

Identification No. 11 7064

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

APPLICATION FOR PERMIT

APPROVED

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

1. Name of applicant James E. and Jina M. Costello
- post office address 486 Jewell Ct. Montpelier, Ida. 83254
~~XXXXXX~~
2. Source of water supply: ~~XXXXXX~~ unnamed stream (flood channel) BDF 11-1-74 which is a tributary of Bear River
3. a. Location of point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 34 Township 12 S
Range 44 E B.M. Bear Lake County; additional points of diversion if any: _____
- b. If water is not consumed, it will be discharged into Floodway channel at a point in NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 34 Township 12 S Range 44 E B.M. _____
4. Water will be used for the following purposes:
Amount 2.2 cfs for irrigation purpose from May 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. 2.2 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Concrete slab shaped to fit bottom and sides of Floodway channel with slot for removeable flash boards. Electric motor with centrifugal pump to deliver water into pipeline for sprinkling.
- 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 3 years.
b. Estimated construction cost is \$ 2,500.00
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: _____

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

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	
12 S	44 E	34					30	40	40										110

Total number of acres to be irrigated 110

c. Describe any other water rights used for the same purposes as described above. 117 shares in Montpelier Irrigation Company (117)

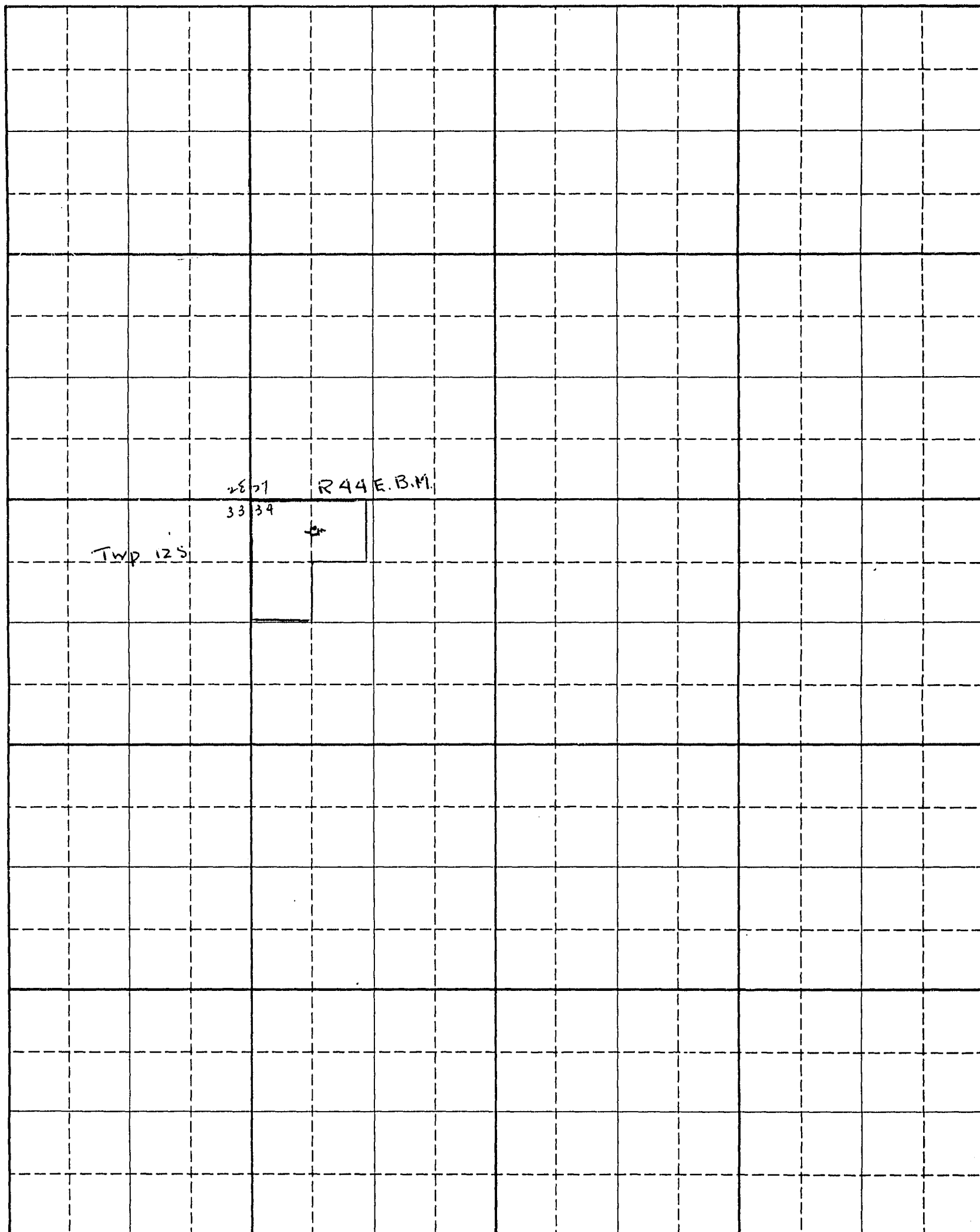
9. a. Who owns the property at the point of diversion James E & Jina M. Costello

b. Who owns the land to be irrigated or place of use James E & Jina M Costello

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.

James E. Costello
(Applicant)
J. M. Th. Costello

Proposed Priority 7-31-1974

Received by MB Date 8-1-74 Time 8:00 A

Preliminary check by DDF Fee \$ 45.00

Receipted by MB Date 7-31-74 Proj # 15904

Publication prepared by MB Date 8-8-74

Published in The News-Examiner

Publication dates August 15 + 22, 1974

Publication approved MB Date 7/09/74

Priority reduced to _____ Reason _____

Protests filed by: J. L. Shanks, Stephens, Shanks

Copies of protests forwarded by MB

Hearing held by _____ Date _____

Recommended for approval denial by RDC W DDF

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. 11-7064, 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, 19 77.
- c. Other: A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

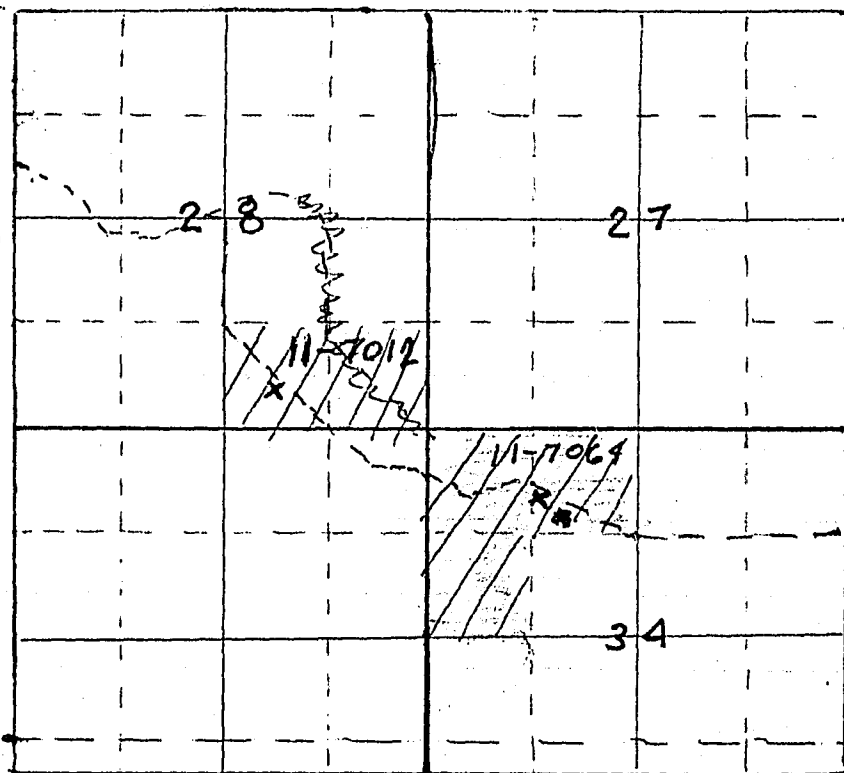
2. Denial of said application is for the following reasons: _____

Witness my hand this 5 day of November 19 74.

R. Kirk Higin
Director

NOTE TO FILE 11-7064
RE: PROTEST BY STEPHENS

- 1) ON 12/22/1970 APPLICATION 11-7012
WAS FILED TO APPROPRIATE 1.42 CFS
FOR THE IRRIGATION OF 70 ACRES W/IN
 $S\frac{1}{2}$ SE $\frac{1}{4}$ SEC 28 T12S R44E. PD SW SE SEC 28
- 2) WATER SOURCE WAS SEEPAGE & IRRIGATION
RETURN FLOW.
- 3) PROOF DUE AUGUST 1 1974
- 4) EXTENSION GRANTED
- 5) PROOF NOW DUE AUGUST 1, 1975
- 6)



CC-98

ARE STEPHENS & COSTELLO TALKING ABOUT
THE SAME WATER?

DEPARTMENT OF WATER ADMINISTRATION
- STAFF ANALYSIS -

Item	Initial	Date	
(1)	~~MB~~	_____	Application No. <u>11-7067</u>
(2)			Source <u>Wastewater in Unnamed Stream ?</u> ☒ Point of Diversion ☒ County ☒ Quantity of Water and Period of Use ☒ Description of Diverting Works ☒ Time required for B/U of water ☒ Place of Use or Acres Irrigated ☒ Map ☒ Signature ☒ Fee
(3)	<u>SDF</u> <u>RDE</u>	<u>7/31/74</u> <u>8/1/74</u>	In form to receipt Send Copies to: ____ Idaho State Health Department ____ Idaho Fish and Game Department ____ Bureau of Land Management ____ Flood Control District if there is one on this channel ____ Request Special Use Permit from U.S.F.S. ____ Request Easement from B.L.M. ____ Request Information from Applicant ☒ <u>RUSSELL STOKER</u> In form for advertising <u>YES</u>
(4)	<u>11</u>	<u>11</u>	Located within Water District No. <u>11</u> ____ Request Special Use Permit from U.S.F.S. ____ Request Easement from B.L.M. ____ Request Information from Applicant
(5)	<u>11</u>	<u>11</u>	☒ <u>RUSSELL STOKER</u> In form for advertising <u>YES</u>
(6)	<u>11</u>	<u>11</u>	Located within Water District No. <u>11</u>
(7)	_____	_____	^{NA} Critical groundwater area: yes _____ no _____
(8)	_____	_____	Groundwater levels: ____ Decline (comment) _____ ____ Stable (comment) _____ ____ Increasing (comment) _____
(9)	_____	_____	Comments: _____
(10)	<u>MB</u>	<u>9/9/74</u>	Affidavit of Publication received (date) <u>Sept 9, 1974</u>
(11)	<u>MB</u>	<u>9/3/74</u>	Final date for protests <u>September 3, 1974</u> Protests received: yes <u>X</u> no _____
(12)	<u>RDC</u>	<u>10/21/74</u>	Date and Place of hearing <u>CONFERENCE ON 10/17/74</u> Decision reached at hearing <u>PROTEST W/ DRAWN</u>
(13)	<u>11</u>	<u>11</u>	All requested information received from agencies or applicant yes <u>O.K.</u> no _____
(14)	<u>11</u>	<u>11</u>	Action recommended: ☒ Approve Priority <u>7/31/74</u> ____ Deny Reason for Reduction _____ ☒ Measuring device required ____ See attached sheet for additional conditions of approval ____ No additional conditions for approval
(15)	District <u>E</u>	By <u>RDC</u>	Date <u>10/21/74</u>

Copy

THE NEWS-EXAMINER

MONTPELIER, IDAHO

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,)
County of Bear Lake,) ss.

W. Jerome Taylor

being first duly sworn, deposes and says he is
Publisher and Foreman of the News-
Examiner; that the said News-Examiner is a
weekly newspaper published at Montpelier,
County of Bear Lake, State of Idaho, of
general circulation in said County and State.

That the notice attached was published in
the said News-Examiner, and not in a
supplement, for two
successive weeks, commencing with the issue
dated August 15, 19 74
and ending with the issue

dated August 22, 1974

W. Jerome Taylor
Publisher and Foreman

Subscribed and sworn to before me this 5th day of September 19 74

Phyllis Smart
Notary Public.

RECEIVED

SEP 9 1974

Department of Water Resources
Eastern District Office

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that
James E. and Jina M. Costello, 486
Jewell Court, Montpelier, Idaho
have on July 31, 1974 submitted
Application No. 11-7064 for a per-
mit to appropriate 2.2 cubic feet
per second of water from seepage
and irrigation return flow by
means of pump and pipeline with-
in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 12S,
R. 44E, B. M., Bear Lake County;
to be used from May 1 to October
1 for the irrigation of 110 acres
within the N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,
Sec. 34, T. 12S, R. 44E, 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 Re-
sources, 1515 Lincoln Road, Idaho
Falls, Idaho 83401 on or before
September 3, 1974.

R. KEITH HIGGINSON
Director

Published in The News-Examin-
er, Montpelier, Idaho on August 15
and August 22, 1974.

AB (a-15/22)

XXXXXXXXXXXXXXXXXXXXX RESOURCES

August 2, 1974

Re: Application for Permit No. 11-7064

Mr. & Mrs. James E. Costello
486 Jewell Ct.
Montpelier, ID 83254

Dear Mr. & Mrs. Costello:

Please find enclosed departmental receipt No. 15904 in the amount of \$45.00. We have started processing your application for permit; however, it is unclear to us what you mean by floodway seepage as your source of water supply. Please clarify this on or before August 9, 1974, to prevent unnecessary delays in the processing of your application.

If you have any questions, please contact us.

Very truly yours,

RONALD D. CARLSON
Asst. to District Engineer

RDC:mb

Attachment

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that James E. and Jina M. Costello,

486 Jewell Ct., Montpelier, Idaho

has on 7-31-74 submitted Application No. 11-7064

for a permit to appropriate 2.2 cubic feet per second ~~XXXXXX~~

of water from seepage and irrigation return flow

by means of pump and pipeline

within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 12S, R. 44E, B.M., Bear Lake County;

to be used from May 1 to Oct. 1

for the irrigation of 110 acres

within the N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 12S, R. 44E, 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 September 3, 1974.

R. KEITH HIGGINSON

Director

Published in the News-Examiner, Montpelier, Idaho

on August 15 and August 22, 1974

CB-L.
CB-R.

**NOTICE OF APPLICATION
FOR WATER PERMIT**

Notice is hereby given that James E. and Jina M. Costello, 486 Jewell Court, Montpelier, Idaho have on July 31, 1974 submitted Application No. 11-7034 for a permit to appropriate 2.2 cubic feet per second of water from seepage and irrigation return flow by means of pump and pipeline within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 12S, R. 44E, B. M., Bear Lake County; to be used from May 1 to October 1 for the irrigation of 110 acres within the N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 12S, R. 44E, 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 September 3, 1974.

R. KEITH HIGGINSON
Director

Published in The News-Examiner, Montpelier, Idaho on August 15 and August 22, 1974.

(a-15/22)

XXXXXXXXXXXXXXXXXXXXX RESOURCES

August 9, 1974

Re: Application for Permit No. 11-7064 Costello

The News Examiner
P.O. Box 278
Montpelier, ID 83254

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:MB

Enc: Legal Notice (1)

Bill submitted 9-9-74 by MB

XXXXXXXXXXXXXXXXXXXXX RESOURCES

August 12, 1974

Re: Application for Permit No. 11-7064

Mr. Russell D. Stoker, Watermaster
Water District No. 11
Box 726
Soda Springs, ID 83276

Dear Mr. Stoker:

We are enclosing a copy of an application that may be of interest to your water district. Please review the application and if you have any comments, please submit them to our Department as soon as possible. The last date of protest is September 3, 1974, and we are required to take final action shortly thereafter.

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

Very truly yours,

RONALD D. CARLSON
Asst. to District Engineer

RDC:MB

Enclosure

STATE OF IDAHO

DEPARTMENT OF WATER ~~ADMINISTRATION~~ RESOURCES

EASTERN DISTRICT OFFICE



Cecil D. Andrus
Governor

R. Keith Higginson
Director

Mr. & Mrs. James E. Costello
486 Jewell Ct.
Montpelier, ID 83254

Re: Application for Permit No. 11-7064

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186
August 23, 1974

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

Dear Mr. & Mrs. Costello:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application No. 11-7064. 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

APPLICATION FOR EXTENSION OF TIME

RECEIVED

JUL 3 1974

Department of Water Resources

State of ~~Idaho~~ UTAH)
County of SALT LAKE)

AUG 23 1974

Permit No. 11-7012

Stephens Family Trust
J. LaGrande Stephens, Trustee)
(name) of 1160 East 27th South - #131, Salt Lake City
(address)

State of Utah 84106, being first duly sworn, upon his oath 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. 11-7012.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before August 1, 19 74.

That he has heretofore performed the following work described under said permit:

Costing \$

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: Due to the death of John E. Stephens, original owner

of said permit, there has been an unavoidable delay in completing the application of water to beneficial use as required by said permit. We have tried to purchase a pump, but understand they are unavailable at the present time. We will continue to do so and complete the work as soon as possible.

Wherefore, he asks that the Department of Water Administration extend the time for the completion of obligations under said permit to August 1, 19 75.

STEPHENS FAMILY TRUST

By

(signature)

Trustee

Subscribed and sworn before me this 29th day of June, 19 74.

seal

My commission expires 1-1-76

(notary public)

ACTION OF THE DEPARTMENT OF WATER ADMINISTRATION

I, R. KEITH HIGGINSON, Director of the Idaho Department of Water Administration, State of Idaho, hereby approve the above application for extension of time for Permit No. 11-7012 to August 1, 1975.

Witness my hand this 9 day of July, 19 74.

Director

* IF OTHER THAN HOLDER, Power of Attorney must be supplied. Forms are available through the Department of Water Administration, Statehouse - Annex 2, Boise, Idaho, 83707.

Department of Water Resources

IDAHO
DEPARTMENT OF WATER ADMINISTRATION
OFFICE



Andrus
Governor
R. Keith Higginson
Director

614 State Street
Statehouse - Annex 2
Boise, Idaho 83720
(208) 384-2215

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

RECEIVED

July 15, 1974

AUG 22 1974

Department of Water Administration
Boise, Idaho, 83720

Re: Permit No. 11-7012

Mr. J. LaGrande Stephens
1160 East 27th South - #131
Salt Lake City, Utah 84106

Dear Mr. Stephens:

We acknowledge receipt of the assignment conveying the above referenced permit to the Stephens Family Trust with you as trustee. The assignment has been recorded and the Department's records changed.

Enclosed is a copy of the approved application for extension of time for this permit. The time within which to submit proof of beneficial use has been extended to August 1, 1975.

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

Sincerely,

D. Darlene Reich
D. Darlene Reich
Water Rights Supervisor

DDR:JG
Enclosure

RECEIVED

AUG 22 1974

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

1160 East 27th South - #131
Salt Lake City, Utah 84106
August 21, 1974

Mr. R. Keith Higginson, Director
Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Mr. Higginson:

As Trustee for the Stephens Family Trust, I hereby protest the granting of Application No. 11-7064 of James E. and Jina M. Costello, 486 Jewell Court, Montpelier, Idaho, for a permit to appropriate 2.2 cubic feet per second of water as described in the Notice of Application for Water Permit published in The News-Examiner, Montpelier, Idaho on August 15 and August 22, 1974.

This water has already been appropriated by Permit No. 11-7012 originally granted to John E. Stephens and now in the name of the Stephens Family Trust as shown by Application for Extension of Time dated June 29, 1974 and approved by you on July 9, 1974. We are inclosing herewith a copy of said Extension of Time and also a copy of letter from the Department of Water Administration dated July 15, 1974 regarding the assignment to the Stephens Family Trust. As stated in said application, we have and are trying to purchase a pump and complete the work according to your specifications as soon as possible.

Since we understand there is not sufficient water for more than one permit, we would appreciate any action you may be able to take to protect our original permit in refusing this permit No. 11-7064. If there is anything further necessary for us to do to protest this permit, kindly let us know.

Thank you for your attention to this matter.

Very truly yours,

STEPHENS FAMILY TRUST

JLS'gts
Incls.

By

J. LeGrande Stephens
Trustee

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 23, 1974

RE: Application No. 11-7064

Mr. J. LaGrande Stephens
1160 East 27th South - #131
Salt Lake City, Utah 84106

Dear Mr. Stephens:

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
NORMAN C. YOUNG
District Engineer

NCY: MB

XXXXXXXXXXXXXXXXXXXXX RESOURCES

September 3, 1974

Re: Application for Permit No. 11-7064 Costello
" " " No. 11-7065 Murdock
" " " No. 11-7066 "

The News-Examiner
P.O. Box 278
Montpelier, ID 83254

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with each of the above referenced applications. They were to have been published in your paper on August 15 and August 22, 1974.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

XXXXXXXXXXXXXXXXXXXXX RESOURCES

September 30, 1974

Bear Lake County Courthouse
Clerk of the District Court
Paris, Idaho 83261

Dear Sir:

This is to confirm the use of the Courtroom for conferences and/or hearings to be held by this office on Wednesday, October 16, 1974, at 1:00 p.m., on Thursday, October 17, 1974, starting at 9:00 a.m. and on Friday, October 18, 1974, starting at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

NAME AND ADDRESS OF SENDER

Indicate type of mail:
☐ REGISTERED ☐ REGISTERED C.O.D.
☒ CERTIFIED

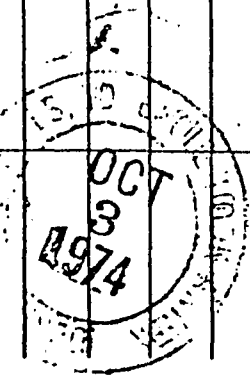
Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
 POSTMARK AND DATE OF RECEIPT

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST OFFICE ADDRESS	POSTAGE	FEE	R. R. FEE	REST. DEL. FEE	ACTUAL VALUE	SURCHARGE	REMARKS
1	4433 Mrs. James L. Cottle 486 Ward St. Milwaukee	10	30	15				11-2664
2	4444 J. S. McDonald Mitchell, Wis. St. #131, Salt Lake	10	50	15				"
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
TOTAL NO. OF PIECES LISTED BY SENDER		2						
TOTAL NO. OF PIECES REC'D AT P. O.								
POSTMASTER, PER (Name of receiving employee)								
"Show under 'Remarks' class postage paid if other than first or if international"								

POD Form 3877, Nov. 1968

APPLICATION FOR REGISTRATION OR CERTIFICATION

(Surcharges are not required on international registered mail)



BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Protest Against Approval)
of Application for Permit No. 11-7064)
in the name of JAMES E. & JINA M.)
COSTELLO)

NOTICE OF CONFERENCE

AND/OR HEARING

On July 31, 1974, James E. & Jina M. Costello filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On August 22, 1974, the Department received a protest against approval of said application from J. LaGrande Stephens, Trustee for the Stephens Family Trust.

The Department has set the matter of protest for conference and/or hearing for Thursday, October 17, 1974, at 1:00 p.m., in the Courtroom of the Bear Lake County Courthouse, Paris, 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 protestant may allow the Department without prejudice to dismiss the protest or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 3rd day of October, 1974.



RONALD D. CARLSON

Acting District Engineer

U.S. POSTAL SERVICE
OFFICIAL BUSINESS

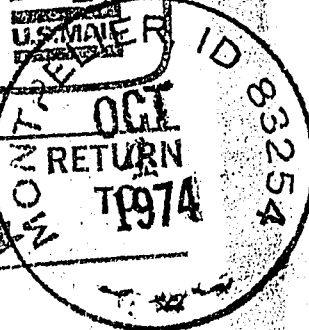
PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



Postmark of Delivering Office

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.



PS Form 3811
June 1973

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

U.S. POSTAL SERVICE
OFFICIAL BUSINESS

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



Postmark of Delivering Office

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

PS Form 3811
June 1973

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

SENDER: Be sure to follow instructions on other side

11-7064

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.

1493

1

2

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

INSURED NO.

DATE DELIVERED

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

10-4-74

3

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

1974

REGISTERED NO.

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

CERTIFIED NO.

494

1

2

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

INSURED NO.

DATE DELIVERED

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

OCT 5 1974

3

RECEIVED
OCT 9 1974
Department of Water Resources
Eastern District Office

James E. & Jina M. Costello - 11-7064

Courtroom, Bear Lake County Courthouse, Paris, Idaho

October 17, 1974 - 1:00 p.m.

ROSTER OF ATTENDANCE

<u>Name</u>	<u>Address</u>	<u>Representing</u>
Jina M. Costello	486 Juncos Ct.	Same
Stephens Trust-Earl E. Stephens	234 N. 5th	Stephens Trust

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

In the Matter of Protest(s) Against Approval)
of Application for Permit No. 11-7064)
in the name of JAMES E. AND)
JINA M. COSTELLO)

WITHDRAWAL OF PROTEST(S)

Based upon the information presented at the conference held on OCT 17, 1974
I/~~we~~ agree that the granting of Permit No. 11-7064 does not appear to be a threat
to ~~our~~/our prior water rights and I/~~we~~ hereby withdraw my/~~we~~ protest(~~s~~) against the
approval of this application.

Signed at PARIS, this 17th day of OCTOBER, 1974.

Stephens Trust.
Earl E. Stephens, Trustee

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Protest Against Approval)
of Application for Permit No. 11-7064)
in the name of JAMES E. & JINA M.)
COSTELLO)
_____)

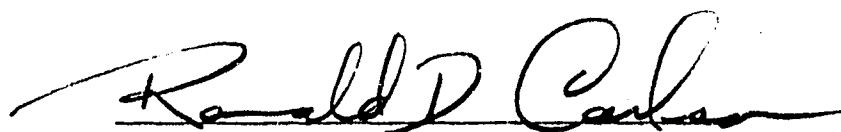
CONFERENCE MEMORANDUM

On July 31, 1974, James E. and Jina M. Costello filed with the Department of Water Resources application for permit No. 11-7064 seeking to appropriate 2.2 c.f.s. from a flood channel tributary to Bear River for the irrigation of 110 acres within the N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 12S, R. 44E, B.M. On August 22, 1974, the Department received a protest against approval of said application from J. LaGrand Stephens, a trustee for the Stephens Family trust.

The Department conducted a conference in the matter on October 17, 1974 at 1:00 p.m. in the Courtroom of the Bear Lake County Courthouse, Paris, Idaho. The applicants were represented by Jina M. Costello and the Stephens Family trust, protestants, were represented by Earl E. Stephens, a trustee.

During the conference Mrs. Costello stated that they have 117 shares of Montpelier Irrigation, which is more than adequate for the irrigation of their ground but they have trouble getting the irrigation company to maintain the canals and deliver the water when needed. Further, their annual assessment is over \$7.00 per share. Mrs. Costello said they are in the process of working out an agreement with Montpelier Irrigation Company to have a portion of their water released into the flood channel. She said they hope to turn back most of their shares of stock to the company and if there is adequate water from the seepage source perhaps they will be able to give up all of their stock in Montpelier Irrigation Company.

With the assurance that permit No. 11-7012 was prior in time to application No. 11-7064, Mr. Stephens agreed to withdraw their protest.



RONALD D. CARLSON
Acting District Engineer

October 22, 1974

RDC:cw

November 8, 1974

Re: Permit No. 11-7064

Mr. James Costello
486 Jewell Court
Montpelier, Idaho 83254

Dear Mr. Costello:

Enclosed is a copy of your approved Application for Permit No. 11-7064 . We direct your attention to the conditions of approval as listed on the fourth page.

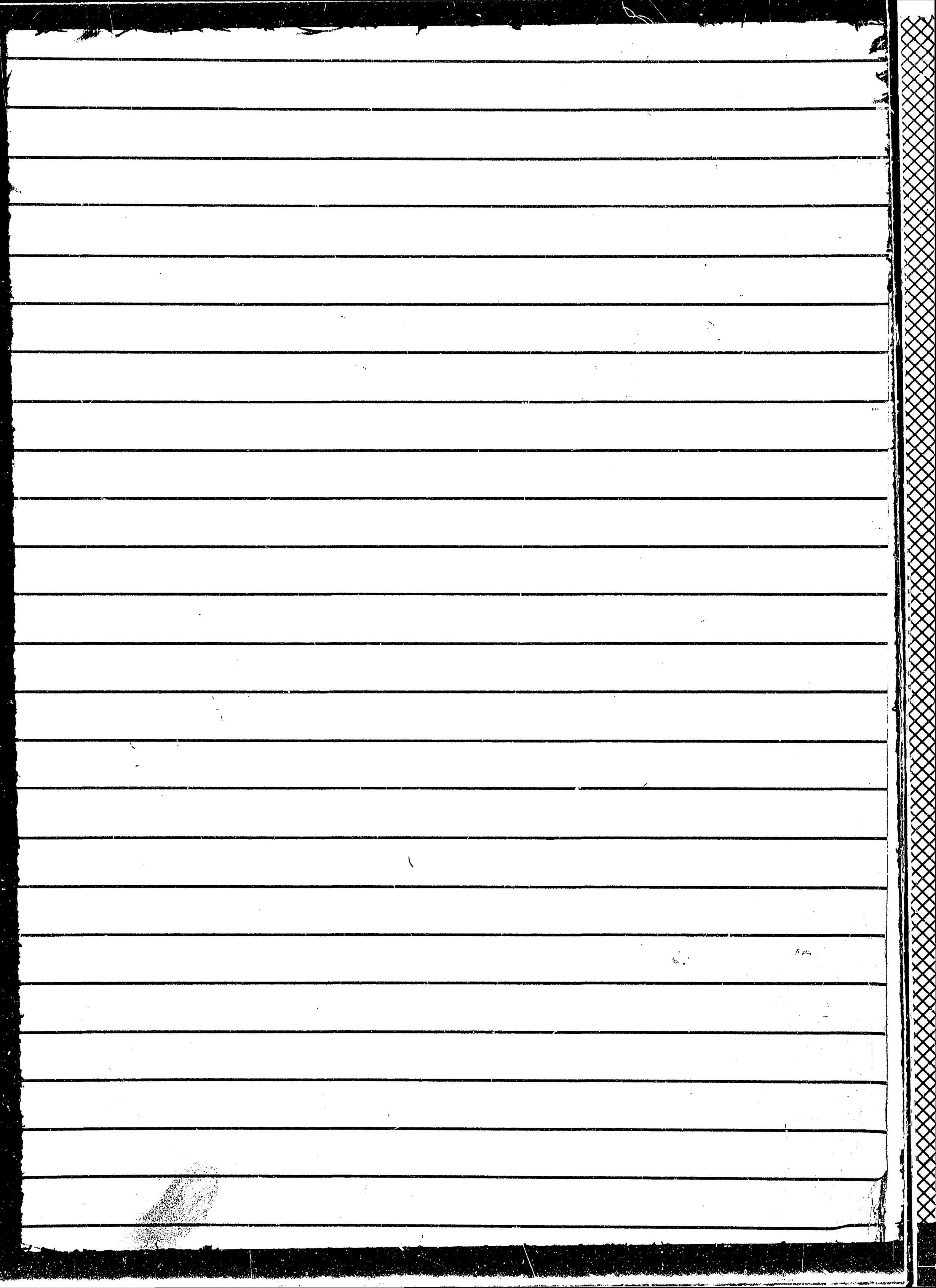
Be sure to note that a special condition requiring you to install and maintain a measuring device at your point of diversion has been placed upon your permit. We are enclosing a letter describing different types of measuring devices accepted by this office.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

Enclosures



BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF EXTENDING THE PROOF DUE
DATE IN CONNECTION WITH PERMIT NO. 11-7064
IN THE NAME OF JAMES E. AND JINA M. COSTELLO

ORDER

WHEREAS, on July 31, 1974, the Department received an application for permit to appropriate 2.20 cubic feet per second of water from an unnamed stream from James E. and Jina M. Costello. The water was to be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, Twp. 12S, Rge. 44E, B.M., Bear Lake County, to be used for irrigation purposes; and,

WHEREAS, on November 5, 1974, the Department approved said application and issued Permit No. 11-7064 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before November 1, 1977; and,

WHEREAS, on September 28, 1977, the Department extended the time within which to submit proof of beneficial use of water to December 1, 1977, as the Department did not give the permit holder notice that proof was due; and,

WHEREAS, on November 14, 1977, the permit holder requested an extension of time; and,

WHEREAS, it appears that under the circumstances, the permit holder has been proceeding with reasonable diligence and has given good cause for delay;

IT IS, THEREFORE, HEREBY ORDERED that the time within which to submit proof of beneficial use of water under Permit No. 11-7064 be extended to December 1, 1978.

Dated this 21 day of November, 1977.


BOBBY D. FLEENOR
Chief, Operations Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF EXTENDING THE PROOF DUE
DATE IN CONNECTION WITH PERMIT NO. 11-7064
IN THE NAME OF JAMES E. and JINA M. COSTELLO

ORDER

WHEREAS, on July 31, 1974, the Department received an application for permit to appropriate 2.20 cubic feet per second of water from an unnamed stream from James E. and Jina M. Costello. The water is to be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, Twp. 12S, Rge. 44E, B.M., Bear Lake County, to be used for irrigation purposes; and,

WHEREAS, on November 5, 1974, the Department approved said application and issued Permit No. 11-7064 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before November 1, 1977; and,

WHEREAS, notice was not given to the permit holder 60 days prior to the date that proof of beneficial use of water was due as required by Section 42-204, Idaho Code;

IT IS, THEREFORE, HEREBY ORDERED that the time within which to submit proof of beneficial use of water under Permit No. 11-7064 be extended to December 1, 1977.

Dated this 28 day of September, 1977.


BOBBY D. FLEENOR
Chief, Operations Bureau



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

John V. Evans
Governor

C. Stephen Allred
Director

Statehouse
Boise, Idaho 83720
(208) 384-2215

September 30, 1977

CERTIFIED MAIL

138947

Re: Permit No. 11-7064

James E. & Jina M. Costello
486 Jewell Court
Montpelier, Idaho 83254

Dear Mr. & Mrs. Costello:

Enclosed is an Order which extends the time within which to submit proof of beneficial use on the above referenced permit to December 1, 1977.

One of the conditions of approval of your water Permit No. 11-7064 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 December 1, 1977. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time (excluding the extension of time the Department has made extending your proof of beneficial use of water to December 1, 1977 from November 1, 1977) 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 abovementioned date, otherwise the permit will lapse and be of no further force or effect.

C. STEPHEN ALLRED
Director

CSA:jfr

Encl: Proof affidavit

JAMES E. COSTELLO, D.V.M.

486 JEWELL CT.

MONTPELIER, IDAHO 83254

RECEIVED

11/8/77

NOV 14 1977

Re: Permit No. 11-7064

Department of Water Resources

Dear Mr. Allred,

I have just received word today that the measuring device we had on order from Don Wood Tractor Co. of Montpelier, Ida. is still on back order and there is a chance they will not have them in and installed on our pump by Dec. 1. All the other conditions for approval of my water permit, I believe, are in order.

I am therefore, submitting a request for extension of time on this permit.

I would appreciate hearing from you as quickly as possible if this time extension is approved. Otherwise, I will try another supplier.

Thanking you in advance, I remain

Yours truly,

James Costello

November 22, 1977

Re: Permit No. 11-7064

James E. & Jina M. Costello
486 Jewell Ct.
Montpelier, Idaho 83254

Dear Mr. & Mrs. Costello:

Enclosed is a copy of the approved application for extension of time in connection with the above referenced permit.

The time within which to submit proof of beneficial use of water has been extended to December 1, 1978.

Sincerely,

Jan Grover
Water Rights Supervisor

m 211

Ident. No. 11-7064

NOV 24 1978

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDepartment of Water Resources
Eastern District Office

APPLICATION FOR AMENDMENT OF A PERMIT

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

Comes now James E. and Jina M. Costello

of (address) 486 Jewell Circle, Montpelier, Idaho 83254, and represents to the

Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 11-7064, and requests that the permit and permit map be changed as follows:

1. Point of diversion: NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 34, Township 12S, Range 44E, B.M.,
County of Bear Lake. Other points of diversion:

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.) NO CHANGE

Amount 2.20 for Irrigation purposes from May 1 to Oct 1 (both dates inclusive)
(cfs or acre feet per annum)Amount for purposes from to (both dates inclusive)
(cfs or acre feet per annum)Amount for purposes from to (both dates inclusive)
(cfs or acre feet per annum)Amount for purposes from to (both dates inclusive)
(cfs or acre feet per annum)

3. Place of use or land to be irrigated: NO CHANGE

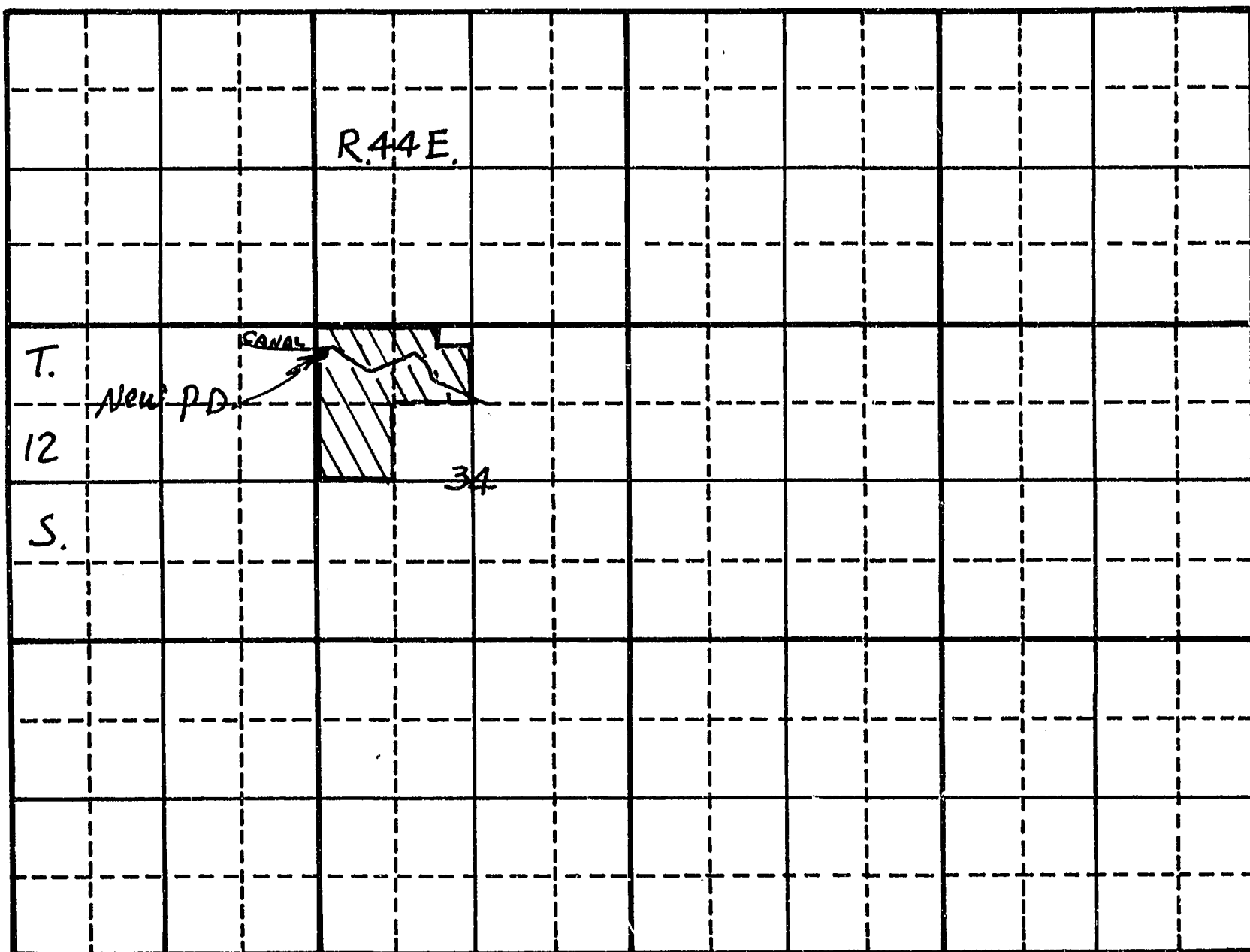
TWP	RGE	SEC	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
12S	44E	34					30	40	40										110

Total number of acres to be irrigated = 110

4. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or the place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

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

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



Scale: 2 inches equal 1 mile.

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

Signed at Montezuma, Ida, this 21st day of Nov, 19 78.

James E. Costello
(Signature)
James E. Costello

FOR DEPARTMENT USE ONLY

Preliminary check by js ^{ok} Fee = \$20.00 ^{# 92-286} Received by dh Date 11/24/78 ^{# 11597}
Publication prepared by dh Date 12/8/78 Published in NEWS EXAMINER
Publication dates December 14-21, 1978

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, L. GLEN SAXTON, Chief, Operations Bureau, of the Department of Water Resources hereby
APPROVE this application for amendment on Permit No. 11-7064.

Witness my hand this 14th day of February, 19 79.

L. Glen Saxton
Chief, Operations Bureau



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

100203

September 30, 1978

Re: Permit No. 11-7064

James E. & Jina M. Costello
486 Jewell Ct.
Montpelier, ID 83254

Dear Mr. & Mrs. Costello:

One of the conditions of approval of your water Permit No. 11-7064 (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 December 1, 1978. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

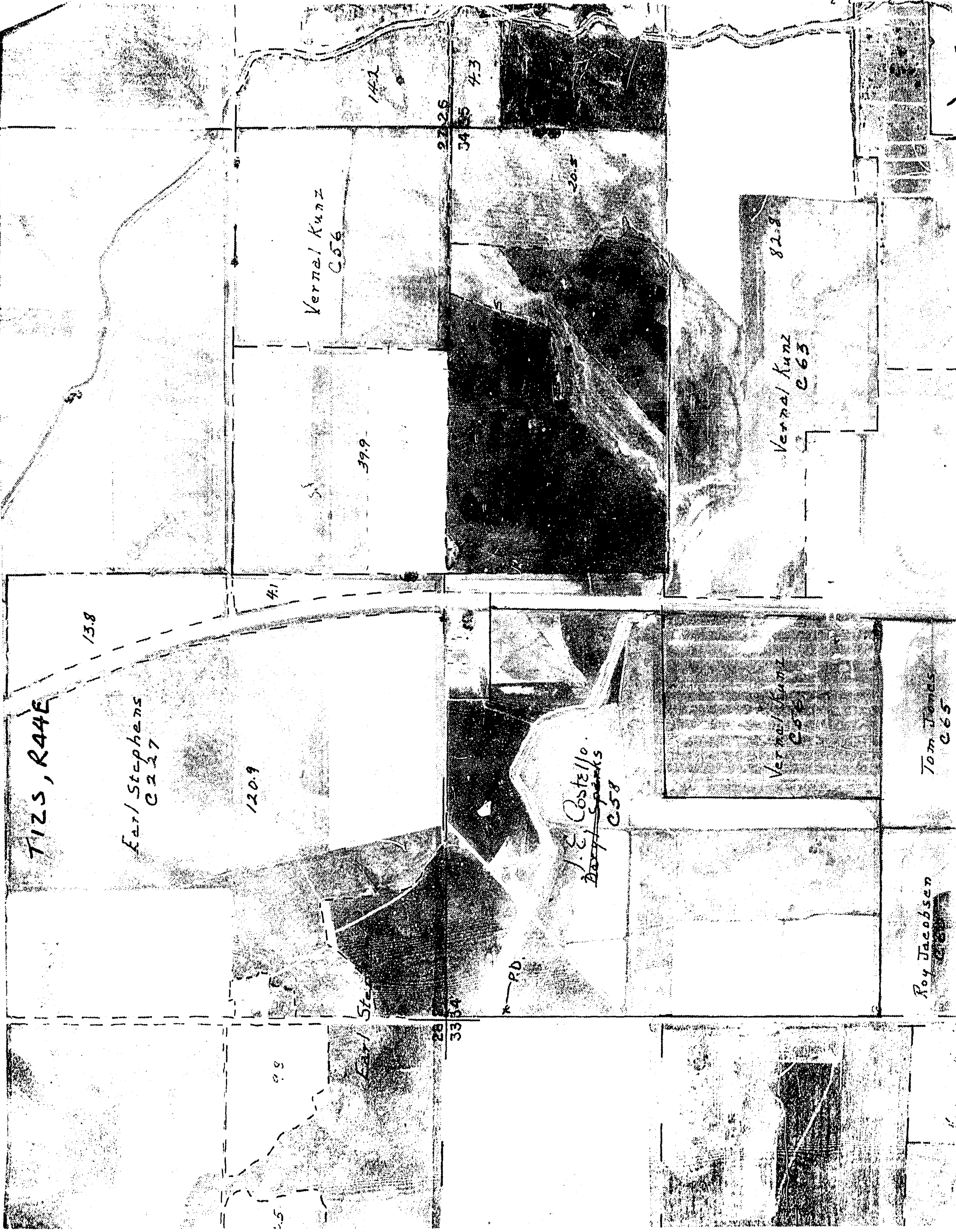
If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency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

14-27



1404 Water Resources
15 Lincoln Rd
TWO FALLS, ID 83901

Identification No. _____

Permit No. 11-7064

RECEIVED

NOV 6 1978

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

Department of Water Resources

Permit Holder

JAMES E AND JINA M. CASTELLO

b) Post Office Address 486 JEWELL CT. MONTPELIER ID 83254

2. Permit Number 11-7064

3. Date of Priority that you are prepared to establish JULY 31, 1974

4. a) Source from which water was appropriated FLOOD CHANNEL TRIB. TO BEAR LAKE

b) Location of the point of diversion: NW 1/4 NW 1/4, Section 34

Township 12S, Range 49E Boise Meridian, Other points of diversion: _____

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

Amount 2.20 CFS for IRRIGATION purposes from MAY 1 to OCT. 1 incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)

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

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

b) Total amount appropriated 2.2 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: Theoretical Calculation

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:

Have Permission from Montpelier Irr. Co

b) Describe the agreement or understanding by which you take water from the works: Letter dated 6/2/75
MONT. TRIG. CO. ISSUING PERMIT TO INSTALL IRRIG. PUMPING
FACILITY AT ABOVE LOCATION.

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

give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) 2 1/2 HP PUMP MAINLINE & 3 HAND
LATERALS. CONG. SLAB SHAPED TO FIT BOTTOM & SIDES
OF FLOODWAY WITH SLOT FOR REMOVABLE FLASH BOARDS

b) Describe the type and size of measuring device which you have installed at your point of diversion: 6"
FLOW WATER METER.

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

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

Exam typed 2-15-79 by JP

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

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
12S	44E	34					30	40	40										110

Total number of acres irrigated 110

10. Remarks: _____

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

11/2/78

(Date)

James E. Costello
James M. Costello
(Signature)

State of Idaho)

County of Bear Lake) ss.

On this 2nd day of November, 19 78, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that ~~he~~ (she) (they) executed the same.

Randall M. Stoo
Notary Public residing at Montpelier

My commission expires lifetime

November 24, 1978

J. E. and Jina Costello
486 Jewell Court
Montpelier, Idaho 83254

Dear Sir:

Re: Amendment No. 11-7064

Attached herewith is Departmental receipt No. 11597 in the amount of \$20.00 for the above referenced application.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

Attachment

November 16, 1978

James E. and Jina M. Costello
486 Jewell Circle
Montpelier, Idaho 83254

Dear Costellos:

We have enclosed a typed amendment form for your review and signature. Please sign at the red check on page two and complete the line above your signature and return the form with the statutory filing fee of \$20.00 for further processing.

We only need the one Proof of Application of Water to Beneficial Use form which you have submitted. We will forward it to Boise for processing.

If we may be of further assistance to you, please feel free to call.

Very truly yours,

LOY H. JOHNSON
Senior Water Resource Agent

LHJ:dh

Enclosure

NOVEMBER 10 1978

JAMES E. COSTELLO, D.V.M.

486 JEWELL CT.

MONTPELIER, IDAHO 83254

11/2/78

Dear Mr. Johnson:

I believe you are the man who helped me fill out these papers when you were in Montpelier. The flow meter has been installed and to the best of my knowledge, I have completed the remaining questions. I didn't know if I was to mail this to you or to Boise, so am mailing one set to you and if another set should go on to Boise, please notify me. If there is anything else you need to know, I would appreciate a collect call (847-1934). I appreciate the help you have given to me thus far.

Sincerely,

Jina M. Costello
Jina M. Costello

RECEIVED

NOV 8 1978

Department of Water Resources
Eastern District Office

IN THE OFFICE OF THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE APPLICATION :
OF JAMES E. AND JINA M. COSTELLO
TO APPROPRIATE 2.20 C.F.S. OF WATER FROM AN UNNAMED STREAM TRIBUTARY
TO BEAR RIVER TO BE USED FOR IRRIGATION OF 110 ACRES FROM MAY 1 TO
OCTOBER 1 IN BEAR LAKE COUNTY, IDAHO.

PROTEST OF

UTAH POWER & LIGHT COMPANY

APPLICATION NO. 11-7064

RECEIVED

JAN 8 1979

COMES NOW the protestant UTAH POWER & LIGHT COMPANY (Utah Power) and protests the Application of James E. & Jina M. Costello

1. Utah Power holds Water Rights decreed in the matter of Utah Power & Light Company vs. The Last Chance Canal Company, Limited, et al, In Equity No. 203, July 14, 1920, and Utah Power & Light Company vs. Richmond Irrigation Company, et al, February 21, 1922, as well as other rights in the Bear River.

2. The Bear River below Stewart Dam is fully appropriated.

3. James E. and Jina M. Costello filed an Application with the Office of the Idaho Department of Water Resources numbered 11-7064 seeking to appropriate 2.20 cubic feet per second of water at points of diversion specified in said Application.

4. The granting of the Application of James E. & Jina M. Costello for the appropriation of 2.20 cubic feet per second of water would adversely affect the aforementioned water rights of Utah Power & Light Company.

WHEREFORE, protestant prays that the Application of James E. and Jina M. Costello be denied inasmuch as there is no unappropriated water in the proposed source and the proposed use will impair existing rights.

DATED this 2nd day of January, 1979.

SIDNEY G. BAUCOM
THOMAS W. FORSGREN

BY Thomas W. Forsgren (CA)
Attorneys for Protestant
Utah Power & Light Company
1407 West North Temple
Salt Lake City, Utah 84116

Nº 1015

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Bear Lake

ss.

Leslie W. Thompson
being duly sworn,

deposes and says:

That he is the *publisher* of THE NEWS-EXAMINER, a weekly newspaper published at Montpelier, in the County of Bear Lake and State of Idaho; and said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Montpelier; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for *two* consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

December 14, 1978, and ending
with the issue of *December 21, 1978*

Leslie W. Thompson
Fees, *15.02*

Subscribed and sworn to before me this *3* day

of *January*, 19*79*
Leslie W. Thompson

Notary Public, Residing at Montpelier, Idaho

My Commission Expires *March 13, 1979*

RECEIVED

JAN 8 1979

Department of Water Resources
Eastern District Office

Public Notices

NOTICE OF PROPOSED AMENDING OF WATER PERMIT

Notice is hereby given that Permit No. 11-7064 in the name of James E. and Jina M. Costello was issued for the diversion of 2.20 cfs of water from an unnamed stream tributary to Bear River with the point of diversion within the NE 1/4 NW 1/4 Sec. 34, T. 12S, R. 44E, B.M., Bear Lake County, to be used for the irrigation of 110 acres from May 1 to Oct. 1, within NW 1/4 NW 1/4, SW 1/4 NW 1/4, Sec. 34, T. 12S, R. 44E, B.M.

The permit holder now proposes to amend Permit 11-7064, changing the point of diversion to within NW 1/4 NW 1/4, Sec. 34, T. 12S, R. 44E, B.M.

Any protest to the proposed amending of the permit must be filed with the Idaho Department of Water Resources, 1 Lincoln Road, Idaho Falls, Idaho, 83401, on or before January 2, 1979.

C. STEPHEN ALLRED
Director

Published in the News-Examiner, Montpelier, Idaho
December 14 and 21, 1978.

D14

RECEIVED

DEC 8 1978

Department of Water Resources
Eastern District Office

INTER-DEPARTMENT MEMO — 1

DATE

12/6/78

FROM

Jan J.

TO

Ernie C.

SUBJECT

Amendment advertising

In reviewing this one Glen
thought it would be a good
idea to have it advertised since
it was protested & surface water
source. Would you see it gets
advertised. Thank

Jan

SIGNATURE

NOTICE OF PROPOSED AMENDING OF WATER PERMIT

Notice is hereby given that Permit No. 11-7064 in the name of James E. and Jina M. Costello was issued for the diversion of 2.20 cfs of water from an unnamed stream tributary to Bear River with the point of diversion within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 12S, R. 44E, B.M., Bear Lake County; to be used for the irrigation of 110 acres from May 1 to Oct. 1, within the N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 12S, R. 44E, B.M.

The permit holder now proposes to amend Permit No. 11-7064, changing the point of diversion to within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 12S, R. 44E, B.M.

Any protest to the proposed amending of the permit must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before January 2, 1979.

C. STEPHEN ALLRED
Director

Published in the News-Examiner, Montpelier, Idaho on December 14 and 21, 1978.

(NW-7)

December 8, 1978

The News-Examiner
P. O. Box 278
Montpelier, Idaho 83254

Re: Amendment No. 11-7064 - Costello

Gentlemen:

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

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

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

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

Bill submitted 1-8-79 by dh

RDC:dh

Enc.

January 2, 1979

The News-Examiner
P. O. Box 278
Montpelier, Idaho 83254

Dear Sirs:

Re: Amendment No. 11-7064 - Costello

Would you please send an affidavit of publication and certified bill in connection with the above referenced application. The legal notice was to have been published on December 14 and 21, 1978. Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

January 9, 1979

Mr. Thomas W. Forsgren, Attorney
Utah Power and Light Company
1407 West North Temple
Salt Lake City, Utah 84116

Dear Mr. Forsgren:

On January 8, 1979, we received a protest of Utah Power and Light Company objecting to the amendment of Permit No. 11-7064 in the name of James E. and Jina M. Costello. This permit was approved in 1974 for a point of diversion in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, Twp. 12S, Rge. 44E, B.M. The applicants now wish to move the location of their pump to the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, Twp. 12S, Rge. 44E. It is not clear how Utah Power and Light Company would be affected by this change. I request you provide us with additional information at your earliest convenience.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

1/9/79 - have not sent protest letters to opp dL

January 31, 1979

Thomas W. Forsgren, Attorney
Utah Power and Light Company
P. O. Box 899
Salt Lake City, Utah 84110

Dear Mr. Forsgren:

Re: Application for Amendment of Permit No. 11-7064 - Costello

In an effort to clarify the Department's position relative to your protest of January 17th against approval of the above referenced application for amendment, I feel it would be helpful to briefly trace back the history of this application. In July of 1974, the Department received an application from James and Jina Costello to appropriate 2.20 c.f.s. of water from a flood channel tributary to the Bear River. The application was advertised in the News Examiner on August 15 and 22, 1974, and subsequently was protested by a neighbor of the applicants. The protest later was resolved and the permit was approved. The Costellos now wish to change their point of diversion approximately one-quarter mile to the east of that described on the permit.

If this change will cause injury to any person, the Department wishes to hear these objections before taking final action on the amendment. From your letter, I infer that you have no objections to the change in point of diversion, but rather are objecting to the past granting of this permit. Since the opportunity to object to the approval of the permit was provided in 1974, and no protest was received from Utah Power and Light Company, your present protest against approval of the permit is not timely. However, I will accept your protest of January 2 as a protest against the change proposed in the Costellos' application for amendment and will proceed to set this matter for hearing.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

mailed 2-6-79

UTAH POWER & LIGHT COMPANY

P. O. BOX 899

SALT LAKE CITY, UTAH 84110

LEGAL OFFICES
SIDNEY G. BAUCOM
SENIOR VICE PRESIDENT
AND
GENERAL COUNSEL

ROBERT GORDON
350-3214

THOMAS W. FORSGREN
350-3213

VERL R. TOPHAM
350-3850

January 17, 1979

SAM F. CHAMBERLAIN
350-3825

ROSEMARY RICHARDSON
350-3798

MARY STIRK
LEGAL ASSISTANT
350-3217

STEVE D. WHITE
CLAIMS SPECIALIST
350-4864

RECEIVED

JAN 22 1979

Department of Water Resources
Eastern District Office

Mr. Ronald D. Carlson
Supervisor, Eastern Region
Department of Water Resources
State of Idaho
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Permit No. 11-7064 - James E. & Jina M. Costello

Dear Mr. Carlson:

The position we took in our protest and that consistently taken by the Power Company with regard to filing on the Bear River has been that there is no water available for appropriation on the river. The Department of Water Resources evidently approved the applicants earlier permit, but even though applicants now only intend to change the point of diversion, it would still be our position that there is not water available in the system to supply the amount sought and we, therefore, protest the granting of the permit.

Very truly yours,


THOMAS W. FORSGREN

TWF:ck

UTAH POWER & LIGHT COMPANY

LEGAL OFFICES
SIDNEY G. BAUCOM
SENIOR VICE PRESIDENT
AND
GENERAL COUNSEL

ROBERT GORDON
350-3214

THOMAS W. FORSGREN
350-3213

VERL R. TOPHAM
350-3650

P. O. BOX 899
SALT LAKE CITY, UTAH 84110

February 5, 1979

SAM F. CHAMBERLAIN
350-3825

ROSEMARY RICHARDSON
350-3706

MARY STIRK
LEGAL ASSISTANT
350-3217

STEVE D. WHITE
CLAIMS SPECIALIST
350-4864

RECEIVED

FEB 7 1979

Department of Water Resources
Eastern District Office

Mr. Ronald D. Carlson
Supervisor
Eastern Region
Department of Water Resources
State of Idaho
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Permit No. 11-7064 - James & Jina Costello

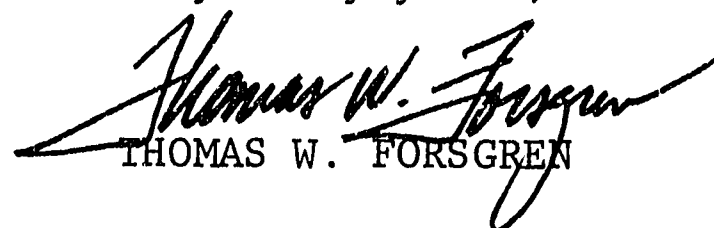
Dear Mr. Carlson:

I'm taking this opportunity to confirm our conversation with regard to the subject application to change the applicant's point of diversion. I indicated that the Power Company was not so much concerned with the applicant's changing their point of diversion, but with the fact that in our judgment, and from conversation with the Bear River Water Master, the river is fully appropriated. The Water Master will not recognize water rights of this late date and to grant the same would be granting nothing more than a paper right.

We have no objection to your making a decision on the application to change the point of diversion based on the materials which appear in your file, and again reiterate that we do not oppose the change in point of diversion and use, but do believe and submit that the river is fully appropriated and that there is no water to supply the applicant's right whether at the former point of diversion or that presently sought.

If you have questions concerning the above, please contact us.

Very truly yours,


THOMAS W. FORSGREN

TWF:ck
cc: R. Stoker

INTER-DEPARTMENT MEMO — 1

FROM EMC

DATE 1/08/79.

TO J. J.

SUBJECT

letter from Utah Power & Light Company dated 12/5/1979 clearly states they do not oppose change in p.d. and use. & are therefore not protesting amendment. despite previous correspondence. Hopefully ~~their letter~~ their most recent letter could be interpreted as a withdrawal of protest although they do not specifically say so, and probably would not.

SIGNATURE

February 15, 1979

James E. & Jina M. Costello
486 Jewell Circle
Montpelier, ID 83254

Dear Mr. and Mrs. Costello:

Re: Permit No. 11-7064

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

This office acknowledges 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
Sr. Secretary

Enc: 1

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 11-7064 Priority July 31, 1974 Amount 0.99 cfs

THIS IS TO CERTIFY, that James E. & Jina M. Costello
of Montpelier, Idaho, has complied with the terms and conditions of Permit
No. 11-7064 issued pursuant to Application for Permit dated July 31, 1974,
and has submitted proof to the Department of Water Resources on November 6, 1978,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 0.99 cfs of water from unnamed stream,
tributary to Bear River, 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
Irrigation	from <u>April 15</u> to <u>October 15</u>	at <u>0.99</u> cfs and	<u>315.0</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 0.99 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
315.0 acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34
Twp 12S, Rge 44E in the County of Bear Lake

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
12S	44E	34					29	37	39										105

Total number of acres irrigated 105

This right when combined with all other rights shall provide no more than .02 cfs
per acre nor more than 3.0 afa per acre for the lands above.

Use of water under this license is subject to control by the watermaster of State
Water District No. 11, Bear River.

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

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 29TH day of
JUNE, 19 84.

Acting for the Director

Norman C. Young
Director

Overlap Review for 11-7064

per permit: Montpelier Srr. Co.
(117 shares)

per micro-fische 4/30/84:

p/d - none

p/u - none

Recommend R/6(3.0) for use
when this right is used in
conjunction with Srr. Co. water -
kw

$105 \text{ ac} \times 0.02 \text{ cfs} = 2.1 \text{ cfs needed}$

allow capacity of system -

$$V = 105 \text{ ac} \times 3.0 = 315 \text{ AFA} \checkmark$$

$$V = 0.99 \times 1.9835 \times 183 = 359.4 \text{ AF}$$

DEPARTMENT OF WATER RESOURCES
FIELD REPORT

1. Name of permit holder James E. & Lina M. Costello

Post office address 486 Kewell Ct, #71 Montpelier Phone

Person to contact U Phone 841-1129

2. Source of water supply: Groundwater ☐ Surface water ☒ unnamed stream

Tributary to Bear River

3. Water will be used for the following purposes:

Amount 2.2 c.f.s. for irrigation
AF/Annum (nature of use)

Period of Use: from 5-1 to 10-1
(mo.-day) inclusive (mo.-day)

Amount	<u> </u>	c.f.s. for <u> </u>		
	<u> </u>	AF/Annum	(nature of use)	Department

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
 _____ AF/Annum _____ (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses: _____

4. Total amount to be appropriated:

Max Rate of Diversion 2.2 cubic feet per second and annual volume _____ AF/Annum.

5. Location of Point(s) of Diversion:

Township 12.5 N/S, Range 44E E/W, B.M., Section 34, Subdivision NW 1/4 NW 1/4 Lake
County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4 _____

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4, _____

Other Points of Diversions: _____

Description of diverting works: _____

Measuring device required: yes ☐ no ☐

6. Lands to be irrigated or place of use.

[illegible]

TOTAL ACREAGE 110

Rge 4/E

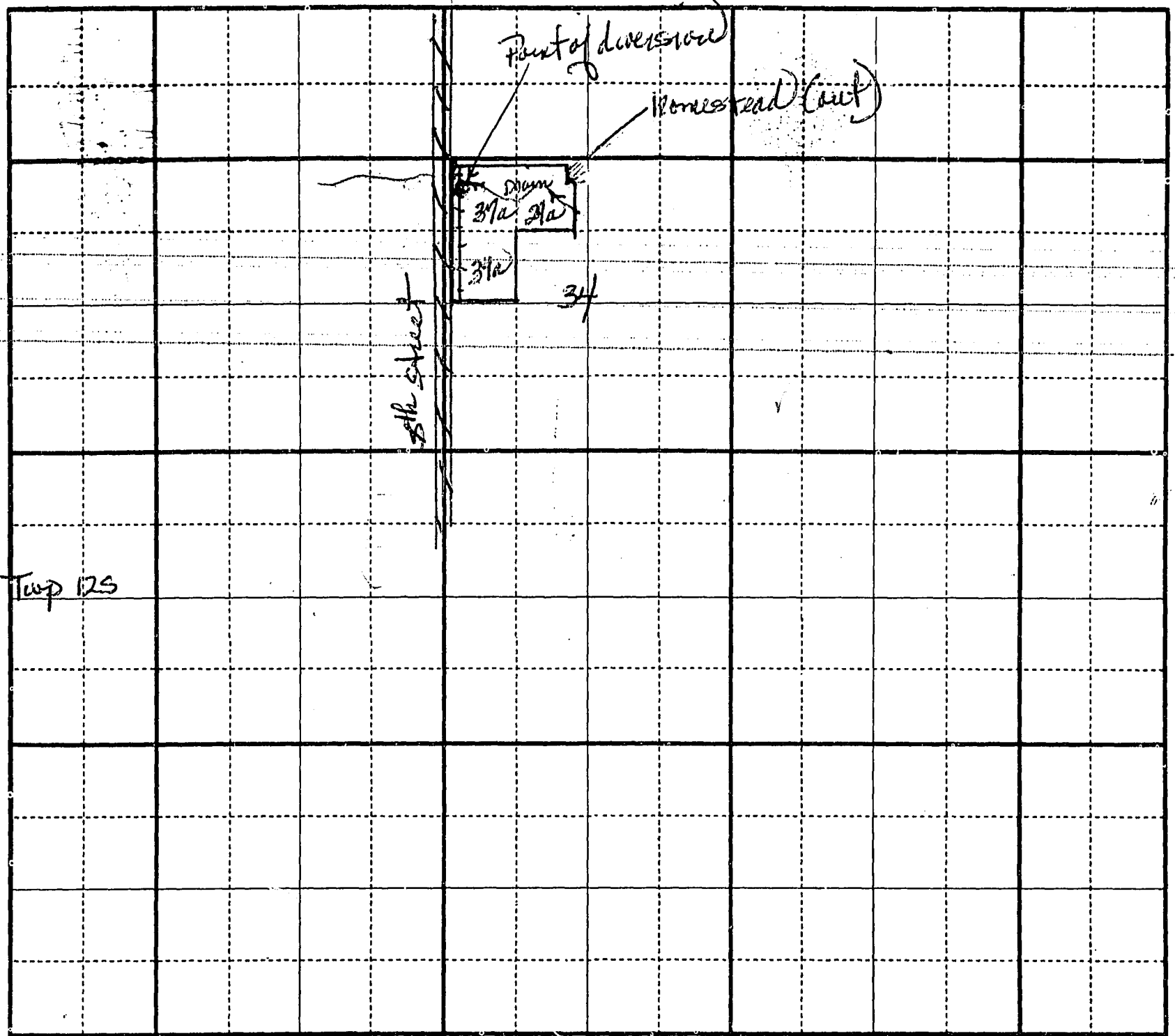
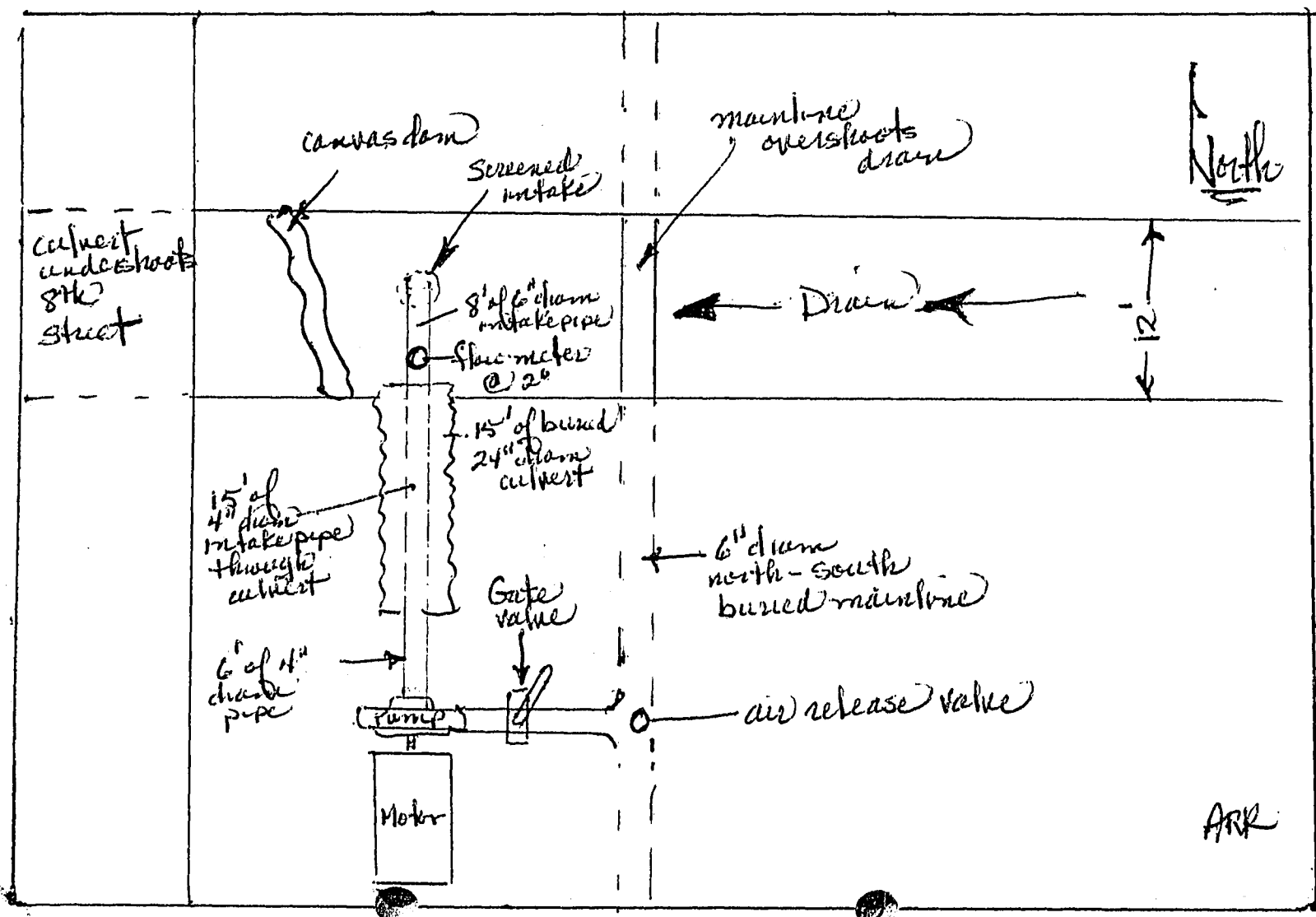
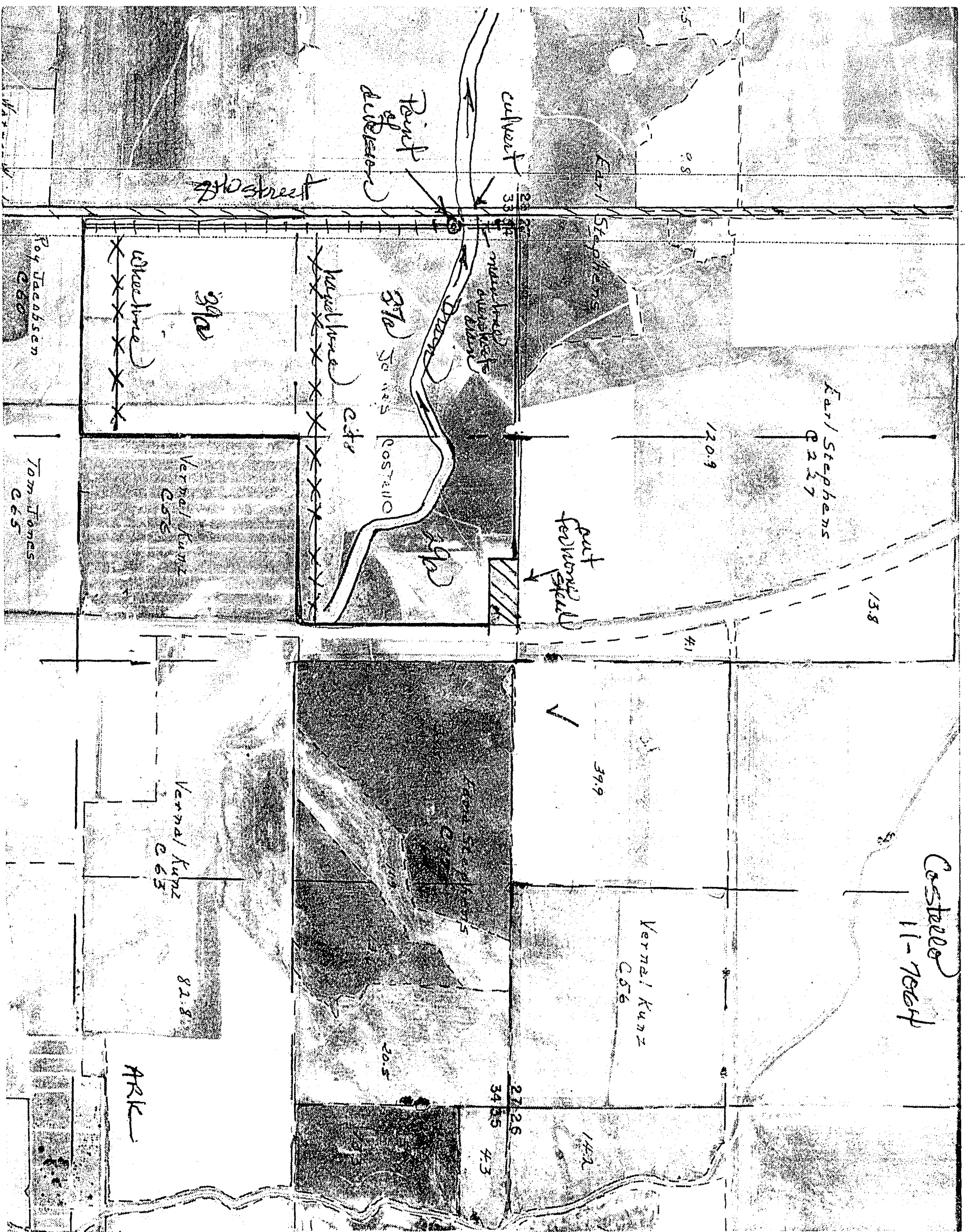


Diagram of System





H-23

DATE OF EXAM 27th day of July, 1979

ACREAGE
Found 105a
Recommended 105a

Irrigation Requirement 3.0 ✓ Ac Ft/Ac

USE
Irrigation ✓ 99 c.f.s. V = 315.0 AF/Ann. from 4/15 to 10/15 per water used
Domestic Q = c.f.s. V = 300.44 AF/Ann. from May 1 to Oct 1 hand-
Livestock Q = c.f.s. V = AF/Ann. from to book.
183
days

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 .99 cfs ✓ Method of measurement In line meter

Total Q recommended .99 cfs Meter No. 77-6-754 Type Mcrometer Condition std

Total V recommended 300.44 AF/yr

Recommended Amendments:

P.D.
Place of Use
Other
None

MEASUREMENT CALCULATION:
measured .01 AF in 7 min 18 sec, 435.6 cu ft ÷ 438 sec = .99 cfs ✓

Volume = 105a × 3.0 AF/a/yr = 315 AF/yr ✓
1.9835 AF/dy/cfs × 153 dys × .99 cfs = 300.44 AF/yr

SYSTEM DESCRIPTION:
Surface water from an unnamed drain is diverted by a 25 HP 3ph
Marathon electric horizontal motor m/n-DB 284 TPDR 7639 AAW
sn-854198 and by a Berkeley centrifugal pump, sn-7574478
m/n-B3TPBM. Water is delivered to the acreage thru a 6" diam
north-south mainline and 1-31 jet wheel line & 1-60 jet handline.

REMARKS: System shown, operated, and described by current
lessee.

Examiner's Signature Anthony R. Kozlowski Date Dec 10, 1979

Checked by John D. Carlson Date 12/13/79

Approved by Kay Walker Date 4-30-1984



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director
May 24, 1984

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

RE: Permit No. 11-7064

James E. & Jina M. Costello
486 Jewell Circle
Montpelier, ID 83254

Dear Mr. and Mrs. Costello:

A representative of this Department has made an examination of the works covered by your Permit No. 11-7064, and has found the following:

Amount of water that can be recognized as beneficially used under
Idaho law: 0.99 cfs Source: unnamed stream trib to Bear River

The maximum quantity diverted shall not exceed 315.0 acre feet
per year.

Point(s) of diversion: NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 34, Twp 12S, Rge 44E

Beneficial Use: Irrigation of 105 acres within NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 34,
Twp 12S, Rge 44E

Priority date established: July 31, 1974

Conditions (if any): This right when combined with all other rights shall provide
no more than .02 cfs per acre nor more than 3.0 afa per acre for the lands above.
Use of water under this license is subject to control by the watermaster of
State Water District No. 11, Bear River.

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

JJ:sc

July 17, 1984

RE: Permit No. 11-7064

James E. & Jina M. Costello
486 Jewell Circle
Montpelier, ID 83254

Dear Mr. and Mrs. Costello:

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

Sincerely,



JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosure