RECEIVED
NOV 18 2004
DEPARTMENT OF
WATER RESOURCES

CHARLES L. HONSINGER (ISB #5240)
JON GOULD (ISB #6709)
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Attorneys for Petitioner John W. Baicy

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO. 63-07431	PETITION TO AMEND ORDER VOIDING PERMIT

COMES NOW, John W. Baicy, the Permittee in the above-captioned matter, by and through his attorneys Ringert Clark, Chartered, and hereby Petitions the Idaho Department of Water Resources to Amend the *Preliminary Order* Voiding Permit No. 43-04088, and instead issue an Order reinstating Permit No. 43-04088 and issuing a license for the same. This Petition is made pursuant to I.C. §42-219 and § IDAPA 37.01.01.230, and is supported by the *Affidavit of John W. Baicy* (hereinafter "*Baicy Affidavit*") and the *Affidavit of Charles L. Honsinger* filed concurrently herewith, and by the Idaho Department of Water Resources' records regarding Permit no. 63-07431.

FACTS

Lillian M. Terwilliger filed Application for Permit no. 63-07431 with the Idaho Department of Water Resources on May 11, 1974. The application requested a water right of 3.24 cfs for stockwater and domestic purposes, and to irrigate a total of 160 acres in T01N R01E, Section 19, NE ¼ (hereinafter referred to as the "Property"). Permit no. 63-07431 was approved on June 18,

1971. *Baicy Affidavit*,¶4, Ex. B. Proof of Beneficial Use was required by the Permit to be submitted by June 1, 1976. *Id.*

The Property was the subject of a Desert Land Entry application, also filed by Ms. Terwilliger, which was approved by the Bureau of Land Management on June 23, 1971. *Id*, ¶3, Ex. A. On November 10, 1971, Ms. Terwilliger executed a Quitclaim Deed transferring her interest in the Property and in Permit no. 63-07431 to John W. Baicy. *Id*, ¶ 5, Ex. C. On the same day, Ms. Terwilliger assigned Permit no. 63-07431 to Mr. Baicy. *Id*, ¶ 6, Ex. D.

From 1972 through 1975, a period in which Mr. Baicy was dealing with the Bureau of Land Management over difficulties with the Desert Land Entry application, he set about the work of developing the Property for farming purposes. He had the Property surveyed to determine potential locations for the proposed well and irrigation ditches; cleared the Property; constructed roads; installed an irrigation well and pump; supplied power to the well and pump; and installed irrigation mainlines. *Id*, ¶¶ 7 - 13, Exs. E, F, G, H, I, J, K. In 1975, Mr. Baicy planted and irrigated a winter wheat crop on the Property. *Id*, ¶ 14, Ex. L. In 1976, Mr. Baicy planted and irrigated wheat and alfalfa on the property. *Id*, ¶15, Ex. M.

On May 13, 1976, Mr. Baicy requested an extension of time within which to submit proof of beneficial use for Permit no. 64-07431 from IDWR due to delays in the BLM Desert Land Entry process. *Id*, ¶18, Ex. P. IDWR granted the request for extension, making proof of beneficial use due on June 1, 1978. *Id*, ¶18, Ex. Q.

On July 21, 1976, BLM Realty Specialist John E. Jorenby conducted a field examination to determine whether or not development of the Property complied with the Desert Land Act. *Id*, ¶ 16, Ex. N. Mr. Jorenby completed a Field Compliance Report detailing his examination and findings on

July 30, 1976. *Id.* Among Mr. Jorenby's findings are the following: (1) that Mr. Baicy had cultivated and irrigated approximately 116 acres as of the date of the examination - a map detailing the location of irrigated acres is attached to the Field Compliance Report; (2) that the installed well and pump were adequate to irrigate the entire Property - the Report also describes the pump, the irrigation system, and the system's operation; (3) that the irrigation system installed on the Property was in operation on the date of the field exam; and (4) that the portions of the Property not being irrigated on July 20, 1976 "could be irrigated if the land were leveled and some rock removed." *Id.* The BLM issued Mr. Baicy a Land Patent for the Property on August 18, 1976. *Id*, ¶17, Ex. O.

After receiving the Land Patent to the Property, Mr. Baicy submitted an Affidavit of Proof of Beneficial Use of permit no. 63-07431 to IDWR on September 21, 1976. *Id*, ¶ 19, Ex. R. However, IDWR returned the affidavit as unacceptable because it did not state that an approved measuring device had been installed as a part of the diversion works on the Property. *Id*, ¶ 20, Ex. S.

Mr. Baicy again submitted an affidavit of Proof of Beneficial Use on May 9, 1978 together with correspondence explaining that he would be out of state for several months and thus might not be able to attend the licensing exam. The correspondence also explained that the irrigation system was operational and ready for examination even if Mr. Baicy was unavailable. *Id*, ¶ 23, Ex. V. On May 17, 1978, IDWR responded to Mr. Baicy's submission of proof of beneficial use, acknowledging receipt and acceptance of the proof, and informing him that a field examination would be required prior to licensure of water right no. 63-07431. *Id*, ¶ 24, Ex. W. At that time, Mr. Baicy assumed that a field exam would be quickly conducted and water right permit no. 63-07431 promptly licensed. *Id*, ¶ 25.

Between the July 21, 1976 BLM Desert Land Entry field exam conducted by Mr. Jorenby and the May 9, 1978 submission of Proof of Beneficial Use, Mr. Baicy continued to develop the Property by leveling and irrigating portions that were undeveloped when the Property was inspected by Mr. Jorenby. Mr. Baicy represented in his May 9, 1978 Proof of Beneficial Use that 148 acres of the Property were irrigated as of that date based upon his estimate of the land under irrigation. *Id*, Ex. V. Aerial photographs from 1976, 1977 and 1981 confirm irrigation development of the Property beyond that observed and confirmed by Mr. Jorenby during his 1976 field examination. *Id*, ¶¶ 22, 27, Exs. T, U, X.

In 1978 Mr. Baicy accepted a job with the Boeing Company, that required him to move to Seattle. He was required to move many times thereafter for his job - both within the United States and overseas. *Id*, ¶ 26. Because of his expected continuing absences, Mr. Baicy hired Tom Carson to farm the Property in 1978. *Id.* Mr. Carson farmed the Property until about 1984 or 1985. *Id.* Unfortunately, Mr. Baicy does not know how to contact Mr. Carson today. *Id.* After Mr. Carson farmed the Property, Mr. Baicy rented the Property to Rodney Warfield between 1985 and 1987. *Id*, ¶ 28. Mr. Warfield irrigated the hay he grew on the Property during that period of time. *Id.*

IDWR did not contact Mr. Baicy about a licensing examination until 1986 when it sent a letter explaining that a newly implemented statute required the payment of a fee before a licensing examination would be conducted. *Id*, ¶¶ 29, 30, Ex. Y. Mr. Baicy paid the licensing fee and informed IDWR in a May 17, 1986 letter (which IDWR didn't receive until September 22, 1986) that he was in the process of re-leveling and clearing the Property, and that he was planning to begin irrigation again in August or September of 1986. *Id*, ¶ 31, Ex. Z. From 1987 to 1991, Mr. Baicy did not irrigate the Property, both because of ongoing maintenance of the irrigation system and because

a decline in crop prices made it uneconomical to farm during that time period. *Id*, ¶32.

Mr. Baicy filed a claim to water right no. 63-07431 in the Snake River Basin Adjudication on August 22, 1989. *Id*, ¶ 33, Ex. AA. Mr. Baicy had the pump motor and panel for the well which is the point of diversion for water right no. 63-07431 refurbished in April of 1991. *Id*, ¶ 34, Ex. BB. During the 1990's, Mr. Baicy continued to make improvements to the Property. *Id*, ¶ 35.

IDWR conducted a beneficial use exam of the Property on June 6, 1992. The examiner found "no beneficial use" of water, "no cultivation," and "no evidence of irrigation," although she did find a "power supply in place." *Honsinger Affidavit*, Ex. A. In 1992 and 1994, Mr. Baicy received a Notice of Pending Order to Void Permit no. 63-07431 and correspondence from IDWR, both requesting that he relinquish the permit. *Baicy Affidavit*, ¶¶ 36, 38; Exs. DD, FF. However, Mr. Baicy had satisfied all requirements necessary for his water right to be licensed and accordingly did not agree to relinquish Permit no. 63-07431. *Id*, ¶¶ 37, 39; Ex. EE, GG. On July 11, 1995, IDWR again conducted an examination of the Property "to determine if irrigated uses had been re-established since" the June 1, 1992 beneficial use exam. *Honsinger Affidavit*, Ex. B. In his memorandum, the inspector describes evidence "that supports the possibility there had in the past been some irrigation on the property"; electrical power to the pump was present, several piles of ten-inch mainline were placed on the Property, and the fields had previously been cleared of rocks and sagebrush. *Id.* On July 17, 1995, IDWR issued a *Preliminary Order* Voiding Permit no. 63-07431 which stated that the permit was being voided because examination found that Mr. Baicy had "not complied with the conditions of the permit by not completing construction of works and application of water from the identified source to the proposed beneficial use as required by the permit and Section 42-219, Idaho Code," and because Mr. Baicy had informed IDWR that water had "not been applied to a beneficial

use since 1985." *Honsinger Affidavit*, Ex. C. The Domestic Return Receipts with which the Preliminary Order was delivered to Mr. Baicy's Redmond, and Issaquah, WA addresses were twice returned without being delivered. *Honsinger Affidavit*, Ex. D.

In December, 1995, Mr. Baicy hired Boise water attorney Dan Steenson to determine the status of water permit no. 63-07431. Mr. Steenson informed Mr. Baicy that the permit had been voided, and informed IDWR that Mr. Baicy had been away from home at the time of the attempted delivery of the *Preliminary Order*. *Baicy Affidavit*, ¶ 40, Ex. HH. In late December of 1995, Mr. Baicy sent a letter to IDWR explaining that he had been in Asia at the time the *Preliminary Order* was issued, explaining that he had beneficially used water right no. 63-07431 as required by I.C. §42-219, and requesting that IDWR reconsider its action to void permit no. 63-07431. *Id*, ¶41, Ex. II. IDWR responded to Mr. Baicy's correspondence with a memorandum dated January 16, 1996. The January 16, 1996 Memorandum states that IDWR twice attempted to mail the *Preliminary Order* to Mr. Baicy. It also states that unless Mr. Baicy could provide evidence to show that the Property was "in a federal cropland set-aside program which would prevent forfeiture to the right through non-use", the Department would not take any action to rescind its *Preliminary Order* Voiding Permit. *Id*, ¶42, Ex. JJ.

In addition to receiving no contact from IDWR from 1978 to 1986 about the licensing of his permit, Mr. Baicy had difficulties receiving communications from IDWR during the period from 1986 through 1995. *Id*, ¶45. During that time Mr. Baicy worked for Boeing at Edwards Air Force Base, California and Seattle, Washington. *Id*, ¶43. He was required to travel extensively for periods of a month or more both inside the country and around the world. *Id*. He enlisted the help of his ex-wife to forward his mail, but her help did not prove reliable, and as a result, Mr. Baicy did not receive

many IDWR correspondences and phone messages. *Id*, ¶44.

ARGUMENT

I. IDWR Should Have Examined the Beneficial Use of Permit No. 63-07431 as of the Date of Submission of Proof of Beneficial Use

I.C. §2-219 authorizes and requires IDWR to examine the proof of beneficial use of a permitted water right that has been submitted for the purpose of confirming such use, and subsequently authorizes and requires IDWR to issue a license if the beneficial use is confirmed and all legal requirements have been met. The version of I.C. §42-219 which was in effect as of May 9, 1978 provides in relevant part that

> Upon receipt by the department of reclamation of all the evidence in relation to such final proof, it shall be the duty of the department to carefully examine the same, and if the department is satisfied that the law has been fully complied with and that the water is being used at the place claimed and for the purpose for which it was originally intended, the department shall issue to such user or users a license confirming such use.

1967 Idaho Sess. Laws 1096 - 1097 (emphasis added).

The language of I.C. §42-219 is quite clear: if the department receives final proof of beneficial use - as it did in this case on May 9, 1978 - it is the duty of the department to examine the proof, and if the proof is confirmed by examination, it is the duty of the department to issue a water right license. Here, the department received proof, but did not examine the beneficial use for which proof was submitted until 14 years after such submission. When IDWR found no current beneficial use during the 1992 license examination and the subsequent 1995 examination, it voided the Permit on the basis that the water right had been forfeited because water had not been beneficially used on the Property between 1987 and 1995. *See Honsinger Affidavit*, Ex. C; *Baicy Affidavit*, Ex. JJ.

There are two problems with this analysis. The first is that the *Preliminary Order Voiding*

Permit does not recognize Mr. Baicy's beneficial use of water right no. 63-07431 as of the date of submission of proof of beneficial use. The evidence that the water right was beneficially used for irrigation purposes is comprehensive, extensive, and simply irrefutable. There is Mr. Baicy's testimony about his development of the Property. *Baicy Affidavit*, ¶¶ 7 - 15, 21. There are affidavits from third parties detailing the steps taken by Mr. Baicy to prepare the Property for irrigation between 1972 and 1975. *Id*, Exs. E, G, H. There is the Desert Land Entry Field Compliance Report authored by Bureau of Land Managment Realty Specialist John Jorenby detailing his findings upon his examination of the Property and the appurtenant irrigation system. *Id*, Ex. N. Mr. Jorenby's findings include a map detailing the location of irrigated acreage and layout of the irrigation system; a description of the well, pump, irrigation system and operation thereof; and a conclusion that more of the Property could be irrigated than he found to be irrigated as of his July 21, 1976 examination. *Id.* There are aerial photographs from 1976, 1977 and 1981 confirming the irrigation of more of the Property than was found to be irrigated by Mr. Jorenby. Id, Exs. T, U, X. All of this evidence together leads to the inescapable conclusion that water right no. 63-07431 was used extensively to irrigate the Property as of Mr. Baicy's submission of Proof of Beneficial Use on May 9, 1978, and that a license would have been issued for that Permit had a beneficial use field examination been performed relatively quickly after its submission.

II. Forfeiture of Water Right No. 63-07431 Could Not Have Occurred

The second problem with IDWR's analysis that water right no. 63-07431 was forfeited is that Mr. Baicy could not have forfeited the water right between 1987 and 1995 because of the operation of the Forfeiture Tolling Rule. The Forfeiture Tolling Rule provides that the forfeiture provisions of I.C. §42-222 are tolled once a claimant files a claim in the SRBA for a particular water right.

Memorandum Decision and Order on Challenge; and, Order of Partial Decree (Wood v. Trout), at pp. 8 - 11 (Subcase No. 65-05663B) (May 9, 2002) (hereinafter "*Wood v. Trout*"), at fn.6, pp. 14 - 15, *citing Order on Challenge (Consolidated Issues) of "Facility Volume" Issue and "Additional Evidence" Issue* (Subcases 36-02708 *et al.*) (Dec. 29, 1999). The SRBA District Court's Presiding Judge has held that the Forfeiture Tolling Rule is the "law of the case" in the SRBA. *Wood v. Trout.*

When Mr. Baicy filed his SRBA claim to water right no. 63-07431 in August, 1989, his filing tolled the operation of the forfeiture statute until such time as the SRBA district court determines the nature and validity of that water right. At that time, only two years had passed since Mr. Baicy had used water right no. 63-07431. To date, the SRBA has not yet taken up the issue of the nature and validity of Mr. Baicy's claim to water right no. 63-07431. Accordingly, water right no. 63-07431 could not have been forfeited when IDWR conducted either its 1992 or 1995 exams, nor when it issued its July 17, 1995 *Preliminary Order Voiding Permit*, nor for that matter even today.

III. IDWR Has Authority to Correct Final Orders

I.C. § 67-5254(1) allows IDWR to correct final orders after all periods for administrative and/or judicial review have expired. *Final Order*, In the Matter of License No. 61-07189 in the Name of Magic West (Jan 22, 1999); *See also Preliminary Order Correcting License*, In the Matter of Petition to Correct Water Right License Submitted by Darwin McKay (Feb. 1, 2000).

For example, IDWR has corrected issued licenses after detecting errors in the licensing procedure in at least two previous cases. In its 1999 *Final Order* in the Magic West licensing correction case, IDWR increased the volumetric limitation on the license issued in 1990 in part because of an IDWR error. IDWR failed to involve the licensee's designated representative in either the beneficial use field examination, or in the subsequent requests for information that IDWR

determined would have established a beneficial use of 58 afa under the permit, rather than the 12.8 afa that licensed. Notably, IDWR based its amendment to Magic West's license on evidence of beneficial use of the permitted water right which occurred more than twenty years prior to the amendment - and more than ten years before issuance of the water right license. *Final Order*, In the Matter of License No. 61-07189 in the Name of Magic West.

Similarly, in its *Preliminary Order* in the Darwin McKay licensing correction case, IDWR removed conditions in the license requiring the water right to be used only in conjunction with appurtenant surface water rights on the grounds that the water right was not developed by the permittee for use in conjunction with surface water and that the license did "not accurately portray the water use developed by the petitioner in accordance with" the permit. *Preliminary Order Correcting License*, In the Matter of Petition to Correct Water Right License Submitted by Darwin McKay.

Mr. Baicy's request that IDWR amend its *Preliminary Order* Voiding Permit No. 63-07431 is consistent with the reasoning applied by IDWR in each of the two foregoing examples. Mr. Baicy developed the beneficial use for which water right no. 63-07431 was permitted, but IDWR erred in failing to license that beneficial use as required by I.C. §42-219. Just as in the Magic West and Darwin McKay cases where evidence of actual use served as the basis for amending licenses, IDWR should examine the extensive evidence establishing Mr. Baicy's actual use of water right no. 63-07431. The fact that the evidence of beneficial use is more than twenty-five years old should have no bearing on IDWR's decision - just as was the case in the Magic West licensing amendment matter where the evidence of beneficial use of water was more than twenty years old. IDWR should examine the beneficial use shown and, just as it did in the Magic West case, amend its prior order to

provide for the licensure of the established actual use of the water right as of May 9, 1978 - the date that Mr. Baicy submitted his Proof of Beneficial Use.

CONCLUSION

Mr. Baicy beneficially used water right no. 63-07431 prior to his submission of proof of beneficial use on May 9, 1978. He continued to use that water right until at least 1986. He filed a claim to water right no. 63-07431 in the SRBA on August, 22, 1989, tolling the operation of the forfeiture provisions of I.C. §42-222. Accordingly, IDWR should examine the record provided in support of this Petition, determine the quantity of Property acreage that was irrigated prior to May 9, 1978, and, just as it has in the Darwin McKay and Magic West cases, rescind its *Preliminary Order* Voiding Permit, and issue a license to Mr. Baicy for water right no. 63-07431 with the appropriate irrigated acreage and water quantity elements.

Accordingly Petitioner respectfully requests that IDWR amend its Preliminary Order Voiding Permit, reinstate permit no. 63-07431, and issue a license to Mr. Baicy for that water right.

Dated this 18th day of November, 2004.

RINGERT CLARK, CHARTERED

By Charles L. Honsinger

Charles L. Honsinger
Attorneys for Petitioner John W. Baicy

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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Petitioner John W. Baicy

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO. 63-07431	AFFIDAVIT OF CHARLES L. HONSINGER IN SUPPORT OF PETITION TO AMEND PRELIMINARY ORDER VOIDING PERMIT

STATE OF IDAHO)
) ss
COUNTY OF ADA)

CHARLES L. HONSINGER, being first duly sworn upon his oath, deposes and says that:

1. I am the attorney for the Petitioner, John W. Baicy, in the above captioned matter.

2. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.

3. Attached hereto as Exhibit "A" is a true and accurate copy of IDWR's June 15, 1992 Field Examination Report for water right no. 63-07431 completed by Cindy Hodges (from IDWR's file for water right no. 63-07431).

4. Attached hereto as Exhibit "B" is a true and accurate copy of a July 12, 1995 Memorandum (from IDWR's file for water right no. 63-07431) from Mel Schulte regarding his July 11, 1995 field inspection of property to which water right no.

63-07431 is appurtenant.

5. Attached hereto as Exhibit "C" is a true and accurate copy of IDWR's July 17, 1995 *Preliminary Order* Voiding Permit no. 63-07431.

6. Attached hereto as Exhibit "D" are true and accurate copies of Domestic Return Receipts together with appropriate Certificates of Mailing (both of which are from IDWR's water file for water right no. 63-07431) establishing that the Preliminary Order Voiding Permit no. 63-07431 was returned from Mr. John Baicy's Redmond, and Issaquah, WA addresses without being delivered.

Further your affiant sayeth naught.

Charles L. Honsinger

STATE OF IDAHO)
)ss.
County of ADA)

On this 18th day of November, 2004, before me, the undersigned, a notary public in and for said state, personally appeared Charles L. Honsinger, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

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

KATIE R. MOSER NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at Boise, ID
My Commission Expires: 2/20/08

EXHIBIT A

Form 219
6/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 63-7431

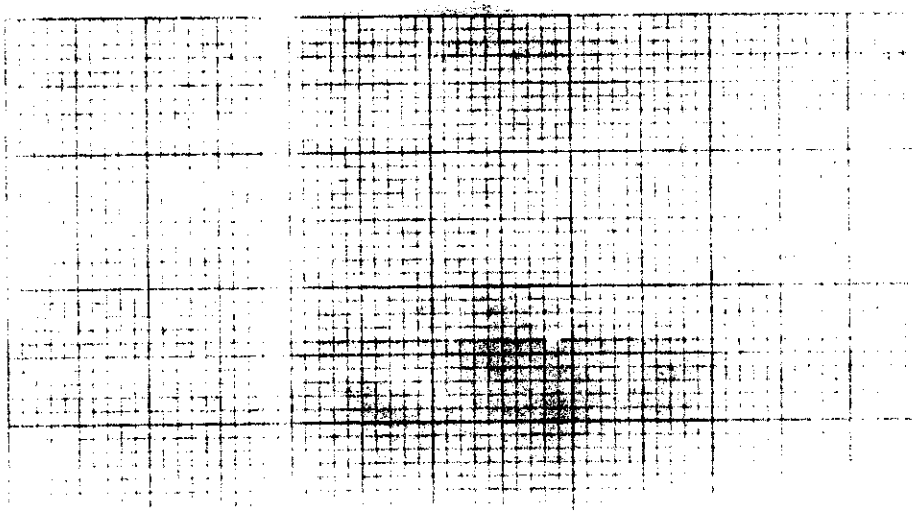
1. Owner: John W. Bailey Phone No. 805·722·5703
   Current Address: 43050 Ed Halley Pl Lancaster CA 93536
2. Accompanied by: None EXAM. DATE: 6/1/92
   Address: _____ Phone No. _____
   Relationship to Permit Holder: _____
3. Source: groundwater tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: None
   _____ ☐ Copies Attached
2. Other water rights with same point of diversion: None
   _____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

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



Scale: 1" = _____.

2. ☐ Copy of U.S.G.S. Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).
   ☐ Aerial Photo Attached (required for irrigation of 10 acres or more).
   ☐ Photo of Diversion and System Attached (required for all but single household domestic groundwater, and stockwater.

System Description (continued)

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

No beneficial use. No cultivation apparent. Power supply in place. No evidence of irrigation

See remarks.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

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

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks

6. **Place(s) of Use:** Indicate Method of Determination _____

Twp.	Rge.	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

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

2. **Measurements:**

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. **Measured Method:**

2. **Alternate Method for Checking Purposes:**

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)
Total Head: (1) + (2) = _____ (3) : Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)
Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)
Meter Input HP: (6) x 1.34 = _____ (7)
Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Ampex .001732 = _____ (6)
Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. **Volume Calculations for Irrigation:**

$V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = _____

$V_{D.R.}$ = (Diversion Rate (cfs)) x (Days in Irrigation Season) x 1.9835 = _____

V = Smaller of $V_{I.R.}$ and $V_{D.R.}$ = _____

2. Volume Calculations for Other Uses:

H. REMARKS AND OVERLAP REVIEW ANALYSIS

Department has attempted to schedule exam since 1987. In October 1991 I attempted a drive-by exam and found no use. ~~Any~~ Permit holder was contacted and could provide no evidence of use. This year, I did a second field visit and found no change.

SCS office last October told me they felt land was abandoned & so had not been re-surveyed during last mapping

1987 Napp photography showed no recent irrigation

See Western Region file for correspondance.

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
DISALLOW				
Totals:				

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

J. AUTHENTICATION

Field Examiner's Name: CINDY HODGES

Signature: C J Hodges

Certification Date:

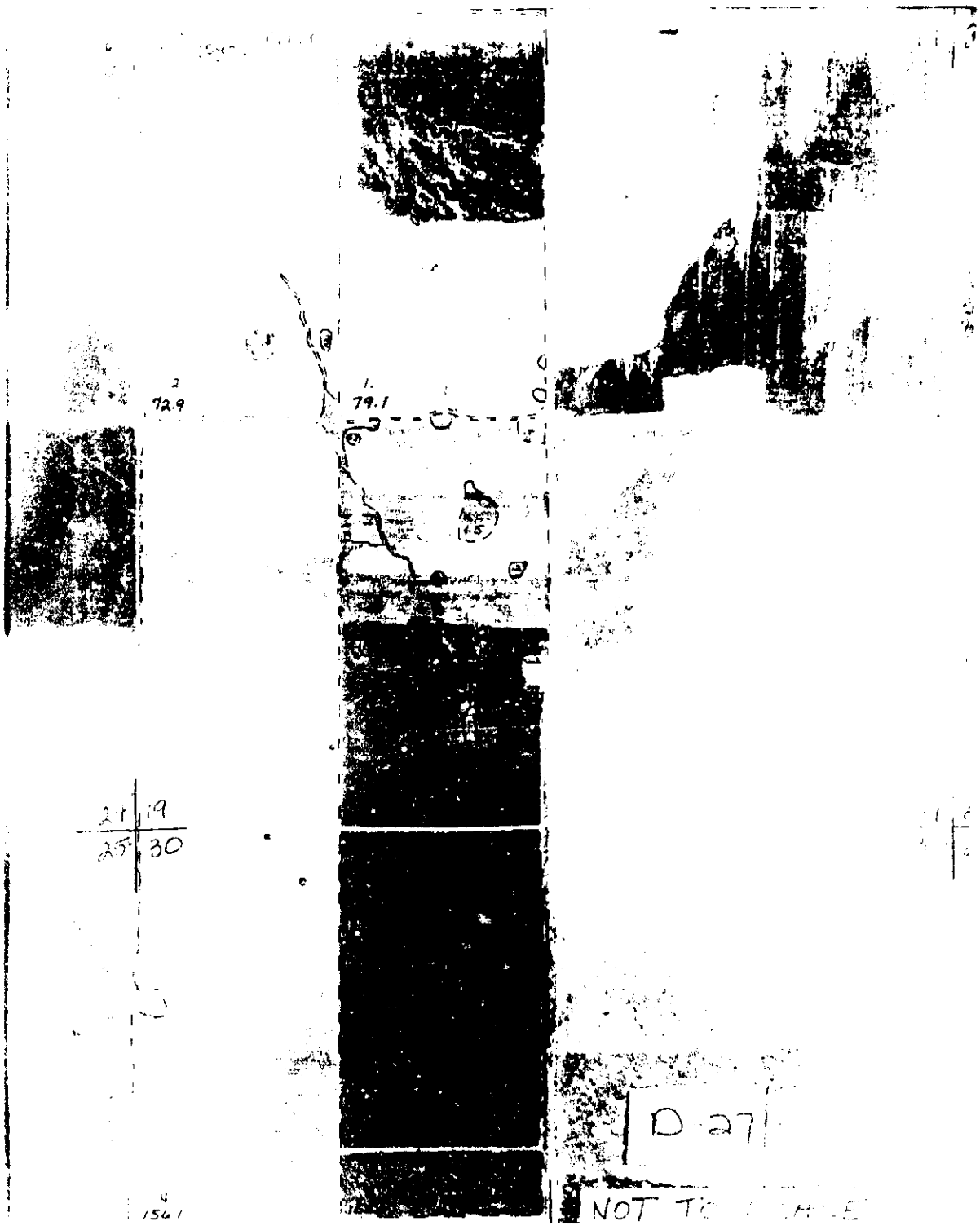
Field Report Preparation Date: 6/15/92

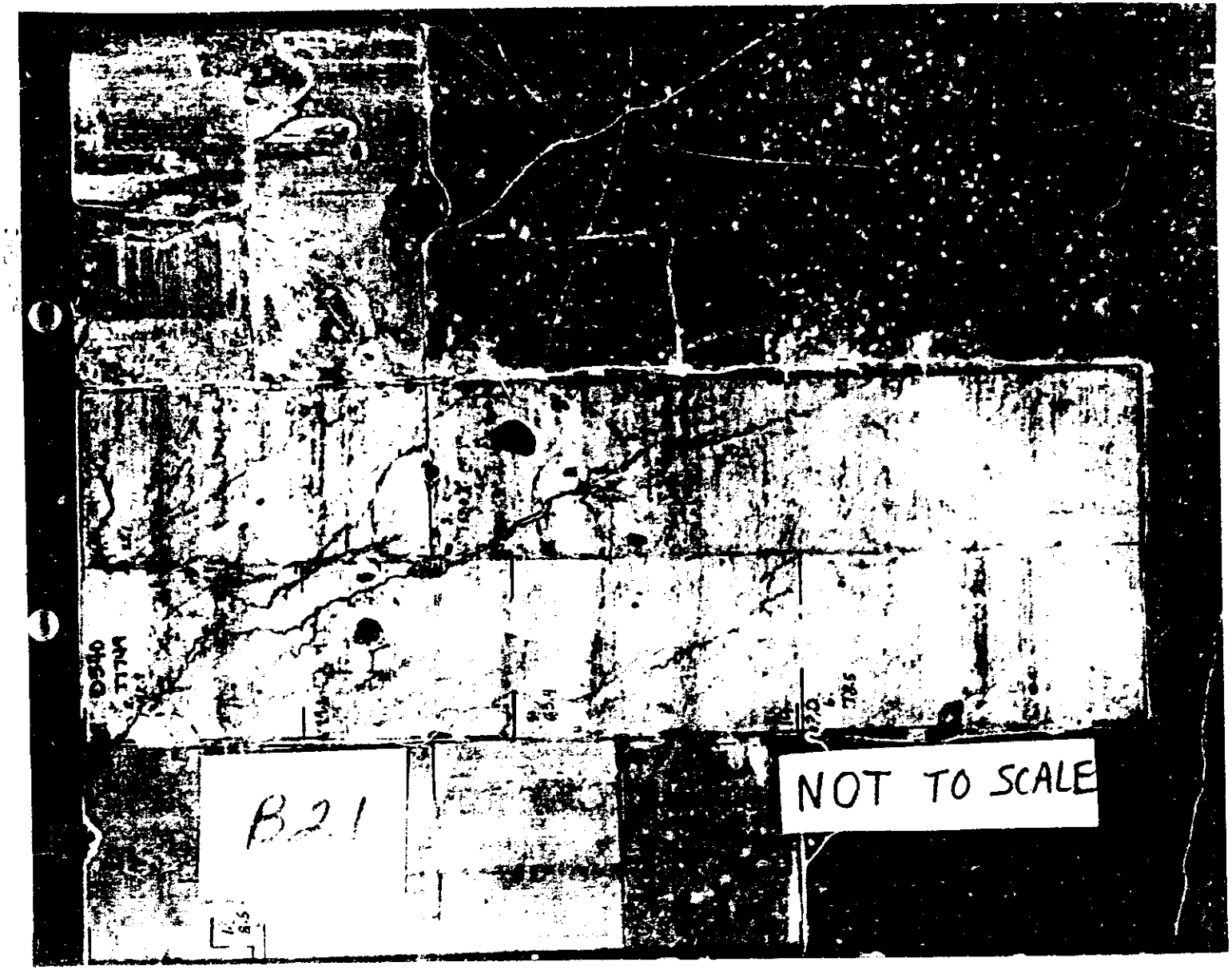
PROFESSIONAL ENGINEER REGISTERED 3909 6/16/92 STATE OF IDAHO DAVID R. TUTHILL, JR. CONSULTANT

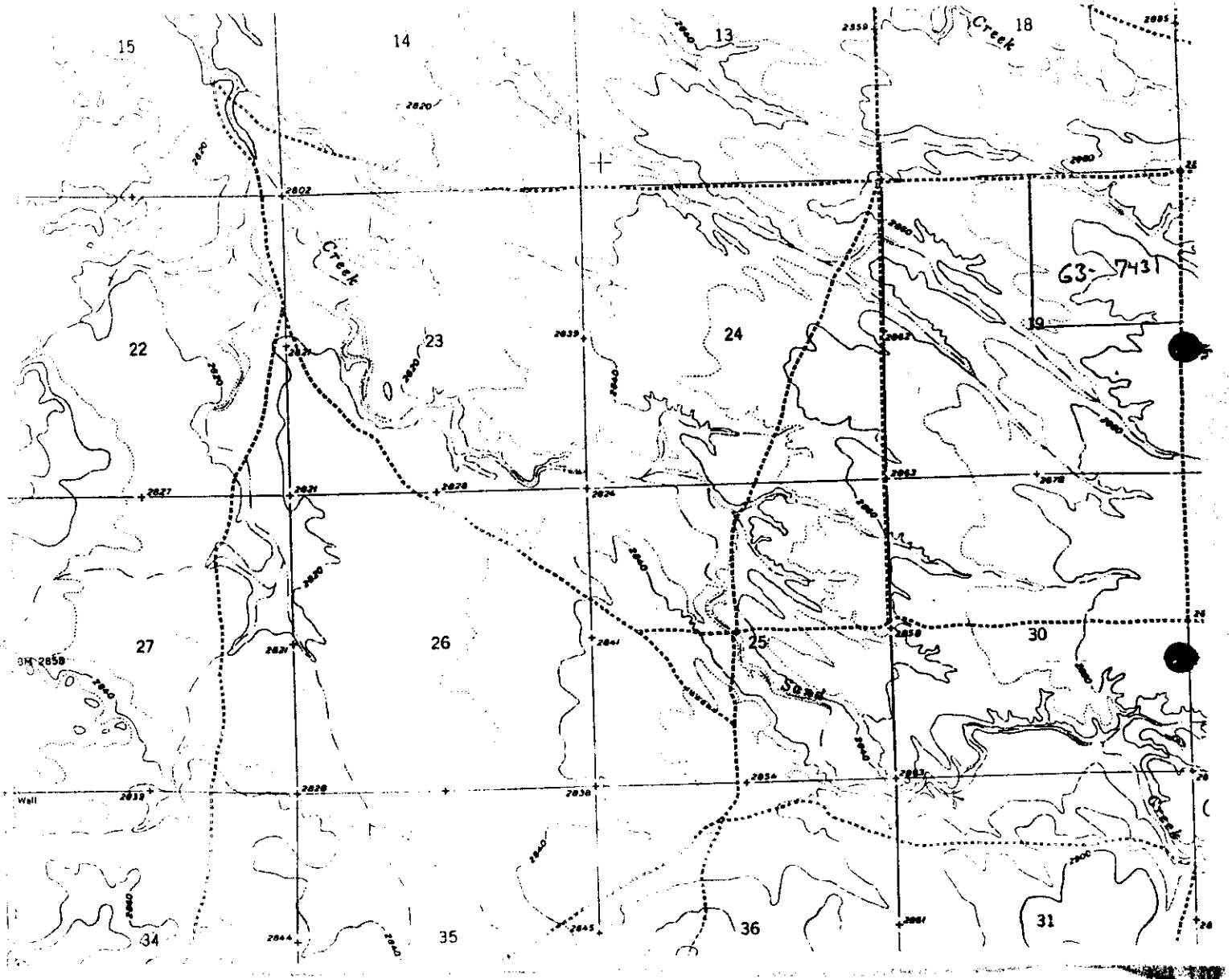
K. **Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.**

Gravel Pit
ROAD
30


11
2851
2857
TO BENNETT RD
4 MILES
BOISE
26
23


72.9
79.1
21 19
25 30
D-27
NOT TO SCALE


B21
NOT TO SCALE


15
14
13
18
Creek
2820
2802
Creek
63-7431
22
23
24
19
2827
2831
2826
27
26
25
30
Spring
Creek
34
35
36
31

WELL DRILLER'S REPORT

PROPOSED USE
☐ Domestic ☐ Irrigation ☐ Test
☐ Municipal ☐ Industrial ☐ Stock

METHOD DRILLED
☐ Cable ☐ Rotary ☐ Dug ☐ Other

WELL CONSTRUCTION
Diameter of hole 12¼ inches. Total depth 148 feet
Casing installed: ☐ Steel ☐ Concrete
Threads: ☐ Welded
225 ft. inches 16 inches From 0 ft. to 18 ft.
inches inches ft. ft.
inches inches ft. ft.
inches inches ft. ft.
inches inches ft. ft.
Was a packer or seal used? ☐ Yes ☐ No
Perforated? ☐ Yes ☐ No
How perforated? ☐ Factory ☐ Knife ☐ Torch
Size of perforation inches by inches
Number of perforations From ft. to ft.
perforations ft. ft.
perforations ft. ft.
perforations ft. ft.
What screen installed? ☐ Yes ☐ No
Manufacturer's name Model No.
Type Set from ft. to ft.
Diameter Slot size Set from ft. to ft.
Diameter Slot size Set from ft. to ft.
Gravel packed? ☐ Yes ☐ No Size of gravel
Placed from ft. to ft.
Surface seal? ☐ Yes ☐ No To what depth 18 ft.
Material used in seal ☐ Cement grout ☐ Puddling clay

LOCATION OF WELL
Sketch map location must agree with written location.

N
W E
S

63

County Ada

LITHOLOGIC LOG

Note Sketch	Depth From	Depth To	Material	Water Yes	Water No
14	0	7	clay		
	7	19	gray lava		
	19	30	cinders		
	30	34	brown lava		
	34	54	gray lava		
	54	66	Gray cinders		
	66	112	Gray lava		
	112	132	Red clay and cinders		
	132	146	Gray lava, red seams		
	146	158	Gray lava		
	158	168	Red cinders clay		
	168	180	brown lava		
	180	194	Gray lava		
	194	215	Gray lava		
	215	310	gray lava clay		
	310	325	Black lava, hard		
	325	353	Gray lava		
	353	395	Sand, water clay	X	
	395	445	Sand & clay		
	445	505	Cinders & clay	X	
	505	533	Clay, sand & small rocks	X	
	533	535	Black rock & red clay		
	535	540	Clay and sand		

WATER LEVELS

Date of Test	Depth Static	Hours Pumped
3 Dec	0	1.4

10. Work started Jan. 2, 73 Completed Dec. 13, 73

DRILLER'S CERTIFICATION
This well was drilled under my supervision and this report is true to the best of my knowledge
Name Dick Johnson Drilling
Address Box 4 Ann
City, State, and Zip Nampa, Idaho
Signed [signature] Date 2/21/74

USE ADDITIONAL SHEETS IF NECESSARY. FORWARD THE WHITE, BLUE, AND PINK COPIES TO THE DEPARTMENT.

63-7431



Photos taken October 1991 showing no beneficial use.

63-7431



Photos taken
6/1/1992
Showing no
beneficial
use.

EXHIBIT B

MEMORANDUM TO FILE

JUL 1[illegible]995
Department of [illegible]

To: A63-07431 Baicy, John

From: Mel Schulte MTS

Date: July 12, 1995

Re: Field inspection

On July 11, 1995 I visited the property subject to the above referenced claim. The purpose of my visit was to determine if irrigated uses had been re-established since the Department attempted to conduct a beneficial use exam June 1, 1992.

I found no evidence of any current irrigation or other beneficial use of water. There is an electrical power line to the well site located near the center of the NE 1/4 of the section but the pump motor had been removed from the well. There are several piles of ten inch surface mainline on the property that supports the possibility there had in the past been some irrigation on the property. The fields appeared to have been cleared of rocks and sage brush at some time but there was no evidence of any crops or crop residue. The fields are currently covered with various types of weeds.

There is a small machine shed located to the West middle of the property that might qualify for a small domestic use but there were no houses on the site. Two horses were standing next to a watering trough along the West property line between the machine shed and the county road. There was no evidence of a hydrant or water line to the trough. It appears water is carried to the water trough used for these two horses.

MTS

EXHIBIT C

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-07431 IN THE NAME OF JOHN W. BAICY	**PRELIMINARY ORDER VOIDING PERMIT**

This matter having come before the Department of Water Resources (Department) as a result of an examination to determine the extent of beneficial use of water, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On May 11, 1971, Lillian M. Terwilliger applied to the Department for a permit to appropriate 3.24 cubic feet per second of ground water within the NW¼NE¼, Section 19, Township 1N, Range 1E, B.M., Ada County, to be used for irrigation, stockwater and domestic purposes.

2. On June 17, 1971, the Department approved Application for Permit No. 63-07431.

3. On January 31, 1972, Lillian M. Terwilliger assigned all her right, title and interest, in and to Permit No. 63-07431 to John M. Baicy (permit holder).

4. On May 17, 1976, the permit holder submitted a Request for Extension of Time which the Department approved.

5. On May 12, 1978, the Department received Proof of Beneficial Use for the permit.

6. In October of 1991, and on June 1, 1992, Department staff conducted field exams and found that water had not been diverted and put to a beneficial use as authorized by the permit.

7. On November 17, 1992, the Department sent a Notice of Pending Order Voiding Permit to the permit holder requesting relinquishment of the permit because of failure to put the water to beneficial use as authorized by the permit.

8. On December 14, 1992, the Department received correspondence from the permit holder expressing his desire to retain permit no. 63-07431.

9. On March 31, 1994, the Department sent another Request for Relinquishment form to the permit holder.

10. On May 2, 1994, the permit holder responded confirming that water had not been used since 1985, but he did not return the relinquishment form.

11. On July 11, 1995, Department staff inspected the place of use and again found that no water was being used.

CONCLUSIONS OF LAW

1. Section 42-219, Idaho Code, states:

> "In the event that the Department shall find that the applicant has not fully complied with the law and the conditions of the permit, it may issue a license for that portion of use which is in accordance with the permit, or may refuse issuance of a license and void the permit."

2. Permit No. 63-07431 required the permit holder to complete construction of works and application of water from the source identified to the proposed beneficial use within the authorized permit period.

3. Examination by the Department found that the permit holder has not complied with the conditions of the permit by not completing construction of works and application of water from the identified source to the proposed beneficial use as required by the permit and Section 42-219, Idaho Code.

4. The applicant himself stated that water has not been applied to a beneficial use since 1985.

5. The Department should void the permit pursuant to Section 42-219, Idaho Code.

ORDER

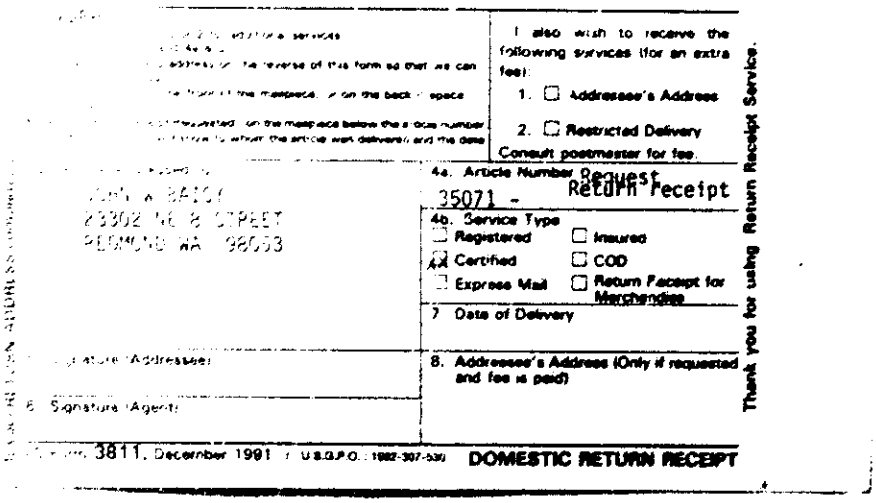
IT IS THEREFORE HEREBY ORDERED that Permit No. 63-07431 is VOIDED and issuance of a license is REFUSED under Section 42-219, Idaho Code.

Dated this 17th day of July, 1995.

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocation Bureau

EXHIBIT D



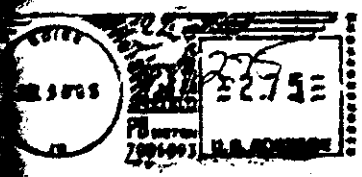
I also wish to receive the following services (for an extra fee):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery
Consult postmaster for fee.

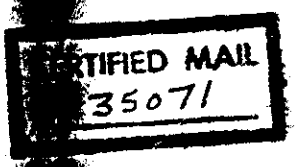
JOHN W BAICY
23302 NE 8 STREET
REDMOND WA 98053

4a. Article Number: 35071 - Request Return Receipt
4b. Service Type: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise
7. Date of Delivery
8. Addressee's Address (Only if requested and fee is paid)
5. Signature (Addressee)
6. Signature (Agent)

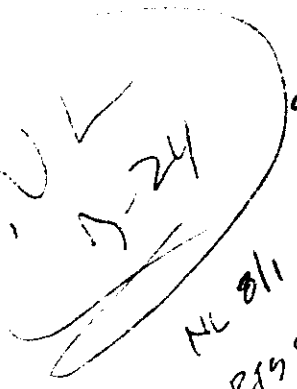
PS Form 3811, December 1991 * U.S.G.P.O. 1992-307-530 DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.





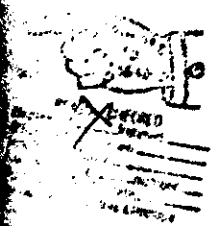
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 NORTH ORCHARD STREET
BOISE, IDAHO 83706-2237

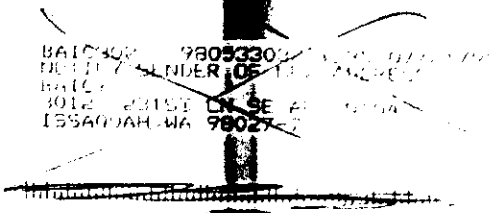


IDAHO DEPARTMENT OF WATER RESOURCES
1301 N. Orchard St
Boise, ID 83706-2237
(208) 334-7900

To

JOHN W BAICY
23302 NE 8 STREET
REDMOND WA 98053





CERTIFICATE OF MAILING

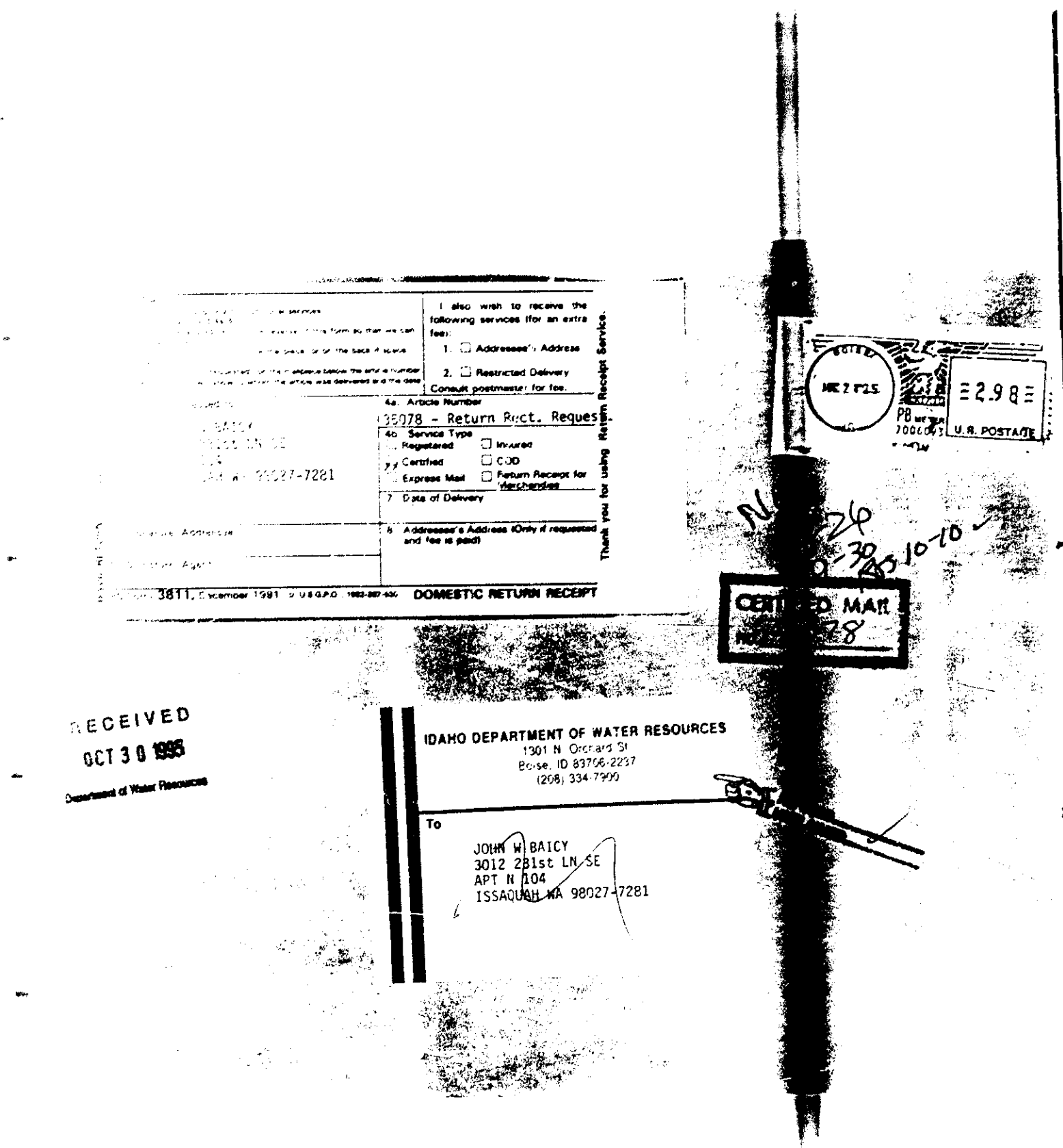
I hereby certify that on the 24th day of August, 1995, I mailed a true and correct copy, postage prepaid, of PRELIMINARY ORDER VOIDING PERMIT to the person(s) listed below:

JOHN W BAICY
3012 231ST LN SE
APT N104
ISSAQUAH WA 98027-7281

Roberta Loveall

Roberta Loveall
Clerical Specialist

93-0143



I also wish to receive the following services (for an extra fee):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery
Consult postmaster for fee.

4a. Article Number
35078 - Return Rect. Reques

4b. Service Type
☐ Registered ☐ Insured
☐ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

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

Thank you for using Return Receipt Service.

3811, December 1991 ☆ U.S.G.P.O. 1992-307-530 DOMESTIC RETURN RECEIPT

MAR 2 1995
PB
U.S. POSTAGE
$2.98

CERTIFIED MAIL

RECEIVED
OCT 30 1995
Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
1301 N Orchard St
Boise, ID 83706-2237
(208) 334-7990

To

JOHN W BAICY
3012 281st LN SE
APT N 104
ISSAQUAH WA 98027-7281

MEMORANDUM

DATE: October 30, 1995

TO: File No. 63-07431

FROM: Roberta Loveall

SUBJECT: Order unclaimed

After another attempt to locate John Baicy, the Order was returned by the postal service as unclaimed this date. The first attempt was mailed to Redmond WA July 18, 1995. This second attempt was sent out 8/24/95. There are no further forwarding addresses for Mr. Baicy. File will be sent to film and destroy at this time.

RECEIVED
NOV 10 2004
DEPARTMENT OF
WATER RESOURCES

CHARLES L. HONSINGER (ISB #5240)
JON GOULD (ISB #6709)
RINGERT CLARK CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorneys for Petitioner John W. Baicy

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF PERMIT NO. 63-07431	AFFIDAVIT OF JOHN W. BAICY IN SUPPORT OF PETITION TO AMEND PRELIMINARY ORDER VOIDING PERMIT

STATE OF TEXAS)
) ss
COUNTY OF HARRIS)

JOHN W. BAICY, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.

2. I own a 160-acre parcel of property in Ada County, Idaho more properly described as T01N R01E, Section 19, NE ¼ (hereinafter referred to as the "Property").

3. The Property was the subject of a desert land application filed by Lillian M. Terwilliger which was approved and allowed on June 23, 1971. A true and accurate copy of the BLM Notice of Allowance notifying Ms. Terwilliger of the approval and allowance of her application is attached hereto as Exhibit "A".

ORIGINAL

4. Ms. Terwilliger filed Application for Permit no. 63-7431 with the Idaho Department of Water Administration on May 11, 1971 for a water right of 3.24 cfs to irrigate the 160 acres of the Property, and for domestic and stockwater purposes. The permit was approved on June 18, 1971. A true and accurate copy of approved Application for Permit No. 63-7431 is attached hereto as Exhibit "B".

5. Ms. Terwilliger quitclaimed her interest in the Property, together with her interest in Idaho Water Permit No. 63-7431 to me on November 10, 1971. A true and accurate copy of the Quitclaim Deed transferring such interest is attached hereto as Exhibit "C".

6. Ms. Terwilliger executed an Assignment of Permit No. 63-7431 resulting in the assignment of that permit to me on November 10, 1971. A true and accurate copy of the Assignment of Permit is attached hereto as Exhibit "D".

7. In 1972, I began to develop the Property. That year, I had the land surveyed to mark the land and determine potential locations for the proposed well and irrigation ditches. Copies of Desert Land Entry Annual Proofs executed by J.R. Weissrock and Janet K. Baicy on June 20, 1972 which describe the work done on the Property as of that date are attached hereto as Exhibit "E".

8. An objection to the Desert Land Entry application was filed on April 27, 1972. The objection was dismissed on July 2, 1973. The filing date and the dismissal date are recorded in the case file on BLM Form 1274-2, the Serial Register Page for the Desert Land Entry involving the Property. During the period of litigation I limited my land improvement activities, and instead focused on the protection of my existing interest in the Property. A

true and accurate copy of the previously identified BLM Form 1274-2 is attached hereto as Exhibit "F".

9. In 1973, I cleared the Property, constructed an access road, and had field elevations, field borders and irrigation ditches surveyed. True and accurate copies of Desert Land Entry Annual Proofs executed by Ron Erickson and Janet K. Baicy on May 19, 1973 which describe the work done on the Property during the previous year are attached hereto as Exhibit "G".

10. I had an irrigation well installed on the Property on September 29, 1973 and developed in early December 1973. The well test report showed that the well is an excellent producer (a true and accurate copy of the well test report is attached hereto as Exhibit "H "). Additionally, I removed rock and brush from the Property and had ditch and canal elevations surveyed. True and accurate copies of Desert Land Entry Annual Proofs executed by Ronald Erickson and Janet K. Baicy on June 14, 1974 which describe the work done on the Property during the previous year are attached hereto as Exhibit "I".

11. The Property development was advancing although it was a slow and difficult process. In March 1975, the Office of the Field Solicitor recommended to the State Director of the BLM that a two-year extension of time be granted for submission of final proof of the development of the property to BLM for Desert Land Entry purposes. The extension of time request was based on delays caused by the litigation over the application and the difficulty obtaining irrigation equipment. A true and accurate copy of the March 5, 1975 letter from Riley C. Nichols, an attorney with the Office of the Field Solicitor to the BLM State Director

which describes the reasons for my request for extension is attached hereto as Exhibit "J".

12. In April 1975, the BLM extended the deadline for submission of my Final Annual Proof to June 23, 1977. (see exhibit 'F').

13. I continued with development of the Property during 1974 and 1975 by constructing a road, by removing rocks and brush, and by leveling the land. In 1975, I installed a 220-horsepower pump in my well, placed irrigation mainlines in the fields, and supplied power to the well pump. True and accurate copies of the Desert Land Entry Final Proofs executed by myself, Charles Gordon and Ernest Manson, which describe the work done on the Property during the previous year, together with Affidavits of Witness executed by Charles Gordon and Erenest Manson and certified by BLM Realty Specialist John Jorenby on July 21, 1976,are attached hereto as Exhibit "K".

14. By 1975, the Property was an operational farm. I planted winter wheat and irrigated the land during the 1975 irrigation season. I took photographs of the irrigation system in operation in October 1975, true and accurate copies of which are attached hereto as Exhibit "L". Each photograph in Exhibit "L" shows approximately 40 acres of land with the ten-inch gated pipe that delivered the water from the well to the fields. The October 1975 photographs making up Exhibit "L" fairly and accurately depict conditions on the Property at that time.

15. In 1976, I planted wheat and alfalfa on the property. I took photographs of the pump used to irrigate the property, the irrigation mainlines leaving the pump, the power lines connected to the pump, crops in the field, equipment, and the maintenance shed, true and

accurate copies of which are attached hereto as Exhibit "M". The 1976 photographs making up Exhibit "M" fairly and accurately depict conditions on the Property at that time.

16. On July 21, 1976, a BLM Realty Specialist examined the Property. He noted that 116 acres were being cultivated and irrigated, clearance and rock removal activities were underway on the remaining acreage, and that adequate irrigation lines were available to irrigate the unirrigated portions once necessary land-leveling was completed. The Realty Specialist found that I had satisfied the field compliance requirements of the Desert Land Act since an operating irrigation system was in place, crops were on the field, and improvements were ongoing. On July 30, 1976, the BLM Realty Specialist that inspected the Property completed a Field Compliance Report for the Desert Land Entry Final Proof. The report stated that there was sufficient compliance with the requirements of the Desert Land Act, and included a map detailing the acreage that the Realty Specialist had found to be irrigated. A true and accurate copy of the Field Compliance Report together with the map attached thereto is attached hereto as Exhibit "N".

17. I was issued a Land Patent for the Property from the BLM on August 18, 1976. A true and accurate copy of such Land Patent is attached hereto as Exhibit "O."

18. On May 13, 1976, I requested of IDWR that it extend the time for submission of Proof of Beneficial Use of Water for Permit No. 63-07431 because of delays in the BLM Desert Land Entry process. A true and accurate copy of my request is attached hereto as Exhibit "P". IDWR granted the requested extension, making June 1, 1978 the date on which proof of beneficial use was due. A true and accurate copy of the Order approving the

extension I requested is attached hereto as Exhibit "Q".

19. I submitted an affidavit of Proof of Beneficial Use of Water diverted pursuant to my water permit to the IDWR on September 21, 1976. A true and accurate copy of the affidavit is attached hereto as Exhibit "R".

20. IDWR returned my affidavit because it did not state that an approved measuring device had been installed. A true and accurate copy of the letter from the IDWR stating the above is attached hereto as Exhibit "S".

21. From July 21, 1976 - the date of the BLM Realty Specialist's field examination - through 1977, I leveled and began irrigating more of the Property than the Realty Specialist had found irrigated as indicated by the map attached to the July 30, 1976 Field Compliance Report.

22. I recently obtained aerial photographs showing the irrigation of the Property in 1976 and 1977. Attached hereto as Exhibit "T" is a true and accurate copy of an aerial photograph depicting the Property as of July 22, 1976. I have attached a label to show the location of the Property. Also attached as a part of Exhibit "T" is a letter dated October 28, 2004 from the Bureau of Land Management National Science and Technology Center certifying the validity of the aerial photograph. Attached hereto as Exhibit "U" is a true and accurate copy of an aerial photograph depicting the Property as of September 6, 1977. I have delineated the Property with yellow tape "markers." Also attached as a part of Exhibit "U" is a "blow up" of the portion of the September 6, 1977 aerial photograph which depicts the Property in greater detail, and an October 19, 2004 Certification from the United States Department of

Agriculture regarding the validity of the aerial photograph.

23. I resubmitted a complete affidavit of Proof of Beneficial Use to IDWR on May 9, 1978 with documentation of the installation of the requested flow measurement device. I also informed IDWR in a letter that I would be employed out of state over the next few months and might not be available to attend the licensing examination. I also stated in my letter that the irrigation system had been operating since 1975, was currently operating at that time, and was available for a field examination even if I was unavailable. A true and accurate copy of the resubmitted affidavit and the attached letter stating the above is attached hereto as Exhibit "V".

24. On May 17, 1978, Janice Renk of IDWR wrote me acknowledging receipt of my affidavit, and informing that IDWR needed to conduct a field examination before licensure of my permit. IDWR was not able to inform me when the examination would take place. A true and accurate copy of Ms. Renk's May 12, 1978 correspondence is attached hereto as Exhibit "W".

25. As of May 17, 1978, I assumed a field examination would be conducted promptly, that beneficial use of my permit would be confirmed at that time, and that the permit would be licensed shortly thereafter.

26. In 1978, I moved to Seattle for a new job with the Boeing Company. Since then, I have worked on major military programs for Boeing, and have had to move many times both within the United States and overseas. Therefore, in 1978 I hired Tom Carson to farm the land in my absence. He assisted me when I was present. We grew hay which was milled for

the local dairies. Tom continued to farm the land until about 1984 or 1985. I do not know how to contact Tom Carson at this time.

27. I recently obtained a 1981 infrared aerial photograph of the Property. Attached hereto as Exhibit "X" are true and accurate copies of an aerial photograph depicting the Property as of July 4, 1981. I have delineated the Property with yellow tape "markers" on the photograph. Also attached as a part of Exhibit "X" is a "blow up" of the portion of the July 4, 1981 aerial photograph which depicts the Property in greater detail.

28. Rodney Warfield rented my farm between 1985 and 1987. He used the irrigation well to irrigate hay while he was a renter.

29. Between 1978 and 1986, IDWR did not contact me and no field examination was conducted on the Property.

30. On April 17, 1986, IDWR wrote to inform me of a new statute that required payment of an examination fee before any licensing examination could be conducted by IDWR. A true and accurate copy of the April 17, 1986 Examination Fee Notice from IDWR is attached hereto as Exhibit "Y".

31. I paid the examination fee and informed IDWR in a letter dated May 17, 1986 (which was stamped as "Received" by IDWR on September 22, 1986) that ten years had passed since I requested a field examination, and that I had at that time turned the well pump off, and was in the process of re-leveling the land, and clearing rocks. A true and accurate copy of my May 17, 1986 letter to IDWR is attached hereto as Exhibit "Z".

32. From 1987 to 1991, I did not irrigate the Property both because of ongoing

maintenance of the irrigation system, and because I could not economically farm the Property due to a decline in crop prices.

33. I filed an adjudication claim to water right no. 63-07431 with the SRBA District Court on August 22, 1989. A true and accurate copy of the claim is attached hereto as Exhibit "AA".

34. In April of 1991, I had the pump motor and pump panel for the well from which water right no. 63-07431 is diverted refurbished at a cost of $5444.75. A true and accurate copy of a October 30, 1991 letter I sent to IDWR Senior Water Resource Agent Cindy Hodges stating such along with the attached receipts for the pump motor and pump panel are attached hereto as Exhibit "BB."

35. I continued to make improvements to the Property during the 1990's. I took photographs of the new pump, the power supply running to the pump, the maintenance shed, irrigation equipment used to irrigate the land, and equipment used to level the land. True and accurate copies of those photographs are attached hereto as Exhibit "CC." The photographs constituting Exhibit "CC" fairly and accurately depict conditions on the Property during the late 1990s.

36. In November 1992, I received a Notice of Pending Order to Void Permit from the IDWR dated November 17, 1992. The Notice requested that I relinquish my water permit. A true and accurate copy of the Notice is attached hereto as Exhibit "DD."

37. I was not going to relinquish my water right permit as I had already complied with all requirements necessary to have it licensed. A true and accurate copy of my response to the

Notice from IDWR dated December 8, 1992 is attached hereto as Exhibit "EE."

38. In 1994, I received correspondence dated March 31, 1994 from IDWR that again requested relinquishment of my water permit, or it would be voided. A true and accurate copy of the March 31, 1994 IDWR correspondence is attached hereto as Exhibit "FF."

39. As I had satisfied all requirements to prove beneficial use of water in accordance with the permit within the allotted time, I did not agree to relinquish my water right. A true and accurate copy of my April 26, 1994 response to IDWR's March 31, 1994 correspondence is attached hereto as Exhibit "GG."

40. In December 1995 I contacted Boise attorney Daniel Steenson to inquire about the status of my water permit. Mr. Steenson informed me that the permit had been declared void and that the IDWR was unable to notify me. Mr. Steenson provided IDWR with my current address. True and accurate copies of IDWR internal memoranda dated December 21, 1995 and December 22, 1995 detailing the actions described above are attached hereto as Exhibit "HH."

41. I asked IDWR to reconsider the action to void the permit and allow me to reestablish the water permit. I had spent more than $100,000 in Idaho Power charges pumping water for irrigation from 1975 to 1985 and provided IDWR with my affidavit of Proof of Beneficial Use of Water. A true and accurate copy of my letter to IDWR dated December 30, 1995 stating the above is attached hereto as Exhibit "II."

42. After my request of December 30, 1995, I received a January 16, 1996 internal Memorandum from IDWR that indicated water right no. 63-07431 was forfeited through

non-use and that only participation in a federal cropland set-aside program would prevent forfeiture. A true and accurate copy of the IDWR memorandum dated January16, 1996 is attached hereto as Exhibit "JJ."

43. As I explained earlier, in 1978 I accepted a new job with the Boeing Company. Since that time, I have been forced to move often for my work. My long-term postings during the time period from 1978 to the present are as follows: 1978 -1982 - Seattle, Washington; 1983 - 1984 - Cape Kennedy, Florida; 1984 - 1990 - Edwards Air Force Base, California; 1990 - 1995 - Seattle, Washington; 1996 - present - Houston, Texas (Johnson Space Center). In addition to my long-term postings, I have been required to travel extensively and at length to numerous locations within the United States and around the world for postings which often exceed one month or more. Locations of my temporary postings during this time period include: Eglin Air Force Base , Florida; Mc Chord Air Force Base, Washington; China Lake and Vandenburg, California; Clark Air Force Base, Philippines; Wallace AS, Philippines; Hill Air Force Base, Utah; Baltimore, Maryland; Pusan, Korea; and too many European sites to list.

44. Because of my frequent short-term and long-term changes in residence, I was forced to rely upon my son (who lived with my ex-wife in Kuna, Idaho) to forward mail and to relay phone messages to me. Unfortunately, my ex-wife often interfered, and therefore, mail addressed to me was often not forwarded on a timely basis, or in some cases, was simply discarded. In addition, my ex-wife often failed to relay phone messages to me.

45. As a result of my frequent moves, and because of my tenuous communication with

my ex-wife, from 1986 through 1995, I had difficulty receiving communications from IDWR. IDWR's records and files for water right no. 63-07431 reflect this difficulty. This communication gap was compounded by the fact that I had received no contact whatsoever from IDWR between 1978 - when I anticipated the imminent beneficial use exam and confirmation of the irrigation of my Property - and 1986, when IDWR began again corresponding with me about a beneficial use exam of the Property.

Further your affiant sayeth naught.

John W. Baicy

John W. Baicy

STATE OF TEXAS)
)ss.
County of Harris)

On this 15th day of November, 2004, before me, the undersigned, a notary public in and for said state, personally appeared JOHN W. BAICY, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

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

CRYSTALYN A. ESKIN
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Exp. 1-2-2008

Crystalyn A Eskin
Notary Public for Texas Houston Harris
Residing at 1200 Clear Lake City Blvd TX 77062
My Commission Expires: 1/02/2008

EXHIBIT A

463-7431

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho State Office
Boise, Idaho

L:MG
I-3414

NOTICE OF ALLOWANCE

Lillian M. Terwilliger
Mounted Route - E. Locust
Emmett, Idaho 83617

Serial No. I-3414 160 Acres

T. 1 N., R. 1 E., BM, Idaho
Sec. 19, NE¼.

Your desert land application for the above described land has this day been approved and allowed, subject to any valid existing rights and your further compliance with laws and regulations applicable thereto. The acceptability of final proof is contingent upon compliance with the requirements of the Desert Land Act and appropriate rules and regulations in addition to development and reclamation of the land basically in accordance with your plan of development which is on file in the Boise State Office. Any substantial change in source of water or deviation in the construction of the irrigation facilities must have the approval of the Bureau of Land Management. The irrigable acreage of this entry has been determined to be approximately 144 acres. In correspondence relating to this entry, always refer to the serial number shown above.

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

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23rd day of June, 19 71.

A. D. [illegible], Acting Chief
Division of [illegible]

FPM 9-30-50
11/69

EXHIBIT B

Identification No. 63-7431

Application No. _____

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

APPROVED

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

(TYPE OR PRINT IN INK)

ASSIGNED TO:
John W. Bailey
1114 7th Nth
Apt. #2
Boise, Idaho

1 Name of applicant Lillian M. Terwilliger

post office address 1913 W. State Street, Boise, Idaho 83702

2 Source of water supply ground water which is a tributary of _____

3 a Location of point of diversion is NW ¼ of NE ¼ of Section 19 Township 1 N Range 1 E B.M. Ada County; additional points of diversion if any:

b If water is not consumed, it will be discharged into _____ at a point in _____ ¼ of _____ ¼ of Section _____ Township _____ Range _____ B.M.

4 Water will be used for the following purposes:

Amount 3.20 (cfs or acre feet per annum) for irrigation purpose from March 15 to Nov. 15 (both dates inclusive)

Amount 0.02 (cfs or acre feet per annum) for domestic purpose from Jan. 1 to Dec. 31 (both dates inclusive)

Amount 0.02 (cfs or acre feet per annum) for stock water purpose from Jan. 1 to Dec. 31 (both dates inclusive)

5 Total quantity to be appropriated

a 3.24 cubic feet per second and/or

b _____ acre feet per annum

6 Proposed diverting works

a Description of ditches, flumes, pumps, headgates, etc. pump ~~submersible~~ pipeline and 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 during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.

c Proposed well diameter is 18 inches; proposed depth of well is 100 feet.

7 a Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years

b Estimated construction cost is $ 20,000

8 Description of proposed uses

a If water is **not** for irrigation

(1) Give the place of use of water NW ¼ of NE ¼ of Section 19 Township 1 N Range R 1 E B.M.

(2) Amount of power to be generated _____ hp under _____ feet of head

(3) List number of each kind of livestock to be watered 75 cattle; 30 sheep

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water one

(5) If water is to be used for other purposes describe _____

63-7431

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

TWP	RANGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1 N	1 E	19	40	40	40	40													160

Total number of acres to be irrigated 160

c. Describe any other water rights used for the same purposes as described above. None

NONE

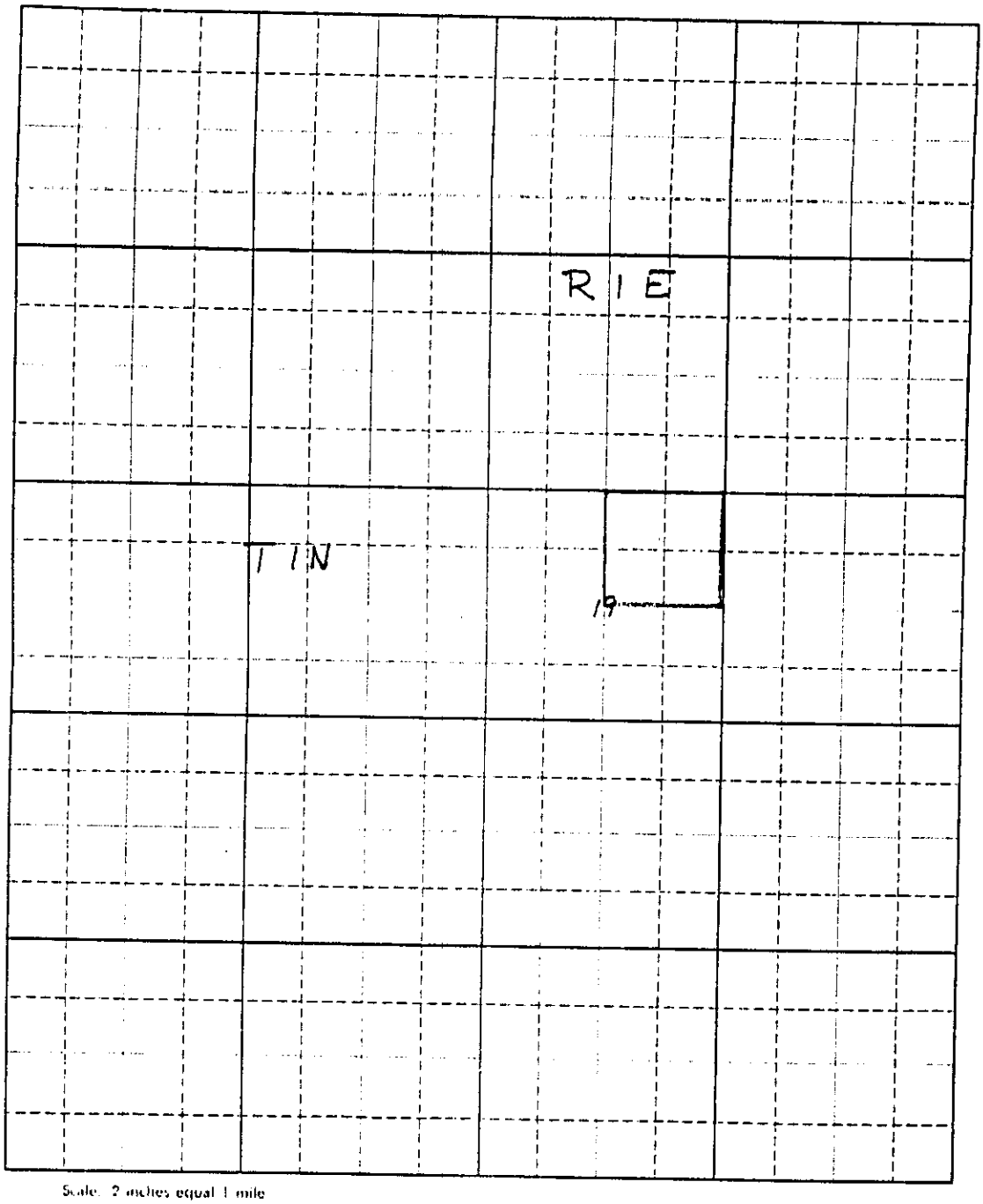
9. a. Who owns the property at the point of diversion Bureau of Land Management

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Desert Land Entry # I-3414

10. Remarks

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



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

(Applicant)

63-7431

Received by [illegible] Date [illegible] Time [illegible]

Preliminary check by [illegible] Date [illegible]

Recorded by [illegible] Date [illegible]

Publication prepared by dr Date 5-18-71

Published in Idaho Statesman

Publication dates 5-27 & 6-3, 1971

Publication approved by Date

Priority reduced to Reason

Protests filed by:

Copies of protests forwarded by

Hearing held by Date

Recommended for approval denial by

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 63-7431, and said application is hereby APPROVED.

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

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before June 1, 1976.

   c. Other: The permit holder shall permanently install and maintain as part of the diverting works a measuring device at the point of diversion of a type approved by this Department.

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

Witness my hand this [illegible] day of June, 1971.

D. Stephen Allred
Deputy Director

EXHIBIT C

795423

I hereby certify that this instrument is a true, full and correct copy of Inst. No. 795423 as it appears on record in Ada County, State of Idaho. IN WITNESS WHEREOF, I have set my hand and affixed my official seal this 31 day of January 19 72
CLARENCE A. PLANTING, Recorder
By Sara Warner Deputy

QUITCLAIM DEED

For Value Received LILLIAN M. TERWILLIGER, hereinafter called the first party, does by these presents remise, release and forever QUITCLAIM, unto

JOHN W. BAICY,

hereinafter called the second party, and to his heirs and assigns, all title which first party now has or may hereafter acquire, in the following described real property, situated in Ada County, State of Idaho, to-wit:

The Northeast Quarter of Section 19, Township 1 North, Range 1 East of the Boise Meridian, in Ada County, Idaho.

Subject to the proving up on a Desert Land Entry with the Dept. of Interior, Bureau of Land Management of the United States of America, and the party of the first part is hereby assigning unto the party of the second part the said Desert Entry, as well as any right, title or interest in the said real property that the party of the first part may have or claim to have.

Together with Idaho Water Permit No. 63-7431.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the second party, and to his heirs and assigns forever.

IN WITNESS WHEREOF, The said first party has hereunto set her hand and seal.

Dated: November 10, 1971.

Lillian M. Terwilliger

STATE OF IDAHO, COUNTY OF CANYON: ss.

On this 10 day of November, 1971, before me, a notary public in and for said State, personally appeared LILLIAN M. TERWILLIGER, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Notary Public for Idaho
Residing at Nampa, Idaho

(SEAL)

STATE OF IDAHO, COUNTY OF ADA, ss.
Filed for record at the request of John W. Baicy
10 Min. past 2 o'clock P. M. this 31 day of Jan 19 72
CLARENCE A. PLANTING, Recorder
By Sara Warner

1.00

9

EXHIBIT D

State of Idaho

Department of Water Administration

ASSIGNMENT OF PERMIT

RECEIVED

JAN 27 19

I, Lillian M. Terwilliger, hereby assign to John W. Baicy

of 1114 7th North Apt #2 Boise
Address

[X] All my right, title, and interest, in and to Permit No. 63-7431 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 10 day of November, 19 71.

Lillian M. Terwilliger
Permit Holder

(I am a widow)
Spouse of Permit Holder

State of Idaho)
) ss.
County of Canyon)

On this 10 day of November, 19 71, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

(SEAL)

Notary Public residing at Nampa, Idaho

My commission expires 11-16-73

63-7431

EXHIBIT E

Form 2226–3
(June 1966)
(formerly 4–074b)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
BUDGET BUREAU NO. 42–R1300.2

Land Office and Serial Number

DESERT LAND ENTRY ANNUAL PROOF
(TESTIMONY OF WITNESS)

Read Instructions on Reverse Before Completing Form

1. Entryman *(first, middle initial, last)*
LILLIAN TERRILL-IGLER
JOHN W. BAICY, Assignee

Address *(include zip code)*
1014 SO. ORCHARD ST.
BOISE, IDAHO 83705

2. Witness *(first, middle initial, last)*
J. R. WEISSROCK

Address *(include zip code)*
1918 S. ORCHARD Phone 344-0185
BOISE, IDAHO 83705

3. Give legal description of lands

SECTION	TOWNSHIP	RANGE	MERIDIAN	SUBDIVISION
NE QUARTER OF SECTION 19	1 NORTH	1 EAST OF BOISE	MERIDIAN	ENTRY NO 13414 ADA COUNTY, IDAHO

State of IDAHO

Give number of acres 160

4. Is this ☒ 1st ☐ 2nd ☐ 3rd year proof?

5. I CERTIFY That I am well acquainted with the above-described lands and entry and that from personal examination I know that during the ☒ 1st ☐ 2nd ☐ 3rd year after date of said entry, to the best of my knowledge there was expended for the ultimate reclamation of said land, the amounts set forth and itemized below

PURPOSE OF EXPENDITURE	LOCATION OF IMPROVEMENTS	AMOUNT EXPENDED
Construction of ☐ reservoirs ☐ dams ☐ canals ☐ ditches ☐ laterals ☐ wells, for use in irrigating said land *(check the items claimed)*		$
Materials and machinery used in construction of		
Materials and machinery installed for		
Fences		
First clearing or breaking of acres		
Surveying of HORIZONTAL & VERTICAL GROUND CONTROL SURVEY FOR AN AERIAL CONTOUR MAP TO BE USED FOR LOCATING WELL & IRRIGATION DITCHES	MAP WILL ACCOMPANY THIS FORM.	# 240 00
Cash payment for stock in		
Water company *(attach receipt with this form)*		
Other expenditures *(specify)* and Remarks *(length and capacity of ditches, etc.)*		
TOTAL		$

June 20, 1972
(Date)

J. R. Weissrock REG. LAND SURVEYOR # 780
(Signature of Witness)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

INSTRUCTIONS

(PLEASE READ CAREFULLY)

The law requires an expenditure of not less than three dollars per acre for the entire area entered, in the necessary irrigation, cultivation, and reclamation of the land by means of main canals and branch ditches, and in permanent improvements upon the land.

During the first year after entry the claimant must file with the Land Office Manager proof, by the separate statements of two witnesses other than himself, that the full sum of one dollar per acre, for the entire area, has been so expended, and like proof must be made for each year thereafter until the full sum of three dollars per acre has been expended; and at the end of the third year the claimant must file a map or plan showing the character and extent of the improvements.

EXPENDITURES FOR WHICH PROOF WILL *NOT* BE ACCEPTED

No proof of expenditure will be accepted *unless* the expenditure was essential to the actual or ultimate reclamation of the land.

A dwelling house *is not* essential to reclamation, and *no* allowance will be made therefor.

Plowing, after the first breaking of the land, seeding land to crops, irrigating, cultivating, and harvesting crops *are not* items for which proof of expenditure will be accepted.

The cost of windmill or pump will *not* be allowed *unless* it is specifically shown that the same was essen- to the contemplated mode of irrigation and was not installed for domestic uses.

The cost of material for necessary construction work will not be allowed *unless* it actually has been applied to that use, and it must be so stated in the statement.

The cost of tools, implements, wagons, and repairs to same, used in construction work, *can not* be computed in the cost of construction.

No expenditure for surveying will be allowed *unless* it is specifically stated that it was for the purpose of establishing lines and levels of canals and ditches.

EXPENDITURES FOR WHICH PROOF WILL BE ACCEPTED

Cost of constructing storage reservoir, well, canals, ditches, and maintaining same. The cost of each item *must* be stated separately, and the length, capacity, and location of the ditches and canals *must* be given.

Cost of water right, if payment therefor in cash be shown by evidence accompanying the annual proof.

Cost of clearing land, if it is shown to be the first clearing. The extent, character, and location of all clearing *must* be fully set forth.

Cost of first plowing or breaking. All claim for plowing or breaking must specifically state that it was the first plowing or breaking of the soil, and the area and location of the land broken *must* be stated.

Cost of fencing necessary to protect the land for the purpose of reclamation, the length, kind, and location to be stated.

Cost of any permanent improvement essential to the reclamation of the land, *provided* its purpose or use is shown.

Be specific.
Set forth in detail the nature, character, and purpose of all improvements, and state cost of each separately.

GPO 858-118

Form 2226–3
(June 1966)
(formerly 4–074b)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
BUDGET BUREAU NO. 42–R1300.2

Land Office and Serial Number

DESERT LAND ENTRY ANNUAL PROOF
(TESTIMONY OF WITNESS)

Read Instructions on Reverse Before Completing Form

1. Entryman *(first, middle initial, last)*
ALLAN T. BAICY
JOHN W. BAICY, ASSIGNEE

Address *(include zip code)*
1014 SO. ORCHARD ST.
BOISE, IDAHO 83705

2. Witness *(first, middle initial, last)*
JANET K. BAICY

Address *(include zip code)*
1014 So ORCHARD ST
BOISE IDAHO 83705

PH344-0826

3. Give legal description of lands

SECTION	TOWNSHIP	RANGE	MERIDIAN	SUBDIVISION
19	1 NORTH	1 EAST	OF BOISE MERIDIAN	

IN ADA COUNTY, IDAHO; ENTRY NO. I-3414, N-E QUARTER SECTION

State of IDAHO

Give number of acres 160

4. Is this ☒ 1st ☐ 2nd ☐ 3rd year proof?

5. I CERTIFY That I am well acquainted with the above-described lands and entry and that from personal examination I know that during the ☒ 1st ☐ 2nd ☐ 3rd year after date of said entry, to the best of my knowledge there was expended for the ultimate reclamation of said land, the amounts set forth and itemized below

PURPOSE OF EXPENDITURE	LOCATION OF IMPROVEMENTS	AMOUNT EXPENDED
Construction of ☐ reservoirs ☐ dams ☐ canals ☐ ditches ☐ laterals ☐ wells, for use in irrigating said land *(check the items claimed)*		$
Materials and machinery used in construction of		
Materials and machinery installed for		
Fences		
First clearing or breaking of acres		
Surveying of HORIZONTAL + VERTICAL SURVEY, ELEVATIONS + MAP INCLUDED FOR USE IN LOCATING WELL + IRRIGATION DITCHES; MARKERS ON LAND		$240.00
Cash payment for stock in Water company *(attach receipt with this form)*		
Other expenditures *(specify)* and Remarks *(length and capacity of ditches, etc.)*		
TOTAL		$240.00

June 20, 1972
(Date)

J. Karen Baicy
(Signature of Witness)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

INSTRUCTIONS

(PLEASE READ CAREFULLY)

The law requires an expenditure of not less than three dollars per acre for the entire area entered, in the necessary irrigation, cultivation, and reclamation of the land by means of main canals and branch ditches, and in permanent improvements upon the land.

During the first year after entry the claimant must file with the Land Office Manager proof, by the separate statements of two witnesses other than himself, that the full sum of one dollar per acre, for the entire area, has been so expended, and like proof must be made for each year thereafter until the full sum of three dollars per acre has been expended; and at the end of the third year the claimant must file a map or plan showing the character and extent of the improvements.

EXPENDITURES FOR WHICH PROOF WILL *NOT* BE ACCEPTED

No proof of expenditure will be accepted *unless* the expenditure was essential to the actual or ultimate reclamation of the land.

A dwelling house *is not* essential to reclamation, and *no* allowance will be made therefor.

Plowing, after the first breaking of the land, seeding land to crops, irrigating, cultivating, and harvesting crops *are not* items for which proof of expenditure will be accepted.

The cost of windmill or pump will *not* be allowed *unless* it is specifically shown that the same was essen- to the contemplated mode of irrigation and was not installed for domestic uses.

The cost of material for necessary construction work will not be allowed *unless* it actually has been applied to that use, and it must be so stated in the statement.

The cost of tools, implements, wagons, and repairs to same, used in construction work, *can not* be computed in the cost of construction.

No expenditure for surveying will be allowed *unless* it is specifically stated that it was for the purpose of establishing lines and levels of canals and ditches.

EXPENDITURES FOR WHICH PROOF WILL BE ACCEPTED

Cost of constructing storage reservoir, well, canals, ditches, and maintaining same. The cost of each item *must* be stated separately, and the length, capacity, and location of the ditches and canals *must* be given.

Cost of water right, if payment therefor in cash be shown by evidence accompanying the annual proof.

Cost of clearing land, if it is shown to be the first clearing. The extent, character, and location of all clearing *must* be fully set forth.

Cost of first plowing or breaking. All claim for plowing or breaking must specifically state that it was the first plowing or breaking of the soil, and the area and location of the land broken *must* be stated.

Cost of fencing necessary to protect the land for the purpose of reclamation, the length, kind, and location to be stated.

Cost of any permanent improvement essential to the reclamation of the land, *provided* its purpose or use is shown.

Be specific.
Set forth in detail the nature, character, and purpose of all improvements, and state cost of each separately.

GPO 858-116

EXHIBIT F

DATE OF ACTION	ACTION TAKEN
May 4, 1973	1st years annual proof (filed 6/21/72) sufficient,
6/4/1973	Assignment approved to Jakie W. Baicy.
6/29/1973	2nd years annual proof (filed 6/19/73) suffuient.
6/25/74	3rd year annual proof filed - sufficient,
4/17/1975	Granted 2 yr. extension to make final proof. Proof due 6/23/77.
8/16/76	Z.C. issued. Reservations to U.S. A-1 D/C; B-2 - oil + gas.
8/19/1976	Patent no. 11-76-0083 Dated Aug. 18, 1976
MAR 01 1985	CASE FILE TO GSA FEDERAL RECORDS CENTER, SEATTLE, WA FRC Container No. Box 1 of 11 Accession No. 49-85-0053 FRC No. 931222

Form 1274–2
(March 1965)
(formerly 4–954)

Minerals Reserved, Act 7/[illegible]/14

SERIAL REGISTER PAGE

CARD

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Legal Reference	File Code	Serial Number
Desert Land Application, Act 3-3-1877 2520		I– 3414

Name and Mailing Address

I-3414

Lillian M. Terwilliger
Mtd. Route
E. Locust
Emmett, Idaho 83617

assignee:
John A. Bucy
6612 Nicholas Ave.
Boise, Id
83705

Bay 153
Kuna, Id 83634

Description of Land

T. 1 N., R. 1 E., B.M., Idaho
Section 19: NE¼

Ada County
160.00 acres

DATE OF ACTION	ACTION TAKEN
Feb. 17, 1970	Application filed. Rect. #268905 - $55.00 filing fee and first payment of 1/5. cc of SR to GS, DM-1 and Area Engineer B.R.
6/23/71	Allowed
5/22/72	Contest file to Hearings Examiner.
6/26/72	Hearing scheduled Aug. 1, 1972, at 9:00 am, Gold Room, Room 420, Idaho State Capitol Bldg., Boise, Idaho.
7/27/72	Hearing continued, to commence on Sept. 12, 1972, at 9:00 a.m.. Place of hearing to be announced at a later date.
8/3/72	**Hearing to be held in the Gold Room, Room 420, Idaho State Capitol Bldg., Boise, Ida.**
5-4-73	ADMINISTRATIVE LAW JUDGE'S DECISION OF 5-2-73 DISMISSES CONTEST COMPLAINT. CASE CLOSED.

EXHIBIT G

Form 2226–3
(June 1966)
(formerly 4–074b)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
BUDGET BUREAU NO. 42–R1300.2

DESERT LAND ENTRY ANNUAL PROOF
(TESTIMONY OF WITNESS)

Read Instructions on Reverse Before Completing Form

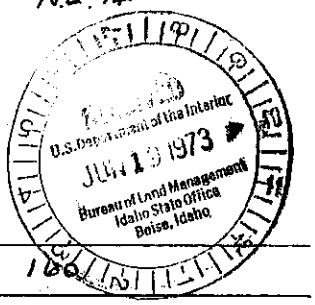
Land Office and Serial Number
Boise
I 3414

1. Entryman *(first, middle initial, last)*	Address *(include zip code)*
John W. Baicy	6612 Kirkwood Drive Boise, Idaho 83705
2. Witness *(first, middle initial, last)*	**Address** *(include zip code)*
Ron Erickson 2418 Irene St.	2418 Irene St. Boise, Idaho

3. Give legal description of lands

SECTION	TOWNSHIP	RANGE	MERIDIAN	SUBDIVISION
#19	1 North	1 East	B.M., Idaho	N.E. 1/4.

Map attached



State of Idaho — Give number of acres 160

4. Is this ☐ 1st ☒ 2nd ☐ 3rd year proof?

5. I CERTIFY That I am well acquainted with the above-described lands and entry and that from personal examination I know that during the ☐ 1st ☒ 2nd ☐ 3rd year after date of said entry, to the best of my knowledge there was expended for the ultimate reclamation of said land, the amounts set forth and itemized below

PURPOSE OF EXPENDITURE	LOCATION OF IMPROVEMENTS	AMOUNT EXPENDED
Construction of ☐ reservoirs ☐ dams ☐ canals ☐ ditches ☐ laterals ☐ wells, for use in irrigating said land *(check the items claimed)*		$
Materials and machinery used in construction of road from Poen Rd to N.E. corner of #19 1½ miles. Bordering ¼ Section, 2 miles	Tractor and leveler and driver. Road East-west mid line section #19, North line NE¼	120.00
Materials and machinery installed for		
Fences		
First clearing or breaking of acres. Appr.	15 acres cleared from mid pt. to North Sect. Line – well site.	28.00
Surveying of Horizontal + vertical Survey for irrigation ditch East-west mid point, for road, for bording, & and Leveling. Markers on hand.		*103.00
Cash payment for stock in		
Water company *(attach receipt with this form)*		
Other expenditures *(specify)* and Remarks *(length and capacity of ditches, etc.)*		
TOTAL		$ 251.00

May 19, 1973
(Date)

Ronald Erickson
(Signature of Witness)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

INSTRUCTIONS

(PLEASE READ CAREFULLY)

The law requires an expenditure of not less than three dollars per acre for the entire area entered, in the necessary irrigation, cultivation, and reclamation of the land by means of main canals and branch ditches, and in permanent improvements upon the land.

During the first year after entry the claimant must file with the Land Office Manager proof, by the separate statements of two witnesses other than himself, that the full sum of one dollar per acre, for the entire area, has been so expended, and like proof must be made for each year thereafter until the full sum of three dollars per acre has been expended; and at the end of the third year the claimant must file a map or plan showing the character and extent of the improvements.

EXPENDITURES FOR WHICH PROOF WILL *NOT* BE ACCEPTED

No proof of expenditure will be accepted *unless* the expenditure was essential to the actual or ultimate reclamation of the land.

A dwelling house *is not* essential to reclamation, and *no* allowance will be made therefor.

Plowing, after the first breaking of the land, seeding land to crops, irrigating, cultivating, and harvesting crops *are not* items for which proof of expenditure will be accepted.

The cost of windmill or pump will *not* be allowed *unless* it is specifically shown that the same was essen- to the contemplated mode of irrigation and was not installed for domestic uses.

The cost of material for necessary construction work will not be allowed *unless* it actually has been applied to that use, and it must be so stated in the statement.

The cost of tools, implements, wagons, and repairs to same, used in construction work, *can not* be computed in the cost of construction.

No expenditure for surveying will be allowed *unless* it is specifically stated that it was for the purpose of establishing lines and levels of canals and ditches.

EXPENDITURES FOR WHICH PROOF WILL BE ACCEPTED

Cost of constructing storage reservoir, well, canals, ditches, and maintaining same. The cost of each item *must* be stated separately, and the length, capacity, and location of the ditches and canals *must* be given.

Cost of water right, if payment therefor in cash be shown by evidence accompanying the annual proof.

Cost of clearing land, if it is shown to be the first clearing. The extent, character, and location of all clearing *must* be fully set forth.

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Cost of fencing necessary to protect the land for the purpose of reclamation, the length, kind, and location to be stated.

Cost of any permanent improvement essential to the reclamation of the land, *provided* its purpose or use is shown.

Be specific.
Set forth in detail the nature, character, and purpose of all improvements, and state cost of each separately.

GPO 886-118

Form 2226–3
(June 1966)
(formerly 4–074b)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
BUDGET BUREAU NO. 42–R1300.2

DESERT LAND ENTRY ANNUAL PROOF
(TESTIMONY OF WITNESS)

Land Office and Serial Number
Boise
I 3414

Read Instructions on Reverse Before Completing Form

1. Entryman *(first, middle initial, last)*
John W. Baicy

Address *(include zip code)*
6612 Kirkwood Dr.
Boise, Idaho 83705

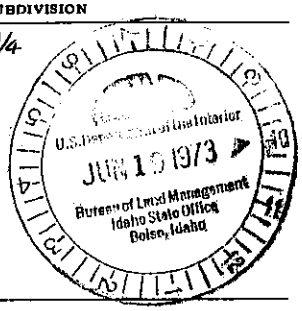
2. Witness *(first, middle initial, last)*
Janet K. Baicy

Address *(include zip code)*
6612 Kirkwood Dr
Boise, Idaho 83705

3. Give legal description of lands

SECTION	TOWNSHIP	RANGE	MERIDIAN	SUBDIVISION
#19	1 North	1 East	B.M.	NE 1/4

Map attached



State of Idaho

Give number of acres 160

4. Is this ☐ 1st ☒ 2nd ☐ 3rd year proof?

5. I CERTIFY That I am well acquainted with the above-described lands and entry and that from personal examination I know that during the ☐ 1st ☒ 2nd ☐ 3rd year after date of said entry, to the best of my knowledge there was expended for the ultimate reclamation of said land, the amounts set forth and itemized below

PURPOSE OF EXPENDITURE	LOCATION OF IMPROVEMENTS	AMOUNT EXPENDED
Construction of ☐ reservoirs ☐ dams ☐ canals ☐ ditches ☐ laterals ☐ wells, for use in irrigating said land *(check the items claimed)*		$
Materials and machinery used in construction of road from Poon Rd to NE 1/4 of #19, 1 1/2 miles. Bordering 1/4 section, 2 miles	Tractor and Leveler and Driver. Road East West mid line Sect 19, North line NE 1/4	120.00
Materials and machinery installed for		
Fences		
First clearing or breaking of acres	App. 15 acres cleared from mid-pt to West Section line	28.00
Surveying of- Horizontal + Vertical Survey for irrigation ditch for bedding and leveling	East-west mid-pt., for road, Markers on board	103.00
Cash payment for stock in		
Water company *(attach receipt with this form)*		
Other expenditures *(specify)* and Remarks *(length and capacity of ditches, etc.)*		
TOTAL		$ 251.00

May 19, 1973
(Date)

J. Karen Baicy
(Signature of Witness)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

INSTRUCTIONS

(PLEASE READ CAREFULLY)

The law requires an expenditure of not less than three dollars per acre for the entire area entered, in the necessary irrigation, cultivation, and reclamation of the land by means of main canals and branch ditches, and in permanent improvements upon the land.

During the first year after entry the claimant must file with the Land Office Manager proof, by the separate statements of two witnesses other than himself, that the full sum of one dollar per acre, for the entire area, has been so expended, and like proof must be made for each year thereafter until the full sum of three dollars per acre has been expended; and at the end of the third year the claimant must file a map or plan showing the character and extent of the improvements.

EXPENDITURES FOR WHICH PROOF WILL *NOT* BE ACCEPTED

No proof of expenditure will be accepted *unless* the expenditure was essential to the actual or ultimate reclamation of the land.

A dwelling house *is not* essential to reclamation, and *no* allowance will be made therefor.

Plowing, after the first breaking of the land, seeding land to crops, irrigating, cultivating, and harvesting crops *are not* items for which proof of expenditure will be accepted.

The cost of windmill or pump will *not* be allowed *unless* it is specifically shown that the same was essen- to the contemplated mode of irrigation and was not installed for domestic uses.

The cost of material for necessary construction work will not be allowed *unless* it actually has been applied to that use, and it must be so stated in the statement.

The cost of tools, implements, wagons, and repairs to same, used in construction work, *can not* be computed in the cost of construction.

No expenditure for surveying will be allowed *unless* it is specifically stated that it was for the purpose of establishing lines and levels of canals and ditches.

EXPENDITURES FOR WHICH PROOF WILL BE ACCEPTED

Cost of constructing storage reservoir, well, canals, ditches, and maintaining same. The cost of each item *must* be stated separately, and the length, capacity, and location of the ditches and canals *must* be given.

Cost of water right, if payment therefor in cash be shown by evidence accompanying the annual proof.

Cost of clearing land, if it is shown to be the first clearing. The extent, character, and location of all clearing *must* be fully set forth.

Cost of first plowing or breaking. All claim for plowing or breaking must specifically state that it was the first plowing or breaking of the soil, and the area and location of the land broken *must* be stated.

Cost of fencing necessary to protect the land for the purpose of reclamation, the length, kind, and location to be stated.

Cost of any permanent improvement essential to the reclamation of the land, *provided* its purpose or use is shown.

Be specific.
Set forth in detail the nature, character, and purpose of all improvements, and state cost of each separately.

GPO 858-118

EXHIBIT H

I-3414

LAYNE PUMPS, Inc.

Box 1035
Nampa, Idaho

VERTICAL TURBINE PUMPS

PHONE 733-3284 P. O. BOX 640
TWIN FALLS, IDAHO 83301

WELL TESTING REPORT AND AGREEMENT

There for all well testing to be cash upon completion of test

NAME John Gaicy
6612 Kurtwood Dr., Boise, Id. LOCATION South of Kuna, Id. DATE 12-5-73

I.D. Well 16" Well Depth Amount of Casing in Well

Static Water Level 295' Will Well Pump Sand? yes Orifice Size 10"

Bowl Capacity Max 2800 Discharge Pipe to Use 12" Size of Col. & Length 8" x 350'

Well Driller: Dick Hiddelston

Time	Water Level Ft. from Top	R.P.M.	Orifice Reading Inches	G.P.M.	Minor Inches	Remarks — Sand? Cascading Water? etc.
	312'		9.5	1500		Very strong well.
	316'		12.0	1700		Pumped much fine,
	320'		16.5	2000		white sand.
	325'		22.0	2312		Clearing at 1700 GPM
	327'		26.0	2513		after 24 hrs. testing.
TOTAL	TESTING TIME:	28 Hours.				

A minimum charge of $.....for installing and pulling test pump, $.....for one hour engine time, plus $..... per hour for each succeeding hour of engine time. An additional charge of $.....per foot for 8" column or smaller, or $.....per foot for 10" column will be charged for every foot over 200'.

$..... Plus $..... Plus $..... Plus $..... Equals $.....
(Column Setting) (1st Hr. Engine) (Hrs. @ $.....) (Mileage) (Total Minimum Charge)

Without grace for value received, I promise to pay to the order of the Layne Pump, Inc., the above mentioned amounts, payable upon completion of well test. I also agree that if this note be placed with an attorney for collection or suit, I agree to pay a reasonable attorney's fee. If not paid at maturity, this note shall thereafter draw interest at the rate of eight per cent (8%) per annum until paid. Layne Pumps, Inc., will in no way be held liable for damage or losses to customer's well that may occur during well testing.

APPROVED BY:

(Owner of Well)

December 3 & 4, 1973
(Date Well Tested))

APPROVED BY: Bob Carey & Kent Tracy

(Layne Pumps, Inc.)

EXHIBIT I

Form 2226–3
(June 1966)
(formerly 4–074b)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
BUDGET BUREAU NO. 42–R1300.2

DESERT LAND ENTRY ANNUAL PROOF
(TESTIMONY OF WITNESS)

Land Office and Serial Number: I-3414

Read Instructions on Reverse Before Completing Form

1. Entryman *(first, middle initial, last)*: John W. Baicy
   Address *(include zip code)*: 6612 Kirkwood Dr Boise, Idaho

2. Witness *(first, middle initial, last)*: Ronald H. Swenson
   Address *(include zip code)*: 2501 Anderson St. #21 Boise, Idaho 83702

3. Give legal description of lands

SECTION	TOWNSHIP	RANGE	MERIDIAN	SUBDIVISION
#19	1N	1E	Boise	NE 1/4 Section #19

(NE 1/4, NE 1/4 Section #19
NW 1/4, NE 1/4 Section #19
SE 1/4, NE 1/4 Section #19
SW 1/4, NE 1/4 Section #19)

State of Idaho

Give number of acres 160

4. Is this ☐ 1st ☐ 2nd ☑ 3rd year proof?

5. I CERTIFY That I am well acquainted with the above-described lands and entry and that from personal examination I know that during the ☐ 1st ☑ 2nd ☑ 3rd year after date of said entry, to the best of my knowledge there was expended for the ultimate reclamation of said land, the amounts set forth and itemized below

PURPOSE OF EXPENDITURE	LOCATION OF IMPROVEMENTS	AMOUNT EXPENDED
Construction of ☐ reservoirs ☐ dams ☐ canals ☐ ditches ☐ laterals ☑ wells, for use in irrigating said land *(check the items claimed)*	Well drilled Well developed + Cerif. Center of NE 1/4 Sect 19.	$ 6262.00 2170.00
Materials and machinery used in construction of		
Materials and machinery installed for		
Fences		
First clearing or breaking of acres	rock removal, brush removal	300.00
Surveying of elevations for ditches + canals		375.00
Cash payment for stock in		
Water company *(attach receipt with this form)*		
Other expenditures *(specify)* and Remarks *(length and capacity of ditches, etc.)*		
TOTAL		$ 9,107.00

June 14 1974
(Date)

(Signature of Witness) Above #2

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

INSTRUCTIONS

(PLEASE READ CAREFULLY)

The law requires an expenditure of not less than three dollars per acre for the entire area entered, in the necessary irrigation, cultivation, and reclamation of the land by means of main canals and branch ditches, and in permanent improvements upon the land.

During the first year after entry the claimant must file with the Land Office Manager proof, by the separate statements of two witnesses other than himself, that the full sum of one dollar per acre, for the entire area, has been so expended, and like proof must be made for each year thereafter until the full sum of three dollars per acre has been expended; and at the end of the third year the claimant must file a map or plan showing the character and extent of the improvements.

EXPENDITURES FOR WHICH PROOF WILL *NOT* BE ACCEPTED

No proof of expenditure will be accepted *unless* the expenditure was essential to the actual or ultimate reclamation of the land.

A dwelling house *is not* essential to reclamation, and *no* allowance will be made therefor.

Plowing, after the first breaking of the land, seeding land to crops, irrigating, cultivating, and harvesting crops *are not* items for which proof of expenditure will be accepted.

The cost of windmill or pump will *not* be allowed *unless* it is specifically shown that the same was essen- to the contemplated mode of irrigation and was not installed for domestic uses.

The cost of material for necessary construction work will not be allowed *unless* it actually has been applied to that use, and it must be so stated in the statement.

The cost of tools, implements, wagons, and repairs to same, used in construction work, *can not* be computed in the cost of construction.

No expenditure for surveying will be allowed *unless* it is specifically stated that it was for the purpose of establishing lines and levels of canals and ditches.

EXPENDITURES FOR WHICH PROOF WILL BE ACCEPTED

Cost of constructing storage reservoir, well, canals, ditches, and maintaining same. The cost of each item *must* be stated separately, and the length, capacity, and location of the ditches and canals *must* be given.

Cost of water right, if payment therefor in cash be shown by evidence accompanying the annual proof.

Cost of clearing land, if it is shown to be the first clearing. The extent, character, and location of all clearing *must* be fully set forth.

Cost of first plowing or breaking. All claim for plowing or breaking must specifically state that it was the first plowing or breaking of the soil, and the area and location of the land broken *must* be stated.

Cost of fencing necessary to protect the land for the purpose of reclamation, the length, kind, and location to be stated.

Cost of any permanent improvement essential to the reclamation of the land, *provided* its purpose or use is shown.

Be specific.
Set forth in detail the nature, character, and purpose of all improvements, and state cost of each separately.

GPO 856-118

Form 2226–3
(June 1966)
(formerly 4–074b)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RECEIVED
U.S. Department of the Interior
JUN 21 1974
Bureau of Land Management
Idaho State Office
Boise, Idaho

FORM APPROVED
BUDGET BUREAU NO. 42–R1300.2

DESERT LAND ENTRY ANNUAL PROOF
(TESTIMONY OF WITNESS)

Land Office and Serial Number: I-3414

Read Instructions on Reverse Before Completing Form

1. Entryman *(first, middle initial, last)*: John W. Baicy
   Address *(include zip code)*: 6612 Kirkwood Dr
   Boise, Idaho

2. Witness *(first, middle initial, last)*: Janet K. Baicy / Janet Karen Baicy
   Address *(include zip code)*: 6612 Kirkwood Dr
   Boise Idaho 83705

3. Give legal description of lands

SECTION	TOWNSHIP	RANGE	MERIDIAN	SUBDIVISION
# 19	1 N	1 E	Boise	NE 1/4 Section # 19

State of: Idaho

Give number of acres: 160

4. Is this ☐ 1st ☐ 2nd ☑ 3rd year proof? 1975

5. I CERTIFY That I am well acquainted with the above-described lands and entry and that from personal examination I know that during the ☑ 1st ☐ 2nd ☑ 3rd year after date of said entry, to the best of my knowledge there was expended for the ultimate reclamation of said land, the amounts set forth and itemized below

PURPOSE OF EXPENDITURE	LOCATION OF IMPROVEMENTS	AMOUNT EXPENDED
Construction of ☐ reservoirs ☐ dams ☐ canals ☐ ditches ☐ laterals ☑ wells, for use in irrigating said land *(check the items claimed)*	Well drilled Well developed + Cu	$ 6262.00 2170.00
Materials and machinery used in construction of		
Materials and machinery installed for		
Fences		
First clearing or breaking of acres	rock removed, brush removed	300.00
Surveying of elevation for ditch & canals		375.00
Cash payment for stock in Water company *(attach receipt with this form)*		
Other expenditures *(specify)* and Remarks *(length and capacity of ditches, etc.)*		
TOTAL		$ 9,107.00

June 14 1974
(Date)

(Signature of Witness) Above #2

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INSTRUCTIONS

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Be specific.
Set forth in detail the nature, character, and purpose of all improvements, and state cost of each separately.

GPO 858-118

EXHIBIT J

United States Department of the Interior

OFFICE OF THE SOLICITOR
PORTLAND REGION – BOISE FIELD OFFICE
Federal Building and U.S. Courthouse
Box 020, 550 West Fort St., Boise, Idaho 83724

RECEIVED
U.S. Department of the Interior
MAR 07 1975
Bureau of Land Management
Idaho State Office
Boise Idaho

MAR 5 1975

To: State Director, BLM, Boise

From: Office of the Field Solicitor, Boise

Subject: Request for Extension of Time on Desert Land Entry I-3414 (John Baicy)

Attached is a letter to me together with a copy of a letter to the State Director from John Baicy, letters from 2 witnesses and a property description and final statement which Mr. Baicy has sent to me in order to obtain a 2-year extension of time in which to comply with the requirements of the desert land laws with respect to his entry. This entry was originally made by Mrs. Lillian Terwilliger and we contested the entry along with several others which were made by members of the same family group in the Kuna area. As you recall, we were unsuccessful in the contest and decided not to appeal with respect to this particular entry. Prior to the initiation of the contest proceedings, Mr. Baicy took an assignment of the entry from Mrs. Terwilliger and from all that I have been able to determine, Mr. Baicy is a good faith assignee who took the assignment intending to reclaim and irrigate the land for his own use and benefit.

However, Mr. Baicy was understandably not prepared to risk his money to develop the entry during the pendency of the contest and, further, upon the recommendation of this office, the assignment was not formally approved until after the litigation. As Mr. Baicy states in his letter, the litigation resulted in a delay of approximately 2 years in his initiation of the reclamation work on the entry. It is not strictly true that I told Mr. Baicy, as he alleges in his letter, that if the charges against Mrs. Terwilliger were not upheld "the time lost on the entry would be restored." However, I did tell him that, under the circumstances, he could probably obtain an extension of time because of the litigation if he was not able to complete the reclamation and irrigation work on the entry within the original 4-year statutory term.

In view of all the circumstances, including the statements made by Mr. Baicy with respect to the problems he has encountered in obtaining irrigation equipment, which are corroborated by the statements of his witnesses, I recommend that he be granted a 2-year extension of time in which to comply with the requirements of the desert land laws. I do not believe it would be appropriate to grant him a 3-year extension, as he requests in his letter, because he was not unavoidably delayed in reclamation of the entry for more than 2 years and he has made no showing that a 3-year extension is required.

Riley C. Nichols
Attorney

Enclosures

EXHIBIT K

Form 2226–5
(November 1964)
(formerly 4–373a)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

DESERT LAND FINAL PROOF

FORM APPROVED
BUDGET BUREAU NO. 42–R1349

Land Office and Serial Number

I-3414

AFFIDAVIT OF WITNESS

I am 32 years of age and am acquainted with *(name of entryman)* John W. Baicy ,

who resides at Box 153, Kuna, Idaho 83634 ;

have known him for 4 mo. ~~years~~; have personal knowledge of the land described in his entry; and have no interest, direct or indirect, in his entry or in the land covered thereby, or in the water supply used in its irrigation.

Charles Gordon
Charles James Gordon Jr
(Signature of witness)

July 21, 1976.
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfuly to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

CERTIFICATION OF CERTIFYING OFFICER

I HEREBY CERTIFY That the foregoing statement was read to or by affiant in my presence; that affiant is to me personally known (or has been satisfactorily identified before me) and that said statement was duly subscribed and sworn to before me, at my office in the town of Boise , County of Ada , State of Idaho , within the Boise land district, this 21st day of July , 19 76 .

John E. Jorenby
(Signature of Certifying Officer)

Proof Officer
(Official designation of Officer)

GPO 845-862

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 42–R1293

Serial Number

I-3414

DESERT LAND ENTRY FINAL PROOF

Act of March 3, 1877 (19 Stat. 377; 43 U.S.C. 321–323), as amended

1. The testimony given on this form is that of the: *(check one)* ☐ Entryman ☒ Witness

2. Name of Entryman *(first, middle initial, last)*	Address *(include zip code)*
John W. Baicy	Box 153 Kuna, ID 83634
3a. Citizenship ☒ Native born ☐ Naturalized	b. What State is claimed as the entryman's legal residence? IDAHO

4. Give legal description of land in entry

T. 1 N., R. 1 E., B. M.
Section 19: NE¼
(160 acres)

5. WATER SUPPLY *(see specific instructions)*

a. Source	b. Volume
☒ Well ☐ Other *(explain)*	1500 gal/minute 16" casing, 310 feet deep, 170 HP electric motor
c. Name and address of person, firm, or agency who made pump test Layne Pump Co	d. Method of acquisition ☒ State water permit number 63-7431 ☐ Other *(explain)*
e. Location of point of diversion T 1N R 1E BM Sec 19: SE¼ SE¼ SE¼ NE¼	f. Is water right in good standing? ☒ Yes ☐ No *(if "no," explain)*

6. IMPROVEMENTS

YEAR (a)	TYPE CONSTRUCTED (b)	COST OR REASONABLE VALUE (c)
This witness has no knowledge of prior improvements in 1976 she also does not know any of the cost or values of the improvements Phoebe L Boyle 9/21/76		
1976	Portable Aluminum 10" & 8" - gate type irrigation lines.	cost unknown
1976	Cleared 40 acres of brush & rock	cost unknown

7a. Has the entryman personally paid for or obligated himself to pay for the above-listed improvements?
☒ Yes ☐ No *(if "no," explain)*

b. Are any of the improvements listed above leased from other persons or parties? ☐ Yes ☒ No
(if "yes," explain)

8. AGRICULTURAL CROPS PLANTED AND IRRIGATED ON THE LAND (Exclude Hay)				9. HAY PRODUCED ON THE LAND AS A RESULT OF IRRIGATION			
YEAR (a)	KIND OF CROP (b)	NO. ACRES (c)	ESTIMATED OR AVERAGE YIELD/ACRE (d)	YEAR (a)	NO. ACRES (b)	TONS PER ACRE (c)	VALUE OF CROP (dollars) (d)
1976	wheat	~~135~~ 113	40 bu/ac		none		

10. Give reasons why hay, rather than a cultivated crop, was produced

NA

11. Irrigation and Cultivation *(For information required, see page 3)*

12. Are any of the lands nonirrigable or not being irrigated? ☒ Yes ☐ No *(If "yes," state reasons and give estimated acreage)* rock outcrops — 35 acres

13. Have any of the lands been leased for farming? ☐ Yes ☒ No *(If "yes," give name and address of lessee)*

14. Does any other person or association have any interest in the lands? ☐ Yes ☒ No *(If "yes," give names and addresses)*

15. Has the entryman made any agreement to sell all or any part of the entry after receiving patent to the land? ☐ Yes ☒ No *(If "yes," give name and address of party to agreement)*

16. If final proof was not made on or before the due date, what are the reasons for delay in submitting the proof?

No delay

I HEREBY CERTIFY That the statements made herein are true, complete, and correct to the best of my knowledge and belief and are made in good faith.

X July 21, 1976 (Date) X Charles Gordon (Signature)

Title 18, U.S.C., Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

CERTIFICATION OF CERTIFYING OFFICER

I HEREBY CERTIFY That the foregoing statement was read to or by the affiant in my presence and separately and apart from the other affiants; that affiant is to me personally known (or has been satisfactorily identified before me) and that said statement was duly subscribed and sworn to before me, at my office, in the town of Boise, County of Ada, State of Idaho, within the Boise land district, this 21st day of July, 1976

John E. Jorenby
(Signature of Certifying Officer)

Proof Officer
(Official Designation of Officer)

11. IRRIGATION AND CULTIVATION

LEGAL SUBDIVISION	TOTAL ACRES		ACRES IRRIGABLE		DITCHES, CANALS, PIPELINES OR OTHER MEANS TO CARRY WATER TO THE LAND			IRRIGATED		DURATION OF DISTRIBUTION (hrs. per set)	TIME INTERVALS PER SET	IRRIGABLE ACRES CULTIVATED BUT NOT IRRIGATED
	IRRIGABLE	NON-IRRIGABLE	BY GRAVITY FLOW	BY PRESSURE SYSTEM	TYPE	NUMBER	CARRYING CAPACITY OR SIZE	DATES (mo. and year)	ACREAGE			
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)
T. 1 N., R. 1 E., B. M.				1/ This type of System Has been used								
Section 19:												
NE¼NE¼	40	0	40	40	aluminum pipe (portable)	1	8"&6"	5-present 1976	40	8 hr	6 day	0
NW¼NE¼	36	4	36	36	aluminum pipe	1	8"&6"	5-present 1976	36	8 hr	6 day	0
SW¼NE¼	35	5	35	35	aluminum pipe	2	8"&6"	5-present 1976	35	8 hr	6 day	0
SE¼NE¼	29	11	29	29	aluminum pipe	2	8"&6"	5-present 1976	29	8 hr	6 day	0

11n. Other information, if applicable *(such as, method of distributing water over land, etc.)*

The applicant is spreading the water over the irrigable land by corrugations throughout the fields. All the mainlines are portable aluminum with slide gates.

(3)

GENERAL INSTRUCTIONS

The final proof testimony of the entryman and two witnesses, as designated in the final proof Notice of Publication, will be taken at a BLM office and reduced to writing on this form. The testimony of each one will be taken separate and apart from the others and under oath. Additional supplimental testimony may be required.

SPECIFIC INSTRUCTIONS

(Items not listed are self-explanatory)

Item

2a. *Citizenship* – If naturalized, entryman must submit proof if not previously submitted.

5 *WATER SUPPLY*

b. *Volume* – Give volume of water that can actually be applied to the land. This should be expressed in miners inches, gallons per minute, acre feet, or other recognized unit of measuring water volume. For wells, show size of casing, feet of lift, size of motor and pump capacity. For surface water show size of penstock or canal, motor and pump capacity.

c. *Pump Test* – Submit copy of pump test report along with name and address of party who made pump test.

d. *Method of Acquisition* – Entryman must submit proof of right to water if not previously submitted.

e. *Location of Point of Diversion* – Describe location by legal subdivision.

Column

6 *IMPROVEMENTS*

(b) *Type Constructed* – Briefly describe the improvements placed on the entry for each year beginning with the oldest first. Submit a diagram or sketch map showing location of water source, all ditches, canals or pipelines, other improvements and the areas of entry actually developed under irrigation, if not previously submitted with annual proof.

(c) *Cost or Reasonable Value* – Credit to be given for an expenditure for improvements is either the actual cost or the reasonable value of the work done, or improvement placed upon the land. Reasonable value should be determined according to existing market price or rate at the time for similar work or improvements prevailing in the vicinity.

8 *AGRICULTURAL CROPS PLANTED AND IRRIGATED ON THE LAND (Exclude Hay)*

(d) *Estimated or Average Yield Per Acre* – If crop was harvested, show average yield per acre in bushels, tons, sacks, or other appropriate unit of measurement. If not harvested, show estimated yield per acre by appropriate unit of measurement.

9 *HAY PRODUCED ON THE LAND AS A RESULT OF IRRIGATION*

(d) *Value of Crop (dollars)* – Show market value of hay crop at farm, if sold.

Form 2226–5
(November 1964)
(formerly 4–373a)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

DESERT LAND FINAL PROOF

FORM APPROVED
BUDGET BUREAU NO. 42–R1349

Land Office and Serial Number

I-3414

AFFIDAVIT OF WITNESS

I am 54 years of age and am acquainted with *(name of entryman)* John W. Baicy ,

who resides at Box 153, Kuna, Idaho 83634 ;

have known him for 4 years; have personal knowledge of the land described in his entry; and have no interest, direct or indirect, in his entry or in the land covered thereby, or in the water supply used in its irrigation.

Eric A Manson
(Signature of witness)

7/21/76
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfuly to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

CERTIFICATION OF CERTIFYING OFFICER

I HEREBY CERTIFY That the foregoing statement was read to or by affiant in my presence; that affiant is to me personally known (or has been satisfactorily identified before me) and that said statement was duly subscribed and sworn to before me, at my office in the town of Boise , County of Ada , State of Idaho , within the Boise land district, this 21st day of July , 1976 .

John E. Jarenby
(Signature of Certifying Officer)

Proof Officer
(Official designation of Officer)

GPO 845-882

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 42–R1293

Serial Number

I-3414

DESERT LAND ENTRY FINAL PROOF

Act of March 3, 1877 (19 Stat. 377; 43 U.S.C. 321–323), as amended

1. The testimony given on this form is that of the: *(check one)* ☐ Entryman ☒ Witness

2. Name of Entryman *(first, middle initial, last)*	Address *(include zip code)*
John W. Baicy	Box 153 Kuna, ID 83634
3a. Citizenship ☒ Native born ☐ Naturalized	b. What State is claimed as the entryman's legal residence? Idaho

4. Give legal description of land in entry

T. 1 N., R. 1 E., B. M.
Section 19: NE¼
(160 acres)

5. WATER SUPPLY *(see specific instructions)*

a. Source	b. Volume
☒ Well ☐ Other *(explain)*	pumping 1500 g.p.m.
c. Name and address of person, firm, or agency who made pump test Layne Pump	d. Method of acquisition ☒ State water permit number 63-7431 ☐ Other *(explain)*
e. Location of point of diversion Center of Entry	f. Is water right in good standing? ☒ Yes ☐ No *(if "no," explain)*

6. IMPROVEMENTS

YEAR (a)	TYPE CONSTRUCTED (b)	COST OR REASONABLE VALUE (c)
1973-75	well and Accessories	$26,000.00
1973-76	clearing of Brush and Rock	$6,750.00 (EST. by witness)
1975-76	Aluminum Mainline + Gated Mainline	$16,000.00 (EST. by witness)

7a. Has the entryman personally paid for or obligated himself to pay for the above-listed improvements?
☒ Yes ☐ No *(if "no," explain)*

b. Are any of the improvements listed above leased from other persons or parties? ☐ Yes ☒ No
(if "yes," explain)

8. AGRICULTURAL CROPS PLANTED AND IRRIGATED ON THE LAND (Exclude Hay)				9. HAY PRODUCED ON THE LAND AS A RESULT OF IRRIGATION			
YEAR (a)	KIND OF CROP (b)	NO. ACRES (c)	ESTIMATED OR AVERAGE YIELD/ACRE (d)	YEAR (a)	NO. ACRES (b)	TONS PER ACRE (c)	VALUE OF CROP (dollars) (d)
1976	wheat	135	~~KB~~ 60				

10. Give reasons why hay, rather than a cultivated crop, was produced

NA

11. Irrigation and Cultivation *(For information required, see page 3)*

12. Are any of the lands nonirrigable or not being irrigated? ☒ Yes ☐ No *(If "yes," state reasons and give estimated acreage)*

25 acres nonirrigable at present

13. Have any of the lands been leased for farming? ☐ Yes ☒ No *(If "yes," give name and address of lessee)*

14. Does any other person or association have any interest in the lands? ☐ Yes ☒ No *(If "yes," give names and addresses)*

15. Has the entryman made any agreement to sell all or any part of the entry after receiving patent to the land? ☐ Yes ☒ No *(If "yes," give name and address of party to agreement)*

16. If final proof was not made on or before the due date, what are the reasons for delay in submitting the proof?

NA

I HEREBY CERTIFY That the statements made herein are true, complete, and correct to the best of my knowledge and belief and are made in good faith.

(Date)

Ernest Manson
(Signature)

Title 18, U.S.C., Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

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I HEREBY CERTIFY That the foregoing statement was read to or by the affiant in my presence and separately and apart from the other affiants; that affiant is to me personally known (or has been satisfactorily identified before me) and that said statement was duly subscribed and sworn to before me, at my office, in the town of Boise, County of Ada, State of Idaho, within the Boise land district, this 21st day of July, 1976.

John E. Jorenby
(Signature of Certifying Officer)

Proof Officer
(Official Designation of Officer)

11. IRRIGATION AND CULTIVATION

LEGAL SUBDIVISION	TOTAL ACRES		ACRES IRRIGABLE		DITCHES, CANALS, PIPELINES OR OTHER MEANS TO CARRY WATER TO THE LAND			IRRIGATED		DURATION OF DISTRIBUTION (hrs. per set)	TIME INTERVALS PER SET	IRRIGABLE ACRES CULTIVATED BUT NOT IRRIGATED
	IRRIGABLE	NON-IRRIGABLE	BY GRAVITY FLOW	BY PRESSURE SYSTEM	TYPE	NUMBER	CARRYING CAPACITY OR SIZE	DATES (mo. and year)	ACREAGE			
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)
T. 1 N., R. 1 E., B. M.												
Section 19:												
NE¼NE¼	35	5	35		Alum. 1300' mainline	1	8" + 6"	Oct. 75 To Present	35	24 hr	once every 7 days	NO
NW¼NE¼	36	4	36		Alum 1300' Mainline	1	8" + 6"	Oct. 75 To present	36	24 hr	once every 7 days	NO
SW¼NE¼	29	11	29		Alum 1900' mainline	1	10", 8" + 6"	Oct. 75 To Present	29	24 hr	once every 7 days	NO
SE¼NE¼	35	5	35		Alum 1900' mainline	1	10", 8" + 6"	Oct. 75 To Present	35	24 hr	once every 7 days	NO

11a. Other information, if applicable *(such as, method of distributing water over land, etc.)*

Water is distributed over the entry by approximately 1200' of 10" aluminum mainline and approximately 5200' of 6" + 8" gated aluminum pipe. Portions of the entry were cleared too late for planting.

(3)

GENERAL INSTRUCTIONS

The final proof testimony of the entryman and two witnesses, as designated in the final proof Notice of Publication, will be taken at a BLM office and reduced to writing on this form. The testimony of each one will be taken separate and apart from the others and under oath. Additional supplimental testimony may be required.

SPECIFIC INSTRUCTIONS

(Items not listed are self-explanatory)

Item

2a. *Citizenship* – If naturalized, entryman must submit proof if not previously submitted.

5 *WATER SUPPLY*

b. *Volume* – Give volume of water that can actually be applied to the land. This should be expressed in miners inches, gallons per minute, acre feet, or other recognized unit of measuring water volume. For wells, show size of casing, feet of lift, size of motor and pump capacity. For surface water show size of penstock or canal, motor and pump capacity.

c. *Pump Test* – Submit copy of pump test report along with name and address of party who made pump test.

d. *Method of Acquisition* – Entryman must submit proof of right to water if not previously submitted.

e. *Location of Point of Diversion* – Describe location by legal subdivision.

Column

6 *IMPROVEMENTS*

(b) *Type Constructed* – Briefly describe the improvements placed on the entry for each year beginning with the oldest first. Submit a diagram or sketch map showing location of water source, all ditches, canals or pipelines, other improvements and the areas of entry actually developed under irrigation, if not previously submitted with annual proof.

(c) *Cost or Reasonable Value* – Credit to be given for an expenditure for improvements is either the actual cost or the reasonable value of the work done, or improvement placed upon the land. Reasonable value should be determined according to existing market price or rate at the time for similar work or improvements prevailing in the vicinity.

8 *AGRICULTURAL CROPS PLANTED AND IRRIGATED ON THE LAND (Exclude Hay)*

(d) *Estimated or Average Yield Per Acre* – If crop was harvested, show average yield per acre in bushels, tons, sacks, or other appropriate unit of measurement. If not harvested, show estimated yield per acre by appropriate unit of measurement.

9 *HAY PRODUCED ON THE LAND AS A RESULT OF IRRIGATION*

(d) *Value of Crop (dollars)* – Show market value of hay crop at farm, if sold.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 42-R1293

Serial Number

I-3414

DESERT LAND ENTRY FINAL PROOF

Act of March 3, 1877 (19 Stat. 377; 43 U.S.C. 321–323), as amended

1. The testimony given on this form is that of the: *(check one)* ☒ Entryman ☐ Witness

2. Name of Entryman *(first, middle initial, last)*	Address *(include zip code)*
John W. Baicy	Box 153 Kuna, ID 83634
3a. Citizenship ☒ Native born ☐ Naturalized	b. What State is claimed as the entryman's legal residence? IDAHO

4. Give legal description of land in entry

T. 1 N., R. 1 E., B. M.
Section 19: NE¼
(160 acres)

5. WATER SUPPLY *(see specific instructions)*

a. Source	b. Volume
☒ Well 400' DEEP 16" CASING ☐ Other *(explain)* PUMPING FROM 310' 170 HP motor on pump	1500 GPM
c. Name and address of person, firm, or agency who made pump test LAYNE PUMPS NAMPA, IDAHO	d. Method of acquisition ☒ State water permit number ☐ Other *(explain)*
e. Location of point of diversion CENTER OF ENTRY	f. Is water right in good standing? ☒ Yes ☐ No *(if "no," explain)*

6. IMPROVEMENTS

YEAR (a)	TYPE CONSTRUCTED (b)	COST OR REASONABLE VALUE (c)
1973	ROCK REMOVAL	8,000
1973	WELL DRILLING + TESTING	8,000
1974	CONSTRUCTION OF ROAD	500
1975	LAND LEVELING	4,000
1975	PUMP -	18,000
1975	MAINLINES - 1 mile 8", ¼ mile 10", ½ mile 6".	16,000
1975	POWER	11,000

7a. Has the entryman personally paid for or obligated himself to pay for the above-listed improvements?
☒ Yes ☐ No *(if "no," explain)*

b. Are any of the improvements listed above leased from other persons or parties? ☐ Yes ☒ No
(if "yes," explain)

8. AGRICULTURAL CROPS PLANTED AND IRRIGATED ON THE LAND (Exclude Hay)				9. HAY PRODUCED ON THE LAND AS A RESULT OF IRRIGATION			
YEAR (a)	KIND OF CROP (b)	NO. ACRES (c)	ESTIMATED OR AVERAGE YIELD/ACRE (d)	YEAR (a)	NO. ACRES (b)	TONS PER ACRE (c)	VALUE OF CROP (dollars) (d)
1976	WHEAT	135	70 bushels		N/A		

10. Give reasons why hay, rather than a cultivated crop, was produced

N/A

11. Irrigation and Cultivation *(For information required, see page 3)*

12. Are any of the lands nonirrigable or not being irrigated? ☒ Yes ☐ No *(If "yes," state reasons and give estimated acreage)*

2.5 acres - economically not feasible to irrigate at present time.

13. Have any of the lands been leased for farming? ☐ Yes ☒ No *(If "yes," give name and address of lessee)*

14. Does any other person or association have any interest in the lands? ☐ Yes ☒ No *(If "yes," give names and addresses)*

15. Has the entryman made any agreement to sell all or any part of the entry after receiving patent to the land? ☐ Yes ☒ No *(If "yes," give name and address of party to agreement)*

16. If final proof was not made on or before the due date, what are the reasons for delay in submitting the proof?

N/A

I HEREBY CERTIFY That the statements made herein are true, complete, and correct to the best of my knowledge and belief and are made in good faith.

July 21, 1976 (Date)

John W. Bain (Signature)

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John E. Jorenby (Signature of Certifying Officer)

Proof Officer (Official Designation of Officer)

11. IRRIGATION AND CULTIVATION

LEGAL SUBDIVISION	TOTAL ACRES		ACRES IRRIGABLE		DITCHES, CANALS, PIPELINES OR OTHER MEANS TO CARRY WATER TO THE LAND			IRRIGATED		DURATION OF DISTRIBUTION (hrs. per set)	TIME INTERVALS PER SET	IRRIGABLE ACRES CULTIVATED BUT NOT IRRIGATED
	IRRIGABLE	NON-IRRIGABLE	BY GRAVITY FLOW	BY PRESSURE SYSTEM	TYPE	NUMBER	CARRYING CAPACITY OR SIZE	DATES (mo. and year)	ACREAGE			
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)
T. 1 N., R. 1 E., B. M.												
Section 19:												
NE¼NE¼	~~35~~ 35	5	35		aluminum Pipe		⅛ mile each 6" & 8"	OCT-1975 To PRESENT	35	24	MAX. in 3 DAYS	
NW¼NE¼	38	2	38		"		⅛ mile each 6" & 8"	"	38	24	"	
SW¼NE¼	29	11	29		"		10" ¼ mile then 6" & 8"	"	29	24	"	
SE¼NE¼	36	4	36		"		"	"	36	24	"	

11n. Other information, if applicable *(such as, method of distributing water over land, etc.)*

SUFFICIENT ~~PIPE~~ PIPE IS AVAILABLE TO TRANSPORT WATER TO ALL POTENTIALLY IRRIGABLE ACRES.

(3)

GENERAL INSTRUCTIONS

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SPECIFIC INSTRUCTIONS

(Items not listed are self-explanatory)

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c. *Pump Test* – Submit copy of pump test report along with name and address of party who made pump test.

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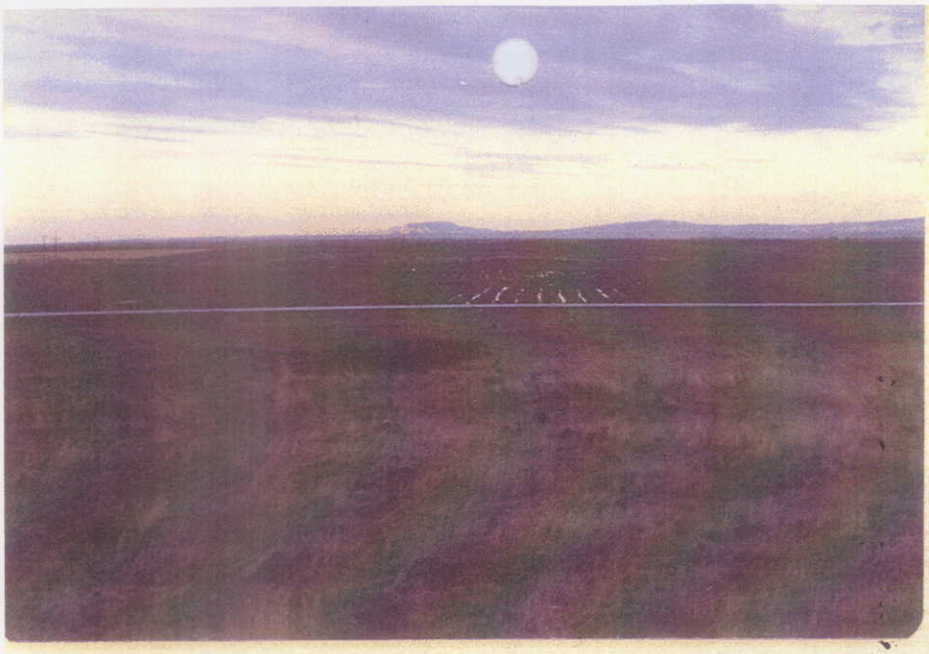
8 *AGRICULTURAL CROPS PLANTED AND IRRIGATED ON THE LAND (Exclude Hay)*

(d) *Estimated or Average Yield Per Acre* – If crop was harvested, show average yield per acre in bushels, tons, sacks, or other appropriate unit of measurement. If not harvested, show estimated yield per acre by appropriate unit of measurement.

9 *HAY PRODUCED ON THE LAND AS A RESULT OF IRRIGATION*

(d) *Value of Crop (dollars)* – Show market value of hay crop at farm, if sold.

EXHIBIT L



Working Irrigation system







Oct. 1975

Oct. 197

EXHIBIT M

John Boicy's

Poem Road Farm

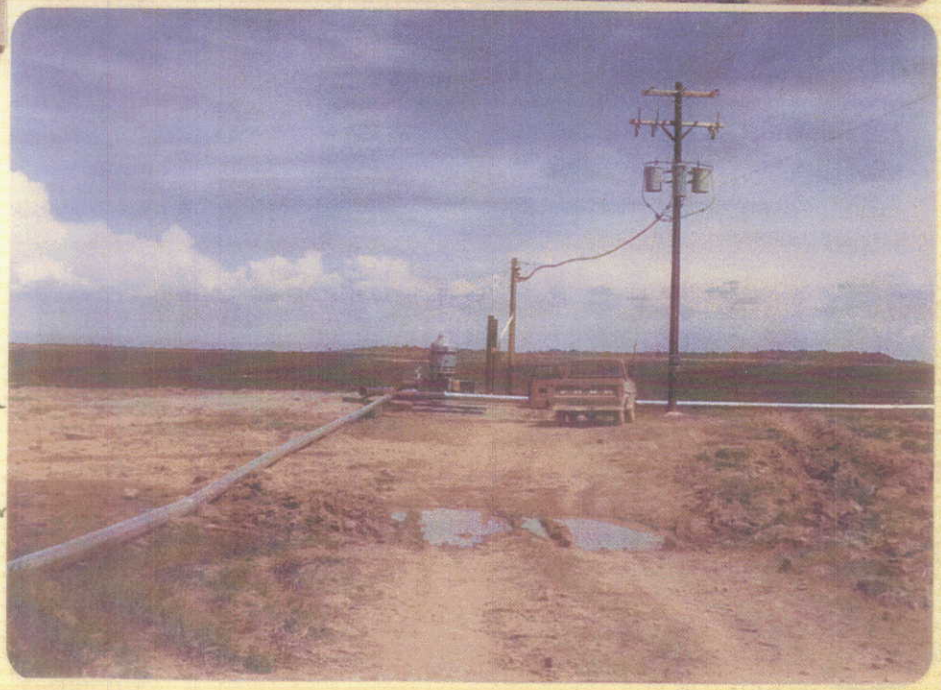
Cuops →

220 hp Pump
1,800 gal/min









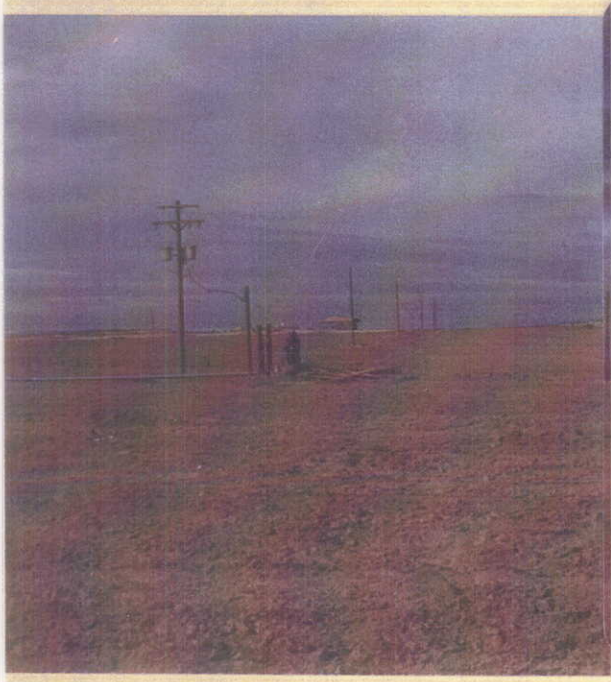
May 1976

Irrigation System

Pump at center of 1/4 Section



John Baicy 1976 - 77







Pump with connecting irrigation pipes

Start of 2nd crop.





May 1976



← irrigation pipes



2nd crop. alfalfa



May 1976



Pipes →



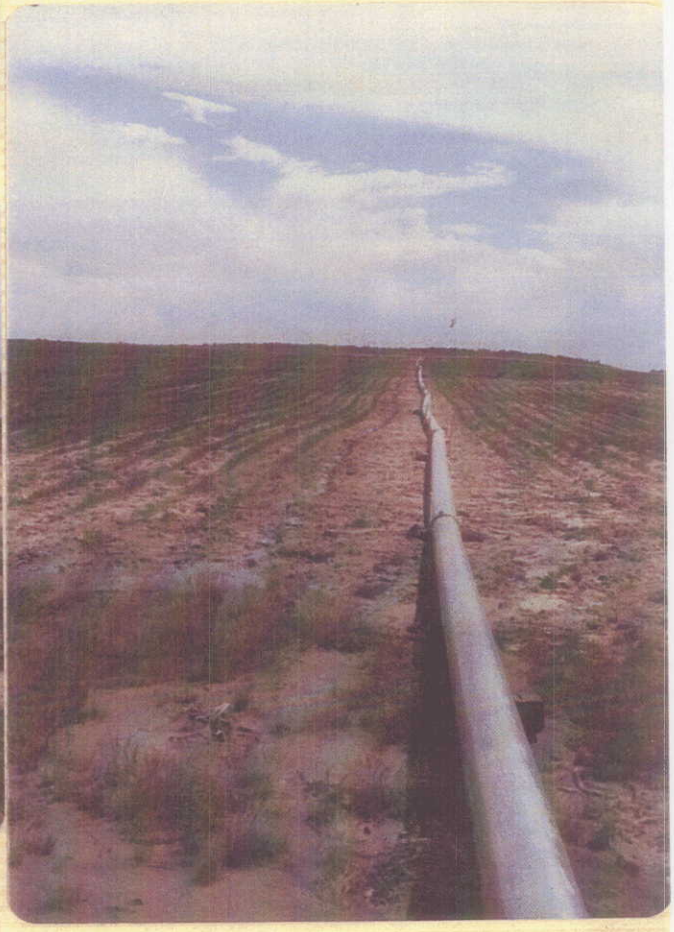
First Crop
Wheat



July 1976









May 1976

EXHIBIT N

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

I-3414

TO : File, I-3414

DATE: July 29, 1976

FROM : John E. Jorenby, Realty Specialist

SUBJECT: Field Compliance Report, Desert Land Entry Final Proof, John W. Baicy

Lands Involved

The lands involved are located about five miles south and two miles east of Kuna, Idaho in:

T. 1 N., R. 1 E., B. M.
Section 19, NE¼ (160 acres)

Cultivation and Irrigation

The entryman has cultivated and irrigated a total of approximately 116 acres (see attachment #1). This acreage has been planted to wheat. Clearing and rock removal have been started on much of the remaining area. Some land leveling would be needed on the remaining acres before they could be irrigated. Natural vegetation remains on about 7.5 acres along the south boundary of the entry.

On the date of the field inspection, July 20, 1976, the irrigation system was in operation.

Water Source

The water source for this entry is a well located near the center of the NE¼ of Section 19, T. 1 N., R. 1 E., B. M. Authorization to appropriate the public waters of the State of Idaho was granted to Lillian M. Terwilliger by State Water Permit #63-7431, and assigned to John W. Baicy, (see attachment #1).

The point of diversion is in the NW¼NE¼ of Section 19 as shown in the water permit. A well test was completed, indicating that the well would produce 2,513 GPM, which is considered adequate to irrigate 446 acres at a rate of 5/8" per acre. Water is pumped from the well by a 175 HP General Electric pump. It then enters a 10" aluminum mainline and/or a 6" and 8" portable gated aluminum distribution line. The entry is irrigated by flooding from the gated valves in the 6" and 8" aluminum distribution lines. The water is distributed by gravity flow after it leaves the distribution line. No ditches are present. However, the water has created small channels between the rows of vegetation.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

The entryman moves the gated aluminum distribution lines around to provide water to the various parts of the entry. Sufficient lines are available for use on the unirrigated portions when necessary land leveling has been completed as previously mentioned.

Additional Comments

An unimproved road exists along the west side of the entry. A powerline has been constructed adjacent to the road within a 10' wide right-of-way grant, I-9280.

Conclusions and Recommendations

The field inspection reveals sufficient compliance with the requirements of the Desert Land Act. The irrigation system was operating on July 20, 1976, the date of the field inspection. The portions of the entry not now being irrigated could be irrigated if the land were leveled and some rock removed.

It is recommended that final proof be accepted for desert land entry I-3414, insofar as the field compliance requirements are concerned.

Examined by: John E. Jarenby
Realty Specialist

Date: July 30, 1976

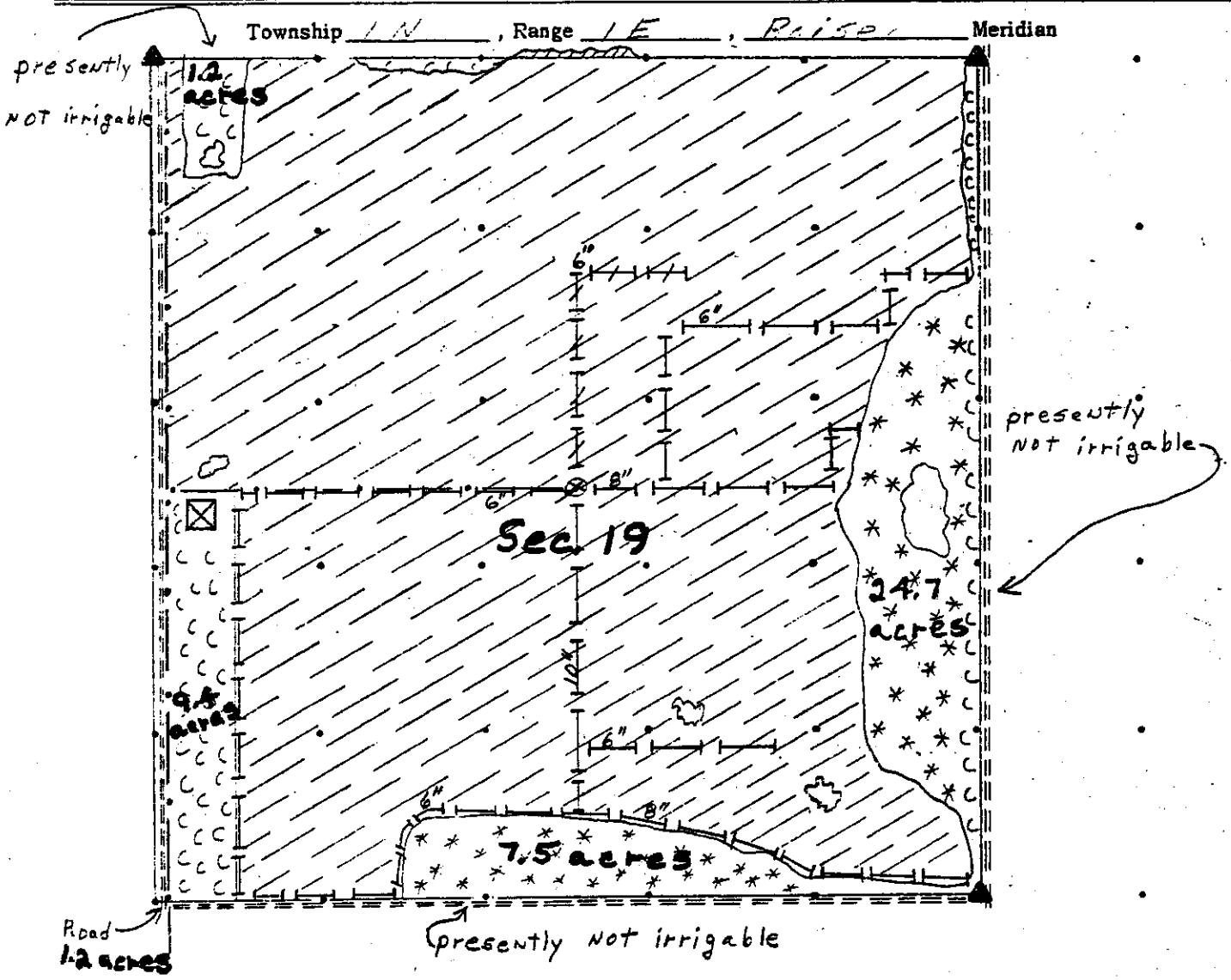
Enclosures:
Asgnmt of Permit 63-7431
Site Plot

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

SITE PLOT

Serial Number
I-3414

Township 1N , Range 1E , Boise Meridian



LAND OWNERSHIP KEY AND ADDITIONAL TOPOGRAPHIC SYMBOLS

Scale: 1" = 528'

═══	Dirt Road	⊠	House and Shed
▲	Found Corner		Rocky Area
	Power Line		Trespass (Planted Wheat)
⊗	Well and 7.5 H.P. G.E. Pump		Wheat
	Pipeline (Aluminum), Connected	**	Sagebrush
	Pipeline (Aluminum), unconnected		Cleared, not planted

OTHER DATA

N

Form 2060–2 (January 1975)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

SITE PLOT

Serial Number

Township _____ , Range _____ , _____ Meridian

Photo 3 - Facing [illegible] corner [illegible]
and northeast

Photo 4 - Looking east along south line of S=
[illegible]

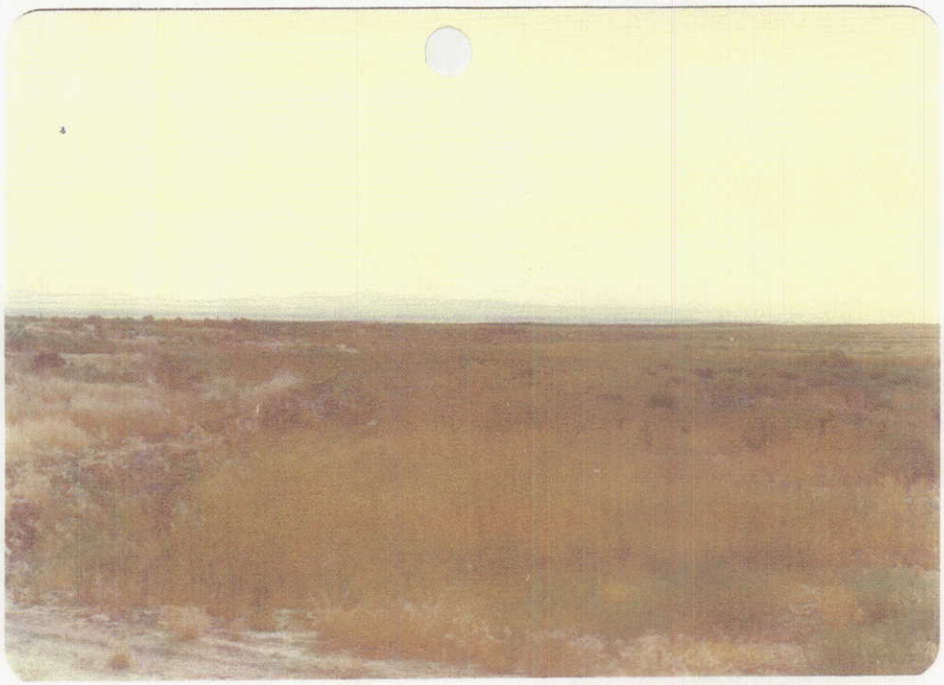
Photo 5 - [illegible] NE from west [illegible]
line.

Photo 6 - well [illegible] from [illegible]

7 - looking north from SE corner

8 - West & NW from SE corner.

LAND OWNERSHIP KEY AND ADDITIONAL TOPOGRAPHIC SYMBOLS				Scale: 1" =
				OTHER DATA



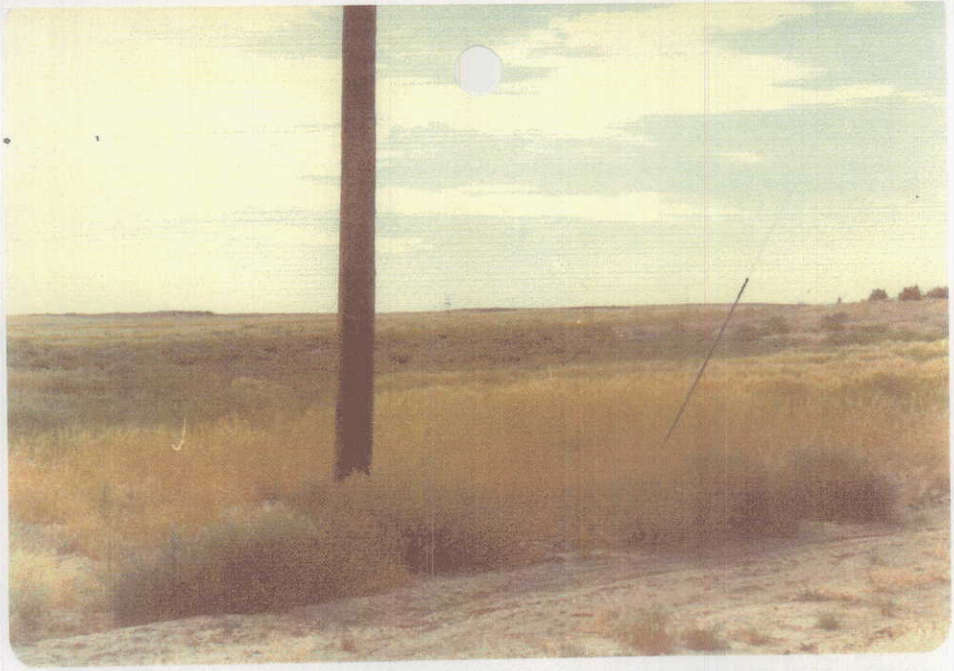


















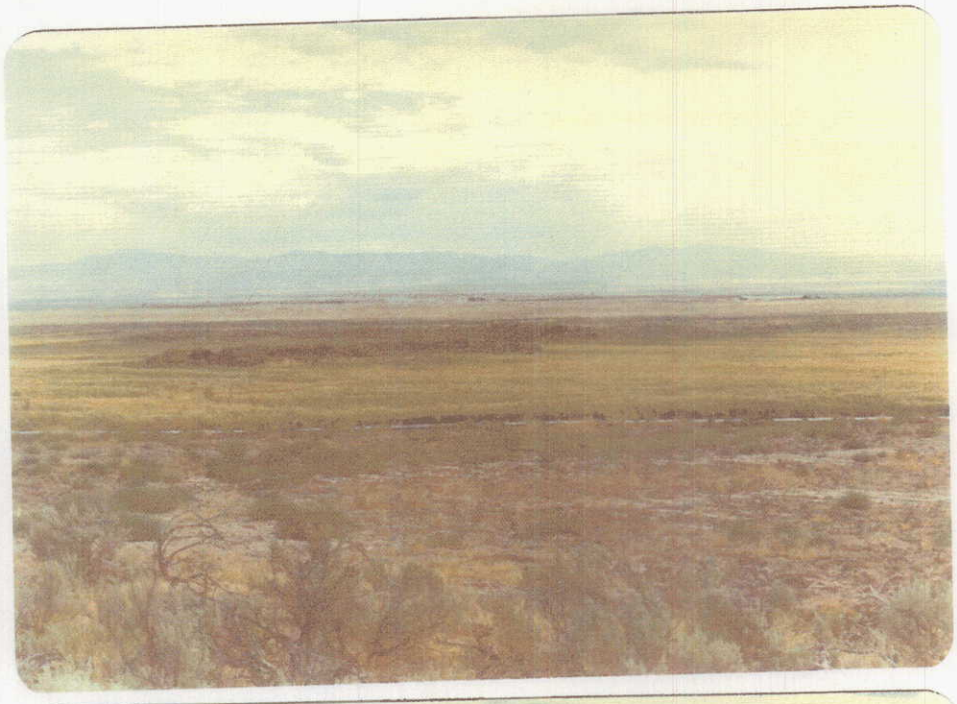






EXHIBIT O

Form 1860–8
(July 1975)

I–3414

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS

John W. Baicy, assignee by mesne conveyance from Lillian M. Terwilliger

is entitled to a Land Patent pursuant to the Desert Land Act of March 3, 1877, as amended and supplemented; 43 U.S.C. 321, et. seq., for the following described lands:

Boise Meridian, Idaho

T. 1 N., R. 1 E.,

Section 19, NE¼.

Containing 160.00 acres.

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES, unto the above named claimant the land above described; TO HAVE AND TO HOLD the said land with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant, his successors and assigns, forever;

EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All the oil and gas in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same upon compliance with the conditions and subject to the provisions and limitations of the Act of July 17, 1914, 38 Stat. 509, as supplemented; 30 U.S.C. 121–124.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

[SEAL]

GIVEN under my hand, in BOISE, IDAHO the EIGHTEENTH day of AUGUST in the year of our Lord one thousand nine hundred and SEVENTY-SIX and of the Independence of the United States the two hundredth AND ONE.

By /s/ Larry L. Woodard
Acting State Director

Patent Number 11–76–0083

ON BICENTENNIAL 1976

U.S. GOVERNMENT PRINTING OFFICE: 1975—661-316/54 REGION NO. 5

EXHIBIT P

May 13, 1976

Dept. of Water Resources
Statehouse
Boise, Idaho 83720

RECEIVED
1970
Water Resources

Dear Sirs:

I would like to request a time extension for final proof of beneficial use of water under Permit No. 63-7431.

The desert entry project has not been fully completed due to delays cause by BLM proceeding in assigning the entry. The BLM has granted me an extension of two years on the desert entry.

Respectfully

John Baier
Box 153
Kuna, Idaho

EXHIBIT Q

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF EXTENDING THE PROOF DUE IN CONNECTION WITH PERMIT NO. 63-7431 IN THE NAME OF JOHN W. BAICY	)	ORDER

WHEREAS, on May 11, 1971, Lillian M. Terwilliger applied to the Department of Water Resources (formerly the Department of Water Administration) for a permit to appropriate 3.24 cubic feet per second of groundwater to be diverted from within the NW¼NE¼, Sec. 19, Twp. 1N, Rge. 1E, B.M., Ada County, to be used for irrigation, domestic and stockwater purposes; and,

WHEREAS, on June 17, 1971, the Department approved said application and issued Permit No. 63-7431 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before June 1, 1976; and,

WHEREAS, on January 31, 1972, Lillian M. Terwilliger assigned all her right, title and interest in and to Permit No. 63-7431 to John M. Baicy; and,

WHEREAS, on May 17, 1976, the permit holder submitted a request for an extension of time; and,

WHEREAS, it appears that under the circumstances, the permit holder has been proceeding with reasonable diligence and has given good cause for delay;

IT IS, THEREFORE, HEREBY ORDERED that the time within which to submit proof of beneficial use of water under Permit No. 63-7431 be extended to June 1, 1978.

Dated this 24 day of May, 1976.

A. KENNETH DUNN
Administrator, Operations Division

EXHIBIT R

RECEIVED
SEP 22 1976
Department of Water Resources
Western Regional Office

Identification No. _____
Permit No. 63743 1

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder Tobin M. Bailey
   b) Post Office Address Box 153 Ketchum, Idaho
2. Permit Number I-3414 63743 1
3. Date of Priority that you are prepared to establish Sept. 1975
4. a) Source from which water was appropriated Deep well
   b) Location of the point of diversion: NE ¼ NE ¼ Section 19
   Township 1 N, Range 18 E Boise Meridian, Other points of diversion: _____

5. a) The amount of water and use to which the water has been applied:
   Amount 3.25 cfs (cfs and/or acre-feet per annum) for irrigation purposes from 9/75 (Month-Day) to 5/10 (Month-Day) incl.
   Amount _____ (cfs and/or acre-feet per annum) for _____ purposes from _____ (Month-Day) to _____ (Month-Day) incl.
   Amount _____ (cfs and/or acre-feet per annum) for _____ purposes from _____ (Month-Day) to _____ (Month-Day) incl.
   b) Total amount appropriated 3.25 cfs cfs and/or acre-feet per annum
   c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: Agricultural Stabilization, flow rate Tube Ave

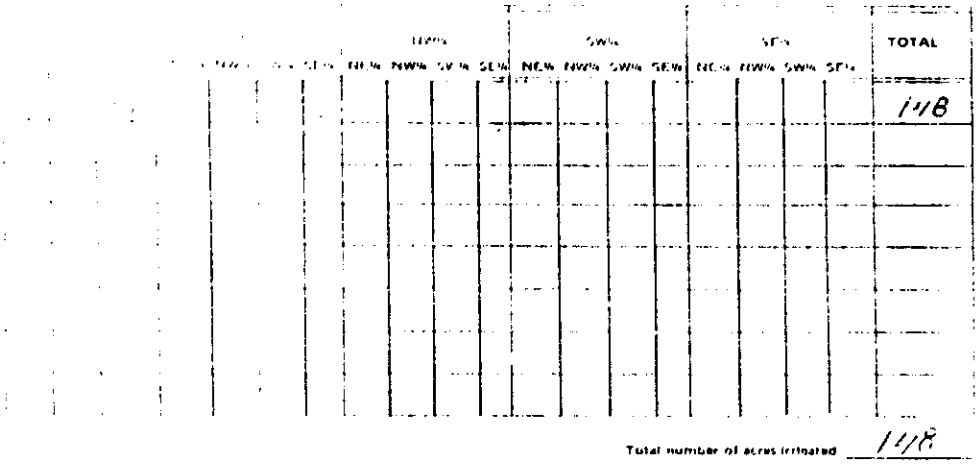
6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
   a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use:
   b) Describe the agreement or understanding by which you take water from the works:

7. a) Briefly describe the works for diverting and conveying the water to the place of use. (If from a subterranean source, give the pump size, motor size, size of well casing, depth of well, if from surface water, give brief description of diversion structure and/or canal or ditch)
   100 HP Pump 10 inch Column
   Main line
   Valve Lead 3/0 4"
   b) Describe the type and size of measuring device which you have installed at your point of diversion:
   c) Give well driller's name and address and the date the well was completed:
   Hiddleston Well Drilling
   Mountain Home, Idaho
   Jan. 1973

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

OK

...irrigated by giving the acreages irrigated within each 40 acre subdivision



16. Remarks

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

(Date) (Signature)

State of Idaho)
) ss.
County of Ada)

On this 21st day of September, 19 76, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Notary Public residing at Boise

My commission expires April 1, 1980

EXHIBIT S

September 24, 1976

Re: Permit No. 63-7431

John W. Baicy
Box 153
Kuna, Idaho 83634

Dear Mr. Baicy:

We are in receipt of the affidavit submitted as proof of beneficial use for the above referenced permit. However, in reviewing that affidavit, you indicate that you have not yet installed the measuring device as required by the condition of approval of your permit.

We cannot process your proof unless you have installed the measuring device of a type approved by this Department. Therefore, we are herewith returning the proof affidavit.

We are enclosing a list of the types of measuring devices approved by this office. If you have any questions, please feel free to contact us.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:JFR

Enclosures

EXHIBIT T

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
National Science and Technology Center
Denver Federal Center, Building 50
P.O. Box 25047
Denver, Colorado 80225-0047

IN REPLY
REFER TO:

10/28/04

TO WHOM IT MAY CONCERN:

The attached full frame, color contact print specifically detailed below was produced photographically by Intrasearch, Inc. from unretouched, original color negative film. This film is under my custodianship and is presently archived in our facility located in Building 50, Denver Federal Center, Denver, Colorado.

The original nominal scale of this photography is 1:31,680 (1"=2640').
This specific print represents a 1:1 reproduction from the film and the effective scale is therefore, the same.

The particular frame in question is identified as follows.....

BLM/ Idaho Project: I-1 (Owyhee), frame 5 - 10 - 56.....dated July 22, 1976.

This frame centers over the boundary line between sections 23 and 24 in Township 1 North, Range 1 West in Ada County, Idaho - approximately 5.5 miles due south of the town of Kuna.

Respectfully,

C. D. Slusser / ST-122
BLM Aerial Photo Archive and Lab
Bldg 50 / DFC
Denver, Colorado 80225-0047
(303) 236-7991

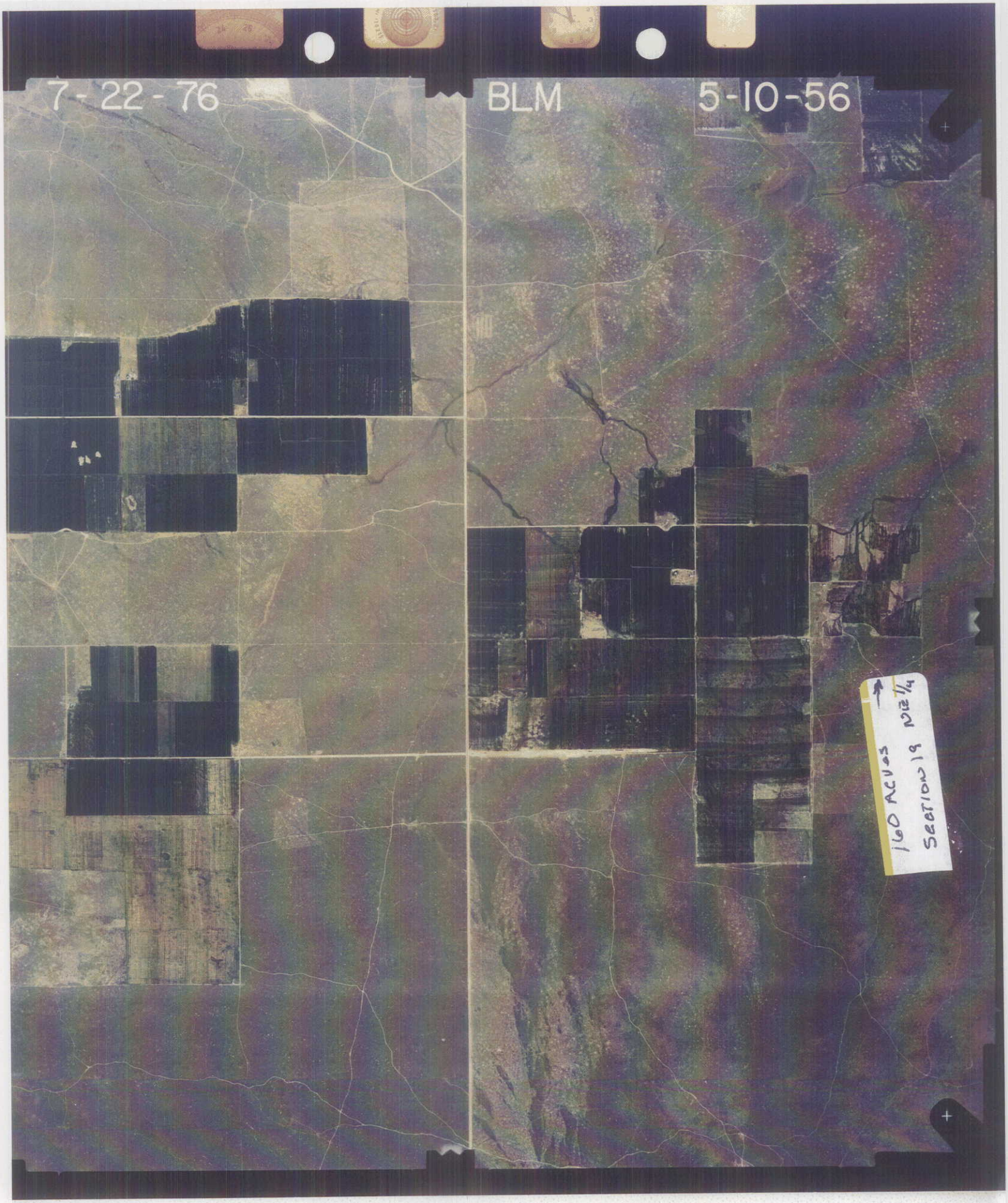

7-22-76
BLM
5-10-56
160 ACRES
SECTION 19 N12 1/4

EXHIBIT U


9 - 6-77
USDA
40
16001
677- 85
SECTION
#19
NE 1/4
7 30 4

T-6-1711

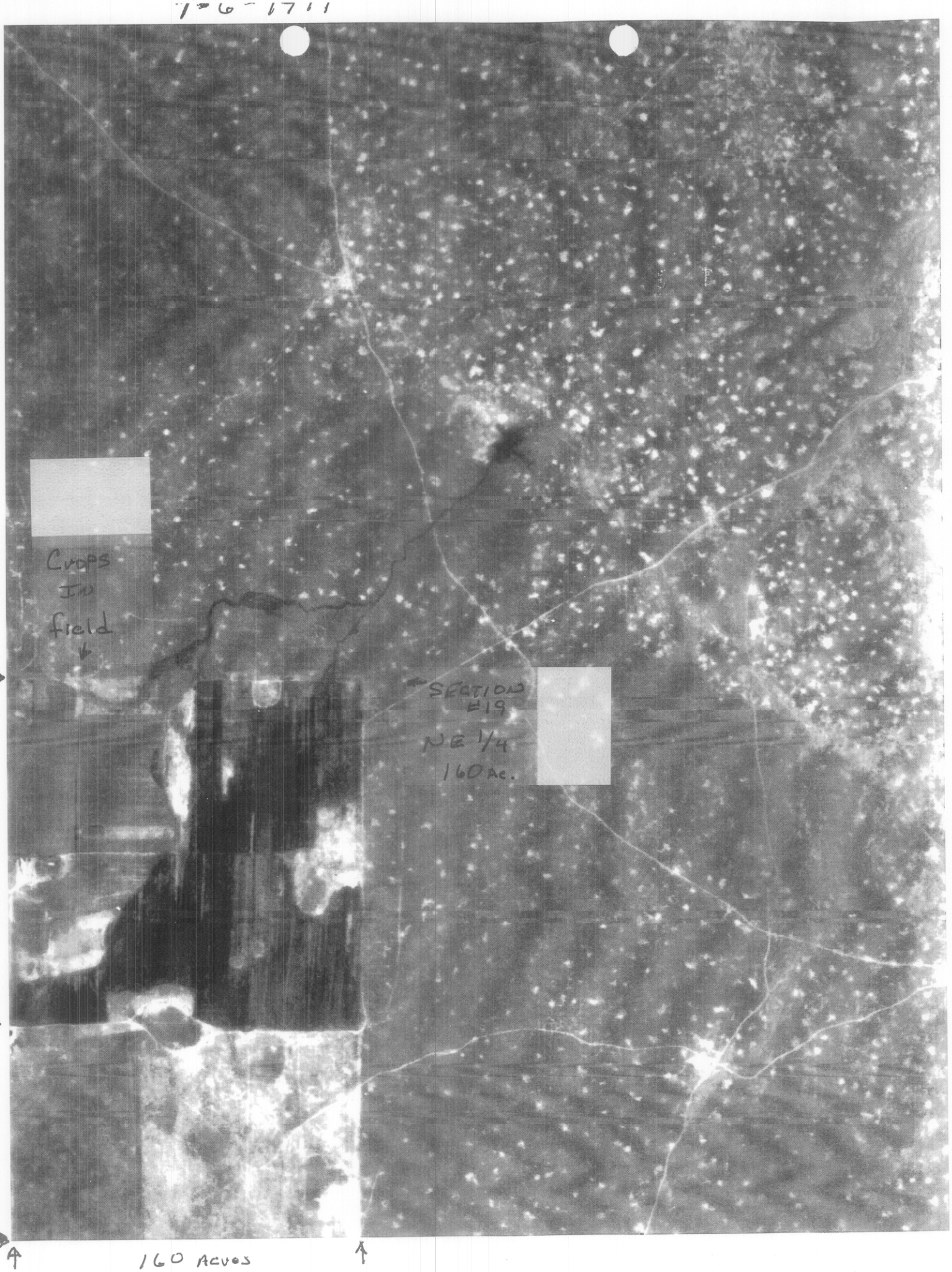


EXHIBIT V

May 9, 1978

STATE OF Idaho
WATER RESOURCES
Boise, Idaho

RECEIVED
MAY 12 1978
Department of Water Resources

Dear Sirs:

I am submitting my application for water rights, permit # 63-3431. I am working out of state for a few month therefore I may not be available for assistance in inspection unless I am giving notice.

However, The irrigation system is operating and available for inspection at any time.

We have been irrigating since 1935 and would like to obtain water rights.

I can be contacted at (208) 655 3596 or write Box 153, Kuna, Idaho.

Respectfully

John W Baisy

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

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1	1	19																	1/18

Total number of acres irrigated 1/18

10. Remarks: _____

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

Sept 16 1976
(Date)

(Signature)

State of Idaho)
) ss.
County of Ada)

On this 21st day of September, 19 76, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Notary Public residing at Boise

My commission expires April, 1980

RECEIVED
SEP 29 1978
Department of Water Resources
Western Regional Office

Resubmit

Identification No. _____
Permit No. 63-7131

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAY 12 1978
Department of Water Resources

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder John H. Bates
   b) Post Office Address Box 153 Bancroft, Idaho
2. Permit Number T-3414 63-7131
3. Date of Priority that you are prepared to establish Sept. 1975
4. a) Source from which water was appropriated Deep Well
   b) Location of the point of diversion: SW ¼ NE ¼, Section 19
   Township 14 S, Range 41 E Boise Meridian, Other points of diversion: _____

5. a) The amount of water and use to which the water has been applied:
   Amount 3.25 cfs for Irrigation purposes from 9/75 (Month-Day) to 5/78 (Month-Day) incl.
   (cfs and/or acre-feet per annum)
   Amount _____ for _____ purposes from _____ (Month-Day) to _____ (Month-Day) incl.
   (cfs and/or acre-feet per annum)
   Amount _____ for _____ purposes from _____ (Month-Day) to _____ (Month-Day) incl.
   (cfs and/or acre-feet per annum)
   b) Total amount appropriated 3.25 cfs cfs and/or acre-feet per annum
   c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: Age Lutes, Bancroft Idaho, Flow rate Tube & Tape Measure, Area

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
   a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use:
   Deep well - gated pipe
   b) Describe the agreement or understanding by which you take water from the works: _____

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (if from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch)
   100 hp Pump, Motor, casing, 10 inch Column
   Main line pipes
   Water Level 370 ft
   b) Describe the type and size of measuring device which you have installed at your point of diversion:
   ① GATED Flood
   ② FLOW METER, 0 - 3,000 gallons / min
   ③ Engineer Measurements, Area method, Agvitimes
   c) Give well driller's name and address and the date the well was completed:
   Hiddleston Well Drilling
   Mountain Home, Idaho
   Jan. 1977

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use: _____
   None

Exam Wpd 5/16/78 DV

EXHIBIT W

May 17, 1978

Re: Permit No. 63-7431

John W. Baicy
Box 153
Kuna, Idaho 83634

Dear Mr. Baicy:

We acknowledge receipt of the affidavit submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

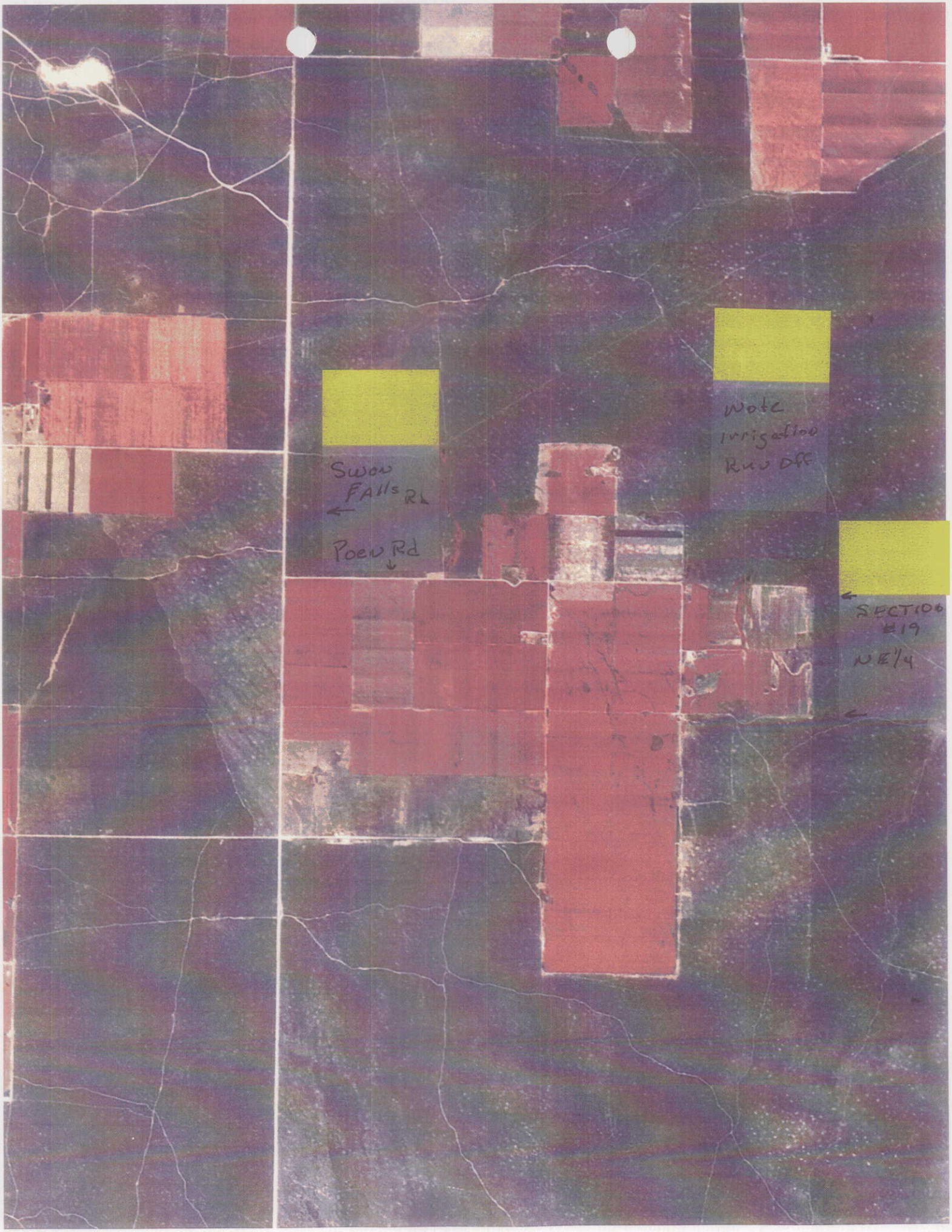
If you have any questions regarding the field examination, please contact our Regional Office in Boise.

Sincerely,

JANICE RENK
Water Rights

EXHIBIT X


-4-81
69-39
431615
HAP 81 F
SECTION
19
NE 1/4


Wate
Irrigation
Run Off
Swon
FAlls Rd
Poen Rd
SECTION
#19
NE1/4

7-4-1981

EXHIBIT Y

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

Mailing address:
Statehouse
Boise, Idaho 83720

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

63-7431
BAICY, JOHN W.
P.O. BOX 153
KUNA, ID 83634

April 17, 1986

CERTIFIED MAIL
138350

EXAMINATION FEE NOTICE

Dear Permit Holder:

Department records show that proof of beneficial use has been submitted for the above-referenced permit, but that a field examination has not yet been conducted to determine the extent of beneficial use of the water for licensing purposes.

House Bill 671 (effective April 4, 1986) enacted by the 1986 Idaho Legislature requires the payment of a fee before this department can conduct the field examination needed to issue a license confirming use of water under the permit. This letter is notification that the license examination fee is due within sixty (60) days of the date of this letter. The examination fee information sheet (enclosed) must be returned with the fee.

As an alternative to submitting the fee, the department will accept a field examination report completed by a certified water right examiner from the private sector. If you choose to have the examination done by a certified water right examiner, you need not submit the license examination fee to the department, but you must within sixty (60) days of the date of this letter return to the department, the examination fee information sheet showing appropriate information together with a statement from the certified examiner to verify that you have retained a certified examiner to conduct the field examination. If you choose this alternative, a completed field examination report must be submitted within one year of the date of this letter. You cannot later change your decision to use this alternative and submit the fee needed for the department to conduct the field examination, but you may change to another certified examiner.

Certified water right examiners are licensed engineers, geologists, or land surveyors certified by the department to conduct water right examinations. The procedure for certifying examiners results from the recently enacted HB 671 and is being developed at this time. A listing

of certified water right examiners will be available from this department when examiners have been certified.

If your permitted use, in fact, has already been examined by the department and you have not asked to have the examination repeated, the fee requirement is not applicable to your permit. If you believe this is the case, please contact the department.

The license examination fee is to be based on the amount of water you indicate you have developed, as listed in item 6 on the examination fee information sheet. The amount of water on which the examination fee is based can be less than the permitted amount, if less water has been diverted and beneficially used. The licensed amount of water, however, will not exceed the amount you claim on the examination fee information sheet. The enclosed license examination fee schedule shows a listing of applicable fees.

FAILURE TO SUBMIT WITHIN THE SIXTY (60) DAY PERIOD, THE FEE OR THE STATEMENT THAT A CERTIFIED EXAMINER HAS BEEN RETAINED TO MAKE THE FIELD EXAMINATION, WILL BE CAUSE TO ADVANCE THE PRIORITY OF THE PERMIT ONE DAY FOR EACH DAY THAT THE FEE SUBMITTAL IS LATE.

FAILURE TO SUBMIT THE FEE OR THE COMPLETED FIELD EXAMINATION REPORT WITHIN A YEAR WILL BE CAUSE TO CONSIDER THE PROOF OF BENEFICIAL USE TO BE INCOMPLETE AND TO LAPSE THE PERMIT.

The attached examination fee information sheet and the fee may be submitted to the following department offices.

Northern Region
Idaho Dept. of Water Resources
4055 Government Way
Coeur d'Alene, ID 83814
Phone: 765-4639

Eastern Region
Idaho Dept. of Water Resources
150 Shoup Ave., Suite 15
Idaho Falls, ID 83401
Phone: 525-7161

Southern Region
Idaho Dept. of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, ID 83301
Phone: 734-3578

Western Region
Idaho Dept. of Water Resources
450 W. State St., (Third Floor)
Boise, ID 83720
Phone: 334-2190

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

Enclosures

EXHIBIT Z

May 17, 1986

RECEIVED
SEP 22 1986
Department of Water Resources

Dept. of Water Resources.

Dear Sirs:

Ten years ago I requested your dept to come and inspect my well and water use. I was informed that I needed a flow meter installed before you would inspect the water. I installed a $300.00 in line flow meter and notified you again. I was then told I was to be put a waiting list for inspection.

Now you want $325.00 to do the inspection.

At present our water/pump is off while we are re leveling and clearing rocks. (again). We hope to be back irrigating in August or Sept.

John Bain

RECEIVED
SEP 22 1986
Department of Water Resources

EXHIBIT AA

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-07431
Date Received: 8/22/1989
Receipt No: W00 4792
Received By: SR

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN W. BAICY 805-943-1463
   Address: 43050 ED HOLLEY PLACE
   LANCASTER, CA 93536

2. Date of Priority: MAY 11, 1971

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
01N	01E	19	NE NE		ADA
			NW NE		ADA
			SW NE		ADA
			SE NE		ADA

5. Description of diverting works:
   16", 360' WELL, PUMP AND PIPELINES FOR SPRINKLER IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.200		
STOCKWATER	01/01	12/31	0.020		
DOMESTIC	01/01	12/31	0.020		

7. Total Quantity Appropriated is:
   3.240 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 560.0 Acre Feet Per Annum.

9. Non-irrigation uses:
   DOMESTIC 1 HOME, STOCK 40 HEAD MIXED

MICROFILMED
AUG 2 1 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
01N	01E	19	NE	NE		IRR	40.0
			NE	NE		STOCK	
			NW	NE		IRR	40.0
			NW	NE		STOCK	
			SW	NE		IRR	40.0
			SW	NE		STOCK	
			SW	NE		DOMEST	
			SE	NE		IRR	40.0
			SE	NE		STOCK	

Section Acres 160.0

Total Acres 160.0

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:
I-3414.
SINGLE WELL IS AT 1/4-1/4 INTERSECTION. STOCKWATER USE OCCURS THROUGHOUT IRRIGATED LAND INSTEAD OF JUST NWNE AS DESCRIBED IN PERMIT. DOMESTIC USE IS SWNE INSTEAD OF NWNE.

15. Basis of Claim: PERMIT

MICROFILMED
AUG 2 1 1992

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): John W. Baxing Date: 8/22/89

Date:

State of Idaho)
) SS.
County of Ada)

Subscribed and sworn (or affirmed) before me this 22 day of August 19 89

Lori Harris
Notary Public

Seal

Residing at Boise, Idaho

My Commission Expires 12.8.94

MICROFILMED
AUG 21 1992

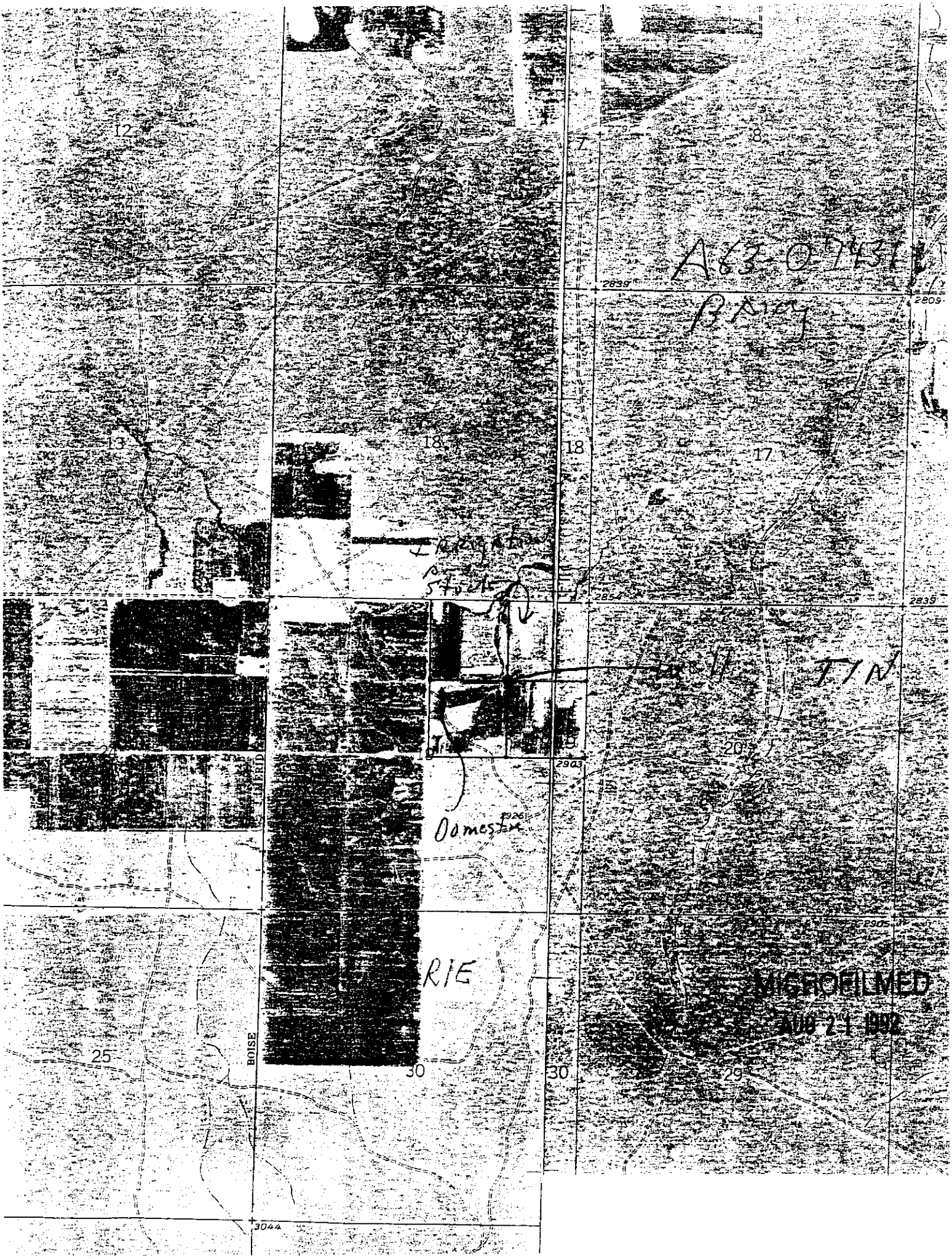

12
7
8
A&3 OTHER
BARN
13
18
18
17
Irrigation
Structure
Domestic
20
RIE
MICROFILMED
AUG 21 1992
25
30
30
29
BOISE
3044

EXHIBIT BB

NOV - 4 1991

Department of Water Resources
Western Regional Office

October 30,1991

Cindy Hodges
Sr. Water Resource Agent
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho
83705-5082

Dear Cindy Hodges,

In reference to your letter dated October 25, 1991, regarding the licensing for the water permit # 63-7431, we have been pumping irrigation water from this well from 1974 to 1987. The past few years only pasture land has been irrigated.

In April of this year I removed the pump moter and pump panel in order to refurbish them. Enclosed is a copy of the repairs done to this equipment. We are planning to put the irrigation system to full use this spring. I have no intentions of not providing proof to your agency of beneficial use of the water. However, for economic reasons I have been working out of state and as a result have not had the time to maintain the pump and other equipment.

I request that your agency allow me to restore the irrigation and put it into full use this spring at which time you may make the required examination.

Please contact me at the address below if there are any questions.

Respectfully,

John W. Baicy

John W. Baicy
43050 Ed Halley Place
Lancaster, Ca.
93536

(805) 722-5703

BAK, CA, 93309
PHONE, (805) 631-0490

SOLD TO: John Bailey

SHIPPED TO: (805) 722-5203

43050 Ed Hatley Pl.

Lowdaster, Ca.

CUSTOMER'S ORDER	SALESMAN	TERMS	SHIPPED VIA	F.O.B.	DATE

	Rebuilt 1 Size 5 Panel		
	Pump Repair + Transducer		
	for control. 350 MCM Parts		1200 00
	Labor		700 00
			1900 00

Rebuild Pump
Control Panel for
Kuwa farm.

Paid # 6145
Check
Cash
Credit Card
Visa Check

THANK YOU

Total

Please Pay From This Invoice

Invoice due and payable by 10th of month following date of invoice.

Seller, for security purposes, retains title to described goods until paid according to terms. Buyer assumes risk of loss or damage to described goods upon delivery. In case of Buyer's default in payment, Seller or his agents may take possession of and remove described goods from buyer's premises or elsewhere without prior notice. Buyer waives all right of action for trespass, damages or other cause resulting from reposession. Upon buyer's default in payment, buyer agrees to pay a finance charge of 1½% per month, 18% per year, plus reasonable collection costs and, attorney fees.

AUTHORIZED SIGNATURE

Agreed to and Received by x _____

INVOICE

DEL R. COMBS, INC.

№ 1309

DRC Pump Systems

PEERLESS PUMP SALES & SERVICE
P.O. BOX 1029
LANCASTER, CALIFORNIA 93534
(805) 942-1173

DATE 6/27/91

John Baicy
43050 Ed Halley Pl.
lancaster, Ca, 93534

Rebuild Pump turbine for Kuwa farm.

DESCRIPTION		TOTAL
pump #2, est. 00755 Peerless Head & 14" Mc Bowls, curve #1 1600 GPM @ 85'X4=340' allwater possible		
Materials:		
1-Peerless discharge head 12 X 12 X 16½	$ 375.00	
1-length of 10" X 8" col w/1½" s.s. shaft	200.00	
1-4 stage Peerless bowls plus 2 add. stages	2000.00	
1-1½" s.s. head shaft	275.00	
1-set of 3/8" packing	25.00	
1-set of discharge bolts w/flange	50.00	
Total Materials		$2925.00
7% Sales TAx		204.75
Labor:		
Machine work on bowl shaft, pump shaft & head. Assemble pump.		$ 415.00
Total Labor		
TOTAL		$3544.75

Less Down Payment $1776.30
BALANCE DUE $1768.45

THANK YOU!

TOTAL 3599.90

P/A #6255

$ 3599.90

9/27/91

EXHIBIT CC

Recent Photos
of
Poen Road farm



Equipment used
to develop land.

rock picker
Land plane
Disc



Irrigation pipes →



Irrigation pipes →

recent photo of Poew Rd. farm.

Irrigation pipes + equipment











recent Photos of Pump and well on Poem Rd farm. (different pump motor)

EXHIBIT DD

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

November 17, 1992

JOHN W BAICY
43050 ED HALLEY PL
LANCASTER CA 93536

RE: Permit to Appropriate Water No. 63-07431

NOTICE OF PENDING ORDER TO VOID PERMIT

Dear Permit Holder(s):

On June 17, 1971, the Director of the Department of Water Resources approved Application for Permit No. 63-07431 for diversion water from groundwater for irrigation, stockwater, and domestic purposes in the NW¼NE¼, Sec. 19, Twp. 01N, Rng. 01E, B.M., Ada County.

On June 6, 1992, a Beneficial Use Field Report prepared by an employee of this Department reported that no water was diverted under this permit from the source listed above.

The purpose of this letter is to inform you that I will take action to void your permit after thirty (30) days from the date of this letter unless you have explanation why the permit should not be voided.

If you are no longer interested in this right you can sign and return the enclosed relinquishment form.

If you have any questions in regard to this matter, please feel free to contact me at 327-7947.

Respectfully,

JIM JOHNSON
Water Right Supervisor

JJ:cz

Enclosure

c: Western Region

CERTIFIED MAIL
ID 35029

EXHIBIT EE

RECEIVED
DEC 14 1992
Department of Water Resources

December 8 , 1992

Mr. Jim Johnson
Water Right Supervisor
Department of Water Resources
1301 North Orchard Street
Boise , Idaho 83720-9000

Dear Jim Johnson ,

In reference to the application for Permit No. 63-07431 , I would like to retain this application for groundwater for irrigation . We had used this water for irrigation for several years but recent economic conditions have made it difficult to resume farming . However, I believe it is in the best interest of all to allow those who developed the ground water in the remote area where we farm to continue to hold those rights . We are committed to resume farming on our land and will do so in the near future . There is very little ground water use in this area and the water has never been over drawn. We are in no way competing for water with other users .

We ask that the Department of Water Resources allow us to hold the application for a while longer in order to restore our farming operation and put the water to beneficial use . The new tax laws on investment credit will allow us to resume farming in the near future. Please allow me to meet with you or your staff before voiding our application .

Respectfully ,

John W. Baicy

John W. Baicy
23302 NE 8 Street
Redmond, Washington
98053

(206) 868 - 10002
(206) 655 - 0566 (work)

EXHIBIT FF

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

March 31, 1994

RE: Permit No. 63-07431

John W. Baicy
23302 NE 8th St.
Redmond, WA 98053

Dear Mr. Baicy:

We previously sent correspondence concerning a pending order to void the above referenced permit based on no beneficial use of water. In response to this notice, you sent a letter requesting that the permit be allowed to continue in anticipation of the resumption of irrigation.

The statutes regulating water appropriation do not allow us to perpetuate undeveloped and/or undiverted permits. Because you live out-of-state and may be unfamiliar with Idaho water law, I have enclosed highlighted copies of pertinent sections dealing with this specific issue.

I am again enclosing a relinquishment form which you can sign to quickly clear our records. If I do not receive the relinquishment within 14 days, we will proceed with action to void the permit.

If you have any questions, please feel free to give me a call at (208) 327-7947.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

Enclosures

EXHIBIT GG

RECEIVED
MAY 0 2 1994
[illegible] water resources

April 26, 1994

MR. Jim Johnson
Water Rights Supervisor
State Of Idaho
Department of Water Resources

Dear Jim Johnson,

In reference to the relinquishment of the water permit, No. 63-07431, I would like to inform the Department of Water Resources that I will not relinquish that permit. Our interpretation of the the regulations indicate that we meet all the requirements to hold the permit. We developed the water resources in 1975 with a successful deep well which cost over $45,000.00. We signed contracts with Idaho Power to use a minimum amount of power over the following five years. We consumed that power. We irrigated from 1975 to 1985 putting the water to beneficial use.

The rapid increase in electrical power and the stagnate price for gains and hay have made irrigating unprofitable at this time. However, we should not have to yield our rights to the water we developed due to the present economic conditions.

We have meet all the requirements of the Water Department even though the department did not perform the inspects as we requested.

If the department of Water Resources intends to force us to relinquish our permit, I would like to be notified and given sufficient time to retain an attorney to represent my claims. I hope you will extend me this courtesy.

Respectfully,

John W. Baicy

John W. Baicy
23302 NE 8 Street
Redmond, Washington
98053

(206) 868-2947 (h)
(206) 662-1265 (w)

EXHIBIT HH

MEMORANDUM

DATE: December 21, 1995

TO: File 63-07431

FROM: Shelley W. Keen

RE: Phone Inquiry from Attorney Dan Steenson

Boise attorney Dan Steenson (342-4591) called today to inquire about the status of permit 63-07431. He told me that the permit holder, John Baicy, had called him and asked him to inquire.

I interpreted the contents of the file for Mr. Steenson, explaining that the permit had been declared void and why it was declared void. I also told Mr. Steenson that we had not been able to get the void order delivered to Mr. Baicy. Mr. Steenson said he would try to get me an address at which Mr. Baicy will receive mail.

MEMORANDUM

DATE: December 22, 1995

TO: File 63-07431

FROM: Shelley W. Keen

RE: John Baicy's address

Boise attorney Dan Steenson called today to notify the Department of John Baicy's current address. He said mail should be forwarded to:

John W. Baicy
3012 231st Ln S.E.
Apt. N. 104
Issaquah, WA 98027-7281

Mr. Baicy was apparently away from home during the time that the preliminary order to void permit 63-07431 was mailed to him. He will be at the Issaquah address until January 1, 1996. After that he will have someone regularly pick up his mail for him.

EXHIBIT II

RECEIVED
JAN 04 1996
Department of Water Resources

Dec. 30,1995

Dept. of Water Resources

Dear Jim Johnson,

In reference to the action of voiding my water permit , No 63-07431, I was not notified of the action taken by your department. I was in Asia for an extended time in late summer 1995. I had asked your staff to properly notify me of any actions to be taken against me and that I would exercise my rights.

I have spent over $100,000 in Idaho Power charges pumping and using the water in a beneficial manner from 1975 to 1985. I should have been granted the permit by your dept. I fully compiled with Section 42-219 of the Idaho Code.

I ask that you reconsider the action to void the permit and allow me to re-establish the water permit. The area is very remote and there is no impact on other users.

Respectfully,

John W. Baicy

John W. Baicy
3012 231 Lane SE N104
Issaquah, Washington
98029
206 313-8853

EXHIBIT JJ

MEMORANDUM

To: [illegible] 7431

From: [illegible] Saxton

RE: **PRELIMINARY ORDER VOIDING PERMIT**

Date: January 16, 1996

I have again reviewed this file as a result of the December [illegible] 1995, letter from John Baicy. I have not determined any error in the department's procedure in its attempted mailing of the Preliminary Order (order) to Baicy. The file shows that the department twice attempted to mail the order at the addresses of record in the water right file.

Unless Baicy can provide evidence to show that the land associated with the voided permit was in a federal cropland set-aside program which would prevent forfeiture to the right through non-use as provided in Section 42-222(2), Idaho Code, the department should take no action to rescind its Preliminary Order Voiding Permit dated July 17, 1995.

Since the moratorium in the Boise River drainage has been lifted, Baicy or a successor-in-interest could file a new application for permit with the department.