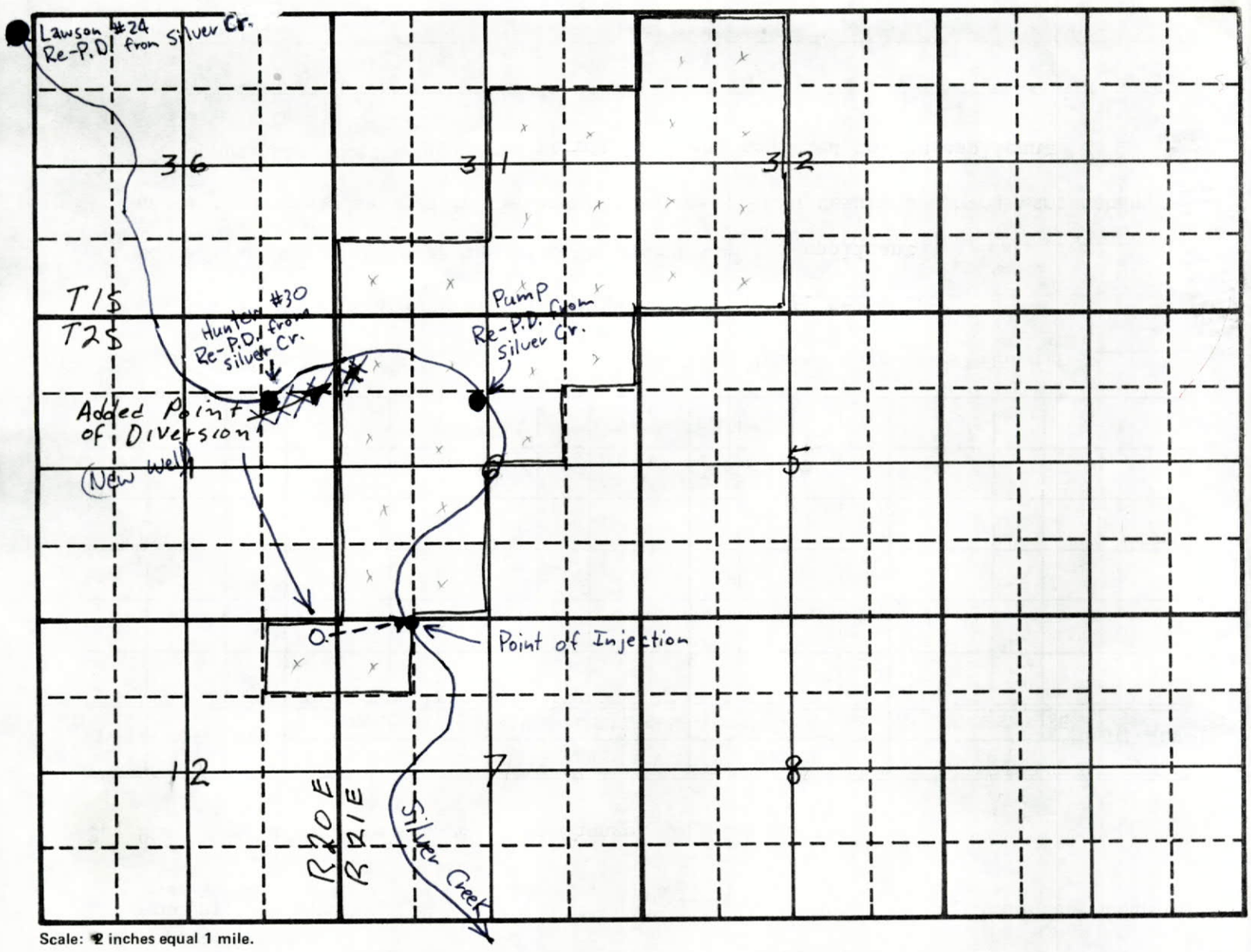
Complete the following map by showing land and point of diversion as proposed by this amendment.

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



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Twin Falls, this 24th day of Aug, 1979.

John D Flood
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by LK Fee = $20.00 Receipted by mcrp Date 8/24/79 20.00

Publication prepared by mcrp Date 8/28/79 Published in Wood River Journal

Publication dates 9/13 & 9/20/79

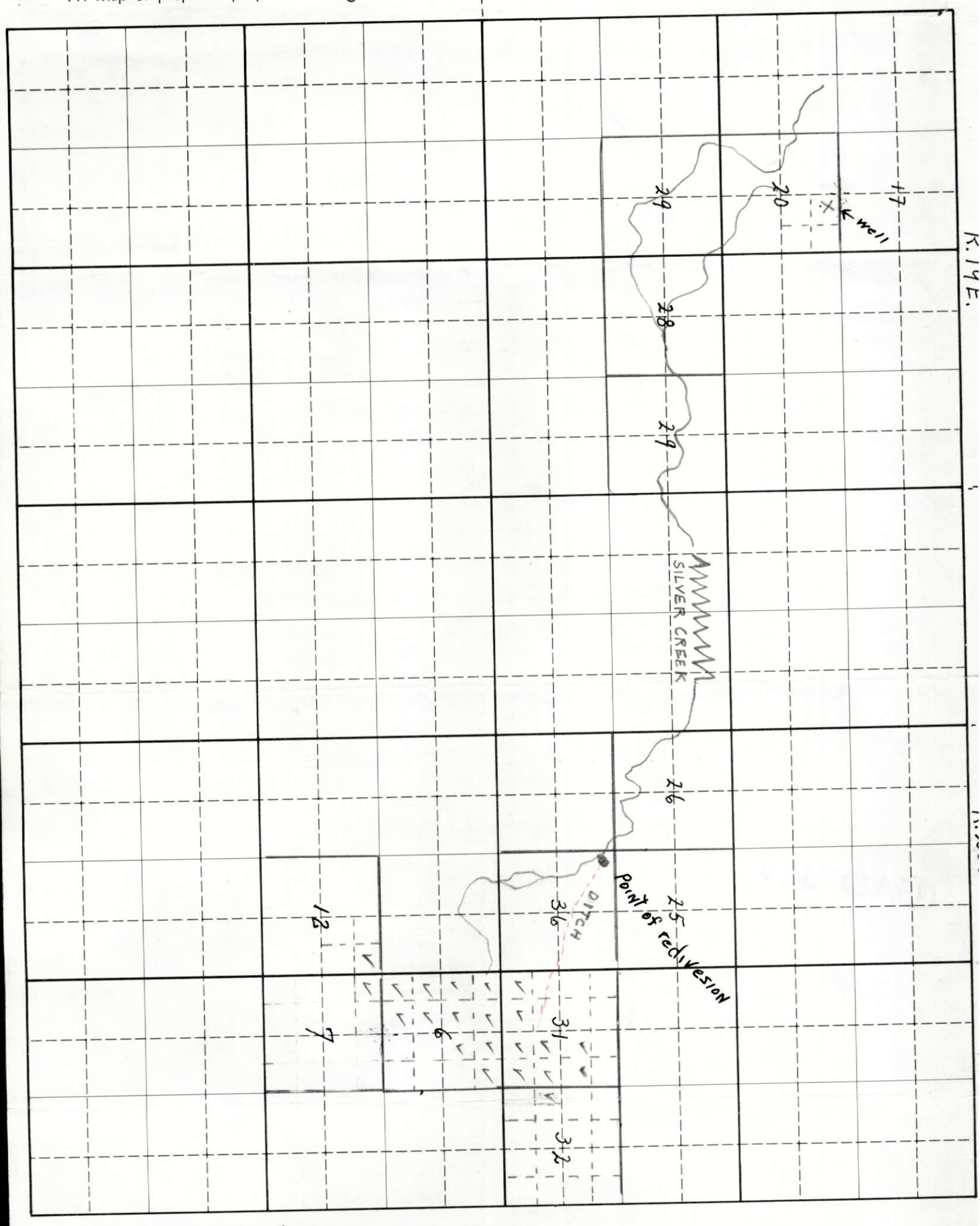
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, L. GLEN SAXTON, Chief, Operations Bureau of the Department of Water Resources hereby approve the above application for amendment subject to the conditions as given in the Memorandum Decision & Order dated September 9, 1968. Also subject to the condition that the use of this water is subject to control by the watermaster of State Water District No. 37M, Little Wood River.

Witness my hand this 31st day of October, 19 79.

L. Glen Saxton
Chief, Operations Bureau

11. Map of proposed project:



Scale: 2 inches equal 1 mile

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

37 7014

Baldwin Bros.
(Applicant)

By Wayne O. Baldwin

By Donnie K. Baldwin

ANDERSON, KAUFMAN, ANDERSON
AND RINGERT
Attorneys for Applicants
Address: P. O. Box 2773
Boise, Idaho

AFFIDAVIT of PUBLICATION

State of Idaho, } SS.
Connty of Blaine }

GORDON O. GLASMANN, being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 13 day of September, 19 79, and the date of the last publication was on the 20 day of September, 1979.

Gordon O. Glasmann

Subscribed and sworn to before me this 21st day of September, 1979.
(SEAL)

Roberta Mackenzie
NOTARY PUBLIC

10/4/79

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Lines in Notice	35		
Number of Insertions	2		
Lines tabular at		39c	
35 Lines straight at		26c	9.10
35 Subsequent lines at		15c	5.25
TOTAL COST			14.35

COPY OF NOTICE
(Paste Here)

Permit 37-7014
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water Resources
1041 Blue Lakes Blvd N
Twin Falls, Idaho 83313
BILL TO

NOTICE OF AMENDMENT TO A WATER PERMIT NO. 37-7014

NOTICE IS HEREBY GIVEN, That John Flood is the holder of approved permit No. 37-7014 authorizing the diversion of 5.0 cfs of water from groundwater in the NW¼NW¼, Section 20, T1S, R19E, Blaine County, B.M., to be used for irrigation purposes on 520 acres within NE¼NE¼, Section 12, T2S, R20E; S½NE¼, S½SW¼, SE¼, Section 31; W½, Section 32, T1S, R21E; N½NE¼, SW¼NE¼, W½, Section 6; NW¼NW¼, Section 7, T2S, R21E, B.M.

The permit holder has applied to the Department of Water Resources for an Amendment to the permit, to change point(s) of Diversion as follows:

Points of Diversion: NW¼NW¼, Section 20, T1S, R19E, B.M., and NE¼NE¼, Section 12, T2S, R.20E, B.M., Blaine County.

Any protest against approval of the amending of Permit No. 36-7080 as set forth above must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho 83301, on or before October 1, 1979.

C. Stephen Allred
Director

Publish: Wood River Journal--September 13, 20, 1979.

RECEIVED
OCT 1979
Department of Water Resources
Southern District Office

No. 0980

RECEIVED
APR
Department of Reclamation

Affidavit of Publication

STATE OF IDAHO, }
County of Blaine, } ss.

BERWYN BURKE, being first duly sworn deposes and says that he is now and at all times herein mentioned has been the publisher of The Hailey Times, which is now, and at all times herein mentioned has been a newspaper as defined in Section 58-106 of the Idaho Code Annotated as amended by Chapter 38 of the Laws of 1939, and printed, regularly issued and published weekly at Hailey, in Blaine County, Idaho, and having a general circulation in said county, and not less than 200 bona fide subscribers living within said county, and that said newspaper has been continuously and uninterruptedly so printed and published as a weekly newspaper in said county during the period of 78 consecutive weeks prior to the first publication of the annexed true copy and at all times since, and that said annexed true copy was so published in the regular edition of said newspaper, The Hailey Times, and not in any supplement thereof, for TWO consecutive weeks commencing with the first publication thereof on the FOURTEENTH day of MARCH, 1968 and ending with the last publication thereof on the TWENTY-FIRST day of MARCH, 1968

Cost of this publication is $10.32

Berwyn Burke
BERWYN BURKE, Publisher.

Subscribed and sworn to before me, this 29th day of March, 1968.

Notary Public for Idaho
Residing at Hailey,
Blaine County, Idaho.

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Wayne O. Baldwin and Donnie D. Baldwin, co-partners d/b/a Baldwin Bros., Picabo, Idaho, have on March 11, 1968, applied for permit to divert 5.0 cubic feet per second of water from a subterranean source under application No. 37-7014. Water will be diverted by well and ditch within the NW¼NE¼, Sec. 20, T. 1S, R. 19E, B.M., Blaine County, and conveyed into Silver Creek to be co-mingled with Silver Creek water and re-diverted from Silver Creek about 10 miles from the initial point at a point NW¼NW¼, Sec. 36, T. 1S, R. 20E, B.M. It is to be used for irrigation from April 1 to October 15 in NE¼NE¼, Sec. 12, T. 2S, R. 20E, B.M. and S½NE¼, S½SW¼, SE¼, Sec. 31; NW¼SW¼, Sec. 32, T. 1S, R. 21E, B.M. and N½NE¼, SW¼NE¼, W½, Sec. 6; NW¼NW¼, Sec. 7, T. 2S, R. 21E, B.M.

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

R. KEITH HIGGINSON
State Reclamation Engineer
Published in the Hailey Times, Hailey, Idaho, on March 14 and March 21.

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Wayne O. Baldwin and Donnie D. Baldwin, co-partners d/b/a Baldwin Bros., Picabo, Idaho, have on March 11, 1968, applied for permit to divert 5.0 cubic feet per second of water from a subterranean source under application No. 37-7014. Water will be diverted by well and ditch within the NW¼NE¼, Sec. 20, T. 1S, R. 19E, B.M., Blaine County, and conveyed into Silver Creek to be co-mingled with Silver Creek water and re-diverted from Silver Creek about 10 miles from the initial point at a point NW¼NW¼, Sec. 36, T. 1S, R. 20E, B.M. It is to be used for irrigation from April 1 to October 15 in NE¼NE¼, Sec. 12, T. 2S, R. 20E, B.M. and S½NE¼, S½SW¼, SE¼, Sec. 31; NW¼SW¼, Sec. 32, T. 1S, R. 21E, B.M. and N½NE¼, SW¼NE¼, W½, Sec. 6; NW¼NW¼, Sec. 7, T. 2S, R. 21E, B.M.

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

R. KEITH HIGGINSON
State Reclamation Engineer
Published in the Hailey Times, Hailey, Idaho, on March 14 and March 21.

37 7014

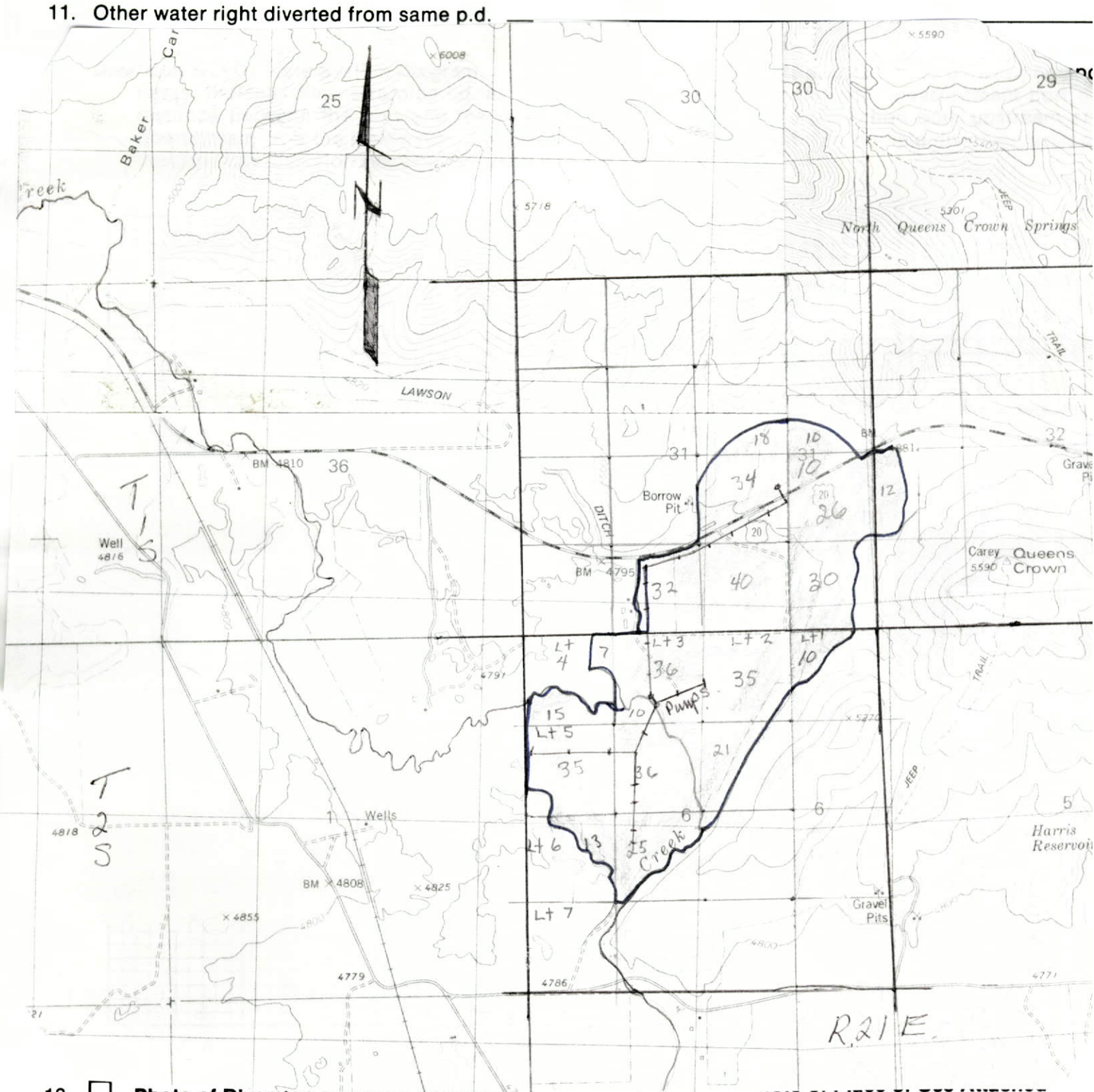
Appl. 37-7014 HEARING CONTINUATION 5-2-68

DEPARTMENT OF RECLAMATION, BOISE, IDAHO 9:AM

NAME	ADDRESS	REPRESENTING
Mrs John D. McDougal	Hailey	
John D. McDougal	Hailey	Self
Mrs. Mary M. McDougal	Bellevue	Self
W. B. Beckett	Gooding	Self
J. E. Fredrickson	Bellevue	Self
Harold C Johnston	Bellevue	Wood River Ranch Co Inc
Wayne Clark	Bellevue	self
Robert V. Hamilton	Boise	Dept.
DALE R. BOLSTON	BOISE	Dept Rec.
Ralf M. Lucke	Gooding	Self
STEPHEN ALLRED	BOISE	Dept Rec.
J. T. Beckett	Bellevue	self
Dwight Hurst	Bellevue	Self
Charles Barnett	Boise	Dept Rec.

10. Other water rights on these lands 32-0407 - 0408 - 0693 - 2573

11. Other water right diverted from same p.d.



13. ☐ **Photo of Diversion & System Attached** ☐ **or Map of Irrigated Acreage Attached**

14. Remarks Subject to 14% conveyance loss, not to exceed 4.3 cfs at the point of re-diversion from Silver Creek.

15. 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

16. Examiner's/Consultant's Signature Gary Lundstrom Date

Consultant's License Number

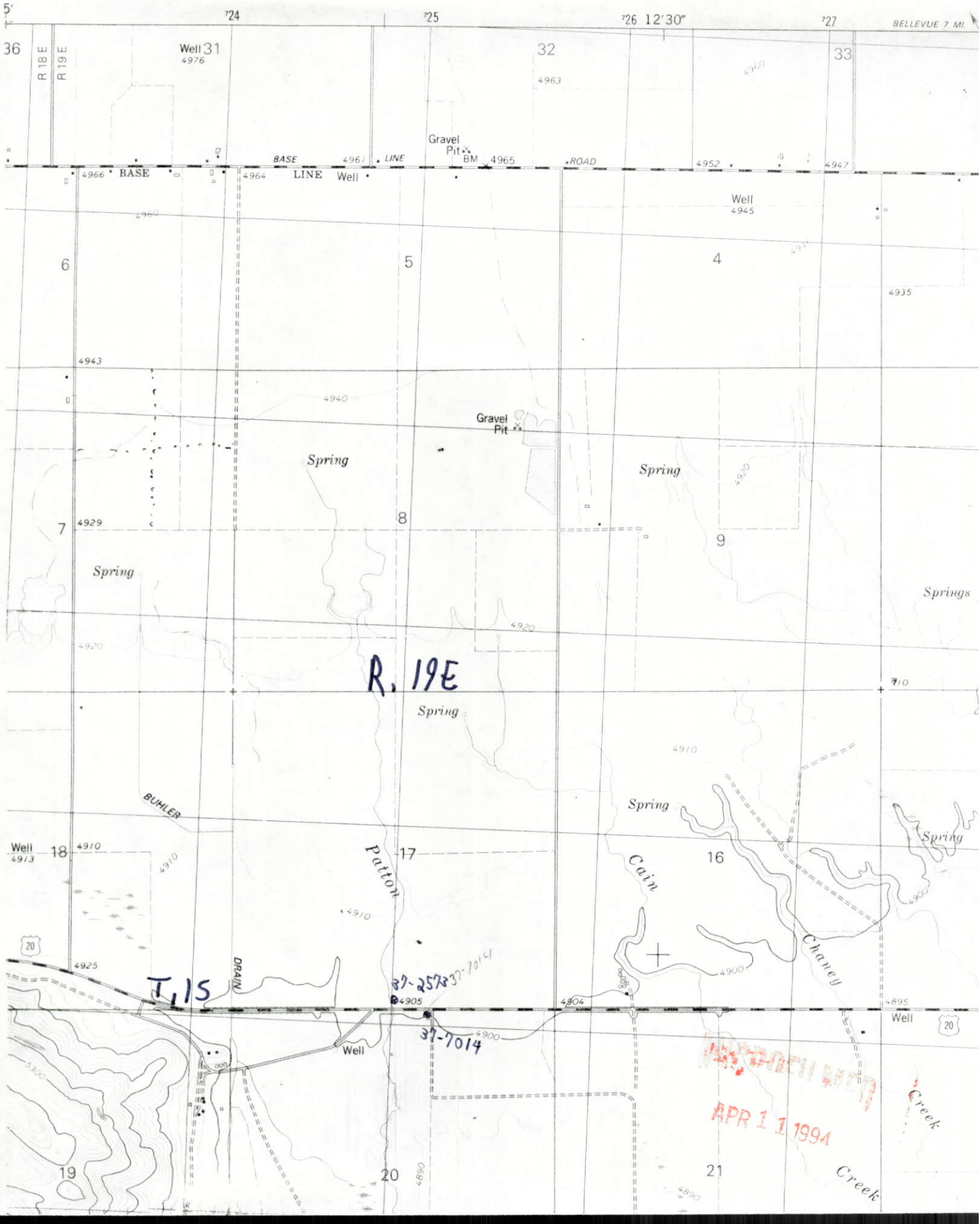
IDWR Director's Authorization to Conduct Beneficial Use Examination

Date

CONSULTANT SEAL

RECEIVED
APR 11 1994

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY




6.5
C
9.4
A
12.0
B
19.6
F
8.4
E
8.2
D
5.4
G
7.6
H
2.7
36 | 31
1 | 6
M
1.8
N
33.7
I
3.3
B-26
A
9.9
B
6.5
C
5.2
D
18.6
B-21
RECEIVED
APR 11 1994


A
B
7.9
C
8.7
E
6.8
F
49.7
G
7.4
D
11.4
H
3.9
I
22.1
J
4.91
K
20.0
L
23.0
31
32
6
5
APR 1 1 1994

1 F.

John Flood

Case I

West

TDH = (4.5) + (2) + (95 x 2.31) = 226' → 75'/stage

$Q_{Annubar}$ = 1184 gpm

East

Not Running

Case II — Both Running Seperately

West

TDH = (4.5) + (2) + (95 x 2.31) = 226' → 75'/stage

$Q_{Annubar}$ = 1184 gpm

East

TDH = (4.5) + (2) + (43 x 2.31) = 106' → 26.5'/stage

$Q_{Annubar}$ = 1625

$Q_{collins}$ = 1880

Case III — System Running together

West

TDH = (4.5) + (2) + (92.5 x 2.31) = 220' → 73'/stage

$Q_{Annubar}$ = 819

East

TDH = (4.5) + (2) + (46.5 x 2.31) = 114 → 28.5'/stage

$Q_{Annubar}$ = 1591

$Q_{collins}$ = 1854

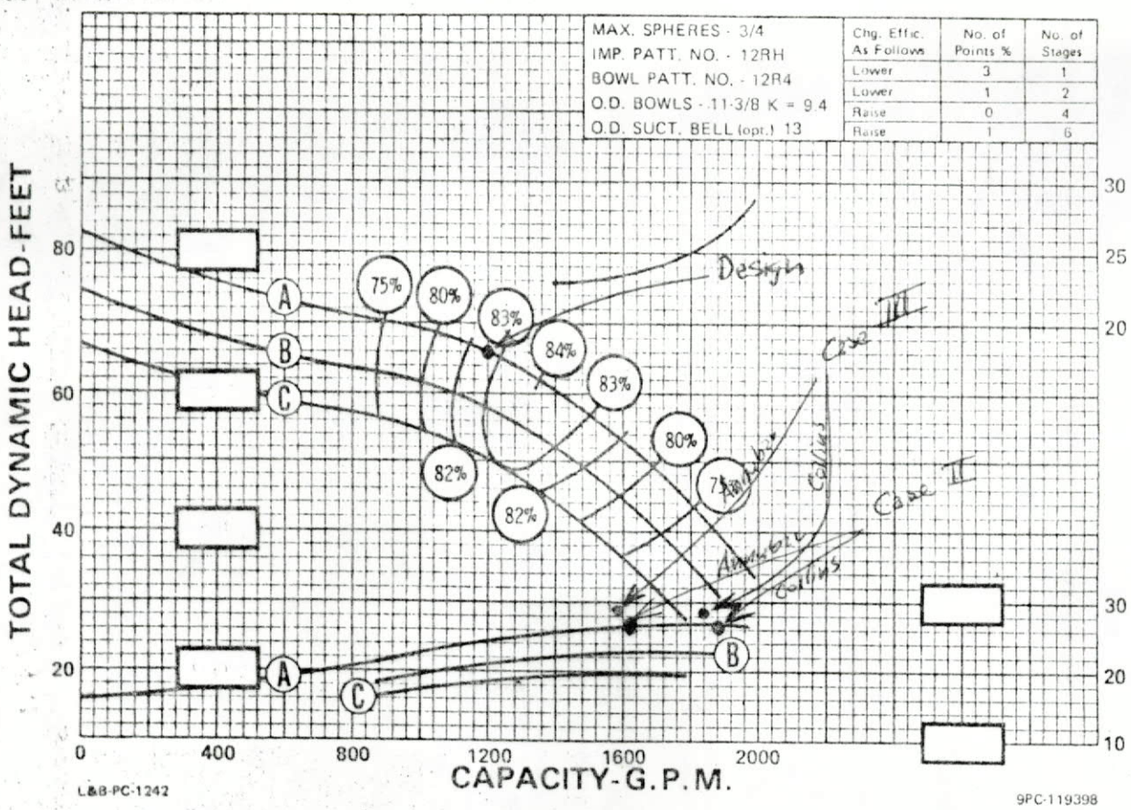
RECEIVED
NOV 1 1984
Department of Water Resources
APR 11 1994

12RH SERIES 1110
Verti-Line PUMP

John Flood East

4 stage

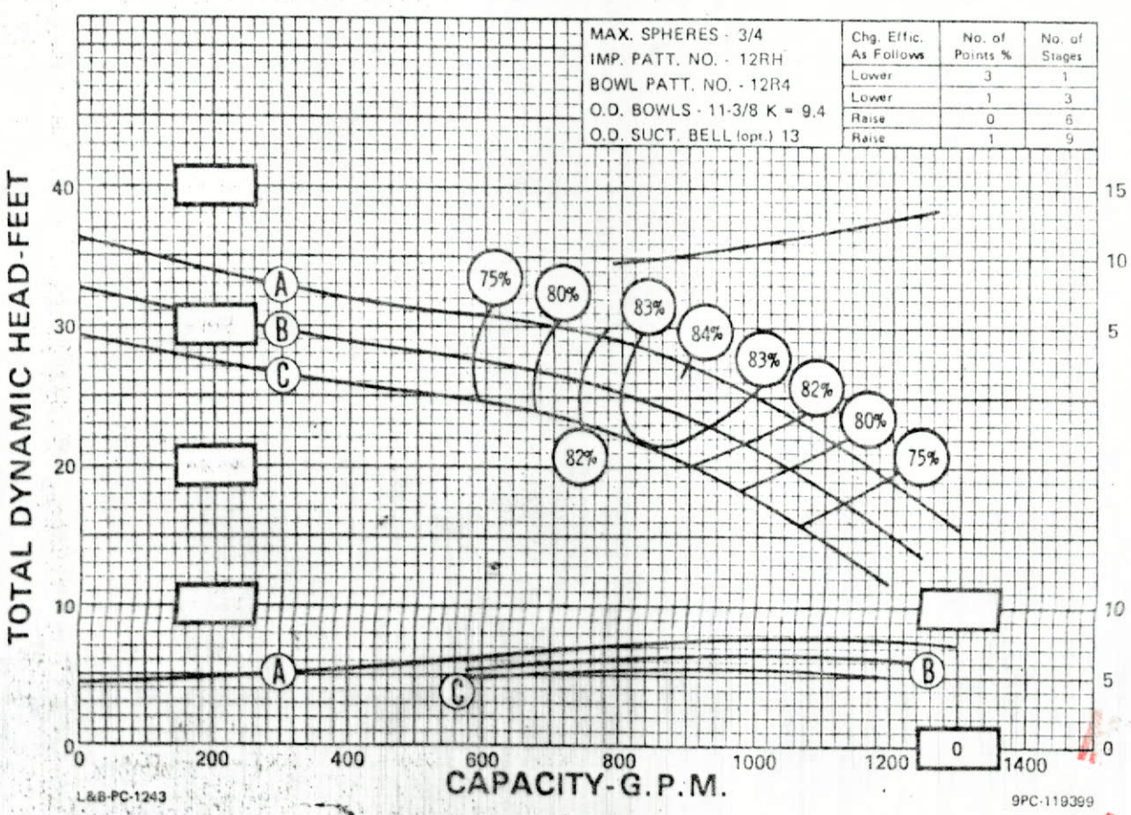
1770 R.P.M.



L&B-PC-1242

9PC-119398

1170 R.P.M.



L&B-PC-1243

9PC-119399

NUMBER OF STAGES REQUIRED FOR APPLICATION.

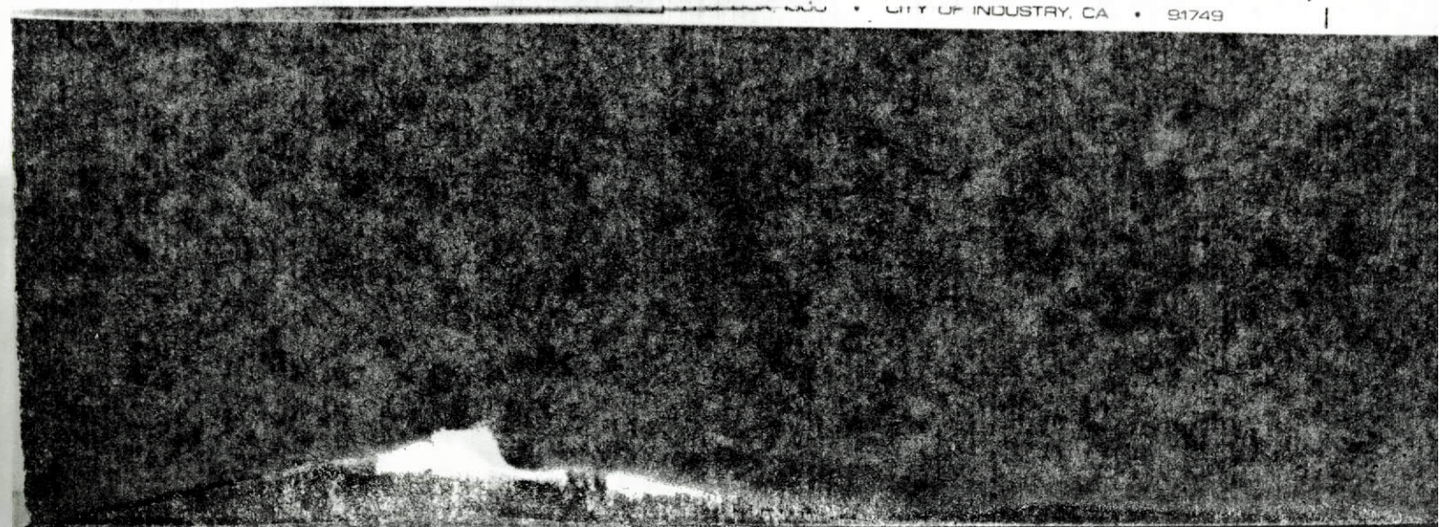
STANDARD CURVE ILLUSTRATES SINGLE STAGE PERFORMANCE ONLY.

(A) = 9.188
(B) = 8.750
(C) = 8.375

APR 1 1 1994

AURORA PUMP
A UNIT OF GENERAL SIGNAL
P.O. BOX 1300 • CITY OF INDUSTRY, CA • 91749

P.O. BOX 1300 • CITY OF INDUSTRY, CA • 91749

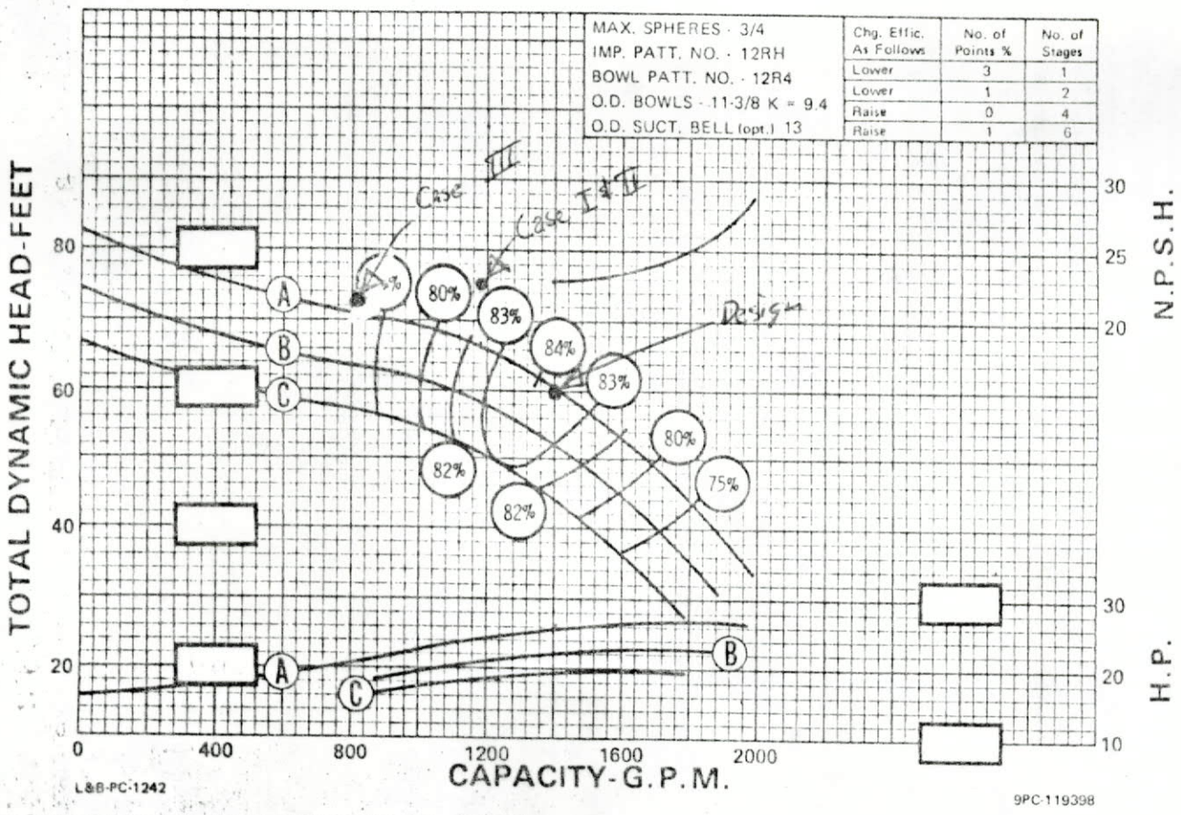


12RH SERIES 1110
Verti-Line PUMP

John Flood West

3 stage

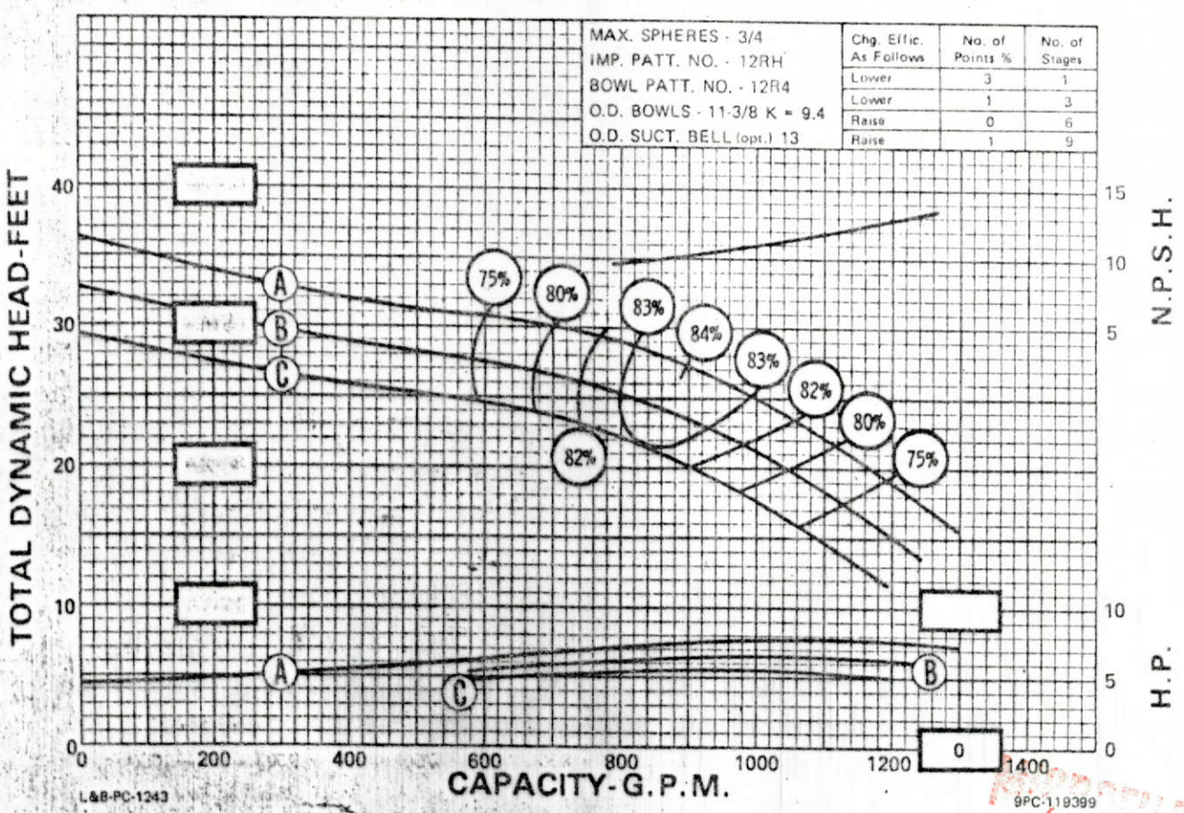
1770 R.P.M.



L&B-PC-1242

9PC-119398

1170 R.P.M.



L&B-PC-1243

9PC-119399

NUMBER OF STAGES REQUIRED FOR APPLICATION.

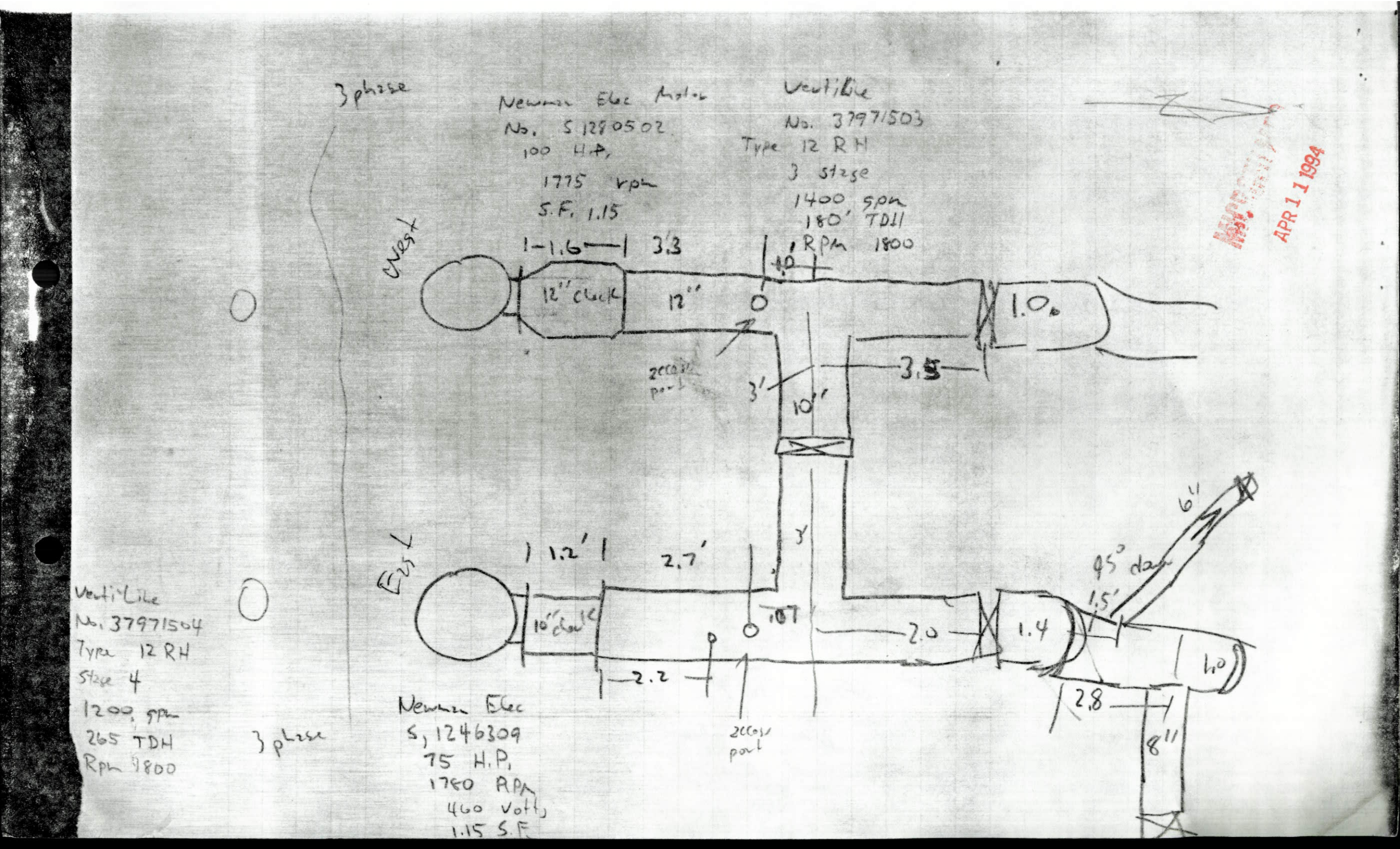
STANDARD CURVE ILLUSTRATES SINGLE STAGE PERFORMANCE ONLY.

Ⓐ = 9.188
Ⓑ = 8.750
Ⓒ = 8.375

AURORA PUMP
A UNIT OF GENERAL SIGNAL
P.O. BOX 1300 • CITY OF INDUSTRY, CA • 91749

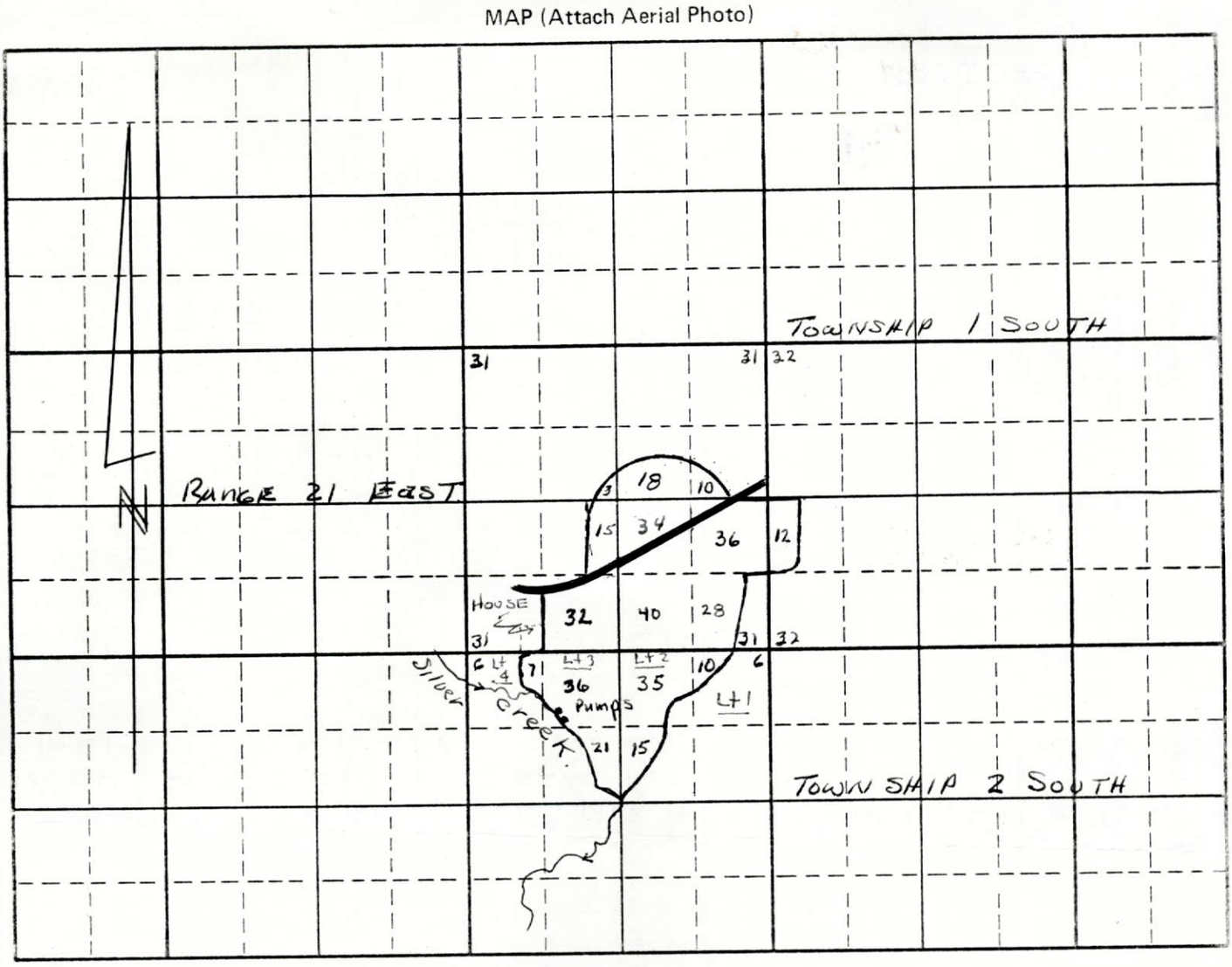
P.O. BOX 1300 • CITY OF INDUSTRY, CA • 91749

APR 11 1994


3 phase
Newman Elec Motor
No. S 1280502
100 H.P.
1775 rpm
S.F. 1.15
VertiLine
No. 37971503
Type 12 RH
3 stage
1400 gpm
180' TDH
RPM 1800
West
1-1.6
3.3
12" Check
12"
1.0
1.0
3.5
3'
10"
2" Cross port
East
1.2'
2.7'
10" Check
.10'
2.0
1.4
2.2
2" Cross port
6"
45° elbow
1.5'
1.0
2.8
8"
VertiLine
No. 37971504
Type 12 RH
Stage 4
1200 gpm
265 TDH
Rpm 1800
3 phase
Newman Elec
S, 1246309
75 H.P.
1760 RPM
460 Volts
1.15 S.F.

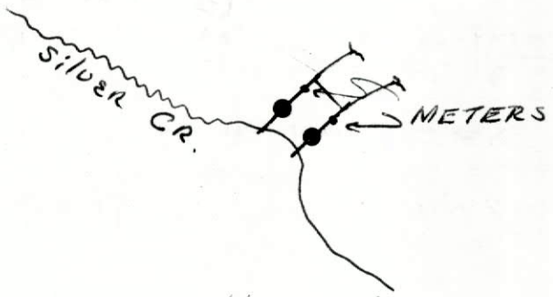
APR 1 1 1994

MAP (Attach Aerial Photo)



SCHEMATIC DIAGRAM OF SYSTEM

(Include distance from pump to measuring device, if applicable.)



Point(s) of diversion: NE 1/4 NE 1/4; Sec 20 Township 1 South Range 19 East
Rediversion NE 1/4 NW 1/4; Sec. 6 Township 2 South Range 21 East

Place(s) of Use

TWP.	RGE.	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1S	21E	31			18	10				3	15			32	36	34	40	28	216
		32										12							12
2S	21E	6	10	35	15		36	7		21									124
			LT1	LT2			LT3	LT4											
																			352

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

APR 11 1994

Examiner's Signature Jay Fundenburg. Date 10-23-1980

Checked by 96 Stanton Date 9-28-82

Approved by _____ Date _____

Form 23
2M-4-65

RECEIVED
JUL 29 1977
Department of Water Resources
Southern District Office

Bpowell.
Log house.

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE

REPORT OF EXAMINER

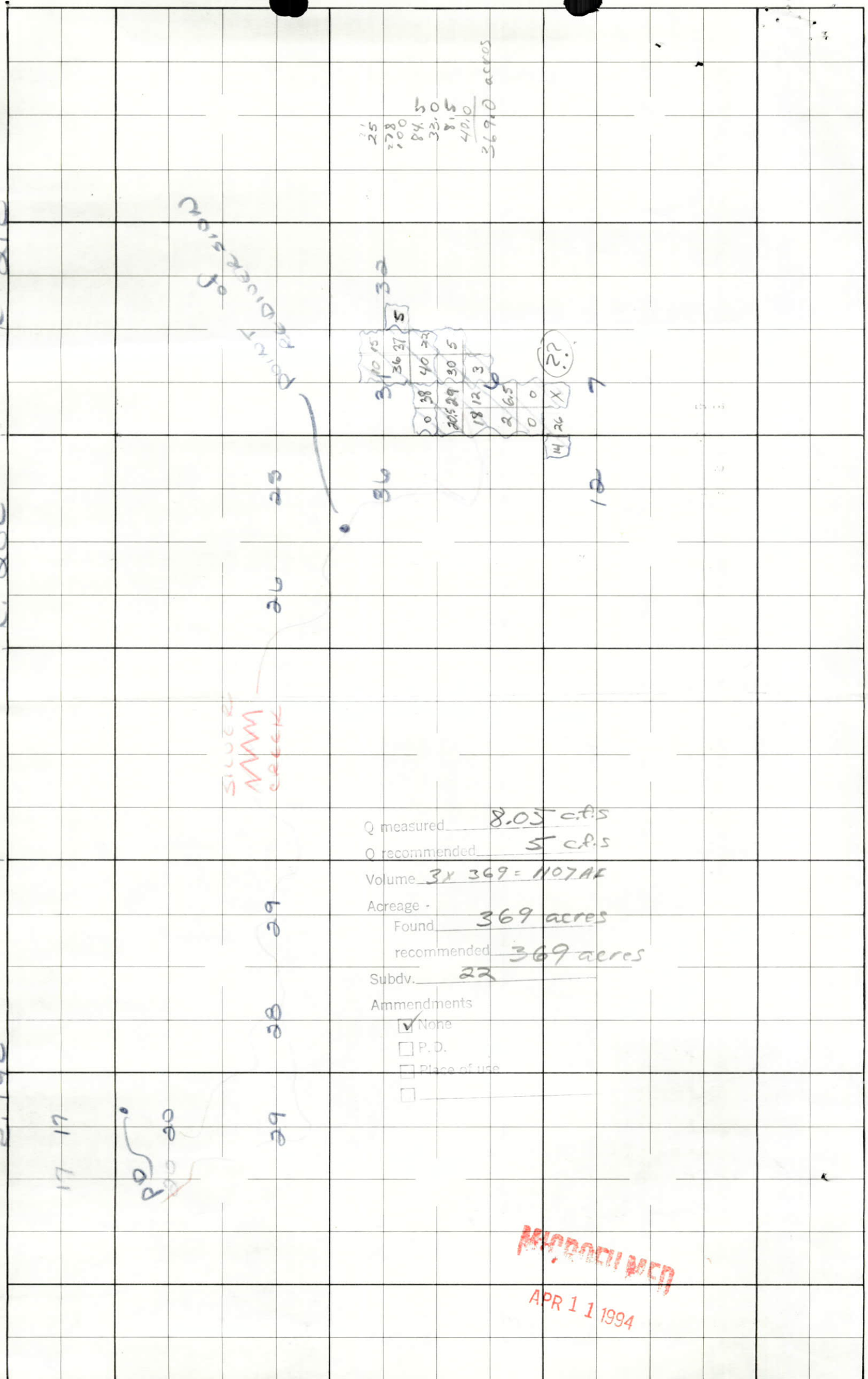
PERMIT NO. 37-7014

REPORT ON PROOF OF Wayne O. & Donnie D. Baldwin, Picabo, Idaho

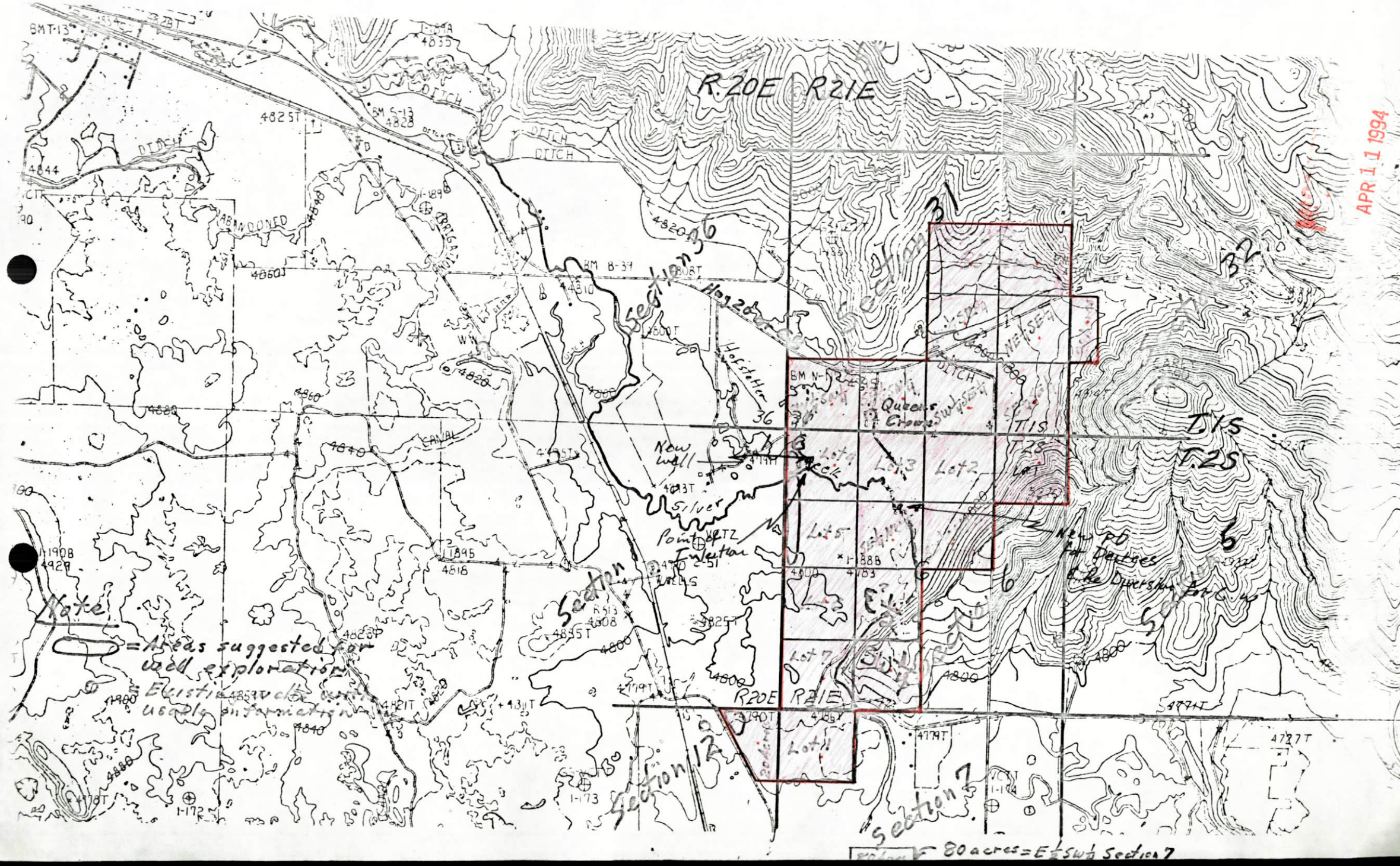
Lois Bushby ee at 9:00 tomorrow at Picabo General Store
He has all the information on Mr. Baldwin's well.

This permit 37-7014 is to License 5 c.f.s of water from an Artesian well belonging to Wayne Baldwin. The remaining 3.05 c.f.s belongs to Lois Hubsman. Mr. Baldwin transfers 5 c.f.s by way of Pattan Creek which runs into Silver Creek. Approx. 10 miles below BD. Mr. Baldwin Take water from Silver Creek. Mr. Baldwin also has water rights from Silver Creek which vary from day to day depending on the conditions of Silver Creek. When his rights on Silver Creek are depleted he then turns on the Artesian well to supplement his Silver Creek rights. Quantity should be licensed for 5 c.f.s and Volume should be stated not to exceed the acre requirement X amount irrigated using all rights held by Mr. Baldwin.

MICROFILMED
APR 11 1994



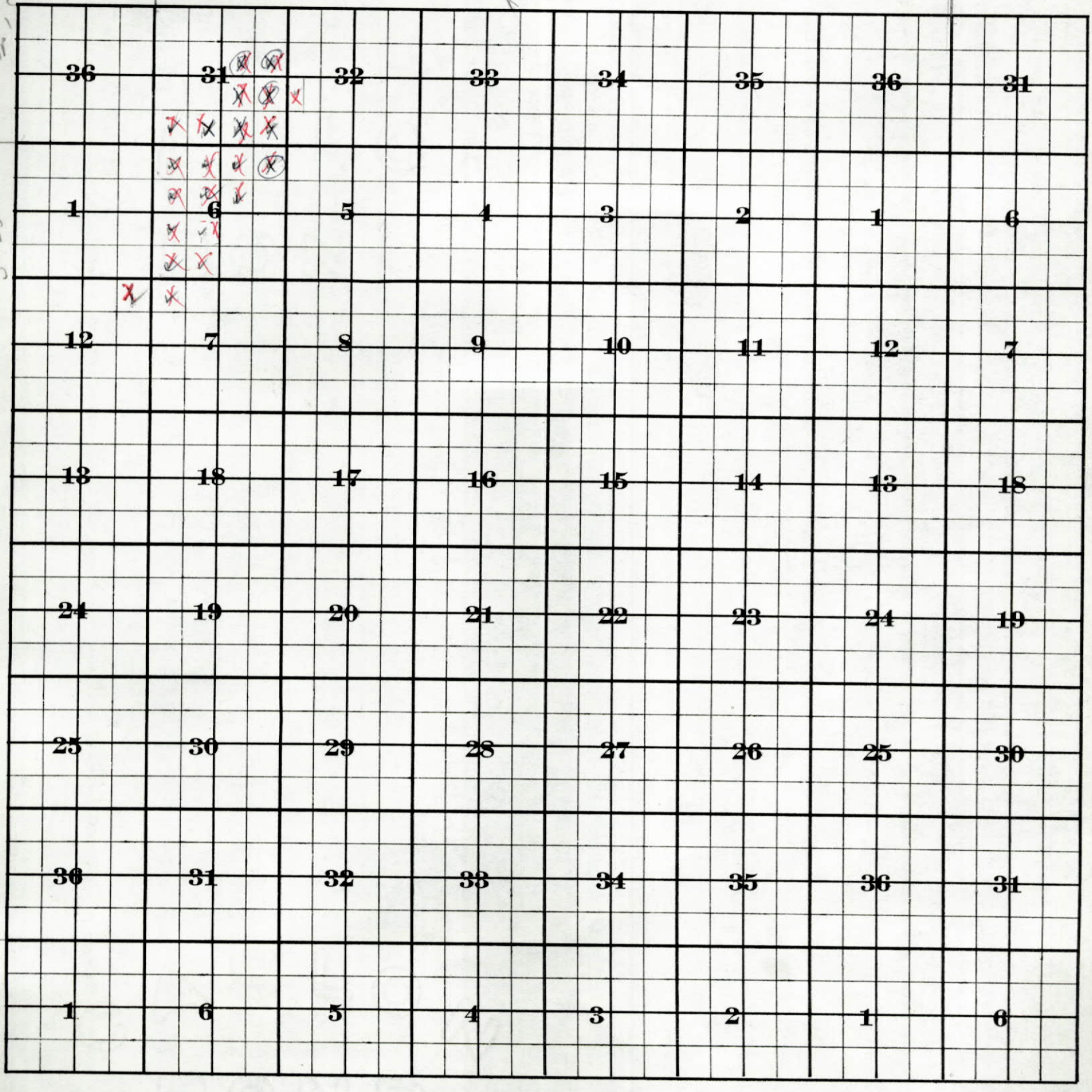
Scale: 2 Inches Equals 1 Mile. Draw Map In Ink.


R.20E R21E
Section 31
Section 36
Section 6
Section 1
Section 12
Section 7
T.15
T.25
T15
T28
Queens Chance
Lot 4
Lot 3
Lot 2
Lot 5
Lot 7
Lot 11
Silver Point Entertainment
New PO for Dettges & Le Diversion Ranch
Note
= Areas suggested for well exploration
Existing data available information
80 acres = E½ SW¼ Section 7
APR 1 1 1994


A
22.9
B
31.7
C
18.4
R
40.8
14
26
12
7
MICROFILMED
2EE-234

TOWNSHIP SCALE PLAT

Township 1 + 2 South Range 21 EBM



37 7014

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07014

Priority: March 11, 1968

Maximum Diversion Rate: 5.00 CFS
Maximum Diversion Volume: 1335.0 AF

This is to certify, that JOHN FLOOD
QUEENS CROWN RANCH
STAR RT.
PICABO ID 83348 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 11, 1968; and has submitted Proof of Beneficial Use on October 1, 1969. An examination indicates that the works have a diversion capacity of 7.260 cfs of water from a **GROUNDWATER source, and a water right has been established as follows:**

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 11/01	5.00 CFS	1335.0 AF

LOCATION OF POINT(S) OF DIVERSION: NWNE , Sec. 20, Township 01S, Range 19E
Rediversion Lot 3(NENW), Sec. 6, Township 02S, Range 21E
BLAINE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
01S	21E	31	SWNE	18	SENE	10	SESW	32	
			NESE	34	NWSE	36	SWSE	40	
			SESE	30					200
		32	NWSW	12					12
02S	21E	6	Lot 1(NENE)	10	Lot 2(NWNE)	35	SWNE	21	
			Lot 3(NENW)	36	Lot 4(NWNW)	22	SWNW	35	
			SENW	36	NESW	25	NWSW	13	233

Total number of acres irrigated: 445

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 37M.

Micrographed

APR 11 1994

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07014

CONDITIONS/REMARKS:

6. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.0 afa per acre for the lands above.
7. The maximum combined rate of diversion under this right & Right 37-02649 shall not exceed 7.26 cfs.
8. The well shall be permanently maintained with a valve or other control device to stop flow when the well is not in use. No more water may be diverted from the well than the beneficial requirements to irrigate the lands described in this right and Right 37-02649.
9. The rate of diversion at the point of rediversion from Silver Creek shall not exceed 4.3 cfs.
10. The right holder(s) shall pay such charges for the watermaster's service as shall be found to be required due to the additional expense of regulating use of this water.
11. Water is discharged from the well into Patton Creek, flowing through Stalker Creek and into Silver Creek where it is rediverted from Silver Creek onto the lands identified above. This exchange of groundwater for surface water occurs when surface water rights are not available for diversion.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 24th day of March, 1994.

Acting for R. Keith Higginson, Director

APR 11 1994

RECEIVED
APR 19 1990
Department of Water Resources

APPROVED
State of Idaho
Department of Water Resources

RECEIVED
APR 10 1990
Department of Water Resources
Southern Region Office

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-07014

Date of Priority: March 11, 1968

Maximum Diversion Rate: 5.00 CFS
Maximum Diversion Volume:[1] 1335.0 AF

Comes now JOHN FLOOD
QUEENS CROWN RANCH
Star Route
PICABO, ID 83348
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. 37-07014, and requests that the permit be changed as follows:

Source: **GROUNDWATER**

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 11/01	5.00 CFS	1335.0 AF

LOCATION OF POINT(S) OF DIVERSION:
Rediversion — LOT 3(NWNE , Sec. 20, Township 01S, Range 19E
NENW), Sec. 6, Township 02S, Range 21E
BLAINE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
01S	21E	31	SWNE	18	SENE	10	~~SESW~~ ~~SWSW~~	32	
			NESE	34	NWSE	36	SWSE	40	
			SESE	30					200
		32	NWSW	12					12
02S	21E	6	LOT 1(NENE)	10	LOT 2 NWNE	35	SWNE	21	
			LOT 3(NENW)	36	LOT 4 NWNW	22	SWNW	35	
			SENW	36	NESW	25	NWSW	13	233

Total number of acres irrigated: 445

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed at Queens Crown Ranch, this 1 day of April, 1990.

John D Flood
(Signature)

APR 11 1994

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-07014

****

FOR DEPARTMENT USE ONLY

Preliminary check by KW Fee = $20.00 Receipted by GA Date 4-10-90 S011948

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, R. Keith Higginson, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 37-07014 with the following;

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Use of water under this water right is subject to control by the watermaster of State Water District No. 37M
6. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.0 afa per acre for the lands above.
7. The maximum combined rate of diversion under this right & Right 37-2649 shall not exceed 7.26 cfs.

Witness my hand this 24TH day of MARCH, 1994.

Acting for R. Keith Higginson, Director

Microfilmed

APR 11 1994

Form 211
5/78

RECEIVED
OCT 2[illegible] 1979
Department of Water Resources

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

RECEIVED
AUG 24 1979
Department of Water Resources
Southern District Office

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

Comes now John Flood

of (address) Queen's Crown Ranch - Box 317 - Picabo, Idaho 83348 , 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. 37-7014 , and requests that the permit and permit map be changed as follows:

1. Point of diversion: NW ¼ NW ¼, Section 20 , Township 1S , Range 19E , B.M., County of Blaine . Other points of diversion: _____

~~NWNW (Lot 4) Sec. 6, T.2S, R.21E~~ NE¼ NE¼ of Sec. 12, T2S., R.20E., B.M.

Note: Waters to be comingled & exchanged with the waters of Silver Creek

J.D.F.

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

Amount 5.0 (cfs or acre feet per annum) for irrigation purposes from Apr 1 to Oct 15 (both dates inclusive)

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

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

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

3. Place of use or land to be irrigated: No Change

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated = _____

4. a. Who owns the property at the point of diversion? John F. Stevenson

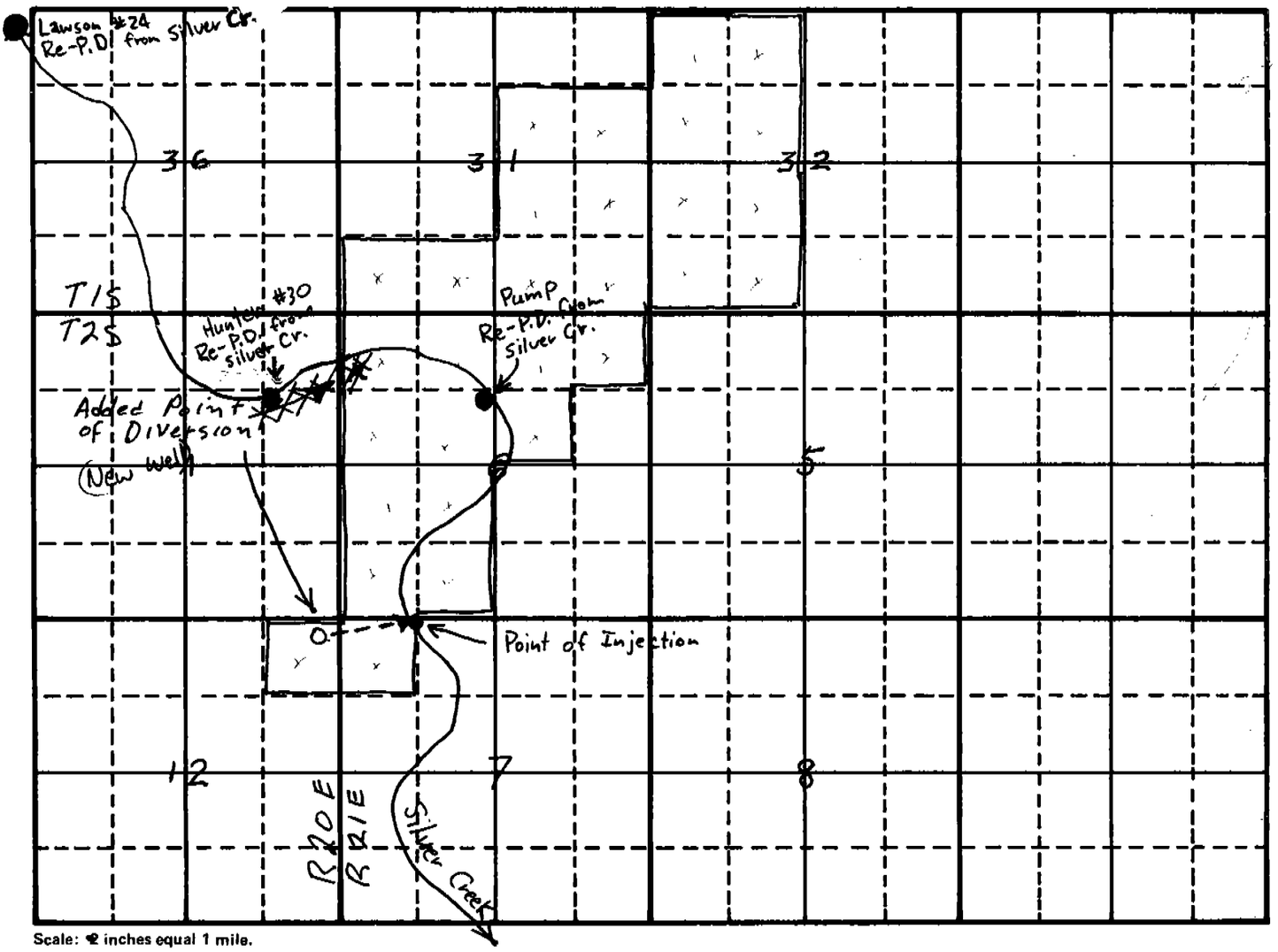
b. Who owns the land to be irrigated or the place of use? applicant

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

MICROFILMED

Complete the following map by showing land and point of diversion as proposed by this amendment.

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



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Twin Falls, this 24th day of Aug, 1979.

John D Flood
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by LK Fee = $20.00 Receipted by mcw Date 8/24/79 20.00

Publication prepared by mcw Date 8/28/79 Published in Times-News Journal

Publication dates 9/13 & 9/20/79

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, L. GLEN SAXTON, Chief, Operations Bureau of the Department of Water Resources hereby approve the above application for amendment subject to the conditions as given in the Memorandum Decision & Order dated September 9, 1968. Also subject to the condition that the use of this water is subject to control by the watermaster of State Water District No. 37M, Little Wood River.

Witness my hand this 31st day of October, 19 79.

L. Glen Saxton
Chief, Operations Bureau

RECEIVED

AUG 20 1979

Department of Water Resources
Southern District Office

State of Idaho
Department of Water Resources

ASSIGNMENT OF PERMIT

I, Don Baldwin, hereby assign to John Flood
Co-partner, Baldwin Brothers
of [redacted]s Crown Ranch P.O. Box 317 Picabo 83348
Address

CHECK ONE

☑ All my right, title, and interest in and to Permit No. 37-[redacted]7014 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)

_____

_____

_____

_____

X Made this 15 day of August, 19 79.

X [redacted] Don Baldwin
Permit Holder

_____
Spouse of Permit Holder

State of Idaho)
) ss.
County of Ada)

On this 15th day of August, 19 79, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

X Emmett M. Ramey
Notary Public residing at
Eagle Idaho

seal

My commission expires:
Aug 1982

MICROFILMED

BEFORE THE STATE RECLAMATION ENGINEER

OF THE

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION OF)
WAYNE O. BALDWIN AND DONNIE D. BALDWIN,)
co-partners, doing business as Baldwin Brothers) MEMORANDUM DECISION
under Application No. 37-7014)
)

On March 11, 1968, Wayne O. Baldwin and Donnie D. Baldwin, co-partners, doing business as Baldwin Brothers, submitted an application to the State Reclamation Engineer for a permit to appropriate 5 second feet of water from an existing well located within the G-29372 (NWNE) NE¼NE¼, Sec. 20, Township 1 South, Range 19 East, B.M. The water is to be conveyed from the well by a ditch to Silver Creek and commingled with the waters of Silver Creek, then conveyed thereby a distance of approximately 10 miles and re-diverted from Silver Creek at a point in the NW¼NW¼, Sec. 36, Township 1 South, Range 20 East, B.M., to be used for supplemental irrigation of 520 acres of land in parts of Sec. 12, Township 2 South, Range 20 East; Sections 31 and 32, Township 1 South, Range 21 East; Sections 6 and 7, Township 2 South, Range 21 East, B.M. The well in question was drilled and the use of water therefrom is confirmed under the provisions of permit and water license G-29379. The current application reads in part as follows:

> "This application for flow from the well identified in Water License G-29379 is for flow from such well when not needed on the lands described in such water license for use as supplemental waters on other lands of the applicant described under 8B above, when the flows under the Frost decree are not adequate to fill the priorities for such lands."

Notice of this proposed appropriation of water was published in the Hailey Times, Hailey, Idaho, on March 14 and 21, 1968. Protests against the granting of the permit were filed by 12 individuals and corporations through their attorneys, Parry, Robertson and Daly. A hearing regarding the protests was held at Hailey, Idaho, April 24, 1968. The applicants appeared through their attorney William F. Ringert of the firm of Anderson, Kaufman, Anderson and Ringert, Boise, Idaho, and the protestants were represented by Thomas G. Nelson and John R. Coleman of the firm of Parry, Robertson and Daly, Twin Falls, Idaho.

A conference held prior to the formal hearing revealed that there were certain issues of law which could best be submitted by brief. The parties also stipulated that the State Reclamation Engineer would take judicial notice of the contents of Water Supply Papers No. 774

37 7014

and 1478 of the U. S. Geological Survey and reports prepared by Mr. Keith Anderson, Consulting Engineer, and Horton G. Haight of the Idaho Department of Reclamation, together with other official reports of the Department and the U. S. Geological Survey, including the files and records concerning Permit and License G-29372.

The State Reclamation Engineer having taken this matter under advisement and having examined all evidentiary material, and the briefs covering issues of law, enters herein the following Findings of Fact and Conclusion of Law:

1. The State Reclamation Engineer's authority to refuse to grant an application for permit is limited by the provisions of Sec. 42-203, Idaho Code. This Section reads, in part as follows:

> ". . . where such proposed use is such that it will reduce the quantity of water under existing water rights, or that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or where it appears to the satisfaction of the department that such application is not made in good faith, or is made for delay or speculative purposes, that the applicant has not sufficient financial resources with which to complete the work involved therein, or that approval of applications referred to the Idaho Water Resources Board, under the provisions of Sec. 42-1737 would not be in the public interest, or would conflict with the establishment or execution of a state water plan or policy; the State Reclamation Engineer may reject such application and refuse issuance of permit therefore . . ."

From the above-cited section it is clear that there are four considerations, applicable to the present filing, under which the State Reclamation Engineer may refuse to issue a permit:

(a) Is the proposed use such that it would reduce the quantity of water under existing water rights?

(b) Is the water supply sufficient for the purpose for which it is sought to be appropriated?

(c) Is the application made in good faith, or is made for delay and speculative purposes?

(d) Does the applicant have the financial resources with which to complete the work involved in the application?

2. The central issue in the controversy has to do with claimed reduction of the quantity of water under existing water rights. Protestants contend that use of the subject well causes reduction of flow of water from their wells.

All of the wells involved in this matter obtain water from a roughly-triangular groundwater basin in the Big Wood - Silver Creek area near Bellevue, Idaho. Wells drilled into this basin, near the southern and western part, obtain their water from artesian aquifers

37 7014

and flow at the land surface. The artesian aquifer receives water from several sources including: a) downward percolation of precipitation on the valley floor, b) percolation from the Big Wood River as it passes through the area, c) seepage from small tributary streams, d) deep percolation losses from irrigation in the upper part of the area, and e) contribution to the artesian aquifers from ground-water in the adjacent mountain aquifers. Due to the existence of semi-impermeable beds of fine silts and clays, water moving downslope is confined under artesian conditions.

Wells encounter this artesian water at depths ranging from 80 to 300 feet, but the most productive zones are from 120 to 170 feet below land surface. (See WSP 1478) The artesian pressure, or head, in this aquifer system varies from time to time due to several factors. These include the withdrawal of water by wells and the annual cycle of natural ground water recharge and discharge. Smith, in WSP 1478, states that " . . . the annual range of water-level fluctuations is . . . about 25 feet in the artesian area". If the artesian head is higher than the land surface the well flows but when it drops below land surface the well stops flowing.

Protestants complain of the conditions they experienced with their wells particularly in 1961 and 1966. They contend that the reduction in flow or cessation of discharge of their wells, particularly the so-called "McGonigal" well, was "caused" by operation of the subject well during those periods. However, I find no direct evidence concerning this and that there were other influences which could have resulted in the reduction of artesian pressure throughout the basin during those periods.

Listed below is the record of the annual flow of the Big Wood River near Bellevue, Idaho for the 20-year period of 1947 - 1966.

Water Year	Annual Discharge in Acre Feet	Water Year	Annual Discharge in Acre Feet
1947	177,400	1957	240,600
1948	150,700	1958	301,400
1949	137,500	1959	88,880
1950	171,900	1960	93,300
1951	281,500	1961	54,420
1952	378,200	1962	170,100
1953	189,200	1963	168,300
1954	161,300	1964	169,000
1955	102,600	1965	516,000
1956	336,300	1966	144,300

This stream gaging station is located on the Big Wood River in Sec. 20, Township 1 South, Range 18 East, B.M., at a point where it measures the river flow through the recharge area of the ground water basin. It can easily be seen that the 1961 discharge was

37 7014

the lowest for the period of record and that if followed below-normal years of 1959 and 1960. From the testimony and various reports on the area, it would be anticipated that the artesian head would be quite low in 1961 and that many wells could be expected to stop flowing, even without the added influence of the applicant's new well drilled that year.

Attached to this memorandum as Appendix A are hydrographs of observation wells within the ground water basin which show this to be the case. Well 1S-18E-14 aabl is located on the property of protestant, E. Hadley Stewart, and is one of the wells about which he testified. The hydrograph clearly shows that the artesian head in this well fluctuates as much as 20 feet during the year, that the 1961 level was the lowest of record, and that water levels declined during each of the previous two below-normal runoff years. This same condition is true with regard to the other hydrographs.

It should also be noted that these hydrographs show that water levels recovered during subsequent years of better runoff. There is no over-all downward trend in the water levels in this basin which would give rise to concern over the appropriation of additional ground-water.

Several of the protestants testified that they noticed an effect on their wells when each of the other wells in the area was completed and began operation. This bears out the testimony of expert witness Keith Anderson and the findings in the reports of the U. S. Geological Survey and this Department that all wells draw water from a common basin. The operation of each well affects the water level in every other well to a greater or lesser degree.

Protestants urge that they are entitled as a matter of right to the enjoyment of a continuation of the conditions in the aquifer, including the artesian water levels, which existed at the time their wells were first completed. The files of the Department of Reclamation contain record of no less than 90 wells in this area. To guarantee the type of absolute right urged by the protestants would require closure of all but the one well of earliest priority. This would include most, if not all, of the protestants wells. Such action would neither be practical nor would it result in the fullest and best use of the resource.

Section 42-226 of the Idaho Code reads, in part, as follows:

> ". . . and while the doctrine of 'first in time is first in right' is recognized, a reasonable exercise of this right shall not block full economic development of underground water resources, but early appropriators of underground water shall be protected in the maintenance of reasonable ground water pumping levels as may be established by the State Reclamation Engineer as herein provided." (Emphasis Added)

37 7014

None of the wells of the protestants obtain water under conditions which require pumping from depths in excess of a reasonable ground water pumping level. Therefore, the State Reclamation Engineer finds that the use proposed by the applicants under Application No. 37-7014 will not reduce the quantity of water under existing rights. It may, however, along with many other influences, contribute, at times, to a reduction in the artesian head in the basin. This may result in the requirement that protestants and others, including the applicants, resort to other means of diversion to obtain the water to which they are entitled. This is not interference with their water rights.

3. On pages 23 and 24 of WSP 1478, Smith estimates the underflow of the basin at about 30,500 acre feet of water per year. Anderson testified that it was probably 35,000 to 40,000 acre feet annually. The hydrographs in Appendix A and the record of stream flow of the Big Wood River, indicate that the ground water basin is depleted by natural discharge and well operations but that it refills again during high-runoff periods. Smith states on page 27 of his report:

> "Changes in water levels in wells reflect changes in amount of ground-water in storage. The annual cycle of ground-water recharge and discharge causes an annual rise and fall of the water table. The water table rises when the amount of recharge exceeds the amount of discharge and declines when discharge exceeds recharge."

However, there is no evidence that the ground-water supply is depleted. It is therefore my conclusion that the water supply is sufficient for the purpose for which it is sought to be appropriated.

4. There is no evidence to support a finding that the application was not made in good faith or for delay or speculative purposes.

5. Since the works are completed and the water has been used in the past in the manner proposed in the application, it appears that the applicant has the financial resources with which to complete the work involved in the application.

From the foregoing, the State Reclamation Engineer finds that Application for Permit No. 37-7014 should be and it is hereby approved subject to the following conditions:

> (1) The well shall be permanently equipped with a valve or other control device such that the flow may be stopped when the well is not in use.
>
> (2) No more water may be diverted from the well than the beneficial requirements to irrigate the land described in Permit No. 37-7014 and License G-29379.
>
> (3) The water from the well is to be used only on the lands to which it is appurtenant.

(4) Applicant shall install and maintain measuring devices so that the water from the well may be measured at the point where it is commingled with the waters of Silver Creek and an equal amount minus such amount as shall be determined by the Big and Little Wood River Watermaster for loss by seepage and evaporation may be re-diverted at the applicant's headgate.

(5) The applicants shall pay such charges for the Watermaster's service as shall be found to be required due to the additional expense of regulating use of this water.

Dated this 9TH day of September, 1968.

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:kh

Attach: Appendix A (4 hydrographs)

37 7014

ASSIGNED TO:

John Flood
Gowen Ranch, P. O. Box 317
Picabo, ID 83348
8/20/79

Identification No. 37-7014
Application No. 42353

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho

1. Name of applicant Wayne O. Baldwin and Donnie D. Baldwin, copartners doing business as Baldwin Bros.
post office address Picabo, Idaho

2. Source of water supply subterranean flow which is a tributary of

3. a. Location of point of diversion is NW ¼ of NE ¼ of Section 20 Township 1 South Range 19 E. B.M. Blaine County; additional points of diversion if any NOTE: the point of diversion is the artesian well identified in Water License No.G-29372 recorded in Book 13 of Licenses, Page 8537, in the Department of Reclamation

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. Quantity to be appropriated:
a. Five cubic feet per second and/or
b. _____ acre feet per annum will be stored.

5. Water will be used for the following purposes:
irrigation purpose from April 1 to Oct. 15 (both dates inclusive)
_____ purpose from _____ to _____ (both dates inclusive)
_____ purpose from _____ to _____ (both dates inclusive)

6. Proposed diverting works: The water will be conducted by a ditch from the well int
a. Description of ditches, flumes, pumps, headgates, etc. Silver Creek and commingled with the waters of Silver Creek for a distance of about 10 miles to point of re-diversion in the NW¼NW¼ Sec. 36, T. 1 S., R. 20 E., B. M.

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

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

7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 years. The works are now complete and the water has been applied to beneficial use.
b. Estimated construction cost is $Construction is now complete

8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: _____ ¼ of _____ ¼ 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: _____

37 7014

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	
2S	20 E	12	X																40
1S	21 E	31			X	X							X	X	X	X	X	X	320
		32										W½							20
2S	21 E	6	X	X	X		X	X	X	X	X	X	X	X					440
		7						X											40

Total now irrigated is 520 acres.

Total number of acres to be irrigated 520

c. Describe any other water rights used for the same purposes Water rights listed under No. 11 below

9. a. Who owns the property at the point of diversion the applicants above named

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

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 See attached sheet

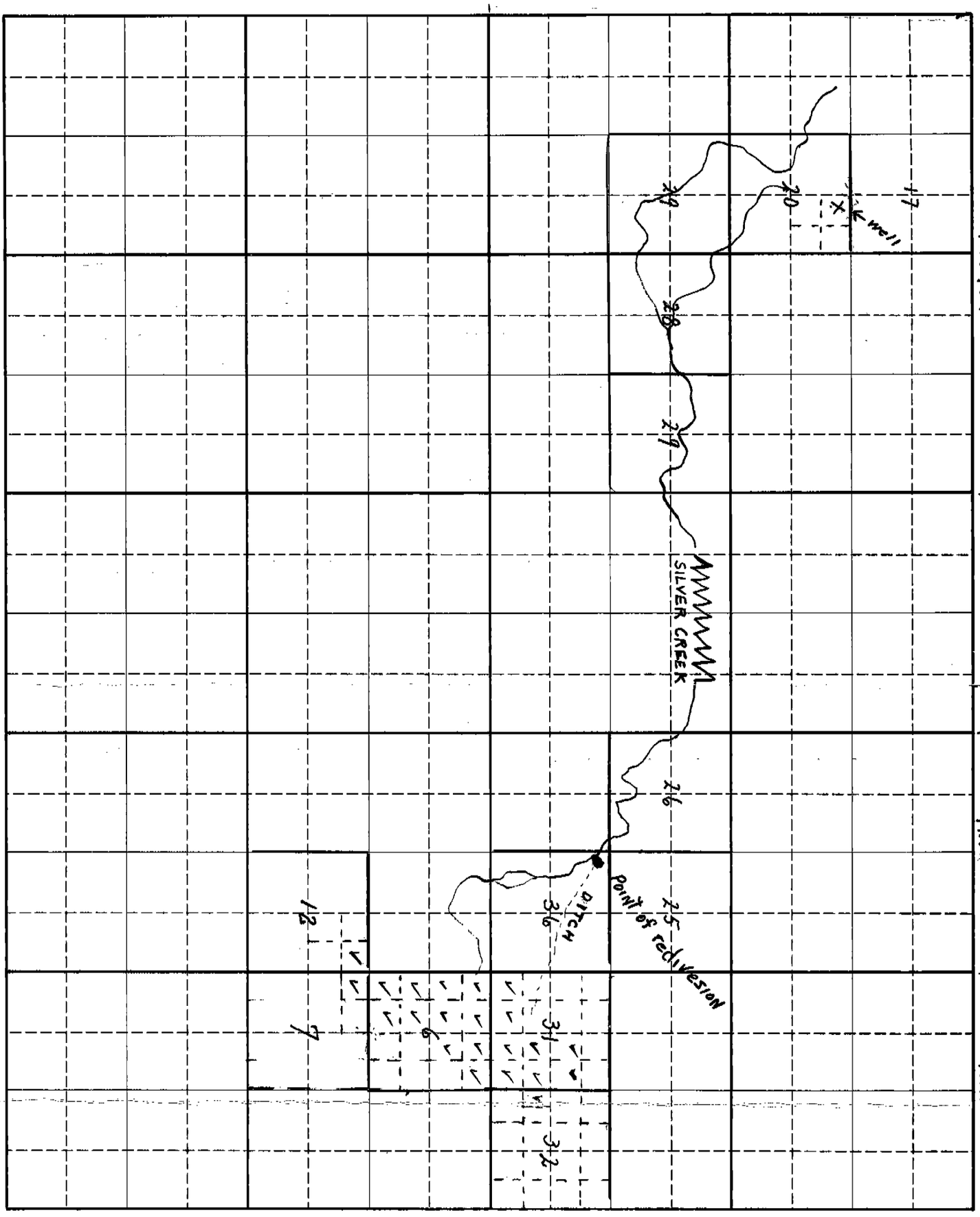
11. Under Frost Decree recorded Dept. of Reclamation Volume 3 of Decrees, page 749, rights as follows:

QUANTITY	PRIORITY	POINT OF DIVERSION
100 miners inches	May 31, 1885	Lawson #24
50 miners inches	May 1, 1889	Lawson #24
80 miners inches	November 1, 1889	Lawson #24
50 miners inches	October 25, 1892	Lawson #24
70 miners inches	May 1, 1889	Hunter #30
50 miners inches	April 1, 1890	Hunter #30

One-third (1/3) of F-G-H Drains up to 111 miners inches less 14% loss

Water License No.G-25769 for 1.42 c.f.s. (72 miners inches) less 10% loss June 16, 1955

11. Map of proposed project:



Scale: 2 inches equal 1 mile

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

37 7014

Baldwin Bros.
(Applicant)

By Wayne O. Baldwin

By Donnie D. Baldwin

ANDERSON, KAUFMAN, ANDERSON
AND RINGERT
Attorneys for Applicants
Address: P. O. Box 2773
Boise, Idaho

Received by ej Date 3-11-68 Time 2:15 pm
Preliminary check by Blue Fee $ 40.00
Receipted by ej Date 3-11-68 —
Publication prepared by KL Date 3-11-68
Published in The Hailey Times
Publication dates march 14 & 21
Publication approved _____ Date _____
Priority reduced to _____ Reason _____

Protests filed by: Eugene Fredericksen, K.F. Hellyer, E. Hadley Stuart, Jr., Wood River Ranch, Wayne Clark, H.L. Wurst, Walter E. nelson, H.B. Bickett, Edward Bleiner, Vina Loveland, Baseline cattle Co. & mary m mc Stonigal.
Copies of protests forwarded by K.L.
Hearing held by _____ Date 4-24-68
Recommended for (approval) denial by [illegible]

APPROVED

ACTION OF STATE RECLAMATION ENGINEER

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 37-7014, and said application is hereby APPROVED

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

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 1969.

   c. Other: Subject to the conditions as set forth in memorandum decision dated September 9, 1968.

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

Witness my hand this 16th day of September 1968.

Jack A. Barth
Deputy State Reclamation Engineer

AFFIDAVIT of PUBLICATION

State of Idaho, } SS.
Connty of Blaine }

GORDON O. GLASMANN, being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 13 day of September 19 79, and the date of the last publication was on the 20 day of September, 1979.

Gordon O. Glasmann

Subscribed and sworn to before me this 21st day of September, 1979.
(SEAL)

Roberta Mortensen
NOTARY PUBLIC

10/4/79

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Lines in Notice	35	
Number of Insertions	2	
Lines tabular at 39c		
35 Lines straight at 26c		9.10
35 Subsequent lines at 15c		5.25
TOTAL COST		14.35

COPY OF NOTICE
(Paste Here)

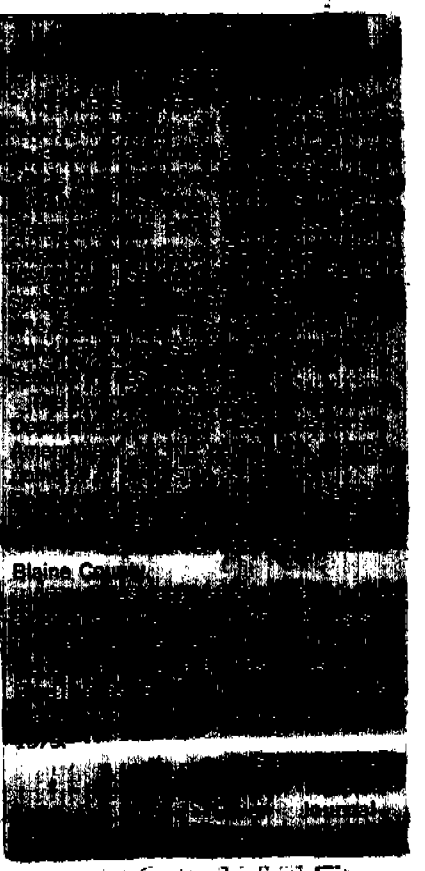
Permit 37-7014
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water Resources
1041 Blue Lakes Blvd N
Twin Falls, Idaho 83303



RECEIVED
NO. 0980
Department of Water Resources
Southern District Office

Affidavit of Publication

STATE OF IDAHO, }
County of Blaine, } ss.

BERWYN BURKE, being first duly sworn deposes and says that he is now and at all times herein mentioned has been the publisher of The Hailey Times, which is now, and at all times herein mentioned has been a newspaper as defined in Section 58-106 of the Idaho Code Annotated as amended by Chapter 38 of the Laws of 1939, and printed, regularly issued and published weekly at Hailey, in Blaine County, Idaho, and having a general circulation in said county, and not less than 200 bona fide subscribers living within said county, and that said newspaper has been continuously and uninterruptedly so printed and published as a weekly newspaper in said county during the period of 78 consecutive weeks prior to the first publication of the annexed true copy and at all times since, and that said annexed true copy was so published in the regular edition of said newspaper, The Hailey Times, and not in any supplement thereof, for TWO consecutive weeks commencing with the first publication thereof on the FOURTEENTH day of MARCH, 1968 and ending with the last publication thereof on the TWENTY-FIRST day of MARCH, 1968

Cost of this publication is $10.32

Berwyn Burke
BERWYN BURKE, Publisher.

Subscribed and sworn to before me, this 29th day of March, 1968.

Notary Public for Idaho
Residing at Hailey,
Blaine County, Idaho.

37 7014

★ Advertising Results
★ Commercial Printing
★ Office Equipment
★ Business Supplies
★ Creative Promotions
★ Newspaper Publishers

STATEMENT

The HAILEY TIMES

HAILEY, IDAHO

"It's Our Business To Help Your Business"

APR 1 1968

Hailey, Idaho .....

◆ Department of Reclamation
◆ Room 107, State House
◆ Boise, Idaho 83701

P. O. Box 188 Phone 788-4250

Description	Amount
March 14, 1968 through March 21, 1968 NOTICE OF APPLICATION FOR WATER, Permit No. 37-7014, Wayne O. and Donnie D. Baldwin, Picabo; 43 lines, two issues	10.32
"I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid" THE HAILEY TIMES By Berwyn Burke Editor-Publisher 37 7014	
	$ 10.32

Appl. 37-7014 HEARING CONTINUATION 5-2-68

DEPARTMENT OF RECLAMATION, BOISE, IDAHO 9:AM

NAME	ADDRESS	REPRESENTING
[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
J. B. Beckett	Gooding	[illegible]
[illegible]	Boise	[illegible]
[illegible]	[illegible]	Wood River Ranch Co. Inc.
[illegible]	[illegible]	[illegible]
	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible] Recl.

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 25, 1994

JOHN FLOOD
QUEENS CROWN RANCH
STAR RT.
PICABO ID 83348

RE: WATER RIGHT NO. 37-07014

Dear Water Right Holder(s):

Enclosed herewith is a copy of the Water Right License issued on the above referenced permit along with a copy of your approved Application for Amendment.

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

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:dc

Enclosure

APR 11 1994

MEMORANDUM

TO: **File 37-07014**

FROM: **Sharla**

DATE: **March 9, 1994**

RE: **License Issuance**

Below is a summary of actions leading to the issuance of a final license on this right.

1. The application for permit was filed in March of 1968 for irrigation of 520 acres from an artesian well. The application proposed diversion from the well into a ditch to Silver Creek, and rediverted from Silver Creek approximately 10 miles away from the original diversion.

2. Proof of beneficial use was filed in October of 1969.

3. An inspection of this system was originally conducted in 1977. At that time, the report of the examiner indicates that water was diverted in to Patton Creek, which runs into Silver Creek. Approximately 10 miles below the point of diversion, the permit holder took water from Silver Creek (not only under this right, but from several other surface water rights). When his rights on Silver Creek were depleted, then he turned on the artesian well to supplement his Silver Creek rights.

4. Because this right was in litigation for a time period and because compliance with the measuring device condition was of concern, the right was re-examined in April of 1981. The results of this examination proposed license issuance for 3.05 cfs for the irrigation of 352 acres. The permit holder disagreed with the amount of water and the right was examined one more time.

5. The final examination under this system occurred in September of 1984. The results of this examination proposed license issuance for the permitted amount of 5.0 cfs. The measurements taken warranted issuance for this amount. The well measurement taken was 7.26 cfs, pump rediversions were measured at 6.05 cfs. The examiner found a total of 445 acres irrigated and proposed that the license contain a condition limiting the rate of rediversion from Silver Creek to 4.3 cfs (14% loss). The examiner also indicated in his report that water is diverted from the well into Patton Creek, which flows into Stalker Creek, which then flows into Silver Creek, where water is later rediverted onto the lands irrigated.

APR 11 1994

6. Pre-license correspondence reflecting the examination listed in item 5 above was sent to the permit holder in March of 1990. The amendment was returned and a final license was prepared and sent to Norm for signature.

7. Norm returned the license with several concerns. First, he wished to have the permit conditions carried forward to the license and to have the condition regarding loss included. He also wanted the details of the exchange described. The appropriate conditions have been added and a remark outlining the exchange has also been included. The license is again ready to signature.

RECEIVED
APR 11 1994

March 7, 1990

JOHN FLOOD
~~COWEN RANCH~~
P.O. BOX 317
PICABO, ID 83348

RE: PERMIT NO. 37-07014

Dear Permit Holder(s):

The above referenced water right is in the process of being licensed. However, before a license can be issued, your permit must be amended to correspond with the findings of the Department's field examiner.

The enclosed application for amendment contains information that will be included on the license when it is issued. Please review carefully and if you concur, sign the amendment and return with the $20.00 filing fee within 30 days.

If you do not concur with these findings or if you have any questions, please contact us within the 30-day period.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

RECEIVED
APR 11 1994

Form 219A
2/84

RECEIVED
MAR 3 1986
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

Re Exam

Permit No. 37-2014

1. Owner: John Flood Phone No. _____
   Current Address: Box 317 Picabo Idaho 100A

2. Accompanied by: John Flood. EXAM. DATE: 9-1-1984
   Address: Same - Phone No. _____
   Relationship to Permit Holder: _____

3. Source: Artisian Well tributary to Silver Cr (Paton Cr, Stalker C

4.

Well/Diversion* No.	Motor Make	HP	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
See Attachment.					

*Code with points of diversion, system diagram & photos on reverse side. Disregard if only one.

5. System Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)
See previous NOTES Att.
pivotts & wheel lines -

6.

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

7. Measurements ☐ Additional data/computation sheets attached
Annu Bar & Collins tube - From pumps on Silver Cr.
East pump - 1892.55 gpm = 4.22 cfs > 6.05 c.f.s. Total
West pump 819.68 gpm = 1.83 cfs

8. Point(s) of Diversion: Indicate Method of Determination

Ident #	¼	¼	¼	Sec.	Twp.	Rge.	Survey Information from Known Corner	County	Remarks
Well - Redivision	NW	NW	NE	20	1S	19E		Blaine	—
		NE Lt 3	NW	6	2S	21E		Blaine	—

9. Place(s) of Use: Irrigation - give acres served by system at time of exam.
Indicate Method of Determination _____

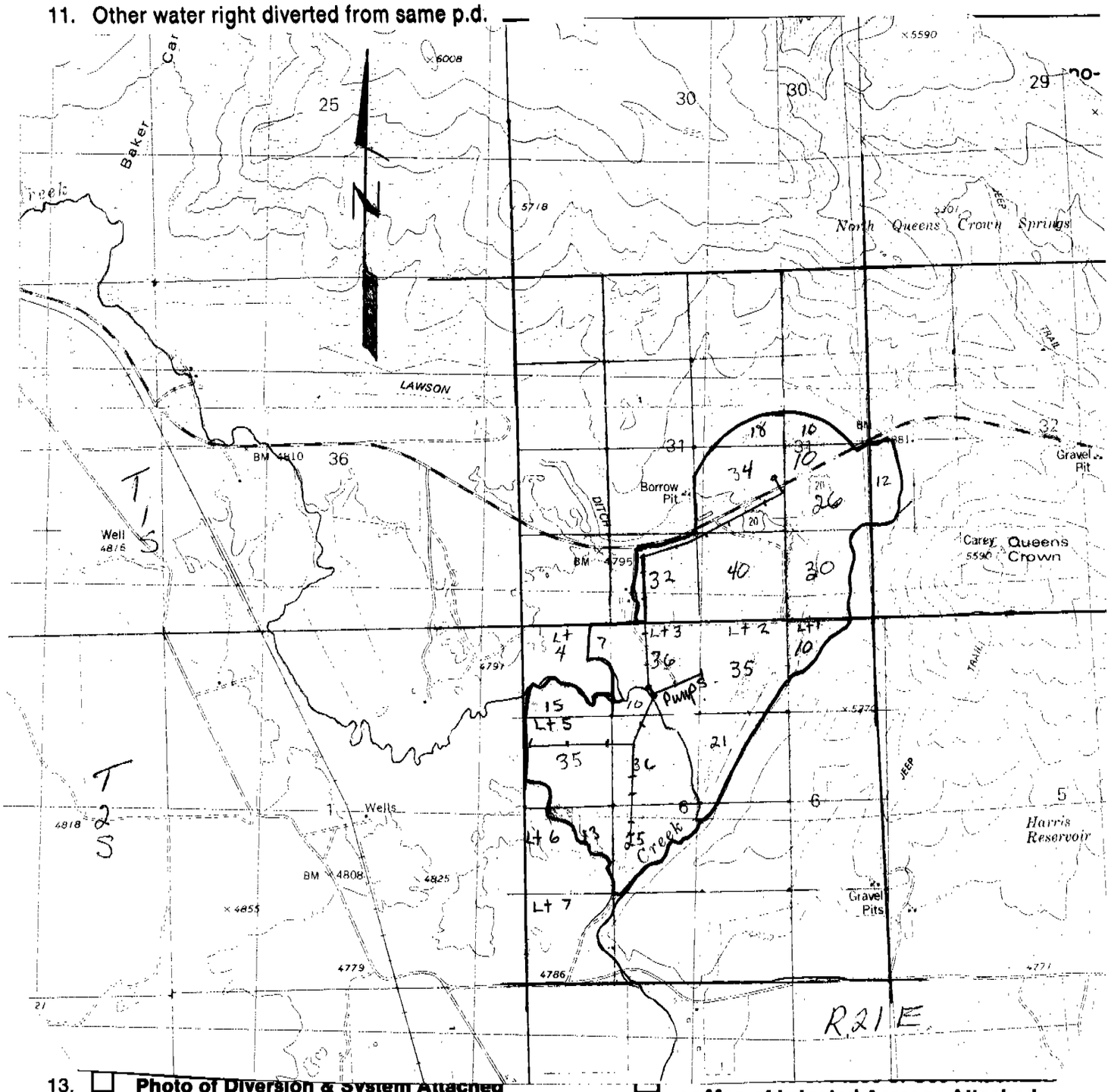
Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1S	21E	31			18	10								32	34	36	40	30	200
1S	21E	32										12							12
2S	21E	6	10	35	21		36	22	35	36	25	13							233
			Lt 1	Lt 2			Lt 3	Lt 4											

Total Acres 245

APR 1 1986

10. Other water rights on these lands 32-0407-0408-0693-2573

11. Other water right diverted from same p.d. —



13. ☐ Photo of Diversion & System Attached ☐ or Map of Irrigated Acreage Attached

14. Remarks Subject to 14% conveyance loss; not to exceed 4.3 cfs at the point of re-diversion from Silver Creek.

15. 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

16. Examiner's/Consultant's Signature Gary Lundstrom Date

Consultant's License Number

IDWR Director's Authorization to Conduct

Beneficial Use Examination

Date

CONSULTANT SEAL

1994

Form 219B
5/84

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

RECEIVED
MAR 3 1986
Department of Water Resources

37-7014
Permit No.

1. **Measurement Calculations**
   a) Field Measurement Calculations (Include theoretical capacities and system capacity)

well measurement. 7.26 cfs
Pump Measurements - 6.050 cfs

   b) Volume Calculations for Irrigation:

$V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = 445 Ac x 3 = 1335 Ac Ft/ANN.
$V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = (3.05)(229 days)(1.9835) = 1385
V = Smaller of $V_{I.R.}$ and $V_{D.R.}$ = 1335. Ac Ft/ANN.

   c) Volume Calculations for Other Uses:

2. **Overlap Review**
   a) Other water rights with same place of use: 37-0407-0408-0693

   b) Other water rights with same point of diversion: ~~the~~ Lic. 37-2649, Permit 37-7644

   c) Analysis:

RECEIVED
APR 11 1994

RECOMMENDED AMOUNTS Re-Exam

3.

Permit No.	Priority	Amount	App. Date	Date Proof Submitted	System Capacity
37-7014					

4. Permit Holder: John Flood,

Address:

5. Source: Artisian Well tributary to Patton Cr.

6.

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
IRRIGATION	4/	11-15	3.00 cfs	1335
Allowable Maximums:			3.00 cfs	1335

7. Point(s) of Diversion:

No.	Govt. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County

8. Place(s) of Use

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				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	
Total Acres																			

9. Recommended Conditions/Remarks: Measuring devices should be left up to the watermaster recomendation & Not to exceed 7.44 cfs when combined with Lic. 37-2649. Not to exceed 4.3 cfs at the point of re-diversion from Silver Creek.

10. Recommended Amendments

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

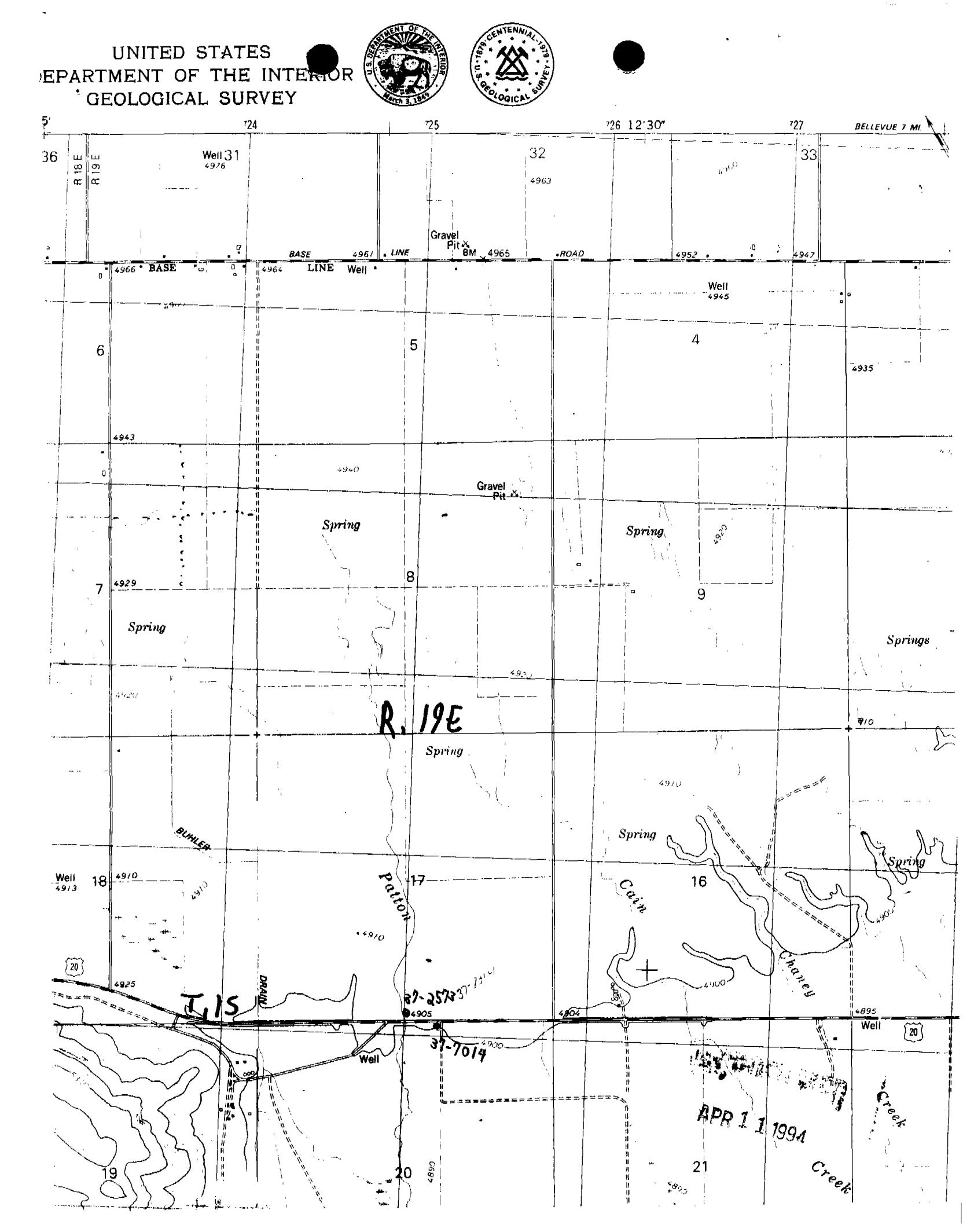
☐ Change P.U. as reflected above ☒ Add P.U. as reflected above ☐ Other

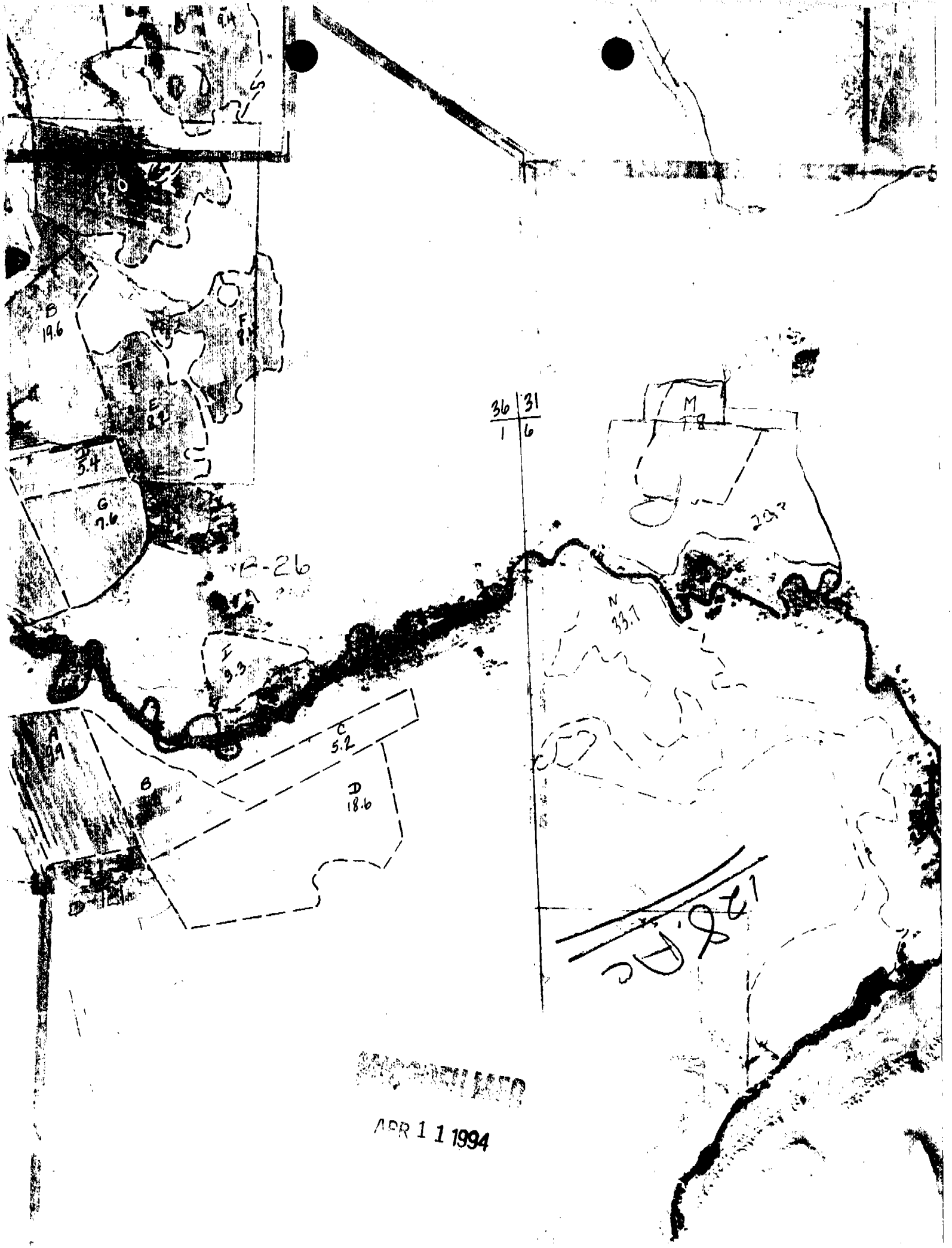
11. Examiner's Signature Gary Sundenburg Date 12-17-1984

Checked in Regional Office by J F Stanton Date 12-20-84

Approved in State Office by Roxanne McCarthy Date 2/21/85

APR 1 1985


UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
U.S. DEPARTMENT OF THE INTERIOR March 3, 1849
1879 CENTENNIAL 1979 U.S. GEOLOGICAL SURVEY
724
725
726 12'30"
727
BELLEVUE 7 MI.
36
R 18 E
R 19 E
Well 31
4976
32
4963
33
Gravel Pit
BM 4965
BASE LINE
ROAD
4966
4964
4961
4952
4947
Well
4945
6
5
4
4935
4943
4940
Gravel Pit
Spring
Spring
4920
7
4929
8
9
Spring
Springs
4930
4920
R. 19E
Spring
4910
4910
Spring
Spring
BUHLER
Well
4913
18
4910
17
16
Patton
Cain
Chaney
20
4925
DRAIN
T. 15
37-2572
4905
4904
4900
4895
Well
20
37-7014
Well
APR 1 1 1991
Creek
Creek
19
20
21
4880
4890



RECEIVED
APR 11 1994


A
B
7.9
497
7.4
11.4
I
22.1
J
4.91
23.0
18.

1 of

John Flood

Case I

West

$TDH = (4.5) + (2) + (95 \times 2.31) = 226'$ → 75'/stage

$Q_{Annular} = 1184$ gpm

East

Not Running

Case II

West

$TDH = (\quad) + (\quad) + (95 \times 2.31) = 226'$ → 75'/stage

$Q_{Annular} = \quad$ gpm

East

$= (\quad) + (\quad) + (\quad \times 2.31) = 106'$ →

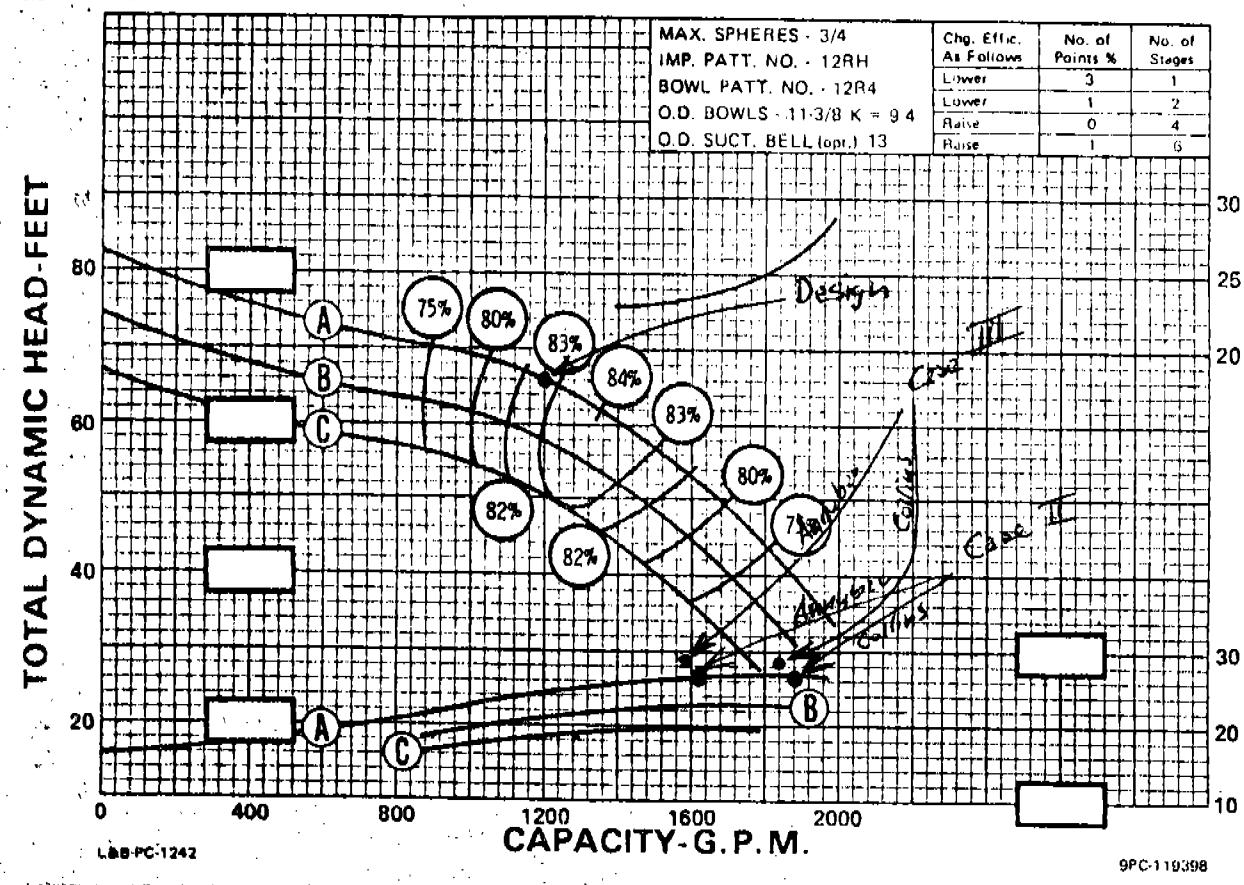
12RH SERIES 1110
Verti-Line PUMP

John Flood East

4 stage

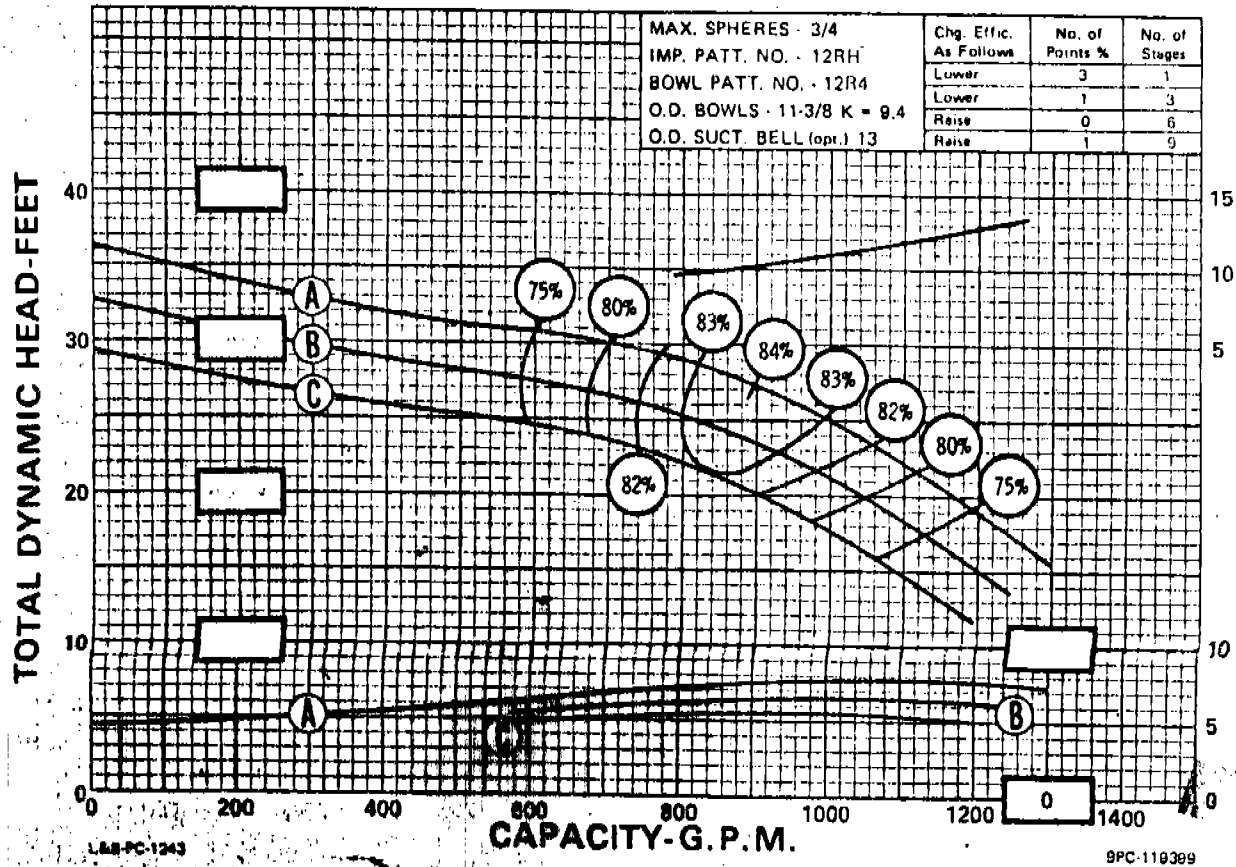
1770 R.P.M.

MAX. SPHERES - 3/4	Chg. Effic. As Follows	No. of Points %	No. of Stages
IMP. PATT. NO. - 12RH	Lower	3	1
BOWL PATT. NO. - 12R4	Lower	1	2
O.D. BOWLS - 11-3/8 K = 9.4	Raise	0	4
O.D. SUCT. BELL (opt.) 13	Raise	1	6



1170 R.P.M.

MAX. SPHERES - 3/4	Chg. Effic. As Follows	No. of Points %	No. of Stages
IMP. PATT. NO. - 12RH	Lower	3	1
BOWL PATT. NO. - 12R4	Lower	1	3
O.D. BOWLS - 11-3/8 K = 9.4	Raise	0	6
O.D. SUCT. BELL (opt.) 13	Raise	1	9



NUMBER OF STAGES REQUIRED FOR APPLICATION.

STANDARD CURVE ILLUSTRATES SINGLE STAGE PERFORMANCE ONLY.

Ⓐ = 9.188
Ⓑ = 8.750
Ⓒ = 8.375

APR 1 1 1994

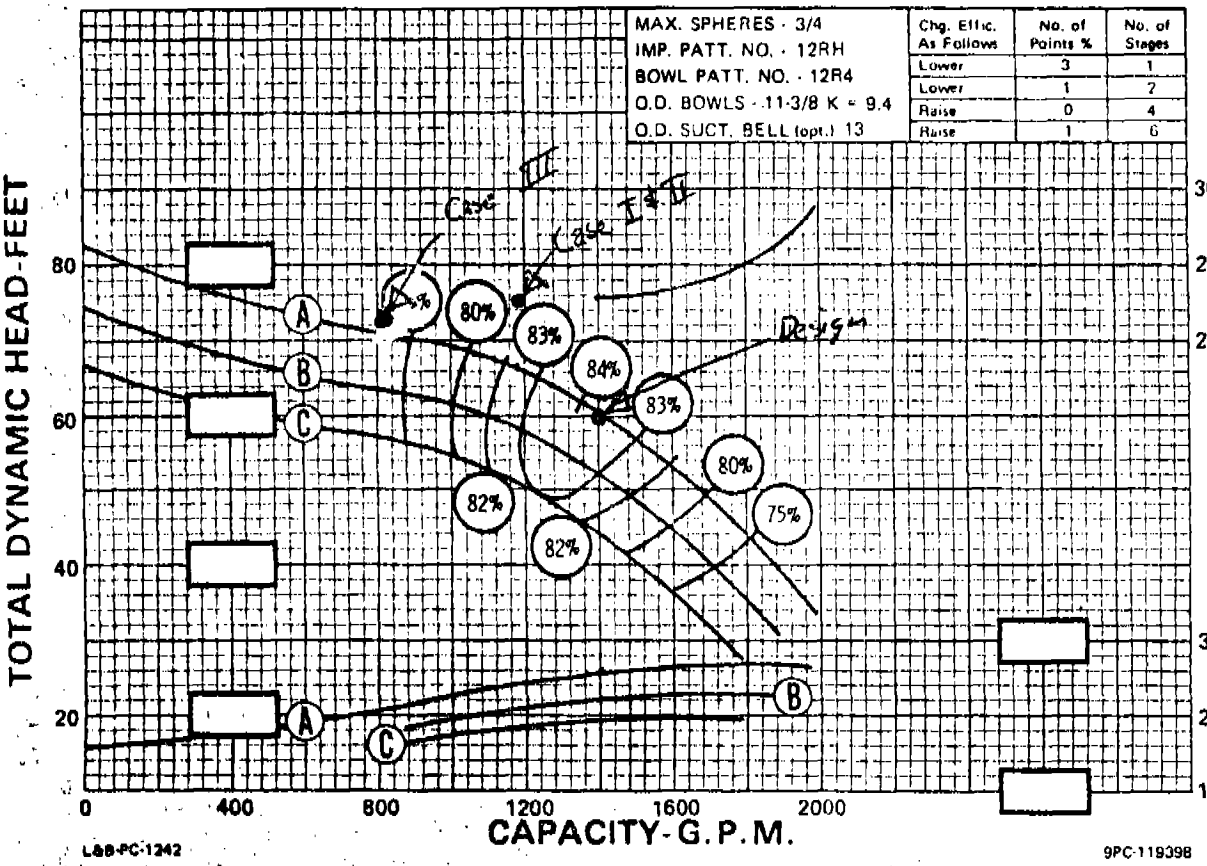
AURORA PUMP
A UNIT OF GENERAL SIGNAL
P.O. BOX 1300 • CITY OF INDUSTRY, CA • 91749

• CITY OF INDUSTRY, CA • 91749

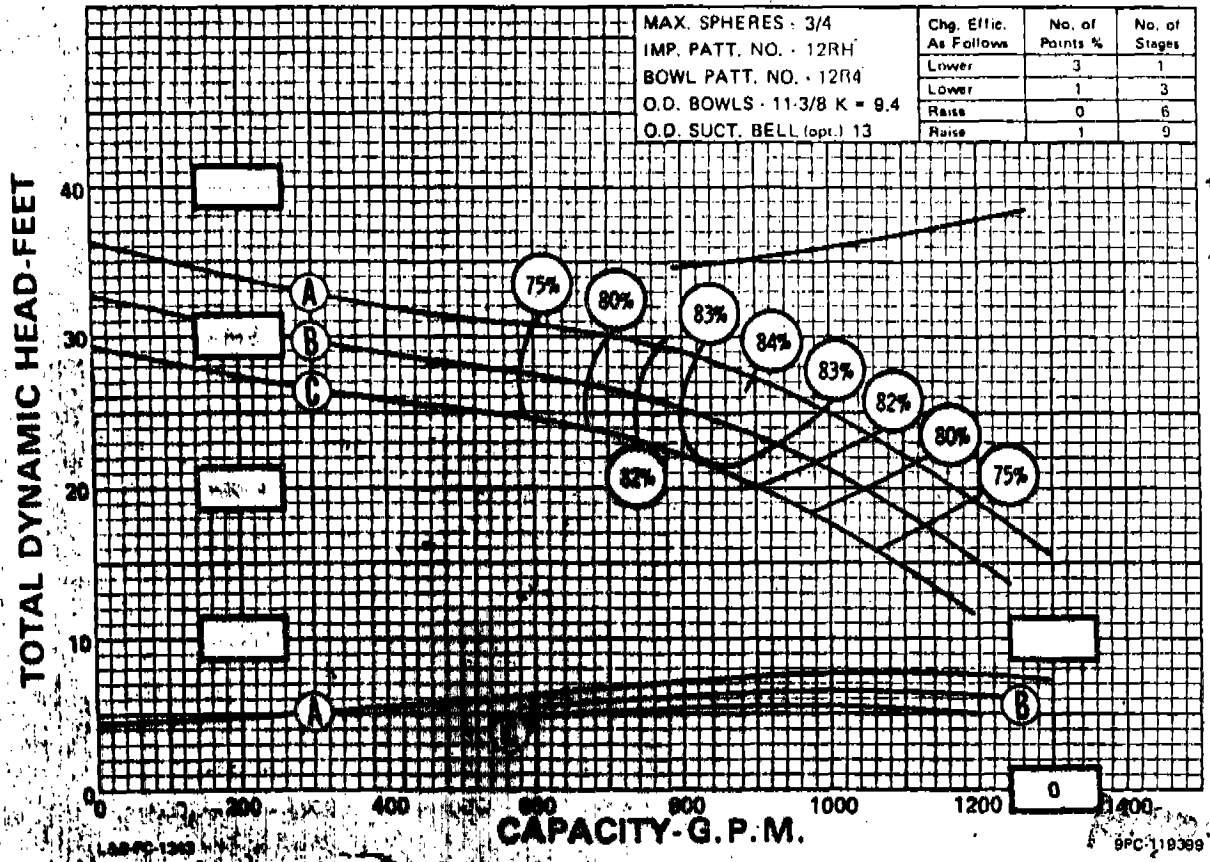
John Hood West

3 stage

1770 R.P.M.



1170 R.P.M.



NUMBER OF STAGES REQUIRED FOR APPLICATION
STANDARD CURVE ELASTOMER BOWL PERFORMANCE ONLY

⊖ - 6.188
⊖ - 6.750
⊖ - 6.376

AURORA PUMP
A UNIT OF GENERAL SIGNAL
P.O. BOX 1300 • CITY OF INDUSTRY, CA • 91749

APR 11 1994

P.O. BOX 1300 • CITY OF INDUSTRY, CA • 91749

Motor
H.P. 75
RPM 1760
Volts 415
Phase 3
Type IP 55
Make Kirloskar
Pump
265 TDH
RPM 1800
Stage 4
Make Kirloskar
Type IP 55
Phase 3
Volts 415
H.P. 75
RPM 1760
Pump
265 TDH
RPM 1800
Stage 4

PUMPING PLANT TEST DATA
(BEFORE RETROFIT)

GENERAL DATA: ACCT. NO. *** WEST CASE 1
NAME ***
UTILITY ***
AREA OFFICE
PUMPS OPERATING MAIN ONLY
DATE:
STATE:
INSPECTOR:

TOTAL OPERATING HEAD:
PUMPING WATER LEVEL (PWL) 6.5 FT
DISCHARGE PRESSURE READING 95 PSI
INTAKE PRESSURE READING 0 PSI

FLOW:
MEASURING DEVICE ANNUBAR
INSIDE PIPE DIAMETER 11.722 IN
DEVICE READING 5

POWER INPUT:
DISC REVOLUTIONS 10
METER CONSTANT (KH)
OR MULTIPLIER 2.4
CTR ** 40 PTR ** 1
TIME (SECONDS) 43.15

LINE VOLTS 1-2 => 0 1-3 => 0 2-3 => 0
AVG. VOLTS - 0

MAIN PUMP DATA:
AMPS 1 => 0 2 => 0 3 => 0
AVG. AMPS - 0
POWER FACTOR (PF) * 0

BOOSTER PUMP DATA:
NO BOOSTER PUMP USED.

MOTOR DATA:	MAIN PUMP	BOOSTER
MAKE	NEWMAN	N/A
RATED HP	100	0

PUMP DATA:	MAIN PUMP	BOOSTER
MAKE	AURORA	N/A
TYPE	TURB	N/A

KWH USAGE DATA:
ANNUAL KWH USAGE: ***

CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0

AVERAGE KWH: 0 AVERAGE COST/KWH: *** 0 CENTS/KWH

* IF NON-APPLICABLE, MARK THESE ITEMS (NA) FOR LETTERS OR (0) FOR NUMBERS.
** IF CTR AND PTR AND NOT KNOWN, ENTER 0.
*** THESE ITEMS COULD BE FILLED OUT BY THE UTILITY.

APR 11 1994

PRELIMINARY CALCULATIONS:

CALCULATIONS FOR - MAIN ONLY

1. TOTAL OPERATING HEAD (TDH)
= (2.31 X (P DISCHARGE - P INTAKE) + PWL
= (2.31) X (95) - (0)) + (6.5)
= 225.95 TDH IN FT

2. FLOW
= 3.85 X SQR(READING) X (DIAM)^2
= 3.85 X SQR(5) X (11.723)^2
APPLY ANY NECESSARY CORRECTION FACTOR. (CF)
(CF) = 1
THEN FLOW = 1183.105 GPM

3. WATER HORSE POWER
= FLOW X TDH / 3960
= (1183.105) X (225.95) / 3960
= 67.50568 WATER HP

4. INPUT KW
= (3.6 X REV X KH X CTR X PTR) / SEC
= (3.6 X 10 X 2.4 X 40 X 1) / 43.15
= 80.0927 INPUT KW

OR

INPUT KW
= PF X AVG VOLTS X AVG AMPS X 3^-2 / 1000
= (0 X 0 X 0 X 1.732) / 1000
= 0 INPUT KW

5. HORSEPOWER INPUT
= INPUT KW / 0.746
= 80.0927 / 0.746
= 107.3629 INPUT HP

6. EFFICIENCY
= WATER HP / INPUT HP X 100
= (67.50568 / 107.3629) X 100
= 62.87619 % EFFICIENCY

APR 11 1994

PUMPING PLANT TEST DATA
(BEFORE RETROFIT)

GENERAL DATA:
NAME ** JOHN FLOOD
UTILITY ***
AREA OFFICE
PUMPS OPERATING MAIN ONLY

ACCT. NO. *** CASE 2 WEST F
DATE:
STATE:
INSPECTOR:

TOTAL OPERATING HEAD:
PUMPING WATER LEVEL (PWL) 2.5 FT 4.5 + 2 FT HT = 6.5
DISCHARGE PRESSURE READING 75 PSI
INTAKE PRESSURE READING 0 PSI

RECEIVED
NOV 28 1994
Department of Water Resources
Southern District Office

FLOW:
MEASURING DEVICE ANNUBAR
INSIDE PIPE DIAMETER 11.722 IN
DEVICE READING 5

POWER INPUT:
DISC REVOLUTIONS 10
METER CONSTANT (KH)
OR MULTIPLIER 2.4
CTR ** 40 PTR ** 1
TIME (SECONDS) 23.15

LINE VOLTS 1-2 => 0 1-3 => 0 2-3 => 0
AVG. VOLTS = 0

MAIN PUMP DATA:
AMPS 1 => 0 2 => 0 3 => 0
AVG. AMPS = 0
POWER FACTOR (PF) * 0

BOOSTER PUMP DATA:
NO BOOSTER PUMP USED.

MOTOR DATA:	MAIN PUMP	BOOSTER
MAKE	NEWMAN	N/A
RATED HP	100	0

PUMP DATA:	MAIN PUMP	BOOSTER
MAKE	VERTILINE	N/A
TYPE	TURB	N/A

KWH USAGE DATA:
ANNUAL KWH USAGE: ***

CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0

AVERAGE KWH: 0 AVERAGE COST/KWH: *** 0 CENTS/KWH

* IF NON-APPLICABLE, MARK THESE ITEMS (NA) FOR LETTERS OR (0) FOR NUMBERS.
** IF CTR AND PTR AND NOT KNOWN, ENTER 0.
*** THESE ITEMS COULD BE FILLED OUT BY THE UTILITY

MACDONALD
APR 11 1994

PRELIMINARY CALCULATIONS:

CALCULATIONS FOR - MAIN ONLY

1. TOTAL OPERATING HEAD (TDH) = (2.31 X (P DISCHARGE - P INTAKE)) + PWL
= (2.31) X ((95) - (0)) + (6.5)

= 225.95 TDH IN FT

2. FLOW = 3.85 X SQR(READING) X (DIAM)^2
= 3.85 X SQR(5) X (11.723)^2
APPLY ANY NECESSARY CORRECTION FACTOR. (CF)
(CF) = 1
THEN FLOW = 1183.105 GPM

3. WATER HORSE POWER = FLOW X TDH / 3960
= (1183.105) / (225.95) / 3960

= 67.50568 WATER HP

4. INPUT KW = (3.6 X REV X KN X CTR X PTR) / 3600
= (3.6 X 10 X 2.4 X 40 X 1) / 23.15

= 149.2873 INPUT KW

OR

INPUT KW = PF X AVG VOLTS X AVG AMPS X 3^-2 / 1000
= (0 X 0 X 0 X 1.732) / 1000
.91 460 120 = 87.0

= 0 INPUT KW

EAST → .91 (460) 93 (1.732) / 1000 = 67.4 TOTAL 154.4 EAST + WEST

5. HORSEPOWER INPUT = INPUT KW / 0.746
= ~~149.2873~~ / 0.746
83.6

87 / 154.4 = .56

= ~~200.11~~ / INPUT HP
112.1

.56 (149.3) = 83.6

6. EFFICIENCY = WATER HP / INPUT HP X 100
= (67.50568 / ~~200.11~~ 112.1) X 100

= ~~33.73511~~ % EFFICIENCY
60.2 %

APR 11 1994

PUMPING PLANT TEST DATA
(BEFORE RETROFIT)

COLLINS

GENERAL DATA:
NAME *** JOHN FLOOD
UTILITY ***
AREA OFFICE
PUMPS OPERATING MAIN ONLY

ACCT. NO. *** CASE 2 EAST P
DATE:
STATE:
INSPECTOR:

TOTAL OPERATING HEAD:
PUMPING WATER LEVEL (PWL) 6.5 FT 4.5+2
DISCHARGE PRESSURE READING 43 PSI
INTAKE PRESSURE READING 0 PSI

FLOW:
MEASURING DEVICE COLLINS
INSIDE PIPE DIAMETER 10.05 IN
DEVICE READING 7.61

POWER INPUT:
DISC REVOLUTIONS 10
METER CONSTANT (KH)
OR MULTIPLIER 2.4
CTR ** 40 PTR ** 1
TIME (SECONDS) 23.15

LINE VOLTS 1-2 => 0 1-3 => 0 2-3 => 0
AVG. VOLTS - 0

MAIN PUMP DATA:
AMPS 1 => 0 2 => 0 3 => 0
AVG. AMPS - 0
POWER FACTOR (PF) * 0

BOOSTER PUMP DATA:
NO BOOSTER PUMP USED.

MOTOR DATA:	MAIN PUMP	BOOSTER
MAKE	NEWMAN	N/A
RATED HP	75	0

PUMP DATA:	MAIN PUMP	BOOSTER
MAKE	VERTILINE	N/A
TYPE	TURB	N/A

KWH USAGE DATA:
ANNUAL KWH USAGE: ***

CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
[illegible]			
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0

AVERAGE KWH: 0 AVERAGE COST/KWH: *** 0 CENTS/KWH

* IF NON-APPLICABLE, MARK THESE ITEMS (NA) UNDER LETTERS OR (0) FOR NUMBERS.
** IF CTR AND PTR AND NOT KNOWN, ENTER 0.
*** THESE ITEMS COULD BE FILLED OUT BY THE UTILITY.

[illegible] APR 11 1994

[illegible]

ACCOUN[redacted]. CASE 2: EAST PUMP

PRELIMINARY CALCULATIONS:

CALCULATIONS FOR - MAIN ONLY

1. TOTAL OPERATING HEAD (TDH)
= (2.31 x (P DISCHARGE - P INTAKE)) + PWL
= (2.31) x ((43) - (0)) + (6.5)
= 105.83 TDH IN FT

2. FLOW
= 2.45 X READING X (DIAM)^2
= 2.45 X 7.61 X (10.05)^2
APPLY ANY NECESSARY CORRECTION FACTOR. (CF)
(CF) = 1.005
THEN FLOW = 1892.557 GPM

3. WATER HORSE POWER
= FLOW X TDH / 3960
= (1892.557) x (105.83) / 3960
= 50.5781 WATER HP

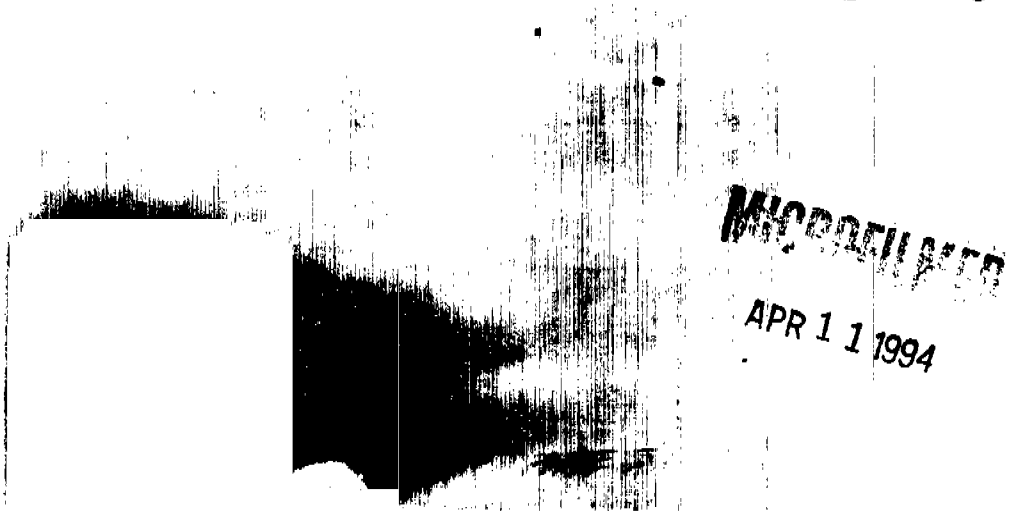
4. INPUT KW
= (3.6 X REV X KH X CTR X PTR) / SEC
= (3.6 X 10 X 2.4 X 40 X 1) / 23.15
= 149.2873 INPUT KW

OR

INPUT KW
= PF X AVG VOLTS X AVG AMPS X 3^-2 / 1000
= (0 X 0 X 0 X 1.732) / 1000

5. HORSEPOWER INPUT
= INPUT KW / 0.746
= ~~149.2873~~ 65.7 / 0.746
= ~~200.117~~ 88.1 INPUT HP

6. EFFICIENCY
= WATER HP / INPUT HP X 100
= (50.5781 / ~~200.117~~ 88.1) X 100
= ~~25.27427~~ 57.4 % EFFICIENCY



MICROFILMED
APR 11 1994

PUMPING PLANT TEST DATA
(BEFORE RETROFIT)

ANNUBAR

GENERAL DATA:
NAME *** JOHN FLOOD
UTILITY ***
AREA OFFICE
PUMPS OPERATING MAIN ONLY

ACCT. NO. *** CASE 2 EAST FL
DATE:
STATE:
INSPECTOR:

TOTAL OPERATING HEAD:
PUMPING WATER LEVEL (PWL) 6.5 FT 4.5+2
DISCHARGE PRESSURE READING 43 PSI
INTAKE PRESSURE READING 0 PSI

FLOW:
MEASURING DEVICE ANNUBAR
INSIDE PIPE DIAMETER 10.05 IN
DEVICE READING 17.5

POWER INPUT:
DISC REVOLUTIONS 10
METER CONSTANT (KH)
OR MULTIPLIER 2.4
CTR ** 40 PTR ** 1
TIME (SECONDS) 23.15

LINE VOLTS 1-2 => 0 1-3 => 0 2-3 => 0
AVG. VOLTS - 0

MAIN PUMP DATA:
AMPS 1 => 0 2 => 0 3 => 0
AVG. AMPS - 0
POWER FACTOR (PF) * 0

BOOSTER PUMP DATA:
NO BOOSTER PUMP USED.

MOTOR DATA:	MAIN PUMP	BOOSTER
MAKE	NEWMAN	N/A
RATED HP	~~100~~ 75	0

PUMP DATA:	MAIN PUMP	BOOSTER
MAKE	VERTILINE	N/A
TYPE	TURB	N/A

KWH USAGE DATA:
ANNUAL KWH USAGE: ***

CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0

AVERAGE KWH: 0 AVERAGE COST/KWH: *** 0 CENTS/KWH

* IF NON-APPLICABLE, MARK THESE ITEMS (NA) FOR LETTERS OR (O) FOR NUMBERS.
** IF CTR AND PTR AND NOT KNOWN, ENTER 0.
*** THESE ITEMS COULD BE FILLED OUT BY THE UTILITY.

MAR DOCUMENT

APR 11 1994

PRELIMINARY CALCULATIONS:

CALCULATIONS FOR - MAIN ONLY

1. TOTAL OPERATING HEAD (TDH)
= (2.31 X (P DISCHARGE - P INTAKE)) + PWL
= (2.31) X ((43) - (0)) + (6.5)

= 105.33 TDH IN FT

2. FLOW
= 3.85 X SQR(READING) X (DIAM)^2
= 3.85 X SQR(17.5) X (10.05)^2
APPLY ANY NECESSARY CORRECTION FACTOR. (CF)
(CF) = 1
THEN FLOW = 1626.717 GPM

3. WATER HORSE POWER
= FLOW X TDH / 3960
= (1626.717) X (105.33) / 3960

= 43.47359 WATER HP

4. INPUT KW
= (3.6 X REV X KH X CTR X PTR) / SEC
= (3.6 X 10 X 2.4 X 40 X 1) / 23.15

= 149.2873 INPUT KW

OR

INPUT KW
= PF X AVG VOLTS X AVG AMPS X 3^-2 / 1000
= (0 X 0 X 0 X 1.732) / 1000

= 0 INPUT KW

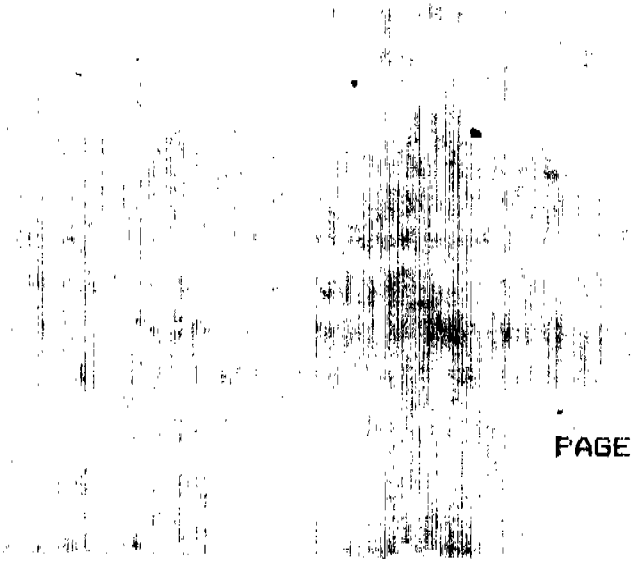
67.4 / 154.4 = .44

5. HORSEPOWER INPUT
= INPUT KW / 0.746
= ~~149.2873~~ 65.7 / 0.746

= ~~200.17~~ 88.1 INPUT HP

.44 (149.3) = 65.7

6. EFFICIENCY
= WATER HP / INPUT HP X 100
= (43.47359 / ~~200.17~~ 88.1) X 100
= ~~21.72409~~ 49.3 % EFFICIENCY



RECEIVED
APR 11 1994

PUMPING PLANT TEST DATA
(BEFORE RETROFIT)

GENERAL DATA:
NAME *** JOHN FLOOD
UTILITY ***
AREA OFFICE
PUMPS OPERATING MAIN ONLY

ACCT. NO. *** CASE 3 WEST P
DATE:
STATE:
INSPECTOR:

TOTAL OPERATING HEAD:
PUMPING WATER LEVEL (PWL) 6.5 FT 4.5+2
DISCHARGE PRESSURE READING 92.5 PSI
INTAKE PRESSURE READING 0 PSI

FLOW:
MEASURING DEVICE ANNUBAR
INSIDE PIPE DIAMETER 11.723 IN
DEVICE READING 2.4

POWER INPUT:
DISC REVOLUTIONS 10
METER CONSTANT (KH)
OR MULTIPLIER 2.4
CTR ** 40 PTR ** 1
TIME (SECONDS) 22.75

LINE VOLTS 1-2 => 0 1-3 => 0 2-3 => 0
AVG. VOLTS = 0

MAIN PUMP DATA:
AMPS 1 => 0 2 => 0 3 => 0
AVG. AMPS = 0
POWER FACTOR (PF) * 0

BOOSTER PUMP DATA:
NO BOOSTER PUMP USED.

MOTOR DATA:	MAIN PUMP	BOOSTER
MAKE	NEWMAN	N/A
RATED HP	100	0

PUMP DATA:	MAIN PUMP	BOOSTER
MAKE	VERTILINE	N/A
TYPE	TURB	N/A

KWH USAGE DATA:
ANNUAL KWH USAGE: ***

CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0

AVERAGE KWH: 0 AVERAGE COST/KWH: *** 0 CENTS/KWH

* IF NON-APPLICABLE, MARK THESE ITEMS (NA) FOR LETTERS OR (0) FOR NUMBERS.
** IF CTR AND PTR AND NOT KNOWN, ENTER 0.
*** THESE ITEMS COULD BE FILLED OUT BY THE UTILITY.

APR 1 1 1984

ACCOUNT [redacted]. CASE 3 WEST PUMP

PRELIMINARY CALCULATIONS:

CALCULATIONS FOR - MAIN ONLY

1. TOTAL OPERATING HEAD (TDH)
= (2.31 X (P DISCHARGE - P INTAKE)) + PWL
= (2.31) X ((92.5) - (0)) + (6.5)
= 220.175 TDH IN FT

2. FLOW
= 3.85 X SQR(READING) X (DIAM)^2
= 3.85 X SQR(2.4) X (11.723)^2
APPLY ANY NECESSARY CORRECTION FACTOR. (CF)
(CF) = 1
THEN FLOW = 819.6791 GPM

3. WATER HORSE POWER
= FLOW X TDH / 3960
= (819.6791) X (220.175) / 3960
= 45.57395 WATER HP

4. INPUT KW
= (3.6 X REV X KH X CTR X PTR) / SEC
= (3.6 X 10 X 2.4 X 40 X 1) / 22.75
= 151.9121 INPUT KW

OR

INPUT KW
= PF X AVG VOLTS X AVG AMPS X 3^-2 / 1000
= (0 X 0 X 0 X 1.732) / 1000
= 0 INPUT KW

WLST 87.0 56%
EAST 67.4
154.4

.56(151.9) = 85.1

5. HORSEPOWER INPUT
= INPUT KW / 0.746
= ~~151.9121~~ 85.1 / 0.746
= ~~203.6355~~ 114.1 INPUT HP

6. EFFICIENCY
= WATER HP / INPUT HP X 100
= (45.57395 / ~~203.6355~~ 114.1) X 100
= ~~22.3816~~ % EFFICIENCY
39.9 %

APR 11 1994
PAGE

PUMPING PLANT TEST DATA
(BEFORE RETROFIT)

COLLINS

GENERAL DATA:
NAME *** JOHN FLOOD
UTILITY ***
AREA OFFICE
PUMPS OPERATING MAIN ONLY

ACCT. NO. *** CASE 3 EAST P
DATE:
STATE:
INSPECTOR:

TOTAL OPERATING HEAD:
PUMPING WATER LEVEL (PWL) 6.5 FT 4.5 + 2
DISCHARGE PRESSURE READING 46.5 PSI
INTAKE PRESSURE READING 0 PSI

FLOW:
MEASURING DEVICE COLLINS
INSIDE PIPE DIAMETER 10.05 IN
DEVICE READING 7.51

POWER INPUT:
DISC REVOLUTIONS 10
METER CONSTANT (KH)
OR MULTIPLIER 2.4
CTR ** 40 PTR ** 1
TIME (SECONDS) 22.75

LINE VOLTS 1-2 => 0 1-3 => 0 2 3 => 0
AVG. VOLTS - 0

MAIN PUMP DATA:
AMPS 1 => 0 2 => 0 3 => 0
AVG. AMPS - 0
POWER FACTOR (PF) * 0

BOOSTER PUMP DATA:
NO BOOSTER PUMP USED.

MOTOR DATA:	MAIN PUMP	BOOSTER
MAKE	NEWMAN	N/A
RATED HP	75	0

PUMP DATA:	MAIN PUMP	BOOSTER
MAKE	VERTILINE	N/A
TYPE	TURB	N/A

KWH USAGE DATA:
ANNUAL KWH USAGE: ***

CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0

AVERAGE KWH: 0 AVERAGE COST/KWH: *** 0 CENTS/KWH

* IF NON-APPLICABLE, MARK THESE ITEMS (NA) FOR LETTERS OR (0) FOR NUMBERS.
** IF CTR AND PTR AND NOT KNOWN, ENTER 0.
*** THESE ITEMS COULD BE FILLED OUT BY THE UTILITY.

RECEIVED
APR 11 1994

PRELIMINARY CALCULATIONS:

CALCULATIONS FOR - MAIN ONLY

1. TOTAL OPERATING HEAD (TDH)
   = (2.31 X (P DISCHARGE - P INTAKE)) + PWL
   = (2.31) X ((46.5) - (0)) + (6.5)
   = 113.915 TDH IN FT

2. FLOW
   = 2.45 X READING X (DIAM)^2
   = 2.45 X 7.51 X (10.05)^2
   APPLY ANY NECESSARY CORRECTION FACTOR. (CF)
   (CF) = 1.005
   THEN FLOW = 1867.688 GPM

3. WATER HORSE POWER
   = FLOW X TDH / 3960
   = (1867.688) X (113.915) / 3960
   = 53.72668 WATER HP

4. INPUT KW
   = (3.6 X REV X KH X CTR X PTR) / SEC
   = (3.6 X 10 X 2.4 X 40 X 1) / 22.75
   = 151.9121 INPUT KW

   OR

   INPUT KW
   = PF X AVG VOLTS X AVG AMPS X 3^-2 / 1000
   = (0 X 0 X 0 X 1.732) / 1000
   = 0 INPUT KW

5. HORSEPOWER INPUT
   = INPUT KW / 0.746
   = ~~151.7~~121 / 0.746
   66.8
   = ~~203.5~~ INPUT HP
   89.5

6. EFFICIENCY
   = WATER HP / INPUT HP X 100
   = (53.72668 / ~~203.5~~89.5) X 100
   = ~~26.39375~~ % EFFICIENCY
   60.0%

APR 11 1994

PUMPING PLANT TEST DATA
(BEFORE RETROFIT)

ANNUBAR

GENERAL DATA:
NAME *** JOHN FLOOD
UTILITY ***
AREA OFFICE
PUMPS OPERATING MAIN ONLY

ACCT. NO. *** CAGE 3 EAST F
DATE:
STATE:
INSPECTOR:

TOTAL OPERATING HEAD:
PUMPING WATER LEVEL (PWL) 6.5 FT 4.5 + 2
DISCHARGE PRESSURE READING 46.5 PSI
INTAKE PRESSURE READING 0 PSI

FLOW:
MEASURING DEVICE ANNUBAR
INSIDE PIPE DIAMETER 10.03 IN
DEVICE READING 16.75

POWER INPUT:
DISC REVOLUTIONS 10
METER CONSTANT (KH)
OR MULTIPLIER 2.4
CTR ** 40 PTR ** 1
TIME (SECONDS) 22.75

AVG. VOLTS = 0

MAIN PUMP DATA:
AMPS 1 => 0 2 => 0 3 => 0
AVG. AMPS = 0
POWER FACTOR (PF) * 0

BOOSTER PUMP DATA:
NO BOOSTER PUMP USED.

MOTOR DATA:	MAIN PUMP	BOOSTER
MAKE	WESTINGH	[illegible]
RATED HP	75	0

PUMP DATA:	MAIN PUMP	BOOSTER
MAKE	VERTILINE	N/A
TYPE	TURB	N/A

KWH USAGE DATA:
ANNUAL KWH USAGE: ***

CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0
CALENDAR YEAR	0	KWH	0

AVERAGE KWH: 0 AVERAGE COST/KWH: *** 0 CENTS/KWH

* IF NON-APPLICABLE, MARK THESE ITEMS (NA) FOR LETTERS OR (0) FOR NUMBERS.
** IF CTR AND PTR AND NOT KNOWN, ENTER 0.
*** THESE ITEMS COULD BE FILLED OUT BY THE UTILITY.

APR 11 1994

ACCOUNT [redacted]. CASE 3 EAST PUMP

PRELIMINARY CALCULATIONS:

CALCULATIONS FOR - MAIN ONLY

1. TOTAL OPERATING HEAD (TDH)
   = (2.31 X (P DISCHARGE - P INTAKE)) + PWL
   = (2.31) X ((46.5) - (0)) + (6.5)
   = 113.915 TDH IN FT

2. FLOW
   = 3.85 X SQR(READING) X (DIAM)^2
   = 3.85 X SQR(16.75) X (10.05)^2
   APPLY ANY NECESSARY CORRECTION FACTOR. (CF)
   (CF) = 1
   THEN FLOW = 1591.477 GPM

3. WATER HORSE POWER
   = FLOW X TDH / 3960
   = (1591.477) X (113.915) / 3960
   = 45.78107 WATER HP

4. INPUT KW
   = (3.6 X REV X PH X CTR X PTR) / SEC
   = (3.6 X 10 X 2.4 X 40 X 1) / 22.75
   = 151.9121 INPUT KW

   OR

   INPUT KW
   = PF X AVG VOLTS X AVG AMPS X 3^-2 / 1000
   = (0 X 0 X 0 X 1.732) / 1000
   = 0 INPUT KW

5. HORSEPOWER INPUT
   = INPUT KW / 0.746
   = ~~151.9121~~ 66.8 / 0.746
   = ~~203.67855~~ 89.5 INPUT HP

   .44(151.9) = 66.8

6. EFFICIENCY
   = WATER HP / INPUT HP X 100
   = (45.78107 / ~~203.67855~~ 89.5) X 100
   = ~~22.48167~~ 51.2 % EFFICIENCY

Microfilmed
APR 11 1994

INTER-DEPARTMENT MEMO — 1

FROM LM

DATE 10/8/82

TO File 37-7014

SUBJECT Exam:

John Flood was in to check on the permit. He doesn't agree with our measurement. He says the system should Pump 250" out of the creek.

If a 200' head is assumed (85 psi + 4 foot Lift from creek), & a 70% efficient the Pumps should pump about the [redacted] amounts 75 HP — 2.31 cfs ~ 5.39 cfs at 209"
100 HP — 3.08 cfs

APR 11 1994

We need to do re-Exam.
If his meters are not accurate, He needs to change them for WRM Regulation.

SIGNATURE

Form 219
12/79

State of Idaho
DEPARTMENT OF WATER RESOURCES
FIELD REPORT

37-7014
Permit No.

CONTACT WITH PERMIT HOLDER

	DATE	INITIALS	REMARKS
☐ Appointment letter mailed:	8-18-1980	GLF	
	1-14-1981	"	
☐ Telephone call made:			
(List Telephone No. used)			
☐ Appointment scheduled for:			
(Date, time, location)			

EXAMINATION

Date 4-12-1981 Accompanied by John Flood Total Q measured 7.26 CFS

If source is surface water, estimate total flow of source

Methods of measurement Sparling Meter. Meets Permit requirements? Yes

Measurement calculations: 7.26 CFS = $\left(\frac{.001}{6\ sec}\right)\left(\frac{60\ sec}{1\ min}\right)(325{,}900\ AcFt) \div \left(448.8\ \frac{gal/min}{CFS}\right)$
WELL MEASUREMENT.
RIVER PUMPS. ① 1000 gal/sec (137) = 0.98 CFS
② 1000 gal/64.7 sec = 2.07 CFS
3.05 CFS
$\left(3.0\ \frac{AcFt}{IRR.\ Req.}\right)(352\ Acre) = 1056\ \frac{AcFt}{ANN.}$
ANN

WELL/DIVERSION* NO.	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEV.	REMARKS
2	100	NEMAN	1280502			Sparling		
1	75	"	1246309			"		

System Description ARTESIAN WELL DISCHARGES INTO PATTON CR. WHICH RUNS INTO STALKER CR. WHICH DIVERTS INTO SILVER CR. THEN IS PUMPED FROM SILVER CR. TO ITS PLACE OF USE.

*Code with map on reverse side. Disregard code if only one.

RECOMMENDED AMOUNTS

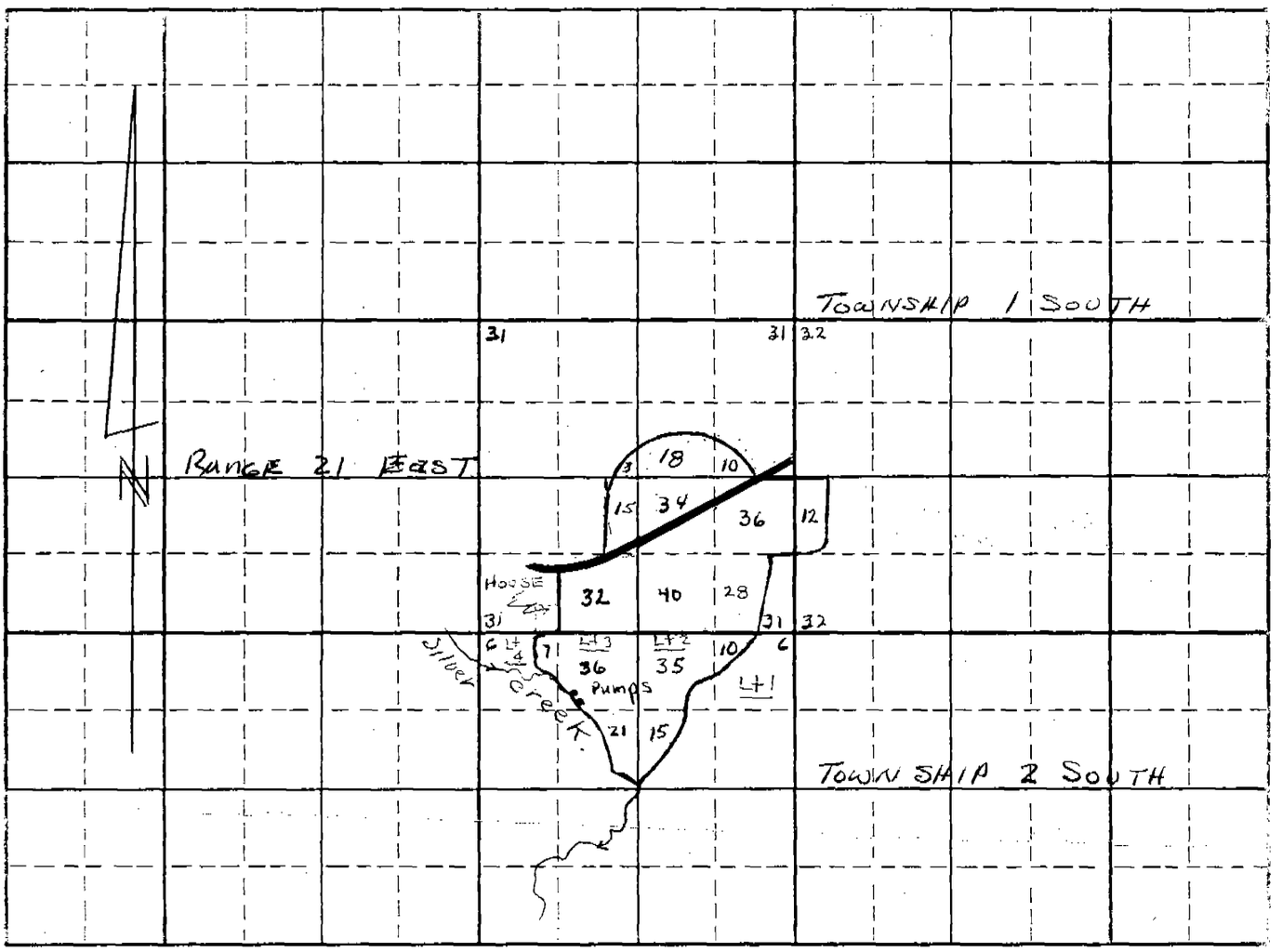
Irrigation requirement = 3.0 AFA/Acre

USE	Q (cfs)	V (afa)	FROM	TO
	3.05 CFS.	1056	4-1	10-15
IRRIGATION				
Total	3.05 CFS	1056		

Remarks

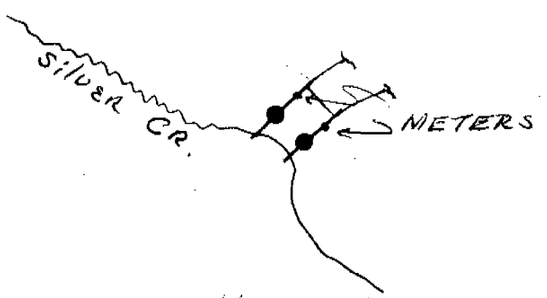
APR 11 1994

MAP (Attach Aerial Photo)



SCHEMATIC DIAGRAM OF SYSTEM

(Include distance from pump to measuring device, if applicable.)



Point(s) of diversion: NE 1/4 NE 1/4; Sec 20 Township 1 South Range 19 East.

Rediversion NE 1/4 NW 1/4; Sec. 6 Township 2 South Range 21 East

Place(s) of Use

TWP.	RGE.	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1S	21E	31			18	10				3	15			32	36	34	40	28	216
		32										12							12
2S	21E	6	10	35	15		36	7		21									124
			LT1	LT2			LT3	LT4											
																			352

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

Examiner's Signature Gary Fundenburg Date 10-23-1980

Checked by Joe Stanton Date 9-28-82

Approved by _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

January 14, 1981

John Flood
Picabo,
Idaho 83348

Re: Permit No. 37-7014

Dear Mr. Flood:

This last spring Reid Newby, Watermaster of Silver Creek, and I came to your residence to complete the field exam for your permit from the artisian well which takes out at Silver Creek. At this time I was unable to get the make, motor and pumps, horsepower and serial number.

If you would send this information to me I will be able to complete your permit for a license.

Sincerely yours,

Gary L. Funderburg
Senior Water Resource Agent

GLF:

MICROFILMED

APR 1 1 1994

RECEIVED
JUL 29 1977
Department of Water Resources
Southern District Office

INTER-DEPARTMENT MEMO — 1

To: ~~Exhibit~~ Jan G.

From: ~~FROM~~ Gary E.

DATE 7/28/77

SUBJECT Permit # 31-7014

This one has been in litigation for a long time & has just been resolved. As you can tell from Bob's note it needs to be examined again, so I am sending you ~~a copy of~~ the old exam & map & also a copy of our rough draft from this exam. Use might help.

SIGNATURE

Jan

This well needs to be examined for measuring device installation prior to licensing.

Examiner should contact present ower about possible assignment to him from the Baldwins.

~~I can't locate Bill Brown's letter requesting license be issued.~~

Bob

Form 23
2M-4-65

RECEIVED
JUL 29 1977
Department of Water Resources
Southern District Office

Bpower
Log house.

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE

REPORT OF EXAMINER

PERMIT NO. 37-7014

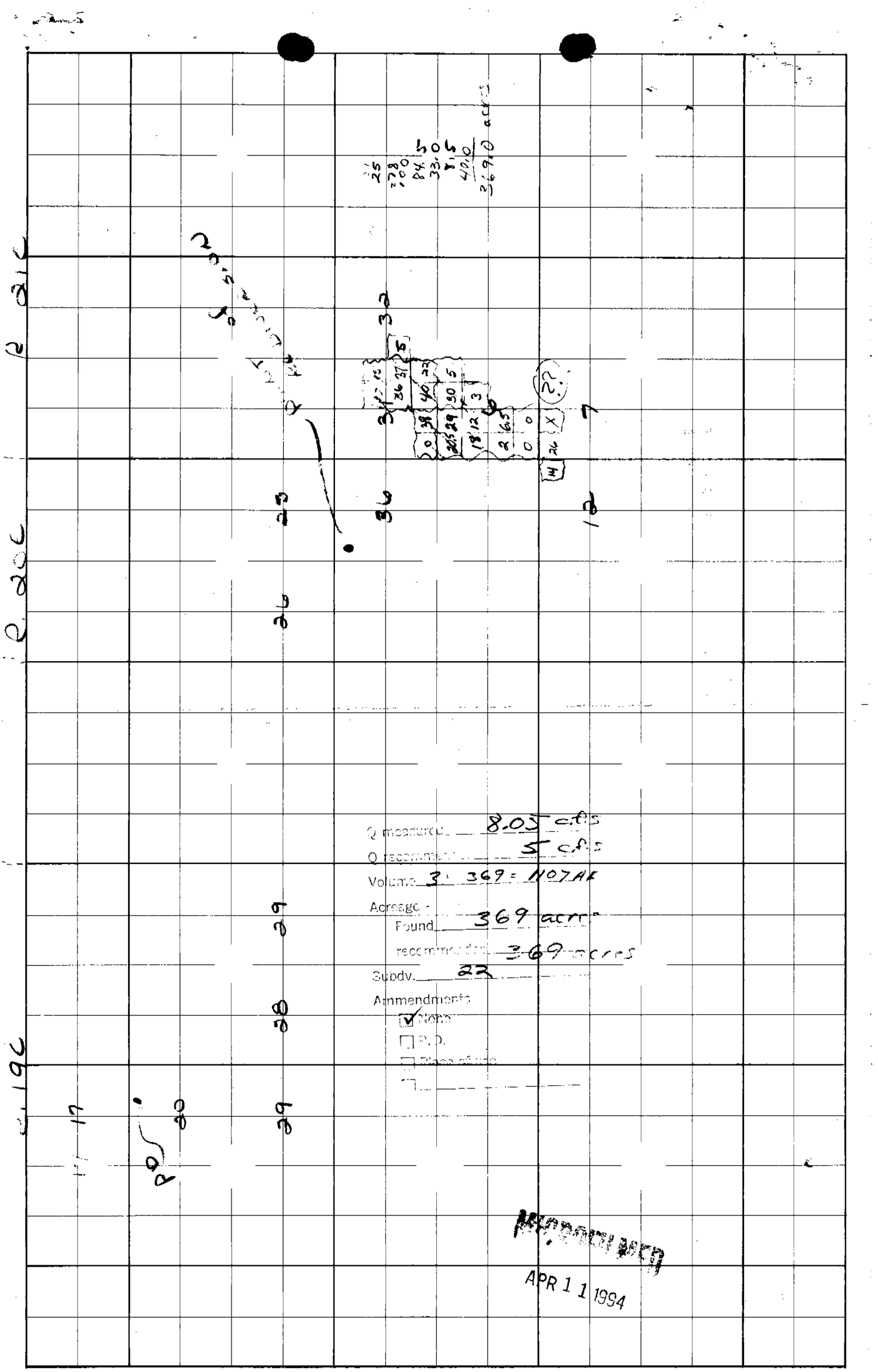
REPORT ON PROOF OF Wayne O. & Donnie D. Baldwin, Picabo, Idaho

Los Business acc of Glen Tarr ... at Picabo timed Time ... to law ... information on Mr. Baldwin well

This permit 37-7014 is to license 5 c.f.s of water from an Artesian well belonging to Wayne Baldwin. The remaining 2.05 c.f.s belongs to Lois Holsman. Mr. Baldwin transfers 5 c.f.s by way of Pattan Creek which runs into Silver Creek. Approx. 10 miles below BD. Mr. Baldwin Takes water from Silver Creek. Mr. Baldwin Also has water rights from ... which vary from day to day depending on the conditions of Silver Creek. When his rights on Silver Creek are depleted he then transfers the Artesian well to supplement his Silver Creek rights. Quantity shall be licensed for 5 c.f.s and Volume shall be stated Not to exceed the acre requirement x amount irrigated using all rights held by Mr. Baldwin.

Mr. Baldwin

APR 11 1994



Scale: 2 Inches Equals 1 Mile. Draw Map In Ink.

Form 23
2M-4-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF EXAMINER

Permit No. 37-7014

This proof is for 5.0 cfs In Water District No.

1. Name of applicant Wayne O. & Donnie D. Baldwin, Picabo, Idaho
2. Source of water supply: ground-water
3. Location of point of diversion: Is in the * NW¼NE¼ of Section 20
   T. 1 S R. 19 E County of Blaine
4. Describe works as they exist, giving dimensions and capacities of same:
   PERMIT - Water will be conducted by a ditch from the well into Silver Creek and co-mingled with the waters of Silver Creek for a distance of about 10 miles to a point of re-diversion in the NW¼NW¼, Sec. 36, T. 1 S, R. 20 E, B. M.
   PROOF - 12" casing, 12" valve, artesian well. 10" loss to Silver Creek.
5. Water is used for: irrigation (Apr. 1 - Oct. 15)
6. State whether or not water has been turned into works of diversion:
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation): ??

2S-20E, Sec. 12	NE¼NE¼	40 acres
1S-21E, Sec. 31	S½NE¼, S½SW¼, SE¼	320 acres
Sec. 32	W½NW¼SW¼	20 acres
2S-21E, Sec. 6	N½NE¼, SW¼NE¼, NW¼, SW¼	440 acres
Sec. 7	NE¼NW¼	40 acres
	TOTAL --	520 acres
		840

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks: ~~See folder for other rights.~~ the p.d. is the artesian well identified in Water Dis. G-29372 recorded in BK. 13, Page 8537, Dept. of Rec.

Measure Artesian with pitot gauge 8.05 c.f.s

This examination was made on the 14th day of July, 1970

(Signed) Fred Buchanan
Examiner.

APR 1 1 1994

37-7014

mfl 5-19-70

INSTRUCTIONS TO EXAMINERS

1. Always carefully note the location of the point of diversion and accurately plat same.
2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
4. If any unusual conditions are discovered, make plain statement of them under remarks.
5. Always see the holder, if possible, and go over the whole ground with him and make your report only upon actual existing facts and conditions.
6. Give general characteristics of soils, topography, and crops raised.

APR 1 1994

Permit No. 37-7014

Examination for b/u - Wayne & Donnie Baldwin

County Blaine

Sec. 20 T. 1S R. 19E

Quantity: 5.0 cfs

Source: ground-water

P.D.: NW¼NE¼

Use: irrigation

~~**Extension:**~~

~~**Protest:**~~

~~**Completion of Works:**~~

~~**Other Rights:**~~

Filed: 3-11-68 **Made:** 10-1-69
Due: 10-1-69 **Priority:** 3-11-68

~~**Due:**~~ CHKD gmb
55

ACREAGE OF QUEEN'S CROWN RANCH

TRACT I

Twp. 1 South, Range 21 East:

Section 31:	SW¼SE¼	40	
	SE¼SW¼ EXC. Hwy.	40	
	Lot 4 (SW¼SW¼) EXC. Hwy.	40	
	TOTAL		120

Twp. 2 South, Range 21 East:

Section 6:	SW¼NE¼	40	
	SE¼NW¼	40	
	Lot 2	40.24	
	Lot 3	40.16	
	Lot 4	45.26	
	Lot 5	45.04	
	TOTAL		250.70

TRACT II

Twp. 2 South, Range 21 East

Section 6:	Lot 6	44.83	
	Lot 7	44.61	
	E½SW¼	80.00	
Section 7:	Lot 1	44.40	
Section 12: T2S R20E	NE¼NE¼ lying east of county road	20.00	
	TOTAL		233.84

TRACT III (well site)

Twp. 1 South, Range 19 East:

Section 17:	Parcel 20 ft. square in the SW¼SE¼	.01	
	TOTAL		.01

TRACT IV

Twp. 1 South, Range 21 East

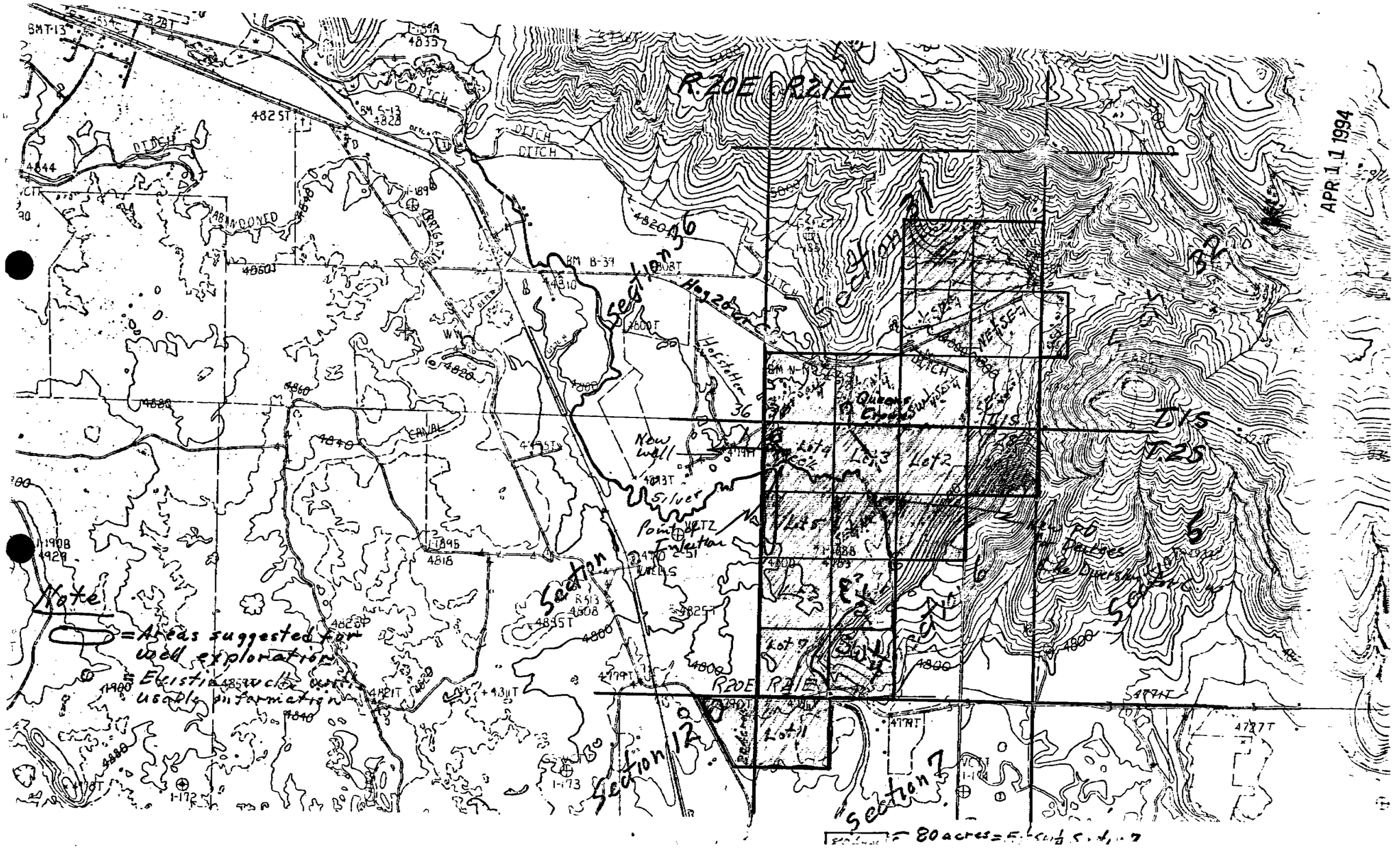
Section 31:	SE¼SE¼	40	
	NW¼SE¼ Exc. Hwy.	40	
	NE¼SE¼ Exc. Hwy.	40	
	TOTAL		120.00

TRACT V

Twp. 1 South, Range 21 East

Section 31:	S½NE¼ Exc. Hwy	80	
Section 32:	W½NW¼SW¼	20	
Twp. 2 South, Range 21:			
SEction 6:	Lot 1	40.32	
	TOTAL		140.32
			864.87
	Less Approx. 10 ac Hwy.		10.00
	GRAND TOTAL		854.87

RECEIVED
APR 11 1994


R20E R21E
T15
T25
Section 36
Section 1
Section 6
Section 12
Section 7
Lot 4
Lot 3
Lot 2
Lot 1
Lot 7
Lot 11
Queens Chocolate
Silver Point
Note
=Areas suggested for well exploration
Existing wells drilled in Uncompahgre formation
80 acres
APR 1 1 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

78822357

August 18, 1980

John Flood
Queen's Crown Ranch
Box 317
Picabo, Idaho 83348

Re: Permit 37-7014

Dear Mr. Flood:

This letter is in reference to your permit 37-7014. As you are aware you were required to install a measuring device at the location of your Artisan Well and one at the point where you redivert this water by means of a pump. Before we can complete the license for this permit those requirements must be meet.

If I can be of further assistance please fill free to contact me.

Very truly yours,

Gary Funderburg
Senior Water Resource Agent

GF:mm

MICROFILMED

APR 11 1994

RECE
SEP 5 1973
Department of Water Administration

September 4, 1973

Honorable Charles Scoggin
District Judge
Blaine County Courthouse
Hailey, Idaho 83333

Re: Application of Wayne O. Baldwin, Case No. 3426

Dear Judge Scoggin:

I write to advise you that the applicants, Wayne O. Baldwin and Donnie D. Baldwin, and their successors in interest in Case No. 3426 and Case No. 3588 concur in the Supplemental Brief of the Department of Water Administration dated August 31, 1973.

I have just read the case of Baker, et al vs. Ore-Ida Foods, et al, cited by Mr. Nathan Higer in his Supplemental Brief on behalf of the Department of Water Administration, and concur in Mr. Higer's position to the effect that the Supreme Court's decision is decisive of the issue raised by our Motion for Summary Judgment, that issue being whether the Protestants are entitled to protection of their artesian pressure.

It seems crystal clear from the Supreme Court's opinion in the Baker case that the Protestants are not entitled to protection of their artesian pressure, but are limited to the maintenance of a reasonable pumping level.

Yours respectfully,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By

William F. Ringert

WFR:vo
cc: Nathan W. Higer
Thomas G. Nelson
Honorable Charles Scoggin, Fairfield, Idaho

MICROFILMED
APR 1 1994

November 6, 1979

Re: Permit No. 37-7014

John Flood
Gowen Ranch
P. O. Box 317
Picabo, ID 83347

Dear Mr. Flood:

Enclosed is a copy of the approved application for amendment submitted on the above referenced permit.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:pb

MICROFILMED

Form No. 211a
11/78

RECEIVED
OCT 25 1979
Department of Water Resources

State of Idaho
Department of Water Resources

AMENDMENT ANALYSIS SHEET

INITIAL REVIEW BY: _____

Right Number 37-7014 Applicant John Flood

Purpose of Amendment: ☒ Change point of diversion. ☐ Add diversion point(s).
☐ Increase amount. ☐ Change place of use. ☐ Other _____

CHECK:

- ☒ Description of amended point(s) of diversion.
- ☒ Amount, nature and period of use. If increased, delay date of priority.
- NA ☐ Description of amended places of use. If expanded, delay date of priority.
- ☒ Ownership of point of diversion and place of use.
- ☒ Map.
- ☒ Signature (must be permit holder).
- ☒ Fee.
- ☒ Existing water rights from the same source, amended place of use. NO change in P.U.
- ☒ Right number(s) 37-2573
- ☒ Yes ☐ No Should amendment be advertised?
- ☐ Yes ☒ No Should date of priority be delayed? If yes, to what date? _____

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Amendment published correctly.
- NA ☐ Protests processed.
- ☒ Approve.
- ☐ Deny.

Conditions _____

By Loren O Halvorson Date 10-22-79

STATE OFFICE PROCESSING:

- ☒ Amendment correct and complete. By JG Date 10/31/79
- ☐ Approved copy sent to applicant and to Region. By _____ Date _____

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3570

August 28, 1979

Wood River Journal
P. O. Box 988
Hailey, Idaho 83333

Re: Notice of Amendment to a Water Permit No. 37-7014 - John Flood

Gentlemen:

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

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

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

NOTICE OF AMENDMENT TO A WATER PERMIT

NO. 37-7014

Notice is hereby given that John Flood is the holder of approved permit No. 37-7014 authorizing the diversion of 5.0 cfs of water from groundwater in the NW¼NW¼, Sec. 20, T1S, R.19E, Blaine County, B.M., to be used for irrigation purposes on 520 acres within NE¼NE¼, Sec. 12, T2S, R.20E; S½NE¼, S½SW¼, SE¼, Sec. 31; W½, Sec. 32, T1S, R21E; N½NE¼, SW¼NE¼, W½, Sec. 6; NW¼NW¼, Sec. 7, T2S, R.21E, B.M. The permit holder has applied to the Department of Water Resources for an Amendment to the permit, to change the point(s) of Diversion as follows:

Points of Diversion: NW¼NW¼, Sec. 20, T1S, R.19E, B.M. and ~~NW¼NW¼ (Lot 4), Sec. 6, T2S, R.21E,~~ NE¼NE¼ Sec. 12 ~~B.M.~~, Blaine County T2S, R.20E.

Any protest against approval of the amending of Permit No. 36-7080 as set forth above must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301, on or before October 1, 1979.

C. STEPHEN ALLRED
Director

Published in the Wood River Journal - September 13 and September 20, 1979.

August 27, 1979

John Flood
Gowen Ranch
P. O. Box 317
Picabo, ID 83348

Dear Mr. Flood:

Re: Permit No. 37-7014

This office acknowledges receipt of the assignment conveying the above referenced permit to you. The assignment has been entered into the department's records.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:rf

MICROFILMED

July 10, 1979

MEMORANDUM

TO: Files 37-7014, 37-2573

FROM: Roberta

Memorandum Decision - File No. 37-7014

Permit No. 37-7014 in Item No. 3 references G-29372 (37-2649) as the same point of diversion (NW4NE4) while being noted in Memorandum Decision as G-29379 (which gives it right No. 32-2105).

Another discrepancy also appears in the memorandum in listing the point of diversion as the NE4NE4 in comparison to the NW4NE4 as stated in G-29372 (37-2649).

Transfer No. 939 of License No. 37-2573

The change in place of use to the

S2SE4, SE4SW4, SW4SE4, Sec. 31, T. 1 S., R. 21 E., and

SW4NE4, SE4NW4, Lots 2, 3, 4, 5, Sec. 6,

T. 2 S., R. 21 E.

should read as shown in Denial of Protest in File No. 37-7014:

W2SE4, SE4SW4, Sec. 31, T. 1 S., R. 21 E., and

SW4NE4, SE4NW4, and Lots 2, 3, 4, and 5,

Sec. 6, T. 2 S., R. 21 E.

The overlap of 40 acres (SW4SE4) listed in Transfer Application No. 939 and the advertisement should have been excluded.

MICROFILMED

INTER-DEPARTMENT MEMO — 1

FROM Jan G.

DATE 7/28/77

TO File

SUBJECT Re-exam

Sent old exam to Dist. for re-exam because the well needs to be examined with a measuring device installed. (from BOF's decision)

MICROFILMED

SIGNATURE

State of Idaho

Department of Water Resources

ROUGH DRAFT

WATER RIGHT LICENSE

License of Water Right No. 37-7014 Priority Mar. 11, 1968 Amount 5.0 cfs

THIS IS TO CERTIFY, that WAYNE O. BALDWIN & DONNIE D. BALDWIN of Picabo, Idaho, has complied with the terms and conditions of Permit No. 37-7014 issued pursuant to Application for Permit dated March 11, 1968, and has submitted proof to the Department of Water Resources on October 1, 1969, 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 8.05 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 (see permit)	Rate of Diversion	Annual Volume
Irrig.	from Apr. 1 to Oct. 15	at 5.0 cfs and	1107 acre feet
_____	from _____ to _____	at _____ cfs and	_____
_____	from _____ to _____	at _____ cfs and	_____

(both dates inclusive)

Subject, however, to the condition that no more than 5.0 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 1,107 acre feet per year, said waters to be diverted within the NW¼NE¼, Sec. 20, Twp. 1S, Rge. 19E, B.M. in the County of Blaine

injected into Silver Creek and rediverted within the NW¼NW¼ Sec 36 T 1S R 20E BM

Description and location of place of use:

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1S	21E	31			10	15								38	37	36	10	22	198
		32										5							5
2S	21E	6	5	30	3		29	20.5	18	12	6.5	2							126
2S	20E	12	14																14
2S	21E	7						26											26

Total number of acres irrigated 369

Measuring Devices at PD and point of rediversion

The quantity of water rediverted from Silver Creek shall be 10% less than the quantity diverted from the well to compensate for steam losses.

ROUGH DRAFT

369 / 3 / 1107

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, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this _____ day of _____, 19 ____.

_____

Director


A 22.9
C 18.4
MICROFILMED

RECEIVED
JUN 20 1977
Department of Water Resources

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

AREA CODE 208
TELEPHONE 342-4591
POST OFFICE BOX 2773

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

June 17, 1977

DIRECTOR
DEPUTY DIR.
ASST. ADMIN.
ADMIN. ANALYSIS

Mr. Norman Young
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Water Permit No. 37-7014

Dear Norm:

Herewith is a copy of the Order of Dismissal, entered by the District Court on March 11, 1977, in the case of Wayne and Ival Clark, husband and wife, et al, Plaintiffs, v. Don and Phillis Baldwin, husband and wife, et al, Defendants, and a copy of the Order of Dismissal in the Matter of the Application of Wayne O. and Donnie D. Baldwin, No. 37-7014. The effect of these Orders is to terminate the protests against issuance of the water permit.

We understand that proof of application to beneficial use has been submitted and that the field examination has been completed by the Department of Water Resources. That being the case, we request that a license be issued for the water right perfected under Permit No. 37-7014, as soon as the required measuring devices have been installed.

When the license is issued, please send it to me and I will forward it to the present owners of the property.

Yours very truly,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By W. F. Ringert
W. F. Ringert

WFR:am
Enclosure

cc: Mr. Jerry Caven

MICROFILMED

10:00

MAR 1977

Court Clerk

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

IN THE MATTER OF THE APPLICATION OF WAYNE O. BALDWIN and DONNIE D. BALDWIN, co-partners, doing business as Baldwin Brothers under application No. 37-7014	Civil No. 3426 ORDER OF DISMISSAL

Upon motion of Appellants and good cause appearing therefor,

IT IS HEREBY ORDERED that the above entitled action be, and the same is hereby, dismissed with prejudice.

DATED this 11 day of March, 1977.

District Judge

MICROFILMED

CERTIFICATE

I hereby certify that on the 11th day of March, 1977, I mailed a true and correct copy of the foregoing instrument to the following, postage prepaid:

Office of Attorney General
State of Idaho
Statehouse - Annex 2
Boise, Idaho 83720

Mr. William F. Ringert
Anderson, Kaufman, Anderson & Ringert
P. O. Box 2773
Boise, Idaho 83701

Of Parry, Robertson, Daly & Larson

10100

1311

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

WAYNE and IVAL CLARK, husband and wife, HARVEY B. and LUCILE BICKETT, husband and wife, J. E. and RUTH FREDERICKSON, husband and wife, WOOD RIVER CATTLE COMPANY, E. HADLEY and MARIAN STUART, husband and wife, GEORGE and SUSIE HELLYER, husband and wife, BASE LINE CATTLE ASSOCIATION, MARY M. McGONIGAL, RALF and HARRIET STINSON, husband and wife, STOCKER CREEK RANCH, JOSEPHINE WURST, individually and as Executrix of the Estate of H. L. Wurst, deceased, and HAILEY CORPORATION OF THE CURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a corporation sole, Plaintiffs, vs. DON and PHYLLIS BALDWIN, husband and wife, WAYNE and EILEEN BALDWIN, husband and wife, d/b/a BALDWIN BROTHERS and LOUIS and JANE DOE HUBSHMAN, JR., husband and wife, and LOUIS HUBSHMAN, JR., as Trustee for Thomas L. Hubshman, FRANK and JANE DOE PIERRET, husband and wife, DEAN R. ROGERS, INC., and DEAN and JANE DOE ROGERS, husband and wife, Defendants.	Civil No. 3588 ORDER OF DISMISSAL

Upon motion of plaintiffs and good cause appearing therefor,

IT IS HEREBY ORDERED that the above-entitled action be, and the same is hereby, dismissed with prejudice.

DATED this 11 day of March, 1977.

District Judge

CERTIFICATE

I hereby certify that on the 11th day of March, 1977, I mailed a true and correct copy of the foregoing instrument to the following, postage prepaid:

Office of Attorney General
State of Idaho
Statehouse - Annex 2
Boise, Idaho 83720

Mr. William F. Ringert
Anderson, Kaufman, Anderson & Ringert
P. O. Box 2773
Boise, Idaho 83701

Of Parry, Robertson, Daly & Larson

LJ-200
1-63

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Date 17 July, 1920 **DISCHARGE MEASUREMENT NOTES** 11 63

Artesian Well River at Baldwin

Angle coefficient	Dist. from initial point	Width	Depth	Observation depth	Revolutions	Time in seconds	VELOCITY: At point	VELOCITY: Mean in vertical	Adjusted for hor. angle or	Area	Discharge
EW	1.8										> e
	2.2	.45	.6		15	19	.24			.27	.065
	2.7	.5	.7		10	44	.26			.35	.091
	3.2	.5	1.0		15	42	.39			.50	.195
	3.7	.5	1.1		30	41	.76			.55	.418
	4.2	.5	1.25		50	43	1.18			.63	.743
	4.7	.5	1.30		60	42	1.44			.65	.936
	5.2	.5	1.35		70	46	1.33			.68	.904
	5.7	.5	1.35		60	40	1.51			.68	1.027
	6.2	.5	1.25		60	41	1.47			.63	.926
	6.7	.5	1.1		60	43	1.41			.55	.775
	7.2	.5	1.0		60	48	1.26			.50	.630
	7.7	.5	.9		60	56	1.19			.45	.535
	8.2	.5	.9		60	46	1.32			.45	.594
	8.7	.45	.6		40	44	.93			.27	.151
	9.1	.4	.4		20	51	.42			.16	.067
EW	9.5										
											8.057

Lois Hubsman has right to 5 c.f.s. out of Spring

8.057

No. ____ of ____ Sheets. Comp. by ____ Chk. by myl

37-7014

October 1, 1969

Re: Permit No. 37-7014

Wayne O. & Donnie D. Baldwin
Baldwin Brothers
Picabo, Idaho 83348

Gentlemen:

We acknowledge receipt of your affidavit submitted as proof of beneficial use for permit 37-7014.

Before a license can be issued a field examination must be made by a representative from 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 someone other than yourself should be contacted, please advise.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:JMB

37 7014

Identification No. _____

Permit No. 37-7014

Dept of Reclamation
OCT 1 Rec'd
1969 gms

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder Wayne O. & Donnie D. Baldwin

   b) Post-Office Address Picabo, Idaho 83348

2. Permit Number 37-7014

3. Date of Priority that you are prepared to establish 3-11-1968

4. a) Source from which water was appropriated Ground water

   b) Location of the point of diversion: NW ¼ NE ¼, Section 20

   Township 1 S, Range 19 E Boise Meridian, Other points of diversion: _____

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

   amount 5.0 for Irrigation purposes from 4-1 to 10-15 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 _____ 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: over 4' weir, 5.0 c.f.s. above existing licenses.

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) Breifly 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 breif description of diversion structure and/or canal or ditch) 12" well casing, 12" valve, Artesian well. Water conveyed in private ditch to Silver Creek, then down Silver Creek to place of use. 10% loss to Silver Creek.

   b) Describe the type and size of measuring device which you have installed at your point of diversion: 4.0' rect. weir

   c) Give well drillers name and address and date the well was completed George Russler Shoshone, Idaho. Well was completed in 1961

37 7014

mf/gms

CLAM TYPED
10-29-69
gms

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

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

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
2S	20E	12	X																40
1S	21E	31			X	X							X	X	X	X	X	X	320
		32										W½							20
2S	21E	6	X	X	X		X	X	X	X	X	X	X	X					440
		7						X											40

Total number of acres irrigated 520 OK

10. Remarks: Water measured into Silver Creek by deputy watermaster and measured out. 10% of water given to creek for loss. 5.0 c.f.s. has been measured this year.

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

10-1-69
(Date)

Baldwin Bros. By Wayne O. Baldwin
(Signature) General Partner

State of Idaho)
ss.
County of Ada)

On this 1st day of October, 1969, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

C. J. Stephens
Notary Public residing at
Boise, Idaho

My commission expires May 1, 1972

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO. 21334

CERTIFIED NO.

INSURED NO.

DATE DELIVERED OCT 1 1969

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Geo L McCoy

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Hazel Barber

3 SHOW WHERE DELIVERED (*only if requested*)

c65—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

POD Form 3811 Apr. 1967 055—16—71648—16

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

21335

CERTIFIED NO.

INSURED NO.

DATE DELIVERED

OCT 1 19[illegible]

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

John Coleman

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

by Peggy Schraft

SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

POD Form 3811 Apr. 1967

655—16—71145-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

21336

CERTIFIED NO.

INSURED NO.

DATE DELIVERED

OCT 1 19[illegible]

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

X William F. Kingston

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

X Pat Boehm

SHOW WHERE DELIVERED (*only if requested*)

OCT 2014

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

BOISE, IDAHO OCT 1969 BOISE STA.

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

STREET AND NO. OR P.O. BOX Department of Reclamation
Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP Boise, Idaho 83707

POD Form 3811 Apr. 1967 055—16—71648-10

NAME AND ADDRESS OF SENDER Dept. of Reclamation

Indicate type of mail
☐ INSURED ☐ C. O. D.
☒ CERTIFIED

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

	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	DUE SENDER IF C. O. D.	ENDORSEMENT [1]	R. R. FEE	S. D. FEE	S. H. FEE [2]	RESTRICTED DELIVERY REMARKS
1	21334	George L. McCoy, clerk of the Dist. court, 5th Judicial Dist, Hailey, Idaho		30			15			37-7014
2										
3										
4										
5	21335	John R. Coleman, Attorney, Pauly, Robertson & Daly, P.O. Box 525, Twin Falls, Idaho	.06	30			15			37-7014
6										
7										
8										
9	21336	William L. Ringert, Attorney, Andersen, Kaufman, Anderson & Ringert, 503 Idaho Bldg. Boise.	.06	30			15			37-7014
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										

BOISE SEP 30 1969 IDAHO

37-7014

TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	POSTMASTER, PER (Name of receiving employee)
3		

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching, if "Butter," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid—This Side Up."
[2] Special-handling charges apply only to fourth-class parcels. Special-delivery service also in special-handling service.

POD Form 3877-A—July 1958

U. S. GOVERNMENT PRINTING OFFICE C48—16—72948-2

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

September 29, 1969

Re: Permit No. 37-7014

George F. McCoy
Clerk of the District Court
5th Judicial District
Hailey, Idaho 83333

Dear Mr. McCoy:

Enclosed you will find a transcript of the proceedings of a hearing to consider a protest against Application for Permit 37-7014 prepared by this office. As you are aware, out approval of that permit has now been appealed to the District Court.

The only caption that I have is as follows: In the Matter of the Application of WAYNE O. BALDWIN and DONNIE D. BALDWIN, co-partners, doing business as BALDWIN BROTHERS under Application No. 37-7014.

I would appreciate your filing this copy of the transcript with the court. If you have any questions, please contact me.

Very truly yours,

C. Stephen Allred, Acting Deputy
State Reclamation Engineer

CSA:kh
Enclosure
cc. John R. Coleman, Attorney
Parry, Robertson & Daly
P. O. Box 525
Twin Falls, Idaho 83301

Mr. William F. Ringert, Attorney
Anderson, Kaufman, Anderson & Ringert
503 Idaho Bldg.
Boise, Idaho

37 7014

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

In the Matter of the Application of WAYNE O. BALDWIN and DONNIE D. BALDWIN, co-partners, doing business as BALDWIN BROTHERS under Application No. 37-7014.	TRANSMITTAL OF RECORD ON APPEAL

COMES NOW, R. KEITH HIGGINSON, State Reclamation Engineer, and pursuant to the provisions of Idaho Code, Section 42-204 (Supp.1967), hereby transmits to this Court the record of the Hearing held under the provisions of the above section on the protests of Application No. 37-7014, consisting of a transcript of the testimony offered at the Hearing and Protestants' Exhibits Nos. 1, 2, 3, 4, 5, 6, 7 and 9. Protestants' Exhibit No. 8 cannot be located after a thorough search of the files of his office and is believed to have been lost and therefore unavailable for transmittal herewith.

DATED This 26TH day of September, 1969.

R. KEITH HIGGINSON
State Reclamation Engineer
State of Idaho

37 7014

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 21186

INSURED NO.

DATE DELIVERED

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

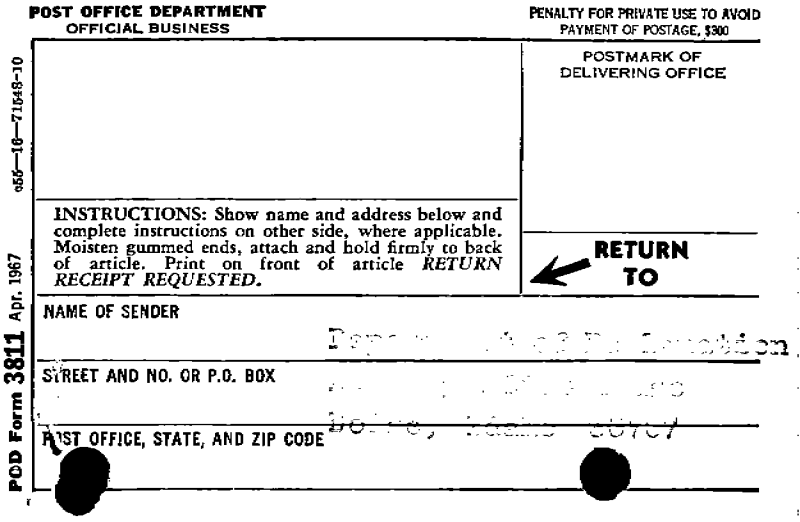
Wayne C. Bellm & Donna D. Bellm

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

3 SHOW WHERE DELIVERED (*only if requested*)

37-7014

e55—16—71548-10 GPO



POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

STREET AND NO. OR P.O. BOX

POST OFFICE, STATE, AND ZIP CODE

POD Form 3811 Apr. 1967

055—16—71649-10

CERTIFIED MAIL

August 1, 1969

Re: Permit No. 37-7014

Wayne O. Baldwin and Donnie D. Baldwin
Picabo,
Idaho

Gentlemen:

One of the conditions of the approval of your permit no. 37-7014 was that proof of application of the water to beneficial use be submitted to this office on or before October 1, 1969.

Enclosed is an affidavit form which must be used to submit this proof. You may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code Amended.

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

R. Keith Higginson

State Reclamation Engineer

Enc: Proof form
DR

37 7014

RECEIVED
JAN 27 1969
Department of Reclamation

Bill Collins has copy

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

Baldwin Permit

* * *

IN THE MATTER OF THE APPLICATION OF WAYNE O. BALDWIN and DONNIE D. BALDWIN, co-partners, doing business as Baldwin Brothers under application No. 37-7014.

MOTION TO DISMISS

* * *

COME NOW, Wayne O. Baldwin and Donnie D. Baldwin, co-partners, doing business as Baldwin Brothers, holders of Permit No. 43535 issued by the State Reclamation Engineer pursuant to application No. 37-7014, for the appropriation of the public waters of the State of Idaho, and respectfully move the court for an order dismissing the petition for appeal filed by Eugene Frederickson, K. F. Hellyer, E. Hadley Stuart, Jr., Wood River Ranch, Wayne Clark, H. L. Wurst, Walter E. Nelson, H. B. Bicket, Edward Blincoe, Verl Loveland, Base Line Cattle Company and Mary M. McGonigal, upon the following ground and for the following reasons:

1. The court lacks jurisdiction over the subject matter of the appeal with respect to the reasons numbered 3, 4, 5, 6, 7, 8, 9, and 10 in the Petition for Appeal because the State Reclamation Engineer, from whose

37 7014

decision the appeal was taken, had no jurisdiction to consider the matters stated in those reasons, in the proceedings pending before him pursuant to said application No. 37-7014 and the protests filed with respect thereof;

2. The court lacks jurisdiction over the subject matter of the appeal with respect to the reasons numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 in the Petition for Appeal because the protests filed by the various protestants who are petitioners herein did not raise the issues asserted in the reasons numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 in the Petition for Appeal;

3. The jurisdiction of the District Court on appeal is limited to those matters over which the State Reclamation Engineer had jurisdiction in the application proceedings in his office; the jurisdiction of the State Reclamation Engineer in such proceedings is limited to a determination of matters of fact in accordance with Idaho Code 42-203, and does not extend to the matters of law with respect to which the protestants seek determination on this appeal;

37 7014

4. The matters which the protestant attempt to raise by their appeal are matters which should be determined after an appropriation of water has been made under the permit issued by the State Reclamation Engineer, in proceedings for the adjudication of water rights under Chapter 14 of Title 42 of the Idaho Code.

WHEREFORE, said permit holders pray for an order of this court dismissing the protestants' appeal and affirming the ruling of the State Reclamation Engineer in his decision of September 9, 1968.

DATED January 24, 1969.

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By William F. Ringert
A Member of the Firm
503 Idaho Bldg., Boise, Idaho
Attorneys for Permit Holders

I certify that service of the within and foregoing was made by mailing copies thereof to R. Keith Higginson, State Reclamation Engineer, State House, Boise, Idaho 83701, and to John R. Coleman, of Parry, Robertson, Daly & Larson, Twin Falls, Idaho, Attorneys for Protestants, this 24th day of January, 1969.

William F. Ringert

3-am

37 7014

PETITION

To Keith Higginson, State Reclamation Engineer:

We the undersigned being water users from the waters of Silver Creek in Blaine County, and being residents of Silver Creek Valley, hereby request that the proper action may be taken to allow us to divert the waters produced by our wells along Silver Creek into the waters of Silver Creek, thus commingling the same; and that a like amount of water(less appropriate channel loss where applicable) may be diverted from the waters of Silver Creek at other points along Silver Creek in Silver Creek Valley, whether the last mentioned diversion points be up stream or down stream from the wells involved. That the waters so diverted from Silver Creek may be used for beneficial purposes on lands in Silver Creek Valley. We consent that the water from the well of Wayne Baldwin near Silver Creek may be used in the same manner.

NAMES	ADDRESS
L. N. Purdy	Picabo, Idaho
[illegible]	
J. W. Molyneux	Bellevue, Idaho
Lucky Turret	Hailey, Idaho
Leroy & Jack Rands By Paul Kelley	Ballstone Idaho
Carlyle Castle	Bellevue Idaho
W. F. Davis (Picabo)	Hailey, Idaho
Edward Shaw	Bellevue 37 7014
Kenneth Worthington	Bellevue, Idaho
Chas. H. Jewett	Picabo, Idaho

RECEIVED
NOV 8 1968
Department of Reclamation

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

In the Matter of the Application of Wayne O. Baldwin and Donnie D. Baldwin, co-partners, doing business as Baldwin Brothers under application No. 37-7014.

PETITION FOR APPEAL

COME NOW, Eugene Fredrickson, K. F. Hellyer, E. Hadley Stuart, Jr., Wood River Ranch, Wayne Clark, H. L. Wurst, Walter E. Nelson, H. B. Bicket, Edward Blincoe, Verl Loveland, Base Line Cattle Company and Mary M. McGonigal and appeal that decision entered by the State Reclamation Engineer of the State of Idaho in the above matter dated September 9, 1968, and the order of approval dated September 16, 1968. A certified copy of the above-described application is filed herewith.

This appeal is taken for the following reasons:

The State Reclamation Engineer erred:

1. In not finding that the proposed use would reduce the quantity of water available under existing water rights.

2. In not finding that the water supply is insufficient for the purpose for which it is sought to be appropriated.

3. In not finding that application No. 37-7014 by said applicants was in reality an application for change of place of beneficial use.

4. In not finding that applicants have an alternative source of water which will not injure or impair the prior rights of protestants.

5. In approving the application of the applicants by its order of approval dated September 16, 1968.

6. In failing to require applicant to show:

(a) that the granting of the application would not adversely affect the rights of others, and

(b) that no more water would be diverted and used than under the original license.

7. In failing to protect contestants' amount, manner and means of diversion, which constitute property rights protected by the Constitution of the United States of America and of the State of Idaho, of which contestants cannot be deprived without due process of law.

37-7014

8. In failing to find that applicants had no right to transfer the water under the terms of their contract of purchase of the original well.

9. In addition to the above, the decision and order are contrary to the laws of the State of Idaho.

10. In addition to the above, the decision and order do not comport with equity and justice.

WHEREFORE, Petitioners pray that this Court hear the matter de novo and that this Court make and enter an order as follows:

(1) Reversing the above described decision and order of the State Reclamation Engineer.

(2) Cancelling the application of the applicants, and

(3) Enjoining applicants from using the water from said well on any lands other than those described in the license issued thereon by the State Reclamation Engineer recorded in Book 13 of Licenses, page 8537, records of the Department of Reclamation of the State of Idaho.

(4) For such other and further relief as the Court deems proper.

DATED This 6th day of November, 1968.

PARRY, ROBERTSON, DALY & LARSON

By S/John R Coleman
Attorneys for the Protestants
Residing at Twin Falls, Idaho

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of November, 1968, I served the foregoing Petition for Appeal by causing to be deposited a copy thereof in the post office at Twin Falls, Idaho, enclosed in envelopes with postage prepaid addressed to the following:

Mr. R. Keith Higginson
State Reclamation Engineer
State House
Boise, Idaho 83701

Anderson, Kaufman, Anderson & Ringert
Attorneys at Law
P. O. Box 2773
Boise, Idaho
Attorneys for Applicants

S/John R Coleman
Of Parry, Robertson, Daly & Larson

37 7014

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

Ltr #3296 mailed 11-8-68

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

November 5, 1968

Re: Permit 37-7014

Parry, Robertson & Daly
Fidelity Bank Building
P.O. Box 525
Twin Falls, Idaho 83301

Attn: John R. Coleman

Dear Mr. Coleman:

Enclosed you will find a certified copy of permit No. 37-7014, in the name of Wayne O. and Donnie D. Baldwin.

There is a charge of $2.25 for this copy. Please remit this to our office as soon as possible.

Very truly yours,

C. Stephen Allred, Assistant
State Reclamation Engineer

CSA:kh

Enclosure

37 7014

September 17, 1968

Re: Permit No. 37-7014

Wayne O. & Dennis D. Baldwin dba Baldwin Bros.
Picabo,
Idaho 83348

Gentlemen:

We enclose a copy of your approved application for permit 37-7014 in which we direct your attention to the limitations and conditions as given on the fourth page under approval of the State Reclamation Engineer.

Very truly yours,

C. Stephen Allred, Assistant
State Reclamation Engineer

CSA:kh

Enclosures: Copy of application
Receipt No. 628 for $40.00
2 letters

37 7014

September 9, 1968

Re: Application No. 37-7014

COPY

Baldwin Brothers
Picabo,
Idaho 83348

Dear Sirs:

Enclosed you will find the memorandum decision issued by the State Reclamation Engineer on your above numbered application for permit.

As soon as your permit has been processed, we will mail you a copy of it.

Very truly yours,

C. STEPHEN ALLRED, Assistant
State Reclamation Engineer

CSA:kh

Enclosure

37 7014

September 9, 1968

Re: Application No. 37-7014

Anderson, Kaufman, Anderson & Ringert
P.O. Box 2773
Boise, Idaho

Attn. William F. Ringert

Dear Mr. Ringert:

Enclosed you will find a copy of the memorandum decision issued by the State Reclamation Engineer on Application for Permit No. 37-7014.

We have mailed your clients, Baldwin Brothers, the original memorandum decision.

Very truly yours,

C. STEPHEN ALLRED, Assistant
State Reclamation Engineer

CSA:kh

Enclosure

COPY

37 7014

September 9, 1968

Re: Application No. 37-7014

COPY

Parry, Robertson and Daly
P.O. Box 525
Twin Falls, Idaho 83301

Attn. Thomas G. Nelson and John R. Coleman

Dear Sirs:

Enclosed you will find a copy of a memorandum decision issued by the State Reclamation Engineer on September 9, 1968.

This memorandum decision is in regard to Application for Permit No. 37-7014, on which your clients have filed a protest.

Would you please inform your clients of the results of their protest?

Very truly yours,

C. STEPHEN ALLRED, Assistant
State Reclamation Engineer

CSA:kh

Enclosure

37 7014

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

EUGENE H. ANDERSON
SAMUEL KAUFMAN
RICHARD ANDERSON
WILLIAM F. RINGERT

AREA CODE 208
TELEPHONE 342-4591
POST OFFICE BOX 2773

July 2, 1968

RECEIVED
JUL 3 1968
Department of Reclamation

Mr. R. Keith Higginson
State Reclamation Engineer
State House--Annex 2
Boise, Idaho

Re: Baldwin Bros.
Application No. 37-7014

Dear Mr. Higginson:

Herewith is Applicants' Rebuttal Brief, for your consideration in connection with the determination of the protests regarding the above numbered application for permit to appropriate public waters of the State of Idaho.

Yours very truly,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By William F. Ringert
William F. Ringert

WFR:nh
Enc.

37 7014

RECEIVED
Department of Reclamation

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

*
*
*

IN THE MATTER OF THE APPLICATION OF WAYNE O. BALDWIN and DONNIE D. BALDWIN, co-partners doing business as BALDWIN BROS., for a permit to appropriate the public waters of the State of Idaho, Application No. 37-7014.

APPLICANTS' REBUTTAL BRIEF

*
*
*

Applicants do not agree with protestants' assertion that the uncontradicted testimony of all protestants is that applicants' well, during the two years it was allowed to flow, 1961 and 1966, caused a reduction of water from protestants' wells from one-half of the normal flow from such wells to all of the flow from some of such wells. Neither do they agree with protestants' interpretation of the testimony of Keith Anderson to the effect that the continued drawing of water from applicants' well will reduce the quantity of water under the existing rights. The protestants who testified were able to testify with respect to a coincidence which occurred twice within a period of eight years, regarding flow from the applicants' well and flow from the McGonigal well. Not one protestant could testify that the applicants' well caused reduction

37 7014

of flow of water from protestants' wells--protestants and their expert witness testified about their observations and Mr. Keith Anderson testified that in his opinion the applicants' well affected other wells in the area, but even he had to concede that controlled field tests would be necessary to conclusively establish the fact of interference and, if that be established, the extent of the interference.

The uncontradicted testimony is that 1961 and 1966 were low water years in the Silver Creek area and we submit that the fact is that the flow in the McGonigal well and in all the other protestants' wells would have ceased or been reduced whether the applicants' well was operated or not during 1961 and 1966.

We submit, again, that interference is not a proper issue in these proceedings. However, if interference is to be considered, the fact of the interference and the extent of the interference must be demonstrated conclusively by the party relying on such interference as grounds for denying another appropriator the use of water. Bower v. Moorman, 27 Idaho 162, 147 Pac. 496; Cartier v. Buck, 9 Idaho 571, 75 Pac. 612.

The protestants are not qualified to give an opinion as to what caused reduction in flow in their respective wells. Their testimony was that at certain times the flow was diminished. They could not, and did not, state the cause of such reduction.

The protestants have attempted to infer that the method of diverting water is an element of a water right, by analyzing the matters required by statute to be contained in applications to appropriate water and by analyzing the application forms furnished by the Department of Reclamation. The protestants cite no authority whatsoever for this proposition that information required on applications establishes the law to be that means of diversion is part of the water right. We submit that they cannot establish that proposition because the law is to the contrary, as is readily indicated by the numerous decisions of the Idaho Supreme Court holding that ditch rights and water rights are entirely separate. See, e.g., In re Johnson, Appeal from Department of Reclamation, 50 Idaho 573, 579-580, 300 Pac. 492; Morgan v. Udy, 79 Pac. 2d 295, 298; Simonson v. Moon, 72 Idaho 39, 47, 237 Pac. 2d 93, 98.

We submit that the only reason for requiring information with respect to the means of diversion is to enable the State Reclamation Engineer to determine that the proposed works are capable of diverting the water which the applicant desires to appropriate.

There is nothing in any of the statutory requirements nor in the application form requiring a statement that artesian pressure is to be relied upon for diversion of the water.

Protestants place a great deal of emphasis upon the fact that

Sections 202, 217 and 219 of Title 42 of the Idaho Code were amended by the Legislature in its 1967 regular session. However, the portions of those code sections upon which the protestants rely were not changed in any way by the 1967 amendments. The applicable provisions of IC 42-202 have been in their present form since 1935 or before; the applicable provisions of IC 42-217 have been in their present form since 1915 or before; and the applicable provisions of Section 42-219 have been in effect in their present form since 1925 or before. The statutory requirements with respect to contents of applications for permits to appropriate water was not changed by the 1967 amendments and the purpose clause was not changed by the 1967 amendments.

One recent amendment to the underground water code which the protestants have disregarded is the 1953 amendment to Idaho Code 42-226, which provides as follows:

> "* * * And, while the doctrine of 'first in time is first in right' is recognized, a reasonable exercise of this right shall not block full economic development of underground water resources, but early appropriators of underground water shall be protected in the maintenance of reasonable ground water pumping levels as may be established by the State Reclamation Engineer as herein provided. * * *"

Protestants' assertion that issuance of a water license necessarily includes protection of artesian pressure disregards

the explicit provisions of Idaho Code 42-220, which provides, in part, that

> "* * * Such license shall be binding upon the State as to the right of such licensee to use the amount of water mentioned therein, and shall be prima facie evidence as to such right; * * *" (emphasis added)

The protestants' theory regarding the effect of the water license, extended to its logical conclusion, would require the State Reclamation Engineer to determine all controversies regarding ditch rights, rights of way, and all other matters involved in getting the water from the place where it is diverted from the source, to the land to which it is to be applied for beneficial use. This is far beyond the authority and power of the State Reclamation Engineer and would contravene the constitutional requirement that the judicial authority is vested in the courts. Idaho Constitution, Article V, Section 2.

Protestants apparently assert that the artesian pressure which causes water to flow from their respective wells is an essential and inseparable part of their respective water rights. That assertion is contrary to the settled law in Idaho. The law on this point is succinctly stated in the opinion in Morgan v. Udy, supra, wherein the court, after reaffirming the principal that in this State a ditch right and a water right may be independent, separate, and apart, stated (at p. 299 of the Pacific Report) that

37 7014

"* * * In other words, in this State one may have a valid appropriation though only a temporary and revocable way of conveyance for his water; diversion and application to a beneficial use being the two essentials."

On page five of their brief, protestants attempt, by circuitous argument, to establish that the amount of water available in their wells is less than that required to satisfy their respective water rights. In this regard, the protestants ignore the reality of their own testimony. Not one of the protestants was able to testify that water was not available at all times in his well. In fact, nearly all the protestants testified that they could either see the water near ground level in their wells or that some amount of water was flowing from their wells.

The protestants argue, also, that they have the right to receive water to fill their right by artesian pressure as set forth in their permits and licenses. From this foundation we should assume that those of the protestants who did not utilize the permit system for their appropriations do not claim any right to maintenance of artesian pressure. Furthermore, there is nothing in the record to indicate that the permits and licenses of the protestants, if they have any, make any mention whatsoever of artesian pressure.

The conditions an appropriator is entitled to have maintained do not include artesian pressure. The conditions are limited to

37 7014

use of water measured by time and amount, and the rule as stated in Beecher v. Cassia Creek Irrigation Co., 66 Idaho 1, 154 Pac. 2d 507, 509, as follows:

> "The rule would seem to be established that a change in point of use will not be permitted without limitations if the enlarged use in time or amount increases the burden on the stream, or decreases the volume of water in the stream to the injury of appropriators on the stream."

Protestants' argument that the effect of the application is a change in the place of use of water under an existing well ignores the distinction between ownership of a well and ownership of a water right, and ignores the characteristic of a water right as an appurtenance to the land upon which the water diverted under the right is applied to beneficial use. I doubt that the protestants would concede that the applicants have the right to use 7.44 cfs. from the well on the land where the well is located and, at the same time, use an additional 5 cfs. on the land described in Application No. 37-7014, but that is the effect of the protestants' argument on page five of their brief. The applicants are entitled to maintain their water right on the land where the well is located and to initiate another water right for the land identified in the application.

It should be noted that Beecher v. Cassia Creek Irrigation Co. involved not only a change in place of use, but a change in

point of diversion, and the change in point of diversion, coupled with a plan for rotating water above the complaining parties' points of diversion, caused the injury to their water rights, because the rotation would lessen the volume of water in the stream at certain times and during periods of peak use under the upstream diversions the complaining appropriators would not receive at their points of diversion the amount of water to which they were entitled. All the court held was that they were entitled to have a continuous flow of a certain volume of water at their points of diversion.

The evidence in this matter readily establishes that water is available to satisfy the application. If, at some later date, by reason of lack of precipitation or otherwise, the water supply becomes insufficient to fill all existing water rights, the protestants will be entitled to protection in accordance with their respective priorities. But the mere fact of priority does not entitle the protestants to block the applicants' appropriation. In the case of Moe v. Harger, 10 Idaho 302, 77 Pac. 645, the decree in the adjudication suit covered 40,000 miner's inches of water, but the flow of the stream at the low water period was only 9,000 miner's inches. Under the protestants' theory, no water could have been appropriated in the river after the appropriation of the first 9,000 miner's inches. The law is decidedly to the contrary.

The protestants grossly misstate the position of the applicants in their analysis of the matter at the top of page seven of their brief. It is applicants' position that there is water available for appropriation and that, if controversy arises over priorities or over means of diversion, those matters are to be settled by the courts, not by the State Reclamation Engineer.

In order for a prior downstream appropriator to prevent a junior upstream appropriator from making an appropriation, the prior appropriator would have to establish that the entire flow of the stream would be required at all times in order to satisfy his prior water right, and that his use of such entire flow would at all times be required and used for proper and beneficial purposes. The protestants have not even established the extent of the rights they claim, that is, the time and volume of flow to which they are entitled. Therefore, they cannot show how, and to what extent and at what times, the appropriation to be made under this application might affect their water rights.

The right of a subsequent appropriator to the surplus water is plainly stated in the opinion of the Idaho Supreme Court in Bennett v. Nourse, 22 Idaho 249, 125 Pac. 1038, 1039, as follows:

> "* * * The subsequent appropriator is entitled to the surplus, and any attempt of the prior appropriator to make a sale of such surplus to someone else, to the injury of existing appropriators, though subsequent, is of no avail."

If the applicants' appropriation imposes a financial burden upon prior appropriators, that is a matter to be determined in the courts, where appropriate and complete relief can be granted. The mere possibility that a more expensive means of diversion might under some circumstances be required is not, and has never been held to be, ground for denying an application for a permit to appropriate water, or for denying the right to make an appropriation of water.

Protestants' argument that they are entitled to maintenance of artesian pressure and that artesian pressure constitutes an integral part of their respective water rights, runs contrary to the decisions of the courts regarding the right to appropriate the current of a stream or the right to have the water level in a stream maintained at a certain elevation.

Regarding the appropriation of the current and elevation of a stream, the United States Supreme Court, in the Idaho case of Schodde v. Twin Falls Land and Water Co., 224 U.S. 107, 56 L. Ed. 686, in denying the right to appropriate the current of a stream made the following statement as illustration:

> "Suppose from a stream of 1,000 inches a party diverts and uses 100, and in some way uses the other 900 to divert his 100; could it be said that he had made such a reasonable use of the 900 as to constitute an appropriation of it? Or, suppose that when the entire 1,000 inches are running, they so fill the channel that by a ditch he can draw off to his land his 100 inches; can he then object to those above

him appropriating and using the other 900 inches, because it will so lower the stream that his ditch becomes useless? This would be such an unreasonable use of the 900 inches as will not be tolerated under the law of appropriation. * * *"

From the holding in the Schodde case it is obvious that neither the current nor the elevation constitute part of the appropriative right. With respect to the appropriation of the elevation see, also, Bennett v. Nourse, supra, in which the contention that certain appropriators were entitled to have more water flow down the stream in order to keep the level of water up to such a point as would permit it to flow down a certain fork of the creek without constructing a dam in the other fork, was denied.

Artesian pressure is nothing more than the result of maintaining a certain level of water in a more or less confined aquifer. Tapping such an aquifer with a well achieves the same result as that achieved by making a cut below the water line in the bank of a stream. In either situation, the elevation of the water level creates the head pressure that causes water to flow from the well or through the cut in the bank of the stream. Protestants are no more entitled to have the underground water level maintained at a given elevation to create the head pressure than they would be entitled to have the level of water in a surface stream maintained at a given water line.

The basic principle established by the Beecher case and other similar cases is that an appropriator, whether he be junior or senior, is entitled to the same quantity of water from the same source, to be made available at his point of diversion during the same period of time as existed when he made the appropriation. Adequate water is continually available in the protestants' wells at all times, and they are entitled to nothing more.

On page seven of their brief the protestants assert that the appropriation under Application No. 37-7014 would reduce the quantity of water available under the protestants' water rights by their existing means of diversion from fifty per cent to one hundred per cent. The evidence is entirely insufficient to prove or establish that assertion.

At the same place, the protestants assert that the Legislature did not intend that the State Reclamation Engineer would be precluded from protecting existing means of diversion in considering and granting applications to appropriate water. If the Legislature had intended that the State Reclamation Engineer should give consideration to the protection of existing means of diversion employed by prior appropriators from the same source of water, it would have made an appropriate provision in IC 42-202. But the Legislature did not intend that the State Reclamation Engineer should be required to determine the existence and ownership of means of diversion

in passing upon applications to appropriate water. As noted in the applicants' previous brief, the State Reclamation Engineer's authority is limited to that granted to him by statute, and his authority does not extend to consideration of protection of existing means of diversion in connection with the processing of applications to appropriate water.

The protestants assert that an adequate source of water is available to the applicants at a different location, and that the applicants, by pursuing their right to divert water at the point of diversion described in their application, seek to impose a great and unjust cost of development and operation upon their neighbors. But the fact of the matter is that the protestants have failed entirely to prove that the appropriation covered by the application would result in any additional expense to any of their neighbors, because the protestants have failed to prove that diversion of water from the applicants' well is the cause of reduction in flow which the protestants have experienced during some years.

Protestants' reliance upon Mr. Haight's suggested policy with respect to water development in the ground water basin covered by his 1963 report is misplaced. Mr. Haight had in mind the transmission of water to Gooding and other points far to the south of the Bellevue-Gannett-Picabo area. Also, the lands described in Application No. 37-7014 are irrigated, in part, by water rights

37 7014

in Silver Creek and the flow of Silver Creek is generated from the same ground water basin that supplies the applicants' well, so it can hardly be asserted with any validity that applicants' are attempting to transfer water outside the basin.

With all due respect to Mr. Haight's abilities as an engineer, his recommendations are matters of opinion, only, and we submit that his conclusions that controls should be used to maintain pressure for the delivery of the water to those who have artesian wells finds no support in the law. There is no issue in these proceedings with respect to the effect, if any, of the proposed diversion upon surface water rights in Silver Creek. Furthermore, the protestants' assertion in that respect, as set forth on page eight of their brief, is not supported by the evidence.

We respectfully submit that the quantity of water available from the ground water basin is more than adequate to supply the appropriation covered by Application No. 37-7014 and all other water rights in the same source, and urge, therefore, that the application be granted.

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By William F. Ringert
A Member of the Firm
503 Idaho Building, Boise, Idaho
Attorneys for Applicants

37 7014

14-nh

I hereby certify that service of the within and foregoing Applicants' Rebuttal Brief was made this 2nd day of July, 1968, by mailing a copy thereof to Parry, Robertson & Daly, Attorneys for Protestants, at Twin Falls, Idaho.

William T. Rigert

37 7014

15-nh

PARRY, ROBERTSON & DALY
LAWYERS
FIDELITY BANK BUILDING
P. O. BOX 525
TWIN FALLS, IDAHO 83301

TELEPHONE
(208) 733-3722

R. F. PARRY
T. M. ROBERTSON
JOHN H. DALY
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
CRAIG H. NEILSEN

June 25, 1968

RECEIVED
JUN 26 1968
Department of Reclamation

Hon. Keith Higginson
State Reclamation Engineer
107 State House
Boise, Idaho 83701

Re: Application No. 37-7014, Baldwin Brothers

Dear Keith:

With regard to the above matter I am enclosing herewith our reply brief to the brief of the applicants heretofore filed in your office.

I have sent a copy of this brief to Mr. Ringert so that he will be able to reply if he so desires.

Sincerely yours,

JOHN R. COLEMAN

JRC:sn

Enc.

37 7014

RECEIVED
JUN 28 1968
Department of Reclamation

STATE OF IDAHO, DEPARTMENT OF RECLAMATION

* * * * * * *

In the matter of the Application of Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, for a permit to appropriate public waters of the State of Idaho, application No. 37-7014.

PROTESTANTS' REPLY BRIEF

* * * * * * *

STATEMENT OF FACTS:

The protestants, Wayne Clark, Harvey Bickett, Gene Frederickson, H. L. Wurst, Wood River Cattle Company, Walter E. Nelson, Ed Blincoe, K. F. Hellyer, E. Hadley Stuart, Jr., Verl Loveland, Base Line Cattle Company, and Mary McGonigal are all waterusers in the general area of the location of the well from which Wayne O. Baldwin and Donnie D. Baldwin are seeking a right for an additional appropriation over and above that set forth in license No. G-29372. All of the protestants have wells, which by artesian pressure, flow water for irrigation and domestic uses. The wells of the protestants are either licensed by the Department of Reclamation of the State of Idaho or they have use rights established by reason of the diversion and beneficial use of the water from such wells. Substantially all of these wells have priority dates ahead of the priority date under license No. G-29372 held by the applicants.

All of the protestants have wells of such a casing size that it is not possible to pump the same to produce sufficient water for the irrigation purposes for which such wells were initially drilled. This fact was established at the hearing of this matter both by the testimony of the protestants and by the uncontradicted expert testimony of Keith Anderson, Geological Engineer.

The uncontradicted testimony of all protestants is that applicant's well, during the two years it was allowed to flow, 1961 and 1966, caused a reduction of water from protestants' wells from one-half of the normal flow from such wells to all of the flow from some of such wells. The uncontradicted testimony of Keith E. Anderson is that all of the wells of protestants and the well of applicants take water from the same source and the continued drawing

37 7014

of water from applicant's well will reduce the quantity of water under the existing rights. This fact is further supported by the report of Horton G. Haight wherein he states that surface and ground waters in this area are closely interdependent.

A review of the records, of the office of the Department of Reclamation, of the permits and licenses of wells of both the applicants and protestants in the area involved, definitely shows that in each instance the method of diverting water from each well, is an element of the water right involved.

The following are permits and/or licenses to appropriate waters of the State of Idaho which have been issued to people living in the general area involved in this matter, wherein there is artesian pressure which causes wells to flow water. All of these permits or licenses show on their face that the method of diversion is by a flowing well. The names of the applicants, the present owner where ownership has changed, and the permit numbers are as follows:

Name of Applicant	Present Owner	Permit No.
1. Lawrence Bettis	E. Hadley Stuart	20689
2. Frank Gomes	E. Hadley Stuart	20663
3. Lawrence Bettis	E. Hadley Stuart	20709
4. George R. Wurst	George R. Wurst	21100
5. Frank Gomes	E. Hadley Stuart	24224
6. Nellie A. Cheney	K. F. Hellyer	G-26994
7. J. E. Frederickson	J. E. Frederickson	G-27850
8. Henry L. Wurst	Henry L. Wurst	G-27968
9. E. E. Williams	Not known	G-31487
10. James Cheney	K. F. Hellyer	G-31541
11. J. E. Frederickson	J. E. Frederickson	G-31734
12. H. L. Wurst	H. L. Wurst	G-25055
13. H. B. Bickett	H. B. Bickett	G-27101
14. H. B. Bickett	H. B. Bickett	G-27512
15. H. B. Bickett	Baldwin Brothers (applicants herein)	G-25769
16. Winton Gray	Fred Prins	G-27591

37 7014

17. Winton Gray	Fred Prins	G-27592
18. H. B. Bickett	H. B. Bickett	G-27973
19. Dean Rodgers	Dean Rodgers	G-29058
20. Dean Rodgers	Dean Rodgers	G-29052
21. Harold J. Lucke	Baldwin Brothers (applicants herein)	29372
22. Dean Rodgers	Dean Rodgers	G-29752
23. Dean Rodgers	Dean Rodgers	G-29753
24. Dean Rodgers	Dean Rodgers	G-31862

It is protestants position that a further statement of the facts in this brief is necessary. The State Reclamation Engineer is familiar with the relative locations of the wells of the protestants, the well of the applicants, the existence or nonexistence of licenses on the wells.

ISSUES:

I.

Does the use proposed by application No. 37-7014 reduce the quantity of water under existing water rights?

II.

Is the ground water supply itself insufficient for the purpose which it is sought to be appropriated?

III.

Is the means of diversion under an existing right to be considered by the State Reclamation Engineer as a reduction of the quantity of water available under existing water rights?

ARGUMENT:

Applicants take the position that Idaho Code § 42-203 limits matters to be considered by the State Reclamation Engineer and that the State Engineer can not consider priority of other rights in the granting or denial of an application. Applicant further contends that a means of diversion is not an integral part of a water right.

In 1967, the legislature amended Idaho Code § 42-203 which pertains to the application for the appropriation of water. This amendment came about

37 7014

through an act set forth in chapter 374 of the 1967 Session Laws. In this act other sections of Title 42 were amended and the first section so amended was Idaho Code § 42-202 which sets forth the purpose of the legislature initially, in adopting the permit method of appropriation. This language was carried forth into the 1967 act as a continuing purpose of the legislature concerning the appropriation of water. The pertinent language is as follows:

> "42-202. APPLICATION TO APPROPRIATE WATER -- CONTENTS -- FILING FEES -- DISPOSITION OF FEES -- RECORD OF RECEIPT. -- For the purpose of regulating the use of the public waters and of the establishing by direct means the priority right to such use, any person, association or corporation . . ." (Emphasis ours)

The application must contain, as provided by the statute as amended in 1967, among other things, the location of the point of diversion and description of the proposed ditch, channel, well or other work and the amount of water to be diverted and used. It is crystal clear that the initial intention of the legislature was to protect the basic water rights doctrine of first in time is first in right. By this statute, the method and manner of diversion is also a recognized right and an integral part of the right, in that the method of diversion is contained in the permit.

The statutes further provide in Idaho Code § 42-217 which also was amended by the legislature in 1967, that upon proof of application of water to a beneficial use, a description of the canal, ditch or other works by which water is conducted to the place of use must be made, and upon receipt of the proof of application of water to a beneficial use the Department of Reclamation shall examine or cause to be examined among other things the place where the water is to be used and the capacities of the ditches, canals or other means by which the water is conducted to the place of use. Idaho Code § 42-219 which deals with the issuance of a license was also amended by the 1967 session of the legislature and contains the requirements of the contents of the license when issued by the Department of Reclamation. Among these items which must be contained in the license is a statement of the capacity of such works. If a well of a particular size which flows water by reason of artesian pressure is licensed for the amount of water produced by such pressure, certainly the means of

diversion is recognized in the license and the well would not be capable of such production if operated by a pump particularly when the size of the casing or the pipe is of a small diameter such as the casings in the great majority of the wells owned by the protestants.

'Applicants in their brief take the position that protestants have not asserted that the proposed use of water by the applicant will reduce the quantity of water under existing water rights or any of the other statutory grounds as set forth in Idaho Code § 42-203. Protestants in their protest set forth as grounds for the protest that the granting of the application to the applicants would seriously injure and impair the rights of the protestants and the rights of other waterusers in the area, all of which rights are of long standing and are appurtenant to arid lands owned by the protestants and other landowners in the area. Certainly it goes without question that a reduction in the amount of water available under an existing right is an impairment of such right and that a reduction of the amount of water available under a right is certainly a reduction of the quantity of water available under existing rights. To argue otherwise as applicants attempt to do in their brief is to ignore reality. Certainly the most common impairment of a water right is a reduction in the quantity of water available under such rights as was in existence at the time of the initiation of such rights. In this situation the rights of protestants include the right to receive water to fill their right by artesian pressure as set forth in their permits, licenses and as they are entitled under rights established by diversion and use.

While applicants take the position here that they are seeking a new right to appropriate water from an existing well, the effect of the entire application is a change in the place of use of water under an existing well. The effect of their application is the same as the change of the place of use. The Idaho Supreme Court in the case of Beacher vs Cassia Creek Irrigation Company, 66 Idaho 1, was dealing with a situation involving the change of the place of use of water. The application for a change was made by the junior appropriator. At page 9 of the Idaho Report the Supreme Court said:

> "Each junior appropriator is entitled to diver water only at such times as all prior appropriators are being supplied under their appropriations under conditions as they existed at the time the appropriation was made."

37 7014

Thus, the Idaho Supreme Court has recognized that the method of appropriation is a property right and is an integral part of the right to divert water. If a proposed appropriation of water or an existing junior appropriation of water would change conditions in such a manner that prior appropriators would not be supplied their water under their appropriations as conditions existed at the time their appropriation was made, then such proposed appropriation or such junior appropriation should not be allowed. Such is the situation here. At the time of the appropriation by the protestants their means of diversion was through artesian pressure. The use of the well owned by the applicants changes conditions to such a manner that prior appropriators cannot be supplied with water under their appropriations under conditions as they existed at the time their appropriations were made. Certainly this is a reduction in the quantity of water available for appropriation and comes squarely within the language in Idaho Code § 42-203. The evidence produced at the hearing of this matter before the State Reclamation Engineer by the protestants and by Keith Anderson, all of which evidence is uncontradicted, shows that if the well of the applicants is allowed to flow as they propose, the prior appropriators will not be supplied water under their appropriation under the same conditions as they existed at the time their appropriations were made.

In the case of Noh vs Stoner, 53 Idaho 651, the question of artesian pressure was squarely at issue before the Idaho Supreme Court. In this case the junior appropriator claimed that there was still sufficient water available for the senior appropriator to fill his right and all that the senior appropriator would have to do is go to the expense of increasing the size of his pump, pumping from a lower level and pay the increased cost in so doing. The court held that the junior appropriator could not require the senior appropriator to go to the additional expense required to obtain the water to fill his right. The court said at page 657 of the Idaho Report,

> "If subsequent appropriators desire to engage in such a contest the financial burden must rest on them and with no injury to prior appropriators or loss of their water. Otherwise if the users go below appellants and respondents were to go below them, appellants would in turn, according to their theory, be deprived of their water with no redress."

37 7014

The position taken by Baldwin Brothers, the applicants in this case, may be simply stated as follows: We will take your water and you may take whatever steps at your own expense are necessary to revamp your wells, put on pumps and hope that there is sufficient water in the subterranean reservoir to be pumped for the irrigation of your lands.

The entire basis of water rights in the State of Idaho is based upon first in time is first in right. This doctrine has been recognized by the courts in practically every case involving water rights. The statutes enacted by the legislature of this state also recognize this right and the particular act relied upon by the applicants in their interpretation of Idaho Code § 42-202 specifically recognizes this long standing doctrine of first in time is first in right. Certainly the legislature did not intend that the State Reclamation Engineer would be restricted from denying a permit in situations where all of the other existing water rights in a given area would be so impaired by the proposed diversion, as to reduce the quantity of water available under such rights by their existing means of diversion from 50% to 100%.

The testimony of Keith Anderson, who is extremely well qualified both from actual experience in the area of Blaine County involved in this matter and by formal education, clearly shows that an adequate source of water is available to the applicants near the proposed place of use and all the applicants would have to do is drill a well and pump the same. However, the applicants here are seeking to place all of their cost for the development of a water right for their land upon the protestants who have established water rights with considerably earlier priority dates. They desire that the expense for drilling wells capable of being pumped, the installation of pumps and power for pumping the same be borne by their neighbors and not by themselves.

In the report of Horton G. Haight, dated May, 1963, which was made as a result of a request of the State Reclamation Engineer, Mr. Haight says on page 6,

> "It is, however, known that a large volume of water enters and leaves the basin below ground surface unobserved and unmeasured. This factor alone would suggest that all the water from the artesian and non-artesian wells be used only on those lands to which it is appurtenant and under no conditions should it be sold, transferred or transmitted for use outside the basin."

37 7014

On page 11 of his report he further recommends controls on use of large diameter artesian wells during irrigation season to maintain pressure for the delivery of water to those who have artesian wells. Mr. Haight in his recommendation on page 13 of the report concludes,

> "Ground water obtained by pumping or artesian flow in the Middle Big Wood River--Silver Creek ground-water basin area shall not be transported outside the area for irrigation or storage purposes."

To allow such transport of water as requested by the applicants herein will not only seriously deplete the quantity of water available to protestants but will reduce the return flow to Silver Creek and thus reduce the quantity of water available to those who have surface water rights from Silver Creek.

We, therefore, repsectfully submit to the State Reclamation Engineer that the protestants have conclusively established that the application of the applicants should be denied, that there is not a sufficient quantity of water to fill the proposed appropriation by the applicants and to fill the existing rights of the protestants and other waterusers in the area, and, therefore, the application should be denied.

PARRY, ROBERTSON & DALY

By John R Dalmon
Attorneys for Protestants

CERTIFICATE OF MAILING

I hereby certify that on the 25th day of June, 1968, I served the foregoing Protestants' Reply Brief by causing to be deposited a copy thereof in the post office at Twin Falls, Idaho, enclosed in an envelope with postage prepaid addressed to applicants' attorneys, Mr. William F. Ringert, Anderson, Kaufman, Anderson & Ringert, Attorneys at Law, P. O. Box 2773, Boise, Idaho.

John R Dalmon
Of Parry, Robertson & Daly

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

EUGENE H. ANDERSON
SAMUEL KAUFMAN
RICHARD ANDERSON
WILLIAM F. RINGERT

AREA CODE 208
TELEPHONE 342-4591
POST OFFICE BOX 2773

May 24, 1968

RECEIVED
MAY - 1968
Department of Reclamation

Mr. Keith Higginson
State Reclamation Engineer
State House
Boise, Idaho

Re: Baldwin Bros.
Application No. 37-7014

Dear Mr. Higginson:

Herewith is Applicants' Brief Following Hearing, for your consideration in connection with the application of Baldwin Bros. for appropriation of ground water in the Silver Creek area.

Yours very truly,

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By William F. Ringert
William F. Ringert

WFR:nh
Enc.

cc: Mr. Wayne Baldwin

37 7014

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

*
*
*

RECEIVED
MAR
Department of Reclamation

IN THE MATTER OF THE APPLICATION OF WAYNE O. BALDWIN and DONNIE D. BALDWIN, co-partners doing business as BALDWIN BROS., for a permit to appropriate the public waters of the State of Idaho, Application No. 37-7014.

APPLICANTS' BRIEF FOLLOWING HEARING

*
*
*

Wayne O. Baldwin and Donnie D. Baldwin, copartners doing business as Baldwin Bros., are contract purchasers of certain lands situate in Blaine County, Idaho, including the Northwest quarter of the Northeast quarter of Section 20, Township 1 South, Range 1 East of the Boise Meridian. There is located on that 40-acre parcel an artesian well which was drilled under Water Permit No. G-29372, which was issued by the Department of Reclamation to Ralf M. Lucke, one of the persons from whom the applicants are purchasing the above described parcel and other lands. The water right has been perfected under Permit No. G-29372, and License No. G-29372 has been issued by the Department of Reclamation and recorded in Book 13 of Licenses at Page 8537 in the Department.

37 7014

By their application No. 37-7014 the applicants seek to appropriate additional water by means of the artesian well that was drilled under Permit No. G-29372, to be used for irrigation purposes on other lands owned by the applicants. The applicants propose to convey the water in a ditch from the well into Silver Creek and to commingle the water with the waters of Silver Creek for a distance of approximately ten (10) miles, and to take the water out of Silver Creek at a point in the Northwest quarter of the Northwest quarter of Section 36, Township 1 South, Range 20 East, Boise Meridian, through the headgate commonly identified as Lawson 24.

The various protestants have uniformly asserted that the granting of a permit under application No. 37-7014 and the appropriation of the water by the applicants under such a permit would seriously injure and impair the rights of the protestants and the rights of other water users in the immediate area.

Section 42-203 of the Idaho Code provides, in part, that:

> "Any person, firm, association or corporation concerned in any such application may, within the time allowed in the notice of application, file with said state reclamation engineer a written protest against the approval of such application, which protest * * * shall clearly set forth his objections to the approval of such application. * * *"

Section 42-203 further provides that a hearing shall be

conducted before the State Reclamation Engineer with respect to any such protest, and that the State Reclamation Engineer shall find and determine what use or uses the water sought to be appropriated can be and are intended to be applied, and further provides that the State Reclamation Engineer may reject the application in whole or in part

> "* * * where such proposed use is such that it will reduce the quantity of water under existing water rights, or that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or where it appears to the satisfaction of the department that such application is not made in good faith, is made for delay or speculative purposes, that the applicant has not sufficient financial resources with which to complete the work involved therein, or that approval of applications referred to the Idaho water resources board under the provisions of Section 42-1737 would not be in the public interest or would conflict with the establishment or execution of a state water plan or policy, * * *".

The grounds established by the Legislature for partial or complete rejection of an application for a permit to appropriate water, as contained in Section 42-203, may be summarized as follows:

1. The proposed use is such that it would reduce the quantity of water under existing water rights;

2. The water supply is insufficient for the purpose for which it is sought to be appropriated;

3. The application is not made in good faith but is

made for delay or speculative purposes;

4. The applicant's financial resources are not sufficient to complete the work involved in the application;

5. Approval of the application would not be in the public interest or would conflict with the establishment or execution of a state water plan or policy.

The protestants have not based their respective protests on any of the grounds specified in Section 42-203, and we submit that for that reason alone the protests, and each of them, are insufficient and should be dismissed. The protestants have not asserted that the proposed use will reduce the quantity of water under existing water rights, or that the water supply is insufficient or that the application is not made in good faith or that the applicants have insufficient financial resources or that approval of the application would not be in the public interest or would conflict with the establishment or execution of a state water plan or policy. What the protestants have sought to do by their respective protests is to have the State Reclamation Engineer make a determination that the protestants will suffer damage with respect to the means by which they divert water from their respective wells, and to deny the application because of the possibility of the occurrence of that sort of damage to the protestants, or to some of them. We submit that the relief the protestants seek is beyond the power of the

State Reclamation Engineer. Furthermore, the unrefuted testimony of Wayne O. Baldwin reveals that the works are completed, that no additional expenditures are required, that the quantity is sufficient for the proposed use, and that the application was not made for delay or speculative purposes.

The question of the scope of the authority of an administrative agency or an administrative official was squarely before the Idaho Supreme Court in the case of Arrow Transportation Co. vs. Idaho Public Utilities Commission, 85 Idaho 307, 379 Pac. 2d 422. During the course of its opinion in that case the court stated as follows:

> "The power which the Commission has is that given by the legislature. It has no other. It exercises a limited jurisdiction; nothing is presumed in favor of its jurisdiction. Malone vs. Van Etten, 67 Idaho 294, 178 Pac. 2d 382; State ex rel. Northeast Transp. Co. vs. Abel, 10 Wash. 2d 349, 116 P. 2d 522; In re Public Utilities Commissioner of Oregon, 201 Or. 1, 268 P. 2d 605. The general rule is stated in 42 Am. Jur. 440, §109, as:
>
> 'Administrative authorities are tribunals of limited jurisdiction. Their jurisdiction is dependent entirely upon the provisions of the statutes reposing power in them; they cannot confer it upon themselves, although they may determine whether they have it. If the provisions of the statutes are not met and complied with, they have no jurisdiction.' " (Emphasis added)

The rule established by the decision in the Arrow case clearly prevents the State Reclamation Engineer from giving any

consideration to a protest based on a complaint that the proposed appropriation will injure and impair the rights of a protestant, unless it be specifically stated that the injury and impairment contemplated by the protest arises from reduction of the quantity of water under existing water rights of the protestant.

It may be that the protestants are suggesting that the phrase "injure and impair the rights of protestant" means the same thing as "reduce the quantity of water under existing water rights". If that be the case, we should analyze the pertinent provisions of Section 42-203. In that regard, we submit that "quantity" is the key word in the phrase "proposed use is such that it will reduce the quantity of water under existing water rights". This phrase can have logical meaning only if it is interpreted to mean that the proposed use is such that it will reduce the quantity of water in the common source to a quantity of water less than that required to satisfy prior water rights in the same source of water.

It is obvious that the word "under" in the phrase "under existing water rights" must mean "to a quantity less that that required to fill". A reduction in the quantity of water is of no consequence to the owners of prior rights unless the reduction is sufficient to cause the holders of those prior rights to be unable to obtain a sufficient quantity of water to satisfy their prior rights.

The Legislature's intention to establish availability of a sufficient quantity of water to satisfy prior water rights as the standard is further reflected in the provisions of Section 42-226 of the Idaho Code, which provide that earlier appropriators of underground water shall be protected in the maintenance of reasonable ground water pumping levels as may be (established) by the State Reclamation Engineer. The only logical interpretation of Section 42-226 is that it means that so long as water is available in the underground source in sufficient quantities a subsequent appropriator is entitled to draw water from that source for beneficial uses, so long as the withdrawals by the subsequent appropriator do not lower the pumping level below that established by the State Reclamation Engineer. A further indication that the Legislature intended the quantity of water available for satisfying prior rights to be standard to be adhered to by the State Reclamation Engineer is found in Section 42-237 a (g) of the Idaho Code, in which it appears that the State Reclamation Engineer is authorized to establish, in any area having a common ground water supply, a pumping level at which the quantity of water in the common underground source would be sufficient to satisfy the water right in question and all prior rights and at which there would be reasonable expectation that the future natural recharge would balance the total withdrawal from the common ground water supply.

The testimony of the protestants and their witnesses, including that of Mr. Keith A. Anderson, the consulting engineer who testified in behalf of the protestants, clearly reveals that the matters of which the protestants complain are not matters pertaining to the quantity of water available in their respective wells, but to the availability of artesian pressure to maintain a certain discharge from their respective wells. Their testimony reveals that there is water available in the wells of the protestants at all times. Not one witness was able to state that there was no water in his well at any time. It is my recollection that the testimony revealed that there was always some flow or there was water observed standing in the casing in all of those wells except one of the McGonigal wells, and that no observation could be made in the latter well because the top of the casing was fitted with an elbow which made it impossible to look down into the casing.

Therefore, it is apparent from the testimony of the protestants and their witnesses, including the testimony of Mr. Keith Anderson, that there has always been water available in all of the wells about which testimony was given, and as long as there is water available in the protestants' wells the protestants have no valid ground for objection to the issuance of the permit. In fact, the testimony and the documentary evidence demonstrate conclusively that thousands of acre feet of water in excess of that required to fill the use

contemplated by application No. 37-7014 and all prior rights escapes annually from the ground water basin underlying the Silver Creek area. The protestants are not entitled to have that water sacrificed just to protect their inexpensive means of diverting water.

By their protests, the protestants are seeking to have an adjudication of water rights and to obtain what amounts to injunctive relief to protect them against what they assert to be damage to their means of diversion. As hereinbefore noted, the State Reclamation Engineer, in acting upon an application for permit, has no authority to grant the form of relief which the protestants desire.

It was suggested at the hearing that the provisions of Section 42-203 might contemplate that the injury and impairment of rights complained of by the protestants might be covered by the phrase "existing water rights" so as to require that the State Reclamation Engineer deny any application under which the use of water would cause "interference" with a prior appropriator's means of diversion, in this case, by reduction of artesian pressure.

In the first place, the protestants own expert witness admits that there has been no definite establishment of interference with any of the wells of the protestants. Even with respect to the asserted interference between the applicants' well and the McGonigal well located approximately 2½ miles away, which purportedly ceased flowing for a short period of time shortly after the applicants

well was first drilled, Mr. Anderson testified that interference had not been conclusively established and that some controlled field tests would be necessary in order to prove interference. In his 1961 report, which is in the records of the Department of Reclamation, Mr. Anderson stated that " * * * it should be kept in mind that the Lucke well is not the only well affecting the McGonigal or other existing wells--the amount of effect and the time of effect depending not only upon the distance, but also the rate of discharge of the interfering well and the character of the intervening water-bearing formations."

The protestants and their expert witness all recognize that the flow from artesian wells in the Silver Creek-Big Wood River area varies from year to year as a result of increases and decreases in the natural moisture occurring on the watershed which supplies the area. They appear to be relying in a large measure upon the coincidence of the initial opening of the applicants' well with the cessation of flow in the McGonigal well No. 4, and that coincidence is entirely insufficient to establish interference between those two wells or between the applicants' well and any other well in the area, let alone to establish that operation of the applicants' well reduces the quantity of water under that required to satisfy existing water rights.

Secondly, a water right in Idaho is separate from the

appropriator's rights in his means of diversion. The question was squarely before the Idaho Supreme Court in the case of Bower vs. Moorman, 27 Idaho 162, 147 Pac 496, wherein the court very succinctly stated the law to be that

> "* * * The necessity for changing the method or means of diverting the water from the cement tank or basin would not, of itself, deprive a subsequent appropriator of the right to divert and use unappropriated subterranean water. While the subsequent appropriator would be liable in damages, he would have the right to divert surplus subterranean waters. Salt Lake City vs. Gardner, 39 Utah, 30, 114 Pac. 37".

This is not to say that if the protestants should suffer some damage in their means of diversion by reason of applicants' use of their well as contemplated by application No. 37-7014, the affected protestants would be without recourse or remedy. However, their remedy and recourse would be before the courts, and not before the State Reclamation Engineer under the present proceedings.

The application is for five cubic feet per second of water for irrigation purposes from April 1 to October 15. The evidence and the records of the Department of Reclamation readily demonstrate that vast quantities of water in excess of the quantities required to fill the water rights of the protestants are available in the ground water basin underlying the Silver Creek-Big Wood River area during the period of use stated in the application, and the applicants are entitled to

appropriate that surplus water. Even in an adjudication suit, the applicants would be entitled to appropriate any water they could beneficially use which was in excess of that required to satisfy existing water rights. Idaho Constitution, Article 15, Section 3.

During any irrigation season, or part of an irrigation season, in which the overall water supply becomes too low to satisfy all water rights, the prior appropriators are entitled to have their rights filled in the order of their priorities. If fulfillment of priorities cannot be accomplished by voluntary recognition and agreement, the owners of the water rights are entitled to have their priorities adjudicated and then to have a water master control the distribution of water. The protestants are fully protected by other laws and they are not entitled to go beyond the plain meaning of Section 42-203 in their attempts to prevent the applicants from making the appropriation covered by the application. The water is available and the applicants are entitled to appropriate it.

ANDERSON, KAUFMAN, ANDERSON & RINGERT

By William F. Ringert
A Member of the Firm
503 Idaho Bldg., Boise, Idaho
Attorneys for applicants

37 7014

12-nh

CERTIFICATE OF SERVICE BY MAILING

I certify that service of the within and foregoing Applicants' Brief Following Hearing was made this 24th day of May, 1968, by mailing a copy thereof to Parry, Robertson & Daly, Attorneys for Protestants, at Twin Falls, Idaho.

William F. Ringert

37 7014

THURSDAY MAY 2 — 9:00 AM

WAYNE BALDWIN

1967 - 3 DAYS TRANSFERRED IN 1967
THOUGHT IT WAS 6 DAYS

REFER TO EXHIBITS P 1-7

1966 - USED WATER FOR SEVERAL DAYS PERHAPS A MONTH OR MORE — WOULD GUESS FROM JUNE ON - USED ON LAND AROUND WELL ALSO WORK TO ESTIMATE TIME USED

1965 - RECOLLECTION IS APPROXIMATELY AS SHOWN IN WATER MASTER RECORD

1964 - " " " " "

1963 - WELL WATER WAS FROM UNKNOWN WELL

1962 - DID NOT TAKE WATER FROM LOWER WELL

1961 - 6 DAYS OF TRANSFER

LOOKING AT THE RECORD

5 CFS IS SUFFICIENT TO IRRIGATE LAND SUPPLIED BY SILVER CR. WATER.
PRACTICE IS TO TURN ON AND OFF WITH NEED
IF PERMIT IS GRANTED WOULD REQUIRE WELL TO BE RUN DURING TIMES WHEN NOT NORMALLY REQUIRED TO IRRIGATED LANDS AROUND WELL

PURCHASED LAND IN 1964 — VERY LITTLE USE

ON LAND AT WELL — ONLY 15 ACRES IRRIGATED IN ~~1967~~ 1965 200 ACRES
USED PERHAPS FOR 60 DAYS IN 1966 — DOWN CREEK
1967 - TOO WET TO WORK VERY LITTLE IRRIGATION

KEITH E. ANDERSEN

EMPLOYED BY U.S.B.R. IN 1964 IN BIG WOOD RIVER VALLEY. — U.S.G.S. — DRILLED SEVERAL TEST HOLES.

AREA UNDERLAIN BY AQUIFER IS IN SOUTHERN PART OF △ AREA

WSP 1478 — PLATE 4 - PREPARED IN 1900's

DESCRIBE GEOLOGY AND HYDROLOGY —

DEPOSITS BECOME FINER TOWARD SOUTH END OF VALLEY — MEAGER FLOWING WELLS TO SOUTH WATER TABLE CONDITIONS TO NORTH.

SOURCE IS (1) RAINFALL

(2) IRRIGATION RETURNS — DEEP (PERCOLATION) LOSSES

(3) BIG WOOD RIVER LOSSES

SILVER CREEK SPRINGS FROM SAME SOURCE

WATER LEVELS FLUCTUATE ANNUALLY

LOW PERIOD IS IN SPRING JUST PRIOR TO IRRIGATION SEASON.

GROUND WATER DIVIDE GENERALLY FOLLOWS WEST EAST OF HIGHWAY 93.

ARTESIAN BASIN DOES NOT EXTEND EASTOR RANGE 19.

LUCKE WELL

WAS IN AREA IN APRIL 1961 24

WELL HAD BEEN COMPLETED 2 WEEKS PRIOR

EXAMINED OTHER WELLS

NO TWO ARE EXACTLY ALIKE

ESSENTIALLY ALL ONE AQUIFER — SHALLOW AND DEEP WELLS MAY EFFECT EACH OTHER

McGONIGAL WELL FLOWING SLIGHTLY

REDUCTION OF FLOWING WAS DURING PERIOD OF OPERATION OF LUCKE WELL. - 2 1/4 - 2 1/2 MILES AWAY.

37-7011

OBSERVATION WELLS IN AREA — "GOMES" —

FEB 27 +21.8'

MAR 27 +20.6'

APR 22 +23.5'

MAY 20 +18.6'

JUN 16 +24.3'

MAR & MAY READINGS LOWER THAN ANTICIPATED THERE IS AN EFFECT BETWEEN WELLS EVEN WHEN THEY JUST FLOW — PRESSURE EFFECT — FLOW DISTANCE — AQUIFER MATERIALS —

UTAMARY TURNED ON IN MAY THEY PUMP FOR FEW WEEKS THEN SHUT DOWN. EFFECT ON AQUIFER

TURNING ON ANY OF THESE WELLS WILL CAUSE A DROP IN PRESSURE IN AQUIFER WILL ALSO DELAY BUILD UP OF SPRING FLOWS OF SILVER CREEK.

TESTIMONY RE: 1966

PROTESTANTS LOST MORE WATER THAN LUCKE WELL FLOWED

IF TWO WELLS ONLY

~~BOOSTER EFFECT~~

RATE OF FLOW IN ONE WELL IS NOT NECESSARILY EQUAL TO AGGREGATE LOSS IN FLOW OF SURROUNDING WELL.

Well with 6" CASING = PUMP MIGHT PRODUCE 25-27

8" CASING = 70-75"

BICKETT WELLS MOSTLY 8" WELLS

COULD NOT GET SAME AMOUNT OF WATER WITH PUMP AS IS PRODUCED BY ARTESIAN PRESSURE

SEE OF PICABO DRILLED TEST HOLES

PLATE #2 WSP 1978 SHOWS WELLS IN VALLEY. PUMPED TEST WELLS

WOULD BE POSSIBLE TO ~~DRILL~~ DRILL WELL ON LAND WHERE

37 7011

CROSS EXAMINATION

ONLY ONE AQUIFER BASICALLY - THE SOURCE OF WATER IS THE SAME -
CLAYS MAY BE CONSIDERED IMPERMEABLE
TWO OUTLETS — SW TO BIG WOOD SR TO SILVER CREEK
SEC 1 OF 25 20 E
G.W. UNDERFLOW 35 - 40000 AF/ANNUALLY
WELL SHOULD NOT INTERFERE — NOT ARTESIAN

ARTESIAN WELL?
ELEVATION DIFFERENCES BETWEEN LUCKE & MC CONIGAL WELL

PLACE OUTLET OR ARTESIAN FLOW AT PIEZOMETRIC PLANE?

AMOUNT OF WATER TO BE OBTAINED FROM WELLS — 1760 RPM STANDARD SPEED -
HEAD WOULD MAKE NO DIFFERENCE ON DISCHARGE

SPRING SOURCES ARE GENERALLY HIGHER THAN LUCKE WELL

GENERAL WATER SUPPLY IN 1961 WAS LOW
EVEN IN ADVANCE OF 1961 RUNOFF
1959, 1960

ALL WELLS HAVE EFFECT ON EACH OTHER
TWO WELLS AT SAME SITE MAY STILL BE INTERCONNECTED EVEN THOUGH TO DIFFERENT DEPTHS.

HAIGHT REPORT - LUCKE WELL LOG
LOTS OF CLAY TO DEPTH

37 7014

WHAT HAPPENS TO WELL WATER IF NOT DIVERTED AT LUCKY WELL?—

UNDIVERTED G.W.
(1) "SUB" UP TO SURFACE — REQUIRE DRAINS
(2) WOULD LEAVE UNDERGROUND — AT PICARO 35-40,000 AF/YEAR

PLATE 2 WSP 1478

COULD DRILL HIGH CAPACITY WELLS SOUTH OF PICARO

WATER IS OBTAINABLE IN ALL OF THESE ARTESIAN EVEN THOUGH THEY DO NOT FLOW.

HOW MUCH WATER IS THERE IN THIS BASIN?

~~WATER IS [illegible]~~

ARTESIAN BASINS ARE USUALLY DEVELOPED BY TAPPING WITH SHALLOW WELLS FIRST? NOT NECESSARILY

G.W. CONTRIBUTES TO SNAKE PLAIN ~~BELOW~~ PICARO ABOUT 1½

REBUTTAL
WAYNE BALDWIN PLANS TO GROW THIS YEAR
HAY — GRAIN — POTATOES — PASTURE
300 Ac — 18 Ac — ~~60~~ 48 Ac — 134 Ac BALANCE OF AREA

366
134

WATER FROM SILVER CR. DOWN TO 86 ~~YESTERDAY~~ MONDAY
COMES UP LATER IN YEAR

BRIEFS 15 DAYS
~~BRIEF~~ ANSWER 15 DAYS 37 2014
REBUTT 10 DAYS

GET APA

JOHN COLEMAN
TOM NELSON | BILL RINGERT

APPLICATION 37-7014 BALDWIN BROS.

BRIEF

RINGERT

(1) DETERMINATION TO BE MADE IS WHETHER USE PROPOSED BY BALDWINS CAN BE MADE WITHOUT INTERFERENCE WITH ESTABLISHED RIGHTS.

(2) COLATERAL ISSUE INVOLVING PRESSURE AS A PART OF A WATER RIGHT.

(3) PERHAPS ALSO GET INTO PUMPING LEVEL DETERMINATION.

COLEMAN

(1) QUESTION AS TO WHETHER PERMIT G-29372 WAS PROPERLY LICENSED.

R. DIVERSION IS NOT TO EXCEED 7.49 CFS AT ANY ONE TIME. WOULD AGREE TO STIPULATE THIS AS CONDITION

STIPULATIONS:

(1) JUDICIAL NOTICE TO BE TAKEN OF WSP 774, 1478 AND REPORTS OF KEITH ANDERSEN & U.S. WRIGHTS AND G-29372. REPORT OF LOREN E. SIGNS FOR FEDERAL LAND BANK.

37 7014

HEARING 37-7014

WAYNE BALDWIN

DIRECT - RINGERT

BALDWIN BROS OWNS ALL OF LAND - IT IS FARM LAND - ALL UNDER IRRIGATION NOW - REQUIRES IRRIGATION - HOLDS RIGHT IN SILVER CREEK - PARA II - RIGHTS NOT USED SUFFICIENT TO SERVE LAND - AT CERTAIN TIMES PRIORITY RIGHTS NOT AVAILABLE. LAND REQUIRES THE 2.0 INCHES - HAY, GRAIN, SPRD ROTATORS

WELL HAS VALVE FOR CONTROL - DITCH TO SILVER CR - HEADGATES AND WEIRS INSTALLED - USE WOULD BE IN MAY AND JUNE STREAMFLOW SUBJECT TO SEASONAL VARIATIONS LOW IN ~~SPRING~~ SILVER CR. RISES IN LATE SUMMER.

WATER FROM SPRINGS AND ~~BY~~ IRRIGATION DRAINAGE.

WELL PRODUCES 395 INCHES - DON WATTS MEASUREMENT.

NOT SPECULATIVE OR DELAY

FACILITIES ALL PRESENTLY INSTALLED

CROSS - NELSON

BALDWIN BROS. PURCHASED LAND IN 1968

WELL OWNED BY BALDWIN BROS.

WATER HAS BEEN USED ON LAND SINCE _____.

RECORDS OF WATER MASTER.

[redacted]

P 1, 2, 3, 4, 5, 6, 7

WAYNE CLARK

RESIDENT OF GANNETT

P #8

MAP OF OWNERSHIP OF LAND IN ARTESIAN BASIN.

HAS 3 WELLS - MARKED 1, 2 & 3

1 & 2 USED FOR IRRIGATION - DRILLED IN 1949

1 - 30" 2 - 90" 3 - STOCK

NOT LICENSED

37 7014

B= BALDWIN well

USED FOR SUPPLEMENTAL WATER TO WOOD RIVER RIGHTS — MAIN GONE "DRY". NO 1 — every Summer
NO 2 — 1967 —

WAS USING WATER FROM McGONIGAL well NO 4 IN 1967 WHEN LUCKE (BALDWIN) WELL WAS DRILLED
WAS DRILLED IN MARCH — Mc well died up
LUCKE WELL CAPPED — Mc well came back
IN 2-3 WEEKS. WAS CAPPED 8-10 AFTER IT
WAS DRILLED.

BLINCO PROPERTY — 2 WELLS #5, 6
1967 — WHEN B WELL DRILLED → BOTH DRY —
CHECKED — 5 FLOWED AGAIN AFTER B CAPPED
OBSERVED 2-3 weeks later

Cross

Mc well drilled in 1968 — depth UNKNOWN
DID NOT [redacted] INSTALL PUMP — NO [redacted] WATER LEVEL MEASURED.

BLINCO 5, 6 wells CONDITION UNKNOWN — DRILLED
IN 1968. WATER LEVEL IN BIG WOOD RIVER "NOT
HIGH" — SPRING CONDITION UNKNOWN.

#1 well 5 5/8" CASING
2 " 6" "
3 " 6" "
4 (Mc) 6" "
5, B 8" "
6 Blinco 6" "

~~Hunger~~ HELLYER CONNETT
3 ARTESIAN WELLS 7, 8, 9
ACQUIRED IN 1967 FROM FATHER WHO PURCHASED IN 1964

6 IN — #7 - 89" — 1969.5 DROPPED TO 70" IN 66, 67
8 IN — 8 - 65" — 65 DROPPED TO 20" IN 66 & 67
8 IN PERF 106'-108' 9 - 25" — IN 66 and 67

OTHER RIGHTS OUT OF SPRING CR, CRYSTAL CR, WOOD R.
Well Driller measured
MEASUREMENTS [redacted] NOT MADE PERSONALLY "Rear Personnel"
MEASUREMENTS ESTIMATED

37 7014

7- Observations in June 64, May 65, 66, ~~June 67~~ May 20 Fall 67

8- Right after drilling in March 65, Diminished in 66, Continuing slly in 1967

9- After drilling in June 66, Aug 67

Reid J. Newby

P 1-7 Exhibits of Water Masters Records Showing well discharges and diversions from Silver Creek.

P 3 Baldwin Water

P#9 Copy of page of Deputy Book Showing 4.6 cfs into Creek

Also P 3 4.6 cfs out of Cr.

P 5 Shows Lucke well water to Baldwins

Rogers well

P 2 Shows (Rogers) well water to ?

P 1 Shows Lucke well water to ?

P 4 Shows Lucke well " " ?

P-1 — 1961 — Reid not water m

P-2 — 1962 — Rogers Artesian well

P-3 — 1963 —

P-4 — 1964 — Lucke

P-5 — 1965 — Lucke

P-6 — 1966 —

P-7 — 1967 —

P-9 — Field Ticket

Les Bushby — Richfield

P-9 —

~~P-1 thru 7~~

Lucke well = Baldwin well

Objects to Rogers well

Lucker well drilled in 1961

Newby
P-1 = 1911 Lucker delivered to Baldwin
P-2 = Rogers well
P-3 = Well not known
P-4 = Lucker well
P-5 = Lucker well
P-6 = Lucker well
P-7 = Lucker

Complete examination of records of office back to about 1957

Bickett
4 artesian wells
10 – 8" casing – 220" Licensed 371' Resp
11 – 8-6" casing – 150" Licensed 371' Resp
12 – 8" casing – 202" " 330' Resp
13 – 8-6" casing – 155" " 376' Resp
Irrigates 700 127 acres – no other water rights
Owned part of land in 1940-41
Remainder purchased in 1953
B well produced 247" when completed.
Irrigation starts June 1
1961 – Baldwin well flowed again after once capped
Interfered with Bickett wells
1966 – Baldwin well flowing – his wells dry
Took "cat" down and made ditch for Lucker well
247" measured by Bushby.
1961 – When B well open for 5 days had 11
and 13 open had all but stopped flowing.
Hamilton (Matthews) from "Reel" guessed flow at 25", 25"
Never installed pump in any well

LUCKR – GOODING

OFFER OF PROOF

MAY OF 1961 – WAS ONLY USE UNTIL

FREDERICKSEN

BENEFICIAL

3 WELLS

14 – 1950 – 6" – 90"

15 – 1953? – 8" – 30"

16 – 1962 – ~~8"~~ – 200"

IRRIGATES 200 ACRES – NO OTHER WATER RIGHTS

ABLE TO OBSERVE WELL FROM ROAD ABOUT 40' AWAY

WELLS PIPED INTO COMMON HEADER PIPE TO PUMPS

McGONIGAL

2 WELLS

4 – 10/1948 – 6" – 1,33 – 163' Deep

17 – 12/1948 – 6" – 1,34 – 154' Deep

IRRIGATION PURPOSES

NO. 4 WELL STOPPED FLOWING IN 1961 WHEN "B" well completed FLOWED AGAIN UNTIL MAY WHEN IT STOPPED AGAIN. Wells NORMAL 62 + 65

66 – LOW WATER YEAR – Wells LOW ALSO

67 –

Measured all wells in 1961 – SURVEY SHOWED they were all shut down except "B"

NEVER BEEN PUMPED

WATER 6" BELOW TOP OF VALVE WHICH IS 24" ABOVE LAND SURFACE

JOE WURST – GARRETT

4 WELLS

18 – 1948 – 8" – 160' deep – 90" – 90 ACRES

19 – 1949 – 6" – 180' deep – 30" – 100 ACRES

20 – 1948 – 6" – 150' deep – 30" – 8 ACRES

21 – ~~1958~~ – 8" – – 320" – 100 ACRES

NO OTHER WATER FOR LAND ~~19~~ ALSO USED FOR STOCK WATERING

FLOW LOW IN 1966

EVERY TIME A NEW WELL WAS DRILLED WE COULD TELL THE DIFFERENCE.

WHEN WELLS ARE TURNED ON IN SPRING THEY ARE WEAKER – IT TAKES TIME TO BUILD UP THE PRESSURE.

HAROLD JOHNSTON – WOOD RIVER ~~&~~ PAHEN CO.

1 WELL

22 – 16" CASING – 202' DEEP – 150" LICENSE

OWNED SINCE 1966

DID NOT USE IN 1966 – DID NOT PRODUCE ENOUGH FOR IRRIGATION

USE FOR IRRIGATION IN 1967

E. J. BRINKO – HAYBURN

3 – 6" CASING 150" LICENSED

6 – 8" CASING 200"

HAS OTHER WATER RIGHTS FOR LAND

OWNED SINCE 1960

37 7014

1961 PRODUCED WATER UNTIL July 1

DID NOT NOTICE ANY CHANGE IN MAY 61

GOT SHORT IN 1966

#5 well hooked to house – could not get drink in 1961

HARRY BRITS

SELLING UNDER CONTRACT TO E. HADLEY STEWART

FRANK BOMER 23 - 6" CASING - LICENSED 100"
" " 24 - 8" " - " 50"
" " 25 - 6" " - " 190"
26 - 6" " - DOMESTIC
27 - 6" " - PRODUCES 50"
28 - 8" " - 100"

HAVE OWNED FOR SEVERAL YEARS
1961 - 28 DID NOT PRODUCE ENOUGH WATER
- 25 WAS DOWN ABOUT 1/2
1962 - 5 HAD PURITY OF WATER
1966 - 25 WAS DOWN TO 2/3
28 COULD NOT IRRIGATE
27 DID NOT RUN
"B" WELL WAS SOMETIMES FLOWING SOMETIMES NOT
23 - 24 - 1/3 STREAM OF WATER
NORMALLY TURN ON IN JUNE THEN ON & OFF
NO 25 / MEASURED BY U.S.G.S. ?

ENTER APPEARANCE FOR
WALTER NELSON
VERAL LOVELAND
BASELINE CATTLE CO.

WATER DISTRICTS 7-AB & 11-AB
State of Idaho

Date 6 - 22, 1966 A.M. 11 45
P.M.

Name and No. of Canal PIERETT WELL

Canal entitled to 1.0 Sec. Ft.

Date of Priorities Good CHANCE L.L.

	Amount ordered	Opening Sq. Feet	Above Inches	Below Inches	Head Inches	Discharge Sec. Feet
Arrival at Gate	W-36				5"	2.8
Departure						138"

Gaging Sta. No. .....; Gage Height .....

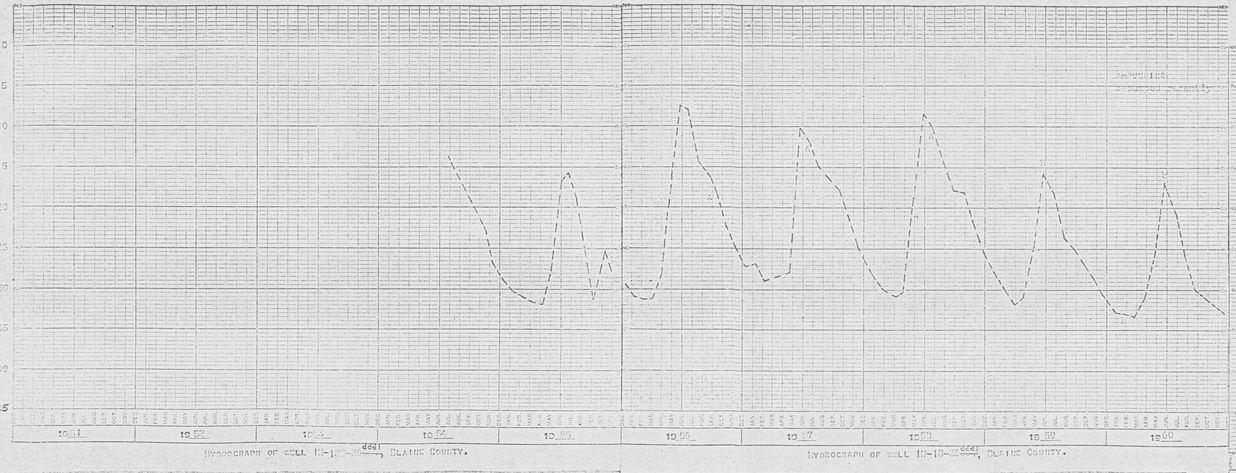
Delivery	Before	After
Decreed		
American Falls		
Carey Act		
TOTALS		

Remarks: FOR RECORDS ONLY

District No. .....; L. B.
Signature

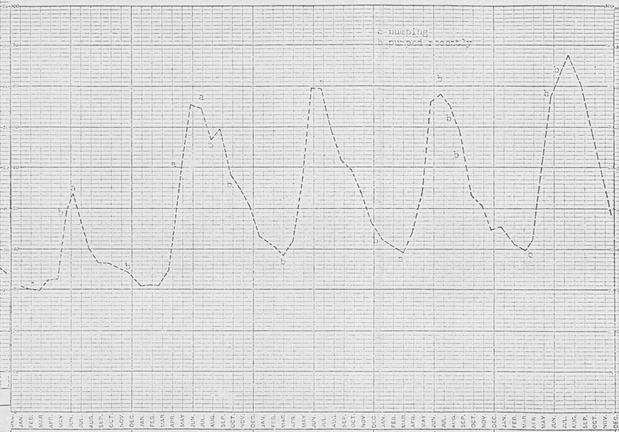
The above is to be filled out from personal observation in the field by the Deputy Water Master.

37 7014



HYDROGRAPH OF WELL IN-18S-36[illegible]dddi, BLAINE COUNTY.

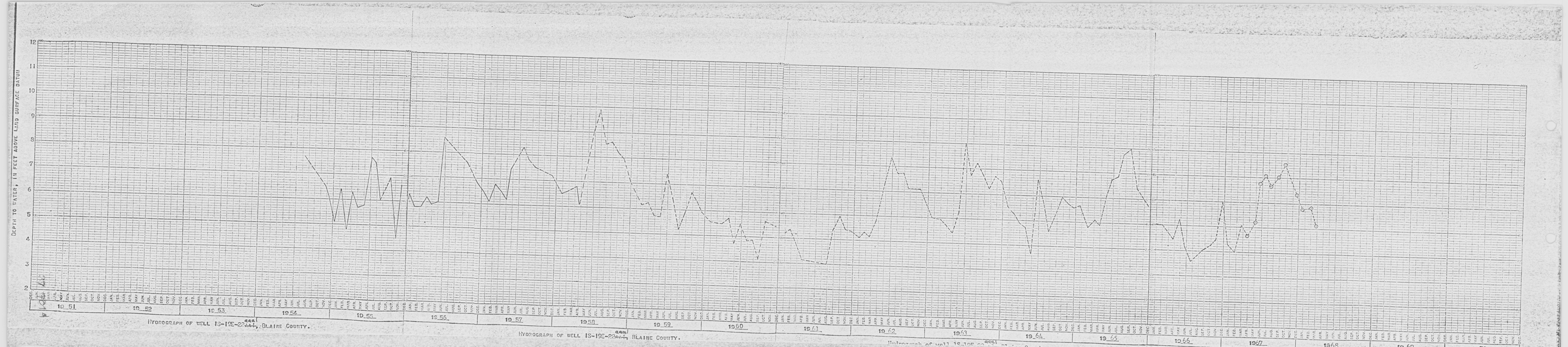
HYDROGRAPH OF WELL IN-18-3[illegible]dddi, BLAINE COUNTY.

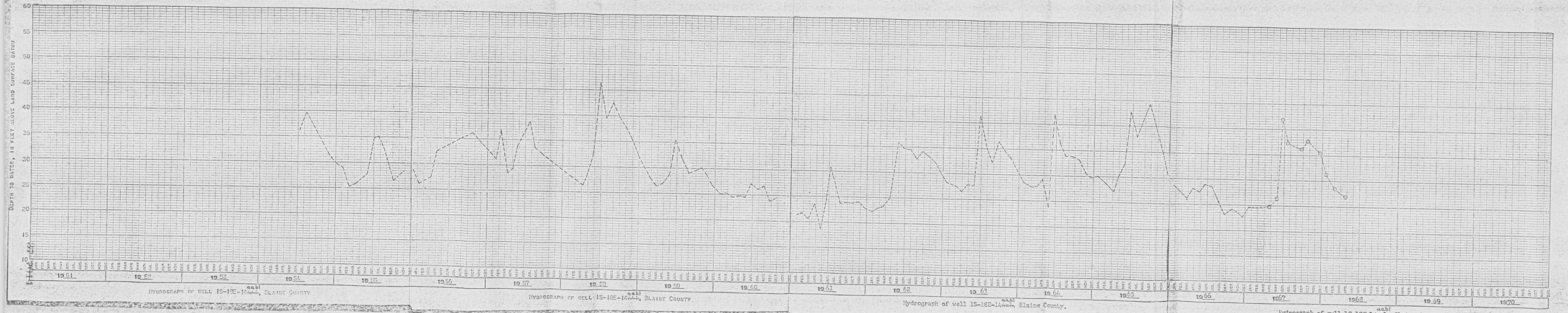


Hydrograph of well IN-18S-3[illegible]dddi, Blaine County.



Hydrograph of well IN-18S-36[illegible]dddi, Blaine County.


DEPTH TO WATER, IN FEET ABOVE LAND SURFACE DATUM
12
11
10
9
8
7
6
5
4
3
2
1951
1952
1953
1954
1955
1956
1957
1958
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
HYDROGRAPH OF WELL 18-19E-22aaa, BLAINE COUNTY.
HYDROGRAPH OF WELL 18-19E-22aaa, BLAINE COUNTY.

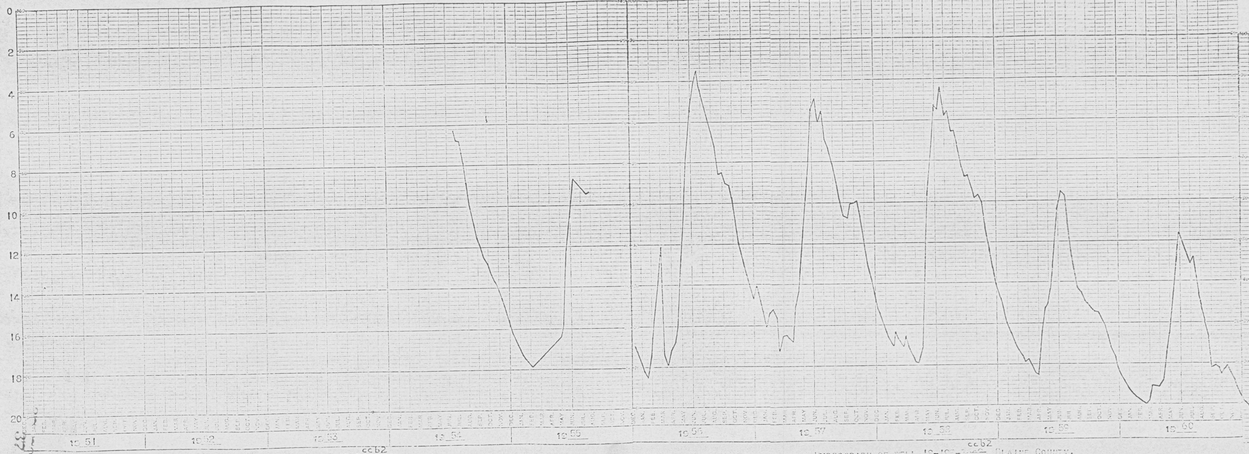


Hydrograph of well 1S-18E-14aabl, Blaine County.

Hydrograph of well 1S-18E-14aabl, Blaine County.

Hydrograph of well 1S-18E-14aabl, Blaine County.

Hydrograph of well 1S-18E-14aabl, Blaine County.



Hydrograph of well 18-10E-2cc2, Blaine County.



Hydrograph of well 18-10E-2cc2, Blaine County.

Hydrograph of well 18-19E-2cc2, Blaine County.

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.

INSURED NO.

DATE DELIVERED

APR 17 19[illegible]

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be fi[illegible]*)

Gene Anderson

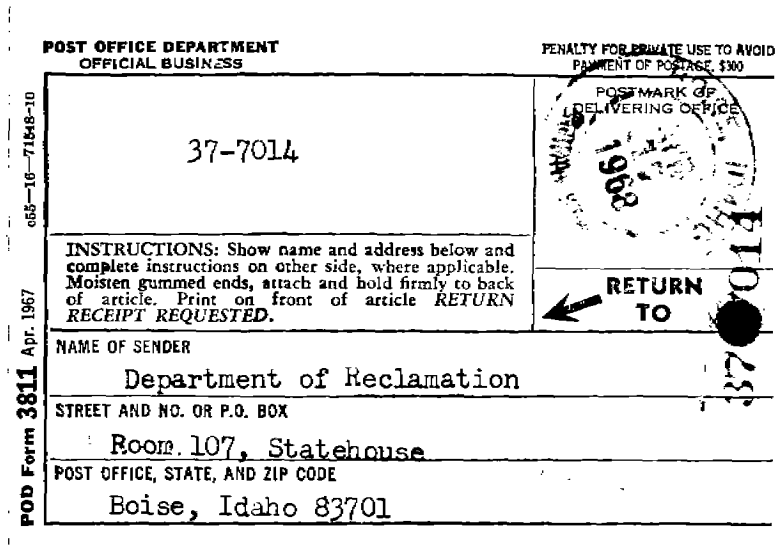
2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

L. Bayle

SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

37-7014



POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

1968

37-7014

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

37-7014

POD Form 3811 Apr. 1967

055—16—71648-10

NAME AND ADDRESS OF SENDER: Dept of Reclamation

Indicate type of mail
☐ INSURED ☐ C. O. D.
☑ CERTIFIED

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

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	DUE SENDER IF C. O. D.	ENDORSEMENT [1]	R. R. FEE	S. D. FEE	S. H. FEE [2]	RESTRICTED DELIVERY FEE / REMARKS
1 19954	Gene Anderson, Box 2773 Boise	06	30			10			37-7014
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									

BOISE IDAHO APR 16 1968

37 7014

TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	POSTMASTER, PER (Name of receiving employee)

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Butter," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid—This Side Up."
[2] Special-handling charges apply only to fourth-class parcels. Special-delivery service also includes special-handling service.

POD Form 3877-A—July 1958

U. S. GOVERNMENT PRINTING OFFICE C48—16—72948-2

37-7014

April 15, 1968

Re: Application No. 37-7014

COPY

Parry, Robertson & Daly
Attn. John R. Coleman
P.O. Box 525
Twin Falls, Idaho 83301

Dear Mr. Coleman:

In answer to your letter of April 9 to Mr. McEldowney, I am enclosing a copy of the rules and practices as adopted under the administrative procedures. It has been the practice of the department that the protestants has the burden of proof and usually the applicant proceeds first. As you will notice, proof in the form of exhibits may be presented.

As Mr. Higginson will be presiding at the hearing, I am not sure of what his exact proceedure will be, however, normally we do not make a verbatim transcript unless such is requested by the parties involved. However, a tape recording will be made and preserved until the appeal period ends. In the event of an appeal, this would be available.

If you desire to have a transcript made, there are several alternatives. If you provide a hearing transcript, we would certify that transcript as the official transcript of the hearing. We might also arrange to have a transcript made, then charge the parties who desire the transcript for its costs. In any event, if you so desire that one be made you should notify us prior to the time of hearing.

37 7014

If you have any further questions, please feel free to call upon us.

Very truly yours,

C. Stephen Allred, Assistant
State Reclamation Engineer

CSA:kd

Enclosures

COPY

37 7014

April 15, 1968

COPY

Re: Application No. 37-7014
Baldwin Brothers

Gene Anderson
Anderson, Kaufman, Anderson, and Ringert
Attorneys at Law
P. O. Box 2773
Boise, Idaho

Dear Mr. Anderson:

Pursuant to your request we are forwarding a copy of the notice of time, date, and place of the hearing sheduled in connection with the protests filed in connection with the above referenced application for permit. Please excuse our failure to send you a notice at an earlier date.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:ks

Enclosure: Copy of hearing notice

37 7014

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19943

INSURED NO.

DATE DELIVERED APR 12 1968

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

Patty Robertson & Daly

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Mary Rasmussen

3 SHOW WHERE DELIVERED (*only if requested*)

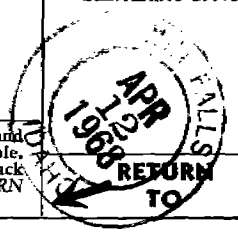
c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

37-7014



INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967 c65—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19946

INSURED NO.

DATE DELIVERED 4-12-68

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

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Fred W. Wolski

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

63-7069

APR
12
P. M.
1968

POSTMARK OF DELIVERING OFFICE

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967 056—10—71548-10

NAME AND ADDRESS OF SENDER: Dept. of Reclamation

Indicate type of mail: ☐ INSURED ☐ C. O. D. ☐ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	DUE SENDER IF C. O. D.	ENDORSEMENT [1]	R. R. FEE	S. D. FEE	S. H. FEE [2]	RESTRICTED DELIVERY FEE / REMARKS
1	19942	Bosline Cattle Co. Rt 3 Twin Falls	06	30			10			37-7014
2	19943	"B.C.Co." % Carey Robertson &								" "
3		Daly, Box 525, Twin Falls	06	30			10			" "
4	19944	B.C.Co Rt. 3 Twin Falls								" "
5	19945	Morton J Blevins - Buhl - Ida								63-7069
6	19946	Phyllis E. Trobke - Rt 2 Buhl, Ida								63-7069
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										

37 7014

BOISE, IDAHO APR 11 1968 BORAH STA.

TOTAL NUMBER OF PIECES LISTED BY SENDER: Eleven

TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE

POSTMASTER, PER (Name of receiving employee)

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Butter," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid—This Side Up."

[2] Special-handling charges apply only to fourth-class parcels. Special-delivery service also includes special-handling service.

POD Form 3877-A—July 1958

U. S. GOVERNMENT PRINTING OFFICE C48—16—72948-2

RECEIVED
APR 10 1968
Department of Reclamation

PARRY, ROBERTSON & DALY
LAWYERS
FIDELITY BANK BUILDING
P. O. BOX 525
TWIN FALLS, IDAHO 83301

TELEPHONE
(208) 733-3722

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
CRAIG H. NEILSEN

April 9, 1968

Mr. Donald W. McEldowney
Appropriation Examiner
Department of Reclamation
107 State House
Boise, Idaho 83701

Re: Application for Permit No. 37-7014

Dear Mr. McEldowney:

We received today the notice of hearing in the above matter.

We would like to have you prepare and send to us a copy of the application and also a copy of any rules of procedure which you may have adopted which would govern the conduct of this hearing. We would also like to know whether the applicant or the protestant has the burden of proof in the hearing and whether or not the applicant will proceed first with his proof. Would you also let us know whether or not a record of the hearing will be made.

We would appreciate receiving this information as soon as possible so that we may properly prepare for this hearing.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

JOHN R. COLEMAN

JRC:sn

37 7014

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.
19929

INSURED NO.

DATE DELIVERED
APR 11 1969

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*)
Perry, Robertson & Daly

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY
Mary Ellen Rasmussen

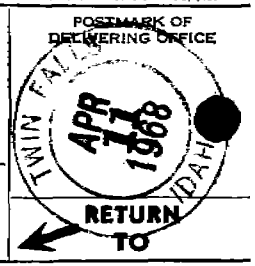
3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE



INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

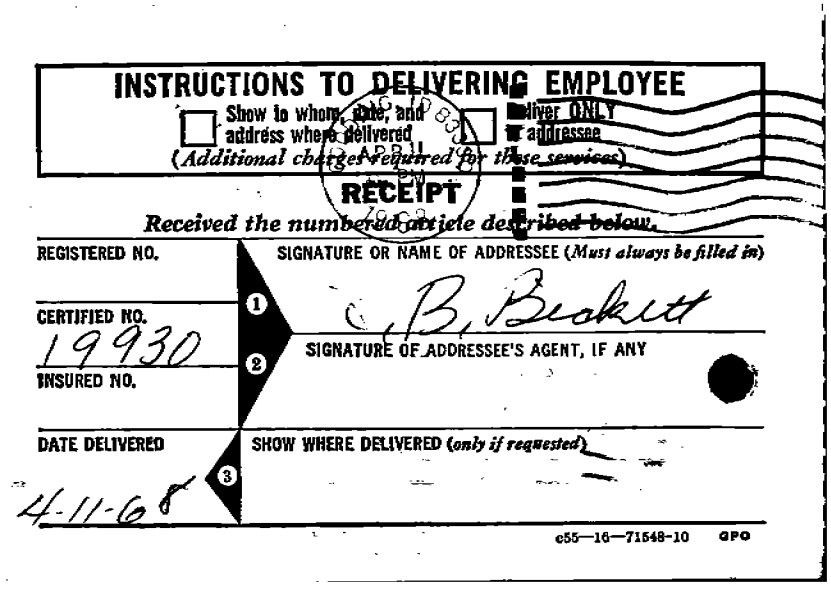
STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967 655—16—71648-10



INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered
(Additional charges required for these services)

☐ Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.
19930

INSURED NO.

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*)
C. B. Beckett

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

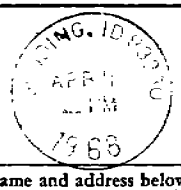
DATE DELIVERED
4-11-68

3 SHOW WHERE DELIVERED (*only if requested*)

e55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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



POSTMARK OF DELIVERING OFFICE

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967

c55—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.
L9931

INSURED NO.

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

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED
4-12-68

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE
APR 12 1968

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER
Department of Reclamation

STREET AND NO. OR P.O. BOX
Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE
Boise, Idaho 83701

POD Form 3811 Apr. 1967
55—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.

19932

INSURED NO.

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

H.L. Wurst by Nancy Wur

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

APR 12 196

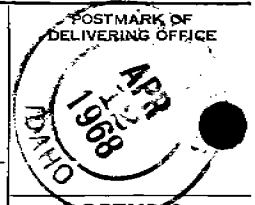
3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE



INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967 656—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19933

INSURED NO.

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

X Wayne Clark

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED 4/12/69

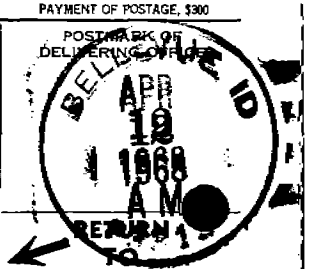
3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE



INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967 c55—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19934

INSURED NO.

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

Wood River Ranch

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY HCJ

DATE DELIVERED 4/11/68

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71648-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

12
1968
IDAHO

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967 o55—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.
19936

INSURED NO.

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*)
K. F. Kelley

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED
4-13-68

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967 655—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.
19937

INSURED NO.

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*)
X Mr. J. E. Fredrickson

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY
Edith Fredrickson

DATE DELIVERED
4/12/68

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

BELLEVUE ID
APR
12
19
A
RETURN
TO

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967 055—16—71548-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.

19938

INSURED NO.

DATE DELIVERED

APR 12 1966

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

Mary Emma Gough

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

By Jack D McGough

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

APR 12

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967

055—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19940

INSURED NO.

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Mrs Edward Blinco

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

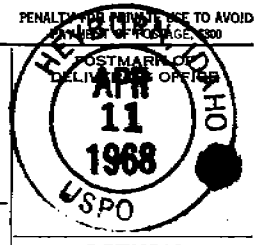
DATE DELIVERED 4-1-68

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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



POSTMARK OF DELIVERING POST OFFICE

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967

655—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19941

INSURED NO.

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

Don D. Baldwin

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

3 SHOW WHERE DELIVERED (*only if requested*)

e55—16—71648-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OR DENVER, COLO.
PICKERING IDAHO
APR 12 1968
USPO

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER
Department of Reclamation

STREET AND NO. OR P.O. BOX
Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE
Boise, Idaho 83701

POD Form 3811 Apr. 1967 055—16—71548-10

NAME AND ADDRESS OF SENDER: Department of Reclamation

Indicate type of mail: ☐ INSURED ☐ C. O. D. ☑ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	DUE SENDER IF C. O. D.	ENDORSEMENT [1]	R. R. FEE	S. D. FEE	S. H. FEE [2]	RESTRICTED DELIVERY FEE / REMARKS
1	19929	Carey Reclamation Dist, Box 525, Twin Falls, Ida.	.06	.30			.10			
2	19930	W. B. Bickett, Gooding, Idaho								
3	19931	Hattie E. Gibson, Gannett, Ida								
4	19932	V. D. Hurst, Twin Falls, Ida								
5	19933	Wayne Clark, Gannett, Ida								
6	19934	Wood River Ranch, Gilmore Ida								
7	19935	E. Hyde Stuart Jr. Gannett Ida								
8	19936	F. Tillys, Gannett, Idaho								
9	19937	Eugene Fredrickson, Gannett Ida.								
10	19938	Mary D. McGonigal, Gannett, Ida								
11	19939	Vent Lowland Carey Idaho								
12	19940	Edward Blincoe Hepburn, Ida								
13	19941	Wayne O. Baldwin & Dennis D Baldwin Picabo, Idaho								
14										
15										
16										
17										
18										
19										
20										

BOISE, IDAHO APR 10 1968 BORAH STA.

37 7014

TOTAL NUMBER OF PIECES LISTED BY SENDER: 13

TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE: 13

POSTMASTER, PER *(Name of receiving employee)*

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Butter," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid—This Side Up."

[2] Special-handling charges apply only to fourth-class parcels. Special-delivery service also includes special-handling service.

POD Form 3877-A—July 1958

U. S. GOVERNMENT PRINTING OFFICE C48—16—72948-2

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
107 STATE HOUSE
BOISE, IDAHO 83701

April 10, 1968

Re: Application for Permit No. 37-7014
Wayne O. Baldwin and Donnie D. Baldwin

Please be advised that the Department of Reclamation has rescheduled the conference and hearing in the matter of the protest filed in connection with the above referenced application.

The conference and hearing will be held at 10:00 a.m. on April 24, 1968 in the Blaine County Courthouse, Hailey, Idaho. You or your representative are requested to attend.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:ks

Enclosure: none

cc: Parry, Robertson, & Daly

CERTIFIED MAIL

Photostatic copy of this letter was sent to the following:

Wayne O. and Donnie D. Baldwin, Eugene Frederickson, K. F. Hellyer, E. Hadley Stuart, Ur, Wood River Ranch, H. L. Wurst, Wayne Clark, Walter E. Nelson, H. B. Bickett, Edward Blincoe, Veral Loveland, Baseline Cattle Co., Mary M. McGonigal, Parry, Robertson, & Daly

37 7014

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19914

INSURED NO.

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Baldwin Bros Pty Don D. Baldwin

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED 4-9-68

3 SHOW WHERE DELIVERED (*only if requested*) RP

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

37-7014

POSTMARK OF DELIVERING OFFICE

BOISE IDAHO
APR 19 1968
U.S.P.O.

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

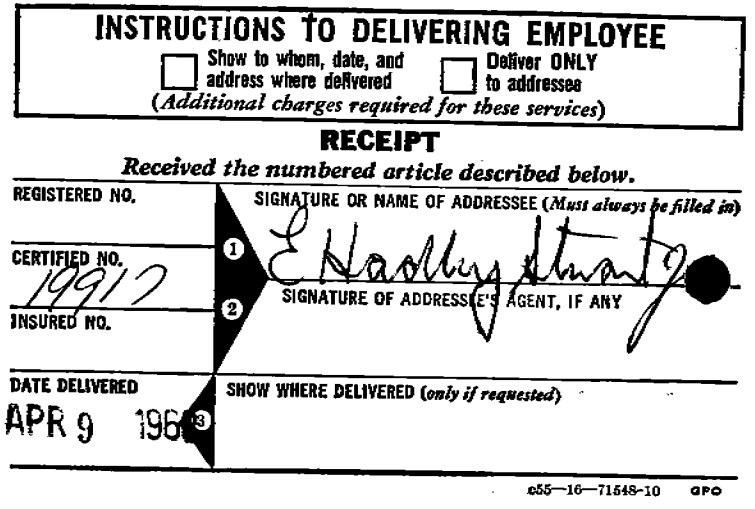
NAME OF SENDER
Department of Reclamation

STREET AND NO. OR P.O. BOX
Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE
Boise, Idaho 83701

POD Form 3811 Apr. 1967

655—10—71648-10



INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 14917

INSURED NO.

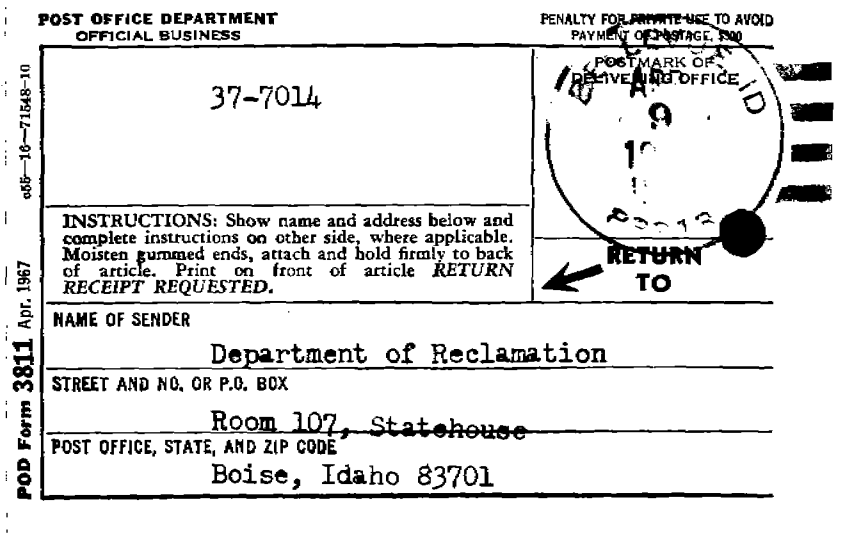
SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) E Hadley Stuart Jr.

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED APR 9 196

SHOW WHERE DELIVERED (*only if requested*)

o55—16—71548-10 GPO



POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF RECEIVING OFFICE

37-7014

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

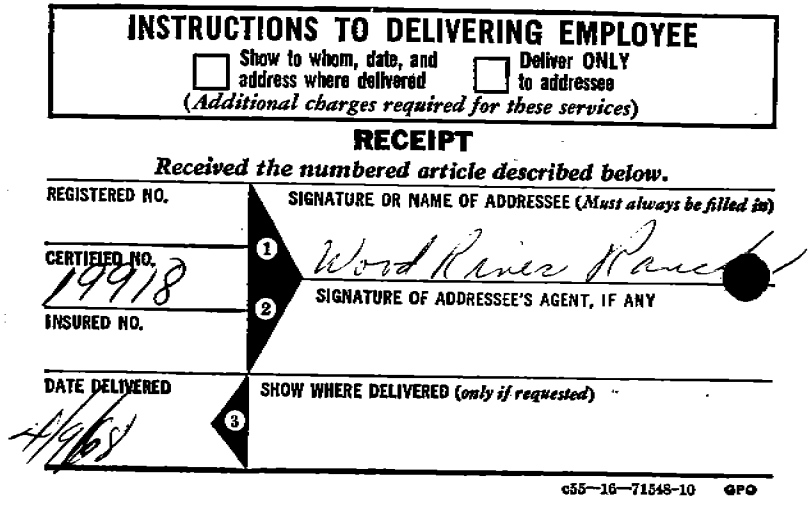
Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967

055—16—71548-10



INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(*Additional charges required for these services*)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19918

INSURED NO.

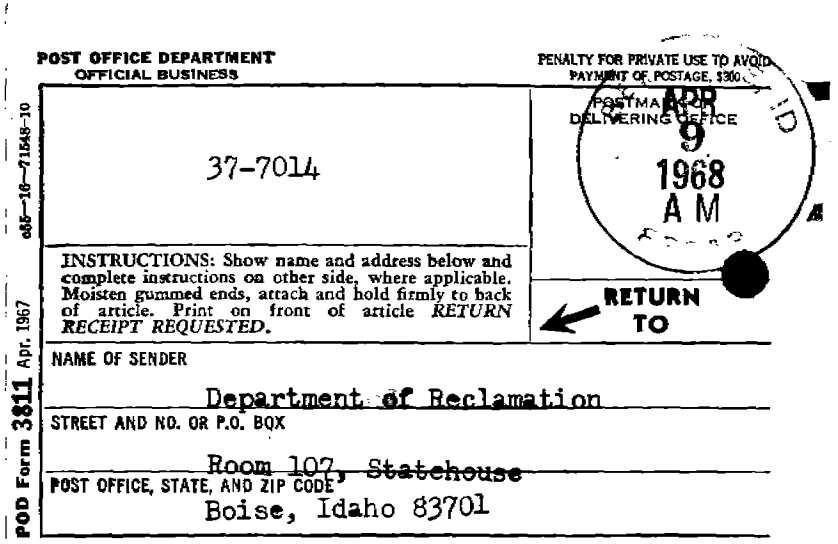
1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) Wood River Ranch

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED 4/9/68

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO



POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

APR 9 1968 A M

37-7014

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967

685-16-71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19919

INSURED NO.

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled*) Mr & L Wurst

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

37 701[illegible]

DATE DELIVERED 4.9.68

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

37-7014

POSTMARK OF DELIVERING OFFICE

TWIN FALLS APR 9 1968 RETURN TO

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

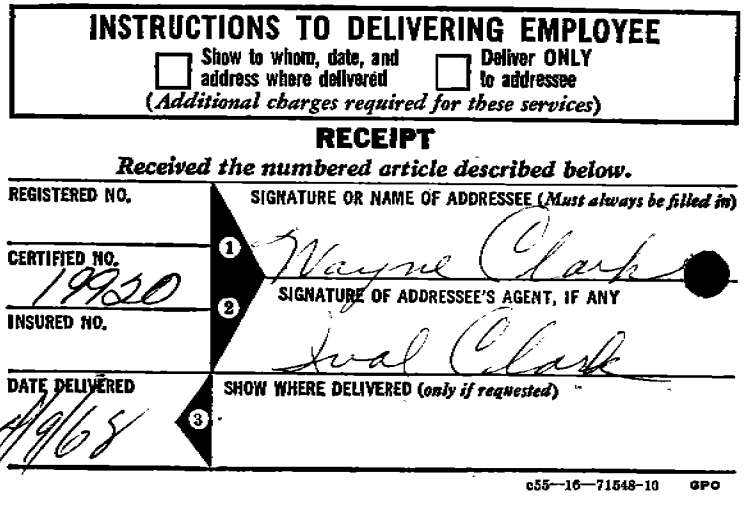
Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967

0555—10—71548-10



INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19920

INSURED NO.

DATE DELIVERED 4/9/68

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

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Iva Clark

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

37-7014

POSTMARK OF DELIVERING OFFICE

BOISE ID
APR 9 19
A M

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967

055-10-71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 1921

INSURED NO.

DATE DELIVERED 2-10-68

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

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Mrs. Walter Nelson

3 SHOW WHERE DELIVERED (*only if requested*)

e55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

37-7014

POSTMARK OF DELIVERING OFFICE

HELENA IDAHO
APR 10 1968
USPO

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER
Department of Reclamation

STREET AND NO. OR P.O. BOX
Room 107 Statehouse

POST OFFICE, STATE, AND ZIP CODE
Boise, Idaho 83705

POD Form 3811 Apr. 1967

68—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19922

INSURED NO.

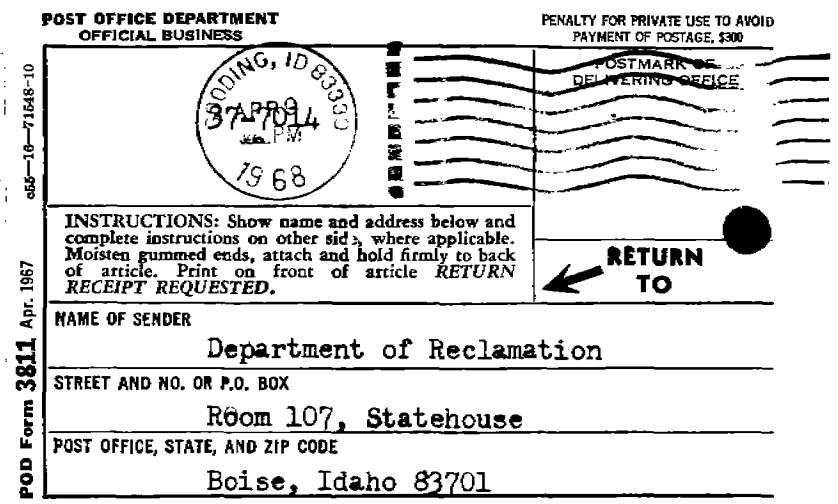
SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) 1 J. B. Burkett

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY 2

DATE DELIVERED 4-9-68

SHOW WHERE DELIVERED (*only if requested*) 3

c55—18—71548-10 GPO



POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

GOODING, ID 83330
APR 9
3 PM
1968

INSTRUCTIONS: Show name and address below and complete instructions on other sides, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967

o55—16—71648-10

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19923

INSURED NO.

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

1

2

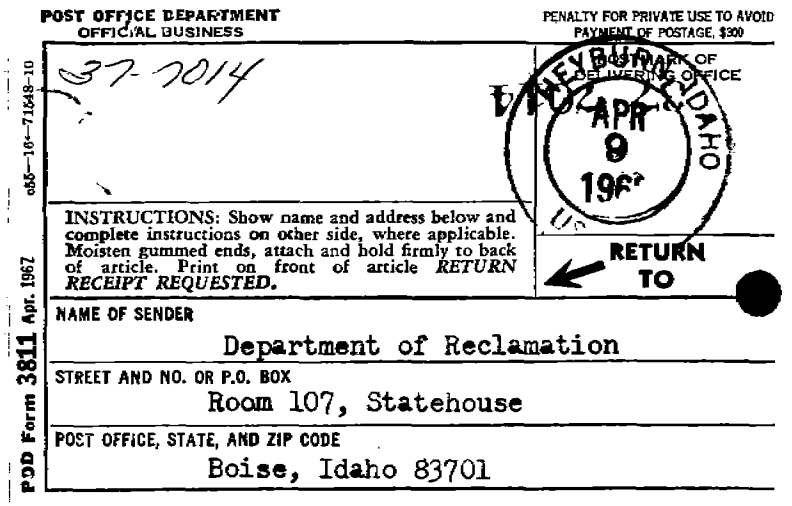
SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED 4-9-68

3

SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO



POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

37-7014

POSTMARK OF DELIVERING OFFICE

BOISE, IDAHO
APR
9
19

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

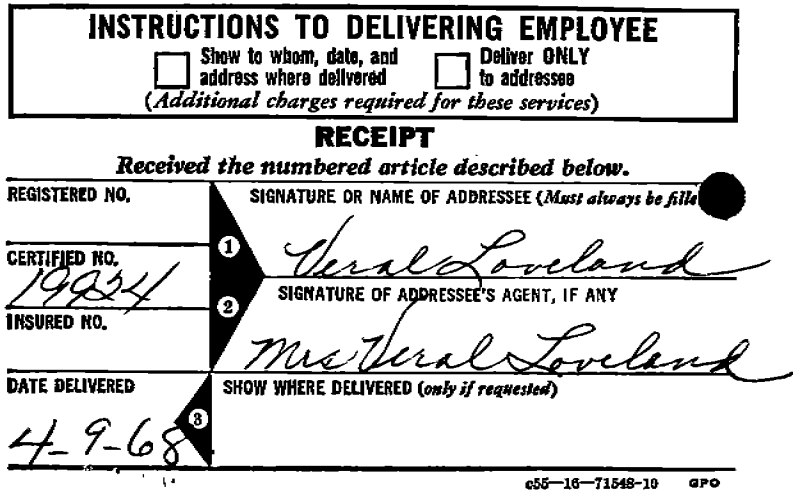
STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967 055—10—71648—10



INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19234

INSURED NO.

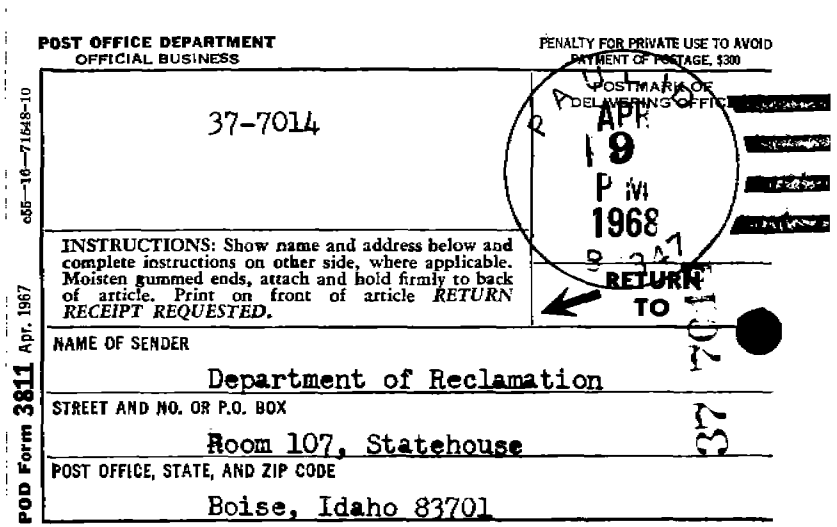
DATE DELIVERED 4-9-68

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be fille*) Vera Loveland

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Mrs Vera Loveland

3 SHOW WHERE DELIVERED (*only if requested*)

e55—16—71548-10 GPO



POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

37-7014

POSTMARK OF DELIVERING OFFICE

APR 9 P M 1968

RETURN TO

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and fold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

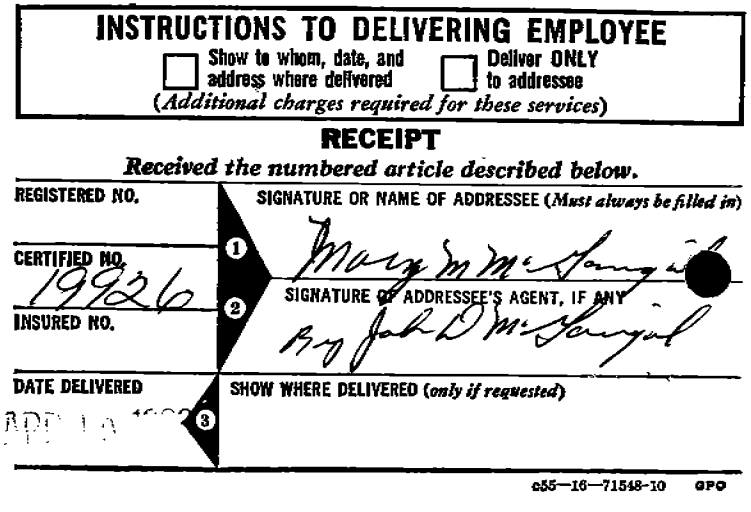
Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

POD Form 3811 Apr. 1967

c55—16—71648-10



INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 1926

INSURED NO.

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

Mary M McLaughlin

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

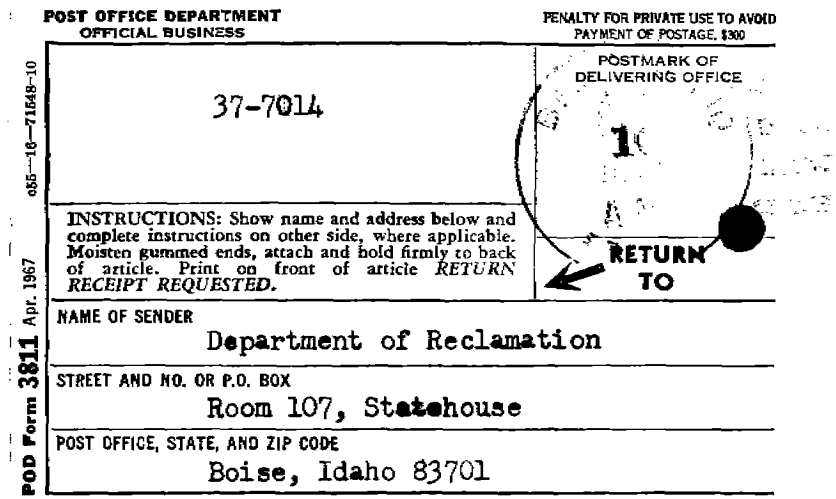
By John D McLaughlin

DATE DELIVERED

APR 19 1926

SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO



POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POD Form 3811 Apr. 1967 055—16—71648-10

37-7014

POSTMARK OF DELIVERING OFFICE

1

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and fold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

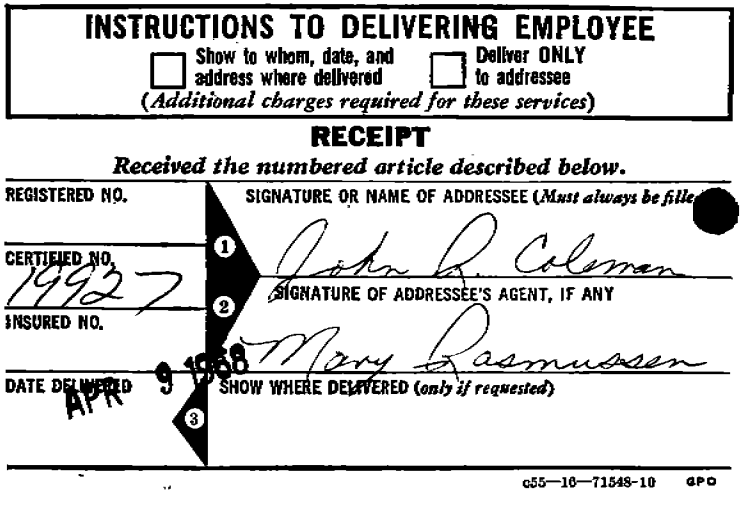
Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701



INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 1992 7

INSURED NO.

DATE DELIVERED APR 9 1968

1 SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled*) John L. Coleman

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Mary Rasmussen

3 SHOW WHERE DELIVERED (*only if requested*)

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

37-7014

POSTMARK OF DELIVERING OFFICE

APR 8 1968

TWIN FALLS OHIO

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER
Department of Reclamation

STREET AND NO. OR P.O. BOX
Room 107, ~~Statehouse~~

POST OFFICE, STATE, AND ZIP CODE
Boise, Idaho 83701

37 7014

POD Form 3811 Apr. 1967

656—16—71648-10

NAME AND ADDRESS OF SENDER: Dept. of Reclamation

Indicate type of mail: ☐ INSURED ☑ C. O. D. ☐ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	DUE SENDER IF C. O. D.	ENDORSEMENT [1]	R. R. FEE	S. D. FEE	S. H. FEE [2]	RESTRICTED DELIVERY FEE / REMARKS
1	19914	Wayne O. Baldwin & Dennis O.								
2		Baldwin, Cicero, Idaho	.04	30			10			37-7014
3	19915	Eugene Fredrickson, Gannett, Ida.	.06	30			10			
4	19916	K. F. Keller, Gannett, Idaho	.06	30			10			
5	19917	E. Hadley Briant Jr. Gannett, Ida.	.06	30			10			
6	19918	Wood River Ranch, Bellevue	.06	30			10			
7	19919	W. L. Durst, Twin Falls, Ida.	.06	30			10			
8	19920	Wayne Clark, Gannett, Ida.	.06	30			10			
9	19921	Walter E. Dixon, Gannett, I	.06	30			10			
10	19922	H. B. Beckett, Glenns Ferry, Ida.	.06	30			10			
11	19923	Edward Vincent, Hagerman, Ida.	.06	30			10			
12	19924	Virl Loveland, Paul, Ida.	.06	30			10			
13	19925	Baldwin Cattle Co. Gannett, Idaho	.06	30			10			
14	19926	Mary M. McDougal, Gannett, Id.	.06	30			10			
15	19927	Casey Robertson & Daly								
16		Twin Falls, Idaho	.06	30			10			
17										
18										
19										
20										37 7014

POSTMARK: BOISE IDAHO APR 8 1908

TOTAL NUMBER OF PIECES LISTED BY SENDER: FOURTEEN 14

TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE: 14

POSTMASTER, PER (Name of receiving employee)

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Butter," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid—This Side Up."

[2] Special-handling charges apply only to fourth-class parcels. Special-delivery service also includes special-handling service.

POD Form 3877-A—July 1958

U. S. GOVERNMENT PRINTING OFFICE C48—16—72948-2

April 5, 1958

Re: Application No. 37-7014

COPY

Wayne O. Baldwin and Donnie D. Baldwin
dba - Baldwin Brothers
Picabo, Idaho

Gentlemen:

Inclosed are copies of protest filed in opposition to the approval of application for permit No. 37-7014. The protests were filed by Eugene Frederickson, K. F. Kellyer, E. Hadley Stuart, Jr., Wood River Ranch, Wayne Clark, H. L. Wurst, Walter E. Nelson, H. B. Bickett, Edward Blincoe Veral Loveland, Baseline Cattle Company, and Mary M. McGonigal.

Please be advised that pursuant to the provisions of the Idaho Code, the Department of Reclamation has scheduled a conference and hearing to hear the matters of protest.

The conference and hearing is scheduled for April 24, 1958 at 1:30 p.m. in the Blaine County Courthouse, Hailey, Idaho. You or your representatives are requested to attend.

Please feel free to contact us if we may be of further assistance.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:ks

Enclosure: Copies of protests

CERTIFIED MAIL

37 7014

April 5, 1968

Re: Application for Permit No. 37-7014
Wayne O. Baldwin and Donnie D. Baldwin

Eugene Frederickson
Gannett, Idaho

Dear Mr. Frederickson:

Please be advised that the Department of Reclamation has received your protest filed in opposition to the approval of Application No. 37-7014. A copy of your protest has been forwarded to Wayne O. and Donnie D. Baldwin, Picabo, Idaho.

Pursuant to existing Idaho Statutes, the department has set the matter of your protest for a conference and hearing. The conference and hearing is scheduled for April 24, 1968 at 1:30 p.m. in the Blaine County Courthouse, Hailey, Idaho.

You or your representatives are requested to attend. Please contact us if we may be of further assistance.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:ks

CERTIFIED MAIL

cc: Parry, Robertson, & Daly

Same letter sent to:

K. F. Hellyer, E. Hadley Stuart, Jr., Wood River Ranch, Wayne Clark, H. L. Wurst, Walter E. Nelson, H. B. Bickett, Edward Blincoe, Veral Loveland, Baseline Cattle Company and Mary M. McGonigal

37 7014

COPY

PARRY, ROBERTSON & DALY
LAWYERS
FIDELITY BANK BUILDING
P. O. BOX 525
TWIN FALLS, IDAHO 83301

TELEPHONE
(208) 733-3722

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
CRAIG H. NEILSEN

March 27, 1968

RECEIVED
MAR 28 1968
Department of Reclamation

Mr. R. Keith Higginson
State Reclamation Engineer
State House
Boise, Idaho 83707

Re: Application No. 37-7014

Dear Mr. Higginson:

With regard to the above application filed by Wayne O. Baldwin and Donnie D. Baldwin, I am enclosing herewith protests filed on behalf of the following individuals: Eugene Frederickson, K. F. Hellyer, E. Hadley Stuart, Jr., Wood River Ranch, Wayne Clark, H. L. Wurst, Walter E. Nelson, H. B. Bickett, Edward Blincoe, Veral Loveland, Baseline Cattle Co., and Mary M. McGonigal. These protests are filed pursuant to the notice published in the Hailey Times on March 14 and March 21, 1968.

Would you please notify us of any hearing to be held on this matter.

Your cooperation is greatly appreciated.

Sincerely yours,

JOHN R. COLEMAN

JRC:dp

Enclosures

37 7014

RECEIVED
MAR 28 1968
Department of Reclamation

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

EUGENE FREDERICKSON, Gannett, Idaho, being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R. Calvin
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

K. F. HELLYER, Gannett, Idaho,

being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R Robertson
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

E. HADLEY STUART, JR., Gannett, Idaho, being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R Coleman
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

WOOD RIVER RANCH, Bellevue, Idaho, being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R Robertson
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

WAYNE CLARK, Gannett, Idaho,

being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R Coleman
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

H. D. WURST, Twin Falls, Idaho,

being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R Coleman
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

WALTER E. NELSON, Gannett, Idaho, being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R. Coleman
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

H. B. BICKETT, Gooding, Idaho,

being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R. Parry
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

EDWARD BLINCOE, Heyburn, Idaho,

being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R Coleman
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

VERAL LOVELAND, Paul, Idaho,

being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R Coleman
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

BASELINE CATTLE CO., an Idaho corporation, Gannett, Idaho, being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R. Coleman
Residing at Twin Falls, Idaho

37 7014

BEFORE R. KEITH HIGGINSON, STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * *

In the Matter of Application No. 37-7014.) PROTEST

* * * * * * *

MARY M. McGONIGAL, Gannett, Idaho, being a wateruser in Blaine County, Idaho, owning land in the vicinity of the point of diversion described in the above application, does hereby protest said application and the granting of a permit to appropriate waters as applied for in the above application by Wayne O. Baldwin and Donnie D. Baldwin, co-partners doing business as Baldwin Brothers, Picabo, Idaho. The granting of a permit to appropriate and the appropriation of waters by the applicants in said application as therein proposed will seriously injure and impair the rights of protestant herein named and the rights of other waterusers in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestant and other landowners in the area.

WHEREFORE, Protestant herein named does hereby pray that the State Reclamation Engineer deny the application of the above mentioned applicants to appropriate water as requested in said application.

DATED This 27th day of March, 1968.

PARRY, ROBERTSON & DALY
Attorneys for the Protestant

By John R Coleman
Residing at Twin Falls, Idaho

37 7014

March 11, 1968

Re: Application for Permit No. 37-7014
Baldwin Brothers

The Hailey Times
Hailey, Idaho83333

Gentlemen:

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

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

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

> I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid.
>
> do not sign letter
> Signature of claimant

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:dj

Enclosure

37 7014

Form 3

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Wayne O. Baldwin and Donnie D. Baldwin, co-partners dba Baldwin Bros, Picabo, Idaho, have on March 11, 1968, applied for permit to divert 5.0 cubic feet per second of water from a subterranean source under application No. 37-7014. Water will be diverted by well and ditch within the NW¼NE¼, Sec. 20, T. 1 S, R. 19 E, B.M., Blaine County, and conveyed into Silver Creek to be co-mingled with Silver Creek water and re-diverted from Silver Creek about 10 miles from the initial point at a point NW¼NW¼, Sec. 36, T. 1 S, R. 20 E, B.M. It is to be used for irrigation from April 1 to October 15 in NE¼NE¼, Sec. 12, T. 2 S, R. 20 E, B.M. and S½NE¼, S½SW¼, SE¼, Sec. 31; NW¼SW¼, Sec. 32, T. 1 S, R. 21 E, B.M. and N½NE¼, SW¼NE¼, W½, Sec. 6; NW¼NW¼, Sec. 7, T. 2 S, R. 21 E, B.M.

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

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Hailey Times, Hailey, Idaho, on March 14 and March 21.

37 7014

ANDERSON, KAUFMAN, ANDERSON AND RINGERT
LAWYERS
IDAHO BUILDING
BOISE, IDAHO 83701
TELEPHONE 342-4591
POST OFFICE BOX 2773

EUGENE H. ANDERSON
SAMUEL KAUFMAN
RICHARD ANDERSON
WILLIAM F. RINGERT

RECEIVED
MAR 11 1968
Department of Reclamation
Area

March 11, 1968

Mr. Keith Higginson
State Reclamation Engineer
Statehouse
Boise, Idaho

Re: Baldwin Bros.

Dear Mr. Higginson:

I transmit to you herewith Application of Baldwin Bros., a copartnership, for Permit to divert waters from an artesian well, for supplemental water on other lands owned by them, which are also served by other water rights including the Frost Decree.

Check for ~~$20.00~~ $40.00 in payment of your fee is herewith.

Please include ourselves in communications with respect to this application and any proceedings thereon.

Yours very respectfully,

ANDERSON, KAUFMAN, ANDERSON
AND RINGERT

By

Eugene H. Anderson

EHA:pho
Enclosures

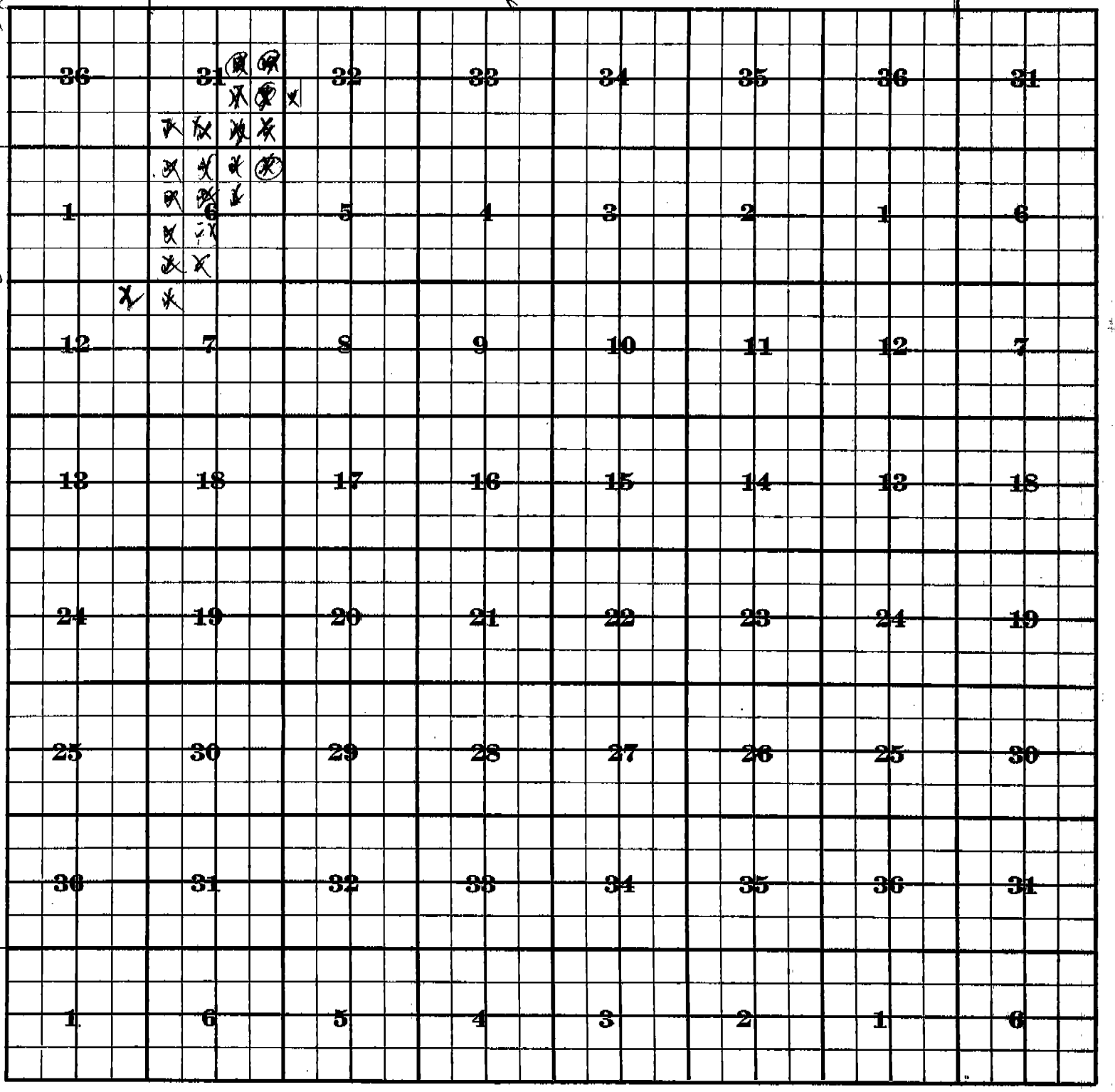
37 7014

and conveyed into
Silver Creek to be
commingled with Silver
Creek Water and rediverted
from Silver Creek
about 10 miles from the
~~the~~ the initial point ~~and~~
point NW NW Sec 36,
Twp 1So. Rge. 20E B.M.

[redacted]

TOWNSHIP SCALE PLAT

Township 1 + 2 South Range 21 EBM



37 7014

S T A T E O F I D A H O

DEPARTMENT OF RECLAMATION

TRANSCRIPT OF PROCEEDING

A hearing held for the purpose of considering a protest filed against the granting by the Department of Reclamation of a permit pursuant to Application made by Wayne O. and Donnie B. Baldwin, Application for Permit #37-7014, to be diverted from a well, conducted through a ditch to Silver Creek and re-diverted for irrigation of 520 acres of land, in Blaine County, Idaho.

Court House
Blaine County
April 24, 1968

Hearing held before R. KEITH HIGGINSON, State Reclamation Engineer.

37 7014

P R O C E E D I N G

Mr. Higginsom:

We'll call this hearing to order. This hearing is being held before the State Reclamation Engineer for the purpose of considering the protest filed against the granting by the Department of Reclamation of permit pursuant to application made by Wayne O. and Donnie B. Baldwin, identification number 37-7014, seeking a right to appropriate 5 second feet of water from an existing well to be diverted from the well, conducted by ditch, and conveyed down Silver Creek, to be re-diverted and used for irrigation of some 520 acres of land.

Notice of this proposed appropriation of water was published, as required by law, in the Hailey Times, on March 14 and March 21, 1968, and the Department received protests from twelve individuals objecting to the granting of the permit. Each of the protests contains the following language:

> "The granting of a permit to appropriate and the appropriation of waters by the applicant in said application, as therein proposed, will seriously injure and impair the rights of protestant herein named, and the rights of other water users in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestants and other land owners in the area."

The hearing today is for the purpose of determining those issues taking testimony concerning the claimed interference with other rights by reason of this intended appropriation of water. At this time we would like, for our taped recording, to take the appearances of the attorneys who are representing the parties.

37 7014

APPEARANCES:

William F. Ringert, of Anderson, Kaufman, Anderson and Ringert, Boise, Idaho for the applicants.

John R. Coleman, of Parry, Robertson & Daly, Twin Falls and Thomas G. Nelson, same firm, for the protestants.

Mr. Higginson:

The parties have by conference agreed to stipulation of the use of certain reports and the department taking judicial notice of those reports. I believe we are now prepared to proceed with the hearing.

Mr. Ringert do you wish to make any kind of an opening statement at this hearing, or do you wish to proceed.

Mr. Ringert: I think we just as well proceed, Mr. Higginson. I would like to inquire whether the department has made a determination that all of the protests were timely filed.

Mr. Higginson: They would have to have been filed before March 31st and they were all received on March 28th, so they were all timely filed.

Mr. Wayne Baldwin, after being duly sworn was examined by Mr. Ringert and testified as follows:

Q. State your name and address for the record please, Wayne.

A. Wayne Baldwin, Picabo, Idaho

Q. You and your brother Donnie D. Baldwin are partners are you not?

A. Yes

Q. What is the name of the partnership?

A. Baldwin Brothers.

37 7014

Q. What is the address of Baldwin Brothers?

A. Picabo, Idaho.

Mr. Ringert: I wonder if I might have the application? Can we deem this in evidence John?

Mr. Coleman: The original application?

Mr. Ringert: Yes

Mr. Coleman: Yes

Q. Now you and your brother made an application for a permit to appropriate the public waters of the State of Idaho did you not?

A. Yes.

Q. Do you know what number has been assigned to that permit?

A. 37-7014.

Q. That's filed with the State Reclamation Engineer of the State of Idaho?

A. Yes.

Q. Is that permit, in the file before you, the one that you and your brother made?

A. Yes.

Q. Who signed in your behalf?

A. Both parties, Wayne Baldwin and Donnie D. Baldwin.

Q. Is this your signature - Wayne O. Baldwin?

A. Yes

Q. Do you recognize your brother's signature? - Donnie D. Baldwin?

A. Yes.

37 7014

Q. Now will you look at the list of lands identified on the second page, under Paragraph B? Have you examined that land list before?

A. Yes.

Q. Do Baldwin Brothers own the land there identified?

A. Yes.

Q. What county are those lands situate in?

A. Blaine.

Q. Blaine County, Idaho?

A. Yes.

Q. Is that total area figure correct - 520 acres?

A. Yes

Q. What kind of land is that 520 acres identified there?

A. In soil condition you mean?

Q. Well, generally - is it farm land?

A. Farm land - yes.

Q. Arid farm land?

A. Well, it is all under irrigation now.

Q. I see. Does it require irrigation to produce crops?

A. Yes

Q. Now, are there other water rights appurtenant to the lands described in this application?

A. Yes, water rights in Silver Creek.

Q. Are those water rights identified in Paragraph 11 in the application?

A. Yes.

Q. Now, are the water rights identified in Paragraph 11 of the application

sufficient for irrigation of the lands identified and described in this application?

A. No.

Q. In what respect are those water rights not sufficient?

A. Well, certain times of the season, in Silver Creek, when the water rights are not available in the creek.

Q. When you say, when the water rights are not all available in the creek, would you explain that a little?

A. Well, sometimes, like any other creek, when all of your water rights aren't good at the low part of the season, why that is why we applied for this supplemental water.

Q. That is the stream flow in Silver Creek?

A. Yes

Q. Now, you have made application here for 5 cubic feet per second, or 250 miners inches - Does the irrigation of the land identified in this application require that much additional water, over and above your rights in Silver Creek in the flow of the stream?

A. Yes.

Q. What crops do you raise on the land that is identified in this application for permit?

A. Just hay and grain, certified seed potatoes.

Q. Now what facilities are available for diversion of the water covered by this application and delivery of that water to the lands identified in the application?

A. Well, the well has a valve on it that controls the delivery into the creek, the ditch runs to Silver Creek.

37 7014

Q. Excuse me for interrupting, but the well has already been dug, as stated in this application?

A. Yes. Where we take our water out there is sufficient headgates and weirs for measuring water.

Q. Where you take it out from Silver Creek?

A. Yes.

Q. Then, how is it delivered from Silver Creek to the land described in this application?

A. In a private ditch.

Q. That ditch is in existence now?

A. Yes.

Q. Generally speaking, what times of the year will this water under this application be used on the lands identified in the application?

A. Normally in May and June.

Q. Are there years when it would be required during other months?

A. Possibly, yes.

Q. What conditions would dictate use during other months?

A. Determine how much the water flow of Silver Creek itself, whether the other water rights are good or not.

Q. Now with respect to the water flow, the stream flow in Silver, what time of year, well, put it this way, is that stream flow subject to seasonal variations?

A. Yes.

Q. What is the general trend of those variations?

A. Well, normally it is just the opposite of any other stream. It is lowest in the spring of the year, in May and June, and as the season progresses, then Silver Creek seems to come up all year. Completely opposite of another stream that is fed by snowfall.

Q. What is the source of the water in Silver Creek, the streamflow?

A. By that what do you mean?

Q. Where does the water come from that constitutes the main stream flow in Silver Creek?

A. Well, it is generally springs.

Q. Where are those springs located?

A. In the immediate area of Blaine County, and it is also fed from irrigation on the base line flats. It will pick up water from that and through the drain. It increases all summer.

Q. I don't recall, whether I ask so I will ask again. Are your other water rights in the stream flow in Silver Creek sufficient for irrigation of the lands described in this application?

A. No.

Q. Now, what quantity of water does the well identified in your application 37-7014 produce?

A. The full amount you mean?

Q. Yes.

A. I think about 395 inches.

Q. Who measured that?

A. Don Watts of the Reclamation

Q. Was that in connection with licensing under the previous permit?

A. Yes.

Q. Have you been able to make any independent determination on your own of the quantity that the well is capable of producing?

A. I think the well is sufficient for our needs.

Q. It is sufficient to produce sufficient water to fulfill the requested right in this application?

A. Yes.

Q. For 5 cubic feet per second?

A. Yes

Q. You didn't make this application for speculative purposes did you?

A. No. I guess not.

Q. Or for delay?

A. No.

Q. Do you contemplate that any additional expenditures would be required in order to complete the appropriation covered by this application?

A. No.

Q. The facilities are, in fact, in existence?

A. Yes.

Q. And are of sufficient capacity to deliver all this water?

A. Yes.

Q. I believe that is all I have Mr. Higginson.

Mr. Higginson: Do you have any questions of this witness?

Cross-examination by Mr. Nelson

Q. Mr. Baldwin you have before you there, I believe, the department's file containing the original application, is that right?

37 7014

A. 37-7014, yes.

Q. Do you also have there, there was an extra sheet of paper I believe, Paragraph 10 remarks?

A. Yes.

Q. Do you see the last paragraph of that?

A. Yes

Q. Is that statement substantially correct?

A. Yes.

Q. When did Baldwin Brothers buy the land where this well we are talking about is located?

A. I can't give you the exact date, I mean, you know without referring to the record. I think in 1964.

A. So you have used water from this well before you owned -

Mr. Ringert: Now just a minute before you answer that question any way. I am going to object to inquiries along these lines. I think he is going beyond questions designed to determine what is in the well and what is involved in this application. It might be that there are areas here that would be proper for inquiry in an administrative determination of water rights or in a court determination but I dont think Mr. Nelson's questions are proper here.

Mr. Higginson: I think Mr. Ringert, if the purpose of Mr. Nelson's questioning is to determine whether there has been a past history of use of this well on this property and from there, discussion as to what has been the effect of that past use on other rights, then I would think that for that purpose we might listen to the answer, but we are talking about something other than that we would have to sustain the objection.

37 7014

Mr. Nelson: That's what the statement that led to my question is in the application. The statement is made that the water has been used for 5 years. My question is directed as to how they came about to the right to use the water when they did not own the land.

Mr. Ringert: Well, I think the ownership of the land is entirely collateral. What Mr. Higginson says is you are entitled to establish the effect of past use and unless I misunderstood his statement that has nothing whatever to do with ownership of land.

Mr. Higginson: That would be my position.

Mr. Nelson: I might say for the record that we have here a question of extent and condition of use and I think the manner in which they acquired the right to use the water and the extent to which they used it prior to their ownership of the well and the land around it is material.

Mr. Ringert: I think it is completely irrelevant here. The thing to be proven, if in fact it is an issue here, is what is the result of the use with respect to other water rights.

Mr. Higginson: I would have to agree with Mr. Ringert as to that particular point. The only thing that our department has before it at this moment is the question as to whether this particular permit ought to get issued and insofar as your examination might go into the question as to whether there has been a past use and what has been the effect of the past use, I think we can entertain the question, but if you are going to get involved into whether the past use has been proper or not or legal, or something else, then we will have to sustain the objection.

Mr. Nelson: We might ask that that statement be stricken from the application.

Mr. Ringert: I don't feel that that is a proper request, Mr. Higginson, there is no issue on it and an applicant is not required to show ownership of lands. The question is, as raised in their protest, what effect does this use have, if any, upon the rights of the protestants. They are not protesting this statement in the application.

Mr. Nelson: I might say I think you have to have, in order to initiate a valid property right, you have to have a right to go on the land where you seek to divert the water and the right to divert water. Now, if you are on the land by trespass then you have not initiated a valid water right, so I would find out at what point they obtained the right to use this water.

Mr. Higginson: Mr. Nelson, let me just interrupt here. The particular application that we have before us is the initiation of a water right in March of 1968. The application in and of itself does not purport to establish a water right by reason of past use. It attempts to initiate a right as of March of 1968 and this is the only thing that is before the Department of Reclamation. We are not trying to determine whether they did, in fact, by reason of the use since 1962, as indicated in the application, establish a right. That is not before the Department. The only priority that we can give as a result of this application is a 1968 priority which ignores this past use. I think really that all that is before us and that is what we should confine ourselves to.

37 7014

Mr. Nelson: So this statement in the application then is irrelevant?

Mr. Higginson: Its irrelevant as far as we are concerned.

Mr. Nelson: All right.

Mr. Ringert: In these proceedings.

Mr. Nelson: That's what we are here for.

Mr. Ringert: May I make this statement, first, if you talk about trespass you are talking about trespass occurring at the point of diversion. Now, your question to Mr. Baldwin, as I understood it, was directed to the lands where the water is used. Now, if there was a trespass on those lands that is between the land owner and the Baldwins.

Mr. Nelson: Maybe I can clear it up with a couple of questions.

Mr. Higginson: Why don't we go on. I hope you gentlemen see my point. The thing that we are interested in is if there has been a past use, what has been the effect on the established rights. If that will help us determine whether this permit ought to issue then that is what I want to know.

Mr. Nelson: OK

Q. In the application that is before you Mr. Baldwin, it stated that the point of diversion is the artesian well under License No. G-29372. You see that on the front page?

A. Yes

Q. Who owns that artesian well?

A. Baldwin Brothers.

Q. How long have you owned it?

A. Not having the record before me, approximately since 1964.

Q. Then you purchased the well at the same time you purchased the land around the well?

A. Yes.

Q. Now what has been the extent of Baldwin Brothers use of water from that well on the lands described in the application? In other words, what years have you used it, how long, etc.

A. I couldn't give you the exact date because I haven't them before me, but it /is just during periods we needed it when our other rights were not available in the creek.

Q. Have you examined the records of the Watermaster for this District to see if he has any record as to when that water was put into Silver Creek?

A. Yes.

Q. Does he have a record actually of when that water was put into Silver Creek from that well?

A. Yes

Q. And do you have any impression as to whether or not his records are correct or incorrect?

Mr. Ringert: I don't think that is a very fair question. Can he see the record?

Mr. Nelson: How long has it been since you have seen them?

A. Oh, approximately 2 months.

Q. Do you have presently any impression as to whether or not they are correct or incorrect?

A. I don't know what reason they would have for being incorrect.

Q. Now, if you bought the property in 1964, did you use water from that well on the lands described in the application prior to 1964?

A. Yes.

Q. Do you recall the extent of the use prior to 1964?

A. Not the exact dates or time at this moment.

Mr. Nelson: Do you have an Exhibit Marking stamp, or how do you handle it?

Mr. Higginson: I don't have a stamp but I'll mark anything that you want with my trusty pen.

Q. Mr. Baldwin I will show you what has been marked as Protestants' Exhibit No. 1 and ask you if you can recognize that?

A. Well, I can't recognize it. Possibly I have seen it before. I don't have a photographic mind to tell you whether I have or haven't.

Q. I take it that if we excuse Mr. Baldwin at this point he would be subject to recall at a later time. Is that correct?

Mr. Higginson: That would be satisfactory to me.

Mr. Ringert: Yes

Mr. Nelson: We would prefer to defer the rest of the cross examination of Mr. Baldwin until later.

Mr. Higginson: Do you have any re-direct questions at any time.

Mr. Ringert: No

Mr. Higginson: Mr. Baldwin we will excuse you for the moment. You will be available for later examination if you will please.

Mr. Baldwin: Yes

Mr. Ringert: Mr. Higginson, I think Mr. Baldwin's testimony and the records of the Department of Reclamation of the State of Idaho readily demonstrate the availability of water to appropriation under this application. The need for the appropriation; the fact that the application is not speculative nor made for delay; the financial capabilities of the applicants should not even be an issue because no further facilities are required. I think they

satisfied all of the requirements for an application and they are entitled to have it granted.

Mr. Higginson: Then we will proceed with the protestants. Do you wish to make an opening statement in connection with your objection or do you want to proceed by calling witnesses:

Mr. Coleman: We will call our witnesses, Mr. Higginson. We will call Mr. Wayne Clark.

Mr. Wayne Clark, after being duly sworn, was examined by Mr. Coleman and testified as follows:

Q. Will you state your name please?

A. Wayne Clark

Q. Where do you reside, Mr. Clark?

A. Gannett.

Q. You are one of the protestants in this matter?

A. Right.

Q. Mr. Clark, I will show you what has been marked as Protestants' Exhibit No. 8 and ask you if you can identify what that is?

A. It is primarily a map that we, as artesian water users, had prepared to identify what we call the artesian basin.

Q. And does that show ownership of the various lands within that area?

A. Yes.

Q. And to the best of your knowledge these ownerships that are shown here are correct according to the record of Blaine County?

A. Right.

Q. We will offer Protestants' Exhibit 8, Mr. Higginson.

Mr. Higginson: Mr. Ringert, any objection?

37 7014

Mr. Ringert: I would like to make one inquiry of Mr. Clark, if I might, in regard to that exhibit. Mr. Clark, south of your place in Section 20, there is an area marked Lucke, Section 20 and 21, I guess it is just those two. Is that correct?

A. Yes

Q. Is that the land that Baldwin Brothers now have under the contract to purchase, or are you aware of that?

A. As far as I know, that is it.

Mr. Ringert: We have no objection to introduction of that exhibit for purposes of illustration, but I would like to reserve the right to offer rebuttal testimony in regard to those land ownership patterns, if some inaccuracy should be determined on later examination.

Mr. Higginson: We will receive it then for illustrative purposes.

Mr. Coleman: Mr. Clark on the real property that you own do you have any artesian wells?

A. Yes.

Q. How many wells do you have?

A. Three.

Q. Would you take this pen and mark on the property you own the location of the wells and number them one, two and three. Are all three of these wells used for irrigation purposes?

A. No.

Q. Which wells are used for irrigation purposes?

A. One and two.

Q. And when were these two wells drilled?

A. 1949.

Q. How much water does Well No. 1 produce?

A. About 30 inches.

Q. And Well No. 2 ?

A. 90 inches .

Q. Sorry, I didn't catch that.

A. 90

Q. And Well No. 3, what use do you make of that well?

A. That's a stock well.

Q. Are any of these wells licensed to the Department of Reclamation of the State of Idaho?

A. No Sir.

Q. Have the waters from the Well No. 1 and No. 2 been used to irrigate crops on lands that would otherwise be arid?

A. I use them for supplemental water when my water right goes off.

Q. You have a water right from other sources?

A. Wood River - Big Wood River.

Q. Have you used these wells for supplemental water sources each year since they were drilled?

A. Yes

Q. Do you recall any particular year in which they went dry?

A. 1961. The No. 1 well goes dry almost every summer. No. 2 well runs the year around. In 61 No. 2 well went dry around September, maybe the 1st.

Q. That was in 1961?

A. Right

Q. Has No. 1 well gone dry at an earlier date many years?

37 7014

A. In 1966 went dry July 19th.

Q. Did No. 2 well go dry in 1966?

A. No. 2 well? Yes.

Q. Did both wells go dry? When did No. 2 well do dry?

A. Well it went dry about the middle of June.

Q. Had No. 2 well ever been dry before?

A. Not that early.

Q. It is the No. 1 well that runs throughout the year?

A. No, the other way around. No. 2 well that runs throughout the year.

Q. But No. 2 well went dry in 1966 in June?

A. July.

Q. No 1 well went dry in June, that year?

A. Right.

Q. In 1961 when the well that is situated on the property being purchased by the Baldwin Brothers was drilled, were you at that time using water from any artesian wells?

A. I was using stock water from McGonigle's east well.

Q. Where is that well with respect to your No. 2 well?

A. My No. 2 well. It is south and east not quite a half mile. A little over a quarter.

Q. Would you mark the location of that well as No. 4?

A. I've put the wells in the wrong place.

Q. Do you need to change the designation of the wells on your property?

A. I sure do. (Witness re-numbers wells on Exhibit 8)

Q. Do you recall, Mr. Clark, the approximate dates that the well on the Baldwin property was drilled in 1961?

37 7014

A. About the middle of March.

Q. I believe you said, at that time, you were watering cattle from the McGonigle well.

A. That's right.

Q. And what happened to the water in that well?

A. It dried up.

Q. Do you recall whether or not the well on the Baldwin property was later capped.

A. It was.

Q. What happened when that well was capped?

A. About 4 or 5 days or a week after the well was capped, the McGonigle well came back on.

Q. In 1966, when your wells went dry, was the well on the Baldwin property flowing?

A. As far as I know, it was.

Q. It was - did you say it was or was not?

A. As far as I know it was.

Q. Did you observe it flowing at any time during that season?

A. Yes.

Q. And was it flowing at a time when your wells were dry?

A. I can't answer that.

Q. Do you know how long it was from the time the well on the Baldwin property was drilled until it was capped, approximately?

A. 8 to 10 days, I think.

Q. Are you familiar with any other wells in the immediate vicinity of your property?

A. Yes

Q. Wells on which property were you particularly familiar with?

A. Eddy Blincoe's for one.

Q. And who owned the property in 1961.

A. My sister.

Q. Are there any artesian wells on that property?

A. Two

Q. Are you familiar enough with those to mark those on that property?

(Witness marks Exhibit No. 8)

A. Yes. I am not too sure on the location but this is close.

Q. Are you familiar also with the location of the well on the Baldwin property?

A. Approximately, yes.

Q. Could you mark it with this red pen?

A. The road is not in there. I can't see. I don't think I had better try that one.

Q. Did you number those two Blincoe wells?

A. No - number them 5 and 6

Q. What happened with respect to these two wells in 1961 when the well on the Baldwin property was flowing?

A. They were both dry. Right after the Baldwin well was flowing, I checked.

Q. And they were both dry? Had they ever been dry before to your knowledge?

A. One of them had but not both of them.

Q. Are you familiar at all with the situation of these wells in 1966?

A. Not really.

37 7014

Q. Do you know when the wells on the Blincoe property resumed flowing in 1961?

A. About the same time that the McGonigle well came back on. This one , No. 5 I think it is, the other one didn't.

Mr. Coleman: We have no other questions.

Mr. Higginson: Mr. Ringert?

Cross-examination by Mr. Ringert:

Q. Mr. Clark, do you know how deep the McGonigle well is?

A. Not for sure.

Q. How old is that well?

A. It was drilled in 1948 or 1949.

Q. Do you have any idea what condition that well was in, in 1961?

A. As far as I know it was good as it ever was.

Q. Or 1966?

A. Yes

Q. Now you were using that McGonigle well for stock watering I take it?

A. Right

Q. In March of 1961, I believe, you stated it went dry for a period for some days. Did you attempt to put a pump in it at that time?

A. No.

Q. Did you make an attempt to measure the depth of the static water level at that time?

A. No.

Q. Had you observed the Blincoe wells, Nos. 5 and 6, immediately prior to the time the Baldwin well was brought in, in 1961?

A. No, not too immediately, No.

37 7014

Q. Do you recall how long it was before that time that you had last observed it?

A. About 2 or 3 weeks.

Q. Were the wells No. 5 and 6 flowing at that time?

A. No. 5 was flowing, No. 6 wasn't.

Q. 6 was dry and 5 was flowing. Now, when did you first observe No. 5 after the Baldwin well came in?

A. After the McGonigle well went dry.

Q. The same day?

A. No, a couple of days after.

Q. Do you know what condition the Blincoe wells were in, in 1961?

A. Do you mean water wise?

Q. No, I mean internally, the physical condition down in the well itself.

A. As far as I know they were all right.

Q. Do you know when those Blincoe wells were drilled?

A. 1948 I think

Q. Do you know how deep they are?

A. Not for sure.

Q. Do you know what the water level was in the Big Wood River in 1961? March of 1961, whether it was low or high or normal?

A. Well, it wasn't high.

Q. Do you know what the condition of the spring flow was on the springs that feed Silver Creek in March of 1961?

A. Not really.

Q. I believe that is all I have.

Re-direct Examination by Mr. Coleman:

Q. Mr. Clark, I failed to ask you what size casing is in your well No. 1?

A. Well No. 1 is 5 5/8.

Q. In Well No. 2?

A. 6.

Q. And in Well no. 3?

A. 6.

Q. Do you know the size of casing in the McGonigle well?

A. 6 ,

Q. What about the two wells on the Blincoe property?

A. 5 is an 8 and 6 is a 6.

Mr. Coleman: We have no other questions.

Mr. Ringert: I might before Mr. Clark departs - No. 6 has a 6-inch casing.

A. Right.

Q. That's inside diameter?

A. They call it a 6-in. pipe I guess that's right.

Q. I see. Are any of those casings perforated?

A. I don't think so.

Q. Are these wells cased clear to the bottom?

A. Yes

Q. And capped at the top?

A. (Witness nods)

Mr. Ringert: That's all.

Mr. Higginson: I would like to clarify a term you have used, Mr. Clark. You talk about a well drying up. Would you tell me what you mean when you say the well dried up?

37 7014

Witness: It quit flowing.

Mr. Higginson: In every case where you indicate the well dried up did you observe down the casing was there water in the well?

Witness: Yes.

Mr. Higginson: There was water in the well you could see or are they so constructed with a valve that you can't see down?

Witness: Some are and some are not.

Mr. Higginson: Some are and some are not?

Witness: That's right. The McGonigle well you can't. Blincoe well you can, one of them. One of them you can and my well you can.

Mr. Higginson: In those cases where you could observe and you indicated the well dried up did you observe down the casing?

Witness: Yes, where I could.

Mr. Higginson: Was there water in the casing?

Witness: Yes.

Mr. Higginson: So when you say dried up you mean it had ceased flowing at the surface.

Witness: Right.

Mr. Higginson: I believe you may be excused. Thank you, Mr. Clark.

Mr. Coleman: I would like to call a witness out of order here. He has an appointment this afternoon.

Mr. Higginson: That will be fine.

Mr. Nelson: I call Mr. Hellyer.

Mr. George Hellyer after being called and duly sworn, was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. George Hellyer

Q. Where do you reside Mr. Hellyer?

A. In Gannett.

Q. I will show you protestant's exhibit No. 8 and ask if you can - excuse me. Do you own property - you are one of the protestants in this matter? Is that correct?

A. Right.

Q. You own property in the vicinity of Gannett?

A. Yes

Q. You are familiar with the property being purchased by Baldwin Brothers?

A. Yes

Q. And you have property in the general vicinity of that property?

A. Yes

Q. And where is your property located with respect to that?

A. It would be to the west.

Q. On your property do you have any artesian wells?

A. I have three.

Q. Would you mark on protestants Exhibit 8 the location of these wells starting - numbering your first well No. 7. (Witness marks Exhibit)

Q. When did you acquire this property, Mr. Hellyer?

A. In 1967, in November from my father.

Q. In 1967?

A. Yes, he purchased it in 1964.

Q. How long have you been living on the property?

A. Since 1964.

Q. I didn't get your last answer.

A. I have been living there since 1964.

Q. Since 1964, have you had an opportunity to observe the activity of Wells No. 7, 8 and 9?

A. Yes.

Q. How many inches of water did Well No. 7 normally flow in 1964?

A. 89 inches. This was measured and I assume was the static level.

Q. In 1964 and would the same be true in 1965?

A. Yes.

Q. And how much did it flow in 1966 do you know?

A. It dropped to about 70 inches

Q. And how much did it flow in 1967?

A. The same.

Q. The same?

A. 70 inches.

Q. Then in 1966 and 1967 it flowed the same amount of water.

A. I didn't have the chance to observe it all of 1967 so I can't answer that question.

Q. With regard to Well No. 8, how much did it flow in 1965 and 1966?

A. In 1965 we drilled it and it flowed 65 measured inches. In 1966 in order to satisfy a contract with the previous owners we had to prove up the water,about May 20th the well did not stop flowing but dropped to 20 inches.

Q. And how much did that well flow in 1967.

A. The same.

Q. And Well No. 9?

A. It was drilled in 1966 to satisfy the contract and it flowed approximately 25 inches in 1966.

Q. And how much did it flow in 1967?

A. Approximately the same.

Q. What size casing is there in Well No. 7?

A. 6 inch

Q. In well No. 8?

A. 8 inch.

Q. And in well No. 9?

A. 8 inch.

Q. Do you have any other water rights that are appurtenant to the property you own?

A. Yes, out of Spring Creek and Crystal Creek, and one small right out of Wood River.

Mr. Coleman: We have no other questions.

Cross-examination by Mr. Ringert

Q. No. 8 flowed how much in 1967?

A. In 1967 it flowed 20 inches.

Q. Now, are those wells cased clear to the bottom?

A. As far as I know, except No. 8 and the attempt was made, in order to satisfy this contract, to go deeper to try to retain the flow that was originally there and it was 180 foot which was way past the bottom, or the artesian flow level. It is perforated about 100 feet which is the artesian level.

Q. At what depth below ground level are the perforations?

A. 100 feet, in No. 8 to 108 feet, 8 feet of perforation.

Q. Is that where the artesian belt is located that supplies water for No. 8?

37 7014

A. According to my knowledge, that is correct.

Q. What is the entire depth of the well. 108 feet?

A. 180 feet of casing.

Q. Is the well then 180 feet deep and cased to the bottom, as far as you know?

A. It is cased 180 feet and there is no water at 180 feet. The well was dry and by that I mean there was no water in the casing, no water coming out, until we perforated it again from 100 to 108 feet.

Q. Who made the measurements on these flows that you referred to.

A. I was not there at the time. I don't know who.

Q. You didn't make them yourself?

A. I did not make them myself.

Q. Do you know if they were made by an employee of the State Department of Reclamation?

A. I do know that because we applied for the licenses on both wells.

Q. I see

A. This is 8 and 9 I am speaking of. Seven was there when we purchased the land.

Q. Now who measured the flow in No. 7 in 1964.

A. In 1964 the measurement was taken from the records of the permit, and assumed to be correct.

Q. Was this record the record of an examination by the State Department of Reclamation for licensing purposes?

A. Yes.

Q. Nowwho made the measurement in No. 7 in 1965?

A. In 1965 it was made by me because I was the irrigator there and only by ditch level and not by actual measurement from the well by having irrigated from that flow it was an assumption:

Q. Or estimate?

A. An estimate of mine. That is correct.

Q. Now who made the measurement in 1966, in well No. 7.

A. Myself, because I was the irrigator.

Q. Was that likewise an estimate?

A. Yes.

Q. Would the same be true with respect to 1967.

A. Yes. On No. 8 Gene Walker, the well driller measured it.

Q. Was Well No. 7 valved down in 1964 when the 89 inche flow was measured by the department, or was it being allowed to flow freely the entire production of the well?

A. No, there was a valve and a 90° elbow on it, when it was measured and the flow came out of that pipe was what was actually recorded and the same with the other two wells.

Q. Did you observe the Baldwin well in 1964?

A. No.

Q. Or 1965?

A. I have observed it, that's all. I mean I have just looked at it.

Q. You know where it is though?

A. Yes.

Q. I see. Do you know what time of the years these observations and measurements you testified to were made on No. 7?

A. In 1964, it was made in June.

37 7014

Q. Middle, first or latter part.

A. The first part of June.

Q. In 1965, on No. 7?

A. The middle of May.

Q. In 1966?

A. Same date, middle of May.

Q. In 1967?

A. June.

Q. This is still with respect with No. 7?

A. Yes.

Q. What part of June was that?

A. First part of June. In 1967 correction on that last time. It was in the Fall I observed that well. It was in August.

Q. In August?

A. August 15th.

Q. Now Well No. 8. When was the 165 mea surement made there?

A. Right after the drilling was finished and the last part of March.

Q. I believe you testified that the 1966 measurement was made May 20th in Well No. 8.

A. That's because it stopped, Yes. I was irrigating at the time and all of a sudden the water quit. It was around May 20th. It was from the 17th to 21st somewhere in there. I can't be specific.

Q. Did the flow quit or did it diminish?

A. I am sorry, it diminished, and that's all it just diminished.

Q. And that was about May 20th.

A. Yes.

Q. Now, 1967 when was the measurement made, in Well No. 8?

37 7014

A. Continually, because we were attempting to satisfy the contract with the people.

Q. Beginning when and ending when?

A. It was measured from March, last part of March, to September when we turned it off.

Q. I take it the 20 inches is the maximum flow you observed in that well during that period?

A. Yes, it was.

Q. Now, when was the measurement taken in Well No. 9.

A. Right after it was drilled, in 1966, about the middle part of June.

A. And in 1967?

A. August, middle part.

Q. Have you examined the condition of the Well No. 7?

A. At all times.

Q. Down in the well, do you know what the condition is there?

A. No, I do not know. It has a 90° on it.

Q. So your examination then has been made of the casing as it comes out of the ground and the cap and control valve.

Mr. Ringert: I believe that is all I have.

Mr. Higginson: Let me ask one question for clarification. You indicated that the well driller Mr. Walker, made a measurement right after the well was drilled. How did he make that?

Witness: By measuring the flow. There was no cap and the flow coming out of the well, the number of inches that the water came above the pipe and I think that was it. The number of inches the water came above the end of the

37 7014

pipe. I am not familiar with the method, he has drilled a lot of wells in this valley and I thought he knew. It did not have a 90° on it.

Mr. Higginson: Same thing is true with regard to No. 9 when it was finished in 1956.

Witness: Yes, Yes, that's right. He gave some estimates.

Mr. Higginson: The measurement you reported for No. 8, the 65 inches in 1965, when that was finished and the 25 inches on No. 9 in 1966, when that was finished were determined by Walker, the driller, based upon some determination or measurement of the distance the water raised above the pipe.

Witness: And it is an approximate rate and I know that.

Mr. Higginson: That's all I have.

Mr. Ringert: I would like to ask one more question with respect to No. 8 after the flow diminished were any attempts made to see whether that flow could be rehabilitated. Has any work been done in the well?

Witness: That's why we drilled to 180 foot because the Chaneys we bought the ranch from wanted no further investment in another well. They wanted him to continue and get that water back at all costs, they way they put it, and he did everything within his well-driller power to get the water back and couldn't do it.

Mr. Ringert: Do you know how deep the well was before he started to fooling with it?

Witness: It was a 100 feet. Both 8 and 9, and I don't know No. 7 because I wasn't there on the ranch at that time, but I think it is about 100, if I am correct.

Mr. Ringert: Thank you

Mr. Higginson: If that is all you may be excused, Mr. Hellyer.

NOON RECESS

37 7014

Mr. Higginson: I call the meeting back to order after the noon recess. I believe we are ready for another witness, Mr. Coleman.

Mr. Coleman: I call Reid Newby.

Mr. Reid Newby, after being duly sworn, was examined by Mr. Newby and testified as follows:

Q. Would you state your name please?

A. Reid J. Newby

Q. Where do you reside, Mr. Newby?

A. Shoshone, Idaho

Q. And what is your occupation?

A. Watermaster for Water Districts 7 and 11 AB.

Q. And how long have you been employed as Watermaster?

A. Since May 1, 1962.

Q. In your capacity as Watermaster, or your predecessors, or lets put it this way, does your office maintain records relating to streamflows and diversion and delivery of water within the District.

A. Surface waters, yes

Q. I'll show you Exhibits Protestants No. 1 through 7, and ask if you can identify those?

A. Yes sir, I can.

Q. What are those?

A. These are records of diversions made into and out of Silver Creek regarding to various wells from 1961 to 1967, inclusive.

Q. I take it these are copies?

A. Yes.

Q. Where are the originals.

A. In my office, watermaster's office, in Shoshone.

Q. Are these copies of records maintained by you and your predecessors, as a part of your job?

A. No, this is in excess of my job. Part of them are and part of them aren't. The wells any of those that show measurements of wells. This is not other than water to be comingled in Silver Creek is not necessarily part of the job as Watermaster, but the water that is diverted out, No. 2,3 several of them here are part of actual records we keep every year, yes.

Q. All those exhibits are excerpts or copies of actual records of your office?

A. Yes sir.

Q. Now what interest do you and your Assistant Watermasters have in relation to water from a well that is put into Silver Creek and taken out? What is your interest there?

A. Our primary interest is to administer the water for surface water users, decreed water users in order to be able to do this we have to be able to measure the comingled waters into the creek the water this is to be comingled into the creek so that we can measure it out with a nominal stream-flow loss, to the - whoever owns the water.

Q. In that way you don't, as I understand it, end up charging the comingled water to that persnn's water right in the stream itself.

A. That's right.

Q. Now, as an example, Protestants' Exhibit 3 is headed Don and Wayne Baldwin No. 24 and 25, Lawson Ditch, Season 1963, Pump 24. Now can you explain to us, there are several columns of figures on there, can you explain to us, what those figures are for?

A. There were two headgates. Lawson Headgate 24 and Don and Wayne Baldwin divert there decreed water out throught this Lawson Headgate No. 24 and 25. It shows May 24, 25 and the total. This shows the amount of decreed water that was delivered through whatever numbered headgate, in this case 24, that it is decreed water, and the amount where it says well here, is the amount that was delivered through this that was delivered from a well.

Q. Does it show on there the sources of the well water?

A. No, it doesn't show on here on this particular one.

Q. Do you have records in your office that do show the source of that water?

A. I would have to go back and check to make sure.

Q. OK, I will show you a book that has been marked as Protestants' Exhibit 9 and direct your attention to the ticket as you look at the upper right hand corner. Now what is that?

A. That is a page of a book, or a copy of a page of a book that's turned into the Watermaster's office by the Deputy Watermaster showing the amount of water that was measured into Silver Creek from the Rogers artesian well on May 31, 1963, at 1 P. M.

Q. How much water does it show being measured into the creek?

A. 4.6 feet

Q. Does Protestants Exhibit 3, which we talked about before show any equivalent figure?

A. Yes, on May 31, it shows 4.6 feet being delivered out.

Q. So from those two exhibits one could gather that 4.6 feet shown as being delivered to the Baldwin Brothers, from a well came from the Rogers artesian well, is that correct?

37 7014

A. Possibly, except for one thing that is 4.6 feet being shown measured into the creek shows no streamflow loss down to 4.6 feet and I am sure

when this was made out there would have been.

Q. What is the percentage usually charged do you recall.

A. It varies from 1 to 14%.

Q. Now, here is Protestants's Exhibit No. 5, is in the same form as to the water shown to have its source in a well there, does it purport to show a source for the well water?

A. Yes, I have to assume from looking at this, not having the daily ticket that was turned in, that this water 1.9 - -

Mr. Ringert: Just a minute please, I don't think we should indulge in assumptions.

Mr. Newby: Without having the rest of the record here I couldn't say for sure.

Mr. Nelson: My question was, does that particular exhibit purport to show a source for the well water?

A. Yes.

Q. And what source was shown?

A. Lucke.

Q. Protestants' Exhbit 2, the same question as to the water delivered to the Baldwin Brothers from a well there, does it purport to show a source?

A. Yes sir.

Q. What's the source shown there?

A. Rogers's artesian well.

Q. I show you Protestants' Exhibit 1 and ask you what that is?

A. This is a copy of the records from the Watermasters office showing the Lucke artesian well with 10% loss.

Q. Delivered to who?

A. Baldwin Brothers

Q. In what year?

A. 1961

Q. How many days?

A. Six days in May.

Q. You said, while you were testifying concerning one of the other exhibits, about the daily sheet that is turned in, are the tickets shown on Protestants' Exhibit 9, the tickets you are talking about?

A. Yes.

Q. I show you Protestants' Exhibit 4 and ask you what that is?

A. This is a page from the records of the Watermaster's office for September, 1964 showing the water that was transferred to Lawson 24 from the Lucke well.

Q. How many days was that water transferred?

A. Ten days.

A. Is that the only sheet you found in your office showing the similar transfer of 1964?

A. It is the only one I know of but there could possibly be more.

Q. Is it the only one you found when you looked?

A. Correct.

Q. Is that also true of these other exhibits 1 through 7, that these are the only records in your office which you found when you looked relating to transfer of artesian water to Baldwin Brothers through Lawson #24?

A. I believe this is correct, yes.

Q. I think if we could have a short recess, we could probably expedite this with relation to some of these other exhibits.

Recess taken.

Mr. Nelson: At this time I will offer Protestants' Exhibits 1, 2, 3, 4, 5, 6, 7 and 9.

Mr. Ringert: Now, Mr. Newby, do you know who made these entries on these sheets?

Witness: Yes, I do.

Mr. Ringert: Who was that?

Witness: In 1961, it would have been Elmer Terry; in 1962, and 1963 it would be Mrs. Bert Tanner; in 1964, 65, 66, 67 Betty Newby.

Mr. Ringert: What was the source of their information?

Witness: It was sent in by Mr. Les Bushby, Deputy Watermaster.

Mr. Ringert: Are those tickets available in the records of your office?

Witness: Yes sir

Mr. Ringert: Now, on Protestants' Exhibits 1, across the top is written "Lucke artesian". Did the ditch rider ever communicate to you the identification of the well he referred to when he called it Lucke artesian?

Witness: Not in 1961.

Mr. Ringert: He would be about the only one that could tell us what "Lucke arteisan" means on this record?

Witness: That is true.

Mr. Ringert: On Protestants' Exhibit 2 is there anything on there, Mr. Newby, that would indicate to you that any water diverted into Silver Creek or its tributaries and comingled and later rediverted, so to speak, through Lawson 24 or 25, is the same water produced in the well that was covered by Baldwin Brothers application, subject matter of this hearing?

Witness: No, this says Rogers artesian well?

Mr. Ringert: Now, that Rogers artesian well where is it located?

Witness: That's one I can't answer there are 3 or 4 of them.

Mr. Ringert: Now, on this Protestants' Exhibit 3, can you identify any entries there pertaining to water produced from the well that is covered by the application subject matter of this hearing?

Witness: No sir.

Mr. Ringert: On Protestants' Exhibit 4 can you identify any entry there pertaining to water produced from the well which is the subject matter of this hearing.

Witness: Other than the Fred Lucke well, I can tell how much and what was transferred and who to and how much loss.

Mr. Ringert: Do you know who wrote "Lucke well" on there?

Witness: I assume Mrs. Newby did.

Mr. Ringert: Do you know where she got her information?

Witness: From Mr. Bushby, Deputy Watermaster.

Mr. Ringert: In order to find out what "Lucke well" means, we would have to go to him, is that right?

Witness: Yes, that is correct.

Mr. Ringert: Now, on Protestants' Exhbit 5, can you identify any entries there specifically pertaining to the well that is the subject matter of this hearing?

Witness: Nothing other than the fact that it is marked Lucke at the head of the one column.

Mr. Ringert: And circumstances would probably be the same as you talked about with respect to the other four.

Witness: That's true.

Mr. Ringert: Would that be true also with respect to Protestants' Exhibit No. 6.

Witness: Yes, Sir.

Mr. Ringert: And No. 7?

Witness: Yes, Sir.

Mr. Ringert: And on No. 9, with respect to the identification there in the upper left hand corner "Lucke well"?

Witness: Yes, this is a ticket signed by the Deputy Watermaster.

Mr. Ringert: By Mr. Lester Bushby?

Witness: Yes.

Mr. Ringert: Mr. Higginson, I don't believe there has been a proper foundation established as yet for these exhibits. I think they would have to be tied to the well that is in controversy here, or the appropriation that is here in controversy. Until the exhibits have been tied to the appropriation that is here in controversy there is now now value to them. They are irrelevant.

Mr. Higginson: Mr. Nelson?

Mr. Nelson: Technically he is probably right.

Mr. Higginson: I am sure we can get real technical on this thing, I suppose before we can identify those particular exhibits, we will have to have the Secretary who made the entries.

Mr. Ringert: I don't mean to go that far.

Mr. Nelson: Let me ask the witness a question, maybe he can clear it up. Do you have any understanding yourself of which well those referred to as Lucke well in those exhibits mean?

Witness: Only in the knowledge when it shows an amount of water. Someone refers to the Lucke well in the amount of 7.6 second feet of water then I assume it is the one being talked about there today.

Q. As far as these records are concerned do you know of any other well your assistant has referred to as the Lucke well?

A. No, sir. I do not.

Mr. Nelson: That may nr may not be enough.

Mr. Ringert: Mr. Newby have you been out and examined the well here in controversy?

Mr. Newby: No, I haven't.

Mr. Nelson: Did Mr. Bushby come back with you? He is here isn't he?

Mr. Higginson: I wonder if we are going to get into an argument though when we get Mr. Bushby up here, and the fact that he didn't make the entries - -

Mr. Ringert: No. No. I assure you we - -

Mr. Nelson: I think it is for authentication.

Mr. Ringert: If we can identify the proper well - -

Mr. Nelson: Relevance is really the objection.

Mr. Higginson: Then we will not admit them at the moment until such time as we can get Mr. Bushby to identify them properly and then we can get them in the record.

Mr. Nelson: I don't believe I have any further questions of this witness.

Mr. Ringert: I would like to reserve the cross-examination on Mr. Newby in regard to these going in. In my own mind I need clarification of what what these entries mean.

37 7014

Mr. Higginson: All right, let's reserve Mr. Newby. Let's excuse him until we find out what we have here in the way of exhibits and maybe recall him. Thank you, Mr. Newby.

Mr. Nelson: I call Mr. Bushby.

Mr. Les Bushby after being duly sworn was examined by Mr. Nelson and testified as follows:

Q. Would you state your name, please?

A. Les Bushby, Richfield.

Q. And what is your occupation, Mr. Bushby?

A. Trying to measure water up and down that river.

Q. Would I be correct in assuming you were the Assistant Watermaster under Reid Newby, is that right?

A. Yes, that's right.

Q. In the course of your measurements up and down the river do you operate in the area on the Wood River, north of Timmerman Hill?

A. Not on Big Wood. That's 7 AB District.

Q. I ask in that area - Silver Creek?

A. 11 AB and Silver Creek.

Q. Now, in connection with your duties do you fill out, lets call them tickets and send them into the office?

A. 16,000 a year

Q. Then I take it you do. I'll show you Protestants' Exhibit 9 and ask if you can identify any of those tickets shown on that exhibit?

A. Yes.

Q. Did you fill out any or all of those tickets?

A. They are all mine.

Q. Are you familiar with the well on the Baldwin Brothers property near Harvey Bickett's place, the one that is at issue here?

A. Yes.

Q. On this ticket dated 9/16/64, you say the Lucke well on Packers Creek. Now, what well are your referring to when you talk about the Lucke well?

A. Well, the only Lucke well that is out there, there is only one of them.

Q. How does that compare with the Baldwin Brothers well we are talking about here?

A. That's the one.

Q. That's the same one?

A. Yes.

Q. So when you turn in a ticket that says Lucke well on it you are referring to the same Baldwin Brothers well, is that correct?

A. Yes.

Mr. Nelson: We re-offer the - -

Mr. Ringert: Do you make one of these tickets every day?

Witness: No, I alternate Silver Creek and between Richfield and Shoshone and I only get up there two times a week.

Mr. Ringert: You make a ticket then each time you change a headgate?

Witness: Right

Mr. Ringert: Now, on this Exhibit 9, I take it these are your tickets, did you prepare any of these other exhibits here, 1 through 7?

Witness: I don't find tickets here, just the delivery.

Mr. Ringert: OK now, do you know whether it is the practice to take your tickets and transcribe the information from them on these record sheets?

Witness: Yes.

Mr. Ringert: Do you cross check your tickets against these ledger sheets, or record sheets, or is that the responsibility of the office?

Witness: That is the responsibility of the office after I take them in there.

Mr. R ingert: Mr. Higginson, I don't know that there would be one error in this whole thing, and I hope not, but I think the things that we should go to are Mr. Bushby's tickets, he is the one who made the observation and made the original entry, each time he changes the headgate. That is the evidence we are looking for. Secondly, some of these exhibits don't even refer to the so-called Lucke well.

Mr. Bushby: There's a number of artesians transferred down the creek besides the Lucke well.

Mr. Higginson: Mr. Ringert, would you agree that to the extent that the exhibits offered might be found in error by subsequent search of the records of the Watermaster's office that that might be clarified by submitting additional records at a later date and let these go in now subject to verification. All I am after is information.

Mr. Ringert: Now we're getting down to the meat of it. I don't want to have to make an examination to verify them.

Mr. Nelson: I might say that the objection, I don't think is well founded, because these are records kept there, and we don't have to go back in books of account and books of record to the original records, and these are basically a summary reduced from his tickets and the purpose of this sort of a rule of evidence is to avoid the very situation we would have of going

through 15 or 16,000 tickets a year to verify this. This itself is a good and sufficient record by the rules of evidence as I understand them.

Mr. Ringert: On this well, he only went up there 3 times a week in the 4 months irrigation season or longer?

Mr. Bushby: It varies according to the number of rains during the season.

Mr. Higginson: I think the thing we will have to do is to receive the exhibits into evidence subject to their being verified. We will go this far, our office will take the responsibility of verifying them with the watermaster and his records, because as I said earlier, all I am after is information. I don't want to get so technical on this we we can't get the information. I am a little concerned with regard to these exhibits, the records made of the Rogers well as it pertains to the matters of issue here.

Mr. Nelson: What we are doing here is proving the negative and I believe I asked Mr. Newby if these were the only records that he found in searching through his office relating to delivery to the Baldwin Brothers and that is the sole purpose of the records that have no reference to the Lucke well to show in essence the negative. This is all there is and it doesn't show the Lucke well. Now that's my understanding.

Mr. Bushby: But there are other wells delivered to the Baldwin Brothers besides the Lucke well.

Mr. Nelson: Well, this is my understanding of what I obtained from Mr. Newby and this is what I understand what he testified in reponse to one of my questions.

Mr. Higginson: For illustrative purposes for what value this record, as

pertaining to the Rogers well may have, we will receive it into evidence, again, subject to verification that the record accurately reflects the tickets sent in by Mr. Bushby to Mr. Newby and we will check with the Watermaster ourselves to ascertain that this is the case

Mr. Ringert: I don't know if I have an objection on the record, but I would like to make one now to any evidence pertaining to that Rogers well that it is irrelevant, and if it is the purpose of offering these things to prove the negative then I would likewise object to that as I do not think that is an issue here. That is the reason it is irrelevant.

Mr. Nelson: There has been evidence of the extent of use, a claim of prior use, and some evidence already as to the extent of prior use and this would tend to indicate the extent of prior use.

Mr. Higginson: I think again, Mr. Nelson, that as I said at the beginning of the hearing, we are not interested in trying to establish whether there had been a prior right established in any fashion from this well. We are only concerned about the intent of the Baldwins to appropriate water with a 1968 priority.

Mr. Nelson: That's right, but the question is the extent to which this well was diverted into Silver Creek in other years goes to the overall question of how those wells act and interact. In other words, you can't take any particular piece of this evidence perhaps and prove anything with it, but as a whole we have got to get the evidence in to tie it all together. And as I say, the only reason those two sheets with nothing but Rogers on it is in to demonstrate the negative.

Mr. Higginson: Well, for that purpose, I think it is proper to receive them and consider them on that basis only.

Mr. Ringert: What negative are you demonstrating? I think I have lost myself.

Mr. Nelson: That the Lucke well was not turned into Silver Creek and used on those lands on those years.

Mr. Higginson: Anything further of Mr. Bushby?

Mr. Nelson: I believe that is all

Mr. Higginson: Are you going to question Mr. Bushby?

Cross-examination by Mr. Ringert

Q. Do you know when this Lucke well was first drilled?

A. Yes.

Q. Was that in 1961?

A. Yes

Q. Now, do you know of your own personal recollection during what years the Baldwin Brothers used water from that well?

A. I couldn't remember with the amount of headgates that you tend and the tickets that you write on 60 miles of river, I couldn't remember.

Q. It would be shown in your records?

A. That's right.

Mr. Ringert: That's all.

Mr. Higginson: Thank you, Mr. Bushby. You may be excused.

Mr. Nelson: Do you want to recall Mr. Newby for cross examination at this time. It would fit in here.

Mr. Ringert: I guess we'd better.

Mr. Higginson: Mr. Newby would you come back up?

37 7014

Cross-examination of Mr. Reid Newby by Mr. Ringert:

Q. Would you tell me Mr. Newby what those entries in the left hand column of Exhibit mean?

A. The way I would read these and understand it, is that this means there was delivered from the Lucke well to the Baldwin Brothers on May 12, 13, 14, 15, 16, and 17, 4.0 and 4.29 second feet of water.

Q. Now, was that measured at the Lawson headgate No. 24 or where?

A. I couldn't tell you from this.

Q. Was that the measurement out of Silver Creek?

A. I can't tell.

Q. Now, on No. 2 is there anything to indicate to you that any of the water referred to is from the Lucke well but which is the Baldwin well here?

A. No. That's all Rogers.

Q. Now on #3 can you identify anything there as being from the Baldwin well?

A. No.

Q. Do you have any way of knowing what well is meant by the column where there is the word "June" written over "24" and the next column is "25" and the next column is "well".

A. I would assume, and of course this is without having tickets or anything else, and reading the heading up here which says Pump #24, I can't tell you what well it is from this exhibit.

Q. Is there a pump at Lawson headgate #24?

A. Not to my knowledge.

Q. Do you know what pump that means on that record sheet?

A. No.

Q. Can you tell me what the figure means on Exhibit 4?

A. On September 16th through 25th inclusive there was from .9 second feet to 2.1 second feet of water delivered to the Lawson #24 headgate, Baldwin transfer, with a .3 second feet per day loss, and there was 2.4 second feet of water put into the sytem from the Lucke wells.

Q. Now, how about the entries pertaining to the Baldwin well on Exhibit 5?

A. It would be in July, 1965 that there was from .9 second feet to 1.9 second feet of water delivered from the Lucke well to the Baldwin's at Lawson headgate #24.

Q. How about Exhibit #6? What does that show in respect to the Baldwin well?

A. The amount of water diverted from the Lucke well and delivered to the Lawson 24 headgate, which is minus a 10% streamflow loss from May 1 to May 8th.

Q. What year was that?

A. In 1966 - Wait a minute, I beg your pardon, this is for record only charge. This is the amount of water put into the creek.

Q. So you can't tell from that how much was diverted out of Lawson #24?

A. No. It is to go to Lawson 24 with the 10% loss but this is the amount that was measured into the creek.

Q. Now, how about No. 7?

A. This is the same thing. 1967, June 2, 3, 4, it is the amount of water for the record only measured into the creek.

Q. Now, when would you examine the records in your office to find these sheets?

37 7014

A. About a year ago, I can't remember the exact date because I didn't put that much significance on it, but we worked late. It was around 9 or 9:30 and we went through 15, 16,000 tickets in our office and we went back through the records to about 1960, 1959, something like that.

Q. Now, for what purpose would you have a search of your records made?

A. At the request of Wayne Baldwin. At that time I didn't know what the connection was but we took the time because he requested we get out all the information we could.

Q. Did you make these copies for Wayne, or similar copies.

A. Yes, similar copies to these.

Q. Can you tell from your recollection now whether your examination was a complete examination of all of your books and records?

A. I think they were, but to absolutely, postively certain I would have to go back and go through these tickets one by one, but I believe at that time we spent enough time on it that we covered it pretty thoroughly.

Mr. Ringert: That's all

Mr. Nelson: No questions (Recess taken)

Mr. Coleman: We call Mr. Harvey Bickett.

Mr. Harvey Bickett, after being duly sworn, was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. Harvey B. Bickett.

Q. Where do you reside, Mr. Bickett:

A. Gooding, Idaho.

Q. Do you own land in Blaine County?

A. I do.

Q. Is it shown on the map, Exhibit 8?

A. Yes.

Q. Do you own any artesian wells on that property?

A. I own four of them.

Q. Would you number them 10, 11, 12 and 13? (Witness marks exhibit) OK with regard to your Well No. 10 what size casing does it have?

A. 8 inch casing, top casing.

Q. How much water does it produce?

A. It was measured by the Reclamation Engineer and the man sent out from his office, at 220 inches.

Q. And is it licensed for that amount?

A. No. It is not licensed for the full that it runs because I didn't put in for that much.

Q. With regard to Well No. 11, what size casing?

A. It is 8 at the top and 6 down.

Q. And how much water does it produce?

A. It was measured in at 150 inches.

Q. And that well is licensed?

A. Yes. They are all licensed.

Q. And Well No. 12?

A. That was measured in at 202 inches.

Q. And what size casing

A. 8 inch clear down.

Q. And Well No. 13?

A. That run 155 inches.

Q. And size casing?

A. 8 inch at the top and 6 in the bottom.

Q. How many acres of land to you irrigate from these four wells?

A. About 700 acres.

Q. And do you have any other water rights for that land?

A. None whatever.

Q. And do you raise crops on the land.

A. Yes, sir.

Q. How long have you owned that land?

A. In Section 16 and 17 I have owned it since 1941. I bought the other that is in 20 and 21 in 1955, I believe.

Q. When were your wells dug?

Q. In 1955 to 1959 I think is on them.

Q. And are those the dates that would reflect on your priorities.

A. Yes. Those are the priorities on the licenses.

Q. Are you familiar at all with the land that is referred to on that map as the Lucke land?

A. Yes, sir. I owned it at one time.

Q. Is that the land that is now being purchased by Baldwin Brothers?

A. Yes, sir.

Q. What is the nature of that land as far as water requirements are concerned?

A. I gave it up because it is too wet.

Q. Were you in the area in 1961 when the well on the Baldwin property was dug?

A. I was.

Q. Were you there when the water permit was measured when the well first

37 7014

started flowing?

A. I was there when they measured it to pay off the water witchers.

Q How much water was measured at that time?

A. 247 inches and Les Bushby measured it.

Q. What time of year do you normally start irrigating your property?

A. It varies. On a really dry year you could start 20-25 of May clean up to the 15th of June.

Q. In 1961, when the well on the Baldwin property was dug, were your wells flowing at that time?

A. I didn't have them open at that time before they capped it.

Q. You didn't have them open?

A. I didn't.

Q. Did the well on the Baldwin property flow again that Spring?

A. Yes, it did for 5 days instead of 6.

Q. And when was that?

A. In May on the records.

Q. In May of 1961?

A. Yes.

Q. Did you have any of your wells flowing at that time?

A. Yes.

Q. And what happened to the flow in your wells?

A. They quit flowing, all but one inch in one and just a few inches on another.

Q. How many of your wells were flowing at that time?

A. I had two flowing at that time.

Q. And one completely quit?

A. Well it measured back at one inch. How they measured that I don't know.

Q. And the other one was what?

A. I don't remember it is all in the records.

Q. What happened when the Lucke well was turned off in May of 1961.

A. Inside of 3 days they started coming back.

Q. In 1966, I believe there has been some evidence here that the well on the Baldwin property was flowing, what was the situation with your wells that year?

A. I wasn't there during the summer. My son can tell you more about that. I was in Alaska for 2 months and 15 days, but when I got back we drilled the winter wheat and started into irrigate and didn't have enough water to irrigate with.

Q. Had you had that happen in previous years?

A. Never had.

Q. At the time you came back from Alaska was the well on the Baldwin property flowing.

A. It was.

Q. Do you recall approximately when the well was shut off that Fall.

A. It was shut off. I called John Coleman and notified him that it was running, and it wasn't supposed to be running and I think he got ahold of Mr. Higginson and Reid Newby and it was shut off. My wells started building back a little bit after it was shut off; not very much.

Q. Have you been in the vicinity of your property numerous times from 1961 to 1966?

A. Every day, Spring and Fall, and during the summer.

Q. During the years 1962, 1963, 1964, did you observe the Baldwin well flowing at any time during those years?

A. They might be on a day or two but it didn't last, they just turned it on and off. It was never turned on as far as I know until the Baldwins bought it from Lucke, but they can't stand there and watch it all the time.

Q. When you commence irrigation on your property in the Spring of the year are the wells on continuously during the irrigation season?

A. They are not. They are on and off. We get it irrigated and shut it off. I would say approximately half of the time.

Q. Have you had any occasion to observe a measurement of water from the Lucke or Baldwin well since 1961?

A. I know I haven't, but in 1961 I did.

Mr. Coleman: We have no other questions

Cross-examination by Mr. Ringert

Mr. Ringert: Mr. Bickett, on your well that is identified on this map as No. 13, I believe you said it ran 155 inches. Was that measured?

Witness: There was a meter when it was proved up on.

Mr. Ringert: Do you recall when that well that was identified as No. 10 was drilled?

Witness: It is on the records some place.

Mr. Ringert: You don't recall though?

Witness: I didn't want to say, but it was on the record.

Mr. Ringert: Is the same true of 11, 12 and 13?

Witness: I can get the record on these from the well driller.

Mr. Ringert: Do you recall what date it was when the Lucke well was

measured at 247 inches.

A. I don't.

Q. What year was it?

A. It was 1961. I took a cat down and ditched out the ditch for it.

Q. Was a casing installed in the well at that time?

A. The casing was installed as it was drilled.

Q. Do you recall who made the measurement?

A. Les Bushby.

Q. Did he make that measurement with a weir plate?

A. It was over a weir.

Q. How long was the well allowed to flow, if you know, at that time?

A. Not very long.

Q. In May of 1961 how long was the Lucke well turned on?

A. It is on the record, but I would like to show you that it is 5 days instead of 6 because you don't go from one to the other and it was measured off. I was right there with Les Bushby when it was measured off and you don't call another day just because it was measured off.

Q. Now, at that time you had 2 of your wells open, do you recall which of the 4 wells they were that are numbered here?

A. No. 11 was open and I can't remember whether it was 10 or 13. I believe it was 13.

Q. What type of cap set-up do you have on No. 11?

A. Elbow with shut off.

Q. Would the flow completely stop in No. 11?

37 7014

A. You can call it a complete stop. It was just dripping and we figured it was one inch.

Q. And how about No. 13?

A. We never measured it. We just went up and shut it off and let it build back.

Q. At that time was there any water at all flowing from 13?

A. There was a little but it wasn't a measured well; maybe 5 or 6 inches.

Q. What time of the year did you come back from Alaska?

A. In August.

Q. In August of 1966?

A. Sometime in August.

Q. What flow was coming from the Baldwin well at that time?

A. I didn't measure it but it was wide open.

Q. The valve was open as far as it could open?

A. That's the way it looked. I didn't go over because you can't trespass.

Q. You didn't have any glasses on it?

A. I didn't have to. They are close enough to one of my other wells. The had to witch it right against another well of mine , which was the test well over in that country.

Q. Where was that water being used from the Baldwin well?

A. You got records to show that. I don't know. I didn't follow it down the creek.

Q. Could you tell if it was being distributed on the land that that well is located on?

A. It was not.

Q. Now, what kind of flow did you have from your wells at that time?

A. Well, Matthews from the State Reclamation office came and we went and

looked at them and he guessed the two top ones at 25 inches.

Q. Which numbers would those be?

A. That would be No. 11 and 13.

Q. 25 inches each?

A. A piece.

Q. And the others?

A. Well, we went to 10 at the house and it was probably 75 inches or 60.

Q. And No. 12?

A. We didn't go to it. We were satisfied with looking at what we had already seen.

Q. Do you know how deep your Well No. 10 is?

A. Yes

Q. How deep is it?

A. 371 feet.

Q. And No. 11?

A. 371 feet.

Q. And 12?

A. 330 ft.

Q. And No. 13?

A. 376 or 8. I can't tell you exactly

Q. Have you ever installed a pump in any of the four?

A. It is impossible they are too small a hole.

Mr. Ringert: I believe that is all I have.

Mr. Coleman: We have no redirect

Mr. Higginson: Let me clarify one point with you, Mr. Bushby before you

leave. You indicated that a Mr. Matthews made a measurement?

A. No. It was Mr. Hamilton.

Mr. Higginson: I couldn't identify an employee named Matthews.

A. He made a trip all around with me.

Mr. Higginson: Fine. Thank you very much.

Mr. Coleman: We will call Mr. Ralph Lucke.

Mr. Ralph Lucke, after being duly sworn, was examined by Mr. Coleman and testified as follows:

Q. Would you state your name for the record please.

A. Ralph M. Lucke.

Q. Where do you reside, Mr. Lucke.

A. Gooding, Idaho.

Q. And you are familiar with the property that has been discussed at this hearing today?

A. I am afraid so.

Q. Were you at one time the owner of the property that is being sold on contract to the Baldwin Brothers?

A. Yes.

Q. Do you hold a contract on that property?

A. I do.

Q. Does that contract have any language in it concerning transfer of water from the well involved in this hearing?

A. It does.

Q. Would you read the language of that contract into the record?

Mr. Ringert: I think we had better argue an objection first, Counsel.

37 7014

Whatever the contract provides, Mr. Higginson, is between Mr. Lucke and Baldwin Brothers. It has no bearing on the issues involved here.

Mr. Coleman: I think there is a letter of objection that was filed with the State Reclamation Engineer's office, Mr. Ringert, about a year and a half ago concerning this matter.

Mr. Ringert: I think what you are asking Mr. Higginson to do is to interpret a contract between private parties. I believe that is beyond his jurisdiction.

Mr. Nelson: I take it the existence of the contract is a fact and if it requires interpretation perhaps it is beyond his powers but the existence of the contract and what it is, is a fact.

Mr. Ringert: Well, there is a lot of things that are facts but that does not necessarily bear on any issue that is involved in these proceedings.

Mr. Nelson: That's true, but the fact that the word interpretation might come in doesn't mean that it is beyond his power, if the matter is relevant except for pertinent provisions of the contract has bearing on the issues.

Mr. Ringert: Well, we are more than glad to stipulate that there is, in fact, a contract in existence.

Mr. Higginson: Let me ask this question. In your view, Mr. Coleman and Mr. Nelson, what bearing does the contract in any language that it might have with regard to transfer - -

Mr. Coleman: I believe that it would require either the consent of Mr. Lucke or his joining as applicant in the application that the Baldwin Brothers have filed.

Mr. Higginson: Would it in any way prohibit our department in issuing

37 7014

a permit to Baldwin Brothers?

Mr. Coleman: I think it would based upon the knowledge your department may have by reason of the previous protest that was filed.

Mr. Higginson: Let me go just a little further. As we read the statutes and our obligation in considering an application for appropriation of water there are four points that serve as a basis of a denial of the permit. These have to do with the lack of water supply; No. 2 the interference with established rights; No. 3 being the financial ability to complete the proposed project; No. 4 having to do with speculation and delay. We find at least we are unaware of any condition in the statutes that directly would give us the authority to get involved in private contractual arrangements between an applicant and whoever he might be proposing to either purchase or acquire land from in order to appropriate water. Maybe I am off base, but we are advised that these are the only four bases for our denying a permit.

Mr. Nelson: Well, I don't think you can approach it, or shouldn't approach it that narrowly because, take an example, if an applicant comes in and says he wants to divert "X" second feet of water from a well and there is a protest and somebody comes in and shows that the protestant owns all the land around the well, owns the proposed well, owns the place where the well is to be dug and has given no easement or other right of access, then it would be sheer futility to grant the application because the man can initiate no valid water right. Now, we have that situation here, I think, in that the Baldwin Brothers' ownership of the property is insufficient to allow them this particular power or right and therefore they can't initiate a valid water right by this application or otherwise.

37 7014

Mr. Ringert: I beg to differ with Mr. Nelson's interpretation. In the first place I just read this contract provision and I read it to mean that any water right appurtenant to the land covered by the contract can't be transferred. This is not an application for transfer of a water right, nor for change of place of use. This is an application for a permit to appropriate water and thereby initiate a new water right. It is entirely different from what counsel is talking about.

Mr. Nelson: That is what it is in form but in substance it is a change in place of use.

Mr. Ringert: Well, if we ever got to the point of litigation to adjudicate water rights, I think you would find that we have a licensed water right in this well and we now are making application for a new appropriation which would be an entirely different water right.

Mr. Nelson: I take it that really the relevance of this contract provision can't be determined by Mr. Higginson until perhaps he sees it.

Mr. Ringert: I don't think there is any issue involving the contract rights here.

Mr. Nelson: I think there is on the analogy I just gave you.

Mr. Ringert: Are you trying to establish that this is an effort to transfer a water right in violation of a contract between private parties?

Mr. Nelson: I am trying to establish that they have no right to transfer the water - Yes - or to -

Mr. Ringert: We are not trying to transfer the water.

Mr. Nelson: Or take the water from the property?

37 7014

Mr. Ringert: They are not trying to take the water that is covered by the permit that is mentioned in Mr. Lucke's contract. They are making another appropriation. This is an underground stream, it is a stream of water, just

like any stream in this state. They can have many, many water rights in it.

Mr. Higginson: I don't think it is going to serve any purpose for our sitting and arguing the point, but I think you both have raised some interesting points. We have never been furnished a copy of the contract. I don't believe it shows in our record any where. At this point I don't see the relevancy of the contract as far as the new permit is concerned. I would have to agree with Mr. Ringert's interpretation of this particular application. It is not in and of itself a transfer of water rights. Insofar as Baldwins' contract with Mr. Lucke would prohibit him from initiating a water right in the well that would call for its use somewhere off of the property then I think this is a matter between Mr. Lucke and the Baldwins. I don't believe it is a subject that we can determine. I still feel that we are restricted as an office to the 4 points mentioned Section 42-203, as to whether there is interference with water rights, whether there is a water supply, whether it is speculative or for delay, or whether the man has the financial ability to complete the proposed project. A permit once issued by the department is not in and of itself a water right, but is more or less a fishing license. If, all other things being equal, financial and property arrangements able to be made, he is able to perfect the water right then he can prove up on it and receive a license. If there is something in his contract that prohibits him from being able to prove up on his permit, if it were issued, and then I think that is something between Mr. Lucke and the Baldwins. I don't believe that our office can make a determination as to whether the permit issued ought to be issued or not, based upon a private contract between parties.

Mr. Nelson: Well, I think at this point we should make an offer of proof for the record as to what that contract provision says.

Mr. Higginson: Fine. I will receive that for the record then.

Mr. Nelson: How would you prefer to do it? Have him read it or have me read it?

Mr. Higginson: I wouldn't make any difference. Why don't you go ahead. You can pick out of that what you want.

Mr. Nelson: At this point we offer to prove by this witness that this is a contract of sale between this witness and -

Mr. Ringert: Tom excuse me just a minute. Some of these administrative regulations require an offer of proof to be in a certain form. Does the department's regulations have any bearing on that?

Mr. Higginson: They are mentioned in there.

Mr. Nelson: An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained. As I said, we offer proof of the existence of a contract between this witness and his wife Helen Lucke and Don B. Baldwin and Dwayne Baldwin, doing business as Baldwin Brothers relating to the purchase of property in Township 1 South, in Range 19 E., Boise Meridian, Sec. 20 and Sec. 21 containing 380 acres more or less dated June 30, 1964, and further offer to prove that paragraph 6 thereof reads in part as follows: "Purchaser expressly covenants and warrants that no water appurtenant to said described property shall be transferred, sold or conveyed, or in other manner encumbered until the purchase price hereof has been paid in full and in this connection purchaser covenants and agrees that he will not attempt to obtain a permanent transfer of any water rights appurtenant to said land other than on a temporary basis." That is the substance of the offer of proof.

Mr. Higginson: Now, are we back where we were. I assume that we had a question asked and an objection and we are sustaining the objection and you have made your offer of proof.

37 7014

Mr. Coleman: I have one other question that I would like to ask Mr. Lucke. Mr. Lucke from May of 1961 until such time as you sold this property, did you authorize any diversion of water from the well on this property?

A. The only time I gave right to use the water was in that 5-day period until they started to squawk and I started to go up there and turn it off and they said you had better wait until we got ahold of the watermaster so we can re-adjudicate the water downstream and then I turned it off and didn't turn it on except when I used it until the time I sold it.

Q. It wasn't turned on after May of 1961 to your knowledge?

A. Except when I turned it on.

Q. Except when you turned it on?

A. Yes.

Q. To irrigate your own property?

Mr. Coleman: That's all -

Mr. Higginson: Just a minute Mr. Lucke. Mr. Ringert may have a question on this matter.

Mr. Ringert: We have no questions.

Mr. Higginson: Thank you Mr. Lucke.

Mr. Nelson: I believe Mr. Lucke can be excused can he not?

Mr. Higginson: Yes.

Mr. Coleman: We will call Mr. Gene Frederickson.

Mr. Gene Frederickson after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name for the record please?

A. Eugene Frederickson, they call me Gene.

37 7014

Q. And where do you live Mr. Frederickson?

A. Down here south of Bellevue in what they call Gannett.

Q. You have before you what has been admitted in evidence as Protestant's Exhibit 8. Does that exhibit show the location of your land?

A. Yes.

Q. Do you have artesian wells on your land?

A. Yes.

Q. Would you mark them on there? How many wells do you have?

A. Three.

Q. Commencing with No. 14 would you mark the location of your wells on that map?

A. The three?

Q. Yes, the three. When were these wells drilled Mr. Frederickson?

A. The one I marked 14 was drilled in October or December of 1950, and the one I marked 15 was drilled next and was two or three years later, and the one I marked 16 was drilled around Christmas time in 1962, I think.

Q. Then two of your wells were drilled prior to the Lucke or Baldwin well that is referred to here?

A. Yes.

Q. Are all of your wells licensed?

A. Yes.

Q. How many acres of land do you irrigate from these wells?

A. Right in the neighborhood of 200 acres.

Q. Do you have any other source of irrigation water for this land?

A. No.

Q. Then these wells are the sole source of irrigation water?

A. That's right.

Q. With regard to Well No. 14 what size casing does it have - 6 inch?

A. Six

Q. Six inch?

A. Yes.

Q. And how much water does that well produce normally?

A. When it was measured the Deputy Watermaster Watts put a weir in it a few weeks after it was drilled and it measured somewhat over 90 inches.

Q. And Well No. 15, what size casing?

A. It's 8.

Q. Eight inch?

A. Yes.

Q. And how much does that well normally flow?

A. The maximum around 30 inches.

Q. And Well No. 16?

A. It was estimated that it would measure over 200 inches.

Q. And who made that estimate?

A. George Roessler, the driller.

Q. And what size of casing?

A. Eight inch.

Q. In 1961 when the Lucke or Baldwin well was drilled were your wells in operation?

A. No.

Q. In May of 1961 when the Lucke well was again run were any of your wells flowing at that time?

A. I imagine I was irrigating with them.

Q. Do you recall any particular situation with regard to the amount of water you received from your wells in 1961?

A. Well, they were somewhat short - low that year.

Q. Were they low early in the year or late in the year or do you recall?

A. I can't recall.

Q. With regard to the situation in 1966.

A. We requested a transfer of water that year. These wells 14 and 16, they were piped directly to a booster pump and we sprinkled and I don't have any way of telling how much flow except how much water I can sprinkle with.

Q. How many sprinkler lines do you normally run from this well?

A. I can run 5.

Q. And how many could you run in 1966?

A. In 1966 we were at one time down to 3. You couldn't run the 4th one.

Q. Did you have that same problem in 1964, or 1965?

A. No.

Q. How about in 1967?

A. I could run 5 at one time.

Q. To your knowledge was the Baldwin or Lucke well flowing most of the summer of 1966?

A. I was by there a time or two, and saw them flowing but just heresay was that they run all summer.

Q. But you did see it flow?

A. Yes, I saw it flow.

Q. Did you see where the water was going?

A. No, I never made too much of a determination of where it was going.

Q. Did you observe it being used to irrigate the lands immediately surrounding the well?

A. No, not necessarily.

Mr. Coleman: That is all the questions we have.

Cross examination by Mr. Ringert.

Q. Mr. Frederickson, did I understand you to say that during 1966 you actually saw the Lucke well flowing twice?

A. I think I was by that road a couple of time, at least once any way.

Q. Now, what time of year was that?

A. Summer time some time, I don't know. - May, somewhere in there - June.

Q. May or June, both times?

A. I guess - I don't know. When I happen to go that way to Picabo or something.

Q. You did not get off the road I take it then.

A. No, I just drove by.

Q. On this Exhibit 8, can you locate there where the road is that you were on when you made the observation?

A. It is on the section line. It would be this road here. It is right on the section line there. The well is not too far away from the road.

Q. Right up there in the corner isn't it?

A. Only about 40 feet from the road.

Mr. Ringert: Now why don't we mark this well here? Do you fellows know where it is?

Mr. Coleman: Yes.

Mr. Ringert: I make it to be right up here in this corner.

Witness: You are pretty close.

Mr. Ringert: Is that right?

Mr. Nelson: Why don't you mark it with red?

Mr. Ringert: All right. About right there?

37 7014

Witness: I think so.

Mr. Higginson: I wonder if at this moment we could take a recess. I apparently have a phone call.

Recess taken.

Mr. Higginson: I am sorry I interrupted your examination Mr. Ringert.

Mr. Ringert: Now, that road runs -

A. East and west.

Q. Along the section line across the top of the section?

A. And down in here - here it is off the section.

Q. That's over in the next township?

A. Yes, over in my area.

Q. Its about two miles over.

A. Over in 18 Range.

Q. Now, from your vantage point on the road there could you observe all the land down to the south.

A. Well, not too much. I knew they were running and that is about all I could see.

Q. How deep is your well No. 14, Mr. Frederickson?

A. I think that one is 128 feet or 130.

Q. And your well No. 15?

A. It is about the same depth.

Q. About 130 feet deep?

A. Yes.

37 7014

Q. How deep is No. 16?

A. They are all about the same depth, I think. They may vary 3 or 4 feet.

Q. I didn't get the dates or years they were drilled.

A. No. 14 was drilled late in 1950. I think 15, like I said, I never

done any research on this bringing myself up to date, but I think it was drilled around somewheres in 1954 and 1955, and 16, it lays in my mind it was drilled in the Fall of 1962 or 1963.

Q. 1962 or 1963?

A. Yes.

Q. When was that 200 inch flow measured, or estimated, rather.

A. At about Christmas time.

Q. How much does it flow during the irrigation season?

A. Well, I don't exactly have a way to know. Both wells are used together. They are controlled with valves and piped into a common header pipe that leaves the pump.

Q. When was the 90 inch flow measured in No. 14?

A. It was measured - I think that well was drilled late in October and measured a couple of weeks afterwards, after it had run and settled down.

Q. Late October or early November?

A. I would think that would be close enough.

Q. How about Well No. 15? When was that measured?

A. We, when we drilled it, we estimated that it was running that and then when I proved up on it the state man, I don't know his name, we were running a sprinkler line off of it. It was just -

Q. He counted the heads?

A. He counted the heads and measured the end of it and said I'll give you 30 inches on that.

Q. What time of year did he make the determination?

A. I think that was probably in June or some time the middle of the summer, I know that we was irrigating, I think it was hay.

Q. When you measured No. 16, how long did you keep that flow open at that estimated 200 inches?

A. It was open about a week.

Q. Did it maintain that same flow throughout the entire week?

A. I think it did.

Q. Did you ever have variations from year to year between 1950 to 1960 in your No. 14 well?

A. Yes, I think it was down in 1961.

Q. Well how about in the 1950's?

A. We didn't start the sprinkling until 1951. As far as I know we were able to run 3 sprinkler lines off that up until the year 1961, and I didn't have 16 at that time, and we were down to two lines on this one well.

Q. Did you use the No. 15 well from 1954 or 1955?

A. It has been used since and it varies.

Q. In other words, some years during the 1950's you could get more water out of it then other years?

A. Yes, they vary some.

Mr. Ringert: I believe that is all.

Mr. Coleman: We have no other questions.

Mr. Higginson: Just a minute Mr. Frederickson. Let me ask you one question, Mr. Frederickson. Just referring to the map, how far are your wells from the Baldwin well?

A. About 2½ miles.

Q. About 2½ miles? There have been other wells drilled in the area besides this Baldwin well in 1961, since your wells were first drilled. Have there been other occasions when you have ever felt that there was interference with your wells by the reason of the drilling of some other well in the Valley?

A. Oh, possibly. None of these wells in my area are bigger than 8 inch that I know of. They don't make too much difference.

Q. But you have never had any reason to believe that any other wells in the valley that have been drilled since your first well was put in 1950 caused a lowering of flow from your well?

A. Not particularly.

Q. Not even the other wells that you drilled yourself since 1950? What was the effect of the drilling of the well that you drilled in 1962 upon your No. 14 well drilled in 1950?

A. That would be hard - I don't know what to say because they are both piped into a common header and I can't.

Q. You were unable to observe any?

A. I am unable to observe any - where the water is coming from.

Mr. Higginson: Anything further?

Mr. Ringert: Along that same line Mr. Frederickson, don't you think 4 wells of 80 inches each could have the same effect as one well at 320 inches?

A. Oh, possibly. I guess it could be.

Mr. Higginson: Thank you Mr. Frederickson. You may be excused I believe.

Mr. Coleman: I'll call Mr. McGonigal.

Mr. McGonigal after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name for the record, please?

A. John D. McGonigal.

Q. Where do you live Mr. McGonigal?

A. Hailey, Idaho

Q. You have before you Protestant's Exhibit 8. Does the property you operate - is it shown on that map?

A. Yes, it is.

Q. Do you own that property?

A. This is a corporation.

Q. You are a stockholder in the corporation?

A. Yes.

Q. Do you have any artesian wells on that property?

A. Yes, I have.

Q. How many artesian wells do you have?

A. Two.

Q. Would you locate them on the map? Mark one of them No. 17 and the other one No. 18.

A. Now, in Mr. Clark's testimony here he marked one of our wells as No. 4.

Q. And that is one of yours?

A. Right.

Q. Would you mark the other one No. 17? Are both of these wells No. 4 and No. 17 used for irrigation purposes?

A. Yes they are.

Q. Do you know when these wells were drilled?

A. Yes, they were drilled in 1948. This No. 4 well would have been completed in October 15, and No. 17 was completed the 21st of December, 1948.

Q. What size of casing is there in the No. 4 well?

A. Its 6 inch pipe.

Q. And the number of the 17 well?

A. It is 6 inch pipe also.

Q. Do you have other water rights that are appurtenant to this real property you own down there?

A. Yes, we have.

Q. These wells are used then for supplemental water?

A. Right.

Q. Are these wells licensed?

A. No, they are not.

Q. How much water does Well No. 4 produce? In a normal year how many inches does it flow?

A. When it came in it was measured at 58 inches and in 1949 it was measured and it was 1.33 cubic feet per second.

Q. And well No. 17?

A. It was measured at also in May of 1949 and it was 1.34 second feet.

Q. Are you familiar with the location of the Lucke or Baldwin well referred to in these proceedings?

A. Yes Sir.

Q. Did you have any occasion to observe your wells in 1961 at the time the Lucke well was drilled?

A. Yes, we did.

Q. And at the time the Lucke well started flowing water did that have any effect on your well?

A. Yes.

Q. Did anything happen to your wells?

A. Yes, this No. 4 well stopped flowing.

Q. Did you know whether or not the Lucke well was then shut off?

A. It was shut off about the 24th, I believe.

Q. The 24th of when?

A. Of March.

Q. 1961?

A. Right.

37 7014

Q. How long did your No. 4 well stay dry? How long was it not flowing water?

A. It started, the re-flow started about the 1st of April.

Q. During the month of March were you using the No. 17 well?

A. No, we were not.

Q. Do you recall the situation as far as the flow of these wells during the 1961 irrigation season?

A. Yes, they were low. They never did come up to what they had been, and it was in May - Now, these wells, this was the first time they had never flown, and it was along the middle of May that the No. 4 well ceased to flow again.

Q. Do you know whether or not the Lucke well was on at the time?

A. No, I wasn't aware what was happening to it.

Q. Did the No. 4 well resume flowing again in May of that year?

A. Yes, at the last of May it started back again.

Q. But you have no knowledge or recollection of what the situation was at the Lucke well during the month of May?

A. No, I didn't observe it so I have no idea what was taking place.

Q. What was the situation with Well No. 17 during the year 1961?

A. Well, it wasn't any good actually for supplemental water - We didn't - -

Q. Was that during the entire 1961 season?

A. Yes, it was pretty low all year.

Q. Prior to 1961 had you had that problem with either of those two wells?

A. No, this is the first time we ever had not been able to irrigate with them.

Q. What was the situation in 1962 through 65? 37 7014

A. As near as I can recall, it was - they were fairly normal. They were

consistent between the two of them about what they were measured.

Q. And what was the situation in 1966?

A. This was another low water year.

Q. What - do you recall any measurements of the flow of water from these two wells in 1966, or anything that may have occurred as far as their flow that year?

A. In the No. 4 well all we could use it for was stock water. There was not enough for irrigation. No. 17 was better than the No. 4 by - oh, quite considerably.

Q. What was the situation in 1967?

A. We had a reasonably decent water year in 1967 so we were in good circumstances.

Mr. Coleman: I have no other questions.

Cross examination by Mr. Ringert.

Q. Mr. McGonigal, there are other artesian wells in this area between, lets say between Big Wood River and well, the place where the Baldwin property is located over east of Picabo are there not?

A. Correct.

Q. In the spring, or late winter of 1961, when you had the flow stop in No. 4 well, did you examine all of the other artesian wells in this basin to determine whether they were capped?

A. In our immediate area, yes sir. They were.

Q. Now which ones did you examine?

A. We made a survey and measured these wells and it was Clark's wells, Blincoe's and Bettis, the Gome's well, and the Worth's and the L.D.S. property.

Q. Were they all shut down?

37 7014

A. Yes, there were some of the wells that had a trickle. They were using them for stock water but there was no great amount of water coming from any of them.

Q. Now, I got the impression that you weren't greatly concerned the last time your water got low in No. 4. My recollection is that you testified that either in 1966 or 1967 you experienced a low flow in No. 4, but you didn't go down and check the Baldwin well at that time or this Lucke well.

A. In 1966.

Q. Was that 1966? My notes aren't straight on it.

A. I don't understand your question. What year again now?

Q. Well, one year, it was either 1966 or 1967, I believe you testified that you experienced a low rate of flow in No. 4 well, and in response to another of Mr. Coleman's questions you stated at that time that you had not gone down to examine the Lucke well, or the Baldwin well.

A. That's right.

Q. Which year was that?

A. This was 1966.

Q. That was in 1966? Then I believe your description of 1967 was that it was a pretty decent water year.

A. Correct.

Q. What prompted you to protest the Baldwin application here if you weren't concerned in 1966 about whether the Baldwin well was on or off at the time you were experiencing low flow in your No. 4 well?

A. We had previous facts on what had happened to these wells when the Lucke well came in.

Q. How deep is the No. 17 well?

A. As I recall, 154 feet.

Q. And No. 4?

A. 163 feet.

Q. Cased all the way?

A. Yes.

Q. Solid casing, or no perforations?

A. No. perforations.

Q. Have you ever put a pump in either one?

A. No, we have not.

Q. Has there ever been a time when you couldn't see water in either of the wells when you had the valve open?

A. They have an elbow on them, so you can't look down them.

Q. I see. Has there ever been a time when the flow just completely stopped and you didn't even get a trickle?

A. Yes.

Q. When was that?

A. This was in 1961.

Q. What time of year was it?

A. Around the 24th of March and also in the middle of May, probably around the 16th I would imagine.

Q. Now, on those occasion did you make an attempt to determine how far down it was to the static water level in the well?

A. Yes, not far - 6 inches.

Q. 6 inches?

A. Yes, 6 inches below the top of the valve.

37 7014

Q. At that period of time we were checking real close so we took the elbow off to see where the water was. It was the lowest point that we had measured in the middle of May, was 6 inches below, the valve.

Q. How far does that casing or the valve assembly stick up above the ground surface?

A. About 24 inches.

Q. So actually your static water level was about 18 inches above the ground level at that point?

A. Correct.

Q. And that was in No. 4?

A. Yes.

Q. What observation did you make in your No. 17 well in 1961 with respect to location of the static water level?

A. Again, it had the elbow on so we never could get it off to measure it.

Q. I see. Did you ever try to run a cord down there or anything of that nature on it?

A. No.

Q. Now how does that elbow mount on to the casing in No. 17?

A. There is a nipple comes out of the valve and then an elbow 90° and then a pipe probably 2 feet long coming from that.

Q. Can you take the whole valve assembly off the casing? Is it threaded on?

A. Yes, they are threaded.

Q. You didn't attempt to take that off when you experienced flow stoppage in 1961?

A. No. other than in 4. Now we did this in 4.

Q. Yes, I was referring to No. 17. I believe that is all.

Mr. Coleman: Mr. McGonigal, in 1966 did you know by hear say or otherwise that the Baldwin well was flowing?

Mr. Ringert: Now I object to any answer that he might give that is based on heresay.

Mr. Higginson: I think you can ask him if he knows whether the well was flowing.

Mr. Coleman: Do you know if the well was flowing in 1966?

Witness: I saw it flowing once. That's all.

Mr. Ringert: When did you see it flowing?

Witness: When I went to Picabo and I don't know what time of the year it was.

Mr. Ringert: What year are we talking about?

Witness: 1966.

Mr. Ringert: You have no idea what time of the year it was?

Witness: No.

Mr. Ringert: Thank you. That's all I have.

Mr. Higginson: Could I ask you one question, Mr. McGonigal? You indicated that 1966 was a low water year. By that expression what do you mean?

Witness: In the well. In other words the wells were not flowing normally.

Mr. Higginson: Was it a low water year generally in the valley as far as surface water and springs, streams were concerned also?

Witness: Our surface water was pretty good.

Mr. Higginson: In 1966?

Witness: Right.

Mr. Ringert: Now, that raised another question in my mind if I might. Was the underground water supply generally low throughout the area in 1966?

Witness: I think it was.

Mr. Ringert: Thank you.

37 7014

Mr. Higginson: Thank you, Mr. McGonigal. I believe you may be excused.

Mr. Coleman: I call Mr. Joe Wurst.

Mr. Wurst after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. Joe Wurst.

Q. Where do you reside, Mr. Wurst?

A. Gannett, Idaho area.

Q. You have before you Protestant's Exhibit No. 8. Does that map show land that you are interested in either as operator or owner?

A. Yes.

Q. Do you own those lands?

A. My father does.

Q. Do you operate the lands?

A. Yes.

Q. How long have you operated this property?

A. I have been there all my life, except when I was in the service.

Q. Do you have any artesian wells located on that property?

A. We have four.

Q. Would you take the pen that is there and mark them Nos. 18, 19, 20 and 21?

(Witness marks Exhibits.)

Q. Do you have them all marked?

A. No, I am trying to figure out where one of them is, that is, I am trying to get a reference mark.

(Discussion of the record).

Q. Do you recall Mr. Wurst, when Well No. 18 was drilled?

A. 1948.

Q. What size casing?

A. Eight.

Q. Eight inch?

A. Eight inch, 160 feet deep and it flowed 90 inches.

Q. Now, No. 19 when was it drilled?

A. 1949.

Q. And how many inches of water?

A. 180 feet deep and flowed about 30 inches.

Q. And what size casing?

A. Six.

Q. No. 20?

A. No. 20 - 1948 - flows about 30 inches and around 150 feet, something like that.

Q. And what size casing?

A. Six.

Q. No. 21?

A. It's 1958 - 150 feet - flows 320 inches.

Q. What size casing?

A. Eight.

Q. You are familiar with the location of the Lucke or Baldwin well?

A. Yes.

Q. In 1961, in March, were any of your wells flowing at that time?

A. No.

Q. Were any of them flowing in May of 1961?

A. Well, wait a minute here. One of them flows for domestic use and stock water.

37 7014

Q. Did you notice any change in the flow of that well in March?

A. I couldn't say.

Q. How about in May of 1961?

A. Yes, they were down.

Q. All of them?

A. All of them.

Q. What was the situation in 1966?

A. They were all down again.

Q. How many acres of land do you irrigate from these wells?

A. Every one of these wells that are drilled were developed for land that has never had water or no deeded water, whatsoever.

Q. There is no other water?

A. There is no other water.

Q. How many acres do you irrigate from these four wells?

A. Well #18--approximately 90 acres.

Q. 90 acres from well 18?

A. Yes.

Q. Well 19?

A. It helps supplement another well and it is possibly 100 acres, 90 to 100.

Q. Which well does it supplement?

A. The last one, 21.

Q. Now, between Well 19 and 21 you irrigate 100 acres?

A. I would say approximately 100 acres.

Q. And No. 20?

A. About 8 acres.

37 7014

Q. About 8 acres? Which well do you use for domestic purposes?

A. That would be the one.

Q. This one?

A. That one for stock water too.

Q. No. 20?

A. No. 20 - no, wait a minute, excuse me, No. 19.

Q. No. 19?

A. No. 19 is the one we use in the wintertime.

Q. I see, then is No. 20 and 21 hooked together to irrigate one?

A. 20 is hooked directly on to the pipe line that would pump in and 21 is diverted back out of the creek to the pump.

Q. Is that for the same pipeline?

A. By the same pipeline.

Q. So 20 and 21 irrigate the same land, is that correct?

A. Yes.

Q. And those would be the two that irrigate 100 acres, and Well No. 19 would be the well used for stock water and domestic purposes and irrigation of 8 acres?

A. Yes.

Q. I don't recall whether I asked you. Was the flow from these wells lower than average in 1966?

A. Yes, they definitely were.

Q. During 1966 did you ever observe the Lucke or Baldwin well flowing?

A. Let's not kid ourselves. Every time the wells go down you start to look to see what's happening. Yes, it was flowing.

Q. When your wells were down then that well was flowing, was that the situation?

37 7014

A. Yes.

Q. What was the situation in 1962, 63, 64?

A. What are you referring to?

Q. Were your wells down or were they about normal those years?

A. Well, I don't want to change your questions, but in order to answer it, I would say they were definitely down. Every time there was a new well drilled we could tell the difference.

Mr. Coleman: I don't believe I have any other questions.

Cross-examination by Mr. Ringert.

Q. Mr. Wurst, when did you turn your irrigation water on in 1961, do you recall?

A. Well, that's a good statement, if you recall. It depends on the season, and it ranges anywhere from the 1st of May to the 1st of June. I wouldn't care to say just exactly what day we turned it on.

Q. When you first turned on in 1961 so you recall what kind of flow you got from each of your wells?

A. Yes. You want to keep in mind that every time one of these wells is turned on in the spring of the year they are somewhat weaker. It takes a while for them to build up pressure. At least that's our experience. It may take two or three days and it may take a week. It takes a short time for it.

Q. Well, after you turned on in 1961 did you at any time detect during a short period of time a drastic reduction from the flow of the 4 wells?

A. Yes. We can definitely on the first well, we will refer back to No. 18. We felt real fortunate that we had enough water that when we applied for the license for it we had an inch per acre, and it has always been our practice the minute we were through irrigating the property or ground that each one of these wells or licenses we would shut it off, as

37 7014

we felt it was just as much interest to us as our neighbors to conserve that water. At that time on 90 acres we didn't notice it so much on the first cutting of hay or the grain the first part, but when it came time for the second crop of hay we were down. We just couldn't run enough water or have enough water available to irrigate the hay to give us an average crop.

Q. This was in 1961?

A. In 1961 and that also pertains to 1966.

Q. When do you put up your first cutting?

A. That depends on the season again, but we usually start in any time after the 25th of June.

Q. Your first irrigation for second cutting would follow - -

A. It follows the bales out of the field.

Q. So your irrigation for second cutting would probably have commenced about June 25th.

A. No. We commence cutting our hay, possibly around June 25th, and then you had better give us a week or maybe ten days to get organized.

Q. All right I'll buy that. So your irrigation for second cutting would start some time after July 1st.

A. Yes. Let's say in the neighborhood of July 10th, give or take a few days.

Q. Do you recall any difference in timing with respect to 1966?

A. You mean prior to 1966?

Q. No. Would your timing situation on irrigation been about the same in 1966 as it was in 1961?

37 7014

A. I would say so, yes.

Q. And your water shortage occurred then, primarily at least, after July 1st?

A. Primarily.

Mr. Ringert: I believe that is all.

Mr. Coleman: We have no other questions.

Mr. Higginson: Thank you, Mr. Wurst. You may be excused.

Mr. Coleman: We will call Mr. Harold Johnston.

Mr. Harold Johnston after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. Harold Johnston.

Q. Where do you resdie Mr. Johnston?

A. Speaking for the Wood River Ranch Company, Bellevue.

Q. And is the Wood River Ranch Company a corporation?

A. Yes.

Q. And you are a stockholder in this corporation?

A. I am a stockholder and also Vice-President.

Q. You have before you Protestant's Exhibit No. 8. Do you have any artesian wells on this property that is owned by the Wood River Livestock Company?

A. One.

Q. Would you locate on that map and mark it No. 22? How long have you owned this property, Mr. Johnston?

A. Since 1966.

Q. Since 1966?

A. Yes.

Q. Who did you purchase the property from?

A. Joe Leek and Mr. Bingham.

Q. When you purchased this property did you have any records or

37 7014

information as to the amount of water this well would produce?

A. We were informed that it would produce -

Mr. Ringert: Just a minute please, it sounds like a hearsay answer. I would object unless he can testify from his personal knowledge.

Q. Have you ever observed this well prior to the time you purchased the property?

A. No.

Q. Do you know if this well is licensed?

A. Yes.

Q. Do you know how much it is licensed for?

A. 150 inches.

Q. During 1966 did you irrigate from this well?

A. No.

Q. Why did you not irrigate from the well?

A. There wasn't enough water to irrigate from the well. I run about 250 cows over there and they drank it.

Q. Did you have the same situation in 1967?

A. No. In 1967 we irrigated from the well.

Q. What size casing is there in this well.

A. 16 inch.

Q. How deep is it?

A. 202 feet which is hearsay evidence again.

Q. I have no further questions.

Mr. Higginson: Excuse me Mr. Ringert, but may I interrupt at this point and change the tape.

Cross-examination by Mr. Ringert.

37 7014

Q. Do you know when this well was drilled, Mr. Johnston?

A. We were informed it was drilled in 1961.

Q. In 1966 it was flowing some small quantity that you utilized for livestock water?

A. Yes.

Q. Was the valve full open?

A. It has no valve. It has a plate you bolt down over the top of the casing.

Q. I see. And that plate was swung back?

A. That plate was taken off. Water would run up and just run over the pipe.

Mr. Ringert: That is all I have.

Mr. Higginson: Thank you Mr. Johnston.

Mr. Coleman: We will call Mr. Blincoe.

Mr. E. J. Blincoe after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. E. J. Blincoe from Heyburn, Idaho.

Q. Do you own any property in Blaine County?

A. I do.

Q. Is it shown on Protestant's Exhibit No. 8?

A. Yes sir.

Q. Are there artesian wells situated on that property?

A. There is.

Q. And are they the wells that are located on Exhibit 8 as 5 and 6?

A. Yes sir.

37 7014

Q. And they are to the best of your knowledge correctly located on that map?

A. I believe so.

Q. With regard to well No. 5, how large a casing does it have?

A. 6 inch if I'm correct.

Q. And well No. 6?

A. Is 8.

Q. Are these artesian wells that flow water?

A. Yes sir.

Q. And do you irrigate from these wells?

A. I do.

Q. Do you have any other water rights on your land?

A. Yes sir.

Q. Then I take it you use these wells for supplemental purposes?

A. Right.

Q. Are these wells licensed do you know?

A. One of them is.

Q. One of them is licensed. Which one would be licensed?

A. Well, it is a matter of record, but I think it is 5.

Q. No. 5. How much is it licensed for?

A. 150 inches.

Q. And well No. 6 does that produce water?

A. Yes sir.

Q. And how much does it produce?

A. Approximately 200 inches.

37 7014

Q. How long have you owned this property?

A. Since 1960, I think. That's also a matter of record. I am sure it is 60.

Q. Did you observe these wells during 1961?

A. Yes sir.

Q. Did well No. 5 produce 150 inches of water at any time?

A. It did early in the season, yes.

Q. Did it continue throughout the season?

A. No.

Q. When you say early in the season, when do you mean?

A. I presume some time around the the 1st of July.

Q. What was the situation with well No. 6?

A. About the same you might say for both.

Q. Did you notice any fluctuation or changes in the water from either one of these two wells in May of 1961?

A. No, I can't say I do. We don't generally turn these wells on in May. We use the river.

Q. In 1966 what was the situation with respect to these wells?

A. Well, they got mighty short.

Q. Were they short early in the year or late in the year?

A. Well, as I say early in the season, we don't use these wells much. We have river water in the early part of June and we very seldom used them early.

Q. Do you graze livestock on this property?

A. I do.

Q. When do you normally put the livestock in there?

A. Some time around the 20th of May.

Q. And when do you normally take them out?

A. 1st of October.

Q. What was the situation in 1966?

37 7014

A. We went the 1st of September.

Q. Why did you take them out the 1st of September?

A. Lack of feed.

Q. Were you short of irrigation water in 1966?

A. Very short.

Q. During 1966 did you observe the Lucke or Baldwin well?

A. No sir. I wasn't over there.

Q. Do you know whether or not either of these wells went dry in 1961?

A. Well, I wouldn't say they went absoutely dry, but I do know that this No. 5 well is hooked to the house as that is the way they get domestic water and you barely could get a drink. The pressure was that low.

Q. And that was in 1961?

A. Yes. And it is just about 150-200 feet to the house.

Q. Did you have the similar problem in 1962, 3, or 4?

A. No.

Q. Did you in 1967?

A. No sir.

Q. How about 1965?

A. No sir.

Mr. Coleman: No other questions.

Cross-examination by Mr. Ringert.

Q. Mr. Blincoe, do you recall how the 200 inch capacity was determined in well No. 6?

A. Well now that's a guess. As far as I know it has never been measured.

Q. Was that your estimate or somebody elses.

A. That was everybody's.

Q. I see. The consensus of the community, huh?

A. Yes sir.

37 7014

Q. All right, that being the case I have no questions.

Mr. Higginson: Thank you, Mr. Blincoe. I believe that's all.

Mr. Coleman: We will call Mr. Bettis.

Mr. Harry Bettis after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name?

A. Harry Bettis.

Q. Where do you live Mr. Bettis?

A. Twin Falls.

Q. You have before you Protestant's Exhibit No. 8. Do you have an interest in any of the property shown on the map?

A. Well, I have a contract of sale - yes.

Q. Under whose ownership is that shown on the map?

A. E. Hadley Stewart.

Q. And you sold that on contract to Mr. Stewart?

A. Yes.

Q. Are there any artesian wells situated on that property?

A. Yes, sir. There are 6.

Q. When did you sell that property to Mr. Stewart?

A. November 1, 1966.

Q. Would you take the pen there and mark the location of those six wells on there to the best of your knowledge?

A. What number?

Q. Start with No. 23. (Witness marks exhibit) First, Mr. Bettis, how long did you own that property?

A. I owned 320 acres of it only 4 years and the rest I owned for 9 years, and my father owned it before me.

Q. With regard to well No. 23, what size casing does that have?

A. That has a 6 inch casing.

Q. Is that well licensed, can you recall? I take it some of those wells are licensed and some are not.

A. This is true. I believe that the Gomes wells, or the ones on the Gomes property were all licensed.

Q. Is No. 23 on the Gomes property?

A. No. 23, 24, 25 are on the Gomes property.

Q. If they are licensed, they would be licensed under the name of Frank Gomes?

A. Yes, sir.

Q. Do you know how much water that well would have been licensed for?

A. I don't know exactly, but is somewhat over 100 inches.

Q. Now well No. 24.

A. Well No. 24 is just about 100 feet from 23 and it was licensed and it would be on the record but it's about 50 inches.

Q. What size casing?

A. 8 inch casing.

Q. Well No. 25?

A. It is a 6 inch casing and it was approximately 190 inches, more or less.

Q. No. 26.

A. No. 26 is a domestic well at the headquarters of the ranch?

Q. What size casing?

A. 6 inch.

Q. Was any water used, when you owned the ranch, from that well for irrigation purposes?

A. No.

37 7014

Q. Well No. 27?

A. Well No. 27 is a 6 inch casing and it is located at the far northern line.

Q. It is a 6 inch casing?

A. Yes.

Q. How much water is that one licensed for or produces?

A. It is not licensed. It is, there is two or three categories, but I think it is something applied for.

Q. There has been an application made?

A. Some kind of an application. I think the application was put in for about 45 or 50 inches.

Q. Is that approximately the amount of water that it produced?

A. Yes.

Q. Now well No. 28?

A. It is an 8 inch casing and it is a little bit over 100 inches.

Q. Now these amounts of water from these various wells they represent either licensed amounts and/or amounts that the wells would normally flow during the irrigation season, is that correct?

A. That's right.

Q. Were you running this ranch in 1961?

A. Yes sir.

Q. Did you have knowledge in 1961 of the existence of the Lucke well?

A. Yes sir.

Q. At the time the Lucke well was flowing, in March, of 1961, were any of your wells flowing?

A. No, we never turn any of our wells on either until we needed the water.

37 7014

Q. I take it, you would have been using the domestic well at that time in March?

A. I don't believe we had the domestic well. I would have to look and see what year it was drilled, but I am not positive.

Q. Do you recall whether or not you were using any of these wells in May of 1961?

A. No, we wouldn't use any in May, our water, we usually don't start our water until the 20th.

Q. In 1961 did your wells produce the amount they normally produce?

A. No.

Q. Well No. 27 never produced enough water to irrigate with in 1961. Well No. 28 usually produced about a ditch full of water, and after the 15th of July it produced about enough to run one line of sprinkler pipes and we got by that way.

Q. Would that have been half as much or 2/3 as much?

A. It takes somewheres between 30 or 40 inches to run, so it would be somewhere between 35% and/or 40%.

Q. What was the situation with the other wells that year? Did you own the Gomes property at that time in 61?

A. I am not sure whether I bought in the spring of 1961 or 1962. No, I didn't own it.

Q. So you don't have any first hand knowledge of the Gomes wells in that season?

A. The one was right on the road, we had to go by every day to get in and out of the ranch and it was down almost half.

Q. That would have been Well No. 23?

A. 25.

Q. And what about the other two Gomes wells?

A. The other two I wouldn't know.

Q. What was the situation in 1962, 1963 and 1965?

A. Those years we all had plenty of water.

Q. Your wells were running a normal amount those years? What was the situation in 1966?

A. In 1966 the No. 25 well was down I would suppose to about 2/3 and the No. 28 well we had, we never could get water out of it to irrigate the piece of ground we used it for and we had to add water with it all the time. No. 27 never did run enough to irrigate anything.

Q. Then No. 28 and 27 you couldn't get enough water to irrigate out of those during that season?

A. No. 28 you could get enough, about half enough, and 27 run about enough for stock water.

Q. Was this throughout the season, throughout the irrigation season?

A. Well, I don't know because we all knew we were going to be short and we used the river water as much as we could so that we could save the others.

Q. Were you familiar at all with the Lucke or Baldwin well in 1966?

A. I looked at it several times.

Q. During the irrigation season?

A. Yes.

Q. Was it flowing at the times you observed it?

A. It was - I observed it flowing some times and some times I didn't. I go back and forth on that road quite a bit.

Q. You don't recall how many times you observed it flowing?

A. No.

Q. Was it flowing more of the times you observed than not?

A. I wouldn't say.

Mr. Coleman: We have no further questions.

Cross-examination by Mr. Ringert:

Q. Harry, I didn't get what your production was in No. 25 in 1966?

A. It was about 2/3 of what it normally was.

Q. And No. 26 during that same year?

A. No. 26 we never noticed, it was just for domestic.

Q. How about 23 and 24 in that year, 1966?

A. We had about 1/3 of the stream of water.

Q. When did you turn on when you had the ranch there, what time of year in 1966, do you recall? Turn on your well water that is?

A. We didn't have river water - we would turn in on some time in May. In fact that year I know it was early because it wasn't too good. I suppose it would be the 20th of May.

Q. All your irrigation wells?

A. No the ones on the Gomes place. 23, 24 and 25.

Q. How about the ones down on the home place?

A. I presume in June some time.

Q. The middle?

A. Maybe - bear in mind this, they were never on consistently. They're on and then they are off.

Q. You irrigate the area they are designed for and then you shut down for a while?

A. Yes, we use them as little as possible.

Q. I see. Now, in 1961 what was your turn-on sequence for the wells on the home place if you recall?

37 7014

A. They would have been approximately the same.

Q. You mentioned that you observed No. 25 on the Gomes place down about half during 1961. Do you recall what time of the year you made that observation?

A. It went down after he cut the first crop of hay, why he never had the water. This well is on and off - it's never - its just - -

Q. That would be some time in early July then that it started down to half.

A. I wouldn't say it ever was up where it should be because I know the State Reclamation man of geology or something, measures this well every month.

Q. No. 25?

A. Yes, he measures it every month and every one watched it, I mean it was something of interest.

Q. A gage for the area was that what it was?

A. Well, it tells you a little bit what is going to happen, and I know that year it never got up the way it was suppose to and it got down. It didn't get as low then as it did in 1961, but it got away down.

Q. 1961 is the one I am talking about, when you made your observation, when you observed it down about half that would have been after the first cutting of hay, is that right?

A. Yes, some time around there.

Q. So that would put it some time around or after July 1st?

A. Yes.

Q. Do you know how deep these wells are, Harry?

A. No. 26 is 100 between 100 and 105 feet.

37 7014

Q. No. 27?

A. 26 is the only one that I drilled. I think 27 and 28, I think 27 is some where in the neighborhood of 140 and 28 is some where in the neighborhood of 130. You would have to look it up on the record.

Q. Now the flow on No. 27, I didn't get that. Did you say 45 to 50 inches?

A. Yes. That's when everything is ideal.

Q. What is the first time you recall seeing that much flow in No. 27?

A. It was drilled in 1948, I believe, in the Fall of 1948 or 49 and the first time I saw it would have been in June of the next year.

Q. When was No. 28 drilled?

A. Just as quick as they got done with No. 27.

Q. So you would have had water in it in the 1949 irrigation season?

A. Yes.

Q. Would that have been your first observation of this amount?

A. Yes, I suppose.

Q. Are they measured, or are these estimates?

A. They were measured. Who measured them I don't know. They were measured when they brought them in in the fall.

Q. At these figures?

A. They were measured and they had an exact figure. It was least somewhere in there.

Mr. Ringert: That is all I have.

Re-direct examination by Mr. Coleman:

Q. These figures on this well Harry,to the best of your knowledge in irrigation that would have been the flow from those wells, is that correct?

A. Yes.

37 7014

Q. And that would be based on your experience?

A. Yes.

Mr. Higginson: Mr. Bettis, you indicated that somebody measures this well monthly or periodically, and inferred that it was the Reclamation Department.

A. No. It is the U. S. Geological Survey.

Q. Now they report a well located in NE¼NE¼, Section 14, Township 1 South, 18 East, would that be the well?

A. Yes.

Q. Their report - would you know of any other well in that quarter?

A. No. There is one away over here some place.

Q. Then the hydrographs of the U.S.G.S., which are contained in the various reports that we stipulated entering here would pertain to the well you are talking about?

A. I believe so.

Mr. Ringert: I didn't get the legal on that.

Mr. Higginson: NE¼NE¼, Section 14, Township 1 South, Range 18 East.

Thank you Mr. Bettis. You may be excused.

Mr. Nelson: At this time we would like to enter a formal appearance for protestants Walter Nelson, Veral Loveland, and Baseline Cattle Company, but we won't present any evidence on their behalf.

Mr. Higginson: May I have those names again?

Mr. Nelson: At this time we would like to recall Mr. Baldwin for the completion of his cross-examination.

(Recess taken)

Mr. Higginson: Mr. Baldwin would you come back up for cross-examination?

Cross-examination of Wayne Baldwin by Mr. Nelson.

37 7014

Q. You are the same Wayne Baldwin that was previously sworn and testified?

A. Yes.

Q. Have you had a chance since I was previously questioning you to look at the record of the watermaster that has been introduced?

A. Yes.

Q. We will start with Protestant's Exhibit 7, relating to 1967. What does that show as far as transfers of water from the Lucke well into Silver Creek down to Lawson 24?

A. Well, it shows that it was transferred.

Q. How many days?

Mr. Ringert: The exhibit will speak for itself.

Mr. Nelson: Well, I am trying - it does show that there were 3 days that transfer was put into that record. Is that correct?

Witness: That's what this record shows.

Q. How does your recollection square with that record?

A. I was thinking it was 6 days, I could be wrong.

Q. What was the situation in 1966 with relation to transfer water from what has been called the Lucke well and the Baldwin well into Silver Creek and down to Lawson No. 24?

Mr. Ringert: Mr. Higginson, we've got the watermaster's records on this thing. I again fail to see any relevancy in these questions pertaining to water delivered into Silver Creek, co-mingled and taken out through Lawson 24. It doesn't have anything to do with this application for permit.

Mr. Higginson: I think again, Mr. Ringert, going back to our original discussion prior to setting the hearing, insofar as it might be possible to demonstrate that by reason of past use of the well in the manner in

which this application proposes to use the well, there has been an interference of other rights, that point becomes pertinent and I think if Mr. Baldwin's recollection is different than what the watermaster record shows then we should know that too, so if that what we are arriving at Mr. Nelson, I would over rule the objection.

Mr. Nelson: I think my question was what was the situation in 1966 with relation to taking water from the Baldwin well, putting it into Silver Creek and taking it out of Lawson 24, was that done in 1966?

A. Yes.

Q. To what extent?

A. I would have to look at the records to get that.

Q. The best you can recall, realizing of course it is an estimate.

A. Well, several days.

Q. A month?

A. Possibly more. You would have to look at the records.

Q. About when was the well turned on in the Spring?

A. Again, to be exact, I would have to refer to the record.

Q. Can you give me an approximation?

A. It would just be a guess, probably some time the fore part of June.

Q. Now what was the situation regarding the overall use of the Baldwin well that year, both transfer down Silver Creek and used on the land around the well that subs?

A. Well, we used to supplement the water right from Silver Creek.

Q. Did you use it on the land around the well itself?

A. Yes, some, yes.

Q. What would be your present estimates, and I realize that is all it would be, concerning how many days that well was operating during 1966.

A. I believe the records will show that.

Q. Do you have any estimates?

A. No.

Q. Do you have any estimate of how many days it would have been used just on the land around the well itself?

A. Several.

Q. A month?

A. Possibly more. You would have to look at the records.

Q. About when was the well turned on in the Spring?

A. Again, to be exact, I would have to refer to the record.

Q. Can you give me an approximation?

A. It would just be a guess, probably some time the fore part of June.

Q. Now what was the situation regarding the overall use of the Baldwin well that year, both transfer down Silver Creek and used on the land around the well that subs?

A. Well, we used it to supplement the water right from Silver Creek.

Q. Did you use it on the land around the well itself?

A. Yes, some, yes.

Q. What would be your present estimates, and I realize that is all it would be, concerning how many days that well was operating during 1966?

A. I believe the records will show that.

Q. Do you have any estimates?

A. No.

Q. Do you have any estimate of how many days it would have been used just on the land around the well itself?

A. Several.

Q. A month?

A. I don't think so that long. No.

Q. Now, looking at - Protestants' Exhibit #5, relating to the year 1965, it shows 8 days of water through Lawson 24 purporting to come from the Lucke well. How does that correspond with your recollection of how many days water would have been taken from the Lucke well into Silver Creek and down through Lawson 24?

A. That was probably right according to this record.

Q. Does your recollection indicate that that comes pretty close?

A. Yes.

Q. All right, I will show you Protestants' Exhibit No. 4 and it purports to show water transferred to Lawson 24 from the Lucke well for about ten days commencing about the middle of September. How does that conform to your recollection of the transfer of water from that well into Silver Creek?

A. Yes.

Q. Would that be about right as you recall?

Mr. Ringert: What year is this?

A. 1964.

Q. That would have been the only water taken from the Baldwin well into Silver Creek and down to Lawson 24 in 1964?

A. Yes. We just used it for supplemental water.

Q. All right. Protestants' Exhibit No. 3 relating to 1963 shows 8 days of well water evidently delivered through Lawson 24, with no sources shown, commencing, I believe the latter days of May. What was the source of that one?

A. Well, I can't rightly say. It isn't even on the record here.

Q. Do you have any recollection of where you would have gotten it?

A. No, not this very water on this record. 37 7014

Q. How much, according to your best recollection, now, if any, was water

taken from the Lucke well into Silver Creek and down through Lawson 24 during the year 1963.

A. I couldn't answer that exactly without looking at the records.

Q. I don't need an exact answer. I need your estimate, if you have one.

A. I don't have one.

Q. All right, in 1962, according to Protestant's Exhibit #2 shows about 10 days of water purporting to come from Rogers artesian well. In 1962 did you take water from the Lucke well down through Lawson 24?

A. I don't think so./

Q. I don't believe I asked you, but did you take water from the Lucke well, into Silver Creek and down to Lawson 24 in 1963?

A. I believe the records show that, yes.

Q. All right, Protestants' Exhibit #1, purports to show, under heading of Lucke Artesian delivered to Baldwin Brothers, less 10%, 6 days of transfer in May? Is that consistent with your recollection?

A. Is that 1961?

Q. Yes.

A. That is approximately right 5 or 6 days.

Q. And no other time that year was water taken from the Lucke well down to Lawson 24?

A. Not to my recollection.

Q. The application we are considering here, No. 37 - 7014, she asks for an appropriation of, if I am not mistaken, 5 second feet. Do you still have that in front of you?

A. Yes.

Q. How was the figure 5 second feet arrived at?

37 7014

A. That is sufficient to irrigate our ground with other water rights that we have in Silver Creek.

Q. The water you have available from Silver Creek varies from year to year and period to period within a year?

A. So that was just an estimate of what you think in a normal year you could use?

Q. Yes. From being on the flat property for 20 years.

Q. Now you have heard some of the protestants testify that in using their artesian wells they turned them on and used them what they needed and turned them off.

A. Yes.

Q. Is that consistent with the way you would have operated the Lucke well as concerns the land immediately around it?

A. Yes. There is no object in letting it run, if you don't need it for beneficial use.

Q. So it is not on all the time.

A. No.

Q. So I take it, that the granting of this application would require that that well run during periods when it would not otherwise run if the water was only appurtenant to the land around the well itself?

Mr. Ringert: I object to that question. It is argumentative.

Mr. Nelson: I will re-phrase it. Would it be accurate to say that granting of this application would require that that well operate more than it otherwise would?

A. Well, owning the well, we try to put the well to the best beneficial use, as we have on all the property we own.

Q. But the question is, if the water remained only appurtenant - well -

let me put it this way. This water you only want to transfer water down the creek is excess to your needs to the property right around the well. Is that correct?

A. Yes.

Q. So then if that water is excess you would not be running the well? Is that correct?

A. Would you re-phrase that again?

Q. If the water you seek to transfer is excess, then in order to have water available to transfer down the creek, you wouldn't have to have the well running for land around the well itself, otherwise, the water wouldn't be excess.

A. Yes.

Q. So then I take it, the answer the question that granting of this application would require the extra operation, or flowing of that well, the answer to that question is yes, is it not?

A. Yes.

Q. In the past while you were taking water from the Lucke well and transferring it down through Silver Creek down to Lawson 24, was any of the water thus taken down through Silver Creek used on any land down there other than described in your application?

Mr. Ringert: I object to that. It doesn't go to prove a thing. He's got testimony and evidence in the record that shows how much water was taken from the well. That is what the issue is.

Mr. Higginson: I sustain the objection. I don't think it is material as to where it is used. The question is what is the result of the use.

Mr. Nelson: I don't believe we have anything further.

Redirect examination by Mr. Ringert.

37 7014

Q. Wayne, do you recall how much - when did you first start operating that land that this well is located on, this land in Section 20, 1 South, 19 East.

A. Where the well is?

Q. Yes.

A. In 1964.

Q. And, do you recall how much use you made of that well on the property you are buying from Mr. Lucke during 1964?

A. Very little.

Q. How much use of it did you make of it on this property during 1965.

A. I couldn't give an exact amount but we used it there on some crops.

Q. What crops? Do you recall?

A. Grain crops and some pasture.

Q. Did you use the water from this well on the land where the well is located in 1966?

A. Yes.

Q. Do you recall how much?

A. Just about, approximately 15 acres. The reason for that, the property was too wet to work in.

Q. In 1966?

A. No, we had grain on it in 1966. Yes, we had grain in 1966. We had roughly, couple of hundred acres.

Q. Do you recall how many days you had water flowing from this well during 1966?

A. I couldn't tell you exactly the amount of days there. We pumped water on it with a sprinkler from the well.

Q. Do you have any recollection at all of how many days?

37 7014

A. Possibly all together about 60 days.

Q. During 1966?

A. Yes.

Q. Now, do you recall how many days you used water from the well on the property where the well is located during 1967?

Mr. Nelson: Was that 1967, Bill?

Mr. Ringert: Yes.

A. Approximately 10 or 12 days. We watered that one pasture two or three times. The rest of the property wasn't planted. It was too wet to work.

Q. That was 1967?

A. That was 1967.

Q. Now, what factors determine whether or not you use water from this well on the property where the well is located for irrigation purposes?

A. We will use it there when it is needed there. We will put that ground in permanent pasture and there will be years when we won't even irrigate at all.

Q. Why not?

A. Too wet.

Q. How does it - How do you encounter a condition there where it is too wet to permit irrigation?

A. Well, that is why we want to put it in permanent pasture.

Q. How does the ground get wet during those years?

A. From sub - water subs to the top of the ground.

Q. Clear to the ground surface?

37 7014

A. Yes. There will be puddles of water. You can't even drive the cat through. You will mire a cat. We stuck a cat on the property there everytime we have worked it since 1964, every year.

Mr. Ringert: I believe that is all.

Recross-examination by Mr. Nelson.

Q. I have a question. From the line of Mr. Ringert, although he didn't ask this specifically, in 1966 as I got it, you first said it was too wet to work and then you corrected that, that was in 1967 it was too wet to work, is that right?

A. Yes. I believe we had grain in there in 1966.

Q. You said about 200 hundred acres?

A. Approximately. Yes

Q. What kind of grain?

A. Mixed grain and oats and barley.

Q. In 1965 then, if I got it right, you had it in grain and some pasture?

A. Let's see, in 1965 -

Q. I don't want to hold you to my notes, but that is what I wrote down.

A. Well, I would have to look at the records exactly to see how many acres we did have in 1965, we had one field in there. Ever since we bought the property we have tried to work on it and level it whenever time permitted that we could get at it so we gradually get it in permanent pasture.

Q. How did the area you had under irrigation in 1965 compare with the area you had under irrigation in 1966?

A. It is all the same.

Q. No, I mean area, was it more or less, the same or

A. We had more in 1966 than we did in 1965.

Q. Do you remember at what time during the year you bought the property in 1964.

A. Possibly May, what does the record show?

Mr. Nelson: The contract was the 30th of June, wasn't it?

Mr. Ringert: How about letting him refresh his memory?

A. Yes, 30th of June, 1964.

Q. I take it then you probably didn't get it early enough that year to do very much planting on it?

A. If my memory serves me correct, I think Ralph Lucke had some planting already done on that at that time. I won't say for sure on that, but I believe he did.

Q. And as I recall,your testimony was that you used the well very little in 1964 on the land right around it.

A. Yes.

Mr. Nelson: I can't think of anything further.

Mr. Ringert: Do you recall whether you actually took possession of the property before the contract was signed?

Witness: I don't think so, really.

Mr. Ringert: Okay, that's all.

Mr. Higginson: Mr. Baldwin, I have one question. In response to some of the questions you have been asked, you say, particularly with regard to how many days the well was used and where, you have answered by saying you couldn't tell without looking at the record. Do you have in your possession some record that would indicate when the well was used and where?

A. No. I was referring to the Watermaster's record,to be exact.

Q. You have no private record in your partnership which would show when and where the water was used and at what times.

A. No.

Q. So the record you are referring to in every case where you have been asked, you are talking about the Watermaster records.

Mr. Higginson: That is all I have. Thank you Mr. Baldwin.

Mr. Nelson: How much did we get on the record on how we limited, during the conference, the evidence concerning the validity of the existing license 29372.

Mr. Higginson: We didn't on the record, of this hearing we did not make a record of that. What our normal practice is, is to reduce to writing anything arrived at by agreement at a conference and submit it to the parties to see if that was their understanding of what happened at the conference which we would be happy to do. If you want to put it in the record by making a statement at this time and getting Mr. Ringert's concurrence, I would be happy to do that.

Mr. Nelson: I would like to make this statement - that because of the, it wasn't an agreement, I think it was more or less a ruling made at the conference which is not on the record, we have refrained from introducing or producing evidence which we have indicating that the Baldwin or Lucke well was improperly licensed, and that at no time prior the licensure had that much water been used on sufficient acreage around the well to justify licensing for that amount, 7.44 cfs. If I am right, and that we haven't waived or don't wish to be understood as waiving that position, but we have bowed to the ruling of the hearing officer so as to not unduly prolong the thing by offering the evidence and having it excluded.

Mr. Ringert: Well, on that point if we are to pursue it any further, I suspect that maybe we ought to check every license in this valley, as long as we are going to bring them into issue.

37 7014

Mr. Nelson: I am just saying, I am not taking issue with what Mr. Higginson arrived at originally merely making the record complete.

Mr. Higginson: Is there anything further to be presented then here this afternoon? It is my understanding that we will arrive at a suitable time within the next short period of time at which Mr. Keith Anderson might be called as a witness in this matter and be examined. Do the parties have any one else, they, at this time, anticipate calling?

Mr. Nelson: We don't.

Mr. Ringert: I don't think so at this time.

Mr. Higginson: If there is nothing further then, we will recess the hearing concerning this protest until the further hearing to be called as agreed upon by the parties.

Mr. Nelson: Tentatively, the 2nd of May at 9 o'clock.

Mr. Ringert: In your offices in Boise.

Mr. Higginson: In my offices in Boise.

Mr. Nelson: Do you have a place we can have the hearing?

Mr. Higginson: Right.

Mr. Nelson: Okay.

Mr. Higginson: Thank you very much.

Whereupon the hearing was recessed.

Boise, Idaho, May 2, 1968.

Mr. Higginson: This is a continuation of the hearing that was held in Hailey, Idaho on April 24th concerning the application filed by Baldwin Brothers for appropriation of water from a ground water source. The hearing was continued to this morning's date so that additional testimony could be introduced. I believe the protestants have a witness they wish to call this morning.

Mr. Nelson: Yes, we will call Keith Anderson.

Mr. Nelson: At one time I think Mr. Ringert and I agreed that perhaps we could stipulate that Mr. Anderson is generally qualified by education and experience to testify as to ground water matters subject to specific qualification of knowledge of the area involved.

Mr. Ringert: With the reservation of right to cross-examine with respect to his qualifications in any other matter.

Mr. Nelson: And any other matter?

Mr. Ringert: I don't want to limit my cross-examination by this stipulation.

Mr. Nelson: Well, I think limited by the ordinary rules of cross-examination.

Mr. Ringert: Right.

Mr. Nelson: Okay.

Mr. Keith Anderson after being duly sworn was examined by Mr. Nelson and testified as follows:

Q. Would you state your name please?

A. Keith E. Anderson.

Q. Where do you reside Mr. Anderson?

A. Boise, Idaho.

37 7014

Q. What occupation do you follow there?

A. I am a consulting engineer and geologist.

Q. In your occupation have you had occasion to become familiar with the artesian basin in Blaine County, located north of Timmerman Hill?

A. Yes.

Q. Under what circumstances did you become familiar with that aquifer?

A. It was prior to my work as a consultant, while I was employed with the Bureau of Reclamation as Regional Drainage and Ground-Water Engineer in approximately 1953-54, or when the Bureau of Reclamation was engaged in studies of the potential for irrigation or supplemental irrigation water in the Big Wood Valley, or that portion of the Big Wood River Valley. At that time the study was conducted somewhat jointly between the Bureau of Reclamation and the Geological Survey and I spent most of one summer in about that period of time with the Geological Survey personnel in the field on ground-water investigations that were primarily in the area south of Bellevue, north of Timmerman Hill in between roughly the Big Wood River or a little bit farther west on the west and on down east of Picabo towards Carey on the east. This program included quite a bit of field investigation of existing wells, ground-water conditions, the hydrology of the area. We drilled under contract, I think it was some 6 or 8 test holes, and in at least one instance we conducted some pumping tests to evaluate the availability of ground water as a source, or a part of the source of supply, for supplemental irrigation in that area. Since that time I have had some occasion, or numerous occasions, to be in the area physically and have made some additional studies in connection with this general artesian basin, starting in about 1961.

Q. Could you describe for us the area generally underlain by the artesian

aquifer?

A. I think it has to be considered maybe even a little bit wider in scope than - are you talking about what is the area physically?

Q. Yes, where is artesian aquifer?

A. The artesian area, or the area where the water occurs under pressure and generally flowing at land surfaces is in the southern part of this triangular area of the Big Wood Valley, with Bellevue at the head of the triangle and Timmerman Hill is at the base. I think it is shown in a preliminary fashion in one of the maps that appears in the Geological Water Supply Paper 1478. Generally speaking, the southern limit of the aquifer or the basin is the southern limit of the Topographic Basin, or the foothills to the south, and Plate 4 of that Water Supply Paper the artesian area is outlined with a heavy dashed line. This was prepared on information available in the early 1950s and subsequent drilling and development and has extended that area somewhat. It probably extends locally anyway almost as far east as Hay, westward in places even west of the Big Wood River. Generally not much north of the baseline in any area, although it would extend north of the baseline in the western part of the area, less likely to in the east.

Q. Would you describe for us the geology and hydrology of the aquifer?

A. The area geologically that we are concerned with is an alluvial basin, or an area basin that has been filled with alluvial deposits, chiefly sands and gravels very course in places, with the deposits becoming finer as you go southward toward the Timmerman Hills area. The boundary of this triangular area, both to the northeast and west and the south are much older consolidated rocks of rather poor water bearing characteristics. They are quite tight. Timmerman Hills area being primarily volcanics and the

areas to the east and west being primarily old metamorphic rocks. These allucial deposits were brought in from streams coming into the area from the north and, as I say, the deposits became finer down to silts and even clays in places at the lower end of the valley. The result of this has been to provide these lenses or layers of tight materials in the southern part of the valley which serves to act as a capping layer and trap the water or provides pressure then on the water that occurs underneath them in permeable zones. That's why the water in the wells in the lower part of the valley are flowing artesian wells whereas those in the north towards Bellevue the water would occur under just the water table conditions with essentially very course gravelly materials from the surface on down. A geological cross-section is also included in Water Supply Paper 1478 that would indicate this characteristic at the south where these fine deposits provide the artesian, or the necessary capping to provide artesian pressures. The source of water to this mass of sand and gravel in the valley is from several sources. Of course direct rainfall on the area which however is not too significant and primarily from the application of irrigation water in the upper part of the valley and the rather high seepage losses that occur in the canals and laterals across the upper part of the valley as well as some losses from the channel of Big Wood River itself. The effect then is that you have a large input of water to this sand and gravel reservoir every year commencing with the start of irrigation. The amount varying somewhat with the amount of water that is available for irrigation which is dependent on the run-off of Big Wood River which does not have storage upstream. The water percolates into these very permeable gravels and moves southward and under these clay or silt layers builds up an artesian pressure and at points where the water table intersects the land surface

37 7014

the water then re-appears as springs and seeps which collect and form the headwaters of Silver Creek and flow eastward through the narrow outlet near Picabo and on down to join the Little Wood River. Springs also occur to the west of Highway 93 and form Spring Creek and other channels that are tributary to the Big Wood River which again passes through a narrow outlet to the west and into Magic Reservoir. The water level in wells either under water table conditions or the water pressure in artesian wells will fluctuate somewhat depending upon the rate of the recharge or the application of this water in the upper part of the valley and similarly the flow of the springs that provide water for Silver Creek and for Spring Creek to the west will fluctuate or disappear and re-appear cyclically in accord with this application of recharge water, consequently the surface flow of Silver Creek and Spring Creek are quite highly variable. The low period in the water table in most wells or water pressure and also the low flow in the spring fed channels is generally just prior to the irrigation season or at the end of a water cycle in this valley with the flows beginning to build up then as irrigation waters apply which usually starts either in later April or early May, primarily through the district canal and the baseline canal but also some other canals and laterals, and then the peak in water levels and pressures occurring usually in the late summer or early fall and similarly the peak surface flows. There is a ground-water divide since there are two outlets, the one westward towards Magic Reservoir through the Big Wood and one eastward on Silver Creek toward the Little Wood River. A ground-water divide, which is a rather shallow one, the elevations of water table or pressures are not much higher along the divide than to either side, but this divide generally you might say follows Highway 93. It is probably a little

37 7014

bit to the east of the highway in some places. It is possible because of this data that can be collected on water level fluctuations and the flow in the creek and irrigation applications show very strikingly I think this relationship I discussed. It is quite a rapid one between the application of irrigation water and the re-appearance of water then down-stream in these surface channels.

Mr. Nelson: Does the artesian basin extend as far as Picabo?

Mr. Anderson: No. It wouldnt. It would extend - probably no farther east than Range 19. The Picabo area and on to the southeast there are the appearance of some lava, basalt flows on the surface underlain or with permeable gravels between lava flows in that area and that is outside of this general triangular alluvial basin that we have in the valley itself.

Mr. Nelson: Are you familiar with the location of the so-called Lucke well?

Mr. Anderson: Yes, sir.

Q. Are you familiar about the well, when it came in?

A. Yes.

Q. Did you have occasion to make a field trip to the area some time around the time the well came in?

A. Yes, I was in the area in April, I think, of 1961.

Q. Are you familiar with the reaction or the action of other wells in the area, specifically the McGonigle well about the time the Lucke well came in?

A. Yes.

Q. Based on your training and experience and your familiarily with the area and also with your field trip do you have any opinion, as to the reason for the drying up of the McGonigle well in the spring of 1961?

A. Yes.

Q. What is your opinion?

Mr. Ringert: I object, Mr. Higginson, I don't believe we have sufficient foundation in yet. It is granted that Mr. Anderson has a general familiarity with the area, but I think we are going to have to know more about the specific structure between the two wells. I think we are going to have to know more about the McGonigle well. I think there are numerous factors that effect this thing that would have bearing on Mr. Anderson's opinion that hasn't been brought out in evidence here yet.

Mr. Higginson: It seems to me that in order for Mr. Anderson to offer an opinion as to why certain things happened with the McGonigle well that we need to first lay a foundation by finding out what he observed with regard to the McGonigle well and then perhaps we can get his opinion as to why this might have happened. I think we do need a little more information, Mr. Nelson.

Mr. Nelson: Right.

Q. In your field trip what did you learn concerning when the Lucke well came in?

A. The well had been completed about, a matter of a few weeks, I think, prior to the time when I was in the field. It was not flowing at the time, but had been tested or had been flowing a short time prior to that. I examined the, I was at the Lucke well site, and then visited and examined a number of other wells in the area. The McGonigle wells, Clark, Bettis, Gomes, I can't remember all of the ones but wells in the area to see the condition at that time and also to find out what the condition or flow characteristics had been immediately prior to that time. Information that I obtained at that time was essentially the same as was testified to or presented last week in Hailey. The wells are all, that is, no two of the wells are exactly alike

in the valley as far as depth is concerned, diameter or flow characteristics, but the aquifer that we are talking about here although you may in a given well even go through one or two alternating sequences of clay and sand and gravel and in another case perhaps only one such capping and then sand and gravel. It is essentially one aquifer clear up above the artesian area into the water table area. In other words a shallow well can have an effect on a deep well or a deep well can have an effect on a shallow well because the permeable zones in these wells are all hydraulically interconnected. I think that the physical characteristics in any given well would have a bearing then on perhaps the time that was involved it might extend the time of the effect. It would be required to have an effect between wells, a matter of some days, depending upon this degree of hydrolic interconnection, but I feel, and this goes back primarily to our detailed studies in the 50s that we are definitely dealing here with a single aquifer, if you want to call it that.

Mr. Nelson: All right, are the wells you mentioned that you visited and observed in 1961, located on this aquifer?

A. Yes.

Q. Is the McGonigle well specifically the one that went dry in the Spring of 1961 located on the same aquifer as the Lucke well?

A. I would say, yes.

Q. All right, I will repeat the question again without at this point try to avoid having to re-state the testimony we had concerning the Mc - Gonigle well in Hailey. I re-state my question about the opinion.

Mr. Ringert: I don't see the need for restating all the testimony. I think we all know what it was, but I think we should have Mr. Anderson's

observations, his observations of flow or stoppage of flow or whatever in the wells. I don't know what he observed at the Lucke well when he made his examination. Was April the only time you were up there Keith, in 1961.

Witness: Yes, in 1961.

Mr. Nelson: He said it wasn't flowing at the time he was there.

Mr. Ringert: The Lucke well was not flowing?

Witness: No. The McGonigle well in question, I forget what number it is, was flowing slightly at the time.

Mr. Ringert: Can you recall what day in April it was?

Witness: I think I may have. It may be stated in that report of mine. The 24th.

Mr. Ringert: April 24th?

Witness: Yes.

Mr. Ringert: Well, what I would like to establish in this and forgive me if I am going out of order a little...

Mr. Nelson: Go ahead.

Mr. Ringert: Your analysis is based primarily is it not, Keith, on information that you obtained from residents of the area at that time?

A. That's right.

Mr. Ringert: And,that is as you recall,that is in your report?

Witness: I think so, yes.

Mr. Ringert: Do you know the depth of the McGonigle well, or did you at that time?

Witness: Yes, I did at that time. I don't recall off hand, I think it is in the neighborhood of 100 feet or so.

Mr. Ringert: And the condition of the internal section of the well?

Was there any examination made with respect to that?

Witness: No, there was not. As I recall, this some of, many of these, this isn't possible because they are fixed with elbows or horizontal discharge pipe.

Mr. Ringert: I would like to make my objection to Mr. Anderson's opinion. I still don't think there is sufficient foundation to give an opinion with respect to interaction between these wells, if there by any interaction.

Mr. Higginson: Could we come back to the question Mr. Nelson? What is it you are asking Mr. Anderson to give us an opinion on?

Mr. Nelson: I am asking him basically if he had an opinion as to the cause of the McGonigle well, I think we numbered it No. 4, drying up in the spring of 1961?

Mr. Higginson: Have we established that Mr. Anderson had observed that the well did dry up?

Mr. Nelson: No.

Mr. Higginson: This is Mr. Ringert's objection that he observed that the well was flowing slightly, I believe. I think the question is as to whether Mr. Anderson himself observed that the well dried up and therefore would have an opinion as to why.

Mr. Nelson: I thought it had been established that he obtained his information from talking to the residents of the area and he was not there when it was dry, but I didn't understand that that was the basis of Mr. Ringert's objection.

Mr. Ringert: No, really my objection was more broad than that, Mr. Higginson. I think there are many geological factors involved in establishing interaction between wells. Of course, if the object of the question is not to establish that the Lucke well had some effect upon the flow in the McGonigle well then it is immaterial. I think the factors normally considered in the deter-

mining interaction between wells should be established here so that we know the entire basis of Mr. Anderson's opinion. Also, this phrase, "dried up", I believe Mr. Clark's testimony was, and also Mr. McGonigle's testimony, that some water was observed in the well. What happened was that the well ceased to flow.

Mr. Higginson: Well, I think we are dealing with a very technical field here of expertise and Mr. Anderson has been called as an expert in this and I think for the record if he has an opinion as to why certain things happened we should get it in the record. I think we do have to keep this in mind, and I suppose that any person in this field making an investigation is going to visit the various people in the area and get from them their observation, dig out any information they can in order to come up with a considered judgement to what has happened and what might happen in a particular area like this. I can certainly see your point of concern here, Mr. Ringert, as to the opinion that Mr. Anderson might give as to why certain things have happened, based upon what people in the area had told him had happened, but I think, all other things considered, it would be well to get it into the records Mr. Anderson's opinion as long as we understand the basis and I think you can question him all you want on what he based that opinion , on cross examination.

Mr. Ringert: I didn't specify, but I would like to have my objection extend also to hearsay.

Mr. Higginson: All right. Let's proceed with the opinion, Mr. Nelson.

Mr. Nelson: You mean a stating of an expert's opinion based on hearsay , or the introduction of hearsay evidence?

Mr. Ringert: Well, his opinion will be based in part on hearsay information that be obtained that is not part of the record here.

Mr. Nelson: All right.

Mr. Higginson: Let's proceed with it and with that objection on record.

Q. I think my question was whether you had an opinion as to why the McGonigle well No. 4 ceased to flow in the spring of 1961 and your answer was yes, and my next question was - what your opinion was?

A. In my opinion, the period of cessation of flow there in late March or April in that McGonigle well was the result of the period of operation of the Lucke well following the completion of its drilling.

Q. About how far is it from the McGonigle well to the Lucke well?

A. Oh, a few miles. Probably about 2¼ or 2½ miles.

Q. Was the time interval between the flowing of the Lucke well and the time the McGonigle well ceased flowing consistent or inconsistent with your opinion?

A. It was consistent.

Q. Is there an observation well, or are there any series of measurements taken on any well in the area by any agency of the Federal Government?

A. Yes. There are several observation wells.

Q. Which is the closest?

A. I think the closest one and the one in the artesian aquifer is known as the Gomes well, which is to the west of the Lucke well and south and west of the McGonigle well.

Q. And who maintains - takes the readings on this well?

A. The Geological Survey, the Federal Geological Survey, the Ground Water Branch.

Q. Have you checked the records of that well relating to the spring of 1961?

A. Yes.

37 7014

Q. What did those records show?

A. These are not a continuous recording that is maintained. They are measurements made about monthly. It showed a decline in the period of about late March or early April. I have the individual readings here. They had a reading on the 27th of March. Well, lets start back on the 25th of February a reading of 21.8 feet above the measuring point; on the 27th of March 20.6 feet above; and the 22nd of April 23.5 feet above; 20th of May 18.6 feet; on the 16th of June 24.3. Both the March 27 and the May 20th readings are reversals of the normal trend as shown by periods of observation of other years.

Mr. Nelson: You said that was a reversal. You mean that it doesn't follow the pattern?

A. That's right. The normal pattern would be for that pressure which was at 21.3 in January and 21.8 in February to build on up slowly and reach a peak in the summer, and all of the measurements that year would fit that pattern except for these two March and May readings where they are lower than would be anticipated.

Q. What in general effect or inter-relationship is there between and among those wells in that artesian basin?

A. The artesian wells in this basin, you might say almost any artesian basin, are certainly similar to this, you do get an effect between individual wells when one well is opened up and allowed to flow, similarly to the way you get an effect between wells that are pumped, whether or not they are in an artesian basin. The interfence as it is usually referred to between artesian wells, normally occurs more rapidly than if you are in a strictly water table condition because the interference is a result of a transmittal of a pressure affect very much like opening a faucet on a pipeline in

noticing the pressure a drop on that pipeline at some distance rather rapidly. The magnitude of the effect between wells, any two wells in an artesian basin like this, would depend on some definite factors. One of them is the rate of discharge. A second factor is the length of time this discharge is taking place. The third one is the distance involved between the two points the well flowing and the one being observed, and the fourth one is the physical characteristics of the aquifer materials, that is their permeability and storage co-efficients, and changing any of these four considerations will change the magnitude of the effect that you observe at a given point.

Q. Are you familiar with the irrigation habits or pattern of flowing artesian well users in the area we are speaking of?

A. Yes, I am.

Q. About when do they usually turn on their wells?

A. This will vary some between individual properties. Much of this area received early irrigation benefit from this so-called sub, or shallow ground-water levels or ground-water moisture that is attained in the lower part of the valley. The wells in this lower part of the valley used for irrigation will start some of them as early as middle of May and some of them not until early or middle June, and then normally will be operated for a period of time sufficient for a given irrigation and then turned off, capped, and re-opened again after another period of a few weeks and allowed to run and then shut down, and this is repeated as often as necessary through the season.

Mr. Nelson: Are you familiar with Mr. Baldwin's testimony that if the application were granted, maybe the application itself shows this, that the Lucke well involved would be turned on earlier than that?

37 7014

A. I think the application is for starting with an earlier period. Yes, April 15th.

Q. In your opinion what would be the effect on the aquifer and the other wells in the aquifer of the turning on of the Lucke well at earlier than normally the pattern in that area?

Mr. Ringert: Now, I object. I don't think there is foundation for that, under what circumstances, what kind of a water year are we talking about?

Mr. Nelson: I take it, it is the same water year for everybody. Let's assume then, a normal water year, what would be the effect of turning the Lucke well on earlier than is usually the case in that area?

A. Well, turning the Lucke well on, or for that matter any of these wells, is going to result in a drop in pressure in this aquifer around the well, the effect then is to lower the pressure at other wells in the vicinity which would reduce their pre-flow capability at that time. It will to some extent be the greatest around the well and progressively diminishing as you increase in distance, will tend to reduce some of the sub effect so that irrigation water may be required in the surrounding area at an earlier date, and then in addition, it will also delay somewhat the build up because of this pressure drop it will delay the build up of the spring flows which feed Silver Creek, so it would have an effect on the pattern of the Silver Creek flow. This would be true actually whether we are talking about a normal, I mean these are things that will occur whether we are in a normal water year or a dry water year or a wet water year. The result of these effects, or their magnitude, or their effect on activities in the area may be different from one year to another, that is the severity of it, but these are facts, these are things that will happen in any year.

Q. You heard the testimony in Hailey, I believe, did you not?

A. Yes.

Q. The testimony of the protestants. I think you heard the testimony of the protestants relating to the year 1966?

A. Yes.

Q. And the fact that their flows were substantially lower that year?

A. Yes.

Q. And also, I believe, there was testimony that the Lucke well flowed we didn't get any number of specific days, but as I got it, a substantial part of that season?

A. That was my understanding of the testimony.

Q. Now, is the fact that the protestants lost substantially more water from their wells than was flowing from the Lucke well, is that fact consistent or inconsistent with your theory of the operation of this aquifer?

A. Oh, I think it is entirely consistent. If you are referring to how much loss in flow, in inches, let's say you get in an observation well or in a side well from operating another well. If you have just two wells in an aquifer, and only two, and each of them are flowing wells, if you open one up and allow it to flow say at 200 inches discharge rate, the flow in the other one, I think you can have physical conditions where you might lose more than 200 inches of its flow, but not normally, you might lose 100 inches let's say, or half its flow, but if you had more wells in the same aquifer around it, then each of those might lose 100 inches, or if they were farther away, 50 inches, or 10 or 20, so that the rate of flow of a central well doesn't have any particular relation to the agregate decrease in flow from surrounding wells. It has a relationship, I shouldn't say that,

37 7014

but it certainly would not be possible - it would be possible to have an agregate decrease in flow in surrounding wells that would total more than the flow from the central well.

Q. Are you familiar with the design characteristics of irrigation pumps in general.

A. Yes sir.

Q. Are you familiar with the capacity that could be expected from putting a pump in a well with a 6 or 8 inch casing?

A. Yes sir.

Q. Under normal design requirements what production could you expect from a pump in a 6 inch well, or well with a 6 inch casing?

A. Normally for a 6 inch pump in the types of wells we are talking about here, this would be a deep well turbine pump, a 6 inch pump you normally would design a maximum of somewhere around 175 possibly 200 gallons a minute and you could get as much as 230, possibly 250 gallons per minute, so we are talking about 25 or 27 inches something of that sort.

Q. What would be the normal expected production of a pump in a well with an 8 inch casing?

A. Of course you could get more. You would normally would design for somewhere around 40 inches, 360 gallons per minute, but you could get up to probably 70 or 75 inches, 630 or 650 gallons per minute on an 8 inch casing.

Q. Are you familiar generally with the wells and sizes of Harvey Bickett's wells?

A. Yes, I thing he's got - I would have - I have some notes here. I think his are mostly 8.

Q. Using Mr. Bickett as an example would it be possible for him to get the same production in the event his well ceased to flow with a pump that he obtains from artesian pressure?

A. No.

Q. Would that be true then of the other artesian well owners in the area whose wells under artesian conditions exceed the production you mention for 6 or 8 inch wells?

A. Yes, that's true. A great many of these are - now there are some wells in the area, some flowing wells, all of the pumped wells, and some of the flowing wells that are a larger diameter and could accomodate a pump, but there are very few of those. The majority of them are 6 or 8 inch wells and the majority of the 6 and 8 inch wells will flow at rates greater than they can be pumped.

Q. In your examination with the Bureau and the U. S. G. S. in the middle 50s did you make any investigation of the ground water conditions in the area south and east of Picabo?

A. Yes, we did.

Q. Did you drill any test wells in that area?

A. Yes, southeast of Picabo, near the area known as Priest. We drilled both a test hole for pumping tests and also observation wells for several purposes. Primarily to determine, not so much the capability of producing ground water down there, although that was incidental, but to evaluate the existance of permeable aquifers and what the gradients were and how much water was escaping underground from the Upper Big Wood Valley.

Q. Do you have one of these plates to Water Supply Paper 1478 to shows the location of that well?

A. Yes, that would be on the well on Plate 2 that shows the location of the wells in the valley. That shows 3 wells in Section 1, T 2 S., R 20 E., one of which was a 10 or 12 inch test hole, and I think the other two were observation wells.

37 7014

Q. Did you pump that test well to determine its characteristics?

A. Yes, the observation wells, as I recall, were about 200 feet deep. The test well was carried on to about 250 feet or vice-versa. Anyway the production, permeable aquifer is a gravel between basalt flows at something around a 200 feet depth, and the well was tested at about 800 gallon per minute, with about 8 feet of drawdown. The static level in that well, it fluctuates, that is being observed now too. I think they have a recorder on it and the static level is about 140 feet. It will fluctuate seasonally maybe 8 to 10 feet with the high or low point varying another 3 or 4 feet seasonally, depending upon whether it is so called wet year or dry year.

Q. In your opinion, would it be possible for a person to develop irrigation wells in that area?

Mr. Ringert: I object. That has no relevance here.

Mr. Nelson: I think it does have relevance. We are talking here with only one exception among the protestants, according to my recollection, of 6 or 8 inch wells and loss of artesian pressure here would require redrilling and the purpose here is to show that it is possible in the area where the applicant intends to use this water to develop irrigation wells and I think one of the standards of the State Reclamation Engineer can apply is not specifically stated, but one of them is, I think justice or something of that sort, and between requiring all the protestants to redrill all their wells or requiring as a matter of justice the applicant to drill irrigation wells in the area of proposed use, I think the justice is pretty clear, and for that reason I think it is relevant.

Mr. Higginson: I think, gentlemen, as far as Mr. Anderson's testimony as to whether it would be possible to drill a well at a particular location and obtain water, I think he is qualified to give an opinion, as to that, but as

to Mr. Ringert's objection, it would be immaterial to this particular matter, I think he is correct. I don't believe it is a matter or basis for our determination of whether this particular permit ought to be granted, or not. The applicant has not proposed drilling a well in that location. The fact that he might do so at some later date, or he might have that as an alternative choice, I think it is immaterial, but for the purpose of the record, whether Mr. Anderson has an opinion as to whether it is possible to drill a well at this location we will take the testimony but its relevance to this particular matter I think is well stated by Mr. Ringert, but for the purpose in case you may be able to connect it up in some fashion.

Mr. Nelson: I think if we are start talking about matters of justice and equity I think we would get far outside the question of drilling a hole here and putting the water on there. I think we do get a little broader here, and for that reason, like I said, I think it is relevant.

Mr. Higginson: That's right, Mr. Nelson, but when you get into questions of justice and equity I think you are beyond the scope of the jurisdiction of the Department of Reclamation in granting a permit. We grant the permit based upon the consideration as we talked in Hailey at the beginning of this hearing, the matters that may be considered by the department in granting or denying an application for a permit and justice and equity are not, at least statutorily, matters to be considered by the State Engineer in that determination. Now maybe you can make this part of a brief which I suspect we are going to need in this case before we are through.

Mr. Nelson: If we get the evidence in, I take it, its in, and we can argue its relevance from there.

Mr. Higginson: Let's submit it for what value it may have but the objection, I believe is well taken in this particular case, as far as the department is concerned, it appears to be immaterial.

Mr. Nelson: I think the question was whether or not in your opinion it would be possible for a person to develop irrigation wells in the area, I believe we are talking about observation well No. 24, there on that Plate.

A. That is a stream gaging designation, but it is in the area just north of Priest on Silver Creek. Yes, I think it would be possible.

Q. And from the area designated on the application is that in the general area of the land where the applicant purposes to use the water from what we call the Lucke well?

A. Yes.

Q. May we have a short recess I am getting a little dry.

Mr. Higginson: Yes, let's take 5 or 10 minutes. (Recess taken)

Mr. Nelson: I believe that is all the questions I have.

Mr. Higginson: Mr. Ringert?

Cross-examination by Mr. Ringert:

Q. I take it, Mr. Anderson, from your testimony that in your estimation there is only one artesian aquifer within the basin involved here?

A. I think I would refer to it as one aquifer, yes. This shouldn't be construed, or I think I tried to indicate in the statement that you can get different pressure at different depth at the same location, or you can get - you can drill a flowing well at either of two different depths at the same location, but I feel that they are all hydraulically interconnected.

Mr. Ringert: The source of water is the same for the entire basin?

A. Yes.

Q. But there might be different layers of impermeable material seperating

that supply of water as it flows southward into the basin.

A. Yes, I think I mentioned a cross section as Plate 5, in that Water Supply Paper 1478 that shows primarily one clay zone separating a lower artesian from an upper water table area but as you get to, and this cross section isn't drawn right through the area we are speaking of, but a little bit to the west, but as you reach towards the Timmerman Hill it begins to show several of these interfingering clays.

Q. Now generally those clay layers could be classified as impermeable?

A. The clay relatively, yes.

Q. Now, I believe Mr. Haight's report made in 1963, that is in the file on that ground-water basin here in the records of the department, are you familiar with Mr. Haight's report?

A. I can't say I am familiar with it, I -

Q. Have you read it?

A. I read parts of it.

Q. Would you agree with his general conclusion that the water that flows into this artesian basin and the unconfined ground-water for that matter that flows into this artesian basin ultimately flows out the southeast end of the area unless it is diverted and consumed for irrigation or other purposes within this triangular area?

A. Well, not quite. There are two outlets actually for ground-water, one to the southwest towards the Big Wood channel and to the southeast on the Silver Creek channel and the only other exception would be, its in your statement as to what the report said, except for water that is diverted and consumed and there is quite a bit of consumption of non-diverted water, in other words, a great deal of the water that is consumed in the area is in this

sub-area, or in this lower end of the valley, this is primarily upward leakage through the clay layers rather than being a physical diversion some place through a well or ditch.

Q. Once that is saturated, except for what evaporates and cause further subbing that quantity becomes pretty much static doesn't it as long as the recharge is fairly constant.

A. The evaporation loss, or consumptive use, and there is also a portion of that upward leakage is carried out of the valley then as a surface flow. It just becomes a part of Silver Creek flow or Spring Creek flow.

Q. I see, Now, the water that serves as source for the two observation wells and the one test well north of Priest?

A. Yes.

Q. Whats the section and township and range there?

A. Section 1, I believe of 2 South, Range 20 East.

Q. Would you agree that the underground water flowing into that area has its source in tho same source area as the water that flows, that would be diverted through the Lucke well?

A. Yes, basically. That's the out part of this sub-surface outflow to the east which has been estimated at between 35,000 to 40,000 acre feet a year.

Q. So basically what we are talking about here is not a matter of availability is not a matter of quantity by a matter of available pressure.

A. I think in the effect that the use of an artesian well has on other artesian wells. In other words, the development of irrigation wells which would be pumped wells in the vicinity of Priest, or in the southeastern outlet would not have an effect on the flowing artesian wells in the southern part of the valley even thought ultimately the source of the water is the same.

Q. And that would be because the co-efficient of transmission and so forth are too remote at this location to 2 South, 20 East, primarily would it not?

A. No. I think it is primarily because of two factors. Most important is that you are not out of the artesian zone and into an area where it takes longer for the effect around those wells to travel and also because of the distances involved here. Instead of being from a fraction of a mile or a few hundred feet up to two, three, or four miles you are up to ten miles or so distance.

Q. Do you have a drawdown situation in an artesian well similar to that encountered in a pumped well?

A. Yes.

Q. Is the drawdown as great in the artesian situation as it would be in the pumped situation?

A. Are you referring -

Q. Assuming that all other characteristics are constant in the two situations?

A. Are you referring to a single well that is a flowing artesian well but you put a pump in it and pump it? The drawdown is an artesian, or water that is, occuring under artesian conditions whether it flows or doesn't flow you would expect about the same drawdown discharge relationship. In other words, if you get 10 gallons per minute per foot of drawdown when pumping the well you would expect to get about 10 gallons per minute per foot of reduced artesian head.

Q. But the artesian head occurs at some point, well the distance to the point of reduction and the artesian head depends upon the underground flow to the artesian aquifer does it now? If you have a steep grade then your draw-

down is going to occur closer to the well and on a shallow grade the reduction head will occur at a greater distance?

A. No, the interference effect between two wells is going to be a function not - is going to be independent to some extent of the gradient that you've got. I don't think either your land surface slope or your piezemetric surface slope equivalent to the water table only in pressure surface, those slopes aren't going to materially relate to the amount of interference you get between two wells. The degree of interference is going to relate primarily to these four points that I mentioned; the rate of discharge, the length of time, the distance, and the property of the aquifer itself.

A. Now, what is the difference in elevation, if you know, between the Lucke well and the McGonigle well No. 4, that you mentioned in connection with your opinion?

A. Land surface?

Q. Yes.

A. I don't have that here, I don't think.

Q. Is that reflected on any of the Plates in that water study?

A. Well, it might be indirectly. It isn't shown just as such.

Q. If it is not available there is no point in indulging in conjecture on it. Do you know what the difference in the elevation of the well; what was the word you used, piezemetric surface? Is that plain that establishes pressure gradient in an artesian basin?

A. Yes. That's the surface to which the static level of the water would rise if the casings were extended far enough above land surface. It appears to be about 30 feet.

Q. Difference between?

A. The two wells.

Q. I would like to know if it would not be possible to put the control device on a well that has a higher ground elevation at some point down in the well and pump from there and still obtain the same artesian flow through the pumping point. In other words, if you place the outlet of the artesian flow at the piezometric plain then the two wells would be on a par as far as flow at that level, woul d they not?

A. No. If I understand the question, I don't think that is right. First of all, not every single well is going to have a low, the general characteristics of the water bearing materials are similar, not every single well is going to have the same yield per foot of drawdown. In other words, if every well in the basin was located, the land surface, 20 feet below this piezometric surface so there was 20 feet available drawdown, not every well, if it were allowed to flow, would flow exactly at the same rate, and this is because there are some variations in the permability of the aquifer material. Some parts of the valley you may have a coarser material, and some a little bit finer. It would be possible at any well if this is what you mean, let's say the casing comes up 4 feet above ground and that is your valve and elbow and discharge, to cut that off at the ground surface and have an additional 4 feet of available drawdown if you want to call it that, which would either increase the flow at a given condition or restore to some extent the flow if it had been reduced. You could even excavate down into some kind of a channel. The lower you can cut off that casing and take your flow, for any given flowing well the more water you get.

Q. That was what I am talking about. I was trying to envision a situation where in fact you might be able to cut down 30 feet below the ground surface and if the physical characteristics are constant between the two wells then they would be competing on an equal basis for available

pressure at that level.

A. Well, I guess so. I am not sure that I follow - I don't see how you are going to cut or I don't follow what this is you are going to do, down 30 feet.

Q. I don't intend by this line of questioning to waive the objections to any of the matters that have been raised regarding pumping from other sources, but, if you are restricted by a 6 inch casing in an existing well and if you cut that casing off down at the piezometric plain and install at that level a larger casing so that a pump can be placed in, then you are getting the same flow, you might have less than 30 feet, but at least you can get a pump in there without having to go all the way to the bottom of the well.

A. Okay, I am with you now. One thing, and that's this piezometric surface it isn't down at any depth in the artesian area. It is always above ground. It is an imaginary surface above ground that this water would rise to. It would gradually get lower as you had interference or depletion, but it is true that if you were to install a pump or had to install a pump of small diameter, a well in this area, it would not be necessary to, if you needed a ten-inch casing to get a pump big enough for the flow that the well had. You wouldn't have to go ten inches all the way to 200 feet. You would have to go down some distance. This presents a construction problem, but I know what you mean, yes.

Q. When you measure computations with regard to the amount of water that could be achieved by a pump installed in the 6 inch or 8 inch casings at what depth do you contemplate the pump would be installed?

A. Something more than 10 or 12 feet.

Q. Did you assume a static head at that point?

A. No. I am just talking about the capacity of a deep well turbine type pump, at a given size at 1760 rpm, the standard speed, and that would be possible. There is a maximum that you can get from a 6 inch pump or an 8 inch pump and this is independent of whether you are going to pump it from 20 feet or 200 feet, except for more stages that you have to add.

Q. What I was getting at would it make any difference with the head of water above the pump, make any difference on its discharge capabilities?

A. No. I don't know what you mean by head of water above the pump.

Q. Let's say the piezometric plain is in fact in a given well right at land surface and you run a pump down 40 feet, would you get a different flow in that pump down 60 feet?

A. No.

Q. They would be constant?

A. That's right.

Q. The amount of water standing above the pump would not make any difference?

A. No. The pump has to pump the total amount and so the amount of submergence you have will make no difference. The only place you could get into trouble is if your pump was set, a 6 inch pump in a 6 inch casing, which is a 5-5/8 inch diameter pump and it fits very closely. If a portion of the water was entering the well above the pump bowl, then you would have some problems because the water would have to get down around, but in most of these wells we are talking about, the water all enters at or near the bottom, so that all of the water that would be reaching the pump is coming up the casing and is available right to the impeller inlet and it doesn't matter then whether the water level is at one inch below land surface or 20 feet below land surface.

37 701

Q. Now, do you know if these spring sources, the 4 or 5 main spring sources for Silver Creek are generally north, at the fish hatchery and northwest of there, are those spring sources at an elevation higher than the Lucke well, or not, do you know?

A. Yes, I think they are, well, I can't say that I know exactly. There are sources that are higher than the Lucke well.

Q. When you were in this area in April of 1961 did you observe the spring sources of Silver Creek in connection with your examination?

A. No I did not.

Q. Now, I have some recollection that various witnesses testified in Hailey last week to the effect that the general water supply in 1961 was low. Couldn't this have had considerable effect on the McGonigle well?

A. I think it had an effect on all the wells in 1961, because it was a low water year. We are talking about in the McGonigle well, two things. One is we are talking about an incident that is in advance of the application of this 1961 recharge. 1961 was a dry year and in terms of run-off, and that means that the water that was applied into this area primarily through the baseline and district canals, starting in April and May, particularly in May, was lower than usual, there wasn't as much water, but we are talking about an incident in the McGonigle well where the well which in the spring of the year was flowing, ceased to flow coincidental, or short time thereafter in terms of days, with the first operation of the Lucke well and then flow re-occured again at about the same interval after the capping of the Lucke well. I feel that that particular incident, both the operation of the Lucke well in March for that brief period of time, and the cessation of flow at the McGonigle well were in a sense independent of that water year or the availability of water. Now had the year previous been wet or

dry or had it been later in the year the McGonigle well might not have stopped flowing, that is, it might have been flowing at a greater rate then it was and rather than cease flowing have simply diminished in flow and then returned.

Q. Have you made any tests in the field subsequent to your examination in 1961?

A. Between wells?

Q. Yes.

A. No, sir.

Q. Do you still adhere to your opinion stated in the well interference study you made in 1961 on this matter, that in order to conclusively establish any interference between the McGonigle well and the Lucke well controlled field tests would be necessary?

To conclusively establish it, yes. I think that's right.

Q. And that the Lucke well is not the only well effecting the McGonigle or other wells?

A. Oh, definitely, and I think I tried to indicate that earlier. All of these wells are having an effect on each other. I think one of the situations is that the Lucke well happens to be much higher - flowing at a much higher production rate so you could expect its effect to be proportionately greater.

Q. Now these various artesian aquifers are separated by relatively impermeable layers of clay or similar material. It seems to me that it would be rather difficult for flow from a well that has its source at a very deep level to effect the pressure of a well that has its source at a much higher level, both levels being underground levels of course.

A. It may seem that way but that is not the way it is. For one thing these clay separations we are talking about are not a vertical wall or compartment

effect. They are horizontal layers or lenses and they do not extend indefinitely. In other words, they extend backwards laterally from Timmerman Hills northward to varying distances depending upon the conditions in which these clays, sand and gravels are laid down and that is why they are still hydraulically connected. In other words, there is the opportunity for pressure changes to be transmitted from one to another even though they may be - you might have two wells, let's say, at the Lucke well site, one down to some 250 to 300 feet and open only at the bottom, another well immediately adjacent and only down half that distance into another sand and gravel, but with the clay layer separating them. That clay layer however, only goes out laterally some distance and so it would only take perhaps a little bit longer for the pressure in the shallower well to respond to the pumping from the deeper well.

Q. That is what I am getting at. The pressure differential has to be transmitted past the beginning of the clay layers that separates the two belts?

A. Well, in part. In part it is actually transmitted through this clay, because the clay isn't - when you say impermeable we are speaking of a degree of permeability. It is much less permeable than the sand and gravel, that is why the water is produced to the well from the sand and gravel, but there is a pressure effect also transmitted through this clay layer which is usually referred to as a leaky roof. It may leak a lot or it may leak a little, depending on the nature of the clay but there is some pressure effect transmitted through the clay itself.

Q. But in order for this artesian pressure to be created we have to assume that there is quite a bit of impermeability in one or more layers.

A. Relatively, yes. However, some of the subbing that takes place in there

would indicate that in part it is not as impermeable as one might think.

Q. Well, that might well be true with respect to the clay layers at the higher elevations visa vi the ground surface but not necessarily so with respect to clay layers at the greater depths. I mean there are all sorts of possibilities there are there not?

A. There are all sorts of possibilities as to the range in permeabilities of some of these layers and to their lateral extent. Yes, I would agree with that.

Q. If, for the purposes of argument, we assume that your tie-in between the Lucke well and the McGonigle well is correct. Would it not be reasonable to assume that this drastic effect, if that is what it was occurred in the McGonigle well because of some peculiar characteristic of the clay layers separating the artesian aquifers between the Lucke well and the McGonigle well? In other words, I envision something in the nature of a small inlet, so to speak, coming down from the McGonigle well on the north to the Lucke well on the south that occurs only between those two wells while the other wells in the area might well be completely shielded from that kind of interference.

A. I wouldn't agree to that. I don't think between the Lucke well and the McGonigle well there is really any clay barrier. I think if you could stretch a string or a line of sight from the bottom of the McGonigle well to the bottom of the Lucke well you would have nothing but sand and gravel all the way along that string.

Q. I think Mr. Haight incorporated in his report what appears to me to be a well log on the Lucke well and they - first, I don't recall what the depth of the McGonigle well is, I don't think it is much over a hundred feet?

A. It was 100 feet, give or take a few.

Q. And the Lucke well from 90 feet to 186 feet they encountered blue clay

and from 186 to 190 yellow clay, from 268 to 285 yellow clay, from 285 to 288 blue clay, 288 to 300 brown sandy clay. Now those would all intervene between the source or between the bottom of the McGonigle well and the bottom of the Lucke well, which is cased, as I understand it, clear to the bottom.

A. I don't think they would necessarily intervene because we are talking about 2¼ miles, I think I estimated from the map, let's say and if you would take this and could draw a cross section to scale I don't think, I can't say positively, but in my opinion, it is very likely there would be nothing on a straight line from the one well to the bottom of the other but sand and gravel.

Q. In other words, the clay layers in your opinion do not extend north far enough from the Lucke well to -

A. Not in terms of the depth and horizontal distances that we are speaking to offer any impedance or obstruction between the two.

Q. What happens, Keith, to this water that flows past the ground water, the underground and the artesian area that flows to the Lucke well, if it is not diverted at that point?

A. Well some of it would leak upwards and be consumptively used in the wet area at the foot of the hills.

Q. Excuse me - that brings to mind another question. That leakage, if it subs up, would of course saturate the surface area would it not, if the subbing were in sufficient quantity.

A. Yes, some of it is.

Q. In order to reclaim that would they not have to construct drains?

A. That would be one way to do it.

Q. And those drains would flow into Silver Creek would they not?

A. Right. And the outflow at the Lucke well area then for ground water would be in the easterly direction and would leave this triangular area in the vicinity of Picabo underground.

Q. Now, with respect to that site down here by Priest that you mentioned as a possible place to drill a well, can that water be transmitted into Silver Creek and diverted at L. 24 on Silver Creek, the headgate?

A. From this particular well site you would have to have an exchange. I don't think there are any diversions between 24 and that site so that it would be like, take it out and put it in before the next person needed it, because that Lawson 24 is upstream from the point on Silver Creek adjacent to this well. This is just where we have selected for this test well to evaluate the outflow, it doesn't mean that you couldn't drill at some other point in the vicinity.

Q. Is there any significance to the length or stopping points on these dotted lines that show the contour that they show?

A. That's just water table contours.

Q. Is there any significance to there ending here? I notice some of these lines are long and some are short.

A. Simply that there wasn't additional controls available at the sides of the valley to continue them.

Mr. Higginson: Mr. Ringert, we - could we identify the plate you are reading from?

Mr. Ringert: This is Plate 2. I am sorry. This is from 1478.

Mr. Anderson: Yes. All of the contours on here, including up in the Bellevue, Hailey area will be dashed where whoever drew the maps felt there was insufficient wells to give you a precise control in that area.

37 7014

Q. Is there any indication that there is ground water occurrence beyond the ends of these lines?

A. I would say that there is an indication. I wouldn't say just from looking at this map to go out and drill beyond the ends or inside the ends necessarily. What I was trying to say it is possible to drill and develop high capacity wells which would be suitable for irrigation in this area southeast of Picabo. You wouldn't want to get over against the bedrock hills or where you would be penetrating in the bedrock, the old bedrock prior to reaching the water surface, but these lines are only intended to indicate the direction of flow and relative gradient on the water table and not the availability of water as such.

Q. In 1966 there was a difference between the amounts that the various protestants testified to with respect to loss of flow in their artesian wells and the amounts the evidence indicates were diverted through the Lucke well. Where did the difference go?

A. Well, let me see. I think I know what - let's see if this is stating it right. You are saying that in 1966 the Lucke well discharges, let's say 400 inches for a month, just hypothetical, and in the same month the protestants say that had the Lucke well, in their opinion, not been operating their aggregate flow would have been 2,000 inches and with it it was only 1,000 inches, so there was an aggregate discharge of 100 inches per month that didn't occur from their wells and there was only 400 inches did occur from yours, is that right?

Q. Yes sir.

A. Well, what we are talking about, I might have to draw some pictures here, but we are just talking about changes in pressure or storage in the basin and some, it would be almost negible, because you would have some time effects

also some variations in the sub-surface outflow at the south end of the valley.

Q. But the bulk of the difference would flow out just under normal gravity flow our through the southeast end of the valley, would it not?

A. Basically the undiverted ground water in this area we are talking about moves out to the southeast so that if these wells are allowed to flow or are diverted at greater rates, then that outflow underground to the southeast is reduced. If all they are all shut down, if all of the artesian wells were capped and closed and never used again, then it would take a little while to reflect it, but that outflow at the southeast would be greater.

Q. But still when you come right down to it, the bulk of our difference in the 1966 situation had to go somewhere. If we assume that there was some recharge coming in, in the north end and that the place where it would have to go would be generally out the southeast end.

A. That's right or out throught these wells.

Q. Based on your observations would you not conclude that, your observations and the testimony you heard, would you not conclude that water is available in all of these artesian wells even if the pressure is down to the point where they are no longer obtaining free artesian flow.

A. Yes, the casings are essentially full of water. I think even the ones that reported stopped flowing completely, there was some that was testified that it just trickled a little, but some that had stopped completely. I don't think there was sufficient time or the lowering was not significant below land surface so that the casing would be essentially full of water.

Mr. Ringert: I believe that is all I have.

Mr. Higginson: Any redirect questions?

Redirect examination by Mr. Nelson:

37 7014

Q. In relationship to the last question Mr. Ringert asked, water is available you mean in the sense that it is physically there?

A. It is physically there and it is available to be pumped then from the well. This again you get into the problem of size of pump and size of casing but it is physically standing in the casing, if you can get it out someway, it will move from the ground into the well.

Q. You mentioned, in response to Mr. Ringert's question by assuming the piezometric plain should fall below ground level, it would be possible to cut the casing off at a given depth and re-case larger to that point and still get water from a pump at that depth. You mentioned a construction problem. What kind of a construction problem would you anticipate in approaching the problem in that manner?

A. Well, you would have a dickens of a time really doing a very good job. I have seen this tried in a similar situation, although the materials were a little different. They were not quite so gravelly. I said it would be physically possible. The idea is to provide a chamber, a larger casing that would serve as a pump chamber of adequate diameter of the pump with the capacity that you were trying to restore, to get the quantity you had originally from flow. You have a problem first of all you have to cut off that small casing before you can get a big one down. You are going to have to drill it. You can't just drive a big pipe over the little one and then cut the little one off and slide it out, so first of all you have to go in and cut this small casing off at the depth you proposed which is sometimes a bit of a problem, pull that casing then go in and re-drill or ream to a larger diameter carrying casing, the tricky part here is to be sure you can follow the old hole accurately enough so that you end up at this predetermined depth 50 feet or 100 feet what ever it is, with the large casing

centered over the small one. Then you have a problem of providing an adequate seal between the two casings. It can be done. Frankly, I would say in this situation and with the depths of wells we are talking about, this one I was familiar with in another area was a very deep well, but with the depths here and the types of materials and so on, economically it would be an advantage to redrill the well. Now, in redrilling the well, you could drill a 12 inch casing down to some pre-determined depth to be sure that you had sufficient diameter for a pump setting and then you could reduce it to 10 inch or 8 if you go on down or you could carry the original diameter clear to the bottom. I don't think trying to work over an old one to make room for a pump in the top would be a feasible thing.

Q. There was a question Mr. Ringert asked. I had a little difficulty with the question. You probably - you can't help me with his question, but he asked as I got the question, there was testimony about the fact that the protestants lost more flow collectively than the Lucke well was flowing and he asked where the difference went. In other words, where did the water the protestant didn't get where did it go, and is it a question of availability of water or availability of pressure or what are we talking about when we, do we actually have a question of water not captured by the protestants going elsewhere, or is there just no water there?

A. You have a problem of reduction in pressure to operate one artesian well at a high discharge rate. You've got other flowing artesian wells around it. When you operate the big one you reduce the pressure around so that their rate of flow diminishes. This means that the, and the testimony has indicated, that the total discharge then from all wells or the number of acre feet allowed to flow from all wells during the month is less, because of this pressure drop, and this simply means then for a given recharge

situation you got two things that can happen. You can either build up your pressures in your aquifer, your reservoir level so to speak, or you can increase your outflow from the reservoir which is the sub surface flow at the southeastern end, or what actually happens you get a combination of the two, but you are putting so much water into the area from these canals and so on at the northend, either - 100 years ago it all went out underground at the southeast end, or Silver Creek that is the overflow.

Q. So is it a question then that the protestants for the lack of pressure were just unable to capture the water.

A. Their wells cannot flow at the rate they would have flowed because of the pressure drop.

Mr. Nelson: I think that is all.

Re-cross examination by Mr. Ringert:

Q. It occurs to me that the wells in that basin and the drains all interact to some extent.

A. Yes, sir.

Q. And it occurs to me also that the stream flow in Silver Creek is also involved in that same interaction.

A. Well the stream flow in Silver Creek is sort of the end product of these other actions. It results from the application of the water to the north and it is affected then by the conditions within the aquifer. Sufficient pumping can and does effect the spring flows or the Silver Creek flow.

Q. Any well that taps that artesian basin would have some effect or other on streamflow in Silver Creek, if that well in an area where it would have an effect on hydraulic pressure that served the springs that serve as a source of Silver Creek.

37 7014

A. Yes. I think this is true, both of the artesian wells and also water

table wells farther north.

Q. In your experience have you observed that as a general rule artesian basins are developed from the high side of the piezometric plain to the low side, maybe I am stating that correctly but what I am saying is the tendency is to tap the basin with the shallowest well possible assuming that the soil to be irrigated is fairly constant throughout the area overlaying and that subsequent development tends towards the deeper wells?

A. I think that is too much of a generalization. Where you put in my experience had I observed this to be so, I don't think so. I think I have seen developments work either way or both ways.

Mr. Ringert: I believe that is all.

Mr. Nelson: I have nothing further.

Mr. Higginson: Mr. Anderson before you are excused I would like you to clarify just a couple of points for me. First, there is usually always a misunderstanding concerning the definition of an artesian well. Will you define it for the record?

Witness: An artesian well as I would define it, is a well in which the water when encountered in the well occurs under pressure and rises then in the well or in the well casing above the level at which it is encountered. Now this may or not reach the land surface and flow. This then given rise two kinds of artesian wells,flowing artesian well and a non-flowing artesian well. In both cases the water is under pressure. It is simply that in the flowing case the land surface is below the pressure surface and so the well will flow.

Mr. Higginson: In an early part of your remarks in your testimony, Mr. Anderson, you indicated the area underlain by the artesian aquifer and you talked about certain township which I don't recall at the moment are you talking about the area underlain by an aquifer, which if a well was drilled

into the aquifer the wells would flow or are we talking about the artesian as such?

Witness: Well actually, I was talking about the flowing artesian well area and in this particular situation, the land does have a fairly good gradient, land surface to the south so that you don't have to get very far into the artesian area where it is under pressure until it becomes a flowing artesian area until perhaps development reaches the point where the pressures are reduced.

Mr. Higginson: How much larger is the general artesian area of this basin as compared to the flowing well area.

Witness: Not much larger.

Mr. Higginson: A mile or two.

Witness: I would say probably less than that.

Mr. Higginson: In the first part of your testimony you indicated that this basin had generally three sources of recharge. You referred to the rainfall on the area itself, to losses from canals and irrigation on the valley floor, and then from the Big Wood River. Now in considering these three sources, if I understand your testimony, how would you evaluate the importance of each of these three sources as a recharge to this basin?

Witness: I would say that the irrigation application in primarily these two diversions, the district canal and the baseline canal is by far the biggest - most important source of recharge. Without that, you would have losses from the Big Wood would be the primary one. The precipitation I would think you could consider as being fairly neglible as well as any tributary streams. I am sure that Silver Creek flows prior to any irrigation in this area would be substantially less than they are now.

37 7014

Mr. Higginson: In connection with the Big Wood River recharge of this basin

would it cause a water level to be lower than normal if there had been a prior period of flow of the Big Wood River that was below normal? Would you expect the water levels in this basin to be lower because of the Big Wood River flows??

Not substantially. I think again the Big Wood River there is almost always some water in the river. It separates there in the lower part later in the season quite frequently. It is not of sufficient importance I don't think in relation to this other. I have some documents or drawings here that show, they are some things that I had prepared earlier, that show a relationship between diversions for a couple of years, irrigation diversions in the north and Silver Creek flows, and some observation well flows which I can show to you.

Mr. Higginson: This is up to the counsel here. I am just trying to clarify. At this point I would like to refer to counsel that at our pre-hearing conference in Hailey we agreed, or stipulated that department could take judicial notice of any official records in its office. In connection with this stream flow question I would like to call counsel's attention to the official publications of the Geological Survey which is entitled, "Water Resource Data for Idaho". Prior to that they were in the Water Supply Paper series which report the stream flow at various official gaging stations reported by the U. S. Geological Survey in cooperation with our department and others. In addition, I would like to call counsel's attention to the report published each year by the Watermaster on the Big and Little Wood River. Mr. Newby and his predecessors who have been called as a witness in this matter and these are again officially in the files of this office. These report, miscellaneous and other canal and stream flow data we would

37 7014

like to take judicial notice of inconnection with this question of recharge, and so forth, of this artesian basin.

Witness: In connection too, Mr. Higginson, in your Watermaster's report you might take notice that in 1964 the table showing discharge for the district canal, the monthly totals I think are right but the annual total for 1964 is just one-half of what it should be. They have it in a second-foot base instead of acre feet.

Mr. Higginson: I appreciate that correction. I have one final question that I would like you to help me with, Mr. Anderson. You indicated that any water not intercepted by wells in this valley would either sub up to the surface and appear as springs or be evaporated I suppose I assume by the vegetation, or would leave the area underground primarily to the southeast through the Picabo area, and I think your testimony was that these prior studies had indicated that this underflow at probably 35 to 40,000 acre feet annually?

Witness: Right.

Mr. Higginson: I was wondering Mr. Anderson, if in your studies you have gone so far as to reach a conclusion as to where this water goes and what happens to it?

Witness: Yes, most of it is then tributary to the ground water under the Snake River Plain and of course some of that is intercepted with wells to the south as you go towards Shoshone and Gooding and on down and would be ultimately be tributary to Snake River. A great deal of the area immediately south and southeast of this outlet area is pretty much lava plain and undeveloped and would not probably re-utilized until it reaches the irrigated area.

Mr. Higginson: There must be some point in this basin where the ground water in this artesian system or the general ground water does not contribute to

37 7014

Silver Creek. Have you been able to identify this in your studies?

Witness: Yes, we did that in the 1950 study. Because the study at that time was part of it was a proposal to pump from a great many wells to provide supplemental irrigation and we were going to have to provide some makeup water for Silver Creek and also for Magic Reservoir storage, and I don't know that I can pinpoint right now, except that my recollection is that the tributary effect is between Hay and Picabo and probably closer to Picabo and I would say maybe a mile or a mile and a half upstream, and east and southeast of that then ground water withdrawals would not have any depletion effect on Silver Creek. From there on up they would again to varying degrees depending on the physical situations.

Mr. Higginson: My final question then, Mr. Anderson, for clarification purposes, and for my edification if nothing else, from your studies and from investigations of this area do you have any opinion as to the amount of ground water that there is in this ground-water basin in storage.

Witness: In terms of storage and acre feet of storage?

Mr. Higginson: Yes.

Witness: No, I don't have offhand. It would be relatively significant.

Mr. Higginson: Are we talking about thousands of acre feet or hundreds or millions or what?

Witness: Probably thousands.

Mr. Higginson: I believe that is all I have. Counsel may have another question or two, if I brought out something that you didn't want me to.

Mr. Higginson: I believe that is all Mr. Anderson, you may be excused. Do the parties have any further witnesses they wish to call?

37 7014

Mr. Nelson: No.

Mr. Ringert: I would like to call Mr. Baldwin to the stand just for a few

questions about existing conditions there. I think it's in the nature of rebuttal.

Direct examination of Mr. Wayne Baldwin by Mr. Ringert:

Q. What crops do you intend to grow this year on the land described in the land list on this application for permit?

A. Hay and grain and potatoes.

Q. How much hay approximately?

A. Oh, 300 acres.

Q. How much grain approximately?

A. Approximately 18 acres.

Q. Of grain?

A. Yes.

Q. How many acres of potatoes?

A. About 60 acres.

Q. Is part of that land in pasture?

A. Can I change that potato acreage? 60 total but all of that isn't into potatoes on that particular land.

Q. How many acres of potatoes?

A. Approximately 48 acres.

Q. And is part of that ground in pasture?

A. Yes. The balance of the irrigated ground there this year will be pasture.

Q. Is that permanent pasture? What kind of pasture is it?

A. Some of it isn't permanent. Some of it alfalfa I will use for pasture that I won't cut for hay.

37 7014

Q. How much water is available from Silver Creek at the present time for the irrigation of that land under your decreed rights that are appurtenant to it?

A. I believe it is less than half at the present.

Q. Is the watermaster on up there?

A. Yes.

Q. What rights is he down to at the present time or do you know?

A. I didn't see him yesterday. He comes three days a week. He was there Monday and Wednesday. Monday he was down to the 86's. I don't know whether that changed yesterday or not. I didn't see him.

Q. 1886 decreed rights?

A. Yes.

Q. And he was not delivering water out of Silver Creek on rights that were subsequent to 1886 priority, is that correct?

A. Like the 1887's?

Q. Yes.

A. That's right.

Q. Well your water rights in Silver Creek from 1886 on be sufficient for your irrigation purposes on that land this year?

A. No.

Mr. Ringert: I believe that is all I have.

Cross examination by Mr. Nelson:

Q. I think you said when you testified before Mr. Baldwin that Silver Creek was kind of backwards, it came up later in the year. Is that usually true?

A. Yes. As Mr. Anderson indicated there when they start irrigating on the baseline flats, why Silver Creek raises.

Mr. Nelson: So you can anticipate from past history probably it will come up later in the year.

37 7014

A. Yes, the more water they pour on the Gannett flats, it usually takes

approximately 15 days, until our older water rights come up too, like the drains we have.

Q. You mentioned 300 acres of hay. Is that 300 acres all of land described in the application?

A. Yes.

Q. And the 18 acres of grain also?

A. Yes.

Q. And the 48 acres of potatoes?

A. Yes.

Q. What does that leave for pasture?

A. I would have to get my pencil out. We have approximately 500 acres that we can irrigate if the water is available, but we have in the past 6 or 7 years.

Mr. Nelson: I think that is all.

Mr. Higginson: Thank you Mr. Baldwin. Is there anything further then from the parties in this matter?

Mr. Nelson: No, I don't believe so.

Mr. Higginson: If there is no further testimony to be introduced, the department would like to have the counsel brief for us the point we discussed at our conference primarily related to the collateral issued Mr. Ringert brought up concerning whether artesian pressure or water level encountered in the drilling of a well and the operation of a well, is an integral part of the water right. Along with that I think the briefs ought to go to the point outlines in the Idaho Code in regard to - Mr. Ringert do you have Volume 8 there? I will just give a statutory situation and I would like to know what it is supposed to mean.

Mr. Nelson: It is 203 isn't it?

Mr. Higginson: No. It is 42-226, and I will read it just for the record here. It says -

> "While first in time is first in right is recognized a reasonable exercise of this right shall not block full economic development of the underground resources but early appropriators of underground water shall be effected in the maintenance of reasonable ground water pumping levels as may be established by the State Reclamation Engineer."

I think this is a very crucial part of this matter brought up by the protest against the appropriation and we would think the briefs covering these two items would be very helpful to us in making a decision. Now in connection with the briefs how much time do the parties want? Mr. Ringert, you are the moving party here, would a brief from you and then an answering brief from the protestants appropriate?

Mr. Ringert: Well, I would like to put it this way, Mr. Higginson. The testimony here has revealed that the water is available to the protestants. The thing they are protesting about is reduction in artesian pressure. I think what they are doing here is trying to avoid an adjudication suit by means of this protest which puts a very heavy burden on the applicants here at the time of the year when they need this water the most they are under, well I don't just recall what the technicality is for inability of the watermaster to make delivery of any water that they might release into Silver Creek, but frankly I think the protestants have in fact failed to establish a prima facie case and my reaction is that the permit should be granted because the water, according to their own testimony, and evidence, is available and I think that is the only test we are concerned with here. Now, the legal issues involved are complex and very interesting, I might add, but I don't

think a determination of those points is necessary to the department's determination of this matter. We could have to go all the way to the State Supreme Court and establish everything there that is required in a water adjudication suit before a right could ever be established because under the permit you can't make the diversion of course until it is issued and you can't establish a water right until you have made your diversion and applied it to beneficial use. I think any other view of this thing would impose upon the applicants a burden that the Legislature never intended.

Mr. Higginson: The only thing I am concerned about Mr. Ringert, is the language in 42-203 under which we consider an application for a permit which the State Engineer's consideration of whether the permit shall be granted or not says,

> "Where such proposed use is such that it will reduce the quantity of water under existing water rights" - that he may reject the application for the permit.

and the only question that I have and the reason I think we need the brief, is to whether the right we are talking about reducing the quantity under existing water right, that that right includes the particular artesian level of pressure.

Mr. Ringert: Well, of course I think the Legislature could have expressed itself much more clearly if that is what it had in mind because they specifically used the word "quantity" is what they are concerned with, "quantity".

Mr. Nelson: And they also used the word "existing" and it is a question of what is the, in other words, how broad is the water right. Is the manner and method of appropriation to be protected?

Mr. Ringert: I don't agree with your theories, of course.

37 7014

Mr. Higginson: It won't serve any purpose to argue what the law says but I would think we need a brief on this point. Of course if you don't care to submit it we can confer as an office with the Attorney General who gives us legal advice and based on the counsel he gives us we can make an examination. If you don't care to submit a brief at this point and want us to proceed, based upon our advise from our legal consel, we would be happy to do it that way.

Mr. Ringert: No, it isn't that Mr. Higginson. I have no reluctance at all preparing and submitting a brief. My only concern is with time.

Mr. Higginson: I appreciate that and we will do everything we can to expedite this thing, depending on how much time you want and need to submit something, if you care to do so.

Mr. Ringert: I hate to take 15 days but I think I had better because I've got hearings next week.

Mr. Higginson: 15 days and supply protestants' counsel with a copy of your brief and the, how much time for an answer?

Mr. Nelson: I would say the same.

Mr. Higginson: All right, is there anything further then?

Mr. Ringert: I would like 10 days after that for rebuttal on any new issues raised by their briefs.

Mr. Higginson: Fine.

Mr. Nelson: I don't know we need to be on record for this. I was wondering on some of those matters we took notice of last time there was some question about availability, and I just wondered if Bill had mentioned, and I think he is right, if something appeared in one of these reports that we wanted to rebut then we would have a chance to do so, and I wondered if some of these were available. We talked about that report of Loren Signs with the Land Bank of Spokane.

Mr. Higginson: I assume that we have a copy in our record, but I don't have it here at hand, and we will make the search today and advise you as to whether we have a copy and be glad to loan it to you.

Mr. Ringert: We would like the same.

Mr. Higginson: With the Haight report?

Mr. Nelson: We don't have that.

Mr. Ringert: We would also like that.

Mr. Higginson: We can get a copy to you on that basis.

Mr. Nelson: I think the rest of things other than we mentioned today we have either seen or we have and I assume we can obtain copies of those published reports some where, if we don't already have them.

Mr. Higginson: The papers published by the U. S. Geological Survey are available generally throughout the state. Now the watermaster's report on the Big Wood and Little Wood Rivers probably would be held in the offices of the various canal and irrigation companies and his office at Shoshone.

Mr. Nelson: I appreciate Bill's time problem. How would it be if either party has any evidence they wish to submit on something raised in one of these reports that don't now know about, that we submit our proposed evidence in writing with the brief, that's the first brief?

Mr. Ringert: I guess we had better do that.

Mr. Nelson: That will save another hearing perhaps.

Mr. Higginson: Is there anything further? If there is nothing further we will take the matter under advisement, awaiting the filing of the briefs and any other material that might come in. Thanks very much.

I hereby certify that the foregoing is a true and complete transcript taken from the tape recording at the hearing held April 24, 1968 in Blaine County, Idaho and the hearing held May 2, 1968 in Ada County, Idaho.

Eleanor Williamson

Eleanor R. Williamson, Secretary

S T A T E O F I D A H O

DEPARTMENT OF RECLAMATION

TRANSCRIPT OF PROCEEDING

A hearing held for the purpose of considering a protest filed against the granting by the Department of Reclamation of a permit pursuant to Application made by Wayne O. and Donnie B. Baldwin, Application for Permit #37-7014, to be diverted from a well, conducted through a ditch to Silver Creek and re-diverted for irrigation of 520 acres of land, in Blaine County, Idaho.

Court House
Blaine County
April 24, 1968

Hearing held before R. KEITH HIGGINSON, State Reclamation Engineer.

37 7014

P R O C E E D I N G

Mr. Higginson:

We'll call this hearing to order. This hearing is being held before the State Reclamation Engineer for the purpose of considering the protest filed against the granting by the Department of Reclamation of permit pursuant to application made by Wayne O. and Donnie B. Baldwin, identification number 37-7014, seeking a right to appropriate 5 second feet of water from an existing well to be diverted from the well, conducted by ditch, and conveyed down Silver Creek, to be re-diverted and used for irrigation of some 520 acres of land.

Notice of this proposed appropriation of water was published, as required by law, in the Hailey Times, on March 14 and March 21, 1968, and the Department received protests from twelve individuals objecting to the granting of the permit. Each of the protests contains the following language:

> "The granting of a permit to appropriate and the appropriation of waters by the applicant in said application, as therein proposed, will seriously injure and impair the rights of protestant herein named, and the rights of other water users in the immediate area, all of which rights are of long standing and are appurtenant to arid lands owned by protestants and other land owners in the area."

The hearing today is for the purpose of determining those issues taking testimony concerning the claimed interference with other rights by reason of this intended appropriation of water. At this time we would like, for our taped recording, to take the appearances of the attorneys who are representing the parties.

37 7014

APPEARANCES:

William F. Ringert, of Anderson, Kaufman, Anderson and Ringert, Boise, Idaho for the applicants.

John R. Coleman, of Parry, Robertson & Daly, Twin Falls and Thomas G. Nelson, same firm, for the protestants.

Mr. Higginson:

The parties have by conference agreed to stipulation of the use of certain reports and the department taking judicial notice of those reports. I believe we are now prepared to proceed with the hearing.

Mr. Ringert do you wish to make any kind of an opening statement at this hearing, or do you wish to proceed.

Mr. Ringert: I think we just as well proceed, Mr. Higginson. I would like to inquire whether the department has made a determination that all of the protests were timely filed.

Mr. Higginson: They would have to have been filed before March 31st and they were all received on March 28th, so they were all timely filed.

Mr. Wayne Baldwin, after being duly sworn was examined by Mr. Ringert and testified as follows:

Q. State your name and address for the record please, Wayne.

A. Wayne Baldwin, Picabo, Idaho

Q. You and your brother Donnie D. Baldwin are partners are you not?

A. Yes

Q. What is the name of the partnership?

A. Baldwin Brothers.

37 7014

Q. What is the address of Baldwin Brothers?

A. Picabo, Idaho.

Mr. Ringert: I wonder if I might have the application? Can we deem this in evidence John?

Mr. Coleman: The original application?

Mr. Ringert: Yes

Mr. Coleman: Yes

Q. Now you and your brother made an application for a permit to appropriate the public waters of the State of Idaho did you not?

A. Yes.

Q. Do you know what number has been assigned to that permit?

A. 37-7014.

Q. That's filed with the State Reclamation Engineer of the State of Idaho?

A. Yes.

Q. Is that permit, in the file before you, the one that you and your brother made?

A. Yes.

Q. Who signed in your behalf?

A. Both parties, Wayne Baldwin and Donnie D. Baldwin.

Q. Is this your signature - Wayne O. Baldwin?

A. Yes

Q. Do you recognize your brother's signature? - Donnie D. Baldwin?

A. Yes.

37 7014

Q. Now will you look at the list of lands identified on the second page, under Paragraph B? Have you examined that land list before?

A. Yes.

Q. Do Baldwin Brothers own the land there identified?

A. Yes.

Q. What county are those lands situate in?

A. Blaine.

Q. Blaine County, Idaho?

A. Yes.

Q. Is that total area figure correct - 520 acres?

A. Yes

Q. What kind of land is that 520 acres identified there?

A. In soil condition you mean?

Q. Well, generally - is it farm land?

A. Farm land - yes.

Q. Arid farm land?

A. Well, it is all under irrigation now.

Q. I see. Does it require irrigation to produce crops?

A. Yes

Q. Now, are there other water rights appurtenant to the lands described in this application?

A. Yes, water rights in Silver Creek.

Q. Are those water rights identified in Paragraph 11 in the application?

A. Yes.

Q. Now, are the water rights identified in Paragraph 11 of the application

sufficient for irrigation of the lands identified and described in this application?

A. No.

Q. In what respect are those water rights not sufficient?

A. Well, certain times of the season, in Silver Creek, when the water rights are not available in the creek.

Q. When you say, when the water rights are not all available in the creek, would you explain that a little?

A. Well, sometimes, like any other creek, when all of your water rights aren't good at the low part of the season, why that is why we applied for this supplemental water.

Q. That is the stream flow in Silver Creek?

A. Yes

Q. Now, you have made application here for 5 cubic feet per second, or 250 miners inches - Does the irrigation of the land identified in this application require that much additional water, over and above your rights in Silver Creek in the flow of the stream?

A. Yes.

Q. What crops do you raise on the land that is identified in this application for permit?

A. Just hay and grain, certified seed potatoes.

Q. Now what facilities are available for diversion of the water covered by this application and delivery of that water to the lands identified in the application?

A. Well, the well has a valve on it that controls the delivery into the creek, the ditch runs to Silver Creek.

37 7014

Q. Excuse me for interrupting, but the well has already been dug, as stated in this application?

A. Yes. Where we take our water out there is sufficient headgates and weirs for measuring water.

Q. Where you take it out from Silver Creek?

A. Yes.

Q. Then, how is it delivered from Silver Creek to the land described in this application?

A. In a private ditch.

Q. That ditch is in existence now?

A. Yes.

Q. Generally speaking, what times of the year will this water under this application be used on the lands identified in the application?

A. Normally in May and June.

Q. Are there years when it would be required during other months?

A. Possibly, yes.

Q. What conditions would dictate use during other months?

A. Determine how much the water flow of Silver Creek itself, whether the other water rights are good or not.

Q. Now with respect to the water flow, the stream flow in Silver, what time of year, well, put it this way, is that stream flow subject to seasonal variations?

A. Yes.

Q. What is the general trend of those variations?

A. Well, normally it is just the opposite of any other stream. It is lowest in the spring of the year, in May and June, and as the season progresses, then Silver Creek seems to come up all year. Completely opposite of another stream that is fed by snowfall.

Q. What is the source of the water in Silver Creek, the streamflow?

A. By that what do you mean?

Q. Where does the water come from that constitutes the main stream flow in Silver Creek?

A. Well, it is generally springs.

Q. Where are those springs located?

A. In the immediate area of Blaine County, and it is also fed from irrigation on the base line flats. It will pick up water from that and through the drain. It increases all summer.

Q. I don't recall, whether I ask so I will ask again. Are your other water rights in the stream flow in Silver Creek sufficient for irrigation of the lands described in this application?

A. No.

Q. Now, what quantity of water does the well identified in your application 37-7014 produce?

A. The full amount you mean?

Q. Yes.

A. I think about 395 inches.

Q. Who measured that?

A. Don Watts of the Reclamation

Q. Was that in connection with licensing under the previous permit?

A. Yes.

Q. Have you been able to make any independent determination on your own of the quantity that the well is capable of producing?

A. I think the well is sufficient for our needs.

Q. It is sufficient to produce sufficient water to fulfill the requested right in this application?

A. Yes.

Q. For 5 cubic feet per second?

A. Yes

Q. You didn't make this application for speculative purposes did you?

A. No. I guess not.

Q. Or for delay?

A. No.

Q. Do you contemplate that any additional expenditures would be required in order to complete the appropriation covered by this application?

A. No.

Q. The facilities are, in fact, in existence?

A. Yes.

Q. And are of sufficient capacity to deliver all this water?

A. Yes.

Q. I believe that is all I have Mr. Higginson.

Mr. Higginson: Do you have any questions of this witness?

Cross-examination by Mr. Nelson

Q. Mr. Baldwin you have before you there, I believe, the department's file containing the original application, is that right?

A. 37-7014, yes.

Q. Do you also have there, there was an extra sheet of paper I believe, Paragraph 10 remarks?

A. Yes.

Q. Do you see the last paragraph of that?

A. Yes

Q. Is that statement substantially correct?

A. Yes.

Q. When did Baldwin Brothers buy the land where this well we are talking about is located?

A. I can't give you the exact date, I mean, you know without referring to the record. I think in 1964.

A. So you have used water from this well before you owned -

Mr. Ringert: Now just a minute before you answer that question any way. I am going to object to inquiries along these lines. I think he is going beyond questions designed to determine what is in the well and what is involved in this application. It might be that there are areas here that would be proper for inquiry in an administrative determination of water rights or in a court determination but I dont think Mr. Nelson's questions are proper here.

Mr. Higginson: I think Mr. Ringert, if the purpose of Mr. Nelson's questioning is to determine whether there has been a past history of use of this well on this property and from there, discussion as to what has been the effect of that past use on other rights, then I would think that for that purpose we might listen to the answer, but we are talking about something other than that we would have to sustain the objection.

37 7014

Mr. Nelson: That's what the statement that led to my question is in the application. The statement is made that the water has been used for 5 years. My question is directed as to how they came about to the right to use the water when they did not own the land.

Mr. Ringert: Well, I think the ownership of the land is entirely collateral. What Mr. Higginson says is you are entitled to establish the effect of past use and unless I misunderstood his statement that has nothing whatever to do with ownership of land.

Mr. Higginson: That would be my position.

Mr. Nelson: I might say for the record that we have here a question of extent and condition of use and I think the manner in which they acquired the right to use the water and the extent to which they used it prior to their ownership of the well and the land around it is material.

Mr. Ringert: I think it is completely irrelevant here. The thing to be proven, if in fact it is an issue here, is what is the result of the use with respect to other water rights.

Mr. Higginson: I would have to agree with Mr. Ringert as to that particular point. The only thing that our department has before it at this moment is the question as to whether this particular permit ought to get issued and insofar as your examination might go into the question as to whether there has been a past use and what has been the effect of the past use, I think we can entertain the question, but if you are going to get involved into whether the past use has been proper or not or legal, or something else, then we will have to sustain the objection.

Mr. Nelson: We might ask that that statement be stricken from the application.

Mr. Ringert: I don't feel that that is a proper request, Mr. Higginson, there is no issue on it and an applicant is not required to show ownership of lands. The question is, as raised in their protest, what effect does this use have, if any, upon the rights of the protestants. They are not protesting this statement in the application.

Mr. Nelson: I might say I think you have to have, in order to initiate a valid property right, you have to have a right to go on the land where you seek to divert the water and the right to divert water. Now, if you are on the land by trespass then you have not initiated a valid water right, so I would find out at what point they obtained the right to use this water.

Mr. Higginson: Mr. Nelson, let me just interrupt here. The particular application that we have before us is the initiation of a water right in March of 1968. The application in and of itself does not purport to establish a water right by reason of past use. It attempts to initiate a right as of March of 1968 and this is the only thing that is before the Department of Reclamation. We are not trying to determine whether they did, in fact, by reason of the use since 1962, as indicated in the application, establish a right. That is not before the Department. The only priority that we can give as a result of this application is a 1968 priority which ignores this past use. I think really that all that is before us and that is what we should confine ourselves to.

37 7014

Mr. Nelson: So this statement in the application then is irrelevant?

Mr. Higginson: Its irrelevant as far as we are concerned.

Mr. Nelson: All right.

Mr. Ringert: In these proceedings.

Mr. Nelson: That's what we are here for.

Mr. Ringert: May I make this statement, first, if you talk about trespass you are talking about trespass occurring at the point of diversion. Now, your question to Mr. Baldwin, as I understood it, was directed to the lands where the water is used. Now, if there was a trespass on those lands that is between the land owner and the Baldwins.

Mr. Nelson: Maybe I can clear it up with a couple of questions.

Mr. Higginson: Why don't we go on. I hope you gentlemen see my point. The thing that we are interested in is if there has been a past use, what has been the effect on the established rights. If that will help us determine whether this permit ought to issue then that is what I want to know.

Mr. Nelson: OK

Q. In the application that is before you Mr. Baldwin, it stated that the point of diversion is the artesian well under License No. G-29372. You see that on the front page?

A. Yes

Q. Who owns that artesian well?

A. Baldwin Brothers.

Q. How long have you owned it?

A. Not having the record before me, approximately since 1964.

Q. Then you purchased the well at the same time you purchased the land around the well?

A. Yes.

Q. Now what has been the extent of Baldwin Brothers use of water from that well on the lands described in the application? In other words, what years have you used it, how long, etc.

A. I couldn't give you the exact date because I haven't them before me, but it is just during periods we needed it when our other rights were not available in the creek.

Q. Have you examined the records of the Watermaster for this District to see if he has any record as to when that water was put into Silver Creek?

A. Yes.

Q. Does he have a record actually of when that water was put into Silver Creek from that well?

A. Yes

Q. And do you have any impression as to whether or not his records are correct or incorrect?

Mr. Ringert: I don't think that is a very fair question. Can he see the record?

Mr. Nelson: How long has it been since you have seen them?

A. Oh, approximately 2 months.

Q. Do you have presently any impression as to whether or not they are correct or incorrect?

A. I don't know what reason they would have for being incorrect.

Q. Now, if you bought the property in 1964, did you use water from that well on the lands described in the application prior to 1964?

A. Yes.

Q. Do you recall the extent of the use prior to 1964?

A. Not the exact dates or time at this moment.

Mr. Nelson: Do you have an Exhibit Marking stamp, or how do you handle it?

Mr. Higginson: I don't have a stamp but I'll mark anything that you want with my trusty pen.

Q. Mr. Baldwin I will show you what has been marked as Protestants' Exhibit No. 1 and ask you if you can recognize that?

A. Well, I can't recognize it. Possibly I have seen it before. I don't have a photographic mind to tell you whether I have or haven't.

Q. I take it that if we excuse Mr. Baldwin at this point he would be subject to recall at a later time. Is that correct?

Mr. Higginson: That would be satisfactory to me.

Mr. Ringert: Yes

Mr. Nelson: We would prefer to defer the rest of the cross examination of Mr. Baldwin until later.

Mr. Higginson: Do you have any re-direct questions at any time.

Mr. Ringert: No

Mr. Higginson: Mr. Baldwin we will excuse you for the moment. You will be available for later examination if you will please.

Mr. Baldwin: Yes

Mr. Ringert: Mr. Higginson, I think Mr. Baldwin's testimony and the records of the Department of Reclamation of the State of Idaho readily demonstrate the availability of water to appropriation under this application. The need for the appropriation; the fact that the application is not speculative nor made for delay; the financial capabilities of the applicants should not even be an issue because no further facilities are required. I think they

satisfied all of the requirements for an application and they are entitled to have it granted.

Mr. Higginson: Then we will proceed with the protestants. Do you wish to make an opening statement in connection with your objection or do you want to proceed by calling witnesses:

Mr. Coleman: We will call our witnesses, Mr. Higginson. We will call Mr. Wayne Clark.

Mr. Wayne Clark, after being duly sworn, was examined by Mr. Coleman and testified as follows:

Q. Will you state your name please?

A. Wayne Clark

Q. Where do you reside, Mr. Clark?

A. Gannett.

Q. You are one of the protestants in this matter?

A. Right.

Q. Mr. Clark, I will show you what has been marked as Protestants' Exhibit No. 8 and ask you if you can identify what that is?

A. It is primarily a map that we, as artesian water users, had prepared to identify what we call the artesian basin.

Q. And does that show ownership of the various lands within that area?

A. Yes.

Q. And to the best of your knowledge these ownerships that are shown here are correct according to the record of Blaine County?

A. Right.

Q. We will offer Protestants' Exhibit 8, Mr. Higginson.

Mr. Higginson: Mr. Ringert, any objection?

37 7014

Mr. Ringert: I would like to make one inquiry of Mr. Clark, if I might, in regard to that exhibit. Mr. Clark, south of your place in Section 20, there is an area marked Lucke, Section 20 and 21, I guess it is just those two. Is that correct?

A. Yes

Q. Is that the land that Baldwin Brothers now have under the contract to purchase, or are you aware of that?

A. As far as I know, that is it.

Mr. Ringert: We have no objection to introduction of that exhibit for purposes of illustration, but I would like to reserve the right to offer rebuttal testimony in regard to those land ownership patterns, if some inaccuracy should be determined on later examination.

Mr. Higginson: We will receive it then for illustrative purposes.

Mr. Coleman: Mr. Clark on the real property that you own do you have any artesian wells?

A. Yes.

Q. How many wells do you have?

A. Three.

Q. Would you take this pen and mark on the property you own the location of the wells and number them one, two and three. Are all three of these wells used for irrigation purposes?

A. No.

Q. Which wells are used for irrigation purposes?

A. One and two.

Q. And when were these two wells drilled?

A. 1949.

37 7014

Q. How much water does Well No. 1 produce?

A. About 30 inches.

Q. And Well No. 2 ?

A. 90 inches .

Q. Sorry, I didn't catch that.

A. 90

Q. And Well No. 3, what use do you make of that well?

A. That's a stock well.

Q. Are any of these wells licensed to the Department of Reclamation of the State of Idaho?

A. No Sir.

Q. Have the waters from the Well No. 1 and No. 2 been used to irrigate crops on lands that would otherwise be arid?

A. I use them for supplemental water when my water right goes off.

Q. You have a water right from other sources?

A. Wood River - Big Wood River.

Q. Have you used these wells for supplemental water sources each year since they were drilled?

A. Yes

Q. Do you recall any particular year in which they went dry?

A. 1961. The No. 1 well goes dry almost every summer. No. 2 well runs the year around. In 61 No. 2 well went dry around September, maybe the 1st.

Q. That was in 1961?

A. Right

Q. Has No. 1 well gone dry at an earlier date many years?

A. In 1966 went dry July 19th.

Q. Did No. 2 well go dry in 1966?

A. No. 2 well? Yes.

Q. Did both wells go dry? When did No. 2 well do dry?

A. Well it went dry about the middle of June.

Q. Had No. 2 well ever been dry before?

A. Not that early.

Q. It is the No. 1 well that runs throughout the year?

A. No, the other way around. No. 2 well that runs throughout the year.

Q. But No. 2 well went dry in 1966 in June?

A. July.

Q. No 1 well went dry in June, that year?

A. Right.

Q. In 1961 when the well that is situated on the property being purchased by the Baldwin Brothers was drilled, were you at that time using water from any artesian wells?

A. I was using stock water from McGonigle's east well.

Q. Where is that well with respect to your No. 2 well?

A. My No. 2 well. It is south and east not quite a half mile. A little over a quarter.

Q. Would you mark the location of that well as No. 4?

A. I've put the wells in the wrong place.

Q. Do you need to change the designation of the wells on your property?

A. I sure do. (Witness re-numbers wells on Exhibit 8)

Q. Do you recall, Mr. Clark, the approximate dates that the well on the Baldwin property was drilled in 1961?

37 7014

A. About the middle of March.

Q. I believe you said, at that time, you were watering cattle from the McGonigle well.

A. That's right.

Q. And what happened to the water in that well?

A. It dried up.

Q. Do you recall whether or not the well on the Baldwin property was later capped.

A. It was.

Q. What happened when that well was capped?

A. About 4 or 5 days or a week after the well was capped, the McGonigle well came back on.

Q. In 1966, when your wells went dry, was the well on the Baldwin property flowing?

A. As far as I know, it was.

Q. It was - did you say it was or was not?

A. As far as I know it was.

Q. Did you observe it flowing at any time during that season?

A. Yes.

Q. And was it flowing at a time when your wells were dry?

A. I can't answer that.

Q. Do you know how long it was from the time the well on the Baldwin property was drilled until it was capped, approximately?

A. 8 to 10 days, I think.

Q. Are you familiar with any other wells in the immediate vicinity of your property?

A. Yes

Q. Wells on which property were you particularly familiar with?

A. Eddy Blincoe's for one.

Q. And who owned the property in 1961.

A. My sister.

Q. Are there any artesian wells on that property?

A. Two

Q. Are you familiar enough with those to mark those on that property?

(Witness marks Exhibit No. 8)

A. Yes. I am not too sure on the location but this is close.

Q. Are you familiar also with the location of the well on the Baldwin property?

A. Approximately, yes.

Q. Could you mark it with this red pen?

A. The road is not in there. I can't see. I don't think I had better try that one.

Q. Did you number those two Blincoe wells?

A. No - number them 5 and 6

Q. What happened with respect to these two wells in 1961 when the well on the Baldwin property was flowing?

A. They were both dry. Right after the Baldwin well was flowing, I checked.

Q. And they were both dry? Had they ever been dry before to your knowledge?

A. One of them had but not both of them.

Q. Are you familiar at all with the situation of these wells in 1966?

A. Not really.

Q. Do you know when the wells on the Blincoe property resumed flowing in 1961?

A. About the same time that the McGonigle well came back on. This one , No. 5 I think it is, the other one didn't.

Mr. Coleman: We have no other questions.

Mr. Higginson: Mr. Ringert?

Cross-examination by Mr. Ringert:

Q. Mr. Clark, do you know how deep the McGonigle well is?

A. Not for sure.

Q. How old is that well?

A. It was drilled in 1948 or 1949.

Q. Do you have any idea what condition that well was in, in 1961?

A. As far as I know it was good as it ever was.

Q. Or 1966?

A. Yes

Q. Now you were using that McGonigle well for stock watering I take it?

A. Right

Q. In March of 1961, I believe, you stated it went dry for a period for some days. Did you attempt to put a pump in it at that time?

A. No.

Q. Did you make an attempt to measure the depth of the static water level at that time?

A. No.

Q. Had you observed the Blincoe wells, Nos. 5 and 6, immediately prior to the time the Baldwin well was brought in, in 1961?

A. No, not too immediately, No.

Q. Do you recall how long it was before that time that you had last observed it?

A. About 2 or 3 weeks.

Q. Were the wells No. 5 and 6 flowing at that time?

A. No. 5 was flowing, No. 6 wasn't.

Q. 6 was dry and 5 was flowing. Now, when did you first observe No. 5 after the Baldwin well came in?

A. After the McGonigle well went dry.

Q. The same day?

A. No, a couple of days after.

Q. Do you know what condition the Blincoe wells were in, in 1961?

A. Do you mean water wise?

Q. No, I mean internally, the physical condition down in the well itself.

A. As far as I know they were all right.

Q. Do you know when those Blincoe wells were drilled?

A. 1948 I think

Q. Do you know how deep they are?

A. Not for sure.

Q. Do you know what the water level was in the Big Wood River in 1961? March of 1961, whether it was low or high or normal?

A. Well, it wasn't high.

Q. Do you know what the condition of the spring flow was on the springs that feed Silver Creek in March of 1961?

A. Not really.

Q. I believe that is all I have.

37 7014

Re-direct Examination by Mr. Coleman:

Q. Mr. Clark, I failed to ask you what size casing is in your well No. 1?

A. Well No. 1 is 5 5/8.

Q. In Well No. 2?

A. 6.

Q. And in Well no. 3?

A. 6.

Q. Do you know the size of casing in the McGonigle well?

A. 6 ,

Q. What about the two wells on the Blincoe property?

A. 5 is an 8 and 6 is a 6.

Mr. Coleman: We have no other questions.

Mr. Ringert: I might before Mr. Clark departs - No. 6 has a 6-inch casing.

A. Right.

Q. That's inside diameter?

A. They call it a 6-in. pipe I guess that's right.

Q. I see. Are any of those casings perforated?

A. I don't think so.

Q. Are these wells cased clear to the bottom?

A. Yes

Q. And capped at the top?

A. (Witness nods)

Mr. Ringert: That's all.

Mr. Higginson: I would like to clarify a term you have used, Mr. Clark. You talk about a well drying up. Would you tell me what you mean when you say the well dried up?

Witness: It quit flowing.

Mr. Higginson: In every case where you indicate the well dried up did you observe down the casing was there water in the well?

Witness: Yes.

Mr. Higginson: There was water in the well you could see or are they so constructed with a valve that you can't see down?

Witness: Some are and some are not.

Mr. Higginson: Some are and some are not?

Witness: That's right. The McGonigle well you can't. Blincoe well you can, one of them. One of them you can and my well you can.

Mr. Higginson: In those cases where you could observe and you indicated the well dried up did you observe down the casing?

Witness: Yes, where I could.

Mr. Higginson: Was there water in the casing?

Witness: Yes.

Mr. Higginson: So when you say dried up you mean it had ceased flowing at the surface.

Witness: Right.

Mr. Higginson: I believe you may be excused. Thank you, Mr. Clark.

Mr. Coleman: I would like to call a witness out of order here. He has an appointment this afternoon.

Mr. Higginson: That will be fine.

Mr. Nelson: I call Mr. Hellyer.

Mr. George Hellyer after being called and duly sworn, was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. George Hellyer

Q. Where do you reside Mr. Hellyer?

A. In Gannett.

Q. I will show you protestant's exhibit No. 8 and ask if you can - excuse me. Do you own property - you are one of the protestants in this matter? Is that correct?

A. Right.

Q. You own property in the vicinity of Gannett?

A. Yes

Q. You are familiar with the property being purchased by Baldwin Brothers?

A. Yes

Q. And you have property in the general vicinity of that property?

A. Yes

Q. And where is your property located with respect to that?

A. It would be to the west.

Q. On your property do you have any artesian wells?

A. I have three.

Q. Would you mark on protestants Exhibit 8 the location of these wells starting - numbering your first well No. 7. (Witness marks Exhibit)

Q. When did you acquire this property, Mr. Hellyer?

A. In 1967, in November from my father.

Q. In 1967?

A. Yes, he purchased it in 1964.

Q. How long have you been living on the property?

A. Since 1964.

Q. I didn't get your last answer.

A. I have been living there since 1964.

Q. Since 1964, have you had an opportunity to observe the activity of Wells No. 7, 8 and 9?

A. Yes.

Q. How many inches of water did Well No. 7 normally flow in 1964?

A. 89 inches. This was measured and I assume was the static level.

Q. In 1964 and would the same be true in 1965?

A. Yes.

Q. And how much did it flow in 1966 do you know?

A. It dropped to about 70 inches

Q. And how much did it flow in 1967?

A. The same.

Q. The same?

A. 70 inches.

Q. Then in 1966 and 1967 it flowed the same amount of water.

A. I didn't have the chance to observe it all of 1967 so I can't answer that question.

Q. With regard to Well No. 8, how much did it flow in 1965 and 1966?

A. In 1965 we drilled it and it flowed 65 measured inches. In 1966 in order to satisfy a contract with the previous owners we had to prove up the water, about May 20th the well did not stop flowing but dropped to 20 inches.

Q. And how much did that well flow in 1967.

A. The same.

Q. And Well No. 9?

A. It was drilled in 1966 to satisfy the contract and it flowed approximately 25 inches in 1966.

Q. And how much did it flow in 1967?

A. Approximately the same.

Q. What size casing is there in Well No. 7?

A. 6 inch

Q. In well No. 8?

A. 8 inch.

Q. And in well No. 9?

A. 8 inch.

Q. Do you have any other water rights that are appurtenant to the property you own?

A. Yes, out of Spring Creek and Crystal Creek, and one small right out of Wood River.

Mr. Coleman: We have no other questions.

Cross-examination by Mr. Ringert

Q. No. 8 flowed how much in 1967?

A. In 1967 it flowed 20 inches.

Q. Now, are those wells cased clear to the bottom?

A. As far as I know, except No. 8 and the attempt was made, in order to satisfy this contract, to go deeper to try to retain the flow that was originally there and it was 180 foot which was way past the bottom, or the artesian flow level. It is perforated about 100 feet which is the artesian level.

Q. At what depth below ground level are the perforations?

A. 100 feet, in No. 8 to 108 feet, 8 feet of perforation.

Q. Is that where the artesian belt is located that supplies water for No. 8?

A. According to my knowledge, that is correct.

Q. What is the entire depth of the well. 108 feet?

A. 180 feet of casing.

Q. Is the well then 180 feet deep and cased to the bottom, as far as you know?

A. It is cased 180 feet and there is no water at 180 feet. The well was dry and by that I mean there was no water in the casing, no water coming out, until we perforated it again from 100 to 108 feet.

Q. Who made the measurements on these flows that you referred to.

A. I was not there at the time. I don't know who.

Q. You didn't make them yourself?

A. I did not make them myself.

Q. Do you know if they were made by an employee of the State Department of Reclamation?

A. I do know that because we applied for the licenses on both wells.

Q. I see

A. This is 8 and 9 I am speaking of. Seven was there when we purchased the land.

Q. Now who measured the flow in No. 7 in 1964.

A. In 1964 the measurement was taken from the records of the permit, and assumed to be correct.

Q. Was this record the record of an examination by the State Department of Reclamation for licensing purposes?

A. Yes.

Q. Now who made the measurement in No. 7 in 1965?

A. In 1965 it was made by me because I was the irrigator there and only by ditch level and not by actual measurement from the well by having irrigated from that flow it was an assumption.

Q. Or estimate?

A. An estimate of mine. That is correct.

Q. Now who made the measurement in 1966, in well No. 7.

A. Myself, because I was the irrigator.

Q. Was that likewise an estimate?

A. Yes.

Q. Would the same be true with respect to 1967.

A. Yes. On No. 8 Gene Walker, the well driller measured it.

Q. Was Well No. 7 valved down in 1964 when the 89 inche flow was measured by the department, or was it being allowed to flow freely the entire production of the well?

A. No, there was a valve and a 90° elbow on it, when it was measured and the flow came out of that pipe was what was actually recorded and the same with the other two wells.

Q. Did you observe the Baldwin well in 1964?

A. No.

Q. Or 1965?

A. I have observed it, that's all. I mean I have just looked at it.

Q. You know where it is though?

A. Yes.

Q. I see. Do you know what time of the years these observations and measurements you testified to were made on No. 7?

A. In 1964, it was made in June.

Q. Middle, first or latter part.

A. The first part of June.

Q. In 1965, on No. 7?

A. The middle of May.

Q. In 1966?

A. Same date, middle of May.

Q. In 1967?

A. June.

Q. This is still with respect with No. 7?

A. Yes.

Q. What part of June was that?

A. First part of June. In 1967 correction on that last time. It was in the Fall I observed that well. It was in August.

Q. In August?

A. August 15th.

Q. Now Well No. 8. When was the 165 mea surement made there?

A. Right after the drilling was finished and the last part of March.

Q. I believe you testified that the 1966 measurement was made May 20th in Well No. 8.

A. That's because it stopped, Yes. I was irrigating at the time and all of a sudden the water quit. It was around May 20th. It was from the 17th to 21st somewhere in there. I can't be specific.

Q. Did the flow quit or did it diminish?

A. I am sorry, it diminished, and that's all it just diminished.

Q. And that was about May 20th.

A. Yes.

Q. Now, 1967 when was the measurement made, in Well No. 8?

A. Continually, because we were attempting to satisfy the contract with the people.

Q. Beginning when and ending when?

A. It was measured from March, last part of March, to September when we turned it off.

Q. I take it the 20 inches is the maximum flow you observed in that well during that period?

A. Yes, it was.

Q. Now, when was the measurement taken in Well No. 9.

A. Right after it was drilled, in 1966, about the middle part of June.

A. And in 1967?

A. August, middle part.

Q. Have you examined the condition of the Well No. 7?

A. At all times.

Q. Down in the well, do you know what the condition is there?

A. No, I do not know. It has a 90° on it.

Q. So your examination then has been made of the casing as it comes out of the ground and the cap and control valve.

Mr. Ringert: I believe that is all I have.

Mr. Higginson: Let me ask one question for clarification. You indicated that the well driller Mr. Walker, made a measurement right after the well was drilled. How did he make that?

Witness: By measuring the flow. There was no cap and the flow coming out of the well, the number of inches that the water came above the pipe and I think that was it. The number of inches the water came above the end of the

pipe. I am not familiar with the method, he has drilled a lot of wells in this valley and I thought he knew. It did not have a 90° on it.

Mr. Higginson: Same thing is true with regard to No. 9 when it was finished in 1956.

Witness: Yes, Yes, that's right. He gave some estimates.

Mr. Higginson: The measurement you reported for No. 8, the 65 inches in 1965, when that was finished and the 25 inches on No. 9 in 1966, when that was finished were determined by Walker, the driller, based upon some determination or measurement of the distance the water raised above the pipe.

Witness: And it is an approximate rate and I know that.

Mr. Higginson: That's all I have.

Mr. Ringert: I would like to ask one more question with respect to No. 8 after the flow diminished were any attempts made to see whether that flow could be rehabilitated. Has any work been done in the well?

Witness: That's why we drilled to 180 foot because the Chaneys we bought the ranch from wanted no further investment in another well. They wanted him to continue and get that water back at all costs, they way they put it, and he did everything within his well-driller power to get the water back and couldn't do it.

Mr. Ringert: Do you know how deep the well was before he started to fooling with it?

Witness: It was a 100 feet. Both 8 and 9, and I don't know No. 7 because I wasn't there on the ranch at that time, but I think it is about 100, if I am correct.

Mr. Ringert: Thank you

Mr. Higginson: If that is all you may be excused, Mr. Hellyer.

NOON RECESS

37 7014

Mr. Higginson: I call the meeting back to order after the noon recess. I believe we are ready for another witness, Mr. Coleman.

Mr. Coleman: I call Reid Newby.

Mr. Reid Newby, after being duly sworn, was examined by Mr. Newby and testified as follows:

Q. Would you state your name please?

A. Reid J. Newby

Q. Where do you reside, Mr. Newby?

A. Shoshone, Idaho

Q. And what is your occupation?

A. Watermaster for Water Districts 7 and 11 AB.

Q. And how long have you been employed as Watermaster?

A. Since May 1, 1962.

Q. In your capacity as Watermaster, or your predecessors, or lets put it this way, does your office maintain records relating to streamflows and diversion and delivery of water within the District.

A. Surface waters, yes

Q. I'll show you Exhibits Protestants No. 1 through 7, and ask if you can identify those?

A. Yes sir, I can.

Q. What are those?

A. These are records of diversions made into and out of Silver Creek regarding to various wells from 1961 to 1967, inclusive.

Q. I take it these are copies?

A. Yes.

Q. Where are the originals.

A. In my office, watermaster's office, in Shoshone.

Q. Are these copies of records maintained by you and your predecessors, as a part of your job?

A. No, this is in excess of my job. Part of them are and part of them aren't. The wells any of those that show measurements of wells. This is not other than water to be comingled in Silver Creek is not necessarily part of the job as Watermaster, but the water that is diverted out, No. 2,3 several of them here are part of actual records we keep every year, yes.

Q. All those exhibits are excerpts or copies of actual records of your office?

A. Yes sir.

Q. Now what interest do you and your Assistant Watermasters have in relation to water from a well that is put into Silver Creek and taken out? What is your interest there?

A. Our primary interest is to administer the water for surface water users, decreed water users in order to be able to do this we have to be able to measure the comingled waters into the creek the water this is to be comingled into the creek so that we can measure it out with a nominal stream-flow loss, to the - whoever owns the water.

Q. In that way you don't, as I understand it, end up charging the comingled water to that person's water right in the stream itself.

A. That's right.

Q. Now, as an example, Protestants' Exhibit 3 is headed Don and Wayne Baldwin No. 24 and 25, Lawson Ditch, Season 1963, Pump 24. Now can you explain to us, there are several columns of figures on there, can you explain to us, what those figures are for?

A. There were two headgates. Lawson Headgate 24 and Don and Wayne Baldwin divert there decreed water out throught this Lawson Headgate No. 24 and 25. It shows May 24, 25 and the total. This shows the amount of decreed water that was delivered through whatever numbered headgate, in this case 24, that it is decreed water, and the amount where it says well here, is the amount that was delivered through this that was delivered from a well.

Q. Does it show on there the sources of the well water?

A. No, it doesn't show on here on this particular one.

Q. Do you have records in your office that do show the source of that water?

A. I would have to go back and check to make sure.

Q. OK, I will show you a book that has been marked as Protestants' Exhibit 9 and direct your attention to the ticket as you look at the upper right hand corner. Now what is that?

A. That is a page of a book, or a copy of a page of a book that's turned into the Watermaster's office by the Deputy Watermaster showing the amount of water that was measured into Silver Creek from the Rogers artesian well on May 31, 1963, at 1 P. M.

Q. How much water does it show being measured into the creek?

A. 4.6 feet

Q. Does Protestants Exhibit 3, which we talked about before show any equivalent figure?

A. Yes, on May 31, it shows 4.6 feet being ddivered out.

Q. So from those two exhibits one could gather that 4.6 feet shown as being delivered to the Baldwin Brothers, from a well came from the Rogers artesian well, is that correct?

A. Possibly, except for one thing that is 4.6 feet being shown measured into the creek shows no streamflow loss down to 4.6 feet and I am sure

when this was made out there would have been.

Q. What is the percentage usually charged do you recall.

A. It varies from 1 to 14%.

Q. Now, here is Protestants's Exhibit No. 5, is in the same form as to the water shown to have its source in a well there, does it purport to show a source for the well water?

A. Yes, I have to assume from looking at this, not having the daily ticket that was turned in, that this water 1.9 - -

Mr. Ringert: Just a minute please, I don't think we should indulge in assumptions.

Mr. Newby: Without having the rest of the record here I couldn't say for sure.

Mr. Nelson: My question was, does that particular exhibit purport to show a source for the well water?

A. Yes.

Q. And what source was shown?

A. Lucke.

Q. Protestants' Exhbit 2, the same question as to the water delivered to the Baldwin Brothers from a well there, does it purport to show a source?

A. Yes sir.

Q. What's the source shown there?

A. Rogers's artesian well.

Q. I show you Protestants' Exhibit 1 and ask you what that is?

A. This is a copy of the records from the Watermasters office showing the Lucke artesian well with 10% loss.

Q. Delivered to who?

A. Baldwin Brothers

Q. In what year?

A. 1961

Q. How many days?

A. Six days in May.

Q. You said, while you were testifying concerning one of the other exhibits, about the daily sheet that is turned in, are the tickets shown on Protestants' Exhibit 9, the tickets you are talking about?

A. Yes.

Q. I show you Protestants' Exhibit 4 and ask you what that is?

A. This is a page from the records of the Watermaster's office for September, 1964 showing the water that was transferred to Lawson 24 from the Lucke well.

Q. How many days was that water transferred?

A. Ten days.

A. Is that the only sheet you found in your office showing the similar transfer of 1964?

A. It is the only one I know of but there could possibly be more.

Q. Is it the only one you found when you looked?

A. Correct.

Q. Is that also true of these other exhibits 1 through 7, that these are the only records in your office which you found when you looked relating to transfer of artesian water to Baldwin Brothers through Lawson #24?

A. I believe this is correct, yes.

Q. I think if we could have a short recess, we could probably expedite this with relation to some of these other exhibits.

Recess taken.

37 7014

Mr. Nelson: At this time I will offer Protestants' Exhibits 1, 2, 3, 4, 5, 6, 7 and 9.

Mr. Ringert: Now, Mr. Newby, do you know who made these entries on these sheets?

Witness: Yes, I do.

Mr. Ringert: Who was that?

Witness: In 1961, it would have been Elmer Terry; in 1962, and 1963 it would be Mrs. Bert Tanner; in 1964, 65, 66, 67 Betty Newby.

Mr. Ringert: What was the source of their information?

Witness: It was sent in by Mr. Les Bushby, Deputy Watermaster.

Mr. Ringert: Are those tickets available in the records of your office?

Witness: Yes sir

Mr. Ringert: Now, on Protestants' Exhibits 1, across the top is written "Lucke artesian". Did the ditch rider ever communicate to you the identification of the well he referred to when he called it Lucke artesian?

Witness: Not in 1961.

Mr. Ringert: He would be about the only one that could tell us what "Lucke arteisan" means on this record?

Witness: That is true.

Mr. Ringert: On Protestants' Exhibit 2 is there anything on there, Mr. Newby, that would indicate to you that any water diverted into Silver Creek or its tributaries and comingled and later rediverted, so to speak, through Lawson 24 or 25, is the same water produced in the well that was covered by Baldwin Brothers application, subject matter of this hearing?

Witness: No, this says Rogers artesian well?

Mr. Ringert: Now, that Rogers artesian well where is it located?

Witness: That's one I can't answer there are 3 or 4 of them.

Mr. Ringert: Now, on this Protestants' Exhibit 3, can you identify any entries there pertaining to water produced from the well that is covered by the application subject matter of this hearing?

Witness: No sir.

Mr. Ringert: On Protestants' Exhibit 4 can you identify any entry there pertaining to water produced from the well which is the subject matter of this hearing.

Witness: Other than the Fred Lucke well, I can tell how much and what was transferred and who to and how much loss.

Mr. Ringert: Do you know who wrote "Lucke well" on there?

Witness: I assume Mrs. Newby did.

Mr. Ringert: Do you know where she got her information?

Witness: From Mr. Bushby, Deputy Watermaster.

Mr. Ringert: In order to find out what "Lucke well" means, we would have to go to him, is that right?

Witness: Yes, that is correct.

Mr. Ringert: Now, on Protestants' Exhbit 5, can you identify any entries there specifically pertaining to the well that is the subject matter of this hearing?

Witness: Nothing other than the fact that it is marked Lucke at the head of the one column.

Mr. Ringert: And circumstances would probably be the same as you talked about with respect to the other four.

Witness: That's true.

Mr. Ringert: Would that be true also with respect to Protestants' Exhibit No. 6.

Witness: Yes, Sir.

Mr. Ringert: And No. 7?

Witness: Yes, Sir.

Mr. Ringert: And on No. 9, with respect to the identification there in the upper left hand corner "Lucke well"?

Witness: Yes, this is a ticket signed by the Deputy Watermaster.

Mr. Ringert: By Mr. Lester Bushby?

Witness: Yes.

Mr. Ringert: Mr. Higginson, I don't believe there has been a proper foundation established as yet for these exhibits. I think they would have to be tied to the well that is in controversy here, or the appropriation that is here in controversy. Until the exhibits have been tied to the appropriation that is here in controversy there is now now value to them. They are irrelevant.

Mr. Higginson: Mr. Nelson?

Mr. Nelson: Technically he is probably right.

Mr. Higginson: I am sure we can get real technical on this thing, I suppose before we can identify those particular exhibits, we will have to have the Secretary who made the entries.

Mr. Ringert: I don't mean to go that far.

Mr. Nelson: Let me ask the witness a question, maybe he can clear it up. Do you have any understanding yourself of which well those referred to as Lucke well in those exhibits mean?

Witness: Only in the knowledge when it shows an amount of water. Someone refers to the Lucke well in the amount of 7.6 second feet of water then I assume it is the one being talked about there today.

Q. As far as these records are concerned do you know of any other well your assistant has referred to as the Lucke well?

A. No, sir. I do not.

Mr. Nelson: That may or may not be enough.

Mr. Ringert: Mr. Newby have you been out and examined the well here in controversy?

Mr. Newby: No, I haven't.

Mr. Nelson: Did Mr. Bushby come back with you? He is here isn't he?

Mr. Higginson: I wonder if we are going to get into an argument though when we get Mr. Bushby up here, and the fact that he didn't make the entries - -

Mr. Ringert: No. No. I assure you we - -

Mr. Nelson: I think it is for authentication.

Mr. Ringert: If we can identify the proper well - -

Mr. Nelson: Relevance is really the objection.

Mr. Higginson: Then we will not admit them at the moment until such time as we can get Mr. Bushby to identify them properly and then we can get them in the record.

Mr. Nelson: I don't believe I have any further questions of this witness.

Mr. Ringert: I would like to reserve the cross-examination on Mr. Newby in regard to these going in. In my own mind I need clarification of what what these entries mean.

37 7014

Mr. Higginson: All right, let's reserve Mr. Newby. Let's excuse him until we find out what we have here in the way of exhibits and maybe recall him. Thank you, Mr. Newby.

Mr. Nelson: I call Mr. Bushby.

Mr. Les Bushby after being duly sworn was examined by Mr. Nelson and testified as follows:

Q. Would you state your name, please?

A. Les Bushby, Richfield.

Q. And what is your occupation, Mr. Bushby?

A. Trying to measure water up and down that river.

Q. Would I be correct in assuming you were the Assistant Watermaster under Reid Newby, is that right?

A. Yes, that's right.

Q. In the course of your measurements up and down the river do you operate in the area on the Wood River, north of Timmerman Hill?

A. Not on Big Wood. That's 7 AB District.

Q. I ask in that area - Silver Creek?

A. 11 AB and Silver Creek.

Q. Now, in connection with your duties do you fill out, lets call them tickets and send them into the office?

A. 16,000 a year

Q. Then I take it you do. I'll show you Protestants' Exhibit 9 and ask if you can identify any of those tickets shown on that exhibit?

A. Yes.

Q. Did you fill out any or all of those tickets?

A. They are all mine.

Q. Are you familiar with the well on the Baldwin Brothers property near Harvey Bickett's place, the one that is at issue here?

A. Yes.

Q. On this ticket dated 9/16/64, you say the Lucke well on Packers Creek. Now, what well are your referring to when you talk about the Lucke well?

A. Well, the only Lucke well that is out there, there is only one of them.

Q. How does that compare with the Baldwin Brothers well we are talking about here?

A. That's the one.

Q. That's the same one?

A. Yes.

Q. So when you turn in a ticket that says Lucke well on it you are referring to the same Baldwin Brothers well, is that correct?

A. Yes.

Mr. Nelson: We re-offer the - -

Mr. Ringert: Do you make one of these tickets every day?

Witness: No, I alternate Silver Creek and between Richfield and Shoshone and I only get up there two times a week.

Mr. Ringert: You make a ticket then each time you change a headgate?

Witness: Right

Mr. Ringert: Now, on this Exhibit 9, I take it these are your tickets, did you prepare any of these other exhibits here, 1 through 7?

Witness: I don't find tickets here, just the delivery.

37 7014

Mr. Ringert: OK now, do you know whether it is the practice to take your tickets and transcribe the information from them on these record sheets?

Witness: Yes.

Mr. Ringert: Do you cross check your tickets against these ledger sheets, or record sheets, or is that the responsibility of the office?

Witness: That is the responsibility of the office after I take them in there.

Mr. R ingert: Mr. Higginson, I don't know that there would be one error in this whole thing, and I hope not, but I think the things that we should go to are Mr. Bushby's tickets, he is the one who made the observation and made the original entry, each time he changes the headgate. That is the evidence we are looking for. Secondly, some of these exhibits don't even refer to the so-called Lucke well.

Mr. Bushby: There's a number of artesians transferred down the creek besides the Lucke well.

Mr. Higginson: Mr. Ringert, would you agree that to the extent that the exhibits offered might be found in error by subsequent search of the records of the Watermaster's office that that might be clarified by submitting additional records at a later date and let these go in now subject to verification. All I am after is information.

Mr. Ringert: Now we're getting down to the meat of it. I don't want to have to make an examination to verify them.

Mr. Nelson: I might say that the objection, I don't think is well founded, because these are records kept there, and we don't have to go back in books of account and books of record to the original records, and these are basically a summary reduced from his tickets and the purpose of this sort of a rule of evidence is to avoid the very situation we would have of going

through 15 or 16,000 tickets a year to verify this. This itself is a good and sufficient record by the rules of evidence as I understand them.

Mr. Ringert: On this well, he only went up there 3 times a week in the 4 months irrigation season or longer?

Mr. Bushby: It varies according to the number of rains during the season.

Mr. Higginson: I think the thing we will have to do is to receive the exhibits into evidence subject to their being verified. We will go this far, our office will take the responsibility of verifying them with the watermaster and his records, because as I said earlier, all I am after is information. I don't want to get so technical on this we we can't get the information. I am a little concerned with regard to these exhibits, the records made of the Rogers well as it pertains to the matters of issue here.

Mr. Nelson: What we are doing here is proving the negative and I believe I asked Mr. Newby if these were the only records that he found in searching through his office relating to delivery to the Baldwin Brothers and that is the sole purpose of the records that have no reference to the Lucke well to show in essence the negative. This is all there is and it doesn't show the Lucke well. Now that's my understanding.

Mr. Bushby: But there are other wells delivered to the Baldwin Brothers besides the Lucke well.

Mr. Nelson: Well, this is my understanding of what I obtained from Mr. Newby and this is what I understand what he testified in reponse to one of my questions.

Mr. Higginson: For illustrative purposes for what value this record, as

37 7014

pertaining to the Rogers well may have, we will receive it into evidence, again, subject to verification that the record accurately reflects the tickets sent in by Mr. Bushby to Mr. Newby and we will check with the Watermaster ourselves to ascertain that this is the case

Mr. Ringert: I don't know if I have an objection on the record, but I would like to make one now to any evidence pertaining to that Rogers well that it is irrelevant, and if it is the purpose of offering these things to prove the negative then I would likewise object to that as I do not think that is an issue here. That is the reason it is irrelevant.

Mr. Nelson: There has been evidence of the extent of use, a claim of prior use, and some evidence already as to the extent of prior use and this would tend to indicate the extent of prior use.

Mr. Higginson: I think again, Mr. Nelson, that as I said at the beginning of the hearing, we are not interested in trying to establish whether there had been a prior right established in any fashion from this well. We are only concerned about the intent of the Baldwins to appropriate water with a 1968 priority.

Mr. Nelson: That's right, but the question is the extent to which this well was diverted into Silver Creek in other years goes to the overall question of how those wells act and interact. In other words, you can't take any particular piece of this evidence perhaps and prove anything with it, but as a whole we have got to get the evidence in to tie it all together. And as I say, the only reason those two sheets with nothing but Rogers on it is in to demonstrate the negative.

Mr. Higginson: Well, for that purpose, I think it is proper to receive them and consider them on that basis only.

Mr. Ringert: What negative are you demonstrating? I think I have lost myself.

Mr. Nelson: That the Lucke well was not turned into Silver Creek and used on those lands on those years.

Mr. Higginson: Anything further of Mr. Bushby?

Mr. Nelson: I believe that is all

Mr. Higginson: Are you going to question Mr. Bushby?

Cross-examination by Mr. Ringert

Q. Do you know when this Lucke well was first drilled?

A. Yes.

Q. Was that in 1961?

A. Yes

Q. Now, do you know of your own personal recollection during what years the Baldwin Brothers used water from that well?

A. I couldn't remember with the amount of headgates that you tend and the tickets that you write on 60 miles of river, I couldn't remember.

Q. It would be shown in your records?

A. That's right.

Mr. Ringert: That's all.

Mr. Higginson: Thank you, Mr. Bushby. You may be excused.

Mr. Nelson: Do you want to recall Mr. Newby for cross examination at this time. It would fit in here.

Mr. Ringert: I guess we'd better.

Mr. Higginson: Mr. Newby would you come back up?

014

Cross-examination of Mr. Reid Newby by Mr. Ringert:

Q. Would you tell me Mr. Newby what those entries in the left hand column of Exhibit mean?

A. The way I would read these and understand it, is that this means there was delivered from the Lucke well to the Baldwin Brothers on May 12, 13, 14, 15, 16, and 17, 4.0 and 4.29 second feet of water.

Q. Now, was that measured at the Lawson headgate No. 24 or where?

A. I couldn't tell you from this.

Q. Was that the measurement out of Silver Creek?

A. I can't tell.

Q. Now, on No. 2 is there anything to indicate to you that any of the water referred to is from the Lucke well but which is the Baldwin well here?

A. No. That's all Rogers.

Q. Now on #3 can you identify anything there as being from the Baldwin well?

A. No.

Q. Do you have any way of knowing what well is meant by the column where there is the word "June" written over "24" and the next column is "25" and the next column is "well".

A. I would assume, and of course this is without having tickets or anything else, and reading the heading up here which says Pump #24, I can't tell you what well it is from this exhibit.

Q. Is there a pump at Lawson headgate #24?

A. Not to my knowledge.

Q. Do you know what pump that means on that record sheet?

A. No.

Q. Can you tell me what the figure means on Exhibit 4?

A. On September 16th through 25th inclusive there was from .9 second feet to 2.1 second feet of water delivered to the Lawson #24 headgate, Baldwin transfer, with a .3 second feet per day loss, and there was 2.4 second feet of water put into the sytem from the Lucke wells.

Q. Now, how about the entries pertaining to the Baldwin well on Exhibit 5?

A. It would be in July, 1965 that there was from .9 second feet to 1.9 second feet of water delivered from the Lucke well to the Baldwin's at Lawson headgate #24.

Q. How about Exhibit #6? What does that show in respect to the Baldwin well?

A. The amount of water diverted from the Lucke well and delivered to the Lawson 24 headgate, which is minus a 10% streamflow loss from May 1 to May 8th.

Q. What year was that?

A. In 1966 - Wait a minute, I beg your pardon, this is for record only charge. This is the amount of water put into the creek.

Q. So you can't tell from that how much was diverted out of Lawson #24?

A. No. It is to go to Lawson 24 with the 10% loss but this is the amount that was measured into the creek.

Q. Now, how about No. 7?

A. This is the same thing. 1967, June 2, 3, 4, it is the amount of water for the record only measured into the creek.

Q. Now, when would you examine the records in your office to find these sheets?

A. About a year ago, I can't remember the exact date because I didn't put that much significance on it, but we worked late. It was around 9 or 9:30 and we went through 15, 16,000 tickets in our office and we went back through the records to about 1960, 1959, something like that.

Q. Now, for what purpose would you have a search of your records made?

A. At the request of Wayne Baldwin. At that time I didn't know what the connection was but we took the time because he requested we get out all the information we could.

Q. Did you make these copies for Wayne, or similar copies.

A. Yes, similar copies to these.

Q. Can you tell from your recollection now whether your examination was a complete examination of all of your books and records?

A. I think they were, but to absolutely, postively certain I would have to go back and go through these tickets one by one, but I believe at that time we spent enough time on it that we covered it pretty thoroughly.

Mr. Ringert: That's all

Mr. Nelson: No questions (Recess taken)

Mr. Coleman: We call Mr. Harvey Bickett.

Mr. Harvey Bickett, after being duly sworn, was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. Harvey B. Bickett.

Q. Where do you reside, Mr. Bickett:

A. Gooding, Idaho.

Q. Do you own land in Blaine County?

A. I do.

Q. Is it shown on the map, Exhibit 8?

A. Yes.

Q. Do you own any artesian wells on that property?

A. I own four of them.

Q. Would you number them 10, 11, 12 and 13? (Witness marks exhibit) OK with regard to your Well No. 10 what size casing does it have?

A. 8 inch casing, top casing.

Q. How much water does it produce?

A. It was measured by the Reclamation Engineer and the man sent out from his office, at 220 inches.

Q. And is it licensed for that amount?

A. No. It is not licensed for the full that it runs because I didn't put in for that much.

Q. With regard to Well No. 11, what size casing?

A. It is 8 at the top and 6 down.

Q. And how much water does it produce?

A. It was measured in at 150 inches.

Q. And that well is licensed?

A. Yes. They are all licensed.

Q. And Well No. 12?

A. That was measured in at 202 inches.

Q. And what size casing

A. 8 inch clear down.

Q. And Well No. 13?

A. That run 155 inches.

Q. And size casing?

A. 8 inch at the top and 6 in the bottom.

Q. How many acres of land to you irrigate from these four wells?

A. About 700 acres.

Q. And do you have any other water rights for that land?

A. None whatever.

Q. And do you raise crops on the land.

A. Yes, sir.

Q. How long have you owned that land?

A. In Section 16 and 17 I have owned it since 1941. I bought the other that is in 20 and 21 in 1955, I believe.

Q. When were your wells dug?

Q. In 1955 to 1959 I think is on them.

Q. And are those the dates that would reflect on your priorities.

A. Yes. Those are the priorities on the licenses.

Q. Are you familiar at all with the land that is referred to on that map as the Lucke land?

A. Yes, sir. I owned it at one time.

Q. Is that the land that is now being purchased by Baldwin Brothers?

A. Yes, sir.

Q. What is the nature of that land as far as water requirements are concerned?

A. I gave it up because it is too wet.

Q. Were you in the area in 1961 when the well on the Baldwin property was dug?

A. I was.

Q. Were you there when the water permit was measured when the well first

37 7014

started flowing?

A. I was there when they measured it to pay off the water witchers.

Q How much water was measured at that time?

A. 247 inches and Les Bushby measured it.

Q. What time of year do you normally start irrigating your property?

A. It varies. On a really dry year you could start 20-25 of May clean up to the 15th of June.

Q. In 1961, when the well on the Baldwin property was dug, were your wells flowing at that time?

A. I didn't have them open at that time before they capped it.

Q. You didn't have them open?

A. I didn't.

Q. Did the well on the Baldwin property flow again that Spring?

A. Yes, it did for 5 days instead of 6.

Q. And when was that?

A. In May on the records.

Q. In May of 1961?

A. Yes.

Q. Did you have any of your wells flowing at that time?

A. Yes.

Q. And what happened to the flow in your wells?

A. They quit flowing, all but one inch in one and just a few inches on another.

Q. How many of your wells were flowing at that time?

A. I had two flowing at that time.

Q. And one completely quit?

A. Well it measured back at one inch. How they measured that I don't know.

Q. And the other one was what?

A. I don't remember it is all in the records.

Q. What happened when the Lucke well was turned off in May of 1961.

A. Inside of 3 days they started coming back.

Q. In 1966, I believe there has been some evidence here that the well on the Baldwin property was flowing, what was the situation with your wells that year?

A. I wasn't there during the summer. My son can tell you more about that. I was in Alaska for 2 months and 15 days, but when I got back we drilled the winter wheat and started into irrigate and didn't have enough water to irrigate with.

Q. Had you had that happen in previous years?

A. Never had.

Q. At the time you came back from Alaska was the well on the Baldwin property flowing.

A. It was.

Q. Do you recall approximately when the well was shut off that Fall.

A. It was shut off. I called John Coleman and notified him that it was running, and it wasn't supposed to be running and I think he got ahold of Mr. Higginson and Reid Newby and it was shut off. My wells started building back a little bit after it was shut off; not very much.

Q. Have you been in the vicinity of your property numerous times from 1961 to 1966?

A. Every day, Spring and Fall, and during the summer.

Q. During the years 1962, 1963, 1964, did you observe the Baldwin well flowing at any time during those years?

A. They might be on a day or two but it didn't last, they just turned it on and off. It was never turned on as far as I know until the Baldwins bought it from Lucke, but they can't stand there and watch it all the time.

Q. When you commence irrigation on your property in the Spring of the year are the wells on continuously during the irrigation season?

A. They are not. They are on and off. We get it irrigated and shut it off. I would say approximately half of the time.

Q. Have you had any occasion to observe a measurement of water from the Lucke or Baldwin well since 1961?

A. I know I haven't, but in 1961 I did.

Mr. Coleman: We have no other questions

Cross-examination by Mr. Ringert

Mr. Ringert: Mr. Bickett, on your well that is identified on this map as No. 13, I believe you said it ran 155 inches. Was that measured?

Witness: There was a meter when it was proved up on.

Mr. Ringert: Do you recall when that well that was identified as No. 10 was drilled?

Witness: It is on the records some place.

Mr. Ringert: You don't recall though?

Witness: I didn't want to say, but it was on the record.

Mr. Ringert: Is the same true of 11, 12 and 13?

Witness: I can get the record on these from the well driller.

Mr. Ringert: Do you recall what date it was when the Lucke well was

measured at 247 inches.

A. I don't.

Q. What year was it?

A. It was 1961. I took a cat down and ditched out the ditch for it.

Q. Was a casing installed in the well at that time?

A. The casing was installed as it was drilled.

Q. Do you recall who made the measurement?

A. Les Bushby.

Q. Did he make that measurement with a weir plate?

A. It was over a weir.

Q. How long was the well allowed to flow, if you know, at that time?

A. Not very long.

Q. In May of 1961 how long was the Lucke well turned on?

A. It is on the record, but I would like to show you that it is 5 days instead of 6 because you don't go from one to the other and it was measured off. I was right there with Les Bushby when it was measured off and you don't call another day just because it was measured off.

Q. Now, at that time you had 2 of your wells open, do you recall which of the 4 wells they were that are numbered here?

A. No. 11 was open and I can't remember whether it was 10 or 13. I believe it was 13.

Q. What type of cap set-up do you have on No. 11?

A. Elbow with shut off.

Q. Would the flow completely stop in No. 11?

37 7014

A. You can call it a complete stop. It was just dripping and we figured it was one inch.

Q. And how about No. 13?

A. We never measured it. We just went up and shut it off and let it build back.

Q. At that time was there any water at all flowing from 13?

A. There was a little but it wasn't a measured well; maybe 5 or 6 inches.

Q. What time of the year did you come back from Alaska?

A. In August.

Q. In August of 1966?

A. Sometime in August.

Q. What flow was coming from the Baldwin well at that time?

A. I didn't measure it but it was wide open.

Q. The valve was open as far as it could open?

A. That's the way it looked. I didn't go over because you can't trespass.

Q. You didn't have any glasses on it?

A. I didn't have to. They are close enough to one of my other wells. The had to witch it right against another well of mine , which was the test well over in that country.

Q. Where was that water being used from the Baldwin well?

A. You got records to show that. I don't know. I didn't follow it down the creek.

Q. Could you tell if it was being distributed on the land that that well is located on?

A. It was not.

Q. Now, what kind of flow did you have from your wells at that time?

A. Well, Matthews from the State Reclamation office came and we went and

looked at them and he guessed the two top ones at 25 inches.

Q. Which numbers would those be?

A. That would be No. 11 and 13.

Q. 25 inches each?

A. A piece.

Q. And the others?

A. Well, we went to 10 at the house and it was probably 75 inches or 60.

Q. And No. 12?

A. We didn't go to it. We were satisfied with looking at what we had already seen.

Q. Do you know how deep your Well No. 10 is?

A. Yes

Q. How deep is it?

A. 371 feet.

Q. And No. 11?

A. 371 feet.

Q. And 12?

A. 330 ft.

Q. And No. 13?

A. 376 or 8. I can't tell you exactly

Q. Have you ever installed a pump in any of the four?

A. It is impossible they are too small a hole.

Mr. Ringert: I believe that is all I have.

Mr. Coleman: We have no redirect

Mr. Higginson: Let me clarify one point with you, Mr. Bushby before you

leave. You indicated that a Mr. Matthews made a measurement?

A. No. It was Mr. Hamilton.

Mr. Higginson: I couldn't identify an employee named Matthews.

A. He made a trip all around with me.

Mr. Higginson: Fine. Thank you very much.

Mr. Coleman: We will call Mr. Ralph Lucke.

Mr. Ralph Lucke, after being duly sworn, was examined by Mr. Coleman and testified as follows:

Q. Would you state your name for the record please.

A. Ralph M. Lucke.

Q. Where do you reside, Mr. Lucke.

A. Gooding, Idaho.

Q. And you are familiar with the property that has been discussed at this hearing today?

A. I am afraid so.

Q. Were you at one time the owner of the property that is being sold on contract to the Baldwin Brothers?

A. Yes.

Q. Do you hold a contract on that property?

A. I do.

Q. Does that contract have any language in it concerning transfer of water from the well involved in this hearing?

A. It does.

Q. Would you read the language of that contract into the record?

Mr. Ringert: I think we had better argue an objection first, Counsel.

Whatever the contract provides, Mr. Higginson, is between Mr. Lucke and Baldwin Brothers. It has no bearing on the issues involved here.

Mr. Coleman: I think there is a letter of objection that was filed with the State Reclamation Engineer's office, Mr. Ringert, about a year and a half ago concerning this matter.

Mr. Ringert: I think what you are asking Mr. Higginson to do is to interpret a contract between private parties. I believe that is beyond his jurisdiction.

Mr. Nelson: I take it the existence of the contract is a fact and if it requires interpretation perhaps it is beyond his powers but the existence of the contract and what it is, is a fact.

Mr. Ringert: Well, there is a lot of things that are facts but that does not necessarily bear on any issue that is involved in these proceedings.

Mr. Nelson: That's true, but the fact that the word interpretation might come in doesn't mean that it is beyond his power, if the matter is relevant except for pertinent provisions of the contract has bearing on the issues.

Mr. Ringert: Well, we are more than glad to stipulate that there is, in fact, a contract in existence.

Mr. Higginson: Let me ask this question. In your view, Mr. Coleman and Mr. Nelson, what bearing does the contract in any language that it might have with regard to transfer - -

Mr. Coleman: I believe that it would require either the consent of Mr. Lucke or his joining as applicant in the application that the Baldwin Brothers have filed.

Mr. Higginson: Would it in any way prohibit our department in issuing

37 7014

a permit to Baldwin Brothers?

Mr. Coleman: I think it would based upon the knowledge your department may have by reason of the previous protest that was filed.

Mr. Higginson: Let me go just a little further. As we read the statutes and our obligation in considering an application for appropriation of water there are four points that serve as a basis of a denial of the permit. These have to do with the lack of water supply; No. 2 the interference with established rights; No. 3 being the financial ability to complete the proposed project; No. 4 having to do with speculation and delay. We find at least we are unaware of any condition in the statutes that directly would give us the authority to get involved in private contractual arrangements between an applicant and whoever he might be proposing to either purchase or acquire land from in order to appropriate water. Maybe I am off base, but we are advised that these are the only four bases for our denying a permit.

Mr. Nelson: Well, I don't think you can approach it, or shouldn't approach it that narrowly because, take an example, if an applicant comes in and says he wants to divert "X" second feet of water from a well and there is a protest and somebody comes in and shows that the protestant owns all the land around the well, owns the proposed well, owns the place where the well is to be dug and has given no easement or other right of access, then it would be sheer futility to grant the application because the man can initiate no valid water right. Now, we have that situation here, I think, in that the Baldwin Brothers' ownership of the property is insufficient to allow them this particular power or right and therefore they can't initiate a valid water right by this application or otherwise.

37 7014

Mr. Ringert: I beg to differ with Mr. Nelson's interpretation. In the first place I just read this contract provision and I read it to mean that any water right appurtenant to the land covered by the contract can't be transferred. This is not an application for transfer of a water right, nor for change of place of use. This is an application for a permit to appropriate water and thereby initiate a new water right. It is entirely different from what counsel is talking about.

Mr. Nelson: That is what it is in form but in substance it is a change in place of use.

Mr. Ringert: Well, if we ever got to the point of litigation to adjudicate water rights, I think you would find that we have a licensed water right in this well and we now are making application for a new appropriation which would be an entirely different water right.

Mr. Nelson: I take it that really the relevance of this contract provision can't be determined by Mr. Higginson until perhaps he sees it.

Mr. Ringert: I don't think there is any issue involving the contract rights here.

Mr. Nelson: I think there is on the analogy I just gave you.

Mr. Ringert: Are you trying to establish that this is an effort to transfer a water right in violation of a contract between private parties?

Mr. Nelson: I am trying to establish that they have no right to transfer the water - Yes - or to -

Mr. Ringert: We are not trying to transfer the water.

Mr. Nelson: Or take the water from the property?

Mr. Ringert: They are not trying to take the water that is covered by the permit that is mentioned in Mr. Lucke's contract. They are making another appropriation. This is an underground stream, it is a stream of water, just

like any stream in this state. They can have many, many water rights in it.

Mr. Higginson: I don't think it is going to serve any purpose for our sitting and arguing the point, but I think you both have raised some interesting points. We have never been furnished a copy of the contract. I don't believe it shows in our record any where. At this point I don't see the relevancy of the contract as far as the new permit is concerned. I would have to agree with Mr. Ringert's interpretation of this particular application. It is not in and of itself a transfer of water rights. Insofar as Baldwins' contract with Mr. Lucke would prohibit him from initiating a water right in the well that would call for its use somewhere off of the property then I think this is a matter between Mr. Lucke and the Baldwins. I don't believe it is a subject that we can determine. I still feel that we are restricted as an office to the 4 points mentioned Section 42-203, as to whether there is interference with water rights, whether there is a water supply, whether it is speculative or for delay, or whether the man has the financial ability to complete the proposed project. A permit once issued by the department is not in and of itself a water right, but is more or less a fishing license. If, all other things being equal, financial and property arrangements able to be made, he is able to perfect the water right then he can prove up on it and receive a license. If there is something in his contract that prohibits him from being able to prove up on his permit, if it were issued, and then I think that is something between Mr. Lucke and the Baldwins. I don't believe that our office can make a determination as to whether the permit issued ought to be issued or not, based upon a private contract between parties.

Mr. Nelson: Well, I think at this point we should make an offer of proof for the record as to what that contract provision says.

Mr. Higginson: Fine. I will receive that for the record then.

37 7014

Mr. Nelson: How would you prefer to do it? Have him read it or have me read it?

Mr. Higginson: I wouldn't make any difference. Why don't you go ahead. You can pick out of that what you want.

Mr. Nelson: At this point we offer to prove by this witness that this is a contract of sale between this witness and -

Mr. Ringert: Tom excuse me just a minute. Some of these administrative regulations require an offer of proof to be in a certain form. Does the department's regulations have any bearing on that?

Mr. Higginson: They are mentioned in there.

Mr. Nelson: An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained. As I said, we offer proof of the existence of a contract between this witness and his wife Helen Lucke and Don B. Baldwin and Dwayne Baldwin, doing business as Baldwin Brothers relating to the purchase of property in Township 1 South, in Range 19 E., Boise Meridian, Sec. 20 and Sec. 21 containing 380 acres more or less dated June 30, 1964, and further offer to prove that paragraph 6 thereof reads in part as follows: "Purchaser expressly covenants and warrants that no water appurtenant to said described property shall be transferred, sold or conveyed, or in other manner encumbered until the purchase price hereof has been paid in full and in this connection purchaser covenants and agrees that he will not attempt to obtain a permanent transfer of any water rights appurtenant to said land other than on a temporary basis." That is the substance of the offer of proof.

Mr. Higginson: Now, are we back where we were. I assume that we had a question asked and an objection and we are sustaining the objection and you have made your offer of proof.

Mr. Coleman: I have one other question that I would like to ask Mr. Lucke. Mr. Lucke from May of 1961 until such time as you sold this property, did you authorize any diversion of water from the well on this property?

A. The only time I gave right to use the water was in that 5-day period until they started to squawk and I started to go up there and turn it off and they said you had better wait until we got ahold of the watermaster so we can re-adjudicate the water downstream and then I turned it off and didn't turn it on except when I used it until the time I sold it.

Q. It wasn't turned on after May of 1961 to your knowledge?

A. Except when I turned it on.

Q. Except when you turned it on?

A. Yes.

Q. To irrigate your own property?

Mr. Coleman: That's all -

Mr. Higginson: Just a minute Mr. Lucke. Mr. Ringert may have a question on this matter.

Mr. Ringert: We have no questions.

Mr. Higginson: Thank you Mr. Lucke.

Mr. Nelson: I believe Mr. Lucke can be excused can he not?

Mr. Higginson: Yes.

Mr. Coleman: We will call Mr. Gene Frederickson.

Mr. Gene Frederickson after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name for the record please?

A. Eugene Frederickson, they call me Gene.

Q. And where do you live Mr. Frederickson?

A. Down here south of Bellevue in what they call Gannett.

Q. You have before you what has been admitted in evidence as Protestant's Exhibit 8. Does that exhibit show the location of your land?

A. Yes.

Q. Do you have artesian wells on your land?

A. Yes.

Q. Would you mark them on there? How many wells do you have?

A. Three.

Q. Commencing with No. 14 would you mark the location of your wells on that map?

A. The three?

Q. Yes, the three. When were these wells drilled Mr. Frederickson?

A. The one I marked 14 was drilled in October or December of 1950, and the one I marked 15 was drilled next and was two or three years later, and the one I marked 16 was drilled around Christmas time in 1962, I think.

Q. Then two of your wells were drilled prior to the Lucke or Baldwin well that is referred to here?

A. Yes.

Q. Are all of your wells licensed?

A. Yes.

Q. How many acres of land do you irrigate from these wells?

A. Right in the neighborhood of 200 acres.

Q. Do you have any other source of irrigation water for this land?

A. No.

Q. Then these wells are the sole source of irrigation water?

A. That's right.

Q. With regard to Well No. 14 what size casing does it have - 6 inch?

A. Six

Q. Six inch?

A. Yes.

Q. And how much water does that well produce normally?

A. When it was measured the Deputy Watermaster Watts put a weir in it a few weeks after it was drilled and it measured somewhat over 90 inches.

Q. And Well No. 15, what size casing?

A. It's 8.

Q. Eight inch?

A. Yes.

Q. And how much does that well normally flow?

A. The maximum around 30 inches.

Q. And Well No. 16?

A. It was estimated that it would measure over 200 inches.

Q. And who made that estimate?

A. George Roessler, the driller.

Q. And what size of casing?

A. Eight inch.

Q. In 1961 when the Lucke or Baldwin well was drilled were your wells in operation?

A. No.

Q. In May of 1961 when the Lucke well was again run were any of your wells flowing at that time?

A. I imagine I was irrigating with them.

Q. Do you recall any particular situation with regard to the amount of water you received from your wells in 1961?

A. Well, they were somewhat short - low that year.

Q. Were they low early in the year or late in the year or do you recall?

A. I can't recall.

Q. With regard to the situation in 1966.

A. We requested a transfer of water that year. These wells 14 and 16, they were piped directly to a booster pump and we sprinkled and I don't have any way of telling how much flow except how much water I can sprinkle with.

Q. How many sprinkler lines do you normally run from this well?

A. I can run 5.

Q. And how many could you run in 1966?

A. In 1966 we were at one time down to 3. You couldn't run the 4th one.

Q. Did you have that same problem in 1964, or 1965?

A. No.

Q. How about in 1967?

A. I could run 5 at one time.

Q. To your knowledge was the Baldwin or Lucke well flowing most of the summer of 1966?

A. I was by there a time or two, and saw them flowing but just heresay was that they run all summer.

Q. But you did see it flow?

A. Yes, I saw it flow.

Q. Did you see where the water was going?

A. No, I never made too much of a determination of where it was going.

Q. Did you observe it being used to irrigate the lands immediately surrounding the well?

37 7014

A. No, not necessarily.

Mr. Coleman: That is all the questions we have.

Cross examination by Mr. Ringert.

Q. Mr. Frederickson, did I understand you to say that during 1966 you actually saw the Lucke well flowing twice?

A. I think I was by that road a couple of time, at least once any way.

Q. Now, what time of year was that?

A. Summer time some time, I don't know. - May, somewhere in there - June.

Q. May or June, both times?

A. I guess - I don't know. When I happen to go that way to Picabo or something.

Q. You did not get off the road I take it then.

A. No, I just drove by.

Q. On this Exhibit 8, can you locate there where the road is that you were on when you made the observation?

A. It is on the section line. It would be this road here. It is right on the section line there. The well is not too far away from the road.

Q. Right up there in the corner isn't it?

A. Only about 40 feet from the road.

Mr. Ringert: Now why don't we mark this well here? Do you fellows know where it is?

Mr. Coleman: Yes.

Mr. Ringert: I make it to be right up here in this corner.

Witness: You are pretty close.

Mr. Ringert: Is that right?

Mr. Nelson: Why don't you mark it with red?

Mr. Ringert: All right. About right there?

37 7014

Witness: I think so.

Mr. Higginson: I wonder if at this moment we could take a recess. I apparently have a phone call.

Recess taken.

Mr. Higginson: I am sorry I interrupted your examination Mr. Ringert.

Mr. Ringert: Now, that road runs -

A. East and west.

Q. Along the section line across the top of the section?

A. And down in here - here it is off the section.

Q. That's over in the next township?

A. Yes, over in my area.

Q. Its about two miles over.

A. Over in 18 Range.

Q. Now, from your vantage point on the road there could you observe all the land down to the south.

A. Well, not too much. I knew they were running and that is about all I could see.

Q. How deep is your well No. 14, Mr. Frederickson?

A. I think that one is 128 feet or 130.

Q. And your well No. 15?

A. It is about the same depth.

Q. About 130 feet deep?

A. Yes.

Q. How deep is No. 16?

A. They are all about the same depth, I think. They may vary 3 or 4 feet.

Q. I didn't get the dates or years they were drilled.

A. No. 14 was drilled late in 1950. I think 15, like I said, I never

37 7014

done any research on this bringing myself up to date, but I think it was drilled around somewheres in 1954 and 1955, and 16, it lays in my mind it was drilled in the Fall of 1962 or 1963.

Q. 1962 or 1963?

A. Yes.

Q. When was that 200 inch flow measured, or estimated, rather.

A. At about Christmas time.

Q. How much does it flow during the irrigation season?

A. Well, I don't exactly have a way to know. Both wells are used together. They are controlled with valves and piped into a common header pipe that leaves the pump.

Q. When was the 90 inch flow measured in No. 14?

A. It was measured - I think that well was drilled late in October and measured a couple of weeks afterwards, after it had run and settled down.

Q. Late October or early November?

A. I would think that would be close enough.

Q. How about Well No. 15? When was that measured?

A. We, when we drilled it, we estimated that it was running that and then when I proved up on it the state man, I don't know his name, we were running a sprinkler line off of it. It was just -

Q. He counted the heads?

A. He counted the heads and measured the end of it and said I'll give you 30 inches on that.

Q. What time of year did he make the determination?

A. I think that was probably in June or some time the middle of the summer, I know that we was irrigating, I think it was hay.

Q. When you measured No. 16, how long did you keep that flow open at that estimated 200 inches?

A. It was open about a week.

Q. Did it maintain that same flow throughout the entire week?

A. I think it did.

Q. Did you ever have variations from year to year between 1950 to 1960 in your No. 14 well?

A. Yes, I think it was down in 1961.

Q. Well how about in the 1950's?

A. We didn't start the sprinkling until 1951. As far as I know we were able to run 3 sprinkler lines off that up until the year 1961, and I didn't have 16 at that time, and we were down to two lines on this one well.

Q. Did you use the No. 15 well from 1954 or 1955?

A. It has been used since and it varies.

Q. In other words, some years during the 1950's you could get more water out of it then other years?

A. Yes, they vary some.

Mr. Ringert: I believe that is all.

Mr. Coleman: We have no other questions.

Mr. Higginson: Just a minute Mr. Frederickson. Let me ask you one question, Mr. Frederickson. Just referring to the map, how far are your wells from the Baldwin well?

A. About 2½ miles.

Q. About 2½ miles? There have been other wells drilled in the area besides this Baldwin well in 1961, since your wells were first drilled. Have there been other occasions when you have ever felt that there was interference with your wells by the reason of the drilling of some other well in the Valley?

A. Oh, possibly. None of these wells in my area are bigger than 8 inch that I know of. They don't make too much difference.

Q. But you have never had any reason to believe that any other wells in the valley that have been drilled since your first well was put in 1950 caused a lowering of flow from your well?

A. Not particularly.

Q. Not even the other wells that you drilled yourself since 1950? What was the effect of the drilling of the well that you drilled in 1962 upon your No. 14 well drilled in 1950?

A. That would be hard - I don't know what to say because they are both piped into a common header and I can't.

Q. You were unable to observe any?

A. I am unable to observe any - where the water is coming from.

Mr. Higginson: Anything further?

Mr. Ringert: Along that same line Mr. Frederickson, don't you think 4 wells of 80 inches each could have the same effect as one well at 320 inches?

A. Oh, possibly. I guess it could be.

Mr. Higginson: Thank you Mr. Frederickson. You may be excused I believe.

Mr. Coleman: I'll call Mr. McGonigal.

Mr. McGonigal after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name for the record, please?

A. John D. McGonigal.

Q. Where do you live Mr. McGonigal?

A. Hailey, Idaho

Q. You have before you Protestant's Exhibit 8. Does the property you operate - is it shown on that map?

A. Yes, it is.

Q. Do you own that property?

A. This is a corporation.

Q. You are a stockholder in the corporation?

A. Yes.

Q. Do you have any artesian wells on that property?

A. Yes, I have.

Q. How many artesian wells do you have?

A. Two.

Q. Would you locate them on the map? Mark one of them No. 17 and the other one No. 18.

A. Now, in Mr. Clark's testimony here he marked one of our wells as No. 4.

Q. And that is one of yours?

A. Right.

Q. Would you mark the other one No. 17? Are both of these wells No. 4 and No. 17 used for irrigation purposes?

A. Yes they are.

Q. Do you know when these wells were drilled?

A. Yes, they were drilled in 1948. This No. 4 well would have been completed in October 15, and No. 17 was completed the 21st of December, 1948.

Q. What size of casing is there in the No. 4 well?

A. Its 6 inch pipe.

Q. And the number of the 17 well?

A. It is 6 inch pipe also.

Q. Do you have other water rights that are appurtenant to this real property you own down there?

A. Yes, we have.

37 7014

Q. These wells are used then for supplemental water?

A. Right.

Q. Are these wells licensed?

A. No, they are not.

Q. How much water does Well No. 4 produce? In a normal year how many inches does it flow?

A. When it came in it was measured at 58 inches and in 1949 it was measured and it was 1.33 cubic feet per second.

Q. And well No. 17?

A. It was measured at also in May of 1949 and it was 1.34 second feet.

Q. Are you familiar with the location of the Lucke or Baldwin well referred to in these proceedings?

A. Yes Sir.

Q. Did you have any occasion to observe your wells in 1961 at the time the Lucke well was drilled?

A. Yes, we did.

Q. And at the time the Lucke well started flowing water did that have any effect on your well?

A. Yes.

Q. Did anything happen to your wells?

A. Yes, this No. 4 well stopped flowing.

Q. Did you know whether or not the Lucke well was then shut off?

A. It was shut off about the 24th, I believe.

Q. The 24th of when?

A. Of March.

Q. 1961?

A. Right.

37 7014

Q. How long did your No. 4 well stay dry? How long was it not flowing water?

A. It started, the re-flow started about the 1st of April.

Q. During the month of March were you using the No. 17 well?

A. No, we were not.

Q. Do you recall the situation as far as the flow of these wells during the 1961 irrigation season?

A. Yes, they were low. They never did come up to what they had been, and it was in May - Now, these wells, this was the first time they had never flown, and it was along the middle of May that the No. 4 well ceased to flow again.

Q. Do you know whether or not the Lucke well was on at the time?

A. No, I wasn't aware what was happening to it.

Q. Did the No. 4 well resume flowing again in May of that year?

A. Yes, at the last of May it started back again.

Q. But you have no knowledge or recollection of what the situation was at the Lucke well during the month of May?

A. No, I didn't observe it so I have no idea what was taking place.

Q. What was the situation with Well No. 17 during the year 1961?

A. Well, it wasn't any good actually for supplemental water - We didn't - -

Q. Was that during the entire 1961 season?

A. Yes, it was pretty low all year.

Q. Prior to 1961 had you had that problem with either of those two wells?

A. No, this is the first time we ever had not been able to irrigate with them.

Q. What was the situation in 1962 through 65?

A. As near as I can recall, it was - they were fairly normal. They were

consistent between the two of them about what they were measured.

Q. And what was the situation in 1966?

A. This was another low water year.

Q. What - do you recall any measurements of the flow of water from these two wells in 1966, or anything that may have occurred as far as their flow that year?

A. In the No. 4 well all we could use it for was stock water. There was not enough for irrigation. No. 17 was better than the No. 4 by - oh, quite considerably.

Q. What was the situation in 1967?

A. We had a reasonably decent water year in 1967 so we were in good circumstances.

Mr. Coleman: I have no other questions.

Cross examination by Mr. Ringert.

Q. Mr. McGonigal, there are other artesian wells in this area between, lets say between Big Wood River and well, the place where the Baldwin property is located over east of Picabo are there not?

A. Correct.

Q. In the spring, or late winter of 1961, when you had the flow stop in No. 4 well, did you examine all of the other artesian wells in this basin to determine whether they were capped?

A. In our immediate area, yes sir. They were.

Q. Now which ones did you examine?

A. We made a survey and measured these wells and it was Clark's wells, Blincoe's and Bettis, the Gome's well, and the Worth's and the L.D.S. property.

Q. Were they all shut down?

A. Yes, there were some of the wells that had a trickle. They were using them for stock water but there was no great amount of water coming from any of them.

Q. Now, I got the impression that you weren't greatly concerned the last time your water got low in No. 4. My recollection is that you testified that either in 1966 or 1967 you experienced a low flow in No. 4, but you didn't go down and check the Baldwin well at that time or this Lucke well.

A. In 1966.

Q. Was that 1966? My notes aren't straight on it.

A. I don't understand your question. What year again now?

Q. Well, one year, it was either 1966 or 1967, I believe you testified that you experienced a low rate of flow in No. 4 well, and in response to another of Mr. Coleman's questions you stated at that time that you had not gone down to examine the Lucke well, or the Baldwin well.

A. That's right.

Q. Which year was that?

A. This was 1966.

Q. That was in 1966? Then I believe your description of 1967 was that it was a pretty decent water year.

A. Correct.

Q. What prompted you to protest the Baldwin application here if you weren't concerned in 1966 about whether the Baldwin well was on or off at the time you were experiencing low flow in your No. 4 well?

A. We had previous facts on what had happened to these wells when the Lucke well came in.

Q. How deep is the No. 17 well?

A. As I recall, 154 feet.

Q. And No. 4?

A. 163 feet.

Q. Cased all the way?

A. Yes.

Q. Solid casing, or no perforations?

A. No. perforations.

Q. Have you ever put a pump in either one?

A. No, we have not.

Q. Has there ever been a time when you couldn't see water in either of the wells when you had the valve open?

A. They have an elbow on them, so you can't look down them.

Q. I see. Has there ever been a time when the flow just completely stopped and you didn't even get a trickle?

A. Yes.

Q. When was that?

A. This was in 1961.

Q. What time of year was it?

A. Around the 24th of March and also in the middle of May, probably around the 16th I would imagine.

Q. Now, on those occasion did you make an attempt to determine how far down it was to the static water level in the well?

A. Yes, not far - 6 inches.

Q. 6 inches?

A. Yes, 6 inches below the top of the valve.

Q. At that period of time we were checking real close so we took the elbow off to see where the water was. It was the lowest point that we had measured in the middle of May, was 6 inches below, the valve.

37 70..

Q. How far does that casing or the valve assembly stick up above the ground surface?

A. About 24 inches.

Q. So actually your static water level was about 18 inches above the ground level at that point?

A. Correct.

Q. And that was in No. 4?

A. Yes.

Q. What observation did you make in your No. 17 well in 1961 with respect to location of the static water level?

A. Again, it had the elbow on so we never could get it off to measure it.

Q. I see. Did you ever try to run a cord down there or anything of that nature on it?

A. No.

Q. Now how does that elbow mount on to the casing in No. 17?

A. There is a nipple comes out of the valve and then an elbow 90° and then a pipe probably 2 feet long coming from that.

Q. Can you take the whole valve assembly off the casing? Is it threaded on?

A. Yes, they are threaded.

Q. You didn't attempt to take that off when you experienced flow stoppage in 1961?

A. No. other than in 4. Now we did this in 4.

Q. Yes, I was referring to No. 17. I believe that is all.

Mr. Coleman: Mr. McGonigal, in 1966 did you know by hear say or otherwise that the Baldwin well was flowing?

Mr. Ringert: Now I object to any answer that he might give that is based on heresay.

Mr. Higginson: I think you can ask him if he knows whether the well was flowing.

Mr. Coleman: Do you know if the well was flowing in 1966?

Witness: I saw it flowing once. That's all.

Mr. Ringert: When did you see it flowing?

Witness: When I went to Picabo and I don't know what time of the year it was.

Mr. Ringert: What year are we talking about?

Witness: 1966.

Mr. Ringert: You have no idea what time of the year it was?

Witness: No.

Mr. Ringert: Thank you. That's all I have.

Mr. Higginson: Could I ask you one question, Mr. McGonigal? You indicated that 1966 was a low water year. By that expression what do you mean?

Witness: In the well. In other words the wells were not flowing normally.

Mr. Higginson: Was it a low water year generally in the valley as far as surface water and springs, streams were concerned also?

Witness: Our surface water was pretty good.

Mr. Higginson: In 1966?

Witness: Right.

Mr. Ringert: Now, that raised another question in my mind if I might. Was the underground water supply generally low throughout the area in 1966?

Witness: I think it was.

Mr. Ringert: Thank you.

37 7014

Mr. Higginson: Thank you, Mr. McGonigal. I believe you may be excused.

Mr. Coleman: I call Mr. Joe Wurst.

Mr. Wurst after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. Joe Wurst.

Q. Where do you reside, Mr. Wurst?

A. Gannett, Idaho area.

Q. You have before you Protestant's Exhibit No. 8. Does that map show land that you are interested in either as operator or owner?

A. Yes.

Q. Do you own those lands?

A. My father does.

Q. Do you operate the lands?

A. Yes.

Q. How long have you operated this property?

A. I have been there all my life, except when I was in the service.

Q. Do you have any artesian wells located on that property?

A. We have four.

Q. Would you take the pen that is there and mark them Nos. 18, 19, 20 and 21?

(Witness marks Exhibits.)

Q. Do you have them all marked?

A. No, I am trying to figure out where one of them is, that is, I am trying to get a reference mark.

(Discussion of the record).

Q. Do you recall Mr. Wurst, when Well No. 18 was drilled?

A. 1948.

Q. What size casing?

A. Eight.

Q. Eight inch?

A. Eight inch, 160 feet deep and it flowed 90 inches.

Q. Now, No. 19 when was it drilled?

A. 1949.

Q. And how many inches of water?

A. 180 feet deep and flowed about 30 inches.

Q. And what size casing?

A. Six.

Q. No. 20?

A. No. 20 - 1948 - flows about 30 inches and around 150 feet, something like that.

Q. And what size casing?

A. Six.

Q. No. 21?

A. It's 1958 - 150 feet - flows 320 inches.

Q. What size casing?

A. Eight.

Q. You are familiar with the location of the Lucke or Baldwin well?

A. Yes.

Q. In 1961, in March, were any of your wells flowing at that time?

A. No.

Q. Were any of them flowing in May of 1961?

A. Well, wait a minute here. One of them flows for domestic use and stock water.

Q. Did you notice any change in the flow of that well in March?

A. I couldn't say.

Q. How about in May of 1961?

A. Yes, they were down.

Q. All of them?

A. All of them.

Q. What was the situation in 1966?

A. They were all down again.

Q. How many acres of land do you irrigate from these wells?

A. Every one of these wells that are drilled were developed for land that has never had water or no deeded water, whatsoever.

Q. There is no other water?

A. There is no other water.

Q. How many acres do you irrigate from these four wells?

A. Well #18--approximately 90 acres.

Q. 90 acres from well 18?

A. Yes.

Q. Well 19?

A. It helps supplement another well and it is possibly 100 acres, 90 to 100.

Q. Which well does it supplement?

A. The last one, 21.

Q. Now, between Well 19 and 21 you irrigate 100 acres?

A. I would say approximately 100 acres.

Q. And No. 20?

A. About 8 acres.

Q. About 8 acres? Which well do you use for domestic purposes? 37 7014

A. That would be the one.

Q. This one?

A. That one for stock water too.

Q. No. 20?

A. No. 20 - no, wait a minute, excuse me, No. 19.

Q. No. 19?

A. No. 19 is the one we use in the wintertime.

Q. I see, then is No. 20 and 21 hooked together to irrigate one?

A. 20 is hooked directly on to the pipe line that would pump in and 21 is diverted back out of the creek to the pump.

Q. Is that for the same pipeline?

A. By the same pipeline.

Q. So 20 and 21 irrigate the same land, is that correct?

A. Yes.

Q. And those would be the two that irrigate 100 acres, and Well No. 19 would be the well used for stock water and domestic purposes and irrigation of 8 acres?

A. Yes.

Q. I don't recall whether I asked you. Was the flow from these wells lower than average in 1966?

A. Yes, they definitely were.

Q. During 1966 did you ever observe the Lucke or Baldwin well flowing?

A. Let's not kid ourselves. Every time the wells go down you start to look to see what's happening. Yes, it was flowing.

Q. When your wells were down then that well was flowing, was that the situation?

A. Yes.

Q. What was the situation in 1962, 63, 64?

A. What are you referring to?

Q. Were your wells down or were they about normal those years?

A. Well, I don't want to change your questions, but in order to answer it, I would say they were definitely down. Every time there was a new well drilled we could tell the difference.

Mr. Coleman: I don't believe I have any other questions.

Cross-examination by Mr. Ringert.

Q. Mr. Wurst, when did you turn your irrigation water on in 1961, do you recall?

A. Well, that's a good statement, if you recall. It depends on the season, and it ranges anywhere from the 1st of May to the 1st of June. I wouldn't care to say just exactly what day we turned it on.

Q. When you first turned on in 1961 so you recall what kind of flow you got from each of your wells?

A. Yes. You want to keep in mind that every time one of these wells is turned on in the spring of the year they are somewhat weaker. It takes a while for them to build up pressure. At least that's our experience. It may take two or three days and it may take a week. It takes a short time for it.

Q. Well, after you turned on in 1961 did you at any time detect during a short period of time a drastic reduction from the flow of the 4 wells?

A. Yes. We can definitely on the first well, we will refer back to No. 18. We felt real fortunate that we had enough water that when we applied for the license for it we had an inch per acre, and it has always been our practice the minute we were through irrigating the property or ground that each one of these wells or licenses we would shut it off as

we felt it was just as much interest to us as our neighbors to conserve that water. At that time on 90 acres we didn't notice it so much on the first cutting of hay or the grain the first part, but when it came time for the second crop of hay we were down. We just couldn't run enough water or have enough water available to irrigate the hay to give us an average crop.

Q. This was in 1961?

A. In 1961 and that also pertains to 1966.

Q. When do you put up your first cutting?

A. That depends on the season again, but we usually start in any time after the 25th of June.

Q. Your first irrigation for second cutting would follow - -

A. It follows the bales out of the field.

Q. So your irrigation for second cutting would probably have commenced about June 25th.

A. No. We commence cutting our hay, possibly around June 25th, and then you had better give us a week or maybe ten days to get organized.

Q. All right I'll buy that. So your irrigation for second cutting would start some time after July 1st.

A. Yes. Let's say in the neighborhood of July 10th, give or take a few days.

Q. Do you recall any difference in timing with respect to 1966?

A. You mean prior to 1966?

Q. No. Would your timing situation on irrigation been about the same in 1966 as it was in 1961?

A. I would say so, yes.

Q. And your water shortage occurred then, primarily at least, after July 1st?

A. Primarily.

Mr. Ringert: I believe that is all.

Mr. Coleman: We have no other questions.

Mr. Higginson: Thank you, Mr. Wurst. You may be excused.

Mr. Coleman: We will call Mr. Harold Johnston.

Mr. Harold Johnston after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. Harold Johnston.

Q. Where do you resdie Mr. Johnston?

A. Speaking for the Wood River Ranch Company, Bellevue.

Q. And is the Wood River Ranch Company a corporation?

A. Yes.

Q. And you are a stockholder in this corporation?

A. I am a stockholder and also Vice-President.

Q. You have before you Protestant's Exhibit No. 8. Do you have any artesian wells on this property that is owned by the Wood River Livestock Company?

A. One.

Q. Would you locate on that map and mark it No. 22? How long have you owned this property, Mr. Johnston?

A. Since 1966.

Q. Since 1966?

A. Yes.

Q. Who did you purchase the property from?

A. Joe Leek and Mr. Bingham.

Q. When you purchased this property did you have any records on

information as to the amount of water this well would produce?

A. We were informed that it would produce -

Mr. Ringert: Just a minute please, it sounds like a hearsay answer. I would object unless he can testify from his personal knowledge.

Q. Have you ever observed this well prior to the time you purchased the property?

A. No.

Q. Do you know if this well is licensed?

A. Yes.

Q. Do you know how much it is licensed for?

A. 150 inches.

Q. During 1966 did you irrigate from this well?

A. No.

Q. Why did you not irrigate from the well?

A. There wasn't enough water to irrigate from the well. I run about 250 cows over there and they drank it.

Q. Did you have the same situation in 1967?

A. No. In 1967 we irrigated from the well.

Q. What size casing is there in this well.

A. 16 inch.

Q. How deep is it?

A. 202 feet which is hearsay evidence again.

Q. I have no further questions.

Mr. Higginson: Excuse me Mr. Ringert, but may I interrupt at this point and change the tape.

Cross-examination by Mr. Ringert.

37 7014

Q. Do you know when this well was drilled, Mr. Johnston?

A. We were informed it was drilled in 1961.

Q. In 1966 it was flowing some small quantity that you utilized for livestock water?

A. Yes.

Q. Was the valve full open?

A. It has no valve. It has a plate you bolt down over the top of the casing.

Q. I see. And that plate was swung back?

A. That plate was taken off. Water would run up and just run over the pipe.

Mr. Ringert: That is all I have.

Mr. Higginson: Thank you Mr. Johnston.

Mr. Coleman: We will call Mr. Blincoe.

Mr. E. J. Blincoe after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name please?

A. E. J. Blincoe from Heyburn, Idaho.

Q. Do you own any property in Blaine County?

A. I do.

Q. Is it shown on Protestant's Exhibit No. 8?

A. Yes sir.

Q. Are there artesian wells situated on that property?

A. There is.

Q. And are they the wells that are located on Exhibit 8 as 5 and 6?

A. Yes sir.

37 7014

Q. And they are to the best of your knowledge correctly located on that map?

A. I believe so.

Q. With regard to well No. 5, how large a casing does it have?

A. 6 inch if I'm correct.

Q. And well No. 6?

A. Is 8.

Q. Are these artesian wells that flow water?

A. Yes sir.

Q. And do you irrigate from these wells?

A. I do.

Q. Do you have any other water rights on your land?

A. Yes sir.

Q. Then I take it you use these wells for supplemental purposes?

A. Right.

Q. Are these wells licensed do you know?

A. One of them is.

Q. One of them is licensed. Which one would be licensed?

A. Well, it is a matter of record, but I think it is 5.

Q. No. 5. How much is it licensed for?

A. 150 inches.

Q. And well No. 6 does that produce water?

A. Yes sir.

Q. And how much does it produce?

A. Approximately 200 inches.

Q. How long have you owned this property?

A. Since 1960, I think. That's also a matter of record. I am sure it is 60.

37 7014

Q. Did you observe these wells during 1961?

A. Yes sir.

Q. Did well No. 5 produce 150 inches of water at any time?

A. It did early in the season, yes.

Q. Did it continue throughout the season?

A. No.

Q. When you say early in the season, when do you mean?

A. I presume some time around the the 1st of July.

Q. What was the situation with well No. 6?

A. About the same you might say for both.

Q. Did you notice any fluctuation or changes in the water from either one of these two wells in May of 1961?

A. No, I can't say I do. We don't generally turn these wells on in May. We use the river.

Q. In 1966 what was the situation with respect to these wells?

A. Well, they got mighty short.

Q. Were they short early in the year or late in the year?

A. Well, as I say early in the season, we don't use these wells much. We have river water in the early part of June and we very seldom used them early.

Q. Do you graze livestock on this property?

A. I do.

Q. When do you normally put the livestock in there?

A. Some time around the 20th of May.

Q. And when do you normally take them out?

A. 1st of October.

Q. What was the situation in 1966?

A. We went the 1st of September.

Q. Why did you take them out the 1st of September?

A. Lack of feed.

Q. Were you short of irrigation water in 1966?

A. Very short.

Q. During 1966 did you observe the Lucke or Baldwin well?

A. No sir. I wasn't over there.

Q. Do you know whether or not either of these wells went dry in 1961?

A. Well, I wouldn't say they went absoutely dry, but I do know that this No. 5 well is hooked to the house as that is the way they get domestic water and you barely could get a drink. The pressure was that low.

Q. And that was in 1961?

A. Yes. And it is just about 150-200 feet to the house.

Q. Did you have the similar problem in 1962, 3, or 4?

A. No.

Q. Did you in 1967?

A. No sir.

Q. How about 1965?

A. No sir.

Mr. Coleman: No other questions.

Cross-examination by Mr. Ringert.

Q. Mr. Blincoe, do you recall how the 200 inch capacity was determined in well No. 6?

A. Well now that's a guess. As far as I know it has never been measured.

Q. Was that your estimate or somebody elses.

A. That was everybody's.

Q. I see. The consensus of the community, huh?

A. Yes sir.

Q. All right, that being the case I have no questions.

Mr. Higginson: Thank you, Mr. Blincoe. I believe that's all.

Mr. Coleman: We will call Mr. Bettis.

Mr. Harry Bettis after being duly sworn was examined by Mr. Coleman and testified as follows:

Q. Would you state your name?

A. Harry Bettis.

Q. Where do you live Mr. Bettis?

A. Twin Falls.

Q. You have before you Protestant's Exhibit No. 8. Do you have an interest in any of the property shown on the map?

A. Well, I have a contract of sale - yes.

Q. Under whose ownership is that shown on the map?

A. E. Hadley Stewart.

Q. And you sold that on contract to Mr. Stewart?

A. Yes.

Q. Are there any artesian wells situated on that property?

A. Yes, sir. There are 6.

Q. When did you sell that property to Mr. Stewart?

A. November 1, 1966.

Q. Would you take the pen there and mark the location of those six wells on there to the best of your knowledge?

A. What number?

Q. Start with No. 23. (Witness marks exhibit) First, Mr. Bettis, how long did you own that property?

A. I owned 320 acres of it only 4 years and the rest I owned for 9 years, and my father owned it before me.

Q. With regard to well No. 23, what size casing does that have?

A. That has a 6 inch casing.

Q. Is that well licensed, can you recall? I take it some of those wells are licensed and some are not.

A. This is true. I believe that the Gomes wells, or the ones on the Gomes property were all licensed.

Q. Is No. 23 on the Gomes property?

A. No. 23, 24, 25 are on the Gomes property.

Q. If they are licensed, they would be licensed under the name of Frank Gomes?

A. Yes, sir.

Q. Do you know how much water that well would have been licensed for?

A. I don't know exactly, but is somewhat over 100 inches.

Q. Now well No. 24.

A. Well No. 24 is just about 100 feet from 23 and it was licensed and it would be on the record but it's about 50 inches.

Q. What size casing?

A. 8 inch casing.

Q. Well No. 25?

A. It is a 6 inch casing and it was approximately 190 inches, more or less.

Q. No. 26.

A. No. 26 is a domestic well at the headquarters of the ranch?

Q. What size casing?

A. 6 inch.

Q. Was any water used, when you owned the ranch, from that well for irrigation purposes?

A. No.

Q. Well No. 27?

A. Well No. 27 is a 6 inch casing and it is located at the far northern line.

Q. It is a 6 inch casing?

A. Yes.

Q. How much water is that one licensed for or produces?

A. It is not licensed. It is, there is two or three categories, but I think it is something applied for.

Q. There has been an application made?

A. Some kind of an application. I think the application was put in for about 45 or 50 inches.

Q. Is that approximately the amount of water that it produced?

A. Yes.

Q. Now well No. 28?

A. It is an 8 inch casing and it is a little bit over 100 inches.

Q. Now these amounts of water from these various wells they represent either licensed amounts and/or amounts that the wells would normally flow during the irrigation season, is that correct?

A. That's right.

Q. Were you running this ranch in 1961?

A. Yes sir.

Q. Did you have knowledge in 1961 of the existence of the Lucke well?

A. Yes sir.

Q. At the time the Lucke well was flowing, in March, of 1961, were any of your wells flowing?

A. No, we never turn any of our wells on either until we needed the water.

37 7014

Q. I take it, you would have been using the domestic well at that time in March?

A. I don't believe we had the domestic well. I would have to look and see what year it was drilled, but I am not positive.

Q. Do you recall whether or not you were using any of these wells in May of 1961?

A. No, we wouldn't use any in May, our water, we usually don't start our water until the 20th.

Q. In 1961 did your wells produce the amount they normally produce?

A. No.

Q. Well No. 27 never produced enough water to irrigate with in 1961. Well No. 28 usually produced about a ditch full of water, and after the 15th of July it produced about enough to run one line of sprinkler pipes and we got by that way.

Q. Would that have been half as much or 2/3 as much?

A. It takes somewheres between 30 or 40 inches to run, so it would be somewhere between 35% and/or 40%.

Q. What was the situation with the other wells that year? Did you own the Gomes property at that time in 61?

A. I am not sure whether I bought in the spring of 1961 or 1962. No, I didn't own it.

Q. So you don't have any first hand knowledge of the Gomes wells in that season?

A. The one was right on the road, we had to go by every day to get in and out of the ranch and it was down almost half.

Q. That would have been Well No. 23?

A. 25.

37 7014

Q. And what about the other two Gomes wells?

A. The other two I wouldn't know.

Q. What was the situation in 1962, 1963 and 1965?

A. Those years we all had plenty of water.

Q. Your wells were running a normal amount those years? What was the situation in 1966?

A. In 1966 the No. 25 well was down I would suppose to about 2/3 and the No. 28 well we had, we never could get water out of it to irrigate the piece of ground we used it for and we had to add water with it all the time. No. 27 never did run enough to irrigate anything.

Q. Then No. 28 and 27 you couldn't get enough water to irrigate out of those during that season?

A. No. 28 you could get enough, about half enough, and 27 run about enough for stock water.

Q. Was this throughout the season, throughout the irrigation season?

A. Well, I don't know because we all knew we were going to be short and we used the river water as much as we could so that we could save the others.

Q. Were you familiar at all with the Lucke or Baldwin well in 1966?

A. I looked at it several times.

Q. During the irrigation season?

A. Yes.

Q. Was it flowing at the times you observed it?

A. It was - I observed it flowing some times and some times I didn't. I go back and forth on that road quite a bit.

Q. You don't recall how many times you observed it flowing?

A. No.

Q. Was it flowing more of the times you observed than not?

A. I wouldn't say.

Mr. Coleman: We have no further questions.

Cross-examination by Mr. Ringert:

Q. Harry, I didn't get what your production was in No. 25 in 1966?

A. It was about 2/3 of what it normally was.

Q. And No. 26 during that same year?

A. No. 26 we never noticed, it was just for domestic.

Q. How about 23 and 24 in that year, 1966?

A. We had about 1/3 of the stream of water.

Q. When did you turn on when you had the ranch there, what time of year in 1966, do you recall? Turn on your well water that is?

A. We didn't have river water - we would turn in on some time in May. In fact that year I know it was early because it wasn't too good. I suppose it would be the 20th of May.

Q. All your irrigation wells?

A. No the ones on the Gomes place. 23, 24 and 25.

Q. How about the ones down on the home place?

A. I presume in June some time.

Q. The middle?

A. Maybe - bear in mind this, they were never on consistently. They're on and then they are off.

Q. You irrigate the area they are designed for and then you shut down for a while?

A. Yes, we use them as little as possible.

Q. I see. Now, in 1961 what was your turn-on sequence for the wells on the home place if you recall?

37 7014

A. They would have been approximately the same.

Q. You mentioned that you observed No. 25 on the Gomes place down about half during 1961. Do you recall what time of the year you made that observation?

A. It went down after he cut the first crop of hay, why he never had the water. This well is on and off - it's never - its just - -

Q. That would be some time in early July then that it started down to half.

A. I wouldn't say it ever was up where it should be because I know the State Reclamation man of geology or something, measures this well every month.

Q. No. 25?

A. Yes, he measures it every month and every one watched it, I mean it was something of interest.

Q. A gage for the area was that what it was?

A. Well, it tells you a little bit what is going to happen, and I know that year it never got up the way it was suppose to and it got down. It didn't get as low then as it did in 1961, but it got away down.

Q. 1961 is the one I am talking about, when you made your observation, when you observed it down about half that would have been after the first cutting of hay, is that right?

A. Yes, some time around there.

Q. So that would put it some time around or after July 1st?

A. Yes.

Q. Do you know how deep these wells are, Harry?

A. No. 26 is 100 between 100 and 105 feet.

37 701

37-7014

Q. No. 27?

A. 26 is the only one that I drilled. I think 27 and 28, I think 27 is some where in the neighborhood of 140 and 28 is some where in the neighborhood of 130. You would have to look it up on the record.

Q. Now the flow on No. 27, I didn't get that. Did you say 45 to 50 inches?

A. Yes. That's when everything is ideal.

Q. What is the first time you recall seeing that much flow in No. 27?

A. It was drilled in 1948, I believe, in the Fall of 1948 or 49 and the first time I saw it would have been in June of the next year.

Q. When was No. 28 drilled?

A. Just as quick as they got done with No. 27.

Q. So you would have had water in it in the 1949 irrigation season?

A. Yes.

Q. Would that have been your first observation of this amount?

A. Yes, I suppose.

Q. Are they measured, or are these estimates?

A. They were measured. Who measured them I don't know. They were measured when they brought them in in the fall.

Q. At these figures?

A. They were measured and they had an exact figure. It was least somewhere in there.

Mr. Ringert: That is all I have.

Re-direct examination by Mr. Coleman:

Q. These figures on this well Harry, to the best of your knowledge in irrigation that would have been the flow from those wells, is that correct?

A. Yes.

37 7014

Q. And that would be based on your experience?

A. Yes.

Mr. Higginson: Mr. Bettis, you indicated that somebody measures this well monthly or periodically, and inferred that it was the Reclamation Department.

A. No. It is the U. S. Geological Survey.

Q. Now they report a well located in NE¼NE¼, Section 14, Township 1 South, 18 East, would that be the well?

A. Yes.

Q. Their report - would you know of any other well in that quarter?

A. No. There is one away over here some place.

Q. Then the hydrographs of the U.S.G.S., which are contained in the various reports that we stipulated entering here would pertain to the well you are talking about?

A. I believe so.

Mr. Ringert: I didn't get the legal on that.

Mr. Higginson: NE¼NE¼, Section 14, Township 1 South, Range 18 East.

Thank you Mr. Bettis. You may be excused.

Mr. Nelson: At this time we would like to enter a formal appearance for protestants Walter Nelson, Veral Loveland, and Baseline Cattle Company, but we won't present any evidence on their behalf.

Mr. Higginson: May I have those names again?

Mr. Nelson: At this time we would like to recall Mr. Baldwin for the completion of his cross-examination.

(Recess taken)

Mr. Higginson: Mr. Baldwin would you come back up for cross-examination?

Cross-examination of Wayne Baldwin by Mr. Nelson.

37 7014

Q. You are the same Wayne Baldwin that was previously sworn and testified?

A. Yes.

Q. Have you had a chance since I was previously questioning you to look at the record of the watermaster that has been introduced?

A. Yes.

Q. We will start with Protestant's Exhibit 7, relating to 1967. What does that show as far as transfers of water from the Lucke well into Silver Creek down to Lawson 24?

A. Well, it shows that it was transferred.

Q. How many days?

Mr. Ringert: The exhibit will speak for itself.

Mr. Nelson: Well, I am trying - it does show that there were 3 days that transfer was put into that record. Is that correct?

Witness: That's what this record shows.

Q. How does your recollection square with that record?

A. I was thinking it was 6 days, I could be wrong.

Q. What was the situation in 1966 with relation to transfer water from what has been called the Lucke well and the Baldwin well into Silver Creek and down to Lawson No. 24?

Mr. Ringert: Mr. Higginson, we've got the watermaster's records on this thing. I again fail to see any relevancy in these questions pertaining to water delivered into Silver Creek, co-mingled and taken out through Lawson 24. It doesn't have anything to do with this application for permit.

Mr. Higginson: I think again, Mr. Ringert, going back to our original discussion prior to setting the hearing, insofar as it might be possible to demonstrate that by reason of past use of the well in the manner in

which this application proposes to use the well, there has been an interference of other rights, that point becomes pertinent and I think if Mr. Baldwin's recollection is different than what the watermaster record shows then we should know that too, so if that what we are arriving at Mr. Nelson, I would over rule the objection.

Mr. Nelson: I think my question was what was the situation in 1966 with relation to taking water from the Baldwin well, putting it into Silver Creek and taking it out of Lawson 24, was that done in 1966?

A. Yes.

Q. To what extent?

A. I would have to look at the records to get that.

Q. The best you can recall, realizing of course it is an estimate.

A. Well, several days.

Q. A month?

A. Possibly more. You would have to look at the records.

Q. About when was the well turned on in the Spring?

A. Again, to be exact, I would have to refer to the record.

Q. Can you give me an approximation?

A. It would just be a guess, probably some time the fore part of June.

Q. Now what was the situation regarding the overall use of the Baldwin well that year, both transfer down Silver Creek and used on the land around the well that subs?

A. Well, we used to supplement the water right from Silver Creek.

Q. Did you use it on the land around the well itself?

A. Yes, some, yes.

Q. What would be your present estimates, and I realize that is all it would be, concerning how many days that well was operating during 1966.

37 7014

A. I believe the records will show that.

Q. Do you have any estimates?

A. No.

Q. Do you have any estimate of how many days it would have been used just on the land around the well itself?

A. Several.

Q. A month?

A. Possibly more. You would have to look at the records.

Q. About when was the well turned on in the Spring?

A. Again, to be exact, I would have to refer to the record.

Q. Can you give me an approximation?

A. It would just be a guess, probably some time the fore part of June.

Q. Now what was the situation regarding the overall use of the Baldwin well that year, both transfer down Silver Creek and used on the land around the well that subs?

A. Well, we used it to supplement the water right from Silver Creek.

Q. Did you use it on the land around the well itself?

A. Yes, some, yes.

Q. What would be your present estimates, and I realize that is all it would be, concerning how many days that well was operating during 1966?

A. I believe the records will show that.

Q. Do you have any estimates?

A. No.

Q. Do you have any estimate of how many days it would have been used just on the land around the well itself?

A. Several.

Q. A month?

A. I don't think so that long. No.

Q. Now, looking at - Protestants' Exhibit #5, relating to the year 1965, it shows 8 days of water through Lawson 24 purporting to come from the Lucke well. How does that correspond with your recollection of how many days water would have been taken from the Lucke well into Silver Creek and down through Lawson 24?

A. That was probably right according to this record.

Q. Does your recollection indicate that that comes pretty close?

A. Yes.

Q. All right, I will show you Protestants' Exhibit No. 4 and it purports to show water transferred to Lawson 24 from the Lucke well for about ten days commencing about the middle of September. How does that conform to your recollection of the transfer of water from that well into Silver Creek?

A. Yes.

Q. Would that be about right as you recall?

Mr. Ringert: What year is this?

A. 1964.

Q. That would have been the only water taken from the Baldwin well into Silver Creek and down to Lawson 24 in 1964?

A. Yes. We just used it for supplemental water.

Q. All right. Protestants' Exhibit No. 3 relating to 1963 shows 8 days of well water evidently delivered through Lawson 24, with no sources shown, commencing, I believe the latter days of May. What was the source of that one?

A. Well, I can't rightly say. It isn't even on the record here.

Q. Do you have any recollection of where you would have gotten it?

A. No, not this very water on this record.

Q. How much, according to your best recollection, now, if any, was water

taken from the Lucke well into Silver Creek and down through Lawson 24 during the year 1963.

A. I couldn't answer that exactly without looking at the records.

Q. I don't need an exact answer. I need your estimate, if you have one.

A. I don't have one.

Q. All right, in 1962, according to Protestant's Exhibit #2 shows about 10 days of water purporting to come from Rogers artesian well. In 1962 did you take water from the Lucke well down through Lawson 24?

A. I don't think so.

Q. I don't believe I asked you, but did you take water from the Lucke well, into Silver Creek and down to Lawson 24 in 1963?

A. I believe the records show that, yes.

Q. All right, Protestants' Exhibit #1, purports to show, under heading of Lucke Artesian delivered to Baldwin Brothers, less 10%, 6 days of transfer in May? Is that consistent with your recollection?

A. Is that 1961?

Q. Yes.

A. That is approximately right 5 or 6 days.

Q. And no other time that year was water taken from the Lucke well down to Lawson 24?

A. Not to my recollection.

Q. The application we are considering here, No. 37 - 7014, she asks for an appropriation of, if I am not mistaken, 5 second feet. Do you still have that in front of you?

A. Yes.

Q. How was the figure 5 second feet arrived at?

37 7014

A. That is sufficient to irrigate our ground with other water rights that we have in Silver Creek.

Q. The water you have available from Silver Creek varies from year to year and period to period within a year?

A. So that was just an estimate of what you think in a normal year you could use?

Q. Yes. From being on the flat property for 20 years.

Q. Now you have heard some of the protestants testify that in using their artesian wells they turned them on and used them what they needed and turned them off.

A. Yes.

Q. Is that consistent with the way you would have operated the Lucke well as concerns the land immediately around it?

A. Yes. There is no object in letting it run, if you don't need it for beneficial use.

Q. So it is not on all the time.

A. No.

Q. So I take it, that the granting of this application would require that that well run during periods when it would not otherwise run if the water was only appurtenant to the land around the well itself?

Mr. Ringert: I object to that question. It is argumentative.

Mr. Nelson: I will re-phrase it. Would it be accurate to say that granting of this application would require that that well operate more than it otherwise would?

A. Well, owning the well, we try to put the well to the best beneficial use, as we have on all the property we own.

Q. But the question is, if the water remained only appurtenant - well -

let me put it this way. This water you only want to transfer water down the creek is excess to your needs to the property right around the well. Is that correct?

A. Yes.

Q. So then if that water is excess you would not be running the well? Is that correct?

A. Would you re-phrase that again?

Q. If the water you seek to transfer is excess, then in order to have water available to transfer down the creek, you wouldn't have to have the well running for land around the well itself, otherwise, the water wouldn't be excess.

A. Yes.

Q. So then I take it, the answer the question that granting of this application would require the extra operation, or flowing of that well, the answer to that question is yes, is it not?

A. Yes.

Q. In the past while you were taking water from the Lucke well and transferring it down through Silver Creek down to Lawson 24, was any of the water thus taken down through Silver Creek used on any land down there other than described in your application?

Mr. Ringert: I object to that. It doesn't go to prove a thing. He's got testimony and evidence in the record that shows how much water was taken from the well. That is what the issue is.

Mr. Higginson: I sustain the objection. I don't think it is material as to where it is used. The question is what is the result of the use.

Mr. Nelson: I don't believe we have anything further.

Redirect examination by Mr. Ringert.

Q. Wayne, do you recall how much - when did you first start operating that land that this well is located on, this land in Section 20, 1 South, 19 East.

A. Where the well is?

Q. Yes.

A. In 1964.

Q. And, do you recall how much use you made of that well on the property you are buying from Mr. Lucke during 1964?

A. Very little.

Q. How much use of it did you make of it on this property during 1965.

A. I couldn't give an exact amount but we used it there on some crops.

Q. What crops? Do you recall?

A. Grain crops and some pasture.

Q. Did you use the water from this well on the land where the well is located in 1966?

A. Yes.

Q. Do you recall how much?

A. Just about, approximately 15 acres. The reason for that, the property was too wet to work in.

Q. In 1966?

A. No, we had grain on it in 1966. Yes, we had grain in 1966. We had roughly, couple of hundred acres.

Q. Do you recall how many days you had water flowing from this well during 1966?

A. I couldn't tell you exactly the amount of days there. We pumped water on it with a sprinkler from the well.

Q. Do you have any recollection at all of how many days?

A. Possibly all together about 60 days.

Q. During 1966?

A. Yes.

Q. Now, do you recall how many days you used water from the well on the property where the well is located during 1967?

Mr. Nelson: Was that 1967, Bill?

Mr. Ringert: Yes.

A. Approximately 10 or 12 days. We watered that one pasture two or three times. The rest of the property wasn't planted. It was too wet to work.

Q. That was 1967?

A. That was 1967.

Q. Now, what factors determine whether or not you use water from this well on the property where the well is located for irrigation purposes?

A. We will use it there when it is needed there. We will put that ground in permanent pasture and there will be years when we won't even irrigate at all.

Q. Why not?

A. Too wet.

Q. How does it - How do you encounter a condition there where it is too wet to permit irrigation?

A. Well, that is why we want to put it in permanent pasture.

Q. How does the ground get wet during those years?

A. From sub - water subs to the top of the ground.

Q. Clear to the ground surface?

A. Yes. There will be puddles of water. You can't even drive the cat through. You will mire a cat. We stuck a cat on the property there everytime we have worked it since 1964, every year.

Mr. Ringert: I believe that is all.

Recross-examination by Mr. Nelson.

Q. I have a question. From the line of Mr. Ringert, although he didn't ask this specifically, in 1966 as I got it, you first said it was too wet to work and then you corrected that, that was in 1967 it was too wet to work, is that right?

A. Yes. I believe we had grain in there in 1966.

Q. You said about 200 hundred acres?

A. Approximately. Yes

Q. What kind of grain?

A. Mixed grain and oats and barley.

Q. In 1965 then, if I got it right, you had it in grain and some pasture?

A. Let's see, in 1965 -

Q. I don't want to hold you to my notes, but that is what I wrote down.

A. Well, I would have to look at the records exactly to see how many acres we did have in 1965, we had one field in there. Ever since we bought the property we have tried to work on it and level it whenever time permitted that we could get at it so we gradually get it in permanent pasture.

Q. How did the area you had under irrigation in 1965 compare with the area you had under irrigation in 1966?

A. It is all the same.

Q. No, I mean area, was it more or less, the same or

A. We had more in 1966 than we did in 1965.

Q. Do you remember at what time during the year you bought the property in 1964.

A. Possibly May, what does the record show?

Mr. Nelson: The contract was the 30th of June, wasn't it?

Mr. Ringert: How about letting him refresh his memory?

A. Yes, 30th of June, 1964.

Q. I take it then you probably didn't get it early enough that year to do very much planting on it?

A. If my memory serves me correct, I think Ralph Lucke had some planting already done on that at that time. I won't say for sure on that, but I believe he did.

Q. And as I recall,your testimony was that you used the well very little in 1964 on the land right around it.

A. Yes.

Mr. Nelson: I can't think of anything further.

Mr. Ringert: Do you recall whether you actually took possession of the property before the contract was signed?

Witness: I don't think so, really.

Mr. Ringert: Okay, that's all.

Mr. Higginson: Mr. Baldwin, I have one question. In response to some of the questions you have been asked, you say, particularly with regard to how many days the well was used and where, you have answered by saying you couldn't tell without looking at the record. Do you have in your possession some record that would indicate when the well was used and where?

A. No. I was referring to the Watermaster's record,to be exact.

Q. You have no private record in your partnership which would show when and where the water was used and at what times.

A. No.

Q. So the record you are referring to in every case where you have been asked, you are talking about the Watermaster records.

Mr. Higginson: That is all I have. Thank you Mr. Baldwin.

Mr. Nelson: How much did we get on the record on how we limited, during the conference, the evidence concerning the validity of the existing license 29372.

Mr. Higginson: We didn't on the record, of this hearing we did not make a record of that. What our normal practice is, is to reduce to writing anything arrived at by agreement at a conference and submit it to the parties to see if that was their understanding of what happened at the conference which we would be happy to do. If you want to put it in the record by making a statement at this time and getting Mr. Ringert's concurrence, I would be happy to do that.

Mr. Nelson: I would like to make this statement - that because of the, it wasn't an agreement, I think it was more or less a ruling made at the conference which is not on the record, we have refrained from introducing or producing evidence which we have indicating that the Baldwin or Lucke well was improperly licensed, and that at no time prior the licensure had that much water been used on sufficient acreage around the well to justify licensing for that amount, 7.44 cfs. If I am right, and that we haven't waived or don't wish to be understood as waiving that position, but we have bowed to the ruling of the hearing officer so as to not unduly prolong the thing by offering the evidence and having it excluded.

Mr. Ringert: Well, on that point if we are to pursue it any further, I suspect that maybe we ought to check every license in this valley, as long as we are going to bring them into issue.

Mr. Nelson: I am just saying, I am not taking issue with what Mr. Higginson arrived at originally merely making the record complete.

Mr. Higginson: Is there anything further to be presented then here this afternoon? It is my understanding that we will arrive at a suitable time within the next short period of time at which Mr. Keith Anderson might be called as a witness in this matter and be examined. Do the parties have any one else, they, at this time, anticipate calling?

Mr. Nelson: We don't.

Mr. Ringert: I don't think so at this time.

Mr. Higginson: If there is nothing further then, we will recess the hearing concerning this protest until the further hearing to be called as agreed upon by the parties.

Mr. Nelson: Tentatively, the 2nd of May at 9 o'clock.

Mr. Ringert: In your offices in Boise.

Mr. Higginson: In my offices in Boise.

Mr. Nelson: Do you have a place we can have the hearing?

Mr. Higginson: Right.

Mr. Nelson: Okay.

Mr. Higginson: Thank you very much.

Whereupon the hearing was recessed.

Boise, Idaho, May 2, 1968.

Mr. Higginson: This is a continuation of the hearing that was held in Hailey, Idaho on April 24th concerning the application filed by Baldwin Brothers for appropriation of water from a ground water source. The hearing was continued to this morning's date so that additional testimony could be introduced. I believe the protestants have a witness they wish to call this morning.

Mr. Nelson: Yes, we will call Keith Anderson.

Mr. Nelson: At one time I think Mr. Ringert and I agreed that perhaps we could stipulate that Mr. Anderson is generally qualified by education and experience to testify as to ground water matters subject to specific qualification of knowledge of the area involved.

Mr. Ringert: With the reservation of right to cross-examine with respect to his qualifications in any other matter.

Mr. Nelson: And any other matter?

Mr. Ringert: I don't want to limit my cross-examination by this stipulation.

Mr. Nelson: Well, I think limited by the ordinary rules of cross-examination.

Mr. Ringert: Right.

Mr. Nelson: Okay.

Mr. Keith Anderson after being duly sworn was examined by Mr. Nelson and testified as follows:

Q. Would you state your name please?

A. Keith E. Anderson.

Q. Where do you reside Mr. Anderson?

A. Boise, Idaho.

Q. What occupation do you follow there?

A. I am a consulting engineer and geologist.

Q. In your occupation have you had occasion to become familiar with the artesian basin in Blaine County, located north of Timmerman Hill?

A. Yes.

Q. Under what circumstances did you become familiar with that aquifer?

A. It was prior to my work as a consultant, while I was employed with the Bureau of Reclamation as Regional Drainage and Ground-Water Engineer in approximately 1953-54, or when the Bureau of Reclamation was engaged in studies of the potential for irrigation or supplemental irrigation water in the Big Wood Valley, or that portion of the Big Wood River Valley. At that time the study was conducted somewhat jointly between the Bureau of Reclamation and the Geological Survey and I spent most of one summer in about that period of time with the Geological Survey personnel in the field on ground-water investigations that were primarily in the area south of Bellevue, north of Timmerman Hill in between roughly the Big Wood River or a little bit farther west on the west and on down east of Picabo towards Carey on the east. This program included quite a bit of field investigation of existing wells, ground-water conditions, the hydrology of the area. We drilled under contract, I think it was some 6 or 8 test holes, and in at least one instance we conducted some pumping tests to evaluate the availability of ground water as a source, or a part of the source of supply, for supplemental irrigation in that area. Since that time I have had some occasion, or numerous occasions, to be in the area physically and have made some additional studies in connection with this general artesian basin, starting in about 1961.

Q. Could you describe for us the area generally underlain by the artesian

aquifer?

A. I think it has to be considered maybe even a little bit wider in scope than - are you talking about what is the area physically?

Q. Yes, where is artesian aquifer?

A. The artesian area, or the area where the water occurs under pressure and generally flowing at land surfaces is in the southern part of this triangular area of the Big Wood Valley, with Bellevue at the head of the triangle and Timmerman Hill is at the base. I think it is shown in a preliminary fashion in one of the maps that appears in the Geological Water Supply Paper 1478. Generally speaking, the southern limit of the aquifer or the basin is the southern limit of the Topographic Basin, or the foothills to the south, and Plate 4 of that Water Supply Paper the artesian area is outlined with a heavy dashed line. This was prepared on information available in the early 1950s and subsequent drilling and development and has extended that area somewhat. It probably extends locally anyway almost as far east as Hay, westward in places even west of the Big Wood River. Generally not much north of the baseline in any area, although it would extend north of the baseline in the western part of the area, less likely to in the east.

Q. Would you describe for us the geology and hydrology of the aquifer?

A. The area geologically that we are concerned with is an alluvial basin, or an area basin that has been filled with alluvial deposits, chiefly sands and gravels very course in places, with the deposits becoming finer as you go southward toward the Timmerman Hills area. The boundary of this triangular area, both to the northeast and west and the south are much older consolidated rocks of rather poor water bearing characteristics. They are quite tight. Timmerman Hills area being primarily volcanics and the

areas to the east and west being primarily old metamorphic rocks. These allucial deposits were brought in from streams coming into the area from the north and, as I say, the deposits became finer down to silts and even clays in places at the lower end of the valley. The result of this has been to provide these lenses or layers of tight materials in the southern part of the valley which serves to act as a capping layer and trap the water or provides pressure then on the water that occurs underneath them in permeable zones. That's why the water in the wells in the lower part of the valley are flowing artesian wells whereas those in the north towards Bellevue the water would occur under just the water table conditions with essentially very course gravelly materials from the surface on down. A geological cross-section is also included in Water Supply Paper 1478 that would indicate this characteristic at the south where these fine deposits provide the artesian, or the necessary capping to provide artesian pressures. The source of water to this mass of sand and gravel in the valley is from several sources. Of course direct rainfall on the area which however is not too significant and primarily from the application of irrigation water in the upper part of the valley and the rather high seepage losses that occur in the canals and laterals across the upper part of the valley as well as some losses from the channel of Big Wood River itself. The effect then is that you have a large input of water to this sand and gravel reservoir every year commencing with the start of irrigation. The amount varying somewhat with the amount of water that is available for irrigation which is dependent on the run-off of Big Wood River which does not have storage upstream. The water percolates into these very permeable gravels and moves southward and under these clay or silt layers builds up an artesian pressure and at points where the water table intersects the land surface

37 7014

the water then re-appears as springs and seeps which collect and form the headwaters of Silver Creek and flow eastward through the narrow outlet near Picabo and on down to join the Little Wood River. Springs also occur to the west of Highway 93 and form Spring Creek and other channels that are tributary to the Big Wood River which again passes through a narrow outlet to the west and into Magic Reservoir. The water level in wells either under water table conditions or the water pressure in artesian wells will fluctuate somewhat depending upon the rate of the recharge or the application of this water in the upper part of the valley and similarly the flow of the springs that provide water for Silver Creek and for Spring Creek to the west will fluctuate or disappear and re-appear cyclically in accord with this application of recharge water, consequently the surface flow of Silver Creek and Spring Creek are quite highly variable. The low period in the water table in most wells or water pressure and also the low flow in the spring fed channels is generally just prior to the irrigation season or at the end of a water cycle in this valley with the flows beginning to build up then as irrigation waters apply which usually starts either in later April or early May, primarily through the district canal and the baseline canal but also some other canals and laterals, and then the peak in water levels and pressures occurring usually in the late summer or early fall and similarly the peak surface flows. There is a ground-water divide since there are two outlets, the one westward towards Magic Reservoir through the Big Wood and one eastward on Silver Creek toward the Little Wood River. A ground-water divide, which is a rather shallow one, the elevations of water table or pressures are not much higher along the divide than to either side, but this divide generally you might say follows Highway 93. It is probably a little

37 7014

bit to the east of the highway in some places. It is possible because of this data that can be collected on water level fluctuations and the flow in the creek and irrigation applications show very strikingly I think this relationship I discussed. It is quite a rapid one between the application of irrigation water and the re-appearance of water then down-stream in these surface channels.

Mr. Nelson: Does the artesian basin extend as far as Picabo?

Mr. Anderson: No. It wouldnt. It would extend - probably no farther east than Range 19. The Picabo area and on to the southeast there are the appearance of some lava, basalt flows on the surface underlain or with permeable gravels between lava flows in that area and that is outside of this general triangular alluvial basin that we have in the valley itself.

Mr. Nelson: Are you familiar with the location of the so-called Lucke well?

Mr. Anderson: Yes, sir.

Q. Are you familiar about the well, when it came in?

A. Yes.

Q. Did you have occasion to make a field trip to the area some time around the time the well came in?

A. Yes, I was in the area in April, I think, of 1961.

Q. Are you familiar with the reaction or the action of other wells in the area, specifically the McGonigle well about the time the Lucke well came in?

A. Yes.

Q. Based on your training and experience and your familiarily with the area and also with your field trip do you have any opinion, as to the reason for the drying up of the McGonigle well in the spring of 1961?

A. Yes.

Q. What is your opinion?

Mr. Ringert: I object, Mr. Higginson, I don't believe we have sufficient foundation in yet. It is granted that Mr. Anderson has a general familiarity with the area, but I think we are going to have to know more about the specific structure between the two wells. I think we are going to have to know more about the McGonigle well. I think there are numerous factors that effect this thing that would have bearing on Mr. Anderson's opinion that hasn't been brought out in evidence here yet.

Mr. Higginson: It seems to me that in order for Mr. Anderson to offer an opinion as to why certain things happened with the McGonigle well that we need to first lay a foundation by finding out what he observed with regard to the McGonigle well and then perhaps we can get his opinion as to why this might have happened. I think we do need a little more information, Mr. Nelson.

Mr. Nelson: Right.

Q. In your field trip what did you learn concerning when the Lucke well came in?

A. The well had been completed about, a matter of a few weeks, I think, prior to the time when I was in the field. It was not flowing at the time, but had been tested or had been flowing a short time prior to that. I examined the, I was at the Lucke well site, and then visited and examined a number of other wells in the area. The McGonigle wells, Clark, Bettis, Gomes, I can't remember all of the ones but wells in the area to see the condition at that time and also to find out what the condition or flow characteristics had been immediately prior to that time. Information that I obtained at that time was essentially the same as was testified to or presented last week in Hailey. The wells are all, that is, no two of the wells are exactly alike

37 70-21

in the valley as far as depth is concerned, diameter or flow characteristics, but the aquifer that we are talking about here although you may in a given well even go through one or two alternating sequences of clay and sand and gravel and in another case perhaps only one such capping and then sand and gravel. It is essentially one aquifer clear up above the artesian area into the water table area. In other words a shallow well can have an effect on a deep well or a deep well can have an effect on a shallow well because the permeable zones in these wells are all hydraulically interconnected. I think that the physical characteristics in any given well would have a bearing then on perhaps the time that was involved it might extend the time of the effect. It would be required to have an effect between wells, a matter of some days, depending upon this degree of hydrolic interconnection, but I feel, and this goes back primarily to our detailed studies in the 50s that we are definitely dealing here with a single aquifer, if you want to call it that.

Mr. Nelson: All right, are the wells you mentioned that you visited and observed in 1961, located on this aquifer?

A. Yes.

Q. Is the McGonigle well specifically the one that went dry in the Spring of 1961 located on the same aquifer as the Lucke well?

A. I would say, yes.

Q. All right, I will repeat the question again without at this point try to avoid having to re-state the testimony we had concerning the Mc - Gonigle well in Hailey. I re-state my question about the opinion.

Mr. Ringert: I don't see the need for restating all the testimony. I think we all know what it was, but I think we should have Mr. Anderson's

observations, his observations of flow or stoppage of flow or whatever in the wells. I don't know what he observed at the Lucke well when he made his examination. Was April the only time you were up there Keith, in 1961.

Witness: Yes, in 1961.

Mr. Nelson: He said it wasn't flowing at the time he was there.

Mr. Ringert: The Lucke well was not flowing?

Witness: No. The McGonigle well in question, I forget what number it is, was flowing slightly at the time.

Mr. Ringert: Can you recall what day in April it was?

Witness: I think I may have. It may be stated in that report of mine. The 24th.

Mr. Ringert: April 24th?

Witness: Yes.

Mr. Ringert: Well, what I would like to establish in this and forgive me if I am going out of order a little...

Mr. Nelson: Go ahead.

Mr. Ringert: Your analysis is based primarily is it not, Keith, on information that you obtained from residents of the area at that time?

A. That's right.

Mr. Ringert: And,that is as you recall,that is in your report?

Witness: I think so, yes.

Mr. Ringert: Do you know the depth of the McGonigle well, or did you at that time?

Witness: Yes, I did at that time. I don't recall off hand, I think it is in the neighborhood of 100 feet or so.

Mr. Ringert: And the condition of the internal section of the well?

37 7014

Was there any examination made with respect to that?

Witness: No, there was not. As I recall, this some of, many of these, this isn't possible because they are fixed with elbows or horizontal discharge pipe.

Mr. Ringert: I would like to make my objection to Mr. Anderson's opinion. I still don't think there is sufficient foundation to give an opinion with respect to interaction between these wells, if there by any interaction.

Mr. Higginson: Could we come back to the question Mr. Nelson? What is it you are asking Mr. Anderson to give us an opinion on?

Mr. Nelson: I am asking him basically if he had an opinion as to the cause of the McGonigle well, I think we numbered it No. 4, drying up in the spring of 1961?

Mr. Higginson: Have we established that Mr. Anderson had observed that the well did dry up?

Mr. Nelson: No.

Mr. Higginson: This is Mr. Ringert's objection that he observed that the well was flowing slightly, I believe. I think the question is as to whether Mr. Anderson himself observed that the well dried up and therefore would have an opinion as to why.

Mr. Nelson: I thought it had been established that he obtained his information from talking to the residents of the area and he was not there when it was dry, but I didn't understand that that was the basis of Mr. Ringert's objection.

Mr. Ringert: No, really my objection was more broad than that, Mr. Higginson. I think there are many geological factors involved in establishing interaction between wells. Of course, if the object of the question is not to establish that the Lucke well had some effect upon the flow in the McGonigle well then it is immaterial. I think the factors normally considered in the deter-

mining interaction between wells should be established here so that we know the entire basis of Mr. Anderson's opinion. Also, this phrase, "dried up", I believe Mr. Clark's testimony was, and also Mr. McGonigle's testimony, that some water was observed in the well. What happened was that the well ceased to flow.

Mr. Higginson: Well, I think we are dealing with a very technical field here of expertise and Mr. Anderson has been called as an expert in this and I think for the record if he has an opinion as to why certain things happened we should get it in the record. I think we do have to keep this in mind, and I suppose that any person in this field making an investigation is going to visit the various people in the area and get from them their observation, dig out any information they can in order to come up with a considered judgement to what has happened and what might happen in a particular area like this. I can certainly see your point of concern here, Mr. Ringert, as to the opinion that Mr. Anderson might give as to why certain things have happened, based upon what people in the area had told him had happened, but I think, all other things considered, it would be well to get it into the records Mr. Anderson's opinion as long as we understand the basis and I think you can question him all you want on what he based that opinion , on cross examination.

Mr. Ringert: I didn't specify, but I would like to have my objection extend also to hearsay.

Mr. Higginson: All right. Let's proceed with the opinion, Mr. Nelson.

Mr. Nelson: You mean a stating of an expert's opinion based on hearsay , or the introduction of hearsay evidence?

Mr. Ringert: Well, his opinion will be based in part on hearsay information that be obtained that is not part of the record here.

Mr. Nelson: All right.

Mr. Higginson: Let's proceed with it and with that objection on record.

Q. I think my question was whether you had an opinion as to why the McGonigle well No. 4 ceased to flow in the spring of 1961 and your answer was yes, and my next question was - what your opinion was?

A. In my opinion, the period of cessation of flow there in late March or April in that McGonigle well was the result of the period of operation of the Lucke well following the completion of its drilling.

Q. About how far is it from the McGonigle well to the Lucke well?

A. Oh, a few miles. Probably about 2¼ or 2½ miles.

Q. Was the time interval between the flowing of the Lucke well and the time the McGonigle well ceased flowing consistent or inconsistent with your opinion?

A. It was consistent.

Q. Is there an observation well, or are there any series of measurements taken on any well in the area by any agency of the Federal Government?

A. Yes. There are several observation wells.

Q. Which is the closest?

A. I think the closest one and the one in the artesian aquifer is known as the Gomes well, which is to the west of the Lucke well and south and west of the McGonigle well.

Q. And who maintains - takes the readings on this well?

A. The Geological Survey, the Federal Geological Survey, the Ground Water Branch.

Q. Have you checked the records of that well relating to the spring of 1961?

37 7014

A. Yes.

Q. What did those records show?

A. These are not a continuous recording that is maintained. They are measurements made about monthly. It showed a decline in the period of about late March or early April. I have the individual readings here. They had a reading on the 27th of March. Well, lets start back on the 25th of February a reading of 21.8 feet above the measuring point; on the 27th of March 20.6 feet above; and the 22nd of April 23.5 feet above; 20th of May 18.6 feet; on the 16th of June 24.3. Both the March 27 and the May 20th readings are reversals of the normal trend as shown by periods of observation of other years.

Mr. Nelson: You said that was a reversal. You mean that it doesn't follow the pattern?

A. That's right. The normal pattern would be for that pressure which was at 21.3 in January and 21.8 in February to build on up slowly and reach a peak in the summer, and all of the measurements that year would fit that pattern except for these two March and May readings where they are lower than would be anticipated.

Q. What in general effect or inter-relationship is there between and among those wells in that artesian basin?

A. The artesian wells in this basin, you might say almost any artesian basin, are certainly similar to this, you do get an effect between individual wells when one well is opened up and allowed to flow, similarly to the way you get an effect between wells that are pumped, whether or not they are in an artesian basin. The interfence as it is usually referred to between artesian wells, normally occurs more rapidly than if you are in a strictly water table condition because the interference is a result of a transmittal of a pressure affect very much like opening a faucet on a pipeline in

noticing the pressure a drop on that pipeline at some distance rather rapidly. The magnitude of the effect between wells, any two wells in an artesian basin like this, would depend on some definite factors. One of them is the rate of discharge. A second factor is the length of time this discharge is taking place. The third one is the distance involved between the two points the well flowing and the one being observed, and the fourth one is the physical characteristics of the aquifer materials, that is their permeability and storage co-efficients, and changing any of these four considerations will change the magnitude of the effect that you observe at a given point.

Q. Are you familiar with the irrigation habits or pattern of flowing artesian well users in the area we are speaking of?

A. Yes, I am.

Q. About when do they usually turn on their wells?

A. This will vary some between individual properties. Much of this area received early irrigation benefit from this so-called sub, or shallow ground-water levels or ground-water moisture that is attained in the lower part of the valley. The wells in this lower part of the valley used for irrigation will start some of them as early as middle of May and some of them not until early or middle June, and then normally will be operated for a period of time sufficient for a given irrigation and then turned off, capped, and re-opened again after another period of a few weeks and allowed to run and then shut down, and this is repeated as often as necessary through the season.

Mr. Nelson: Are you familiar with Mr. Baldwin's testimony that if the application were granted, maybe the application itself shows this, that the Lucke well involved would be turned on earlier than that?

A. I think the application is for starting with an earlier period. Yes, April 15th.

Q. In your opinion what would be the effect on the aquifer and the other wells in the aquifer of the turning on of the Lucke well at earlier than normally the pattern in that area?

Mr. Ringert: Now, I object. I don't think there is foundation for that, under what circumstances, what kind of a water year are we talking about?

Mr. Nelson: I take it, it is the same water year for everybody. Let's assume then, a normal water year, what would be the effect of turning the Lucke well on earlier than is usually the case in that area?

A. Well, turning the Lucke well on, or for that matter any of these wells, is going to result in a drop in pressure in this aquifer around the well, the effect then is to lower the pressure at other wells in the vicinity which would reduce their pre-flow capability at that time. It will to some extent be the greatest around the well and progressively diminishing as you increase in distance, will tend to reduce some of the sub effect so that irrigation water may be required in the surrounding area at an earlier date, and then in addition, it will also delay somewhat the build up because of this pressure drop it will delay the build up of the spring flows which feed Silver Creek, so it would have an effect on the pattern of the Silver Creek flow. This would be true actually whether we are talking about a normal, I mean these are things that will occur whether we are in a normal water year or a dry water year or a wet water year. The result of these effects, or their magnitude, or their effect on activities in the area may be different from one year to another, that is the severity of it, but these are facts, these are things that will happen in any year.

Q. You heard the testimony in Hailey, I believe, did you not?

A. Yes.

Q. The testimony of the protestants. I think you heard the testimony of the protestants relating to the year 1966?

A. Yes.

Q. And the fact that their flows were substantially lower that year?

A. Yes.

Q. And also, I believe, there was testimony that the Lucke well flowed we didn't get any number of specific days, but as I got it, a substantial part of that season?

A. That was my understanding of the testimony.

Q. Now, is the fact that the protestants lost substantially more water from their wells than was flowing from the Lucke well, is that fact consistent or inconsistent with your theory of the operation of this aquifer?

A. Oh, I think it is entirely consistent. If you are referring to how much loss in flow, in inches, let's say you get in an observation well or in a side well from operating another well. If you have just two wells in an aquifer, and only two, and each of them are flowing wells, if you open one up and allow it to flow say at 200 inches discharge rate, the flow in the other one, I think you can have physical conditions where you might lose more than 200 inches of its flow, but not normally, you might lose 100 inches let's say, or half its flow, but if you had more wells in the same aquifer around it, then each of those might lose 100 inches, or if they were farther away, 50 inches, or 10 or 20, so that the rate of flow of a central well doesn't have any particular relation to the agregate decrease in flow from surrounding wells. It has a relationship, I shouldn't say that,

but it certainly would not be possible - it would be possible to have an agregate decrease in flow in surrounding wells that would total more than the flow from the central well.

Q. Are you familiar with the design characteristics of irrigation pumps in general.

A. Yes sir.

Q. Are you familiar with the capacity that could be expected from putting a pump in a well with a 6 or 8 inch casing?

A. Yes sir.

Q. Under normal design requirements what production could you expect from a pump in a 6 inch well, or well with a 6 inch casing?

A. Normally for a 6 inch pump in the types of wells we are talking about here, this would be a deep well turbine pump, a 6 inch pump you normally would design a maximum of somewhere around 175 possibly 200 gallons a minute and you could get as much as 230, possibly 250 gallons per minute, so we are talking about 25 or 27 inches something of that sort.

Q. What would be the normal expected production of a pump in a well with an 8 inch casing?

A. Of course you could get more. You would normally would design for somewhere around 40 inches, 360 gallons per minute, but you could get up to probably 70 or 75 inches, 630 or 650 gallons per minute on an 8 inch casing.

Q. Are you familiar generally with the wells and sizes of Harvey Bickett's wells?

A. Yes, I thing he's got - I would have - I have some notes here. I think his are mostly 8.

Q. Using Mr. Bickett as an example would it be possible for him to get the same production in the event his well ceased to flow with a pump that he obtains from artesian pressure?

A. No.

Q. Would that be true then of the other artesian well owners in the area whose wells under artesian conditions exceed the production you mention for 6 or 8 inch wells?

A. Yes, that's true. A great many of these are - now there are some wells in the area, some flowing wells, all of the pumped wells, and some of the flowing wells that are a larger diameter and could accomodate a pump, but there are very few of those. The majority of them are 6 or 8 inch wells and the majority of the 6 and 8 inch wells will flow at rates greater than they can be pumped.

Q. In your examination with the Bureau and the U. S. G. S. in the middle 50s did you make any investigation of the ground water conditions in the area south and east of Picabo?

A. Yes, we did.

Q. Did you drill any test wells in that area?

A. Yes, southeast of Picabo, near the area known as Priest. We drilled both a test hole for pumping tests and also observation wells for several purposes. Primarily to determine, not so much the capability of producing ground water down there, although that was incidental, but to evaluate the existance of permeable aquifers and what the gradients were and how much water was escaping underground from the Upper Big Wood Valley.

Q. Do you have one of these plates to Water Supply Paper 1478 to shows the location of that well?

A. Yes, that would be on the well on Plate 2 that shows the location of the wells in the valley. That shows 3 wells in Section 1, T 2 S., R 20 E., one of which was a 10 or 12 inch test hole, and I think the other two were observation wells.

Q. Did you pump that test well to determine its characteristics?

A. Yes, the observation wells, as I recall, were about 200 feet deep. The test well was carried on to about 250 feet or vice-versa. Anyway the production, permeable aquifer is a gravel between basalt flows at something around a 200 feet depth, and the well was tested at about 800 gallon per minute, with about 8 feet of drawdown. The static level in that well, it fluctuates, that is being observed now too. I think they have a recorder on it and the static level is about 140 feet. It will fluctuate seasonally maybe 8 to 10 feet with the high or low point varying another 3 or 4 feet seasonally, depending upon whether it is so called wet year or dry year.

Q. In your opinion, would it be possible for a person to develop irrigation wells in that area?

Mr. Ringert: I object. That has no relevance here.

Mr. Nelson: I think it does have relevance. We are talking here with only one exception among the protestants, according to my recollection, of 6 or 8 inch wells and loss of artesian pressure here would require redrilling and the purpose here is to show that it is possible in the area where the applicant intends to use this water to develop irrigation wells and I think one of the standards of the State Reclamation Engineer can apply is not specifically stated, but one of them is, I think justice or something of that sort, and between requiring all the protestants to redrill all their wells or requiring as a matter of justice the applicant to drill irrigation wells in the area of proposed use, I think the justice is pretty clear, and for that reason I think it is relevant.

Mr. Higginson: I think, gentlemen, as far as Mr. Anderson's testimony as to whether it would be possible to drill a well at a particular location and obtain water, I think he is qualified to give an opinion, as to that, but as

to Mr. Ringert's objection, it would be immaterial to this particular matter. I think he is correct. I don't believe it is a matter or basis for our determination of whether this particular permit ought to be granted, or not. The applicant has not proposed drilling a well in that location. The fact that he might do so at some later date, or he might have that as an alternative choice, I think it is immaterial, but for the purpose of the record, whether Mr. Anderson has an opinion as to whether it is possible to drill a well at this location we will take the testimony but its relevance to this particular matter I think is well stated by Mr. Ringert, but for the purpose in case you may be able to connect it up in some fashion.

Mr. Nelson: I think if we are start talking about matters of justice and equity I think we would get far outside the question of drilling a hole here and putting the water on there. I think we do get a little broader here, and for that reason, like I said, I think it is relevant.

Mr. Higginson: That's right, Mr. Nelson, but when you get into questions of justice and equity I think you are beyond the scope of the jurisdiction of the Department of Reclamation in granting a permit. We grant the permit based upon the consideration as we talked in Hailey at the beginning of this hearing, the matters that may be considered by the department in granting or denying an application for a permit and justice and equity are not, at least statutorily, matters to be considered by the State Engineer in that determination. Now maybe you can make this part of a brief which I suspect we are going to need in this case before we are through.

Mr. Nelson: If we get the evidence in, I take it, its in, and we can argue its relevance from there.

37 7014

Mr. Higginson: Let's submit it for what value it may have but the objection, I believe is well taken in this particular case, as far as the department is concerned, it appears to be immaterial.

Mr. Nelson: I think the question was whether or not in your opinion it would be possible for a person to develop irrigation wells in the area, I believe we are talking about observation well No. 24, there on that Plate.

A. That is a stream gaging designation, but it is in the area just north of Priest on Silver Creek. Yes, I think it would be possible.

Q. And from the area designated on the application is that in the general area of the land where the applicant purposes to use the water from what we call the Lucke well?

A. Yes.

Q. May we have a short recess I am getting a little dry.

Mr. Higginson: Yes, let's take 5 or 10 minutes. (Recess taken)

Mr. Nelson: I believe that is all the questions I have.

Mr. Higginson: Mr. Ringert?

Cross-examination by Mr. Ringert:

Q. I take it, Mr. Anderson, from your testimony that in your estimation there is only one artesian aquifer within the basin involved here?

A. I think I would refer to it as one aquifer, yes. This shouldn't be construed, or I think I tried to indicate in the statement that you can get different pressure at different depth at the same location, or you can get - you can drill a flowing well at either of two different depths at the same location, but I feel that they are all hydraulically interconnected.

Mr. Ringert: The source of water is the same for the entire basin?

A. Yes.

Q. But there might be different layers of impermeable material seperating

RP 2014

that supply of water as it flows southward into the basin.

A. Yes, I think I mentioned a cross section as Plate 5, in that Water Supply Paper 1478 that shows primarily one clay zone separating a lower artesian from an upper water table area but as you get to, and this cross section isn't drawn right through the area we are speaking of, but a little bit to the west, but as you reach towards the Timmerman Hill it begins to show several of these interfingering clays.

Q. Now generally those clay layers could be classified as impermeable?

A. The clay relatively, yes.

Q. Now, I believe Mr. Haight's report made in 1963, that is in the file on that ground-water basin here in the records of the department, are you familiar with Mr. Haight's report?

A. I can't say I am familiar with it, I -

Q. Have you read it?

A. I read parts of it.

Q. Would you agree with his general conclusion that the water that flows into this artesian basin and the unconfined ground-water for that matter that flows into this artesian basin ultimately flows out the southeast end of the area unless it is diverted and consumed for irrigation or other purposes within this triangular area?

A. Well, not quite. There are two outlets actually for ground-water, one to the southwest towards the Big Wood channel and to the southeast on the Silver Creek channel and the only other exception would be, its in your statement as to what the report said, except for water that is diverted and consumed and there is quite a bit of consumption of non-diverted water, in other words, a great deal of the water that is consumed in the area is in this

sub-area, or in this lower end of the valley, this is primarily upward leakage through the clay layers rather than being a physical diversion some place through a well or ditch.

Q. Once that is saturated, except for what evaporates and cause further subbing that quantity becomes pretty much static doesn't it as long as the recharge is fairly constant.

A. The evaporation loss, or consumptive use, and there is also a portion of that upward leakage is carried out of the valley then as a surface flow. It just becomes a part of Silver Creek flow or Spring Creek flow.

Q. I see, Now, the water that serves as source for the two observation wells and the one test well north of Priest?

A. Yes.

Q. Whats the section and township and range there?

A. Section 1, I believe of 2 South, Range 20 East.

Q. Would you agree that the underground water flowing into that area has its source in the same source area as the water that flows, that would be diverted through the Lucke well?

A. Yes, basically. That's the out part of this sub-surface outflow to the east which has been estimated at between 35,000 to 40,000 acre feet a year.

Q. So basically what we are talking about here is not a matter of availability is not a matter of quantity by a matter of available pressure.

A. I think in the effect that the use of an artesian well has on other artesian wells. In other words, the development of irrigation wells which would be pumped wells in the vicinity of Priest, or in the southeastern outlet would not have an effect on the flowing artesian wells in the southern part of the valley even thought ultimately the source of the water is the same.

Q. And that would be because the co-efficient of transmission and so forth are too remote at this location to 2 South, 20 East, primarily would it not?

A. No. I think it is primarily because of two factors. Most important is that you are not out of the artesian zone and into an area where it takes longer for the effect around those wells to travel and also because of the distances involved here. Instead of being from a fraction of a mile or a few hundred feet up to two, three, or four miles you are up to ten miles or so distance.

Q. Do you have a drawdown situation in an artesian well similar to that encountered in a pumped well?

A. Yes.

Q. Is the drawdown as great in the artesian situation as it would be in the pumped situation?

A. Are you referring -

Q. Assuming that all other characteristics are constant in the two situations?

A. Are you referring to a single well that is a flowing artesian well but you put a pump in it and pump it? The drawdown is an artesian, or water that is, occuring under artesian conditions whether it flows or doesn't flow you would expect about the same drawdown discharge relationship. In other words, if you get 10 gallons per minute per foot of drawdown when pumping the well you would expect to get about 10 gallons per minute per foot of reduced artesian head.

Q. But the artesian head occurs at some point, well the distance to the point of reduction and the artesian head depends upon the underground flow to the artesian aquifer does it now? If you have a steep grade then your draw-

37 7014

down is going to occur closer to the well and on a shallow grade the reduction head will occur at a greater distance?

A. No, the interference effect between two wells is going to be a function not - is going to be independent to some extent of the gradient that you've got. I don't think either your land surface slope or your piezemetric surface slope equivalent to the water table only in pressure surface, those slopes aren't going to materially relate to the amount of interference you get between two wells. The degree of interference is going to relate primarily to these four points that I mentioned; the rate of discharge, the length of time, the distance, and the property of the aquifer itself.

A. Now, what is the difference in elevation, if you know, between the Lucke well and the McGonigle well No. 4, that you mentioned in connection with your opinion?

A. Land surface?

Q. Yes.

A. I don't have that here, I don't think.

Q. Is that reflected on any of the Plates in that water study?

A. Well, it might be indirectly. It isn't shown just as such.

Q. If it is not available there is no point in indulging in conjecture on it. Do you know what the difference in the elevation of the well; what was the word you used, piezemetric surface? Is that plain that establishes pressure gradient in an artesian basin?

A. Yes. That's the surface to which the static level of the water would rise if the casings were extended far enough above land surface. It appears to be about 30 feet.

Q. Difference between?

A. The two wells.

Q. I would like to know if it would not be possible to put the control device on a well that has a higher ground elevation at some point down in the well and pump from there and still obtain the same artesian flow through the pumping point. In other words, if you place the outlet of the artesian flow at the piezometric plain then the two wells would be on a par as far as flow at that level, woul d they not?

A. No. If I understand the question, I don't think that is right. First of all, not every single well is going to have a low, the general characteristics of the water bearing materials are similar, not every single well is going to have the same yield per foot of drawdown. In other words, if every well in the basin was located, the land surface, 20 feet below this piezometric surface so there was 20 feet available drawdown, not every well, if it were allowed to flow, would flow exactly at the same rate, and this is because there are some variations in the permability of the aquifer material. Some parts of the valley you may have a coarser material, and some a little bit finer. It would be possible at any well if this is what you mean, let's say the casing comes up 4 feet above ground and that is your valve and elbow and discharge, to cut that off at the ground surface and have an additional 4 feet of available drawdown if you want to call it that, which would either increase the flow at a given condition or restore to some extent the flow if it had been reduced. You could even excavate down into some kind of a channel. The lower you can cut off that casing and take your flow, for any given flowing well the more water you get.

Q. That was what I am talking about. I was trying to envision a situation where in fact you might be able to cut down 30 feet below the ground surface and if the physical characteristics are constant between the two wells then they would be competing on an equal basis for available

pressure at that level.

A. Well, I guess so. I am not sure that I follow - I don't see how you are going to cut or I don't follow what this is you are going to do, down 30 feet.

Q. I don't intend by this line of questioning to waive the objections to any of the matters that have been raised regarding pumping from other sources, but, if you are restricted by a 6 inch casing in an existing well and if you cut that casing off down at the piezometric plain and install at that level a larger casing so that a pump can be placed in, then you are getting the same flow, you might have less than 30 feet, but at least you can get a pump in there without having to go all the way to the bottom of the well.

A. Okay, I am with you now. One thing, and that's this piezometric surface it isn't down at any depth in the artesian area. It is always above ground. It is an imaginary surface above ground that this water would rise to. It would gradually get lower as you had interference or depletion, but it is true that if you were to install a pump or had to install a pump of small diameter, a well in this area, it would not be necessary to, if you needed a ten-inch casing to get a pump big enough for the flow that the well had. You wouldn't have to go ten inches all the way to 200 feet. You would have to go down some distance. This presents a construction problem, but I know what you mean, yes.

Q. When you measure computations with regard to the amount of water that could be achieved by a pump installed in the 6 inch or 8 inch casings at what depth do you contemplate the pump would be installed?

A. Something more than 10 or 12 feet.

Q. Did you assume a static head at that point?

A. No. I am just talking about the capacity of a deep well turbine type pump, at a given size at 1760 rpm, the standard speed, and that would be possible. There is a maximum that you can get from a 6 inch pump or an 8 inch pump and this is independent of whether you are going to pump it from 20 feet or 200 feet, except for more stages that you have to add.

Q. What I was getting at would it make any difference with the head of water above the pump, make any difference on its discharge capabilities?

A. No. I don't know what you mean by head of water above the pump.

Q. Let's say the piezometric plain is in fact in a given well right at land surface and you run a pump down 40 feet, would you get a different flow in that pump down 60 feet?

A. No.

Q. They would be constant?

A. That's right.

Q. The amount of water standing above the pump would not make any difference?

A. No. The pump has to pump the total amount and so the amount of submergence you have will make no difference. The only place you could get into trouble is if your pump was set, a 6 inch pump in a 6 inch casing, which is a 5-5/8 inch diameter pump and it fits very closely. If a portion of the water was entering the well above the pump bowl, then you would have some problems because the water would have to get down around, but in most of these wells we are talking about, the water all enters at or near the bottom, so that all of the water that would be reaching the pump is coming up the casing and is available right to the impeller inlet and it doesn't matter then whether the water level is at one inch below land surface or 20 feet below land surface.

Q. Now, do you know if these spring sources, the 4 or 5 main spring sources for Silver Creek are generally north, at the fish hatchery and northwest of there, are those spring sources at an elevation higher than the Lucke well, or not, do you know?

A. Yes, I think they are, well, I can't say that I know exactly. There are sources that are higher than the Lucke well.

Q. When you were in this area in April of 1961 did you observe the spring sources of Silver Creek in connection with your examination?

A. No I did not.

Q. Now, I have some recollection that various witnesses testified in Hailey last week to the effect that the general water supply in 1961 was low. Couldn't this have had considerable effect on the McGonigle well?

A. I think it had an effect on all the wells in 1961, because it was a low water year. We are talking about in the McGonigle well, two things. One is we are talking about an incident that is in advance of the application of this 1961 recharge. 1961 was a dry year and in terms of run-off, and that means that the water that was applied into this area primarily through the baseline and district canals, starting in April and May, particularly in May, was lower than usual, there wasn't as much water, but we are talking about an incident in the McGonigle well where the well which in the spring of the year was flowing, ceased to flow coincidental, or short time thereafter in terms of days, with the first operation of the Lucke well and then flow re-occured again at about the same interval after the capping of the Lucke well. I feel that that particular incident, both the operation of the Lucke well in March for that brief period of time, and the cessation of flow at the McGonigle well were in a sense independent of that water year or the availability of water. Now had the year previous been wet or

7014

dry or had it been later in the year the McGonigle well might not have stopped flowing, that is, it might have been flowing at a greater rate then it was and rather than cease flowing have simply diminished in flow and then returned.

Q. Have you made any tests in the field subsequent to your examination in 1961?

A. Between wells?

Q. Yes.

A. No, sir.

Q. Do you still adhere to your opinion stated in the well interference study you made in 1961 on this matter, that in order to conclusively establish any interference between the McGonigle well and the Lucke well controlled field tests would be necessary?

To conclusively establish it, yes. I think that's right.

Q. And that the Lucke well is not the only well effecting the McGonigle or other wells?

A. Oh, definitely, and I think I tried to indicate that earlier. All of these wells are having an effect on each other. I think one of the situations is that the Lucke well happens to be much higher - flowing at a much higher production rate so you could expect its effect to be proportionately greater.

Q. Now these various artesian aquifers are separated by relatively impermeable layers of clay or similar material. It seems to me that it would be rather difficult for flow from a well that has its source at a very deep level to effect the pressure of a well that has its source at a much higher level, both levels being underground levels of course.

A. It may seem that way but that is not the way it is. For one thing these clay separations we are talking about are not a vertical wall or compartment

effect. They are horizontal layers or lenses and they do not extend indefinitely. In other words, they extend backwards laterally from Timmerman Hills northward to varying distances depending upon the conditions in which these clays, sand and gravels are laid down and that is why they are still hydraulically connected. In other words, there is the opportunity for pressure changes to be transmitted from one to another even though they may be - you might have two wells, let's say, at the Lucke well site, one down to some 250 to 300 feet and open only at the bottom, another well immediately adjacent and only down half that distance into another sand and gravel, but with the clay layer separating them. That clay layer however, only goes out laterally some distance and so it would only take perhaps a little bit longer for the pressure in the shallower well to respond to the pumping from the deeper well.

Q. That is what I am getting at. The pressure differential has to be transmitted past the beginning of the clay layers that separates the two belts?

A. Well, in part. In part it is actually transmitted through this clay, because the clay isn't - when you say impermeable we are speaking of a degree of permeability. It is much less permeable than the sand and gravel, that is why the water is produced to the well from the sand and gravel, but there is a pressure effect also transmitted through this clay layer which is usually referred to as a leaky roof. It may leak a lot or it may leak a little, depending on the nature of the clay but there is some pressure effect transmitted through the clay itself.

Q. But in order for this artesian pressure to be created we have to assume that there is quite a bit of impermeability in one or more layers.

A. Relatively, yes. However, some of the subbing that takes place in there

07 7014

would indicate that in part it is not as impermeable as one might think.

Q. Well, that might well be true with respect to the clay layers at the higher elevations visa vi the ground surface but not necessarily so with respect to clay layers at the greater depths. I mean there are all sorts of possibilities there are there not?

A. There are all sorts of possibilities as to the range in permeabilities of some of these layers and to their lateral extent. Yes, I would agree with that.

Q. If, for the purposes of argument, we assume that your tie-in between the Lucke well and the McGonigle well is correct. Would it not be reasonable to assume that this drastic effect, if that is what it was occurred in the McGonigle well because of some peculiar characteristic of the clay layers separating the artesian aquifers between the Lucke well and the McGonigle well? In other words, I envision something in the nature of a small inlet, so to speak, coming down from the McGonigle well on the north to the Lucke well on the south that occurs only between those two wells while the other wells in the area might well be completely shielded from that kind of interference.

A. I wouldn't agree to that. I don't think between the Lucke well and the McGonigle well there is really any clay barrier. I think if you could stretch a string or a line of sight from the bottom of the McGonigle well to the bottom of the Lucke well you would have nothing but sand and gravel all the way along that string.

Q. I think Mr. Haight incorporated in his report what appears to me to be a well log on the Lucke well and they - first, I don't recall what the depth of the McGonigle well is, I don't think it is much over a hundred feet?

A. It was 100 feet, give or take a few.

Q. And the Lucke well from 90 feet to 186 feet they encountered blue clay

and from 186 to 190 yellow clay, from 268 to 285 yellow clay, from 285 to 288 blue clay, 288 to 300 brown sandy clay. Now those would all intervene between the source or between the bottom of the McGonigle well and the bottom of the Lucke well, which is cased, as I understand it, clear to the bottom.

A. I don't think they would necessarily intervene because we are talking about 2¼ miles, I think I estimated from the map, let's say and if you would take this and could draw a cross section to scale I don't think, I can't say positively, but in my opinion, it is very likely there would be nothing on a straight line from the one well to the bottom of the other but sand and gravel.

Q. In other words, the clay layers in your opinion do not extend north far enough from the Lucke well to -

A. Not in terms of the depth and horizontal distances that we are speaking to offer any impedance or obstruction between the two.

Q. What happens, Keith, to this water that flows past the ground water, the underground and the artesian area that flows to the Lucke well, if it is not diverted at that point?

A. Well some of it would leak upwards and be consumptively used in the wet area at the foot of the hills.

Q. Excuse me - that brings to mind another question. That leakage, if it subs up, would of course saturate the surface area would it not, if the subbing were in sufficient quantity.

A. Yes, some of it is.

Q. In order to reclaim that would they not have to construct drains?

A. That would be one way to do it.

Q. And those drains would flow into Silver Creek would they not?

A. Right. And the outflow at the Lucke well area then for ground water would be in the easterly direction and would leave this triangular area in the vicinity of Picabo underground.

Q. Now, with respect to that site down here by Priest that you mentioned as a possible place to drill a well, can that water be transmitted into Silver Creek and diverted at L. 24 on Silver Creek, the headgate?

A. From this particular well site you would have to have an exchange. I don't think there are any diversions between 24 and that site so that it would be like, take it out and put it in before the next person needed it, because that Lawson 24 is upstream from the point on Silver Creek adjacent to this well. This is just where we have selected for this test well to evaluate the outflow, it doesn't mean that you couldn't drill at some other point in the vicinity.

Q. Is there any significance to the length or stopping points on these dotted lines that show the contour that they show?

A. That's just water table contours.

Q. Is there any significance to there ending here? I notice some of these lines are long and some are short.

A. Simply that there wasn't additional controls available at the sides of the valley to continue them.

Mr. Higginson: Mr. Ringert, we - could we identify the plate you are reading from?

Mr. Ringert: This is Plate 2. I am sorry. This is from 1478.

Mr. Anderson: Yes. All of the contours on here, including up in the Bellevue, Hailey area will be dashed where whoever drew the maps felt there was insufficient wells to give you a precise control in that area.

Q. Is there any indication that there is ground water occurrence beyond the ends of these lines?

A. I would say that there is an indication. I wouldn't say just from looking at this map to go out and drill beyond the ends or inside the ends necessarily. What I was trying to say it is possible to drill and develop high capacity wells which would be suitable for irrigation in this area southeast of Picabo. You wouldn't want to get over against the bedrock hills or where you would be penetrating in the bedrock, the old bedrock prior to reaching the water surface, but these lines are only intended to indicate the direction of flow and relative gradient on the water table and not the availability of water as such.

Q. In 1966 there was a difference between the amounts that the various protestants testified to with respect to loss of flow in their artesian wells and the amounts the evidence indicates were diverted through the Lucke well. Where did the difference go?

A. Well, let me see. I think I know what - let's see if this is stating it right. You are saying that in 1966 the Lucke well discharges, let's say 400 inches for a month, just hypothetical, and in the same month the protestants say that had the Lucke well, in their opinion, not been operating their aggregate flow would have been 2,000 inches and with it it was only 1,000 inches, so there was an aggregate discharge of 100 inches per month that didn't occur from their wells and there was only 400 inches did occur from yours, is that right?

Q. Yes sir.

A. Well, what we are talking about, I might have to draw some pictures here, but we are just talking about changes in pressure or storage in the basin and some, it would be almost negible, because you would have some time effects

also some variations in the sub-surface outflow at the south end of the valley.

Q. But the bulk of the difference would flow out just under normal gravity flow our through the southeast end of the valley, would it not?

A. Basically the undiverted ground water in this area we are talking about moves out to the southeast so that if these wells are allowed to flow or are diverted at greater rates, then that outflow underground to the southeast is reduced. If all they are all shut down, if all of the artesian wells were capped and closed and never used again, then it would take a little while to reflect it, but that outflow at the southeast would be greater.

Q. But still when you come right down to it, the bulk of our difference in the 1966 situation had to go somewhere. If we assume that there was some recharge coming in, in the north end and that the place where it would have to go would be generally out the southeast end.

A. That's right or out throught these wells.

Q. Based on your observations would you not conclude that, your observations and the testimony you heard, would you not conclude that water is available in all of these artesian wells even if the pressure is down to the point where they are no longer obtaining free artesian flow.

A. Yes, the casings are essentially full of water. I think even the ones that reported stopped flowing completely, there was some that was testified that it just trickled a little, but some that had stopped completely. I don't think there was sufficient time or the lowering was not significant below land surface so that the casing would be essentially full of water.

Mr. Ringert: I believe that is all I have.

Mr. Higginson: Any redirect questions?

Redirect examination by Mr. Nelson:

Q. In relationship to the last question Mr. Ringert asked, water is available you mean in the sense that it is physically there?

A. It is physically there and it is available to be pumped then from the well. This again you get into the problem of size of pump and size of casing but it is physically standing in the casing, if you can get it out someway, it will move from the ground into the well.

Q. You mentioned, in response to Mr. Ringert's question by assuming the piezometric plain should fall below ground level, it would be possible to cut the casing off at a given depth and re-case larger to that point and still get water from a pump at that depth. You mentioned a construction problem. What kind of a construction problem would you anticipate in approaching the problem in that manner?

A. Well, you would have a dickens of a time really doing a very good job. I have seen this tried in a similar situation, although the materials were a little different. They were not quite so gravelly. I said it would be physically possible. The idea is to provide a chamber, a larger casing that would serve as a pump chamber of adequate diameter of the pump with the capacity that you were trying to restore, to get the quantity you had originally from flow. You have a problem first of all you have to cut off that small casing before you can get a big one down. You are going to have to drill it. You can't just drive a big pipe over the little one and then cut the little one off and slide it out, so first of all you have to go in and cut this small casing off at the depth you proposed which is sometimes a bit of a problem, pull that casing then go in and re-drill or ream to a larger diameter carrying casing, the tricky part here is to be sure you can follow the old hole accurately enough so that you end up at this predetermined depth 50 feet or 100 feet what ever it is, with the large casing

37 7014

centered over the small one. Then you have a problem of providing an adequate seal between the two casings. It can be done. Frankly, I would say in this situation and with the depths of wells we are talking about, this one I was familiar with in another area was a very deep well, but with the depths here and the types of materials and so on, economically it would be an advantage to redrill the well. Now, in redrilling the well, you could drill a 12 inch casing down to some pre-determined depth to be sure that you had sufficient diameter for a pump setting and then you could reduce it to 10 inch or 8 if you go on down or you could carry the original diameter clear to the bottom. I don't think trying to work over an old one to make room for a pump in the top would be a feasible thing.

Q. There was a question Mr. Ringert asked. I had a little difficulty with the question. You probably - you can't help me with his question, but he asked as I got the question, there was testimony about the fact that the protestants lost more flow collectively than the Lucke well was flowing and he asked where the difference went. In other words, where did the water the protestant didn't get where did it go, and is it a question of availability of water or availability of pressure or what are we talking about when we, do we actually have a question of water not captured by the protestants going elsewhere, or is there just no water there?

A. You have a problem of reduction in pressure to operate one artesian well at a high discharge rate. You've got other flowing artesian wells around it. When you operate the big one you reduce the pressure around so that their rate of flow diminishes. This means that the, and the testimony has indicated, that the total discharge then from all wells or the number of acre feet allowed to flow from all wells during the month is less, because of this pressure drop; and this simply means then for a given recharge

situation you got two things that can happen. You can either build up your pressures in your aquifer, your reservoir level so to speak, or you can increase your outflow from the reservoir which is the sub surface flow at the southeastern end, or what actually happens you get a combination of the two, but you are putting so much water into the area from these canals and so on at the northend, either - 100 years ago it all went out underground at the southeast end, or Silver Creek that is the overflow.

Q. So is it a question then that the protestants for the lack of pressure were just unable to capture the water.

A. Their wells cannot flow at the rate they would have flowed because of the pressure drop.

Mr. Nelson: I think that is all.

Re-cross examination by Mr. Ringert:

Q. It occurs to me that the wells in that basin and the drains all interact to some extent.

A. Yes, sir.

Q. And it occurs to me also that the stream flow in Silver Creek is also involved in that same interaction.

A. Well the stream flow in Silver Creek is sort of the end product of these other actions. It results from the application of the water to the north and it is affected then by the conditions within the aquifer. Sufficient pumping can and does effect the spring flows or the Silver Creek flow.

Q. Any well that taps that artesian basin would have some effect or other on streamflow in Silver Creek, if that well in an area where it would have an effect on hydraulic pressure that served the springs that serve as a source of Silver Creek.

A. Yes. I think this is true, both of the artesian wells and also water

table wells farther north.

Q. In your experience have you observed that as a general rule artesian basins are developed from the high side of the piezometric plain to the low side, maybe I am stating that correctly but what I am saying is the tendency is to tap the basin with the shallowest well possible assuming that the soil to be irrigated is fairly constant throughout the area overlaying and that subsequent development tends towards the deeper wells?

A. I think that is too much of a generalization. Where you put in my experience had I observed this to be so, I don't think so. I think I have seen developments work either way or both ways.

Mr. Ringert: I believe that is all.

Mr. Nelson: I have nothing further.

Mr. Higginson: Mr. Anderson before you are excused I would like you to clarify just a couple of points for me. First, there is usually always a misunderstanding concerning the definition of an artesian well. Will you define it for the record?

Witness: An artesian well as I would define it, is a well in which the water when encountered in the well occurs under pressure and rises then in the well or in the well casing above the level at which it is encountered. Now this may or not reach the land surface and flow. This then given rise two kinds of artesian wells,flowing artesian well and a non-flowing artesian well. In both cases the water is under pressure. It is simply that in the flowing case the land surface is below the pressure surface and so the well will flow.

Mr. Higginson: In an early part of your remarks in your testimony, Mr. Anderson, you indicated the area underlain by the artesian aquifer and you talked about certain township which I don't recall at the moment are you talking about the area underlain by an aquifer, which if a well was drilled

into the aquifer the wells would flow or are we talking about the artesian as such?

Witness: Well actually, I was talking about the flowing artesian well area and in this particular situation, the land does have a fairly good gradient, land surface to the south so that you don't have to get very far into the artesian area where it is under pressure until it becomes a flowing artesian area until perhaps development reaches the point where the pressures are reduced.

Mr. Higginson: How much larger is the general artesian area of this basin as compared to the flowing well area.

Witness: Not much larger.

Mr. Higginson: A mile or two.

Witness: I would say probably less than that.

Mr. Higginson: In the first part of your testimony you indicated that this basin had generally three sources of recharge. You referred to the rainfall on the area itself, to losses from canals and irrigation on the valley floor, and then from the Big Wood River. Now in considering these three sources, if I understand your testimony, how would you evaluate the importance of each of these three sources as a recharge to this basin?

Witness: I would say that the irrigation application in primarily these two diversions, the district canal and the baseline canal is by far the biggest - most important source of recharge. Without that, you would have losses from the Big Wood would be the primary one. The precipitation I would think you could consider as being fairly neglible as well as any tributary streams. I am sure that Silver Creek flows prior to any irrigation in this area would be substantially less than they are now.

Mr. Higginson: In connection with the Big Wood River recharge of this basin

would it cause a water level to be lower than normal if there had been a prior period of flow of the Big Wood River that was below normal? Would you expect the water levels in this basin to be lower because of the Big Wood River flows??

Not substantially. I think again the Big Wood River there is almost always some water in the river. It separates there in the lower part later in the season quite frequently. It is not of sufficient importance I don't think in relation to this other. I have some documents or drawings here that show, they are some things that I had prepared earlier, that show a relationship between diversions for a couple of years, irrigation diversions in the north and Silver Creek flows, and some observation well flows which I can show to you.

Mr. Higginson: This is up to the counsel here. I am just trying to clarify. At this point I would like to refer to counsel that at our pre-hearing conference in Hailey we agreed, or stipulated that department could take judicial notice of any official records in its office. In connection with this stream flow question I would like to call counsel's attention to the official publications of the Geological Survey which is entitled, "Water Resource Data for Idaho". Prior to that they were in the Water Supply Paper series which report the stream flow at various official gaging stations reported by the U. S. Geological Survey in cooperation with our department and others. In addition, I would like to call counsel's attention to the report published each year by the Watermaster on the Big and Little Wood River. Mr. Newby and his predecessors who have been called as a witness in this matter and these are again officially in the files of this office. These report, miscellaneous and other canal and stream flow data we would

like to take judicial notice of inconnection with this question of recharge, and so forth, of this artesian basin.

Witness: In connection too, Mr. Higginson, in your Watermaster's report you might take notice that in 1964 the table showing discharge for the district canal, the monthly totals I think are right but the annual total for 1964 is just one-half of what it should be. They have it in a second-foot base instead of acre feet.

Mr. Higginson: I appreciate that correction. I have one final question that I would like you to help me with, Mr. Anderson. You indicated that any water not intercepted by wells in this valley would either sub up to the surface and appear as springs or be evaporated I suppose I assume by the vegetation, or would leave the area underground primarily to the southeast through the Picabo area, and I think your testimony was that these prior studies had indicated that this underflow at probably 35 to 40,000 acre feet annually?

Witness: Right.

Mr. Higginson: I was wondering Mr. Anderson, if in your studies you have gone so far as to reach a conclusion as to where this water goes and what happens to it?

Witness: Yes, most of it is then tributary to the ground water under the Snake River Plain and of course some of that is intercepted with wells to the south as you go towards Shoshone and Gooding and on down and would be ultimately be tributary to Snake River. A great deal of the area immediately south and southeast of this outlet area is pretty much lava plain and undeveloped and would not probably re-utilized until it reaches the irrigated area.

Mr. Higginson: There must be some point in this basin where the ground water in this artesian system or the general ground water does not contribute to

Silver Creek. Have you been able to identify this in your studies?

Witness: Yes, we did that in the 1950 study. Because the study at that time was part of it was a proposal to pump from a great many wells to provide supplemental irrigation and we were going to have to provide some makeup water for Silver Creek and also for Magic Reservoir storage, and I don't know that I can pinpoint right now, except that my recollection is that the tributary effect is between Hay and Picabo and probably closer to Picabo and I would say maybe a mile or a mile and a half upstream, and east and southeast of that then ground water withdrawals would not have any depletion effect on Silver Creek. From there on up they would again to varying degrees depending on the physical situations.

Mr. Higginson: My final question then, Mr. Anderson, for clarification purposes, and for my edification if nothing else, from your studies and from investigations of this area do you have any opinion as to the amount of ground water that there is in this ground-water basin in storage.

Witness: In terms of storage and acre feet of storage?

Mr. Higginson: Yes.

Witness: No, I don't have offhand. It would be relatively significant.

Mr. Higginson: Are we talking about thousands of acre feet or hundreds or millions or what?

Witness: Probably thousands.

Mr. Higginson: I believe that is all I have. Counsel may have another question or two, if I brought out something that you didn't want me to.

Mr. Higginson: I believe that is all Mr. Anderson, you may be excused. Do the parties have any further witnesses they wish to call?

Mr. Nelson: No.

Mr. Ringert: I would like to call Mr. Baldwin to the stand just for a few

questions about existing conditions there. I think it's in the nature of rebuttal.

Direct examination of Mr. Wayne Baldwin by Mr. Ringert:

Q. What crops do you intend to grow this year on the land described in the land list on this application for permit?

A. Hay and grain and potatoes.

Q. How much hay approximately?

A. Oh, 300 acres.

Q. How much grain approximately?

A. Approximately 18 acres.

Q. Of grain?

A. Yes.

Q. How many acres of potatoes?

A. About 60 acres.

Q. Is part of that land in pasture?

A. Can I change that potato acreage? 60 total but all of that isn't into potatoes on that particular land.

Q. How many acres of potatoes?

A. Approximately 48 acres.

Q. And is part of that ground in pasture?

A. Yes. The balance of the irrigated ground there this year will be pasture.

Q. Is that permanent pasture? What kind of pasture is it?

A. Some of it isn't permanent. Some of it alfalfa I will use for pasture that I won't cut for hay.

Q. How much water is available from Silver Creek at the present time for the irrigation of that land under your decreed rights that are appurtenant to it?

A. I believe it is less than half at the present.

Q. Is the watermaster on up there?

A. Yes.

Q. What rights is he down to at the present time or do you know?

A. I didn't see him yesterday. He comes three days a week. He was there Monday and Wednesday. Monday he was down to the 86's. I don't know whether that changed yesterday or not. I didn't see him.

Q. 1886 decreed rights?

A. Yes.

Q. And he was not delivering water out of Silver Creek on rights that were subsequent to 1886 priority, is that correct?

A. Like the 1887's?

Q. Yes.

A. That's right.

Q. Well your water rights in Silver Creek from 1886 on be sufficient for your irrigation purposes on that land this year?

A. No.

Mr. Ringert: I believe that is all I have.

Cross examination by Mr. Nelson:

Q. I think you said when you testified before Mr. Baldwin that Silver Creek was kind of backwards, it came up later in the year. Is that usually true?

A. Yes. As Mr. Anderson indicated there when they start irrigating on the baseline flats, why Silver Creek raises.

Mr. Nelson: So you can anticipate from past history probably it will come up later in the year.

A. Yes, the more water they pour on the Gannett flats, it usually takes

approximately 15 days, until our older water rights come up too, like the drains we have.

Q. You mentioned 300 acres of hay. Is that 300 acres all of land described in the application?

A. Yes.

Q. And the 18 acres of grain also?

A. Yes.

Q. And the 48 acres of potatoes?

A. Yes.

Q. What does that leave for pasture?

A. I would have to get my pencil out. We have approximately 500 acres that we can irrigate if the water is available, but we have in the past 6 or 7 years.

Mr. Nelson: I think that is all.

Mr. Higginson: Thank you Mr. Baldwin. Is there anything further then from the parties in this matter?

Mr. Nelson: No, I don't believe so.

Mr. Higginson: If there is no further testimony to be introduced, the department would like to have the counsel brief for us the point we discussed at our conference primarily related to the collateral issued Mr. Ringert brought up concerning whether artesian pressure or water level encountered in the drilling of a well and the operation of a well, is an integral part of the water right. Along with that I think the briefs ought to go to the point outlines in the Idaho Code in regard to - Mr. Ringert do you have Volume 8 there? I will just give a statutory situation and I would like to know what it is supposed to mean.

Mr. Nelson: It is 203 isn't it?

Mr. Higginson: No. It is 42-226, and I will read it just for the record here. It says -

> "While first in time is first in right is recognized a reasonable exercise of this right shall not block full economic development of the underground resources but early appropriators of underground water shall be effected in the maintenance of reasonable ground water pumping levels as may be established by the State Reclamation Engineer."

I think this is a very crucial part of this matter brought up by the protest against the appropriation and we would think the briefs covering these two items would be very helpful to us in making a decision. Now in connection with the briefs how much time do the parties want? Mr. Ringert, you are the moving party here, would a brief from you and then an answering brief from the protestants appropriate?

Mr. Ringert: Well, I would like to put it this way, Mr. Higginson. The testimony here has revealed that the water is available to the protestants. The thing they are protesting about is reduction in artesian pressure. I think what they are doing here is trying to avoid an adjudication suit by means of this protest which puts a very heavy burden on the applicants here at the time of the year when they need this water the most they are under, well I don't just recall what the technicality is for inability of the watermaster to make delivery of any water that they might release into Silver Creek, but frankly I think the protestants have in fact failed to establish a prima facie case and my reaction is that the permit should be granted because the water, according to their own testimony, and evidence, is available and I think that is the only test we are concerned with here. Now, the legal issues involved are complex and very interesting, I might add, but I don't

think a determination of those points is necessary to the department's determination of this matter. We could have to go all the way to the State Supreme Court and establish everything there that is required in a water adjudication suit before a right could ever be established because under the permit you can't make the diversion of course until it is issued and you can't establish a water right until you have made your diversion and applied it to beneficial use. I think any other view of this thing would impose upon the applicants a burden that the Legislature never intended.

Mr. Higginson: The only thing I am concerned about Mr. Ringert, is the language in 42-203 under which we consider an application for a permit which the State Engineer's consideration of whether the permit shall be granted or not says,

> "Where such proposed use is such that it will reduce the quantity of water under existing water rights" - that he may reject the application for the permit.

and the only question that I have and the reason I think we need the brief, is to whether the right we are talking about reducing the quantity under existing water right, that that right includes the particular artesian level of pressure.

Mr. Ringert: Well, of course I think the Legislature could have expressed itself much more clearly if that is what it had in mind because they specifically used the word "quantity" is what they are concerned with, "quantity".

Mr. Nelson: And they also used the word "existing" and it is a question of what is the, in other words, how broad is the water right. Is the manner and method of appropriation to be protected?

Mr. Ringert: I don't agree with your theories, of course.

Mr. Higginson: It won't serve any purpose to argue what the law says but I would think we need a brief on this point. Of course if you don't care to submit it we can confer as an office with the Attorney General who gives us legal advice and based on the counsel he gives us we can make an examination. If you don't care to submit a brief at this point and want us to proceed, based upon our advise from our legal consel, we would be happy to do it that way.

Mr. Ringert: No, it isn't that Mr. Higginson. I have no reluctance at all preparing and submitting a brief. My only concern is with time.

Mr. Higginson: I appreciate that and we will do everything we can to expedite this thing, depending on how much time you want and need to submit something, if you care to do so.

Mr. Ringert: I hate to take 15 days but I think I had better because I've got hearings next week.

Mr. Higginson: 15 days and supply protestants' counsel with a copy of your brief and the, how much time for an answer?

Mr. Nelson: I would say the same.

Mr. Higginson: All right, is there anything further then?

Mr. Ringert: I would like 10 days after that for rebuttal on any new issues raised by their briefs.

Mr. Higginson: Fine.

Mr. Nelson: I don't know we need to be on record for this. I was wondering on some of those matters we took notice of last time there was some question about availability, and I just wondered if Bill had mentioned, and I think he is right, if something appeared in one of these reports that we wanted to rebut then we would have a chance to do so, and I wondered if some of these were available. We talked about that report of Loren Signs with the Land Bank of Spokane.

37 7014

Mr. Higginson: I assume that we have a copy in our record, but I don't have it here at hand, and we will make the search today and advise you as to whether we have a copy and be glad to loan it to you.

Mr. Ringert: We would like the same.

Mr. Higginson: With the Haight report?

Mr. Nelson: We don't have that.

Mr. Ringert: We would also like that.

Mr. Higginson: We can get a copy to you on that basis.

Mr. Nelson: I think the rest of things other than we mentioned today we have either seen or we have and I assume we can obtain copies of those published reports some where, if we don't already have them.

Mr. Higginson: The papers published by the U. S. Geological Survey are available generally throughout the state. Now the watermaster's report on the Big Wood and Little Wood Rivers probably would be held in the offices of the various canal and irrigation companies and his office at Shoshone.

Mr. Nelson: I appreciate Bill's time problem. How would it be if either party has any evidence they wish to submit on something raised in one of these reports that don't now know about, that we submit our proposed evidence in writing with the brief, that's the first brief?

Mr. Ringert: I guess we had better do that.

Mr. Nelson: That will save another hearing perhaps.

Mr. Higginson: Is there anything further? If there is nothing further we will take the matter under advisement, awaiting the filing of the briefs and any other material that might come in. Thanks very much.

37 7014

I hereby certify that the foregoing is a true and complete transcript taken from the tape recording at the hearing held April 24, 1968 in Blaine County, Idaho and the hearing held May 2, 1968 in Ada County, Idaho.

Eleanor Williamson

Eleanor R. Williamson, Secretary

37 7014