

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. 29-7205 IN)
THE NAME OF RAYMOND W. &/OR DEBRA GIRARD)
_____)

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. 29-7205 was issued for the irrigation of seven (7) acres of land. The license allows a maximum rate of diversion of 0.14 cfs with a priority of July 1, 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

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 29-7205 IN THE NAME OF)
RAYMOND W. &/or DEBRA GIRARD)

AMENDED
MEMORANDUM DECISION
AND ORDER

On July 1, 1974, Raymond W. &/or Debra Girard of Inkom, Idaho, filed Application for Permit No. 29-7205 to appropriate 0.80 cubic feet per second of water from Walker Creek, tributary to Marsh Creek, with point of diversion in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, Twp. 8 S, Rge. 36 E, B. M., Bannock County, the water being requested for the irrigation of 20 acres of land within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20, Twp. 8 S, Rge. 36 E, B. M. Notice of the proposed application was published in the Idaho State Journal at Pocatello, Idaho, on July 11 and July 18, 1974.

The Department received protests against approval of said application from Mr. & Mrs. George Henricks, Charles Ray Evans, Jr., Rick Dale Evans, Charles R. Evans, Ron Evans, Mr. & Mrs. Herold Anthony, Mr. & Mrs. Arthur L. Latimer and Mr. & Mrs. Leo R. Anthony.

The Department held a conference on the matter on Monday, September 9, 1974, at Lava Hot Springs, Idaho. The applicants and protestants were present and represented themselves. The protestants agreed to allow the Director of the Department of Water Resources to render a decision based upon statements made at the conference, information available in the Department's official records and upon the Director's understanding of the law.

The Director of the Department of Water Resources, therefore, makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

- (1) There are periods in most years during the normal irrigation season when more water is available in Walker Creek than is required to fill existing water rights.
- (2) A water right has been established by the diversion and beneficial use of water from Walker Creek for the irrigation of about 190 acres of land, including the land now owned by the applicants and protestants.

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(3) That the water right established by diversion and beneficial use of water was withheld by the previous owner when the land was sold, except as to Mr. George Henricks, one of the protestants.

(4) Mr. George Henricks also purchased the water rights, withheld from the portion of the 190 acres that he did not purchase, for use upon his land.

(5) The sales agreements of the applicants and all of the protestants, except Mr. & Mrs. George Henricks, contain the condition that the grantor reserves a water right in Walker Creek.

(6) The proposed point of diversion is upon land owned by Mr. George Henricks.

(7) The land named in the application as the place of use requires 0.02 cfs, or one miners inch of water, for the irrigation of each acre.

CONCLUSIONS OF LAW

(1) The waters of Walker Creek, in excess of the right established for the irrigation of the 190 acres or of that being used by the present holders of this right, is subject to appropriation in accordance with the Idaho Code.

(2) The condition reserving the water rights for the grantor contained in the applicant's sales agreement applies only to the water right that was established by diversion and use on their lands prior to their purchase, and does not prohibit them from obtaining a new water right for the use of the unappropriated water.

(3) The applicants are, therefore, entitled to a permit from the State of Idaho, with the maximum rate of diversion not exceeding 0.40 cfs.

ORDER

IT IS, THEREFORE, ORDERED and Application for Permit No. 29-7205 is hereby APPROVED subject to the following conditions:

(1) The permit is subject to all prior existing water rights, particularly the prior right apparently now held by Mr. & Mrs. George Henricks for the irrigation of 190 acres of land.

(2) The maximum rate of diversion shall not exceed 0.40 cfs of water.

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

(4) The approval of this permit does not constitute an easement or right-of-way across the land of another person.

(5) Proof of construction of works and application of water to beneficial use shall be submitted to the Department of Water Resources on or before November 1, 1979.

Dated this 29 day of November, 1974.


R. KEITH HIGGINSON
Director

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WATER RIGHT LICENSE

THIS IS TO CERTIFY, that RAYMOND W. &/or DEBRA GIRARD

Director

THE

Identification No. 29 7205

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

APPLICATION FOR PERMIT

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

APPROVED

1. Name of applicant Raymond W. &/or Debra Girard
post office address P.O. Box 121, Inkom, Idaho PH: 775-3317
2. Source of water supply Walker Creek which is a tributary of Marsh Creek
3. a. Location of point of diversion is NE $\frac{1}{4}$ 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 0.80 for Irrigation purpose from Mar 15 to Nov. 15 (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: **ALLOW: 0.40 cfs**
a. 0.80 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Headgate and private ditch system.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ 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 5 years.
b. Estimated construction cost is \$ _____.
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.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	36E	15									10					10			20

Total number of acres to be irrigated 20

c. Describe any other water rights used for the same purposes as described above.

9. a. Who owns the property at the point of diversion George Hendricks

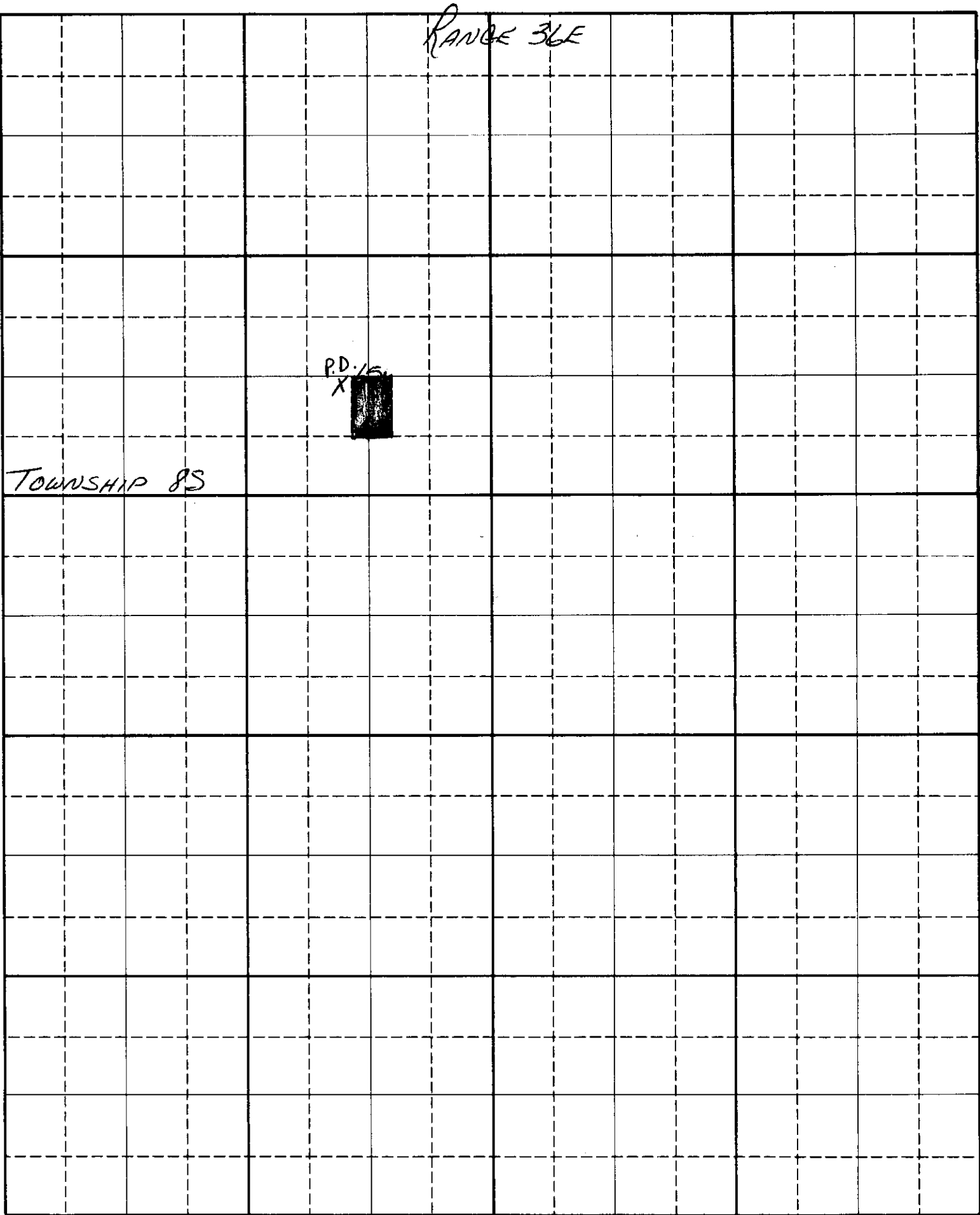
b. Who owns the land to be irrigated or place of use Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing The water has been previously been diverted from the point for several years by verbal agreement.

10. Remarks System is now in use. Original water rights were retained by previous land owner.

The soil type requires the Q excessive and documents from the SCS will be forthcoming concerning this need.

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.

Raymond W. Girard
(Applicant)

Received by MB Date 7-1-74 Time 2:25
 Preliminary check by MR Fee \$ 25.00
 Receipted by MB Date 7-1-74 # 12939
 Publication prepared by MB Date 7-3-74
 Published in Idaho State Journal
 Publication dates July 11 + 18, 1974
 Publication approved CB Date 7/22/74
 Priority reduced to _____ Reason _____

Protests filed by Mr. & Mrs. Harold Anthony, Charles R. Evans, Ron Evans, Charles Ray Evans, Jr., Rick Dale Evans, Arthur L. Letichevsky, Margaret A. Letichevsky, etc...
 Copies of protests forwarded by 8-1-74 MB
 Hearing held by _____ Date _____
 Recommended for approval denial by RDC

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. 29-7205, 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 November 1, 1979.
 - c. Other: See Memorandum Decision and Order of this date.
The maximum rate of diversion shall not exceed 0.40 cfs pursuant to Amended Memorandum Decision and Order of November 29, 1974.

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

Witness my hand this 4 day of November 19 74.

R. Keith Higin
 Director

PS Form 3811, July 1983 447-845

44-1205

● **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:
Raymond W. & Debra Girard
P.O. Box 121
Indian, IN 83245

4. Type of Service:
☐ Registered
☒ Certified
☐ Express Mail

☐ Insured
☐ COD

Article Number
138453
~~138483~~

Always obtain signature of addressee or agent and **DATE DELIVERED.**

5. Signature - Addressee
X Debra Girard

6. Signature - Agent
X

7. Date of Delivery
SEP 08 1988

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

DOMESTIC RETURN RECEIPT

RECEIVED
U.S. AIR FORCE
1950



SEP 12 1988

- 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.

Department of Water Resources



STATEHOUSE
BOISE, IDAHO 83720

(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(City, State, and ZIP Code)

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
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IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 29-7205 in the name of)
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MEMORANDUM DECISION
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The Department held a conference on the matter on Monday, September 9, 1974, at Lava Hot Springs, Idaho. The applicants and protestants were present and represented themselves. The protestants agreed to allow the Director of the Department of Water Resources to render a decision based upon statements made at the conference, information available in the Department's official records and upon the Director's understanding of the law.

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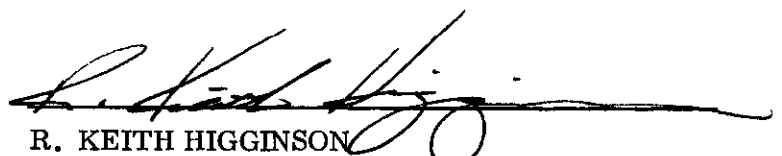
ORDER

see Amended Order of 11-29-74

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- (2) A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.
- (3) The approval of this permit does not constitute an easement or right-of-way across the land of another person.
- (4) Proof of construction of works and application of water to beneficial use shall be submitted to the Department of Water Resources on or before November 1, 1979.

Dated this 4 day of November, 1974.


R. KEITH HIGGINSON
Director

MICROFILMED

DEPARTMENT OF WATER ADMINISTRATION
- STAFF ANALYSIS -

Item	Initial	Date	
(1)	<u>NCY</u>	<u>7/3/74</u>	Application No. <u>29-7205</u>
(2)			☒ Source ☒ Point of Diversion ☒ County ☒ Quantity of Water and Period of Use <u>Qex</u> ☒ Description of Diverting Works ☒ Time required for B/U of water ☒ Place of Use or Acres Irrigated ☒ Map ☒ Signature ☒ Fee
(3)	<u>"</u>	<u>"</u>	In form to receipt <u>Yes</u>
	<u>"</u>	<u>"</u>	Send Copies to: <u>N.A.</u> ☐ Idaho State Health Department ☐ Idaho Fish and Game Department ☐ Bureau of Land Management
(4)	<u>"</u>	<u>"</u>	☐ Request Special Use Permit from U.S. F.S. ☐ Request Easement from B. L. M. ☒ Request Information from Applicant <u>Qex</u>
(5)	<u>"</u>	<u>"</u>	In form for advertising <u>Yes</u>
(6)	<u>"</u>	<u>"</u>	Located within Water District No. <u>None</u>
(7)	<u>"</u>	<u>"</u>	Critical groundwater area: yes ☐ no ☒
(8)	<u>"</u>	<u>"</u>	Groundwater levels: ☐ Decline (comment) <u>N.A.</u> ☐ Stable (comment) _____ ☐ Increasing (comment) _____
(9)	<u>"</u>	<u>"</u>	Comments: _____
(10)	<u>MB</u>	<u>7/22/74</u>	Affidavit of Publication received (date) <u>July 22, 1974</u>
(11)	<u>RDC</u>	<u>9/11/74</u>	Final date for protests <u>July 29, 1974</u> Protests received: yes ☒ no ☐
(12)	<u>"</u>	<u>"</u>	Date and Place of hearing <u>9/9/74 LAUA HOT SPRINGS</u> Decision reached at hearing <u>TO ALLOW DEPT. TO MAKE DECISION</u>
(13)	<u>"</u>	<u>"</u>	All requested information received from agencies or applicant yes <u>OK</u> no ☐
(14)	<u>"</u>	<u>"</u>	Action recommended: ☒ Approve Priority <u>7/1/74</u> ☐ Deny Reason for Reduction _____ ☒ Measuring device required <u>MEMORANDUM DECISION</u> ☒ See attached sheet for additional conditions of approval ☐ No additional conditions for approval
(15)	District <u>E</u>	By <u>RDC</u>	Date <u>9/12/74</u>

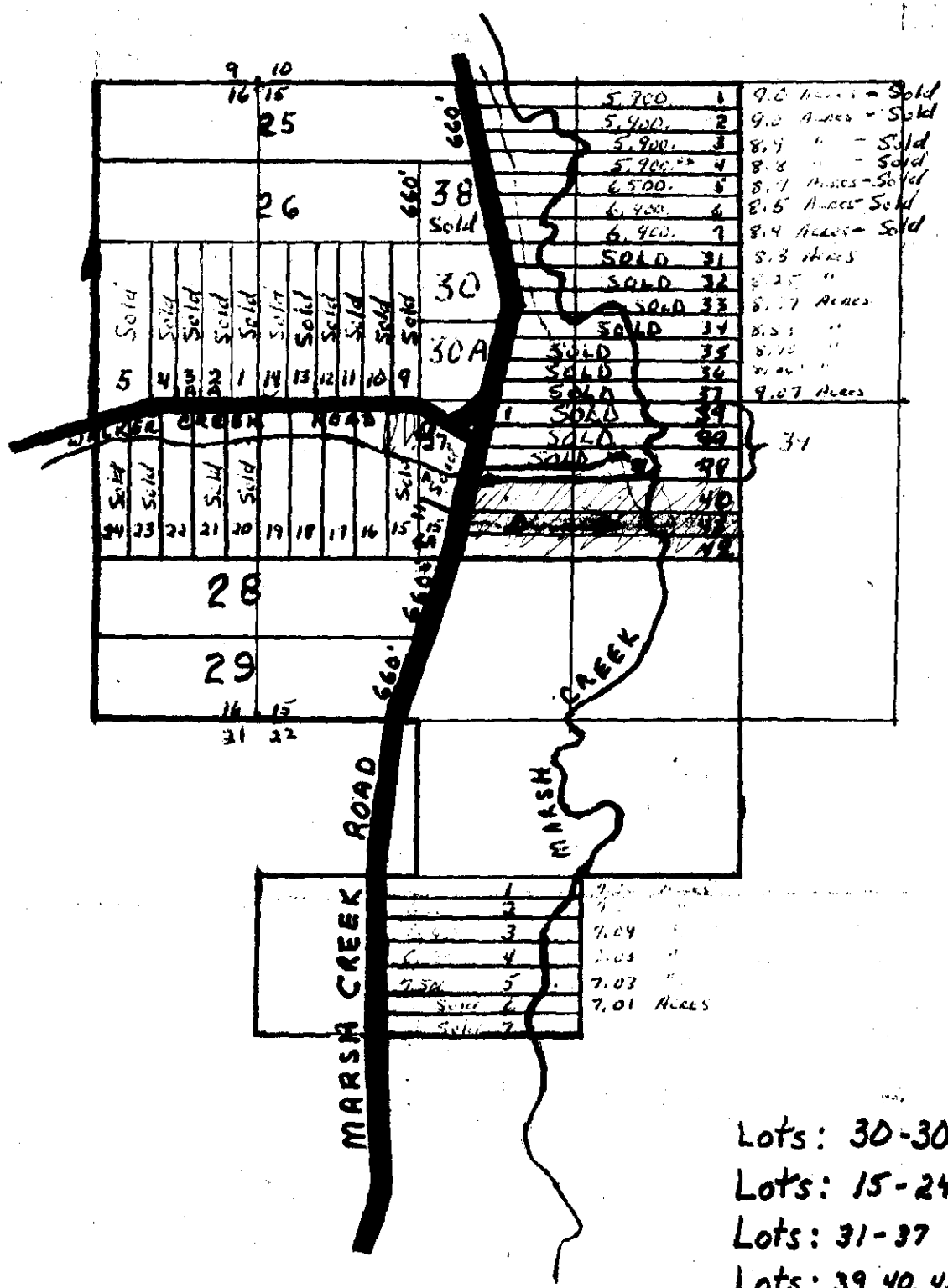
RECEIVED
SEP 12 1974
Department of Water Resources
MICROFILMED

Copy
EJ

CALIFORNIA STATE POLYTECHNIC COLLEGE - KELLOGG-VOORHIS CAMPUS

Date _____ Course _____ Name _____ Sheet _____ of _____

WALKER AND MARSH CREEK RANCHETTES



Lots: 30-30 A = \$3,500.
 Lots: 15-24 \$5,000.
 Lots: 31-37 \$6,900.
 Lots: 39, 40, 43, 44 \$8,900.
 Lots: 41, 42 \$13,900.

NO DWELLING SHALL BE PERMITTED ON THE ABOVE DESCRIBED PROPERTY HAVING LESS THAN 1,000 SQUARE FEET EXCLUSIVE OF GARAGE. SAID DWELLING SHALL BE OF NEW CONSTRUCTION MATERIALS. NO USED MATERIAL OR USED DWELLINGS SHALL BE MOVED ON TO THE ABOVE DESCRIBED PROPERTY. ANY TRAILER HOUSE IN GOOD CONDITION MAY BE MOVED ON DESCRIBED PROPERTY AS LONG AS THEY ARE A MINIMUM SIZE OF 12 FEET BY 50 FEET.

GRANTEES UNDER ANY CONVEYANCE SHALL NOT AT ANYTIME CONDUCT, OR PERMIT TO BE CONDUCTED ON SAID PROPERTY, ANY TRADE OR BUSINESS OTHER THAN FARMING. SAID LAND CAN BE USED FOR PRIVATE DWELLING OR RESIDENCE AND NOT FOR A COMMERCIAL BUSINESS.

ALL LIVESTOCK SHALL BE LIMITED TO TWO PER ACRE, EXCEPT GOATS AND PIGS, WHICH SHALL BE LIMITED TO TWO EACH ON THE ABOVE DESCRIBED TRACT.

THE ABOVE DESCRIBED PROPERTY SHALL NOT BE USED AS A DUMPING GROUND OR FOR STORAGE OF LARGE QUANTITIES OF EQUIPMENT OR MATERIALS.

GRANTOR RESERVES ONE-HALF OF ALL MINERAL RIGHTS.

GRANTOR RESERVES ALL WATER RIGHTS IN WALKER CREEK.

I, the undersigned, certify that I am a Notary Public for the State of Idaho, and have executed this instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Robert R. Black
NOTARY SEAL
Notary Public

Residing at Pocatello
Comm. Expires 12/24/74

, Idaho

RECORDED AT REQUEST OF

Amer. Land Title Co.

JAN 10 4 59 PM '73

OFFICIAL RECORD BK. NO. 256
BANNOCK COUNTY, IDAHO
TIM ERIKSEN, RECORDER
FEE 2.00 DEPUTY ms

PROOF OF PUBLICATION

RECEIVED

JUL 22 1974

STATE OF IDAHO }
County of Bannock } ss.

Department of Water Resources
Eastern District Office

Katherine Wanner

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:

July 11	, 19 ⁷⁴	_____	, 19_____
July 18	, 19 ⁷⁴	_____	, 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 Wanner

Subscribed and sworn to before me this _____ 18th

day of July _____, 19⁷⁴

Deva L. Sanford

Notary Public, State of Idaho

Residence: Pocatello, Idaho

Commission Expires
March 5, 1977

MICROFILMED

NOTICE AND PUBLICATION
I hereby give notice that
the following notice or advertisement
was published in the IDAHO STATE JOURNAL
a daily newspaper, printed and published at
Pocatello, Bannock County, Idaho, and having a general circulation
therein, on the following dates, to-wit:
July 11, 1974
July 18, 1974
_____, 19_____
_____, 19_____
_____, 19_____
_____, 19_____
_____, 19_____
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:
July 11, 1974
July 18, 1974
_____, 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 Wanner
Subscribed and sworn to before me this _____ 18th
day of July _____, 1974
Deva L. Sanford
Notary Public, State of Idaho
Residence: Pocatello, Idaho
Commission Expires
March 5, 1977

PRC OF PUBLICA ION

STATE OF IDAHO }
County of Bannock } ss.

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Raymond W. & or Debra Girard P.O. Box 121, Inkom, Idaho has on 7-1-74 submitted Application No. 29-7205 for a permit to appropriate 0.80 cubic feet per second of water from Walker Creek tributary of Marsh Creek by means of headgate and ditch within the NE 1/4 SW 1/4, Sec. 15, T. 8S, R. 36E, B.M., Bannock County; to be used from Mar. 15 to Nov. 15 for the irrigation of 20 acres within the NE 1/4 SW 1/4, NW 1/4 SE 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 July 29, 1974.
R. KEITH HIGGINSON
Director
July 11, 18, 1974
No. 443

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:

....., 19....., 19.....
....., 19....., 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.

.....
.....

Subscribed and sworn to before me this
day of....., 19.....

.....
.....

Notary Public, State of Idaho
Residence: Pocatello, Idaho

.....
March 5, 1974

.....
.....

PROOF OF PUBLICATION

RECEIVED

STATE OF IDAHO
County of Bannock

ss.

Duplicate

Katherine Wanner

JUL 22 1974

Department of Water Resources
Eastern District Office

NOTICE OF APPLICATION FOR WATER PERMIT

NOTICE IS HEREBY GIVEN that the undersigned, KATHERINE WANNER, of the County of Bannock, State of Idaho, do hereby certify that the following is a true and correct copy of the original notice of application for water permit, as filed in the office of the County Clerk of Bannock County, Idaho, on the 11th day of July, 1974, in accordance with the provisions of the Idaho Water Code, Title 5, Chapter 2, Section 2-201, and the rules and regulations of the Idaho Department of Water Resources, as amended, and that the same is being published in the IDAHO STATE JOURNAL, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

KATHERINE WANNER
Notary Public, State of Idaho
July 11, 1974
No. 443

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:

July 11	19 74	19
July 18	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 Wanner

Subscribed and sworn to before me this 18th day of July, 19 74

Debra L. Leadford

Notary Public, State of Idaho
Residence: Pocatello, Idaho

Commission Expires
March 5, 1977

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

ss.

Applicant

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Raymond W. &-or Debra Girard P.O. Box 121, Inkom, Idaho has on 7-1-74 submitted Application No. 29-7205 for a permit to appropriate 0.80 cubic feet per second of water from Walker Creek tributary of Marsh Creek by means of headgate and ditch within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, T. 8S, R. 36E, B.M., Bannock County; to be used from Mar. 15 to Nov. 15 for the irrigation of 20 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, 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 July 29, 1974.
R. KEITH HIGGINSON
Director
July 11, 18, 1974
No. 443

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:

....., 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 Schanner

Subscribed and sworn to before me this

day of, 19.....

David L. Leadford

Notary Public, State of Idaho

Residence: Pocatello, Idaho

Commission Expires
March 5, 1977

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

PS Form 3877, Sept. 1986

NAME AND
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 Regs.)	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									

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

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



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

January 3, 1989

Jim Spinner. Attorney at Law
GREEN, SERVICE, GASSER, & KERL
P.O. Box 4883
Pocatello, Idaho 83205-4883

RE: WALKER CREEK

Dear Mr. Spinner:

I have received and reviewed your letter of December 2, 1988 asking that a "misinterpretation" of a previously issued memorandum decision be corrected. However, as I read your letter it becomes apparent that you are really asking that the Findings of Fact, Conclusions of Law, and Order of that decision issued in 1974 be revised. Mr. Norman Young of my staff advises me that many if not all of the issues and corrections requested in your letter were raised at the conference which preceded the hearing set for October 27, 1988. Mr. Young also advises me that he indicated to you at the conference that the issues and corrections could be offered and considered for inclusion in the record which was to be developed to allow a ruling on the objections to the cease and desist orders. However, as you note in your letter, a formal hearing was not held and a hearing record was not developed because an intensive effort was made to resolve the Walker Creek water distribution problem by negotiation, for at least an interim solution. I cannot issue an order revising or re-interpreting the 1974 memorandum decision without giving all parties an opportunity to formally provide testimony and evidence on all the issues raised in this matter. Even then it may not be appropriate to readdress issues apparently accepted by the parties in 1974.

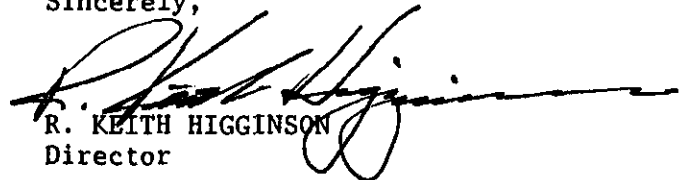
Mr. Young's understanding is that the negotiated settlement is intended to provide a solution until all the rights to use Walker Creek water are fully determined in the Snake River Basin Adjudication. Likely the ultimate resolution of this matter, unless fully settled by an agreement of the parties, will be by adjudication. Thus, the interim agreement appears to be appropriate, and I encourage

January 3, 1989

all the parties to enter into an agreement at an early date to avoid further controversy until the rights can be adjudicated. Please provide me a status report by January 16, 1989 on the efforts to reach an agreement. By copy of this letter I am also asking Mr. John Goodell, the attorney representing Mr. Henrich to provide a similar status report or collaborate in the report you submit.

You requested copies of documents which establish Mr. Henrich's purchase of Walker Creek water rights and establish the claimed date of priority. The documents I am enclosing, taken from various department files, describe a general acceptance of an early priority right to use Walker Creek water that was retained as the property was subdivided. The files may contain other documents of interest to you. They are public information available for your inspection in this office or on microfilm in the regional office in Idaho Falls.

Sincerely,



R. KEITH HIGGINSON
Director

RKH:alw

cc: John Goodell with enclosures and copy of Mr. Spinner's letter
Encl.

JAMES B. GREEN
ARCHIE W. SERVICE
CLARK GASSER*
RON KERL
JIM D. PAPPAS
FREDERICK L. RINGE
STEVEN V. RICHERT
GUY R. PRICE

RICK CARNAROLI
JAMES A. SPINNER
KAY E. MOORE
BART GREEN
ROBERT J. WILLIAMS (Boise Office)

*Also Member D.C. Bar
**Also Member Utah Bar

GREEN, SERVICE, GASSER & KERL
ATTORNEYS AT LAW
2043 E. CENTER — P.O. BOX 4883
POCATELLO, IDAHO 83205-4883

TELEPHONE (208) 232-4471
FAX (208) 232-1808

RECEIVED

DEC 05 1988

DUANE A. BYBEE**
OF COUNSEL

BOISE OFFICE

Department of Water Resources

SUITE 302 JEFFERSON PLACE
350 NINTH STREET
P.O. BOX 1887
BOISE, IDAHO 83701
TELEPHONE (208) 343-2222

December 2, 1988

R. Keith Higginson
Director, Dept. of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

Re: Walker Creek, Bannock County, Idaho

Dear Mr. Higginson:

I have been asked by a majority of Walker Creek waterusers to write you concerning what I consider a troublesome misinterpretation of an amended Memorandum Decision and Order you authored, dated November 29, 1974.

As you may be aware, there has been a continuing dispute over the use of water from Walker Creek. I represent five water license holders and one constitutional claimant in the dispute. One Keith Henrichs, a constitutional claimant, has been the individual in dispute with my clients. The dispute culminated in "Cease and Desist Orders" being issued to five of my clients who hold water licenses. My clients requested a hearing on the Orders and such was held on October 27, 1988, at the Pocatello Airport. Norman C. Young was the hearing officer from the Department.

After six hours of argument and negotiations, an agreement was stated on the record by all of the Walker Creek waterusers. Hopefully, the rotation agreement reached will be signed by all parties in the near future. I would not, however, be at all surprised, if Mr. Henrichs attempts to "revise" the agreement to his benefit.

In any event, the most troublesome aspect of this matter is the Department's reliance on the Memorandum Decision and Order to support Mr. Henrichs' unsupported, unadjudicated claims. A copy of the Amended Memorandum Decision and Order is enclosed for your information.

December 2, 1988

Page 2

The misplaced reliance of the Department on that decision is evidenced by a number of factors. First, Keith Henrichs acquired the subject property from his parents, Mr. and Mrs. George Henrichs. George Henrichs acquired the property in 1972. Thus, the Henrichs have no historical use themselves, but have filed at least three claims or amended claims for various amounts of water with a claimed priority date of March 15, 1912, (the date when the subject property was transferred out of Indian land).

Secondly, The decision and order was referenced by Mr. Young several times during the cease and desist order hearing as the basis for the Department's actions in executing the cease and desist orders. It was apparent that the Department considered the decision and order an adjudication of Henrichs' claim, to the prejudice of my clients. Such is incorrect both factually and legally as follows:

1) The decision and order regarded an application for water permit by a Raymond and Debra Girard and objections thereto. The hearing leading to your decision was not an adjudication of any claims, and no evidence was submitted on any objecting claims other than unverified oral statements. Yet statements are included therein about the Henrichs' claims which have been misinterpreted as a priority right.

2) The Idaho Code is clear that the filing of a constitutional claim is not deemed an adjudication of a water right. A constitutional claimant cannot claim priority over other users until an adjudication takes place and the claim is proven by the claimant. I.C. §42-246.

3) The findings of fact in the decision are erroneous. Paragraph (2) of the findings of fact state that a water right has been established on about 190 acres of land. Such is contrary to I.C. §42-246 as no adjudication has taken place to establish "rights". In

December 2, 1988

Page 3

addition, there is no evidence that Walker Creek ever irrigated 190 acres. Through conversations with people who did historically use Walker Creek water, it becomes apparent that no more than 80 acres were irrigated and barely 45 acres can now be irrigated.

4) Paragraph (3) of the findings of fact is incorrect. Water rights were also withheld from George Henrichs by the prior owner on all adjacent property. A copy of the Deed to Henrichs is enclosed herein with the reservation of water highlighted. Thus, there is no way Henrichs would have any historical claim to water other than that which was used on his own parcel, certainly not 80 or 190 acres. And, as mentioned above, such claim would also still need to be adjudicated.

5) There is no evidence that George Henrichs ever purchased water rights as is stated in paragraph (4) of the findings. Henrichs purchased the property in 1972 and I have never seen any document of purchase of water by Henrichs. If such exists I would like to see it, and would question if such could even be done under the 1972 Idaho Code.

6) Paragraph (5) is again incorrect. There is an express reservation of water in the Henrich deed. (See the enclosed copy).

7) In the conclusions of law, paragraph (1), a "right established" for the irrigation of 190 acres is stated. Again, there was no direct evidence of this and certainly no adjudication.

8) In the Order, paragraph (1), it is stated that the Girards' allowed permit is subject to all prior rights, "particularly the prior right apparently now held by Mr. and Mrs. Henrichs for the irrigation of 190 acres of land." There was no proof presented that 190 acres were or ever could be irrigated from Walker Creek. Henrichs' claim was not adjudicated so it could not be determined as a prior right (see I.C. §42-246). The use

December 2, 1988
Page 4

of the word "apparently" does qualify the claims of Henrichs, but it became clear from listening to Mr. Young that the Department has somehow assumed Henrichs had a prior right based on that statement in the order.

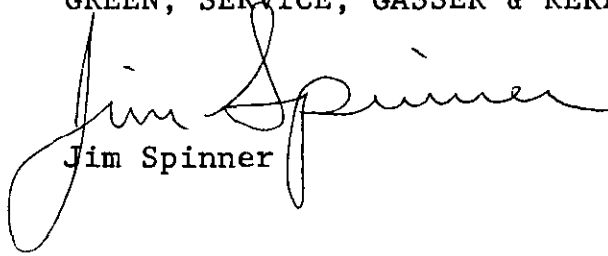
I would request that the Department furnish me with copies of any documents which establish the purchase of water rights to 190 acres by Henrichs. I would also request any documentation which supports Henrich's claimed date of priority.

If it was not your intention to adjudicate the Henrich's claims in your 1974 order, my clients would appreciate it if you would let such be known to others in the Department so no other cease and desist orders are issued which are not supported by the law or facts. Please confirm such in writing to me within the next twenty (20) days.

Thank you very much for your consideration and attention to this matter.

Very truly yours,

GREEN, SERVICE, GASSER & KERL



Jim Spinner

JS/drs
Encl.

cc: Mr. Robert Wardle
4/12/335/10

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 29-7205 IN THE NAME OF)
RAYMOND W. &/or DEBRA GIRARD)

AMENDED
MEMORANDUM DECISION
AND ORDER

On July 1, 1974, Raymond W. &/or Debra Girard of Inkom, Idaho, filed Application for Permit No. 29-7205 to appropriate 0.80 cubic feet per second of water from Walker Creek, tributary to Marsh Creek, with point of diversion in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, Twp. 8S, Rgc. 36E, B.M., Bannock County, the water being requested for the irrigation of 20 acres of land within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20, Twp. 8S, Rgc. 36E, B.M. Notice of the proposed application was published in the Idaho State Journal at Pocatello, Idaho, on July 11 and July 18, 1974.

The Department received protests against approval of said application from Mr. & Mrs. George Henricks, Charles Ray Evans, Jr., Rick Dale Evans, Charles R. Evans, Ron Evans, Mr. & Mrs. Herold Anthony, Mr. & Mrs. Arthur L. Latimer and Mr. & Mrs. Leo H. Anthony.

The Department held a conference on the matter on Monday, September 9, 1974, at Lava Hot Springs, Idaho. The applicants and protestants were present and represented themselves. The protestants agreed to allow the Director of the Department of Water Resources to render a decision based upon statements made at the conference, information available in the Department's official records and upon the Director's understanding of the law.

The Director of the Department of Water Resources, therefore, makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

(1) There are periods in most years during the normal irrigation season when more water is available in Walker Creek than is required to fill existing water rights.

(2) A water right has been established by the diversion and beneficial use of water from Walker Creek for the irrigation of about 190 acres of land, including the land now owned by the applicants and protestants.

RECEIVED

(3) That the water right established by diversion and beneficial use of water was withheld by the previous owner when the land was sold, except as to Mr. George Henricks, one of the protestants.

(4) Mr. George Henricks also purchased the water rights, withheld from the portion of the 190 acres that he did not purchase, for use upon his land.

(5) The sales agreements of the applicants and all of the protestants, except Mr. & Mrs. George Henricks, contain the condition that the grantor reserves a water right in Walker Creek.

(6) The proposed point of diversion is upon land owned by Mr. George Henricks.

(7) The land named in the application as the place of use requires 0.02 cfs, or one miners inch of water, for the irrigation of each acre.

CONCLUSIONS OF LAW

(1) The waters of Walker Creek, in excess of the right established for the irrigation of the 190 acres or of that being used by the present holders of this right, is subject to appropriation in accordance with the Idaho Code.

(2) The condition reserving the water rights for the grantor contained in the applicant's sales agreement applies only to the water right that was established by diversion and use on their lands prior to their purchase, and does not prohibit them from obtaining a new water right for the use of the unappropriated water.

(3) The applicants are, therefore, entitled to a permit from the State of Idaho, with the maximum rate of diversion not exceeding 0.40 cfs.

ORDER

IT IS, THEREFORE, ORDERED and Application for Permit No. 29-7205 is hereby APPROVED subject to the following conditions:

(1) The permit is subject to all prior existing water rights, particularly the prior right apparently now held by Mr. & Mrs. George Henricks for the irrigation of 190 acres of land.

(2) The maximum rate of diversion shall not exceed 0.40 cfs of water.

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

(4) The approval of this permit does not constitute an easement or right-of-way across the land of another person.

(5) Proof of construction of works and application of water to beneficial use shall be submitted to the Department of Water Resources on or before November 1, 1979.

Dated this 29 day of November, 1974.


R. KEITH HIGGINSON
Director

RECORDED

DEED

502103

FOR VALUE RECEIVED,

GENERAL SALES, INC.

a corporation duly organized and existing under the laws of the State of Idaho, grantor, does hereby Grant, Bargain, Sell and Convey unto GEORGE HERBERT HENRICHS and MAURINE D. HENRICHS, husband and wife grantee, the following described real estate, to-wit:

See attached Schedule "A"

Subject to attached restriction Schedule B

Schedule "A"

A TRACT OF LAND IN THE NE $\frac{1}{4}$ SW $\frac{1}{4}$ OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 36 E., B. M., BANNOCK COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST 1/16 LINE OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 36 E., B. M., THAT IS NORTH 89° 16' 10" EAST ON THE LATITUDINAL CENTERLINE OF SAID SECTION 15, 1,322.09 FEET AND SOUTH 00° 10' 30" EAST, 20.62 FEET FROM THE WEST QUARTER CORNER OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 35 E., B. M.; THENCE SOUTH 00° 10' 30" EAST, ON THE WEST 1/16 LINE OF SAID SECTION 15, 439.08 FEET; THENCE SOUTH 78° 26' 25" EAST, 388.44 FEET, MORE OR LESS, TO THE WESTERLY RIGHT OF WAY LINE OF MARSH CREEK ROAD; THENCE NORTHEASTERLY ON THE SAID WESTERLY RIGHT OF WAY LINE ON A CURVE WITH A RADIUS OF 2,834.79 FEET FOR AN ARC DISTANCE OF 58.80 FEET; THENCE NORTH 11° 02' EAST, ON THE SAID WESTERLY RIGHT OF WAY LINE 373.52 FEET; THENCE NORTH 78° 44' WEST, ON THE CENTERLINE OF WALKER CREEK ROAD, 475.29 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. EXCEPT: THAT PORTION TO BE RESERVED FOR WALKER CREEK ROAD, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST 1/16 LINE OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 36 E., B. M., THAT IS NORTH 89° 16' 10" EAST ON THE LATITUDINAL CENTERLINE OF SAID SECTION 15, 1,322.09 FEET AND SOUTH 00° 10' 30" EAST, 20.62 FEET FROM THE WEST QUARTER CORNER OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 36 E., B. M.; THENCE SOUTH 00° 10' 30" EAST, 25.51 FEET; THENCE SOUTH 78° 44' EAST, 470.24 FEET; THENCE NORTH 11° 02' EAST, 30.00 FEET; THENCE NORTH 78° 44' WEST, 475.29 FEET, MORE OR LESS, TO THE POINT OF BEGINNING...

PARCEL 2:

A TRACT OF LAND IN THE NE $\frac{1}{4}$ SW $\frac{1}{4}$ OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 36 E., B. M., BANNOCK COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST 1/16 LINE OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 36 E., B. M., THAT IS NORTH 89° 16' 10" EAST ON THE LATITUDINAL CENTERLINE OF SAID SECTION 15, 1,322.09 FEET AND SOUTH 00° 10' 30" EAST, 459.70 FEET FROM THE WEST QUARTER CORNER OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 35 E., B. M.; THENCE SOUTH 00° 10' 30" EAST, 91.30 FEET; THENCE SOUTH 48° 24' 40" EAST, 404.77 FEET, MORE OR LESS, TO THE WESTERLY RIGHT OF WAY LINE OF MARSH CREEK ROAD; THENCE NORTH 16° 54' EAST, ON THE SAID WESTERLY RIGHT OF WAY LINE, 61.21 FEET; THENCE NORTHEASTERLY ON THE SAID WESTERLY RIGHT OF WAY LINE ON A CURVE WITH A RADIUS OF 2,834.79 FEET, FOR AN ARC DISTANCE OF 234.53 FEET; THENCE NORTH 78° 26' 25" WEST, 388.44 FEET, MORE OR LESS, TO THE POINT OF BEGINNING...

PARCEL 3:

A TRACT OF LAND IN SE $\frac{1}{4}$ NW $\frac{1}{4}$ AND SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 15, TOWNSHIP 8 SOUTH, RANGE 36 E., B. M., BANNOCK COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF MARSH CREEK ROAD THAT IS NORTH 88° 58' EAST ALONG NORTH LINE OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 36 E., B. M., 1845.94 FEET, THENCE SOUTH 8° 53' EAST ALONG THE SAID EASTERLY RIGHT OF WAY LINE 1336.95 FEET FROM THE NORTHWEST CORNER OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 36 E., B. M., THENCE NORTH 89° 07' 00" EAST ON NORTH 1/16 LINE OF SAID SECTION 15, 1917.84 FEET, MORE OR LESS, TO THE EAST 1/16 LINE OF SAID SECTION 15, THENCE SOUTH 00° 10' 30" EAST ON THE EAST 1/16 LINE OF SAID SECTION 15, 190.00 FEET; THENCE SOUTH 89° 07' 40" WEST 1892.25 FEET, MORE OR LESS, TO THE SAID EASTERLY RIGHT OF WAY LINE; THENCE IN NORTHERLY DIRECTION A CURVE WITH A RADIUS OF 848.51 FEET, FOR AN ARC DISTANCE OF 72.61 FEET; THENCE NORTH 8° 53' WEST 119.03 FEET, MORE OR LESS, TO THE POINT OF BEGINNING...

Grantor reserves unto itself the right to use the necessary water from Walker Creek to irrigate its property adjacent to the above described property.

Schedule "B"

NO DWELLING SHALL BE PERMITTED ON THE ABOVE DESCRIBED PROPERTY HAVING LESS THAN 1,000 SQUARE FEET EXCLUSIVE OF GARAGE. SAID DWELLING SHALL BE OF NEW CONSTRUCTION MATERIALS. NO USED MATERIAL OR USED DWELLINGS SHALL BE MOVED ON TO THE ABOVE DESCRIBED PROPERTY. ANY TRAILER HOUSE IN GOOD CONDITION MAY BE MOVED ON DESCRIBED PROPERTY AS LONG AS THEY ARE A MINIMUM SIZE OF 12 FEET BY 50 FEET.

GRANTEES UNDER ANY CONVEYANCE SHALL NOT AT ANYTIME CONDUCT, OR PERMIT TO BE CONDUCTED ON SAID PROPERTY, ANY TRADE OR BUSINESS OTHER THAN FARMING. SAID LAND CAN BE USED FOR PRIVATE DWELLING OR RESIDENCE AND NOT FOR A COMMERCIAL BUSINESS.

ALL LIVESTOCK SHALL BE LIMITED TO TWO PER ACRE, EXCEPT GOATS AND PIGS, WHICH SHALL BE LIMITED TO TWO EACH ON THE ABOVE DESCRIBED TRACT.

THE ABOVE DESCRIBED PROPERTY SHALL NOT BE USED AS A DUMPING GROUND OR FOR STORAGE OF LARGE QUANTITIES OF EQUIPMENT OR MATERIALS.

GRANTOR RESERVES ONE-HALF OF ALL MINERAL RIGHTS

TO HAVE AND TO HOLD The said premises, with their appurtenances unto the said Grantees their heirs and assigns forever.

IN WITNESS WHEREOF, The Grantor, pursuant to a resolution of its Board of Directors has caused its corporate name to be hereunto subscribed by its President and its corporate seal to be affixed by its Secretary this November 22, 1972

By General Sales, Inc.

Don Hammond

PRESIDENT.

ATTEST:

CORPORATE SEAL

SECRETARY.

STATE OF IDAHO, COUNTY OF Bannock

On this 22nd day of November, 1972 before me, a notary public in and for said State, personally appeared L. Don Hammond and

, known to me to be the President and ~~Secretary~~ of the corporation that executed this instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

[Signature]
Notary Public

Residing at Pocatello, Idaho
Comm. Expires

NOTARY SEAL

NO. 502103
RECORDED AT REQUEST OF
Am. Land Title Co.

Nov 28 3 11 PM '72

OFFICIAL FLOOR PK. No 255
BANNOCK COUNTY, IDAHO
TIM EIKSI N. RECORDER
FEE 2.00 DEPUTY 1n

INSTRUMENT No.

This instrument furnished by the AMERICAN LAND TITLE CO.

STATE OF IDAHO ss.
County of Bannock

I hereby certify that the foregoing is a full true and correct copy of an instrument as the same now remains on file and of record in my office.

WITNESS my hand and official seal hereto affixed this 25th day of November, 1972
LARRY W. GIANI, CLERK OF THE DISTRICT COURT
EX-OFFICIO AUDITOR AND RECORDER

By Deputy *[Signature]*

State Of Idaho
Dept. Of Water.
Eastern Dist. Office
1515 Lincoln Road.
Idaho Falls Idaho.
83401.

Ariz. Idaho
Sept. 13-1974.

RECEIVED
SEP 16 1974
Department of Water Resources
Eastern District Office

Dear Sir:

Enclosed is a photo Static Copy
of our water agreement. I'm sending
you the part we thought you needed.
If this isn't sufficient please let
us know. I'm sorry I'm late with
this. I took it to Downey yesterday
to mail but by the time the Dr
got there cutting out proud flesh and
a core of infection out of the place
on my arm where the milk cow
stepped on me while I was stripping
her out. It was too late to get in the
post office and I was too sick to care.
So will send this today. Thanks again

(File 29-7205)
GIRARD

for making this trip to Lava Hot
Springs. If you ever come this
way stop by and see us.

Respectfully yours,
Mr & Mrs George Henrichs.
(George & Maurine as every
one knows us by this)

Arivao, Idaho 83214.

Maybe we should have sent a copy
of each agreement the one where the
house is and this that's across
the road. But they are both
alike. If you need the other let
me know.

Maurine.

MICROFILMED

The total purchase price is:

Twenty-Seven Thousand Seven Hundred and 00/100 ----- (\$ 27,700.00) Dollars
and after deducting the sum hereinbefore received for the balance shall be payable as follows:

\$2750.00 on November 20, 1972 and the balance of \$24,950.00 in annual installments of \$3625.44 including interest at 8% per annum. First payment due November 20, 1972 (combined total down payment \$6,375.44) Balance of principal can be paid at anytime without penalty.

Buyer and seller agree to pay their respective share of costs. Buyer understands that there is first mortgage to A. M. Newton on the subject property which will be released when the full amount of purchase price is paid in full. There are no restrictions by the seller as to the use of Walker Creek water on the above described land.

RECEIVED
SEP 16 1974
Department of Water Resources
Eastern District Office

RECEIVED

SEP 10 1974

NO DWELLING SHALL BE PERMITTED ON THE ABOVE DESCRIBED PROPERTY HAVING LESS THAN 1,000 SQUARE FEET EXCLUSIVE OF GARAGE. SAID DWELLING SHALL BE OF NEW CONSTRUCTION MATERIALS. NO USED MATERIAL OR USED DWELLINGS SHALL BE MOVED ON TO THE ABOVE DESCRIBED PROPERTY. ANY TRAILER HOUSE IN GOOD CONDITION MAY BE MOVED ON DESCRIBED PROPERTY AS LONG AS THEY ARE A MINIMUM SIZE OF 12 FEET BY 20 FEET.

Department of Water Resources
Eastern District Office

GRANTEES UNDER ANY CONVEYANCE SHALL NOT AT ANYTIME CONDUCT, OR PERMIT TO BE CONDUCTED ON SAID PROPERTY, ANY TRADE OR BUSINESS OTHER THAN FARMING. SAID LAND CAN BE USED FOR PRIVATE DWELLING OR RESIDENCE AND NOT FOR A COMMERCIAL BUSINESS.

ALL LIVESTOCK SHALL BE LIMITED TO TWO PER ACRE, EXCEPT GOATS AND PIGS, WHICH SHALL BE LIMITED TO TWO EACH ON THE ABOVE DESCRIBED TRACT.

THE ABOVE DESCRIBED PROPERTY SHALL NOT BE USED AS A DUMPING GROUND OR FOR STORAGE OF LARGE QUANTITIES OF EQUIPMENT OR MATERIALS.

GRANTOR RESERVES ONE-HALF OF ALL MINERAL RIGHTS.

GRANTOR RESERVES ALL WATER RIGHTS IN WALKER CREEK.

MICROFILMED

WATERWORKS
SEWERAGE
STREETS
ROADS
STRUCTURAL

HAMILTON AND VOELLER
CONSULTING ENGINEERS
428 SO. MAIN ST. - P. O. BOX 1512
PHONE 232-4631
POCATELLO, IDAHO 83201

R. F. HAMILTON
P. ASCE
CARL J. VOELLER
P. ASCE

DESCRIPTION FOR GENERAL SALES.

PARCEL NO. 47

A tract of land in the SW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ and SW $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 15, T.8S., R.36E., B.M., Bannock County, Idaho, more particularly described as follows:

Beginning at a point on the easterly right of way line of Marsh Creek Road that is N89°28'45"E 1189.03 feet on the South line of Section 15, T.8S., R.36E., B.M., and N06°12'E (N06°23'30"E) on the Easterly right of way of Marsh Creek Road 200.83 feet, and northeasterly on the said easterly right of way line on a curve to the right with a radius of 1879.86 feet, for a distance of 177.89 feet; thence

Continued on said curve for a distance of 173.17 feet; thence N16°54'E (N17°05'30"E) on the said easterly right of way line 23.99 feet; thence

N89°22'30"E 2677.85 feet, more or less, to the east 1/16 line of said Section 15; thence

S00°08'E on the east 1/16 line of said Section 15, 190.00 feet; thence

S89°22'30"W 2728.55 feet, more or less, and contains 11.791 acres, more or less.

McCammon, Idaho
RHB/jar
November 28, 1972

EARNEST MONEY AGREEMENT
AND ESCROW INSTRUCTIONS TO AMERICAN LAND TITLE CO.

THIS IS A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, SEEK COMPETENT ADVICE
RECEIVED OF: Pocatello, Idaho, 6-4, 1973

A. L. Latimer or Margaret W. Latimer, husband and wife
herein called "Buyer," the sum of Nine Thousand Nine Hundred - - - - (\$ 9900.00 - - -)
Dollars in the form of check paid to the American Land Title Company as earnest money
and in part payment of the purchase price of the following property situate in Bannock
County, Idaho Lot 47 - Legal Attached

Buyer hereby offers to purchase the above described property in its present condition, after
full inspection, on the terms and conditions herein provided for; and agrees to give the seller
-0- days, from this date, to accept said terms and conditions during which time this
offer shall not be revokable.

Included as part of the property sold to the buyer are such of the following items as may now
be on the premises, which will be delivered free and clear of encumbrances: All existing
linoleum, window screens, screen doors, television antennae, shades, venetian blinds,
curtain rods, attached lighting, plumbing and bathroom fixtures, water-heating apparatus
and fixtures, awnings, ventilating, cooling and heating systems, irrigation fixtures and
equipment, all water and water rights, ditches, and ditch rights appurtenant thereto, and
subject to the assessments therein, trees, plants and shrubs and all other attached fixtures
not herein reserved or excepted; together with the following personal property:

Land only.

Leased or encumbered property:

to be assumed by buyer.

The total purchase price is:

Nine Thousand Nine Hundred - - - - - (\$9900.00 - - - -)

and after deducting the sum hereinbefore receipted for the balance shall be payable as follows:

Cash on closing disbursed.

Seller agrees to provide title insurance and pay $\frac{1}{2}$ closing fee. Buyer agrees to pay $\frac{1}{2}$
closing fee and record costs.

Land is sold subject to attached restrictions.

Seller authorizes the American Land Title Company, hereinafter referred to as Escrow Agent,
to order and charge to Seller's account, immediately upon acceptance of this offer, and of
assurance of any contemplated financing, if provided for hereinabove, a policy of Title Insur-
ance (using a preliminary title report prior to close of sale, after which the Title Insurance
Policy will be issued,) condition of the title for inspection and approval of the Buyer. If
Buyer's approval of the condition of the title is withheld, Buyer shall have 10 days after re-
ceipt of evidence of title in which to deliver to Seller written objections thereto. Failure to
so object within the 10 days time limit provided, shall be deemed approval and acceptance
of the condition of the title. The Escrow Agent shall in no way be responsible for delivery
to Buyer, or condition of the title.

The earnest money deposited herein shall be refunded to Buyer less costs incurred by Escrow
Agent, and this agreement voided if the Seller fails to accept Buyer's offer within the time
provided, or if merchantable title cannot be delivered within a reasonable time. Should the
improvements on subject property be materially damaged by fire or otherwise, prior to closing
this sale, this agreement shall be voidable at the option of the Buyer. Unless otherwise pro-
vided herein, the real property shall be conveyed by warranty deed, free of encumbrances
except for rights reserved in federal patents state or railroad deeds, building or use of restric-
tions, building and zoning regulations and ordinances of any governmental unit, and rights of
way and easements of records. Any encumbrances to be discharged by Seller may be paid out
of the purchase money at date of closing. Buyer agrees to use his best efforts to obtain fi-
nancing if required. Financing costs shall be paid by Buyer. However, if FHA or GI regula-
tions apply to limit Buyer's loan service fee, Seller agrees to pay any excess thereof.

Fire insurance issued by NA to be prorated
cancelled, Escrow Agent
assumes no liabilities for acquiring endorsements or a new fire policy.

AMERICAN LAND TITLE CO.

taxes, rents, insurance premiums and interest shall be probated as of possession date, which shall be on or before on closing, 1973. In case the Buyer shall fail to promptly perform any covenant or agreement aforesaid and to do all things necessary and prerequisite to the consummation of this sale, the Seller may declare a forfeiture of this contract, and all rights of the Buyer shall cease and payments made by him may be retained by the Seller as liquidated damages, less costs incurred by the Escrow Agent, and not as a penalty, or the Seller may pursue any other remedy available under the laws of the State of Idaho. In any action brought upon this agreement, the prevailing party shall be entitled to reasonable attorney fees. This agreement shall bind the heirs, executors, administrators, successors and assigns of the respective parties hereto, and time is of the essence hereof. There are no verbal agreements which modify the terms and conditions hereof.

BUYER: A.L. Latimer
A.L. Latimer

BUYER: _____

Address: 114 South Garfield Phone: _____

Dated: 6-4-, 1973

SELLER: Pocatello Charolais Ranches Inc.

SELLER: By: Gary L. Glege

Present Address: _____

Phone: _____

Future Address: _____

STATE of Idaho, County of Bannock

On this 4th day of June, 1973, before me, a Notary Public in and for said State, personally appeared A.L. Latimer and Gary Glege

known to me to be the person whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

(SEAL)

Notary Public for _____ Residing at Pocatello
My Commission expires _____

MICROFILMED

Dear Sir,

~~THE~~ This letter is in Protest to the application No 297205 submitted on 7-1-74. This application is for the use of Walker Creek water on 20 Acres within the NE $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 15, T8S, R36E, B.M.

IF THERE WERE NOT a Restrictive Covenant placed on the right to use Walker Creek water I, Ron Evans would have equal claim to water from Walker Creek. The water would flow by culvert and ditch directly into, the corner of my property, irregardless, very nearly the entire upper portion of land in SE $\frac{1}{4}$ NW $\frac{1}{4}$ & SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 15, T8S, R36E B.M.

~~THE~~ The above application is in direct conflict with the restrictions placed on the right to use Walker Creek water. Please NOTIFY me as to any Further Action Taken.

Thank you
Ron Evans

12-A1 RT.1

MCCANNON I.D.

83250

MICROFILMED

RECEIVED

JUL 29 1974

Department of Water Resources
Eastern District Office

July 26, 1974

Gentlemen

We are protesting Application #29-7205, Mr. Raymond W. Girard's request for water rights on Walker Creek for irrigation within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 15 Township 8 S, R 36 EBM. since we bought our property in July 1972 our pastures burns up every summer, because in our Deed we are restricted from Walker Creek water. When Don Hammond owned all the property he watered all of it with Walker Creek Water, there is ditches on our property that was used for this watering. When we bought this property Don Hammond restricted us from using any Walker Creek water so we haven't been using it and our land dries up and dies every summer, because we can't water it. They use to grow hay on our property but we have never been able to do this because we have had no water, but we would if we were able to get some water on it. This is why we are protesting Mr. Raymond W. Girard's request for water right to Walker Creek water unless we are able to get equal water rights.

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JUL 29 1974

Department of Water Resources
Eastern District Office

Mr. and Mrs. Herold Anthony

Mr. and Mrs. Herold Anthony
MICROFILMED

RECEIVED

JUL 30 1974

Department of Water Resources
Eastern District Office

July 28, 1974
Pocatello, Idaho

Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Sir,

We are protesting Application # 29-7205, Mr. Raymond W. Gerard's request for water rights on Walker Creek for irrigation within the N 6 1/4, SW 1/4 Section 15 Town - Ship 8 South R 36 E 5 M. Since we bought our property in July 1972 our pasture burns up every summer, because in our deed we are restricted from Walker Creek water. When Hon Hammond owned all the property he watered all of it with Walker Creek water; there is ditches on our property that was used for this watering. When we bought this property Hon Hammond restricted us from using Walker Creek water so we haven't been using it and our land dries up and dies every summer, because we can't water it. They use to grow hay on our property but we have never been able to do this because we have had no water, but we would if we were able to get some water on it. This is why we are protesting Mr. Raymond W. Gerard's request for water ~~on it~~ This is rights to Walker Creek water unless we are able to get equal water rights.

Sincerely
Mr. & Mrs. Leo R. Anthony

MICROFILMED



LICENSEE

Arthur L. Latimer

114 SOUTH GARFIELD • POCATELLO, IDAHO • PHONE 208-232-6031

621 South 5th Avenue

July 27, 1974

R. Keith Higginson, Director
Idaho Dept. Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

RECEIVED

JUL 29 1974

Department of Water Resources
Eastern District Office

PROTEST AGAINST THE GRANTING OF PERMIT TO

RAYMOND W. &/or DEBRA GIRARD, INKOM, IDAHO

APPLICATION NO. 29-7205

We, the undersigned, owners of a tract of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, T.8S., R. 36E., B.M. Bannock, Idaho, do hereby protest against the granting of the permit filed by Raymond W. &/or Debra Girard, P. O. Box 121, Inkam, Idaho submitted July 1, 1974, Application No. 29-7205 to appropriate 0.80 cubic feet per second of water from Walker Creek tributary of Marsh Creek by means of headgate and ditch within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, T.8S., R. 36E, B.M. Bannock County to be used from March 15 to November 15 for the irrigation of 20 Acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15, T. 8S., R. 36E, BM.

We purchased this property with the understanding that the Grantor reserves all water rights in Walker Creek.

We are the owners of Parcel No. 47, 11.791 Acres. We should be entitled to water from Walker Creek, along with other property owners adjacent to Parcel No. 47, also Parcel No. 43, 44, 45, 46, 48 49 and others.

Signed Arthur L. Latimer
Arthur L. Latimer

Signed Margaret W. Latimer
Margaret W. Latimer

Telegram sent 7-26-74
Ida. Dept. Water Resources

MICROFILMED

File 29-7223

- 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 ~~enough~~ sufficient water to fill our rights there shall be no diversions made under Permit 29-7223, we will withdraw our protest

George H. Henricks - 2/25/75

SIGNED 2/25/75

Maurine Henricks

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

SIGNED 2/25/75

MACCELMED over



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

October 31, 1988

James Spinner
P. O. Box 4883
Pocatello, ID 83205

John Goodell
P. O. Box 1391
Pocatello, ID 83201

Dear Jim and John:

Enclosed is the draft agreement extracted from the record made at the conference concerning distribution of water from Walker Creek. It is my understanding that you as representatives of the parties using water from Walker Creek will finalize the agreement and make it available for signature.

As I mentioned at the conference, the department cannot view the agreement as revising the present water rights or dividing up "all" the water of Walker Creek. Also, the department cannot bind Water District 29 to make the measurements outlined in the draft. I do not believe these "caveats" impact the purpose of the agreement of dividing the flow during times of scarcity.

If I can provide further information, please give me a call.

Sincerely,

NORMAN C. YOUNG
Administrator
Resource Administration Division

NCY:alw

The undersigned water users of Walker Creek have hereby agreed to distribute the water of Walker Creek until such time as the rights and priorities of the parties have been formally adjudicated. The agreed distribution shall be as follows:

If the stream flow of Walker Creek as measured as set forth or discussed below, if it exceeds .36 cubic foot per second, all the waters of Walker Creek shall be distributed to the undersigned users on a ten-day rotation period as outlined as such:

Mr. Hendrichs will get a on a ten-day rotation will have a use for 96 hours, Mr. Girard will have a use for 36 hours, Mr. Wise shall have the use for 31 hours, Mr. Wardle shall have the use for 31 hours, Mr. Thompson shall have the use for 16 hours, Mr. Shultz shall have the use for 10 hours, and Mr. Rademacher shall have the use for 20 hours.

If the water level of Walker Creek should fall below .36 cfs, then the rotation shall be modified and based on a 20-day rotation basis, the modification will be from a 10-day rotation basis to a 20-day rotation basis under the same acreage and at the same allotment .02

cfs/acre/user as set forth above or discussed above under the 10-day rotation schedule, and would basically in effect just double the amount of hours that each of the users would have during that 20-day rotation. The reason for the modification if the water should drop below .36 cfs shall be stated as the parties agreement to preserve in the low water year their pastures and other appurtenant property subject and covered under their claimed uses. The measurement of the water shall be done at such time as the water level in Walker Creek

appears to be approaching .36 cfs and any of the undersigned users may request the Portneuf River watermaster or some other person agreed upon by all the parties to come out and measure the water. If a disagreement arises as to the watermaster's measurement, any party, any undersigned user may request that a Department of Water Resources official come out and measure the water. Such measurement by the Department of Water Resources shall be deemed conclusive as to the level of flow in the creek. The measurement shall take place at the point of diversion used by Hendrichs, Wardle, Wise, Girard that diversion and the measurement shall take place at a consistent hour at each time of measurement. The assumed hour is agreed upon by the parties to be 10:00 a.m., or such other consistent time as is convenient to the Portneuf River watermaster or the Department of Water Resources official. This agreement shall be reduced in writing and signed by all the users and an officer of the Department of Water Resources. It takes effect on January 1, 1989 and continue in effect until an adjudication is finally completed. All prior agreements among the Walker Creek water users are superseded by this agreement. The agreement is binding on all heirs, personal representatives, successors and as signs of any of the undersigned water users. This agreement is taken solely as a compromise agreement of the continuing controversy as to the rights and priorities of the parties and shall be considered solely in that regard. It shall not be considered as an admission in regard by any of the undersigned parties as to their claims, licenses, permits or any other arguments they may have in a subsequent adjudication. It shall not be considered binding, and shall not be used by any of the parties, the Department of Water

Resources and shall not be considered by any court in an adjudication. All of the parties reserve their objections to the various claims and to the other users and the Department of Water Resources acknowledges and understands that this agreement is solely for the purpose of a settlement of an ongoing controversy as a temporary agreement, an interim agreement, until an adjudication of the rights and priorities of the parties can be formally entered. The Department of Water Resources further agrees that any cease and desist order issued to any of the undersigned users is hereby terminated and also understands that the parties who receive those cease and desist orders by the execution of this agreement do not waive any arguments as to propriety and legal authority for the Department of Water Resources to issue such cease and desist order. The department further agrees that no adjudication has taken place on the Walker Creek and this agreement does not have any binding effect on any future adjudication. The Department of Water Resources agrees to recognize the agreement and not to intervene in the agreement or interfere with any of the use of the undersigned unless such parties do not abide by the rotation agreement set forth above.

YOUNG:

This is October 27, Pocatello, Idaho is a conference or hearing to consider the matter of water distribution on Walker Creek to particularly the objections to the cease and desist orders that were issued to a number of the water users. We've met for a number of hours and worked out a proposed agreement in principle which we would like to now put on the record. I would ask the attorneys to make their appearances at this point.

SPINNER:

The agreement will read in principle and will be reduced to writing and examined and signed by all the parties, but the agreement will basically state as follows:

The undersigned water users of Walker Creek have hereby agreed to distribute the water of Walker Creek until such time as the rights and priorities of the parties have been formally adjudicated. The agreed distribution shall be as follows:

If the stream flow of Walker Creek ~~was~~ measured as set forth or discussed below, if it exceeds .36 cubic foot per second, all the waters of Walker Creek shall be distributed to the undersigned users on a ten-day rotation period as outlined as such:

Mr. Hendricks will get a ^h on a ten-day rotation will have a use for 96 hours, Mr. ^{Girard} Girard will have a use for 36 hours, Mr. Wise shall have the use for 31 hours, Mr. ^{Wardle} Wardle shall have the use for 31 hours, Mr. Thompson shall have the use for 16 hours, Mr. Shultz shall have the use for 10 hours, and Mr.

^h
Rademacher Ratamaker shall have the use for 20 hours. If the water level of Walker Creek should fall below .36 cfs, then the rotation shall be modified and based on a 20-day rotation basis, the modification will be from a 10-day rotation basis to a 20-day rotation basis under the same acreage and at the same allotment .02 cfs/acre/user as set forth above or discussed above under the 10-day rotation schedule, and would basically in effect just double the amount of hours that each of the users would have during that 20-day rotation. The reason for the modification if the water should drop below .36 cfs shall be stated as the parties agreement to preserve in the low water year their pastures and other appurtenant property subject and covered under their claimed uses. The measurement of the water shall be done at such time as the water level in Walker Creek appears to be approaching .36 cfs and any of the

undersigned users may request the Portneuf River watermaster or some other person agreed upon by all the parties to come out and measure the water. If a disagreement arises as to the watermaster's measurement, any party, any undersigned user may request that a Department of Water Resources official come out and measure the water. Such measurement by the Department of Water Resources shall be deemed conclusive as to the level of flow in the creek. The measurement shall take place at the point of diversion used by Hendricks, Wardell, Wise, Gerrard that diversion and the measurement shall take place at a consistent hour at each time of measurement. The assumed hour is agreed upon by the parties to be 10:00 a.m., or such other ~~time~~ consistent time as is convenient to the Portneuf River watermaster or the Department of Water Resources official. This agreement shall be reduced in writing ^{and} signed by all the users and ^{an} officer of the Department of Water Resources. It takes effect on January 1, 1989 and continue in effect until an adjudication is finally completed. All prior agreements among the Walker Creek water users are superseded by this agreement. The agreement is binding on all heirs, personal representatives, successors ~~in the signs~~ ^{and also} of any of the undersigned water users. This agreement is taken solely as a compromise agreement of the continuing controversy as to the rights and priorities of the parties and shall be considered solely ^{admission} in that regard. It shall not be considered as an ~~omission~~ in regard by any of the undersigned parties as to their claims, licenses, permits or any other arguments they may have in a subsequent adjudication. It shall not be considered binding, and shall not be used by any of the parties, the Department of Water Resources and shall not be considered by any court in an adjudication. All of the parties reserve their objections to the various claims and to the other users and the Department of Water Resources acknowledges and understands that this agreement is solely for the purpose of a settlement of an ongoing controversy as a temporary agreement, an interim agreement, until an adjudication of the rights and priorities of the parties can be formally entered. The Department of Water Resources further agrees that any cease and desist order issued to any of the undersigned users is hereby terminated and also understands that the parties who receive those cease and desist orders by the execution of this agreement do not waive any arguments as to propriety and legal authority for the Department of Water Resources to issue such cease and desist order. The department further agrees that no adjudication has taken place

on the Walker Creek and this agreement does not have any binding effect on any future adjudication. The Department of Water Resources agrees to recognize the agreement and not to intervene in the agreement or interfere with any of the use of the undersigned unless such parties do not abide by the rotation agreement set forth above.

That's the basic agreement.

GOODELL:

Yes, John Goodell, on behalf of the Henricks', I'd just like to reiterate that the statement just read by counsel for various other parties, Mr. Spinner, constitutes a statement in principle of the agreement and that it is also further agreed today that this agreement shall not become binding or of any force and effect until such time it is reduced to writing, the language approved by all of the parties and signed by all of the parties and that we all do further agree to try to do that with reasonable diligence as soon as possible and certainly within 30 days from today's date. I would also like to emphasize for the record that this agreement is not to be admissible for any purpose in any future adjudication and is only entered today by the parties in order to bide their peace and temporarily resolve the dispute and avoid ongoing expense and uncertainty of litigation. With those additional comments, then we do agree in principle to the terms and conditions having previously read into the record by Mr. Spinner on behalf of the Henricks'. X

SPINNER:

Right, maybe I could interject here because I'm little concerned on Mr. Goodell's condition. I believe that it is agreed upon the parties that the statement's read into the record constitute all of the parties that full agreement that there are no other terms or conditions that have not been read into the record and that your concern is that the parties have the right to look at the written agreement as to the form and language used, but all the points raised and stated on the record are the parties full agreement and they will use good faith in executing a written agreement in that regard.

GOODELL:

Well, I don't see forsee any problem with us being able to agree on the ultimate language utilized, but until that is drafted and can be reviewed, this is tentative only and we do not consider that it is an oral agreement which is enforceable in any respect until such time as it has been reduced to writing, the language of it approved and it has been signed by all the parties.

SPINNER: Well, and that's maybe where I disagree because I think it is binding from this point forward. Its an oral agreement that will be reduced in writing and if you have any problem with anything that has been stated on the record, because I think from this point forward if there is a question, this record will control. If you have a problem with that, I don't think we have an agreement.

GOODELL: Well I agree with you. We do not have an agreement. We have an agreement in principle that is enforceable upon it being reduced to writing and language reflecting the terms stated and the language being approved by counsel for the parties and it being signed by all parties. I would agree with counsel there is absolutely no oral agreement that's enforceable, in force and effect, as a result of this statement that's been put on the record today, and on behalf of Henricks' we certainly do not agree and do not intend to orally agree today. Its our intention that we will sign an agreement reflected in principle after drafted, containing these terms and conditions.

SPINNER: I guess we don't have an agreement, then. Because either you agree to the stipulation and you certainly can agree to it orally with the only thing that remains to be done is for it to be reduced to writing.

GOODELL: I would just like to state for the record that it is the intention of the parties that the agreement shall be reduced to writing reflecting essentially the terms and conditions previously stated by Mr. Spinner and its further the intention of the parties that they will sign a written agreement, and that the written agreement shall be the binding and enforceable agreement insofar as the terms and conditions agreed upon by the parties thereafter and as contemplated to govern their relationship after January 1, 1988 and that the parties shall with due diligence and in good faith attempt to reduce the terms and conditions previously stated to a writing and to have it signed by the parties as soon as possible.

SPINNER: Right, the anticipated date being on or before December 1.

GOODELL: That would be fine or whenever convenient, but certainly should try to be signed, I think, before the first of the year.

September 2, 1988

Certified Mail
138453

Raymond W. &/or Debra Girard
P. O. Box 121
Inkom, ID 83245

Dear Mr. and Mrs. Girard:

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

bec: Files 29-4101
29-4481



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

April 16, 1981

Raymond & Debra Girard
P.O. Box 121
Inkom, Idaho 83245

Dear Mr. & Mrs. Girard,

RE: License No. 29-7205

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

Sincerely,

JIM JOHNSON

Water Distribution Supervisor

JJ:mr

Enclosure

MICROFILMED



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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

February 25, 1981

Girard,
Raymond & Debra ~~Grand~~
P.O. Box 121
Inkom, Idaho 83245

Girard,
Dear Mr. & Mrs. ~~Grand~~,

A representative of this Department has made an examination of the works covered by your Permit No. 29-7205, and has found the following:

Amount of water that can be recognized as beneficially used under
Idaho law: .14 cfs Source: Walker Creek

The maximum quantity diverted shall not exceed 24.5 acre feet per year.

Point(s) of diversion: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, Twp. 8S, Rge. 36E, B.M.

Beneficial use: Irrigation of 7 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15,
Twp. 8S, Rge. 36E.

Priority date established: July 1, 1974

Conditions (if any): A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
This license is subject to all prior existing water rights, particularly the prior right held by Mr. & Mrs. George Henricks.

If you do not concur with these findings please contact us within 10 days, otherwise a water license will be issued as set forth above.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

MICROFILMED

FIELD REPORT

TOTAL ACREAGE 20

Permit No. 29-7205
Examination for b/c

Rge 36E

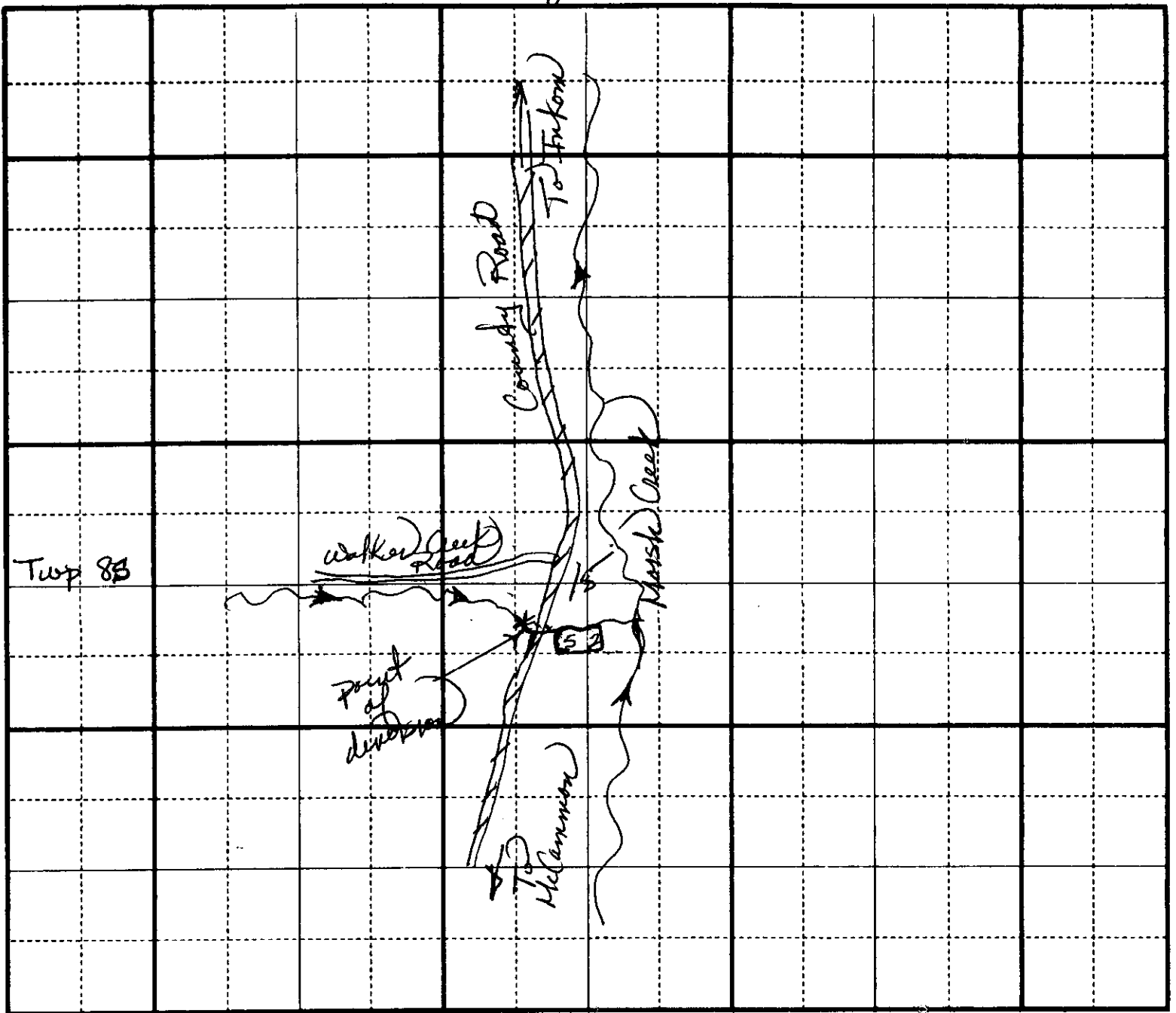
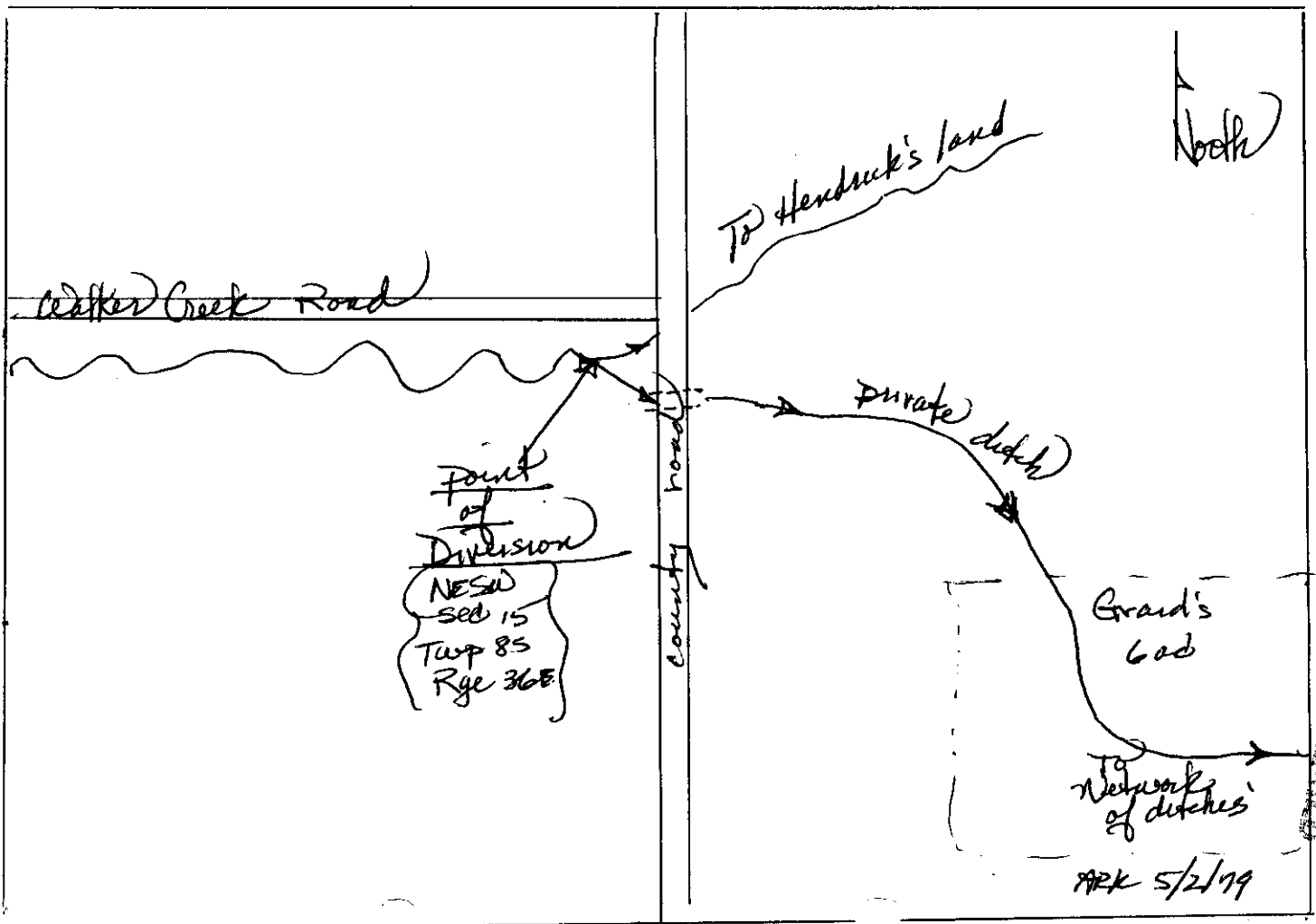


Diagram of System



DATE OF EXAM 5/1/79

ACREAGE
Found 7 acres ✓
Recommended 7 acres ✓

Irrigation Requirement 3.5 ✓ Ac Ft/Ac

USE
Irrigation Q = .14 c.f.s. V = 24.5 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 4.03 cfs Method of measurement Dept pygmy current meter

Total Q recommended .14 cfs Meter No. 4421 Type pygmy Condition std

Total V recommended 24.5 AF/yr

Recommended Amendments:

P.D. _____
Place of Use _____
Other _____
None

MEASUREMENT CALCULATION:
See reverse side for pygmy meter measurement of the ditch
Q measured = 4.03 cfs Allow .02 cfs/ac 7 ac x .02 = .14 cfs
V = 3.5 AF/ac x 7 ac = 24.5 AF/yr .14 cfs x 1.9835 x 245 dgs = 68 AF/yr

SYSTEM DESCRIPTION:
Surface water is diverted from Walker Creek into a 2' wide .5' deep private ditch. Water is conveyed by ditch through a culvert passing beneath a county road. Acreage is gravity flood irrigated by a network of ditches.

REMARKS:
System shown & described by Raymond Girard.
std rect. control well was present but had been temporarily removed.
Girard's diversion point is just on the creek and is situated adjacent to Herducks. As Herducks has the prior right the water is turned out of Girard's diversion when Herducks needs the water.

Examiner's Signature Anthony R. Kozlowski Date 5/2/79

Checked by Jon S. Cannon Date 12/12/79

Approved by Polym Date 2/24/81

Overlap Review
on back →

RECEIVED

Peggy meter measurement

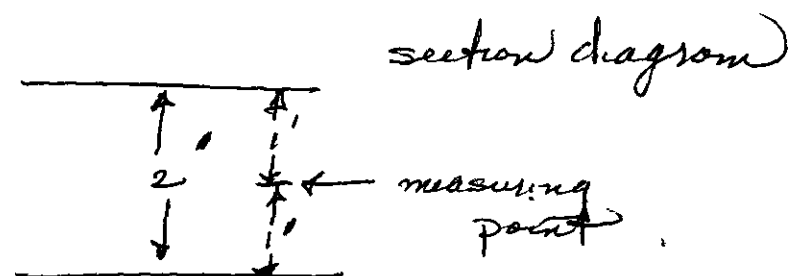
Trial #1

meas.	distance from LB	depth	width of section	Area	time	rev.	Vel. f/s	discharge
1	1.0'	.50'	2'	~~2.0~~ 1.0	48 sec	200	4.03	4.03 cfs.

Trial #2

2	1.0'	.48'	2.0'	.96	46 sec	200	4.20	4.03 cfs.
---	------	------	------	-----	--------	-----	------	-----------

$$Q_{total} = \underline{4.03 cfs.} \checkmark$$



MICROFILMED

Girard 29-7205

Irrigated
acres

D
9.3

G
20.8

H
6.8

B
4.8

A
5.2

C
3.9

D
4.3

B
10.7

A
31.5

Point of
diversion

B
11.2

Nature of
of ditches
Ditches

out

ARK
5/2/79

UNRECORDED

1515
2122

1514
2123

Overlap Review for 29-7205

Permit 29-7479 Same P/D
Same P/U Sec. 15 - NESW(4Ac)
NWSE(4Ac)

$$\frac{.16 \text{ cfs}}{8 \text{ Ac}} = .02 \text{ cfs/Ac}$$

Can safely assume these are different acres

Claim 29-4103 Different P/D
Same P/U NWSE (11Ac)

$$\frac{.3 \text{ cfs}}{11 \text{ Ac}} = .027 \text{ cfs/Ac}$$

Can safely assume these are different acres

Abstract report in 29-4103 on Marsh Creek.

Apparently no overlap of right exist
but must have ~~the~~ pipe rights
conditions as in Memo of Decision

TH 2/24/81

UNRECORDED

June 18, 1979

Debra Girard
P. O. Box 121
Inkom, ID 83245

Dear Mrs. Girard:

Re: Permit No. 29-7205

Enclosed is a copy of an abstract of all the water rights we have on Walker Creek. I have also enclosed a copy of the Memorandum Decision and Order we issued and in the findings, you will notice that the water right for Mr. and Mrs. George Henricks is mentioned that the development is by beneficial use.

Sincerely,

BOBBY D. FLEENOR
Chief, Regional Offices Bureau

BDF:rf

Enc: 2

RECEIVED
JUN 20 1979
FBI - BUTTE



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

May 18, 1979

Raymond W. &/or Debra Girard
P. O. Box 121
Inkom, ID 83245

Dear Mr. and Mrs. Girard:

Re: Permit No. 29-7205

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

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

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

Sincerely,

RITA FLECK
Water Rights

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APR 16 1979

PROOF OF APPLICATION
OF WATER TO BENEFICIAL USE

Department of Water Resources
Eastern District Office

1. a) Name of permit holder Raymond W for Alberta Merand
b) Post office address PO Box 121, Inkom, ID 83245

2. Permit number 29-7205

3. Date of priority that you are prepared to establish 7-1-1974

4. a) Source from which water was appropriated _____

b) Location of the point of diversion: NE 1/4 SW 1/4, Section 15

Township 8 S, Range 36 E Boise Meridian. Other points of diversion: _____

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

Amount 0.40 for irrigation purposes from Mar 15 to Nov 15 incl.
(cfs &/or acre-feet per annum) (month-day) (month-day)

Amount _____ for _____ purposes from _____ to _____ incl.
(cfs &/or acre-feet per annum) (month-day) (month-day)

Amount _____ for _____ purposes from _____ to _____ incl.
(cfs &/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:

N/A

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:

Headgate and private ditch system

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

Verbal agreement with George Hendricks

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (if from 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):

A headgate and ditch from George Hendricks place to ours which was constructed by Mr. Newton when he owned it prior to us.

b) Describe the provision for making a measurement which you have at your point of diversion: (i.e., installed measuring device, access port, other)

V-notch weir

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

☐

Show to whom, date and address
where delivered

☐

Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below

REGISTERED NO.

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

CERTIFIED NO.

26320

INSURED NO.

DATE DELIVERED

12/4/74

1

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

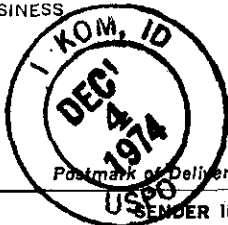
2

3

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

File # 29-7205

U.S. POSTAL SERVICE
OFFICIAL BUSINESS



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

PS Form 3811 Nov 70 655-16-81277-1

SENDER INSTRUCTIONS

- Print in the space below your name, address, including ZIP code.
- If special services are desired, check block(s) on other side.
 - Moisten gummed ends and attach to back of article.

**RETURN
TO**

DEPARTMENT OF WATER ADMINISTRATION
STATEHOUSE - ANNEX #2
BOISE, IDAHO 83707

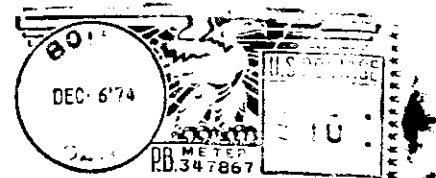
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
Boise, Idaho 83707

UNRECORDED

40

ADDRESS UNKNOWN

Mr. & Mrs. Harold Anthony
2523½ Poleline Road
Pocatello, ID 83201



Department of Water Resources



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Cecil D. Andrus
Governor

Statehouse
Boise, Idaho 83720
(208) 384-2215

R. Keith Higginson
Director

November 4, 1974

Resent 11-12-74

Re: Permit No. 29-7205

Raymond W. &/or Debra Girard
P.O. Box 121
Inkom, Idaho 83245

Dear Mr. & Mrs. Girard:

Enclosed herewith is a copy of your approved Application for Permit No. 29-7205 along with a copy of the Memorandum Decision and Order. We direct your attention to the conditions of approval as set forth in the Order.

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

Sincerely,

Bobby D. Fleenor Jr.

BOBBY D. FLEENOR
Chief, Water Rights

BDF:DR

Enc: Copy of permit w/
Mem. Dec. & Order
Information letter

cc: ☒ All protestants
Enc: Copy of Mem. Dec. & Order

MICROFILMED

WATER RESOURCE BOARD:

John F. Streiff
Chairman

Franklin Jones
Member

George L. Yost
Vice-Chairman

M. Reed Hansen
Member

Donald R. Kramer
Secretary

Scott W. Reed
Member

Edwin C. Schlender
Member

Joseph H. Nettleton
Member

December 2, 1974 CERTIFIED MAIL

#26320

Permit No. 29-7205

Raymond W. &/or Debra Girard
P.O. Box 121
Inkom, Idaho 83245

Dear Mr. & Mrs. Girard:

Enclosed herewith is a copy of the Amended Memorandum Decision and Order in connection with the above referenced permit.

Please note that the maximum rate of diversion has been reduced to 0.40 cubic feet per second.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:DR

Enc: Copy of Amended Dec & Order
Copy of permit

cc: Protestants

bc: Eastern District Office

MICROFILMED

November 4, 1974

Re: Permit No. 29-7205

Raymond W. &/or Debra Girard
P.O. Box 121
Inkom, Idaho 83245

Dear Mr. & Mrs. Girard:

Enclosed herewith is a copy of your approved Application for Permit No. 29-7205 along with a copy of the Memorandum Decision and Order. We direct your attention to the conditions of approval as set forth in the Order.

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

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:DR

Enc: Copy of permit w/
Mem. Dec. & Order
Information letter

cc: All protestants
Enc: Copy of Mem. Dec. & Order

bc: Eastern District Office

MICROFILMED

INTER-DEPARTMENT MEMO — 1

DATE September 16, 1974

FROM Ron Carlson

TO Bob Fleenor

SUBJECT Attached Correspondence

Add this to the file for 29-7205 in the name of Raymond and Debra Girard. (Letter and water agreement.)

Department of Water Resources

RECEIVED

Rou/
CB

SIGNATURE

State Of Idaho
Dept. Of Water.
Eastern Dist. Office.
1515 Lincoln Road.
Idaho Falls Idaho.
83401.

Arvin Idaho
Sept. 13-1974.

RECEIVED

SEP 16 1974

Department of Water Resources
Eastern District Office

Dear Sir:

Enclosed is a photo Static Copy
of our water agreement. In sending
you the fact are that you intended.
If this isn't sufficient please let
us know. I'm sorry I'm late with
this. I took it to Downey yesterday
to mail but by the time the Dr
got there cutting out proud flesh and
a core of infection out of the place
on my arm where the milk cow
stepped on me while I was stripping
her out. It was too late to get in the
post office and I was too late to care.
So will send this today. Thanks again

for making the trip to Lava Hot
Springs. If you ever come this
way stop by and see us.

Respectfully yours,
Mr & Mrs George Henrichs.
(George & Maurine as every
one knows us by this)

Arivao, Idaho 83214.

Maybe we should have sent a copy
of each agreement the one where the
house is and this that's across
the road. But they are both
alike. If you need the other let
me know.

Maurine.

MICROFILMED

The total purchase price is:

Twenty-Seven Thousand Seven Hundred and 00/100----- (\$ 27,700.00--Dollars
and after deducting the sum hereinbefore received for the balance shall be payable as follows:

\$2750.00 on November 20, 1972 and the balance of \$24,950.00 as annual installments of

\$3625.44 including interest at 8% per annum. First payment due November 20, 1972 (combined total down payment \$6,375.44) Balance of principal can be paid at anytime without penalty.

Buyer and seller agree to pay their respective share of costs. Buyer understands that there is first mortgage to A. M. Newton on the subject property which will be released when the full amount of purchase price is paid in full. There are no restrictions by the seller as to the use of Walker Creek water on the above described land.

RECORDED
SEP 16 1974
Department of Water Resources
Eastern District Office

INTER-DEPARTMENT MEMO — 1

FROM Ron Carlson

TO Darlene

SUBJECT Approved Application No. 29-7205

RECEIVED
DATE November 13, 1974

NOV 15 1974
Department of Water Resources

When I sent application No. 29-7205 to Boise with the Memorandum Decision, I neglected to mention the letter in the file from the SCS indicating that the excessive "Q" requested by Girard is not necessary.

This application should have been reduced from 0.80 to 0.40 c.f.s.

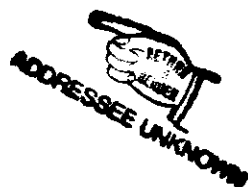
*What action now?
in*

*Issue an amended order.
Bob*

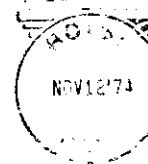
MICROFILMED


SIGNATURE

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
Boise, Idaho 83707



Mr. & Mrs. H. Anthony
3523 1/2 Pole Line Road
Pocatello, ID 83201



RECEIVED
NOV 19 1974
Department of Water Resources
MICROFILMED

RECEIVED

SEP 10 1974

NO DWELLING SHALL BE PERMITTED ON THE ABOVE DESCRIBED PROPERTY HAVING LESS THAN 1,000 SQUARE FEET EXCLUSIVE OF GARAGE. SAID DWELLING SHALL BE OF NEW CONSTRUCTION MATERIALS. NO USED MATERIAL OR DWELLINGS SHALL BE MOVED ON TO THE ABOVE DESCRIBED PROPERTY. ANY TRAILER HOUSE IN GOOD CONDITION MAY BE MOVED ON DESCRIBED PROPERTY AS LONG AS THEY ARE A MINIMUM SIZE OF 12 FEET BY 50 FEET.

Department of Water Resources
Eastern District Office

GRANTEES UNDER ANY CONVEYANCE SHALL NOT AT ANYTIME CONDUCT, OR PERMIT TO BE CONDUCTED ON SAID PROPERTY, ANY TRADE OR BUSINESS OTHER THAN FARMING. SAID LAND CAN BE USED FOR PRIVATE DWELLING OR RESIDENCE AND NOT FOR A COMMERCIAL BUSINESS.

ALL LIVESTOCK SHALL BE LIMITED TO TWO PER ACRE, EXCEPT GOATS AND PIGS, WHICH SHALL BE LIMITED TO TWO EACH ON THE ABOVE DESCRIBED TRACT.

THE ABOVE DESCRIBED PROPERTY SHALL NOT BE USED AS A DUMPING GROUND OR FOR STORAGE OF LARGE QUANTITIES OF EQUIPMENT OR MATERIALS.

GRANTOR RESERVES ONE-HALF OF ALL MINERAL RIGHTS.

GRANTOR RESERVES ALL WATER RIGHTS IN WALKER CREEK.

MICROFILMED

WATERWORKS
SEWERAGE
STREETS
ROADS
STRUCTURAL

HAMILTON AND VOELLER
CONSULTING ENGINEERS
428 SO. MAIN ST. - P. O. BOX 1512
PHONE 232-4631
POCATELLO, IDAHO 83201

R. F. HAMILTON
F. ASCE
CARL J. VOELLER
F. ASCE

DESCRIPTION FOR GENERAL SALES

PARCEL NO. 47

A tract of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, T.8S., R.36E., B.M., Bannock County, Idaho, more particularly described as follows:

Beginning at a point on the easterly right of way line of Marsh Creek Road that is N89°28'45"E 1189.03 feet on the South line of Section 15, T.8S., R.36E., B.M., and N06°12'E (N06°23'30"E) on the Easterly right of way of Marsh Creek Road 200.83 feet, and northeasterly on the said easterly right of way line on a curve to the right with a radius of 1879.86 feet, for a distance of 177.89 feet; thence

Continued on said curve for a distance of 173.17 feet; thence N16°54'E (N17°05'30"E) on the said easterly right of way line 23.99 feet; thence

N89°22'30"E 2677.85 feet, more or less, to the east 1/16 line of said Section 15; thence

S00°08'E on the east 1/16 line of said Section 15, 190.00 feet; thence

S89°22'30"W 2728.55 feet, more or less, and contains 11.791 acres, more or less.

McCammon, Idaho
RHB/jar
November 28, 1972

RECORDED

EARNEST MONEY AGREEMENT
AND ESCROW INSTRUCTIONS TO AMERICAN LAND TITLE CO.

THIS IS A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, SEEK COMPETENT ADVICE
RECEIVED OF: Pocatello, Idaho, 6-4, 1973

A. L. Latimer or Margaret W. Latimer, husband and wife
herein called "Buyer," the sum of Nine Thousand Nine Hundred - - - - (\$ 9900.00 - - -)
Dollars in the form of check paid to the American Land Title Company as earnest money
and in part payment of the purchase price of the following property situate in Bannock
County, Idaho Lot 47 - Legal Attached

Buyer hereby offers to purchase the above described property in its present condition, after
full inspection, on the terms and conditions herein provided for; and agrees to give the seller
-0- days, from this date, to accept said terms and conditions during which time this
offer shall not be revokable.

Included as part of the property sold to the buyer are such of the following items as may now
be on the premises, which will be delivered free and clear of encumbrances: All existing
linoleum, window screens, screen doors, television antennae, shades, venetian blinds,
curtain rods, attached lighting, plumbing and bathroom fixtures, water-heating apparatus
and fixtures, awnings, ventilating, cooling and heating systems, irrigation fixtures and
equipment, all water and water rights, ditches, and ditch rights appurtenant thereto, and
subject to the assessments therein, trees, plants and shrubs and all other attached fixtures
not herein reserved or excepted; together with the following personal property:

Land only.

Leased or encumbered property: _____
to be assumed by buyer.

The total purchase price is:

Nine Thousand Nine Hundred - - - - - (\$ 9900.00 - - - -)
and after deducting the sum hereinbefore receipted for the balance shall be payable as follows:

Cash on closing disbursed.
Seller agrees to provide title insurance and pay $\frac{1}{2}$ closing fee. Buyer agrees to pay $\frac{1}{2}$
closing fee and record costs.

Land is sold subject to attached restrictions.

Seller authorizes the American Land Title Company, hereinafter referred to as Escrow Agent,
to order and charge to Seller's account, immediately upon acceptance of this offer, and of
assurance of any contemplated financing, if provided for hereinabove, a policy of Title Insur-
ance (using a preliminary title report prior to close of sale, after which the Title Insurance
Policy will be issued,) condition of the title for inspection and approval of the Buyer. If
Buyer's approval of the condition of the title is withheld, Buyer shall have 10 days after re-
ceipt of evidence of title in which to deliver to Seller written objections thereto. Failure to
so object within the 10 days time limit provided, shall be deemed approval and acceptance
of the condition of the title. The Escrow Agent shall in no way be responsible for delivery
to Buyer, or condition of the title.

The earnest money deposited herein shall be refunded to Buyer less costs incurred by Escrow
Agent, and this agreement voided if the Seller fails to accept Buyer's offer within the time
provided, or if merchantable title cannot be delivered within a reasonable time. Should the
improvements on subject property be materially damaged by fire or otherwise, prior to closing
this sale, this agreement shall be voidable at the option of the Buyer. Unless otherwise pro-
vided herein, the real property shall be conveyed by warranty deed, free of encumbrances
except for rights reserved in federal patents state or railroad deeds, building or use or restric-
tions, building and zoning regulations and ordinances of any governmental unit, and rights of
way and easements of records. Any encumbrances to be discharged by Seller may be paid out
of the purchase money at date of closing. Buyer agrees to use his best efforts to obtain fi-
nancing if required. Financing costs shall be paid by Buyer. However, if FHA or GI regula-
tions apply to this property, Seller agrees to pay any excess thereof.

Fire insurance issued by NA to be prorated _____
_____ cancelled _____, Escrow Agent
assumes no liability for acquiring endorsements or a new fire policy.

RECORDED

taxes, rents, insurance premiums and interest shall be probated as of possession date, which shall be on or before on closing, 1973
In case the Buyer shall fail to promptly perform any covenant or agreement aforesaid and to do all things necessary and prerequisite to the consummation of this sale, the Seller may declare a forfeiture of this contract, and all rights of the Buyer shall cease and payments made by him may be retained by the Seller as liquidated damages, less costs incurred by the Escrow Agent, and not as a penalty, or the Seller may pursue any other remedy available under the laws of the State of Idaho. In any action brought upon this agreement, the prevailing party shall be entitled to reasonable attorney fees. This agreement shall bind the heirs, executors, administrators, successors and assigns of the respective parties hereto, and time is of the essence hereof. There are no verbal agreements which modify the terms and conditions hereof.

BUYER: A. L. Latimer
A.L. Latimer

BUYER: _____

Address: 114 South Garfield Phone: _____

Dated: 6-4-, 1973

SELLER: Pocatello Charolais Ranches Inc.

SELLER: By: Gary G. Liege

Present Address: _____

Phone: _____

Future Address: _____

STATE of Idaho, County of Bannock

On this 4th day of June, 1973, before me, a Notary Public in and for said State, personally appeared A.L. Latimer and Gary G. Liege

_____ known to me to be the person whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

(SEAL)

Notary Public for _____ Residing at Pocatello
My Commission expires _____

MICROFILMED

We the undersigned hereby allow the department
to reach a decision based upon the information
obtained at the conference held on Sept 9, 1974,
the information contained in the files of the Department,
and the sales contracts on the properties and
the water.

Signed at Lava Hot Springs this 9th Day of Sept. 1974

Ron Evans
Mr. & Mrs. Gerald Anthony
Mr. & Mrs. Leo R. Anthony
Charles Ray Evans
A J Latimer
George Henrichs -
Maurine A Henrichs
Raymond Girard & Debbie Girard

MICROFILMED

29-7205 - Raymond W. Girard

Community Center, Lava Hot Springs, Idaho

September 9, 1974 - 1:30 p.m.

ROSTER OF ATTENDANCE

<u>Name</u>	<u>Address</u>	<u>Representing</u>
Mr & Mrs. Raymond Girard	PO Box 131 Inkom, Idaho	Raymond Girard
Mr & Mrs. George Hennicks	Arino, Idaho	George Hennicks
Mr. & Mrs. Harold Anthony	3523 1/2 P. DELIVER RD. P.O. Box	
Ray Evans	12 A-1 RT 1 McCammon	
C Ray Evans	12-A-1 RT. 1 McCAMMON, ID. 83250	
Mr. & Mrs. Lark Anthony	632 W. Wyeth - Pocatello ID. 83201	
A J Latimer		

MICROFILMED

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

☐ Show address
where delivered

☐ Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below

REGISTERED NO.

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

CERTIFIED NO.

396

1

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DATE DELIVERED

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SENDER: Be sure to follow instructions on other side 29-7205

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June 1973

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

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Protests Against Approval	)	.
	)	
of Application for Permit No. 29-7205 in	)	NOTICE OF CONFERENCE
	)	
the name of RAYMOND W. &/or DEBRA GIRARD	)	AND/OR HEARING
	)	
	)	

On July 1, 1974, Raymond W. &/or Debra Girard filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On July 22, 1974, the Department received a protest against approval of said application from Mr. & Mrs. George Henricks. On July 29, 1974, the Department received additional protests from the following individuals: Charles Ray Evans, Jr., Rick Dale Evans, Charles R. Evans, Ron Evans, Mr. & Mrs. Herold Anthony and Mr. & Mrs. Arthur L. Latimer; and on July 30, 1974, from Mr. & Mrs. Leo R. Anthony.

The Department has set the matter of protests for conference and/or hearing for Monday, September 9, 1974, at 1:30 p.m., in the Community Center, Lava Hot Springs, 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 protests or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 22 day of August, 1974.



RONALD D. CARLSON

Asst. to the District Engineer

MICROFILMED

IDAHO DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

1515 LINCOLN RD.

IDAHO FALLS, IDAHO 83401

NAME AND
ADDRESS
OF SENDER

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C.O.D.☒ CERTIFIEDAffix stamp here if issued as certificate of mailing or for additional
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396	Charles Ray Evans, Jr. 12-A1 Rt. #1, McCammon	10	30	15				29-7205
397	Raymond Ch. & Debra Dinal, Box 121, Inham	10	30	15				"
398	Debra Warrick Adams, Id.	10	30	15				"
399	Mr. & Mrs. Arthur L. Saterow, 621 S. 5th Ave. Pocatello	10	30	15				"
400	Mr. & Mrs. Leo R. Anthony, 632 W. 2nd St. Pocatello	10	30	15				"
401	Mr. & Mrs. Gerald Anthony, 2523 1/2 Wilson Rd. Pocatello	10	30	15				"
402	Ron Evans 12-A1 Rt. #1, McCammon, Id.	10	30	15				"
403	Charles R. Evans, 12-A1 Rt. #1, McCammon, Id.	10	30	15				"
404	Rick Dale Evans, 12-A1 Rt. #1, McCammon, Id.	10	30	15				"
10								
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FD Form 3877, Nov. 1968

APPLICATION FOR REGISTRATION OR CERTIFICATION

(Surcharges are not required on international registered mail)

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

XXXXXXXXXXXXXXXXXXXXX RESOURCES

August 21, 1974

C
Mrs. Elma Schultz
204 West Elm
Lava Hot Springs, ID 83246

Dear Mrs. Schultz:

This is to confirm the use of the Community Center for conference and/or hearing to be held by this office on Monday, September 9, 1974, from 9:30 a.m. to 5:00 p.m. and on Tuesday, September 10, 1974, at 9:00 a.m..

P
Thank you for your cooperation in this matter.

Very truly yours,

Y
RONALD D. CARLSON
Asst. to District Engineer

RDC:MB

MICROFILMED

INVENTORY & EVALUATION

* INDIVIDUAL
GROUP
UNIT OF GOVERNMENT

REQUESTED BY Raymond Girard LOCATION Box 121 Tinkham, Id.

ASSISTED BY Gale Roberts + Tom Spofford DATE 9-8-79

SITUATION: Mrs Girard Called - requesting amount of irrigation
water needed to irrigate 11 acres of Pasture. See
attached sheets 1 and 2.

Summary: .56 inches per acre continuous flow
needed.

SUGGESTED SOLUTION(S): Sprinkler system would make water easier
to manage.

CC with attachments sent To Idaho Dept of Water Resources -
Idaho Falls.

* Circle appropriate category.

Gale Roberts

Fig 1 of 2

IRRIGATION WATER MANAGEMENT
Planning Sheet
 (for borders, furrows or contour ditches)

Name Raymond Girard Fld. No. _____ Acres 11

Soils Information:

1. Type (description & Texture)	<u>Gravelly loam</u>				
2. Soil Depth <u>4</u> Ft. Moisture Holding Capacity <u>1.0</u> in./ft.					
3. Fld. Slope in percent <u>8</u>					
4. Stream Available for this Fld. _____ cfs					
5. Crop to be Grown	Alf-Grass				
6. Method of Irrigation (Table I Irrig. Guide)	Border				
7. Crop Root Zone (Table I Irrig. Guide)	4"				
8. Total Water Holding Capacity (Tech. Note - Soils No. 2)	4"				
9. Net Water to be Replaced (inches)	2.0"				
10. Planned Irrig. Eff. (Table IX a, b, c, d, Irrig. Guide)	55%				
11. Gross Water Applic Line 9 ÷ 10	3.6"				
12. Peak Daily Consumptive Use (Design Chart la, b, c, or d, Irrig. Guide)	.247				
13. Irrigation Frequency Line 9 ÷ Line 12	8 days				
14. Length of Run (Id. Irrig Guide, pp. 48-165)	90 ft.				
15. Border Dike System					
a. Width (Table VIII, Ida. Irrig. Guide)					
b. Est. Unit Stream cfs/100 sq. ft. (Ida. Irrig Guide, pp. 48-165)					
c. Est. Stream Size per Border (cfs) Line 14XLine 15aXLine 15c 100					
16. Furrow Irrigation					
a. Row Spacing	24"				
b. Max. Non-erosive Stream gpm per furrow $\frac{10}{\% \text{ Slope}}$ $\frac{10}{2}$	2.0				
17. Estimated Time Required (Obtain from Irrig. Guide)	15 min				

One column for each crop in a rotation.

11 acre square = 692 ft x 692
 Need 7.7 lengths of Run
 346 corr.

Need of one time = 5328
 gpm

MICROFILMED

STATE

BY

SUBJ

Idaho

Raymond Girard

Pocatello

925

8/8/74

2

2

Irrigation Water Management

Total gals needed 5328 gpm every
8 days.

Set length every 8 day of 2 hrs.

$$Q/\text{day} = \frac{5328}{8} = 666.0 \text{ gpm/day}$$

$$Q/2\text{hr set} = 12 \text{ sets/day} = \frac{666.0}{12} = 55.5 \text{ gpm/set day}$$

$$MI = \frac{55.5 \text{ gpm}}{9.9 \text{ gpm}} = \frac{6.17 \text{ MI/set}}{\text{day}}$$

$$MI/\text{acre} = \frac{6.17 \text{ MI}}{11 \text{ ACRES}} = 0.56 \text{ MI/acre}$$

Continuous flow = 0.56 MI/acre will
give good water management.

MICROFILMED

PROTESTS RECEIVED

1. George & D. Maurine Henricks
2. Mr. & Mrs. Herold Anthony
3. Charles R. Evans
4. Ron Evans,
5. Charles Ray Evans, Jr.
6. Rick Dale Evans
7. Arthur L. & Margaret W. Latimer
8. Mr. & Mrs. Leo R. Anthony

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SOIL CONSERVATION SERVICE

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POCATELLO, IDAHO 83201**

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AGR-1011

*Idaho Dept of Water Resources
1515 Lincoln Road.
Idaho Falls, Idaho
83401*

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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

August 1, 1974

Re: Application No. 29-7205

Mr. Charles Ray Evans, Jr.
Route #1, 12-A1
McCammon, Idaho 83250

Dear Mr. Evans:

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,

NORMAN C. YOUNG
District Engineer

NCY:MB

RECEIVED
AUG 1 1974
DISTRICT ENGINEER

STATE OF IDAHO

DEPARTMENT OF WATER ~~ADMINISTRATION~~ RESOURCES

EASTERN DISTRICT OFFICE



Cecil D. Andrus
Governor
R. Keith Higginson
Director

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Water Rights Administration
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Waste Disposal Wells
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Geothermal Resources

August 1, 1974

Re: Application No. 29-7205

Mr. Rick Dale Evans
Route #1, 12-A1
McCammon, ID 83250

Dear Mr. Evans:

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NORMAN C. YOUNG
District Engineer

NCY: MB

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION ~~DEPARTMENT~~ RESOURCES

EASTERN DISTRICT OFFICE



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August 1, 1974

Re: Application No. 29-7205

Mr. Charles R. Evans
Route #1, 12-A1
McCammon, Idaho 83250

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Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY: MB

Stamp: RECEIVED
DISTRICT ENGINEER
AUG 1 1974

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION ~~ADMINISTRATION~~ RESOURCES

EASTERN DISTRICT OFFICE



Cecil D. Andrus
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August 1, 1974

Re: Application No. 29-7205

Mr. Ron Evans
Route #1, 12-A1
McCammon, ID 83250

Dear Mr. Evans:

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Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:MB

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

August 1, 1974

Re: Application No. 29-7205

Mr. & Mrs. Herold Anthony
3523 1/2 Poleline Road
Pocatello, ID 83201

Dear Mr. & Mrs. Anthony:

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):

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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,

NORMAN C. YOUNG
District Engineer

NCY: MB

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

August 1, 1974

Re: Application No. 29-7205

Mr. & Mrs. Leo R. Anthony
632 W. Wyeth
Pocatello, ID 83201

Dear Mr. & Mrs. Anthony:

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,

NORMAN C. YOUNG
District Engineer

NCY: MB

XXXXXXXXXXXXXXXXXXXXX RESOURCES

August 1, 1974

Re: Application for Permit No. 29-7205

Mr. & Mrs. Arthur L. Latimer
621 South 5th Avenue
Pocatello, Idaho 83201

Dear Mr. & Mrs. Latimer:

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,

NORMAN C. YOUNG
District Engineer

NCY:MB

MICROFILMED

DEAR SIR.

THIS LETTER IS IN PROTEST TO THE APPLICATION NO. 29-7205 SUBMITTED ON 7-1-74. THIS APPLICATION IS FOR THE USE OF WALKER CREEK WATER ON 20 ACRES WITHIN THE NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SEC. 15, T. 8S, R. 36E, B.M.

IF THERE WERE NOT A RESTRICTIVE COVENANT PLACED ON THE RIGHT TO USE WALKER CREEK WATER I, CHARLES RAY EVANS JR, WOULD HAVE EQUAL CLAIM TO WATER FROM WALKER CREEK. THE WATER WOULD FLOW BY CULVERT AND DITCH DIRECTLY INTO THE CORNER OF MY PROPERTY, IRRIGATING VERY NEARLY THE ENTIRE UPPER PORTION OF LAND IN SE $\frac{1}{4}$ NW $\frac{1}{4}$ AND SW $\frac{1}{4}$ NE $\frac{1}{4}$, SEC. 15, T. 8S, R. 36E., B.M.

THE ABOVE APPLICATION IS IN DIRECT CONFLICT WITH THE RESTRICTIONS PLACED ON THE RIGHT TO USE WALKER CREEK WATER.

PLEASE NOTIFY ME AS TO ANY FURTHER ACTION TAKEN.

Yours Truly,
Charles Ray Evans Jr.

12-A1 RT. 1
MCCANNON, ID.
83250

MICROFILMED

RECEIVED

JUL 29 1974
Department of Water Resources
Eastern District Office

7-25-74

DEAR SIR,

THIS LETTER IS IN PROTEST TO THE APPLICATION NO. 29-7205 SUBMITTED ON 7-1-74. THIS APPLICATION IS FOR THE USE OF WALKER CREEK WATER ON 20 ACRES WITHIN THE NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$, SEC. 15, T. 85, R. 36E, B.M.

IF THERE WERE NOT A RESTRICTIVE COVENANT PLACED ON THE RIGHT TO USE WALKER CREEK WATER I, RICK DALE EVANS WOULD HAVE EQUAL CLAIM TO WATER FROM WALKER CREEK. THE WATER WOULD FLOW BY CALVERT AND DITCH DIRECTLY ^{INTO} THE CORNER OF MY PROPERTY, IRRIGATING VERY NEARLY THE ENTIRE UPPER PORTION OF LAND IN SE $\frac{1}{4}$ NW $\frac{1}{4}$ & SW $\frac{1}{4}$ NE $\frac{1}{4}$, SEC. 15, T. 85, R. 36E B.M.

THE ABOVE APPLICATION IS IN DIRECT CONFLICT WITH THE RESTRICTIONS PLACED ON THE RIGHT TO USE WALKER CREEK WATER.

PLEASE NOTIFY ME AS TO ANY FURTHER ACTION TAKEN.

THANK YOU,

Rick Dale Evans

12-A1 R.1
McCammon, ID.
83250

RECEIVED

JUL 29 1974

Department of Water Resources
Eastern District Office

MICROFILMED

RECEIVED

JUL 29 1974

Department of Water Resources
Eastern District Office12-A1-RT 1
McCammon, Idaho
83250

Dear Sir:

This letter is in protest to the application
N 29-7205 use of Walker Creek water on 20
acres within the NE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 15, T. 85,
R 36 E, B.M.

If there were not a restrictive covenant placed on the
right to use Walker Creek water I, Charles Ray Evans would
have equal claim to water from Walker Creek. The
water would flow by culvert and ditch directly into
the corner of my property irrigating very nearly the
entire upper portion of land in SE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$,
Sec 15, T 85, R 36 E. B.M.

The above application is in direct conflict with
the restrictions placed on the right to use
Walker Creek water

Please notify me as to any further
action taken

MICROFILMED

Thank you

Charles Ray Evans

Dear Sir,

~~THE~~ This letter is in Protest to the application No 297205 submitted on 7-1-74. This application is for the use of Walker Creek water on 20 Acres within the NE $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 15, T8S, R36E, B.M.

IF THERE WERE NOT a Restrictive Covenant placed on the right to use Walker Creek water I, Ron Evans would have equal claim to water from Walker Creek. The water would flow by culvert and ditch directly into the corner of my property irregardless of, nearly the entire upper portion of land in SE $\frac{1}{4}$ NW $\frac{1}{4}$ & SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 15, T8S, R36E B.M.

~~THE~~ The above application is in direct conflict with the Restriction placed on the right to use Walker Creek water. Please NOTIFY me as to any Further Action Taken.

Thank you
Ron Evans

12-A1 Rt. 1

McCANN ID.

83250

MICROFILMED

RECEIVED

JUL 29 1974

Department of Water Resources
Eastern District Office

July 26, 1974

Gentlemen

We are protesting Application #29-7205, Mr. Raymond W. Girard's request for water rights on Walker Creek for irrigation within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 15 Township 8 S, R 36 EBM. since we bought our property in July 1972 our pastures burns up every summer, because in our Deed we are restricted from Walker Creek water. When Don Hammond owned all the property he watered all of it with Walker Creek Water, there is ditches on our property that was used for this watering. When we bought this property Don Hammond restricted us from using any Walker Creek water so we haven't been using it and our land dries up and dies every summer, because we can't water it. They use to grow hay on our property but we have never been able to do this because we have had no water, but we would if we were able to get some water on it. This is why we are protesting Mr. Raymond W. Girard's request for water right to Walker Creek water unless we are able to get equal water rights.

RECEIVED

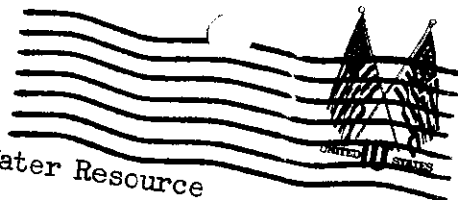
JUL 29 1974

Department of Water Resources
Eastern District Office

Mr. and Mrs. Herold Anthony

Mr. and Mrs. Herold Anthony
MICROFILMED

3523¹/₂ Poleline Rd.
Pocatello, Idaho



Idaho Dept. Water Resource

1515 Lincoln Road

Idaho Falls, Idaho

MICROFILMED

RECEIVED

JUL 30 1974

Department of Water Resources
Eastern District Office

July 28, 1974
Pocatello, Idaho

Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

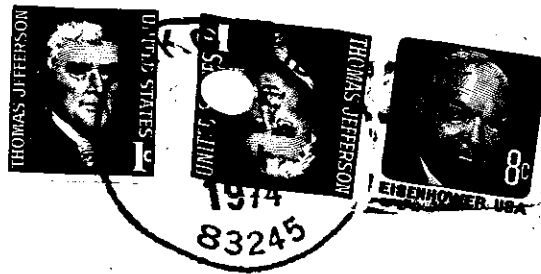
Dear Sir

We are protesting Application # 29-7205, Mr. Raymond W. Gerard's request for water rights on Walker Creek for irrigation within the N 1/4, SW 1/4 Section 15 Town - Ship 8 South R 36 E 5M. Since we bought our property in July, 1972 our pasture burns up every summer, because in our deed we are restricted from Walker Creek water. When Hon Hammond owned all the property he watered all of it with Walker Creek water; there is ditches on our property that was used for this watering. When we bought this property Hon Hammond restricted us from using Walker Creek water so we haven't been using it and our land dries up and dies every summer, because we can't water it. They use to ~~grow~~ grow hay on our property but we have never been able to do this because we have had no water, but we would if we were able to get some water on it. This is why we are protesting Mr. Raymond W. Gerard's request for water ~~on it~~ ~~This is~~ rights to Walker Creek water unless we are able to get equal water rights. Sincerely

MICROFILMED

Mr. & Mrs. Leo R. Anthony

Mr. R. Anthony
632 W. Wyeth
Pocatello, Idaho
83201



Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho

83401

MICROFILMED



LICENSEE

Arthur L. Latimer

114 SOUTH GARFIELD • POCATELLO, IDAHO • PHONE 208-232-6031

621 South 5th Avenue

July 27, 1974

R. Keith Higginson, Director
Idaho Dept. Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

RECEIVED

JUL 29 1974

Department of Water Resources
Eastern District Office

PROTEST AGAINST THE GRANTING OF PERMIT TO

RAYMOND W. &/or DEBRA GIRARD, INKOM, IDAHO

APPLICATION NO. 29-7205

We, the undersigned, owners of a tract of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, T.8S., R. 36E., B.M. Bannock, Idaho, do hereby protest against the granting of the permit filed by Raymond W. &/or Debra Girard, P. O. Box 121, Inkom, Idaho submitted July 1, 1974, Application No. 29-7205 to appropriate 0.80 cubic feet per second of water from Walker Creek tributary of Marsh Creek by means of headgate and ditch within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, T.8S., R. 36E, B.M. Bannock County to be used from March 15 to November 15 for the irrigation of 20 Acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15, T. 8S., R. 36E, BM.

We purchased this property with the understanding that the Grantor reserves all water rights in Walker Creek.

We are the owners of Parcel No. 47, 11.791 Acres. We should be entitled to water from Walker Creek, along with other property owners adjacent to Parcel No. 47, also Parcel No. 43, 44, 45, 46, 48 49 and others.

Signed Arthur L. Latimer
Arthur L. Latimer

Signed Margaret W. Latimer
Margaret W. Latimer

Telegram sent 7-26-74
Ida. Dept. Water Resources

MICROFILMED

WJ4109 7-26-74 157P MDT

AI44(1541)(2-431732E207)PD 07/26/74 1541

ICS IMPRNCZ GSP

2432323444 TDRM POCATELLO ID 22 07-26 0341P EDT

PMS R KEITH HIGGINSON, DLR

IDAH0 DEPARTMENT OF WATER RESOURCES 1515 LINCOLN RD

IDAHO FALLS ID 83401

PROTEST AGAINST THE GRANTING OF PERMIT TO RAYMOND W GIRARD ON

APPLICATION 29-7205 FORMAL PROTEST WILL FOLLOW

ARTHUR L LATIMER OWNER OF PARCEL #47 MARSH CREEK AREA

NNNN

RECEIVED

JUL 26 1974

Department of Water Resources
Eastern District Office

MICROFILMED

XXXXXXXXXXXXXXXXXXXXX RESOURCES

August 1, 1974

Re: Application for Permit No. 29-7205

Mr. & Mrs. Raymond W. Girard
P.O. Box 121
Inkom, Idaho 83245

Dear Mr. & Mrs. Girard:

We have enclosed copies of additional protests against the issuance of a permit pursuant to your Application No. 29-7205.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

RONALD D. CARLSON
Asst. to District Engineer

RDC:MB

Enclosures

MICROFILMED

XXXXXXXXXXXXXXXXXXXXX RESOURCES

July 29, 1974

Re: Application for Permit No. 29-7205

Mr. & Mrs. Raymond W. Girard
P.O. Box 121
Inkom, ID 83245

Dear Mr. & Mrs. Girard:

In the review of the above referenced application, we found it to be Q excessive. The Idaho Code, Section 42-202, limits the rate of diversion for irrigation purposes to 0.02 cubic feet per second per acre unless a higher rate can be justified by unusual soils or irrigation methods. Thus, the maximum rate for the 20 acres to be irrigated under this application is 0.40 c.f.s. We accept as adequate justification statements from the Soil Conservation Service or other soil experts that the higher diversion rate is actually needed. It should include a statement indicating the maximum rate of diversion that is justified. Please furnish this office with such a letter or evidence that you are in the process of obtaining it as soon as possible.

If you have any questions, please do not hesitate to contact this office.

Very truly yours,

RONALD D. CARLSON
Asst. to District Engineer

RDC:MB

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF WATER ~~ADMINISTRATION~~ RESOURCES

EASTERN DISTRICT OFFICE



Cecil D. Andrus
Governor

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

R. Keith Higginson
Director

July 22, 1974

Mr. & Mrs. Raymond W. Girard
P.O. Box 121, Inkom, ID

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

Re: Application for Permit No. 29-7205

Dear Mr. & Mrs. Girard:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application No. 29-7205. 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,

NORMAN C. YOUNG
District Engineer

NCY: MB

Enc: Copy of Protest(s)

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

July 22, 1974

Re: Application No. 29-7205

Mr. & Mrs. George Henricks
Armo
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,

NORMAN C. YOUNG
District Engineer

NCY: MB

RECEIVED

JUL 22 1974

Department of Water Resources
Eastern District Office

Armo Idaho.
July 22-1974.

R. Keith Higginson,
Idaho Falls,
Idaho.

Dear Sir:

This letter to you is in regards to making a protest in regards to an application no. 29-7205 for a permit ^{to file} for water rights on Walker Creek to Raymond ~~the~~ ^{and Debra} Girard. P.O. Box 121, Armo Idaho. This filing was made 7-1-74. Thanking you.

Respectfully Yours,
George ^{and} Maurine Hennicks
Armo, Idaho. 83214.

Post script

We have ^{1st} water rights on Walker Creek with no restrictions. If Raymond ^{and Debra} Girard get this permit it will hinder us on our ground to the extent it will dry ~~us~~ up our 60 acres of ~~the~~ land. on the 3 pieces of ground.

The diversion head of Walker Creek is on our property. ~~The~~

George Hennicks
D. Maurine Hennicks

MICROFILMED

July 5, 1974

RE: Application for Permit No. 29-7205 - GIRARD
Claim to a Water Right No. 29-4034 - SPRAKER

Idaho State Journal
Box 431
Pocatello, Idaho 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,

NORMAN C. YOUNG
District Engineer

NCY:CB

Bill submitted 7-22-74 by MB

Enc: Legal Notice (2)

MICROFILMED

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Raymond W. &/or Debra Girard

P.O. Box 121, Inkom, Idaho

has on 7-1-74 submitted Application No. 29-7205
for a permit to appropriate 0.80 cubic feet per second ~~XXXXXX~~
of water from Walker Creek tributary of Marsh Creek
by means of headgate and ditch
within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, T. 8S, R. 36E, B.M., Bannock County;

to be used from Mar. 15 to Nov. 15
for the irrigation of 20 acres

within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, 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 July 29, 1974.

R. KEITH HIGGINSON

Director

Published in the Idaho State Journal, Pocatello, Idaho

on July 11 and July 18, 1974

MICROFILMED

OB-f.
CB-A.