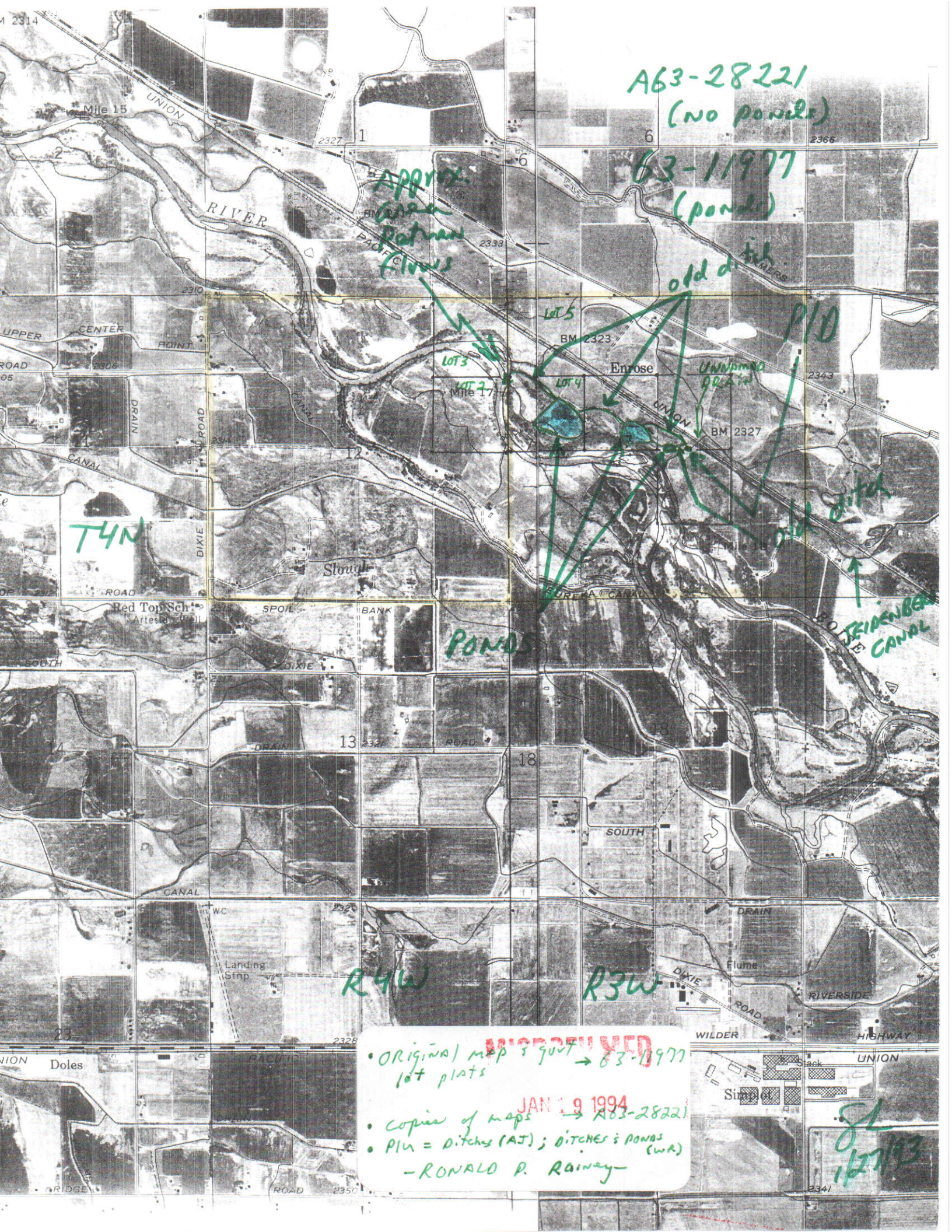




A63-28221
(no ponds)

63-11977
(ponds)

Approx.
Area
Pasture
Flows

old ditch

P/O

T4N

POND

TEJENBERG
CANAL

R4W

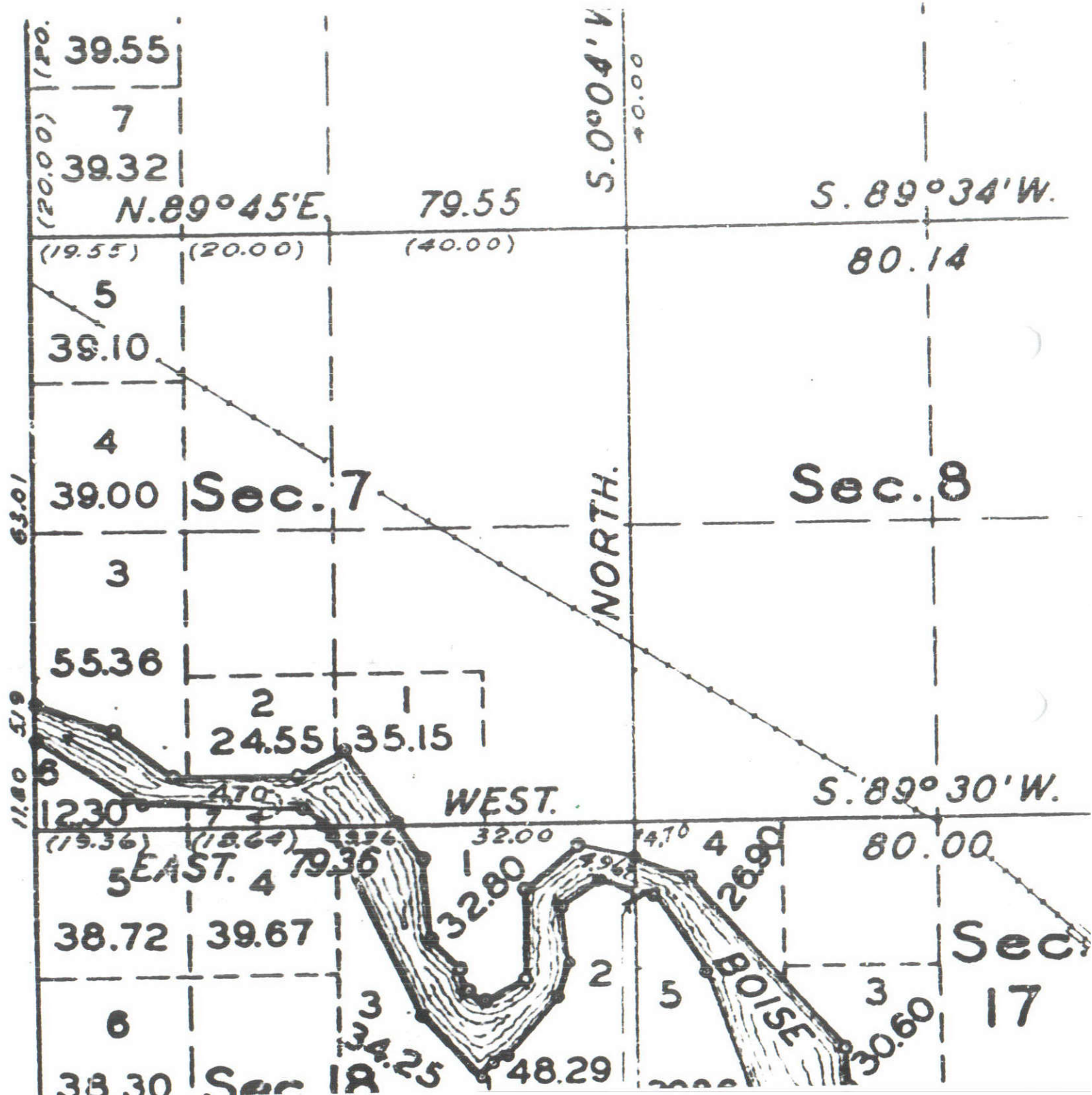
R3W

ORIGINAL MAP & GOVT → 63-11977
lot plats
JAN 19 1994
A63-28221
• Copies of maps
• Pln = Ditches (AT); DITCHES & PONDS (WA)
- RONALD P. Rainey

SL
1/27/93

JAN 19 1994

FOR THE





T4N
R4W
5.1
5.12

RECORDED
JAN 19 1994



Critical
Supply
Ditch
Full
Supply
Needed
Due
To
High
Loss
during
application

Concrete
Structure
Pole
75
87

Concrete Pipe
Under farm road
12' upstream from
concrete Weir

Need a Key

Per Kings (Owners since 1973)
Historic level was 1 foot lower
Problem started in 1984 or 85
RE Tracks

1150'

Stafford

Wagner

Fairway

3.5 m

Metal
Pile added
last year

I 84

Wooden Box

New
Metal
Slide
Gate

Flooded Ground
Present Flow (Temporary) (Downstream complaints)

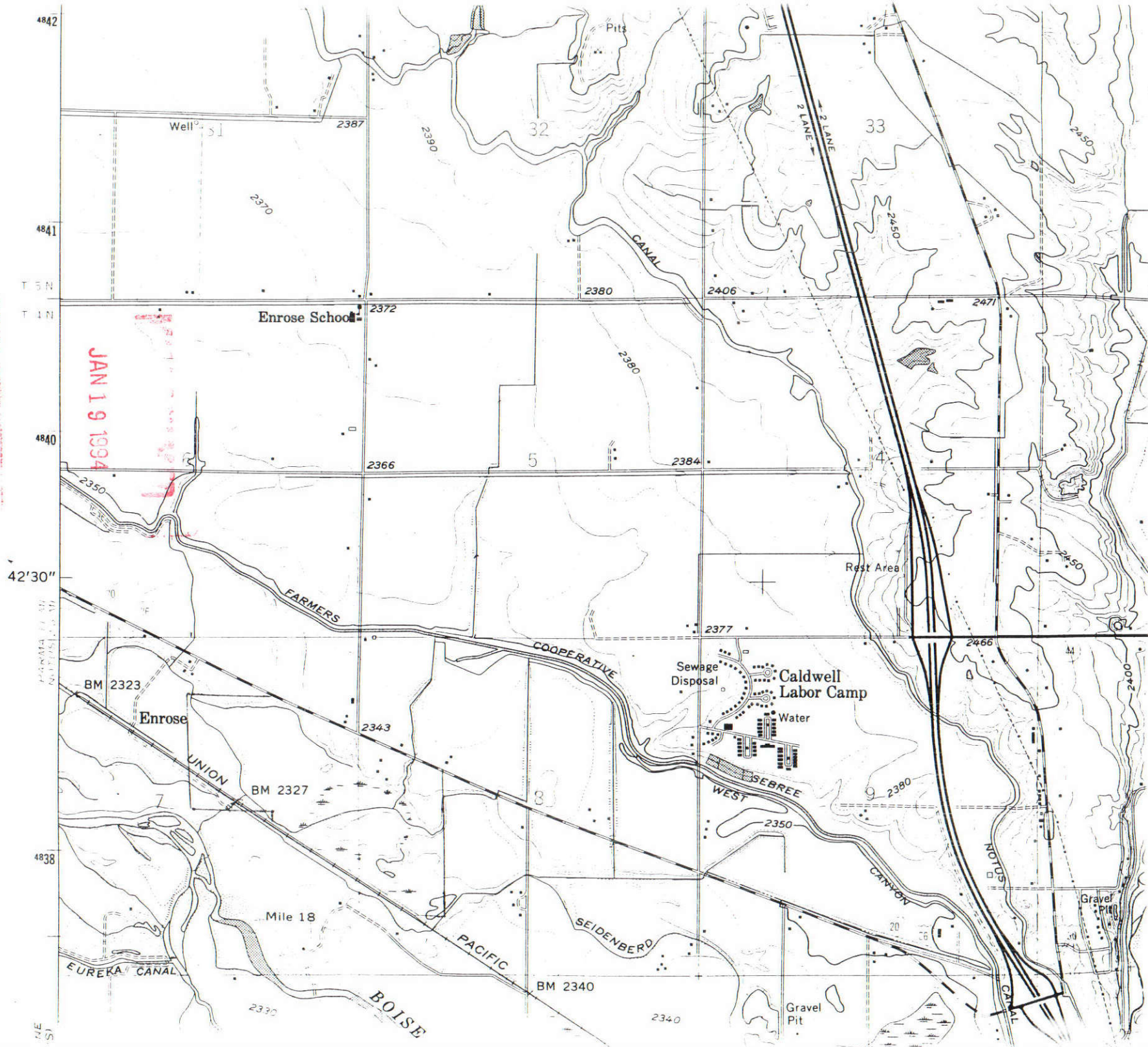
Historic Flow

Siebring's
Canal (End)

Slide gate

JAN 19 1994





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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

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

1. Permit No. 63-11977 Telephone No. (208) 459-3659

2. Name(s) of Permit Holder(s) Ronald P. Rainey

3. Mailing Address: P.O. Box 26, Caldwell, ID 83606-0026

4. Source of Water: Unnamed Drain If **GROUNDWATER** (well), Date Drilled: mo. / yr.

a. Well Driller: N/A Drilling Permit Number: - -

b. **OPTIONAL:**
Pump Horsepower: N/A Pressure (psi): Dynamic pumping level (ft):

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

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

Irrigation (No. of acres): Other: Wildlife Recreation

6. Total rate of diversion and/or volume for which proof is submitted: 12 cfs OR acre feet

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

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

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

Has the measuring device been installed? Yes or No

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

Has the measurement port been installed? Yes or No

8. Fee Enclosed: \$ 400.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: Ronald P. Rainey Telephone Number: 208-459-3659

Address: 110 N 9th P.O. Box 26, Caldwell, ID 83606-0026

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

Signature of permit holder: [Signature] Date: 1-18-96

(Include your title, if on behalf of company or organization)

FEB 26 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 63-11977 IN)
THE NAME OF RONALD P. RAINEY)
_____)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department) in the form of a protested application for permit, the department having held a conference and a hearing in the matter, the Director of the department makes the following Findings of Fact, Conclusions of Law, Analysis and Order:

FINDINGS OF FACT

1. On January 27, 1993, Ronald P. Rainey (applicant) filed Application for Permit No. 63-11977 (application) with the department proposing the diversion and storage of 35 acre feet of water to be diverted from the Seidenberd Canal and an Unnamed Drain both tributary to the Boise River. Uses sought in the application include ground water recharge and storage for wildlife and stockwater. The proposed rate of diversion to storage is 12.0 cubic feet per second and the proposed rate of diversion for ground water recharge is 4.0 cfs. The proposed points of diversion and place of use are within Section 7, T4N, R3W, B.M. located about four (4) miles west of Caldwell, Idaho.

2. The department advertised the application as required by law and received a protest against approval of the application from Gary L. King (protestant).

3. On September 29, 1993, and on December 20, 1993 the department held hearings in the contested matter. The applicant was present and represented himself. The protestant was present and was represented by Richard Harris. At the second hearing, the protestant withdrew his protest based on a private agreement reached between the applicant and protestant.

4. The water sought by the applicant from the Unnamed Drains is considered to be wastewater.

5. The applicant has filed with the department Snake River Basin Adjudication (SRBA) Claim No. A63-04531 which claims the following:

Source : Unnamed Drains tributary to the Boise River
Priority : June 1, 1865

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JAN 19 1994

Point of div : NW1/4SE1/4 Section 7, T4N, R3W, B.M.
Rate of div : 2.98 cfs
Use : Irrigation of 149 acres
Period of use: March 15 through November 15

6. The applicant has also filed SRBA Claim No. A63-28221 which claims the following:

Source : Seidenberd Canal and Unnamed Drain
Priority : June 1, 1945
Point of div*: SW1/4NE1/4 Section 7, T4N, R3W, B.M.
NW1/4SE1/4 Section 7, T4N, R3W, B.M.
Rate of div : 5.05 cfs total
Use : Stockwater - 0.05 cfs
Wildlife - 5.0 cfs
Period of use: January 1 through December 31

* There is only one point of diversion which is located on or near the line common to the SW1/4NE1/4 and NW1/4SE1/4 Section 7.

7. The applicant owns 160 acres between Caldwell and Notus and has owned the land for about fourteen (14) years. The diversion system to be used under the application is an existing system and is the same as used under SRBA Claim Nos. A63-04531 and A63-28221.

8. The three (3) ponds identified on the application were constructed or enlarged after 1987 and have a total surface area of about 14 acres. Water flowing from the ponds returns to the Boise River within about 1,000 feet from the point of diversion.

9. The location of the points of diversion and place of use is within the lower reach of the Boise River drainage where the water available for use is primarily return flow to the river from upstream diversion and uses. Even though the Boise River is generally fully appropriated, there usually is not a water delivery or water shortage problem in the lower part of the Boise River drainage because of the return flows to the river.

10. At the hearing held on December 20, 1993, the applicant withdrew the "Groundwater Recharge" use from the application.

11. The ponds are used by large numbers of ducks for resting and breeding and for hunting dog field trials.

12. Water discharging from the ponds is less turbid than water entering the ponds due to settlement of suspended matter from the water in the ponds.

13. Stockwater and wildlife uses are commonly accepted beneficial uses of water in Idaho. The stockwater use is for about

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200 head of range cattle.

14. The rate of diversion of 12.0 cfs shown on the application includes the rate of diversion of the applicant's SRBA claims.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in part as follows:

"In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, ..."

2. Impoundment of water in the ponds will not injure prior water rights.

3. The water supply is sufficient for the purposes intended since the applicant is not seeking an appropriation of water over that rate or volume of water which has already been diverted and impounded in the existing ponds for a number of years.

4. The application for permit was made in good faith and not for delay or speculative purposes.

5. The application for permit does not conflict with the local public interest.

6. The application for permit is not contrary to conservation of water resources within the state of Idaho.

7. The department should partially approve the application and should issue a permit with certain conditions and limitations.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit No. 63-11977 is **PARTIALLY APPROVED** subject to the following conditions and limitations:

PRELIMINARY ORDER - Pg 3

MICROFILMED

JAN 19 1994

1. Use of water under this right is subject to all prior water rights.

2. Uses approved are as follows:

<u>Use</u>	<u>Rate or volume</u>	<u>Season of use</u>
Stockwater Storage	35.0 AF	01-01 to 12-31
Wildlife Storage	35.0 AF	01-01 to 12-31
Div to storage	12.0 cfs	01-01 to 12-31
Wildlife	7.0 cfs	01-01 to 12-31
TOTAL	35.0 AF	12.0 cfs

3. Proof of construction of works and application of water to beneficial use shall be submitted on or before February 1, 1996.

4. Upon a determination of need by the department, the right holder shall install measuring equipment specified by the department to assure that the applicant does not divert and/or impound more water than authorized under existing water rights.

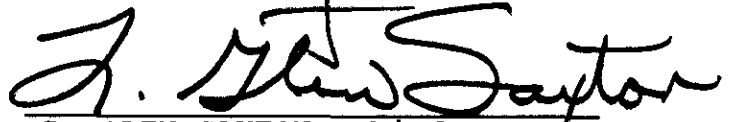
5. Use of water under this approval is subject to the control of the watermaster of Water District No. 63, Boise River and tributaries.

6. Stockwater is for 200 range cattle.

7. The total rate of diversion to storage under this permit when considered together with other rights shall not exceed 12.0 cfs.

8. This approval does not grant any right-of-way or easement across the land of another party and does not authorize the use of diversion and/or conveyance works of another party.

Signed this 7th day of January, 1994.


L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14th day of January, 1994, I mailed a true and correct copy, postage prepaid, of the foregoing Preliminary Order to the following:

Ronald P. Rainey
2615 Dorman
Caldwell, ID 83605



Donna L. Corless
Clerical Specialist

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JAN 19 1994

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 63-11977

Proposed Priority: January 27, 1993

Maximum Diversion Rate:
Maximum Diversion Volume:

12.00 CFS
35.0 AF

This is to certify, that **RONALD P RAINEY**
2615 DORMAN
CALDWELL ID 83605
has applied for a permit to appropriate water from:

WASTEWATER tributary of **BOISE RIVER**

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
STOCKWATER STORAGE	01/01 to 12/31		35.0 AF
WILDLIFE	01/01 to 12/31	7.00 CFS	
WILDLIFE STORAGE	01/01 to 12/31		35.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	12.00 CFS	
	Totals	12.00 CFS	35.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SWSWNE , Sec. 7, Township 04N, Range 03W
NWNWSE , Sec. 7, Township 04N, Range 03W
CANYON County

PLACE OF USE: STOCKWATER STORAGE

TWN RGE SEC

04N 03W 7 SWNE Lot 5(NWNW) Lot 4(SWNW)
 SENW NWSE

PLACE OF USE: WILDLIFE, same as STOCKWATER STORAGE use

CONDITIONS/REMARKS:

1. See Preliminary Order for conditions of approval.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.
Witness the signature of the Director, affixed at Boise, this

7th day of January, 1994.

[Signature]
for R. Keith Higginson, Director

RECEIVED

JAN 19 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: RONALD P RAINEY
Address: 2615 DORMAN
CALDWELL ID 83605

208-459-9626

2. Source: SEIDENBERD CANAL
UNNAMED DRAIN

Trib. to: BOISE RIVER
BOISE RIVER

3. Location of Point of Diversion:

SWSWNE Sec. 7, Township 04N, Range 03W
NWNWSE Sec. 7, Township 04N, Range 03W
CANYON County

4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
STOCKWATER STORAGE	01/01	12/31			35.00
STOCKWATER FROM STORAGE	01/01	12/31			35.00
WILDLIFE STORAGE	01/01	12/31			35.00
WILDLIFE FROM STORAGE	01/01	12/31			35.00
~~GROUNDWATER RECHARGE~~	~~01/01~~	~~12/31~~	~~4.000~~	WITHDRAWN	12/20/93
DIVERSION TO STORAGE	01/01	12/31	12.000		

5. Total quantity to be appropriated is:

12.000 CFS (and/or) AF

6. Proposed diverting works:

- a. Description of ditches, flumes, pumps, headgates, etc.
HEADGATE & DITCH TO MULTIPLE DITCHES & PONDS (3), EXISTING SYSTEM
- b. Height of storage dam 5 feet; active reservoir capacity 35.00
acre-feet; total reservoir capacity 35.00 acre-feet; period of
year when water will be diverted to storage: 1/01 to 12/31 inclusive.
- c. Proposed well diameter is inches; proposed depth of well is
feet.
- d. Is groundwater with a temperature greater than 85F being sought? NO

7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 1 year(s).

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JAN 19 1994

* according to Watermaster, should be spelled Seidenberg, but USGS Name
Spelled as shown in database per topo. 82 2/10/93

8. Place of Use: STOCKWATER FROM STORAGE

TWN RGE SEC
04N 03W 7

SWNE
SENE

Lot 5 (NWNW)
NWSE

Lot 4 (SWNW)

Place of Use: WILDLIFE FROM STORAGE, same as STOCKWATER FROM STORAGE use

Place of Use: GROUNDWATER RECHARGE, same as STOCKWATER FROM STORAGE use

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

APPLICANT

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

APPLICANT

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

10. Remarks:

Single point of diversion on or near line between SWSWNE and
NWNWSE, S.7, T04N, R03W.

Stockwater use is for 200 range cattle.

★ Wildlife use is for variety of animals at ponds and in ditches.

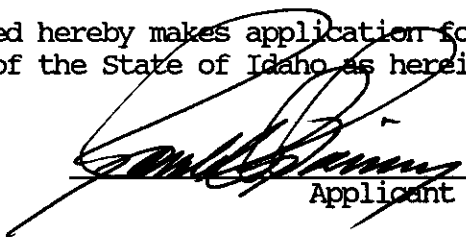
Ponds are located in all place of use tracts except Lot 5 (NWNW).

This right is based upon and used in conjunction with SRBA claims
A63-04531 and A63-28221.

★★ Return flows to Boise River occur near conjunction of W 1/2
NW 1/4, S.7, T04N, R03W, and E 1/2 NE 1/4, S.12, T04N, R04W.

11. Map of proposed point of diversion and place of use attached? ☒

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


Applicant

Received by FL Date 1/27/93 Time 11:25 Preliminary check by LG

Fee \$ 265 Received by FL # W015863 Date 1/27/93

Publication prepared by GG Date 2-10-93 Published in Press-Tribune

2/17 & 2/24/93

Publication approved at Date 3-22-93

★ Remarks updated 1/27/93: Reservoir capacity is 35 acres feet.
Ground water recharge is to surface water ponds.
★★ " deleted " & placed in comments.

JAN 19 1994

Subject:

GROUND WATER RECHARGE, MORATORIUM, OTHER INFORMATION.

Applicant filed upon GWR in sense that ponds cause water to seep to nearby areas and enhance the land by improving pasture and other vegetation. The GWR therefore aids in irrigation covered by A63-04531 but additional irrigation is not being applied for. This is the same diversion system in A63-04531 and A63-28221. New application is filed to cover storage water developed in late 1970's and 1980's (before SRBA commencement). Uses are exempt from moratorium to the extent that uses prior to 11/87 can be verified. Since it appears that applicant will submit good info, ok to proceed with advertising without delay. Hold file at Region until verification is submitted.

Diversion is at confluence of canal and drain. Canal or drain continues past P/D and ends at river less than 1000' SW of P/D. Due to this, appears that adverse impact downstream but before river would not occur. No need to notify irrigation district or canal company (if operate in this area) because of proximity to river?

Return flows to river via existing ditch system occur near common point for W 1/2 NW 1/4 S.7 and E 1/2 NE 1/4 S.12. Is SCA permit needed for return flows for existing system?

Comment letters in advertising: 1) Watermaster 2) Complainant, Gary L. King, 16991 Hwy 20-26, Caldwell, 83605.

Pond information: from west to east: est. sizes 10 ac., 3.5 ac., .25 ac.; each pond averages 2.5' deep. Total area covered is 13.75 ac.; total volume stored is 13.75 ac. X 2.5' = 34.4 af but rounded to 35 af as best estimate. The two larger ponds were in place by late 1970's and last and smallest pond built by 1986-7. Site is the old Trumbull place (previously was Johnson place).

JAN 19 1994

A63-28221

(no

UNION

RIVER

lot 3

T4N

Red Top

BAY

DRIVE

Dols

ORIGINAL map & plat → 83-8977
lot plats

JAN 9 1994
• Copies of maps → A63-28221
• Plu = Ditches (AT); DITCHES & PONDAS (WA)
- RONALD P. Rainey -

wildcat

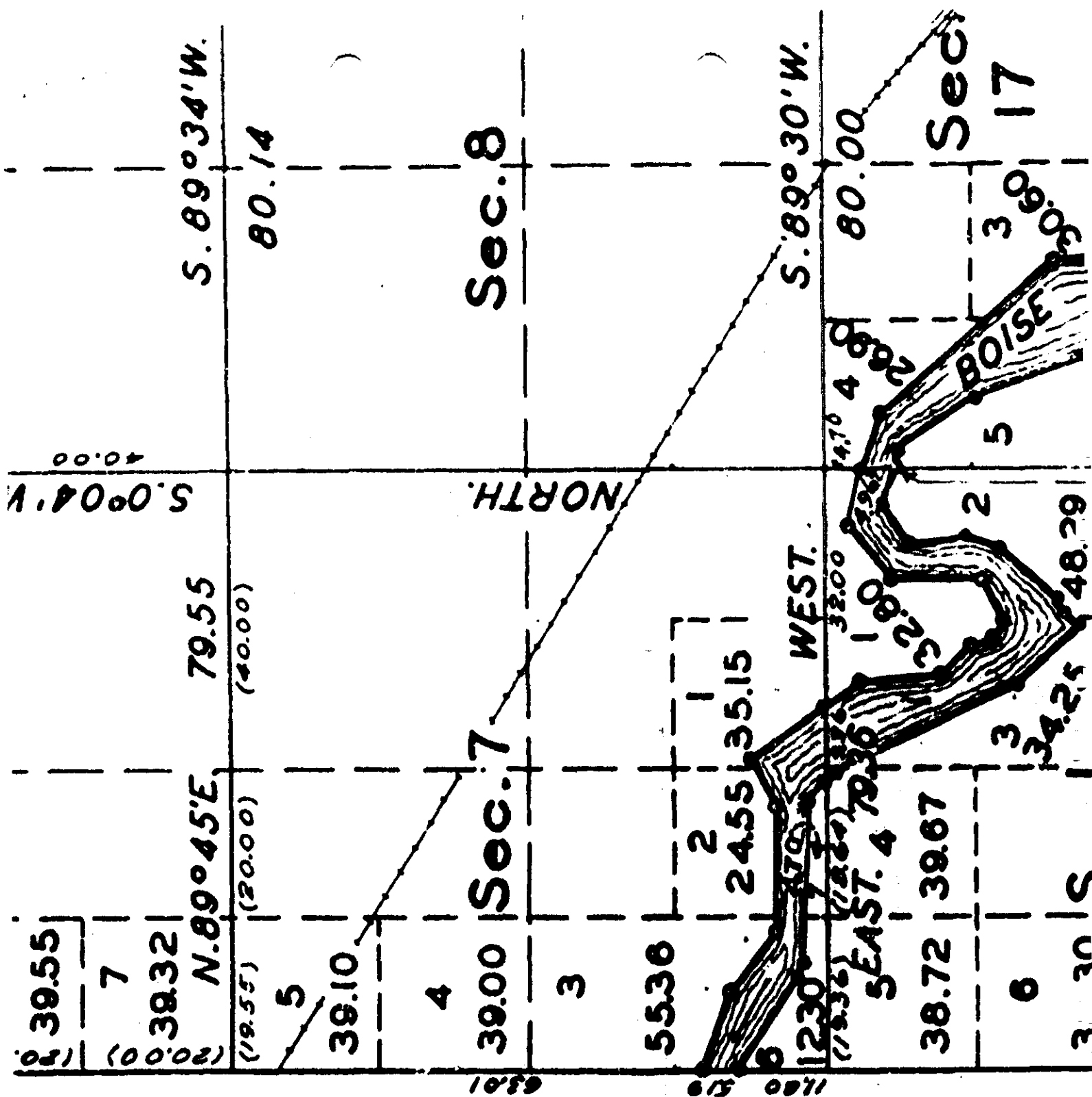
St

UNION

T4N
R3W
S.7
1935 Survey

MICROFILMED

JAN 19 1994



5.12

10801

15

1150

7-15-57

MICROFILMED

JAN 19 1994

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

02-07452

MC GAVIN, JOHN M
MC GAVIN, SANDY
17583 FARGO RD
WILDER, ID 83676

Source: SNAKE RIVER
Diversion Pt: LOT 1 (SENE)
Use: DOMESTIC

Tributary: COLUMBIA RIVER
Sec 4 T 03N R 05W in CANYON County.
(.040 CFS)
Total Diversion: (.040)

Date Filed: 2/2/1993
In: CANYON County
T03N R05W S04
0.5 ACRES TOTAL

Lot 1(SENE)

63-11977

RAINEY, RONALD P
2615 DORMAN
CALDWELL, ID 83605
Source: SEIDENBERD CANAL
Source: UNNAMED DRAIN

Diversion Pt: SWSWNE
NWNWSE

Tributary: BOISE RIVER
Tributary: BOISE RIVER
Sec 7 T 04N R 03W in CANYON County.
Sec 7 T 04N R 03W in CANYON County.

Use: STOCKWATER STORAGE
WILDLIFE STORAGE
GROUNDWATER RECHARGE
DIVERSION TO STORAGE
STOCKWATER FROM STORAGE
WILDLIFE FROM STORAGE

(35.00 AF)
(35.00 AF)
(4.000 CFS)
(12.000 CFS)
(35.00 AF)
(35.00 AF)

Total Diversion: (12.000 CFS)

Date Filed: 1/27/1993

In: CANYON County
T04N R03W S07 SWNE Lot 5(NWNW) Lot 4(SWNW) SENW
NWSE

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 on or before March 8, 1993.
R. KEITH HIGGINSON, Director
February 17, 24, 1993

AFFIDAVIT OF PUBLICATION

OF IDAHO)

) ss.

of Canyon)

Janet McDaniel

I, Nampa, Canyon County, Idaho, being first duly sworn, deposes and says:

That I am a citizen of the United States of America, and at all hereinafter mentioned was over the age of eighteen years. I am a party to the above entitled action.

That I am the Principal Clerk of the Idaho Press-Tribune, a (except Saturday) newspaper published in the City of Nampa and Caldwell, in the County of Canyon, State of Idaho; the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of twenty-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.

That the notice, of which the annexed is a printed copy, was published in said newspaper

Two Times

in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following dates:

February 17, 24, 1993

Janet McDaniel

STATE OF IDAHO)

COUNTY OF CANYON)

On this 24th day of February in the year of 1993, before me, a Notary Public, personally appeared Janet McDaniel, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she executed the same.

Notary Public for Idaho
Residing at Nampa

MY COMMISSION EXPIRES
JUNE 21st, 1997

JAN 19 1994

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 63-11977 Reviewed by [Signature] Date 2-2-96

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?
no Address same as permit?
yes Proof timely received? Correct Uses? yes
If not, complete calculation below.

SOURCE OF WATER

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

LICENSE EXAMINATION FEE

MEASURING DEVICE

yes Required?
400 Amount Submitted
yes Correct?
yes Required?
? Installed?
no Waiver requested?

PRIORITY CALCULATION

Date proof received	_____	_____
Date proof due	_____	_____
No. of days late	_____	_____
Priority Date	_____	_____
New Priority Date	_____	_____

DEFICIENCIES OR ACTION ITEMS

~~Advise of measuring device requirement.~~
Proof acceptable

DATA ENTRY

New Address P.O. Box 26 Proof Made 1-18-96
Caldwell, Id 83606-0026



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 12, 1996

RONALD P RAINEY
P O BOX 26
CALDWELL ID 83606-0026

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 63-11977

Dear Permit Holder:

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

The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning the field examination, please feel free to contact the WESTERN Regional Office in Boise, at (208) 334-2190.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

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FEB 26 1996

November 30, 1995

RONALD P RAINEY
2615 DORMAN
CALDWELL ID 83605

PROOF DUE NOTICE

RE: PERMIT NO. 63-11977

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before February 1, 1996.

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

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

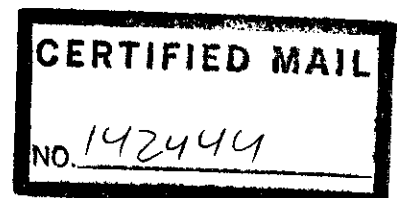
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

FEB 26 1996





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

January 12, 1994

Ronald P. Rainey
2615 Dorman
Caldwell, ID 83605

RE: Permit No. 63-11977

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed. You will receive a "Proof Due Notice" from this Department approximately 60 days prior to the completion date requiring you to file either a Proof of Beneficial Use form stating that the project has been completed or file a Request for an Extension of Time in which to file the proof statement.

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

PETITION FOR RECONSIDERATION

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

Page 1

JAN 19 1994

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its

JAN 19 1994

issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Sincerely,



JIM JOHNSON
Water Rights Supervisor

Enclosure

c: Western Region

RECEIVED
JAN 19 1994

MEMORANDUM

To: File 63-11977

From: L. Glen Saxton

RE: HEARING ON DECEMBER 20, 1993 - APP. 63-11977

Date: December 20, 1993

At the continuation of the hearing against approval of application for permit no. 63-11977 held on December 20, 1993, the protestant withdrew his protest based upon an agreement between the applicant and protestant relative to ditch cleaning and maintenance. Provisions of the agreement appear to be outside the jurisdiction of the department. The parties, however, plan to reduce the terms of the agreement to writing and provide a copy to the department.

After being questioned by the department about the "Groundwater recharge" use and its implications, the applicant withdrew that use as one being sought on the application.

The hearing officer concluded the hearing upon withdrawal of the protest.

RECEIVED

JAN 19 1994

- ROSTER OF ATTENDANCE -

RE: Hearing - Application for Permit No. 63-11977 in the name
of Ronald P. Rainey

Date: December 20, 1993

Place: IDWR Conference Room, 1301 N. Orchard St, Boise, ID.

	Name	Address	Representing
1.	<i>John King</i>	<i>16989 Hwy 20-26 Caldwell</i>	
2.	<i>Greg King</i>	<i>16991 Hwy 20-26 Caldwell</i>	<i>Self</i>
3.	<i>Richard Harris</i>	<i>P.O. Box 1438 Caldwell 83606</i>	
4.	<i>Ronald Rainey</i>	<i>P.O. Box 26, Caldwell, Idaho</i>	<i>- Applicant</i>
5.	<i>DAN D. BILLE</i>	<i>P.O. BOX 134 GRESHAM, ID.</i>	<i>APPLICANT</i>
6.	<i>Wiggit Tucker</i>	<i>2405 Idaho Ave Caldwell, ID</i>	
7.			
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13.			

MICROFILMED

JAN 19 1994

1. NAME

2. AGE

3. DATE OF BIRTH

4. PLACE OF BIRTH

5. RELIGION

6. SEX

7. HEIGHT

8. WEIGHT

9. HAIR

10. EYES

11. TEETH

12. SKIN

13. FEET

14. HANDS

15. VOICE

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100. TELEFAX

Applicant's Exhibit No. 1

WISCONSIN
JAN 19 1994

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	NOTICE OF CONTINUATION
FOR PERMIT NO. 63-11977 IN THE	)	OF HEARING
NAME OF RONALD P. RAINEY	)	
_____	)	

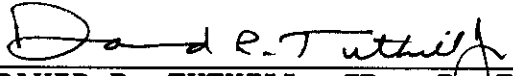
On January 27, 1993, Ronald P. Rainey filed with the Department of Water Resources (department) application for permit no. 63-11977. The application was protested by Gary L. King. The conference held by the department on July 9, 1993, and the partial hearing held on September 29, 1993, did not resolve the matter of protest.

The Department has scheduled the matter for a Continuation of Hearing to be held on Monday, December 20, 1993, at 1:30 p.m. in the Second Floor Conference Room, Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. The presiding officer at the hearing will be Glen Saxton.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 3rd day of December, 1993.



DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

RECEIVED
JAN 19 1994

I hereby certify that on the 3rd day of December, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Sue Taylor
Secretary, Office Coordinator

Certified Mail

RONALD P RAINEY
2615 DORMAN
CALDWELL ID 83605

GARY L KING
16991 HIGHWAY 20-26
CALDWELL ID 83605

Richard Harris - 12-14-93

RECEIVED
JAN 19 1994



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

MEMORANDUM

To: L. Glen Saxton
From: R. Keith Higginson *RKH*
RE: **APPOINTMENT AS HEARING OFFICER - PROCEDURE RULE 410**
Date: September 20, 1993

I, R. Keith Higginson, Director of the Idaho Department of Water Resources (department) hereby appoint **L. GLEN SAXTON** in compliance with department Procedure Rule 410 to act as Hearing Officer on behalf of the department in the following contested matter:

In the Matter of Application for Permit No. 63-11977 in the Name of Ronald P. Rainey

The department has scheduled a hearing in the matter as follows:

Date: September 29, 1993
Time: 1:30 p.m.
Place: Canyon County Courthouse, 1115 Albany, Caldwell, ID.

MICROFILMED

JAN 19 1994

- ROSTER OF ATTENDANCE -

RE: Hearing - Application for Permit No. 63-11977 in the Name
of Ronald P. Rainey

Date: September 29, 1993

Place: Canyon County Courthouse, 1115 Albany, Caldwell, ID.

	Name	Address	Representing
1.	DAN D. BLESS	P.O. BOX 134 GREENLEAF, ID.	
2.	Virgil Tucker	2405 Idaho Ave, Caldwell ID.	
3.	ANDREW KING	16929 Hwy 20-26 Caldwell ID	
4.	Gary King	16991 Hwy 20-26 Caldwell, ID	
5.	Ron Rainey	2615 Dorman Caldwell, ID.	Petitioner
6.	Jon Meedham	1900 1 Pride Lane Caldwell	
7.	Richard Lewis	P.O. Box 1438 Caldwell ID 83406	
8.			
9.			
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JAN 19 1994

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)	NOTICE OF HEARING
FOR PERMIT NO. 63-11977 IN THE)	
NAME OF RONALD P. RAINEY)	
_____)	

On January 27, 1993, Ronald P. Rainey filed with the Department of Water Resources (department) application for permit no. 63-11977. The application was protested by Gary L. King. The conference held by the department on July 9, 1993 did not resolve the matter of protest.

The Department has scheduled the matter for a hearing to be held on Wednesday, September 29, 1993, at 1:30 p.m. at the Canyon County Courthouse, 1115 Albany, Caldwell, Idaho 83605. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. The presiding officer at the hearing will be Glen Saxton.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 16th day of September, 1993.

David R. Tuthill

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

I hereby certify that on the 16th day of September, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor

Sue Taylor
Secretary, Office Coordinator

Certified Mail

RONALD P RAINEY ✓
2615 DORMAN
CALDWELL ID 83605

GARY L KING ✓
16991 HIGHWAY 20-26
CALDWELL ID 83605

JAN 19 1994

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize

themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

ALEXANDERSON, DAVIS, RAINEY & WHITNEY
LAWYERS

ROBERT L. ALEXANDERSON, P.A.
WAYNE E. DAVIS (1919-1988)
RONALD P. RAINEY, P.A.
DAVID L. WHITNEY, P.A.

110 NORTH NINTH AVENUE
POST OFFICE BOX 28
CALDWELL, IDAHO 83606-0026

AREA CODE 208
TELEPHONE 459-3659

August 29, 1993

Mr. David Tuthill, Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Re: Protested Water Right Application no. 63-11977
in the name of Ronald P. Rainey

Dear Mr. Tuthill:

I have reviewed your letter dated August 19, 1993 which enclosed the report of Neil Wilton.

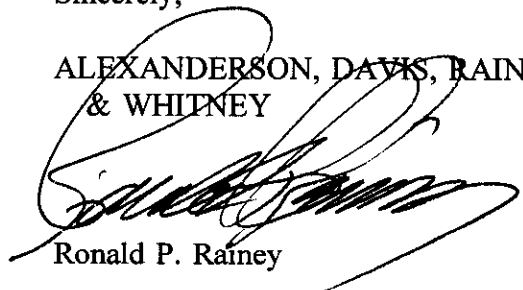
I want to express my appreciation to you and Mr. Wilton for the time and effort both of you have expended in assisting us in an attempt to resolve the water problem. Mr. Wilton's survey on the ditch and the land are consistent with the prior survey which found, in effect, that the ditch drops very little in the first 1200 feet. To my knowledge this land has been irrigated in the same manner since the land was first irrigated.

At this time I am prepared to cut the iron gate down far enough so that the excess water will flow over the iron gate and then I am prepared to apply for cost sharing assistance to reconstruct the spill structure with a long sharp crested weir as suggested in paragraph #2 Mr. Wilton's report.

I am uncertain as to exactly what water would be carried by a pipe as suggested by Mr. Wilton in paragraph 4c. Further clarification is necessary for me concerning this alternative.

Sincerely,

ALEXANDERSON, DAVIS, RAINEY
& WHITNEY


Ronald P. Rainey

RPR/elr

cc: Gary L. King, Dan Blele, Virgil Tucker Jr., Richard Harris

JAN 19 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

August 19, 1993

Soil Conservation Service
ATTN: H. LeRoy Zollinger, State Conservation Engineer
3244 Elder Street
Boise, ID 83705

RE: Protested Water Right Application No. 63-11977
in the name of Ronald P. Rainey

Dear LeRoy:

Thank you for conveying to me the Engineering Trip Report prepared by Neil Wilton with assistance from John Jeffredo. The report contains suggestions which I believe will be of value in resolving concerns about water diversions in this matter.

By copy of this letter I am forwarding the SCS report to interested parties. I would ask that they respond to this office regarding their reactions to the information in the report no later than September 1, 1993.

I appreciate the helpful and professional assistance from your staff in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'David R. Tuthill, Jr.'.

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

cc w/enclosures: Ronald P. Rainey, Gary L. King, Dan Blele,
Virgil Tucker Jr., Richard Harris

RECORDED

JAN 19 1994



United States
Department of
Agriculture

Soil
Conservation
Service

3244 Elder Street
Room 124
Boise, Idaho 83705

August 18, 1993

RECEIVED
AUG 18 1993

Mr. David Tuthill, Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Department of Water Resources
Western Regional Office

Dear Dave,

Enclosed is a copy of Neil Wilton's report on the assistance to Mr. Rainey and Mr. King concerning flooding from an irrigation diversion structure.

The report does display alternatives, with alternative "c" the best solution. As the report indicates, Neil has offered SCS assistance to provide engineering assistance for a design of the alternative selected.

I hope this assistance will lead to a solution and that it is useful to the IDWR. If you have any questions, please feel free to contact Neil directly.

Sincerely,

H. LEROY ZOLLINGER, P.E.
State Conservation Engineer

Enclosure

cc: (w/enclosure)

Lee Brooks, Area Conservationist, SCS, Boise, ID
Bob Bishop, Area Engineer, SCS, Boise, ID
John Gleim, District Conservationist, SCS, Caldwell, ID

RECEIVED

JAN 19 1994



The Soil Conservation Service
is an agency of the
Department of Agriculture

AN EQUAL OPPORTUNITY EMPLOYER



United States
Department of
Agriculture

Soil
Conservation
Service

3244 Elder Street
Room 124
Boise, Idaho 83705

August 17, 1993

To: H. LeRoy Zollinger
State Conservation Engineer
SCS, Boise, Idaho

Subject: ENG - Trip Report - Caldwell Field Office - Assistance
to IDWR in the Matter of Mr. Rainey and Mr. King

On August 13, John Jeffredo and I met in the field with Mr. Rainey and Mr. King separately. Both parties share some of the same problems common to water users at the end of a canal system. The Seidenberd Canal (spelling varies) terminates near the center of Section 7, T4N, R3W on the southwest side of Union Pacific railroad tracks. A 36 inch gate structure spills the canal into a natural drain about 800 feet from the Boise River. Unregulated flow fluctuations disrupt Rainey's downstream irrigation, while unwanted backwater floods the low ends of King's fields (upstream).

Rainey irrigates from a flat ditch on the southwest side of the tracks. When his ditch is checked-up, more backwater occurs further aggravating King's flooding. Rainey also gets water from an unnamed drain that parallels the Seidenberd Canal on the northeast side of the tracks. This drain crosses under the tracks at the spill structure and contributes to the backwater problem.

John and I made a level survey of this troublesome area. The spill structure on this date was spilling water, but 4 to 5 cfs was also flowing northwest down Rainey's irrigation ditch. The ditch was not checked up for irrigating. The depth from water surface elevation to invert of the spill conduit was 5.5 feet. The receiving drain is deeper yet.

The water surface of the ponded water at the spill was 1.6 feet above the water surface in the ditch and the invert of the irrigation outlet, about 1150 feet distant. Field shots from 35 to 120 feet away from the invert were 0.6 and 0.4 feet above the invert, respectively. To properly irrigate the field, a minimum water surface 12 inches above the invert is necessary, confirmed by water lines on the ditchbank at the outlet. Backwater will (and does) affect the water surface profile to something less than a foot higher at the spill structure, but compounds King's flooding. When Rainey irrigates, upstream backwater is inevitable.

In an attempt to alleviate flooding, King has deepened a southerly flowing drain connecting it to a northerly flowing drain. High water surface elevations of the backed up system forces flow to the north, but does not satisfactorily eliminate King's high water concerns.

JAN 19 1994



The Soil Conservation Service
is an agency of the
Department of Agriculture

AN EQUAL OPPORTUNITY EMPLOYER

Several factors contribute to this situation:

1. Uncontrolled return, drain, and delivery flows terminate at the spill.
2. The spill is a gate only and provides no weir control.
3. Rainey's ditch is flat, falling only 0.6 feet per 1,000 feet. Flow velocities are low and carry very little sediment load.
4. Rainey's field is high, but leveling seems to be of little value. Underlying soils seem to be coarse.
5. King's drain is directly connected to the canal and unnamed drain when water surface elevations are high.
6. Natural drainage for King is southwesterly.

The remedy for minimizing backwater effects probably consists of the following elements:

1. Limit water in Rainey's ditch to time of irrigation use only.
2. Reconstruct the spill structure with a long sharp crested weir in conjunction with a 36 inch control gate. The crest of the weir to be set at an elevation low enough to minimize unwanted backwater, if possible, but still doubtful.
3. King to improve irrigation water management (not yet evaluated to see if this is possible) to lessen return flows contributing to the problem.
4. A berm on King's side of the tracks isolating the unnamed drain from flowing northerly and into King's field.

From the berm:

- a. A deeper northerly drain could be dug.
- b. A pipe with flap gate against the backwater could be installed. King's drain would then be in effect, or at low backwater levels would drain through the flap gate and through the existing spill.
- c. A pipe through the berm, under the tracks, bypassing the spill structure and outletting directly into the existing natural drain. Continuous drainage would then occur under scheme "c".

Only scheme "c" provides the biggest relief for Mr. King. It also provides the greatest degree of freedom for both parties concerned. King's runoff and shallow drainage would continuously evacuate, and Rainey would not need to change his management style, nor would any structural changes be needed. He could operate as is.

Costs for any of the scheme elements has not been made.

Both parties were informed that SCS exists to provide them further technical assistance if they so request, but that the agency will not enter into dispute settlements with them. Both parties were also very cordial to John and me, as well as straightforward about their assessment of this situation.

JAN 19 1994

Neil D. Wilton

Neil D. Wilton, P.E.
Civil Engineer
SCS, Boise, Idaho

Concurred in by:

H. LeRoy Zollinger

H. LeRoy Zollinger, P.E.
State Conservation Engineer
SCS, Boise, Idaho

[Faint signature]

JAN 19 1994

Critical
Super
Ditch
Full
Supply
Needed
Due
To
High
Loss
during
application

Concrete
Structure
Pole
75
87

Concrete Pipe
Under farm road
12' upstream from
concrete Weir

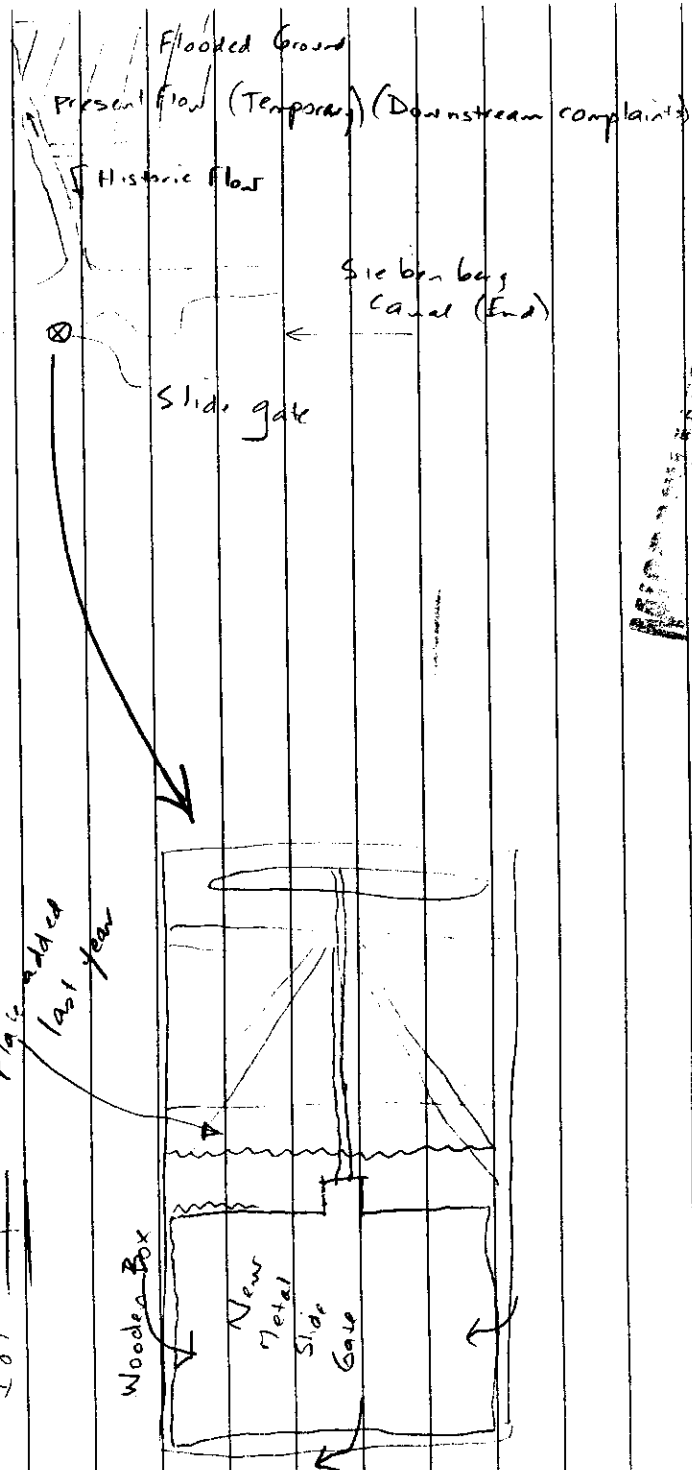
Need a Key

Per Kings (Owners since 1973)
Historic level was 1 foot lower
Problem started in 1981 or 85
RR Tracks

← 1150' →

Stafford
Wagner
Fairview
3.5 m
I 81

Metal
Plate added
last year

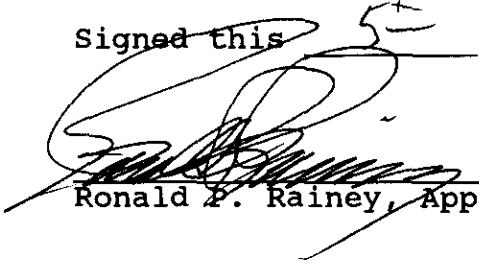


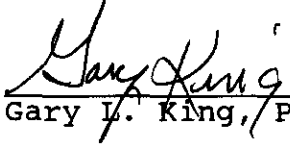
JAN 19 1994

AGREEMENT

We, the undersigned, agree that the Soil Conservation Service (SCS) participation in the matter of protested Application for Permit No. 63-11977 is a technical service provided to the Idaho Department of Water Resources. If any litigation should result from this matter, we agree to not subpoena SCS employees, but instead we agree to hire consulting engineers to serve as expert witnesses.

Signed this 5th day of August, 1993.


Ronald P. Rainey, Applicant


Gary L. King, Protestant

JAN 19 1994

From: DWR80::TUTHILL 3-AUG-1993 10:49:05.18
To: DWR01::WRYOUNG, DWR01::RASSIER, TUTHILL
CC:
Subj: SCS Participation

We have a protested water right application, No. 63-11977 in the name of Ronald P. Rainey, the resolution of which hinges on the design and operation of a check structure in a drain ditch. At an initial water right protest conference the parties agreed to meet on-site with SCS personnel in an attempt to resolve the dispute. The SCS balked because of the potential to become embroiled in a lawsuit. They agreed, however, to participate if we prepare an agreement whereby they would be shielded from lawsuit testimony requirements. Will an agreement as simple as the following language serve to accomplish this? We are planning to meet onsite on Thursday, 5 August, and I will plan to take a copy of this agreement unless I hear otherwise from either of you.

Thanks, Dave

AGREEMENT

We, the undersigned, agree that the Soil Conservation Service (SCS) participation in the matter of protested Application for Permit No. 63-11977 is a technical service provided to the Idaho Department of Water Resources. If any litigation should result from this matter, we agree to not subpoena SCS employees, but instead we agree to hire consulting engineers to serve as expert witnesses.

Signed this _____ day of _____, 1993.

Ronald P. Rainey, Applicant

Gary L. King, Protestant

JAN 19 1994

P 423 600 517



**Receipt for
Certified Mail**

No Insurance Coverage Provided

GARY L KING
16991 HIGHWAY 20-26
CALDWELL ID 83605

PS Form 3800, June 1991

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$ 2.29
Postmark or Date	

*RECEIVED
JAN 19 1994*

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

105603-92-B-0226

PS Form 3800, June 1991 (Reverse)

P 423 600 516



**Receipt for
Certified Mail**

No Insurance Coverage Provided

RONALD P RAINEY
2615 DORMAN
CALDWELL ID 83605

PS Form 3800, June 1991

Postage	<i>11.00</i>	\$
Certified Fee	<i>1.00</i>	
Special Delivery Fee	<i>JAN 19 1994</i>	
Restricted Delivery Fee		
Return Receipt Showing to Whom & Date Delivered		
Return Receipt Showing to Whom, Date, and Addressee's Address		
TOTAL Postage & Fees	<i>\$ 22.00</i>	
Postmark or Date		

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

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5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

105603-92-B-0226

63-11977

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:

GARY L KING
16991 HIGHWAY 200
CALDWELL ID 83605

4a. Article Number

P 423 600 517

4b. Service Type

- ☐ Registered ☐ Insured
- ☒ Certified ☐ COD
- ☒ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

JUL 22 1993

JUL 21 1993

5. Signature (Addressee)

Gary King Department of Water Resources

6. Signature (Agent)

Western Regional Office

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

UNITED STATES POSTAL SERVICE

8 07-21-93 203A

Official Business



Handwritten: JAN 18 1994

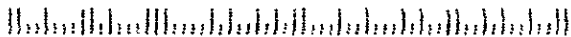
PENALTY FOR PRIVATE
USE, \$300

JAN 18 1994

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

55



63-11977

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

RONALD P RAINEY
2615 DORMAN
CALDWELL ID 83405

4a. Article Number

P 423 600 516

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

7-21-73

5. Signature (Addressee)

Department of Water Resources
Western Regional Office

6. Signature (Agent)

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

UNITED STATES POSTAL SERVICE

07-21-83 2037

Official Business

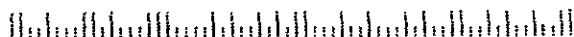


PENALTY FOR PRIVATE
USE, \$300

Boise, ID 83705
9 1994
Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

56



IDAHO DEPARTMENT OF WATER RESOURCES

WESTERN REGION

2735 Airport Way

Boise, Idaho 83705-5082

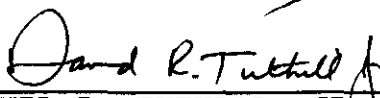
BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
	)	
FOR PERMIT NO. 63-11977 IN THE	)	NOTICE OF CONFERENCE
	)	
<u>NAME OF RONALD P. RAINEY</u>	)	

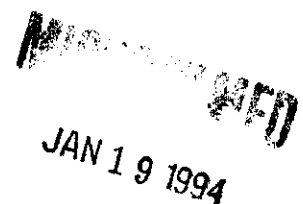
On January 27, 1993, Ronald P. Rainey filed with the Department of Water Resources an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Gary L. King and an initial conference was held on July 9, 1993.

The Department has set the matter of protest for an additional conference to be held at the site of the proposed diversion on Thursday, August 5, 1993, at 7:00 p.m., at the site. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 20th day of July, 1993.



DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office



I hereby certify that on the 20th day of July, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Sue Taylor
Secretary

Certified Mail

RONALD P RAINEY
2615 DORMAN
CALDWELL ID 83605

GARY L KING
16991 HIGHWAY 20-26
CALDWELL ID 83605

Non-Certified Mail

JOHN JEFFREDO
SOIL CONSERVATION SERVICE
510 ARTHUR ST
CALDWELL ID 83605

DAN BLELE
PO BOX 134
GREENLEAF ID 83626

VIRGIL TUCKER JR
2405 IDAHO AVE
CALDWELL ID 83606

RICHARD HARRIS
PO BOX 1438
CALDWELL ID 83606

Microfilm
JAN 19 1994

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The procedure generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize

JAN 19 1994

themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

Microfilm

JAN 19 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 9, 1993

Soil Conservation Service
ATTN: John Jeffredo
510 Arthur Street
Caldwell, ID 83605

RE: Protested Water Right Application No. 63-11977

Dear John:

Thank you for agreeing to assist in the resolution of the above-referenced protested water right application by providing technical assistance on the diversion structure construction and elevation.

Enclosed please find copies of the protested application and other related materials. Note that the applicant is Ronald P. Rainey. Please contact either him (at 459-9629) or ranch manager Dan Blele before visiting the property. I called Mr. Rainey to advise him that you will be coming.

We will plan to meet on site at 7:00 pm on August 5 to review improvement alternatives.

Sincerely,

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

Enclosures

RECEIVED

JAN 19 1994

Water Right Conference

Notes by: D. Tuttle

63-11977

Ronald P. Rainey

July 9, 1993

10:00pm

Present:

Protestant Gary King
represented by:

Applicant: Representing himself

Concerns:

1. Amount of water available.
2. Damage to neighboring property (part of local public interest?)
due to checking the water.

The drain ditch is not allowed to function properly during the
off-season.

Aug 5 7:00 pm On-site conf
ASCS or SCS

~~Jeffredo~~, John - SCS Caldwell office 454-8684 (John Gleim is
510 Arthur St Caldwell 83605 supv)

~~Microfilm~~

JAN 19 1994

Re: Ronald P. Rainey, #63-11977

Place: Canyon County Courthouse, 1115 Albany, Caldwell, ID

Date: July 9, 1993, at 10:00 a.m.

Hearing conducted by: David R. Tuthill, Jr., P.E.

ROSTER OF ATTENDANCE

[illegible]

P 423 600 522



**Receipt for
Certified Mail**

No Insurance Coverage Provided

RONALD P RAINEY
2615 DORMAN
CALDWELL ID 83605

PS Form 3800, June 1991

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	9 1994
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$ 2.29
Postmark or Date	

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

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6. Save this receipt and present it if you make inquiry.

105603-92-B-0226

P 423 600 521



**Receipt for
Certified Mail**

No Insurance Coverage Provided

GARY L KING
16991 HIGHWAY 20-26
CALDWELL ID 83605

PS Form 3800, June 1991

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$ 2.29
Postmark or Date	

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CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

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5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

105603-92-B-0226

67-11977

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
 2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

GARY L KING
 16991 HIGHWAY 20-26
 CALDWELL ID 83605

4a. Article Number

P 423 600 521

4b. Service Type

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

6-16-93

5. Signature (Addressee)

JAN 19 1994

6. Signature (Agent)

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

UNITED STATES POSTAL SERVICE
06-16-92 1912

Official Business

RECEIVED
JUN 17 1993



PENALTY FOR PRIVATE
USE, \$300

JAN 19 1994

Department of Water Resources
Western Regional Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

63-11977

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

RONALD P RAINEY
2615 DORMAN
CALDWELL ID 83605

4a. Article Number

P 423 600 522

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

JUN 17 1993

5. Signature (Addressee)

6. Signature (Agent)

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

UNITED STATES POSTAL SERVICE

Official Business

RECEIVED

JUN 18 1993



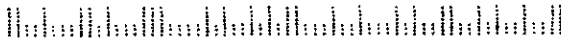
PENALTY FOR PRIVATE
USE, \$300

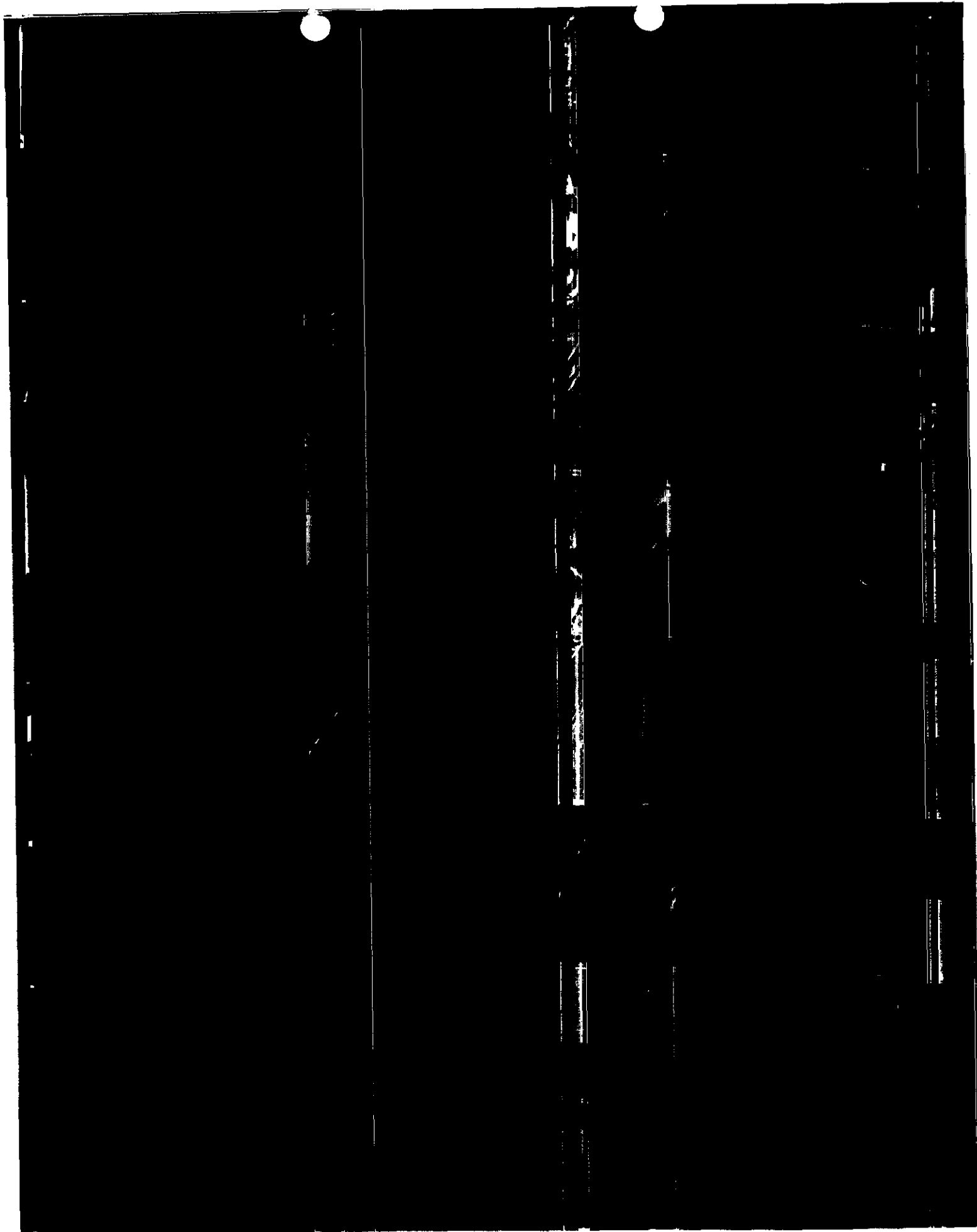
Department of Water Resources
Western Regional Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

26





It satisfies this photo
is from a 1986
aerial slide.

James R. Neups
Canyon Co. ASCS

Info submitted by applicants to show
ponds in place $\approx$ 11/87.

Dashed lines show outline of 2 larger
ponds - smaller pond (to east on application
map) does not show but it's
reported to be $\approx$ 1/4 acre in size so
wouldn't be prohibited by moratorium on
the basis of surface area.

JAN 9 1994

4/6/93

RECEIVED

APR 6 1993

Department of Water Resources
Western Regional Office

Hand Delivered
by Russell A. Roney

MAIL ROOM

JAN 19 1994

→Z→



Photo Rec'd 4-6-93 by SL I marked approx pond area in
dashed blue line. SEE INTO ON BACK OF PHOTO. -SL

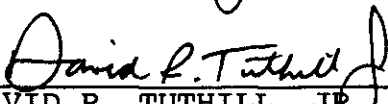
BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
)
FOR PERMIT NO. 63-11977 IN THE) NOTICE OF CONFERENCE
)
NAME OF RONALD P. RAINEY)

On January 27, 1993, Ronald P. Rainey filed with the Department of Water Resources an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Gary L. King.

The Department has set the matter of protest for a conference to be held on Friday, July 9, 1993, at 10:00 a.m., in the Canyon County Courthouse, 1115 Albany, Caldwell, ID 83605. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 4 and 5 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 15th day of June, 1993.



DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

RECORDED

JAN 19 1994

I hereby certify that on the 15th day of June, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Sue Taylor
Secretary

Certified Mail

RONALD P RAINEY
2615 DORMAN
CALDWELL ID 83605

GARY L KING
16991 HIGHWAY 20-26
CALDWELL ID 83605

JAN 19 1994

CONFERENCE AND HEARING PROCEDURE

IN THE MATTER OF A PROTESTED APPLICATION FOR PERMIT

In accordance with IDAHO CODE, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

- 1) Will the proposed use reduce the quantity of water under existing rights?
- 2) Is the proposed water supply insufficient for the purposes intended?
- 3) Is the application made in good faith or for delay or speculative purposes?
- 4) Has the applicant sufficient financial resources with which to complete the proposed project?
- 5) Will the proposed use conflict with the local public interest?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1,2,3,4,& 6 above, that is, the applicant has the burden of coming forward with evidence for evaluation of those criteria.

The initial burden of proof on issue 5, local public interest, lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant of. The applicant has the ultimate burden of persuasion with respect to this issue.

PROCEDURE

The procedure normally followed by the department in arriving at a decision on the issues which must be considered is to first hold a conference in the matter and then, if necessary, hold a hearing. If a hearing is held a written decision is issued based on the hearing record.

CONFERENCE

Preliminary to holding a hearing, a pre-hearing conference is held to familiarize the department and the parties with the matter and to determine if a resolution of the protest(s) is possible without the need for a hearing.

JAN 19 1994

At the conference the department may formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

HEARING

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be issued and the parties will be afforded the opportunity to file exceptions to the proposed decision and present briefs and to request oral argument before the Director prior to the issuance of a final decision by the Director. This procedure is required by IDAHO CODE, Section 42-1701A.

The parties by written stipulation, may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the director's review of a party's evidence and arguments. However, such a waiver will shorten the decision making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Under the provisions of the IDAHO CODE, Sections 42-1701A and 67-5215, any court review of the department's decision on appeal shall be confined to the record created before the department.

If you require special accommodations for a disability in order to participate in or attend the conference (hearing) (public meeting) please advise the department within ten (10) days prior to the conference, hearing or public meeting.

EXHIBITS

If any party at a hearing intends to present an exhibit to augment the hearing record, such party shall in advance of the hearing, prepare sufficient copies of the exhibit for distribution to all parties at the hearing.

JAN 19 1994

To

David T.

Date

3-26

Time

8:30

A.M.
P.M.

WHILE YOU WERE OUT

Gary King

of

Phone

378-5232

AREA CODE

NUMBER

EXTENSION

Telephoned		Please call	☒
Called to see you		Will call again	☐
Wants to see you		Returned your call	☐

Returned Call.

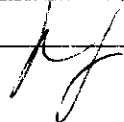
Message

Mr King

Said he met w/ Ron Rainey

last night. Progress was made toward resolving protest, but this action was not completed. I replied that we would withhold further action for 6 weeks unless the applicant calls to request that a conf be scheduled. Dier 3/26/93.

Signed



Gary L. King
16991 Highway 20-26
Caldwell, Idaho 83605
(208) 459-2758

✓
Pract file 63-11977

February 20, 1993

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MAR 1 1993

Department of Water Resources
Western Regional Office

Mr. Ronald P. Rainey
2615 Dorman
Caldwell Idaho, 83605

Dear Mr. Rainey:

I have received notice from the Department of Water Resources that you and I should meet to discuss the effect on my property of your application for additional water right for your duck hunting ponds. Please contact me at your earliest convenience so we may meet and discuss this within the time prescribed by the Department.

I am sure we can come to a mutually beneficial understanding.

Sincerely,



Gary L. King

cc: David R. Tuthill, Jr., P.E.
Dick Harris

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JAN 19 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

February 16, 1993

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

GARY L KING
16991 HIGHWAY 20-26
CALDWELL ID 83605

Re: Application for Permit No. 63-11977 in the Name of Ronald
L. Rainey

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application. The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At such a conference, the following are the principle items the Department can consider in either approving or denying an application or permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

If this office can be of further assistance, please contact us.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT/st

JAN 19 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

February 16, 1993

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

RONALD P RAINEY
2615 DORMAN
CALDWELL ID 83605

Re: Application for Permit No. 63-11977

Dear Applicant:

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to the above-referenced application. The Department suggests that you contact the protestant(s) and attempt to resolve the protest(s).

If this office has not been advised within twenty (20) days that the protest(s) has been resolved, the matter will be scheduled for a conference. At such a conference, the following are the principle items the Department will review (per Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Please contact this office if you have questions regarding this procedure.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

Enclosure: Copy of protest(s)

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JAN 19 1994

Gary L. King
16991 Highway 20-26
Caldwell, Idaho 83605
(208) 459-2758

February 12, 1993

RECEIVED
FEB 12 1993

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office
State of Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

Department of Water Resources
Western Regional Office

Dear Mr. Tuthill:

Please accept this letter as formal protest to the issuing of water rights, #63-11977 and #A63-28221, as applied by Ronald P. Rainey, 2615 Dorman, Caldwell Idaho, 83605. This protest is based upon item #5 of principle items the Department can consider per Idaho Code § 42-203.

Diverting 12 cfs would completely block the ditch year around. Blocking the drain causes surface flooding on adjacent property and prevents the ditches from properly functioning to drain the surface and groundwater from the land. This continuous year around backing of the ditch causes the land to become water logged, prevents or limits access to the property and causes salts to accumulate on the surface destroying the minimal production of the ground.

In addition, the continuous backing of the ditch causes the clogging of the ditch with debris, vegetation and sediment which restricts the water flow of the ditch and causes additional flooding in area further up the ditch from the area which is constantly impacted by the unnecessary water levels.

Please advice us of any further actions we must take to stop this unwarranted use of the state's water resources.

Sincerely,



Gary L. King

RECEIVED

JAN 19 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 12, 1993

CHARLES OLEWINSKI
20371 RED TOP
CALDWELL ID 83605

Re: Application for Water Right No. 63-11977 in name of
Ronald P. Rainey

Dear Mr. Olewinski:

Enclosed is a copy(s) of the above-referenced application(s) for permit which is within your drainage district. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six week period and is required to take final action shortly thereafter, however, if you desire to file a formal protest against the approval of this application(s), your written protest must be received in this office by March 8, 1993

If you have any questions regarding the application, please contact this office.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT:st

Enclosure(s):

RECEIVED
FEB 15 1993

9 1994

SPECIAL NOTE: _____

_____PROTEST INFORMATION SHEET

Protestant - Name(s)

Gary L. King

_____Address 16991 Highway 20-26, Caldwell, Id 83605

_____Attorney - Name & Address _____
_____Date Filed 1-27-93 Protest Date 3-8-93Issues _____

_____Applicant - Attorney - Name & Address _____

Dates: _____

Acknowledgement letters: _____

Hearing Notice: _____

Hearing Date: _____

_____Other: _____

APR 19 1994

Protest Information submitted in Computer (following hearing): _____

10/90

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCE
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: 6 DATE: 1/28/93 APPLICATION: 63-11977

REQUIRED INFORMATION

☒ Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)
☒ Address:
☒ Source: (See USGS Quad for names of water sources)
☒ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
☒ County:
☒ Quantity: (flow and/or volume)
☒ Period of use: Gov't. Lots: ☒ P/D
☒ Nature of proposed use: (Include description of use) ☒ P/U
☒ Description of diverting works:
☒ Time required for beneficial use of water:
☒ Place of use or acres irrigated:
☒ Map:
☒ Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
☒ Fee:
☒ Yes ☐ No* In form to receipt:

ADDITIONAL INFORMATION

YES NO

☒ ☐ Overlapping place of use: (Describe source & relationship to present application on the back.)
☐ ☒ Overlapping point of diversion:
☐ ☐ Field check required: Field check by: _____
☐ ☐ Field report attached:
☐ ☒ Critical groundwater area:
☐ ☒ Groundwater management area:
☐ ☒ 1992 moratorium
☐ ☒ Diversion within interim protected river area
☐ ☒ Send dam safety information:
☐ ☒ Send power requirement letter:
☐ ☒ Send fish farm requirement letter:
☐ ☒ Power residency affidavit:
☐ ☒ Power efficiency form:
☐ ☒ Within trust water boundary: (If yes, attach Trust Water Supplementary Analysis Sheet.)
☐ ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
☐ ☒ *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED: _____

Additional information on reverse side:

PROCESSING

APPLICATION NO. 63-11977

YES NO

☒ ☐
☐ ☒
☒ ☐

In form for advertising:

Statewide advertising:

Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES NO

☐ ☒
☐ ☒
☐ ☒
☐ ☒

I.D. Health and Welfare

I.D. Fish and Game

I.D. Lands

Adjudication Bureau

YES NO

☐ ☒
☐ ☒
☒ ☐
☐ ☒

U.S. BLM

U.S. Forest Svc.

Water Dist. # 63-p

Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☐
☒ ☐

Affidavit of publication received:

Application published correctly: If not, record action taken.

Publication dates and paper recorded on application:

Protests received. Final date for protest March 8, 1972

Protest dates, resolution of protest recorded on application:

Recommendations attached:

Measuring device required:

Measuring port required:

Water delivered by water master? District # _____

Special conditions of approval or cover letter: _____

See below for additional information

Recommended Date or Priority _____

Recommended by: _____ Date _____

STATE OFFICE REVIEW

See below for additional information. By _____ Date _____

ADDITIONAL INFORMATIONsee info sheet attached to appl by
Steve Carter? BW recharge use



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 1, 1993

GARY L KING
16991 HIGHWAY 20-26
CALDWELL ID 83605

Re: Application for Water Right No. 63-11977 in name of
Ronald P. Rainey

Dear Mr. King:

Enclosed is a copy of an application for water right in which
you have expressed some concerns.

Please review the application and return any comments you might
have within two weeks. If you have questions or need
information, feel free to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "David R. Tuthill, Jr." followed by a large, stylized flourish.

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

Enclosure: Copy of Application

JAN 19 1994

*P/M - only irrigation rights
found, no other
was on Range (Hobbs)
Trumbull property*

WR4001NP
(00-21)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS MICROFICHE BY PLACE OF USE

DATE: 01/11/92
PAGE: 1525

TWP	RNG	SECT	TRACT 1/4 1/4	LOT	ACRES	WATER-USE-CODE	WATER RIGHT NO.	LAST NAME	O	STG	PRIORITY DATE	WATER SOURCE
04N	03W	7	NW NE	15.0	01		63-05089	KING	C	S	04/01/1929	UNNAMED DRAIN
			SW NE	35.0	01		63-02542	BRENNEMAN	C	L	07/11/1938	UNNAMED STREAM
												UNNAMED STREAM
			SW NE	5.0	01		63-04531	TRUMBULL	C	S	06/01/1865	UNNAMED DRAIN
			SW NE	5.0	01		63-05089	KING	C	S	04/01/1929	UNNAMED DRAIN
			SE NE	35.0	01		63-02542	BRENNEMAN	C	L	07/11/1938	UNNAMED STREAM
												UNNAMED STREAM
			SE NE	5.0	01		63-05089	KING	C	S	04/01/1929	UNNAMED DRAIN
			NE NW	37.0	01		63-04532	TRUMBULL	C	S	06/01/1865	UNNAMED DRAIN
			NW NW	20.0	01		63-04529	SEBREE	C	S	06/01/1865	UNNAMED DRAIN
			NW NW	14.0	01		63-04531	TRUMBULL	C	S	06/01/1865	UNNAMED DRAIN
			SW NW	35.0	01		63-04531	TRUMBULL	C	S	06/01/1865	UNNAMED DRAIN
			SE NW	35.0	01		63-04531	TRUMBULL	C	S	06/01/1865	UNNAMED DRAIN
			SE NW	8.0	01		63-04532	TRUMBULL	C	S	06/01/1865	UNNAMED DRAIN
			NE SW	46.16			63-07721	ATWELL	C	L	02/12/1973	BOISE RIVER
								GLAISYER	C			
								GLAISYER	C			
								EISMAN	C			
								BIDEGENATE	C			
			SW SW	6	01,01		63-00274	JONES	C			
								PIONEER DIXIE DITC	C	D	07/09/1914	BOISE RIVER
			SW SW	6	01		63-00374	JURRIES	C			
			SE SW	46.16			63-00374	PIONEER DIXIE DITC	C	D	07/09/1914	BOISE RIVER
							63-07721	ATWELL	C	L	02/12/1973	BOISE RIVER
								GLAISYER	C			
								GLAISYER	C			
								EISMAN	C			
								BIDEGENATE	C			
			SE SW	7	01,01		63-00274	JONES	C			
								PIONEER DIXIE DITC	C	D	07/09/1914	BOISE RIVER
			SE SW	7	01		63-00374	JURRIES	C			
			NE SE	20.0	01		63-00374	PIONEER DIXIE DITC	C	D	07/09/1914	BOISE RIVER
							63-02542	BRENNEMAN	C	L	07/11/1938	UNNAMED STREAM
												UNNAMED STREAM
			NE SE	4.0	01		63-05089	KING	C	S	04/01/1929	UNNAMED DRAIN
			NW SE	35.0	01		63-04531	TRUMBULL	C	S	06/01/1865	UNNAMED DRAIN
8					01,43		63-02878	BLACK CANYON IRRIG	C	L	08/30/1951	WILSON DRAIN
			NE NE	40.0	01,43		63-02322	U.S. DEPT. OF INTE	C	L	10/04/1918	ELIJAH DRAIN
												WILSON SLOUGH
			NW NE		01		63-00233E	AMERICAN DITCH CO.	O	D	10/08/1887	BOISE RIVER
								CANYON DITCH CO.	C			
			NW NE	15.0	01,43		63-02322	U.S. DEPT. OF INTE	C	L	10/04/1918	WILSON SLOUGH
			SW NE		01		63-00233E	AMERICAN DITCH CO.	O	D	10/08/1887	BOISE RIVER
								CANYON DITCH CO.	C			
			SE NE		01		63-00233E	AMERICAN DITCH CO.	O	D	10/08/1887	BOISE RIVER
								CANYON DITCH CO.	C			
			SE NE	10.0	01,43		63-02322	U.S. DEPT. OF INTE	C	L	10/04/1918	WILSON SLOUGH
			NE		01		63-00233E	AMERICAN DITCH CO.	O	D	10/08/1887	BOISE RIVER

JAN 19 1994

CONVERSATION MEMORANDUM

DATE 1/22/93FILE RAINY - ComplaintNAME OF PARTY Ron Rainey 459-3659 (office)EMPLOYEE Steve LesterRE: 1/22/93 APPT. TO FILE/CHANGE RIGHTS/CLAIMS

Mr. Rainey called me at home 1/21/93 @ 9 p.m. to cancel today's 8:30 a.m. appt. to record the appropriate water right filings on his property. He said that a court-related matter had ~~come~~ come up that demanded his attention.

I asked him to call me today & set a time for next week at the latest to take care of this.

Subsequent calls:

New appt. for Wed. 1/27 8:30

GET info from Complaint file or DRTS correspondence file.

Dave

1/15/93
-NOON-

Ron Rainey re: your letter to him re Complaint:

- Office visit 1/11/93 to discuss possible ways to get WR/RT coverage of his uses.
- 1 P/O near OX line SWNE/NWSE S. 7, on south side Hwy & RR tracks.
- said would come in this week to complete needed steps.
- no response yet, am forwarding this to you.

-SL

JAN 19 1994

INFO &
COMPLAINT BY
Gary L. King

CONVERSATION MEMORANDUM

DATE 1/11/93
FILE ComplaintNAME OF PARTY Row RaineyEMPLOYEE John LesterRE: RESPONSE TO DRT's letter of 12/29/92 (see
initial DRT letter 11/25/92)

Office visit to respond & discuss WR & AJ in
the area in question.

WR 63-04531 P14 NWSE 5.7

AJ A63-04531 P14 NNWSE 5.7 South side of
highway & RR tracks

Does not divert from area N. of highway/RR tracks.

PER AJ, P14 close to QQ line so perhaps complaintant
has wrong legal.

Other P14 is SWNE & NWSE? WRQ5 AJQ5

" was, more New per Rainey's property? historical was
that can be claimed in SROR: accomplished transfer in
A63-04531 (cancel the claim) or add'l claim if other
was/more water predates 5/1971? OR: now ~~from 11/87~~ was
to file appl. for permit: was > 5/1971 but < 11/87 if
verified can pursue appl. or was > 11/87 then appl.
subject to monitoring (partial or whole affected by
monitoring)?

He will schedule appt for ~~later this~~ later this week to
finish this business.

CC: A63-04531

JAN 19 1994

1/11/93

DJW

SD-0601-2		Last Name: RAINEY					STATE	
S		O						
E	First	W	Water	Priority		Total	Use	
L	Name	N	Right No.	Date	Source	Diversion	Code Desc	

RAINEY								
	RONALD P.	C	A63-04531	06/01/1865	UNNAMED DRA	2.980	01 IRR	
	RONALD P.	C	A63-21649	06/01/1965	GROUNDWATER	0.040	43 DOMEST	
	EMILY L.	C	A63-21649	06/01/1965	GROUNDWATER	0.040	43 DOMEST	
	RONALD P.	C	A63-21651	04/24/1897	GROUNDWATER	0.040	43 DOMEST	
	EMILY L.	C	A63-21651	04/24/1897	GROUNDWATER	0.040	43 DOMEST	

(Enter=Continue) (GOLD7=This Query) (Menu _____)

DJW
4N 3W 57 SWNE Ø
NWSE A63-04531 Rainey

WRG
SWNE Ø
NWSE 63-04531 Trumbull (now Rainey)

P/m for A63-04531 & 63-04531 - see microfiche, attached

RECEIVED

JAN 19 1994

RAINEY



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 29, 1992

Mr. Ronald P. Rainey
110 N. 9th Avenue
P.O. Box 26
Caldwell, ID 83606

RE: Notice to Cease Diverting Water

Dear Mr. Rainey:

It does not appear that we have received any documentation relative to the reported unauthorized water diversion from an unnamed drain located within the SE1/4 SW1/4 NE1/4, Sec. 7, Twp 3 N, Rge 4 W, B.M., since your visit to this office about three weeks ago.

This letter serves as notice that the diversion is required to be totally curtailed if appropriate documentation is not received by this office by January 11, 1993. Feel free to contact me if you have questions about the type of documentation required.

Sincerely,

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

RECEIVED

JAN 19 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

November 25, 1992

Mr. Ronald P. Rainey
110 N. 9th Avenue
P.O. Box 26
Caldwell, ID 83606

RE: Complaint of Unauthorized Water Use

Dear Mr. Rainey:

We have received a complaint that an unauthorized water diversion is occurring from an unnamed drain located within the SE1/4 SW1/4 NE1/4, Sec. 7, Twp 3 N, Rge 4 W, B.M. on property that you reportedly own.

In response to such complaints this agency routinely requests a response from the landowner of record. Would you please advise this office no later than December 7, 1992, regarding the diversion situation at the site identified above?

Sincerely,

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

JAN 19 1994

*See 1/11/93 comm. memo, attached, C office visit by Mr. Rainey
- JR*

NOV 21 1992

Department of Water Resources
Western Regional Office

November 24, 1992

David R. Tuthill, P.E.
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Dear Mr. Tuthill:

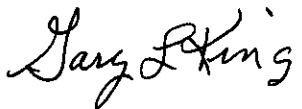
As is required according to our meeting of November 20, 1992, please accept this letter as formal complaint regarding the diversion of water on an unnamed drain at the diversion point in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 7 Township 4 North Range 3 West during the period of November 15 and March 15 when the following person appears to not have a water right for such use:

Mr. Ronald P. Rainey
110 N. 9th Avenue
P.O. Box 26
Caldwell, ID 83606

The above mentioned unauthorized use of water is causing unnecessary damage to my property.

If this letter is in any way insufficient to initiate the process by The Idaho Department of Water Resources to stop the unauthorized use of the water by Mr. Rainey, please let me know as soon as possible so I may correct any inadequacies. My work telephone number is 334-1887. I may also be reached at my home telephone number of 459-2758 and my address is 16991 Highway 20-26, Caldwell, ID, 83605.

Very truly yours,

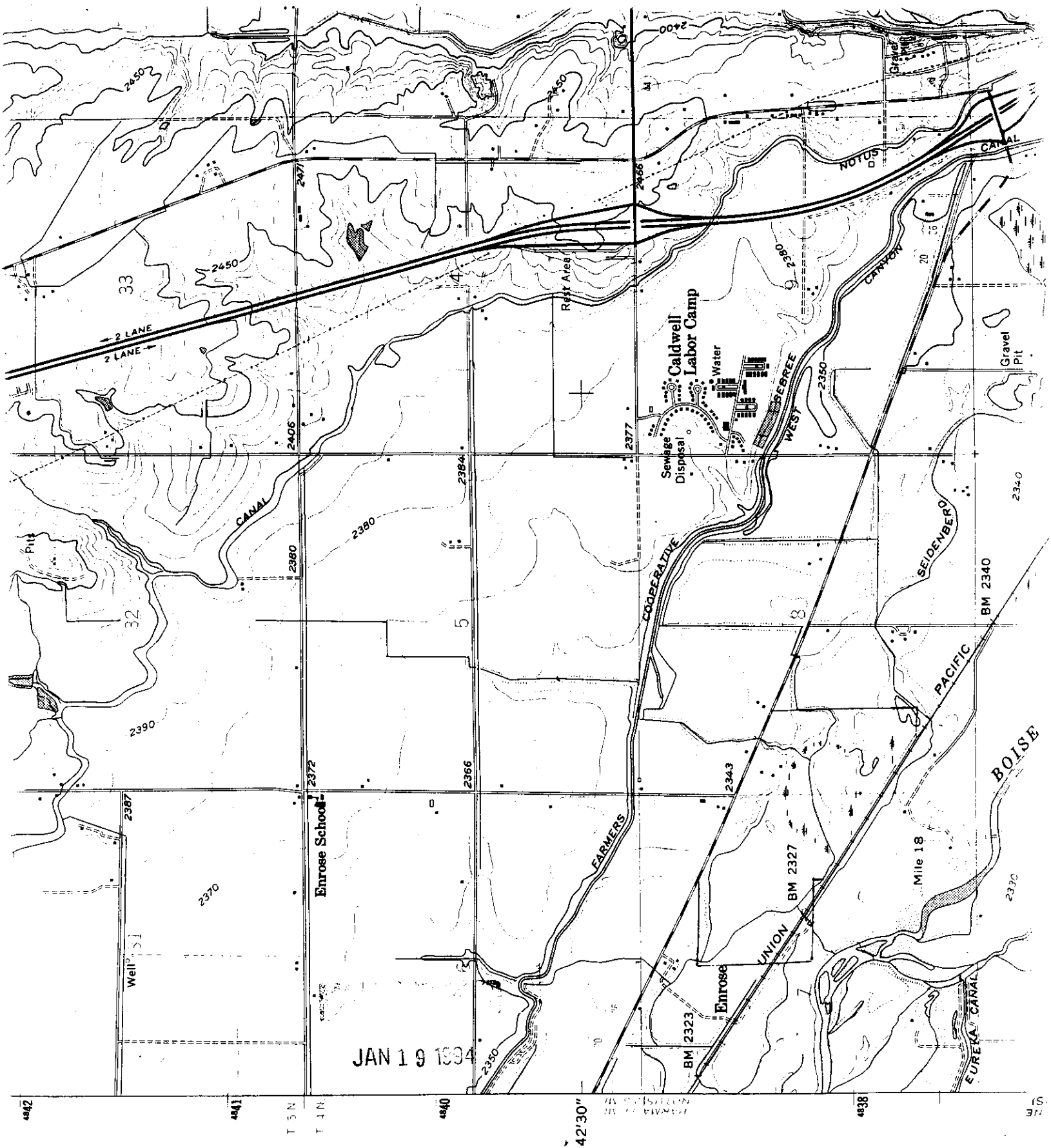


Gary L. King

cc: Herbert Rettig

RECEIVED

JAN 19 1994



63-11977

RAINEY, RONALD P
2615 DORMAN
CALDWELL, ID 83605

Source: SEIDENBERD CANAL
Source: UNNAMED DRAIN

Tributary: BOISE RIVER
Tributary: BOISE RIVER

Diversion Pt: SWSWNE Sec 7 T 04N R 03W in CANYON County.
 NWNWSE Sec 7 T 04N R 03W in CANYON County.

Use: STOCKWATER STORAGE	(35.00 AF)
WILDLIFE STORAGE	(35.00 AF)
GROUNDWATER RECHARGE	(4.000 CFS)
DIVERSION TO STORAGE	(12.000 CFS)
STOCKWATER FROM STORAGE	(35.00 AF)
WILDLIFE FROM STORAGE	(35.00 AF)
Total Diversion: (12.000 CFS)	

Date Filed: 1/27/1993

In: CANYON County				
T04N R03W S07	SWNE	Lot 5(NWNW)	Lot 4(SWNW)	SENW
	NWSE			

RECORDED

JAN 19 1994