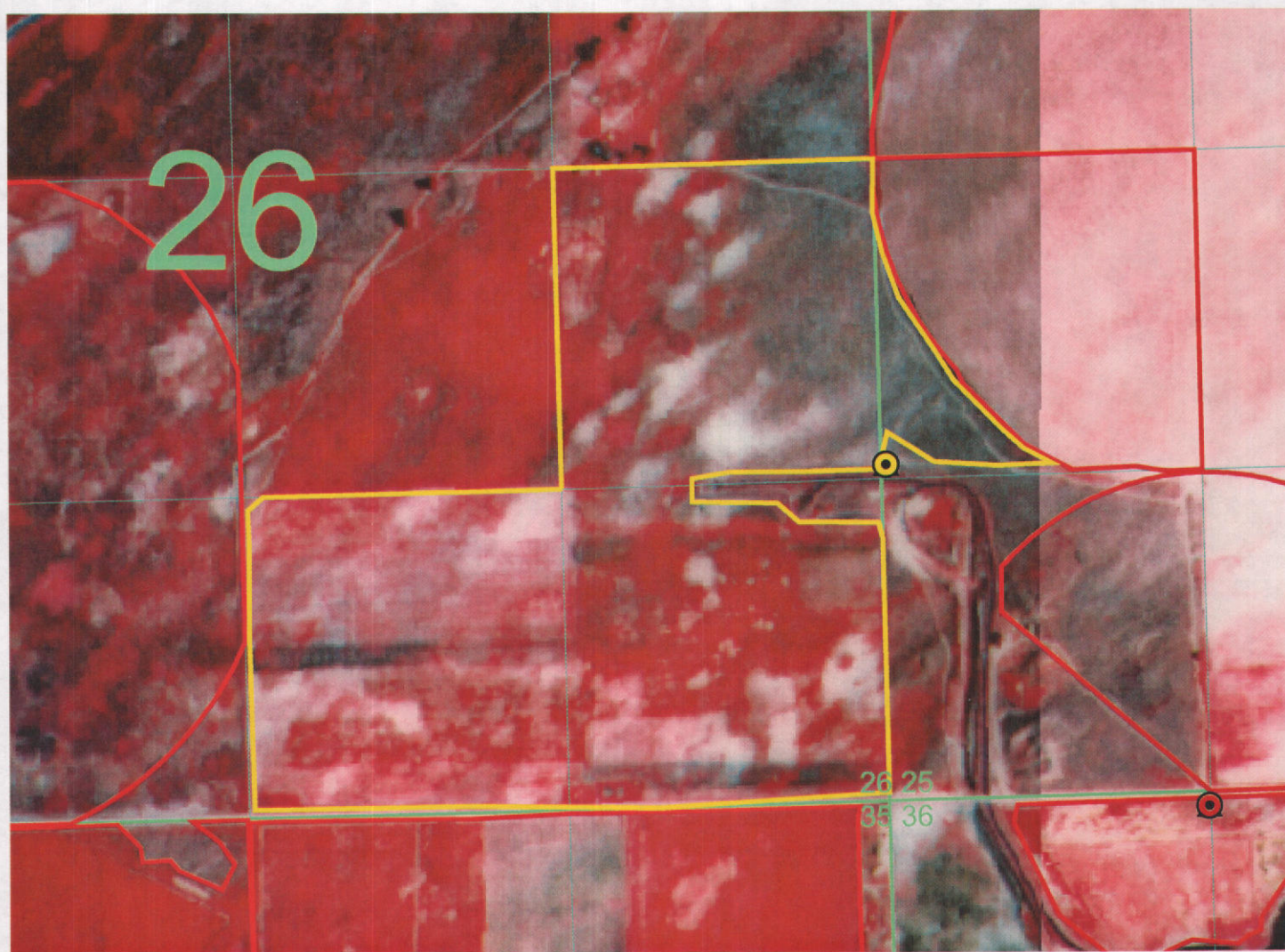
5.4

5.4

Idaho Department of Water Resources

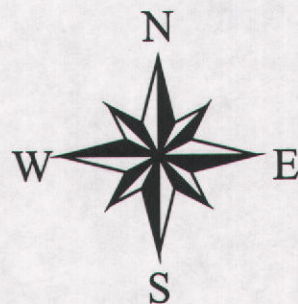
Paul Gunderson Permit 31-7338

Township 7N Range 35E Section 25, 26



0 1320 Feet

-  Point of Diversion
-  Point of Diversion - Other Rights
-  Place of Use
-  Place of Use - Other Rights
-  Quarter-quarter Sections
-  Section Lines



GIS Illustration prepared from 1987/1988 NAPP photography by B. Contor 11/2000

All would have been planted
except
5.0A
(Handline)

A133
A224

Planted
186

J-5

NOT TO SCALE

149.4

Wheat
plant

A133
A224

Wheat
plant

Wheat

148.0

A-160

Planted - wheat
near 186
near 186

Planted
186

6.0

4.8

3

Wheat
(71.2)
alpha

3.2

Wheat

Wheat

Wheat
186

35.4

3.2

3

Plates

A133
A133

Wheat

20.8

Wheat

Wheat

22
27

23
26

A133

Don't believe from
Planted near 186
Reported in 186

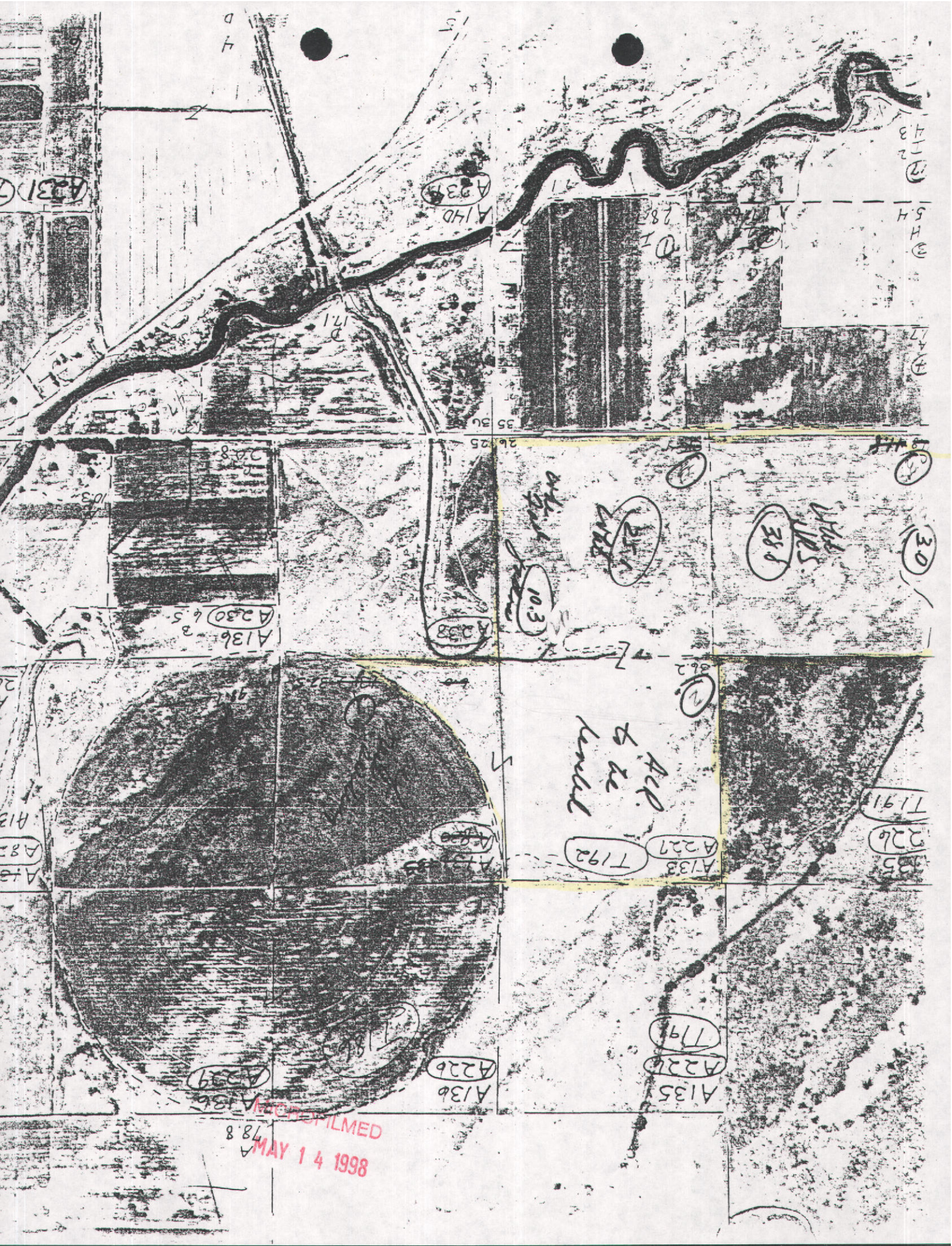
A133

23
24

24
25

A133
A224

A133
A224



17
12
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H
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17
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226

135

179

226

135

A239
A140

287

A238

white
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10.3

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Acc.
to the
level

T192

A133

T191

A226

A135

A136
A230 4.5

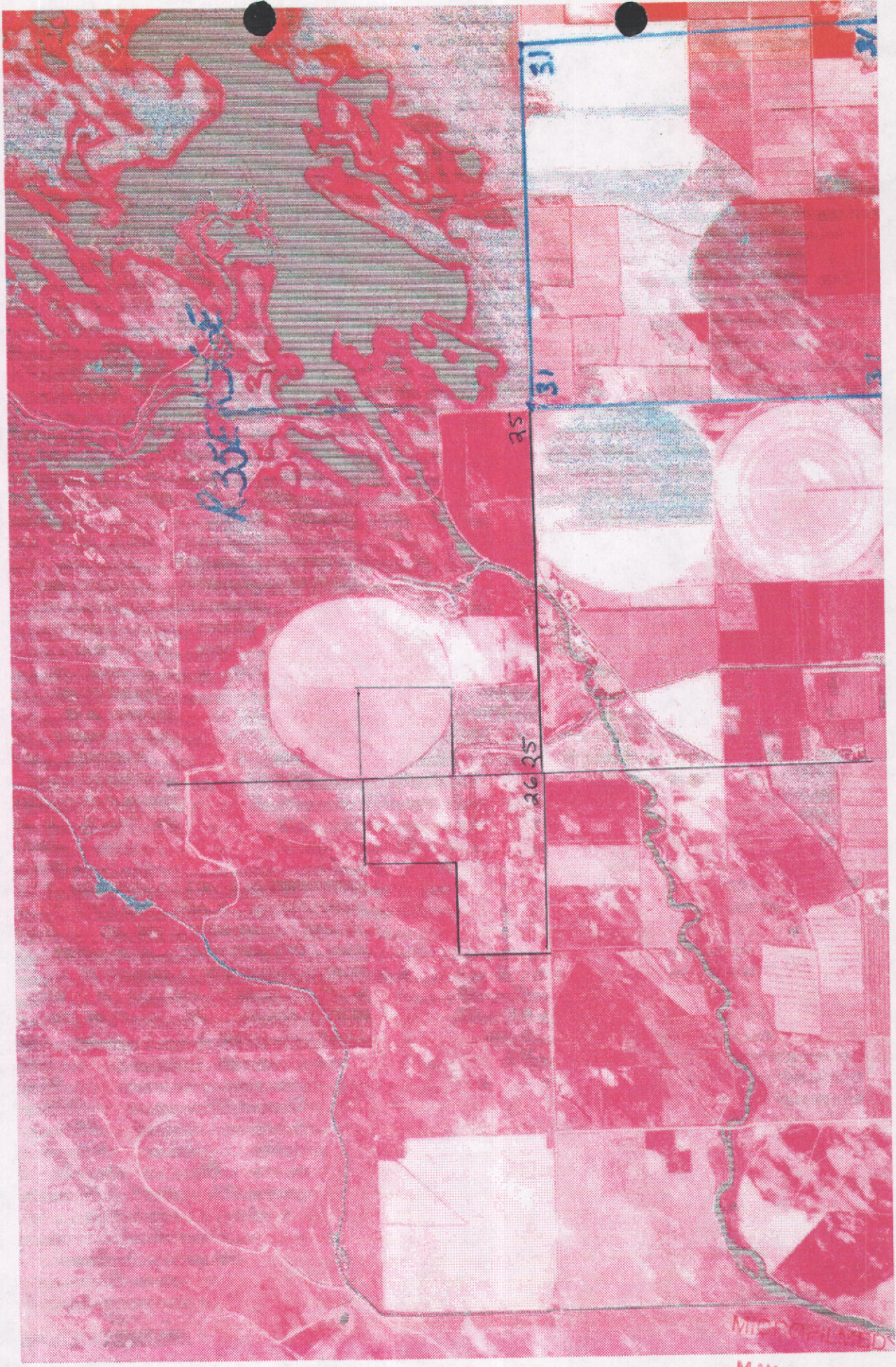
A226
A136

A239
A136

RECEIVED
MAY 14 1998
78.8

Scanned Print of 1987 NAAP Photo

Thief



TN

MICROFILMED
MAY 14 1998

DEPARTMENT OF WATER RESOURCES

Name and Address of Sender
 EASTERN DISTRICT OFFICE
 1515 LINCOLN ROAD
 IDAHO FALLS, IDAHO 83401

Indicate type of mail:
☐ REGISTERED
☒ REGISTERED C.O.D.
☐ CERTIFIED

Attach stamp here if issued as certificate of mailing or for additional copies of this bill.
 POSTMARK AND DATE OF RECEIPT

MICROFILMED
 MAY 14 1998

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	NEFT. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS
1	1673 John Venable, Rapid Ct. Rd., Idaho	15	80	45				29-2004
2	1674 Archie D. Sorensen, Box 4883, Pocatello	15	80	45				29-2004
3	1675 Ray H. Phillips, Box 5, Idaho	15	80	45				29-2004
4	1676 Raymond F. Galt, Box 117, Idaho	15	80	45				29-2004
5	1677 Keith Edwards, Box 33, Idaho	15	80	45				29-2004
6	1678 Maurice South, Rt. 1, Box 114, Menard	15	80	45				01-7016
7	1679 James M. Peterson, P.M. 1, Box 5, Al Anthony	15	80	45				01-7016
8	1680 Mary Smith, 30 S. 2nd St., Rexburg	15	80	45				01-7016
9	1681 David Edwards, Johnston	15	80	45				31-7338
10	1682 Dean B. Rydell, Hamers	15	80	45				31-7338
11	1683 Herman Rydell, Hamers	15	80	45				31-7338
12	1684 Joe Mosty, Hamers	15	80	45				31-7338
13	1685 John Mayne, Hamers	15	80	45				31-7338
14	1686 Raydon Christensen, Box 307, Tremonton	15	80	45				01-0028
15	1687 Robert Moss, 30 S. 2nd St., Rexburg	15	80	45				01-0028
16	1688 Elmer Box 6, 7th St.	15	80	45				01-0028
17	1689 Earl H. Underwood, Box 1290, Pocatello	15	80	45				01-0028
18	1690 David E. Ethel, Rt. 1, Box 230, Blackfoot	15	80	45				01-0028
19	1691 Quinton H. Cox, Box 228, 7th St.	15	80	45				01-0028
20	1692 R. E. Wright, Rt. 3, Box 131, Blackfoot	15	80	45				01-0028



PS Form 987, Dec. 1973

APPLICATION FOR REGISTERED, REGISTERED C.O.D. AND CERTIFIED MAIL

Declaration of value is required on international registered mail.
 * U. S. GOVERNMENT PRINTING OFFICE, 1974-528-728

FORM MUST BE MADE OUT IN INK OR BALL POINT PEN

TOTAL NO. OF PIECES LISTED BY SENDER
 TOTAL NO. OF PIECES RECD. AT P.O.
 POSTMASTER, PER (Name of receiving employee)

* Show under "Remarks" class postage paid if other than first or if international.

**NOTICE OF APPLICATION
FOR WATER RIGHT**

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho.

31-7338

Edwards, David F.; Terreton, ID 83450

Source: Groundwater
Date Filed: 05/02/1980
Amount: 3.20 CFS

Diversion Point: NESE Sec 26 T 07N R 35E, Jefferson Co.

Use: Irrigation (3.20 CFS) from 04/01 to 11/01

Place of Use: SESW NESE NWSE SWSE Sec 26 T 07N R 35E for 160 acres

Diversion Means: Wells & sprinkler system.

31-7339

Edwards, David F.; Terreton, ID 83450

Source: Groundwater
Date Filed: 05/02/1980
Amount: 0.17 CFS

Diversion Point: SWSE Sec 18 T 06N R 35E, Jefferson Co.

Use: Irrigation (0.04 CFS) from 04/01 to 11/01; Stockwater (0.05 CFS) from 01/01 to 12/31; Domestic (0.08 CFS) from 01/01 to 12/31

Place of Use: SWSE Sec 18 T 06N R 35E for 2 acres

Diversion Means: Well, pump & lines.

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before June 2, 1980.

/s/ C. Stephen Allred
Director

Published May 14 and 21, 1980

RECEIVED

JUN 9 1980

Affidavit of Publication

Department of Water Resources
Eastern District Office

THE RIGBY STAR

STATE OF IDAHO,

County of Jefferson

ss

I, Marie B. Nye, do solemnly swear that I am the Publisher of THE RIGBY STAR, a weekly newspaper as defined by Idaho Codes Annotated Section 58-106 as amended, and that said newspaper is a weekly newspaper, printed and published at Rigby, Jefferson County, Idaho, having a general circulation in said county, and that said newspaper has been printed and published as a weekly newspaper, in said county for more than 78 consecutive weeks prior to the first publication of the attached notice.

And affiant further says that at the times herein mentioned said publication as per clipping attached, was published in said newspaper in the regular and entire issue thereof, and not in any supplement issue thereof, for 2 consecutive issues thereof; first publication having been made on the

Fourteenth day of May, 19 80

and the last publication on the

Twenty-First day of May, 19 80

And affiant further says that at the times herein mentioned said newspaper was made up of at least four pages of at least five columns each printed from type matter of at least seventeen and three-fourths inches depth; and that there are at least two hundred bonafide subscribers in Jefferson County.

Marie B. Nye

Publisher

Subscribed in my presence and sworn to before me this Twenty-First day of May, 19 80.
[SEAL]

Evelyn M. Flagler

Notary Public for the State of Idaho
Residence and P. O. Address, Rigby, Idaho.

My commission expires Life, 19

MICROFILMED

Publication Fee: \$ 22.55

MAY 14 1980

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 03 1998

PROOF OF BENEFICIAL USE

Department of Water Resources

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 31-07338 Telephone No. (208) 663-4412

2. Name(s) of Permit Holder(s): K. Paul Gunderson

3. Mailing Address: 155 E. 1500 N. Hamer, ID 83425-0816

4. Source of Water: Groundwater If **GROUNDWATER** (well), Date Drilled: mo. 5 / yr. 75

a. Well Driller: Lamar Barrus Drilling Drilling Permit Number: - - -

b. **OPTIONAL:**
Pump Horsepower: 50 Pressure (psi): 50 Dynamic pumping level (ft): 40

5. Use(s) (as authorized by the water right permit):

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

Irrigation (No. of acres): 160 Other:

6. Total rate of diversion and/or volume for which proof is submitted: 2.20 cfs OR acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes or No X

Has the measuring device been installed? Yes or No

Flow Measurement Port: Is a flow measurement port required? Yes or No X

Has the measurement port been installed? Yes or No

8. Fee Enclosed: \$ 150.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: Paul Gunderson Telephone Number: (208) 663-4412

Address: P.O. Box 816, Hamer, ID 83425-0816

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: [Signature] Date: 2/26/98
(include your title, if on behalf of company or organization)

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
31-07338 IN THE NAME OF K.) **PRELIMINARY ORDER**
PAUL GUNDERSON)
_____)

This matter having come before the Idaho Department of Water Resources (department), as a result of the filing of a petition for reconsideration, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On August 20, 1997, the department issued Permit No. 31-07338 as a preliminary order.
2. On September 12, 1997, the permit holder filed a petition for reconsideration which the department granted on September 15, 1997.
3. On December 18, 1997, the department reissued Permit No. 31-07338 as an amended preliminary order.
4. On December 31, 1997, the permit holder filed a petition for reconsideration in connection with the amended preliminary order (order) which the department granted on January 15, 1998. The order granting the petition allowed twenty-one (21) days for the permit holder to make a showing that seven (7) acres located in NW1/4NW1/4 Section 25, T7N, R35E, B.M. has been irrigated with ground water prior to November 1987.
5. The permit holder did not make the showing described in Finding of Fact 4. above.

CONCLUSIONS OF LAW

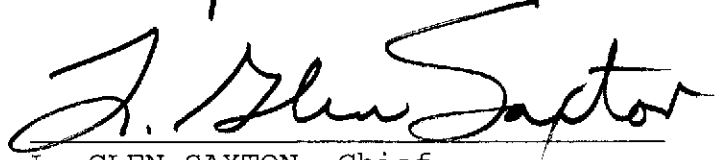
1. The permit holder did not make the showing that seven (7) acres located in NW1/4NW1/4 Section 25, T7N, R35E, B.M. has been irrigated with ground water prior to November 1987.
2. The department should reinstate the permit issued on

December 18, 1997 as an amended preliminary order.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the permit reissued by the department on December 18, 1997 is reinstated, since the permit holder has not provided sufficient evidence for the department to change the permit.

Dated this 7th day of April, 1998.



L. GLEN SAXTON, Chief
Water Allocation Bureau

NOTED
MAY 1 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT)	
NO. 31-07338 IN THE NAME)	ORDER GRANTING
OF K. PAUL GUNDERSON)	PETITION FOR RECONSIDERATION
_____)	

On December 18, 1997, the Department of Water Resources (department) issued Permit No. 31-07338 (permit) as an Amended Preliminary Order in the name of K. Paul Gunderson (permit holder or petitioner) subject to certain conditions and limitations.

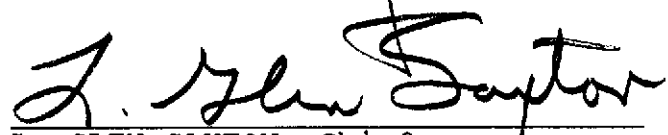
On December 31, 1997, the permit holder filed a Petition for Reconsideration (petition) in connection with the permit.

ORDER

The department has reviewed the petition and HEREBY ORDERS that the petition is **GRANTED** under the following terms:

1. Granting of the petition allows reconsideration of the Amended Preliminary Order by the department but does not represent department agreement with any provision of the petition.
2. This matter shall remain pending before the department during reconsideration of the Amended Preliminary Order.
3. Within twenty-one (21) days of the service date of this order, the petitioner shall provide evidence to show that the seven (7) acres in question located in the NW1/4SW1/4 Section 25, T7N, R35E, B.M. has been irrigated with groundwater prior to November 1987. Failure to timely submit the requested information or to submit sufficient information to support the exception, as determined by the department, will by default reinstate the Amended Preliminary Order of December 18, 1997.
4. The effectiveness of the preliminary order is stayed pending its reissuance by an authorized representative of the department or reinstatement of the Amended Preliminary Order by default.

Dated this 15th day of January, 1998.



L. GLEN SAXTON, Chief
Water Allocation Bureau

RECORDED

MAY 14 1998

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 31-07338

Proposed Priority: May 2, 1980

Maximum Diversion Rate:

2.20 CFS

This is to certify, that K PAUL GUNDERSON

PO BOX 816

HAMER ID 83425-0816

has applied for a permit to appropriate water from: GROUNDWATER

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

IRRIGATION

04/15 to 10/15

2.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

NWSW , Sec. 25, Township 07N, Range 35E
JEFFERSON County

PLACE OF USE: IRRIGATION

TWN RGE SEC

ACRES

ACRES

ACRES

TOTAL

07N 35E 25

NWSW 33.0

33.0

26

NESE 40.0

SWSE 40.0

SESE 40.0

120.0

Total number of acres irrigated:

153.0

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before March 1, 1998.
2. Subject to all prior water rights.
3. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
4. This right does not authorize the irrigation of land not previously irrigated.
5. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
6. Right 31-07199 is also appurtenant to 33 acres in the NWSW, Sec. 25, T7N, R35E.
7. Use of water under this right is limited to the irrigation of no more than 153 acres.
8. Rights 31-07199 and 31-07338 when combined shall not exceed the irrigation of 252 acres.
9. If right 31-07199 is changed through the statutory transfer procedure so that it is no longer appurtenant to the NWSW, Sec. 25, T7N, R35E, then the number of acres irrigated under this right shall be reduced by up to 33 acres to comply with the 252 acre limit described above.

MAY 6 1980

MAY 6 1980

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 31-07338

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Witness the signature of the Director, affixed at Boise, this

18th day of December, 1997.

Karl J. Dreher
for Karl J. Dreher, Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
31-07338 ISSUED IN THE NAME) ORDER GRANTING
OF K. PAUL GUNDERSON) PETITION FOR RECONSIDERATION
_____)

On August 20, 1997, the Idaho Department of Water Resources (department) issued Permit No. 31-07338 in the name of K. Paul Gunderson (petitioner) as a preliminary order.

On September 12, 1997, the petitioner filed a Petition for Reconsideration (petition) with the department in connection with the preliminary order issuing the permit.

ORDER

The department has reviewed the petition and HEREBY ORDERS that the petition is **GRANTED** as follows:

1. Granting of the petition allows reconsideration of the order but does not represent department agreement with any provision of the petition.
2. This matter shall remain pending before the department during reconsideration of the order.

Dated this 15th day of Sept, 1997.


L. GLEN SAXTON, Chief
Water Allocation Bureau

RECEIVED

MAY 1 1997

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 31-07338

Proposed Priority: May 2, 1980

Maximum Diversion Rate:

2.20 CFS

This is to certify, that K PAUL GUNDERSON

PO BOX 816

HAMER ID 83425-0816

has applied for a permit to appropriate water from: GROUNDWATER

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

IRRIGATION

04/15 to 10/15

2.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

NWSW , Sec. 25, Township 07N, Range 35E
JEFFERSON County

PLACE OF USE: IRRIGATION

TWN RGE SEC

ACRES

ACRES

ACRES

TOTAL

07N 35E 26

NESE 40.0

SWSE 40.0

SESE 40.0

120.0

Total number of acres irrigated:

120.0

SUPERSEDED

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before December 1, 1997.
2. Subject to all prior water rights.
3. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
4. This right does not authorize the irrigation of land not previously irrigated.
5. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701(5), Idaho Code.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Witness the signature of the Director, affixed at Boise, this

20th day of August, 1997

Karl J. Dreher
for Karl J. Dreher, Director

NOTED

MAY 14 1980

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

AMENDED

AMENDED

To appropriate the public waters of the State of Idaho

Assigned to Paul Gunderson

1. Name of applicant David F. Edwards Phone 663-4334

Post office address Territon, ID 83450

2. Source of water supply Groundwater which is a tributary of

3. Location of point of diversion is NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 25 Township 7N

Range 35E B.M. Jefferson County, additional points of diversion if any:

Two points NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 25, T. 7N, R. 35E.

4. Water will be used for the following purposes:

Amount 3.2 for Irrigation purposes from April 1 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)

Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 3.2 cfs cubic feet per second and/or b. acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 2 wells, 16" and 18", sprinkler
system

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

Period of year when water will be diverted to storage to inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is 16" & 18" inches; proposed depth of well is 50+ 100 feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 - 2 years (minimum 1 year — maximum 5 years).

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: horsepower 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:

continued

10. Remarks

applicant to make this filing

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the

b. Who owns the land to be irrigated or place of use

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

~~in the NEI, see 26~~

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

Total number of acres to be irrigated

091

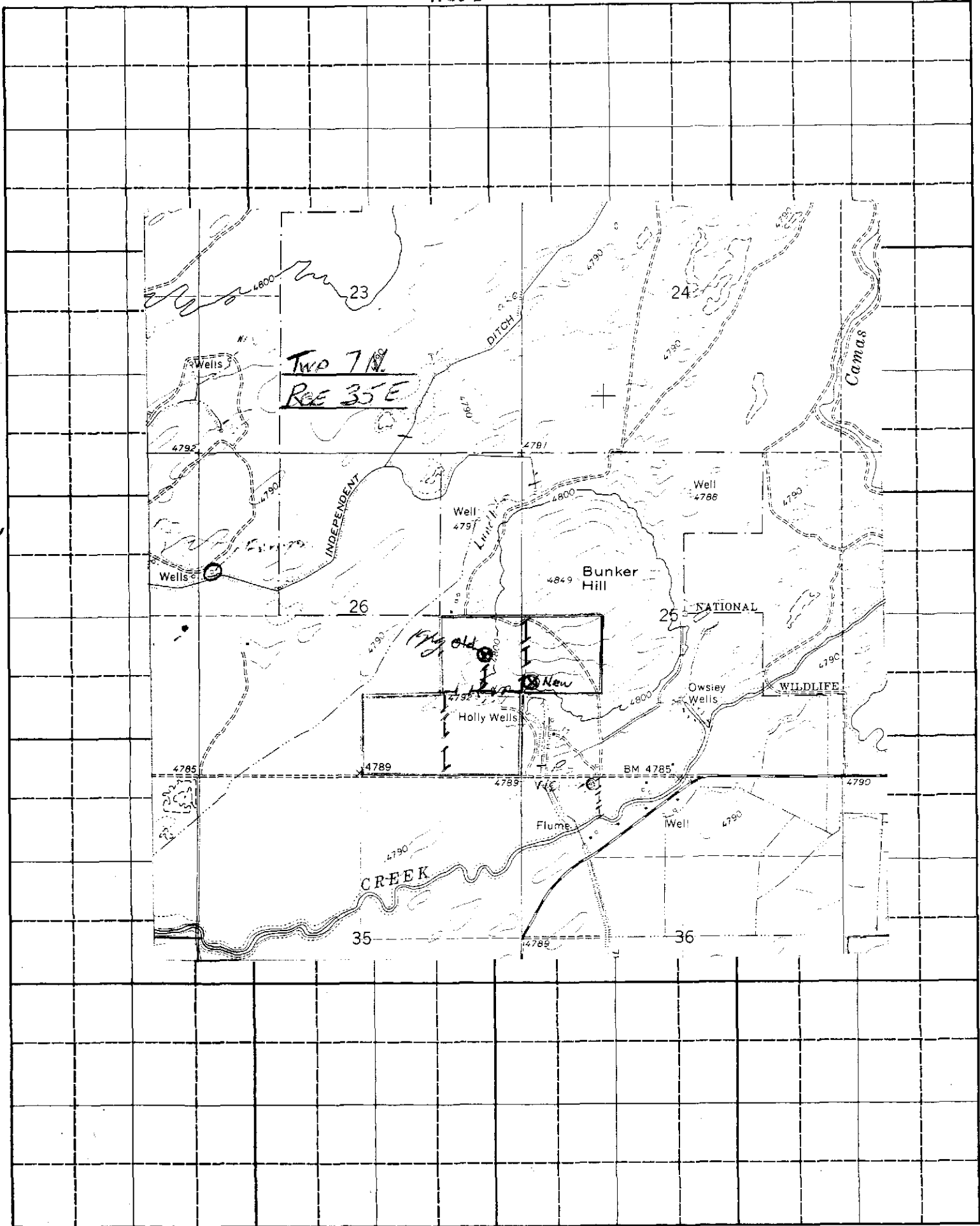
[illegible]

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

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

R35E

T7N



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.

[Handwritten Signature]
(Applicant)

Received by JC Date 5/2/1980 Time 3:00 P.M. REC'D 7-2-86
Preliminary check by _____ Fee \$ 65.00 (65) AMENDED \$20.00
Receipted by JL Date 5-02-80 # 13969 # 39757
Publication prepared by kw Date 5/8/80
Published in The Rigby Star
Publication dates 5/15 & 5/22/80 7-17 + 7-24-86
Publication approved by kw Date 6/10/80 7-24-86
Protests filed by: Valley Water Users, Jackson Canal
Co.
Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

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 _____, 19____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

Witness my hand this _____ day of _____, 19____.

Director

MICROFILMED
MAY 14 1988

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30
days after the completion or abandonment of the well.

1. WELL OWNER

Name paul anderson
Address mud lake Idaho
Owner's Permit No. 78 Permit

2. NATURE OF WORK

- ☒
- New well
- ☐
- Deepened
- ☐
- Replacement
-
- ☐
- Abandoned (describe method of abandoning)

3. PROPOSED USE

- ☐
- Domestic
- ☒
- Irrigation
- ☐
- Test
- ☐
- Other (specify type)
-
- ☐
- Municipal
- ☐
- Industrial
- ☐
- Stock
- ☐
- Waste Disposal or Injection

4. METHOD DRILLED

- ☒
- Cable
- ☐
- Rotary
- ☐
- Dug
- ☐
- Other

5. WELL CONSTRUCTION

Diameter of hole 20 inches Total depth 38 feet
Casing schedule: ☒ Steel ☐ Concrete

Thickness	Diameter	From	To
<u>.0250</u> inches	<u>20</u> inches	<u>+ 1</u> feet	<u>28.21</u> feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet

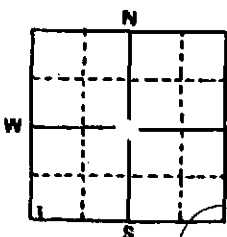
Was casing drive shoe used? ☒ Yes ☐ No
Was a packer or seal used? ☒ Yes ☐ No
Perforated? ☐ Yes ☒ No
How perforated? ☐ Factory ☐ Knife ☐ Torch
Size of perforation _____ inches by _____ inches

Number	From	To
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet
_____ perforations	_____ feet	_____ feet

Well screen installed? ☐ Yes ☒ No
Manufacturer's name _____
Type _____ Model No. _____
Diameter _____ Slot size _____ Set from _____ feet to _____ feet
Diameter _____ Slot size _____ Set from _____ feet to _____ feetGravel packed? ☐ Yes ☒ No Size of gravel _____
Placed from _____ feet to _____ feetSurface seal depth 20 Material used in seal ☐ Cement grout
☐ bentonite ☐ Pudding clay ☐ Well cuttings
Sealing procedure used ☐ Slurry pit ☐ Temporary surface casing
☐ Overbore to seal depth

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name _____

Lot No. _____ Block No. _____

County Jefferson
SW 1/4 Sec. 25, T. 7 N, R. 35 E

7. WATER LEVEL

Static water level 18 feet below land surface
Flowing? ☐ Yes ☒ No G.P.M. flow _____
Temperature _____ ° F. Quality _____
Artesian closed-in pressure _____ p.s.i.
Controlled by ☐ Valve ☐ Cap ☐ Plug

8. WELL TEST DATA

- ☐
- Pump
- ☐
- Bailer
- ☐
- Other

Discharge G.P.M.	Draw Down	Hours Pumped
_____	_____	_____
_____	_____	_____
_____	_____	_____

9. LITHOLOGIC LOG

Hole Diam.	Depth		Material	Water	
	From	To		Yes	No
20	0	8	Sand		
	8	10	Clay		
	10	18	Broken Basalt&Clay		
	18	21	Broken Basalt&black Cinders		
	21	27	Broken Basalt Red And Black Cir		
	27	30	Basalt		
	30	33	Broken Basalt Cinders		X
			(no cuttings	X	

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JUL 31 1975Department of Water Resources
Eastern District Office

10.

Work started June 1 1974 finished June 6, 1974

11. DRILLERS CERTIFICATION

Firm Name Barrus Drilling And Pump Firm No. 23Address P.O. Box 146 Basalt Idaho Date _____Signed by (Firm Official) Tom A. Barrus

and

(Operator) Herb Butler

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

[illegible]

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

[illegible]

State of Idaho
Department of Water Resources

ASSIGNMENT OF PERMIT

3-3-80
OK Jim
I, David E. Edwards, hereby assign to K. Paul Gunderson
of Box 816 Hamer, Idaho 83425
Address

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 31-7338
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 listing 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 8th day of November, 1980.

David E. Edwards
Permit Holder

Edwina Edwards
Spouse of Permit Holder

State of Idaho)
County of Madison) ss.

On this 8th day of November, 1980, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that ~~he~~ (she) (they) executed the same.

seal

Lay W. Lighy
Notary Public residing at
Lewburg, Idaho

My commission expires:

Life

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MAY 14 1988

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FEB 19 1981

Department of Water Resources
Eastern District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant David F. Edwards Phone 663-4334

Post office address Territon, ID 83450

2. Source of water supply Groundwater which is a tributary of _____

3. Location of point of diversion is NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 26 Township 7N

Range 35E B.M. Jefferson County, additional points of diversion if any: _____

~~Two points~~ NW SW Sec 25 7N 35E

4. Water will be used for the following purposes:

Amount 3.2 for Irrigation purposes from April 1 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 3.2 cfs cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 2 wells, 16" and 18", sprinkler
system

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

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is 16" & 18" inches; proposed depth of well is 50+ 100 feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial
use is 52 years (minimum 1 year — maximum 5 years).

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: _____ horsepower 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: _____

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MAY 14 1998

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

[illegible]

Total number of acres to be irrigated 160

c. Describe any other water rights used for the same purposes as described above. Claim on well
in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 26

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

b. Who owns the land to be irrigated or place of use Applicant

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

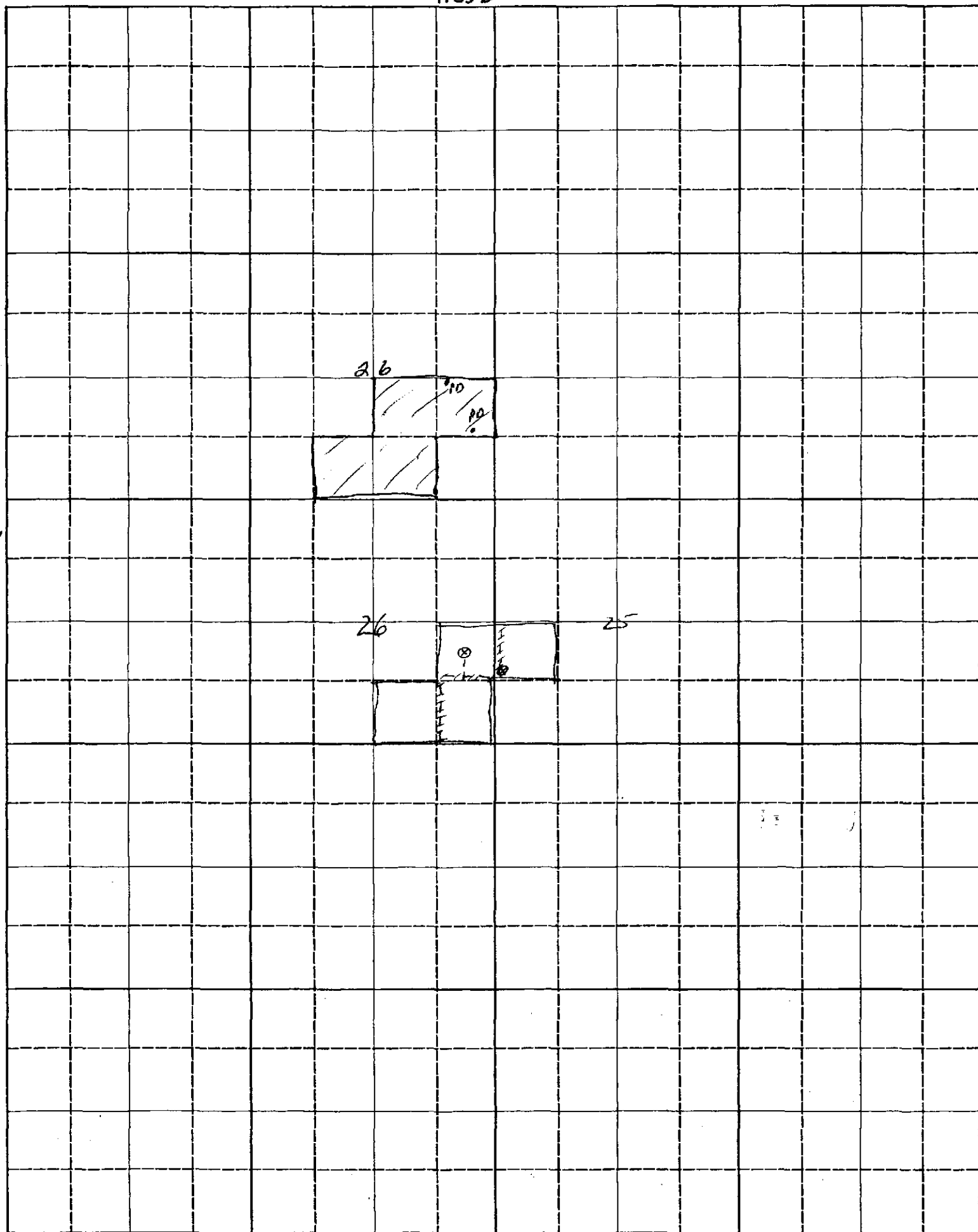
10. Remarks

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MAY 14 1998

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

R 35 E

T 7 N



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.

David A. Lora
(Applicant)

MICROFILMED

MAY 14 1998

Received by JC Date 5/2/80 Time 3:00 P.M.
Preliminary check by _____ Fee \$ 65.00 53
Receipted by QC Date 5-2-80 # 13969
Publication prepared by _____ kw Date 5/8/80
Published in _____ The Rigby Star
Publication dates 5/15 & 5/22/80
Publication approved _____ Date _____
Protests filed by: _____

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

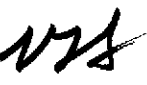
- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

Witness my hand this _____ day of _____, 19 ____.

Director

MICROFILMED
MAY 14 1998

MEMORANDUM

To: File 31-7338
From: L. Glen Saxton 
RE: ACTION TO LICENSE 31-7338
Date: August 31, 2004

On August 30, 2004, the department issued an Interlocutory Order Dismissing the protest of Paul Gunderson against Application for Transfer No. 70627 ("Transfer 70627") filed in the name of Robert or Donna Bybee in connection with water right no. 31-11443. The next step on Transfer 70627 is to issue a Preliminary Order acting on the transfer and to serve both Robert Bybee and Paul Gunderson with the order. At that point, the parties can pursue available administrative remedies such as filing a petition for reconsideration, exceptions or requesting a hearing if they choose.

Until final Department action is taken on Transfer 70627, the Department should not issue a license for permit 31-7338 in the name of Gunderson in order to be able to properly consider all water rights appurtenant to the NWSW Section 25, T7N, R35E, B.M. and the conditions of approval on water right nos. 31-11604, 31-11688 and 31-11689.

c: 31-11443
31-11604
31-11688
31-11689

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APR 01 2004

Page 1

Department of Water Resources

Permit No: 31-7338

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 31-7338

Exam Date: 3/30/2004

office Review

1. Current Owner: K PAUL GUNDERSON
155 E 1500 N
HAMER ID 83425-0816
(208)663-4412

2. Accompanied by:

Phone No:

Address:

Relationship to Permit Holder:

3. SOURCE

TRIBUTARY

GROUND WATER

B. OVERLAP REVIEW

1. Other water rights with the same place of use:

31-11604, 11688, 11689

2. Other water rights with the same point of diversion:

31-11604, 11688, 11689

C. DIVERSION AND DELIVERY SYSTEM

1. LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER

NW1/4SW1/4

Sec. 25, Twp 07N, Rge 35E, B.M.

JEFFERSON County

Method of Determination:

GPS

2.

PLACE OF USE:

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N 35E 25											38.0						38.0
07N 35E 26													37.0		39.0	38.0	114.0

Total Acres: 152

Method of Determination:

3. ☐ Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
- ☐ Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
- ☒ Aerial Photo Attached (required for irrigation of 10+ acres).
- ☒ Photo of Diversion and System Attached

4.

<u>Well or Diversion ID No.*</u>	<u>Motor Make</u>	<u>Hp</u>	<u>Motor Serial No.</u>	<u>Pump Make</u>	<u>Pump Serial No. or Discharge Size</u>
	GE	50hp	Motor		
	hinda	50hp	Booster		

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

D. FLOW MEASUREMENTS

1.

<u>Measurement Equipment</u>	<u>Type</u>	<u>Make</u>	<u>Model No.</u>	<u>Serial No.</u>	<u>Size</u>	<u>Calib. Date</u>

2. Measurements:

SONIC METER AT 1053 gpm without the Booster. With booster, would exceed 1"/ac or 3.04 cfs

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

Measured Method:

Recommend 2.20 cfs as permitted

Limit combined use with 31-11604, 11688, 11689 to 3.04 cfs 532 AF/A and 152 Acres

F. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 3.5 \times 152 = 532 \text{ AF/A}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 = 802$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 532$$

2. Volume Calculations for Other Uses:

G. NARRATIVE/REMARKS/COMMENTS

Well/pump to pivots and sprinklers. 50HP GE motor/ 50HP lincoln booster pump.
 Measured by the Measurement district at 1053 GPM without the booster on.
 with the booster on this well would produce more than 1 inch/acre. Limited by the 152 acres
 X 0.02 cfs= 3.04 max CFS.
 In combination with 31-11604, 11688, 11689 and this right the max totals would be 3.04 cfs, 532 afa and
 152 acres.

Have conditions of permit approval been met? ☒ Yes ☐ No

H. RECOMMENDATIONS

1. Recommended Amounts

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	2.200 CFS	532.00 AF
<u>Totals:</u>		2.200 CFS	532.00 AF

2. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

I. AUTHENTICATION

Field Examiner's Name DAVE CARLSON Date 3/30/2004

Reviewer _____ Date _____

Water User

GUNDERSON, K PAUL ID: 74

POD

07N 35E 25 ~~NESW~~ *NWSW*

Site Tag #

A0008600

Record #

300763

Diversion Name

BARNES PLACE



Idaho Department of Water Resources

Water Right 31-11603 and 31-11604

Township 7N Range 36E Section 25, 26

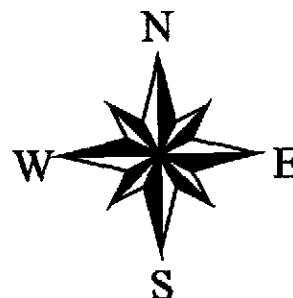
31-7338



0 1320 Feet

- ⊙ Point of Diversion
- Point of Diversion - Other Rights
- Place of Use

-  Place of Use - Other Rights
-  Quarter-quarter Sections
-  Section Lines



GIS Illustration prepared from 1987/1988 NAPP photography by B. Contor 12/2000

Does the well have access to measure water levels? **Yes / No**

Static Water Level _____ ft Pumping Water Level _____ ft (at condition # _____)
Date _____ Date _____

FLOWMETER ACCURACY CALIBRATION TABLE

[illegible]

File Only

Notes, Comments or Calculations:

$$20 \times .001 \times 325,850 = 6517 \text{ gallons}$$

$$\frac{697.4}{82} \times 10^2 = 1089.7$$

$$\frac{697.4}{8^2} \times 9.832^2 = 1053.4$$

Sketch and or photograph of installation:

Data entry "Flowmeter purchased in 1975 but stored until installation 5/99. Measured condition is not high-flow condition. Condition 1 PCC will likely be close to season average PCC. Note that 8" meter is installed in 10" pipe. Calibration multiplier approx = $10^2/8^2$. Meter should be acceptable w/ multiplier. BAC 6/99"

I certify that the above information is true and correct to the best of my knowledge and ability and the measurements taken and recorded are in accordance with the standards and specifications of the equipment used.

Signature Boya A. Conlon
(person performing measurements)

Date 6/16/99

Northern Measurement Dist

JUN 11 2004

DEPARTMENT OF
WATER RESOURCESLAW OFFICES OF
PIKE & SMITH P.A.

Edward W. Pike
Admitted in Idaho and Utah
Certified Mediator

Franklin N. Smith
Admitted in Idaho, Utah and Nevada
Of Counsel: Van Cott, Bagley,
Cornwall & McCarthy
Salt Lake City, Utah

IDAHO FALLS OFFICE:

O.E. Bell Center
151 N. Ridge Ave., Suite 210
P.O. Box 2949
Idaho Falls, Idaho 83403-2949
Telephone (208) 528-6444
Telefax (208) 528-6447

Mark J. Miller
Admitted in Idaho and Nevada

Stephanie J. Bonney
Admitted in Idaho

Penny North Shaul
Admitted in Idaho
Child Custody Mediator

Judith A. Lewis-Frazee
Admitted in Idaho, Penn. and Maryland
Of Counsel - Driggs, Idaho Office

June 9, 2004

L. Glen Saxton, P.E.
Administrator
Water Management Division
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

**RE: Application for Transfer No. 70627 in the Name of Robert or Donna Bybee:
Protestant Paul Gunderson**

Dear Mr. Saxton:

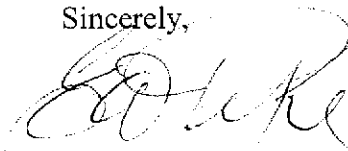
Mr. Gunderson requests this additional information be considered in determining his water right to the NW ¼ SW ¼ of Section 25 that is in dispute with Mr. Bybee that Bybee claims as part of the lease agreement.

Assuming *arguendo* that Mr. Bybee had never leased and utilized any water application or claim of right to the subject property, Mr. Gunderson has heretofore stated his position and claim that under the adjudication of 1939 for or including the 33 acres in question, this water right was passed down to Gunderson and had nothing to do with Bybee, and still exists, and could not have reverted to Bybee.

Any claim of Mr. Bybee would have to be subject to all prior water rights.

Thank you for considering this additional information.

Sincerely,



E.W. Pike
Attorney for Paul Gunderson

cc: Ron Carlson, D.W.R.
Paul Gunderson

EWP/ll
gunderson/saxton.3ltr

DRIGGS OFFICE:

Outfitters Building, 10 Ashley Ave., Suite 206, Driggs, ID 83422 Telephone (208) 354-3029

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JUN 07 2004

LAW OFFICES OF

PIKE & SMITH P.A.

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Admitted in Idaho and Utah
Certified Mediator

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Admitted in Idaho, Utah and Nevada
Of Counsel: Van Cott, Bagley,
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Mark J. Miller DEPARTMENT OF
Admitted in Idaho and Nevada WATER RESOURCES

Stephanie J. Bonney
Admitted in Idaho
Penny North Shaul
Admitted in Idaho
Child Custody Mediator
Judith A. Lewis-Frazee
Admitted in Idaho, Penn. and Maryland
Of Counsel - Driggs, Idaho Office

June 3, 2004

L. Glen Saxton, P.E.
Administrator
Water Management Division
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

**RE: Application for Transfer No. 70627 in the Name of Robert or Donna Bybee:
Protestant Paul Gunderson**

Dear Mr. Saxton:

Thank you for granting Mr. Gunderson an extension of time to June 4 to respond to your letter of May 14. The response of Mr. Gunderson is as follows:

1. There is a scrivener's error in the warranty deed from D.F. Edwards to Paul Gunderson, concerning the property in question, which was described in the warranty deed as NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25. This is in error. It should be the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25. The parties to this dispute have always recognized the correct description is the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25.
2. Mr. Robert Bybee takes the position that the lease agreement dated March 25, 1976 (and I assume he has furnished you with a copy of the same) between Mr. Gunderson and Mr. Don R. Bybee (Robert's father) give him the right to water used by Don initially until 1981 until he filed bankruptcy and Robert for 2 years, 1981-1982, on the leased property of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25 Township 7 North Range 35 E.B.M. Mr. Gunderson claims that this purported lease is not the lease signed by him, and as evidence thereof, please note the lease on the front page furnished to you by Mr. Robert Bybee shows a date of March 25, 1976, but the signature page shows a notarization and date of March 7, 1976. It is Mr. Gunderson's belief and contention that Mr. Don Bybee changed the first page of this printed lease and added the typewritten portion of a reversion back to Bybee from Gunderson of any water used on Gunderson's property, after Mr. Gunderson signed the document.
3. The Seventh Judicial District Court, Jefferson County, Idaho, Hon. Brent J. Moss, District Judge, granted a Motion to Dismiss the application of Robert Bybee on the grounds the court had no jurisdiction. A copy of the order is annexed hereto. Mr. Gunderson advises he is

DRIGGS OFFICE:

Outfitters Building, 10 Ashley Ave., Suite 206, Driggs, ID 83422 Telephone (208) 354-3029

not aware of receiving any notice of any hearing after this dismissal, before the Snake River Adjudication Board, or any other tribunal concerning this matter.

4. It is Mr. Gunderson's position that Mr. Robert Bybee cannot have any right of reversion to water that was granted by permit to be used on Gunderson's property, which continues to be Gunderson's property and has been his property ever since the permit was issued to the NW ¼ SW ¼ of Section 25.

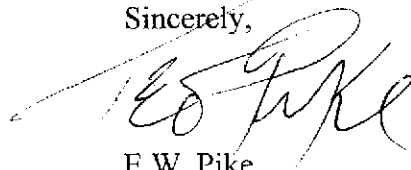
5. Gunderson raises the defense of non-use of the permit for a period in excess of five years. In connection therewith, this raises the question of the statute of limitations, that only allows five years to change a judgment or decree. This period of time long ago expired.

6. Mr. Gunderson has prepared a writing setting forth other information that he believes is applicable, which has been duly executed by him and included herewith as an Exhibit A. Mr. Gunderson has duly filed a notice of protest, which is part of your record.

7. The permit in its present condition reads as being applicable only to Paul Gunderson's deeded property, and therefore it cannot revert to Bybee. For the reasons set forth herein, Mr. Robert Bybee has never had any property for it to revert to.

8. If you do not deny Bybee's request, Gunderson requests a further evidentiary hearing upon reasonable notice.

Sincerely,



E.W. Pike

Attorney for Paul Gunderson

cc: Ron Carlson, D.W.R.
Paul Gunderson

EWP/js
gunderson/saxton.2ltr

THIS INDENTURE, Made this 25th day of March, 1976

Between Paul Gunderson

of Terretton, Idaho
and Don R. Bybee

hereinafter called the party of the first part,

of Hamer, Idaho

hereinafter called the party of the second part;

WITNESSETH, That the said party of the first part has leased and demised, and by these presents

does lease and demise, unto the said party of the second part the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec 25
Township 7N 35 E.B.M.

with the appurtenances, for the term of 5 years from March 25, 1976,
at the use for rent or sum of
exchange of/property listed item one below DOLLARS

payable in lawful money of the United States of America.

1. That portion of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec 25 Township 7 North 35 E.B.M. lying North West of Camas Creek and North East of Owsley Wells and trench. And that portion of NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec 25 Township 7 North 35 E.B.M. lying North and East of Owsley Wells and trench.
2. Party of the second part agrees to replace fences as is at end of lease.
3. Both parties agree that any water used on NW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec 25 Township 7 North 35 E.B.M. would revert back to party of second part and his property at end of lease.

This lease will expire March 1981.

AND IT IS HEREBY AGREED, That if any rents shall be due and unpaid, or if default shall be made in any of the covenants herein contained, then it shall be lawful for the said party of the first part to re-enter said premises and to remove all persons therefrom.

And the said party of the second part does hereby covenant, promise and agree to pay the said party of the first part, the said rent in the manner hereinbefore specified.

And that at the expiration of the said term the said party of the second part will quit and surrender the said premises in as good state and condition as reasonable use and wear thereof will permit (damage by the elements excepted)

IN WITNESS WHEREOF, The said parties have hereunto set their hands and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

Paul Gunderson [Seal]
Paul Gunderson [Seal]

Don R. Bybee [Seal]
Don R. Bybee [Seal]

STATE OF IDAHO,

County of Jefferson

ss.

On this the undersigned day of March 7th

in the year 1976, before me

, a Notary Public

in and for said State, personally appeared

known to me to be the person whose name
acknowledged to me that he executed the same.

subscribed to the within instrument, and

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Joe J. Lee
Notary Public for the State of Idaho,
Residing at Jerico, Idaho.

No.	LEASE	-TO-	Dated	19	ss.	STATE OF IDAHO,	County of	I hereby certify that this instrument was filed for record at request of	at	minutes past	M, this	day	of	A. D. 19	my office, and duly recorded in Book	of	at page	By	Ex-Officio Recorder.	Deputy.	Fees, \$	Mail to	BYN-TONE COMPANY, BOISE
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COPY

DATED: April 16 2001.

Brent J. Moss
Hon. Brent J. Moss, District Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing, to the following, by the indicated method on this 16 day of April, 2001, by U.S. mail, hand delivery or facsimile, with the necessary postage affixed thereto.

Gregory W. Moeller
RIGBY, THATCHER, ANDRUS,
RIGBY, KAM & MOELLER
25 North Second East
P.O. Box 250
Rexburg, ID 83440

☒ U.S. Mail
☐ Fax
☐ Hand Delivered

E. W. Pike
PIKE & SMITH, P.A.
P.O. Box 2949
Idaho Falls, ID 83403-2949

☒ U.S. Mail
☐ Fax
☐ Hand Delivered

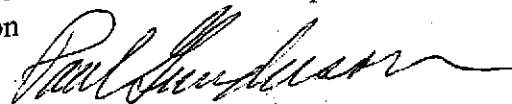
[Signature]
CLERK

gunderson/bybee/dismiss.ord

In the spring of 1974 I hired Lamar Barrus from Basalt Idaho to drill a well on the SW ¼ SW ¼ Sec 25 T7N R35E. Prior to his starting to drill the well he requested I make an application for a water use permit to IDWR. I did process the application for a permit. After Lamar Barrus completed drilling the well, I received a telephone call from IDWR. IDWR requested a copy of the well log from me. (By requesting the well log I knew the IDWR had the application for a permit at that time.) I responded that I did not have a well log. IDWR requested I call Lamar Barrus and have him submit the well log because IDWR said they would not process my application for a permit until they received a well log. IDWR said this was a way they had of getting a well log from the well drillers. Lamar Barrus replied to me he would send the to IDWR but he submitted well logs as a group once a year. A few months later IDWR call me again by telephone and said if I wanted the application processed I would have to get Lamar Barrus to submit a well log. I called Lamar Barrus a second time to request him to file the well log with IDWR. He said he would. He submitted the well log in July 1975. I then waited for IDWR to process the permit. I can't remember if I checked on this application or if it were an earlier application for another well that IDWR told me to be patient. Some applications may take several years.

The next event I remember pertaining to this application happened in 1980. D. F. Edwards reviewed all the water right on property I was buying from him. D. F. Edwards did not find a filling for the subject well. He then filed another application for a permit on the subject well. He then informed me about what he had done and requested I reimburse him for the filling fee, which I did. At this time I informed that what he had done was not necessary. I had already made an application prior to drilling the well and was just waiting for IDWR to send the permit. I then check with IDWR for a status of the permit. At this point IDWR informed me they had no record of the application.

Holley and Jackett Canal Companies filed a protest to the application filed by Mr. Edwards. IDWR (Bob Fleener) held a prehearing conference. At the prehearing conference both Holley and Jackett Canal Companies agreed to withdraw their protest and the permit was to be issued. The canal companies stated to me that they protested all new water filings. Several months later I called Bob Fleener and requested the status of the permit. Bob said they were working on it. I insisted I wanted some kind of documentation. He told me not worry "I could still pump water." I later checked IDWR in Idaho Falls for a status. IDWR stated they could not process the application because of the moratorium on drilling wells in the Mud Lake area. I replied the well was drilled in 1974 and the second application was submitted in 1980, both prior to the moratorium. IDWR said that did not make any difference about issuing a permit because the moratorium prevailed. Later around 1997 when meeting with IDWR on another subject with Attorneys Scott Seedall and Ray Rigby attending, I asked the question about issuing the permit and moratorium to IDWR. Both attorneys stated to IDWR that the moratorium would have no affect on processing the permit on the well. At that point IDWR processed the 1980 application. When IDWR processed the application they add a remark to the permit which encumbered the permit by stating that if any water is transferred from permit 31-07199 that those acres are to be removed from 31-7338 or in other words 33 acres of permit 31-7338 will be without water. This deteriorated water permit is the result of administrative errors of omission since 1974, taking place during 27 year period. To date over \$10,000 of legal fees have spent to find a solution for the errors with no solution in sight. That is over \$300 per acre for the water in question and the legal fees appear to be just beginning. -- Paul Gunderson



GLEN
RECEIVED
MAY 28 2004
DEPARTMENT OF
WATER RESOURCES

LAW OFFICES OF
PIKE & SMITH P.A.

Edward W. Pike
Admitted in Idaho and Utah
Certified Mediator

Franklin N. Smith
Admitted in Idaho, Utah and Nevada
Of Counsel: Van Cott, Bagley,
Cornwall & McCarthy
Salt Lake City, Utah

IDAHO FALLS OFFICE:

O.E. Bell Center
151 N. Ridge Ave., Suite 210
P.O. Box 2949
Idaho Falls, Idaho 83403-2949
Telephone (208) 528-6444
Telefax (208) 528-6447

Mark J. Miller
Admitted in Idaho and Nevada
Stephanie J. Bonney
Admitted in Idaho
Penny North Shaul
Admitted in Idaho
Child Custody Mediator
Judith A. Lewis-Frazer
Admitted in Idaho, Penn. and Maryland
Of Counsel - Driggs, Idaho Office

26 May 2004

L. Glen Saxton, P.E.
Administrator
Water Management Division
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

**RE: Application for Transfer No. 70627 in the Name of Robert or Donna Bybee
Protestant Paul Gunderson**

Dear Mr. Saxton:

I met today with Paul Gunderson concerning your letter to Ms. Shaul of this office dated May 14. Ms. Shaul has referred this file to me for response.

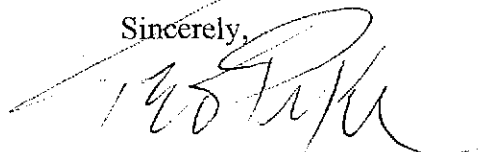
I was absent from my office all of last week on matters at the University of Idaho Law School, so today was the first opportunity I had to meet with Mr. Gunderson.

Perhaps you misconstrued the Motion to Dismiss the Court filing in Madison County. It was not required any defense be set forth other than a challenge to the jurisdiction.

The usual procedure under the Idaho Civil Rules of Procedure is to allow 3 days for mailing in addition to any time limit. The envelope was postmarked May 17. Your letter allowed Mr. Gunderson fourteen days to protest your intended action. Therefore, I respectfully request that you allow us until June 4 to respond.

I appreciate your courtesy in this matter and your patience.

Sincerely,



E.W. Pike

cc: Paul Gunderson
EWP/js
gunderson/saxton.ltr

DRIGGS OFFICE:
Outfitters Building, 10 Ashley Ave., Suite 206, Driggs, ID 83422 Telephone (208) 354-3029



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 14, 2004

Penny North Shaul
PIKE & SMITH, P.A.
151 N. Ridge Ave, Suite 210
Idaho Falls, ID 83403-2949

**RE: APPLICATION FOR TRANSFER NO. 70627 IN THE NAME OF ROBERT OR
DONNA BYBEE**

Dear Ms. Shaul:

This letter follows up several phone conversations with you in connection with a long standing water right controversy between your client Paul Gunderson ("Gunderson") and Robert Bybee ("Bybee"). As we discussed, we both would like to resolve this controversy, but so far the matter seems to exist without a resolution in sight. The purpose of this letter is to advise you how I intend to proceed toward resolution.

Simply stated, there appear to be two (2) separate issues although the issues are related. The first issue is the protest of Gunderson against Application for Transfer No. 70627 ("application") filed by Bybee. The application seeks to change the place of use of water right 31-11443 decreed to Bybee by the SRBA court on February 22, 2002. The other issue is the right of Gunderson to irrigate 33 acres of land located in the NW1/4SW1/4 Section 25, T7N, R35E, B.M. I will address these issues separately.

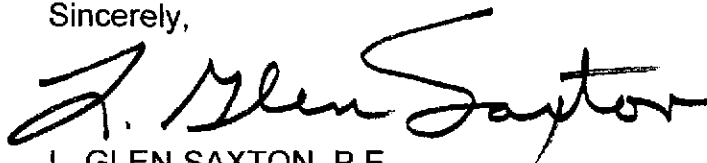
Gunderson protested Bybee's application stating that water right 31-11443 is not owned by Bybee citing an order in Case No. CV-98-177 that dismissed the case for lack of subject matter jurisdiction. This dismissal order did not address or supercede the February 22, 2002 order of the SRBA court decreeing water right 31-11443 to Bybee. Gunderson has not shown that that he owns the water right, as inferred in his protest, and has not shown a sufficient basis for his protest. IDAPA Rule 37.01.01.304 provides that insufficient or defective pleadings may be dismissed. If Gunderson can show within 14 days of this letter that his pleading is not defective, I will schedule a hearing in connection with Bybee's application. If Gunderson can not timely provide adequate information, I plan to issue a Notice of Proposed Default Order as provided in IDAPA Rule 37.01.01.700 dismissing his protest and will follow up with a Default Order, if appropriate.

In connection with the second issue, Department files do not show that Gunderson is authorized to irrigate the 33 acres located in the NW1/4SW1/4 Section 25, T7N, R35E, B.M. from which Bybee seeks to transfer water. The mitigation offered so far by Gunderson is not acceptable, since it does not mitigate the depletion associated with a new appropriation of water. Alternatives that Gunderson could consider include annual rental of water as described in my letter to you dated April 7, 2004 or acquisition of all or part of an existing ground water right seeking transfer of the right to the 33 acres.

Section 42-1701B, Idaho Code, provides that unauthorized irrigation of land is subject to a penalty of \$300 per acre. I don't know if Gunderson is irrigating the 33 acres or not this season, but if he is and can not show a right to irrigate the land, the civil penalty sought by the Department could be a maximum of \$9,900. The Department does not want this matter to go this far and prefers an alternate solution.

If you have questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "L. Glen Saxton". The signature is fluid and cursive, with the first name "L." being small and the last name "Saxton" being larger and more prominent.

L. GLEN SAXTON, P.E.
Administrator
Water Management Division

c: Paul Gunderson
Robert Bybee
Ron Carlson – IDWR
Roger Warner – IDWR
Gary Spackman – IDWR
31-7338

MEMORANDUM

TO: APPLICATION FOR PERMIT FILE NO. 25-13978 (GModelo)

FROM: NORM YOUNG

RE: ADDITIONAL PERMIT CONDITIONS

DATE: 2/20/2004

This application seeks to appropriate ground water from the ESPA that is subject to a moratorium preventing issuance of permits for new consumptive uses unless those uses are mitigated to protect existing water rights. The mitigation information provided by the applicant indicates that the facility will be constructed on a 158 acre parcel within the service area of the Idaho Irrigation District. The applicant and the irrigation district have entered into an agreement allowing the applicant to use the irrigation district water available to irrigate the property to be used for mitigation. The applicant has also entered into an agreement with the US Bureau of Reclamation to use stored water supplied by USBR to the irrigation district for mitigation only if obtained through the rental pool or water bank. The application does not include information to quantify the mitigation water needed or to describe the particular actions that will be used to accomplish mitigation.

Information in the file indicates that the water requirement for a malting plant operated by Gmodelo in Mexico diverts about 600,000 cubic meters per year (about 500 afa). Of this amount, the operating records indicate that 85 to 90 percent is discharged as waste flows. Applying this to the pending application, the maximum potential annual diversion at the rate applied for (2.23 cfs) is about 1628 afa, of which at least 1385 afa will be discharged unconsumed into the Snake River through the City of Idaho Falls waste treatment plant. This assumes that all of the water is used within the facility for a malting process similar to that for the facility in Mexico. The amount consumptively used in the Idaho Falls facility will be 243 afa or less, depending upon the actual annual diversion and the actual water efficiency of the facility. 1628 (95)

Based upon the response functions for the cell within which the diversion will occur in the geohydrologic model presently available for the ESPA (see the attached graph), the depletion in the river flow upstream from Neeley caused by pumping the water will be about 1500 afa at equilibrium (1628 afa times 92 percent which is the combined response function for Ashton to Heise and Shelley to Neeley). The waste flows from the plant which will be discharged and accounted for in this reach of the river will be adequate to fully mitigate the depletion for the first 20 to 30 years of plant

operation. If the water use efficiency of the plant is improved from that of the existing plant in Mexico, the waste returns may fully mitigate depletions in this reach of the river for the entire operation period for the facility.

Based upon this understanding, the permit can be issued with the following conditions in addition to those that are routinely attached to permits:

1. The **mitigation requirements** for diversion and use of water under this permit are **subject to review and revision** as determined necessary by the Department **to prevent injury to senior priority water rights.**
2. The information submitted with the proof of beneficial use filing shall include **records** for the amount of **water diverted each month** and the volume of **waste water discharged each month**, including that to the City of Idaho Falls waste water treatment facilities, for at least 24 consecutive months for the facility completed and operating at design capacity.
3. **Water diverted under this permit shall be used only for the malting operation and shall not be used for irrigation of crops, lawns or landscaping or other uses outside of the facility.**

MEMORANDUM

DATE: March 15, 2001

TO: Water Right File 31-07338

FROM: Shelley W. Keen *SWK*

RE: Authorized place of use

Because Bryce does not recommend a change in the total number of irrigated acres under Right 31-07338, I think it will be appropriate to address any adjustments to the place of use through the licensing process. I have asked Skip Jones to complete a field exam as soon as possible.

MEMORANDUM

RECEIVED

DEC 01 2000

Department of Water Resources

To: Shelley Keen
cc: Paul Gunderson
Fr: Bryce A. Contor
Date: 11/24/2000
Re: Acreage under permit 31-7338

Norm Young has asked that I review again the documentation that Paul Gunderson had presented in requesting that an additional seven acres be added to this permit in 7N 35E Section 25, NW 1/4 of SW 1/4.¹

At Mr. Young's request I contact Mr. Paul Gunderson and summarized with him what he is requesting. My understanding is that Mr. Gunderson requests that the permit be increased by 7.0 acres on the grounds that he developed irrigation of the full 40 acres in that quarter-quarter prior to November 1987.

Also, permit 31-7338 bears a remark "If right 31-07199 is changed through the statutory transfer procedure so that it is no longer appurtenant to the NWSW, Sec. 25, N7N, R35E, then the number of acres irrigated under this right shall be reduced by up to 33 acre to comply with the 252-acre limit described above." My understanding is that Mr. Gunderson requests that this limitation be removed from the permit, on the grounds that his irrigation of the entire 40 acres precedes the development of right 31-07199, and therefore his right should be superior to 31-07199.

This review relies on documentation forwarded to me by Mr. Young, including FSA documents and affidavits provided to Mr. Young by Mr. Gunderson. I have some experience in reviewing the FSA documents as I was working with FSA programs on my own farm in 1987. The review also relies on observations I made when I inspected the well as part of the North Water Measurement District activities, and on observations I made of the place of use during a number of excursions to inspect the neighboring property of Mr. Harrop² in 1997 and 1998. Finally, the review relies on a GIS analysis of 1987 aerial photography.

Because I am not fully aware of the standards and procedures of the Allocations Bureau, I told Mr. Young that I would perform this review as if it were an Adjudication review.

Findings:

¹ The Petition for Reconsideration presented by Mr. Gunderson's attorney identifies the parcel incorrectly as the NWNW of section 25.

² I was contemplating trying to buy part of the Harrop property for a building site.

1. The undated FSA map I have marked "A" identifies this property as tract "T192."
2. The FSA form "ASCS-578 Report of Acreage" I have marked "B" identifies tract T192 as having 63.9 acres of wheat, 36.2 acres of ACR (Agricultural Conservation Reserve, land fallowed in exchange for government payment) and 45.8 acres of CU (Conserving Use, which includes irrigated alfalfa, grass hay, or pasture). These reported acreages sum to 145.9 acres.

My understanding is that to be included in any of these categories, the individual field must have a "program base," which means it must have produced a program crop (wheat, barley, or oats) for a certain period of years. Activities which constitute "beneficial use" of water (irrigated pasture, for instance) may not qualify as an activity to develop program base.

I have not reproduced the page of this report with the date, but it appears to have been signed in June of 1987.

3. The FSA form "ASCS-578 Report of Acreage" I have marked "C" also reports a total of 145.9 acres within the same categories as report "C." The dated page of this report is not included in the materials provided.
4. The map marked "A" is a poor copy, but it appears that the parcel in question (that part of NWSE of 25 not watered by WR 31-7199 via the center pivot) did not have "base" (and therefore presumably did not have a history of producing a qualifying crop).

Program acres, tract T192	145.9
Map acres, NWSW section 25	
center-pivot portion	32.5
Map acres, NESE section 26	36.2
Map acres, SWSE section 26	
west tract	3.0
east tract	38.8
Map acres, SESE section 26	
"wht" (wheat)	25.1
"fallow"	<u>10.3</u>
Total mapped acres	145.9

5. Map "A" does have a notation of 6.0 acres in the part of NWSW of 25 not covered by the center pivot, but that value is crossed out, further indicating that the parcel did not have "program base."
6. The affidavits of Mr. Paul Gunderson and his son Mr. Lawrence Gunderson indicate that this parcel was irrigated. Paul Gunderson told me that it was basically irrigated pasture. These would probably be enough to base an Adjudication recommendation on, despite the fact that neither of them is a disinterested party.
7. Giving Mr. Gunderson the benefit of the doubt, and assuming that indeed water was beneficially used on the subject parcel, the FSA

data support historical irrigation of $145.9 + 6.0 = 151.9$ acres.

8. The attached GIS illustration shows the acreage that could be construed to have been irrigated. The shape shown in yellow is the non-overlapped portion and totals 121 acres. The red shape in the NWSW of 25 represents the part of license 31-7199 appurtenant to that quarter-quarter, and totals 33 acres. All together, then, the GIS shows approximately 154 acres of irrigation.

The reductions I have made from full quarter-quarter sections are as follows:

NWSW Section 25	Turn-around spot and field road around pivot. Observed during NWMD well inspection in 1997.
NESE Section 26	Ditch bank and well site for Holley well field. Observed during NWMD well inspection and AJ inspection of Holley wells.
SWSE Section 26	Lundholm ditch on NW corner, field road on west, county road on south. Observed during excursions to Harrop property in NWSE of 26.
SESE Section 26	County road on south, Holley wells and ditch on north. Observed during NWMD well inspection and AJ inspection of Holley wells.

Note that the photo does not strongly indicate irrigation in the NESE of 26 nor the subject acres in the NWSW of 25, so the GIS relies on the FSA report. Therefore I suggest the FSA data are more reliable than the GIS.

9. Attached proof report shows permit 31-7338 authorizes development of up to 153 acres of irrigation, but only 33 acres within the NWSW of section 25.
10. License 31-7199 predates permit 31-7338.
11. Mr. Gunderson has told me that he irrigated the entire 40 acre parcel prior to the issuance of permit 31-7199 to Bybee. This is supported by Lawrence Gunderson's affidavit.
12. There is no dispute concerning the physical overlap of license 31-7199 with permit 31-7338. Mr. Gunderson's concern with the combined use limitation stems from a dispute over the ownership of right 31-7199 and the respective superiority of the two rights.
13. Adjudication claim 31-7199 has been split. The portion with contested ownership, with place of use in the NWSW of section 25, will be recommended as water right number 31-11443. The ownership of this water right will be determined by the Snake River Basin Adjudication Court, hopefully sometime in 2001.

14. Other documentation in the file supports a history of pre-1963 beneficial use on the south two quarter-quarters in the SE of section 26. This is part of the land claimed under statutory beneficial use claim 31-4035. An Adjudication claim has not been filed for this beneficial use, but I have invited Mr. Gunderson to submit a claim.

Analysis

1. If this were an Adjudication recommendation, I would recommend six acres of irrigation on the subject corner in NWSW of section 25, based upon the 1997 NWMD field inspection, the affidavits provided by Mr. Gunderson and his son, and the FSA notation of 6.0 acres on map "A." However, because Mr. Gunderson failed to provide third-party affidavits as requested,³ this would be a weak recommendation. If challenged by an objector, I would not vigorously defend it.
2. The permitted acreage (153 acres) is approximately in accordance with the GIS data (154 acres) and the FSA acreage (151.9 acres).
3. The total actual irrigated acreage under AJ recommendation 31-11443 and permit 31-7338 appears to be approximately 152 acres. Therefore combined use limitations on the permit are consistent with limitations that would be applied to Adjudication recommendations in this situation.

Because the ownership of 31-11443 is disputed, the special consideration exists of determining which right is to be curtailed if an event (such as a transfer of Place of Use) requires reducing one of the rights.

Though I've not encountered this situation in the Adjudication, I agree that in this case it is necessary to specify which right is to be curtailed if one must be. The only alternative to limiting 31-7338 if 31-11443 is transferred to a new POU would be some kind of condition limiting 31-11443. This would be a reduction of the value of 31-11443 and an injury to its owner.

4. The statutory permit process contemplates that a permit be obtained prior to development of beneficial use of water. Since 1963, a permit has been legally required before developing a water source and putting water to beneficial use.

In this case, the process has been reversed. Water has been developed and applied to beneficial use in violation of the law, and IDWR has retrospectively issued permit 31-7338 to validate this extra-legal activity. While the beneficial use referred to may have preceded the legal development of right 31-11443, its legal authorization post-dates the legal authorization of 31-11443.

³ It has been my experience in rural communities that people are generally very aware of neighbors' activities, and that operators of adjoining parcels remember very well what has or has not been irrigated historically. It has also been my experience, however, that neighbors will not always be willing to come forward with affidavits in a controversial matter.

If Mr. Gunderson is indeed the owner of both rights, it does not matter which right bears the restriction. If he owns only permit 31-7338, it is just that 31-7338 bear the restriction, as the owner of 31-11443 is successor in interest to a person who developed the right in accordance with state law.

Recommendations

1. Permit 31-7338 should be amended to allow development of 39 acres of irrigation in the NSW of section 25. While this relies on perhaps a more generous interpretation than the Allocations Bureau policies allow, injury is prevented by recommendation 2.
2. Total acreage authorized by 31-7338 should remain at 153 acres, consistent with the FSA acreage and the inferior GIS acreage.
3. Combined use limitations and the special transfer condition on 31-7338 should remain in place. Following issuance of a partial decree for 31-11443, the numbering of the conditions should be updated.
4. Mr. Gunderson should submit Adjudication Claim 31-4035. Licensing review for 31-7338 should consider the overlap with 31-4035, which if recommended will be a senior right to 31-7338.

I believe this recommendation gives Mr. Gunderson the benefit of the doubt on the pivot corner in NSW of section 25, and authorizes development of all the land actually irrigated in 1987. It appears also to authorize current irrigated acres. While it doesn't remove the combined use limitations with 31-7199 (31-11443), it appears those limitations are just and appropriate.

A
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A226
T191

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A226

A136
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T192

*Ac. to be
levelled*

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A140
A234

A231

4
5

REPORT OF ACREAGE

Section 374 of the Agricultural Adjustment Act of 1938, as amended, authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing the data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the provisions of the Act.

1. FARM NO. 2. TRACT NO. 3. FARMLAND CROPLAND 4. PROGRAM YEAR KEY NAMES OF OTHER PRODUCERS 7 ID NUMBER 8 OTHER FARMS 9

KEY 5. OPERATOR NAME AND ADDRESS 6. Other Farms 87

1
K. PAUL GUNDERSON
HC69 BOX 2580
HAWES, ID 83425

1209

10. PHOTO NO. - LEGAL DESCRIPTION

16. CROP OR LAND USE SUMMARY

TRACT NO.	FIELD NO.	CROP OR LAND USE	Prac. Acre 14	CROP STATUS 15	WHEAT	BARLEY	APR	NI	17	SHARE 18
12	13				61.9	0	36.2	45.0		
13	14				9	0	0	0		
14	15				0	0	38.1	44.3		
15	16				0	0	0	0		
16	17				103.8	42.7	0	0		
17	18				0	0	0	0		
18	19				147.3	42.7	24.3	42.1		
19	20				0	0	0	0		
20	21				0	0	0	0		
21	22				0	0	0	0		
22	23				0	0	0	0		
23	24				0	0	0	0		
24	25				0	0	0	0		
25	26				0	0	0	0		
26	27				0	0	0	0		
27	28				0	0	0	0		
28	29				0	0	0	0		
29	30				0	0	0	0		
30	31				0	0	0	0		
31	32				0	0	0	0		
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19. TOTAL OPERATOR REPORT

20. TOTAL DETERMINED ACREAGE

21. OPERATOR'S CERTIFICATION - I certify to the best of my knowledge and belief that the acreage of crops and land uses listed herein are true and correct. I understand that an inaccurate acreage report could result in a payment reduction or loss of program benefits and/or reduction in future allotments and quotas when applicable.

OPERATOR'S SIGNATURE DATE OPERATOR'S SIGNATURE DATE OPERATOR'S SIGNATURE DATE

F = Filled Acreage
PP = Prevented Planted
A = Abandoned Acreage
APPF = After PP or F
2/1 = Irrigated
NI = Nonirrigated
2/1 = Initial Crop
DC = Double Crop
SC = Subsequent Crop

RECEIVED
MAY 14 1998

ASCS-578
(10-02-86)

REPORT OF ACREAGE

USDA - ASCS

Section 374 of the Agricultural Adjustment Act of 1938, as amended, authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing the data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the provisions of the Act.

Form Approved - United States Dept. of Agriculture

PAGE

OF

OTHER FARMS

1. FARM NO. 2. TRACT NO. 3. FARMLAND CROPLAND

4. PROGRAM YR KEY NAMES OF OTHER PRODUCERS

ID NUMBER

OTHER FARMS

KEY 5. OPERATOR NAME AND ADDRESS

490

446.8

87

1

K. PAUL GUNDERSON
-C65 BOX 2580
HARTER, ID 83425

10. PHOTO NO. LEGAL DESCRIPTION

12

TRACT NO.	FIELD NO.	CROP OR LAND USE	Prac. Acre 1/	CROP STATUS 2/	16. CROP OR LAND USE SUMMARY	KEY	SHARE
192	1	LEARN HAY	1			17	18
	2	ACR	1				
	3	WHEAT GRAIN	1				
	4	WHEAT GRAIN	1				
	5	WHEAT GRAIN	1				
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OPERATOR'S SIGNATURE

DATE

OPERATOR'S SIGNATURE

DATE

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Idaho Department of Water Resources

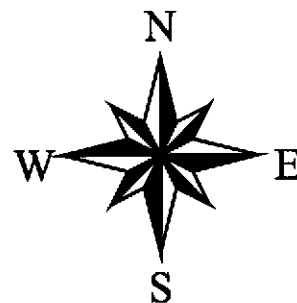
Paul Gunderson Permit 31-7338

Township 7N Range 35E Section 25, 26



0 1320 Feet

- ④ Point of Diversion
- Point of Diversion - Other Rights
- Place of Use
- Place of Use - Other Rights
- Quarter-quarter Sections
- Section Lines



GIS Illustration prepared from 1987/1988 NAPP photography by B. Contor 11/2000

WR5809NP
No. 31-07338

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 11/24/00
PAGE: 1

OWNER NAME & ADDRESS
C K PAUL GUNDERSON

PRIORITY DATE
05/04/1980

WATER USE
IRRIGATION

USE PERIOD FROM TO
04/15 10/15

DIVERSION RATE
2.200 CFS

TOTAL DIVERSION: 2.200 CFS

Water Source: GROUNDWATER

Tributary to:

Stage: PERMIT

Point(s) of Diversion: T07N R35E S25

NMSW

JEFFERSON County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				SUM
	N	E	S	W	N	E	S	W	N	E	S	W	N	E	S	W	
T R S	: Lt	: Ac	: Lt	: Ac	: Lt	: Ac	: Lt	: Ac	: Lt	: Ac	: Lt	: Ac	: Lt	: Ac	: Lt	: Ac	:
07N 35E 25	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	33.0
07N 35E 26	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	120.0
TOTAL ACRES	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	153.0

Pou County: JEFFERSON

Conditions of Approval:

- 03A - The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- 074 - This right does not authorize the irrigation of land not previously irrigated.
- 067 - The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.

Remarks: GEN

Right 31-07199 is also appurtenant to 33 acres in the NWSW, Sec. 25, T7N, R35E.
Use of water under this right is limited to the irrigation of no more than 153 acres.
Rights 31-07199 and 31-07338 when combined shall not exceed the irrigation of 252 acres.
If right 31-07199 is changed through the statutory transfer procedure so that it is no longer appurtenant to the NWSW, Sec. 25, T7N, R35E, then the number of acres irrigated under this right shall be reduced by up to 33 acres to comply with the 252 acre limit described above.

Dates: App. Received: 05/02/1980 Priority Date: 05/04/1980 (Priority Date Advanced.)
Proof Due Date: 03/01/1998 Proof Made Date: 03/03/1998 (Proof Received Late.)
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: Field Exam Fee: R (Received)



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161 • Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 24, 2000

Paul Gunderson
155 E 1500 N
Hamer, ID 83425

Re: Acreage on permit 31-07338

Dear Mr. Gunderson:

Norm Young forwarded to me a bundle of information that you had submitted regarding the seven acres you wish to have added to this permit. He asked me to review again that information, along with other information we may have gathered in the Adjudication review.

Based on this review, I've sent a memo to Shelley Keen, who handles new permits in Boise, recommending that he increase the acreage in the NWSW of section 25 to 39 acres. Because the FSA data show 152 acres of irrigation, and my GIS analysis showed 154, I have not recommended to Mr. Keen that the total permit acreage (153) be adjusted.

If Mr. Keen follows my recommendation, the permit will authorize all the irrigation that appears to have been present in 1987, and all the irrigation that appears to be present now. The only remaining dispute is the ownership of the right to irrigate the 33 overlapped acres, and this will be resolved by the Adjudication Court as it decrees claim 31-11443, which is the portion of right 31-07199 with disputed ownership.

You also requested that we consider removing the combined acreage limitations with license 31-07199 (the Bunker Hill pivot) and the special condition reducing your permit by 33 acres if 31-07199 is transferred to a new place of use. These conditions arise out of the overlap of the two rights, and the ownership dispute.

The combined use limitation is necessary, given the actual physical overlap of 31-07199 and 31-07338. The only real question is, "To which right should the special reduction condition apply?" Since 1963, Idaho Law has required that a permit be obtained prior to developing beneficial use of groundwater. Your development of irrigation on this parcel was an extra-legal activity given retroactive legitimacy by the issuance of permit 31-07338. Since the legal authorization of your permit actually post-dates the legal status of license 31-07199, it seems just that 31-07338, as the junior right, should bear the special condition. Therefore I did not recommend to Mr. Keen that either condition be changed.

I realize that this recommendation is in part a disappointment to you, and I'm sorry for that. Please contact me at 525-7161 if you have questions, or if you have further documentation you wish me to consider.

Sincerely,

Bryce A. Contor
Senior Water Resource Agent

Contor, Bryce

From: Contor, Bryce

Sent: Friday, November 24, 2000 12:34 PM

To: Young, Norm

Subject: Paul Gunderson request

I've reviewed the documentation you mailed, and sent Shelley Keen a long memo with a recommendation that he amend the permit to redistribute the permitted acres to authorize six acres of the disputed seven. However, I have recommended that the total permitted acres remained unchanged, based on the FSA documentation and a GIS analysis. Use in some of the other quarter-quarters is actually less than the full 40 acres permitted.

I've also sent a summary letter to Gunderson.

LAW OFFICES OF
PIKE & SHURTLIFF

RECEIVED

APR 27 1998

Edward W. Pike, P. A.

Admitted in Idaho and Utah

Certified Mediator

M. Karl Shurtliff

Admitted in Idaho

Scott C. Cifrese

Admitted in Idaho and Washington

Bank of Eastern Idaho Building

1800 Channing Way

P.O. Box 2949

Idaho Falls, Idaho 83403-2949

Telephone (208) 528-6444

Telefax (208) 528-6447

Department of Water Resources

Boise Office

800 W. State, Suite 200

P.O. Box 1652

Boise, Idaho 83702-1652

Telephone (208) 343-2900

Telefax (208) 343-3282

April 23, 1998

VIA FAX TRANSMISSION
(208) 327-7866

Mr. Karl J. Dreher, Director
DEPARTMENT OF WATER RESOURCES
1301 N. Orchard Street
P.O. Box 83720
Boise, Idaho 83720-0098

RE: Petition for Reconsideration
In the Matter of Permit No. 31-07338 in the name of K. Paul Gunderson

Dear Mr. Dreher:

I have enclosed for filing in this fax transmission our Petition for Reconsideration of the above referenced action.

As you may be aware, Mr. Seedall has left the firm and I am now be handling this matter for Mr. Gunderson.

If you have any questions or case to discuss this matter further please give me a call. I look forward to working with you. Take care.

Very truly yours,



Scott C. Cifrese

SCC/sc
gunderson/dreher2.ltr
cc: Paul Gunderson

Enclosures as stated

MICROFILMED
MAY 14 1998

RECEIVED

APR 27 1998

Department of Water Resources

Scott C. Cifrese
PIKE & SHURTLIFF
1800 Channing Way
P.O. Box 2949
Idaho Falls, ID 83403-2949
Telephone: 208/528-6444
Telefax: 208/528-6447

Attorneys for Paul Gunderson

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

IN THE MATTER OF PERMIT
NO. 31-07338 IN THE NAME
OF PAUL K. GUNDERSON

)
)
)
)
)

**PETITION FOR
RECONSIDERATION**

The Petitioner, Paul Gunderson, hereby petitions the Idaho Department of Water Resources (the department) to reconsider its Preliminary Order dated April 7, 1998, refusing to enlarge his present water right to include seven (7) acres located in NW1 / 4NW1 / 4 Section 25, T7N, R35E, B.M. This Petition for Reconsideration is made on the basis and for the reasons as follows:

1. On August 20, 1997, the department issued Permit No. 31-07338 as a preliminary order to Paul Gunderson. However, there were mistakes in the permit as granted and Mr. Gunderson filed a petition for reconsideration on September 12, 1997, which was granted by the department on September 15, 1997. On December 31, 1997 Mr. Gunderson filed a further petition for reconsideration as the permit only granted him water rights to irrigate one hundred fifty three (153) acres instead of one hundred sixty (160) acres, the total number of acres he

1. PETITION FOR RECONSIDERATION

MICROFILMED
MAY 14 1998

actually irrigated. The petition asked the department to include the seven (7) acres that are connected to a forty (40) acre parcel irrigated by a center pivot system.

2. On January 15, 1998 the department conditionally granted the petition and allowed Mr. Gunderson an additional twenty one (21) days to show that the seven (7) acres had been irrigated with ground water prior to November 1987. On April 7, 1998 the department issued its Preliminary Order whereby it concluded that Mr. Gunderson did not provide sufficient evidence that he had watered the acres in question prior to the date stated and reinstated the permit issued on December 18, 1997.

3. The Preliminary Order dated April 7, 1998 is incorrect. Mr. Gunderson complied with all the department's requests. When Mr. Gunderson filed his December 31, 1997 Petition for Reconsideration he simultaneously filed two (2) affidavits, both of which are on file herein, one from himself and one from his son, Lawrence. These affidavits, sworn to under oath, provide that the seven (7) acres in question had been watered, along with the other thirty three (33) acres, since 1976 as a part of their normal farming operation.

4. Mr. Gunderson was later directed by the department to provide additional documentation which proved that he had irrigated the acres in question prior to November 1997. The department recommended he provide crop reports from the ASCS. In response, Mr. Gunderson provided the department with the 1987 Crop Report from ASCS. Please note that the report was dated June 30, 1997, which was **prior** to November 1997. The crop report clearly shows that the acres in question were in a set aside program in 1987, and as such a program crop was not planted on those acres. But the report also shows that **all** of his ground was irrigated that year, including the seven (7) acres. However, the department further indicated that it wanted

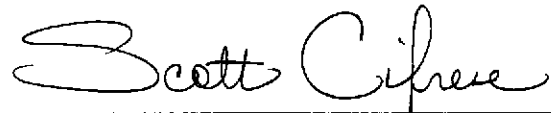
2. PETITION FOR RECONSIDERATION

RECEIVED
MAY 14 1998

proof from yet another year prior to 1987. Mr. Gunderson then provided the department with the 1985 Crop Report from ASCS. This report likewise shows that the total number of acres and the total number of acres irrigated is one and the same.

5. The permit as currently written does not provide Mr. Gunderson with enough water to irrigate the seven (7) acres in question. The fact remains, and the proof has been provided, that he has been irrigating the acreage since 1976. Mr. Gunderson has complied with all the requests of the department and he respectfully request the department reconsider its latest order and include the seven (7) additional acres in Permit No. 31-07338.

DATED this 23rd day of April, 1998.



Scott C. Cifrese
PIKE & SHURTLIFF, P.A.
Attorneys for Paul Gunderson

3. PETITION FOR RECONSIDERATION

RECORDED
MAY 14 1998

MEMORANDUM

DATE: April 24, 1998

TO: Water right file 31-07338

FROM: Shelley W. Keen *SWK*

RE: Petition for reconsideration

On April 23, 1998, IDWR received a petition for reconsideration of the preliminary order reissuing water appropriation permit no. 31-07338. The order was mailed April 8, 1998, which makes the fourteen day period for filing a petition for reconsideration run until April 22, 1998. Therefore the petition is one day late. I reviewed the petition nevertheless, but I found that there is no new information which should cause IDWR to change its position on the seven acres in question.

MICROFILMED
MAY 14 1998

LAW OFFICES OF
PIKE & SHURTLIFF
A Professional Association

Edward W. Pike

Admitted in Idaho and Utah

M. Karl Shurtliff

Admitted in Idaho

Scott C. Cifrese

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Boise, Idaho 83702-1652

Telephone (208) 343-2900

Telefax (208) 343-3282

FAX TRANSMISSION COVER SHEET

DATE: April 23, 1998

TO: Mr. Karl J. Dreher

FAX: (208) 327-7866

RE: Petition for Reconsideration
In the Matter of Permit No. 31-07338 in the name of K. Paul Gunderson

You should receive 5 page(s) including this cover sheet. If you do not receive all pages please call 208/528-6444.

NOTICE OF CONFIDENTIALITY

The transmissions contained herein are confidential and not to be disclosed, revealed or disseminated to anyone but the intended recipient. If you have received this facsimile transmission in error please destroy your copy and inform the sender immediately.

- 1) LETTER FROM SCOTT C. CIFRESE
- 2) PETITION FOR RECONSIDERATION

MICROFILMED
MAY 14 1998

LAW OFFICES OF
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April 23, 1998

VIA FAX TRANSMISSION

(208) 327-7866

Mr. Karl J. Dreher, Director

DEPARTMENT OF WATER RESOURCES

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As you may be aware, Mr. Seedall has left the firm and I am now be handling this matter for Mr. Gunderson.

If you have any questions or case to discuss this matter further please give me a call. I look forward to working with you. Take care.

Very truly yours,



Scott C. Cifrese

SCC/sc

gunderson/dreher2.ltr

cc: Paul Gunderson

Enclosures as stated

MICROFILMED
MAY 14 1998

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 Telephone: 208/528-6444
 Telefax: 208/528-6447

Attorneys for Paul Gunderson

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

IN THE MATTER OF PERMIT
 NO. 31-07338 IN THE NAME
 OF PAUL K. GUNDERSON

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1. PETITION FOR RECONSIDERATION

MICROFILMED

MAY 14 1998

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2. PETITION FOR RECONSIDERATION

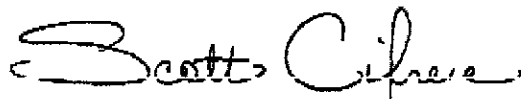
MICROFILMED

MAY 14 1998

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DATED this 23rd day of April, 1998.



Scott C. Cifrese
PIKE & SHURTLIFF, P.A.
Attorneys for Paul Gunderson

3. PETITION FOR RECONSIDERATION

MICROFILMED

MAY 1 3 1998

CONVERSATION MEMORANDUM

File No.: 31-07338 Date: April 23, 1998
Name of Caller: Amy Wilbig(sp?) Employee: Cindy Zimmerman

Received call requesting a copy of the original petition for reconsideration. I gave her the electronic address on their 9/10/97 letter. She found it in their files. She stated they intend to file a petition for reconsideration.

Scott Ciprese called again stating they intend to file a ~~letter~~ petition for reconsideration and asked if a letter requesting it would be OK. I told him that in the past we have accepted letters as petitions for reconsideration. Mr. Ciprese said he would fax one today along with additional evidence of irrigation of the 7 acres.

MICROFILMED

MAY 14 1998

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 31-07338 Reviewed by [Signature] Date 4-22-98

GENERAL CONSIDERATIONS

TYPES OF USE

YES Name same as permit?
NO Address same as permit?
~~YES~~ NO Proof timely received? Correct Uses? YES
If not, complete calculation below.

SOURCE OF WATER

 Surface water source
✓ Ground water source
NO Drilling permit required?
 Copy in the file? Drilling Permit No.
 Amount paid for permit Correct?
 Well log in the file?

LICENSE EXAMINATION FEE

MEASURING DEVICE

YES Required?
150- Amount Submitted
YES Correct?
NO Required?
 Installed?
 Waiver requested?

PRIORITY CALCULATION

Date proof received 3-3-98
Date proof due 3-1-98 -
No. of days late 2 =
Priority Date 5-2-80 +
New Priority Date 5-4-80

75/4/80

DEFICIENCIES OR ACTION ITEMS

*Reinstate & advance priority to May 4, 1980
Advise Permit holder that permit only authorizes
153 acres - NOT 160 as filed.
Proof Acceptable*

DATA ENTRY

New Address 155 E 1500 N Proof Made 3-3-98
Hammer



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 22, 1998

K Paul Gunderson
155 E 1500 N
Hamer ID 83425

PROOF ACKNOWLEDGMENT LETTER

RE: Permit No. 31-07338

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit.

Enclosed is an order reinstating the permit since proof was submitted after the proof due date. Note that the priority date has been advanced to May 4, 1980, as provided in Section 42-218a.2, Idaho Code. Additionally, be advised that your permit to appropriate water only authorizes irrigation for 153 acres. You are not authorized, nor will you be licensed to irrigate more than 153 acres.

Be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water. If you have questions concerning the field examination, you may contact the **Eastern** Regional Office of the department in Idaho Falls at (208)525-7161.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

Enclosure

MICROFILMED

MAY 14 1998

c: IDWR - Regional Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 8, 1998

K PAUL GUNDERSON
1555 EAST 1500 NORTH
HAMER ID 83425

RE: Water Right 31-07338

Dear Water Right Holder(s):

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243 Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

MICROFILMED

MAY 14 1998 1

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to

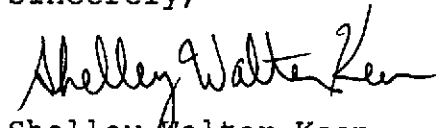
2
MICROFILMED
MAY 14 1988

district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



Shelley Walter Keen
Water Rights Supervisor

SWK:klt

Enclosure

RECEIVED

3

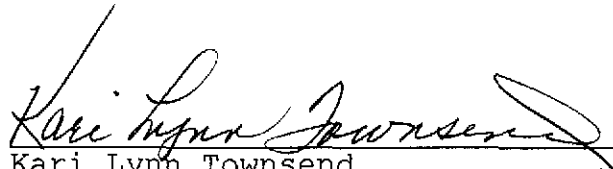
MAY 14 1988

CERTIFICATE OF MAILING

I hereby certify that on the 8th day of April, 1998, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER to the person(s) listed below:

Water Right 31-07338

K PAUL GUNDERSON
1555 EAST 1500 NORTH
HAMER ID 83425


Kari Lynn Townsend
Secretary

MEMORANDUM

DATE: April 7, 1998

TO: Water Right File 31-07338

FROM: Shelley W. Keen *(SWK)*

RE: Crop report submitted by applicant

Yesterday I received a 1985 crop report from Paul Gunderson. The report does not indicate that the seven acre pivot corner in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25 was cropped that year. I recommend reissuing the amended preliminary order of December 18, 1997, with no changes.

MICROFILMED

H:\WRMEMOS\MEMO.DOC

RECEIVED

APR 06 1998

Department of Water Resources

Paul Gunderson
1555 East 1500 North
Hamer, Idaho 83425

March 18, 1998

Shelly Walter Keen
Water Rights Supervisor
Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

RE: Water Right No. 31-07338

Dear Mr. Keen

Enclosed is the crop report you requested in your letter of March 31, 1998.

If I can assist you further please call me at 208-663-4412.

Sincerely yours,



Paul Gunderson

MICROFILMED
MAY 14 1998

REPORT OF ACREAGE

USDA-ASCS

NOTE: Sec. 1374a, 7U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.

FARM NO. 133 NAME AND ADDRESS K. Paul Gunderson 474 J-5K-5-I-7 Hamer, Idaho 83425

OPERATOR NAME AND ADDRESS

KEY	OPERATOR	OTHER INTERESTED PRODUCERS	OTHER FARMS	CROP ASSIGNMENT	JOB
3	Frank				
4					
5					
6					
7					

SECTION I - FARM FIELD REPORT (NOTE: Gray Shaded Area to be Filled in by Reporter ONLY.)

TRACT NO.	FIELD NO.	CROP OR LAND USE	CROP OR LAND USE SUMMARY	KEY	SHARE	DISPOSITION	METHOD	GROSS ACRES	DEDUCTIONS	NET ACRES	INITIAL & DATE
1	1	A-133	Wheat 134.1	5	6	* Corn Area	3	3	10	11	
2	2	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
3	3	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
4	4	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
5	5	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
6	6	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
7	7	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
8	8	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
9	9	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
10	10	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
11	11	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
12	12	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
13	13	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
14	14	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
15	15	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
16	16	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
17	17	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
18	18	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
19	19	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
20	20	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
21	21	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
22	22	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
23	23	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
24	24	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
25	25	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
26	26	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
27	27	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
28	28	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
29	29	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
30	30	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
31	31	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
32	32	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
33	33	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
34	34	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
35	35	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
36	36	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
37	37	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
38	38	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
39	39	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
40	40	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
41	41	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
42	42	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
43	43	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
44	44	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
45	45	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
46	46	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
47	47	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
48	48	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
49	49	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
50	50	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
51	51	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
52	52	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
53	53	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
54	54	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
55	55	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
56	56	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
57	57	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
58	58	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
59	59	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
60	60	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
61	61	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
62	62	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
63	63	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
64	64	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
65	65	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
66	66	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
67	67	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
68	68	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
69	69	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
70	70	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
71	71	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
72	72	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
73	73	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
74	74	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
75	75	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
76	76	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
77	77	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
78	78	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
79	79	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
80	80	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
81	81	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
82	82	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
83	83	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
84	84	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
85	85	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
86	86	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
87	87	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
88	88	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
89	89	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
90	90	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
91	91	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
92	92	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
93	93	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
94	94	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
95	95	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
96	96	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
97	97	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
98	98	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
99	99	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	
100	100	A-133	Wheat 154.1	5	6	Wheat planted	3	3	10	11	

This application report was made by producer and verified by the field agent.

MICROFILMED MAY 14 1998

SECTION II - OPERATOR'S CERTIFICATION A-136 (226 Wheat)

OPERATOR'S SIGNATURE

DATE

OPERATOR'S SIGNATURE

DATE

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS to deem I to ent. my far. for a kind. my pr. am determin. ions.

OPERATOR'S SIGNATURE

DATE

OPERATOR'S SIGNATURE

DATE

All would have
been planted
by 5:00 A
(handwritten)

A132
A125

149.4
object just
above ground

Handwritten
89

J-5

NOT TO SCALE

23
24
25

A132
A125

148.0
object
Tm 84

Handwritten
89
object just
above ground
near ground

Don't believe
it's a
handwritten

(77.2)
object

34.2

object
OK

Handwritten
89

35.4

23
24
25

A132
A125

A132
A133

Plates

34.5

object
20.8

20.8

Handwritten
89

A132
A133



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

March 31, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

PAUL GUNDERSON
1555 EAST 1500 NORTH
HAMER ID 83425

RE: Water Right No. 31-07338

Dear MR. Gunderson:

Thank you for sending the 1987 ASCS Report of Acreage for your farm. As you note in your letter, it shows that the seven acres we have been discussing was part of a tract in ACR set aside that year. As we discussed, I would like to see a Report of Acreage for at least one year prior to 1987 in which the seven acres is shown to have been cropped.

I will hold your file for 21 additional days to so that you can pursue this information. If I do not receive the Report of Acreage or some other convincing evidence within that time, I will recommend that the preliminary order issuing the permit be reinstated in accordance with item four of the 1/15/98 Order Granting Petition for Reconsideration.

If you have any questions, please contact me at 208-327-7946.

Respectfully,

Shelley Walter Keen
Water Rights Supervisor

NOT RECORDED
MAY 14 1998

Paul Gunderson
1555 East 1500 North
Hamer, Idaho 83425

RECEIVED

MAR 20 1998

Department of Water Resources

March 18, 1998

Shelly Walter Keen
Water Rights Supervisor
Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

RE: Water Right No. 31-07338

Dear Mr. Keen

Thank you for talking with me on the telephone the other day. As we discussed, I am sending you the ASCS Report of Acreage for 1987.

Your letter of March 4, 1998 listed four points for having excluded the seven acres in question.

The first point states that the field report for license 31-07199 did include the seven acres. This is true because the subject land received its water from the well located on the seven acres and not from the Bybee well.

Point two refers to farmland being turned back from Bybee. The subject land was not farmed by Bybee.

Point three refers to a 1987 infrared aerial photography indicating the subject land does not appear to have been recently irrigated. This conclusion is probably true because the land was being used for ACR set aside that year as shown in the 1987 crop report.

Point four refers to Department's notes about leased ground. The subject was not farmed under the referenced lease.

It should be noted that I drilled the well on this land prior to any lease. I first water the land adjacent to the well, including the seven acres, because that was where the main line was first located. Following the initial use of the water I watered this seven acres knowing the Department would require the use of irrigation water to obtain a permit.

If I can assist you further please call me at 208-663-4412.

Sincerely yours,



Paul Gunderson

MICROFILMED
MAY 14 1998

REPORT OF ACREAGE

USDA - ASCS

Section 374 of the Agricultural Adjustment Act of 1938, as amended, authorizes collection of the following data. The data provided. The data may be furnished to any agency responsible for enforcing the provisions of the Act.

Farm Approved - OMB No. 0560-0004

1. FARM NO. 2. TRACT NO. 3. FARMLAND 4. CROPLAND 5. OTHER FARMS

KEY 5. OPERATOR NAME AND ADDRESS 6. OTHER FARMS

1 K PAUL GUNDERSON
HC 69 BOX 2580
HAWER, IN 83425
1209

10. PHOTO NO. LEGAL DESCRIPTION

TRACT NO.	FIELD NO.	CROP OR LAND USE	PAC- tice 1/	CROP STATUS 2/	16. CROP OR LAND USE SUMMARY	KEY	SHARE
12	1	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
13	2	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
14	3	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
15	3A	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
16	3B	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
17	3C	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
18	3D	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
19	3E	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
20	3F	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
21	3G	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
22	3H	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
23	3I	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
24	3J	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
25	3K	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
26	3L	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
27	3M	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
28	3N	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
29	3O	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
30	3P	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
31	3Q	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
32	3R	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
33	3S	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
34	3T	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
35	3U	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
36	3V	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
37	3W	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
38	3X	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
39	3Y	CLEAN TILL			WHEAT EARLY ACR CU	1	0000
40	3Z	CLEAN TILL			WHEAT EARLY ACR CU	1	0000

19. TOTAL OPERATOR REPORT

20. TOTAL DETERMINED ACREAGE

21. OPERATOR'S CERTIFICATION - I certify to the best of my knowledge and belief that the acreage of crops and land uses listed herein are true and correct. I understand that an inaccurate average report could result in a payment reduction or loss of program benefits and/or reduction in future allotments and quotas when applicable.

OPERATOR'S SIGNATURE DATE OPERATOR'S SIGNATURE DATE OPERATOR'S SIGNATURE DATE OPERATOR'S SIGNATURE DATE OPERATOR'S SIGNATURE DATE

F=Failed Acreage
PP=Prevented Planted
A=Abandoned Acreage
INT=Intended Acreage
APPF=After PP or F

NOT RECORDED
MAY 14 1986

NOTE: will be used to determine eligibility for assistance. Furnishing the data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the provisions of the Act.

OF

OTHER FARMS

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466
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KEY	17	SHAD	18
WORD CLASS FEB 14 1958			

IR = Irrigate
NI = NonIrr

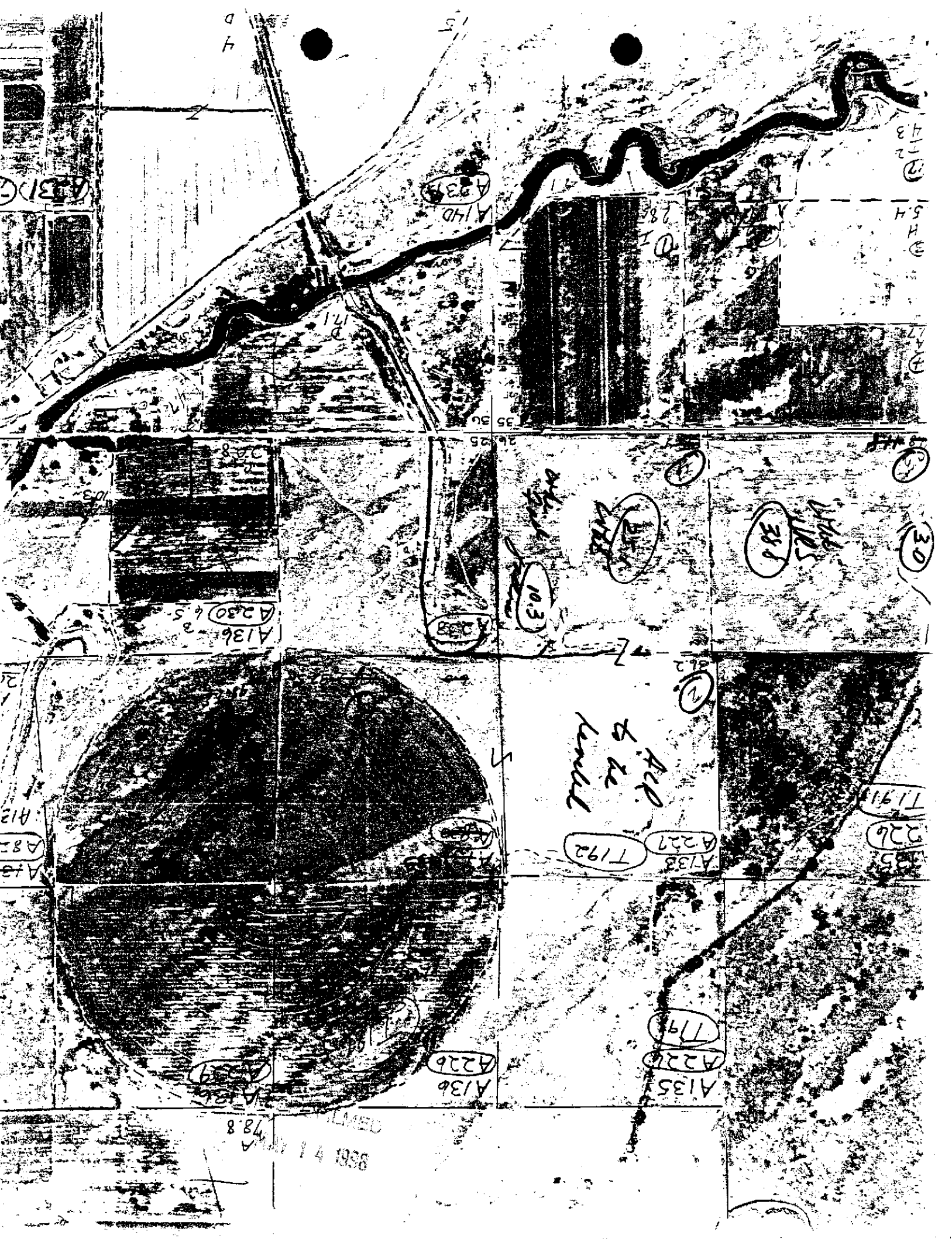
$2/1 = \text{Initial Circ}$
 $DC = \text{Double Circ}$

SC=Subsequent Crop

nted
crease

day:

PPF=After PP or F



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MEMORANDUM

DATE: March 16, 1998

TO: Water right file 31-07338

FROM: Shelley W. Keen *SWK*

RE: Discussion with applicant about irrigation of additional 7 acres

Last Friday Paul Gunderson called me to discuss my 3/4/98 letter to Scott Seedall. Mr. Gunderson said he called me directly because Scott Seedall has changed law firms. According to Mr. Gunderson, he used hand lines to irrigate seven acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25 with water diverted from his own well even when the remaining 33 acre were irrigated by Don or Robert Bybee from their well. Mr. Gunderson did say, however, that there were some years he did not irrigate the seven acres. In order to document that he did, in fact, irrigate the seven acres, Mr. Gunderson is going to obtain a crop report from the ASCS for at least one year prior to Nov. 19, 1987.

MICROFILMED

MAY 14 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

March 4, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

SCOTT R SEEDALL
PIKE, SEEDALL & SHURTLIFF
PO BOX 2949
IDAHO FALLS ID 83403-2949

RE: Water Right No. 31-07338 (Paul Gunderson)

Dear Mr. Seedall:

Thank you for the affidavits you submitted on behalf of Paul Gunderson to support his position that water appropriation permit 31-07338 should authorize the irrigation of seven additional acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, T7N, R35E, B. M. The decision to exclude the seven acres from the permit approval was based on a number of items that appear to conflict with information provided in the affidavits. I am writing to describe the basis for IDWR's decision and to request that you provide some additional documentation to support your client's position.

The following information provides the basis for having excluded the seven acres in question.

1. The field report for licensed right 31-07199 was completed in June of 1977. According to IDWR's examiner, the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25 was being irrigated from ^{DON}Robert Bybee's well in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 36, T7N, R35E. The field report for 31-07199 clearly depicts only 33 acres of irrigation in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25 at that time.
2. According to your 6/27/96 letter to Skip Jones in Idaho Falls, Robert Bybee "turned the farm back" to Paul Gunderson in 1985, and "Paul Gunderson has continually used the water from that time."
3. On the 1987 NAPP infrared aerial photography used by IDWR, the seven acres in question does not appear to have been recently irrigated.
4. Skip Jones told me that his notes indicate that after Robert Bybee's lease expired, Paul Gunderson did not begin irrigating the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25 from his own well until 1990.

As you know, the permit was issued despite the moratorium only because the use was actually in place prior to the commencement of the Snake River Basin Adjudication (SRBA) on November 19, 1987. The items listed above provide strong evidence that 33 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25 were irrigated in the 1970s and 1980s by Robert Bybee. It does not appear from information

MICROFILMED

MAY 14 1998

Scott Seedall
March 4, 1998
Page 2

in the water right files that Robert Bybee irrigated more than 33 acres in the tract. If Mr. Gunderson regained possession of the farm from Robert Bybee in 1985, then there were only a couple of years for the additional seven acres to have been irrigated prior to the commencement of the (SRBA).

In his affidavit, Paul Gunderson says that the land was in a federal cropland set-aside program during some years. He does not, however, indicate which years. At this point I think it would be helpful to obtain copies of the agreements indicating which years land in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25, T7N, R35E, was in a set-aside program. In addition, crop reports obtained from the ASCS for the years 1978 through 1987 would be useful in establishing how many acres were irrigated during those years. Any other documentation or affidavits you wish to provide would also be welcome.

I will hold the permit file for 21 days to allow you to submit crop reports and documentation relating to set-aside enrollment. If I do not hear from you within that time, I will recommend that the preliminary order issuing the permit be reinstated in accordance with item four of the 1/15/98 Order Granting Petition for Reconsideration.

If you have any questions, please contact me at 208-327-7946.

Respectfully,



Shelley Walter Keen
Water Rights Supervisor

MICROFILMED

MAY 14 1998

MEMORANDUM

DATE: February 27, 1998

TO: Glen Saxton

FROM: Shelley W. Keen *SWK*

RE: Information in support of Gunderson petition for reconsideration

To comply with item three of your order granting the petition for reconsideration of 31-07338, Scott Seedall submitted affidavits from Paul Gunderson, the permit holder, and Lawrence Gunderson, the permit holder's son. Paul Gunderson says that the seven acres in question have been irrigated every year since 1976, except for the years the land was in federal set-aside, from his own well. He does not specify which years the land was enrolled in a set-aside program. Lawrence Gunderson says that from 1981 to 1991 he was responsible "at times" for irrigating the seven acres in question with water from the well in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25, T7N, R35E.

We have the following contradictory information on file.

1. The field report for licensed right 31-07199 was completed in June of 1977. According to IDWR's examiner, the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25 was being irrigated from Robert Bybee's well in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 36, T7N, R35E. The field report for 31-07199 clearly depicts only 33 acres of irrigation in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25 at that time.
2. According to Scott Seedall's 6/27/96 letter to Skip Jones, Robert Bybee "turned the farm back" to Gunderson in 1985, and "Paul Gunderson has continually used the water from that time." If Robert Bybee, not Paul Gunderson, farmed the land from 1976 until 1985, how can Paul Gunderson attest to what was or was not irrigated in the years 1976 to 1984?
3. On the 1987 NAPP infrared photography, the seven acres in question does not appear to be irrigated.
4. As noted in my 8/19/97 memo to file 31-07338, Skip Jones told me that after Bybee's lease expired, Gunderson did not begin irrigating the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25 from his own well until 1990. Unfortunately, Skip cannot now locate his notes on this matter.

I am most concerned with Paul Gunderson's statement that he irrigated the seven acres in question from his own well "for the years 1976 to the present." This statement is in direct conflict with points 1, 2, and 4, above.

To be convinced, I will probably need to know from the Farm Service Agency what years the land was in federal set aside, and I will need to see crop reports for the years the land was not in set-aside. Affidavits from someone outside the Gunderson family might also be helpful.

LAW OFFICES OF
PIKE, SEEDALL & SHURTLIFF
A Professional Association

RECEIVED

FEB 13 1998

Department of Water Resources

Edward W. Pike

Admitted in Idaho and Utah

Scott R. Seedall

Admitted in Idaho and Wyoming

M. Karl Shurtliff

Admitted in Idaho

Scott C. Cifrese

Admitted in Idaho and Washington

Bank of Eastern Idaho Building

1800 Channing Way

P.O. Box 2949

Idaho Falls, Idaho 83403-2949

Telephone (208) 528-6444

Telefax (208) 528-6447

Boise Office

800 W. State, Suite 200

P.O. Box 1652

Boise, Idaho 83702-1652

Telephone (208) 343-2900

Telefax (208) 343-3282

TRANSMITTAL MEMO

February 11, 1998

Department of Water Resources
Jim Johnson, Manager
1301 North Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

RE: Permit 31-07338

Enclosure(s): Affidavit of Paul Gunderson in Support of the Petition for Reconsideration

_____ For your review

_____ Please sign and return

_____ For your information

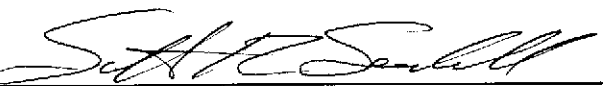
_____ For your file

_____ For your review and comment

 X Please file

_____ Please call to discuss

Comments:

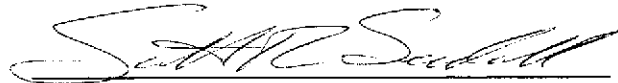
By 
Scott R. Seedall

Gunderson/johnson.trans.mem

MICROFILMED
MAY 14 1998

REPORTED MED

11th SUBSCRIBED AND SWORN before me, a Notary Public for the State of Idaho on the
day of February, 1998.



Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires:

2. AFFIDAVIT OF PAUL GUNDERSON IN SUPPORT OF PETITION FOR RECONSIDERATION

MAY 14 1998

LAW OFFICES OF
PIKE, SEEDALL & SHURTLIFF
A Professional Association

RECEIVED

FEB 12 1998

Department of Water Resources

Edward W. Pike

Admitted in Idaho and Utah

Scott R. Seedall

Admitted in Idaho and Wyoming

M. Karl Shurtliff

Admitted in Idaho

Scott C. Cifrese

Admitted in Idaho and Washington

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Boise, Idaho 83702-1652

Telephone (208) 343-2900

Telefax (208) 343-3282

TRANSMITTAL MEMO

February 10, 1998

Department of Water Resources
Jim Johnson, Manager
1301 North Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

RE: Permit 31-07338

Enclosure(s): Affidavit of Lawrence Gunderson in Support of the Petition for Reconsideration

_____ For your review

_____ Please sign and return

_____ For your information

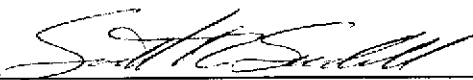
_____ For your file

_____ For your review and comment

 X Please file

_____ Please call to discuss

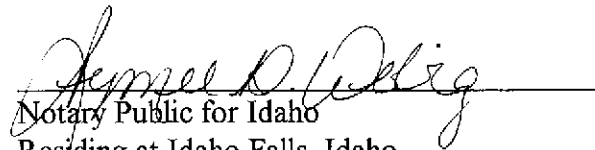
Comments:

By: 
Scott R. Seedall

Gunderson/johnson.trans.mem

MICROFILMED
MAY 14 1998

SUBSCRIBED AND SWORN before me, a Notary Public for the State of Idaho on the
3rd day of February, 1998.


Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires: 9/5/2003

2. AFFIDAVIT OF LAWRENCE GUNDERSON IN SUPPORT OF PETITION FOR RECONSIDERATION

RECORDED

MAY 14 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

January 21, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

K PAUL GUNDERSON
PO BOX 816
HAMER ID 83425-0816

RE: Permit 31-07338

Dear Mr Gunderson:

Enclosed you will find an Order Granting Petition for
Reconsideration.

Please pay particular attention to paragraph 3 as it contains
important information as to the action required by this order.

If you have any questions regarding this matter you may call me
at 208-327-7941.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Johnson', with a long horizontal line extending to the right.

JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt

Enclosure

MICROFILMED

MAY 14 1998

MEMORANDUM

DATE: January 15, 1998

TO: Jim Johnson

FROM: Shelley W. Keen *SWK*

RE: Petition for reconsideration of permit 31-07338

On December 31, 1997, we received a timely petition for reconsideration of permit 31-07338. We need to respond by January 21, 1998.

The permit holder believes we should have authorized the irrigation of 40 acres in the NESW, S25, T7N, R35E. The permit was processed despite the moratorium because there is evidence that development occurred prior to 1987. The permit authorized only 33 acres of irrigation in the NESW, S25, based on two items.

1. The field report for License 31-07199, which identifies only 33 acres of irrigation in the NESW, S25, in 1977.
2. A scanned print of the 1987 NAPP photography which suggests that the 7-acre field corner was not being irrigated that year.

The petitioner says that the field corner has been irrigated "for numerous years with hand lines." I am not convinced that the field corner was irrigated in 1987 or sooner.

I see three options.

1. Grant the petition for reconsideration and invite the permit holder to demonstrate that he irrigated more than 33 acres within the NESW, S25, by 1987.
2. Deny the petition for reconsideration.
3. Do nothing so that the petition is denied by operation of law.

MICROFILMED

MAY 14 1998

MEMORANDUM

Date: January 15, 1998

To: Glen Saxton

From: Jim Johnson

Subject: Petition for reconsideration

=====

Norm had delivered to me Scott Seedall's letter of December 31, 1997 along with the file. Since Shelley and you had worked together on this I routed to Shelley for follow up. Shelley has now reviewed again and has prepared the attached memo outlining three possible responses. I have briefly reviewed the file and have a vague picture of what the issues are.

I am forwarding the file to you for review and determination of appropriate action. The December 31, 1997 letter had been sent to Karl, he may want a brief on the our follow up.

MICROFILMED
MAY 14 1998

December 31, 1997

K PAUL GUNDERSON
PO BOX 816
HAMER ID 834250816

PROOF DUE NOTICE

RE: PERMIT NO. 31-07338

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before March 1, 1998.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

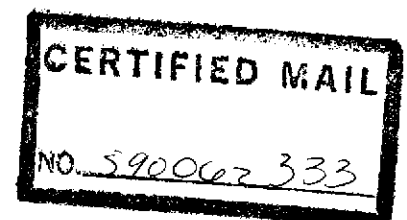
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

MAY 14 1998



LAW OFFICES OF
PIKE, SEEDALL & SHURLIFF
A Professional Association

Edward W. Pike

Admitted in Idaho and Utah

Scott R. Seedall

Admitted in Idaho and Wyoming

M. Karl Shurtliff

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Boise, Idaho 83702-1652

Telephone (208) 343-2900

Telefax (208) 343-3382

Shelley ^W

December 31, 1997

VIA FAX TRANSMISSION

1-208-327-7866

Mr. Karl J. Dreher, Director

DEPARTMENT OF WATER RESOURCES

1201 N. Orchard Street

P.O. Box 83720

Boise, Idaho 83720-0098

RE: Amended Preliminary Order Re: No. 31-07338 for Paul Gunderson dated Dec 18, 1997

Dear Mr. Dreher:

This firm represents Paul Gunderson. The purpose of this letter is to file a request for consideration or in the alternative an exception to the Amended Permit to Appropriate Water, No. 31-07338, issued by your office on December 18, 1997.

The basis for the exception is that the total number of acres irrigated under Application 31-7338 is 160, not the one hundred fifty three acres set forth in the Permit. The Permit should also include the full forty acres in the NESW of Section 25, T7N, R35E. Although I believe your office left off seven acres on the basis the center pivot system located there does not cover all forty acres, the remaining seven acres have been watered for numerous years with hand lines. We have set this forth in our meetings with your office in Idaho Falls. On file in that office is documentation, including the affidavit of Paul Gunderson supporting our position.

As the issue is fairly straightforward I do not see any reason, nor do I intend, to file memorandums or briefs on this issue at this time.

Should you have any questions or comments please contact me at the address above.

Sincerely,



Scott R. Seedall

SRS/ss

Gunderson/12.31.97.ltr

MICROFILMED
MAY 14 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

December 18, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

K PAUL GUNDERSON
PO BOX 816
HAMER ID 83425-0816

RE: Water Right 31-07338

Dear Mr. Gunderson:

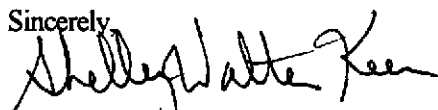
On December 18, 1997, the Department of Water Resources (the Department) issued the enclosed permit in response to a petition for reconsideration of the permit issued on August 20, 1997. The enclosed permit supersedes the permit issued on August 20, 1997. The enclosed permit is an amended preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as further described in the enclosed information sheet.

Please be sure to review each element of the permit, including the list of conditions and remarks.

Because your permit was issued to cover development that was completed by 1987, your Proof of Beneficial Use is due on March 1, 1998. I have enclosed a Proof of Beneficial Use form and a notice entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully, then complete and submit to this office the Proof of Beneficial Use form and license examination fee or a complete field examination report prepared by a certified water right examiner. If an acceptable proof of beneficial use is not received on or before March 1, 1998, IDWR will send you a lapse notice. Within 60 days of the mailing of the lapse notice, the permit will no longer be of any force or effect.

If you have questions, please contact me at (208) 327-7946.

Sincerely,



Shelley W. Keen
Water Rights Supervisor

Enclosures

c: Scott R. Seedall
IDWR, Eastern Region

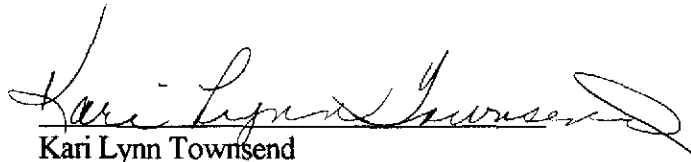
MICROFILMED
MAY 14 1998

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of December, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **AMENDED PRELIMINARY ORDER (Approved Permit)** to the person(s) listed below:

Water Right No. 31-07338

**K PAUL GUNDERSON
PO BOX 816
HAMER ID 83425-0816**


Kari Lynn Townsend
Secretary

MICROFILMED
MAY 14 1998

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of the order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from a preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

DATE: December 18, 1997

TO: Water Right File 31-07338

FROM: Shelley W. Keen *SWK*

RE: Place of Use

The applicant has petitioned IDWR to add 40 acres in the NWSW, Sec. 25, T7N, R35E, to the place of use authorized on permit 31-07338. With the moratorium in place across the East Snake River Plain aquifer, the application is being processed only because the applicant was able to show that the water use commenced prior to the commencement of the SRBA in November of 1987. Infrared aerial photography from 1987 shows that only 33 acres were being irrigated within the SWNW, Sec. 25, T7N, R35E, in 1987. Therefore, the revised place of use will include only 33 acres within that tract.

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MAY 14 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

September 16, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

PIKE SEEDALL & SHURTLIFF
C/O SCOTT R SEEDALL
PO BOX 2949
IDAHO FALLS ID 83403-2949

RE: Water Right License No. 31-07338

Dear Mr. Seedall:

I have enclosed an Order Granting Petition For Reconsideration in response to your letter of September 10, 1997. We will review the points expressed in your letter and respond accordingly.

Please call me at (208)327-9746 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Shelley Walter Keen".

Shelley Walter Keen
Water Rights Supervisor

SWK:klt

Enclosure

MICROFILMED

MAY 14 1998

LAW OFFICES OF
PIKE, SEEDALL & SHURLIFF
A Professional Association

Edward W. Pike

Admitted in Idaho and Utah

Scott R. Seedall

Admitted in Idaho and Wyoming

M. Karl Shurtliff

Admitted in Idaho

Scott C. Cifrese

Admitted in Idaho and Washington

Bank of Eastern Idaho Building

1800 Channing Way

P.O. Box 2949

Idaho Falls, Idaho 83403-2949

Telephone (208) 528-6444

Telefax (208) 528-6447

Boise Office

800 W. State, Suite 200

P.O. Box 1652

Boise, Idaho 83702-1652

Telephone (208) 343-2900

Telefax (208) 343-3282

September 10, 1997

VIA FAX TRANSMISSION

1-208-327-7866

RECEIVED

SEP 12 1997

Department of Water Resources

Mr. Karl J. Dreher, Director
DEPARTMENT OF WATER RESOURCES
1301 N. Orchard Street
P.O. Box 83720
Boise, Idaho 83720-0098

RE: Permit Approval Notice for Paul Gunderson dated 8-20-97

Dear Mr. Dreher:

This firm represents Paul Gunderson. The purpose of this letter is to file an exception to the Permit to Appropriate Water, No. 31-07338, issued by your office on August 20, 1997.

The basis for the exception is that the total number of acres irrigated under Application 31-7338 is 160, not the one hundred twenty acres set forth in the Permit. The Permit should also include the forty acres in the NESW of Section 25, T7N, R35E, where the point of diversion is also located. We have set this forth in our meetings with your office in Idaho Falls. On file in that office are affidavits of Marcus Barnes and Paul Gunderson supporting our position.

As the issue is fairly straightforward I do not see any reason, nor do I intend, to file memorandums or briefs on this issue at this time.

Should you have any questions or comments please contact me at the address above.

Sincerely,



Scott R. Seedall

SRS/aw
Gunderson/dreher.ltr

MICROFILMED

MAY 14 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 20, 1997

K PAUL GUNDERSON
PO BOX 816
HAMER ID 83425-0816

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 31-07338

Dear Permit Holder:

The Department of Water Resources (IDWR) has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a preliminary order issued by IDWR pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed, you should complete and submit this form immediately.

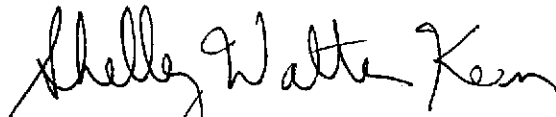
Also, please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address to the department. If you have acquired a water right or have changed your mailing address PRIOR TO July 1, 1996, you have until July 30, 1998, to notify the department. If you acquire a water right or change your mailing address AFTER July 1, 1996, you must notify the department within 120 days of the change.

PHOTOFILMED

MAY 14 1998

Failure to report these changes could result in a \$100 late filing fee. Contact any office of the department to obtain the proper reporting form.

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen". The signature is written in dark ink and is positioned above the typed name.

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

MICROFILMED
MAY 14 1988

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of August, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Right No. 31-07338

K PAUL GUNDERSON
PO BOX 816
HAMER ID 834250816


Kari Lynn Townsend
Secretary

MICROFILMED
MAY 14 1998

MEMORANDUM

DATE: August 19, 1997

TO: Water Right File 31-07338

FROM: Shelley W. Keen *SK*

RE: Overlap Analysis

Because the proposed development occurred prior to November of 1987, Eastern Region has recommended that Application 31-07338, made by Paul Gunderson, be approved. The region initially recommended that the approval include the 40 acres within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, T7N, R35E, as part of the 160-acre place of use. However, after Skip Jones of Eastern Region and I discussed the situation this morning, we agreed that it would be best not to include the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, within the approved place of use for the following two reasons.

- In support of his application, Paul Gunderson submitted an affidavit which seems to indicate that he has used his own well to irrigate the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, since 1974. However, in 1976 Don Bybee leased land from Gunderson and obtained Permit 31-07199 to irrigate the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, from his well. Use of the Bybee well was confirmed by field examination in 1977, and Right 31-07199 was licensed in the name of Don Bybee in 1979 with 33 acres within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, as part of its 132-acre place of use. According to Skip Jones's notes, after Bybee's lease expired Gunderson did not begin irrigating the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, from his well until 1990. The appearance of the Bybee pivot in the 1987 NAPP photography confirms that in 1987 the Bybee well and right 31-07199 were still being used to irrigate the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, that year. Therefore, the use of water from the Gunderson well to irrigate the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, does not meet the pre-1987 exemption from the moratorium and should not be approved.
- Paul Gunderson has filed an application for transfer to obtain approval to irrigate the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, from his own well. The transfer application was protested by Robert Bybee, who says that he owns all of Right 31-07199 and that he should be allowed to transfer it off the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25. In fact, Bybee has tried once already to transfer 31-07199, but he withdrew his transfer application after it was protested by Gunderson.

If Gunderson's transfer is approved, then between 31-07338 and his portion of 31-07199, Gunderson's water use will be covered. If, however, 31-07338 were to include the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, and Gunderson's transfer is not approved, then the part of 31-07199 that is appurtenant to the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, would be forever linked to the overlapping part of 31-07338 and could not be transferred unless that part of 31-07338 is also included in

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MAY 14 1998

Memo to Application 31-07338
August 19, 1997
Page 2

the transfer. This scenario is potentially injurious to Mr. Bybee if it is ultimately decided that he is the owner of all of 31-07199. Therefore, in order to avoid the appearance of siding with Gunderson before holding a hearing, which is likely, on the Gunderson transfer application, Application 31-07338 should be approved without listing the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, as part of the place of use.

(WATER RIGHT NUMBERS THAT BEGIN WITH AN '**' ARE ADJUDICATION CLAIMS)
(QUARTER-QUARTERS WITH A '?' HAVE DIFFERENT ACREAGE AMOUNTS--CHECK THE DATA BASE RECORDS)

WR-NUMBER	SOURCE	NE				NW				SW				SE				SUM	
		NE		NW		SW		SE		NE		NW		SW		SE			
		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac		
P3107338	T07N R35E S25 GROUNDWATER																		
	:											40						40	
3100234	SPRINGS :													1			1		
3104016	GROUNDWATE :		40				40											80	
3107042	GROUNDWATE :															20	30	50	
A3107042	GROUNDWATE :															20	30	50	
3107043	GROUNDWATE :													25			06	31	
A3107043	GROUNDWATE :													25		14	06	45	
3107199	GROUNDWATE :							33	33		33	33						132	
A3107199	GROUNDWATE :							33	33		33	33						132	
T31071998	GROUNDWATE : -- adds pt to a portion of 31-7199																	33	
3107324	GROUNDWATE :						40											40	
A3107324	GROUNDWATE :						40											40	
A3110306	GROUNDWATE :																05	10	15
--86 MAP--	C51Q-W 40 :						03	01	38	34		36	35	22	39		11	42	261
NO QTRS	MAPPING Lot03-10 Lot04-35																		

P3107338	T07N R35E S26 GROUNDWATER															40	40	40	120
	:																		
3104035	GROUNDWATE : NOT CLAIMED IN SRBA													40		20	40	40	140
3107324	GROUNDWATE :		40																40
A3107324	GROUNDWATE :		40																40
~~3107338~~	~~GROUNDWATE (amended by data base not updated)~~													40		40	40	40	160
3107491	GROUNDWATE :										35	35	35	35					140
A3110060	GROUNDWATE :										35	35	35	35					140
--86 MAP--	C51Q-W 40 :						04				15	24	37	35		11	17	39	218

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MAY 14 1998

07/97

APPLICATION FOR PERMIT STATE OFFICE REVIEW

by Cindy Lee

No.: 31-01338 Name: Gunderson Date: 8/15/97 Ad OK? ✓ Gvmt Lts: ✓

AREA OF CONCERN: ^{used since 1978} ESLP Mor / OWN Trust / Non-trust
PROTESTED: 020 (Protest Agreement) or *W19 (Order)

SYSTEM COMPLETED:

1 year/no proof
>1 year

P16 proof filed 8/25/96 needs #
- 26A-P17

GROUNDWATER: (✓ FLO-CH)

WMD (✓ MAP)

>0.24 cfs/5 acres
≤ 0.24 cfs/5 acres

WMD >0.24 cfs

>5 a.

≤ 0.24 cfs/5 acres

- ~~ESLP~~ or No MD (in-stream stock or power)

- No MD

- 01M (report when notified)

- 01M; 065-079 (if GW use SW 1st-statewide)-(cannot move SW off)

- No MD

DRILLING PERMIT:

Existing well

Included w/permit

No drilling permit?

irr. in WD

- NA (pre 7/1/87; ✓ WDQ3)

- Permit No. _____ P99

- 046-46B-P23 (post 7/1/87)

- P05 (new well location)

SURFACE WATER: (✓ FLO-CH) (Surface water that doesn't sink is regulated):

IN MIN. STR. FLOW (✓ MAP)

WD (✓ MAP & LISTING)

Pumped >0.20 cfs

WMD (✓ MAP)

> 0.24 cfs/5 acres

≤ 0.24 cfs/5 acres

- _____ or No MD (in-stream stock or power)

- No MD

SPRINGS/SINK, INACTIVE WD & REST OF STATE

> 0.24 cfs/5 acres

≤ 0.24 cfs/5 acres

- 01M or No MD (in-stream stock or power)

- No MD

RIVER BASINS: (*Surface water):

Snake R (01)

(02/03-irr)

Boise R (63)

Payette R(65)

- 11A-P04, NA

- 007-P07 (w/ remark *WB9 if above Weiser), NA

- 05A (if WD), 11E (not 42-111 use), NA

- *W22 (regulated uses), 047-P04 (Payette Lake), NA

USE:

Domestic surface

>1 in rest. area

Fish Propagation

Irr ≤ 5 acres

> 5 acres

Mining

Muni (in restricted areas)

Power

Storage (✓3 compo.)

- *WB5 (Big Wood R or Boise R ↑ Star Bridge); 27A (Payette River); NA

- 070-071- P53

- 07A-042 (req)-09E (WQ)-P10; 044 (N of 1000 Springs)

- 057 (0.03 cfs/acre)

- 05A (0.02 cfs/acre)

- 054 (req) & 09E-P10

- 022, 075, 004 (+memo?)

- 17K-08A-025-01F(P19)-028-09E(P10); 027 (if no other cons. use);

17G (FERC) or 17M (FERC); 18B-P09; >25 cfs-P18

- 080; 18A (in- & out-flow MD within district), 18B-P09 (>10' dam),

LOCATION:

42-248 area

Boise Front LoGeo

In-stream dev.

Irr Dist/Canal Co.

SWAN FALLS FLAG (See Code Chart)

Trust

Non-Trust (1)

- P84 (in 20/30/40/50/60/70/80 (87) basin)

- 058 (<85° GW temp only)

- P52 (stream channel alteration)

- 023 (Twin Falls area)

- u

- 051-052-053-P74 (Consumptive Uses), NA

- 048-049 (Consumptive Uses), NA

- 004 (PD/PU)

OWNERSHIP:

OTHER CONDITIONS:

STANDARD REMARKS:

- 074 067- 11 North to MD 212 WMD needs

BENEFICIAL USE DUE:

12- 3/1/ 1997

COMMENTS:

MEMORANDUM

DATE: August 15, 1997
TO: File No. 31-07338
FROM: Cindy Zimmerman *CZ*
RE: Proof of beneficial use

This file was protested when advertised in 1980. A proof of b/u statement was filed 8/25/86 without fees. Licensing exam fees on diversions of this size have been required since 4/4/86. Therefore, this proof submitted without the required fees is not acceptable.

Withdrawals of the protests were received 7/16/97. Evidence of irrigation of the p/u from the p/d since 1978 was received by 7/28/97.

I recommend this application be permitted with a proof due date of 12/1/1997, and include condition ~~067~~ limiting irrigation to lands previously irrigated.

074

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MAY 14 1998

Chronology of file

**APPLICATION FOR PERMIT
NO. 31-07338
DAVID F. EDWARDS / PAUL GUNDERSON**

05/02/1980 **Application filed**
05/15/1980 **Advertised in THE RIGBY STAR**
05/27/1980 **Date of Protest 06/02/1980**

PROTESTS RECEIVED

05/27/1980 **HOLLEY WATER USERS
LAMOYNE BARNEY, SECRETARY**
05/29/1980 **Protest acknowledged**
06/02/1980 **JACKETT CANAL CO
JOE MARTY, VICE PRESIDENT**
06/06/1980 **Protest acknowledged**
06/09/1980 **Affidavit received - The Rigby Star**
10/07/1980 **NOTICE OF CONFERENCE &/OR HEARING - 10/22/80**
********* **Return receipt certified mail**
10/14/1980 **Letter to confirm conference room**
10/22/1980 **Roster of Attendance**
10/22/1980 **Notes from hearing**
10/22/1980 **STIPULATION & AGREEMENT**
10/27/1980 **Memo to file from Ernest Carlsen**
********* **Staff Sheet**
02/19/1981 **Assignment of Permit**
07/02/1986 **Memo to file from Ernest Carlsen**

MICROFILMED
MAY 14 1986

RE: amended application

07/03/1986

Memo to file from Gary Spackman

07/09/1986

**Advertised in THE RIGBY STAR on 7/17 & 24/86
Date of protest 08/04/1986**

07/09/1986

Comment Letters

Copy of Claim 31-04035

STIPULATION

07/24/1986

**Affidavit received - THE JEFFERSON STAR
formerly known as The Rigby Star**

08/19/1980

**Letter to Paul Gunderson
RE: Amended Application**

08/22/1980

**Letter from Thomas G. Nelson
RE: Dismissal from Swan Falls litigation**

08/25/1980

Proof of Use

09/08/1980

**Letter to Paul Gunderson acknowledging letter from Thomas
G. Nelson**

09/22/1980

**Letters to JACKETT CANAL CO, HOLLEY WATER USERS,
PAUL GUNDERSON
RE: Scheduling of hearing**

10/17/1986

**NOTICE OF HEARING - 11/04/1986
Certified Mailing Return Receipts**

11/04/1986

Roster of attendance

11/04/1986

Water agents notes on hearing

09/05/1989

**Letters to JACKETT CANAL CO., HOLLEY WATER USERS
RE: amended application**

11/13/1989

**Letter to JACKETT CANAL CO.
RE: amended application**

11/07/1990

Letter to PAUL GUNDERSON

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MAY 14 1988

RE: Is he still interested in application?

11/16/1990

**Memo to file from HW Jones
RE: Applicant is still interested**

06/27/1996

**Faxed letter from SCOTT R. SEEDALL, attny
RE: app for Transfer 4838**

Scanned print of 1987 NAAP photo

08/28/1996

Affadavit of Paul Gunderson

01/29/1997

Affadavit of Marcus Barnes

07/16/1997

**NOTICE OF WITHDRAWAL OF PROTESTS by
HOLLEY WATER USERS & JACKETT CANAL CO.**

07/17/1997

**Faxed letter from SCOTT SEEDALL
RE: NOTICE OF VIOLATION**

07/22/1997

NOTICE OF VIOLATION

Certified mail return receipts

07/22/1997

**Letters to PAUL GUNDERSON & OWSLEY CANAL CO.
RE: Acknowledging withdrawal of protest**

07/23/1997

**Letter to Paul Gunderson asking for evidence that system was
in place before 11/09/1987**

07/24/1997

Letter to Paul Gunderson setting Compliance Conference

Copy of Consent Order & Agreement

07/28/1997

Evidence of use

08/06/1997

Memo to file from HW Jones - file history

Staff Sheet

NOT RECORDED

MAY 14 1998

State of Idaho
Department of Water Resources

RECEIVED

AUG 12 1997

AMENDED

APPLICATION FOR PERMIT ANALYSIS SHEET

AMENDED Department of Water Resources

INITIAL REVIEW BY: Cary Spackman APPLICATION NUMBER: _____

CHECK: Why not in name of Paul Anderson? Assigned

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: _____

Date: _____

Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department. Copies sent by: _____ Date: _____
☒ Idaho Fish and Game Department. MD 7-10-86
☐ Idaho Department of Lands. _____
☐ U.S. Bureau of Land Management. _____
☐ U.S. Forest Service. _____
☒ Other Fish & Wildlife Service MD 7-10-86

PROCESSING: U.S. Dept. of Interior
Camas Nat'l Wildlife Refuge

- ☐ Yes ☐ No Platted by: Harmer, Idaho Map No. _____
☐ Yes ☐ No Other rights on same place of use. 31-7199 on NWSW sec 25
31-4035 on all land in SE 1/4 of section 26
☒ Yes ☐ No* In form for advertising. 8-4-86
Final date for protests: _____
☐ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 7-29-86
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☐ Yes ☒ No Measuring device required.
☐ Yes ☒ No Access port required.
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____
5-2-1980 Date of priority recommended.
Special conditions of approval or cover letter. _____

By: [Signature] Date: 8-6-1997

STATE OFFICE REVIEW:

- ☐ See attached sheet for more information.
By: _____ Date: _____

WRITE OR TYPE IN
"ASSIGNED TO
K. PAUL ANDERSON"

POINT OF DIVERSION AND STREAM INDEX INFORMATION

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
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IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
-------	-----	-----	-----	--------------	---------------	-------

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
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IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
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IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
-------	-----	-----	-----	--------------	---------------	-------

IDAHO STREAM CODE INDEX

INTER-DEPARTMENT MEMO

TO: File 31-07338SUBJECT: File historyFROM: H.W. JONES - EasternDATE: 8-6-1987

This application was involved in a prehearing conf. in Nov. 1986. The
protestants had implied they would withdraw if rate was changed to 2.20 cfs.
The applicant (Gunderson) did this in 1988 but protests were not withdrawn. The application
was then caught by the Mud Lake Moratorium and then the recent Drought Moratorium.
Recently the applicant got the protests withdrawn. The applicant has submitted
evidence that the system was in use prior to 1987 and asks that the application
be approved. Our 1987 NAAP Photo shows this 160 acres as irrigated
ground (See copy enclosed.)

☒ For your information☐ Response required

H.W. Jones
signature

MICROFILMED
MAY 14 1988

SNAKE RIVER EQUIPMENT CO.
455 RIVER PARKWAY P. O. BOX 7
IDAHO FALLS, ID 83401
PHONE 208-523-0800

024201-6

PAUL GUNDERSON
STAR ROUTE BOX 816
HAMER, ID

83425

CUSTOMER
NUMBER
3298-7 10

STATEMENT
DATE
09/25/78

TELEPHONE NUMBER

\$ _____
AMOUNT ENCLOSED

PLEASE DETACH THIS PORTION AT PERFORATION AND RETURN WITH YOUR REMITTANCE

*** JOURNAL CODES**

01 ADJUSTMT ENTRY 40-49 SERVICE INVOICE
10-19 NEW EQUIP. INV. 50 PAYMENT
20-29 USED EQUIP. INV. 60 MISC. INV. OR REFUND
30-39 PARTS INVOICE 90 JOURNAL ENTRY

**STATEMENT IS DUE AND
PAYABLE UPON RECEIPT**

CHARGES OR CREDITS DURING THE LATTER
DAYS OF THE MONTH, NOT APPEARING ON
THIS STATEMENT WILL APPEAR ON NEXT
MONTH'S STATEMENT. ACCOUNTS PAST DUE
ARE SUBJECT TO A DELINQUENCY CHARGE.
PAYMENT OF THE DELINQUENCY CHARGE
IS NOT AN ALTERNATIVE TO PAYMENT IN
FULL.

DATE	JR. NO.	REFERENCE	CHARGES	PAYMENTS & CREDITS	BALANCE
------	---------	-----------	---------	--------------------	---------

9 20	40	36739	1168.32		
------	----	-------	---------	--	--

RECEIVED

JUL 28 1997

Department of Water Resources
Eastern Region

MICROFILMED

MAY 14 1998

**TOTAL
BALANCE
DUE**

IF THE DELINQUENCY CHARGE EXCEEDS MINIMUM OF:
50 THE PERCENTAGE RATE IS: **18.0%** PER ANNUM
BASED ON AN OVER **30** DAYS
PAST DUE BALANCE OF:

ANALYSIS OF ACCOUNT

AMT. OF
☒ DELINQUENCY CHARGE

CURRENT	OVER 30 DAYS	OVER 60 DAYS	OVER 90 DAYS	OVER 120 DAYS
1168.32				

1168.32

SNAKE RIVER EQUIPMENT CO.



Snake River Equipment Co.
36739

NAME PAUL GUNDERSON
ADDRESS STUART BOX 816
Hwy 10 Hono

P. O. BOX 780
IDAHO FALLS, IDAHO 83401
PHONE 823-0300

P. O. BOX 88
TERRESTON, IDAHO 83480
PHONE 863-4361

☐ **32987**

☐ **L.D.**

TYPE OF MACHINE	HR. MTR. READ. OR MILEAGE	PHONE NO.	DATE RECEIVED
NAME	MOTOR NO.		DATE PROMISED
MODEL	SERIAL NO.		ORDER WRITTEN BY

• WORK TO BE DONE

SERVICE ONLY - MATERIALS EXTRA

[illegible]

Hours	Code	Amount
29½	C3500	413.00
3	MEN LABOR	
TOTAL SERVICE	C3500	413.00
TOTAL PARTS	C3410	178.67
TOTAL OTHER CHARGES	C01404	20.65
MILEAGE	C01504	175.00
RIG TIME		

MAY 14 1938

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

CONSENT ORDER AND AGREEMENT

In the matter of Notice of Violation issued to Paul Gunderson and pursuant to Section 42-351, IDAHO CODE. As agreed between the Department and Paul Gunderson at the **COMPLIANCE CONFERENCE** held on August 5, 1997, it is hereby ordered that the following action be taken by Paul Gunderson no later than September ____, 1997.

TERM OF COMPLIANCE LISTED BELOW:

Payment of an agreed civil penalty in the amount of \$ _____
for the illegal diversion of water from a well in the NWSW, Sec
25, T07N, R35E, B.M. by September ____, 1997.

Dated this _____ day of _____, 1997.

RONALD D. CARLSON
Manager, Eastern, Regional Office

CONSENT

Respondent acknowledges in general the facts set forth and accepts fully the terms and conditions of this Order. These terms shall become effective upon execution by the parties. Respondent waives any right to contest this Order and consents to the issue hereof.

Signed this _____ day of _____, 1997.

PAUL GUNDERSON

COPY

MICROFILMED

MAY 14 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

JULY 24, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

PAUL GUNDERSON
BOX 2580
HAMER ID 83450

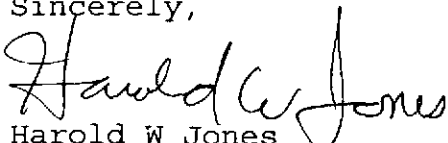
Mr. Gunderson:

The Department has set August 5, 1997, at 9:30 AM as the time for the Compliance Conference related to the Cease and Desist Order issued July 22, 1997.

I have contacted your attorney, Scott Seedall and he states this time slot is acceptable.

If you have any questions, please give me a call.

Sincerely,


Harold W Jones
Water Rights Supervisor

HWJ:sc

MICROFILMED

MAY 14 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

JULY 23, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

PAUL GUNDERSON
BOX 2580
HAMER ID 83450

RE: Application for Permit NO 31-07338

Mr. Gunderson:

Now that the protest has been withdrawn against application #31-07338, I am getting the file ready to submit to our Boise office. It is required with the current moratorium that the applicant provide evidence that the system was in place and irrigating before November 19, 1987.

I will hold this file until you can provide such data. This could be power records, affidavits, air photos, crop records or equipment receipts.

Please give me a call if you have any questions.

Sincerely,

Harold W Jones
Water Rights Supervisor

HWJ:sc

MICROFILMED

MAY 14 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 22, 1997

PAUL GUNDERSON
BOX 2580
HAMER ID 83450

RE: Application for Permit No. 31-07338

Dear Applicant:

This letter is to advise you that the protest filed by Holly and Jackett Water Companies against approval of the above referenced application for permit has been withdrawn.

If you have any questions, please feel free to contact this office.

Very truly yours,


Harold W. Jones
Water Right Supervisor

HWJ/rb

RECORDED

MAY 14 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 22, 1997

OWSLEY CANAL COMPANY
PO BOX 68
TERRETON ID 83450

RE: Application for Permit No. 31-07338 PAUL GUNDERSON

Dear Protestant:

This letter acknowledges receipt of the withdrawal of protest by your Department against the above referenced application.

If you have any questions, please feel free to contact this office.

Very truly yours,

Harold W. Jones
Harold W. Jones
Water Right Supervisor

HWJ/rb

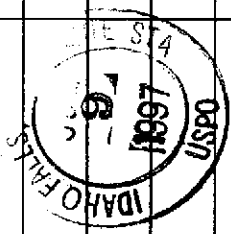
MICROFILMED

MAY 14 1998

~ Celebrating Our Centennial Year of Service to Idaho 1895-1995 ~

For Accountable Mail

Name and Address of Sender		Indicate type of mail				Check appropriate block for				Postmark and Date of Receipt									
Line	Article Number	Name of Addressee, Street, and Post Office Address	Registered	Insured	COD	Certified	Return Receipt for Merchandise	Int'l Recorded Del.	Express Mail	Registered Mail	With Postal Insurance	Without Postal Insurance	Due Sender If COD	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee	Remarks	
1	0001	PAUL GUNDERSON 1555 E 1500 N Hamer ID 83425																	None & Valable
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Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office	Postmaster, Per (Name of Receiving Employee)				The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail sent with optional postal insurance. See Domestic Mail Manual P900, S913, and S921 for limitations of coverage on insured and COD mail. See International Mail Manual for limitations of coverage on international mail. Special handling charges apply only to third and fourth class parcels.												



RECEIVED
MAY 14 1994

LAW OFFICES OF
PIKE, SEEDALL & SHURTLIFF
A Professional Association

Edward W. Pike

Admitted in Idaho and Utah

Scott R. Seedall

Admitted in Idaho and Wyoming

M. Karl Shurtliff

Admitted in Idaho

Scott C. Cifrese

Admitted in Idaho and Washington

Bank of Eastern Idaho Building

1800 Channing Way

P.O. Box 2949

Idaho Falls, Idaho 83403-2949

Telephone (208) 528-6444

Telefax (208) 528-6447

Boise Office

800 W. State, Suite 200

P.O. Box 1652

Boise, Idaho 83702-1652

Telephone (208) 343-2900

Telefax (208) 343-3282

July 17, 1997

RECEIVED

JUL 18 1997

**Department of Water Resources
Eastern Region**

ADVANCE COPY BY FAX 525-7177

Ronald D. Carlson

Eastern Regional Manager

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

900 North Skyline Drive

Idaho Falls, Idaho 83402-1718

RE: Notice of Violation Issued to Paul Gunderson July 7, 1997

Dear Ron:

I am in receipt of the Notice of Violation which your department has issued to Paul Gunderson dated July 7, 1997. Obviously, we are disappointed that you have chosen to issue the notice.

In reviewing the findings of fact contained in the Notice of Violation you state in paragraph two that Mr. Gunderson was to file a claim with the SRBA for the well in the NW SW Section 25 used on the south half of the SE Quarter of the NE SE of section 26 T7N R35E by August 30, 1996. I believe our understanding at our last meeting in your office was that we were going to work with the Holley Water Users, Jackett Canal Company and the Owsley Canal Company to see if the previously filed protest to Mr. Gunderson's application would be withdrawn.

Since that meeting we have made numerous attempts to obtain those withdrawals from the Companies. Your office has been advised of the difficulties we have had in doing so, and as late as June 26, 1997 I sent a letter to your office requesting that you schedule a status conference on this matter. Unfortunately we never received a response to that request.

NOTIFIED

MAY 14 1998

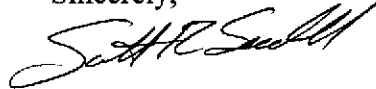
July 17, 1997

Page 2

We have continued to work towards getting the objections withdrawn, and I believe we have reached a verbal agreement for that to happen. That verbal agreement is to be reduced to writing and submitted to your office within the next five days.

Although we anticipate that this matter will be resolved before then, we would request that you schedule a compliance conference per your July 7, 1997 letter. Due to previously scheduled commitments, I would request the compliance conference not be set prior to August 1, 1997.

Sincerely,



Scott R. Seedall

SRS/aw
Gunderson/Carlson.ltr

RECEIVED
MAY 14 1998

LAW OFFICES OF
PIKE, SEEDALL & SHURTLIFF
A Professional Association

Edward W. Pike

Admitted in Idaho and Utah

Scott R. Seedall

Admitted in Idaho and Wyoming

M. Karl Shurtliff

Admitted in Idaho

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Boise, Idaho 83702-1652

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July 17, 1997

ADVANCE COPY BY FAX 525-7177

Ronald D. Carlson

Eastern Regional Manager

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

900 North Skyline Drive

Idaho Falls, Idaho 83402-1718

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RECORDED

MAY 14 1998

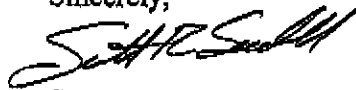
July 17, 1997

Page 2

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Sincerely,



Scott R. Seedall

SRS/aw
Gunderson/Carlson.ltr

MICROFILMED

MAY 14 1998

**OWSLEY CANAL COMPANY
P.O. BOX 68
1400 E 1500 N
TERRETON, IDAHO 83450
PHONE: 208-663-4359
FAX: 663-4369**

RECEIVED
JUL 16 1997
Department of Water Resources
Eastern Region

JULY 14, 1997

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO**

ATTN: HAROLD JONES:

**HOLLEY AND JACKETT WATER COMPANIES WISH TO
WITHDRAW THEIR PROTEST WITH PAUL GUNDERSON
NUMBER 31-07338.**

DWAINE KIRKHAM

Dwaine Kirkham

EDGAR GREEN

Edgar Green

RECORDED
MAY 14 1998

Scott R. Seedall
PIKE, SEEDALL & SHURTLIFF, P.A.
1800 Channing Way
P.O. Box 2949
Idaho Falls, ID 83403-2949
Telephone: (208)528-6444
Telefax: (208)528-6447

Attorneys for Paul Gunderson

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

IN THE MATTER OF THE DIVERSION)
OF WATER WITHOUT A VALID)
RIGHT OR IN CONFORMANCE WITH)
A VALID WATER RIGHT ON LANDS)
OWNED OR CONTROLLED BY)
PAUL GUNDERSON)

AFFIDAVIT OF MARCUS BARNES

STATE OF IDAHO)
)ss.
County of Jefferson)

MARCUS BARNES, being first duly sworn on oath, deposes and states as follows:

1. I am an adult, competent to testify, and make the within affidavit of my own personal knowledge.

1. AFFIDAVIT OF MARCUS BARNES

MICROFILMED

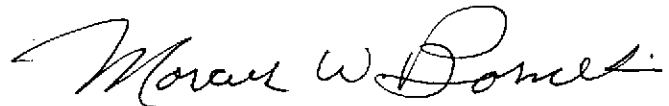
MAY 14 1986

2. My father and mother, Forrest Barnes and Ruth Barnes, purchased property from Ida F. Nielson in June of 1951, consisting of eighty (80) acres of ground in the S1/2SE1/4 of Section 26. The current owner of the property is Paul Gunderson.

3. When I purchased the property, there was a well in place which was used at all times during my ownership to irrigate the land referenced in paragraph 2 above.

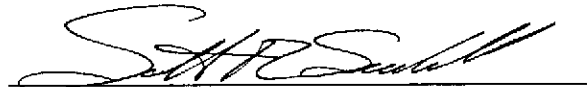
4. From June of 1951 forward, my family pooled the water and surfaced and sub-irrigated the ground, using approximately 220 inches of water annually. I later sold the ground to D.F. Edwards who in turn sold it to Paul Gunderson.

DATED this 29th day of January, 1997.



Marcus Barnes

SUBSCRIBED AND SWORN to before me this 29th day of January, 1997.



Notary Public for Idaho

Residing at Teleho Falls, ID

My Commission Expires: 3/7/2001

lundholm.aff

Scott R. Seedall
PIKE, SEEDALL & SHURTLIFF, P.A.
1800 Channing Way
P.O. Box 2949
Idaho Falls, ID 83403-2949
Telephone: (208)528-6444
Telefax: (208)528-6447

Attorneys for Paul Gunderson

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

IN THE MATTER OF THE DIVERSION)
OF WATER WITHOUT A VALID)
RIGHT OR IN CONFORMANCE WITH)
A VALID WATER RIGHT ON LANDS)
OWNED OR CONTROLLED BY)
PAUL GUNDERSON)

AFFIDAVIT OF PAUL GUNDERSON

STATE OF IDAHO)
)ss.
County of Bonneville)

PAUL GUNDERSON, being first duly sworn on oath, deposes and states as follows:

1. I am an adult, competent to testify, and make the within affidavit of my own personal knowledge.

2. I am the owner of the NE1/4SE1/4, the SW1/4SE1/4, the SE1/4SW1/4 of Section 26, and the NW1/4SW1/4 of Section 25 of T7N, R35E. I purchased the property from D.F. Edwards

1. AFFIDAVIT OF PAUL GUNDERSON

MAINTAINED

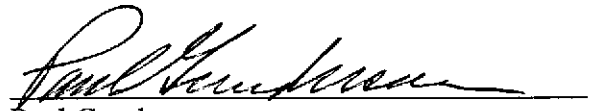
MAY 14 1985

in 1967 on a land installment contract. At the time of the purchase there was a well located in the center of the property which was being used, and had been used since the 1930's for irrigation purposes. I continued to use the well. I changed the pump from a flood pump to a high pressure pump and continued to use the same motor and switchgear previously used. By doing this, I made more efficient use of the water.

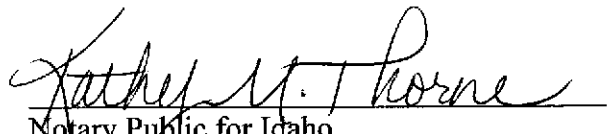
In 1974 I contacted Lamar Barrus to redo the old well for a turbine pump. After inspecting the old well he suggested it would be cheaper and better to drill a new well and use the old well as a back-up.

3. I drilled a new replacement well on the NW1/4SW1/4 of Section 25, T7N, R35E with the intent to use the old well as a back-up for the new well in Section 25. I have continually used the replacement well in the NW1/4SW1/4 of Section 25 since 1974 to irrigate the NE1/4SE1/4, the SW1/4SE1/4, and the SE1/4SW1/4 of Section 26 and the NW1/4SW1/4 of Section 25. I have maintained the old well as a second source of water in case I lose the new pump.

DATED this 26 day of August, 1996.


Paul Gunderson

SUBSCRIBED AND SWORN to before me this 28th day of August, 1996.

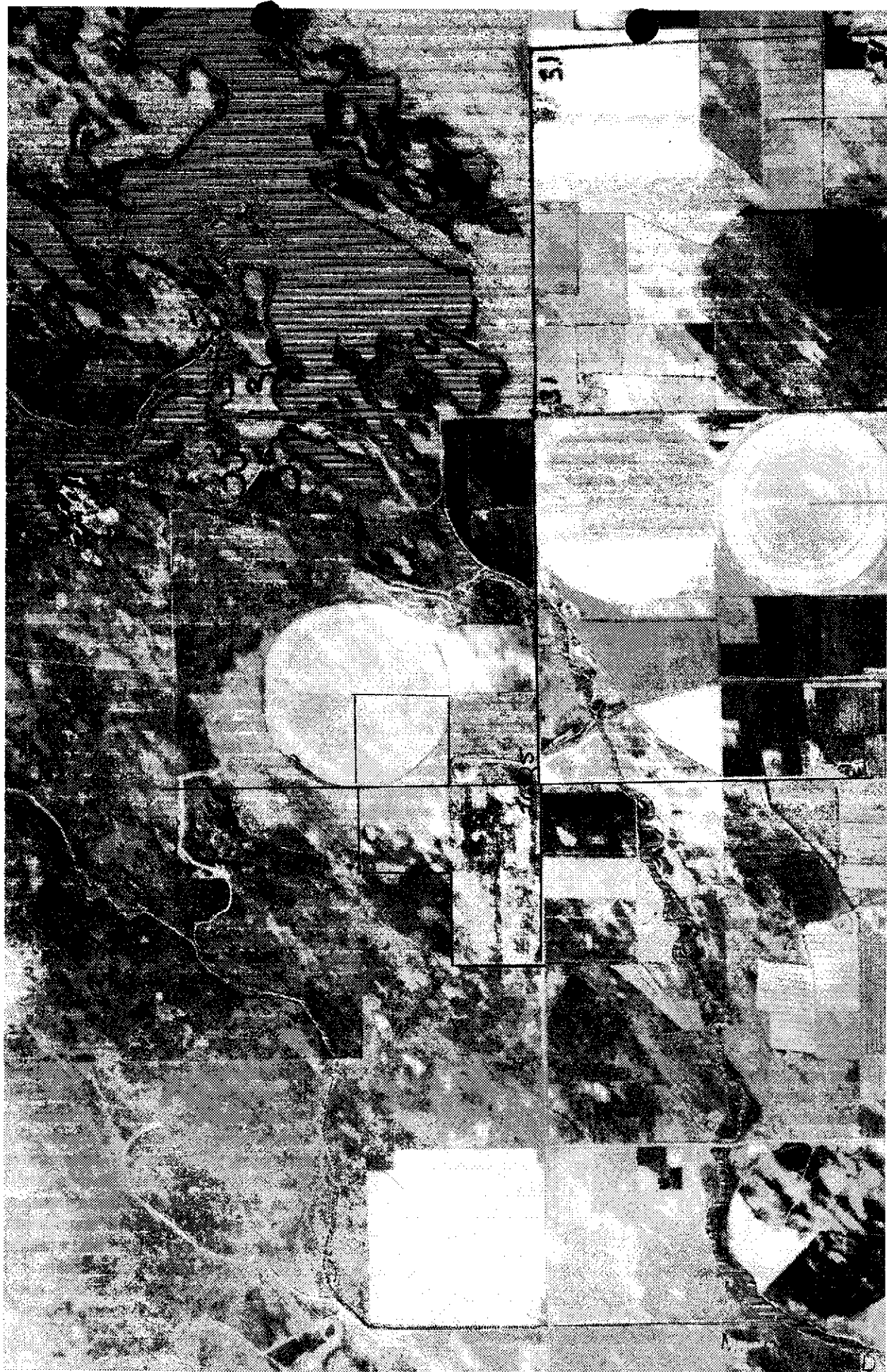

Notary Public for Idaho
Residing at Idaho Falls, Id.
My Commission Expires: 10/24/97

gunderson.aff

2. AFFIDAVIT OF PAUL GUNDERSON

RECORDED
MAY 14 1997

Scanned Print of 1987 NAAP Photo *Hand*



TN

MAY 14 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 7, 1997

COPY

PAUL GUNDERSON
1555 E 1500 N
HAMER ID 83425

CERTIFIED MAIL

RE: NOTICE OF VIOLATION

Dear Mr. Gunderson:

Enclosed is a Notice of Violation which the department has issued pursuant to Section 42-351, Idaho Code.

Please note that Section 42-351 (2), Idaho Code, provides that you are entitled to a compliance conference concerning the alleged violation if you contact the department within (15) days and in writing request such a conference. If you do not request a compliance conference, the Director of the department (Director) is authorized to proceed with a civil enforcement action.

Section 43-351 (3), Idaho Code, provides the opportunity for you to explain the circumstances of the alleged violation and to offer a proposal to remedy the damage caused by the alleged violation and to assure future compliance. If an agreement can be reached, the code authorizes the Director to enter into a consent agreement with you which provides for payment of a civil penalty.

Questions or request for a compliance conference should be directed to the department's office in Idaho Falls at the following address:

Department of Water Resources
900 N Skyline Dr Ste A
Idaho Falls ID 83402

The telephone number is 208-525-7161.

Sincerely,

Ronald D Carlson
Eastern Regional Manager

RDC:sc

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF THE DIVERSION OF)
WATER WITHOUT A VALID WATER RIGHT)
ON LANDS OWNED OR CONTROLLED)
BY PAUL GUNDERSON)

NOTICE OF VIOLATION
AND
CEASE AND DESIST ORDER

The Director of the Department of Water Resources (department), being charged with the duties of protecting vested water rights, enforcing specific statutes of the State of Idaho and the rules promulgated by the department, and being authorized to order the cessation of violations or attempted violations of the provisions of the law relating to all aspects of the appropriation and distribution of water, has caused an investigation of certain diversions of water being made by or under the control of PAUL GUNDERSON (alleged violator).

Based upon the department's investigation and understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On July 22, 1996, Paul Gunderson was advised with a Notice of Violation that his use of a well located in the NWSW Sect 25 T7N R35E for ground located in the NWSW Sect 25 T7N R35E and NESE Sect 26 T7N R35E should cease and desist.
2. On August 12, 1996, a Compliance Hearing was held. Mr. Gunderson was to file a claim with supporting evidence in the SRBA for the well in the NWSW Sect 25 used on the S1/2 SE1/4 and NESE of Sect 26 T7N R35E, by August 30, 1996. To date that has not been done.
3. On June 30, 1997, Department personnel again observed and photographed the Gunderson well in the NWSW Sect 25 being used to irrigate the NESE Sect 26 T7N R35E.
4. The diversion and use of water from this well in NWSW Sect 25 T7N R35E is being done without a valid water right.

NOTICE OF VIOLATION - Pg 1

MICROFILMED

MAY 14 1998

CONCLUSIONS OF LAW

1. Section 42-351 (1), Idaho Code, provides as follows:

If the director of the department of water resources finds, on the basis of available information, that a person is diverting water or has diverted water from a natural watercourse or from a ground water sources without having a valid right to do so or is applying water or has applied water not in conformance with a valid water right, then the Director of the Department of Water Resources shall have the discretion to take action against such person. The Director may file an action seeking injunctive relief or may commence an administrative enforcement action by issuing the person a written notice of violation directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or any existing water right. The notice of violation shall be served upon the alleged violator in person or by certified mail. The notice of violation shall identify the alleged violation and specify whether that person is diverting water or has diverted water not in conformance with a valid water right. The notice of violation shall state the remedy, including any restoration and mitigation measures, and the civil penalty the Director seeks for redress or the violation and shall contain a statement of findings of fact and conclusions of law that provide a factual and legal basis for the initiation of the administrative enforcement action.

2. Section 42-201, Idaho Code, provides in part as follows:

All rights to divert and use the waters of this state for beneficial purposes shall hereafter be acquired and confirmed under the provisions of this chapter and not otherwise.

3. Section 42-352, Idaho Code, provides in part as follows:

Any person who wilfully violates any cease and desist order issued under Chapter 3, title 42, Idaho Code, after the same has been served on that person shall be subject to a civil penalty to be imposed by the Director of the Department of Water Resources not to exceed one hundred dollars (\$100) per diversion for each calendar day, or any part of a calendar day, ...

4. The illegal diversion of the public waters of the State of Idaho must be stopped to prevent injury to other water rights, to protect the water resources of the State and to assure that the allocations and use of available water supplies takes place in an orderly manner.
5. Paul Gunderson should be required to mitigate injury to other water users caused by the illegal diversion of water as determined by the director.

NOTICE OF VIOLATION - Pg 2

WCH/CLM/ML

MAY 14 1998

6. The Director of the department should issue a Notice of Violation to Paul Gunderson directing him to immediately cease and desist the diversion of groundwater from his well in the NSW Sect 25 T7N R35E.

ORDER

IT IS HEREBY ORDERED as follows:

1. Paul Gunderson shall immediately cease and desist the diversion of groundwater from the well in the NSW Sect 25 T7N R35E.

IT IS FURTHER HEREBY ORDERED as follows:

1. Paul Gunderson is entitled to a compliance conference with department staff, if the applicant contacts the department and requests a conference within fifteen (15) days of receipt of this Notice of Violation.
2. Paul Gunderson shall have the opportunity to enter into a consent agreement with the department to remedy the damage caused by the violation and to assure future compliance with the laws of the state of Idaho.

Dated this 8th day of July 1997.


for **NORMAN C YOUNG**
Administrator

NOTED/MSL

MAY 14 1998

LAW OFFICES OF
PIKE, SEEDALL & SHURTLIFF
A Professional Association

Edward W. Pike

Admitted in Idaho and Utah

Scott R. Seedall

Admitted in Idaho and Wyoming

M. Karl Shurtliff

Admitted in Idaho

Marty Durand

Admitted in Idaho and Colorado

Scott C. Cifrese

Admitted in Idaho and Washington

Bank of Eastern Idaho Building

1800 Channing Way

P.O. Box 2949

Idaho Falls, Idaho 83403-2949

Telephone (208) 528-6444

Telefax (208) 528-6447

Boise Office

800 W. State, Suite 200

P.O. Box 1652

Boise, Idaho 83702-1652

Telephone (208) 343-2900

Telefax (208) 343-3282

FAX TRANSMISSION COVER SHEET

DATE: 6/27/96

TO: Mr. Harold W. Jones
Water Rights Supervisor
DEPARTMENT OF WATER RESOURCES

FAX: 525-7177

RE: Paul Gunderson

You should receive 3 page(s) including this cover sheet. If you do not receive all pages please call 208/528-6444.

NOTICE OF CONFIDENTIALITY

The transmissions contained herein are confidential and not to be disclosed, revealed or disseminated to anyone but the intended recipient. If you have received this facsimile transmission in error please destroy your copy and inform the sender immediately.

Letter from Scott R. Seedall.

MICROFILMED

MAY 14 1998

LAW OFFICES OF
PIKE, SEEDALL & SHURTLIFF
A Professional Association

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Admitted in Idaho and Utah

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Boise Office

800 W. State, Suite 200

P.O. Box 1652

Boise, Idaho 83702-1652

Telephone (208) 343-2930

Telefax (208) 343-3282

June 27, 1996

ADVANCE COPY BY FAX
 525-7177

Mr. Harold W. Jones
 Water Rights Supervisor
 DEPARTMENT OF WATER RESOURCES
 900 North Skyline Drive
 Idaho Falls, Idaho 83402-1718

RE: Paul Gunderson

Dear Mr. Jones:

Thank you for speaking with me last week regarding Paul Gunderson's application for transfer number 4838. I have discussed this matter further with Paul and we certainly disagree with the position set forth in your letter of May 28, 1996 that Don Bybee is the owner of the water right pertinent to the NWSW Section 25, T7N, R35 EBM for the following reasons.

1. Paul Gunderson also filed on the well in question in early June of 1976. Although there may be some question of how the application was processed, we are currently reviewing microfilmed records regarding the same. It is our intent to provide you with the results of that search as soon as the documents are available.
2. Mr. Bybee leased ground in the above-referenced section from Paul Gunderson under a five year lease dated March 25, 1976. The lease which you have a copy of is the second of two which were proposed by Don Bybee. Paul refused to sign the lease which included paragraph 3 relating to the water rights, and Mr. Bybee returned with a second lease which did not have those provisions on it. Paul signed that lease, and it is our belief that Mr. Bybee then changed the pages and filed the document which you have microfilmed with your office. In addition, the provisions of that lease are ambiguous as it states that any water used on the North West Quarter of the South West Quarter of Section 25, Township 7 North, Range 35 EBM would revert back to the party of the second part and be his property at the end of the lease. A reversion means that it was something owned by the party of the second part in the first place. Don Bybee,

MAY 14 1998

June 27, 1996

Page 2

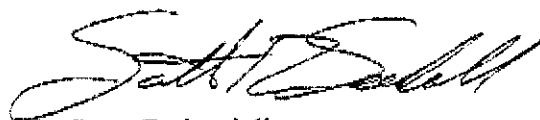
designated as the party of the second part, never had any ownership interest in the water prior to the lease and therefore a reversion of any ownership interest is not possible.

3. Mr. Bybee was foreclosed on by the Farmer's Home Administration in 1985. At that time he turned the farm back to Paul and surrendered all right, title and interest in the same in exchange for non-payment of a substantial amount owed for back rent. Since 1985 Mr. Bybee has owned no property which is serviced by the water in question, nor has he used the same. Paul Gunderson has continually used the water from that time.
4. It also appears that there are two different numbers being used here as well. I have been furnished a copy of permit Number 31-7199 showing the name of the permit holder as Don R. Bybee, while your letter references 31-07199B. It appears that the Department recognizes as well that there are disputed claims regarding this water.

At a minimum it appears that there is an issue that needs to be resolved. We would therefore request that if you are not inclined to approve Paul's application for transfer at this time you would at a minimum hold the application until the issue of ownership of the water right can be resolved.

I would be happy to meet with you at your convenience to discuss this matter further.

Sincerely,



Scott R. Seedall

SRS:ls
Gunderson/Jones

MICROFILMED

MAY 14 1998

ACTION REQUIRED

FROM: H.W. JONES

TO: File 31-7328

Applicant Gunderson replied by phone on 11-16-90 +
said he is still very interested in this applic.

The protestants will not respond so I believe a hearing should
be held.



State of Idaho
DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

November 7, 1990

Paul Gunderson
Box 2580
Hamer, ID 83425

Mr. Gunderson:

This letter is to inquire whether you still have an interest in pursuing application for permit 31-07338. I have enclosed a copy of this application for your information. I have also enclosed copies of letters I sent to Jackett Canal Co. and Holley Water Users. To date I have received no response.

Since the property described in the application is now in a moratorium area no action will be taken on this application until the groundwater study program is finished within the next two years. If you have no interest in continuing the pursuit of this particular application please fill out the withdrawal form enclosed and return it to me.

If you have any questions please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Harold W. Jones".

Harold W. Jones
Water Resource Supervisor

HWJ:lk
Enc.

MICROFILMED

MAY 14 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

November 13, 1989

Jackett Canal Co.
c/o Lewis Green
1705 N. 1700 E.
Hamer, ID 83425

Dear Mr. Green:

I am reviewing the file of Protested Application for Permit #31-7338 in the name of Paul Gunderson. The notes from the hearing held on November 4, 1986 indicate that the protestants (Holley Water Users & Jackett Canal Co.) would withdraw their protests if the applicant properly amended his application. The protestants wanted the point of diversion limited to one well in the NWSW of Sec. 25, T7N, R35E with a total cfs of 2.20 cfs (1000 gpm).

The applicant on 11-22-1988 amended his application to the parameters outlined by protestants (see copy attached). I would now ask that you consider sending a withdrawal of protest on this application to me so this situation can be resolved. If you have any questions please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Harold W. Jones".

Harold W. Jones
Water Resource Supervisor

HWJ:lk

MICROFILMED

MAY 14 1988

September 5, 1989

Jackett Canal Co.
c/o Dennis Green (Deceased)
Box 3135
Hamer, ID 83425

Dear Mr. Green:

I am reviewing the file of Protested Application for Permit #31-7338 in the name of Paul Gunderson. The notes from the hearing held on November 4, 1986 indicate that the protestants (Holley Water Users & Jackett Canal Co.) would withdraw their protests if the applicant properly amended his application. The protestants wanted the point of diversion limited to one well in the NWSW of Sec. 25, T7N, R35E with a total cfs of 2.20 cfs (1000 gpm).

The applicant on 11-22-1988 amended his application to the parameters outlined by the protestants (see copy attached). I would now ask that you consider sending a withdrawal of protest on this application to me so this situation can be resolved. If you have any questions please give me a call.

Sincerely,

Harold W. Jones
Water Resource Supervisor

HWJ:lk

MICROFILMED

MAY 14 1990

September 5, 1989

Holley Water Users
c/o Carl Hoggan
Hamer, ID 83425

Dear Mr. Hoggan:

I am reviewing the file of Protested Application for Permit #31-7338 in the name of Paul Gunderson. The notes from the hearing held on November 4, 1986 indicate that the protestants (Holley Water Users & Jackett Canal Co.) would withdraw their protests if the applicant properly amended his application. The protestants wanted the point of diversion limited to one well in the NWSW of Sec. 25, T7N, R35E with a total cfs of 2.20 cfs (1000 gpm).

The applicant on 11-22-1988 amended his application to the parameters outlined by the protestants (see copy attached). I would now ask that you consider sending a withdrawal of protest on this application to me so this situation can be resolved. If you have any questions please give me a call.

Sincerely,

Harold W. Jones
Water Resource Supervisor

HWJ:lk

MICROFILMED

MAY 14 1989

RE: 31-7338

4 Nov. 86.

Dear Mr. Gundersen:

At the conclusion of the ~~conference~~ recent conference held on the above captioned application the protestants had agreed to a conditional withdrawal of their ~~protest~~ objections.

— They ~~were willing to~~ would not oppose the application provided you limited the rate of diversion to 1000 gal/min (2.23 cfs) and would ~~not~~ be diverted from your newer well in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 26 Twp. 7N. Rge 35E. ~~They~~

~~You in Before~~ ^{initiating changes to the application} ~~making any changes to the application,~~
however, you asked for 2 to 3 days ~~in to~~ ^{to} analyze the implications possible implications.

Since these changes were not initiated at the conference the department will defer ^{future action} ~~future administrative action~~

MICROFILMED

MAY 14 1998

~~until~~ pending notification of ~~the~~ ~~year~~ ~~last~~ ~~to~~ ~~proceed~~.

~~The~~ decision on whether or not to amend the application.

MICROFILMED

MAY 14 1998

31-7338

11-4-86

Paul Gunderson

Protestant

Holley Water Users Assoc

Carl Hoggan Pres. La Moynie Barney Sec.
Jackett Canal Co.

Green Sec.

Intervention by Owsley Canal Co.

Gunderson -

[Owsley and Holley

Water Bulletin #7

1958 to 1968 shows no drop -

[New Well drilled -

Pumping the well will affect the water table -

160 inches

Holley well went dry - 2500 inches taken from this area -

Owsley takes 200 cfs -

New well will affect the canal companies the most in dry years -

Owsley wells drop applicant from 10 ft to 35 feet

Well 55' deep →

Well no 4 of Holley flows - has flowed every year except 4 or 5 after 1977
15 hp old well NESE - pumps 100 gpm -

Reasonable pumping lift -

In public interest to use water in the area of the well

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MAY 14 1998

Assessment pumping - \$14 per acre - Owsley -

Applicant intends to use only new well
50 A.P.

Plan to use 1000 gpm -

Artesian Flow - Don Shenton

1931 -

1903 No surface water

Independent is Jacket

Don has a chart showing winter flows -
Water supply has been declining -

About 1980 - Owsley began drilling wells to secure more water -

1980 Pumped 20,000 AF 1983 -

1981 Pumped 10,000 AF 1984 -

1982 Pumped 10,000 AF 1985 -

Water Level is declining according to UI study -

115.2% ~~to~~ artesian flows -

→ Need a copy of Don's paper -

MICROFILMED

MAY 14 1998

31-7338

4 Nov. 86.

Applicant -

Paul Gunderson.

Protestant

Jackett Canal Co. - Mr. ^{Dennis} ~~Leem~~ Green - Secretary.

Holley Water Users -

- Also present - Don Shenton, watermaster of Water Irvine

Owsley Canal - not official protestant, but representatives indicate they wish to be ~~rep~~ recognized as protestants.
= No objection by the applicant.

Applicant - Has drilled well. Is in area where Owsley Canal and Holley Canal have wells. Water Bureau states ground water levels have not declined. ^{New} Well drilled in 1976 by Barrus. Older well drilled in 1932, located in Sec 26 8" casing, used occasionally. ~~New well used~~ Primary well is newer well.

Holley Water Users - When ^{their} Owsley turns wells on the static water level in newer well drops from 18 ft to 35'. Well is 55 ft deep.

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MAY 14 1998

Holley Well #4 is ~~situated~~ normally situated during non irrigation season, except during dry cycle in early 1980's. During irrigation season water will drop to around 21 ft.

Applicant may an earlier water right. from older well.

Holley Water Users pump around 2500 inches of water from 8 wells in same area, water level is about 30 ft late in the irrigation season.

Dusky Wells - divert 200 cfs from wells in general vicinity.

Jackett Canal - doesn't have wells are not close enough to be affected by applicant's wells.

Ground water is diverted from a perch water table.

Dusky Canal assessments - \$14⁰⁰/acre when not pumping.
\$18⁰⁰/acre when pumping.

Applicant plans to use just new well and divert up to 1000 gpm.
- will eventually abandon use of older wells

MICROFILMED

MAY 14 1988

Don Shenton -

- 1903 - no surface water in Mad Lake. *Following 20 years surface water appeared in numerous lakes*
- 1921 - had surface water until late in year.
- 1931 - started drilling wells. and continued drilling ~~1944~~ adding wells until 1941.
- In past 20 years Spring Lake, North Lake, Deadline Lake have dried up.
- 1980 - Camas Creek was dry at James homestead.
- Osley & Holley, canals drilled wells to ~~maintain~~ maintain ~~surface~~ ^{surface} rights.

citizens have been declined to so canals with ground water rights have resorted to pumping during the non-irrigation season to ~~bring~~ supplement water storage in Mad Lake.

11521 cfs for artesian wells.

1976 - ~~44~~ by 1980 drop 40 cfs.

valuable
Stearns report states Egin Bench supplies recharge to Mad Lake Area.

Perched aquifer recharges in about 5 days after major canal companies turn off their wells. (Jackett, Osley, Holley, Independent.).

MICROFILMED

MAY 14 1978

31-7338 Amended - Gunderson

Second Floor Conference Room, State Office Building, 150 Shoup
Idaho Falls, Idaho

Tuesday, November 4, 1986 - 9:00 a.m.

ROSTER OF ATTENDANCE

Hearing Officer: Bob Fleenor & Ernest Carlson

Name	Representing	Address
PAUL GUNDERSON	SELF	Box 2580 HAMER IDAHO
Harold L. Loomis	Canby Canal	Terreton, Idaho 83425
Russell Osborne	Canby Canal Co	Terreton Idaho
Lamoyne Barney	Holley water users	Hamer Idaho 83425
Carl Hoggan	Holley water users	Hammer, Idaho
Donald W. Shenton	Water Dist # 31	Box 33 Dubois, Idn 82423
Sam L. Green (Deceased)	Seckett Land Co.	Box 3135 Hamer, Ida 83425

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MAY 14 1988

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- ☐ Show to whom, date and address of delivery.
☐ Restricted Delivery.

3. Article Addressed to:

12. Paul Gaudin
 Box 816
 Hamer, ID 83425

4. Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

13511

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5. Signature - Addressee

X

6. Signature - Agent**7. Date of Delivery**

10-21-80

8. Addressee's Address (ONLY if requested and fee paid)

31-1338

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OFFICIAL BUSINESS

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• Otherwise affix to back of article.

• Enclose article "Return Receipt Requested" adjacent to number

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OCT 23 1988

Department of Water Resources

Eastern District Office

MAY 14 1988



DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE

150 SHOUR AVE. #15

IDAHO FALLS, IDAHO 83401

(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(City, State, and ZIP Code)

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

- ☐ Show to whom, date and address of delivery.
- ☐ Restricted Delivery.

3. Article Addressed to:

Mr. Dennis Green, Sec
Tackett Canal Corp.
Hamter, ID 83425

4. Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

13513

Always obtain signature of addressee or agent and
DATE DELIVERED.

5. Signature - Addressee

X

Dennis E. Green

Signature - Agent**7. Date of Delivery**

10-21-86

8. Addressee's Address (ONLY if requested and fee paid)

21-17338

UNITED STATES POSTAL SERVICE

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Department of Water Resources
Eastern District Office

OCT 25 1986

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHoup AVE #15
IDAHO FALLS, IDAHO 83401

(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

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(City, State, and ZIP Code)

MAY 14 1988

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1. ☐ Show to whom, date and address of delivery.
☐ Restricted Delivery.

3. Article Addressed to:

MR. JOE MEATY, Vice-Pres
 Tactel Card Comp. Inc.
 Hunters, ID 83425

4. Type of Service:

Article Number

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

13515

Always obtain signature of addressee or agent and
 DATE DELIVERED.

5. Signature - Addressee

X

Joe Meaty

6. Signature - Agent

7. Date of Delivery

10-22-86

8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

31-10338

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

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- Otherwise affix to back of article.
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RETURN TO

Department of Water Resources
Eastern District Office

100-23 9861

RECEIVED
MAY 14 1968



PENALTY FOR PRIVATE USE \$300
DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

150 SHoup AVE. #15

IDAHO FALLS, IDAHO 83401

(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(City, State, and ZIP Code)

MAY 14 1968

SENDER: Complete items 1, 2, 3 and 4.

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1. ☐ Show to whom, date and address of delivery.
☐ Restricted Delivery.

3. Article Addressed to:

Mr LaMoyne Barney, Sr
 Holly Lake Users
 Home, ID 83425

4. Type of Service:

Article Number

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

13512

Always obtain signature of addressee or agent and
DATE DELIVERED.

5. Signature - Addressee

X *LaMoyne Barney*

6. Signature - Agent

Barney

7. Date of Delivery

10-21-86

8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

31-1338

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

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 • Attach to front of article if space permits.
 • Otherwise affix to back of article.
 • Endorse article "Return Receipt Requested" adjacent to number.

RETURN TO
 Department of Water Resources
 150 Shoup Ave.
 Eastern District Office

ACT 21 1986

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DEPARTMENT OF WATER RESOURCES
 EASTERN DISTRICT OFFICE

150 SHOUP AVE. #15
 IDAHO FALLS, IDAHO 83401

(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(City, State, and ZIP Code)

MAY 14 1998

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

- 1 ☐ Show to whom, date and address of delivery.
☐ Restricted Delivery.

3. Article Addressed to:

Mr. Dean B. Rife, Pres
 Jackett Canal Camp
 Harmer, ID 83425

4. Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

13514

Always obtain signature of addressee or agent and
DATE DELIVERED.

5. Signature - Addressee

X

6. Signature - Agent

Robert C. Rife

7. Date of Delivery

10-27-86

8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

31-1338

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

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- Attach to front of article if space permits.
- otherwise affix to back of article.
- Endorse article "Receipt Requested" adjacent to number.

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Department of Water Resources
Eastern District Office
MAY 14 1988

RECEIVED
MAY 14 1988

(City, State, and ZIP Code)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(Name of Sender)

IDAHO FALLS, IDAHO 83401

150 SHoup AVE. #15

EASTERN DISTRICT OFFICE

DEPARTMENT OF WATER RESOURCES

USE \$300



NAME AND ADDRESS OF SENDER		NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS		POSTAGE	FEE	Handling Charge	Actual Value (if Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S. D. FEE	S. H. FEE	REST. DEL. FEE
1. NUMBER OF ARTICLE		2. NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS		3. POSTAGE	4. FEE	5. Handling Charge	6. Actual Value (if Registered)	7. DUE SENDER IF C.O.D.	8. R. R. FEE	9. S. D. FEE	10. S. H. FEE	11. REST. DEL. FEE
1	13511	McDonald's Restaurant, 16th Street, Boise, Idaho		22	25							
2	13512	McDonald's Restaurant, 16th Street, Boise, Idaho										
3	13513	McDonald's Restaurant, 16th Street, Boise, Idaho										
4	13514	McDonald's Restaurant, 16th Street, Boise, Idaho										
5	13515	McDonald's Restaurant, 16th Street, Boise, Idaho										
6	13516	McDonald's Restaurant, 16th Street, Boise, Idaho										
7	13517	McDonald's Restaurant, 16th Street, Boise, Idaho										
8	13518	McDonald's Restaurant, 16th Street, Boise, Idaho										
9	13519	McDonald's Restaurant, 16th Street, Boise, Idaho										
10	13520	McDonald's Restaurant, 16th Street, Boise, Idaho										
11	13521	McDonald's Restaurant, 16th Street, Boise, Idaho										
12												
13												
14												
15												

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Indicate type of mail:
☐ Registered
☐ Insured
☒ COD
☐ Certified

I certify that we have:
☐ Commercial Insurance
☐ A deductible clause of \$
☐ None

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
 POSTMARK AND DATE OF RECEIPT

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF AMENDED APPLICATION)

FOR PERMIT NO. 31-7338 IN THE NAME OF) NOTICE OF HEARING

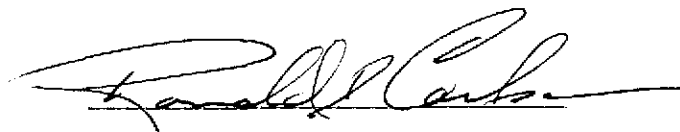
K. PAUL GUNDERSON)

)

On May 2, 1980, David F. Edwards filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. Said application was assigned to K. Paul Gunderson and on July 2, 1986, the application was amended. On May 27, 1980, a protest was received by the Department from Holley Water Users Association. On June 2, 1980, an additional protest was received from Jackett Canal Company.

The Department has set the matter of protest for hearing for 9:00 a.m., Tuesday, November 4, 1986, in the Second Floor Conference Room, State Office Building, 150 Shoup, Idaho Falls, Idaho. The hearing will be held in accordance with provisions of Chapter 2, Title 42, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Dated this 17 th day of October, 1986.



RONALD D. CARLSON

Eastern Regional Supervisor

September 22, 1986

RE: Application for Permit No. 31-7338

Mr. K. Paul Gunderson
Box 816
Hamer, ID 83425

Dear Mr. Gunderson:

To recommend final action on the above captioned application a conference and/or administrative hearing must be held to examine the issues of protest against granting the permit. November 4, 1986, has initially been selected as the date for conducting this meeting which will be held in Idaho Falls.

To provide adequate time for implementing a change to this schedule, please advise this office of your availability to be present on the above date.

Certified notices confirming the date, place, and time must be mailed ten (10) days prior to the conference and/or hearing. Once the certified notices are mailed, a postponement will require prior consent of the applicant.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

September 22, 1986

RE: Application for Permit No. 31-7338
(David F. Edwards and assigned to K. Paul Gunderson)

Mr. LaMoyne Barney, Sec.
Holley Water Users
Hamer, Idaho 83425

Dear Mr. Barney:

To recommend final action on the above captioned application a conference and/or administrative hearing must be held to examine the issues of protest against granting the permit. November 4, 1986, has initially been selected as the date for conducting this meeting which will be held in Idaho Falls.

To provide adequate time for implementing a change to this schedule, please advise this office of your availability to be present on the above date.

Certified notices confirming the date, place, and time must be mailed ten (10) days prior to the conference and/or hearing. Once the certified notices are mailed, a postponement will require prior consent of the applicant.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

September 22, 1986

RE: Application for Permit No. 31-7338
(David F. Edwards and assigned to K. Paul Gunderson)

Mr. Dennis Green, Sec.
Jackett Canal Company
Hamer, Idaho 83425

Dear Mr. Green:

To recommend final action on the above captioned application a conference and/or administrative hearing must be held to examine the issues of protest against granting the permit. November 4, 1986, has initially been selected as the date for conducting this meeting which will be held in Idaho Falls.

To provide adequate time for implementing a change to this schedule, please advise this office of your availability to be present on the above date.

Certified notices confirming the date, place, and time must be mailed ten (10) days prior to the conference and/or hearing. Once the certified notices are mailed, a postponement will require prior consent of the applicant.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

September 22, 1986

RE: Application for Permit No. 31-7338
(David F. Edwards and assigned to K. Paul Gunderson)

Mr. Dean B. Kofoed, Pres.
Jackett Canal Company
Hamer, Idaho 83425

Dear Mr. Kofoed:

To recommend final action on the above captioned application a conference and/or administrative hearing must be held to examine the issues of protest against granting the permit. November 4, 1986, has initially been selected as the date for conducting this meeting which will be held in Idaho Falls.

To provide adequate time for implementing a change to this schedule, please advise this office of your availability to be present on the above date.

Certified notices confirming the date, place, and time must be mailed ten (10) days prior to the conference and/or hearing. Once the certified notices are mailed, a postponement will require prior consent of the applicant.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

September 22, 1986

RE: Application for Permit No. 31-7338
(David F. Edwards and assigned to K. Paul Gunderson)

Mr. Joe Marty, Vice-Pres.
Jackett Canal Company
Hamer, Idaho 83425

Dear Mr. Marty:

To recommend final action on the above captioned application a conference and/or administrative hearing must be held to examine the issues of protest against granting the permit. November 4, 1986, has initially been selected as the date for conducting this meeting which will be held in Idaho Falls.

To provide adequate time for implementing a change to this schedule, please advise this office of your availability to be present on the above date.

Certified notices confirming the date, place, and time must be mailed ten (10) days prior to the conference and/or hearing. Once the certified notices are mailed, a postponement will require prior consent of the applicant.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

September 8, 1986

RE: Application for Permit No. 31-7338

Mr. K. Paul Gunderson
Box 816
Hamer, ID 83425

Dear Mr. Gunderson:

On August 25, 1986, we received confirmation from Thomas Nelson, Attorney at Law, that the above captioned application has been released from the Swan Falls litigation.

As I indicated in previous correspondence, the Department will proceed with scheduling an administrative hearing to consider the protests against this application. Although, we are reinstating administrative processing, be advised recent directives from our State Office indicate a final recommendation will not be made until rules and regulations for processing new applications have been implemented.

To prevent scheduling conflicts, please inform me if there are any times during October, November, and December when you will not be available to attend a hearing.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

FORM A

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

RECEIVED

AUG 25 1986

Department of Water Resources
Eastern District Office

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed development under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below:

Permit No. ID.#31-7338

Name(s) of Permit Holder: PAUL GUNDERSON

Post Office Address: Box 2580 HAMER, IDAHO 83425

Telephone No. 663-4412

Source of Water: Well

Extent of Use: Domestic _____ (number of households)

Stockwater 200 Cows (number and type of stock)

Irrigation 160 (acres)

Other/Remarks Approved June 15, 1976

Indicate the date water was first diverted and beneficially used under this permit: Approx June 15, 1976

Measuring Device: Required? _____ Yes ☒ No
Installed? _____ Yes ☒ No

Flow Measurement Port: Required? _____ Yes ☒ No
Required? _____ Yes ☒ No

Person to contact to accompany the Department representative during field examination: PAUL GUNDERSON

(Name)

HAMER IDAHO

(Address)

663-4412

(Telephone number)

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

8/14/1986
Date

Paul Gunderson
Signature of Permit
(and Title, if appropriate)

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER
Chartered

ATTORNEYS AT LAW

THOMAS G. NELSON
JOHN A. ROSHOLT
J. EVAN ROBERTSON
STEVEN K. TOLMAN
JAMES C. TUCKER

Twin Falls Office
142 3rd AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700

Boise Office
1020 MAIN ST., SUITE 320
P.O. BOX 2139
BOISE, IDAHO 83702-2139
TELEPHONE (208) 338-0700

TERRY T. UHLING
F. BRUCE COVINGTON
LAIRD B. STONE
JERRY JENSEN
GARY D. SLETTE

Reply to
Twin Falls office

August 22, 1986

RECEIVED

AUG 25 1986

State of Idaho
Department of Water Resources
Eastern District Office
150 Shoup - Suite 15
Idaho Falls, Idaho 83402

RE: PAUL GUNDERSON - I.D. NO. 31-7338

Gentlemen:

Mr. Gunderson has submitted information which indicates that his above-numbered application is entitled to dismissal from the Swan Falls litigation under the terms of the SB 1180 contract executed on October 25, 1984. Mr. Gunderson's project was in use prior to November 19, 1982, and a valid filing had been made prior to that date.

On the basis of the information which Mr. Gunderson has furnished, his application will be included in the next dismissal of SB 1180 defendants from the Swan Falls litigation. The next dismissal will be the sixth dismissal, and we are currently gathering together the information necessary to complete the dismissal. This will not be done until this fall. In the meantime, you may consider that Idaho Power Company has withdrawn its protest to the further processing of Mr. Gunderson's application.

If you have any questions, feel free to give me a call.

Yours very truly,



Thomas G. Nelson

TGN:pjo

Enclosure

cc: Paul Jaurequi
Paul Gunderson

August 19, 1986

RE: Amended Application for Permit No. 31-7338

Mr. K. Paul Gunderson
Box 816
Hamer, Idaho 83425

Dear Mr. Gunderson:

The Department has completed the statutory publication requirements regarding the changes you made to application for permit No. 31-7338. The purpose of these changes was to correctly identify the location of the two wells being used to irrigate 160 acres and to also correctly identify the legal description of the land being irrigated.

In addition to amending the application, on July 2, 1986, we also discussed how we could proceed with further administrative action on the application. It was decided that you would contact Idaho Power and request the application be released from the Swan Falls suit. If you were successful, the Department would proceed with rescheduling a hearing in the matter. With publication of the amended application completed, the Department is now in a position where the administrative hearing can be scheduled once you have advised us that the application has been released from the Swan Falls suit. There were no new protests received on the amended application so the protestants remain Holly Water Users and Jackett Canal Company. A hearing could be avoided provided these two parties would be willing to withdraw their objections to the application.

RECEIVED

MAY 14 1988

Mr. K. Paul Gunderson
August 19, 1986
Page 2

Further departmental action will be suspended until we are advised that either the application has been released from the Swan Falls suit or the protests have been withdrawn. As always if you have any questions concerning the above, feel free to contact me.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

MICROFILMED

MAY 14 1998

THE JEFFERSON STAR

RIGBY, IDAHO

AFFIDAVIT OF
PUBLICATION

RECEIVED

JUL 24 1986

Department of Water Resources
Rigby District Office

STATE OF IDAHO }
County of Jefferson, } ss

I, Capital Letter,
being first duly sworn, depose and say, that I am
the printer of THE JEFFERSON STAR, a weekly
newspaper printed and published weekly at
Rigby, Jefferson County, Idaho; and I do
solemnly swear that the

Amended Application
a copy of which notice appears attached here-
to, was published in the regular and entire issue
of said newspaper, and not in any

supplement issue thereof for 2
consecutive issues, the first publication hav-
ing been made on July 16, 1986
and the last publication having been made
on July 23, 1986.

Further, that said newspaper is one of general
circulation in said county; that it is a legal
newspaper, conforming to legal specifications
under the Idaho Statutes; that it has at least two
hundred bona fide subscribers living within the
county of publication; and that it has been
continuously and uninterruptedly published in said
county during a period of seventy-eight con-
secutive weeks prior to the first publication of the
said notice.

NOTICE OF AMENDED APPLICATION
FOR WATER PERMIT

NOTICE IS HEREBY GIVEN that Ap-
plication for Permit No. 31-7338 in the
name of David F. Edwards, assigned to
Paul Gunderson, Hamer, Idaho was filed
for the diversion of 3.2 cfs of water from
a groundwater source, with point of
diversion within the NE1/4SE1/4, Sec. 26
T. 7N, R. 35E, B.M. Jefferson County, the
water to be used for the Irrigation of 160
acres from April 1 to Nov. 1, within the
SE1/4SW1/4, N1/2SE1/4, SW1/4SE1/4,
Sec. 26, T. 7N, R. 35E., B.M.

The applicant now proposes to amend
Application No. 31-7338, requesting 3.2
cfs of water and amending the point of
diversion to within the NE1/4SE1/4, Sec.
26, NW1/4SW1/4, Sec. 25, T. 7N, R. 35E,
for use within the NE1/4SE1/4, S1/2SE1/4
Sec. 26, NW1/4SW1/4, Sec. 25, T. 7N, R.
35E, B.M., Jefferson County.

Any protest to the proposed amending
of the application must be filed with the
Department of Water Resources 150
Shoup Ave., Suite 15, Idaho Falls, Idaho
83401, on or before August 4, 1986.

s/A. Kenneth Dunn
Director

Published in the Jefferson Star, Rigby,
July 17 and 24, 1986.

Subscribed to and sworn to before me
this 23 July 1986

Levanna Pace
Notary Public.

(SEAL)

My commission expires 5-4-88

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 31-7338 AND 31-7339 IN)
THE NAME OF DAVID F. EDWARDS)
_____)

STIPULATION

BY THIS STIPULATION, the undersigned parties to the above-captioned case waive compliance with the requirements of Idaho Code, Section 67-5211, including the right to a proposed decision, to file exceptions to a proposed decision and to present briefs and oral arguments to the Director of the Department of Water Resources and agree that the Director may render a final decision in this case without first submitting a proposed decision.

Dated this _____ day _____, 19____.

(Notary Subscription)

RECORDED
2007 JUN 14 PM 5

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

COPY FOR
FILE 31-7338

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that David F. Edwards
(Name of Claimant)
Territon, Idaho 83450 Telephone No. 663-4334
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) April 15, 1935

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Groundwater tributary to

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	<u>4 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>April 1</u>	To <u>Nov. 1</u>
Quantity	<u>.04 cfs</u>	Use <u>Stockwater</u>	Period of Use From <u>Jan 1</u>	To <u>Dec. 31</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

(4) 4 cfs TOTAL QUANTITY USED.
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NE 1/4 SE 1/4, Sec. 26 Twp. 7N Rge. 35E B.M., County of Jefferson
Additional points of diversion: SW 1/4 SE 1/4, Sec. 26, T. 7N, R. 35E

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change
Irrigation well NE 1/4 SE 1/4, Sec. 26, - 16 inches for irrigation sprinkler system.
SW 1/4 SE 1/4, Sec. 26, T. 7N, R. 35E. Stockwater. 6 inch well

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

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	
7N	35E	26												40	20	40	40		140

No. of acres 140

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

NOTE: Include here the type and number of stock watered: 200 head range cattle

(7) If you are claiming water as a member of an organization, list name of organization:

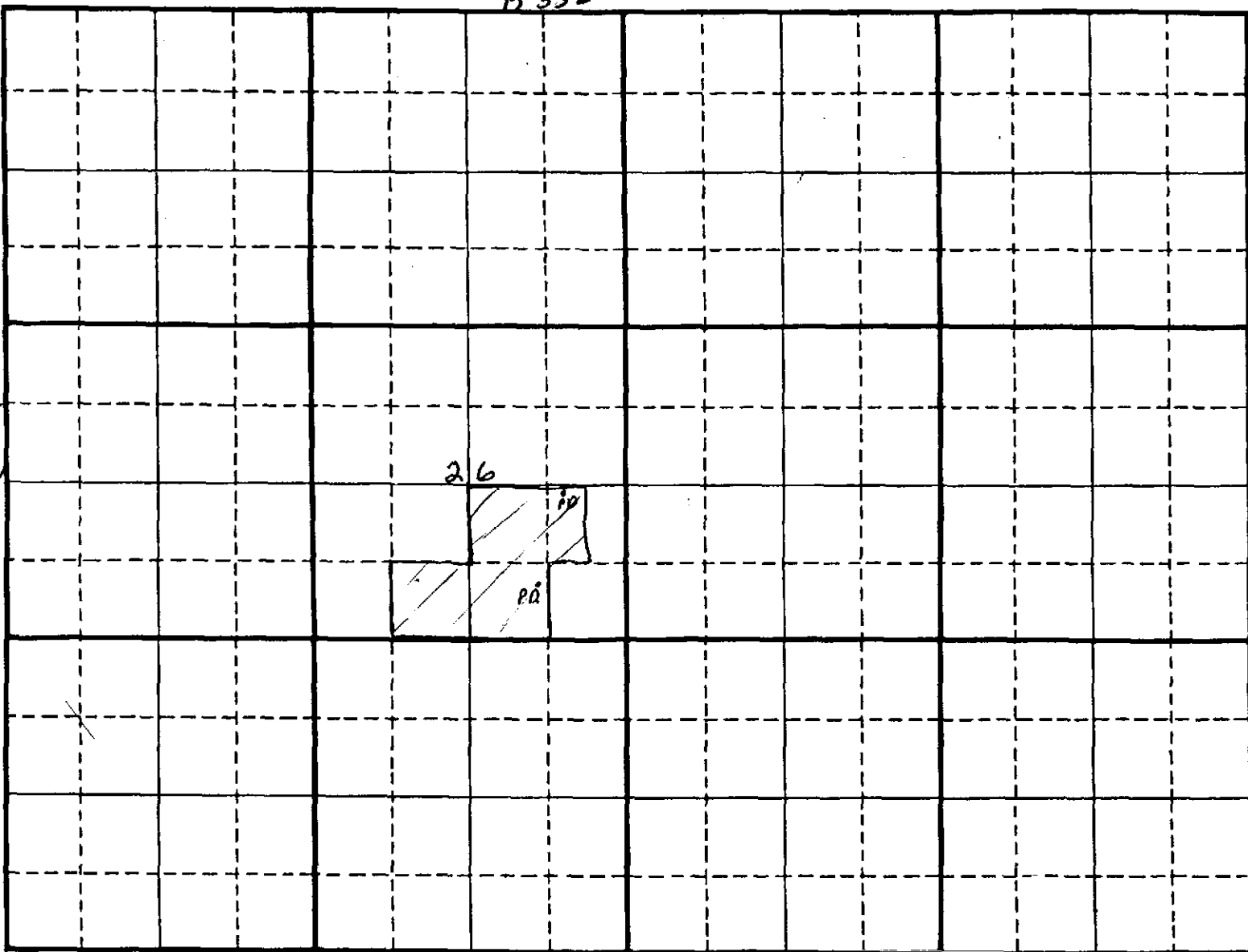
MICROFILMED

MAY 14 1986

(8) Remarks

B 35E

T
7
N



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Townsville) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 2nd day of May, 1980.

David H. Edwards
(Claimant)

Calvin Gray
Notary Public
Residing at Idaho Falls, Id.

My commission expires 6/15/81

FOR DEPARTMENT USE ONLY

Received by JC Date 5/2/80 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by SM Date 5-2-1980 claimant by: _____
\$20.00 fee received by JD Date 5/2/80 # B969
Published in The Rigby Star
Dates 5/15 & 5/22/80

RECORDED
MAY 14 1980

July 9, 1986

State of Idaho
Department of Fish & Game
1515 Lincoln Road
Idaho Falls, Idaho 83401

RE: Application for Permit No. 31-7338, David F. Edwards,
assigned to K. Paul Gunderson.

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is August 4, 1986, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:md

Enclosure

NOT RECORDED

MAY 14 1986

July 9, 1986

Fish & Wildlife Service
U.S. Dept. of Interior
Camas National Wildlife Refuge
Hamer, Idaho 83425

RE: Application for Permit No. 31-7338, David F. Edwards,
assigned to K. Paul Gunderson.

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is August 4, 1986, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:md

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

JULY 9, 1986

The Risby Star
P. O. Box 37
Risby, Idaho 83442

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before AUGUST 4, 1986.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

MICROFILMED

MAY 14 1988

NOTICE OF AMENDED APPLICATION FOR WATER PERMIT

Notice is hereby given that Application for Permit No. 31-7338 in the name of David F. Edwards, assigned to Paul Gunderson, Hamer, Idaho was filed for the diversion of 3.2 cfs of water from a groundwater source, with point of diversion within the NE1/4SE1/4, Sec. 26 T. 7N, R. 35E, B.M. Jefferson County, the water to be used for the irrigation of 160 acres from Apr. 1 to Nov. 1, within the SE1/4SW1/4, N1/2SE1/4, SW1/4SE1/4, Sec. 26, T. 7N, R. 35E., B.M.

The applicant now proposes to amend Application No. 31-7338, requesting 3.2 cfs of water and amending the point of diversion to within the NE1/4SE1/4, Sec. 26, NW1/4SW1/4, Sec. 25, T. 7N, R. 35E, for use within the NE1/4SE1/4, S1/2SE1/4 Sec. 26, NW1/4SW1/4, Sec. 25, T. 7N, R. 35E, B.M., Jefferson County.

Any protest to the proposed amending of the application must be filed with the Department of Water Resources 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83401, on or before August 4, 1986.

A. Kenneth Dunn

Director

Published 7/17/86 & 7/24/86

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MAY 14 1988

INTER-DEPARTMENT MEMO — 1

FROM GARY SPACKMAN

DATE July 3, 1986

TO FILE

SUBJECT PROTESTS TO APPLICATION # 31-7338

The report referred to in the protest conference notes authored by C.E. Brockway is in the possession of Steve McLormick, and is being retained by him in preparation for current litigation regarding Mud Lake water. The name of the document is Application of a Numerical Ground Water Model to the Mud Lake Area in Southeastern Idaho, by G.S. Johnson, C.E. Brockway and S.P. Luttrell.

MICROFILMED

Gary Spackman
SIGNATURE

MAY 14 1988

MEMO

TO: File

FROM: Ernest Carlsen *ENC*

RE: No. 31-7338

DATE: July 2, 1986

Mr. Gunderson was in the office today inquiring about what action could be taken concerning the above captioned application. Because the system was actually in operation prior to November 19, 1982, we decided he should petition for release from the Swan Falls suit. If successful, the Department would then schedule the matter for another hearing to consider the protests.

In reviewing the file we also discovered that the points of diversion and place of use were incorrectly listed on the application. While in the office, Mr. Gunderson amended the application to reflect the correct legal descriptions. While he is pursuing his petition for release, this office will proceed with advertising of the amendment.

MICROFILMED

MAY 14 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

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

March 10, 1981

Mr. K. Paul Gunderson
Box 816
Hamer, Idaho 83425
Permit #31-7338

Re: Mr. Gunderson:

This office acknowledges receipt of the Assignment of the above referenced permit to you.

Enclosed for your records is a copy of the permit. Be sure to note the special conditions of approval on the fourth page that identify requirements necessary for developing the permit into a licensed water right.

If you have any questions on this matter, please feel free to contact us.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:mr

Enclosure

MICROFILMED

MAY 14 1998

31- 7338

LOCATION

DEPT.

NAME

DATE

TO

IDAHO FALLS

ERNEST CARLSON

2/17/81

SUBJECT

Enclosed is the assignment of Permit we discussed
by telephone. Please proceed as necessary.

Jim Johnson

RECEIVED

FEB 20 1981

Department of Water Resources

RECEIVED

FEB 19 1981

Department of Water Resources
Eastern District Office

MICROFILMED

MAY 14 1988

LOCATION

DEPT.

NAME

Paul Henderson

CONVERSATION MEMORANDUM

DATE 10/27/1980

NAME OF PARTY Paul Gunderson

EMPLOYEE Ernest Carlsen *emc*

RE: Assignment forms: Mr. Edwards has advised Paul that he is reluctant to

Look in Water Bulletin 1958-68 Ade Lalston Chapmar Ch

Water Level Changes in Mud Lake Area - Idaho Dept. Reclamation Info Bulletin

Page 5

initiate the assignment forms on Application 31-7338 and 31-7339. Since Mr. Edwards apparently has no possessory interest in the place of use I suggested to Mr. Gunderson that he contact Ray Rigby, Edwards attorney, and explain the situation. I also indicated to Mr. Gunderson that the Department could deny the applications based on speculation if Mr. Edwards could not provide proof of possessory interest.

12:00 p.m.

Mr. Gunderson called and stated he had talked with Ray Rigby. Mr. Rigby indicated he would advise his client to assign the applications over to Mr. Gunderson.

MICROFILMED

MAY 14 1998

IN THE MATTER OF
APPLICATION FOR PERMIT
31-7338 IN THE NAME
OF DAVID F. EDWARDS,

STIPULATION

AGREEMENT.

We hereby agree to allow the Dept. of Water Resources to reach a decision in this matter based on the information provided at the conference, the water master records & records of the Dept. We understand a proposed decision will be issued and we have the right to appeal this decision ~~either~~ to the Director of the Dept. of Water Resources or the District Court.

Signed on Oct. 22nd, 1980 in Mad Lake Idaho.

Carl R Haggan for Halley Water Users
Dean B. Hofstad Pres Jack H. H. Conal
Paul Shumaker for
D F Edwards

MICROFILMED

MAY 14 1998

Dr Brockway - Liberty Research Station.
"Stems Report" - ground water movement,

- "New Well" is within 200' of one of Holley water users wells.
- North of number 5 well, which produces 400" of water.
- Jickett Canal - has two wells which have been going dry for the past 5 years. The water table has been dropping.

Don Sheaton - two groundwater levels - perched zone at surface $\pm$ 220 to 200 ft. are both aquifers showing a decline?

Don Sheaton -

5 wells on -	54.78 cfs	6-17-1980	5 wells,
	53.07 cfs.	6-30	"
	50.01 cfs.	7-11	"
	49.51 cfs.	7-	"
	44.77 cfs.	8-12	"
	28.01 cfs.	8-30	- maybe less wells flowing.

- had a heavy spring run off - wells normally start filling Mud Lake in March or April. - Did not have to do that this year.

Don has curve on Artesian flow on Holley since 1931.

issue: - The mining of the ground water has ~~not~~ caused a decline ~~in~~ in the water table, and there is no suitable groundwater below perched level.

Not concerned with the possibility of direct interference between applicant's & protestant's wells.

MICROFILMED

47,000 acres in Mud Lake area are irrigated with ground water.

MAY 14 1998

Conference.

10-22-1980.

- 81-7338 & 81-7337.

Applicant - David Edwards - represented by Paul Gundersen.

Protestants - Valley Water Users, represented by LaMayne Barney.

Perkett Canal Co. represented by Dean Koford.

Paul Gundersen.

Existing 16" diameter well 50' deep. 40 hp pump.

drilled in 1976, used for irrigation in 3 years.

presently irrigating 80 acs. Referred to as "new well".

cased to 20 ft. 3/4" 19' to 26' below land surface.

"Old well" (12" p.d.) drilled in 1932. used to irrigate

± 80 to 100 acs. ~~used~~ by Joe Nelson & Marcus.

Paul Gundersen has irrigated 80 to 100 acs (since 1970) of these lands

listed on application. proposed to increase total ~~area~~

irrigated average to 160.

³ Valley users - this falls their ~~water~~ "flowing wells" had 5/4

13' B.S.D.

perkett users - just barely flowing at present time.

Applicants	Purchasing Property	10-22-80
David F. Edwards -	Represented by Paul Gundersen -	31-7330, 39
Protestants		
Holly Water Users	La Mayre Barney	
Jackett Canal Company,	Dean Koford Pres	

Existing well 50 feet deep

No draw down -

Drilled in 1976 - Has irrigated
Presently irrigating 80

Old Well → Drilled in 1932 -

Irrigated about ⁸⁰100 acres of this place -

Period of 25 years

Present Owner began irrigating about 80 to 100 ^{with old well} acres in 1970

Now plans to irrigate 160 acres total the system is installed

New Well

Water Level 19 to 26 feet

40 HP Motor

Water is not artesian

3500 inches

Jackett - 3000 inches

Holley Wells - 2400 inches

Dropped 13 feet this Fall →

→ New well is about 100 feet away from Holley #5

Concerned about two water rights

Concern is that there is a decline in the water level during the past five year

Less recharge on Egin Bench may be a cause —

$$HB \frac{Qh}{88} \quad 40 = \frac{Q \cdot 20}{8.8} = 17 \text{ cfs} \quad 100\% \text{ efficiency}$$

Holley Water Users Well —

6-17	- 54.78 cfs	2.49 gage	Swells on
6-30	- 53.67	2.46	"
7-11	- 53.01		

The new well -

30 - 49.51

8-12 - 44.77

30 - 28.01

1.68

wells may not have been on

- 44.00 lowest

This was a good water year as far as no use required early in the season

water table has fluctuated for 10 years and flow depends of recharge during the winter —

The water level they feel is declining —

P

Holley Water Users Well
#5 - One of best well

50 HP

20" dia about 60' deep pumps 400 inches

Not artesian -

Do not know drawdown

15 wells within a mile →

This may be a perched table

Chuck Brockway is studying the area on a study by U of I

~~156,744~~ acres irrigated

Perched table should be protected -

Artesian flows during winter months are deemed for filling storage in Mud Lake.

When adjudicating a claim the burden of proof is with the claimant. Who must provide proof concerning the elements of the claim.

Protestants ^{willing} ~~want~~ to withdraw objections provided applicant amends application to limit ~~the~~ing the diversion from only one well and reduce Q to 1000 gpm.

ND SW Sec 25 Twp. 7N. Rge 35E.

Applicant requested 2 to 3 days ~~time~~ to weigh alternatives before taking definitive action.

Conference Room, City Hall, Mud Lake, Idaho

Wednesday, October 22, 1980 (9:00 a.m.)

ROSTER OF ATTENDANCE

Hearing Officer Bob Fleenor

Name	Address	Representing
Carl Hoggan	Hamer	Halley Water Users
Carl Lundholm	Hamer	Halley Water Users
Quinn Dunn	Hamer	Jackett Canal Co
Tom Hodgson	Territon	Cusley Canal Co.
Wil Wilding	Territon	Cusley Canal Co.
Donald W. Skenton	Boise, Ida.	Water Dist #31
Paul Gunderson	Hamer Idaho	Paul Gunderson
LaMayne Barney	Hamer Idaho	Halley water users
Joe Marty	Hamer	Jackett Canal Co
Don Hofoed	Territon	Jackett Canal
Jim Shively	Territon	Cusley Canal

October 14, 1980

City Hall
Mud Lake,
Idaho 83450

Gentlemen:

This is to confirm the use of the Conference Room for conference and/or hearing to be held by this office on Wednesday, October 22, 1980, at 9:00 a.m.

Thank you for your cooperation in this matter.

Sincerely,

KAY WALKER
Secretary

KW:k

MICROFILMED
MAY 14 1988

31-7338/7339

returned
receipts

MICROFILMED

MAY 14 1998

SENDER: Complete items 1, 2, and 3.

Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one)

- ☒ Show to whom and date delivered.....
☐ Show to whom, date and address of delivery.....
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery. \$—

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Joe Maaty
 Hamedo

3. ARTICLE DESCRIPTION:

REGISTERED NO. CERTIFIED NO.

11684

INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY

10-9-80

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

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INITIALS

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PS Form 3811, Jan. 1979

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits.
- otherwise affix to back of article.
- Endorse article "Return Receipt Requested"

adjacent to number.

RETURN
TO



Department of Water Resources
Eastern District Office

Department of Water Resources
Eastern District Office
(Name of Sender)

EASTERN DISTRICT OFFICE

IDAHO FALLS, IDAHO 83401

(City, State, and ZIP Code)

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



RECEIVED
OCT 10 1980

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- ☒ Show to whom and date delivered.
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☐ RESTRICTED DELIVERY
Show to whom and date delivered.
☐ RESTRICTED DELIVERY.
Show to whom, date, and address of delivery. \$ ____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Reverend R. J. Brown
Home

3. ARTICLE DESCRIPTION:

REGISTERED NO.

CERTIFIED NO.

INSURED NO.

1683

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY

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6. UNABLE TO DELIVER BECAUSE:

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UNITED STATES POSTAL SERVICE

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Print your name, address, and ZIP Code in the space below.

SENDER INSTRUCTIONS

- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits.
- Otherwise affix to back of article.
- Endorse article "Return Receipt Requested"
- Adjust to number.

PENALTY FOR PRIVATE
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MAY 14 1980

OCT 10 1980

Department of Water Resources
Eastern District Office

(Name of Sender)
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE

1600 W. 10th St.
IDAHO FALLS, IDAHO 83401

(City, State, and ZIP Code)



1. SENDER: Complete items 1, 2, and 3.

Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)

- ☒ Show to whom and date delivered.....
- ☐ Show to whom, date and address of delivery.....
- ☐ RESTRICTED DELIVERY
Show to whom and date delivered.....
- ☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery. \$ ____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

James E. Bodney
Frederick City, Md.
Frank

3. ARTICLE DESCRIPTION:

REGISTERED NO.

CERTIFIED NO.

(INSURED NO.)

1685

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

☐ Addressee ☐ Authorized agent

DATE OF DELIVERY

POSTMARK

10-9-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

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UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

- Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on the reverse.
 - Attach to front of article if space permits.
 - Otherwise affix to back of article.
 - Endorse article "Return Receipt Requested"
- adjacent to number.

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Department of Water Resources
Eastern District Office

OCT 10 1961

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DEPARTMENT OF WATER RESOURCES

EASTERN (SUNSHINE OFFICE)

1515 LINCOLN ROAD

IDAHO FALLS, IDAHO 83401

(City, State, and ZIP Code)

(Name of Sender)

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



● SENDER:

Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on
reverse.

1. The following service is requested (check one)

- ☒ Show to whom and date delivered.
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- ☐ RESTRICTED DELIVERY
- Show to whom and date delivered.
- ☐ RESTRICTED DELIVERY.
- Show to whom, date, and address of delivery. —

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Dean B. Speed
Stametz, Dr.

3. ARTICLE DESCRIPTION:

REGISTERED NO.

CERTIFIED NO.

INSURED NO.

11682

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SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY

POSTMARK

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PS Form 3811, Jan. 1973

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

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- Attach to front of article if space permits.
- Otherwise affix to back of article.
- Endorse article "Return Receipt Requested"

adjacent to number.

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TO**



MICROFILMED
MAY 14 1988

Department of Water Resources
Eastern District Office

(Name of Sender)

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

1515 (Street or R.O. Box)

IDAHO FALLS, IDAHO 83401

(City, State, and ZIP Code)

OCT 15 1980

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Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one)

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☐ Show to whom, date and address of delivery... 1 ✓
☐ RESTRICTED DELIVERY
 Show to whom and date delivered..... 4 ✓
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery. 5 _____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

David Edwards
 Textron, Inc.

3. ARTICLE DESCRIPTION:

1081

REGISTERED NO. CERTIFIED NO.

INSURED NO.

(Always obtain signature of addressee, or agent)

I have received the article described above.

SIGNATURE

☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY

10-14-80

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS

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UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits.
- otherwise affix to back of article.
- Endorse article "Return Receipt Requested"

adjacent to number.

RETURN
TO



Department of Water Resources

Eastern District Office

DEPARTMENT OF WATER RESOURCES

Eastern District Office

1515 LINCOLN ROAD

IDAH0 FALLS 15110 83401

(Street or P.O. Box)

(City, State, and ZIP Code)

OCT 15 1980

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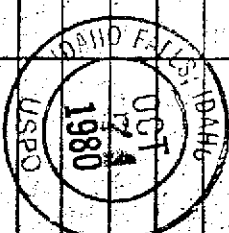
MICROFILMED
MAY 14 1998

DEPARTMENT OF WATER RESOURCES

Name and Address of Sender
 EASTERN DISTRICT OFFICE
 1515 LINCOLN ROAD
 IDAHO FALLS, IDAHO 83401

Indicate type of mail:
☐ REGISTERED ☐ REGISTERED C.O.D.
☒ CERTIFIED
 Affix stamp here if issued on certificate of mailing or for additional copies of this bill.
 POSTMASTER AND DATE OF RECEIPT

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	PER	R.R. FEE	REG. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS
1	11073 John Mendenhall, Rapid Ct. Rd., Idaho	15	80	45				29-2004
2	11074 Archie D. Service, Box 4883, Pocatello	15	80	45				29-2004
3	11075 Ray H. Phillips, Box 5, Idaho	15	80	45				29-2004
4	11076 Raymond F. Galt, Box 117, Idaho	15	80	45				29-2004
5	11077 Keith Edgcock, Box 33, Idaho	15	80	45				29-2004
6	11078 Mary Ann South, Rt. 1, Box 114, Meridian	15	80	45				01-7016
7	11079 James Mattemson, F.W.I.D., Box 5, St Anthony	15	80	45				01-7016
8	11080 Mary Smith, 305 2nd St., Rexburg	15	80	45				01-7016
9	11081 David Edmund, Juntura	15	80	45				31-7338
10	11083 Dean B. Keady, Nemo	15	80	45				31-7338
11	11083 Economic Agency, Nemo	15	80	45				31-7338
12	11084 Joe Mosty, Nemo	15	80	45				31-7338
13	11085 Wilmoyne B. Borne, Nemo	15	80	45				31-7338
14	11086 Wilmoyne B. Borne, Box 307, Teton	15	80	45				01-0028
15	11087 Brent L. Moss, 305 2nd St., Juntura	15	80	45				01-0028
16	11088 Ed Hall, Box 6, Juntura	15	80	45				01-0028
17	11089 Earl Hall, Idaho, Juntura	15	80	45				01-0028
18	11090 Earl Hall, Box 230, Juntura	15	80	45				01-0028
19	11091 Clinton H. Cox, Box 238, Juntura	15	80	45				01-0028
20	11092 A.R. Wright, Rt. 3, Box 151, Juntura	15	80	45				01-0028



TOTAL NO. OF PIECES LISTED BY SENDER: 20
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 POSTMASTER, PER (Name of receiving employee):
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APPLICATION FOR REGISTERED, REGISTERED C.O.D. AND CERTIFIED MAIL
 (Declaration of value is required on international registered mail)
 U.S. GOVERNMENT PRINTING OFFICE: 1974-0-588-715

FORM MUST BE MADE OUT IN INK OR BALL POINT PEN

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

IN THE MATTER OF PROTESTS AGAINST
APPROVAL OF APPLICATION FOR PERMIT
NO. 31-7338 and 31-7339 IN THE NAME
OF DAVID F. EDWARDS

NOTICE OF CONFERENCE
AND/OR HEARING

On May 2, 1980, David F. Edwards filed with the Department of Water Resources two applications to appropriate the public waters of the State of Idaho. On May 27, 1980, the Department received a protest against approval of said applications from the Holley Water Users, LaMoyne Barney, Secretary. On June 2, 1980, an additional protest against application No. 31-7338 was received from the Jackett Canal Company.

The Department has set the matter of protest for conference and/or hearing for Wednesday, October 22, 1980, at 9:00 a.m. in the Conference Room, City Hall, Mud Lake, Idaho. Any hearing will be held in accordance with provisions of Chapter 2, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the applications and protest(s):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

RECORDED
INDEXED

5. Will the proposed use conflict with the local public interest?

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

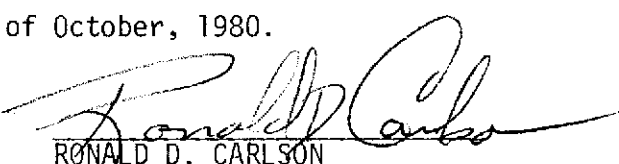
If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties will be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 67-5211.

By written stipulation, the parties may waive compliance with Idaho Code, Section 67-5211. If the hearing is conducted by a hearing officer, the hearing officer will ask the parties at the close of the hearing whether they would like to make such a stipulation.

Failure to waive compliance with Idaho Code, Section 67-5211 will not prejudice the Director's review of the party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 67-5211 is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 7th day of October, 1980.


RONALD D. CARLSON
Eastern Regional Supervisor

RECEIVED
OCT 11 1980

**NOTICE OF APPLICATION
FOR WATER RIGHT**

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho.

31-7338

Edwards, David F.; Terreton, ID 83450

Source: Groundwater
Date Filed: 05/02/1980
Amount: 3.20 CFS

Diversion Point: NESE Sec 26 T 07N R 35E, Jefferson Co.

Use: Irrigation (3.20 CFS) from 04/01 to 11/01

Place of Use: SESW NESE NWSE SWSE Sec 26 T 07N R 35E for 160 acres

Diversion Means: Wells & sprinkler system.

31-7339

Edwards, David F.; Terreton, ID 83450

Source: Groundwater
Date Filed: 05/02/1980
Amount: 0.17 CFS

Diversion Point: SWSE Sec 18 T 06N R 35E, Jefferson Co.

Use: Irrigation (0.04 CFS) from 04/01 to 11/01; Stockwater (0.05 CFS) from 01/01 to 12/31; Domestic (0.08 CFS) from 01/01 to 12/31

Place of Use: SWSE Sec 18 T 06N R 35E for 2 acres

Diversion Means: Well, pump & lines.

If issued, the permittee will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before June 2, 1980.

/s/ C. Stephen Allred
Director

Published May 14 and 21, 1980

RECEIVED

JUN 9 1980

Affidavit of Publication

Department of Water Resources
Eastern District Office

THE RIGBY STAR

STATE OF IDAHO,

County of Jefferson

ss

I, Marie B. Nye, do solemnly swear that I am the Publisher of THE RIGBY STAR, a weekly newspaper as defined by Idaho Codes Annotated Section 58-106 as amended, and that said newspaper is a weekly newspaper, printed and published at Rigby, Jefferson County, Idaho, having a general circulation in said county, and that said newspaper has been printed and published as a weekly newspaper, in said county for more than 78 consecutive weeks prior to the first publication of the attached notice.

And affiant further says that at the times herein mentioned said publication as per clipping attached, was published in said newspaper in the regular and entire issue thereof, and not in any supplement issue thereof, for 2 consecutive issues thereof; first publication having been made on the

Fourteenth day of May, 19 80

and the last publication on the

Twenty-First day of May, 19 80

And affiant further says that at the times herein mentioned said newspaper was made up of at least four pages of at least five columns each printed from type matter of at least seventeen and three-fourths inches depth; and that there are at least two hundred bonafide subscribers in Jefferson County.

Marie B. Nye

Publisher

Subscribed in my presence and sworn to before me this Twenty-First day of May, 19 80.

[SEAL]

Carolyn M. Hagler

Notary Public for the State of Idaho
Residence and P. O. Address, Rigby, Idaho.

My commission expires Life, 19 80

Publication Fee: \$ 22.55

MICROFILMED

MAY 14 1981



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

June 9, 1980

RE: Application for Permit No. 31-7338 - Groundwater in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 26,
Twp. 7N, Rge. 35E, B.M.

David F. Edwards
Terreton, ID 83450

Dear Mr. Edwards:

Enclosed herewith is an additional protest against approval of your application for permit as referenced above. Please feel free to contact this office should you have any questions.

Sincerely,

KAY WALKER
Secretary

June 6, 1980

RE: Application for Permit No. 31-7338 EDWARDS

Dean B. Kofoed, President
Jackett Canal Company
Hamer, Idaho 83425

Dear Mr. Kofoed:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

cc: TWP - State Office

RECORDED

MAY 14 1980

June 6, 1980

RE: Application for Permit No. 31-7338 EDWARDS

Dennis Green, Secretary
Jackett Canal Company
Hamer, Idaho 83425

Dear Mr. Green:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

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3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

June 6, 1980

Joe Marty
Hamer,
Idaho 83425

RE: Application for Permit No. 31-8338

Dear Mr. Marty:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

THE JACKETT CANAL COMPANY

HAMER, IDAHO 83425

Idaho department of Water Resources
1615 Lincoln Road
Idaho Falls, Idaho ~~83450~~ 83401

Dear Sirs;

On behalf of the Jackett Canal Company we are filing a protest
to the application for permit # 31-7448 for ground water for
David F. Edwards

The granting of this application would be detrimental to the
existing systems. This land if irrigated could severely hurt the
underground sources of water for the Jackett Canal System.

If you desire further information please let us know.

Sincerely,

Board of Directors
Jackett Canal Company

WITHDRAWN

Dean B. Kofod Pres

Annis Lee Leary

Joe Marty V.P.

RECEIVED

JUN 2 1980

Department of Water Resources
Eastern District Office

May 29, 1980

RE: Applications for Permit No. 31-7338 and 31-7339

David F. Edwards
Terreton,
Idaho 83450

Dear Mr. Edwards:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your Application No. 31-7338 and 31-7339. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

Enclosure

May 29, 1980

RE: Application for Permit No. 31-7338 and 31-7339 EDWARDS

LaMoynes Barney, Secretary
Holley Water Users
Hamer, Idaho 83425

Gentlemen:

Your protest against the approval of the above referenced applications has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the applications and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:rw:kw

RECEIVED

MAY 27 1980

Department of Water Resources
Eastern District Office

Hamer Idaho
May 23 1980

Director of the Department of
Water Resources

Dear Sir

Halley water users wish to
protest the applications for
water development of David
J. Edwards Nos 31-7338 -
31-7339 & 31-4035

We feel further development
of under ground water will
have effect on our present
under ground water table &
deplete our water supply.

Our wells have been producing
less the past three years

WITHDRAWN

MICROFILMED

MAY 14 1988

Your sincerely

Halley Water Users

Sir - LaMayne Barney

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before JUNE 2, 1980.

C. STEPHEN ALLRED

Director

Published 05/15 & 05/22/80
MICROFILMED

MAY 14 1998

31-2338-

EDWARDS, DAVID F.

TERRETON, ID 83450

Source: GROUNDWATER

Date Filed: 05/02/1980

Amount: 3.20 CFS

Diversion Point: NESE Sec 26 T 07N R 35E, JEFFERSON Co.

Use: IRRIGATION (3.20 CFS) from 04/01 to 11/01

Place of Use: SESW NESE NWSE SWSE Sec 26 T 07N R 35E FOR 160 ACRES

Diversion Means: WELLS & SPRINKLER SYSTEM.

MICROFILMED

MAY 14 1988