

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 29-7183 Priority June 29, 1974 Amount 1.92 cfs
(Late Proof)

THIS IS TO CERTIFY, that John W. Hart
of Downey, Idaho, has complied with the terms and conditions of Permit
No. 29-7183 issued pursuant to Application for Permit dated April 10, 1974,
and has submitted proof to the Department of Water Resources on October 3, 1979,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 1.92 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>November 1</u>	at <u>1.92</u> cfs and	<u>714.0</u> acre feet
_____	from _____ to _____	at _____ cfs and	_____
_____	from _____ to _____	at _____ cfs and	_____

(both dates inclusive)

Subject, however, to the condition that no more than 1.92 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
714.0 acre feet per year, said waters to be diverted within the SE 1/4 Section 6,
Twp 11S, Rge 37E in the County of Bannock

Description and location of place of use:

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
11S	36E	1													18			3	21
11S	37E	6									35	GL 6	GL 7	51	39				178

Total number of acres irrigated 199

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CONDITIONS OF APPROVAL

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

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

c. Any water right confirmed in this license for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this license and shall not give rise to any right or claim against any future rights to the use of water other than hydropower, within the State of Idaho initiated later in time than the priority of this license.

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.

If at some future date it is established that this appropriation reduces the flow from Peck Springs to the extent that prior rights on Peck Creek are affected, this right will become subject to the control of the watermaster on Peck Creek.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 29TH day of SEPTEMBER, 19 86.

Acting for the Director



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65.
JIM

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 29-7183
IN THE NAME OF JOHN W. HART

ORDER

WHEREAS, on April 10, 1974, John W. Hart applied to the Department of Water Resources for a permit to appropriate 5.00 cubic feet per second of water from a groundwater source to be diverted within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 6, Twp. 11S, Rge. 37E, B.M. Bannock County, to be used for irrigation purposes; and,

WHEREAS, on January 31, 1975, the Department approved said application and issued Permit No. 29-7183 with the condition that proof of beneficial use be submitted on or before February 1, 1979; and,

WHEREAS, on July 5, 1979, the Department granted a request for extension of time until October 1, 1979, and an advance in priority to June 27, 1974; and,

WHEREAS, on July 31, 1979, the Department notified the permit holder by certified mail that proof of beneficial use was due and instructed the permit holder as to the steps to be taken to make said proof; and,

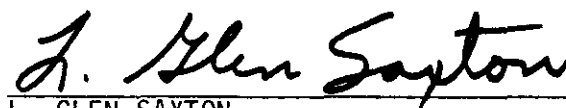
WHEREAS, on October 1, 1979 the permit automatically lapsed for failure of the permit holder to submit proof of beneficial use; and,

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

WHEREAS, the permit holder has provided a resonable showing as to why said permit should be reinstated by submitting proof of beneficial use on October 3, 1979.

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 29-7183 be REINSTATED and the priority date advanced to June 29, 1974.

Dated this 13th day of December, 1979.


L. GLEN SAXTON

Chief, Operations Bureau

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit
proof of beneficial use on a water right permit

APR 20 1979

Department of Water Resources

John W. Hart of Rt. 2, Downey, Idaho
(Name) (Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Waters of the State of Idaho No. 29-7183.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before Feb. 1, 1979, 19 .

That he has heretofore performed the following work described under said permit: The drilling rig was set up in December and he commenced to drill the well.

Costing \$ _____

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: The drilling was started last December. The extreme cold and deep snow stopped all work. The snow did not melt until near the end of March. The spring when it finally came was as extreme as the winter in that it was wet and muddy and the driller could not get the drilling rig. During the last 2 1/2 weeks when he could get to the drilling rig he has not resumed drilling. He says he will resume drilling the first of next week.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to Oct 1, 1979 June 30, 1979, 19 .

John W. Hart
(Signature)*

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit proof of beneficial use of water is extended to October 1, 1979.

IT IS FURTHER ORDERED that the permit be reinstated and the priority advanced to June 27, 1974.

Signed this 5 day of July, 19 79.

C. Stephen Allred
C. STEPHEN ALLRED
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF CHANGING THE MEASURING
DEVICE REQUIREMENT FOR PERMIT NO. **29-7183**

ORDER

WHEREAS, the above numbered permit was approved with the condition that a measuring device of a type approved by the Department be permanently installed and maintained as part of the diverting works; and,

WHEREAS, on July 1, 1978, the Department adopted a new water measurement condition which states: "An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department"; and,

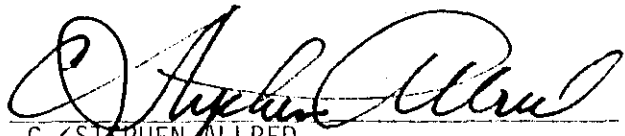
WHEREAS, the former condition required the permit holder to purchase and install a measuring device or hire a professional engineer to certify the rate of diversion; and,

WHEREAS, the measuring device condition effective July 1, 1978, requires less capital expenditure by the permit holder; and,

WHEREAS, to be equitable to holders of permits issued prior to July 1, 1978, the new condition should be retroactive;

NOW THEREFORE, it is hereby ordered that the condition of approval of this permit related to water measurement is hereby changed as follows: "The permit holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department".

Dated this 18th day of August, 1978.


C. STEPHEN ALLRED
Director

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STATE OF IDAHO

MEMORANDUM DECISION
AND ORDER

Notice of the application was published in the Idaho State Journal on April 25 and May 2, 1974. On May 20, 1974, the Department received a protest against the approval of said application from Howard L. Armstrong, Jr., Attorney at Law, on behalf of Richard Burmester, Royal Cole, Vernal Bailey, and Norman Myers.

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FINDINGS OF FACT

(1) Protestants Richard Burmester, Royal Cole, Vernal Bailey, and Norman Myers claim to have developed a right to use the waters of Peck Creek by reason of diversion and beneficial use; each commencing prior to May 20, 1971, and having continued uninterrupted to the present time. These claimed rights have not been defined through court action, and are not part of the records of the Department.

(2) The protestants claim to have the right to collectively irrigate 556 acres of land from Peck Creek.

(3) Reisner Springs and Peck Springs are separated by a straight line distance of about 800 feet and are both tributary to Peck Creek.

(4) Mr. John Hart and Herman Reisner claim all of the water flowing from Reisner Springs.

(5) Based upon the findings of the local ground water board in Reisner v. Stewart, that was held in this area, the exhibits herein, and the data available in the official files of the Department, show no connection between the aquifer in which Mr. Hart's proposed well is to be drilled and Peck Springs.

CONCLUSIONS OF LAW

(1) The protestants, Richard Burmester, Vernal Bailey, Royal Cole, and Norman Myers are the holders of certain undefined rights to the use of the water from Peck Creek.

(2) There is no connection between the aquifer into which Mr. Hart proposes to drill his well and Peck Springs.

ORDER

IT IS, THEREFORE, ORDERED and Application No. 29-7183 is hereby APPROVED subject to the following conditions:

(1) That said permit, be and is subject to all prior existing water rights.

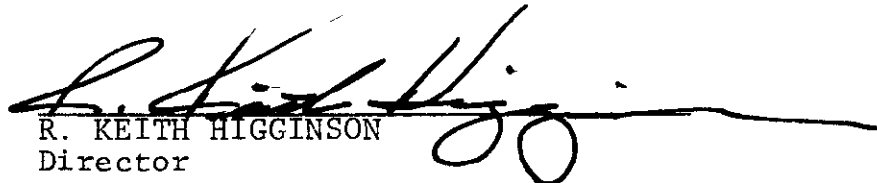
(2) That the permit holder shall permanently install and maintain a measuring device of a type approved by the Department as part of the diverting works.

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(3) That, if, at some future date, it is established that this appropriation reduces the flow from Peck Springs to the extent that prior rights on Peck Creek are affected, it will become subject to the control of the watermaster on Peck Creek, and bear a priority on that stream of April 10, 1974.

(4) Proof of construction of works and application of water to beneficial use must be submitted to the Department on or before February 1, 1979.

DATED this 31st day of January, 1975.


R. KEITH HIGGINSON
Director

MICROFILMED

Identification No. 29 7183
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 John W. Hart
post office address Route #2, Downey, Idaho 83234 PH: 897-5743
2. Source of water supply ground water which is a tributary of - - -
3. a. Location of point of diversion is SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 6 Township 11S
Range 37E 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 5.0 for Irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 5.0 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Well, pump, mainline and portable lateral

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 16 inches; proposed depth of well is 55 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 4 years.
b. Estimated construction cost is \$ 10,000.00.
8. Description of proposed uses:
a. If water is **not** for irrigation: N.A.
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

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

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

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11S	36E	1													40			30	70
11S	37E	6									40	54	55	40					189

Total number of acres to be irrigated 259

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

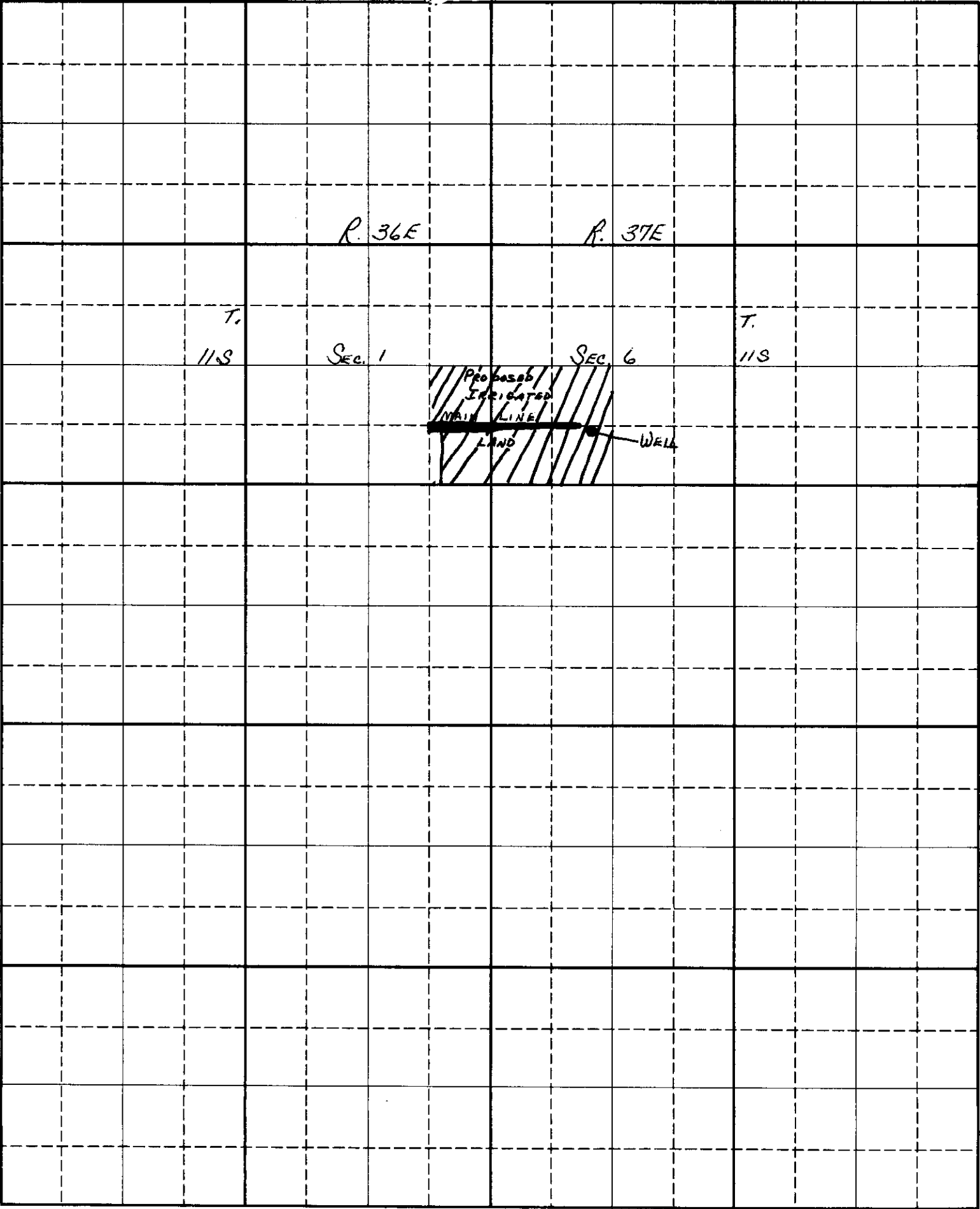
9. a. Who owns the property at the point of diversion John W. & Jennie Hart

b. Who owns the land to be irrigated or place of use John W. & Jennie Hart

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

10. Remarks

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



Scale: 2 inches equal 1 mile

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

John W. Hart
(Applicant)

Proposed Priority 1-12-1975

Received by MB Date 6-12-74 Time 11:30 A
Preliminary check by RDC Fee \$ 65.00
Receipted by MB Date 4-10-74 # 12829
Publication prepared by MB Date 4-18-74
Published in Idaho State Journal
Publication dates April 25 + May 2, 1974
Publication approved CB Date 5-23-74
Priority reduced to _____ Reason _____

Protests filed by: Richard Burmeister, Loyal
Cole, Vernal Bailey (Norman
Meyers)
Copies of protests forwarded by MB 5-29-74
Hearing held by _____ Date _____
Recommended for approval denial by RDC

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

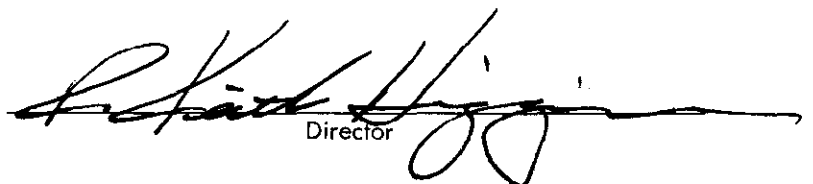
This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 29-7183, and said application is hereby APPROVED.

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 February 1, 19 79.
- c. Other: Pursuant to Memorandum Decision and Order of this date.

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

Witness my hand this 31 day of January 19 75.


Director

Identification No. 29 7183
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)

1. Name of applicant John W. Hart
post office address Rt. 2 , Downey Idaho 83234
2. Source of water supply ground water which is a tributary of _____
3. a. Location of point of diversion is SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 6 Township 11S
Range 37E 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 5.00cfs for irrigation purpose from Apr. 1 to Oct. 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 5.00 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. pump, mainline, & portable lateral

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 16 inches; proposed depth of well is 55 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 4 years.
b. Estimated construction cost is \$ 10,000.00.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

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

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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	
11	37	6			40				54			55				40			189
11	36	1				40											30		70

Total number of acres to be irrigated 259

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

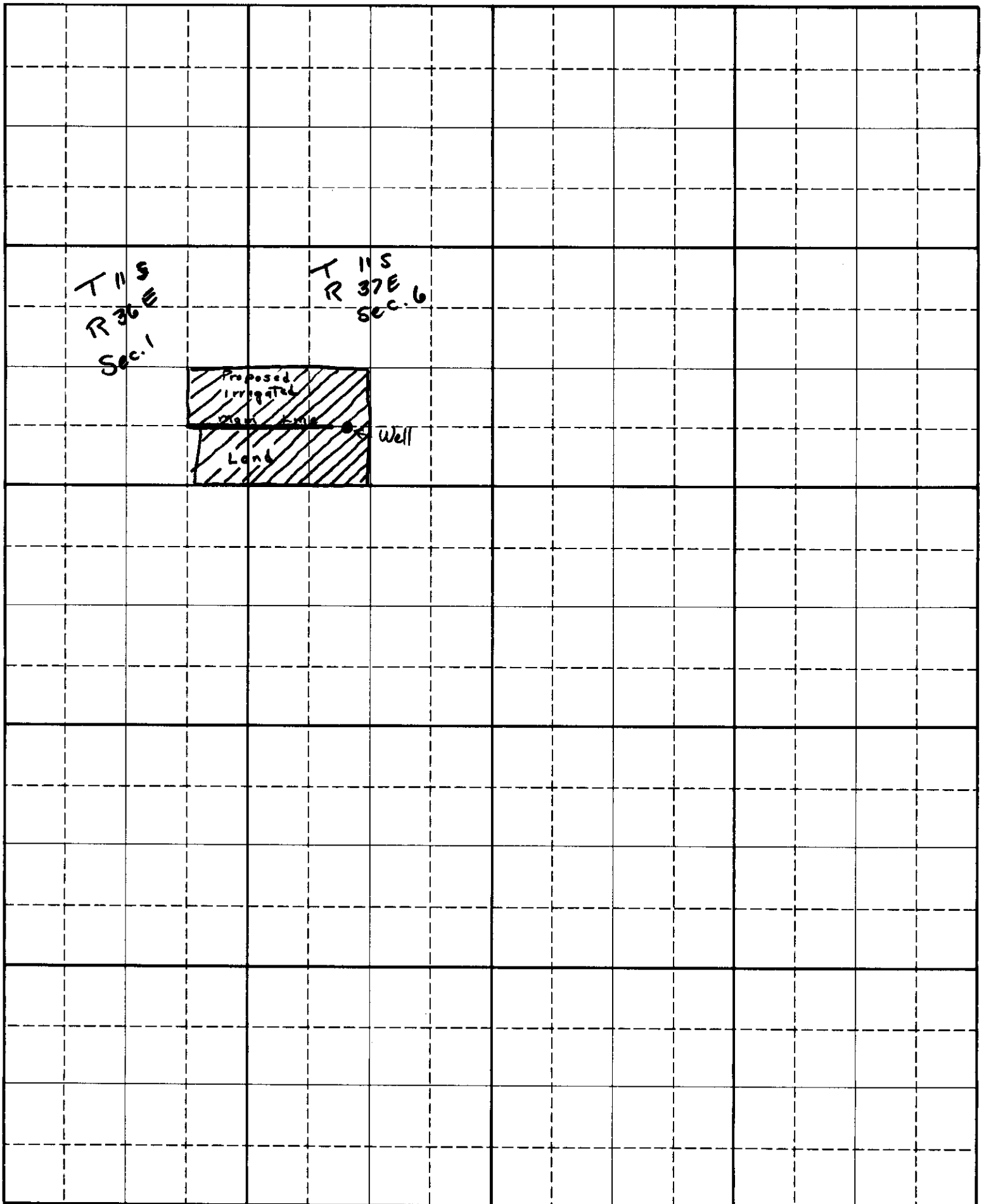
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b. Who owns the land to be irrigated or place of use John W. Hart & Jennie Hart

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

10. Remarks

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



Scale: 2 inches equal 1 mile

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

John W. Hart
(Applicant)

Received by MB Date 4-10-74 Time 11:30 A

Preliminary check by JD Fee \$ 65.00

Received by MB Date 4-10-74 # 12829

Publication prepared by MB Date 4-18-74

Published in Idaho State Journal

Publication dates April 25 + May 2, 1974

Publication approved CD Date 5/23/74

Priority reduced to _____ Reason _____

Protests filed by: Richard Burnette, Royal
Cole, Vernal Bailey, Norman
Reynolds

Copies of protests forwarded by MB 5/29/74

Hearing held by _____ Date _____

Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

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

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 _____, 19____.

c. Other: _____

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

Witness my hand this _____ day of _____ 19____.

Director

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

ss.

Katherine Wanner

MAY 3 1974

WATER ADMINISTRATION

being first duly sworn on oath deposes and says: ^{she} That ~~Area Office~~ 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:

April 25, 1974, 19
May 2, 1974, 19
_____, 19, 19
_____, 19, 19
_____, 19, 19

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

Katherine Wanner

Subscribed and sworn to before me this 2nd

day of May, 19 74

Della L. Leadford

Notary Public, State of Idaho

Residence: Pocatello, Idaho

MICROFILMED

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

ss.

Katherine Wanner

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May 2, 1974, 19
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19, 19
19, 19

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Katherine Wanner

Subscribed and sworn to before me this 2nd

day of May, 1974

Sella L. Lindford

Notary Public, State of Idaho

Residence: Pocatello, Idaho

MICROFILMED

NOTICE OF APPLICATION
FOR WATER PERMIT
Notice is hereby given that John W. Hart, Rt. 2, Downey, Idaho has on 4-10-74 submitted Application No. 29-7183 for a permit to appropriate 5.0 cubic feet per second of water from a ground-water source by means of well and pump within the SE 1/4 SW 1/4, Sec. 6, T. 11S, R. 37E, B.M., Bannock County; to be used from Apr. 1 to Nov. 1 for the irrigation of 259 acres within the SW 1/4, Sec. 6, T. 11S, R. 37E; E 1/2 SE 1/4, Sec. 1, T. 11S, 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 Administration, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before May 13, 1974.
R. KEITH HIGGINSON
Director
April 25 & May 2, 1974
No. 238

October 3, 1986

RE: Permit No. 29-7183

John W. Hart
Rt. 2
Downey, ID 83234

Dear Permit Holder(s):

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

Please note that the final license has been slightly modified from the draft copy we sent to you earlier. The change(s) have been notated in red for your convenience.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

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MEMORANDUM

TO: File 29-7183

FROM: Jim Johnson *gwi*

DATE: August 27, 1986

RE: Explanation of License Review & Adjustments to Field Examination Report

During the state office review of the field examination in preparation for license issuance, an error in acres shown in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 6 was found. According to the government plat, Lt. 3 only contained 53.25 acres whereas the exam showed 58 acres.

In reviewing the aerial photo attached to the field exam, it appeared more land was irrigated than recommended by the field examiner in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 1. Therefore, an adjustment was made to the field report to add the 5 acres removed from Lot 3 allowing the total of 204 acres to remain as recommended by the field examiner.

Pre-license correspondence was sent to the permit holder.

A subsequent phone call to the field examiner was made to determine the authenticity of the assumption made during the state office review.

He could not specifically recall this particular examination. However, he felt his error must have been in reading their microfilm of the government lot acreage by thinking it was 58 instead of 53 acres.

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State of Idaho
Department of Water Resources
PROPOSED
WATER RIGHT LICENSE

(Late Proof)

License of Water Right No. 29-7183 Priority June 29, 1974 Amount 1.92 cfs

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(both dates inclusive)

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11S	36E	1																18	~~26~~
11S	37E	6									35	GL 6 53	GL 7 51	39					178

Total number of acres irrigated 204

MICROFILMED

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

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

c. Any water right confirmed in this license for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this license and shall not give rise to any right or claim against any future rights to the use of water other than hydropower, within the State of Idaho initiated later in time than the priority of this license.

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this _____ day of _____, 19 ⁸⁶_____.

PROPOSED
Director

MICROFILMED

sk
2/2/86



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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

July 15, 1986

RE: Permit No. 29-7183

John W. Hart
Rt. 2
Downey, ID 83234

Dear Permit Holder(s):

Enclosed is a draft copy of the license proposed to be issued on the above referenced water right.

If you do not concur with the information shown on the draft license, please advise the Department within ten (10) days. If you have any questions, please let us know; otherwise, the license will be issued as identified on the draft copy.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
WATER RIGHT BENEFICIAL USE FIELD REPORT

RECEIVED

NOV 2 1984

Department of Water Resources
Permit No. 289-183

CONTACT WITH PERMIT HOLDER

	DATE	INITIALS	REMARKS
☐ Appointment letter mailed:			
☐ Telephone call made (List Telephone No. used)			
☐ Appointment scheduled for: (Date, time, location)			

EXAMINATION

Date 8-03-83 Accompanied by John Hart Total Q measured 1.92 cfs ✓
 Source Groundwater Tributary to _____ Supp. annubar measurement sheet used? _____
 If source is surface water, estimate total flow of source _____
 Methods of measurement Pitot gauge Meets permit requirements? _____

Measurement calculations:

Line #1 - 34psi, 1/64N, 32b = 5.11 gpm x 32b = 163.5 gpm	
Line #2 - 36psi, 1/64N, 32b = 5.25 gpm x 32b = 168 gpm	
Line #3 - 41psi, 1/64N, 32b = 5.61 gpm x 32b = 179.52 gpm	
Line #4 - 45psi, 1/64N, 32b = 5.91 gpm x 32b = 189.12 gpm	V = 204 acres x 3.5 af/a = 714 af/a ✓
Line #5 - 34psi, 1/64N, 32b = 5.11 gpm x 32b = 163.5 gpm	V = 1.91 cfs x 1.4835 x 214 D x r = 810.7 af/a ✓
Total 865.64 gpm or 1.092 cfs	V = 1.92 x 1.9835 x 214 = 815.0

WELL/DIV. NO.*	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEVICE	REMARKS
	75	US Electric	R-6326-05 259	Aurora	N/A	Pitot gauge		

System Description Well/pump thru mainline to 5 handlines

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

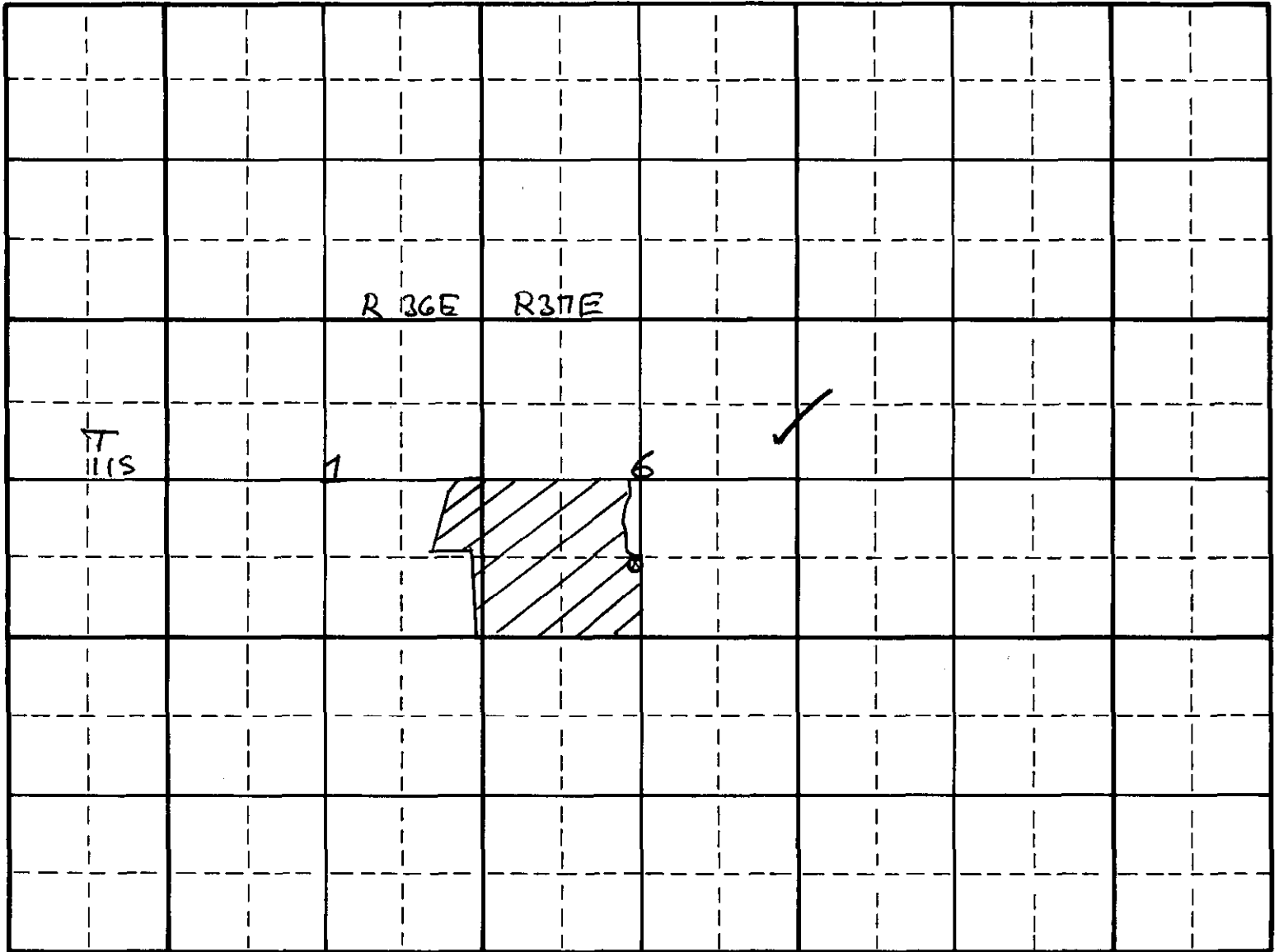
RECOMMENDED AMOUNTS

USE	Q (cfs)	V (afa)	FROM	TO
Irrigation ✓	1.92 ✓	714 ✓	4-1 ✓	11-1 ✓
Total	1.92 ✓	714 ✓		

Remarks R 16 (3.5) 29-2065 Port. River ✓ use R.30
P/D overlap per VAX: none. ✓

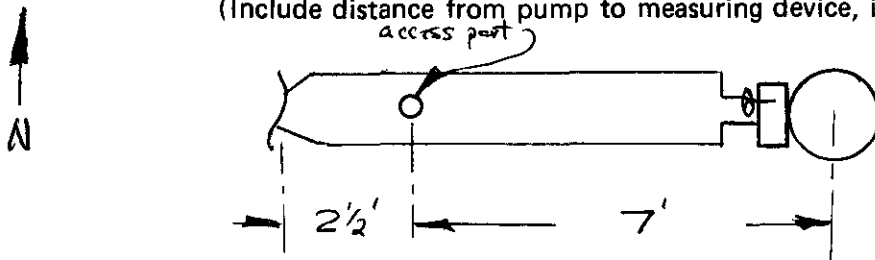
MICROFILMED

MAP (Attach Aerial Photo)



SCHEMATIC DIAGRAM OF SYSTEM

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



Point(s) of diversion: SE 1/4 SW 1/4 Sect. 6 T11S R37E

Place(s) of Use ✓

TWP.	RGE.	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
11S	36E	1													18			3	21 ✓
11S	37E	6									35	58	51	39				8	26 ✓
																			178 ✓

Recommended Amendments:

- ☐ Change P.D. as reflected above
☐ Change P.U. as reflected above

- ☐ Add P.D. as reflected above
☐ Add P.U. as reflected above

- ☒ None
☐ Other

Total - 204 ✓

Examiner's Signature

Checked by

Approved by

Date

Date

Date

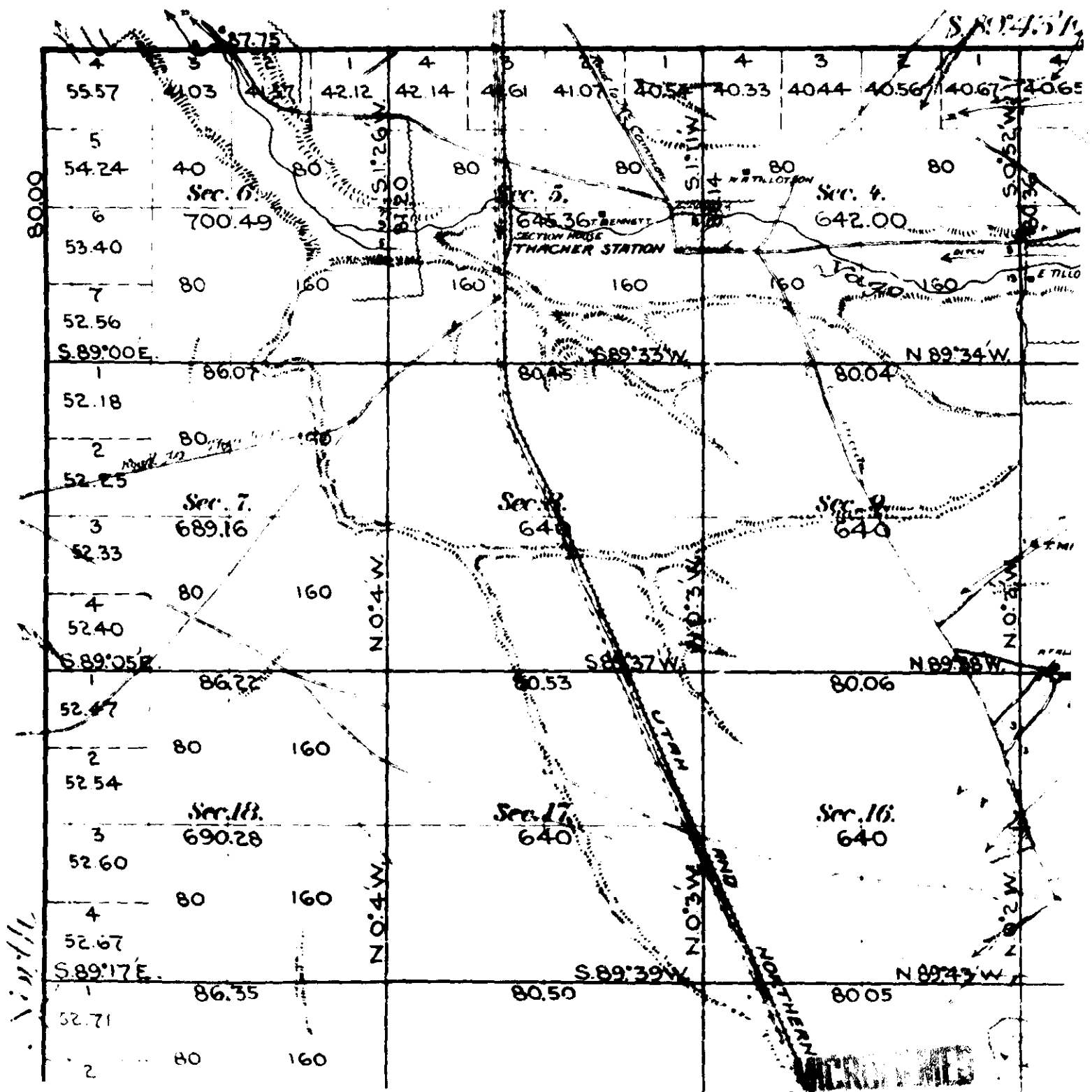
2-6-84

15 Nov 1984

6-25-86

MICROFILMED

G f F e E d D



K16

Not to scale

R37E

R36E

C228
(540)

C277
(540)

(35)

(39)

C278
(540)

312

S3

(55)

(51)

ROAD

B409
(780)

A 403

(18)

C210
(780)

A 389

C 400

B 395

C17
(490)

CH
(780)

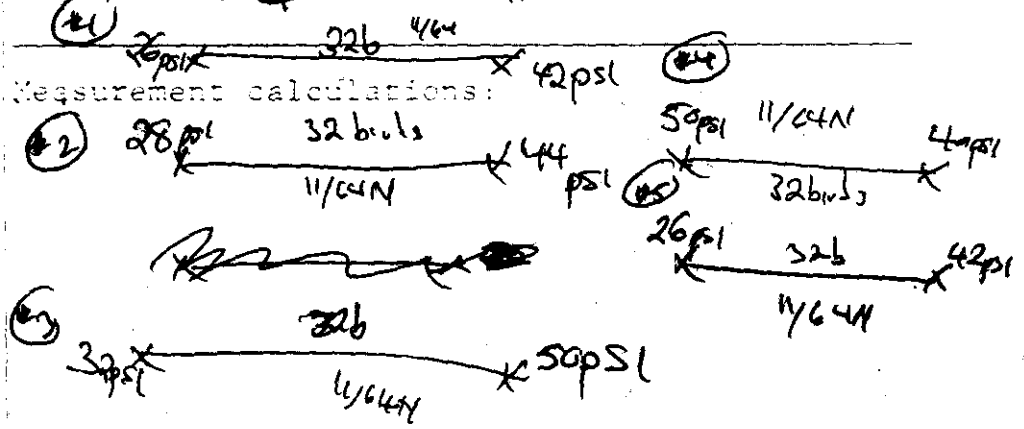
MICROFILMED

PERMIT NO. 29-7185 John Hart
 (Name)
 Accompanied by: Mr. Hart
 EXAMINATION: DATE: 8-3-83

Motor Make	HP	Motor Serial No.	Pump Make	Pump Serial No.
USC	75	R-6326-05-259	Aurora	NA

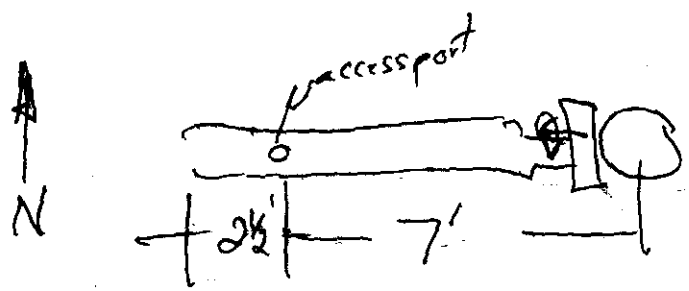
Measuring Device Type: Annubar Pitot Gauge
 Meter # Annubar # Size # 1/2

Remarks: 5 hand lines



SCHEMATIC DIAGRAM OF SYSTEM

Mainline Diameter 10.25 Length



INTER-DEPARTMENT MEMO — 1

FROM Roberta

DATE 1-27-83

TO

SUBJECT

A copy of a Decree of Divorce, Case No. D-2177, Ginger Fuller, Plaintiff, vs. Rocky Robert Fuller, Defendant, was received by Eastern Region and forwarded to State Office.

Attached is a copy of paragraph 8 regarding an easement and right-of-way to Earl Henry Hart and Arlene Hart.

UNCLASSIFIED

SIGNATURE

8. The plaintiff shall receive as her sole and separate the following community real property:

Commencing at SW corner of NW quarter of SE quarter of Section 6, T.11S., R.35E.B.M. thence running east 855 feet, thence north $14^{\circ}00'$ west 650 feet, thence west 450 feet, thence north 500 feet, thence west 260 feet, thence south 350 feet, thence west 240 feet, thence south 800 feet, thence east 240 feet to point of beginning. Also an easement for ingress and egress across east half of Section 2, T11S. Range 37 E.B.M., to the above described property.

Excluding therefrom however, the flow of water from Risner Springs except Grantees shall have right to make constant flow of 12 minor inches from said spring. Also excluding and subject to the right of Earl Henry Hart and Arlene Hart, his wife, John W. Hart and Jenny Hart, his wife, to drill or dig a water well on the above described - 29-7183. property in accordance with the terms of that certain water agreement executed by said party, together with all the appurtenances thereunto appertaining subject to easement right of way and reservations appealing to the chain of title or otherwise apparent contracts and proceedings relative to water rights, drainage and to taxes and assessments falling due against the premises subsequent to the date hereof.

PROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

December 26, 1979

RE: Permit No. 29-7183

John W. Hart
Rt. #2
Downey, Idaho 83234

Dear Mr. Hart:

Enclosed is a copy of an order reinstating your permit and advancing the priority date to June 29, 1974.

We acknowledge receipt of the proof of beneficial use card submitted 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 eastern regional office.

Very truly yours,

JACKIE S. DENNING
Senior Clerk

cc: IDWR - State Office

MICROFILMED

If Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 2183.

Name(s) of Permit Holder: John W Hart

Post Office Address: RT. 2

Downey, Idaho Tel. No. 892-5113

Source of Water:

Extent of Use: ☐ Domestic (number of households)
☐ Stockwater (number and type of stock)
☒ Irrigation 259 (acres)
☐ Other

Measuring Device: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No

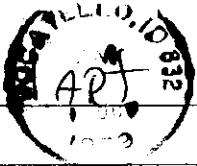
Access Port: Required? ☐ Yes ☒ No Installed? ☒ Yes ☐ No

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

pt. 28, 1979
Date

John W Hart
Signature of Permit Holder

John W
Rt 2



Downey Idaho 83234

RECEIVED

OCT 8 1979



Department of Water Resources IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720



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

104153

July 31, 1979

John W. Hart
Route 2
Downey, ID 83234

Dear Mr. Hart:

One of the conditions of approval of your water Permit No. 29-7183 was that evidence of the extent of development must be submitted to this office on or before October 1, 1979. (See last page of your approved permit). Enclosed is a post card which may be used to submit the required proof of beneficial use.

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

Either the beneficial use post card or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise, the permit will lapse and be of no further force or effect within 60 days.

Sincerely,


RITA FLECK
Sr. Secretary

Enc: 1

MICROFILM

July 19, 1979

John W. Hart
Route 2
Downey, ID 83234

Dear Mr. Hart:

Re: Permit No. 29-7183

Enclosed is a copy of the request for extension of time. Please be advised that the time within which to submit proof of beneficial use is extended to October 1, 1979.

The priority date has been advanced to June 27, 1974 since the request for extension of time was submitted late.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:rf

Enclosure

RECEIVED
JUL 22 1979
FBI - BUTTE

INTER-DEPARTMENT MEMO — 1

FROM

Jan J.

TO

File # 29-7183

DATE

2/19/79

SUBJECT

Due to the lack of evidence that Mr. Hart has not drilled or started drilling a well, it was decided to extend the time to Oct. 1979 which gives him only a 9 mth extension

Jan

MICROFILMED

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM Jan

DATE June 25, 1979

TO Glen

SUBJECT Denial of Extension

*No memo
Acc of 7/16/79*

Reasons for denial:

1. He received proof due notice in November and said a drill was brought in in December. Proof due February
2. Has had five years.
3. Field report indicates a well has not been started.

Recommend denial for lack of diligence.

MICROFILMED

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM

Eastern - Rod Parker

DATE

6-15-79

TO

Dave Tuthill

SUBJECT

Permit 29-7183 - Beneficial Use

A field inspection was conducted the first week of May to verify the ^{Get request?} proof of beneficial use filed by John Hart. No new well or well-drilling equipment was found on the lands in question. Mr. Hart's neighbors were questioned concerning the existence of the well and indicated that Mr. Hart planned to drill a well, but had not done so to the best of their knowledge.

MICROFILMED

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM Jan

DATE April 30, 1979

TO File No. 29-7183

SUBJECT Examination for extension of time

Called Tony K. and he will do exam at the end of this week to see if any work has been done. See Dave T.'s request. Will hold extension until then.

RECEIVED

SIGNATURE



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

February 21, 1979

John W. Hart
Route 2
Downey, ID 83234

Dear Mr. Hart:

You are hereby notified that under the provisions of Section 42-218a of the Idaho Code, Permit No. 29-7183 has lapsed since you have not notified us that you have completed the project by the date required on your permit. You were provided forms for that purpose in our notice to you dated November 30, 1978.

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

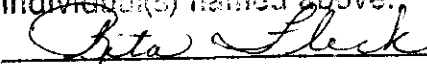

C. STEPHEN ALLRED
Director

CSA:jfr

Encl.

CERTIFICATION OF MAILING

I hereby certify that on 2-25-79
a ~~copy~~/an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.



MICROFILMED

February 14, 1979

Re: Permit No. 29-7183

John W. Hart
Route 2
Downey, Idaho 83234

Dear Mr. Hart:

In order to process your extension request we need more information concerning the amount of work done on this project.

The enclosed request for Extension of Time will give us this information. Please complete the request form and return it to this office as soon as possible in order that this permit may remain in good standing.

If you have any questions, please contact us.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:lr

Enclosure

MICROFILMED

Jan
Lois
Needs more
inform. in

January 29, 1979

RECEIVED

FEB 12 1979

Department of Water Resources

Department of Water Resources
State Office
373 W. Franklin Street
Boise, Idaho

Dear Sir:

I would like to ask for an extension of time on Water Permit No. 29-7183. The well was scheduled to be completed in December but because of the extreme cold and deep snow it has not been completed. It will be completed as soon as the weather breaks. I will have all information and proof of application of water to beneficial use by June 30 or earlier.

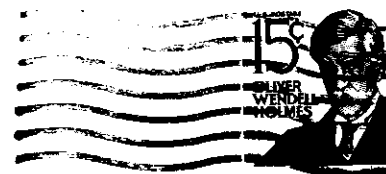
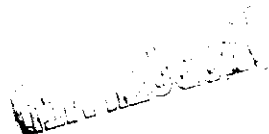
Thank you.

Sincerely,

John W Hart
John W. Hart

ENCLOSURE

John W. Hart
Rt. 2
Downey, Idaho 83234



Department of Water Resources
State Office
373 W. Franklin Street
Boise, Idaho



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

CERTIFIED MAIL

November 30, 1978

Re: Permit No. 29-7183

100478

John W. Hart
Route 2
Downey, ID 83234

Dear Mr. Hart:

One of the conditions of approval of your water Permit No. 29-7183 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before February 1, 1978. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

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

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

RITA FLECK
Water Rights

Encl: Proof affidavit

MICROFILMED



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

10/10/78

Dear Wateruser:

The enclosed Order changes the measuring device condition of approval on your water right permit.

The changed condition should be less restrictive and provide more flexibility to you in the development of your water right system. The specifications related to the size and location of the access port will be available upon request from the Department, as soon as the Department's measuring equipment is obtained.

If you have questions regarding this matter, please contact this office or our regional offices.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

LGS:JG:kw

Enclosure

MICROFILMED

February 3, 1975

C
Mr. John W. Hart
Route #2
Downey, ID 83234

RE: 29-7183

O
Dear Mr. Hart:

P
Enclosed is a copy of your approved Application for Permit No. 29-7183. We are also enclosing a copy of the Memorandum Decision and Order issued on this permit. We direct your attention to the conditions of approval as listed on this Order.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

Y
BDF/slg

Enclosures: 2

CC: Merrill K. Gee, Esq.
Howard Armstrong, Esq.
Richard Burmester
Royal Cole
Vernal Bailey
Norman L. Myers

MICROFILMED

DEPARTMENT OF WATER ADMINISTRATION
- STAFF ANALYSIS -

Item	Initial	Date	
(1)	<u>WR</u>	<u>4/11</u>	Application No. <u>29-7183 Hart</u>
(2)			☒ Source ☒ Point of Diversion ☒ County ☒ Quantity of Water and Period of Use ☒ Description of Diverting Works ☒ Time required for B/U of water ☒ Place of Use or Acres Irrigated } <u>not constant</u> ☒ Map ☒ Signature ☒ Fee
(3)	<u>"</u>	<u>"</u>	In form to receipt
	<u>"</u>	<u>"</u>	Send Copies to: ☒ 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
(5)			In form for advertising
(6)	<u>"</u>	<u>"</u>	Located within Water District No. <u>N.A</u>
(7)	<u>"</u>	<u>"</u>	Critical groundwater area: yes <u>no</u> ☒
(8)	<u>"</u>	<u>"</u>	Groundwater levels: <u>Decline (comment)</u> ☒ Stable (comment) <u>Bull 27</u> <u>Increasing (comment)</u> <u>No Conflicting G.W.</u>
(9)			Comments: <u>No Conflicting G.W. rights</u>
(10)	<u>OB</u>	<u>5/23/74</u>	Affidavit of Publication received (date) <u>May 3, 1973</u>
(11)	<u>RDC</u>	<u>12/27/74</u>	Final date for protests <u>May 13, 1974</u> Protests received: yes <u>21</u> no <u> </u>
(12)	<u>"</u>	<u>"</u>	Date and Place of hearing <u>6/26/74 POCOTELLO,</u> Decision reached at hearing <u>SEE MEMORANDUM DECISION</u>
(13)	<u>"</u>	<u>"</u>	All requested information received from agencies or applicant yes <u>O.K.</u> no <u> </u>
(14)	<u>"</u>	<u>"</u>	Action recommended: ☒ Approve Priority <u>4/10/74</u> ☐ Deny Reason for Reduction <u> </u> ☒ 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>12/27/74</u>

MICROFILMED

[Handwritten signature]

RECEIVED

OCT 21 1974

Department of Water Administration
Eastern District Office

MERRILL K. GEE

ATTORNEY AT LAW, CHARTERED

746 EAST LANDER - P. O. Box 4987

POCATELLO, IDAHO 83201

208 - 233-2044

October 18, 1974

Department of Water Administration
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Gentlemen:

Mr. Hart has called to our attention that during the hearing on this application, a statement was made by the attorney for the Protestants that the proposed well is south and west of Peck Springs.

Mr. Hart desires that attention be called to the fact that this is in error, and that the actual location of the proposed well is west and slightly north of Peck Springs, but south and west of Reisner Springs.

Mr. Hart has drawn a map indicating these various locations.

We ask leave to supplement the record to include the map and this correction to the record.

Sincerely,

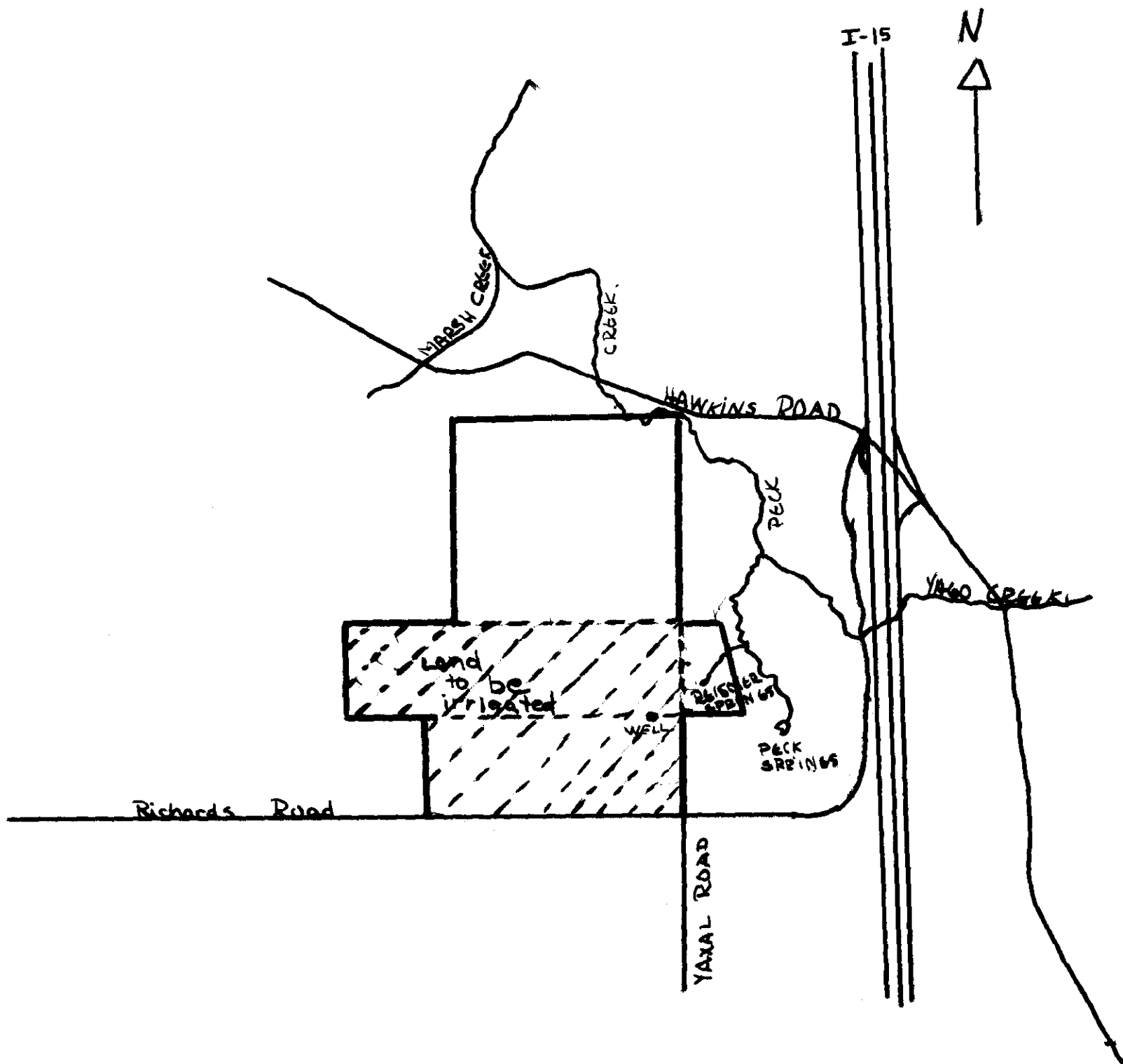
Merrill K. Gee

MKG/db

Enc:

CC: Howard L. Armstrong, Jr.

MICROFILMED



MICROFILMED

TAKEN from Air photo
CXV-2LL-239
8-14-70

June 28, 1974

Mr. Howard L. Armstrong, Jr.
Attorney at Law
746 E. Lander
Pocatello, ID 83201

Dear Mr. Armstrong:

Pursuant to your letter of June 27, 1974, enclosed please find several applications for permit with instructions.

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

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:MB

Enclosures

MICROFILMED

LAW OFFICES
HOWARD L. ARMSTRONG, JR.
746 E. LANDER
POCATELLO, IDAHO

ZIP CODE 83201

AREA CODE 208
TELEPHONE 233-5643

RECEIVED

June 27, 1974

JUN 28 1974

Department of Water Administration
Eastern District Office

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

Re: Application for Permit No. 29-7183 JOHN W. HART

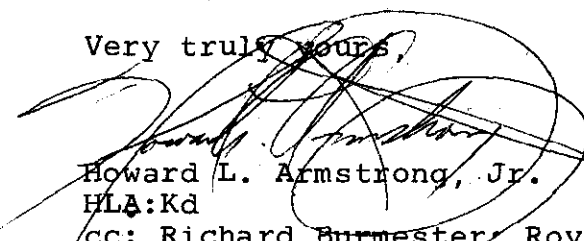
Dear Mr. Young:

After we got back to my office yesterday, my clients reminded me that we did not put in the total amount of acres that are being watered by them. Each of the Protestants testified as to what they were watering. This comes up to a total of 556 acres according to their testimony. This is more than double the acreage that Mr. Hart testified about.

My clients also pointed out to me that a goodly portion of this 556 acres is meadow ground which, by the very nature of meadow grass takes much more than 1 inch of water per acre to keep these meadows thriving.

We appreciate your consideration and the way in which the hearing was conducted.

Very truly yours,


Howard L. Armstrong, Jr.

HLA:Kd

cc: Richard Burmester, Royal Cole; Vernal Bailey; and
Norm Meyers

P.S. We would appreciate your forwarding 2 or 3 applications
for wells to this office also.

MICROFILMED

JOHN HART - 29-7183

3) ISSUES

Ⓐ INJURY TO OTHER WATER RIGHTS BY PUMPING SHALLOW WELLS, (50 to 80 ft deep).

Ⓑ NOT ENOUGH WATER TO SATISFY 5.0 cfs plus existing uses.

Ⓒ Interference with Pack Creek & its sources is the contention.

Ⓓ Gee - Admin. Notice of proceedings of
Ⓐ No W.R. on file
Ⓑ Hart, Reiser-Stewart G.W.B.
Ⓒ Introductory statement

FORMAL H R G
(Opening STATEMENTS)

Gee

- a) Repeated request for admin notice
- b) Notice of exhibits Reiser-Stewart
- c) No injury to rights

ARMSTRONG

- a) PRIOR RIGHTS dating from 1890

MICROFILMED

Redistrict

- ① Measured flow (?) - No
- ② Lower + right now -
- ③ Dam off creek into a ditch - go
- ④ Another spring further down that adds water to creek - No nothing worthwhile.

Mr. Baileg - adverse witnesses

- ① Purchased from Mrs. Evans during Feb 1974
- ② Any formal filings for your ground - John McEvans posted notice - (1089) Book B Page 291 Water Locations - Bingham County
- ③ No. of acres? - 100 acres in field 60 to 80 acres off of Red Cr
- ④ Check/assess on # of acres - No
- ⑤ Can you dispute 40 acres? - Way more than that irrigated. - Not sure.
- ⑥ Personal knowledge of amt of water @ the well site - No -
- No X - Evans

Mr. Royal Cole **MICROFILMED**

- ① 120 acres of surface on surface? - (?)

- (18) Thus, 12514 p for 259
Acres of land —
(19) No intention to interfere with
other water rights.
(20) Cone of depression — small +
a great deal of water.
Higginson told him to drill.
(21) He to drill this summer
(22) Would settle for a conditional
permit? Yes
(23) In good faith — yes

X-Exam

- (1) Would you submit your well
some test as Stuart? —
eventually agreed.

~~Red~~

MICROFILMED

- ⑩ How much of Reservoir water is available to you - Most of it - Just to Herman & Fred Hart's water -
- ⑪ Any of this water available for land to be irrigated - No, not enough water for it, too.
- ⑫ Appointments exhibit # 2 - Profile A-B
- ⑬ Some loose gravel as Stewart well & Reservoir spring? - yes that's where I plant, put it
- ⑭ Matched. I up with 2 & showed a separate gravel loose for Stewart, between them - Deep Rock cr - 30' cut effect Rock cr -
- ⑮ Exhibit # 3 - Profile C-D - Peck springs are 5' lower than Reservoir springs (?)
- ⑯ Exhibit # 4 - Land irrig from peck cr
- | | | | |
|---------------|------------|---|----------|
| <u>Quinn</u> | 34 cult | - | 100 mads |
| <u>Cole</u> | 19 cult | - | 11 mads |
| <u>Myers</u> | 25 cult | - | 135 mads |
| <u>Bailey</u> | 45(+) cult | - | |
- ⑰ 12' cf @ ditch 1' - MICROFILMED

X - exam

- ① Operated since 1947
- ② 25 acres irrigated - yes
- ③ Do you irrigate meadow - yes.
- ④ Not enough water in creek this year - (could almost make it)
- ⑤ Has Peck cr reduced in flow since 1947 - yes. used to let $\frac{1}{2}$ of it go - Now ditch can handle all of it.
- ⑥ Don't have sufficient water now can't stand further loss in flow.

Mr Hart - Witness

- ① Acquainted with mine 1945 -
- ② Peck & Reiser identical - No, separated by 800 ft.
- ③ How long has water been used on Hart-Reiser land - since 1912. Thus, doesn't get into Peck cr.
- ④ Geology training - yes
- ⑤ Testified @ G.W.B. - yes
- ⑥ Bit about dye sample
- ⑦ Proposed well location - on line between the springs & the wells.
- ⑧ Exhibit one -
- ⑨ Measured flow off Reiser diversion Institute. 12 cfs - 600 inches -

MICROFILMED

Marsh CR -

⑤ Are Park & Reiner Sp. both sources of Park CR? - yes

⑥ Did the Stuart well affect the flow of Park CR? Flow of Park CR is only 1/4 of what it was in 1936 - Not sure if only Stuart well but maybe all wells

⑦ Will one more well affect flow? Yes think so.

Redistrict

⑧ Any recorded right - No.

Noonan Co. Myers - adverse witness.

① Own 229 acres

② Assessed for 25 acres of irrig
* rest meadow - could be

③ Any recording? Same posted notice as Mr. Bailey.

④ Additional springs - one near barn.

⑤ Ever measured Park CR - No, but not enough water.

⑥ Any knowledge of amt of water

@ Hunt's well site - No.

MICROFILMED ⑦ Any positive knowledge of connection to Springs - Yes, I think it would be

- ② More than 20 acres out of peak cr.
- ③ ^{yes} Don't that come out of Marsh
ck - yes Peak cr water out
of Marsh cr.
- ④ Participated in dye test in
1967. - yes
- ⑤ Sampled water out of Pease
spring & Peak cr ~~river~~
spring had dye & Peak cr
didn't - Tested to this?
- ⑥ Don't remember -
- ⑦ Familiar with location of Hunt's
proposed well & somewhat
- ⑧ Due north of Stewart well -
don't know -
- ⑨ Know unit of water ~~at~~ ^{pro. site} -
No.
- ⑩ Flow in Peak cr - don't know
- ⑪ Water in Peak cr - below ditch?
no maybe some in Marsh cr.
- ⑫ Any wells - other than culinaris - No

X-Exam

- ① How long owned - 1936
- ② irrigated before & during - yes
- ③ Since about **MICROFILMED** - used
- ④ Part out of Peak cr & part out of

- b) Downy to rights
c) Not enough water to
irrigate land now irrigated
from Peck CA.

Applicant's witness -

① Richard BURMASTER - adverse witness

- ① Nature of water rights(?) -
Maybe user's rights not
sure
- ② Don't know of any permits or
lic - (No)
- ③ Assured on 130 acres? Don't
know
- ④ Knowledge of amount of water
flowing underground @ proposed
well site? - No
- ⑤ Connection? strata? - No
only know it has happened.
that SPRINGS have been dried up.

X-exam

- ① Used water continuously for
6 1/2 years owned property - 180000
- ② Vance Pope - 17 years before
- ③ Never been told he couldn't use water?
- always used from the
same place.

MICROFILMED

29-7183 - John W. Hart

Room 406, Student Union Building, Idaho State University, Pocatello, Idaho

June 26, 1974 - 2:00 p.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
Richard F. Burmester	Arimo	
Storia Burmester	Arimo.	
Vernal F. Dacey	Cedar Lake Rd. Pocatello,	
Royal Cole	Arimo	
M. P. Christensen	Arimo	
Harvey Cole	Arimo	
Roman L. Dagers	Arimo, Idaho	
Howard Armstrong	Pocatello, Idaho	
Merrill K. Lee	Pocatello, Idaho	John W. Hart
John W. Hart	Donny, Idaho	
Herman H. Reisker	Donny, Idaho	

MICROFILMED

SENDER: Be sure to follow instructions on other side 29-7183

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.

372

1

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

INSURED NO.

2

DATE DELIVERED

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

3

U.S. POSTAL SERVICE
OFFICIAL BUSINESS

RECEIVED

BOZEMAN
JUN 13 1974

JUN 13

1974

POSTAGE, \$3.00



U.S. POSTAL SERVICE

SENDER INFORMATION

Department of Water Administration
Eastern District Office

Print in the space below, including ZIP Code.

- If return services are desired, check box(es) on other side.
- Moisten gummed ends and attach to back of article.

RETURN TO

PS Form 3811
June 1973

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

SENDER: Be sure to follow instructions on other side 29-713

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

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to addressee

RECEIPT

Received the numbered article described below

REGISTERED NO.

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

CERTIFIED NO.

371

1

Howard L. Armstrong

INSURED NO.

2

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Juleyan McCurdy

DATE DELIVERED

6/13

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

3

U.S. POSTAL SERVICE
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JUN 13 1973
IDAHO DEPARTMENT OF WATER ADMINISTRATION
EASTERN DISTRICT OFFICE

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Print in the space below your name, address, including zip code.

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RETURN
TO

PS Form 3811
June 1973

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

**E AND
RESS
NDER**

☐ REGISTERED ☐ REGISTERED
C.O.D.

POSTMARK AND DATE OF RECEIPT

461
2
JUN 1961

(Surcharges are not required on international registered mail)

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

In the Matter of Protests Against Approval)
of Application for Permit No. 29-7183 in)
the name of JOHN W. HART)
_____)

NOTICE OF CONFERENCE
AND/OR HEARING

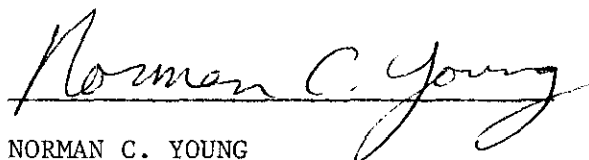
On April 10, 1974, John W. Hart filed with the Department of Water Administration an application to appropriate the public waters of the State of Idaho. On May 20, 1974, the Department received a protest against approval of said application from Howard L. Armstrong, Jr., Attorney at Law, on behalf of Richard Burmester, Royal Cole and Vernal Bailey.

The Department has set the matter of protests for conference and/or hearing for Wednesday, June 26, 1974, at 2:00 p.m., in Room 406 of the Student Union Building, Idaho State University, Pocatello, 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 Administration. 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 11th day of June, 1974.


NORMAN C. YOUNG
District Engineer

MICROFILMED

June 11, 1974

Mrs. Huldah Bell
Idaho State University
Student Union Building
Pocatello, Idaho 83209

Dear Mrs. Bell:

This is to confirm the use of Room 406 of the Student Union Building for conference and/or hearing to be held by this office on Wednesday, June 26, 1974, at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:MB

MICROFILMED

June 6, 1974

Re: Application for Permit No. 29-7183

Mr. John W. Hart
Route #2,
Downey, ID 83234

Dear Mr. Hart:

Pursuant to our letter of April 11, 1974, please return the retyped application so our records will be complete.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
Asst. to District Engineer

RDC:MB

MICROFILMED

INTER-DEPARTMENT MEMO — 1

FROM Mechelle

DATE June 6, 1974

TO Jan

SUBJECT Application for Permit No. 29-7183 (PROTESTED)

Attached is a copy of the above application. On April 11, 1974, we retyped the application and requested that Mr. Hart returned it after clarifying a few items. To date we have not received the retyped application.

MICROFILMED

SIGNATURE

May 31, 1974

C
Mr. Howard L. Armstrong, Jr.
Attorney at Law
746 East Lander
Pocatello, Idaho 83201

Dear Mr. Armstrong:

P
Pursuant to your letter of May 21, 1974, concerning water rights on Peck Creek, our records show that there are no decreed or licensed rights. However, we do have a Claim to a Water Right No. 29-4030 filed on May 29, 1974, in the name of Vernal F. &/or Blanche E. Bailey of Pocatello, Idaho. The point of diversion is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19, T. 10S, R. 37E, B.M., and the priority claimed is March 11, 1889.

If we can be of further assistance, please contact us.

Very truly yours,

V
RONALD D. CARLSON
Asst. to District Engineer

RDC:MB

MICROFILMED

May 29, 1974

Re: Application for Permit No. 29-7183 JOHN W. HART

Mr. Howard L. Armstrong, Jr.
Attorney at Law
746 East Lander
Pocatello, Idaho 83201

Dear Mr. Armstrong:

This is to acknowledge receipt of the protest which you submitted on behalf of your clients, Richard Burmester, Royal Cole, Vernal Bailey, and Norman Meyers against issuance of permit pursuant to the above referenced application. 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 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

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
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

Mr. John W. Hart
Rt. #2, Downey, ID 83234

May 29, 1974

Re: Application for Permit No. 29-7183

Dear Mr. Hart:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application No. 29-7183. 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)

INTER-DEPARTMENT MEMO — 1

DATE May 22, 1974

FROM E. J.

TO RON CARLSON

RECEIVED

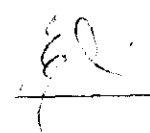
MAY 22 1974

SUBJECT RIGHTS ON PECK CREEK, Tributary to MARSH CREEK

Department of Water Administration
Eastern District Office

Sorry, Ron, have nothing listed for Peck Creek, Bannock County at all.

MICROFILMED



SIGNATURE

RECEIVED

MAY 22 1974
26

LAW OFFICES
HOWARD L. ARMSTRONG, JR.
746 E. LANDER
POCATELLO, IDAHO

Department of Water Administration
Eastern District Office

ZIP CODE 83201

AREA CODE 208
TELEPHONE 233-5643

May 21, 1974

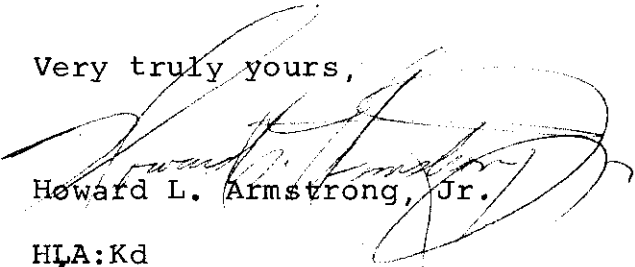
District Engineer
State of Idaho
Department of Water Administration
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Sir:

We would appreciate your advising this office as to who has the water rights in Peck Creek and what those rights consist of. Also, if the water rights are decreed or appropriated rights.

Any help you can give us in this regard would be greatly appreciated.

Very truly yours,


Howard L. Armstrong, Jr.

HLA:Kd

MICROFILMED

LAW OFFICES
HOWARD L. ARMSTRONG, JR.
746 E. LANDER
POCATELLO, IDAHO

ZIP CODE 83201

AREA CODE 208
TELEPHONE 233-5643

May 17, 1974

RECEIVED

MAY 1974

Department of Water Administration
Eastern District Office

Mr. Ronald D. Carlson,
Asst. to District Engineer
State of Idaho
Department of Water Administration
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Application for Permit No. 29-7183 JOHN W. HART

Dear Mr. Carlson:

Thank you for your letter of May 10. At the time of my initial writing, I was not sure when the application was made or what particular objections there were, however, I have this information available now.

My clients, Richard Burmester, Royal Cole, Vernal Bailey and a gentleman I don't as of this date represent, Norman Meyers, are all water users of Peck Creek, the source of Peck Creek is a series of springs that arise in the very immediate vicinity where Mr. Hart has drilled or proposes to drill his well. It is feared by my clients that the granting of this permit will greatly reduce even entirely dry up the springs that feed Peck Creek.

For several years now, the immediate successor in interest of John W. Hart, Herman Reisner, has been before the Ground Water Board has been involved in prolonged litigation concerning a well which had been drilled and was in service within a mile of the springs in question. The contention of that law suit and the Ground Water Board investigating, was whether or not the Reid Stewart well effected Mr. Reisners water rights in the springs. The springs in that litigation are in the same vicinity as the springs that feed Peck Creek.

MICROFILMED

Page 2
Mr. Ronald D. Carlson
Asst. to District Engineer
State of Idaho
Department of Water Administration
Eastern District Office
May 17, 1974

RECEIVED

MAY 1974

Department of Water Administration
Eastern District Office

My clients are making their protest in good faith and in the fear that the proposed well will seriously and irreparably effect their water rights.

Hoping this will suffice, I am,

Very truly yours,

Howard L. Armstrong, Jr.
Howard L. Armstrong, Jr.

HLA:Kd

cc: Richard Burmester
cc: Royal Cole
cc: Vernal Bailey

MICROFILMED

May 10, 1974

Re: Application for Permit No. 29-7183 JOHN W. HART

Mr. Howard L. Armstrong, Jr.
Attorney at Law
746 E. Lander
Pocatello, Idaho 83201

Dear Mr. Armstrong:

This office is in receipt of your letter of May 9, 1974, indicating Mr. Burmesters objection to granting of permit on the above referenced application. Section 42-203 of the Idaho Code requires that a protest must clearly set forth the objections to the approval of the application. We, therefore, cannot consider your letter to be a formal protest against the application, but we will consider it to be an indication of your clients intent to protest and will give you 10 days from the date of this letter to clarify his objections.

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?

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 water right proceedings.

Please provide this office with further details concerning the reasons for your protest within the time limit previously stated, or we will consider that you no longer wish to

MICROFILMED

Mr. Howard L. Armstrong, Jr.
Page 2
May 10, 1974

continue it. We have enclosed a copy of the affidavit of publication for your use.

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

Very truly yours,

C
RONALD D. CARLSON
Asst. to District Engineer

RDC:mb
O
Enclosure

P
Y

MICROFILMED

LAW OFFICES
HOWARD L. ARMSTRONG, JR.
746 E. LANDER
POCATELLO, IDAHO

ZIP CODE 83201

AREA CODE 208
TELEPHONE 233-5643

May 9, 1974

RECEIVED
MAY 10 1974

WATER ADMINISTRATION
Area Office

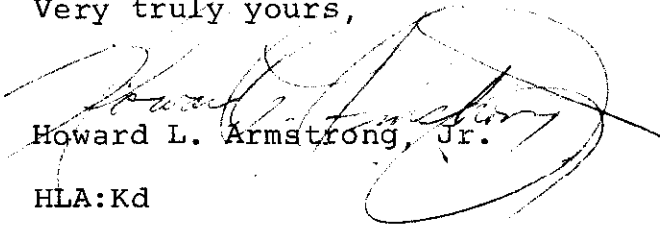
District Engineer
State of Idaho
Department of Water Administration
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Sir:

This letter is being written at the request of, and on behalf of our client, Mr. Richard Burmester, of Arimo, Idaho. Mr. Burmester wishes to lodge a protest against the granting of a Water Permit to one John W. Hart, who has recently applied for such a permit. As of this date we do not have the Permit Number or any other pertinent information.

Hoping this will suffice, I am,

Very truly yours,


Howard L. Armstrong, Jr.

HLA:Kd

MICROFILMED

April 19, 1974

Re: Application for Permit No. 29-7183 Hart
No. 29-7185 Marley
No. 29-7186 Wheatley
No. 29-7187 "

Idaho State Journal
P.O. Box 431
Pocatello, ID 83201

Gentlemen:

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

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

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

Very truly yours,

NORMAN C. YOUNG
District Engineer

Bill submitted 5/23/74 by OS

NCY:MB

Enc: Legal Notices (4)

MICROFILMED

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that John W. Hart,

Rt. #2, Downey, Idaho

has on 4/10/74 submitted Application No. 29-7183

for a permit to appropriate 5.0 cubic feet per second ~~2000 feet open channel~~
of water from a ground-water source

by means of well and pump

within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 6, T. 11S, R. 37E, B.M., Bannock County;

to be used from Apr. 1 to Nov. 1

for the irrigation of 259 acres

within the SW $\frac{1}{4}$, Sec. 6, T. 11S, R. 37E; E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 1, T. 11S, 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 Administration, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before May 13, 1974.

R. KEITH HIGGINSON

Director

Published in the Idaho State Journal, Pocatello, Idaho

on April 25 and May 2, 1974.

MICROFILMED

cf
cf
cf

April 11, 1974

Re: Application for Permit No. 29-7183

Mr. John W. Hart
Route #2
Downey, ID 83234

Dear Mr. Hart:

Upon reviewing the above referenced application, we found that Item 8b and the plat of Item 11 did not correspond. Therefore, we have taken the liberty of retyping the application making the necessary changes. Please check the application for correctness, sign it on page 3 and return it to this office for further processing.

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

Very truly yours,

BILL RHOADS
Water Resource Technician

BR:mb

Enclosure

MICROFILMED

April 10, 1974

Mr. John W. Hart
Route #2
Downey, ID 83234

Dear Mr. Hart:

Attached herewith is departmental receipt No. 12829 in the amount of \$65.00 for the Application for Permit which we received this date.

If we may be of further assistance, please do not hesitate to contact us.

Very truly yours,

RONALD D. CARLSON
Asst. to the District Engineer

RDC:MB

Attachment

MICROFILMED