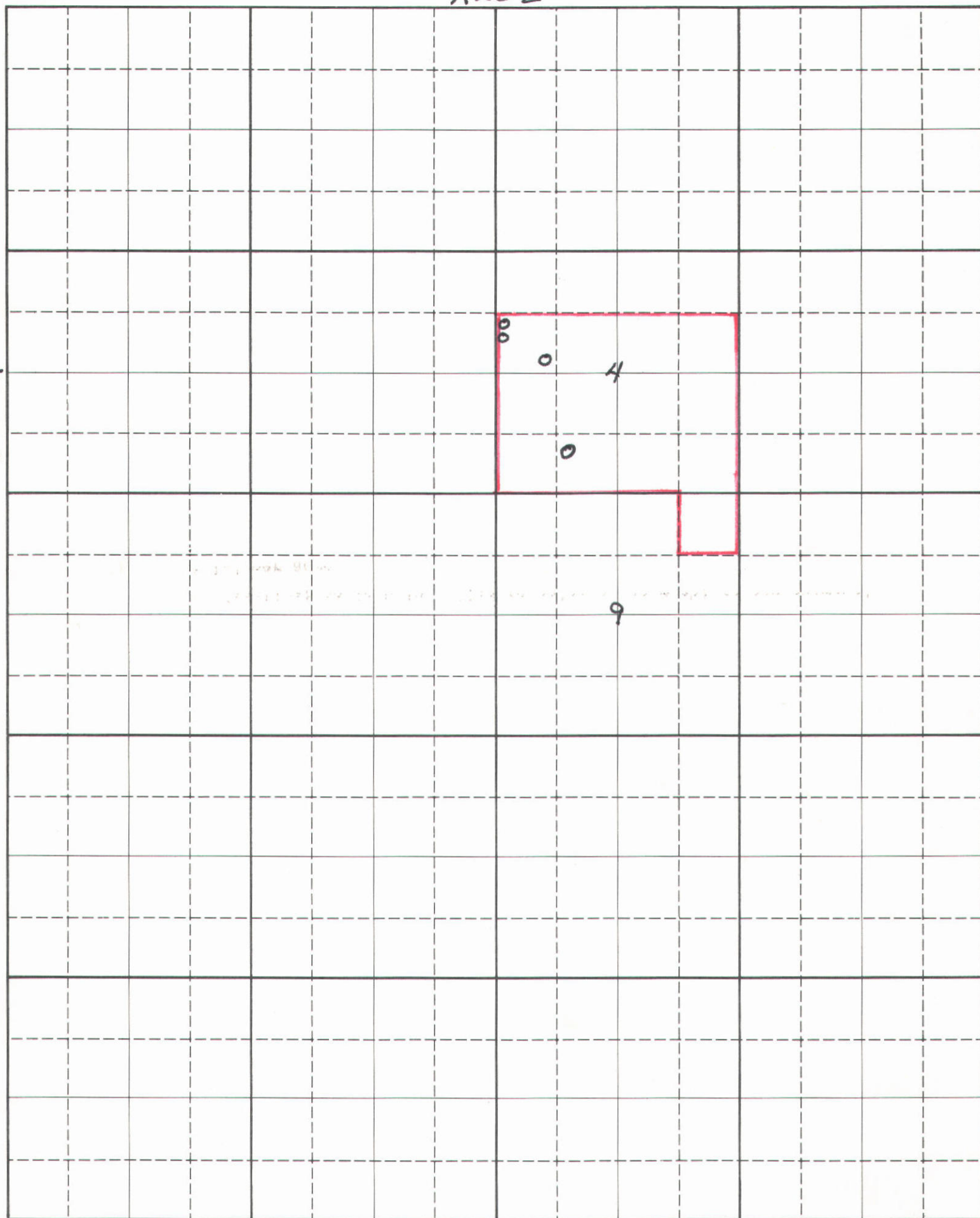


11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

R25E

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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)

34-7025

RECEIVED

MAR 24 1972

Department of Water Administration
Eastern District Office

NOTICE OF APPLICATION FOR
WATER PERMIT

Notice is hereby given that Donald H. Birney, Grouse, Idaho, has on 3-6-72 submitted Application No. 34-7025 for a permit to appropriate 6.38 cubic feet per second of water from a ground-water source by means of wells and pumps within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ (3 points), SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4, T. 6N, R. 25E, B.M., Custer County; to be used from Apr. 1 to Nov. 1 for the irrigation of 520 acres within the S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 4; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9, T. 6N, R. 25E, B. M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of this permit must be filed with the Idaho Department of Water Administration, 240 South Holmes, Idaho Falls, Idaho, 83401, on or before April 3, 1972.

R. KEITH HIGGINSON
Director

Published in the Mackay Miner,
Mackay, Idaho on March 16 and 23,
1972.

Affidavit of Publication

STATE OF IDAHO }
County of Custer } ss.

I, Toni Reimann
the Bookkeeper
of The MACKAY MINER, a
weekly newspaper of General Cir-
culation published weekly and en-
tered in the post office Mackay,
Idaho, continuously since Febru-
ary 6, 1906, do solemnly swear
that a copy of the notice, as per
clipping attached, was published
weekly in the regular and entire
issue of said newspaper and not in
any supplement thereof, for —

2 consecutive weeks,
commencing with the issue dated
March 16, 1972
and ending with the issue dated

March 23, 1972.

Toni Reimann

Subscribed and sworn to before
me this 23rd day of

March, 1972
Eileen L. Lamm

Notary Public

Notary Public.

Residing at Mackay, Idaho

Commission expires 6/7/73

34-7025

RECEIVED

APR 11 1972

Department of Water Administration
Eastern District Office

NOTICE OF CORRECTION

Notice is hereby given that Application No. 34-7025 in the name of Donald H. Birney, Grouse, Idaho, was advertised incorrectly on March 16 and 23, 1972. The place of use was advertised as being within the S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 4; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9, T. 6N, R. 25E, B.M.

WHEREAS; the actual place of use is within the S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 4; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9, T. 6N, R. 25E, B. M.

Any protests of this correction must be filed with the Idaho Department of Water Administration, 240 South Holmes, Idaho Falls, Idaho, 83401, within ten days of the last date of publication of this notice.

R. KEITH HIGGINSON
Director

Published in the Mackay Miner,
Mackay, Idaho, on March 30 and
April 6, 1972.

34-7025

Affidavit of Publication

STATE OF IDAHO }
County of Custer } ss.

I, Toni Reimann
the Bookkeeper
of The MACKAY MINER, a
weekly newspaper of General Cir-
culation published weekly and en-
tered in the post office Mackay,
Idaho, continuously since Febru-
ary 6, 1906, do solemnly swear
that a copy of the notice, as per
clipping attached, was published
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issue of said newspaper and not in
any supplement thereof, for —

2 consecutive weeks,
commencing with the issue dated

March 30, 1972

and ending with the issue dated

April 6, 1972.

Toni Reimann

Subscribed and sworn to before
me this 10th day of

April, 1972

Eileen Lerman

Notary Public.

Notary Public

Residing at Mackay, Idaho

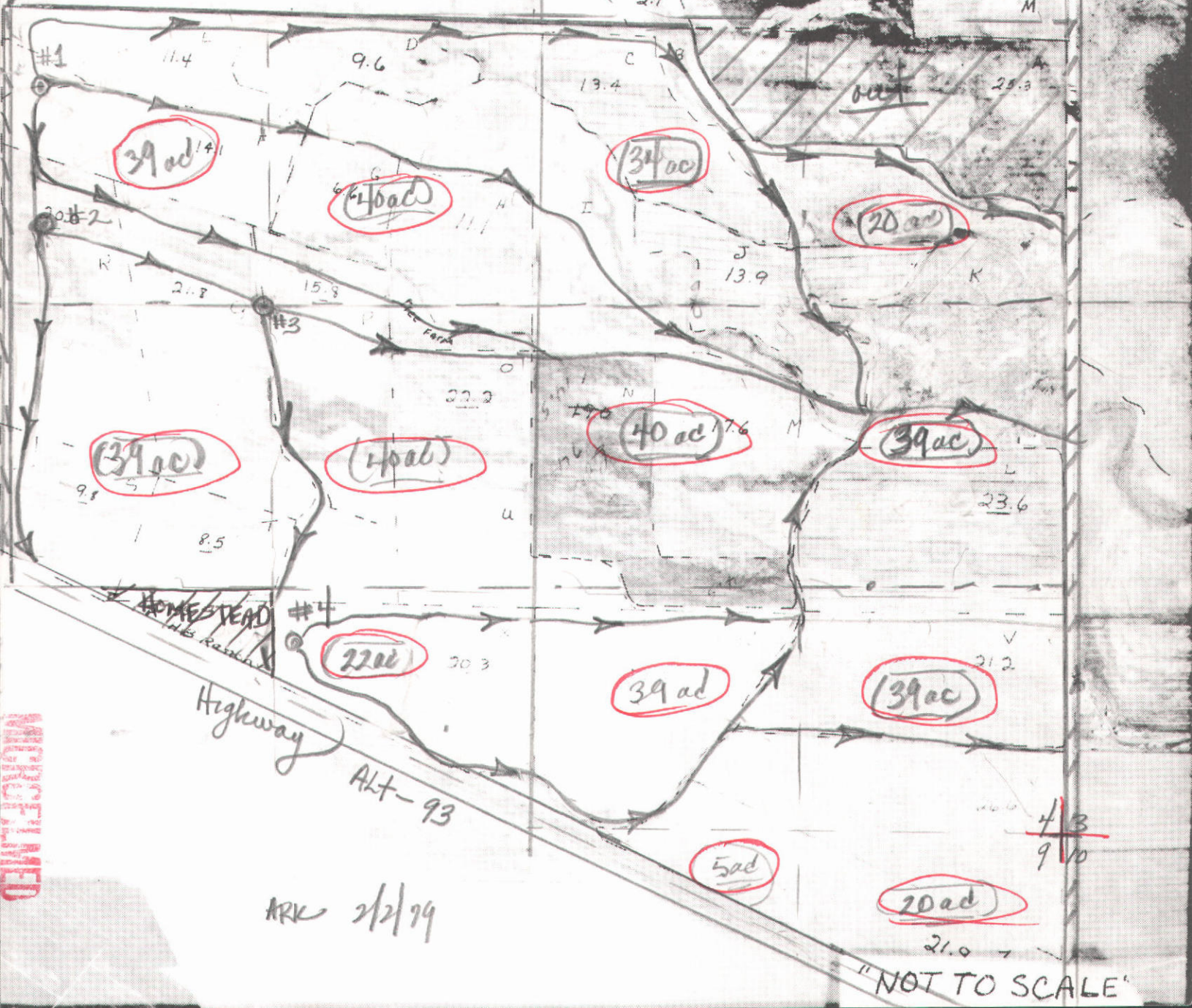
Commission expires 6/7/73

Don. Biney

34-1025

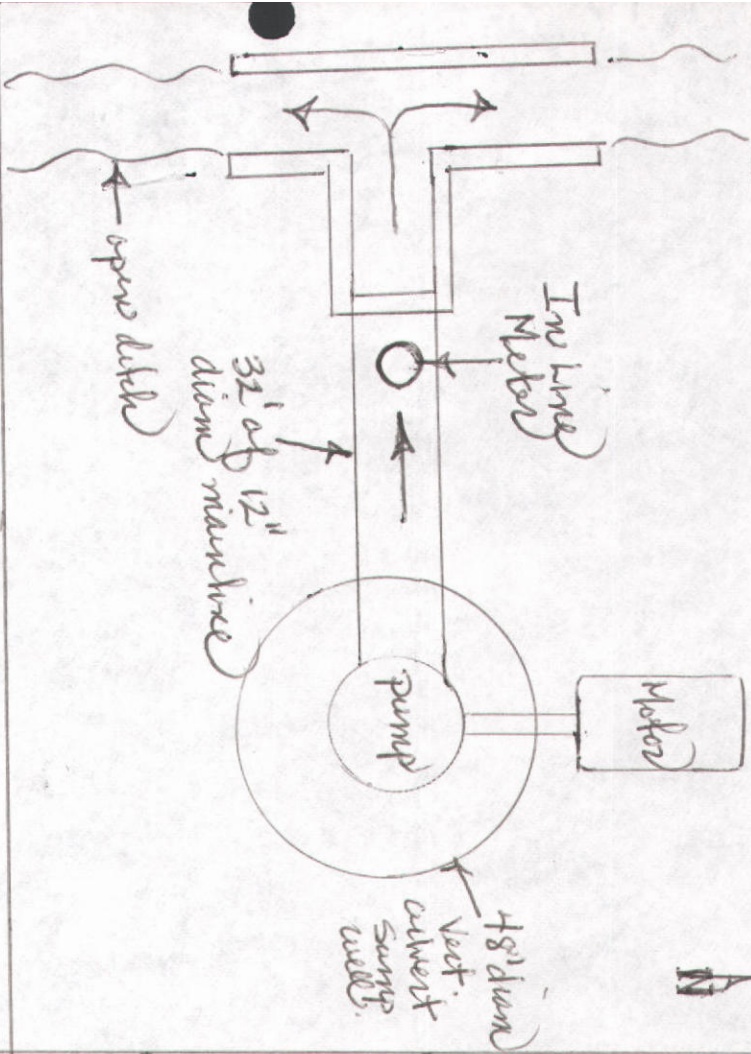
Twp. 6N Rge 25E

Represents all
irrigated lands
under this permit
County road & Lic 34-2304

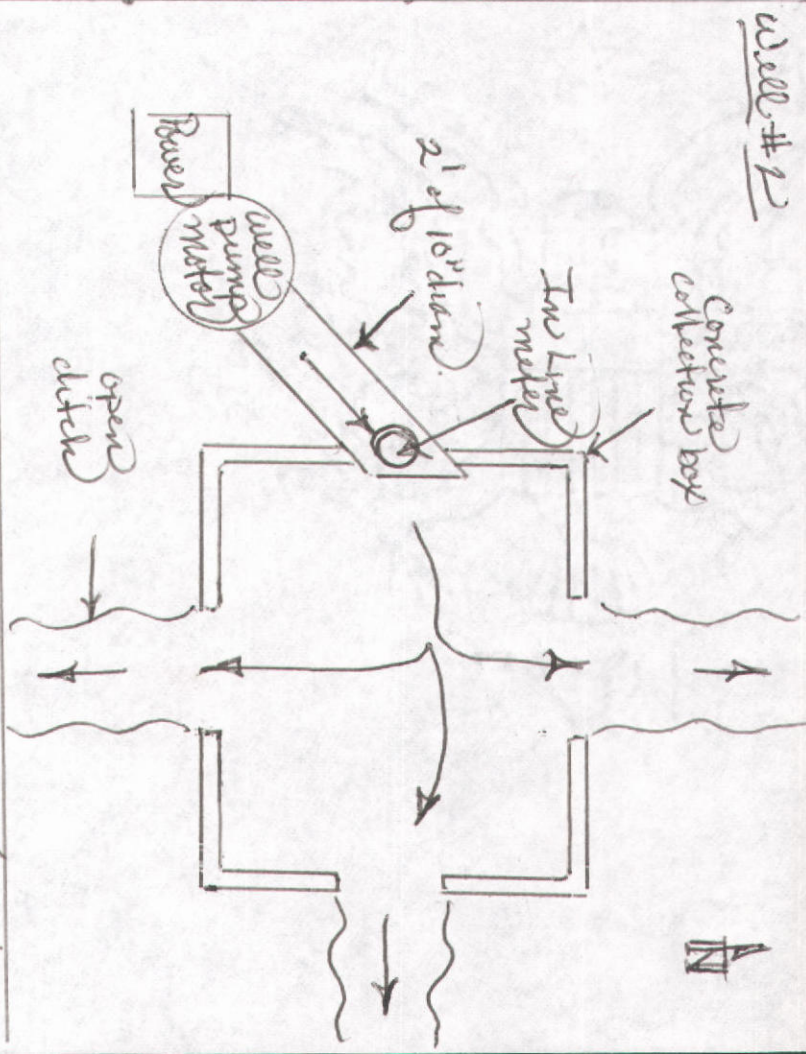


ARK 2/2/99

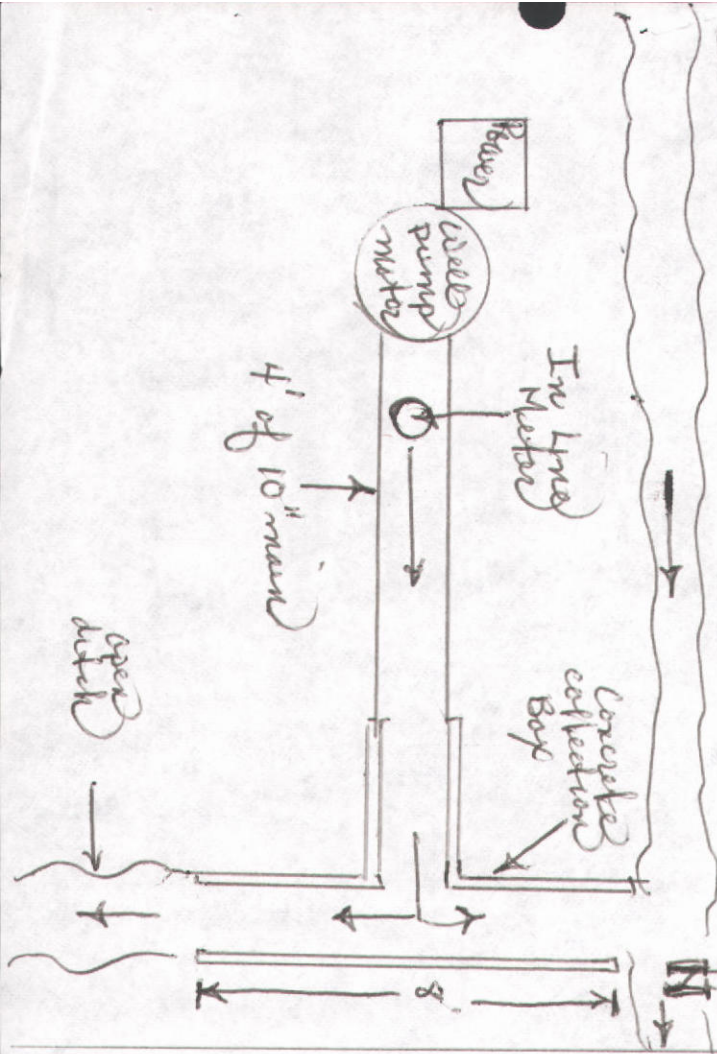
Well #1 34-7025



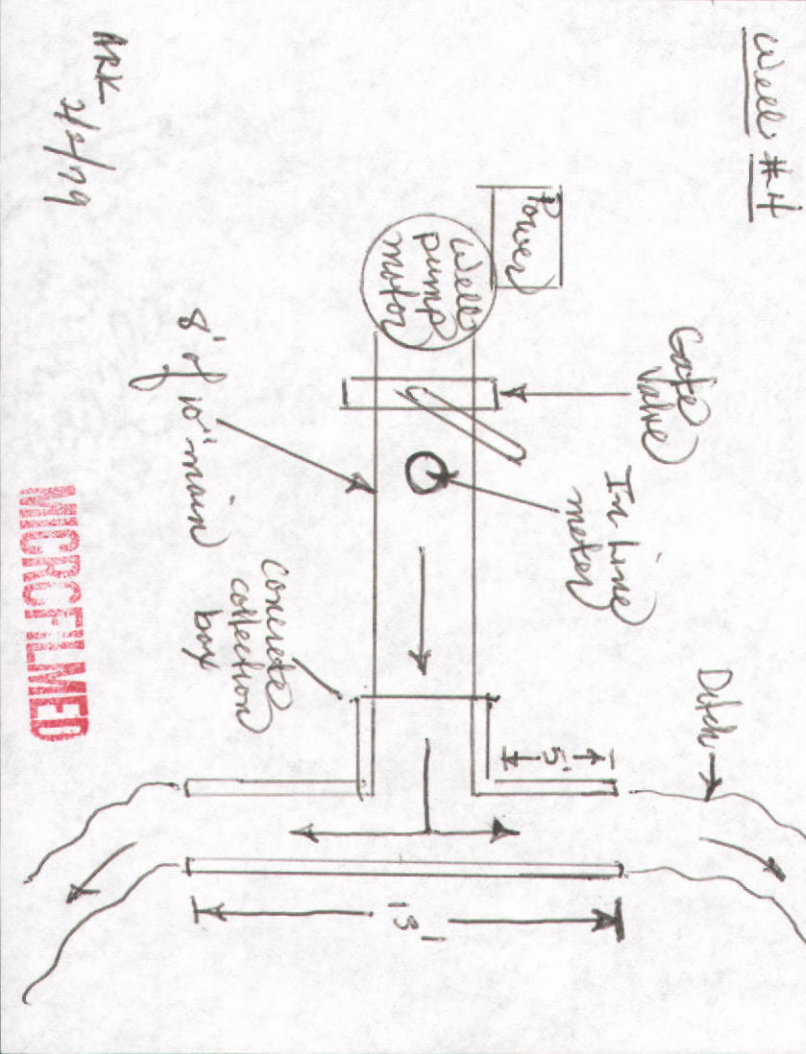
Well #2



Well #3



Well #4



AKK 2/2/79

RECEIVED

County road

Tap on

Highway 93

Homestead (3 ac out)

network of ditches

5, 9, 20, 16, 5

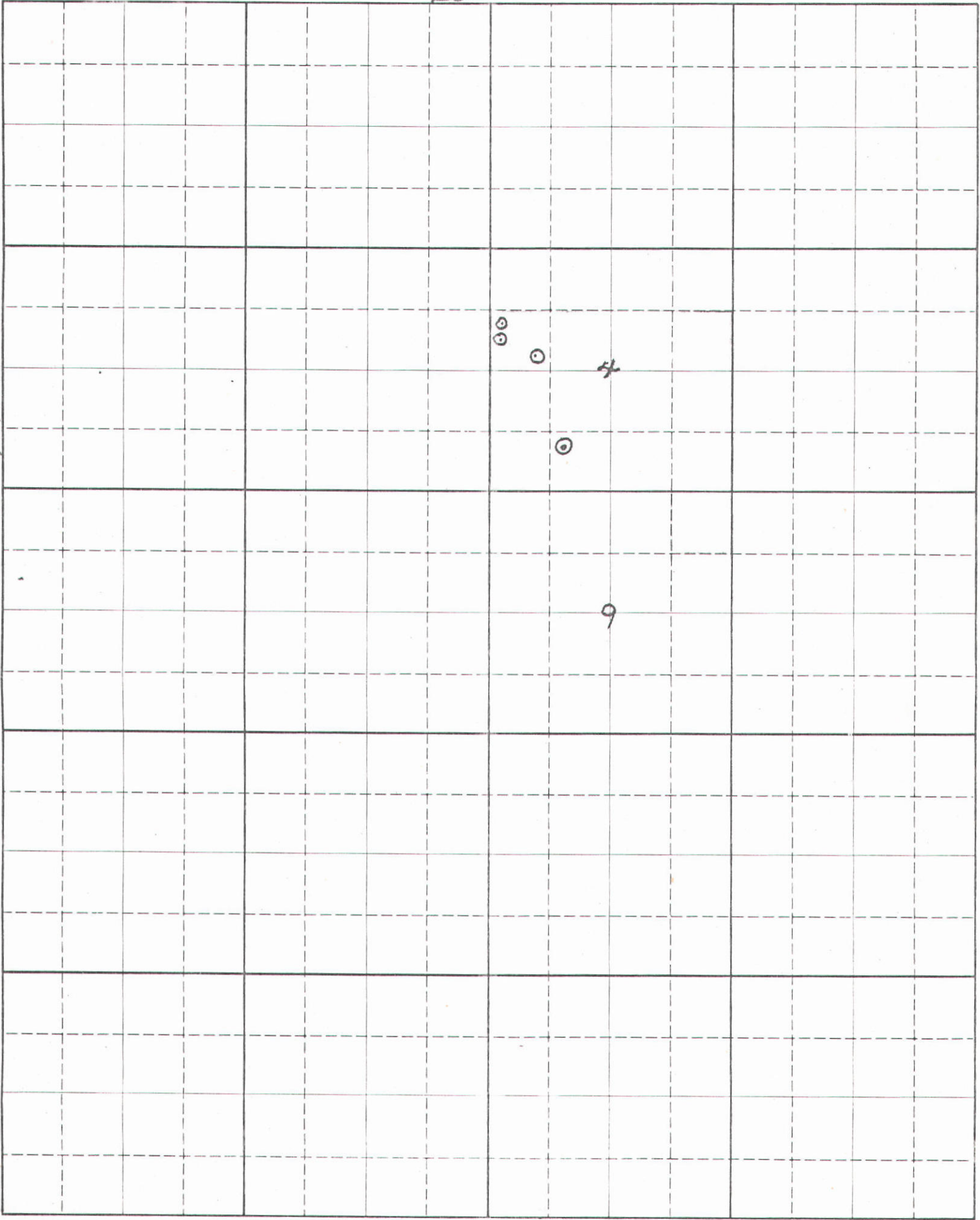
Lic 34-2304 - 343 ac indicated above have a full right of groundwater/acre - acreages circled in black are supplemental to pre-existing license

See enclosed diagram

R25E



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SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 34-7025 Priority May 5, 1972 Amount 5.62 cfs
(late proof)

THIS IS TO CERTIFY, that First Continental Corp.
of Billings, Montana, has complied with the terms and conditions of Permit
No 34-7025 issued pursuant to Application for Permit dated March 6, 1972,
and has submitted proof to the Department of Water Resources on April 21, 1978,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 22.88 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>April 1</u> to <u>November 1</u>	at <u>5.62</u> cfs and *	
	from _____	at _____ cfs and _____	
	from _____	at _____ cfs and _____	
	(both dates inclusive)		

Subject, however, to the condition that no more than 5.62 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
* _____ acre feet per year, said waters to be diverted within the (3 points) SW $\frac{1}{4}$ NW $\frac{1}{4}$, (1 point)
SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 4, Twp. 6N, Rge. 25E in the County of Custer

Description and location of place of use:

Twp.	Range	Sec.	NE¼				NW¼				SW¼				Totals	
			N¼	NW¼	SW¼	SE¼	N¼	NW¼	SW¼	SE¼	N¼	NW¼	SW¼	SE¼		
6N	25E	4		34	20			39	40	40	39		22	40	39	391
		9	20	5												25

Total number of acres irrigated 416

*This right when combined with Right 34-2304, T. 1800, shall not exceed
1248.0 acre feet for the lands above.
This right when combined with all other rights shall not exceed 0.03 cfs per acre.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, and is subject to all prior water rights, as provided by the laws of Idaho

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 4th day of
April, 19 83.

Director

STATE OF IDAHO

Licensing

RECEIVED

APPLICATION FOR AMENDMENT OF A PERMIT 3 1983

Department of Water Resources

To change the point of diversion and/or the place of use.

Comes now First Continental Corp. Phone 406-256-1771

of (address) 3811 S. 1st Ave., Billings, MT 59101, and represents to the

Director of the Idaho Department of Water Resources

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 34-7025, and requests that the permit and permit map be changed as follows:

NO CHANGE
1. Point of diversion: 1/4 1/4, Section , Township , Range , B.M.,
County of . Other points of diversion.

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

Amount 5.62 for irrigation purposes from 4/1 to 11/1 (both dates inclusive)
(cfs or acre feet per annum)

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

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

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

3. Place of use or land to be irrigated

TWP	RGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
6N	25E	4			34	20			39	40	40	39		22	39	40	39	39	391
		9	20	5															25

Total number of acres to be irrigated = 416

4. a. Who owns the property at the point of diversion? FIRST CONTINENTAL CORPORATION

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

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

Show 40-acre subdivisions, townships, ranges and ditches.

[illegible]

25 Dec

WATER RIGHT SPLIT

SUMMARY

ACTION	RIGHT #	NAME	AMOUNT C.F.S.
~~App. for Permit~~	~~34-7025~~	~~Donald H. Birney~~	~~6.38~~
Assignment	34-7025	First Continental Corporation	6.38

MICROFILMED

OCT 2 1980

ASSIGNMENT OF PERMIT

Department of Water Resources

I, DONALD H. BIRNEY, hereby assign to FIRST CONTINENTAL CORPORATION, a Montana Corporation
of 3811 S. 1st Avenue, Billings, Montana 59101
Address

CHECK ONE

x All my right, title, and interest in and to Permit No. 34-7025
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 20th day of February, 1980

Donald H Birney
Permit Holder - DONALD H. BIRNEY

Donald H. Birney
Spouse of Permit Holder - DONALD H. BIRNEY,
Personal Representative of the Estate of
Barbara Bell Birney, Deceased

STATE OF IDAHO)

SS

County of Twin Falls)

On this 20th day of February, 1980, before me, the undersigned, a Notary Public for Idaho, personally appeared Donald H. Birney known to me to be the person whose name is subscribed to the foregoing Assignment of Permit as an individual and as Personal Representative of the Estate of Barbara Bell Birney, deceased, and acknowledged to me that he executed the same on behalf of said Estate and as an individual.

IN WITNESS WHEREOF I have set my hand and seal the day and year first above written.

and seal the day and year first above written

William J. Fung
Notary Public for Idaho
Residing at Twin Falls, Idaho

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 34-7025
IN THE NAME OF DONALD H. BIRNEY

ORDER OF REINSTATEMENT

WHEREAS, on March 6, 1972, Donald H. Birney applied to the Department of Water Resources (formerly the Department of Water Administration) for a permit to appropriate 6.38 cubic feet per second of groundwater to be diverted within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ (3 pts.), SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4, Twp. 6N, Rge. 25E, B.M., Custer County, to be used for irrigation purposes; and,

WHEREAS, on May 17, 1972, the Department approved said application and issued Permit No. 34-7025 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before May 1, 1977; and,

WHEREAS, on February 28, 1977, the Department notified the permit holder by certified mail that proof of beneficial use was due and instructed the permit holder as to the steps to be taken to make said proof; and,

WHEREAS, on May 5, 1977, the Department notified the permit holder that Permit No. 34-7025 had lapsed for failure to submit proof of beneficial use of water; and,

WHEREAS, on June 30, 1977, the Department received an extension of time request for the said permit along with a showing of reasonable cause as to why said permit should be reinstated; and,

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

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 34-7025 be REINSTATED and the priority advanced to May 5, 1972.

Dated this 11 day of July, 1977.


BOBBY D. FLEENOR
Chief, Operations Bureau

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF EXTENDING THE PROOF DUE
DATE IN CONNECTION WITH PERMIT NO. 34-7025
IN THE NAME OF DONALD H. BIRNEY

ORDER

WHEREAS, on March 6, 1972, Donald H. Birney applied to the Department of Water Resources (formerly the Department of Water Administration) for a permit to appropriate 6.38 cubic feet per second of groundwater to be diverted within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ (3 pts.), SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4, Twp. 6N, Rge. 25E, B.M., Custer County, to be used for irrigation purposes; and,

WHEREAS, on May 17, 1972, the Department approved said application and issued Permit No. 34-7025 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before May 1, 1977; and,

WHEREAS, on June 30, 1977, 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. 34-7025 be extended to May 1, 1978.

Dated this 11 day of July, 1977.


BOBBY D. FLEENOR
Chief, Operations Bureau

MICROFILMED

ASSIGNMENT TO:
First Continental Corp.
(Montana Corp.)
3811 So. 1st Ave.
Billings, Montana 59107
October 2, 1980

34 7025
Identification No. _____
Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant DONALD H. BIRNEY
post office address Grouse, Idaho
2. Source of water supply ground water which is a tributary of _____
- 3 a Location of point of diversion is 3 pts SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 4 Township 6N
Range 25E B.M. Custer County; additional points of diversion if any: _____
1 point - SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4, T. 6N, R. 25E
- b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
- 4 Water will be used for the following purposes:
Amount 6.38 for irrigation purpose from April 1 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 6.38 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a Description of ditches, flumes, pumps, headgates, etc. _____
drilled wells, electric pumps, earth ditches one is shallow dug well
- 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 _____ to 1990 inclusive.
(Mo. Day) (Mo. Day)
- c Proposed well diameter is 10 inches, proposed depth of well is 120 feet.
10 180
- 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 \$ 12,000
- 8 Description of proposed uses
a If water is **not** for irrigation.
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated. _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.
(5) If water is to be used for other purposes describe. _____

34-7025

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

TWP	RANGE	SEC	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6N	25E	4			40	40			40	40	40	40	40	40	40	40	40	40	480
		9	40																40

Total number of acres to be irrigated 520

c. Describe any other water rights used for the same purposes as described above.
License No. 34-2304 for 7.18 cubic feet per second for 359 acres

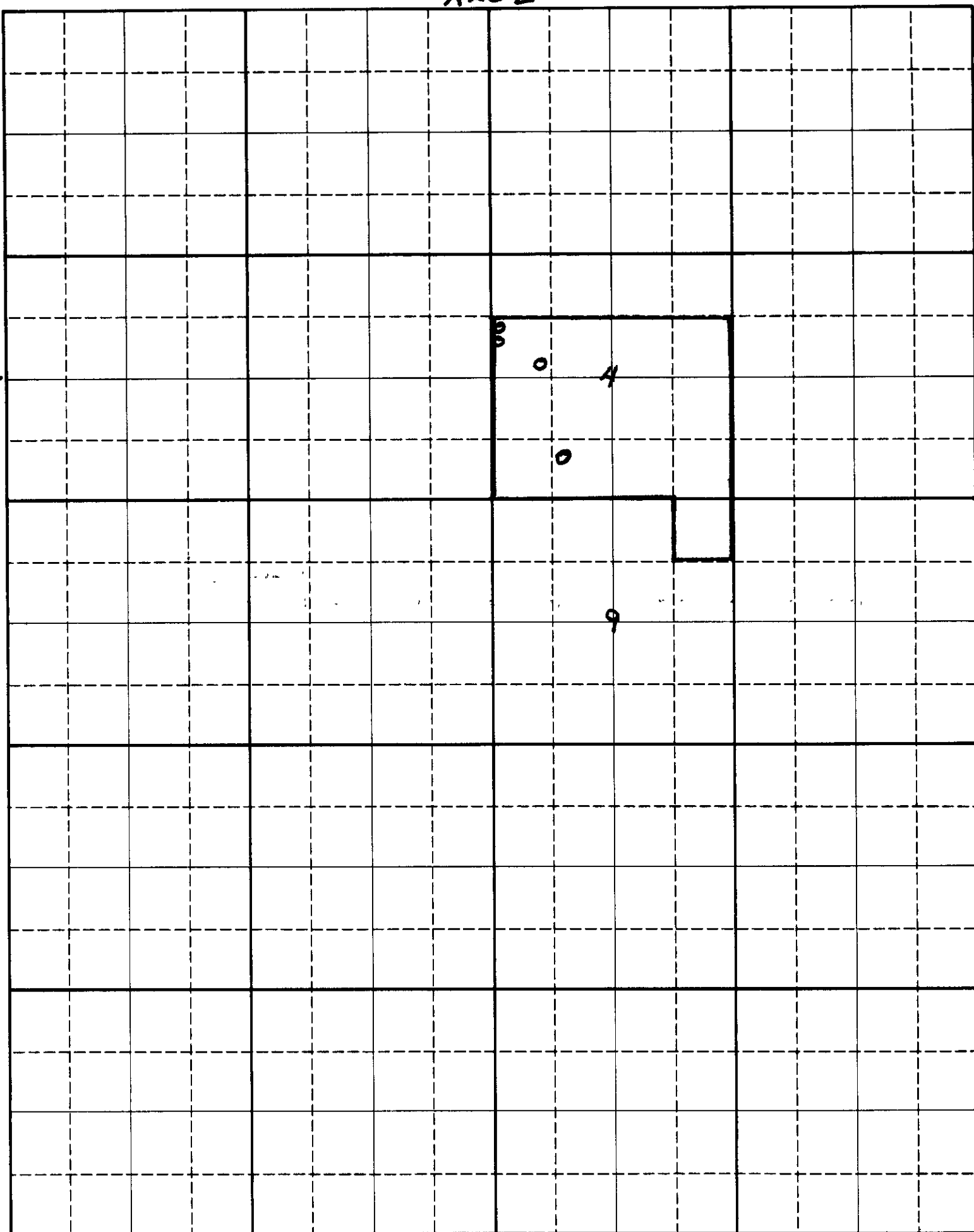
9. a. Who owns the property at the point of diversion applicant
b. Who owns the land to be irrigated or place of use applicant
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

10. Remarks This application is being filed to enlarge the right to approximately 452 acres at 1 1/2" per acre

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

R25E

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6
N



Scale: 2 inches equal 1 mile

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



Bernald A. Quinney
(Applicant)

34-7025.

Received by ij Date 3-6-72 Time 8:00 A
 Preliminary check by DL Fee \$ 85 # 8136
 Receipted by ij Date 3-7-72
 Publication prepared by bj Date 3-10-72
 Published in Mackay Miner, Mackay, ID
 Publication dates 3-16&23-72
 Publication approved OK Date 4-12-72
 Priority ~~reduced to~~ 3-6-72 Reason _____

 Protests filed by _____

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

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

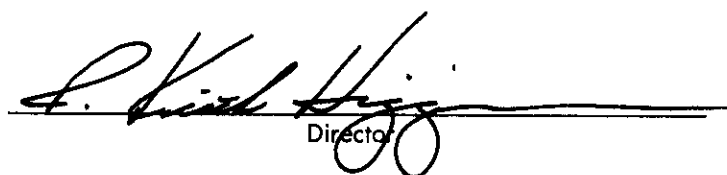
This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 34-7025, and said application is hereby APPROVED.

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 May 1, 1977.
- c. Other: Measuring devices of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

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

Witness my hand this 17 day of May, 1972.


 Director

DEPARTMENT OF WATER ADMINISTRATION

STAFF ANALYSIS

Application No. 34-7025 Name Donald H. Birney

Source Ground Water

Point of Diversion SW¹/₄NW¹/₄ (3 points), SE¹/₄SW¹/₄, Sec. 4, T. 6N, R. 25E, B.M.,
Custer County

Quantity 6.38 cfs Use irrigation Period Apr. 1 to Nov. 1

Quantity Use Period

Quantity Use Period

Well Size 10, 10, 10 Diameter 180 Proposed Depth Feet

Use The irrigation of 520 acres.

Date Forwarded Date Returned Received by

COMMENTS: The S.C.S. man who recommended that greater than 1"/acre is justified
indicated that a much better solution to this man's problem was switching to sprinklers.
Significant water level declines have not been noted (W.B. #24). Well location appears
to be near Big Lost River and a canal. May result in depletion.

RECOMMENDED:

Applied: Qty. 6.38 Use irrig. Period 4/1-11/1 AF/A ? AF ?

Qty. Use Period AF/A AF

Qty. Use Period AF/A AF

Maximum: Qty. --- Use --- Period --- AF/A --- AF ---

Qty. Use Period AF/A AF

Qty. Use Period AF/A AF

ACTION: Approved X Denied

Conditions of approval or reason for denial: Shallow well should not be used.

Water should be obtained from below confining layers.

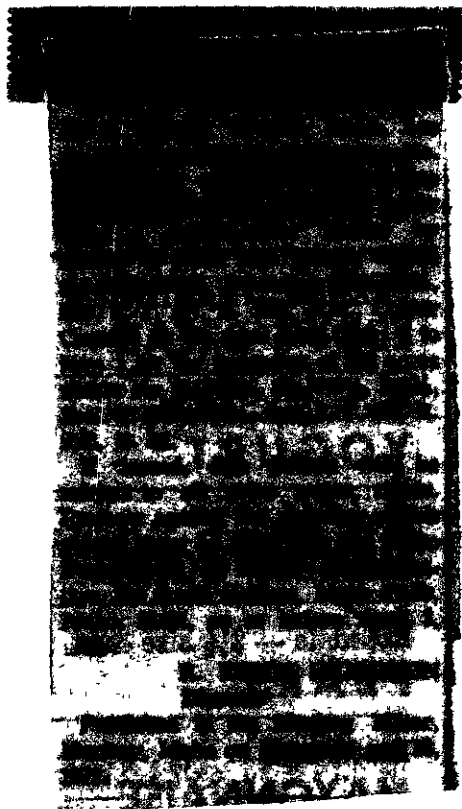
By Norman C. Young Title District Engineer
NORMAN C. YOUNG Date 3-10-72

34-7025

RECEIVED

MAR 24 1972

Department of Water Administration
Eastern District Office



Affidavit of Publication

STATE OF IDAHO

County of Custer

ss.

I, Toni Reimann

the Bookkeeper
of The MACKAY MINER, a
weekly newspaper of General Cir-
culation published weekly and en-
tered in the post office Mackay,
Idaho, continuously since Febru-
ary 6, 1906, do solemnly swear
that a copy of the notice, as per
clipping attached, was published
weekly in the regular and entire
issue of said newspaper and not in
any supplement thereof, for —

2 consecutive weeks,
commencing with the issue dated

March 16, 1972

and ending with the issue dated

March 23, 1972.

Toni Reimann

Subscribed and sworn to before
me this 23rd day of

March, 1972

Eileen L. Loman

Notary Public

Notary Public.

Residing at Mackay, Idaho

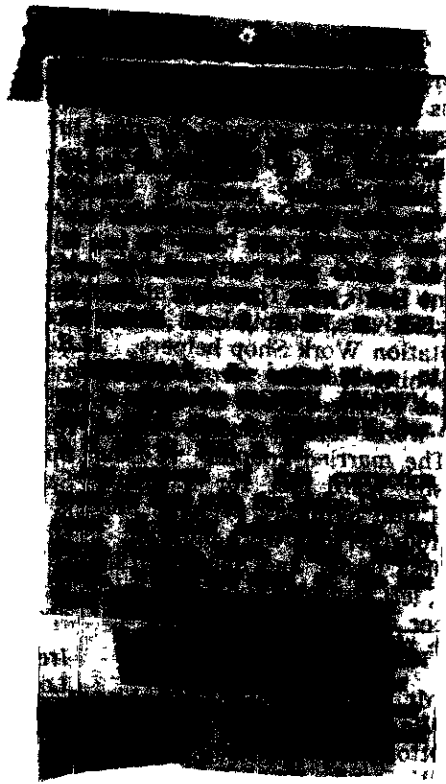
Commission expires 6/7/73

34-7023

RECEIVED

APR 11 1972

Department of Water Administration
Eastern District Office



34-7028

Affidavit of Publication

STATE OF IDAHO

ss.

County of Custer

I, Toni Reimann

the Bookkeeper
of The MACKAY MINER, a
weekly newspaper of General Cir-
culation published weekly and en-
tered in the post office Mackay,
Idaho, continuously since Febru-
ary 6, 1906, do solemnly swear
that a copy of the notice, as per
clipping attached, was published
weekly in the regular and entire
issue of said newspaper and not in
any supplement thereof, for —

2 consecutive weeks,
commencing with the issue dated

March 30, 1972

and ending with the issue dated

April 6, 1972

Toni Reimann

Subscribed and sworn to before
me this 10th day of

April, 1972

Eileen Lemmon

Notary Public.

Notary Public

Residing at Mackay, Idaho

Commission expires 6/7/73

April 19, 1982

RE: Permit No. 34-7025

First Continental Corp.
Attn: John Parker
P.O. Box 31775
Billings, MT 59107

Dear Mr. Parker:

Enclosed herewith is a copy of your Water Right License issued on the above referenced permit along with a copy of your approved application for amendment. Also enclosed is Departmental Receipt No. 25886 in the amount of \$20.00.

Should you have any questions regarding these documents, please feel free to contact our office.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosures

January 7, 1983

First Continental Corporation
Attn: John Parker
P.O. Box 31775
Billings, MT 59107

Dear Mr. Parker:

Thank you for returning the application for amendment of permit for Water Right No. 34-7025 and the application for permit to appropriate the public waters of the State of Idaho. We cannot, however, begin processing them because no fee was enclosed.

The filing fee for the amendment of permit is \$20.00 and the filing fee for the application for permit is \$45.00. We will hold the forms here for thirty (30) days. Please submit \$65.00 for the above on or before February 7, 1983.

If you have any questions, please let me know.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw

Licensing w/o Amendment

P/D is OK

P/U - 416 acres found being irrigated
of which 5 acres in the NWNE Sec 9
are not identified on the permit

Therefore licensing with out the
amendment would be as followed:

$$Q = 5.62 \text{ cfs} - (5 \text{ ac} \times 0.03 \text{ cfs} = .15) .15 = 5.47 \text{ cfs}$$

$$V = 219.0 \text{ AF} - (5 \text{ ac} \times 3.0 = 15.0) 15.0 = 204.0 \text{ AF}$$

RC 1/3/83

AMENDMENT
RECEIVED
1-3-83

December 10, 1982

RE: Permit No. 34-7025

First Continental Corp.
3811 S. 1st Ave.
Billings, MT 59101

Gentlemen:

On November 5, 1982, we forwarded to you an Amendment for Water Permit so that you could amend your permit to correspond with the findings of the Department's field examiner.

As of this date, we have not received this amendment.

If we do not receive the amendment within fifteen (15) days, we will issue a Water Right License which reduces the amount that could have been allowable to you.

Since the license will be a permanent water right your prompt attention to this matter will be appreciated.

If you have any questions please contact us as soon as possible.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

November 5, 1982

RE: Permit No. 34-7025

First Continental Corp.
3811 S. 1st Avenue
Billings, MT 59101

Gentlemen:

A representative of this Department made an examination of the works covered by your Permit No. 34-7025 and has found the following:

Amount of water that can be recognized as beneficially used under Idaho law: 5.62 cfs

Source: groundwater

The maximum quantity diverted shall not exceed 219.0 changed on original J.J. 1248.0 acre feet per year.

Point of diversion: (3 points) SW₁/4, (1 point) SE₁/4, Sec. 4, Twp. 6N, Rge. 25E, Custer County

Beneficial use: Irrigation of 416 acres within the S₁/4, S₁/4, N₁/4, SE₁/4, SE₁/4, Sec. 4; N₁/4, Sec. 9; Twp. 6N, Rge. 25E

Priority date established: May 5, 1972 (late proof)

In order for the Department to issue the above license, it will be necessary for you to amend the permit to correspond with the findings of the field examiner. We are enclosing a partially completed amendment form for your use in this matter.

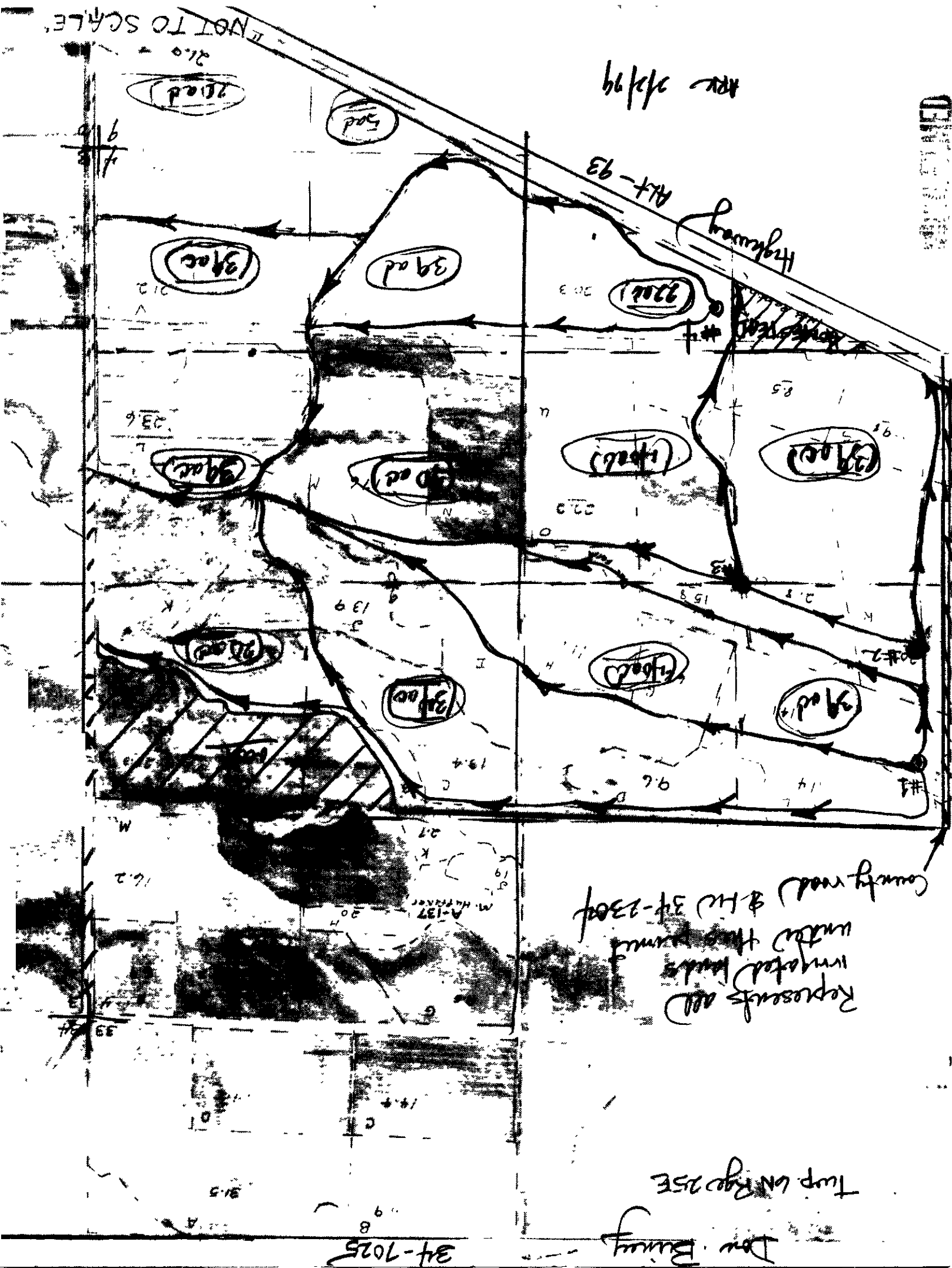
Please sign the amendment application and return it to this office along with a \$20.00 filing fee within 30 days in order that we might issue your license as set forth above. If you do not concur with these findings or have any questions, please contact us within the 30-day period.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosure

~~NOT TO SCALE~~

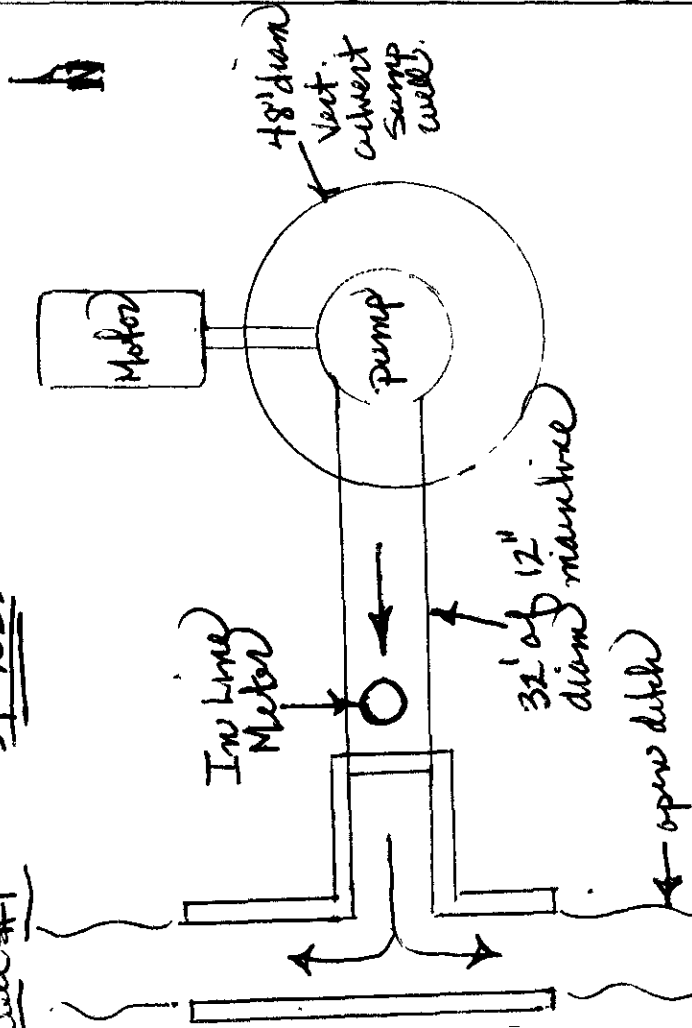


Twp. 6N Rgo 25E

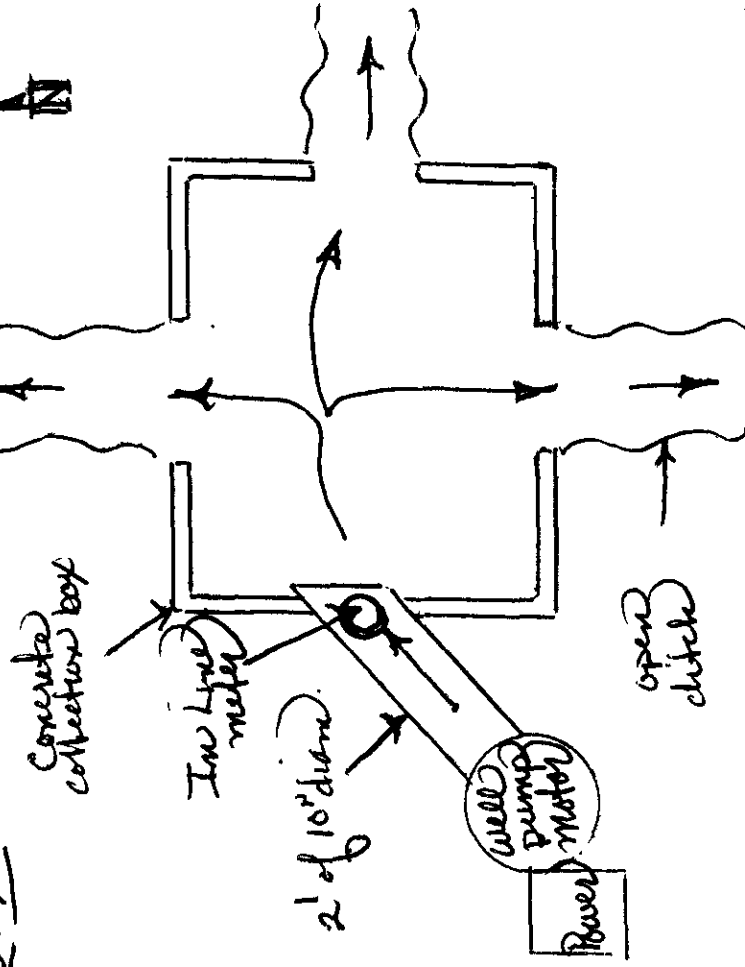
Don Buring

34-7025

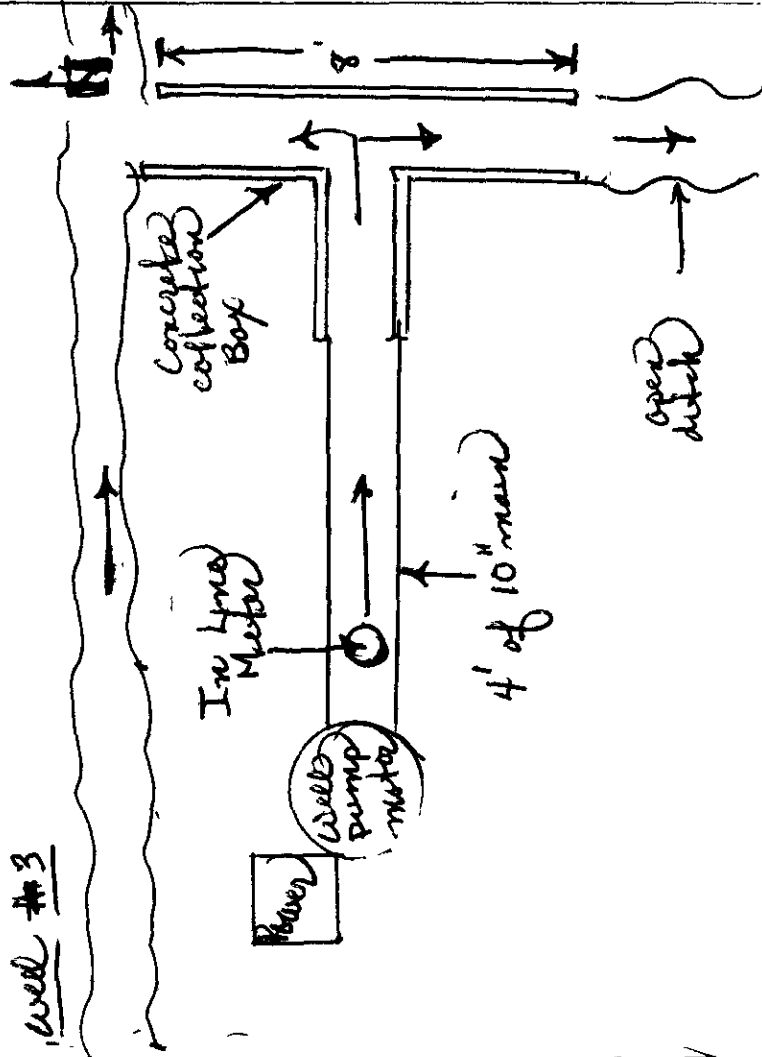
Well #1 34-7025



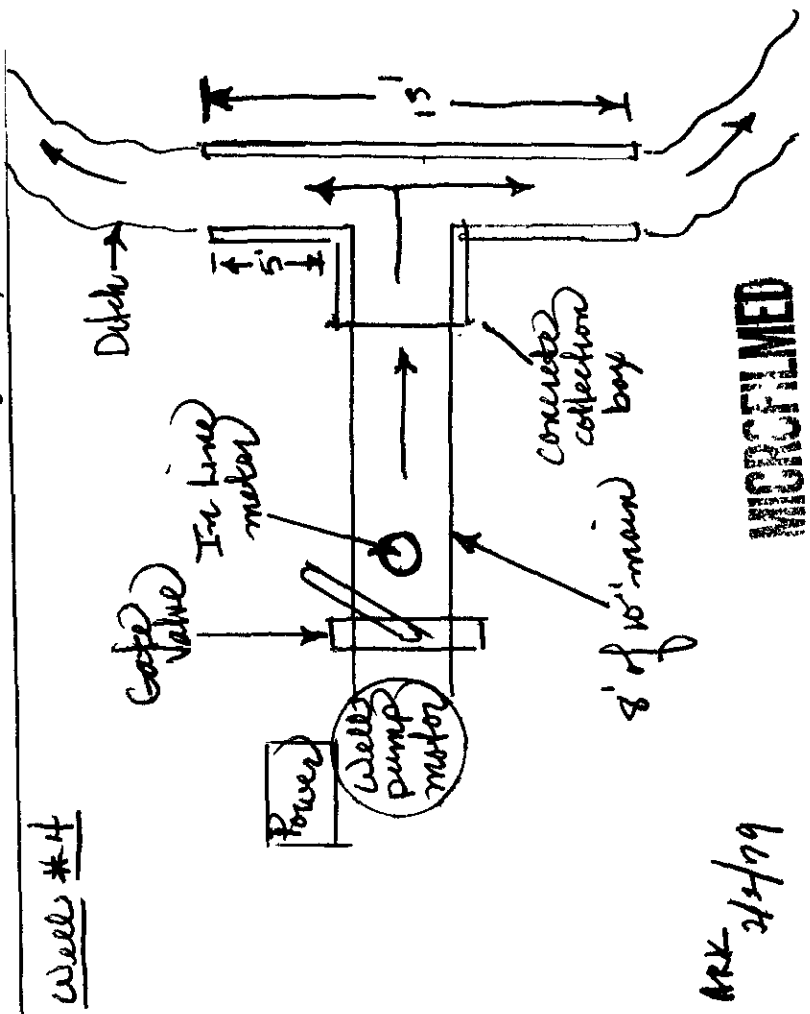
Well #2



Well #3



Well #4



AK 3/2/79

UNRECEIVED

REGE

~~MAY 4 1978~~

Phone ~~Department of Water Resources~~
Eastern District Office

Phone

(name spring, stream, etc.)

Tributary to

(nature of use)

(mo.-day) inclusive (mo.-day)

(nature of use)

(mo.-day) inclusive (mo.-day)

(nature of use)

(mo.-day) inclusive (mo.-day)

Other uses:

Permit No. 21 1000
Examination for 6/14

AF/Anpurn

(3 pts)

Se $\frac{1}{4}$ Sw $\frac{1}{4}$

County

Other Points of Diversions

Description of diverting works: See attached sheet

Measuring device required: yes ☐ no ☒

6. Lands to be irrigated or place of use

[illegible]

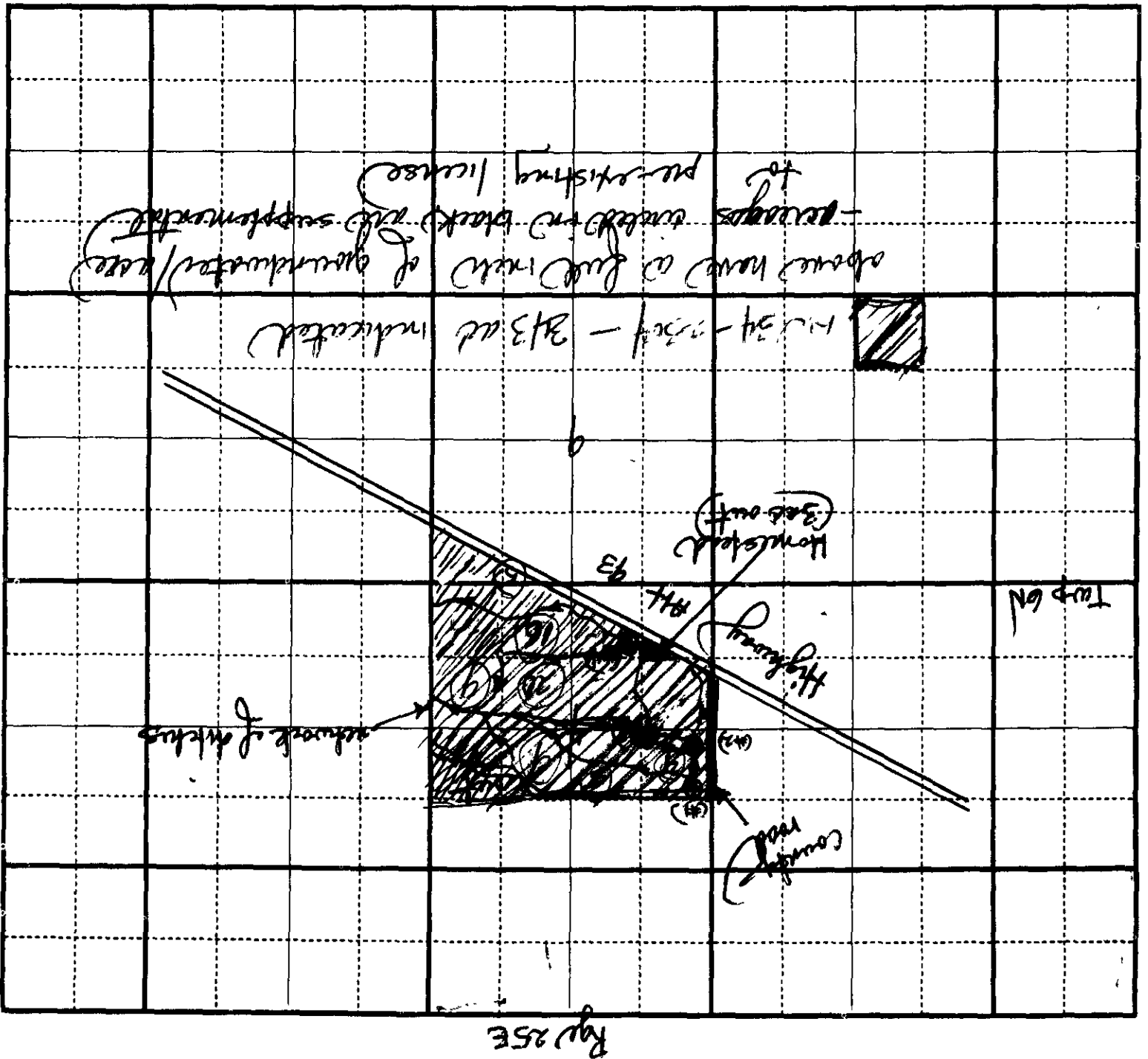
TOTAL ACREAGE 520

D

U

See enclosed diagram

Diagram of System



DATE OF EXAM

6/7/78

ACREAGE

Found

Recommended

446 (343 ac have) full appropriation on 110# 34-2304

Irrigation Requirement

3.0

USE

Irrigation Q =

5.62 c.f.s.

V =

219

AF/Ann. from

April 1

to

Nov 1

Domestic Q =

V =

AF/Ann. from

to

Livestock Q =

V =

AF/Ann. from

to

Is water co-mingled? yes

no X

Name source:

n/a

twp.

N/S, Rge.

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Exchange? yes

no X

Name source exchanged with:

n/a

twp.

N/S, Rge.

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Point of injection:

n/a

twp.

N/S, Rge.

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Point of exchange:

n/a

twp.

N/S, Rge.

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Total Q measured

22.88 cfs

Method of measurement

In line meters

Total Q recommended

1.46

Meter No.

see below

Type

Rockwell

Condition

good

Total V recommended

219 AF/yr

well #1 - Meter no. -

12288

#2 - Meter no. - 12773

#3 - Meter no. - 12772

#4 - Meter no. - 12776

Recommended Amendments:

P.D.

Place of Use

See rough draft amendment.

Other

None

MEASUREMENT CALCULATION:

Well #1 - measured 1000 gal in 40.5 sec. = 1481.48 gpm ÷ 448.8 gpm/cfs = 3.30 cfs

Well #2 - measured 1000 gal in 20 sec = 3000 gpm ÷ 448.8 gpm/cfs = 6.68 cfs

Well #3 - measured 1000 gal in 17 sec = 3529.41 gpm ÷ 448.8 gpm/cfs = 7.86 cfs

Well #4 - measured 1000 gal in 26.5 sec = 2264.15 gpm ÷ 448.8 gpm/cfs = 5.04 cfs

Vc 73 ac x 3.0 AF/ac = 219 AF/yr

Allow .02 cfs/ac = 73 x .02 = 1.46

SYSTEM DESCRIPTION (Groundwater is directed from 4 wells)

(Well #1) - Parma water lift pump powered by a vertical electric motor no make or T.D. #5

(Well #2) - 25 H.P. Fairbanks D-Morse 3pk induction motor #F283586 & a Parma

Fairbanks Horse vertical turbine pump #P1864 (Well #3) - 30 H.P. U.S. Motors "High

thrust" Helloshaft 3pk motor - 3pk - 3616080 & Western electrical turbine pump

3pk - 8245-E (Well #4) 40 H.P. U.S. Motors "High thrust" - 3pk motor - 3pk - AR1030038

REMARKS: + Johnston vertical turbine pump. not D.M. All wells open discharge

into a network of ditches for the flood irrigation of 446 acres.

System shown & described by the ranch manager.

Average needed for homestead, county roads, highway.

Examiner's Signature

Anthony R. Kozlowski

Date

2/2/79

Checked by

John D. Corbin

Date

2/7/79

Approved by

Kozlowski

Date

9-29-82

* 343 ac have full groundwater appropriation under 34-2304

Note! → Licensing Permit No. 34-7025 at
 1 1/2 inches per Acre as per
 memo in file by Bob Fleenor
 (Located in front of letter dated 3-24-1972)

Field Examiner found a total of
 416 acres being irrigated of which
 343 acres have .02 d/s/ac from
 license No 34-2304 T1800.

$$343 \times .01 = 3.43$$

$$73 \times .03 = \underline{2.19}$$

5.62 d/s ← recommend
 licensing 34-7025

system capacity 22.88

- 7.18 License 34-2304

- 5.62 34-7025

10.08 both rights
 combined does
 not exceed capacity

system Volume check

$$343 \times 3.0 = \underline{1029} \quad 34-2304$$

$$73 \times 3.0 = 219$$

$$2.18 \times 1.9835 \times 215 = \underline{3061.9}$$

$$416 \times 3.0 = 1248.0$$

RC 11/1/82

Added Vol needed for 34-7025

$$1248.0 - 1029.0 = \underline{219} \text{ AF/AN}$$

use on License

$$V = 416 \times 3 = \underline{1248.0} \quad \checkmark$$

$$V = 5.62 \times 1.9835 \times 215 = 2396.7$$

11-5-82
 Jim

Overlap Review for 34-7025

License 34-2304 gw P/D (3 pts)
T1800 SW NW Sec 4
(1 pt)
SE SW Sec 4
T6N R25E

$$\frac{7.18}{359} = \underline{\underline{.02 ds}}$$

(same wells)

P/U see attached
Transfer copy

same P/D
different P/U - 34-7025 is adding ✓
more land in each Tract.

1/0 Overlap

RC

10/25/82

THE

100



Total number of acres to be irrigated 34,200

- b. Do you intend to make the transfer permanent? _____
- c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

- d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right.

- e. Indicate on the above plat the new land to be irrigated and the point of diversion

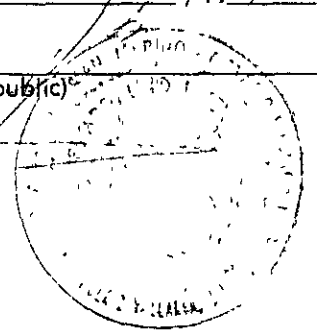
I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

x Donald H. Quincy
(signature of applicant)

Subscribed and sworn to before me this 21 day of June, 19 72

[Signature]
(notary public)

My commission expires Permanently



**ACTION OF STATE RECLAMATION ENGINEER
AND CERTIFICATE OF TRANSFER**

This is to certify that I have examined Application for Transfer of Water Rights No. 34-2304,
and said application is hereby APPROVED

- 1. Approval of said application is subject to the following limitations and conditions:
A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.
- 2. Denial of said application is for the following reasons _____

Witness my hand this 9 day of May, 19 72

R. Keith Higginson
State Reclamation Engineer

R. KEITH HIGGINSON, Director
Department of Water Administration
FOR DEPARTMENT USE ONLY

Acct # 8136

Received by <u>[Signature]</u>	Date <u>3-7-1972</u>	Protest filed by:	Date
Prelim. check by <u>[Signature]</u>	Date <u>3-7-1972</u>		
Fee received by <u>[Signature]</u>	Date <u>3/7/72</u> Fee \$ <u>30.00</u>		
Approved for publication by <u>[Signature]</u> Challis			
Published in <u>Messenger</u>	Dates <u>3/30/72 & 4/6/72</u>		
Hearing held _____			
Watermaster Recommendation sent _____			

Transfer No. 34-2304 - 500

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use

Post office address Grouse, Idaho 83242

Court County of _____.

(Name of stream or source)

b _____ acre feet/annum

(Month, Day)

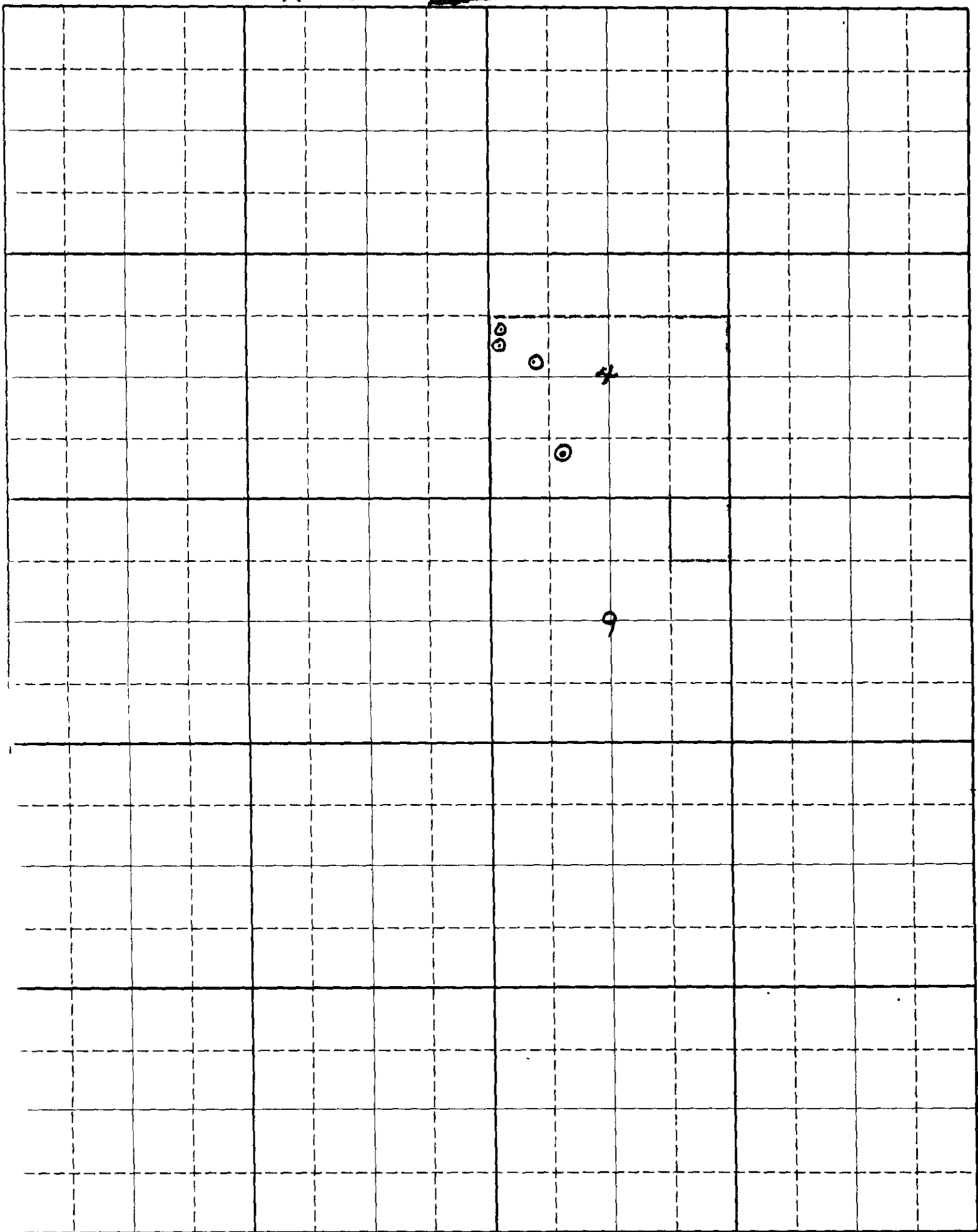
Additional points of diversion, if any _____

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
6N	25E	4			25	24			30	35	40	40	2	30	30	20	23	40	339
		9	20																20
Examiner found																			
		4			34	20			39	40	40	39		22	39	40	39	39	391
		9	20	5															25

Total number of acres presently irrigated 359

34 2305

R 25 E



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

9. If applicant was not the original holder of this right explain how it was acquired: Applicant purchased
the land.

10. CHANGE IN POINT OF DIVERSION

a Quantity to be diverted at new point, 7.18 c.f.s. and/or _____ acre feet
(3 points)

b New point of diversion, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4, Township 6N
(1 point)
Range 25E, B.M. & SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4, T. 6N, R. 25E, B.M.

c. Description of method of diversion and conveyance from new points of diversion: Electric pumps,
drilled wells, and earth ditches

d. Is water to be conveyed to the lands previously irrigated? Yes x No _____.

If not, the place of use should be changed below

e Describe the reasons for applying for a change in the point of diversion:

To include additional wells located on the property and to allow more flexibility in the operation of the irrigation system. A new application has been filed to raise the quantity diverted to 1½" per acre. This transfer does not expand this right.

f. Do you intend to make the transfer permanent? Yes.

g. Do you intend to abandon completely the old point of diversion? No.

h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

a Describe the new lands on which you wish to use your right.

[illegible]

Total number of acres to be irrigated_____

31 / 2017

b. Do you intend to make the transfer permanent? _____

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right _____

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

x Donald A. Burrey
 (signature of applicant)

Subscribed and sworn to before me this 21 day of Febrero, 19 72

My commission expires 12 months

(notary public)



**ACTION OF STATE RECLAMATION ENGINEER
AND CERTIFICATE OF TRANSFER**

This is to certify that I have examined Application for Transfer of Water Rights No. 34-2304,
and said application is hereby APPROVED.

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

A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

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

Witness my hand this 9 day of May, 19 72.

R. Keith Higginson
 State Reclamation Engineer

R. KEITH HIGGINSON, Director
Department of Water Administration

FOR DEPARTMENT USE ONLY

Rec'd #8136

Received by [initials] Date 3-7-72

Protest filed by: _____ Date _____

Preliminary check by [initials] Date 3-7-72

Fee received by [initials] Date 3/7/72 Fee \$ 30.00

Approved for publication by [initials]
Challis

Published in Messenger Dates 3/30/72 & 4/6/72

Hearing held _____

Watermaster Recommendation sent _____

BILLINGS GRAIN TERMINAL

P. O. BOX

BILLINGS, MONTANA 59107

(406) 245-7575

☐ URGENT

☐ PLEASE RESPOND BY _____

☐ NO REPLY NECESSARY

TO: JIM JOHNSON
DEPARTMENT OF WATER RESOURCES
BOISE, IDAHO

DATE: 9/29/80
SUBJECT: GROUSE RANCH
WATER RIGHTS

MESSAGE

DEAR JIM,

ENCLOSED ARE THE NOTARIZED ASSIGNMENTS
OF PERMIT NOS 34-7103, 34-7076, 34-7025;
34-41013. I HOPE THESE WILL GET THE JOB DONE.
IF NOT GIVE ME A CALL AND LET ME KNOW.

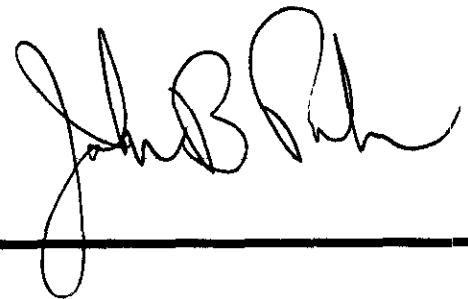
RECEIVED

OCT 2 1980

Department of Water Resources

THANKS

SIGNED:



REPLY:

MICROFILMED

SIGNED

DATE:



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

-yellow copy

Mailing address
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 17, 1980

First Continental Corporation
3811 So. 1st Ave.
Billings, Montana 59107
Permit #s 34-4013; 34-7025;
34-7076; 34-7103

Dear Wateruser:

This office acknowledges receipt of the Assignment of the above referenced permit to you. *la.*

Enclosed for your records is a copy of the permit. Be sure to note the special conditions of approval on the fourth page that identify requirements necessary for developing the permit into a licensed water right.

If you have any questions on this matter, please feel free to contact us.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:mr

Enclosure

MICROFILMED



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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 8, 1980

First Continental Corporation
P.O. Box 31775
Billings, Montana 59107

Dear John,

Thank you for your letter of August 26, 1980. I am returning the Assignments of Permits which you recently sent to us.

We unfortunately cannot accept these assignments in their present form, because they have not been notarized.

We will immediately begin processing these assignments once they are returned to us, so your prompt attention to this matter would be appreciated.

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

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:mr

Enclosures

RECEIVED
SEP 11 1980
STATE OF IDAHO

State of Idaho
Department of Water Resources
ASSIGNMENT OF PERMIT

I, DONALD H. BIRNEY, hereby assign to FIRST CONTINENTAL CORPORATION, a Mont
Corporation
of 3811 S. 1st Avenue, Billings, Montana
Address

CHECK ONE



All my right, title, and interest in and to Permit No. 34-7025
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 20th day of February, 19 80.

Donald H. Birney
Permit Holder - DONALD H. BIRNEY

Donald H. Birney
Spouse of Permit Holder - DONALD H. BIRNEY
Personal Representative of the Estate of
Barbara Bell Birney, Deceased

MICROFILMED

WATER RIGHT NUMBER 34-7025

OWNER LAST NAME - BIRNEY

OWNER LAST NAME - FIRST CONTINENTAL CORPORATION

ADDRESS LINE 1 - ~~3011 S. 1ST ST.~~ *ATTN: John Parker*

ADDRESS LINE 3 -

SOURCE - GROUNDWATER

STAGE - ~~PERMIT~~

TOTAL DIV. VOLUME -

DIVERSION POINT - SWNW 04 06N 25E LOT

FROM - 04-01 TO - 11-01 USE - IRRIGATION

USE - IRRIGATION

USE - IRRIGATION

DECREE NAME -

REMARKS - REINSTATED 7-11-1977. 3/ P/D IN SWNW, S4, T6N, R25E.

NON IRRIG USE -

OTHER RIGHTS FOR SAME USE - 34-2304.

PROOF DUE - 05-01-1978 PERMIT/DENIED - 05-17-1972 PROTESTED -

PROOF MADE - P FLD EXAM - F COND. OF APPROVAL - 01 03A 16

DIVERSION MEANS - WELL, PUMP, GRAVITY FLOW SYSTEM.

FIRST NAME - DONALD H.

FIRST NAME -

ADDRESS LINE 2 - *P.O. Box 31775*

CITY - BILLINGS

TRIBUTARY OF -

PRIORITY - 05-05-1972

WATER DIST. -

DLE/CAREY ACT -

CFS USE DIV. VOLUME -

AC 40-20 NW 1/4 S

TRACT NENE LOT

TRACT SWNE LOT

TRACT SWNW LOT

TRACT NESW LOT

TRACT SWSW LOT

DATE -

TOTAL ACRES

HEARING -

OLD NO. -

ORIG OWNER - 0

ORIG OWNER -

STATE - MT

ZIP CODE - 59107

TOTAL DIV. RATE -

RIGHT BASIS -

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3/79

IDENT. NO. 34-7025

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT DATA ENTRY LOG

[illegible]

May 3, 1978

Re: Permit No. 34-7025

Donald H. Birney
Grouse,
Idaho 83242

Dear Mr. Birney:

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 Idaho Falls.

Sincerely,

JANICE RENK
Water Rights

cc: William J. Langley
248 Third Ave. East
Twin Falls, ID 83301

MICROFILMED

Identification No. _____

Permit No. 34-7025

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APR 21 1978

Department of Water Resources

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder Donald H. Birney
b) Post Office Address Grouse, Idaho 83242
2. Permit Number 34-7025
3. Date of Priority that you are prepared to establish May 5, 1972
4. a) Source from which water was appropriated Ground water
b) Location of the point of diversion: 3 wells in SW 1/4 NW 1/4, Section 4
Township 6 North, Range 25 East, Boise Meridian, Other points of diversion: and
1 well in SE 1/4 SW 1/4, Section 4, Township 6 North, Range 25 E., B. M., Custer County, Idaho
5. a) The amount of water and use to which the water has been applied:
Amount 6.38 for irrigation purposes from April 1 to Nov. 1 incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
b) Total amount appropriated 6.38 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: Rockwell flow meters installed on all four wells by Pep Rambough and Grandon Arbon, pump men for Agricultural Services, Inc., Blackfoot, Idaho. See attached sheet on each well.
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) Drilled wells and electric pumps and earth ditches to place of use. See attached sheet

b) Describe the type and size of measuring device which you have installed at your point of diversion: 10" meters on three wells and 12" meter on shallow well

c) Give well driller's name and address and the date the well was completed: Bill Findlay drilled well at ranch house. Unknown drillers on other wells. Date of completion unknown.

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

Exam typed

By

MICROFILMED

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	
6	N	25E	4		40	40			40	40	40	40	40	40	40	40	40	40	480
			9	40															40

Total number of acres irrigated 520

10. Remarks: This permit is to enlarge water right over and above License 34-2304
(7.18 cfs for 359 acres) to 452 acres at 1½" per acre so total water right under
both permits will be 13.56 cfs.

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

April 20, 1978

(Date)

Donald H. Birney
Donald H. Birney
By William J. Langley
Attorney in Fact
(Signature)

State of IDAHO)

) ss.

County of Twin Falls)

On this 20th day of April, 19 78, personally appeared before me
~~the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.~~ William J.
Langley known to me to be the person whose name is subscribed to the within instrument
as Attorney in Fact of Donald H. Birney, and acknowledged to me that he subscribed
the name of Donald H. Birney as principal and his own name as Attorney in Fact.

Cecilia Hansen
Notary Public residing at Twin Falls, Idaho

My commission expires 6/10/78

DONALD H. BIRNEY, Permit No. 34-7025

WELL NO. 1:

Shallow dug well nearest northwest corner of SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4,
Township 6 North, Range 25 E., B. M., Custer County, Idaho
Pumped 1350 gpm or 3 cfs
Parma water lift pump
Well depth is 20 feet - no casing
48" culvert into hole and pump from culvert

WELL NO. 2:

Located on road south of Well No. 1 in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4, Township 6
North, Range 25 E., B. M., Custer County, Idaho, pumped 2900 gpm
or 6.44 cfs
Fairbanks Morris pump, Serial #F283586, 10" Head
Fairbanks Morris motor, 25 HP, Frame #2K01626P
Pump has 10" column
Pump depth not known
Well depth not known
Well casing 16"
Well driller not known

WELL NO. 3:

Located north of ranch home in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4, Township 6 North,
Range 25 E., B. M., Custer County, Idaho, pumped 3400 gpm or
7.56 cfs
Western pump 10" Head, Serial #3646080
30 HP U. S. motor, Frame #A346UD
Column size is 10"
Oil Tube and Shaft size not known
Depth of pump not known
Depth of well not known
Well casing 16"
Well driller not known

WELL No. 4:

Located by ranch house in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 4, Township 6 North Range 25 E.,
B. M., Custer County, Idaho, pumped 2100 gpm or 4.67 cfs
Johnston pump 10" head, Serial #HR1030038 w/100' of 10x2x1 - 3/16 column,
tube and shaft, 40 HP U. S. motor
Frame #A364UPH
Well depth 100 feet
Well casing 16"
Well driller was Bill Findlay

MICROFILMED

WILLIAM J. LANGLEY
ATTORNEY AT LAW
248 THIRD AVE. EAST
TWIN FALLS, IDAHO
83301
TELEPHONE 733-8452

April 20, 1978

RECEIVED

APR 21 1978

Department of Water Resources

Department of Water Resources
State of Idaho
Boise, Idaho 83720

RE: Donald H. Birney
Permit No. 34-7025

Gentlemen:

I enclose the Proof of Application of water to beneficial use in the above matter.

I have executed this Proof as Attorney in Fact for Mr. Birney. You will find in your file that I submitted the Power of Attorney to your office approximately one year ago.

I would appreciate it if you would advise me if any further information or corrections are necessary in this matter.

Very truly yours,


William J. Langley

WJL:ch
Enclosure
cc Donald H. Birney

MICROFILMED



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse
Boise, Idaho 83720
(208) 384-2215

February 28, 1978

CERTIFIED MAIL

138499

Re: Permit No. 34-7025

Donald H. Birney
Grouse,
Idaho 83242

Dear Mr. Birney:

One of the conditions of approval of your water Permit No. 34-7025 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before May 1, 1978. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use affidavit or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise the permit will lapse and be of no further force or effect.

Norman C. Young
NORMAN C. YOUNG
Administrator,
Resources Administration Division

NCY:jfr

Encl: Proof affidavit

MICROFILMED

July 11, 1977

Re: Permit No. 34-7025

Donald H. Birney
Grouse, Idaho
83242

Dear Mr. Birney:

Enclosed is an Order of Reinstatement on the above referenced permit. Please note that the priority has been advanced to May 5, 1972 for the permit.

Also enclosed is an Order which extends the time within which to submit proof of beneficial use of water to May 1, 1978. You may, however, submit proof of beneficial use of water at any time before the May 1, 1978 date.

Sincerely,

BOBBY D. FLEENOR
Chief, Operations Bureau

BDF:JFR

Encls.

cc: William J. Langley
248 Third Ave., East
Twin Falls, ID 83301

RECEIVED

RECEIVED

JUN 30 1977

Department of Water Resources

WILLIAM J. LANGLEY
ATTORNEY AT LAW
248 THIRD AVE. EAST
TWIN FALLS, IDAHO
83301
TELEPHONE 733-8452

June 29, 1977

by Jim Johnson

Department of Water Resources
State of Idaho
State House
Boise, Idaho - 83720

Attention: Mr. Jim Johnson

Re: Permit #34-7025
Donald H. Birney

Gentlemen:

Please consider this letter as an application by Donald H. Birney for reinstatement of the above permit and the granting of an additional ninety (90) days in which to submit proof of beneficial use.

I enclose the original of the Power of Attorney signed by Mr. Birney to me.

Under this permit the four (4) wells, pumps, motors and other work have been fully completed and water has been put to beneficial use for a number of years.

During the winter of 1976-1977 and spring of 1977 Mr. Birney was in Mexico. On May 2, 1977 his wife called William J. Langley, Attorney at Law, Twin Falls, Idaho and advised that her husband had suffered a stroke previous to that time and was being taken to the Los Angeles Medical Center for treatment and operation. She advised that she had a notice from the Idaho Department of Water Resources advising that May 1, 1977 was the date that proof of beneficial use was to be filed. The said Attorney then commenced gathering information to file the proof of application of water to beneficial use.

It was ascertained that the four wells did not have approved measuring devices and thereupon three (3) 10" meters and one (1) 12" meter was ordered for Mr. Birney from Agricultural Services Inc., at Arco, Idaho, through Mr. Grandon Arbor. To this time the meters have not been received due to manufacturing difficulties in filling an unusually large number of back orders and it has been impossible to obtain these four meters for completion of the work.

The health problems sustained by Mr. Birney have prevented him personally from taking care of his business affairs in the usual manner, and is the reason why these measuring devices were not earlier ordered. It is submitted that

NOT RECORDED

Department of Water Resources - continued:

there is reasonable cause why the permit should be reinstated based upon the health problems of Mr. Birney and also on manufacturing problems outside of his control.

In the event there are any questions concerning availability of these measuring devices please contact Mr. Grandon Arbon at Agricultural Services, Inc., Arco, Idaho, Telephone 785-1717.

Application is made for reinstatement of permit and a granting ninety (90) days for installation of the measuring devices and submission of proof of beneficial use.

Very truly yours,

Donald H. Birney
By: William J. Langley
Attorney in Fact

RECEIVED

JUN 30 1977

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

POWER OF ATTORNEY

The undersigned holder(s) of Permit / Application No. 34-7075 of the
Department of Water Resources of the State of Idaho hereby nominates William J.
Langley, whose address is 248 Third Avenue E., Twin Falls, Idaho
as attorney-in-fact, with full authority to act for and on behalf of the undersigned in all
matters pertaining to the above numbered permit or application. Such acts shall include,
but not be limited to, the filing of application, receiving of all notices, the signing and
filing of applications for extension of time and for amendments of said permits, and the
submission of proofs of completion of works and beneficial use of water.

Dated this 13th day of May, 19 77.

Donald H. Birney

CALIFORNIA
STATE OF ~~IDAHO~~)
County of _____) ss.

On this 13th day of May, 19 77, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal
OFFICIAL SEAL
JULIE ANN ENGSTROM
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My Commission Expires Mar. 22, 1981
My Commission expires:
March 22, 1981

Julie Ann Engstrom
Notary Public
Residing at Los Angeles, Calif.

WILLIAM J. LANGLEY
ATTORNEY AT LAW
248 THIRD AVE. EAST
TWIN FALLS, IDAHO
83301



Department of Water Resources
State of Idaho
State House
Boise, Idaho - 83720

MICROFILMED

Att'n:
Mr. Jim Johnson



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Cecil D. Andrus
Governor

R. Kerth Higginson
Director

Statehouse
Boise, Idaho 83720
(208) 384-2215

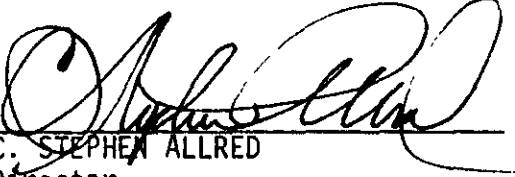
May 5, 1977

Donald H. Birney
Grouse, Idaho
83242

Dear Mr. Birney:

You are hereby notified that under the provisions of Section 42-218a of the Idaho Code, Permit No. 34-7025 has lapsed since you have not notified us that you have completed the project by the date required on your permit. You were provided forms for that purpose in our notice to you dated February 28, 1977.

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



C. STEPHEN ALLRED
Director

CSA:jfr

Encl.

MICROFILMED

February 28, 1977

CERTIFIED MAIL

~~138298~~
138298

Re: Permit No. 34-7025

Donald H. Birney
Grouse, Idaho
83242

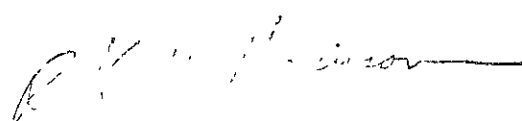
Dear Mr. Birney:

One of the conditions of approval of your water Permit No. 34-7025 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before May 1, 1977. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use affidavit or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise the permit will lapse and be of no further force or effect.

MICROFILMED


R. KEITH HIGGINSON
Director

RKH:jg
Enc: Proof affidavit

WILLIAM J. LANGLEY
ATTORNEY AT LAW
248 THIRD AVE., EAST
TWIN FALLS, IDAHO
TELEPHONE 783-8452

August 6, 1973

RECEIVED
AUG 7 1973
Department of Water Administration

Mr. Norman C. Young, District Engineer
Department of Water Administration
State of Idaho, 1515 Lincoln Road
Idaho Falls, Idaho 83401

RE: Donald H. Birney
Grouse, Idaho
Permit No. 34-7025

Dear Mr. Young:

I am attorney for Mr. Donald H. Birney and have your letter of July 27, 1973, concerning the filing of application for Permit No. 34-7040 by Mr. Dean Ceburn, Lodi, Idaho, for forty acres in the S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 4, Township 6 North, Range 25 E., B. M., Custer County, Idaho.

I have checked the deed under which Mr. Birney obtained title to his property in that area and the portion in question recites "that portion of the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of Section 4 lying North of the Union Pacific Railroad". I do notice that the application for permit to Mr. Birney recites the acreage to be irrigated as the full one hundred and sixty acres in the SW $\frac{1}{4}$, Section 4.

At the time of examination it will be appreciated if the exact acreage owned by my client as set forth above is set forth in his permit.

Before proceeding further with this matter, would you please contact me so this matter may be correctly determined by all parties concerned.

Very truly yours,

William J. Langley

WJL:cc
cc Dept. of Water Administration
Boise, Idaho
Donald H. Birney, Grouse, Idaho

RECEIVED
AUG 14 1973
WJL

34-7025

August 10, 1973

Re: Permit No. 34-7025

Mr. William J. Langley
Attorney at Law
248 Third Ave. East
Twin Falls, ID 83301

Dear Mr. Langley:

This office is in receipt of your letter of August 6, 1973 concerning the above referenced permit. This Department has approved application for permit No. 34-7040 in the name of Don V. Coburn, Leslie, Idaho. Pursuant to your request, I will place a memo in the file of permit No. 34-7025 to contact you at the time the Department makes the licensing examination for Mr. Birney; and we will at that time clarify the savings for each permit.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:mb

cc: Donald H. Birney
File No. 34-7025

34-7025

WILLIAM J. LANGLEY
ATTORNEY AT LAW
248 THIRD AVE. EAST
TWIN FALLS, IDAHO
83401
TELEPHONE 733-8452

August 6, 1973

RECEIVED

AUG 7 1973

Department of Water Administration
Eastern District Office

Mr. Norman C. Young, District Engineer
Department of Water Administration
State of Idaho, 1515 Lincoln Road
Idaho Falls, Idaho 83401

RE: Donald H. Birney
Grouse, Idaho
Permit No. 34-7025

Dear Mr. Young:

I am attorney for Mr. Donald H. Birney and have your letter of July 27, 1973, concerning the filing of application for Permit No. 34-7040 by Mr. Dean Coburn, Leslie, Idaho, for forty acres in the S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 4, Township 6 North, Range 25 E., B. M., Custer County, Idaho.

I have checked the deed under which Mr. Birney obtained title to his property in that area and the portion in question recites "that portion of the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of Section 4 lying North of the Union Pacific Railroad". I do notice that the application for permit to Mr. Birney recites the acreage to be irrigated as the full one hundred and sixty acres in the SW $\frac{1}{4}$, Section 4.

At the time of examination it will be appreciated if the exact acreage owned by my client as set forth above is set forth in his permit.

Before proceeding further with this matter, would you please contact me so this matter may be correctly determined by all parties concerned.

Very truly yours,


William J. Langley

WJL:cc
cc Dept. of Water Administration
Boise, Idaho
Donald H. Birney, Grouse, Idaho

34-7025

May 24, 1972

C
Re: Permit No. 34-7025

O
Mr. Donald H. Birney
Grouse,
Idaho 83342

P
Dear Mr. Birney:

Enclosed is a copy of your approved Application for Permit No. 34-7025. We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to install and maintain a measuring device at your point of diversion has been placed upon your permit. We are enclosing a letter describing different types of measuring devices accepted by this office.

Y
Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR
Enc: Copy of permit
Information letter

bc: Eastern District Office

34-7025

Let's see what conditions
you recommend to meet
norms comments

I talked with Norm about the
request for more than 1" per acre ~~to~~
~~He~~ He felt it is needed unless applicant
would change to sprinklers. I don't feel
we should force him to do that.

Shallow well is not proposed by the
application.

Bob F

34-7025

March 24, 1972

Re: Application No. 34-7025 - Donald H. Birney

Mackay Miner
114 S Main Ave.
Mackay, ID 83251

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for our review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. In order to receive payment, the following certification must appear on the bill:

"I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid."

(signature of claimant)

Very truly yours,

Norman C. Young
District Engineer

NCY:BJ
Enc: Legal notice

Bill submitted 4-12-72 cr

34-7025

NOTICE OF CORRECTION

Notice is hereby given that Application No. 34-7025, in the name of Donald H. Birney, Grouse, Idaho, was advertised incorrectly on March 16 and 23, 1972. The place of use was advertised as being within the $S\frac{1}{2}NE\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}$, Sec. 4; $NE\frac{1}{4}NE\frac{1}{4}$, Sec. 9, T. 6N, R. 25E, B.M.

WHEREAS; the actual place of use is within the $S\frac{1}{2}NE\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}$, $SE\frac{1}{4}$, Sec. 4; $NE\frac{1}{4}NE\frac{1}{4}$, Sec. 9, T. 6N, R. 25E, B.M.

Any protests of this correction must be filed with the Idaho Department of Water Administration, 240 South Holmes, Idaho Falls, Idaho, 83401, within ten days of the last date of publication of this notice.

R. KEITH HIGGINSON

Director

Published in the Mackay Miner, Mackay, Idaho, on March 30 and April 6, 1972.

34-7025

March 10, 1972

Re: Application No. 34-7025 - Donald H. Birney

Mackay Miner
114 S Main Ave.
Mackay, ID 83251

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for our review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. In order to receive payment, the following certification must appear on the bill:

"I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid."

(signature of claimant)

Very truly yours,

Norman C. Young
District Engineer

NCY:BJ
Enc: Legal notice

Bill submitted 3/29/72 CR

34-7025

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Donald H. Birney, Crouse, Idaho

has on 3-6-72 submitted Application No. 34-7025

for a permit to appropriate 6.38 cubic feet per second ~~acre feet per second~~

of water from a ground-water source

by means of wells and pumps

within the SW¹/₄, NE¹/₄, (3 points), SE¹/₄, SW¹/₄, Sec. 4, T. 6N, R. 25E, B.M., Custer

County;

to be used from Apr. 1 to Nov. 1

for the irrigation of 520 acres

within the SW¹/₄, NE¹/₄, SW¹/₄, SE¹/₄, Sec. 4; NE¹/₄, NE¹/₄, Sec. 9, T. 6N, R. 25E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of this permit must be filed with the Idaho Department of Water Administration, 240 South Holmes, Idaho Falls, Idaho, 83401, on or before April 3, 1972.

R. KEITH HIGGINSON

Director

Published in the Mackay Miner, Mackay, Idaho

on March 16 and 23, 1972.

NCY
34-7025

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

SUBJECT: Water Rights - Mr. Donald H. Birney

Department
DATE 2/2/42

TO: Department of Water Administration
State of Idaho

Dear Sir,

I have had a request from Mr. Donald H. Birney involving a request for information necessary to obtaining an irrigation water right. This farmland is located in section 4 and 9, T. 6 N; R. 25 E.B.M.

This farm has shallow soil of 10"-20" of top soil over a gravel sub soil. To get top irrigation efficiency it would require irrigation runs of less than 400 feet and changing of water every 2-3 hours which is economically unfeasible. Also the transmission losses in ditches is very high and in order to stay within the 1 Idaho miners inch per acre would mean the lining of all the main ditches with concrete. This is economically very costly.

It is my opinion that Mr. Birney could use more than the 1 inch to the acre that is normally decreed.

If there is any other information I might furnish please feel free to contact this office.



James R. Stalnaker
District Conservationist
Arco, Idaho

cc: Donald Birney

34-7025

