

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF THE DIVERSION OF WATER)	
FROM WALKER CREEK TRIBUTARY TO MARSH)	Bannock County
CREEK UNDER WATER LICENSE NO. 29-7223)	
IN THE NAME OF JOHN SCHOONOVER)	
_____)	

CEASE AND DESIST ORDER

This order is issued under the authority of Sections 42-350, 42-351 and 42-352, IDAHO CODE.

FINDINGS OF FACT

1. Water right license No. 29-7223 was issued for the irrigation of two (2) acres of land. The license allows a maximum rate of diversion of 0.3 cfs with a priority of September 17, 1974.

2. This use of water under this license is subject to all water rights with an earlier priority being satisfied.

3. The flow of Walker Creek is less than 0.42 cfs which is the amount of water that you agreed that was necessary to satisfy the oldest water right on the creek. That water right is recorded as Claim No. 29-4101 and has been divided into two parts with Chuck Thompson irrigating three (3) acres and Keith Henrichs irrigating eighteen (18) acres according to the agreement reached by the water users.

4. An agreement to rotate the available water of Walker Creek until the flow decreased to 0.90 cfs or less was signed by all the water users. No other agreement to rotate the water has been reached by all the water users.

5. A water district does not exist on Walker Creek for the delivery of water.

CONCLUSIONS OF LAW

1. IDAHO CODE, Section 42-106 states:

"As between appropriators, the first in time is first in right."

2. IDAHO CODE, Section 42-350 states in part:

1) If the director of the department of water resources finds, on the basis of available information at any time after a license is issued, ... that the licensee has wilfully or intentionally failed to comply with of the conditions of the license, or has wilfully or intentionally failed to comply with the provision of law governing the license, then the director of the department of water resources may issue ... an order directing the licensee to cease and desist the activity or activities alleged to be in violation of the conditions of the license or in violation of the provisions of law governing the license.

3. The water users are aware of the insufficient stream flow to satisfy the prior water right but have chosen to continue to divert water to satisfy this junior priority water right.

4. The senior water right are entitled to the water with the oldest right entitled to at least 0.42 cfs.

5. All diversion of water under rights later in priority than March 15, 1912 must cease until the flow of Walker Creek increases above 0.42 cfs or the senior water rights cease to irrigate their land.

ORDER

YOU ARE, HEREBY, ORDERED To immediately cease and desist diverting water from Walker Creek until there is sufficient flow in the stream to satisfy all prior water rights.

FURTHER, you are subject to a civil penalty of up to \$100 per day for any violation of this Cease and Desist Order.

Signed this 2ND day of September, 1988.


NORMAN C. YOUNG, Administrator

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 29-7223 Priority September 17, 1974 Amount 0.04 cfs

THIS IS TO CERTIFY, that JOHN SCHOONOVER
of McCammon, Idaho, has complied with the terms and conditions of Permit
No. 29-7223 issued pursuant to Application for Permit dated September 17, 1974,
and has submitted proof to the Department of Water Resources on March 18, 1977,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 0.3 cfs of water from Walker Creek,
tributary to Marsh Creek, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>March 15</u> to <u>November 1</u>	at <u>0.04</u> cfs and	<u>7.0</u> acre feet
	from _____ to _____	_____ cfs and	_____
	from _____ to _____	_____ cfs and	_____
(both dates inclusive)			

Subject, however, to the condition that no more than 0.04 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
7.0 acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, Twp. 8S,
Rge. 36E, B.M. in the County of Bannock

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
8S	36E	15									2								2

Total number of acres irrigated 2

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

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 31 day of
July, 19 79.

Director

Identification No. 29 7223

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

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

1. Name of applicant John Schoonover Phone: 254-3102
post office address R. R. 12A2 McCammon, Idaho 83250
2. Source of water supply Walker Creek which is a tributary of Portneuf
3. a. Location of point of diversion is NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 15 Township 8S
Range 36E B.M. Bannock County; additional points of diversion if any: _____

- b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 0.04 for Irrig. purpose from Mar. 15 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 0.04 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 3" pipeline from creek to irrigated ground

- b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 2 years.
b. Estimated construction cost is \$ 500.00.
8. Description of proposed uses:
a. If water is **not** for irrigation: N.A.
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

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

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

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
8S	36E	15									2								2

Total number of acres to be irrigated 2

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

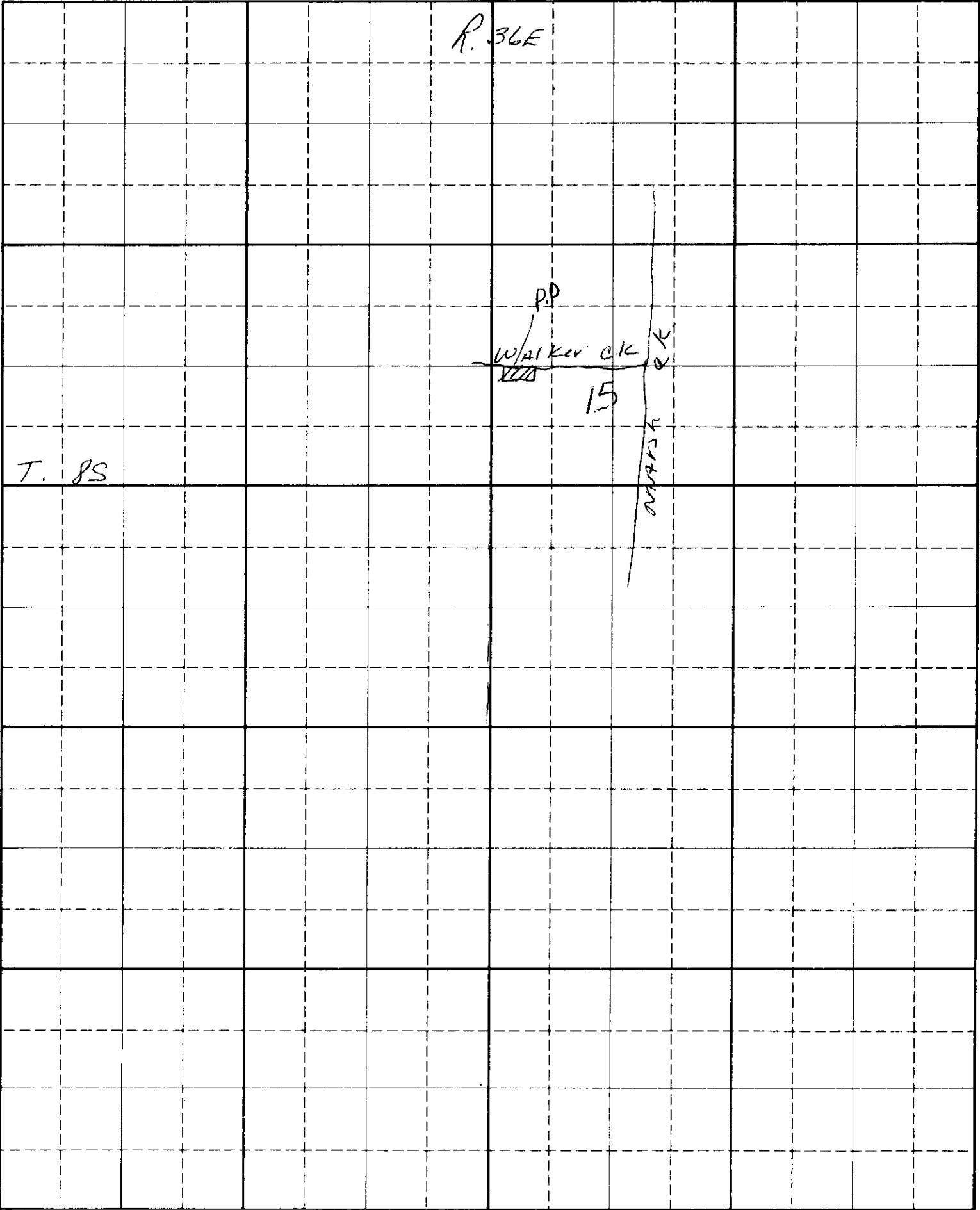
9. a. Who owns the property at the point of diversion Applicant

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

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



Scale: 2 inches equal 1 mile

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

John Schumacher
(Applicant)

Proposed Priority 9-17-1974

Received by MB Date 9-17-74 Time 4:05 p.m.
Preliminary check by WR Fee \$ 10.⁰⁰
Receipted by MB Date 9-17-74 # 13057
Publication prepared by CB Date 9/19/74
Published in Idaho State Journal
Publication dates 9/26 + 10/3/74
Publication approved MB Date 10-9-74
Priority reduced to _____ Reason _____

Protests filed by: George & Maurine Henricks

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by Doc DFE

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 29-7223, and said application is hereby APPROVED.

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before April 1, 19 77.
- c. Other: Use of water under this permit is subject to all prior water rights.

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

Witness my hand this 17 day of _____ March 19 75.


Director

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Item	Initial	Date	
	<u>MDJ</u>	<u>9/13/74</u>	Application No. <u>29-7223</u>
			☒ Source
			☒ Point of Diversion
			☒ County
			☒ Quantity of Water and Period of Use
			☒ Description of Diverting Works
			☒ Time required for B/U of water
			☒ Place of Use or Acres Irrigated
			☒ Map
			☒ Signature
			☒ Fee
(1)	<u>"</u>	<u>"</u>	In form to receipt <u>yes</u>
(2)	<u>"</u>	<u>"</u>	Send Copies to: <u>NA</u> <u>Idaho State Health Department</u> <u>Idaho Fish and Game Department</u> <u>Bureau of Land Management</u>
(3)	<u>"</u>	<u>"</u>	<u>NA</u> <u>Request Special Use Permit from U.S.F.S.</u> <u>Request Easement from B.L.M.</u> <u>Request Information from Applicant</u>
(4)	<u>"</u>	<u>"</u>	In form for advertising <u>yes</u>
(5)	<u>"</u>	<u>"</u>	Platted on Map No. <u>(No)</u>
(6)	<u>"</u>	<u>"</u>	Located within Water District No. <u>(No District)</u>
(7)	<u>"</u>	<u>"</u>	Critical groundwater area: yes <u>no</u> <u>NA</u>
(8)	<u>"</u>	<u>"</u>	Groundwater levels: <u>NA</u> <u>Declining</u> , <u>Stable</u> , <u>Increasing</u> (comment) _____
(9)	_____	_____	Other rights on the same place of use
(10)	_____	_____	Comments: _____
(11)	<u>MB</u>	<u>10-9-74</u>	Affidavit of Publication received(date) <u>Oct 9, 1974</u>
(12)	_____	_____	Final date for protests <u>October 15, 1974</u> Protests received: yes <u>X</u> no _____
(13)	<u>RDC</u>	<u>3/1/75</u>	All requested information received from agencies or applicant: yes _____ no _____
(14)	<u>"</u>	<u>"</u>	Action recommended: ☒ Approve <u>9/17/74</u> <u>Proposed Priority</u> _____ Deny _____ Reason for Reduction _____ _____ Measuring device required ☒ <u>SUBJECT TO ALL PRIOR WATER RIGHTS</u> ☒ See attached sheet for other conditions of approval _____ No special conditions for approval
(15)	District <u>E</u>	By <u>RDC</u>	Date <u>3/1/75</u>

RECEIVED

[Handwritten signature]

PROOF OF PUBLICATION

RECEIVED

STATE OF IDAHO
County of Bannock

ss.

001 9 1974

Katherine Wanner

Department of Water Resources
Eastern District Office
She

being first duly sworn on oath deposes and says: That
was at all times herein mentioned a citizen of the United States of
America, more than 21 years of age, and the Principal Clerk of THE
IDAHO STATE JOURNAL, a daily newspaper, printed and published at
Pocatello, Bannock County, Idaho, and having a general circulation
therein.

That the document or notice, a true copy of which is attached, was
published in the said IDAHO STATE JOURNAL, on the following dates,
to-wit:

September 26, 1974

October 3, 1974

19

19

19

That said paper has been continuously and uninterruptedly pub-
lished in said County for a period of seventy-eight weeks prior to the
publication of said notice or advertisement and is a newspaper within
the meaning of the laws of Idaho.

Katherine Wanner

Subscribed and sworn to before me this 3rd

day of October, 1974

Paul L. Leadford

Notary Public, State of Idaho

Residence: Pocatello, Idaho

Commission Expires
March 5, 1977

MICROFILMED

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

ss.

John L. Turner

NOTICE OF APPLICATION
FOR WATER PERMIT
Notice is hereby given that John
Schoonover, R. R. 12A2,
McCammon, Idaho, has on 9-17-74
submitted Application No. 29-7223
for a permit to appropriate 0.04
cubic feet per second of water
from Walker Creek tributary to
Portneut River by means of pump
and pipeline within the
NW1/4SW1/4, Sec. 15, T. 8S, R. 36E,
B.M., Bannock County; to be used
from Mar. 15 to Nov. 1 for the
irrigation of 2 acres within the
NW1/4SW1/4, Sec. 15, T. 8S, R. 36E,
B.M.
If issued, this permit will be
subject to all prior water rights.
Protests against the granting of
the permit must be filed with the
Idaho Department of Water
Resources, 1515 Lincoln Road,
Idaho Falls, Idaho, 83401 on or
before October 15, 1974.
R. KEITH HIGGINSON
Director
Sept. 26, Oct. 3, 1974
No. 644

being first duly sworn on oath deposes and says: That
was at all times herein mentioned a citizen of the United States of
America, more than 21 years of age, and the Principal Clerk of THE
IDAHO STATE JOURNAL, a daily newspaper, printed and published at
Pocatello, Bannock County, Idaho, and having a general circulation
therein.

That the document or notice, a true copy of which is attached, was
published in the said IDAHO STATE JOURNAL, on the following dates,
to-wit:

September 26, 1974, 19.....
October 3, 1974, 19.....
....., 19....., 19.....
....., 19....., 19.....
....., 19....., 19.....

That said paper has been continuously and uninterruptedly pub-
lished in said County for a period of seventy-eight weeks prior to the
publication of said notice or advertisement and is a newspaper within
the meaning of the laws of Idaho.

Katherine Thompson

Subscribed and sworn to before me this 3rd day of October, 1974.

Neil L. Lafford

Notary Public, State of Idaho
Residence: Pocatello, Idaho

Commission Expires
March 5, 1977

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

ss.

Duplicate

Katherine Wanner

OCT 9 1974

Department of Water Resources
Eastern District Office

She

being first duly sworn on oath deposes and says: That
was at all times herein mentioned a citizen of the United States of America, more than 21 years of age, and the Principal Clerk of THE IDAHO STATE JOURNAL, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was published in the said IDAHO STATE JOURNAL, on the following dates, to-wit:

September 26, 1974, 19.....
October 3, 1974, 19.....
....., 19....., 19.....
....., 19....., 19.....
....., 19....., 19.....

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice or advertisement and is a newspaper within the meaning of the laws of Idaho.

Katherine Wanner

Subscribed and sworn to before me this 3rd
day of October, 1974

Anna L. Leadford

Notary Public, State of Idaho
Residence: Pocatello, Idaho

PROOF OF PUBLICATION

STATE OF IDAHO }
County of Bannock } ss.

Katherine Warner

Katherine Warner

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that John Schoonover, R. R. 12A2, McCammon, Idaho has on 9-17-74 submitted Application No. 29-7223 for a permit to appropriate 0.04 cubic feet per second of water from Walker Creek tributary to Portneuf River by means of pump and pipeline within the NW 1/4 SW 1/4, Sec. 15, T. 8S, R. 36E, B.M., Bannock County; to be used from Mar. 15 to Nov. 1 for the irrigation of 2 acres within the NW 1/4 SW 1/4, Sec. 15, T. 8S, R. 36E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before October 15, 1974.

R. KEITH HIGGINSON

Director

Sept. 26, Oct. 3, 1974
No. 644

being first duly sworn on oath deposes and says: That *she* was at all times herein mentioned a citizen of the United States of America, more than 21 years of age, and the Principal Clerk of THE IDAHO STATE JOURNAL, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was published in the said IDAHO STATE JOURNAL, on the following dates, to-wit:

September 21, 19*74*, 19____
October 3, 19*74*, 19____
_____, 19____, 19____
_____, 19____, 19____
_____, 19____, 19____

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice or advertisement and is a newspaper within the meaning of the laws of Idaho.

Katherine Warner

Subscribed and sworn to before me this *3rd* day of *October*, 19*74*

John L. Ladford

Notary Public, State of Idaho
Residence: Pocatello, Idaho

FOR REGISTERED, INSURED, C.O.D., CERTIFIED, AND EXPRESS MAIL

PS Form 3877, Sept. 1986

ADDRESS
OF SENDER

DEPARTMENT OF WATER RESOURCES

STATEHOUSE

BOISE, IDAHO 83720

☐ Registered
☐ Insured
☐ COD
☒ Certified ☐ Express Mail

Registered Mail:

☐ With Postal Insurance
☐ Without Postal Insurancecertificate of mailing or for
additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee Remarks
1	✓ 138557	Keith Hendricks 2526 S. Marsh Creek Rd., McCammon, ID	25	85								29-4101
2	✓ 138558	Chuck Thompson McCammon, ID										29-4101
3	138559	Robert M. Wardle 2625 S. Marsh Creek Rd., McCammon, ID										29-7647
4	✓ 138560	Gene M. Wise 2712 S. Marsh Creek Rd., McCammon, ID										29-7479
5	✓ 138561	Norman Rademacher 24645 Marsh Creek Rd., McCammon, ID										29-7478
6	✓ 138562	John Shultz 939 Walker Creek Rd., McCammon, ID										29-7223
	✓ 138563	Raymond W. &/or Debra Girard P. O. Box 121, Inkom, ID 83245										29-7205
8												
9												
10												
11												
12												
13												
14		Department of Water Resources										
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office	POSTMASTER, PER (Name of receiving employee)			The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for Registered Mail, \$500 for COD and \$500 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels. Special delivery service also includes special handling service.						
7			Maid 10/3/88									

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OCT 04 1988

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

U.S. G.P.O. 1986-166-494

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF WALKER CREEK)
TRIBUTARY TO MARSH CREEK)

KEITH HENRICHS (29-4101),)
CHUCK THOMPSON (29-4101),)
JOHN SHULTZ (29-7223),)
GENE M. WISE (29-7479),)
ROBERT M. WARDLE (29-7647),)
NORMAN RADEMACHER (29-7478) AND)
RAYMOND W. and DEBRA GIRARD (29-7205))

NOTICE OF HEARING

On September 2, 1988, the Department of Water Resources notified John Schultz, Gene M. Wise, Robert M. Wardle, Norman Rademacher and Raymond W. and Debra Girard to cease and desist using the water from Walker Creek tributary to Marsh Creek. On September 16, 1988, the department received a request for Robert M. Wardle; Gene M. Wise; Norman Rademacher; John Shulz, successor to John Schoonover; and Raymond Girard to conduct a hearing on this matter to allow the parties an opportunity to present evidence and oral argument.

The Department has set the matter for hearing for 9:00 a.m., Thursday, October 27, 1988. The hearing will be held at the Pocatello Municipal Airport Conference Room, Pocatello, Idaho. The hearing will be held in accordance with the provisions of Chapter 3, Title 42, and Section 42-1701A of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. The Department will issue a Proposed Memorandum Decision and Order in the matter. The Director has appointed Norman C. Young as the hearing officer.

Dated this 3 day of October, 1988.


BOBBY D. FLEENOR
Chief, Regional Office Bureau

AFFIDAVIT

STATE OF IDAHO)
 ss
County of Bannock)

GREEN, SERVICE,
GASSER & KERL
ATTORNEYS AT LAW
P.O. BOX 4883
POCATELLO, IDAHO
83205-4883
(208) 232-4471

I, Norman E Rademacher

_____, being
first duly sworn depose and say:

That attached hereto is a true and correct copy of
a signed statement prepared by me as a Walker Creek
water user based upon my own personal knowledge, and
incorporated herein as if set forth at length.

DATED This 27 day of October, 1988.

Norman E Rademacher

SUBSCRIBED AND SWORN TO before me this 27th day
of October, 1988.

(SEAL)

Jim Spinner
NOTARY PUBLIC for Idaho
Residing at: Pocatello

Norman E. Rademacher
2464 S. Marsh Cr. Rd.
McCammon, ID. 83250

Statement for water hearing record

I applied for a water permit on March 12 of 1979. A short time later, a water master from the southern end of the county came to my home and said he was sent from the water commission to check out my application, he also told me he was to inform the wther water users about my application, for, Walker Creek water, which he promptly did.

George and Maurine Hendrichs, Kieth Hendrichs, and Raymond and Bebbie Girard protested my permit. A hearing was set and held on July 18, 1979. Maurine and Kieth Hendrichs attended. Girards did not appear and did not send a reason for non-appearance. Their protest was therefore discounted. I later found out Kieth had told them if they did not protest my permit, they would lose their water right. Kieth and Maurine Hendrichs withdrew their protest. I agreed to give up a second diversion point, they agreed I should clean out the ditch that crossed Maurine's property.

The water commission sent out a findings paper to me. It stated I must clean out the ditch, and install a wier. The ditch could be only 6 inches wide. The existing ditch was 18 to 24 inches wide.

A few days after the hearing Kieth Hendrichs came to my house. He told me not to go onto his mother's place, at risk of bodily harm. He also said I could not cross any fences or use the driveway to reach my ditch.

I went to see Ron Carlson, he called Kieth Hendrichs on the phone. Kieth finally agreed to let me clean the ditch when his mother was not home.

George Hendrichs died the evening after my hearing. Kieth has since hinted I caused his fathers death. George had been ill for many years. He was on oxygen all the time and he still smoked heavily.

The next problem was the wier. Maurine Hendrichs did not want me to put one in because she was afraid it would wash out in the spring and flood her house. After another visit to Ron Carlson, and another call from him to Kieth, It was agreed I could put in a 2 inch pipe to measure the water. He also talked Kieth into letting me clean the ditch with a shovel instead of a ruler.

Kieth continued to control my diversion. He allowed only a trickle of water to come down the ditch. If I put in more, he would shut it off. The water commission said they had no control over the diversion of water, and would not help me.

When I again asked for an inspection, I was told a pipe would not do, I still had to put in a wier. Maurine would not allow that, and the water commission kept insisting.

The water commissoon claimed I did not comply with my permit. They moved my priority date from 1979 to 1988. The commission has continued to act inconsistently in all their dealings with the Walker Creek users.

My problems with Kieth continued. in 1987 I did not even get a trickle of water. In 1988 Kieth again tried to limit my diversion by talking to Larry Ballard, my diversion is on land owned by Mr. Ballard. Kieth tried to get Larry to limit the amount of water I could take through my diversion. Larry Declined to do so.

In the fall of 1987 the other users of Walker Creek decided to get together to form a water district. All users had been told by Kieth that they were not entitled to that water. After much discussion, letters, meetings, and a lot of contention, an agreement was signed. All users agreed to a ten day rotation schedule. Each would get all the creek for a certain amount of time. It worked very well. I was able to cut two crops of hay off a field that had not produced well for years.

Kieth agreed many times in meetings with water people to follow the plan. Each time he agreed to something, in a few days he did not do so.

On September 2, 1988 I recieved a cease and decist order from the department of water resources telling me I can no longer use the waterf The order seems to be based on a statement in the rotation agreement that was crossed out and initialed by all signers. Also how can an unadjudicated claim be put over liscences and permits. Kieth Hendrichs was not served.

Signed October 25, 1988


Norman E. Rademacher

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF WALKER CREEK)
TRIBUTARY TO MARSH CREEK)
_____)

KEITH HENRICHS (29-4101),)
CHUCK THOMPSON (29-4101),)
JOHN SHULTZ (29-7223),)
GENE M. WISE (29-7479),)
ROBERT M. WARDLE (29-7647),)
NORMAN RADEMACHER (29-7478) AND)
RAYMOND W. and DEBRA GIRARD (29-7205))
_____)

NOTICE OF HEARING

On September 2, 1988, the Department of Water Resources notified John Schultz, Gene M. Wise, Robert M. Wardle, Norman Rademacher and Raymond W. and Debra Girard to cease and desist using the water from Walker Creek tributary to Marsh Creek. On September 16, 1988, the department received a request for Robert M. Wardle; Gene M. Wise; Norman Rademacher; John Shulz, successor to John Schoonover; and Raymond Girard to conduct a hearing on this matter to allow the parties an opportunity to present evidence and oral argument.

The Department has set the matter for hearing for 9:00 a.m., Thursday, October 27, 1988. The hearing will be held at the Pocatello Municipal Airport Conference Room, Pocatello, Idaho. The hearing will be held in accordance with the provisions of Chapter 3, Title 42, and Section 42-1701A of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. The Department will issue a Proposed Memorandum Decision and Order in the matter. The Director has appointed Norman C. Young as the hearing officer.

Dated this 3 day of October, 1988.


BOBBY D. FLEENOR
Chief, Regional Office Bureau

AFFIDAVIT

STATE OF IDAHO)
 SS
County of Bannock)

GREEN, SERVICE,
GASSER & KERL
ATTORNEYS AT LAW
P.O. BOX 4883
POCATELLO, IDAHO
83205-4883
(208) 232-4471

I, Raymond Girard
_____, being
first duly sworn depose and say:

That attached hereto is a true and correct copy of
a signed statement prepared by me as a Walker Creek
water user based upon my own personal knowledge, and
incorporated herein as if set forth at length.

DATED This 27 day of October, 1988.

Raymond Girard

Hebra Girard

SUBSCRIBED AND SWORN TO before me this 27th day
of October, 1988.

(SEAL)

Jim Spinner
NOTARY PUBLIC for Idaho
Residing at: Pocatello

October 24, 1988

Name: Raymond and/or Debra Girard
License No.: 29-7205
Date of Priority: July 1, 1974
Purchased Property: October 6, 1972
Location: Downstream to Bob Wardle

We purchased our property October 6, 1972. George Henrichs purchased his property in November of 1972. In 1973 I irrigated the property now owned by Bob Wardle and Gene Wise as well as my own acreage. I used most or all of Walker Creek water on these properties that year and did not notice the acreage owned by the Henrichs being irrigated. The Henrichs had not moved in yet and did not do so until sometime in 1974.

In June of 1974 someone began blocking our diversion and stopping the flow of irrigation water to these properties. We discovered that Keith Henrichs (son of George Henrichs) had begun irrigating his father's property and had cut off the water to my diversion. I confronted Keith Henrichs about this and he said that his parents had purchased all water rights to Walker Creek. This has never been verified and even if it were the case he purchased this water in 1972 which is too late to develop water under a claim.

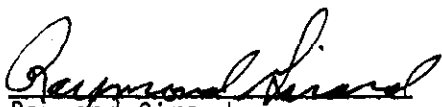
On July 1, 1974 I filed for water rights with the Department of Water Resources, Eastern District. After filing, the Henrichs enlisted all of the property owners North of Walker Creek to protest my claim. I later learned that the Henrichs had told these property owners that it would be to their advantage to keep all of Walker Creek water on the lands North of Walker Creek. These same property owners later filed claims and all were protested by the Henrichs. This is a matter of public record.

After a hearing at my request to file for water rights in September 1974, I was granted our right to a permit with a priority of July 1, 1974. The following year (1975) the Henrichs informed me that they were entitled to a full culvert of water at all times, and we were entitled to the excess or waste water. This being the case, the only water we would receive was when Walker Creek was at flood stage. The "full culvert" referred to has never been verified. I know that his property did not receive a full culvert of water prior to the Henrichs arrival to Walker Creek, and in 1973 it appeared to me that no one was irrigating their acreage.

During the next five years (1975 to 1980) I took whatever excess water I could. In February 1980 my wife, wrote to the Department of Water Resources and filed a protest against George Henrichs claim of July 12, 1979. We explained in that protest (letter dated) that the acreage claimed by the Henrichs was excessive. (17 acres not 31 as claimed). We also asked that someone from the Department of Water Resources come out and inspect Henrichs claim. We got no response. We decided at that point that we would work with the Henrichs as best we could. Keith Henrichs had inherited his fathers acreage by this time and shared the water with us during the early season but warned us that we were not to irrigate either of the properties adjacent to ours (Wardle and Wise) or he would cut us off. He explained that he did not want us to develop any water rights on these two properties. The situation described above remained the same until the spring of 1987 when I joined with Gene Wise and Bob Wardle in a request to the Department of Water Resources to measure the water at Keith Henrichs diversion..

After the Department of Water Resources measured the flow at Keith Henrichs diversion they informed him and us he was taking twice the amount of water he was entitled according to his claim. His claim stated he was irrigating 31 acres, but is was actually closer to 17 acres, so he was probably taking more than three times what he was allowed. Also, when his water was measured the culvert to his acreage was less than half full so his claim to a full culvert would certainly be out of line. In any case, Mr. Henrichs said that he was not aware of taking excessive water and would start working with other water users to more equitably share the water. However, one week later he informed us (Wise, Wardle, and us) that he had been advised by a representative of the Department of Water Resources that he could amend his claim. He then stopped sharing any water with use (Girards) and diverted all of Walker Creek water onto his acreage for the remainder of 1987. (May 1 thru Nov. 15) My fields dried up in 1987 and my acreage suffered irreparable crop damage. In fact, since 1975 my acreage has suffered for lack of irrigation water because of the Henrichs unproven and erroneous claim.

I protested Keith Henrichs original and amended claims along with all other Walker Creek water users in late 1987 and January of 1988. Our protests and investigation of Henrichs' claims resulted in a "Rotational Agreement for 1988" among all users that was fair and equitable. I received water in 1988 on the basis of this agreement until I received the "Cease and Desist" order from the Department.


Raymond Girard


Debra Girard

AFFIDAVIT

STATE OF IDAHO)
 ss
County of Bannock)

GREEN, SERVICE,
GASSER & KERL
ATTORNEYS AT LAW
P.O. BOX 4883
POCATELLO, IDAHO
83205-4883
(208) 232-4471

I, GENE M. WISE

_____, being
first duly sworn depose and say:

That attached hereto is a true and correct copy of
a signed statement prepared by me as a Walker Creek
water user based upon my own personal knowledge, and
incorporated herein as if set forth at length.

DATED This 26th day of October, 1988.

Gene M. Wise

/

SUBSCRIBED AND SWORN TO before me this 26th day
of October, 1988.

(SEAL)

Jim Spriner
NOTARY PUBLIC For Idaho
Residing at: Pocatello

Statement For Hearing

10-26-88

Gene M. Wise
License No. 29-7479
Date of Priority : April 3, 1979
Location: Downstream to Raymond Girard

I purchased my property November 7, 1972, at approximately the same time George Henrichs purchased his property, which has since reverted to his son, Keith Henrichs.

At the time I purchased my property I was in the army, stationed out of state although I returned frequently on visits, until August, 1975 when I returned to stay. In 1973 I made an agreement with Raymond Girard to irrigate my property with Walker Creek Water which Raymond did. To the best of my knowledge the Henrichs did not use any Walker Creek water that year for their property. In the summer of 1974 I returned for a visit unannounced and when my father and I went to my property one day Keith Henrichs was on my property, in my field, with a shovel, running water through my existing ditch to irrigate the property to the south of my property. When I asked him what he was doing he told me he had contracted for the hay crop on the acreage south of me and was irrigating. I told him I would also like use of the water at which time he told me his father owned the water rights to all of Walker Creek. I later found out he could not substantiate or verify this ownership of water. To this day I have seen no proof and even if this were true, he could not have obtained ownership of the water until Nov, 1972 which is after the cut-off date for filing a historic use claim to a water right. Henrichs was allowed to file a claim by the Water Resources Commission July 12, 1979, in my opinion illegally, 8 years after the 1971 cut off date for filing a claim although the Water Resources Commission told me in 1979 that I could not file a claim and must apply for a permit/license. This was the first of many, many inconsistencies the Water Commission has come out with. In 1975 I entered into an agreement with Keith Henrichs to cut and bale my hay crop on a share basis which he did. During that summer Henrichs irrigated my property heavily with Walker Creek Water and I had a crop of 270 bales. The following year I declined to share the hay crop with Henrichs and although the Girards got some water early in the season and shared it with me, Raymond informed me Keith Henrichs had told him he would cut the water off completely and let it run down into Marsh Creek if Raymond gave me any water. Henrichs did in fact later cut us both off from the water use. Although over the next 12 years, Raymond got a small amount in the early season from time to time when run off was very high and Henrichs considered the water "excess".

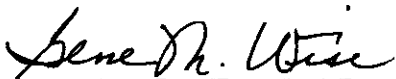
I filed for water April 3, 1979 and although Henrichs protested, I was eventually granted a license. Even though I had a valid state license Henrichs has withheld the water to me since 1975. Until 1988 when a rotation agreement was reached, my fields received no water and my hay crops have gone down from an average of 250 bales to 80 bales while Henrichs wastes water 400 ft. away.

When George Henrichs filed a claim July 12, 1979, I protested his claim. I pointed out to the Water Commission he was claiming excess water, and the 31 acres he claimed was excessive, that it was actually only 17 acres. In 1979 Mr. Rhodes and Mr. Christenson from the Water Resources Commission came out and did a measurement and held a meeting at the diversion point on Henrichs property. They informed the Henrichs they were taking taking excess water and could not deny others use of the water. After they departed Henrichs promptly again cut off the water.

The situation remained the same until 1987 when the Water Commission at the request of myself, Wardle and Girard came out and measured the flow. They informed Henrich he was taking 3 times the amount of water he was entitled to under Idaho Code, and that he should cooperate with other users. Henrichs agreed to cooperate, then was allowed to file an amended claim and took all of Walker Creek Water during 1987.

In 1988 all Walker Creek water users applied pressure on Henrichs and the Water Commission until finally we were able to reach an agreement for a rotational use system on a fair basis which vastly increased beneficial use of water until a Cease and Desist order was issued by the Water Commission. During 1988 my hay crop of one cutting increased from an average of 80 bales to 155 bales.

Henrichs has filed 6 claims. A thick file exists of correspondence in which we have pointed out time after time inconsistencies in those claims only to receive contradictory further inconsistencies on the part of the Water Commission which appears biased in favor of Henrichs unsubstantiated claims.


Gene M. Wise

AFFIDAVIT

STATE OF IDAHO)
 ss
County of Bannock)

GREEN, SERVICE,
GASSER & KERL
ATTORNEYS AT LAW
P.O. BOX 4883
POCATELLO, IDAHO
83205-4883
(208) 232-4471

I, ROBERT M. WARDLE
_____, being
first duly sworn depose and say:

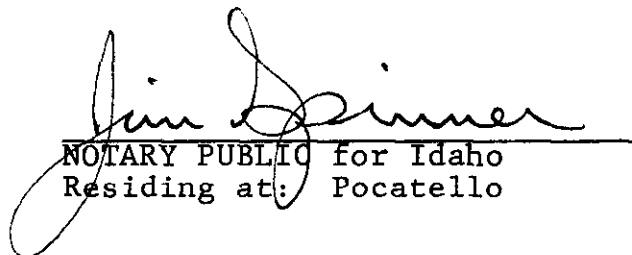
That attached hereto is a true and correct copy of
a signed statement prepared by me as a Walker Creek
water user based upon my own personal knowledge, and
incorporated herein as if set forth at length.

DATED This 26 day of October, 1988.



SUBSCRIBED AND SWORN TO before me this 26th day
of October, 1988.

(SEAL)



NOTARY PUBLIC for Idaho
Residing at: Pocatello

October 25, 1988

STATEMENT FOR WALKER CREEK HEARING

NAME: Robert M. Wardle
LICENSE NO. 29-7647
PRIORITY: 6/15/82
PURCHASED PROPERTY: June 1985
LOCATED: Downstream from Thomsen

Shortly after moving to Walker Creek I was told by Keith Henrichs that he had high water rights to Walker Creek and Ray Girard had second water rights. He said, "This amounted to almost all of Walker Creek water early in the year and later on all of Walker Creek water belonged to him." I checked my water rights and discovered that the previous owner obtained a water license from Walker Creek for this property on June 15, 1982. I did not bother to pursue the use of my licensed water in 1985, because I was last on the priority list of users and I assumed that Keith Henrichs and Ray Girard were entitled to all of the irrigation water in Walker Creek.

In the summer of 1986, I observed that Keith Henrichs used all of Walker Creek water on a continuous basis for his acreage. It appeared to be an abuse of the use of Walker Creek water as small lakes formed in various pockets on his property. I began to ask various neighbors what their water rights were and found that there were four other Licensed Water Users, one permit holder, and one other Claim holder. I also discovered they were being denied any irrigation water account of Keith Henrichs claim to high water and his monitoring of their diversions. In late 1986, I checked the water rights of all users, including Keith Henrichs claim, and found that his claim to high water rights was a misrepresentation of the facts and his use of irrigation water far exceeded what he was entitled to, according to his claim.

In April 1987, I requested, along with Ray Girard and Gene Wise, that the Department of Water Resources measure the water flow at Keith Henrichs diversion point. Two representatives from the Eastern District Office, Harold Jones and Ernest Carlsen, did measure the flow onto Mr. Henrichs' property and determined he was taking twice the amount shown on his claim. This finding was explained to Mr. Henrichs at a meeting in my home on the day of the measurement. At that meeting Mr. Henrichs said that he would start working with other water users in an effort to more equitably share the water as indicated by the allocations of our various licenses. However, one week later Mr. Henrichs informed me and the other licensed users that he had been advised by a representative (Ernest Carlsen) of the Dept. of Water Resources that he could amend his claim for a larger amount of water. He also said he was going to continue taking most of Walker Creek water and proceeded to take all of the Walker Creek flow for the remainder of 1987.

Lakes again formed on Henrichs' property throughout the summer of 1987. I checked out Keith Henrichs original claim in late 1987 and determined that the amount of acreage claimed was excessive. It was closer to 20 acres as opposed to the 31 acres as shown on his claim. I

called this to the attention of the Dept. of Water Resources, Eastern District, and they advised me to file a protest to his claim.

In October of 1987, all other Walker Creek water users and I protested Keith Henrichs abuse of our water rights. See group signed letter of Oct. 1, 1987 and my letter of Oct. 19, 1987 in the Walker Creek file. Our protest and Keith Henrichs filing of an Amended Claim for even more water forced the Dept. of Water Resources to warn Keith Henrichs that he was taking three to five times the amount of water allowed by the State Code, and he was not allowed to regulate the diversions of other users. He was also told that since Walker Creek was not yet adjudicated, he must cooperate with other users for more equitable distribution of the water. See Ernest Carlsen's letter of Dec. 10, 1987 - Walker Creek file.

In January of 1988, a formal protest to Keith Henrichs' claims was filed by all other water users with a complete explanation of the reasons for our protest. Walker Creek file ltr. dated Jan. 18, 1988. After this protest we informed Keith Henrichs that we intended to regulate our own flow of water to our properties in 1988 and explained the reasons for this action. Walker Creek file ltr. dated March 7 to Keith Henrichs. With the help of Ernest Carlsen from the Dept. of Water Resources, we managed to work up a Rotational Agreement for the use of Walker Creek water in 1988, signed by all users including Keith Henrichs. The agreement was fair and provided for much more equitable and beneficial use of Walker Creek water. However, in September of 1988, Mr. Henrichs managed to convince Mr. Fleenor that he should issue a Cease and Desist order to all Licensed Walker Creek water users, thereby, breaking our agreement and giving all the water to Mr. Henrichs. The basis of the Cease and Desist order is based on a misinterpretation of our agreement and erroneously provides support for Keith Henrichs unproven claim.

Since early September of 1988, Mr. Henrichs has not only claimed all of Walker Creek water for his 17 acres, but has also been pumping water out of the West Side Marsh Creek Canal, and Marsh Creek for this same acreage. Recently, he began diverting water into a canal on the East side of Marsh Creek. Apparently, the basis for this massive use of water is three additional claims recently filed by Henrichs (July 14, 1988) with the Department of Water Resources. I doubt very much that any of these claims have been investigated by the Department as to their validity or how they affect other Walker Creek water users.

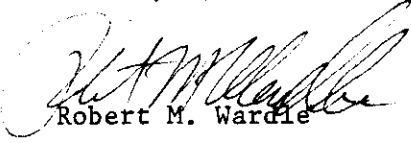
Since June of 1985, I have witnessed Keith Henrichs use of almost all of Walker Creek water year round with the exception of the summer months of 1988 when he was forced to share with other users. I have also witnessed his use of Marsh Creek water for the same acreage. Recently, he placed a dam/diversion 25 feet from my property line and is now diverting water for three acres on the East side of Marsh Creek. This diversion has caused a small lake of water to form on his property and has backed up the water onto my acreage. The dam/diversion was not approved by the Department of Water Resources but Ervin Ballou, Stream Specialist for the Dept. has allowed Henrichs to continue diverting water until a proper structure can be built. This is at the risk of causing flooding on my property.

A review of the Walker Creek correspondence file will show the problem with water allocation on Walker Creek is a result of a continuous campaign by Keith Henrichs over the past decade to control Walker Creek irrigation water. The events of the last three years are

substantially recorded and should be reviewed for the facts on the matter and to avoid a continual re-hash and more confusion on issues that should already be settled. This file will show Keith Henrichs has misinformed other water users and the Dept. of Water Resources on numerous occasions. He has even resorted to petty attempts at intimidation in order to get other water users in line. Please see enclosure 1.

Dept. of Water Resource representatives have also contributed to the problem with inconsistent interpretation and application of the Idaho State Water code as well as poor procedures for handling disputes of this nature. Keith Henrichs has taken advantage of other water users because of the Departments inadequate policies and procedures for reviewing unproven claims. The department certainly should have procedures in place for checking out the validity of claims, especially claims that have been protested as often as the Henrichs' claims. In this case policy should at least dictate a preliminary verification (field and administrative) of Henrichs' claims before issuing a "Cease and Desist" order to the other Licensed Walker Creek water users.

Thank you,



Robert M. Wardle

ENCLOSURE 1

Since filing an official protest to Keith Henrichs claims in January of 1988, the following attempts at intimidation have been initiated by Keith Henrichs.

- March 1988 - Henrichs attempted to close down Karen Wardle's Art Studio used for conducting painting lessons. I have testimony from neighbors that Keith Henrichs asked them to sign a petition for the studio's closure.
- April 1988 - Keith Henrichs attempted through his attorney to force me to move a 300 yard mutual boundary fence between our properties. The fence was previously placed at that location, by me, at my expense, and at Mr. Henrichs request. Attorney fees - \$500.00
- May 1988 - Keith Henrichs turned me into the Department of Water Resources for placing drop structures in Walker Creek without asking his permission as the adjoining land owner. The structures were initially approved by the department and demonstrated a definite improvement in the stream bed in the one year of their existence. I was forced to remove the drop structures because I had not obtained Mr. Henrichs approval. Cost for placement and removal \$400.00
- Sept. 1988 - Keith Henrichs placed a dam/diversion 25 feet from my property line and has backed up Marsh Creek water over 1/2 acre of my property. This structure was not approved by the Dept. of Water Resources and is a matter yet to be resolved.
- Oct. 1988 - Keith Henrichs moved our mutual boundary fence to the middle of Walker Creek along its entire 300 yard length. This fence will impede the flow of Walker Creek and eventually cause flooding and the breakdown of the fence. According to local custom and fence codes, I am responsible for maintenance of this portion of fence.

AFFIDAVIT

STATE OF IDAHO)
 ss
County of Bannock)

GREEN, SERVICE,
GASSER & KERL
ATTORNEYS AT LAW
P.O. BOX 4883
POCATELLO, IDAHO
83205-4883
(208) 232-4471

I, John A. Shultz
_____, being
first duly sworn depose and say:

That attached hereto is a true and correct copy of
a signed statement prepared by me as a Walker Creek
water user based upon my own personal knowledge, and
incorporated herein as if set forth at length.

DATED This 27 day of October, 1988.

John A. Shultz

SUBSCRIBED AND SWORN TO before me this 27th day
of October, 1988.

(SEAL)

Jim Spinner
NOTARY PUBLIC for Idaho
Residing at: Pocatello

Bob Fleenor
Department of Water Resources
1301 Orchard Street
Boise, Idaho 83720

September 28, 1988

Sir:

In regard to your letter of September 14, 1988 and the cease and desist order dated, September 2 1988.

Your response to this situation reveals your total ignorance of the facts, and your complete prejudice for the claims of Mr. Henrich.

The 1988 Rotation Agreement, did not guarentee Mr. Henrich water over other users. In fact, at the insistence of Keith Henrich, the principle of prior appropriation was struck, from the Walker Creek Rotation Agreement, dated April 4, 1987. He refused to sign any rotation agreement with prior appropriation incorporated in it. The reason being, that Mr. Henrich is not a licensed user of Walker Creek water.

During the 1987 irrigation season, Mr. Henrich arbitrarily appropriated water from all licensed users of Walker Creek except me. The Department of Water Resources, measured the water Mr. Henrich was taking, at twice, the amount allowed by his claim.

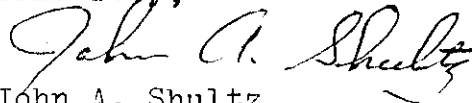
At that time, the Department of Water Resources, received evidence that Mr. Henrich exaggerated on his claim the amount of acerage he irrigated. Also, by your departments own evidence, he willfully and intentionally, exceeded the amount of water allowed on that claim.

Mr. Fleenor, your department did not come to the rescue in 1987. In fact, you stonewalled the information we needed to stop Mr. Henrich. You stated the Department of Water Resources, had no authority over Walker Creek water as it had not been adjudicated.

Therefore, you must understand my outrage for the authority that the Department of Water Resources, denied having last year, and willfully uses this year. In effect you have prevaricated to, and cheated all licensed users of Walker Creek.

The Department of Water Resources, failed to enforce Section 42-350 of the Idaho Code, which states, in part, "the director of water resources," has the power to issue a cease and desist order, "when the licensee has willfully or intentionally, failed to comply with the conditions of the license."

Sincerely,


John A. Shultz
License No. 29-7223

AFFIDAVIT

STATE OF IDAHO)
 ss
County of Bannock)

GREEN, SERVICE,
GASSER & KERL
ATTORNEYS AT LAW
P.O. BOX 4883
POCATELLO, IDAHO
83205-4883
(208) 232-4471

I, Chuck Thoma

_____, being
first duly sworn depose and say:

That attached hereto is a true and correct copy of
a signed statement prepared by me as a Walker Creek
water user based upon my own personal knowledge, and
incorporated herein as if set forth at length.

DATED This 27 day of October, 1988.

Chuck Thoma

SUBSCRIBED AND SWORN TO before me this 27th day
of October, 1988.

(SEAL)

Jim Spinner
NOTARY PUBLIC for Idaho
Residing at: Pocatello

Statement for Walker Creek Hearing - Oct. 27, 1988

Name: Chuck Thomsen
Claim: Statutory - 29-4101 - Supported by Deed to property.
Priority: March 15, 1912
Purchased property: April 1, 1985
Located: Downstream from John Schultz

I purchased this property from Keith Henrichs in 1985 with water rights included. This is supported by my deed and Keith Henrichs verbal agreement with me prior to moving in. In fact, Mr. Henrichs sold me an irrigation pump and pipe to irrigate my top pasture. However, when I started using the pump for this purpose, Mr. Henrichs told me I had to shut it down because he claimed I was using his water out of Walker Creek. This same year (1985) Keith Henrichs tore out my dam and diversion which was used for diverting water to the lower three acres of my property for over 30 years.

The following year (1986) Keith Henrichs tore out the side of a new diversion I had rebuilt in the spring. In 1987 he pulled my suction pipe out of my ditch and told me to shut it off or burn it up.

Since the Licensed Water users and I filed a protest in early 1988, Keith Henrichs has tried to enlist my support to deny these individuals their water rights. His main argument has been that since we are both claim holders it would be to our best interests to cooperate with each other. I have refused to cooperate with him in any way and fully support the other users attempts to obtain their legal water rights. I have observed Keith Henrichs flood his property many times in the past three years. Small lakes

have formed on numerous occasions while downstream users have been forced to let their pastures burn up. I feel that I have enough water assigned to me by our 1988 Rotational Agreement and if Keith Henrichs would use proper irrigating methods his share according to the agreement would be sufficient.

We all agreed to the 1988 Rotational Agreement. I believe it was fair and equitable to all users and was a much more beneficial use of water than in years past when Keith Henrichs claimed all of Walker Creek water. It is difficult for me to understand the reasons why the Department of Water resources has issued a "Cease and Desist" order against the other Licensed water users when every condition of the agreement was adhered to by all users.

Chuck Thomsen
2599 S. Marsh Cr. Rd.
McCammon, Id., 83250

PS Form 3877, Sept. 1986
FOR REGISTERED, INSURED, C.O.D., CERTIFIED, AND EXPRESS MAIL

NAME AND ADDRESS OF SENDER STATEHOUSE BOISE, IDAHO 83720		DEPARTMENT OF WATER RESOURCES		Indicate type of mail ☐ Registered ☐ Insured ☐ COD ☒ Certified ☐ Express Mail		Check appropriate block for Registered Mail: ☐ With Postal Insurance ☐ Without Postal Insurance		Affix stamp here if issued as certificate of mailing or for additional copies of this bill. POSTMARK AND DATE OF RECEIPT						
Line	Number of Article	Name of Addressee, Street, and Post-Office Address			Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee Remarks
1	138471	John Shultz												29-7823
2		Walker Creek Rd.												
3		Mc Cammon, Id 83250												
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Total Number of Pieces Listed by Sender 1		Total Number of Pieces Received at Post Office 1		POSTMASTER, PER (Name of receiving employee) RS 7/16/88		The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for Registered Mail, \$500 for COD and \$500 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels. Special delivery service also includes special handling service.								

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

U.S. G.P.O. 1986-166-494

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE
USE, \$300

Print Sender's name, address, and ZIP Code in the space below.

RECEIVED

SEP 21 1988

DEPARTMENT OF WATER RESOURCES

STATE HOUSE

BOISE, IDAHO 83720

Department of Water Resources

1. ☐ Show to whom delivered, date, and addressee's address.
(Extra charge)

PS Form 3811, Mar. 1988 ★ U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

September 14, 1988

CERTIFIED MAIL # 138470

John Shultz
Walker Creek Rd.
McCammon, ID 83250

Dear Mr. Shultz:

Re: License No. 29-7223

We were hopefully that the water users on Walker Creek would be able to resolve their differences and that you would allow the water to be used according to the priority system, but you have continued to divert water during the time there is not water available to satisfy prior water rights.

Therefore, here is an order that requires you to cease and desist diverting water from Walker Creek until the flow in the stream increases to the point where all the water rights earlier in priority than yours are satisfied.

You may request in writing within fourteen (14) days of the date of service, an administrative hearing on the cease and desist order. Your diversion of water must cease during the time a hearing is pending if a hearing is requested. The administrative hearing would be held as provided for in Section 42-1701A, Idaho Code.

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

Sincerely,

BOB FLEENOR
Chief, Regional Bureau Offices

Enc.



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

September 2, 1988

John Schoonover
R. R. 12A2
Mc Cammon, ID 83250

Dear Mr. Schoonover:

We were hopeful that the water users on Walker Creek would be able to resolve their differences and that you would allow the water to be used according to the priority system, but you have continued to divert water during the time there is not water available to satisfy prior water rights.

Therefore, here is an order that requires you to cease and desist diverting water from Walker Creek until the flow in the stream increases to the point where all the water rights earlier in priority than yours are satisfied.

You may request in writing within fourteen (14) days of the date of service an administrative hearing on the cease and desist order. Your diversion of water must cease during the time a hearing is pending if a hearing is requested. The administrative hearing would be held as provided for in Section 42-1701A, IDAHO CODE.

If you have any questions about this matter please let us know.

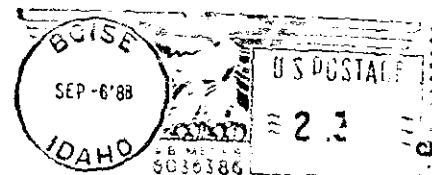
Sincerely,

BOBBY D. FLEENOR
Regional Bureau Chief

c: Keith Henrichs
Chuck Thompson

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1201 North Orchard Street
Boise, Idaho 83706-2237

RECEIVED
SEP 09 1988
RETURNED TO SENDER
RECEIVED
SEP 09 1988



Claim Check
No.

575633

☐ Held

Date

9/9/88

1ST Notice

2ND Notice

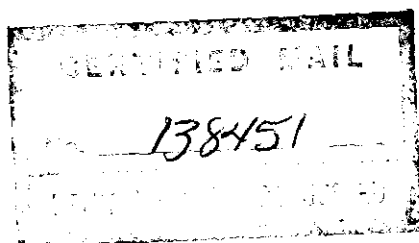
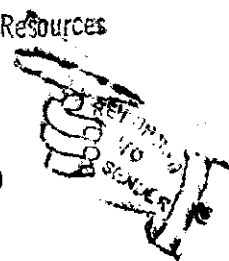
Return

Detached from
PS Form 3849-A,
Oct. 1986

Department of Water Resources

Department of Water Resources

John Schoonover
R. R. 12A2
McCammon, ID 83250



Fwd Exp RETURN TO SENDER
Forwarding order expired
No longer on file
RETURN TO SENDER

PS Form 3811, July 1983 447-845

DOMESTIC RETURN RECEIPT

KE-27-4481

128

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

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

1. ☒ Show to whom, date and address of delivery.

2. ☐ Restricted Delivery.

3. Article Addressed to:

John Schoonover
P.O. 1242
McCammon, Id 83250

4. Type of Service:

☐ Registered

☒ Certified

☐ Express Mail

☐ Insured

☐ COD

Article Number

138451

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee

X

6. Signature - Agent

X

7. Date of Delivery

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

83250

1983

September 2, 1988

Certified Mail
138451

John Schoonover
R. R. 12A2
Mc Cammon, ID 83250

Dear Mr. Schoonover:

We were hopeful that the water users on Walker Creek would be able to resolve their differences and that you would allow the water to be used according to the priority system, but you have continued to divert water during the time there is not water available to satisfy prior water rights.

Therefore, here is an order that requires you to cease and desist diverting water from Walker Creek until the flow in the stream increases to the point where all the water rights earlier in priority than yours are satisfied.

You may request in writing within fourteen (14) days of the date of service an administrative hearing on the cease and desist order. Your diversion of water must cease during the time a hearing is pending if a hearing is requested. The administrative hearing would be held as provided for in Section 42-1701A, IDAHO CODE.

If you have any questions about this matter please let us know.

Sincerely,

BOBBY D. FLEENOR
Regional Bureau Chief

c: Keith Henrichs
Chuck Thompson

10-10-1988
10-10-1988

WATER RIGHT NUMBER 29-7223

OWNER LAST NAME - SCHOONOVER
ADDRESS LINE 1 - RT. BOX 1242
ADDRESS LINE 3 -FIRST NAME - JOHN
ADDRESS LINE 2 -
CITY - MC CAMMON

ORIG OWNER -

VERIFIED RIF

SOURCE - WALKER CREEK

TRIBUTARY OF - MARSH CREEK

STATE - ID ZIP CODE - 83250

STAGE - LICENSE

STATUS -

PRIORITY - 09-17-1974 COUNTY - BANNOCK

TOTAL DIV. RATE - .0400 -CFS

TOTAL DIV. VOLUME -

7.00 AFA

TRFR/AMEND -

WATER DIST. - 29H

DLE/CAREY ACT -

RIGHT BASIS -

DIVERSION POINT - NWSW 15 08S 36E LOT

REDIV -

272.0 452.0 25.0

0.0 0.0 0.0

0.0 0.0 0.0 0.0 0.7

FROM - 03-15 TO - 11-01 USE - IRRIGATION

USE DIV. RATE -

.0400 CFS

USE DIV. VOLUME -

7.00 AFA

USE - IRRIGATION

PLACE OF USE - TWN 08S RNG 36E SEC 15 TRACT NWSW LOT

AC 02

DECREE NAME -

DATE -

TOTAL ACRES 2

REMARKS -

NON IRRIG USE -

OTHER RIGHTS FOR SAME USE -

PROOF DUE -

PERMIT/DENIED -

PROTESTED -

HEARING -

OLD NO. -

PROOF MADE - FLD EXAM - COND. OF APPROVAL -

DIVERSION MEANS -



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

July 31, 1979

John Schoonover
R. R. 12A2
McCammon, ID 83250

Dear Mr. Schoonover:

RE: Water Right No. 29-7223

Enclosed is a copy of the Water Right License issued on the above referenced permit.

Sincerely,

Jan Grover
JAN GROVER
Water Rights Supervisor

JG:lr

Enclosure

MICROFILMED

T
8
S

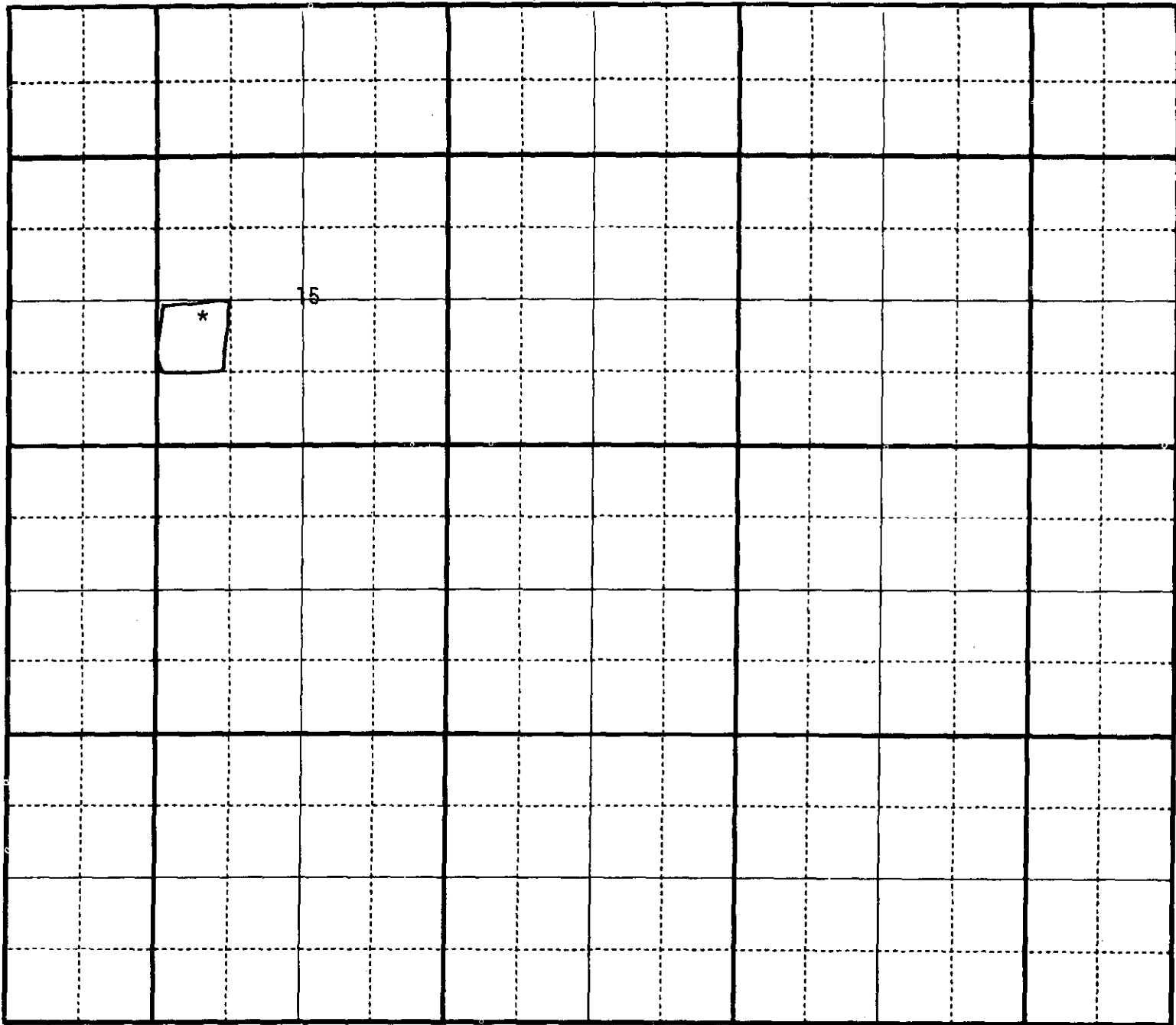
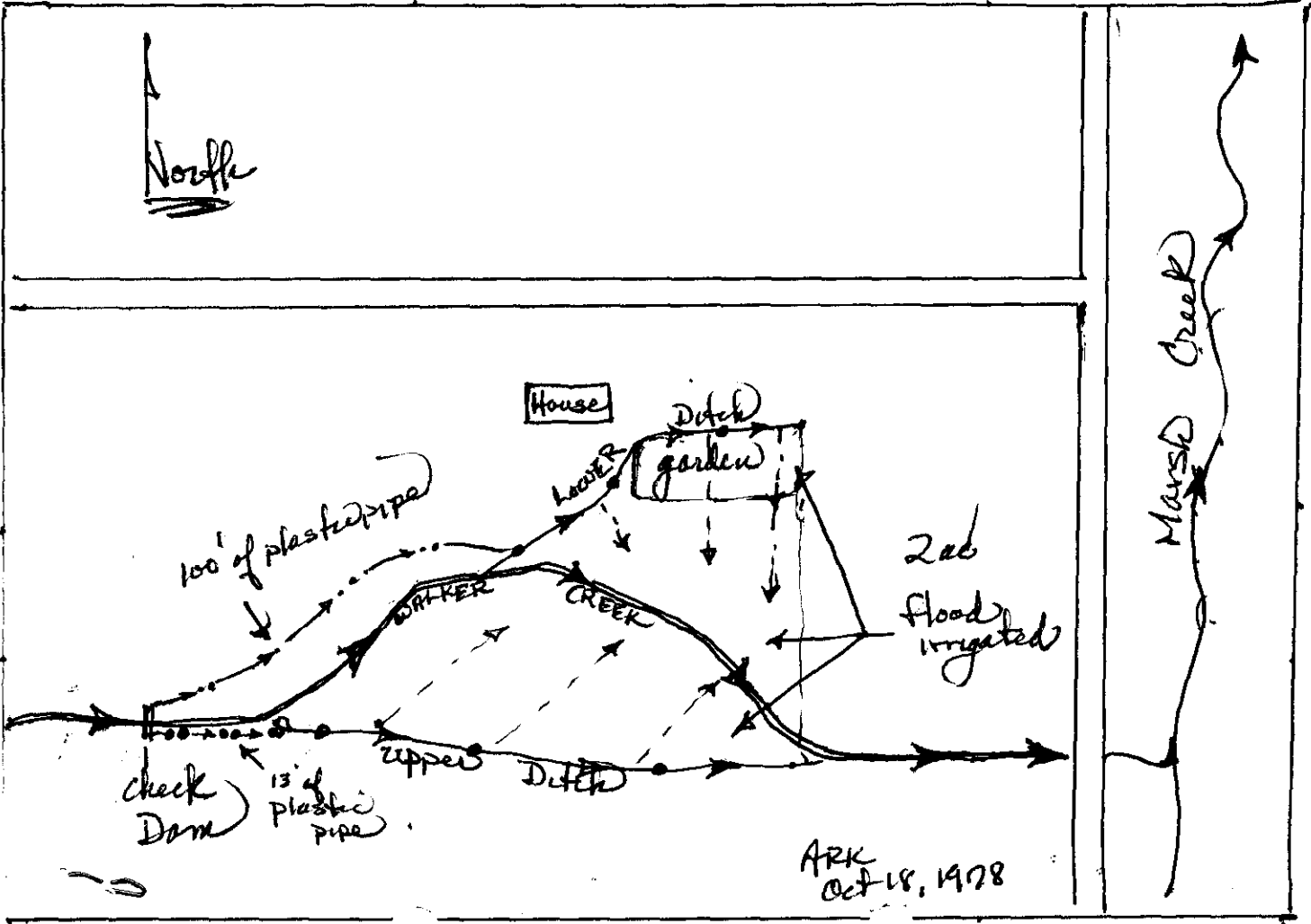


Diagram of System



DATE OF EXAM 6/19/78

ACREAGE
Found 2 1/2
Recommended 2 1/2

Irrigation Requirement 3.5 Ac Ft/Ac

USE
Irrigation Q = .04 c.f.s. V = 7 AF/Ann. from March 15 to Nov. 15
Domestic Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____
Livestock Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____

Is water co-mingled? yes _____ no X

Name source: n/a
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Exchange? yes _____ no X

Name source exchanged with: n/a
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Point of injection: n/a
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Point of exchange: n/a
twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Total Q measured .313 cfs Method of measurement Dept. Current Meter

Total Q recommended .04 Meter No. _____ Type Pigmy Condition good

Total V recommended 7 Aff/yr

Recommended Amendments:

P.D. _____

Place of Use _____

Other _____

☒ None

MEASUREMENT CALCULATION:

See Reverse side for current meter measurement.

$$V = 2ac \times 3.5 \text{ Aff/ae} = 7.0 \text{ Aff/yr} < .04 \times 1.9835 \times 230 = 18.3 \text{ Aff/yr}$$

SYSTEM DESCRIPTION:

Surface water is diverted from (Cotton) Creek into Marsh Creek River by a small check dam. Water is diverted from a small pool thus formed into 2 separate irrigation ditches by 2 separate and distinct lengths of pipe. Upper ditch is fed by 130' of plastic pipe (3' of 3" diam + 10' of 4" diam). The lower ditch is fed by 100' of 3" plastic pipe. Approx. 10 acres are flood irrigated from the two ditches.

REMARKS:

System shown & described by Mr. Schoonover

No Preexisting rights

Examiner's Signature Anthony R. Kozlowski

Date Oct 18, 1978

Checked by Rodney A. Parker

Date 1/18/79

Approved by _____

Date _____

Pygmy Water snake comments -

upper ditch 14" wide

meas.	width	depth	Area	Rev.	time	Vel	discharge
LB.	.145	—	—	—	—	—	—
1	.29'	.26'	.075	20	44	.481	.034
2	.29'	.28'	.081	40	49	.826	.067
3	.29'	.20'	.058	30	44	.698	.040
RB	.145	—	—	—	—	—	—

$$Q_{total_1} = .143 \text{ cfs}$$

Lower ditch 18" wide

meas.	width	depth	Area	Rev.	time	Vel	discharge
LB	.25'	—	—	—	—	—	—
1	.50'	.24'	.12'	40	47	.860	.103
2	.50'	.24'	.12'	30	56	.558	.067
RB	.25'	—	—	—	—	—	—

$$Q_{total_2} = .170 \text{ cfs}$$

$$Q_{total \text{ system}} = .313 \text{ cfs}$$

March 25, 1977

Re: Permit No. 29-7223

John Schoonover
R. R. 12A2
McCammon, Idaho 83250

Dear Mr. Schoonover:

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

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

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

Sincerely,

JANICE RENK
Water Rights Bureau

/jr

cc: Route Box 1242
McCammon, ID 83250

MICROFILMED

Identification No. _____

Permit No. _____

RECEIVED

MAR 18 1977 *OK*

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

Department of Water Resources

1. a) Name of Permit Holder John Schoonover
b) Post Office Address Rt. Box 1242, McCommon, PR 83250
2. Permit Number 29 7223
3. Date of Priority that you are prepared to establish 9-17-74
4. a) Source from which water was appropriated WALKER CREEK
b) Location of the point of diversion: NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 15
Township 8S, Range 36E Boise Meridian, Other points of diversion: _____

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

Amount .04 for irrigation purposes from Mar 15 to Nov 1 incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)

Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)

Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)

- b) Total amount appropriated _____ cfs and/or acre-feet per annum

c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: 3" ABS Plastic Pipe Apr 6" below surface of water with a drop of apr 2' in 50'

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:

- a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use:

- b) Describe the agreement or understanding by which you take water from the works:

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (if from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) Diversion structure - Rocks. Conveyance - 3" pipe to ditch (Apr 20' ~~to~~ to hand dug ditch Apr 500' ditch

- b) Describe the type and size of measuring device which you have installed at your point of diversion:

Only the above mentioned pipe with elbows on end to stop sticks from floating in. ON ON (also screen to keep out fish)

- c) Give well driller's name and address and the date the well was completed:

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

MICROFILMED

3/24/77

... and please submit an
aerial photo of the property
with this affidavit.

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

Primarily home garden, rest is planted in trees - small patch
of clover, Sanfain + grass.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
95	36E	15																	

Total number of acres irrigated Max of 2

10. Remarks: System completed before permit applied for. At time was told
by Keith Hendricks and seller of land permit was not required for such small project.
Applied for permit when I learned I was in error.
Only available Aerial photos were taken before purchase of property.
Will obtain some and draw over on them if advised. I apologise for not knowing
how to do this properly.
The above information is a true statement of the extent to which the above numbered permit has been developed.

3-10-77

(Date)

Mrs John Schoonover (Pat)

(Signature)

State of Idaho)

) ss.

County of Bannock)

On this 10th day of March, 1977, personally appeared before me
the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Neddy Lee Furness
Notary Public residing at Pocatello, Idaho

My commission expires January 1980

January 31, 1977

CERTIFIED MAIL

138235

Re: Permit No. 29-7223

John Schoonover
R. R. 12A2
McCammon, Idaho 83250

Dear Mr. Schoonover:

One of the conditions of approval of your water Permit No. 29-7223 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before April 1, 1977. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

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

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



R. KEITH HIGGINSON
Director

RKH:jg
Enc: Proof affidavit

MICROFILMED

March 18, 1975

C
Re: Permit No. 29-7223

O
Mr. John Schoonover
R. R. 12A2
McCammon, Idaho 83250

Dear Mr. Schoonover:

P
Enclosed is a copy of your approved Application for Permit No. 29-7223. We direct your attention to the conditions of approval as listed on the fourth page.

Sincerely,

V
BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

Enclosure

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Protests Against
Application for Permit No. 29-7223
in the name of JOHN SCHOONOVER

CONFERENCE MEMORANDUM

On September 17, 1974, John Schoonover filed with the Department of Water Resources an application to appropriate 0.04 cubic feet a second from Walker Creek for the irrigation of two acres of land within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, Twp. 8S, Rge. 36E, B. M., Bannock County.

On October 4, 1974, the Department received a protest against approval of said application from George and Maurine Hendricks.

The Department conducted a conference in the matter on February 25, 1975 in Inkom, Idaho. The applicant and protestants were present to represent themselves.

The applicant's proposed development was reviewed and the protestants' objections were heard. The protestants agreed to withdraw their protest if the applicant would agree to respect their prior water right. A stipulation to this affect was prepared and signed by all parties. This agreement has now been included in this file.

Dated this 3rd day of March, 1975.



RONALD D. CARLSON
District Engineer

MICROFILMED

- STIPULATION -

I if it is understood by the applicant that his right will be subject to all prior rights on Walker Creek and that at any time there is ~~not~~ sufficient water to fill our rights there shall be no diversions made under Permit 29-7223, we will withdraw our protest

SIGNED 2/25/75

George H. Henrichs 2-25-75

Maurine Henrichs

I agree that this is a "high water" right and is junior in time and subject to the right held by George and Maurine Henrichs and will not divert water if it will result in injury of there right.

SIGNED 2/25/75

MAURINE HENRICHS

John Schoonover - 29-7223

City Hall Building, Inkom, Idaho

February 25, 1975 - 10:30 a.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
<i>John Schoonover</i>	<i>RR 1212 McConna</i>	<i>self.</i>
<i>George H. Henrichs</i>	<i>Arimo Idaho 83214</i>	<i>myself.</i>
<i>Maurine D. Henrichs</i>	<i>Arimo, Idaho 83214.</i>	

MICROFILMED

29-7223 JOHN SCHOONOVER

1. SAME ISSUE AS 29-7205-
RAYMOND & DEBRA GIRARD (SEE
MEMORANDUM DECISION)

MICROFILMED

84-1223

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern District Office
1515 Lincoln Road • Idaho Falls, Idaho
83401

Returned Receipt

PS Form 3811, Nov. 1973

● SENDER: Complete items 1 and 2.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☒ Show to whom and date delivered..... 15¢
☐ Show to whom, date, & address of delivery.. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered..... 65¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
564

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE
Mr. George Horvick

4. DATE OF DELIVERY
02-14-75

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK
FEB 14 1975
CLERK'S INITIALS
M.H.

★ GPO : 1974 O - 527-803

PS Form 3811, Nov. 1973

● SENDER: Complete items 1 and 2.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☒ Show to whom and date delivered..... 15¢
☐ Show to whom, date, & address of delivery.. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered..... 65¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
563

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE
John Schumaker

4. DATE OF DELIVERY
2-15-75

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK
FEB 15 1975
CLERK'S INITIALS
E.H.

★ GPO : 1974 O - 527-803

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

In the Matter of Protest Against Approval)	
of Application for Permit No. 29-7223)	
in the name of JOHN SCHOONOVER)	NOTICE OF CONFERENCE
_____)	AND/OR HEARING
)	

On September 17, 1974, John Schoonover filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On October 4, 1974, the Department received a protest against approval of said application from George and Maurine Henricks.

The Department has set the matter of protest for conference and/or hearing for Tuesday, February 25, 1975, at 10:30 a.m., in the City Hall Building, Inkom, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

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. 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.

Failure to appear at the time and place set for hearing by the applicant or protestants may allow the Department without prejudice to dismiss the protest or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 12th day of February, 1975.



RONALD D. CARLSON

Acting District Engineer

MICROFILMED

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
1515 LINCOLN ROAD
IDAHO FALLS, IDAHO 83401

NAME AND
ADDRESS
OF SENDER

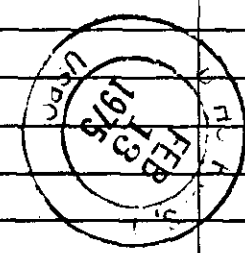
Indicate type of mail:

☐ REGISTERED ☐ REGISTERED
C.O.D. ☒ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional
copies of this bill.

POSTMARK AND DATE OF RECEIPT

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST OFFICE ADDRESS	POSTAGE	FEE	R. R. FEE	REST. DEL. FEE	ACTUAL VALUE	SURCHARGE	REMARKS*
1 563	John P. Chapman, RR 12A2, McPinn	10	30	15				29-7223
2 564	Mr & Mrs Ling, Harick, China	10	30	15				"
3								
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20								



RECEIVED

TOTAL NO. OF PIECES
LISTED BY SENDER

TOTAL NO. OF
PIECES REC'D AT P. O.

POSTMASTER, PER (Name of receiving employee)

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

POD Form 8877, Nov. 1968

APPLICATION FOR REGISTRATION OR CERTIFICATION

(Surcharges are not required on international registered mail)

c48-16-8792-15 U.S. GOVERNMENT PRINTING OFFICE

February 12, 1975

City Hall Building
Inkom
Idaho 83245

Gentlemen:

This is to confirm the use of the Courtroom for conference and/or hearing to be held by this office on Tuesday, February 25, 1975, at 10:30 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION RESOURCES

EASTERN DISTRICT OFFICE



Cecil D. Andrus
Governor

R. Keith Higginson
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

October 7, 1974

Mr. John Schoonover
R. R. 12A2
McCammon, Idaho 83250

Dear Mr. Schoonover:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application No. 29-7223. You should be aware that the following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the 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?

The Department cannot allow a permit for irrigation purposes which would entail the use of more than a continuous flow of 0.02 cubic feet per second of water for each acre of land, or an annual amount of 5 acre feet for each acre of land, unless the applicant can show that more is required. (Section 42-202, Idaho Code)

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the applicant through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for a conference and/or hearing to discuss the matters of protest. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

If we may be of any assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC: MB

Enc: Copy of Protest(s)

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION RESOURCES

EASTERN DISTRICT OFFICE



Cecil D. Andrus
Governor

R. Keith Higginson
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

October 7, 1974

Re: Application for Permit No. 29-7223

Mr. & Mrs. George Henricks
Arimo
Idaho 83214

Dear Mr. & Mrs. Henricks:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the 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?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer
RDC:MB

MICROFILMED

Protest against 297223

Arimo, Idaho.

October 4 - 1974.

Department of Water Resources.

Idaho Falls

Idaho.

Dear Sir:

We are here to protest the application for water from Walker Creek. The application being made by Mr John Schotthover Dated Sept. 17 - 1974. Because we feel there is not sufficient water in Walker Creek for us to let this happen. Neither by flood irrigating, pumping, sprinkling or gravity watering or gravity pipe line. We need this water on our Ray land and the home place. This protest has been made by the undersigned.

Respectfully yours.

George Henrichs
Maurine Henrichs

RECEIVED

OCT 4 1974

Department of Water Resources
Eastern District Office

MICROFILMED

XXXXXXXXXXXXXXXXXXXXX RESOURCES

September 20, 1974

Re: Claim to a Water Right No. 29-4041 Marsh Valley School Dist.
Claim to a Water Right No. 29-4042 Tripp
Claim to a Water Right No. 29-4043 "
Application for Permit No. 29-7223 Schoonover

Idaho State Journal
Box 431
Pocatello, ID 83201

Gentlemen:

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

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

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

Bill submitted 10-09-74 by MB

Enc: Legal Notices (4)

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that John Schoonover,

R. R. 12A2, McCammon, Idaho

has on 9/17/74 submitted Application No. 29-7223

for a permit to appropriate 0.04 cubic feet per second ~~0.04 cubic feet per second~~

of water from Walker Creek tributary to Portneuf River

by means of pump and pipeline

within the NW¹/4, Sec. 15, T. 8S, R. 36E, B.M., Bannock County;

to be used from Mar. 15 to Nov. 1

for the irrigation of 2 acres

within the NW¹/4, Sec. 15, T. 8S, R. 36E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before October 15, 1974.

R. KEITH HIGGINSON

Director

Published in the Idaho State Journal, Pocatello, Idaho

on September 26 and October 3, 1974.

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MB-L
MB-N