

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

APPLICATION No. 30864
PERMIT No. 23185
DISTRICT No.

1. Name of Applicant: HENRY HARRIS

Postoffice address: Grace

County: Caribou

State: Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) Amount of capital stock:

(c) Amount paid in:

(d) Names and addresses of directors:

II. The financial resources of the applicant are:

(a) Cash on hand:

(b) Treasury stock:

(c) Bonds to be issued:

(d) Other resources:

2. Quantity of water claimed: One and one-fifth (1.2) cubic feet per second.

spring and waste water

3. Source of water supply: Stream in un-named gulch, fed by / which is a tributary of Bear River.

4. Location of point of diversion: 930 ft. S. 17°50' E. feet distant from the N. E.

of the SE $\frac{1}{4}$ SE $\frac{1}{4}$

corner of Section 14, T. 11 S., R. 40 E., B.M., and is in the SW $\frac{1}{4}$ SW $\frac{1}{4}$

of Section 13, T. 11 S., R. 40 E., B.M., County of Caribou

5. Water is to be used for Irrigation

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: feet distant from corner of Section

T., R., B.M., in the of Section, T., R., B.M.

(b) Amount of power generated: H.P., under feet head.

(c) Water is to be returned to at a point feet

distant from the corner of Section, T., R., B.M., in the
of Section, T., R., B.M.

7. Estimated cost of works: \$25.00

8. Kind of works: Water diverts from gulch on to land. 18" conc. pipe in channel with metal check gate

9. Height of dam feet; length of dam at top feet; length of dam at bottom

feet; material used in dam:

10. Size of headgate: Width feet; height feet.

11. Ditch: Width at bottom feet; width at water line feet; depth of water feet;

dimensions of flume:

Diameter of pipe inches; length of conduit miles.

Average grade per mile feet.

12. The time required for the completion of such work is Completed and in ~~years~~ use for many years

13. The time required for the complete application of the water to the proposed use is None additional years.

14. The land to be irrigated is described in the following tabulation: See remarks.

15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: None

16. (a) Is reservoir to be used? If so, fill in (b) and (c) below:
 (b) Name of Reservoir and number of Storage Permit:
 (c) Date of filing of Application for Storage Permit and Name of Applicant:

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

HENRY HARRIS Applicant.

By E. J. Baird Agent.

Date of first receipt at Department of Reclamation: 9:00 A. M. October 2, 1952

Returned to applicant for correction: October 4, 1952

Corrected application received: October 23, 1952

Approval of State Reclamation Engineer

The number of this permit is 23185

Recorded in Book 82 Page 23185 Approved November 6, 1952

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of \$ _____ to be filed on or before _____

Work to begin on or before Completed and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before - - - - -

The whole of said work to be completed on or before February 6, 1953

Beneficial use of water appropriated in accordance herewith, to be made on or before February 6, 1952

WITNESS My hand this 6th day of November, 1952

MARK R. KULP
State Reclamation Engineer.

IN TESTIMONY WHEREOF, WE, LEN JORDAN

, Governor of the State of Idaho,

and **IRA H. MASTERS**, Secretary of State of the State of Idaho, have caused this instrument to

be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 6th

day of November , 1952 .

STATE OF IDAHO

Countersigned:

(SEAL)

By LEN JORDAN

Governor.

By IRA H. MASTERS

Secretary of State.

REMARKS: Claimant states that the water has been in undisputed use for last 30 to 40 years

14.

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 $\frac{1}{4}$	
11 S.	40 E.	13 14 24		35	5	20	5 20 <u>35</u>
Total Number of Acres to be Irrigated - -							60
CERTIFICATE OF COMPLETION OF WORKS TO ALL WHOM IT MAY CONCERN: This is to certify that Henry Harris of Grace, County of Caribou, and State of Idaho, the holder of Permit No. 23185, issued upon Application No. 30864 bearing date of priority of October 2, 1952, authorizing the diversion of 1.2 second feet of the waters of an un-named stream fed by spring and waste water, County of Caribou, State of Idaho, for irrigation purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 1.2 second feet of the waters of said un-named stream; that the point of diversion of said waters is in the SW$\frac{1}{4}$ SW$\frac{1}{4}$ Section 13, Township 11 South, Range 40 East, B.M., and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: 60 acres in the SW$\frac{1}{4}$ SW$\frac{1}{4}$ Section 13; SE$\frac{1}{4}$ SE$\frac{1}{4}$ Section 14; and NW$\frac{1}{4}$ NW$\frac{1}{4}$ Section 24; All in Township 11 South, Range 40 East, B.M. Witness my hand this 6th day of January, A.D. 1953. MARK R. KULP State Reclamation Engineer Proof of completion of works made November 24, 1952. Certificate of completion of works issued January 6, 1953.							

LICENCE ISSUED FOR 0.94 SEC. FT.
PAC. 5777



LEN JORDAN
GOVERNOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
MARK R. KULP, STATE RECLAMATION ENGINEER

BOISE

October 4, 1952

RECEIVED
OCT 23 1952
Department of Reclamation

Mr. E. J. Baird, Watermaster
Water District No. 5
Soda Springs, Idaho

Dear Mr. Baird:

We are returning herewith Mr. Henry Harris' application for permit, signed by you as agent, for the following corrections:

Under Question 7, give the estimated cost of the works.

Under Question 8, please state the works necessary to get water onto the land.

Also answer Questions 12, 13, and 15.

Under Question 14, give the number of acres to be irrigated in each 40 acre subdivision. Also show the total number of acres to be irrigated.

Kindly correct and return to this department.

It is not necessary to provide applications in duplicate.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Roy W. Thompson
Supervisor of Water Distribution

RWT:fg
Enc.

23185

October 28, 1952

RE: Application No. 30864

Mr. E. J. Baird, Watermaster
Water District No. 5
Soda Springs, Idaho

Dear Mr. Baird:

In returning the application of Mr. Henry Harris for permit to appropriate water from an unnamed stream, you failed to answer Question 15 as to whether or not there are any other existing water rights appurtenant to this same land.

Please advise as to this.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg

Reply rec'd. 10/31 - no other water

23185

Address all communications to

(Form No. 1)

P. O.

APPLICATION FOR PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No.

Permit No.

District No.

1. Name of applicant: Henry Harris

Post office address Grace County Caribou State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) Amount of capital stock: \$..... (c) Amount paid in: \$.....

(d) Names and addresses of directors:

II. The financial resources of the applicant are: (a) Cash on hand: \$.....

(b) Treasury stock: (c) Bonds to be issued:

(d) Other resources:

2. Quantity of water claimed: One and one Fifth cubic feet per second

3. Source of water supply: Stream in unnamed Gulch fed by Spring and Waste Water.
which is tributary of Bear River

4. Location of point of diversion: 930 ft. S. 17° 56' E. feet distant from the N.E. corner
of Section 14, T. 11 S. R. 40 E., B. M., and is in the S.W. 1/4 of S.E. 1/4
of Section 17, T. 11 S. R. 40 E., B. M., County of Caribou

5. Water is to be used for: Irrigation

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: feet distant from corner of Section

T....., R....., B. M., in the of Section, T....., R....., B. M.

(b) Amount of power generated: H. P., under feet head.

(c) Water is to be returned to at a point feet

distant from the corner of Section, T....., R....., B. M., in the

..... of Section, T....., R....., B. M.

7. Estimated cost of works: \$.....

8. Kind of works: Water Diverts from Gulch on to Land.
(Reservoir, dam, ditch, flume, pipe, etc.)

9. Height of dam feet; length of dam at top feet; length of dam at bottom
(If height of dam will exceed 10 feet or will store more than 100 acre feet of water, send to Department of Reclamation for Regulations.)
feet; material used in dam

10. Size of headgate: Width feet; Height feet.

11. Ditch: Width at bottom feet; Width at water line feet; Depth of water feet;

Dimensions of flume; Diameter of pipe inches;

Length of conduit miles. Average grade per mile feet.

23185

(Give irrigable acreage in each 42-acre subdivision)

[illegible]

Total Number of Acres to be Irrigated.....

15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are:.....

(c) Date of filing of Application for Storage Permit and Name of Applicant:

Remarks: Claimant states that water has been in undisputed use
for last 30 to 40 years.

By E. J. Baird. Agent

(Not to be used when spring is situated on lands owned by applicant.)

and that I do hereby grant unto the said permission to file on the said spring as set forth in the foregoing application.

STATE OF IDAHO

County of _____ ss.

at _____, personally appeared _____

known to me to be the person.... whose name.... subscribed to the foregoing certificate, and acknowledged to

me that he.... executed the same.

Witness my hand and seal, the day and year in this certificate first above written.

My commission expires _____ Notary Public.

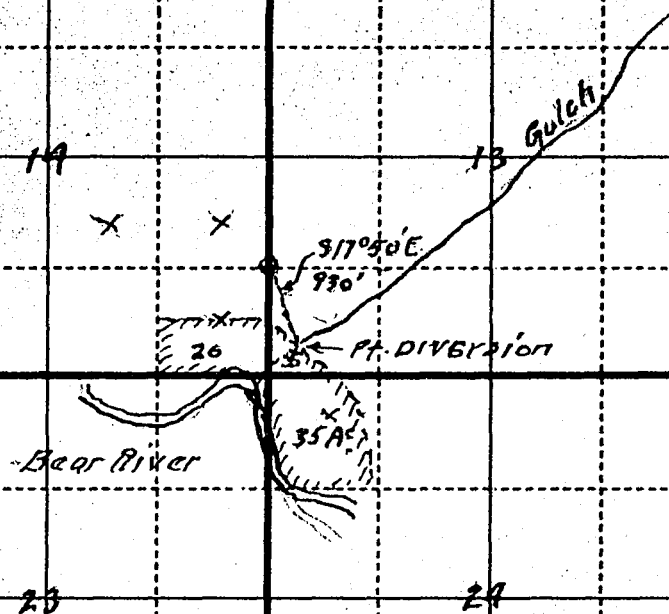
23185

NAME OF APPLICANT

HENRY HARRIS

Form No. 0

T. 11S. R. 40E. B.M.



Permit Map No. 23 85
As Approved
NOV 6 1982
MARK R. KULP
Reclamation Engineer

SCALE: 2 Inches Equal 1 Mile. Draw Plan In Ink.

23185

November 18, 1952

RE: Permit No. 23185

Mr. E. J. Baird, Watermaster
Water District No. 5
Soda Springs, Idaho

Dear Mr. Baird:

We enclose Permit No. 23185 in the name of Henry Harris, together with departmental receipt No. 24932 for the \$5.25 filing fee.

Since the application states that the works are completed and that no additional time is required for making proof of beneficial use, we have allowed 3 months or until February 6, 1953, within which to make these proofs.

Proof of completion of works should be made on Form 6 enclosed, executed before a Notary Public and returned to this department with the statutory fee of \$5.00.

Proof of beneficial use requires publication in a local newspaper once a week for four weeks before proof is made. Notice should be made in duplicate on Form 10 enclosed, setting the time and place and naming the Notary Public before whom proof is to be made. Both copies of Form 10 to be returned to this department together with Form 11 which is authorization for us to have the notice published at permit holder's expense in the designated county newspaper. We shall then send a copy of the notice to the newspaper with instructions in regard to publishing.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

23185

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) November 24 1952

(P. O.) Grace Idaho

TO THE STATE RECLAMATION ENGINEER:

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the
Soda Springs Sun of Soda Springs Idaho published in
the county in which the works are situated.

Henry Harris

(In case of canals or other works designed to divert and carry more than 50 cubic feet of water per second, the following certificate must be signed by a well-known and competent engineer.)

I hereby certify that the facts set forth in the attached notice are true.

E. J. Baird

Engineer.

23185

Permit No. 23185

STATE OF IDAHO
Department of Reclamation

NOV 28 1932

Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF IDAHO

County of Caribou

ss.

Henry Harris

being first duly sworn, upon his oath deposes and says:

First: That he is the holder and owner of Permit to Appropriate the Public Waters of the State of Idaho, No. 23185, and that his postoffice address is Grace State of Idaho

Second: That the name of the stream which said water is to be directed is

~~An named Stream through applicants land from an named spring~~

Third: That the point of diversion of said water is 930 ft. S. 17 50' E. of

N.E. corner of Sec. 14 T. 11 S. R. 40 E. B.M.

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by Feb. 6, 1933

Fifth: That the use for which said water is intended is Irrigation

Sixth: That on the date above mentioned, the works constructed under said permit were (or were not) fully completed and consisted of the following:

I. Kind of works: ~~Water diverss from gulch on to land 18" conc. pipe in~~
(Reservoir, dam, ditch, flume, pipe or otherwise) channel

II. Dimensions of work:

(a) Height of dam feet, length of dam at top feet, length of dam at bottom feet. Material used in construction

(State whether wood, earth, stone or concrete)

(b) Capacity of reservoir acre feet.

(c) Size of headgate: Width feet, height feet.

(d) Conduit width at bottom feet, width at water line feet, depth of water feet; diameter of pipe inches, average grade per mile is feet. Length of conduit is miles.

Seventh: That said works are capable of conducting to the place of intended use 1 1/2 second feet of water.

Eighth: That water appropriated under said permit is available for 50 acres of land described as follows: 20 Ac. in S. 1/4 of S. 3. 1/4 Sec. 14

5 Ac. in S. 1/4 of S. 7. 1/4 Sec. 13

35 Ac. in N. W. 1/4 of N. 1/4 Sec. 24

All in T. 11 S. R. 40 E. B.M.

Ninth: Remarks: That Claimant states that water has been in Undisputed use for the last 30 to 40 years

(Sign Here)

Subscribed and sworn to before me this 24 day of November, 1932

My commission expires July 1933

Notary Public.

23185

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Re: Permit No. 23185

Date: November 26, 1952

Soda Springs Sun

Soda Springs, Idaho

Gentlemen:

Enclosed you will find notice for publication once
a week for four consecutive weeks prior to **December 27, 1952**
the date set for proof, the expense of the publication to be
paid by the applicant, **Henry Harris**
of **Grace, Idaho**, to whom you should furnish
proof of publication on or prior to the date set for proof.

Please acknowledge receipt of this notice, and furnish
this office with a copy of the first publication.

Very truly yours,

MARK R. KULP

State Reclamation Engineer

By

Chief Clerk

23185

NOTICE FOR PUBLICATION
NOTICE OF PROOF APPLICATION OF WATER
TO BENEFICIAL USE

Notice is hereby given that at 10 A. M. on the 27 day of December, 191952
at Soda Springs, County of Caribou, State of Idaho, before
S. E. Mathews, Notary Public, proof will be submitted of the
application to beneficial use of One and one fifth cubic feet per second of the waters of Un named
Stream in accordance with the terms and conditions of Permit No. 23185
Department
heretofore issued by the Commissioner of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are

Henry Harris, Grace, Idaho.

The use to which said water has been applied is Irrigation

The amount applied to beneficial use is One and one fifth C.F.S.

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated)

5 Ac. in S.W. 1/4 of S.W. 1/4 Sec. 13 T.11S.R.40 E.B.M.

20 Ac. in S.W. 1/4 of S.W. 1/4 Sec 14 T.11 S. R.40 E.B.M.

35 Ac. in N.W. 1/4 of N.W. 1/4 Sec 20 T.11 S.R.40 E.B.M.

The name of the canal or ditch or other works by which said water is conducted to such place of use is

Henry Harris Ditch

The right to take water from such works is based upon Permit No. 23185

The source of supply from which such water is diverted is Un Named Stream

The date of priority which said user is prepared to establish is Nov. 22 1941
~~XXXXXXXXXX~~ October 2, 1952

MARK R. KULP
State Reclamation Engineer.

23185

RECEIVED

DEC 1 1952

Department of Reclamation

THE OTHER SIDE OF CARD IS FOR ADDRESS



Mark R. Kulp
Att. Jeanne L. Anderson
Department of Reclamation
State of Idaho
Boise, Idaho

23185

Dear Miss Anderson:

We acknowledge receipt of notice for
publication for Henry Harris, Grace, Idaho.

Very truly yours,

Soda Springs Sun

M.U.

23185

December 1, 1952

RE: Permit No. 23185

Mr. Henry Harris
Grace
Idaho

Dear Mr. Harris:

We acknowledge receipt of your affidavit in proof of completion of works on Permit No. 23185, together with notice of beneficial use proof to be made under this permit on December 27, 1952.

We have sent a copy of the notice to the Soda Springs Sun with instructions to publish it once a week for four consecutive weeks prior to that date and to send you the affidavit of publication together with statement of costs.

We enclose the necessary forms of deposition to be used in making this proof and at the time set you should appear before Mr. S. E. Matthews, Notary Public, together with two disinterested witnesses who are familiar with the terms of the permit and the work done thereunder for the purpose of executing the depositions.

There is a fee of \$5.00 required by statute in connection with proof of completion of works which you failed to enclose. Upon receipt of this fee, a Certificate of Completion of Works will be issued.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

23185

S. E. MATTHEWS, MGR - OWNER
DON L. BECK, TITLE OFFICER
S. E. MATTHEWS, II INS. MGR.

S. E. MATTHEWS FINANCIAL AGENCY

MATTHEWS BUILDING - 176 SOUTH MAIN

Mortgage Loans - Bonds - Real Estate - Insurance

and

CARIBOU COUNTY ABSTRACT CO.

ABSTRACTS - TITLE INSURANCE - ESCROWS

MEMBER AMERICAN & IDAHO TITLE ASSOCIATION

TELEPHONE NO. 55

SODA SPRINGS, IDAHO

December 29, 1952

State of Idaho
Department of Reclamation
Boise, Idaho

Gentlemen:

Water Permit #23185
Henry Harris

Enclosed herewith, please find the following in connection with
the above water application:

Affidavit of Publication
Paid Statement of Printer
Deposition of Holder
Deposition of Charles C. Izatt
Deposition of Freeman Rasmussen
Check of Henry Harris - \$5.00 - Fee
APPLICATION FOR PERMIT

Trusting this application has been handled to your satisfaction,
we remain

Very truly yours,

S. E. MATTHEWS FINANCIAL AGENCY

D. L. Beck

D. L. BECK

encls.

RECEIVED
DEC 30 1952
Department of Reclamation

23185

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Permit No. 23185

Proof of Application of Water to Beneficial Use

Deposition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Henry Harris, Thatcher, Idaho, Farmer - Post Office Address: Grace, Idaho.

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if a foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. --

Ques. 3 State number and date of permit, and date of priority you propose to establish under the permit.

Ans. Permit No. 23185 dated November 6, 1952, May 1, 1972 16-2-52

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Stream in unnamed Gulch fed by Spring and Waste Water which is a tributary of Bear River - Located 930' S. 170' E. from the NE Corner of SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 14, Twp. 11 S., R. 40 E.B.M., and is in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 13, T. 11 S., R. 40 E.B.M., Caribou County, Idaho

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use. If a well, state depth of well, depth and size of casing and depth to water. If pump is used, state discharge of pump and tell how it was measured or determined.

Ans. Cement Head-gate with 18" Cone Pipe in channel with metal check gate carrying 1 and 1/5th cubic feet per second - unnamed ditch carries water from diversion point to place of use.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Used for Irrigation purposes on: 20 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 14, T. 11 S., R. 40 E.; 5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 14; T. 11 S., R. 40 E.; and 35 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 24; Twp. 11 S., R. 40 E.B.M.; 30 acres is under actual cultivation, and 30 acres is natural meadow land; water has allowed cultivation of the 30 acres and the producing and cutting of Hay on the meadow land.

23185

Ques. 7. If for other than irrigation purposes; state how applied, amount of horse power generated, etc.

Ans. None-

Ques. 8. What is the minimum amount of water required for the purpose specified above?

Ans. 1 and 1/5th cubic feet per second

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. --

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. Used from May 1 to September 30, in each year, whenever necessary for proper irrigating of Grain and Hay, the entire amount used generally constantly in each season.

Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

Ans. At certain times, the above amount is not sufficient, at which times I supplement this water with water from the Last Chance Canal Company, in which said Company I own 150 shares of Water Stock. This Last Chance Canal Company Water is the only other Water Right I used in connection with these lands.

(Sign) Henry Harris

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Soda Springs, County of Caribou, State of Idaho, on this 27th day of December, A. D. 19 52,

My commission expires July 1, 1956

[Signature]
Notary Public for Idaho
Residing at Soda Springs, Idaho

23185

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 23185

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Charles C. Izatt, 41, Thatcher, Idaho, Farmer - P. O. Address
Grace, Idaho.

Ques. 2. Are you acquainted with Henry Harris, the holder of Permit No 23185? How long have you known him and where does he reside?

Ans. Since 1925, Thatcher, Idaho

Ques. 3. Have you read or heard read said Permit No. 23185, and are you familiar with its provisions and conditions?

Ans. Yes

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Stream in unnamed Gulch fed by Spring and waste water which is a tributary of Bear River - Located 930' S. 17° 50' E. from the NE Cor. of SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 14, Twp. 11 S., R. 40 E.B.M., and is in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 13, T. 11 S., R. 40 E.B.M., Caribou County, Idaho, diversion point is 18" headgate concrete Cone Pipe carrying 1 and 1/5th cubic feet per second - carried through unnamed ditch carries water from diversion point to place of use.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 1 and 1/5th cubic feet per second

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Used for irrigation purposes on: 20 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 14, T. 11 S., R. 40 E.B.M.; and 35 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 24; Twp. 11 S., R. 40 E.B.M.; and 5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 14, T. 11 S., R. 40 E.B.M. 30 acres is under actual cultivation, and 30 acres is natural meadow land the water has allowed producing and cutting of hay and grain on said premises to better advantage.

23185

Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent.

Ans. None

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. 1 and 1/5th cubic feet per second

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. --- No ---

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. used from May 1 to September 30, in each year, whenever necessary for proper irrigating of Grain and Hay, the entire amount used generally constantly in each season.

(Signed) x Charles C. Galt

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Soda Springs,
County of Caribou, State of Idaho, on this 27th day of December,
A. D. 1952

x L. B. Chalkers

Notary Public.

My commission expires July 1, 1956

23185

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 23185

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Freeman Rasmussen, 41, Thatcher, Idaho, Farmer, Grace, Idaho

Ques. 2. Are you acquainted with Henry Harris, the holder of Permit No. 23185? How long have you known him and where does he reside?

Ans. Lifetime - Thatcher, Idaho

Ques. 3. Have you read or heard read said Permit No. 23185, and are you familiar with its provisions and conditions?

Ans. Yes

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Stream in unnamed Gulch fed by Spring and Waste Water which is a tributary of Bear River - Located 930' S. 17° 50' E. from the NE Cor. of SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 14, Twp. 11 S., R. 40 E.B.M., and is in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 13, T. 11 S., R. 40 E.B.M., Caribou County, Idaho, Diversion point is 18" headgate concrete Cone Pipe carrying 1 and 1/5th cubic feet per second - carried through unnamed ditch carries water from diversion point to place of use.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 1 and 1/5th cubic feet per second

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Used for irrigation purposes on: 20 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 14, T. 11 S., R. 40 E.B.M.; and 35 acres in the NW $\frac{1}{4}$ of Sec. 24; Twp. 11 S., R. 40 E.B.M.; and 5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 14, T. 11 S., R. 40 E.B.M. 30 acres is under actual cultivation, and 30 acres is natural meadow land the water has allowed producing and cutting of hay and grain on said premises.

23185

Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent.

Ans. None

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. 1 and 1/5th cubic feet per second

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. -- No --

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. used from May 1 to September 30, in each year, whenever necessary for proper irrigating of Grain and Hay, the entire amount used generally constantly in each season

(Signed) Freeman Rasmussen

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Soda Springs, County of Caribou, State of Idaho, on this 27th day of December, A. D. 1952

J. J. Chanhew

Notary Public.

My commission expires July 1, 1956

23185

Affidavit of Publication

County of Caribou, }
State of Idaho, } SS.

Marieta Varner

being first duly sworn

on her oath, states:

That she is Principal Clerk of the Soda
(Printer, Foreman or Principal Clerk)

Springs Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County, that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for four successive weekly issues thereof, the date of the first publication being the 4th day of December, 1952, the date of the last publication being the 25th day of December, 1952

Marieta Varner

Subscribed and sworn to before me this 27th

day of December, 1952

[Signature]

(SEAL)

Notary Public, residing at Soda Springs, Idaho.

My Commission expires the 1st day of July, 1956

COST: _____ lines at _____ cents a line for the first insertion and _____ cents a line for each of _____ subsequent insertions. total \$ _____

LEGAL NOTICE

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10 a. m. on the 27th day of December, 1952, at Soda Springs, County of Caribou, State of Idaho, before S. E. Matthews, Notary Public, proof will be submitted of the application to beneficial use of one and one-fifth cubic feet per second of the waters of Un-named Stream in accordance with the terms and conditions of Permit No. 23185 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are Henry Harris Grace, Idaho.

The use to which said water has been applied is irrigation.

The amount applied to beneficial use is one and one-fifth C.F.S.

The place where said water is used: 5 Ac. in S. W. 1/4 of S. W. 1/4 Sec. 13 T. 11 S. R. 40 E.B.M.; 20 Ac. in S. W. 1/4 of S. W. 1/4 Sec. 14 T. 11 S. R. 40 E.B.M.; 35 Ac. in N. W. 1/4 of N. W. 1/4 Sec. 24 T. 11 S. R. 40 E.B.M.

The name of the canal or ditch or other works by which said water is conducted to such place of use is Henry Harris Ditch.

The right to take water from such works is based upon Permit No. 23185.

The source of supply from which such water is diverted is Un-named Stream.

The date of priority which said user is prepared to establish is October 2, 1952.

Mark R. Kulp,
State Reclamation
Engineer.

41-xd25

23185

January 13, 1953

RE: Permit No. 23185

Mr. Henry Harris
Greco
Idaho

Dear Mr. Harris:

We enclose Certificate of Completion of Works issued under Permit No. 23185 for the diversion of 1.2 second feet of water from an unnamed stream with point of diversion in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Township 11 South, Range 40 East, B.M., for irrigation of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, Township 11 South, Range 40 East, B.M.

We also enclose departmental receipt No. 25339 for the \$5.00 fee paid in connection with proof of completion of works.

We have placed on file the depositions of yourself and two witnesses, also affidavit of publication in the Soda Springs Sun, all submitted in proof of beneficial use under Permit No. 23185.

Before final action is taken in the matter, the law requires that a field examination be made by an engineer from this department.

We cannot tell just when this examination will be made, but our field engineer will try and contact you at the time he makes the examination so that arrangements may be made to show him over the grounds.

We return your Permit No. 23185 and also your receipted bill for the cost of publication in connection with proof of beneficial use.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

23185

August 13, 1953

RE: Permit No. 23185

Mr. Henry Harris
Greene,
Idaho

Dear Mr. Harris:

I intend to make inspection, as required by law, in connection with your Permit No. 23185 some time during the week of August 23rd.

This inspection is required by Idaho State Law.

Please be prepared to accompany me on the inspection, or have some one familiar with your water system do it for you.

I cannot state the exact day, but will try to contact you, probably by telephone, before making any inspection.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

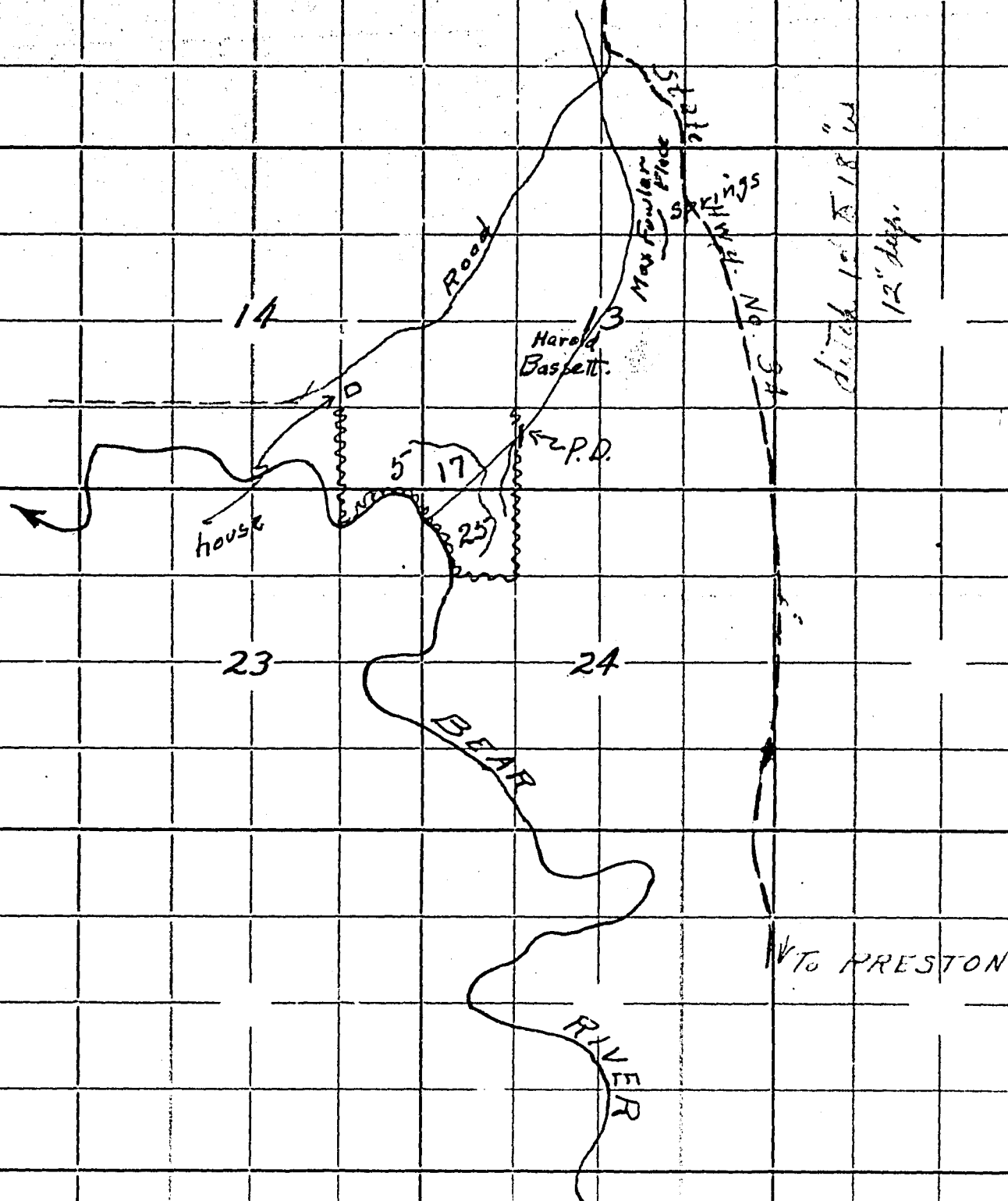
E.N. HUMPHREY
Deputy State Reclamation Engineer

ENH:pj

23185

T. 15S., R. 40E.

↑ TO GRACE



Area = 47 acres.

3 subdivisions.

allow 47 inches

Source is partly springs - partly waste water

Tributary To Bear River

Filed to prevent some one from

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. 23185This proof is for Beneficial use In Water District No. _____1. Name of applicant Henry Harris, Grace, Idaho2. Source of water supply: An un-named spring3. Location of point of diversion: Is in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13T. 11 S. R. 40 E. County of Caribou

4. Describe works as they exist, giving dimensions and capacities of same: There are 3 ditches which conduct this water from its normal channel to the fields as indicated on the map. Each ditch is large enough to carry at least 2 second feet of water. Irrigation is by gravity.

5. Water is used for: Irrigation6. State whether or not water has been turned into works of diversion: Yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13; SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14; NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24; Twp. 11 South, Range 40 East, B. M.

See Map

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? _____

Remarks: This water is tributary of the Bear River. The source is springs on the Max ^{Fowler P $\frac{1}{4}$} ~~Bauer~~ ^{1/4}. Mr. Harris states that this water has been used in this manner on this place for many years and that the purpose of this filing is to prevent somebody from appropriating it for spring irrigation. He states that the water is a natural spring coming out from under a ledge of lava. That is flows the full year around and further that it increases considerably in amount during the irrigation season and at times it is waste water from the farms above that was supplementing this stream. He states that he may get anywhere from 25 inches up to 2 or 3 second feet of water.

This examination was made on the 26 day of Aug., 1953(Signed) E. H. Humphrey Examiner.23185



LEN JORDAN
GOVERNOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MARK R. KULP, RECLAMATION ENGINEER

BOISE

September 2, 1953

RE: Permit No. 23185

RECEIVED
NOV 5 1953
Department of Reclamation

Mr. Henry Harris
Grace
Idaho

Dear Mr. Harris:

The report of our field engineer on examination for beneficial use on your Permit No. 23185 shows that you have developed 47 inches of water from a spring in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, Township 11 South, Range 40 East, B.M., and that you have irrigated 47 acres of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, Township 11 South, Range 40 East, B.M.

Therefore, upon receipt of the statutory fee of \$6.00, a license will be issued for 0.94 second foot, or 47 inches of water from said spring.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

By

Jeane L. Anderson
Chief Clerk

A:fg

23185

November 7, 1953

RE: Permit No. 23185

Mr. Henry Harris
Grace,
Idaho

Dear Mr. Harris:

We enclose license and certificate of water right issued under Permit No. 23185 confirming your right to the use of .94 second foot of water from an unnamed stream fed by spring and waste water, with point of diversion in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, Township 11 South, Range 40 East, B.M., and priority of October 2, 1952 for the irrigation of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13; SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14; and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, Township 11 South, Range 40 East, B.M.

We also enclose departmental receipt No. 26313 for the \$6.00 license fee.

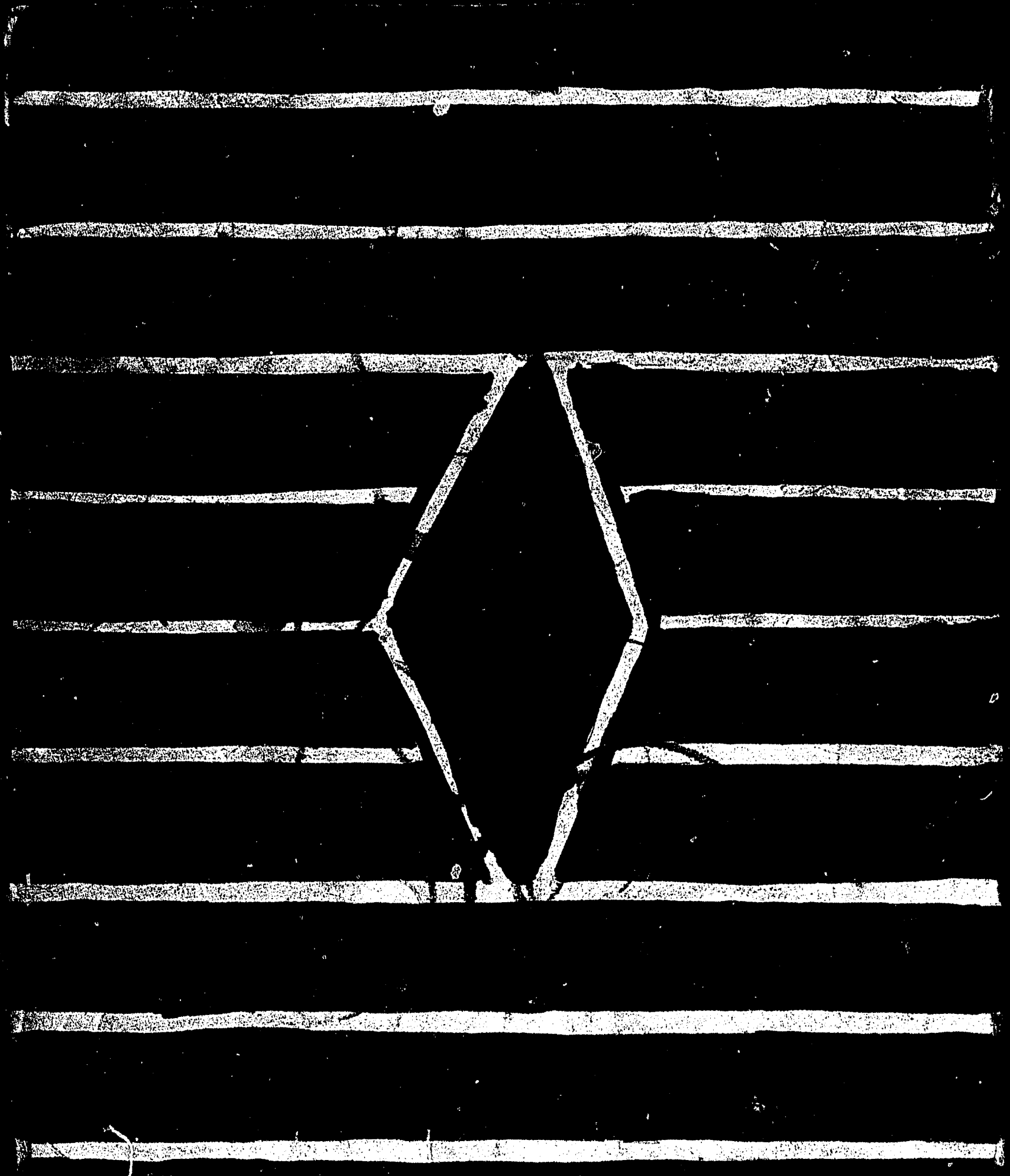
Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/re
Enc. 2

23185



State of Idaho

License and Certificate of Water Right

Water License No. 23185

Amount 0.94 second foot

Water District No. _____

Priority October 2, 1952

THIS IS TO CERTIFY that HENRY HARRIS
of Grace, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated October 2, 19 52; that Permit No. 23185
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
1.2 second feet, was issued thereunder on January 6, 19 53, showing that said works
were completed on the 24th day of November, 19 52; and that on the 27th
day of December, 19 52,

HENRY HARRIS
of Grace, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of an un-named stream fed by
spring and waste water, a tributary of Bear River, for the purpose of irrigation
under Use Permit No. 23185 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
8 of Licenses at page 5177, on the 5th day of November, 19 53;
The right hereby confirmed dates from October 2, 19 52;

The Point of Diversion is located
in the SW 1/4 SW 1/4, Sec. 13, Tp. 11 S., R. 40 E., B. M. County Caribou
That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 0.94 cubic ~~foot~~ per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
11 S.	40 E.	13	SW 1/4 SW 1/4	5	17
		14	SE 1/4 SE 1/4	20	5
		24	NW 1/4 NW 1/4	35	25
			Number of acres Actually Irrigated	-	- 47

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

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
5th day of November, 19 53.

MARK R. KULP

State Reclamation Engineer.

(SEAL)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 5, 2001

Gem Valley Farms
C/O Chad Neibaur
1550 Central Rd.
Bancroft, ID 83217

Re: Notice of Violation and Cease and Desist Order; Diversion of Water not in
Conformance with a Valid Water Right

Dear Mr. Neibaur,

Enclosed is a Notice of Violation and Cease and Desist Order regarding your diversion of
ground water to an unauthorized place of use. Please note all civil penalties and
compliance dates stipulated in the attached order. Please also note your opportunity to
request a compliance conference concerning this matter as well as the time frame and
manner in which such a request must be made.

Respectfully,

Tim Luke
Water Distribution Section

Cc: Craig Shuler, Watermaster
Harold Jones, Eastern Region

D:\Data\MS Word 97\WtrDistricts\GemValyNOVcov.doc

WR R1. 13-2165

Attachment A

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 6th day of July, 2001, the attached correspondence was served upon the following individuals by placing a copy of the same in the United States Mail, postage prepaid, certified with a return receipt and properly addressed as follows:

Gem Valley Farms
C/O Chad Neibaur
1550 Central Rd
Bancroft, Id 83217


Dayna M. Ball, Office Specialist II
Water Distribution Section

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF DIVERSION)
OF WATER BY GEM VALLEY FARMS) NOTICE OF VIOLATION
NOT IN CONFORMANCE WITH) AND CEASE AND DESIST
VALID WATER RIGHTS) ORDER

The Director of the Department of Water Resources (department), being charged with the duty of protecting vested water rights, enforcing certain statutes of the state of Idaho and the rules of the department, and being authorized to order the cessation of violations or attempted violations of the provisions of the law relating to appropriation and distribution of water, has investigated the use of water by Gem Valley Farms (herein referred as Gem Valley).

Based on the department's investigation and understanding of the law, the Director finds, concludes and orders as follows:

FINDINGS OF FACT

1. Gem Valley owns decreed water right nos. 13-02259, 13-07198C, 13-07165, 13-07261 and 13-07198B authorizing the combined diversion of 8.88 cfs of ground water from two wells located in T9S, R40E, Section 20, NENW and SWSW. These rights when combined authorize irrigation of 573 acres in any one year out of a total permissible place of use of 799 acres. In addition, rights 13-07165, 13-07261 and 13-07198B authorize a combined annual irrigation of 309 acres out of the total 799-acre permissible place of use.

2. The maximum combined use and irrigated acreage authorized under the above rights is subject to conditions of approval as set forth by water right transfer no. 5545, approved on May 4, 2000. Several neighboring water users protested this transfer. The protests were withdrawn based on a written agreement between Gem Valley and the protestants dated January 12, 2000. The agreement provides that Gem Valley must identify each year at the annual water district meeting the specific 309 acre place of use that is to be irrigated for the ensuing crop year under water rights 13-07165, 13-07261 and 13-07198B. The agreement further provides that each year the water district watermaster will be informed of the defined place of use and is empowered to enforce the issue of proper place of use with possible financial penalty.

3. On January 30, 2001, prior to the 2001 Water District 13-T meeting, Gem Valley provided the department a map showing the acres that would be irrigated in 2001 under

transfer no. 5545. The department subsequently provided this map to the water district watermaster. The map provided to the department showed the place of use location for the total 573 acres authorized by transfer 5545. The map specifically showed that a portion of a pivot located in the southeast quarter of Section 19, Township 9 South, Range 40 East, was to be idle in 2001 in order to comply with the 573 and 309 acre place of use limitations. The map showed that about 40 to 50 acres in the southeast portion of the pivot in Section 19 was not to be irrigated in 2001.

4. On June 1, 2001, the duly elected watermaster of Water District 13-T, Craig Shuler, made a routine inspection of the wells and irrigated place of use described under transfer 5545. Mr. Shuler observed that the 40 to 50 acres in Section 19 that were identified by Gem Valley as a non-irrigated place of use in 2001 had recently been irrigated. Mr. Shuler also observed that a grain crop had been planted in the entire pivot, including the area under the pivot that was supposed to be idle or non-irrigated in 2001. Mr. Shuler also confirmed that the remaining acreage under transfer 5545 that was identified as the place of use for 2001 was either recently irrigated or planted with a crop.

5. On June 5, 2001, the watermaster contacted Chad Neibaur of Gem Valley regarding the observations he made at the pivot in Section 19 on June 1st. Mr. Neibaur explained that he had leased the ground in question to a neighboring farmer and that the entire pivot was planted in grain. Mr. Neibaur further explained that he had advised the leasee of the place of use limitation at this pivot. Both he and the leasee were working on steps to prevent the pivot from watering the non-irrigated area that he identified on the map submitted to IDWR before the 2001 water district meeting. Mr. Neibaur acknowledged to the watermaster that the area that was not supposed to be irrigated in Section 19 was watered once on about May 27th.

6. On June 11, the department received a letter from the watermaster documenting the above referenced investigation and phone call with Chad Neibaur. In response to this letter, department representative Tim Luke spoke with Mr. Neibaur by phone on June 11th regarding the documentation submitted by the watermaster. Mr. Neibaur admitted to Mr. Luke that the land in question in Section 19 had mistakenly been irrigated once, on about May 27th. Mr. Neibaur confirmed that the land was leased and that the leasee was aware of the place of use limitations associated with the Section 19 pivot. Mr. Neibaur believed that the irrigation of the land in question by the lessee was the result of an honest mistake by the leasee and was not intentional. Neibaur explained that he and the leasee have since arranged the pivot so that it can not physically irrigate the additional acres in Section 19.

7. On June 28, 2001, department representative Tim Luke spoke with the watermaster, Craig Shuler, regarding any further place of use monitoring in Section 19 and other lands under transfer 5545. Mr. Shuler advised that he had not detected any further irrigation of the land in question in Section 19. Shuler also advised that he had found no other irregularities regarding the remaining place of use under transfer 5545.

CONCLUSIONS OF LAW

1. Idaho Code 42-1701B(6)(a) states, in pertinent part:

...that persons determined to be in violation of section 42-351, Idaho Code, shall be liable for a civil penalty not to exceed:

(ii) For irrigation uses, three hundred dollars (\$300) annually for each acre irrigated, in whole or in part, by the illegal use or diversion.

2. Prior to the 2001 Water District 13-T meeting, Gem Valley submitted to the department a map depicting the irrigation place of use for 2001 for water right transfer 5545 and water right nos. 13-02259, 13-07198C, 13-07165, 13-07261 and 13-07198B. Specifically, department staff notified Jorgensen that it had received complaints that Jorgensen had used the well in Section 32 to irrigate some land located west of the well across the county road in Section 31, T9S, R40E, and Section 6, T10S, R40E. In response to these concerns, Jorgensen showed department staff that a one-way check valve had been installed to prohibit the conveyance of water to lands other than those under right 13-07161.

3. Based on investigation by the Water District 13-T watermaster and the department, plus subsequent acknowledgement by Gem Valley, Gem Valley is found to have used ground water on approximately 40 to 50 acres of land not authorized as a valid place of use under water right transfer no. 5545 and water right nos. 13-02259, 13-07198C, 13-07165, 13-07261 and 13-07198B.

4. The director should issue a Notice of Violation instructing Gem Valley to cease and desist diverting water to lands not described as a place of use as authorized by Gem Valley's water rights.

ORDER

IT IS HEREBY ORDERED as follows:

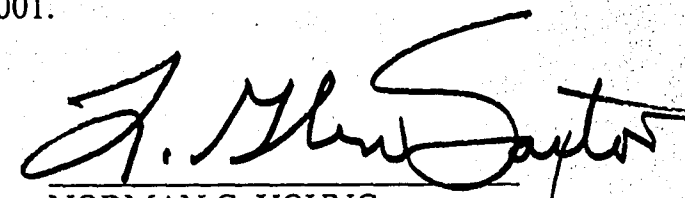
1. Gem Valley shall cease and desist diverting water and applying it to lands not in accordance with the conditions and agreements established by water right transfer no. 5545 and water right nos. 13-02259, 13-07198C, 13-07165, 13-07261 and 13-07198B.
2. For failure to comply with the law and authorized water rights, Gem Valley shall pay a three hundred-dollar (\$300.00) civil penalty to the department. The penalty shall be paid by July 16, 2001.
3. For any future diversion of water or application of water to lands not authorized by the water rights, or by subsequent order and decision by the department, Gem Valley shall pay a civil penalty of three hundred dollars (\$300) annually per acre for each acre

that is irrigated and that is not in conformance with the water rights, the final order, or subsequent decision by the department.

4. Gem Valley is entitled to a **Compliance Conference** with department staff if Gem Valley submits a written request for a conference to the department within fourteen (14) days of receipt of the Notice of Violation. The written request must describe how Gem Valley will comply with the law.

5. Gem Valley shall have the opportunity to enter into a **Consent Agreement** with the Department to remedy the violation and to assure future compliance with the laws of the State of Idaho.

DATED this 5th day of July, 2001.


for NORMAN C. YOUNG
Administrator
Water Management Division

Wtr Rt. 13-2165

RECEIVED

AUG - 6 2001

Department of Water Resources Board

Department of Water Resources

Dear Sirs,

I am writing to clarify what happened with the Pivot belonging to Chad Neibaur located on Hegstrom Road and the 40 acres of non-irrigated land that was unintentionally watered causing this fine. The pivot system was being maintained by both myself as well as Chad Neibaur. We were watering the grain at four tenths of an inch, because of its young stage. The pivot had not yet had the pivot stops installed because we were waiting on Golden West Irrigation to deliver them to us. The Pivot had been checked periodically during the watering but in the early morning hours on Sunday the pivot moved on the non-irrigated ground between the times we had checked causing it to irrigate the non-irrigated acres. This was unintentional and never planned. We had rented this ground from Chad as non-irrigated, had planted and had fertilized it as dry farm ground. This was an unintentional mistake and when we caught the pivot we stopped it, reversed it and ran it back dry off the non-irrigated ground. This was a one time accident that we had tried very hard to avoid happening and when it did we corrected it immediately.

Sincerely,
Phil Yost



water rights
water right enforcement

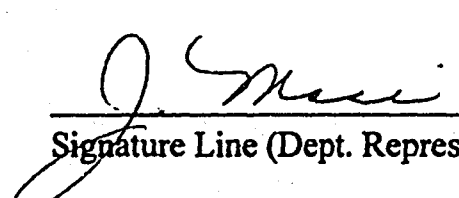
File on web only.
Idaho Department of Water Resources Receipt

Receipt ID C055416

Payment Amount \$300.00 Date Received 8/7/2001 10:22:11 AM Region State Status
Payment Type Check Check Number 5243

Payer NEBAUR FARM ENTERPRISESComment FINE FOR PIVOT IRRIGATING NON-IRRIGATED LAND**Fee Detail**

Amount	Description	Fund	FD	PCA	SO
\$300.00	WATER RIGHT ENFORCEMENT	0229	22	55506	1315


Signature Line (Dept. Representative)

Department of Water Resources Board

Dear Sirs,

I am writing to clarify what happened at Hegstrom Road and the 40 acres of non-irrigated ground. The pivot system was being used and we were watering the grain at four tenths. We had the pivot stops installed because of the dry ground. The Pivot had been checked and was working in the morning hours on Sunday the pivot motor was checked causing it to irrigate the non-irrigated ground.

We had rented this ground from Chad as non-irrigated, had planted and had fertilized it as dry farm ground. This was an unintentional mistake and when we caught the pivot we stopped it, reversed it and ran it back dry off the non-irrigated ground. This was a one time accident that we had tried very hard to avoid happening and when it did we corrected it immediately.

Sincerely,
Phil Yost



Jim - FYI
Deposited in Water Right
Enforcement Fund.

8/7

da

Security enhanced document. See back for details.

NEIBAUR FARM ENTERPRISES
1550 CENTRAL ROAD 208-425-3632
BANCROFT, ID 83217

5243

DATE Aug. 2-2001 82-155/1241 114

PAY TO THE ORDER OF Dept. of Water Resources \$ 300.00

Three hundred & no/100 DOLLARS

KeyBank National Association
Reisburg, Idaho 83440
1-800-KEY2YOU

AUG - 6 2001

OR fine

Jacquelyn Neibaur

⑈005243⑈ ⑆124101555⑆ 121140296355⑈